

**BOARD BOOK OF
December 12, 2019**



J. B. Goodwin, Chair

Leslie Bingham Escareño, Vice-Chair

Paul Braden, Member

Asusena Reséndiz, Member

Sharon Thomason, Member

Leo Vasquez, III, Member

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT IN FISCAL YEAR 2018

The Texas Department of Housing and Community Affairs (TDHCA) is the State of Texas' lead agency responsible for affordable housing and administers a statewide array of programs to help Texans become more independent and self-sufficient. Short descriptions and key impact measures for these programs – including the total number of households/individuals that were served and total funding either administered or pledged for Fiscal Year 2018 (September 1, 2017 through August 31, 2018) – are set out below:

Multifamily New Construction & Rehabilitation:

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

Total Households Served: 14,832
Total Funding: \$1,460,067,840

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

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

Total Households Served: 257
Total Funding: \$15,545,196

Single Family Homeownership Program:

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

Total Households Served: 8,018
Total Funding: \$1,279,041,464

Rental Assistance:

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

Total Households Served: 1,729
Total Funding: \$10,145,027

Weatherization Assistance Program:

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

Total Households Served: 2,667
Total Funding: \$21,395,454

Homelessness:

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

Total Individuals Served: 48,886
Total Funding: \$12,811,075

Comprehensive Energy Assistance Program:

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

Total Households Served: 151,141
Total Funding: \$108,351,163

Community Services Block Grant:

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

Total Individuals Served: 385,869
Total Funding: \$37,322,167

Sources: this data comes from the TDHCA 2019 State Low Income Housing Plan and Annual Report draft. Multifamily New Construction & Rehab data come from the most recent award logs from FY2018 for 4%, 9%, and Direct Loan Applications. Because Multifamily logs are updated on a monthly basis to reflect the changing status of Applications, this impact statement will also be updated on a monthly basis.

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



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

**A G E N D A
9:00 AM
DECEMBER 12, 2019**

**Texas Capitol Extension, E2.026
1100 Congress Ave
Austin, Texas 78701**

CALL TO ORDER

ROLL CALL

J.B. Goodwin, 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 Commemorating and Recognizing December 21, 2019, as Homeless Persons' Memorial Day in Texas

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 September 5, 2019

J. Beau Eccles
General Counsel

ASSET MANAGEMENT

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

Rosalio Banuelos
Director of
Asset Management

95093 Paseo Plaza Apartments Brownsville

17390 Las Palomas McAllen

17445 Nightingale at Goodnight Ranch Austin

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

00078 Cypress Ridge Nacogdoches

01166 Churchill Place La Porte

02020 Kings Row Apartments Houston

- d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Multifamily Direct Loan Application

12269/1001750 Stonebridge of Kelsey Park Lubbock

- e) Presentation, discussion, and possible action regarding approval of a Multifamily Direct Loan subordination
1002050 Emma Finke Villas Beeville

COMPLIANCE

- f) Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Fish Pond at Corpus Christi (19610)

Patricia Murphy
Director of Compliance

COMMUNITY AFFAIRS

- g) Presentation, discussion, and possible action on an increase in the annual expenditures for the use of the U.S. Citizenship and Immigration Services' Systematic Alien Verification for Entitlements program from \$8,000 to \$15,000 pursuant to Tex. Gov't Code §2155.088(b)(2)

Gavin Reid
Manager of
Planning and Training

HOME AND HOMELESSNESS PROGRAMS

- h) Presentation, discussion, and possible action on an amendment to the 2018 Emergency Solutions Grants Program Contract for Randy Sams' Outreach Shelter, Inc. and approval of a Contract Term for the City of Texarkana's Ending Homelessness Fund Contract

Abigail Versyp
Director of HOME and
Homelessness Programs

LEGAL

- i) Presentation, discussion, and possible action regarding the adoption of four Agreed Final Orders concerning properties owned by Center for Housing and Economic Opportunities Corporation, including Milam Creek Senior Village (HOME 1000555 / CMTS 4313), Milam Creek Senior Village II (HOME 1001214 / CMTS 4722), Alta Vista Village Retirement Community (HOME 531300 / CMTS 4006), and Floresville Senior Housing (HOME 1000969 / CMTS 4515)
- j) Presentation and Discussion on Report to Board regarding administrative penalties and initiation of a contested case hearing, and the adoption of an Agreed Final Order as a final settlement offer for Cottonwood and Westway Apartments (HTC 70111 / CMTS 2298)

Jeffrey T. Pender
Deputy General Counsel

BOND FINANCE

- k) Presentation, discussion, and possible action on Resolution No. 20-008 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds and containing other provisions relating to the subject

John Tomme
Senior Financial Analyst

MULTIFAMILY FINANCE

- l) Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §13.11 for Sierra Royale Apartments (TCAP RF Contract #13150019503)
- m) Presentation, discussion, and possible action regarding the approval for publication in the *Texas Register* of the 2020-3 Multifamily Direct Loan Special Purpose Notice of Funding Availability

Andrew Sinnott
Multifamily Loans Program
Administrator

SECTION 811

- n) Presentation, discussion, and possible action authorizing the Department to submit an application for FY 2019 Project Rental Assistance of Section 811 Supportive Housing for Persons with Disabilities Notice of Funding Availability released by the U.S. Department of Housing and Urban Development, and if successfully awarded to operate such program

Spencer Duran
Section 811 Program
Manager

RULES

- o) Presentation, discussion, and possible action on the draft 2020 State of Texas Low Income Housing Plan and Annual Report; proposed repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; proposed new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; and directing their publication for public comment in the *Texas Register*
- p) Presentation, discussion, and possible action on an order proposing amendments to 10 TAC §8.7, Tenant Selection and Screening; an order proposing amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their publication in the *Texas Register*

Elizabeth Yevich
Director of Housing
Resource Center

Brooke Boston
Director of Programs

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Outreach and Activities Report (Nov-Dec)
- b) Quarterly Report on Texas Homeownership Division Activity
- c) Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund
- d) Report of the 2021 and 2022 QAP Planning Process

Michael Lyttle
Director of
External Affairs

Cathy Gutierrez
Director of
Texas Homeownership

Ernie Palacios
Director of
Financial Administration

Marni Holloway
Director of
Multifamily Finance

ACTION ITEMS

ITEM 3: INTERNAL AUDIT

- a) Report on the meeting of the Internal Audit and Finance Committee
- b) Presentation, discussion, and possible approval of the Annual Internal Audit Plan for Fiscal Year 2020

Sharon Thomason
Chair of Audit and
Finance Committee

Mark Scott
Director of
Internal Audit

ITEM 4: OCI, HTF, AND NSP

- a) Presentation, discussion, and possible action on a proposed amendment to the 2020-2021 State Housing Trust Fund Biennial Plan and authorization for staff to submit the amended plan to all appropriate offices

Raul Gonzales
Director of
OCI, HTF, and NSP

ITEM 5: COMMUNITY AFFAIRS

- a) Presentation, discussion, and possible action on the Federal Fiscal Year 2020 Low Income Home Energy Assistance Program Community Energy Assistance Program award for Galveston County Community Action Council, Inc.
- b) Presentation, discussion, and possible action authorizing the Department to submit an application for Community Services Block Grant disaster supplemental funding in response to an action transmittal released by the U.S. Department of Health and Human Services, and if successfully awarded to administer such funds

Gavin Reid
Manager of Planning
and Training

ITEM 6: BOND FINANCE

- a) Presentation, discussion, and possible action regarding Resolution No. 20-009 authorizing the implementation of Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program 94, approving the form and substance of the program manual and the program summary, authorizing the execution of

John Tomme
Senior Financial Analyst

documents and instruments necessary or convenient to carry out Mortgage Credit Certificate Program 94, and containing other provisions relating to the subject

ITEM 7: MULTIFAMILY FINANCE

Teresa Morales
Director of
Multifamily Bonds

- a) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications
- | | | |
|-------|-----------------------|------------|
| 19443 | Spanish Park | Arlington |
| 19473 | Flora Lofts | Dallas |
| 19470 | Jackie Robinson | El Paso |
| 19400 | Villas del San Xavier | San Marcos |
| 19467 | Auro Crossing | Austin ETJ |
- b) Presentation, discussion, and possible action on a waiver of 10 TAC §11.3 of the Qualified Allocation Plan related to Housing De-Concentration Factors for Austin Manor Apartment Homes (#19471) in the extraterritorial jurisdiction of Austin
- c) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds for The Walzem (#19468) in San Antonio ETJ
- 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
- | | | |
|-------|-------------------------------|---------|
| 17239 | Abbingtion Ranch | Boerne |
| 17736 | Providence at Ted Trout Drive | Hudson |
| 18376 | Lakeview Point Apartments | Garland |
| 17700 | The Terraces at Arboretum | Houston |
- e) Presentation, discussion, and possible action to adopt the 2020 Multifamily Programs Application Procedures Manual
- f) Presentation, discussion, and possible action regarding the approval for publication in the *Texas Register* of the 2020-1 Multifamily Direct Loan Annual Notice of Funding Availability
- g) Presentation, discussion, and possible action regarding awards of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability
- | | | |
|-------|-------------------------|--------|
| 19053 | Laurel Creek Apartments | Austin |
| 19508 | Roosevelt Gardens | Austin |

Marni Holloway
Director of
Multifamily Finance

Andrew Sinnott
Multifamily Loans Program
Administrator

ITEM 8: RULES

Andrew Sinnott
Multifamily Loans Program
Administrator

- a) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and an order adopting the new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing both its publication in the *Texas Register* and adoption of its Substantial Amendment to the One Year Action Plan (OYAP)
- b) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; an order adopting new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published in the *Texas Register*
- c) Presentation, discussion, and possible action on an order proposing new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication for public comment in the *Texas Register*
- d) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 6, Community Affairs Programs; an order adopting new 10 TAC Chapter 6, Community Affairs Programs; and directing that they be published for adoption in

Brooke Boston
Director of Programs

Gavin Reid
Manager of Planning
and Training

the *Texas Register*

- e) Presentation, discussion, and possible action on amendments to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, in particular 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for public comment in the *Texas Register*
- f) Presentation, discussion, and possible action on an order approving the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order adopting new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing their publication in the *Texas Register*

Patricia Murphy
Director of Compliance

Rosalio Banuelos
Director of
Asset Management

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

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

J.B. Goodwin
Chair

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

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

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

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

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

OPEN SESSION

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

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us 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 MeLissa Nemecek, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made. Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

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

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

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

THIS RESTRICTION IS APPLICABLE TO THE IDENTIFIED MEETING ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

1a

BOARD ACTION REQUEST

BOARD SECRETARY

DECEMBER 12, 2019

Presentation, discussion, and possible action on Board meeting minutes summary for September 5, 2019

RECOMMENDED ACTION

Approve the Board meeting minutes summary for September 5, 2019

RESOLVED, that the Board meeting minutes summary for September 5, 2019, is hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
September 5, 2019

On Thursday, the fifth day of September 2019, at 8:00 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held in Room JHR 140 of the John H. Reagan Building, 105 W. 15th Street, Austin, Texas.

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

- J.B. Goodwin
- Leslie Bingham-Escareño
- Paul A. Braden
- Asusena Reséndiz
- Sharon Thomason
- Leo Vasquez

J.B. Goodwin served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as Secretary.

1) The Board unanimously approved two resolutions: the first, celebrating October 2019 as Energy Awareness Month in Texas; and the second celebrating the period of September 15, 2019, through October 15, 2019, as Hispanic Heritage Month in Texas.

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

3) Action Item 3 – Report on the meeting of the Internal Audit and Finance Committee – was presented by Sharon Thomason, TDHCA Board Audit and Finance Committee Chair. The Board heard and unanimously accepted the report and took no further action.

4) Action Item 4 – Presentation, discussion, and possible action to approve the Analysis of Impediments to Fair Housing Choice – was presented by Cate Tracz, TDHCA Manager of Fair Housing. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the document.

- Adam Pirtle, Texas Housers, testified in opposition to staff recommendation

5) Action Item 5 – Presentation, discussion, and possible action authorizing the Department to implement limited and specific forgiveness provisions associated with Land Bank activities within the Neighborhood Stabilization Program – was presented by Raul Gonzales, TDHCA Director of OCI, HTF, and NSP Division. The Board unanimously approved staff recommendation to implement the provisions.

6) Action Item 6(a) – Presentation, discussion, and possible action on an appeal under 10 Texas Administrative Code §1.7, Staff Appeals, in regards to 2019 Emergency Solutions Grants Application for Randy Sams’ Outreach Shelter, Inc. – was presented by Abigail Versyp, TDHCA Director of HOME and Homelessness Programs. The Board unanimously approved staff recommendation to deny the appeal.

7) Action Item 6(b) – Presentation, discussion, and possible action on Program Year 2019 Emergency Solutions Grants Program Awards – was presented by Ms. Versyp. The Board unanimously approved staff recommendation on the awards.

8) Action Item 7 – Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for #96038 2100 Memorial, Houston – was presented by Rosalio Banuelos, TDHCA Director of Asset Management, with additional information from Mr. Eccles. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the amendment request with conditions.

- Tory Gunsolley, Houston Housing Authority, testified in support of staff recommendation

9) Action Item 8(a) – Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; an order proposing new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published for public comment in the Texas Register – was presented by Brooke Boston, TDHCA Director of Programs. The Board unanimously approved staff recommendation to publish the draft rules.

10) Action Item 8(b) – Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, §1.10, Public Comment Procedures; and an order proposing new 10 TAC §1.10, Public Comment Procedures; and directing their publication for public comment in the Texas Register – was presented by Ms. Boston. The Board unanimously approved staff recommendation to publish the draft rules.

11) Action Item 8(c) – Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 6 Community Affairs Programs; an order proposing new 10 TAC Chapter 6 Community Affairs Programs; and directing that they be published for public comment in the Texas Register – was presented by Gavin Reid, TDHCA Manager of Planning and Training in the Community Affairs Division. The Board unanimously approved staff recommendation to publish the draft rules.

12) Action Item 8(d) – Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order proposing new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and directing publication for public comment in the Texas Register – was presented by Teresa Morales,

TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to publish the draft rules.

13) Action Item 8(e) – Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and an order proposing new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and directing their publication for public comment in the Texas Register – was presented by Mr. Gonzales. The Board unanimously approved staff recommendation to publish the draft rules.

14) Action Item 9(a) – Presentation, discussion, and possible action on the Fourth Amendment to the 2019-1 Multifamily Direct Loan Annual Notice of Funding Availability – was presented by Andrew Sinnott, TDHCA Multifamily Loans Program Administrator. The Board unanimously approved staff recommendation to approve the NOFA amendment.

15) Action Item 9(b) – Presentation, discussion, and possible action regarding amendments and modifications to the Construction Loan Agreements and Promissory Notes for ADC West Ridge, LP – was presented by Mr. Sinnott. Following public comment (listed below), the Board unanimously approved staff recommendation to amend and modify the documents as noted.

- Terri Anderson, Anderson Development and Construction, provided information on the item

16) Action Item 9(c) – Presentation, discussion, and possible action regarding changes to the capital structure for Avanti at Sienna Palms Legacy (HTC #18188/ TCAP RF Contract 13150019504) – was presented by Mr. Sinnott. The Board unanimously approved staff recommendation regarding the changes to the capital structure.

17) Action Item 9(d) – Presentation, discussion, and possible action regarding a request for waiver of rules for 19126, 3104 Division Lofts, Arlington; 19244, Mariposa at Harris Road, Arlington; and 19319, Bardin Apartments, Arlington – was presented by Marni Holloway, TDHCA Director of Multifamily Finance, with additional information from Mr. Wilkinson, Mr. Eccles, and Sharon Gamble, TDHCA Competitive Housing Tax Credit Program Administrator. Following public comment (listed below), the Board voted 5-1 (Ms. Thomason voting nay) to deny staff recommendation which, consequently, denied the waiver appeals from the applicants.

- Michael Lyttle, TDHCA Director of External Affairs, read a letter into the record from Mayor Gary Heinrich, City of Keene, in support of staff recommendation
- Mr. Lyttle also read a letter into the record from Mayor James Burgess, City of Venus, in opposition to staff recommendation
- Sarah André, consultant representing 3104 Division Lofts, testified in support of staff recommendation
- Linda Brown, Casa Linda Development Corporation, testified in opposition to staff recommendation

- John Shackelford, attorney representing Palladium, testified in opposition to staff recommendation
- Casey Bump, Bonner Carrington representing Mariposa at Harris Road, provided information on the item
- Cynthia Bast, Locke Lord attorney representing Bardin Apartments, testified in support of staff recommendation
- Tom Huth, Palladium USA, testified in opposition to staff recommendation
- Sally Burchett, Structure Development representing 3104 Division Lofts, testified in support of staff recommendation
- Barry Palmer, Coats Rose attorney, testified in support of staff recommendation
- Kim Schwimmer, HUB for several competing applications against the three applications identified in the item, testified in opposition to staff recommendation

18) Action Item 10 – Report on the meeting of the Rules Committee – was presented by Mr. Vasquez, chair of the TDHCA Governing Board Rules Committee. Additional information was provided by Mr. Eccles; Ms. Boston; and Megan Sylvester, TDHCA Federal Compliance Counsel. The Board voted unanimously to accept the report and to make modifications to the Qualified Allocation Plan to be presented in Action Item 11.

19) Action Item 11 – Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan and directing its publication for public comment in the Texas Register – was presented by Ms. Holloway with additional information from Mr. Eccles. Following public comment (listed below), the Board unanimously approved staff recommendation, as amended, regarding the proposed repeal of the existing rules and proposed publication of the new rules.

- Audrey Martin, Purple Martin Real Estate and speaking on behalf of the Texas Affiliation of Affordable Housing Providers, made comments on the proposed rules
- Jean Latsha, Pedcor Investments and speaking on behalf of the Texas Affiliation of Affordable Housing Providers, made comments on the proposed rules
- Terri Anderson, Anderson Development and Construction, made comments on the proposed rules
- Tracey Fine, National Church Residences, made comments on the proposed rules
- Walter Moreau, Foundation Communities, made comments on the proposed rules
- John Henneberger, Texas Housers, made comments on the proposed rules
- Sarah André, Structure Development, made comments on the proposed rules

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

There being no further business to come before the Board, the meeting adjourned at 10:47 a.m. The next meeting is set for Thursday, October 10, 2019.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Paseo Plaza Apartments (HTC #95093)

RECOMMENDED ACTION

WHEREAS, Paseo Plaza Apartments (the Development) received an award of 9% Housing Tax Credits (HTCs) in 1995 for the construction of 184 units of multifamily housing in Brownsville, Cameron County;

WHEREAS, The Brownsville Housing Opportunity Corporation, the General Partner of Paseo Plaza Apartments, L.P. (the Development Owner or Owner), is requesting approval for a reduction to the area of the Development site from 20 acres to 15.15 acres, which will result in a modification of the residential density of 32.01%, due to the removal of a 4.85 acre portion of the site that will be used for Trail Village (HTC #19208), a new 9% HTC development approved in 2019;

WHEREAS, Board approval is required for a modification of the residential density of at least five percent as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F), and the Owner has complied with the amendment requirements therein; and

WHEREAS, the requested change does not materially alter the Development in a negative manner, was not reasonably foreseeable or preventable by the Owner at the time of Application, and would not have adversely affected the selection of the Application;

NOW, therefore, it is hereby

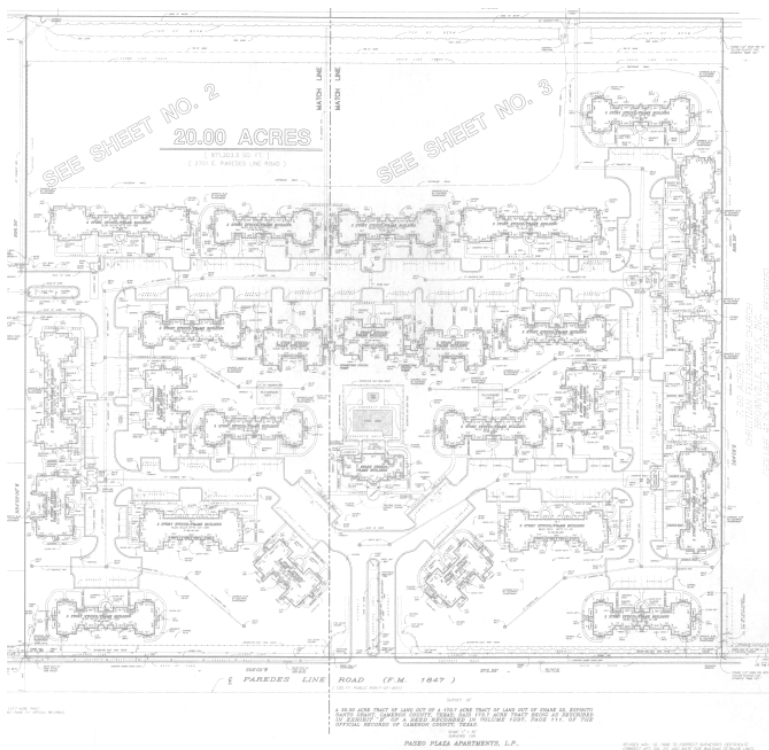
RESOLVED, that the requested material amendment to the Application for Paseo Plaza Apartments is approved as presented at this meeting, and the Executive Director and his designees are each hereby authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

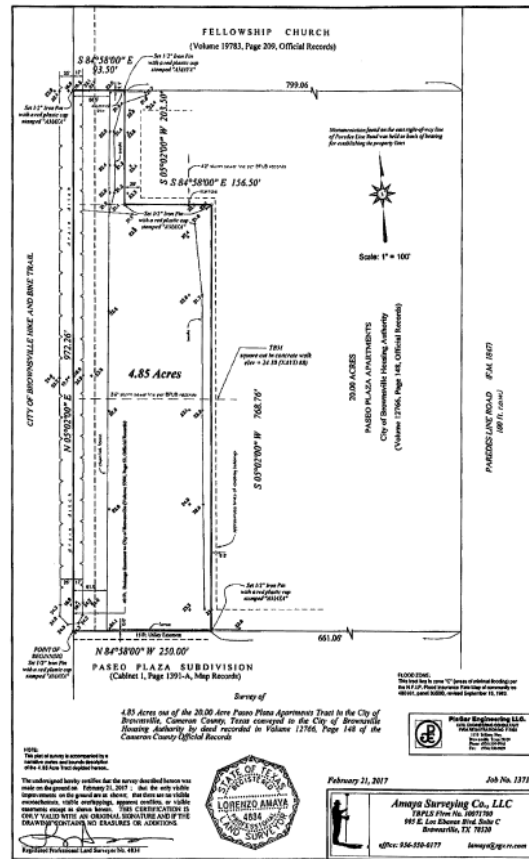
Paseo Plaza Apartments was approved in 1995 for an award of 9% Housing Tax Credits to construct 184 multifamily housing units in Brownsville, Cameron County, on a 20-acre tract. In letters dated October 21, 2019, and October 31, 2019, Carla Mancha, representative of the Development Owner, Paseo Plaza Apartments, L.P., submitted an amendment request asking that 4.85 acres of the 20 acres be released from the LURA, as this land will be used for Trail Village (HTC #19208), a 2019 9% HTC development.

Based on the amendment request, at the time of award for Paseo Plaza Apartments in 1995, the Owner indicated that the Development site totaled 20 acres and considered using a portion of the site that was undeveloped in the future for additional affordable units with the understanding that an amendment to the LURA would be necessary to release the acreage needed to build additional affordable units in accordance with TDHCA's mission. At the time, it was not known if, and when, the additional units would be built. However the HTC Application for Trail Village in 2019 included site control for the 4.85 undeveloped acres of land on the west side of the 20-acre tract for Paseo Plaza Apartments. Trail Village received a 9% HTC award on July 27, 2019, and the proposed 4.85 acre reduction resulted in the density of the Development increasing from 9.20 units per acre to 12.145 units per acre (an increase of 32.01%). Board approval is required for a modification of the residential density of at least five percent as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F).

The image below identifies the full 20-acre tract as proposed at Application for the Development:



The image below identifies the 4.85-acre tract that has been requested to be removed from Paseo Plaza Apartments:



The Owner stated that Trail Village will provide an additional 48 affordable units in the City of Brownsville, which is a good cause for this amendment. The Owner also indicated that releasing the 4.85 acres from the LURA will have no financial impact on the Development.

Staff has reviewed the original application against this amendment request, and has concluded that the change described above would not have affected the award.

The Development Owner has complied with the amendment requirements under 10 TAC §10.405. While not required under 10 TAC §10.405(a), the Development Owner held a public hearing on the matter on October 21, 2019, at the Development’s onsite office/community clubhouse. No negative public comment was received regarding the requested amendment.

Staff recommends approval of the requested material amendment to the Application, which will result in an amendment to the HTC LURA for the Development for the release of the 4.85 acre tract.



BROWNSVILLE HOUSING
**OPPORTUNITY
CORPORATION**

BOARD OF DIRECTORS:
PRESIDENT: Mr. Patricio Sampayo
VICE PRESIDENT: Mr. Luis E. Garduño
DIRECTOR: Mr. John F. Cowen, Jr.
EMPLOYEE DIRECTOR: Ms. Carla Mancha
EMPLOYEE DIRECTOR: Mr. Miguel Herrera

EXPANDING OPPORTUNITIES

October 31, 2019

Kent Bedell
Asset Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Public Hearing Meeting Minutes and Attendance Sheet for the LURA Amendment Request to TDHCA from Paseo Plaza Apartments, L.P.

Dear Mr. Bedell,

The Brownsville Housing Opportunity Corporation (the "Development Owner") submitted a request on October 21, 2019, for a material amendment to the LURA, on behalf of Paseo Plaza Apartments, L.P. This request was sent via mail and included in the Carryover Allocation Package for Application 19208.

The amendment that is being requested is to remove 4.85 acres of unimproved land adjacent to Paseo Plaza Apartments, on behalf of Paseo Plaza Apartments, L.P. This amendment is needed in order to utilize the Property for the low-income housing tax credit project know as Trail Village, which received an award this year.

As per Rule 10.405 (b) (3) of the Texas Administrative Code BHOC (the "Development Owner") provided notice and held a public hearing regarding the requested amendment. Through this letter we are verifying the public hearing with the minutes and attendance sheet of the hearing and we are submitting minutes of the public hearing and attendance sheet within three (3) business days after the date of the public hearing.

Attached please find a copy of the public hearing notice, the minutes, and the attendance sheet.

We believe we have now satisfied all pending conditions that were required in order for our request for a material amendment to be considered by the Board.

Please let us know if any additional information is needed. My e-mail is cmancha@hacb.us and my telephone number is (956) 214-1530.

Best Regards,

Brownsville Housing Opportunity Corporation

2606 Boca Chica Blvd, Brownsville, Texas 78521 • Tel: 956 541 8315 • www.hacb.us

PASEO PLAZA APARTMENTS, L.P.

By: The Brownsville Housing Opportunity Corporation,
its General Partner



By: Carla Mancha,
Employee Director and Authorized Signer

Enclosures (2)



BROWNSVILLE HOUSING
**OPPORTUNITY
CORPORATION**

BOARD OF DIRECTORS:
PRESIDENT: Mr. Patricio Sampayo
VICE PRESIDENT: Mr. Luis E. Garduño
DIRECTOR: Mr. John F. Cowen, Jr.
EMPLOYEE DIRECTOR: Ms. Carla Mancha
EMPLOYEE DIRECTOR: Mr. Miguel Herrera

EXPANDING OPPORTUNITIES

October 21, 2019

Kent Bedell
Asset Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Via Email Kent.Bedell@tdhca.state.tx.us

Re: Paseo Plaza Apartments (the “Development”)
2701 Paredes Line Road
Brownsville, Cameron County, Texas 78526
25734 – Land Use Restriction Agreement (“LURA”) recorded in Volume 5006 on Page 5
of the Official Records of Cameron County, Texas

Dear Mr. Bedell,

The purpose of this letter is to request approval, on behalf of Paseo Plaza Apartments, L.P. (the “Development Owner”) of a material amendment to the LURA, and IRS Forms 8609 have already been issued by the Department. Enclosed herewith please find check #10491 for payment of the LURA amendment fee of \$2,500.00.

The amendment being requested is to remove 4.85 acres (the “Property”) from the LURA as the Property is unimproved land adjacent to Paseo Plaza Apartments and is not being used for Development notwithstanding its inclusion in the legal description attached to the LURA. Enclosed herewith please find the proposed Exhibit A to supersede and replace the current Exhibit A to the LURA.

We need to make this amendment in order to utilize the Property for a low-income housing tax credit project known as Trail Village, which received an award this year. Trail Village will consist of forty-eight (48) units on the Property. Because of our intention to develop Trail Village on the Property, there is good cause for this amendment. In addition, releasing the Property from the LURA will have no financial impact on the Development.

At the time of application for the Development, the Development Owner encumbered the entire 20 acres with the Land Use Restriction Agreement. It was reasonably foreseeable at that time that, if a portion of the entire 20 acres was not developed for the Development and that undeveloped portion was suitable for additional units of affordable housing, then the Development Owner would need to request an amendment to the LURA in order to provide for more units of affordable housing in accordance with TDHCA’s mission.

Moreover, the Development does not have any uncorrected issues of noncompliance outside of the corrective action period or otherwise owes fees to the Department.

Paseo Plaza BHOC, L.L.C. acquired the investor's interests on March 30, 2016 and does not have an objection to this request. The Brownsville Housing Opportunity Corporation is the lender and also does not have an objection to this request. Both Paseo Plaza BHOC, L.L.C. and The Brownsville Housing Opportunity Corporation have been informally notified of this request and are not opposed to the request.

The Development Owner will provide notice and hold a public hearing on October 29, 2019 at 5:30 p.m. regarding the requested amendment at least 15 business days prior to the scheduled Board meeting where the request will be considered. Proof of this hearing consisting of minutes thereof and attendance sheet, as well as a copy of the formal notification to each tenant of the Development, Paseo Plaza BHOC, L.L.C., and The Brownsville Housing Opportunity Corporation will be submitted within three (3) business days after the date of the public hearing.

Thank you for your attention to this matter. Please feel free to call me if you have any questions or would like additional information. I can be reached via email cmancha@hacb.us or at (956)214-1530.

Sincerely,

PASEO PLAZA APARTMENTS, L.P.

By: The Brownsville Housing Opportunity Corporation,
its General Partner



By: Carla Mancha,
Employee Director and Authorized Signer

Enclosures (2)

xc: The Brownsville Housing Opportunity Corporation
Lender
2606 Boca Chica Boulevard
Brownsville, Texas 78521

Paseo Plaza BHOC, L.L.C.
Investor
2606 Boca Chica Boulevard
Brownsville, Texas 78521

EXHIBIT "A"

A 20.000 acre tract of land out of a certain 173.7 acre tract of land out Share 22, ESPIRITU SANTO GRANT, Cameron County, Texas; said 173.7 acre tract being as described in Exhibit "B" of a Deed recorded in Volume 1297, Page 111 of the Official Records of Cameron County, Texas; said 20.000 acre tract being more particularly described as follows:

COMMENCING at the Southeast corner of said 173.7 acre tract, said point lying within the right-of-way of Farm to Market Road No. 1847 (F.M. 1847) (Parades Line Road) (100 foot right of way) and being the point of intersection of the centerline of Coffee Port Road and the line dividing Shares 19 and 22 of said Espiritu Santo Grant and also being the Northeast corner of a certain 140 acre tract in Share 22, formerly in the name of George Putegnatt and also being the Southeast corner of a certain 573.76 acre tract, formerly in the name of Ohio and Texas Sugar Company; THENCE North 05 degrees 02 minutes 00 seconds East, with and along the contiguous East line of Share 22 and East line of said 173.7 acre tract, within the right-of-way of F.M. 1847, a distance of 1478.80 feet, to a point; THENCE North 84 degrees 58 minutes 00 seconds West, a distance of 50.00 feet, to a one-half inch iron pin with a yellow plastic cap stamped "M & R, Inc." set on the West right-of-way line of F.M. 1847, for the Southeast corner and Point of Beginning of the tract herein described;

THENCE North 84 degrees 58 minutes 00 seconds West, a distance of 896.06 feet, to a one-half inch iron pin with a yellow plastic cap stamped "M & R, Inc." set on the contiguous West line of said 173.7 acre tract and East right-of way line of the Southern Pacific Railroad (100 foot right of way), for the Southwest corner of this tract;

THENCE North 05 degrees 02 minutes East, with and along the contiguous West line of said 173.7 acre tract and East right-of-way line of the Southern Pacific Railroad, a distance of 972.26 feet, to a one-half inch iron pin with a yellow plastic cap stamped "M & R, Inc." set, for the Northwest corner of this tract;

THENCE South 84 degrees 58 minutes 00 seconds East, a distance of 896.06 feet, to a one-half inch iron pin with a yellow plastic cap stamped "M & R, Inc." set on the West right-of-way line of F. M. 1847, for the Northeast corner of this tract;

THENCE South 05 degrees 02 minutes West, with and along the West right-of-way line of F.M. 1847, a distance of 972.26 feet, to the POINT OF BEGINNING, containing 20.000 acres of land, more or less;

SAVE AND EXCEPT that certain 4.85 acres of land, more or less, in Cameron County, Texas, and being out of the 20.00 acre Paseo Plaza Apartments Tract conveyed to the City of Brownsville Housing Authority by deed dated April 19, 2006 and recorded in Volume 12766, Page 148 of the Cameron County Official Records; said 4.85 acre tract being more particularly located and described, as follows:

BEGINNING at a ½ inch iron pin with a red plastic cap stamped “AMAYA” found for the northwest corner of Paseo Plaza Subdivision as recorded in Cabinet 1, Page 1391-A of the Cameron County Map Records and for the southwest corner of said Paseo Plaza Apartments Tract and for the southwest corner of this tract;

THENCE, along the west line of said Paseo Plaza Apartments Tract being the east line of the City of Brownsville Hike and Bike Trail and through a drain ditch, N 05°02’00” E a distance of 972.26 feet to a point for the northwest corner of said Paseo Plaza Apartments Tract and for the northwest corner of this tract;

THENCE, along the north line of said Paseo Plaza Apartments Tract, S 84°58’00” E, at 40.0 feet a ½ inch iron pin with a red plastic cup stamped “AMAYA” set on the east line of a 40 Ft. Drainage Easement, a total distance of 93.50 feet to a ½ inch iron pin with a red plastic cap stamped “AMAYA” found for the northeast corner of this tract;

THENCE, S 05°02’00” W a distance of 203.50 feet to a ½ inch iron pin with a red plastic cap stamped “AMAYA” found for a corner of this tract;

THENCE, S 84°58’00” E a distance of 156.50 feet to a ½ inch iron pin with a red plastic cap stamped “AMAYA” found for a corner of this tract;

THENCE, S 05°02’00” W a distance of 768.76 feet to a ½ inch iron pin with a red plastic cap stamped “AMAYA” set on the south line of said Paseo Plaza Apartments Tract, for the southeast corner of this tract;

THENCE, along south line of said Paseo Plaza Apartments Tract and the north line of said Paseo Plaza Subdivision, N 84°58’00” W a distance of 250.00 feet to the POINT OF BEGINNING, containing 4.85 acres of land, more or less.

Minutes of the Public Hearing:

Land Use Restriction Agreement (LURA) Amendment Request to the Texas Department of Housing and Community Affairs (TDHCA) from Paseo Plaza Apartments on behalf and as the Development Owner, the Brownsville Housing Opportunity Corporation (BHOC)

The Public Hearing was held:

- Tuesday, **October 29**, 2019 at **5:30 pm** at the **Paseo Plaza Apartments Leasing Office at 2701 Paredes Ln. Road, Brownsville, TX 78526**

Present: Carla Mancha, BHOC Employee Director and HACB CEO; Miguel Herrera, BHOC Employee Director and HACB CFO; Letty Gonzalez, HACB Client Services Director; HACB Isabel Nuñez, Facilities Director; Kim Martin, Regional Manager Core Management Group; Laura Garcia, Manager; Teresa Briceño, Assistant Manager; Ana Trejo, HACB Grants and Special Projects Manager; and community residents.

The meeting began at 5:35 pm and was ran by Ms. Mancha, BHOC Employee Director and HACB CEO.

Ms. Mancha opened the meeting thanking everyone for attending the meeting. She introduced herself as HACB's CEO and BHOC's Employee Director. Ms. Mancha went on to explain that BHOC is the entity that owns the Paseo Plaza Apartments. She explained that the reason for the public hearing was that the Texas Department of Housing and Community Affairs (TDHCA) rules state that when requesting a change to the LURA the residents of the property in question must be notified. Ms. Mancha explained that BHOC submitted a request to remove 4.85 from the current LURA to build a new apartment complex in the back side of Paseo Plaza, in front of the trail. Ms. Mancha went on to advise the residents that BHOC submitted a 9% tax credit application to build Trail Village and that it was awarded in July for approximately \$10 million. For this reason, an amendment to the LURA is needed. Ms. Mancha reiterated that from the 20 acres in the current LURA 4.85 acres would be taken out to create a different LURA for the new Trail Village property and that BHOC is requesting an amendment to the Paseo Plaza LURA to TDHCA. Ms. Mancha then proceeded to introduce her team: Letty Gonzalez, Client Services Director; Isabel Nuñez, Facilities Director, Ana Trejo and Miguel Herrera as part of the team that completed the tax credit application. She continued to explain that Paseo Plaza came to be through a 9% tax credit application as well, that state funds and a LURA are attached to the property.

Mr. Herrera then spoke about the tax credit process and how federal funds get disbursed to the states and that it is the states' responsibility disbursing those funds where needed. He also explained that it is a competitive process. He stated that the state has issue with the amendment being requested because its for the purpose of creating more affordable housing and that BHOC must abide by the rules of TDHCA.

The following are the concerns and questions that were raised during the public hearing.

Paseo Plaza Residents' Q&A

Mr. Felipe Rocio asked the following:

- “Has it been approved?” To which Ms. Mancha answered that the tax credit for Trail Village had been awarded already and the amendment being requested is to leave the Paseo Plaza LURA with 15.15 acres for Trail Village to be built in the 4.85 acres towards the back of the property.
- “How will affect them and will the rent go up?” Ms. Mancha stated that there will be no effect on Paseo Plaza residents’ rents and that for those residents in the SECTION 8 program their rent is based on their income.
- Mr. Rocio asked whether they were going to be moving management over to the new property because that is something he wouldn’t support. Ms. Mancha advised that that was not going to happen.

Mrs. Irma Castelan made the following question:

- “How will it intervene with our entrance; where will the new residents be entering and exiting the property?” Ms. Mancha and Mr. Herrera explained that the new residents will be using Paseo Blvd. to access the new property. Paseo Blvd. is behind the Paseo Plaza Apartments.
- Mrs. Castelan asked whether the new units were going to have their own pool and leasing office. Ms., Mancha explained that the new apartments would have its own leasing office, but it wouldn’t have a pool.

Mrs. Rosa Villa asked and commented the following:

- “Will there will be a fence or division between the two apartment complexes?” Ms. Mancha said that she didn’t know yet if there was going to be a gate but that there will be a perimeter fence.
- Mrs. Villa also asked what type of building were going to be built. Ms. Mancha and Mr. Herrera explained that there were 3 residential buildings in total 2 (3 floor) and 1 (2 floor) plus a club house.

Mr. Roberto Teran made the following comment:

- A traffic light being needed on the Paredes Ln Rd because there was too much traffic (with all the construction being done down the road) and residents have a hard time exiting the property.

Ms. Amy Silva asked:

- Are Paseo Plaza residents going to have problems once construction began regarding plumbing. She wanted to know if their water was going to shut off due to construction. Mrs. Kim Martin and Ms. Mancha advised that there wouldn’t be an issue with that. That the new apartments would have to connect to a main line and not access one that is already in use in the Paseo Plaza property.

Final Comments

Ms. Mancha advised the residents that construction is set to begin in August 2020. She asked for the residents' cooperation in building communities together. That BHOC has already been funded to build Trail Village and that this will help house some families out of the 5,000 currently in the HACB waiting list.

Meeting was adjourned at 6:30 pm.



Resident Participation Sign in Sheet

Type of Meeting

- Resident Meeting
- Public Hearing
- Training
- Other _____

Location: Paseo Plaza Leasing Office

Date: 10/29/19 Time: 5:30pm

Event/Session Title: Public Hearing:

Paseo Plaza LURA

Total # People Attending: _____

Please Sign Below:

- | | |
|---------------------------------|----------------------------|
| 1. <u>Malyola Garcia</u> | 26. <u>Diana Llanas</u> |
| 2. <u>Gloria Narvaez</u> | 27. <u>Beatriz Ramirez</u> |
| 3. <u>Felipe Rocio</u> ✓ | 28. <u>Fior Olivares</u> |
| 4. <u>Irma Castelan</u> | 29. <u>Braulio Ramos</u> |
| 5. <u>Rosa Uella</u> ↓ | 30. <u>Helen Drumright</u> |
| 6. <u>Maria Anna Valdez</u> | 31. <u>Lorena Saucedo.</u> |
| 7. <u>Amy Silva</u> | 32. _____ |
| 8. <u>Maria Ignacia Najera</u> | 33. _____ |
| 9. <u>Ashley Pansel</u> | 34. _____ |
| 10. <u>Rosalinda Montemayor</u> | 35. _____ |
| 11. <u>Kimberly Silva</u> | 36. _____ |
| 12. <u>Iris Rodriguez</u> | 37. _____ |
| 13. <u>Isabel Nunez</u> | 38. _____ |
| 14. <u>Walecia Gonzalez</u> | 39. _____ |
| 15. <u>Lorena Llanas</u> | 40. _____ |
| 16. <u>Roberto Teran</u> ✓ | 41. _____ |
| 17. <u>Veronica Arreola</u> | 42. _____ |
| 18. <u>Sofia Villalon</u> | 43. _____ |
| 19. <u>Hugo Sanchez</u> | 44. _____ |
| 20. <u>Alejandra Villalon</u> | 45. _____ |
| 21. <u>Carla Ortiz</u> | 46. _____ |
| 22. <u>Angelica Pena</u> | 47. _____ |
| 23. <u>Margarita Pena</u> | 48. _____ |
| 24. <u>LLANAS EUSTACIO</u> | 49. _____ |



BROWNSVILLE HOUSING
**OPPORTUNITY
CORPORATION**

BOARD OF DIRECTORS:
PRESIDENT: Mr. Patricio Sampayo
VICE PRESIDENT: Mr. Luis E. Garduño
DIRECTOR: Mr. John F. Cowen Jr.
EMPLOYEE DIRECTOR: Ms. Carla Mancha
EMPLOYEE DIRECTOR: Mr. Miguel Herrera

EXPANDING OPPORTUNITIES

NOTICE TO RESIDENTS

Paseo Plaza Apartments

2701 Paredes Ln. Road Brownsville, Cameron County, TX 78526
(956) 541-6868

October 21, 2019

TO ALL RESIDENTS OF PASEO PLAZA APARTMENTS

RE: LURA Amendment Request to TDHCA from
Paseo Plaza Apartments, L.P. (the “Development Owner”)

Dear Residents:

On behalf of and as General Partner of the Development Owner, The Brownsville Housing Opportunity Corporation (BHOC), by this letter, provides you with written notice that the Development Owner is asking the Texas Department of Housing and Community Affairs Governing Board (the TDHCA Board) to approve an amendment to its Land Use Restriction Agreement (LURA) to remove 4.85 acres (the “Property”) from the LURA as the Property is unimproved land that is adjacent to northwest of the Paseo Plaza Apartments and is the future site of the Trail Village Apartments. This request is being made to TDHCA to help facilitate the future development of the Trail Village Apartments. TDHCA Uniform Multifamily Rules require that notice of this request be provided to all residents of the Paseo Plaza Apartments. This letter is to inform you that there will be a public hearing to discuss the request and we invite you to attend.

The public hearing is your opportunity to discuss the amendment request and voice your concern regarding the removal of the 4.85 acres from the Paseo Plaza Apartments LURA. Information obtained from this meeting will be submitted for consideration by the TDHCA Board at their December 12, 2019 meeting.

If you are unable to attend the public hearing and would like to submit your concerns in writing, or if you otherwise have any questions or comments, please contact the Development Owner, as follows:

Paseo Plaza Apartments, L.P.
Attn: Carla Mancha, Employee Director
2606 Boca Chica Boulevard
Brownsville, Texas 78521
Telephone: 956-214-1531
E-Mail: cmancha@hacb.us.

A public hearing to discuss the amendment request is scheduled at:

Location: Paseo Plaza Apartments Leasing Office
2701 Paredes Ln. Road, Brownsville, TX 78526

Date: Tuesday, October 29, 2019

Time: 5:30 pm

Sincerely,



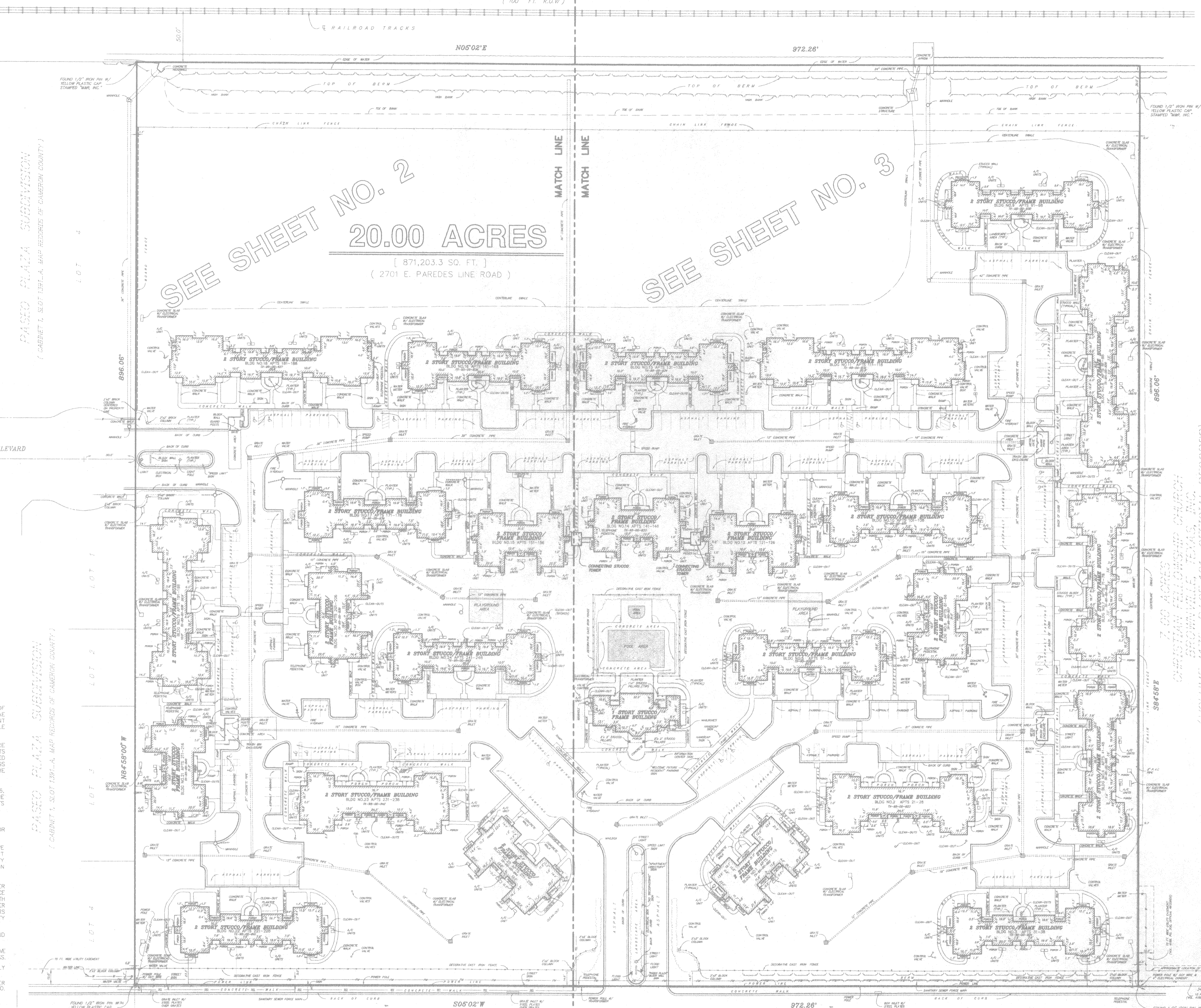
Carla Mancha, Employee Director
Brownsville Housing Opportunity Corporation

xc: ***Via Hand Delivery***
Brownsville Housing Opportunity Corporation
Lender
2606 Boca Chica Boulevard
Brownsville, Texas 78521

Via Hand Delivery
Paseo Plaza BHOC, L.L.C.
Investor
2606 Boca Chica Boulevard
Brownsville, Texas 78521

BROWNSVILLE COUNTRY CLUB SUBDIVISION SECTION X
(CHARTER 1, PAGE 247, A, MAP RECORDS OF CAMERON COUNTY)

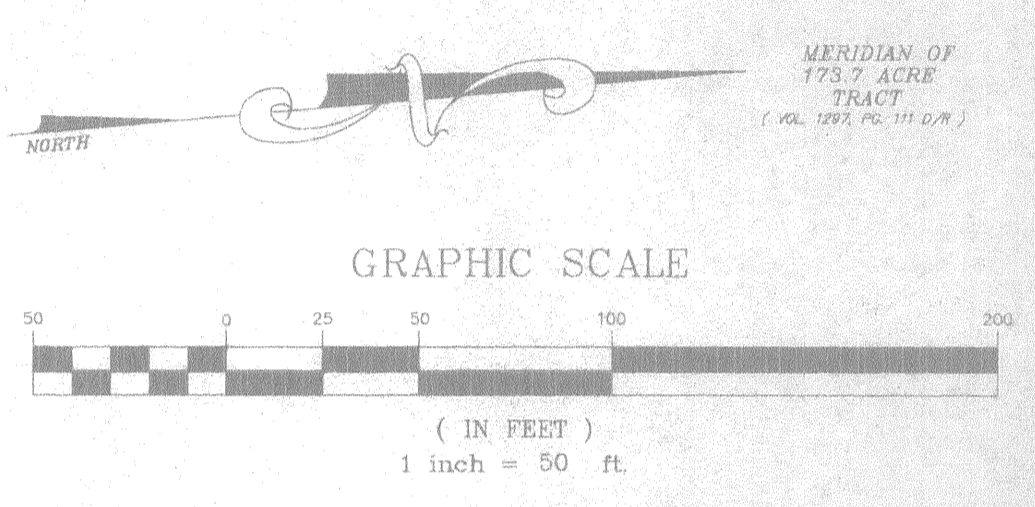
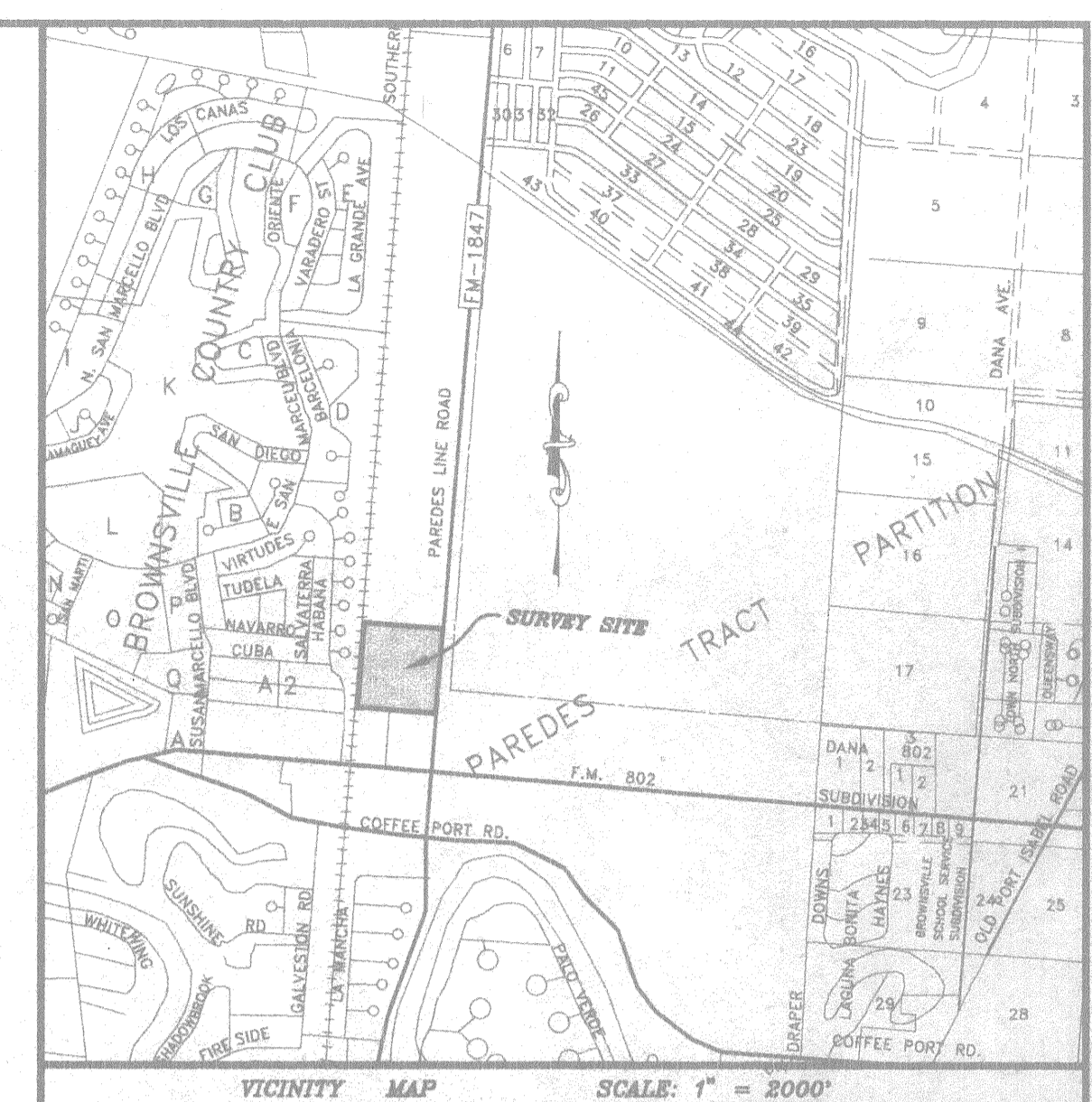
SOUTHERN PACIFIC RAILROAD
(100 FT. R.O.W.)



SEE SHEET NO. 2

20.00 ACRES
[871,203.3 SQ. FT.]
(2701 E. PAREDES LINE ROAD)

SEE SHEET NO. 3



METES AND BOUNDS DESCRIPTION

A 20.000 ACRE TRACT OF LAND OUT OF A CERTAIN 173.7 ACRE TRACT OF LAND OUT OF SHARE 22, ESPRITU SANTO GRANT, CAMERON COUNTY, TEXAS; SAID 173.7 ACRE TRACT BEING AS DESCRIBED IN CHARTER "B" OF A DEED RECORDED IN VOLUME 1297, PAGE 111 OF THE OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS; SAID 20.000 ACRE TRACT BEING MORE PARTICULARLY LOCATED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID 173.7 ACRE TRACT, SAID POINT LYING WITHIN THE RIGHT-OF-WAY OF FARM TO MARKET ROAD (F.M. 1847) (PAREDES LINE ROAD) (100 FT. R. O. W.) AND BEING THE POINT OF INTERSECTION OF THE CENTERLINE OF COFFEE PORT ROAD AND THE LINE DIVIDING SHARES 19 AND 22 OF SAID ESPRITU SANTO GRANT AND ALSO BEING THE NORTHEAST CORNER OF A CERTAIN 140 ACRE TRACT IN SHARE 22, FORMERLY IN THE NAME OF GEORGE FULMAY AND ALSO BEING THE SOUTHWEST CORNER OF A CERTAIN 373.76 ACRE TRACT, FORMERLY IN THE NAME OF OHIO AND TEXAS SUGAR COMPANY, THENCE NORTH 05 DEG. 02 MIN. 00 SEC. EAST, WITH AND ALONG THE CONTIGUOUS EAST LINE OF SHARE 22 AND EAST LINE OF SAID 173.7 ACRE TRACT WITHIN THE RIGHT-OF-WAY OF F.M. 1847, A DISTANCE OF 1478.86 FEET TO A POINT, THENCE NORTH 84 DEG. 58 MIN. 00 SEC. WEST, A DISTANCE OF 50.00 FEET TO A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MAR, INC." SET ON THE WEST RIGHT-OF-WAY LINE OF F.M. 1847, FOR THE SOUTHEAST CORNER AND POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE NORTH 84 DEG. 58 MIN. 00 SEC. WEST, A DISTANCE OF 886.06 FEET TO A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MAR, INC." SET ON THE CONTIGUOUS WEST LINE OF SAID 173.7 ACRE TRACT AND EAST RIGHT-OF-WAY LINE OF THE SOUTHERN PACIFIC RAILROAD (100 FT. R. O. W.), FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE NORTH 05 DEG. 02 MIN. EAST, WITH AND ALONG THE CONTIGUOUS WEST LINE OF SAID 173.7 ACRE TRACT AND EAST RIGHT-OF-WAY LINE OF THE SOUTHERN PACIFIC RAILROAD, A DISTANCE OF 972.26 FEET TO A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MAR, INC." SET, FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE SOUTH 84 DEG. 58 MIN. 00 SEC. EAST, A DISTANCE OF 886.06 FEET TO A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MAR, INC." SET ON THE WEST RIGHT-OF-WAY LINE OF F.M. 1847, FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE SOUTH 05 DEG. 02 MIN. WEST, WITH AND ALONG THE WEST RIGHT-OF-WAY LINE OF F.M. 1847, A DISTANCE OF 972.26 FEET THE POINT OF BEGINNING.

CONTAINING 20.000 ACRES OF LAND, MORE OR LESS.

- NOTES:
- 1) THERE ARE 323 PARKING SPACES VARYING BETWEEN 8.5' AND 9.3' IN WIDTH BY 18.2' IN DEPTH THERE ARE ALSO 32 HANDICAP PARKING SPACES
 - 2) THIS TRACT IS SUBJECT TO THE "DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME CREDIT" RECORDED IN VOLUME 5006, PAGE 5, OF THE OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS.
 - 3) BROADBAND EASEMENT AND RIGHT OF ENTRY AGREEMENT BETWEEN HERITAGE CABLE VISION OF TEXAS, INC. AND PASEO PLAZA APARTMENTS, L.P. DATED AUGUST 01, 1997, AND RECORDED IN VOLUME 4572, PAGE 56, REAL PROPERTY RECORDS OF CAMERON COUNTY, TEXAS.
 - 4) "RECIPROCAL DEVELOPMENT AGREEMENT" RECORDED IN VOLUME 3131, PAGE 68, CAMERON COUNTY OFFICIAL RECORDS IS FOR A 14.243 ACRE TRACT CONVEYED TO M.L. BUTT GROCERY PARK LOCATED APPROXIMATELY 750 FEET SOUTH OF THIS TRACT.
 - 5) SETBACK LINES PER THE CITY OF BROWNSVILLE PLANNING AND ZONING DEPARTMENT ARE AS FOLLOWS:
- 25.0' FRONT
- 3.5' SIDES AND BACK

SURVEYORS CERTIFICATE

THE UNDERSIGNED, BEING A REGISTERED SURVEYOR OF THE STATE OF TEXAS, CERTIFIES TO (1) PASEO PLAZA APARTMENTS, L.P.; FANNIE MAE AND ITS SUCCESSORS AND/OR ASSIGNS, (2) MIDLAND MORTGAGE INVESTMENT CORPORATION ITS SUCCESSORS AND ASSIGNS, AND (3), CHARTER TITLE COMPANY AS FOLLOWS:

THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL" REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS JOINTLY ESTABLISHED AND ADOPTED BY THE AMERICAN LAND TITLE ASSOCIATION AND THE AMERICAN CONGRESS ON SURVEYING AND MAPPING IN 1992 AND THIS SURVEY MEETS THE REQUIREMENTS FOR AN URBAN SURVEY AS DEFINED THEREIN.

THE SURVEY WAS MADE ON THE GROUND BETWEEN JULY 14 AND JULY 16, 1998 AND CORRECTLY SHOWS THE AREA OF THE SUBJECT PROPERTY, THE LOCATION AND TYPE OF ALL BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS SITUATED ON THE SUBJECT PROPERTY, AND ANY OTHER MATTERS SITUATED ON THE SUBJECT PROPERTY.

EXCEPT AS SHOWN ON THE SURVEY, THERE ARE NO VISIBLE EASEMENTS OR RIGHTS OF WAY OF WHICH THE UNDERSIGNED HAS BEEN ADVISED.

EXCEPT AS SHOWN ON THE SURVEY, THERE ARE NO OBSERVABLE ABOVE GROUND ENCROACHMENTS (a) BY THE IMPROVEMENTS ON THE SUBJECT PROPERTY UPON ADJOINING PROPERTIES, STREETS, OR ALLEYS, OR (b), BY THE IMPROVEMENTS ON ADJOINING PROPERTIES, STREETS, OR ALLEYS UPON THE SUBJECT PROPERTY.

THE LOCATION OF EACH EASEMENT, RIGHT OF WAY, SERVITUDE, AND OTHER MATTER AFFECTING THE SUBJECT PROPERTY AND LISTED IN THE TITLE INSURANCE COMMITMENT DATED JULY 07, 1998, ISSUED BY CHARTER TITLE COMPANY WITH RESPECT TO THE SUBJECT PROPERTY, HAS BEEN SHOWN ON THE SURVEY TOGETHER WITH APPROPRIATE RECORDING REFERENCES, TO THE EXTENT THAT SUCH MATTERS CAN BE LOCATED. THE PROPERTY SHOWN ON THE SURVEY IS THE PROPERTY DESCRIBED IN THAT TITLE COMMITMENT.

THE SUBJECT PROPERTY HAS ACCESS TO FROM A DULY DEDICATED AND ACCEPTED PUBLIC STREET OR HIGHWAY.

EXCEPT AS SHOWN ON THE SURVEY, THE SUBJECT PROPERTY DOES NOT SERVE ANY ADJOINING PROPERTY FOR DRAINAGE, UTILITIES, OR INGRESS OR EGRESS.

THE RECORD DESCRIPTION OF THE SUBJECT PROPERTY FORMS A MATHEMATICALLY CLOSED FIGURE.

THIS TRACT LIES IN ZONE "C" (OUTSIDE THE 100-YEAR FLOOD PLAIN) AS PER THE F.I.A FLOOD INSURANCE RATE MAP OF COMMUNITY NO. 480101, PANEL NO. 0350-B, EFFECTIVE SEPTEMBER 15, 1983.

THE PARTIES LISTED ABOVE ARE ENTITLED TO RELY ON THE SURVEY AND THIS CERTIFICATE AS BEING TRUE AND ACCURATE.

LORENZO AMAYA
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4834

DATE: AUGUST 12, 1998

SURVEY OF
A 20.00 ACRE TRACT OF LAND OUT OF A 173.7 ACRE TRACT OF LAND OUT OF SHARE 22, ESPRITU SANTO GRANT, CAMERON COUNTY, TEXAS; SAID 173.7 ACRE TRACT BEING AS DESCRIBED IN EXHIBIT "B" OF A DEED RECORDED IN VOLUME 1297, PAGE 111, OF THE OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS.

SCALE: 1" = 50'

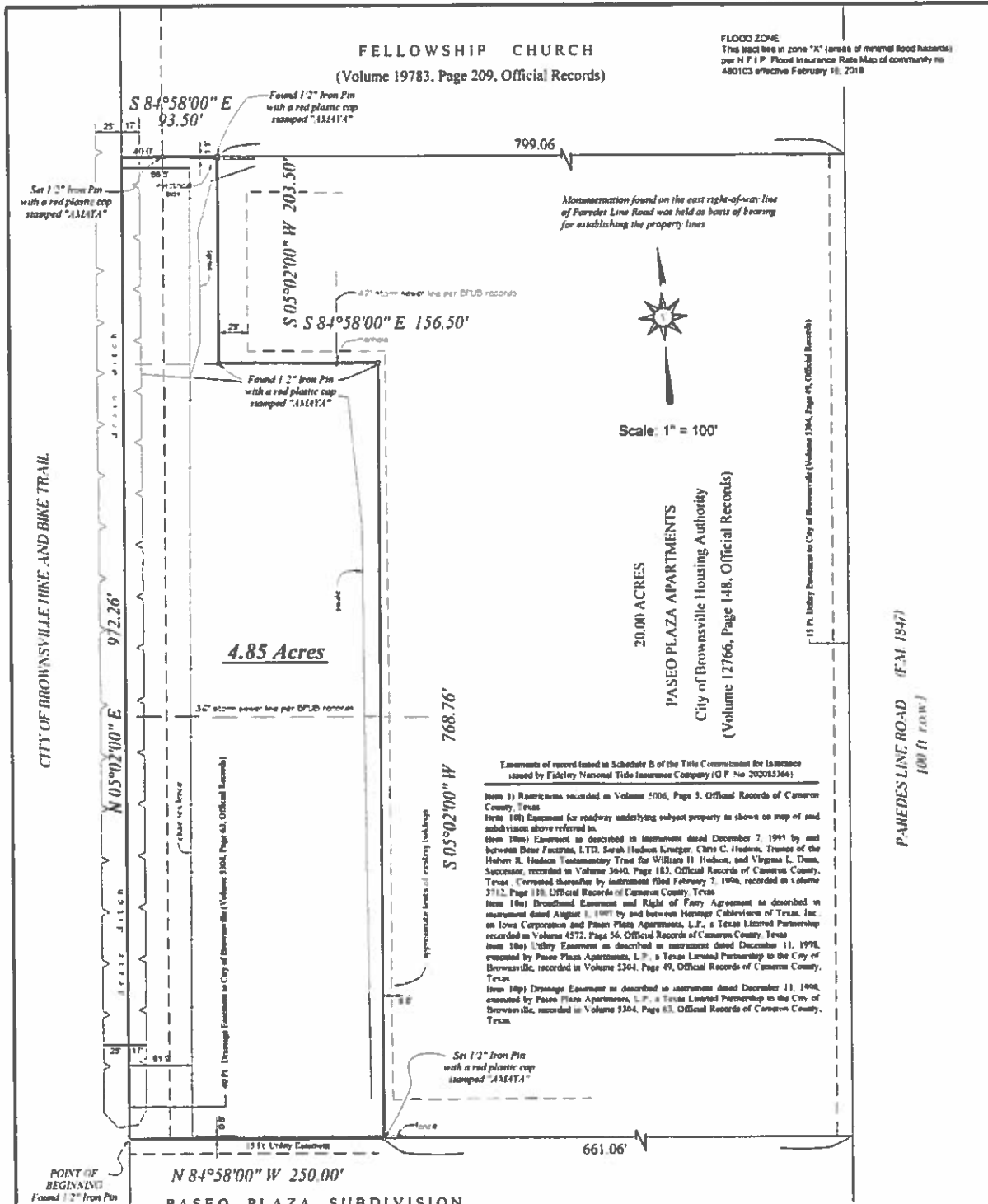
SURVEYED FOR:
PASEO PLAZA APARTMENTS, L.P.

Mejia & Rose, Incorporated
Engineering Surveying
1643 West Price Road (210) 544-3022
P.O. Box 3761 Brownsville, Texas 78520
Fax (210) 544-3068

REVISED NOV. 12, 1998 TO CORRECT SURVEYORS CERTIFICATE CORRECT APT. NO. 213. ADD NOTE FOR BUILDING SETBACK LINES AND DESIGNATE ROAD AS PUBLIC AND ADD METES & BOUNDS DESCRIPTION.

FELLOWSHIP CHURCH
(Volume 19783, Page 209, Official Records)

FLOOD ZONE
This tract lies in zone "X" (area of minimal flood hazards)
per 11 F.P. Flood Insurance Rate Map of community no
480103 effective February 11, 2018



4.85 Acres
PASEO PLAZA SUBDIVISION
(Cabinet I, Page 1391-A, Map Records)

- Encumbrances of record listed in Schedule B of the Title Commitment for Insurance issued by Fidelity National Title Insurance Company (O.P. No. 203033664):
- Item 3) Restrictions recorded in Volume 5106, Page 5, Official Records of Cameron County, Texas
 - Item 10) Easement for roadway underlying subject property as shown on map of said subdivision above referred to.
 - Item 18a) Easement as described in instrument dated December 7, 1995 by and between Besta Fazzetta, LTD, Sarah Hudson Kueger, Chris C. Hudson, Trustee of the Hebert R. Hudson Testamentary Trust for William H. Hudson, and Virginia L. Dunn, Successor, recorded in Volume 3640, Page 183, Official Records of Cameron County, Texas. Corrected thereafter by instrument filed February 7, 1996, recorded in volume 3712, Page 118, Official Records of Cameron County, Texas.
 - Item 18b) Broadband Easement and Right of Entry Agreement as described in instrument dated August 1, 1997 by and between Heritage Cablevision of Texas, Inc. an Iowa Corporation and Paseo Plaza Apartments, L.P., a Texas Limited Partnership recorded in Volume 4572, Page 56, Official Records of Cameron County, Texas.
 - Item 18c) Utility Easement as described in instrument dated December 11, 1998, executed by Paseo Plaza Apartments, L.P., a Texas Limited Partnership to the City of Brownsville, recorded in Volume 5304, Page 49, Official Records of Cameron County, Texas.
 - Item 18d) Drainage Easement as described in instrument dated December 11, 1998, executed by Paseo Plaza Apartments, L.P., a Texas Limited Partnership to the City of Brownsville, recorded in Volume 5304, Page 63, Official Records of Cameron County, Texas.

Survey of

4.85 Acres out of the 20.00 Acre Paseo Plaza Apartments Tract in the City of Brownsville, Cameron County, Texas conveyed to the City of Brownsville Housing Authority by deed recorded in Volume 12766, Page 148 of the Cameron County Official Records

Surveyed for: Community Development Corp. of Brownsville

NOTE:
This plat of survey is accompanied by a narrative metes and bounds description of the 4.85 Acre Tract depicted hereon.

PieGar Engineering LLC.
CIVIL ENGINEERING CONSULTANTS
PUBLIC REGISTRATION NO. 9-7203
131 Milligan Street
Brownsville, Texas 78520
Phone (361) 739-9997
Fax (361) 739-9999

The undersigned hereby certifies that the survey described hereon was made on the ground on January 31, 2019, that the only visible improvements on the ground are as shown; that there are no visible encroachments, visible overlappings, apparent conflicts, or visible easements except as shown hereon. THIS CERTIFICATION IS ONLY VALID WITH AN ORIGINAL SIGNATURE AND IF THE DRAWING CONTAINS NO ERASURES OR ADJUSTIONS

Registered Professional Land Surveyor No. 4834



Amaya Surveying Co., LLC
TBPLS Firm No. 10071700
905 E. Lov Ebanos Blvd. Suite C
Brownsville, TX 78520
office: 956-530-0177 lamaya@rgv.rr.com

Job No. 1966

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Las Palomas (HTC #17390)

RECOMMENDED ACTION

WHEREAS, Las Palomas (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2017 for the new construction of 122 units of multifamily housing in McAllen, Hidalgo County;

WHEREAS, Leslie Holleman & Associates, Inc. (the Development Consultant or Consultant) for MHA Las Palomas Village, Ltd. (the Development Owner or Owner) requests approval for a modification of the bedroom mix of units by replacing a one-bedroom unit with a two-bedroom unit and for a reduction in the common area from 4,960 to 4,399 square feet, representing a reduction of 11.31% or 561 square feet from the original design of the clubhouse represented at Application;

WHEREAS, Board approval is required for a modification of the number of units or bedroom mix of units as directed in Tex. Gov't Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B), and for a reduction of three percent or more in the square footage of the common areas as directed in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D);

WHEREAS, the Owner has complied with the amendment requirements in 10 TAC §10.405(a) to place this request before the Board; and

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

NOW, therefore, it is hereby

RESOLVED, that the requested material amendments for Las Palomas are approved as presented to this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Las Palomas was originally approved in the 2017 9% competitive HTC round as a new construction, 122-unit, general multifamily development consisting of one four-story, elevator served building with a clubhouse on the first floor of the building. The Development is located in the City of McAllen, Hidalgo County, and contains 100 affordable units and 22 market rate units. At the time of Application, the Owner indicated that there would be 41 one-bedroom units, 57 two-bedroom units, and 24 three-bedroom units. The Owner also indicated that the community building/space would be 4,960 square feet, which included a laundry facility. However, during the course of the architectural design process, the Owner determined to place washers and dryers in the individual units and decided to remove the coin operated laundry room from the community space.

With this change, it was determined that a two-bedroom unit would fill the vacated laundry facility space better than the original one-bedroom unit that was directly adjacent to the laundry facility. Therefore, the final unit mix consists of 40 one-bedroom units, 58 two-bedroom units, and 24 three-bedroom units. With the removal of the laundry facility, the community space was reduced from 4,960 square feet to 4,399 square feet, which represents a reduction of 561 square feet or 11.31% from the original design of the clubhouse represented at Application. In addition, while the original building floor plan had the community area all located on the west side of the first floor of the building, the updated building floor plan has the leasing center separated from the main community area further east on the first floor of the building. The changes to the unit mix and community area constitute a material alteration which must be approved by the Board in accordance with Tex. Gov't Code §2306.6712(d)(2) and (4) and 10 TAC §10.405(a)(4)(B) and (D).

The Consultant also identified a change in the unit split between the two different types of two-bedroom units identified at Application. At Application, the two-bedroom units were labeled as unit type C (1,064 square feet) and D (1,129 square feet), and the unit split was 33 and 24 units, respectively. With this amendment, due to the reconfiguration of the units as a result of the reduction to the community space, the split between the 1,064 square feet two-bedroom units (now called unit type B) and the 1,129 square feet two-bedroom units (now called unit type C) is now 42 and 16, respectively, which reduced the total Net Rentable Area (NRA) by 201 feet or 0.16% and does not rise to the level of material alteration.

Below is a table that summarizes the changes in the unit mix, reduction in common area, and site acreage changes.

Changes in Unit and Building Plans, Reduction in Common Area, and Site Acreage Changes:

Application						Amendment					
Unit Type	No	Net Area	Total NRA	Gross Area	Total Gross	Unit Type	No	Net Area	Total NRA	Gross Area	Total Gross
A - 1/1	41	745	30,545	745	30,545	A - 1/1	40	745	29,800	745	29,800
C - 2/2	33	1,064	35,112	1,137	37,521	B - 2/2	42	1,064	44,688	1,137	47,754
D - 2/2	24	1,129	27,096	1,129	27,096	C - 2/2	16	1,129	18,064	1,129	18,064
E - 3/2	24	1,249	29,976	1,324	31,776	D - 3/2	24	1,249	29,976	1,324	31,776
	122		122,729		126,939		122		122,528		127,394
Development Site Acres		5.084				Development Site Acres		5.011			
Density		23.997				Density		24.346			
Common Area Sq Ft		4,960				Common Area Sq Ft		4,399			

The Owner’s Consultant also indicated that the development site was reduced from 5.084 acres to 5.011 acres, due to finalization of the plat which did not occur until after the initial plans were submitted to the Department. This change represents a 1.44% reduction in acreage and a 1.46% increase in residential density, which does not rise to the level of material alteration and is considered a notification item under 10 TAC §10.405(a)(2)(A).

Staff has reviewed the original application and scoring documentation against this amendment request and has concluded that none of the changes would have resulted in selection or threshold criteria changes that would have affected the ultimate selection of the application in the competitive round. Staff has also confirmed that these changes did not significantly impact the previous underwriting analysis. However, the final HTC recommendation will be determined at Cost Certification.

Staff recommends approval of the requested amendments to the Application and acknowledges the notification items.

October 2, 2019

Mr. Kent Bedell
Asset Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: #17390 Las Palomas: Material Amendment Request

Dear Kent:

Las Palomas was originally submitted as a 122-unit single building based on the preliminary schematic design, with 41 one-bedroom units, 57 two-bedroom units, and 24 three-bedroom units (Exhibit A). Through the course of the architectural design development phase, it was determined that washers and dryers would be included in the individual units, making the coin-operated laundry room redundant.

Because of the way the units stack, the removal of the laundry room created a situation where this leftover space lent itself more naturally to a second bedroom in the adjacent unit. This changes the unit mix slightly, with the final design encompassing 40 one-bedroom units, 58 two-bedroom units, and 24 three-bedroom units (Exhibit B).

Comparison Chart of Modifications

Original Submission					
Unit Type	No	Net Area	Total NRA	Gross Area	Total Gross
A - 1/1	41	745	30,545	745	30,545
C - 2/2	33	1,064	35,112	1,137	37,521
D - 2/2	24	1,129	27,096	1,129	27,096
E - 3/2	24	1,249	29,976	1,324	31,776
	122		122,729		126,938

Amendment Request					
Unit Type	No	Net Area	Total NRA	Gross Area	Total Gross
A - 1/1	40	745	29,800	745	29,800
B - 2/2	42	1,064	44,688	1,137	47,754
C - 2/2	16	1,129	18,064	1,129	18,064
D - 3/2	24	1,249	29,976	1,324	31,776
	122		122,528		127,394

Pursuant to 10 TAC §10.405(a)(4)(B), this change results in a Material Amendment due to a modification of "bedroom mix of units." This alteration is the result of a net positive change to the Property and would not have changed the score of the Application during its funding cycle, nor does it materially affect the underwriting of the transaction. A revised Building/Unit Configuration Form and Rent Schedule have been included herein (Exhibit C)

We hereby request on behalf of the Partnership that this Material Amendment be brought to the Board at the next available meeting. A check for the Amendment Fee has been sent to your offices via FedEx.

Additionally, pursuant to 10 TAC §10.405(a)(2)(A) and (C), please let this letter serve as notice of two Notification Items.

- (A) At Application, the site was unimproved property which needed to go through the platting process. Once the final plat was recorded, there was a slight difference in the site acreage: 5.011 acres versus the 5.084 acres represented at Application. This small decrease results in a residential density change of +0.35%.
- (C) As noted in the chart above, there is also a change in the split between the 2 different two-bedroom unit types (uncapitalized term). Pursuant to 10 TAC §10.3(a)(139) (2017 citation), these two units are considered the same Unit Type (capitalized) as their areas differ by less than 120 square feet. Despite this, altering the count of the B and C type units changes the total Net Rentable Area ("NRA") by 201 feet, a -0.17% change. A revised Building/Unit Configuration Form and Rent Schedule have been included herein (Exhibit C).

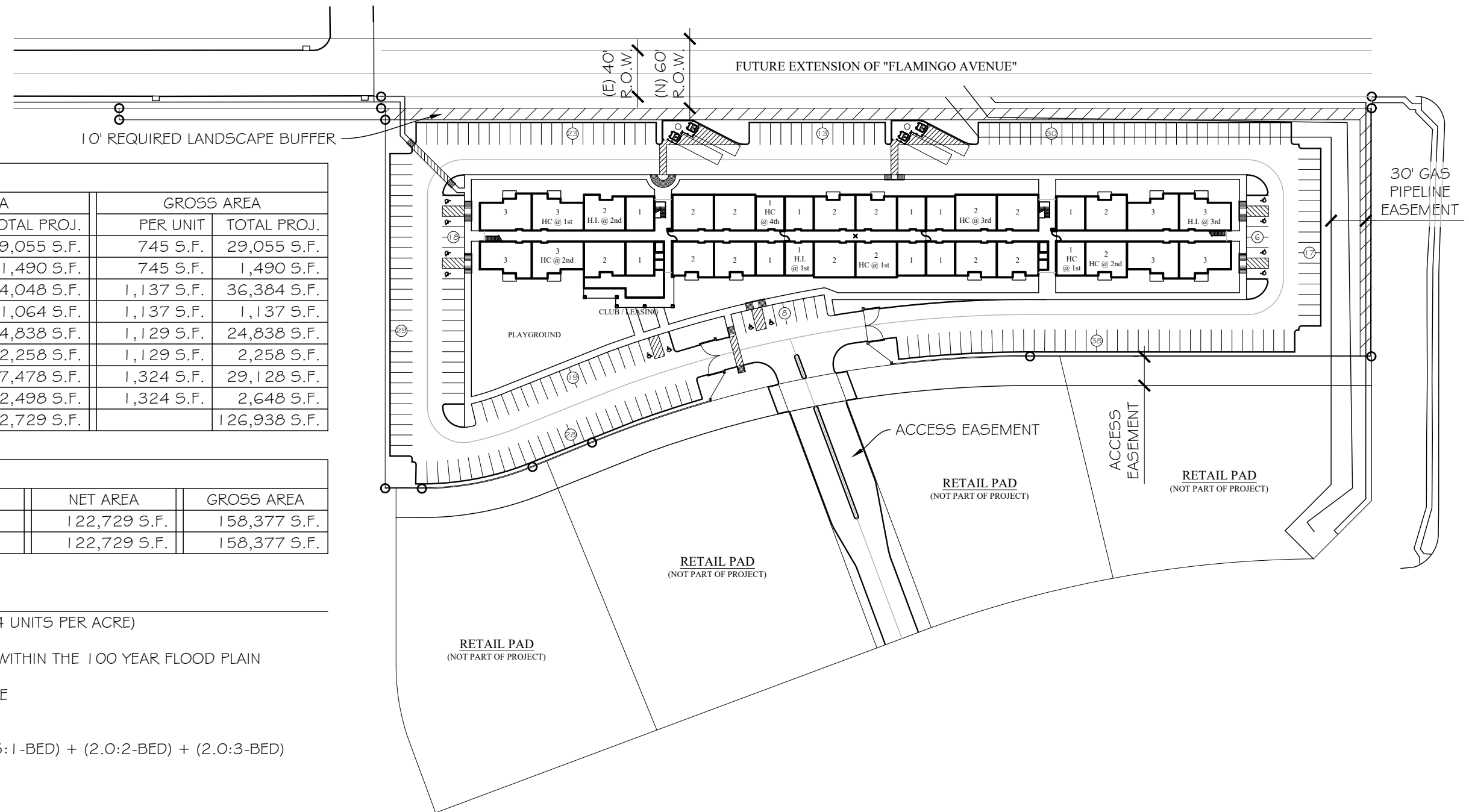
Should you have any questions or need additional information, please contact me at (512) 828-6413 or by email at kathryn@holleman-associates.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'K Saar', with a long, sweeping flourish extending to the right.

Kathryn Saar, Vice President
Leslie Holleman & Associates, Inc.
Development Consultant

enclosures



UNIT MATRIX:

UNIT DESIGNATION	NO.	NET AREA		GROSS AREA		
		PER UNIT	TOTAL PROJ.	PER UNIT	TOTAL PROJ.	
A	1-BED / 1-BATH	39	745 S.F.	29,055 S.F.	745 S.F.	29,055 S.F.
A-HC	1-BED / 1-BATH	2	745 S.F.	1,490 S.F.	745 S.F.	1,490 S.F.
C	2-BED / 2-BATH	32	1,064 S.F.	34,048 S.F.	1,137 S.F.	36,384 S.F.
C-HC	2-BED / 2-BATH	1	1,064 S.F.	1,064 S.F.	1,137 S.F.	1,137 S.F.
D	2-BED / 2-BATH	22	1,129 S.F.	24,838 S.F.	1,129 S.F.	24,838 S.F.
D-HC	2-BED / 2-BATH	2	1,129 S.F.	2,258 S.F.	1,129 S.F.	2,258 S.F.
E	3-BED / 2-BATH	22	1,249 S.F.	27,478 S.F.	1,324 S.F.	29,128 S.F.
E-HC	3-BED / 2-BATH	2	1,249 S.F.	2,498 S.F.	1,324 S.F.	2,648 S.F.
TOTALS:		122		122,729 S.F.		126,938 S.F.

BUILDING MATRIX:

BUILDING DESIGNATION	NET AREA	GROSS AREA
1 BLDG. 1: APARTMENTS AND CLUBHOUSE	122,729 S.F.	158,377 S.F.
TOTALS:	122,729 S.F.	158,377 S.F.

NOTES:

- SITE AREA: 5.084 ACRES (24 UNITS PER ACRE)
- FLOOD PLAIN: THE SITE IS NOT WITHIN THE 100 YEAR FLOOD PLAIN
- EASEMENTS: 30' WIDE GAS LINE
- PARKING:
 - LOCAL REQUIREMENT: 224 SPACES (1.5:1-BED) + (2.0:2-BED) + (2.0:3-BED)
 - PROVIDED SPACES: 230 SPACES
 - PROVIDED ADA SPACES: 12 SPACES
- MOBILITY IMPAIRMENT: 7 UNITS (MARKED "HC" ON SITE PLAN)
 - 2 TYPE B-HC UNITS, 1-BEDROOM / 1-BATH
 - 3 TYPE D-HC UNITS, 2-BEDROOM / 2-BATH
 - 2 TYPE E-HC UNITS, 3-BEDROOM / 2-BATH
- HEARING/VISUAL IMPAIRMENT: 3 UNITS (MARKED "H.I." ON SITE PLAN)
- ELEVATOR CAPACITY: 3,500 POUNDS



BROWNSTONE ARCHITECTS & PLANNERS, INC.

6517 MAPLERIDGE HOUSTON, TEXAS 77081

www.thebrownstonegroup.net 713.432.7727

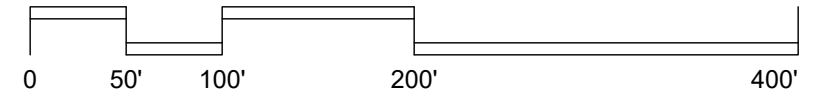
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LAS PALOMAS VILLAGE

SITE PLAN
02/28/2017

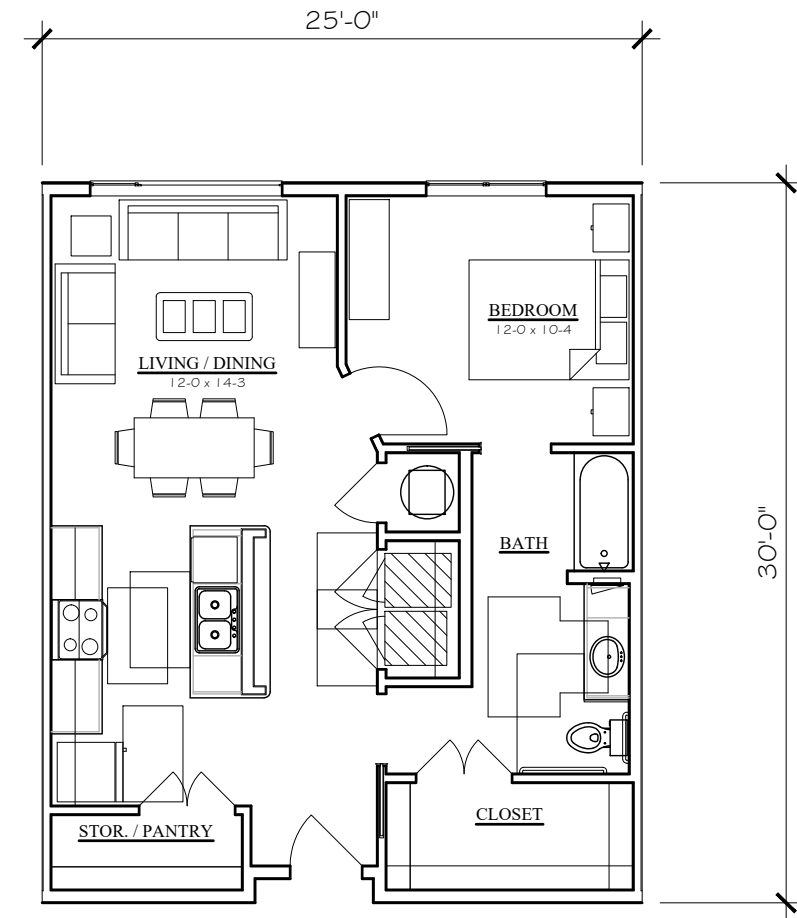
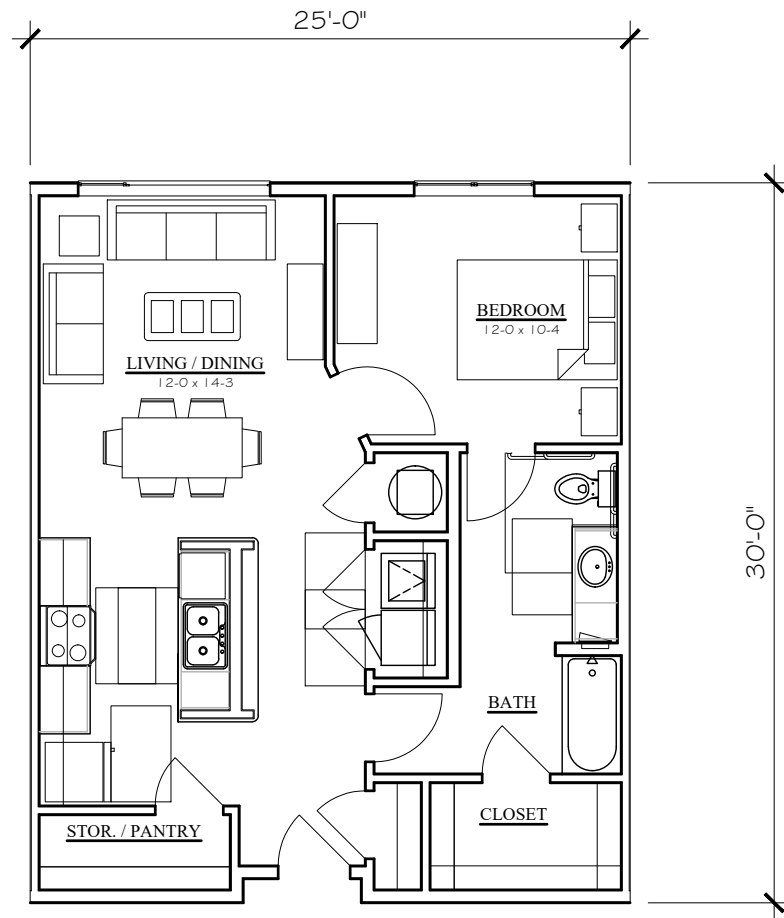
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McALLEN, TEXAS



SCALE: 1" = 100 FEET
(WHEN PRINTED FULL SIZE ON 11x17 PAPER)





UNIT "A" - 39 UNITS			
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:	NOTES:
CONDITIONED AREA:	745 S.F.	VINYL PLANK:	62 %
STORAGE AREA:	0 S.F.	CARPET:	24 %
PORCH AREA:	0 S.F.	CERAMIC TILE:	14 %
GROSS AREA:	745 S.F.		
			- TYPICAL CEILING HEIGHT TO BE 9'

UNIT "A-HC" - 2 UNITS			
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:	NOTES:
CONDITIONED AREA:	745 S.F.	VINYL PLANK:	78 %
STORAGE AREA:	0 S.F.	CARPET:	0 %
PORCH AREA:	0 S.F.	CERAMIC TILE:	22 %
GROSS AREA:	745 S.F.		
			- TYPICAL CEILING HEIGHT TO BE 9'
			- NO CARPET IN FULL ADA UNITS



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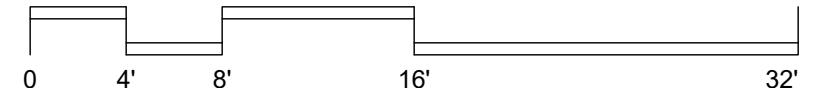
LAS PALOMAS VILLAGE

UNIT TYPE PLANS - UNITS A & A-HC

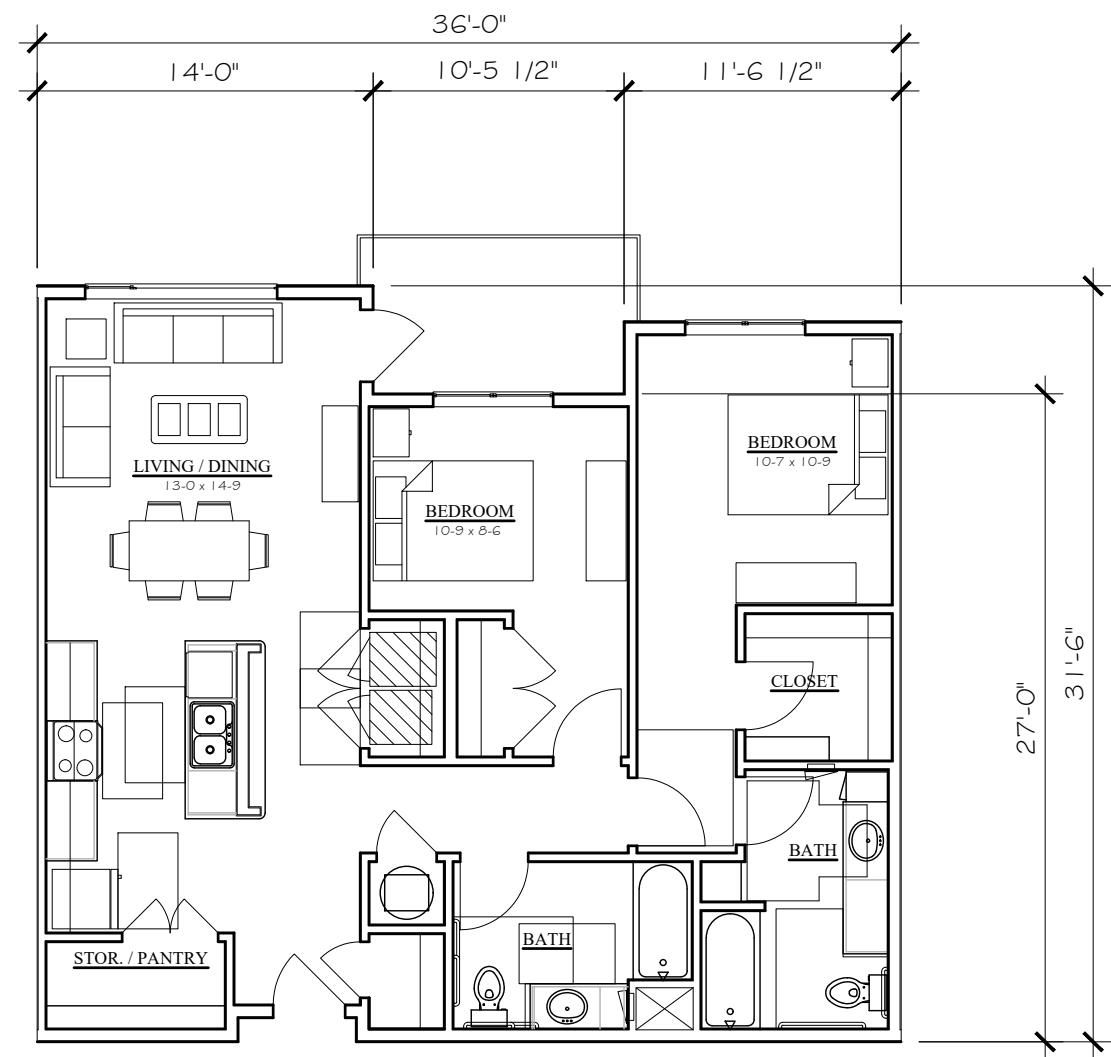
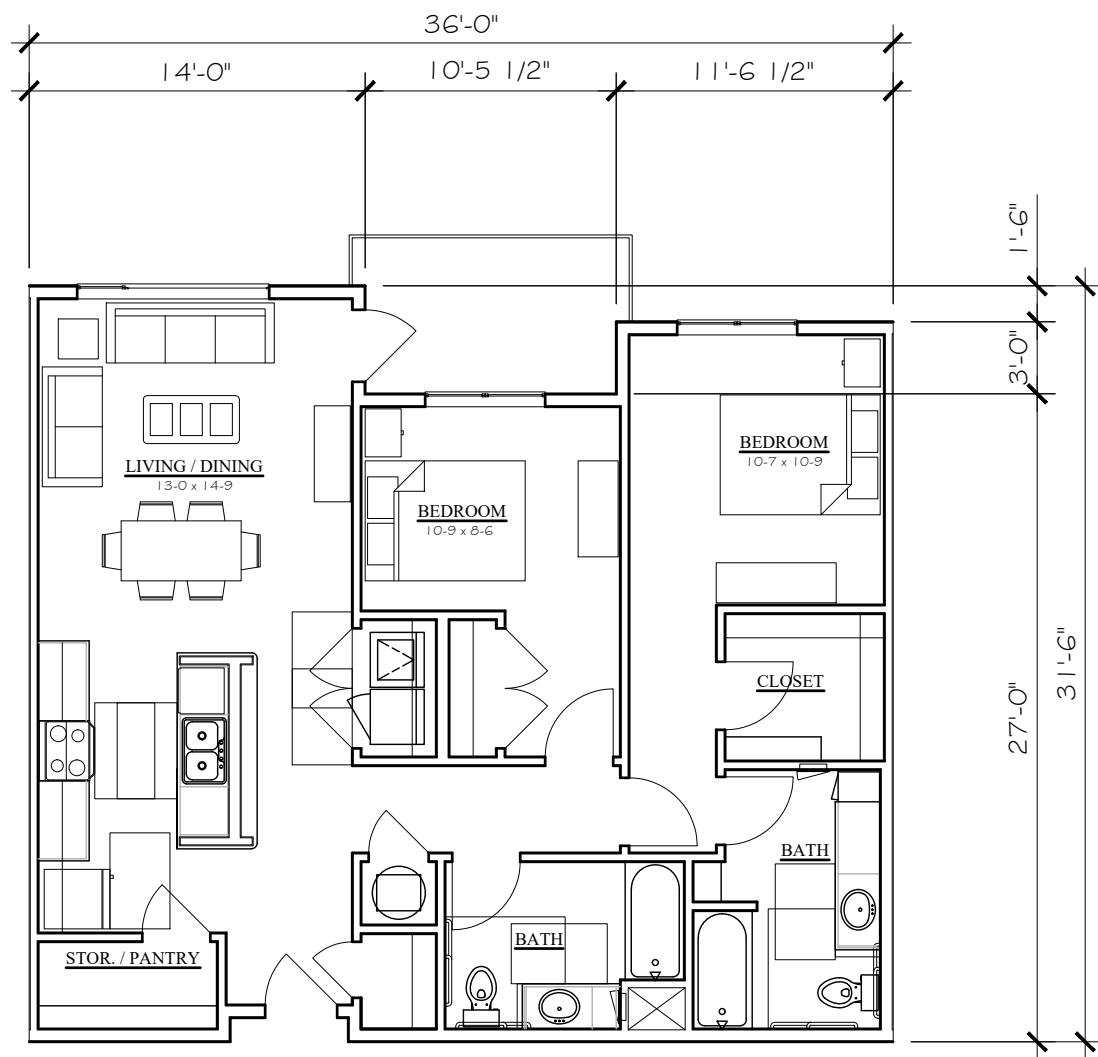
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UNIT "C" - 32 UNITS		
APPROX. FLOOR AREA:	APPROX. FLOOR FINISHES:	NOTES:
CONDITIONED AREA: 1,064 S.F.	VINYL PLANK: 51 %	- TYPICAL CEILING HEIGHT TO BE 9'
STORAGE AREA: 0 S.F.	CARPET: 36 %	
PORCH AREA: 73 S.F.	CERAMIC TILE: 13 %	
GROSS AREA: 1,137 S.F.		

UNIT "C-HC" - 1 UNITS		
APPROX. FLOOR AREA:	APPROX. FLOOR FINISHES:	NOTES:
CONDITIONED AREA: 1,064 S.F.	VINYL PLANK: 87 %	- TYPICAL CEILING HEIGHT TO BE 9'
STORAGE AREA: 0 S.F.	CARPET: 0 %	- NO CARPET IN FULL ADA UNITS
PORCH AREA: 73 S.F.	CERAMIC TILE: 13 %	
GROSS AREA: 1,137 S.F.		



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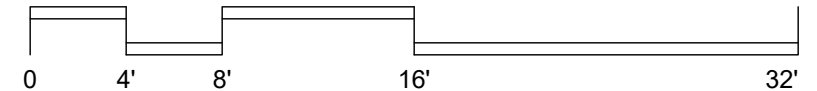
LAS PALOMAS VILLAGE

UNIT TYPE PLANS - UNITS C & C-HC

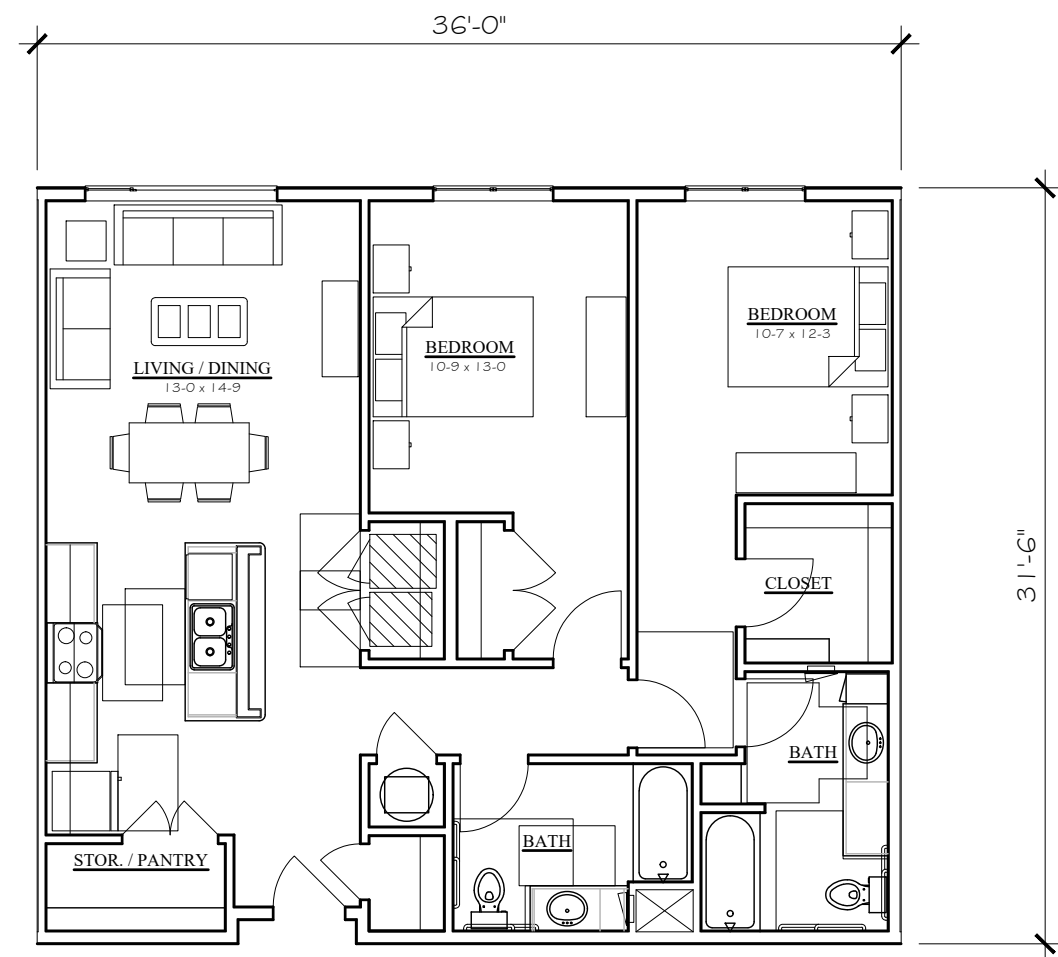
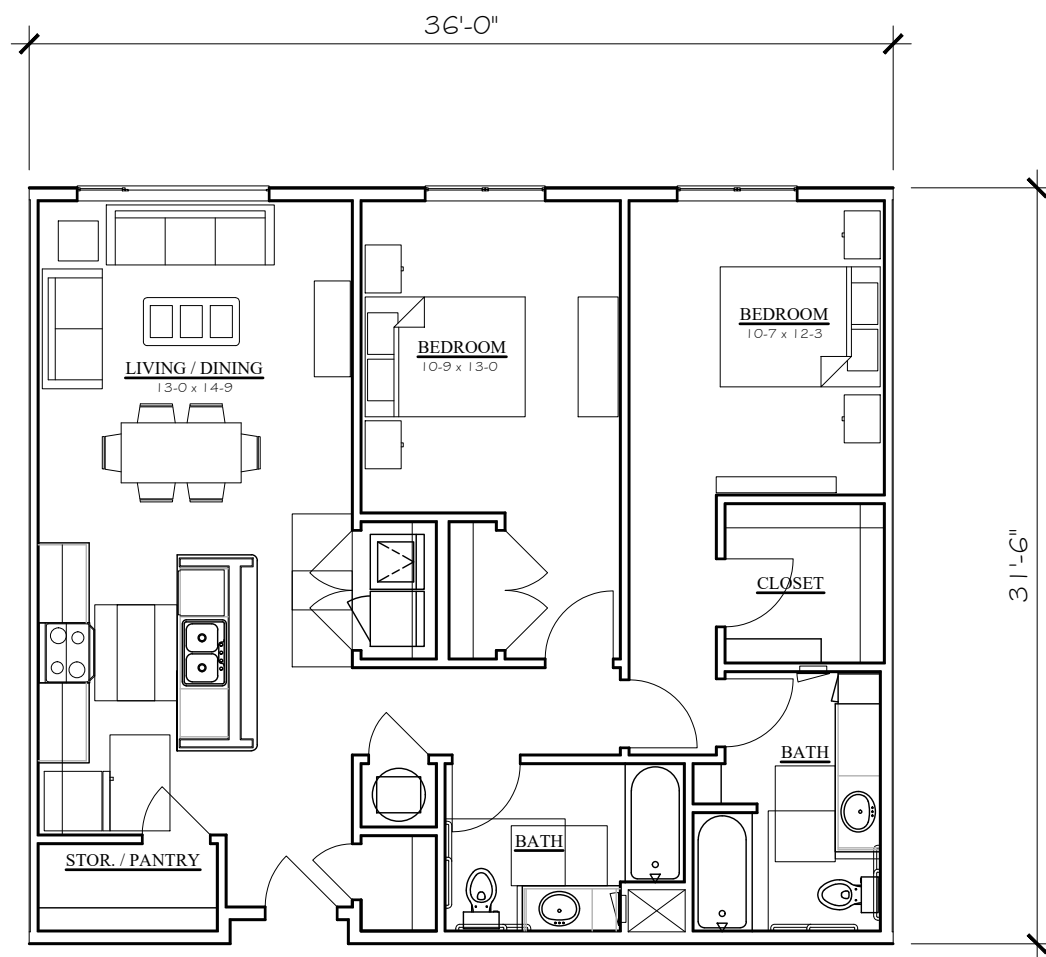
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McALLEN, TEXAS



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UNIT "D" - 22 UNITS		
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:
CONDITIONED AREA:	1,129 S.F.	VINYL PLANK:
STORAGE AREA:	0 S.F.	CARPET:
PORCH AREA:	0 S.F.	CERAMIC TILE:
GROSS AREA:	1,129 S.F.	
		NOTES:
		- TYPICAL CEILING HEIGHT TO BE 9'

UNIT "D-HC" - 2 UNITS		
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:
CONDITIONED AREA:	1,129 S.F.	VINYL PLANK:
STORAGE AREA:	0 S.F.	CARPET:
PORCH AREA:	0 S.F.	CERAMIC TILE:
GROSS AREA:	1,129 S.F.	
		NOTES:
		- TYPICAL CEILING HEIGHT TO BE 9'
		- NO CARPET IN FULL ADA UNITS



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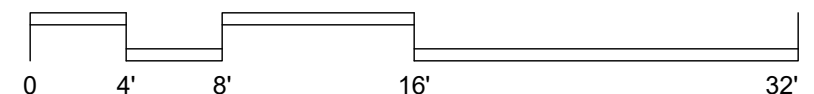
LAS PALOMAS VILLAGE

UNIT TYPE PLANS - UNITS D & D-HC

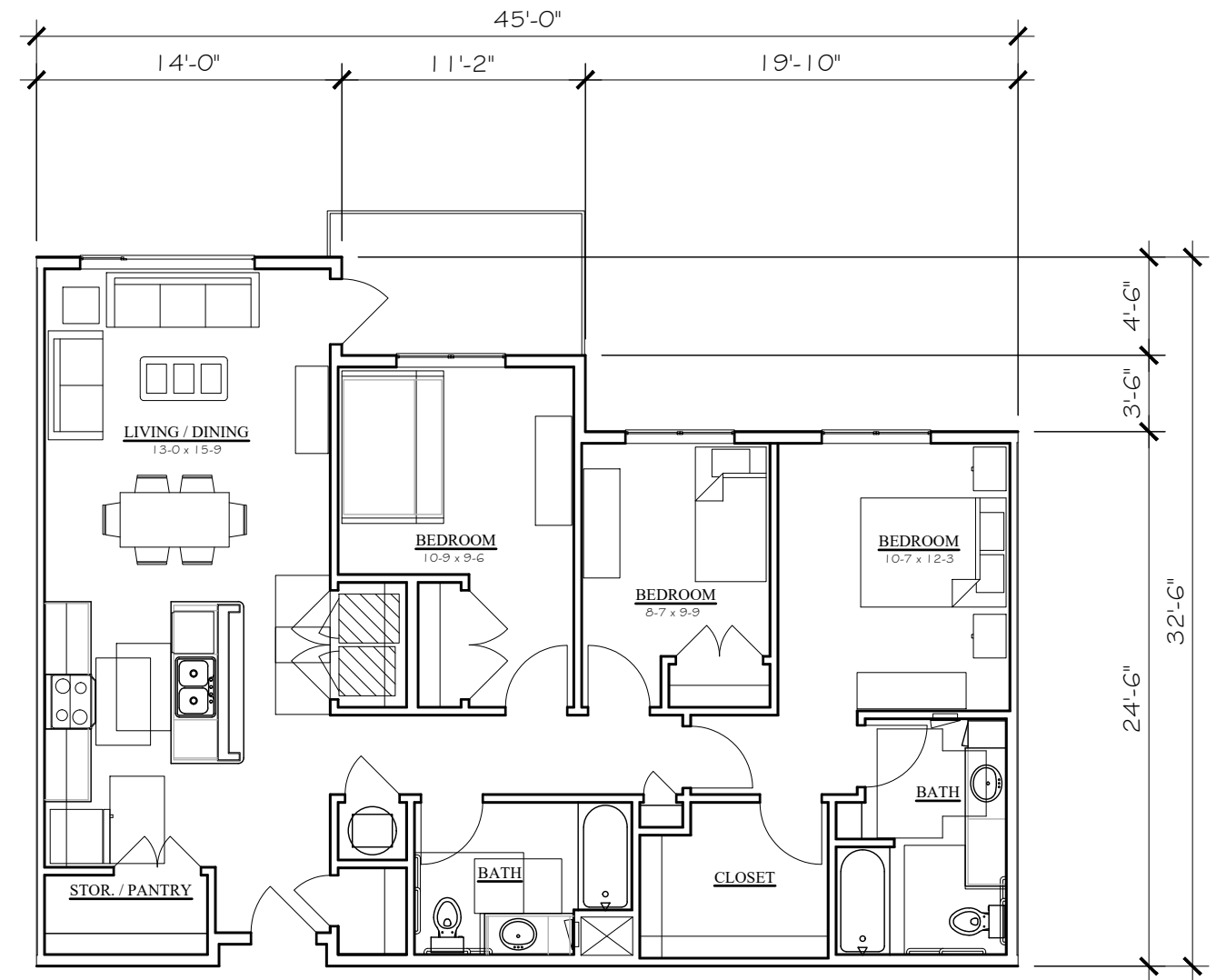
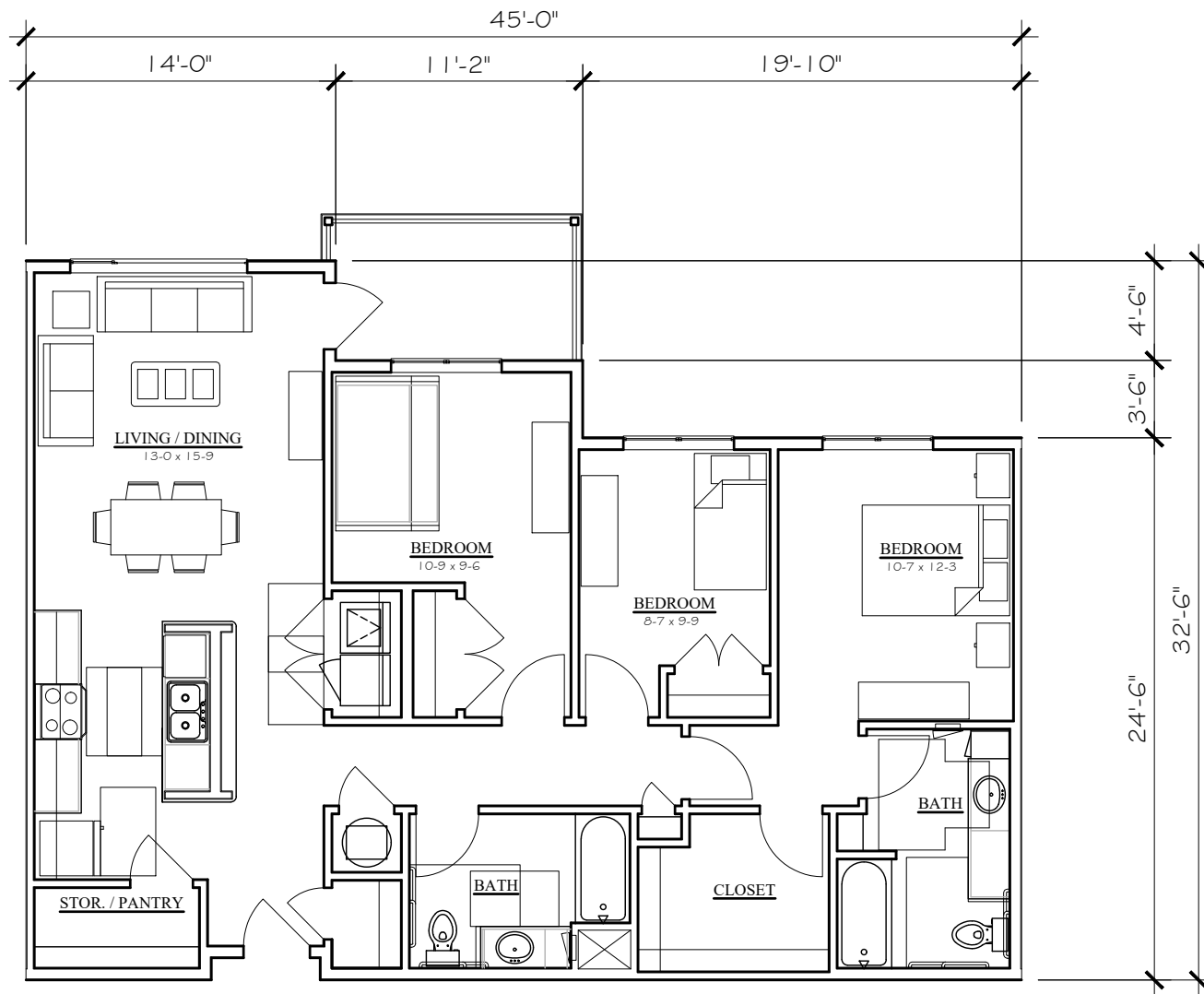
02/28/2017

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McALLEN, TEXAS



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UNIT "E" - 22 UNITS		
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:
CONDITIONED AREA:	1,249 S.F.	VINYL PLANK:
STORAGE AREA:	0 S.F.	CARPET:
PORCH AREA:	75 S.F.	CERAMIC TILE:
GROSS AREA:	1,324 S.F.	
		NOTES:
		- TYPICAL CEILING HEIGHT TO BE 9'

UNIT "E-HC" - 2 UNITS		
APPROX. FLOOR AREA:		APPROX. FLOOR FINISHES:
CONDITIONED AREA:	1,249 S.F.	VINYL PLANK:
STORAGE AREA:	0 S.F.	CARPET:
PORCH AREA:	75 S.F.	CERAMIC TILE:
GROSS AREA:	1,324 S.F.	
		NOTES:
		- TYPICAL CEILING HEIGHT TO BE 9'
		- NO CARPET IN FULL ADA UNITS



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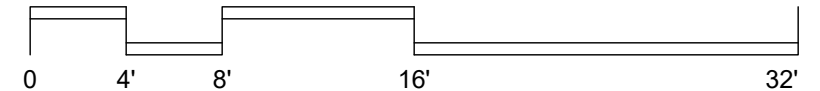
LAS PALOMAS VILLAGE

UNIT TYPE PLANS - UNITS E & E-HC

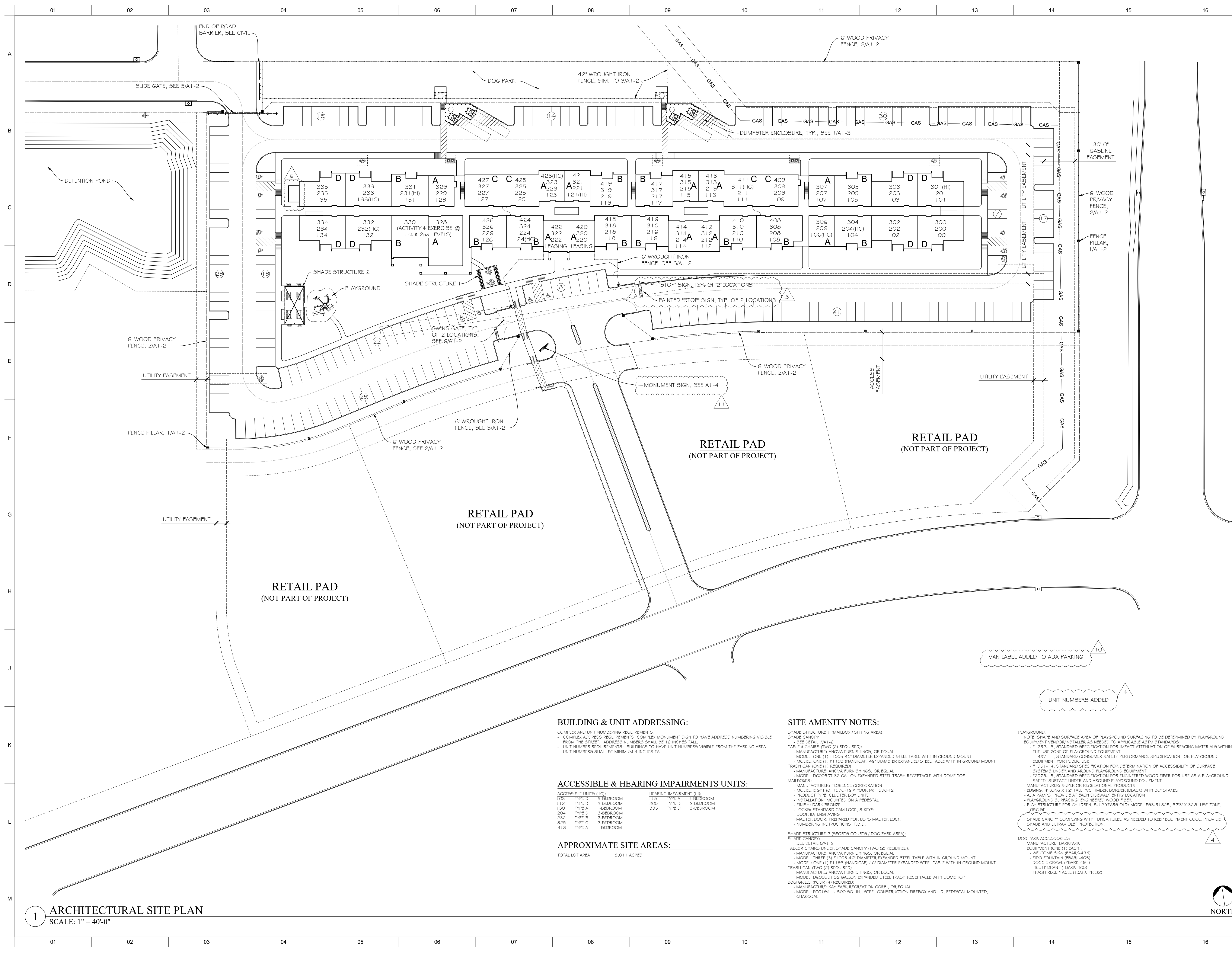
02/28/2017

PRELIMINARY - NOT FOR BUILDING PERMITTING OR CONSTRUCTION

McALLEN, TEXAS



SCALE: 1/8" = 1 FOOT
(WHEN PRINTED FULL SIZE ON 11x17 PAPER)



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08/23/19

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LAS PALOMAS VILLAGE
A 122 UNIT FAMILY LIVING COMMUNITY
1900 DOVE AVE
McALLEN, TEXAS 78504

△ DRAWING ISSUE:	DATE:
0 BID & PERMIT SET	04/04/18
3 PLAN REVIEW	05/16/18
4 PLAN REVIEW	06/06/18
6 PUMP ROOM	01/09/19
7 UNIT NUMBERS	02/28/19
10 VAN PARKING	07/31/19
11 MONUMENT SIGN	08/23/19

PROJECT NUMBER: xxxx

ARCHITECTURAL SITE PLAN

A1-1

BUILDING & UNIT ADDRESSING:

COMPLEX AND UNIT NUMBERING REQUIREMENTS:
 - COMPLEX ADDRESS REQUIREMENTS: COMPLEX MONUMENT SIGN TO HAVE ADDRESS NUMBERING VISIBLE FROM THE STREET. ADDRESS NUMBERS SHALL BE 12 INCHES TALL.
 - UNIT NUMBER REQUIREMENTS: BUILDINGS TO HAVE UNIT NUMBERS VISIBLE FROM THE PARKING AREA. UNIT NUMBERS SHALL BE MINIMUM 4 INCHES TALL.

ACCESSIBLE & HEARING IMPAIRMENTS UNITS:

ACCESSIBLE UNITS (HC)	HEARING IMPAIRMENT (HI)
103 TYPE D 3-BEDROOM	115 TYPE A 1-BEDROOM
112 TYPE D 2-BEDROOM	205 TYPE B 2-BEDROOM
130 TYPE A 1-BEDROOM	335 TYPE D 3-BEDROOM
204 TYPE D 3-BEDROOM	
232 TYPE B 2-BEDROOM	
325 TYPE C 2-BEDROOM	
413 TYPE A 1-BEDROOM	

APPROXIMATE SITE AREAS:

TOTAL LOT AREA: 5.011 ACRES

SITE AMENITY NOTES:

- SHADE STRUCTURE 1 (MAILBOX / SITTING AREA):**
 SHADE CANOPY:
 - SEE DETAIL 7/A1-2
 TABLE & CHAIRS (TWO (2) REQUIRED):
 - MANUFACTURE: ANOVA FURNISHINGS, OR EQUAL
 - MODEL ONE (1) F1 005 46" DIAMETER EXPANDED STEEL TABLE WITH IN GROUND MOUNT
 - MODEL ONE (1) F1 193 (HANDICAP) 46" DIAMETER EXPANDED STEEL TABLE WITH IN GROUND MOUNT
 TRASH CAN (ONE (1) REQUIRED):
 - MANUFACTURE: ANOVA FURNISHINGS, OR EQUAL
 - MODEL: D6050DT 32 GALLON EXPANDED STEEL TRASH RECEPTACLE WITH DOME TOP MAILBOXES:
 - MANUFACTURER: FLORENCE CORPORATION
 - MODEL: EIGHT (8) 1570 (16 1/4 FOUR (4) 1590-T2
 - PRODUCT TYPE: CLUSTER BOX UNITS
 - INSTALLATION: MOUNTED ON A PEDESTAL
 - FINISH: DARK BRONZE
 - LOCKS: STANDARD CAM LOCK, 3 KEYS
 - DOOR: D, ENGRAVING
 - MASTER DOOR: PREPARED FOR USPS MASTER LOCK
 - NUMBERING INSTRUCTIONS: T.B.D.
- SHADE STRUCTURE 2 (SPORTS COURTS / DOG PARK AREA):**
 SHADE CANOPY:
 - SEE DETAIL 8/A1-2
 TABLE & CHAIRS UNDER SHADE CANOPY (TWO (2) REQUIRED):
 - MANUFACTURE: ANOVA FURNISHINGS, OR EQUAL
 - MODEL THREE (3) F1 005 46" DIAMETER EXPANDED STEEL TABLE WITH IN GROUND MOUNT
 - MODEL ONE (1) F1 193 (HANDICAP) 46" DIAMETER EXPANDED STEEL TABLE WITH IN GROUND MOUNT
 TRASH CAN (TWO (2) REQUIRED):
 - MANUFACTURE: ANOVA FURNISHINGS, OR EQUAL
 - MODEL: D6050DT 32 GALLON EXPANDED STEEL TRASH RECEPTACLE WITH DOME TOP
 BBQ GRILLS (FOUR (4) REQUIRED):
 - MANUFACTURE: KAY PARK RECREATION CORP., OR EQUAL
 - MODEL: EGS1941 - 500 SQ. IN., STEEL CONSTRUCTION FIREBOX AND LID, PEDESTAL MOUNTED, CHARCOAL

- PLAYGROUND:**
 NOTE: SHAPE AND SURFACE AREA OF PLAYGROUND SURFACING TO BE DETERMINED BY PLAYGROUND EQUIPMENT VENDOR/INSTALLER AS NEEDED TO APPLICABLE ASTM STANDARDS:
 - F1 295-1.3, STANDARD SPECIFICATION FOR IMPACT ATTENUATION OF SURFACING MATERIALS WITHIN THE USE ZONE OF PLAYGROUND EQUIPMENT
 - F1 487-1.1, STANDARD CONSUMER SAFETY PERFORMANCE SPECIFICATION FOR PLAYGROUND EQUIPMENT FOR PUBLIC USE
 - F1 951-1.4, STANDARD SPECIFICATION FOR DETERMINATION OF ACCESSIBILITY OF SURFACE SYSTEMS UNDER AND AROUND PLAYGROUND EQUIPMENT
 - F2075-1.5, STANDARD SPECIFICATION FOR ENGINEERED WOOD FIBER FOR USE AS A PLAYGROUND SAFETY SURFACE UNDER AND AROUND PLAYGROUND EQUIPMENT
 - MANUFACTURER: SUPERIOR RECREATIONAL PRODUCTS
 - EDGING: 4" LONG X 12" TALL PVC TIMBER BORDER (BLACK) WITH 30" STAKES
 - ADA RAMP: PROVIDE AT EACH SIDEWALK ENTRY LOCATION
 - PLAYGROUND SURFACING: ENGINEERED WOOD FIBER
 - PLAY STRUCTURE FOR CHILDREN, 5-12 YEARS OLD: MODEL P53-91 325, 323" X 326" USE ZONE, 1,056 SF
 - SHADE CANOPY COMPLYING WITH TDHCA RULES AS NEEDED TO KEEP EQUIPMENT COOL, PROVIDE SHADE AND ULTRAVIOLET PROTECTION.

- DOG PARK ACCESSORIES:**
 - MANUFACTURE: BARKPARK
 - EQUIPMENT ONE (1) EACH:
 - WELCOME SIGN (PBARK-495)
 - FIDO FOUNTAIN (PBARK-405)
 - DOGGIE CRAWL (PBARK-491)
 - FIRE HYDRANT (PBARK-463)
 - TRASH RECEPTACLE (PBARK-PR-32)

1 ARCHITECTURAL SITE PLAN
SCALE: 1" = 40'-0"



LAS PALOMAS VILLAGE
1900 DOVE AVE., MCALLEN, TEXAS 78504
A 122 Unit Family Living Community

OWNER:
MHA LAS PALOMAS VILLAGE, LTD.
2301 Jamme Avenue
McAllen, Texas 78501
956.426.3951
Amanda Pailita
apailita@mha.com

GEOTECHNICAL:
EARTHCO, LLC
1110 W. Jackson Street
Harrison, Texas 78550
956.426.2443
James M. Cantu, P.E.
jame.cantu@earthco.com

STRUCTURAL:
INTEGRITY STRUCTURAL CORP.
12777 Jones Rd, Suite 358
Houston, TX 77070
281.204.7099
John Coulson, P. E.
john@integritystructural.com

MECHANICAL PLUMBING & ELECTRICAL:
HGE CONSULTING, INC.
15603 Glen Chase
Houston, TX 77095
281.856.7682
Jamal Aliba
jaliba@hgeconsulting.com

ARCHITECT:
BROWNSTONE ARCHITECTS & PLANNERS, INC.
6517 Mapleridge
Houston, TX 77061
713.432.7727 ext. 114
David Letton
david@brownstonegroup.net

CIVIL:
MELDEN & HUNT, INC.
115 W. McInrye
Houston, TX 77054
956.381.0981
Katelyn Hester-Vera P. E.
kvera@medenandhunt.com

CONTRACTOR:
BROWNSTONE CONSTRUCTION LTD.
6517 Mapleridge
Houston, TX 77061
713.432.7727
Andrew Lister
andrew@brownstonegroup.net

LANDSCAPE ARCHITECT:
THE SHILK CO., INC.
2900 Katy, Houston, TX, Suite B-209
Katy, TX 77493
281.391.5008
Dany Shilk
dshilk@shilkco.net

PROPERTY BUILDING IMPROVEMENT SQUARE FOOTAGE TABULATION:

Table with columns: UNIT IDENTIFICATION, BEDROOMS, BATHROOMS, UNIT NET S.F., GROSS S.F., NUMBER OF UNITS, UNIT NET S.F., GROSS S.F. Includes sub-totals for A, B, C, D, H, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z.

NET LEASABLE SQUARE FOOTAGE = 122,528 S.F.
GROSS SQUARE FOOTAGE = 122 UNITS
RESIDENTIAL BUILDINGS = 127,394 S.F.
AMENITY CLUBHOUSE = 1,400 S.F.
CIRCULATION (UNCONDITIONED) = 1,038 S.F.
OTHER ELEVATORS, TRASH, MISC., ETC.) = 1,832 S.F.
GROSS SQUARE FOOTAGE, ALL IMPROVEMENTS = 162,653 S.F.
TOTAL ACRES = 4.687 ACRES
UNITS PER ACRE = 25

Table with columns: BUILDING IDENTIFICATION, BUILDING DESCRIPTION, NO. OF UNITS PER BUILDING, BUILDING UNIT MIX (QUANTITY) UNIT TYPE, LEVEL NET S.F., LEVEL GROSS S.F., NUMBER OF BUILDINGS, TOTAL NET S.F., TOTAL GROSS S.F. Includes sub-totals for Residential Bldg Level 1-4, and Totals.

INDEX OF DRAWINGS

Table with columns: DATE DRAWN, LAST REVISION NO., DATE, SHEET NUMBER AND NAME, DATE DRAWN, LAST REVISION NO., SHEET NUMBER AND NAME. Lists various drawing sheets including GENERAL INFORMATION, CIVIL, ARCHITECTURAL, MECHANICAL PLUMBING & ELECTRICAL, STRUCTURAL, and LANDSCAPE.



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LAS PALOMAS VILLAGE
A 122 UNIT FAMILY LIVING COMMUNITY
1900 DOVE AVE
MCALLEN, TEXAS 78504



VICINITY MAP:

LOCATION MAP:

DEFERRED SUBMITTALS:

- MANUFACTURED TRUSSES
NET TYPE FIRE SPRINKLER SYSTEMS
FIRE ALARM SYSTEMS

TEXAS DEPARTMENT OF LICENSING AND REGULATION

ARCHITECTURAL BARRIERS PRJ. NO.: EABPRJ8814236
REGISTERED ACCESSIBILITY SPECIALIST: ALEJANDRO ARRIAGA
1901 CONVENT AVE., LAREDO, TX 78040, (954) 723-0200, andas342@tda.com

DRAWING ISSUE: DATE:
0 - BID + PERMIT SET 04/04/19
2 - MISC. COORDINATION 04/04/19
4 - PLAN REVIEW 02/02/19

PROJECT NUMBER: xxxxx
COVER SHEET

G1-1



06/20/2018

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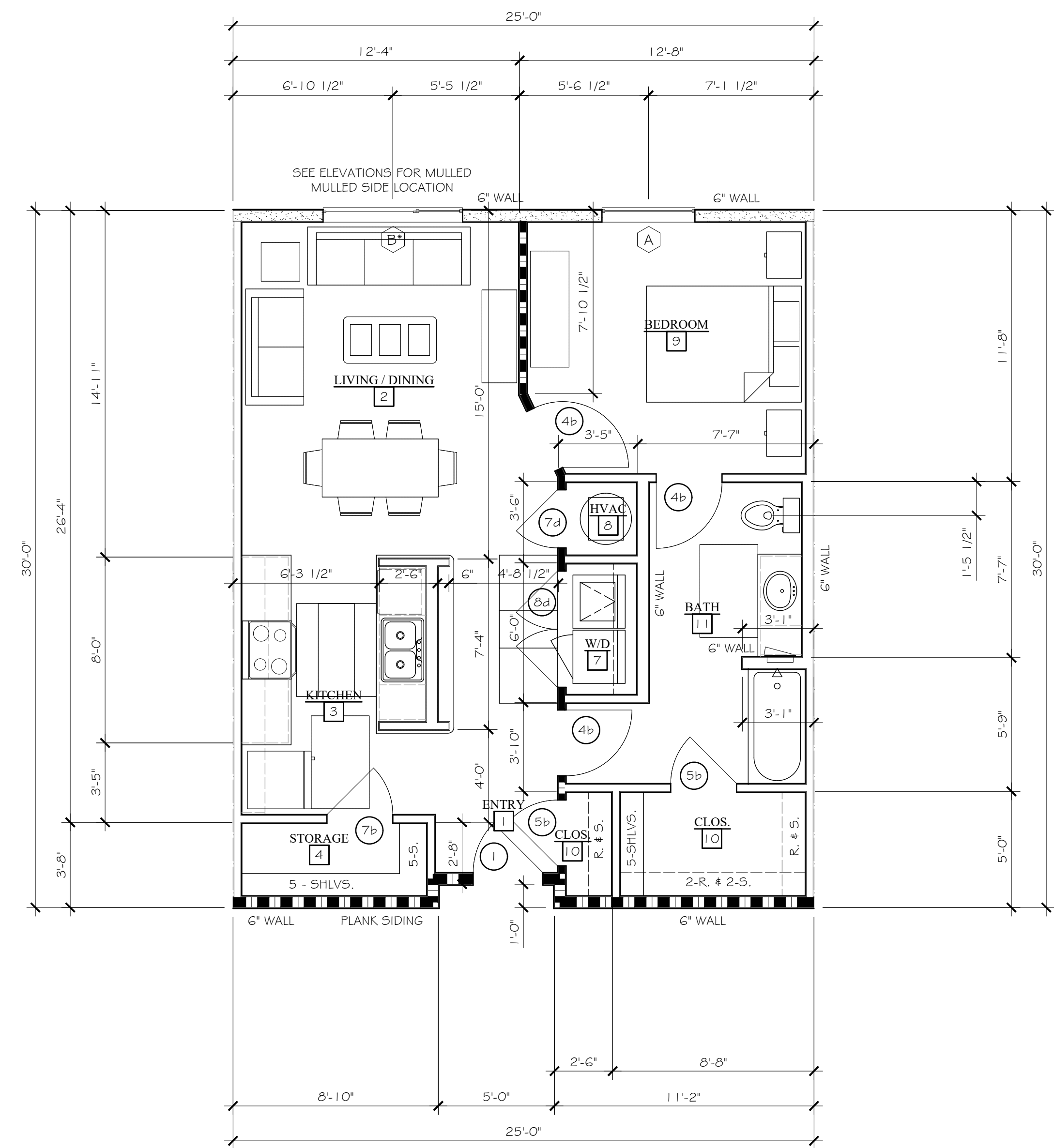
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△	DRAWING ISSUE:	DATE:
0	BID & PERMIT SET	04/04/18
4	PLAN REVIEW	06/06/18
5	PLAN REVIEW	06/19/18

PROJECT NUMBER: xxxx

UNIT PLAN A



Floor Symbols:

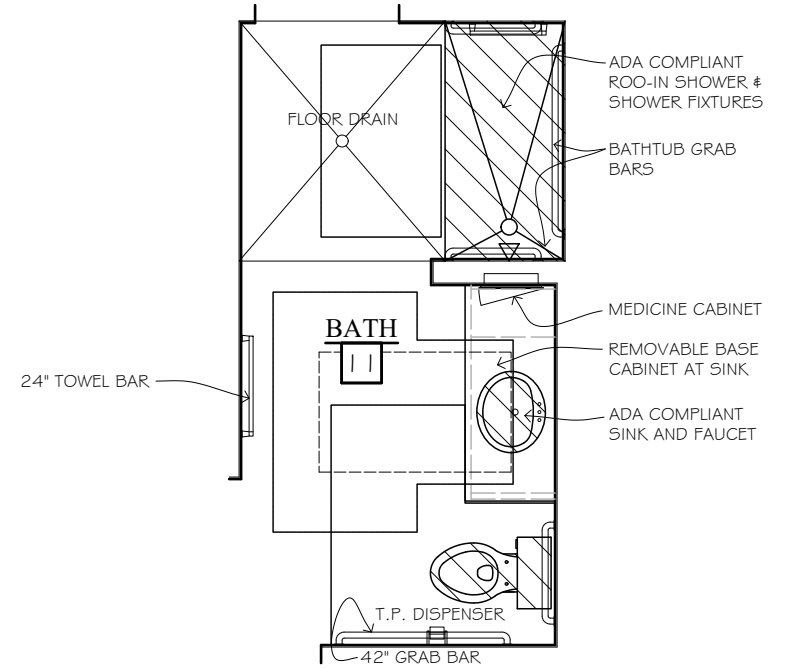
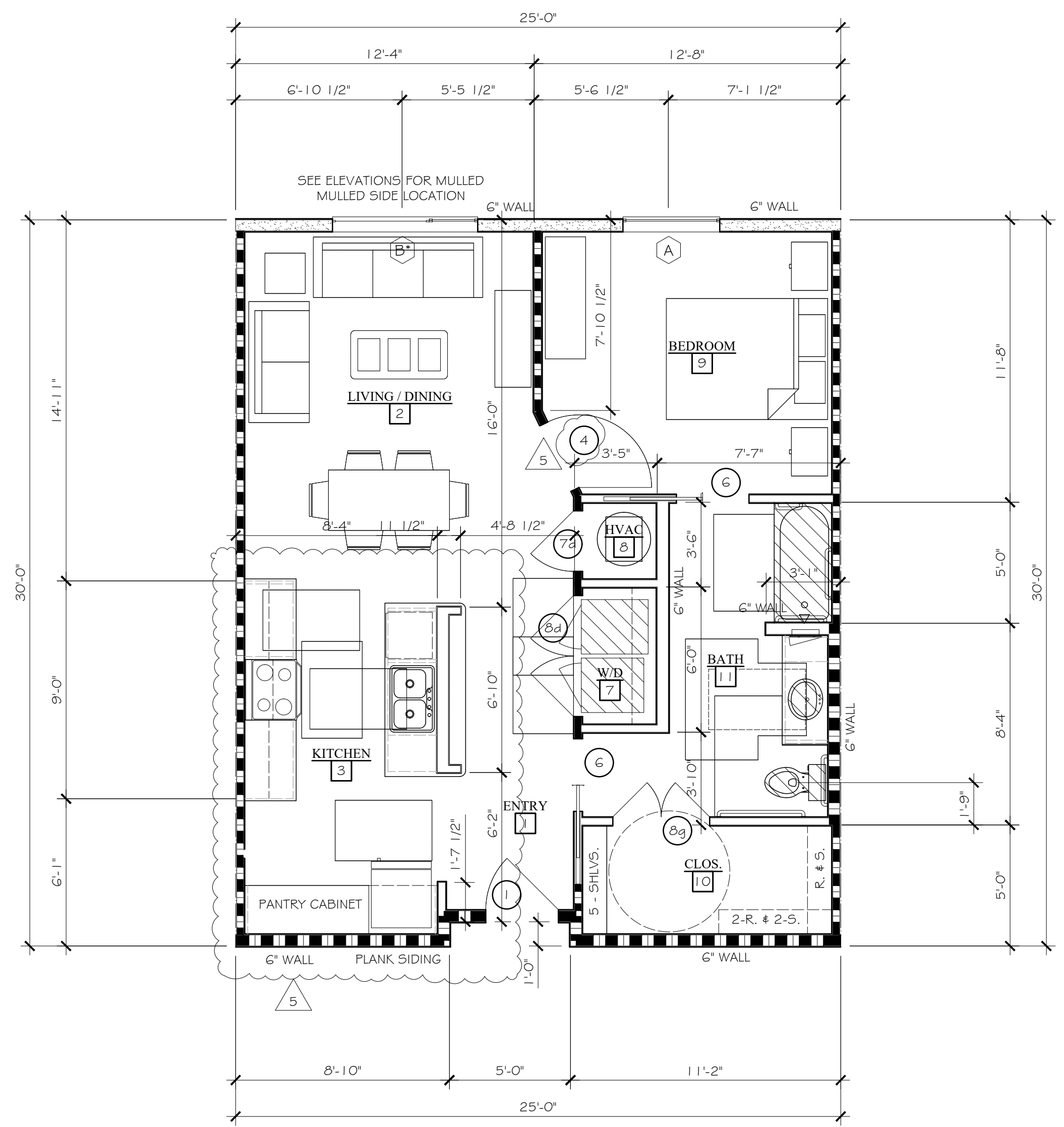
- ② WALL TYPE, RE: SHT. A2-8
- 11 ROOM FINISH, RE: SHT. A2-10
- 16 DOOR TYPE, RE: SHT. A2-10
- 8 WINDOW TYPE, RE: SHT. A2-10
- INDICATES WATER CLOSET
- INDICATES LAVATORY

I BEDROOM - I BATH
UNIT A

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	745 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	0 S.F.
TOTAL AREA	745 S.F.

1 UNIT 'A' FLOOR PLAN
SCALE: 1/4" = 1'-0"



UNIT 'A-hc' BATH @ ROOM 130

Floor Symbols:

- ② WALL TYPE, RE: SHT. A2-8
- 11 ROOM FINISH, RE: SHT. A3-0a
- 16 DOOR TYPE, RE: SHT. A3-0a
- 8 WINDOW TYPE, RE: SHT. A3-0a
- INDICATES WATER CLOSET
- INDICATES LAVATORY

I BEDROOM - I BATH
UNIT A-hc

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	745 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	0 S.F.
TOTAL AREA	745 S.F.

2 UNIT 'A-hc' FLOOR PLAN
SCALE: 1/4" = 1'-0"

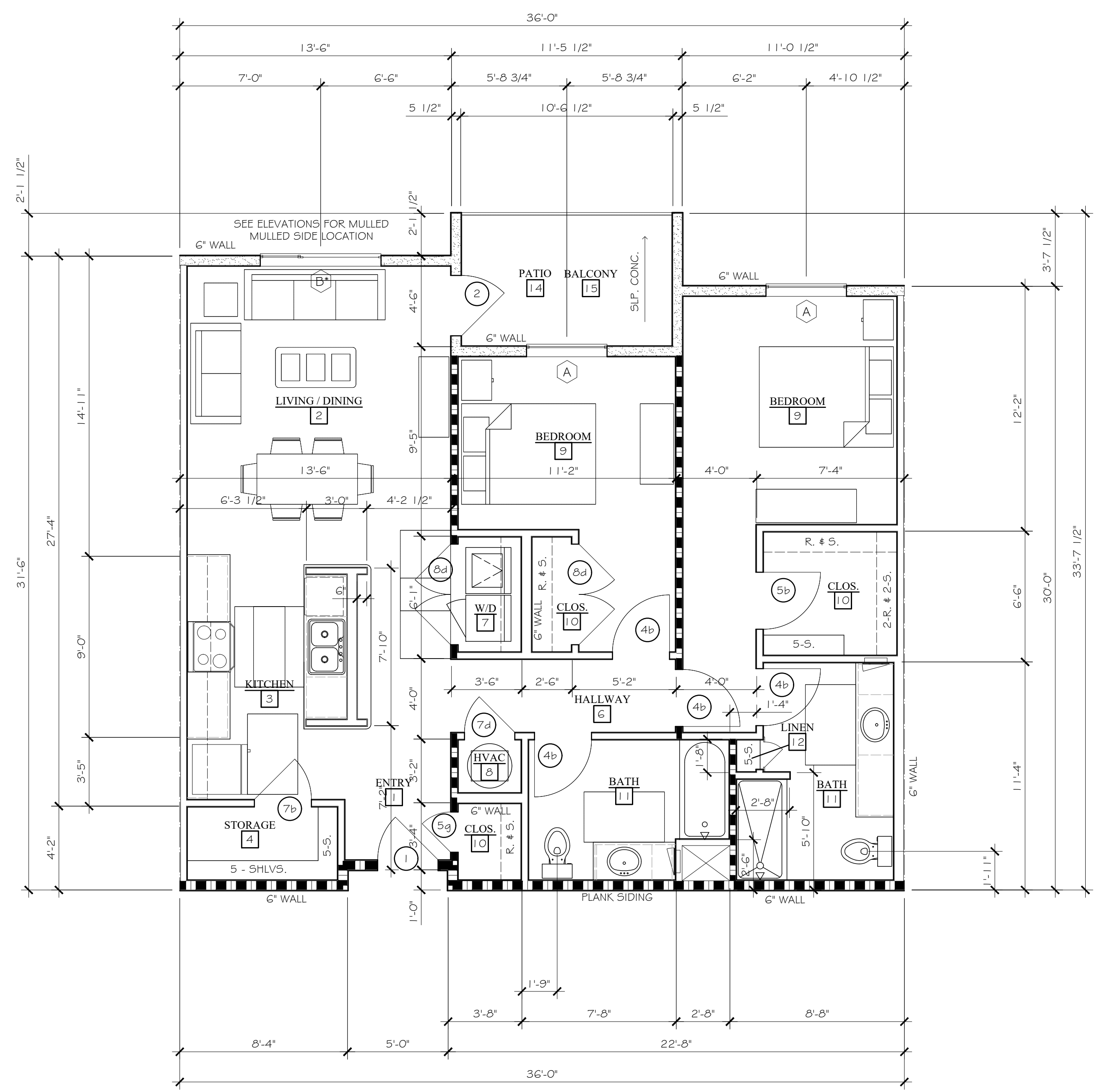


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4	PLAN REVIEW	06/06/18
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PROJECT NUMBER: xxxx

UNIT PLAN B

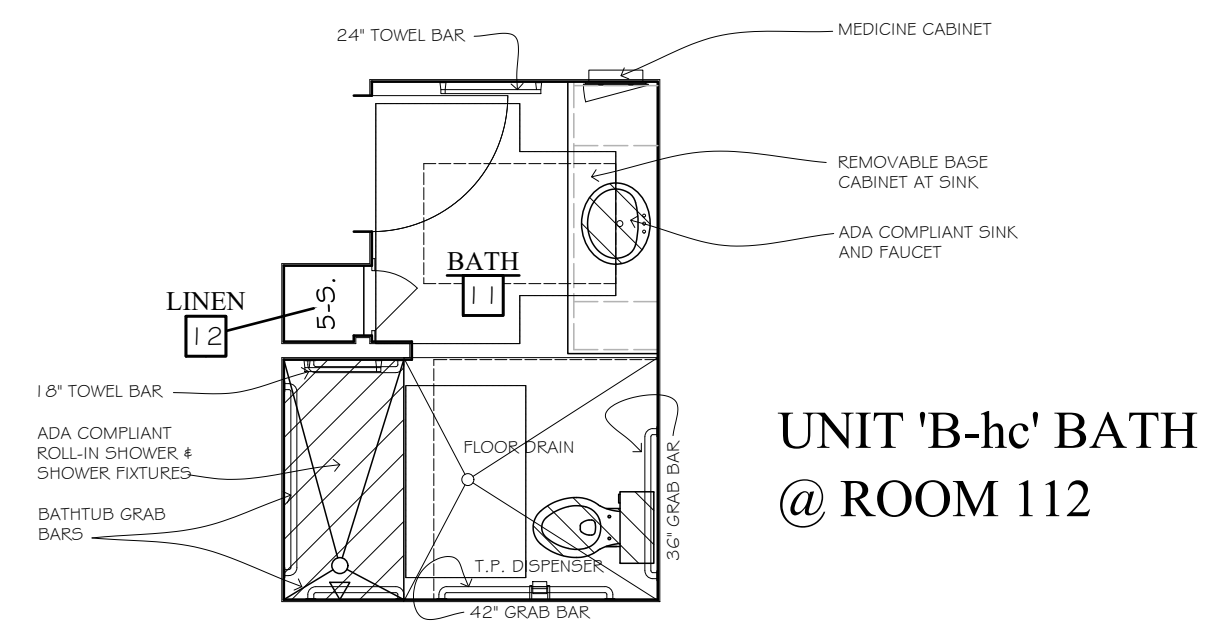
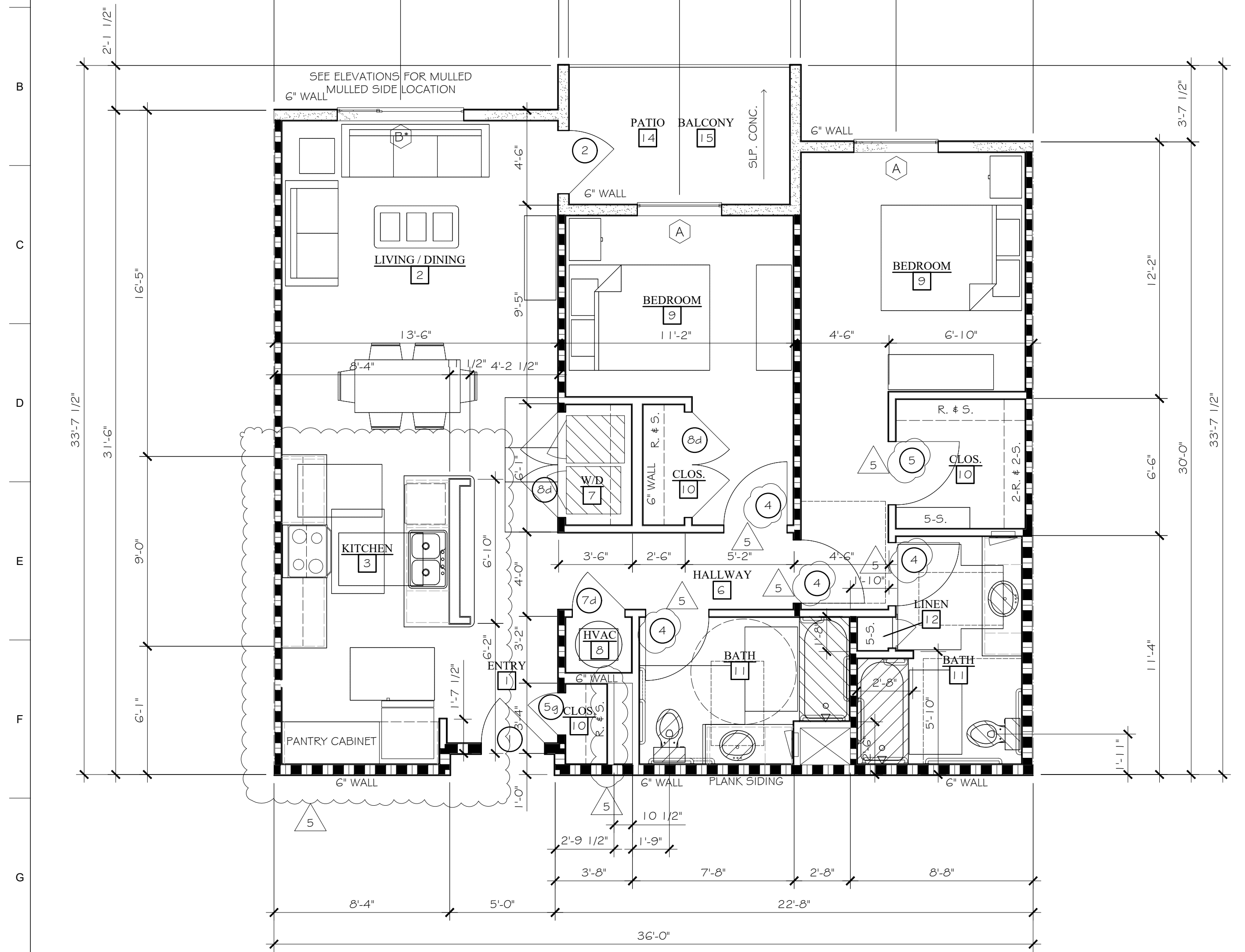


Floor Symbols:

- ② WALL TYPE, RE: SHT. A2-8
- ⑪ ROOM FINISH, RE: SHT. A2-10
- ⑫ DOOR TYPE, RE: SHT. A2-10
- ⓑ WINDOW TYPE, RE: SHT. A2-10
- Ⓜ INDICATES WATER CLOSET
- Ⓨ INDICATES LAVATORY

2 BEDROOM - 2 BATH
UNIT B
APPROXIMATE SQUARE FOOTAGE
CONDITIONED AREA 1,064 S.F.
STORAGE AREA 0 S.F.
PORCH / PATIO AREA 73 S.F.
TOTAL AREA 1,137 S.F.

1 UNIT 'B' FLOOR PLAN
SCALE: 1/4" = 1'-0"



Floor Symbols:

- ② WALL TYPE, RE: SHT. A2-8
- ⑪ ROOM FINISH, RE: SHT. A3-0a
- ⑫ DOOR TYPE, RE: SHT. A3-0a
- ⓑ WINDOW TYPE, RE: SHT. A3-0a
- Ⓜ INDICATES WATER CLOSET
- Ⓨ INDICATES LAVATORY

2 BEDROOM - 2 BATH
UNIT B-hc
APPROXIMATE SQUARE FOOTAGE
CONDITIONED AREA 1,064 S.F.
STORAGE AREA 0 S.F.
PORCH / PATIO AREA 73 S.F.
TOTAL AREA 1,137 S.F.

2 UNIT 'B-hc' FLOOR PLAN
SCALE: 1/4" = 1'-0"



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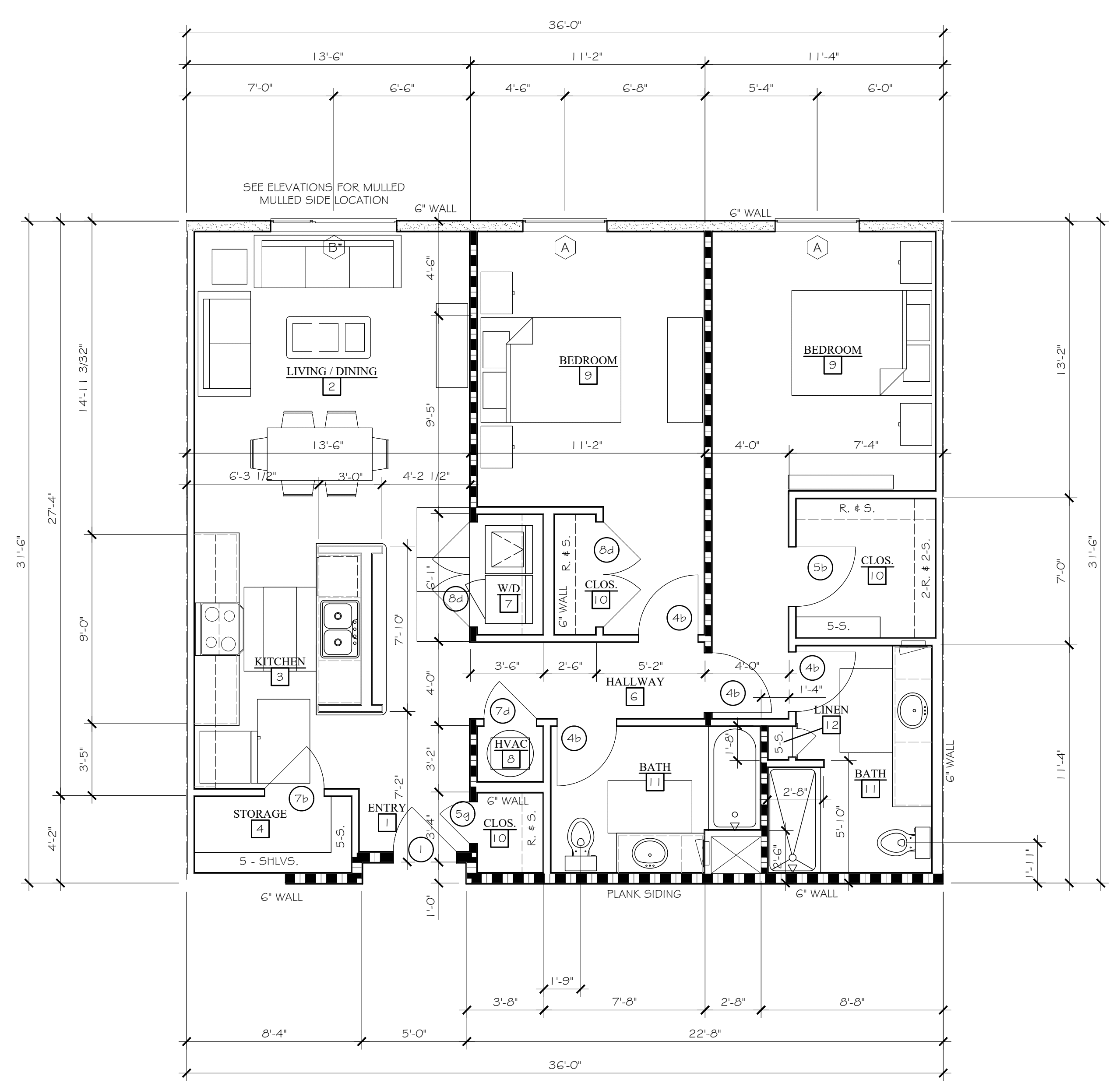
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5	PLAN REVIEW	06/19/18

PROJECT NUMBER: xxxx

UNIT PLAN C



1 UNIT 'C' FLOOR PLAN
SCALE: 1/4" = 1'-0"

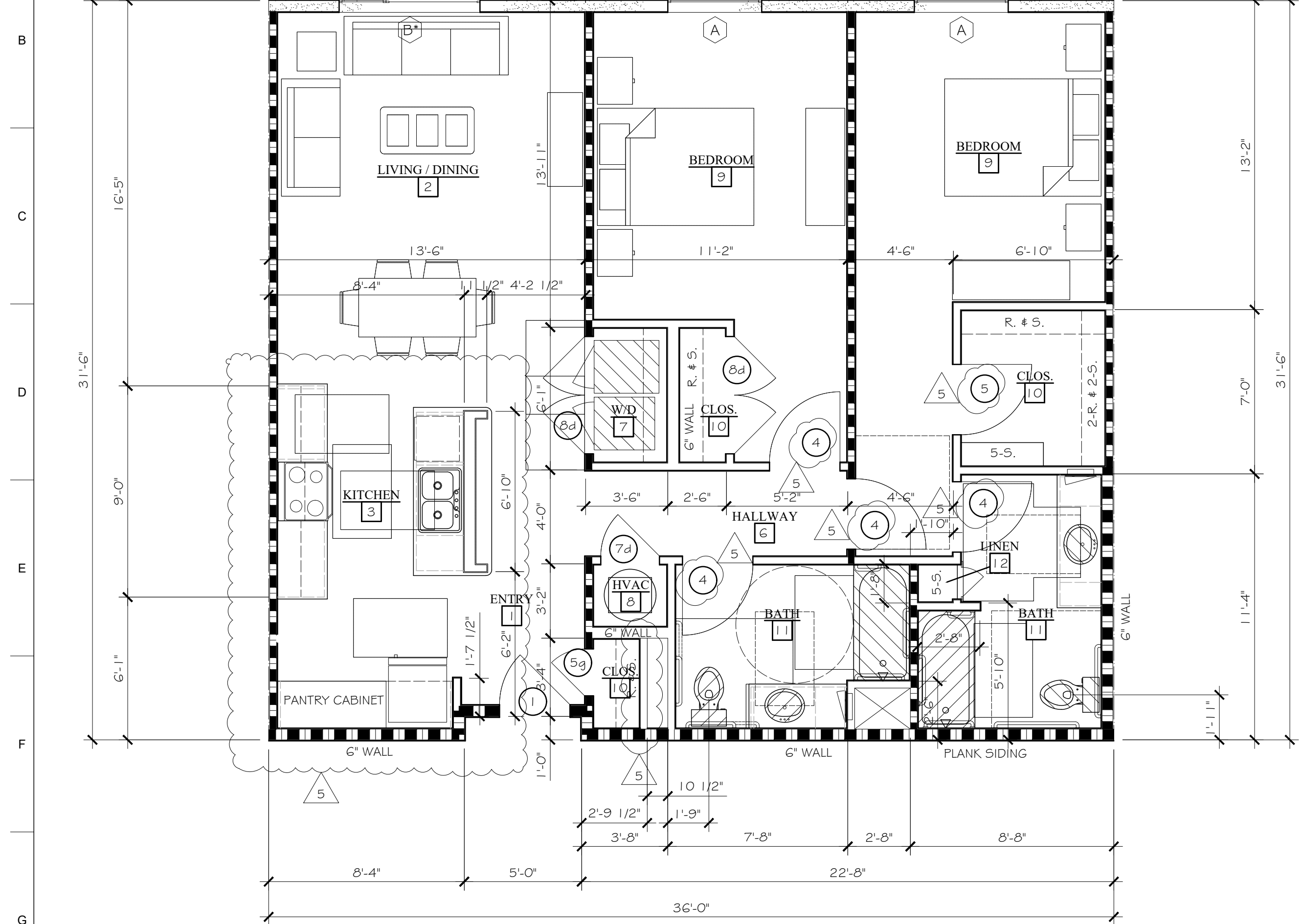
Floor Symbols:

- ② WALL TYPE, RE: SHT. A2-8
- ⑪ ROOM FINISH, RE: SHT. A2-10
- ⑯ DOOR TYPE, RE: SHT. A2-10
- ⑧ WINDOW TYPE, RE: SHT. A2-10
- ⊗ INDICATES WATER CLOSET
- ⊙ INDICATES LAVATORY

2 BEDROOM - 2 BATH
UNIT C

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	1,129 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	0 S.F.
TOTAL AREA	1,129 S.F.



2 UNIT 'C-hc' FLOOR PLAN
SCALE: 1/4" = 1'-0"

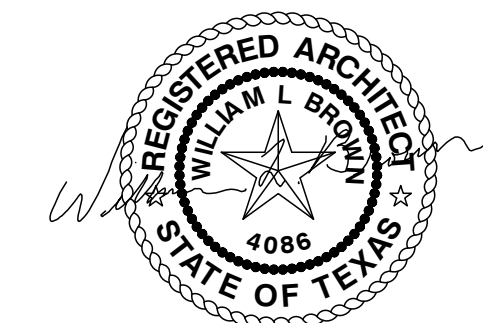
Floor Symbols:

- ② WALL TYPE, RE: SHT. A2-8
- ⑪ ROOM FINISH, RE: SHT. A3-0a
- ⑯ DOOR TYPE, RE: SHT. A3-0a
- ⑧ WINDOW TYPE, RE: SHT. A3-0a
- ⊗ INDICATES WATER CLOSET
- ⊙ INDICATES LAVATORY

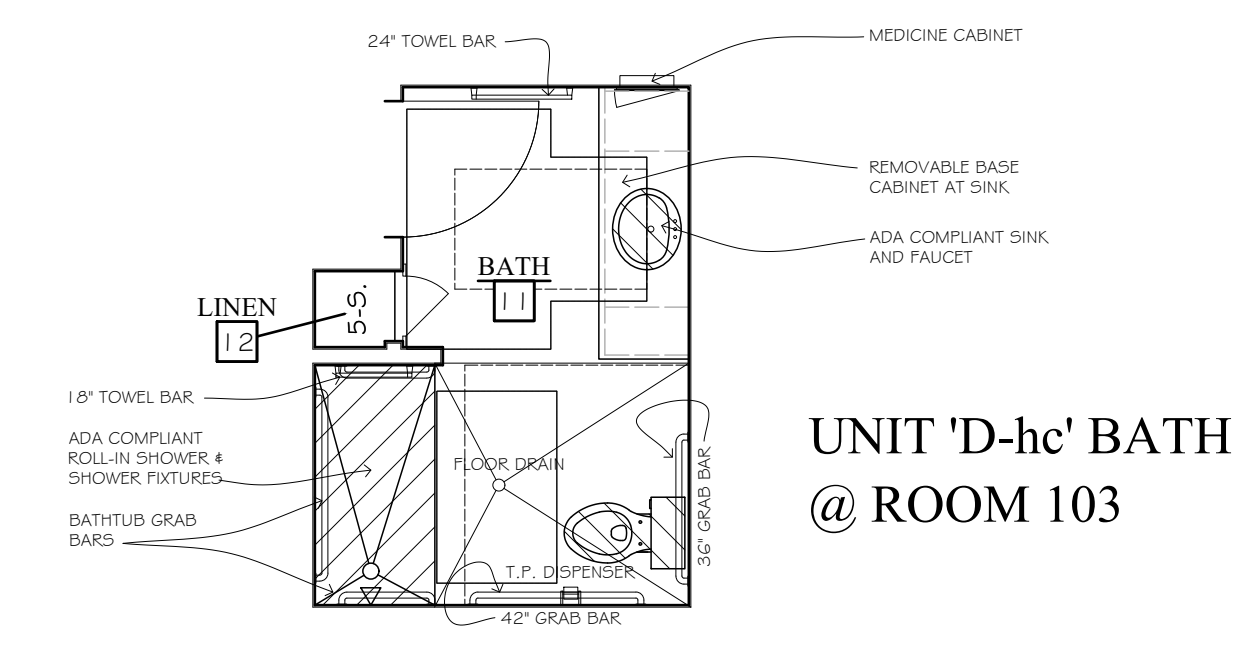
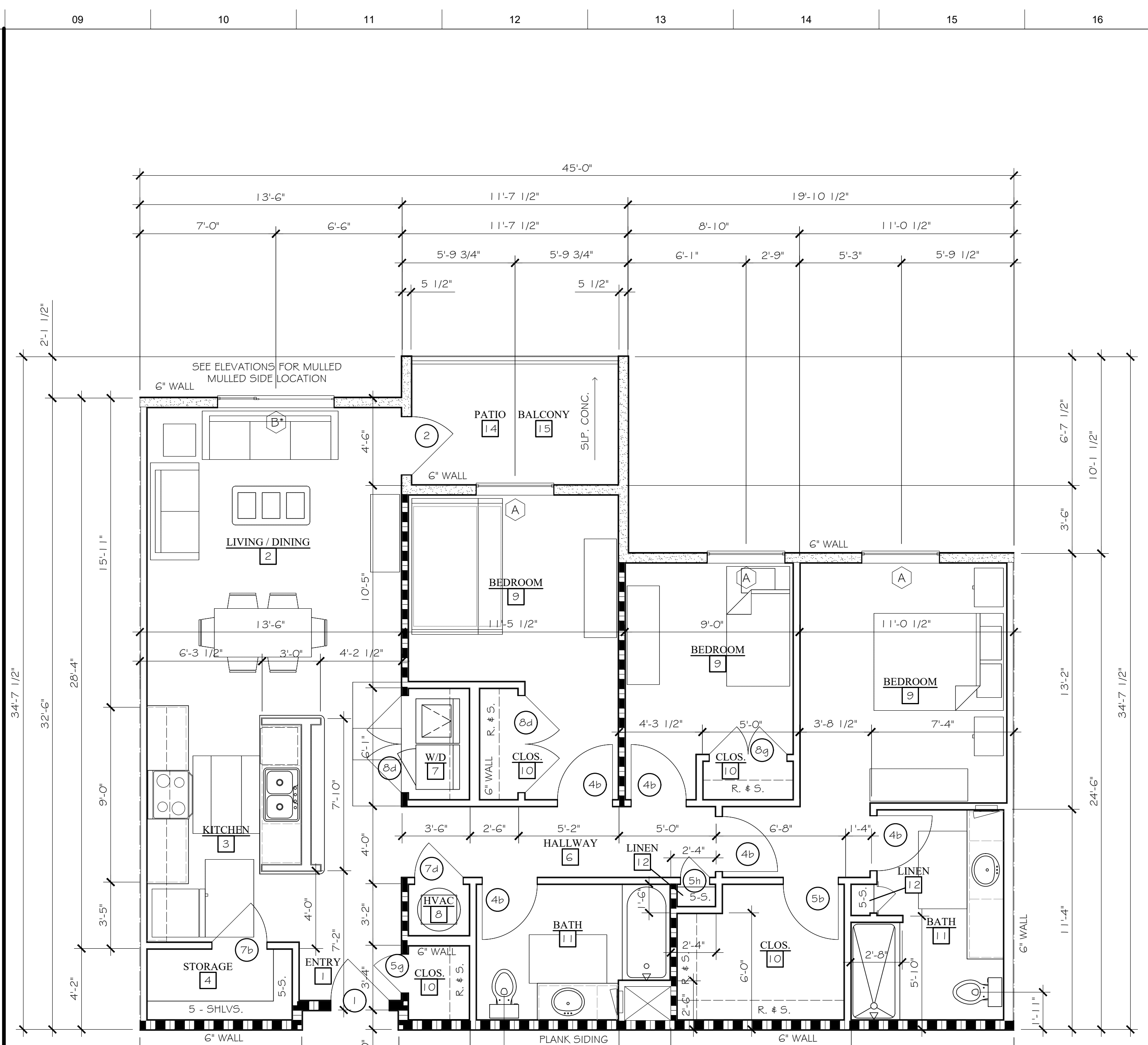
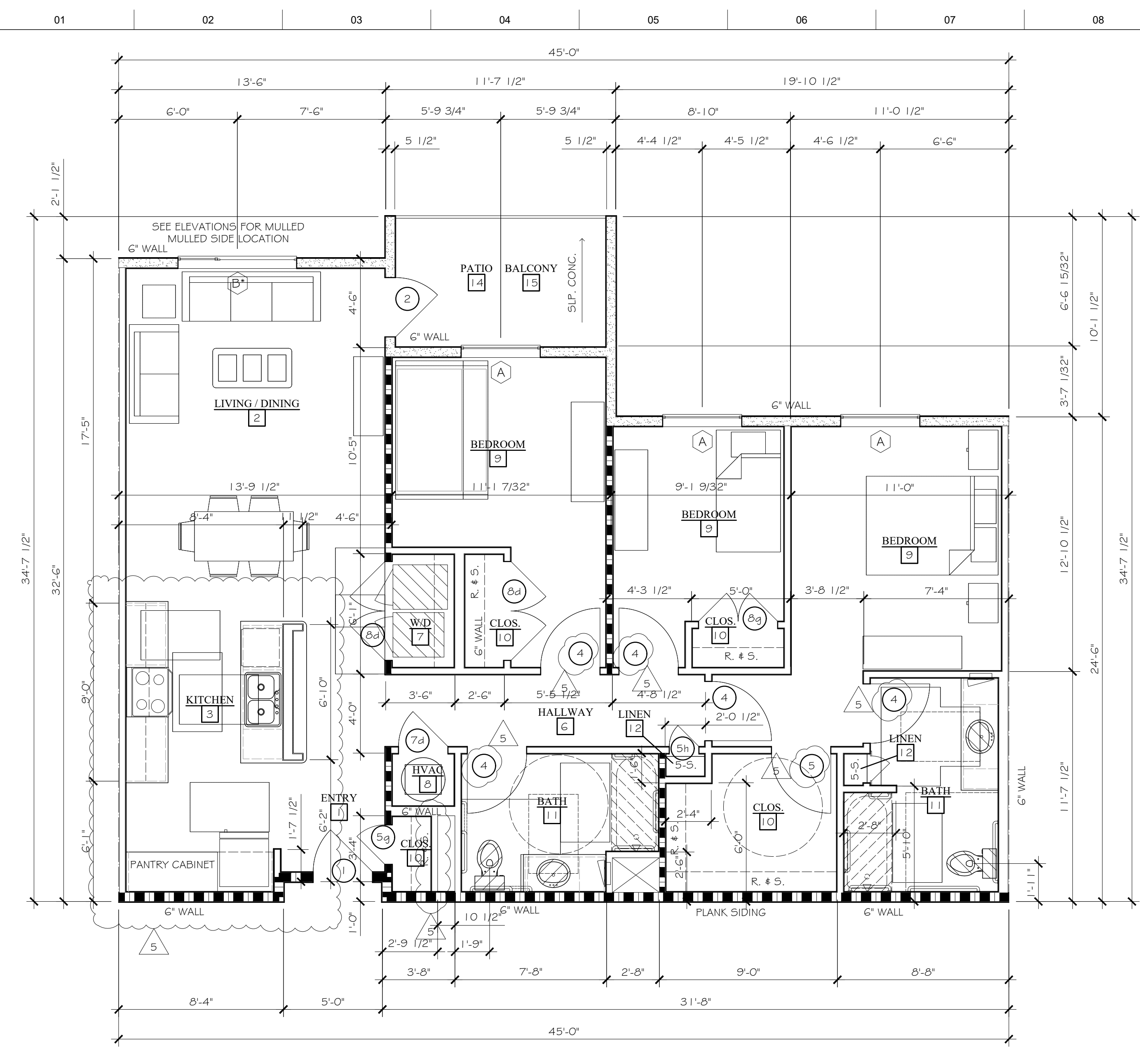
2 BEDROOM - 2 BATH
UNIT C-hc

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	1,129 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	0 S.F.
TOTAL AREA	1,129 S.F.



LAS PALOMAS VILLAGE
A 122 UNIT FAMILY LIVING COMMUNITY
1900 DOVE AVE
McALLEN, TEXAS 78504



UNIT 'D-hc' BATH @ ROOM 103

Floor Symbols:

(2)	WALL TYPE, RE: SHT. A2-8
(11)	ROOM FINISH, RE: SHT. A3-0a
(16)	DOOR TYPE, RE: SHT. A3-0a
(8)	WINDOW TYPE, RE: SHT. A3-0a
(C)	INDICATES WATER CLOSET
(L)	INDICATES LAVATORY

3 BEDROOM - 2 BATH
UNIT D-hc

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	1,249 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	75 S.F.
TOTAL AREA	1,324 S.F.

Floor Symbols:

(2)	WALL TYPE, RE: SHT. A2-8
(11)	ROOM FINISH, RE: SHT. A2-10
(16)	DOOR TYPE, RE: SHT. A2-10
(8)	WINDOW TYPE, RE: SHT. A2-10
(C)	INDICATES WATER CLOSET
(L)	INDICATES LAVATORY

3 BEDROOM - 2 BATH
UNIT D

APPROXIMATE SQUARE FOOTAGE

CONDITIONED AREA	1,249 S.F.
STORAGE AREA	0 S.F.
PORCH / PATIO AREA	75 S.F.
TOTAL AREA	1,324 S.F.

△ DRAWING ISSUE: DATE:

1	BID & PERMIT SET	04/04/18
4	PLAN REVIEW	06/06/18
5	PLAN REVIEW	06/19/18

PROJECT NUMBER: xxxx

UNIT PLAN D

2 UNIT 'D-hc' FLOOR PLAN
SCALE: 1/4" = 1'-0"

1 UNIT 'D' FLOOR PLAN
SCALE: 1/4" = 1'-0"



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ARCHITECTS AND PLANNERS, INC.
WILLIAM L. BROWN, ARCHITECT
6517 MAPLERIDGE
HOUSTON, TEXAS 77081
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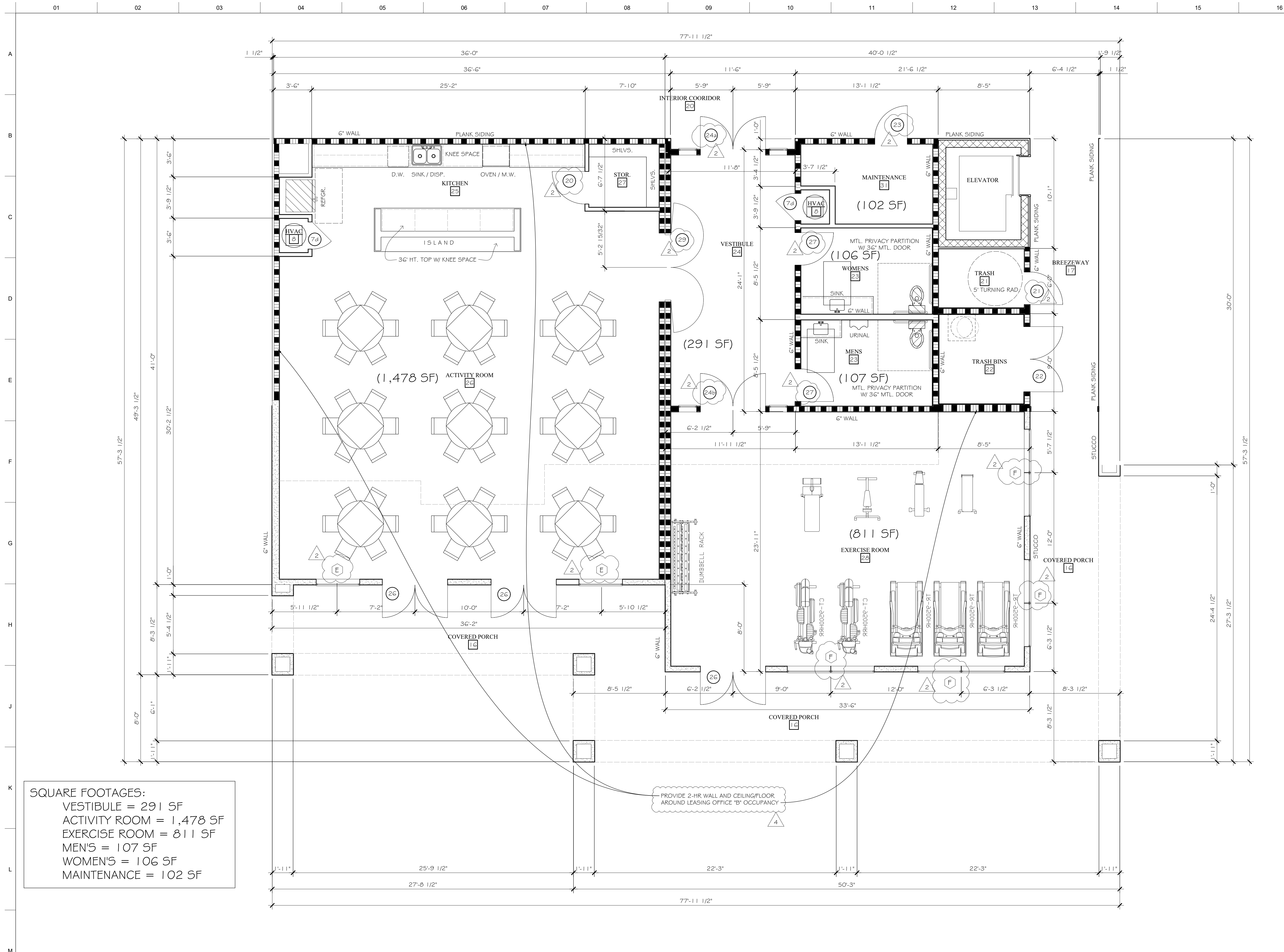
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PROJECT NUMBER: xxxx

CLUBHOUSE A

A3-7



SQUARE FOOTAGES:
 VESTIBULE = 291 SF
 ACTIVITY ROOM = 1,478 SF
 EXERCISE ROOM = 811 SF
 MEN'S = 107 SF
 WOMEN'S = 106 SF
 MAINTENANCE = 102 SF

PROVIDE 2-HR WALL AND CEILING/FLOOR
 AROUND LEASING OFFICE 'B' OCCUPANCY

1 CLUBHOUSE 'A' FLOOR PLAN
 SCALE: 1/4" = 1'-0"



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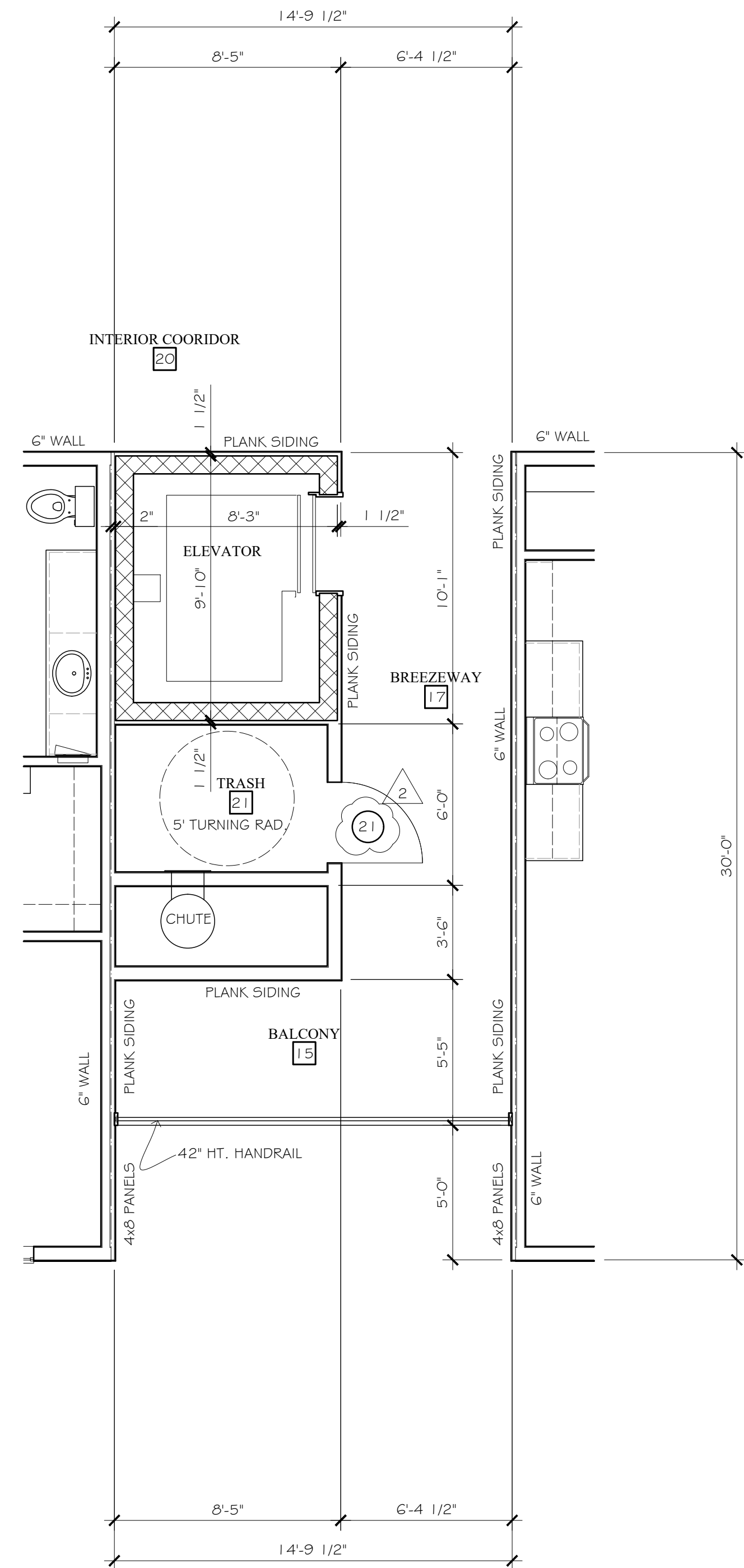
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McALLEN, TEXAS 78504

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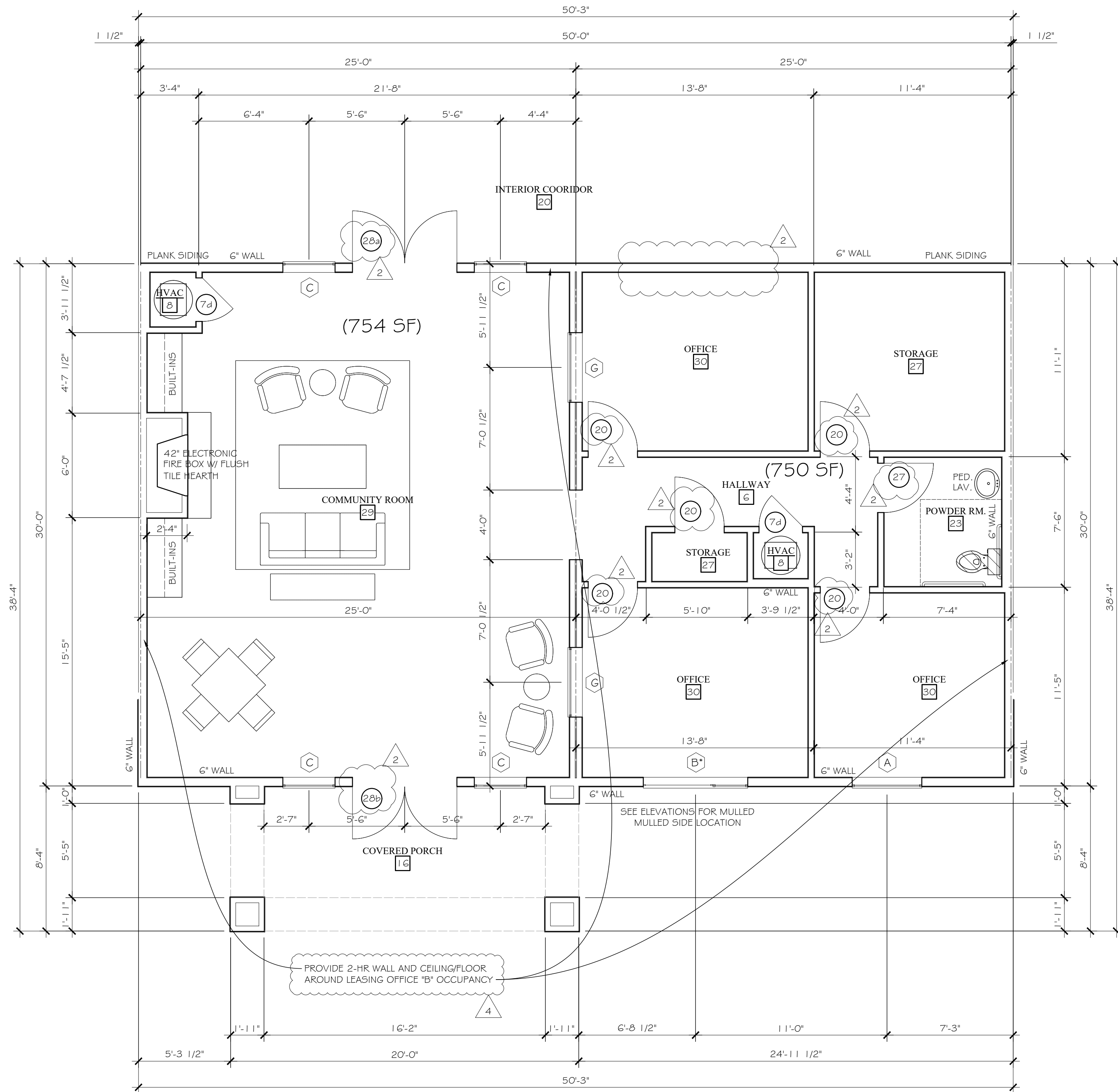
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CLUBHOUSE B

A3-8



2 ELEVATOR AND TRASH ROOM CORE @ 2nd, 3rd AND 4th LEVELS
SCALE: 1/4" = 1'-0"



SQUARE FOOTAGES:
COMMUNITY ROOM = 754 SF
LEASING OFFICE = 750 SF

1 CLUBHOUSE 'B' FLOOR PLAN
SCALE: 1/4" = 1'-0"

A
B
C
D
E
F
G
H
J
K
L
M

01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16

01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16



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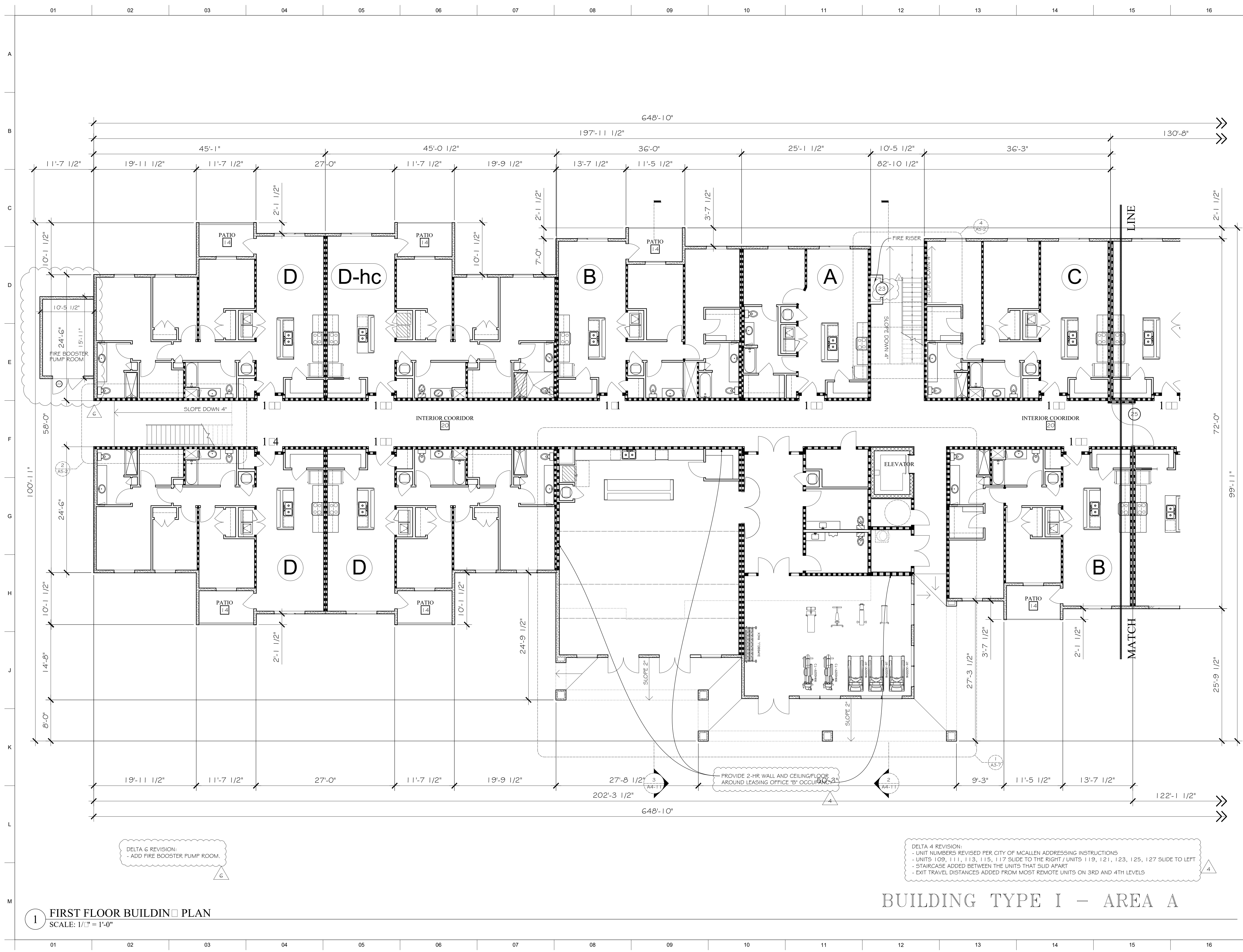
LAS PALOMAS VILLAGE
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2 MISC. COORDINATION	04/20/18
4 PLAN REVIEW	06/06/18
6 PUMP ROOM	01/09/19

PROJECT NUMBER: xxxx

**FIRST FLOOR
BUILDING PLAN**

A4-1a



DELTA 6 REVISION:
- ADD FIRE BOOSTER PUMP ROOM.

DELTA 4 REVISION:
- UNIT NUMBERS REVISED PER CITY OF McALLEN ADDRESSING INSTRUCTIONS
- UNITS 109, 111, 113, 115, 117 SLIDE TO THE RIGHT / UNITS 119, 121, 123, 125, 127 SLIDE TO LEFT
- STAIRCASE ADDED BETWEEN THE UNITS THAT SLID APART
- EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS

1 FIRST FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA A



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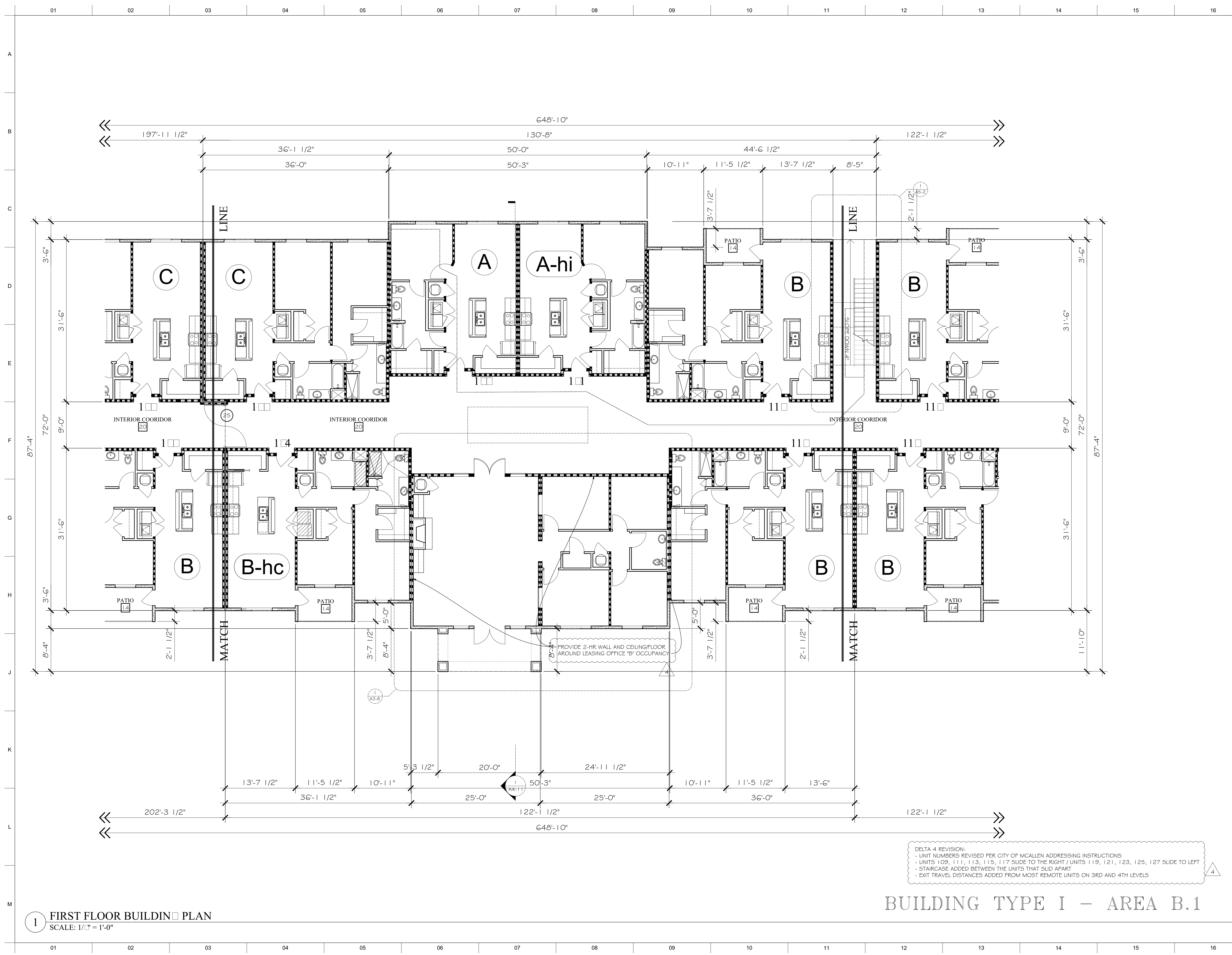
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4	PLAN REVIEW	06/06/18

PROJECT NUMBER: xxxx

FIRST FLOOR BUILDING PLAN

A4-1b



1 FIRST FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA B.1



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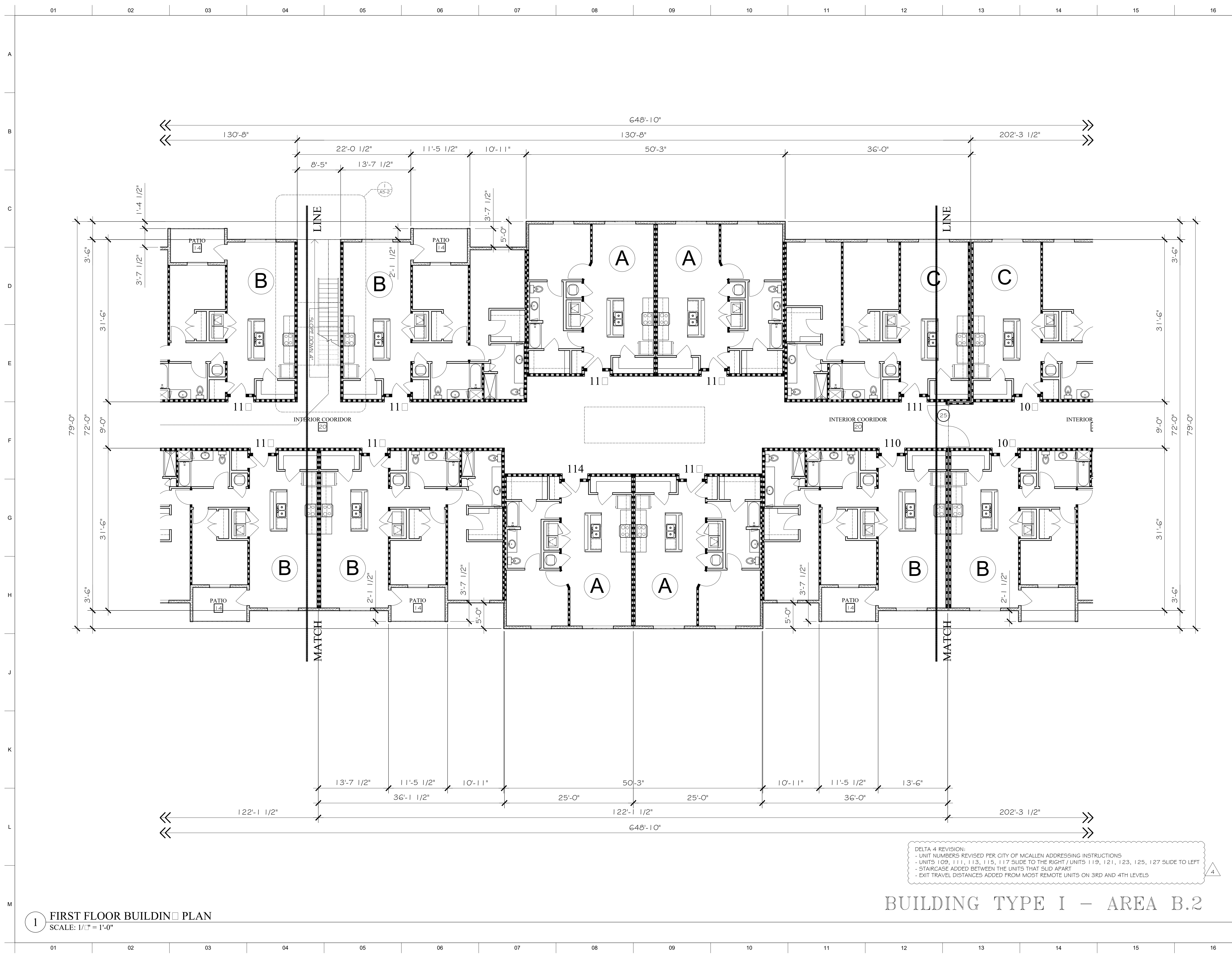
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4 PLAN REVIEW	06/06/18

PROJECT NUMBER: xxxx

**FIRST FLOOR
BUILDING PLAN**

A4-1c



1 FIRST FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA B.2

DELTA 4 REVISION:
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 - EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS



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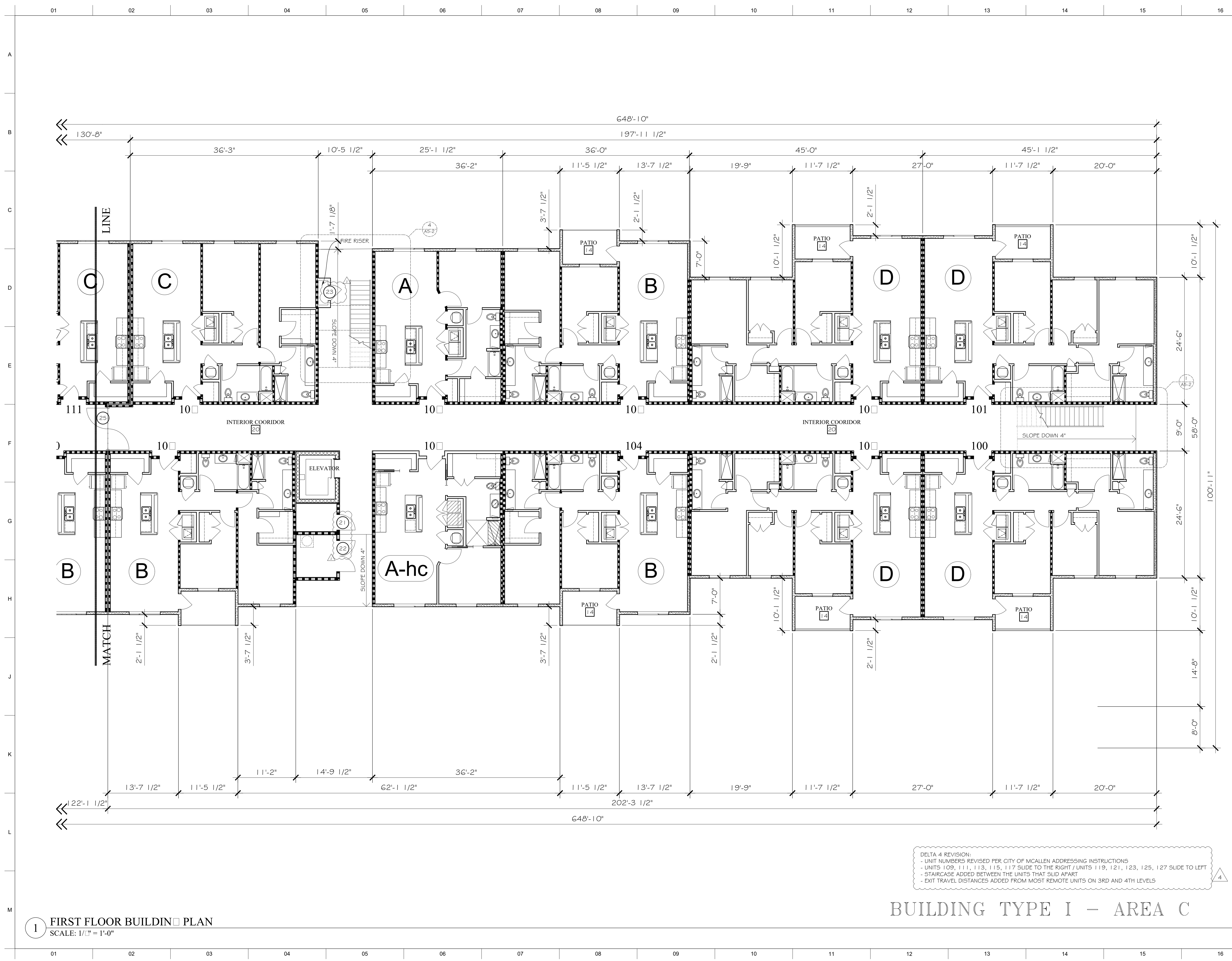
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4	PLAN REVIEW	06/06/18

PROJECT NUMBER: xxxx

FIRST FLOOR BUILDING PLAN

A4-1d



1 FIRST FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

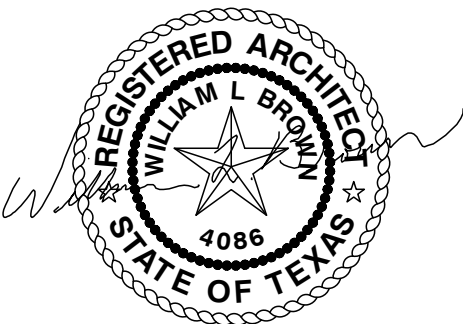
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BUILDING TYPE I - AREA C



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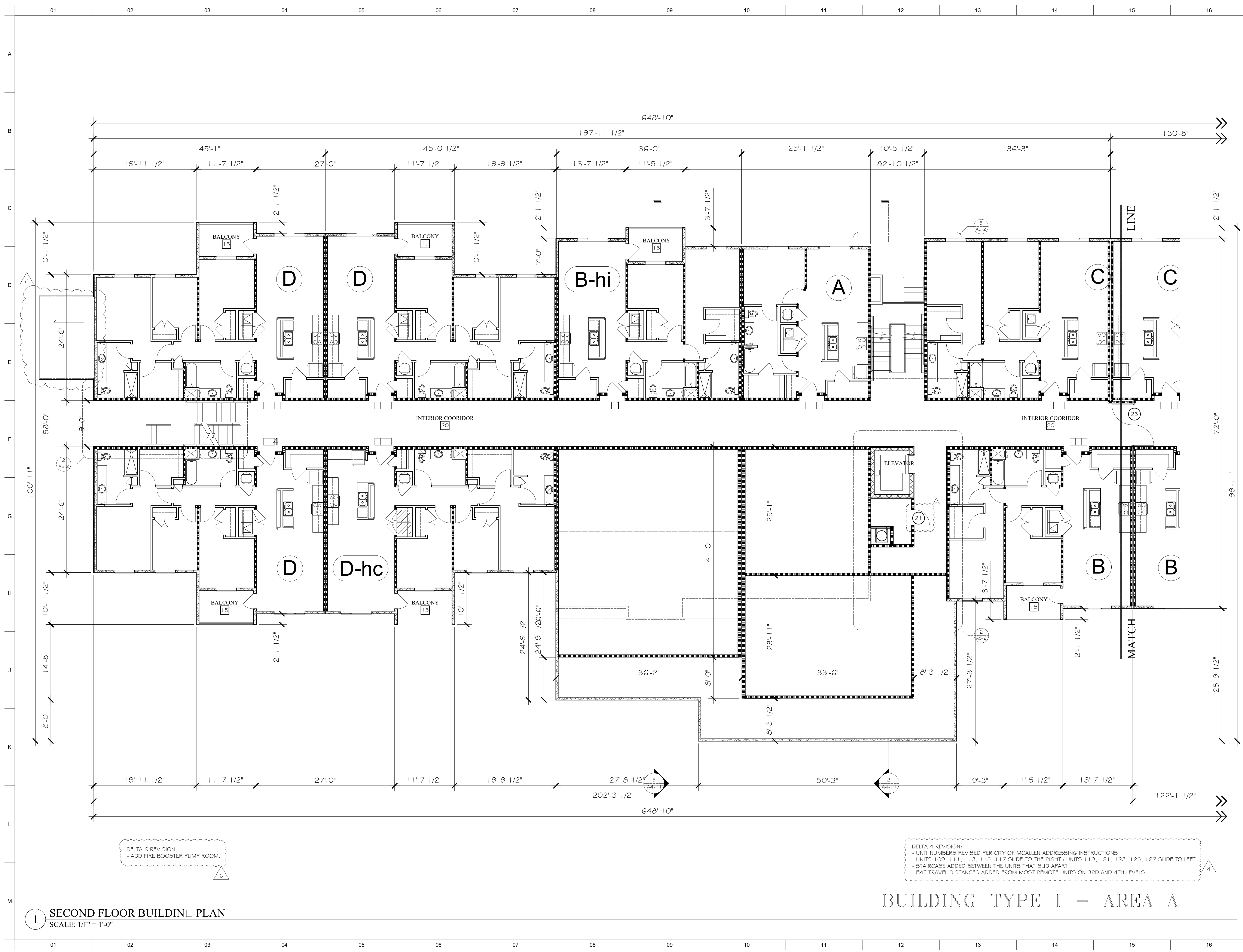
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4 PLAN REVIEW	06/06/18
6 PUMP ROOM	01/09/19

PROJECT NUMBER: xxxx

SECOND FLOOR BUILDING PLAN

A4-2a



DELTA 6 REVISION:
- ADD FIRE BOOSTER PUMP ROOM.

DELTA 4 REVISION:
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1 SECOND FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA A



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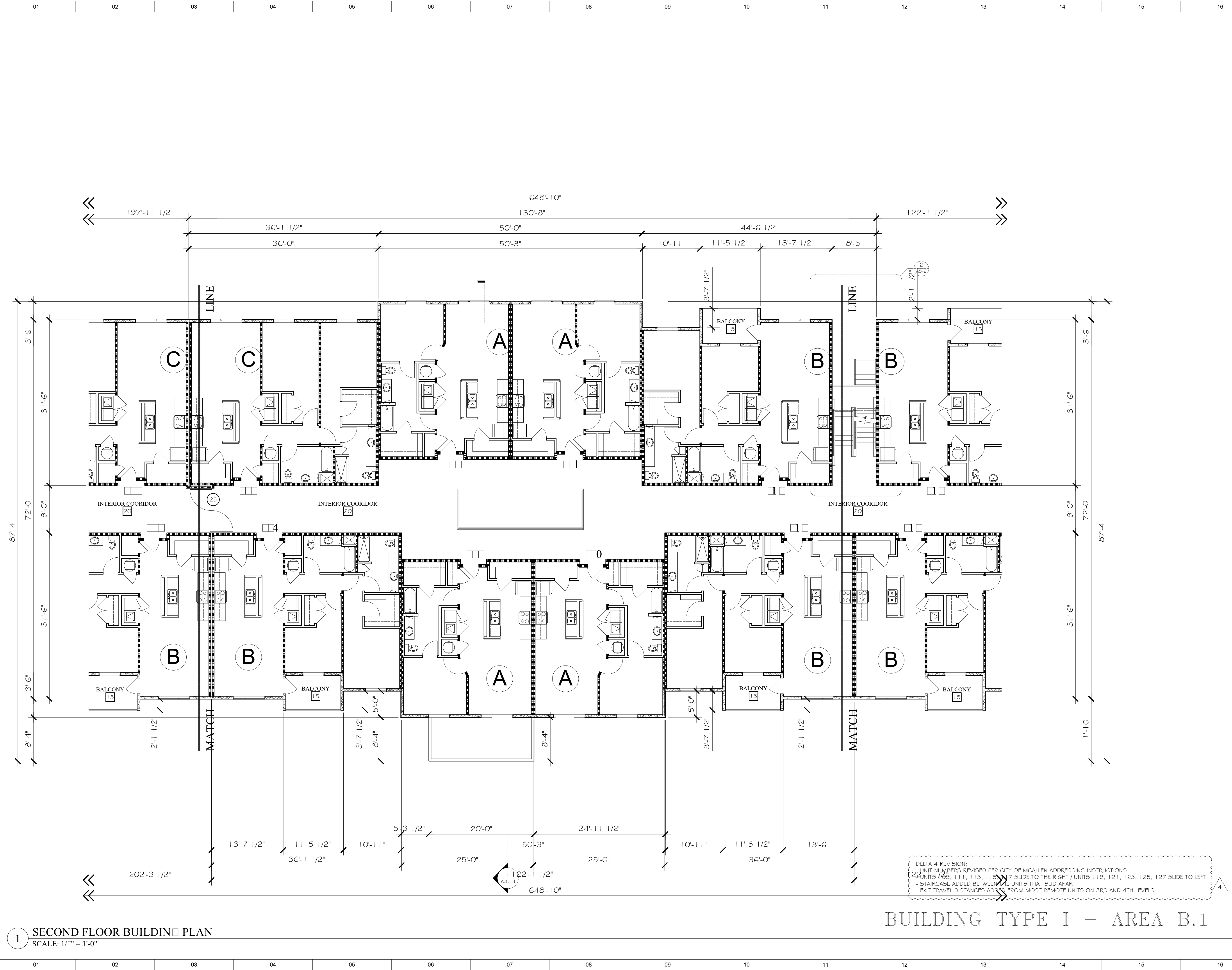
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PROJECT NUMBER: xxxxx

SECOND FLOOR BUILDING PLAN

DELTA 4 REVISION:
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 22 UNITS 109, 111, 113, 115 - 7 SLIDE TO THE RIGHT / UNITS 119, 121, 123, 125, 127 SLIDE TO LEFT
 - STAIRCASE ADDED BETWEEN UNITS THAT SLID APART
 - EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS

BUILDING TYPE I - AREA B.1



1 SECOND FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

A4-2b



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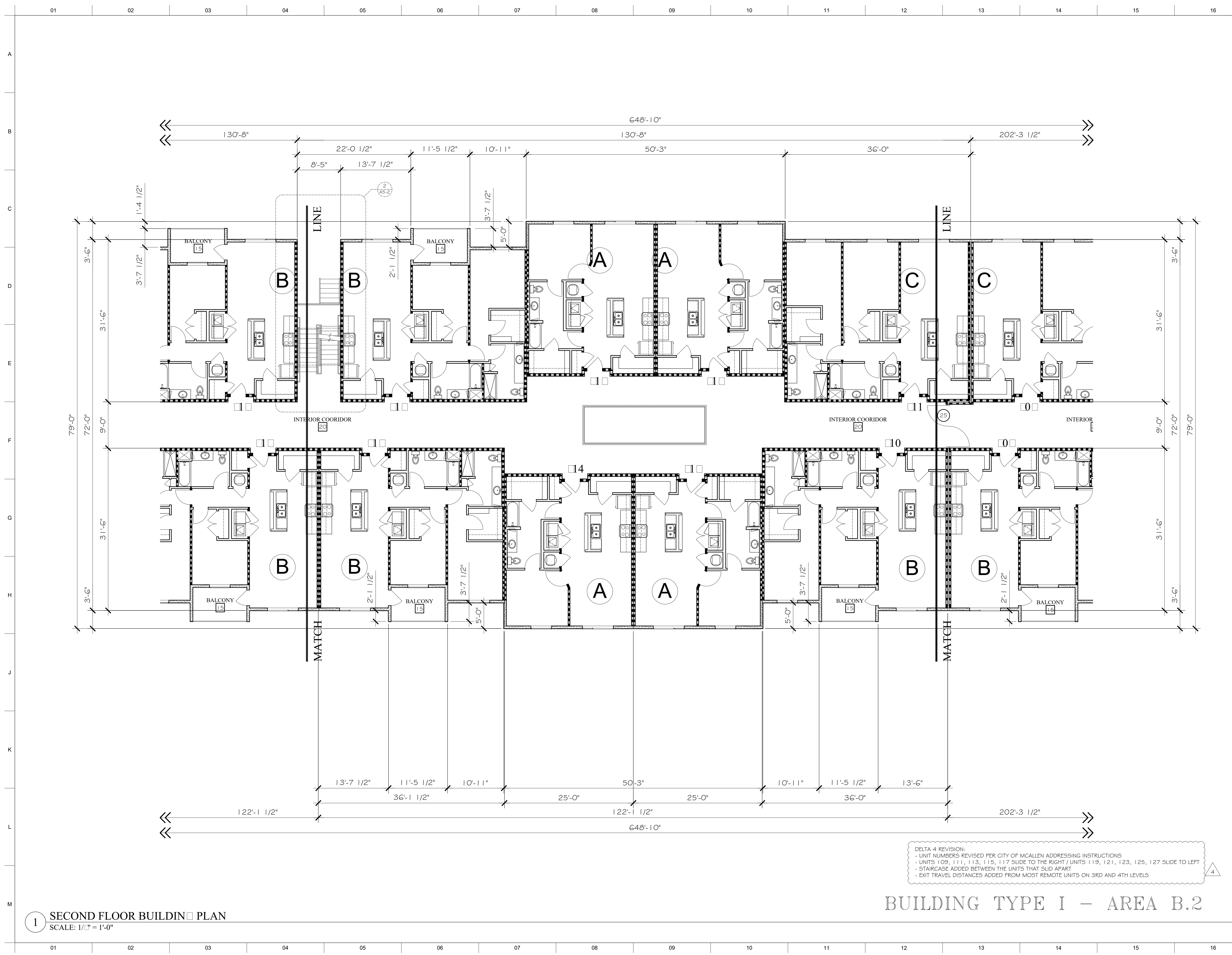
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SECOND FLOOR BUILDING PLAN

A4-2c



1 SECOND FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA B.2

DELTA 4 REVISION:
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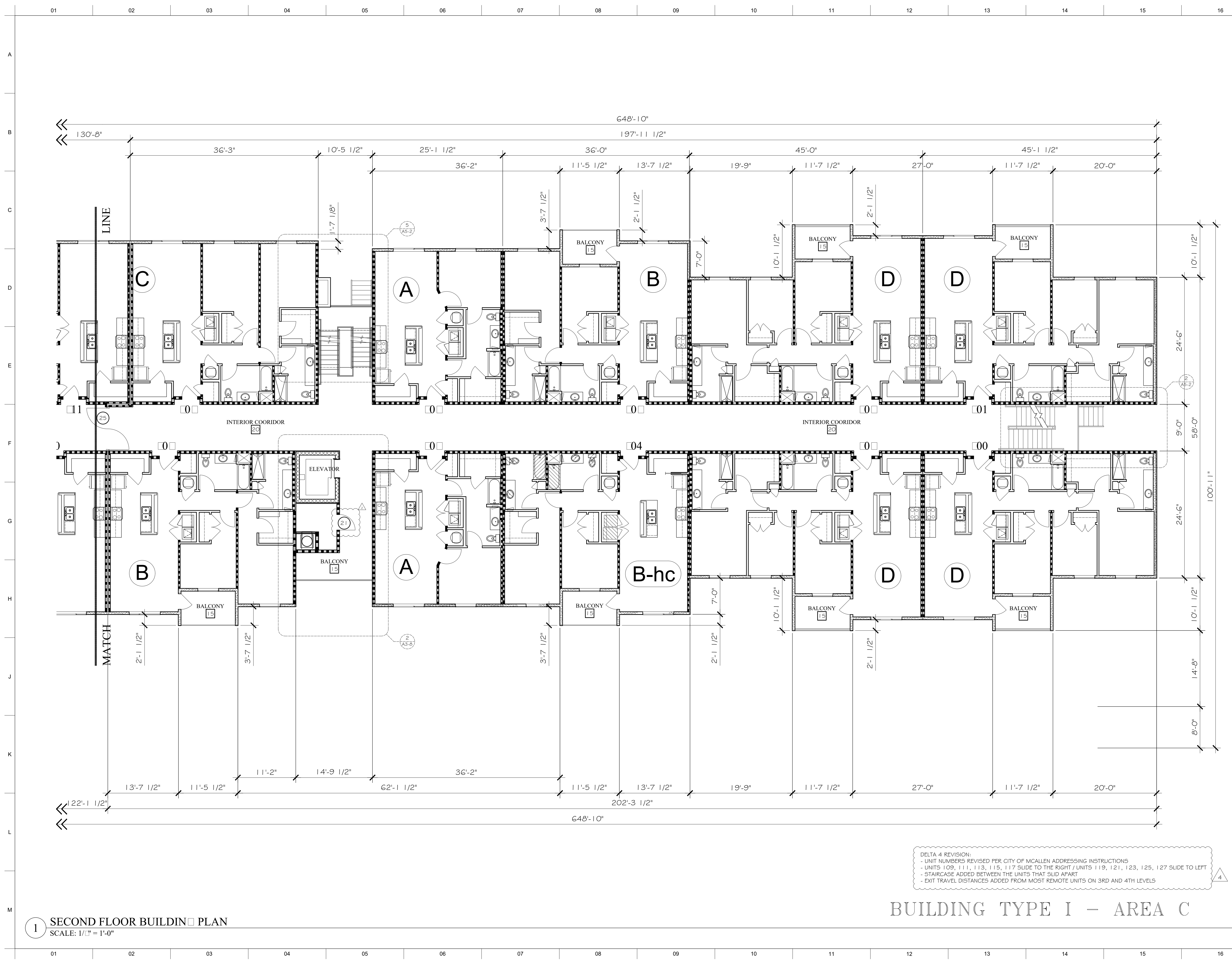
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PROJECT NUMBER: xxxx

**SECOND FLOOR
BUILDING PLAN**

A4-2d



1 SECOND FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

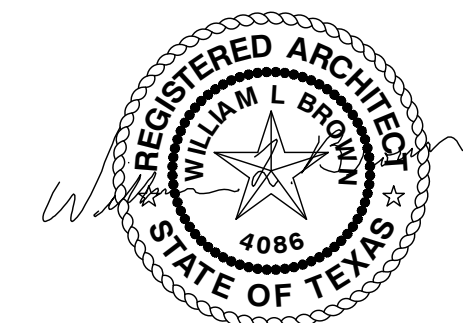
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BUILDING TYPE I - AREA C



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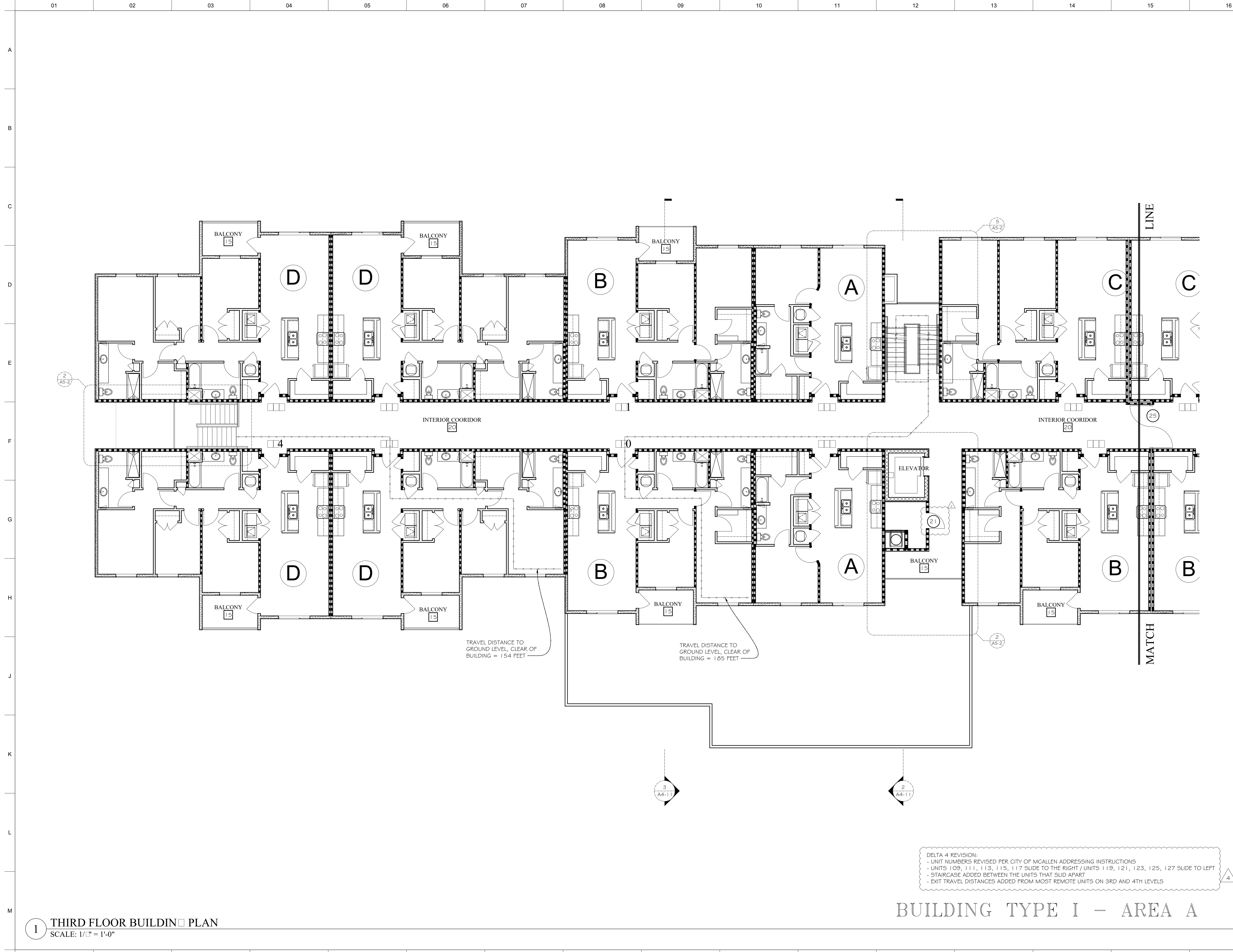
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**THIRD FLOOR
BUILDING PLAN**

A4-3a



1 THIRD FLOOR BUILDING PLAN
SCALE: 1/4" = 1'-0"

BUILDING TYPE I - AREA A

DELTA 4 REVISION:
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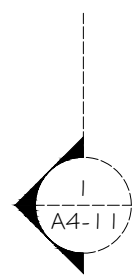
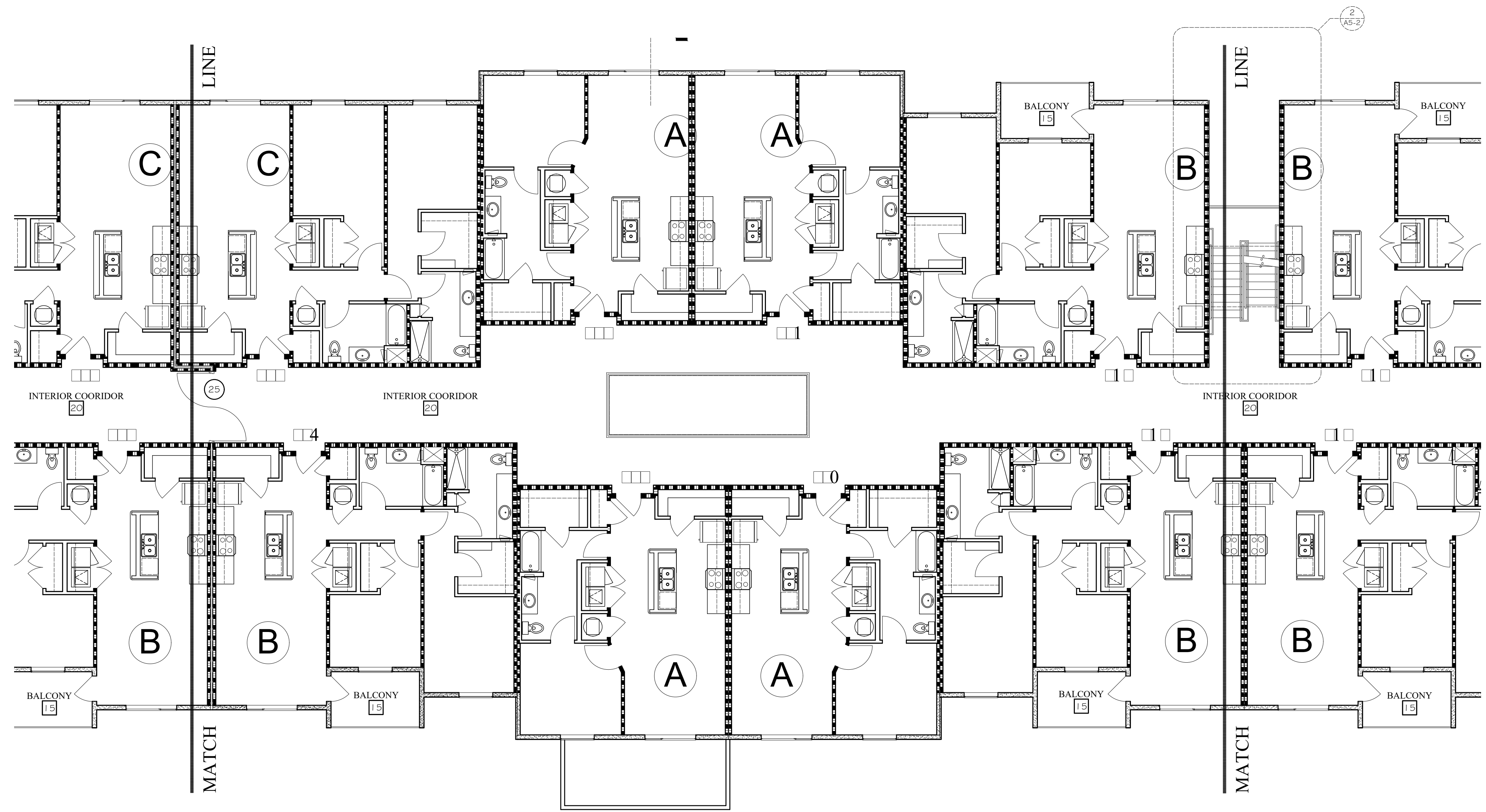
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THIRD FLOOR BUILDING PLAN

A4-3b



DELTA 4 REVISION:
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 - EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS

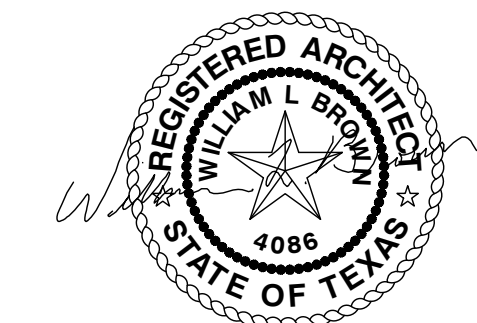
BUILDING TYPE I - AREA B.1

1 THIRD FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"



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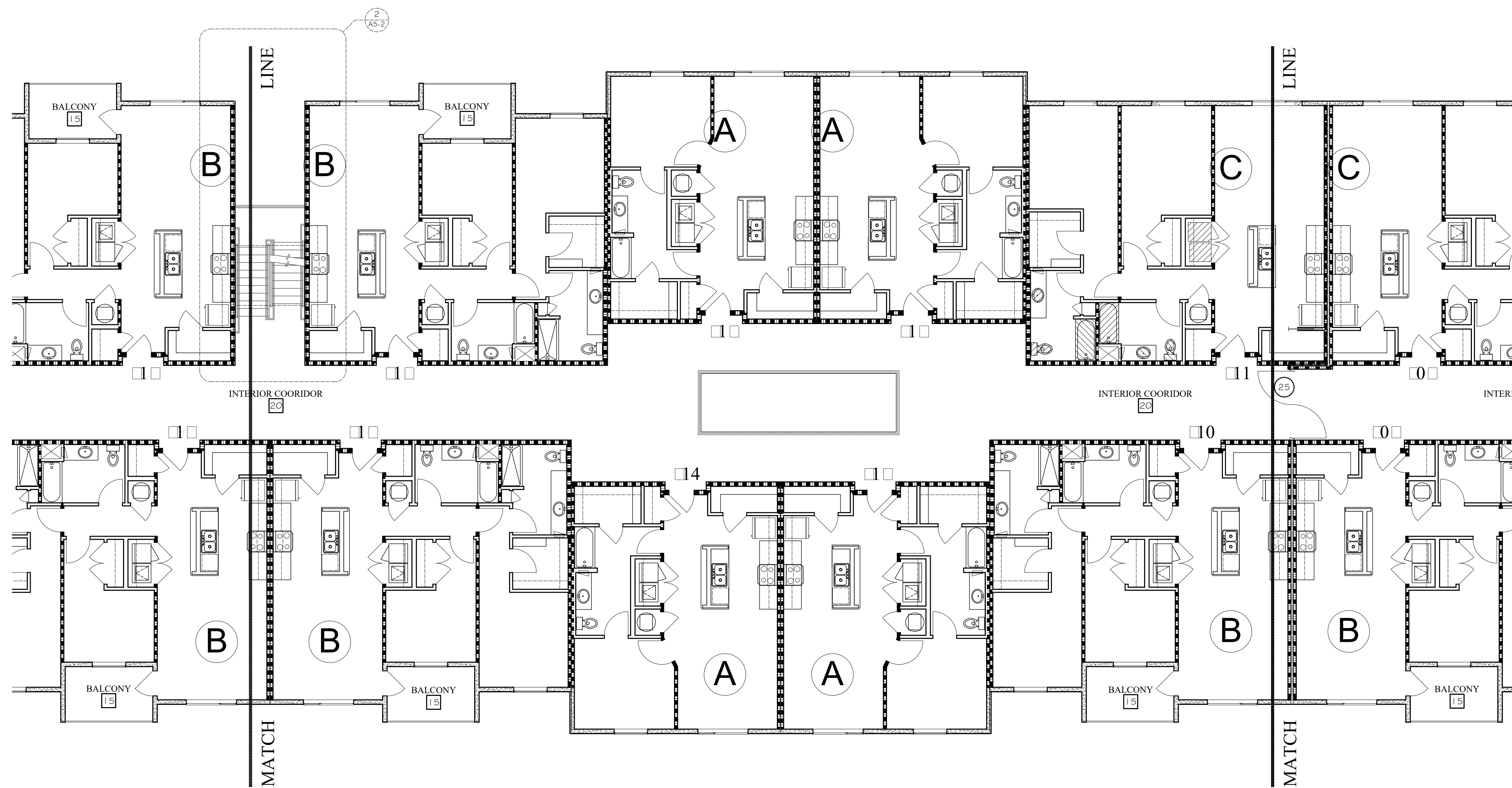
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**THIRD FLOOR
BUILDING PLAN**

A4-3c



DELTA 4 REVISION:
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BUILDING TYPE I - AREA B.2

1 THIRD FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"



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THIRD FLOOR BUILDING PLAN

A4-3d



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BUILDING TYPE I - AREA C

1 THIRD FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"



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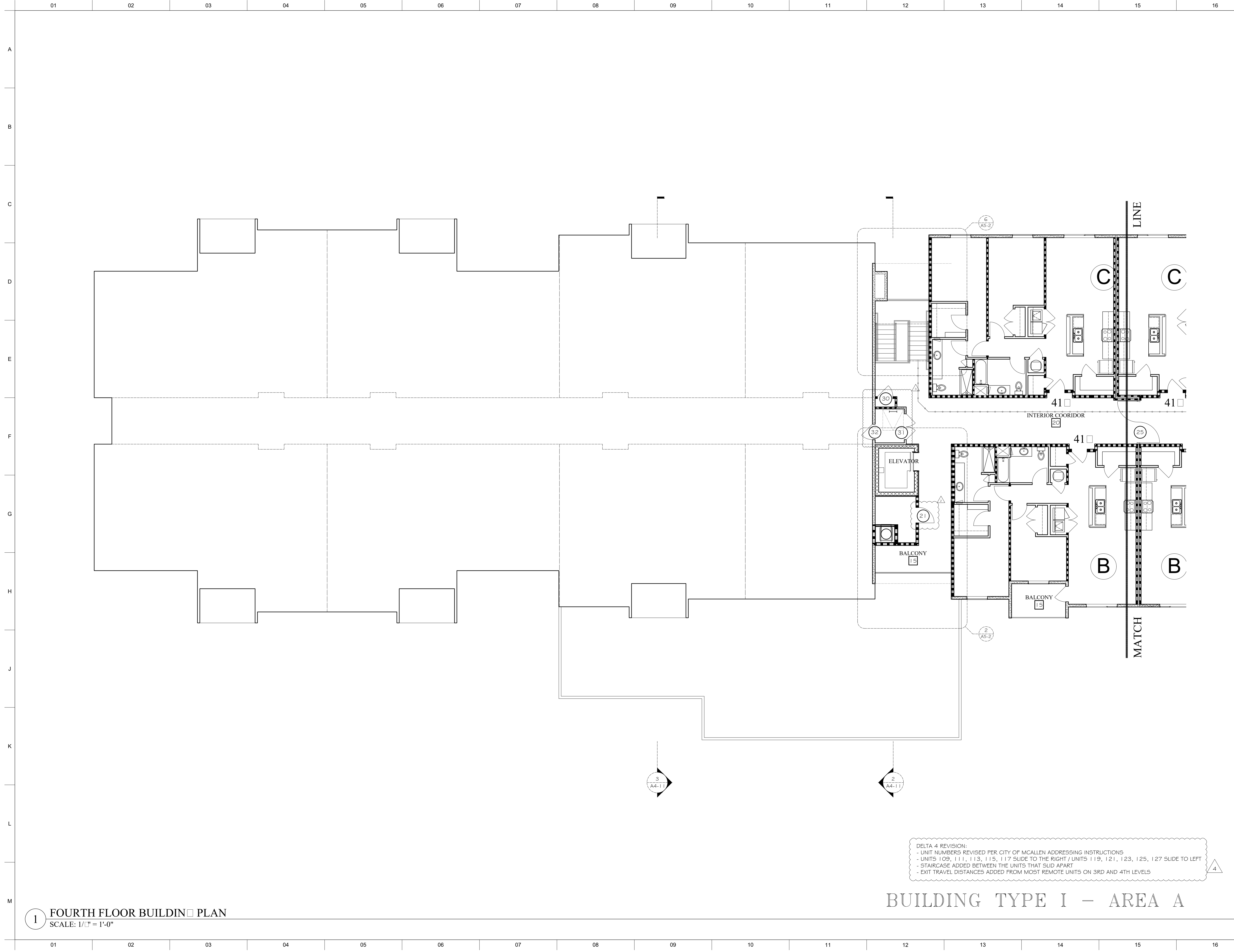
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**FOURTH FLOOR
BUILDING PLAN**

A4-4a



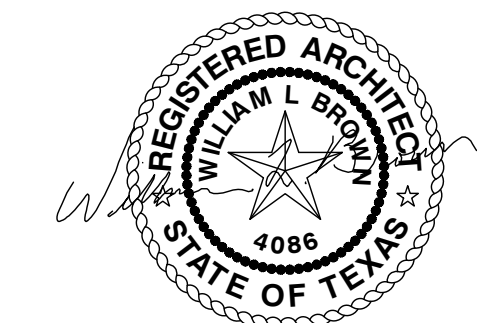
1 FOURTH FLOOR BUILDING PLAN
SCALE: 1/4" = 1'-0"

DELTA 4 REVISION:
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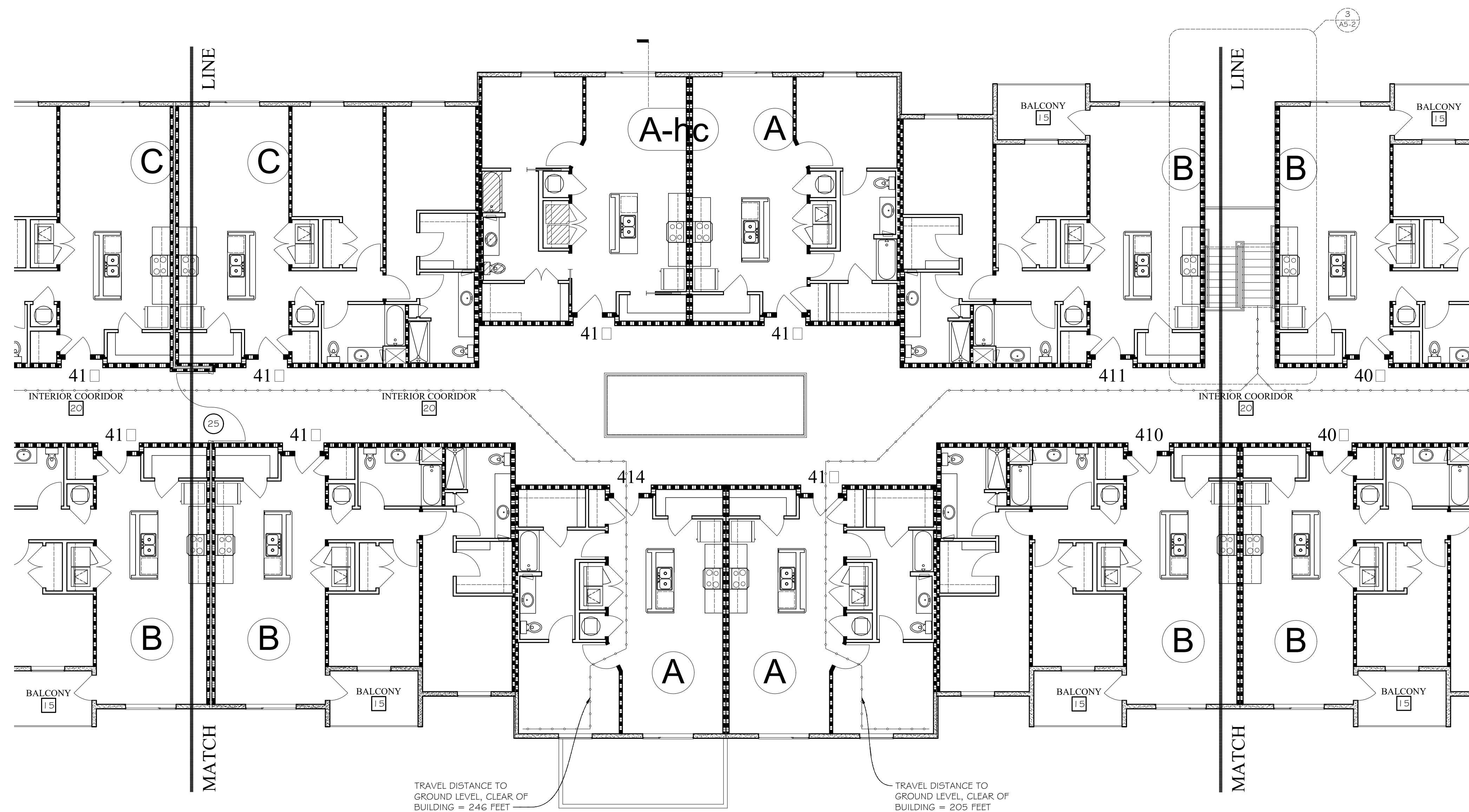
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**FOURTH FLOOR
BUILDING PLAN**

A4-4b



DELTA 4 REVISION:
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BUILDING TYPE I - AREA B.1

1 FOURTH FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"



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FOURTH FLOOR BUILDING PLAN

A4-4c



DELTA 4 REVISION:
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 - STAIRCASE ADDED BETWEEN THE UNITS THAT SLID APART
 - EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS

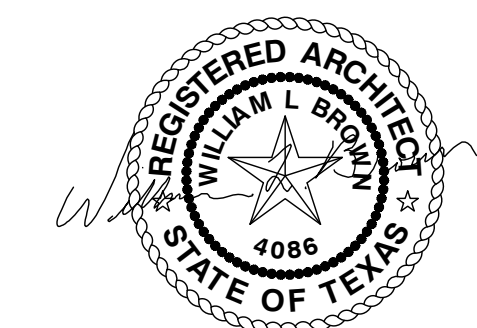
BUILDING TYPE I - AREA B.2

1 FOURTH FLOOR BUILDING PLAN
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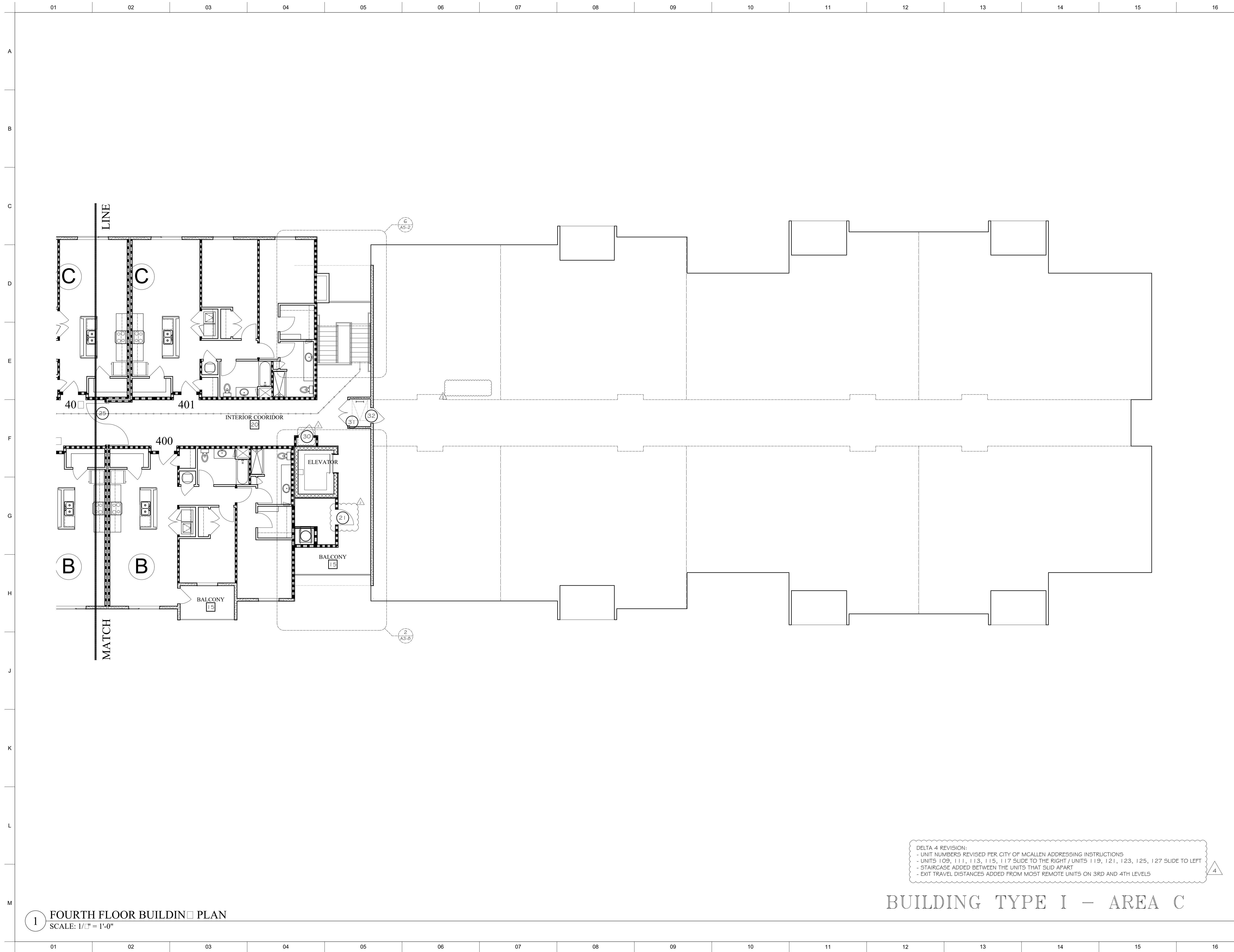
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**FOURTH FLOOR
BUILDING PLAN**

A4-4d



1 FOURTH FLOOR BUILDING PLAN
SCALE: 1/8" = 1'-0"

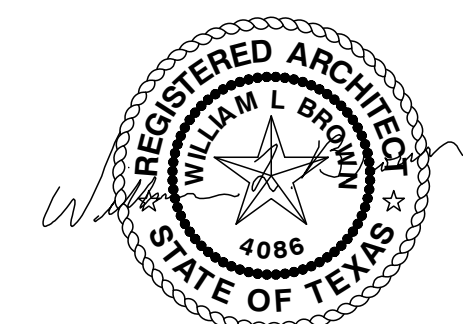
DELTA 4 REVISION:
 - UNIT NUMBERS REVISED PER CITY OF McALLEN ADDRESSING INSTRUCTIONS
 - UNITS 109, 111, 113, 115, 117 SLIDE TO THE RIGHT / UNITS 119, 121, 123, 125, 127 SLIDE TO LEFT
 - STAIRCASE ADDED BETWEEN THE UNITS THAT SLID APART
 - EXIT TRAVEL DISTANCES ADDED FROM MOST REMOTE UNITS ON 3RD AND 4TH LEVELS

BUILDING TYPE I - AREA C



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06/04/19

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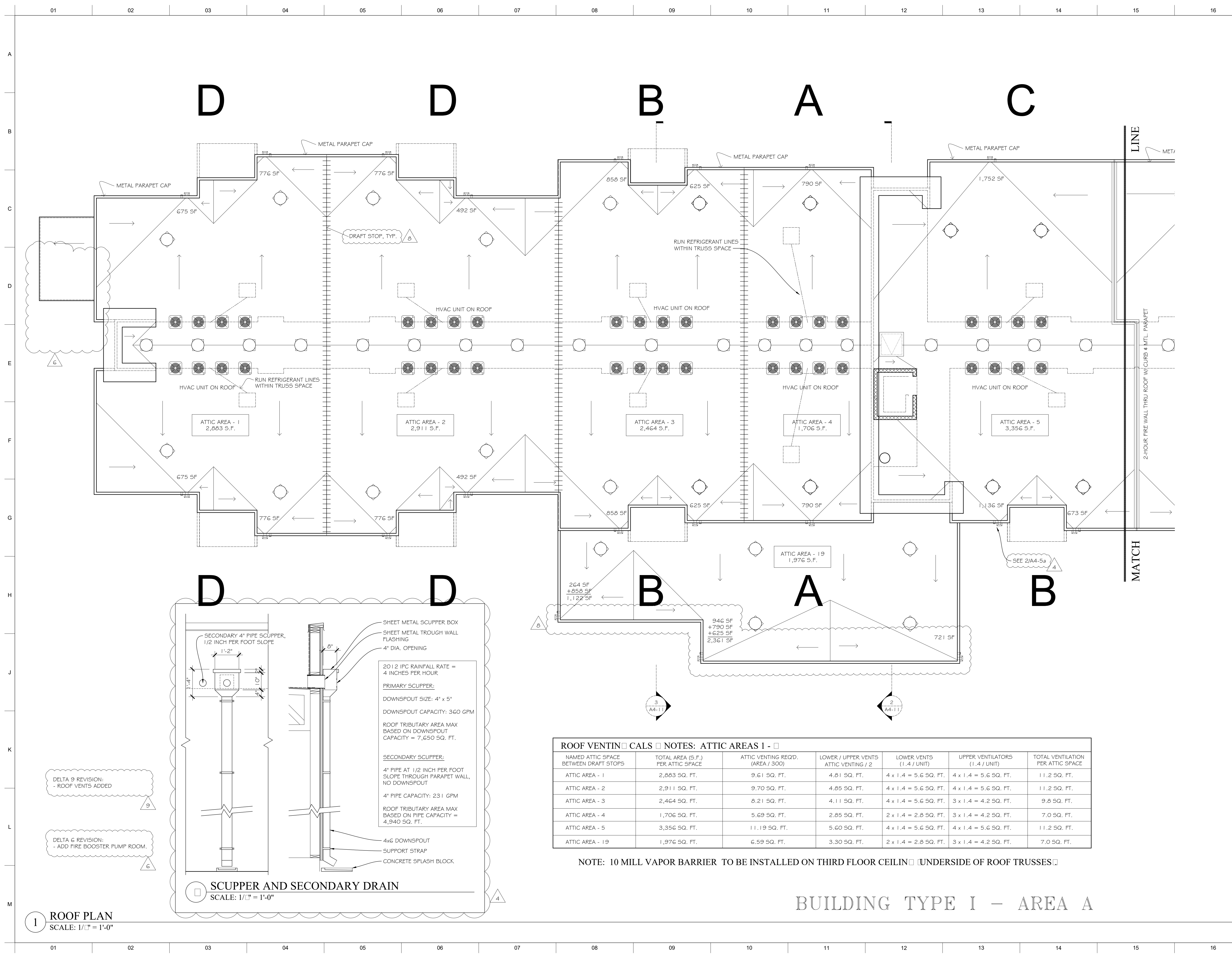
LAS PALOMAS VILLAGE
A 122 UNIT FAMILY LIVING COMMUNITY
1900 DOVE AVE
McALLEN, TEXAS 78504

△ DRAWING ISSUE:	DATE:
0 BID & PERMIT SET	04/04/18
4 PLAN REVIEW	06/06/18
6 PUMP ROOM	01/09/19
8 DRAFT STOP	04/26/19
9 ROOF VENTS	06/04/19

PROJECT NUMBER: xxxxx

ROOF PLAN

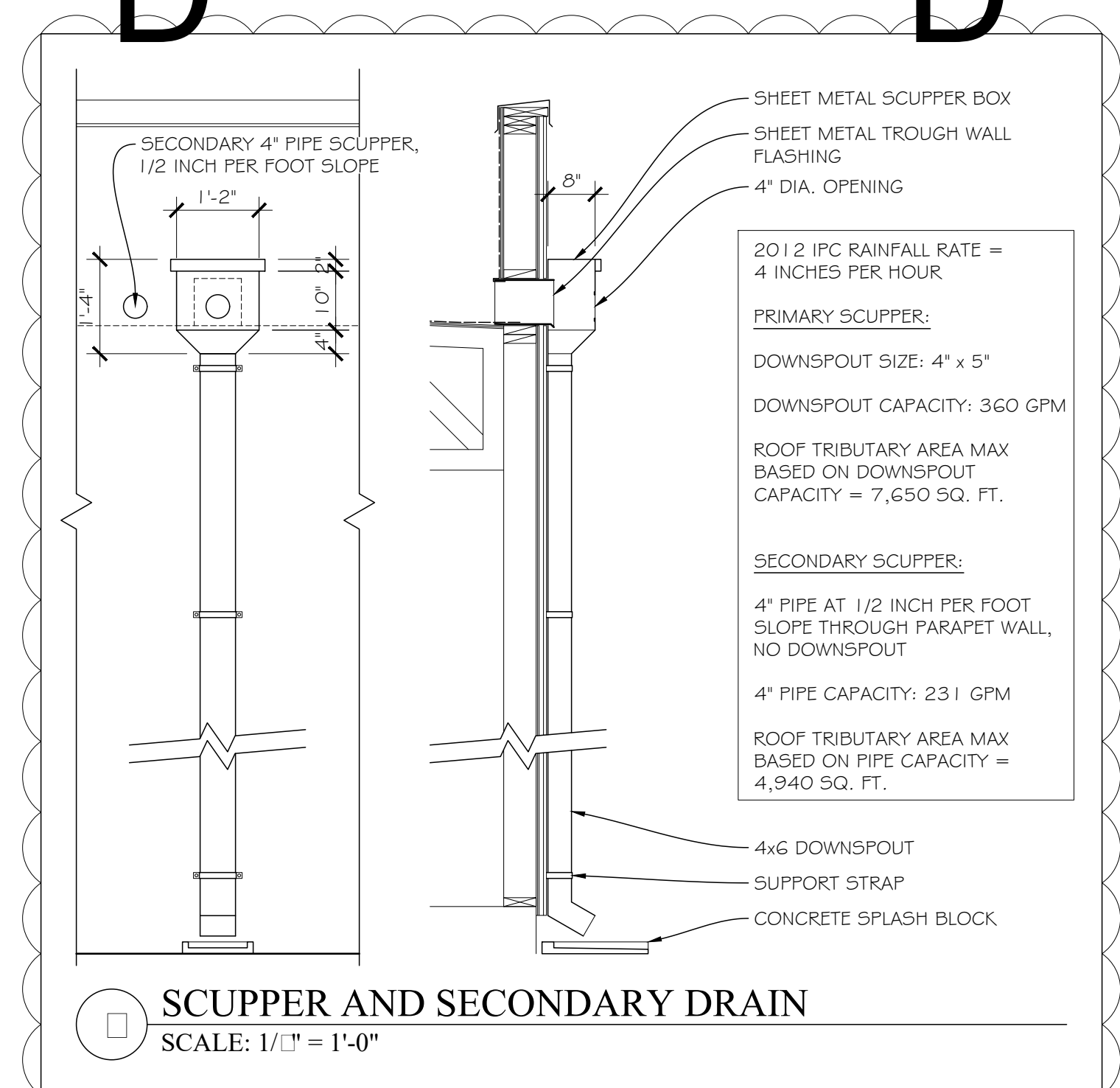
A4-5a



ROOF VENTING CALCS NOTES: ATTIC AREAS 1 - 5

NAMED ATTIC SPACE BETWEEN DRAFT STOPS	TOTAL AREA (S.F.) PER ATTIC SPACE	ATTIC VENTING REQD. (AREA / 300)	LOWER / UPPER VENTS ATTIC VENTING / 2	LOWER VENTS (1.4 / UNIT)	UPPER VENTILATORS (1.4 / UNIT)	TOTAL VENTILATION PER ATTIC SPACE
ATTIC AREA - 1	2,883 SQ. FT.	9.61 SQ. FT.	4.81 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.
ATTIC AREA - 2	2,911 SQ. FT.	9.70 SQ. FT.	4.85 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.
ATTIC AREA - 3	2,464 SQ. FT.	8.21 SQ. FT.	4.11 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.
ATTIC AREA - 4	1,706 SQ. FT.	5.69 SQ. FT.	2.85 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 5	3,356 SQ. FT.	11.19 SQ. FT.	5.60 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.
ATTIC AREA - 19	1,976 SQ. FT.	6.59 SQ. FT.	3.30 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.

NOTE: 10 MILL VAPOR BARRIER TO BE INSTALLED ON THIRD FLOOR CEILING (UNDERSIDE OF ROOF TRUSSES)



DELTA 9 REVISION:
- ROOF VENTS ADDED

DELTA 6 REVISION:
- ADD FIRE BOOSTER PUMP ROOM.

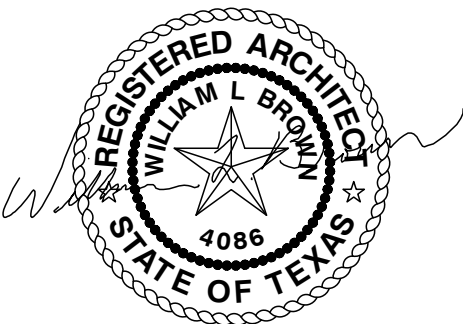
1 ROOF PLAN
SCALE: 1/4" = 1'-0"

BUILDING TYPE I - AREA A



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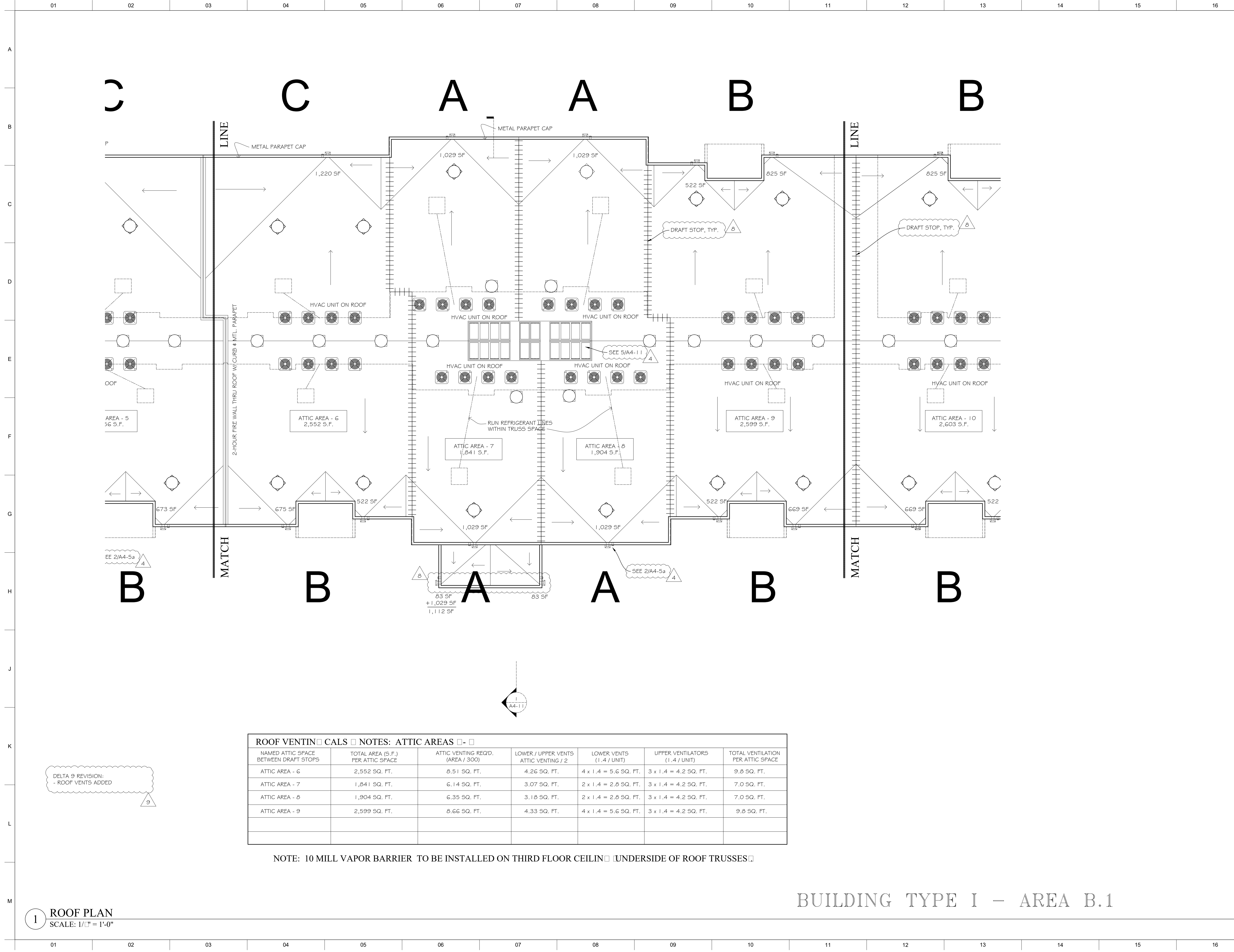


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1900 DOVE AVE
McALLEN, TEXAS 78504



ROOF VENTING CALCULATIONS NOTES: ATTIC AREAS

NAMED ATTIC SPACE BETWEEN DRAFT STOPS	TOTAL AREA (S.F.) PER ATTIC SPACE	ATTIC VENTING REQD. (AREA / 300)	LOWER / UPPER VENTS ATTIC VENTING / 2	LOWER VENTS (1.4 / UNIT)	UPPER VENTILATORS (1.4 / UNIT)	TOTAL VENTILATION PER ATTIC SPACE
ATTIC AREA - 6	2,552 SQ. FT.	8.51 SQ. FT.	4.26 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.
ATTIC AREA - 7	1,841 SQ. FT.	6.14 SQ. FT.	3.07 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 8	1,904 SQ. FT.	6.35 SQ. FT.	3.18 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 9	2,599 SQ. FT.	8.66 SQ. FT.	4.33 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.

NOTE: 10 MILL VAPOR BARRIER TO BE INSTALLED ON THIRD FLOOR CEILING (UNDERSIDE OF ROOF TRUSSES)

DELTA 9 REVISION:
- ROOF VENTS ADDED

△ DRAWING ISSUE:	DATE:
0 BID & PERMIT SET	04/04/18
4 PLAN REVIEW	06/06/18
8 DRAFT STOP	04/26/19
9 ROOF VENTS	06/04/19

PROJECT NUMBER: xxxx

ROOF PLAN

BUILDING TYPE I - AREA B.1

1 ROOF PLAN
SCALE: 1/8" = 1'-0"

A4-5b



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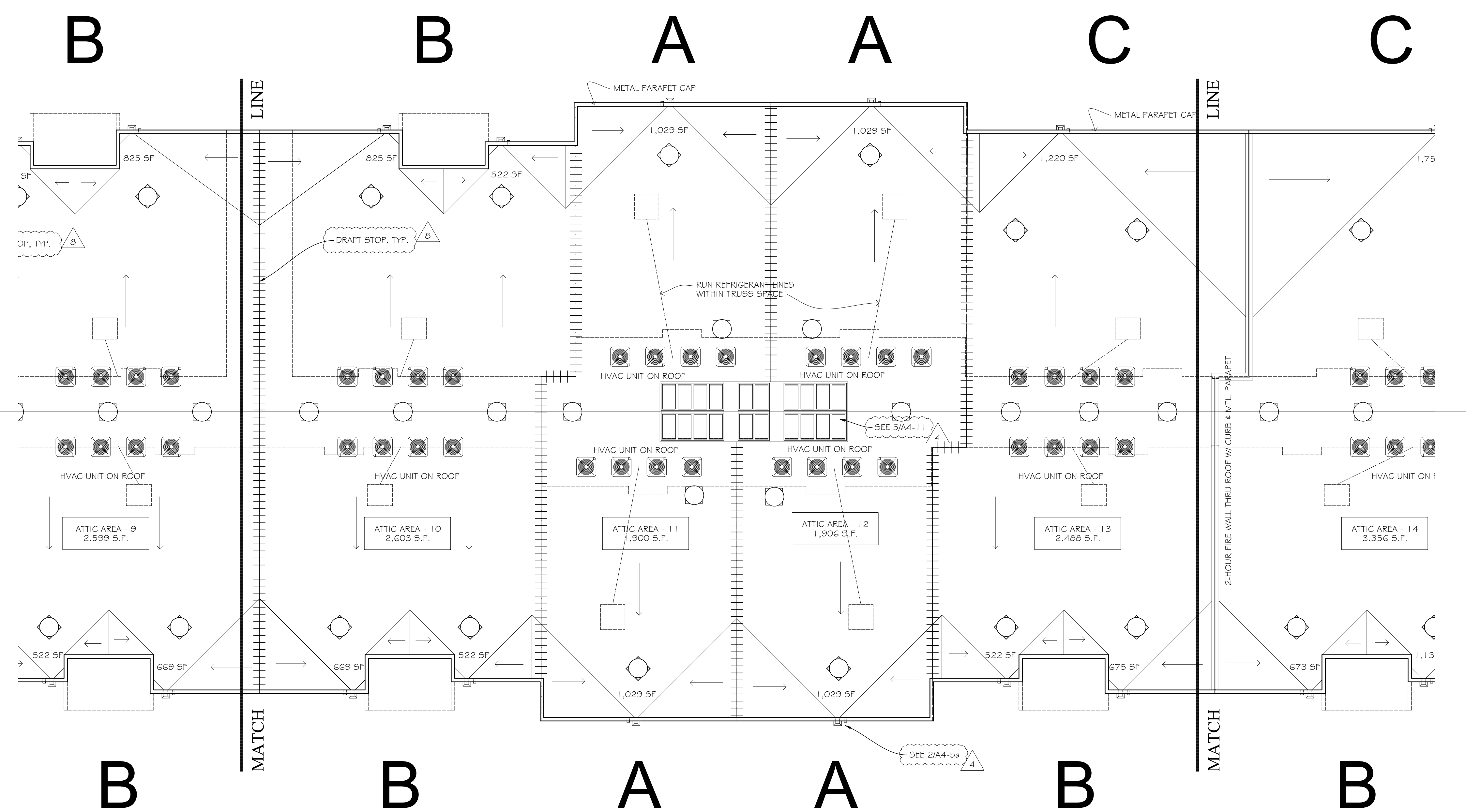


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DELTA 9 REVISION:
- ROOF VENTS ADDED

ROOF VENTING CALCULATIONS NOTES: ATTIC AREAS 10 - 14

NAMED ATTIC SPACE BETWEEN DRAFT STOPS	TOTAL AREA (S.F.) PER ATTIC SPACE	ATTIC VENTING REQD. (AREA / 300)	LOWER / UPPER VENTS ATTIC VENTING / 2	LOWER VENTS (1.4 / UNIT)	UPPER VENTILATORS (1.4 / UNIT)	TOTAL VENTILATION PER ATTIC SPACE
ATTIC AREA - 10	2,603 SQ. FT.	8.68 SQ. FT.	4.34 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.
ATTIC AREA - 11	1,900 SQ. FT.	6.33 SQ. FT.	3.17 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 12	1,906 SQ. FT.	6.35 SQ. FT.	3.18 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 13	2,488 SQ. FT.	8.29 SQ. FT.	4.25 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.

NOTE: 10 MILL VAPOR BARRIER TO BE INSTALLED ON THIRD FLOOR CEILING UNDERSIDE OF ROOF TRUSSES

1 ROOF PLAN
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA B.2

DRAWING ISSUE: DATE:

0 BID & PERMIT SET	04/04/18
4 PLAN REVIEW	06/06/18
8 DRAFT STOP	04/26/19
9 ROOF VENTS	06/04/19

PROJECT NUMBER: xxxxx

ROOF PLAN

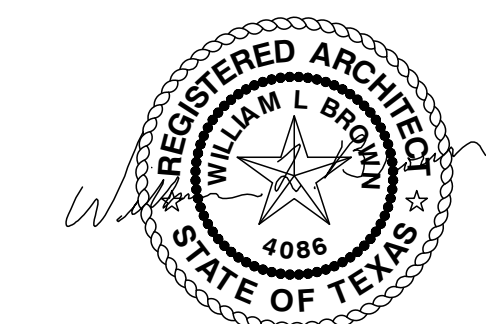
A4-5c



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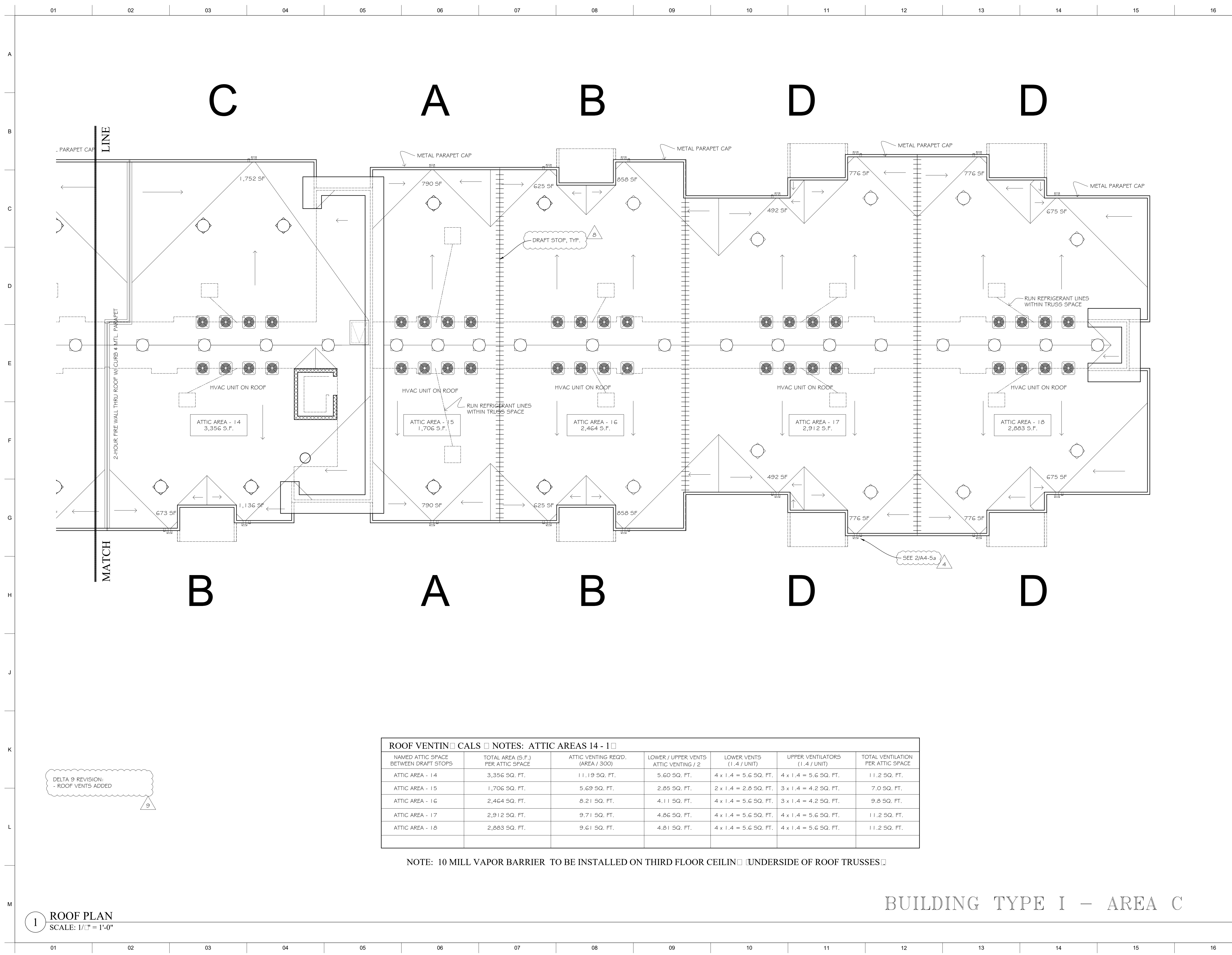
LAS PALOMAS VILLAGE
 A 122 UNIT FAMILY LIVING COMMUNITY
 1900 DOVE AVE
 McALLEN, TEXAS 78504

△ DRAWING ISSUE:	DATE:
0 BID & PERMIT SET	04/04/18
4 PLAN REVIEW	06/06/18
8 DRAFT STOP	04/26/19
9 ROOF VENTS	06/04/19

PROJECT NUMBER: xxxxx

ROOF PLAN

A4-5d



ROOF VENTIN CALS NOTES: ATTIC AREAS 14 - 18

NAMED ATTIC SPACE BETWEEN DRAFT STOPS	TOTAL AREA (S.F.) PER ATTIC SPACE	ATTIC VENTING REQD. (AREA / 300)	LOWER / UPPER VENTS ATTIC VENTING / 2	LOWER VENTS (1.4 / UNIT)	UPPER VENTILATORS (1.4 / UNIT)	TOTAL VENTILATION PER ATTIC SPACE
ATTIC AREA - 14	3,356 SQ. FT.	11.19 SQ. FT.	5.60 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.
ATTIC AREA - 15	1,706 SQ. FT.	5.69 SQ. FT.	2.85 SQ. FT.	2 x 1.4 = 2.8 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	7.0 SQ. FT.
ATTIC AREA - 16	2,464 SQ. FT.	8.21 SQ. FT.	4.11 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	3 x 1.4 = 4.2 SQ. FT.	9.8 SQ. FT.
ATTIC AREA - 17	2,912 SQ. FT.	9.71 SQ. FT.	4.86 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.
ATTIC AREA - 18	2,883 SQ. FT.	9.61 SQ. FT.	4.81 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	4 x 1.4 = 5.6 SQ. FT.	11.2 SQ. FT.

NOTE: 10 MILL VAPOR BARRIER TO BE INSTALLED ON THIRD FLOOR CEILING (UNDERSIDE OF ROOF TRUSSES)

BUILDING TYPE I - AREA C

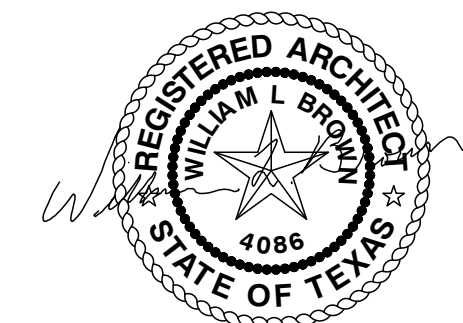
1 ROOF PLAN
 SCALE: 1/8" = 1'-0"

DELTA 9 REVISION:
 - ROOF VENTS ADDED



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01/09/18

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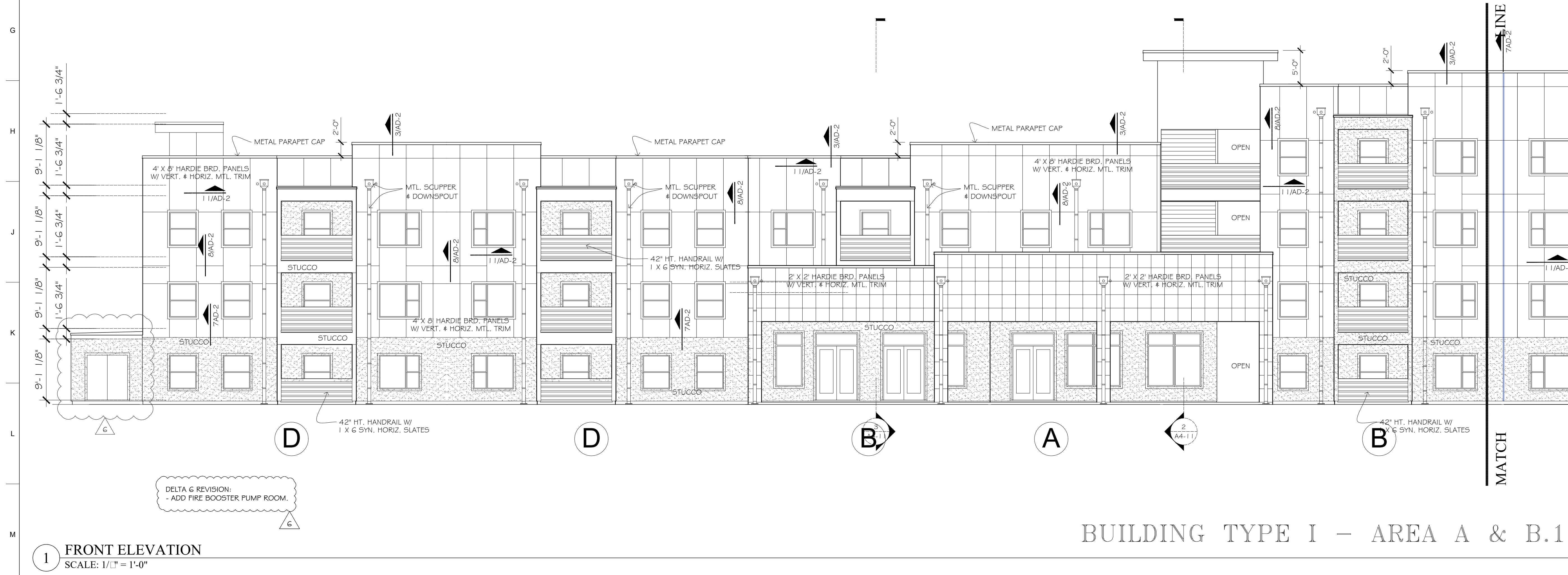
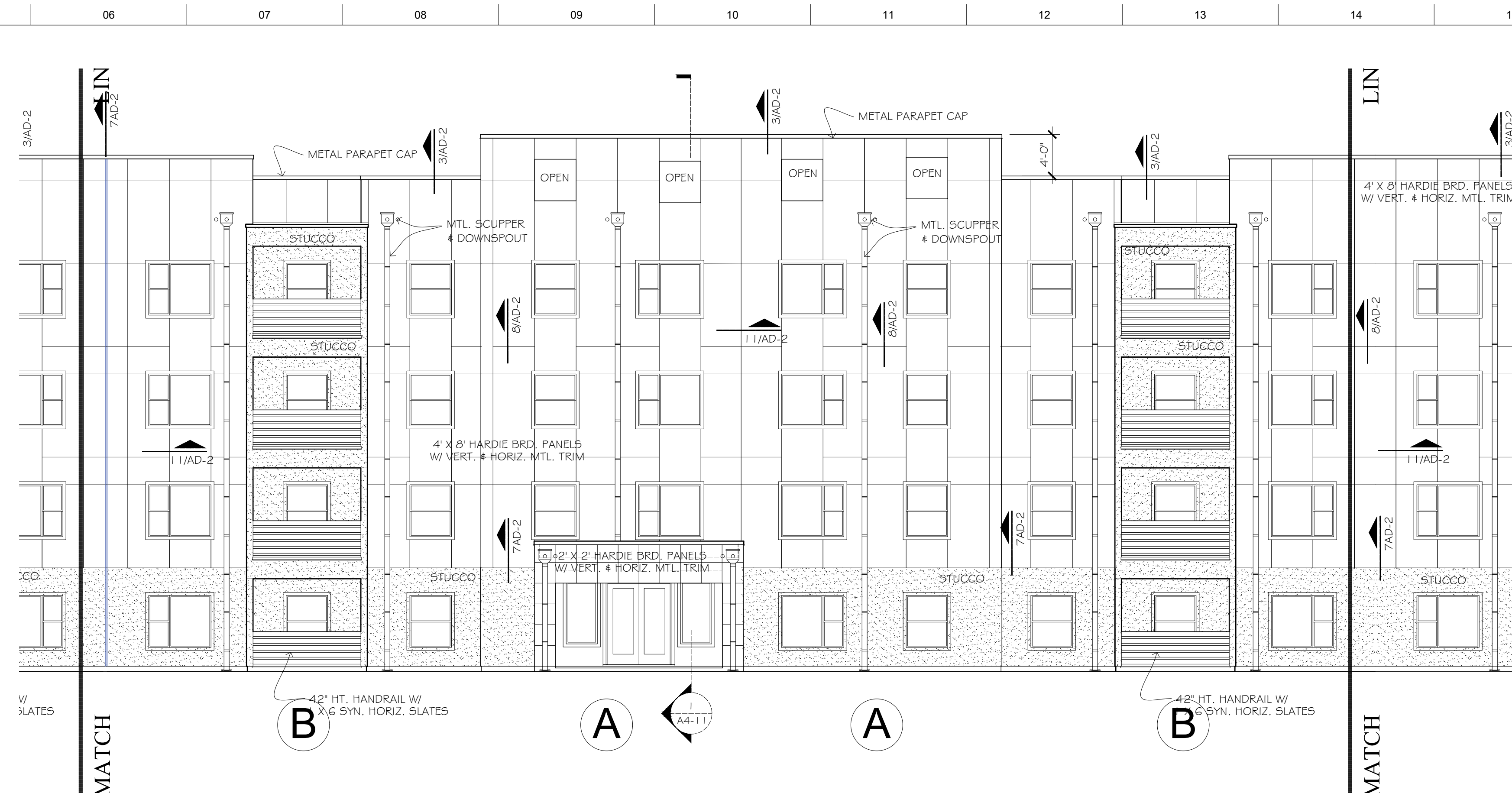
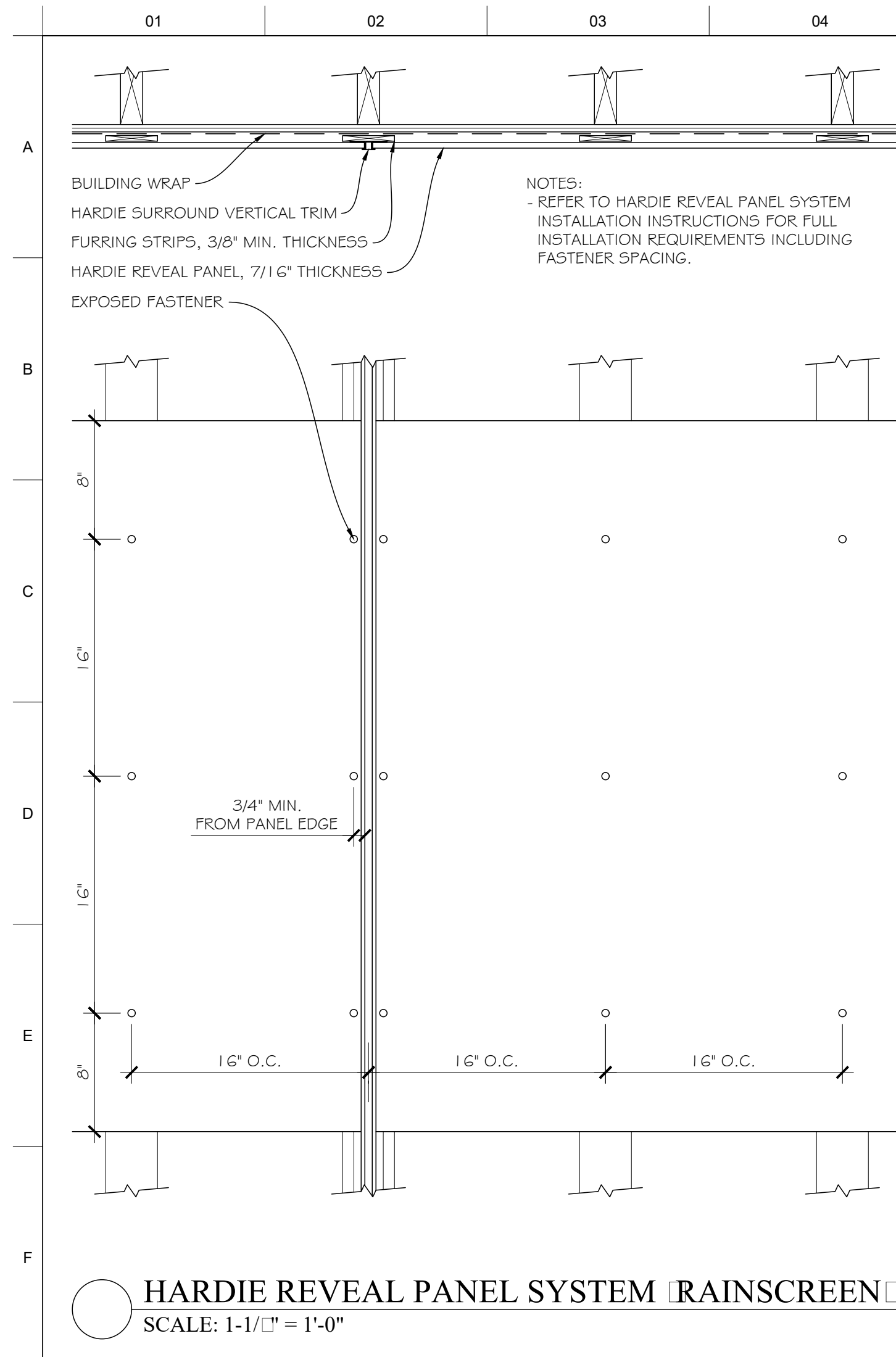
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A 122 UNIT FAMILY LIVING COMMUNITY
1900 DOVE AVE
McALLEN, TEXAS 78504

DRAWING ISSUE: DATE:
O BID & PERMIT SET 04/04/18
G PUMP ROOM 01/09/19

PROJECT NUMBER: xxxxx

FRONT ELEVATION

A4-6



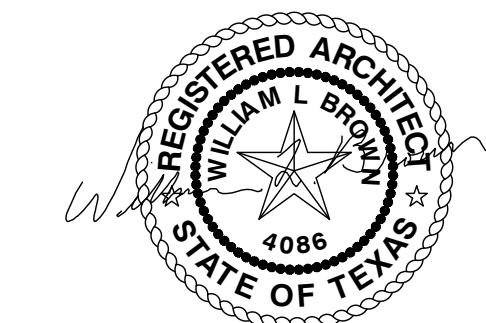
BUILDING TYPE I - AREA A & B.1



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McALLEN, TEXAS 78504

DRAWING ISSUE: DATE:
O BID & PERMIT SET 04/04/18

PROJECT NUMBER: xxxx

FRONT ELEVATION

A4-7



BUILDING TYPE I - AREA B.2 & C

1 FRONT ELEVATION
SCALE: 1/8" = 1'-0"



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DRAWING ISSUE: DATE:
CO BID & PERMIT SET 04/04/18

PROJECT NUMBER: xxxx
REAR ELEVATION

A4-8



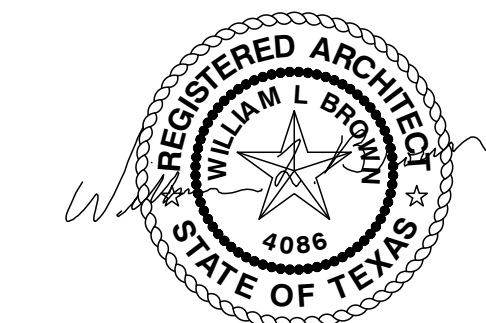
1 REAR ELEVATION
SCALE: 1/4" = 1'-0"

BUILDING TYPE I - AREA C & B.2



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McALLEN, TEXAS 78504

△ DRAWING ISSUE:	DATE:
○ BID & PERMIT SET	04/04/18
⊠ PUMP ROOM	01/09/19

PROJECT NUMBER: xxxx

REAR ELEVATION

A4-9



1 REAR ELEVATION
SCALE: 1/8" = 1'-0"

BUILDING TYPE I - AREA B.1 & A

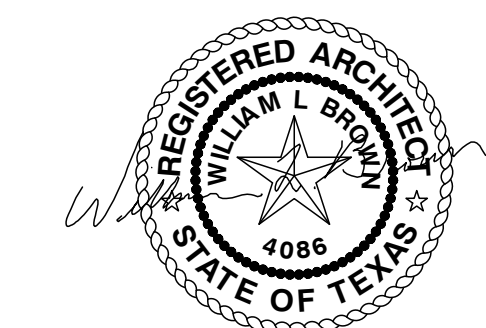
DELTA 6 REVISION:
- ADD FIRE BOOSTER PUMP ROOM.



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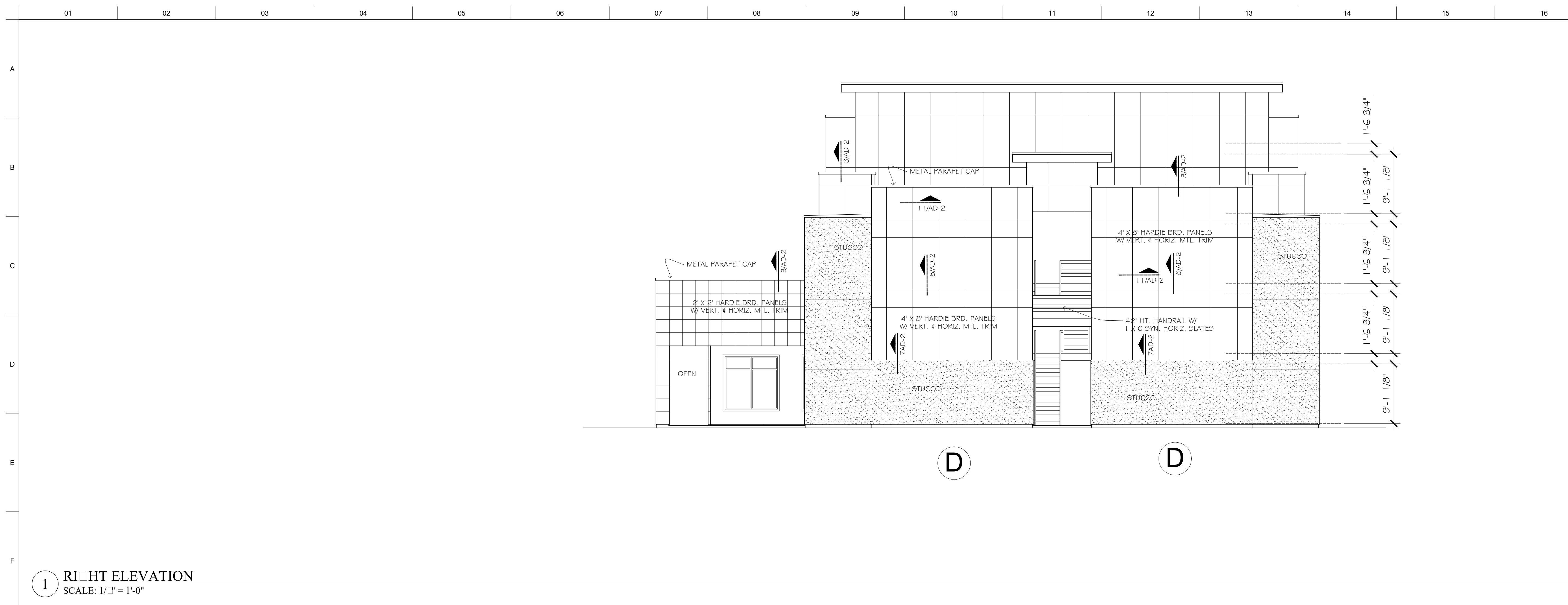
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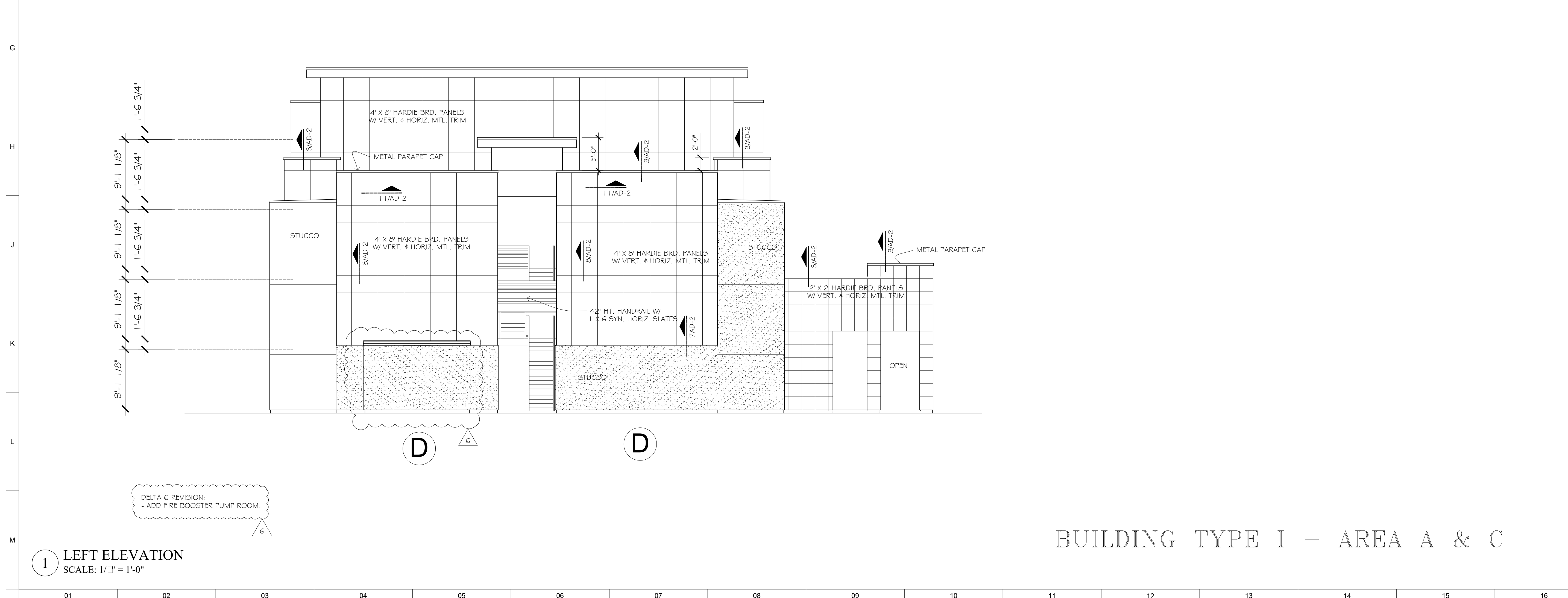
△ DRAWING ISSUE:	DATE:
○ BID & PERMIT SET	04/04/18
⊠ PUMP ROOM	01/09/19

PROJECT NUMBER: xxxx

SIDE ELEVATIONS



1 RIGHT ELEVATION
SCALE: 1/8" = 1'-0"



1 LEFT ELEVATION
SCALE: 1/8" = 1'-0"

DELTA 6 REVISION:
- ADD FIRE BOOSTER PUMP ROOM.

BUILDING TYPE I - AREA A & C

A4-10

SPECIFICATIONS AND BUILDING/UNIT TYPE CONFIGURATION

Unit types should be entered from smallest to largest based on "# of Bedrooms" and "Sq. Ft. Per Unit." "Unit Label" should correspond to the unit label or name used on the unit floor plan. "Building Label" should conform to the building label or name on the building floor plan. The total number of units per unit type and totals for "Total # of Units" and "Total Sq Ft. for Unit Type" should match the rent schedule and site plan. If additional building types are needed, they are available by un-hiding columns Q through AA, and rows 51 through 79.

Specifications and Amenities (check all that apply)

Building Configuration (Check all that apply):	<input type="checkbox"/> Single Family Construction	<input type="checkbox"/> SRO	<input type="checkbox"/> Transitional (per §42(i)(3)(B))	<input type="checkbox"/> Duplex
	<input type="checkbox"/> Scattered Site	<input type="checkbox"/> Fourplex	<input checked="" type="checkbox"/> > 4 Units Per Building	<input type="checkbox"/> Townhome

Development will have:	<input checked="" type="checkbox"/> Fire Sprinklers	<input checked="" type="checkbox"/> Elevators	<input type="text" value="2"/> # of Elevators	<input type="text" value="3500"/> Wt. Capacity
-------------------------------	---	---	---	--

Number of Parking Spaces (consistent with Architectural Drawings):	Free Paid		Free Paid	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Shed or Flat Roof Carport Spaces		Detached Garage Spaces	
	<input type="text"/>	<input type="text"/>	<input type="text" value="230"/>	<input type="text" value="0"/>
Attached Garage Spaces		Uncovered Spaces		
<input type="text"/>	<input type="text"/>	Structured Parking Garage Spaces		

Floor Composition/Wall Height:	<input type="text" value="88"/> % Carpet/Vinyl/Resilient Flooring	<input type="text" value="9"/> Ceiling Height
	<input type="text" value="12"/> % Ceramic Tile	<input type="text" value="n/a"/> Upper Floor(s) Ceiling Height (Townhome Only)
	<input type="text" value="n/a"/> % Other	Describe: <input style="width: 200px;" type="text"/>

Unit Type				Number of Units Per Building										Total # of Residential Buildings	Total # of Units	Total Sq Ft for Unit Type		
Unit Label	# of Bedrooms	# of Baths	Sq. Ft. Per Unit															
Building Label				1										1				
Number of Stories				4														
Number of Buildings				1														
A	1	1	745	40												40	29,800	
B	2	2	1,064	42												42	44,688	
C	2	2	1,129	16												16	18,064	
D	3	2	1,249	24												24	29,976	
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Totals				122	-	-	-	-	-	-	-	-	-	-	-	-	122	122,528

Net Rentable Square Footage from Rent Schedule 122,528

Supportive Housing Applicants Only

n/a	Enter the total development common area from the architect's plans: Ensure that this number matches your architectural drawings.	n/a
-----	--	-----

n/a	The additional square footage allowed for Supportive Housing per 11.9(e)(2) is:	6,100
-----	---	-------

n/a	The lesser of these two numbers added to NRA: Use this number to figure points under 11.9(e)(2)	128,628
-----	---	---------

Rent Schedule

Self Score Total: **110**

Private Activity Bond Priority (For Tax-Exempt Bond Developments ONLY): _____

Unit types must be entered from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "Unit Size" from lowest to highest "Rent Collected/Unit".

Rent Designations (select from Drop down menu)					# of Units	# of Bedrooms	# of Baths	Unit Size (Net Rentable Sq. Ft.)	Total Net Rentable Sq. Ft.	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit	Total Monthly Rent	
HTC Units	MF Direct Loan Units (HOME Rent/Inc)	State HTF Units	MRB Units	Other/ Subsidy	(A)			(B)	(A) x (B)			(E)	(A) x (E)	
TC 30%					5	1	1.0	745	3,725	318	66	252	1,260	
TC 50%					10	1	1.0	745	7,450	530	66	464	4,640	
TC 60%					19	1	1.0	745	14,155	636	66	565	10,735	
MR					6	1	1.0	745	4,470			750	4,500	
TC 30%					3	2	2.0	1064	3,192	381	84	297	891	
TC 50%					4	2	2.0	1064	4,256	636	84	552	2,208	
TC 60%					33	2	2.0	1064	35,112	763	84	675	22,275	
MR					2	2	2.0	1064	2,128			895	1,790	
TC 30%					1	2	2.0	1129	1,129	381	84	297	297	
TC 50%					4	2	2.0	1129	4,516	636	84	552	2,208	
TC 60%					4	2	2.0	1129	4,516	763	84	675	2,700	
MR					7	2	2.0	1129	7,903			895	6,265	
TC 30%					1	3	2.0	1249	1,249	441	105	336	336	
TC 50%					2	3	2.0	1249	2,498	735	105	630	1,260	
TC 60%					14	3	2.0	1249	17,486	882	105	750	10,500	
MR					7	3	2.0	1249	8,743			975	6,825	
									0				-	
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TOTAL					122				122,528				78,690	
						\$7.58	per unit/month for:		<i>app fee, late fee, cleaning/damage, reletting</i>				925	
						0.00	per unit/month for:							
						0.00	per unit/month for:							
						\$7.58	per unit/month						925	
					= POTENTIAL GROSS MONTHLY INCOME								79,615	
					- Provision for Vacancy & Collection Loss % of Potential Gross Income:								7.50%	(5,971)
					- Rental Concessions (enter as a negative number)								Enter as a negative value	
					= EFFECTIVE GROSS MONTHLY INCOME								73,644	
					x 12 = EFFECTIVE GROSS ANNUAL INCOME								883,727	

Rent Schedule (Continued)

		% of LI	% of Total	
HOUSING TAX CREDITS	TC30%	10%	8%	10
	TC40%			0
	TC50%	20%	16%	20
	TC60%	70%	57%	70
	HTC LI Total			100
	EO			0
	MR			22
	MR Total			22
	Total Units			122
	MORTGAGE REVENUE BOND	MRB30%		
MRB40%				0
MRB50%				0
MRB60%				0
MRB LI Total			0	
MRBMR				0
MRBMR Total			0	
MRB Total			0	

		% of LI	% of Total	
HOUSING TRUST FUND	HTF30%			0
	HTF40%			0
	HTF50%			0
	HTF60%			0
	HTF80%			0
	HTF LI Total			0
	MR			0
	MR Total			0
	HTF Total			0
	DIRECT LOAN	30%		
LH/50%				0
HH/60%				0
HH/80%				0
Direct Loan LI Total			0	
EO				0
MR				0
MR Total			0	
Direct Loan Total			0	
OTHER	Total OT Units			0

BEDROOMS	0			0
	1			40
	2			58
	3			24
	4			0
	5			0

ACQUISITION + HARD		DO NOT USE THIS CALCULATION TO SCORE POINTS UNDER 11.9(e)(2). At the end of the Development Cost Schedule, you will have the ability to adjust your eligible costs to qualify. Points will be entered there.
Cost Per Sq Ft	\$ 103.33	
HARD		
Cost Per Sq Ft	\$ 103.33	
BUILDING		
Cost Per Sq Ft	\$ 76.50	

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Nightingale at Goodnight Ranch (HTC #17445, NHTF # 82600017445)

RECOMMENDED ACTION

WHEREAS, Nightingale at Goodnight Ranch (the Development) received an award of 4% Housing Tax Credits (HTCs) and NHTF Soft Repayable Direct Loan funds in 2017 for the new construction of 174 units of multifamily housing in Austin, Travis County;

WHEREAS, Austin DMA Housing III, LLC (the Development Owner or Owner) requests approval to designate 19 of its 33 originally proposed Market Units as 80% AMI Low Income Units (changing the total Market Units to 14 and creating a new 80% AMI rent and income limit for 19 Units at the Development, which will require a change in the Owner's set aside election and increase the Development's overall number of Low Income Units at Application) in anticipation of electing the Average Income Set Aside on Forms 8609 after Cost Certification;

WHEREAS, Board approval is required for a request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC 10.405(a)(4)(G), and in anticipation of preparing to rent to households at income levels that exceed the approved AMI limits established by the minimum election within the Development's Application, the Owner has submitted the updated information, exhibits, and written acknowledgements required under 10 TAC §10.405(a)(7)(A)(i);

WHEREAS, the Development does not yet have a recorded HTC Land Use Restriction Agreement (LURA), and the Direct Loan units required by the Direct Loan LURA will continue to be provided at the income levels committed at the time of Application and will continue to float among all the buildings in the Development;

WHEREAS, if the Board approves the requested amendment, the amount of tax credits currently forecasted by the Owner (based on total costs and eligible basis not yet fully reviewed by a CPA) will be over 110% of the amount reflected in the Determination Notice, which will require Board approval under 10 TAC §10.402(c); and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, or impact the selection of the application for an award under the HTC program, and the requested change is allowable under the NHTF program, the Multifamily Direct Loan Rule, and under its Direct Loan LURA;

NOW, therefore, it is hereby

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

FURTHER RESOLVED, that following staff's review of the cost certification, if the amount of tax credits determined to be necessary as required by §42(m)(2)(D) exceeds 110% of the amount of tax credits reflected in the Determination Notice as forecasted at the time of this amendment, the increase not to exceed 116% is hereby approved under 10 TAC §10.402(c), and will require no further Board action but will require the Owner to pay the fee under 10 TAC §11.901(9).

BACKGROUND

Nightingale at Goodnight Ranch was originally approved in 2017 for 4% HTC and NHTF as a new construction, 174-unit, Elderly Development with 141 Low Income Units (11 at 30%, 36 at 50%, and 94 at 60%), electing the 40% at 60% Qualified Low Income Housing Development Election.

On September 5, 2019, Janine Sisak, Sole Member and Manager of JSA Community Ventures, LLC, the Managing Member of DMA Nightingale, LLC, the 0.005% Special Member of the Development Owner, Austin DMA Housing III, LLC, submitted a material amendment request asking to amend the Qualified Low Income Housing Development Election in the Application from maintaining at least 40% or more of the residential units as both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (40% at 60% minimum set aside election) to the new election of Average Income allowed under IRC §42(g)(1)(C) as adopted by the Federal Consolidated Appropriations Act of 2018. Due to the fact that Nightingale at Goodnight Ranch was approved in 2017, the Average Income election was not an option at the time of original Application, and therefore, the proposed amendment was not reasonably foreseeable or preventable by the Applicant at the time of Application.

According to the request, the existing unit restrictions for the NHTF units will remain the same, but the Owner is seeking to make 19 of the originally proposed 33 market rate units Low Income Units that will be restricted at 80% AMI. The Owner Representative states that changing the 19 market units is Net Operating Income (NOI) neutral in the sense that Austin tax

credit rents have increased dramatically and that market rents are in many cases less than 80% AMI rents, even though market rents are also generally increasing. An updated market study was submitted with the request confirming there is a market for tenants with incomes above and below 60% AMI in the Development area and was reviewed by the Department's Real Estate Analysis Division at the time of re-evaluation; a memo discussing the updated market study and changes related to the amendment request is attached.

A review of the updated financial exhibits submitted show very slight, immaterial changes to costs and eligible basis; however, the increases in the applicable fraction for the Development due to the additional restricted HTC units (increasing the applicable fraction from 79.23% at initial underwriting to 91.66%), will make the Development eligible for additional credits over the amount of its original 4% HTC award (from a credit award of \$598,253 to \$688,277, pending CPA and TDHCA review at cost certification). Provided the full level of proposed credits is justified following CPA review of total costs and staff's acceptance of the cost certification package, the credits requested will have increased by 15.05%, which is above the 10% increase requiring Board approval by rule in 10 TAC §10.402(c).

The Owner Representative submitted a copy of the planned credit delivery schedule showing the unit set asides and designations by building. The delivery schedule appears to comply with both the proposed Average Income HTC and NHTF program requirements and reflects the additional requirements the Development is subject to under its Bond LURA from Austin Housing Finance Corporation (36 units set aside at 50% AMI rent and income and 11 units set aside at 30% AMI rent and income). The Development, assuming a multiple building election on the Forms 8609, currently averages to a total of 58% and therefore, as proposed, meets the IRS requirement that the average of the imputed income limitations not exceed 60% AMI. It is anticipated that the HTC LURA for the Development will reflect the requirement for the average income not to exceed a 60% average. The LURA is anticipated to also state that the Development shall lease **92%** of the units in the Development to individuals or families whose imputed incomes do not exceed an average of **60%** of the area median gross income (including adjustments for family size).

As required by 10 TAC §10.405(a)(7)(A)(i), letters were provided from Boston Capital (the equity provider), Bellwether (the lender/servicer for the Bonds), and AHFC (a subordinate lender) acknowledging the Owner's request to implement a revised election under §42(g)(1)(C). Boston Capital confirmed terms would not change as a result of the revised Owner's election, and that it is willing to work closely with the Developer during implementation to minimize risk of unknown factors presented by the new Average Income election, including ensuring the state's specific guidelines and requirements are followed as provided; Bellwether confirmed it was aware of the request but was unable to address any changes in terms as a result of the change and stated that final approval and loan sizing would be dependent on full underwriting at the time of conversion, subject to Freddie Mac approval.

Staff recommends approval of the material amendment request. Staff further recommends that, following staff's review of the cost certification, if the amount of tax credits determined to

be necessary as required by §42(m)(2)(D) exceeds 110% of the amount of tax credits reflected in the Determination Notice under 10 TAC §10.402(c) as forecasted at the time of this amendment, that the Board approve such request as part of this amendment, subject to the payment of the applicable fee under 10 TAC §11.901(9) and normal staff and Executive Director review and approval of the final cost certification.



Addendum to Underwriting Report

TDHCA Application #: 17445 Program(s): 4% HTC/MDL

The Nightingale at Goodnight Ranch

Address/Location: 5900 Charles Merle Drive

City: Austin County: Travis Zip: 78747

APPLICATION HISTORY	
Report Date	PURPOSE
11/18/19	Amendment - Income Averaging
03/01/18	MDL Closing
01/22/18	Conditions Status
01/10/18	Original Underwriting

ALLOCATION

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)	\$1,500,000	0.00%	35	15	\$1,500,000	0.00%	0	15.5	2
LIHTC (4% Credit)	\$598,253				\$688,277				

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

CONDITIONS STATUS

- 1 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
Status: Satisfied
 - b: Updated term sheets with substantially final terms from all lenders
Status: Satisfied
 - c: Substantially final draft of limited partnership agreement.
Status: Satisfied
 - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.

Status: Condition removed - not applicable for Soft Repayable loan.
 - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
Status: Satisfied

2 Receipt and acceptance before Determination Notice:

- Receive firm commitment from City of Austin for the \$2M to be loaned to AHFC Nightingale at Goodnight Ranch Non Profit Corporation and terms of the loan.

Status: Letter from AHFC dated Jan 19, 2018 confirms funding of \$2M from City of Austin Affordable Housing General Obligation Bond proceeds, as a 40-year deferred forgivable loan at 0% interest.

3 Receipt and acceptance by Cost Certification:

- Executed Ground Lease with AHFC clearly specifying all terms and conditions, including who will retain ownership of land and improvements at the end of the lease.

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

ANALYSIS

Applicant has requested an amendment to elect income averaging and has modified the unit mix to reflect this change. Nineteen (19) market units will now be restricted to 80% AMI. This increases the applicable fraction from 79% to 92%, providing additional tax credit equity.

Market Study

Market Study was updated to reflect the income averaging and the addition of the 80% units. Gross Capture Rate (GCR) in 2017 was 5.7%. In the updated market study, the TDHCA Rule which permits a 15% GCR was utilized since the MSA is greater than 100,000 population and the occupancy is greater than 92.5% within a 20 minute drive time.

Operating Pro Forma

The original application had 33 market rate units (19% of total units). Nineteen (19) of the market rate units are now restricted to 80% AMI. Program rents have been updated to 2019 and the Market Analyst has updated the achievable market rent analysis. The Applicant's rent schedule has discounted rents on some 80% and market units, stating that market units at affordable properties in the area are not achieving the full 80% rents. Underwriter's pro forma assumes the lesser of the 80% or market rent.

Applicant's operating pro forma assumes 5.0% vacancy. The Underwriter has adjusted this to 7.5%.

Submitted pro forma included 2.00% management fee. Applicant confirmed it should be 4.00%. Underwriter adjusted the value.

Applicant's NOI is within 5% of the Underwriter's estimate and is used to determine debt coverage.

Development Cost

Site Work, Amenities and Building Cost (total \$14.4M) remain unchanged from analysis at MDL Closing.

Sources of Funds

At original underwriting, the senior debt was \$15,500,000 at 5.00% interest.

At the MDL Closing underwriting review it was increased to \$15,570,000 at 5.13%.

The Applicant states that amount was reduced at closing due to a spike in interest rates. But the actual amount closed on is now reported to be \$15,364,000 at 5.05%. Underwritten debt service is reduced by \$22K.

Debt coverage on the senior debt is 1.33 times. If the Multifamil Direct Loan is amortized over 30 years, overall debt coverage is 1.26.

The increased applicable fraction from the additional restricted units results in \$3.5M of additional Total Qualified Basis. This is offset by a reduction in the credit price from \$0.95 to \$0.90. Total tax credit equity increased by \$810K.

The current analysis supports the increase in original credit allocation and Direct Loan award.

Underwriter: Laura Rogers

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

STABILIZED PRO FORMA

The Nightingale at Goodnight Ranch, Austin, 4% HTC/MDL #17445

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				PRIOR REPORT				TDHCA				VARIANCE	
	Database	Other	% EGI	Per SF	Per Unit	Amount	Applicant Closing	Orig Applicant	Orig TDHCA	TDHCA Closing	Amount	Per Unit	Per SF	% EGI	VARIANCE	
															%	\$
POTENTIAL GROSS RENT		Wildflower Terrace		\$1.19	\$1,016	\$2,121,516	\$1,890,324	\$1,890,324	\$1,901,620	\$1,901,620	\$2,145,436	\$1,028	\$1.20		-1.1%	(\$23,920)
Laundry					\$5.00	\$10,440	14,616	14,616								
Total Secondary Income					\$5.00				14,616	14,616	\$10,440	\$5.00			0.0%	\$0
POTENTIAL GROSS INCOME						\$2,131,956	\$1,904,940	\$1,904,940	\$1,916,236	\$1,916,236	\$2,155,876				-1.1%	(\$23,920)
Vacancy & Collection Loss					7.5% PGI	(159,897)	(142,871)	(142,871)	(143,718)	(143,718)	(161,691)	7.5% PGI			-1.1%	1,794
EFFECTIVE GROSS INCOME						\$1,972,059	\$1,762,070	\$1,762,070	\$1,772,519	\$1,772,519	\$1,994,185				-1.1%	(\$22,126)

General & Administrative	\$73,682	\$423/Unit	\$56,024	\$322	3.00%	\$0.40	\$340	\$59,225	\$55,725	\$55,725	\$55,725	\$55,725	\$55,725	\$320	\$0.37	2.79%	6.3%	3,500
Management	\$75,184	4.4% EGI	\$69,054	\$397	4.00%	\$0.53	\$453	\$78,882	\$86,607	\$86,607	\$88,626	\$88,626	\$79,767	\$458	\$0.54	4.00%	-1.1%	(885)
Payroll & Payroll Tax	\$228,329	\$1,312/Unit	\$261,874	\$1,505	9.60%	\$1.27	\$1,088	\$189,271	\$189,320	\$189,320	\$189,320	\$189,320	\$189,320	\$1,088	\$1.27	9.49%	0.0%	(49)
Repairs & Maintenance	\$108,127	\$621/Unit	\$76,793	\$441	5.32%	\$0.70	\$603	\$104,850	\$80,200	\$80,200	\$104,400	\$104,400	\$104,400	\$600	\$0.70	5.24%	0.4%	450
Electric/Gas	\$52,166	\$300/Unit	\$71,001	\$408	2.26%	\$0.30	\$257	\$44,665	\$45,000	\$45,000	\$52,166	\$71,001	\$71,001	\$408	\$0.48	3.56%	-37.1%	(26,336)
Water, Sewer, & Trash	\$136,971	\$787/Unit	\$69,873	\$402	4.80%	\$0.64	\$544	\$94,600	\$105,600	\$105,600	\$105,600	\$69,873	\$69,873	\$402	\$0.47	3.50%	35.4%	24,727
Property Insurance	\$49,369	\$0.33/sf	\$57,941	\$333	2.47%	\$0.33	\$280	\$48,650	\$44,300	\$44,300	\$44,300	\$44,300	\$255	\$0.30	2.22%	9.8%	4,350	
Property Tax (@ 0%) 2,213985	\$123,331	\$709/Unit	\$158,858	\$913	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$48,448	\$278/Unit	\$45,141	\$259	2.21%	\$0.29	\$250	\$43,500	\$43,500	\$43,500	\$43,500	\$43,500	\$43,500	\$250	\$0.29	2.18%	0.0%	-
Boston Captial Variance			\$0	\$0	1.77%	\$0.24	\$201	\$35,000	\$0	\$0	\$0	\$0	\$35,000	\$201	\$0.24	1.76%	0.0%	-
Supportive Services			-	\$0	0.18%	\$0.02	\$20	\$3,500	\$7,200	\$0	\$0	\$7,200	\$3,500	\$20	\$0.02	0.18%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.29%	\$0.04	\$32	\$5,640	\$6,184	\$6,184	\$6,184	\$6,184	\$6,944	\$40	\$0.05	0.35%	-18.8%	(1,304)
HOA Fees			-	\$0	0.53%	\$0.07	\$60	\$10,440	\$19,680	\$19,680	\$19,680	\$19,680	\$10,440	\$60	\$0.07	0.52%	0.0%	-
TOTAL EXPENSES					36.79%	\$4.88	\$4,169	\$ 725,423	\$683,316	\$683,316	\$716,701	\$699,809	\$ 720,971	\$4,144	\$4.85	36.15%	0.6%	\$ 4,453
NET OPERATING INCOME ("NOI")					63.21%	\$8.38	\$7,165	\$1,246,636	\$1,078,754	\$1,078,754	\$1,055,818	\$1,072,710	\$1,273,215	\$7,317	\$8.56	63.85%	-2.1%	\$ (26,579)

CONTROLLABLE EXPENSES							\$2,831/Unit							\$2,818/Unit				
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

The Nightingale at Goodnight Ranch, Austin, 4% HTC/MDL #17445

DEBT / GRANT SOURCES																			
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE									
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Applicant Closing	Prior Underwriting			Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App							Orig Applicant	Orig TDHCA	TDHCA Closing						DCR	LTC
Bellwether		1.36	1.33	936,370	5.05%	35	15	\$15,364,000	\$15,570,000	\$15,500,000	\$15,500,000	\$15,570,000	\$15,364,000	15	35	5.05%	\$936,370	1.33	56.9%
Adjustment to Debt Per §10.302(c)(2)		1.36	1.33						\$0	\$0	(\$15,000)	\$0						1.33	0.0%
TDHCA - Multifamily Direct Loan (Soft Repayable)		1.36	1.33		0.00%	35	0	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	15.5	0	0.00%			1.33	5.6%
CASH FLOW DEBT / GRANTS																			
AHFC		1.36	1.33		0.00%	40	40	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	40	40	0.00%			1.33	7.4%
Kelly Grossman Architects		1.36	1.33		0.00%	0	0	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	0	0	0.00%			1.33	0.3%
				\$936,370			TOTAL DEBT / GRANT SOURCES	\$18,939,000	\$19,145,000	\$19,075,000	\$19,060,000	\$19,145,000	\$18,939,000	TOTAL DEBT SERVICE		\$936,370	1.33	70.1%	
NET CASH FLOW		\$336,845	\$310,266											APPLICANT NET OPERATING INCOME	\$1,246,636	\$310,266	NET CASH FLOW		

EQUITY SOURCES																	
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE											
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting				Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
						Applicant Closing	Orig Applicant	Orig TDHCA	TDHCA Closing								
Boston Capital	LIHTC Equity	22.9%	\$688,277	0.90	\$6,193,254	\$5,217,273	\$5,682,835	\$5,682,835	\$5,383,739	\$6,193,874	\$0.90	\$688,277	22.9%	\$3,956	Applicant Request		
DMA Development	Deferred Developer Fees	7.2%	(65% Deferred)		\$1,931,875	\$2,052,140	\$1,683,096	\$1,708,096	\$1,963,475	\$1,879,055	(64% Deferred)		7.0%	Total Developer Fee:	\$2,955,000		
Additional (Excess) Funds Req'd		0.0%						\$0	\$0	\$0			0.0%				
TOTAL EQUITY SOURCES		30.1%			\$8,125,129	\$7,269,413	\$7,365,931	\$7,390,931	\$7,347,214	\$8,072,929			29.9%				
TOTAL CAPITALIZATION						\$27,064,129	\$26,440,931	\$26,440,931	\$27,011,929	15-Yr Cash Flow after Deferred Fee:						\$4,789,931	

DEVELOPMENT COST / ITEMIZED BASIS															
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE					
Acquisition	New Const. Rehab	Total Costs			Prior Underwriting				Total Costs			Eligible Basis			
		Applicant Closing	Orig Applicant	Orig TDHCA	TDHCA Closing	New Const. Rehab	Acquisition	%	\$						
Land Acquisition		\$11,279 / Unit	\$1,962,500	\$1,962,500	\$1,957,500	\$1,957,500	\$1,962,500	\$1,962,500	\$11,279 / Unit			0.0%	\$0		
Building Acquisition	\$0	\$ / Unit	\$0	\$0	\$0	\$0	\$0	\$0	\$ / Unit	\$0		0.0%	\$0		
Off-Sites	\$0	\$ / Unit	\$0	\$0	\$0	\$0	\$0	\$0	\$ / Unit			0.0%	\$0		
Site Work	\$1,765,766	\$10,148 / Unit	\$1,765,766	\$1,765,766	\$2,090,766	\$2,090,766	\$2,114,085	\$2,114,085	\$12,150 / Unit	\$1,765,766		-16.5%	(\$348,319)		
Site Amenities	\$385,862	\$2,218 / Unit	\$385,862	\$385,862	\$406,858	\$406,858	\$355,238	\$355,238	\$2,042 / Unit	\$385,862		8.6%	\$30,623		
Building Cost	\$14,413,575	\$82.40 /sf	\$70,471/Unit	\$12,261,947	\$12,261,947	\$11,816,095	\$12,150,399	\$12,150,399	\$69,830/Unit	\$81.65 /sf	\$12,150,399		0.9%	\$111,548	
Contingency	\$861,072	5.20%	5.97%	\$861,072	\$839,445	\$737,978	\$737,978	\$839,445	\$861,072	5.89%	6.02%	\$861,072		0.0%	\$0
Contractor Fees	\$2,107,869	12.10%	13.80%	\$2,107,869	\$2,107,869	\$2,107,869	\$2,107,238	\$2,107,869	\$2,107,869	13.62%	13.90%	\$2,107,869		0.0%	\$0
Soft Costs	0	\$975,050	\$5,747 / Unit	\$1,000,050	\$1,035,050	\$918,154	\$918,154	\$1,035,050	\$1,000,050	\$5,747 / Unit	\$975,050	\$0	0.0%	\$0	
Financing	0	\$2,153,613	\$16,505 / Unit	\$2,871,790	\$2,345,381	\$2,226,653	\$2,226,653	\$2,345,381	\$2,871,790	\$16,505 / Unit	\$1,787,595	\$0	0.0%	\$0	
Developer Fee	\$0	\$2,955,000	13.04%	14.41%	\$2,955,000	\$2,946,466	\$2,930,000	\$2,864,863	\$2,955,000	14.52%	14.75%	\$2,955,000	\$0	0.0%	\$0
Reserves		\$4,828 / Unit	\$840,073	\$841,928	\$798,206	\$798,206	\$813,825	\$828,670	\$4,762 / Unit				1.4%	\$11,403	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)		\$0	\$25,617,807	\$155,241 / Unit	\$27,011,929	\$26,492,214	\$26,440,931	\$25,929,311	\$26,670,259	\$27,206,674	\$156,360 / Unit	\$22,988,613	\$0	-0.7%	(\$194,745)
Acquisition Cost	\$0			\$0											
Contingency		\$0		\$0											
Contractor's Fee		\$0		\$0											
Interim Interest		(\$366,018)													
Developer Fee	\$0	\$0		\$0											
Reserves		\$0		\$0											
ADJUSTED BASIS / COST		\$0	\$25,251,789	\$155,241/unit	\$27,011,929	\$26,492,214	\$26,440,931	\$25,929,311	\$26,670,259	\$27,206,674	\$156,360/unit	\$22,988,613	\$0	-0.7%	(\$194,745)
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):							\$27,011,929								

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

The Nightingale at Goodnight Ranch, Austin, 4% HTC/MDL #17445

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$0	\$25,251,789	\$0	\$22,988,613
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$25,251,789	\$0	\$22,988,613
High Cost Area Adjustment		100%		100%
TOTAL ADJUSTED BASIS	\$0	\$25,251,789	\$0	\$22,988,613
Applicable Fraction	91.66%	91.66%	91.66%	91.66%
TOTAL QUALIFIED BASIS	\$0	\$23,145,324	\$0	\$21,070,938
Applicable Percentage	3.39%	3.39%	3.39%	3.39%
ANNUAL CREDIT ON BASIS	\$0	\$784,626	\$0	\$714,305
CREDITS ON QUALIFIED BASIS	\$784,626		\$714,305	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8999	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$784,626	\$7,060,932	----	----	----
Needed to Fill Gap	\$897,082	\$8,072,929	----	----	----
Applicant Request	\$688,277	\$6,193,874	\$688,277	\$0	\$0

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$15,364,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$30,728,000				
	Applicant	TDHCA			
Land Cost	\$1,962,500	\$1,962,500			
Depreciable Bldg Cost	\$20,536,179	\$20,376,309			
Aggregate Basis for 50% Test	\$22,498,679	\$22,338,809			
			amount aggregate basis can increase before 50% test fails	\$8,229,321	\$8,389,191
				36.6%	37.6%

Long-Term Pro Forma

The Nightingale at Goodnight Ranch, Austin, 4% HTC/MDL #17445

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,972,059	\$2,011,500	\$2,051,730	\$2,092,765	\$2,134,620	\$2,356,793	\$2,602,090	\$2,872,918	\$3,171,934	\$3,502,071	\$3,866,569	\$4,269,005
TOTAL EXPENSES	3.00%	\$725,423	\$746,397	\$767,985	\$790,203	\$813,072	\$937,861	\$1,082,035	\$1,248,630	\$1,441,162	\$1,663,699	\$1,927,107	\$2,234,045
NET OPERATING INCOME ("NOI")		\$1,246,636	\$1,265,103	\$1,283,746	\$1,302,562	\$1,321,548	\$1,418,932	\$1,520,055	\$1,624,288	\$1,730,772	\$1,838,372	\$1,939,463	\$2,034,960
EXPENSE/INCOME RATIO		36.8%	37.1%	37.4%	37.8%	38.1%	39.8%	41.6%	43.5%	45.4%	47.5%	49.8%	52.3%
MUST -PAY DEBT SERVICE													
Bellwether		\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370
TOTAL DEBT SERVICE		\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370	\$936,370
DEBT COVERAGE RATIO		1.33	1.35	1.37	1.39	1.41	1.52	1.62	1.73	1.85	1.96	2.07	2.17
ANNUAL CASH FLOW													
		\$310,266	\$328,733	\$347,376	\$366,192	\$385,178	\$482,562	\$583,685	\$687,918	\$794,402	\$902,002	\$1,003,093	\$1,098,590
Deferred Developer Fee Balance		\$1,568,790	\$1,240,056	\$892,681	\$526,489	\$141,311	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$2,075,135	\$4,789,931	\$8,019,965	\$11,778,309	\$16,072,938	\$20,890,153	\$26,194,313



September 5, 2019

VIA EMAIL

Ms. Laura DeBellas
 Asset Manager, TDHCA
 221 E. 11th Street
 Austin, TX 78701

RE: Request for Amendment for Nightingale at Goodnight Ranch, #17445

Dear Ms. DeBellas,

Please accept this letter and attachments as a formal request to amend our set aside election to the income averaging election for the above referenced project. We have not yet received 8609s yet on this development although we are very close to construction completion.

By way of history, we submitted the original application for 4% credits with the following income targeting:

		% of LI	% of Total	
HOUSING	TC30%	8%	6%	11
	TC40%			0
	TC50%	26%	21%	36
	TC60%	67%	54%	94
TAX	HTC LI Total			141
	TCEO			0
CREDITS	MR		19%	33
	MR Total			33
	Total Units			174

In addition to the above we also committed to the following in terms of HTF units:

- 5 HTF 30% units: 773 sf one-bedroom/one bath units
- 1 HTF 30% unit: 826 one-bedroom/one bath cottage unit
- 7 HTF 30% units: 859 one-bedroom/one bath unit
- 2 HTF 30% units: 953 two bedroom/one bath units
- 1 HTF 30% units: 1223 two bedroom/two bath cottage unit

This amendment request has no bearing on the HTF units as listed above, but only pertains to the 33 market rate units. Because the market studies at construction loan closing in March 2018 indicate that the rents for the market rate units are in fact lower than 80% rents, we are electing to provide further income restrictions at this property than originally provided. Our proposed income mix is the following:

		% of LI	% of Total	
HOUSING	TC30%	7%	6%	11
	TC40%			0
	TC50%	23%	21%	36
	TC60%	59%	54%	94
	TC80%	12%	11%	19
TAX	HTC LI Total			160
	TCEO			0
CREDITS	MR		8%	14
	MR Total			14
	Total Units			174

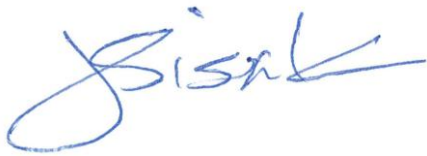
Essentially, we are simply taking 19 of our 33 market rate units and further restricting them to an 80% income restriction. This does not reduce our NOI at all since the 80% rent limit is greater than our proposed market rate rent for this location. On the 19 units we are further restricting to 80% incomes, we will not charge the maximum allowable rent unless the market support that.

The attached workbook shows the unit designation by income restriction. The first tab is the unit designations assuming this request is not approved. The second tab is the unit designation we are proposing. Again, it is important to note that this proposal is NOI neutral, and that it has no impact on the distribution of the 30%, 50%, and 60% units, nor on the distribution of the HTF units. Had we submitted this income targeting at application, it would have not impacted the underwriting of this project, or this projects' ability to meet program requirements.

Also attached is the updated market study as well as consent from our lender and investor. We have enclosed an amendment fee in the amount of \$2,500. If you have any questions or need any additional information, please contact me at janines@dmacompanies.com or 512-328-3232 ext. 4505.

Sincerely,

DMA DEVELOPMENT COMPANY, LLC



Janine Sisak
Senior Vice President/General Counsel



Austin Housing Finance Corporation

P.O. Box 1088, Austin, TX 78767-1088
(512) 974-3100 ♦ Fax (512) 974-3161 ♦ www.austintexas.gov/ahfc

October 25, 2019

Austin DMA Housing III, LLC Nightingale at Goodnight Ranch
5900 Charles Merle Drive
Austin, TX 78747

RE: Average Income Set Aside

The Austin Housing Finance Corporation (“AHFC”) approves the election of Average Income set aside for Austin DMA Housing III, LLC. AHFC recognizes that DMA Nightingale, LLC is seeking approval from TDHCA to pursue the average income set aside election through its amendment process.

AHFC has reviewed the amendment request, and acknowledges that, if approved, it would result in 19 additional units to be rent restricted for residents with incomes at 80% of the AMI or lower. Because these 19 units were formerly market rate units that did not have any rent or income restrictions, this election is a positive change for the development and for the City of Austin.

The Omnibus Tax Act of 2018 has provided the industry with this new set aside option, Average Income, which is an extremely fortunate opportunity to preserve equity for Austin DMA Housing III, LLC while also avoiding displacement of what otherwise might be households over the 60% set aside election.

Sincerely,

James B. May
Community Development Manager
1000 E. 11th Street
Austin, Texas 78702

Board of Directors: Steve Adler, President ♦ Delia Garza, Vice President
Natasha Harper-Madison, Director ♦ Sabino Renteria, Director ♦ Gregorio Casar, Director ♦ Ann Kitchen, Director
James Flannigan, Director ♦ Leslie Pool, Director ♦ Paige Ellis, Director ♦ Kathie Tovo, Director ♦ Alison Alter, Director
Spencer Cronk, General Manager ♦ Rosie Truelove, Treasurer ♦ Jannette Goodall, Secretary
♦ Anne L. Morgan, General Counsel ♦

The Austin Housing Finance Corporation is committed to compliance with the American with Disabilities Act and will provide reasonable modifications and equal access to communications upon request.

Boston Capital

August 29, 2019

Austin DMA Housing III, LLC
Nightingale at Goodnight Ranch
5900 Charles Merle Drive
Austin, TX 78747

RE: Average Income Set Aside

Boston Capital approves the election of Average Income set aside for Austin DMA Housing III, LLC. Boston Capital recognizes that DMA Nightingale, LLC; is seeking approval from TDHCA to pursue the average income set aside election.

- (1) The Determination Notice with an award of Housing Tax Credits associated with a Certification of Reservation from the 2017 Private Activity Bond Ceiling, was made and entered into between TDHCA and Austin DMA Housing III, LLC. and was approved on 1/18/18
- (2) The project received its determination letter from TDHCA on 1/18/18
- (3) It is understood that **TDHCA** requires that the overall low-income percentage of **60%** remain throughout the affordability period.

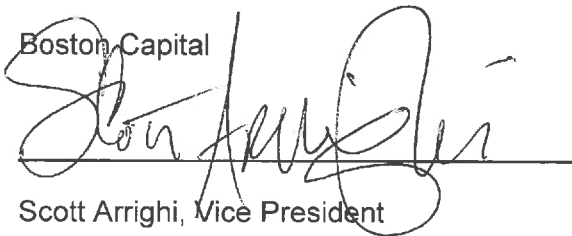
Boston Capital recognizes that the IRS has not issued formal guidance regarding the election of Average Income, but are willing to work closely with the DMA Nightingale, (developer) during this implementation period to minimize risk of unknown factors presented by the new option. Boston Capital will also ensure that the state's specific guidelines and requirements as provided are followed.

We will require a unit matrix reflecting the unit designations in increments of 10% for all the units in the project prior to lease up and will review for proper distribution. Boston Capital will monitor that the minimum set-aside is met on a project basis, as defined by the election on Form 8609. This means that the multi-building election will determine if the required number of units can be met across one or multiple buildings.

The Omnibus Tax Act of 2018 has provided the industry with this new set aside option, Average Income which is an extremely fortunate opportunity to preserve equity for Austin DMA Housing III, LLC while also avoiding displacement of what otherwise might be households over the 60% set aside election.

Sincerely,

Boston Capital



Scott Arrighi, Vice President

8.29.19

Date

From: [Katie Vaughan](#)
To: [Laura DeBellas](#)
Cc: [Janine Sisak](#)
Subject: FW: Nightingale
Date: Wednesday, September 25, 2019 4:04:06 PM

Laura,

As indicated in our letter, the investment limited partner acknowledges that the selection of the income average election, and this will not change the terms of the agreement. The ILP may purchase any additional credits that may occur as the result of the amendment, as allowed under the terms of the partnership agreement.

Thank you and please let me know if you need anything else,

Katie Vaughan | Boston Capital

VP, Asset Management

One Boston Place | Boston MA 02108

Office: 617-624-8660 | Fax: 617-624-8999

www.bostoncapital.com

From: Laura DeBellas <laura.debellas@tdhca.state.tx.us>

Sent: Tuesday, September 24, 2019 3:11 PM

To: Janine Sisak <janines@dmacompanies.com>

Subject: Nightingale

Hey, Janine:

I'm working on the BAR for Nightingale – the rules state that

(i) In the event of a request to implement (rent to a household at an income or rent level that exceeds the approved AMI limits established by the minimum election within the Development's Application or LURA) a revised election under §42(g) of the Code prior to an Owner's submission of IRS Forms 8609 to the IRS, Owners must submit updated information and exhibits to the Application as required by the Department and all lenders and the syndicator must submit written acknowledgement that they are aware of the changes being requested and confirm any changes in terms as a result of the new election; or

The letter received from Boston Capital obviously indicates their acknowledgement of the changes, but doesn't reference whether terms of the loan or equity are changing – can you have them submit an email confirming any changes in terms or confirming there are none?

Thanks,



September 23, 2019

Ms. Janine Sisak
Senior Vice President/General Counsel
DMA Associates
4101 Parkstone Heights Drive
Suite 310
Austin, TX 78746

Dear Ms. Sisak:

Bellwether Enterprise Real Estate Capital, LLC (“BWE”), is in receipt of your request to modify the use restrictions that will be applied to the Nightingale at Goodnight Ranch project (the “Project”) to use the new IRS Section 42 income-averaging guidelines recently adopted for Low-Income Housing Tax Credit (“LIHTC”) properties.

As you know, BWE has entered into a Forward Commitment to provide permanent first mortgage financing for the Project pursuant to the Freddie Mac Tax-Exempt Loan program. The BWE Forward Commitment is contingent on the Project’s and Austin DMA Housing III, LLC’s (the “Borrower”) continuing compliance with the terms and conditions of the Forward Commitment agreement between BWE and Freddie Mac. Freddie Mac has not adopted any policy regarding the new IRS guidelines for income-averaging in LIHTC projects. However, Freddie Mac may allow the new income-averaging guidelines in certain scenarios where Freddie Mac credit underwriting and legal approve it on a case-by-case basis. For your reference, the following language is current example criteria that Freddie Mac may require:

In determining the Additional Actual Mortgage Amount, the Borrower may utilize the new minimum set-aside (the “Income Averaging Set-Aside”) allowed by the Consolidated Appropriations Act of 2018 whereby a project qualifies for LIHTC as long as at least 40% of the units in the project are tax credit units with an average income level of 60% of AMI with rents equal to 30% of the qualifying income level. Utilizing the Income Averaging Set-Aside is subject to each of the following:

- A. *Prior to Conversion, Freddie Mac has instituted a policy allowing Income Averaging Set-Asides on a programmatic basis.*
- B. *The tax credit allocating agency of the state in which the Property is located allows Income Averaging Set-Aside.*
- C. *The tax credit investor limited partner/investor member has consented to the Income Averaging Set-Aside for the Property and has modified the Borrower’s limited partnership agreement/operating agreement to allow the Borrower to elect the Income Averaging Set-Aside, and Freddie Mac has approved the Borrower’s limited partnership agreement/operating agreement, inclusive of its income averaging provisions.*

- D. *Seller/Servicer has confirmed that there is a market for tenants with incomes at the applicable imputed income limitations below and/or above 60% of AMI in the area in which the Property is located.*
- E. *Guidance for the implementation of the Income Averaging Set-Aside has been established by the tax credit allocating agency of the state in which the Property is located (for example, whether unit mixes are fixed at designation or can change over time), and Freddie Mac has approved the agency's income-averaging program, including the form of LIHTC extended use agreement.*
- F. *The Property is otherwise eligible to elect the Income Averaging Set-Aside.*
- G. *If requirements A through F are met, IRS Form 8609 must show that the Borrower elected the Income Averaging Set-Aside.*

BWE believes that a modification of the BWE Forward Commitment to allow for income-averaging may be possible, considering conditions A through G above, and any other conditions that Freddie Mac may have if and when they implement a policy on income averaging, are satisfied prior to the date of conversion and closing of the permanent first mortgage loan. Final approval and loan sizing will be dependent on full underwriting at the time of conversion, and will be subject to Freddie Mac approval.

Please contact me at (410) 772-2770 if you have any questions or concerns.

Regards,



Kenneth Stewart
Vice President - Senior Underwriter

**APPRAISAL REPORT
C19-AHA-184
INVOLVING AN APARTMENT MARKET ANALYSIS
FOR A HOME FUNDS/MDL/PAB ELDERLY DEVELOPMENT
OF
TDHCA #17445
THE NIGHTINGALE AT GOODNIGHT RANCH
A 174-UNIT PROPOSED HOME FUNDS/MDL/PAB ELDERLY APARTMENT
DEVELOPMENT LOCATED ON THE
NORTH LINE OF CHARLES MERLE DRIVE, WEST OF VERTEX BLVD.
AUSTIN, TRAVIS COUNTY, TX 78747**

**PREPARED FOR
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
AUTHORIZED BY
MS. JANINE SISAK
AUSTIN DMA HOUSING III, LLC
C/O DMA DEVELOPMENT LLC
4101 PARKSTONE HEIGHTS DRIVE, SUITE 310
AUSTIN, TX 78746**

**BY
AFFORDABLE HOUSING ANALYSTS
3912 AVENUE O
GALVESTON, TEXAS, 77550**

**EFFECTIVE DATE OF THE MARKET ANALYSIS
JULY 25, 2019**

**DATE OF THE REPORT
SEPTEMBER 4, 2019**

AFFORDABLE HOUSING ANALYSTS
Appraisers/Market Analyst/Consultants

September 4, 2019

Ms. Janine Sisak
Austin DMA Housing III, LLC
c/o DMA Development LLC
4101 Parkstone Heights Drive, Suite 310
Austin, TX 78746

Reference: The Nightingale at Goodnight Ranch: A 174-unit apartment development proposed to be constructed and operated as a HOME Funds/MDL/PAB Elderly apartment project. The subject site is located on the north line of Charles Merle Drive, west of Vertex Boulevard and south of Nuckols Crossing Road in Austin, Travis County, TX 78747.

Greetings:

At your request, I have completed an Appraisal Report (TDCA Market Study) for the purpose of providing a market analysis for the above-referenced property. Elements of the report, such as the determination of Market Rent classify this document as an Appraisal Report. However, I have not concluded to a market value for the subject property. The effective date of the study is July 25, 2019. The date of the report is September 4, 2019. Robert O. Coe, II visited the subject site on July 25, 2019.

The analyses provided herein are subject to the assumptions and contingent and limiting conditions contained within both the body of this report and the addenda section. Based on my analysis of the subject property's primary market area, there is sufficient demand to successfully construct and absorb the proposed The Nightingale at Goodnight Ranch as of July 25, 2019.

No one provided significant real property appraisal assistance in the preparation of the market analysis.

I am not qualified to detect or identify hazardous substances, which may, or may not, be present on, in, or near this property. The presence of hazardous materials may negatively affect feasibility. I have analyzed the subject property as though free of hazardous materials. I urge the user of this report to obtain the services of specialists for the purpose of conducting an environmental audit to ensure that the subject property is free of hazardous materials.

Texas Department of Housing and Community Affairs
The Nightingale at Goodnight Ranch
Ms. Janine Sisak
September 4, 2019
Page – 2

I certify that I have read and understood the 2019 Qualified Allocation Plan 11.303 and 11.304. I certify that I consider the services provided conform to the Department's Market Analysis Rules and Guidelines, described in Section 11.303 of the Uniform Multifamily Rules in effect for the application round (2019) in which the Market Analysis may be submitted.

I certify that I have no interest, present or proposed, in the subject property, that the conclusion contained herein has been reached after a careful study, investigation, analysis, and interpretation of the pertinent data, and that my fee is in no way contingent upon the conclusion. I am neither part of the development team, owner of the subject property, nor affiliated with any member of the development team engaged in the development of the property. This market analysis is prepared subject to my current assumptions and limiting conditions. Your attention is directed to the following report and accompanying data, which form, in part, the basis of my conclusions.

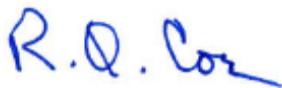
Any person signing this report hereby acknowledges that the Department may publish the full report on the Department's website, release the report in response to a request for public information and make other use of the report as authorized by the law.

All occupancy levels cited throughout this report refer only to physical occupancy unless otherwise specified in the text.

The Texas Department of Housing and Community Affairs is granted full authority to rely on the findings and conclusions on this report.

Respectfully,

Affordable Housing Analysts



Robert O. (Bob) Coe, II, MAI
TX-1333157-G
State Certified General Real Estate Appraiser

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MARKET ANALYSIS SUMMARY

Provider: Affordable Housing Analysts Date: 9/4/2019
 Contact: Bob Coe Phone: 281-387-7552
 Development: The Nightingale at Goodnight Ranch Target Population: senior
 Definition of Elderly Age: 55
 Site Location: North line of Charles Merle Drive, west of Vertex Blvd. City: Austin County: Travis
 Site Coordinates: Latitude N30.157586 Longitude W97.752443 (decimal degree format)

Primary Market Area (PMA) page _31_

54.673 Square Miles

CENSUS TRACTS

48453001747	48453002409	48453002424	48453002429		
48453001772	48453002410	48453002425	48453002430		
48453001774	48453002421	48453002426	48453002432		
48453002402	48453002422	48453002427			
48453002407	48453002423	48453002428			

ELIGIBLE HOUSEHOLDS BY INCOME page _71_

HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	\$12,768	\$12,768	\$15,336	\$15,336			
	Max	\$19,890	\$22,710	\$25,560	\$28,380			
50% AMGI	Min	\$21,288	\$21,288	\$25,560	\$25,560			
	Max	\$33,150	\$37,850	\$42,600	\$47,300			
60% AMGI	Min	\$25,560	\$25,560	\$30,672	\$30,672			
	Max	\$39,780	\$45,420	\$51,120	\$56,760			
80% AMGI	Min	\$34,080	\$34,080	\$40,896	\$40,896			
	Max	\$53,040	\$60,560	\$68,160	\$75,680			

AFFORDABLE HOUSING INVENTORY in PMA page _44_

	# Developments	Total Units	Avg Occupancy
All Operating LIHTC Developments	7	1,155	97.9%

Proposed, Under Construction, and Unstabilized Comparable Developments in PMA

TDHCA #	Development	Status	Type	Target Population	Comp Units	Total Units	Occupancy
19434	Limestone Ridge Seniors	proposed	new const	senior	223	225	0%

Other Affordable Developments in PMA

TDHCA #	Development	Status	Type	Target Population	Comp Units	Total Units	Occupancy	*
18459	Manchaca Commons	approved	new const	general	n/a	240	U/C	
15185	LaMadrid Apartments	in service	new const	general	n/a	95	100%	
16422	Pathways at Shadowbend Ridge	in service	rehab	general	n/a	50	100%	
98168	Trails at the Park	in service	new const	general	n/a	200	100%	
060418	Southpark Apartments	in service	new const	general	n/a	192	97%	
01458	Circle S Apartments	in service	new const	general	n/a	200	100%	
15421	Urban Oaks	in service	new const	general	n/a	194	97%	
17404	Commons at Goodnight	under const	new const	general	n/a	304	U/C	
17445	Nightingale at Goodnight Ranch	under const	new const	senior	n/a	174	U/C	
07621	The Residences at Onion Creek	in service	new const	general	n/a	224	94%	

*Check box if this development is included in the calculation of the average physical occupancy to qualify for the 15% GCR for Tax-Exempt Bond Developments per §10.302(i)(1). Attach a PMA map, with affordable developments labeled, showing the 20 minute drive time ring. *See footnote 1

Average occupancy of affordable housing in 20 minute drive time ring. %

ASSUMPTIONS AND LIMITING CONDITIONS

This report is subject to the following assumptions and limiting conditions:

- 1) Any legal description or plats reported herein are assumed to be accurate. Any sketches, surveys, plats, photographs, drawings, or other exhibits are included only to assist the intended users to better understand and visualize the subject property the environs, and the competitive data. I have made no survey of the subject property and assume no responsibility associated with such matters.
- 2) The value assumes responsible ownership and competent management. The subject property is assumed to be free and clear of all liens, except as may be otherwise herein described. No responsibility is assumed by the appraiser(s) for matters legal in character, nor is any opinion on the title rendered, which is assumed to be good and marketable.
- 3) The information contained herein has been gathered from sources deemed to be reliable, but I assume no responsibility for its accuracy. The value/opinions rendered herein are based on preliminary analyses of the subject and market area.
- 4) Any leases, agreements or other written or verbal representations and/or communications and information received by the appraiser(s) have been reasonably relied upon in good faith but have not been analyzed for their legal implications. I urge and caution the user of this report to obtain legal counsel of his/her own choice to review the legal and factual matters, and to verify and analyze the underlying facts and merits of any investment decision in a reasonably prudent manner.
- 5) I assume no responsibility for any hidden agreements known as "side reports", which may or may not exist relative to this property, which have not been made known to us, unless specifically acknowledged within this report.
- 6) This report is to be used in whole, and not in part. Any separate valuation for land and improvements shall not be used in conjunction with any other valuation and is invalid if so used. Possession of this report or any copy thereof does not carry with it the right of publication nor may the same be used for any purpose by anyone but the client without the previous written consent of the appraiser(s), and in any event, only in its entirety.
- 7) I, by reason of this report, am not required to give testimony in court with reference to the property unless notice and proper arrangements have been previously made therefore.
- 8) Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, news, sales or other media without prior written consent and approval of the author.

Assumptions and Limiting Conditions – Continued

- 9) No subsoil data or analysis based on engineering core borings or other tests were furnished to me. I have assumed that there are no subsoil defects present that would impair development of the land to its maximum permitted use, or would render it more or less valuable.
- 10) No responsibility is assumed for hidden defects or for conformity to specific governmental requirements, such as fire, building, safety, earthquake, or occupancy codes, except where specific professional or governmental inspections have been completed and reported in this report.
- 11) The construction and physical condition of the improvements described herein are based on a site visit. No liability is assumed by us for the soundness of structural members since no engineering tests were conducted. No liability is assumed for the condition or adequacy of mechanical equipment, plumbing or electrical components. No responsibility is assumed for engineering, which might be required to discover such factors. I urge the user of this report to retain an expert in this field.
- 12) Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyl, petroleum leakage, or agricultural chemicals, which may or may not be present in or on the property, or other environmental conditions were not called to my attention nor did I become aware of such during my site visit. I have no knowledge of the existence of such materials on or in the property unless otherwise stated. I, however, am not qualified to test such substances or conditions. No responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to detect or discover them. I urge the user of this report to retain an expert in the field of environmental impacts on real estate if so desired.
- 13) The projections of income, expenses, terminal values or future sales prices are not predictions of the future; rather, they are the best estimate of current market thinking of what future trends will be. I assume no responsibility for any changes in economic or physical conditions which occur following the effective date of this report that would influence or potentially affect the analyses, opinions, or conditions in the report. Any subsequent changes are beyond the scope of this report. No warranty or representation is made that these projections will materialize.
- 14) The client or user of this report agrees to notify the appraiser(s) of any error, omission or inaccurate data contained in the report within 15 days of receipt, and return the report and all copies thereof to the appraiser(s) for correction prior to any use.
- 15) The acceptance of this report, and its subsequent use by the client or any other party in any manner whatsoever for any purpose, is acknowledgment by the user that the report has been read and understood, specifically agrees that the data and analyses, to their knowledge, are correct and acceptable.

Assumptions and Limiting Conditions – Continued

- 16) This assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.
- 17) This report has been prepared in a “non-disclosure” state. Real estate prices and other data, such as rents, prices, and financing are not a matter of public record. Although extensive effort has been expended to verify pertinent data with buyers, sellers, brokers, lenders, lessors, lessees, and other sources considered reliable, it has not always been possible to independently verify all significant facts. In these instances, I may have relied on verification obtained and reported to us by persons outside my office. Also, as necessary, assumptions and adjustments have been made based on comparisons and analyses using data in the report and on interviews with market participants. It is suggested that the client consider independent verification as a prerequisite to any transaction involving sale, lease or other significant commitment of funds to the subject property.
- 18) The Americans With Disabilities Act (ADA) became effective January 26, 1992. I have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more requirements of the act. If so, this fact could have a negative impact upon the value of the property. However, since I have no direct evidence relating to the issue of compliance, I did not consider possible noncompliance with requirements of ADA in forming an opinion of the value of the property.
- 19) Acceptance or use of this report constitutes agreement by the client and any other users that any liability for errors, omissions or judgment is limited to the amount of the fee charged for this report. Use of this report constitutes acknowledgement and acceptance of the general assumptions and limiting conditions, special assumptions (in any), extraordinary assumptions (if any), and hypothetical conditions (in any) on which this report is based.

ENVIRONMENTAL ASSUMPTIONS

This report is subject to the following environmental assumptions:

- 1) There is a safe, lead-free, adequate supply of drinking water.
- 2) The subject property is free of soil contamination.
- 3) There is no uncontained friable asbestos or other hazardous asbestos material on the property. The appraiser is not qualified to detect such substances.
- 4) There are no uncontained PCB's on or near the property.
- 5) The radon level is at or below EPA recommended levels.
- 6) Any functioning underground storage tanks (UST's) are not leaking and are properly registered; any abandoned UST's are free from contamination and were properly drained, filled and sealed.
- 7) There are no hazardous waste sites on or near the subject property that negatively affect the value and/or safety of the property.
- 8) There is no significant urea formaldehyde (UFFI) insulation or other urea formaldehyde material on the property.
- 9) There is no flaking or peeling of lead-based paint on the property.
- 10) The property is free of air pollution.
- 11) There are no wetlands/flood plains on the property (unless otherwise stated in the report).
- 12) There are no other miscellaneous hazardous substances and/or detrimental environmental conditions on or in the area of the site (excess noise, radiation, light pollution, magnetic radiation, acid mine drainage, agricultural pollution, waste heat, miscellaneous chemical, infectious medical wastes, pesticides, herbicides, and the like).

1. SUMMARY AND CONCLUSIONS

EXECUTIVE SUMMARY

- (A) **Disclosure of Competency**: *Affordable Housing Analysts* is a professional real estate appraisal and consulting firm, providing service to a variety of corporate, institutional, governmental, and private clientele. In the past 12 months, I have completed numerous assignments involving similar properties. I am a State Certified General Real Estate Appraiser with the State of Texas, and have prepared/reviewed numerous market studies and appraisal assignments of properties similar to this assignment.
- (B) **Identification of Property**: The subject site is located on the north line of Charles Merle Drive, west of Vertex Boulevard and south of Nuckols Crossing Road, in Austin, Travis County, TX 78747. The subject site contains ±7.3620 acres (±320,689 square feet), and appears to be flat in topography. The subject is proposed to be constructed and operated as a 174-unit HOME Funds/MDL/PAB Elderly population apartment development.
- (C) **Primary Market**: The subject's primary market is generally defined as that area contained within census tracts 48453001747, 48453001772, 48453001774, 48453002402, 48453002407, 48453002409, 48453002410, 48453002421, 48453002422, 48453002423, 48453002424, 48453002425, 48453002426, 48453002427, 48453002428, 48453002429, 48453002430, and 48453002432. This area is contained in all or a portion of the following zip codes: 78744, 78746, 78747, and 78748. The area is generally bound by Highway 183 to the east; FM1626, Southern Travis County Line, FM 1625, Frate Barker Road, Brodie Lane, Slaughter Creek, the railroad tracks, Slaughter Lane, Curlew Drive, Marsh Drive, Leo Street, Davis Lane, and the railroad tracks to the west; Williamson Creek, William Cannon Drive, Nuckols Crossing Drive, Colton Bluff Springs Road, and McKinney Falls Parkway to the north; and FM 1327, Interstate 35, and the southern Travis County line to the south. The average rental rate for apartments in the subject's primary market area is reported at \$1.32 per square foot per month. The average rent and occupancies in this submarket are skewed downward somewhat due to a number of older projects with a modest level of amenities. The average physical occupancy in the subject's market area was reported at 94.57%. Occupancy rates and rental rates in this primary market area have remained strong over the past few years, with overall stable rental rates.
- (D) **Comparable Properties**: The selected comparable apartments surveyed in the primary market area of the subject generally exhibited strong occupancy rates, with an average occupancy level of and an average rental rate of ±\$1.149 per square foot per month. According to my research (including contacting the local HUD offices), there are 7 operating HTC projects with 10 units or higher in the subject's primary market area in which the rents are based on income or otherwise restricted (excluding those under renovation or construction) with an average occupancy of 97.9%. The closest existing Seniors HTCS are Villages of Ben White and Overlook at Plum Creek, which both reported 100% occupancy.
- (E) **Demand**: The primary market area for the subject property had an estimated 42,826 households in 2019 and is projected to have 46,918 households by 2024. Approximately

43.82% of these families were renter households in 2019. The population growth in the primary market area between 2000 and 2010 was 44.89%, between 2010 and 2019 was 30.09% and between 2019 and 2024 is projected to be 9.54%. The population is growing rapidly within the primary market area, and the number of households with less than the 80% of the median Austin MSA income ceiling for tax credit projects is also growing, with continued growth likely.

- (F) **Evaluation of Subject Property:** The subject property is proposed to have 0.00% in efficiency units, 77.01% in 1BR units, 22.99% in 2BR units, and 0.00% in 3BR units. Based on discussions with leasing agents and my own analysis of the selected comparables in the primary market, the unit mix is appropriate for an Elderly project, and will complement the local affordable housing market.

The subject property has a projected per unit development cost within the typical range for projects of this type and caliber. Development of the project is the maximally productive use of the site and I consider it to be an acceptable location for this development.

- (G) **Rental Rates:** The client’s reported rents, averaging \pm \$1.149 per square foot (rent restricted without utility allowance and market averaged), are considered very competitive for a new project in this market.
- (H) **Income:** Based on the developer’s provided rent schedule, gross potential annual revenue for the subject property, including \$20.00 per unit “other revenue” totals . Other revenue (primary sources are laundry, vending, application fee, cable TV, etc.) estimated by the developer appears reasonable based on information in my files and discussions with apartment developers and management companies which are active in the Austin Region, and considering the target population.
- (I) **Need for Affordable Housing:** Occupancies of the affordable housing projects are high, with most maintaining waiting lists. Therefore, the subject property need only achieve moderate penetration to be feasible. This is a realistic scenario considering the limited supply of quality affordable Elderly housing in the subject’s primary market area.
- (J) **Capture Rate:** Based on my research, there are no Seniors projects under construction, none approved and none unstabilized in the primary market area (other than the subject). There is one active Seniors HTC applications on the bond list (Limestone Ridge Seniors 19434) within the PMA. There are no approved Seniors HTC properties within the PMA other than the subject. The subject will contain 174 units, of which 91.95% will be rent-restricted. Therefore, a total of 399 units require absorption, of which 383 units (subject units) will be comparably rent-restricted comparable units. There are approximately 6,889 (HISTA) potential households (relevant to the rent restricted units) based on age, income eligibility, housing preference in the subject’s primary market.

HISTA Capture rate for 383 Affordable Elderly Units **5.56%**

THE CAPTURE RATE ABOVE IS OVERSTATED. I HAVE NOT INCLUDED DEMAND FROM SECTION 8 AND OTHER DEMAND SOURCES. BECAUSE THE CAPTURE RATE WAS WITHIN TDHCA'S GUIDELINES WITHOUT THE INCLUSION OF THESE DEMAND SOURCES, THAT DEMAND WAS NOT QUANTIFIED IN THIS REPORT.

(K) Absorption:

There is currently no operating Seniors HTC complex within the subject PMA. The Villages of Ben White is one of the most recently-completed Seniors HTC complexes (north of the subject PMA) in the Austin area. Villages of Ben White is a 183-unit Seniors HTC, all rent-restricted. The Villages of Ben White began pre-leasing in December 2015, and received their first CO in March 2016 at which time they were almost 40% pre-leased. The Villages of Ben White attained stabilized occupancy in January 2017, which equates to an average absorption of approximately 18 units per month from completion. Villages of Ben White reported a current occupancy of 100%.

I estimate absorption at 15 to 25 units a month and the property should stabilize within 6 to 10 months of opening.

(L) Effect of Subject Property on Existing Apartment Market: Based on the high occupancy levels of the existing properties in the market, and the lack of good quality affordable housing, along with the recent strong absorption history, I project that the subject property will have minimal sustained negative impact upon the existing apartment market. Any negative impact from the subject property should be of reasonable scope and limited duration.

(M) Certification of Interest: The individual(s) performing this study do not have any interest or prospective interest in the development of the subject property.

IDENTIFICATION OF PROPERTY

The subject site is located on the north line of Charles Merle Drive, west of Vertex Boulevard and south of Nuckols Crossing Road, in Austin, Travis County, TX 78747. The subject site is irregularly-shaped, contains ±7.3620 acres (±320,689 square feet), appears to have relatively flat topography, and appears to have adequate slope for drainage purposes. The subject site is currently being improved with a 174-unit apartment development for operation as a HOME Funds/MDL/PAB Elderly apartment development. The property is identified as account number 865126 by the Travis County Appraisal District.

Description of Subject Property

The Nightingale at Goodnight Ranch is a 174-unit apartment development currently under construction and proposed to be operated as a HOME Funds/MDL/PAB Elderly property that will be separately-metered for electricity (tenant pays) with the landlord paying for water/sewer and trash. The development is anticipated to be of good quality construction, comparable to Multiple Residences Class B structures as defined by Marshall Valuation Service. The development will be a HOME Fund/MDL/PAB complex with 91.95% of the units to be set aside for households earning at or below 80% of the Area Median Gross Income (AMGI), adjusted for family size (15.52% at 30% AMGI, 11.49% at 50% AMGI, 54.02% at 60% AMGI, 10.92% at 80% AMGI, and 8.05% at market). A visit to the subject site was performed by Robert O. Coe, II on July 25, 2019. The following table exhibits the unit mix for the proposed project, as supplied by the client.

SUBJECT UNIT MIX			
No. Units	Type	Size (SF)	Total Area
20	1 BR / 1 BA C	730	14,600
52	1 BR / 1 BA	773	40,196
4	1 BR / 1 BA	779	3,116
9	1 BR / 1 BA C	808	7,272
10	1 BR / 1 BA	823	8,230
1	1 BR / 1 BA C	826	826
2	1 BR / 1 BA	829	1,658
30	1 BR / 1BA	859	25,770
2	1 BR / 1 BA	863	1,726
4	1 BR / 1 BA	874	3,496
18	2 BR / 1 BA	952	17,136
7	2 BR / 2 BA C	1,026	7,182
4	2 BR / 2 BA C	1,071	4,284
1	2 BR / 2 BA	1,082	1,082
10	2 BR / 2 BA	1,223	12,230
174		855	148,804
Total Net Rentable Area (SF):			148,804

The net rentable area of the subject project is reported to be ±148,804 square feet. The following is a description of the various improvement construction components (based on conversations with the developer).

Foundation:	Reinforced concrete slab
Building Type:	Three-story elevator-served building (common amenities and facilities within), and one-story “cottage” buildings
Exterior Walls:	Stone, stucco, and Fiber Cement siding veneer
Roofing:	Pitched roofs
Unit Finish:	Partitions between units will be wood studs with painted sheetrock panels. Floor coverings will be vinyl plank flooring and carpet. Ceilings will be textured sheetrock. Kitchen packages will include a refrigerator, oven/ranges, microwave, rangehood and fan, and a disposal.
Unit Configuration:	Accommodation for each unit will comprise a combined living/dining area, kitchen area, 1- or 2-bedrooms with closets and one bathroom.
Unit Amenities:	Units will feature closets, kitchen packages, ceiling fan, and miniblinds.
Fixtures:	Plumbing and light fixtures are assumed to be adequate for an apartment complex in the subject area.
Water Heaters:	Hot water will be provided by individual electric water heaters.
Insulation:	Adequacy not known; assumed adequate.
Heating/Cooling:	Individual HVAC units with individually controlled thermostats.
Parking:	The subject is expected to have adequate open parking. Cottage units feature an attached carport.
Landscaping:	The landscaping is expected to be attractive and well presented.
Exterior Amenities:	Courtyard areas, meeting room, common laundry, pool.
Fence:	Partial perimeter fence.
Access Gates:	No.
Laundry:	Hookups in units and central laundry facilities.

Building Area:	148,804 SF (NRA)
Total GBA:	164,584 SF
Land/Bldg. Ratio:	1.59:1 (NRA)
Units/Acre Ratio:	±23.63:1
Elevators/Stairs:	Yes/Yes
Occupancy:	±95% (stabilized)
Year Built:	Currently under construction
Condition:	The complex will be in new condition when completed. The building is estimated to have a useful life of 55 years.
Functional Utility:	The subject improvements are anticipated to be adequately functional when compared with competing properties in the neighborhood.

Statement of Ownership

The subject site is currently owned by the Austin Housing Finance Corporation, which purchased the subject site from Austin Goodnight Ranch LP on March 15, 2018 for \$1,957,500. The property is reportedly under a long-term ground lease option to Austin DMA Housing III, LLC for a nominal annual rent. No other arms-length transactions involving the subject are known to have occurred within the last three years.

Purpose of Appraisal Report

The purpose of this assignment is to analyze the subject property's multifamily market and determine whether sufficient potential demand exists to justify acquisition and construction of the subject property. For the purposes of this report, potential demand is the pool of households that are income qualified (household income does not exceed applicable program limits), age qualified, and can afford the proposed development's rents (rents are no more than 50% of household income).

Definitions

The following applicable definition was abstracted from *The Appraisal of Real Estate*, Thirteenth Edition, by The Appraisal Institute.

Market Rent

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements. Source: Appraisal Institute, *The Dictionary of Real Estate Appraisal*, Fifth Edition, copyright 2010.

Market Analysis

“A macroeconomic analysis that examines the general market conditions of supply, demand, and pricing of the demographics of demand for a specific area or property type.”

SCOPE OF APPRAISAL ASSIGNMENT

Use of the Assignment

The use of this assignment is understood to be for decision-making purposes of the client.

Development and Reporting Process of the Assignment

Market data, including sales and lease information, was obtained from sources deemed to be reliable, including, but not limited to, on-site personnel. This report fully discusses all pertinent data, descriptions, and discussions germane to the subject of this report. A copy of this report and the data included herein have been retained in my files.

Effective Date of the Assignment

The descriptions, analyses, and conclusions of this report are applicable as of July 25, 2019.

Date of the Report

The preparation of this report was completed on September 4, 2019.

Data Sources

EnrichedData was consulted for apartment statistics. All rental information for the comparable properties has been verified by the market analyst. Census data was obtained from Environics Spotlight and Ribbon Demographics, recognized sources of demographic data throughout the United States and the U.S. Census Bureau.

Housing Tax Credit, Multifamily Bond, and Section 8 – Summarized

The Housing Tax Credit (HTC), originally formulated as the “Low Income Housing Tax Credit,” was created by the Tax Reform Act of 1986 to spur the development of affordable housing for residents of moderate means. It is not federally subsidized housing. It is not housing for the impoverished, unemployed, or homeless. The Tax Credit Program was instituted to provide quality housing at reasonable costs.

The Multifamily Bond Program is similar to the HTC program in that it provides quality housing at affordable costs for residents of moderate means. The TDHCA issues tax-exempt and taxable multifamily MRB’s to fund loans to for-profit and qualifying nonprofit organizations for the acquisition or development of affordable rental units. Bond properties typically receive some tax credits as well as bonds. A recommendation is made to the TDHCA governing board and, if approved, additional approval is required by the Texas Bond Review Board. Properties financed through the programs are subject to unit set aside restrictions for lower income tenants and persons with special needs, tenant program initiatives, maximum rent limitations, and other requirements as determined by TDHCA and its board.

Tenants at HTC and bond properties must be income qualified. The income qualifications will adjust annually based on the median income for the Austin MSA.

The following table illustrates the maximum 2019 income for HTC projects.

Travis - County Housing Tax Credit 2019 Income Ceilings for Qualifying Tenants							
Median Income							
Size of Household	20%	30%	40%	50%	60%	70%	80%
1 Person Household	\$ 13,260	\$ 19,890	\$ 26,520	\$ 33,150	\$ 39,780	\$ 46,410	\$53,040
2 Person Household	\$ 15,140	\$ 22,710	\$ 30,280	\$ 37,850	\$ 45,420	\$ 52,990	\$60,560
3 Person Household	\$ 17,040	\$ 25,560	\$ 34,080	\$ 42,600	\$ 51,120	\$ 59,640	\$68,160
4 Person Household	\$ 18,920	\$ 28,380	\$ 37,840	\$ 47,300	\$ 56,760	\$ 66,220	\$75,680
5 Person Household	\$ 20,440	\$ 30,660	\$ 40,880	\$ 51,100	\$ 61,320	\$ 71,540	\$81,760
6 Person Household	\$ 21,960	\$ 32,940	\$ 43,920	\$ 54,900	\$ 65,880	\$ 76,860	\$87,840
7 Person Household	\$ 23,480	\$ 35,220	\$ 46,960	\$ 58,700	\$ 70,440	\$ 82,180	\$93,920
8 Person Household	\$ 24,980	\$ 37,470	\$ 49,960	\$ 62,450	\$ 74,940	\$ 87,430	\$99,920

In addition, HTC and bond projects will limit rents to an annually adjusted cap that is keyed to the median income for the Austin MSA. The cap for a project can go up annually over time, but can never be reduced below the cap that was in effect upon placing the project in service. The subject structure is designed to operate below the cap, so that increases in operating expenses may be met with corresponding increases in rental rates, without immediate limitation imposed by the rent cap.

The following chart illustrates the maximum 2019 rents for HTC and bond projects for families at 20% to 80% of median income. Handicapped units are no longer separated by the Texas Department of Housing and Community Affairs (TDHCA).

Maximum Permitted Rents						
2019	Efficiency	1 BR	2 BR	3 BR	4 BR	5 BR
20%	\$331	\$355	\$426	\$492	\$511	\$605
30%	\$497	\$532	\$639	\$738	\$823	\$908
40%	\$663	\$710	\$852	\$984	\$1,098	\$1,211
50%	\$828	\$887	\$1,065	\$1,230	\$1,372	\$1,514
60%	\$994	\$1,065	\$1,278	\$1,476	\$1,647	\$1,817
70%	\$1,160	\$1,242	\$1,491	\$1,722	\$1,788	\$2,120
80%	\$1,326	\$1,420	\$1,704	\$1,968	\$2,196	\$2,423

The Housing and Community Development Act of 1974 authorized the Housing Assistance Payments Program (Section 8). Section 8 provides rental assistance to low-income families, elderly, disabled, and handicapped individuals. This Program provides financial assistance to eligible families whose annual gross income does not exceed 50% of HUD's median income guidelines (in most instances). Demographic projections indicate a continuing population and household growth in segments that generally create the largest demand on affordable housing supply.

AUSTIN AREA DATA

General Location

Austin is the state capital of Texas and is the county seat of Travis County. It is bordered on the north by Williamson County and on the south by Hays County. Bastrop and Caldwell Counties adjoin Travis County to the southeast. The city is strategically located near the center of the state and surrounded by the three largest metropolitan areas in Texas that form a triangle around it. The Dallas-Fort Worth area is 170 miles to the north, Houston is 130 miles to the east, and San Antonio is 60 miles to the southwest.

General Location

Austin is the state capital of Texas and is the county seat of Travis County. Travis County is bordered on the north by Williamson County, and on the south by Hays County. Bastrop and Caldwell Counties adjoin Travis County to the southeast, and Burnet and Blanco Counties border it to the west. The city is strategically located near the center of the state and surrounded by the three largest metropolitan areas in Texas that form a triangle around it. The Dallas-Fort Worth area is 170 miles to the north, Houston is 130 miles to the east, and San Antonio is 60 miles to the southwest.

Demographics

Growth Trends

The City of Austin and its Metropolitan Statistical Area (MSA - which includes Travis County, Williamson County, Hays County, Caldwell County, and Bastrop County) has experienced rapid population growth over the last thirty years. The MSA passed the 1,000,000 population threshold in 1997, passed the 1,500,000 threshold in 2005, passed the 2,000,000 population in 2016, and is projected to pass the 2,200,000 threshold by 2021.

For years, this MSA consisted of a three-county group; however, in 1988, two additional counties were added to the group, bringing the MSA to its current composition. Austin forms the heart of this MSA and is situated in both Travis and Williamson Counties. The area is currently named the Austin-Round Rock-San Marcos Metropolitan Statistical Area.

Because of its draw as a destination for migrating talent, metro Austin's population surpassed 2.0 million in 2015. The decade ending 2015 saw a 37.7% increase in population, and growth was 3.0% for the year ending July 2015. Austin ranked first among the 50 largest U.S. metros based on net migration as a percent of total population in 2015. In addition, 7.1% of Austin residents in 2014 lived elsewhere one year earlier. That is also the largest rate among the top 50 U.S. metros. The table on the following page details growth trends.

Greater Austin Profile: Population							
Population & Population Growth							
	1990	2000	2010	2015	Percent change		
					1990-2000	2000-2010	2010-2015
Austin MSA	846,227	1,249,763	1,716,289	2,000,860	47.7%	37.3%	16.6%
Bastrop Co.	38,263	57,733	74,171	80,527	50.9%	28.5%	8.6%
Caldwell Co.	26,392	32,194	38,066	40,522	22.0%	18.2%	6.5%
Hays Co.	65,614	97,589	157,107	194,739	48.7%	61.0%	24.0%
Travis Co.	576,407	812,280	1,024,266	1,176,558	40.9%	26.1%	14.9%
Williamson Co.	139,551	249,967	422,679	508,514	79.1%	69.1%	20.3%
Texas	16,986,335	20,851,820	25,145,561	27,469,114	22.8%	20.6%	9.2%
United States	248,709,873	281,421,906	308,745,538	321,418,820	13.2%	9.7%	4.1%
10 largest cities							
Austin	494,290	656,562	790,390	931,830	32.8%	20.4%	17.9%
Cedar Park	8,862	26,049	48,937	65,945	193.9%	87.9%	34.8%
Georgetown	16,117	28,339	47,400	63,716	75.8%	67.3%	34.4%
Hutto	627	1,250	14,698	22,722	99.4%	1075.8%	54.6%
Kyle	2,280	5,314	28,016	35,733	133.1%	427.2%	27.5%
Leander	3,399	7,596	26,521	37,889	123.5%	249.1%	42.9%
Pflugerville	5,776	16,335	46,936	57,122	182.8%	187.3%	21.7%
Round Rock	31,559	61,136	99,887	115,997	93.7%	63.4%	16.1%
San Marcos	29,072	34,733	44,894	60,684	19.5%	29.3%	35.2%
Taylor	11,437	13,575	15,191	16,702	18.7%	11.9%	9.9%

Source: U.S. Bureau of the Census, www.census.gov/popest/.

The table below details forecast for population trends.

Population Projections					
	2010	2020	2030	2040	2050
Austin MSA	1,716,289	2,306,857	3,035,547	3,960,317	5,176,940
Bastrop Co.	74,171	100,746	140,463	195,452	272,723
Caldwell Co.	38,066	49,202	63,015	77,373	92,180
Hays Co.	157,107	246,119	372,120	556,982	824,070
Travis Co.	1,024,266	1,277,007	1,519,407	1,749,761	2,011,009
Williamson Co.	422,679	633,783	940,542	1,380,749	1,976,958
State of Texas	25,145,561	30,541,978	37,155,084	44,955,896	54,369,297
Growth rates					
	2010-2020	2020-2030	2030-2040	2040-2050	
Austin MSA	34.4%	31.6%	30.5%	30.7%	
Texas	21.5%	21.7%	21.0%	20.9%	

Source: Texas State Data Center, 2014 Population Projections, <http://txsdc.utsa.edu/Data/TPEPP/Projections/Index.aspx>.

General Characteristics of Population: The general characteristics of Austin's population reflect a young and highly educated group. Further, their household income levels are some of the highest in the state:

Educational Attainment of Persons 25 Years or Older, 2014			
	Austin MSA	Texas	United States
High school graduate or higher	88.9%	82.2%	86.9%
At least some college	69.3%	57.0%	59.2%
Bachelor's degree or higher	41.5%	27.8%	30.1%
Graduate degree	15.1%	9.6%	11.4%

Source: U.S. Bureau of the Census, <http://www.census.gov/acs/www/>.

Population Distribution by Age, 2014			
	Austin MSA	Texas	United States
0-17	24.2%	26.4%	23.1%
18-24	10.2%	10.2%	9.9%
25-44	32.8%	28.0%	26.4%
45-64	23.3%	23.9%	26.2%
65+	9.5%	11.5%	14.5%
Source: U.S. Bureau of the Census, http://www.census.gov/popest/index.html .			

Income, 2014			
	Austin MSA	Texas	United States
Median household income	\$63,603	\$53,035	\$53,657
Median family income	78,927	62,830	65,910
Per capita income	32,549	27,125	28,889
Source: U.S. Bureau of the Census, http://www.census.gov/acs/www/ .			

The University of Texas is situated in the heart of Austin’s CBD and is one of the 10 largest colleges in the U.S. According to *The Public Ivies: America's Flagship Public Universities* (2001) by Howard and Matthew Greene, The University of Texas at Austin is one of America's "Public Ivy" institutions of higher education, defined by the authors as a public institution that "provides an Ivy League collegiate experience at a public school price." There are six other public/private universities and colleges located in the Metro area. As a result, the population is highly educated:

Ten largest public university campuses by enrollment during the 2017–18 academic year				
Ranking	University	Location	Enrollment	Reference(s)
1	University of Central Florida	Orlando, Florida	66,183	[1]
2	Texas A&M University ^[note 1]	College Station, Texas	66,069	[2]
3	Ohio State University	Columbus, Ohio	59,837	[3]
4	Florida International University	Miami, Florida	56,851	[4]
5	University of Florida	Gainesville, Florida	52,669	[5]
6	University of Minnesota	Minneapolis/Saint Paul, Minnesota	51,848	[6]
7	University of Texas at Austin	Austin, Texas	51,525	[7]
8	Arizona State University ^[note 2]	Tempe, Arizona	51,164	[8]
9	Georgia State University	Atlanta, Georgia	51,000	[9]
10	University of South Florida	Tampa, Florida	50,577	[10]

Source: http://en.wikipedia.org/wiki/List_of_United_States_university_campuses_by_enrollment

Government Influences

Federal & State Government: Austin is the state capitol of Texas and, consequently, is home to a large number of state agencies. It is also the location of offices for more than 50 federal

agencies, a regional IRS service center (recently expanded), and nearly 350 state and national associations. In 1993, the United States Defense Department closed Bergstrom Air Force Base due to national military cutbacks however the site has undergone a redevelopment into the site of the Austin-Bergstrom International Airport. A new (2012) seven-story United States District Courthouse building is located in the Central Business District. Funding for this \$116 million project was provided by the American Recovery and Reinvestment Act stimulus bill. Just a block away, Travis County recently purchased a block of land for a record price of \$21.75 million dollars to build a 500,000 SF county courthouse in the future.

Zoning Ordinances: The City of Austin and the areas under its extra territorial jurisdiction (ETJ) are currently operating under a complex zoning ordinance adopted in 1989. Austin has one of the strictest development codes in the nation. Majority of these ordinances address water quality, storm water flooding, and park land and shoreline preservation. In certain environmentally sensitive areas, which are typically areas with flowing water draining into the Edwards Aquifer Recharge Zone, maximum impervious coverage is routinely limited to 15% or less. Strict development standards in most of Austin, plus the proliferation of special interest group's input to the decision-making process regarding property usage, causes a longer than typical time frame in obtaining land-use approvals.

The most recent Watershed Regulation Areas map divides the Metro area into two zones, the Desired Development Zone and the Drinking Water Protection Zone. Properties located in the Drinking Water Protection Zone are typically those with the most development restrictions.

Utilities

Water: Austin benefits from a number of water resources. Lady Bird Lake and Lake Austin, two large man-made reservoirs formed by the damming of the Colorado River, serve as Austin's primary source of drinking water. The city owns and operates two water-purifying plants that have a rated combined maximum capacity of 310 million gallons/day (mgd) and a storage capacity of 167 million gallons in 34 reservoirs. Their capacity is more than adequate to meet the current community's needs. This city had recently closed the Thomas C. Green Water Treatment Plant at the end of 2008 due to the age, condition, location, and limited function of the facility. The recent upgrades to the Ullrich WTP provided the capacity necessary to close the 80-year old plant. The city is built a new water treatment plant, known as Water Treatment Plant 4, on 94 acres of land located at the southwest corner of Ranch Road 620 and Farm to Market 2222 in close proximity to the local 3M administrative facility. While not currently needed, the city is also building a new water plant with the anticipation that the city's population will grow by 500,000 in the next 30 years. It also has received extended permit rights to obtain water for this approved plant from Lake Travis through the Lower Colorado River Authority. Development of this site is currently in the planning phases. This first phase of this water treatment plant (WTP4) was operational in 2014 and has the capacity to treat 50 mgd currently, with the ultimate capacity reaching 300 mgd after all the phases are built. At the present time, the city, as a whole, appears to have sufficient and abundant water supplies to meet demand into the foreseeable future. In addition, the Austin Water Utility has executed an agreement with LCRA that guarantees water supply for the City's corporate limits and ETJ to the end of the century. LCRA has rights to more than 2.1 million acre-feet of water per year.

The Edwards Aquifer, a large underground reservoir that extends southwest from Austin, provides water for a small portion of the metropolitan area's southwest population, primarily within Hays County. The Edwards Aquifer Regulatory Committee's function is to review development over the aquifer to protect the integrity of this water source. The aquifer presently is being heavily pumped, and water rationing has been necessary in some extremely dry years. Responsible water and wastewater management will be of importance to the future prosperity of the southwest metropolitan area, which presently depends upon the aquifer as their major source of water.


Wastewater: The City of Austin Water Utility, the region's largest municipal supplier, operates three wastewater plants with a current combined permitted capacity of approximately 160+ million gallons per day (mgd). In addition, there is a fourth wastewater treatment plant, referred to as the Hornsby Bend plant, which treats solid waste at about an average of 1.1 to 1.2 mgd. Thus, the current wastewater capacity is more than adequate to handle the city's wastewater needs.

Electricity, Gas & Telephone: Electricity for the city is provided by the City of Austin serviced by Austin Energy, a publicly owned utility company. The current total generation capacity is 2,600+ megawatts majorly produced by using natural gas fuel with several plants producing electricity by using coal, nuclear, or wind fuel. Other major providers of electricity in the metropolitan area include Pedernales Electric Cooperative, Bastrop Power & Light, Bluebonnet Electric Cooperative, City of Lockhart, Energy Future Holdings (formerly TXU), Georgetown Utilities Systems, and San Marcos Electric Utility. The electric capacity is, presently, more than adequate to support the population base. Atmos Energy, CenterPoint, and Texas Gas Service are suppliers of natural gas for the area. Telephone service is provided primarily through AT&T.


Economic Profile & Indicators

Many factors can be considered in looking at an economic profile and major economic indicators of a community. In this case, a brief description of the history of the local economy is given followed by more detailed information regarding current national and metropolitan area's economy.

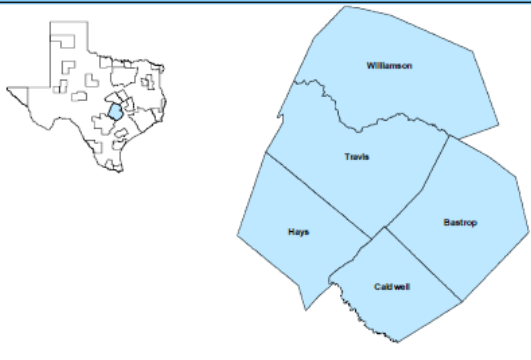
The Austin MSA unemployment rate as reported in June 2019 at 2.7%, up from May 2019's 2.2%, but down from June 2018's 3.7%. Most recent trends suggest the employment is stabilized at levels significantly better than previous recessionary levels. The chart on the following page provides a summary of the employment categories for the Austin MSA.



TEXAS
Labor Market
Information



Austin-Round Rock MSA



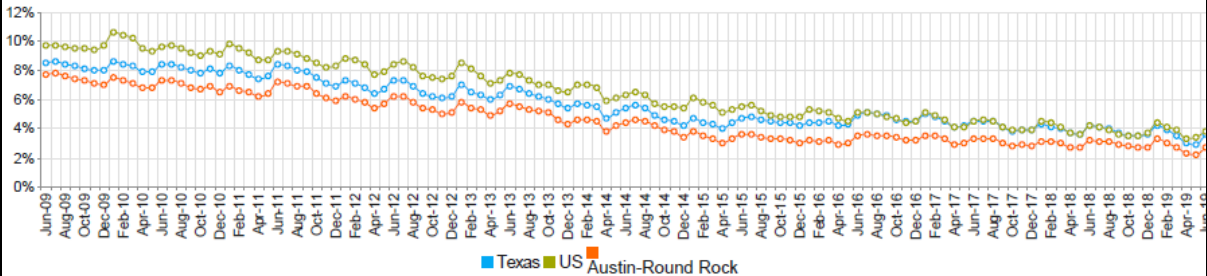
June 2019

MSA Labor Force Statistics				
	Jun-19	May-19	Jun-18	Yearly Change
Civilian Labor Force	1,215,794	1,210,013	1,201,136	14.6%
Employed	1,182,567	1,183,030	1,162,559	20.0%
Unemployed	33,197	26,983	38,577	-5.3%
Unemployment Rate	2.7%	2.2%	3.2%	-0.5%

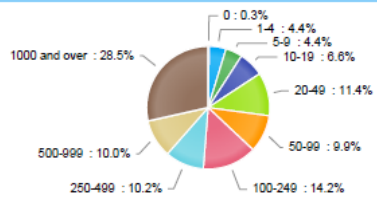
Texas Labor Force Statistics				
	Jun-19	May-19	Jun-18	Yearly Change
Civilian Labor Force	14,043,429	13,996,995	13,866,660	176.7%
Employed	13,542,322	13,558,482	13,281,765	280.5%
Unemployed	501,107	408,513	584,895	-83.7%
Unemployment Rate	3.6%	2.9%	4.2%	-0.6%

US Labor Force Statistics				
	Jun-19	May-19	Jun-18	Yearly Change
Civilian Labor Force	164,120,000	162,656,000	163,277,000	843.0%
Employed	157,826,000	157,152,000	156,465,000	1,363.0%
Unemployed	6,292,000	5,503,000	6,812,000	-500.0%
Unemployment Rate	3.8%	3.4%	4.2%	-0.4%

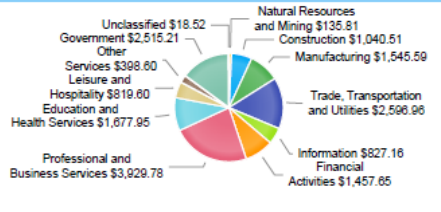
Historical Unemployment Rates



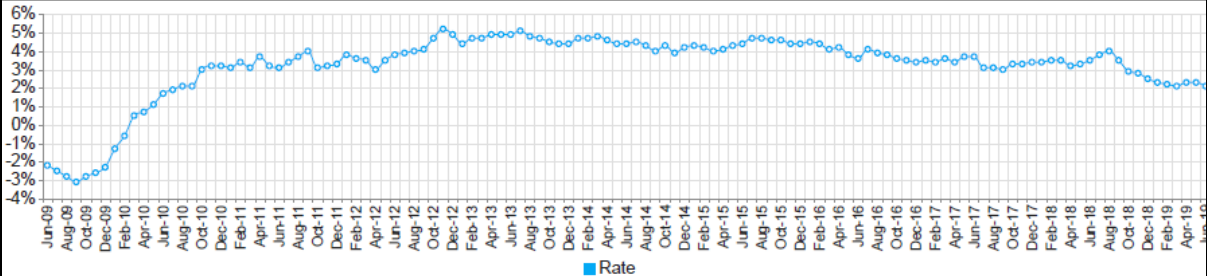
Employment by Size Class (4th Quarter 2018)



Wages by Industry (in millions) (4th Quarter 2018)



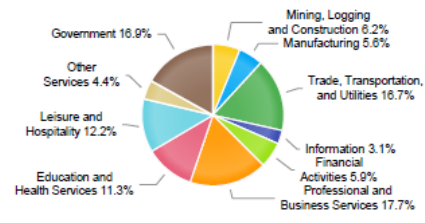
Annual Growth Rate Total Non-agricultural employment



Employment by Industry (June 2019)

Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	1,099,500	0.4%	2.1%
Mining, Logging and Construction	68,600	2.1%	5.4%
Manufacturing	61,300	0.8%	0.8%
Trade, Transportation, and Utilities	183,200	1.0%	2.6%
Information	34,600	1.5%	4.8%
Financial Activities	65,200	1.1%	3.5%
Professional and Business Services	194,300	0.6%	4.1%
Education and Health Services	124,600	-1.3%	1.1%
Leisure and Hospitality	133,600	-0.3%	-0.1%
Other Services	48,200	2.6%	2.6%
Government	185,900	-0.4%	0.1%

Employment by Industry (June 2019)



Page 1 of 1
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Major Employers: The State of Texas alone employs over 65,000 people in the Austin area. While all of the major government employers are important, The University of Texas is felt to be the nucleus of growth in the current economy. According to the National Association of College and University Business Officers, the University of Texas System ranks fifth in total size of endowment at \$12.2 billion ranked behind Harvard University, Yale University, Stanford University, and Princeton University in that order. This indicates a benefit of approximately \$120,000 per student enrolled based on 50,000 students. UT presently has 288 endowed chairs, 506 endowed professorships, and 265 endowed faculty fellowships and lectureships.

The following table shows the largest five public employers in the metro.

AUSTIN'S LARGEST EMPLOYERS			
Rank	Company	Description	Employed
1	Dell Inc.	Computer	13,000
2	Seton Healthcare	Health care	10,945
3	HEB	Retail grocery store	11,277
4	St. David's Healthcare	Health care	8,369
5	IBM Corp	Information technology	6,000

Source: *Austin Business Journal*

Housing

The Austin-area continued to break records in home sales and median price for single-family homes. In the first half of 2019, single-family home sales increased 4.3 percent year-over-year to 16,203 home sales in the Central Texas region. Nearly 80 percent of those homes were sold outside of Austin's city limits.

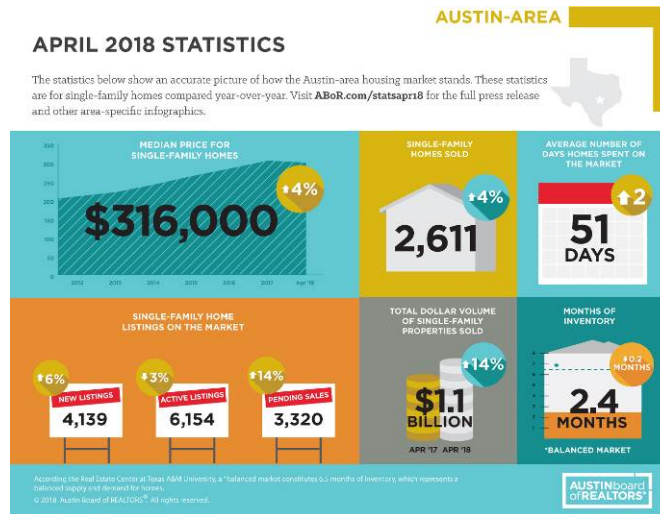
Hays County experienced the 6.3% annual gain in home sales in the first half of 2019 jumping to 1,861 home sales. In the City of Austin, single-family home sales decreased 1.6% year over year to 4,736 homes. Williamson County in the first half of 2019 experienced a 7.8% increase in homes sales year-over-year with 5,783 homes sold. "Hays County is one of Austin's few surrounding areas with entry-level homes priced less than \$200,000, a price point with high demand," said Mark Sprague, State Director of Information Capital for Independence Title. "In Williamson County, demand is highest for homes priced between \$200,000 and \$400,000, but there is not sufficient housing stock to meet demand, particularly in Round Rock and Pflugerville." Travis County reported a 1.1% year-over year increase in home sale at 7,872 homes. The median price within the City of Austin jumped 3.2% to \$387,1000. during the same time frame.

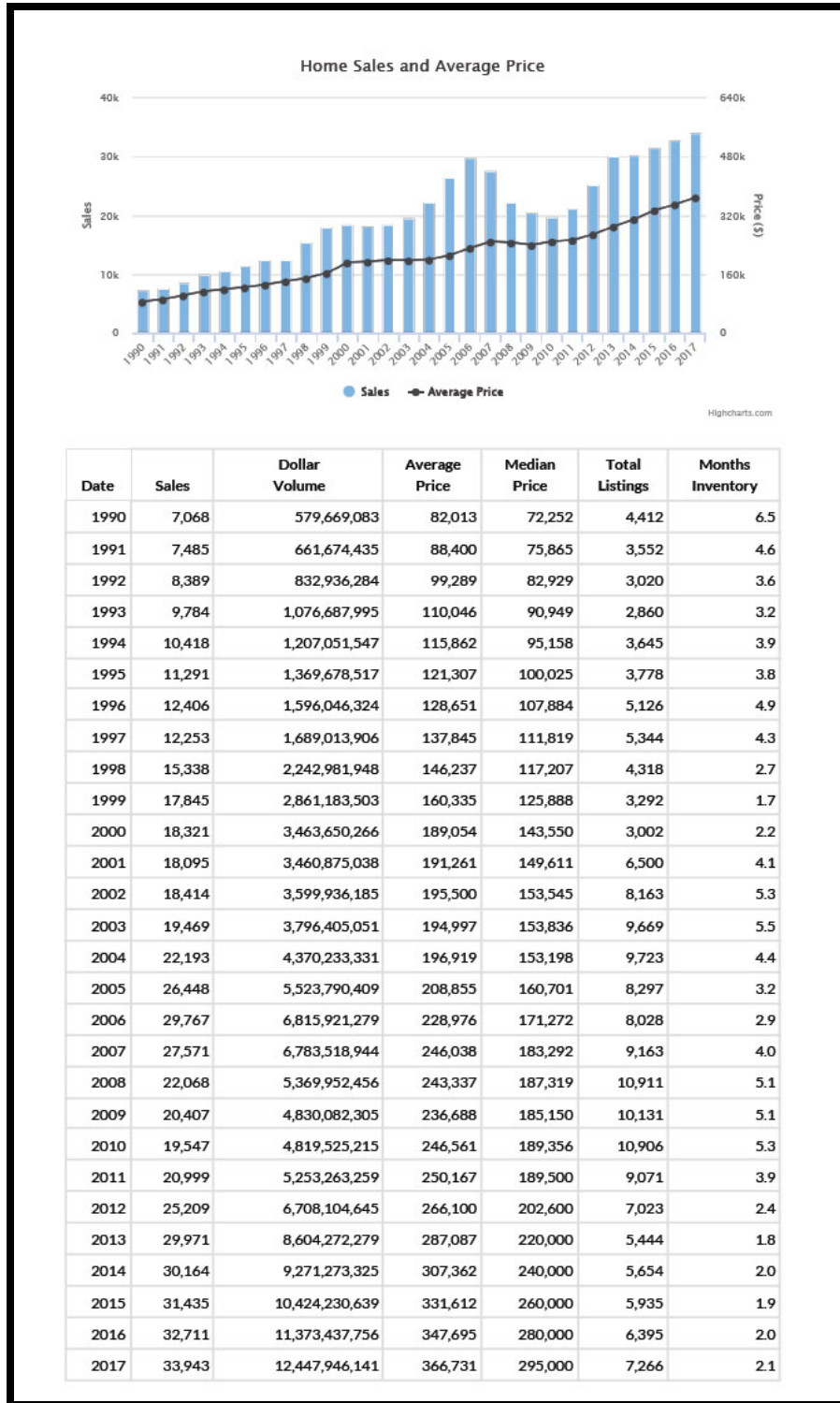
Monthly housing inventory in the Austin-Round Rock MSA remained low at 2.0 months. This is nearly two-thirds less than the 6.5 month-level the Real Estate Center at Texas A&M University cites as a market in which supply and demand for homes is balanced.

However, Austin is one of the U.S. cities most at risk for falling home prices for the next two years due to the effect of sagging oil prices on the state's economic prospects according to the winter 2016 housing and mortgage market report by California-based Arch Mortgage Insurance Co., which ranked the Austin-Round Rock area No. 2 nationally on its list of cities that could

experience housing price slumps. Austin has a 26 percent chance of declining home prices, up 9 percentage points from a year ago, which the Arch researchers consider "moderate" risk. The report highlights the heightened risk of falling home prices across Texas. The five most at-risk cities nationwide are all in the Lone Star State, with Houston at No. 1 (36 percent chance of falling home prices), Dallas at No. 3 (26 percent), Fort Worth at No. 4 (26 percent) and San Antonio at No. 5 (26 percent).

The tables below detail some statistics for the Austin housing market.





Summary and Conclusion

In conclusion, the Metro has continued to experience positive net job and population growth albeit the falling of oil prices and lagging national recovery from the Great Recession. Low oil prices and a strong U.S. dollar cooled the Texas economy's growth in 2015, and likely will continue to do so, according to most forecasts. In the midst of that, though, Austin keeps chugging along, with only a little slowing at the edges of this fast-growing region. Given the pace of its ongoing expansion and the size it has attained, the metro economy probably will moderate no matter the effect of oil prices, said Brian Kelsey, principal of Civic Analytics, an Austin-based economic consulting firm.

The long-term outlook for the Austin metropolitan area is positive with some experts forecasting that the local residential real estate market could be undersupplied in the next three years based on record low home starts. The sustained low energy prices that forced layoffs across many parts of the state in 2015 could weigh on Austin's growth, especially if tax collections suffer and state government payrolls are pared. However, most experts predict the Austin MSA will continue to significantly outpace the state and national economy in the long run.

2. PRIMARY MARKET AREA DEFINED

PRIMARY MARKET AREA ANALYSIS

Subject Primary Market Area

For the purposes of this report, the subject's primary market area is generally defined as that area contained within census tracts 48453001747, 48453001772, 48453001774, 48453002402, 48453002407, 48453002409, 48453002410, 48453002421, 48453002422, 48453002423, 48453002424, 48453002425, 48453002426, 48453002427, 48453002428, 48453002429, 48453002430, and 48453002432. The area is bound by Highway 183 to the east; FM1626, Southern Travis County Line, FM 1625, Frate Barker Road, Brodie Lane, Slaughter Creek, the railroad tracks, Slaughter Lane, Curlew Drive, Marsh Drive, Leo Street, Davis Lane, and the railroad tracks to the west; Williamson Creek, William Cannon Drive, Nuckols Crossing Drive, Colton Bluff Springs Road, and McKinney Falls Parkway to the north; and FM 1327, Interstate 35, and the southern Travis County line to the south, and is within all or part of zip codes 78744, 78746, 78747, and 78748. The PMA is irregular in shape and does not generally follow natural land features such as watercourses or major Highways and roads.

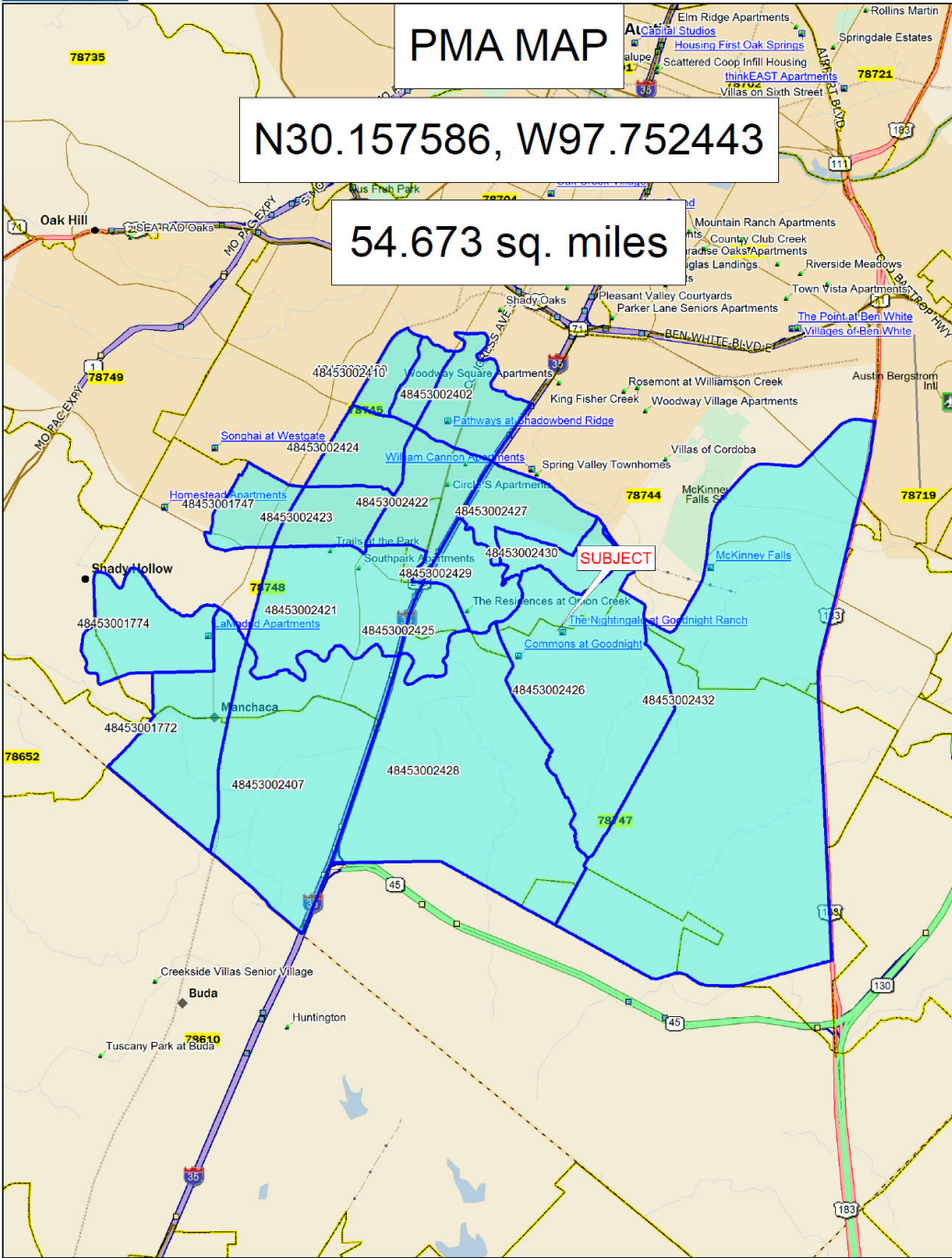
Due to an adequate network of highways and primary thoroughfares, the subject property is readily accessible from the populated areas within the primary market area.

PMA MAP

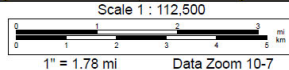
N30.157586, W97.752443

54.673 sq. miles

SUBJECT



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Geographies Selected:

<u>Geocode/ ID</u>	<u>State</u>	<u>County</u>	<u>MCD</u>
48453001747	Texas	Travis County	Austin CCD
48453001772	Texas	Travis County	Austin CCD
48453001774	Texas	Travis County	Austin CCD
48453002402	Texas	Travis County	Austin CCD
48453002407	Texas	Travis County	Austin CCD
48453002409	Texas	Travis County	Austin CCD
48453002410	Texas	Travis County	Austin CCD
48453002421	Texas	Travis County	Austin CCD
48453002422	Texas	Travis County	Austin CCD
48453002423	Texas	Travis County	Austin CCD
48453002424	Texas	Travis County	Austin CCD
48453002425	Texas	Travis County	Austin CCD
48453002426	Texas	Travis County	Austin CCD
48453002427	Texas	Travis County	Austin CCD
48453002428	Texas	Travis County	Austin CCD
48453002429	Texas	Travis County	Austin CCD
48453002430	Texas	Travis County	Austin CCD
48453002432	Texas	Travis County	Austin CCD

PHYSICAL LOCATION ANALYSIS

Location

The subject site is located on the north line of Charles Merle Drive, west of Vertex Boulevard and south of Nuckols Crossing Road, in Austin, Travis County, TX 78747. The subject is located in the central portion of the primary market area and has frontage along the north line of Charles Merle Drive.

The subject site is located within the Goodnight Ranch multi-use development. Goodnight Ranch, located 8 miles south of downtown Austin, will be a 700+ acre urban, master-planned community under development for the next decade. Currently a somewhat suburban location, the future of the site is touted as “an urban pocket where people will live, work, play, and thrive.” The community will include 3,500 units of housing including for-rent apartments and for-sale condos at attainable price points – offering relief from other high-priced urban options in Austin. Approximately 226,000 square feet of projected retail and office space will provide residents services within walking distance. Further setting the development apart will be 120 acres of green space, 3 miles of trails, and connectivity to a neighboring 550-acre metro park in Onion Creek. The following graphic depicts the layout of Goodnight Ranch.



Site Description

The subject site is an irregularly-shaped tract of land containing ± 7.3620 acre ($\pm 320,689$ square feet), and appears to be relatively flat in topography.

Surrounding Land Uses

Land uses adjacent to the subject site include vacant land and an elementary school to the east; vacant land to the north, single-family residential development to the south, and vacant land and single-family residential development to the west.

Zoning

The subject is located in the City of Austin, which utilizes zoning to regulate development. The subject site is reportedly zoned PUD. It is my understanding that the proposed development is allowed under this designation. Property usage may also be governed by deed restrictions specific to a property. Property usage may also be governed by deed restrictions specific to a property. The appraisers were not provided a copy of any deed restrictions, and my conclusions are subject to revision should any adverse deed restrictions be present that are detrimental to the subject site.

Floodplain

Based on FEMA Flood Map Panel 48453C0595J, dated January 6, 2016, the site appears to be located in unshaded Zone X, an area determined to be outside the 100-year flood plain. This determination is made by graphic plotting only and is not guaranteed. I recommend a surveyor be utilized to determine precise flood plain status.

Utilities/Public Services

All public utilities are available to the subject site. Water and sewer services are available from the City of Austin. I have assumed that sufficient utilities are available to the site to develop the site to its highest and best use. I have not independently verified these facts. Electricity is provided by mainly by Austin Energy. Natural gas is provided by Texas Gas Service, and local telephone service is provided by or through AT&T.

Nuisances

There do not appear to be any nuisances adjacent to the subject property. No adverse easements or encroachments were noted, either on the subject or nearby properties.

Accessibility

The subject's site is accessible from the Austin Central Business District by proceeding south on Interstate 35 approximately 6 miles to William Cannon Road, then east on William Cannon Road approximately 1/4 mile to Bluff Springs Road, then south/southeast on Bluff Springs Road approximately 2.2 miles to Nuckols Crossing Road, then east on Nuckols Crossing Road approximately 1.2 miles to Charles Merle Drive, then west to the subject site on the right.

Streets

At the subject site, Charles Merle Drive is a one lane in each direction, concrete-paved roadway with concrete curb and gutter drainage.

Topography

Based on my observation, the site appears to be relatively level, and at street grade.

Easements/Encroachments

Based on my site visit and review of available maps, no easements or encroachments were noted which would be *detrimental* to development of the subject property.

Soil and Sub-Soil Conditions

No soil engineer's report was available to us and no recent soil tests are known to have been performed. Based on my observation of surrounding development in the immediate area and lack of further evidence to the contrary, I have assumed a stable soil condition that would ensure the structural integrity of any improvement which may be constructed. My value conclusions could change should these assumptions prove incorrect. I caution and advise the user of this report to obtain engineering studies which may be required to ascertain any structural integrity.

Environmental Conditions

No environmental report was available to us and no recent environmental tests are known to have been performed. Because I have no evidence to the contrary, I have assumed that the property is free of any material which would adversely affect the value, including, but not limited to, asbestos and toxic waste. My value conclusions are subject to revision should these assumptions prove incorrect. I caution and advise the user of this report to obtain environmental studies which may be required to ascertain status of the property with regard to asbestos and other hazardous materials

NEIGHBORHOOD TRENDS

The subject's neighborhood is bound by Highway 183 to the east; FM1626, Southern Travis County Line, FM 1625, Frate Barker Road, Brodie Lane, Slaughter Creek, the railroad tracks, Slaughter Lane, Curlew Drive, Marsh Drive, Leo Street, Davis Lane, and the railroad tracks to the west; Williamson Creek, William Cannon Drive, Nuckols Crossing Drive, Colton Bluff Springs Road, and McKinney Falls Parkway to the north; and FM 1327, Interstate 35, and the southern Travis County line to the south. The area is generally contained in all or a portion of zip codes 78744, 78746, 78747, and 78748, and within census tracts 48453001747, 48453001772, 48453001774, 48453002402, 48453002407, 48453002409, 48453002410, 48453002421, 48453002422, 48453002423, 48453002424, 48453002425, 48453002426, 48453002427, 48453002428, 48453002429, 48453002430, and 48453002432. These boundaries have been defined because the properties within them tend to exhibit similar characteristics, physical features, price desirability, and they are affected by similar physical, economic, governmental, and social forces.

PMA Major Thoroughfares

North/South Arteries: Interstate Highway 35, and Highway 183

East/West Arteries: Slaughter Lane, William Cannon Drive, and FM 1327

Land Use Patterns

The subject neighborhood is a viable, heterogeneous area in the southern portion of Austin. Land uses in the neighborhood consist of a variety of commercial and residential land uses, including, but not limited to, single-family residential subdivisions, multifamily, retail, and service developments. Commercial developments are found primarily along the major thoroughfares. Residential development is located in various middle to lower-income subdivisions throughout the neighborhood, with commercial development located along the aforementioned thoroughfares. The majority of housing in the area was constructed after the 1990's (with 2001 being the median year built). The general consensus among real estate professionals is that growth is expected into the near future.

Schools

The subject site is located in the Austin Independent School District. The closest schools to the subject include Blazer Elementary, Akins High School, and Paredes Middle School.

Shopping Centers

The nearest major retail facilities are located on or near I-35.

Recreational Centers

The closest public recreation areas include Onion Creek District Park, the Mary Moore Searight Metropolitan Park, and the McKinney Falls State Park. Goodnight Ranch is anticipated to contain over 120 acres of greenspace and outdoor recreational amenities.

Public Services

Police protection for the subject area is provided through City of Austin Police Department and Travis County Sheriff's Department. Fire protection services for the subject area are provided by the City of Austin and Travis County Fire Departments. The Sheriff's Office, the Fire

Department and EMS are connected to the Emergency Enhanced 911 System and can respond to an emergency within minutes. Medical services located within or near the subject neighborhood include Seton Hospital, Dell Seton Children's Hospital, and University Medical Center at Brackenridge.

Religious Facilities

There are numerous Baptist, Methodist, Catholic and other denominational churches within three miles of the subject.

Utilities and Services

Electricity is provided by numerous providers including Austin Energy. Natural gas is provided by Texas Gas Service, and local telephone service is provided by or through AT&T. The neighborhood is served mainly by Austin ISD, with schools of all levels located throughout the area.

AREA DEVELOPMENT AND GROWTH TRENDS

It appears that commercial properties, including single and multi-tenant facilities, are experiencing stable demand. Although in most instances, rental rates and occupancy levels have increased over the past decade, near future projections are for modest increases.

Demographic Profile

The primary market area had an estimated 2019 population of 112,801. The following table displays historical and projected population growth based on Environics Spotlight data (which is based on census data).

Population	2000	2010	2019	2024
Primary Market Area	59,844	86,709	112,801	123,561
Overall Growth	-	44.89%	30.09%	9.54%
Annual Growth		4.49%	3.34%	1.91%

1

The primary market area’s population (segmented by age) is depicted in the following table. The market area has a relatively balanced population in terms of age distribution.

Market Area Population By Age (2019)	
Age Group	Primary (%)
Under Age 5	6.89%
Age 5-14	14.25%
Age 15-24	12.57%
Age 25-34	17.25%
Age 35-44	15.94%
Age 45-54	12.54%
Age 55-64	10.50%
Age 65-74	6.87%
Age 75-84	2.53%
Age 85 +	0.67%
Total (may not add to 100% due to rounding)	100.01%
Median Age of Total Population	34.46

2

Households

Environics Spotlight estimates 42,826 households in the primary market area for 2019, and a projected 46,918 households for the year 2024.

Tenure (Number of Persons By Household)

Data on the number of persons per household in the primary market area is presented in the following table.

1 Environics Spotlight Demographics Pop-Facts: Demographic Snapshot Report for Primary Market Area; Page 1: www.EnvironicsSpotlightMarketPlace.com

2 Environics Spotlight Demographics Pop-Facts: Demographic Snapshot Report for custom market area (PMA); Page 2: www.EnvironicsSpotlightMarketPlace.com

Market Area # of Persons Per Household (2019)	
No. of Persons	Primary (%)
With 1 Person	26.55%
With 2 Persons	32.10%
With 3 Persons	16.54%
With 4 Persons	12.17%
With 5 Persons	6.87%
With 6 Persons	3.27%
With 7+ Persons	2.50%
Total (may not add to 100% due to rounding)	100.00%
Average Household Size	2.63

3

Tenure (Owner-Occupied vs. Rental Units)

In 2019, the primary market area had ±56.18% owner-occupied housing units and ±43.82% renter occupied units, according to Environics Spotlight estimates.

Market Area Income Per Household

The primary market area had an estimated 2019 *average* household income of \$89,245 with a *median* household income of \$72,018. The following table delineates income per household in the subject's market areas.

Market Area Income/Household (2019)	
	Primary (%)
Under \$15,000	5.97%
\$15,000 - \$24,999	4.99%
\$25,000 - \$34,999	8.29%
\$35,000 - \$49,999	12.64%
\$50,000 - \$74,999	20.36%
\$75,000 - \$99,999	16.05%
\$100,000 - \$149,999	20.29%
\$150,000 +	11.42%
Total (may not add to 100% due to rounding)	100.01%
2019 Average Household Income	\$89,245
2019 Median Household Income	\$72,018

4

As illustrated in the preceding chart, ±31.89% of the households living in the primary market area earn less than \$50,000 per year, with ±19.25% earning less than \$35,000 per year, and ±10.96% earning less than \$25,000 per year. Approximately 5.97% of the primary market area households earn less than \$15,000 per year.

3 Environics Spotlight Demographics Pop-Facts: Demographic Snapshot Report for custom market area (PMA); Page 6: www.EnvironicsSpotlightMarketPlace.com

4 Environics Spotlight Demographics Pop-Facts: Demographic Snapshot Report for custom market area (PMA); Page 6: www.EnvironicsSpotlightMarketPlace.com

ECONOMIC VIABILITY

Unemployment

The national unemployment rate was 4.0% in July 2019, compared to the June 2019 rate of 3.8%, and the 4.1% in July 2018. The Texas unemployment was 3.7% in July 2019, compared to the June 2019 rate of 3.6% and the July 2018 rate of 4.1%. The Austin – Round Rock MSA unemployment rate was 2.9% in July 2019, compared to the June 2019 rate of 2.7%, and the 3.1% from a year ago in July 2018.

Market Area Employment

The 2019 workforce by occupation data, as estimated by Environics Spotlight, is presented in the table below.

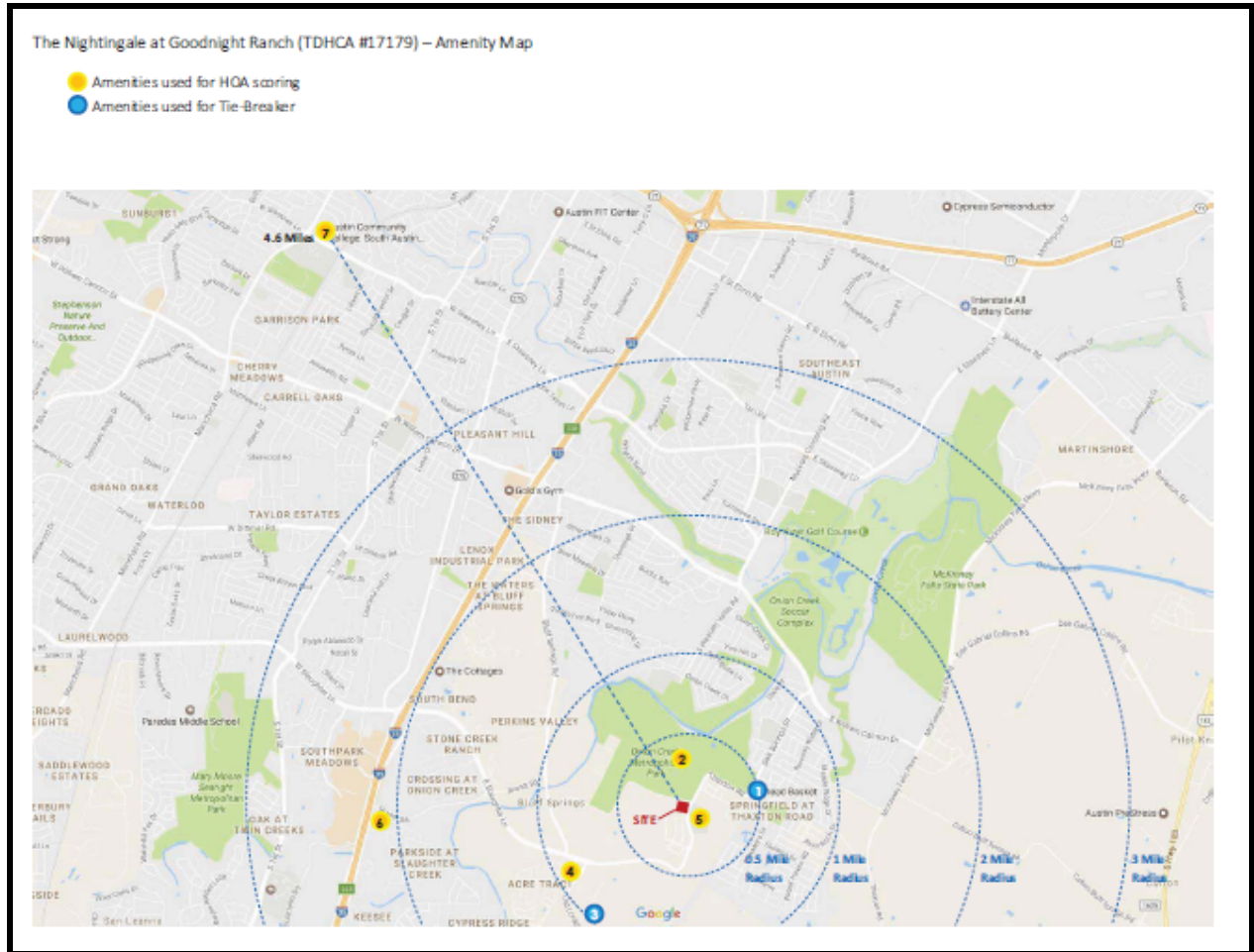
Market Area Workforce by Occupation (2019)	
Occupation	Primary (%)
Architecture/Engineering	1.99%
Arts/Design/Entertainment/Sports/Media	2.54%
Building/Grounds Cleaning/Maintenance	4.77%
Business/Financial Operations	5.27%
Community/Social Services	1.97%
Computer/Mathematical	3.87%
Construction/Extraction	6.56%
Education/Training/Library	5.79%
Farming/Fishing/Forestry	0.02%
Food Preparation/Serving Related	7.83%
Healthcare Practitioner/Technician	3.99%
Healthcare Support	1.62%
Installation/Maintenance/Repair	2.90%
Legal	1.13%
Life/Physical/Social Science	0.63%
Management	10.76%
Office/Administrative Support	12.92%
Production	3.32%
Protective Services	1.23%
Sales/Related	11.70%
Personal Care/Service	4.20%
Transportation/Material Moving	5.02%
Total (may not add to 100% due to rounding)	100.03%
Civilian Workforce	61,545

5

Given the characteristics of the subject’s neighborhood (including its employment base, occupational distribution, as well as development composition, adequate recreational, educational, and cultural facilities, and access to major transportation routes), the outlook for the area is generally stable.

5 Environics Spotlight Demographics Pop-Facts: Demographic Snapshot Report for custom market area (PMA); Page 9: www.EnvironicsSpotlightMarketPlace.com

PRIMARY MARKET AMENITIES MAP



Distance	No.	Amenity	Name and Address	HOA	Tie-Breaker
<1 mile	1	Grocery Store	Bread Basket: 8101 Salt Springs Dr, Austin, TX 78744		x
	2	Outdoor Recreation	Onion Creek Metropolitan Park: 8652 Nuckols Crossing Rd, Austin, TX 78744	x	
	3	Indoor Recreation	Onion Creek Ballroom: 9941 Old Lockhart Hwy, Austin, TX 78747		x
	4	Community Organization	Victory Outreach Church Austin TX: 9600 Old Lockhart Rd, Austin, TX 78744	x	
<2 mile	5	Child Care	Blazier Extend-A-Care: 8601 Vertex Blvd, Austin, TX 78744	x	
<3 mile	6	Medical	Concentra Urgent Care: 10001 S IH 35 Frontage Rd #300, Austin, TX 78747	x	
<5 mile	7	University	Austin Community College, South Austin Campus: 1820 W Stassney Ln, Austin, TX 78745	x	
>27%	8	Educational Attainment	Attachment		x

COMPARABLE PROPERTY ANALYSIS

Multifamily Development Trends

The following pages detail apartment trends within the PMA (zip codes 78744, 78746, 78747, and 78748). The data referenced was prepared by EnrichedData.com via ongoing surveys involving each property included in the data set. The data is “live” data, which is updated as information is received for these properties; therefore, the data is current as of the date of my report preparation.

The following chart indicates development in the subject’s primary market area over the past several years.

Year	Projects						Units					
	ClassA	ClassB	ClassC	ClassD	ClassU	Total	ClassA	ClassB	ClassC	ClassD	ClassU	Total
Pre-1990s	0	10	35	18	2	65	0	1,736	4,631	1,764	239	8,370
1998	0	1	0	0	0	1	0	104	0	0	0	104
1999	0	1	0	0	0	1	0	156	0	0	0	156
2001	0	1	0	0	0	1	0	250	0	0	0	250
2002	1	1	0	0	0	2	284	176	0	0	0	460
2003	0	1	0	0	0	1	0	204	0	0	0	204
2004	0	2	0	0	0	2	0	98	0	0	0	98
2006	1	1	0	0	0	2	335	160	0	0	0	495
2008	2	0	0	0	0	2	369	0	0	0	0	369
2009	1	0	0	0	0	1	441	0	0	0	0	441
2011	0	1	0	0	0	1	0	150	0	0	0	150
2012	0	1	0	0	0	1	0	201	0	0	0	201
2014	2	0	0	0	0	2	558	0	0	0	0	558
2015	4	0	0	0	0	4	1,031	0	0	0	0	1,031
2015	3	0	0	0	0	3	515	0	0	0	0	515

As indicated there no apartments proposed or under construction in the primary market according to EnrichedData.com. As discussed elsewhere, the subject is currently under construction. Commons at Goodnight Ranch is an approved 4% Family complex within the subject PMA. Construction has been moderate for the last few years.

According to the most recent *EnrichedData.com Austin Area Apartment Survey*, there were 84 operating apartment projects in this market area (zip codes 78744, 78746, 78747, and 78748) containing a total of 12,648 units. The overall occupancy rate for all operating apartment projects in this market area was 94.57%. The average rental rate for these properties was \$1.32 per square foot. The following table depicts an overview of the most recent data in the primary market area.

Apartment Market Statistical Overview - Summary					
Primary Market Area, August 2019					
PMA-All Apartments					
Property / Unit Information					
	A	B	C	D	Overall
Total # Projects	11	20	35	18	84
Total # Units	3,018	3,235	4,631	1,764	12,648
Total # Units 0BR	0.30%	0.10%	3.90%	0.30%	4.70%
Total # Units 1BR	7.60%	12.80%	20.90%	6.90%	48.20%
Total # Units 2BR	6.20%	12.10%	14.50%	6.40%	39.30%
Total # Units 3BR	0.60%	2.90%	0.80%	2.20%	6.40%
Total # Units 4BR	N/A	0.10%	N/A	N/A	0.10%
Avg Units per Project	274	162	132	98	151
Avg SF	954.76	827.12	725.41	779.46	797.07
Total # Units Under Construction	N/A	N/A	N/A	N/A	N/A
Total # Units Proposed	N/A	N/A	N/A	N/A	N/A
Occupancy					
	A	B	C	D	Overall
Avg Physical Occupancy	94.06%	95.22%	95.34%	92.21%	94.57%
Avg Pre-Leased Occupancy	95.19%	94.95%	92.85%	93.44%	94.03%
Rental Rates					
	A	B	C	D	Overall
Avg Market Rent/SF	\$1.78	\$1.11	\$1.29	\$1.33	\$1.32
Avg Market Rent/SF 0BR	\$2.95	\$1.53	\$1.86	\$2.08	\$1.95
Avg Market Rent/SF 1BR	\$1.93	\$1.16	\$1.34	\$1.39	\$1.39
Avg Market Rent/SF 2BR	\$1.64	\$1.09	\$1.15	\$1.28	\$1.23
Avg Market Rent/SF 3BR	\$1.71	\$1.04	\$1.20	\$1.19	\$1.17
Avg Market Rent/SF 4BR	N/A	\$1.02	N/A	N/A	\$1.02
Avg Market Rent/Unit	\$1,643.76	\$904.67	\$885.83	\$980	\$1,019
Avg Market Rent/Unit 0BR	\$1,567.08	\$642.13	\$768.33	\$880	\$832
Avg Market Rent/Unit 1BR	\$1,515.59	\$776.25	\$828.57	\$845	\$925
Avg Market Rent/Unit 2BR	\$1,823.54	\$983.31	\$1,055.73	\$1,066	\$1,157
Avg Market Rent/Unit 3BR	\$2,500.23	\$1,180.41	\$1,249.14	\$1,185	\$1,304
Avg Market Rent/Unit 4BR	N/A	\$1,346.00	N/A	N/A	\$1,346
Absorption (In Units)					
	A	B	C	D	Overall
Current Month-to-Date	0	0	0	0	0
Current Quarter-to-Date	0	0	0	0	0
Year-to-Date	-3	6	22	-42	-17

Absorption

Absorption is defined as the “change in the number of occupied units within a given time frame” and can be used as a proxy for market demand. Thus, positive absorption indicates strong demand, while negative absorption implies decline in demand. The table below illustrates the most current *Enriched Data.com* apartment market data program absorption data for the subject’s primary market area.

Survey Period (PMA)	A	B	C	D	Overall
3Q 2011	15	17	46	-3	74
4Q 2011	-8	-18	17	4	-6
1Q 2012	0	36	4	-5	34
2Q 2012	-8	54	38	12	96
3Q 2012	-21	79	40	80	178
4Q 2012	11	36	-35	-30	-18
1Q 2013	14	-38	47	24	46
2Q 2013	-9	48	-8	-7	25
3Q 2013	35	60	32	8	135
4Q 2013	-23	-9	-32	3	-62
1Q 2014	42	24	-19	-3	43
2Q 2014	107	20	41	-42	126
3Q 2014	196	-43	-2	1	152
4Q 2014	166	39	-16	8	196
1Q 2015	188	-19	16	31	215
2Q 2015	226	29	-65	12	201
3Q 2015	101	26	107	-12	223
4Q 2015	-35	9	-39	-3	-68
1Q 2016	18	-28	-6	-4	-20
2Q 2016	0	0	0	0	0
3Q 2016	34	0	14	15	63
4Q 2016	46	-17	-9	0	19
1Q 2017	0	0	0	0	0
2Q 2017	0	0	0	0	0
3Q 2017	-13	-25	-21	-35	-94
4Q 2017	-12	-17	10	8	-11
1Q 2018	18	2	7	2	29
2Q 2018	4	2	7	1	14
3Q 2018	-2	-1	-4	-3	-11
4Q 2018	0	2	-8	4	-2
1Q 2019	-2	5	28	-42	-10
2Q 2019	0	0	-3	0	-3
3Q 2019	0	0	0	0	0

There is currently no operating Seniors HTC complex within the subject PMA. The Villages of Ben White is one of the most recently-completed Seniors HTC complexes (north of the subject PMA) in the Austin area. Villages of Ben White is a 183-unit Seniors HTC, all rent-restricted. The Villages of Ben White began pre-leasing in December 2015, and received their first CO in March 2016 at which time they were almost 40% pre-leased. The Villages of Ben White attained stabilized occupancy in January 2017, which equates to an average absorption of approximately 18 units per month from completion. Villages of Ben White reported a current

occupancy of 100%. I project that the subject should absorb between 15 to 25 units per month and attain stabilized occupancy within 6 to 10 months.

Occupancy

The average occupancy for apartments in the subject’s primary market area was reported at 94.57% in the most recent *EnrichedData.com* apartment market data program for the subject’s primary market area and 94.57% in the latest quarterly report. The table on the following page illustrates the most current *EnrichedData.com* apartment market data program occupancy percentages for the subject’s primary market area.

Survey Period (PMA)	A	B	C	D	Overall
3Q 2011	93.76%	91.38%	93.33%	91.51%	92.53%
4Q 2011	93.63%	90.73%	93.29%	91.74%	92.35%
1Q 2012	94.48%	91.41%	94.06%	91.45%	92.92%
2Q 2012	93.56%	92.03%	94.19%	91.79%	93.09%
3Q 2012	90.71%	92.58%	95.57%	93.40%	93.70%
4Q 2012	93.13%	93.90%	94.88%	95.67%	94.49%
1Q 2013	93.80%	93.07%	95.49%	96.21%	94.68%
2Q 2013	93.45%	94.95%	96.04%	96.50%	95.46%
3Q 2013	94.09%	96.49%	96.17%	96.46%	96.04%
4Q 2013	84.65%	96.39%	96.29%	96.07%	94.63%
1Q 2014	65.73%	96.72%	95.27%	96.32%	90.52%
2Q 2014	73.48%	97.49%	95.51%	94.98%	92.16%
3Q 2014	67.20%	96.36%	96.40%	93.84%	89.59%
4Q 2014	72.17%	97.04%	96.34%	94.14%	90.76%
1Q 2015	78.41%	96.95%	95.88%	95.39%	92.14%
2Q 2015	85.06%	97.45%	95.26%	96.75%	93.74%
3Q 2015	90.16%	98.39%	96.43%	96.44%	95.53%
4Q 2015	90.53%	98.68%	96.44%	96.04%	95.63%
1Q 2016	90.67%	97.90%	96.21%	95.86%	95.35%
2Q 2016	90.97%	97.96%	96.18%	95.76%	95.41%
3Q 2016	91.59%	97.96%	96.33%	96.17%	95.66%
4Q 2016	93.82%	97.44%	96.28%	96.58%	96.07%
1Q 2017	93.82%	97.21%	95.91%	96.58%	95.87%
2Q 2017	94.13%	96.77%	94.66%	96.19%	95.31%
3Q 2017	94.40%	96.23%	94.28%	94.42%	94.83%
4Q 2017	93.62%	96.21%	94.28%	94.29%	94.62%
1Q 2018	93.72%	95.47%	94.48%	94.61%	94.57%
2Q 2018	94.26%	95.61%	94.96%	94.82%	94.94%
3Q 2018	94.13%	95.57%	94.84%	94.51%	94.81%
4Q 2018	94.19%	95.64%	94.66%	94.85%	94.82%
1Q 2019	93.95%	94.89%	94.88%	92.89%	94.43%
2Q 2019	94.06%	95.22%	95.36%	92.21%	94.58%
3Q 2019	94.06%	95.22%	95.34%	92.21%	94.57%

Typically, new HTC projects in the Greater Austin area have achieved stabilized occupancy at a rapid pace, most likely due to the projects being newer and superior compared to older multifamily projects. Pre-leasing should begin prior to completion of the construction.

Rental Rates

The average rental rate for apartments in the subject's primary market area is reported at \$1.32 PSF per month in the most recent *EnrichedData.com* market survey for the subject's primary market area and \$1.32 PSF in the latest quarterly report. Class B rents are at \$1.11 PSF. The table below illustrates the most current *EnrichedData.com* apartment market data program rental rates for the subject's primary market area.

Survey Period (PMA)	A	B	C	D	Overall
3Q 2011	\$1.45	\$0.88	\$0.93	\$0.91	\$0.98
4Q 2011	\$1.46	\$0.88	\$0.96	\$0.91	\$0.99
1Q 2012	\$1.51	\$0.89	\$0.97	\$0.92	\$1.01
2Q 2012	\$1.51	\$0.91	\$1.00	\$0.95	\$1.03
3Q 2012	\$1.52	\$0.94	\$1.01	\$0.96	\$1.05
4Q 2012	\$1.51	\$0.92	\$1.02	\$0.95	\$1.05
1Q 2013	\$1.52	\$0.91	\$1.04	\$0.96	\$1.05
2Q 2013	\$1.52	\$0.92	\$1.05	\$0.97	\$1.06
3Q 2013	\$1.52	\$0.94	\$1.07	\$0.99	\$1.08
4Q 2013	\$1.54	\$0.95	\$1.08	\$0.99	\$1.08
1Q 2014	\$1.56	\$0.95	\$1.09	\$0.99	\$1.10
2Q 2014	\$1.56	\$0.95	\$1.09	\$1.00	\$1.10
3Q 2014	\$1.71	\$0.97	\$1.10	\$1.08	\$1.15
4Q 2014	\$1.71	\$0.98	\$1.10	\$1.08	\$1.15
1Q 2015	\$1.69	\$1.01	\$1.12	\$1.10	\$1.17
2Q 2015	\$1.68	\$1.01	\$1.12	\$1.11	\$1.17
3Q 2015	\$1.68	\$1.03	\$1.15	\$1.12	\$1.19
4Q 2015	\$1.68	\$1.04	\$1.16	\$1.12	\$1.20
1Q 2016	\$1.68	\$1.04	\$1.17	\$1.12	\$1.20
2Q 2016	\$1.68	\$1.04	\$1.17	\$1.12	\$1.20
3Q 2016	\$1.66	\$1.04	\$1.18	\$1.14	\$1.20
4Q 2016	\$1.65	\$1.04	\$1.20	\$1.17	\$1.21
1Q 2017	\$1.65	\$1.04	\$1.20	\$1.17	\$1.21
2Q 2017	\$1.68	\$1.09	\$1.24	\$1.25	\$1.26
3Q 2017	\$1.79	\$1.12	\$1.27	\$1.27	\$1.30
4Q 2017	\$1.78	\$1.12	\$1.28	\$1.29	\$1.31
1Q 2018	\$1.78	\$1.12	\$1.28	\$1.30	\$1.31
2Q 2018	\$1.78	\$1.12	\$1.28	\$1.30	\$1.31
3Q 2018	\$1.78	\$1.11	\$1.28	\$1.30	\$1.31
4Q 2018	\$1.78	\$1.11	\$1.28	\$1.30	\$1.31
1Q 2019	\$1.78	\$1.12	\$1.30	\$1.31	\$1.29
2Q 2019	\$1.78	\$1.11	\$1.28	\$1.33	\$1.32
3Q 2019	\$1.78	\$1.11	\$1.29	\$1.33	\$1.32

Profile of the Area Tenant

The profile of the area tenant is generally divided into three groups, who will tend to migrate to three apartment project types: Class B projects, older Class C projects, and projects with a significant number of Section 8 renters. The Class B projects are generally occupied by lower level professionals who work in major area businesses, such as the oil and gas industry. The older Class C projects are generally occupied by blue-collar workers, or those with lower to lower-middle income level jobs. Occupants of the projects with a large percentage of Section 8 housing may or may not be employed.

Without some sort of government incentive, current construction costs preclude construction of anything but a Class A project (\pm \$1.25 to \pm \$2.00 per square foot per month rental rate), and many Class C apartments in poor condition have already been renovated. It appears that the only increase in Class C supply will be the deteriorating Class B projects.

Evaluation of the Existing Low-Income Housing

The primary market area was estimated to have 42,826 households in 2019. The projected number of households in the year 2024 is 46,918. Considering that 43.82% of the population lived in rental housing in the subject's market area in 2019, there is potentially a sufficient demand for the subject property. It should also be noted in markets with lower incomes the rental percentage is artificially suppressed by the limited amount of affordable housing.

According to my research (including contacting the local HUD office), there are 7 existing HTC projects with 10 units or higher in the subject's primary market area in which the rents are based on income or otherwise restricted with an average occupancy of 97.9%.

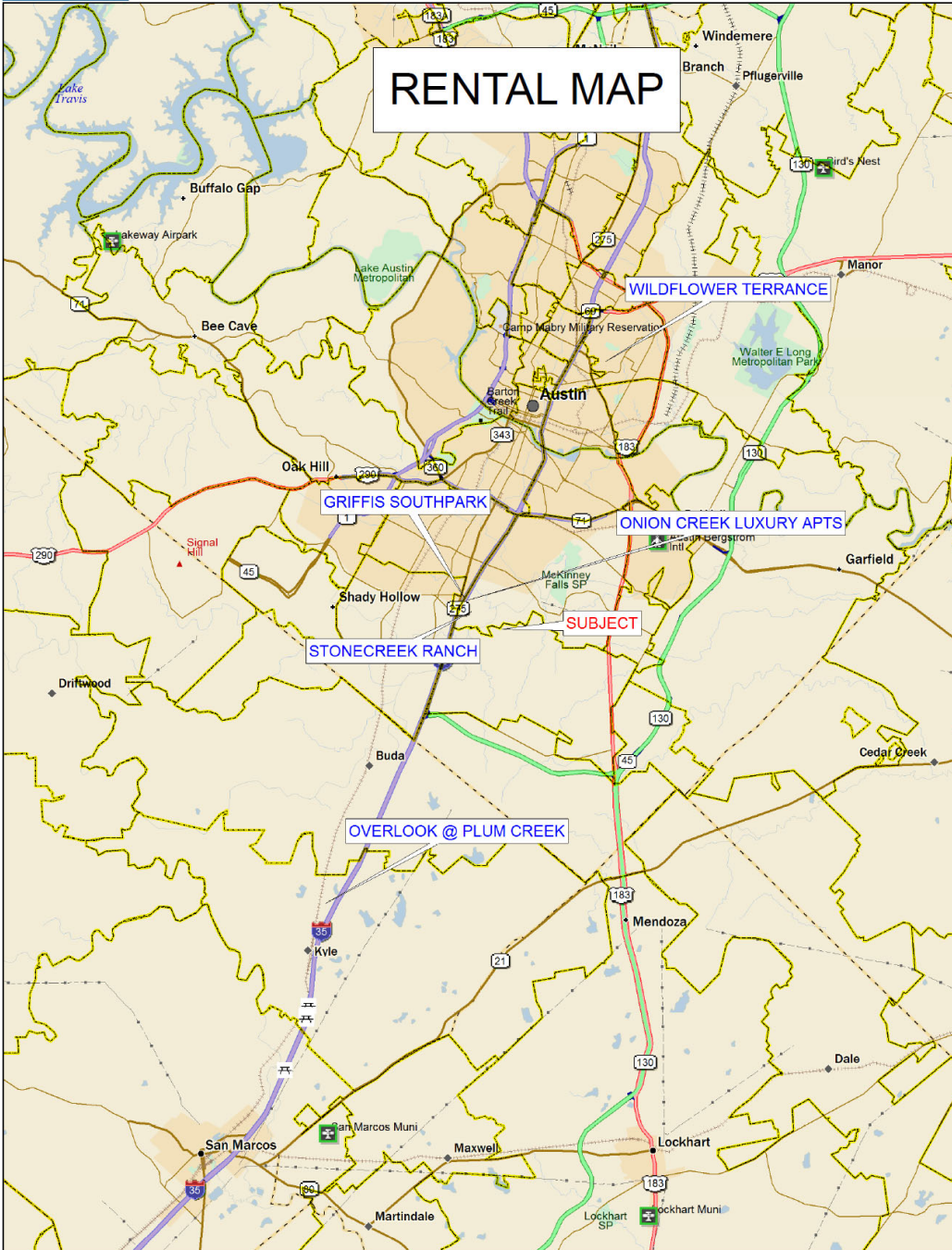
Comparable Housing Conclusions

The majority of the apartment facilities in the subject's primary market are older, less appealing projects. It is my opinion that rental rates will show flat growth or nominal increases over the next few years. With continued demand and moderate new construction, the supply of available apartment product is stable. This trend is expected to continue, which will likely result in occupancies remaining high in the area. Although rents are slowly increasing, there are limited indications of external obsolescence in the market.

With respect to affordable housing projects, due to the overall lack of recently-constructed Elderly affordable housing projects in the subject's primary market area, and based on the performance of the current low income housing projects, it appears as though there is pent-up demand in the subject's primary market area. The HTC properties in the central and eastern portions of the Austin MSA I was able to contact all reported high occupancies. With average rental rates in all projects at \$1.32 PSF, and occupancy rates averaging 94.57% overall, it is reasonable to project that a new affordable housing project with very competitive amenities and an average rent of \pm \$1.165 per square foot per month, such as the subject property, would perform favorably in this market.

The map on the following page shows the rental comparables utilized in my analysis.

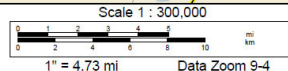
RENTAL MAP



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RENT COMPARABLES

The subject site is proposed to be improved with a separately-metered 174-unit Elderly HTC apartment development with good overall market appeal. The primary market area was researched for properties which would be most similar to the subject in all categories. I stayed within the MSA and utilized Family complexes. I was unable to locate any recently-constructed Elderly developments with market units which were considered comparable to the proposed subject. I used two Seniors HTC complexes outside the PMA which feature market units.

The following pages detail rent comparables which best represent the competition for the subject property. These include apartment projects in the primary market area which are as similar as possible to the subject property in terms of unit mix, age, physical condition, and property type.

The comparable rentals utilized are:

Comparable 1	Stonecreek Ranch
Comparable 2	Onion Creek Luxury Apts
Comparable 3	Overlook at Plum Creek
Comparable 4	Wildflower Terrace
Comparable 5	Griffis Southpark

The comparable rentals are more fully described on the following pages.

APARTMENT RENT COMPARABLE ONE

Name:	Stonecreek Ranch
Location:	333 E. Slaughter, Austin
Year Built:	2003
Construction:	Gdn/3
Date Surveyed:	July 2019
Contact:	Cele 512-292-3233
Total No. of Units:	198
Average Unit Size (SF):	757
Average Month Rent (PSF):	\$1.51
Occupancy:	98%

# Units	Type	Size (SF)	Monthly Rent	Rent PSF	Potential Rent	Total SF
48	1 BR / 1 BA	572	\$1,039	\$1.82	\$49,872	27,456
36	1 BR / 1 BA	643	\$1,069	\$1.66	\$38,484	23,148
36	1 BR / 1 BA	733	\$1,089	\$1.49	\$39,204	26,388
24	2 BR / 2 BA	886	\$1,299	\$1.47	\$31,176	21,264
24	2 BR / 2 BA	897	\$1,199	\$1.34	\$28,776	21,528
18	2 BR / 2 BA	981	\$1,229	\$1.25	\$22,122	17,658
<u>12</u>	<u>3 BR / 2 BA</u>	<u>1,040</u>	<u>\$1,389</u>	<u>\$1.34</u>	<u>\$16,668</u>	<u>12,480</u>
198		757	\$1,143	\$1.51	\$226,302	149,922

This market rate project has no subsidies. Amenities include a fitness center, swimming pool, and game room. Tenant pays utilities. No current concessions. The complex is well located with good access to the neighborhood's infrastructure and short drive times to the local economic centers.

Unit Amenities		Site Amenities		Utilities	
Balcony/Patio	Y	Washer/Dryer	W/D	Location	G
Parking (\$ Fee)	Open/\$0	Carpet/Blinds	Y	Security	Y
AC: Central/Wall	C	Pool/Rec Area	P/R/E	Business Center	Y
Range	Y	Heat (in rent?/type)	N/E	Appeal	G
Refrigerator	Y	Cooking (in rent?/type)	N/E		
Disposal	Y	Other Electric	N		
Microwave	Y	Water/Sewer (in rent?)	N/N		
Dishwasher	Y	Storage	N		



APARTMENT RENT COMPARABLE TWO

Name:	Onion Creek Luxury Apts
Location:	10701 S. IH-35, Austin
Year Built:	2007
Construction:	Gdn/3
Date Surveyed:	July 2019
Contact:	Debbie 512-291-5550
Total No. of Units:	386
Average Unit Size (SF):	995
Average Month Rent (PSF):	\$1.28
Occupancy:	98%

Units	Type	Size (SF)	Monthly Rent	Rent PSF	Potential Rent	Total SF
72	1 BR / 1 BA	705	\$1,127	\$1.60	\$81,144	50,760
70	1 BR / 1 BA	807	\$1,133	\$1.40	\$79,310	56,490
14	1 BR / 1 BA	934	\$1,210	\$1.30	\$16,940	13,076
72	2 BR / 2 BA	1,056	\$1,289	\$1.22	\$92,808	76,032
96	2 BR / 2 BA	1,121	\$1,334	\$1.19	\$128,064	107,616
26	2 BR / 2 BA	1,194	\$1,346	\$1.13	\$34,996	31,044
4	2 BR / 2 BA	1,206	\$1,518	\$1.26	\$6,072	4,824
<u>32</u>	<u>3 BR / 1.5 BA</u>	<u>1,380</u>	<u>\$1,668</u>	<u>\$1.21</u>	<u>\$53,376</u>	<u>44,160</u>
386		995	\$1,276	\$1.28	\$492,710	384,002

The property offers hookups and gated access. Tenant pays utilities. No current concessions. The complex is well located with good access to the neighborhood's infrastructure and short drive times to the local economic centers.

Unit Amenities		Site Amenities		Utilities	
Balcony/Patio	Y	Washer/Dryer	HU	Location	G
Parking (\$ Fee)	Open/\$0	Carpet/Blinds	Y	Security	Y
AC: Central/Wall	C	Pool/Rec Area	N/N	Business Center	Y
Range	Y	Heat (in rent?/type)	N/E	Appeal	G
Refrigerator	Y	Cooking (in rent?/type)	N/E		
Disposal	Y	Other Electric	N		
Microwave	Y	Water/Sewer (in rent?)	N/N		
Dishwasher	Y	Storage	N		



APARTMENT RENT COMPARABLE THREE

Name: Overlook at Plum Creek
 Location: 4850 Cromwell, Kyle
 Year Built: 2013
 Construction: Elev/3
 Date Surveyed: July 2019
 Contact: Veronica 512-428-8558
 Total No. of Units: 94
 Average Unit Size (SF): 973
 Average Month Rent (PSF): \$1.25
 Occupancy: 100%

Units	Type	Size (SF)	Monthly Rent	Rent PSF	Potential Rent	Total SF
6	1 BR / 1 BA	830	\$1,100	\$1.33	\$6,600	4,980
<u>8</u>	2 BR / 2 BA	<u>1,080</u>	<u>\$1,300</u>	<u>\$1.20</u>	<u>\$10,400</u>	<u>8,640</u>
14		973	\$1,214	\$1.25	\$17,000	13,620

This property is a Senior HTC market-rate complex with 94 units, 14 of which are market rate units. Only the market rate units were used in this analysis. The units features washer/dryer connections. The complex features limited access gates, clubhouse, business center, and a pool. No current concessions. The complex is well located with good access to the neighborhood's infrastructure and short drive times to the local economic centers.

Unit Amenities		Site Amenities		Utilities	
Balcony/Patio	Y	Washer/Dryer	HU/L	Location	F
Parking (\$ Fee)	Open/\$0	Carpet/Blinds	Y	Security	Y
AC: Central/Wall	C	Pool/Rec Area	P/R	Business Center	Y
Range	Y	Heat (in rent?/type)	N/E	Appeal	G
Refrigerator	Y	Cooking (in rent?/type)	N/E		
Disposal	Y	Other Electric	N		
Microwave	Y	Water/Sewer (in rent?)	Y/Y		
Dishwasher	Y	Storage	N		



APARTMENT RENT COMPARABLE FOUR

Name: Wildflower Terrace
 Location: 3801 Berkman, Austin
 Year Built: 2008
 Construction: Elev/4
 Date Surveyed: July 2019
 Contact: Christian 512-843-3801
 Total No. of Units: 201
 Average Unit Size (SF): 879
 Average Month Rent (PSF): \$1.90
 Occupancy: 100%

Units	Type	Size (SF)	Monthly Rent	Rent PSF	Potential Rent	Total SF
9	1 BR / 1 BA	745	\$1,500	\$2.01	\$13,500	6,705
3	1 BR / 1 BA	761	\$1,500	\$1.97	\$4,500	2,283
6	2 BR / 2 BA	1,042	\$1,900	\$1.82	\$11,400	6,252
<u>3</u>	2 BR / 2 BA	<u>1,071</u>	<u>\$1,900</u>	<u>\$1.77</u>	<u>\$5,700</u>	<u>3,213</u>
21		879	\$1,671	\$1.90	\$35,100	18,453

This Seniors HTC features 21 market-rate units. Complex amenities include parking garages, business center, fitness center, media room, and swimming pool. Tenant pays electricity. No current concessions. The complex is well located with good access to the neighborhood's infrastructure and short drive times to the local economic centers. the complex is located within the Mueller development.

Unit Amenities		Site Amenities		Utilities	
Balcony/Patio	Y	Washer/Dryer	HU,L	Location	E
Parking (\$ Fee)	PG/\$0	Carpet/Blinds	Y	Security	Y
AC: Central/Wall	C	Pool/Rec Area	P/R/E	Business Center	Y
Range	Y	Heat (in rent?/type)	N/E	Appeal	G
Refrigerator	Y	Cooking (in rent?/type)	N/E		
Disposal	Y	Other Electric	N		
Microwave	Y	Water/Sewer (in rent?)	Y/Y		
Dishwasher	Y	Storage	N		



APARTMENT RENT COMPARABLE FIVE

Name: Griffis Southpark
 Location: 8515 IH-35, Austin
 Year Built: 2008
 Construction: Gdn/3
 Date Surveyed: July 2019
 Contact: Desirae 512-282-6800
 Total No. of Units: 330
 Average Unit Size (SF): 877
 Average Month Rent (PSF): \$1.59
 Occupancy: 99%

Units	Type	Size (SF)	Monthly Rent	Rent PSF
	0BR / 1BA	500	\$1,200	\$2.40
	0BR / 1BA	610	\$1,379	\$2.26
	1BR / 1BA	639	\$1,169	\$1.83
	1BR / 1BA	711	\$1,269	\$1.78
	1BR / 1BA	715	\$1,149	\$1.61
	1BR / 1BA	757	\$1,333	\$1.76
	1BR / 1BA	771	\$1,333	\$1.73
	1BR / 1BA	825	\$1,098	\$1.33
	1BR / 1BA	868	\$1,153	\$1.33
	2BR / 2BA	879	\$1,153	\$1.31
	2BR / 2BA +G	939	\$1,403	\$1.49
	2BR / 2BA	947	\$1,303	\$1.38
	2BR / 2BA +G	970	\$1,454	\$1.50
	2BR / 2BA	1,007	\$1,131	\$1.12
	2BR / 2BA +G	1,084	\$1,379	\$1.27
	3BR / 2BA	1,294	\$1,927	\$1.49
	3BR / 2BA	<u>1,397</u>	<u>\$1,987</u>	<u>\$1.42</u>
330		877	\$1,342	\$1.59

This market-rate property is located on IH 35. Complex amenities include attached & detached garages, business center, clubhouse, conference room, fitness center, media room, and swimming pool. Tenant pays utilities. No current concessions. The complex is well located with good access to the neighborhood's infrastructure and short drive times to the local economic centers.

Unit Amenities		Site Amenities		Utilities	
Balcony/Patio	Y	Washer/Dryer	W/D	Location	G
Parking (\$ Fee)	O/\$0	Carpet/Blinds	Y	Security	Y
AC: Central/Wall	C	Pool/Rec Area	P/R/E	Business Center	Y
Range	Y	Heat (in rent?/type)	N/E	Appeal	G
Refrigerator	Y	Cooking (in rent?/type)	N/E		
Disposal	Y	Other Electric	N		
Microwave	Y	Water/Sewer (in rent?)	N/N		
Dishwasher	Y	Storage	N		



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U.S. Department of Housing and Urban Development
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Federal Housing Commissioner

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1. Unit Type	2. Subject Property (Address)		A. Comparable No. 1 (address)		B. Comparable No. 2 (address)		C. Comparable No. 3 (address)		D. Comparable No. 4 (address)		E. Comparable No. 5 (address)	
	The Nightingale at Goodnight Ranch		Stonecreek Ranch		Onion Creek Luxury Apts		Overlook at Plum Creek		Wildflower Terrace		Griffis Southpark	
1BR 1BA	5900 Charles Merie Drive		333 E. Slaughter, Austin		10701 S. IH-35, Austin		4850 Cromwell, Kyle		3801 Berkman, Austin		8515 IH-35, Austin	
Characteristics	Data	Data	Adjustments +	Data	Adjustments +	Data	Adjustments +	Data	Adjustments +	Data	Adjustments +	
3. Effective Date of Rental	Jul-19	Jul-19		Jul-19		Jul-19		Jul-19		Jul-19		
4. Type of Project/Stories	3-Story Elevator	Gdn/3		Gdn/3		Elev/3		Elev/4		Gdn/3		
5. Floor of Unit in Building	Varies	Varies		Varies		Varies		Varies		Varies		
6. Project Occupancy %	0.00%	98%		98%		100%		100%		99%		
7. Concessions	No	No		No		No		No		No		
8. Year Built	2020/Prop	2003	\$51	2007	\$39	2013	\$21	2008	\$36	2008	\$36	
9. SF Area (Net Area)	773	733	\$40	807	-\$34	830	-\$57	761		771		
10. Number of Bedrooms	1	1		1		1		1		1		
11. Number of Bath	1	1		1		1		1		1		
12. Number of Rooms	4	4		4		4		4		4		
13. Balc/Terrace/Patio	Y	Y		Y		Y		Y		Y		
14. Garage / Carport / Open	Open/\$0	Open/\$0		Open/\$0		Open/\$0		PG/\$0	-\$50	O/\$0		
15. Equipment	a) A/C	C		C		C		C		C		
	b) Range/Oven	Y		Y		Y		Y		Y		
	c) Refrigerator	Y		Y		Y		Y		Y		
	d) Disposal	Y		Y		Y		Y		Y		
	e) Microwave	Y		Y		Y		Y		Y		
	f) Dishwasher	Y		Y		Y		Y		Y		
	g) Washer/Dryer	HU/L	W/D	-\$35	HU/L	W/D		HU/L		HU,L	W/D	-\$35
	h) Carpet/Blinds	Y		Y		Y		Y		Y		
	i) Pool/Rec Area	P/E/R	P/R/E		N/N			P/R		P/R/E		
16. Services	a) Heat/Type	N/E	N/E		N/E			N/E		N/E		
	b) Cook/Type	N/E	N/E		N/E			N/E		N/E		
	c) Electricity	N	N		N			N		N		
	d) Water/Sewer/Trash	Y/Y	N/N	\$119	N/N	\$119		Y/Y		Y/Y	N/N	\$119
17. Storage	N	N		N		N		N		N		
18. Project Location	G	G		G		F	\$110	E	-\$150	G		
19. Other: a) Security	N	Y	-\$10	Y	-\$10	Y	-\$10	Y		Y	-\$10	
Other: b) Business Center	Y	Y		Y		Y		Y		Y		
Other: c) Appeal	G	G		G		G		G		G		
20. Unit Rent per Month		\$1,089		\$1,133		\$1,100		\$1,500		\$1,333		
21. Total Adjustment		\$165		\$114		\$64		-\$164		\$110		
22. Indicated Rent		\$1,254		\$1,247		\$1,164		\$1,336		\$1,443		
23. Correlated Subject Rent	\$1,250	X										
If there are any Remarks, check here and add the remarks to the back of page.												
Appraiser's Signature <i>R. Q. Cox</i>						Date 7/25/2019			Reviewer's Signature			

Note: In the adjustments column, enter dollar amounts by which subject property varies from comparable properties. If subject is better, enter a "Plus" amount and if subject is inferior to the comparable, enter a "Minus" amount. Use back of page to explain adjustments as needed.

Previous versions are obsolete

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2BR 1BA	5900 Charles Merie Drive		333 E. Slaughter, Austin		10701 S. IH-35, Austin		4850 Cromwell, Kyle		3801 Berkman, Austin		8515 IH-35, Austin					
Characteristics	Data	Data	Adjustments - +		Data	Adjustments - +		Data	Adjustments - +		Data	Adjustments - +				
3. Effective Date of Rental	Jul-19	Jul-19			Jul-19			Jul-19			Jul-19					
4. Type of Project/Stories	3-Story Elevator	Gdn/3			Gdn/3			Elev/3			Elev/4		Gdn/3			
5. Floor of Unit in Building	Varies	Varies			Varies			Varies			Varies		Varies			
6. Project Occupancy %	0.00%	98%			98%			100%			100%		99%			
7. Concessions	No	No			No			No			No		No			
8. Year Built	2020/Prop	2003		\$51	2007		\$39	2013		\$21	2008		2008	\$36		
9. SF Area (Net Area)	952	981		-\$29	1,056		-\$104	1,080		-\$128	1,071		-\$119	1,007		-\$55
10. Number of Bedrooms	2	2			2			2			2			2		
11. Number of Bath	1	2		-\$35	2		-\$35	2		-\$35	2		-\$35	2		-\$35
12. Number of Rooms	5	6			6			6			6			6		
13. Balc/Terrace/Patio	Y	Y			Y			Y			Y			Y		
14. Garage / Carport / Open	Open/\$0	Open/\$0			Open/\$0			Open/\$0			PG/\$0		-\$50	O/\$0		
15. Equipment a) A/C	C	C			C			C			C			C		
b) Range/Oven	Y	Y			Y			Y			Y			Y		
c) Refrigerator	Y	Y			Y			Y			Y			Y		
d) Disposal	Y	Y			Y			Y			Y			Y		
e) Microwave	Y	Y			Y			Y			Y			Y		
f) Dishwasher	Y	Y			Y			Y			Y			Y		
g) Washer/Dryer	HU/L	W/D		-\$35	HU			HU/L			HU,L			W/D		-\$35
h) Carpet/Blinds	Y	Y			Y			Y			Y			Y		
i) Pool/Rec Area	P/E/R	P/R/E			N/N			P/R			P/R/E			P/R/E		
16. Services a) Heat/Type	N/E	N/E			N/E			N/E			N/E			N/E		
b) Cook/Type	N/E	N/E			N/E			N/E			N/E			N/E		
c) Electricity	N	N			N			N			N			N		
d) Water/Sewer/Trash	Y/Y	N/N		\$141	N/N		\$141	Y/Y			Y/Y			N/N		\$141
17. Storage	N	N			N			N			N			N		
18. Project Location	G	G			G			F		\$130	E		-\$190	G		
19. Other: a) Security	N	Y		-\$10	Y		-\$10	Y		-\$10	Y			Y		-\$10
Other: b) Business Center	Y	Y			Y			Y			Y			Y		
Other: c) Appeal	G	G			Y			G			G			G		
20. Unit Rent per Month		\$1,229			\$1,289			\$1,300			\$1,900			\$1,131		
21. Total Adjustment				\$83			\$31			-\$22			-\$358		\$42	
22. Indicated Rent		\$1,312			\$1,320			\$1,278			\$1,542			\$1,173		
23. Correlated Subject Rent	\$1,315	X		<input type="checkbox"/>												

Note: In the adjustments column, enter dollar amounts by which subject property varies from comparable properties. If subject is better, enter a "Plus" amount and if subject is inferior to the comparable, enter a "Minus" amount. Use back of page to explain adjustments as needed.

Appraiser's Signature

R. Q. Cox

Date

7/25/2019

Reviewer's Signature

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2BR 2BA	5900 Charles Merle Drive	333 E. Slaughter, Austin		10701 S. IH-35, Austin		4850 Cromwell, Kyle		3801 Berkman, Austin		8515 IH-35, Austin	
Characteristics	Data	Data	Adjustments - +	Data	Adjustments - +	Data	Adjustments - +	Data	Adjustments - +	Data	Adjustments - +
3. Effective Date of Rental	Jul-19	Jul-19		Jul-19		Jul-19		Jul-19		Jul-19	
4. Type of Project/Stories	3-Story Elevator	Gdn/3		Gdn/3		Elev/3		Elev/4		Gdn/3	
5. Floor of Unit in Building	Varies	Varies		Varies		Varies		Varies		Varies	
6. Project Occupancy %	0.00%	98%		98%		100%		100%		99%	
7. Concessions	No	No		No		No		No		No	
8. Year Built	2020/Prop	2003	\$51	2007	\$39	2013	\$21	2008	\$36	2008	\$36
9. SF Area (Net Area)	1,223	981	\$242	1,206		1,080	\$143	1,071	\$152	1,007	\$216
10. Number of Bedrooms	2	2		2		2		2		2	
11. Number of Bath	2	2		2		2.5	-\$15	2		2	
12. Number of Rooms	6	6		6		6		6		6	
13. Balc/Terrace/Patio	Y	Y		Y		Y		Y		Y	
14. Garage / Carport / Open	Open/\$0	Open/\$0		Open/\$0		Open/\$0		PG/\$0	-\$50	O/\$0	
15. Equipment a) A/C	C	C		C		C		C		C	
b) Range/Oven	Y	Y		Y		Y		Y		Y	
c) Refrigerator	Y	Y		Y		Y		Y		Y	
d) Disposal	Y	Y		Y		Y		Y		Y	
e) Microwave	Y	Y		Y		Y		Y		Y	
f) Dishwasher	Y	Y		Y		Y		Y		Y	
g) Washer/Dryer	HU/L	W/D	-\$35	HU		HU/L		HU,L		W/D	-\$35
h) Carpet/Blinds	Y	Y		Y		Y		Y		Y	
i) Pool/Rec Area	P/E/R	P/R/E		N/N		P/R		P/R/E		P/R/E	
16. Services a) Heat/Type	N/E	N/E		N/E		N/E		N/E		N/E	
b) Cook/Type	N/E	N/E		N/E		N/E		N/E		N/E	
c) Electricity	N	N		N		N		N		N	
d) Water/Sewer/Trash	Y/Y	N/N	\$141	N/N	\$141	Y/Y		Y/Y		N/N	\$141
17. Storage	N	N		N		N		N		N	
18. Project Location	G	G		G		F	\$130	E	-\$190	G	
19. Other: a) Security	N	Y	-\$10	Y	-\$10	Y	-\$10	Y		Y	-\$10
Other: b) Business Center	Y	Y		Y		Y		Y		Y	
Other: c) Appeal	G	G		G		G		G		G	
20. Unit Rent per Month		\$1,229		\$1,518		\$1,300		\$1,900		\$1,131	
21. Total Adjustment		\$389		\$170		\$269		-\$52		\$348	
22. Indicated Rent		\$1,618		\$1,688		\$1,569		\$1,848		\$1,479	
23. Correlated Subject Rent	\$1,650	X									
If there are any Remarks, check here and add the remarks to the back of page.											
Note: In the adjustments column, enter dollar amounts by which subject property varies from comparable properties. If subject is better, enter a "Plus" amount and if subject is inferior to the comparable, enter a "Minus" amount. Use back of page to explain adjustments as needed.						Appraiser's Signature <i>R. Q. Coe</i>		Date 7/25/2019		Reviewer's Signature	

Previous versions are obsolete

Explanation of Adjustments and Rent Conclusions

A Rent Comparability Grid was prepared for each of the subject's unit types. Whenever sufficient data was available, adjustments were based on a matched-pair analysis of the comparables. Adjustments were also based on conversations with leasing agents and real estate professionals in the area, information in my files, as well as personal observation and experience of the analysts in the subject's market area.

Restricted. All of the rents utilized in this analysis represent non-subsidized rents currently quoted at the comparable properties. Rentals 3 and 4 have rent restrictions on some units; however, only the market unit rents were used. No unit used in the analysis has any rent restrictions.

Line 3. Date Last Leased. As all rents used in this analysis reflect current rates, no adjustments were necessary for this line item.

Line 4. Type of Project / Stories. The subject improvements will consist of a 3-story elevator building and one-story "cottage" buildings. Rentals 1 through 5 are three-to-four-story complexes. None of the comparable indicated additional rent for first floor units. All of the comparables are considered functionally similar to the subject. Thus, no adjustment is applicable to the rentals for this line item for the units in the 3-story building. The "cottage" units are considered superior to the units in the three-story building due to lower density, ease of access, and lower noise. Based on the opinions of local leasing agents and managers, an upward adjustment of \$100 was applied.

Line 5. Floor of Unit. As all rents used in this analysis have units available on all floor levels, no adjustments were necessary for this line item.

Line 6. Project Occupancy: Where possible, occupancies of the individual floorplans were utilized. Otherwise, overall occupancy levels were used. According to data collected, the immediate market area has historically maintained an overall occupancy level over 90% for all apartments. The occupancy of the comparables surveyed currently ranges from 98.00% to 100.00%. Thus, no adjustment is applicable to the comparables for this line item.

Line 7. Rent Concessions. At the present time, none of the comparables are offering any significant concessions.

Line 8. Year Built: The subject property is proposed new construction. The comparable properties have years of construction ranging from 2003 to 2013. Also included in this category would be any allowances for functional utility. Conversations with area apartment managers and professionals specializing in apartment properties, it is generally considered that the newer a property is, the higher rents it can achieve. Quoted rental differences were reported to be between \$2 and \$7 per year difference. In this instance, I have based my adjustments of \$5 per year of effective age difference.

Line 9. Sq. Ft. Area: A matched-pair analysis for size was attempted to determine a size adjustment. The adjustments would normally be calculated between the largest and smallest of

each unit type with similar bedroom/bathroom counts. The following table depicts the matched-pair analyses performed.

Square Ft Diff	Complex Name	Unit Type	Square Footage	SF Diff	Rent	\$ Diff	\$/SF	Avg Rent Adj.
	Rental 1	1b/1b	733		\$1,089			
		1b/1b	572	161	\$1,039	\$50	\$0.31	
	Rental 1	2b/2b	981		\$1,229			
		2b/2b	886	95	\$1,299	-\$70	-\$0.74	
	Rental 2	1b/1b	934		\$1,210			
		1b/1b	705	229	\$1,127	\$83	\$0.36	
	Rental 2	2b/2b	1,206		\$1,518			
		2b/2b	1,056	150	\$1,289	\$229	\$1.53	
	Rental 5	0b/1b	610		\$1,379			
		0b/1b	500	110	\$1,200	\$179	\$1.63	
	Rental 5	1b/1b	868		\$1,153			
		1b/1b	639	229	\$1,169	-\$16	-\$0.07	
	Rental 5	2b/2b	1,007		\$1,131			
		2b/2b	879	128	\$1,153	-\$22	-\$0.17	
								\$0.71

A matched-pair analysis in other similar market areas has indicated a range of \$0.10 to \$1.00+ per square foot adjustment. Based on my experience and the opinions of local leasing agents, an adjustment of \$1.00 PSF for each additional square foot of unit area is appropriate for any unit with a difference greater than 25 square feet.

10. Number of Bedrooms: No adjustments were required for this factor.

11. Number of Baths: No adjustments were required for this factor with the exception of the 2BR/1BA grid. None of the comparables used offered units to perform a matched pairing for this item. Based on my experience and the opinions of local leasing agents, an adjustment of \$35 for an additional bathroom was considered reasonable, and was applied in my analysis.

12. Number of Rooms: No adjustments are necessary for this factor.

13. Private Balcony/Terrace/Patio: Some of the subject floor plans offer patios or balconies. Based on the opinions of local leasing agents, although considered an amenity, the presence of a balcony/patio does not typically translate into additional rent. Thus, no adjustment was applicable for this line item.

14. Garage or carport: The subject property will offer open parking. Some of the “cottage” units feature attached carports. Rental 4 features a parking garage space included in the rent. Based on an analysis of complexes in or near the PMA which rent parking spaces, a downward \$50 adjustment was made for a parking garage space and \$35 for a carport space

15. Equipment a, b, c, d, e, f, g, h, i, j: Several of the comparables offer washer/dryer units as part of the rent and were adjusted downward \$35, based on the typical rental rate for washer/dryer units. The subject will feature a recreational area, as well as a pool and fitness center, as do all of the comparables. No adjustment was required for a pool or a fitness center or recreational amenity.

16. Service a - d: The subject will be separately-metered for electricity, with the tenant responsible, and the landlord will also for water/sewer/trash. All of the comparables require the tenants to pay all utilities except Rentals 3 and 4, which includes water/sewer in the rent. The landlord will pay for trash at the subject. Adjustments for these line items was required and was based on the Austin HUD Utility Allowance.

17. Storage: Several of the comparables offer additional storage. Managers in this market indicate little to no adjustment for this amenity. No adjustment was required.

18. Project Location: The subject property will be located in an area of stable demand, as are the comparables, and no adjustment was necessary. The subject and comparables 1, 2, and 5 are considered to have good location; whereas, Rental 3 is considered to have a Fair location and Rental 4 is considered to have an Excellent location. Rental 3 was adjusted upward 10% and Rental 4 was adjusted downward 10%.

19. Other a - c: **a) Security.** The property will not have full perimeter fencing or access gates, which all of the comparables feature. A nominal \$10 downward adjustment was applied. **b) Business Center.** No adjustment required. **c) Appeal** – No adjustment was required.

Line 46. Conclusion of Market Rent – 1BR/1BA 773 square foot units. The adjusted rents for the subject’s 773 square foot 1BR/1BA unit range from \$1,164 to \$1,443 per month. Based on the above analysis, a concluded market rent of \$1,250 per month for the subject’s 1BR/1BA 773 square foot units is reasonable and well supported by the market data. Given the limited amount of recent construction of market-operated apartments in the subject’s area, a limited number of truly comparable properties were available, which resulted in relatively high adjustment percentages. The subject will also feature a 779 square foot unit (in the 3-story building). The concluded rent for this unit is also \$1,250.

Secondary Units

The subject will also feature a **730 SF 1BR unit** which is a “cottage” unit without a carport. Based on the above analysis (including \$100 premium for 1-story building) including adjustment for size difference, the concluded market rent for this unit is **\$1,305**.

The subject will also feature an **808 SF 1BR unit** and an 826 SF 1BR unit which are “cottage” units with a carport (\$35 premium). Based on the above analysis (including \$100 premium for

1-story building) including adjustment for size difference, the concluded market rent for these unit is **\$1,430**.

The subject will also feature an **823 SF 1BR and an 829 SF 1BR unit** which are not “cottage” units and do not feature a carport. Based on the above analysis, the concluded market rent for these units is **\$1,300**.

The subject will also feature an **859 SF 1BR, an 863 SF 1BR, and an 874 SF 1BR unit** which are not “cottage” units and do not feature a carport. Based on the above analysis, the concluded market rent for these units is **\$1,340**.

Line 46. Conclusion of Market Rent – 2BR/1BA 952 square foot units. The adjusted rents for the subject’s 952 square foot 2BR/1BA unit range from \$1,173 to \$1,542 per month. Based on the above analysis, a concluded market rent of \$1,315 per month for the subject’s 2BR/1BA 952 square foot units is reasonable and well supported by the market data. Given the limited amount of recent construction of market-operated apartments in the subject’s area, a limited number of truly comparable properties were available, which resulted in relatively high adjustment percentages.

Line 46. Conclusion of Market Rent – 2BR/2BA 1,223 square foot units. The adjusted rents for the subject’s 1,223 square foot 2BR/2BA unit range from \$1,479 to \$1,848 per month. Based on the above analysis, a concluded market rent of \$1,650 per month for the subject’s 2BR/2BA 1,223 square foot units is reasonable and well supported by the market data. Given the limited amount of recent construction of market-operated apartments in the subject’s area, a limited number of truly comparable properties were available, which resulted in relatively high adjustment percentages.

Secondary Units

The subject will also feature 3 different “cottage” 2BR/2BA units, all featuring a carport. There is a **1,026 SF unit, a 1,072 SF unit, and a 1,082 SF unit**. Based on the above analysis (including \$100 premium for 1-story building and \$35 adjustment for a carport) including adjustment for size difference, the concluded market rent for these unit are **\$1,590, \$1,640, and \$1,640**, respectively.

Concluded Market Rent Summary

No. Units	Type	Size (SF)	Mkt Rent/Mth	Mkt Rent (PSF)	Prepared in Grid (Y/N)
20	1 BR / 1 BA	730	\$1,305	\$1.79	N
52	1 BR / 1 BA	773	\$1,250	\$1.62	Y
4	1 BR / 1 BA	779	\$1,250	\$1.60	N
9	1 BR / 1 BA	808	\$1,430	\$1.77	N
10	1 BR / 1 BA	823	\$1,300	\$1.58	N
1	1 BR / 1 BA	826	\$1,430	\$1.73	N
2	1 BR / 1 BA	829	\$1,300	\$1.57	N
30	1 BR / 1BA	859	\$1,340	\$1.56	N
2	1 BR / 1 BA	863	\$1,340	\$1.55	N
4	1 BR / 1 BA	874	\$1,340	\$1.53	N
18	2 BR / 1 BA	952	\$1,315	\$1.38	Y
7	2 BR / 2 BA	1,026	\$1,590	\$1.55	N
4	2 BR / 2 BA	1,071	\$1,640	\$1.53	N
1	2 BR / 2 BA	1,082	\$1,640	\$1.52	N
10	2 BR / 2 BA	1,223	\$1,650	\$1.35	Y

Restricted-Rent Analysis

Within the subject PMA there are 7 operating Family HTC complexes. The HTC properties in the Austin MSA area report attaining close to or at HTC maximums. The existing Elderly HTC properties in the Austin area also reported attaining at or near max rents unless they purposely limit rents to below the maximum levels. The proposed subject rental rates, which are at the HTC maximum levels, are considered reasonable and attainable. Performing adjustment grids (HUD 92273) was not considered reliable or necessary due to the high occupancy rates and ability to achieve the maximum rents allowed by the properties in the area.

DEMAND ANALYSIS

Capture Rate

Eligible Renter Analysis - Rent-Restricted Units

Based on typical standards of apartment management companies in the Austin MSA, to qualify for a Elderly rent-restricted apartment, the annual rental should not exceed 50% of the annual gross income of the household. Utilizing the most recent demographic data, the following are calculations of the number of qualified residents in the immediate market area.

The developer's minimum gross rent level at the subject property is \$532 per month, which at 50% equates to an annual income of \$12,768 in order to qualify for the rent-restricted units at the subject property. The maximum income level is estimated to be \$75,680, which is the maximum household income for a family of four making 80% of the area median income. Those earning below \$12,768 and above \$75,680 are not solid candidates for the subject project.

SUBJECT UNIT MIX (RESTRICTED)							
Type	No. Units	Net Rent	Utility	Gross Rent	Income Required	Max Income	
1BR	30%	24	\$479	\$53	\$532	\$12,768	\$22,710
1BR	50%	12	\$834	\$53	\$887	\$21,288	\$37,850
1BR	60%	81	\$1,012	\$53	\$1,065	\$25,560	\$45,420
1BR	80%	9	\$1,151	\$53	\$1,420	\$34,080	\$60,560
2BR	30%	3	\$566	\$73	\$639	\$15,336	\$28,380
2BR	50%	8	\$992	\$73	\$1,065	\$25,560	\$47,300
2BR	60%	13	\$1,205	\$73	\$1,278	\$30,672	\$56,760
2BR	80%	10	\$1,415	\$73	\$1,704	\$40,896	\$75,680
		160					

Thus, based on the above calculations, the total percentage of households eligible on an income basis in the subject's primary market is 47.61%.

Likely Renters Based on Primary Market Area Income Per Household							
Income Bracket	Percent		Renter %		Income Eligible %		Eligible Renter %
<\$14,999	5.97%	X	100.00%	X	14.87%	=	0.89%
\$15,000 to \$24,999	4.99%	X	100.00%	X	100.00%	=	4.99%
\$25,000 to \$34,999	8.29%	X	100.00%	X	100.00%	=	8.29%
\$35,000 to \$49,999	12.64%	X	100.00%	X	100.00%	=	12.64%
\$50,000 to \$74,999	20.36%	X	100.00%	X	100.00%	=	20.36%
\$75,000 to \$99,999	16.05%	x	100.00%	x	2.72%	=	0.44%
Total Household Percent Eligible to Rent							47.61%

*Columns may not add exactly due to decimal rounding

DEMAND FROM OUTSIDE MARKET AREA

The subject will likely draw from outside its primary market area. Based on TDHCA underwriting guidelines, 10% of demand is allowed to account for demand from outside the PMA.

Demand from Section 8 Housing

The Housing and Community Development Act of 1974 authorized the Housing Assistance Payments Program (Section 8). Section 8 provides rental assistance to low-income families, elderly, disabled, and handicapped individuals. This Program provides financial assistance to eligible families whose annual gross income does not exceed 50% of HUD's median income guidelines (in most instances). Demographic projections indicate a continuing population and household growth in segments that generally create the largest demand on affordable housing supply.

Section 8 vouchers will also be accepted at the subject property. Because the demand was sufficient, demand from Section 8 vouchers was not included in the analysis.

HISTA CAPTURE

I have calculated the capture rates per bedroom type, utilizing HISTA data. HISTA takes Claritas demographics, and with the aid of some custom Census tables, calculates the renter numbers on a per-person household within the different income bands. HISTA does not provide population; therefore, both HISTA and an additional demographic source must be used.

The table below details the subject property unit-mix in regards to the HISTA calculation.

SUBJECT UNIT MIX (RESTRICTED)							
Type		No. Units	Net Rent	Utility	Gross Rent	Income Required	Max Income
1BR	30%	24	\$479	\$53	\$532	\$12,768	\$22,710
1BR	50%	12	\$834	\$53	\$887	\$21,288	\$37,850
1BR	60%	81	\$1,012	\$53	\$1,065	\$25,560	\$45,420
1BR	80%	9	\$1,151	\$53	\$1,420	\$34,080	\$60,560
2BR	30%	3	\$566	\$73	\$639	\$15,336	\$28,380
2BR	50%	8	\$992	\$73	\$1,065	\$25,560	\$47,300
2BR	60%	13	\$1,205	\$73	\$1,278	\$30,672	\$56,760
2BR	80%	<u>10</u>	\$1,415	\$73	\$1,704	\$40,896	\$75,680
		160					

The following tables depict the present and projected demand based on income and household count.

ALL HOUSEHOLDS						
2019	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5+ PERSON	Total
<\$10K	362	163	45	28	26	598
\$10K-\$20K	556	193	78	38	33	865
\$20K-\$30K	670	388	118	38	40	1,214
\$30K-\$40K	483	348	117	47	75	995
\$40K-\$50K	381	467	113	54	72	1,015
\$50K-\$60K	369	553	133	31	27	1,086
\$60K-\$75K	<u>488</u>	<u>515</u>	<u>130</u>	<u>61</u>	<u>89</u>	<u>1,194</u>
TOTAL	3,309	2,627	734	297	362	6,967

ALL HOUSEHOLDS						
2024	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5+ PERSON	Total
<\$10K	412	182	37	30	34	661
\$10K-\$20K	607	204	94	39	38	944
\$20K-\$30K	632	352	110	31	46	1,125
\$30K-\$40K	534	391	137	55	80	1,117
\$40K-\$50K	343	397	117	56	71	913
\$50K-\$60K	430	641	151	35	49	1,257
\$60K-\$75K	<u>578</u>	<u>631</u>	<u>147</u>	<u>66</u>	<u>105</u>	<u>1,422</u>
TOTAL	3,536	2,798	793	312	423	7,439

SUBJECT DEMAND						
	2019 HH	2024 HH	(x)	2019 Qual. HH	2024 Qual. HH	Forecast Growth
<\$10K	598	661	0.00%	0	0	0
\$10K-\$20K	865	944	72.32%	626	683	57
\$20K-\$30K	1,214	1,125	100.00%	1,214	1,125	-89
\$30K-\$40K	995	1,117	100.00%	995	1,117	122
\$40K-\$50K	1,015	913	100.00%	1,015	913	-102
\$50K-\$60K	1,086	1,257	100.00%	1,086	1,257	171
\$60K-\$75K	<u>1,194</u>	<u>1,422</u>	<u>104.53%</u>	<u>1,248</u>	<u>1,486</u>	<u>238</u>
TOTAL	6,967	7,439	88.8%	6,184	6,581	397

The next step is to project the bedroom type which various renter households would likely choose to rent, which was based on surveys of existing complexes in the area. The following table depicts the occupancy conclusions used in my HISTA capture analysis.

OCCUPANCY ASSUMPTIONS					
HH Size	1	2	3	4	5+
0BR	20%	0%	0%	0%	0%
1 BR	80%	30%	0%	0%	0%
2 BR	0%	70%	100%	100%	0%
3 BR	0%	0%	0%	0%	0%
4 BR	0.00%	0.00%	0%	0%	0%

The next step is to project the percentage of income qualified households within each income band. The following table depicts the percentage of qualified income household conclusions used in my HISTA capture analysis.

Percentage of Income Qualified Households			\$10K	\$10K-\$20K	\$20K-\$30K	\$30K-\$40K	\$40K-\$50K	\$50K-\$60K	\$60K-\$75K
			0	10000	20000	30000	40000	50000	75000
1BR 30%	\$12,768	\$21,287	0.00%	72.32%	12.87%	0.00%	0.00%	0.00%	0.00%
1BR 50%	\$21,288	\$25,559	0.00%	0.00%	42.71%	0.00%	0.00%	0.00%	0.00%
1BR 60%	\$25,560	\$34,079	0.00%	0.00%	44.40%	40.79%	0.00%	0.00%	0.00%
1BR 80%	\$34,080	\$60,560	0.00%	0.00%	0.00%	59.20%	100.00%	100.00%	3.73%
2BR 30%	\$15,336	\$25,559	0.00%	46.64%	55.59%	0.00%	0.00%	0.00%	0.00%
2BR 50%	\$25,560	\$30,671	0.00%	0.00%	44.40%	6.71%	0.00%	0.00%	0.00%
2BR 60%	\$30,672	\$40,895	0.00%	0.00%	0.00%	93.28%	8.95%	0.00%	0.00%
2BR 80%	\$40,896	\$75,680	0.00%	0.00%	0.00%	0.00%	91.04%	100.00%	100.00%

The next step in the analysis is to multiply the demand by the appropriate occupancy assumptions and percentage of income qualified households to arrive at a final demand count for each unit type. The following table depicts the concluded demand.

The following table depicts the results of my capture analysis utilizing HISTA data.

2019	
Min	Max
\$12,768	\$75,680
%/Income Band	Demand
0.00%	0
72.32%	626
100.00%	1,214
100.00%	995
100.00%	1,015
100.00%	1,086
104.53%	1,248
Total	6,184

2024	
Min	Max
\$12,768	\$75,680
%/Income Band	Demand
0.00%	0
72.32%	11
100.00%	-18
100.00%	24
100.00%	-20
100.00%	34
104.53%	48
Growth to P.I.S.	79

Potential Demand	6,263
Add Demand	<u>626</u>
Gross Demand	6,889
Supply	<u>383</u>
Gross Capture	5.56%

CAPTURE (RESTRICTED UNITS)							
Type	No. Units	Demand	Growth	Section 8	Additional Demand	Total Demand	Capture Rate
1BR 30%	24	448	5		45	498	4.8%
1BR 50%	12	279	-4		28	303	4.0%
1BR 60%	195	490	1		49	540	36.1%
1BR 80%	9	1,197	11		121	1,329	0.7%
2BR 30%	3	355	-2		35	388	0.8%
2BR 50%	8	217	-3		21	235	3.4%
2BR 60%	122	424	10		43	477	25.6%
2BR 80%	10	1,001	9		101	1,111	0.9%

CAPTURE (AMGI)							
Type	No. Units	Demand	Growth	Section 8	Additional Demand	Total Demand	AMGI Capture Rate
30%	27	1,643	-4		164	1,803	1.50%
50%	20	529	-8		52	573	3.49%
60%	317	3,283	19		330	3,632	8.73%
80%	19	1,248	48		130	1,426	1.33%

Detailed tables depicting the raw data utilized above are located in the addenda of this report.

MARKET RATE

The subject will feature 14 market rate units. There are no comparable market rate proposed and none non-stabilized, or under construction in the PMA with comparable proposed rental rates. The following tables depict the capture rate analysis for the market rate units.

Income Ranges			
		Min	Max
1BR	Mkt	\$28,800	\$1,000,000

Income Ranges			
		Min	Max
2BR	Mkt	\$33,960	\$1,000,000

OCCUPANCY ASSUMPTIONS						
HH Size	1	2	3	4	5+	
1 BR	80%	30%	0%	0%	0%	0%
2 BR	20%	70%	100%	100%	0%	0%
3 BR	0%	0%	0%	0%	0%	0%

CAPTURE (MARKET RATE)						
Type	No. Units	Demand	Growth	Total Demand	Capture Rate	
1BR Mkt	8	3,925	188	4,113	0.2%	
2BR Mkt	<u>6</u>	<u>6,020</u>	<u>262</u>	<u>6,282</u>	<u>0.1%</u>	
HISTA	14	9,945	450	10,395	0.13%	

CONCLUSIONS OF MARKET ANALYSIS

Evaluation of Subject Property

Upon completion of the improvements, the subject property will have good curb appeal and an advantage over older competing properties in the immediate market area. The apartment units (all floorplans) have adequate functional utility, based on the information provided by the client. To the best of my knowledge, there will be no actual or suspect code violations and/or health and safety issues, based information provided by the client. It is my conclusion that the subject property will have a competitive advantage in its micro-market area into the near future.

According to the developer, 91.95% of the units will be set aside for tenants making at or below 80% of the area median gross income. The pro-forma rental schedule supplied by the client indicated that the proposed monthly rental rates range from to per square foot (rent-restricted without utility allowance).

The subject property will be constructed under the HOME Funds and/or MDL/PAB programs, which restricts rental rates and residents by income level. The subject property will have 91.95% of the complex rent-restricted. As such, the subject property will suffer from external obsolescence, due to the applicable income-restricted rents. Since the subject property will be a HOME Fund/MDL/PAB property, favorable funding cost reduces the overall operating costs of the project, allowing the lower rents under the program. Any external obsolescence should be offset, thus making the proposed subject property a viable development.

The developer's projected rents for the subject's restricted units at 30%, 50%, 60% and 80% of AMI and at market, are illustrated in the chart below. The amenities at the subject property will be competitive with most other good-quality projects in the subject's neighborhood. Further, the subject property will be very competitive due to its new condition.

SUMMARY OF DEVELOPER'S PROFORMA RENT					
No. Units	Type	% AMI	Avg Size (SF)	Rent/ Mth (Net)	Rent PSF
24	1 BR / 1 BA	30%	840	\$479	\$0.57
12	1 BR / 1 BA	50%	852	\$834	\$0.98
81	1 BR / 1 BA	60%	783	\$1,012	\$1.29
4	1 BR / 1 BA	80%	730	\$1,090	\$1.49
5	1 BR / 1 BA	80%	808	\$1,200	\$1.49
4	1 BR / 1 BA	Mkt	730	\$1,090	\$1.49
3	1 BR / 1 BA	Mkt	808	\$1,200	\$1.49
1	1 BR / 1 BA	Mkt	823	\$1,200	\$1.46
2	2 BR / 1BA	30%	952	\$566	\$0.59
7	2 BR / 1 BA	50%	952	\$992	\$1.04
9	2 BR / 1 BA	60%	952	\$1,205	\$1.27
1	2 BR / 2 BA	30%	1,223	\$566	\$0.46
1	2 BR / 2 BA	50%	1,026	\$992	\$0.97
4	2 BR / 2 BA	60%	1,188	\$1,205	\$1.01
10	2 BR / 2 BA	80%	1,153	\$1,415	\$1.23
4	2 BR / 2 BA	Mkt	1,026	\$1,415	\$1.38
2	2 BR / 2 BA	Mkt	1,071	\$1,415	\$1.32

The developer's proforma rents are summarized in the Income Analysis section of this report.

Income Analysis

To test the viability of the proposed apartment development, I analyzed the developer's proposed rental rates. The developer's projected rental rates for the subject property average ±\$1.149 per square foot (rent-restricted net of utility allowance averaged), which is below the range exhibited by competing market properties in the area. The developer's average projected rental rate for the proposed subject property is highly competitive for the subject's market area.

Based on the developer's rent schedule, gross potential revenue for the proposed subject property is \$2,092,980 per year. Other revenue (primary source is vending, late fees, and parking, etc.) estimated by the developer appears high but reasonable based on information in my files and discussions with apartment developers and management companies who are active in the Austin area. Other income includes revenue from vending, late fees, and parking, which is considered reasonable based on my survey of apartment complexes in the Austin or similar markets. Other typical sources of income not considered by the developer include forfeited security deposits and application fees.

POTENTIAL GROSS REVENUE					
No. Units	Type	% AMI	Avg. Size (SF)	Restr. Rent/ Mth (Net)	Total Rent
24	1 BR / 1 BA	30%	840	\$479	\$11,496
12	1 BR / 1 BA	50%	852	\$834	\$10,008
81	1 BR / 1 BA	60%	783	\$1,012	\$81,972
5	1 BR / 1 BA	80%	808	\$1,200	\$6,000
4	1 BR / 1 BA	Mkt	730	\$1,090	\$4,360
3	1 BR / 1 BA	Mkt	808	\$1,200	\$3,600
1	1 BR / 1 BA	Mkt	823	\$1,200	\$1,200
2	2 BR / 1BA	30%	952	\$566	\$1,132
7	2 BR / 1 BA	50%	952	\$992	\$6,944
9	2 BR / 1 BA	60%	952	\$1,205	\$10,845
1	2 BR / 2 BA	30%	1,223	\$566	\$566
1	2 BR / 2 BA	50%	1,026	\$992	\$992
4	2 BR / 2 BA	60%	1,188	\$1,205	\$4,820
10	2 BR / 2 BA	80%	1,153	\$1,415	\$14,150
4	2 BR / 2 BA	Mkt	1,026	\$1,415	\$5,660
2	2 BR / 2 BA	Mkt	1,071	\$1,415	\$2,830
174			Average/Total:	\$982.39	\$170,935
Other Income	174 units at		\$20.00		\$3,480
	MONTHLY POTENTIAL GROSS INCOME				\$174,415
	MULTIPLIED BY TWELVE MONTHS				12
	ANNUAL POTENTIAL GROSS INCOME				\$2,092,980

OPERATING EXPENSE ANALYSIS				
Item	TDHCA		Subject Property	
	Region 7 (>76)			
	Per Unit	PSF	Per Unit	PSF
General & Administrative Management	\$421	\$0.65	\$740	\$0.86
Payroll & Payroll Tax	\$508	\$0.74	\$230	\$0.27
Repairs & Maintenance	\$1,148	\$1.72	\$1,087	\$1.27
Utilities	\$904	\$1.36	\$603	\$0.70
Water, Sewer & Trash	\$225	\$0.31	\$257	\$0.30
Insurance	\$761	\$1.06	\$544	\$0.64
Property Tax	\$328	\$0.50	\$280	\$0.33
Reserve for Replacement	\$568	\$1.08	\$0	\$0.00
	<u>\$342</u>	<u>\$0.48</u>	<u>\$250</u>	<u>\$0.29</u>
Totals	\$5,205	\$7.90	\$3,991	\$4.66

The subject proforma expenses look reasonable based on my experience and TDHCA averages considering that the subject will be tax exempt.

Vacancy and Collection Loss

As previously discussed, there are 7 operating HTC projects within the PMA with an average current occupancy of 97.9%. The rent comparables averaged 99%, and the average occupancy within the PMA was 94.57%. Given the physical characteristics of the subject (i.e. location, good curb appeal, new condition, amenities, etc.), the strong occupancies reported at nearby HTC apartments, and that the subject will offer competitive rents at a new property, a stabilized occupancy rate of 95% is reasonable and achievable for the subject property.

Evaluation of Need of Affordable Housing

As the competing projects within the subject property's primary market area have high occupancy rates, and the nearest existing HTC projects also have high occupancy rates, it appears there is a shortage of affordable housing. The subject property should be highly competitive in this market, and should achieve stabilized occupancy within 6 to 10 months after completion. As with most new projects, pre-leasing will take place during the construction phase. Based on my analysis of the subject property's primary market area, there is sufficient demand to construct and successfully absorb the The Nightingale at Goodnight Ranch.

Capture Rate Conclusion

The TDHCA defines Capture Rate as "the sum of the proposed units for a given project plus any previously approved but not yet stabilized new units in the submarket divided by the total income-eligible targeted renter demand identified by the market analysis for the specific project's primary market or submarket." Based on my research, there are no Seniors projects under construction, none approved and none unstabilized in the primary market area (other than the subject). There is one active Seniors HTC application on the bond list (Limestone Ridge Seniors 19434) within the PMA. There are no approved Seniors HTC properties within the PMA.



Subject Property



Subject Property



Leasing Office/Community Center



Street Scene Charles Merle Drive facing east (subject on the left)



Street Scene Charles Merle Drive facing west

other than the subject. There are no approved Elderly HTC complexes (excluding the subject). Based on the pent-up demand, the high existing occupancy rate, and the absorption of similar properties in the area, the subject is anticipated to be successfully absorbed within 6 to 10 months of completion of the proposed improvements. Therefore, a total of 383 restricted units (subject units and comparably-restricted units from Limestone Ridge Seniors) require absorption. There are approximately 6,889 (HISTA) potential households based on income eligibility, housing preference, and taking into consideration the typical turnover rate in the subject's primary market.

HISTA Capture rate for 383 Affordable Elderly Units 5.56%

THE CAPTURE RATE ABOVE IS OVERSTATED. I HAVE NOT INCLUDED DEMAND FROM SECTION 8 AND OTHER DEMAND SOURCES. BECAUSE THE CAPTURE RATE WAS WITHIN TDHCA'S GUIDELINES WITHOUT THE INCLUSION OF THESE DEMAND SOURCES, THAT DEMAND WAS NOT QUANTIFIED IN THIS REPORT.

Absorption Projections

There is currently no operating Seniors HTC complex within the subject PMA. The Villages of Ben White is one of the most recently-completed Seniors HTC complexes (north of the subject PMA) in the Austin area. Villages of Ben White is a 183-unit Seniors HTC, all rent-restricted. The Villages of Ben White began pre-leasing in December 2015, and received their first CO in March 2016 at which time they were almost 40% pre-leased. The Villages of Ben White attained stabilized occupancy in January 2017, which equates to an average absorption of approximately 18 units per month from completion. Villages of Ben White reported a current occupancy of 100%. Considering the strong absorption history of similar properties and the lack of available quality affordable Elderly units in this market, I project that the subject property will lease an average of 15 to 25 units per month until achieving stabilized occupancy. I anticipate that the subject property will achieve stabilized occupancy within 6 to 10 months following completion.

Effect of Subject Property on Existing Apartment Market

Based on the high occupancy levels of the existing properties in the market, along with the low level of recent construction, I project that the subject property will have minimal sustained negative impact upon the existing apartment market. Managers interviewed indicated a need for Elderly affordable housing. All managers interviewed indicated minimal to no impact from the opening of the most recent HTC properties. Any negative impact from the subject property should be of reasonable scope and limited duration.

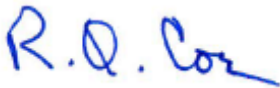
APPENDICES

APPENDICES

CERTIFICATION OF APPRAISAL ASSIGNMENT

I certify that, to the best of my knowledge and belief, ...

- (1) The statements of fact contained in this report are true and correct.
- (2) The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions conclusions, and recommendations.
- (3) I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- (4) I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- (5) My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- (6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- (7) My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics of the Appraisal Institute, the Standards of Professional Appraisal Practice of the Appraisal Institute, and USPAP.
- (8) Robert O. Coe, II performed a site visit to the subject property.
- (9) No one provided significant real property appraisal assistance to the person signing this certification.
- (10) Robert O. (Bob) Coe, II, MAI is a designated Member of the Appraisal Institute and has completed the continuing education program of the Appraisal Institute. The bylaws and regulations of the Appraisal Institute require each member to control the use and distribution of each report signed by such member.
- (11) Robert O. (Bob) Coe, II, has prepared two additional appraisal or other assignments on the subject site in the last three years.



Robert O. (Bob) Coe, II, MAI
TX-1333157-G
State Certified General Real Estate Appraiser

ENGAGEMENT LETTER

Affordable Housing Analysts
Appraisers/Analysts/Consultants

August 1, 2019

Ms. Janine Sisak
Austin DMA Housing III, LLC
c/o DMA Development Company
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

Greetings:

This agreement confirms the terms and objectives of the Appraisal assignment (TDHCA 4% market study) and the nature and limitations of services to be provided by *Affordable Housing Analysts*. My firm will review, analyze, and determine my opinion of the market demand for the development of a proposed ±174-unit Senior Housing Tax Credit project to be known as The Nightingale at Goodnight Ranch, which is to be located at the southwest quadrant of Nuckols Crossing & Vertex Boulevard, Austin, Travis County, Texas. The purpose of the Market Study is to provide a market overview of the data necessary for the Texas Department of Housing and Community Affairs (TDHCA) Housing Tax Credit/Private Activity Bond applications (PAB), and for the client to make investment decisions about the proposed development.

This agreement is between *Affordable Housing Analysts* and:

Client: Austin DMA Housing III, LLC c/o DMA Development Company

Intended User/Use: The client is the user of this report. Additional users are the TDHCA and assigns. The Market Analysis will be utilized in association with an application and funding through the TDHCA Housing Tax Credit (HTC) and Private Activity Bond (PAB) programs. *Affordable Housing Analysts*' work file will contain the information necessary to support such a report/assignment.

Scope of Work

Type of Report: HTC Market Study

Subject Property: Development of a +/-174-unit Senior Housing Tax Credit project to be known as The Nightingale at Goodnight Ranch, which is to be located at the southwest quadrant of Nuckols Crossing & Vertex Boulevard, Austin, Travis County, Texas.

Delivery of the Report: By execution of this engagement letter, the report has been ordered, and the completed report will be delivered to the client within 30 days assuming timely receipt of all of the following: signed engagement letter and all requested information. The final report will be delivered to you via PDF only. No hard copies will be provided.

I certify that I have read and understood the 2019 Uniform Multifamily Rules **11.303 and 11.304**. The Market Analysis will conform to the TDHCA's Market Analysis Rules and Guidelines, as described in Section 11.303 of the Uniform Multifamily Rules in effect for the application round (2019) in which the Market Analysis may be submitted.

Fee: My engagement shall begin on the day of receipt of this signed agreement and required information. My fee for the assignment is the sum of \$7,000.00, which is due upon completion of the assignment.

The contract fee for this assignment does not include time spent in negotiation, mediation, arbitration, depositions, testifying before any regulation or judicial forum, preparation for such hearing, or any other services other than the work described in the Scope of Work. The contract fee has been quoted on an estimate of the time it will take to complete the assignment described in the Scope of Work, at an hourly rate of \$250 per hour. The fee for this report is inclusive of the report only. Any changes to this agreement must be agreed to in writing, by the undersigned and the client. Any changes in the project specifications, or for services beyond the scope of the assignment, shall be priced based upon the scope of the request at that time, and may cause a delay in the delivery of the report if requested after engagement. Any follow up reports or letters will also require additional billings to the client. Any additional services required beyond the scope of the original assignment will be billed at \$250.00 per hour. Estimates prior to engagement for a particular request will be available to the client.

Necessary information (initial):

- Current operating proforma and rent schedule
- Development budget

Your signature on a copy of this letter confirms your acceptance of this assignment.

Thank you for considering my firm for this assignment. I look forward to working with you on this project.

Sincerely,



Robert O. (Bob) Coe, II

August 1, 2019
Date

Accepted:



Client: Janine Sisak
Austin DMA Housing III, LLC
c/o DMA Development Company

8/1/19
Date

By acceptance of this agreement, the client agrees to the payment terms and limiting conditions listed above. **All reports remain the property of *Affordable Housing Analysts* until paid in full.** Furthermore, if payment is not received, the client agrees to pay any and all collection and legal expenses incurred by *Affordable Housing Analysts* to secure full payment. Any and all litigation for payment of services is agreed by all parties to be conducted in Galveston County, Texas.

PMA DEMOGRAPHIC REPORT

Pop-Facts® Demographic Snapshot | Summary

Trade Area: pma CTs Nightingale at Goodnight Ranch

Population	
2000 Census	59,844
2010 Census	86,709
2019 Estimate	112,801
2024 Projection	123,561
Population Growth	
Percent Change: 2000 to 2010	44.89
Percent Change: 2010 to 2019	30.09
Percent Change: 2019 to 2024	9.54
Households	
2000 Census	21,071
2010 Census	32,610
2019 Estimate	42,826
2024 Projection	46,918
Household Growth	
Percent Change: 2000 to 2010	54.76
Percent Change: 2010 to 2019	31.33
Percent Change: 2019 to 2024	9.55
Family Households	
2000 Census	14,860
2010 Census	20,286
2019 Estimate	26,270
2024 Projection	28,767
Family Household Growth	
Percent Change: 2000 to 2010	36.51
Percent Change: 2010 to 2019	29.50
Percent Change: 2019 to 2024	9.51

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Population & Race

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Population by Single-Classification Race		
White Alone	76,960	68.23
Black/African American Alone	6,479	5.74
American Indian/Alaskan Native Alone	1,377	1.22
Asian Alone	3,927	3.48
Native Hawaiian/Pacific Islander Alone	135	0.12
Some Other Race Alone	19,458	17.25
Two or More Races	4,465	3.96
2019 Est. Population by Hispanic or Latino Origin		
Not Hispanic or Latino	54,629	48.43
Hispanic or Latino	58,172	51.57
Mexican Origin	48,854	83.98
Puerto Rican Origin	980	1.69
Cuban Origin	277	0.48
All Other Hispanic or Latino	8,061	13.86
2019 Est. Pop by Race, Asian Alone, by Category		
Chinese, except Taiwanese	637	16.22
Filipino	597	15.20
Japanese	219	5.58
Asian Indian	429	10.92
Korean	574	14.62
Vietnamese	604	15.38
Cambodian	90	2.29
Hmong	0	0.00
Laotian	49	1.25
Thai	44	1.12
All Other Asian Races Including 2+ Category	684	17.42
2019 Est. Population by Ancestry		
Arab	730	0.65
Czech	367	0.33
Danish	65	0.06
Dutch	474	0.42
English	5,231	4.64
French (Excluding Basque)	900	0.80
French Canadian	64	0.06
German	7,141	6.33
Greek	180	0.16
Hungarian	113	0.10
Irish	3,881	3.44
Italian	1,145	1.01
Lithuanian	83	0.07
Norwegian	595	0.53
Polish	909	0.81
Portuguese	121	0.11
Russian	234	0.21
Scotch-Irish	930	0.82
Scottish	898	0.80
Slovak	72	0.06
Sub-Saharan African	861	0.76
Swedish	594	0.53
Swiss	99	0.09
Ukrainian	16	0.01
United States or American	3,151	2.79
Welsh	285	0.25
West Indian (Excluding Hispanic groups)	294	0.26
Other ancestries	66,022	58.53
Ancestries Unclassified	17,346	15.38
2019 Est. Pop Age 5+ by Language Spoken At Home		
Speak Only English at Home	64,175	61.10
Speak Asian/Pacific Isl. Lang. at Home	1,645	1.57
Speak Indo-European Language at Home	1,696	1.61
Speak Spanish at Home	37,139	35.36
Speak Other Language at Home	369	0.35
2019 Est. Hisp. or Latino Pop by Single-Class. Race		
White Alone	34,386	59.11
Black/African American Alone	645	1.11
American Indian/Alaskan Native Alone	1,096	1.88
Asian Alone	179	0.31
Native Hawaiian/Pacific Islander Alone	31	0.05
Some Other Race Alone	19,280	33.14
Two or More Races	2,555	4.39

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Population & Race

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Population by Sex		
Male	56,096	49.73
Female	56,705	50.27
2019 Est. Population by Age		
Age 0 - 4	7,777	6.89
Age 5 - 9	7,976	7.07
Age 10 - 14	8,095	7.18
Age 15 - 17	4,459	3.95
Age 18 - 20	4,094	3.63
Age 21 - 24	5,621	4.98
Age 25 - 34	19,461	17.25
Age 35 - 44	17,982	15.94
Age 45 - 54	14,141	12.54
Age 55 - 64	11,843	10.50
Age 65 - 74	7,747	6.87
Age 75 - 84	2,852	2.53
Age 85 and over	753	0.67
Age 16 and over	87,488	77.56
Age 18 and over	84,494	74.91
Age 21 and over	80,400	71.28
Age 65 and over	11,352	10.06
Median Age	-	34.46
Average Age	-	35.57
2019 Est. Pop Age 15+ by Marital Status		
Total, Never Married	37,697	42.38
Male, Never Married	19,442	21.86
Female, Never Married	18,255	20.52
Married, Spouse Present	33,672	37.85
Married, Spouse Absent	4,423	4.97
Widowed	2,983	3.35
Male, Widowed	770	0.87
Female, Widowed	2,213	2.49
Divorced	10,178	11.44
Male, Divorced	4,772	5.37
Female, Divorced	5,406	6.08
2019 Est. Male Population by Age		
Male: Age 0 - 4	3,972	7.08
Male: Age 5 - 9	4,075	7.26
Male: Age 10 - 14	4,191	7.47
Male: Age 15 - 17	2,265	4.04
Male: Age 18 - 20	2,084	3.71
Male: Age 21 - 24	2,768	4.93
Male: Age 25 - 34	10,042	17.90
Male: Age 35 - 44	9,063	16.16
Male: Age 45 - 54	6,967	12.42
Male: Age 55 - 64	5,577	9.94
Male: Age 65 - 74	3,576	6.38
Male: Age 75 - 84	1,238	2.21
Male: Age 85 and over	278	0.50
Median Age, Male	-	33.69
Average Age, Male	-	34.78
2019 Est. Female Population by Age		
Female: Age 0 - 4	3,805	6.71
Female: Age 5 - 9	3,901	6.88
Female: Age 10 - 14	3,904	6.88
Female: Age 15 - 17	2,194	3.87
Female: Age 18 - 20	2,010	3.54
Female: Age 21 - 24	2,853	5.03
Female: Age 25 - 34	9,419	16.61
Female: Age 35 - 44	8,919	15.73
Female: Age 45 - 54	7,174	12.65
Female: Age 55 - 64	6,266	11.05
Female: Age 65 - 74	4,171	7.36
Female: Age 75 - 84	1,614	2.85
Female: Age 85 and over	475	0.84
Median Age, Female	-	35.29
Average Age, Female	-	36.35

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Housing & Households

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Households by Household Type		
Family Households	26,270	61.34
NonFamily Households	16,556	38.66
2019 Est. Group Quarters Population		
2019 Est. Group Quarters Population	190	0.17
2019 HHs By Ethnicity, Hispanic/Latino		
2019 HHs By Ethnicity, Hispanic/Latino	17,213	40.19
2019 Est. Family HH Type by Presence of Own Child.		
Married Couple Family, own children	8,572	32.63
Married Couple Family, no own children	9,460	36.01
Male Householder, own children	1,094	4.16
Male Householder, no own children	1,253	4.77
Female Householder, own children	3,422	13.03
Female Householder, no own children	2,469	9.40
2019 Est. Households by Household Size		
1-Person Household	11,369	26.55
2-Person Household	13,749	32.10
3-Person Household	7,082	16.54
4-Person Household	5,213	12.17
5-Person Household	2,943	6.87
6-Person Household	1,401	3.27
7-or-more-person	1,069	2.50
2019 Est. Average Household Size	-	2.63
2019 Est. Households by Number of Vehicles		
No Vehicles	1,622	3.79
1 Vehicle	14,554	33.98
2 Vehicles	17,791	41.54
3 Vehicles	6,361	14.85
4 Vehicles	1,563	3.65
5 or more Vehicles	935	2.18
2019 Est. Average Number of Vehicles	-	1.89
2019 Est. Occupied Housing Units by Tenure		
Housing Units, Owner-Occupied	24,058	56.18
Housing Units, Renter-Occupied	18,768	43.82
2019 Owner Occ. HUs: Avg. Length of Residence		
2019 Owner Occ. HUs: Avg. Length of Residence	-	13.08
2019 Renter Occ. HUs: Avg. Length of Residence		
2019 Renter Occ. HUs: Avg. Length of Residence	-	5.40
2019 Est. Owner-Occupied Housing Units by Value		
Value Less Than \$20,000	481	2.00
Value \$20,000 - \$39,999	383	1.59
Value \$40,000 - \$59,999	268	1.11
Value \$60,000 - \$79,999	552	2.29
Value \$80,000 - \$99,999	444	1.84
Value \$100,000 - \$149,999	2,116	8.79
Value \$150,000 - \$199,999	4,094	17.02
Value \$200,000 - \$299,999	8,674	36.05
Value \$300,000 - \$399,999	4,108	17.07
Value \$400,000 - \$499,999	1,829	7.60
Value \$500,000 - \$749,999	692	2.88
Value \$750,000 - \$999,999	159	0.66
Value \$1,000,000 - \$1,499,999	87	0.36
Value \$1,500,000 - \$1,999,999	20	0.08
Value \$2,000,000 or more	151	0.63
2019 Est. Median All Owner-Occupied Housing Value	-	240,253.48

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Housing & Households

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Housing Units by Units in Structure		
1 Unit Attached	1,402	3.11
1 Unit Detached	27,202	60.41
2 Units	1,192	2.65
3 to 4 Units	1,367	3.04
5 to 19 Units	6,025	13.38
20 to 49 Units	2,214	4.92
50 or More Units	3,044	6.76
Mobile Home or Trailer	2,536	5.63
Boat, RV, Van, etc.	46	0.10
2019 Est. Housing Units by Year Structure Built		
Built 2014 or Later	7,374	16.38
Built 2010 to 2013	3,153	7.00
Built 2000 to 2009	12,616	28.02
Built 1990 to 1999	5,897	13.10
Built 1980 to 1989	7,138	15.85
Built 1970 to 1979	6,464	14.36
Built 1960 to 1969	1,318	2.93
Built 1950 to 1959	706	1.57
Built 1940 to 1949	217	0.48
Built 1939 or Earlier	145	0.32
2019 Housing Units by Year Structure Built		
2019 Est. Median Year Structure Built	-	2,000.58
2019 Est. Households by Presence of People Under 18		
2019 Est. Households by Presence of People Under 18	14,727	34.39
Households with 1 or More People under Age 18		
Married Couple Family	9,255	62.84
Other Family, Male Householder	1,311	8.90
Other Family, Female Householder	4,040	27.43
NonFamily Household, Male Householder	83	0.56
NonFamily Household, Female Householder	38	0.26
2019 Est. Households with No People under Age 18		
Households with No People under Age 18	28,099	65.61
Households with No People under Age 18		
Married Couple Family	8,769	31.21
Other Family, Male Householder	1,044	3.71
Other Family, Female Householder	1,861	6.62
NonFamily, Male Householder	8,147	28.99
NonFamily, Female Householder	8,278	29.46

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Affluence & Education

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Pop Age 25+ by Edu. Attainment		
Less than 9th Grade	5,442	7.28
Some High School, No Diploma	5,095	6.81
High School Graduate (or GED)	17,173	22.96
Some College, No Degree	16,991	22.72
Associate's Degree	4,703	6.29
Bachelor's Degree	18,001	24.07
Master's Degree	5,685	7.60
Professional Degree	1,172	1.57
Doctorate Degree	517	0.69
2019 Est. Pop Age 25+ by Edu. Attain., Hisp./Lat.		
High School Diploma	8,154	24.43
High School Graduate	9,705	29.08
Some College or Associate's Degree	7,880	23.61
Bachelor's Degree or Higher	7,635	22.88
2019 Est. Households by HH Income		
Income < \$15,000	2,558	5.97
Income \$15,000 - \$24,999	2,136	4.99
Income \$25,000 - \$34,999	3,550	8.29
Income \$35,000 - \$49,999	5,414	12.64
Income \$50,000 - \$74,999	8,718	20.36
Income \$75,000 - \$99,999	6,872	16.05
Income \$100,000 - \$124,999	5,297	12.37
Income \$125,000 - \$149,999	3,392	7.92
Income \$150,000 - \$199,999	2,470	5.77
Income \$200,000 - \$249,999	1,086	2.54
Income \$250,000 - \$499,999	963	2.25
Income \$500,000+	370	0.86
2019 Est. Average Household Income	-	89,245.03
2019 Est. Median Household Income	-	72,018.43
2019 Median HH Inc. by Single-Class. Race or Eth.		
White Alone	-	72,907.19
Black or African American Alone	-	64,096.97
American Indian and Alaskan Native Alone	-	81,009.22
Asian Alone	-	88,350.44
Native Hawaiian and Other Pacific Islander Alone	-	104,562.50
Some Other Race Alone	-	67,391.83
Two or More Races	-	65,188.01
Hispanic or Latino	-	64,084.31
Not Hispanic or Latino	-	78,335.54
2019 Est. Families by Poverty Status		
2019 Families at or Above Poverty	24,373	92.78
2019 Families at or Above Poverty with children	11,693	44.51
2019 Families Below Poverty	1,897	7.22
2019 Families Below Poverty with children	1,557	5.93

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Pop-Facts® Demographic Snapshot | Education & Occupation

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826

	Count	%
2019 Est. Employed Civilian Population 16+ by Occupation Classification		
White Collar	38,496	62.55
Blue Collar	10,950	17.79
Service and Farming	12,099	19.66
2019 Est. Workers Age 16+ by Travel Time to Work		
Less than 15 Minutes	7,922	13.77
15 - 29 Minutes	21,357	37.13
30 - 44 Minutes	17,758	30.87
45 - 59 Minutes	6,170	10.72
60 or more Minutes	4,320	7.51
2019 Est. Avg Travel Time to Work in Minutes	-	31.83
2019 Est. Workers Age 16+ by Transp. to Work		
2019 Est. Workers Age 16+ by Transp. to Work	60,664	100.00
Drove Alone	47,793	78.78
Carpooled	6,078	10.02
Public Transport	1,826	3.01
Walked	518	0.85
Bicycle	289	0.48
Other Means	706	1.16
Worked at Home	3,454	5.69
2019 Est. Civ. Employed Pop 16+ by Class of Worker		
2019 Est. Civ. Employed Pop 16+ by Class of Worker	61,545	100.00
For-Profit Private Workers	42,609	69.23
Non-Profit Private Workers)	4,070	6.61
Local Government Workers	3,883	6.31
State Government Workers	3,954	6.42
Federal Government Workers	1,376	2.24
Self-Employed Workers	5,621	9.13
Unpaid Family Workers	32	0.05
2019 Est. Civ. Employed Pop 16+ by Occupation		
Architecture/Engineering	1,223	1.99
Arts/Design/Entertainment/Sports/Media	1,565	2.54
Building/Grounds Cleaning/Maintenance	2,933	4.77
Business/Financial Operations	3,243	5.27
Community/Social Services	1,213	1.97
Computer/Mathematical	2,383	3.87
Construction/Extraction	4,036	6.56
Education/Training/Library	3,565	5.79
Farming/Fishing/Forestry	15	0.02
Food Preparation/Serving Related	4,817	7.83
Healthcare Practitioner/Technician	2,454	3.99
Healthcare Support	994	1.61
Installation/Maintenance/Repair	1,786	2.90
Legal	694	1.13
Life/Physical/Social Science	387	0.63
Management	6,621	10.76
Office/Administrative Support	7,950	12.92
Production	2,041	3.32
Protective Services	757	1.23
Sales/Related	7,198	11.70
Personal Care/Service	2,583	4.20
Transportation/Material Moving	3,087	5.02
2019 Est. Pop Age 16+ by Employment Status		
In Armed Forces	176	0.20
Civilian - Employed	62,552	71.50
Civilian - Unemployed	2,566	2.93
Not in Labor Force	22,194	25.37

Benchmark: pma CTs Nightingale at Goodnight Ranch

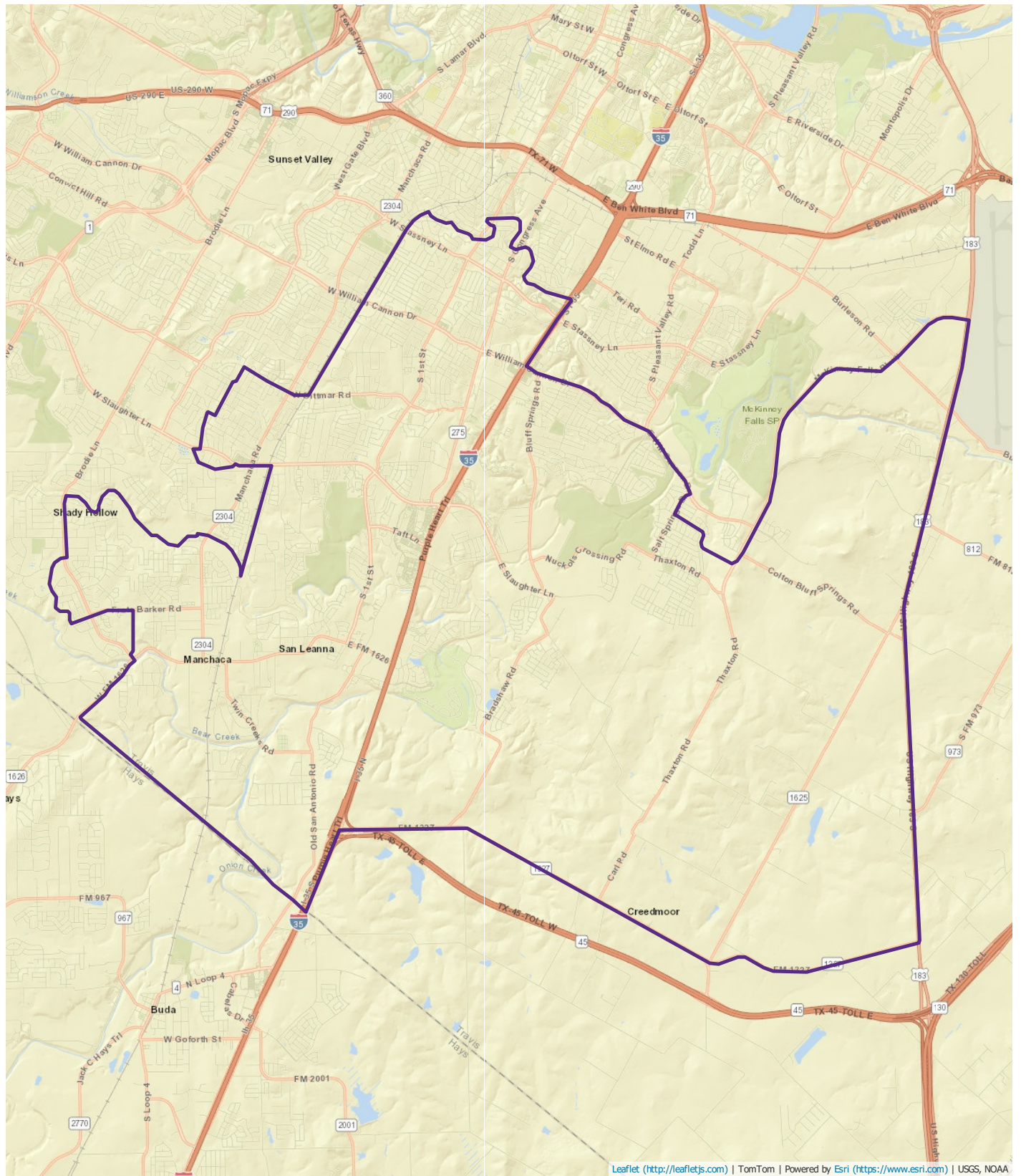
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Pop-Facts® DemographicSnapshot | Map

ENVIRONICS
ANALYTICS

Trade Area: pma CTs Nightingale at Goodnight Ranch

Total Population: 112,801 | Total Households: 42,826



Leaflet (<http://leafletjs.com>) | TomTom | Powered by Esri (<https://www.esri.com>) | USGS, NOAA

Benchmark: pma CTs Nightingale at Goodnight Ranch

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Report Details

Name: Pop-Facts® Demographic Snapshot 2019
Date / Time: 8/28/2019 9:58:23 AM
Workspace Vintage: 2019

Trade Area

Name	Level	Geographies
pma CTs Nightingale at Goodnight Ranch	Census Tract	48453-001747; 48453-001772; 48453-001774; 48453-002402; 48453-002407; 48453-002409; 48453-002410; 48453-002421; 48453-002422; 48453-002423; 48453-002424; 48453-002425; 48453-002426; 48453-002427; 48453-002428; 48453-002429; 48453-002430; 48453-002432

Benchmark

Name	Level	Geographies
pma CTs Nightingale at Goodnight Ranch	Census Tract	48453-001747; 48453-001772; 48453-001774; 48453-002402; 48453-002407; 48453-002409; 48453-002410; 48453-002421; 48453-002422; 48453-002423; 48453-002424; 48453-002425; 48453-002426; 48453-002427; 48453-002428; 48453-002429; 48453-002430; 48453-002432

DataSource

Product	Provider	Copyright
Claritas Pop-Facts® Pop-Facts Premier - 2000 US Census	Claritas	©Claritas, LLC 2019
Claritas Pop-Facts® Premier - 2010 US Census	Claritas	©Claritas, LLC 2019
Claritas Pop-Facts® Premier - 2019 - Current Year Estimate	Claritas	©Claritas, LLC 2019 https://en.environicsanalytics.com/Envision/Ab
Claritas Pop-Facts® Premier - 2024 - Five Year Projection	Claritas	©Claritas, LLC 2019 https://en.environicsanalytics.com/Envision/Ab
SPOTLIGHT Pop-Facts® Premier - 2019 - Current Year Estimate	Claritas	©Claritas, LLC 2019 https://en.environicsanalytics.com/Envision/Ab

DEVELOPER BUDGET & PROFORMA

RENT SCHEDULE

HTC Unit Designation	HOME Unit Designation (Rent/Inc)	HTF Unit Designation	MRB Unit Designation	Other Designation/ Subsidy	# of Units (A)	# of Bedrooms	# of Baths		Unit Size (Net Rentable Sq. Ft.) (B)	Total Net Rentable Sq. Ft. (A) x (B)	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit (E)
TC60%					12	1	1.0	Cottage	730	8,760	1,065	53	1,012
TC80%					4	1	1.0	Cottage	730	2,920	1,420	53	1,090
MR					4	1	1.0	Cottage	730	2,920	1,420	53	1,090
TC50%		HTF30%			1	1	1.0		773	773	887	53	834
TC50%					5	1	1.0		773	3,865	532	53	479
TC60%				HC(4)	46	1	1.0		773	35,558	1,065	53	1,012
TC60%					4	1	1.0		779	3,116	1,065	53	1,012
TC60%					1	1	1.0	Cottage	808	808	1,065	53	1,012
TC80%					5	1	1.0	Cottage	808	4,040	1,420	53	1,200
MR					3	1	1.0	Cottage	808	2,424	1,200		1,200
TC60%					9	1	1.0		823	7,407	1,065	53	1,012
MR					1	1	1.0		823	823	1,420	53	1,200
TC50%		HTF30%		HC	1	1	1.0	Cottage	826	826	532	53	479
TC60%					2	1	1.0		829	1,658	1,065	53	1,012
TC30%				HC(1)	11	1	1.0		859	9,449	532	53	479
TC50%		HTF30%			7	1	1.0		859	6,013	532	53	479
TC50%				HC(1)	11	1	1.0		859	9,449	887	53	834
TC60%					1	1	1.0		859	859	1,065	53	1,012
TC60%					2	1	1.0		863	1,726	1,065	53	1,012
TC60%					4	1	1.0		874	3,496	1,065	53	1,012
TC50%					7	2	1.0		952	6,664	1,065	73	992
TC50%		HTF30%			2	2	1.0		952	1,904	639	73	566
TC60%				HC(1)	9	2	1.0		952	8,568	1,278	73	1,205
TC50%					1	2	2.0	Cottage	1,026	1,026	1,278	73	1,205
TC80%					2	2	2.0	Cottage	1,026	2,052	1,704	73	1,415
MR					4	2	2.0	Cottage	1,026	4,104			1,415
TC80%					2	2	2.0	Cottage	1,071	2,142	1,704		1,415
MR					2	2	2.0	Cottage	1,071	2,142	1,415	73	1,415
TC60%					1	2	2.0	Cottage	1,082	1,082	1,278	73	1,205
TC60%					3	2	2.0		1,223	3,669	1,278	73	1,205
TC50%		HTF30%		HC	1	2	2.0		1,223	1,223	639	73	566
TC80%					6	2	2.0		1,223	7,338	1,278	73	1,415

TOTAL	174		148,804
Non Rental Income	\$20.00	per unit/month for:	0
Non Rental Income	0.00	per unit/month for:	
Non Rental Income	0.00	per unit/month for:	
+ TOTAL NONRENTAL INCOME	\$20.00	per unit/month	
= POTENTIAL GROSS MONTHLY INCOME			
- Provision for Vacancy & Collection Loss		% of Potential Gross Income:	5.00%
- Rental Concessions			
= EFFECTIVE GROSS MONTHLY INCOME			
x 12 = EFFECTIVE GROSS ANNUAL INCOME			

RENT SCHEDULE (Cont.)

		% of LI	% of Total	
HOUSING	TC30%	7%	6%	11
	TC40%			0
	TC50%	23%	21%	36
	TC60%	59%	54%	94
	TC80%	12%	11%	19
TAX	HTC LI Total			160
	TCEO			0
CREDITS	MR		8%	14
	MR Total			14
Total Units				174
MORTGAGE	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB LI Total			0
REVENUE	MRBMR			0
	MRBMR Total			0
BOND	MRB Total			0

330.0

1800.0

5640.0

1520.0

9290.0

58.1

		% of LI	% of Total
HOUSING	HTF30%	100%	9%
	HTF40%		
	HTF50%		
	HTF60%		
	HTF80%		
TRUST	HTF LI Total		
	MR		
FUND	MR Total		
	HTF Total		
HOME	30%		
	LH/50%		
	HH/60%		
	HH/80%		
	HOME LI Total		
	EO		
	MR		
MR Total			
	HOME Total		
OTHER	Total OT Units		



Total Monthly Rent
(A) x (E)
12,144
4,360
4,360
834
2,395
46,552
4,048
1,012
6,000
3,600
9,108
1,200
479
2,024
5,269
3,353
9,174
1,012
2,024
4,048
6,944
1,132
10,845
1,205
2,830
5,660
2,830
1,415
3,615
1,205
3,396
-
-
164,073
3,480
-
-
3,480
167,553
8,378
-
159,175
1,910,104

16000

16000

16

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16

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16

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79

ANNUAL OPERATING EXPENSES

General & Administrative Expenses				
Accounting	\$	10,800.00		
Advertising	\$	4,800.00		
Legal fees	\$	225.00		
Leased equipment	\$			
Postage & office supplies	\$	4,800.00		
Telephone	\$	14,000.00		
Other	<u>Professional Dues, Courier, Subscriptions</u>	\$	24,600.00	
Other	<u>Compliance Fees</u>	\$	5,640.00	
Total General & Administrative Expenses:				\$ 64,865.00
Management Fee:	Percent of Effective Gross Income:	4.00%		\$ 40,000.00
Payroll, Payroll Tax & Employee Benefits				
Management	\$			
Maintenance	\$			
Other	<u>See payroll budget</u>	\$	189,217.00	
Other	<u>Describe</u>			
Total Payroll, Payroll Tax & Employee Benefits:				\$ 189,217.00
Repairs & Maintenance				
Elevator	\$	12,000.00		
Exterminating	\$	2,100.00		
Grounds	\$	25,000.00		
Make-ready	\$	10,000.00		
Repairs	\$	10,000.00		
Pool	\$	5,000.00		
Other	<u>Maintenance Supplies</u>	\$	30,000.00	
Other	<u>parking maintenance</u>	\$	10,750.00	
Total Repairs & Maintenance:				\$ 104,850.00
Utilities (Enter development owner expense)				
Electric	\$	44,665.00		
Natural gas	\$			
Trash	\$	9,600.00		
Water & sewer	\$	85,000.00		
Other	<u>Describe</u>	\$		
Other	<u>Describe</u>	\$		
Total Utilities:				\$ 139,265.00
Annual Property Insurance:	Rate per net rentable square foot:	\$	0.33	\$ 48,650.00
Property Taxes:				
Published Capitalization Rate:		Source:		
Annual Property Taxes:	\$			
Payments in Lieu of Taxes:	\$			
Other Taxes	<u>Describe</u>	\$		
Other Taxes	<u>Describe</u>	\$		
Total Property Taxes:				\$ -
Reserve for Replacements:	Annual reserves per unit:	\$	250.00	\$ 43,500.00
Other Expenses				
Cable TV	\$			
Supportive service contract fees	\$	3,500.00		
Boston Capital Variance	\$	35,000.00		
Security	\$	7,200.00		
Other	<u>HOA</u>	\$	10,440.00	
Other	<u>TEL fees 7680</u>	\$	7,680.00	
Total Other Expenses:				\$ 63,820.00
TOTAL ANNUAL EXPENSES				
		Expense per unit:	\$ 3989.47	\$ 694,167.00
		Expense to Income Ratio:	36.34%	
NET OPERATING INCOME (before debt service)				\$ 1,215,937.20
Annual Debt Service				
<u>Perm Loan</u>	\$	936,370.05		
<u>Describe Source</u>	\$			
<u>Describe Source</u>	\$			
<u>Describe Source</u>	\$			
TOTAL ANNUAL DEBT SERVICE				\$ 936,370.05
		Debt Coverage Ratio:	1.30	
NET CASH FLOW				\$ 279,567.15

DEVELOPMENT COST SCHEDULE

TOTAL DEVELOPMENT SUMMARY			Notes
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	
ACQUISITION			
Site acquisition cost	1,957,500		
Existing building acquisition cost			
Closing costs & acq. legal fees	5,000		
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			
Subtotal Acquisition Cost	\$1,962,500	\$0	\$0
OFF-SITES³			
Off-site concrete			
Storm drains & devices			
Water & fire hydrants			
Off-site utilities			
Sewer lateral(s)			
Off-site paving			
Off-site electrical			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			
Subtotal Off-Sites Cost	\$0	\$0	\$0
SITE WORK⁴			
Demolition			
Rough grading	550,000		550,000
Fine grading	59,200		59,200
On-site concrete	73,559		73,559
On-site electrical	111,000		111,000
On-site paving	350,000		350,000
On-site utilities	485,000		485,000
Decorative masonry	28,000		28,000
Bumper stops, striping & signs	109,007		109,007
Detention			0
Subtotal Site Work Cost	\$1,765,766	\$0	\$1,765,766
SITE AMENITIES			
Landscaping	229,004		229,004
Pool and decking	141,858		141,858
Athletic court(s), playground(s)			0
Fencing	15,000		15,000
Other (specify) - see footnote 2			0
Other (specify) - see footnote 2			0
Subtotal Site Amenities Cost	\$385,862	\$0	\$385,862
BUILDING COSTS*:			
Concrete	1,768,855		1,768,855
Masonry	500,826		500,826
Metals	1,200,000		1,200,000
Woods and Plastics	3,000,000		3,000,000
Thermal and Moisture Protection	442,168		442,168
Roof Covering			0
Doors and Windows			0
Finishes	1,280,200		1,280,200
Specialties	141,383		141,383
Equipment	379,363		379,363

DEVELOPMENT NAME:

Goodnight SeniorCity: Austin**BUILDING COSTS (Continued):**

Furnishings	293,353		293,353
Special Construction			0
Conveying Systems (Elevators)	139,820		139,820
Mechanical (HVAC; Plumbing)	1,875,640		1,875,640
Electrical	1,240,339		1,240,339

Individually itemize costs below:

Detached Community Facilities/Building			0
Carports and/or Garages			0
Lead-Based Paint Abatement			0
Asbestos Abatement			0
Structured Parking			0
Other (specify) - see footnote 2			0
Other (specify) - see footnote 2			0
Subtotal Building Costs	\$12,261,947	\$0	\$12,261,947

TOTAL BUILDING COSTS & SITE WORK

\$14,413,575	\$0	\$14,413,575
---------------------	------------	---------------------

OTHER CONSTRUCTION COSTS

General requirements (<6%)	6.37%	917,825		917,825
Field supervision (within GR limit)				0
Contractor overhead (<2%)	2.36%	340,013		340,013
G & A Field (within overhead limit)				0
Contractor profit (<6%)	5.90%	850,031		850,031
Contingency (7-10%)	5.73%	826,072		826,072
Subtotal Ancillary Hard Costs		\$2,933,941	\$0	\$2,933,941

TOTAL DIRECT HARD COSTS

\$17,347,516	\$0	\$17,347,516
---------------------	------------	---------------------

INDIRECT CONSTRUCTION COSTS⁴

Architectural - Design fees	228,400		228,400	includes engineering but not civil
Architectural - Supervision fees				includes construction admin
Engineering fees	60,250		60,250	civil only
Real estate attorney/other legal fees	255,000		255,000	CR at \$125k, DMA at \$25k, GT at \$105k
Accounting fees	20,000		20,000	
Impact Fees			0	
Building permits & related costs	108,000		108,000	
Appraisal	7,500		7,500	
Market analysis	8,400		8,400	
Environmental assessment	5,000		5,000	
Soils report	7,500		7,500	
Survey	20,000		20,000	
Marketing	25,000			
Partnership Hazard & liability insurance	85,000		85,000	
Real property taxes	20,000		20,000	
Personal property taxes			0	
Tenant relocation expenses			0	
Soft Cost Contingency	35,000		35,000	soft cost contingency
FFE and Plan Printing	150,000		150,000	
Subtotal Indirect Const. Cost	\$1,035,050	\$0	\$1,010,050	

DEVELOPMENT NAME:

Goodnight SeniorCity: Austin

DEVELOPER FEES⁴Housing consultant fees⁵

General & administrative

Profit or fee

Subtotal Developer's Fees

14.41%

		0
		0
2,955,000		2,955,000
\$2,955,000	\$0	\$2,955,000

FINANCING:**CONSTRUCTION LOAN(S)⁴**

Interest

Loan origination fees

Title & recording fees

Closing costs & legal fees

Inspection fees

Credit Report

Discount Points

Other (specify) - see footnote 2

Other (specify) - see footnote 2

1,426,134		1,426,134
133,076		133,076
65,000		65,000
50,750		50,750
31,500		31,500
		0
		0
		0
		0

PERMANENT LOAN(S)

Loan origination fees

Title & recording fees

Closing costs & legal

Conversion Fee

LOC Rate Lock

Discount points

Credit enhancement fees

Freddie App Fee

Misc bonds Fee

Rate Lock Fee

158,000		
65,000		
65,000		
15,000		
10,000		
95,500		
180,000		
77,500		

Bellweather

LOC RateLock

\$50k for Freddie/\$45k for Bellweather

bond counsel fee of \$130,000 plus \$50k misc

bond issuer fee (.5% of \$15.5M)

BRIDGE LOAN(S)

Interest

Loan origination fees

Title & recording fees

Closing costs & legal fees

Other (specify) - see footnote 2

Other (specify) - see footnote 2

Interest cushion

OTHER FINANCING COSTS⁴

Tax credit fees

Tax and/or bond counsel

Payment bonds

Performance bonds

Credit enhancement fees

Mortgage insurance premiums

Cost of underwriting & issuance

Syndication organizational cost

Tax opinion

Contractor Guarantee Fee

Developer Guarantee Fee

Other (specify) - see footnote 2

PLEASE SPECIFY - see footnote 2**Subtotal Financing Cost**

29,377		
123,910		123,910
323,243		323,243
\$2,848,990	\$0	\$2,153,613

fees to MUD

RESERVES

Rent-up	28,880		
Operating	811,193		
Replacement			
Escrows			
Subtotal Reserves	\$840,073	\$0	\$0

TOTAL HOUSING DEVELOPMENT COSTS⁶	\$26,989,129	\$0	\$23,466,179
- Commercial Space Costs⁷			
TOTAL RESIDENTIAL DEVELOPMENT COSTS	\$26,989,129		

The following calculations are for HTC Applications only.

Deduct From Basis:

Fed. grant proceeds used to finance costs in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units (42.(d)(5))			
Historic Credits (residential portion only)			
Total Eligible Basis		\$0	\$23,466,179
**High Cost Area Adjustment (100% or 130%)			100%
Total Adjusted Basis		\$0	\$23,466,179
Applicable Fraction		91.66%	91.66%
Total Qualified Basis	\$21,508,667	\$0	\$21,508,667
Applicable Percentage ⁸		9.00%	3.23%
Calculated Credits	\$694,730	\$0	\$694,730

Credits Supported by Eligible Basis	\$694,730
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Actual Credits Requested	\$694,730
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APPRAISAL DISTRICT RECORDS

Property

Account

Property ID: 865126 Legal Description: LOT 3 BLK A GOODNIGHT RANCH PHS 1 SEC 4
 Geographic ID: 0436010106 Zoning:
 Type: Real Agent Code: ID:2490
 Property Use Code:
 Property Use Description:

Protest

Protest Status:
 Informal Date:
 Formal Date:

Location

Address: CHARLES MERLE DR Mapsco: 704D
 TX 78747
 Neighborhood: 08TC Map ID: 043908
 Neighborhood CD: 08TC

Owner

Name: AUSTIN HOUSING FINANCE CORP Owner ID: 178329
 Mailing Address: % Ownership: 100.000000000000%
 1000 E 11TH ST STE 200
 AUSTIN , TX 78702-1945
 Exemptions: EX-XV

Values

(+)	Improvement Homesite Value:	+		\$0
(+)	Improvement Non-Homesite Value:	+		\$3,557,952
(+)	Land Homesite Value:	+		\$0
(+)	Land Non-Homesite Value:	+		\$320,689 Ag / Timber Use Value
(+)	Agricultural Market Valuation:	+		\$0 \$0
(+)	Timber Market Valuation:	+		\$0 \$0

(=)	Market Value:	=		\$3,878,641
(-)	Ag or Timber Use Value Reduction:	-		\$0

(=)	Appraised Value:	=		\$3,878,641
(-)	HS Cap:	-		\$0

(=)	Assessed Value:	=		\$3,878,641

Taxing Jurisdiction

Owner: AUSTIN HOUSING FINANCE CORP
 % Ownership: 100.000000000000%
 Total Value: \$3,878,641

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
01	AUSTIN ISD	1.192000	\$3,878,641	\$0	\$0.00
02	CITY OF AUSTIN	0.440300	\$3,878,641	\$0	\$0.00
03	TRAVIS COUNTY	0.354200	\$3,878,641	\$0	\$0.00
0A	TRAVIS CENTRAL APP DIST	0.000000	\$3,878,641	\$0	\$0.00

2J	TRAVIS COUNTY HEALTHCARE DISTRICT	0.105221	\$3,878,641	\$0	\$0.00
68	AUSTIN COMM COLL DIST	0.104800	\$3,878,641	\$0	\$0.00
73	ONION CREEK METRO PARK DIST	0.200000	\$3,878,641	\$0	\$0.00
Total Tax Rate:		2.396521			
				Taxes w/Current Exemptions:	\$0.00
				Taxes w/o Exemptions:	\$92,952.45

Improvement / Building

Improvement #1:	APARTMENT 100+	State Code:	B1	Living Area:	139200.0 sqft	Value: \$3,557,952
------------------------	----------------	--------------------	----	---------------------	---------------	---------------------------

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
1ST	1st Floor	WV - 5		2019	139200.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	COMM	Commercial Land	7.3620	320688.72	0.00	0.00	\$320,689	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2019	\$3,557,952	\$320,689	0	3,878,641	\$0	\$3,878,641
2018	\$0	\$320,689	0	320,689	\$0	\$320,689
2017	\$0	\$17,625	314	314	\$0	\$314
2016	\$0	\$17,625	310	310	\$0	\$310

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	3/15/2018	SW	SPECIAL WARRANTY DEED	AUSTIN GOODNIGHT RANCH LP	AUSTIN HOUSING FINANCE CORP			2018039510
2	7/7/2015	SW	SPECIAL WARRANTY DEED	BENCHMARK LAND DEVELOPMENT INC	AUSTIN GOODNIGHT RANCH LP			2015117992

Questions Please Call (512) 834-9317

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PLAT MAP

Property Identification #: 865126

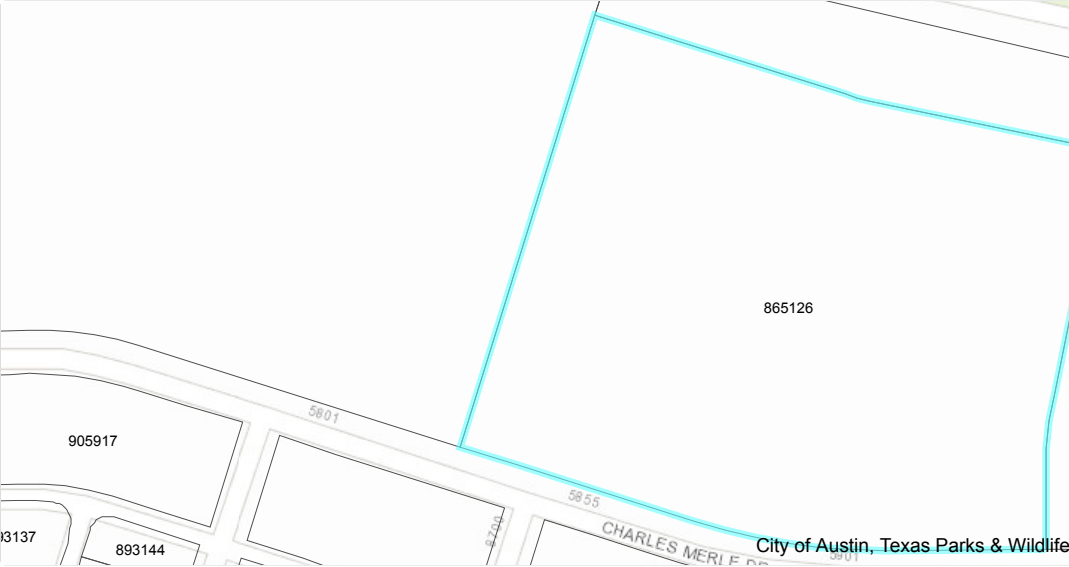
Property Information: 2019

Owner Identification #: 178329

Geo ID: 0436010106
Situs Address:
Property Type: Real
State Code: B1

Legal Description: LOT 3 BLK A GOODNIGHT RANCH PHS 1 SEC 4
Abstract: S19580
Neighborhood: 08TC
Appraised Value: \$3,878,641.00
Jurisdictions: 68, 01, 02, 0A, 2J, 03, 73

Name: AUSTIN HOUSING FINANCE CORP
Exemptions: EX-XV
DBA: NIGHTINGALE AT GOODNIGHT RANCH (AH) SENIOR



Travis CAD Map Search

This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The Travis County Appraisal District expressly disclaims any and all liability in connection herewith.

FLOOD PLAIN MAP



MAP DATA

FEMA Special Flood Hazard Area: **No**
 Map Number: **48453C0595J**
 Zone: **X**
 Map Date: **January 06, 2016**
 FIPS: **48453**

MAP LEGEND Powered by CoreLogic®

Areas inundated by 500-year flooding	Protected Areas
Areas inundated by 100-year flooding	Floodway
Velocity Hazard	Subject Area



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MISCELLANEOUS INFORMATION



Questions? [Click here for help and contact information.](#)

Disclaimer

The Information on this website has been produced by the City of Austin as a working staff map and is not warranted for any other use. No warranty is made by the City regarding its accuracy and completeness.

For official verification of the zoning of a property, please order a Zoning Verification Letter at **512-978-4000**.

Location: 5900 CHARLES MERLE DR
(3,111,608.53, 10,030,131.39)

Grid: H13
H12

Future Land Use (FLUM):

Regulating Plan:

Zoning: PUD

Zoning Case: [C814-04-0187.SH](#)
[C814-04-0187.02.SH](#)
[C814-04-0187.01.SH](#)

**Zoning Ordinance
(Mostly after 2000):** [20061116-053](#)

Zoning Overlays: GREEN BUILDING MANDATORY
■ Goodnight Ranch PUD



Zoning Guide

The [Guide to Zoning](#) provides a quick explanation of the above Zoning codes, however, the [Development Assistance Center](#) provides general zoning assistance and can advise you on the type of development allowed on a property. General information on the [Neighborhood Planning](#) Areas is available from Neighborhood Planning. Visit [Zoning](#) for the description of each Base Zoning District.

Allowances for Tenant-Furnished Utilities and Other Services

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 04/30/2018)

Locality: Housing Authority of the City of Austin, TX		Unit Type: Multi-Family (Elevator)				Date (mm/dd/yyyy) 6-1-2018	
Utility or Service:		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	\$9.00	\$10.00	\$11.00	\$12.00	\$14.00	\$14.00
	b. Bottle Gas/Propane						
	c. Electric	\$6.00	\$7.00	\$9.00	\$11.00	\$12.00	\$14.00
	d. Oil / Other						
Cooking	a. Natural Gas	\$2.00	\$2.00	\$4.00	\$4.00	\$6.00	\$6.00
	b. Bottle Gas/Propane						
	c. Electric	\$3.00	\$4.00	\$5.00	\$7.00	\$9.00	\$10.00
Other Electric (Lights & Appliances) & Monthly Charge		\$22.00	\$24.00	\$30.00	\$35.00	\$41.00	\$46.00
Air Conditioning		\$10.00	\$11.00	\$16.00	\$20.00	\$25.00	\$29.00
Water Heating	a. Natural Gas	\$4.00	\$5.00	\$7.00	\$9.00	\$11.00	\$14.00
	b. Bottle Gas/Propane						
	c. Electric	\$7.00	\$8.00	\$11.00	\$13.00	\$16.00	\$18.00
	d. Oil / Other						
Water		\$45.00	\$46.00	\$54.00	\$62.00	\$71.00	\$79.00
Sewer		\$71.00	\$73.00	\$87.00	\$101.00	\$115.00	\$130.00
Trash Collection		\$29.00	\$29.00	\$29.00	\$30.00	\$30.00	\$36.00
Range / Microwave Tenant-supplied		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator Tenant-supplied		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
Other							
specify: Gas Charge \$17.80		\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00

Actual Family Allowances		Utility or Service	per month cost
To be used by the family to compute allowance. Complete below for the actual unit rented.		Heating	\$
		Cooking	\$
Name of Family		Other Electric	\$
		Air Conditioning	\$
		Water Heating	\$
		Water	\$
Address of Unit		Sewer	\$
		Trash Collection	\$
		Range / Microwave	\$
		Refrigerator	\$
		Other	\$
		Other	\$
Number of Bedrooms		Other	\$
		Total	\$



Allowances for Tenant-Furnished Utilities and Other Services

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 04/30/2018)

Locality: Housing Authority of the City of Austin, TX		Unit Type: Multi-Family (Apartment)				Date (mm/dd/yyyy) 6-1-2018	
Utility or Service:		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	\$9.00	\$10.00	\$11.00	\$12.00	\$14.00	\$14.00
	b. Bottle Gas/Propane						
	c. Electric	\$6.00	\$7.00	\$9.00	\$11.00	\$12.00	\$14.00
	d. Oil / Other						
Cooking	a. Natural Gas	\$2.00	\$2.00	\$4.00	\$4.00	\$6.00	\$6.00
	b. Bottle Gas/Propane						
	c. Electric	\$3.00	\$4.00	\$5.00	\$7.00	\$9.00	\$10.00
Other Electric (Lights & Appliances) & Monthly Charge		\$22.00	\$24.00	\$30.00	\$35.00	\$41.00	\$46.00
Air Conditioning		\$10.00	\$11.00	\$16.00	\$20.00	\$25.00	\$29.00
Water Heating	a. Natural Gas	\$4.00	\$5.00	\$7.00	\$9.00	\$11.00	\$14.00
	b. Bottle Gas/Propane						
	c. Electric	\$7.00	\$8.00	\$11.00	\$13.00	\$16.00	\$18.00
	d. Oil / Other						
Water		\$45.00	\$46.00	\$54.00	\$62.00	\$71.00	\$79.00
Sewer		\$71.00	\$73.00	\$87.00	\$101.00	\$115.00	\$130.00
Trash Collection		\$29.00	\$29.00	\$29.00	\$30.00	\$30.00	\$36.00
Range / Microwave Tenant-supplied		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator Tenant-supplied		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
Other specify: Gas Charge \$17.80		\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00

Actual Family Allowances		Utility or Service	per month cost
To be used by the family to compute allowance. Complete below for the actual unit rented.		Heating	\$
		Cooking	\$
Name of Family		Other Electric	\$
		Air Conditioning	\$
		Water Heating	\$
		Water	\$
Address of Unit		Sewer	\$
		Trash Collection	\$
		Range / Microwave	\$
		Refrigerator	\$
		Other	\$
		Other	\$
Number of Bedrooms		Other	\$
		Total	\$



HISTA DATA

Renter Households						
Age 15 to 54 Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	398	144	114	34	99	789
\$10,000-20,000	359	161	79	99	32	730
\$20,000-30,000	497	201	68	208	316	1,290
\$30,000-40,000	829	523	150	201	120	1,823
\$40,000-50,000	730	435	256	139	168	1,728
\$50,000-60,000	779	649	235	108	92	1,863
\$60,000-75,000	528	909	161	181	210	1,989
\$75,000-100,000	80	830	566	417	233	2,126
\$100,000-125,000	443	333	473	70	7	1,326
\$125,000-150,000	56	347	154	122	212	891
\$150,000-200,000	38	160	97	27	42	364
\$200,000+	<u>125</u>	<u>108</u>	<u>11</u>	<u>28</u>	<u>18</u>	290
Total	4,862	4,800	2,364	1,634	1,549	15,209

Renter Households						
Aged 55+ Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	173	42	21	14	6	256
\$10,000-20,000	287	33	54	17	7	398
\$20,000-30,000	190	90	56	13	9	358
\$30,000-40,000	141	81	58	20	5	305
\$40,000-50,000	176	134	55	18	21	404
\$50,000-60,000	107	98	26	14	6	251
\$60,000-75,000	252	76	22	19	13	382
\$75,000-100,000	98	113	76	21	35	343
\$100,000-125,000	162	126	18	17	21	344
\$125,000-150,000	152	35	22	15	6	230
\$150,000-200,000	55	25	15	16	19	130
\$200,000+	<u>83</u>	<u>31</u>	<u>28</u>	<u>10</u>	<u>6</u>	158
Total	1,876	884	451	194	154	3,559

Renter Households						
Aged 62+ Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	98	25	11	10	4	148
\$10,000-20,000	247	17	54	12	7	337
\$20,000-30,000	141	48	43	11	8	251
\$30,000-40,000	98	48	55	12	4	217
\$40,000-50,000	88	78	54	10	20	250
\$50,000-60,000	49	64	24	12	5	154
\$60,000-75,000	57	56	21	14	13	161
\$75,000-100,000	65	41	23	18	35	182
\$100,000-125,000	128	35	12	13	11	199
\$125,000-150,000	117	26	13	9	3	168
\$150,000-200,000	18	15	9	9	7	58
\$200,000+	<u>56</u>	<u>17</u>	<u>24</u>	<u>8</u>	<u>6</u>	111
Total	1,162	470	343	138	123	2,236

Renter Households						
All Age Groups						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	571	186	135	48	105	1,045
\$10,000-20,000	646	194	133	116	39	1,128
\$20,000-30,000	687	291	124	221	325	1,648
\$30,000-40,000	970	604	208	221	125	2,128
\$40,000-50,000	906	569	311	157	189	2,132
\$50,000-60,000	886	747	261	122	98	2,114
\$60,000-75,000	780	985	183	200	223	2,371
\$75,000-100,000	178	943	642	438	268	2,469
\$100,000-125,000	605	459	491	87	28	1,670
\$125,000-150,000	208	382	176	137	218	1,121
\$150,000-200,000	93	185	112	43	61	494
\$200,000+	<u>208</u>	<u>139</u>	<u>39</u>	<u>38</u>	<u>24</u>	448
Total	6,738	5,684	2,815	1,828	1,703	18,768

Owner Households						
Age 15 to 54 Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	77	93	8	17	48	243
\$10,000-20,000	17	73	11	21	46	168
\$20,000-30,000	29	69	63	138	122	421
\$30,000-40,000	181	52	52	115	211	611
\$40,000-50,000	114	224	103	196	285	922
\$50,000-60,000	270	216	155	83	172	896
\$60,000-75,000	236	473	226	62	577	1,574
\$75,000-100,000	316	759	418	605	487	2,585
\$100,000-125,000	63	784	721	752	191	2,511
\$125,000-150,000	103	243	456	313	211	1,326
\$150,000-200,000	94	356	429	247	209	1,335
\$200,000+	<u>348</u>	<u>229</u>	<u>179</u>	<u>220</u>	<u>443</u>	<u>1,419</u>
Total	1,848	3,571	2,821	2,769	3,002	14,011

Owner Households						
Aged 55+ Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	189	121	24	14	20	368
\$10,000-20,000	269	160	24	21	26	500
\$20,000-30,000	480	298	62	25	31	896
\$30,000-40,000	342	267	59	27	70	765
\$40,000-50,000	205	333	58	36	51	683
\$50,000-60,000	262	455	107	17	21	862
\$60,000-75,000	236	439	108	42	76	901
\$75,000-100,000	299	909	291	129	190	1,818
\$100,000-125,000	170	508	253	118	67	1,116
\$125,000-150,000	140	452	184	75	94	945
\$150,000-200,000	130	290	119	80	22	641
\$200,000+	<u>61</u>	<u>262</u>	<u>157</u>	<u>32</u>	<u>40</u>	<u>552</u>
Total	2,783	4,494	1,446	616	708	10,047

Owner Households						
Aged 62+ Years						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	129	99	15	14	13	270
\$10,000-20,000	233	137	20	20	16	426
\$20,000-30,000	360	245	32	9	29	675
\$30,000-40,000	207	214	37	25	34	517
\$40,000-50,000	131	204	48	32	46	461
\$50,000-60,000	147	322	46	14	15	544
\$60,000-75,000	134	292	96	24	24	570
\$75,000-100,000	234	532	163	90	124	1,143
\$100,000-125,000	93	269	129	95	24	610
\$125,000-150,000	105	291	123	38	26	583
\$150,000-200,000	110	189	51	22	12	384
\$200,000+	<u>41</u>	<u>88</u>	<u>69</u>	<u>27</u>	<u>16</u>	<u>241</u>
Total	1,924	2,882	829	410	379	6,424

Owner Households						
All Age Groups						
Year 2019 Estimates						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	266	214	32	31	68	611
\$10,000-20,000	286	233	35	42	72	668
\$20,000-30,000	509	367	125	163	153	1,317
\$30,000-40,000	523	319	111	142	281	1,376
\$40,000-50,000	319	557	161	232	336	1,605
\$50,000-60,000	532	671	262	100	193	1,758
\$60,000-75,000	472	912	334	104	653	2,475
\$75,000-100,000	615	1,668	709	734	677	4,403
\$100,000-125,000	233	1,292	974	870	258	3,627
\$125,000-150,000	243	695	640	388	305	2,271
\$150,000-200,000	224	646	548	327	231	1,976
\$200,000+	<u>409</u>	<u>491</u>	<u>336</u>	<u>252</u>	<u>483</u>	<u>1,971</u>
Total	4,631	8,065	4,267	3,385	3,710	24,058

Renter Households						
Age 15 to 54 Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	365	118	106	33	105	727
\$10,000-20,000	306	134	66	94	26	626
\$20,000-30,000	416	149	60	189	221	1,035
\$30,000-40,000	830	466	147	199	129	1,771
\$40,000-50,000	577	337	200	156	176	1,446
\$50,000-60,000	849	616	231	121	86	1,903
\$60,000-75,000	639	952	180	202	229	2,202
\$75,000-100,000	93	907	628	472	271	2,371
\$100,000-125,000	516	368	538	98	10	1,530
\$125,000-150,000	100	475	187	165	286	1,213
\$150,000-200,000	81	286	146	51	104	668
\$200,000+	<u>226</u>	<u>214</u>	<u>12</u>	<u>55</u>	<u>34</u>	<u>541</u>
Total	4,998	5,022	2,501	1,835	1,677	16,033

Renter Households						
Aged 55+ Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	209	54	14	14	12	303
\$10,000-20,000	335	30	69	20	12	466
\$20,000-30,000	199	96	62	12	14	383
\$30,000-40,000	171	91	79	19	15	375
\$40,000-50,000	150	124	66	19	20	379
\$50,000-60,000	155	122	34	17	15	343
\$60,000-75,000	293	93	30	21	19	456
\$75,000-100,000	153	147	92	25	47	464
\$100,000-125,000	228	154	25	26	28	461
\$125,000-150,000	231	63	34	19	16	363
\$150,000-200,000	116	47	34	21	30	248
\$200,000+	<u>165</u>	<u>64</u>	<u>31</u>	<u>15</u>	<u>15</u>	<u>290</u>
Total	2,405	1,085	570	228	243	4,531

Renter Households						
Aged 62+ Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	138	33	6	10	11	198
\$10,000-20,000	297	17	67	15	10	406
\$20,000-30,000	159	62	50	10	13	294
\$30,000-40,000	127	53	78	12	11	281
\$40,000-50,000	90	86	64	11	18	269
\$50,000-60,000	91	83	32	14	12	232
\$60,000-75,000	85	71	29	15	15	215
\$75,000-100,000	110	55	32	22	45	264
\$100,000-125,000	186	54	18	20	13	291
\$125,000-150,000	183	46	21	11	7	268
\$150,000-200,000	47	29	21	12	13	122
\$200,000+	<u>113</u>	<u>35</u>	<u>29</u>	<u>13</u>	<u>14</u>	<u>204</u>
Total	1,626	624	447	165	182	3,044

Renter Households						
All Age Groups						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	574	172	120	47	117	1,030
\$10,000-20,000	641	164	135	114	38	1,092
\$20,000-30,000	615	245	122	201	235	1,418
\$30,000-40,000	1,001	557	226	218	144	2,146
\$40,000-50,000	727	461	266	175	196	1,825
\$50,000-60,000	1,004	738	265	138	101	2,246
\$60,000-75,000	932	1,045	210	223	248	2,658
\$75,000-100,000	246	1,054	720	497	318	2,835
\$100,000-125,000	744	522	563	124	38	1,991
\$125,000-150,000	331	538	221	184	302	1,576
\$150,000-200,000	197	333	180	72	134	916
\$200,000+	<u>391</u>	<u>278</u>	<u>43</u>	<u>70</u>	<u>49</u>	<u>831</u>
Total	7,403	6,107	3,071	2,063	1,920	20,564

Owner Households						
Age 15 to 54 Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	68	69	4	9	42	192
\$10,000-20,000	14	61	8	13	37	133
\$20,000-30,000	20	40	34	85	92	271
\$30,000-40,000	156	50	38	94	159	497
\$40,000-50,000	75	160	76	153	257	721
\$50,000-60,000	254	232	164	67	148	865
\$60,000-75,000	215	423	190	46	561	1,435
\$75,000-100,000	296	640	369	581	424	2,310
\$100,000-125,000	61	792	654	866	210	2,583
\$125,000-150,000	116	313	527	349	255	1,560
\$150,000-200,000	146	518	674	344	344	2,026
\$200,000+	<u>559</u>	<u>363</u>	<u>253</u>	<u>287</u>	<u>680</u>	<u>2,142</u>
Total	1,980	3,661	2,991	2,894	3,209	14,735

Owner Households						
Aged 55+ Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	203	128	23	16	22	392
\$10,000-20,000	272	174	25	19	26	516
\$20,000-30,000	433	256	48	19	32	788
\$30,000-40,000	363	300	58	36	65	822
\$40,000-50,000	193	273	51	37	51	605
\$50,000-60,000	275	519	117	18	34	963
\$60,000-75,000	285	538	117	45	86	1,071
\$75,000-100,000	374	998	294	139	216	2,021
\$100,000-125,000	202	601	301	139	81	1,324
\$125,000-150,000	204	625	242	100	116	1,287
\$150,000-200,000	217	439	180	97	34	967
\$200,000+	<u>118</u>	<u>390</u>	<u>237</u>	<u>54</u>	<u>64</u>	<u>863</u>
Total	3,139	5,241	1,693	719	827	11,619

Owner Households						
Aged 62+ Years						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	149	113	15	14	15	306
\$10,000-20,000	245	157	23	17	15	457
\$20,000-30,000	324	222	30	5	30	611
\$30,000-40,000	234	254	40	35	38	601
\$40,000-50,000	128	171	42	33	46	420
\$50,000-60,000	175	380	56	14	24	649
\$60,000-75,000	178	379	111	26	31	725
\$75,000-100,000	311	636	173	104	146	1,370
\$100,000-125,000	122	337	163	118	34	774
\$125,000-150,000	158	428	168	52	43	849
\$150,000-200,000	181	299	84	36	15	615
\$200,000+	<u>87</u>	<u>162</u>	<u>97</u>	<u>41</u>	<u>28</u>	<u>415</u>
Total	2,292	3,538	1,002	495	465	7,792

Owner Households						
All Age Groups						
Year 2024 Projections						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000	271	197	27	25	64	584
\$10,000-20,000	286	235	33	32	63	649
\$20,000-30,000	453	296	82	104	124	1,059
\$30,000-40,000	519	350	96	130	224	1,319
\$40,000-50,000	268	433	127	190	308	1,326
\$50,000-60,000	529	751	281	85	182	1,828
\$60,000-75,000	500	961	307	91	647	2,506
\$75,000-100,000	670	1,638	663	720	640	4,331
\$100,000-125,000	263	1,393	955	1,005	291	3,907
\$125,000-150,000	320	938	769	449	371	2,847
\$150,000-200,000	363	957	854	441	378	2,993
\$200,000+	<u>677</u>	<u>753</u>	<u>490</u>	<u>341</u>	<u>744</u>	<u>3,005</u>
Total	5,119	8,902	4,684	3,613	4,036	26,354

Geographies Selected:

<u>Geocode/ ID</u>	<u>State</u>	<u>County</u>	<u>MCD</u>
48453001747	Texas	Travis County	Austin CCD
48453001772	Texas	Travis County	Austin CCD
48453001774	Texas	Travis County	Austin CCD
48453002402	Texas	Travis County	Austin CCD
48453002407	Texas	Travis County	Austin CCD
48453002409	Texas	Travis County	Austin CCD
48453002410	Texas	Travis County	Austin CCD
48453002421	Texas	Travis County	Austin CCD
48453002422	Texas	Travis County	Austin CCD
48453002423	Texas	Travis County	Austin CCD
48453002424	Texas	Travis County	Austin CCD
48453002425	Texas	Travis County	Austin CCD
48453002426	Texas	Travis County	Austin CCD
48453002427	Texas	Travis County	Austin CCD
48453002428	Texas	Travis County	Austin CCD
48453002429	Texas	Travis County	Austin CCD
48453002430	Texas	Travis County	Austin CCD
48453002432	Texas	Travis County	Austin CCD

ANALYST QUALIFICATIONS

ROBERT O. COE, II, MAI
AFFORDABLE HOUSING ANALYSTS
3912 AVENUE O
GALVESTON, TEXAS 77550
281-387-7552
Email: robertocoe2@gmail.com

State Certified Real Estate Appraiser

TX-1333157-G

Work Experience

10/2010-to-Present – Affordable Housing Analyst – I formed the company to assist clients with their appraisal and consulting needs in complex real estate transactions. Although the firm specializes in affordable housing transactions, we have the experience and training to handle all commercial property types.

1/2002-9/2010 – O'Connor & Associates. Staff appraiser and managed marketing and a team of appraisers/analysts in performing assignments relating to affordable housing. Additionally, personally handled a significant portion of the most complex appraisal/consulting assignments.

8/1994-7/2001 – National Realty Consultants. Staff appraiser

1-1994-7/1994 – Carley, Gage & Associates. Staff appraiser

10/1989-11/1994 – First-City, Texas Bank, N.A. Assistant Vice President in Corporate Lending. Responsible for a portfolio of over \$2 Billion in loans/commitments to Fortune 500 clients.

10/1987-10/1989 – First City, Texas Bank, N.A. Credit Supervisor/Senior Analyst. Responsible for training and supervision of a staff of credit analysts.

Education

MBA (Finance) – Southern Methodist University, Dallas, Texas 1987

BBA (Finance) _University of Oklahoma, Norman, Oklahoma 1976

Appraisal/Business Appraisal Courses

Appraisal Institute – All courses necessary for educational requirement of MAI designation

Institute of Business Appraisal – Mastering Business Appraisal Skills course

HUD MAP certified

Professional Associations:

Designated Member of Appraisal Institute (MAI)

Member of the Texas Affiliation of Affordable Housing Providers

Assignments:

I have appraiser/consulted on a wide variety of commercial properties ranging from over 500 Housing Tax Credit assignments, to a golf course and residential subdivision, to water/sewer utility facilities, to mixed use developments including residential/retail/office/structured parking uses. I have also prepared appraisal and/or market studies for proposed or existing residential subdivisions, hotels, shopping centers, industrial facilities, apartments complexes, and numerous other commercial property types.

You may wish to laminate the pocket identification card to preserve it.

ROBERT O COE II
3812 AVENUE O
GALVESTON, TX 77560

The person named on the reverse is licensed by the Texas Appraiser Licensing and Certification Board.

Inquiry as to the status of this license may be made to:

Texas Appraiser Licensing and Certification Board
P.O. Box 12188
Austin, Tx 78711-2188
www.talcb.texas.gov
(512) 938-3001
Fax: (512) 938-3899

Texas Appraiser Licensing and Certification Board
P.O. Box 12188 Austin, Texas 78711-2188
Certified General Real Estate Appraiser

Number: **TX 1333157 G**

Issued: **03/15/2018**

Expires: **12/31/2019**

Appraiser: **ROBERT O COE II**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Texas Occupations Code, Chapter 1103, is authorized to use the title, Certified General Real Estate Appraiser.


Douglas E. Oldmixon
Commissioner

Texas Appraiser Licensing and Certification Board
P.O. Box 12188 Austin, Texas 78711-2188
Certified General Real Estate Appraiser

Number: **TX 1333157 G**

Issued: **03/15/2018**

Expires: **12/31/2019**

Appraiser: **ROBERT O COE II**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Texas Occupations Code, Chapter 1103, is authorized to use this title, Certified General Real Estate Appraiser.


Douglas E. Oldmixon
Commissioner

1c

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Cypress Ridge (HTC #00078)

RECOMMENDED ACTION

WHEREAS, Cypress Ridge (the Development) received a 9% Housing Tax Credit (HTC) award in 2000 to construct 76 multifamily units in Nacogdoches, Nacogdoches County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development and for having a Historically Underutilized Business (HUB), namely Kegley Inc., participate in the ownership of the Development and maintain regular, continuous, and substantial participation in the operation of the Development;

WHEREAS, the Land Use Restriction Agreement (LURA) for the Development requires a two-year ROFR period and requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Development, and maintain regular, continuous, and substantial participation of the Development;

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

WHEREAS, Cypress Ridge, Ltd., the Development Owner, requests to amend the Land Use Restriction Agreement for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015, and to remove the HUB requirement;

WHEREAS, removal of a HUB requirement from the LURA is a non-material amendment under 10 TAC §10.405(b)(1), and amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E); and

WHEREAS, the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

NOW, therefore, it is hereby

RESOLVED, that the material and non-material LURA amendments for Cypress Ridge are approved as presented to this meeting, and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cypress Ridge received a 9% HTC award in 2000 to construct 76 multifamily units in Nacogdoches, Nacogdoches County. In a letter dated November 8, 2019, Louis E. Vogt, a representative for the Development Owner, Cypress Ridge, Ltd., requested approval to amend the HTC LURA related to the ROFR provision and to eliminate the requirement for a HUB to hold an ownership interest and maintain regular, continuous, and substantial participation in the development and operation of the Development in order to facilitate a future sale of the property.

The additional use restrictions in the current LURA require, among other things, a 25-year Compliance Period and an Extended Use Period totaling 40 years, material participation by a HUB throughout the Compliance Period and a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization if at any time after the fifteenth year of the Compliance Period the Development Owner decides to sell the property.

The request letter states that the Development Owner is contemplating a sale of the Development to a qualified nonprofit organization. Therefore, Cypress Ridge, Ltd., the current Development Owner, is requesting approval to remove the HUB requirement and has provided written confirmation from the HUB that the HUB is acting of its own volition in making this request and that the HUB's participation regarding the Development has been substantive and meaningful. The amendment request letter states that it is anticipated that the HUB participation will conclude immediately upon Department approval and recordation of an amendment to the LURA.

In 2015, the 84th Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's 2019 Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute. The property is currently in the 18th year of the 25-year Compliance Period specified in the LURA. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to allow for a 180-day ROFR period.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on November 19, 2019, at the Development's onsite community clubhouse. No negative public comment was received regarding the requested amendment.

Staff recommends approval of both amendment requests as presented herein.

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 8, 2019

Via Email to rosalio.banuelos@tdhca.state.tx.us

Rosalio Banuelos, Director
Asset Management Division
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Via Email to kent.bedell@tdhca.state.tx.us

Kent Bedell, Asset Manager
Asset Management Division
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: # 00078; Cypress Ridge Apartments, Nacogdoches, Texas (the **Property**).

Dear Mr. Banuelos and Mr. Bedell::

Cypress Ridge, Ltd., a Texas limited partnership and the current owner of the Property (the "**Project Owner**"), hereby submits this letter as a request for a material LURA amendment in accordance with §10.405(b)(2)(E) of the 2019 Uniform Multifamily Rules (the "**Rules**"). We hereby request that the Right of First Refusal ("**ROFR**") period be changed as permitted by §2306.6725 of the Tex. Gov't Code. We simultaneously request that the HUB Participation Requirement be removed pursuant to §10.405(a)(1)(A) of the Rules. It is anticipated that the HUB participation will conclude immediately upon Department approval and recordation of an amendment to the LURA. A check for the \$2,500 LURA Amendment Fee is enclosed.

180-day ROFR Period Requested.

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(vi) of the Rules permits a LURA amendment in order to conform a ROFR to the provisions of Section 2306.6726. The Project Owner hereby requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

Removal of HUB Requirement Requested.

You are aware that we are requesting this change to the ROFR process as a preliminary step in contemplation of a sale of the Project to a Qualified Nonprofit Organization, as defined in the Rules. For flexibility in the future operation of the Project, we are requesting that the LURA also be amended to remove the requirement for material participation by a HUB. It is our

understanding that pursuant to §10.406(g) of the Rules, the TDHCA is willing to amend the LURA in this regard if the following conditions apply:

- (i) The selling HUB is acting of its own volition;
- (ii) The participation by the HUB has been substantive and meaningful, enabling the HUB to realize financial benefit and to acquire skills relating to the ownership and operation of affordable housing; and
- (iii) The proposed purchaser meets the Department's standards for ownership transfers.

We enclose an Affidavit regarding the above conditions by Anita M. Kegley, President of Kegley, Inc., a Texas corporation and certified HUB, which serves as the managing General Partner of the Project Owner.

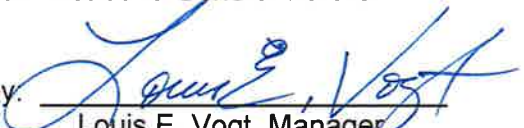
In accordance with Section 10.405(b) of the Rules, we are delivering a fee in the amount of \$2,500 and commit to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials of the proposed amendment. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the Project Owner will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. We request that a Staff recommendation in support of this request be considered at the **December 12, 2019** Board meeting.

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

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

Enclosures

STATE OF TEXAS

AFFIDAVIT

COUNTY OF Bexar

I, ANITA M. KEGLEY, on behalf of KEGLEY, INC., a Texas corporation and a certified Historically Underutilized Business (“HUB”), being first duly sworn on oath, depose and say that:

1. I am the President and a Director of Kegley, Inc., a Texas corporation (the "Corporation"). I am fully familiar with all the Corporation's business and financial affairs, including, without limiting the generality of the foregoing, all of the matters herein described.

2. The Corporation is the managing General Partner of Cypress Ridge Ltd., a Texas limited partnership (the “Partnership”). The Partnership owns and operates Cypress Ridge Apartments in Nacogdoches, Nacogdoches County, Texas (the “Project”).

3. This Affidavit is given in connection with the Partnership’s application to the Texas Department of Housing and Community Affairs (“TDHCA”) to amend the Land Use Restriction Agreement (“LURA”) filed in the real property records of Nacogdoches County, Texas. The amendment request includes the elimination of the requirement that the owner of the Project include a certified Historically Underutilized Business (“HUB”) acting as managing general partner, and that the HUB maintain regular, continuous and substantial participation in the development, operation and ownership of the Project.

4. This LURA amendment is being requested in connection with the proposed sale of the Project pursuant to the Right of First Refusal contained in the LURA.

5. The Corporation is the current HUB serving in the role of managing General Partner of the Partnership.

6. The Corporation has agreed to have the Partnership sell the Project, and is acting of its own volition.

7. The participation by the Corporation has been substantive and meaningful. The Corporation has realized financial benefit from its involvement in the Partnership and the Project, and has been able to acquire skills relating to the ownership and operation of affordable housing.

8.

The Corporation and the affiant believe that the proposed purchaser meets the TDHCA's standards for ownership transfers.

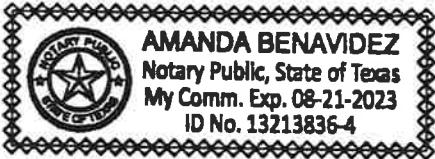
Corporation:

KEGLEY, INC.,
a Texas corporation and HUB

By: 
Anita M. Kegley, President

SWORN to before me on this 4 day of November 2019.

[SEAL]




Notary Public, State of Texas

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 13, 2019

Dear Resident:

Cypress Ridge Apartments (the “**Community**”) is owned by Cypress Ridge, Ltd., a Texas limited partnership (the “**Owner**”). Some years ago, in order to help finance the construction and development of the Community, the Owner received federal housing tax credits through the Texas Department of Housing and Community Affairs (the “**Department**”) (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

Additionally, the Owner is requesting that there be a further change to the contract to remove the requirement that the ownership structure of the Owner include a Historically Underutilized Business for the remainder of a 25-year Compliance Period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public hearing to discuss this matter. This meeting will take place at the Community’s management office/clubhouse at 2701 Logan Circle, Nacogdoches, TX 75951, on Tuesday, November 19, 2019 at 1:00 p.m.

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

If you are unable to attend the public hearing and would like to submit your concerns in writing to the Department, please send your comments via email to asset.management@tdhca.state.tx.us or you may mail them to:

Texas Department of Housing and Community Affairs
Asset Management Division
P.O. Box 13941
Austin, TX 78711-3941

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

We appreciate that Cypress Ridge Apartments is your home and we invite you to attend and give your input on this proposal.

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 13, 2019

State Representative Travis Clardy
District 11
202 East Pilar, Room 310
Nacogdoches, Texas 75961

Dear Representative Clardy:

Cypress Ridge, Ltd. (the “**Owner**”) is the owner of Cypress Ridge Apartments (the “**Community**”) which is located at 2701 Logan Circle, Nacogdoches, Texas 75961. Some years ago, in order to help finance the construction and development of the Community, the Owner received federal housing tax credits through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

Additionally, the Owner is requesting that there be a further change to the contract to remove the requirement that the ownership structure of the Owner include a Historically Underutilized Business for the remainder of a 25-year Compliance Period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public hearing to discuss this matter. This meeting will take place at the Community’s management office/clubhouse at 2701 Logan Circle, Nacogdoches, TX 75951, on Tuesday, November 19, 2019 at 1:00 p.m.

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

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 13, 2019

State Senator Robert Nichols
District 3
P.O. Box 12068
Capitol Station
Austin, TX 78711

Dear Senator Nichols:

Cypress Ridge, Ltd. (the “**Owner**”) is the owner of Cypress Ridge Apartments (the “**Community**”) which is located at 2701 Logan Circle, Nacogdoches, Texas 75961. Some years ago, in order to help finance the construction and development of the Community, the Owner received federal housing tax credits through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

Additionally, the Owner is requesting that there be a further change to the contract to remove the requirement that the ownership structure of the Owner include a Historically Underutilized Business for the remainder of a 25-year Compliance Period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public hearing to discuss this matter. This meeting will take place at the Community’s management office/clubhouse at 2701 Logan Circle, Nacogdoches, TX 75951, on Tuesday, November 19, 2019 at 1:00 p.m.

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

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 13, 2019

City Manager Jim Jeffers
City of Nacogdoches
P.O. Box 635030
Nacogdoches, TX 75963

Dear City Manager Jeffers:

Cypress Ridge, Ltd. (the “**Owner**”) is the owner of Cypress Ridge Apartments (the “**Community**”) which is located at 2701 Logan Circle, Nacogdoches, Texas 75961. Some years ago, in order to help finance the construction and development of the Community, the Owner received federal housing tax credits through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

Additionally, the Owner is requesting that there be a further change to the contract to remove the requirement that the ownership structure of the Owner include a Historically Underutilized Business for the remainder of a 25-year Compliance Period.

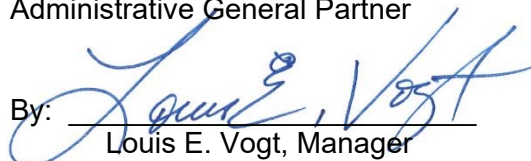
In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public hearing to discuss this matter. This meeting will take place at the Community’s management office/clubhouse at 2701 Logan Circle, Nacogdoches, TX 75951, on Tuesday, November 19, 2019 at 1:00 p.m.

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

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

CYPRESS RIDGE, LTD.

501 N. Magnolia Ave.
Orlando, Florida 32801

November 13, 2019

Mayor Shelley Brophy
City of Nacogdoches
P.O. Box 635030
Nacogdoches, TX 75963

Dear Mayor Brophy:

Cypress Ridge, Ltd. (the “**Owner**”) is the owner of Cypress Ridge Apartments (the “**Community**”) which is located at 2701 Logan Circle, Nacogdoches, Texas 75961. Some years ago, in order to help finance the construction and development of the Community, the Owner received federal housing tax credits through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

Additionally, the Owner is requesting that there be a further change to the contract to remove the requirement that the ownership structure of the Owner include a Historically Underutilized Business for the remainder of a 25-year Compliance Period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public hearing to discuss this matter. This meeting will take place at the Community’s management office/clubhouse at 2701 Logan Circle, Nacogdoches, TX 75951, on Tuesday, November 19, 2019 at 1:00 p.m.

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

Sincerely,

CYPRESS RIDGE, LTD.

By: BRM Cypress Ridge, LLC,
Administrative General Partner

By: 
Louis E. Vogt, Manager

Cypress Ridge Apartments

Public Hearing

11/19/2019

<u>Name</u>	<u>Address</u>
ARTHE JIMMY	2435 Logan Cir. #1101
Sepina Letra	2804 Logan Cir # 704
Tina Starling	3124 Logan Cir #1404 Nov. 75/68
Kuheard Miller	3124 Logan Circle #1402
Val Jones	2814 Logan Circle # 804
Bridgette Hardy	2824 Logan Circle # 902
Fesah Duffie	3214 Logan Circle #1804
Kristal Hollingsworth	2714 Logan Circle #204
Bob Hemming	2725 Logan Cir Apt 603
Destinee Bixler	2714 Logan Circle #203
Lisa Horton	12435 Logan Circle #1104
Torrence Cooks	2714 Logan Circle #203
Sandy Gicer	3205 Logan Circle #1601

*Cypress Ridge Public Meeting 11/19/2019
Minutes of the Meeting*

- *1:08pm - Meeting in session*
- *1:10pm – Acknowledging attendance sheet attached showing names and addresses of residents.*
- *1:15pm -Introduction of AGPM Mgmt. member Debbie Willis representing corporate office and Cypress Ridge LTD. Offered refreshments to the guest (veggie tray, fruit tray, pastry, coffee and soda).*
- *1:28pm – Topic of discussion for meeting. Sale of Cypress Ridge with pending contract with Harmony House Advisors – Discussed sale is not final at this time, but will have answer within next 30-45 days.*
- *1:35pm – Question from resident in #204 – Crystal Hollingsworth – Will her items needing replaced be addressed before AGPM sells the property? – Answer from Debbie Willis, we will continue operations as normal and will address whatever we can within the allotted budget each month until otherwise told something different by current owners.*
- *1:50pm – Went over the need to do inspections on the property with various companies (Appraisers, Engineers, Environmental) and that many units will be inspected for Due Diligence by the byer. All residents present at the meeting understood and were ok with the need to gain access to the units.*
- *1:55pm – Explained all files and current leases will stay in effect until the lease is up at which time the new owners/mgmt. company will then have the say on what (if anything) changes. Once AGPM is no longer on the property, the new owners/mgmt. company will conduct the renewal process, but until that time, we will continue with business as usual.*
- *1:58pm – Resident in unit #1404 Ora Starling wanted to know if we can do something about the Electric bills and would the new owner include electric as part of the rent. She stated Encore is subbing out their contracts to various power companies in the area and some units have high bills while others have low bills. Ora asked for AGPM to request with the new owners to include the electric in the rent. – Debbie Willis response was per the LURA for the property, the resident is to pay for utilities as part of the program and this can not be changed. – Ora stated Eastwood Apartments includes in their rent. – Debbie stated Eastwood is a HUD based property which is a different program than what we have at Cypress Ridge. She understood.*
- *2:10pm – Debbie Willis explained the Tax Credit contract with TDHCA stays in effect for 35 years and can not be changed regardless of who owns the property. All residents understood.*
- *2:12pm – Resident in #902 Bridgette Hardy asked if the staff will change. – Debbie responded with when and if the property sells, the new owner will have final say on who works at the property, but as of this date, we will operate under current staffing. At that time, several residents expressed not wanting to lose the manager Destinee Bixler as she has done a good job at the property.*

- 2:21pm – Resident in #204 Crystal Hollingworth asked what are the chances the sale won't go through? – Debbie responded by stating I did not have an answer for that question.
- 2:29pm – Called end of meeting by thanking all for their time. Told them if they had any other questions not to hesitate to reach out to Destinee or myself.

Debbie Willis

AGPM Regional Manager

11/19/2019

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Churchill Place (HTC #01166)

RECOMMENDED ACTION

WHEREAS, Churchill Place (the Development) received a 9% Housing Tax Credit (HTC) award in 2001 to construct 72 multifamily units in La Porte, Harris County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period;

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

WHEREAS, La Porte Venture, Ltd. (the Development Owner or Owner) requests to amend the Land Use Restriction Agreement (LURA) for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

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

NOW, therefore, it is hereby

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

BACKGROUND

Churchill Place received a 9% Housing Tax Credit award in 2001 to construct 72 multifamily units (61 of which are HTC units) in La Porte, Harris County. In a letter dated October 21, 2019, H. Chris Richardson, Manager of the General Partner of La Porte Venture, Ltd., the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2001, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a LURA recorded in Harris County on December 24, 2003.

As approved in 2001, the additional use restrictions in the current HTC LURA would require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), to a tenant organization or the Department, if at any time after the 15th year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 17th year of the 40-year Extended Use Period specified in the LURA. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period and allow for a Qualified Entity to purchase the Development, which will facilitate an anticipated sale of the Development.

In 2015, the 84th Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's 2019 Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on October 29, 2019, at the Development's onsite office/community clubhouse. The provided meeting minutes report no negative comments received regarding the requested amendment.

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

LA PORTE VENTURE, LTD.
4001 W. Sam Houston Pkwy. N., Suite 100
Houston, Texas 77043

October 21, 2019

VIA ELECTRONIC DELIVERY

Ms. Lucy Trevino

email: lucy.trevino@tdhca.state.tx.us

Mr. Jonathan Chilson

email: jonathan.chilson@tdhca.state.tx.us

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, Texas 78701-2410

Re: TDHCA File No. 01166
Churchill Place Senior Apartments (the "**Property**")

Dear Ms. Trevino and Mr. Chilson:

The undersigned, being the General Partner (herein so called) of La Porte Venture, Ltd., a Texas limited partnership (the "**Partnership**") and the current owner of the Property, submit this request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

The Partnership entered into that certain Purchase and Sale Agreement for the Property (the "**Purchase Agreement**") dated September 25, 2019 between the Partnership, as seller, and PC Churchill, LLC, a Delaware limited liability company ("**New Owner**"), as buyer. The Partnership and New Owner anticipate the fee simple purchase and sale of the Property contemplated by the Purchase Agreement will close on or about December 10, 2019.

Request to Amend ROFR Period

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day ROFR period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the Partnership, is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

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

Sincerely,

LA PORTE VENTURE, LTD.,
a Texas limited partnership

By: Churchill Affordable Housing, LLC,
a Texas limited liability company,
its general partner

By:



H. Chris Richardson, Manager

Attachment 1 – Form Tenant Notice Letter Attached

LA PORTE VENTURE, LTD.
4001 W. Sam Houston Pkwy. N., Suite 100
Houston, Texas 77043

October 21, 2019

Dear Resident:

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

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period. TDHCA Uniform Multifamily Rules require that notice of this request be provided to all residents of the Property.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter and we invite you to attend. The public hearing is your opportunity to discuss the amendment request and voice your concerns. The public hearing will take place at the Community’s management office/clubhouse on **October 29, 2019 at 4:00 p.m.** Information from this meeting will be submitted for consideration by the Department’s governing board at its next available meeting.

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

If you are unable to attend the public hearing and would like to submit your concerns in writing to the Department, please send your comments via email to asset.management@tdhca.state.tx.us or you may mail them to:

Texas Department of Housing and Community Affairs
Asset Management Division
221 East 11th Street
Austin, Texas 78701

We appreciate that Churchill Place Senior Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Churchill Place Senior Apartments as your home.

Sincerely,

LA PORTE VENTURE, LTD.,
a Texas limited partnership

By: Churchill Affordable Housing, LLC,
a Texas limited liability company,
its general partner

By:



H. Chris Richardson, Manager

Attachment 2 – Form Lender Notice Letter Attached

LA PORTE VENTURE, LTD.
4001 W. Sam Houston Pkwy. N., Suite 100
Houston, Texas 77043

October 21, 2019

Lender – Via Federal Express

Jones Lang Lasalle
28050 US Hwy 19 N
Suite 500
Clearwater, FL 33761
Attention: Bill Johnson

Dear Bill:

La Porte Venture, Ltd. (the “**Owner**”) is the owner of Churchill Place Senior Apartments (the “**Community**”) which is located at 1201 S. Broadway St., La Porte, Texas 77571. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on **October 29, 2019 at 4:00 p.m.** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their next available meeting.

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

Sincerely,

LA PORTE VENTURE, LTD.,
a Texas limited partnership

By: Churchill Affordable Housing, LLC,
a Texas limited liability company,
its general partner

By:



H. Chris Richardson, Manager

Attachment 3 – Form Investor Notice Letter Attached

LA PORTE VENTURE, LTD.
4001 W. Sam Houston Pkwy. N., Suite 100
Houston, Texas 77043

October 21, 2019

Investor -Via Federal Express

Boston Financial Investment Management
2 N Central Avenue
Suite 1800
Phoenix, AZ 85004
Attention: Eric Bonney

Dear Eric:

La Porte Venture, Ltd. (the “**Owner**”) is the owner of Churchill Place Senior Apartments (the “**Community**”) which is located at 1201 S. Broadway St., La Porte, Texas 77571. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on **October 29, 2019 at 4:00 p.m.** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their next available meeting.

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

Sincerely,

LA PORTE VENTURE, LTD.,
a Texas limited partnership

By: Churchill Affordable Housing, LLC,
a Texas limited liability company,
its general partner

By:



H. Chris Richardson, Manager

AGENDA FOR PUBLIC HEARING

- I. Welcome and Call to Order
- II. Introduction of Representatives of Property Owner and Property Manager (*and other representatives as appropriate*)
- III. Reason for Tenant Notice and Public Hearing (*ROFR requirement in LURA*)
- IV. Questions from Tenants
- V. Adjournment

MINUTES

Date: October 29, 2019, 4:20 p.m.

Public Hearing regarding Homes of Persimmon's LURA Amendment / ROFR Requirement

The public hearing related to the request to amend the LURA Amendment - Right of First Refusal ("ROFR") period was held in the Onsite Community Club House. Nathan Kelley and Kathryn Geer were in attendance representing the owner and property manager. There were twenty-five (25) residents in attendance. The meeting was not recorded but a summary of the discussion is as follows:

Moderator: Nathan Kelley

1. Opened the hearing and explained the request being submitted to TDHCA to reduce the LURA ROFR period from 2 years to 180 days. Provided backstory on legislative change that permits this change to the LURA. Provided timeline for the change to go into effect.
2. Explained that the proposed changes would not impact the residents existing leases or the other provisions of the LURA; namely the rent and age restrictions. Emphasized that those restrictions were recorded deed restrictions and any changes to the latter would require a similar TDHCA review.
3. Explained that this request was being sought in connection with the sale of the property and that they tenants would be notified in writing once the sale had closed.
4. Addressed numerous questions from residents looking for assurance that the proposed ROFR change would not affect their existing lease agreement or the rent and age restrictions of the property.
5. Addressed numerous questions from residents looking for assurance that the sale of the property would not affect their existing lease agreement or the rent and age restrictions of the property.
6. Addressed questions related to the current policies and procedures of the property and any knowledge of changes to those after the sale occurs.
7. Addressed questions related to planned capital improvements of the property, and the status of the existing onsite property management team.
8. Addressed questions related to other properties in Blazer's portfolio.

Nathan Kelley adjourned the meeting at 5:00 p.m. after all the questions from the residents were discussed.

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Kings Row Apartments (HTC #02020)

RECOMMENDED ACTION

WHEREAS, Kings Row Apartments (the Development) received a 9% Housing Tax Credit (HTC) award in 2002 to rehabilitate 180 multifamily units in Houston, Harris County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period;

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

WHEREAS, CP Kings, L.P. (the Development Owner or Owner) requests to amend the Land Use Restriction Agreement (LURA) for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

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

NOW, therefore, it is hereby

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

BACKGROUND

Kings Row Apartments received a 9% HTC award in 2002 to rehabilitate 180 multifamily units in Houston, Harris County. In a letter dated November 6, 2019, Edward J. Henderson III, Authorized Signatory of Kings Row-Michaels, LLC, the general partner of the Development Owner, CP Kings, L.P., requested approval to amend the HTC LURA related to the ROFR provision.

In 2002, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Tax Credits recorded in Harris County on January 10, 2006, later amended and recorded in Harris County on May 11, 2009.

As approved in 2002, the additional use restrictions in the current HTC LURA would require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), a tenant organization or to the Department, if at any time after the 15th year of the Compliance Period the Owner decides to sell the property. The property is currently in the 15th year of the Compliance Period specified in the LURA. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the 84th Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's 2019 Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on November 18, 2019, at the Development's onsite community room. No negative public comment was received at the public hearing regarding the requested amendment.

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

CP KINGS, L.P.

2 Cooper Street

Camden, New Jersey 08102

Telephone: 856-596-0500

facsimile: 856-988-5817

November 6, 2019

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

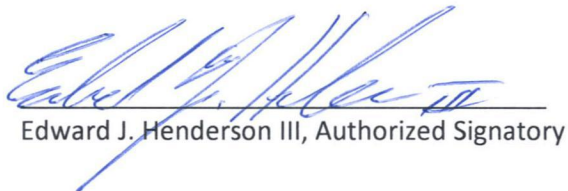
Dear Mr. Banuelos:

CP Kings, L.P. is (the "Owner") the owner of Kings Row Apartments located at 4141 Barberrry Drive, Houston (Harris County), Texas 77051. On June 21, 2005, the Owner and the Texas Department of Housing & Community Affairs entered into a Land Use Restrictive Covenants/Land Use Restriction Agreement ("LURA") that allowed the financing of the rehabilitation of Kings Row Apartments.

In the LURA, the Owner elected to enter into additional rent and occupancy restrictions. One of those restrictions allows for a tenant or qualified nonprofit organization a right of first refusal to purchase Kings Row Apartments for a period of two years. Recently there has been a change to the statute that allows the two-year period to be reduced to one hundred and eighty days. The Owner is requesting that the Texas Department of Housing & Community Affairs reduce the period from two years to one hundred and eighty days to be consistent with the right of first refusal provisions currently in the statute.

On November 18, 2019 at 6:00pm, the Owner's representatives will be holding a public hearing in Kings Row Apartment's community room to discuss the Owner's request and to answer any questions you might have. If you have any questions or comments prior to the meeting, please feel free to contact Nesly Segovia, Community Manager at 713-733-9351.

Sincerely,
CP KINGS, L.P.
Kings Row-Michaels, LLC



Edward J. Henderson III, Authorized Signatory

CP KINGS, L.P.

2 Cooper Street

Camden, New Jersey 08102

Telephone: 856-596-0500

facsimile: 856-988-5817

November 6, 2019

Boston Capital
One Boston Place, 22nd Floor
Boston, MA 02108
Attn: Stephen Palmaccio, Vice President

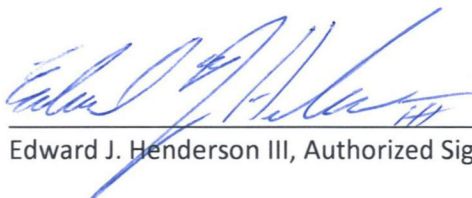
Dear Mr. Palmaccio:

CP Kings, L.P. is (the "Owner") the owner of Kings Row Apartments located at 4141 Barberry Drive, Houston (Harris County), Texas 77051. On June 21, 2005, the Owner and the Texas Department of Housing & Community Affairs entered into a Land Use Restrictive Covenants/Land Use Restriction Agreement ("LURA") that allowed the financing of the rehabilitation of Kings Row Apartments.

In the LURA, the Owner elected to enter into additional rent and occupancy restrictions. One of those restrictions allows for a tenant or qualified nonprofit organization a right of first refusal to purchase Kings Row Apartments for a period of two years. Recently there has been a change to the statute that allows the two-year period to be reduced to one hundred and eighty days. The Owner is requesting that the Texas Department of Housing & Community Affairs reduce the period from two years to one hundred and eighty days to be consistent with the right of first refusal provisions currently in the statute.

On November 18, 2019 at 6:00pm, the Owner's representatives will be holding a public hearing in Kings Row Apartment's community room to discuss the Owner's request and to answer any questions you might have. If you have any questions or comments prior to the meeting, please feel free to contact Nesly Segovia, Community Manager at 713-733-9351.

Sincerely,
CP KINGS, L.P.
Kings Row-Michaels, LLC



Edward J. Henderson III, Authorized Signatory

CP KINGS, L.P.

2 Cooper Street

Camden, New Jersey 08102

Telephone: 856-596-0500

facsimile: 856-988-5817

November 6, 2019

Berkadia Commercial Mortgage
332 Norristown Road, Suite 300
Ambler, PA 19002
Attn: Pattie Albertson
pattie.albertson@berkadia.com

Re: Kings Row: Loan Number 101043247

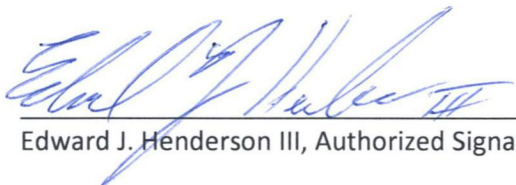
Dear Ms Albertson:

CP Kings, L.P. is (the "Owner") the owner of Kings Row Apartments located at 4141 Barberry Drive, Houston (Harris County), Texas 77051. On June 21, 2005, the Owner and the Texas Department of Housing & Community Affairs entered into a Land Use Restrictive Covenants/Land Use Restriction Agreement ("LURA") that allowed the financing of the rehabilitation of Kings Row Apartments.

In the LURA, the Owner elected to enter into additional rent and occupancy restrictions. One of those restrictions allows for a tenant or qualified nonprofit organization a right of first refusal to purchase Kings Row Apartments for a period of two years. Recently there has been a change to the statute that allows the two-year period to be reduced to one hundred and eighty days. The Owner is requesting that the Texas Department of Housing & Community Affairs reduce the period from two years to one hundred and eighty days to be consistent with the right of first refusal provisions currently in the statute.

On November 18, 2019 at 6:00pm, the Owner's representatives will be holding a public hearing in Kings Row Apartment's community room to discuss the Owner's request and to answer any questions you might have. If you have any questions or comments prior to the meeting, please feel free to contact Nesly Segovia, Community Manager at 713-733-9351.

Sincerely,
CP KINGS, L.P.
Kings Row-Michaels, LLC



Edward J. Henderson III, Authorized Signatory

CP KINGS, L.P.

2 Cooper Street

Camden, New Jersey 08102

Telephone: 856-596-0500

facsimile: 856-988-5817

November 6, 2019

Kings Row Apartments
4141 Barberry Drive
Houston, TX 77051-3715

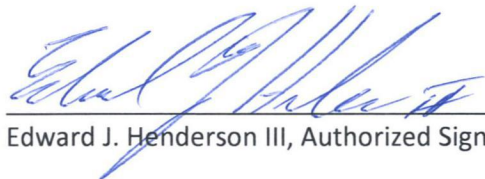
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Sincerely,
CP KINGS, L.P.
Kings Row-Michaels, LLC



Edward J. Henderson III, Authorized Signatory

RESIDENT MEETING 11-18-19

NO.

- | | | | |
|----|------------------------|-----|---------------------|
| 1 | Dajonna LeFills | 20 | Rosalind Ryan |
| 2 | Tiffany Johnson | 21 | Chandra N. Steeman |
| 3 | Roxana Johnson | 22 | Michelle Ferguson |
| 4 | Monika Gamble | 23 | Sadie Harris |
| 5 | WENDI FOBBS | 24 | Lara Bearden |
| 6 | Angel Lee | 25 | Christyanna Beverly |
| 7 | Alberta Jones | 26 | Jayesetta Ysight |
| 8 | Elizabeth Scott-Meares | 27 | Keturah |
| 9 | Keefus Johnson | 28 | Heaven McCombs |
| 10 | Jordan Gray | 29 | Edel |
| 11 | Maria Sois | 30 | Dimitry |
| 12 | Wayne Gilbert | 31 | Thomas |
| 13 | McL | 32x | Imek |
| 14 | Cecilia Rawlins | 33 | Larocha Khone |
| 15 | Zanita Lewis | 34 | Myra |
| 16 | Kristina Turner | 35 | K Damet Eli |
| 17 | Celestine Matthews | 36x | Passion Berry |
| 18 | Tianna Johnson | 37x | Monique Stevenson |
| 19 | Philip Thane | 38x | Tyrka Robinson |

39. Paul Simon
40. Chanika Saem
41. Katherine W. Nelson
42. Ashley [unclear]
43. Jennifer Brown
44. [unclear]
- 45.

KINGS ROW (CP Kings, LP)
MINUTES OF PUBLIC HEARING WITH RESIDENTS
November 18, 2019

Attendees: Kings Row Residents, Gina Young, Regional Property Manager, Nesly Segovia Community Manager, Damesha Wood, Assistant Community Manager

MEETING

Gina Young made introductions and greeted the residents. Gina mentioned the following:

1. Kings Row is currently listed for sale by the owners, CP Kings LP
2. On June 21, 2005, the Owner and the Texas Department of Housing & Community Affairs entered into a Land Use Restrictive Covenants/Land Use Restriction Agreement ("LURA") that allowed the financing of the rehabilitation of Kings Row Apartments.
3. In the LURA, the Owner elected to enter into additional rent and occupancy restrictions. One of those restrictions allows for a tenant or qualified nonprofit organization a right of first refusal to purchase Kings Row Apartments for a period of two years. Recently there has been a change to the statute that allows the two-year period to be reduced to one hundred and eighty days. The Owner is requesting that the Texas Department of Housing & Community Affairs reduce the period from two years to one hundred and eighty days to be consistent with the right of first refusal provisions currently in the statute.
4. CP Kings, LP is required to hold a public hearing with the residents to inform them of the owner's intent to reduce the period from two years to one hundred and eighty days.

Resident Questions:

1. When will the property be sold?
Response: We are uncertain when the property will be sold and are not under an agreement of sale.
2. What changes will be made to the property?
Response: Assuming a sale takes place, the new owners will decide what changes will be made to the property.
3. Will we receive a voucher if we decide to move out?
Response: No vouchers will be issued if you decide to move out.

Meeting was adjourned at 6:37pm.

1d

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Multifamily Direct Loan Application for Stonebridge of Kelsey Park (HTC #12269 and HOME Loan #1001750001)

RECOMMENDED ACTION

WHEREAS, Stonebridge of Kelsey Park (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2012 and a Multifamily Direct Loan (MDL) from HOME funds in 2012 for the new construction of 152 units of multifamily housing in Lubbock, Lubbock County;

WHEREAS, GS Lubbock 1, LP (the Development Owner or Owner) requests approval for a significant modification of the site plan due to a loss of acreage via eminent domain by the Texas Department of Transportation (TXDOT) for the purpose of widening the road located in front of the Development;

WHEREAS, the Development has lost 0.877 acre, a 9.6% reduction to the original 9.14 acres, through the Condemnation Proceedings and in exchange has received a settlement in the amount of \$5,559,568;

WHEREAS, due to the location of the 3,301 square foot community building and the loss of the acreage due to the widening of the road, the building will have to be demolished;

WHEREAS, to mitigate the situation, the Owner has used a portion of the settlement proceeds to purchase 1.219 acres located adjacent to the Development for the purpose of reconstructing the community building;

WHEREAS, the design plan for the reconstructed community building indicates the area of the new community building will be 3,265 square feet, a reduction of 36 feet or 1.09% from the as-built square footage;

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

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

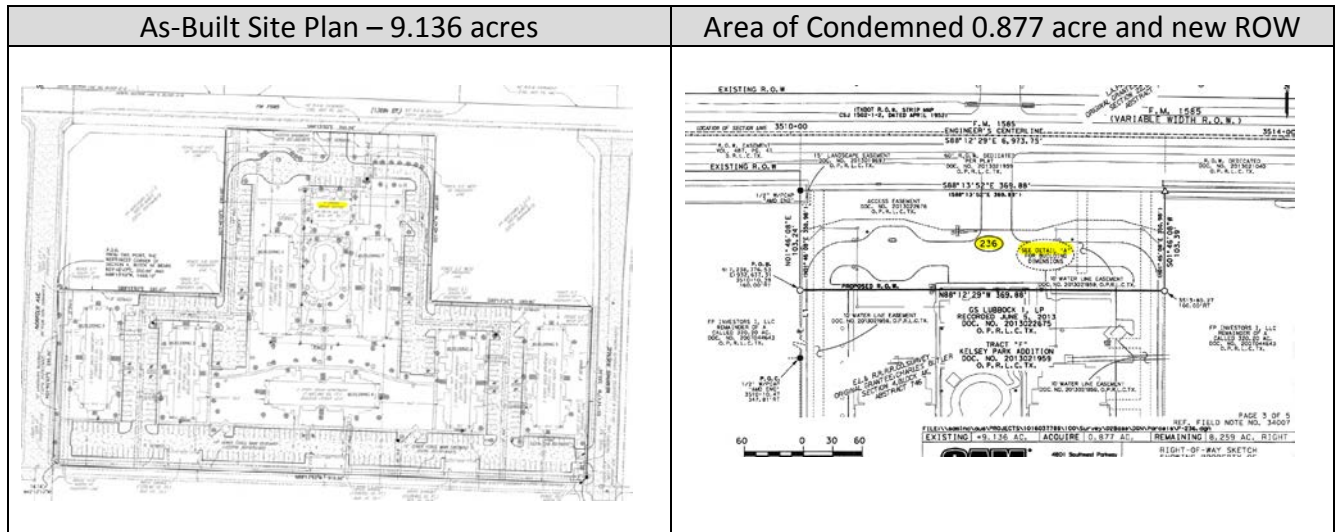
NOW, therefore, it is hereby

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

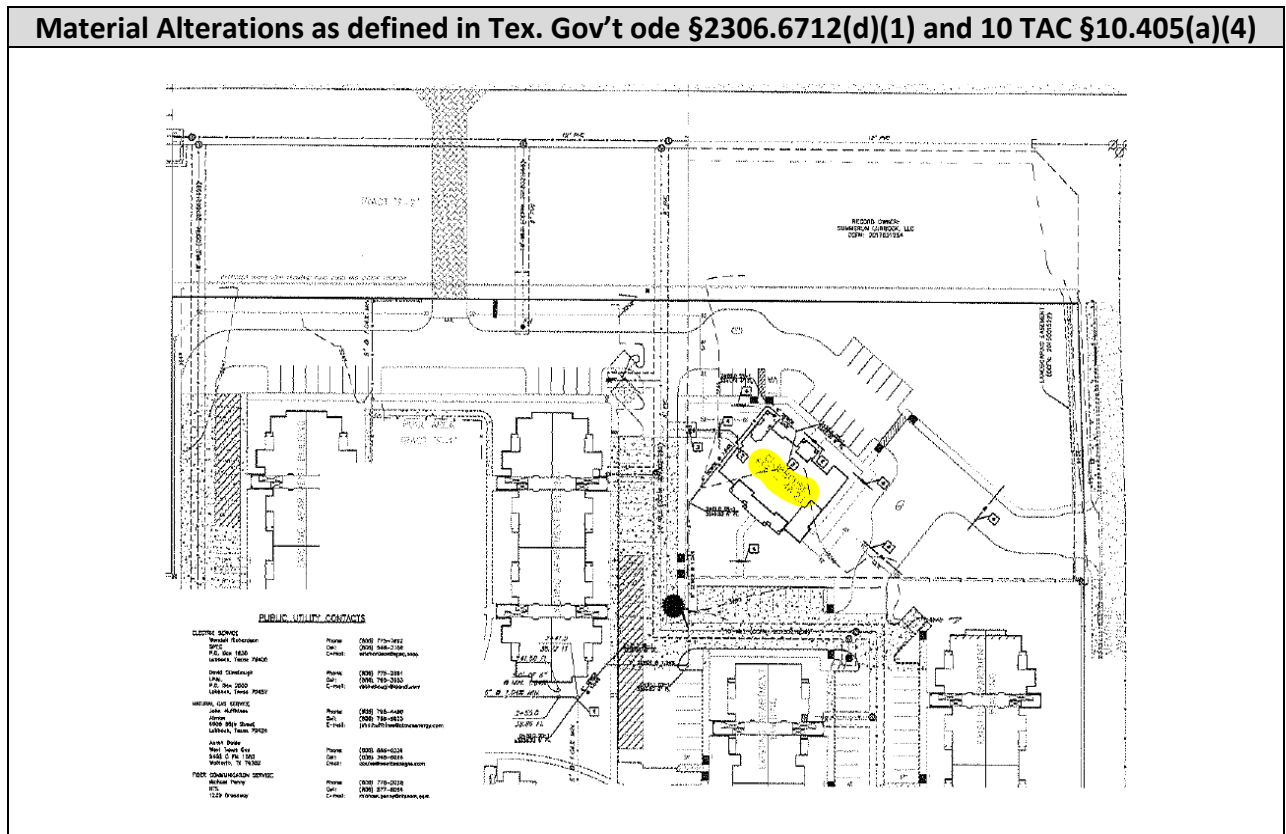
BACKGROUND

Stonebridge of Kelsey Park received an award of 9% Housing Tax Credits (HTCs) and a Multifamily Direct Loan (MDL) from HOME funds in 2012 to construct 152 units of multifamily housing, of which 145 unit are designated as affordable, in Lubbock, Lubbock County. The MDL was secured with a \$356,266 Subordinate Lien Promissory Note and was structured with monthly principal and interest payments in the amount of \$1,316.83, a 2% interest rate, a 30-year amortization period, and an 18-year term. The loan is current, and the remaining balance is \$310,950.90 as of November 12, 2019.

In a letter dated September 15, 2019, Jeffrey S. Spicer, the representative for the Development Owner, GS Lubbock 1, LP, requested a material amendment to the Application. The Owner states that they were notified by the Texas Department of Transportation (TXDOT) in 2016 that the road in front of the Development would be widened. TXDOT advised the Owner that they would likely lose a portion of the property through condemnation. The Owner received an initial settlement offer for the condemnation on August 28, 2018, and the case settled on June 13, 2019. In the settlement, the Owner received \$5,559,568 for a loss to TXDOT of 0.877 acre located in front of the property. The removal of the 0.877 acre results in a reduction of the Development site from 9.14 to 8.263 acres and will result in the loss of wrought iron fencing, gates, key code entry station, monument sign, landscaping, sod, irrigation, brick fence posts, site lighting, parking, and concrete curbing. Although the seven residential buildings will not be affected, the Owner states that the new right-of-way (ROW) will be within three feet of the clubhouse. As a result, the clubhouse will be rendered nonfunctional, and will need to be demolished. The following identifies the original site and the area condemned:



To mitigate this situation, on September 16, 2019, the Owner purchased 1.219 acres adjacent to the east of the Development. This will result in an overall 3.74% increase to the site acreage, from 9.14 to 9.482 acres. The revisions to the original as-built site plan are considered a significant modification pursuant to Tex. Gov't Code §2306.6712(d)(1) and 10 TAC §10.405(a)(4)(A). The following is the revised site plan that reflects the acreage removed, acreage added, reconstructed clubhouse, new entrance, and parking:



The clubhouse was originally identified as 3,400 square feet at Application. At cost certification, it was revealed that the as-built clubhouse was 3,301 square feet, a 99 square feet reduction or 2.91% reduction from the original design. The change was approved on January 20, 2017, as a non-material amendment pursuant to 10 TAC §10.405(a)(2)(B). The design plans provided for the reconstructed clubhouse indicate the amenities will not change; however, the size of the common area will now be 3,265 square feet, a reduction of 36 feet or 1.09% from the as-built square footage and a 135 square feet reduction or 3.97% reduction from the original design identified at Application. Staff reviewed the proposed design plans provided by the Owner for the proposed reconstructed clubhouse and confirmed that the plans will include an accessible route and will meet the current accessibility requirements as reflected in 10 TAC Chapter 1, Subchapter B. This revised acreage will be amended in the Department's HOME and LIHTC LURAs.

Due to the MDL HOME funds used for the funding of the Development, the Department's Legal Division discussed the changes noted above with the Department's Field Office representative at HUD to confirm if additional action was required to address the proposed changes resulting from the condemnation. HUD's representative stated that their office, has no concerns and that the changes noted above do not require their review or approval. This is because the de minimis amount of HOME eligible costs that were attributed to the acquisition would not have resulted in an additional HOME unit.

The Owner also provided a Phase I Environmental Site Assessment (ESA) dated June 10, 2019, for the additional 1.219 acres. Staff completed a re-evaluation of the environmental review using the current and original ESAs performed. Staff issued a Memorandum dated October 9, 2019, confirming that the current environmental review and the Authority to Use Grand Funds are still valid.

It should be noted that the first lien lender, Capital One National Association, has executed a Side Agreement that requires the Owner to deposit \$2,540,574 of the \$5,559,568 condemnation settlement award for the purchase of the additional 1.219 acres and the costs related to the demolition and reconstruction of the clubhouse. The lender will control the account and process draws from the Owner until the reconstruction is complete. The purchase of the additional acreage occurred on September 16, 2019. According to the Owner, construction is expected to be completed in less than nine months after approval of this amendment. However, the existing clubhouse is not expected to be demolished until the new clubhouse is built. The lender will not make claim to the remainder of the \$3,018,944 settlement proceeds that will be available. The owners in the partnership have executed an agreement to disburse the \$3,018,944 remaining settlement funds. The agreement indicates that, net of additional contingency which will later be distributed, the after-tax distributions to the partners will be as follows: \$1,335,740 to GS Lubbock 1 GP, LLC, the general partner; \$317,238 to RBC Tax Credit Equity, LLC, the limited partner; and \$16,697 to RBC Tax Credit Manager II, the special limited partner. The Owner does not propose using any of the settlement proceeds to pay down or payoff the \$310,950.90 remaining HOME loan balance.

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

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

Amendment Request



September 15, 2019

Via Email to: leeann.chance@tdhca.state.tx.us

Ms. Lee Ann Chance

Asset Manager
TDHCA
221 East 11th Street
Austin, TX 78711

RE: GS Lubbock 1, LP (Stonebridge at Kelsey Park) – application amendment

Ms. Chance,

As the general partner of the above listed partnership, we request approval of the application amendment for GS Lubbock 1, LP detailed below.

Background

In 2016 we were notified by TXDOT that they intended to widen the road in front of our property and that we would likely lose some of our frontage and begin condemnation at some later date. In this condemnation case, the State made its initial offer to purchase the property on August 28, 2018. We finally settled the case on June 13, 2019. Details of the condemnation have previously been provided. The result of the case is that approximately .8 acres at the front of the property were taken by TXDOT. This makes the current clubhouse functionally unusable and necessitates a need for a new entrance and parking.

Our proposal to cure is to purchase the land contiguous to the east of the property and rebuild the clubhouse parking and entry drive on this property. The original clubhouse would then be demolished and a new drive connecting the drive lanes would be constructed. A draft site plan showing the proposed new site layout is attached. Other than the clubhouse, no units or amenities would be affected.

Amendment request

We request to amend the application as follows:

1. Remove the acreage taken by TXDOT; (see exhibit 1)
2. Add the acreage for the new parcel; (see exhibit 2)
3. Accept the revised site plan showing the new entrance, parking and clubhouse location. (see exhibit 3)

Should this request be approved we would expect to start construction in November and complete construction in less than 9 months.

As general partner of the partnership we feel that approving this amendment request is in the best interest of the residents, partnership and its partners and lenders. We urge your prompt attention to this matter. Please let us know if any additional information is required.

Sincerely,



Jeffrey S. Spicer

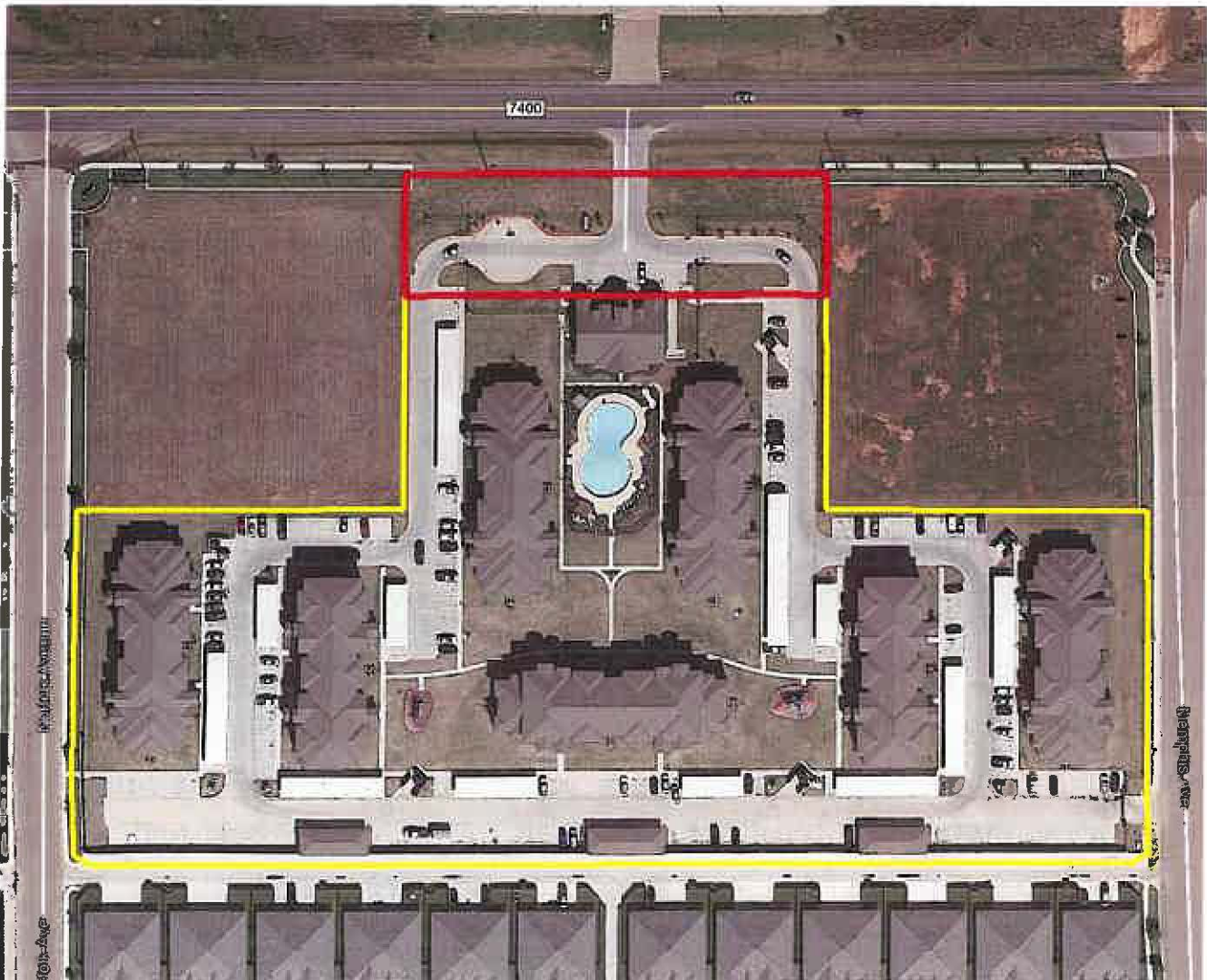
PART TO BE ACQUIRED

The following portion of the appraisal process deals directly with the valuation of the subject Part Acquired. The Part Acquired, is the portion of land taken by eminent domain from the whole property. The valuation of the property is predicated on the market value of the property prior to any taking or partial acquisition.

Partial Acquisition Description

The Part Acquired runs the length of the subject's FM 1585 road frontage. The Part Acquired is 103.24 feet deep on its western border and 103.39 feet deep on its eastern border. The Part Acquired includes 38,214 square feet or 0.877 acres of land. The new right of way line is within three feet of the existing clubhouse building. The clubhouse will require relocation as part of the cost to cure outlined in the land plan and summarized in Section 6 of this report.

Improvements located within the Part Acquired include wrought iron fencing and gates, the key code entry station, the monument sign, landscaping, sod, irrigation, brick fence posts, site lighting, concrete paving, and concrete curbing.



The aerial photo above approximates the boundaries of the subject Whole Property in yellow and the Part Acquired in red.

EXHIBIT 2

SUMMERLIN LUBBOCK, LLC

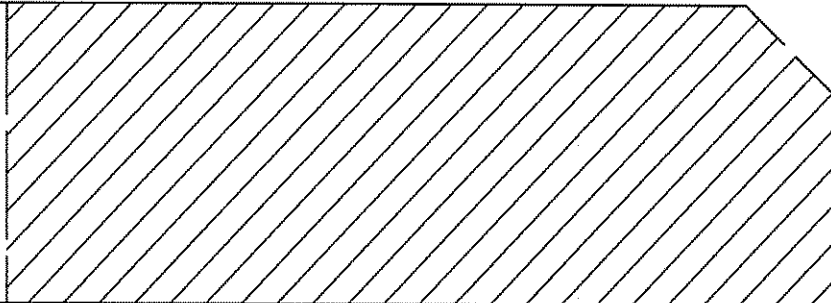
MEMPHIS COMMERCIAL CORNER PROPOSED REMAINDER TRACT

NORTH LINE SECTION 4, BLOCK AK

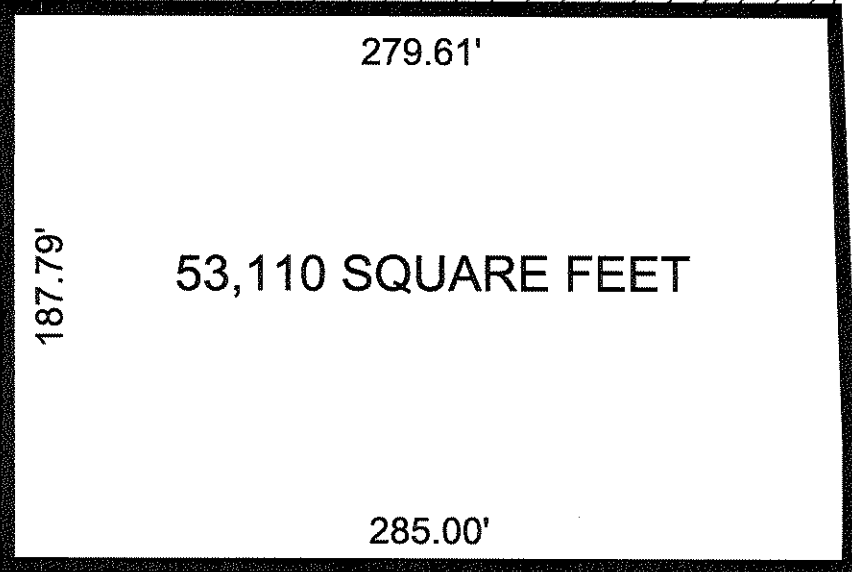
F.M.

(R-O-W CCFN: 2013021040)

1585



Tract "J"
Kelsey Park
CCFN: 2013021959



Tract "J"
Kelsey Park
CCFN: 2013021959

AVENUE

MEMPHIS

(R-O-W CCFN: 2013021040)



SCALE: 1"=60'
DATE: 10-23-2018

EXHIBIT 3

NOTES AND LEGEND

- — — — — PROPOSED SEWER LINE
- — — — — PROPOSED DOMESTIC WATER LINE
- — — — — PROPOSED CONDUIT FOR IRRIGATION LINE
- ○ — — — — — PROPOSED CLEANOUT/ DOUBLE CLEANOUT
- — — — — EXISTING WATER LINE
- — — — — EXISTING SEWER LINE
- — — — — EXISTING OVERHEAD ELECTRIC
- — — — — EXISTING GATE VALVE
- — — — — — EXISTING FIRE HYDRANT
- — — — — — EXISTING POWER POLE

BENCHMARK NO. 1
CHISELED 3" IN CONCRETE CURB AT THE SOUTHWEST CORNER OF TRACT F, STONEBRIDGE OF KELSEY PARK
NORTHING (Y)=7236123.99, EASTING (X)=932118.76;
ELEVATION = 3246.83 (NAVD)

ALL DIMENSIONS ARE MEASURED TO BACK OF CURB UNLESS OTHERWISE NOTED. REFER TO FINAL PLAT FOR COMPLETE PLAT DIMENSIONAL INFORMATION.

SEE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF PORCHES, RAMPS, VESTIBULE, SLOPED PAVING, TRUCK DOCKS, BUILDING UTILITY ENTRANCE LOCATIONS AND PRECISE BUILDING DIMENSIONS.

ALL CONSTRUCTION OF PUBLIC IMPROVEMENTS SHALL BE IN ACCORDANCE WITH LATEST STANDARD CITY OF LUBBOCK ENGINEERING DEPARTMENT REQUIREMENTS AND SPECIFICATIONS.

PRIOR TO ANY CONSTRUCTION THE CONTRACTOR SHALL FAMILIARIZE HIMSELF WITH THE CONTRACT DOCUMENTS AND SPECIFICATIONS, THE PLAN INCLUDING ALL NOTES, AND ANY OTHER APPLICABLE STANDARDS AND SPECIFICATIONS RELEVANT TO THE PROPER COMPLETION OF THE WORK SPECIFIED. FAILURE ON THE PART OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL STANDARDS OR SPECIFICATIONS PERTAINING TO THIS WORK SHALL IN NO WAY RELIEVE THE CONTRACTOR OF RESPONSIBILITY FOR PERFORMING THE WORK IN ACCORDANCE WITH ALL SUCH APPLICABLE STANDARDS AND SPECIFICATIONS. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR THE MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES OF CONSTRUCTION AND ANY SAFETY PRECAUTION PROGRAMS RELATING IN ANY WAY TO THE CONDITIONS OF THE PREMISES.

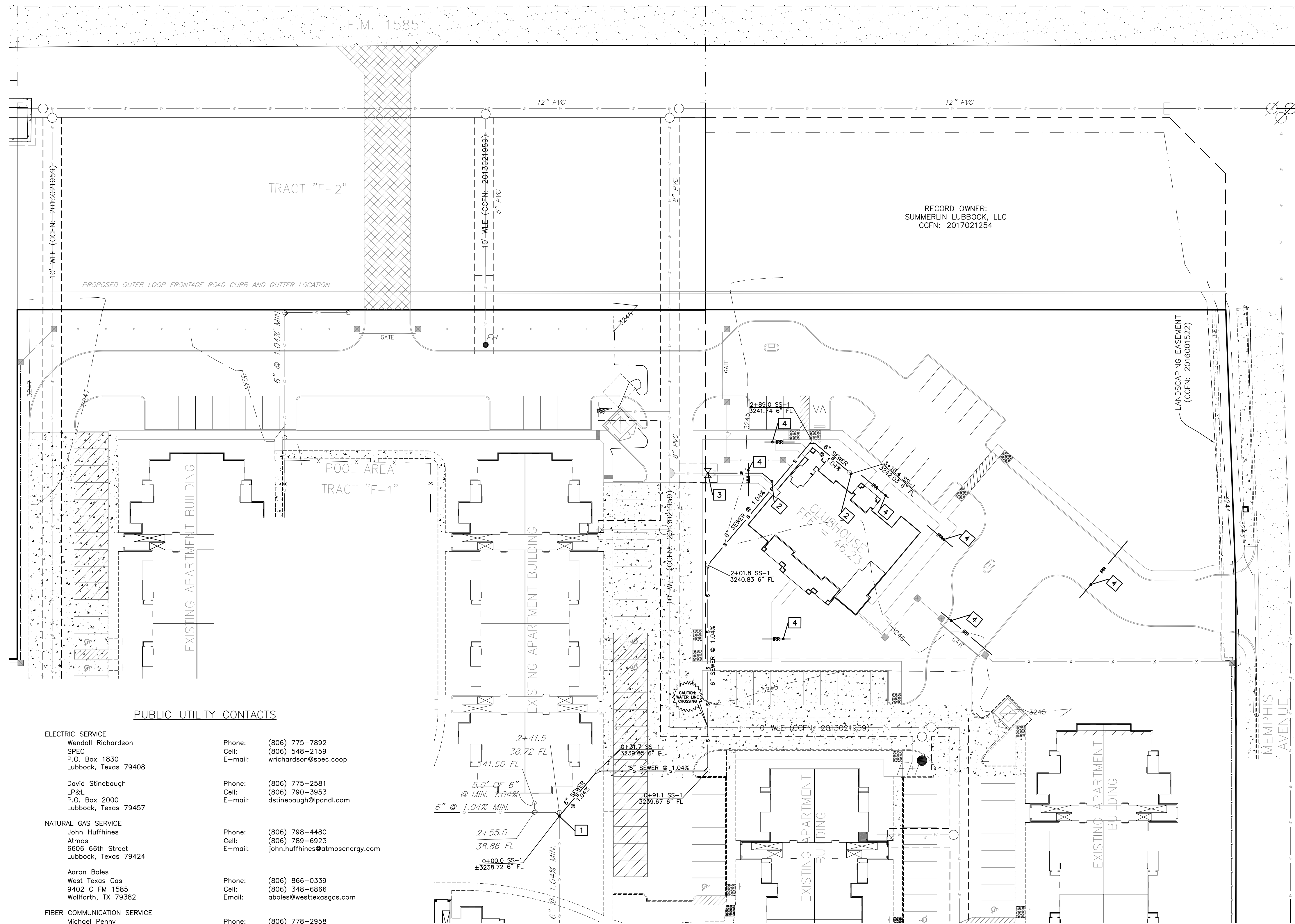
THE INFORMATION SHOWN ON THESE DRAWINGS CONCERNING TYPE, INFORMATION, AND THE LOCATION OF UNDERGROUND AND OTHER UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL-INCLUSIVE. THE CONTRACTOR IS RESPONSIBLE FOR MAKING HIS OWN DETERMINATIONS AS TO THE TYPE AND LOCATIONS OF ALL UNDERGROUND AND OTHER UTILITIES AS MAY BE NECESSARY TO AVOID DAMAGES. THE CONTRACTOR SHALL REPAIR ANY DAMAGES TO EXISTING UTILITIES IMMEDIATELY AND AT NO ADDITIONAL COST TO THE OWNER OR ENGINEER. PLANS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR WITH NO ADDITIONAL COMPENSATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING UTILITY COMPANIES HAVING PROPERTY IN THE AREA OF CONSTRUCTION A MINIMUM OF 48 HOURS PRIOR TO ANY EXCAVATION.

IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROTECT ALL PUBLIC UTILITIES IN THE CONSTRUCTION OF THIS PROJECT. ALL MANHOLES, CLEAN OUTS AND VALVE BOXES MUST BE ADJUSTED TO THE PROPER LINE AND GRADE BY THE CONTRACTOR PRIOR TO AND AFTER THE PLACING OF PERMANENT PAVING.

EXISTING IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO; FENCES, GATES, GROUND SURFACES, UTILITY PIPELINES AND DRAINAGE STRUCTURES WHICH ARE REMOVED OR ALTERED TO PERMIT INSTALLATION OF THE WORK, SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR AT THE CONTRACTOR'S EXPENSE, IN THE SAME LOCATION AND IN CONDITION EQUAL TO OR BETTER THAN FOUND.

AT ALL TIMES THAT WORK IS PROGRESSING, THE CONTRACTOR SHALL HAVE A DESIGNATED COMPETENT PERSON ON-SITE WHO SHALL BE RESPONSIBLE FOR SUPERVISING THE WORK AND WHOSE DUTY IT WILL BE TO PERFORM REQUIRED SAFETY INSPECTIONS AND TO DIRECT ALL REQUIRED CONSTRUCTION SAFETY ACTIVITIES.

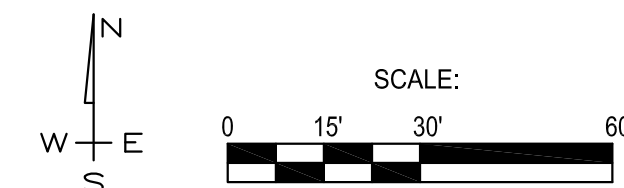
CONTRACTOR SHALL VERIFY BUILDING DIMENSIONS AND ATHLETIC FACILITIES WITH ARCHITECTURAL AND STRUCTURAL PLANS PRIOR TO COMMENCING CONSTRUCTION.



PUBLIC UTILITY CONTACTS

ELECTRIC SERVICE		Phone: (806) 775-7892
Wendall Richardson	Cell: (806) 548-2159	E-mail: wrichardson@spec.coop
P.O. Box 1830 Lubbock, Texas 79408		
David Stinebaugh		Phone: (806) 775-2581
LP&L	Cell: (806) 790-3953	E-mail: dstinebaugh@lpandl.com
P.O. Box 2000 Lubbock, Texas 79457		
NATURAL GAS SERVICE		Phone: (806) 798-4480
John Huffhines	Cell: (806) 789-6923	E-mail: john.huffhines@atmosenergy.com
Atmos		
6606 66th Street Lubbock, Texas 79424		
Aaron Boles		Phone: (806) 866-0339
West Texas Gas	Cell: (806) 348-6866	Email: aboles@westtexasgas.com
9402 C FM 1585 Wolfforth, TX 79382		
FIBER COMMUNICATION SERVICE		Phone: (806) 778-2958
Michael Penny	Cell: (806) 577-6059	E-mail: michael.penny@ntsc.com
NTS		
1220 Broadway Lubbock, Texas 79401		
CABLE TELEVISION SERVICE		Phone: (806) 771-6215
Scott Lanser	Cell: (806) 241-0122	E-mail: scott.lanser@suddenlink.com
Suddenlink		
5110 80th Street Lubbock, Texas 79424		
Kyle Knox		Phone: (806) 741-6256
AT&T	Cell: (806) 559-1658	E-mail: wk1741@att.com
2010 Avenue R, RM 102 Lubbock, Texas 79411		
CITY OF LUBBOCK DEVELOPMENT SERVICES ENGINEERING		Phone: (806) 775-2347
CITY OF LUBBOCK Public Works Backflow Program		Phone: (806) 775-3596
CITY OF LUBBOCK WATER AND SEWER INSPECTOR		Phone: (806) 548-4152
Joshua Flud		
Senior Inspector		
1625 13th Street Lubbock, TX 79401		
CITY OF LUBBOCK Industrial Waste Monitoring and Pretreatment		Phone: (806) 775-2626

- 1 CONNECT 6" SANITARY SEWER SERVICE LINE ONTO EXISTING 6" SANITARY SEWER SERVICE LINE. CONTRACTOR SHALL VERIFY TIE IN ELEVATION PRIOR TO CONSTRUCTION. ALERT THE ENGINEER OF ANY DISCREPANCIES. SEE PLAN FOR EXACT LENGTHS AND ELEVATIONS. REFER TO MEP PLANS FOR CONTINUATION OF SEWER LINES INTO THE BUILDING.
- 2 REFER TO MEP PLANS FOR EXACT BUILDING ENTRANCE LOCATION OF WATER, SEWER, GAS, ELECTRIC, CABLE, FIBER, AND/OR TELEPHONE LINES. COORDINATE LINE RELOCATION WITH SERVICE PROVIDERS.
- 3 ±36 LF OF 1" DOMESTIC WATER LINE FOR SERVICE TO BUILDING. REFER TO MEP PLAN FOR CONTINUATION AND EXACT ENTRANCE LOCATION. REFER TO MUNICIPAL WATER PLAN (C2.1) FOR TAP AND WATER METER INSTALLATION DETAILS.
- 4 (2) 4" SCH 40 PVC CONDUIT PLACED 24" BELOW FINISHED GRADE WITH PULL STRING FOR IRRIGATION SYSTEM.



DIAL BEFORE YOU DIG!
UTILITIES ARE APPROXIMATE. CONTRACTOR SHALL CALL DIG TESS (1-800-DIG-TESS) 48 HOURS PRIOR TO CONSTRUCTION.

**CIVIL ENGINEERING
LAND SURVEYING**
AMP
AMD Engineering, LLC
6515 66th Street, Suite 300
Lubbock, TX 79424
Phone: 806-771-5976
Fax: 806-771-7625
TIRE Reg. # F-9197
Accuracy - Efficiency - Integrity

**CLUBHOUSE RELOCATION AT
STONEBRIDGE OF KELSEY PARK**
LUBBOCK, TEXAS

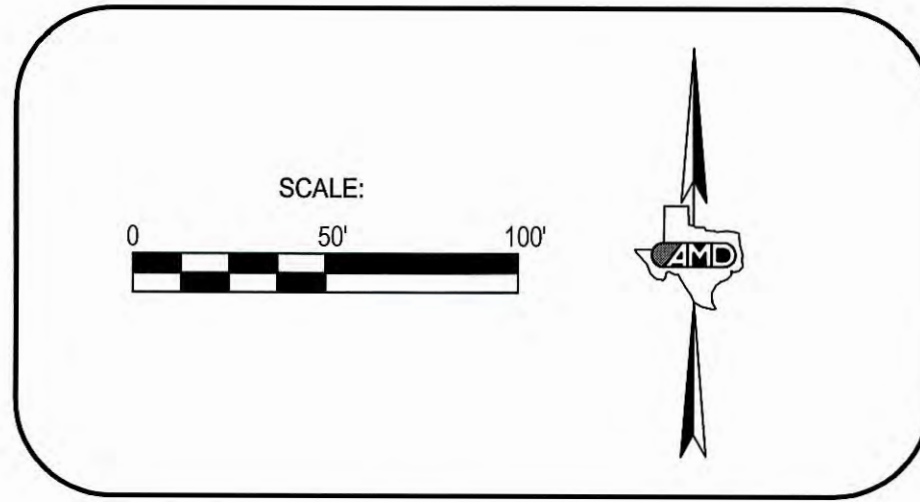
THIS DOCUMENT IS RELEASED FOR REVIEW PURPOSES ONLY UNDER THE AUTHORITY OF TYLER P. APPLE, P.E., NO. 118839 ON AUGUST 19, 2019. IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

No.	DATE	REVISIONS

SITE UTILITY PLAN

C2.2

DRAWN BY: WMM, TPA
CHECKED BY: WMM, TPA
DATE: 08/19/19

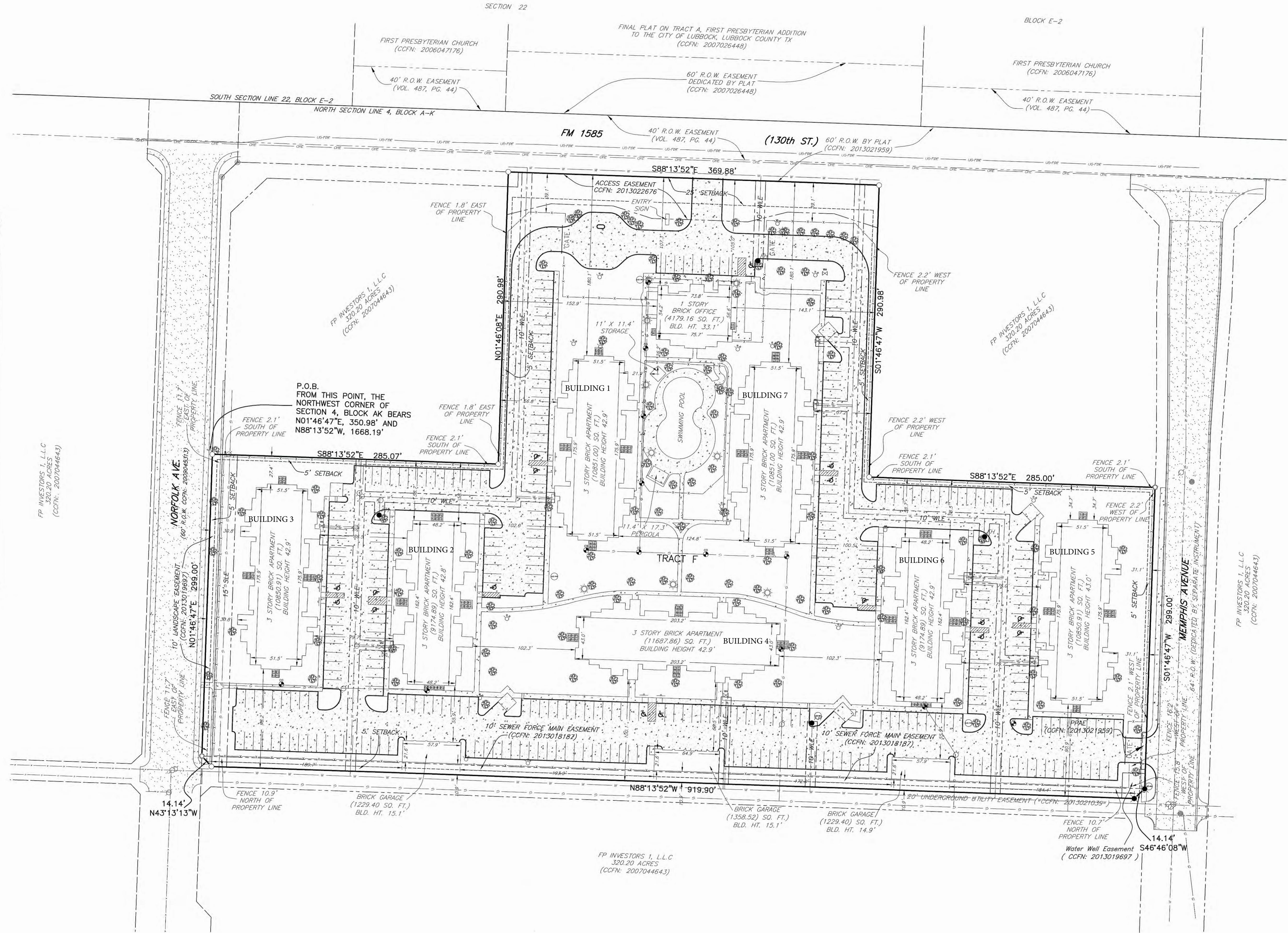
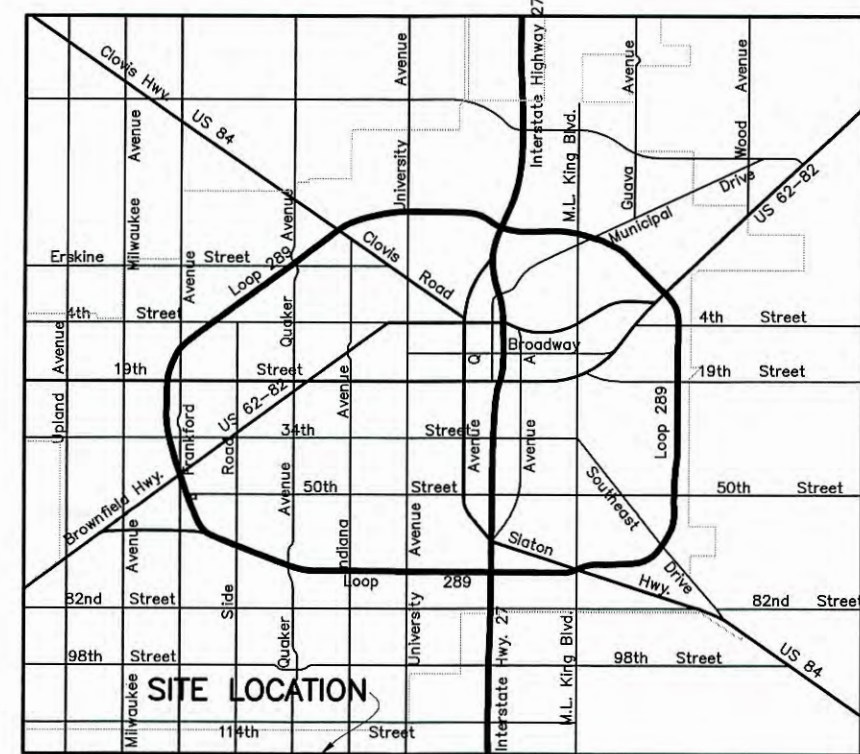


As-Built Survey

LEGEND

- 1/2" IRON ROD WITH ORANGE CAP (AMD ENG), FD...CM
- 1/2" IRON ROD, FD...CM
- ⊗ "X" CHISELED IN CONCRETE, SET
- ⊙ INDICATES CONIFEROUS TREE
- ⊙ INDICATES WATER VALVE
- ⊙ INDICATES AIR CONDITIONER
- ⊙ INDICATES CLEAN OUT
- ⊙ INDICATES WATER METER
- ⊙ INDICATES IRRIGATION VALVE BOX
- ⊙ INDICATES SIGN
- ⊙ INDICATES HANDICAP PARKING STALL
- ⊙ INDICATES FIRE HYDRANT
- ⊙ INDICATES LIGHT POLE
- ⊙ INDICATES ELECTRIC PEDESTAL
- ⊙ INDICATES MAN HOLE
- S — INDICATES SEWER LINE
- W — INDICATES WATER LINE
- X — INDICATES FENCE WITH COLUMNS (MEASURED TO FENCE)
- U — INDICATES UNDERGROUND FIBER OPTIC LINE
- O — INDICATES OVERHEAD POWER LINE
- P — INDICATES CONCRETE PAVING/WALK
- A — INDICATES ASPHALT PAVING
- CCFN COUNTY CLERK FILE NUMBER
- SLE SEWER LINE EASEMENT
- WLE WATER LINE EASEMENT
- PRAE PUBLIC PEDESTRIAN ACCESS EASEMENT

VICINITY MAP



ALTA/ACSM LAND TITLE SURVEY
 TRACT "F", KELSEY PARK, AN ADDITION TO THE CITY OF LUBBOCK,
 LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT, AND/OR
 DEDICATION DEED THEREOF, RECORDED IN COUNTY CLERK FILE
 NUMBER 2013021959, OFFICIAL PUBLIC RECORDS OF LUBBOCK
 COUNTY, TEXAS

PREPARED FOR:
 GS Housing

No.	DATE	REVISIONS
1		
2		
3		
4		

LEGAL DESCRIPTION

TRACT "F", KELSEY PARK, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT, AND/OR DEDICATION DEED THEREOF, RECORDED IN COUNTY CLERK FILE NUMBER 2013021959, OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS

GENERAL NOTES

This Plot is based on a survey made on the ground December 22 through 30, 2014.

Monuments shown as found on this survey were accepted by this surveyor as controlling evidence due to substantial agreement with Record Documents and are not considered as Monuments or Record Dignity unless so noted.

No substantial discrepancies between Record Documents and conditions as found on the ground were uncovered on this survey unless noted.

ALTA/ACSM LAND TITLE SURVEY

Surveyor's Certification: I hereby certify to GS Lubbock 1, LP, a Texas Limited Partnership, RBC Tax Credit Equity Fund-82, Limited Partnership, its successors and assigns, RBC Tax Credit Manager II, Inc., and First American Title, and their respective successors and assigns, as follows:

- On the 22nd through the 30th day of December, 2014, this survey was made by me (or under my direct supervision) on the ground as per the field notes shown on this survey and is true, correct, and accurate as to the boundaries (which have been physically inspected by me) and areas of the subject property and the size, location, and type of buildings and improvements thereon, if any, and as to the other matters shown thereon. This survey satisfies the Minimum Standard Detail Requirements (including, but not limited to, items 1, 2, 3, 4, 6(b), 7(a), 8, 9, 11(a), 13, 18, 19, and 20(a) of Table "A" thereof) and the Accuracy Standards for ALTA/ACSM Land Title Surveys, as adopted by the American Land Title Association (ALTA), the National Society of Professional Surveyors (NSPS), and the American Congress on Surveying and Mapping (ACSM) and in effect on the date of this certification. Proper field procedures, instrumentation and adequate survey personnel were employed order to achieve results comparable to those outlined in the "Minimum Angle, Distance and Closure Requirements for Survey Measurements which Control Land Boundaries for ALTA/ACSM Land Title Surveys.
- The area or quantity of the subject property as set forth in this survey is accurate to the nearest square foot.
- This survey correctly shows the location of the following matters affecting the subject property, whether or not located on the subject property: all easements (public and private), rights of ways (public and private), improvements, signs, fences, drainage ditches, above and below ground telephone, power and light, and other public and private utility lines and/or poles, railroads, streams (and other waterways, including all permanently inundated areas, whether or not navigable), building setback lines, party walls, and encroachments visible on the ground or of record; all places of entry and exit of all utilities to and from the subject property; all matters set forth in that certain commitment for loan policy of title insurance with an effective date of January 15, 2015, issued by Hexter-Fair/First American Title Company, LLC-File Number 1769780, First American Title Insurance Company, under G.F./Case No. 1769780-HXF71, Loan Policy Number M1769780, Owner Policy Number O1769780; and all matters of which I have knowledge or have been advised, whether or not of record, and, except, as shown hereon, no such matters affect the subject property. All matters shown on this survey that are created or affected by an instrument of record contain a reference to the specific recording information under which such instrument has been filed for public record.
- Encroachments as used herein include encroachments or protrusions onto the subject property by improvements on adjacent property, rights-of-way, or easements and encroachments and protrusions onto adjacent property, rights-of-way, easements, or building setbacks by any improvements on the subject property and any conflicts or overlaps of the metes and bounds calls of the subject property and those of adjacent property, easements, or rights-of-ways.
- The subject property currently has unrestricted ingress and egress to and from F.M. 1585 (130th Street), Memphis Avenue, and Norfolk Avenue (there are no intervening strips, gaps, or gores between the boundary of the subject property and the boundary of such streets and roads), and such streets are paved, dedicated public right-of-ways maintained by the City of Lubbock, State of Texas, or Lubbock County.

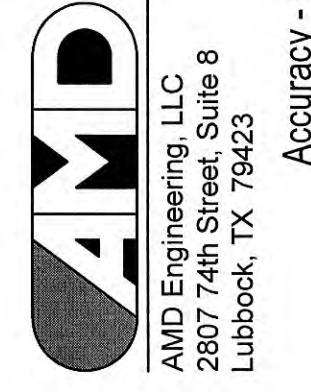
Dated: March 30, 2015

Charles Lynn Sawyer



Charles Lynn Sawyer
Registered Professional Land Surveyor No. 5809

CIVIL ENGINEERING
LAND SURVEYING
AMDP
Phone: 806-771-5976
Fax: 806-771-7625



ALTA/ACSM LAND TITLE SURVEY
TRACT "F", KELSEY PARK, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT, AND/OR DEDICATION DEED THEREOF, RECORDED IN COUNTY CLERK FILE NUMBER 2013021959, OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS

PREPARED FOR:
GS Housing

DRAWN BY: JDN
CHECKED BY: BJA
CLES AND BSA
JOB No. 13006

No.	DATE	REVISIONS
1		
2		
3		
4		

METES AND BOUNDS

Metes and Bounds Description on a 9.14 acre (398,138 sq ft) tract of land out of Section 4, Block A-K, Certificate 746, Lubbock County, Texas, being out of that 320.20 acre tract of land described in County Clerk File Number 2007044643, Official Public Records of Lubbock County, Texas and being more particularly described as follows;

- Beginning at a 1/2" iron rod and cap (AMD Engineering), found in the East line of Norfolk Avenue, as described in County Clerk File Number 2009045313, for the most Westerly Northwest corner of this tract, whence a railroad spike found for the Northwest corner of said Section 4, Block A-K, bears N01°46'47"E, a distance of 350.98 feet and N88°13'52"W, a distance of 1668.19 feet;
- Thence S88°13'52"E, a distance of 285.07 feet to a 1/2" iron rod and cap (AMD Engineering), found for a corner of this tract;
- Thence N01°46'08"E, a distance of 290.98 feet to a 1/2" iron rod and cap (AMD Eng), found in the South Right-of-Way line of F.M. 1585 (130th Street) for the most Northerly Northwest corner of this tract;
- Thence S88°13'52"E, along said F.M. 1585 (130th Street), a distance of 369.88 feet to a 1/2" iron rod with orange cap (AMD ENG), found for the most Northerly Northeast corner of this tract;
- Thence S01°46'47"W, at a distance of 290.98 feet to a 1/2" iron rod and cap (AMD Engineering), found for a corner of this tract;
- Thence S88°13'52"E, a distance of 285.00 feet to a 1/2" iron rod, found in the proposed West line of Memphis Avenue, for the most Southerly Northeast corner of this tract;
- Thence S01°46'47"W, along the said proposed West line of Memphis Avenue, a distance of 299.00 feet to a "x" chiseled in concrete, set for the most Easterly Southeast corner of this tract;
- Thence S46°46'08"W, along the said proposed West line of Memphis Avenue, a distance of 14.14 feet to a "x" chiseled in concrete, set for the most Southerly Southeast corner of this tract;
- Thence N88°13'52"W, a distance of 919.90 feet to a 1/2" iron rod and cap (AMD Engineering), found in the East line of said Norfolk Avenue, for the most Southerly Southwest corner of this tract;
- Thence N43°13'13"W, along the East line of said Norfolk Avenue, a distance of 14.14 feet to a 1/2" iron rod, found for the most Westerly Southwest corner of this tract;
- Thence N01°46'47"E, along the East line of said Norfolk Avenue, a distance of 299.00 feet to the Point of Beginning.

LAND AREA

There is 9.14 Acres (398,138 Square Feet) within the Limits of this survey.

FLOOD NOTE

This is to certify that by graphic plotting only, this property (the subject property surveyed) is within Zone X as per FEMA FIRM Map Community Panel Number 48303C0410E with a revised date of September 28, 2007, based upon our interpretation of the location of the flood hazard boundary limits in relation to the property lines. This information is correct to the best of my knowledge and belief.

ADDRESS

3815 130th Street

SOLID WASTE DUMP

There is no evidence of any solid waste dump, sump, or sanitary landfill on the site.

BASIS OF BEARING

Bearings are based on the Texas State Plane Grid North Central Zone (NAD83) based on OPUS GPS Observations.

Distances are Actual Surface Distances.

PARKING STALLS

There are a total of 339 parking stalls within the limits of this survey.

There are a total of 17 handicap parking stalls within the limits of this survey.

WETLAND AREAS

There is no evidence of any wetland areas on the site.

SCHEDULE B

- The North 40 feet of captioned property for roadway purposes as set forth in instrument dated September 10, 1952, recorded in Volume 487, Page 44, Deed Records, Lubbock County, Texas, executed by Zappe Land Company to the State of Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- Water line easement set forth in plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- Public Pedestrian access easement located in the Southeast portion of captioned property as set forth on Plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- The South 10 feet of captioned property for sewer line easement as set forth in instrument dated April 12, 2013 and recorded May 6, 2013 under County Clerk File No. 2013018187, Official Public Records, Lubbock County, Texas, executed by FP Investors I, LLC to the City of Lubbock and as set forth on plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- Water well easement located in the Southeast corner of captioned property as set forth in instrument dated May 14, 2013 and recorded May 15, 2013 under County Clerk File No. 2013019697, Official Public Records, Lubbock County, Texas, executed by FP Investors I, LLC, a Texas limited liability company and Kelsey Park Homeowner's Association, Inc., a Texas corporation and as set forth on plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- Landscape easement along the most Westerly side of captioned property as set forth in instrument dated May 14, 2013 and recorded May 15, 2013 under County Clerk File No. 2013019697, Official Public Records, Lubbock County, Texas, executed by FP Investors I, LLC, a Texas limited liability company and Kelsey Park Homeowner's Association, Inc., a Texas corporation and as set forth on plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- The East 15 feet of the most Westerly 25 feet of captioned property for sewer line easement as set forth on plat recorded May 31, 2013 under County Clerk File No. 2013021959, Official Public Records, Lubbock County, Texas, as shown on survey dated April 17, 2013, last revised June 4, 2013, prepared by Charles Lynn Sawyer, Registered Professional Land Surveyor No. 5809. (Plotted Hereon)
- Terms, Conditions, and Stipulations in the Agreement by and between: Parties: FP Investors I, LLC, a Texas limited liability partnership and GS Lubbock 1, LP, a Texas limited partnership. Recorded: June 05, 2013 in instrument File Number 2013022676, of the Official records of Lubbock County, Texas. Type: Access Easement (Plotted Hereon) Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits recorded December 3, 2014 under County Clerk File No. 2014044370, Official Public Records, Lubbock County, Texas. (Not Plottable)

ZONING NOTES

Zoning of this property is A-2 (High Density Apartment District).

Building setbacks for Zone A-2 are as follows:

Front: 25 feet, except that when the entire front yard is landscaped and permanently maintained, the required front yard may be 15 feet.

Rear: The minimum rear yard shall be 5 feet, except when the proposed development is adjacent to an "R-1" or "R-2" District, even if separated by an alley, the minimum rear yard setback for any two-story structure shall be 50 feet from the rear lot line.

Side: There shall be a minimum side yard of 5 feet on each side of any single story structure, 10 feet on each side of any two-story structure, except that on corner lots the minimum side yard adjacent to the street shall be 10 feet. When property abuts an "R-1" or "R-2" zoning district, the minimum side yard setback for any two-story structure shall be fifty (50) feet. Provided, further, that in no case shall a garage fronting onto a street be within twenty (20) feet of the street property line. No side yard shall be required for individual row dwelling or townhouse units except at the end of each structure, where a ten-foot side yard shall be required.

Projections into required building setbacks: Cornices, eaves, sills, canopies, and chimneys may extend 2 feet into any required yard. Bay windows are not permitted under this section. Unenclosed fire escapes, stairways, and/or balconies, covered or uncovered, may extend 4 feet into the required front or rear yard.

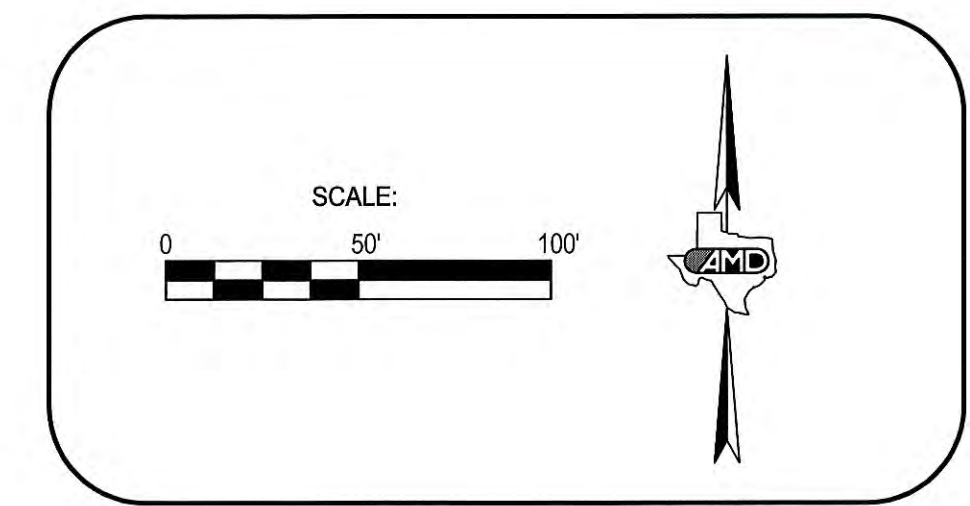
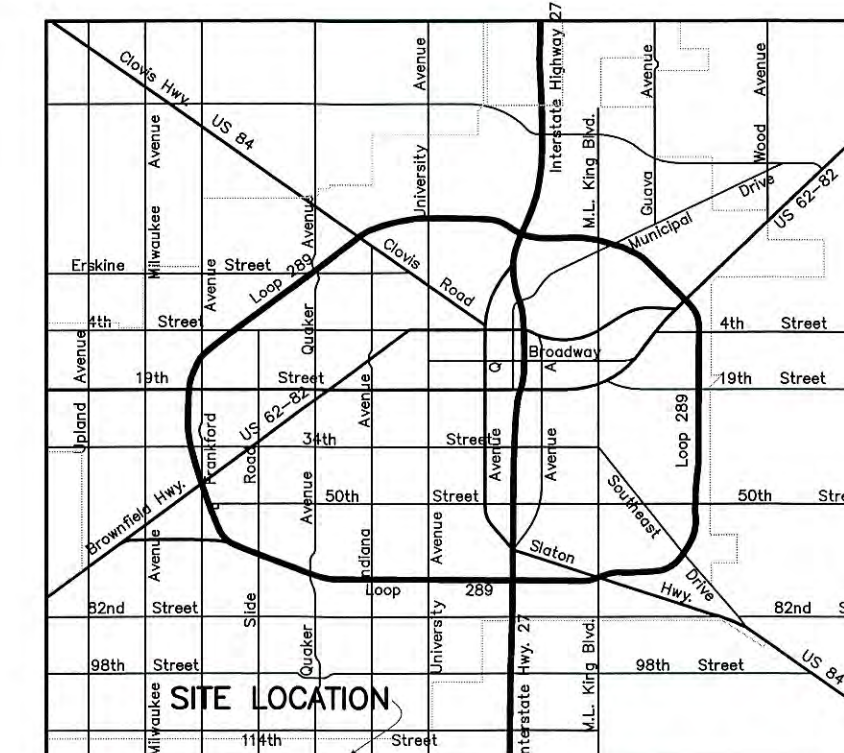
Lot Width: The minimum lot width shall be one hundred (100) feet for all other uses except as provided for row dwelling and townhouses in the "specific use" section.

Floor Area Ratio: Seventy-five-hundredths (.75) square foot of total floor area for each one square foot of lot area.

Height Limit: Building shall not exceed three (3) stories and shall not exceed forty (40) feet.

Parking Requirements: Apartments-One space for each efficiency unit, one and one-half (1 1/2) spaces for each one-bedroom unit, two (2) spaces for each unit with two (2) bedrooms, two and one-half (2 1/2) spaces for each unit with three (3) or more bedrooms, plus one additional space for each four (4) units in development.

VICINITY MAP

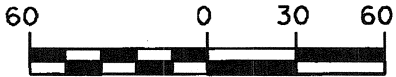
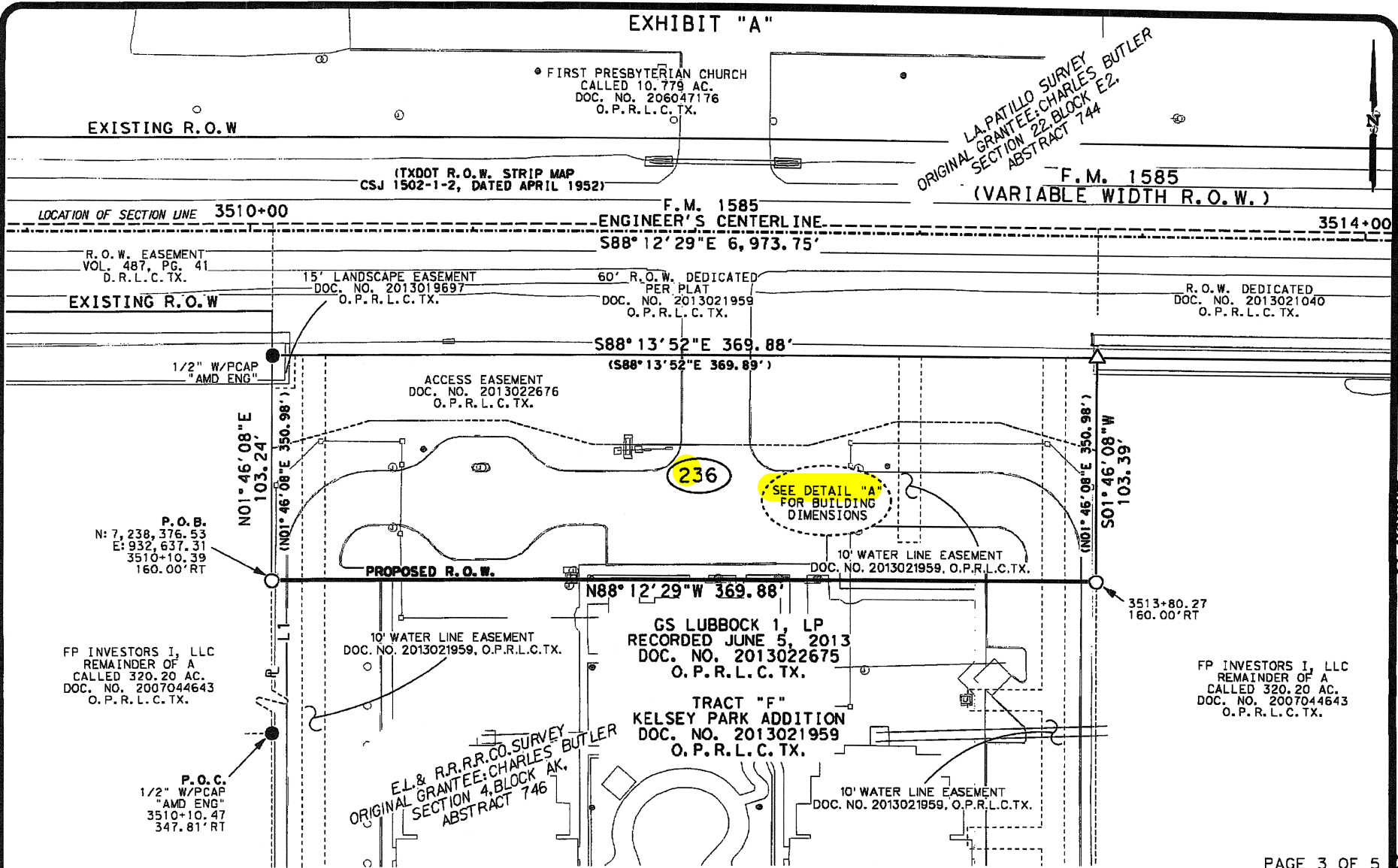


LEGEND

- 1/2" IRON ROD WITH ORANGE CAP (AMD ENG), FD....CM
- 1/2" IRON ROD, FD....CM
- ✱ "X" CHISELED IN CONCRETE, SET
- ◉ INDICATES CONIFEROUS TREE
- ⊙ INDICATES WATER VALVE
- ⊞ INDICATES AIR CONDITIONER
- INDICATES CLEAN OUT
- ⊞ INDICATES WATER METER
- ⊞ INDICATES IRRIGATION VALVE BOX
- ⊞ INDICATES SIGN
- ⊞ INDICATES HANDICAP PARKING STALL
- ⊞ INDICATES FIRE HYDRANT
- ⊞ INDICATES LIGHT POLE
- ⊞ INDICATES ELECTRIC PEDESTAL
- ⊞ INDICATES MAN HOLE
- INDICATES SEWER LINE
- INDICATES WATER LINE
- INDICATES FENCE WITH COLUMNS (MEASURED TO FENCE)
- INDICATES UNDERGROUND FIBER OPTIC LINE
- INDICATES OVERHEAD POWER LINE
- ▨ INDICATES CONCRETE PAVING/WALK
- ▨ INDICATES ASPHALT PAVING
- CCFN COUNTY CLERK FILE NUMBER
- SLE SEWER LINE EASEMENT
- WLE WATER LINE EASEMENT
- PPAE PUBLIC PEDESTRIAN ACCESS EASEMENT

Area Condemned by Eminent Domain

EXHIBIT "A"



GRAPHIC SCALE
SCALE: 1" = 60'
LUBBOCK COUNTY, TEXAS

EXISTING	*9.136 AC.	ACQUIRE	0.877 AC.	REMAINING	8.259 AC.	RIGHT
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4801 Southwest Parkway
Building Two, Suite 100
Austin, Texas 78735
(512) 447-0575
Fax (512) 326-3029
Texas Firm Registration No. 10064300

RIGHT-OF-WAY SKETCH
SHOWING PROPERTY OF
GS LUBBOCK 1, LP
PARCEL 236
0.877 AC. (38,214 SQ. FT.)
RCSJ NO. 1502-01-036

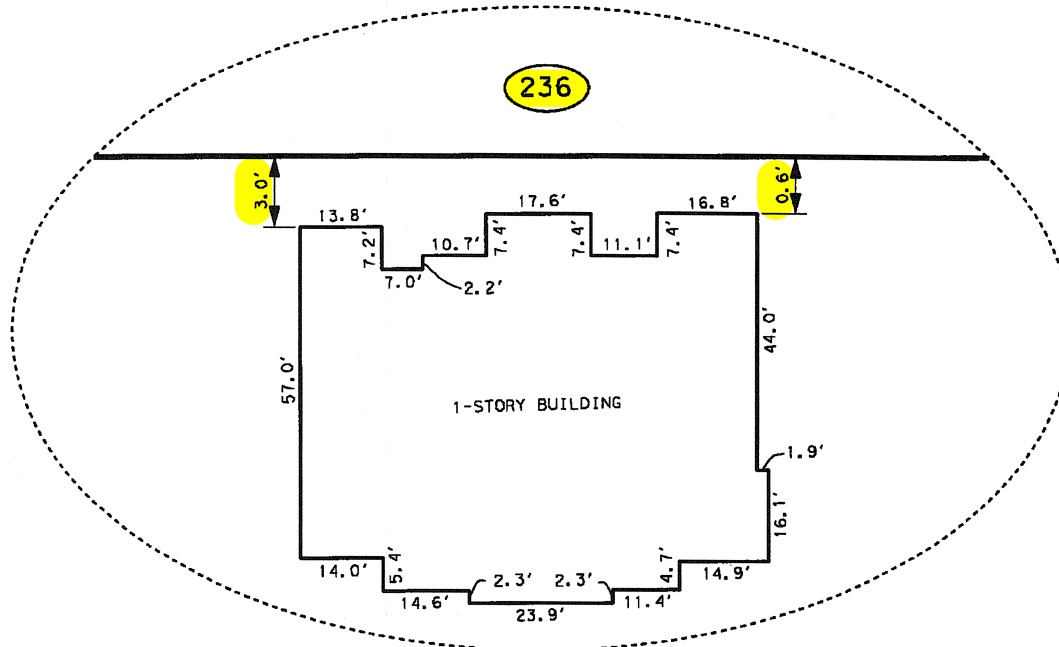
Exhibit "A"

Page 3 of 5

PAGE 3 OF 5
REF. FIELD NOTE NO. 34007

FILE: \\saminc\aus\PROJECTS\1016037788\100\Survey\02Base\DN\Parcel1s\SP-236.dgn

EXHIBIT "A"



DETAIL "A"
NOT TO SCALE

Exhibit "A"

FILE: \\saminc\aus\PROJECTS\1016037788\100\Survey\02Base\DGN\Parcel\SP-236.dgn
 REF. FIELD NOTE NO. 34007
 PAGE 4 OF 5

EXISTING	*9.136 AC.	ACQUIRE	0.877 AC.	REMAINING	8.259 AC.	RIGHT
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4801 Southwest Parkway
 Building Two, Suite 100
 Austin, Texas 78735
 (512) 447-0575
 Fax: (512) 326-3029
 Texas Firm Registration No. 10064900

RIGHT-OF-WAY SKETCH
 SHOWING PROPERTY OF
 GS LUBBOCK 1, LP
 PARCEL 236
 0.877 AC. (38,214 SQ. FT.)
 RCSJ NO. 1502-01-036

Page 4 of 5

LEGEND

- TYPE I CONCRETE MONUMENT FOUND
- TXDOT TYPE II BRONZE DISK IN CONCRETE FOUND
- ⊠ TXDOT TYPE II BRONZE DISK SET IN CONCRETE
- ⊙ 1/2" IRON PIPE FOUND UNLESS NOTED
- 5/8" IRON ROD W/TXDOT ALUM CAP SET UNLESS NOTED
- 5/8" IRON ROD FOUND UNLESS NOTED
- △ CALCULATED POINT
- ▲ 60D NAIL FOUND
- ⊕ MAGNAIL FOUND
- ⊙ COTTON SPINDLE FOUND
- ⊗ MAGNAIL W/SHINER STAMPED "SURVEYING AND MAPPING" SET
- ⌒ PROPERTY LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- P.O.R. POINT OF REFERENCE
- D.R.L.C.TX. DEED RECORDS LUBBOCK COUNTY, TEXAS
- R.P.R.L.C.TX. REAL PROPERTY RECORDS LUBBOCK COUNTY, TEXAS
- O.R.P.R.L.C.TX. OFFICIAL REAL PROPERTY RECORDS LUBBOCK COUNTY, TEXAS
- O.P.R.L.C.TX. OFFICIAL PUBLIC RECORDS LUBBOCK COUNTY, TEXAS
- P.R.L.C.TX. PLAT RECORDS LUBBOCK COUNTY, TEXAS
- PR.R.L.C.TX. PROBATE RECORDS LUBBOCK COUNTY, TEXAS
- DISTANCE NOT TO SCALE
- |- DEED LINE (COMMON OWNERSHIP)
- R.O.W. RIGHT OF WAY

EXHIBIT "A"

F.M. 1585

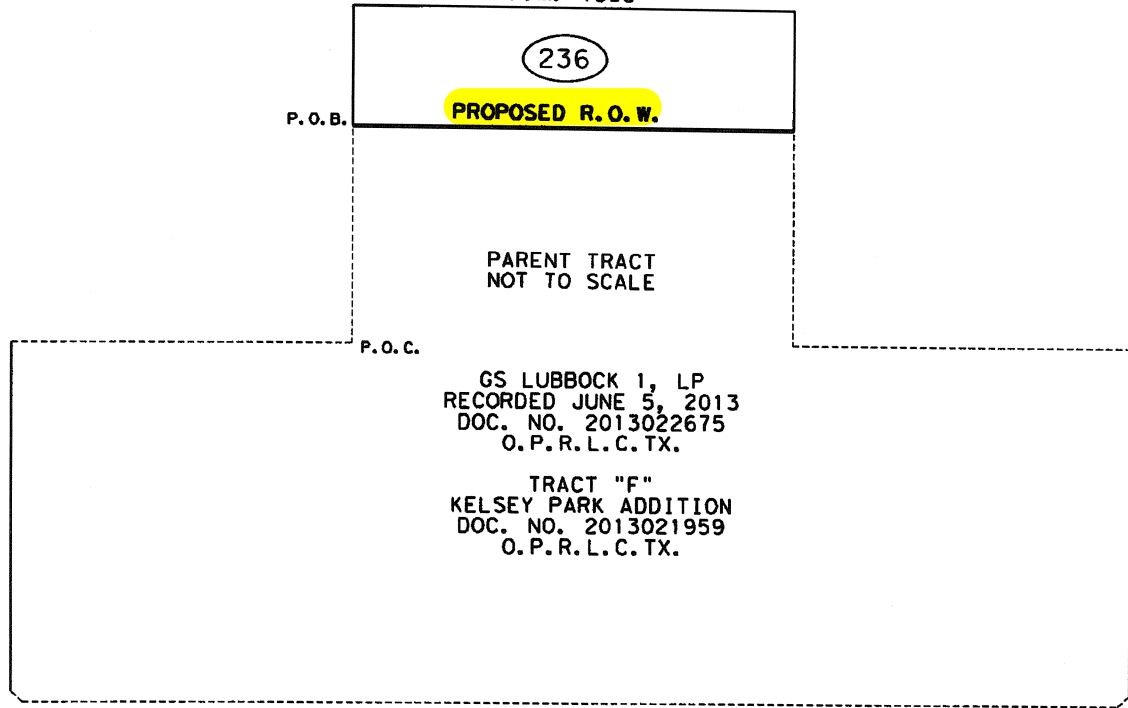


Exhibit "A"

NOTES:

1. ALL BEARINGS SHOWN ARE BASED ON NAD83/93/NAVD88 TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE. ALL DISTANCES SHOWN ARE SURFACE AND MAY BE CONVERTED TO GRID BY DIVIDING BY A SURFACE ADJUSTMENT FACTOR OF 1.0002452. ALL COORDINATES SHOWN ARE IN SURFACE AND MAY BE CONVERTED TO GRID BY DIVIDING BY THE SAME FACTOR. PROJECT UNITS ARE IN U.S. SURVEY FEET.
2. THIS SURVEY WAS COMPLETED WITH THE BENEFIT OF A TITLE REPORT, PROVIDED BY FIRST AMERICAN TITLE GUARANTY COMPANY, GF NO. 704-24411, EFFECTIVE DATE MAY 18, 2017, AND ISSUED DATE MAY 30, 2017.
3. F.M. 1585 ENGINEER'S CENTERLINE ALIGNMENT DERIVED FROM ATKINS. SCHEMATIC RECEIVED BY SAM, LLC. IN MARCH, 2017.
4. THIS PLAT IS ACCOMPANIED BY A PROPERTY DESCRIPTION OF EVEN DATE.
 - * AREA CALCULATED BY SAM, LLC.

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION AND THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

10/27/2017

WILLIAM R. HERRING
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6355, STATE OF TEXAS

DATE



LINE TABLE

LINE NO.	BEARING	DISTANCE
L1	NO1° 46' 08" E	187.81'

SCHEDULE B

ITEM NO.	
10c	AFFECTS THIS PARCEL
10c	AFFECTS THIS PARCEL
10e	AFFECTS THIS PARCEL

FILE: \\saminc\aus\PROJECTS\1016037788\100\Survey\02Base\DGN\Parcel\SP-236.dgn

EXISTING	*9.136 AC.	ACQUIRE	0.877 AC.	REMAINING	8.259 AC.	RIGHT
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4801 Southwest Parkway
Building Two, Suite 100
Austin, Texas 78735
(512) 447-0575
Fax: (512) 326-3029
Texas Firm Registration No. 10084200

RIGHT-OF-WAY SKETCH
SHOWING PROPERTY OF
GS LUBBOCK 1, LP
PARCEL 236
0.877 AC. (38,214 SQ. FT.)
RCSJ NO. 1502-01-036

PURCHASER'S STATEMENT

Date: September 16, 2019

GFNo: 82769

Sale From: Summerlin Lubbock, LLC, a Texas limited liability company
16400 N. Dallas Parkway, Suite 140
Dallas, TX 75248

To: GS Lubbock 1, LP, a Texas limited partnership

Property: A 1.219 acre tract out of Section 4, Block AK, Lubbock County
SW Corner of 1585 & Memphis Avenue
Lubbock, TX

Purchase Price **\$718,410.00**

Plus: Charges

Recording Fees to Western Title Company	\$412.00
Warranty Deed	\$34.00
Deed of Trust	\$254.00
State and County UCC	\$124.00
Fees to Western Title Company	\$175.00
Escrow Fee	\$175.00
Attorney's Fee to Shackelford Bowen McKinley & Norton, LLP	\$8,500.00
Lenders Attorneys Fee to GreenbergTraurig	\$18,750.00
Title Insurance to Western Title Company	\$1,606.85
Simultaneous w/OP	\$100.00
Survey Amendment (OTP only)	\$613.65
REM OTP T-19.1 Amendment	\$409.10
Mineral Surf.End. T19.3(O)	\$50.00
Tax deletion	\$20.00
Not yet due/payable	\$5.00
T19 Non-Res. Endorsement	\$409.10
Guaranty Fund Fee to Texas Title Insurance Guaranty Association	\$2.00
Legal Fees to Applegate & Thorne-Thomsen, P.C.	\$13,000.00
Property Taxes to GS Lubbock 1, LP	\$3,383.84
Refund Earnest Money to GS Lubbock 1, LP	\$25,000.00

Total Charges **\$70,829.69**

Gross Amount Due By Purchaser **\$789,239.69**

Less: Credits

Property Taxes 1/1/2019 thru 8/16/2019	\$3,383.84
Earnest Money	\$25,000.00

Total Credits **\$28,383.84**


Balance Due by Purchaser **\$760,855.85**

Purchaser understands the Closing or Escrow Agent has assembled this information representing the transaction from the best information available from other sources and cannot guarantee the accuracy thereof. The lender involved may be furnished a copy of this statement.

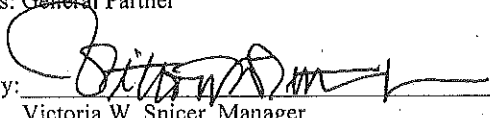
Purchaser understands that tax and insurance proration and reserves were based on figures for the preceding year or supplied by others or estimates for the current year, and in the event of any change for current year, all necessary adjustments must be made between Purchaser and Seller direct.

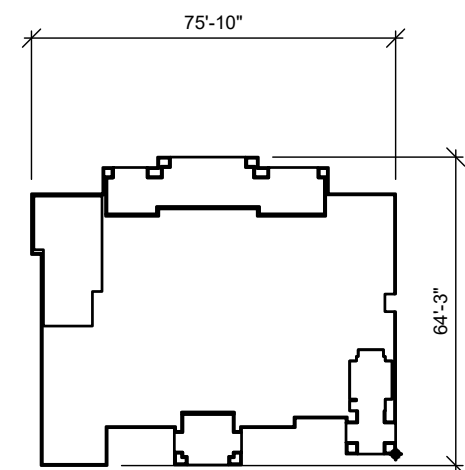
The undersigned hereby authorizes Western Title Company to make expenditure and disbursements as shown above and approves same for payment. The undersigned also acknowledges receipt of Loan Funds, if applicable, in the amount shown above and a receipt of a copy of this Statement

Western Title Company

By: 
Bob Brandt

GS Lubbock 1, LP, a Texas limited partnership
By: GS Lubbock 1 GP, LLC, a Texas limited liability company
Its: General Partner

By: 
Victoria W. Spicer, Manager



CLUBHOUSE 1 STORY

SITE

SITE NOTES:

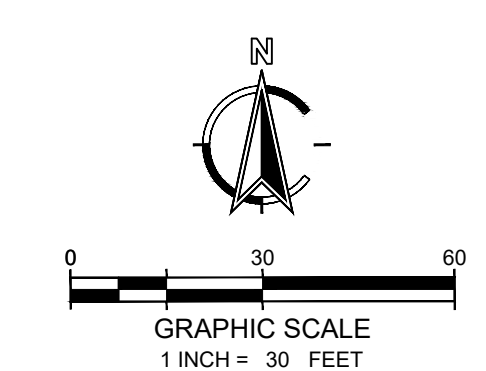
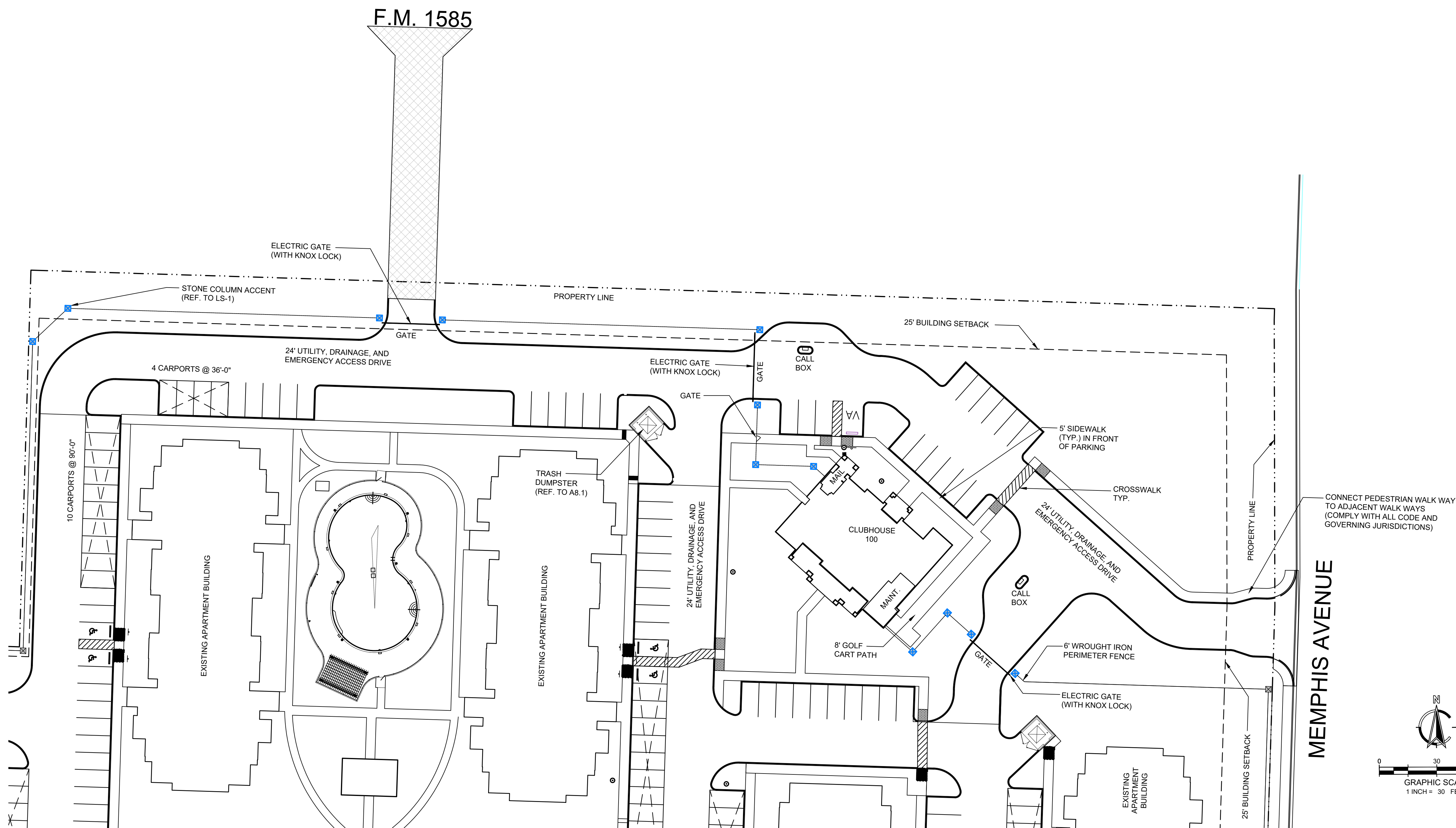
1. CONTRACTOR TO INSTALL ALL EXTERIOR LIGHTING TO MEET THE CITY OF LUBBOCK ZONING REQUIREMENTS. ALL EXTERIOR LIGHTING TO BE DIRECTED AWAY FROM ADJACENT RESIDENCES. (REF. TO MEP PLANS FOR DESIGN)
2. SEE CIVIL ENGINEERING AND LANDSCAPE PLANS FOR UTILITIES, DIMENSIONS CONTROL, GRADING, DRAINAGE, PAVEMENT, HC RAMP AND ALL SIDEWALKS.
3. CONTRACTOR TO INSTALL ALL SIGNAGE TO MEET CITY OF LUBBOCK ZONING REQUIREMENTS.
4. REFER TO MEP PLANS FOR LIGHTNG SPECIFICATIONS, HVAC, GAS, TELEPHONE AND ELECTRICAL SERVICE LOCATIONS.
 * ASTERISK DENOTES FIRE SPRINKLER RISER ROOM

SITE AMENITIES

- FULL PERIMETER FENCING
- CONTROLLED GATE ACCESS

PARKING DATA

TOTAL PARKING SPACE	9'-0" X 18'-0"	
HANDICAP SPACE AISLE	9'-0" X 18'-0" 5'-0" X 18'-0"	
VAN HANDICAP SPACE AISLE	9'-0" X 18'-0" 8'-0" X 18'-0"	



01 ADDRESS/ SITE PLAN
SCALE: 1" = 30'



ARCHITECT:
CROSS ARCHITECTS, PLLC
879 JUNCTION DRIVE
ALLEN, TEXAS 75013
P: 972.398.6644
WWW.CROSSARCHITECTS.COM

**STONEBRIDGE OF
KELSEY PARK
LUBBOCK, TEXAS**

DATE: XX/XX/2019

PROJECT NUMBER: 19073

REVISIONS

NO	DATE

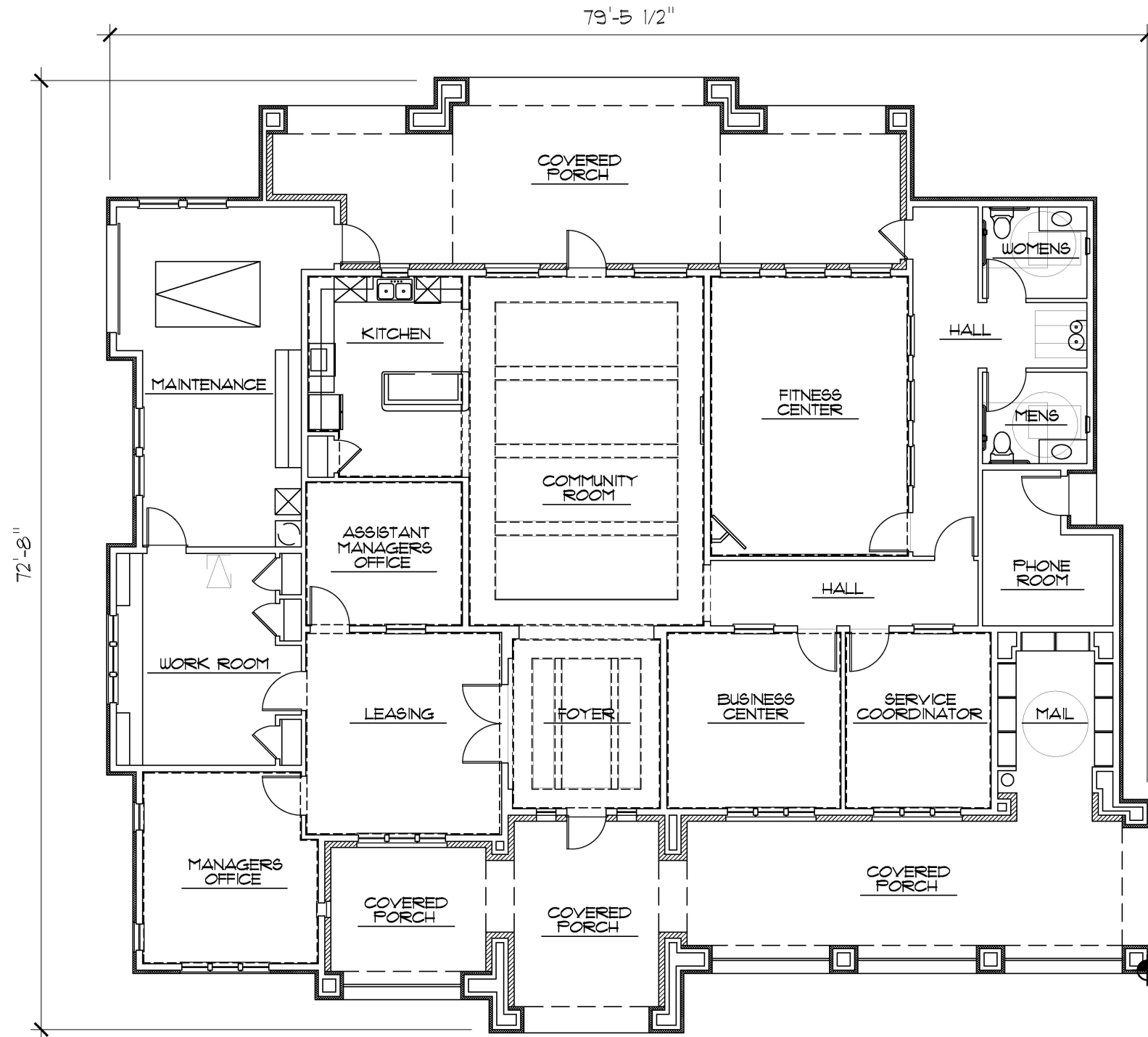
ISSUED FOR: REVIEW

SHEET NUMBER

A1.0

SITE PLAN

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CLUBHOUSE AMENITIES:

- FURNISHED FITNESS CENTER
- EQUIPPED AND FUNCTIONING BUSINESS CENTER
- FURNISHED COMMUNITY ROOM
- SERVICE COORDINATOR OFFICE

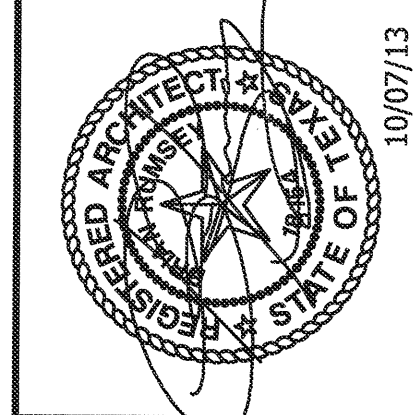
CLUBHOUSE PLAN 3,400 S.F.

SCALE 3/32" = 1' - 0"



**STONEBRIDGE OF KELSEY PARK
LUBBOCK, TEXAS**

**A6.0
CLUB
PLAN**



ARCHITECT:
 CROSS ARCHITECTS, PLLC
 1255 W. 15TH. ST., SUITE 125
 PLANO, TEXAS 75075
 PH: 972.398.6644
 FAX: 972.312.8666
 brumsey@crossarchitects.com



**STONEBRIDGE OF
 LUBBOCK
 LUBBOCK, TEXAS**

PROJECT:
 STONEBRIDGE OF
 LUBBOCK
 LUBBOCK, TEXAS

152 UNITS

REVISIONS

NO	DATE	DESCRIPTION
1	07/22/2013	
2	10/07/2013	
3	10/23/2013	

DRAWINGS ISSUED FOR:

DATE: 12/15/2011

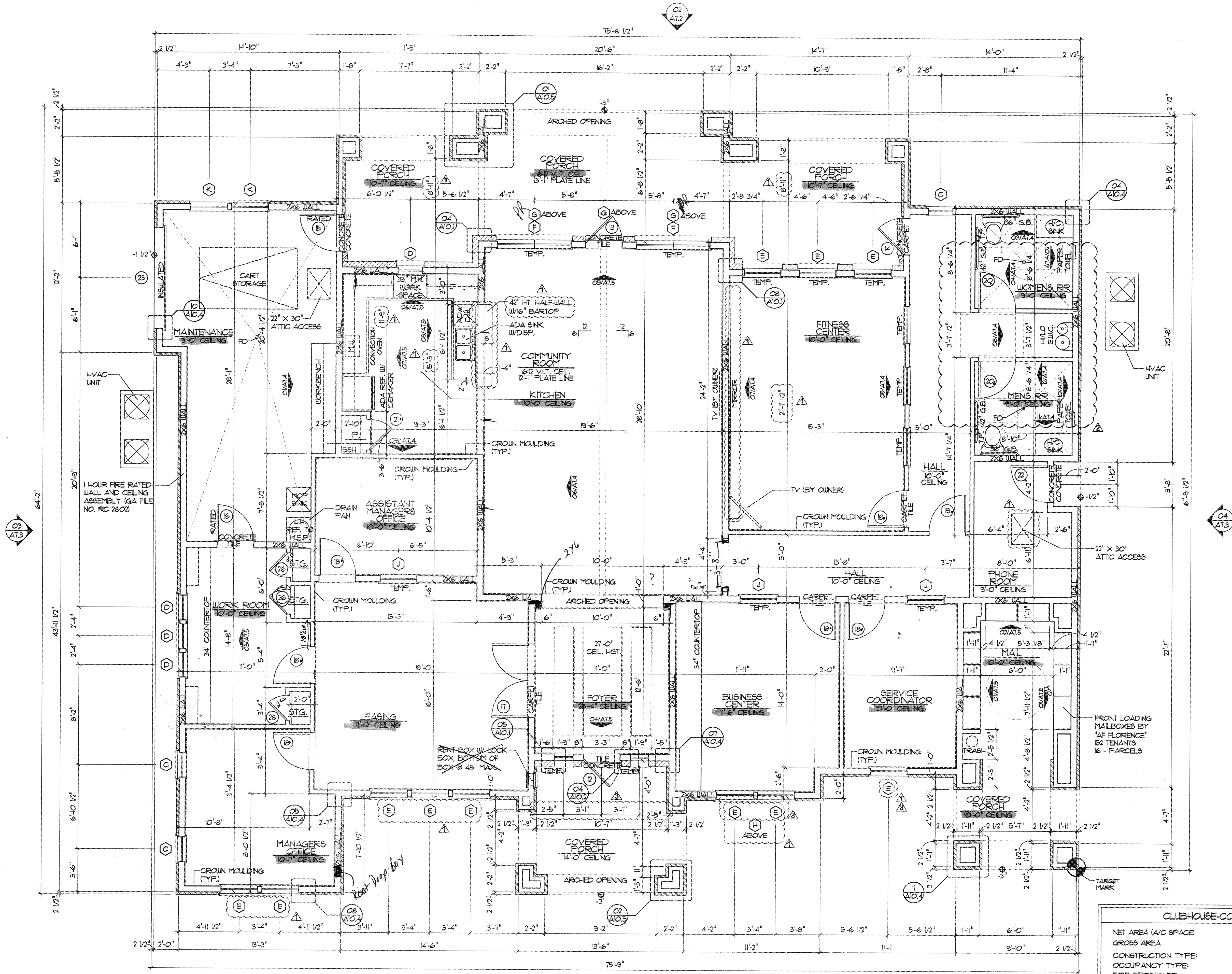
PROJ. NO.: 11050

SHEET NUMBER: **A7.0**

CLUBHOUSE FLOORPLAN

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CONSTRUCTION
 ISSUE
 OCT 23 2013
 DATE



AS-BUILT

CLUBHOUSE-CODE DATA

NET AREA (A/C SPACE)	2,903 S.F. / Δ
GROSS AREA	4,084 S.F.
CONSTRUCTION TYPE:	V-NR
OCCUPANCY TYPE:	A-3
FIRE SPRINKLER:	NO

ALL EXTERIOR WALLS ARE TO BE 6" UNLESS OTHERWISE NOTED

- BRICK VENEER
- SIMULATED STONE VENEER

01 FLOOR PLAN - CLUBHOUSE 3,281 SQ.FT.
 SCALE: 1/4" = 1'-0"



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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GOVERNOR

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Tom H. Gann
J.B. Goodwin

January 20, 2017

Writer's direct phone # (512) 936-7835
Email: tim.irvine@tdhca.state.tx.us

Jeffrey Spicer
State Street Housing
7801 Jack Finney Blvd, Suite #101
Greenville, TX 75402

RE: STONEBRIDGE AT KELSEY PARK (THE "DEVELOPMENT")
HTC No.: 12269/CMTS No.: 4882
APPLICATION AMENDMENT REQUEST

Dear Mr. Spicer:

The Texas Department of Housing and Community Affairs (the "Department") received your letter dated June 8, 2016, and subsequent clarification provided by your architect on October 24, 2016. Your request, supporting documentation, and the relevant sections of the application have been reviewed by staff. The staff findings and recommendations are stated below.

Your letter requests approval for the reduction in the common area square footage. You had originally indicated in your letter that the as-built clubhouse was 3,281 square feet, a 3.5% reduction. However, your architect provided additional information certifying that the as-built clubhouse is 3,301 square feet, a 2.9% reduction in the original design.

Staff reviewed the original application and the information provided in the cost certification and concluded that the change noted above did not materially affect the Development. Based on this factor, the change identified above is recommended for approval.

Your request is granted. If you have any questions regarding this letter, please contact your Asset Manager, Lee Ann Chance at (512) 936-7835 or via email at leeann.chance@tdhca.state.tx.us.

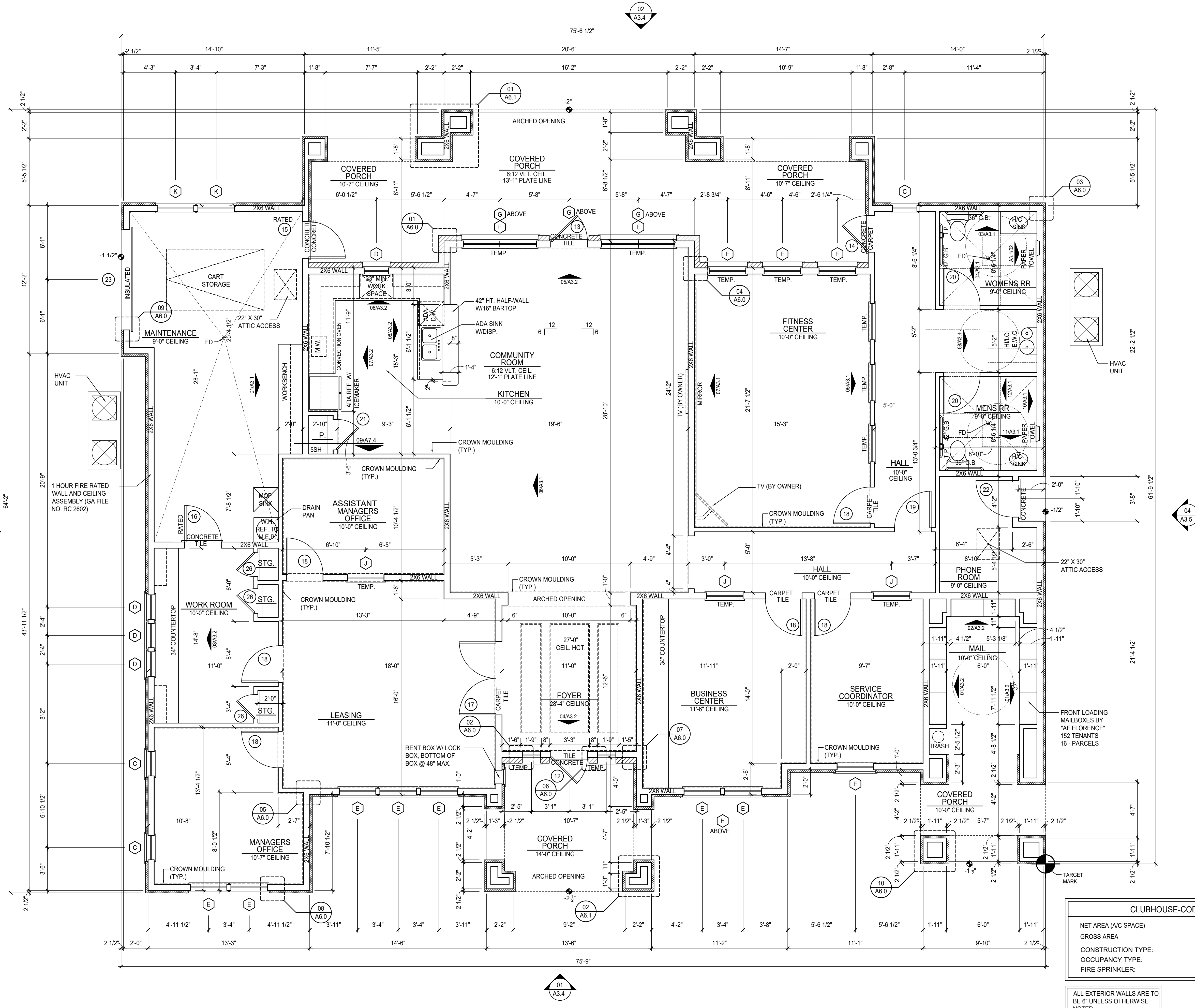
Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director

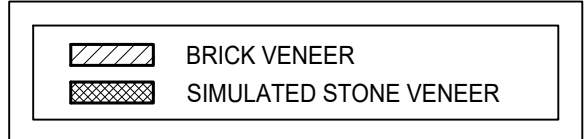
TKI/lac





CLUBHOUSE-CODE DATA	
NET AREA (A/C SPACE)	3,265 S.F.
GROSS AREA	4,102 S.F.
CONSTRUCTION TYPE:	VB
OCCUPANCY TYPE:	A-3
FIRE SPRINKLER:	NO

ALL EXTERIOR WALLS ARE TO BE 6" UNLESS OTHERWISE NOTED



01 FLOOR PLAN - CLUBHOUSE 3,265 SQ.FT.
SCALE: 1/4" = 1'-0"



ARCHITECT:
CROSS ARCHITECTS, PLLC
879 JUNCTION DRIVE
ALLEN, TEXAS 75013
P: 972.398.6644
WWW.CROSSARCHITECTS.COM

**STONEBRIDGE OF
KELSEY PARK
LUBBOCK, TEXAS**

DATE: XX/XX/2019

PROJECT NUMBER:
19073

REVISIONS

NO	DATE

ISSUED FOR:
REVIEW

SHEET NUMBER

A3.0
CLUBHOUSE
FLOORPLAN
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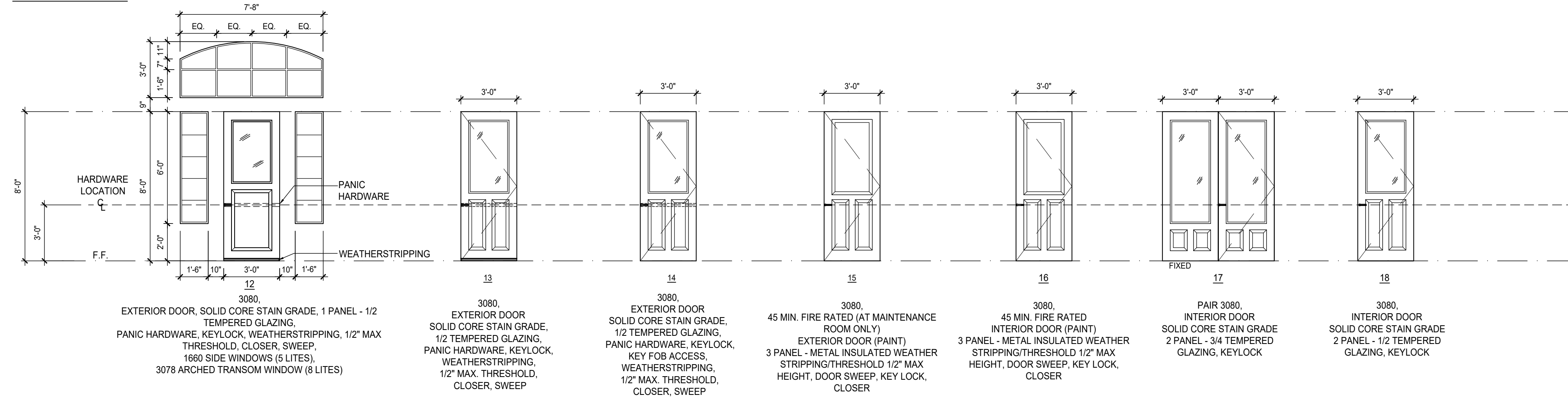
DOOR NOTES:

1. CONTRACTOR TO PROVIDE DOOR & WINDOW SUBMITTALS TO ARCHITECT FOR APPROVAL.
2. DOOR SWINGS EASILY WITH NO CLOSER OR WITH A TIME DELAY CLOSER - FORCE TO OPEN A DOOR IS LIMITED TO 5 LBS. FOR INTERIOR DOOR AND 8.5 LBS FOR EXTERIOR DOORS.
3. ACCESSIBLE DOORS (ENTRY DOOR) (PUBLIC DOORS) (CLUBHOUSE DOORS) HANDLES AND LATCHES MUST OPERATE WITHOUT GRASPING OR TWISTING MOUNTED NO HIGHER THAN 48"
4. ALL DOORS SHALL CONFORM TO THE 2006 INTERNATIONAL BUILDING CODE AND THE STATE OF TEXAS ACCESSIBILITY STANDARDS.
5. PROVIDE PERMANENT EASY-TO-READ ROOM SIGNAGE WITH TACTILE NUMBERS @ REQUIRED DOORS.
6. MUST PROVIDE 32" NOMINAL CLEAR WIDTH TO ANY SPACE DEEPER THAN 2'-0".
7. CONTRACTOR IS TO VERIFY CITY REQUIREMENTS AT ALL RATED DOORS
8. VERIFY ROUGH OPENING DIMENSION PER JOB CONDITION.
9. PROVIDE MANEUVERING SPACE PER ANSI 4.13.6 AT ALL ACCESSIBLE DOORS.
10. CONTRACTOR TO VERIFY THAT ALL DOORS SPECIFIED MEET THE FOLLOWING REQUIREMENTS FOR HARDWARE ACCEPTANCE. DOOR STILES MUST BE 5" MIN., DOOR TOP RAILS MUST BE 6" MIN., DOOR BOTTOM RAILS MUST BE 12" MIN.
11. ELECTRONIC DOOR LOCKS MUST BE IN COMPLIANCE WITH ALL ADA REQUIREMENTS, AND APPLICABLE FEDERAL, STATE AND LOCAL JURISDICTIONAL REQUIREMENTS.
12. FRONT DOOR AND ADDRESS SIGNS TO BE COORDINATED BY OWNER AND G.C.
13. ALL DOORS ARE TO HAVE WALL OR FLOOR MOUNTED DOOR STOPS

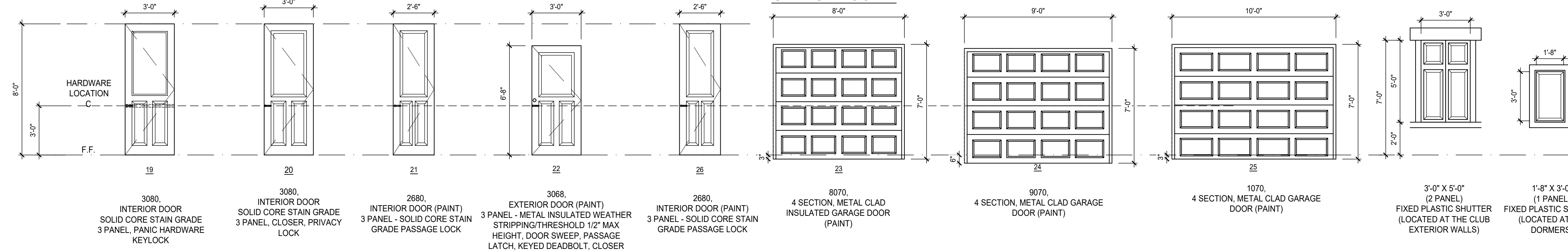
WINDOW NOTES:

1. ALL WINDOWS TO BE LOW-E GLAZING AND INSULATED PANE
 2. WINDOW COLOR TO BE SPECIFIED BY OWNER
 3. REF. TO UNIT PLAN FOR TEMPERED GLAZING LOCATIONS
 4. WINDOWS TO MEET BOTH QAP AND ENERGY STAR REQUIREMENTS
 5. ALL WINDOWS TO BE VINYL WINDOWS.
- MINIMUM EGRESS REQUIREMENTS:**
- MINIMUM NET CLEAR OPENING 57 SQ. FT.
 - MINIMUM WIDTH = 20"
 - MINIMUM HEIGHT = 24"
 - PIN LATCH @ 4' OPENING (PERMANENTLY INSTALLED)

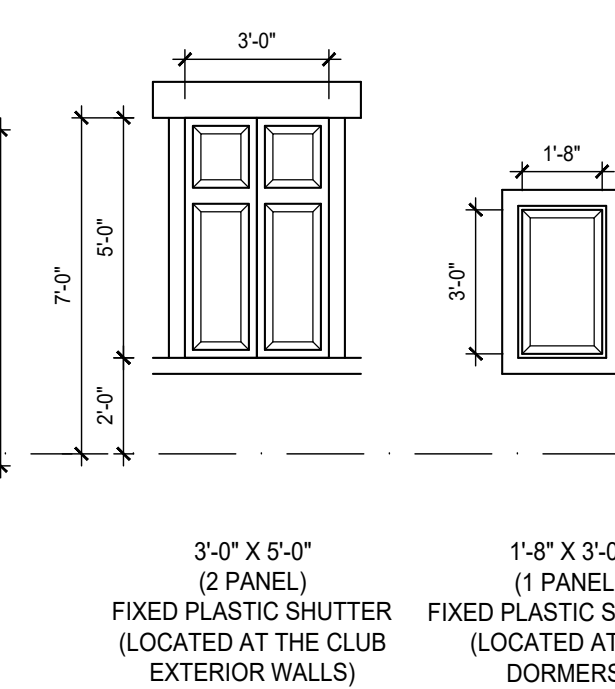
CLUB DOORS:



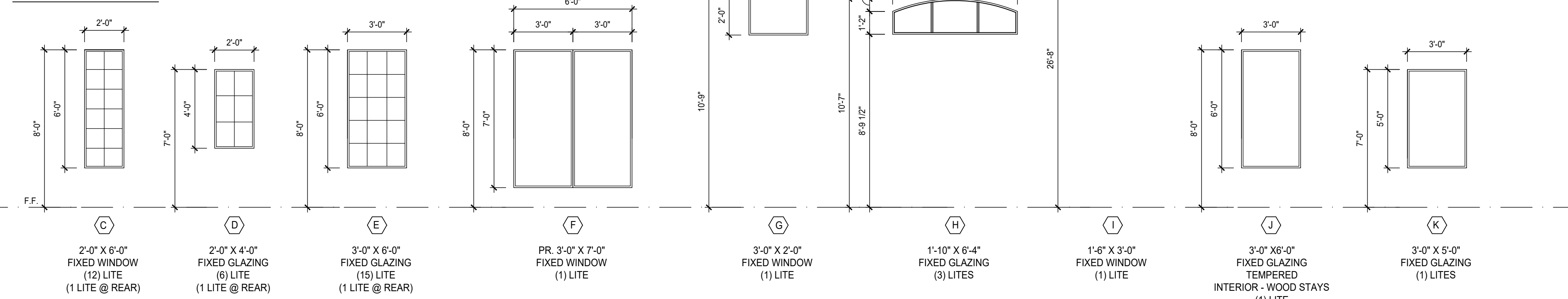
GARAGE DOORS:



SHUTTER PROFILES:



CLUB WINDOWS:



DATE:

XX/XX/2019

PROJECT NUMBER:

19073

REVISIONS

NO	DATE

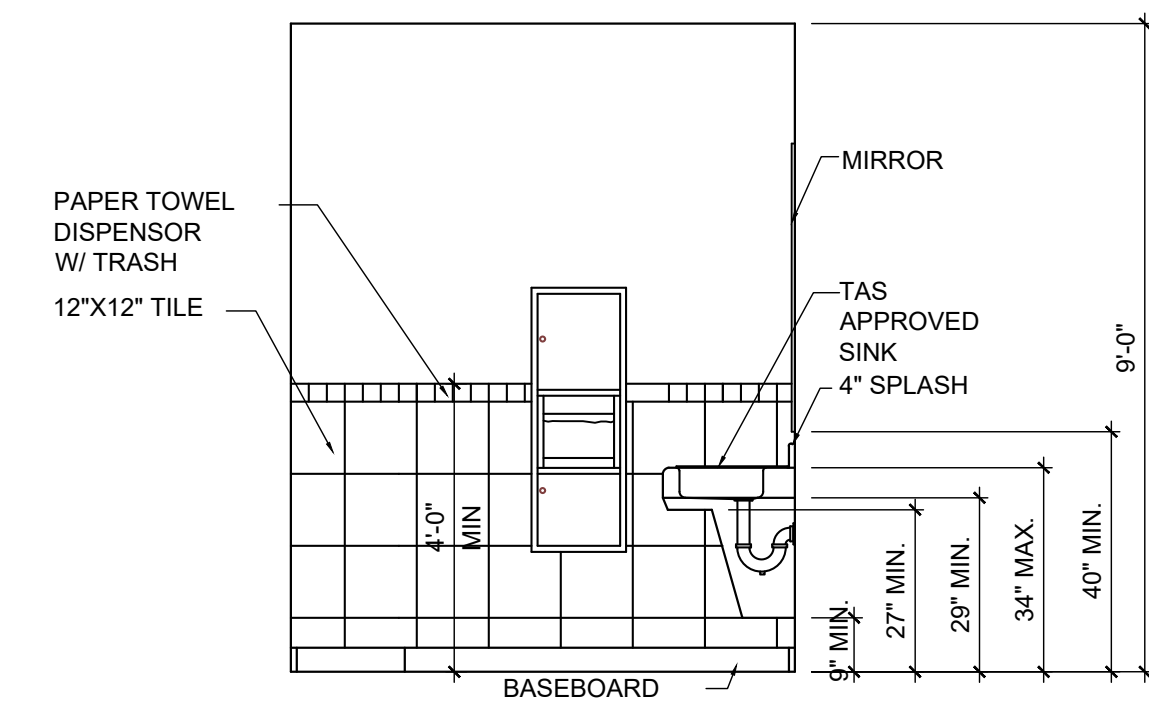
ISSUED FOR:

REVIEW

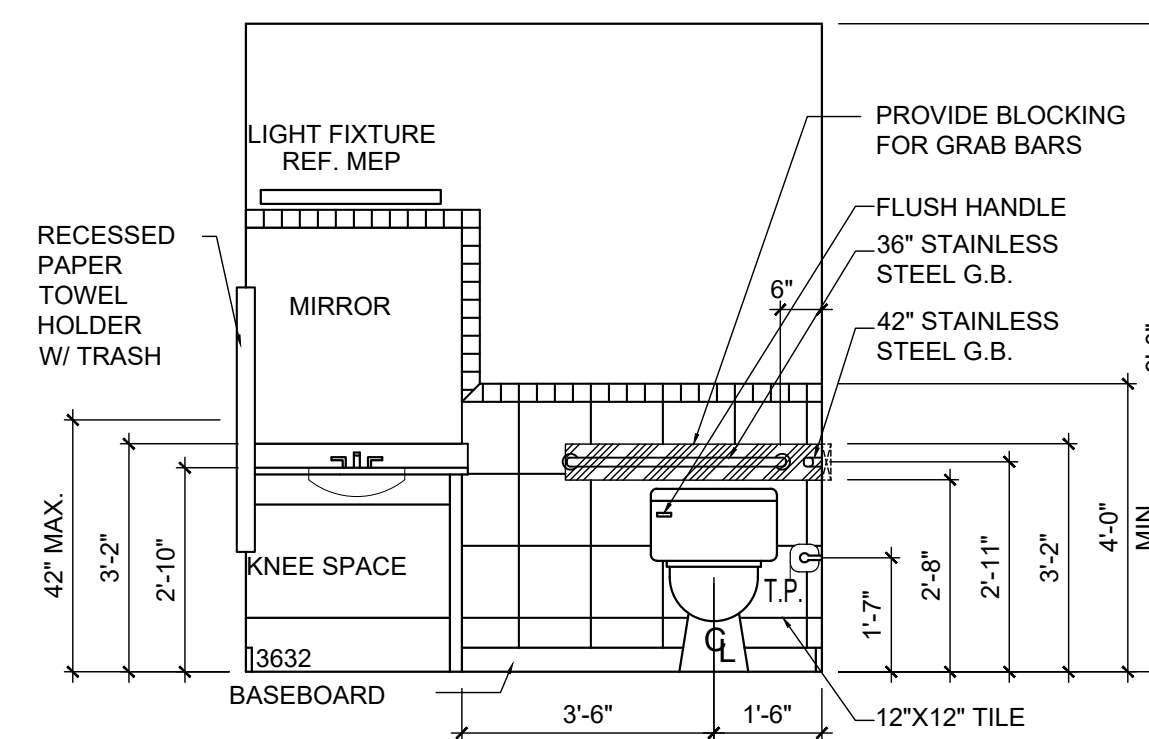
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A2.0

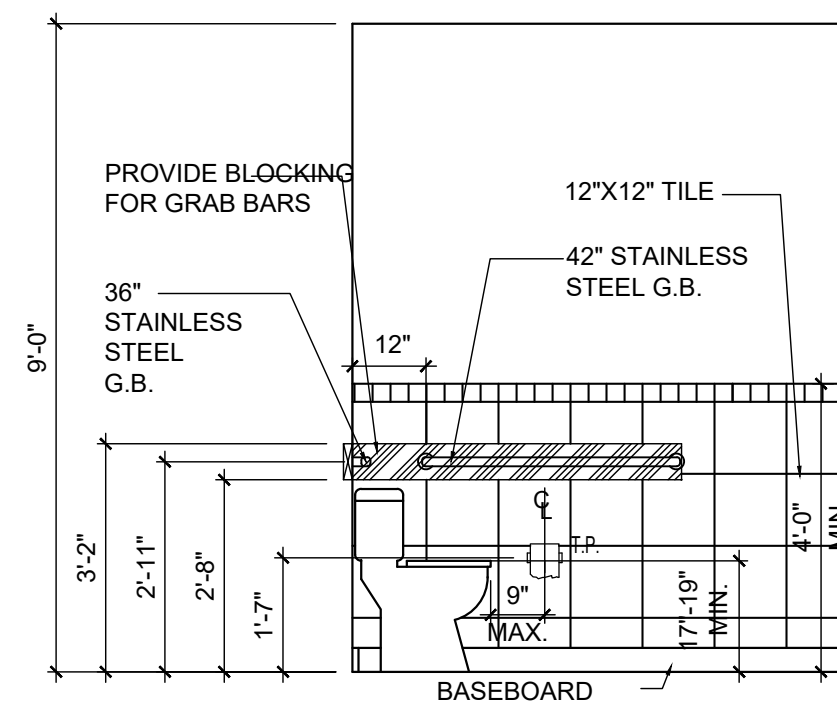
DOOR & WINDOW
SCHEDULE



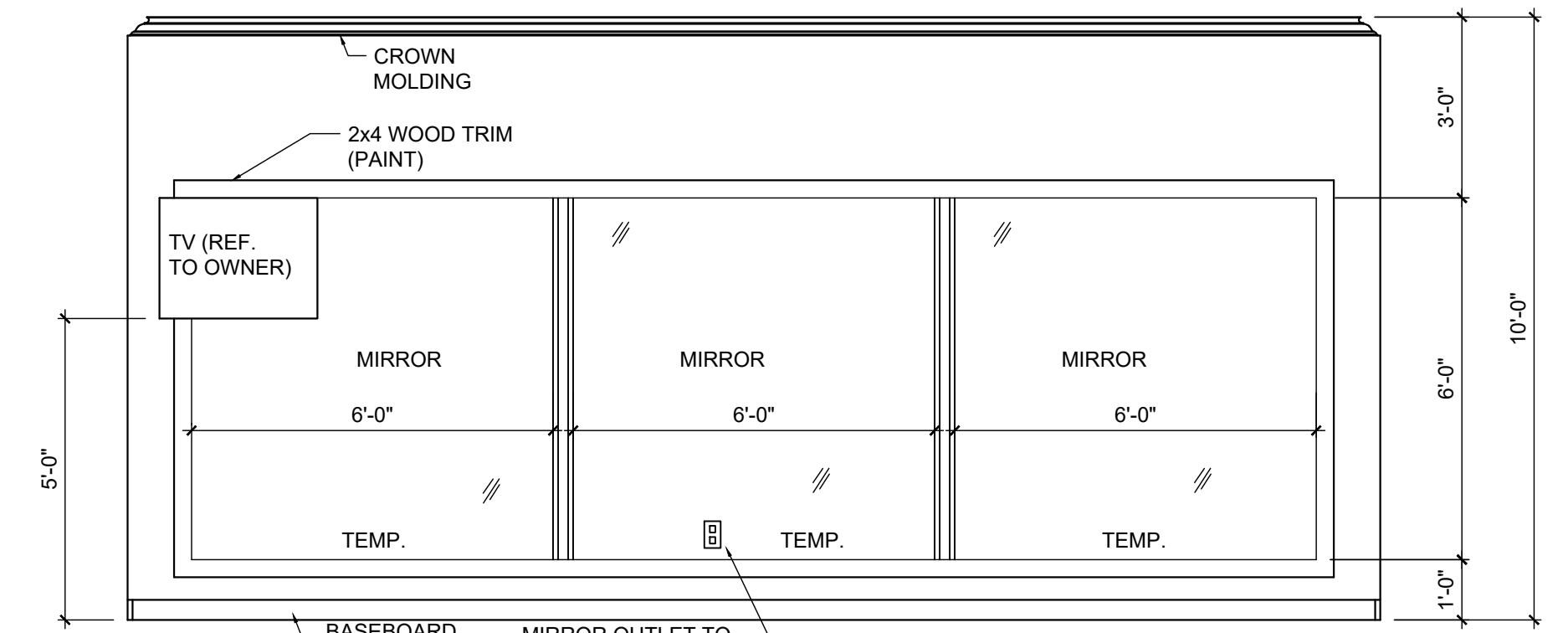
10 MEN'S ELEVATION
SCALE: 3/8" = 1'-0"



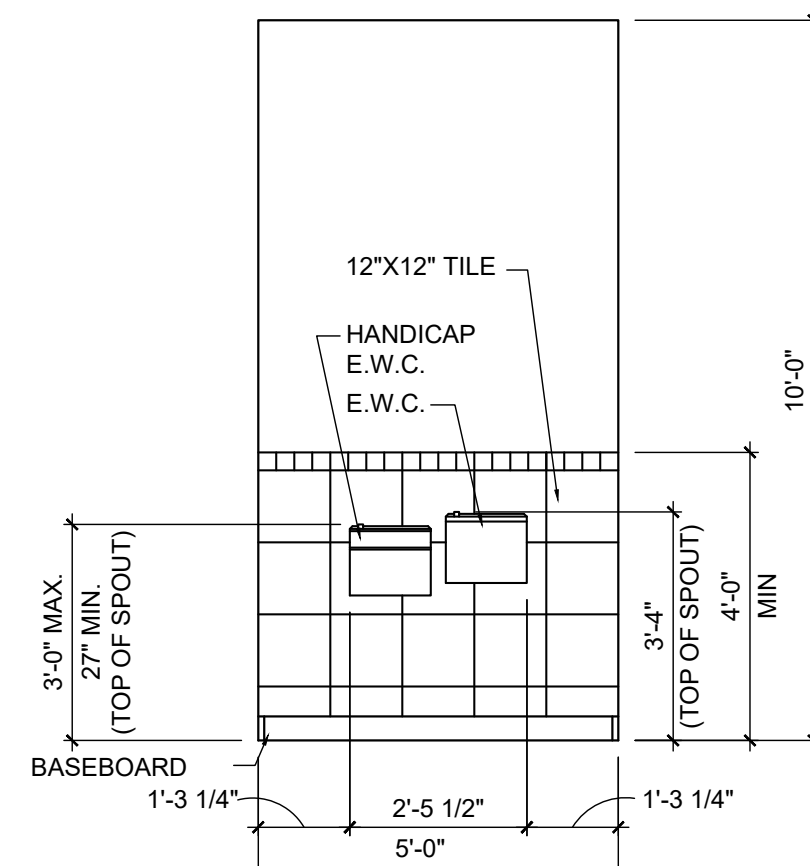
11 MEN'S ELEVATION
SCALE: 3/8" = 1'-0"



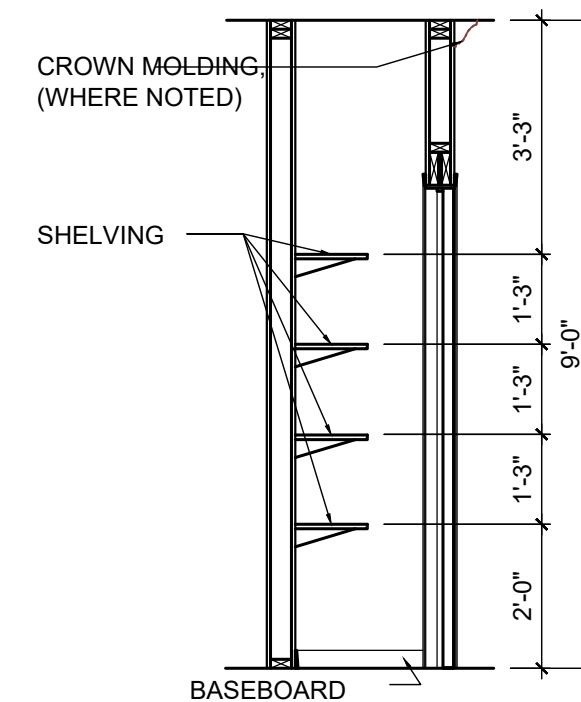
12 MEN'S ELEVATION
SCALE: 3/8" = 1'-0"



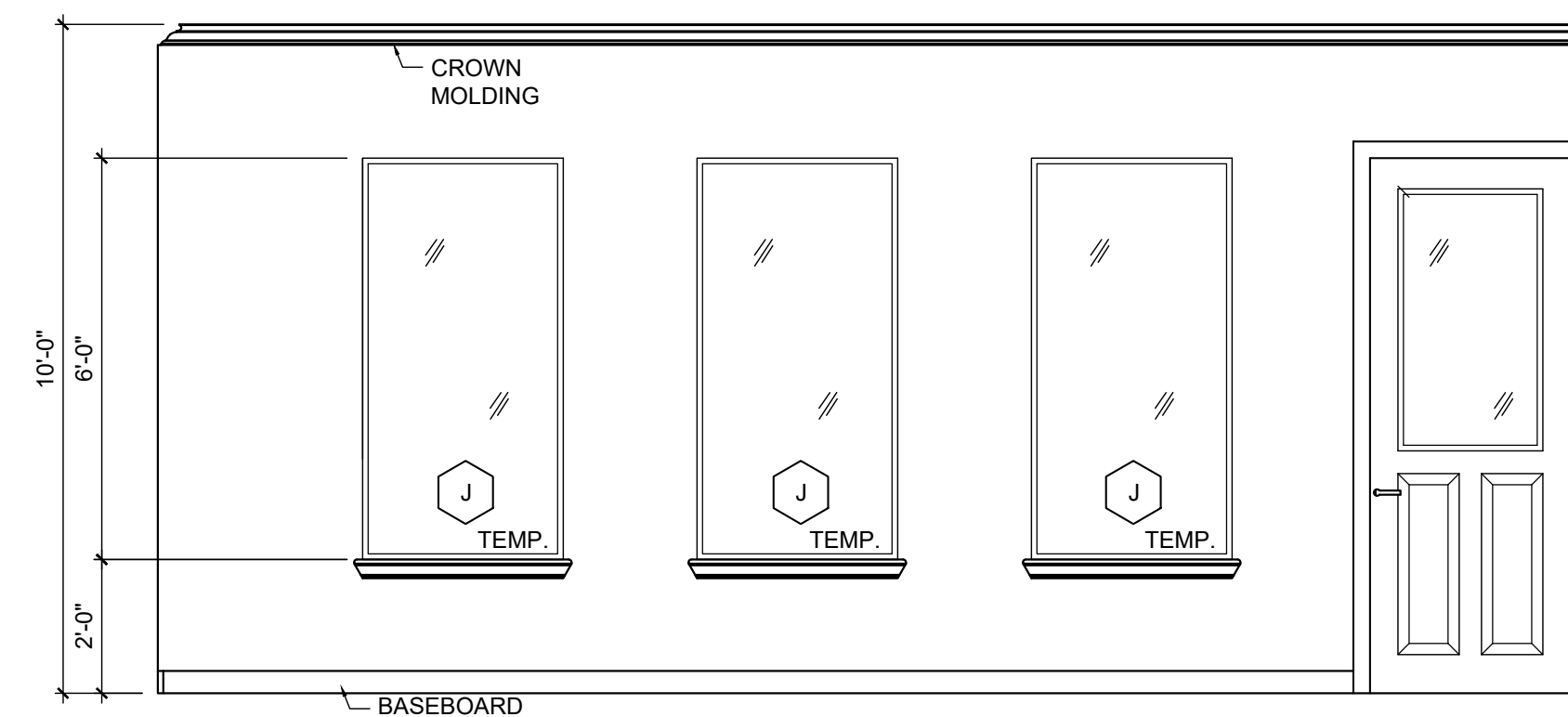
07 FITNESS CENTER ELEVATION
SCALE: 3/8" = 1'-0"



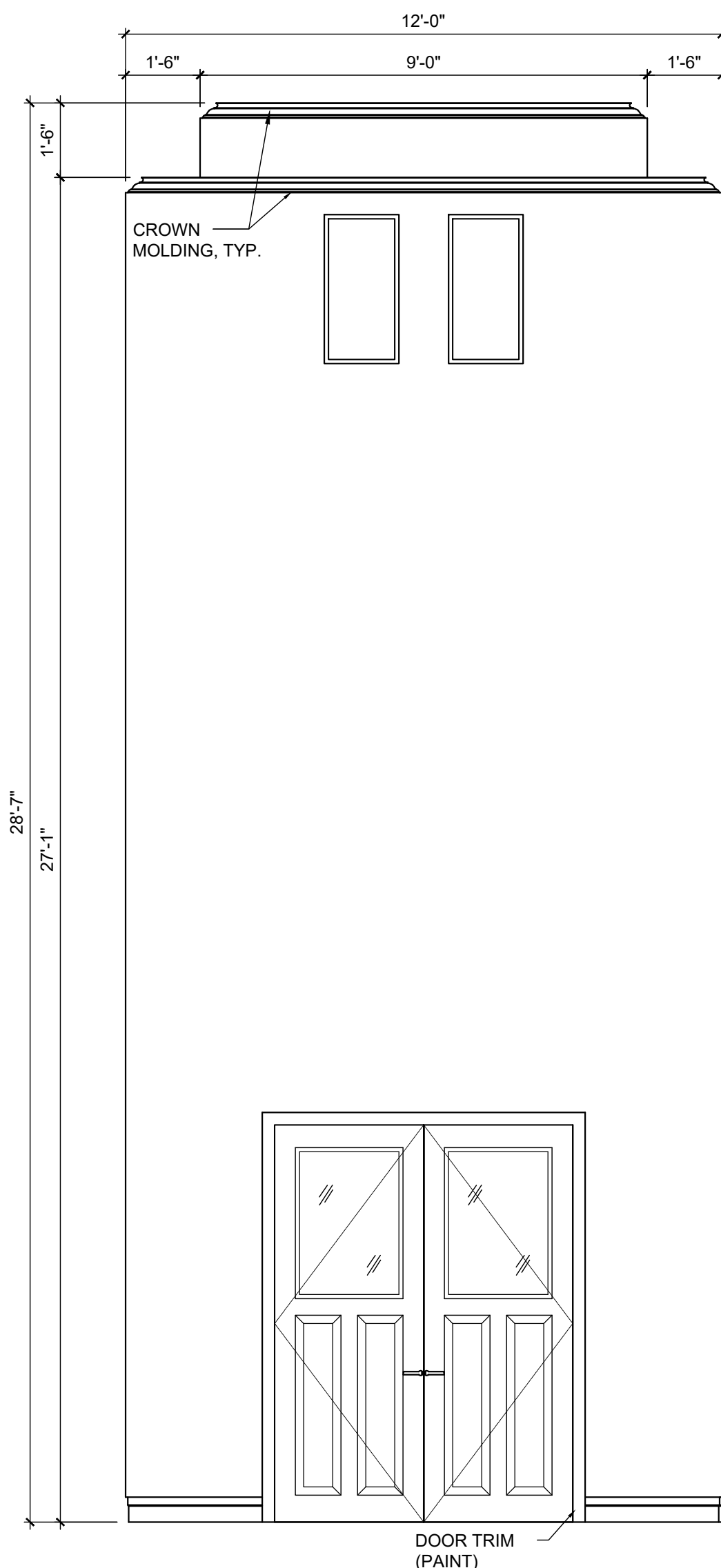
08 HI/LOW E.W.C. ELEVATION
SCALE: 3/8" = 1'-0"



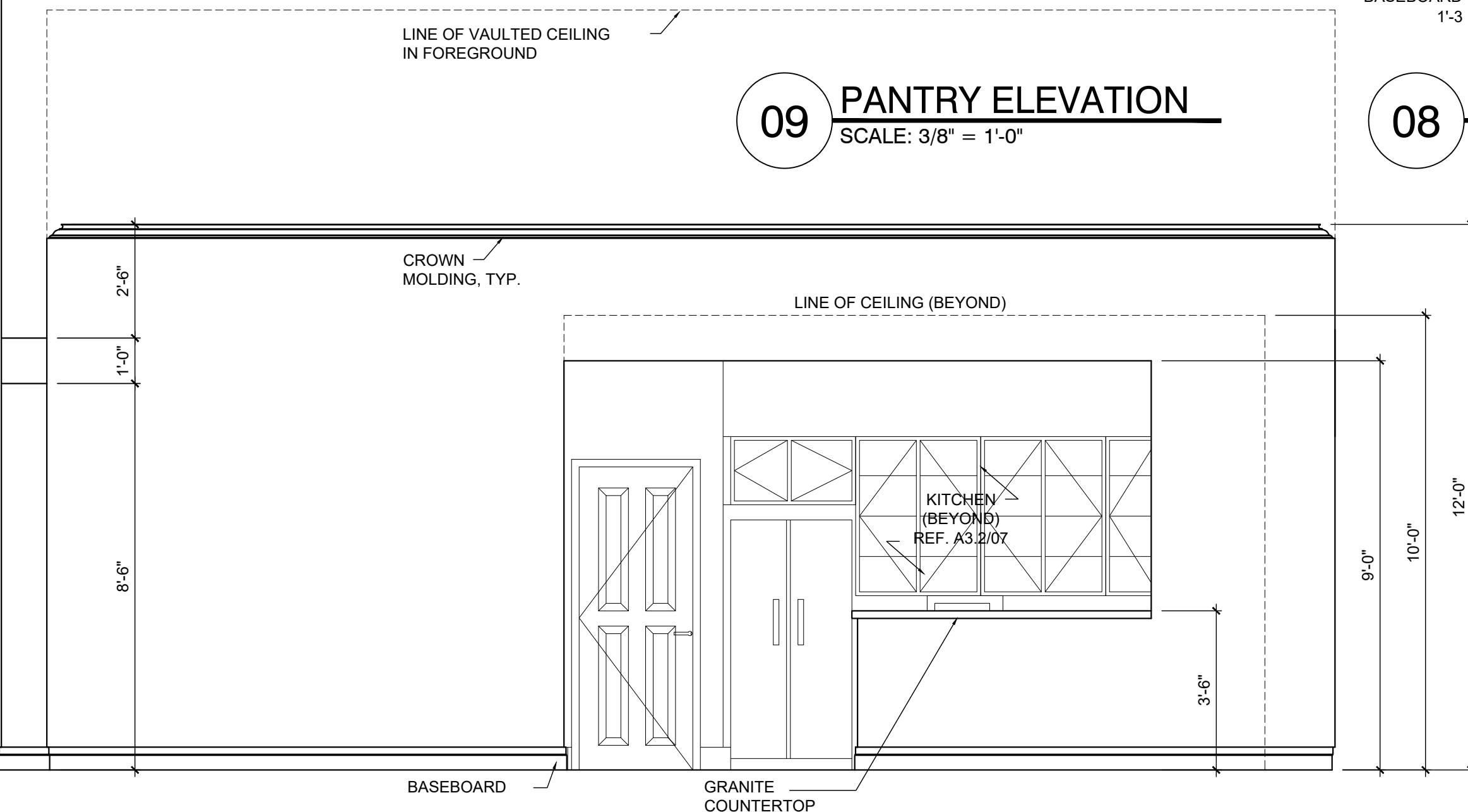
09 PANTRY ELEVATION
SCALE: 3/8" = 1'-0"



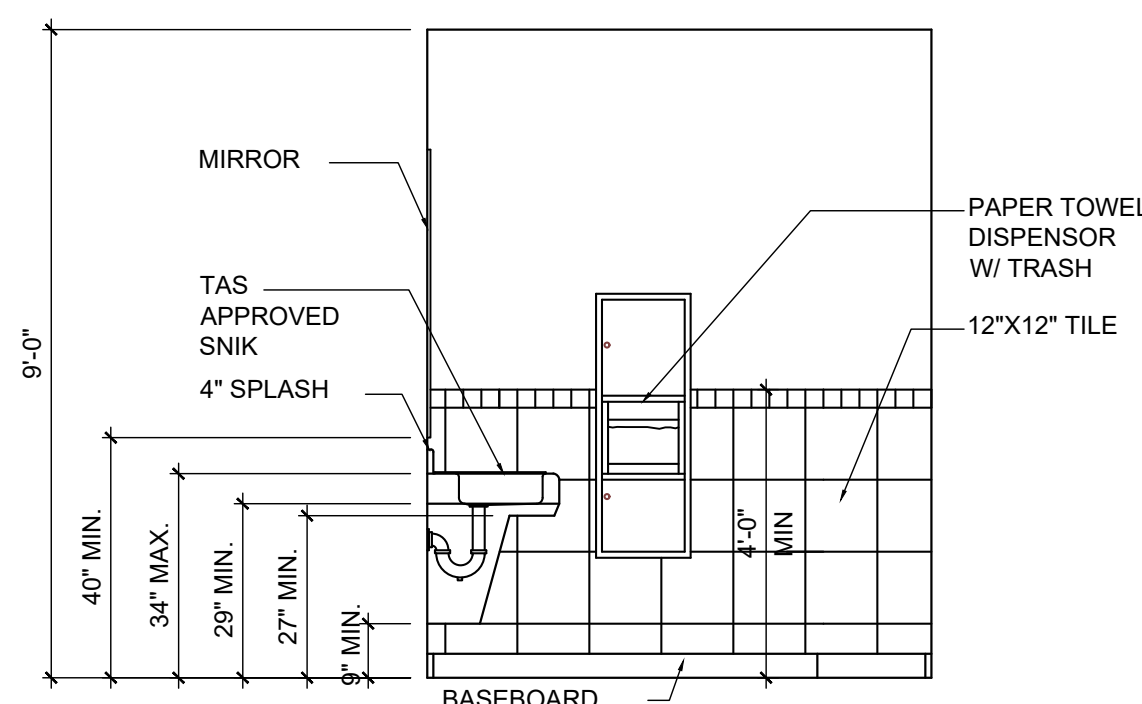
05 FITNESS CENTER ELEVATION
SCALE: 3/8" = 1'-0"



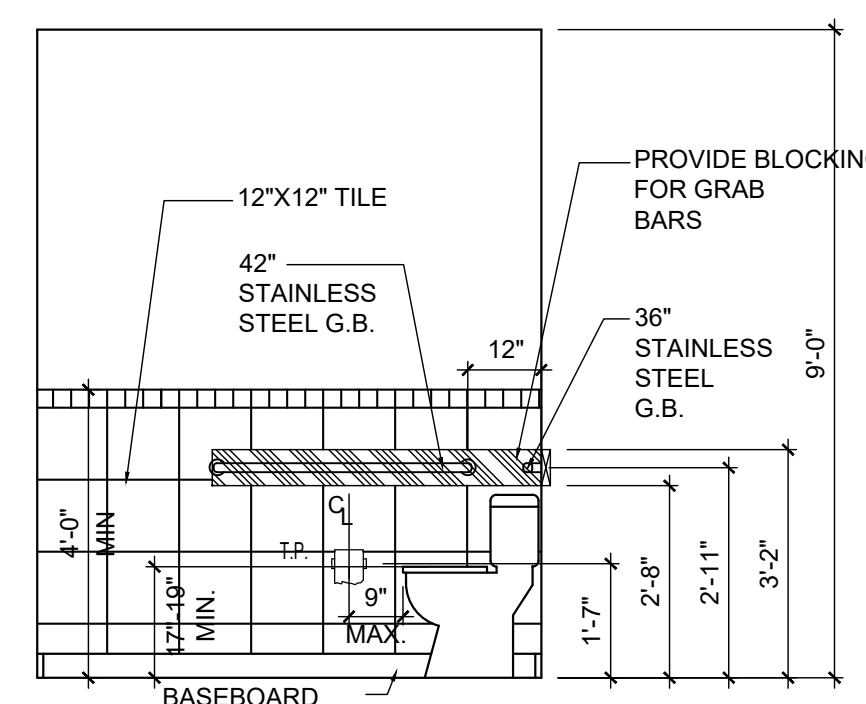
06 COMMUNITY/FOYER ELEVATION
SCALE: 3/8" = 1'-0"



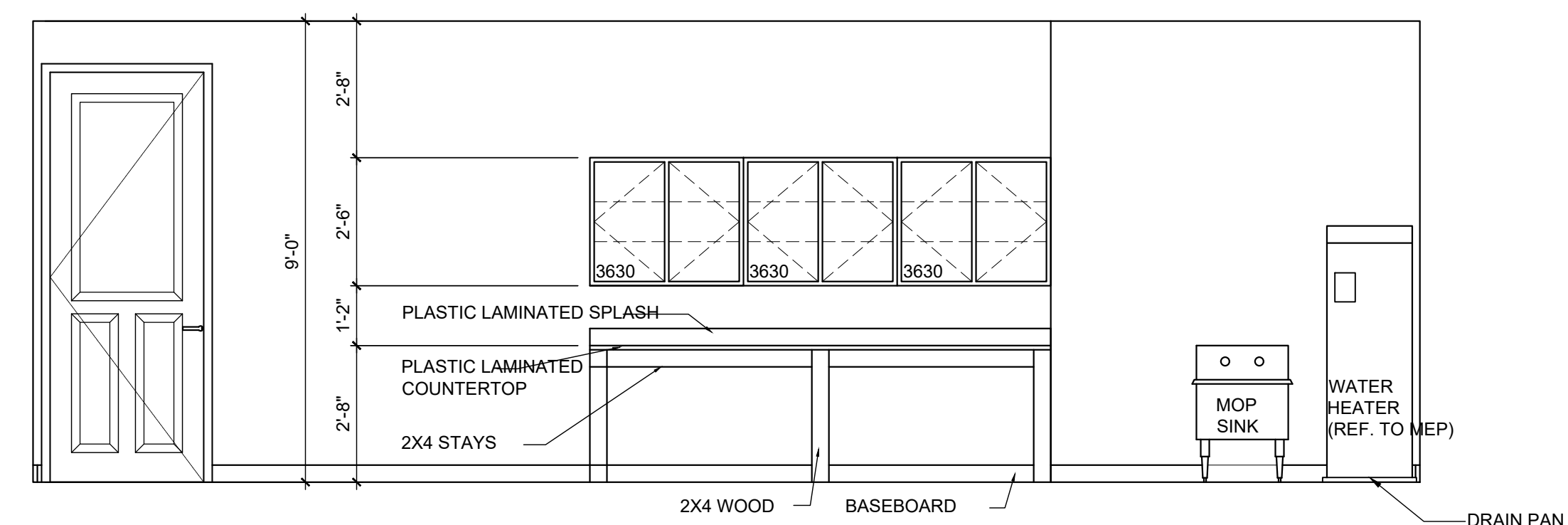
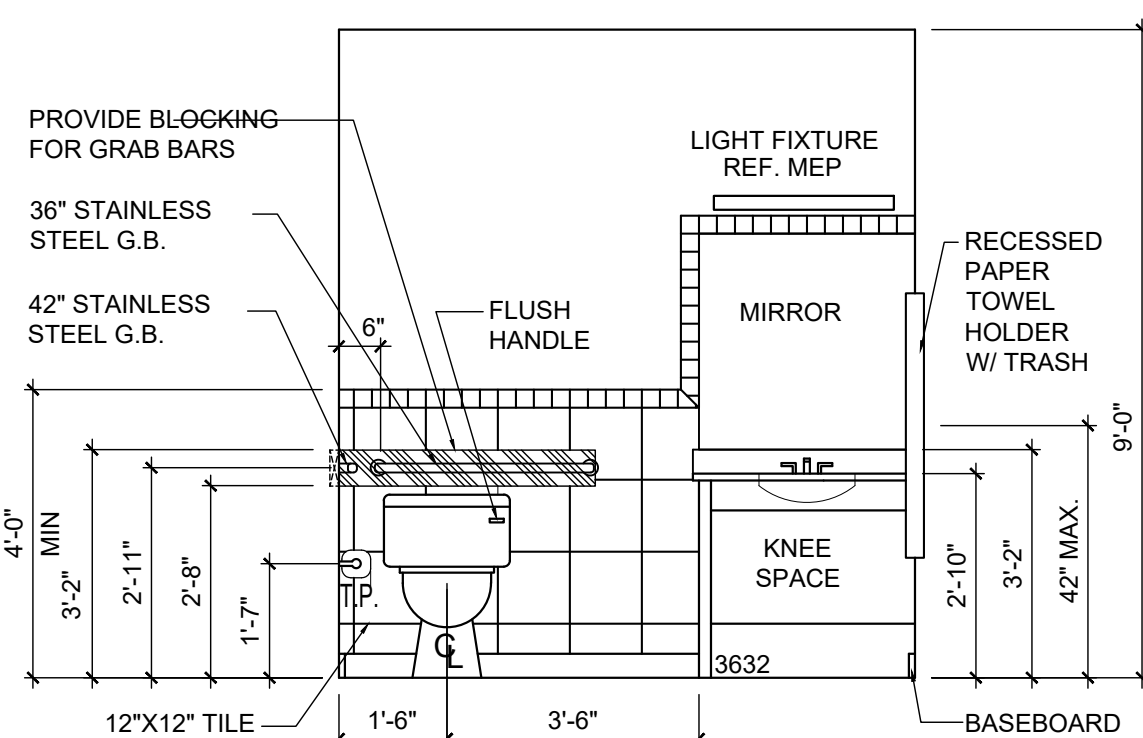
03 WOMAN'S ELEVATION
SCALE: 3/8" = 1'-0"



02 WOMAN'S ELEVATION
SCALE: 3/8" = 1'-0"

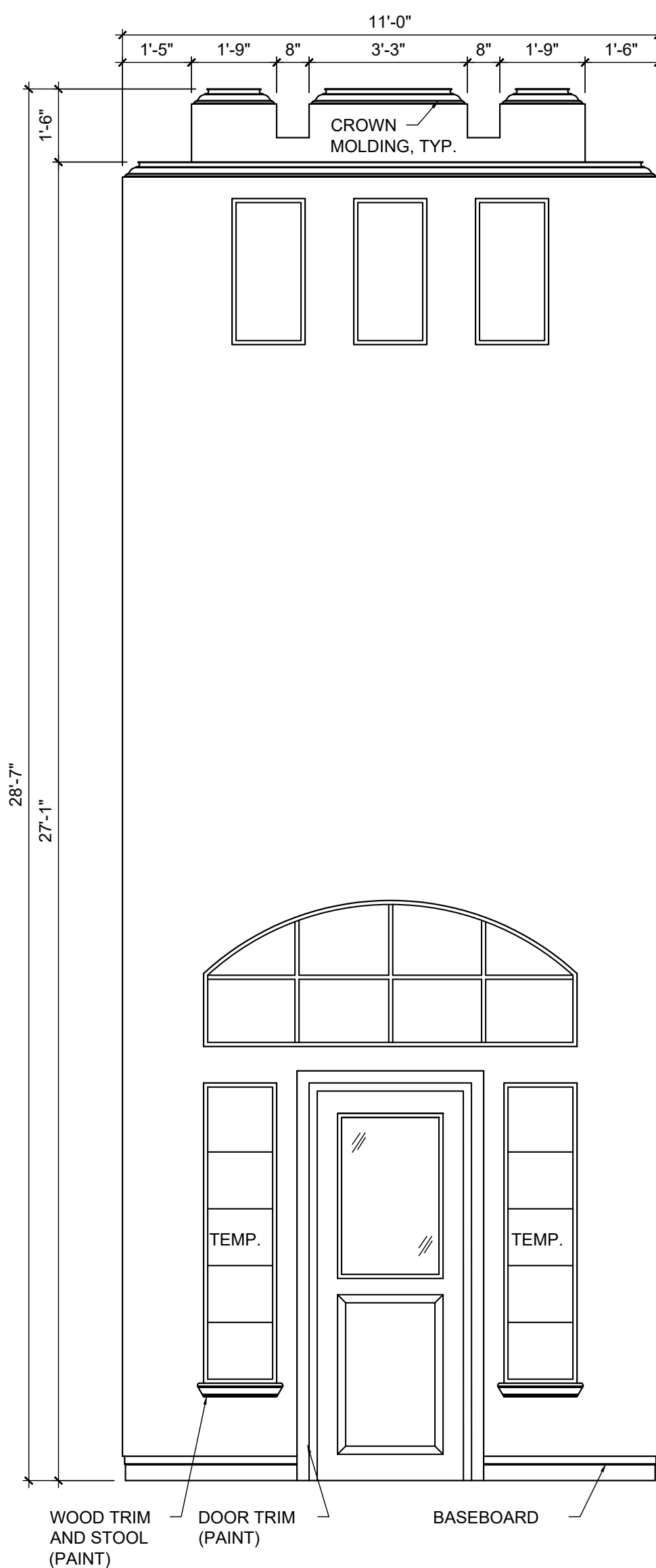


04 WOMAN'S ELEVATION
SCALE: 3/8" = 1'-0"

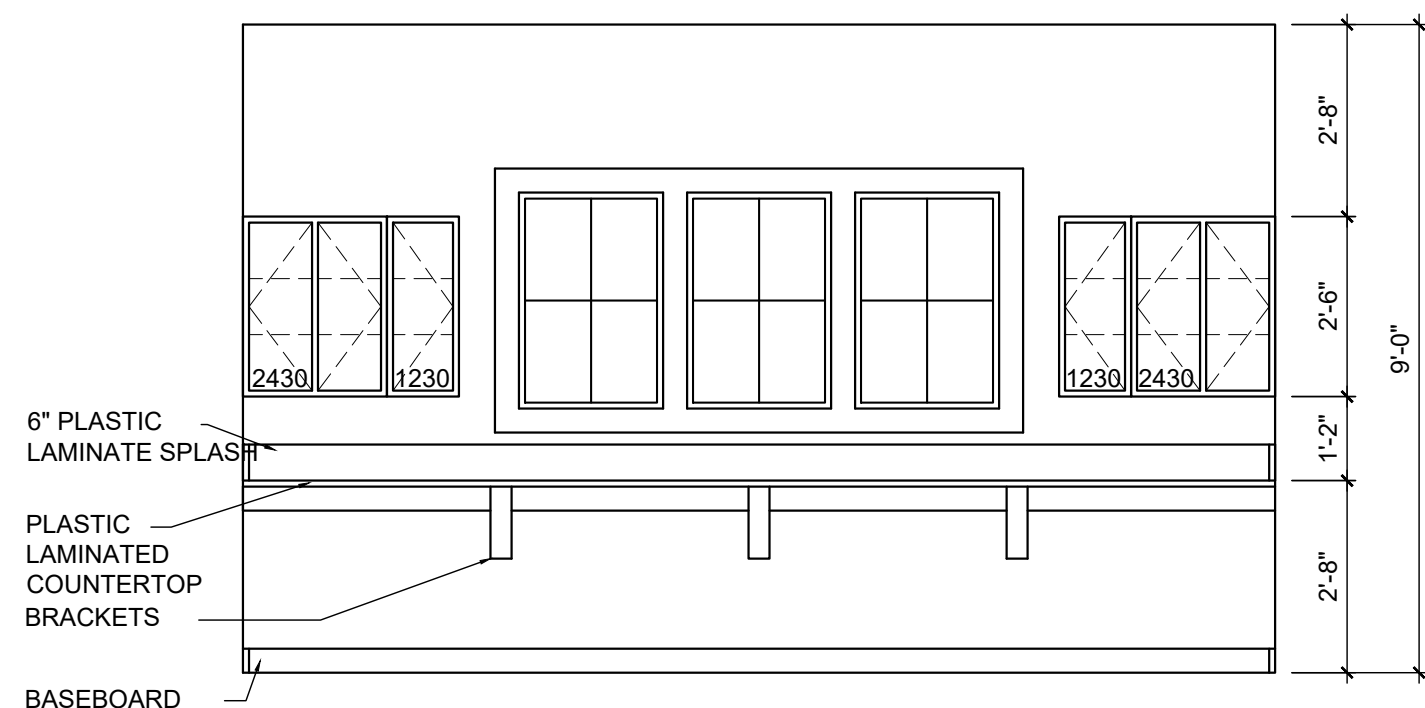


01 MAINTENANCE ELEVATION
SCALE: 3/8" = 1'-0"

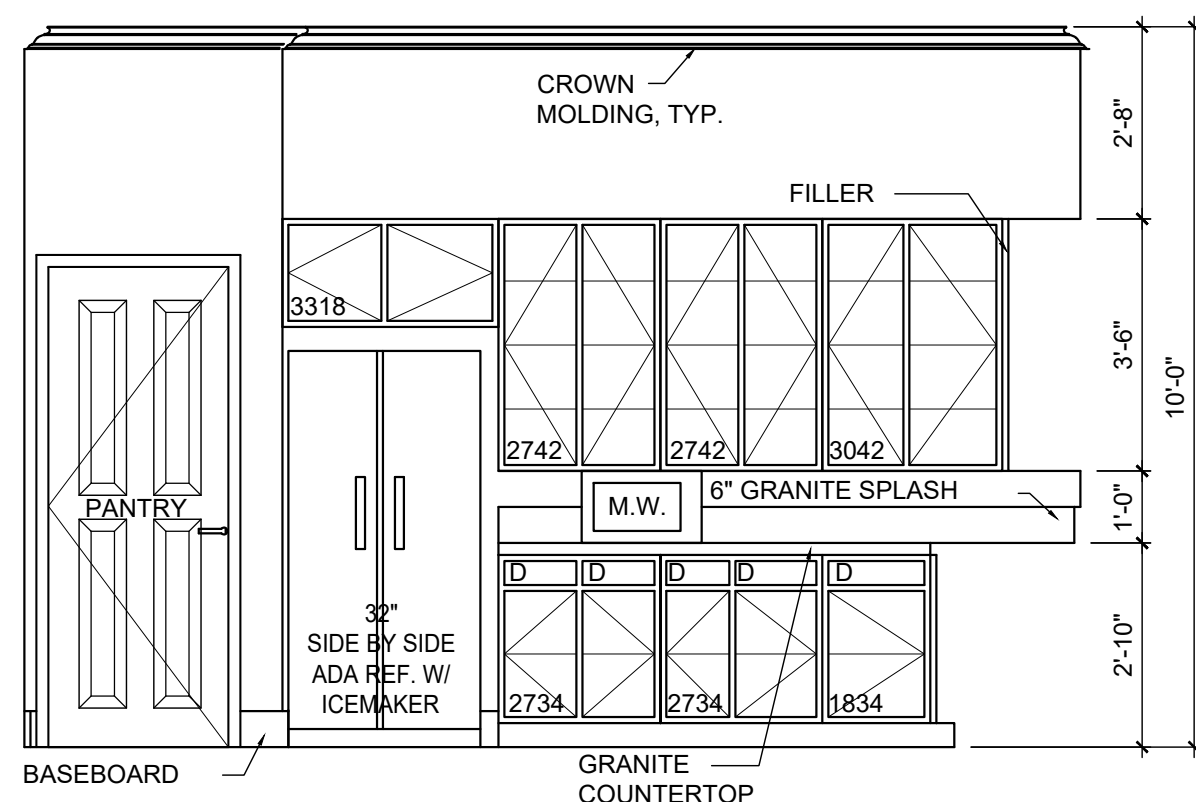
**STONEBRIDGE OF
KELSEY PARK
LUBBOCK, TEXAS**



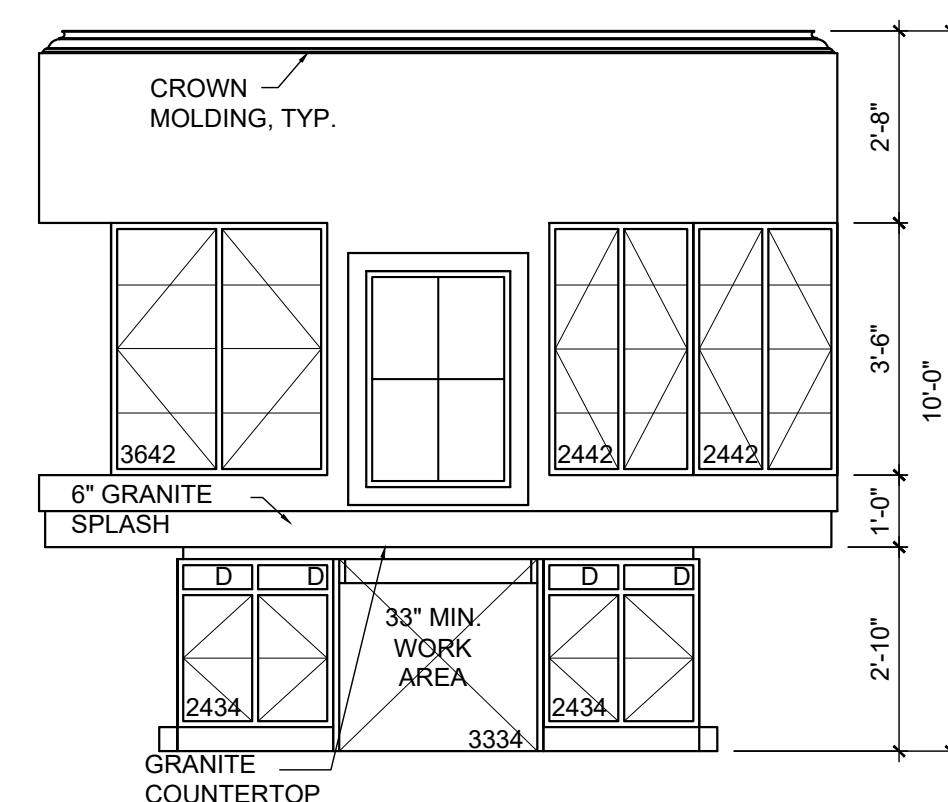
04 FOYER ELEVATION
SCALE: 3/8" = 1'-0"



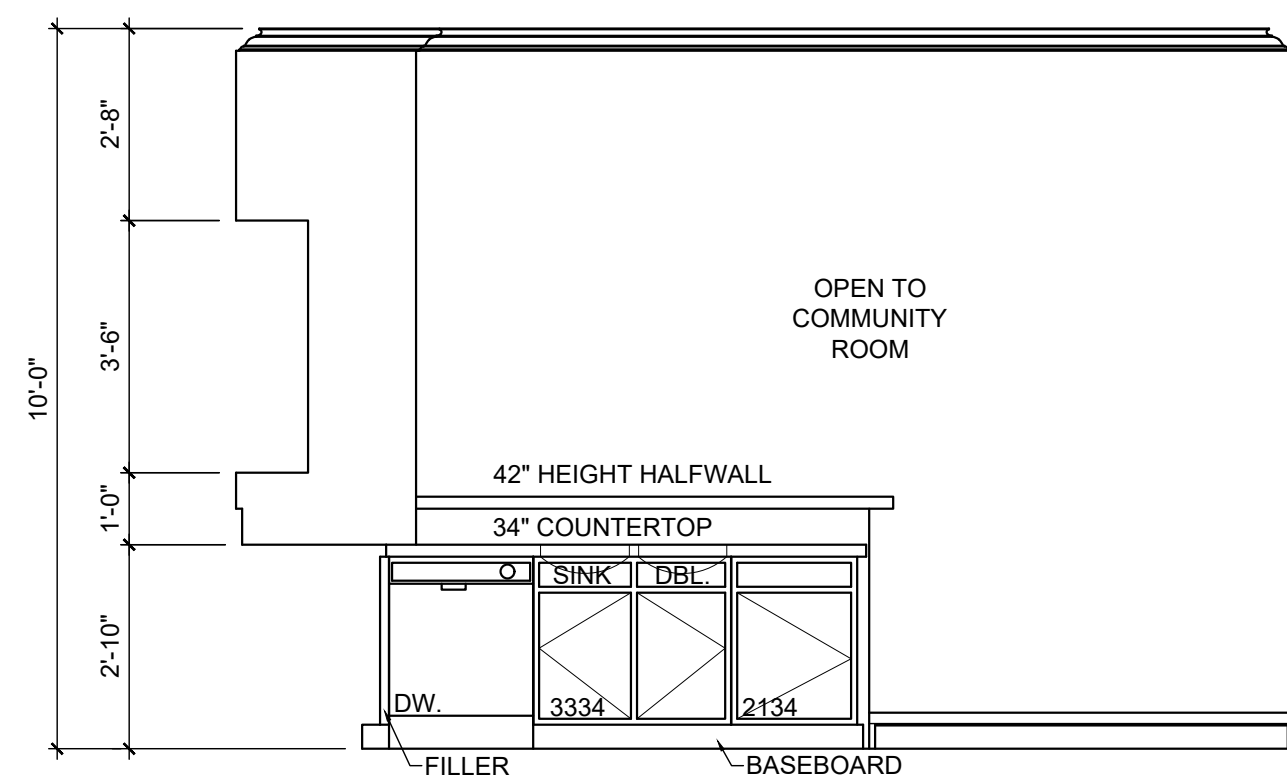
03 WORK ROOM ELEVATION
SCALE: 3/8" = 1'-0"



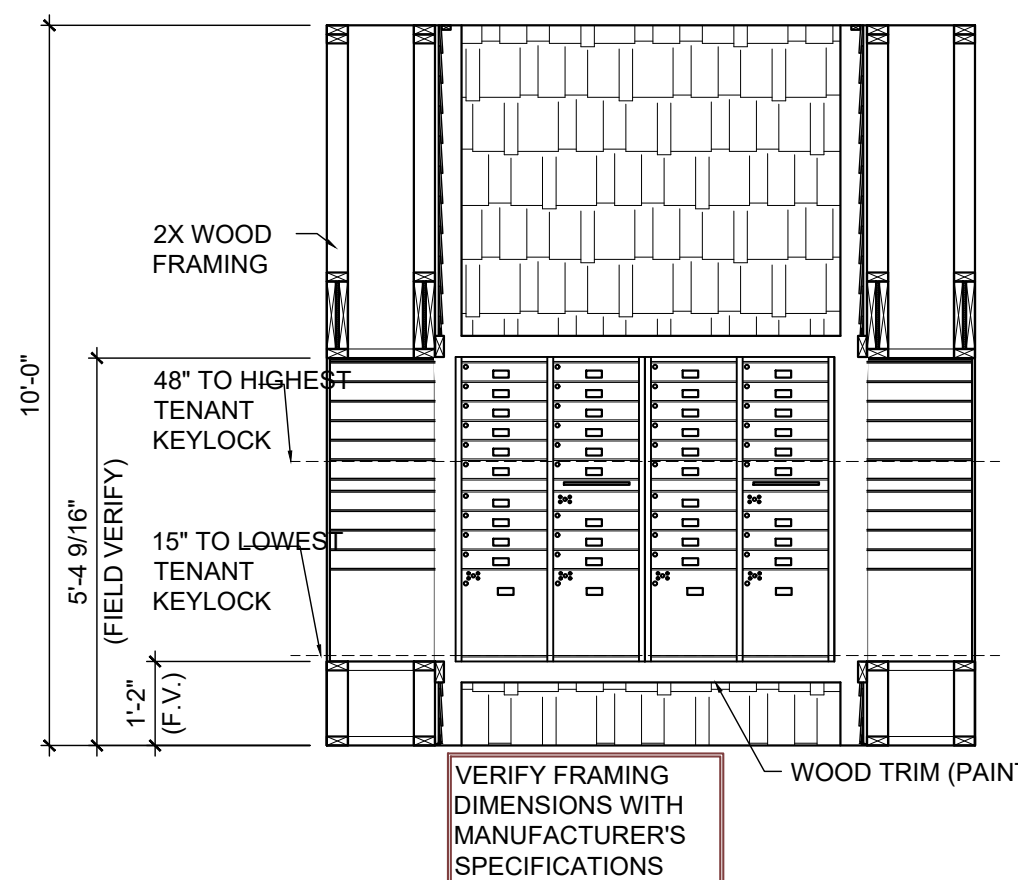
07 KITCHEN ELEVATION
SCALE: 3/8" = 1'-0"



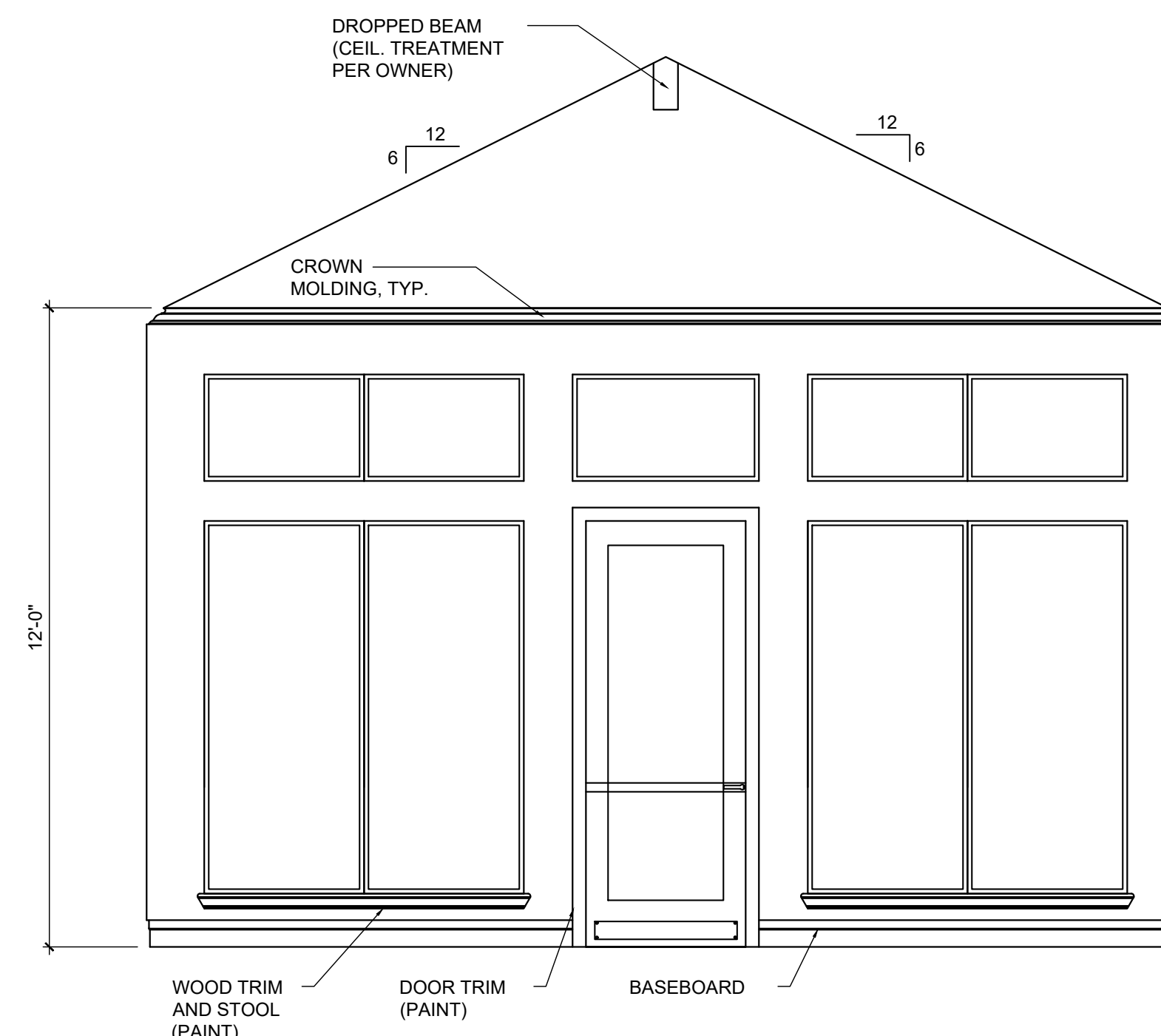
06 KITCHEN ELEVATION
SCALE: 3/8" = 1'-0"



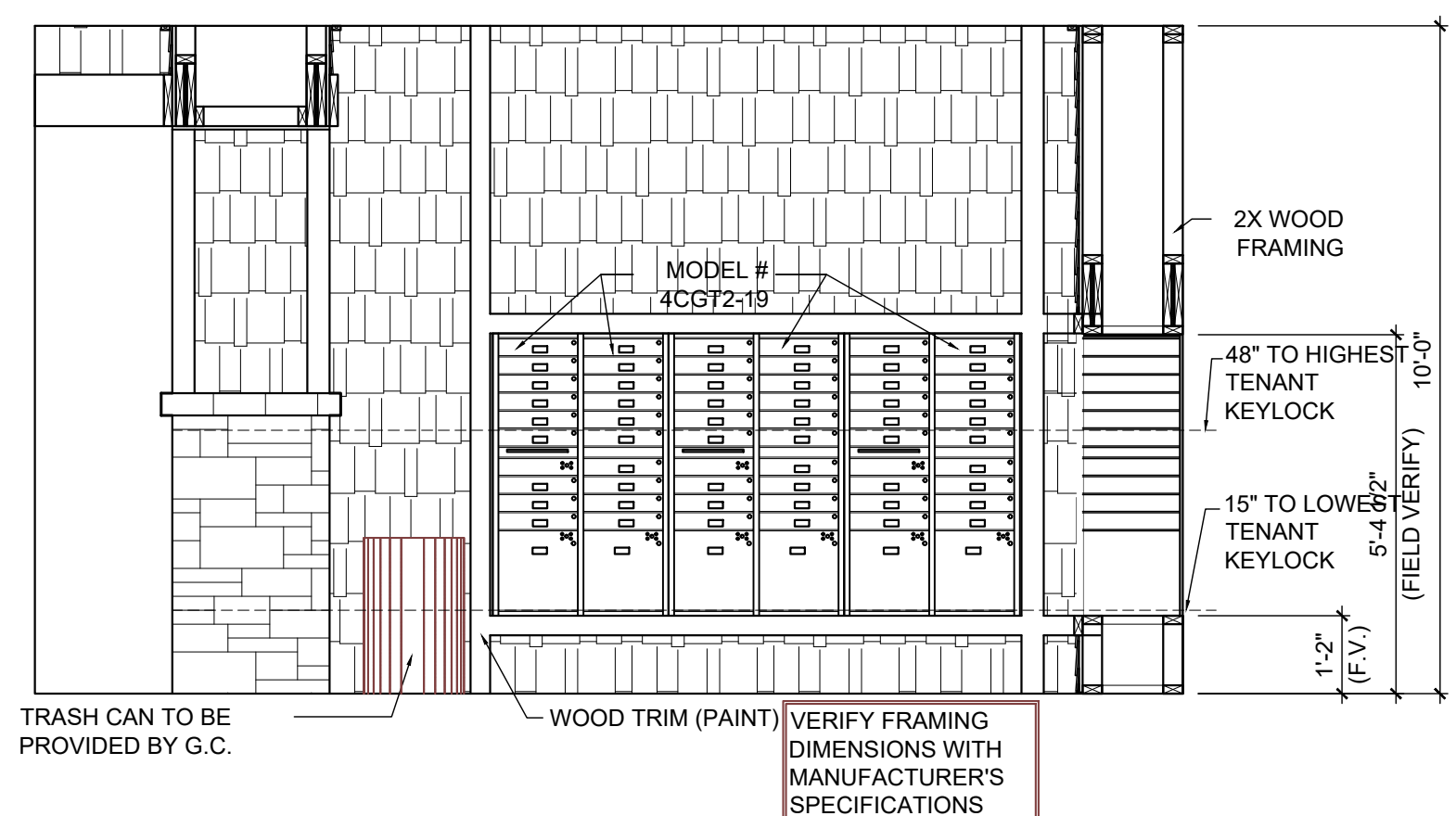
08 KITCHEN ELEVATION
SCALE: 3/8" = 1'-0"



02 MAIL ELEVATION
SCALE: 3/8" = 1'-0"



05 COMMUNITY ELEVATION
SCALE: 3/8" = 1'-0"



01 MAIL ELEVATION
SCALE: 3/8" = 1'-0"

DATE: XX/XX/2019

PROJECT NUMBER: 19073

REVISIONS

NO. DATE

ISSUED FOR: REVIEW

SHEET NUMBER

A3.2
CLUBHOUSE
INTERIOR
ELEVATIONS
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P: 972.398.6644
WWW.CROSSARCHITECTS.COM

STONEBRIDGE OF
KELSEY PARK
LUBBOCK, TEXAS

DATE:
XX/XX/2019

PROJECT NUMBER:
19073

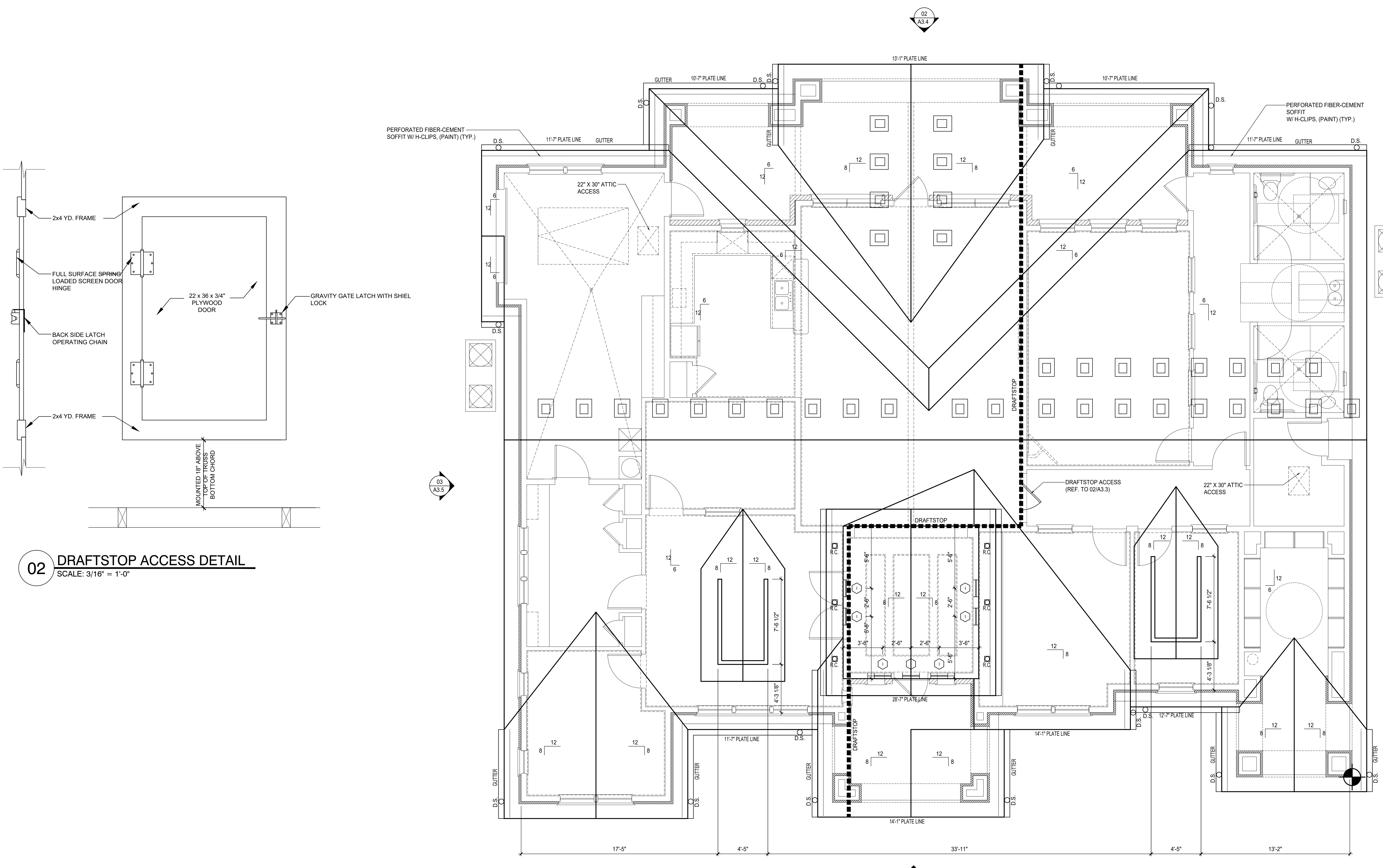
REVISIONS

NO	DATE	REVISIONS

ISSUED FOR:
REVIEW

SHEET NUMBER
A3.3

CLUBHOUSE
ROOF PLAN
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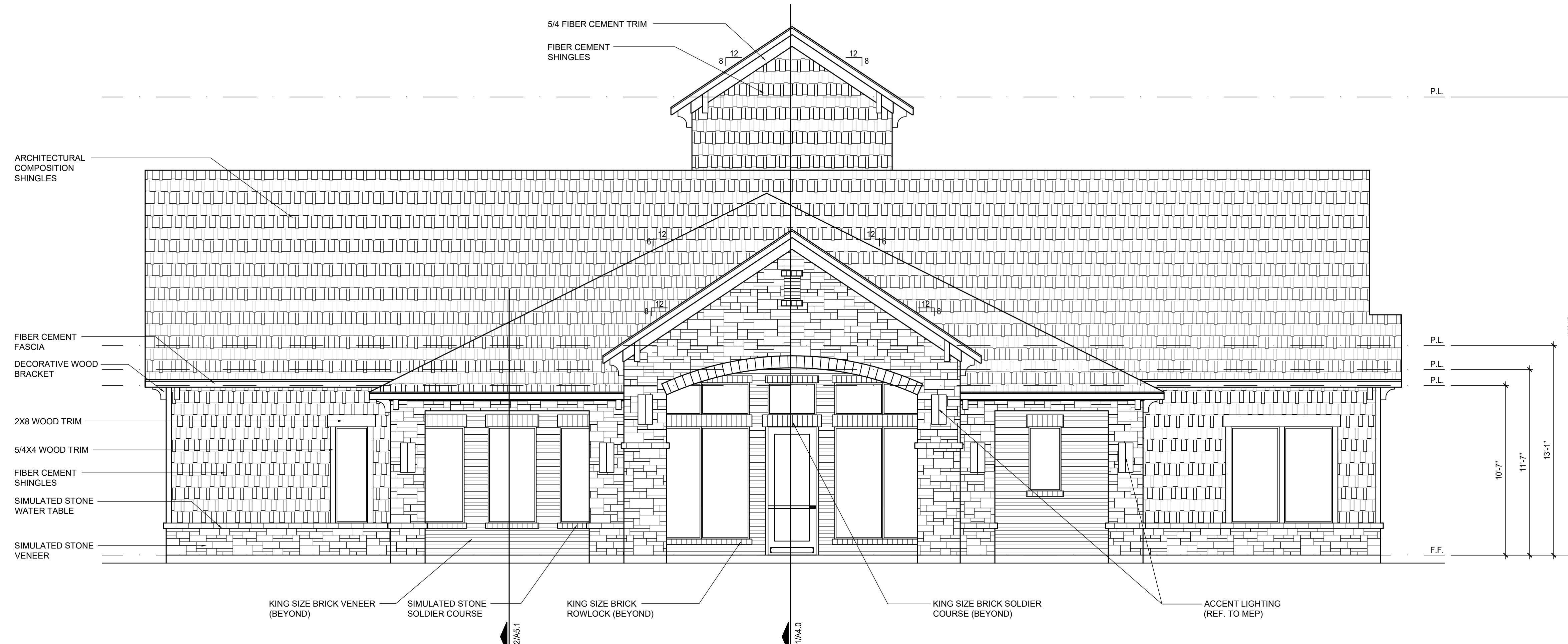


ROOF TRUSS NOTE:
TRUSS MANUFACTURER TO PROVIDE SHOP DRAWINGS OF THE TRUSS LAYOUT AND DESIGN BY A PROFESSIONAL ENGINEER.

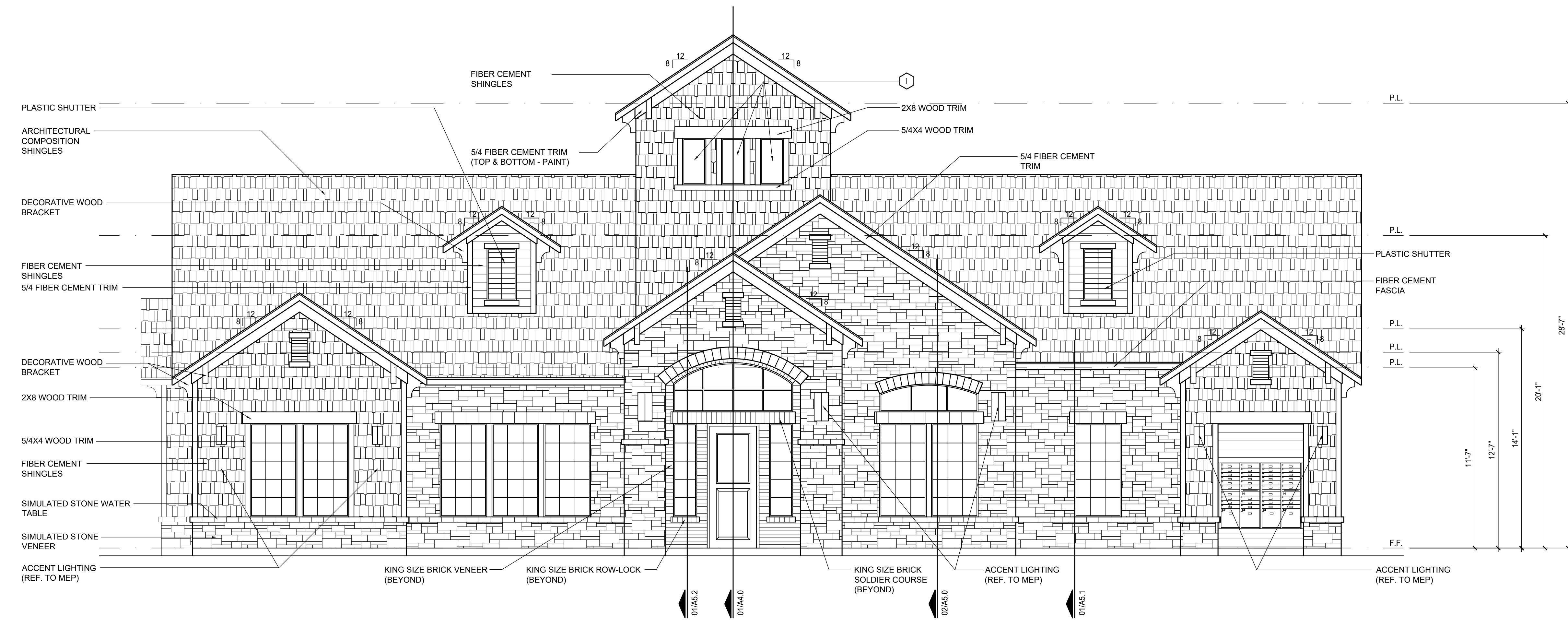
ROOF VENTILATION CALCULATIONS

ATTIC AREA	ROOF AREA S.F.	ROOF AREA SQ.IN.	SQ. IN. PER ROOF VENT	NUMBER OF VENTS (A)	CONTINUOUS SOFFIT VENT (B)	CALCULATIONS
A	2,476 S.F.	356,544 SQ.IN.	61"	20 VENTS	50 FT.	2,476 S.F. X 144 = 356,544 SQ.IN. / 150 = 2376.96 SQ.IN. / 2 = 1188.48 SQ.IN. A = 1188.48 SQ.IN. / 61 = 20 VENTS B = 1188.48 SQ.IN. / 2 IN. = 594.24' (1 FT. / 12 IN.) = 50 FT. OF CONTINUOUS SOFFIT VENT
B	2,098 S.F.	302,112 SQ.IN.	61"	17 VENTS	42 FT.	2,098 S.F. X 144 = 302,112 SQ.IN. / 150 = 2044.08 SQ.IN. / 2 = 1007.04 SQ.IN. A = 1007.04 SQ.IN. / 61 = 17 VENTS B = 1007.04 SQ.IN. / 2 IN. = 503.52' (1 FT. / 12 IN.) = 42 FT. OF CONTINUOUS SOFFIT VENT
TOTAL				38 VENTS		

01 ROOF PLAN - CLUBHOUSE
SCALE: 3/16" = 1'-0"

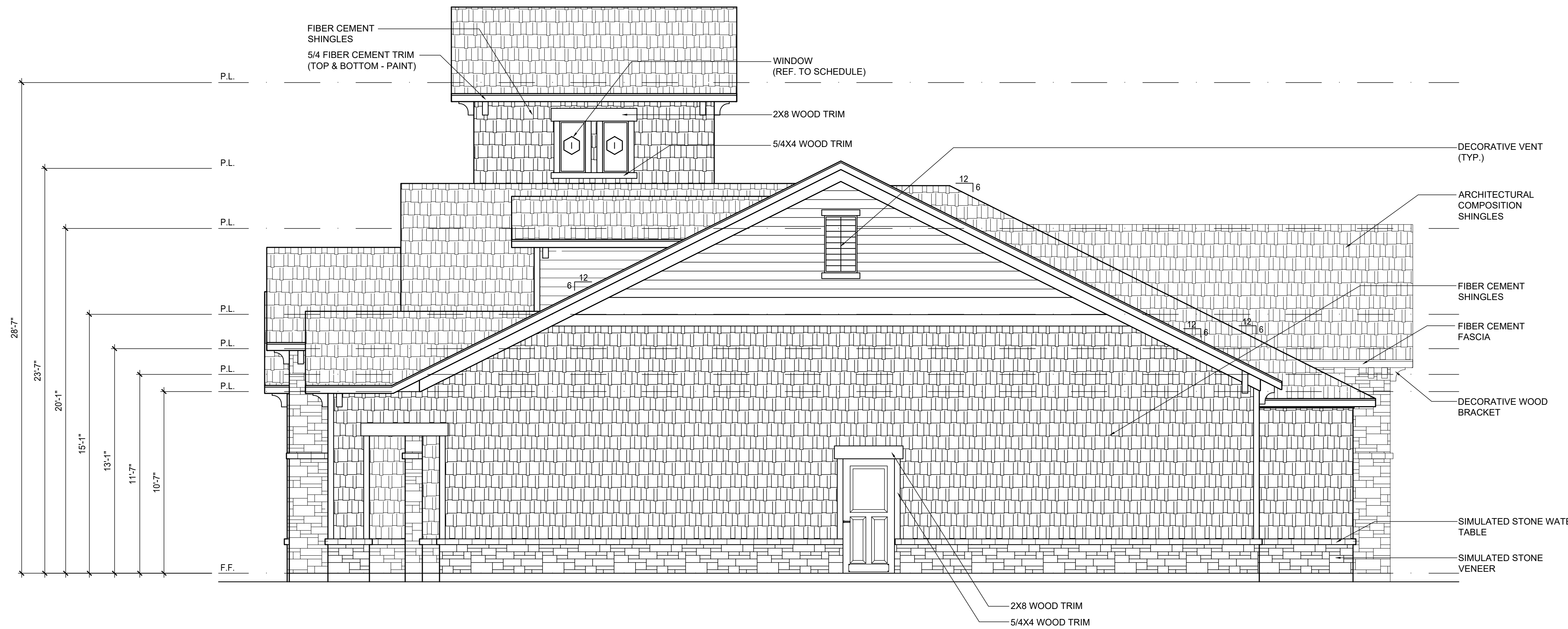


02 CLUBHOUSE REAR ELEVATION
SCALE: 1/4" = 1'-0"

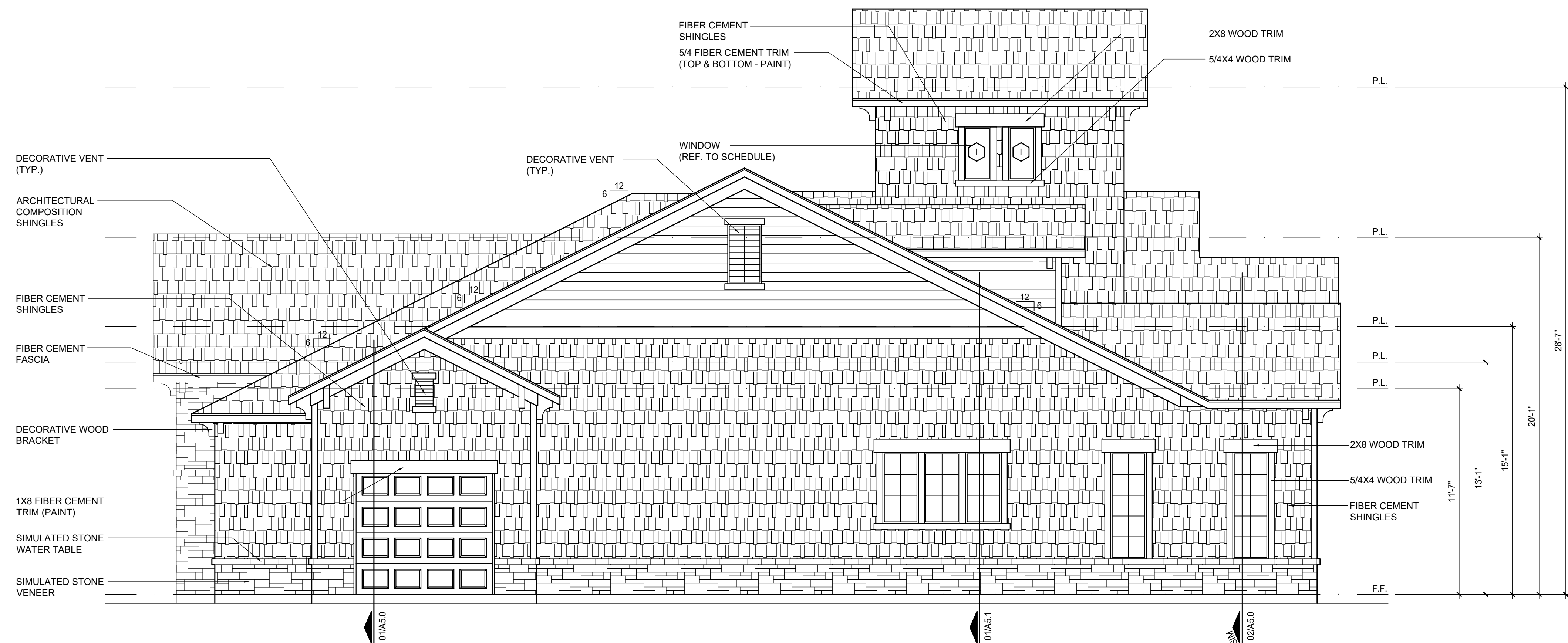


01 CLUBHOUSE FRONT ELEVATION
SCALE: 1/4" = 1'-0"

NO	DATE	DESCRIPTION



04 CLUBHOUSE RIGHT ELEVATION
SCALE: 1/4" = 1'-0"



03 CLUBHOUSE LEFT ELEVATION
SCALE: 1/4" = 1'-0"

NO	DATE



ARCHITECT:
CROSS ARCHITECTS, PLLC
879 JUNCTION DRIVE
ALLEN, TEXAS 75013
P: 972.398.6644
WWW.CROSSARCHITECTS.COM

STONEBRIDGE OF KELSEY PARK LUBBOCK, TEXAS

DATE: XX/XX/2019

PROJECT NUMBER:
19073

REVISIONS

NO	DATE	DESCRIPTION

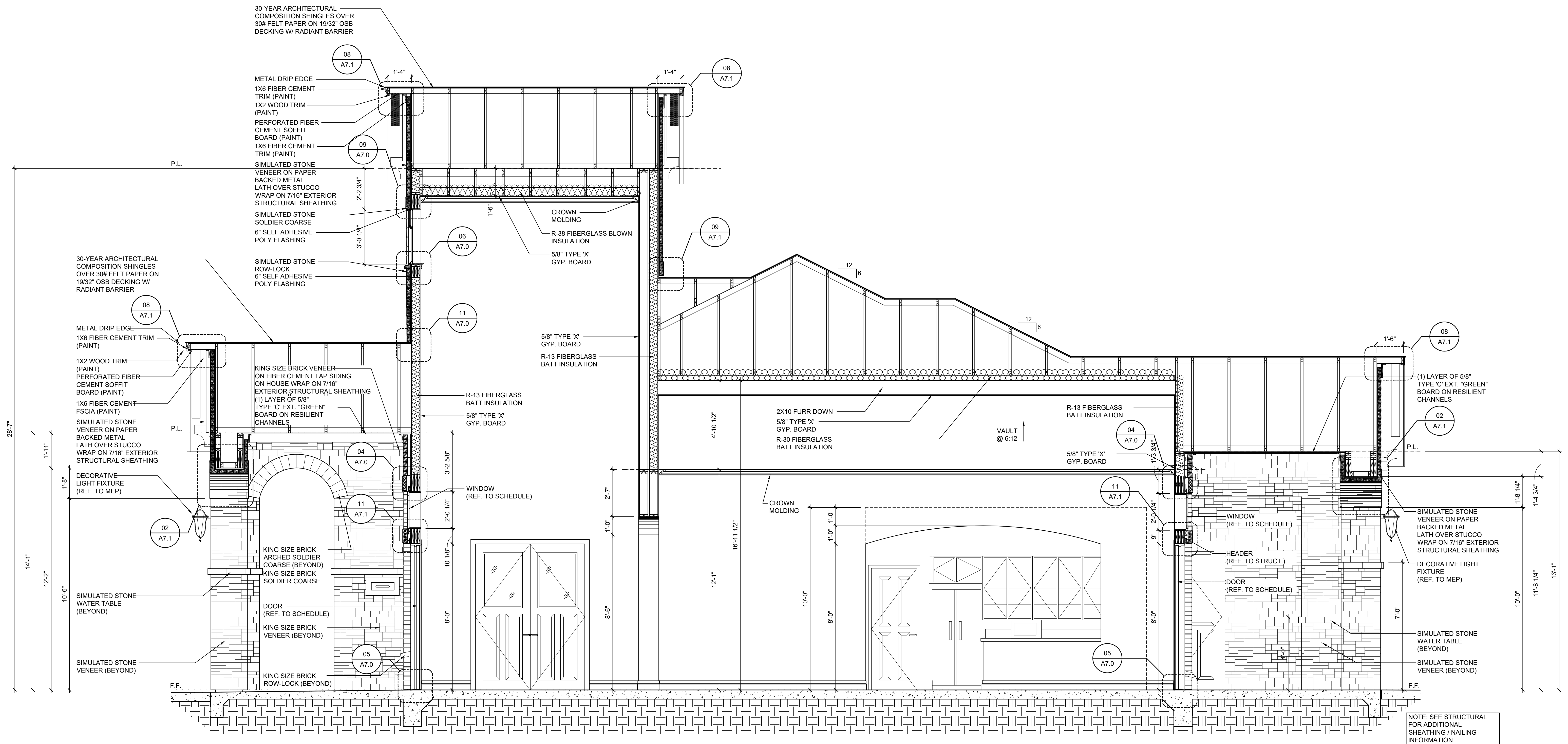
ISSUED FOR:

REVIEW

SHEET NUMBER

A4.0

CLUBHOUSE
WALL
SECTIONS
COPYRIGHT © 2019



NOTE: SEE STRUCTURAL FOR ADDITIONAL SHEATHING / NAILING INFORMATION

01 CLUBHOUSE BUILDING SECTION
3/8" = 1'-0"

**STONEBRIDGE OF
KELSEY PARK
LUBBOCK, TEXAS**

DATE:
XX/XX/2019

PROJECT NUMBER:
19073

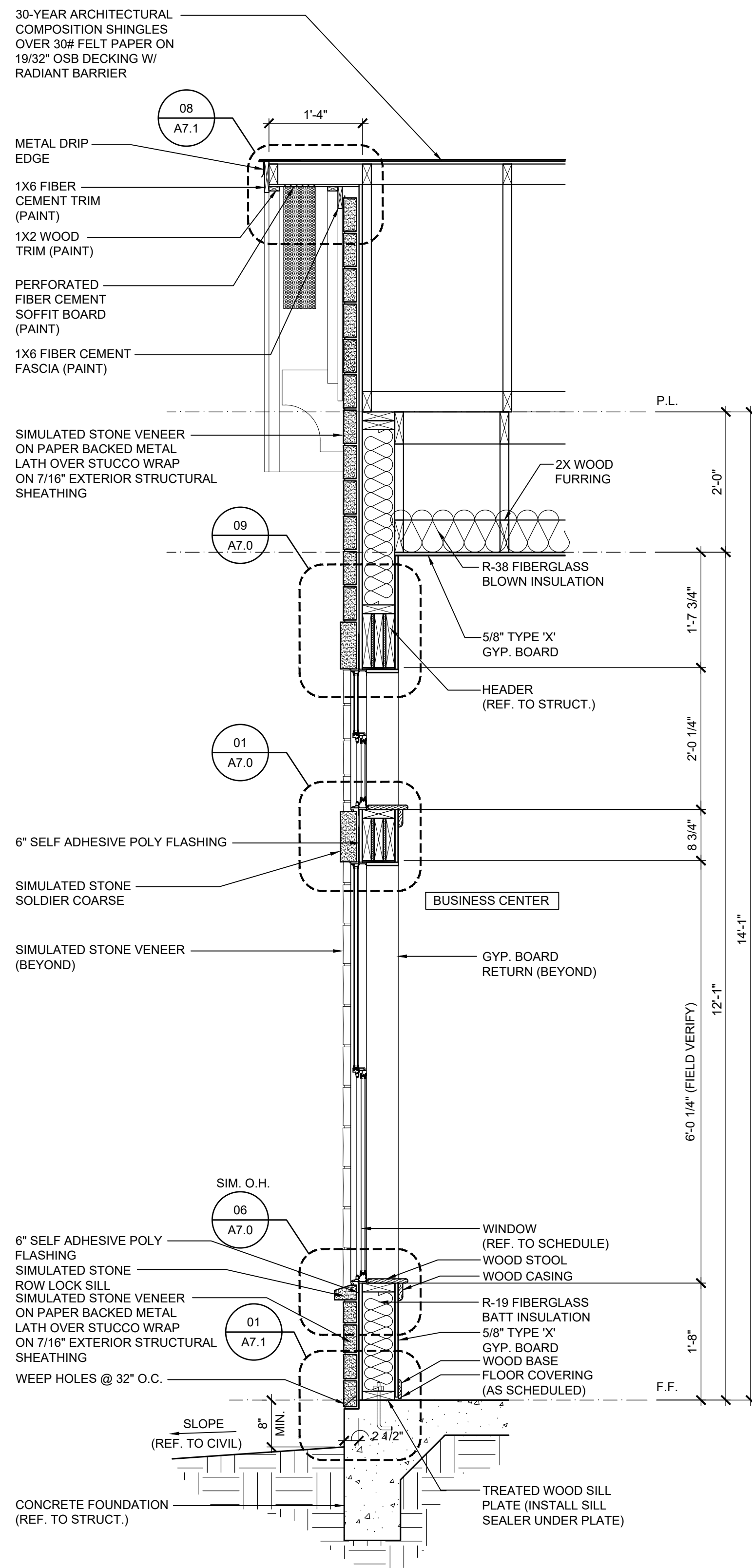
REVISIONS

NO	DATE

ISSUED FOR:
REVIEW

SHEET NUMBER

A5.0
CLUBHOUSE
WALL
SECTIONS

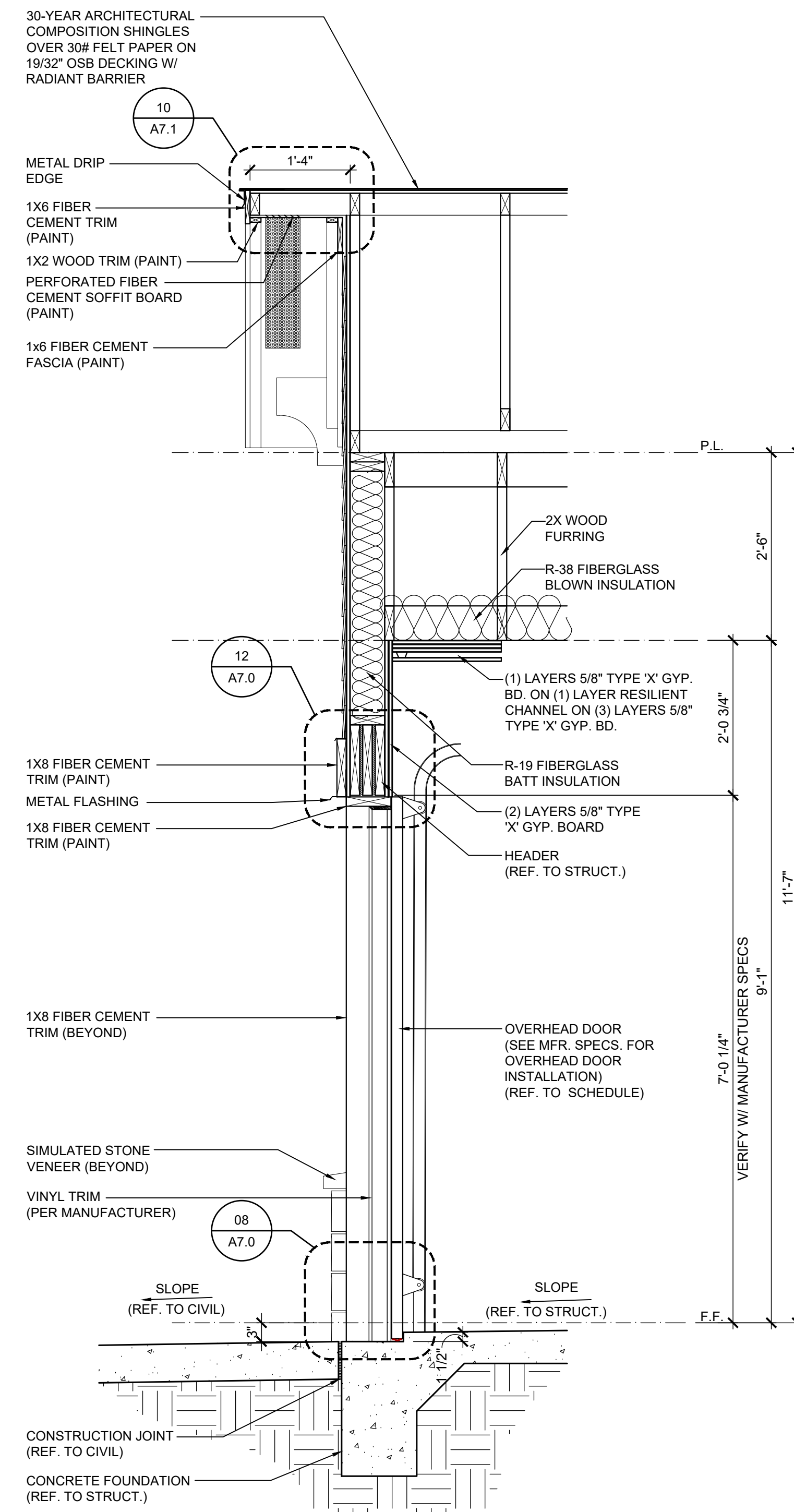


NOTE: SEE STRUCTURAL DRAWINGS FOR FOUNDATION AND FOOTING DETAILS.

02

CLUBHOUSE EXTERIOR WALL SECTION @ SIM STONE W/ TRANSOM

3/4" = 1'-0"



NOTE: SEE STRUCTURAL DRAWINGS FOR FOUNDATION AND FOOTING DETAILS.

01

CLUBHOUSE EXTERIOR WALL SECTION @ O.H. DOOR

3/4" = 1'-0"

STONEBRIDGE OF KELSEY PARK LUBBOCK, TEXAS

DATE: XX/XX/2019

PROJECT NUMBER:
 19073

REVISIONS

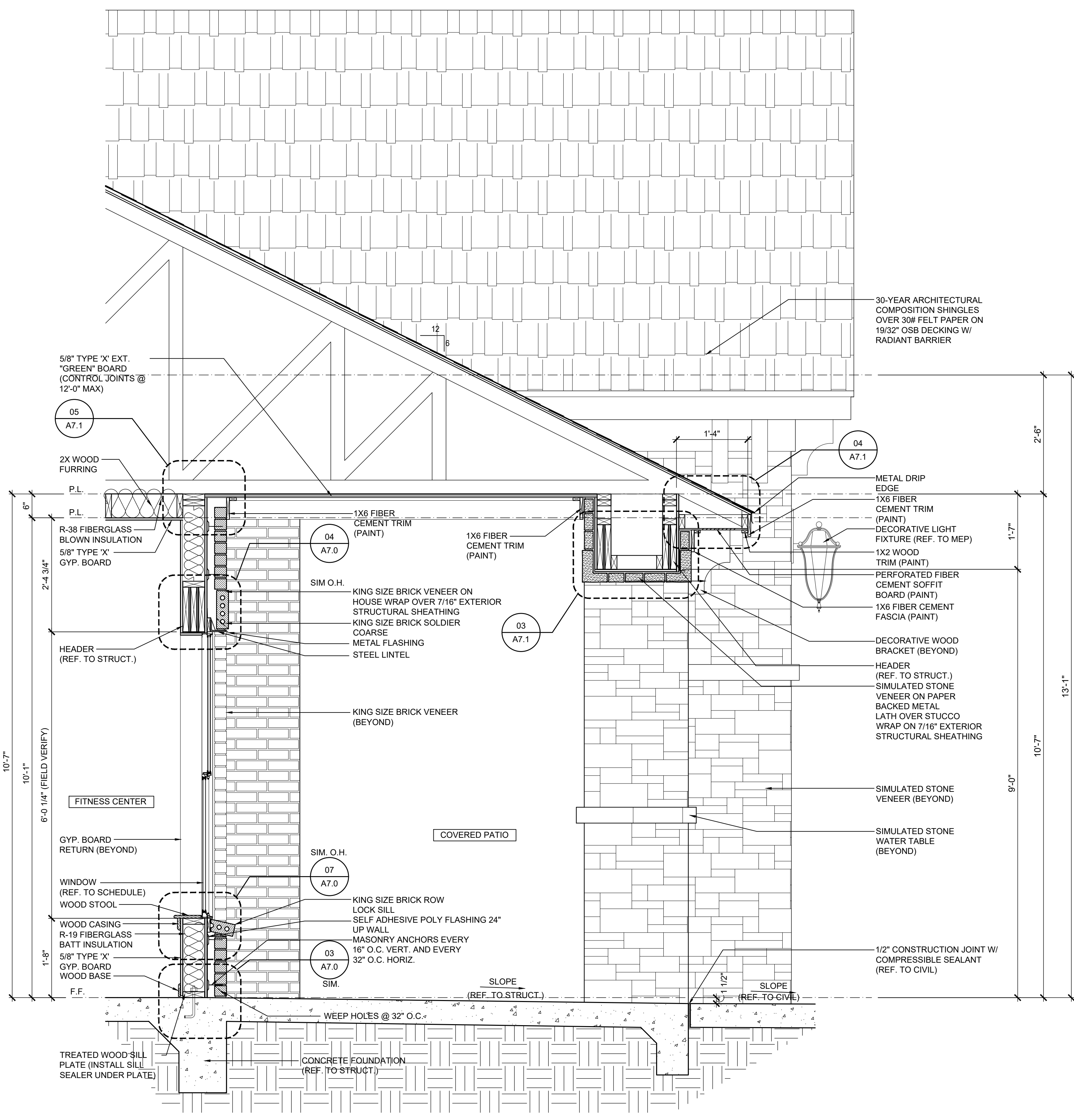
NO	DATE

ISSUED FOR:
 REVIEW

SHEET NUMBER

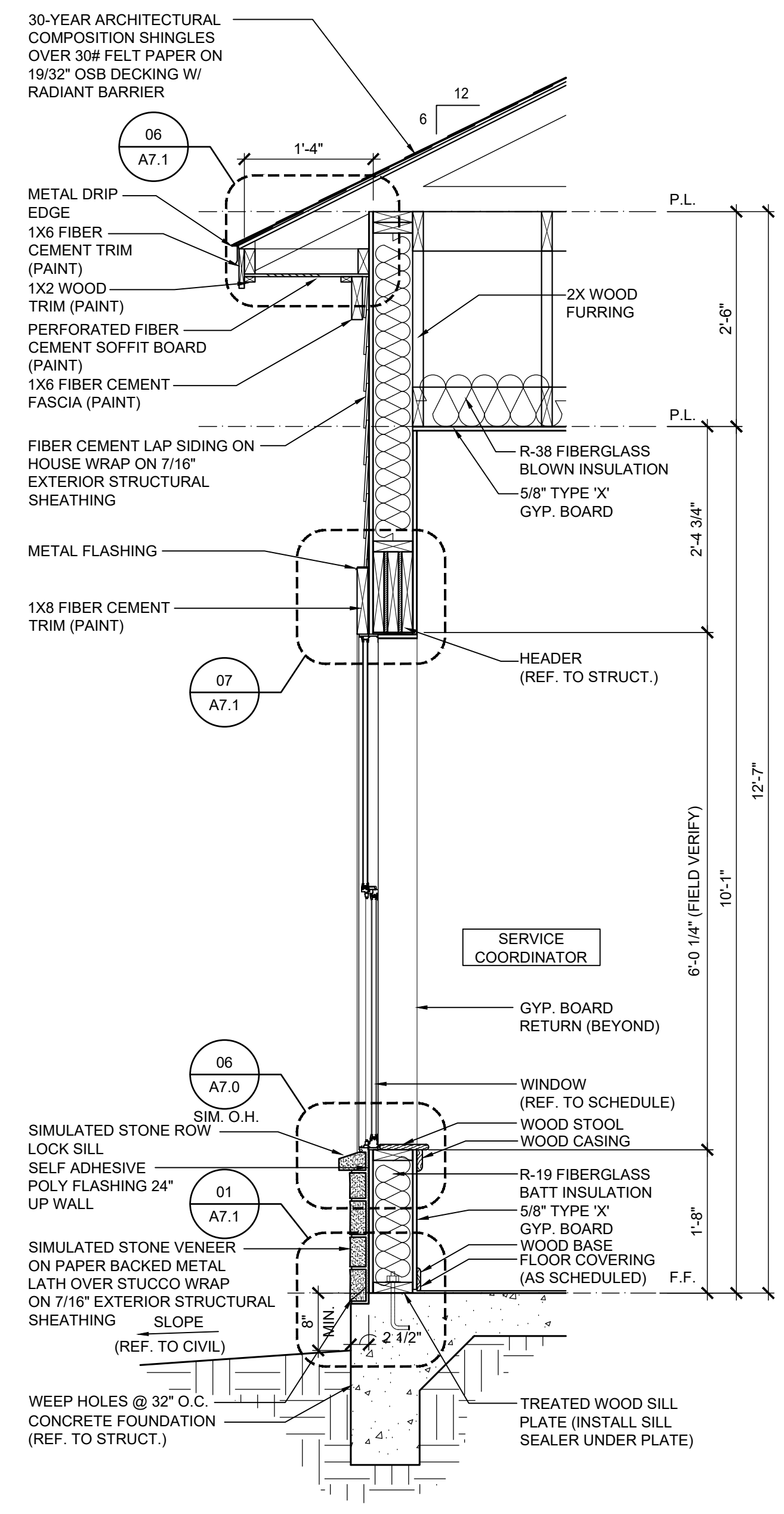
A5.1

CLUBHOUSE
 WALL
 SECTIONS
 COPYRIGHT © 2019



NOTE: SEE STRUCTURAL DRAWINGS FOR FOUNDATION AND FOOTING DETAILS.

02 CLUBHOUSE EXTERIOR WALL SECTION @ COV'D PORCH
 3/4" = 1'-0"



NOTE: SEE STRUCTURAL DRAWINGS FOR FOUNDATION AND FOOTING DETAILS.

01 CLUBHOUSE EXTERIOR WALL SECTION @ WINDOW W/SIM STONE AND SIDING
 3/4" = 1'-0"

STONEBRIDGE OF KELSEY PARK LUBBOCK, TEXAS

DATE: XX/XX/2019

PROJECT NUMBER:
19073

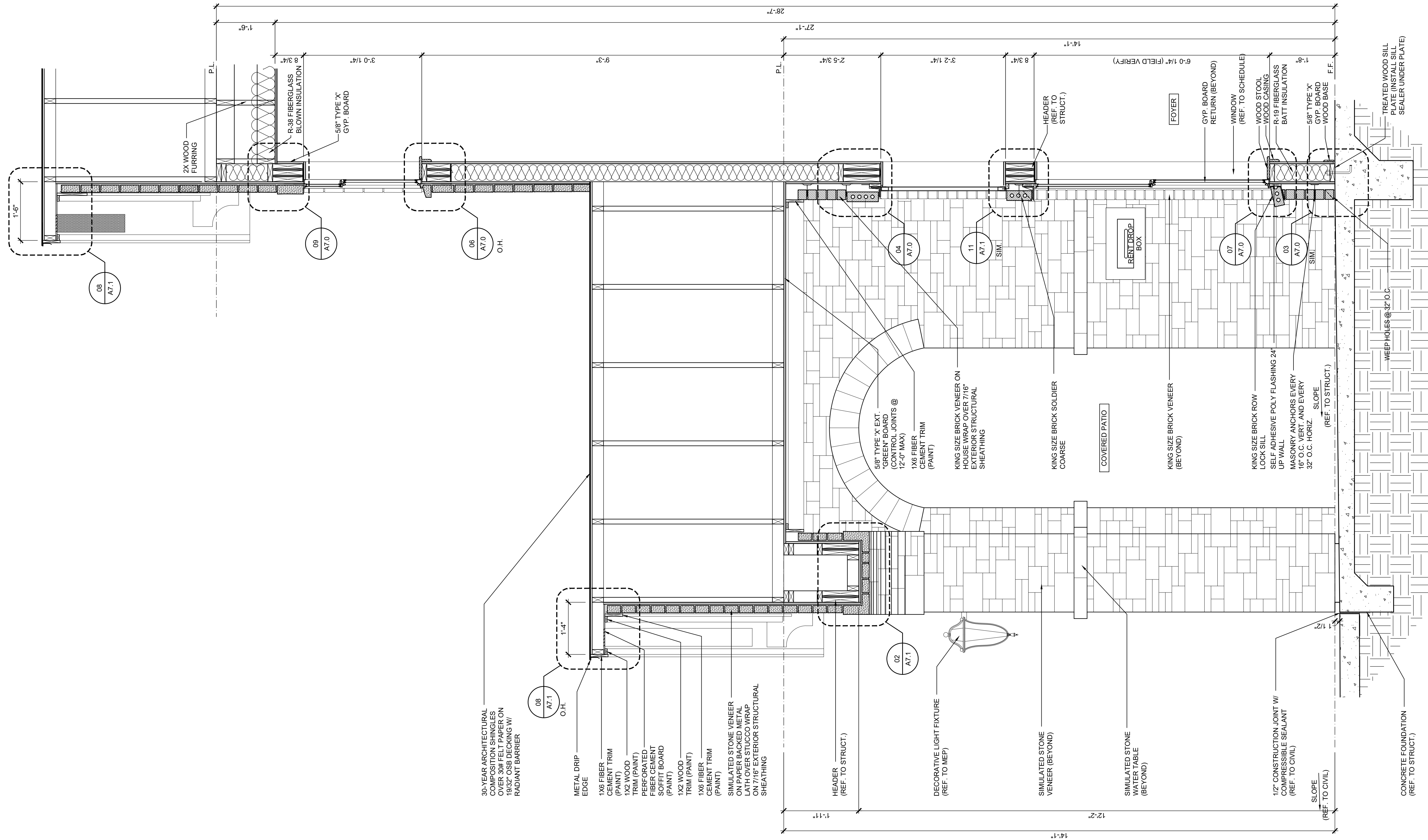
REVISIONS

NO	DATE

ISSUED FOR:
REVIEW

SHEET NUMBER

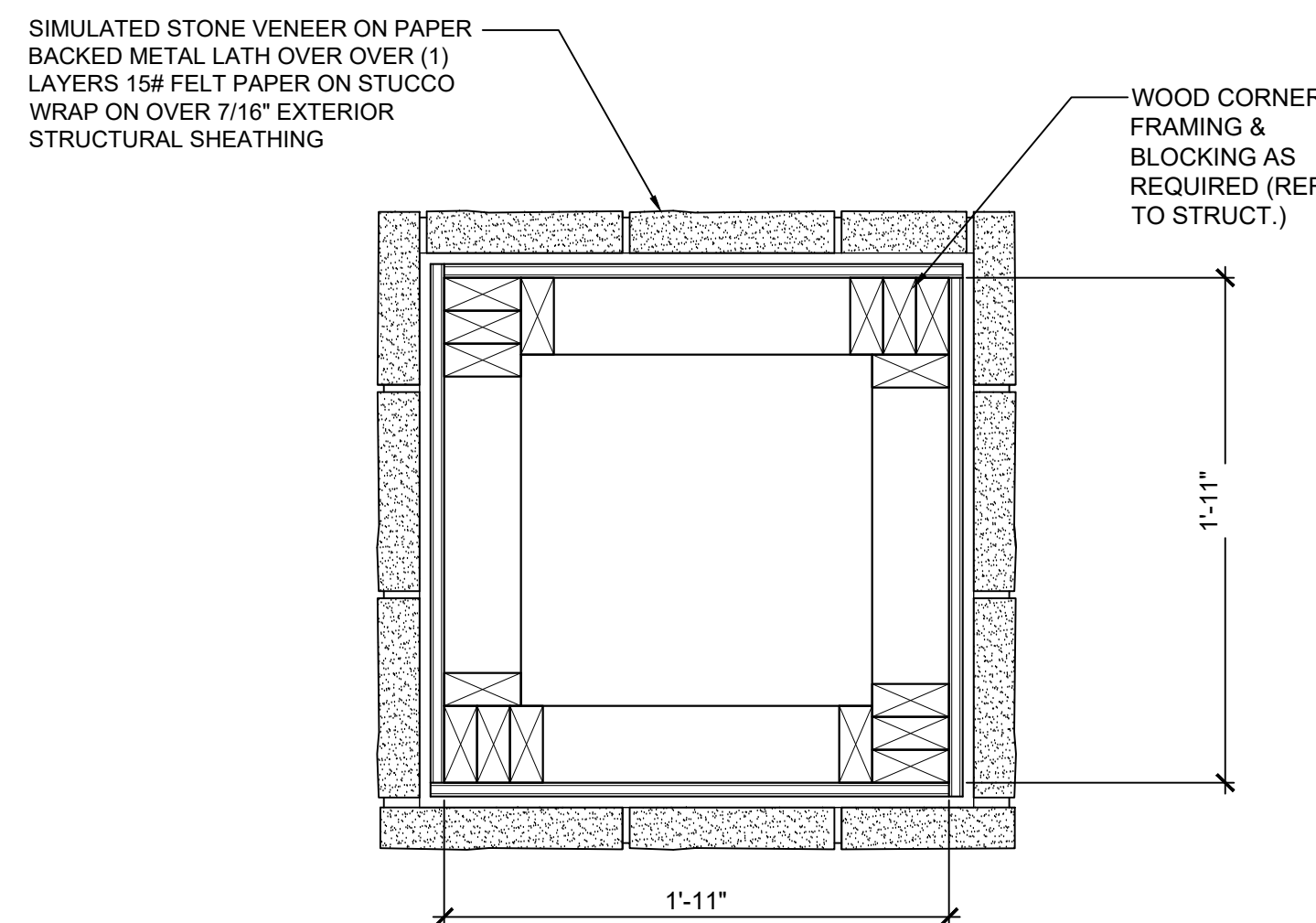
A5.2 CLUBHOUSE WALL SECTIONS



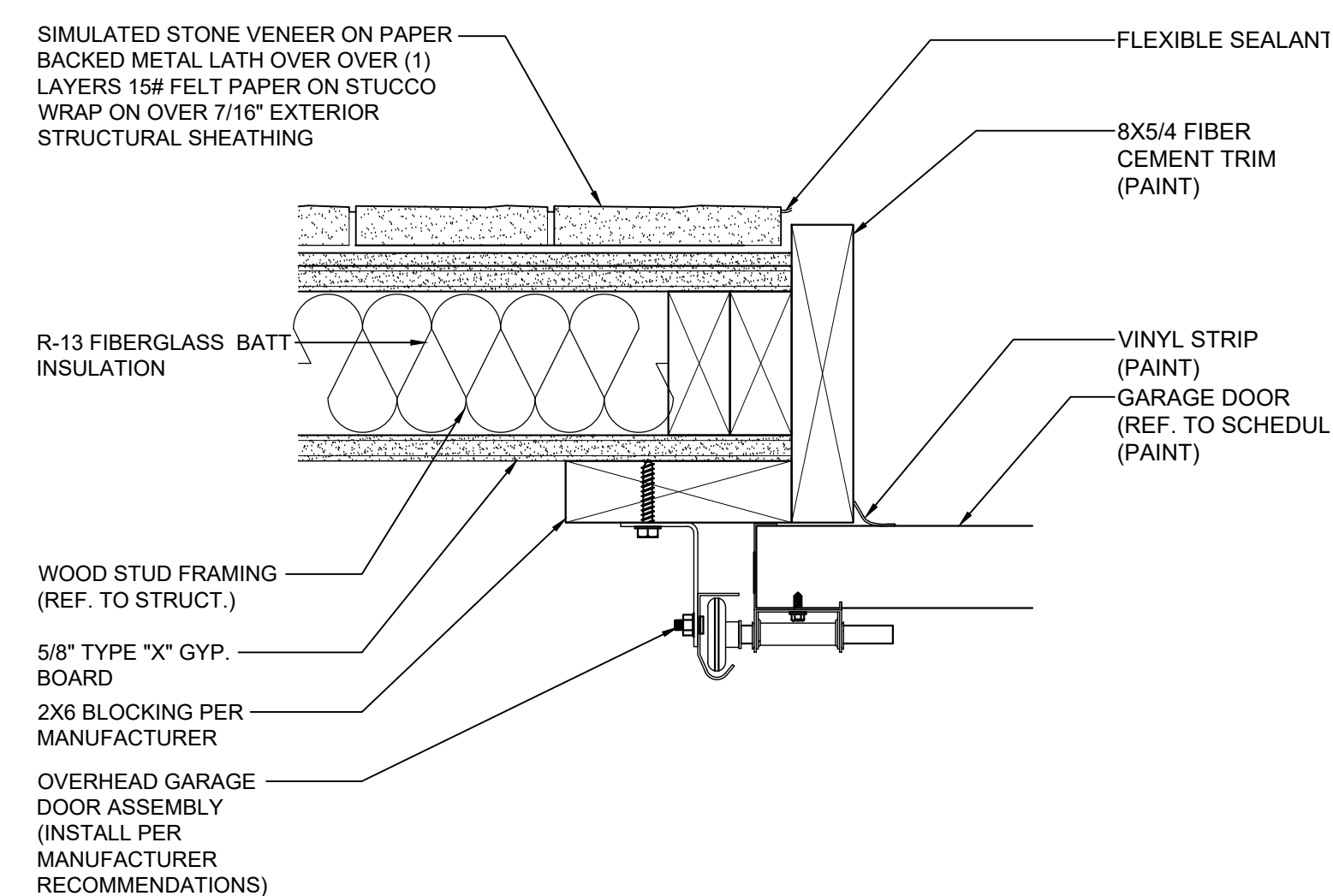
01 CLUBHOUSE EXTERIOR WALL SECTION @ COVID PORCH

3/4" = 1'-0"

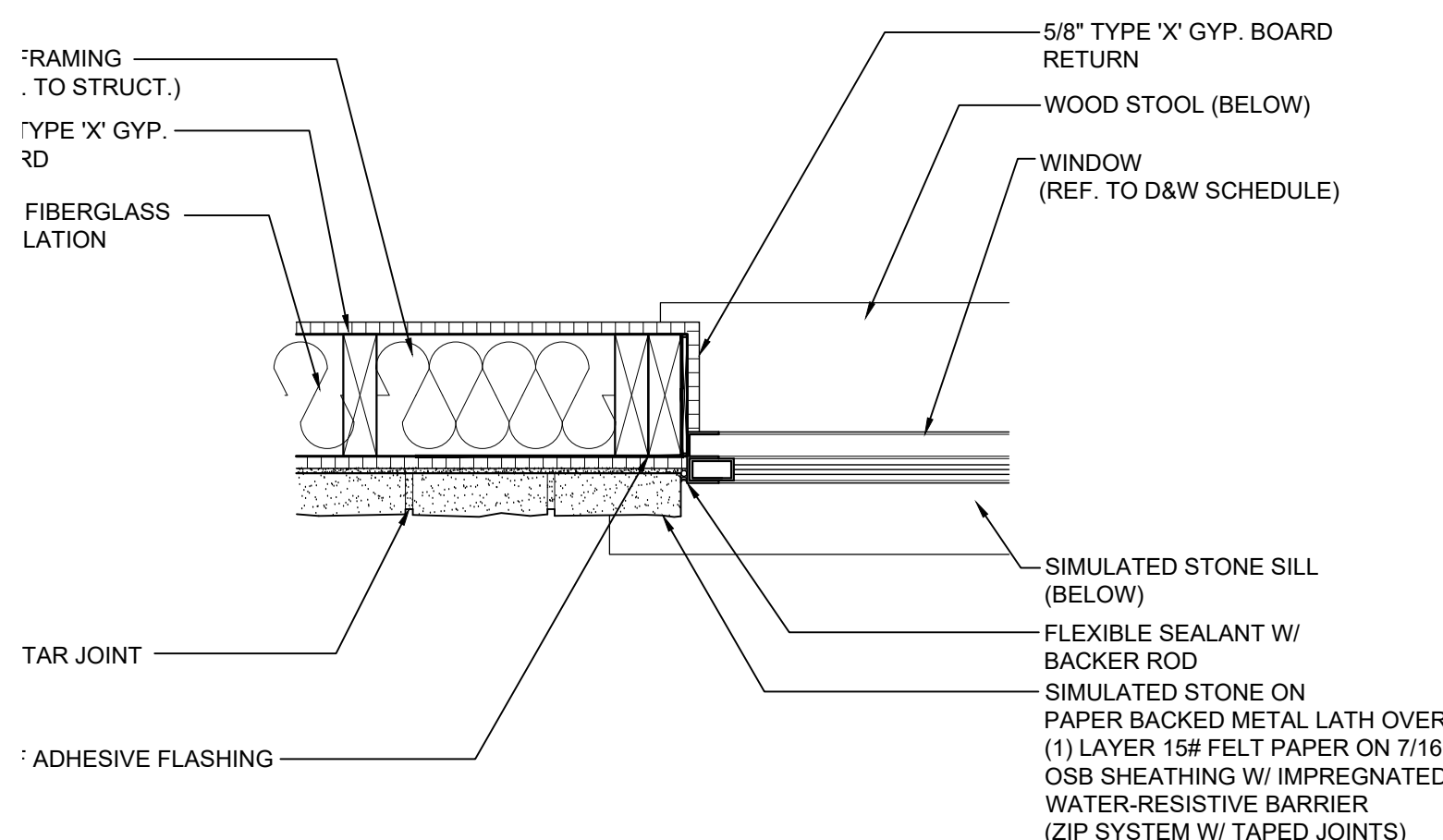
NO	DATE



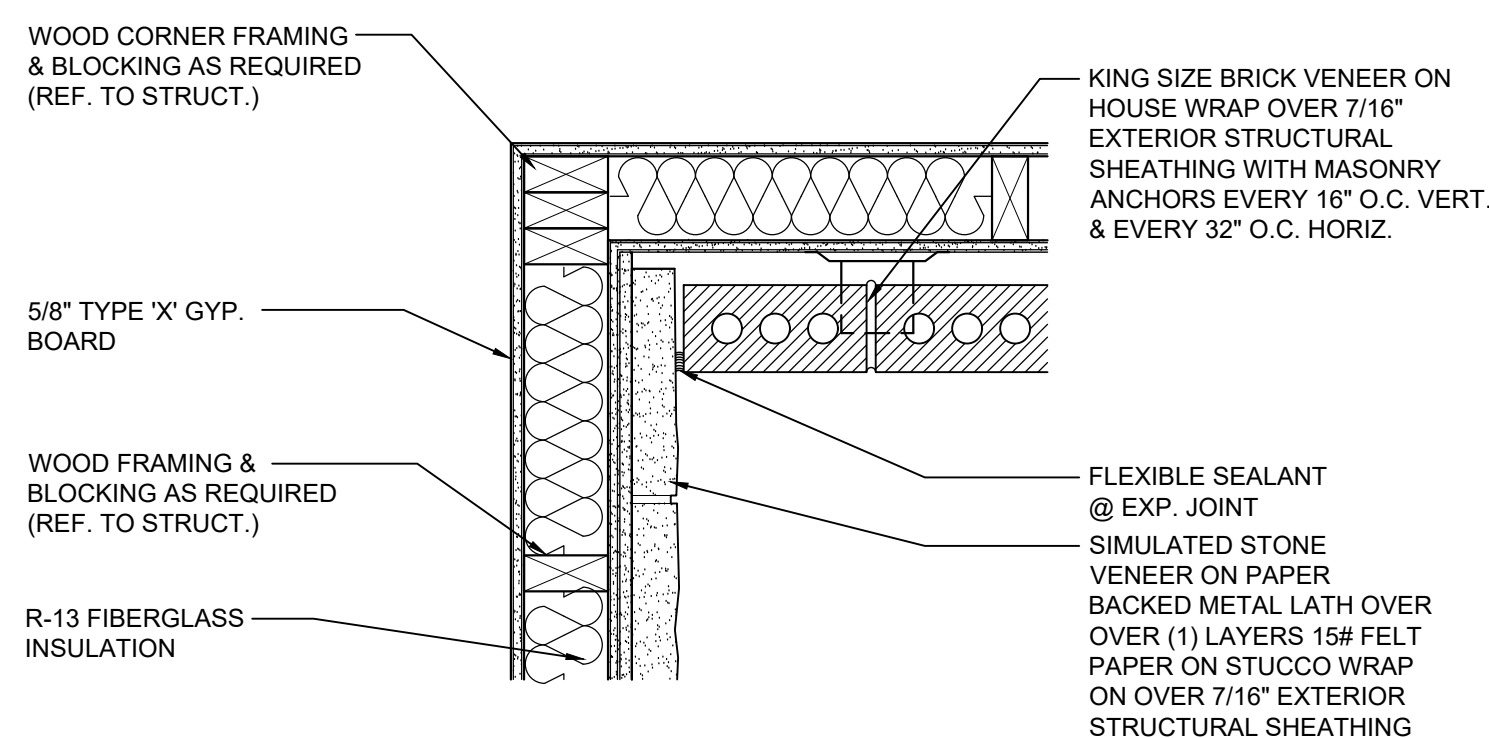
10 PLAN DETAIL @ SIM. STONE PILASTER
 1 1/2" = 1'-0"



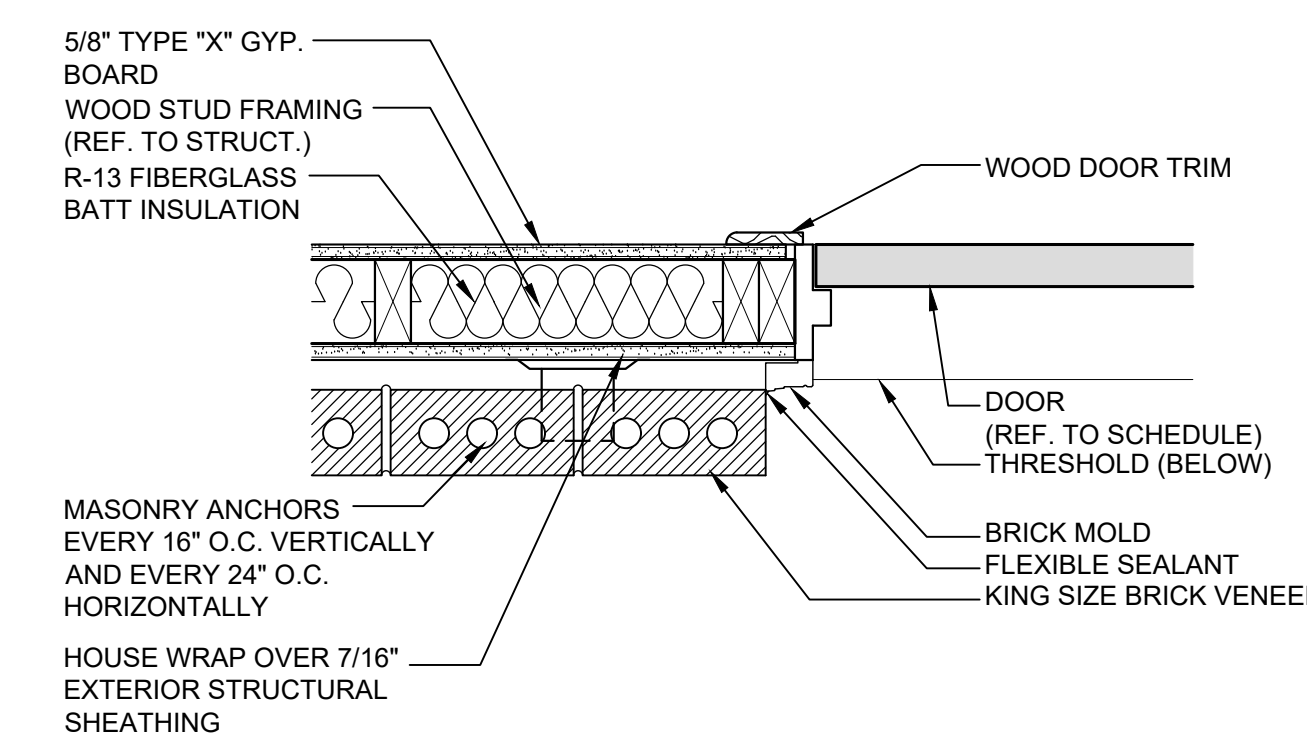
09 DETAIL @ O.H. DOOR - SIM. STONE
 3" = 1'-0"



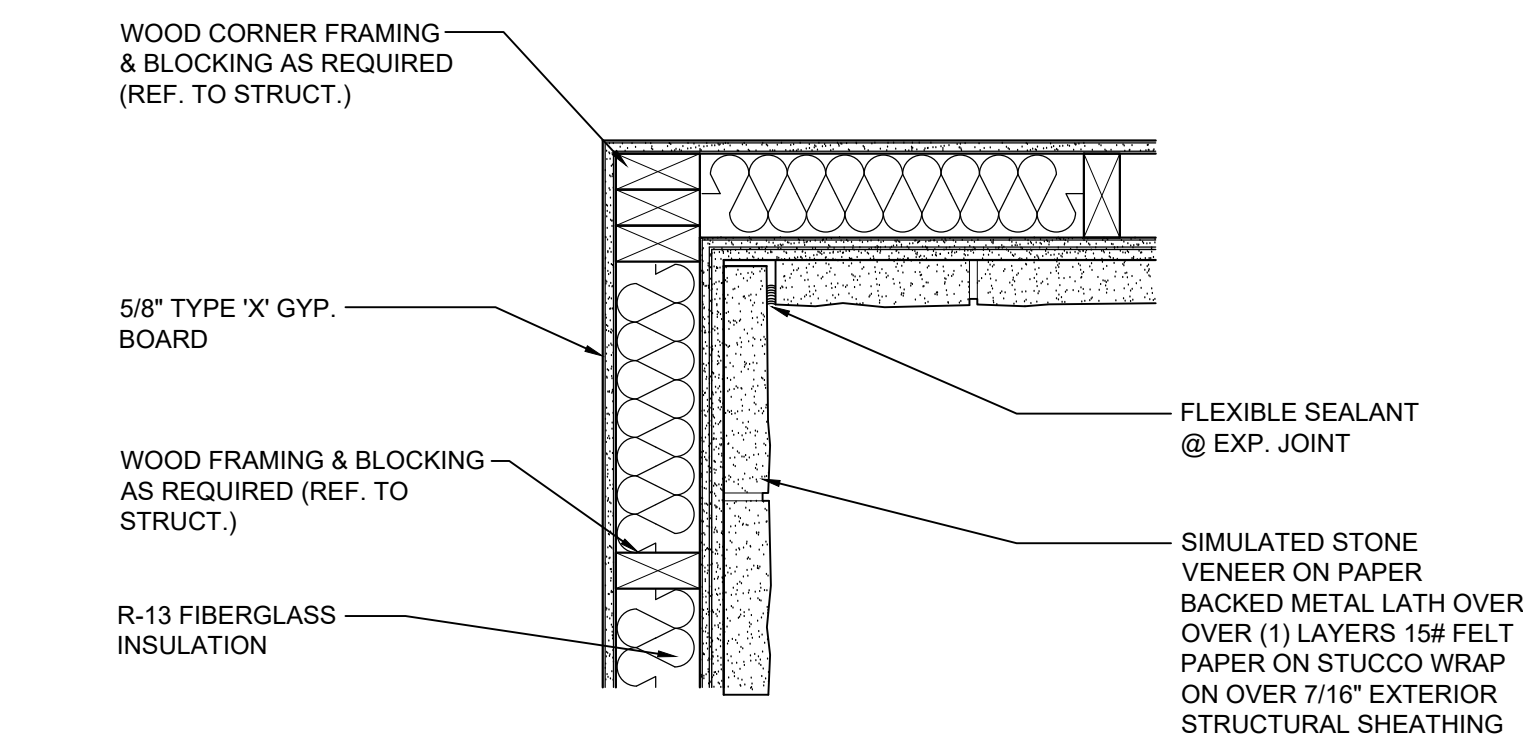
08 DETAIL @ STUCCO - WINDOW JAMB
 1 1/2" = 1'-0"



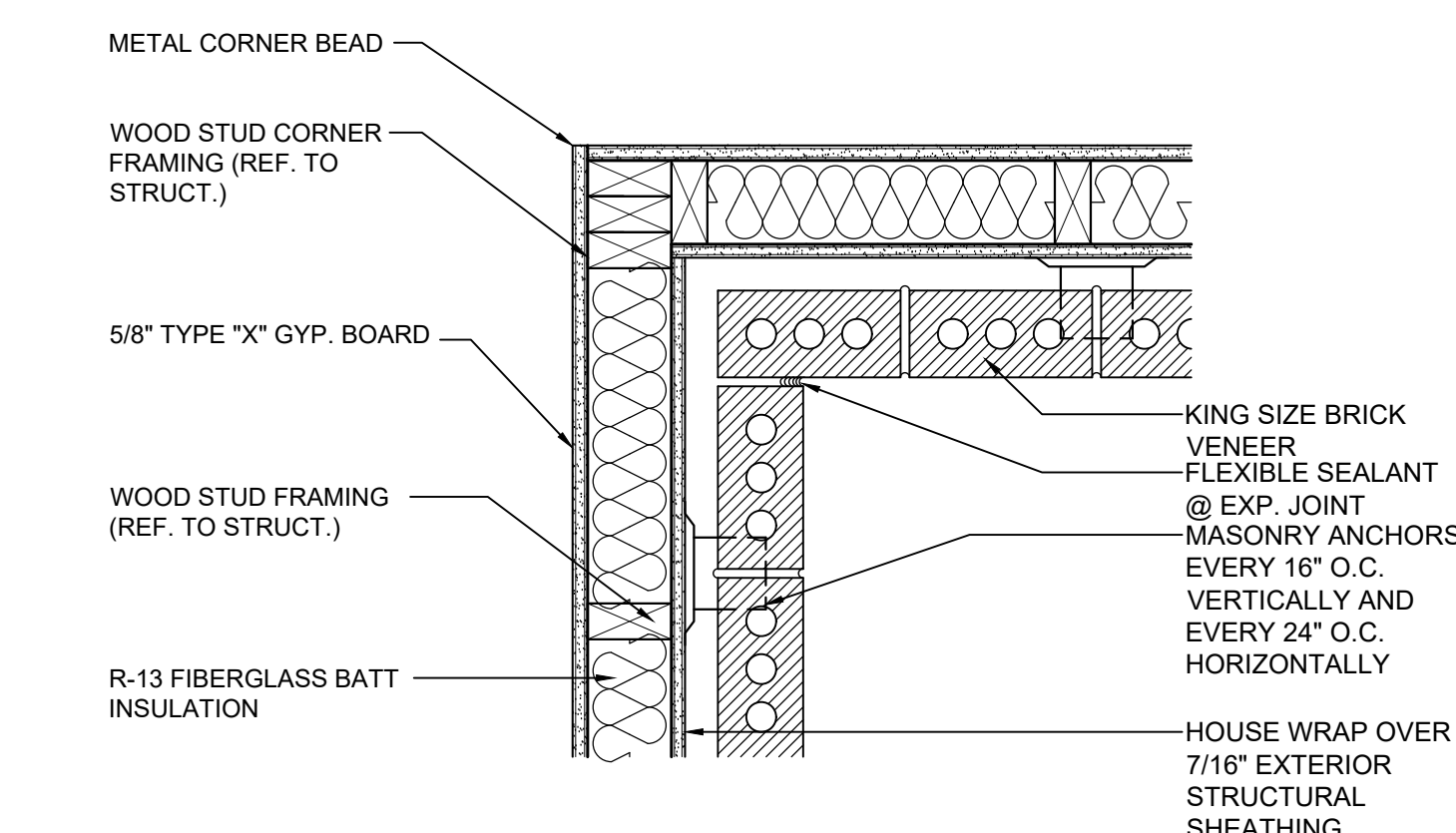
07 DETAIL @ SIM. STONE/ BRICK
 1 1/2" = 1'-0"



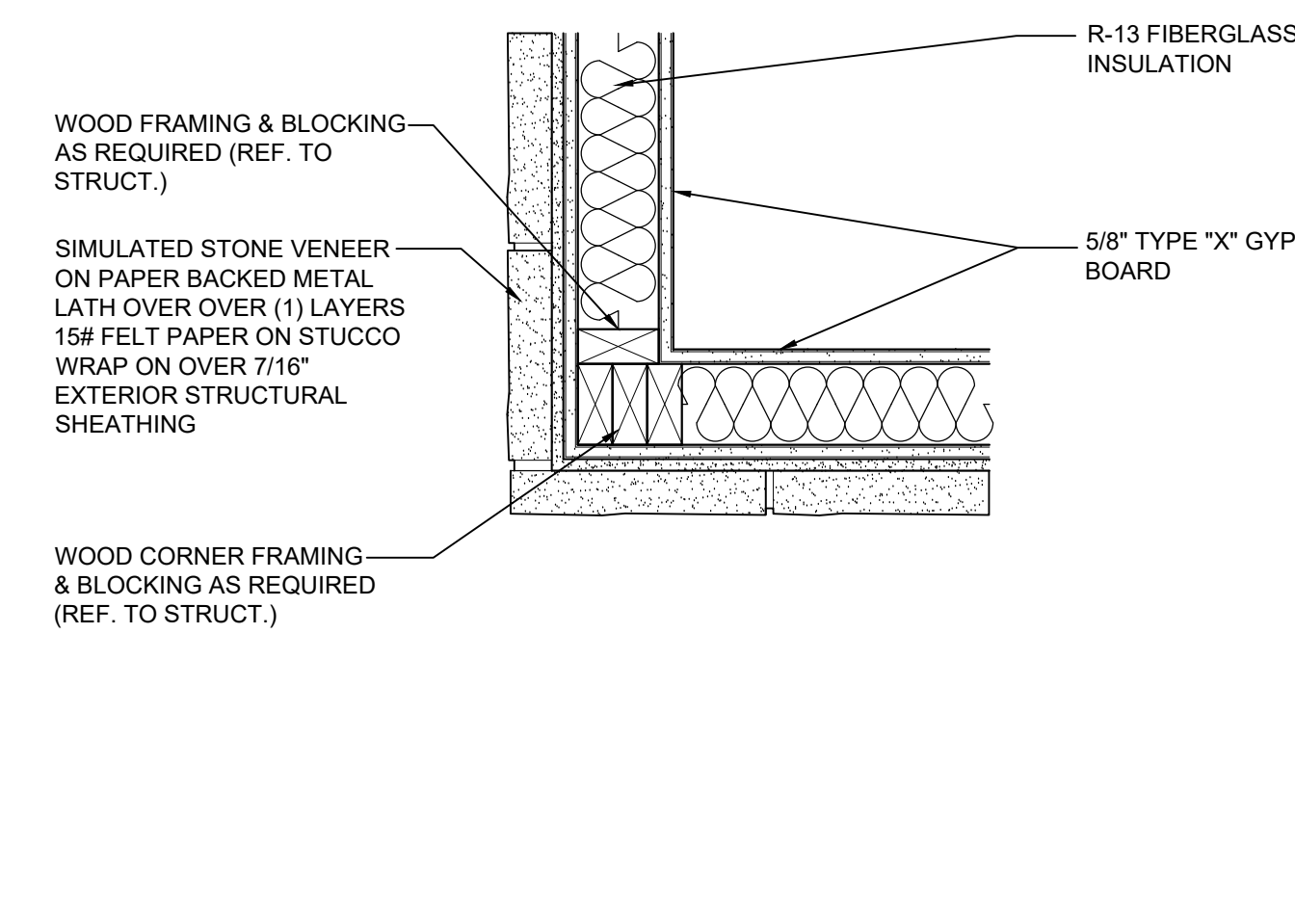
06 DETAIL @ DOOR JAMB - BRICK
 1-1/2" = 1'-0"



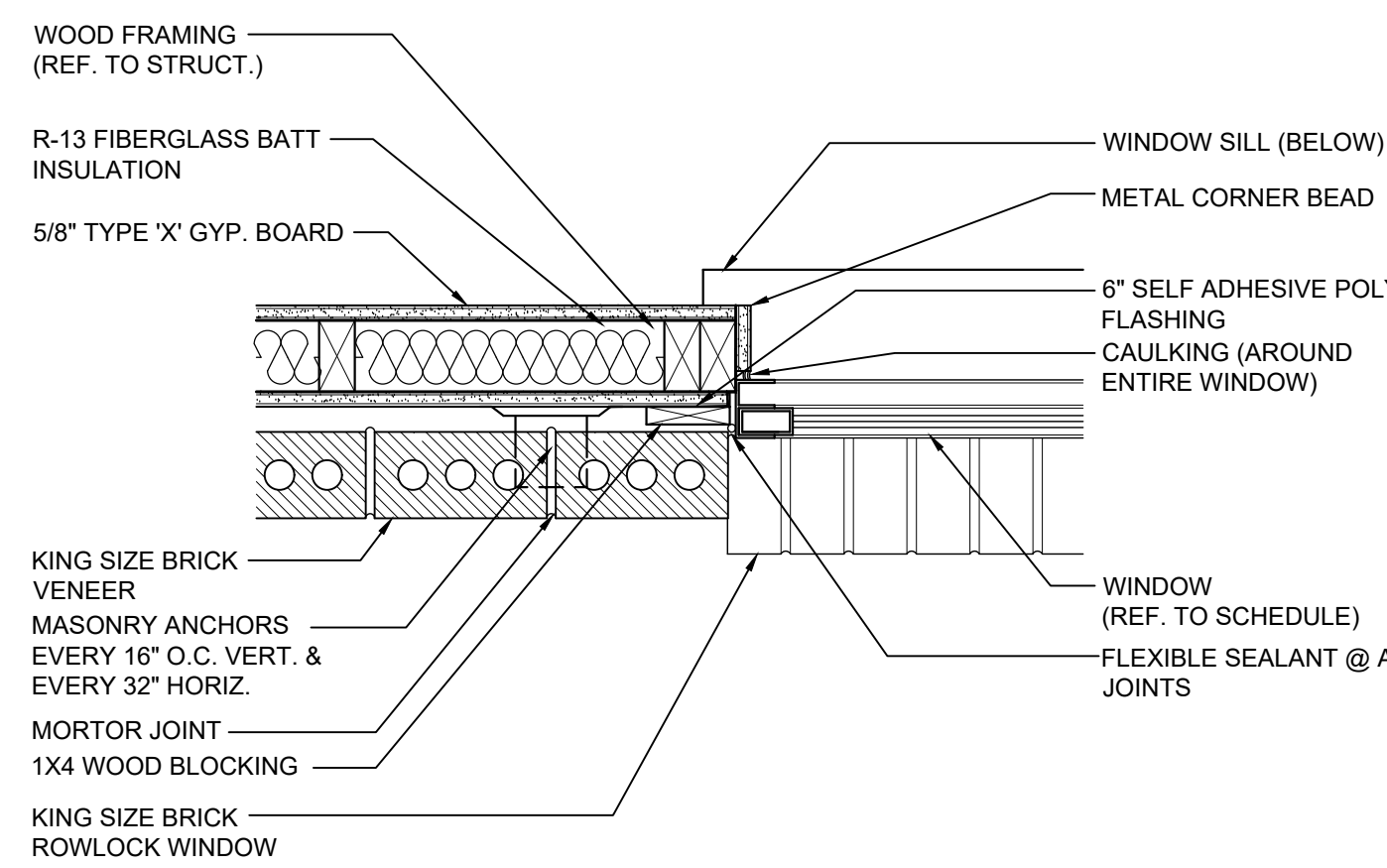
05 DETAIL @ SIM. STONE - INSIDE CORNER
 1 1/2" = 1'-0"



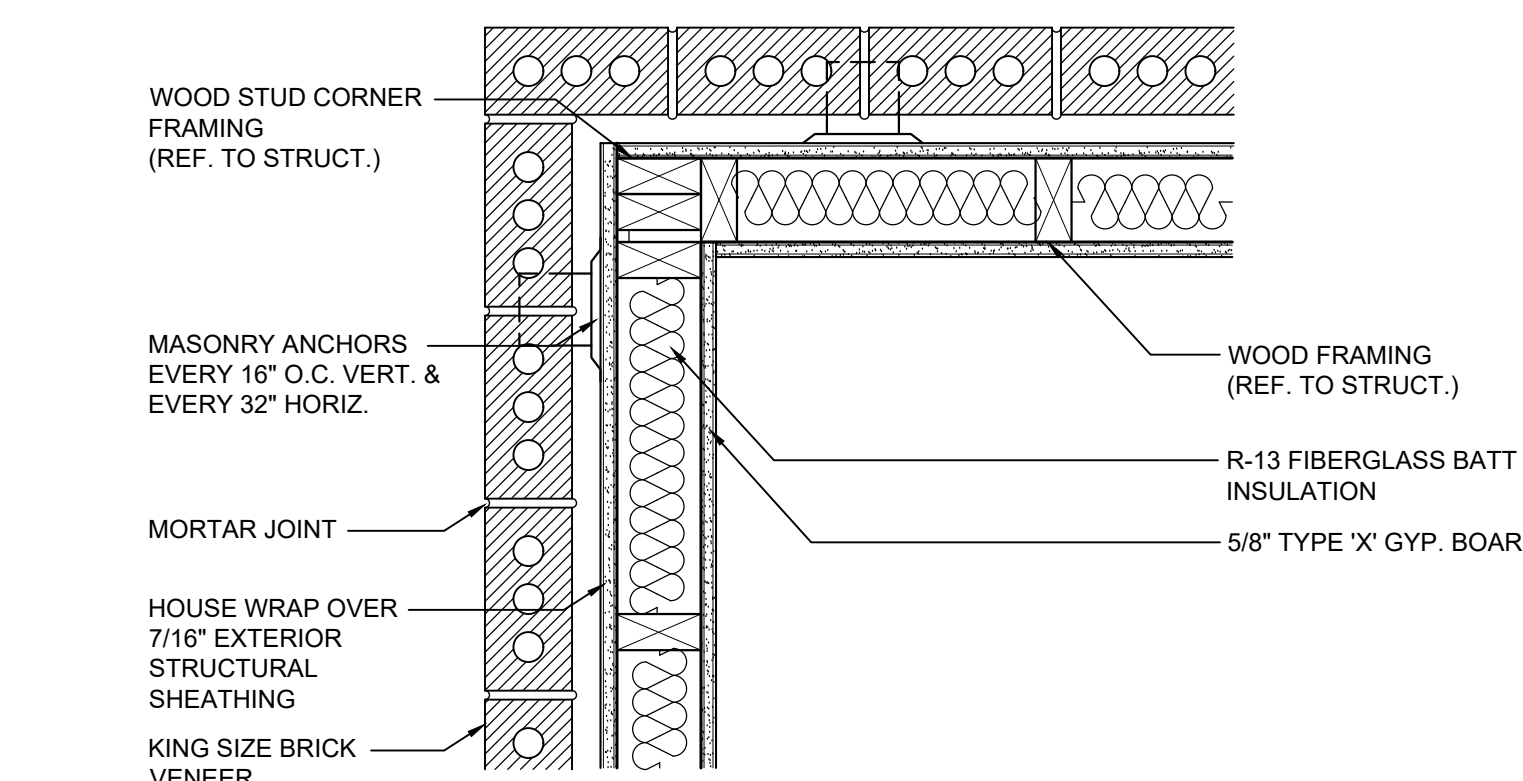
04 DETAIL @ BRICK - INSIDE CORNER
 1-1/2" = 1'-0"



03 DETAIL @ SIM. STONE - OUTSIDE CORNER
 1 1/2" = 1'-0"



02 DETAIL @ BRICK - WINDOW JAMB
 1-1/2" = 1'-0"



01 DETAIL @ BRICK - OUTSIDE CORNER
 1 1/2" = 1'-0"

**STONEBRIDGE OF
 KELSEY PARK
 LUBBOCK, TEXAS**

DATE:
 XX/XX/2019

PROJECT NUMBER:
 19073

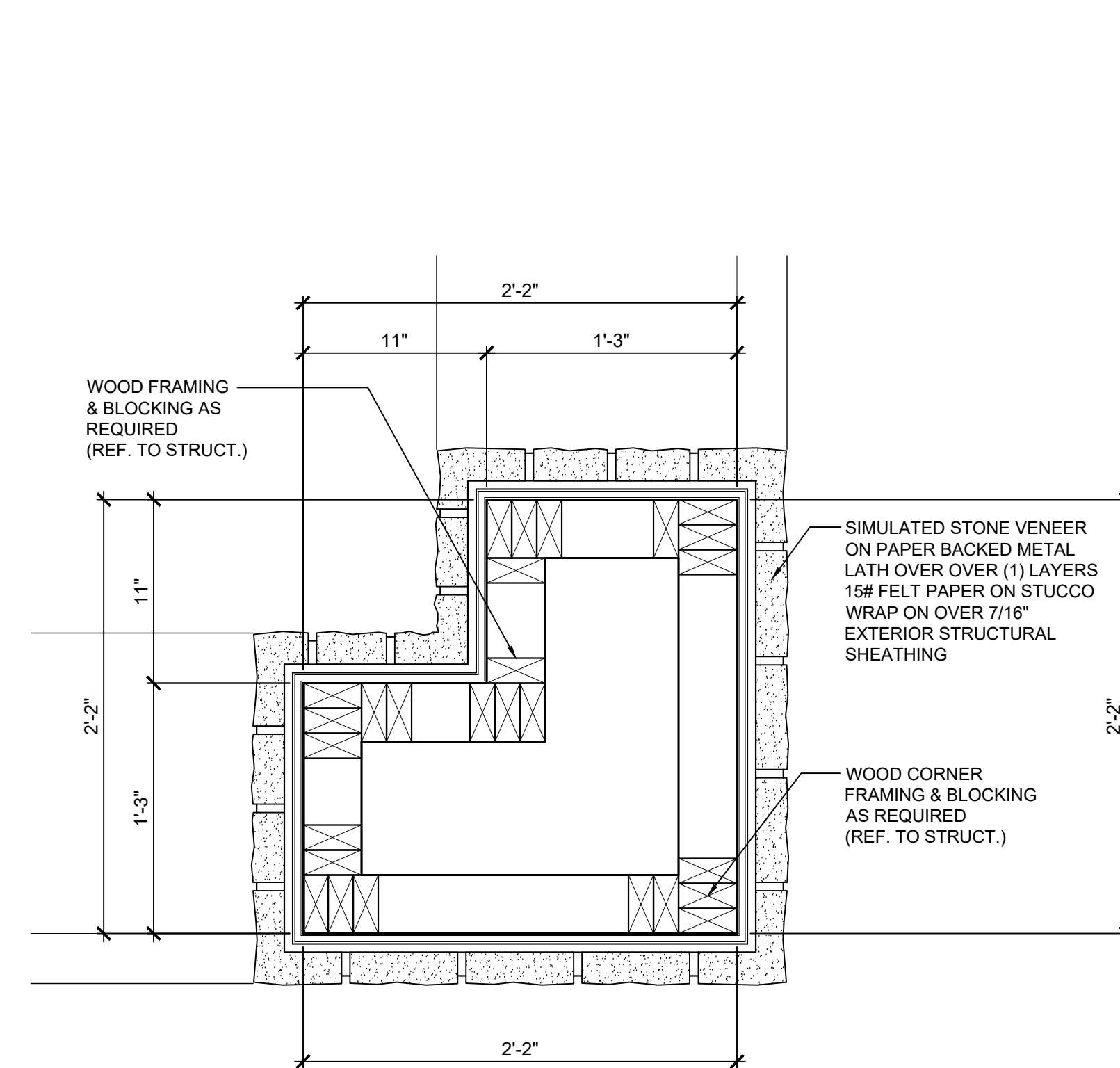
REVISIONS

NO	DATE

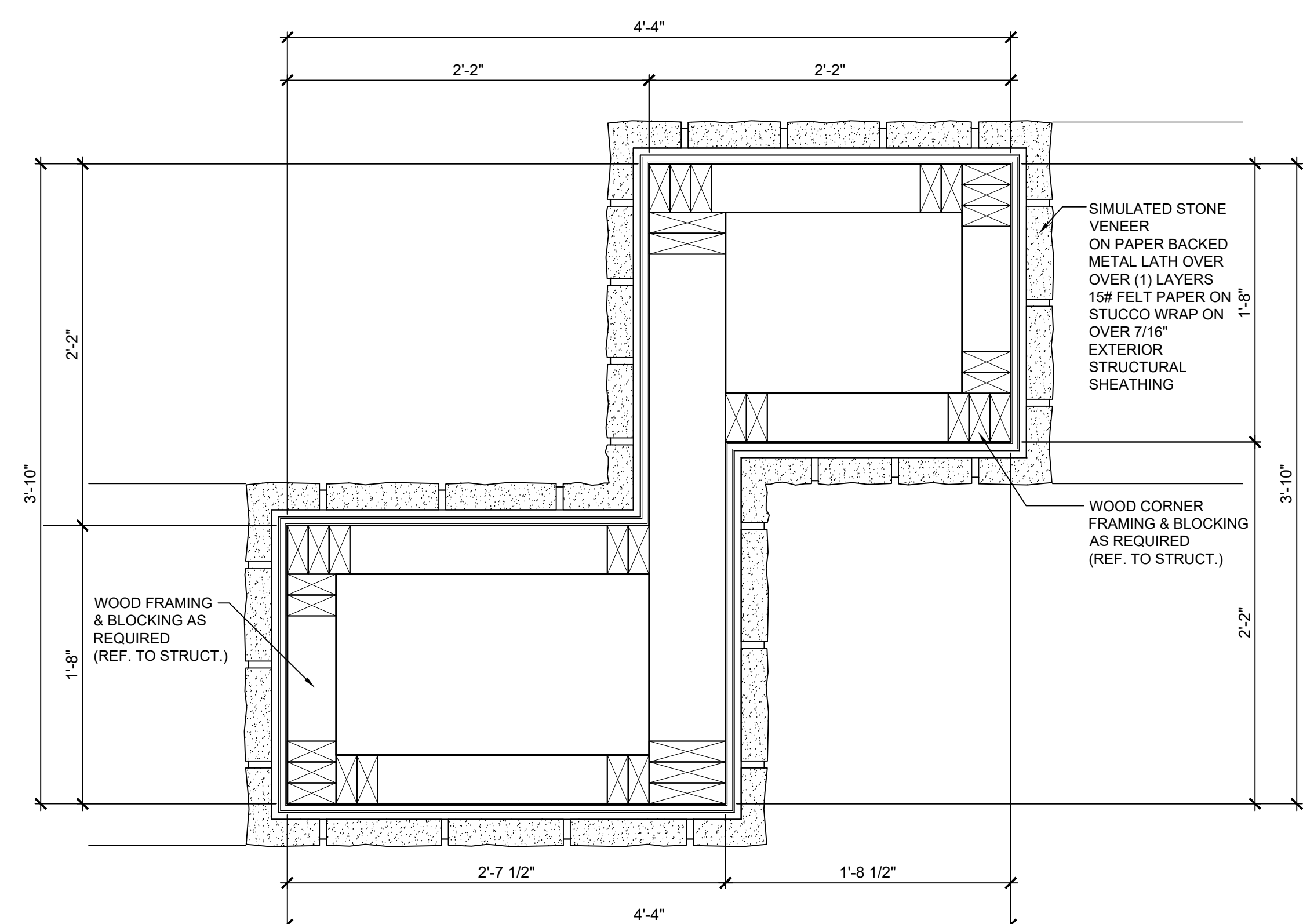
ISSUED FOR:
 REVIEW

SHEET NUMBER

**A6.1
 PLAN DETAILS**

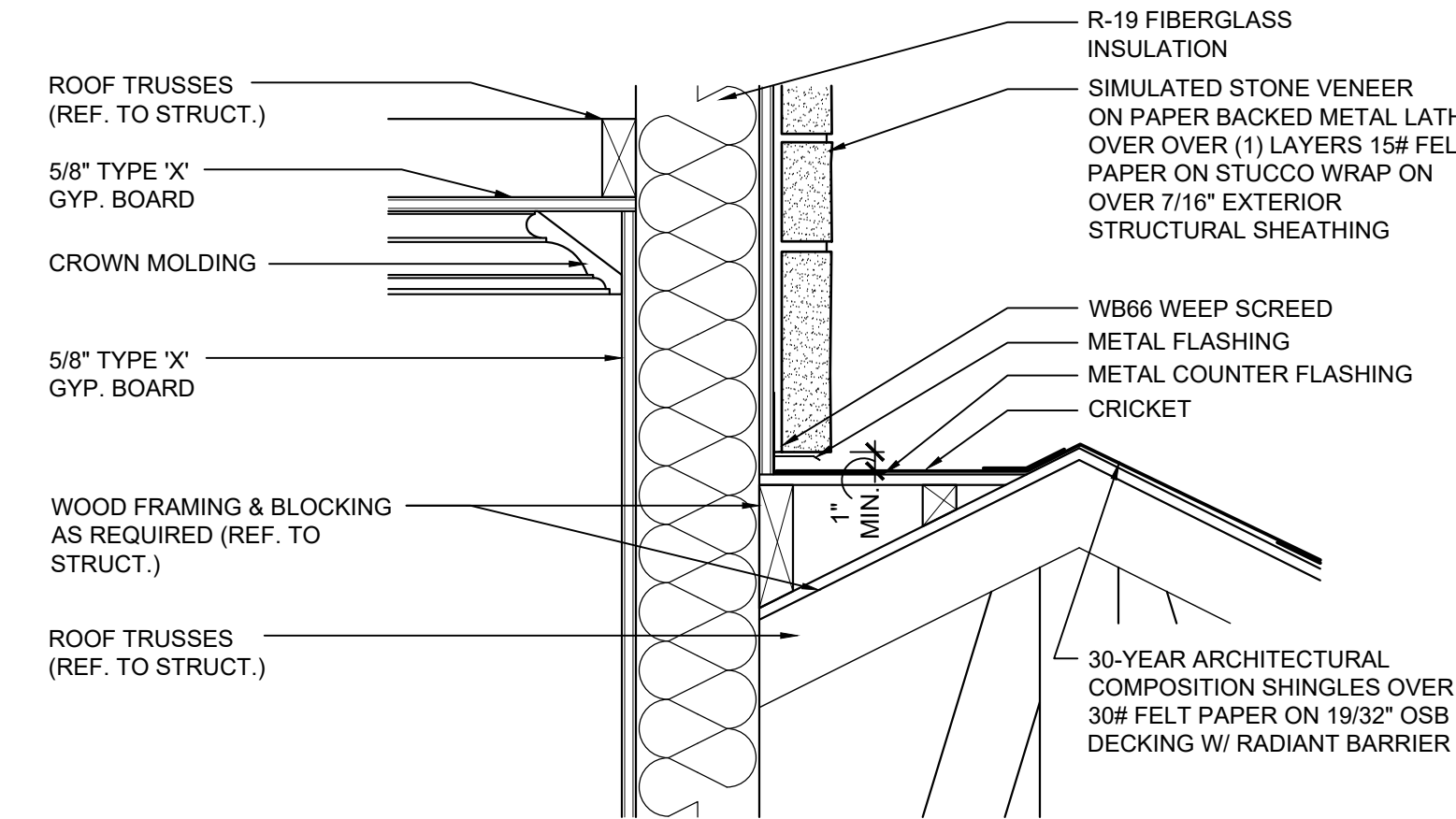


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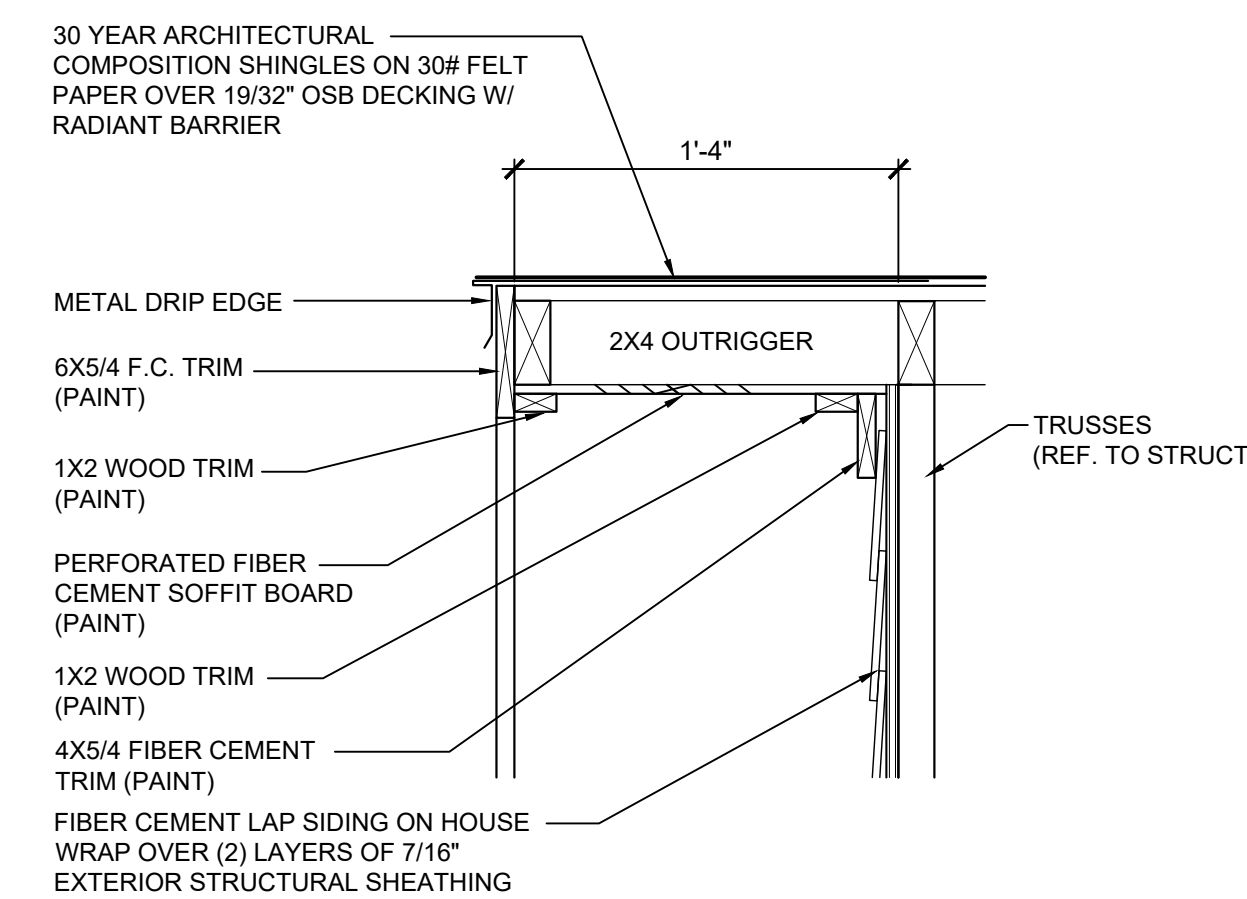


01 DETAIL @ PILASTER & SIMULATED STONE
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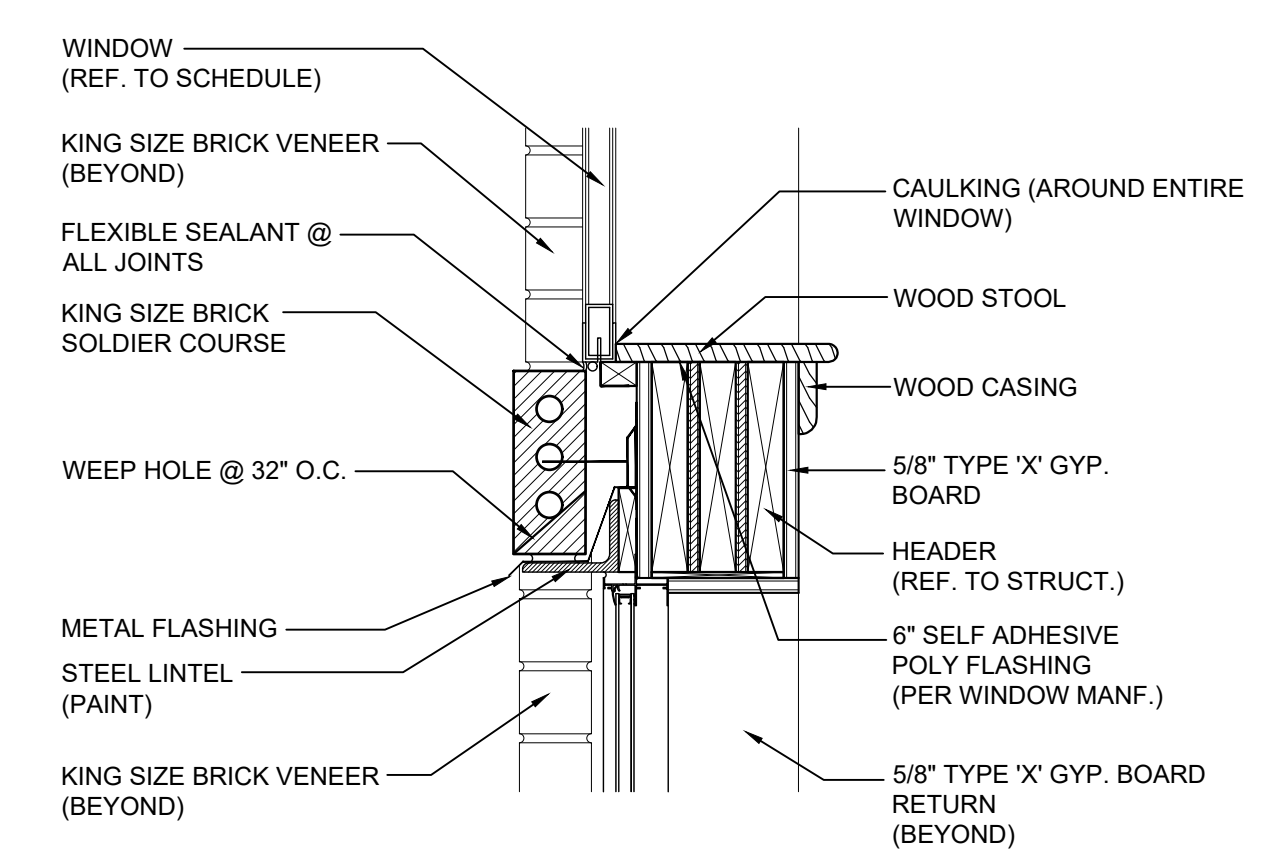
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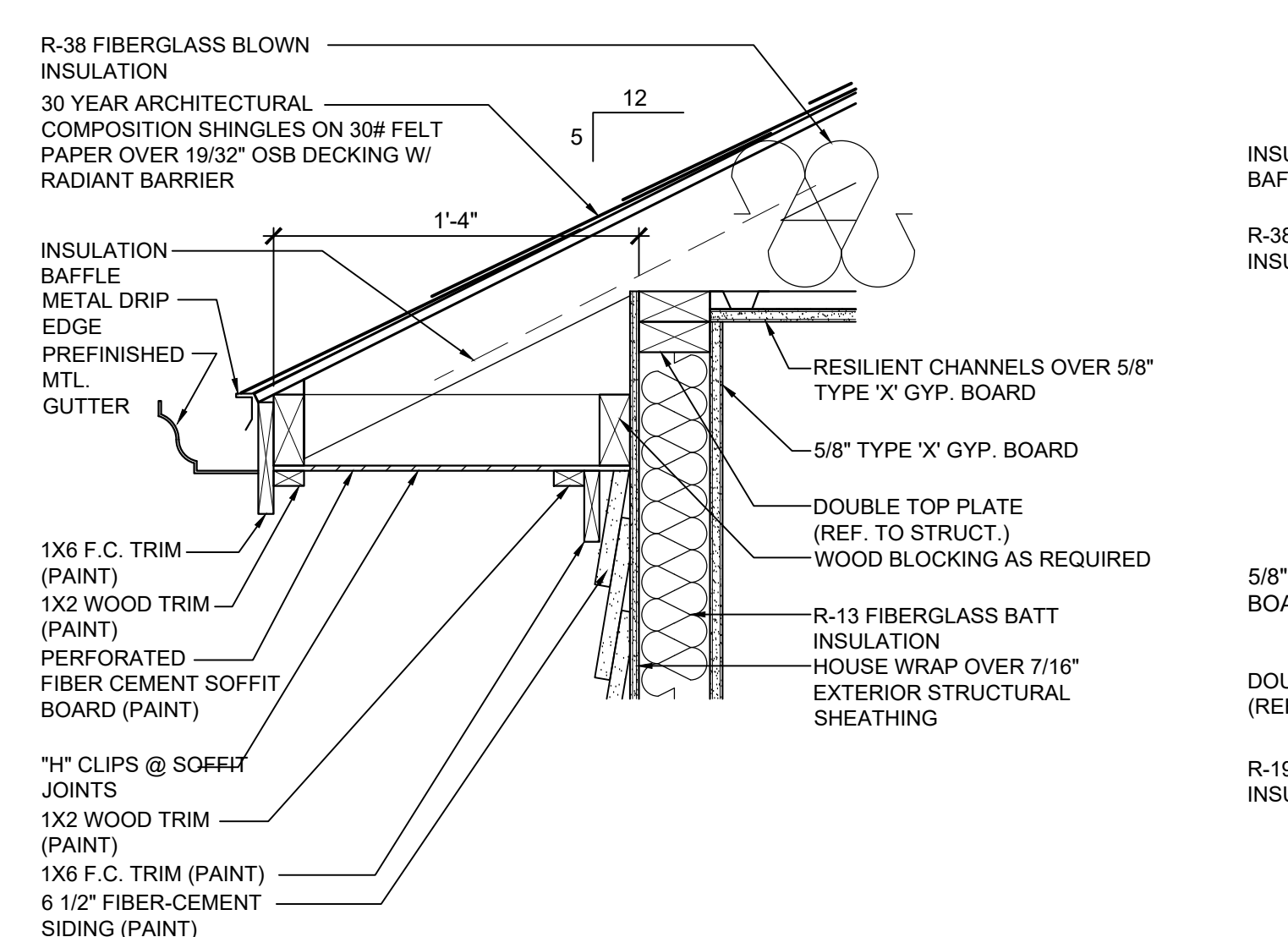
09 DETAIL @ CRICKET & SIM. STONE 1 1/2" = 1'-0"



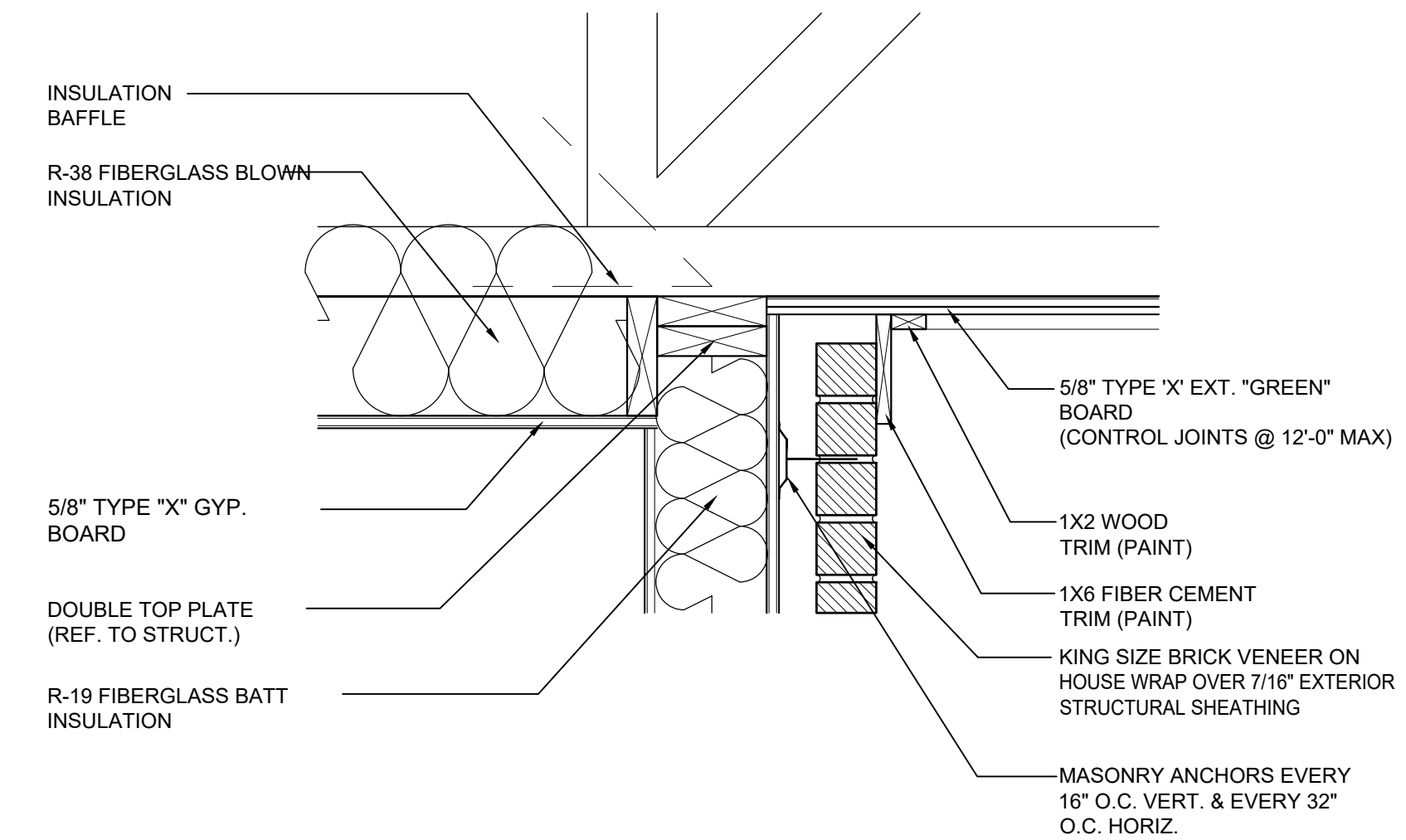
10 DETAIL @ EAVE - SIDING 1 1/2" = 1'-0"



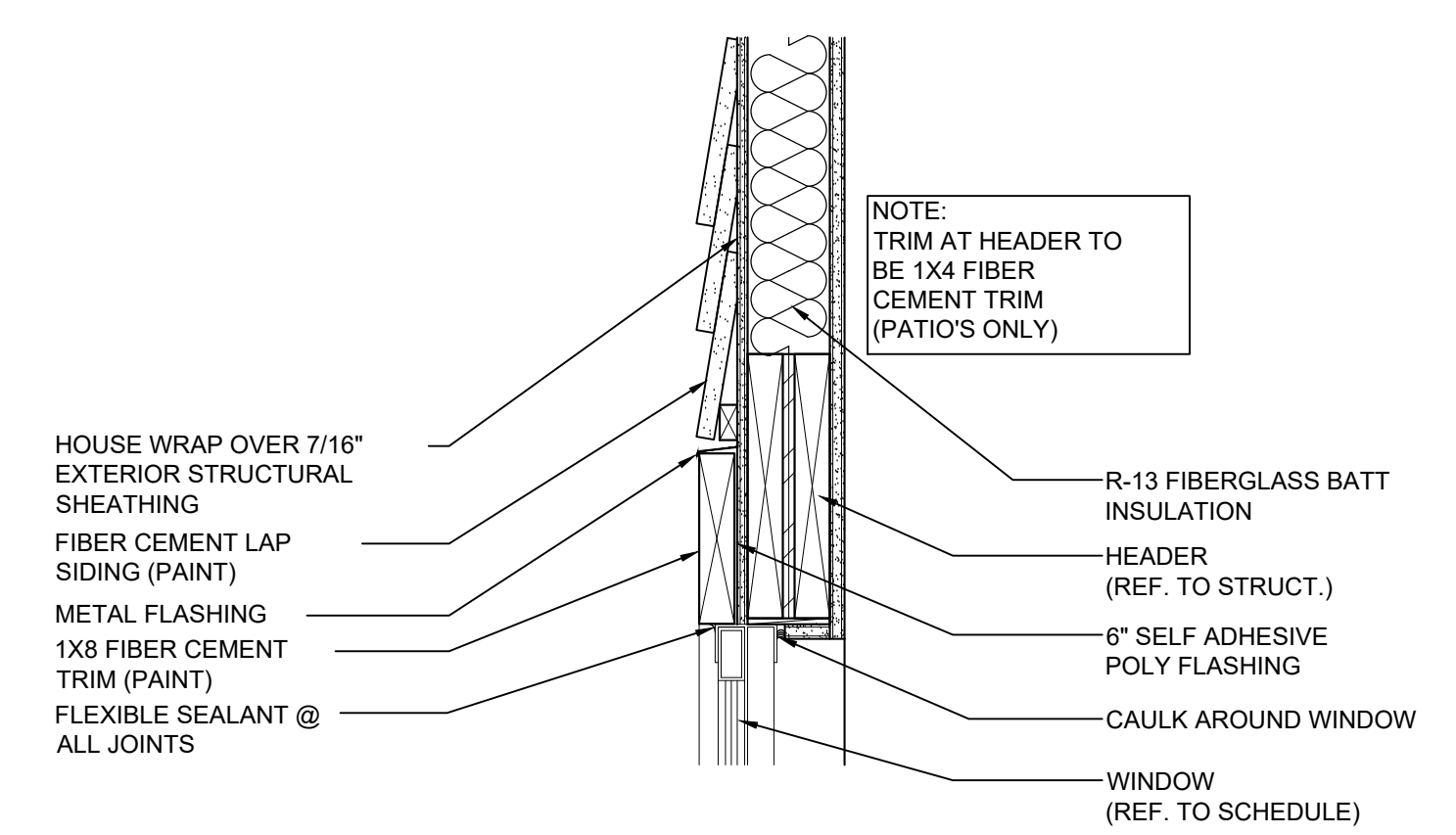
11 DETAIL @ BRICK SILL/HEADER 1 1/2" = 1'-0"



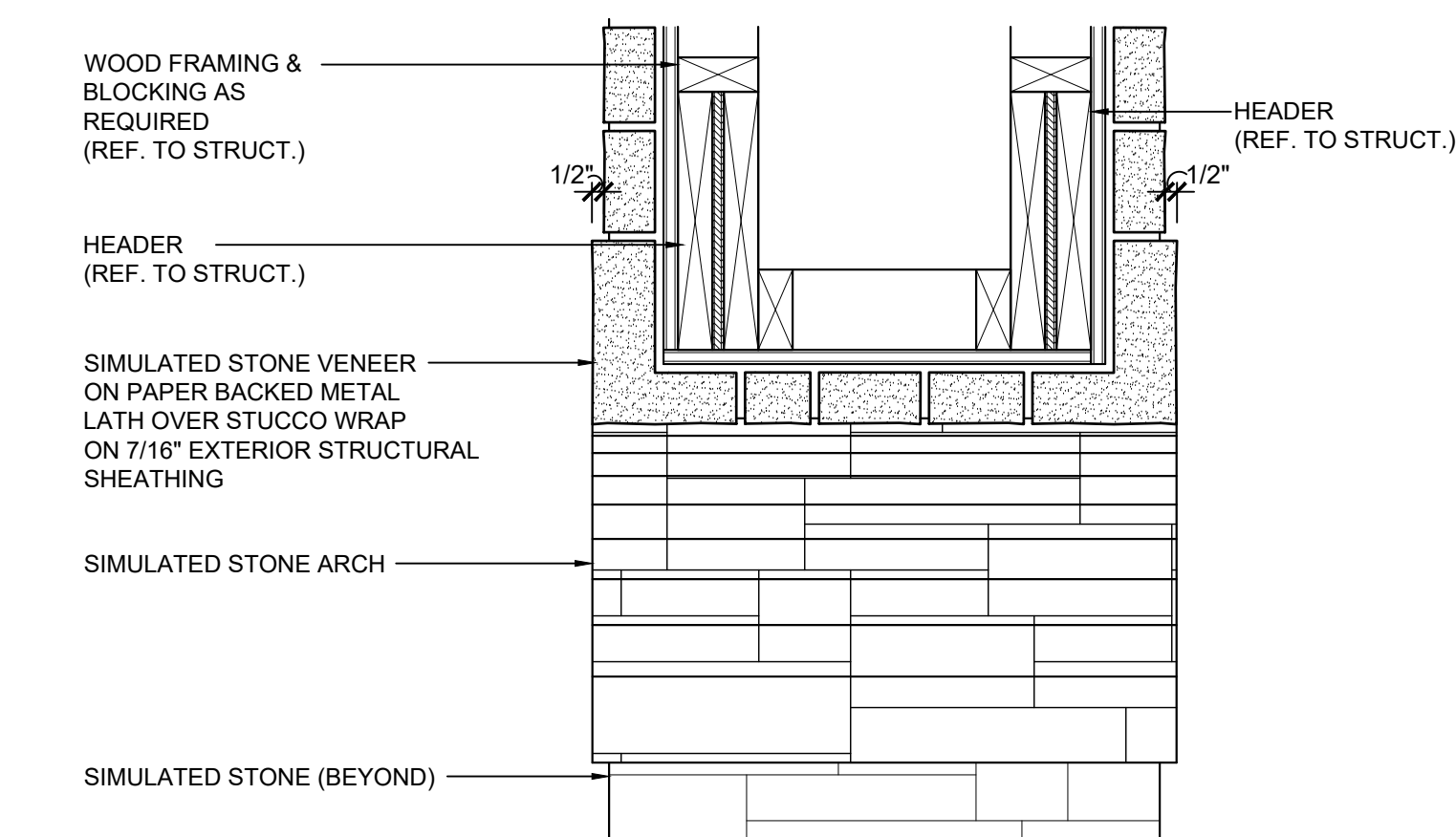
06 DETAIL @ EAVE - SIDING 1 1/2" = 1'-0"



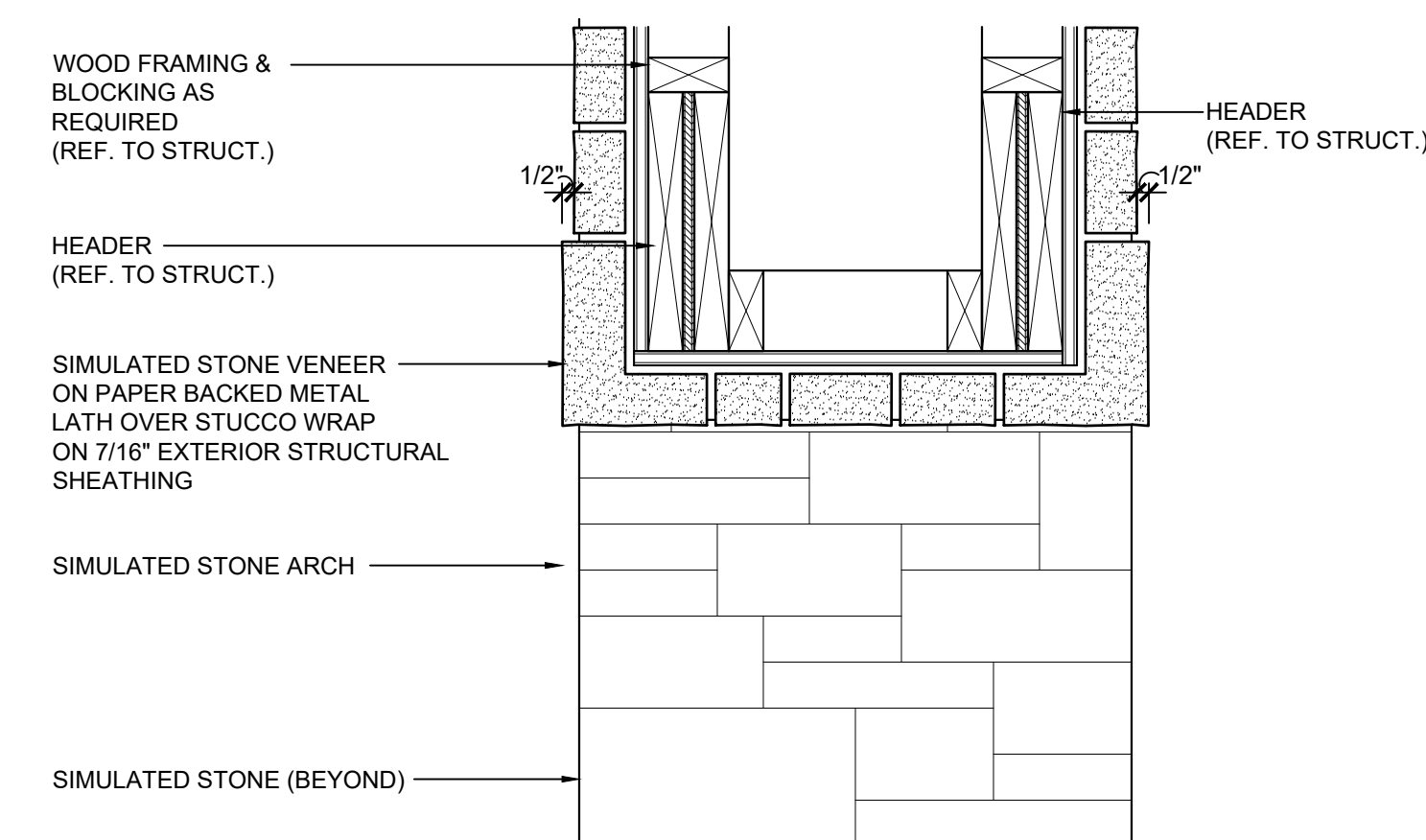
05 DETAIL @ EAVE - BRICK 1 1/2" = 1'-0"



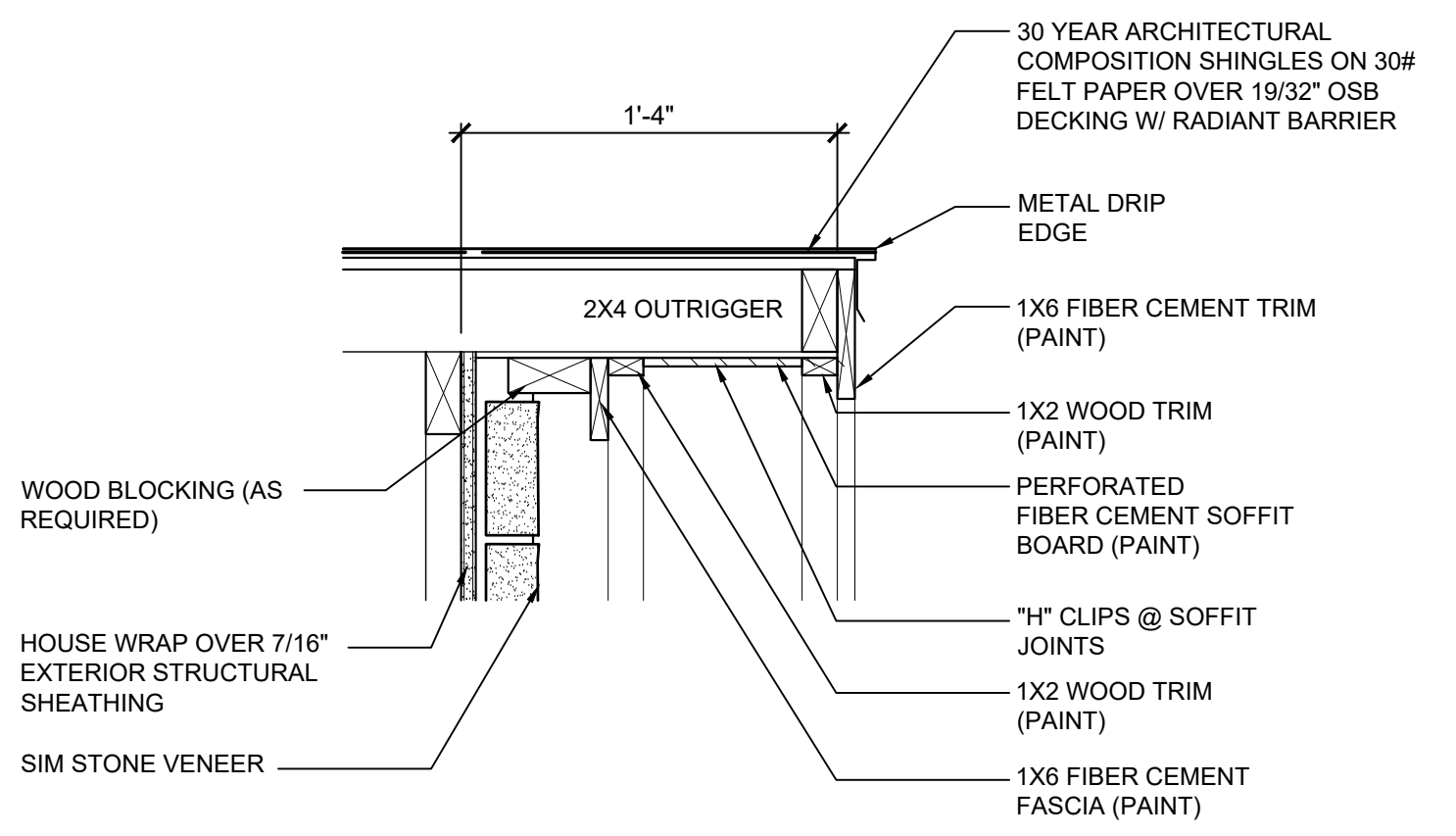
07 DETAIL @ WINDOW HEADER - SIDING 1 1/2" = 1'-0"



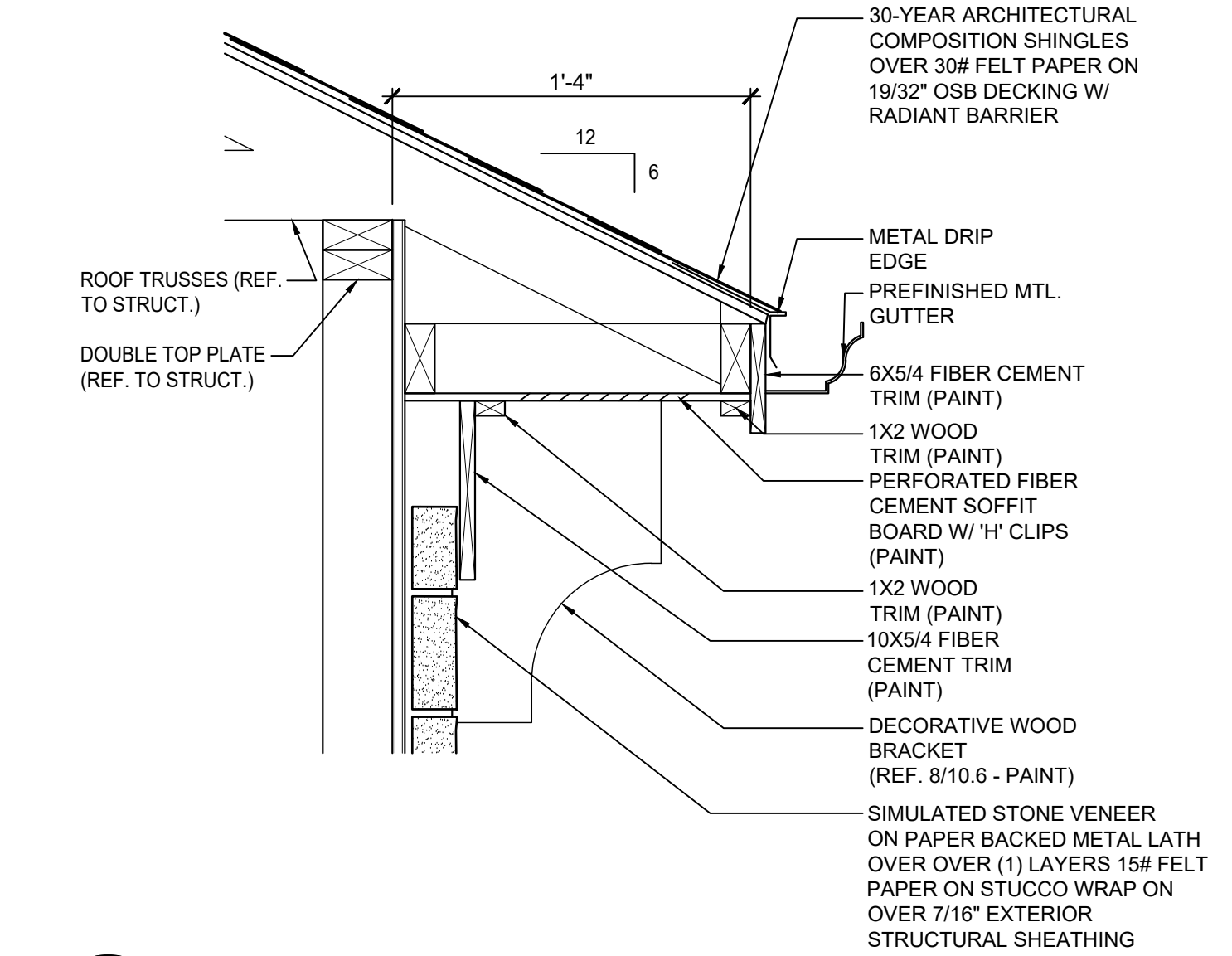
02 DETAIL @ SIM. STONE ARCH 1 1/2" = 1'-0"



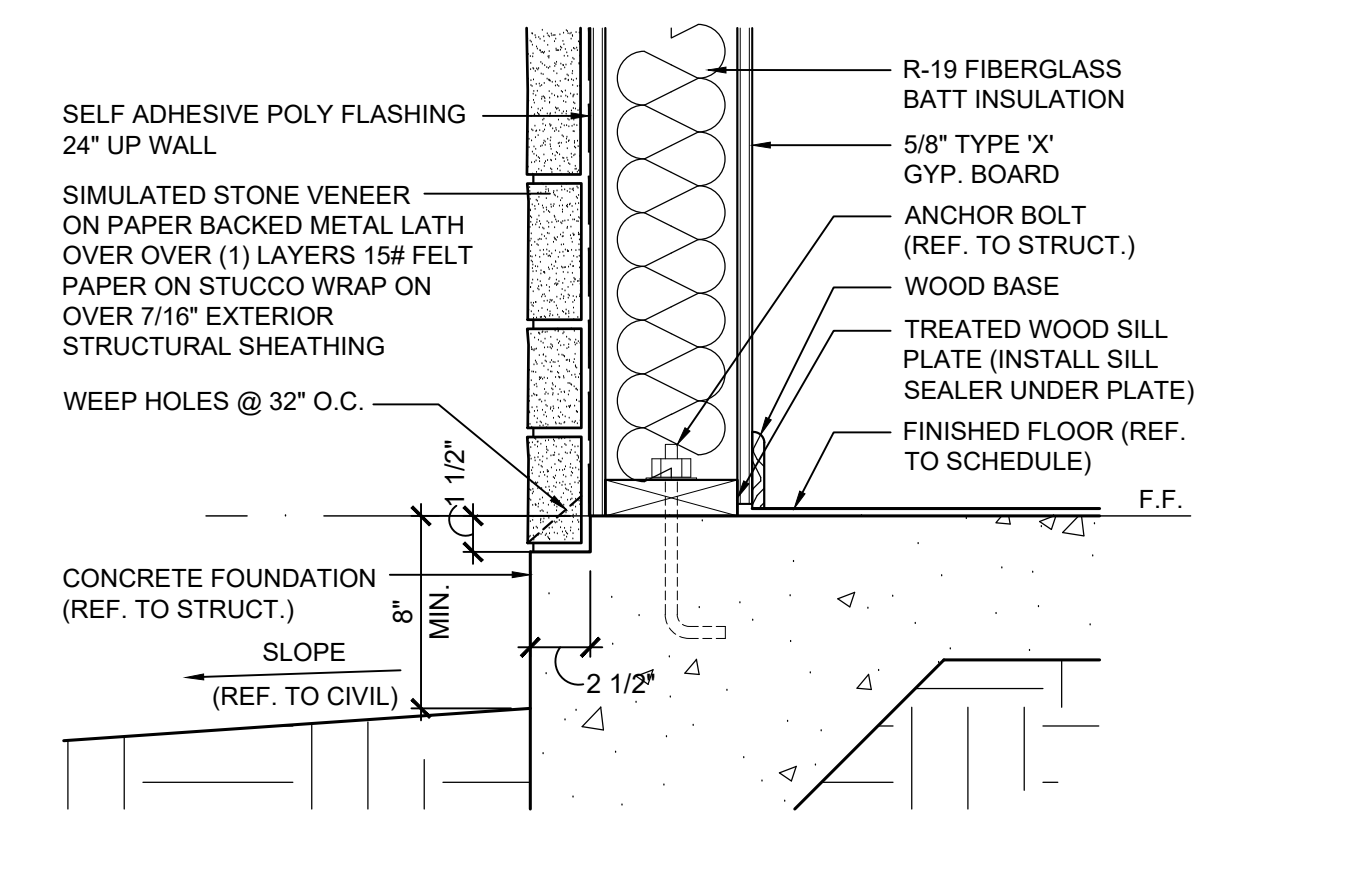
03 DETAIL @ SIM. STONE HEADER 1 1/2" = 1'-0"



08 DETAIL @ EAVE @ SIM STONE 1 1/2" = 1'-0"



04 DETAIL @ EAVE & SIM. STONE 1 1/2" = 1'-0"



01 DETAIL @ FOUNDATION & SIM. STONE 1 1/2" = 1'-0"

SIDE LETTER AGREEMENT
(Condemnation Award)
(this "**Agreement**")

September 16, 2019

Capital One, National Association
299 Park Avenue, 14th Floor
New York, NY 10171
Attn: Edward J. Santos

Ladies and Gentlemen:

The undersigned, **GS LUBBOCK I, LP**, a Texas limited partnership ("**Borrower**"), has obtained a loan (the "**CONA Loan**") from **CAPITAL ONE, NATIONAL ASSOCIATION**, a national banking association ("**Lender**"), which is evidenced by a Promissory Note (as renewed and modified, the "**Note**") dated May 29, 2013, in the face amount of \$11,740,000.00, and which is secured by, among other things, a Multifamily Construction and Permanent Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date therewith (the "**Deed of Trust**"), covering the property located at the intersection of FM 1585 and Norfolk Avenue, in Lubbock Texas (the "**Property**"), which is the location of the Stonebridge of Kelsey Park Apartments, a 152 unit affordable housing residential rental project (the "**Project**"). In connection with the Condemnation Proceeding styled, The State of Texas v GS Lubbock I, LP, a Texas limited partnership, et al, Case No. 2019-822-478 (the "**Condemnation Proceeding**"), brought by the State of Texas in order to acquire certain property to widen the road in front of the Property from a two-lane road to a four lane road, the State of Texas offered and Borrower agreed to accept a settlement offer in the amount of \$5,559,568.00 (the "**Condemnation Award**") as compensation for the 0.877 acre (more or less) acre tract of land which is the subject of the Condemnation Proceedings (the "**Condemned Parcel**"). Under the terms of the Deed of Trust, the Borrower assigned and transferred to Lender the Condemnation Award, and the Lender is entitled to use the Condemnation Award to pay the Note unless certain conditions are satisfied as provided for in the Deed of Trust, in which event, the Condemnation Award will be used for restoration of the Project. After giving effect to the conveyance of the Condemned Parcel to the State of Texas, the Project will lose parking and the viability of the existing clubhouse associated with the Project (the "**Current Clubhouse**"), which

clubhouse is required for maintaining the low-income housing tax credit allocated to the Project. Accordingly, to maintain the low-income housing tax credit allocated to the Project, the Borrower has requested that the Lender permit the Condemnation Award be used to acquire an adjacent 50,000 square foot (more or less) tract to the east of the Property (the "**Adjacent Parcel**") and then to construct a new clubhouse on the Adjacent Parcel (the "**New Clubhouse**") and to develop new parking and access on and to the Adjacent Parcel and to then demolish the Current Clubhouse. In consideration of Lender agreeing to release its lien granted in the Deed of Trust against the Condemned Parcel and to allow Borrower to use the Condemnation Award to acquire the Adjacent Parcel and then construct the New Clubhouse, replacement parking, and access, and then to thereafter demolish the Current Clubhouse, Borrower agrees with Lender as follows:

1. Definitions and Reference Terms. In addition to any other terms defined herein, the following terms shall have the meanings set forth with respect thereto:

Adjacent Parcel Deed of Trust: Deed of Trust, Assignment of Rents, and Security Agreement and Fixture Filing, of even date herewith, from Borrower to Nathan Russell, Trustee, covering, among other things, the Adjacent Parcel and the New Clubhouse, and all amendments, supplements, restatements, renewals, and extensions thereof.

Condemnation Budget: The budget prepared by Borrower, and approved by Lender, setting forth in detail all direct and indirect costs for the demolition of the existing clubhouse and acquisition for the Adjacent Parcel and construction of the New Clubhouse, as provided for in Exhibit "A" attached hereto.

Credit Agency: Texas Department of Housing and Community Affairs, together with its successors and assigns.

Condemnation Award Proposal: The proposal letter dated August 23, 2019, issued by and on behalf of Borrower to an affiliate of the Investor Limited Partner.

Condemnation Award Deposit: An amount equal to \$2,540,574.00 of the Condemnation Award to be deposited in a designated blocked account of Borrower located at Lender (the "**Disbursement Account**"), which amount is the budgeted amount for completing and developing the New Clubhouse as provided in the Condemnation Budget.

Condemnation Award Reserves: The two reserves established by Borrower from the Condemnation Award as provided for in the Condemnation Award Proposal, (a) one as a budgeted contingency reserve in the amount of \$381,000.00 to be used for cost overruns related to the development and construction of the New Clubhouse ("**Contingency Reserve**"); and (b) one as a refinancing reserve in the amount of \$339,000.00 for breakage costs related to a permanent refinancing (the "**Refinancing Reserve**"). Each of the Condemnation Award Reserves shall be held in accounts in the name of Borrower located at Lender.

Investor Limited Partner: RBC Tax Credit Equity Fund-82, Limited Partnership, a Delaware limited partnership, its successors and assigns (to the extent permitted by this Agreement).

Lender's Required Completion Date: The earlier to occur of (a) twelve (12) calendar months after the date hereof, or (b) the commencement of the widening of the road related to the Condemnation Proceeding.

Renovation Account: A non-interest bearing account of Borrower located at Lender to be used for disbursements from the Disbursement Account.

Retainage: An amount equal to 10% of the amount of the contract with Contractor shall be retained by Borrower, unless a greater amount is required to be retained under Section 53.101 of the Texas Property Code and other applicable requirements of law, in order to secure, the payment of artisans and mechanics who perform labor or service and the payment of any and all other persons who furnish material and labor, or specifically fabricated material for any contractor, subcontractor, agent, or receiver for the construction or construction of the New Clubhouse.

2. Conditions Precedent. The obligation of Lender under this Agreement to release its lien granted in the Deed of Trust against the Condemned Parcel and to permit Borrower to use the Condemnation Award to acquire the Adjacent Parcel and construct the New Clubhouse and new parking and access and then to demolish the Current Clubhouse is subject to the full, complete, and timely satisfaction of each of the following conditions precedent:

(a) Lender shall have received and approved each of the following, in properly executed form, as necessary:

(i) this Agreement, together with the Adjacent Parcel Deed of Trust, and all other documents and agreements required by Lender in connection with the foregoing;

(ii) all final settlement and other agreements and orders relating to Condemnation Award;

(iii) the Condemnation Award Proposal;

(iv) the Condemnation Award shall have been paid, the Condemnation Award Deposit shall have been deposited in the Disbursement Account in a manner satisfactory to Lender, and the Condemnation Award Reserves shall have been funded on terms and in a manner satisfactory to Lender;

(v) evidence the Credit Agency has confirmed the planned replacement of the Current Clubhouse and parking will not cause a recapture or a reduction of the amount of the low-income housing tax credit allocated to the Project;

(vi) evidence the Credit Agency, as the HOME lender, has consented to the use of the Condemnation Award as provided for herein and has agreed to release its lien against the Condemned Parcel on terms acceptable to Lender;

(vii) evidence the Investor Limited Partner has approved the terms of this Agreement with respect to the use of the Condemnation Award;

(viii) a current title commitment to insure the lien granted in the Adjacent Parcel Deed of Trust issued by a company acceptable to Lender, evidencing that there are no liens or other similar encumbrances existing against the Adjacent Parcel, other than in favor of the Lender, and liens otherwise consented to by Lender in writing, together with the payment of a premium required to issue a mortgagee's policy in connection therewith, and all endorsements thereto as required by Lender;

(ix) an opinion of counsel to Borrower, which, among other things, provides that this Agreement, and the Adjacent Parcel Deed of Trust are authorized and duly executed and constitute binding and enforceable obligations of Borrower, subject to any exceptions, limitations and assumptions as may be reasonably acceptable to the Lender;

(x) evidence of the authority of Borrower (and its general partner) to enter into the transactions described herein;

(xi) a narrative report prepared by a licensed soil consultant regarding the soil conditions of the land, which shall include results of the test borings and recommendations concerning soil bearing pressures, foundations, excavations, fill, and compaction, and evidence the proposed drainage of the Adjacent Parcel is adequate and that the foundation designed for the New Clubhouse is adequate for the existing conditions;

(xii) evidence of all fire, hazard, general and excess liability, builder's risk, and workman's compensation insurance as required by Lender, and the Adjacent Parcel Deed of Trust;

(xiii) proof in form and substance satisfactory to Lender that the required permits, building and otherwise, and authorizations from all appropriate governmental authorities necessary or required in connection with the construction of the New Clubhouse and the demolition of the Current Clubhouse have been obtained (or will be obtained in the ordinary course prior to the necessity thereof);

(xiv) a survey of the Condemned Parcel;

(xv) a current ALTA survey of the Adjacent Parcel;

(xvi) a final and complete set of the plans and specifications for the New Clubhouse with all necessary regulatory approvals evidenced thereon;

(xvii) a Phase I Environmental Audit of the Adjacent Parcel, performed by an independent third party reasonably acceptable to Lender and fully satisfying all requirements of the Lender, of the Investor Limited Partner, of the Credit Agency, and approved by all applicable departments of the Lender;

(xviii) Borrower shall have opened and maintained the Disbursement Account and the Renovation Account;

(xix) If and to the extent required by Lender, evidence of utility availability to the Adjacent Parcel;

(xx) evidence the land use restriction agreement required by the Credit Agency with respect to the low income housing tax credit

allocated to the Project has been (or will be on terms satisfactory to Lender) amended to release the Condemned Parcel and to add the Adjacent Parcel;

(xxi) the final Condemnation Budget, and the final total cost breakdown (prepared on AIA document G703);

(xxii) an executed copy of the general contract for construction of the New Clubhouse, which contract shall comply in all respects to the final approved plans and specifications and shall set forth a "fixed price" or "guaranteed maximum price." Said contract shall, with the general contractor and all subcontractors, be subject to approval by Lender, which approval shall not be unreasonably withheld, conditioned or delayed. The general contractor shall submit, for Lender's review and approval, a "Contractor's Qualification Statement" on AIA document A305. The general contract shall, by its terms or by separate instrument, be assignable to Lender and the contractor, shall agree and acknowledge, in a manner reasonably satisfactory to Lender, which shall provide for the subordination of all statutory and contractual liens and claims of contractor against the Adjacent Parcel;

(xxiii) an executed copy of the architectural contract, which by its terms or by separate instrument, be assignable to Lender, and the architect shall agree and acknowledge, in a manner reasonably satisfactory to Lender, which shall provide for the subordination of all statutory and contractual liens and claims of architect against the Adjacent Parcel; and

(xxiv) Lender shall have been reimbursed for all of its costs and expenses incurred in connection with the transactions set forth in this Agreement.

3. Release of Condemned Parcel. Upon the full and complete satisfaction of the conditions listed in Section 2 above, at Borrower's sole cost and expense, Lender shall release the lien granted in the Deed of Trust against the Condemned Parcel.

4. Draws and Disbursement. The Condemnation Award will be disbursed by Lender, net of Retainage, from the Disbursement Account for deposit into the Renovation Account to pay for demolition of the existing clubhouse, the acquisition of the Adjacent Parcel, and the construction of the New Clubhouse, all as provided for in the Renovation Budget, in installments based on draw requests made by Borrower, to the extent there are proceeds available, within ten days of its receipt and approval the following:

- (a) A draw request submitted on a form acceptable to Lender;
- (b) Lender shall have been furnished with, and approved, fully executed counterparts, as appropriate, of a Waiver of Lien to Date, in the form of Exhibit "B" attached hereto (on the appropriate form), from the contractor and each of the subcontractors who were to be paid by Borrower or the contractor with the proceeds from the immediately preceding requested advance or who were paid otherwise by Borrower during the preceding thirty (30) days;
- (c) No Event of Default shall have occurred and be continuing;
- (d) No mechanic's or materialman's lien claim or other encumbrance shall have been filed and be in effect against the Adjacent Parcel or the New Clubhouse which has not been bonded against in a manner satisfactory to Lender;
- (e) With respect to any advance or disbursement for hard costs, Lender shall have received an AIA Document G-702 and G-703 (1992 Edition), completed by the contractor and certified by the architect (if required by Lender);
- (f) With respect to any advance for soft costs (including contingencies), all vouchers, invoices, and other evidence required by Lender;
- (g) An inspection report from Lender's independent consultant stating what items in the draw request should be paid; and
- (h) Lender shall have received, at Borrower's cost and expense, a satisfactory "downdate endorsement" and all other endorsements if or as required by Lender to its loan title policy in connection with the advance.
- (i) If and to the extent required by Lender, prior to the pouring of a slab and upon completion of that slab, Borrower shall have delivered a current survey evidencing the intended and actual location of the slab, showing no encroachment. If and to the extent required by Lender, Borrower shall have delivered a slab survey, if the proceeds of the advance are for, among other things, costs associated with the slab to the Improvements, showing, among other things, no encroachments on or over any boundary line, easement, setback line, or other restricted area;

(j) Borrower shall have delivered to Lender such other information, documents, legal opinions, schedules, affidavits, statements, invoices, bills and other supporting documentation and material reasonably required by Lender to verify the progress of construction, or otherwise reasonably required by Lender to substantiate any of the matters necessary to qualify for the advance; and

(k) Lender shall have received evidence that, to the extent required to be then paid, all utility or reservation fees have been paid.

5. Conditions to Final Disbursement for Retainage. The amounts on deposit in the Disbursement Account are to be disbursed by Lender under Section 4 of this Agreement for budgeted items subject to a holdback in an aggregate amount equal to the sum of the Retainage. Subject to the further terms hereof, Lender shall not be obligated to make the final disbursement of the amounts on deposit in the Disbursement Account to pay Retainage until all of the following conditions have been fully satisfied (with proof thereof being furnished in form and sufficiency reasonably acceptable to Lender):

(a) Forty-one (41) days have elapsed after the later of (i) "completion" of the New Clubhouse, as defined in and required by Section 53.106 of the Texas Property Code, or (ii) the date Borrower has otherwise fully and completely satisfied the requirements of Section 53.106 of the Texas Property Code, including, without limitation, providing a copy of any such affidavit to all parties, and within the time periods, required by such Section 53.106.

(b) Lender shall be furnished with, and shall have approved, fully executed counterparts, as appropriate, of the following:

(i) Evidence of receipt by Borrower of all necessary governmental permits and other licenses, certificates, and permits with respect to the completion, use, occupancy, and operation of the Improvements, together with evidence reasonably satisfactory to Lender that such licenses, certificates, and permits are in full force and effect and have not been revoked, canceled, or modified, it being specifically agreed that Lender shall have received a certified copy of the final Certificate of Occupancy (as applicable), issued by the requisite municipal authority, evidencing the ability to legally occupy the New Clubhouse, which must be unqualified and unconditional;

(ii) If required by Lender, an as-built survey, showing the location of the New Clubhouse and showing no encroachment upon

any boundary line, easement, building setback line, or other restricted area, and shall reflect there is public access and shall contain flood plain disclosures. The survey must be dated, signed, and stamped by a surveyor certified in Texas;

(iii) An affidavit of bills paid, in a form reasonably acceptable to Lender, executed such persons who have supplied materials or labor as Lender may require to satisfy itself that the New Clubhouse have been completed lien-free and that the costs of all materials furnished and labor performed in connection with such construction have been paid in full subject to Retainage;

(iv) A fully executed (by Borrower and the architect and contractor for the New Clubhouse) AIA Form G706 (Contractor's Affidavit of Payment of Debts) AIA Form G704, and AIA Form G706a (Contractor's Affidavit of Release of Liens);

(v) Evidence of continuing insurance coverage as required by Lender and the Adjacent Parcel Deed of Trust;

(vi) Such endorsements to Lender's loan title insurance policy relating to the Adjacent Parcel as Lender may request;

(vii) Such releases and waivers of lien as Lender may reasonably request;

(viii) If required by Lender, a complete set of "as-built" plans and specifications for the New Clubhouse, certified as accurate in all material respects by the contractor; and

(ix) Such other evidence or information concerning completion as Lender shall reasonably request.

(c) No Event of Default shall have occurred and be continuing.

(d) All of the foregoing conditions listed in this Section shall have been fully and completely satisfied on or before the Lender's Required Completion Date.

6. Assignment of Plans and Construction Contract. In consideration of Lender agreeing to enter into this Agreement, Borrower has and does hereby assign, and grant a security interest, to Lender of all of its right, title and interest

in and to the plans and specifications construction contract for the New Clubhouse.

7. Condemnation Award Reserves. Borrower has and does hereby assign and grant a security interest in the Condemnation Award Reserves to Lender as security for the Note and other Obligations. Notwithstanding anything in the Condemnation Award Proposal or in the Partnership Agreement to the contrary, Lender may use amounts then on deposit in the Contingency Reserve to pay costs and expenses related to the development and construction of the New Clubhouse in excess of those costs and expenses reflected in the Condemnation Budget as verified by Lender's third-party consultant. Provided no Event of Default is then continuing, each of the Condemnation Award Reserves shall be released to Borrower (to the extent not used) as and when provided for in the Condemnation Award Proposal (but in any event the Contingency Reserve shall not be released unless and until the conditions to fund the final disbursement for Retainage set forth in Section 5 above have been satisfied, and, upon such satisfaction, the Contingency Reserve shall be immediately released to Borrower, and the Refinance Reserve shall be not be released unless and until stabilization has been achieved).

8. Covenants of Borrower. In addition to the covenants and agreements of Borrower made elsewhere in this Agreement, Borrower covenants and agrees, unless Lender shall otherwise consent in writing, that Borrower shall:

(a) Perform on a timely basis all of the Borrower's obligations under and with respect to its settlement with the State of Texas with respect to the settlement of the Condemnation Proceeding;

(b) Permit Lender, or any of its duly authorized representatives and/or agents, from time to time during Borrower's business hours, but with at least 48 hours prior notice (except that no such notice shall be required during an Event of Default), and at Borrower's sole cost and expense, to enter the Land for the purpose of inspecting the Adjacent Parcel for purposes of this Agreement;

(c) Cause the Current Clubhouse and related parking and access on the Condemned Parcel to remain open and available to the residential tenants of the Project until replaced by the completion of the New Clubhouse and parking and access; and

(d) Perform under and in accordance with the terms of the Condemnation Award Proposal and not permit the Condemnation Award Proposal to be terminated or modified in any material respect.

9. Events of Default. Each of the following shall constitute an "Event of Default" under this Agreement:

(a) The occurrence and continuation of an Event of Default under and as defined in the Deed of Trust;

(b) The occurrence and continuation of an Event of Default under and as defined in the Adjacent Parcel Deed of Trust;

(c) The cost of development and construction of the New Clubhouse is reasonably determined by Lender after consultation with the Borrower and Borrower's general contractor to be more than the sum of the Condemnation Award Deposit plus the Contingency Reserve, unless Borrower shall have deposited with Lender an amount equal to the excess within ten (10) days after a written request therefor made to Borrower by Lender;

(d) Failure by Borrower to comply with any agreement or covenant provided for in this Agreement and such failure shall not be fully cured within thirty (30) days of the written notice that is provided by Lender to Borrower;

(e) the commencement of the widening of the road in front of the Project by the State of Texas in connection with the Condemnation Proceeding prior to the lien free completion of the New Clubhouse, if the timing of such widening affects the low income housing tax credit allocated to the Project;

(f) Failure by Borrower to perform under as required by its settlement with the State of Texas with respect to the Condemnation Proceeding, or any demand by the State of Texas for recapture or return of all or any of the Condemnation Award;

(g) Failure by Borrower to complete the New Clubhouse (for purposes of Section 53.001 of the Texas Property Code) on or before Lender's Required Completion Date (regardless of whether or not as a result of any casualty or condemnation); and

(h) A reasonable determination by Lender (or its construction consultant) that the development and construction of the New Clubhouse cannot be completed by the Lender's Required Completion Date and in accordance with all requirements of law.

10. The Rights and Remedies of Lender.

(a) Upon the occurrence and continuance of any Event of Default, Lender, at its option and without any notice of intent to accelerate, notice of acceleration, or other notice or demand, all obligations of Lender under this Agreement shall terminate and Lender may declare the entire principal amount of the Note then outstanding and the interest accrued thereon immediately due and payable, and the said entire principal, interest, and all other amounts owing thereunder shall thereupon become immediately due and payable without further presentment, further demand, protest, notice of protest, or other notice of default or dishonor of any kind, all of which are hereby expressly waived by Borrower.

(b) Upon the occurrence and continuance of any Event of Default, Lender shall have, in addition to the rights and remedies given it in the Note and in the Deed of Trust, and in the Adjacent Parcel Deed of Trust (the occurrence of an Event of Default is and shall constitute an Event of Default under the Deed of Trust and under the Adjacent Parcel Deed of Trust), all of the rights and remedies allowed by applicable ordinances, statutes, rules, regulations, orders, injunctions, writs or decrees of any governmental or political subdivision or agency thereof, or any court or similar entity established by any such subdivision or agency.

11. LENDER NOT IN CONTROL. LENDER'S RIGHTS AND REMEDIES PROVIDED FOR IN THIS AGREEMENT AND IN THE OTHER LOAN DOCUMENTS ARE INTENDED TO PROVIDE LENDER WITH A RIGHT TO OVERSEE BORROWER'S ACTIVITIES AS THEY RELATE TO THE LOAN TRANSACTIONS PROVIDED FOR IN THIS AGREEMENT, WHICH RIGHT IS BASED ON LENDER'S VESTED INTEREST IN BORROWER'S ABILITY TO PAY THE NOTE AND PERFORM THE OTHER OBLIGATIONS. NONE OF THE COVENANTS OR OTHER PROVISIONS CONTAINED IN THIS AGREEMENT SHALL, OR SHALL BE DEEMED TO, GIVE LENDER THE RIGHT OR POWER TO EXERCISE CONTROL OVER, OR OTHERWISE IMPAIR, THE DAY-TO-DAY AFFAIRS, OPERATIONS, AND MANAGEMENT OF BORROWER.

12. Notice. All notices, demands, requests, and communications permitted or required under this Agreement shall be in writing, may be personally served or sent by express/overnight mail service,, telecopier (confirmed by telephone), U.S. certified mail (return receipt requested), or any express/overnight mail service, and shall be effective upon receipt, such receipt being deemed to occur three (3) business after its deposit in the U.S. mail, postage prepaid or the first Business Day after its transmission by telecopier or express/overnight mail

service, as the case may be, addressed to each of the following at the addresses indicated below:

If to Borrower:

GS Lubbock I, LP
7801 Jack Finney Blvd., No. 101
Greenville, TX 75402

With a copy to:

RBC Tax Credit Equity, LLC
600 Superior Avenue, Suite 2300
Cleveland, OH 44114

If to Lender:

Capital One, National Association
299 Park Avenue, 14th Floor
New York, NY 10171

Any party may, by proper written notice to the other party, change the individuals or addresses to which such notices shall thereafter be sent.

13. Other Fees. Borrower acknowledges that Lender may charge a fee in connection with its processing of any request by Borrower for an advance in violation of this Agreement or a request by Borrower to modify, amend, or waive any term or provision of this Agreement or any other Loan Document, or to waive any Default or Event of Default. Nothing herein shall constitute an agreement or commitment by Lender to agree to any such request.

14. Binding Effect. All covenants and agreements of Borrower under this Agreement shall bind the successors and assigns of Borrower and shall inure to the benefit of Lender and its successors and assigns. The rights of Borrower under this Agreement are not assignable.

15. No Waiver. No course of dealing on the part of Lender, its officers or employees, nor any failure or delay by Lender with respect to exercising any of its rights, remedies, powers or privileges under this Agreement shall operate as a waiver thereof. No indulgence by Lender, or waiver of compliance with any of the terms, covenants or provisions of this Agreement, shall be construed as a waiver of Lender's right to subsequently require strict performance by Borrower of this Agreement. The rights and remedies of Lender under this Agreement shall be

cumulative and the exercise or partial exercise of any such rights or remedies shall not preclude the exercise of any other rights or remedies.

16. GOVERNING LAW. EXCEPT AS SPECIFICALLY PROVIDED FOR IN ANY OTHER LOAN DOCUMENT, THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND APPLICABLE UNITED STATES FEDERAL LAW. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS, THE UNDERSIGNED HEREBY AGREE THAT THE STATE AND FEDERAL COURTS LOCATED IN LUBBOCK COUNTY, TEXAS SHALL HAVE EXCLUSIVE JURISDICTION AND VENUE WITH RESPECT TO ALL ACTIONS BROUGHT BY OR AGAINST ANY PARTY UNDER OR PURSUANT TO THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS, AND THE UNDERSIGNED HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS AND TO SERVICE OF PROCESS, EFFECTIVE UPON RECEIPT BY PERSONAL SERVICE, OVERNIGHT EXPRESS DELIVERY OR REGISTERED OR CERTIFIED MAIL. TO THE EXTENT OF ANY INCONSISTENCY BETWEEN THIS SECTION AND A LIKE PROVISION IN ANY OTHER LOAN DOCUMENTS, THIS SECTION SHALL GOVERN AND CONTROL.

17. Release. Borrower, on its own behalf and on behalf of its predecessors, successors and assigns (collectively, the "Releasing Parties"), hereby acknowledges and stipulates that as of the date of the execution of this Agreement, none of the Releasing Parties has any claims or causes of action of any kind whatsoever against Lender in connection with the CONA Loan, or any of its officers, directors, employees, agents, attorneys, or representatives, or against any of their respective predecessors, successors, or assigns. Each of the Releasing Parties hereby forever releases, remises, discharges and holds harmless Lender and all of its officers, directors, employees, agents, attorneys, and representatives, and all of their respective predecessors, successors, and assigns, from any and all claims, causes of action, demands, and liabilities of any kind whatsoever, whether direct or indirect, fixed or contingent, liquidated or non-liquidated, disputed or undisputed, known or unknown, which any of the Releasing Parties has or may acquire in the future relating in any way to any event, circumstance, action, or failure to act from the beginning of time through the date of the execution of this Agreement, in connection with the CONA Loan.

18. Amendment. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

19. Severability. In the event any provision contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such provision shall be severed from this Agreement, and such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

20. Lender's Discretion. All matters hereunder that require Lender's discretion, (including, without limitation, whether Borrower has satisfied any condition precedent), Lender shall use its sole and reasonable discretion. Further, Lender may in its sole discretion waive any of its rights with respect to a particular Event of Default. All documents, agreements, instruments, certificates, statements, and other items delivered to Lender pursuant to this Agreement and the other Loan Documents shall be in form and substance satisfactory to Lender in its sole and reasonable discretion except as otherwise expressly prescribed.

21. Entire Agreement. This Agreement and the documents referred to herein embody the entire agreement with respect to the respective rights, obligations, and liabilities of the parties and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. This Agreement may be amended only by an instrument in writing executed by the party to be bound thereby, and may be supplemented only by documents delivered in accordance with the express terms hereof. **THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.**

22. Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

23. Counterparts. This Agreement may be executed in two or more counterparts, and it shall not be necessary that any one counterparts be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

24. JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO

REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.


25. WAIVER OF SPECIAL DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER LENDER NOR BORROWER SHALL NOT ASSERT, AND HEREBY WAIVE, ANY CLAIM AGAINST THE OTHER, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS AGREEMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

If the foregoing accurately sets forth your understanding of the terms and conditions of the Loan, please indicate your acceptance by signing in the space provided below.

GS LUBBOCK I, LP, a Texas limited partnership

By: GS Lubbock I GP, LLC, a Texas limited liability company, its General Partner

By: 
Victoria W. Spicer, Manager

"Borrower"

ACCEPTED AND AGREED TO THIS
16TH DAY OF SEPTEMBER, 2019:

CAPITAL ONE, NATIONAL ASSOCIATION, a
national banking association

By: 
Name: Sean Taylor
Title: Portfolio Manager

"Lender"

EXHIBIT "A"

BUDGET

Exhibit 1

Revised Budget

Land Acquisition	\$ 716,985	Actual - PER CONTRACT
Demolition	\$ 75,000	estimate
New construction	\$ 864,521	Quote
Construction contingency	\$ 93,952	10% of construction and demolition
Architecture	\$ 25,000	estimate
Engineering	\$ 40,000	Contract + Hourly
Phase 1	\$ 2,950	per invoice
Geotechnical	\$ 5,000	per invoice
Construction Mgt Fee	\$ 165,963	15% of eligible basis
Legal - Barron Adler	\$ 419,555	per invoice
Legal - other	\$ 100,000	estimate
Title	\$ 15,000	estimate
Cost estimator	\$ 14,148	per invoice - CCMN Construction Services, LLC
TDHCA Fee	\$ 2,500	amendment fee - actual
Total	<u>\$ 2,540,574</u>	
Settlement Funds	\$ 5,559,518	
Available for Distribution	\$ 3,018,944	

EXHIBIT "B"

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description).

This release covers the final payment to the signer for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted).

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20____, by _____ (name), _____ (job title) of _____ (company name).

NOTARY PUBLIC, STATE OF TEXAS

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project _____

Job No. _____

On receipt by the signer of this document of a check from _____ (maker of check) in the sum of \$ _____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description).

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20____, by _____ (name), _____ (job title) of _____ (company name).

NOTARY PUBLIC, STATE OF TEXAS

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project _____

Job No. _____

The signer of this document has been paid in full for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 20____, by _____ (name), _____ (job title) of _____ (company name).

NOTARY PUBLIC, STATE OF TEXAS

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project _____

Job No. _____

The signer of this document has been paid and has received a progress payment in the sum of \$ _____ for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) on the property of _____ (owner) located at _____ (location) to the following extent: _____ (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to _____ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20____, by _____ (name), _____ (job title) of _____ (company name).

NOTARY PUBLIC, STATE OF TEXAS

RBC Tax Credit Equity Fund-82, Limited Partnership
600 Superior Ave., Suite 2300
Cleveland, OH 44114

September 17, 2019

Mr. Jeff Spicer
GS Lubbock I, LP
7801 Jack Finney Blvd.
Greenville, TX 75402

Re: GS Lubbock I, LP
Condemnation and Property Acquisition

Dear Mr. Spicer:

Reference is hereby made to the Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement") of GS Lubbock 1, LP, a Texas limited partnership (the "Partnership") with RBC Tax Credit Equity, LLC ("Original Limited Partner"), RBC Tax Credit Manager II, Inc. ("Special Limited Partner") and GS Lubbock 1 GP, LLC, a Texas limited liability company (the "General Partner"). The Original Limited Partner has assigned its rights to RBC Tax Credit Equity Fund-82, Limited Partnership (the "Limited Partner"). The Partnership owns Stonebridge of Kelsey Park Apartments, a 152 unit affordable housing residential rental project located in Lubbock, Texas ("Project").

In connection with the condemnation proceeding styled, The State of Texas v GS Lubbock I, LP, a Texas limited partnership, et al, Case No. 2019-822-478 (the "Condemnation Proceeding"), brought by the State of Texas in order to acquire certain property to widen the road in front of the Project from a two lane road to a four lane road, the State of Texas offered and the Partnership agreed to accept a settlement offer in the amount of \$5,559,568.00 (the "Condemnation Award") as compensation for the 0.877 acre (more or less) acre tract of land which is the subject of the Condemnation Proceedings (the "Condemned Parcel").

After giving effect to the conveyance of the Condemned Parcel to the State of Texas, the Project will lose parking and the viability of the existing clubhouse associated with the Project (the "Current Clubhouse"), which clubhouse is required for maintaining the low income housing tax credit allocated to the Project. Accordingly, to maintain the low income housing tax credit allocated to the Project, the Partnership intends to acquire an adjacent 50,000 square foot (more or less) tract to the east of the Project (the "Adjacent Parcel") and then to construct a new clubhouse on the Adjacent Parcel (the "New Clubhouse") and to develop new parking and access on and to the Adjacent Parcel and to then demolish the Current Clubhouse

Pursuant to this letter, subject to the conditions precedent below, the Limited Partner and Special Limited Partner hereby Consent to (collectively, "Consented Matters"):

1. The execution of a settlement agreement with the State of Texas with respect to the Condemned Parcel;
2. The acquisition of the Adjacent Parcel for a purchase price of \$718,410 plus associated closing costs utilizing a portion of the Condemnation Award;
3. The construction of the New Clubhouse utilizing a portion of the Condemnation Award in accordance with the construction budget attached hereto as Exhibit A; and
4. The distribution of the remainder of the proceeds of the Condemnation Award in accordance with Exhibit B attached hereto subject to the following modifications ("Disbursement Allocation"):
 - a. \$13,000 of the Condemnation Award shall be paid to Special Limited Partner for legal fees;
 - b. The Special Limited Partner Capital Transaction administrative fee shall be \$55,595
 - c. The \$339,000 Refinancing Reserve referenced in the Disbursement Allocation shall not be released until the Project has achieved after completion of construction of the New Clubhouse: (i) 90 consecutive days of 90% physical occupancy, and (ii) a Debt Service Coverage Ratio of 1.15 to 1.0 for 3 consecutive months, as reasonably determined by the Special Limited Partner.

The conditions precedent of the Consent are as follows:

1. Written approval of the Agency to the Consented Matters;
2. Written approval of the Project Lender to the Consented Matters;
3. Receipt by Special Limited Partner of amended plat covering the remainder of the Project (less the Condemned Parcel) and the Adjacent Parcel;
4. As-built survey acceptable to Special Limited Partner of the remainder of the Project (less the Condemned Parcel) and the Adjacent Parcel and the New Clubhouse.

Except as expressly provided herein, the terms and conditions set forth in the Partnership Agreement shall remain in full force and effect. All defined terms used herein shall have the meaning set forth in the Partnership Agreement.


[Signature Page Follows]

Very truly yours,

RBC Tax Credit Equity Fund-82, L.P., a Texas limited partnership

By: RBC Tax Credit IV, LLC, a Delaware limited liability company, its general partner

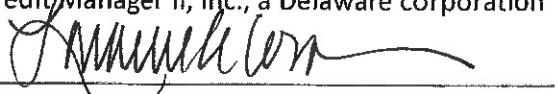
By: RBC Tax Credit Manager II, Inc., a Delaware corporation, its manager

By: 

Name: Lorraine Coram

Title: Director/Asset Management

RBC Tax Credit Manager II, Inc., a Delaware corporation

By: 

Name: Lorraine Coram

Title: Director/Asset Management

Acknowledged and Agreed to as of September 17, 2019 by General Partner.

GS Lubbock 1 GP, LLC,
a Texas limited liability company

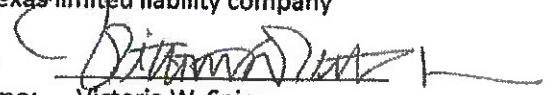
By: 
Name: Victoria W. Spicer
Title: Manager

Exhibit A
Construction Budget for New Clubhouse



PROMULGATED BY THE TEXAS ASSOCIATION OF BUILDERS (TAB)
SCHEDULE OF ESTIMATED CONSTRUCTION COSTS

TEXAS
ASSOCIATION
BUILDERS

CONCERNING THE PROPERTY AT

Stonebridge Apartments
 Kelly Garrett



Clearview Custom Homes, LLC

Making Good Design Affordable

www.clearviewcustomhomes.com

project Data

Total living s.f. over brick

First floor s.f. over frame

Second floor s.f. over frame

Basement

Garage s.f. total

Barn Shop

all porches s.f.

total over frame footage

Item Name	value engineering	Construction notes
Appliance Package	2,100.00	microwave and fridge per specs
Appraisal	incl	
Automatic iron gate	dna	
Backfill dirt	dna	
B-cast stone	dna	
B-cast stone labor	dna	
B-brick labor	12,000.00	1000 sf approx
B-brick material		materials from acme, including brick for fence
B-sand & lintels		
B-stone labor		
B-stone material	30,800.00	2200 SF stacked stone turn key
B-stucco turn key		
B-siding	incl	
Builder risk	2,500.00	
Cabinet glass	300.00	
Cabinets/Trim	43,800.00	
Construction utility Cost	owner	
Construction restroom	324.00	
Countertops-granite	4,800.00	per plan 40\$ foot allowance
Countertops-formica	2,800.00	
Debris Removal	4,000.00	
Demolition existing	60,000.00	demo esting structure, haul off, and concrete
Drainage/gutters	2,500.00	
Electrical	22,380.00	
Engineering & Civil	-	
Epoxy Garage Floor	-	
Exterior door install labor	750.00	
Exterior & Interior Doors	4,131.91	
Exterior retaining walls	-	
Exterior shutters/headers	-	
Fence	-	
Fence columns	incl	
Final Cleanup	1,450.00	
Final Grade/Level	2,000.00	
Flat Work-parking & sidewalk	144,000.00	30500 SF approx
Flatwork-dirt work	30,000.00	
Flatwork-stamped concrete		
Flooring Labor	29,000.00	
Framing	24,564.00	

Front Door	-	
Garage Doors	1,500.00	
Hardware	6,000.00	
Home depot msc	192.77	
HVAC	13,200.00	extreme HVAC
Insulation fiberglass	7,000.00	including interior walls
Insulation foam		
Interim interest	-	
Interior design	500.00	
Interior doors	12,256.07	per reagan
Iron gates all	dna	
Iron work-general	-	
Landscape irrigation	30,000.00	need bid from paradise
Landscape/trees	-	
Lighting Package	6,000.00	
Lot survey	-	
Lumber package	63,622.34	per stock bid Raegan Reed
Lumber contengency	6,362.00	
Mailbox/entrance	-	
MSC	-	signage out front
Mirrors and glass	3,000.00	fitness center
Outdoor kitchen-countertop	incl	
Outdoor kitchen-parts	dna	
Painting	16,800.00	4.50 per foot
Painting Faux Finish	dna	
Plans & specs	600.00	permitting, SK archtitecture
Plumbing	12,800.00	Bid From drum drum
Plumbing fixtures allowance	4,000.00	per pre-selections bid from ferguson
Pool 16 x 32	-	
Pool automation	-	
Pool spa 8 x 8	-	
Roof	13,500.00	
Safe room turn key	dna	
Septic system		
Sheetrock/Tap/Bed/Tex 3.3	19,800.00	
Slab-Turn Key	19,686.00	
Slab-Pad construction	15,000.00	
Sound/security	15,000.00	
Specialty doors	-	
specialty items	-	
TCEQ water & sewer	-	
TCEQ & permits	2,000.00	
utilities AT&T	2,500.00	relocate meters need confirmation
utilities SPEC	2,500.00	relocate meters need confirmation
utilities suddenlink	2,500.00	relocate meters need confirmation
utilities atmos	2,500.00	relocate meters need confirmation
Termite Pretreatment	750.00	
Title policy	owner	
Well/Pump/Tank	-	
window interior	1,721.18	
window covergins	1,500.00	
Windows	9,276.87	confirmed MI reagan

Subtotal Direct Job Costs	716,267.14	
5% contengency	35,813.36	
overhead/supervision 15%	107,440.07	general construction overhead, supervision per total construction
commercial insurance	5,000.00	GL

Subtotal Indirect Job Costs **148,253.43**

Total Estimated Cost **864,520.57**

Builder: Clearview Custom Homes, LLC
by: Kevin Reed

its: Member
PO Box 64756
Lubbock TX 79464
ph. 806.777.0421

Exhibit B

Approved Disbursement of Condemnation Proceeds



August 23, 2019

Via Email to: ama.sarpong@rbccm.com

Ms. Ama Sarpong

Asset Manager
RBC Tax Credit Equity Group
4720 Piedmont Row Dr, Suite 240
Charlotte, NC 28210

RE: GS Lubbock 1, LP (Stonebridge at Kelsey Park) – Proposed distribution of proceeds of a Capital Transaction

Ms. Sarpong,

Per section 11.04 of the Amended and Restated Agreement of Limited Partnership (the "LPA"), we are required to deliver a written determination of the proposed distribution of proceeds from a Capital Transaction. As the general partner of the above referenced partnership (the "Partnership"), we submit for your approval the below detailed plan for the distribution of Capital Transaction proceeds.

The official settlement offer has previously been provided and provides compensation to the Partnership in the amount of \$5,559,518.00. This funding has now been received. It will be transferred to a Capital One account this week.

Our proposed fix to the taking of the land by TXDOT is to purchase the adjacent 1.219 acre site along Memphis Avenue and build a new clubhouse, parking and entry access on the acquired site. The original clubhouse would then be demolished, and a new drive would be built in its place. The land is under contract. We expect to close on the site in the next week. A budget for the complete project scope of work is attached (see exhibit 1) and totals \$2,540,574.

This leaves \$3,018,944 for potential distribution. Section 11.04 of the LPA details the required distribution process and reads as follows:

11.04 Distributions: Capital Transactions and Liquidation of Partnership. Except as may be required under Section 12.02(b), the proceeds resulting from the liquidation of the Partnership assets pursuant to Section 12.02, and the net proceeds resulting from any Capital Transaction, as the case may be, shall be distributed and applied in the following order of priority:

(a) to the payment of all matured debts and liabilities of the Partnership (including amounts due pursuant to any Project Loan and all expenses of the Partnership incident to any such sale or

refinancing), excluding (1) debts and liabilities of the Partnership to Partners or any Affiliates, and (2) all unpaid fees owing to the General Partner under this Agreement;

(b) to the setting up of any reserves which the Liquidator (or the General Partner if the distribution is not pursuant to the liquidation of the Partnership) deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Partnership;

(c) to the payment of any debts and liabilities (including unpaid fees) owed to the Partners or any Affiliates by the Partnership for Partnership obligations; provided, however, that the foregoing debts and liabilities owed to Partners and their Affiliates shall be paid or repaid, as applicable, in the following order of priority, if and to the extent applicable: (i) to the Limited Partner, an amount equal to any Unpaid Tax Credit Shortfall (applied first to accrued but unpaid interest (at the Default Rate) and then principal) or LP Loans; (ii) to the payment of any outstanding accrued and unpaid Asset Management Fees; (iii) to the Limited Partner, an amount equal to any Special Additional Capital Contribution; (iv) to the payment of any outstanding GP Loans; (v) amounts due under the Development Agreement; (vi) amounts due with respect to Operating Deficit Loans, if any; and (vii) any other such debts and liabilities;

(d) one percent (1%) of the gross proceeds of the Capital Transaction to the Special Limited Partner, or its assignee as a Capital Transaction administrative fee;

(e) to the General Partner and Limited Partners in proportion to the relative amounts of Net Projected Tax Liabilities of the General Partner and the Limited Partner's partners or members and their respective partners or members until they each have received, cumulatively, an amount equal to their respective Net Projected Tax Liabilities;

(f) the balance, 80% to the General Partner, 19% to the Limited Partner, and 1% to the Special Limited Partner.

Written determination of the proposed distributions of proceeds of Capital Transactions, showing all relevant calculations and assumptions, shall be delivered to the Limited Partner and Special Limited Partner not later than 20 days prior to the Partnership entering into any agreement for a Capital Transaction, and written confirmation or any revision thereof shall be delivered to the Limited Partner and Special Limited Partner not later than 20 days prior to the making of any such distribution.

Our interpretation of these requirements is shown on Exhibit 2. The detailed tax calculations pursuant to section 11.04 (e) are attached as Exhibit 3. We propose that a reserve of \$720,000 be established per section 11.04(b). This reserve represents a 15% budget contingency and a refinancing reserve of \$339,000. This represents the rate lock breakage fee under the permanent loan agreement should post-completion operations require refinancing of the permanent loan. We propose that this reserve be distributed through the cash flow waterfall in two steps. First, the contingency would be distributed after lien free construction completion. Second, the refinancing reserve would be distributed after construction completion and 3 months with occupancy over 90%.

We expect distribution of funds will occur 20 days after approval of this distribution plan.

As general partner of the partnership we feel that approving this is in the best interest of all parties. We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey S. Spicer". The signature is fluid and cursive, with the first name being the most prominent.

Jeffrey S. Spicer

CC: Kelly Garrett
Victoria Spicer
Benjamin Glispie

Exhibit 1

Revised Budget		
-----------------------	--	--

Land Acquisition	\$ 716,985	Actual - PER CONTRACT
Demolition	\$ 75,000	estimate
New construction	\$ 864,521	Quote
Construction contingency	\$ 93,952	10% of construction and demolition
Architecture	\$ 25,000	estimate
Engineering	\$ 40,000	Contract + Hourly
Phase 1	\$ 2,950	per invoice
Geotechnical	\$ 5,000	per invoice
Construction Mgt Fee	\$ 165,963	15% of eligible basis
Legal - Barron Adler	\$ 419,555	per invoice
Legal - other	\$ 100,000	estimate
Title	\$ 15,000	estimate
Cost estimator	\$ 14,148	per invoice - CCMN Construction Services, LLC
TDHCA Fee	\$ 2,500	amendment fee - actual
Total	<u>\$ 2,540,574</u>	
Settlement Funds	\$ 5,559,518	
Available for Distribution	\$ 3,018,944	

Exhibit 2

Distributions of Capital Transactions

3,018,944 **Total available for Distribution**

(a) to the payment of all matured debts and liabilities of the Partnership (including amounts due pursuant to any Project Loan and all expenses of the Partnership incident to distribution is not pursuant to the liquidation of the Partnership) deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Partnership;

720,000 distribution is not pursuant to the liquidation of the Partnership) deems reasonably (c) to the payment of any debts and liabilities (including unpaid fees) owed to the Partners or any Affiliates by the Partnership for Partnership obligations; provided, (d) one percent (1%) of the gross proceeds of the Capital Transaction to the Special

30,189 Limited Partner, or its assignee as a Capital Transaction administrative fee;

2,268,754 **Total for GP/LP Distribution**

(e) to the General Partner and Limited Partners in proportion to the relative amounts of Net Projected Tax Liabilities of the General Partner and the Limited Partner's partners or members and their respective partners or members until they each have received, cumulatively, an amount equal to their respective Net Projected Tax Liabilities; (See Exhibit 3)

599,079

1,669,675 **Subtotal**

(f) the balance, 80% to the General Partner, 19% to the Limited Partner, and 1% to the Special Limited Partner.

317,238 19% to the LP,

1,335,740 80% to the GP,

16,697 1% to the SLP

(0) **Total**

Exhibit 3

Tax Calculation

Total for GP/LP/SLP Distribution	\$ 2,268,754.08
Less: Tax Calculation	\$ 599,079.31
Remaining to Distribute	<u>\$ 1,669,674.77</u>

	<u>Distribution %</u>	<u>Distribution</u>	<u>Tax Rate</u>	<u>Taxes</u>	<u>Total Distribution</u>
GP Distribution	80.0%	\$ 1,335,739.82	39.60%	\$ 528,952.97	\$ 1,864,692.79
LP Distribution	19.0%	\$ 317,238.21	21.00%	\$ 66,620.02	\$ 383,858.23
SLP Distribution	1.0%	\$ 16,696.75	21.00%	\$ 3,506.32	\$ 20,203.06
Total		<u>\$ 1,669,674.77</u>		<u>\$ 599,079.31</u>	<u>\$ 2,268,754.08</u>



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: File: Stonebridge of Kelsey Park
HOME Contract number: 1001750

From: Jaclyn Leasure, Environmental Specialist

CC: Lee Ann Chance, Asset Manager (Region 3)

Date: October 9, 2019

Subject: Re-evaluation of environmental review for Stonebridge of Kelsey Park per regulations found at 24 CFR Part 58, Sec.58.47 're-evaluation of environmental assessments and other environmental findings.'

- HOME multifamily project Stonebridge of Kelsey Park Contract #1001750 was environmentally cleared on April 30, 2013, and the scope of the project was the purchase of 9.135 acres of vacant land to newly construct 8 buildings consisting of one (1) leasing office/clubhouse and seven (7) residential buildings.
- The original review was performed under 24 CFR 58.36, Environmental Assessment
- Due to eminent domain from TXDOT, the development lost .877 acres of property which includes the leasing office/clubhouse. To mitigate for the loss of the clubhouse, the owner has used funds from a June 2019 settlement with TXDOT to purchase 1.219 acres of adjacent vacant land just northeast of the property line to build a new leasing office/clubhouse. **Therefore, demolition of the old leasing office/clubhouse, acquisition of the vacant property and new construction of a new leasing office/clubhouse** have been added to the project scope and as required by 24 CFR 58.47, a re-evaluation of the original environmental findings for this site has occurred.
 - The AUGF issued 4/30/13 covered 9.135 acres of land. However, historic review and farmland conversion was performed on 12 acres of land to include the parcel that was acquired per the TXDOT settlement. The original determinations regarding historic and farmland apply to the newly acquired parcel.
 - All other environmental documents including the Toxics map are still valid.
 - The original FEMA FIRM of 48303C0410E with an effective date of has been updated, and the updated version of the FEMA firmette 48303C0410F with an effective date of 2/3/2017 has been added to the original review with the subdivision delineated and confirms the property is not located within a Special Flood Hazard Area.
 - A Phase I ESA, dated 6/10/2019, did not identify any recognized environmental conditions (RECs).

The current environmental review is still valid and as such, the Authority to Use Grant Funds is also still valid. The project's original clearance and date stands and the scope of work has



been updated to include demolition of the old leasing office/clubhouse, acquisition of the vacant property and new construction of a new leasing office/clubhouse.

1e

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding approval of a Multifamily Direct Loan subordination for Emma Finke Villas (HOME Loan #1002050)

RECOMMENDED ACTION

WHEREAS, Emma Finke Villas (the Development) was submitted and approved for a 9% Housing Tax Credit (HTC) award in 2013 (HTC #13119) and was also approved for a \$1,000,000 Multifamily HOME loan in 2014;

WHEREAS, the HOME loan is secured with a Subordinate Promissory Note with an outstanding principal balance of \$926,979.28 as of November 2019, and TX Kennedy Apartments, Ltd. (Development Owner or Owner) is currently seeking to close on the first lien permanent debt with a USDA guaranteed Section 538 loan;

WHEREAS, as a condition to the closing of the first lien debt, USDA requires the Department to subordinate the HOME Note;

WHEREAS, at application and at Cost Certification, the Owner indicated that the first lien permanent debt would be \$1,100,000 with a 4.50% interest rate and a 40-year term/amortization, resulting in annual debt service of \$59,342 net of the USDA Guarantee Fee;

WHEREAS, the Owner is now proposing an increased senior loan amount of \$1,622,100 with a 4.725% interest rate and a 40-year term/amortization, resulting in annual debt service of \$90,343 net of the USDA Guarantee Fee;

WHEREAS, Board approval is required for this subordination, as the conditions for Executive Director approval for resubordinating the HOME loan specified in 10 TAC §13.13(c)(2) have not been fully met, given that the first lien debt is greater than the original senior loan amount identified at application and Cost Certification, a proposal for partial or full repayment of the Multifamily Direct Loan (MFDL) lien is not being made with the subordination request, and the additional loan proceeds are not all being directly applied to property improvements; and

WHEREAS, the proposed increased loan amount does not negatively affect the financial feasibility of the Development and is being used to fund increased development costs;

NOW, therefore, it is hereby

RESOLVED, that the request for the Department to subordinate its MFDL (though not its Land Use Restriction Agreement) to a \$1,622,100 senior loan is approved, and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Emma Finke Villas originally received a Housing Tax Credit award in 2013 for the acquisition and rehabilitation of 76 units in Beeville, Bee County. However, the Development suffered many construction delays resulting from weather delays, subcontractor issues, and a fire that completely burned down one of the 16 residential buildings. The Development ultimately received a Force Majeure approval in September 2015 to return the 2013 tax credits and receive a re-allocation of credits via a 2015 Carryover Allocation Agreement (HTC #15341), and the Development was subsequently also granted Placed in Service extensions to July 15, 2016.

In 2014, the Owner applied for and received a \$1,000,000 HOME loan through the Department. The HOME loan is secured with a Subordinate Promissory Note with a 0% interest rate, a 40-year amortization period and 40-year term. The first loan payment was due January 1, 2017, and the loan matures December 1, 2056. The Owner is current on payments for the MFDL Note.

While rehabilitation of the Development was completed in 2016, closing on the first lien permanent loan has not occurred. In addition to the construction delays, the Owner has indicated that there were significant increases in construction costs from the initial project budget in 2013 and that USDA subsidized rents, which cover all the units in the Development, had been below the rents needed to cover the operating expenses of the Development. The Owner had to go through the process of getting approval from USDA for increased rents, and in that time, the USDA Loan Commitment for the originally anticipated \$1,100,000 permanent loan expired. Furthermore, such loan amount would not be adequate to cover the increased development costs and interest expense associated with the \$3,200,000 construction loan, which has now been paid down to \$1,775,214 using HTC equity proceeds.

In a letter dated November 15, 2019, the Owner (Rick J. Deyoe) requested that the Department execute a USDA Subordination Agreement to a USDA Approved Section 538 permanent mortgage in the amount of \$1,622,100 and indicated that the increased loan amount is needed to cover all of the project and partnership related costs to close on the permanent loan, which include funding of reserves, legal fees, USDA Loan fees, closing costs, title and recording fees. The Owner has maintained that none of the additional loan proceeds will be used as payment to the Development Owner or Developer Parties. The Owner indicated that out of the \$651,406 in developer fee associated with this Development, the developer has had to and will continue to defer \$411,406 in developer fee, which will need to be paid from property operations. However, it should be pointed out that, without the

additional loan proceeds, it would be the Owner's responsibility to fund the increased costs, which would have resulted in increased deferred developer fees or general partner advances, and therefore, this increased loan amount is in essence being used to pay for what would have been deferred developer fees or loans to Owner parties.

Staff has confirmed that not all of the conditions specified in 10 TAC §13.13(c)(2) have been met to allow for this subordination request to be approved administratively by the Executive Director. Therefore, the Board's approval is necessary for subordination of the Department's MFDL note and deed of trust to the proposed increased first lien of \$1,622,100, which is \$522,100 greater than the \$1.1M that was originally anticipated and approved by the Department. Although staff recommends subordination of the lien secured by the MFDL, staff does not recommend subordinating its Land Use Restriction Agreement, which enforces required restrictions under the HOME Program. In accordance with 24 CFR §92.252, the Department must maintain the ability to enforce the HOME restrictions or face potential repayment to HUD.

Staff completed a financial analysis based on the new proposed permanent loan terms. The Owner has received a commitment from Red Capital Group for a USDA guaranteed 538 loan in the amount of \$1,622,100 that carries a 4.725% interest rate and has 40 year term/amortization. The Owner also provided documentation of current approved USDA rents and the 12-month operating statement as of September 30, 2019, for staff to complete a financial analysis. Based on the operating statement and including the increased annual deposit into the replacement reserve, staff determined that the aggregate Debt Coverage Ratio (DCR) with the new debt would be 1.52, which is well over the Department's 1.15 minimum DCR guideline for financial feasibility. The Owner also provided a pro forma from Red Capital Group, which indicates that the anticipated DCR will be 1.79 for the first lien only and 1.17 aggregate (1.22 based on staff's calculations), which confirms that the Development is expected to maintain financial feasibility with the increased senior debt.

Staff recommends approval of the subordination request for the increased first lien debt of \$1,622,100, which will be used for increased development costs, and does not negatively affect the Development's financial feasibility.



November 15, 2019

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

RE: Emma Finke Apartments TDHCA # 13119 as amended to 15341

Mr. Banuelos:

Please accept this letter as a formal request from Texas Kennedy, Ltd. (the "Partnership") for the TDHCA to execute the USDA Subordination Agreement subordinating its HOME Loan to the USDA approved Section 538 permanent mortgage loan amount of \$1,622,000 as needed to cover all of the project and Partnership related costs to finally close this project into the permanent USDA Loan.

This project has suffered many ongoing delays in construction resulting from weather delays, to subcontractor issues to a fire that completely burned down one of the buildings. These delays were further detailed to the board back in 2015 and 2016 when a new placed in service date was approved by the board and the new project number given to the project. (TDHCA #15341). In addition to the timing delays, there was also significant increases in construction costs from the initial project budget that was approved in July 2013 and the final construction completion in 2016. Another issue that then came into play was the fact that the USDA subsidized rents that were approved in 2013 were way below the rents needed to cover the operating expenses of the project in 2016 and so the project had to begin the long process of getting a new approved USDA budget with increased project rents. By the time the USDA finally got around to approving the rents, the project USDA Loan Commitment at the \$1,100,000 had expired which at the time was not adequate enough to allow for the project to source and use. So the Partnership has worked diligently with USDA over the past 16 months to get the USDA rents up to where they finally should be which is comparable to the current tax credit rents, while at the same time was trying to cover the project operating expenses. This has been a real issue because the stabilized property budget was never intended to cover loan interest payments that included the \$3,200,000 construction loan for 3 years into stabilization. This put the project into an upside down position and finally the equity partners agreed to fund a portion of the equity earlier than required under the partnership documents in order to reduce the construction loan downward to where the interest carry would be more manageable (\$1,775,214) so the property would be able to better cover it's expenses. The partnership made a new application

to USDA for the 538 loan after the previous commitment had expired, and in the meantime, the partnership also received approval of the current budget which reflects current (“todays”) actual rent limits and expenses. These were needed in order to obtain a new USDA loan sufficient to cover the additional costs associated with the construction and operations of the project, including project operating and replacement reserves, legal fees, USDA Federal Loan Fees, closing costs, title and recording fees, all associated with the project’s permanent loan conversion.

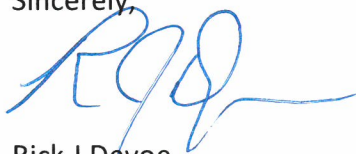
The partnership covered the project’s additional costs as mentioned, by the Equity Partners forward advancing its equity pay-in schedule and also through the developer deferring more of its developer fee than originally projected. In fact, out of the \$651,406 in developer fee associated with this project, the developer has had to (and will continue to have to) defer \$411,406 in developer fee which will need to be paid from property operations. This is a lot more in deferred developer fee than originally projected at the time of original TDHCA approval. FURTHER, NONE OF THE ADDITIONAL LOAN PROCEEDS WILL BE USED TO FUND ANY DEVELOPER FEE OR OWNER RELATED EXPENDITURES.

I’ve attached a detailed Project Cost Breakdown that shows the amount of costs that were shown at the original cost certification, and a current project cost breakdown including all additional project costs incurred to date plus those costs needed to complete the permanent loan closing based on the current USDA Loan Commitment Letter. I’ve also outlined in the spreadsheet exactly where the sources of funds came from to cover the additional costs incurred to date, and have also included a copy of the estimated Settlement Statement that has been drafted for the upcoming USDA Loan Closing. As you will see from the Settlement Statement, not one dime will be going back to the Partnership or the Developer to cover any Developer Fee or Partnership reimbursements. Instead, all loan proceeds and equity associated with the project is going to pay off the remaining construction loan balance, fund required project reserves, and cover the USDA Fees, legal, and closing costs. In fact, as you will see, based on the current estimates, the \$1,622,000 USDA approved loan amount still will not even cover the uses at closing and the Partnership will have to look to any property cash or require payment of any additional closing costs to be paid from the guarantors. As it relates to deferred developer fee, the developer will have to defer all remaining developer fee.

Please review the attached spreadsheet and let me know if you have any questions.

We respectfully request your favorable recommendation to the board of approval of the new USDA approved loan amount of \$1,622,000 as needed to allow for this project to convert to its permanent loan, and request approval to allow the department to execute the Subordination agreement as drafted by USDA in connection with the permanent loan closing.

Sincerely,



Rick J Deyoe
President
Realtex Development Corporation

EMMA FINKE - PROJECT COSTS ANALYSIS

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the eligible basis columns and the Requested Credit calculation below:

DEVELOPMENT NAME: **Emma Finke Villas** TDHCA #: **15341 fka 13119**

	Total Additional Costs	Total at Cost Certification	Increase in Project Costs	Paid from Operations	To be Paid at Final Closing	Payee Taxpayer Identification Number (TIN) ¹ (and % of cost if item involves multiple payees)
ACQUISITION						
Site acquisition cost	50,000	50,000	0			TX Kennedy Apartments, Ltd- 46-3635875
Existing building acquisition cost	600,162	600,162	0			
Closing costs & acq. legal fees	1,875	1,875	0			
Other (specify) - see footnote 2			0			
Subtotal Acquisition Cost	\$652,037	\$652,037	0	0	0	
DIRECT CONSTRUCTION COSTS						
Offsite Work ³			0			
Demolition			0			
Site Work			0			
Residential Buildings	3,493,906	3,493,906	0			Realtex Construction 20-2443949
Accessory Buildings			0			
Other (specify) - see footnote 2			0			
Subtotal Direct Construction Costs	\$3,493,906	\$3,493,906	0	0	0	
OTHER CONSTRUCTION COSTS						
General requirements	5.06% 176,654	176,654	0			Realtex Construction 20-2443949
Field supervision (within GR limit)			0			
Contractor overhead	1.69% 58,886	58,886	0			Realtex Construction 20-2443949
G & A Field (within overhead limit)			0			
Contractor profit	5.06% 176,654	176,654	0			Realtex Construction 20-2443949
Subtotal Ancillary Hard Costs	\$412,194	\$412,194	0	0	0	
INDIRECT CONSTRUCTION COSTS						
Architectural - Design fees	79,998	79,998	0			BGO Architects 27-1710301
Architectural - Supervision fees	42,731	42,731	0			BGO Architects 27-1710301
Engineering fees	106,746	106,746	0			Carney Engineering, PLLC 75-2129619
Real estate attorney/other legal fees	115,936	115,936	0			Locke Lord LLP 74-1164324
Accounting fees	29,590	29,590	0			Tidwell Group,LLC 27-1490692
Impact Fees	520	520	0			
Building permits & related costs	13,047	13,047	0			City of Beeville
Appraisal	15,200	15,200	0			The Powers Group
Market analysis			0			
Environmental assessment			0			
Soils report			0			
Survey	12,173	12,173	0			
Marketing	102,099	25,838	76,261	76,261		
Course of Construction Insurance	66,640	66,640	0			AJ Gallagher
Partnership Hazard & liability Insurance	75,648	34,243	41,405		41,405	AJ Gallagher
Real property taxes	15,881	15,881	0			City of Beeville
Personal property taxes			0			
Tenant relocation expenses	53,100	53,100	0			
PLEASE SPECIFY - see footnote 2	46,870	46,870	0			
Subtotal Indirect Const. Cost	\$776,179	\$658,513	117,666	76,261	41,405	
DEVELOPER FEES						
Housing consultant fees			0			
General & administrative			0			
Profit or fee	651,406	651,406	0			TX Kennedy Development, LLC- 46-4655068
Subtotal Developer's Fees	\$651,406	\$651,406	0	0	0	
FINANCING:						
CONSTRUCTION LOAN(S)						
Interest	195,348	104,215	91,133	91,133		Community Bank of Texas 74-1946814
Loan origination fees	32,000	32,000	0			Community Bank of Texas 74-1946814
Title & recording fees	41,382	41,382	0			Independence Title 47-0951111
Closing costs & legal fees	Ext Fees Lgl 46,193	31,750	14,443	14,443		Locke Lord LLP 74-1164324
Inspection fees	12,837	12,837	0			City of Beeville
Credit Report			0			
Discount Points			0			
Other (specify) - see footnote 2	40,000		40,000	40,000		Construction Loan Extension Fees (5 @ \$8000 each)
PERMANENT LOAN(S)						
Loan origination fees	New PL Fee 35,000	25,434	9,566		9,566	Orix
Title & recording fees			0			
Closing costs & legal	New PL Fee 36,000	3,000	33,000		33,000	Independence Title and Locke Lord LLP 74-1164324
Lender legal	20,000		20,000		20,000	Lender legal
Credit report			0			
Discount points			0			
Credit enhancement fees			0			
Prepaid MIP			0			
Other (specify) - see footnote 2	USDA LN Guarantee 14,599		14,599		14,599	

BRIDGE LOAN(S)

Interest		
Loan origination fees		
Title & recording fees		
Closing costs & legal fees		
Other (specify) - see footnote 2		

0			
0			
0			
0			
0			

OTHER FINANCING COSTS

Tax credit fees	22,198	22,198
Tax credit application fees		
Payment bonds		
Performance bonds		
Credit enhancement fees		
Cost of underwriting & issuance	55,000	55,000
Syndication organizational cost	19,090	19,090
Tax opinion		
Guarantee Fee	25,000	25,000
Subtotal Financing Cost	\$594,647	\$371,906

0			TDHCA 74-2610542
0			
0			
0			
0			
0			
0			
0			
0			
0			
0			
222,741	145,576	77,165	

RESERVES

Rent-up Reserves		47,939
Operating Reserves	190,000	190,000
USDA O & M Reserve	32,442	
USDA LN Guarantee Annual Rsrv	8,111	
Replacement Reserves	237,939	
Other Escrows		
Subtotal Reserves	\$468,492	\$237,939

0			TX Kennedy Apartments, Ltd- 46-3635875
190,000		190,000	TX Kennedy Apartments, Ltd- 46-3635875
32,442		32,442	Orix
8,111		8,111	Orix
0			TX Kennedy Apartments, Ltd- 46-3635875
0			
230,553	0	230,553	

TOTAL HOUSING DEVELOPMENT COSTS⁶

- Commercial Space Costs	\$7,048,861	\$6,477,901
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570,960	221,837	349,123
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TOTAL RESIDENTIAL DEVELOPMENT COSTS	\$7,048,861	\$6,477,901
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570,960	221,837	349,123
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(MINUS)

Deferred Developer fee

(411,406)

Items to be Paid at Perm Closing

(349,123)

\$6,288,332**Sources Paid to Date:**

Construction Loan

\$1,775,214

Equity

\$2,821,121

HOME Loan

\$1,000,000

USDA 515

\$600,162

Cash from Operations

\$91,835

\$6,288,332

SETTLEMENT STATEMENT

Emma Finke

SOURCES

AHP Equity Installment #3-remaining	\$	551,406
AHP Equity Installment #4	\$	50,000
Downward Timing Adjuster	\$	(85,872)
USDA 538 Perm Loan	\$	1,622,100
Available Project Cash or Guarantor	\$	40,000

TOTAL PROPERTY RELATED SOURCES \$ 2,177,634

TOTAL SOURCES **\$ 2,177,634**

USES

Pay Off Construction Loan	Actual	\$	1,775,214
Construction LN Acrued Interest	Est	\$	4,864
Operating Reserve	Actual	\$	190,000
O & M Reserve	Actual	\$	32,442
Escrow - Insurance	TBD	\$	41,405
Legal=Orix	Actual	\$	20,000
Closing Cost	Est	\$	36,000
Ltd Legal	Est	\$	20,000
USDA Loan Guarantee Fee	Actual	\$	14,599
USDA LN Guarantee Annual Rsrv Fee	Actual	\$	8,111
Loan Origination Fee - Orix	Actual	\$	35,000

TOTAL USES \$ 2,177,634

Balance Sources/(Uses) \$ (0)

TX Kennedy Apartments, Ltd.

Tax Credit Adjuster Calculation

Reduction Prior to the Credit Determination Date per 3.05 (a)

Actual Aggregate Credit Amount	\$	3,916,698
Less: Projected Aggregate Credit Amount		<u>3,916,698</u>
Credit Shortfall		-
Multiplied by Credit Pricing Per LPA		<u>0.70</u>
		-
Total Downward Adjuster:	\$	<u>-</u>

First Year Credit Shortfall per Section 3.05 (b)(iv)

First Year Credit Allocation:	\$	268,995
Less: First Year Credits Required by PA		<u>391,670</u>
First Year Credit Shortfall:		122,675
Multiplied by Credit Pricing per LPA		<u>0.70</u>
Pre-Tax Downward Adjuster:	\$	<u>85,872</u>

USDA Section 538 Mortgage Insurance Program

18-Nov-19



PRELIMINARY LOAN ANALYSIS
EXECUTIVE SUMMARY

This analysis is very preliminary in nature and is based on information supplied by the Borrower. The rates and costs are estimates based on current market conditions and are subject to change without notice. While we believe the analysis below to be reasonable and accurate, no assurances can be given that the USDA insurance commitment will be issued based on the following information or that actual costs will not differ from below.

Emma Finke Villas

Property Location	Beeville
Number of Units	76
Construction Type	Yes
Loan Type	Acquisition / Rehabilitation

Borrower's Loan Request	1,622,100
RMC Loan Proposal	1,622,100

LOAN STRUCTURE	
Term (months)	480.0
Amortization (yrs)	40.0
Mortgage Rate	4.725%
Guaranty Fee	0.000%
Annual Debt Service	90,343
Monthly Payment	7,529
Annual Debt Service Coverage (X)	1.79

MAXIMUM MORTGAGE COMPUTATION	
Borrower's Request	\$ -
1.15x Mortgage based on DSCR	\$ 1,769,600
90% Mortgage based on LTV	\$ 2,079,000
50% Mortgage based on ability to securitize	\$ 1,622,100
Mortgage based on statutory limits	\$ 8,501,200
Mortgage based on security value	\$ -
MAXIMUM INSURABLE MORTGAGE	\$ -

ESTIMATE OF MONTHLY INCOME			
# of Units	Unit Type	Unit Rent	Total Rent
0	Studio	\$ -	0
68	One Bedroom	\$ 542	36,856
8	Two Bedroom	\$ 644.00	5,152
0	Three Bedroom	\$ -	0
76	Monthly Rentals for all Living Units		42,008
	Monthly Ancillary Income		225
	Monthly Commercial Income		0
Total Monthly Gross Income at 100% Occupancy			42,233

UNDERWRITING PARAMETERS		U/W
Gross Rental Income		504,096
Ancillary Income (Parking, Laundry, if any)		2,700
Gross Potential Income		506,796
Occupancy		95.5%
Effective Gross Income (excl. commercial)		484,112
Net Comm Income (max 90% occupancy)		0
Total Effective Gross Income		484,112
Estimated Annual Operating Expenses		292,364
Annual Deposit to Replacement Reserve		30,400
Estimated Annual Exp	4,247 67%	322,764
Estimated Net Income		161,348
Capitalization Rate		8.00%
Concluded Value		2,310,000

Comments:

1. Loan Amount and terms are subject to completion of underwriting, rate lock, and RMC approval.
2. A good faith deposit of 0.5% of the loan amount is required to be posted with the lender prior to rate lock once USDA issues its commitment and all other closing requirements such as title, survey, etc., can be met.
3. Preliminary analysis and underwritten NOI is based on borrower's proforma. Terms are subject to additional due diligence on market, property and Sponsor.
4. Final underwritten value will be based on a third party appraisal acceptable to RMC.
5. The loan is sized on a NOI that backs out the Section 515 and the HOME loan debt.
6. The DSCR is for the Section 538 only. The total DSC is 1.17x.
7. Guaranty Fee is included in annual expenses rather than included in the rate.



ORIX Real Estate Capital, LLC
10 West Broad Street, 8th Floor
Columbus, OH 43215
Tel: 614-857-1400 800-837-5100

LENDER'S COMMITMENT LETTER

October 30, 2019

Adrian Iglesias
TX Kennedy Apartments, Ltd.
1101 S. Capital of Texas Hwy
Austin, TX 75201

Re: Project Name: Emma Finke Villas
RHS Case No.: 49-013-046971868
Location: Beeville, TX

Ladies and Gentlemen:

We are in receipt of a Conditional Commitment (Form 3565-2) for a loan note guarantee (the "USDA Commitment") from the United States Department of Agriculture, Rural Housing Service (the "USDA"). This letter and the exhibits that are attached hereto and are incorporated herein as an integral part of this letter (collectively, this "Commitment Letter") constitutes the commitment of **ORIX Real Estate Capital, LLC** (the "Lender") to make the loan described in this Commitment Letter (the "Loan") to the Borrower described in this Commitment Letter (the "Borrower"), which USDA has conditionally committed to guarantee, pursuant to the USDA Commitment and in accordance with the rules, regulations, administrative requirements and laws of the USDA including the USDA Section 538 Guaranteed Rural Rental Housing Program, as set forth in 7 CFR Part 3565 and the Guaranteed Rural Rental Housing Program Origination and Servicing Handbook (HB-1-3565), as amended or supplemented from time to time (the "USDA Program Requirements"), on the terms and conditions set forth in this Commitment Letter and provided the conditions of the USDA Program Requirements are satisfied.

A. The following specific information is incorporated herein:

Borrower Name:	TX Kennedy Apartments, Ltd.
Borrower Address:	1101 S. Capital of Texas Hwy Austin, TX 75201
Project Name:	Emma Finke Villas
Project Address:	1101 E. Kennedy St. Beeville, TX 78102
RHS Case No.:	49-013-046971868
Estimated Loan Amount:	\$1,622,100

Processed Interest Rate:	4.725%
Loan Type:	Section 538 Guaranteed Rural Rental Housing Program
Type of USDA Loan	
Note Guarantee:	Option 1 (permanent) of the USDA Program Requirements
Loan Term:	
Origination Fee:	The greater of \$35,000 or 2.0% of the loan amount set forth in the Multifamily Note. The Origination Fee shall be due and payable on the first to occur of (a) the date USDA issues the USDA loan note guarantee or (b) the sixtieth (60th) day subsequent to the date of the issuance of the USDA Commitment.
Good Faith Deposit:	0.50 % of the Estimated Loan Amount

B. The following describes the procedures pursuant to which the final loan amount and final interest rate will be determined:

(1) USDA processed the Loan and issued the USDA Commitment on the basis of the Processed Interest Rate. The Processed Interest Rate is an assumed rate that may not be the final interest rate (the "Final Interest Rate") upon which the Loan will be made by the Lender and guaranteed by USDA. To the extent that the Final Interest Rate is higher or lower than the Processed Interest Rate, the Estimated Loan Amount may have to be adjusted to reflect the debt service requirements of the Final Interest Rate. The Lender may have to obtain an amendment to the USDA Commitment to reflect the revised Loan amount, among other things. The Lender shall not be obligated to make the Loan until such an amendment to the USDA Commitment has been issued.

(2) The Borrower understands that changing conditions in the financial market will impact upon the Final Interest Rate and the "Pricing Terms" of the Loan. Upon direction from the Borrower and the prior receipt by the Lender of the "Good Faith Deposit" described below, the Lender shall offer Pricing Terms to the Borrower in the form of a "Rate Lock Letter". These Pricing Terms shall include but not be limited to an interest rate, discount points, prepayment penalties and restrictions and extension fees. Upon receipt of the Rate Lock Letter, the Borrower may accept or reject the Pricing Terms described in the Rate Lock Letter. If the Borrower elects to accept those Pricing Terms, the Borrower shall evidence that acceptance by executing and returning: (i) a duplicate copy of the Rate Lock Letter to the Lender, which acceptance shall be binding and irrevocable and constitute the Borrower's agreement to a mandatory closing obligation, in the event that the Lender is able to confirm the Pricing Terms; and (ii) the guaranty agreement, in the form attached as Exhibit 5 for the guaranty of the extension fees, costs, damages, interest costs, discounts, expenses and other charges in connection with the Pricing Terms. Upon the receipt by the Lender of the fully executed and accepted Rate Lock Letter and guaranty agreement, the Lender shall use its best

efforts to confirm those Pricing Terms (i.e., notwithstanding its acceptance of the Rate Lock Letter); however, the Borrower understands and agrees that the Pricing Terms are not final, nor binding on the Lender, until such time as the Lender issues to the Borrower its "Confirmation Letter", which Confirmation Letter, and only the Confirmation Letter, shall constitute the final and binding agreement between the Borrower and the Lender as to the Pricing Terms that will apply to the Loan.

(3) It is a condition precedent to the Lender's obligation to offer Pricing Terms (i.e., issue its Rate Lock Letter to the Borrower), that the Borrower first remit to the Lender, in immediately available funds, the "Good Faith Deposit" in an amount stated in Section A above. In the event that either (a) Pricing Terms are not accepted by the Borrower (i.e., the Borrower does not accept the Rate Lock Letter) or (b) the Lender is unable to confirm the Pricing Terms evidenced by the issuance of its Confirmation Letter, then the Good Faith Deposit shall be returned to the Borrower. If the Rate Lock Letter is accepted by the Borrower and a Confirmation Letter is issued by the Lender, then the Good Faith Deposit will be (i) forfeited in the event the Loan is not funded by the Closing Deadline identified in the Confirmation Letter or (ii) returned to the Borrower in the event the Loan is funded on the basis of the Pricing Terms described in the Confirmation Letter and upon Lender's receipt of the GNMA mortgage backed securities (the "MBS") obtained for the Loan (usually within 30 days of the Closing).

C. The Borrower agrees to the following deposits, fees and expenses:

- (1) The Borrower shall pay to the Lender, in immediately available funds:
 - (a) The Good Faith Deposit;
 - (b) The Origination Fee, payable in accordance with Section A hereof;
 - (c) Any extension or other fees and deposits required pursuant to the terms of the Confirmation Letter;
 - (d) An amount sufficient to reimburse the Lender for the costs and expenses incurred in issuing the GNMA MBS, if applicable (estimated at \$700);
 - (e) The amount of the Lender's legal fees (estimated at \$20,000); and
 - (f) The Lender's out-of-pocket costs and expenses, such as credit reports, inspection costs, courier and copying charges, and the like (estimated not to exceed \$7,500).
 - (g) Initial USDA Loan Note Guarantee Fee: Estimated to be \$14,598.90 payable at the Closing.

- (h) Annual USDA Loan Note Guarantee Fee: Estimated to be \$8,110.50 annually payable in 1/12 monthly installments of \$675.88.

(2) In addition to the deposits, fees and expenses itemized above, the Borrower shall also pay all costs and expenses for such normal closing items as title insurance premiums and charges, recordation and filing fees, USDA fees, deposits and mortgage insurance premiums, Borrower legal fees, survey costs and the like.

D. The following Exhibits are attached hereto, incorporated herein and made a part hereof:

- (1) Exhibit 1: USDA Commitment
- (2) Exhibit 2: General Conditions to Lender's Commitment
- (3) Exhibit 3: Special Conditions to Lender's Commitment
- (4) Exhibit 4: Rate Lock Letter

If this Commitment Letter is acceptable to you, please execute a duplicate copy of this Commitment Letter in the space provided below, initial the first page of each Exhibit attached hereto and return this Commitment Letter to the undersigned, along with a Good Faith Deposit in the amount of \$8,110.50. This Commitment Letter shall expire and be of no further force and effect if it is not executed and returned to the Lender along with the Good Faith Deposit by 4:00 p.m. on November 6, 2019.

The Borrower acknowledges that this Commitment Letter is a commitment from a Lender to make a loan to a Borrower and describes the terms under which a debtor-creditor relationship will be established in this transaction. Borrower agrees that, subject to the Lender's obligation to hold and apply funds in accordance with USDA requirements and the Loan documents, the Borrower has no right, title or interest whatsoever (either directly or indirectly) to receive any benefits which may accrue to the Lender or any other party as a result of its having received, exchanged, or otherwise sold funds, securities or other valuables in connection with the guaranteed Loan.

Nothing in this Commitment Letter creates or is intended to create a joint venture or any agency or fiduciary relationship, duty or obligation between the parties. Borrower hereby agrees and acknowledges that the commitments and services of Lender are being provided as an independent contractor at arm's length.

We appreciate the opportunity to participate with you in this financing and look forward to a successful closing of the transaction as described by this Commitment Letter.

Very truly yours,

ORIX Real Estate Capital, LLC

By: 
Trever Smith
Managing Director

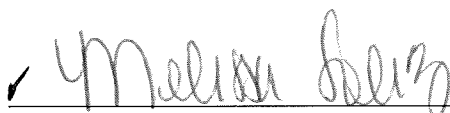
ACCEPTANCE:


The undersigned hereby accepts the foregoing Commitment Letter and agrees to: (i) perform all of the Borrower obligations contained therein; (ii) be bound by all of the terms, provision and conditions thereof; and (iii) cause the transactions that are described therein to be consummated at the earliest possible date.

TX KENNEDY APARTMENTS, LTD.,
a Texas limited partnership

By: TX Kennedy Apartments 1, LLC
a Texas limited liability company
Its: General Partner

By: The City of Beeville Housing Authority Non-Profit Corporation
a Texas non-profit corporation
Its: Sole Member

By: 
Melissa Soliz, Executive Director

Date:  11/16/17

ORIX REAL ESTATE CAPITAL, LLC

EXHIBIT 2
TO
COMMITMENT LETTER

GENERAL CONDITIONS FOR USDA GUARANTEED FINANCINGS

These General Conditions are incorporated in and form an integral part of the Commitment Letter to which this Exhibit 2 is attached. These General Conditions constitute conditions precedent to the Lender's obligations to make the Loan described in the Commitment Letter.

1. **USDA Commitment.** The USDA Commitment and all amendments thereto that have been issued as of the date of the Commitment Letter are attached to the Commitment Letter as Exhibit 1. All obligations imposed on the Borrower and all conditions precedent to USDA's obligation to guarantee the Loan pursuant to the USDA Commitment and the USDA Program Requirements are incorporated herein and made a part hereof and a part of the Commitment Letter. Any and all amendments to the USDA Commitment (issued or to be issued) shall be incorporated into and made a part of the Commitment Letter.

2. **USDA Loan Note Guarantee.** The Loan described in the Commitment Letter shall be evidenced by a Multifamily Note (the "Note") on a form prescribed by Lender. It is a condition precedent to the Lender's obligation to make the Loan evidenced by the Note that the Loan first be guaranteed by USDA by USDA's execution and issuance of the Loan Note Guarantee (Form RD 3565-4) (the "Loan Note Guarantee").

3. **USDA Requirements.** The Borrower and the Project shall be and remain in full compliance with the USDA Commitment, the Loan Note Guarantee and the USDA Program Requirements both at the time of the issuance of the Loan Note Guarantee and for the full term of the Loan.

4. **Borrower.** The Borrower shall be a duly authorized, single purpose, single asset entity organized and in good standing both in its organizational jurisdiction (the "Organizational Jurisdiction") and the jurisdiction in which the Project is located (the "Property Jurisdiction").

5. **Loan Amount.** The Loan amount set out in both the Commitment Letter and the USDA Commitment is subject to adjustment at the time the final interest rate is established as set forth in the Commitment Letter.

6. **Term.** The term of the Loan shall be the term described in the USDA Commitment.

7. **Amortization.** The Loan shall commence amortization at the time set forth in the Note and/or USDA Commitment, and the Loan shall be fully amortizing over the term of the Loan.

8. **Interest Rate.** The interest rate on the Loan will be finally determined as set forth in the Commitment Letter. Interest shall be calculated on the daily outstanding principal balance of the Loan and shall be paid monthly, in arrears, commencing on the first day following Closing.

9. **Prepayment Restrictions and Rights; Late Payment Penalties.** The Note shall be subject to such prepayment restrictions as shall be contained in the Confirmation Letter and prepayment rights as shall be required by GNMA or the Lender. All Note payments are due on the first (1st) day of the month. A late payment penalty, in the amount of two percent (2%) of the delinquent payment, becomes due on all payments received after the tenth (10th) day of the month.

10. **Collateral for Loan.** The Loan shall be collateralized and secured by a first mortgage lien on the land, improvements and fixtures that constitute the Project, as well as by a first lien security interest in all Borrower and Project personal property, inclusive of funds, accounts, accounts receivable, and all assets of the Borrower.

11. **Prohibition on Secondary Financing.** The Borrower shall not have any indebtedness (secured or unsecured) other than the Loan, except as approved by Lender and USDA.

12. **GNMA Funding.** The Lender reserves the right, at its election, to securitize and fund the Loan by the issuance of the MBS.

13. **Loan Documents.** The Loan will be documented and evidenced by such loan documents as shall be required by USDA and/or the Lender and shall include, but not be limited to the Note, a Mortgage/Deed of Trust/Deed to Secure Debt, a Regulatory Agreement, a Declaration of Restrictions, UCC Financing Statements, escrow agreements, a limited recourse guaranty, a Lender's Title Insurance Policy with certain required Endorsements, an ALTA survey, property and liability insurance policies, a flood insurance policy (if applicable), evidence of utility availability, building and zoning compliance, a USDA promulgated form of Borrower's attorney's opinion, and such other documents as required by Lender and/or USDA (collectively, the "Loan Documents"). A final list of required Loan Documents and exact title and survey requirements will be provided to the Borrower by the Lender's counsel. All Loan Documents must be acceptable to USDA, the Lender and their respective legal counsel.

14. **Letters of Credit.** In the event that one or more letters of credit are required by USDA and/or the Lender, as will be set forth in the USDA Commitment, the USDA Program Requirements, and/or the Commitment Letter, such Letters of Credit must be unconditional, irrevocable and issued on the exact form promulgated by GNMA for use in transactions of this nature. The issuer of the Letter of Credit is subject to the credit approval of the Lender.

15. **Insurance.** The Borrower shall provide the Lender with:

A. **Property and Liability Insurance.** An "all perils" hazard insurance policy which meets all Lender and USDA Program Requirements. All policies must also contain endorsements providing that: (i) the policy cannot be cancelled without thirty (30) days' prior written notice to the Lender; and (ii) insuring compliance with all co-insurance requirements.

Any zoning non-conformance uses must be insured by a "law and ordinance" endorsement insuring against demolition and increased cost of construction risks.

B. Rent Loss. Rent loss or business interruption insurance covering not less than twelve (12) months of total Project income.

C. Flood Insurance. As applicable, in form and content satisfactory to the Lender and USDA.

D. Fidelity Insurance. To be provided by the property management agent, in form and content satisfactory to the Lender and USDA.

Blanket policies covering more than one property or operator shall be subject to review and approval by the Lender, which approval may be granted or withheld in the sole determination of the Lender.

16. Closing.

A. Upon satisfaction of each and every condition precedent contained in the USDA Commitment, the USDA Program Requirements, and the Commitment Letter, the Lender shall schedule a "Closing" with USDA on a mutually agreeable date (the "Closing Date"). The Closing Date shall be not later than: (a) the fifth (5th) business day prior to the expiration of the USDA Commitment, as that date may be extended by Lender and USDA; or (b) the date USDA and the Lender determine to be the date that Closing must be effected in order to meet the loan delivery date or otherwise satisfy the time constraints described in the Confirmation Letter (the earliest of such date being the "Closing Deadline"). Depending on the terms of the Confirmation Letter, it may be possible to extend the Closing Deadline by payment of a monthly extension fee, the amount and other terms of which will be set forth in the Confirmation Letter.

B. In the event that the Closing does not occur by the Closing Deadline (as that Closing Deadline may be extended pursuant to subparagraph A above), the Borrower shall have breached its mandatory closing obligation and, accordingly, shall forfeit all moneys previously paid to the Lender, including, but not limited to, the Good Faith Deposit (which forfeiture shall NOT constitute Liquidated Damages), and the Borrower shall be liable to the Lender for such other and additional damages as the Lender shall have suffered or incurred as a result of this breach by the Borrower of its mandatory closing obligation.

C. Counsel for Lender shall conduct the Closing, prepare and review the Loan Documents and represent the Lender in all matters relating to the Loan. You will be contacted directly by the attorney handling this transaction.

D. The following are additional and specific conditions precedent to Closing:

1. The USDA Commitment must be in full force and effect;
2. The Borrower and all of its principals must be in full compliance with all USDA Program Requirements;

3. The Loan Note Guarantee must have been issued by USDA and be in full force and effect;
4. The Confirmation Letter must have been issued by Lender and be in full force and effect; and
5. All amounts then due to the Lender or USDA must have been paid.

17. **Financial Information.** The Borrower shall provide the Lender, during the entire term of the Loan, with annual audited financial statements of the Project, prepared by an independent CPA in accordance with generally accepted government auditing standards and USDA requirements, which statements must be submitted in a timely manner at the time set forth in the Loan Documents and/or the USDA Program Requirements, time being of the essence. Upon request, the Borrower shall also provide the Lender with copies of interim financial statements, operating reports, rent rolls and other financial information routinely prepared by or for the benefit of the Borrower in the ordinary course of its business. The Borrower shall maintain its books and records, all of which shall be subject to Lender inspection upon reasonable notice, in full compliance with the USDA Program Requirements.

18. **Project Inspections.** The Lender shall cause site inspections of the Project to be performed in accordance with the USDA Program Requirements. The results of these inspections may be provided to USDA and to other parties with a financial interest in the Loan. The Borrower shall cooperate and assist the Lender in these inspections. The Lender shall also perform inspections related to reconstruction and restoration following condemnation or a casualty. The Borrower shall reimburse the Lender for its reasonable corporate and third-party expenses related to these inspections.

19. **Borrower Representations and Warranties.** The Borrower represents and warrants to USDA and the Lender that:

A. The Borrower is duly organized, existing and in good standing in both the Organizational Jurisdiction and the Property Jurisdiction.

B. The Borrower has full authority to execute and deliver the Commitment Letter and the USDA Commitment and to perform all of the obligations contained in the Commitment Letter and in the USDA Commitment.

C. The Commitment Letter evidences the Borrower's valid, binding and enforceable agreement in connection with the Loan.

D. Neither the execution of the Commitment Letter, the USDA Commitment, nor the consummation of the transactions described in the Commitment Letter or the USDA Commitment violate the Borrower's organizational documents and authorizations or any other contract, agreement, covenant judgment, order, law, rule or regulation by which Borrower may be bound.

E. Neither the Borrower nor any principal of the Borrower or any affiliate or employee of the Borrower or any principal of the Borrower owns, directly or indirectly, equally

or beneficially, more than 4.99% of the equity ownership units of ORIX Corporation, the Lender or any affiliate or subsidiary of either entity.

21. **Brokerage Indemnification.** Unless otherwise stated in the Commitment Letter, the Borrower and Lender represent to each other that neither have engaged nor have any financial liability for the services of a broker or third party who was instrumental in the issuance of the Commitment Letter or the USDA Commitment and each holds the other harmless from and against any claims, demands and liabilities for any brokerage or similar fees which arise under an asserted contractual arrangement with the party against whom this indemnification is sought.

22. **Use of Funds.** Borrower agrees that, subject to the Lender's obligation to hold and apply funds in accordance with USDA Program Requirements and the Loan Documents, Borrower has no right, title or interest whatsoever (either directly or indirectly) to receive any benefits which may accrue to the Lender or any other party as a result of its having received, exchanged, or otherwise sold funds, securities or other valuables in connection with the Loan.

23. **Role of Lender.** The Lender's responsibilities are strictly limited to those set forth in the Commitment Letter or the USDA Program Requirements. The compensation the Lender receives hereunder is solely to compensate the Lender for originating, funding and closing the Loan and the creation and sale of the GNMA mortgage backed securities. Any further loan products or responsibilities the Lender is called upon to provide (e.g., processing a mortgage loan increase, participation in the resolution of post-Closing problems with USDA or other parties to the transaction) shall be the subject of a separate retainer agreement and separate and additional fees or compensation.

24. **Assignment and Waiver.** The Commitment Letter when executed by the parties hereto, and the Confirmation Letter, when issued by the Lender, contains the complete and entire terms, conditions and understandings of the parties to the Commitment Letter of the Lender's agreement to provide the Loan as indicated, and no changes will be recognized as valid unless they are reduced to writing and similarly executed. No specific waiver of any of the terms hereof shall be considered as a general waiver. The Commitment Letter may not be assigned by the Borrower without the written consent of the Lender. The USDA Commitment may not be assigned by the Borrower without the written consent of the Lender and USDA. The Lender may assign the Commitment Letter to an assignee that is financially capable of performing the Lender's obligations hereunder in accordance with the express terms the Commitment Letter.

25. **Interpretation.**

A. In the Commitment Letter, unless the context otherwise requires, any certificate, letter or opinion required to be given pursuant to the Commitment Letter shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth.

B. Nothing in the Commitment Letter expressed or implied is intended or shall be construed to confer upon, or give to, any person, other than the Lender and the Borrower any right, remedy or claim under or by any reason of the Commitment Letter or any

covenants. Promises and agreements of the Commitment Letter by and on behalf of the Lender shall be for the sole and exclusive benefit of the Borrower.

C. If any one or more of the covenants or agreements provided in the Commitment Letter on the part of the Borrower to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements of the Commitment Letter and shall in no way affect the validity of the other provisions of the Commitment Letter.

D. The Borrower agrees to comply with all applicable USDA Program Requirements in connection with the Project.

26. **Governing Law; Jurisdiction; Waiver of Jury Trial; Venue.** By its acceptance of this Commitment Letter, the Borrower agrees that (a) the Commitment Letter was negotiated, made and issued by the Lender in the State of New York, (b) the Commitment Letter shall be governed by, and construed in accordance with, the laws of the State of New York, (c) Borrower expressly and irrevocably (i) submits to the non-exclusive jurisdiction of the federal and state courts sitting in the Borough of Manhattan in the City of New York and State of New York in any suit or proceeding arising out of or relating to the Commitment Letter, and (ii) waives (A) its right to a trial by jury in any legal action or proceeding relating to the Commitment Letter or any course of conduct, course of dealing, statements (whether verbal or written) or actions of the other party hereto and for any counterclaim related to any of the foregoing and (B) any obligation which it may have or hereafter may have to the laying of venue of any such litigation brought in any such court referred to above and any claim that any such litigation has been brought in an inconvenient forum.

27. **Prior Agreement.** The Commitment Letter supersedes any previous or contemporaneous, written or oral, agreement or understanding between the Borrower and the Lender relative to the transactions that are the subject of the Commitment Letter and the USDA Commitment.

28. **Severability.** If any one or more of the provisions of the Commitment Letter shall be contrary to law or otherwise unenforceable, such provision(s) shall be deemed severed herefrom and shall not affect the validity and enforceability of the balance of the Commitment Letter.

29. **No Material Adverse Change; Lender's Right to Terminate.** The Lender may terminate the Commitment Letter or the USDA Commitment at any time, in its sole discretion, without liability or obligation to the Borrower of any kind, upon a good faith determination by the Lender that, subsequent to the date of the Commitment Letter: (i) Lender receives or discovers information that makes previous information given to Lender by or on behalf of the Borrower, its principals or the Project materially inaccurate or misleading; (ii) there has been a material adverse change in the financial condition of the Borrower or its principals; (iii) there has been a material adverse change in real estate market conditions affecting the Project or in the estimated value of the Project; (iv) the Lender receives or discovers information that would have a material and adverse affect on the Loan Amount or the conditions under which the Commitment Letter or the USDA Commitment were underwritten or issued; and/or (v) there have been changes or modifications in the USDA, GNMA or other statutory, regulatory or administrative requirements which result in additional Lender costs and expenses or materially

and adversely affects the Lender's ability or willingness to make the Loan under the terms of the Commitment Letter and/or the USDA Commitment.

30. **Right of Set-Off.** The Lender shall have the right to set-off any amounts that may be due and owing to the Lender by the Borrower (and any Guarantor(s)) hereunder against: (i) interest earned on deposits or investments made by the Lender on behalf of the Borrower; (ii) any deposit held by the Lender in connection with a requirement of USDA or in connection with the USDA Program Requirements, but only after either (x) said deposit is no longer required under the Loan Documents or required under the USDA Program Requirements to which it pertains or (y) said deposit has been approved by USDA for return to the Borrower or other party providing the same; and (iii) any refund or reimbursement of any other monies to which the Borrower or any Guarantor may be entitled.

31. **Inconsistencies.** In the event of any inconsistencies between the terms and conditions of the Commitment Letter (inclusive of all Exhibits) and the terms and conditions of the USDA Commitment, the Loan Note Guarantee, or of the Loan Documents, the terms and conditions of the USDA Commitment, the Loan Note Guarantee, or the Loan Documents shall supersede the terms and conditions of the Commitment Letter. Notwithstanding anything in the Commitment Letter or the USDA Program Requirements to the contrary, any requirements, whether before or after the Closing of the Loan, necessary to conform to the terms of the USDA Commitment or the Loan Note Guarantee, or to secure the issuance of the GNMA mortgage backed securities, though not specifically mentioned herein, shall be deemed a requirement hereunder.

32. **Survival.** All of the terms and provisions set forth in the Commitment Letter shall survive the issuance of the Loan Note Guarantee and shall continue in full force and effect until the Lender shall have received payment in full of the Loan, and all interest thereon, all fees due and payable from the Borrower as set forth in the Commitment Letter, and all other sums provided for in the Loan Documents.

33. **Borrower's Obligation to Close.** The Lender is extending the Commitment Letter to the Borrower in reliance upon the Borrower's representation that the Borrower will effectuate the Closing of the Loan. If the Borrower (i) fails to effectuate the Closing of the Loan, or (ii) closes a mortgage loan for the Project with any other lender, then the Borrower and the Guarantor(s) shall be fully liable for all actual damages sustained by the Lender and the Investor in the event of such failure.

[End of Exhibit.]

ORIX REAL ESTATE CAPITAL, LLC

EXHIBIT 3
TO
COMMITMENT LETTER

SPECIAL CONDITIONS FOR USDA GUARANTEED FINANCINGS

These Special Conditions are incorporated in and form an integral part of the Commitment Letter to which this Exhibit 3 is attached. These Special Conditions constitute conditions precedent to the Lender's obligations to make the Loan described in the Commitment Letter (this "Lender's Commitment").

N/A

[End of Exhibit.]



ORIX Real Estate Capital, LLC
10 West Broad Street, 8th Floor
Columbus, OH 43215
Tel: 614-857-1400 800-837-5100

RATE LOCK LETTER -Draft

Date: TBD

October 30, 2019

Adrian Iglesias
TX Kennedy Apartments, Ltd.
1101 S. Capital of Texas Hwy
Austin, TX 75201

Re: Project Name: Emma Finke Villas
RHS Case No.: 49-013-046971868
Location: Beeville, TX

Dear Mr. Iglesias:

At your request and pursuant to the terms, conditions and procedures described in the Commitment Letter dated October 30, 2019, for the referenced Project, which are incorporated into this letter by reference (this "Rate Lock Letter"), ORIX Real Estate Capital, LLC ("OREC") is irrevocably authorized to lock the Pricing Terms for the loan as set forth in the text of this letter and in Attachment A which attachment is incorporated herein by reference to this Rate Lock Letter. This Rate Lock Letter can be executed up to and including 4:00 p.m. on TBD, at which time this Rate Lock Letter will automatically terminate. Once executed, returned to and received by OREC, this Rate Lock Letter will supersede and terminate any Rate Lock Letter(s) that may have been executed previously in this transaction.

If OREC is able to provide the Pricing Terms set forth in Attachment A to this Rate Lock Letter, OREC will issue to you the Confirmation Letter. Provided that OREC issues the Confirmation Letter, you will be unconditionally obligated to close the Loan on the Pricing Terms within the time constraints set out in the Confirmation Letter and the Commitment Letter. In the event you fail or refuse to close the Loan on the Pricing Terms within the time constraints set out in the Confirmation Letter and the Commitment Letter, you shall be subject to the liabilities and forfeitures described in the Commitment Letter, including but not limited to the forfeiture of the Good Faith Deposit and all sums previously paid to us, which forfeitures shall not constitute liquidated damages.

You understand that OREC's ability to confirm Pricing Terms set forth in this Rate Lock Letter is subject to constantly changing market conditions. Accordingly, by our acceptance of this Rate Lock Letter, OREC is not representing that the Pricing Terms can or will be provided. You acknowledge that this Rate Lock Letter may only be amended by a written document executed by both you and OREC.

Borrower hereby agrees and acknowledges that the commitments of OREC are being provided as a lender providing a loan at arm's length.

Based upon the foregoing, please authorize OREC to proceed by: (i) signing below; (ii) initialing each page of Attachment A; (iii) signing the enclosed Guaranty Agreement; (iv) emailing or faxing a copy of this Rate Lock Letter and the signed Guaranty Agreement to the attention of veronica.davis@orixrealestatecapital.com or calling 614 857-1482; and (v) mailing one executed original of this Rate Lock Letter and the Guaranty Agreement to the attention of the undersigned, for our records. By execution of this Rate Lock Letter, you agree that the delivered and signed copy of this Rate Lock Letter constitutes an irrevocable authorization to proceed, upon which OREC may unconditionally rely.

Sincerely,

ORIX Real Estate Capital, LLC

By: _____ Draft _____
Trever M. Smith, Managing Director

AGREED AND ACCEPTED:

TX KENNEDY APARTMENTS, LTD.,
a Texas limited partnership

By: TX Kennedy Apartments 1, LLC
a Texas limited liability company
Its: General Partner

By: The City of Beeville Housing Authority Non-Profit Corporation
a Texas non-profit corporation
Its: Sole Member

By: _____ Draft _____
Melissa Soliz, Executive Director

Date: _____

ATTACHMENT A TO RATE LOCK LETTER

- Project Name: Emma Finke
- RHS Case Number: 49-013-046971868
- Project location: Beeville, TX
- Type of Project: Rural multifamily housing
- Borrower: TX Kennedy Apartments, Ltd.
- USDA Loan Program: Section 538 Guaranteed Rural Rental Housing Program
- USDA Loan Note Guarantee: Option 1 (permanent)
- Estimated Loan Amount: \$ 1,622,100
- Mortgage Term: 480 months
- Amortization Period: 480 months
- Interest Rate: TBD % or less (does not include Guarantee Fee of .50%)
- Interest Rate Convention: 30/360
- Estimated Closing Deadline: TBD, 201_
- Closing Monthly Extension Fees: The Closing Deadline can be extended, at the sole discretion of the Lender and subject to the provisions of the Loan Commitment, up to three (3) extensions of 30 days each for an extension fee equal to three-eighths of one percent (0.375%) of the Loan Amount for each 30 day extension. After three extensions, our obligation to fund the Loan on these terms shall terminate.
- Prepayment Penalty: TBD
- Estimated Good Faith Deposit Required: 0.50% (\$8,110.50)

Borrower or Sponsor's Initials ____DRAFT_____

CONDITIONAL COMMITMENT
(Multifamily Housing)

TO: Lender Orix Real Estate Capital, LLC	Case No. 49-013-046971868
Lender's Address 65 East State Street, 16th Floor Columbus, OH 43215	State Texas
Borrower TX Kennedy Apartments, Ltd.	Principal Amount of Loan \$1,622,100.00

From an examination of information supplied by the Lender and other relevant information, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the United States Department of Agriculture ("Government") hereby agrees that, in accordance with applicable provisions of the regulations, it will execute Form RD 3565-4, "Loan Note Guarantee," subject to the conditions and requirements specified in the regulations and herein.

The Lender will pay the Loan Note Guarantee fee to the Government in the amount specified in the regulations on the date the Loan Note Guarantee is issued. If the loan is to receive interest credit, the interest rate for the Promissory Note is no more than N/A ^{1/} basis points above the Long Term Monthly Applicable Federal Rate at loan closing.

A Loan Note Guarantee will not be issued until the Lender certifies that there has been no adverse change in the Borrower's financial or other condition, during the period of time from the Government's issuance of this Agreement to issuance of the Loan Note Guarantee regardless of the cause of the change or whether it was within the Lender's or Borrower's control. If tax credits are being used in conjunction with the guaranteed loan, the Lender certifies that the Borrower is in compliance with the tax credit agreement. The Lender's certification must address all adverse changes and be supported by financial statements of the Borrower and its guarantors executed not more than 60 days before the time of certification. As used in this paragraph only, the term "Borrower" includes any parent, affiliate, or subsidiary of the Borrower.

Lender will use one of the three types of loan guarantees set forth at 7 CFR §3565.52 (c). If a continuous guarantee, per 7 CFR § 3565.52 (c)(3), is used, all items required under 7 CFR § 3565.303(f) must be submitted and approved by the Agency by N/A (Insert Date)/6

Use restriction. The Lender will assure that, for the original term of the guaranteed loan, the rental housing remains available for occupancy by low an moderate income households, in accordance with 7 CFR 3565.352. This requirement will be included in a deed restriction. The restriction will apply unless the housing in acquired by foreclosure or an instrument in lieu of foreclosure, or the Government waives the applicability of this requirements for reasons authorized in 7 CFR part 3565, subpart H.

A Regulatory Agreement as provided in 7 CFR part 3565, subpart A, must be executed at the time of closing. As a condition of the guarantee, the Lender must certify annually to the Rural Housing Service or its successor agency (Agency) that the Borrower is in compliance with the Regulatory Agreement and program requirements with respect to all aspects of project management. The Lender certifies it has approved the Borrower's management plan and assures that the Borrower is in compliance with Agency standards regarding property management, including the requirements contained in 7 CFR part 3565, subparts E and F.

In the event of the Government's failure to issue a guarantee and it is found to be in breach, the Lender's remedy is limited to a suit for the guaranteed portion of principal and interest which ultimately remains unpaid.

This Agreement becomes null and void unless the conditions are accepted by the Lender and Borrower within 60 calendar days from the date of issuance by the Government.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0174. The time required to complete this information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As a condition of the guarantee, the Lender must certify that the Borrower constructed and operates the complex in accordance with the applicable civil rights laws and Fair Housing Amendments Act of 1988 (FHAA). The Lender must also certify compliance with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 when interest credit assistance is provided.

Lenders who intend to have the GRRHP loan securitized by Ginnie Mae must certify, in writing, that the guaranteed loan amount shall not be greater than 70% 2/ total development cost.

Except as set out below, the purposes for which the loan funds will be used and the amounts to be used for such purposes are contained in the Application for Loan and Guarantee. Once this Agreement is executed and returned to the Government, no major change of conditions or approved loan purpose as listed on the application forms will be considered. Additional conditions and requirements including source and use of funds: 3/

SEE ATTACHMENT A, WHICH IS PART OF THE CONDITIONAL COMMITMENT

If the conditions set forth in this Agreement are not met within 720 calendar days from the date signed by the Government, the Government may discontinue processing the application and terminate its commitment. If the Government decides to terminate this commitment, it will provide the Lender a written notice at least 14 calendar days prior to termination. 4/

Date: OCT 30 2019

UNITED STATES OF AMERICA
By: Edd Hargett
EDD HARGETT, STATE DIRECTOR
(Title)

ACCEPTANCE OF CONDITIONS

To: USDA 5/

The conditions of this Conditional Commitment, including attachments, are acceptable and the undersigned intends to proceed with the loan transaction and request issuance of a Loan Note Guarantee within _____ days.

Date: 10/30/19

ORIX Real Estate Capital, LLC
(Name of Lender)

By: Tom M. Smith
(Signature for Lender)

Date: 11/10/19

✓ Melissa Beers
(Signature for Borrower)

- 1/ Insert basis points for loans with interest credit awards only.
- 2/ State Office will complete based on guidance in Chapter 4, Paragraph 4.15 C. in HB-1-3565.
- 3/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space; otherwise, insert "NONE".
- 4/ USDA will determine and insert the # of days by which conditions should be met. It can be no more than 720 days or 24 months. (unless extension is granted).
- 5/ Lender returns completed and signed copy of this form to USDA issuing office.
- 6/ Insert date when items must be submitted to the Agency.

ATTACHMENT A
ADDENDUM TO THE CONDITIONAL COMMITMENT
TX Kennedy Apts., Ltd.

The guarantee of a permanent loan provided under § 3565.52 (c) (1), Option One, will be issued once the following items have been submitted to and approved by the Agency:

1. Certification from the lender stating that the lender or its qualified representative inspected the property and found that the construction meets the Government's requirements for the standards and conditions for housing and facilities in 7 CFR part 1924, subpart A and the standards for site development in 7 CFR part 1924, subpart C, or its successor regulations;
2. Cash flow certification—the lender certifies, in writing, the project's cash flow assumptions are still valid and depict compliance with the section 538 program's debt service coverage ratio requirement of at least 1.15, based on the lender's analysis of current market conditions and comparable properties in the project's market area;
3. Documentation that either: **(i)** The project has attained a minimum level of acceptable occupancy of 90% for 90 continuous days within the 120-day period immediately preceding the issuance of the permanent guarantee, **or (ii)** Additional funds, supplementing the funds required under § 3565.303(d), have been added to the lease-up reserve in an amount the Agency determines is necessary to cover projected shortfalls. The lease up reserve will be at least two percent of the appraised value of the project or two percent of the total development cost, whichever is greater. The funding schedule for the lease-up reserve must be included in the Agency-approved construction budget and be fully funded before the issuance of the permanent guarantee. This cash contribution is an additional amount, over and above the required initial operating and maintenance reserve contribution that is described in Paragraph 3.10 C. If tax credits are used in conjunction with any guaranteed option, the borrower must meet any occupancy requirements in the tax credit partnership agreement before the permanent guarantee is issued;
4. A new appraisal based upon the completion of construction. Upon a lender's written request, the Agency may exempt a project from this requirement if requested by the lender and the project meets the following criteria:
 - (i)** Original appraisal—the original appraisal that meets the Agency's appraisal requirements with a valuation date no older than 36 months;
 - (ii)** Valuation—the appraisal's lowest valuation, regardless of valuation approach and rent restrictions considered, is greater than the section 538 guaranteed loan amount; **and**
 - (iii)** Guaranteed loan balance—the Agency's guaranteed loan's principal balance does not exceed 50 percent [unless a different percent has been announced in a Notice published in the Federal Register] of the project's total development costs;

ATTACHMENT A
ADDENDUM TO THE CONDITIONAL COMMITMENT
TX Kennedy Apts., LLC

5. A certificate of substantial completion executed by the architect, lender, contractor, and borrower;
6. A certificate of occupancy or similar evidence of local approval;
7. A final inspection conducted by a qualified Agency representative;
8. A final cost certification in a form acceptable to the Agency. The cost certification establishes the actual construction costs incurred by the mortgagor and general contractor. If there is an identity of interest (IOI) between the sponsor and contractor, the cost certification must be performed by an experienced audit firm acceptable to the Agency. Where low income housing tax credits are a source of funding, the cost certification should be performed by the agency that awards the tax credits;
9. If a corporate entity, its Articles of Organization and its Operating Agreement (HB-1-3565, Paragraph 4.8 B.2.);
10. A submission to the Agency of the complete and executed closing docket for the permanent loan closing including, but not limited to the executed Promissory Notes and Security documents, Real Estate Deed of Trust, Security Agreement, and Financing Statements;
11. A certification by the lender that the project has reached an acceptable minimum level occupancy;
12. An executed regulatory agreement in accordance with 7 CFR Part 3565, Section 3565.351; which includes a Deed Restriction that declares that the housing must remain available for occupancy by low and moderate income households for the original term of the guaranteed loan. Also, the certification from the lender's attorney must also be submitted;
13. The Lender certifies that it has approved the borrower's management plan and assures that the borrower is in compliance with Agency standards regarding property management contained in subparts E and F of this part. The management plan must contain all the information in Attachment 8-A, "Management Plan Requirements for the Guaranteed Rural Rental Housing Program;"
14. The management plan and agreement must contain a statement that includes the provision for access to project's books and records by USDA staff, USDA-IG, GAO, and the Department of Justice; information on accounting, record keeping, data systems, and software.

ATTACHMENT A
ADDENDUM TO THE CONDITIONAL COMMITMENT
TX Kennedy Apts., LLC

The management plan and agreement must also contain plans for maintenance, repair, replacement, tenant work requests, management and maintenance staffing plans; detailed compliance with Federal and state environmental laws; description of energy conservation measures including recycling; detailed management and maintenance staffing plans; information on staff training programs (7 CFR 3565.351 (b), HB-1-3565, Paragraph 8.4, and Attachment 8-A);

15. Necessary information to complete an updated necessary assistance review by the Agency under § 3565.204(c). The lender requesting a loan guarantee must review all loans to determine the appropriate amount of assistance necessary to complete and maintain the project. The lender shall recommend to the Agency an adjustment in the loan amount if appropriate as a result of this review;
16. Provide documentation that the Operating and Maintenance Reserve (O&M reserve) is fully funded prior to the closing of the permanent loan. The O&M reserve must be at least two percent of the total loan amount. Funds contributed as O&M reserve funds will be contributed from the borrower's own resources and are not to be included as part of the total development cost calculation. The funding schedule for the O&M reserve must be included in the Agency-approved construction budget and be fully funded before the issuance of the permanent guarantee. Under guarantee Option One, funds for the O&M reserve may be contributed to the project upon the closing of the permanent loan;
17. An executed certification from the borrower and lender that all parties involved in the preconstruction, site development, and construction of the property has been paid in full;
18. Certification that the project meets all applicable Federal, State, and local codes, handicap accessibility standards, laws, local ordinances, zoning requirements, and regulations on health and safety standards;
19. An approved Form HUD-935.2A, "Affirmative Fair Housing Marketing Plan – Multifamily Housing;"
20. Provide confirmation in writing that the borrower is in compliance with the Affirmative Fair Housing Marketing Plan;
21. Prior to the issuance of the guarantee, the lender must certify that construction meets basic construction requirements;
22. Provide evidence of adequate insurance for the project;
23. Signed Attorney Opinion;
24. Executed Form RD 1980-19 "Guaranteed Loan Closing Report;"

ATTACHMENT A
ADDENDUM TO THE CONDITIONAL COMMITMENT
TX Kennedy Apts., LLC

25. Initial guarantee fee. The initial guarantee fee is equal to one percent (1%) of the total loan amount times the percent of guarantee. Provide a check in the amount of \$14,598.90, made payable to USDA Rural Development;
26. A copy of the closing instructions for the loan and the final documents (including security instruments, title insurance policies, opinions of the loan closing attorneys and any other documents used in the loan closing) will be provided to RD for review by our Office of General Counsel prior to closing, if applicable. Refer to HB-1-3565, Chapter 4, "Attachment 4-B; *Suggested Format for the Opinion of the Lender's Legal Counsel*," and Attachment 4-C, "*Closing Documents to be Submitted as Part of the Final Application*;"
27. Agency approved final "as-built" plans and specifications for the project. Documentation must be provided for deviations from the approved plans and specifications.
28. The borrower or lender's architect must certify that the contractor has completed the work in accordance with RHS approved plans, specifications, and special or general conditions. This certification must be issued at time of final inspection;
29. The lender is responsible for ensuring that the Agency is provided a copy of the payment estimates and the related inspection reports prepared by the lender's fee inspector and by the project architect. This documentation must be provided in a timely fashion to the Agency following each draw;
30. As a condition of receiving a loan guarantee, the Agency will charge an annual guarantee fee. An annual guarantee fee of 50 basis points (one-half percent) of the outstanding principal amount of the loan will be charged each year or portion of a year that the guarantee is in effect. This fee will be collected on February 28, of each calendar year;
31. Provide certification that the lender is in compliance with all conditions contained in the conditional commitment for guarantee; and
32. The lender agrees to the following condition:

"If cultural materials are encountered during construction, work will cease in the immediate area of the discovery. Work may continue in those project locations outside of the discovery area, with written approval from USDA Rural Development. In the event of discovery, the contractor must immediately notify the Owner, Project Engineer, the Texas Historical Commission (512) 463-5867, and the USDA Rural Development State Environmental Coordinator (254) 742-9704."

ATTACHMENT A
ADDENDUM TO THE CONDITIONAL COMMITMENT
TX Kennedy Apts., LLC

ACCEPTANCE OF CONDITIONS:

Lender

—

B:

Bc

—

By

MORTGAGOR
AND LENDER SIGNATURES ON
FOLLOWING PAGE

Emma Finke Conditional Commitment
RD Case # 49-013-046971868

The above Commitment to insure is hereby acknowledged by the undersigned, and we hereby agree to be bound by its terms.

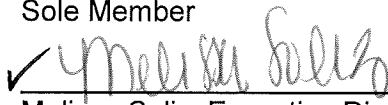
Mortgagor:

**TX KENNEDY APARTMENTS, LTD.,
a Texas limited partnership**

By: TX Kennedy Apartments 1, LLC
a Texas limited liability company
Its: General Partner

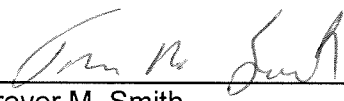
By: The City of Beeville Housing Authority Non-
Profit Corporation
a Texas non-profit corporation
Its: Sole Member

Date: ✓ 11/6, 2019

By: ✓ 
Melissa Soliz, Executive Director

Mortgagee:

**ORIX REAL ESTATE CAPITAL, LLC,
a Delaware limited liability company**

By: 
Trever M. Smith
Managing Director

Date: October 30, 2019



Rural Development

February 25, 2019

Alice Local Office
2287 N. Texas Blvd.,
Suite 1
Alice, Texas 78332

RealTex Housing Management, LLC
1101 S. Capital of Texas Highway
Suite H-100
Austin, Texas 78746

Voice: 361.661.3983
Fax: 844-496-7057

Re: TX Kennedy Apartments, Ltd. / Emma Finke Villas
2019 Proposed Budget

NOTICE OF APPROVED RENT/OCCUPANCY & UTILITY ALLOWANCE CHANGE

You are hereby notified that Rural Development has reviewed the request for a change in shelter costs for Emma Finke Villas, Beeville, Texas and considered all justifications provided by project management. USDA Rural Development has approved the following utility allowance rates listed below. The changes for all units will become effective on **February 1, 2019**. The change is needed for the following reasons:

- Based on current billing history analysis conducted by management

Unit Size	Current Rent		Approved Rent		Change
	Basic	Note	Basic	Note Rate	
1BR	\$542	\$621	\$542	\$621	N/A
2BR	\$644	\$745	\$644	\$745	N/A

The Utility Allowances are as follows:

Unit Size	Present	Approved	Change
	Utility Allowance	Utility Allowance	
1BR	\$79.00	\$79.00	N/A
2BR	\$95.00	\$95.00	N/A

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Should you have any questions or concerns, you may contact Rural Development. The Rural Development Servicing Office address is: **2514 S. Veterans Blvd. Ste 4, Edinburg, Texas 78539.**

*You must notify the tenants of USDA Rural Development's approval of the rent (occupancy charge) and utility allowance changes by posting this letter in the same manner as the "NOTICE TO TENANTS OR PROPOSED RENT (OCCUPANCY CHARGE) AND UTILITY ALLOWANCE CHANGE." This notification must be posted in a conspicuous place and cannot be substituted for the usual written notice to each individual tenant.

*This approval does not authorize you to violate the terms of any lease (occupancy agreement) you currently have with your tenants.

For those tenants receiving rental assistance (RA), their costs for rent (occupancy charge) and utilities will continue to be based on the higher of 30 percent of their adjusted monthly income or 10 percent of gross monthly income or if the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the household's shelter cost. If tenants are receiving Housing and Urban Development (HUD) Section 8 subsidy assistance, their costs for rent and utilities will be determined by the current HUD formula.

You may file an appeal regarding the rate and utility allowance change as approved. An appeal must be received in the Regional Office no later than 30 calendar days after receipt of the adverse decision. The appeal should state what agency decision is being appealed and should include, if possible, a copy of the adverse decision and a brief statement of why the decision is wrong. A copy of the appeal request should be sent to the agency.

You must inform the tenants of their right to request an explanation of the rate and utility allowance change approval decision within 45 days of the date of this notice by writing to **Roel Gomez, Area Director at 2514 S. Veterans Blvd. Ste 4, Edinburg, Texas 78539.** All tenants are required to pay the changed amount of rent (occupancy charge) as indicated in the notice of approval.

Any tenant who does not wish to pay the Rural Development approved rent changes may give the owner a 30-day notice that they will vacate. The tenant will suffer no penalty as a result of this decision to vacate, and will not be required to pay the changed rent. However, if the tenant later decides to remain in the unit, the tenant will be required to pay the changed rent from the effective date of the changed rent.

Sincerely,



Roel Gomez
Area Director





Rural Development

April 25, 2018

Alice Local Office
2287 N. Texas Blvd.,
Suite 1
Alice, Texas 78332

Realtex Management LLC
1101 S. Capital of Texas Highway
Suite H-100
Austin, Texas 78746

Voice: 361.661.3983
Fax: 844-496-7057

Ref: Emma Finke Villas
Fiscal Year (FY)2018 Proposed Budget

NOTICE OF APPROVED RENT/OCCUPANCY & UTILITY ALLOWANCE CHANGE

You are hereby notified that Rural Development has reviewed the request for a change in shelter costs for Emma Finke Villas, Beeville, Texas and considered all justifications provided by project management. USDA Rural Development has approved the following rent/occupancy & utility allowance rates listed below. The changes for all units will become effective on **May 1, 2018**. The change is needed for the following reasons:

- Based on billing history analysis conducted by management

Unit Size	Current Rent		Approved Rent		Change
	Basic	Note	Basic	Note Rate	
1BR	\$434	\$450	\$542	\$621	+\$108.00/\$171.00
2BR	\$504	\$550	\$644	\$745	+\$140.00/\$195.00

The Utility Allowances are as follows:

Unit Size	Present	Approved	Change
	Utility Allowance	Utility Allowance	
1BR	\$79.00	\$ 79.00	NC
2BR	\$95.00	\$ 95.00	NC

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

UNIT MIX/RENT SCHEDULE

Emma Finke Villas, Beeville, # 1002050/15341/13119

LOCATION DATA	
CITY:	Not Listed
COUNTY:	Bee
PROGRAM REGION:	10

UNIT DISTRIBUTION		
# Beds	# Units	% Total
Eff		
1	68	89.5%
2	8	10.5%
3		
4		
TOTAL	76	100.0%

Applicable Programs
9% Housing Tax Credits
HOME

PRO FORMA ASSUMPTIONS	
REVENUE GROWTH:	2.00%
EXPENSE GROWTH:	3.00%

UNIT MIX / MONTHLY RENT SCHEDULE

HTC	Other	Unit Mix				APPLICABLE PROGRAM RENT				
		Type	# Units	# Beds	# Baths	NRA	Gross Rent	Tenant Pd UA's (Verified)	Max Net Program Rent	Total Monthly Rent
		USDA	68	1	1	550	\$621	\$79	\$542	\$36,856
USDA	8	2	1	750	\$739	\$95	\$644	\$5,152		
TOTALS / AVERAGES:		76			43,400				\$42,008	

ANNUAL POTENTIAL GROSS RENT:	\$504,096
-------------------------------------	------------------

PRO FORMA ANALYSIS

				TDHCA	Sept. 2019 Trailing-12	Red Capital Group			
POTENTIAL GROSS RENT				\$504,096	\$500,284	\$504,096			
Secondary Income	Per Unit/Month	\$5.00		\$4,560	\$1,864	\$2,700	\$2.96	Per Unit Per Month	
POTENTIAL GROSS INCOME				\$508,656	\$502,148	\$506,796			
Vacancy & Collection Loss	% of PGI	-5.0%		(\$25,433)	(\$6,516)	(22,684)	-4.5%	% of PGI	
EO/Non-Rental Units/Concessions					(\$7,284)	-			
EFFECTIVE GROSS INCOME				\$483,223	\$488,348	\$484,112			
EXPENSES	% of EGI	Per Unit	Per SF				Per SF	Per Unit	% of EGI
TOTAL EXPENSES	60.93%	\$3,874	\$6.78	\$294,430	\$287,520	\$322,764	\$7.44	\$4,247	66.67%
NET OPERATING INCOME	39.07%	\$2,484	\$4.35	\$188,793	\$200,828	\$161,348	\$3.72	\$2,123	33.33%

DEBT

First Lien: Red Capital Group	\$90,343	\$90,343	\$90,343
Other: USDA Loan Assumption	\$16,568	\$16,568	\$16,568
Other: TDHCA - HOME	\$25,000	\$25,000	\$25,000
TOTAL DEBT SERVICE	\$131,911	\$131,911	\$131,911
NET CASH FLOW	\$56,882	\$68,917	\$29,437
AGGREGATE DEBT COVERAGE RATIO	1.43	1.52	1.22
RECOMMENDED DEBT COVERAGE RATIO	1.43		

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Emma Finke Villas, Beeville, # 1002050/15341/13119

PROPOSED PAYMENT COMPUTATION

First Lien: Red Capital Group	Amort	480
Int Rate	DCR	2.09

Other: USDA Loan Assumption	Amort	540
Int Rate	DCR	1.77

Other: TDHCA - HOME	Amort	480
Int Rate	DCR	1.43

RECOMMENDED FINANCING STRUCTURE: TDHCA

First Lien: Red Capital Group	\$90,343
Other: USDA Loan Assumption	16,568
Other: TDHCA - HOME	25,000
TOTAL DEBT SERVICE	\$131,911

LONG TERM OPERATING PRO FORMA

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 20	YEAR 25	YEAR 30	YEAR 35	YEAR 40
EFFECTIVE GROSS INCOME	\$483,223	\$495,606	\$505,518	\$515,629	\$525,941	\$580,682	\$707,848	\$781,521	\$862,862	\$952,670	\$1,051,824
LESS: TOTAL EXPENSES	294,430	303,157	312,004	321,112	\$330,487	381,674	509,311	588,477	680,050	785,983	908,541
NET OPERATING INCOME	\$188,793	\$192,449	\$193,514	\$194,517	\$195,454	\$199,008	\$198,537	\$193,044	\$182,812	\$166,687	\$143,284
LESS: DEBT SERVICE	131,911	131,911	131,911	131,911	131,911	131,911	131,911	131,911	131,911	131,911	131,911
NET CASH FLOW	\$56,882	\$60,538	\$61,603	\$62,606	\$63,543	\$67,097	\$66,626	\$61,133	\$50,902	\$34,776	\$11,373
CUMULATIVE NET CASH FLOW	\$56,882	\$117,420	\$179,023	\$241,629	\$305,172	\$634,353	\$1,312,540	\$1,630,880	\$1,907,962	\$2,116,709	\$2,223,599
DCR ON UNDERWRITTEN DEBT (Must-Pay)	1.43	1.46	1.47	1.47	1.48	1.51	1.51	1.46	1.39	1.26	1.09
EXPENSE/EGI RATIO	60.93%	61.17%	61.72%	62.28%	62.84%	65.73%	71.95%	75.30%	78.81%	82.50%	86.38%

1f

BOARD ACTION REQUEST
COMPLIANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Fish Pond at Corpus Christi (19610)

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

WHEREAS, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

WHEREAS, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of non-compliance within the last three years;

WHEREAS, GVA, the sponsor for Fish Pond at Corpus Christi (19610), controls seven properties and has six events of noncompliance that were not corrected during the Corrective Action Period, therefore classifying them as a Category 3;

WHEREAS, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

WHEREAS, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely requested to have this matter presented to the Board;

WHEREAS, GVA has taken measures to remedy the underlying cause for past noncompliance and ensure compliance in the future;

WHEREAS, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

WHEREAS, Staff requests the Board determine that EARAC may provide a positive award recommendation to the Board with or without conditions;

NOW, therefore, it is hereby

RESOLVED, that the Board has considered the compliance history of the Applicant, and determines, for application Fish Pond at Corpus Christi (19610), that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; and

FURTHER RESOLVED, that the Application is authorized to proceed through its remaining evaluation and proceed to EARAC for review and consideration of recommendation and possible conditions, without being precluded from a positive recommendation by EARAC because of its compliance history.

BACKGROUND

GVA purchased a five-property portfolio on December 13, 2017. Shortly thereafter (43 days and 55 days) two of the five properties were monitored. The properties were using the prior ownership's affirmative marketing and tenant selection criteria. In addition, the prior owner had not been completing the required social service activities. GVA was new to Texas and unfamiliar with TDHCA requirements. Since then they have implemented the following processes and policies to ensure compliance going forward:

- GVA has designated a staff member to monitor all CMTS correspondence.
- GVA has signed up for all listservs pertaining to compliance to ensure they receive all information and announcements of upcoming submission, trainings, etc.
- GVA will ensure that staff attends all TDHCA compliance trainings at least once a year to stay abreast of all current compliance policies and requirements to be implemented.
- GVA has designated staff to track and review all documentation and responses to be submitted to TDHCA. This designated staff member will review all responses for submission to ensure completeness and correctness and finally, will ensure it is uploaded/submitted to TDHCA within the corrective action period. Once documentation is uploaded, we will follow-up with TDHCA staff via email requesting confirmation that submission was received.
- GVA has accessed and reviewed TDHCA forms that are to be implemented across the properties and have dedicated staff to review the forms and ensure we are utilizing the most current forms.
- GVA has the most current copy of the Compliance rules and have reviewed to ensure the properties are implementing all requirements consistently and in compliance.
- GVA has reviewed and revised, if necessary, our written policies and procedures, which includes Tenant Selection criteria.
- GVA has reviewed the Land Use Restriction Agreement (LURA) and have implemented the required Supportive Services.

The assessment of compliance history is performed by the Compliance Division in accordance with the rules set out at 10 TAC §1.301, which define the level or “category” of compliance an applicant or affiliate has achieved. Under 10 TAC §1.301(e)(3), Category 3 is defined. Under 10 TAC §1.301(f)(3), following a process of how an Applicant may provide evidence or comment regarding the accuracy of the categorization, “if the Application is still considered a Category 3, the Compliance Division will recommend to EARAC denial of the award.”

Under the EARAC rule found at 10 TAC §1.303(c):

(1) A positive recommendation by EARAC represents a determination that, at the time of the recommendation and based on available information, each of the applicable and required members has not identified a rule or statutory-based impediment (within their area of expertise) that would prohibit the Board from making an award. . . .

(4) A negative recommendation by EARAC will result if one of the applicable required members has determined that an Applicant has not satisfied a material requirement of TDHCA rule or federal or state statute relevant to the award sought and the material requirement cannot be cured through one of the conditions proposed by the Applicant or listed in Subsection (e) of this section. . . .

Accordingly, by rule, if an applicant or affiliate is determined by rule to be a Category 3, and evidence and comment submitted do not change that designation, then the Compliance Division must recommend to EARAC denial of the award. In turn, EARAC cannot make a positive recommendation, and must recommend against the award because of the negative recommendation of the Compliance Division (as a required member of EARAC) if “the material requirement cannot be cured through one of the conditions . . . listed in Subsection (e).”

Because the noncompliance was identified so soon after the date of acquisition and the measures the applicant has taken, staff recommends that the Board determine that the Applicant’s compliance history should not preclude a positive recommendation from EARAC.



November 21, 2019

Ms. Jo En Taylor, Senior Compliance Administrator
Texas Department of Housing and Community Affairs
221 E. 11th Street
PO Box 13941
Austin, Texas 78711-3941

Ms. Taylor,

Thank you for the opportunity to provide further information for the Previous Participation Review (PPR) conducted by compliance staff in connection with TDHCA 4% Application 19610 Fish Pond at Corpus Christi. We have reviewed the PPR Results Summary and understand that we are currently a Category 3 which will result in staff recommending denial to the Executive Award Review Advisory Committee (EARAC).

GVA purchased a five-property portfolio, including 600 East (Stone Ridge), TwentyFive25 (The Grove at Trinity Mills), and Solaire (Heritage Square) on December 13, 2017. A file audit was conducted at Twentyfive25 on January 25, 2018, 43 days after acquisition, and at Solaire on February 6, 2018, 55 days after acquisition. At the time of the audits, the properties were still using the prior owner's Tenant Selection Criteria and Affirmative Marketing materials. During the monitoring visit, it was brought to our attention the materials incorrect and non-compliant. We located the appropriate document templates and instructions from TDHCA's website and copied their exact verbiage in our revised Tenant Selection Criteria. Once the revised Tenant Selection was submitted, we heard back that the verbiage "handicap request" was not acceptable. We revised the document to "handicap preference" and resubmitted. After the second review, it was accepted. This is the criteria we have implemented across our company.

In addition, at the time of the audits we did not have record of any social services or affirmative marketing from the prior ownership. However, we have since incorporated these programs. Kids-U provides afterschool tutoring for these properties and summer camp. We worked diligently to cure all issues of non-compliance identified in the two file audits that took place soon after our acquisition of the properties and have implemented processes to ensure compliance in the future.

Regarding the physical inspection conducted at 600 East on 9/14/2018, we do acknowledge that our company missed the deadline for submitting corrective action to the Department by nine days. The documents were uploaded on 2/4/19 instead of the prescribed deadline of 1/26/19. There is no excuse for the late submission. We are happy to report that all issues of non-compliance identified via the monitoring visits have been addressed and cured at this time.

We were a new management company at the time of the acquisition and file audits that were conducted so soon after the acquisition and have since become familiar with TDHCA. Our staff has spoken with several compliance officers for advice and clarifications to ensure we have the proper processes and polices in place going forward. We implemented the required compliance procedures and take our responsibilities seriously. Some of the actions that we have implemented are as follows:

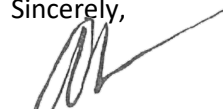
- We have designated a staff member to monitor all CMTS correspondence to ensure that we are receiving and submitting information timely to TDHCA.
- We have signed up for all listservs pertaining to compliance to ensure that we receive all information and announcements of upcoming submission, trainings, etc.
- We will ensure that staff attends all TDHCA compliance trainings at least once a year to stay abreast of all current compliance policies and requirements to be implemented.
- We have designated staff that will track and review all documentation and responses to be submitted to TDHCA. This designated staff member will review all responses for submission to ensure completeness and correctness and finally, will ensure it is uploaded/submitted to TDHCA within the corrective action period. Once documentation is uploaded, we will follow-up with TDHCA staff via email requesting confirmation that submission was received.
- We have accessed and reviewed TDHCA forms that are to be implemented across the properties and have dedicated staff to review the forms and ensure we are utilizing the most current forms.
- We have the most current copy of the Compliance rules and have reviewed to ensure the properties are implementing all requirements consistently and in compliance.
- We have reviewed and revised, if necessary, our written policies and procedures, which includes Tenant Selection criteria.
- We have also reviewed the Land Use Restriction Agreement (LURA) and have implemented the required Supportive Services.

As we have mentioned earlier, we were new to Texas and its compliance requirements. However, we have worked diligently to cure all issues, learn what is required of us, to reach and maintain compliance at our properties, and have developed a rapport with TDHCA staff that will we continue to build. We are committed to ensure that our portfolio operates in compliance with all state and federal requirements.

Finally, we would like to let all know that we will not be the management company for the new transaction TDHCA #19610 Fish Pond at Corpus Christi. The management company will be Mayfair Management Group out of Dallas, Texas. Mayfair has extensive experience with Section 8 developments.

If you have any questions or need additional information, please do not hesitate to reach out to Michael Oberrender (moberrender@gvamgt.com; 512-497-0797). We look forward to working with TDHCA and its Compliance Division.

Sincerely,



Alan Stalcup

1g

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an increase in the annual expenditures for the use of the U.S. Citizenship and Immigration Services' Systematic Alien Verification for Entitlements program from \$8,000 to \$15,000 pursuant to Tex. Gov't Code §2155.088(b)(2)

RECOMMENDED ACTION

WHEREAS, the Department of Homeland Security U.S. Citizenship and Immigration Services' (DHS-USCIS) Systematic Alien Verification for Entitlements (SAVE) program allows its users to verify a benefit applicant's immigration status or naturalized/derived citizenship;

WHEREAS, the Department entered into a Memorandum of Agreement (MOA) with the DHS-USCIS to allow the Department and its subrecipients' participation in the SAVE program;

WHEREAS, the Department originally anticipated that expenses for the use of SAVE by the Department and its subrecipients, allowable under the Low Income Home Energy Assistance Program (LIHEAP) and Department of Energy (DOE) Weatherization Assistance Program (WAP) grants, would not exceed \$8,000 annually;

WHEREAS, after approximately nine months of operating under the terms of the MOA, the Department has determined that the volume of transactions being submitted via SAVE are higher than originally anticipated, and therefore an increase in the annual expenditures from \$8,000 to \$15,000 for the use of SAVE is necessary; and

WHEREAS, Tex. Gov't Code §2155.088(b)(2) requires the governing body of a state agency to approve a material change to a contract after it has been awarded, and specifies that a material change includes increasing the total consideration to be paid under a contract by at least 10%;

NOW, therefore, it is hereby

RESOLVED, the Department has annual authorization to expend funds under the MOA from up to \$8,000 to up to \$15,000 for the use of SAVE, for the remaining period of the MOA, as presented in this meeting, and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

In 2013, the Department entered into a Memorandum of Agreement (MOA) with the Department of Homeland Security U.S. Citizenship and Immigration Services (DHS-USCIS) to allow the Department and only a political subdivision subrecipient participation in the Systematic Alien Verification for Entitlements (SAVE) program. At the time, it was understood that only subrecipients that were political subdivisions receiving Low Income Home Energy Assistance Program (LIHEAP) or U.S. Department of Energy (DOE) Weatherization Assistance Program (WAP) funds were required to check an applicant's legal status. The primary method for checking legal status is through SAVE.

As a result of a compliance review performed on the Department in 2016 by the Office of Community Services of the Administration for Children and Families at the U.S. Department of Health and Human Services (OCS-ACF-HHS), the Department was required to develop written policies and procedures ensuring that unqualified aliens do not receive LIHEAP assistance. The Department subsequently changed its rules to ensure that all subrecipients receiving LIHEAP and DOE WAP funds verify an applicant's legal status for a covered benefit, thereby ensuring no unqualified aliens receive covered benefits except as allowable for a mixed status household.

On February 19, 2019, the Department modified its 2013 MOA with DHS-USCIS to expand participation in SAVE to all subrecipients, which significantly increased the number of subrecipients using SAVE from 11 to 38. This resulted in an increase in the number of SAVE transactions as well. Each transaction has a cost associated with it which is allowable under the LIHEAP and DOE WAP grants. The Department had originally estimated the annual cost of these transactions to be no higher than \$8,000. After approximately nine months of operating under the 2019 MOA with 38 subrecipients, the Department recognizes that the original estimate is insufficient, as it had underestimated the amount of SAVE transactions to occur on an annual basis. Therefore, it has become necessary to increase the portion of the operations budget associated with the use of SAVE.

The Department requests Board approval to authorize annual SAVE expenditures from up to \$8,000 to up to \$15,000.

1h

BOARD ACTION REQUEST

HOME AND HOMELESSNESS PROGRAMS DIVISION

DECEMBER 12, 2019

Presentation, discussion, and possible action on an amendment to the 2018 Emergency Solutions Grants Program Contract for Randy Sams' Outreach Shelter, Inc. and approval of a Contract Term for the City of Texarkana's Ending Homelessness Fund Contract

RECOMMENDED ACTION

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

WHEREAS, the ESG funds have a two-year expenditure period through HUD, which ends on September 11, 2020;

WHEREAS, during a monitoring from HUD in July 2018, the Department received concerns about the sufficiency of its process of ESG subrecipients having subgrantees, and has made a change to directly contract with each ESG provider that was not procured;

WHEREAS, the joint 2017 Application submitted by the City of Texarkana, which included Randy Sams' Outreach Shelter, Inc. (Randy Sams') and Ark-Tex Council of Governments, was divided into three separate awards for 2018;

WHEREAS, the Board approved \$8,449,611 in 2018 ESG awards through the Department during the fall of 2018, including an award of \$174,393 to Randy Sams', and an award of \$60,703 to City of Texarkana;

WHEREAS, the City of Texarkana is proposing to transfer its remaining unexpended 2018 ESG funds to Randy Sams' to facilitate its continued operations;

WHEREAS, Randy Sams' Outreach Shelter has requested a six-month extension from October 31, 2019, to April 30, 2020, in order full fully expend the transferred 2018 ESG Funds from the City of Texarkana;

WHEREAS, per 10 TAC §7.41(b)(3), extension requests of more than three months, but less than six months require authorization by the Board;

WHEREAS, 10 TAC §7.65(d) requires an Ending Homelessness (EH) Contract Term to be no greater than the term of the existing ESG Contract; and

WHEREAS, but for the transfer of the remaining 2018 ESG funds, the Department would have extended the City of Texarkana's ESG Contract to April 30, 2020;

NOW, therefore, it is hereby

RESOLVED, that the extension requested by Randy Sams' is approved and the Executive Director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the Contract amendment to extend the term of the Contract with Randy Sams' until April 30, 2020. Additionally, the City of Texarkana's EH Contract Term is approved to be from October 10, 2019 through April 30, 2020.

BACKGROUND

The ESG Program is a HUD-funded program designed to assist people experiencing homelessness or at-risk of homelessness to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness. The program components under ESG include street outreach, emergency shelter, rapid re-housing, homelessness prevention, HMIS, and administration. Rapid re-housing and homelessness prevention may be used for housing relocation and stabilization services and short-term and medium-term rental assistance.

During a HUD monitoring in July 2018, HUD identified concerns with the Department's ESG subgranting process whereby ESG subrecipients, that were private nonprofits, could subgrant a portion of the ESG funds they were awarded to other private nonprofit organizations identified as partners in the application. Because of these concerns, the Department changed the 2018 ESG awards process to contract directly with both subrecipients and subgrantees in essence making all awardees equal in their relationship with the Department. In order to effect this change, ESG subrecipients who subgranted funds in 2017 were asked to confirm the award and performance targets with the subgrantees and provide that confirmation to the Department in order for the Department to contract directly with the subgrantee.

Prior to award of 2018 ESG funds, TDHCA staff contacted the City of Texarkana to determine the proportion of the award of 2018 ESG funds that each of their 2017 subgrantees would receive as a direct award from the Department. The City of Texarkana, as the lead applicant, coordinated with the 2017 subgrantees and reached agreement to divide the award amounts and performance targets amongst the City of Texarkana, Randy Sams', and Ark-Tex Council of Governments. The Board approved an award to Randy Sams' of \$174,393, an award to City of Texarkana of \$60,703, and an award to Ark-Tex Council of Governments of \$211,767 in 2018 ESG funds on October 11, 2018.

Randy Sams' was not recommended for funding in the 2019 ESG funding cycle, because they did not score high enough to be competitive and the Application appeal was denied by the TDHCA Board on September 5, 2019. The City of Texarkana has requested that an unexpended portion of its remaining

2018 ESG funds be transferred to Randy Sams', which is allowable as they were the lead applicant in the prior funding cycle.

In order to plan for the expenditure of the additional funds transferred by the City of Texarkana, Randy Sams' requested a six-month extension of their contract term to April 30, 2020. Per 10 TAC §7.41(b)(3), approval of extensions of greater than three months and up to six months may be granted by the Board. The extension, as recommended, does not extend past the expiration date of the 2018 ESG funds with HUD.

Additionally, the City of Texarkana received an EH award on October 10, 2019. 10 TAC §7.65(d) requires an EH Contract Term to be no greater than the term of the existing ESG Contract. If not for the transfer of the remaining 2018 ESG funds to Randy Sams', the Department would have recommended the extension of the City of Texarkana's ESG Contract to April 30, 2020, which by rule would have allowed the Contract Term for the EH award to be through April 30, 2020. The Department is requesting board approval for that Contract Term to be from October 10, 2019 through April 30, 2020.

Staff recommends approval of an extension until April 30, 2020, for the 2018 ESG Contract with Randy Sams' Outreach Shelter. Staff also recommends approval of the City of Texarkana's EH Contract Term from October 10, 2019 through April 30, 2020.

1i

BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 12, 2019

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Milam Creek Senior Village (HOME 1000555 / CMTS 4313), Milam Creek Senior Village II (HOME 1001214 / CMTS 4722), Alta Vista Village Retirement Community (HOME 531300 / CMTS 4006), and Floresville Senior Housing (HOME 1000969 / CMTS 4515)

RECOMMENDED ACTION

WHEREAS, Milam Creek Senior Village, Milam Creek Senior Village II, Alta Vista Village Retirement Community, and Floresville Senior Housing have uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

WHEREAS, all four properties are owned by Center for Housing And Economic Opportunities Corporation, a Texas nonprofit corporation (collectively known as "Owner");

WHEREAS, on November 19, 2019, Melissa Cadena, Executive Director for the nonprofit, participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into four Agreed Final Orders assessing a total administrative penalty of \$6,750, with \$1,250 to be paid within 30 days of Board approval and the remaining \$5,500 to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before February 10, 2020;

WHEREAS, unresolved compliance findings include failure to submit pre-onsite documentation for Alta Vista and Floresville; failure to submit acceptable Affirmative Marketing Plans for all properties; failure to comply with tenant selection criteria requirements for all properties; failure to implement the appropriate utility allowance for building five at Milam Creek II; failure to post the Tenant Rights and Resources Guide in a common area at Floresville; failure to document assets for Tenant Income Certifications relating to two units at Floresville; and Uniform Physical Condition Standards (UPCS) violations identified during the 2019 inspection of Floresville; and

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

NOW, therefore, it is hereby

RESOLVED, that four Agreed Final Orders, assessing a total administrative penalty of \$6,750 and subject to partial forgiveness as outlined above, for noncompliance at Milam Creek Senior Village, Milam Creek Senior Village II, Alta Vista Village Retirement Community, and Floresville Senior Housing, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Center for Housing and Economic Opportunities Corporation, a Texas nonprofit corporation (Owner) is the owner of the four properties outlined below. Records of the Texas Secretary of State list the following members and/or officers as of 2014: Al Rodriguez, Van Johnson, Pete Montoya, and Jeannie Weaver. Each property is subject to a Land Use Restriction Agreement (LURA) signed by Owner in consideration for two HOME loans as outlined below to acquire and build the units. Mike Harms was the original executive director and controlled the nonprofit until he died in mid-2017. His daughter, Melissa Cadena, was previously the assistant director and was appointed as executive director after Mr. Harms died. There is an onsite property manager at each location, but Ms. Cadena controls all daily activities and is the only contact in CMTS. She indicates that she is the only person who works on compliance monitoring requirements.

Property	Units	Location	Loan date	Loan details
Milam Creek Senior Village, CMTS 4313 ("Milam Creek")	22 units	Luling, Caldwell County	1/26/2006	1 st Lien: \$810,000. Monthly amortizing. 2 nd Lien: \$690,000. Cash Flow loan.
Milam Creek Senior Village II, CMTS 4722 ("Milam Creek II")	29 units	Luling, Caldwell County	11/17/2010	1 st Lien: \$1,320,000. Monthly amortizing. 2 nd Lien: \$1,178,529. Deferred forgivable.
Alta Vista Village Retirement, CMTS 4006 ("Alta Vista")	20 units	Kenedy, Karnes County	11/05/2003	1 st Lien: \$335,873. Monthly amortizing. 2 nd Lien: \$983,986. Deferred, re-evaluated every 5 years.
Floresville Senior Housing, CMTS 4515 ("Floresville")	24 units	Floresville, Wilson County	08/21/2008	1 st lien: \$945,524. Monthly amortizing. 2 nd lien: \$998,358. Deferred forgivable.

Owner was previously referred for an administrative penalty for reporting violations and file monitoring violations. Referrals were closed informally in 2013 and 2014 when full corrections were received, and an informal conference was held for Milam Creek II in 2015 relating to 2014 and 2015 file monitoring findings; those findings were fully resolved a week before the scheduled informal conference and the Enforcement Committee voted to close the referral with a warning. Owner has been referred again, with significant unresolved violations relating to each property. The informal conference highlighted Ms. Cadena's lack of program knowledge and the need for training regarding compliance requirements; and her need to review CMTS attachments section on a more regular basis.

The following compliance violations identified during 2019 were referred for an administrative penalty and are unresolved:

1. 2019 UPCS violations at Floresville.
2. Pre-onsite documentation not submitted, including:
 - a. Entrance Interview Questionnaire not submitted for Alta Vista or Floresville; and
 - b. Unit Status Report, Utility allowance, Affirmative Marketing Plan, written policies, and supporting documentation for application fees not submitted for Floresville.
3. Affirmative marketing plan and supporting documentation for all properties.
4. Written Policies and Procedures, including Tenant Selection Criteria, for all properties.
5. Tenant Selection Criteria under which households were screened not included in tenant files for:
 - a. Milam Creek: Units 304, 502, 601, 603;
 - b. Milam Creek II: Units 202B, 601B, 603B, 801B, 1003B; and
 - c. Floresville: Units 801, 802, 803.
6. Utility allowance:
 - a. Milam Creek II: Unit Status Report for Building 5 not updated with correct utility allowance; and
 - b. Floresville: There is no separate finding for this property, so it cannot be penalized as an independent violation, but the finding is encompassed in the pre-onsite finding above and must still be resolved.
7. Lease violation for failure to post the Tenant Rights and Resources Guide in a common area in the office at Floresville.
8. Tenant income certification violations for failure to verify checking accounts for units 801 and 802 at Floresville.

Melissa Cadena participated in an informal conference with the Enforcement Committee on November 19, 2019, and agreed to sign four Agreed Final Orders with the following terms:

1. A \$6,750 total administrative penalty, divided among the properties and subject to partial forgiveness as indicated below;
2. The portion of the administrative penalty attributed to each property is listed below. Each property will be in a separate Agreed Final Order;

Property	Due 1/13/2020	Forgivable portion	Total potential penalty
Milam I	\$0.00	\$500.00	\$500.00
Milam II	\$0.00	\$1,000.00	\$1,000.00
Alta Vista	\$250.00	\$1,000.00	\$1,250.00
Floresville	\$1,000.00	\$3,000.00	\$4,000.00
TOTAL	\$1,250.00	\$5,500.00	\$6,750.00

3. Owner must submit \$1,250 portion of the administrative penalty on or before January 13, 2020;
4. Owner must correct the UPCS and file monitoring violations as indicated in the Agreed Final Orders, and submit full documentation of the corrections to TDHCA on or before February 10, 2020;

5. If Owner complies with all requirements and addresses all violations as required by an individual Agreed Final Order, the remaining administrative penalty under that Order will be forgiven, for a potential forgivable total of \$5,500; and
6. If Owner violates any provision of an individual Agreed Final Order, the full administrative penalty due under that Order will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty totaling \$6,750 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the Owner.

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
CENTER FOR HOUSING AND ECONOMIC	§	TEXAS DEPARTMENT OF
OPPORTUNITIES CORPORATION	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
MILAM CREEK SENIOR VILLAGE	§	
(HOME FILE # 1000555 / CMTS # 4313)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 12th day of December, 2019, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION**, a Texas nonprofit corporation (Respondent).

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

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

WAIVER

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

FINDINGS OF FACT (FOF)

Jurisdiction:

1. During 2006, Respondent received two HOME loans totaling \$1,500,000 to build and operate Milam Creek Senior Village (Property) (HOME file No. 1000555 / CMTS No. 4313 / LDLD No. 513).
2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective January 26, 2006, and filed of record at Volume 446, Page 439 of the Official Public Records of Real Property of Caldwell County, Texas (Records), as amended by a First Amendment effective as of December 3, 2009, and filed in the Records at Volume 587, Page 860, as further amended by a Second Amendment effective as of April 10, 2012, and filed in the Records at Document Number 123277.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on February 5, 2019, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2019, corrective action deadline was set. An extension through July 11, 2019 was granted, however, the following violations were not resolved before the extended corrective action deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was reviewed, but it did not properly identify least likely to apply groups or identify appropriate outreach marketing contacts that service the required populations.
 - b. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
 - c. Respondent failed to maintain copies of written tenant selection criteria under which households were screened in the tenant files for units 304, 502, 601, 603,

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

a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all copies of the criteria under which a household is screened to be maintained in tenant files.

5. The following violations remain outstanding at the time of this order:
 - a. Affirmative Marketing Plan violation described in FOF #4a;
 - b. Written Policies and Procedures/Tenant Selection Criteria violation described in FOF #4b; and
 - c. Tenant Selection Criteria violations described in FOF #4c.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TAC §10.617 in 2019, by failing to provide a complete affirmative marketing plan and evidence of outreach marketing efforts.
4. Respondent violated 10 TAC §10.610 in 2019, by not maintaining written tenant selection criteria meeting TDHCA requirements and not maintaining copies of tenant selection criteria under which households were screened in their tenant files.
5. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
6. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
7. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
8. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC Chapter 2.

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

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

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before February 10, 2020.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full administrative penalty in the amount of \$500 will be deferred and forgiven.

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

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

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

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on December 12, 2019.

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

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

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared J.B. Goodwin, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

STATE OF TEXAS §
 §
 COUNTY OF _____ §

BEFORE ME, _____ (notary name), a notary public in and for the State of _____, on this day personally appeared Melissa Cadena (person signing document), known to me or proven to me through circle one: personally known / driver's license / passport to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

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

RESPONDENT:
CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION, a Texas nonprofit corporation

By: _____
 Name: Melissa Cadena
 Title: Executive Director

Given under my hand and seal of office this _____ day of _____, 2019.

 Signature of Notary Public

 Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____

My Commission Expires: _____

Exhibit 1

File Monitoring Violation Resources and Instructions

Resources:

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important note** - Do not backdate any documents listed below.

Instructions:

6. **Tenant selection criteria for tenant files 304, 502, 601, 603:** [10 TAC §10.610](#) requires you to maintain the Tenant Selection Criteria under which the households were screened in their tenant files.

How to prepare corrections: Place a copy of the Tenant Selection Criteria that was in place at the time of move-in in the tenant files for units 304, 502, 601, and 603. That Tenant Selection Criteria is what you used to screen the households and a copy must be maintained in the tenant file.

What to submit: Submit a letter certifying that you have placed the Tenant Selection Criteria under which the households in units 304, 502, 601, and 603 were screened in their tenant files.
7. **Written policies and procedures, including tenant selection criteria:** Criteria were submitted but were incomplete. Problems observed include but are not limited to the following:
 - a. The income and rent limits are not specific to the Development, which has only 50%, 60% and 80% income limits and 50% and 60% rent limits designated for the HOME program monitored by the Department. If the 30% limits shown in the criteria are applicable under another program, then the monitoring agency must be specified or the non-applicable limits must be removed.

(continued on next page)

- b. The Waitlist Policy does not list the opening and closing procedures.
- c. Student requirements and exceptions are not included in the criteria. Credit and criminal history requirements are not listed and must be specified if the Development does any type of screening for them.
- d. The Reasonable Accommodation Policy does not include applicants, only residents, which does not meet the requirement.

How to prepare compliant criteria: First watch the webinar presentation available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at [10 TAC §10.610](#), and paying particular attention to items a-d listed above. Staff recommends using that rule and a-d above as checklists. Ensure that you include a new effective date for the policy. The “10.610 (policy & procedures)” tab of this spreadsheet provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:

<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit: Upload the updated written policies and procedures to CMTS.

- 8. **Affirmative marketing plan** – A plan was received, but it did not correctly identify the groups that are least likely to apply, did not provide details regarding how the populations were identified, and did not identify appropriate outreach marketing contacts.

Technical Support: First read the rule at [10 TAC §10.617](#) and watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>, to gain a general understanding regarding affirmative marketing.

Steps to complete affirmative marketing plan:

- a. Get a copy of the plan form from <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. You can use any version of HUD Form 935.2A.
- b. Identify the appropriate housing market area in which outreach efforts will be made. A housing market area is the area from which you may reasonably expect to draw a substantial number of your tenants. As an example, the city in which your development is located may be an appropriate housing market area.
- c. Determine the groups that are least likely to apply and mark them in your plan.

To determine the groups, you must perform and document a reasonable analysis by which those groups were identified, and you must always include persons with disabilities. This analysis must be included with the plan. If you use the current version of the HUD 935.2A, you will do this analysis by using Worksheet 1 to analyze your data versus the data for the census tract, housing market area, and (optional) expanded housing market area. See <https://factfinder.census.gov> for demographic data and include a copy of the data. When selecting groups, keep in mind that you typically would not market to groups that represent less than 1% of the population because they are not present in the marketing area.

(continued on next page)

- d. Identify and mark in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups that you have designated as least likely to apply. Specific examples:
- i. Least likely to apply population - People with disabilities:
 - A. Local Center for Independent Living (CIL) – serve persons with all disability types. Not all counties are covered http://www.txsilc.org/page_CILs.html
 - B. Aging and Disability Resource Center (ADRC) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - C. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - D. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
 - E. Local non-profits in your area serving people with disabilities
 - F. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community
 - ii. Least likely to apply population - White:
 - A. Examples of acceptable community contacts might include community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - iii. Least likely to apply population - Asian:
 - A. Local Asian real estate association
 - B. Local Asian Chamber of Commerce
 - C. Local Asian American Resource Center
 - D. Local organizations serving the Asian community
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - iv. Least likely to apply population - Black/African American:
 - A. Local Black/African American Chamber of Commerce
 - B. Local Black/African American Professionals Social Network
 - C. Weekly Black/African American newspaper / website for a city
 - D. Local community center or YMCA in a historically black/African American neighborhood;
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - v. Least likely to apply population - Hispanic:
 - A. Local Hispanic Chamber of Commerce
 - B. Local Young Hispanic Professional Association
 - C. The Hispanic Alliance
 - D. Mexican American Cultural Center

- E. Local Spanish language publications
- F. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- vi. Least likely to apply population – Not Hispanic:
 - A. When this group is identified, no additional marketing is required, but the Development must refrain from targeting affirmative marketing efforts to Hispanic related groups.
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. The bottom section of the form regarding HUD approval can be ignored; you do not need their approval;
- g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Ensure that the addresses and send dates are included so that TDHCA can verify that you have performed the required marketing.

Remember that 10 TAC §10.617(c)(2) requires marketing materials to include the Fair Housing Logo and the contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*

- h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:

<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit to comply with this Order: Upload the Plan, documentation regarding how you determined the groups that are least likely to apply, and evidence of outreach marketing efforts.

Exhibit 2:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the

debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

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

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

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

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
CENTER FOR HOUSING AND ECONOMIC	§	TEXAS DEPARTMENT OF
OPPORTUNITIES CORPORATION	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
MILAM CREEK SENIOR VILLAGE II	§	
(HOME FILE # 1001214 / CMTS # 4722)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 12th day of December, 2019, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION**, a Texas nonprofit corporation (Respondent).

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

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

WAIVER

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

FINDINGS OF FACT (FOF)

Jurisdiction:

1. During 2010, Respondent received two HOME loans totaling \$2,498,529 to build and operate Milam Creek Senior Village II (Property) (HOME file No. 1001214 / CMTS No. 4722 / LDLD No. 520).
2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective November 17, 2010, and filed of record at Volume 634, Page 821 of the Official Public Records of Real Property of Caldwell County, Texas.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations²:

4. An on-site monitoring review was conducted on February 5, 2019, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2019, corrective action deadline was set. An extension through July 11, 2019 was granted, however, the following violations were not resolved before the extended corrective action deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was reviewed, but it did not properly identify least likely to apply groups or identify appropriate outreach marketing contacts that service the required populations.
 - b. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
 - c. Respondent failed to maintain copies of written tenant selection criteria under which households were screened in the tenant files for units 202B, 601B, 603B, 801B, 1003B, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all copies of the criteria under which a household is screened to be maintained in tenant files.

² Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

- d. Respondent failed to document implementation of an updated utility allowance for Building 5, a violation of 10 TAC §10.607 (Utility Allowances), which requires all developments to establish and regularly update their utility allowance. A Unit Status Report was submitted on November 12, 2019 to address this finding.
5. The following violations remain outstanding at the time of this order:
 - a. Affirmative Marketing Plan violation described in FOF #4a;
 - b. Written Policies and Procedures/Tenant Selection Criteria violation described in FOF #4b; and
 - c. Tenant Selection Criteria violations described in FOF #4c.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TAC §10.617 in 2019, by failing to provide a complete affirmative marketing plan and evidence of outreach marketing efforts.
4. Respondent violated 10 TAC §10.610 in 2019, by not maintaining written tenant selection criteria meeting TDHCA requirements and not maintaining copies of tenant selection criteria under which households were screened in their tenant files.
5. Respondent violated 10 TAC §10.607 in 2019 by failing to implement a utility allowance update.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.

9. An administrative penalty of \$1,000 is an appropriate penalty in accordance with 10 TAC Chapter 2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$1,000, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before February 10, 2020.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full administrative penalty in the amount of \$1,000 will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$1,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

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

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

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

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

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Approved by the Governing Board of TDHCA on December 12, 2019.

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

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

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared J.B. Goodwin, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Exhibit 1

File Monitoring Violation Resources and Instructions

Resources:

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaq.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important note** - Do not backdate any documents listed below.

Instructions:

6. **Tenant selection criteria for tenant files 202B, 601B, 603B, 801B, 1003B:** [10 TAC §10.610](#) requires you to maintain the Tenant Selection Criteria under which the households were screened in their tenant files.

How to prepare corrections: Place a copy of the Tenant Selection Criteria that was in place at the time of move-in in the tenant files for units 202B, 601B, 603B, 801B, 1003B. That Tenant Selection Criteria is what you used to screen the households and a copy must be maintained in the tenant file.

What to submit: Submit a letter certifying that you have placed the Tenant Selection Criteria under which the households in units 202B, 601B, 603B, 801B, 1003B were screened in their tenant files.
7. **Written policies and procedures, including tenant selection criteria:** Criteria were submitted but were incomplete. Problems observed include but are not limited to the following:
 - a. The income and rent limits are not specific to the Development, which has only 50%, 60% and 80% income limits and 50% and 60% rent limits designated for the HOME program monitored by the Department. If the 30% limits shown in the criteria are applicable under another program, then the monitoring agency must be specified or the non-applicable limits must be removed.

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- b. The Waitlist Policy does not list the opening and closing procedures.
- c. Student requirements and exceptions are not included in the criteria. Credit and criminal history requirements are not listed and must be specified if the Development does any type of screening for them.
- d. The Reasonable Accommodation Policy does not include applicants, only residents, which does not meet the requirement.

How to prepare compliant criteria: First watch the webinar presentation available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at [10 TAC §10.610](#), and paying particular attention to items a-d listed above. Staff recommends using that rule and a-d above as checklists. Ensure that you include a new effective date for the policy. The “10.610 (policy & procedures)” tab of this spreadsheet provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:

<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit: Upload the updated written policies and procedures to CMTS.

- 8. **Affirmative marketing plan** – A plan was received, but it did not correctly identify the groups that are least likely to apply, did not provide details regarding how the populations were identified, and did not identify appropriate outreach marketing contacts.

Technical Support: First read the rule at [10 TAC §10.617](#) and watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>, to gain a general understanding regarding affirmative marketing.

Steps to complete affirmative marketing plan:

- a. Get a copy of the plan form from <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. You can use any version of HUD Form 935.2A.
- b. Identify the appropriate housing market area in which outreach efforts will be made. A housing market area is the area from which you may reasonably expect to draw a substantial number of your tenants. As an example, the city in which your development is located may be an appropriate housing market area.
- c. Determine the groups that are least likely to apply and mark them in your plan.

To determine the groups, you must perform and document a reasonable analysis by which those groups were identified, and you must always include persons with disabilities. This analysis must be included with the plan. If you use the current version of the HUD 935.2A, you will do this analysis by using Worksheet 1 to analyze your data versus the data for the census tract, housing market area, and (optional) expanded housing market area. See <https://factfinder.census.gov> for demographic data and include a copy of the data. When selecting groups, keep in mind that you typically would not market to groups that represent less than 1% of the population because they are not present in the marketing area.

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- d. Identify and mark in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups that you have designated as least likely to apply. Specific examples:
- i. Least likely to apply population - People with disabilities:
 - A. Local Center for Independent Living (CIL) – serve persons with all disability types. Not all counties are covered http://www.txsilc.org/page_CILs.html
 - B. Aging and Disability Resource Center (ADRC) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - C. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - D. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
 - E. Local non-profits in your area serving people with disabilities
 - F. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community
 - ii. Least likely to apply population - White:
 - A. Examples of acceptable community contacts might include community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - iii. Least likely to apply population - Asian:
 - A. Local Asian real estate association
 - B. Local Asian Chamber of Commerce
 - C. Local Asian American Resource Center
 - D. Local organizations serving the Asian community
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - iv. Least likely to apply population - Black/African American:
 - A. Local Black/African American Chamber of Commerce
 - B. Local Black/African American Professionals Social Network
 - C. Weekly Black/African American newspaper / website for a city
 - D. Local community center or YMCA in a historically black/African American neighborhood;
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - v. Least likely to apply population - Hispanic:
 - A. Local Hispanic Chamber of Commerce
 - B. Local Young Hispanic Professional Association
 - C. The Hispanic Alliance
 - D. Mexican American Cultural Center

- E. Local Spanish language publications
- F. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- vi. Least likely to apply population – Not Hispanic:
 - A. When this group is identified, no additional marketing is required, but the Development must refrain from targeting affirmative marketing efforts to Hispanic related groups.
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. The bottom section of the form regarding HUD approval can be ignored; you do not need their approval;
- g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Ensure that the addresses and send dates are included so that TDHCA can verify that you have performed the required marketing.

Remember that 10 TAC §10.617(c)(2) requires marketing materials to include the Fair Housing Logo and the contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completer el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*

- h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:

<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit to comply with this Order: Upload the Plan, documentation regarding how you determined the groups that are least likely to apply, and evidence of outreach marketing efforts.

Exhibit 2:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the

debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

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

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

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

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
CENTER FOR HOUSING AND ECONOMIC	§	TEXAS DEPARTMENT OF
OPPORTUNITIES CORPORATION	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
ALTA VISTA VILLAGE RETIREMENT	§	
COMMUNITY	§	
(HOME FILE # 531300 / CMTS # 4006)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 12th day of December, 2019, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION**, a Texas nonprofit corporation (Respondent).

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

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

WAIVER

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

FINDINGS OF FACT (FOF)

Jurisdiction:

1. During 2003, Respondent received two HOME loans totaling \$1,319,859 to build and operate Alta Vista (Property) (HOME file No. 531300 / CMTS No. 4006 / LDLD No. 526).
2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective November 5, 2003, and filed of record at Volume 796, Page 541 of the Official Public Records of Real Property of Karnes County, Texas.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations³:

4. An on-site monitoring review was conducted on June 20, 2019 to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and an October 1, 2019, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
 - a. Respondent failed to submit pre-onsite documentation, a violation of 10 TAC §10.607 and §10.618, which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review, including: Entrance Interview Questionnaire, and invoices, contracts, and vendor price sheets or other documentation supporting application fees;
 - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was reviewed, but it did not properly identify least likely to apply groups or identify appropriate outreach marketing contacts that service the required populations; and
 - c. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.

³ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

5. The following violations remain outstanding at the time of this order:
 - a. Pre-onsite documentation violation described in FOF #4a;
 - b. Affirmative Marketing Plan violation described in FOF #4b; and
 - c. Written Policies and Procedures/Tenant Selection Criteria violation described in FOF #4c.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TAC §10.607 and §10.618 in 2019, by not submitting pre-onsite documentation in preparation for the monitoring review.
4. Respondent violated 10 TAC §10.617 in 2019, by failing to provide a complete affirmative marketing plan and evidence of outreach marketing efforts.
5. Respondent violated 10 TAC §10.610 in 2019, by not maintaining written tenant selection criteria meeting TDHCA requirements.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
9. An administrative penalty of \$1,250 is an appropriate penalty in accordance with 10 TAC Chapter 2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$1,250, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$250 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date this Agreed Final Order is approved by the Board.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before February 10, 2020.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty in the amount of \$1,000, which will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$1,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

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

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

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on December 12, 2019.

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

By: _____
Name: James “Beau” Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared J.B. Goodwin, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared James “Beau” Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Exhibit 1

File Monitoring Violation Resources and Instructions

Resources:

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important note** - Do not backdate any documents listed below.

Instructions:

6. **Pre-onsite documentation:**
 - a. Must submit Entrance Interview Questionnaire via CMTS.
 - b. Must upload any invoices, contracts, vendor price sheets or other documentation supporting application fees. If there are no application fees, upload a letter certifying to that fact.
7. **Written policies and procedures, including tenant selection criteria:** Criteria were submitted but were incomplete. Problems observed include but are not limited to the following:
 - a. Restrictions on student occupancy and exceptions to those restrictions were not included.
 - b. Must specifically list any fees and/or deposits required as part of the application process. If none are required, that must be stated. Developments with HOME units cannot collect an application deposit for units designated under these programs. If an application deposit is collected, it must soon after be converted into a refundable security deposit. No fees or deposits may be collected to place a household or applicant on a waiting list.
 - c. Must list the applicant screening criteria and include what is screened and what scores or findings would result in ineligibility. The Tenant Selection Criteria does not contain what is screened and what scores or findings would result in ineligibility.
 - d. Must list the Occupancy Standards. If fewer than two persons (over the age of six) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided. The current

Tenant Selection Plan states that “two bedroom units may accommodate three eligible tenants”.

- e. Must include procedures that the Development uses in opening, closing, and selecting applicants from the wait list, determining how lawful preferences are applied, and procedures for prioritizing applicants needing accessible units in accordance with 24 CFR §8.27 and 10 TAC Chapter 1, Subchapter B. The submitted plan does not comply.
- f. Developments with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted units. The Development's wait list policy must inform applicants and current residents of the availability of lower rent units and the process for renting a lower rent unit. Unless otherwise approved at application, underwriting and cost certification, all unit sizes must be available at the lower rent limits. The wait list policy for Developments with lower rent restricted units must address how the waiting list for their lower rent restricted units will be managed and must include policies regarding changes in income that address the options available in 10 TAC§10.615 of this subchapter. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.
- g. Must maintain a written policy regarding procedures for denying applications and notifying denied applicants of their rights. The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.
- h. §10.610(m) requires owners to maintain a written policy regarding procedures for providing households non-renewal and termination notices.

How to prepare compliant criteria: First watch the webinar presentation available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at [10 TAC §10.610](#), and paying particular attention to items a-h listed above. Staff recommends using that rule and a-h above as checklists. Ensure that you include a new effective date for the policy. The “10.610 (policy & procedures)” tab of this spreadsheet provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:

<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit: Upload the updated written policies and procedures to CMTS.

- 8. **Affirmative marketing plan** – A plan was received, but it did not correctly identify the groups that are least likely to apply, did not provide details regarding how the populations were identified, and did not identify appropriate outreach marketing contacts.

Technical Support: First read the rule at [10 TAC §10.617](#) and watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>, to gain a general understanding regarding affirmative marketing.

Steps to complete affirmative marketing plan:

- a. Get a copy of the plan form from <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. You can use any version of HUD Form 935.2A.
- b. Identify the appropriate housing market area in which outreach efforts will be made. A housing market area is the area from which you may reasonably expect to draw a

substantial number of your tenants. As an example, the city in which your development is located may be an appropriate housing market area.

- c. Determine the groups that are least likely to apply and mark them in your plan.

To determine the groups, you must perform and document a reasonable analysis by which those groups were identified, and you must always include persons with disabilities. This analysis must be included with the plan. If you use the current version of the HUD 935.2A, you will do this analysis by using Worksheet 1 to analyze your data versus the data for the census tract, housing market area, and (optional) expanded housing market area. See <https://factfinder.census.gov> for demographic data and include a copy of the data. When selecting groups, keep in mind that you typically would not market to groups that represent less than 1% of the population because they are not present in the marketing area.

- d. Identify and mark in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups that you have designated as least likely to apply. Specific examples:

- i. Least likely to apply population - People with disabilities:

- A. Local Center for Independent Living (CIL) – serve persons with all disability types. Not all counties are covered http://www.txsilc.org/page_CILs.html
- B. Aging and Disability Resource Center (ADRC) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
- C. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
- D. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
- E. Local non-profits in your area serving people with disabilities
- F. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community

- ii. Least likely to apply population - White:

- A. Examples of acceptable community contacts might include community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.

- iii. Least likely to apply population - Asian:

- A. Local Asian real estate association
- B. Local Asian Chamber of Commerce
- C. Local Asian American Resource Center
- D. Local organizations serving the Asian community
- E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.

- iv. Least likely to apply population - Black/African American:
 - A. Local Black/African American Chamber of Commerce
 - B. Local Black/African American Professionals Social Network
 - C. Weekly Black/African American newspaper / website for a city
 - D. Local community center or YMCA in a historically black/African American neighborhood;
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- v. Least likely to apply population - Hispanic:
 - A. Local Hispanic Chamber of Commerce
 - B. Local Young Hispanic Professional Association
 - C. The Hispanic Alliance
 - D. Mexican American Cultural Center
 - E. Local Spanish language publications
 - F. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- vi. Least likely to apply population – Not Hispanic:
 - A. When this group is identified, no additional marketing is required, but the Development must refrain from targeting affirmative marketing efforts to Hispanic related groups.
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. The bottom section of the form regarding HUD approval can be ignored; you do not need their approval;
- g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Ensure that the addresses and send dates are included so that TDHCA can verify that you have performed the required marketing.

Remember that 10 TAC §10.617(c)(2) requires marketing materials to include the Fair Housing Logo and the contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completer el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*

- h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:
<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit to comply with this Order: Upload the Plan, documentation regarding how you determined the groups that are least likely to apply, and evidence of outreach marketing efforts.

Exhibit 2:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the

debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

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

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

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

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
CENTER FOR HOUSING AND ECONOMIC	§	TEXAS DEPARTMENT OF
OPPORTUNITIES CORPORATION	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
FLORESVILLE SENIOR HOUSING	§	
(HOME FILE # 1000969 / CMTS # 4515)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 12th day of December, 2019, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION**, a Texas nonprofit corporation (Respondent).

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

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

WAIVER

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

FINDINGS OF FACT (FOF)

Jurisdiction:

1. During 2008, Respondent received two HOME loans totaling \$1,943,882 to build and operate Floresville Senior Housing (Property) (HOME file No. 1000969 / CMTS No. 4515 / LDLD No.525).
2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective August 21, 2008, and filed of record at Volume 1473, Page 710 of the Official Public Records of Real Property of Wilson County, Texas.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations⁴:

4. An on-site monitoring review was conducted on June 20, 2019, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and an October 1, 2019, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
 - a. Respondent failed to maintain copies of written tenant selection criteria under which households were screened in the tenant files for units 801, 802, and 803, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all copies of the criteria under which a household is screened to be maintained in tenant files.
 - b. Respondent failed to provide complete Tenant Income Certification documentation for units 801 and 802, a violation of 10 TAC §10.611, 10 TAC §10.612, and Section 2.4 of the LURA
 - c. Respondent failed to submit pre-onsite documentation, a violation of 10 TAC §10.607 and §10.618, which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review, including: Entrance Interview Questionnaire, and invoices, contracts, and vendor price sheets or other documentation supporting application fees.
 - d. Respondent failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each

⁴ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

household during the application process and upon any subsequent change to common amenities, unit amenities, or services.

- e. Respondent failed to provide an affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled.
 - f. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
5. A Uniform Physical Condition Standards (UPCS) inspection was conducted on July 10, 2019. Inspection reports showed numerous property condition violations and one accessibility finding, violations of 10 TAC §10.621 (Property Condition Standards). Notifications of noncompliance were sent and an October 16, 2019, corrective action deadline was set, however, no reply was received. The violations listed at Exhibit 2 are unresolved.
 6. The following violations remain outstanding at the time of this order:
 - a. Written Policies and Procedures/Tenant Selection Criteria violations described in FOF #4a and 4f;
 - b. Tenant Income Certification violations described in FOF #4b;
 - c. Pre-onsite documentation violations described in FOF #4c;
 - d. Tenant Rights and Resources Guide lease violation described in FOF #4d;
 - e. Affirmative Marketing Plan violation described in FOF #4e; and
 - f. UPCS violations described in FOF #5.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TAC §10.610 in 2019, by not maintaining written tenant selection criteria meeting TDHCA requirements and not maintaining copies of tenant selection criteria under which households were screened in their tenant files.

4. Respondent violated 10 TAC §10.611, 10 TAC §10.612, and Section 2.4 of the LURA in 2019, by failing to provide tenant income certification and documentation to ensure qualification for the program.
5. Respondent violated 10 TAC §10.607 and §10.618 in 2019, by not submitting pre-onsite documentation.
6. Respondent violated leasing requirements in 10 TAC §10.613 in 2015, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
7. Respondent violated 10 TAC §10.617 in 2019, by failing to provide a complete affirmative marketing plan and evidence of outreach marketing efforts.
8. Respondent violated 10 TAC §10.621 in 2019 when UPCS findings of noncompliance were identified and not resolved.
9. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
10. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
11. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
12. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC Chapter 2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$4,000, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$1,000 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date this Agreed Final Order is approved by the Board.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before February 10, 2020.

IT IS FURTHER ORDERED that Respondent shall repair all UPCS violations as indicated in the exhibits and submit work orders in the correct format, and including all necessary parts, to document the corrections to TDHCA on or before February 10, 2020.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the remaining administrative penalty in the amount of \$3,000 will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$3,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

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

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

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

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

Approved by the Governing Board of TDHCA on December 12, 2019.

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

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

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared J.B. Goodwin, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of December, 2019, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF _____ §

BEFORE ME, _____ (notary name), a notary public in and for the State of _____, on this day personally appeared Melissa Cadena (person signing document), known to me or proven to me through circle one: personally known / driver's license / passport to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

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

RESPONDENT:
CENTER FOR HOUSING AND ECONOMIC OPPORTUNITIES CORPORATION, a Texas nonprofit corporation

By: _____
Name: Melissa Cadena
Title: Executive Director

Given under my hand and seal of office this _____ day of _____, 2019.

Signature of Notary Public

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____
My Commission Expires: _____

Exhibit 1

File Monitoring Violation Resources and Instructions

Resources:

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaq.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important note** - Do not backdate any documents listed below.

Instructions:

6. **Tenant selection criteria for tenant files 801, 802, and 803:** [10 TAC §10.610](#) requires you to maintain the Tenant Selection Criteria under which the households were screened in their tenant files.

How to prepare corrections: Place a copy of the Tenant Selection Criteria that was in place at the time of move-in in the tenant files for units 801, 802, and 803. That Tenant Selection Criteria is what you used to screen the households and a copy must be maintained in the tenant file.

What to submit: Submit a letter certifying that you have placed the Tenant Selection Criteria under which the households in units 801, 802, and 803 were screened in their tenant files.

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7. **Tenant Income Certifications for units 801 (date of noncompliance 6/1/2016) and 802 (date of noncompliance 4/2/2018):** Monitors were unable to establish eligibility because the applications disclosed an asset in the form of a checking account that was not verified. To correct, follow the instructions and submit documentation as indicated in the table below for the applicable circumstance:

Circumstance with respect to units listed above	Instruction
I. If unit is occupied by the same household and they qualify for occupancy	<p>Obtain and submit third party documentation of the six month average of the checking account at time of move-in and add it to the total household assets.</p> <p>If the household's circumstances have changed since move-in, a new certification may be performed using current circumstances and current income and asset information. If you do a new certification for the existing household, you must include the following:</p> <ul style="list-style-type: none"> A. New application using current circumstances; B. New verifications of each source of income and assets. Must use first hand documentation, such as pay stubs and bank statements to document income and assets; and C. New Income Certification. <p>Remember that items A-C above must be dated within 120 days of one another.</p> <p>If the unit is vacant or the tenant does not qualify, follow alternate instructions below.</p>
II. If unit is occupied by a new qualified household	Submit the full tenant file*.
III. If unit is occupied by a nonqualified household on a month-to-month lease	<ul style="list-style-type: none"> A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.** B. Once the unit becomes available, occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/10/2020 is acceptable for this circumstance provided that Requirement A above is fulfilled.

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<p>IV. If unit is occupied by a nonqualified household with a non-expired lease</p>	<p>A. Issue a nonrenewal notice** to tenant and provide a copy to TDHCA, along with a letter committing to occupying the unit with a new qualified household and submitting a full tenant file* as soon as the unit becomes available. If the tenant is protected by another program such as Section 8 or USDA-RD and the property cannot issue a nonrenewal notice as a result, submit a letter stating which program protects the household and committing to occupying the unit with a new qualified household and submitting a full tenant file* as soon as the unit becomes available;</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt of the full tenant file after 2/10/2020 is acceptable for this circumstance provided that Requirement A above is fulfilled by that deadline.</p>
<p>V. If unit has been vacant <i>more than</i> 30 days</p>	<p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/10/2020 is acceptable for this circumstance provided that Requirement A above is fulfilled by that deadline.</p>
<p>VI. If unit has been vacant <i>less than</i> 30 days</p>	<p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/10/2020 is acceptable for this circumstance provided that Requirements A and B above are fulfilled by that deadline.</p>

**A full tenant file must include:*

- A. Tenant application;*
- B. Verifications of all sources of income and assets;*
- C. Tenant income certification;*
- D. Lease and lease addendum;*
- E. Tenant Rights and Resources Guide Acknowledgment; and*
- F. A copy of the tenant selection criteria under which the household was screened.*

Remember that items A-C above must be dated within 120 days of one another.

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

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9. **Pre-onsite documentation. Must submit:**

- a. Complete electronically via CMTS:
 - i. Entrance Interview Questionnaire.
 - ii. Unit Status Report.
- b. Utility allowance documentation for current year and two years prior.
- c. Any invoices, contracts, vendor price sheets or other documentation supporting application fees. If there are no application fees, upload a letter certifying to that fact.

10. **Lease violation for Tenant Rights and Resources Guide:**

Actions to perform: Implement Tenants Rights and Resource Guide (Guide) as indicated at 10 TAC §10.613(k). Customize Guide available on the Forms webpage. Post customized and laminated Guide in a common area of the leasing office. Going forward, provide a copy of the Guide to each household during the application process and upon any subsequent change to the amenities or services and have the households sign Acknowledgments.

What to submit: Submit a letter certifying that the Tenant Rights and Resources Guide has been posted in a protective covering in a common area of the leasing office, and submit a copy of the customized Tenant Rights and Resources Guide.

11. **Written policies and procedures, including tenant selection criteria:** No documentation was submitted for this item.

How to prepare compliant criteria: First watch the webinar presentation available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at [10 TAC §10.610](#), and paying particular attention to items a-h listed above. Staff recommends using that rule and the comments from the Milam Creek and Alta Vista Agreed Final Order instructions as checklists. Ensure that you include a new effective date for the policy. The “10.610 (policy & procedures)” tab of this spreadsheet provides details regarding how TDHCA monitors for this item so that you can check over your work before submission: <http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit: Upload the updated written policies and procedures to CMTS.

8. **Affirmative marketing plan** – No plan or marketing materials were received.

Technical Support: First read the rule at [10 TAC §10.617](#) and watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>, to gain a general understanding regarding affirmative marketing.

Steps to complete affirmative marketing plan:

- a. Get a copy of the plan form from <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. You can use any version of HUD Form 935.2A.
- b. Identify the appropriate housing market area in which outreach efforts will be made. A housing market area is the area from which you may reasonably expect to draw a substantial number of your tenants. As an example, the city in which your development is located may be an appropriate housing market area.

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- c. Determine the groups that are least likely to apply and mark them in your plan.
- To determine the groups, you must perform and document a reasonable analysis by which those groups were identified, and you must always include persons with disabilities. This analysis must be included with the plan. If you use the current version of the HUD 935.2A, you will do this analysis by using Worksheet 1 to analyze your data versus the data for the census tract, housing market area, and (optional) expanded housing market area. See <https://factfinder.census.gov> for demographic data and include a copy of the data. When selecting groups, keep in mind that you typically would not market to groups that represent less than 1% of the population because they are not present in the marketing area.
- d. Identify and mark in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups that you have designated as least likely to apply. Specific examples:
- i. Least likely to apply population - People with disabilities:
 - A. Local Center for Independent Living (CIL) – serve persons with all disability types. Not all counties are covered http://www.txsilc.org/page_CILs.html
 - B. Aging and Disability Resource Center (ADRC) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - C. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 - D. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
 - E. Local non-profits in your area serving people with disabilities
 - F. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community
 - ii. Least likely to apply population - White:
 - A. Examples of acceptable community contacts might include community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
 - iii. Least likely to apply population - Asian:
 - A. Local Asian real estate association
 - B. Local Asian Chamber of Commerce
 - C. Local Asian American Resource Center
 - D. Local organizations serving the Asian community
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.

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- iv. Least likely to apply population - Black/African American:
 - A. Local Black/African American Chamber of Commerce
 - B. Local Black/African American Professionals Social Network
 - C. Weekly Black/African American newspaper / website for a city
 - D. Local community center or YMCA in a historically black/African American neighborhood;
 - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- v. Least likely to apply population - Hispanic:
 - A. Local Hispanic Chamber of Commerce
 - B. Local Young Hispanic Professional Association
 - C. The Hispanic Alliance
 - D. Mexican American Cultural Center
 - E. Local Spanish language publications
 - F. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group.
- vi. Least likely to apply population – Not Hispanic:
 - A. When this group is identified, no additional marketing is required, but the Development must refrain from targeting affirmative marketing efforts to Hispanic related groups.
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. The bottom section of the form regarding HUD approval can be ignored; you do not need their approval;
- g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Ensure that the addresses and send dates are included so that TDHCA can verify that you have performed the required marketing.

Remember that 10 TAC §10.617(c)(2) requires marketing materials to include the Fair Housing Logo and the contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completer el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*

- h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:
<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit to comply with this Order: Upload the Plan, documentation regarding how you determined the groups that are least likely to apply, and evidence of outreach marketing efforts.

Exhibit 2

UPCS Instructions

1. UPCS violations that must be corrected:

Unit	Inspectable Item	Deficiency	Level	Note
N/A	Grounds	Overgrown/Penetrating Vegetation	L2	Tree contacts building 5
100	Doors	Damaged Hardware/Locks	L2	Bedroom door does not close properly
100	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L1	1 stove burner is inoperable
200	Bathroom	Lavatory Sink - Damaged/Missing	L1	Missing stopper
200	Bathroom	Shower/Tub - Damaged/Missing	L1	Missing stopper
200	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	Fridge gasket damaged
402	Kitchen	Dishwasher/Garbage Disposal - Inoperable	L2	Dishwasher inoperable
600	Call-for-Aid	Not Operable	L3	Inoperable
700	Doors	Deteriorated/Missing Seals (Entry Only)	L3	Daylight visible on entry door when closed and locked
Common area. Office/Laundry building. Kitchen	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	Garbage disposal inoperable
Common area. Office/Laundry building. Laundry Room	Doors	Damaged Hardware/Locks	L3	Door
Parking	Parking	Missing Accessible Parking sign.	N/A	Per Fair Housing 2.20 / UFAS 4.6.4, all accessible parking spaces are designated as reserved for the disabled with a sign showing the symbol of accessibility. Signs must be >60" H bottom of sign to parking surface/ van space identified by "Van Accessible".

2. Prepare corrective documentation following these guidelines:

<http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>

3. Submit the corrective documentation via CMTS.

Exhibit 3:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the

debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

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

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

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

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

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

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BOARD ACTION REQUEST
BOND FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on Resolution No. 20-008 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

An allocation of private activity bond authority, also known as volume cap, is required for the issuance of tax-exempt, single family mortgage revenue bonds and for the issuance of mortgage credit certificates (MCCs). Staff is requesting authorization to submit one or more applications for a maximum reservation of \$400 million of volume cap to be used for MCC Program 94. Staff expects that MCC Program 94 will use bond authority that has been carried forward for this purpose.

Final approval of MCC Program 94 is being considered by the Board under item 6a.

RESOLUTION NO. 20-008

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended from time to time (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and (d) to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department; and

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

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

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e)

of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

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

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

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation in the maximum aggregate amount of \$400,000,000 with respect to qualified mortgage bonds;

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

ARTICLE 1

APPROVAL OF CERTAIN ACTIONS

Section 1.1 Applications for Reservation. The Board hereby authorizes Bracewell LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation in the maximum aggregate amount of \$400,000,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

Section 1.2 Authorization of Certain Actions. The Authorized Representatives of the Department named in this Resolution are hereby authorized to take such actions on behalf of the Department as may be necessary to carry out the purposes of this Resolution, including the submission of any carryforward designation requests for such Reservations.

Section 1.3 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or the Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the

“Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

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

PASSED AND APPROVED this 12th day of December, 2019.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

11

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §13.11 for Sierra Royale Apartments (TCAP RF Contract #13150019503)

RECOMMENDED ACTION

WHEREAS, Sierra Royale Apartments (the Development) is an existing Development that originally received an allocation of 9% Housing Tax Credits (HTC) in 2004;

WHEREAS, on October 10, 2019, the Board approved a \$1,849,736 award of Tax Credit Assistance Repayment Funds (TCAP RF) under the Preservation set-aside of the 2019-1 Multifamily Direct Loan Notice of Funding Availability (2019-1 NOFA) for the refinance and rehabilitation of the Development in Robstown, Texas;

WHEREAS, in accordance with the Board Action Request and as detailed in the Underwriting Report dated October 3, 2019, the Direct Loan funds were awarded primarily to refinance approximately \$1,700,000 in the form of a balloon payment due to PNC Real Estate, thereby further restricting 25 Units under a TCAP RF Land Use Restriction Agreement, and preserving the existing 68 HTC Units;

WHEREAS, the 2019 Multifamily Direct Loan Rule at 10 TAC §13.11 limits the initial disbursement of Direct Loan funds to 50% of the Direct Loan award and limits the remaining disbursements based on receipt of a mid-construction inspection letter and the percentage of construction complete;

WHEREAS, staff recommends waiving these requirements in 10 TAC §13.11(g) and (p)(4) and (10) to allow for refinancing in a single disbursement the existing non-federal debt as contemplated in the Preservation set-aside of the 2019-1 NOFA and the Board's previous approval of this award, as identified by the Applicant before beginning construction, and the withholding of approximately \$100,000 in TCAP RF until receipt of a Closed Final Construction Inspection from the Department; and

WHEREAS, the need for the waiver was neither reasonably foreseeable nor preventable, and that it duly serves the policies and purposes set forth in the applicable NOFA and statute.

NOW, therefore, it is hereby

RESOLVED, that the requested waiver of 10 TAC §13.11(g) and (p)(4) and (10) for Sierra Royale Apartments is hereby approved.

BACKGROUND

On October 10, 2019, the Board approved a Direct Loan award of \$1,849,736 in TCAP RF for the existing HTC Development Sierra Royale Apartments. The Direct Loan funds were awarded under the Preservation set-aside of the 2019-1 NOFA primarily to refinance approximately \$1,700,000 in the form of a balloon payment to PNC Real Estate.

As detailed in the Underwriting Report dated October 3, 2019, the Direct Loan Award was awarded for use alongside GLO funds for the purpose of funding eligible refinance and rehabilitation activities. The GLO funds are primarily being used for rehabilitation costs, while the Direct Loan funds will primarily be used to repay the existing debt and some miscellaneous rehabilitation-related costs. It is anticipated that at least \$100,000 in TCAP RF will be withheld until receipt of a Closed Final Construction Inspection from the Department.

10 TAC §13.11(g) and (p)(4) and (10) limits the amount of Direct Loan funds available to be advanced in the initial disbursement of funds to allow for periodic draw requests. Staff developed this rule primarily for HOME and National Housing Trust Fund (NHTF), as those two sources of funds are processed through HUD's Integrated Disbursement and Information System (IDIS), which requires an explanation if a project has not had a draw within a six-month period. However, because this award is composed solely of TCAP RF, it will not be subject to IDIS requirements. Additionally, all relevant documentation (*i.e.*, Application, Board Action Request, and Underwriting Report) contemplated a modification of this disbursement limitation as a result of receiving an award under the Preservation set-aside.

Staff determined modification of the particular disbursement procedures is necessary, not reasonably foreseeable given that the limitation was not intended to apply to this particular preservation funding, and that the waiver would serve in furthering applicable policies and purposes. Therefore, in order to proceed with funding the eligible refinance and rehabilitation activities intended under the award of October 10, 2019, staff recommends a waiver of 10 TAC §13.11(g) and (p)(4) and (10).

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding the approval for publication in the *Texas Register* of the 2020-3 Multifamily Direct Loan Special Purpose Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, the Department has TCAP Repayment Funds (TCAP RF) funds available; and

WHEREAS, staff recommends prioritizing these available funds in this 2020-3 Special Purpose NOFA in a manner that will allow the Department to support the construction of multifamily areas most impacted by natural disaster;

NOW, therefore, it is hereby

RESOLVED, that \$4,000,000 be made available for Applicants through this 2020-3 Special Purpose NOFA;

FURTHER RESOLVED, that funds made available through this 2020-3 Special Purpose NOFA will ensure that the Department supports the construction of multifamily housing in areas most impacted by natural disaster with awards of an appropriate amount of TCAP RF; and

FURTHER RESOLVED, the Executive Director and staff as designated by the Executive Director are authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

BACKGROUND

The 2020-3 Special Purposed NOFA announces the availability of Multifamily Direct Loan funds for Applications received between December 13, 2019, and March 20, 2020. The funds in the NOFA are composed solely of TCAP RF.

Due to the Special Purpose conditions imposed in the NOFA, there will not be a set-aside or priority. It is anticipated that there will be one award from the NOFA, to the proposed Development in the municipality that best fits the conditions. This award will provide additional necessary funding for the construction of a proposed Development that will receive State of Texas General Revenue (State GR) funds appropriated to support the construction of multifamily housing in areas most impacted by natural disaster. The State GR funds will be provided to the Development under a separate transaction.

All Applications awarded under this NOFA will be subject to the requirements of 10 TAC Chapter 13 – the Multifamily Direct Loan rule – and applicable sections of 10 TAC Chapter 11, the Qualified Allocation Plan. Applications layered with Private Activity Bond financing will be subject to provisions of Chapter 12. All Applications will also be required to meet the applicable requirements in 10 TAC Chapters 1 and 2.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2020-3 NOTICE OF FUNDING AVAILABILITY (NOFA)
SPECIAL PURPOSE NOFA – DISASTER IMPACTED AREA

- 1) Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to **\$4,000,000** in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. Applications under the 2020-3 NOFA will be accepted from December 13, 2019, through March 20, 2020 (if sufficient funds remain). The availability and use of these funds are subject to the following rules:

Texas Administrative Code

- 10 TAC Chapter 1 (Administration)
- 10 TAC Chapter 2 (Enforcement)
- 10 TAC Chapter 10 (Uniform Multifamily Rules)
- 10 TAC Chapter 11 (Qualified Allocation Plan)
- 10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)
- 10 TAC Chapter 13 (Multifamily Direct Loan Rule)

Texas Government Code

- Tex. Gov’t. Code Chapter 2306

U.S. Department of Housing and Urban Development (“HUD”) Program Regulations

- The Eligible Costs, and Match Provisions of 24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))

Fair Housing

- Federal Fair Housing Act, 42 U.S.C. 3601-19.

- 2) Special Purpose** Funds are available for Application proposing the new construction of affordable housing in areas of the state most affected by natural disasters, that are not also funded by Competitive 9% Housing Tax Credits. Applications will be evaluated for Development sites in Municipalities that comply with the Special Purpose conditions:

- a. a Municipality that had a population of at least 3,500 and not more than 5,000 prior to the natural disaster;
- b. at least 400 and not more than 600 units of long-term rental housing in a Municipality have been lost as the result of a single natural disaster, and they will not be replaced as long-term rental housing by the Owner(s) with insurance proceeds or other means;
- c. the Municipality had at least 2,000 permanent jobs prior to the disaster and replacement of the rental housing is necessary for the economic recovery of the area;
- d. the Municipality has never received an award or allocation of funds from the Department;
- e. an award of CDBG-DR funds from the Texas General Land Office for the construction or reconstruction of multifamily housing as a result of the natural disaster has not been made within the Municipality;
- f. to the greatest extent possible, the Department will consider conditions in the Municipality prior to the disaster; and
- g. no part of this section may be waived by the Board.

3) Loan Structure.

Awards will be structured as a construction-to-permanent loan with 0% interest, fully amortized over a 40-year term.

4) Maximum Per Unit Subsidy Limits. The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the 2020 Maximum Per Unit Subsidy Limits table provided in this Section 4:

2020 Maximum Per Unit Subsidy Limits		
Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$142,411	\$149,868
1 bedroom	\$164,203	\$171,802
2 bedroom	\$198,034	\$208,913
3 bedroom	\$253,490	\$270,266
4 bedroom or more	\$282,398	\$296,666

5) Application Submission Requirements.

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on December 13, 2019, through March 20, 2020, at 5:00 p.m. Austin local time (if sufficient funds remain). Applications submitted December 13, 2019, through January 6, 2020, will have an Application Acceptance Date of January 6, 2020. All other Applications will have an Application Acceptance on the business day of receipt, in accordance with 10 TAC §13.5(c), unless modified by §13.1(c)(2). An Applicant may have only one active Application per Development at a time under this or any other Department NOFA.

- b. **Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at www.tdhca.state.tx.us. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
 - c. An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (MPPM) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.
 - i. If an Applicant has an active Application (i.e. the Board has not made a Direct Loan Award), but wishes to apply for additional funds, it must withdraw that Application and submit a new Application.
 - d. **Minimum Requests.** The request for funds under this 2020-3 Special Purpose NOFA may not be less than \$4,000,000.00. However, if the underwriting report indicates that the Development will be feasible with an award of less than \$4,000,000, staff may recommend a lower award.
 - e. **Match Submission Requirements.** All Applicants must provide Match in the amount of at least 7.5% of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider’s willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.
 - f. An Applicant who is not also simultaneously applying for 2020 4% Housing Tax Credits is required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application. Payment must be in the form of a check, cashier’s check or money order. Do not send cash. Tex. Gov’t Code §2306.147(b) requires the Department to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
 - g. An Application must be uploaded to the Department’s secure web transfer server in accordance with 10 TAC §11.201(1)(C).
- 7) Post Award Requirements.** Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapter F.
- a. Awarded Applicants may, at the Department’s discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
 - b. An Applicant will be required to record a Land Use Restriction Agreement (LURA) limiting residents’ income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool, or as represented in the Application for the term of the LURA.

- c. An Applicant must have a current Data Universal Numbering System (DUNS) number and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. Applicants may apply for a DUNS number at dnb.com). Once you have the DUNS number, you can [register with the SAM](#).
- d. An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

8) Miscellaneous.

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the TCAP RF. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.
- b. All Applicants must comply with public notification requirements in 10 TAC §11.203.
- c. The Board may on a case by case basis, or in whole, waive procedural provisions of this NOFA where such waiver or exception to the provision(s) are warranted and documented and where such exception is not in violation with any state or federal requirement(s).
- d. Funds will be available under this NOFA only to the extent that sufficient TCAP or TCAP RF repayments are received by the Department by January 6, 2020.
- e. For questions regarding this NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at andrew.sinnott@tdhca.state.tx.us.

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BOARD ACTION REQUEST

SECTION 811 PROGRAM

DECEMBER 12, 2019

Presentation, discussion, and possible action authorizing the Department to submit an application for FY 2019 Project Rental Assistance of Section 811 Supportive Housing for Persons with Disabilities Notice of Funding Availability released by the U.S. Department of Housing and Urban Development, and if successfully awarded to operate such program

RECOMMENDED ACTION

WHEREAS, on October 9, 2019, the U.S. Department of Housing and Urban Development (HUD) released a Notice of Funding Availability (NOFA) for the Section 811 Project Rental Assistance (PRA) Program to enable State Housing Agencies to provide project-based rental assistance in the development of supportive housing for low-income persons with disabilities;

WHEREAS, the Texas Department of Housing and Community Affairs (TDHCA or the Department) currently operates a Section 811 PRA Program supported by previous awards from HUD in 2012 and 2013 totaling \$24 million;

WHEREAS, TDHCA's existing Section 811 Program operates successfully and has the appropriate expertise, partnerships and systems in place to pursue additional funds and, if awarded to perform such work; and

WHEREAS, the Department, as required by HUD, has an existing collaboration with the Texas Health and Human Services Commission and the Department of Family and Protective Services established through an Inter-Agency Partnership Agreement;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to submit an application for up to \$7 million in funding in response to the NOFA and provide any other appropriate responsive documents to HUD; and

FURTHER RESOLVED, that if HUD makes an award from this NOFA to the Department, the Department is authorized to proceed with accepting such an award and implementing the program in accordance with the rules and policies in place for the Section 811 Project Rental Assistance Program.

BACKGROUND

On October 9, 2019, HUD released a NOFA announcing the availability of \$37 million for the Section 811 PRA Program which seeks to identify, stimulate, and support sustainable state approaches that will transform the provision of housing for persons with disabilities while providing access to appropriate supports and services. HUD expects to make approximately 8 awards with a maximum award amount of \$7 million. The NOFA allows state housing agencies to creatively combine or bundle Section 811 PRA funds with existing state administered affordable rental housing finance and development programs.

Like the existing 811 PRA Program that TDHCA operates, the NOFA requires that funds be used as project-based rental assistance for housing units integrated within multifamily properties that are set-aside for extremely low-income persons with disabilities who are eligible for community-based long-term care services and supports provided under a State Medicaid Program or other comparable long-term services program. The NOFA also allows limited use for the Department's administrative costs.

The Department does not anticipate proposing any changes to its multifamily programs to promote participation if this 811 PRA award is made to Texas. The 811 PRA Program already has sufficient Development participation from prior year program incentives to sufficiently support any new 811 PRA funds awarded under this NOFA. There are currently 1,690 units committed to participation in the Section 811 PRA Program. TDHCA, together with our Texas Health and Human Services partners, have established a robust referral network to ensure these units can be filled once funding is made available.

The Department is designing its 2019 application to substantially mirror the current Section 811 PRA program design including serving the same target populations and the same geographic areas as there is already sufficient demand without further expansion. Staff recommends the Department be authorized to apply to HUD for the 2019 Section 811 PRA NOFA, and to have the flexibility in designing TDHCA's application to develop a responsive program design.

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BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
DECEMBER 12, 2019

Presentation, discussion, and possible action on the draft 2020 State of Texas Low Income Housing Plan and Annual Report; proposed repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; proposed new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §2306.0721 requires that the Department produce a state low income housing plan, and Tex. Gov't Code §2306.0722 requires that the Department produce an annual low income housing report;

WHEREAS, Tex. Gov't Code §2306.0723 requires that the Department consider the annual low income housing report to be a rule;

WHEREAS, the draft 2020 State of Texas Low Income Housing Plan and Annual Report (SLIHP) has been developed as a proposed rule, by reference, and must be published for public comment;

WHEREAS, 10 TAC §1.23, which adopts the SLIHP by reference, is required to be repealed and replaced to reflect the updated SLIHP; and

WHEREAS, upon authorization of this item, the proposed rule action will be published in the *Texas Register* for public comment from December 27, 2019, through January 15, 2020;

NOW, therefore, it is hereby

RESOLVED, that staff is hereby directed to cause the draft 2020 State of Texas Low Income Housing Plan and Annual Report, in the form presented to this meeting, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to be published online for public comment, a notice of which will be published in the *Texas Register*, and in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal and proposed new 10 TAC §1.23, State of Texas Low Income Housing Plan and Annual Report, in the form presented to this meeting to be published in the *Texas Register* for review and public comment, and in connection therewith, to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any changes required to the preambles.

BACKGROUND

Overview

The Texas Department of Housing and Community Affairs (TDHCA or the Department) is required to prepare and submit to the Board not later than March 18 of each year an annual report of the Department's housing activities for the preceding year. This State of Texas Low Income Housing Plan and Annual Report (SLIHP) must be submitted annually to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members not later than 30 days after the Board receives and approves the final SLIHP. The document offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. It reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2018, through August 31, 2019).

Proposed Rule and Public Comment

Tex. Gov't Code §2306.0723 requires that the Department consider the SLIHP to be a rule and in developing the SLIHP, the Department is required to follow rulemaking procedures required by Texas Government Code, Chapter 2001. Attachments A and B provided under this item propose the repeal and new replacement of 10 TAC §1.23, State of Texas Low Income Housing Plan and Annual Report, which adopts the SLIHP by reference, and directs their publication for public comment in the *Texas Register*. The proposed repeal and proposed new rule will be made available for 20 days of public comment from Friday, December 27, 2019, through Wednesday, January 15, 2020. Note that the Proposed Rulemaking actions and the Draft 2020 SLIHP have different start dates for accepting public comment, due to the *Texas Register* posting schedule. Both comment periods end on the same day.

Draft 2020 SLIHP and Public Comment

The draft 2020 SLIHP will be made available for 31 days of public comment from Monday, December 16, 2019, through Wednesday, January 15, 2020, at 5:00 pm Austin local time. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Elizabeth Yevich, SLIHP Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: info@tdhca.state.tx.us, or by fax to (512) 475-0070. A public hearing will be held at 2:00 p.m. Austin local time on Thursday, December 19, 2019, at the Stephen F. Austin State Office Building, Room #172, 1700 N. Congress, Austin, Texas 78701.

The full text of the draft 2020 SLIHP may be viewed at the Department's website at either of the following two locations: TDHCA Public Comment Center: <http://www.tdhca.state.tx.us/public-comment.htm> or TDHCA Board Meeting Information Center: <https://www.tdhca.state.tx.us/board/meetings.htm>. The public may also receive a copy of the draft 2020 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

It is expected that the 2020 SLIHP and the final rule action will be presented to the Board for approval at the board meeting on Thursday, February 20, 2020. The approved 2020 SLIHP will then be distributed to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members.

A summary of the major changes in the 2020 SLIHP are provided below.

Summary of changes in the 2020 SLIHP

- Section 1: Introduction
 - Updated division description.
 - Descriptions added to include Homebuyer Assistance with New Construction or Rehabilitation (HANC) and Ending Homeless Fund (EHF).
 - Division description updated to reflect the status of the AI.
- Section 2: Housing Analysis
 - Updated statewide and regional housing analysis.
 - Edited Data Sources and Limitations section to more accurately explain why the SLIHP utilizes ACS 5-year estimates and how HUD income limits operate.
 - Added a flowchart and exposition to explain how urban and rural counties are designated.
 - Added additional language to the demographic section to better reflect in-group poverty rates.
 - Added a population pyramid to reflect demographic changes in housing caused by population growth.
 - Added text to the Special Needs Populations to emphasize language in HB2564 which adds the addition of homeless youth as a special population.
 - Updated the elderly populations section to make issues discussed more current.
 - Updated the farmworker section to bring in economic data about agricultural work.
 - Substantial edits made to substance use section in order to eliminate outdated data.
 - Reworked Local Assessment of Need section due to inconsistencies in the data from year to year caused by irregularities in online data.
- Section 3: Annual Report
 - Updated to reflect FY 2019 program performance by households/individuals and income group.
- Section 4: Action Plan
 - Updated for program descriptions including the HANC and EHF.
 - Updated RAF examples for SFY 2020.
 - Addition of Homeless Youth Section.
- Section 5: Public Participation
 - Updated descriptions for workgroup activities.
 - Updated time and date of SLIHP public hearing.
- Section 6: Colonia Action Plan
 - Updated to reflect the 2020-2021 biennium which includes data updates.

Attachment A: Preamble, including required analysis, for proposed repeal of 10 TAC §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP)

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, State of Texas Low Income Housing Plan and Annual Report (SLIHP). The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action, in order to adopt by reference the 2020 SLIHP.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption by reference the 2020 SLIHP, as required by Tex. Gov't Code 2306.0723.

2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The proposed repeal does not require additional future legislative appropriations.

4. The proposed repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous re-adoption in order to adopt by reference the 2020 SLIHP.

7. The proposed repeal will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The proposed repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no

economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson, has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated more germane rule that will adopt by reference the 2020 SLIHP. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held Friday, December 27, 2019, to Wednesday, January 15, 2020, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Elizabeth Yevich, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0070, or email info@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, WEDNESDAY, JANUARY, 15, 2020.

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

10 TAC §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP)

Attachment B: Preamble for proposed new 10 TAC §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP)

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The purpose of the proposed new section is to provide compliance with Tex. Gov't Code §2306.0723 and to adopt by reference the 2020 SLIHP, which offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The 2020 SLIHP reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2018, through August 31, 2019).

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it is exempt under item (c)(9) because it is necessary to implement legislation. Tex. Gov't Code §2306.0721 requires that the Department produce a state low income housing plan, and Tex. Gov't Code §2306.0722 requires that the Department produce an annual low income housing report. Tex. Gov't Code §2306.0723 requires that the Department consider the annual low income housing report to be a rule. This rule provides for adherence to that statutory requirement. Further no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed new rule does not create or eliminate a government program, but relates to the adoption, by reference, of the 2020 SLIHP, as required by Tex. Gov't Code 2306.0723.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed new rule changes do not require additional future legislative appropriations.
4. The proposed new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed new rule will not expand, limit, or repeal an existing regulation.
7. The proposed new rule will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The proposed new rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.0723.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are no small or micro-businesses subject to the proposed rule for which the economic impact of the rule is projected to be null. There are no rural communities subject to the proposed rule for which the economic impact of the rule is projected to be null.

3. The Department has determined that because the proposed rule will adopt by reference the 2020 SLIHP, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule has no economic effect on local employment because the proposed rule will adopt by reference the 2020 SLIHP; therefore, no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the proposed rule will adopt by reference the 2020 SLIHP there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule that will adopt by reference the 2020 SLIHP, as required by Tex. Gov't Code §2306.0723. There will not be any economic cost to any individuals required to comply with the new section because the adoption by reference of prior year SLIHP documents has already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the new rule will adopt by reference the 2020 SLIHP.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held Friday, December 27, 2019, to Wednesday, January 15, 2020, to receive input on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Elizabeth Yevich, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0070, or email

info@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, WEDNESDAY, JANUARY 15, 2020.

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

§1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP)

The Texas Department of Housing and Community Affairs (TDHCA or the Department) adopts by reference the ~~2019~~2020 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The full text of the ~~2019~~2020 SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the ~~2019~~2020 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3800.

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BOARD ACTION REQUEST
EXECUTIVE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an order proposing amendments to 10 TAC §8.7, Tenant Selection and Screening; an order proposing amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their publication in the Texas Register

RECOMMENDED ACTION

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

WHEREAS, oversight of the affirmative marketing requirements and the written policies and procedures (often called tenant selection criteria), and their associated review process, are being moved organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit, and as a result the two sections of the Compliance rule that govern those processes (10 TAC §10.610 and 10 TAC §10.617) are proposed to be repealed, while under separate action being proposed as new sections within Chapter 10;

WHEREAS, references to 10 TAC §10.610 were made in two rules, that will now warrant revision to ensure accurate references are reflected in these rules, and this action proposes amendments to 10 TAC §8.7 Tenant Selection and Screening and to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and

WHEREAS, upon Board approval the proposed amendments will be released for public comment in the Texas Register from December 20, 2019, to January 20, 2020, and returned to the Board for final approval;

NOW, therefore, it is hereby

RESOLVED, that the proposed amendments to 10 TAC §8.7(g) Tenant Selection and Screening, and to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements together with the preambles presented to this meeting, are hereby approved for publication in the Texas Register for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the Texas Register for public comment, and in connection therewith, make

such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

BACKGROUND

Oversight of the affirmative marketing requirements and the written policies and procedures (often called tenant selection criteria), and their associated review process, are being moved organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit. As a result the two sections of the Compliance rule that govern those processes (10 TAC §10.610 and 10 TAC §10.617) are proposed to be repealed, while under separate action are being proposed as new sections within Chapter 10. To ensure accurate referential integrity the Department also must amend two other rules noted above to update references.

Attachment [1]: Preamble, including required analysis, for a proposed amendment to 10 TAC §8.7, Tenant Selection and Screening.

The Texas Department of Housing and Community Affairs (the Department) proposes an amendment to 10 TAC §8.7(g), Tenant Selection and Screening. The purpose of this amendment is to correct a citation referenced in the rule.

Tex. Gov't Code §2001.0045(b) does apply to the amendment being proposed and no exceptions are applicable. However, the rule already exists and the correction is only administrative in nature. There are no costs associated with this rule action, therefore no costs or impacts warrant a need to be offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed amendment would be in effect, the proposed amendment does not create or eliminate a government program, but relates to correcting a citation in the rule.
2. The proposed amendment does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The proposed amendment does not require additional future legislative appropriations.
4. The proposed amendment does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The proposed amendment is not creating a new regulation.
6. The proposed amendment will not repeal an existing regulation.
7. The proposed amendment will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The proposed amendment will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed amendment and determined that the proposed amendment will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed amendment as to its possible effects on local economies and has determined that for the first five years the proposed amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of the amended section would be clarity in requirements. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held December 20, 2019, to January 20, 2020, to receive input on the proposed amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 20, 2020.

STATUTORY AUTHORITY. The proposed amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

§8.7 Program Regulations and Requirements

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

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

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

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

(1) H 2012-06, Enterprise Income Verification (EIV) System;

(2) H 2012-26, Extension of Housing Notice 2011-25, Enterprise Income Verification (EIV) & You Brochure-Requirements for Distribution and Use;

(3) H 2012-22, Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies;

(4) H 2012-11, State Registered Lifetime Sex Offenders in Federally Assisted Housing;

(5) H 2012-09, Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing; or

(6) H 2017-05, Violence Against Women Act (VAWA) Reauthorization Act of 2013, Additional Guidance for Multifamily Owners and Management Agents.

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

(1) Use Agreement should be properly recorded according to local laws in the official public records on the Eligible Multifamily Property. The Owner shall provide to TDHCA within 30 days of its receipt of the recorded Use Agreement, a copy of the executed, recorded Use Agreement.

(2) From the date the Property Agreement is entered into, the Owner shall not enter into any future use agreements or other subsidy programs that would diminish the number of Assisted Units that can be placed on the Eligible Multifamily Property.

(3) TDHCA will enforce the provisions of the Use Agreement and RAC consistent with HUD's internal control and fraud monitoring requirements.

(f) Tenant Certifications, Reporting and Compliance.

(1) TRACS & EIV Systems. The Owner shall have appropriate software to access the Tenant Rental Assistance Certification System (TRACS) and the EIV System. The Owner shall be responsible for ensuring Program information is entered into these systems. TRACS is the only system by which an Eligible Multifamily Property can request Project Rental Assistance payments.

(2) Outside Vendors. The Owner has the right to refuse assistance from outside vendors hired by TDHCA, but is still required to satisfy the Program Requirements.

(3) Tenant Certification. The Owner shall transmit Eligible Tenant's certification and recertification data, transmit voucher data, and communicate errors electronically in a form consistent with HUD reporting requirements for HUD Secure Systems.

(g) Tenant Selection and Screening.

(1) Target Population. TDHCA will screen Eligible Applicants for compliance with TDHCA's Program Target Population criteria and do an initial screening for Program Requirements. The Inter-Agency Partnership Agreement describes the specific Target Population eligible for TDHCA's Program. The Target Population may be revised, with HUD approval.

(2) Tenant Selection Plan. Upon the execution of the Participation Agreement, the Owner will submit the Eligible Multifamily Property's Tenant Selection Criteria, as defined by and in accordance with 10 TAC §10.802640 (relating to Written Policies and Procedures), to TDHCA for approval. TDHCA will review the Tenant Selection Plan for compliance with existing Tenant Selection Criteria requirements, and consistent with TDHCA's Section 811 PRA Participant Selection Plan.

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

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

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

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

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

(h) Rental Assistance Contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Advertising and Affirmative Marketing.

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

(A) Depictions of the units including floor plans;

(B) Brochures;

(C) Tenant selection criteria;

(D) House rules;

(E) Number and size of available units;

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

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

(H) A description of onsite amenities.

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

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

(j) Leasing Activities.

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

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

(3) Communication. Owners are required to document in writing all communication between the Eligible Tenant and the Owner, or Owner-designated agent regarding applications, notifications, evictions, complaints, non-renewals and move outs.

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

(k) Rent.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Vacancy. Once a RAC is executed, the Owner must notify TDHCA of the vacancy of any Unit, including those that have not previously been occupied by an Eligible Tenant, as soon as possible, not to exceed seven calendar days from when the Owner learns that an Assisted Unit will become available. TDHCA will acknowledge receipt of the notice by responding to the Owner in writing within three business days from when the notice is received by the Department stating whether or not TDHCA will be accepting the

available Unit, and making a subsequent referral for the Unit. If the qualifying Eligible Tenant vacates the Assisted Unit, TDHCA will determine if the remaining family members are eligible for continued assistance from the Program.

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

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

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

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

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

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

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

(4) Accessibility. Owner must ensure that the Eligible Multifamily Property will meet or exceed the accessibility requirements under 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973; the Fair Housing Act Design Manual; Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189), as implemented by the U.S. Department of Justice regulations at 28 CFR Parts 35 and 36; and the Federal Fair Housing Act as implemented by HUD at 24 CFR Part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

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

(o) Reporting Requirements. Owner shall submit to TDHCA such reports on the operation and performance of the Program as required by the Participation Agreement and as may be required by

TDHCA. Owner shall provide TDHCA with all reports necessary for TDHCA's compliance with 24 CFR Part 5, or any other federal or state law or regulation.

(p) Environmental Laws and Regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) Labor Standards.

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

(2) Owner understands and acknowledges that every contract involving the employment of mechanics and laborers of said construction shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§3701 to 3708), Copeland (Anti-Kickback) Act

(40 U.S.C. §3145), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, et seq.) and Davis-Bacon and Related Acts (40 U.S.C. §§3141 - 3148).

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

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

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

(r) Lead-Based Paint. Housing assisted with Program funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821 - 4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851 - 4856), and implementing regulations Title X of the 1992 Housing and Community Development Act at 24 CFR Part 35, (including subparts A, B, J, K, M and R). Owner shall also comply with the Lead: Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745 and Response to Children with Environmental Intervention Blood Lead Levels. Failure to comply with the lead-based paint requirements may be subject to sanctions and penalties pursuant to 24 CFR §35.170.

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

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

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

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

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

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

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

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

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

(w) Security of Confidential Information.

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

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

(x) Real Property Acquisition and Relocation. Except as otherwise provided by federal statute, HUD-assisted programs or projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (42 U.S.C. §4601), and the government wide implementing regulations issued by the U.S. Department of Transportation at 49 CFR Part 24. The Uniform Act's protections and assistance apply to acquisitions of real property and

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

(y) Dispute Resolution; Conflict Management.

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

(2) Agreement Disputes. In accordance with Tex. Gov't Code 2306.082, it is TDHCA's policy to encourage the use of appropriate alternative dispute resolution procedures (ADR) under the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Tex. Gov't Code), to assist in the fair and expeditious resolution of internal and external disputes involving the TDHCA and the use of negotiated rulemaking procedures for the adoption of TDHCA rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by TDHCA's ex parte communications policy, TDHCA encourages informal communications between TDHCA staff and the Owner, to exchange information and informally resolve disputes. TDHCA also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time the Owner would like to engage TDHCA in an ADR procedure, the Owner may send a proposal to TDHCA's Dispute Resolution Coordinator. For additional information on TDHCA's ADR policy, see TDHCA's Alternative Dispute Resolution and Negotiated Rulemaking at 10 TAC §1.17.

(3) Conflict Management. The purpose of the Conflict Management process is to address any concerns that Owner or Owner's agent or representative may have with an Eligible Family. At any time, an Eligible Family may choose to give consent to their Section 811 service coordinator to work directly with the property manager of the Eligible Multifamily Property. However, such consent cannot be made a condition of tenancy.

Attachment [2]: Preamble, including required analysis, for a proposed amendment to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements

The Texas Department of Housing and Community Affairs (the Department) proposes an amendment to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements. The purpose of this amendment is to correct a citation referenced in the rule.

Tex. Gov't Code §2001.0045(b) does apply to the amendment being proposed and no exceptions are applicable. However, the rule already exists and the correction is only administrative in nature. There are no costs associated with this rule action, therefore no costs or impacts warrant a need to be offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. ~~Robert~~ Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed amendment would be in effect, the proposed amendment does not create or eliminate a government program, but relates to correcting a citation in the rule.

2. The proposed amendment does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.

3. The proposed amendment does not require additional future legislative appropriations.

4. The proposed amendment does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The proposed amendment is not creating a new regulation.

6. The proposed amendment will not repeal an existing regulation.

7. The proposed amendment will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The proposed amendment will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed amendment and determined that the proposed amendment will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed amendment does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed amendment as to its possible effects on local economies and has determined that for the first five years the proposed amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of the amended section would be clarity in requirements. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 22, 2019, to December 23, 2019, to receive input on the proposed amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, December 23, 2019.

STATUTORY AUTHORITY. The proposed amendment is made pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

§23.61, Tenant-Based Rental Assistance (TBRA) General Requirements

- (a) The Household must participate in a self-sufficiency program.
- (b) The amount of assistance will be determined using the Housing Choice Voucher method.
- (c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.
- (d) The minimum Household contribution toward gross monthly rent must be ten percent of the Household's gross monthly income.
- (e) Activity funds are limited to:
 - (1) rental subsidy: Each rental subsidy term is limited to no more than twenty-four (24) months. Total lifetime assistance to a Household may not exceed thirty-six (36) months cumulatively, except that a maximum of twenty-four (24) additional months of assistance, for a total of sixty (60) months cumulatively may be approved if:
 - (A) the Household has applied for a Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program, and is placed on a waiting list during their TBRA participation tenure; and
 - (B) the Household has not been removed from the waiting list for the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program due to failure to respond to required notices or other ineligibility factors; and
 - (C) the Household has not been denied participation in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program while they were being assisted with HOME TBRA; and
 - (D) the Household did not refuse to participate in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program when a voucher was made available.
 - (2) security deposit: no more than the amount equal to two (2) month's rent for the unit.
 - (3) utility deposit in conjunction with a TBRA rental subsidy.
- (f) The payment standard is determined at the date of assistance. The payment standard utilized by the Administrator must be:
 - (1) for metropolitan counties and towns, the current U.S. Department of Housing and Urban Development (HUD) Small Area Fair Market Rent for the Housing Choice Voucher Program;
 - (2) for nonmetropolitan counties and towns, the current HUD Fair Market Rent for the Housing Choice Voucher Program;
 - (3) for a HOME assisted unit, the current applicable HOME rent; or
 - (4) the Administrator may submit a written request to the Department for approval of a different payment standard. The request must be evidenced by a market study or documentation that the PHA serving the market area has adopted a different payment standard. An Administrator may request a Reasonable Accommodation as defined in §1.204 of this title for a specific Household if the Household, because of a disability, requires the features of a specific unit, and units with such features are not available in the Service Area at the payment standard.

(g) Administrators must select the method under which funds for administrative costs and Activity soft costs may be reimbursed prior to execution of an RSP agreement or at Application for an award of funds. Administrators of an existing RSP Agreement may request an amendment to an existing Agreement in accordance with Section 23.1 of this Chapter. Applicants and Administrators may choose from one of the following options, and in any case funds for Administrative costs may be increased by an additional 1 percent of Direct Activity Costs if Match is provided in an amount equal to 5 percent or more of Direct Activity Costs:

(1) Funds for Administrative costs are limited to 4 percent of Direct Activity Costs, excluding Match funds, and Activity soft costs are limited to \$1,200 per Household assisted. Activity soft costs may reimburse expenses for costs related to determining Household income eligibility, including recertification, and conducting Housing Quality Standards (HQS) inspections. All costs must be reasonable and customary for the Administrator's Service Area; or

(2) Funds for Administrative costs are limited to 8 percent of Direct Activity Costs, excluding Match funds, and Administrator may not be reimbursed for Activity soft costs.

(h) Administrators must have a written agreement with Owner that the Owner will notify the Administrator within one (1) month if a tenant moves out of an assisted unit prior to the lease end date.

(i) Administrator must not approve a unit if the owner is by consanguinity, affinity, or adoption the parent, child, grandparent, grandchild, sister, or brother of any member of the assisted Household, unless the Administrator determines that approving the unit would provide Reasonable Accommodation for a Household member who is a Person with Disabilities. This restriction against Administrator approval of a unit only applies at the time the Household initially receives assistance under a Contract or Agreement, but does not apply to Administrator approval of a recertification with continued tenant-based assistance in the same unit.

(j) Administrators must maintain Written Policies and Procedures established for the HOME Program in accordance with §10.802640 of this Title, except that where the terms Owner, Property, or Development are used Administrator or Program will be substituted, as applicable. Additionally, the procedures in subsection (l) of this section (relating to the Violence Against Women Act (if in conflict with the provisions in §10.802640 of this Title)) will govern.

(k) Administrators serving a Household under a Reservation Agreement may not issue a Certificate of Eligibility to the Household prior to reserving funds for the Activity.

(l) Administrators are required to comply with regulations and procedures outlined in the Violence Against Women Act (VAWA), and provide tenant protections as established in the Act.

(1) An Administrator of Tenant-Based Rental Assistance must provide all Applicants (at the time of admittance or denial) and Households (before termination from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance Coupon Contract) the Department's "Notice of Occupancy Rights under the Violence Against Women Act", (based on HUD form 5380) and also provide to Households "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (HUD form 5382) prior to execution of a Rental Coupon Contract and before termination of assistance from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance coupon contract.

(2) Administrator must notify the Department within three (3) calendar days when tenant submits a Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and/or alternate

documentation to Administrator and must submit a plan to Department for continuation or termination of assistance to affected Household members.

(3) Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, Administrator may "bifurcate" a rental coupon contract, or otherwise remove a Household member from a rental coupon contract, without regard to whether a Household member is a signatory, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a recipient of TBRA and who engages in criminal acts of physical violence against family members or others. This action may be taken without terminating assistance to, or otherwise penalizing the person subject to the violence.

2a

TDHCA Outreach Activities, November-December

A compilation of outreach and educational activities designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public.

Activity	Event	Date	Location	Division
Presentation	State Supported Living Center Transition Specialist Annual Meeting	Oct. 29	Austin	Section 811 PRA Program
Training	Multifamily Direct Loan Training – Live Online	Nov. 7	N/A	Compliance
Roundtable	White House Roundtable on Housing Affordability	Nov. 13	Washington, D.C.	Executive
Presentation	Texas Nursery and Landscape Association Growers Summit	Nov. 13	Waco	Migrant Labor Housing Facilities
Training	HTC Compliance Training (with TAA)	Nov. 14	Houston	Compliance
Roundtable	Quarterly MLH Workgroup Meeting	Nov. 14	Austin	Migrant Labor Housing Facilities
Training	HUD 811 Training – Live Online	Nov. 20	N/A	Compliance
Training	UPCS Inspection Training – Live Online	Nov. 11	N/A	Compliance
Training	Income Determination Training	Dec. 5	Austin	Compliance

Internet Postings of Note

A list of new or noteworthy postings to the Department's website.

Amy Young Barrier Removal Program

- Posted updated list of Urban and Rural Places

Asset Management

- Updated Amendments calendar for 2020

Bond Finance

- Posted Municipal Advisor IRMA Notice

Bootstrap Loan Program

- Updated Nonprofit Owner-Builder Housing Provider certification application
- Posted updated Purchase Money Funding Checklist

Communications:

- Posted homepage article for November (Training for success)
- Updated TDHCA homepage slideshow

Community Affairs

- Posted FAQ on Recovering Shared and Indirect Costs resource
- Posted updated CSBG Client File Checklist
- Posted CSBG Single Audit preparation

Compliance

- Posted Multifamily BOND Qualified Project Period Calculation Form
- Posted updated Special Needs Certification form (English, Spanish)

Fair Housing

- Posted updated information on Single Family Affirmative Marketing Tool for Colonia Self Help Centers and Activities, HOME and NSP Administrators
- Posted Single Family Affirmative Marketing Technical Assistance Guide

HOME and Homeless:

- Posted updated forms for Declaration of Income Statement Form and Guidance for ESG
- Posted updated schedule for HOME PWD Funding Collapse
- Posted ESG fund awards and list of agencies for 2019 program year
- Posted updated list of allocations and contacts for 2020 HHSP subrecipients
- Added Fair Housing in the ESG Program to video library
- Posted updated ESG Rental Assistance Agreement (English and Spanish)
- Posted HOME General Funds NOFA RAF Phases 2-4 schedule
- Posted FY 2019 ESG Monthly Reporting Guide

Migrant Labor Housing Facilities

- Posted draft rules governing MLHF

Multifamily:

- Posted updated Site Demographic Characteristics Report 2020 (as of Nov. 20)
- Posted updated HTC Property Inventory (as of Nov. 7)
- Posted DRAFT Uniform Application 2020
- Posted HTC Webinar Workshop slides 2020
- Posted Utility Allowance for Applications (for 2020 MF Uniform Application Supporting Information)
- Posted Concerted Revitalization Plan (CRP) Application Packet
- Posted Competitive HTC Pre-application Webinar, Competitive HTC Pre-application Submission System Instructions
- Posted 2020 Multifamily Housing Revenue Bond Rules
- Posted additional 4% Individually Imaged Bond Applications

Neighborhood Stabilization Program

- Added 3rd Quarter NSP1 and NSP3 Performance Reports

NOFA

- 2019 HOME Single Family HRA General Set-Aside

Public Comment

- Public comment period open for Demolition/Reconstruction of South Bluff Apartments
- Public comment period open for Migrant Labor Housing Facilities Rules

Purchasing

- Updated list of No-Bid contracts as required by state

Frequently Used Acronyms

AMFI	Area Median Family Income	LURA	Land Use Restriction Agreement
AYBR	Amy Young Barrier Removal Program	MF	Multifamily
CEAP	Comprehensive Energy Assistance Program	MFTH	My First Texas Home Program
CFD	Contract for Deed Program	MRB	Mortgage Revenue Bond Program
CFDC	Contract for Deed Conversion Assistance Grants	NHTF	National Housing Trust Fund
CHDO	Community Housing Development Organization	NOFA	Notice of Funding Availability
CMTS	Compliance Monitoring and Tracking System	NSP	Neighborhood Stabilization Program
CSBG	Community Services Block Grant Program	OIG	Office of Inspector General
ESG	Emergency Solutions Grants Program	QAP	Qualified Allocation Plan
FAQ	Frequently Asked Questions	QCP	Quantifiable Community Participation
HBA	Homebuyer Assistance Program	REA	Real Estate Analysis
HHSCC	Housing and Health Services Coordination Council	RFA	Request for Applications
HHSP	Homeless Housing and Services Program	RFO	Request for Offer
HRA	Homeowner Rehabilitation Assistance Program	RFP	Request for Proposals
HRC	Housing Resource Center	RFQ	Request for Qualifications
HTC	Housing Tax Credit	ROFR	Right of First Refusal
HTF	Housing Trust Fund	SLIHP	State of Texas Low Income Housing Plan
HUD	U.S. Department of Housing and Urban Development	TA	Technical Assistance
IFB	Invitation for Bid	TBRA	Tenant Based Rental Assistance Program
		TICH	Texas Interagency Council for the Homeless
		TSHEP	Texas Statewide Homebuyer Education Program
		TXMCC	Texas Mortgage Credit Certificate
		VAWA	Violence Against Women Act
		WAP	Weatherization Assistance Program

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BOARD REPORT ITEM
TEXAS HOMEOWNERSHIP DIVISION
DECEMBER 12, 2019

Quarterly Report on Texas Homeownership Division Activity

BACKGROUND

The Texas Homeownership Division is primarily responsible for the creation, oversight, and administration of the Department's homeownership programs, which are designed to provide affordable financing options for low-to-moderate income homebuyers. This is accomplished through the issuance of tax-exempt and taxable single family mortgage revenue bonds, and through the Department's Taxable Mortgage Program (TMP).

Currently, the Department offers the following statewide options to homebuyers:

- **My First Texas Home Program.** Offers expanded mortgage loan opportunities to qualifying first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. All loans originated through the program are tax-exempt eligible, meeting Internal Revenue Service (IRS) requirements for inclusion in a tax-exempt bond issue or for receipt of a Mortgage Credit Certificate (MCC). As such, borrowers using this option must be first-time homebuyers (cannot have had an ownership interest in a primary residence within the last three years or must qualify for a veteran or targeted area exception), and borrower income and the purchase price of the home must be within IRS designated limits. Continuous funding for this program is provided through the issuance of tax-exempt single family mortgage revenue bonds (SFMRBs) and through TMP. The Department's SFMRBs typically offer two options, a low rate mortgage loan with no down payment or closing cost assistance provided by the Department, and a mortgage loan with 4 points of down payment and closing cost assistance. Down payment and closing cost assistance is secured by a 30-year, non-amortizing, 0% interest second loan that is due upon sale of the property or refinance of the first loan. Loans funded with TMP include loans accompanied by an MCC (the IRS does not permit these loans to be included in SFMRBs) and tax-exempt eligible loans that are not used as collateral for SFMRBs.

- **My Choice Texas Home Program.** Offers mortgage loan opportunities to qualifying first-time and non-first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. Down payment and closing cost assistance is provided with each loan. While the same income and purchase price limits applicable to the My First Texas Home Program apply, income eligibility is based on the standard credit qualifying (1003) income instead of IRS methodology. Because all loans are funded through TMP, no IRS recapture provisions apply.

- Texas Mortgage Credit Certificate (MCC) Program.** Makes homeownership more affordable by providing first-time homebuyers a federal income tax credit, reducing the homebuyer’s potential federal income tax liability. By having an MCC, the homebuyer has the ability to convert a portion of their annual mortgage interest into a direct income tax credit on their U.S. individual income tax return. The credit may be applied for the life of the loan, as long as the home remains the borrower’s primary residence. The Texas MCC option is offered in combination with a My First Texas Home mortgage loan (TBA funding only), referred to as Combo loans for discussion and reporting purposes; or as a stand-alone option combined with any FHA, VA, USDA, or conventional fixed rate mortgage loan. The Department’s MCC Program offers borrowers a choice of a 25% MCC Credit, which has a maximum \$2,000 annual credit, or a 20% MCC Credit, which has no annual maximum.

Income and Purchase Price Limits for All Loan Options. The Maximum income for all loan options is 100% of Area Median Family Income (AMFI) for households of 1 or 2 persons, and 115% of AMFI for households of 3 persons or more. The maximum purchase price is 90% of the average area purchase price. The complete Income and Purchase Price Limits Table is available on the Department’s website at <https://www.tdhca.state.tx.us/homeownership/fthb/docs/limits.pdf>, and an example, reflecting the limits with respect to loans originated in the San-Antonio-New Braunfels MSA is provided below.


Example	Income Limits		Maximum Purchase Price
	Households of 1-2 persons (100% AMFI)	Households of 3 persons or more (115% AMFI)	90% of Average Area Purchase Price
Location			
San Antonio-New Braunfels MSA	\$ 76,957	\$ 88,500	\$ 323,960

Higher income and purchase price limits apply with respect to homes purchased in targeted areas, which are areas of severe economic distress.

IRS Recapture. Loans that are financed through SFMRBs and loans that receive an MCC are subject to IRS recapture provisions. Under certain circumstances, a borrower may owe recapture to the IRS. To owe any recapture tax at all, the borrower must (1) sell the MCC- or MRB-financed home **at a gain** within nine years of purchase, **AND** (2) earn significantly more income than when the home was purchased (generally more than 5% increase in income per year). Both of these criteria must be met before a borrower has a recapture liability. In addition, the recapture liability cannot exceed the amount of the borrower’s gain on the sale of the home.

Current Mortgage Rates and Terms. The following table details the Department’s loan options and mortgage rates as of December 4, 2019. Down payment and closing cost assistance (DPA) is provided as a 30-year, non-amortizing, 0% interest second mortgage loan that is due on sale or refinance.

**Texas Department of Housing and Community Affairs
Texas Homeownership Programs**

 Rate Notice and Available Options 12/4/2019	Loans with Down Payment Assistance			Unassisted Loans
	Government Loans (FHA, USDA, VA)	Fannie Mae Preferred Only offered with My Choice Texas Home Taxable Loans Below 80% AMFI		Government Loans (FHA, USDA, VA)
Amount of DPA Provided	4 Points DPA	3 Points DPA	5 Points DPA	No DPA
My First Texas Home Program	First-Time Homebuyer requirement; considers the income of all person(s) who will sign the Deed of Trust (including Non-Purchasing Spouse).			
My FIRST Texas Home Bond Eligible Loans, No MCC	4.000%	N/A	N/A	Unassisted Funds available with Bond Program only
My FIRST Texas Home Combo Loans with MCC*	4.500%	N/A	N/A	
Bond Eligible Loans (no MCC) <u>Targeted Area Loans ONLY</u> , No First-Time Homebuyer requirement	4.000%	N/A	N/A	3.500%
My Choice Texas Home Program	No First-Time Homebuyer requirement; considers the standard lender income calculation (1003/credit qualifying income).			
My CHOICE Texas Home Taxable Loans, No MCC	4.500%	4.500%	4.750%	Unassisted Funds available with Bond Program only
Mortgage Credit Certificate				
Texas MCC Stand-alone* (Borrower Option)	20% or 25%			

APPLICABLE TO ALL LOANS ORIGINATED THROUGH THE ABOVE TBA AND BOND OPTIONS				
Minimum FICO Score	620	Loans must be purchased within 60 days of the date reserved. Extensions are available at the following cost:		
Origination Points	0%			
SRP to Lender	2.75%	7-Day	0.0625%	
Program Compliance Fee	\$225	15-Day	0.1250%	
Program Compliance Fee - MCC	\$200	22-Day	0.1875%	
MCC Issuance Fee	\$200	30-Day	0.2500%	
Loan Review and Acquisition Fee	\$150			
Tax Service Fee	\$85			

APPLICABLE TO FNMA LOANS	
As of September 5, 2019 reservations will not be accepted for FNMA loans greater than 80% of AMFI. See Program Income Table for guidelines. All FNMA loans at or below 80% of AMFI must be registered as MY CHOICE Texas Home Taxable Loans, No MCC.	
https://www.tdcca.state.tx.us/homeownership/fthb/docs/limits.pdf	

The attached reports include an Aggregate Summary Report that reflects activity for each available homeownership option over the prior three calendar years. Detailed reports show activity during the past 12 months, including a map that reflects Texas counties served, demographic information on households served, homes purchased, and other relevant information.

Texas Homeownership / Bond Finance Aggregate Summary Report

	Month	My First Texas Home	Bond Program	My Choice	Combo (MFTH and MCC)	Stand Alone MCCs	AGGREGATE TOTAL	
		Loan Amount	Loan Amount	Loan Amount	Loan Amount	Loan Amount	Loan Amount	# Households Served
Calendar Year 2019	1/31/2019	\$48,490,841	\$11,753,630	\$13,421,532	\$32,925,926	\$23,668,364	\$130,260,293	756
	2/28/2019	62,892,613	3,951,210	29,789,844	46,169,313	34,355,360	177,158,340	1,004
	3/31/2019	33,115,993	17,476,392	40,108,374	30,129,294	22,505,250	143,335,303	828
	4/30/2019	11,766,854	50,572,331	42,865,214	31,836,989	10,519,298	147,560,686	849
	5/31/2019	6,994,839	47,029,048	60,135,663	31,504,199	2,924,023	148,587,772	836
	6/30/2019	21,321,447	30,107,016	54,287,308	31,859,199	1,801,980	139,376,950	791
	7/31/2019	32,069,416	13,916,863	59,395,794	32,088,798	965,464	138,436,335	795
	8/31/2019	51,133,404	7,806,989	70,780,578	28,729,016	210,000	158,659,987	880
	9/30/2019	24,887,139	33,437,577	63,076,907	20,585,104	5,329,330	147,316,057	807
	10/31/2019							
	11/30/2019							
	12/31/2019							
	2019 TOTAL	\$292,672,546	\$216,051,056	\$433,861,214	\$285,827,838	\$102,279,069	\$1,330,691,723	7,546
Calendar Year 2018	1/31/2018	\$49,518,433			\$31,988,642	\$25,695,000	\$107,202,075	642
	2/28/2018	39,694,156			18,551,484	18,606,044	76,851,684	483
	3/31/2018	37,707,798			20,937,493	20,511,592	79,156,883	480
	4/30/2018	40,823,301			22,654,876	36,073,836	99,552,013	584
	5/31/2018	43,224,815			29,864,325	44,729,156	117,818,296	705
	6/30/2018	40,686,899			31,715,654	36,899,222	109,301,775	645
	7/31/2018	45,715,682			32,630,425	41,553,059	119,899,166	712
	8/31/2018	47,894,502	522,379		31,963,113	43,701,139	124,081,133	713
	9/30/2018	28,665,128	9,753,696		19,058,259	34,376,135	91,853,218	541
	10/31/2018	18,810,509	45,317,386		33,191,952	43,102,859	140,422,706	816
	11/30/2018	13,507,006	46,933,554		32,521,066	33,287,562	126,619,348	730
	12/31/2018	33,984,949	23,166,920		29,560,190	29,922,921	121,575,762	773
	2018 TOTAL	\$440,233,178	\$125,693,935	\$5,310,942	\$334,637,479	\$408,458,525	\$1,314,334,059	7,824
Calendar Year 2017	1/31/2017	\$32,200,708			\$22,244,813	\$16,327,540	\$70,773,061	438
	2/28/2017	35,878,062			22,725,762	30,307,153	88,910,977	536
	3/31/2017	32,991,885			19,988,147	27,607,384	80,587,416	501
	4/30/2017	35,775,933			27,062,306	27,463,210	90,301,449	551
	5/31/2017	34,132,731			26,544,509	30,551,467	91,228,707	560
	6/30/2017	50,436,451			28,927,620	38,399,240	117,763,311	725
	7/31/2017	46,380,266			26,136,484	37,244,746	109,761,496	680
	8/31/2017	56,475,652			32,826,086	37,765,486	127,067,224	769
	9/30/2017	61,732,556			27,854,480	34,183,058	123,770,094	737
	10/31/2017	63,299,628			39,957,441	36,963,232	140,220,301	842
	11/30/2017	62,247,480			33,179,625	41,298,715	136,725,820	824
	12/31/2017	46,465,198			35,166,614	25,301,460	106,933,272	647
	2017 TOTAL	\$558,016,550			\$342,613,887	\$383,412,691	\$1,284,043,128	7,810

TDHCA Aggregate Loan Originations Over Past 12 Months

Demographic Information

As of September 30, 2019

Original Loan Amount Distribution			
Original Loan Amount (\$)	Original Loan Amount	# of Loans	% of Loans
<= 25,000	\$ -	0	0.0%
25,001 - 50,000	\$ 145,000	3	0.0%
50,001 - 75,000	\$ 7,140,244	107	0.4%
75,001 - 100,000	\$ 36,836,904	413	2.1%
100,001 - 125,000	\$ 98,874,744	863	5.7%
125,001 - 150,000	\$ 198,839,524	1445	11.5%
150,001 - 175,000	\$ 325,374,890	1995	18.8%
175,001 - 200,000	\$ 396,717,674	2118	22.9%
200,001 - 225,000	\$ 340,371,406	1603	19.6%
225,001 - 250,000	\$ 183,804,026	781	10.6%
250,001 - 275,000	\$ 98,149,777	377	5.7%
> 275,000	\$ 47,306,355	160	1.9%
Max: \$389,500 \ Min: \$45,000 \ WAvg: \$173,805			

New Construction vs Existing Dwelling			
New Construction / Existing	Original Loan Amount	# of Loans	% of Loans
New	\$ 640,767,497	3180	37.0%
Existing	\$ 1,092,793,047	6685	63.0%

Loan Type			
Loan Type	Original Loan Amount	# of Loans	% of Loans
FHA	\$ 1,594,196,270	9113	92.0%
HFA Preferred	\$ 81,594,552	456	4.7%
USDA-RHS	\$ 25,122,562	131	1.4%
VA	\$ 32,647,160	165	1.9%

Property Type			
Property Type	Original Loan Amount	# of Loans	% of Loans
1 Unit Single Family Detached	\$ 1,666,719,373	9441	96.1%
Condominium	\$ 31,889,640	179	1.8%
Manufactured	\$ 22,238,255	166	1.3%
Townhouse	\$ 6,893,918	47	0.4%
Fourplex	\$ 83,361	1	0.0%
Rowhouse	\$ 3,227,797	17	0.2%
Duplex	\$ 2,508,200	14	0.1%

Borrower Gender			
Gender	Original Loan Amount	# of Loans	% of Loans
Male	\$ 1,017,515,946	5726	58.7%
Female	\$ 716,044,598	4139	41.3%

Household Size			
Household Size	Original Loan Amount	# of Loans	% of Loans
1	\$ 478,194,029	2823	27.6%
2	\$ 418,537,208	2402	24.1%
3	\$ 362,414,564	2027	20.9%
4	\$ 283,151,353	1572	16.3%
5	\$ 127,939,678	706	7.4%
6	\$ 44,708,305	238	2.6%
7	\$ 13,954,009	72	0.8%
8+	\$ 4,661,398	25	0.3%
Max: 8 \ Min: 1 \ WAvg: 2.6			

First Time Home Buyer			
FTHB Status	Original Loan Amount	# of Loans	% of Loans
Yes	\$ 1,715,017,486	9765	98.9%

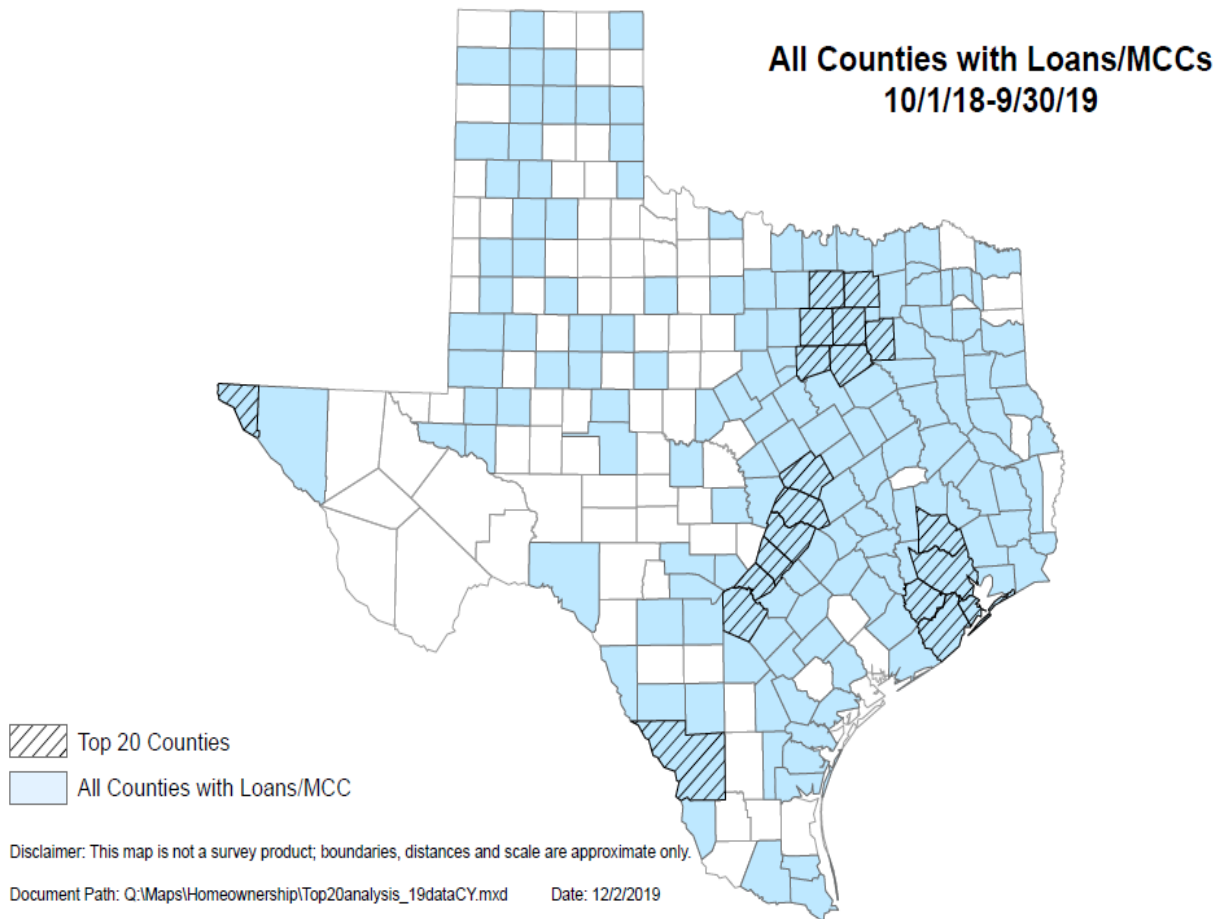
FICO Score Distribution			
FICO Score	Original Loan Amount	# of Loans	% of Loans
<= 640	\$ 472,054,108	2669	27.2%
641 to 660	\$ 349,658,977	2019	20.2%
661 to 680	\$ 247,148,346	1425	14.3%
681 to 700	\$ 184,495,747	1052	10.6%
701 to 720	\$ 137,379,216	779	7.9%
721 to 740	\$ 126,789,556	721	7.3%
741 to 760	\$ 99,860,202	560	5.8%
761 to 780	\$ 62,117,945	346	3.6%
780 to 800	\$ 37,460,232	201	2.2%
> 800	\$ 16,596,215	93	1.0%
Max: 818 \ Min: 533 \ WAvg: 678			

Household Income Distribution			
Household Income (\$)	Original Loan Amount	# of Loans	% of Loans
<= 20,000	\$ 4,998,945	37	0.3%
20,001 - 30,000	\$ 32,699,598	287	1.9%
30,001 - 40,000	\$ 137,312,666	1031	7.9%
40,001 - 50,000	\$ 287,224,071	1854	16.6%
50,001 - 60,000	\$ 413,931,567	2348	23.9%
60,001 - 70,000	\$ 369,714,924	1952	21.3%
70,001 - 80,000	\$ 284,033,907	1424	16.4%
80,001 - 90,000	\$ 156,262,198	725	9.0%
90,001 - 100,000	\$ 44,420,569	194	0.2%
> 100,000	\$ 2,962,099	13	0.0%
Max: \$114,864 \ Min: \$15,080 \ WAvg: \$57,934			

AMFI Distribution			
AMFI	Original Loan Amount	# of Loans	% of Loans
<= 30%	\$ 14,578,698	122	0.8%
30.1% to 60%	\$ 466,440,234	3087	26.9%
60.1% to 80%	\$ 690,069,628	3810	39.8%
80.1% to 100%	\$ 561,534,335	2840	32.4%
100.1% to 115%	\$ 850,348	5	0.0%
> 115.1%	\$ 87,301	1	0.0%
Other			
Max: 1.21 \ Min: 0.14 \ WAvg: 0.63			

Age Distribution			
Age	Original Loan Amount	# of Loans	% of Loans
<= 20	\$ 17,746,667	113	1.0%
21 to 25	\$ 230,974,822	1376	13.3%
26 to 30	\$ 400,304,289	2296	23.1%
31 to 35	\$ 324,555,828	1811	18.7%
36 to 40	\$ 238,452,825	1320	13.8%
41 to 45	\$ 174,643,557	953	10.1%
46 to 50	\$ 132,454,303	740	7.6%
51 to 55	\$ 97,162,982	566	5.6%
56 to 60	\$ 60,364,276	351	3.5%
>61	\$ 56,900,995	339	3.3%
Not Defined			
Max: 87 \ Min: 19 \ WAvg: 36			

Aggregate Single Family Loans and/or MCCs Over Past 12 Months Geographic Distribution



Loan Volume by COUNTY (Top 20)			
Top Originating Counties	# of Loans	% of Loans	Total Originated
Harris	1499	14.8%	\$ 256,352,410
Bexar	1234	12.1%	\$ 210,045,274
Tarrant	1004	11.0%	\$ 191,040,169
Dallas	819	8.6%	\$ 148,327,413
Travis	501	6.3%	\$ 108,900,235
El Paso	753	5.6%	\$ 97,493,949
Williamson	441	5.3%	\$ 92,181,515
Collin	231	3.1%	\$ 53,901,572
Hays	240	2.9%	\$ 50,841,122
Fort Bend	233	2.5%	\$ 43,541,981
Denton	180	2.4%	\$ 41,717,341
Montgomery	185	1.9%	\$ 33,503,965
Kaufman	135	1.5%	\$ 26,666,992
Brazoria	127	1.4%	\$ 23,955,011
Johnson	136	1.4%	\$ 23,533,165
Ellis	106	1.2%	\$ 21,218,913
Galveston	116	1.2%	\$ 20,616,012
Webb	125	1.1%	\$ 18,849,235
Bell	138	1.0%	\$ 18,138,978
Comal	79	1.0%	\$ 17,321,739

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EXHIBIT B

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 Calculation of Bonded Indebtedness as of August 31, 2019
 Pursuant to Texas Government Code Section 2306.205

	Highest Bond Rating	Bonds/Notes Outstanding (Par)	Bonded Indebtedness Not Rated in the Highest Category
Single-family	Aaa	\$ 611,923,691	\$ 15,855,000
RMRB	Aaa	262,625,000	10,000,000
Multifamily	Various	937,790,794	651,120,096
		<u>\$ 1,812,339,485</u>	<u>\$ 676,975,096</u>

Section 2306.205(a)	
2% of bonded indebtedness	\$ 13,539,502
Unencumbered Fund Balance (UFB) per Calculation	\$ 150,000
Does UFB exceed 2% of bonded indebtedness?	No
If UFB exceeds 2% of bonded indebtedness: What amount exceeds 2% of bonded indebtedness?	\$ -
Half of UFB in excess of 2% of bonded indebtedness (Transfer to HTF)	\$ -

Section 2306.205(c)	
4% of bonded indebtedness	\$ 27,079,004
Unencumbered Fund Balance (UFB) per Calculation	\$ 150,000
Does UFB exceed 4% of bonded indebtedness?	No
If UFB exceeds 4% of bonded indebtedness: What amount exceeds 4% of bonded indebtedness?	\$ -
All of UFB in excess of 4% of bonded indebtedness (Transfer to HTF)	\$ -

EXHIBIT C

Single Family Indenture				Rating Agencies			
Series	CUSIP	Maturity Date	Interest Rate	8/31/2019	Moody's	Standard & Poor's	Fitch
				Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
2004A JL	88275FNM7	9/1/2036	VAR	\$ 3,855,000.00	Aa2/VMIG1	AA+/A-1+	#N/A N/A
2004B	88275FNN5	9/1/2034	VAR	\$ 19,910,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2004D	88275FNP0	3/1/2035	VAR	\$ 13,290,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2005A	88275FNQ8	9/1/2036	VAR	\$ 19,095,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2007A	88275FMF3	9/1/2038	VAR	\$ 20,155,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2013A	88275FNT2	3/1/2036	2.800%	\$ 14,360,000.00	Aaa	AA+	#N/A N/A
2015A	88275FNU9	9/1/2039	3.200%	\$ 18,880,000.00	Aaa	AA+	#N/A N/A
2015B	88275FNV7	3/1/2046	3.125%	\$ 13,215,000.00	Aaa	AA+	#N/A N/A
2016A	88275FNW5	3/1/2046	3.000%	\$ 21,835,000.00	Aaa	AA+	#N/A N/A
2016B	88275FNX3	3/1/2039	3.180%	\$ 31,185,000.00	Aaa	AA+	#N/A N/A
2017A	88275FNY1	9/1/2047	2.835%	\$ 56,189,437.00	Aaa	AA+	#N/A N/A
2017B	88275FNZ8	9/1/2038	2.750%	\$ 20,295,958.00	Aaa	AA+	#N/A N/A
2017C	88275FPA1	9/1/2047	3.100%	\$ 39,103,296.00	Aaa	AA+	#N/A N/A
2018A	88275FPB9	9/1/2019	1.650%	\$ 900,000.00	Aaa	AA+	#N/A N/A
	88275FPC7	3/1/2020	1.800%	\$ 905,000.00	Aaa	AA+	#N/A N/A
	88275FPD5	9/1/2020	1.900%	\$ 920,000.00	Aaa	AA+	#N/A N/A
	88275FPE3	3/1/2021	1.950%	\$ 930,000.00	Aaa	AA+	#N/A N/A
	88275FPF0	9/1/2021	2.000%	\$ 940,000.00	Aaa	AA+	#N/A N/A
	88275FPG8	3/1/2022	2.100%	\$ 955,000.00	Aaa	AA+	#N/A N/A
	88275FPH6	9/1/2022	2.200%	\$ 965,000.00	Aaa	AA+	#N/A N/A
	88275FPJ2	3/1/2023	2.250%	\$ 985,000.00	Aaa	AA+	#N/A N/A
	88275FPK9	9/1/2023	2.300%	\$ 1,005,000.00	Aaa	AA+	#N/A N/A
	88275FPL7	3/1/2024	2.450%	\$ 1,015,000.00	Aaa	AA+	#N/A N/A
	88275FPM5	9/1/2024	2.500%	\$ 1,030,000.00	Aaa	AA+	#N/A N/A
	88275FPN3	3/1/2025	2.600%	\$ 1,035,000.00	Aaa	AA+	#N/A N/A
	88275FPP8	9/1/2025	2.650%	\$ 1,055,000.00	Aaa	AA+	#N/A N/A
	88275FPQ6	3/1/2026	2.800%	\$ 1,070,000.00	Aaa	AA+	#N/A N/A
	88275FPR4	9/1/2026	2.850%	\$ 1,095,000.00	Aaa	AA+	#N/A N/A
	88275FPS2	3/1/2027	2.950%	\$ 1,115,000.00	Aaa	AA+	#N/A N/A
	88275FPT0	9/1/2027	3.000%	\$ 1,130,000.00	Aaa	AA+	#N/A N/A
	88275FPU7	3/1/2028	3.050%	\$ 1,150,000.00	Aaa	AA+	#N/A N/A
	88275FPV5	9/1/2028	3.100%	\$ 1,175,000.00	Aaa	AA+	#N/A N/A
	88275FPW3	3/1/2029	3.150%	\$ 1,190,000.00	Aaa	AA+	#N/A N/A
88275FPX1	9/1/2029	3.200%	\$ 1,210,000.00	Aaa	AA+	#N/A N/A	
88275FPY9	9/1/2033	3.350%	\$ 10,610,000.00	Aaa	AA+	#N/A N/A	
88275FPZ6	9/1/2038	4.125%	\$ 16,090,000.00	Aaa	AA+	#N/A N/A	
88275FQA0	9/1/2043	4.250%	\$ 20,110,000.00	Aaa	AA+	#N/A N/A	
88275FQB8	9/1/2048	4.250%	\$ 25,345,000.00	Aaa	AA+	#N/A N/A	
88275FQC6	3/1/2049	4.750%	\$ 49,300,000.00	Aaa	AA+	#N/A N/A	
2019A	88275FQD4	9/1/2020	1.250%	\$ 1,000,000.00	Aaa	AA+	#N/A N/A
	88275FQF9	3/1/2022	1.450%	\$ 975,000.00	Aaa	AA+	#N/A N/A
	88275FQG7	9/1/2022	1.500%	\$ 985,000.00	Aaa	AA+	#N/A N/A
	88275FQH5	3/1/2023	1.550%	\$ 995,000.00	Aaa	AA+	#N/A N/A
	88275FQJ1	9/1/2023	1.600%	\$ 1,005,000.00	Aaa	AA+	#N/A N/A
	88275FQK8	3/1/2024	1.600%	\$ 1,015,000.00	Aaa	AA+	#N/A N/A
	88275FQL6	9/1/2024	1.650%	\$ 1,025,000.00	Aaa	AA+	#N/A N/A
	88275FQM4	3/1/2025	1.700%	\$ 1,040,000.00	Aaa	AA+	#N/A N/A
	88275FQN2	9/1/2025	1.750%	\$ 1,055,000.00	Aaa	AA+	#N/A N/A
	88275FQP7	3/1/2026	1.850%	\$ 1,065,000.00	Aaa	AA+	#N/A N/A
	88275FQQ5	9/1/2026	1.950%	\$ 1,070,000.00	Aaa	AA+	#N/A N/A
	88275FQR3	3/1/2027	2.000%	\$ 1,080,000.00	Aaa	AA+	#N/A N/A
	88275FQS1	9/1/2027	2.050%	\$ 1,085,000.00	Aaa	AA+	#N/A N/A

	88275FQT9	3/1/2028	2.150%	\$	1,095,000.00	Aaa	AA+	#N/A N/A
	88275FQU6	9/1/2028	2.200%	\$	1,115,000.00	Aaa	AA+	#N/A N/A
	88275FQV4	3/1/2029	2.250%	\$	1,135,000.00	Aaa	AA+	#N/A N/A
	88275FQW2	9/1/2029	2.300%	\$	1,150,000.00	Aaa	AA+	#N/A N/A
	88275FQX0	3/1/2030	2.350%	\$	1,170,000.00	Aaa	AA+	#N/A N/A
	88275FQY8	9/1/2030	2.400%	\$	1,185,000.00	Aaa	AA+	#N/A N/A
	88275FQE2	9/1/2021	1.400%	\$	1,795,000.00	Aaa	AA+	#N/A N/A
	88275FQZ5	9/1/2034	2.700%	\$	10,285,000.00	Aaa	AA+	#N/A N/A
	88275FRA9	9/1/2039	3.375%	\$	15,165,000.00	Aaa	AA+	#N/A N/A
	88275FRB7	9/1/2044	3.625%	\$	18,570,000.00	Aaa	AA+	#N/A N/A
	88275FRC5	9/1/2049	3.750%	\$	26,530,000.00	Aaa	AA+	#N/A N/A
	88275FRD3	3/1/2050	4.000%	\$	72,735,000.00	Aaa	AA+	#N/A N/A
	Total Bonds Outstanding				\$	599,923,691.00		
2018 Issuer Note	N/A	8/8/2025	3.500%	\$	12,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A
	Bonds/Notes Rated in the Highest Category (Aaa OR AAA)				\$	596,068,691.00		
	Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA)				\$	15,855,000.00		

RMRB Indenture				Rating Agencies			
				8/31/2019	Moody's	Standard & Poor's	Fitch
Series	CUSIP	Maturity Date	Interest Rate	Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
2009C-1	882750NE8	7/1/2041	2.875%	\$ 28,685,000.00	Aaa	AA+	#N/A N/A
2011A	882750LS9	1/1/2020	4.125%	\$ 625,000.00	Aaa	AA+	#N/A N/A
	882750LT7	7/1/2020	4.125%	\$ 645,000.00	Aaa	AA+	#N/A N/A
	882750LU4	1/1/2021	4.375%	\$ 650,000.00	Aaa	AA+	#N/A N/A
	882750LV2	7/1/2021	4.375%	\$ 655,000.00	Aaa	AA+	#N/A N/A
	882750LW0	1/1/2022	4.550%	\$ 670,000.00	Aaa	AA+	#N/A N/A
	882750LX8	7/1/2022	4.550%	\$ 675,000.00	Aaa	AA+	#N/A N/A
	882750LY6	7/1/2026	5.050%	\$ 6,130,000.00	Aaa	AA+	#N/A N/A
	882750LZ3	7/1/2029	5.000%	\$ 1,830,000.00	Aaa	AA+	#N/A N/A
				\$ 11,880,000.00			
2009C-2	882750NB4	7/1/2041	2.480%	\$ 22,380,000.00	Aaa	AA+	#N/A N/A
2011B	882750MS8	1/1/2020	3.100%	\$ 780,000.00	Aaa	AA+	#N/A N/A
	882750MT6	7/1/2020	3.100%	\$ 780,000.00	Aaa	AA+	#N/A N/A
	882750MU3	1/1/2021	3.300%	\$ 780,000.00	Aaa	AA+	#N/A N/A
	882750MV1	7/1/2021	3.300%	\$ 795,000.00	Aaa	AA+	#N/A N/A
	882750MW9	1/1/2022	3.500%	\$ 820,000.00	Aaa	AA+	#N/A N/A
	882750MX7	7/1/2022	3.500%	\$ 830,000.00	Aaa	AA+	#N/A N/A
	882750MY5	1/1/2026	4.050%	\$ 7,570,000.00	Aaa	AA+	#N/A N/A
	882750MZ2	1/1/2030	4.450%	\$ 7,055,000.00	Aaa	AA+	#N/A N/A
	882750NA6	1/1/2034	4.250%	\$ 3,990,000.00	Aaa	AA+	#N/A N/A
				\$ 23,400,000.00			
2019A	882750NW8	1/1/2021	1.850%	\$ 885,000.00	Aaa	AA+	#N/A N/A
	882750NX6	1/1/2022	1.950%	\$ 920,000.00	Aaa	AA+	#N/A N/A
	882750NY4	1/1/2023	2.050%	\$ 960,000.00	Aaa	AA+	#N/A N/A
	882750NZ1	1/1/2024	2.200%	\$ 1,000,000.00	Aaa	AA+	#N/A N/A
	882750PA4	1/1/2025	2.350%	\$ 1,045,000.00	Aaa	AA+	#N/A N/A
	882750PB2	1/1/2026	2.500%	\$ 1,095,000.00	Aaa	AA+	#N/A N/A
	882750PC0	1/1/2027	2.650%	\$ 1,140,000.00	Aaa	AA+	#N/A N/A
	882750PD8	1/1/2028	2.750%	\$ 1,190,000.00	Aaa	AA+	#N/A N/A
	882750PE6	1/1/2029	2.900%	\$ 1,245,000.00	Aaa	AA+	#N/A N/A
	882750PF3	1/1/2030	3.000%	\$ 1,310,000.00	Aaa	AA+	#N/A N/A
	882750NF5	7/1/2020	5.000%	\$ 860,000.00	Aaa	AA+	#N/A N/A
	882750NG3	7/1/2021	5.000%	\$ 900,000.00	Aaa	AA+	#N/A N/A
	882750NH1	7/1/2022	5.000%	\$ 935,000.00	Aaa	AA+	#N/A N/A
	882750NJ7	7/1/2023	5.000%	\$ 975,000.00	Aaa	AA+	#N/A N/A
	882750NK4	7/1/2024	5.000%	\$ 1,015,000.00	Aaa	AA+	#N/A N/A
	882750NL2	7/1/2025	5.000%	\$ 1,060,000.00	Aaa	AA+	#N/A N/A
	882750NM0	7/1/2026	5.000%	\$ 1,105,000.00	Aaa	AA+	#N/A N/A
	882750NN8	7/1/2027	5.000%	\$ 1,155,000.00	Aaa	AA+	#N/A N/A
	882750NP3	7/1/2028	5.000%	\$ 1,210,000.00	Aaa	AA+	#N/A N/A
	882750NQ1	7/1/2029	5.000%	\$ 1,270,000.00	Aaa	AA+	#N/A N/A
	882750NR9	7/1/2030	5.000%	\$ 1,330,000.00	Aaa	AA+	#N/A N/A
	882750NS7	1/1/2031	5.000%	\$ 1,370,000.00	Aaa	AA+	#N/A N/A
	882750NT5	7/1/2031	5.000%	\$ 1,405,000.00	Aaa	AA+	#N/A N/A
	882750NU2	1/1/2032	5.000%	\$ 1,440,000.00	Aaa	AA+	#N/A N/A
	882750NV0	7/1/2032	5.000%	\$ 1,480,000.00	Aaa	AA+	#N/A N/A
	882750PG1	7/1/2034	3.500%	\$ 6,340,000.00	Aaa	AA+	#N/A N/A
	882750PH9	7/1/2039	3.800%	\$ 18,730,000.00	Aaa	AA+	#N/A N/A
	882750PJ5	7/1/2044	3.900%	\$ 23,310,000.00	Aaa	AA+	#N/A N/A
	882750PK2	1/1/2049	4.750%	\$ 57,360,000.00	Aaa	AA+	#N/A N/A
	882750PL0	1/1/2050	3.950%	\$ 32,240,000.00	Aaa	AA+	#N/A N/A
				\$ 166,280,000.00			
		Total Bonds Outstanding		\$ 252,625,000.00			
2016 Issuer Note	N/A	9/28/2026	1.000%	\$ 10,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A
		Bonds/Notes Rated in the Highest Category (Aaa OR AAA)		\$ 252,625,000.00			
		Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA)		\$ 10,000,000.00			

Multifamily					8/31/2019	Rating Agencies		
MF Bond Issue	CUSIP	MF Program#	Private or Public	Ending Bonds Outstanding	Moody's	Standard & Poor's	Fitch	
					rtg moody	rtg sp	rtg fitch	
1996 A MF Refunding (Brighton's Mark Development)	88275BBK3	0065	Private Place	\$ 8,075,000.00	#N/A N/A	NR	#N/A N/A	
1998 A MF (Residence at the Oaks Project)	88275BD3	0090	Private Place	\$ 2,906,000.00	#N/A N/A	NR	#N/A N/A	
1998 B MF (Residence at the Oaks Project)	88275BDB1	0090	Private Place	\$ 1,552,000.00	#N/A N/A	NR	#N/A N/A	
1998 C MF (Residence at the Oaks Project)	88275BDB1	0090	Private Place	\$ 51,000.00	#N/A N/A	NR	#N/A N/A	
2000 MF (Timber Point Apartments)	88275BDS4	0095	Public Offer	\$ 5,570,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2000 MF (Creek Point Apartments)	88275BER5	0098	Public Offer	\$ 4,760,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2000 A MF (Highland Meadow Village Apartments)	88275BEW4	0101	Private Place	\$ 6,363,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2000 A MF (Collingham Park Apartments)	88275BEZ7	0103	Private Place	\$ 7,725,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2000 B MF (Collingham Park Apartments)	88275BFA1	0103	Private Place	\$ 1,737,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2001 A MF (Skyway Villas Apartments)	88275BFN3	0108	Public Offer	\$ 4,485,000.00	WR	NR	WD	
2001 B MF (Skyway Villas Apartments)	88275BF06	0108	Private Place	\$ 1,150,000.00	WR	#N/A N/A	#N/A N/A	
2001 A-1 MF (Meridian Apartments)	88275ACG3	0111	Public Offer	\$ 7,134,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2001 B MF (Meridian Apartments)	88275ACH1	0111	Private Place	\$ 391,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2001 A-1 MF (Wildwood Apartments)	88275ACJ7	0112	Public Offer	\$ 5,791,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2003 A MF Refunding (Reading Road)	88275BJJ8	0125	Public Offer	\$ 7,750,000.00	#N/A N/A	AA+/A-1+	#N/A N/A	
2003 B MF Refunding (Reading Road)	88275BIK5	0125	Private Place	\$ 1,530,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2003 A MF (West Virginia Apartments)	88275BHT8	0127	Public Offer	\$ 5,655,000.00	WR	NR	WD	
2003 A MF (West Virginia Apartments)	88275BHU5	0127	Public Offer	\$ 1,415,000.00	WR	NR	WD	
2003 A MF (Primrose Houston School Apartments)	88275BJB5	0129	Private Place	\$ 15,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2003 B MF (Primrose Houston School Apartments)	88275BJC3	0129	Private Place	\$ 16,720.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2003 A MF (Ash Creek Apartments)	88275BJS8	0131	Private Place	\$ 14,732,562.00	#N/A N/A	#N/A N/A	#N/A N/A	
2003 A MF (Peninsula Apartments)	88275BJU3	0132	Public Offer	\$ 9,415,000.00	#N/A N/A	AA+	#N/A N/A	
2003 A MF (Arlington Villas Apartments)	88275BJX7	0134	Public Offer	\$ 15,000,000.00	WR/WR	#N/A N/A	#N/A N/A	
2003 B MF (Arlington Villas Apartments)	88275BJY5	0134	Public Offer	\$ 614,023.00	WR/WR	#N/A N/A	#N/A N/A	
2004 A MF (Timber Ridge II Apartments)	88275BJZ2	0137	Private Place	\$ 6,049,333.00	#N/A N/A	#N/A N/A	#N/A N/A	
2004 MF (Providence at Rush Creek II)	88275BKHO	0141	Private Place	\$ 7,950,092.97	#N/A N/A	NR	#N/A N/A	
2004 MF (Humble Parkway Townhomes)	88275BKJ6	0142	Public Offer	\$ 9,865,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2004 MF (Chisholm Trail Apartments)	88275BKR8	0143	Public Offer	\$ 9,500,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2004 MF (Evergreen at Plano Parkway)	88275BKX5	0144	Private Place	\$ 13,333,278.63	#N/A N/A	#N/A N/A	#N/A N/A	
2004 MF (Montgomery Pines Apartments)	88275BKU1	0145	Public Offer	\$ 10,100,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2004 MF (Bristol Apartments)	88275BK14	0146	Public Offer	\$ 10,800,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2004 MF (Pinnacle Apartments)	88275BKV9	0147	Public Offer	\$ 12,465,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2004 MF (Churchill at Pinnacle Park)	88275BK20	0150	Private Place	\$ 8,911,214.84	#N/A N/A	#N/A N/A	#N/A N/A	
2005 MF (Port Royal Homes)	None	0155	Private Place	\$ 10,968,521.90				
2005 MF (Mission Del Rio Homes)	88275BLK2	0156	Private Place	\$ 8,629,126.29	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2005 MF (Atascocita Pines Apartments)	88275BLV8	0157	Public Offer	\$ 10,190,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2005 MF (Tower Ridge Apartments)	88275BLX4	0158	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A	
2005 MF (St. Augustine Estate Apartments)	88275BME5	0162	Public Offer	\$ 5,480,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2005 MF (Providence Mockingbird Apartments)	None	0164	Private Place	\$ 10,349,836.94				
2005 MF (Plaza at Chase Oaks Apartments)	None	0165	Private Place	\$ 10,925,869.29				
2005 MF (Coral Hills Apartments)	88275BMP0	0167	Public Offer	\$ 4,045,000.00	#N/A N/A	AA+	#N/A N/A	
2006 MF (Village Park Apartments)	88275BNC8	0170	Public Offer	\$ 8,725,000.00	#N/A N/A	AA+	#N/A N/A	
2006 MF (Oakmoor Apartments)	88275BNA2	0171	Private Place	\$ 13,166,765.68	#N/A N/A	#N/A N/A	#N/A N/A	
2006 MF (The Residences at Sunset Pointe)	88275AAA8	0172	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A	
2006 MF (Hillcrest Apartments)	88275AAE0	0173	Public Offer	\$ 9,350,000.00	#N/A N/A	NR	#N/A N/A	
2006 MF (Meadowlands Apartments)	88275AAH3	0180	Private Place	\$ 11,377,446.25	#N/A N/A	#N/A N/A	#N/A N/A	
2006 MF (East Tex Pines)	88275AAP5	0181	Private Place	\$ 12,470,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2006 MF (Aspen Park)	88275AAR1	0183	Public Place	\$ 8,565,000.00	#N/A N/A	AA+	#N/A N/A	
2006 MF (Idlewild)	88275AAY6	0184	Public Offer	\$ 12,590,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2007 MF (Lancaster)	88275ABA79	0185	Public Offer	\$ 12,580,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2007 MF (Park Place at Loyola)	88275ABB5	0186	Private Place	\$ 13,386,366.51	#N/A N/A	#N/A N/A	#N/A N/A	
2007 MF (Terraces at Cibolo)	88275ABC3	0187	Public Place	\$ 4,600,000.00	#N/A N/A	A+/A-1	#N/A N/A	
2007 MF (Santora Villas)	88275ABD1	0188	Private Place	\$ 11,342,826.15	#N/A N/A	#N/A N/A	#N/A N/A	
2007 MF (Costa Rialto)	None	0191	Private Place	\$ 9,887,270.26				
2007 MF (Windshire)	88275ABN9	0192	Public Offer	\$ 12,600,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2007 MF (Residences @ Onion Creek)	88275ABX7	0193	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A	
2008 MF (West Oaks Apartments)	88275ABY5	0194	Public Offer	\$ 11,475,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2008 MF (Costa Ibiza Apartments)	88275ACD0	0195	Public Offer	\$ 12,420,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2008 MF (Alta Cullen Refunding)	88275ACF5	0197	Public Offer	\$ 11,300,000.00	#N/A N/A	AA+/A-1+	#N/A N/A	
2009 MF (Costa Mariposa)	88275ACK4	0198	Public Offer	\$ 12,550,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A	
2009 MF (Woodmont)	88275ACL2	0199	Public Offer	\$ 13,745,000.00	WR/WR	#N/A N/A	#N/A N/A	
2014 MF (Decatur Angle)	88275ACN8	0201	Private Place	\$ 22,515,058.74	#N/A N/A	#N/A N/A	#N/A N/A	
2016 MF (Williamsburg Apts)	88275ACW8	0205	Public Offer	\$ 22,433,279.96	Aaa	#N/A N/A	#N/A N/A	
2016 MF (Skyline Place Apartments)	88275ADC1	0211	Public Offer	\$ 18,250,427.62	Aaa	#N/A N/A	#N/A N/A	
2017 MF (Casa Inc Apartments)	88275ADD9	0212	Public Offer	\$ 23,464,753.91	Aaa	#N/A N/A	#N/A N/A	
2017 MF (Casa Brendan Apartments)	88275ADF4	0213	Public Offer	\$ 4,888,490.41	Aaa	#N/A N/A	#N/A N/A	
2017 MF (Nuestro Hogar)	88275ADE7	0214	Public Offer	\$ 5,572,879.16	Aaa	#N/A N/A	#N/A N/A	
2017 MF (Emli Liberty Crossing)	88275ADG2	0215	Public Offer	\$ 17,600,000.00	#N/A N/A	AA+	#N/A N/A	
2018 MF (Vista on Gessner)	88275ADH0	0216	Public Offer	\$ 50,000,000.00	Aaa	#N/A N/A	#N/A N/A	
2018 MF (Springs Apartments)	88275ADJ6	0218	Public Offer	\$ 20,000,000.00	#N/A N/A	AA+	#N/A N/A	
2018 MF (Crosby Plaza Apartments)	88275ADK3	0219	Public Offer	\$ 7,000,000.00	#N/A N/A	AA+	#N/A N/A	
2018 MF (Oaks on Lamar)	88275ADN7	0220	Public Offer	\$ 16,633,785.91	#N/A N/A	AA+	#N/A N/A	
2018 MF (Riverside Townhomes)	88275ADM9	0221	Public Offer	\$ 18,998,732.30	#N/A N/A	AA+	#N/A N/A	
2018 A MF (Forestwood)	88275ADP2	0222	Public Offer	\$ 20,000,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2018 B MF (Forestwood)	88275ADQ0	0222	Public Offer	\$ 100,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2018 MF (Related RD Portfolio)	88275ADR8	0223	Public Offer	\$ 20,000,000.00	#N/A N/A	AA+	#N/A N/A	
2018 MF A (Park Yellowstone)	88275LAA4	0224	Public Offer	\$ 12,500,000.00	#N/A N/A	AA+	#N/A N/A	
2018 MF B (Park Yellowstone)	88275ADS6	0224	Public Offer	\$ 2,880,000.00	#N/A N/A	AA+	#N/A N/A	
2019 MF Series A (Lago de Plata)	88275ADT4	0225	Public Offer	\$ 13,995,000.00	#N/A N/A	#N/A N/A	#N/A N/A	
2019 MF Series A (McMullen Square)		0226	Public Offer	\$ 10,000,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security	
2019 MF Series A (Northgate Village)	88275ADC9	0227	Public Offer	\$ 18,980,867.35	Aaa	#N/A N/A	#N/A N/A	

Total Bonds Outstanding \$ 851,324,529.07

MULTI-FAMILY HOUSING NOTES PAYABLE

2016 (Garden City Apartments)	\$ 16,012,284.61
2016 (Gateway at Hutchins Apartments)	\$ 27,953,980.25
2016 (Mercantile Apts)	\$ 29,500,000.00
2018 (Preserve at Hunters Crossing)	\$ 13,000,000.00

Bonds/Notes Rated in the Highest Category (Aaa OR AAA) \$ 286,670,698.41

Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA) \$ 651,120,095.52

2d

BOARD ACTION REPORT
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2018

Report on the 2021 and 2022 QAP Planning Process

Rather than planning only for the 2021 QAP, staff is proposing that several topics be considered for the 2022 QAP. This longer term process will allow staff and stakeholders to more fully develop concepts, and provide stability for 2021 Applicants.

For the 2021 QAP, discussion of Sponsor Characteristics and Proximity to Job Areas are the only topics staff is proposing for consideration. The Sponsor Characteristics scoring item has not been examined in a number of years, and the experience of HUBs and Qualified Nonprofits engaging with these Developments should be considered. The Proximity to Job Areas scoring item is proposed for discussion later in the year, once data from the 9% Applications is available. It is anticipated the discussion will center on the effectiveness of the new Proximity to Jobs scoring item, along with the Proximity to Urban Core item.

An initial planning meeting for the 2021-22 QAP will be held Wednesday, February 19th. An announcement with the location and registration information will be sent via listserve email Mid-January. The agenda for that meeting will be posted to the Department's website, and will become the tool to gather input initially on the forum. Working groups to consider specific topics will be determined at that initial meeting, but may be modified as the need arises. Meeting schedules and topics will be regularly posted to the TDHCA website, via the listerv, calendar and through social media. Schedules will be updated as the project evolves, and updates will be posted to the TDHCA website.

A number of public comments received on the 2020 QAP, including several that have recurred over the past several years, will be considered in the proposed topics described in the attached plan.



2021 and 2022 Qualified Allocation Plans (QAPs)

Project Plan

December 12, 2019

IMPORTANT DISCLAIMER: THIS PROCESS IS INTENDED TO ENABLE STAKEHOLDERS AND STAFF TO PROPOSE AND DEVELOP IDEAS AND CONCERNS TO BE CONSIDERED IN THE DEVELOPMENT OF THE QAP AND OTHER APPLICABLE RULES FOR 2021 and 2022. THE OFFICIAL PUBLICATION OF A BOARD APPROVED DRAFT FOR PUBLIC COMMENT WILL OCCUR IN ACCORDANCE WITH THE STATUTORILY ESTABLISHED CALENDAR IN FALL 2020 and 2021.

INTRODUCTION

The purpose of this project is to solicit and discuss ideas to be considered for inclusion in the 2021 and 2022 QAP and the Rules. The ultimate deliverables for this project are QAP's and other multifamily rules that clearly articulate TDHCA housing policy as established by the Governing Board through threshold and scoring criteria and also addresses state and federal requirements. TDHCA staff welcomes an open discussion with stakeholders in affordable housing across the state of Texas.

As the Department has begun to use this more formalized QAP development process, a consistent request from Applicants has been for a two-year QAP. A longer term QAP would create greater stability for Applicants, in that they can begin their site selection process for each round without concerns regarding new or changed scoring or threshold criteria with negative impact. In addition, some proposed changes may require longer to fully and thoughtfully consider prior to implementation. Due to our biennial legislative calendar, changes to the QAP driven by statute will generally happen in even-numbered years. In light of these considerations, this plan includes goals for both the 2021 and 2022 QAPs.

The process will continue to include QAP discussion meetings on the day before Board meetings, outreach efforts so that stakeholders who are not able to attend meetings will have an opportunity for input, and focused meetings with stakeholders that have specific needs and insights. Groups may be convened to address specific topics, particularly for the 2022 QAP. Local and regional experts in affordable housing may be requested to present findings at meetings, and staff may conduct and contribute their own research on select issues.

PROJECT GOALS AND PURPOSE

The Multifamily Finance Division (Division) staff will lead the project, including scheduling meetings, accessing necessary resources, facilitating conversations, and compiling results. The Division will provide periodic reports to the Board so they have regular progress updates and have an opportunity for input throughout the process. Staff from other TDHCA divisions may be asked to participate as needed.

Stakeholders, including the development community, advocates for various interest groups served by affordable housing, residents of TDHCA properties, and various subject matter experts will be invited to participate in meetings, surveys, or other forms of public comment and discussion so that a clear assessment of varying needs and priorities may be compiled. That assessment, along with applicable statutory and regulatory requirements, will be used to draft

amendments and changes to develop the proposed 2021 QAP and in some cases will be carried forward to the 2022 QAP. Because many stakeholders cannot travel to Austin for meetings, staff will solicit feedback through more flexible means. Possible media include online polls, website forums, and focus groups. TDHCA staff also may hold regional stakeholder meetings outside of Austin.

It is anticipated that the process for the 2021 QAP will continue through July 2019, and that a staff draft of the 2021 QAP will be available in late summer/early fall 2020. The same timing will apply to the 2022 QAP, incorporating changes discussed over the two years previous and any changes required by statute. Specific sections of the QAP may be drafted and made available for informal comment throughout the process, in order to provide for the most effective possible feedback on those items.

PROJECT SCOPE

The scope of the project will include the planning and development of specific topics to be considered for amendment in the 2021 and 2022 QAP and Rules, and potentially later editions. While it is anticipated that the process will be completed prior to publication of the staff draft and presentation of the QAP to the Board in September 2020, this is an ever-evolving process and there may be items that will be continued into subsequent years. Other parts of the Rules may be included in the project as needed.

The project will, in certain matters, rely heavily on data gathered from external sources. Sources may include (but will not be limited to) Census and American Community Survey data, reputable research centers, and best practices from other organizations or states. Internal data may include TDHCA's Compliance Monitoring and Tracking System (CMTS), data from cost certifications compiled by the Asset Management Division, and data gathered from previous application rounds. To the greatest extent possible, data applied to the QAP will come from readily-accessible nonpartisan public sources or aggregators of those sources.

Based on previous conversations, staff's research, and policy directions from the Governing Board, staff proposes the following topics as the initial points of departure as the Division and stakeholders begin composing the 2021 and 2022 QAP and Rules:

2021 QAP topics

1. Sponsor Characteristics
 - a. Qualified Nonprofit Organization definition
 - b. Historically Underutilized Businesses
 - c. Service providers
2. Proximity to Job Areas
 - a. Proximity to Jobs and Proximity to Urban Core
3. Readiness to Proceed

2022 QAP topics

1. Cost containment
 - a. Credits per unit
 - b. Cost per square foot
 - c. Voluntary eligible basis
 - d. New construction/reconstruction/rehabilitation
 - e. Impact of basis boost
2. Preservation
 - a. Extended affordability
 - b. Opportunity Index & Concerted Revitalization Plan
 - c. Right of First Refusal
 - d. Undesirable Site Features and Neighborhood Risk Factors
3. Energy Efficiency and Sustainable Development
 - a. Threshold and Scoring measures
 - b. Geographic Impact

SCHEDULE

Early in 2020, staff will invite individuals to participate in several discussions regarding Sponsor Characteristics. HUBs, Qualified Nonprofits and the Applicants who have worked with those groups will be asked to participate. A discussion regarding the effectiveness of Proximity to Jobs scoring will convene later in the year, after data from 9% Applications is available.

An initial planning meeting for the 2021 QAP will be held Wednesday, February 19th. An announcement with the location and registration information will be sent via listserve email mid-January. The agenda for that meeting will be posted to the Department's website, and will become the tool to gather input initially on the forum. Working groups to consider specific topics will be determined at that initial meeting, but may be modified as the need arises. Meeting schedules and topics will be regularly posted to the TDHCA website, via the listerv, calendar and through social media. Schedules will be updated as the project evolves, and updates will be posted to the TDHCA website.

As much as practically possible, rule changes contemplated for proposal to the Board will be presented to stakeholders after they have been thoroughly reviewed by TDHCA staff, including Legal Services, for compliance with statutory and regulatory requirements and compliance with TDHCA Board housing policy.

In the case of proposed changes that will significantly impact the development process, TDHCA staff may suggest a phased approach to implementation so that stakeholders are able to effectively plan for implementation.

COMMUNICATIONS PLAN

Information regarding the ongoing work of the Project Plan will be provided in the most transparent manner possible.

Communication Type	Description	Format	Participants/Distribution	Deliverable
Project Meetings	Meeting to discuss scheduled topic	In Person	All	Meeting Summary
Status Report to Governing Board	Report on Project progress	In Board Materials	TDHCA staff and Board	Board report or Action Request as needed
Website	Posting of Meetings and Materials	Website	Multifamily Finance	Resource for Project participants
Online Forum	Method for gathering stakeholder input	Website	All	Input regarding specific topics to be integrated into rule making process
Online Polls	Method for gathering stakeholder input	Website	ALL	Input regarding specific topics to be integrated into rule making process
Focus Groups	Subjected-oriented meeting to discuss scheduled topic	In Person or Conference Call	Subject Stakeholders	Meeting Summary

While informal communication is a part of every project and is necessary for successful project completion, any issues, concerns, or updates that arise from informal discussion between TDHCA staff and stakeholders will be communicated to the larger group so that the appropriate action may be taken.

3a

BOARD REPORT ITEM
INTERNAL AUDIT DIVISION
December 12, 2020

Report on the Meeting of the Internal Audit and Finance Committee

REPORT ITEM

Verbal report

3b

BOARD ACTION REQUEST
INTERNAL AUDIT DIVISION
December 12, 2020

Presentation, Discussion and Possible Action on approval of the Fiscal Year 2020 Internal Audit Work Plan.

RECOMMENDED ACTION

WHEREAS, the Tex. Gov't Code §2306.073 (b), the Internal Auditing Act and audit standards require the Department's Governing Board to approve an annual audit work plan that outlines the internal audit projects planned for the fiscal year; and

WHEREAS, the Audit and Finance Committee of the Board recommends approval of the work plan;

NOW, therefore, it is hereby

RESOLVED, the internal audit work plan for Fiscal Year 2020 is approved as presented.

BACKGROUND

The annual internal audit work plan is required by the Tex. Gov't Code §2306.073 (b), the Texas Internal Auditing Act (Tex. Gov't Code Chapter 2102) and by the International Standards for the Professional Practice of Internal Auditing (Standards). The plan is prepared by the internal auditor based on an agency-wide risk assessment as well as input from the Department's Governing Board and executive management. The plan identifies the individual audits to be conducted during Fiscal Year 2020. The plan also outlines other planned activities that will be performed by the Internal Audit Division.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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**Texas Department of Housing and Community Affairs
Office of Internal Audit
Audit Plan for Fiscal Year 2020**

Statutory and Professional Standards Requirement

The Texas Internal Auditing Act (Texas Government Code, §2102.005) requires state agencies to conduct a program of internal auditing. The *International Standards for the Professional Practice of Internal Auditing (IA Standards)* define Internal Auditing as an "independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes."

The Texas Government Code and the *IA Standards* require internal auditors to develop an annual audit plan, using risk assessment techniques, that identifies individual audits to be conducted during the year. The Code requires that the plan be approved by the state agency's governing board or by its administrator, if the agency has no governing board.

The program of internal auditing is carried out by the Office of Internal Audit (OIA) which serves at the direction of the Governing Board. The OIA has prepared this audit plan for consideration and approval by the Governing Board.

Development of the Annual Audit Plan

The Fiscal Year 2020 plan is designed to cover areas of highest risk to the State and the agency; however, it does not cover all risks. TDHCA management should utilize internal controls and other appropriate methodologies to mitigate residual risks not covered by the audit plan.

The annual audit plan was developed using a risk based methodology which included:



- Obtaining management's and the Governing Board's perspectives through surveys and discussions.
- Consulting with the State Auditor's Office and other oversight bodies.
- Reviewing prior TDHCA meeting minutes, audit report findings and recommendations, and budgetary information.
- Evaluating information about key agency business areas, processes, and systems.
- Considering input from internal audit staff.
- Utilizing a matrix whereby identified auditable units were ranked according to standard risk factors.

The budgeted hours for all projects are based on two staff auditors and the Director of Internal Audit.

Projects for Fiscal Year 2020 Annual Audit Plan

We have identified the following projects for inclusion in the 2020 Annual Audit Plan based on our annual risk assessment of the auditable units. The project numbers are for identification purposes and may not correspond to the order in which the projects are performed. Also included below is a brief description of functions to be reviewed.

New Audit Projects:

1. Purchasing

Purchasing division is tasked with ensuring attainment of the best value for the Department in the acquisition of goods and services according to state rules and regulations. The division administers the requirements of Historically Underutilized Businesses (HUB) opportunities related to TDHCA procurements, and encourages and assists potential HUB vendors to be certified through the State Comptroller of Public Accounts, State Procurement Division (SPD).

The purchasing division undergoes biennial "post payment" audits by the Comptroller's Office. No internal audits or SAO audits have been conducted recently. The Director of Purchasing has recently retired. The Purchasing division rated high on the risk assessment due to lack of recent audits and change of management.

2. Section 8

The Housing Choice Voucher, Section 8, Program provides rental assistance payments on behalf of low income individuals and families, including the elderly and person with disabilities. The program provides financial assistance for decent, safe and sanitary housing to eligible households whose annual gross income does not exceed 50% of the Department Housing and Urban Development's (HUD) median income guidelines. TDHCA is one of several public housing authorities that run Housing Choice Voucher Section 8 programs across Texas.

This program has a large number of transactions. Various programmatic reviews have been conducted by HUD; however no audits of the program have been conducted in recent years. The



Section 8 program rated high on the risk assessment due to its susceptibility to fraud and lack of recent audits.

3. Physical Inspection

The Physical Inspection section of Compliance division performs and administers inspections for developments monitored by the Department throughout the compliance period. The section ensures developments are habitable, well maintained, ready for occupancy, follow appropriate accessibility standards, and comply with applicable program rules and regulations. The section also administers inspections performed by the Department's contracted inspection firms.

This function has not been audited at TDHCA; although a similar function at Manufactured Housing Division recently underwent an extensive SAO audit.

4. Section 811 PRA

The Section 811 Project Rental Assistance (PRA) program provides project-based rental assistance for extremely low-income persons with disabilities linked with long term services. The program is made possible through a partnership between TDHCA, The Texas Health and Human Services Commission (HHSC) and eligible multifamily properties. This program creates the opportunity for persons with disabilities, to live as independently as possible through the coordination of voluntary services and providing a choice of subsidized, integrated rental housing options. The program started in 2015, and no audits have been conducted of the program.

The Section 811 PRA program rated high on the risk assessment due to its suitability to fraud and lack of recent audits and change of management

5. Continuity of Operations Plan (COOP)

State agencies are required to have a COOP, by the Texas Administrative Code:

Rule §558.256, An agency must have a written emergency preparedness and response plan that comprehensively describes its approach to a disaster that could affect the need for its services or its ability to provide those services. The written plan must be based on a risk assessment that identifies the disaster from natural and man-made causes that are likely to occur in the agency's service area.

COOP was rated high on the risk assessment due its complexity and legislative interests.

Carry Over Project:

Multifamily Revenue Bond

TDHCA is a conduit issuer for the State of Texas with authority to issue tax-exempt and taxable Multifamily Mortgage Revenue Bonds statewide. The bonds are used to fund loans to for-profit and

nonprofit developers for the acquisition and rehabilitation or new construction of affordable rental developments. The Multifamily Bond Program is coupled with the Non-competitive (4%) Housing Tax Credit program when the bonds finance is at least 50% of the cost of the land and buildings in the Development.

The Multifamily Revenue Bond program rated high on the risk assessment due to its level of complexity of transactions and processes, in addition to interest expressed by Committee members.

Administrative and Statutory Projects:

- Review of TDHCA compliance with appropriation riders and other requirements of the Government Code
- Annual Audit Plan and reporting
- Annual tracking of the implementation status of prior audit recommendations
- Coordination and review of complaints related to possible Fraud, Waste, and Abuse

Consulting Projects and External Audit Coordination

Pursuant to the TDHCA internal audit charter, the OIA performs consulting activities for the agency. For fiscal year 2020, OIA is providing consulting services related to the new Grant Guidance in 2 CFR 200, as well as subrecipient monitoring.

OIA also coordinates and advises on external audit activities.

Sincerely,



Mark Scott, CPA, CIA, CISA, CFE, MBA
Internal Audit Director

MS/NS



4a

BOARD ACTION REQUEST
OCI, HTF and NSP DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on a proposed amendment to the 2020-2021 State Housing Trust Fund Biennial Plan and authorization for staff to submit the amended plan to all appropriate offices

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) is required by Rider 9(c) of the General Appropriations Act (GAA) to produce a plan outlining its use of the General Revenue appropriated for the Texas Housing Trust Fund (HTF) for the 2020-2021 biennium;

WHEREAS, Rider 9(c) of the GAA requires the Department to provide this biennial report and its amendments, if any, to the Legislative Budget Board, the House Appropriations committee, and the Senate Finance committee;

WHEREAS, the Board approved the 2020-2021 HTF Biennial Plan on June 27, 2019, then on October 10, 2019, the Board adopted changes to Subchapter B of 10 TAC 26, the HTF Rule;

WHEREAS, Subchapter B of 10 TAC 26 outlines the Amy Young Barrier Removal (AYBR) Program, which provides home modification grants that increase accessibility for homeowners, tenants, and members of their household who are Persons with Disabilities, in addition to correcting other hazardous and unsafe housing conditions; and

WHEREAS, the Department seeks to modify the AYBR Program description in the HTF Biennial Plan in accordance with the changes to Subchapter B of 10 TAC Chapter 26, which removed the \$20,000 funding cap per household in order to provide flexibility for the program to keep pace with rising construction and labor costs;

NOW, therefore, it is hereby

RESOLVED, that the amended 2020-2021 State Housing Trust Fund Biennial Plan, as presented, is approved and staff is authorized and directed to submit the amended HTF Plan to appropriate legislative offices and take any other necessary actions to effectuate the foregoing.

BACKGROUND

The Amy Young Barrier Removal (AYBR) Program provides one-time grants to persons with disabilities who need modifications to increase accessibility in their home and who do not have a household income exceeding 80% of the Area Median Family Income. Since the program's inception in 2010, the maximum amount of AYBR assistance has never exceeded \$20,000. Nearly 1,100 households have benefitted from the AYBR Program to date.

On October 12, 2019, the Board adopted changes to 10 TAC Chapter 26, the Texas Housing Trust Fund Rule, including changes to Subchapter B, which details the AYBR Program. The changes removed the \$20,000 funding cap per household in order to provide flexibility for the program to keep pace with rising construction and labor costs. The Department will raise the maximum AYBR assistance amount to \$22,500 for Fiscal Years 2020 and 2021, and wishes to publish this new funding cap in the next Notice of Funding Availability (NOFA) to be issued since the new rule became effective.

The current 2020-2021 HTF Biennial Plan includes a program description of the AYBR Program that contains the outdated \$20,000 maximum assistance amount. To reflect the new higher assistance amount, staff proposes to amend the program description in this way:

"Amy Young Barrier Removal Program: \$3,399,062 from the 2020-2021 Appropriation

Program Description: This program provides one-time grants of up to ~~\$20,000~~ \$22,500 to Persons with Disabilities with household income not exceeding 80% of the AMFI or the statewide income limits, whichever is greater. This program funds home modifications that increase accessibility for homeowners, tenants, and members of their household who have a disability, in addition to correcting hazardous and unsafe housing conditions, as approved by the Department. Funding is available until August 31, 2021, or until all funding has been reserved.

Maximum Assistance Amount: One-time grants will not exceed ~~\$20,000~~ \$22,500 per household. Eligible entities must apply to access a reservation system that makes funds available on a first-come, first-served basis adjusted for the geographic dispersion process noted below. The maximum number of reservations per Administrator is further detailed in the Program NOFA."

Staff recommends that the board approve the proposed amendment to the 2020-2021 HTF Biennial Plan.

Texas Department of Housing and Community Affairs
2020-2021 Housing Trust Fund Biennial Plan



Bobby Wilkinson, Executive Director
PO Box 13941
Austin, TX 78711-3941
Phone: (512) 475-3800
Fax: (512) 475-3746
www.tdhca.state.tx.us

FIRST AMENDMENT TO THE 2020 – 2021 PLAN THAT WAS ORIGINALLY

Approved by the Board of
The Texas Department of Housing and Community Affairs
On June 27, 2019

First Amendment Adopted December 12, 2019

Introduction and Purpose

During the Regular Session of the 86th Legislature, the Department was appropriated General Revenue for the Housing Trust Fund (HTF) in the amount of \$10,443,402 for the 2020-2021 Biennium. Rider 9(c) of the General Appropriations Act (GAA) requires the Department to provide an annual report to the Legislative Budget Board, the House Appropriation Committee, and the Senate Finance Committee no later than October 1st detailing the Department’s plan to expend funds from the Housing Trust Fund. The Department generates this plan biennially to promote strategic long-term planning and the expeditious use of these funds.

The HTF was established in 1991 by the 72nd Texas Legislature, Senate Bill 546, to provide loans, grants, or other comparable forms of assistance to income-eligible individuals and households to finance, acquire, rehabilitate and develop decent, safe and sanitary housing. Funding sources consist of appropriations or transfers made to the fund, unencumbered fund balances, and public or private gifts or grants.

Appropriation Details

The Department annually receives loan repayments and accrued interest that contribute to the HTF. Rider 8 of the GAA strategy A.1.3 and A.1.4, clarifies that an estimated \$2,400,000 per year in interest earnings and loan repayments are included in funds appropriated each year under the HTF.

	FY2020	FY2021	Total Biennium
Total Annual General Revenue Appropriation	\$5,184,451	\$5,258,951	\$10,443,402

Rider 9(a) of the GAA requires that:

“Out of funds appropriated above in Strategy A.1.3...and A.1.4,...all funds above those retained for administrative purposes in fiscal year 2020 and fiscal year 2021 shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, during September of each fiscal year.”

The Department shall withhold approximately \$1,044,340 (10%) for the biennium for Department administrative costs.

The total estimated biennial funding and usage are outlined in the following chart.

Estimated 2020-2021 Biennial Funds for Housing Trust Fund

Use of Funds	Amount
Total Biennial Appropriation	\$10,443,402¹
Less 10% Administration for TDHCA	(\$1,044,340)
Net Balance Available for TDHCA Programming	\$9,399,062
Less \$3M/year for Texas Bootstrap Program*	(\$6,000,000)
Less \$1,699,531/year for Amy Young Barrier Removal Program	(\$3,399,062)
Total Remaining to be Programmed	\$0

*Per Section 2306.7581 (a-1) of the Texas Government Code, at least \$3,000,000 each state fiscal year is required for this purpose.

Biennial Funding and Allocation Considerations

Statutory requirements listed below direct how the funds may be programmed for use. Due to the demand for current HTF activities, the proposed HTF plan does not include any new activities.

Texas Bootstrap Loan Program

Tex. Gov't Code Section 2306.7581 establishes a transfer requirement for the Texas Bootstrap Loan Program, stating that the Department must dedicate at least \$3 million to the program each fiscal year from HOME funds, HTF monies, or from funds appropriated by the legislature. The Department has determined that HOME funds are not the best resource to accomplish the goals of the Texas Bootstrap Loan Program because of the demand by nonparticipating jurisdictions, additional federal limitations, and extensive HOME Program reporting requirements. The Housing Trust Fund is the most practical appropriated source available for the Department to meet the Bootstrap Program's statutory transfer requirement.

Eligible Entities to Receive Funds

Pursuant to Tex. Gov't Code Section 2306.202, the Department must target funds for specific types of eligible entities. Section 2306.202(a) states:

“In each biennium the first \$2.6 million available through the HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be distributed to nonprofit organizations, for-profit organizations, and other eligible entities.”

¹ This amount estimates approximately \$2,400,000 per year in interest earnings and loan repayments. \$250,000 will also be reserved for Single Family workout activities as further described herein.

Regional Allocation Formula (RAF) and Geographic Dispersion

As specified in Tex. Gov't Code Section 2306.111(d-1), funds are not required to be allocated according to the RAF if:

“(2) the funds or credits are allocated by the department primarily to serve Persons with Disabilities.”

The Amy Young Barrier Removal Program serves only Persons with Disabilities. However, as noted on page 6 of this plan, to promote geographic dispersion of the competitive Amy Young Barrier Removal Program funds, the funds will be released geographically in order to maximize opportunity for regions with historically low involvement to participate.

HTF Plan Administration

In approving the HTF plan, the Board authorizes staff to proceed with issuing Notices of Funding Availability (NOFA) and make any needed amendments to the NOFAs to expedite utilization of funds. Funds may be committed and expended via contracts and reservation agreements. HTF programs may utilize various income determination methods noted in the general program descriptions in the HTF plan or outlined in the HTF Rule.

Using no more than \$250,000 per biennium of the HTF loan repayments and interest earnings *that exceed the requirements under Rider 8 of the GAA* (see Rider 8 of the GAA under "Appropriation Details" on page 2), the HTF may be used to respond to unanticipated, unique challenges that may arise in the course of implementing approved Single Family program contracts, activities, or assets. For example, if a household has been displaced for the rehabilitation of their home, and the Department faces subsequent eligibility concerns with the contractor performing that rehabilitation, these funds could expedite the completion of the rehabilitation so that the household may return to a safe, completed home as soon as possible.

If a balance exists from the previous biennium, the Department shall transfer only the necessary amount to replenish this fund to a maximum balance of \$250,000 at the start of the biennium. The Department anticipates that the need to use HTF excess loan repayments and interest earnings for Single Family Program workouts will be infrequent and used as a last resort only, such as when it poses severe practical challenges, or it is impossible to use federal funds. These funds will be for internal disposition, and neither households nor program administrators will be able to apply for these funds.

In approving the HTF plan, the Board authorizes the use of any funds from loan repayments, interest earnings, deobligations, and any other additional HTF funds as allowed by statute in excess of those funds required under Rider 8, to be programmed into current Department activities or activities approved in the HTF Plan. Prior to any programming, the Department shall withhold 10% of such funds for Department administrative costs.

Lastly, in approving the HTF plan, the Board authorizes the use of late fees collected from HTF

borrowers for Single Family asset management activities. These funds will allow the Department to budget for the necessary transactions that arise in the course of Single Family asset management, such as paying off first lien holders on delinquent single family properties on which the Department is in second or lower lien position; paying off taxing authorities to avoid tax foreclosure; securing and preparing abandoned properties to return to the marketplace; related travel and administrative costs, etc. The HTF will utilize these late fees for Single Family asset management activities only when the appropriate solution cannot reasonably be addressed with other funds.

Texas Bootstrap Loan Program: \$6 million from the 2020-2021 Appropriation

Program Description: The Texas Bootstrap Loan Program makes funds available to state-certified Nonprofit Owner-Builder Housing Providers (NOHPs) and Colonia Self-Help Centers to purchase or refinance real property on which to build or improve residential housing through self-help construction with very low-income households (Owner-Builders). Tex. Gov't Code Section 2306.7581(a-1) requires the Department to make at least \$3,000,000 available each fiscal year for mortgage loans to households with income not exceeding 60% of Area Median Family Income (AMFI) or the statewide income limits, whichever is greater. Funding is available until August 31, 2021, or until all funding has been reserved.

Maximum Loan Amount: Bootstrap loans shall not exceed \$45,000 per household. Eligible entities must apply to access a reservation system that makes funds available on a first-come, first-served basis.

Eligibility Requirement: Owner-Builders must have a household income not exceeding 60% of the AMFI or the statewide income limits, whichever is greater; must have resided in Texas for the preceding six months; and must have successfully completed an owner-builder education class. Owner-Builders must agree to provide at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified Nonprofit Owner-Builder Housing Provider or Colonia Self-Help Center. The Department will define household income limits in accordance with the U.S. Department of Housing and Urban Development HOME Investment Partnership Program Income Limits.

Administrative Fees: The Department will pay an administrative fee equal to 10% of the loan amount to Administrators upon project completion.

Geographic Dispersion: Two-thirds of the funds (approximately \$4,000,000) will be set aside for Owner-Builders with property in census tracts with median incomes not exceeding 75% of the state median income per the most recent statistics available. The remaining one-third (approximately \$2,000,000) will be released statewide. The RAF is not applicable to this funding due to the set-aside requirements of Tex. Gov't Code Section 2306.753(d). Furthermore, the remaining one-third of the fund balance does not exceed the \$3,000,000 ceiling cited in Tex. Gov't Code Section 2306.111(d-1)(3).

Other Considerations: If balances exist from previous Bootstrap funding cycles, those funds will be made available to Bootstrap activities. Funds accumulated in the Owner-Builder Revolving Loan funds may also be made available in the HTF plan. This use of funds achieves the statutory requirements for funding the Texas Bootstrap Loan Program and for targeting nonprofit organizations. This activity achieves significant leveraging of other public and private funding sources, promotes the Department's mission and provides for repayment to the Housing Trust Fund.

Amy Young Barrier Removal Program: \$3,399,062 from the 2020-2021 Appropriation

Program Description: This program provides one-time grants of up to ~~\$22,500~~~~\$20,000~~ to Persons with Disabilities with household income not exceeding 80% of the AMFI or the statewide income limits, whichever is greater. This program funds home modifications that increase accessibility for homeowners, tenants, and members of their household who have a disability, in addition to correcting hazardous and unsafe housing conditions, as approved by the Department. Funding is available until August 31, 2021, or until all funding has been reserved.

Maximum Assistance Amount: One-time grants will not exceed ~~\$22,500~~~~\$20,000~~ per household. Eligible entities must apply to access a reservation system that makes funds available on a first-come, first-served basis adjusted for the geographic dispersion process noted below. The maximum number of reservations per Administrator is further detailed in the Program NOFA.

Eligibility Requirements: Administrators may include Units of General Local Government, Councils of Governments, Nonprofit Organizations, Local Mental Health Authorities, and Public Housing Authorities. Administrators must demonstrate competence in accessibility standards and applicable building codes further detailed in the HTF Rule. Program beneficiaries must have a household income not exceeding 80% of the AMFI or the statewide income limits, whichever is greater. The Department will define household income limits in accordance with the U.S. Department of Housing and Urban Development HOME Investment Partnership Program Income Limits.

Administrative Fees: The Department will pay an administrative fee equal to 10% of the hard and soft costs to Administrators upon project completion.

Geographic Dispersion: The RAF does not apply to funds primarily serving Persons with Disabilities. However, the HTF Rule promotes geographic dispersion to ensure that all rural and urban subregions have an opportunity to access funds before they must compete on a first-come, first-served basis with the rest of the state.

Each year of the biennium, each state region will receive at least \$100,000 (enough for five fully funded activities). The remaining funds shall be released geographically over time as prescribed by the HTF Rule. Over the course of the biennium, any additional funds beyond the original program allocations that derive from HTF loan repayments, interest earnings, deobligations, and other HTF funds in excess of those funds required under Rider 8 (see page 4 of this plan) may be made available statewide, and not geographically dispersed.

5a

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on the Federal Fiscal Year 2020 Low Income Home Energy Assistance Program Community Energy Assistance Program award for Galveston County Community Action Council, Inc.

RECOMMENDED ACTION

WHEREAS, the Federal Fiscal Year (FFY) 2020 Low Income Home Energy Assistance Program (LIHEAP) State Plan (Plan), which included a list of the entities to be awarded funds and the proposed award amounts based on the formula contained in 10 TAC §6.303, Distribution of CEAP Funds, was approved by the Board on July 25, 2019;

WHEREAS, due to unresolved and recurring monitoring findings, the Department did not include an award of Community Energy Assistance Program (CEAP) funds to Galveston County Community Action Council, Inc. (GCCAC) in that Plan and opted to defer the decision to make an award to GCCAC at a subsequent Board meeting; and

WHEREAS, on December 2, 2019, after a review of GCCAC's previous monitoring findings, the Executive Award Review and Advisory Committee (EARAC) recommended to award GCCAC 2020 CEAP funding in the amount of approximately \$3,368,578;

NOW, therefore, it is hereby

RESOLVED, that the 2020 CEAP funding for GCCAC in the approximate amount of \$3,368,578 (the final amount is the GCCAC's proportional share of the Department's final 2020 LIHEAP award for the CEAP funds based upon the formula in 10 TAC §6.303) is hereby approved.

BACKGROUND

The FFY 2020 LIHEAP State Plan was approved at the Board meeting of July 25, 2019. A list of the entities to be awarded CEAP funds along with award amounts was contained in the Plan. GCCAC was not included in the list of those awarded CEAP funds so that TDHCA and GCCAC could have additional time to develop a solution to GCCAC's outstanding monitoring findings. GCCAC has implemented a plan to resolve the issues, and associated conditions in its 2018 Monitoring report and the 2019 Quality Improvement Plan implementation follow-up review, thereby compelling a review of GCCAC's CEAP award.

Throughout 2019, the Department provided GCCAC with extensive technical assistance on multiple occasions for both CEAP and the Community Services Block Grant (CSBG). Technical assistance provided

addressed procurement, board governance, cost allocation, the CSBG community action plan, budgeting, the CEAP service delivery plan, income eligibility, client files, rules, household status verification for CEAP assistance, reporting, and CSBG organizational standards.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302), requires a review of CEAP awards prior to recommendation to the Board. GCCAC's CEAP award is subject to this review. The review has been performed and GCCAC has been recommended by EARAC for an approximate \$3,368,578 CEAP award. The final amount is the proportional share of the Department's final 2020 LIHEAP award for the CEAP funds based upon the formula in 10 TAC §6.303.

Although this award is recommended without condition, the Department has determined there is a need to monitor expenditures more frequently for this entity. As with any entity, the Department at its discretion and at any time may request client files and/or financial records including monthly-obligated funds with support documentation. The Department will perform a review of expenditures during the first quarter of this Contract Term, and may offer additional technical assistance if needed.

5b

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

6a

BOARD ACTION REQUEST
BOND FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding Resolution No. 20-009 authorizing the implementation of Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program 94, approving the form and substance of the program manual and the program summary, authorizing the execution of documents and instruments necessary or convenient to carry out Mortgage Credit Certificate Program 94, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached Resolution.

BACKGROUND

Mortgage Credit Certificates (MCCs) make homeownership more affordable for low and moderate income homebuyers. An MCC allows homebuyers to claim, on an annual basis, a direct reduction to federal income tax liability equal to the annual mortgage loan interest paid times the MCC Credit Rate (established by the Department and described herein), subject to an annual maximum of \$2,000 if the MCC Credit Rate exceeds 20%. Because the MCC reduces the borrower's federal income tax liability, the credit amount may be used to effectively increase the borrower's net income for loan qualification purposes. Mortgage loan interest paid by the borrower that exceeds the credit claimed may be included as an itemized deduction on the borrower's annual federal income tax return.

To be eligible for an MCC, borrowers must meet Internal Revenue Service (IRS) requirements for mortgage revenue bonds. With few exceptions, MCC recipients must be first-time homebuyers (cannot have had an ownership interest in a primary residence within the last three years), must be within IRS income and purchase price limits, and must occupy the residence as their primary residence. MCCs cannot be issued for mortgage loans that are funded with tax-exempt bond proceeds.

MCCs require an allocation of state ceiling, also known as volume cap. The Department can exchange \$1 of single family mortgage revenue bond volume cap for \$0.25 of MCC issuance authority. The par amount of mortgage loans that can receive an MCC is determined by dividing the MCC issuance authority by the MCC Credit Rate, which is established by the Department. The IRS requires the MCC Credit Rate to be between 10% and 50%.

The Department offers two MCC program options. The first is a stand-alone MCC, where the Department issues an MCC for a mortgage loan that was originated and funded by a third party lender. The second option is a "combo" loan, where the Department issues an MCC for a

mortgage loan that was originated and funded through the Department’s Taxable Mortgage Program.

MCC Program 92, the Department’s most recent MCC program, used \$450 million of volume cap and was released March 18, 2019. Other than amounts reserved for Targeted Areas (census tracts in which 70% or more of the families have incomes at or below 80% of the statewide median income, or areas of chronic economic distress), Program 92 is expected to be fully committed before year-end 2019.

Publication of the required Public Notice for Mortgage Credit Certificate Program was completed on August 26, 2019, and Program 94 is scheduled for release in late January 2020. The attached resolution seeks authorization for the issuance of new MCCs under Program 94. The resolution also seeks approval of (i) the Program Manual and Program Summary, (ii) initial MCC Credit Rates of 25% (for loan amounts up to \$175,000 and subject to the \$2,000 annual maximum credit) and 20% (for loan amounts greater than \$175,000), and (iii) the use of up to \$250,000 of Department funds to pay the costs of implementing Program 94.

The Credit Rates of 25% and 20% are the result of staff analysis of MCCs issued by the Department and are intended to maximize borrower benefit while effectively leveraging and managing the Department’s volume cap. Please see the below example calculations.

25% Credit Rate (Loan Amounts \$175,000 and Below)					20% Credit Rate (Loan Amounts Above \$175,000)				
Mortgage Loan Amount		\$175,000			Mortgage Loan Amount		\$225,000		
Mortgage Interest Rate		4.75%			Mortgage Interest Rate		4.75%		
Year	Mortgage Interest	Calculated Tax Credit Amount	Maximum Tax Credit Allowed	Schedule A Mtg Int Deduction	Year	Mortgage Interest	Calculated Tax Credit Amount	Maximum Tax Credit Allowed	Schedule A Mtg Int Deduction
1	\$8,254	\$2,064	\$2,000	\$6,254	1	\$10,613	\$2,123	N/A	\$8,490
2	8,123	2,031	2,000	6,123	2	10,444	2,089	N/A	8,355
3	7,986	1,996	1,996	5,989	3	10,267	2,053	N/A	8,214
4	7,842	1,960	1,960	5,881	4	10,082	2,016	N/A	8,066
5	7,690	1,923	1,923	5,768	5	9,888	1,978	N/A	7,910

The Department’s recent MCC Issuance activity follows. Bear in mind that the Stand Alone MCC option was suspended from February 1, 2019 until August 15, 2019 to preserve and manage the Department’s volume cap.

Mortgage Loans for which TDHCA Issued an MCC

Month Issued	MCC Combos		Stand Alone MCCs		Total Loans with MCCs	
	Loan Amount	# of Loans	Loan Amount	# of Loans	Loan Amount	# of Loans
9/30/2019	\$20,585,104	117	\$5,329,330	28	\$25,914,434	145
10/31/2019	23,546,049	131	16,660,689	87	40,206,738	218
FY2020 YTD	\$44,131,153	248	\$21,990,019	115	\$66,121,172	363
9/30/2018	\$19,058,259	119	\$34,376,135	187	\$53,434,394	306
10/31/2018	32,983,999	203	43,102,859	238	76,086,858	441
11/30/2018	32,521,066	195	33,287,615	180	65,808,681	375
12/31/2018	29,560,190	168	44,225,913	241	73,786,103	409
1/31/2019	32,925,926	203	23,668,364	123	56,594,290	326
2/28/2019	46,169,313	267	34,355,360	185	80,524,673	452
3/31/2019	30,129,294	177	22,505,250	120	52,634,544	297
4/30/2019	31,836,989	194	10,519,298	56	42,356,287	250
5/31/2019	31,504,199	190	2,924,023	15	34,428,222	205
6/30/2019	31,859,199	188	1,801,980	10	33,661,179	198
7/31/2019	32,088,798	190	965,464	6	33,054,262	196
8/31/2019	28,729,016	164	210,000	1	28,939,016	165
FY2019 TOTAL	\$379,366,248	2258	\$251,942,261	1362	\$631,308,509	3620
9/30/2017	\$27,854,480	173	\$34,183,058	184	\$62,037,538	357
10/31/2017	39,957,441	244	36,963,232	202	76,920,673	446
11/30/2017	33,179,625	207	41,298,715	226	74,478,340	433
12/31/2017	35,166,614	213	25,301,460	140	60,468,074	353
1/31/2018	31,988,642	190	25,695,000	141	57,683,642	331
2/28/2018	18,551,484	116	18,606,044	110	37,157,528	226
3/31/2018	20,937,493	132	20,511,592	112	41,449,085	244
4/30/2018	22,654,876	137	36,073,836	195	58,728,712	332
5/31/2018	29,864,325	188	44,729,156	246	74,593,481	434
6/30/2018	31,715,654	199	36,899,222	199	68,614,876	398
7/31/2018	32,630,425	199	41,553,059	230	74,183,484	429
8/31/2018	31,963,113	193	43,701,139	231	75,664,252	424
FY2018 TOTAL	\$356,464,172	2191	\$405,515,513	2216	\$761,979,685	4407
9/30/2016	\$4,571,475	30	\$23,394,414	131	\$27,965,889	161
10/31/2016	5,695,097	39	17,569,266	107	23,264,363	146
11/30/2016	6,884,463	48	25,296,916	144	32,181,379	192
12/31/2016	9,259,481	59	31,171,608	184	40,431,089	243
1/31/2017	22,244,813	138	16,327,540	98	38,572,353	236
2/28/2017	22,725,762	141	30,307,153	173	53,032,915	314
3/31/2017	19,988,147	127	27,607,384	160	47,595,531	287
4/30/2017	27,062,306	161	27,463,210	157	54,525,516	318
5/31/2017	26,544,509	165	30,551,467	176	57,095,976	341
6/30/2017	28,927,620	185	38,399,240	223	67,326,860	408
7/31/2017	26,136,484	167	37,244,746	219	63,381,230	386
8/31/2017	32,826,086	202	37,765,486	213	70,591,572	415
FY2017 TOTAL	\$232,866,243	1462	\$343,098,430	1985	\$575,964,673	3447

RESOLUTION NO. 20-009

RESOLUTION AUTHORIZING THE IMPLEMENTATION OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MORTGAGE CREDIT CERTIFICATE PROGRAM 94; APPROVING THE FORM AND SUBSTANCE OF THE PROGRAM MANUAL AND THE PROGRAM SUMMARY; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT MORTGAGE CREDIT CERTIFICATE PROGRAM 94; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended from time to time (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

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

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

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

WHEREAS, pursuant to a separate resolution adopted as of the date hereof, the Board has authorized the filing of one or more applications with the Texas Bond Review Board to obtain a reservation of a portion of the State ceiling private activity bond volume cap for qualified mortgage bonds in the amount of \$400,000,000 (the “Reservation”); and

WHEREAS, the Department desires to convert an amount not to exceed \$400,000,000 of the Reservation to mortgage credit certificates (“MCCs”), to be used for the Department’s Mortgage Credit Certificate Program to be designated as Program 94 (“MCC Program 94”); and

WHEREAS, the Board desires to approve the Program Manual (the “Program Manual”) in substantially the form attached hereto, setting forth the terms and conditions upon which MCCs will be issued by the Department; and

WHEREAS, the Board desires to approve the Program Summary (the “Program Summary”) in substantially the form attached hereto setting forth the terms of MCC Program 94; and

WHEREAS, the Board desires to approve an initial range for the mortgage credit certificate rate; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$250,000 of Department funds to pay the costs of implementing MCC Program 94; and

WHEREAS, the Board desires to approve the forms of the Program Manual and the Program Summary, in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to implement MCC Program 94 in accordance with such documents by authorizing MCC Program 94, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out MCC Program 94; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

USE OF PRIVATE ACTIVITY BOND VOLUME CAP

Section 1.1. Authorization of Certain Actions. The Board authorizes the Executive Director of the Department, the staff of the Department as designated by the Executive Director and Bond Counsel to take such actions on its behalf as may be necessary to carry out the actions authorized in this Resolution.

Section 1.2. MCC Authority. The Department shall take such steps as are necessary to convert \$400,000,000 of its authority to issue qualified mortgage bonds under the Reservation to authority to issue MCCs in order to implement MCC Program 94.

ARTICLE 2

APPROVAL OF MCC DOCUMENTS

Section 2.1. Approval of Program Manual and Program Summary. The form and substance of the Program Manual and Program Summary are hereby authorized and approved.

Section 2.2. Mortgage Credit Certificate Rate. The initial mortgage credit certificate rate under the Program shall be 20% (for loan amounts greater than \$175,000) and 25% (for loan amounts up to \$175,000); the rate shall be subject to adjustment as specified by the Department from time to time; provided that the maximum mortgage credit certificate rate shall not exceed 40%.

Section 2.3. Execution and Delivery of Other Documents and Waiver, Reduction or Increase of Fees. The Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests, public notices and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the Program Manual and the Program Summary. The staff of the Department is authorized to waive, reduce or increase the fees described in the Program Manual from time to time for marketing purposes.

Section 2.4. Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the delivery of such documents by the Authorized Representatives.

Section 2.5. Exhibits Incorporated Herein. All of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A - Program Manual
- Exhibit B - Program Summary

Section 2.6. Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the

Department's seal to, and delivering the documents and instruments referred to in this Article 2: the Chair or the Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 2.7. Department Contribution and Fees. The Department authorizes the contribution of Department funds in an amount not to exceed \$250,000 to pay certain costs of implementing MCC Program 94.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1. Purposes of Resolution. The Board of the Department has expressly determined and hereby confirms that the implementation of MCC Program 94 contemplated by this Resolution accomplishes a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 12th day of December, 2019.

Chair, Board

ATTEST:

Secretary to the Board

(SEAL)

EXHIBIT A

PROGRAM MANUAL

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM

Program Administered by:

**Texas Department of Housing and
Community Affairs
221 East 11th Street
Austin, Texas 78701
(512) 475-0277**

**eHousingPlus
3050 Universal Boulevard, Suite 190
Weston, Florida 33331
(954) 217-0817**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MORTGAGE CREDIT CERTIFICATE PROGRAM

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM

INTRODUCTION

Pursuant to Chapter 1372 of the Texas Government Code and the rules promulgated by the Texas Bond Review Board thereunder, Texas Department of Housing and Community Affairs (the “Department”) has received a private activity bond volume cap allocation in the aggregate amount of \$_____ to conduct a single-family mortgage program in Texas (the “Eligible Loan Area”). Capitalized terms used in this Program Manual are defined under the caption “Definitions.”

General Overview

A mortgage credit certificate (an “MCC”) is an instrument designed to assist persons of low to moderate income to better afford individual ownership of housing. The procedures for issuing MCCs were established by the United States Congress as an alternative to the issuance of single-family mortgage revenue bonds. As distinguished from a bond program, in an MCC program no bonds are issued, no mortgage money is actually raised, many of the costs associated with a bond program are not incurred, and lenders are required to pay only nominal up-front fees.

MCCs are issued directly to qualifying Applicants who are then able each year to take a tax credit equal to a specified percentage of the interest paid on their mortgages not to exceed \$2,000.00. The Mortgage Credit Certificate Rate for the Program will be 20% (for loan amounts greater than \$175,000) or 25% (for loan amounts up to \$175,000) and subject to change as specified in the periodic distribution of Lender Commitment Lot Notices. Thus, an Applicant with a \$146,433.00 mortgage at a 4.50% annual interest rate would realize the following savings in the example listed below:

Mortgage Amount:	\$146,433.00
Interest Rate:	4.50%
Total Interest Paid First Year:	6,589.00
(Mortgage Credit Certificate Rate):	<u> x 25%</u>
	<u>\$1,647.00</u>

(Based upon a 30-year mortgage with equal monthly installments of principal and interest.)

During the first year of the Program, this Applicant would be entitled to a tax credit of \$1,647.00. Based upon such an entitlement, he or she would be able to file in advance a revised W-4 withholding form taking into consideration this tax credit. Additionally, taxpayers who file itemized returns may take a deduction for their mortgage interest paid each year, less an amount equal to the tax credit taken. In the above example, the additional interest deduction would be \$6,589.00 less \$1,647.00, or \$4,942.00.

The benefit to the homeowner cannot exceed the amount of federal taxes paid each year after other credits and deductions have been taken into account. Any unused MCC tax credit can be carried forward up to three years to be applied against future income tax liability. For example, if a homeowner is eligible for a \$2,000.00 tax credit, but only has a tax liability of \$1,700.00, the homeowner may carry forward the \$300.00 amount to the succeeding three years and apply it in a year in which the homeowner’s tax liability exceeds the credit amount for that year. In addition, all or a portion of the MCC tax credit may be subject to recapture if the residence is sold within 9 years of purchase. This tax credit recapture is further explained in the Notice of Potential Recapture Tax on Sale of Home found at Tab 5 of this Program Manual.

A purchaser of a new home or existing home may apply for an MCC through a participating Lender at the time he or she applies for a mortgage from the Lender.

Since the Department will not make or hold these mortgages, the Department will not underwrite the loans. Rather, all loan approval, underwriting and execution of required state and federal certifications or Affidavits will be

performed by the Lenders participating in the Program. The Department or its designee will receive executed certificates and Affidavits on each application from a Lender in order to determine eligibility for the Program. Lenders will process mortgage loans of all types, using normal procedures, with additions to procedures at relevant points in order to satisfy Program requirements.

The Department encourages all who believe they qualify to apply for an MCC at the offices of a participating Lender who can explain the Program and its restrictions. Use of the Notice to Buyers included at Tab 1 in this Program Manual can assist Lenders and Applicants in determining whether or not an Applicant can qualify for the Program. The Lender should be well-versed in the state, federal and local restrictions outlined in this Program Manual so that Applicants are aware of these restrictions before the application is taken. The Lender must reject applicants who do not qualify under the restrictions of the Program.

Of each MCC allocation received, 20% will be set aside for the first year of the Program for use in connection with the issuance of MCCs to owners of homes located within federally-designated targeted areas (“Targeted Areas”).

The purpose of this Program Manual is to describe the Program, set forth the relevant state and federal restrictions, identify the respective roles of the Department, the Lender, the Applicant and the Seller, and to detail the processing procedures. The Program definitions, MCC processing documents and applicable federal regulations are included in this Program Manual for your reference.

The Department may revise this Program Manual from time to time by issuing amendments hereto.

DEFINITIONS

As used in this Program Manual, the following words and terms have the meaning set forth below:

Affidavits. An affidavit filed in connection with the Program made under oath and subject to the penalties of perjury and the civil penalties provided herein.

Applicant. Any person or persons: (i) whose Income does not exceed the Income Limits; (ii) who intends to occupy the Residence to be financed with a loan as his or her Principal Residence within a reasonable period (not to exceed 60 days) following the making of such loan; (iii) who has not had a present Ownership interest in a Principal Residence at any time during the three-year period ending on the date of execution of the loan; provided, however, that the three-year requirement does not apply to an Applicant who (a) purchases a Residence located in a Targeted Area or (b) is a Qualified Veteran; (iv) who has not had an existing mortgage (including a deed of trust, conditional sales contract, pledge, agreement to hold title in escrow or any other form of owner-financing), whether or not paid off, on the Residence to be financed with such loan at any time prior to the execution of the loan, other than an existing mortgage securing a construction period loan, bridge loan or similar temporary financing initially incurred for the sole purpose of acquiring the Residence, initially incurred within 24 months of execution of the loan and having an original term not exceeding 24 months; and (v) who is a United States citizen, a lawful permanent resident alien or a non-permanent resident alien who is eligible to work in the United States, in each case with a valid social security number or individual tax identification number, and who meets the criteria set forth in this Program Manual.

Commitment Lot Notice. The notice from the Department to the Program Administrator in substantially the form of Exhibit D-1.

Compliance File. The documents required to be submitted by the Lender or closing agent within 30 days of closing date of the loan, as attached to the Compliance File Checklist (See Tab 3 of this Program Manual).

Department. Texas Department of Housing and Community Affairs and its successors and assigns.

Duplex. A two-family residence in which one unit will be occupied by the Applicant as his or her Principal Residence and the units were first occupied for residential purposes at least five years prior to the closing date of the loan associated with the MCC. The five-year requirement does not apply to a duplex if it is located in a Targeted Area

and the family income of the Applicant meets the income limits for Targeted Area Loans (120% or 140% of applicable median family income, as appropriate).

Eligible Loan Area. State of Texas.

Existing Housing. A single family dwelling unit that has been previously occupied prior to loan commitment.

Family. Any person or persons living together not contrary to law, e.g. traditional families, two unmarried persons sharing the same Residence or a single person.

FICO Credit Score. A method of assessing credit risk based on the statistical probability of repayment of debt developed by Fair, Isaac & Co. FICO Credit Scores assign relative risk rankings to applicants based on a statistical analysis of their credit histories. FICO Credit Scores range from 400 to 850.

Income. All income of the Applicant and anyone else who will occupy the Residence and will be secondarily liable on the mortgage loan. The Income Limits are set forth in the Notice to Buyers, the Program Summary and on the Department's website.

Lender. An institutional lender regulated by state or federal law, or any other entity which in its regular course of business makes loans which would qualify for MCC assistance, is authorized to do business in the Eligible Loan Area, and who has entered into a MCC Program Participation Agreement with the Department.

Lender Commitment Lot Notice. The notice from the Department or its designee to the Lender in substantially the form of Exhibit D-2.

MCC. A mortgage credit certificate issued pursuant to the terms and conditions of the Program, the annual federal income tax credit for which shall not exceed \$2,000.

Mortgage Credit Certificate Rate. For purposes of this Program, the Mortgage Credit Certificate Rate(s) shall be specified in the periodic distribution of Lender Commitment Lot Notices. The Department may change the Mortgage Credit Certificate Rate from time to time based on borrower demand and financial market conditions. Initially, the Mortgage Credit Rates shall be 20% (for loan amounts greater than \$175,000) or 25% (for loan amounts up to \$175,000).

New Housing. A single family dwelling unit that is proposed to be constructed, currently under construction, or existing but not previously occupied.

Ownership. Ownership by any means, whether outright or partial, including property subject to a mortgage or other security interest, including a fee simple ownership interest, a joint ownership interest by joint tenancy, tenancy in common, or tenancy by the entirety, an ownership interest in trust, a life estate interest, a purchase by a land contract or contract for deed. The term does not include (i) a remainder interest; (ii) a lease with or without an option to purchase; (iii) a mere expectancy to inherit an interest; (iv) the interest that a purchaser of a Residence acquires on the execution of a purchase contract; and (v) an interest in other than a Principal Residence. An Ownership interest in a mobile home or other factory-made housing which was permanently affixed to real property owned by the Applicant constitutes Ownership in a Principal Residence.

Principal Residence. A Residence that the Applicant reasonably expects to become the principal Residence of the Applicant within a reasonable time after execution of the loan to provide financing for the Residence and that will, depending on all facts and circumstances (including the good faith of the Applicant) be occupied by the Applicant for residential purposes.

Program. Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program, designated as Program 94.

Program Manual. Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program, Program Manual, as revised and amended by the Department from time to time.

Program Summary. Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program, Program Summary, as revised and amended by the Department from time to time.

Purchase Price. The term “Purchase Price” has the meaning given to the term “Acquisition Cost” under Internal Revenue Code Section 143 and the regulations thereunder, which currently is the cost to an Applicant of acquiring a Residence from the Seller as a completed residential unit, including: (i) all amounts paid, either in cash or in kind, by the Applicant (or a related party or for the benefit of the Applicant) to the Seller (or a related party or for the benefit of the Seller) as consideration for the Residence; (ii) if the Residence is incomplete, the reasonable cost of completing the Residence; and (iii) if the Residence is purchased subject to a ground rent, the capitalized value of the ground rent calculated using a discount rate authorized by the Internal Revenue Service. “Purchase Price” does not include: (i) usual and reasonable settlement and financing costs (including title and transfer fees, title insurance, survey fees, credit reference fees, legal fees, appraisal expenses, points paid by the Applicant (but not points paid by the Seller) and other similar costs), but only to the extent that such amounts do not exceed the usual and reasonable costs which would be paid by the Applicant in a case in which financing is not assisted by the issuance of an MCC or provided through the issuance of tax-exempt bonds (for example, if the Applicant agrees to pay more than a pro rata share of property taxes, such excess shall be treated as part of the Purchase Price); and (ii) the value of services performed by the Applicant or members of the Applicant’s family (including brothers and sisters (whether by whole or half blood), spouse, ancestors and lineal descendants only) in completing the Residence. The Purchase Price Limits are set forth in the Notice to Buyers, the Program Summary and on the Department’s website. The Purchase Price limits applicable to Duplexes are set forth on the Department’s website.

Qualified Veteran. An Applicant who is a “veteran” (as defined in 38 U.S.C. Section 101) who has not previously obtained a loan financed by single family mortgage revenue bonds utilizing the veteran exception set forth in Section 143(d)(2)(D) of the Internal Revenue Code of 1986, as amended.

Residence. The term “Residence” is more fully described in the Applicant Affidavit contained at Tab 2. A Residence includes a single-family house, a Duplex, condominium unit, or mobile home permanently affixed to real property. The term Residence also includes any manufactured home in one or more sections which in the traveling mode is 8 body feet or more in width and 40 body feet or more in length and when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling and connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained therein and meets the HUD minimum standards set forth in Title 24 parts 3280, 3282 and 42 U.S.C. 5401 et seq. A manufactured home must have been constructed after June 21, 1978 and be permanently affixed to the real property which will be owned by the Applicant and subject to the mortgage loan that is associated with the MCC. The term Residence does not include recreational vehicles, campers, manufactured homes not permanently affixed to real property and other similar vehicles. It does not include property such as appliances or a piece of furniture, which, under applicable local law, is not a fixture.

State. The State of Texas.

Targeted Area. The census tracts identified in Exhibit B may be amended from time to time within the Eligible Loan Area that are “qualified census tracts”, which include certain census tracts identified by the United States Treasury Department in Revenue Procedure 2014-14 as having a substantial number of lower-income persons.

LOAN PROCESSING PROCEDURES AND PROGRAM ADMINISTRATION

Applicants that may be eligible for participation in the Program should apply for MCCs in conjunction with their normal mortgage loan applications. Applicants must make applications for conventional, FHA, VA, or USDA-RHS at the mortgage lending institution of their choice participating in the Program before applying for an MCC.

The MCC processing procedures are designed to coincide with the regular, on-going mortgage loan processing and underwriting procedures that are in place at most mortgage lending institutions. The Department recognizes that there are procedural variations among the participating Lenders; consequently, the procedures outlined herein are meant to be suggestive with respect to the sequence of events. However, all the elements of the processing sequence noted below must at some point be completed by the responsible party.

The fees of the Program are set forth at each step in the processing procedures which follow, and the fees charged by the Lender may in no event exceed the fees specified in this Program Manual. A Schedule of Fees is attached hereto as Exhibit A.

The following is the loan processing and Program administration flow chart for the MCC Program:

A. Loan Origination and MCC Reservation

1. The Applicant applies for a loan from a participating Lender.
2. The Lender gives the Applicant a Notice to Buyers that explains the Program and contains consumer information. (See Tab 1 of this Program Manual for this Guide.) The Notice to Buyers is intended to present certain facts to the Applicant concerning the restrictions, regulations, and prohibitions of the Program because of certain federal, state and Department regulations, as well as explain the penalties for misuse of the Program. It is imperative that the Applicant understands the terms and conditions of the Program. During the initial interview, it is the responsibility of the Lender to explain the terms and conditions of the Program to the Applicant, and to make sure that the Applicant receives a copy of the Notice to Buyers. The Notice to Buyers must be signed by the Applicants and returned to the Lender for inclusion in the Compliance File.
3. The Lender generally determines if the Applicant is a possible candidate for an MCC, based on preliminary indications of Income, Purchase Price, prior Ownership, and tax liability.
4. No MCC funds may be reserved prior to the date specified in the applicable Lender Commitment Lot Notice. All persons interested in making applications for an MCC at a participating Lender must be considered on a first-come, first-served basis, and must have an application for a mortgage loan on file with the Lender.
5. Upon fully discussing the Program with the Applicant and gathering all of the necessary documentation to verify the Applicant's eligibility, the Lender is ready to begin the reservation process. The Lender will reserve the MCC funds in the Department's or its designee's on-line reservation system. After reserving the funds the Lender will complete the underwriter's certification process and proceed with closing.
6. The Lender may provide the Applicant with a copy of IRS Form W-4 Employee's Withholding Allowance Certificate. The Applicant may complete the W-4, if necessary, to change his or her Federal withholding tax, adjusting it in an amount comparable to the expected MCC tax credit. (See Tab 7 of this Program Manual.)
7. A Lender may not remove a spouse from an application to qualify an Applicant if a co-occupying spouse is not a legal United States resident.
8. **MCC reservations may not be transferred from one Lender to another. In the event an Applicant elects to change Lenders, the MCC reservation will be canceled and a new application and reservation process must be commenced by the Applicant with the new Lender.**

B. Lender Loan Approval and Verification

1. The Lender performs normal loan approval or underwriting procedures.
2. The Lender may consider the MCC when determining the amount of disposable income available for the monthly house payment in order to determine the Applicant's qualification for the loan. The Lender determines general acceptability in accordance with its own loan approval standards and applicable FNMA, FHLMC, FHA, VA, USDA-RHS and private mortgage insurance standards and underwriting guidelines.
3. In conjunction with the Lender's regular verification process, the Lender performs reasonable investigation as to whether the Program requirements have been met as required by regulations noted in the certificate of the Lender. Lenders may verify these facts at different times and in various ways, depending upon the Lender's particular procedures for processing loans.
4. The Lender verifies that the Income Limits, Purchase Price Limits, and other non-credit Program requirements are met.

C. Loan Closing and Submission of Final MCC Program Documents

1. As part of the loan closing process, the Lender should have the Applicant sign the Applicant Affidavit. (See Tab 2 of this Program Manual.) This document contains certifications and Affidavits required of the Applicant by the federal MCC regulations and state requirements as follows:
 - (a) Certification that the Applicant's annualized gross monthly Income does not exceed the applicable Income Limits.
 - (b) Certification that the home will be used as a Principal Residence, and that the MCC holder will notify the Department when the home ceases to be the Principal Residence of the holder.
 - (c) Certification that Applicant has not had an ownership interest in a Principal Residence during the preceding three-year period (unless an exception applies).
 - (d) Certification that the Residence is located within the Eligible Loan Area.
 - (e) Certification that the loan is a new mortgage loan.
 - (f) Certification that the loan applied for does not constitute a prohibited mortgage.
 - (g) Certification that the Purchase Price does not exceed the Purchase Price Limits.
 - (h) Certification that the Applicant was not forced to apply through a particular Lender.
 - (i) Certification that no interest is being paid to a related person.
 - (j) To the extent applicable, certification that there are no allocations to particular developments as described in Treasury Regulation §1.25-3T(k).
 - (k) To the extent applicable, certification of the Applicant's status as a Qualified Veteran.
 - (l) Acknowledgment that any material misstatement or fraud is made under penalty of perjury and the civil penalties provided herein.

2. The Lender should also provide the Applicant with the Notice of Potential Recapture Tax on Sale of Home to Applicant (See Tab 5 of this Program Manual), which must be signed by the Applicant at closing.
3. Either the Lender or the closing agent submits to the Department or its designee a completed and executed Compliance File by regular mail, overnight delivery or electronic submission.
4. The Compliance File includes all of the executed certifications and Affidavits noted herein. Each document must be complete and signed where appropriate. All documents must be dated within six (6) months of the submission date to the Department. Original or certified copies of documents should be sent to the Department or its designee, except as otherwise indicated. The eligibility of an Applicant shall be determined by the Lender. The Lender must review the Compliance File Checklist and related documents to determine their completeness in accordance with the terms of this Program Manual. Reasonable efforts should be undertaken to verify the information given, either independently or concurrently with underwriting procedures.
5. The Compliance File will specifically include the following documents:
 - (a) The Applicant Affidavit, along with federal tax transcripts or signed tax returns (including all schedules) for the previous three years (such federal tax transcripts are not required for loans made in Targeted Areas or for an Applicant who is a Qualified Veteran). Federal tax transcripts can be requested from the IRS by the Applicant by using IRS Form 4506-T;
 - (b) The Affidavit of Seller, certifying the Purchase Price of the Residence and certain other matters contained therein (See Tab 2 of this Program Manual for this document) (signature is waived for a real estate owned property);
 - (c) A Certificate of the Lender, certifying that the Lender has performed a reasonable investigation to make the required Program determinations (See Tab 2 of this Program Manual for this document). Further, by its submission, the Lender certifies that all Program eligibility requirements have been met, and that the loan fees are reasonable relative to other loans not associated with MCCs;
 - (d) A photocopy of the closing disclosure executed by all parties;
 - (e) The Notice of Potential Recapture Tax on Sale of Home, executed by the Applicant (See Tab 5 of this Program Manual for this document);
 - (f) The MCC Issuance Fee in the amount as specified in the periodic distribution of Lender Commitment Lot Notices in the form of a check or money order made payable to the Department or its designee. The MCC Issuance Fee may be paid by the Applicant, the Seller, the Lender or any other person on the Applicant's behalf. In addition to the MCC Issuance Fee and the other fees provided herein, the Lender may collect and retain at loan closing an MCC Document Handling Fee of up to \$75.00. Such Fee may be paid by the Applicant, the Seller or any other person on the Applicant's behalf;
 - (g) The Applicant's certificate of completion of an approved pre-purchase homebuyer education course;
 - (h) A copy of the Qualified Veteran's discharge papers, if applicable;
 - (i) The Applicant's federal tax transcript or signed tax returns (obtained by IRS Form 4506-T) for the preceding calendar year (applicable only to loans closed after February 15th). All loans closed after February 15 of each year will require the prior year's federal tax transcript prior to issuance of the MCC;

- (j) A copy of the real estate purchase contract for the Residence, if required;
 - (k) A copy of the final executed loan application (1003) submitted to the Lender, if required;
and
 - (l) A copy of the Warranty Deed, if required.
6. ALL DOCUMENTS LISTED ON THE COMPLIANCE FILE CHECKLIST MUST BE SUBMITTED TO THE DEPARTMENT OR ITS DESIGNEE WITHIN 30 DAYS FOLLOWING THE CLOSING DATE OF THE MORTGAGE LOAN.

D. Issuance of MCC

The Department or its designee confirms the completion of the Applicant's file, that the loan was closed as evidenced by the Compliance File, and that the Applicant has met the requirements for issuance of an MCC. The Department then forwards to the Applicant, with a copy to the Lender, an executed MCC dated as of the closing date of the loan. (See Exhibit C for the MCC form.) A copy of the MCC is retained by the Department.

E. Suspended File; Resubmission of MCC Documents

If a Compliance File is incomplete or incorrect, the file will be suspended and the Lender will be given up to thirty (30) days from the date of contact by the Department to submit complete and/or revised documentation. Any resubmission of a Compliance File that has been returned or denied by the Department must include all information which the Department has determined necessary for reconsideration.

F. MCC Cancellations

Any suspended Compliance File that is not cleared for MCC issuance within thirty (30) days will be cancelled by the Department under the Notice of Cancellation provided under Tab 8 of this Program Manual. The Lender should cancel MCC reservations in the on-line reservation system.

G. Reissuance of MCC

The Department shall, upon payment by the MCC holder of a Reissuance Fee, issue a reissued MCC for certain refinancings under Treas. Regs. §1.25-3(p) if the Department receives to its satisfaction evidence that:

- (i) The reissued MCC is issued to the holder of an existing MCC with respect to the same property to which the existing MCC relates.
- (ii) The reissued MCC entirely replaces the existing MCC (that is, the holder cannot retain the existing MCC with respect to any portion of the outstanding balance of the certified mortgage indebtedness specified on the existing MCC).
- (iii) The certified mortgage indebtedness specified on the reissued MCC does not exceed the remaining outstanding balance of the certified mortgage indebtedness specified on the existing MCC.
- (iv) The reissued MCC does not increase the Mortgage Credit Certificate Rate specified in the existing MCC.
- (v) The expiration date on the reissued MCC is not later than the expiration date on the existing MCC.

- (vi) The reissued MCC does not result in an increase in the tax credit that would otherwise have been allowable to the holder under the existing MCC for any taxable year. The holder of a reissued MCC determines the amount of tax credit that would otherwise have been allowable by multiplying the interest that was scheduled to have been paid on the refinanced loan by the Mortgage Credit Certificate Rate of the existing MCC. In the case of a series of refinancings, the tax credit that would otherwise have been allowable is determined from the amount of interest that was scheduled to have been paid on the original loan and the Mortgage Credit Certificate Rate of the original MCC.

H. Changes Prior to Closing

The Lender must notify the Department or its designee of any changes that affect the conditions under which the MCC was reserved.

1. Changes in the Applicant's Financial Condition Prior to Closing

The eligibility of an Applicant for an MCC is based upon the Applicant's Income and Family size. Changes in the Applicant's financial status or Family size may affect the eligibility for an MCC. Upward changes in Income, whether or not foreseen or predictable at the time of the reservation and changes in the working status of a spouse from unemployed to employed may also affect eligibility. If the Applicant marries prior to closing, the new spouse must satisfy the prior home Ownership requirements contained in the Applicant Affidavit, and the Applicant Affidavit must be completed by both spouses and submitted with the Compliance File. Any Income added to the Family Income may affect the eligibility of the Applicants.

2. Changes in Home Ownership Status, Purchase Price and Amount of Loan Prior to Closing

If the Applicant acquires a present ownership interest in a Principal Residence prior to loan closing and/or if the total Purchase Price of the Residence purchased in connection with the MCC increases so as to exceed the Purchase Price Limitations set forth herein, the MCC reservation must be canceled.

3. Other Changes in Circumstances Prior to Closing

The Lender must immediately notify the Department or its designee in writing of any change in the circumstances upon which the MCC reservation was made. If any other change of the circumstances upon which the MCC reservation was made results in the Applicants not meeting the requirements for a qualified MCC, the MCC reservation must be canceled.

I. Record Keeping and Federal Report Filing

- 1. For each calendar quarter during which the Department issues MCCs beginning with the quarter in which the election to issue that MCCs is made, it must make reports on IRS Form 8330. The report must include:
 - (a) Name, address and ITIN (social security number or individual tax identification number) of the Department.
 - (b) Date of election.
 - (c) The sum of the products of the certified indebtedness amount (loan amount), and the Mortgage Credit Certificate Rate, for each MCC issued.
 - (d) Name, address and TIN of each MCC holder where an MCC was revoked.

2. Annually, the Department must report to the Internal Revenue Service:
 - (a) The number of MCCs by Income and Purchase Price as required by IRS reporting regulations.
 - (b) The volume of MCCs by Income and Purchase Price as required by IRS reporting regulations.
3. For each calendar year during which it originates loans to Applicants obtaining MCCs or issues a reissued MCC, the Lender must file an annual report using IRS Form 8329 with respect to such MCCs and reissued MCCs. Prior to the filing deadline for such report, the Department will assist in furnishing to the Lender the information in its records necessary for the Lender to complete IRS Form 8329. For each reissued MCC, the lender for the refinanced loan, if not a participating Lender, shall acknowledge and agree to file an IRS Form 8329 with respect to such reissued MCC by signing the Certificate of Lender for Refinanced Mortgage Loan (See Tab 6B of this Program Manual).
4. For 6 years, the Lender must retain:
 - Name, address and TIN of each MCC holder.
 - Name, address and TIN of the Department.
 - Date of loan, certified indebtedness amount, and Mortgage Credit Certificate Rate.
5. In January following each year during which MCCs are issued, the Department will attempt to mail an IRS Form 8396 to each MCC holder of record as a reminder to properly declare the MCC tax credit for federal income tax purposes.

J. Revocation of MCCs

1. Automatic revocation occurs when the Residence related to the MCC ceases to be the MCC certificate holder's Principal Residence.
2. An MCC holder will have its MCC revoked if the holder does not meet the requirements for a qualified MCC.
3. Revocation will occur upon the discovery of any material misstatement, whether negligent or fraudulent, by any person related to the issuance of the MCC.

K. Curing Defects

In the event any defects are discovered in any certificate or Affidavit after an MCC has been issued, the Lender and the MCC holder shall be notified of such defect and given 60 days to cure it prior to revocation of the MCC.

L. Transfer of MCCs on Mortgage Assumptions

A loan assumption associated with an MCC will be treated as a new MCC application, and the procedure required by this Program Manual will be repeated. A single MCC Assumption Fee will be charged by the Department in connection with such transfers.

M. Post-Audit

The Department may perform a random case post-audit of the Lender records.

N. MCC Eligibility Denial

In the event a Lender determines that an Applicant is ineligible for an MCC, the Lender shall cancel the reservation in the on-line registration system.

O. Recapture of MCC Tax Credit

In the event an MCC holder sells his or her Principal Residence within 9 years of issuance of an MCC, a portion of the tax credit utilized by the holder may be subject to a recapture tax. See the Notice of Potential Recapture Tax on Sale of Home at Tab 5 of this Program for further information regarding tax credit recapture.

P. Targeted Area Reservation

For at least one year after the commencement of the Program, the Department will reserve twenty percent (20%) of the Department's MCC authority for home mortgage loans in Targeted Areas.

Q. Qualified Veterans

A Qualified Veteran is exempt from the three-year no prior home ownership requirement. The Qualified Veteran must (a) certify that (i) he or she has not previously obtained a mortgage loan financed by single family mortgage revenue bonds utilizing the exception set forth in Section 143(d)(2)(D) of the Internal Revenue Code of 1986, as amended, and (ii) is utilizing the veteran exception set forth in Section 143(d)(2)(D) of the Internal Revenue Code of 1986, as amended and (b) provide copies of discharge papers, if applicable.

APPLICANT AND LOAN APPROVAL REQUIREMENTS

A. Overview

For loans involving MCCs, the loan approval and underwriting standards may be modified to reflect a recognition of the MCC derived federal income tax credit for mortgage interest in determining income, housing expense, and indebtedness ratios. The secondary mortgage market and the mortgage insurance industry have established underwriting policies for loans involving MCCs. These are available separately as policy statements from the mortgage lending industry.

The Applicant, Purchase Price and mortgage underwriting requirements covered in this section are incorporated in the Program documents contained in this Program Manual. It will be necessary for all Applicants, participating Lenders and other parties to the transaction to complete and sign the appropriate Program documents and attest to their validity. The Lender will be required to submit certifications in which it will certify that it has reviewed Affidavits of the Applicant and the Seller and found them to be true and correct. If the Lender becomes aware of misstatements, whether negligently or intentionally made, it must notify the Department immediately. The Department reserves the right to take all appropriate actions including, if necessary, denial or revocation of the MCC. The Lender should also be aware, and inform the Applicant, that both federal and Texas law provide for fines and criminal penalties for misrepresentations made in connection with participation in the Program. In an attempt to assure that Program requirements are met, an Applicant Affidavit is required of each Applicant, and must be submitted to the Department.

The mortgage loan must be a fixed rate loan and financed from sources other than tax-exempt mortgage bonds or tax-exempt veterans' mortgage bonds. For mortgage loans using only an MCC, the mortgage may be a conventional, FHA, VA or USDA-RHS loan and will be at prevailing market rates.

B. Applicant Eligibility Requirements

Similar to any normal mortgage loan, the Applicant must meet the credit and underwriting criteria established by the participating Lender providing the loan. Based on relevant federal and state regulations, Applicants must also meet the following requirements specific to MCCs:

1. First-time Homebuyer Requirement. The Applicant who will become an MCC holder cannot have had an Ownership interest in a Principal Residence at any time during the preceding three years ending on the date on which the loan is executed. This requirement qualifies the Applicant as a “first-time homebuyer” with respect to the federal regulations. The Lender must obtain an Applicant Affidavit to the effect that the Applicant had no Ownership interest in a Principal Residence at any time during the three-year period prior to the date on which the loan is executed. This fact must be verified by the Lender through request for, and examination of, the Applicant’s federal tax transcripts for the preceding three years to determine whether the Applicant has claimed a deduction for interest or taxes on property that was the Applicant’s Principal Residence. The first-time homebuyer requirement does not apply to a loan made to finance a Residence in a Targeted Area or a loan made to a Qualified Veteran [or in certain cases permitted under applicable provisions of the Code].

For purposes of the first-time homebuyer requirement, a Principal Residence includes a single-family house, Duplex, condominium unit or mobile home. Ownership interest means ownership by any means, whether outright or partial, including property subject to a mortgage or other security interest. Ownership interest also means a fee simple ownership interest, a joint ownership interest by joint tenancy, tenancy in common, or tenancy by the entirety, an ownership interest in trust, a life estate interest, and purchase by a land contract or contract for deed. To meet the first-time homebuyer requirement, the Applicant must complete and sign the Applicant Affidavit and attach federal tax transcripts for the last three years to the Applicant Affidavit, which federal tax transcripts state the type of return filed by the Applicant for each tax year, the Applicant’s filing status and adjusted gross income for the last three years. To summarize this procedure as it applies to different cases:

- (a) If the Applicant can produce federal tax transcripts stating the type of return filed (1040, 1040A or 1040EZ) for the last three years that show no deductions of interest or taxes for a Principal Residence, these forms must be submitted to the Lender and forwarded to the Department or its designee with the Applicant Affidavit.
- (b) The Department will not issue the MCC until receipt of federal tax transcripts (including all schedules), that show the type of return filed and that the Applicant took no deduction of interest or taxes for a Principal Residence for the years in question. The federal tax transcripts can be requested from the IRS by the Applicant by using IRS Form 4506-T.
- (c) In the unusual event the Applicant was not required by law to file federal income tax returns for any year during the preceding three years, it will be necessary for the Applicant to so state on the Applicant Affidavit forwarded to the Department with the other Program documents and to provide an IRS printout stating “No Record Found” for each applicable tax year.
- (d) When the loan is executed during the period between January 1 and February 15 and the Applicant has not yet filed his or her federal income tax return for the preceding year with the IRS, the Department may, with respect to such year, rely on an Applicant Affidavit stating that the Applicant is not entitled to claim deductions for taxes or interest on indebtedness with respect to property constituting his or her Principal Residence for the preceding calendar year.
- (e) If the loan is made in a Targeted Area or if the Applicant is a Qualified Veteran, the Applicant is not required to provide federal tax transcripts.

2. Principal Residence Requirement. The Applicant must use the Residence that involves the MCC as his or her Principal Residence. The Lender must obtain from the Applicant, via the Program documents, a statement of the Applicant's intent to use the Residence as his or her Principal Residence within a reasonable time (60 days) after the MCC is issued. This Affidavit further states that the MCC holder will notify the Lender and the Department if the Residence ceases to be his or her Principal Residence.
3. Revocation. An Applicant will have his or her MCC revoked if the Applicant does not meet the requirements for a qualified MCC. Revocation will occur upon the discovery of any material misstatement, whether negligent or fraudulent. Revocation will occur if the Residence to which the MCC relates ceases to be Applicant's Principal Residence.
4. Fraud. If the Applicant or MCC holder provides a certificate, Affidavit, or any other information to the Lender or the Department containing a material misstatement and such misstatement is due to fraud, then any MCC issued shall be automatically null and void without the need for any further action by the Department.
5. Penalties for Misstatement. If the Applicant makes a material misstatement in any Affidavit or certification made in connection with an application for the issuance of an MCC and such misstatement is due to negligence of the Applicant, the Applicant shall pay a civil penalty fee of \$1,000.00 for each MCC with respect to which a misstatement was made. If any Applicant makes a material misstatement in any Affidavit or certification made in connection with application for or issuance of an MCC and such misstatement is due to fraud, the Applicant shall pay a penalty fee of \$10,000.00 for each MCC with respect to which the fraudulent misstatement was made. The above-described civil penalties shall be imposed in addition to any criminal penalty provided by law.
6. Income Limits. The annual gross Income of an Applicant is limited to the applicable amount shown in the Notice to Buyers, the Program Summary and on the Department's website. These limits may be modified annually.
7. Purchase Price Limits. Initially, the Purchase Price limits shall be as set forth in the Notice to Buyers, the Program Summary and on the Department's website, but these amounts are subject to reduction by any applicable FHA limits, or such revised amounts as may be effective from time to time, as required by the federal regulations. The determination whether the residence meets the applicable Purchase Price limits shall be made as of the date of issuance of the MCC. Any revisions of the Purchase Price limits by the Department may rely on average area purchase price limitations published by the Treasury Department, any successor thereof, or as may be provided in Section 143 of the Internal Revenue Code, for the statistical area in which the residence is located.
8. Homebuyer Education. The Applicant must complete a pre-purchase homebuyer education course under the Program. The education requirement may be met by attending one-on-one counseling as provided through the Department's network of certified Texas Statewide Homebuyer Education Providers, HUD-approved counseling agencies, on-line counseling offered through the Department's Texas Homebuyer U, mortgage insurance companies and/or HUD, Fannie Mae or Freddie Mac approved lender programs. The certificate of completion must be included in the Compliance File in order to satisfy this requirement.
9. Non-Purchasing Spouse. A non-purchasing spouse must be considered in determining eligibility to participate in the Program. Although the spouse may not be an Applicant for the loan, and his or her income may be excluded for credit underwriting purposes, a spouse's income must be considered in the calculation of Income for purposes of the MCC. A non-purchasing spouse must also meet the first-time homebuyer requirement and the Principal Residence requirement. A non-purchasing spouse may disqualify the purchasing spouse even if the purchasing spouse fully meets the Program requirements. A non-purchasing spouse must provide federal tax transcripts and income information, even if the spouse has no income, as well as executing all applicable Affidavits. Non-

purchasing spouses must have a valid social security number or an Individual Tax Identification Number (ITIN).

C. Loan Requirements

1. New Loan Requirements. An MCC cannot be issued in conjunction with the acquisition or replacement of an existing loan or mortgage; however, an MCC can be used in conjunction with the replacement of construction period loans or bridge loans of a temporary nature. Construction period or bridge loans must be for no longer than 24 months. The Lender must obtain from the Applicant, via the Program documents, a statement to the effect that the loan being made in connection with the MCC will not be used to acquire or replace an existing mortgage or land contract, subject to the exceptions outlined above.
2. Prohibited Mortgages. An MCC cannot be used in conjunction with a qualified mortgage bond or a qualified veterans' mortgage bond. The Lender must obtain from the Applicant, via the Program documents, a statement that no portion of the financing of the Residence in connection with the MCC is provided from a qualified mortgage or veterans' bond.
3. No Interest Paid to Related Persons. No interest on the certified indebtedness amount of the loan can be paid to a person who is a related person to the certificate holder, as the term "related person" is defined in Section 144(a)(3)(A) of the Internal Revenue Code and regulations promulgated by the Internal Revenue Service pursuant thereto. The Lender must obtain from the Applicant, via the Program documents, a statement that a related person does not have, and is not expected to have, an interest as a creditor in the loan.
4. Transferability. If the loan is assumed by a new purchaser, the MCC may be transferable under certain circumstances:
 - (a) The transferee must demonstrate he or she has assumed the liability for the remaining balance of the loan.
 - (b) The new MCC must meet all the conditions of the original certificate, and any changes in federal, state or Department policy that amends the requirements of the original MCC.
5. Term of Mortgage Loans. Each mortgage loan associated with an MCC shall have a term of either 15 years or 30 years.

EXHIBIT A

SCHEDULE OF PROGRAM FEES AND EXPENSES

MCC Assumption Fee \$125.00

This fee is submitted to the Department or its designee with the Applicant's new Application through a participating Lender.

MCC Issuance Fee \$200.00

This fee is submitted to the Department or its designee upon loan closing with all of the completed Program documents required for the issuance of an MCC. Upon receipt of the fee and the required documentation, the Department or its designee will issue an MCC to the borrower with a copy to the Lender.

MCC Document Handling Fee up to \$75.00

This fee may be charged and retained by the Lender to compensate it for handling the additional documentation required of it by the Program. The Lender additionally is authorized to charge its reasonable and customary fees and charges for origination of the loan.

Lender Participation Fee \$1,000.00

This one-time fee is to be paid by the Lender and submitted with the MCC Program Participation Agreement to the Department or its designee. The Lender's participation will be noted on the Department's website. The Lender Participation Fee will be waived for Lenders that have participated in one of the Department's previous MCC Programs.

Late Fee \$75.00

This fee may be charged to the Lender for a Compliance File that is sent to the Department or its designee more than thirty (30) days after the date of closing.

MCC Reissuance Fee \$50.00

This fee may be charged and retained by the Department or its designee to compensate it for handling and processing the issuance of a reissued MCC pursuant to a mortgage refinancing.

MCC Compliance Fee \$200.00

This fee is submitted to the Department or its designee upon closing for compliance review.

EXHIBIT B

County	Qualified Census Tracts					
Atascosa	9603.00					
Bell	0207.01 9800.01	0207.02	0208.00	0216.02	0226.00	0229.00
Bexar	1103.00 1214.04 1306.00 1411.01 1602.00 1612.00 1705.00 1713.01 1905.03	1105.00 1302.00 1307.00 1411.02 1605.01 1620.04 1708.00 1715.01 1910.04	1106.00 1303.00 1309.00 1505.01 1605.02 1701.02 1709.00 1716.02 1914.08	1108.00 1304.01 1401.00 1505.02 1606.00 1702.00 1710.00 1802.01 1919.00	1109.00 1304.02 1406.00 1508.00 1609.02 1703.00 1711.00 1804.00	1110.00 1305.00 1410.00 1514.00 1610.00 1704.01 1712.00 1810.05
Bowie	0105.00	0106.00				
Brazos.....	0005.00	0006.04	0014.00	0017.02	0020.12	
Brown.....	9506.00	9507.00				
Cameron	0105.00 0119.03 0127.00 0133.05 0136.00 0139.03	0109.00 0121.02 0128.00 0133.06 0137.00 0140.01	0110.00 0125.05 0131.06 0133.07 0138.01 0140.02	0112.00 0125.07 0132.03 0133.08 0138.02 0141.00	0117.00 0126.07 0132.06 0133.09 0139.01 0142.00	0119.01 0126.09 0132.07 0134.01 0139.02 0143.00
Castro	9502.00					
Cherokee	9505.00	9507.00				
Collin.....	0317.20					
Coryell.....	0105.04					
Dallas.....	0004.01 0015.03 0038.00 0049.00 0060.02 0078.19 0086.04 0089.00 0099.00 0109.04 0122.08 0138.05 0146.02 0182.04 0194.12	0004.05 0020.00 0039.01 0054.00 0072.01 0078.20 0087.01 0091.04 0100.00 0114.01 0122.11 0141.03 0146.03 0185.05 0194.13	0008.00 0025.00 0039.02 0056.00 0072.02 0078.23 0087.03 0093.03 0101.01 0115.00 0130.11 0141.14 0154.04 0185.06 0203.00	0009.00 0027.01 0041.00 0057.00 0078.11 0078.26 0087.04 0093.04 0107.01 0116.01 0131.05 0143.08 0166.05 0188.02 0205.00	0012.04 0027.02 0043.00 0059.02 0078.15 0085.00 0087.05 0096.10 0107.03 0116.02 0136.25 0143.09 0166.07 0190.13	0015.02 0034.00 0047.00 0060.01 0078.18 0086.03 0088.02 0098.04 0109.03 0120.00 0137.13 0144.07 0177.03 0190.19

County	Qualified Census Tracts					
Dawson.....	9504.02					
Denton.....	0206.01	0209.00	0212.01	0217.39		
Dimmit.....	9504.00					
Ector.....	0015.00	0019.00				
El Paso.....	0001.08	0001.09	0001.10	0002.05	0003.01	0004.04
	0006.00	0008.00	0010.01	0010.02	0011.15	0012.01
	0014.00	0016.00	0017.00	0018.00	0019.00	0020.00
	0021.00	0022.01	0022.02	0023.00	0026.00	0028.00
	0029.00	0030.00	0031.00	0032.00	0034.02	0035.02
	0036.01	0036.02	0037.01	0037.02	0038.03	0038.04
	0039.01	0039.03	0041.03	0041.05	0041.07	0042.01
	0042.02	0101.02	0102.20	0102.21	0103.32	0103.33
	0103.34	0103.35	0103.44	0103.47	0104.05	0104.06
	0104.07	0104.08	0105.01	0105.04	0105.06	0106.00
Ellis.....	0604.00					
Falls.....	0004.00					
Fort Bend.....	6750.00					
Galveston.....	7237.00	7246.00	7252.00			
Gray.....	9507.00	9508.00				
Grayson.....	0020.00					
Gregg.....	0012.00	0013.00	0015.00			
Guadalupe.....	2102.00					
Hale.....	9501.00					
Harris.....	2104.00	2110.00	2111.00	2113.00	2116.00	2117.00
	2119.00	2123.00	2124.00	2205.00	2207.00	2208.00
	2210.00	2215.00	2222.00	2225.01	2226.00	2227.00
	2230.02	2301.00	2303.00	2304.00	2306.00	2308.00
	2310.00	2315.00	2318.00	2321.00	2327.02	2331.02
	2333.00	2336.00	2401.00	2405.01	2405.02	2406.00
	2408.01	2415.00	2534.00	3105.00	3110.00	3111.00
	3116.00	3117.00	3122.00	3123.00	3124.00	3128.00
	3136.00	3138.00	3143.00	3206.02	3212.00	3220.00
	3230.00	3231.00	3235.00	3239.00	3312.00	3314.00
	3316.02	3317.00	3320.00	3328.00	3331.00	3332.02
	4201.00	4205.00	4211.01	4211.02	4212.01	4212.02
	4213.00	4214.01	4214.02	4215.00	4216.00	4222.00
	4223.01	4224.01	4229.00	4231.00	4320.02	4327.01
	4328.01	4328.02	4330.01	4330.02	4330.03	4331.00
	4334.00	4335.01	4335.02	4336.00	4531.00	4532.00

County	Qualified Census Tracts					
	4533.00	4534.03	4544.00	5204.00	5205.00	5206.01
	5206.02	5210.00	5214.00	5301.00	5303.00	5304.00
	5307.00	5320.01	5330.00	5333.00	5340.01	5501.00
	5502.00	5503.01	9801.00			
Harrison.....	0204.01	0205.01				
Hays.....	0103.04					
Hidalgo.....	0201.01	0201.02	0204.03	0205.01	0206.00	0207.23
	0207.25	0210.00	0211.00	0213.02	0213.03	0214.01
	0215.00	0218.03	0218.04	0218.05	0218.06	0221.03
	0221.05	0221.06	0222.03	0222.04	0224.01	0225.01
	0225.02	0227.02	0228.00	0229.00	0231.02	0231.04
	0235.03	0235.07	0235.11	0235.13	0235.14	0237.00
	0241.07	0241.08	0241.09	0241.12	0241.13	0241.14
	0242.01	0242.04	0242.05	0246.00		
Hill	9609.00	9610.00				
Houston	9504.00					
Hudspeth	9503.00					
Hunt.....	9605.00	9608.00	9609.00			
Hutchinson	9507.00	9508.00				
Jasper.....	9503.00					
Jefferson	0001.03	0007.00	0009.00	0019.00	0026.00	0051.00
	0059.00	0061.00	0063.00	0117.00		
Johnson.....	1308.00					
Karnes	9704.00					
Kaufman.....	0505.00					
Lamar	0005.00	0008.00				
Lamb	9505.00					
Lubbock.....	0002.02	0003.01	0003.02	0006.03	0006.05	0009.00
	0010.00	0012.00	0013.00	0017.09	0020.02	0024.00
Maverick	9502.01	9502.04	9504.00			
McLennan	0002.00	0004.00	0005.98	0010.00	0011.00	0012.00
	0015.00	0023.02	0027.00	0033.00	0043.00	
Midland	0015.00	0017.00				

County	Qualified Census Tracts					
Montgomery	6931.01	6934.00				
Nacogdoches	9506.00	9507.00	9509.00			
Nueces	0006.00	0008.00	0009.00	0010.00	0011.00	0012.00
	0013.00	0015.00	0016.01	0018.01	0027.06	0033.03
	0033.05	0056.02	0064.00			
Palo Pinto	0009.00					
Polk	2102.03	2103.01				
Potter	0103.00	0106.00	0110.00	0120.00	0126.00	0128.00
	0130.00	0145.00	0148.00	0150.00	0153.00	0154.00
Robertson	9605.00					
San Augustine	9502.00					
San Patricio	0113.00					
Shelby.....	9504.00					
Smith	0002.01	0004.00	0005.00	0007.00		
Starr	9501.05	9501.06	9501.07	9502.02	9502.03	9502.04
	9504.02	9507.01				
Tarrant.....	1002.02	1005.01	1009.00	1012.02	1013.02	1014.02
	1017.00	1025.00	1035.00	1036.01	1037.01	1038.00
	1045.02	1045.03	1045.04	1046.01	1046.03	1047.02
	1048.02	1048.03	1048.04	1050.06	1052.05	1059.01
	1059.02	1061.02	1062.01	1065.16	1066.00	1103.01
	1111.03	1217.03	1219.03	1219.05	1219.06	1228.01
	1231.00	1234.00	1235.00	1236.00		
Taylor.....	0102.00	0103.00	0107.00	0117.00	0122.00	0131.00
Terry	9503.00					
Titus.....	9506.00	9507.00				
Tom Green	0007.00	0015.00	0018.00			
Travis.....	0006.01	0006.03	0008.02	0018.04	0018.06	0018.12
	0018.19	0018.20	0018.23	0018.63	0021.05	0021.08
	0021.10	0021.11	0022.08	0023.07	0023.08	0023.10
	0023.12	0023.15	0023.16	0023.17	0024.13	0024.19
Val Verde	9503.02	9506.01	9506.02			
Victoria.....	0003.01	0003.02				
Walker	7906.00	7907.00				

County	Qualified Census Tracts					
Webb	0001.05	0001.07	0001.08	0001.09	0002.00	0003.00
	0006.01	0007.00	0008.00	0009.03	0009.04	0011.05
	0012.01	0012.02	0013.00	0015.01	0018.07	0018.08
	0018.09	0018.14	0018.17	0018.18	0019.00	
Wichita	0101.00	0102.00	0104.00	0108.00	0111.00	0114.00
	0130.00					
Willacy	9503.00	9506.00	9507.00			
Zapata.....	9503.01					
Zavala.....	9501.00	9503.01	9503.02			

The determination of the Qualified Census Tracts in the State of Texas was made by the United States Department of Housing and Urban Development and the Treasury Department based on criteria in the 2010 Census and Section 143 of the Internal Revenue Code. The Texas Department of Housing and Community Affairs did not participate in the determination of the Qualified Census Tracts although the Lenders and/or the Department may rely thereon.

NOTE: Census tract reference maps are available on the U.S. Census Bureau website at <http://www.ffiec.gov/Geocode/default.aspx>.

EXHIBIT C
(Form of Face of Certificate)

MORTGAGE CREDIT CERTIFICATE
As Department of Housing and Community Affairs
TDHCA Texas MCC - _____

Mortgage Credit Certificate No. _____

Dated: _____

This Mortgage Credit Certificate is issued on behalf of Texas Department of Housing and Community Affairs (the "Issuer"), located at
P.O. Box 13941, Austin, TX 78711. TIN #: 74-2610542
Pursuant to the Issuer's election (filed with the IRS) not to issue qualified mortgage bonds, dated _____, 2020

Name(s): _____
Social Security Number(s): _____
Address: _____

The Mortgage Credit Certificate is issued to:

Name of Holder(s):

Name of Holder(s):

who shall be known as the "Holder(s)".

This Mortgage Credit Certificate shall entitle Holder(s) to an annual credit of __ (%) percent of the annual interest upon the certified Indebtedness Amount of \$ _____ (mortgage amount), which consists of a first mortgage loan, received from Academy Mortgage Corporation, who shall be known as the "Lender".

This Mortgage Credit Certificate is to be used in connection with a mortgage loan from the purchase of a single-family residence (the "Residence") located at: _____

The acquisition cost for the Residence for which this Mortgage Credit Certificate is issued for is \$

This Mortgage Credit Certificate meets the requirements of:

- Temporary IRS Regulation Section 1.25-3T (d) relating to residence requirement;
- Temporary IRS Regulation Section 1.25-3T (e) relating to 3-year requirement;
- Temporary IRS Regulation Section 1.25-3T (g) relating to new mortgage requirement;
- Temporary IRS Regulation Section 1.25-3T (i) relating to prohibited mortgages;
- Temporary IRS Regulation Section 1.25-3T (j) relating to particular lenders;
- Temporary IRS Regulation Section 1.25-3T (k) relating to allocations to particular developments; and
- Temporary IRS Regulation Section 1.25-3T (n) relating to interest paid to related persons.

The Residence __ is or __ is not in a targeted area as described in Section 143 (j) of the Internal Revenue Code.

The Mortgage Loan was closed on _____

If the Issuer becomes aware that a material misstatement, whether negligent or intentional, has been made in the application or this Certificate, this Mortgage Credit Certificate shall be revoked. Further, if such material misstatement shall be due to fraud, this Mortgage Credit Certificate shall be null and void without any need for further action on the part of the Issuer.

Under penalty of perjury, I hereby declare that to the best of my knowledge and belief the determinations required by the Temporary IRS Regulations made.

Program Administrator for:
Texas Department of Housing and Community Affairs

www.eHousingPlus.com
services@eHousingPlus.com

(FORM OF CERTIFICATE)
(REVERSE)
TERMS AND CONDITIONS

FEDERAL TAX CREDIT. This Mortgage Credit Certificate (“MCC”) entitles the holder (as named on the face of this MCC) to an annual federal tax credit equal to (i) for MCC Rates greater than 20%, the lesser of _____ percent of the annual interest paid on the mortgage loan described on the face of this MCC or \$2,000.00, or (ii) for MCC Rates equal to or less than 20%, _____ percent of the annual interest paid on the mortgage loan described on the face of this MCC. In addition, this MCC will reduce the holder’s mortgage interest deduction by an amount equal to the tax credit for the same tax year. The credit cannot be larger than the holder’s annual federal income tax liability, after all other credits and deductions have been taken into account. MCC credits in excess of current year tax liability may, however, be carried forward for use in the subsequent three years. At the time of issuance of this MCC, the filing of IRS Form 8396 is required in order to take advantage of the tax credit each year.

PRINCIPAL RESIDENCE. This MCC is to be used in connection with the financing of the purchase of a Residence. The Residence must be or become the holder’s “Principal Residence” within a reasonable time (not to exceed 60 days) following the date of issuance of the MCC. The “Principal Residence” means a Residence that, depending on all the facts and circumstances (including the good faith intent of the occupant), is occupied by the holder primarily for residential purposes. “Principal Residence” does not include a home used as an investment property or a recreational home, or a home that is used primarily in a trade or business (as evidenced by the use of more than 15 percent of the total floor space in a trade of business). Further, the holder may not claim, with respect to the Residence, any deductions pursuant to Section 280A of the Internal Revenue Code of 1986, as amended, for expense incurred in connection with the business use of a home.

PRIOR OWNERSHIP OF A RESIDENCE. The holder of this MCC cannot have had a present ownership interest in a Principal Residence at any time during the three-year period prior to the date on which the loan is executed. For purposes of making such determination, a Principal Residence includes a single-family house, condominium unit, mobile home, share of a housing cooperative or occupancy of a unit in a multifamily building owned by the holder. The term “present ownership interest” includes a fee simple interest; a joint tenancy, a tenancy in common or a tenancy by the entirety; the interest of a tenant-shareholder in a cooperative; a life estate; a land contract under which possession and the burdens and benefits of ownership are transferred although legal title is not transferred until some later date; and an interest held in trust for one person by another person. A “present ownership interest” does not include a remainder interest, a lease with or without an option to purchase, mere expectancy to inherit an interest in a principal residence, the interest that a person acquires upon the execution of a real estate purchase contract, or any interest in other than a “Principal Residence” during the previous three years. This requirement is waived if the Residence is located in a Targeted Area or if the Residence is acquired by a Qualified Veteran.

PARTICIPATING LENDER AND LOAN ELIGIBILITY. Financing may be sought from any Lender. The decision to make a loan is completely within the discretion of the Lender to whom the application for a mortgage loan is submitted. The Issuer plays no role in the decision to make a loan or determining the amount of the loan.

MORTGAGE REQUIREMENTS. No MCC will be issued in connection with financing that is to be used to replace an existing mortgage on the Residence to which the holder is a party or upon which the holder is an obligor. No MCC will be issued unless, prior to the date thereof, the holder was not a party to a mortgage on the Residence (whether in the form of a deed of trust, contract for deed, conditional sales contract, pledge, agreement to hold title in escrow, or other form of owner financing), other than a construction loan, bridge loan, or other temporary initial financing having a term not exceeding 24 months. In addition, no MCC will be issued if any financing for the Residence is to be obtained from a qualified mortgage bond or qualified veterans’ mortgage bond or if any person who is related to the holder has an interest as a creditor in the financing.

OCCUPANCY OF THE RESIDENCE. If the Residence ceases to be occupied as the holder’s “Principal Residence,” the holder will no longer be eligible for the MCC and must immediately notify the Department and the Lender providing the financing of this fact and the date of this event.

INCOME LIMITS. At the time of execution of the loan in connection with which this MCC is issued, the holder’s current income cannot exceed, (i) for families of three or more persons, 115% (140% in certain Targeted Areas) of the area median income and (ii) for individuals and families of two persons, 100% (120% in certain Targeted Areas) of the area median income, subject to an upward adjustment of the income limits in certain “high housing cost areas.” The Income Limits may be subject to adjustment at any time.

PURCHASE PRICE LIMITS. The purchase price for the Residence being acquired in connection with which this MCC is issued cannot exceed 90% (110%, in the case of certain Targeted Area Residences) of the average area purchase price applicable to the Residence. These limits may be subject to adjustment at any time.

TRANSFERABILITY. This MCC is not assumable and is transferable only upon application to the Department. The proposed transferee must meet all Program requirements then in effect.

COMPLIANCE WITH INTERNAL REVENUE CODE. This MCC is intended to comply with the provisions of Section 25 of the Internal Revenue Code of 1986, as amended, as well as any other applicable federal or State laws.

REFINANCING. The refinanced loan amount cannot exceed the outstanding balance of the original mortgage loan as of the date of the refinancing.

EXHIBIT D-1

Commitment Lot Notice
(FROM DEPARTMENT TO PROGRAM ADMINISTRATOR)

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM NO. 94

To: eHousingPlus
3050 Universal Boulevard, Suite 190
Weston, FL 33331
Attention: Paloma Miranda
Email: Paloma.Miranda@hdsoftware.net

On the date hereof, the Issuer has established the following Commitment Lot:

Commitment Lot Designation	Commitment Lot Size	MCC Rates	MCC Issuance Fee(s)
_____	\$_____	<u>20%</u> or <u>25%</u>	_____ MCC Only _____TMP Loan/MCC Combination

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By: _____
Name: _____
Title: _____

EXHIBIT D-2

Lender Commitment Lot Notice
(FROM PROGRAM ADMINISTRATOR TO MORTGAGE LENDER)

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM NO. 94

First Date to Reserve MCC Funds _____

Commitment Lot Size: \$ _____

Mortgage Credit Certificate Rates: 20% or 25%

MCC Issuance Fee(s) _____ MCC Only
_____ TMP Loan/MCC Combination

All MCC funds are available on a first-come, first-served basis. MCC reservations expire ninety (90) days from the date of registration. Updates to extend time must be made in the reservation system by the participating lender.

REMINDER: If doing a TMP Loan/MCC Combination, the more restrictive program guidelines will apply.

If you have any questions regarding this notice, please contact:
ehousing
Compliance office
3050 Universal Boulevard, Suite 190
Weston, FL 33331 954-217-0817 Email: Paloma.Miranda@hdsoftware.net

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Tax-Exempt Mortgage / Taxable Mortgage

My First Texas Home / My Choice Texas Home / Texas Mortgage Credit Certificate (MCC)
 REVISED: 09/05/2019

NOTICE TO BUYERS

Texas Department of Housing and Community Affairs (“TDHCA”) created its homeownership options to help make ownership of new or existing homes more affordable for individuals and families of low and moderate income in the State of Texas, especially first-time buyers. The Tax-Exempt and Taxable Mortgage Program(s) (My First Texas Home and My Choice Texas Home) provide the homebuyer with a 30-year fixed interest rate mortgage loan and assistance to be used towards down-payment and/or closing cost assistance. The Texas Mortgage Credit Certificate (MCC) Program provides the homebuyer with a mortgage credit certificate which increases a family’s disposable income by reducing its federal income tax obligations. This tax savings provides a family with more available income to qualify for a loan and meet mortgage payment requirements. In order to participate in either or both Programs, the homebuyer(s) must meet certain eligibility requirements, purchase a home and obtain a mortgage loan and/or MCC through a participating lender. The eligible loan area consists of the State of Texas. The Programs are administered by TDHCA.

If your home is being financed using a TDHCA mortgage loan, the residence must be occupied as your principal residence within a reasonable time not to exceed 60 days of loan closing and it may not be used as an investment property, vacation, or recreational home. You will be required to immediately notify the Servicer in writing if the residence financed using the TDHCA mortgage loan ceases to be your principal, permanent residence. You cannot rent your home without the Servicer’s prior written consent (which consent can only be given in very limited, extreme circumstances) or sell your home to a person ineligible for assistance from the Department, unless you pay your loan in full.

For mortgage credit certificates issue by TDHCA, if the residence ceases to be your principal residence, you will be required to immediately notify TDHCA so that appropriate action, including but not limited to revocation of the MCC, may be taken.

ELIGIBLE BORROWERS

First-Time Homebuyer Requirement: Borrowers seeking financing for the purchase of a residence or the issuance of an MCC must be first-time homebuyers, which means that the borrower has not owned a principal residence in the past three years. Certain exceptions exist for residences located in certain designated areas, and for applicants who are “qualified veterans.” Borrowers using the My Choice Texas Home option are not required to be a First Time Homebuyer.”

INCOME LIMITS AND
HOME PURCHASE PRICE LIMITATION

For maximum income and purchase price limits, see attachment or visit the TDHCA website: http://www.tdhca.state.tx.us/homeownership/fttb/buyer_intro.htm

ELIGIBLE PROPERTY

General Information: New single family houses, including certain manufactured homes, duplexes, townhomes and condominiums are eligible for either program, and must follow standard agency (loan product) guidelines. Triplexes and fourplexes and shares in housing cooperatives are not eligible for the Program(s). The cost of the residence must not exceed the maximum home purchase price limits specified for the Program(s).

Duplex: A duplex may be financed under either Program as long as one unit of the duplex is occupied by the borrower as his or her principal residence and the duplex was first occupied for residential purposes at least five years prior to the closing date for the mortgage loan that is associated with the applicable program. The five-year requirement does not apply to a duplex if it is located in a qualified census tract that has been designated as a “targeted area” and the family income of the borrower meets the income limits for targeted area loans (120% or 140% of applicable median family income, as appropriate). The acquisition cost limits applicable to duplexes are available on TDHCA’s website.

Manufactured Homes: A manufactured home must be eligible under FHA, VA, USDA or FNMA guidelines, and be in one or more sections which in the traveling mode is 8 body feet or more in width and 40 body feet or more in length and when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling and connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained therein and meets the HUD minimum standards set forth in Title 24 parts 3280, 3282 and

42 U.S.C. 5401 et seq. The manufactured home must have been constructed after June 21, 1978 and be permanently affixed to the real property which will be owned by the homebuyer and subject to the mortgage loan. Recreational vehicles, campers and other such vehicles are ineligible.

Financing Terms: The mortgage loan used in conjunction with the MCC Program must be financed from sources other than tax-exempt mortgage bonds or tax-exempt veterans' mortgage bonds. The mortgage may be a conventional, FHA, VA or USDA-RHS loan and will be at prevailing market rates or rate applicable with loan program. The mortgage loan must not be made to the borrower by a "related person," as defined in Section 144(a)(3)(A) of the Internal Revenue Code. If using the TMP – My First Texas Home Program, the financing terms will be established by TDHCA. Eligible property types and other terms of the Program may differ for mortgage loans financed through the Fannie Mae HFA Preferred product.

PROGRAM DESCRIPTION FOR TAXABLE AND TAX-EXEMPT MORTGAGE OPTIONS

General Information: TDHCA's **Tax-Exempt Mortgage option – My First Texas Home** is exclusive to first time homebuyers, and provides a 30-year fixed interest rate mortgage loan that may include assistance in an amount up to 5% of the mortgage loan, to be used towards down payment and/or closing cost. The homebuyer must meet IRS Tax-Exempt Mortgage Revenue Bond income eligibility requirements, which include the income of a Non-Purchasing Spouse and anyone else who will have ownership interest in the property (sign the Deed of Trust).

TDHCA's Taxable Mortgage option – My Choice Texas Home provides homebuyer(s) with a 30-year fixed interest rate mortgage loan and down payment/closing cost assistance, in an amount up to 5% of the mortgage loan. There is **no** first time homebuyer requirement on the My Choice Texas Home option. For the purposes of income eligibility, the credit qualifying/1003 income used by the lender for loan qualifying is allowed.

Benefit Amount and Length of Benefit: The amount of benefit will vary based on the borrower's individual financial circumstances and the length of time the borrower lives in the home.

Higher Mortgage Loan Interest Rate with Down Payment/Closing Cost Assistance: The interest rate on your mortgage loan is based upon acceptance of down payment and/or closing cost assistance. If you receive down payment assistance from TDHCA, the interest rate on your mortgage loan **may** be at a higher interest rate than could otherwise be obtained (or may be available to you) if no down payment and/or closing cost assistance were included. If the interest rate on your mortgage loan is higher than you otherwise could obtain, you should carefully evaluate whether it is in your best financial interest to pay the higher mortgage loan interest rate associated with acceptance of down payment and/or closing cost assistance.

Repayment of Down Payment/Closing Cost Assistance: If receiving down payment assistance from TDHCA in connection with your mortgage loan, you will be required to repay the down payment and/or closing cost assistance you received in connection with your mortgage loan at the end of the term of your loan or earlier if you sell, refinance, transfer or otherwise dispose of your home. The annual percentage rate (APR) of interest is 0% and the 2nd mortgage loan is non-amortizing (has no monthly payment component).

Assumption of Loan: In order for the mortgage loan to be assumed, you must sell your home to a person eligible for assistance from the Department, otherwise, you must pay your mortgage loan in full or the Department may demand immediate full repayment of the mortgage loan. This could result in foreclosure of your mortgage and repossession of the property. In addition, if you rent the property or committed fraud or intentionally misrepresented yourself when you applied for the mortgage loan, the Mortgage Lender may foreclose your mortgage and repossess the property. If the Mortgage Lender takes your home through a foreclosure of the mortgage because of these reasons, HUD, FHA, VA, Fannie Mae, Freddie Mac, the Servicer and/or the Department (as applicable) will not be able to help you.

In order for the mortgage loan to be assumed, you must sell your home at or below the federally-designated acquisition cost in effect when you sell your home.

If the money received from the foreclosure sale is not enough to pay the remaining amount of money you owe on the loan, the Servicer may obtain a deficiency judgment against you (a court ruling that you must pay whatever money is still owed on the loan after the foreclosure sale). Such judgment will be taken over by HUD, VA, or a private mortgage insurer (as applicable). If the Servicer files an insurance claim against HUD, VA, or the private mortgage insurer (as applicable) because of the foreclosure, HUD, VA, or the private mortgage insurer (as applicable) may then bring an action against you to collect the judgment.

Recapture. If you sell or otherwise dispose of the residence during the next 9 years, this benefit may, under certain circumstances, be subject to "recapture." Such recapture is accomplished by an increase in your federal income tax for the year in which there is a disposition of the residence. This recapture only applies if there is a gain resulting from the sale or other disposition of the residence and total annual household income increases above specified levels. You may wish to consult a tax advisor or the Internal Revenue Service at the time of sale or other disposition of the

residence to determine the amount, if any, of the recapture tax. Following loan closing, you will be provided additional information that will be needed to calculate the maximum recapture tax liability at the time you sell or dispose of the residence. The IRS Recapture Tax Provision does not apply to the My Choice Texas Home option(s).

PROGRAM DESCRIPTION MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM

General Information: An MCC is a tax credit that will reduce the federal income taxes of qualified buyers purchasing a qualified residence. As a result, the MCC has the effect of reducing your mortgage payments. Applications must be made to TDHCA prior to closing the loan. The MCC may not be used in connection with the refinancing of an existing loan, unless such loan is a construction period loan, bridge loan or similar temporary initial financing of 24 months or less.

Benefit Amount: The size of your annual tax credit will be a percentage established by TDHCA (the “Mortgage Credit Certificate Rate”) of the annual interest paid on your mortgage loan. The credit cannot be larger than your annual federal income tax liability, after all other credits and deductions have been taken into account. MCC credits in excess of your current year tax liability may, however, be carried forward for use in the subsequent three years.

Mortgage Credit Certificate Rate: The MCC Credit Rate for TDHCA Mortgage Credit Certificates will be issued based on the following tiered structure:

TDHCA MCC Options	
25% MCC Credit	Up to \$2,000 annual credit
20% MCC Credit	No maximum annual credit

Regardless of the loan amount or MCC credit rate, the maximum annual tax credit allowed per IRS is \$2,000.

Tax Credit Versus Tax Deduction: A mortgage interest deduction differs from a mortgage tax credit in a number of ways. For example, all homebuyers, regardless of income, may take a mortgage interest deduction, whereas mortgage tax credits are available only to holders of MCCs. The dollar value of a mortgage interest deduction depends upon your tax bracket. If you are in the 15 percent tax bracket, you will save 15 cents in taxes for each dollar of mortgage interest paid. With the MCC, you will save \$1 for each \$1 of credit received. Using an MCC and itemizing your deductions on Schedule A of Form 1040 will require you to reduce your mortgage interest deduction by an amount equal to your mortgage tax credit claimed.

Length of Benefit: Each year, your mortgage tax credit will be calculated on the basis of the designated percentage of the total interest you paid on your mortgage loan that year. The MCC will be in effect for the life of your mortgage loan, so long as the residence remains your principal residence.

Assumption of Loan: The MCC can be transferred only upon issuance of a new certificate by TDHCA. The person assuming your loan will have to qualify just as a new borrower would be required to qualify under the MCC Program.

Recapture of Tax Credit: Your MCC will be subject to certain requirements imposed by federal law concerning the recapture of a portion of the mortgage tax credit benefits granted to you upon the sale of your residence within nine years from the date of purchase. In no event will the recapture tax exceed the lesser of (i) 6.25% of the highest principal balance of your mortgage or (ii) one half of your taxable gain on the sale of your residence. At loan closing, you will be provided additional information that will be needed to calculate the maximum recapture tax liability at the time you sell or dispose of the residence.

APPLICATION INFORMATION

At the time of your formal mortgage loan application, you will have the ability to apply for a TDHCA mortgage loan and/or a MCC. After you have completed and signed the mortgage loan application, the lender will review your information and will reserve program funds in the Program’s on-line registration system. The MCC will be issued to the homebuyer upon loan closing and submission of the required Program documents required in Program guidelines, and applicable program fees. Loan or MCC reservations cannot be transferred from one lender to another. In the event you desire to change lenders, the loan reservation will be canceled and the application and reservation process must start over with the new lender. **The purpose of this document is to provide information on the TDHCA My First Texas Home / My Choice Texas Home and Texas Mortgage Credit Certificate programs. If applying for one or more of these programs, you should request from your lender a copy of the Loan**

Confirmation generated from the Program's on-line portal to verify the applicable program option(s) reserved in connection with your mortgage loan.

CHECK IF APPLICANT IS A VETERAN <input type="checkbox"/>	CHECK IF CO-APPLICANT IS A VETERAN <input type="checkbox"/>
Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Reserves, or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at https://veterans.portal.texas.gov/ .	

DISCLOSURE OF APPLICANT INFORMATION

The applicant(s) hereby consent and agree that all information furnished by the applicant(s) to the participating lender and TDHCA, including but not limited to, non-public personal and financial information in connection with the application for a mortgage loan under the My First Texas Home / My Choice Texas Home or an MCC, may be disclosed to any person or other third parties in connection with the processing of the application, verification of information concerning the TDHCA loan or MCC, the loan or the applicant(s), and for any other purpose in furtherance of or connected with the Program.

Date _____

APPLICANT

Printed Name of Applicant

CO-APPLICANT OR NON-PURCHASING SPOUSE (if applicable)

Printed Name of Applicant OR Non-Purchasing Spouse (if applicable)

APPENDIX A

TDHCA My FIRST Texas Home / My CHOICE Texas Home / Texas Mortgage Credit Certificate Program (MCC)

Combined Income and Purchase Price Limits Table

(Including Income Limit Adjustments for High Housing Cost Areas)

My FIRST Texas Home and Texas MCC considers the income of all person(s) who will sign the Deed of Trust (including Non-Purchasing Spouse).

My CHOICE Texas Home considers the standard lender income calculation (1003/credit qualifying income).

Effective September 5, 2019

Area of State	Counties in Area	NON-TARGETED AREAS				* TARGETED AREAS		
		100% AMFI 1 or 2 Persons	115% AMFI 3 or more Persons	FNMA 80% AMI Limit (any family size)	1-UNIT** Non-Targeted Area Purchase Price Limit	120% AMFI 1 or 2 Persons	140% AMFI 3 or more Persons	1 UNIT ** Targeted Area Purchase Price Limit
Balance of State	All other counties not mentioned below	\$71,200	\$81,880	See FNMA Balance of State Counties on following page	\$283,348	\$85,440	\$99,680	\$346,315
Amarillo, HMFA	Armstrong, Carson, Potter, Randall	\$71,600	\$82,340	\$57,200	\$283,348	\$85,920	\$100,240	\$346,315
Andrews County	Andrews	\$83,500	\$96,025	\$68,640	\$283,348	No Targeted Census Tracts in County		
Austin County, HMFA	Austin	\$75,800	\$87,170	\$61,680	\$298,085	No Targeted Census Tracts in County		
Austin-Round Rock, MSA	Bastrop, Caldwell, Hays*, Travis* & Williamson	\$94,600	\$108,790	\$76,720	\$350,871	\$113,520	\$132,440	\$428,842
Blanco County	Blanco	\$72,900	\$83,835	\$58,320	\$283,348	No Targeted Census Tracts in County		
Borden County	Borden	\$81,900	\$94,185	\$72,080	\$283,348	No Targeted Census Tracts in County		
Brazoria County, HMFA	Brazoria	\$94,200	\$108,330	\$61,680	\$298,085	No Targeted Census Tracts in County		
Cooke County	Cooke	\$71,400	\$82,110	\$58,720	\$283,348	No Targeted Census Tracts in County		
Crane County	Crane	\$79,900	\$91,885	\$63,920	\$283,348	No Targeted Census Tracts in County		
Dallas, HMFA	Collin*, Dallas*, Denton*, Ellis*, Hunt*, Kaufman* & Rockwall	\$83,609	\$96,151	\$64,240	\$356,046	\$99,720	\$116,340	\$435,167
Fort Worth - Arlington, HMFA	Johnson*, Parker & Tarrant*	\$85,029	\$97,784	\$64,240	\$356,046	\$91,200	\$106,400	\$435,167
Gillespie County	Gillespie	\$73,100	\$84,065	\$58,480	\$291,874	No Targeted Census Tracts in County		
Glasscock County	Glasscock	\$95,800	\$110,170	\$82,000	\$283,348	No Targeted Census Tracts in County		
Hartley County	Hartley	\$74,900	\$86,135	\$59,920	\$283,348	No Targeted Census Tracts in County		
Hemphill County	Hemphill	\$73,600	\$84,640	\$58,880	\$283,348	No Targeted Census Tracts in County		
Hood County, HMFA	Hood	\$85,669	\$98,520	\$64,240	\$356,046	No Targeted Census Tracts in County		
Houston-The Woodlands-Sugar Land, HMFA	Chambers, Fort Bend*, Galveston, Harris*, Liberty, Montgomery* & Waller	\$76,300	\$87,745	\$61,680	\$298,085	\$91,560	\$106,820	\$364,326
Jackson County	Jackson	\$73,300	\$84,295	\$58,640	\$283,348	No Targeted Census Tracts in County		
Kendall County, HMFA	Kendall	\$93,700	\$107,755	\$56,800	\$323,960	No Targeted Census Tracts in County		
King County	King	\$82,000	\$94,300	\$67,600	\$283,348	No Targeted Census Tracts in County		
Lipscomb County	Lipscomb	\$75,400	\$86,710	\$59,360	\$283,348	No Targeted Census Tracts in County		
Loving County	Loving	\$81,700	\$93,955	\$65,360	\$283,348	No Targeted Census Tracts in County		
Martin County, HMFA	Martin	\$71,200	\$81,880	\$63,280	\$286,699	No Targeted Census Tracts in County		
Medina County, HMFA	Medina	\$76,757	\$88,270	\$56,800	\$323,960	No Targeted Census Tracts in County		
Midland, HMFA	Midland*	\$86,000	\$98,900	\$63,280	\$286,699	\$103,200	\$120,400	\$350,410
Odessa MSA	Ector*	\$73,900	\$84,985	\$59,120	\$283,348	\$88,680	\$103,460	\$346,315
Oldham County, HMFA	Oldham	\$71,200	\$81,880	\$57,200	\$283,348	No Targeted Census Tracts in County		
Pecos County	Pecos	\$73,100	\$84,065	\$58,560	\$283,348	No Targeted Census Tracts in County		
Reagan County	Reagan	\$76,800	\$88,320	\$61,440	\$283,348	No Targeted Census Tracts in County		
Roberts County	Roberts	\$91,100	\$104,765	\$72,880	\$283,348	No Targeted Census Tracts in County		
San Antonio-New Braunfels, MSA	Atascosa*, Bandera, Bexar*, Comal, Guadalupe* & Wilson	\$76,957	\$88,500	\$56,800	\$323,960	\$85,440	\$99,680	\$395,951
Schleicher County	Schleicher	\$74,200	\$85,330	\$59,360	\$283,348	No Targeted Census Tracts in County		
Somervell County, HMFA	Somervell	\$85,440	\$98,888	\$64,240	\$356,046	No Targeted Census Tracts in County		
Wise County, HMFA	Wise	\$82,560	\$96,320	\$64,240	\$356,046	No Targeted Census Tracts in County		

* Property must be located in a qualified targeted census tract to use the Targeted Area Limits.

*AMFI - Area Median Family Income; *MSA - Metropolitan Statistical Area; *HMFA - HUD Metro FMR Area
Down Payment Assistance Available to ALL Income Categories - *Targeted Areas are areas of severe economic distress.

Fannie Mae Limits for counties not shown above - See Page 2

** 2 UNIT Purchase Price Limits can be found at: <https://www.tdhca.state.tx.us/homeownership/ftfb/docs/2-Unit-PurchasePriceLimits.pdf>

For additional information please visit our website at www.MyFirstTexasHome.com

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

APPLICANT AFFIDAVIT

My First Texas Home – Texas Mortgage Credit Certificate (TAX-EXEMPT)

There are important legal consequences to this Affidavit. Please read carefully before signing.

REVISED: 09/05/2019

THE STATE OF TEXAS §
COUNTY OF _____ §

LOAN AMOUNT: \$ _____
LENDER: _____

The undersigned, as part of my (our) application for a loan under the Department’s tax-exempt mortgage and/or for a mortgage credit certificate (“MCC”) to be issued by the Department in connection with a loan from a participating lender of my (our) choice for a single-family residence that will become my (our) permanent, primary residence, being first duly sworn state the following information to be true and correct:

APPLICANT LAST NAME FIRST MIDDLE

CO-APPLICANT LAST NAME FIRST MIDDLE

ADDRESS BEING PURCHASED

CITY COUNTY STATE TEXAS ZIP CODE

CHECK AS APPLICABLE:

- checkbox New Construction, Existing Structure, Non-Targeted Area, Targeted Area
checkbox Mortgage Only, Mortgage w/Assistance, MCC Only, Combo

CHECK IF APPLICANT IS A VETERAN checkbox CHECK IF CO-APPLICANT IS A VETERAN checkbox

Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Reserves, or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at https://veterans.portal.texas.gov/.

CHECK IF APPLICANT OR CO-APPLICANT IS USING THE EXCEPTION TO FIRST-TIME HOMEBUYER REQUIREMENT FOR QUALIFIED VETERANS: checkbox Applicant meets the requirements to qualify as a “veteran” as defined in 38 U.S.C. Section 101. Attached hereto are true and correct copies of my discharge or release papers, which demonstrate that such discharge or release was other than dishonorable. Applicant has not previously obtained a loan financed by single family mortgage revenue bonds or another MCC utilizing the exception to the first-time homebuyer requirement for Residences to Veterans under Section 143(d)(2)(D).

Copies of Federal Tax Transcripts for the past three (3) years for all persons who will be liable on the mortgage loan are submitted herewith or the reasons for exemption from filing are stated as follows: _____

NOTE: Non-purchasing spouse federal tax transcripts and income must be submitted and/or included.

CHECK IF APPLICABLE: I certify that the mortgage loan closing is occurring between January 1 and February 15, and that I have not yet filed my federal income tax return for the prior year. I further certify that when I file my federal tax return for the prior year, I will neither be entitled to, nor claim, deductions for real estate taxes or interest on indebtedness with respect to my principal residence for that year.

Total Persons in Household _____

Mid Credit Score _____

Family Income includes the anticipated gross income of all persons expected to both live in the residence being financed and to be liable on the mortgage loan, and includes but is not limited to Annual Wages, Commissions, Bonuses, Self-Employment (Plus Depreciation), Dividends, Interest, Annuities, Pensions, Child Support, Alimony and Public Assistance:

Applicant Type	Applicant Name	Income Type	Income Amount
Total Income			

NOTE: Non-purchasing spouse federal tax transcripts and income must be submitted and/or included.

Applicant certifies that the Persons receiving the MCC and/or benefitting from a loan under the tax-exempt mortgage option are not currently delinquent or in default with child support and/or government loans.

The TOTAL ACQUISITION COST \$ _____

The above acquisition cost includes the following itemized amounts:

1. Amount paid for the residence, in cash or in kind, by Applicant to the seller (including any amount which seller is required to pay as a real estate commission or loan discount points): \$ _____
2. Amount paid for the residence, in cash or in kind, by Applicant or any person related to the Applicant or by any person for the benefit of the Applicant, to seller or any person related to seller or for seller's benefit (other than the amount set forth above): \$ _____
3. If the residence is incomplete or unfinished the estimated cost of completing it (a written estimate of completion cost is attached): \$ _____
4. If the residence is located on leased land, the capitalized value (using a discount rate equal to the interest rate borne by the mortgage loan) of the ground rent: \$ _____
5. Land purchased separately and owned by the Applicant(s) for less than two (2) years prior to the commencement of construction of the residence. \$ _____

Apart from any normal real estate agents' commissions, no money is being paid, no promissory note is being delivered, nor is anything else of value (including, without limitation, personal property) being exchanged or transferred to the seller of the residence or any other

persons by me, or to my knowledge, by any other person in connection with the residence except as itemized with the amount of their purchase price that does not exceed their fair market value.

TOTAL ACQUISITION COST of the property includes all amounts paid previously or in the future, in cash or in kind by the Applicant(s) (or a related party or for the benefit of the Applicant(s)) to the seller (or a related party or for the benefit of the seller); "points" paid to the seller; if the residence is incomplete, the reasonable cost of completing the residence; the capitalized value of ground rent using the discount rate equal to the interest rate borne by the mortgage loan) (leasehold estate); additional amounts for land purchased separately and owned by the Applicant(s) less than two (2) years prior to the commencement of construction of the residence; and any other settlement and/or financing costs to the extent that such costs exceed the usual and reasonable costs that would be paid by the buyer where financing is not assisted through the issuance of an MCC or provided through the issuance of tax-exempt bonds. Acquisition cost does not include usual and reasonable settlement or financing costs; the value of services performed by the mortgagor or members of the mortgagor's family in completing the residence; fix-up expenses such as painting, minor repairs and floor refinishing; or the cost of land which has been owned by the Applicant for at least 2 years prior to the commencement of construction of the residence.

TYPE OF LOAN:

I (We) acknowledge that the interest rate of my (our) mortgage loan is at a higher interest rate than I (we) might otherwise obtain if I (we) did not receive down payment and/or closing cost assistance in conjunction with this mortgage loan. I (we) have determined the interest cost associated with this mortgage loan, in light of the down payment and closing cost assistance, is in my (our) best financial interest.

THE APPLICANT FURTHER CERTIFIES THAT:

(a) The residence is a single-family residence (For this purpose, a single-family residence includes a two-family residence so long as (1) one unit will be occupied by the applicant and (2) the units were first occupied at least 5 years before the loan is closed.) (A residence includes stock held by a tenant-stockholder in a cooperative housing corporation. It does not include property such as an appliance, a piece of furniture, a radio, etc., which, under Texas law, is not a fixture. The term also includes any manufactured home meeting certain size requirements and that is of a kind customarily used at a fixed location.); (b) the residence does not include (1) recreational vehicles, campers and other similar vehicles or (2) land that is greater than the normal and usual lot size within the area or that is in excess of what is needed to maintain the basic livability of the residence; further, I(we) do not expect to derive any income from the land associated with the residence; (c) I(we) intend to use the residence as my (our) principal residence within a reasonable time not to exceed 60 days of loan closing, and I(we) will immediately notify the Department in writing if the residence ceases to be my(our) principal, permanent residence; (d) the residence will not be used (1) as investment property, vacation, or recreational home or (2) in conjunction with business activities (as evidenced by the use of more than fifteen percent of the total floor space in a trade or business) except for the rental of one of the units in a two family residence; further, I(we) do not intend to claim, with respect to the residence, any deductions pursuant to Section 280A of the Code for expenses incurred with respect to the business use of a home; (e) unless the residence is located in a targeted area or the Applicant is a qualified veteran, all Applicants and any co-Applicants, either individually or together, have not had a present ownership interest in a principal residence during the 3-year period prior to the date of the loan closing (a present ownership interest includes, but is not limited to, a fee simple interest; a joint, tenancy, a tenancy in common or a tenancy in the entirety; the interest of a tenant-shareholder in a cooperative, a life estate, a land contract and an interest in trust for the mortgagor; a present ownership interest does not include a remainder interest, a lease with or without an option to purchase, an expectation of inheritance, the interest acquired under a purchase contract and an interest in a residence that is not a principal residence); (f) the acquisition cost listed above does not exceed 90 percent (for residences not located in a targeted area) or 110 percent (for residences located in a targeted area) of the average area purchase price; (g) the loan will not be used to replace my(our) existing mortgage, unless such loan is a construction period loan, bridge loan or similar temporary initial financing of 24 months or less; (h) no portion of the financing of the residence is or will be provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond; (i) the Department has not limited me(us) to seeking financing through any particular lender; (j) no "related person," as defined in Section 144(a)(3)(A) of the Code, has or is expected to have an interest as a creditor in the mortgage loan; (k) there are no persons who have or are expected to have a present ownership interest in the residence following closing on the loan who have not executed this Affidavit or one substantially similar to this Affidavit; and (l) I(we) do not have an application in process nor have I(we) received a commitment for a mortgage loan under any prior program of the Department (or the Texas Housing Agency).

(b) The residence will be occupied as my (our) principal residence within a reasonable time not to exceed 60 days of loan closing, will not be used as investment property, vacation, or recreational home; and I(we) will immediately notify the Servicer in writing if the residence ceases to be my(our) principal, permanent residence; (1) this is not a refinancing of an existing, previously occupied residence for which this mortgage loan is being requested and will not replace my(our) existing mortgage or land contract or a newly constructed residence has not and will not be occupied prior to loan commitment and the

proceeds of the mortgage loan will not be used to replace my(our)existing mortgage, unless such loan is a construction, bridge or temporary initial financing of 24 months or less; (2) unless the residence is located in a targeted area or the mortgagor is a qualified veteran, all borrowers, spouses and any co-borrowers have submitted the most recent 3 years federal tax transcripts or reasons exempted by law to do so and individually or together have not had an ownership interest in a principal residence within 3 years of loan closing (*principal residence includes single family detached, condominium, shares in housing cooperative, occupancy in an owned multi-family housing unit, factory made housing permanently affixed to real property; ownership includes full or partial ownership interest, fee simple, joint ownership interest by joint tenancy, tenancy in common or tenancy in the entirety, the interest of a tenant-stockholder in a cooperative, a land contract under which possession and the burdens and benefits of ownership are transferred, even if legal title is until some later date, ownership interest in trust or life estate interest*); (3) there are no persons who have or are expected to have a present ownership interest in the residence following closing on the loan who have not executed this Affidavit or one substantially similar to this Affidavit; and (4) I(we) must meet all federally and locally mandated requirements to qualify for the mortgage loan.

I (we) understand this Affidavit will be relied upon for the purposes of determining my (our) eligibility and understand that any fraudulent statement will result in (i) the immediate revocation of my (our) MCC and (ii) a \$10,000 penalty under Section 6709 of the Code. I (we) further understand that any material misstatement in this Affidavit because of my (our) negligence will result in (i) the immediate revocation of my (our) MCC and (ii) a civil penalty of \$1,000. Under penalties of perjury, I (we) declare that I (we) have examined the statements and certifications contained herein, and, to the best of my(our) knowledge and belief, they are true, correct and complete. I(we) understand that perjury is a felony punishable by fine or imprisonment or both.

APPLICANT

CO-APPLICANT OR NON-PURCHASING SPOUSE

Printed Name of Applicant

Printed Name of Co-Applicant or Non-Purchasing Spouse

Sworn to and subscribed before me on the _____ day of _____, 20_____.

PERSONALIZED SEAL

Notary Public Signature

[Signature Page to Applicant Affidavit]

AFFIDAVIT OF SELLER
(Waived for REO Property)
REVISED: 09/05/2019

I/We the undersigned, as an essential participant in an application for which a Mortgage Loan or a Mortgage Credit Certificate is being sought under one of the Texas Department of Housing and Community Affairs' homeownership programs, being first duly sworn hereby certify the following:

(a) I(we) are the Seller (or Builder) of the single-family residence (the "Residence") located at:

ADDRESS BEING SOLD

	TEXAS		
CITY	COUNTY	STATE	ZIP CODE

(b) I(We) certify that the total amount to be paid by the purchaser (or a related party to or for the benefit of the purchaser) to me(us), or to anyone related to me(us), or for my(our) benefit (such as payment to a real estate agent) in connection with the purchase of the Residence is \$ _____. Such amount includes the following itemized amounts: (i) amount paid for the Residence, in cash or in kind, by Applicant or any person related to the Applicant for the benefit of the Applicant to the Seller or any person related to the Seller for Seller's benefit in the amount of \$ _____, (ii) if the Residence is incomplete and the Seller will pay any amounts towards completion, the amount of \$ _____ and (iii) if the Residence is subject to a ground rent payable to the Seller, the capitalized value of the ground rent of \$ _____.

Such amount does not include (1) usual and reasonable settlement and financing costs that would be paid by the purchaser where financing is not provided through the issuance of an MCC or qualified mortgage bond issue, (2) the value of services performed by purchaser or members of the purchaser's family, (3) the cost of any land owned by the purchaser at least 2 years prior to commencement of construction on the residence, or (4) any amount paid for personal property that is not a fixture under Texas law.

(c) I(We) have not entered into any other contract or agreement with the Applicant(s), either expressed or implied, to perform additional construction on the Residence or to transfer any additional property at additional cost other than personal property contained in the Residence which are listed by item and amount and attached hereto and incorporated into this Affidavit.

I/we understand this Affidavit will be relied upon for the purposes of determining the Applicant's eligibility and understand that any fraudulent statement will result in (i) the immediate revocation of the Applicant's MCC and (ii) a \$10,000 penalty under Section 6709 of the Code. Under penalties of perjury, I(we) declare that I(we) have examined the statements and certifications contained herein, and, to the best of my(our) knowledge and belief, they are true, correct and complete. I(we) understand that perjury is a felony punishable by fine or imprisonment or both.

Dated

Signature of Seller or Signature of Builder Representative

Printed Name of Seller or Builder Representative

Dated

Signature of Seller - If Seller Is Not an Individual, Type/print Name and Title and Name of Selling Entity.
If Signatory Is Not the Owner, Type/print Name and Title. Attach Copy of Power of Attorney.

Printed Name of Seller

Sworn to and subscribed before me on the _____ day of _____, _____.

PERSONALIZED SEAL

Notary Public Signature

CERTIFICATE OF LENDER
REVISED: 09/05/2019

_____, the Lender, certifies that as of the date of closing of the mortgage loan it has (1) reviewed the foregoing affidavits of the Applicant(s) and the Seller and found the financial details contained therein (based on Lender's review of documents provided by, and the representations of the Applicant and Seller) to be true and correct; (2) has charged the Applicant(s) lender fees that are customary and reasonable and no more than what is charged by the Lender to other non-Program buyers; and (3) after completion of all underwriting, verifications and investigations, has approved the mortgage loan. **The Lender further certifies if applicable:**

MCC ONLY:

- The financing attached to the Applicant's MCC does not use any of the prohibited financing, such as non-TDHCA mortgages funded with a qualified mortgage bond or a qualified veterans' mortgage bond.**

Dated

Signature of Authorized Officer

Telephone Number of Authorized Officer

Print Name & Title of Authorized Officer



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Taxable Mortgage/Tax-Exempt Mortgage/Texas Mortgage Credit Certificate (MCC)**

COMPLIANCE FILE DELIVERY CHECKLIST

LOAN NUMBER: _____ **MORTGAGOR NAME:** _____
LENDER: _____
LENDER NUMBER if entered at reservation: _____
PROGRAM: _____

These are the required documents for this program.
For accuracy with the payment of the Compliance Review Fee, please visit 'PAYMENT CENTRAL' and 'FIND MY FEE' in eHP Digital Docs.

	My Choice Texas Home Taxable Loan	My First Texas Home Tax-Exempt Bond Loan	Texas MCC Stand-Alone
___ Homebuyer Education Certificate	Y	Y	Y
___ Applicant Affidavit (Tax-Exempt Bond)	N/A	Y	Y
___ Applicant Affidavit (TBA – Taxable)	Y	N/A	N/A
___ Seller Affidavit	N/A	Y	Y
___ Certificate of Lender	N/A	Y	Y
___ Affidavit of Co-Signer (if applicable)	N/A	Y	Y
___ Taxes for Borrower(s) & Spouse – 3 years IRS Transcripts or Signed 1040	N/A	Y	Y
___ Notices to Buyers	Y	Y	Y
___ Notice of Potential Recapture Tax	N/A	Y	Y
___ Real Estate Purchase Contract	Y	Y	Y
___ FINAL SIGNED 1003	Y	Y	Y
___ FINAL SIGNED CLOSING DISCLOSURE	Y	Y	Y
___ Discharge Papers (DD214) only if Veteran AND waiving first-time buyer requirement	N/A	Y	Y

PUTTING TOGETHER A CORRECT, COMPLIANT FILE

The attached checklist includes ALL documents that are required to be delivered in the “COMPLIANCE FILE” you are submitting to eHousingPlus for review. This is an easy process if you follow the instructions and avoid common mistakes.

1. The CHECKLIST is prepopulated with the loan number of the file you are going to be working on, along with the borrower’s name, the program etc.
2. The CHECKLIST includes ALL the documents that are required, NO EXCEPTIONS.
3. The documents required are PROGRAM and LOAN specific and cannot be used for other loans.
4. The documents required include PROGRAM FORMS, downloaded and pre-populated using the eHPortal: Forms Function.
5. The balance of the documents required are standard documents such as FINAL 1003, Warranty Deed Copy, CD’s, 3 years Tax Returns AND OTHER REQUIRED FORMS THAT ARE STATED ON THE LOAN’S CHECKLIST.



GOOD TO KNOW & COMMON ERRORS

- A FINAL document means exactly that, signed by all required.
- When TAX returns are required, it means for ALL BORROWERS AND/OR SPOUSES, FOR THE PRECEDING THREE (3) YEARS
- When putting together the Compliance File, do a quick CHECK to make sure the same loan information IS CONSISTENT across all documents. If it’s not, the file will be placed in deficient status upon receipt. COMMON ERRORS typically occur with Loan Amounts, Income, Borrower’s Correct Spelling of Names, etc.

WHAT CAN I DO IF THE LOAN'S INFO IS NOT CONSISTENT OR INCORRECT?

If the loan has NOT closed yet:

- If the information on the eHP generated documents is not consistent with the closing documents, the information will need to be updated in the eHP system so that you can regenerate the forms prior to Closing.
- You can log into **eHPortal** and **Edit** the Loan and re-run the forms OR for certain information that is not editable, you can contact an eHP Compliance Rep who will assist you in updating the information.

If the loan HAS Closed:

- While some errors may be able to be fixed, others may require more extensive action. The loan will be at risk to be set at a deficient status.
- **Verifying required document accuracy PRIOR to closing will greatly impact the prompt approval of your loan!**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AFFIDAVIT OF COSIGNOR/GUARANTOR

There are important legal consequences to this Affidavit. Read carefully before signing.

REVISED: 09/05/2019

THE STATE OF TEXAS §
COUNTY OF _____ §

I/we the undersigned, as an obligor on a note (the "Note") made in connection with a mortgage loan (the "Mortgage Loan") being submitted by the Applicant(s) under the Department's My First Texas Home / My Choice Texas Home and/or Mortgage Credit Certificate Program ("MCC Program"):

APPLICANT LAST NAME FIRST MIDDLE

CO-APPLICANT LAST NAME FIRST MIDDLE

in the amount of \$_____ from _____ (the "Mortgage Lender") under the My First Texas Home / My Choice Texas Home and/or the MCC Program, hereby certify that I/we are executing the note solely for purposes of providing additional security for the Mortgage Loan.

I/We further certify that I/we have no other financial or ownership interest in the property subject to the Mortgage Loan and that I/we have no intention to and will not occupy the property subject to the Mortgage Loan as a permanent/primary residence.

The statements set forth herein are made under penalty of perjury. I/we understand that perjury is a felony punishable by fine, imprisonment or both.

Dated _____

Signature of Cosigner/Guarantor

Printed Name of Cosigner/Guarantor

Dated _____

Signature of Cosigner/Guarantor

Printed Name of Cosigner/Guarantor

Sworn to and subscribed before me on this _____ day of _____, _____.

PERSONALIZED SEAL

Notary Public Signature

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

NOTICE OF POTENTIAL RECAPTURE TAX ON SALE OF HOME

(To be delivered to Applicant at the Time of Settlement of Mortgage Loan)

REVISED: 09/05/2019

eHousingPlus
3050 Universal Blvd. Ste 190
Weston, FL 33331
(954) 217-0817
www.eHousingPlus.com

**IMPORTANT CLOSING DOCUMENTS – DO NOT DISCARD –
NECESSARY IF YOU SHOULD DECIDE TO SELL YOUR PROPERTY - KEEP IN SAFE PLACE
NOTICE TO BORROWER(S) OF MAXIMUM RECAPTURE TAX AND COMPUTATION OF
RECAPTURE TAX ON DISPOSITION OF THIS PROPERTY**

Loan #

Dear Homeowner:

As previously disclosed to you, your mortgage may be subject to “recapture” if you sell or otherwise dispose of your house within nine years after purchase. The recapture takes the form of an increase to your federal income tax owed for the year of disposition, but only applies if you dispose of your house at a gain and your income is above a certain amount.

In accordance with the requirements of Section 143(m)(7) of the Internal Revenue Code of 1986, as amended (the “Code”), this Notice serves to inform you that the “federally-subsidized amount” with respect to your mortgage loan is \$ _____, which is 6.25% of the projected highest principal amount of your mortgage loan. Further, the adjusted qualifying income for each category of family size for each year of the 9-year period beginning on the date of closing on your mortgage loan is set forth below.

If you dispose of your house within months*:	Holding Period Percentage	Maximum Adjusted Qualifying Income (MAQI), for	
		1-2 person HH	3+ person HH
1 – 12	20%		
13 – 24	40%		
25 – 36	60%		
37 – 48	80%		
49 – 60	100%		
61 – 72	80%		
73 – 84	60%		
85 – 96	40%		
97 – 108	20%		
109 or more	No Recapture Tax		

*from closing date of your loan

1. **GENERAL** - When you sell your house, you may have to pay the Recapture Tax as calculated herein.
 Recapture Tax may also apply if you dispose of the property in some other way, such as giving the property to a relative. Whenever “sale” is used in this notice, it also applies to other ways of disposing your house.

2. **EXCEPTIONS** - In the following scenarios, no Recapture tax would be due:
 - (a) You dispose of your house more than nine (9) years after you close your mortgage loan;
 - (b) Your house is disposed of as a result of your death;
 - (c) You transfer your house, either to your spouse or former spouse due to divorce, and you have no gain or loss reflected in your income (under Section 1041 of the Internal Revenue Code);
 - (d) You dispose of your house at a loss.

3. **MAXIMUM RECAPTURE TAX** - The maximum Recapture Tax that you may be required to pay as an addition to your Federal Income Tax is equal to the “federally-subsidized amount” of \$_____ set forth above.

4. **ACTUAL RECAPTURE TAX** - The actual Recapture Tax, if any, can only be determined when you sell your house, and will be the LESSER of:
 - (a) 50% of the gain on the sale, regardless of whether it is included in your income for Federal Income Tax purposes, or
 - (b) Your Recapture Tax amount, which is calculated by multiplying the following three (3) amounts:
 - * Maximum Recapture Tax Amount (Explained in Paragraph 3),
 - * Holding Period Percentage (Detailed in Page 1 Table - Column 1), and
 - * Income Percentage (Described in Item 5 below)

5. **INCOME PERCENTAGE** - Calculate as follows...
 - (a) Subtract the Maximum Adjusted Qualifying Income (MAQI) (see table on page 1) for the taxable year in which you sell your house, from your Modified Adjusted Income (MAI) for the same taxable year. MAI is the Adjusted Gross Income shown on your IRS tax return with the following two adjustments:
 1. PLUS any interest received or accrued in the taxable year from tax-exempt bonds that may have been excluded from your gross income, under Section 103 of the IRS Code; and
 2. MINUS the amount of gain on the sale or disposition of the property that was included in your gross income for that taxable year.

MAI - MAQI = DIFFERENCE

(b) DIFFERENCE AMOUNT	INCOME PERCENTAGE
0 or Less	-0-
\$5,000 or More	100%
More than 0 but less than \$5,000	Difference/\$5,000 (Example: \$1,000/\$5,000 = 20%)

6. **LIMITATIONS AND SPECIAL RULES ON RECAPTURE TAX** - Additional provisions and rules apply in specific circumstances, such as the destruction of the property, disposition by gift, sale upon early prepayment and others.

The determination of whether you are subject to any Recapture Tax can only be made at the time of sale of your property. You may wish to consult a tax advisor and/or Internal Revenue Service office for more details in your particular case. General Information on Recapture Tax can be found in Section 143(m) of the Code, or by logging on to www.irs.gov. You may also request Form 8828 and the respective instructions for said form for a better understanding on how Recapture Tax can impact you.

Sincerely,
eHousingPlus

FOR YOUR REFERENCE:

Your Loan Servicer:

Originating Lender:

Loan #

Loan Amount:

Term in months:

Issuer:

Program:

Property Address:

Closing Date:

County:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM

REFINANCING OF MCC LOAN APPLICATION
(REQUEST FOR NEW MCC)**

Borrower(s): _____

Borrower Telephone Number: _____ Email Address: _____

Residence Address: _____

TDHCA MCC Number: _____

Balance Owing an Original Loan: \$ _____

New Loan Amount: \$ _____

Original Loan Amount: \$ _____

Refinanced Loan Maturity: _____

Closing Date of Refinancing: _____

Lender: _____

Lender Loan Reference: _____

Attachments: Original Mortgage Credit Certificate (keep a copy for your files).

Copy of closing statement

MCC Reissuance Fee payable to TDHCA – \$50.00

Lender Certificate for Refinanced Mortgage Loan (Tab 6B) –
completed by lender refinancing the mortgage loan

The undersigned borrower (whether one or more), being the owner(s) of the above residence of (the “Residence”), and the holder of a Mortgage Credit Certificate (the “MCC”) issued in connection with the Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program, does hereby depose and say, under penalty of perjury and the civil penalties outlined herein, that each of the following statements are, correct and complete in all respects:

1. Property. The refinanced loan pertains to the same property to which the original MCC related, which is the Residence described above.

2. Replacement of Entire MCC. The new MCC replaces the original MCC in its entirety. No portion of the original MCC is being retained with respect to any portion of the outstanding balance of the original loan amount specified on the original MCC.

3. Loan Amount. The refinanced loan amount does not exceed the outstanding balance of the original mortgage loan as of the date of the refinancing.

4. MCC Credit Rate. The new MCC will be at the same credit rate as the original MCC.

5. No Increase in Tax Credit Amounts. The undersigned acknowledges that in the event the maturity of the refinanced loan is a date later than the maturity of the original loan, the new MCC will expire as of the original maturity date so that there shall be no increase in the tax credit amounts under the new MCC for any tax year over the amounts which would have been available under the original MCC.

6. Date of Refinancing. The date of the refinancing stated above is the true and correct date the refinancing documents were executed.

7. Reaffirmation of the Original Obligations. The undersigned further reaffirms all of the representations, obligations and agreements covered under the documents signed in connection with obtaining the original MCC and acknowledges that all such obligations and agreements shall continue in full force and effect in connection with the new MCC.

8. Revocation of Mortgage Credit Certificate. The undersigned understands that if any of the statements set forth herein are not true, correct and complete in all respects, or that if federal law or regulations disqualify further participation in the MCC Program, the MCC Program, the MCC may be immediately revoked.

9. Penalty. The statements set forth herein are made under penalty of perjury and the following civil penalties. Any material misstatement in any affidavit or certification made in connection with application for or issuance of an MCC due to my negligence shall result in a civil penalty fee payable to the Department of \$1,000.00, and any such material misstatement due to my fraud shall result in a civil penalty fee payable to the Department of \$10,000.00. I understand that perjury is a felony offense punishable by fine or imprisonment, or both.

Signature(s) of Borrower:

SUBSCRIBED and SWORN to before me this ___ day of _____, 20__.

Notary Public, State of Texas

ATTACH THE ORIGINAL MCC CERTIFICATE, LENDER CERTIFICATE FOR REFINANCED MORTGAGE LOAN (TAB 6B), AND A COPY OF YOUR CLOSING STATEMENT TO THIS FORM AND MAIL TO:

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941
Attention: Dina Gonzalez

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM**

**LENDER CERTIFICATE FOR REFINANCED MORTGAGE LOAN
(NON-PARTICIPATING LENDER)**

As the mortgage lender originating the refinanced mortgage loan referenced in the "Refinancing of MCC Loan Application," I acknowledge that I am required to file an IRS Form 8329 with the Internal Revenue Service for the reissued Mortgage Credit Certificate (MCC) associated with such refinanced mortgage loan and hereby agree to file Form 8329 with the Internal Revenue Service to update IRS information concerning the reissuance of the related MCC. The Department will forward the 8329 following reissuance of the MCC.

For our company, Form 8329 should be forwarded to:

Company Name _____

Contact Person _____

Email _____ **Phone** _____

(Authorized Officer Signature)

Printed Name of Authorized Officer _____

Email _____ **Phone** _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM**

SUPPLEMENTAL INSTRUCTIONS FOR COMPLETING IRS FORM W-4

The MCC tax credit, is very similar to the credit which may be taken for child or dependent care expenses which ranges from 20% to 30% depending upon income. Although a separate line on the W-4 form is not provided for the MCC credit, you may use line F for this purpose.

If you anticipate at least \$1,500.00 of MCC mortgage interest during the year, you may enter "1" on line F. If you anticipate paying more than \$3,000.00 in mortgage interest during the year, you may enter "2" on line F. If you additionally have child or dependent care expenses that would entitle you to a tax credit, the number should be adjusted accordingly.

The following example shows how you might calculate the amount of mortgage interest you will pay during the year:

Mortgage balance at beginning of year:	\$146,433.00
Interest rate on mortgage loan:	4.50%
Estimated annual interest paid:	\$6,589.00

The actual amount of interest paid will be somewhat smaller because with each monthly payment your mortgage balance normally decreased during the year.

If you have more than one wage earner in your family (e.g., both spouses are employed), be careful not to claim too many allowances by putting the maximum number on both workers' W-4 forms. Dual income families normally need to reduce the number of allowances taken to avoid having to pay penalties when their annual tax return is filed.

If you wish to calculate the additional amount of mortgage interest you might be able to take as an itemized deduction, follow the instructions on the back of the W-4 Form. On line 1, be sure to subtract an amount equal to the credit amount of your certificate from the total amount of mortgage interest which you have calculated for deduction purposes. (Federal law requires subtracting an amount equal to the MCC tax credit claimed from the amount of the home mortgage interest to be deducted.)

This IRS Form W-4 is to be filed with the payroll clerk where you work. You do not send the W-4 form to the Internal Revenue Service or to TDHCA. If you have any questions concerning completion of the form, your payroll clerk should be able to assist you. For additional information regarding how to calculate withholdings, please visit the following link: <https://www.irs.gov/individuals/irs-withholding-calculator>.

Failure to revise your IRS Form W-4 to reflect the MCC tax credit will have no effect on your ability to claim the deduction with your annual tax return. When you file your annual IRS form 1040, you will need to claim the MCC tax credit in the space provided. You will also need to complete IRS 8396 and file it with your tax return.

These instructions are for your information only. Texas Department of Housing and Community Affairs and its officers and agents do not intend to render any income tax advice in connection with this MCC program. All MCC holders or applicants should consult with the Internal Revenue Service or their personal income tax advisers concerning the appropriate level of withholding allowance given their personal tax situations.

Form W-4 (2019)

Future developments. For the latest information about any future developments related to Form W-4, such as legislation enacted after it was published, go to www.irs.gov/FormW4.

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. You may claim exemption from withholding for 2019 if **both** of the following apply.

- For 2018 you had a right to a refund of **all** federal income tax withheld because you had **no** tax liability, **and**
- For 2019 you expect a refund of **all** federal income tax withheld because you expect to have **no** tax liability.

If you're exempt, complete **only** lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2019 expires February 17, 2020. See Pub. 505, Tax Withholding and Estimated Tax, to learn more about whether you qualify for exemption from withholding.

General Instructions

If you aren't exempt, follow the rest of these instructions to determine the number of withholding allowances you should claim for withholding for 2019 and any additional amount of tax to have withheld. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

You can also use the calculator at www.irs.gov/W4App to determine your tax withholding more accurately. Consider

using this calculator if you have a more complicated tax situation, such as if you have a working spouse, more than one job, or a large amount of nonwage income not subject to withholding outside of your job. After your Form W-4 takes effect, you can also use this calculator to see how the amount of tax you're having withheld compares to your projected total tax for 2019. If you use the calculator, you don't need to complete any of the worksheets for Form W-4.

Note that if you have too much tax withheld, you will receive a refund when you file your tax return. If you have too little tax withheld, you will owe tax when you file your tax return, and you might owe a penalty.

Filers with multiple jobs or working spouses. If you have more than one job at a time, or if you're married filing jointly and your spouse is also working, read all of the instructions including the instructions for the Two-Earners/Multiple Jobs Worksheet before beginning.

Nonwage income. If you have a large amount of nonwage income not subject to withholding, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you might owe additional tax. Or, you can use the Deductions, Adjustments, and Additional Income Worksheet on page 3 or the calculator at www.irs.gov/W4App to make sure you have enough tax withheld from your paycheck. If you have pension or annuity income, see Pub. 505 or use the calculator at www.irs.gov/W4App to find out if you should adjust your withholding on Form W-4 or W-4P.

Nonresident alien. If you're a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.

Specific Instructions

Personal Allowances Worksheet

Complete this worksheet on page 3 first to determine the number of withholding allowances to claim.

Line C. Head of household please note: Generally, you may claim head of household filing status on your tax return only if you're unmarried and pay more than 50% of the costs of keeping up a home for yourself and a qualifying individual. See Pub. 501 for more information about filing status.

Line E. Child tax credit. When you file your tax return, you may be eligible to claim a child tax credit for each of your eligible children. To qualify, the child must be under age 17 as of December 31, must be your dependent who lives with you for more than half the year, and must have a valid social security number. To learn more about this credit, see Pub. 972, Child Tax Credit. To reduce the tax withheld from your pay by taking this credit into account, follow the instructions on line E of the worksheet. On the worksheet you will be asked about your total income. For this purpose, total income includes all of your wages and other income, including income earned by a spouse if you are filing a joint return.

Line F. Credit for other dependents. When you file your tax return, you may be eligible to claim a credit for other dependents for whom a child tax credit can't be claimed, such as a qualifying child who doesn't meet the age or social security number requirement for the child tax credit, or a qualifying relative. To learn more about this credit, see Pub. 972. To reduce the tax withheld from your pay by taking this credit into account, follow the instructions on line F of the worksheet. On the worksheet, you will be asked about your total income. For this purpose, total

Separate here and give Form W-4 to your employer. Keep the worksheet(s) for your records.

Form W-4 Department of the Treasury Internal Revenue Service		Employee's Withholding Allowance Certificate ▶ Whether you're entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		OMB No. 1545-0074 2019
1 Your first name and middle initial _____ Last name _____ Home address (number and street or rural route) _____ City or town, state, and ZIP code _____		2 Your social security number _____ 3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married filing separately, check "Married, but withhold at higher Single rate." 4 If your last name differs from that shown on your social security card, check here. You must call 800-772-1213 for a replacement card. ▶ <input type="checkbox"/>		
5 Total number of allowances you're claiming (from the applicable worksheet on the following pages)		5 _____		
6 Additional amount, if any, you want withheld from each paycheck		6 \$ _____		
7 I claim exemption from withholding for 2019, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability, and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here ▶		7 _____		
Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.				
Employee's signature (This form is not valid unless you sign it.) ▶		Date ▶		
8 Employer's name and address (Employer: Complete boxes 8 and 10 if sending to IRS and complete boxes 8, 9, and 10 if sending to State Directory of New Hires.)		9 First date of employment	10 Employer identification number (EIN)	

For Privacy Act and Paperwork Reduction Act Notice, see page 4.

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Form W-4 (2019)

income includes all of your wages and other income, including income earned by a spouse if you are filing a joint return.

Line G. Other credits. You may be able to reduce the tax withheld from your paycheck if you expect to claim other tax credits, such as tax credits for education (see Pub. 970). If you do so, your paycheck will be larger, but the amount of any refund that you receive when you file your tax return will be smaller. Follow the instructions for Worksheet 1-6 in Pub. 505 if you want to reduce your withholding to take these credits into account. Enter “-0-” on lines E and F if you use Worksheet 1-6.

Deductions, Adjustments, and Additional Income Worksheet

Complete this worksheet to determine if you’re able to reduce the tax withheld from your paycheck to account for your itemized deductions and other adjustments to income, such as IRA contributions. If you do so, your refund at the end of the year will be smaller, but your paycheck will be larger. You’re not required to complete this worksheet or reduce your withholding if you don’t wish to do so.

You can also use this worksheet to figure out how much to increase the tax withheld from your paycheck if you have a large amount of nonwage income not subject to withholding, such as interest or dividends.

Another option is to take these items into account and make your withholding more accurate by using the calculator at www.irs.gov/W4App. If you use the calculator, you don’t need to complete any of the worksheets for Form W-4.

Two-Earners/Multiple Jobs Worksheet

Complete this worksheet if you have more than one job at a time or are married filing jointly and have a working spouse. If you

don’t complete this worksheet, you might have too little tax withheld. If so, you will owe tax when you file your tax return and might be subject to a penalty.

Figure the total number of allowances you’re entitled to claim and any additional amount of tax to withhold on all jobs using worksheets from only one Form W-4. Claim all allowances on the W-4 that you or your spouse file for the highest paying job in your family and claim zero allowances on Forms W-4 filed for all other jobs. For example, if you earn \$80,000 per year and your spouse earns \$20,000, you should complete the worksheets to determine what to enter on lines 5 and 6 of your Form W-4, and your spouse should enter zero (“-0-”) on lines 5 and 6 of his or her Form W-4. See Pub. 505 for details.

Another option is to use the calculator at www.irs.gov/W4App to make your withholding more accurate.

Tip: If you have a working spouse and your incomes are similar, you can check the “Married, but withhold at higher Single rate” box instead of using this worksheet. If you choose this option, then each spouse should fill out the Personal Allowances Worksheet and check the “Married, but withhold at higher Single rate” box on Form W-4, but only one spouse should claim any allowances for credits or fill out the Deductions, Adjustments, and Additional Income Worksheet.

Instructions for Employer

Employees, do not complete box 8, 9, or 10. Your employer will complete these boxes if necessary.

New hire reporting. Employers are required by law to report new employees to a designated State Directory of New Hires. Employers may use Form W-4, boxes 8, 9,

and 10 to comply with the new hire reporting requirement for a newly hired employee. A newly hired employee is an employee who hasn’t previously been employed by the employer, or who was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days. Employers should contact the appropriate State Directory of New Hires to find out how to submit a copy of the completed Form W-4. For information and links to each designated State Directory of New Hires (including for U.S. territories), go to www.acf.hhs.gov/css/employers.

If an employer is sending a copy of Form W-4 to a designated State Directory of New Hires to comply with the new hire reporting requirement for a newly hired employee, complete boxes 8, 9, and 10 as follows.

Box 8. Enter the employer’s name and address. If the employer is sending a copy of this form to a State Directory of New Hires, enter the address where child support agencies should send income withholding orders.

Box 9. If the employer is sending a copy of this form to a State Directory of New Hires, enter the employee’s first date of employment, which is the date services for payment were first performed by the employee. If the employer rehired the employee after the employee had been separated from the employer’s service for at least 60 days, enter the rehire date.

Box 10. Enter the employer’s employer identification number (EIN).

Personal Allowances Worksheet (Keep for your records.)

A	Enter "1" for yourself	A	<input type="text"/>
B	Enter "1" if you will file as married filing jointly	B	<input type="text"/>
C	Enter "1" if you will file as head of household	C	<input type="text"/>
D	Enter "1" if: <ul style="list-style-type: none"> • You're single, or married filing separately, and have only one job; or • You're married filing jointly, have only one job, and your spouse doesn't work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less. 	D	<input type="text"/>
E	<p>Child tax credit. See Pub. 972, Child Tax Credit, for more information.</p> <ul style="list-style-type: none"> • If your total income will be less than \$71,201 (\$103,351 if married filing jointly), enter "4" for each eligible child. • If your total income will be from \$71,201 to \$179,050 (\$103,351 to \$345,850 if married filing jointly), enter "2" for each eligible child. • If your total income will be from \$179,051 to \$200,000 (\$345,851 to \$400,000 if married filing jointly), enter "1" for each eligible child. • If your total income will be higher than \$200,000 (\$400,000 if married filing jointly), enter "-0-" 	E	<input type="text"/>
F	<p>Credit for other dependents. See Pub. 972, Child Tax Credit, for more information.</p> <ul style="list-style-type: none"> • If your total income will be less than \$71,201 (\$103,351 if married filing jointly), enter "1" for each eligible dependent. • If your total income will be from \$71,201 to \$179,050 (\$103,351 to \$345,850 if married filing jointly), enter "1" for every two dependents (for example, "-0-" for one dependent, "1" if you have two or three dependents, and "2" if you have four dependents). • If your total income will be higher than \$179,050 (\$345,850 if married filing jointly), enter "-0-" 	F	<input type="text"/>
G	Other credits. If you have other credits, see Worksheet 1-6 of Pub. 505 and enter the amount from that worksheet here. If you use Worksheet 1-6, enter "-0-" on lines E and F	G	<input type="text"/>
H	Add lines A through G and enter the total here	H	<input type="text"/>

For accuracy, complete all worksheets that apply.

- If you plan to **itemize** or **claim adjustments to income** and want to reduce your withholding, or if you have a large amount of nonwage income not subject to withholding and want to increase your withholding, see the **Deductions, Adjustments, and Additional Income Worksheet** below.
- If you have **more than one job at a time** or are **married filing jointly and you and your spouse both work**, and the combined earnings from all jobs exceed \$53,000 (\$24,450 if married filing jointly), see the **Two-Earners/Multiple Jobs Worksheet** on page 4 to avoid having too little tax withheld.
- If **neither** of the above situations applies, **stop here** and enter the number from line H on line 5 of Form W-4 above.

Deductions, Adjustments, and Additional Income Worksheet

Note: Use this worksheet only if you plan to itemize deductions, claim certain adjustments to income, or have a large amount of nonwage income not subject to withholding.

1	Enter an estimate of your 2019 itemized deductions. These include qualifying home mortgage interest, charitable contributions, state and local taxes (up to \$10,000), and medical expenses in excess of 10% of your income. See Pub. 505 for details	1	\$ <input type="text"/>
2	Enter: <ul style="list-style-type: none"> \$24,400 if you're married filing jointly or qualifying widow(er) \$18,350 if you're head of household \$12,200 if you're single or married filing separately 	2	\$ <input type="text"/>
3	Subtract line 2 from line 1. If zero or less, enter "-0-"	3	\$ <input type="text"/>
4	Enter an estimate of your 2019 adjustments to income, qualified business income deduction, and any additional standard deduction for age or blindness (see Pub. 505 for information about these items)	4	\$ <input type="text"/>
5	Add lines 3 and 4 and enter the total	5	\$ <input type="text"/>
6	Enter an estimate of your 2019 nonwage income not subject to withholding (such as dividends or interest)	6	\$ <input type="text"/>
7	Subtract line 6 from line 5. If zero, enter "-0-". If less than zero, enter the amount in parentheses	7	\$ <input type="text"/>
8	Divide the amount on line 7 by \$4,200 and enter the result here. If a negative amount, enter in parentheses. Drop any fraction	8	<input type="text"/>
9	Enter the number from the Personal Allowances Worksheet , line H, above	9	<input type="text"/>
10	Add lines 8 and 9 and enter the total here. If zero or less, enter "-0-". If you plan to use the Two-Earners/Multiple Jobs Worksheet , also enter this total on line 1 of that worksheet on page 4. Otherwise, stop here and enter this total on Form W-4, line 5, page 1	10	<input type="text"/>

Two-Earners/Multiple Jobs Worksheet

Note: Use this worksheet only if the instructions under line H from the **Personal Allowances Worksheet** direct you here.

- 1 Enter the number from the **Personal Allowances Worksheet**, line H, page 3 (or, if you used the **Deductions, Adjustments, and Additional Income Worksheet** on page 3, the number from line 10 of that worksheet) 1
 - 2 Find the number in **Table 1** below that applies to the **LOWEST** paying job and enter it here. **However**, if you're married filing jointly and wages from the highest paying job are \$75,000 or less and the combined wages for you and your spouse are \$107,000 or less, don't enter more than "3" 2
 - 3 If line 1 is **more than or equal to** line 2, subtract line 2 from line 1. Enter the result here (if zero, enter "-0-") and on Form W-4, line 5, page 1. **Do not** use the rest of this worksheet. 3
- Note:** If line 1 is **less than** line 2, enter "-0-" on Form W-4, line 5, page 1. Complete lines 4 through 9 below to figure the additional withholding amount necessary to avoid a year-end tax bill.
- 4 Enter the number from line 2 of this worksheet 4
 - 5 Enter the number from line 1 of this worksheet 5
 - 6 Subtract line 5 from line 4 6
 - 7 Find the amount in **Table 2** below that applies to the **HIGHEST** paying job and enter it here 7 \$
 - 8 Multiply line 7 by line 6 and enter the result here. This is the additional annual withholding needed 8 \$
 - 9 Divide line 8 by the number of pay periods remaining in 2019. For example, divide by 18 if you're paid every 2 weeks and you complete this form on a date in late April when there are 18 pay periods remaining in 2019. Enter the result here and on Form W-4, line 6, page 1. This is the additional amount to be withheld from each paycheck 9 \$

Table 1				Table 2			
Married Filing Jointly		All Others		Married Filing Jointly		All Others	
If wages from LOWEST paying job are—	Enter on line 2 above	If wages from LOWEST paying job are—	Enter on line 2 above	If wages from HIGHEST paying job are—	Enter on line 7 above	If wages from HIGHEST paying job are—	Enter on line 7 above
\$0 - \$5,000	0	\$0 - \$7,000	0	\$0 - \$24,900	\$420	\$0 - \$7,200	\$420
5,001 - 9,500	1	7,001 - 13,000	1	24,901 - 84,450	500	7,201 - 36,975	500
9,501 - 19,500	2	13,001 - 27,500	2	84,451 - 173,900	910	36,976 - 81,700	910
19,501 - 35,000	3	27,501 - 32,000	3	173,901 - 326,950	1,000	81,701 - 158,225	1,000
35,001 - 40,000	4	32,001 - 40,000	4	326,951 - 413,700	1,330	158,226 - 201,600	1,330
40,001 - 46,000	5	40,001 - 60,000	5	413,701 - 617,850	1,450	201,601 - 507,800	1,450
46,001 - 55,000	6	60,001 - 75,000	6	617,851 and over	1,540	507,801 and over	1,540
55,001 - 60,000	7	75,001 - 85,000	7				
60,001 - 70,000	8	85,001 - 95,000	8				
70,001 - 75,000	9	95,001 - 100,000	9				
75,001 - 85,000	10	100,001 - 110,000	10				
85,001 - 95,000	11	110,001 - 115,000	11				
95,001 - 125,000	12	115,001 - 125,000	12				
125,001 - 155,000	13	125,001 - 135,000	13				
155,001 - 165,000	14	135,001 - 145,000	14				
165,001 - 175,000	15	145,001 - 160,000	15				
175,001 - 180,000	16	160,001 - 180,000	16				
180,001 - 195,000	17	180,001 and over	17				
195,001 - 205,000	18						
205,001 and over	19						

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Internal Revenue Code sections 3402(f)(2) and 6109 and their regulations require you to provide this information; your employer uses it to determine your federal income tax withholding. Failure to provide a properly completed form will result in your being treated as a single person who claims no withholding allowances; providing fraudulent information may subject you to penalties. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation; to

cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws; and to the Department of Health and Human Services for use in the National Directory of New Hires. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You aren't required to provide the information requested on a form that's subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating

to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE PROGRAM**

NOTICE OF CANCELLATION

Lender: _____

Applicant: _____ TDH#: _____

Subject Property Address: _____

TDHCA has received an MCC Compliance file on _____

Number of e-mails to Lender regarding outstanding deficiency _____

Date Notice sent to Lender _____

MCC Underwriter Certification? Yes No

In compliance with the Mortgage Credit Certificate Program, after several requests to address the outstanding deficiencies for the above MCC loan, this notice of cancellation is effective as of the date below. If these deficiencies are not remedied by the date below, TDHCA will not reinstate this loan and the issuance fee will be refunded back to your company.

Reason(s) for Cancellation:

- _____ Borrower is married – which means the NPS should have signed the Notice to Buyer; Applicant Affidavit
- _____ Affidavit of Seller – Not included with file
- _____ 3 years tax transcripts and/or signed tax returns were not included with the file 1003 reflects borrower married. (Hence NPS signature on Applicant Affidavit and Notice to Buyers)
- _____ 1003 and HUD-1 / Closing Disclosure were not included
- _____ Homebuyer Education Certificate of Completion
- _____ NPS needs to be added to eHousing system
- _____ Other

Effective Date of Cancellation: _____

By: _____

Name: _____

Title: _____

EXHIBIT B

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM**

PROGRAM SUMMARY

MCC Authority

- On _____ TDHCA will make \$400,000,000 of MCC Authority available. The first date that MCCs can be issued under the Program is expected to be _____, 2020. The funds will be available under the Program to participating Lenders on a controlled, first-come, first-served basis in accordance with the procedures hereinafter described. The Department will notify Lenders of various terms related to the Program and the MCCs through the periodic distribution of Lender Commitment Lot Notices by eHousingPlus, which has been designated as the Program Administrator. The Lender Commitment Lot Notice will notify Mortgage Lenders that funds are available, specify the amount of funds available (the “Commitment Lot”), specify the mortgage credit certificate rate(s) in effect for that Commitment Lot, and specify the fees applicable to the Commitment Lot.

Qualified Homebuyer

- Must be a First-Time Homebuyer (Applicant cannot have owned a home as a Principal Residence within the previous three years, except (i) in certain targeted areas, (ii) if the applicant is a qualified veteran who has not previously received financing pursuant to this exception, or (iii) in certain cases permitted under applicable provisions of the Internal Revenue Code).
- Must intend to occupy the Residence as the principal and permanent place of Residence within a reasonable time not to exceed 60 days after the Closing Date of the Mortgage Loan.
- Must meet the income guidelines of the Program.
- Must complete an approved pre-purchase homebuyer education course under the Program.

Eligible Loan Area

- State of Texas

Eligible Property Types

- New or existing single family residences, including certain duplexes
- New or existing condominiums or townhomes
- Certain manufactured housing permanently affixed to the ground

Program Fees and Expenses

- Program fees will be specified in the periodic distribution of Lender Commitment Lot Notices

Maximum Income and Maximum Home Purchase Price Limits

- SEE EXHIBIT A

Mortgage Loan Types

- Prevailing market rate mortgages; may be a conventional, FHA, VA or USDA-RHS fixed rate loan; variable rate loans are not permitted (cannot be part of a tax-exempt bond program or a veterans' tax-exempt bond program).
- Term of the loan will be either 15 years or 30 years.

Refinancings

- An MCC may be reissued under certain circumstances to the holder of an MCC issued under this program if the underlying mortgage is refinanced.
- The refinanced loan amount cannot exceed the outstanding balance of the original mortgage loan as of the date of the refinancing.

EXHIBIT A

TDHCA My FIRST Texas Home / My CHOICE Texas Home / Texas Mortgage Credit Certificate Program (MCC)

Combined Income and Purchase Price Limits Table

(Including Income Limit Adjustments for High Housing Cost Areas)

My FIRST Texas Home and Texas MCC considers the income of all person(s) who will sign the Deed of Trust (including Non-Purchasing Spouse).

My CHOICE Texas Home considers the standard lender income calculation (1003/credit qualifying income).

Effective September 5, 2019

Area of State	Counties in Area	NON-TARGETED AREAS				* TARGETED AREAS		
		100% AMFI 1 or 2 Persons	115% AMFI 3 or more Persons	FNMA 80% AMI Limit (any family size)	1-UNIT** Non-Targeted Area Purchase Price Limit	120% AMFI 1 or 2 Persons	140% AMFI 3 or more Persons	1 UNIT ** Targeted Area Purchase Price Limit
Balance of State	All other counties not mentioned below	\$71,200	\$81,880	See FNMA Balance of State Counties on following page	\$283,348	\$85,440	\$99,680	\$346,315
Amarillo, HMFA	Armstrong, Carson, Potter, Randall	\$71,600	\$82,340	\$57,200	\$283,348	\$85,920	\$100,240	\$346,315
Andrews County	Andrews	\$83,500	\$96,025	\$68,640	\$283,348	No Targeted Census Tracts in County		
Austin County, HMFA	Austin	\$75,800	\$87,170	\$61,680	\$298,085	No Targeted Census Tracts in County		
Austin-Round Rock, MSA	Bastrop, Caldwell, Hays*, Travis* & Williamson	\$94,600	\$108,790	\$76,720	\$350,871	\$113,520	\$132,440	\$428,842
Blanco County	Blanco	\$72,900	\$83,835	\$58,320	\$283,348	No Targeted Census Tracts in County		
Borden County	Borden	\$81,900	\$94,185	\$72,080	\$283,348	No Targeted Census Tracts in County		
Brazoria County, HMFA	Brazoria	\$94,200	\$108,330	\$61,680	\$298,085	No Targeted Census Tracts in County		
Cooke County	Cooke	\$71,400	\$82,110	\$58,720	\$283,348	No Targeted Census Tracts in County		
Crane County	Crane	\$79,900	\$91,885	\$63,920	\$283,348	No Targeted Census Tracts in County		
Dallas, HMFA	Collin*, Dallas*, Denton*, Ellis*, Hunt*, Kaufman* & Rockwall	\$83,609	\$96,151	\$64,240	\$356,046	\$99,720	\$116,340	\$435,167
Fort Worth - Arlington, HMFA	Johnson*, Parker & Tarrant*	\$85,029	\$97,784	\$64,240	\$356,046	\$91,200	\$106,400	\$435,167
Gillespie County	Gillespie	\$73,100	\$84,065	\$58,480	\$291,874	No Targeted Census Tracts in County		
Glasscock County	Glasscock	\$95,800	\$110,170	\$82,000	\$283,348	No Targeted Census Tracts in County		
Hartley County	Hartley	\$74,900	\$86,135	\$59,920	\$283,348	No Targeted Census Tracts in County		
Hemphill County	Hemphill	\$73,600	\$84,640	\$58,880	\$283,348	No Targeted Census Tracts in County		
Hood County, HMFA	Hood	\$85,669	\$98,520	\$64,240	\$356,046	No Targeted Census Tracts in County		
Houston-The Woodlands-Sugar Land, HMFA	Chambers, Fort Bend*, Galveston, Harris*, Liberty, Montgomery* & Waller	\$76,300	\$87,745	\$61,680	\$298,085	\$91,560	\$106,820	\$364,326
Jackson County	Jackson	\$73,300	\$84,295	\$58,640	\$283,348	No Targeted Census Tracts in County		
Kendall County, HMFA	Kendall	\$93,700	\$107,755	\$56,800	\$323,960	No Targeted Census Tracts in County		
King County	King	\$82,000	\$94,300	\$67,600	\$283,348	No Targeted Census Tracts in County		
Lipscomb County	Lipscomb	\$75,400	\$86,710	\$59,360	\$283,348	No Targeted Census Tracts in County		
Loving County	Loving	\$81,700	\$93,955	\$65,360	\$283,348	No Targeted Census Tracts in County		
Martin County, HMFA	Martin	\$71,200	\$81,880	\$63,280	\$286,699	No Targeted Census Tracts in County		
Medina County, HMFA	Medina	\$76,757	\$88,270	\$56,800	\$323,960	No Targeted Census Tracts in County		
Midland, HMFA	Midland*	\$86,000	\$98,900	\$63,280	\$286,699	\$103,200	\$120,400	\$350,410
Odessa MSA	Ector*	\$73,900	\$84,985	\$59,120	\$283,348	\$88,680	\$103,460	\$346,315
Oldham County, HMFA	Oldham	\$71,200	\$81,880	\$57,200	\$283,348	No Targeted Census Tracts in County		
Pecos County	Pecos	\$73,100	\$84,065	\$58,560	\$283,348	No Targeted Census Tracts in County		
Reagan County	Reagan	\$76,800	\$88,320	\$61,440	\$283,348	No Targeted Census Tracts in County		
Roberts County	Roberts	\$91,100	\$104,765	\$72,880	\$283,348	No Targeted Census Tracts in County		
San Antonio-New Braunfels, MSA	Atascosa*, Bandera, Bexar*, Comal, Guadalupe* & Wilson	\$76,957	\$88,500	\$56,800	\$323,960	\$85,440	\$99,680	\$395,951
Schleicher County	Schleicher	\$74,200	\$85,330	\$59,360	\$283,348	No Targeted Census Tracts in County		
Somervell County, HMFA	Somervell	\$85,440	\$98,888	\$64,240	\$356,046	No Targeted Census Tracts in County		
Wise County, HMFA	Wise	\$82,560	\$96,320	\$64,240	\$356,046	No Targeted Census Tracts in County		

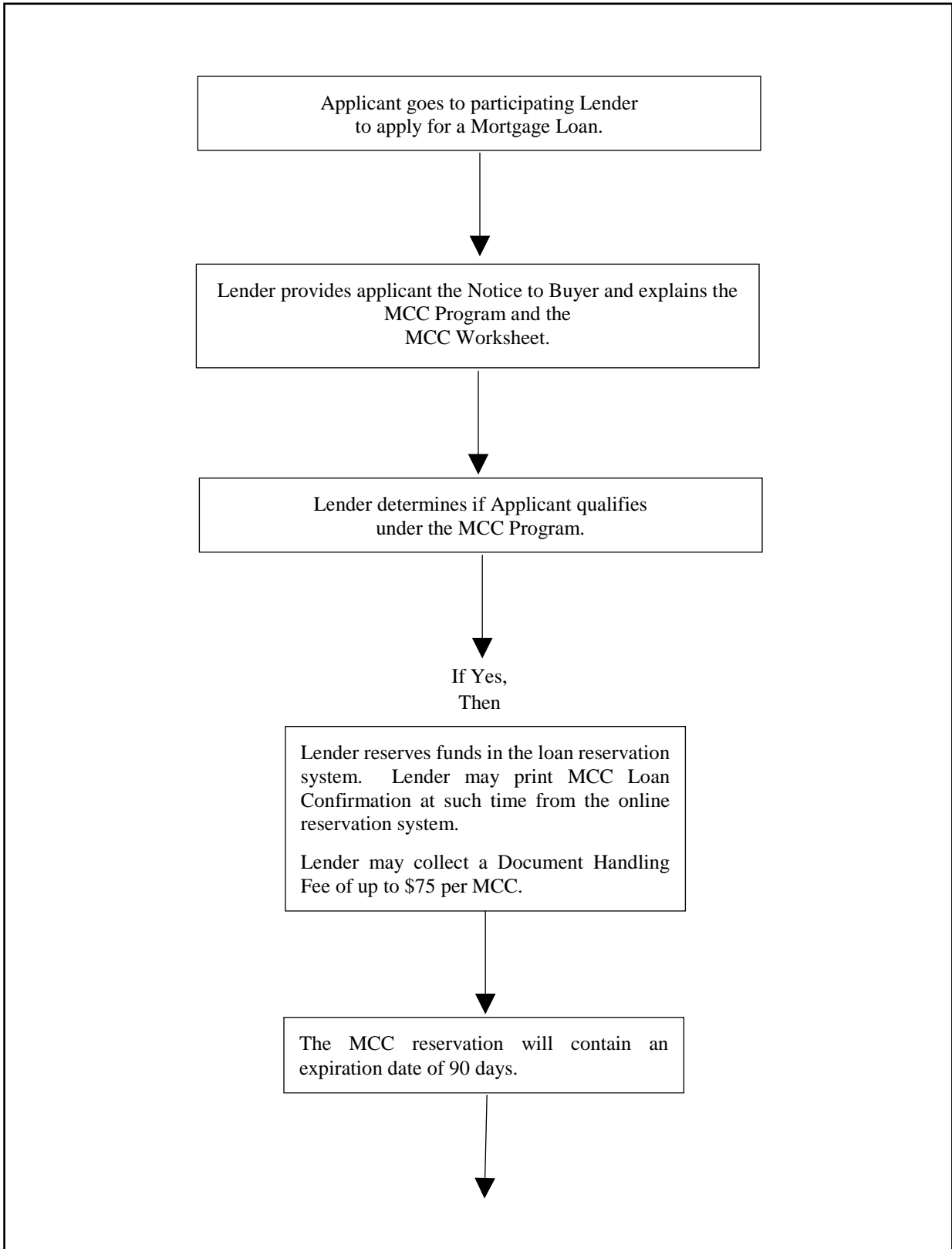
* Property must be located in a qualified targeted census tract to use the Targeted Area Limits.

AMFI - Area Median Family Income; *MSA* - Metropolitan Statistical Area; *HMFA* - HUD Metro FMR Area
Down Payment Assistance Available to ALL Income Categories - *Targeted Areas are areas of severe economic distress.
Fannie Mae Limits for counties not shown above - See Page 2

** 2 UNIT Purchase Price Limits can be found at: <https://www.tdhca.state.tx.us/homeownership/fthb/docs/2-Unit-PurchasePriceLimits.pdf>
For additional information please visit our website at www.MyFirstTexasHome.com

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM**

MCC ISSUANCE PROCEDURES



Lender proceeds with normal underwriting procedures. Once the loan is approved and the underwriter confirms the applicant is eligible for the MCC Program, the underwriter completes the online underwriter certification.

Lender closes the Mortgage Loan and provides the applicant with a copy of the MCC Loan Confirmation and submits the Compliance File to the Department or its designee within 30 days following the closing date of the Mortgage Loan. Compliance File:

- (1) Compliance File Checklist;
- (2) Applicant Affidavit, Affidavit of Seller and Certificate of Lender;
- (3) HUD-1 settlement statement;
- (4) Notice of Potential Recapture Tax on Sale of Home;
- (5) MCC Issuance Fee, generated and auto-populated by online reservation system (check or money order or electronic wire);
- (6) Certificate of completion of an approved pre-purchase homebuyer education course;
- (7) Copy of the qualified veteran's discharge papers, if applicable;
- (8) Copy of federal Tax Transcript (obtained by IRS Form 4506-T) for preceding calendar year, if required;
- (9) Copy of real estate purchase contract, if required;
- (10) Copy of final executed loan application (1003), if required; and
- (11) Copy of warranty deed, if required.

Department or its designee reviews the Compliance File for compliance with the MCC Program and issues the MCC. The MCC is mailed to the Mortgagor by regular mail with a copy emailed to the Lender.

If the documentation is incomplete or incorrect, the Compliance File must be resubmitted — Please refer to the Program Manual.

Lender must also file the IRS Form 8329 annually for all loans originated during the calendar year where the Mortgagor obtained an MCC and for reissued MCCs. The Department will provide information to the Lender to complete IRS Form 8329. The Department will provide IRS Form 8329 to a non-participating lender who originates a refinanced mortgage loan for which a reissued MCC is issued.

7a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

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

RECOMMENDED ACTION

WHEREAS, five applications, as further detailed below, were submitted to the Department for consideration of a Determination Notice of 4% Housing Tax Credits;

WHEREAS, the Executive Award and Review Advisory Committee (EARAC) considered the program requirements, underwriting requirements and compliance history associated with each application listed herein; and

WHEREAS, EARAC recommends each of the five applications for an award of 4% Housing Tax Credits, in the specific amounts noted herein, and subject to any underwriting conditions as noted in the Real Estate Analysis Report and any compliance conditions as reflected in Exhibit A, as applicable;

NOW, therefore, it is hereby

RESOLVED, that the issuance of Determination Notices in the respective amounts for each of the applications listed herein, subject to underwriting conditions as found in the Real Estate Analysis report posted to the Department's website, and subject to any EARAC conditions as reflected in Exhibit A, is hereby approved in the form presented at this meeting.

BACKGROUND

The 4% Housing Tax Credit (HTC) program is considered a non-competitive program in that there is not a specific ceiling amount of HTCs that can be issued each year. Rather, the ceiling amount of HTCs to be issued is limited by the amount of Private Activity Bond volume cap available. The Texas Bond Review Board (BRB) administers the Private Activity Bond program for the State of Texas, and for the 2019 calendar year, the state received approximately \$3 billion in Private Activity Bond authority, of which approximately \$665 million is reserved for multifamily housing until August 15th of each year. After such date there may be more Private Activity Bond volume cap that goes towards multifamily housing.

Individual projects receive a Certification of Reservation (Reservation) from the BRB that allows for a statutory 150-day closing timeline. For those projects seeking 4% HTCs (as the majority of them do), they must complete the Department's review process, the bond issuer's process and the Attorney

General's process in order to close within the prescribed timeframe. The Department accepts applications on a monthly basis throughout the year. The year from which the Reservation is issued is what determines the QAP to which the application must adhere. Included in this Board presentation as Exhibit B is a list of the 4% HTC applications staff has processed thus far for 2019 which illustrates the volume of applications that pursue the 4% HTC program as a funding source. The list reflects all applications received and includes a column that denotes the applications' status, specifically, those that have already closed, have been approved by the Board, are active and currently under review and those that are pre-applications that will utilize the Department as the bond issuer and an HTC application will be forthcoming.

The Reservation from the BRB for the developments described herein were issued under the Priority 3 designation, which does not have a prescribed restriction on the percentage of Area Median Family Income (AMFI) that must be served (beyond the federal requirement). The AMFI levels proposed to be served for each of the projects are indicated in their respective summaries, below.

19400 Villas Del San Xavier

Villas Del San Xavier is the proposed new construction of 156 units to be located at 2621 South IH 35 in San Marcos, Hays County. The development will serve the elderly (elderly limitation) population and all of the units will be rent and income restricted at 60% AMFI. The application was originally submitted to the Department on July 27, 2018; however, there were delays associated with solidifying the nonprofit general partner in the organizational structure. The New Hope Cultural Education Facilities Finance Corporation is serving as the bond issuer. There have been multiple Reservations, with the most recent issued on September 20, 2019, with an expiration date of February 17, 2020. There have been no letters of support or opposition submitted to the Department.

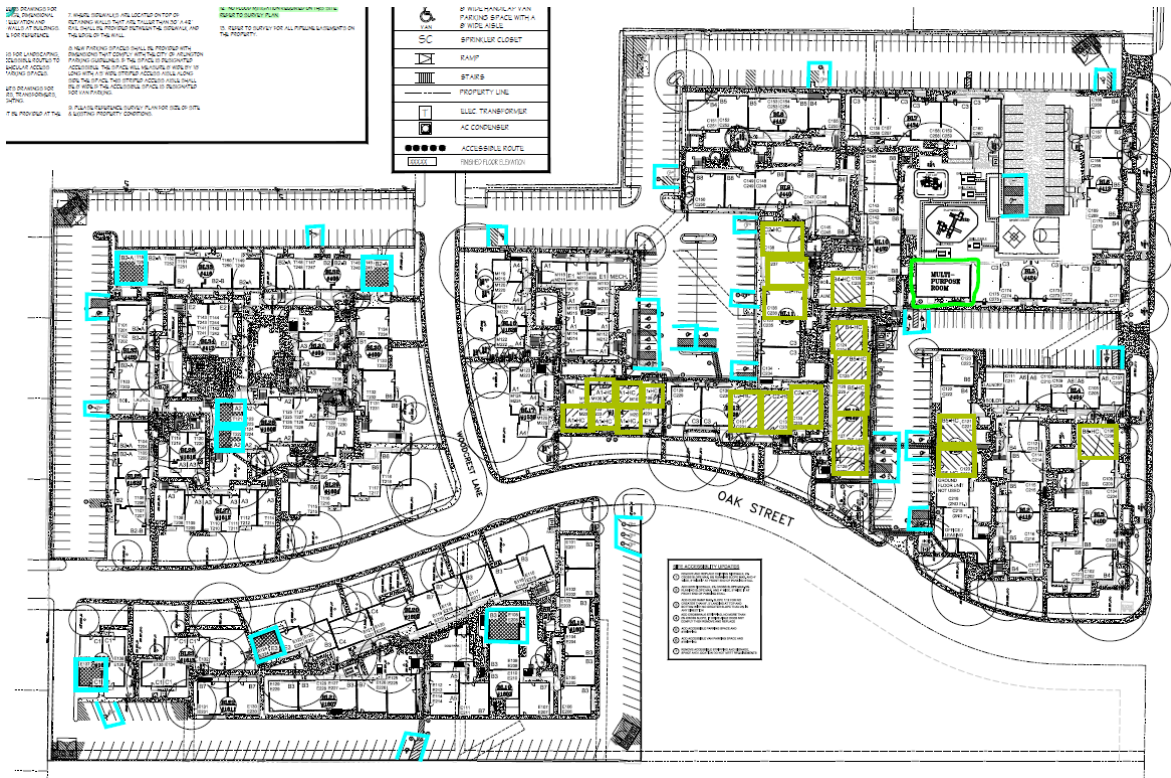
Recommended HTC Amount: \$1,059,750

19443 – Spanish Park

Spanish Park Apartments, located at 420 West Park Row Drive in Arlington, Tarrant County, involves the acquisition and rehabilitation of 350 units. The project was originally built in 1967 and was awarded competitive Housing Tax Credits (#93038) on December 31, 1993. The project consisted of 366 units originally, but the total unit count was reduced due to fire damage and units were repurposed, which is reflected in an amendment to the Land Use Restrictive Agreement (LURA) that was done in 2016. All of the units are proposed to be rent and income restricted at 60% of AMFI and the development will continue to serve the general population, which is consistent with the existing LURA. The Reservation was issued on August 15, 2019, with a Priority 1(c) designation, and will expire on January 12, 2020. The Arlington Housing Finance Corporation is serving as the bond issuer. There have been no letters of support or opposition submitted to the Department. Rehabilitation costs (includes building costs and site work) are approximately \$55k per unit for the development.

The Department requires that all accessible units be distributed across the development site. The development site is separated by Oak Street and Woodcrest Lane, as noted in the illustration below,

creating three separate but otherwise contiguous tracts. These separated tracts, combined with the topography and significant elevation changes present a challenge relating to the availability of the common amenities for each tenant. Pursuant to §11.101(b)(5)(B), developments are required to provide common amenities for the benefit of all residents and the amenities must meet applicable accessibility standards. Based on the information provided by the applicant, the unit distribution proposed is achieved based on the maximum extent feasible and accepted by the Department. Moreover, the applicant has confirmed the common amenities that will be accessible to all residents are contained on the tract with the accessible units, and are sufficient to meet the threshold for points in the rule. Staff notes that while there are laundry rooms on the development site, the applicant represented that based on the aforementioned elevation changes and topography issues, it is impractical to make such laundry room fully accessible. However, the applicant confirmed that washers and dryers will be provided in the physical mobility units for the residents, at no charge. This requirement will be required to be reflected in the LURA.



Recommended HTC Amount: \$2,047,817

19467 Auro Crossing

Auro Crossing proposes the new construction of 256 units to be located at 16304 FM 1325 Road in the extraterritorial jurisdiction of Austin, Williamson County. All of the units will be rent and income restricted at 60% of AMFI and will serve the general population. The Reservation was issued on September 27, 2019, and will expire on February 24, 2020. The Capital Area Housing Finance Corporation is serving as the bond issuer. There have been no letters of support or opposition submitted to the Department.

Recommended HTC Amount: \$2,287,808

19470 Jackie Robinson Memorial Apartments

Jackie Robinson Memorial Apartments is the proposed acquisition and rehabilitation of 184 units located at 421 Mangrum Circle, El Paso, El Paso County. The development was originally constructed in 1975 with 184 units; however, in order to comply with the requirements of the Americans with Disabilities Act of 1990, the applicant will convert two of the existing townhome units into two additional single-story units to yield a total of 186 units after rehabilitation. The property is currently owned by HACEP and is operating as public housing. All of the units will be rent and income restricted at 60% of AMFI and Project Based Vouchers are anticipated to continue for all of the units, including the two units that will be converted. The subject property will serve the general population.

The application was previously approved by the Board at the meeting of January 17, 2019. The application has had numerous Reservations issued to the Alamito Public Facilities Corporation and the applicant has been unable to close by the deadline associated with those Reservations due to delays in obtaining the required HUD approvals and subsequently had those Reservations withdrawn. A third Reservation was issued by the BRB on October 15, 2019, with a closing deadline of March 12, 2020.

The applicant has indicated the architectural design, number of units, unit mix, income targeting and square footage have not changed. Furthermore, there have been no changes in the ownership structure since the Department's last approval at the Board meeting of January 17, 2019. RBC Capital Markets has committed to provide the equity, JPMorgan Chase Bank will now provide a construction loan, and Hunt Real Estate Capital/Fannie Mae will now provide the permanent financing. The underwriting report speaks in more detail regarding other changes to the numbers that have occurred since the most recent Board approval.

Staff notes that the applicant's portfolio is considered a Category 3 which required EARAC to recommend denial of the application. The Previous Participation and resulting Category designation was previously considered at the Board meeting of November 7, 2019, and the Board made a motion that EARAC could recommend approval despite the Category 3 status.

Recommended HTC Amount: \$1,290,195

19473 Flora Lofts

Flora Lofts, proposed to be located at 901 Pearl Street, Dallas, Dallas County, involves the new construction of 52 units, of which five units will be income and rent restricted at 50% AMFI, 38 units will be income and rent restricted at 60% AMFI, and the remaining nine units will be at market rate with no rent or income restrictions. The City of Dallas Housing Finance Corporation is serving as the bond issuer.

The development, intended to serve a general population, involves three separate properties/separate condominium ownerships that will be housed in a luxury tower in downtown Dallas arts district. The development will include a tower/retail section, containing 29 stories of luxury market rate rental

residences (name Altelier) placed above a nine-story structured parking spaces, and approximately 14,000 square feet of ground level retail space. This is a separate, non-related ownership entity from the tax credit ownership.

Flora Lofts was previously approved by the Board at the meetings of September 7, 2017; April 26, 2018; and February 21, 2019. The Application has had numerous Reservations issued by the BRB and the applicant has been unable to close by the deadline associated with those Reservations and subsequently had those Reservations withdrawn. A sixth Reservation was issued by the BRB on September 5, 2019 with a closing deadline of February 2, 2020.

The applicant has indicated the architectural design, number of units, unit mix, income targeting and square footage have not changed. Furthermore, there have been no changes in the ownership structure since the Department's last approval at the Board meeting of February 21, 2019.

Originally, the applicant intended for the luxury condo portion and Flora Lofts to be constructed concurrently; however, there were delays that required the luxury condo transaction to close prior to Flora Lofts. After attempting to close the transaction under several different equity providers, National Equity Fund has committed to purchase the equity. Citibank/Freddie Mac has remained the permanent lender throughout the delays. The underwriting report speaks in more detail regarding other changes to the numbers that have occurred since the most recent Board approval.

Recommended HTC Amount: \$748,340

EXHIBIT A
Previous Participation Results

Application Number	Development Name	Category	PPR Conditions
19400	Villas Del San Xavier	1	N/A
19443	Spanish Park	1	N/A
19467	Auro Crossing	1	N/A
19470	Jackie Robinson Memorial	3	N/A
19473	Flora Lofts	1	N/A

19443 Spanish Park Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION

December 5, 2019

PROPERTY IDENTIFICATION	
Application #	19443
Development	Spanish Park Apartments
City / County	Arlington / Tarrant
Region/Area	3 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1967)

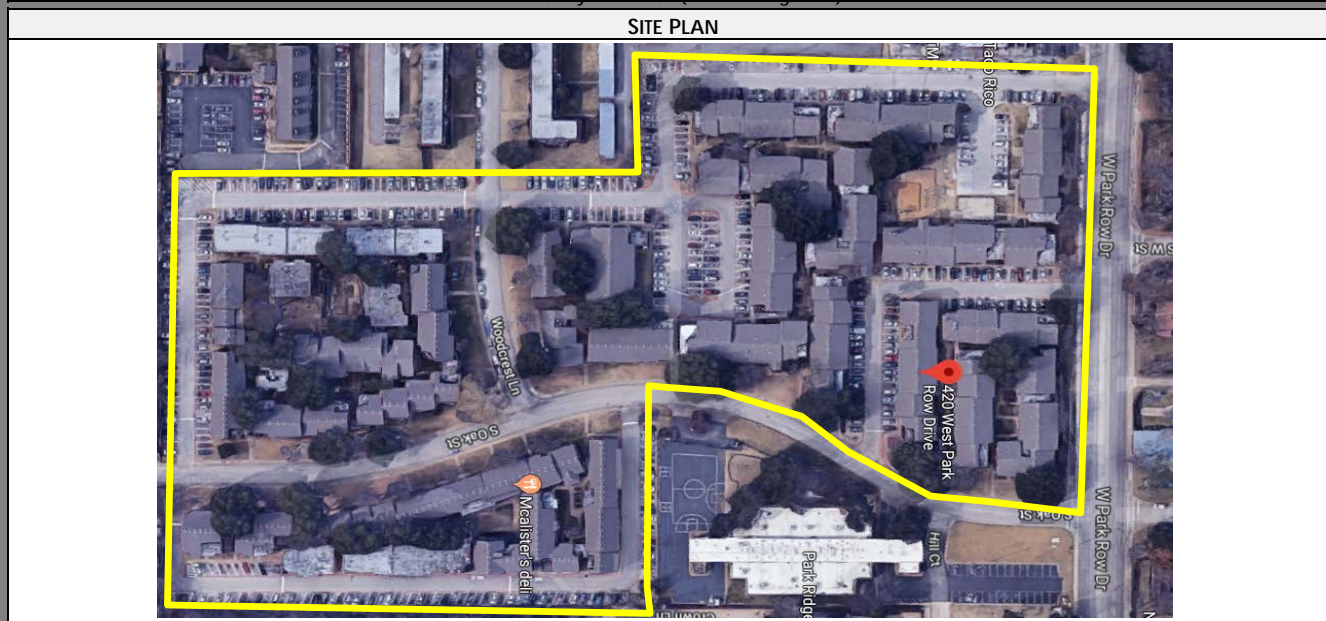
RECOMMENDATION					
TDHCA Program		Request	Recommended		
LIHTC (4% Credit)		\$2,047,817	\$2,047,817	\$5,851/Unit	\$0.89

KEY PRINCIPAL / SPONSOR		
Arlington Housing Finance Corporation (GP & Bond Issuer) - Mindy Cochran Lincoln Avenue Capital, LLC - Jonathan Gruskin		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	20	6%	30%	-	0%
1	96	27%	40%	-	0%
2	180	51%	50%	-	0%
3	54	15%	60%	350	100%
4	-	0%	MR	-	0%
TOTAL	350	100%	TOTAL	350	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.16	Expense Ratio	44.6%
Breakeven Occ.	85.5%	Breakeven Rent	\$880
Average Rent	\$954	B/E Rent Margin	\$73
Property Taxes	\$71/unit	Exemption/PILOT	100%
Total Expense	\$4,823/unit	Controllable	\$3,766/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			5.0%
Highest Unit Capture Rate	17%	2 BR/60%	180
Dominant Unit Cap. Rate	17%	2 BR/60%	180
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	842 SF	Density	27.8/acre
Acquisition	\$67K/unit	\$23,350K	
Building Cost	\$57.20/SF	\$48K/unit	\$16,849K
Hard Cost	\$61K/unit		
Total Cost	\$156K/unit		
Developer Fee	\$3,796K	(31% Deferred)	Paid Year: 4
Contractor Fee	\$2,276K	30% Boost	Yes

REHABILITATION COSTS / UNIT				
Site Work	\$5K	9%	Finishes/Fixtures	\$24K 39%
Building Shell	\$18K	30%	Amenities	\$2K 4%
HVAC	\$4K	6%	Total Exterior	\$26K 47%
Appliances	\$2K	3%	Total Interior	\$30K 53%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Citi - Tax Exempt Back to Back	30/35	3.66%	\$35,000,000	1.16						Boston Financial	\$18,244,210	
										Spanish Park Apartments Developer	\$1,169,803	
										TOTAL EQUITY SOURCES	\$19,624,013	
										TOTAL DEBT SOURCES	\$35,000,000	
TOTAL DEBT (Must Pay)			\$35,000,000		CASH FLOW DEBT / GRANTS				\$0		TOTAL CAPITALIZATION	\$54,624,013

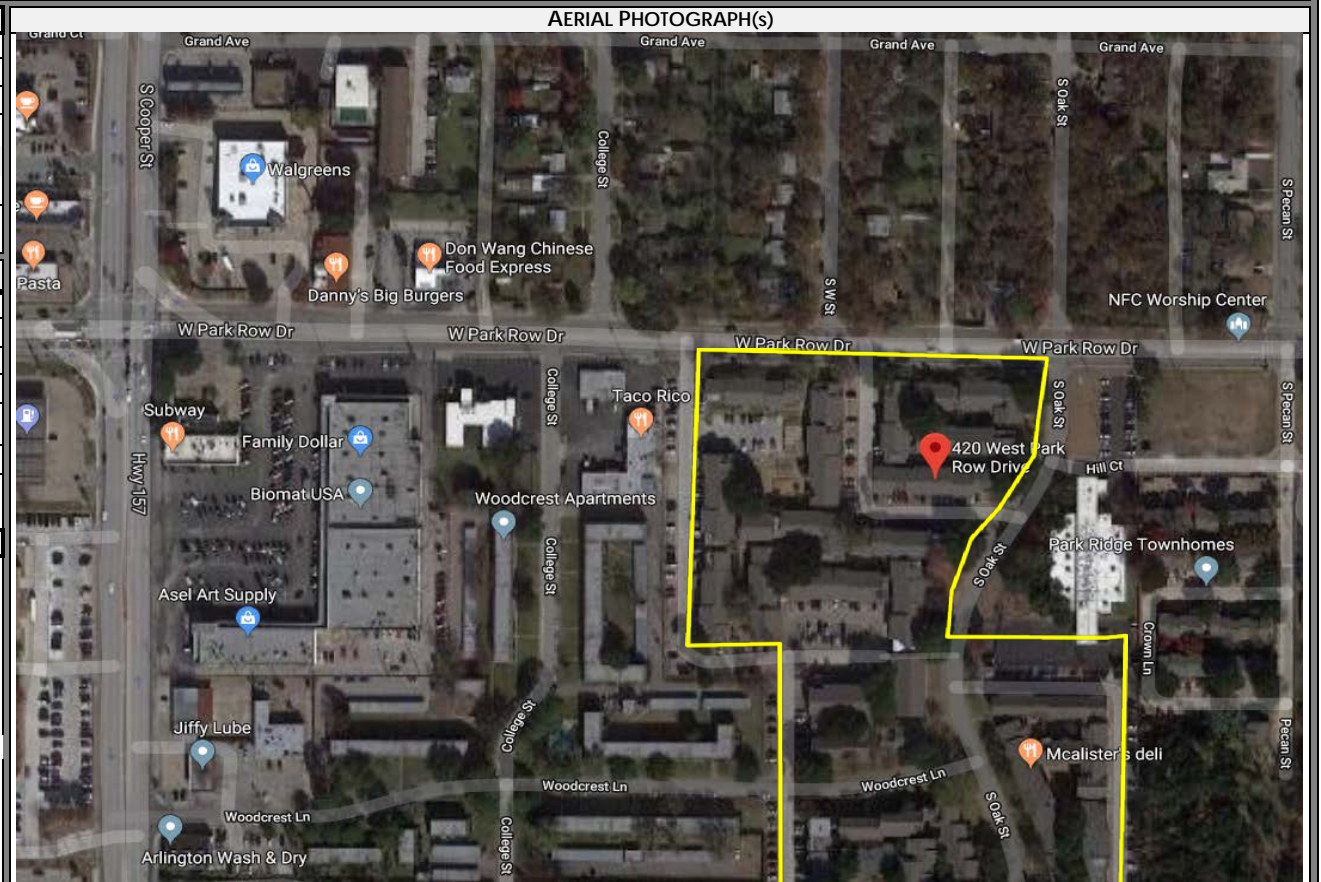
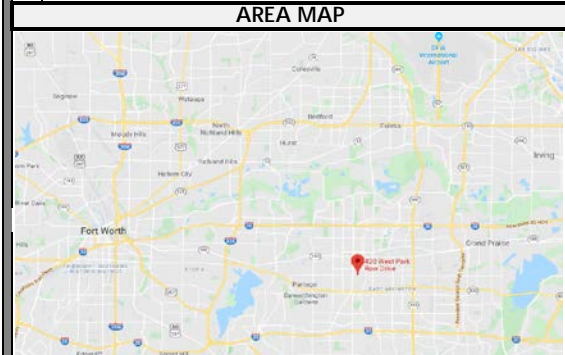
CONDITIONS

- 1 Receipt and acceptance before Determination Notice:
 - An insurance quote to support the \$275/unit estimate included in the annual operating expenses.
- 2 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
 - a: Certification of comprehensive testing for asbestos and lead-based paint; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
 - b: Certification of comprehensive testing for mold, and that any appropriate abatement procedures were implemented by a qualified abatement company.
 - c: Certification of comprehensive testing for lead in water, and that any appropriate abatement procedures were implemented.
 - d: Evidence as encumbered in the LURA that washers and dryers have been provided in 5% of the units designated as physically accessible.

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

BOND RESERVATION / ISSUER	
Issuer	Arlington HFC
Expiration Date	1/12/2020
Bond Amount	\$35,000,000
BRB Priority	Priority 1c
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	72.1%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> ▫ Significant rehab should improve marketability ▫ 10% construction contingency & available ▫ Minimal lease up risk ▫ Strong feasibility indicators 	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> ▫ Cost overruns associated with potential unknown conditions 	





Addendum to Underwriting Report

TDHCA Application #: **19473** Program(s): **4% HTC**

Flora Lofts

Address/Location: 901 Pearl Street (a.k.a 2121 Flora Street)

City: Dallas County: Dallas Zip: 75201

APPLICATION HISTORY	
Report Date	PURPOSE
12/04/19	Re-issuance of Determination Notice
02/13/19	Re-issuance of Determination Notice
04/19/18	Amendment
09/27/17	Determination Notice Memo
09/06/17	Original Underwriting Report

ALLOCATION

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
LIHTC (Annual)	\$754,702				\$748,340				

CONDITIONS STATUS

- 1 Receipt and acceptance before Determination Notice:
 - Possible structure of the units and buildings that conform with Section 42 with respect to minimum set-aside requirements and any other related building designation issues.

Status: Cleared. Applicant supplied a possible structure for units and buildings. Note any possible structure will include all 52 Flora Lofts units, land, and common/shared areas to be encumbered by the LURA.
- 2 Receipt and acceptance by Cost Certification:
 - Executed 40 year Parking Agreement with Arts District Properties parking condo for 31 parking spaces (including 2 accessible spaces, of which one is a van accessible space). These spaces must be free to Flora Loft residents and only a nominal fee to the Flora Lofts as the operating budget cannot support a parking expense.

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

ANALYSIS

This underwriting review is for a third re-issuance of the Determination Notice.

The entire project consists of three condominium units: Atelier Tower/Retail, the parking garage, and Flora Lofts, the tax credit property. ZOM is the master developer of all three; ZOM is the owner of the Atelier Tower, Graham Greene is the owner of the parking garage condo, and also a managing member and a developer of Flora Lofts, which will be owned by the tax credit partnership, Flora Street Lofts, Ltd.

While there have been multiple delays in Flora Loft's closing, ZOM and Greene were able to close on their financing and were ready to start their respective construction. ZOM's investors were considering removing the tax credit portion of the project and moving forward with a 100% market unit project, fearing that the tax credit portion would not come together and close without negatively affecting the master development timeline. On June 27, 2018, ZOM and Greene agreed that ZOM would acquire the Tower unit and the Flora Lofts unit, while Greene would acquire the parking garage unit. This would allow the construction commencement on the master project (parking garage, Atelier Tower and Flora Lofts) and give Flora Lofts more time to close without holding up the other construction phases. Two separate construction contracts with Balfour Beatty were executed—one with ZOM for the Atelier Tower and Flora Lofts, and one with Greene for the parking garage.

Sponsor spent most of 2019 working with ZOM and its investors to change the real estate ownership structure of the master project from a joint venture constructing the condo units concurrently, to a right to purchase agreement for the Flora Lofts condo unit. This agreement was reached in August 2019; a new certificate of reservation was received from the Texas Bond Review Board on September 5, 2019, with a closing date of no later than February 1, 2020.

Since June of 2018, ZOM has paid and continues to pay all costs incurred to date, including hard construction costs on the Atelier Tower and Flora Lofts. In August 2019, Flora Street Lofts, Ltd and ZOM signed a Purchase and Sale Agreement so that Flora Street Lofts, Ltd. could purchase the condo unit for the Flora Lofts project back from ZOM. The sales price will adjust based on the actual costs incurred at the time of closing, which is expected to be in December 2019. NEF, the tax credit purchaser, and Citi, the construction and permanent lender, have confirmed that they are comfortable investing in/financing this project based on the purchase and sale agreement with ZOM that will be adjusted for actual costs upon closing.

The architectural design of Flora Lofts has remained unchanged, with no material changes from what TDHCA approved under prior tax credit determinations in terms of unit mix, sizes, income targeting, etc. There has been no material change in the ownership structure as presented to the TDHCA most recently.

Operating Pro Forma

The pro forma has been updated with 2019 rents; this generates a 2.67% increase Applicant's income. Expense assumptions have not changed from prior underwriting and Applicant's pro forma is still used for analysis.

DCR has increased from 1.22 to 1.29 with a 15 year residual cash flow of \$1.2M. This is due to increased 2019 rents and decreased debt service driven by the decreased interest rate on permanent financing.

Development Cost

Total development cost has increased 3% (\$1M) from prior underwriting. The increase is due to \$340k increase in developer fee, \$628k in financing costs, and \$145k in soft costs. The main contributing factor to the budget increase is the estimated \$1.2M yield that will be paid to ZOM for fronting the costs and managing the construction of the Flora Lofts condo unit, as discussed above. This cost is shown as interest in the financing costs.

It is estimated that ZOM will have paid over \$11M in construction costs for Flora Lofts, and Sponsor is assuming a 16% yield on the average outstanding balance of \$5.5M for 18 months.

For determining eligible construction interest, Underwriter assumed the Citibank construction loan rate of 4.73% on the \$11.051M fronted by ZOM. This results in eligible interim interest being limited by \$4,481.

Developer fee is limited to 15% of cost by rule, therefore \$733k of developer fee is removed from the development cost.

Sources of Funds

Citibank's permanent loan amount increased \$950k due to an interest rate reduction from 5.71% to 4.38%.

The balancing of sources was achieved by small adjustments to Sponsor loans as shown on the S&U exhibit.

REA recommends the re-issuance of the Determination Notice with a decreased credit allocation of \$748,340 as requested by Applicant.

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

UNIT MIX/RENT SCHEDULE

Flora Lofts, Dallas, 4% HTC #17413

LOCATION DATA	
CITY:	Dallas
COUNTY:	Dallas
Area Median Income	\$83,100
PROGRAM REGION:	3

UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	6	11.5%	6	30%	-	0.0%
1	26	50.0%	10	40%	-	0.0%
2	18	34.6%	0	50%	5	9.6%
3	2	3.8%	0	60%	38	73.1%
4	-	0.0%	0	MR	9	17.3%
TOTAL	52	100.0%	16	TOTAL	52	100.0%

Applicable Programs
4% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	73.44%
APP % Acquisition	3.32%
APP % Construction	3.32%
Average Unit Size	985 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 60%	\$873	PBV	\$1,375	1	0	1	527	\$1,375	\$65	\$1,310	(\$147)	\$2.21	\$1,163	\$1,163	\$1,310	\$1,310	\$2.49	\$0	\$1,455	\$2.76	\$1,455
TC 50%	\$727	PBV	\$1,375	3	0	1	618	\$1,375	\$65	\$1,310	(\$147)	\$1.88	\$1,163	\$3,489	\$3,930	\$1,310	\$2.12	\$0	\$1,515	\$2.45	\$1,515
TC 50%	\$727	PBV	\$1,375	1	0	1	639	\$1,375	\$65	\$1,310	(\$147)	\$1.82	\$1,163	\$1,163	\$1,310	\$1,310	\$2.05	\$0	\$1,558	\$2.44	\$1,558
TC 50%	\$727	PBV	\$1,375	1	0	1	639	\$1,375	\$65	\$1,310	(\$147)	\$1.82	\$1,163	\$1,163	\$1,310	\$1,310	\$2.05	\$0	\$1,558	\$2.44	\$1,558
TC 60%	\$935	PBV	\$1,628	2	1	1	702	\$1,628	\$74	\$1,554	(\$159)	\$1.99	\$1,395	\$2,790	\$3,108	\$1,554	\$2.21	\$0	\$1,636	\$2.33	\$1,636
TC 60%	\$935	PBV	\$1,628	3	1	1	702	\$1,628	\$74	\$1,554	(\$159)	\$1.99	\$1,395	\$4,185	\$4,662	\$1,554	\$2.21	\$0	\$1,636	\$2.33	\$1,636
TC 60%	\$935	0		6	1	1	713	\$935	\$74	\$861	\$0	\$1.21	\$861	\$5,166	\$5,166	\$861	\$1.21	\$0	\$1,658	\$2.33	\$1,658
TC 60%	\$935	0		3	1	1	721	\$935	\$74	\$861	\$0	\$1.19	\$861	\$2,583	\$2,583	\$861	\$1.19	\$0	\$1,674	\$2.32	\$1,674
TC 60%	\$935	0		3	1	1	723	\$935	\$74	\$861	\$0	\$1.19	\$861	\$2,583	\$2,583	\$861	\$1.19	\$0	\$1,678	\$2.32	\$1,678
TC 60%	\$935	PBV	\$1,628	2	1	1	770	\$1,628	\$74	\$1,554	(\$159)	\$1.81	\$1,395	\$2,790	\$3,108	\$1,554	\$2.02	\$0	\$1,840	\$2.39	\$1,840
TC 60%	\$935	PBV	\$1,628	1	1	1	771	\$1,628	\$74	\$1,554	(\$159)	\$1.81	\$1,395	\$1,395	\$1,554	\$1,554	\$2.02	\$0	\$1,842	\$2.39	\$1,842
TC 60%	\$935	PBV	\$1,628	2	1	1	771	\$1,628	\$74	\$1,554	(\$159)	\$1.81	\$1,395	\$2,790	\$3,108	\$1,554	\$2.02	\$0	\$1,842	\$2.39	\$1,842
TC 60%	\$935	0		1	1	1	849	\$935	\$74	\$861	\$0	\$1.01	\$861	\$861	\$861	\$861	\$1.01	\$0	\$2,198	\$2.59	\$2,198
TC 60%	\$935	0		1	1	1.5	1,087	\$935	\$74	\$861	\$0	\$0.79	\$861	\$861	\$861	\$861	\$0.79	\$0	\$2,460	\$2.26	\$2,460
TC 60%	\$935	0		1	1	1.5	1,596	\$935	\$74	\$861	\$0	\$0.54	\$861	\$861	\$861	\$861	\$0.54	\$0	\$3,075	\$1.93	\$3,075
TC 60%	\$935	0		1	1	2	1,217	\$935	\$74	\$861	\$0	\$0.71	\$861	\$861	\$861	\$861	\$0.71	\$0	\$2,833	\$2.33	\$2,833
TC 60%	\$1,122	0		2	2	2	1,103	\$1,122	\$96	\$1,026	(\$31)	\$0.90	\$995	\$1,990	\$2,052	\$1,026	\$0.93	\$0	\$3,685	\$3.34	\$3,685
MR		0		1	2	2	1,103	\$0	\$96		NA	\$1.86	\$2,056	\$2,056	\$2,056	\$2,056	\$1.86	NA	\$2,056	\$1.86	\$3,685
MR		0		1	2	2	1,293	\$0	\$96		NA	\$1.59	\$2,056	\$2,056	\$2,056	\$2,056	\$1.59	NA	\$2,056	\$1.59	\$3,805
TC 60%	\$1,122	0		2	2	2	1,110	\$1,122	\$96	\$1,026	(\$31)	\$0.90	\$995	\$1,990	\$2,052	\$1,026	\$0.92	\$0	\$3,692	\$3.33	\$3,692
TC 60%	\$1,122	0		3	2	2	1,220	\$1,122	\$96	\$1,026	(\$31)	\$0.82	\$995	\$2,985	\$3,078	\$1,026	\$0.84	\$0	\$3,832	\$3.14	\$3,832
TC 60%	\$1,122	0		2	2	2	1,293	\$1,122	\$96	\$1,026	(\$31)	\$0.77	\$995	\$1,990	\$2,052	\$1,026	\$0.79	\$0	\$3,805	\$2.94	\$3,805
TC 60%	\$1,122	0		1	2	2	1,301	\$1,122	\$96	\$1,026	(\$31)	\$0.76	\$995	\$995	\$1,026	\$1,026	\$0.79	\$0	\$3,913	\$3.01	\$3,913
MR		0		1	2	2	1,407	\$0	\$96		NA	\$1.46	\$2,056	\$2,056	\$2,056	\$2,056	\$1.46	NA	\$2,056	\$1.46	\$4,204
MR		0		1	2	2	1,429	\$0	\$96		NA	\$1.44	\$2,056	\$2,056	\$2,056	\$2,056	\$1.44	NA	\$2,056	\$1.44	\$4,226
MR		0		1	2	2	1,441	\$0	\$96		NA	\$1.43	\$2,056	\$2,056	\$2,056	\$2,056	\$1.43	NA	\$2,056	\$1.43	\$4,323
MR		0		1	2	2	1,700	\$0	\$96		NA	\$1.21	\$2,056	\$2,056	\$2,056	\$2,056	\$1.21	NA	\$2,056	\$1.21	\$5,073
MR		0		1	2	2	1,900	\$0	\$96		NA	\$1.08	\$2,056	\$2,056	\$2,056	\$2,056	\$1.08	NA	\$2,056	\$1.08	\$5,592
TC 60%	\$1,122	0		1	2	2.5	1,253	\$1,122	\$96	\$1,026	(\$31)	\$0.79	\$995	\$995	\$1,026	\$1,026	\$0.82	\$0	\$3,939	\$3.14	\$3,939
MR		0		1	3	3	1,597	\$0	\$0		NA	\$1.49	\$2,376	\$2,376	\$2,376	\$2,376	\$1.49	NA	\$2,376	\$1.49	\$5,394
MR		0		1	3	3	1,731	\$0	\$0		NA	\$1.37	\$2,376	\$2,376	\$2,376	\$2,376	\$1.37	NA	\$2,376	\$1.37	\$5,664
TOTALS/AVERAGES:				52			51,208				(\$54)	\$1.27	\$1,246	\$64,793	\$67,606	\$1,300	\$1.32	\$0	\$2,268	\$2.30	\$2,707

ANNUAL POTENTIAL GROSS RENT:	\$777,516	\$811,272
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STABILIZED PRO FORMA

Flora Lofts, Dallas, 4% HTC #17413

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				PRIOR REPORT				TDHCA				VARIANCE	
	Database	Other	% EGI	Per SF	Per Unit	Amount	Applicant	Applicant	TDHCA	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$1.27	\$1,246	\$777,516	\$757,320	\$759,000	\$762,960	\$788,040	\$811,272	\$1,300	\$1.32		-4.2%	(\$33,756)
Laundry					\$10.00	\$6,240	6,240	6,240								
Storage, parking & misc					\$45.00	\$28,080	28,080	28,080								
Total Secondary Income					\$55.00				12,480	12,480	\$12,480	\$20.00		175.0%	\$21,840	
POTENTIAL GROSS INCOME						\$811,836	\$791,640	\$793,320	\$775,440	\$800,520	\$823,752			-1.4%	(\$11,916)	
Vacancy & Collection Loss				7.5% PGI	(60,888)	(59,373)	(59,499)	(58,158)	(60,039)	(61,781)	7.5% PGI			-1.4%	894	
Rental Concessions								0	0	-				0.0%	-	
EFFECTIVE GROSS INCOME						\$750,948	\$732,267	\$733,821	\$717,282	\$740,481	\$761,971			-1.4%	(\$11,022)	

General & Administrative	\$24,250	\$466/Unit	22,346	\$430	1.31%	\$0.19	\$189	\$9,807	\$9,807	\$9,807	\$9,807	\$9,807	\$9,807	\$189	\$0.19	1.29%	0.0%	-
Management	\$26,903	6.6% EGI	18,380	\$353	3.89%	\$0.57	\$562	\$29,200	\$29,200	\$28,691	\$29,619	\$30,479	\$586	\$0.60	4.00%	-4.2%	(1,279)	
Payroll & Payroll Tax	\$52,718	\$1,014/Unit	75,235	\$1,447	5.54%	\$0.81	\$801	\$41,631	\$41,631	\$41,631	\$41,631	\$41,631	\$801	\$0.81	5.46%	0.0%	-	
Repairs & Maintenance	\$34,478	\$663/Unit	53,616	\$1,031	3.46%	\$0.51	\$500	\$26,000	\$26,000	\$26,000	\$26,000	\$26,000	\$500	\$0.51	3.41%	0.0%	-	
Electric/Gas	\$9,066	\$174/Unit	11,759	\$226	1.94%	\$0.28	\$280	\$14,580	\$14,580	\$14,580	\$14,580	\$14,580	\$280	\$0.28	1.91%	0.0%	-	
Water, Sewer, & Trash	\$30,883	\$594/Unit	44,466	\$855	3.22%	\$0.47	\$466	\$24,216	\$24,216	\$24,216	\$24,216	\$24,216	\$466	\$0.47	3.18%	0.0%	-	
Property Insurance	\$18,294	\$0.36 /sf	15,330	\$295	2.47%	\$0.36	\$357	\$18,550	\$18,550	\$18,550	\$18,550	\$18,550	\$357	\$0.36	2.43%	0.0%	-	
Property Tax (@ 100%) 2.7193	\$29,610	\$569/Unit		\$0	6.92%	\$1.02	\$1,000	\$52,000	\$52,000	\$52,000	\$52,000	\$52,000	\$1,000	\$1.02	6.82%	0.0%	-	
Reserve for Replacements	\$16,842	\$324/Unit	-	\$0	2.08%	\$0.30	\$300	\$15,600	\$15,600	\$15,600	\$15,600	\$15,600	\$300	\$0.30	2.05%	0.0%	-	
Supportive Services			-	\$0	2.66%	\$0.39	\$385	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$385	\$0.39	2.62%	0.0%	-	
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.23%	\$0.03	\$33	\$1,720	\$1,720	\$1,720	\$1,720	\$1,720	\$33	\$0.03	0.23%	0.0%	-	
ZOM Condo Expense			-	\$0	1.08%	\$0.16	\$156	\$8,115	\$8,115	\$8,115	\$8,115	\$8,115	\$156	\$0.16	1.07%	0.0%	-	
TOTAL EXPENSES					34.81%	\$5.11	\$5,027	\$ 261,419	\$261,419	\$261,419	\$260,910	\$261,838	\$ 262,698	\$5,052	\$5.13	34.48%	-0.5%	\$ (1,279)
NET OPERATING INCOME ("NOI")					65.19%	\$9.56	\$9,414	\$489,529	\$470,848	\$472,402	\$456,372	\$478,643	\$499,273	\$9,601	\$9.75	65.52%	-2.0%	\$ (9,743)

CONTROLLABLE EXPENSES								\$2,235/Unit						\$2,235/Unit				
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Flora Lofts, Dallas, 4% HTC #17413

DEBT / GRANT SOURCES																						
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										Prior Underwriting				AS UNDERWRITTEN DEBT/GRANT STRUCTURE								
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Applicant		TDHCA		Principal	Term	Amort	Rate	Pmt	Cumulative			
		UW	App							Applicant	Applicant	TDHCA	TDHCA						DCR	LTC		
Citibank		1.31	1.29	380,136	4.38%	35	15	\$6,800,000	\$5,850,000	\$5,950,000	\$5,950,000	\$5,850,000	\$6,800,000	15	35	4.38%	\$380,136	1.29	25.3%			
Adjustment to Debt Per §10.302(c)(2)		1.31	1.29								\$0	\$0	\$0	0	0	0.00%		1.29	0.0%			
CASH FLOW DEBT / GRANTS																						
Greens Loan		1.31	1.29		4.00%	0	15	\$1,498,592	\$1,105,610	\$1,000,000	\$1,000,000	\$1,105,610	\$1,498,592	15	0	4.00%		1.29	5.6%			
LRTX		1.31	1.29		0.00%	0	0	\$0	\$500,000	\$500,000	\$500,000	\$500,000	\$0	0	0	0.00%		1.29	0.0%			
City Square Loan		1.31	1.29		5.00%	0	15	\$3,204,000	\$3,179,000	\$1,587,000	\$1,587,000	\$1,634,000	\$1,634,000	15	0	5.00%		1.29	6.1%			
City Square Loan		1.31	1.29									\$945,000	\$970,000	15	0	4.00%		1.29	3.6%			
City Square Loan		1.31	1.29									\$600,000	\$600,000	15	0	4.00%		1.29	2.2%			
City of Dallas Grant		1.31	1.29		0.00%	0	0	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	0	0	0.00%		1.29	9.3%				
Tax Increment Reinvest Zone		1.31	1.29		0.00%	0	0	\$4,577,916	\$4,650,000	\$4,650,000	\$4,650,000	\$4,650,000	\$4,577,916	0	0	0.00%		1.29	17.0%			
Flora Lofts Ltd. Investment Income		1.31	1.29		0.00%	0	0	\$140,000	\$148,526	\$211,250	\$211,250	\$148,526	\$140,000	0	0	0.00%		1.29	0.5%			
				\$380,136	TOTAL DEBT / GRANT SOURCES				\$18,720,508	\$17,933,136	\$16,398,250	\$16,398,250	\$17,933,136	\$18,720,508	TOTAL DEBT SERVICE				\$380,136	1.29	69.6%	
NET CASH FLOW		\$119,137	\$109,393															APPLICANT	NET OPERATING INCOME	\$489,529	\$109,394	NET CASH FLOW

EQUITY SOURCES																			
APPLICANT'S PROPOSED EQUITY STRUCTURE								Prior Underwriting				AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Amount	Amount	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method				
																Applicant	Applicant	TDHCA	TDHCA
NEF	LIHTC Equity	25.7%	\$748,340	0.925	\$6,920,760	\$6,979,597	\$7,247,267	\$7,247,267	\$6,979,597	\$6,920,760	\$0.925	\$748,340	25.7%	\$14,391	Applicant Request				
0		0.0%		#DIV/0!	\$0	\$0	\$0	\$0	\$0	\$0			0.0%						
0		0.0%		#DIV/0!	\$0	\$0	\$0	\$0	\$0	\$0			0.0%						
Graham Greene/City Square	Deferred Developer Fees	7.4%	(51% Deferred)		\$1,985,088	\$1,629,880	\$1,889,568	\$1,673,658	\$1,113,498			(40% Deferred)	0.0%	Total Developer Fee:	\$3,149,858				
0		0.0%		#DIV/0!	\$0	\$0	\$0	\$0	\$0	\$0			0.0%						
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0	\$0	\$0	\$1,252,237			4.7%						
TOTAL EQUITY SOURCES		33.1%			\$8,905,848	\$8,609,477	\$9,136,835	\$8,920,925	\$8,093,095	\$8,172,997			30.4%						
TOTAL CAPITALIZATION								\$27,626,356	\$26,542,613	\$25,535,085	\$25,319,175	\$26,026,231	\$26,893,505					15-Yr Cash Flow after Deferred Fee:	\$1,208,200

DEVELOPMENT COST / ITEMIZED BASIS																	
APPLICANT COST / BASIS ITEMS								Prior Underwriting				TDHCA COST / BASIS ITEMS				COST VARIANCE	
Acquisition	New Const. Rehab	Total Costs		Applicant	Applicant	TDHCA	TDHCA	Total Costs		New Const. Rehab	Acquisition	%	\$				
		\$	/ Unit					\$	/ Unit					\$	/ Unit	\$	/ Unit
Land Acquisition		\$25,090	/ Unit	\$1,304,678	\$1,304,678	\$1,304,678	\$1,304,678	\$1,304,678	\$25,090	/ Unit		0.0%	\$0				
ROW				\$41,674	\$41,674	\$41,674	\$41,674	\$41,674				0.0%	\$0				
Off-Sites		\$0	/ Unit	\$0	\$0	\$0	\$0	\$0	\$0	/ Unit		0.0%	\$0				
Site Work		\$0	/ Unit	\$0	\$0	\$0	\$0	\$0	\$0	/ Unit		0.0%	\$0				
Site Amenities		\$0	/ Unit	\$0	\$0	\$0	\$0	\$0	\$0	/ Unit		0.0%	\$0				
Building Cost		\$13,821,487	\$270.68 /sf	\$266,554/Unit	\$13,860,790	\$13,860,790	\$13,860,790	\$12,854,528	\$12,854,528	\$247,202/Unit	\$251.03 /sf	\$12,854,528	7.8%	\$1,006,262			
Contingency		\$870,834	6.30%	6.28%	\$870,834	\$900,834	\$777,000	\$777,000	\$899,817	\$870,834	6.77%	\$870,834	0.0%	\$0			
Contractor Fees		\$1,295,224	8.82%	8.79%	\$1,295,224	\$1,295,224	\$1,295,224	\$1,295,224	\$1,295,224	9.44%	9.44%	\$1,295,224	0.0%	\$0			
Soft Costs		\$0	\$2,094,054	\$41,616 / Unit	\$2,164,054	\$2,019,229	\$1,586,245	\$1,586,245	\$2,019,229	\$2,164,054	\$41,616 / Unit	\$2,094,054	0.0%	\$0			
Financing		\$0	\$2,878,150	\$74,354 / Unit	\$3,866,393	\$3,237,475	\$3,274,505	\$3,274,505	\$3,866,393	\$74,354 / Unit	\$2,873,669	\$0	0.0%	\$0			
Developer Fee		\$0	\$3,100,000	14.79%	18.49%	\$3,882,709	\$3,542,709	\$3,067,229	\$2,700,380	\$2,875,235	15.00%	\$2,998,246	29.5%	\$884,463			
Reserves			\$6,538 / Unit	\$340,000	\$340,000	\$327,740	\$319,372	\$340,000	\$340,000	\$6,538 / Unit		0.0%	\$0				
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)		\$0	\$24,059,749	\$531,276 / Unit	\$27,626,356	\$26,542,613	\$25,535,085	\$24,153,606	\$24,867,860	\$25,735,632	\$494,916 / Unit	\$22,986,556	7.3%	\$1,890,724			
Acquisition Cost		\$0			\$0												
Contingency		\$0			\$0												
Contractor's Fee		\$0															
Interim Interest			(\$4,481)														
Developer Fee		\$0			(\$732,851)	(\$516,382)	(\$215,910)										
Reserves					\$0	\$0											
ADJUSTED BASIS / COST		\$0	\$24,055,268	\$517,183/unit	\$26,893,505	\$26,026,231	\$25,319,175	\$24,153,606	\$24,867,860	\$25,735,632	\$494,916/unit	\$22,986,556	4.5%	\$1,157,873			
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):								\$26,893,505									

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Flora Lofts, Dallas, 4% HTC #17413

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	ADJUSTED BASIS	\$0	\$24,055,268	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$24,055,268	\$0	\$22,986,556
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	\$0	\$31,271,849	\$0	\$29,882,522
Applicable Fraction	73.44%	73.44%	73.44%	73.44%
TOTAL QUALIFIED BASIS	\$0	\$22,965,951	\$0	\$21,945,634
Applicable Percentage	3.32%	3.32%	3.32%	3.32%
ANNUAL CREDIT ON BASIS	\$0	\$762,470	\$0	\$728,595
CREDITS ON QUALIFIED BASIS		\$762,470		\$728,595

ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds	FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price \$0.9248	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$762,470	\$7,051,432	----	----	----
Needed to Fill Gap	\$883,744	\$8,172,997	----	----	----
Applicant Request	\$748,340	\$6,920,760	\$748,340	\$0	\$0

50% Test for Bond Financing for 4% Tax Credits

Tax-Exempt Bond Amount	\$13,700,000	Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$27,400,000		61.2%	64.1%
		amount aggregate basis can increase before 50% test fails	\$5,026,270	\$6,037,013
			22.5%	28.3%

	Applicant	TDHCA
Land Cost	\$1,304,678	\$1,304,678
Depreciable Bldg Cost	\$21,069,052	\$20,058,309
Aggregate Basis for 50% Test	\$22,373,730	\$21,362,987

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Mid-Rise (Over 5 Stories)	51,208 SF	\$217.00	11,111,931
Adjustments				
Exterior Wall Finish	16.00%		34.72	\$1,777,909
Elderly	0.00%		0.00	0
11' 8"-Ft. Ceilings	1.055		11.93	611,156
Roof Adjustment(s)			3.93	201,000
Subfloor			2.98	152,600
Floor Cover			5.04	258,088
Breezeways	\$29.03	0	0.00	0
Balconies	\$49.25	5,532	5.32	272,451
Plumbing Fixtures	\$1.710	98	3.27	167,580
Rough-ins	\$510	104	1.04	53,040
Built-In Appliances	\$3,225	52	3.27	167,700
Exterior Stairs	\$4.175	10	0.82	41,750
Heating/Cooling			2.14	109,585
Enclosed Corridors	\$208.10	8,410	34.18	1,750,087
Carports	\$11.94	0	0.00	0
Solar Shades		0	1.25	64,056
Comm &/or Aux Bldgs: 10%	\$182.56	9,450	2.98	152,679
Elevators		2	0.00	0
Other: Interior Stairs	\$3,300	12	0.77	39,600
Fire Sprinklers	\$3.09	69,068	4.17	213,644
SUBTOTAL			334.81	17,144,857
Current Cost Multiplier	1.01		3.35	171,449
Local Multiplier	0.87		(43.53)	(2,228,831)
TOTAL BUILDING COSTS			294.63	\$15,087,474
Plans, specs, survey, bldg permits	3.30%		(9.72)	(\$497,887)
Contractor's OH & Profit	11.50%		(33.88)	(1,735,060)
NET BUILDING COSTS		\$247,202/unit	\$251.03/sf	\$12,854,528

Long-Term Pro Forma

Flora Lofts, Dallas, 4% HTC #17413

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$750,948	\$765,967	\$781,287	\$796,912	\$812,851	\$897,453	\$990,860	\$1,093,990	\$1,207,853	\$1,333,568	\$1,472,366
TOTAL EXPENSES	3.00%	\$261,419	\$268,970	\$276,741	\$284,739	\$292,972	\$337,890	\$389,781	\$449,736	\$519,020	\$599,094	\$693,930
NET OPERATING INCOME ("NOI")		\$489,529	\$496,998	\$504,546	\$512,173	\$519,879	\$559,563	\$601,079	\$644,254	\$688,833	\$734,474	\$778,436
EXPENSE/INCOME RATIO		34.8%	35.1%	35.4%	35.7%	36.0%	37.6%	39.3%	41.1%	43.0%	44.9%	47.1%
MUST -PAY DEBT SERVICE												
TOTAL DEBT SERVICE		\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136	\$380,136
DEBT COVERAGE RATIO		1.29	1.31	1.33	1.35	1.37	1.47	1.58	1.69	1.81	1.93	2.05
ANNUAL CASH FLOW												
ANNUAL CASH FLOW		\$109,394	\$116,862	\$124,410	\$132,037	\$139,743	\$179,427	\$220,944	\$264,118	\$308,698	\$354,338	\$398,300
Deferred Developer Fee Balance		\$1,142,843	\$1,025,981	\$901,571	\$769,534	\$629,791	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$187,218	\$1,208,200	\$2,441,822	\$3,895,650	\$5,575,718	\$7,480,439



Addendum to Underwriting Report

TDHCA Application #: **19470** Program(s): **4% HTC**

Jackie Robinson Apartments

Address/Location: 421 Mangrum Cir

City: El Paso County: El Paso Zip: 79905

APPLICATION HISTORY	
Report Date	PURPOSE
10/30/19	New Determination Notice
01/10/19	New Application - Initial Underwriting

ALLOCATION

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
LIHTC (4% Credit)	\$1,182,177				\$1,290,195				

CONDITIONS STATUS

Documentation at Cost Certification clearing environmental issues identified in the ESA report,

- a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
- b: Certification of comprehensive testing for asbestos, lead-based paint and lead in drinking water; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials, lead-based paint or lead in drinking water are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
- c: Certification of the actual QCT amplifier calculation.

Should any terms of the proposed capital structure change or if there are material changes to the overall

ANALYSIS

The Subject received an award of \$1.18M in 4% Housing Tax Credits in January 2019. Applicant was unable to timely close under that bond reservation, and submitted a request for issuance of a new Determination Notice in October 2019. With the request, Applicant submitted updated exhibits for the operating expenses, development cost schedule and sources and uses. Applicant indicates they did not believe they could meet the January 12, 2020 bond closing deadline, as a result of significant delays in the HUD Demolition and Disposition and relocation process.

Operating Pro Forma

Applicant made no changes to the operating pro forma, with the exception of updating their payroll and payroll tax estimate. All units will be converted to Project Based Vouchers (PBVs). A staffing plan was also submitted to substantiate the revised estimate. As a result, total expenses increased by approximately \$45K (6.2%) and are now within 5% of the Underwriter's estimate. Therefore, the Applicant's pro forma is now used.

Development Cost

Applicant's building and site work costs have increased approximately \$2.2M (14%). Total development costs (TDC) have increased ~\$3.68M (less than 10%), with site work, building, and financing contributing the majority of the increases. Applicant indicates the changes occurred as a result of final pricing represented by the General Contractor's (GC) bid.

Applicant submitted updated PCA costs that are consistent with the increased GC-reviewed costs.

Sources of Funds

Hunt will replace PNC's Freddie Tax-Exempt Loan, and will provide an additional \$1.66M (\$18.165M total) at more favorable terms of 3.76% interest rate. The Loan will be amortized over 35 years with an 18 year term with a Fannie Mae Program.

Applicant has requested an additional \$108,018 (\$1,290,195 total) in annual tax credits due to the increased Eligible Basis. This results in \$1,390,254 of additional equity proceeds at the current \$0.96 (\$0.03 increase) equity rate being offered by RBC.

Underwriter recommends an annual tax credit allocation of \$1,290,195 as requested by the Applicant.

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

UNIT MIX/RENT SCHEDULE

Jackie Robinson Apartments, El Paso, 4% HTC #18456

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
Area Median Income	\$51,700
PROGRAM REGION:	13

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	30%	-	0.0%
1	7	3.8%	7	0	40%	-	0.0%
2	76	40.9%	76	0	50%	-	0.0%
3	72	38.7%	72	0	60%	186	100.0%
4	31	16.7%	31	0	MR	-	0.0%
TOTAL	186	100.0%	186	-	TOTAL	186	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	106.34%
Applicable Fraction	100.00%
APP % Acquisition	3.44%
APP % Construction	3.44%
Average Unit Size	996 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 60%	\$636	PBV	\$643	7	1	1	561	\$643	\$66	\$577	\$0	\$1.03	\$577	\$4,039	\$4,039	\$577	\$1.03	\$0	\$675	\$1.20	\$675
TC 60%	\$763	PBV	\$783	72	2	1	866	\$783	\$79	\$704	\$0	\$0.81	\$704	\$50,688	\$50,688	\$704	\$0.81	\$0	\$855	\$0.99	\$855
TC 60%	\$763	PBV	\$783	4	2	1	794	\$783	\$79	\$704	\$0	\$0.89	\$704	\$2,816	\$2,816	\$704	\$0.89	\$0	\$850	\$1.07	\$850
TC 60%	\$882	PBV	\$1,130	16	3	1	1,081	\$1,130	\$94	\$1,036	\$0	\$0.96	\$1,036	\$16,576	\$16,576	\$1,036	\$0.96	\$0	\$975	\$0.90	\$975
TC 60%	\$882	PBV	\$1,130	48	3	1.5	1,081	\$1,130	\$94	\$1,036	\$0	\$0.96	\$1,036	\$49,728	\$49,728	\$1,036	\$0.96	\$0	\$975	\$0.90	\$975
TC 60%	\$882	PBV	\$1,130	8	3	1	1,068	\$1,130	\$94	\$1,036	\$0	\$0.97	\$1,036	\$8,288	\$8,288	\$1,036	\$0.97	\$0	\$1,040	\$0.97	\$1,040
TC 60%	\$984	PBV	\$1,348	22	4	1.5	1,183	\$1,348	\$108	\$1,240	\$0	\$1.05	\$1,240	\$27,280	\$27,280	\$1,240	\$1.05	\$0	\$1,040	\$0.88	\$1,040
TC 60%	\$984	PBV	\$1,348	1	4	1.5	1,116	\$1,348	\$108	\$1,240	\$0	\$1.11	\$1,240	\$1,240	\$1,240	\$1,240	\$1.11	\$0	\$1,040	\$0.93	\$1,040
TC 60%	\$984	PBV	\$1,348	1	4	1.5	1,141	\$1,348	\$108	\$1,240	\$0	\$1.09	\$1,240	\$1,240	\$1,240	\$1,240	\$1.09	\$0	\$1,090	\$0.96	\$1,090
TC 60%	\$984	PBV	\$1,348	1	4	2	1,389	\$1,348	\$108	\$1,240	\$0	\$0.89	\$1,240	\$1,240	\$1,240	\$1,240	\$0.89	\$0	\$1,090	\$0.78	\$1,090
TC 60%	\$984	PBV	\$1,348	1	4	2	1,482	\$1,348	\$108	\$1,240	\$0	\$0.84	\$1,240	\$1,240	\$1,240	\$1,240	\$0.84	\$0	\$1,090	\$0.74	\$1,090
TOTALS/AVERAGES:				186			185,267				\$0	\$0.92	\$917	\$170,575	\$170,575	\$917	\$0.92	\$0	\$901	\$0.90	\$901

ANNUAL POTENTIAL GROSS RENT:		\$2,046,900	\$2,046,900
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STABILIZED PRO FORMA

Jackie Robinson Apartments, El Paso, 4% HTC #18456

STABILIZED FIRST YEAR PRO FORMA															
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE		
Database	Other		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$	
POTENTIAL GROSS RENT				\$0.92	\$917	\$2,046,900	\$2,046,900	\$2,046,900	\$2,046,900	\$917	\$0.92		0.0%	\$0	
late fees, forfeit deposits						\$5.00	\$11,160	11,160							
Total Secondary Income						\$5.00		11,160	\$11,160	\$5.00			0.0%	\$0	
POTENTIAL GROSS INCOME						\$2,058,060	\$2,058,060	\$2,058,060	\$2,058,060				0.0%	\$0	
Vacancy & Collection Loss				5.0% PGI		(102,903)	(102,903)	(102,903)	(102,903)	5.0% PGI			0.0%	-	
Rental Concessions						-	0	0	-				0.0%	-	
EFFECTIVE GROSS INCOME						\$1,955,157	\$1,955,157	\$1,955,157	\$1,955,157				0.0%	\$0	

General & Administrative	\$54,286	\$292/Unit	70,994	\$382	3.15%	\$0.33	\$331	\$61,575	\$61,575	\$69,750	\$69,750	\$375	\$0.38	3.57%	-11.7%	(8,175)
Management	\$76,604	5.6% EGI	100,127	\$538	5.00%	\$0.53	\$526	\$97,758	\$97,758	\$97,758	\$97,758	\$526	\$0.53	5.00%	0.0%	0
Payroll & Payroll Tax	\$218,177	\$1,173/Unit	131,150	\$705	8.73%	\$0.92	\$917	\$170,634	\$125,228	\$131,150	\$170,634	\$917	\$0.92	8.73%	0.0%	-
Repairs & Maintenance	\$79,906	\$430/Unit	93,511	\$503	6.91%	\$0.73	\$727	\$135,163	\$135,163	\$120,900	\$120,900	\$650	\$0.65	6.18%	11.8%	14,263
Electric/Gas	\$50,134	\$270/Unit	106,919	\$575	3.76%	\$0.40	\$396	\$73,611	\$73,611	\$81,507	\$81,507	\$438	\$0.44	4.17%	-9.7%	(7,896)
Water, Sewer, & Trash	\$74,817	\$402/Unit	125,846	\$677	4.10%	\$0.43	\$430	\$80,072	\$80,072	\$112,279	\$112,279	\$604	\$0.61	5.74%	-28.7%	(32,207)
Property Insurance	\$44,764	\$0.24 /sf	18,861	\$101	1.94%	\$0.20	\$204	\$37,855	\$37,855	\$43,710	\$43,710	\$235	\$0.24	2.24%	-13.4%	(5,855)
Property Tax (@ 0%)	\$111,658	\$600/Unit	22,760	\$122	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$48,264	\$259/Unit	-	\$0	3.33%	\$0.35	\$350	\$65,100	\$65,100	\$65,100	\$65,100	\$350	\$0.35	3.33%	0.0%	-
Supportive Services			2,760	\$15	1.13%	\$0.12	\$119	\$22,080	\$22,080	\$22,080	\$22,080	\$119	\$0.12	1.13%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.38%	\$0.04	\$40	\$7,440	\$7,440	\$7,440	\$7,440	\$40	\$0.04	0.38%	0.0%	-
Security			-	\$0	1.26%	\$0.13	\$133	\$24,683	\$24,683	\$24,683	\$24,683	\$133	\$0.13	1.26%	0.0%	-
TOTAL EXPENSES					39.69%	\$4.19	\$4,172	\$ 775,971	\$730,565	\$776,356	\$815,840	\$4,386	\$4.40	41.73%	-4.9%	\$ (39,869)
NET OPERATING INCOME ("NOI")					60.31%	\$6.36	\$6,340	\$1,179,186	\$1,224,592	\$1,178,801	\$1,139,317	\$6,125	\$6.15	58.27%	3.5%	\$ 39,869

CONTROLLABLE EXPENSES								\$2,801/Unit									\$2,984/Unit
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Jackie Robinson Apartments, El Paso, 4% HTC #18456

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE							
DEBT (Must Pay)	Fee	Cumulative DCR							Prior Underwriting		Cumulative						
		UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Hunt FNMA MTEB		1.22	1.26	934,033	3.76%	35	15	\$18,165,000	\$16,500,000	\$16,500,000	\$18,165,000	18	35	3.76%	\$934,033	1.26	43.4%
Adjustment to Debt Per §10.302(c)(2)										(\$400,000)		18	35	3.76%	1.26	0.0%	
CASH FLOW DEBT / GRANTS																	
HACEP - Seller Note		1.22	1.26		3.00%	0	50	\$9,900,000			\$9,900,000	50	0	3.00%		1.26	23.7%
				\$934,033				TOTAL DEBT / GRANT SOURCES			\$28,065,000				\$934,033	1.26	67.1%
NET CASH FLOW		\$205,284	\$245,153														
									APPLICANT	NET OPERATING INCOME				\$1,179,186	\$245,153	NET CASH FLOW	

EQUITY SOURCES													
APPLICANT'S PROPOSED EQUITY STRUCTURE							AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
						Applicant	TDHCA						
RBC Capital Markets	LIHTC Equity	29.6%	\$1,290,195	0.96	\$12,383,399	\$10,993,145	\$10,993,145	\$12,383,399	\$0.9598	\$1,290,195	29.6%	\$6,937	Applicant Request
Paisano HRC	Deferred Developer Fees	3.4%	(37% Deferred)		\$1,438,609	\$818,499	\$1,083,036	\$1,396,930	(36% Deferred)		3.3%	Total Developer Fee:	\$3,835,124
Additional (Excess) Funds Req'd		0.0%				\$0	\$0	\$0			0.0%		
TOTAL EQUITY SOURCES		33.0%			\$13,822,008	\$11,811,644	\$12,076,181	\$13,780,329			32.9%		
TOTAL CAPITALIZATION					\$41,887,008	\$38,211,644	\$38,076,181	\$41,845,329				15-Yr Cash Flow after Deferred Fee:	\$4,099,322

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE		
	Eligible Basis		Total Costs			Prior Underwriting		Total Costs			Eligible Basis		%	\$
	Acquisition	New Const. Rehab				Applicant	TDHCA				New Const. Rehab	Acquisition		
Land Acquisition			\$10,376 / Unit	\$1,930,000	\$1,930,000	\$1,930,000	\$1,930,000	\$10,376 / Unit				0.0%	\$0	
Building Acquisition	\$7,970,000		\$42,849 / Unit	\$7,970,000	\$7,970,000	\$7,970,000	\$7,970,000	\$42,849 / Unit		\$7,970,000		0.0%	\$0	
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit				0.0%	\$0	
Site Work		\$577,309	\$3,104 / Unit	\$577,309	\$1,118,913	\$1,118,913	\$577,309	\$3,104 / Unit	\$577,309			0.0%	\$0	
Site Amenities		\$668,170	\$3,592 / Unit	\$668,170	\$346,150	\$346,150	\$668,170	\$3,592 / Unit	\$668,170			0.0%	\$0	
Building Cost		\$16,592,466	\$89.56 /sf	\$89,207/Unit	\$16,592,466	\$14,153,338	\$16,592,466	\$89,207/Unit	\$89.56 /sf	\$16,592,466		0.0%	\$0	
Contingency		\$1,783,795	10.00%	10.00%	\$1,783,795	\$1,561,840	\$1,783,795	10.00%	10.00%	\$1,783,795		0.0%	\$1	
Contractor Fees		\$2,747,043	14.00%	14.00%	\$2,747,043	\$2,405,234	\$2,747,043	14.00%	14.00%	\$2,747,043		0.0%	\$0	
Soft Costs	\$0	\$1,584,894	\$10.015 / Unit	\$1,862,759	\$1,965,681	\$1,965,681	\$1,862,759	\$10.015 / Unit	\$1,584,894	\$0		0.0%	\$0	
Financing	\$0	\$1,613,817	\$14,900 / Unit	\$2,771,316	\$2,440,206	\$2,440,206	\$2,771,316	\$14,900 / Unit	\$1,613,817	\$0		0.0%	\$0	
Developer Fee	\$0	\$3,876,804	15.16%	15.16%	\$3,876,804	\$3,429,822	\$3,876,804	15.00%	11.44%	\$3,835,124	\$0	1.1%	\$41,680	
Reserves			\$5,953 / Unit	\$1,107,347	\$890,459	\$890,459	\$1,107,347	\$5,953 / Unit				0.0%	\$0	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	\$7,970,000	\$29,444,298		\$225,199 / Unit	\$41,887,009	\$38,211,644	\$38,076,181	\$41,845,329	\$224,975 / Unit	\$29,402,618	\$7,970,000	0.1%	\$41,680	
Acquisition Cost	\$0				\$0	\$0								
Contingency		(\$1)			(\$1)	\$0								
Contractor's Fee		\$0			\$0	\$0								
Financing Cost		\$0												
Developer Fee	\$0	(\$41,680)			(\$41,680)	(\$135,462)								
Reserves					\$0	\$0								
ADJUSTED BASIS / COST	\$7,970,000	\$29,402,618		\$224,975/unit	\$41,845,329	\$38,076,181		\$41,845,329	\$224,975/unit	\$29,402,618	\$7,970,000	0.0%	\$0	
TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY PCA/CNA						\$41,845,329								

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Jackie Robinson Apartments, El Paso, 4% HTC #18456

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$7,970,000	\$29,402,618	\$7,970,000	\$29,402,618
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$7,970,000	\$29,402,618	\$7,970,000	\$29,402,618
High Cost Area Adjustment		106%		106%
TOTAL ADJUSTED BASIS	\$7,970,000	\$31,266,743	\$7,970,000	\$31,266,743
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
TOTAL QUALIFIED BASIS	\$7,970,000	\$31,266,743	\$7,970,000	\$31,266,743
Applicable Percentage	3.44%	3.44%	3.44%	3.44%
ANNUAL CREDIT ON BASIS	\$274,168	\$1,075,576	\$274,168	\$1,075,576
CREDITS ON QUALIFIED BASIS	\$1,349,744		\$1,349,744	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9598	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$1,349,744	\$12,954,955	---	---	---
Needed to Fill Gap	\$1,435,738	\$13,780,329	---	---	---
Applicant Request	\$1,290,195	\$12,383,399	\$1,290,195	\$0	\$0

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$24,686,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$49,372,000				69.1%
	Applicant	TDHCA			
Land Cost	\$1,930,000	\$1,930,000			
Depreciable Bldg Cost	\$33,815,359	\$33,815,359			
Aggregate Basis for 50% Test	\$35,745,359	\$35,745,359	amount aggregate basis can increase before 50% test fails	\$13,626,641 38.1%	\$13,626,642 38.1%

Long-Term Pro Forma

Jackie Robinson Apartments, El Paso, 4% HTC #18456

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$1,955,157	\$1,994,260	\$2,034,145	\$2,074,828	\$2,116,325	\$2,336,594	\$2,579,788	\$2,848,295	\$3,144,747	\$3,472,055	\$3,833,429
TOTAL EXPENSES	3.00%	\$775,971	\$798,273	\$821,224	\$844,843	\$869,151	\$1,001,744	\$1,154,848	\$1,331,666	\$1,535,905	\$1,771,856	\$2,052,113
NET OPERATING INCOME ("NOI")		\$1,179,186	\$1,195,988	\$1,212,922	\$1,229,985	\$1,247,174	\$1,334,850	\$1,424,941	\$1,516,629	\$1,608,842	\$1,700,199	\$1,781,316
EXPENSE/INCOME RATIO		39.7%	40.0%	40.4%	40.7%	41.1%	42.9%	44.8%	46.8%	48.8%	51.0%	53.5%
MUST -PAY DEBT SERVICE												
TOTAL DEBT SERVICE		\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033	\$934,033
DEBT COVERAGE RATIO		1.26	1.28	1.30	1.32	1.34	1.43	1.53	1.62	1.72	1.82	1.91
ANNUAL CASH FLOW		\$245,153	\$261,954	\$278,888	\$295,952	\$313,140	\$400,816	\$490,907	\$582,596	\$674,809	\$766,166	\$847,283
Deferred Developer Fee Balance		\$1,151,777	\$889,822	\$610,934	\$314,982	\$1,842	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$1,825,787	\$4,099,322	\$6,828,478	\$10,018,139	\$13,666,917	\$17,746,820

18456 Jackie Robinson Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION
January 10, 2019

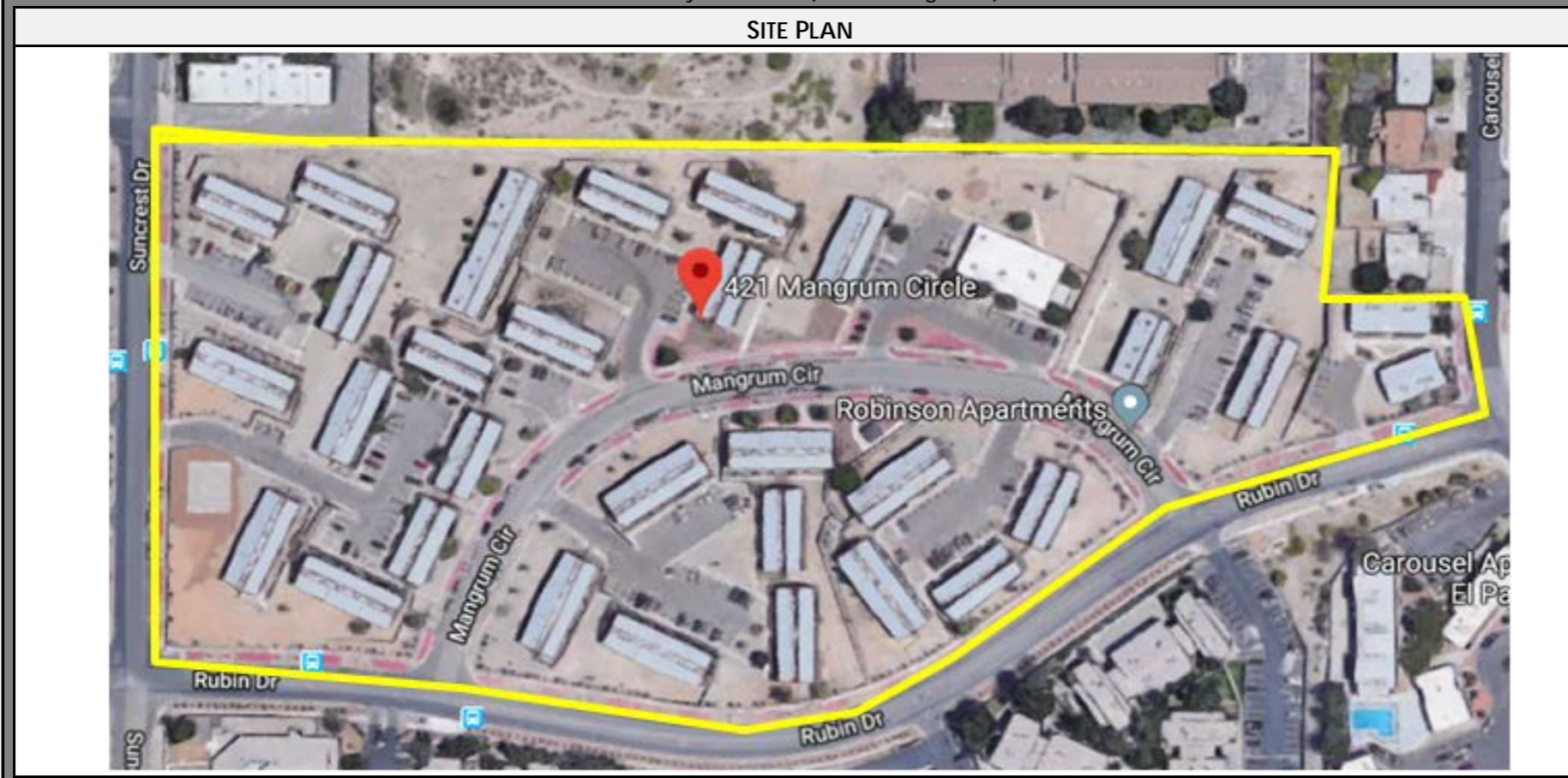
PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	18456	TDHCA Program	Request	Recommended	
Development	Jackie Robinson Apartments	LIHTC (4% Credit)	\$1,182,177	\$1,182,177	\$6,356/Unit \$0.93
City / County	El Paso / El Paso				
Region/Area	13 / Urban				
Population	General				
Set-Aside	General				
Activity	Acquisition/Rehab (Built in 1975)				

KEY PRINCIPAL / SPONSOR		
Housing Authority of the City of El Paso (HACEP) Franklin Development Properties - Ryan Wilson (Developer) Alamito PFC (Related-Party Issuer) Affordable Housing Enterprises (Contractor) Gerald ("Jerry") W. Cichon		
Related Parties	Contractor - Yes	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	7	4%	40%	-	0%
2	76	41%	50%	-	0%
3	72	39%	60%	186	100%
4	31	17%	MR	-	✓
TOTAL	186	100%	TOTAL	186	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	39.7%
Breakeven Occ.	87.5%	Breakeven Rent	\$844
Average Rent	\$917	B/E Rent Margin	\$73
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,174/unit	Controllable	\$2,772/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	2.3%		
Highest Unit Capture Rate	8%	4 BR/50%	31
Dominant Unit Cap. Rate	5%	2 BR/50%	76
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	186	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	996 SF	Density	15.5/acre
Acquisition	\$53K/unit	\$9,900K	
Building Cost	\$76.39/SF	\$76K/unit	\$14,153K
Hard Cost	\$92K/unit		\$17,180K
Total Cost	\$205K/unit		\$38,076K
Developer Fee	\$3,294K	(33% Deferred)	Paid Year: 6
Contractor Fee	\$2,405K	30% Boost	Partial

REHABILITATION COSTS / UNIT			
Site Work	\$6K	7%	Finishes/Fixtures \$14K 15%
Building Shell	\$50K	54%	Amenities \$2K 2%
HVAC	\$10K	11%	Total Exterior \$58K 69%
Appliances	\$2K	2%	Total Interior \$26K 31%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
PNC - Construction/Freddie TEL	15/35	5.40%	\$16,500,000	1.12	HACEP - Seller Note	50/0	3.00%	\$9,900,000	1.15	PNC - Tax Credit Capital	\$10,993,145
										Paisano HRC	\$1,083,036
TOTAL DEBT (Must Pay)			\$16,100,000		CASH FLOW DEBT / GRANTS			\$9,900,000		TOTAL EQUITY SOURCES	\$12,076,181
										TOTAL DEBT SOURCES	\$26,000,000
										TOTAL CAPITALIZATION	\$38,076,181

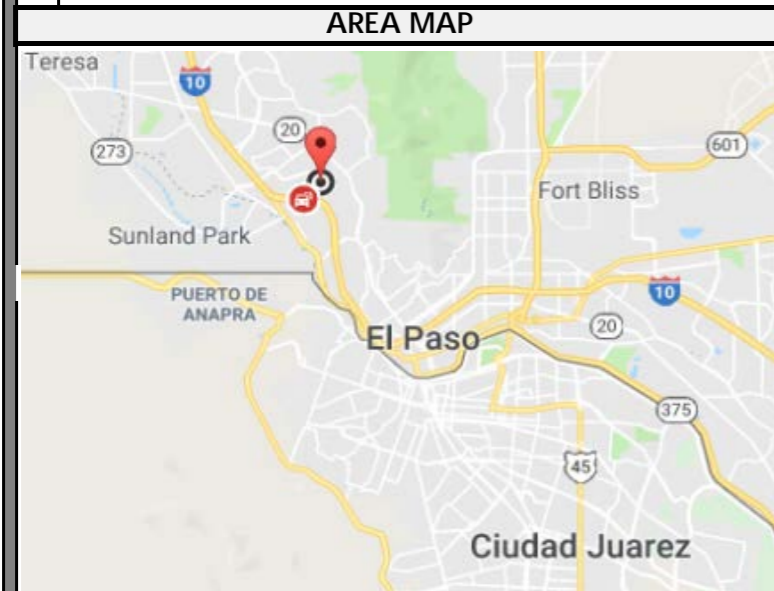
CONDITIONS

- Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
 - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
 - b: Certification of comprehensive testing for asbestos, lead-based paint and lead in drinking water; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials, lead-based paint or lead in drinking water are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
 - c: Certification of the actual QCT amplifier calculation.

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

BOND RESERVATION / ISSUER	
Issuer	Alamito Public Facilities Corporation
Expiration Date	4/14/2019
Bond Amount	\$30,000,000
BRB Priority	Priority 3
Close Date	4/14/2019
Bond Structure	Freddie Mac
% Financed with Tax-Exempt Bonds	74.5%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	10% construction contingency & available
▫	Minimal lease up risk
▫	Pro forma based on historical expenses
▫	100% rental assistance
WEAKNESSES/RISKS	
▫	Potential cost overruns associated with rehab projects





DEVELOPMENT IDENTIFICATION

TDHCA Application #: 18456 Program(s): 4% HTC

Jackie Robinson Apartments

Address/Location: 421 Mangrum Cir

City: El Paso County: El Paso Zip: 79905

Population: General Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Garden/Townhome Region: 13

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
LIHTC (4% Credit)	\$1,182,177				\$1,182,177				

CONDITIONS

- Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
 - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
 - b: Certification of comprehensive testing for asbestos, lead-based paint and lead in drinking water; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials, lead-based paint or lead in drinking water are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
 - c: Certification of the actual QCT amplifier calculation.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
60% of AMI	60% of AMI	186

DEVELOPMENT SUMMARY

The Housing Authority of the City of El Paso (HACEP) is converting the Subject 186 units from public housing to Project Based Vouchers (PBVs). Conventional public housing does not permit projects to service any debt (subsidies sized for breakeven operation only). As a result, housing authorities have few options to recapitalize/rehab existing properties. PBV/Rental Assistance Demonstration (RAD) has been designed so developments will operate similar to conventional projects (can service debt) which will enable the projects to use more traditional financing structures. HACEP has a portfolio of more than 6,000 units which will eventually go through a conversion process. The Applicant previously received fifteen awards (totaling 1,884 units and including one 13- property bond portfolio) in 2014, two awards (totaling 268 units) in 2015, seven awards (totaling 571 units and including a 2 & 3-property bond portfolio) in 2016, and three awards in 2017 (totaling 934 units) all in connection with RAD conversion. This is the first development undergoing a conversion to Project Based Vouchers.

Rehabilitation of the Jackie Robinson Memorial Apartments, located at 421 Mangrum Circle in El Paso, Texas. The existing 184 unit public housing community will be rehabilitated into a 186 unit LIHTC property, utilizing Section 8 rental subsidy in the form of Project Based Vouchers on 100% of the units. The current unit mix will be reconfigured by splitting the six-bedroom units into 4 two-bedroom units.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	10% construction contingency & available deferred developer fee
▫	Minimal lease up risk
▫	Pro forma based on historical expenses
▫	100% rental assistance

WEAKNESSES/RISKS	
▫	Potential cost overruns associated with rehab projects
▫	
▫	
▫	

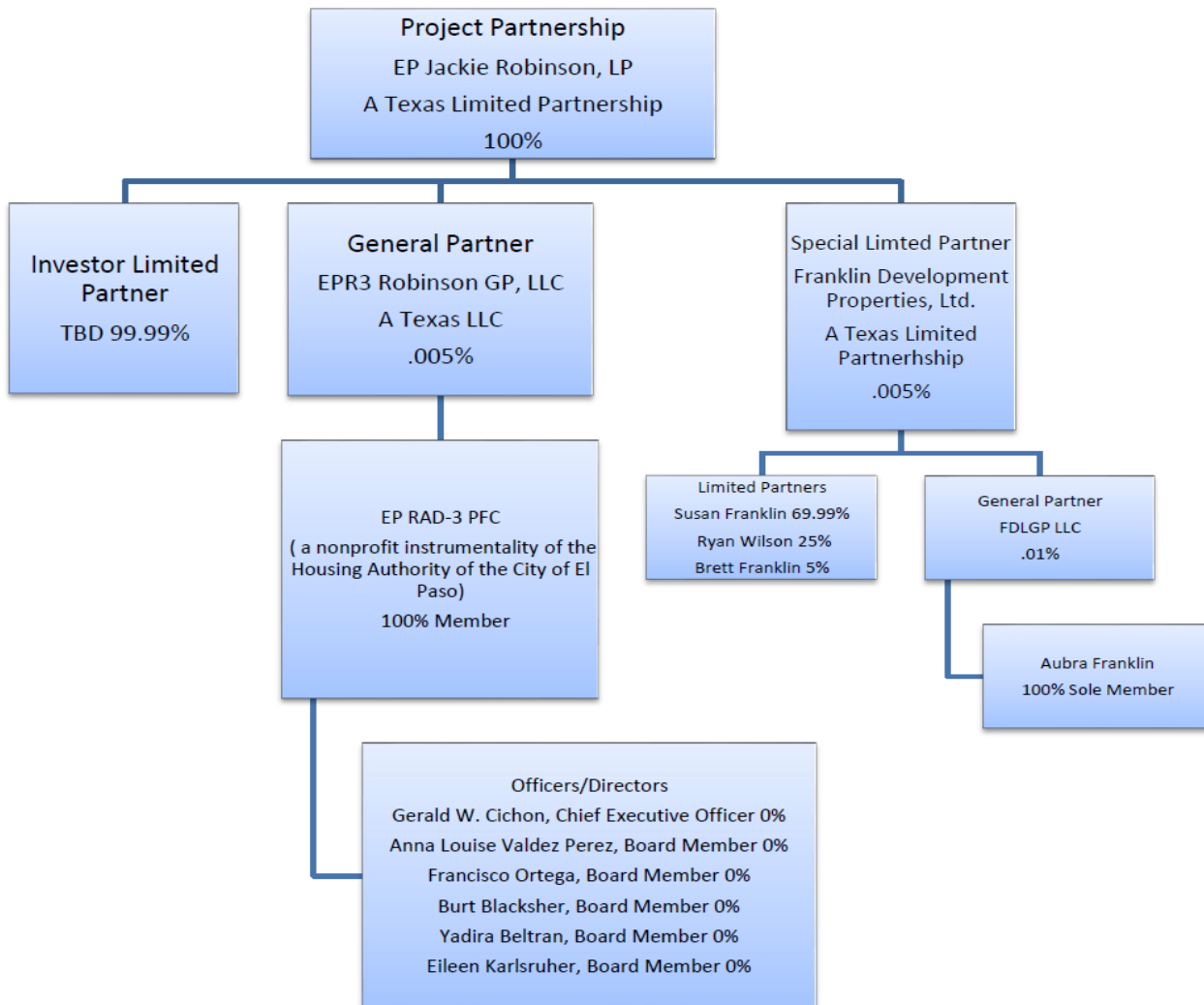
DEVELOPMENT TEAM

PRIMARY CONTACTS

Name: Satish Bhaskar (HACEP)
 Phone: (915) 849-3730
 Relationship: Contractor

Name: Lucila Diaz (Franklin)
 Phone: (210) 408-3152
 Relationship: Co- Developer

OWNERSHIP STRUCTURE



- The Applicant, Developer, General Contractor, property manager, and supportive services provider are related entities. HACEP & Franklin both have experience with LIHTC developments in the region. Collectively, they have had over 43 LIHTC developments and over 4,000 units awarded in the last 6 years.

DEVELOPMENT SUMMARY

SITE PLAN



BUILDING ELEVATION



BUILDING CONFIGURATION

Building Type	A	B	C	D	Da/HC	Db/HC	E	Ea/HC	F/HC	G			Total Buildings
Floors/Stories	1	1	2	2	2	2	2	2	2	2			
Number of Bldgs	1	1	10	3	2	1	11	1	1	1			32
Units per Bldg	4	3	6	6	6	6	6	6	8	3			
Total Units	4	3	60	18	12	6	66	6	8	3			186
Avg. Unit Size (SF)	996 sf		Total NRA (SF)				185,267		Common Area (SF)			5,150	

SITE AND ACQUISITION

Site Acreage: Development Site: 12.03 acres Density: 15.5 units/acre
Site Control: 12.03 **Site Plan:** 12.03 **Appraisal:** 12.03 **ESA:** 12.03

Control Type: Ground Lease and Bill of Sale Contract Expiration: 1/15/2019

Development Site: 12.03 acres Cost: \$9,900,000 \$53,226 per unit

Seller: Housing Authority of the City of El Paso

Buyer: EP Jackie Robinson, LP

Related-Party Seller/Identity of Interest: Yes

Comments:
 75 year ground lease with \$1.93M upfront payment and \$100 annual lease payment. \$9.9M total purchase price.

GENERAL INFORMATION

Flood Zone:	<u>X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>A-2</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1975</u>	Title Issues?	<u>No</u>

Surrounding Uses:

- North:** multifamily residential & vacant land
- East:** Carousel Dr, mutli and single family residential
- South:** Rubin Dr, multifamily residential & vacant land
- West:** Suncrest Dr, mutli and single family residential

Other Observations:

Of the total Subject 32 buildings, 4 buildings (12.9% of building costs) are 100% within the QCT, and 2 buildings (estimated 50% of those 2 buildings for 3.23% of building costs) are partially within the QCT; therefore, the 130% boost is only applied to those buildings. The Underwriter has accepted the Applicant's QCT amplifier calculation of 106.34% as reasonable. Certification of the actual amplifier calculation is required at Cost Certification.

APPRAISED VALUE

Appraiser: Novogradac & Company Date: 9/19/2018

Land as Vacant:	<u>12.03 acres</u>	<u>\$1,930,000</u>	Per Unit:	<u>\$10,376</u>
Existing Buildings: (as-is)		<u>\$7,970,000</u>	Per Unit:	<u>\$42,849</u>
Total Development: (as-is)		<u>\$9,900,000</u>	Per Unit:	<u>\$53,226</u>

Comments:

"As-is" valuation based on Income Approach is not possible for Public Housing properties, since rents are determined and controlled by HUD. Appraiser's value derived using NOI based on market rents capitalized at 6.75%. In this case, Market rents determined by Appraiser are on average, 4% lower than the proposed PBV rents.

Appraiser's concluded value is less than the average of the capitalized value from the Applicant's proposed NOI and the underwritten NOI.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Construction & Environmental Consultants Date: 9/12/2018

Recognized Environmental Conditions (RECs) and Other Concerns:

- CECl recommends a noise study due to the approximate 7.5-mile distance to the El Paso International Airport, lies within the 15-mile distance established by the HUD Noise Assessment Rule.
- CECl affirmed further testing for asbestos, lead based paint and lead in drinking water would be required.

MARKET ANALYSIS

Provider: Novogradac & Company Date: 9/19/2018
 Contact: Rebecca S. Arthur, MAI Phone: (913) 677-4600

Primary Market Area (PMA): 28 sq. miles 3 mile equivalent radius
 PMA consists of 16 census tracts in northwestern El Paso. The primary roadways are Interstate 10 and SH 20.

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
	None				0	0
Other Affordable Developments in PMA since 2014						
17433	Sandoval		RAD	General	n/a	224
16413	Judson Williams Apartments		A/R	Elderly Preference	n/a	24
Stabilized Affordable Developments in PMA (pre-2014)					Total Units	315
					Total Developments	4

Proposed, Under Construction, and Unstabilized Comparable Supply:

No comparables. Subject is a conversion from Section 8 to Rental Assistance Demonstration (RAD) that offers current tenants preference, therefore, there are no competitive units.

OVERALL DEMAND ANALYSIS				
	Market Analyst		Underwriter	
Total Households in the Primary Market Area	30,994		32,171	
Potential Demand from the Primary Market Area	8,664		7,416	
10% External Demand	866		742	
Potential Demand from Other Sources	0		0	
GROSS DEMAND	9,530		8,158	
Subject Affordable Units	186		186	
Unstabilized Comparable Units	0		0	
RELEVANT SUPPLY	186		186	
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	2.0%		2.3%	

Population:	General	Market Area:	Urban	Maximum Gross Capture Rate:	10%
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UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND

* N/A due to all units being 50% AMI.

Demand Analysis:

Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. The Subject property is covered by a Housing Assistance Program contract, meaning that all households below the maximum income level are eligible and incomes are limited to 50% AMI and below. Jackie Robinson Apartments are 72% occupied.

Market Analyst qualified household rents at 60% AMI and assumed a 1.5 person per bedroom ratio for establishing income legibility of all units. Underwriter qualified demand at 50% AMI and a 2.0 person per bedroom ratio per REA Rules.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
Unit Type	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/50%		0				1,987	199	7	0	0.3%
1 BR/60%	741	74	74	0	9%					
2 BR/50%		0				1,392	139	76	0	5%
2 BR/60%	332	33	76	0	21%					
3 BR/50%		0				828	83	72	0	8%
3 BR/60%	218	22	72	0	30%					
4 BR/50%		0				353	35	31	0	8%
4 BR/60%	261	26	31	0	11%					

Market Analyst Comments:

"It appears that the majority of the rental housing in the Subject's PMA are market rate. Approximately 3.8 percent of the rental housing in the Subject's PMA is affordable. This suggests a strong need for maintaining affordable housing in the PMA." (p. 42)

Underwriter Comments:

Subject is currently 72% occupied. Units are being held vacant in anticipation of the upcoming renovation.

Revisions to Market Study:	0
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OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA Pro Forma)					
NOI:	\$1,178,801	Avg. Rent:	\$917	Expense Ratio:	39.7%
Debt Service:	\$1,024,890	B/E Rent:	\$844	Controllable Expenses:	\$2,772
Net Cash Flow:	\$153,911	UW Occupancy:	95.0%	Property Taxes/Unit:	\$0
Aggregate DCR:	1.15	B/E Occupancy:	87.5%	Program Rent Year:	2018

Pro forma generally underwritten consistent with HACEP's prior RAD conversions.

Applicant's operating expenses (\$3,928/unit) are 5.2% lower than Underwriter's (\$4,142/unit) and NOI is 3.4% higher than the REA estimate, so the analysis is based on the Underwriter's pro forma.

Assumed 5% vacancy [permitted for developments with 100% project-based rental assistance per 2018 Multifamily Uniform Rules(\$10.302(d)(1)(C)].

Utilities estimated based on historical with adjustments made for post rehab utility efficiency as consistent with the 2014, 2016 and 2017 HACEP RAD portfolios.

Pursuant to §10.302(d)(2)(K), the Applicant has included \$22K for tenant services expense. As a governmental agency itself, the housing authority is not required to have a documented financial obligation to provide the services. The permanent lender has provided a term sheet indicating the dollar amount of the services and has included the expense in the debt coverage ratio. At cost certification and as a minimum, the \$22K underwritten at Application will be included in the DCR calculation regardless if actually incurred. There will be no financial obligation to actually expend the funds in the tax credit LURA. This is a credit sizing provision. If the tenant services expense was not included as an operating expense, the DCR would increase to 1.17 times, with no impact on the analysis.

Property currently receiving a PILOT that is anticipate to go away following the rehab. Subject will receive a 100% property tax exemption afforded by the housing authority serving as general partner.

Subject development to be staffed similarly to previously underwritten HACEP transactions, with managers and maintenance personnel covering multiple properties. Therefore, the Underwriter utilized the Applicant's payroll estimate for consistency with previously underwritten HACEP RAD portfolios.

Healthy expense ratio and DCR indicate long-term feasibility for the overall pro forma. Proforma DCR improves to 1.67 times debt coverage by year 30. Development breaks even with 23 vacant units, underwritten at 9 (of 186 total). Lease up risk mitigated by current occupancy and 100% project-based rental assistance.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule: 0

Revisions to Annual Operating Expenses: 0

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on PCA)

Acquisition	\$160,406/ac	\$53,226/unit	\$9,900,000	Contractor Fee	\$2,405,234
Off-site + Site Work		\$7,877/unit	\$1,465,063	Soft Cost + Financing	\$4,405,887
Building Cost	\$76.39/sf	\$76,093/unit	\$14,153,338	Developer Fee	\$3,294,360
Contingency	10.00%	\$8,397/unit	\$1,561,840	Reserves	\$890,459
Total Development Cost	\$204,711/unit	\$38,076,181		Rehabilitation Cost	\$83,970/unit
Qualified for 30% Basis Boost?		Partially Qualified*			

*Subject lies within two Census Tracts. Only the buildings within the applicable QCT will be eligible for the Boost

Acquisition:

Acquisition value determined by appraisal as outlined above.

Site Work:

Subject will receive extensive xeriscaping, refurbished parking and ramps, lighting & signage.

Building Cost:

Scope of renovation will include roof replacement, extensive asbestos abatement, replacement of doors and all windows, plumbing & piping, electrical panels, upgraded lighting and common buildings. While a substantial amount of the rehabilitation involves Building Shell Costs (\$49K/unit), a large part of those improvements will also directly benefit the residents.

PCA identified Direct Construction costs consistent with the Applicant's estimate.

Applicant's interior and exterior costs consistent with those determined by PCA provider. Breakdown as a percentage of Building Cost plus Site Work:

REHABILITATION COSTS / UNIT / % HARD COST							
Site Work	\$1,118,913	\$6,016/unit	7%	Finishes/Fixtures	\$2,603,939	\$14,000/unit	15%
Building Shell	\$9,261,587	\$49,793/unit	54%	HVAC	\$1,910,997	\$10,274/unit	11%
Amenities	\$346,150	\$1,861/unit	2%	Appliances	\$376,815	\$2,026/unit	2%
Total Exterior	\$10,726,650	\$57,670/unit	69%	Total Interior	\$4,891,751	\$26,300/unit	31%

Contingency:

Applicant included a 10% construction contingency. \$2.2M of repayable developer fee is available for deferral as additional contingency for any cost overruns.

Ineligible Costs:

Soft Cost includes \$903K relocation expense. The IRS Audit Technique Guide identifies relocation cost as an operating expense, and is therefore not includable in eligible basis for tax credits.

Developer Fee:

Applicant's total and eligible developer fee is overstated by \$135K due to the exclusion of relocation cost from basis.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$38,076,181	\$33,226,762	\$1,198,085

Related-Party Contractor: Yes

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	0
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UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
Alamito Public Facilities Corporation	\$30,000,000	11/15/2018	Priority 3
Closing Deadline	Expected Closing	Bond Structure	
4/14/2019	4/14/2019	Freddie Mac	

Percent of Cost Financed by Tax-Exempt Bonds	74.5%
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Comments:

Financing provided through the Freddie Mac direct purchase tax-exempt permanent loan program. Under this program, a Freddie Mac approved Lender originates a tax-exempt loan ("Funding Loan") to a government entity such as a state, city or county housing authority that has the capacity to issue tax exempt multifamily housing bonds (in this case the Alamito PFC). Simultaneously, using the proceeds of the Funding Loan, the issuer makes another loan, known as the Project Loan, to the borrower to finance the project. This is essentially the same process as a tax-exempt bond issuance where the Funding Loan acts as the tax-exempt bonds.

On this transaction and during the construction phase, the Funding Loan is made by PNC and administered essentially as a construction loan. Subsequently at stabilization, Freddie Mac purchases the Funding Loan from PNC. Freddie Mac holds the loan for a period of time before aggregating it with other tax-exempt loans for securitization and sale to third party investors.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
PNC - Construction/Freddie TEL	Issuer	\$16,500,000	4.00%	43%
PNC - Bridge Loan	Conventional Loan	\$7,900,000	4.00%	21%
PNC - Tax Credit Capital	HTC	\$2,198,629	\$0.93	6%
HACEP - Seller Note	Private Loan	\$9,900,000	3.00%	26%
Paisano HRC (Co-Developer)	Deferred Fee	\$1,713,015		4%
		\$38,211,644	Total Sources	

Comments:

PNC Bridge loan will be repaid with equity proceeds.

PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
PNC - Construction/Freddie TEL	\$16,500,000	5.40%	35	15	\$16,500,000	5.40%	35	15	43%
Adjustment to Debt Per §10.302(c)(2)					(\$400,000)	5.40%	35	15	-1%
HACEP - Seller Note	\$9,900,000	3.00%	0	50	\$9,900,000	3.00%	0	50	26%
Total	\$26,400,000				\$26,000,000				

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
PNC - Tax Credit Capital	\$10,993,145	\$0.93		\$10,993,145	\$0.93	29%	
Paisano HRC (Co-Developer)	\$818,499		25%	\$1,083,036		3%	33%
Total	\$11,811,644			\$12,076,181			
				\$38,076,181	Total Sources		

Credit Price Sensitivity based on current capital structure	
\$1.022	Maximum Credit Price before the Development is oversourced and allocation is limited
\$0.743	Minimum Credit Price below which the Development would be characterized as infeasible

Comments:

Post rehab tenants are required to be given the opportunity to return to their previous residence (same site, not necessarily same unit). Should a tenant be over income the unit and related rehab costs would not be eligible for tax credits. The Applicant has indicated the number of over income households to be one.

Revisions to Sources Schedule:	0
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CONCLUSIONS

Recommended Financing Structure:

The underwriting analysis assumes a \$400K adjustments to the permanent debt per §10.302(c)(2) to achieve the minimum 1.15x debt coverage ratio.

Gap Analysis:	
Total Development Cost	\$38,076,181
Permanent Sources	\$26,000,000
Gap in Permanent Financing	\$12,076,181

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$11,141,071	\$1,198,085
Needed to Balance Sources & Uses	\$12,076,181	\$1,298,644
Requested by Applicant	\$10,993,145	\$1,182,177

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$10,993,145	\$1,182,177

Deferred Developer Fee	\$1,083,036	(33% deferred)
Repayable in	6 years	

Underwriter: Diamond Unique Thompson

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

UNIT MIX/RENT SCHEDULE

Jackie Robinson Apartments, El Paso, 4% HTC #18456

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
Area Median Income	\$51,700
PROGRAM REGION:	13

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	30%	-	0.0%
1	7	3.8%	7	0	40%	-	0.0%
2	76	40.9%	76	0	50%	-	0.0%
3	72	38.7%	72	0	60%	186	100.0%
4	31	16.7%	31	0	MR	-	0.0%
TOTAL	186	100.0%	186	-	TOTAL	186	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	106.34%
Applicable Fraction	100.00%
APP % Acquisition	3.44%
APP % Construction	3.44%
Average Unit Size	996 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS			MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 60%	\$636	PBV	\$643	7	1	1	561	\$643	\$66	\$577	\$0	\$1.03	\$577	\$4,039	\$4,039	\$577	\$1.03	\$0	\$675	\$1.20	\$675
TC 60%	\$763	PBV	\$783	72	2	1	866	\$783	\$79	\$704	\$0	\$0.81	\$704	\$50,688	\$50,688	\$704	\$0.81	\$0	\$855	\$0.99	\$855
TC 60%	\$763	PBV	\$783	4	2	1	794	\$783	\$79	\$704	\$0	\$0.89	\$704	\$2,816	\$2,816	\$704	\$0.89	\$0	\$850	\$1.07	\$850
TC 60%	\$882	PBV	\$1,130	16	3	1	1,081	\$1,130	\$94	\$1,036	\$0	\$0.96	\$1,036	\$16,576	\$16,576	\$1,036	\$0.96	\$0	\$975	\$0.90	\$975
TC 60%	\$882	PBV	\$1,130	48	3	1.5	1,081	\$1,130	\$94	\$1,036	\$0	\$0.96	\$1,036	\$49,728	\$49,728	\$1,036	\$0.96	\$0	\$975	\$0.90	\$975
TC 60%	\$882	PBV	\$1,130	8	3	1	1,068	\$1,130	\$94	\$1,036	\$0	\$0.97	\$1,036	\$8,288	\$8,288	\$1,036	\$0.97	\$0	\$1,040	\$0.97	\$1,040
TC 60%	\$984	PBV	\$1,348	22	4	1.5	1,183	\$1,348	\$108	\$1,240	\$0	\$1.05	\$1,240	\$27,280	\$27,280	\$1,240	\$1.05	\$0	\$1,040	\$0.88	\$1,040
TC 60%	\$984	PBV	\$1,348	1	4	1.5	1,116	\$1,348	\$108	\$1,240	\$0	\$1.11	\$1,240	\$1,240	\$1,240	\$1,240	\$1.11	\$0	\$1,040	\$0.93	\$1,040
TC 60%	\$984	PBV	\$1,348	1	4	1.5	1,141	\$1,348	\$108	\$1,240	\$0	\$1.09	\$1,240	\$1,240	\$1,240	\$1,240	\$1.09	\$0	\$1,090	\$0.96	\$1,090
TC 60%	\$984	PBV	\$1,348	1	4	2	1,389	\$1,348	\$108	\$1,240	\$0	\$0.89	\$1,240	\$1,240	\$1,240	\$1,240	\$0.89	\$0	\$1,090	\$0.78	\$1,090
TC 60%	\$984	PBV	\$1,348	1	4	2	1,482	\$1,348	\$108	\$1,240	\$0	\$0.84	\$1,240	\$1,240	\$1,240	\$1,240	\$0.84	\$0	\$1,090	\$0.74	\$1,090
TOTALS/AVERAGES:				186			185,267				\$0	\$0.92	\$917	\$170,575	\$170,575	\$917	\$0.92	\$0	\$901	\$0.90	\$901

ANNUAL POTENTIAL GROSS RENT:	\$2,046,900	\$2,046,900
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STABILIZED PRO FORMA

Jackie Robinson Apartments, El Paso, 4% HTC #18456

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
	POTENTIAL GROSS RENT				\$0.92	\$917	\$2,046,900	\$2,046,900	\$917	\$0.92		0.0%
0					\$0.00	\$0						
0					\$0.00	\$0						
late fees, forfeit deposits					\$5.00	\$11,160						
Total Secondary Income					\$5.00		\$11,160	\$5.00			0.0%	\$0
POTENTIAL GROSS INCOME						\$2,058,060	\$2,058,060				0.0%	\$0
Vacancy & Collection Loss					5.0% PGI	(102,903)	(102,903)	5.0% PGI			0.0%	-
Rental Concessions						-	-				0.0%	-
EFFECTIVE GROSS INCOME						\$1,955,157	\$1,955,157				0.0%	\$0

General & Administrative	\$54,286	\$292/Unit	70,994	\$382	3.15%	\$0.33	\$331	\$61,575	\$69,750	\$375	\$0.38	3.57%	-11.7%	(8,175)
Management	\$76,604	5.6% EGI	100,127	\$538	5.00%	\$0.53	\$526	\$97,758	\$97,758	\$526	\$0.53	5.00%	0.0%	0
Payroll & Payroll Tax	\$218,177	\$1,173/Unit	131,150	\$705	6.41%	\$0.68	\$673	\$125,228	\$131,150	\$705	\$0.71	6.71%	-4.5%	(5,922)
Repairs & Maintenance	\$79,906	\$430/Unit	93,511	\$503	6.91%	\$0.73	\$727	\$135,163	\$120,900	\$650	\$0.65	6.18%	11.8%	14,263
Electric/Gas	\$50,134	\$270/Unit	106,919	\$575	3.76%	\$0.40	\$396	\$73,611	\$81,507	\$438	\$0.44	4.17%	-9.7%	(7,896)
Water, Sewer, & Trash	\$74,817	\$402/Unit	125,846	\$677	4.10%	\$0.43	\$430	\$80,072	\$112,279	\$604	\$0.61	5.74%	-28.7%	(32,207)
Property Insurance	\$44,764	\$0.24 /sf	18,861	\$101	1.94%	\$0.20	\$204	\$37,855	\$43,710	\$235	\$0.24	2.24%	-13.4%	(5,855)
Property Tax (@ 0%)	\$111,658	\$600/Unit	22,760	\$122	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$48,264	\$259/Unit	-	\$0	3.33%	\$0.35	\$350	\$65,100	\$65,100	\$350	\$0.35	3.33%	0.0%	-
Supportive Services			2,760	\$15	1.13%	\$0.12	\$119	\$22,080	\$22,080	\$119	\$0.12	1.13%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.38%	\$0.04	\$40	\$7,440	\$7,440	\$40	\$0.04	0.38%	0.0%	-
Security			-	\$0	1.26%	\$0.13	\$133	\$24,683	\$24,683	\$133	\$0.13	1.26%	0.0%	-
TOTAL EXPENSES					37.37%	\$3.94	\$3,928	\$ 730,565	\$776,356	\$4,174	\$4.19	39.71%	-5.9%	\$ (45,791)
NET OPERATING INCOME ("NOI")					62.63%	\$6.61	\$6,584	\$1,224,592	\$1,178,801	\$6,338	\$6.36	60.29%	3.9%	\$ 45,791

CONTROLLABLE EXPENSES							\$2,557/Unit				\$2,772/Unit			
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Jackie Robinson Apartments, El Paso, 4% HTC #18456

DEBT / GRANT SOURCES																
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative		
		UW	App											DCR	LTC	
PNC - Construction/Freddie TEL		1.12	1.17	1,050,353	5.40%	35	15	\$16,500,000	\$16,500,000	15	35	5.40%	\$1,050,353	1.12	43.3%	
Adjustment to Debt Per §10.302(c)(2)									(\$400,000)	15	35	5.40%	(\$25,463)	1.15	-1.1%	
CASH FLOW DEBT / GRANTS																
HACEP - Seller Note		1.12	1.17		3.00%	0	50	\$9,900,000	\$9,900,000	50	0	3.00%		1.15	26.0%	
				\$1,050,353				TOTAL DEBT / GRANT SOURCES	\$26,400,000	\$26,000,000			TOTAL DEBT SERVICE	\$1,024,890	1.15	68.3%
NET CASH FLOW	\$128,448	\$174,239								TDHCA NET OPERATING INCOME	\$1,178,801	\$153,911			NET CASH FLOW	

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Paisano HRC	Deferred Developer Fees	2.1%	(24% Deferred)		\$818,499	\$1,083,036	(33% Deferred)		2.8%	Total Developer Fee:	\$3,294,360
Additional (Excess) Funds Req'd		0.0%			\$0	\$0			0.0%		
TOTAL EQUITY SOURCES		31.0%			\$11,811,644	\$12,076,181			31.7%		
TOTAL CAPITALIZATION					\$38,211,644	\$38,076,181				15-Yr Cash Flow after Deferred Fee:	\$3,043,205

DEVELOPMENT COST / ITEMIZED BASIS											
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		Total Costs	Total Costs	%	\$	
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition					
Land Acquisition			\$10,376 / Unit	\$1,930,000	\$1,930,000	\$10,376 / Unit			0.0%	\$0	
Building Acquisition	\$7,970,000		\$42,849 / Unit	\$7,970,000	\$7,970,000	\$42,849 / Unit		\$7,970,000	0.0%	\$0	
Off-Sites			\$ / Unit	\$0	\$0	\$ / Unit			0.0%	\$0	
Site Work		\$1,118,913	\$6,016 / Unit	\$1,118,913	\$1,118,913	\$6,016 / Unit	\$1,118,913		0.0%	\$0	
Site Amenities		\$346,150	\$1,861 / Unit	\$346,150	\$346,150	\$1,861 / Unit	\$346,150		0.0%	\$0	
Building Cost		\$14,153,338	\$76.39 /sf	\$76,093/Unit	\$14,153,338	\$14,153,338	\$76.39/Unit	\$76.39 /sf	\$14,153,338	0.0%	\$0
Contingency		\$1,561,840	10.00%	10.00%	\$1,561,840	\$1,561,840	10.00%	10.00%	\$1,561,840	0.0%	\$0
Contractor Fees		\$2,405,234	14.00%	14.00%	\$2,405,234	\$2,405,234	14.00%	14.00%	\$2,405,234	0.0%	\$0
Soft Costs	\$0	\$1,062,600	\$10,568 / Unit	\$1,965,681	\$1,965,681	\$10,568 / Unit	\$1,062,600	\$0	0.0%	\$0	
Financing	\$0	\$1,314,327	\$13,119 / Unit	\$2,440,206	\$2,440,206	\$13,119 / Unit	\$1,314,327	\$0	0.0%	\$0	
Developer Fee	\$0	\$3,429,822	15.62%	15.62%	\$3,429,822	\$3,294,360	15.00%	11.01%	\$3,294,360	4.1%	\$135,462
Reserves			\$4,787 / Unit	\$890,459	\$890,459	\$4,787 / Unit			0.0%	\$0	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	\$7,970,000	\$25,392,224	\$205,439 / Unit	\$38,211,644	\$38,076,181	\$204,711 / Unit	\$25,256,762	\$7,970,000	0.4%	\$135,462	
Acquisition Cost	\$0			\$0							
Contingency		\$0		\$0							
Contractor's Fee		\$0		\$0							
Financing Cost		\$0									
Developer Fee	\$0	(\$135,462)		(\$135,462)							
Reserves				\$0							
ADJUSTED BASIS / COST	\$7,970,000	\$25,256,762	\$204,711/unit	\$38,076,181	\$38,076,181	\$204,711/unit	\$25,256,762	\$7,970,000	0.0%	\$0	
TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY PCA/CNA				\$38,076,181							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Jackie Robinson Apartments, El Paso, 4% HTC #18456

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$7,970,000	\$25,256,762	\$7,970,000	\$25,256,762
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$7,970,000	\$25,256,762	\$7,970,000	\$25,256,762
High Cost Area Adjustment		106%		106%
TOTAL ADJUSTED BASIS	\$7,970,000	\$26,858,041	\$7,970,000	\$26,858,041
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
TOTAL QUALIFIED BASIS	\$7,970,000	\$26,858,041	\$7,970,000	\$26,858,041
Applicable Percentage	3.44%	3.44%	3.44%	3.44%
ANNUAL CREDIT ON BASIS	\$274,168	\$923,917	\$274,168	\$923,917
CREDITS ON QUALIFIED BASIS	\$1,198,085		\$1,198,085	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9299	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$1,198,085	\$11,141,071	----	----	----
Needed to Fill Gap	\$1,298,644	\$12,076,181	----	----	----
Applicant Request	\$1,182,177	\$10,993,145	\$1,182,177	\$0	\$0

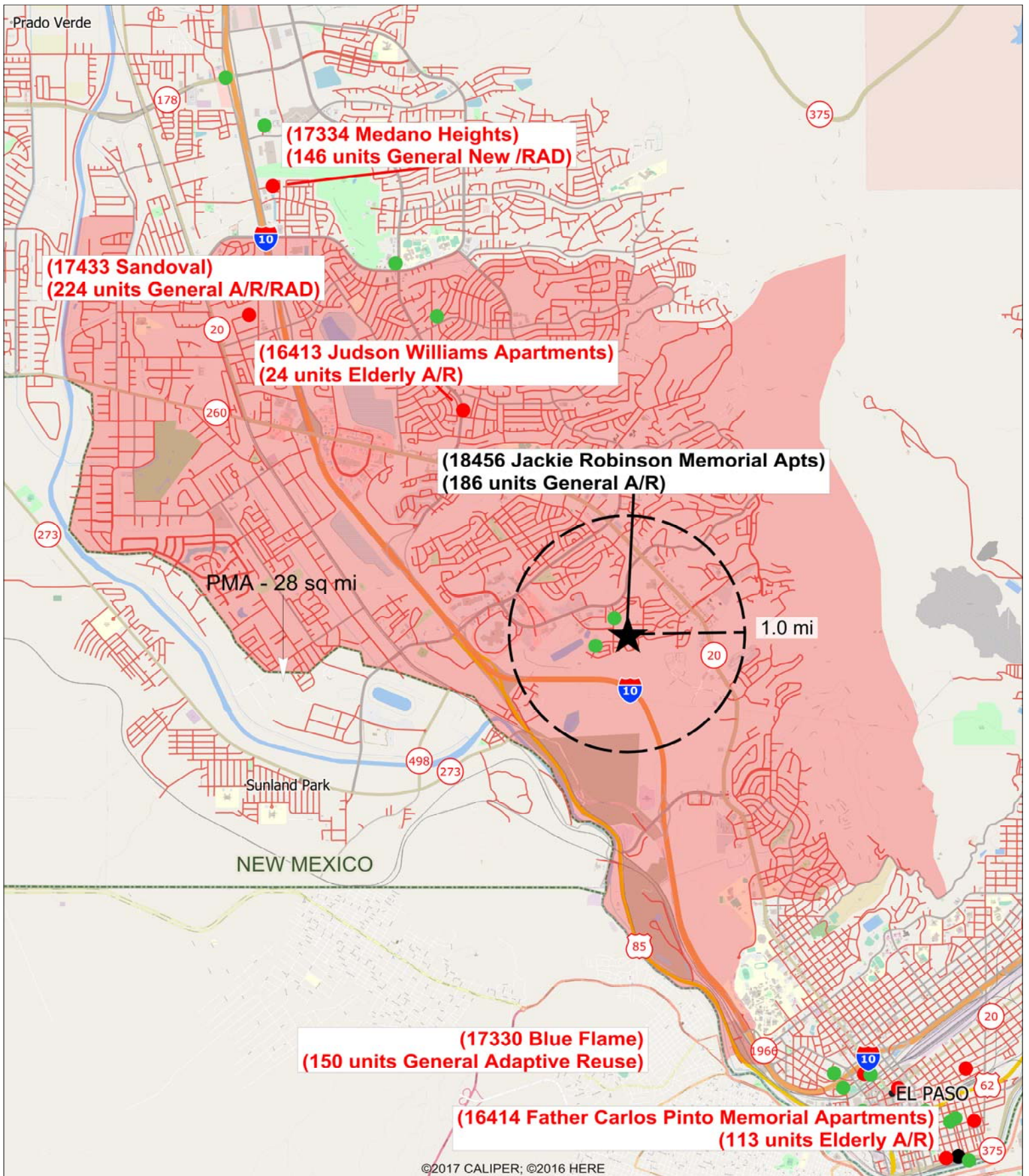
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$24,400,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$48,800,000				74.5%
	<u>Applicant</u>	<u>TDHCA</u>			
Land Cost	\$1,930,000	\$1,930,000	amount aggregate basis can increase before 50% test fails	\$16,034,517	\$16,034,517
Depreciable Bldg Cost	\$30,835,483	\$30,835,483		48.9%	48.9%
Aggregate Basis for 50% Test	\$32,765,483	\$32,765,483			

Long-Term Pro Forma

Jackie Robinson Apartments, El Paso, 4% HTC #18456

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$1,955,157	\$1,994,260	\$2,034,145	\$2,074,828	\$2,116,325	\$2,336,594	\$2,579,788	\$2,848,295	\$3,144,747	\$3,472,055	\$3,833,429
TOTAL EXPENSES	3.00%	\$776,356	\$798,669	\$821,632	\$845,264	\$869,584	\$1,002,246	\$1,155,430	\$1,332,341	\$1,536,688	\$1,772,764	\$2,053,165
NET OPERATING INCOME ("NOI")		\$1,178,801	\$1,195,591	\$1,212,513	\$1,229,564	\$1,246,740	\$1,334,347	\$1,424,358	\$1,515,954	\$1,608,060	\$1,699,291	\$1,780,264
EXPENSE/INCOME RATIO		39.7%	40.0%	40.4%	40.7%	41.1%	42.9%	44.8%	46.8%	48.9%	51.1%	53.6%
MUST -PAY DEBT SERVICE												
TOTAL DEBT SERVICE		\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890	\$1,024,890
DEBT COVERAGE RATIO		1.15	1.17	1.18	1.20	1.22	1.30	1.39	1.48	1.57	1.66	1.74
ANNUAL CASH FLOW		\$153,911	\$170,701	\$187,623	\$204,674	\$221,851	\$309,457	\$399,468	\$491,064	\$583,170	\$674,402	\$755,374
Deferred Developer Fee Balance		\$929,125	\$758,424	\$570,801	\$366,126	\$144,276	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$1,226,700	\$3,043,205	\$5,314,894	\$8,046,579	\$11,236,794	\$14,857,451

18456 Jackie Robinson Apartments PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

19400 The Villas Del San Xavier - Application Summary

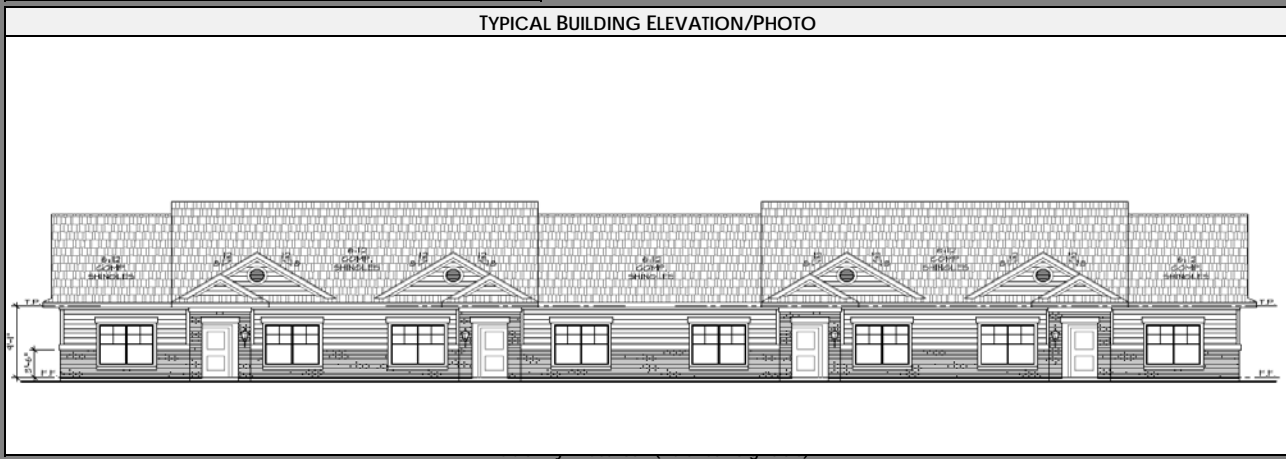
REAL ESTATE ANALYSIS DIVISION

December 2, 2019

PROPERTY IDENTIFICATION	
Application #	19400
Development	The Villas Del San Xavier
City / County	San Marcos / Hays
Region/Area	7 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

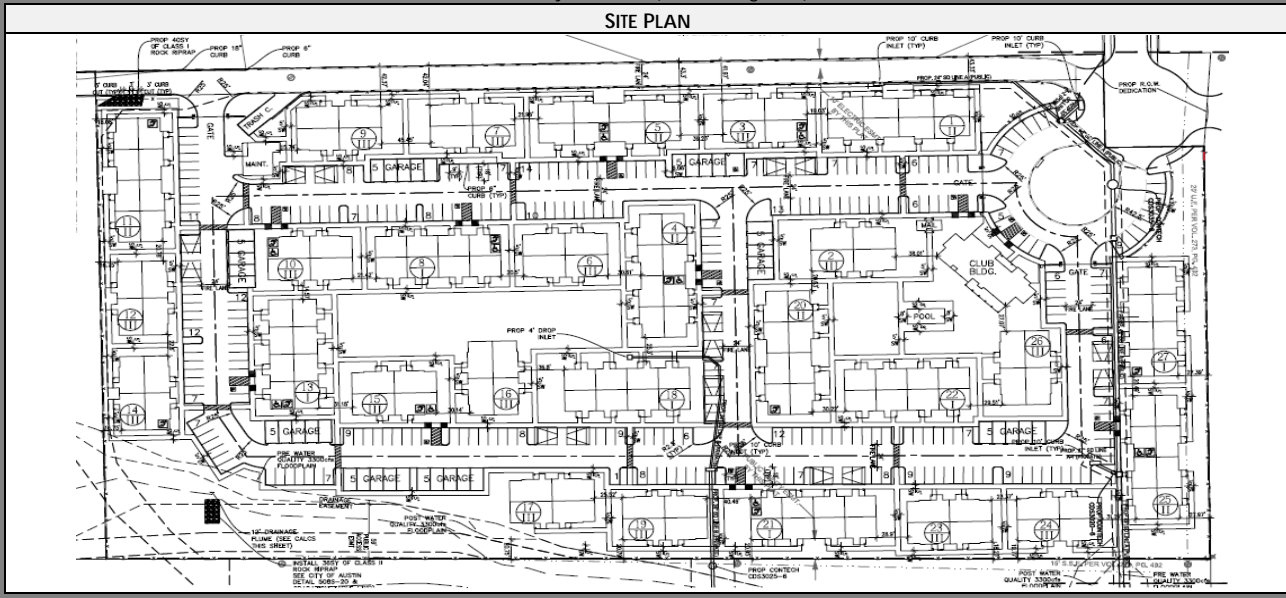
RECOMMENDATION					
TDHCA Program		Request	Recommended		
LIHTC (4% Credit)		\$1,059,750	\$1,059,750	\$6,793/Unit	\$0.87

KEY PRINCIPAL / SPONSOR		
Gina Marie Larson / Principle GML-Senior Affordable Housing, LLC & Charlie Price / President Development Corporation of Tarrant County		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	96	62%	40%	-	0%
2	60	38%	50%	-	0%
3	-	0%	60%	156	100%
4	-	0%	MR	-	-
TOTAL	156	100%	TOTAL	156	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.16	Expense Ratio	37.5%
Breakeven Occ.	84.7%	Breakeven Rent	\$989
Average Rent	\$1,082	B/E Rent Margin	\$93
Property Taxes	\$417/unit	Exemption/PILOT	50%
Total Expense	\$4,586/unit	Controllable	\$3,144/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	4.6%		
Highest Unit Capture Rate	8%	1 BR/60%	96
Dominant Unit Cap. Rate	8%	1 BR/60%	96
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	815 SF	Density	12.7/acre
Acquisition	\$18K/unit		\$2,861K
Building Cost	\$93.17/SF	\$76K/unit	\$11,851K
Hard Cost		\$106K/unit	\$16,495K
Total Cost		\$194K/unit	\$30,227K
Developer Fee	\$3,361K	(76% Deferred)	Paid Year: 11
Contractor Fee	\$2,319K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
America First Multifamily Investors	15/40	4.76%	\$19,500,000	1.09						CREA	\$9,217,891
Adjustment to Debt Per §10.302(c)	15/40	4.76%	(\$1,050,000)	1.16						Deferred Developer Fees	\$2,549,442
TOTAL DEBT (Must Pay)			\$18,450,000		CASH FLOW DEBT / GRANTS			\$0		TOTAL EQUITY SOURCES	\$11,767,333
										TOTAL DEBT SOURCES	\$18,450,000
										TOTAL CAPITALIZATION	\$30,217,333

CONDITIONS

1 Receipt and acceptance by Cost Certification:

- a: Documentation that a noise study has been completed, and Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

BOND RESERVATION / ISSUER

Issuer	New Hope CEFFC
Expiration Date	2/17/2020
Bond Amount	\$25,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	2019 Series A (Senior) Bonds
% Financed with Tax-Exempt Bonds	80.3%

RISK PROFILE

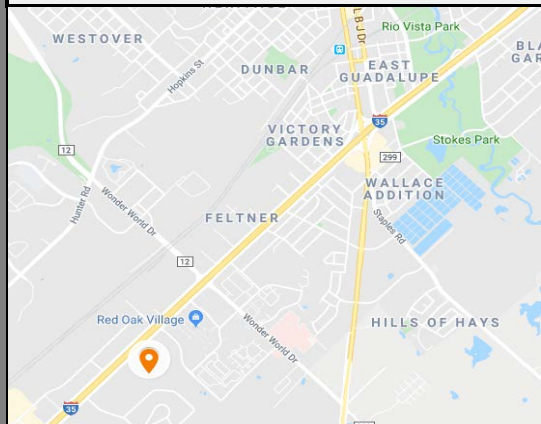
STRENGTHS/MITIGATING FACTORS

- Master-planned senior community.
- Plat has been recorded.

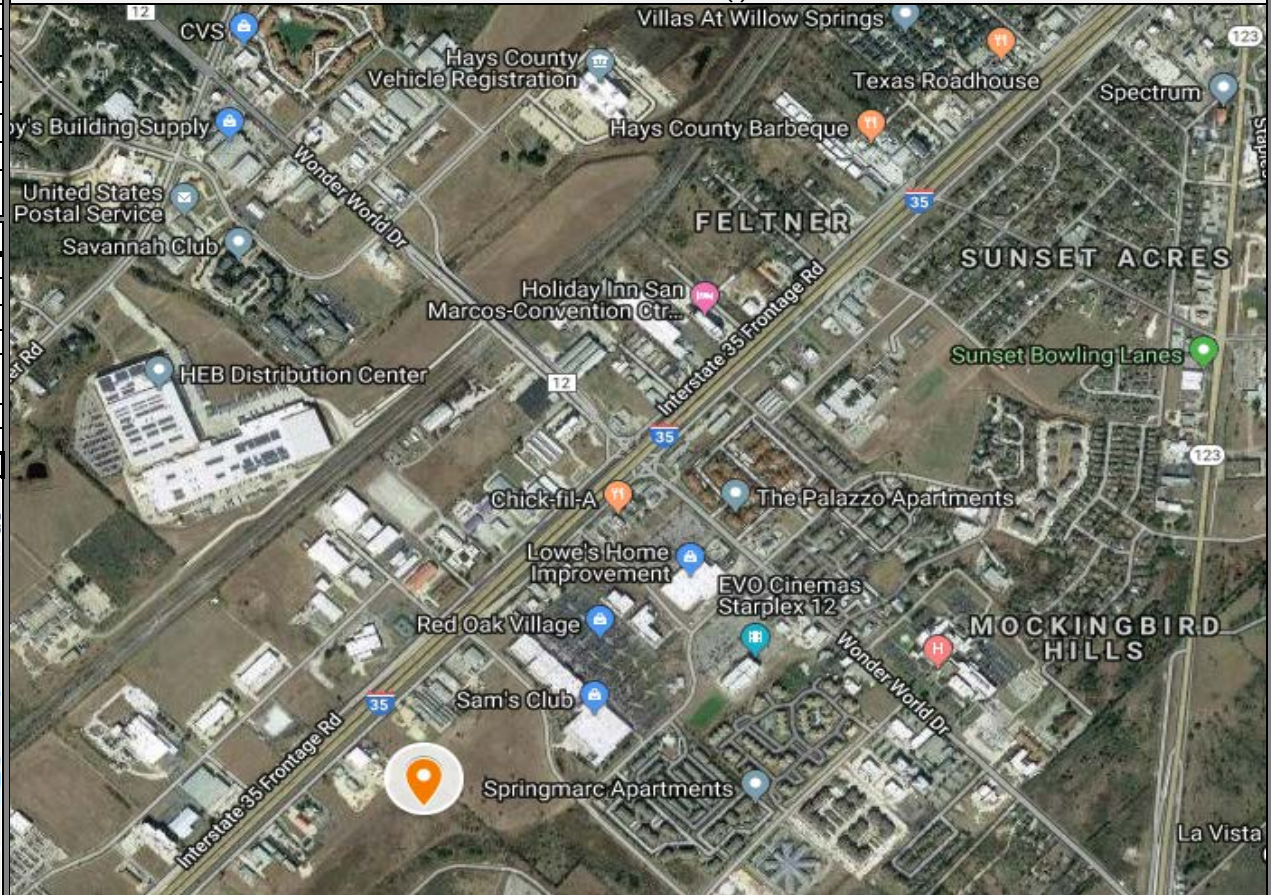
WEAKNESSES/RISKS

- Low walkability score for the site could be a marketing detriment.
- Noise mitigation required due to adjacent roads.
- Watershed Protection Plan required by city.

AREA MAP



AERIAL PHOTOGRAPH(S)



19467 Auro Crossing - Application Summary

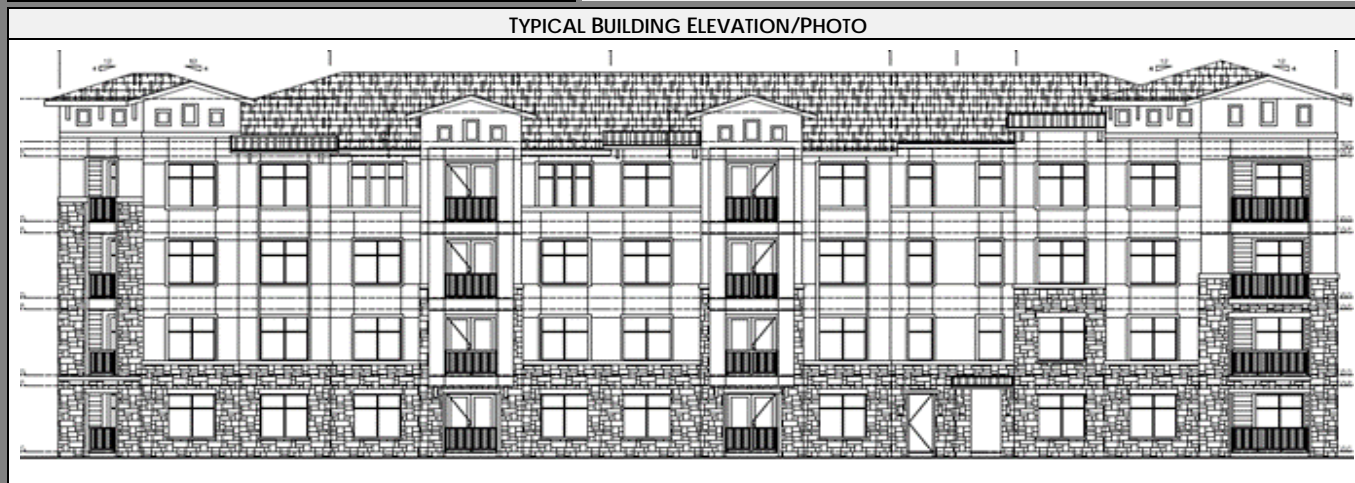
REAL ESTATE ANALYSIS DIVISION

December 5, 2019

PROPERTY IDENTIFICATION	
Application #	19467
Development	Auro Crossing
City / County	Austin / Williamson
Region/Area	7 / Urban
Population	General
Set-Aside	General
Activity	New Construction

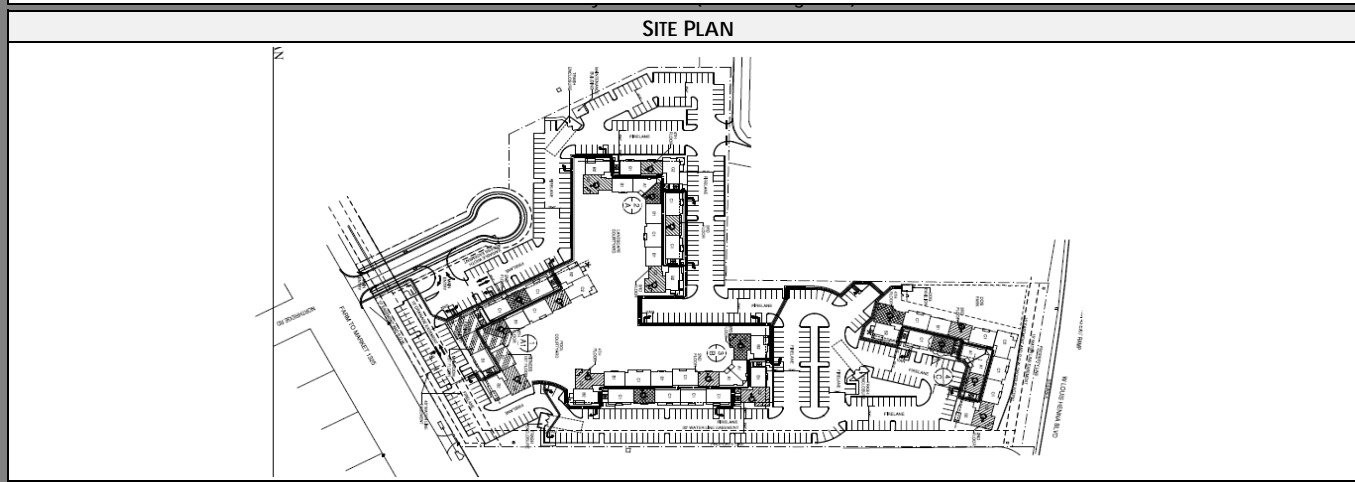
RECOMMENDATION					
TDHCA Program	Request	Recommended			
LIHTC (4% Credit)	\$2,287,808	\$2,287,808	\$8,937/Unit	\$0.91	

KEY PRINCIPAL / SPONSOR		
Capital Area Multi-Housing, Inc - James (Jim) Shaw		
Provident Realty Advisors - Matt Harris		
Mark Mayfield		
Leon Backes		
Related Parties	Contractor - Yes	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	28	11%	40%	-	0%
2	114	45%	50%	-	0%
3	114	45%	60%	256	100%
4	-	0%	MR	-	0%
TOTAL	256	100%	TOTAL	256	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.20	Expense Ratio	✓ 33.8%
Breakeven Occ.	✓ 82.2%	Breakeven Rent	\$1,123
Average Rent	\$1,266	B/E Rent Margin	✓ \$143
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,835/unit	Controllable	\$3,576/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			✓ 3.3%
Highest Unit Capture Rate	⚠ 18%	3 BR/60%	114
Dominant Unit Cap. Rate	⚠ 11%	2 BR/60%	114
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	1,029 SF	Density	24.2/acre
Acquisition		\$18K/unit	\$4,494K
Building Cost	\$104.66/SF	\$108K/unit	\$27,558K
Hard Cost		\$135K/unit	\$34,537K
Total Cost		\$241K/unit	\$61,708K
Developer Fee	\$6,832K	(32% Deferred)	Paid Year: 5
Contractor Fee	\$4,763K	30% Boost	Yes

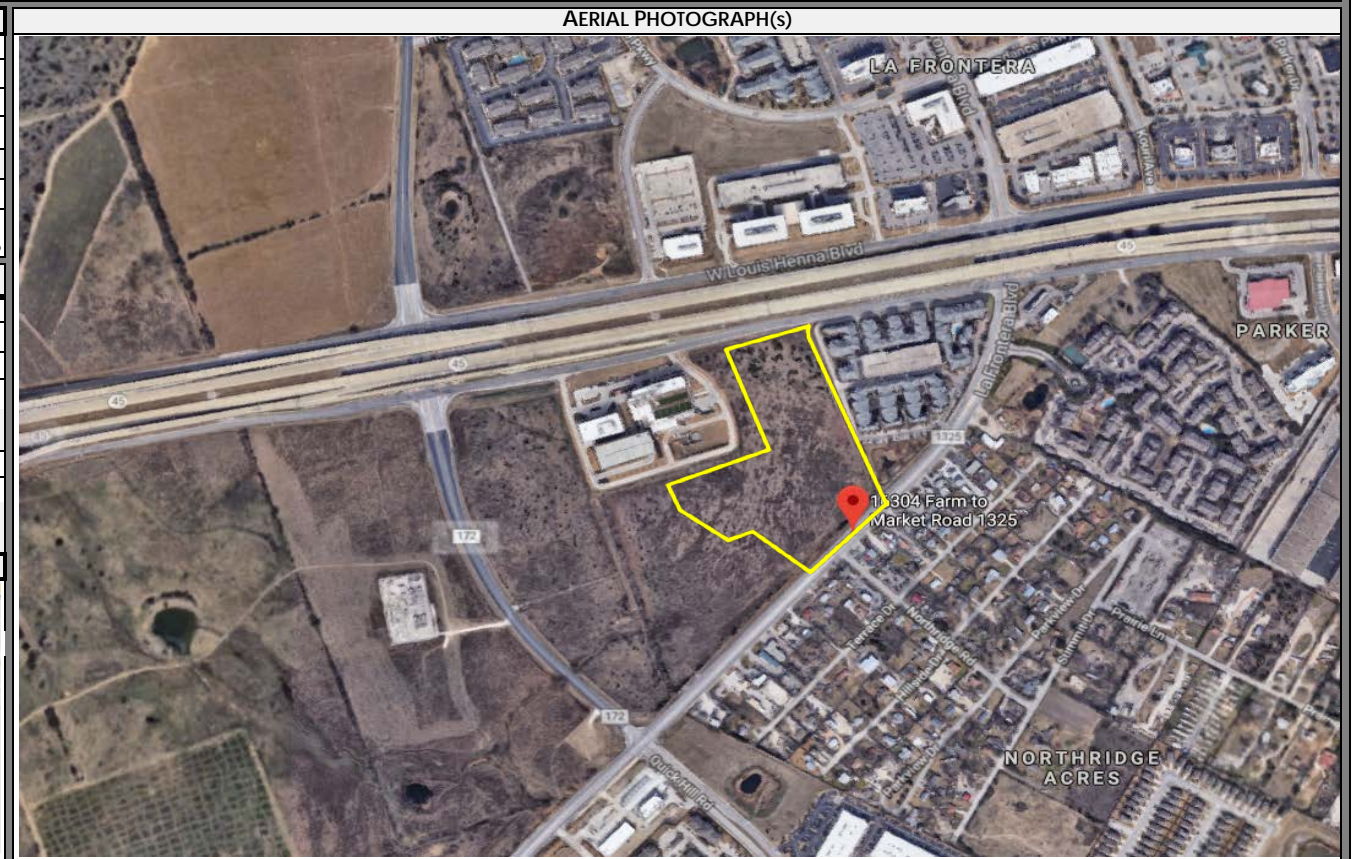
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Capital Area HFC	15/35	3.72%	\$38,230,000	1.20						Enterprise	\$20,816,963
										Provident Realty Advisors, Inc.	\$2,160,866
TOTAL DEBT (Must Pay)			\$38,230,000		CASH FLOW DEBT / GRANTS			\$500,000		TOTAL EQUITY SOURCES	\$22,977,829
										TOTAL DEBT SOURCES	\$38,730,000
										TOTAL CAPITALIZATION	\$61,707,829

CONDITIONS

- Receipt and acceptance before Determination Notice:
 - a: Updated ESA conforming to §11.305 of the REA rules.
 - b: Documentation of executed management agreement to substantiate the 3.5% fee.

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

BOND RESERVATION / ISSUER	
Issuer	Capital Area HFC
Expiration Date	2/24/2020
Bond Amount	\$45,000,000
BRB Priority	3
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	74.6%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫ Developer Experience	
▫ Overall feasibility indicators	
▫ CAHFC involvement	
WEAKNESSES/RISKS	
▫ feasibility dependent on 100% tax exemption	
AREA MAP	





**4% (Non-Competitive) Housing Tax Credit Program
2019 Application Status Log**

TDHCA #	Previous TDHCA #	Development Name	Development City	Board Meeting Date (MM/DD/YYYY)	Application Status	Total Units	Total Low-Income Units	Bond Reservation Amount	Requested HTC Amount	Recommend HTC Amount
19410	18435	Eisenhower	El Paso	10/11/2018	Closed	66	66	\$ 10,000,000	\$ 380,508	\$ 376,008
19602	18616	Park Yellowstone	Houston	12/6/2018	Closed	210	210	\$ 16,000,000	\$ 893,290	\$ 879,975
19427	18441	Lakeway Apartment Homes	Austin ETJ	12/6/2018	Closed	180	169	\$ 20,000,000	\$ 1,203,960	\$ 1,196,981
19408	18457	Mission Trail at Camino Real	San Marcos	1/17/2019	Closed	352	282	\$ 45,000,000	\$ 1,685,207	\$ 1,683,222
19401		Stallion Ridge	Fort Worth	3/21/2019	Closed	204	193	\$ 20,000,000	\$ 1,292,387	\$ 1,292,387
19416	18455	Alsbury Apartments	San Antonio	3/21/2019	Closed	240	240	\$ 20,000,000	\$ 1,392,094	\$ 1,392,094
19413	18445	The Wurzbach	San Antonio	3/21/2019	Closed	161	160	\$ 20,000,000	\$ 837,177	\$ 837,177
19402		Culebra Creek Apartments	San Antonio	3/21/2019	Closed	312	312	\$ 41,000,000	\$ 2,320,033	\$ 2,320,033
19600		Lago de Plata	Corsicana	4/25/2019	Closed	150	148	\$ 14,000,000	\$ 723,820	\$ 723,820
19603		Northgate Village	Dallas	5/23/2019	Closed	168	168	\$ 20,000,000	\$ 1,142,704	\$ 1,142,704
19404		Legacy Ranch at Dessau East	Austin	5/23/2019	Closed	232	186	\$ 31,000,000	\$ 973,468	\$ 973,468
19421	18402	Hampton Homes	Texarkana	5/23/2019	Closed	50	50	\$20,000,000 (portfolio)	\$ 192,386	\$ 192,386
19422	18403	HATT Scattered Sites	Texarkana	5/23/2019	Closed	42	42	-	\$ 123,946	\$ 123,946
19423	18404	Robison Terrace	Texarkana	5/23/2019	Closed	130	130	-	\$ 460,949	\$ 460,949
19424	18405	Williams Homes	Texarkana	5/23/2019	Closed	52	52	-	\$ 179,313	\$ 179,313
19425	18406	Bright Street	Texarkana	5/23/2019	Closed	20	20	-	\$ 80,615	\$ 80,615
19601	18603	McMullen Square	San Antonio	5/23/2019	Closed	100	100	\$ 10,100,000	\$ 426,577	\$ 425,285
19403		Mesa West Apartments	San Antonio	5/23/2019	Closed	280	280	\$ 35,000,000	\$ 2,079,535	\$ 2,079,535
19409	18454	Grim Hotel	Texarkana	5/23/2019	Closed	93	93	\$ 15,000,000	\$ 1,006,241	\$ 1,006,241
19420		Pythian Manor	Dallas	6/27/2019	Closed	76	76	\$ 8,300,000	\$ 387,412	\$ 387,412
19414	18433	Dewetter	El Paso	7/25/2019	Closed	98	98	\$ 13,000,000	\$ 971,651	\$ 1,017,745
19415	18434	Kathy White	El Paso	7/25/2019	Closed	78	78	\$ 11,000,000	\$ 454,747	\$ 478,404
19436		Bridge at Granada	Austin	10/10/2019	Closed	258	233	\$ 26,000,000	\$ 1,441,515	\$ 1,441,515
19433		Wayman Manor Apartments	Temple	10/10/2019	Closed	160	160	\$ 20,000,000	\$ 868,166	\$ 863,123
						3,418	3,252	\$ 395,400,000	\$ 21,517,701	\$ 21,554,338
19412		Majestic Ranch	San Antonio	9/5/2019	Approved	288	288	\$ 23,000,000	\$ 1,698,636	\$ 1,698,636
19417		Green Oaks Apartments	Houston	9/5/2019	Approved	177	175	\$ 20,000,000	\$ 995,271	\$ 995,271
19419		Palladium Redbird	Dallas	9/5/2019	Approved	300	210	\$ 30,000,000	\$ 1,585,280	\$ 1,585,280
19434		Limestone Ridge Senior	Austin ETJ	9/5/2019	Approved	225	223	\$ 20,000,000	\$ 1,470,110	\$ 1,470,110
19430		Kyle Dacy	Kyle ETJ	9/5/2019	Approved	324	324	\$ 50,000,000	\$ 1,515,943	\$ 1,515,943
19431	18458	Scharbauer Flats	Midland	9/5/2019	Approved	300	300	\$ 40,000,000	\$ 2,667,296	\$ 2,667,296
19407		Norwood Estates	Austin	10/10/2019	Approved	228	228	\$ 35,000,000	\$ 1,467,918	\$ 1,467,918
19418		Bridge at Loyola Lofts	Austin	10/10/2019	Approved	204	200	\$ 30,000,000	\$ 1,382,246	\$ 1,475,411
19429	16453	Govalle Terrace	Austin	10/10/2019	Approved	97	96	\$ 13,000,000	\$ 829,570	\$ 829,570
19437		Residences of Stillwater	Georgetown	10/10/2019	Approved	192	192	\$ 35,000,000	\$ 1,154,635	\$ 1,154,635
19440		Ventura at Parmer Lane	Austin ETJ	10/10/2019	Approved	216	216	\$ 34,000,000	\$ 2,189,841	\$ 2,189,841
19441		Decker Lofts	Austin ETJ	10/10/2019	Approved	262	257	\$ 40,000,000	\$ 1,822,502	\$ 1,822,502
19428		Riverstone	San Marcos	11/7/2019	Approved	336	336	\$ 45,000,000	\$ 2,349,942	\$ 2,349,942
19406	17401	Primrose Village	Weslaco	11/7/2019	Approved	242	242	\$ 20,000,000	\$ 1,240,364	\$ 1,240,364
19604		Ventura at Hickory Tree	Balch Springs	11/7/2019	Approved	216	216	\$ 30,000,000	\$ 1,886,974	\$ 1,886,974
19411	17409	Bridge at Canyon View	Austin	11/7/2019	Approved	215	215	\$ 25,000,000	\$ 1,620,343	\$ 1,620,343
19439		Estates at Shiloh	Dallas	11/7/2019	Approved	264	239	\$ 25,000,000	\$ 1,499,356	\$ 1,499,356
19444	19605	Oaks on North Plaza	Austin	11/7/2019	Approved	62	62	\$ 15,000,000	\$ 489,428	\$ 483,704
19438		Legacy Seniors	Round Rock	11/7/2019	Approved	157	157	\$ 20,000,000	\$ 732,029	\$ 732,029
19473	17413; 18424	Flora Lofts	Dallas	12/2/2019	Approved	52	52	\$ 15,000,000	\$ 748,340	\$ 748,340
19468		The Walzem	San Antonio	12/12/2019	Approved	200	200	\$ 20,000,000	\$ 1,333,427	\$ 1,326,147
19400	18423	Villas del San Xavier	San Marcos	12/12/2019	Approved	156	156	\$ 25,000,000	\$ 1,059,750	\$ 1,059,750
19443		Spanish Park Apartments	Arlington	12/12/2019	Approved	350	350	\$ 35,000,000	\$ 2,047,817	\$ 2,047,817
19470	18456	Jackie Robinson Apartments	El Paso	12/12/2019	Approved	186	186	\$ 20,000,000	\$ 1,290,195	\$ 1,290,195
19467		Auro Crossing	Austin ETJ	12/12/2019	Approved	256	256	\$ 45,000,000	\$ 2,287,808	\$ 2,287,808
						5,505	5,376	\$ 710,000,000	\$ 37,365,021	\$ 37,445,182
19452		Las Palmas	La Feria	1/16/2020	Active	36	35	\$39,120,000 (portfolio)	\$ 85,924	\$ -
19445		Brush Country Cottages	Dilley	1/16/2020	Active	28	28	-	\$ 87,570	\$ -
19446		Chula Vista	San Diego	1/16/2020	Active	44	44	-	\$ 153,301	\$ -
19447		Cielo Lindo	Edcouch	1/16/2020	Active	34	34	-	\$ 101,022	\$ -
19448		La Estancia	Sebastian	1/16/2020	Active	32	32	-	\$ 102,977	\$ -
19449		La Posada I & II	Ela	1/16/2020	Active	74	74	-	\$ 216,612	\$ -
19450		La Reina	La Villa	1/16/2020	Active	30	30	-	\$ 69,492	\$ -
19451		La Sombra	Donna	1/16/2020	Active	50	50	-	\$ 128,293	\$ -
19453		Leuty Avenue	Justin	1/16/2020	Active	24	24	-	\$ 81,046	\$ -
19454		Los Laureles	Edcouch	1/16/2020	Active	23	23	-	\$ 88,432	\$ -
19455		Los Naranjos	Alton	1/16/2020	Active	30	30	-	\$ 68,072	\$ -
19456		Oak Haven	Donna	1/16/2020	Active	24	24	-	\$ 63,040	\$ -
19457		Raintree	Alamo	1/16/2020	Active	32	32	-	\$ 82,925	\$ -
19458		Seagraves Gardens	Seagraves	1/16/2020	Active	32	32	-	\$ 89,792	\$ -
19459		Silver Trail	Menard	1/16/2020	Active	24	24	-	\$ 67,835	\$ -
19460		The Village	Tomball	1/16/2020	Active	64	64	-	\$ 161,539	\$ -
19461		Valley View	Valley View	1/16/2020	Active	24	24	-	\$ 77,060	\$ -
19462		Villa Vallarta	Rio Grande City	1/16/2020	Active	40	40	-	\$ 115,954	\$ -
19463		Vista Verde	Cotulla	1/16/2020	Active	24	24	-	\$ 81,980	\$ -
19464		Willowick	Gainesville	1/16/2020	Active	60	60	-	\$ 181,382	\$ -

19465	Windmill	Giddings	1/16/2020	Active	28	28	-	\$	76,988	\$	-	
19466	Windwood I & II	Kingsland	1/16/2020	Active	68	68	-	\$	156,223	\$	-	
19608	Reserve at San Marcos	San Marcos	1/16/2020	Active	376	320	\$	41,000,000	\$	1,844,071	\$	
19471	Austin Manor Apartment Homes	Austin ETJ	1/16/2020	Active	280	280	\$	35,000,000	\$	2,247,832	\$	
19472	Franklin Park	Austin	1/16/2020	Active	163	163	\$	15,000,000	\$	749,966	\$	
19432	St. Johns Square	San Antonio	1/16/2020	Active	252	54	\$	50,000,000	\$	473,449	\$	
19442	Richcrest Apartments	Houston	1/16/2020	Active	288	286		TBD	\$	1,974,457	\$	
19610	Fish Pond at Corpus Christi	Corpus Christi	2/20/2020	Active	112	111	\$	10,000,000	\$	675,744	\$	
19607	Havens at Willow Creek	Houston ETJ	2/20/2020	Active	248	248	\$	18,000,000	\$	7,694,342	\$	
19469	EMLI at Pecan Creek	Aubrey	2/20/2020	Active	254	254	\$	20,000,000	\$	1,484,333	\$	
					2,798	2,540	\$	189,000,000	\$	19,481,653	\$	
19606	Pecan Grove	Seguin	6/27/2019	Pre-Application	198	198	\$	26,000,000	\$	1,388,840	\$	
19612	Scott Street Lofts	Houston	9/5/2019	Pre-Application	123	98	\$	18,000,000	\$	690,991	\$	
19611	Granada Terrace Apartments	South Houston	10/10/2019	Pre-Application	156	156	\$	16,000,000	\$	983,071	\$	
19613	333 Holly	The Woodlands	10/10/2019	Pre-Application	332	332	\$	50,000,000	\$	2,599,103	\$	
19614	The Pines	The Woodlands	10/10/2019	Pre-Application	152	152	\$	30,000,000	\$	1,388,448	\$	
19615	Oaks on Clark	San Antonio	10/10/2019	Pre-Application	80	80	\$	12,000,000	\$	520,610	\$	
					1,041	1,016	\$	152,000,000	\$	7,571,063	\$	
TBD	18619	Waters at Redbud	McKinney	N/A	Withdrawn	148	118	\$	-	\$	534,132	\$
19405		Patriot Pointe	Arlington	5/23/2019	Withdrawn	184	184	\$	-	\$	1,150,227	\$
19426		The Montage	San Antonio ETJ	11/7/2019	Withdrawn	216	216	\$	20,000,000	\$	1,445,547	\$
19435		Echo East Apartments	San Antonio	12/5/2019	Withdrawn	192	192		TBD	\$	1,231,341	\$
					740	710	\$	20,000,000	\$	4,361,247	\$	
				TOTAL	12,762	12,184	\$	1,446,400,000	\$	85,935,438	\$	
										58,999,520		

7b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion and possible action on a waiver of 10 TAC §11.3(f) of the Qualified Allocation Plan related to Housing De-Concentration Factors for Austin Manor Apartment Homes (#19471) in the Extraterritorial Jurisdiction of Austin

RECOMMENDED ACTION

WHEREAS, Austin Manor Apartment Homes was submitted to the Department on September 20, 2019, for consideration of a Determination Notice of 4% Housing Tax Credits;

WHEREAS, pursuant to 10 TAC §11.3(f) of the Qualified Allocation Plan (QAP) related to Additional Phase, Applications proposing an additional phase of an existing tax credit Development serving the same Target Population, shall be considered ineligible unless the other development has been completed and has maintained occupancy of at least 90% for a minimum six month period as reflected in the submitted rent roll;

WHEREAS, the Austin Parmer application was submitted without a rent roll for the other development, and did not include a request for a waiver;

WHEREAS, upon staff review of the application and inquiry, the applicant confirmed that Austin Manor is considered an additional phase of Boyce Parmer (#17436) approved on December 14, 2017, and subsequently requested a waiver of 10 TAC §11.3(f);

WHEREAS, the applicant believes the waiver should be granted primarily based on the planned affordability and accessibility of the buildings in the development and the market demand in the area;

WHEREAS, the most recent construction status report submitted for Boyce Parmer, dated October 10, 2019, reflects the development is 30% complete; and

WHEREAS, based on the aforementioned facts and as further discussed herein, staff does not believe the waiver request meets the requirements under 10 TAC §11.207 because the submission of the Austin Parmer application was reasonably foreseeable and preventable by the applicant and; therefore, staff has inadequate basis under the rule for which to recommend the waiver be granted;

NOW, therefore, it is hereby

RESOLVED, that the application for Austin Manor Apartment Homes is ineligible and staff recommends the waiver not be granted, based on the aforementioned factors and information specific to the application, as noted herein.

BACKGROUND

Austin Manor Apartment Homes proposes the new construction of 280 units to be located at Bellingham and Boyce Road in the extraterritorial jurisdiction of Austin, Travis County. All of the units will be rent and income restricted at 60% of AMFI and the development will serve the general population.

Austin Manor Apartment Homes is contemplated to be the second phase of Boyce Lane Apartments (#17436), which was approved by the Board on December 14, 2017. While this is not something the applicant disclosed in the submitted application, it was later confirmed by the applicant at the request of staff upon its initial review of the application. Considering it was a second phase, staff requested the applicant confirm how it meets the requirements contained in 10 TAC §11.3(f), relating to Additional Phase developments, which reads:

“Applications proposing an additional phase of an existing tax credit Development...serving the same Target Population shall be considered ineligible unless the other Developments or phase(s) of the Development have been completed and have maintained occupancy of at least 90% for a minimum six month period as reflected in the submitted rent roll...”

The applicant reported that Boyce Lane Apartments is currently under construction. Staff confirmed that based on the most recent Construction Status Report, dated October 10, 2019, Boyce Lane Apartments is approximately 30% complete and; therefore, a rent roll could not be submitted. In response to staff’s question regarding the Additional Phase requirement, the applicant submitted a waiver request and cited the affordability and accessibility of the development (all three-story buildings will be elevator-served) and the market demand for affordable housing as the primary reasons why a waiver is appropriate. Other reasons stated in the applicant’s request indicated that Austin needs more affordable units, both the city and the county do not believe the development would create an over-concentration of affordable housing in the area, the Manor ISD is building a new school in the area and there has been single family growth in the area.

The criteria for granting a waiver under 10 TAC §11.207 includes that the Board must find the need for the waiver was not reasonably foreseeable or preventable by the applicant. In this case, a member of the general partner for Boyce Parmer is identified as the consultant on the subject application. This entity is aware of the construction status associated with the first phase, yet chose to move forward with submission of an application for an additional phase that disregarded the provisions in the rule, including having only submitted a request for a waiver upon inquiry by staff.

The rule is clear that an application is ineligible unless a rent roll is submitted that demonstrates the first phase has stabilized before the Department could consider adding additional units in the area in order to avoid over-concentration where absorption of the units has not been demonstrated. Considering the fact that the first phase is only 30% complete, and based on the information provided by the applicant as part of their waiver request, along with the requirements contained in 10 TAC §11.207, staff does not believe there is adequate basis under the rule for staff to recommend that such waiver be granted.

TX Austin Manor, L.P.
Attn: Blair Warner
15160 N. Hayden Road, 2nd Floor
Scottsdale, AZ 85260
Tel. 480-368-8500

Ms. Teresa Morales
TDHCA
211 E. 11th Street
Austin, TX 77011

November 15, 2019

RE: Waiver request Austin Manor Apartments, Boyce and Parmer Lane, Austin ETJ, Travis County, TX 78653

Dear Teresa:

The partnership is asking for a waiver of the Second Phase rule related to this development. At this time, the partnership does not meet the QAP definition that creates ineligibility under the current QAP and Rules. But we have advised TDHCA of the partnership's intent to admit Strategic Housing Finance Corporation or their designated affiliate in Austin Parmer CCF, L.P. the owner the first phase property. The Austin Parmer CCF development is under construction and not stabilized as defined under the rules and QAP.

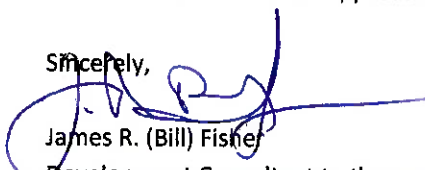
I recommended the sponsor ask for waiver in advance of the admission of Strategic into the Phase one development. Austin needs more than 40,000 affordable units according to their most recent studies. The City and County have both considered the issue in their public process. They included a waiver under their fair housing rules noting the properties do not create an over concentration of affordable housing in their area. I refer you to the two resolutions of no objection previously provided to staff.

Manor ISD has built and is building significant new school capacity in anticipate of the population explosion they are experiencing. The Bellingham Meadows and Harris Branch developments have brought more than 1,000 new SF homes to our area. This is a market quality site to which the Owners have been offered a +-\$1.5MM premium over their basis. The partnership is contributing this site at their basis as required by the rule, a material benefit to the development and its feasibility.

We request the Board of TDHCA grant a good cause waiver under the rules to allow the sponsors to place much needed affordable and accessible housing to this area. Note all buildings are elevator served although mostly 3 story buildings. This is an important option to other affordable housing in this area and in this garden apartment configuration. Accessibility and market demand for affordable housing in this great area of Austin would be the primary reasons a waiver is appropriate.

Your consideration of the application for waiver is appreciated.

Sincerely,


James R. (Bill) Fisher

Development Consultant to the partnership

From: [Bill Fisher](#)
To: [Teresa Morales](#); bwarner@iconbuilders.com
Cc: [Shannon Roth](#)
Subject: RE: 19471 Austin Manor Deficiency Notice - TIME SENSITIVE - Reply immediately to acknowledge receipt.
Date: Monday, November 18, 2019 7:10:26 PM

The letter which refers to the market study and the two resolutions where the City and County each approved the second phase on this site under the one mile rule. This is Austin and the need for affordable housing is clear and unambiguous. The two jurisdictions, City and County, considered it under their fair housing and concentration rules. They approved the resolutions without dissent and with staff support. Lots of public support for what is being done by RISE on their site and ICON on this site.

The accessibility plan is a key issue we raised in support of the request. The permit plans show all buildings and all units elevator served for families with children. It makes what ICON is doing exceptional and special for residents in need of affordable and accessible units. I believe staff and the board can find the transaction worthy for this reason alone. I can post a link to the plans that show the buildings all elevator served if you wish that for the file.

Your consideration is appreciated.

Bill

Sonoma Housing Advisors, LLC
16800 Dallas Parkway
Suite 215
Dallas, TX 75248
972-701-5551
214-608-7201 Cell
Bill.fisher@sonomaadvisors.com
Bfisher8@airmail.net

From: Teresa Morales <teresa.morales@tdhca.state.tx.us>
Sent: Monday, November 18, 2019 5:03 PM
To: Bill Fisher <Bill.Fisher@sonomaadvisors.com>; bwarner@iconbuilders.com
Cc: Shannon Roth <shannon.roth@tdhca.state.tx.us>
Subject: FW: 19471 Austin Manor Deficiency Notice - TIME SENSITIVE - Reply immediately to acknowledge receipt.

Is the attached document all the information you intend for staff to use to evaluate your waiver request?

From: Bill Fisher <Bill.Fisher@sonomaadvisors.com>
Sent: Friday, November 15, 2019 4:17 PM
To: Shannon Roth <shannon.roth@tdhca.state.tx.us>; Teresa Morales

<teresa.morales@tdhca.state.tx.us>

Cc: Blair Warner <bwarn@iconbuilders.com>

Subject: FW: 19471 Austin Manor Deficiency Notice - TIME SENSITIVE - Reply immediately to acknowledge receipt.

1. **Zoning:** The submitted zoning letter from Travis County is too old and exceeds the age limit of required documentation per the 2019 QAP. Please submit evidence from an appropriate government official with Travis County confirming the zoning letter is only updated once a year and that the Development is located within the boundaries of an area with no zoning. – **After multiple calls and emails, Travis county is unwilling to issue a statement saying that they only produce the “no zoning” letter once per year in January. However, on the phone, staff confirmed that they only issue the letter once per year in January, and they would not be able to issue a letter outside of that parameter. I’m not sure why they refuse to confirm this in writing. We have provided in this transmission a map evidencing our property being located in an ETJ, and a printout of the Austin zoning profile, showing no zoning. Also, we’ve included another applicant’s zoning letter from the city, stating that properties in the ETJ are not subject to zoning. That property is down the street, and shown on the map as being in the ETJ with us. Travis County does not need to follow the QAP. Travis County has no zoning which TDHCA knows. Please accept this with the understanding we will provide the next one in January 2020 when they post it.**
 2. Based on your follow up email sent earlier today, 11/7/2019, please submit the required information per §11.3(f) of the 2019 QAP regarding Phase II/Additional Phase Developments. **WAIVER Request – Attached**
 3. **Specifications and Building/Unit Type Configuration Form:** The number of uncovered parking spaces is 503; however the Site Plan has a matrix that includes 493. – **Corrected site plan attached showing 492 uncovered spaces. Upon recount, that is what the architect found.**
 4. **Nonprofit Participation:** Provide a board-approved resolution that:
 - Indicates clear approval of the organization’s participation in the Application; - **MOU attached**
 - Names all members of the board and employees who may act on its behalf - **attached**
 5. **Nonprofit Participation Exhibit:** The Nonprofit Participation Exhibit form was not completed. Please complete and resubmit. HFC’s are not exempt from this tab. – **ATTACHED: List of board members and directors and a letter from counsel regarding their tax exempt status. As an HFC, they do not have a determination letter from the IRS.**
-

From: Shannon Roth <shannon.roth@tdhca.state.tx.us>

Sent: Thursday, November 7, 2019 3:53 PM

To: bwerner@ICONBuilders.com; Bill Fisher <bill.fisher@sonomaadvisors.com>; Melissa R Fisher <mfisher@rise-residential.com>

Cc: Shannon Roth <shannon.roth@tdhca.state.tx.us>; Teresa Morales

<teresa.morales@tdhca.state.tx.us>; Gregg Kazak <gregg.kazak@tdhca.state.tx.us>

Subject: 19471 Austin Manor Deficiency Notice - TIME SENSITIVE - Reply immediately to acknowledge receipt.

Importance: High

In the course of the Department's **Eligibility and Threshold** review of the above referenced application, a possible Administrative Deficiency as defined in §11.1(d)(2) and described in §11.201(7)(C) of the 2019 Uniform Multifamily Rules has been identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency process. Applications with material deficiencies may be subject to termination.

Hi Bill,

The deficiency email I sent earlier today should be disregarded, please see the updated request below. The original request has been updated below to reflect the information/clarification you provided earlier today via email. The response date remains the same.

1. **Zoning:** The submitted zoning letter from Travis County is too old and exceeds the age limit of required documentation per the 2019 QAP. Please submit evidence from an appropriate government official with Travis County confirming the zoning letter is only updated once a year and that the Development is located within the boundaries of an area with no zoning.
– **After multiple calls and emails, Travis county is unwilling to issue a statement saying that they only produce the “no zoning” letter once per year in January. However, on the phone, staff confirmed that they only issue the letter once per year in January, and they would not be able to issue a letter outside of that parameter. I’m not sure why they refuse to confirm this in writing. We have provided in this transmission a map evidencing our property being located in an ETJ, and a printout of the Austin zoning profile, showing no zoning. Also, we’ve included another applicant’s zoning letter from the city, stating that properties in the ETJ are not subject to zoning. That property is down the street, and shown on the map as being in the ETJ with us.**

** Please note this zoning item has been requested in the previous two deficiency requests.

2. Based on your follow up email sent earlier today, 11/7/2019, please submit the required

information per §11.3(f) of the 2019 QAP regarding Phase II/Additional Phase Developments. **WAIVER**

3. **Specifications and Building/Unit Type Configuration Form:** The number of uncovered parking spaces is 503; however the Site Plan has a matrix that includes 493. – **Corrected site plan attached showing 492 uncovered spaces. Upon recount, that is what the architect found.**
4. **Nonprofit Participation:** Provide a board-approved resolution that:
 - Indicates clear approval of the organization’s participation in the Application; **and - MOU attached naming**
 - Names all members of the board and employees who may act on its behalf

**Please note this item has been requested in the previous two deficiency requests. It is my understanding that HFC’s are not exempt from this item; which was added for the 2019 program year.

5. **Nonprofit Participation Exhibit:** The Nonprofit Participation Exhibit form was not completed. Please complete and resubmit. HFC’s are not exempt from this tab. – **ATTACHED: List of board members and directors and a letter from counsel regarding their tax exempt status. As an HFC, they do not have a determination letter from the IRS.**

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Deficiencies may appear under separate cover.

Deficiencies must be resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice. Applications with unresolved administrative deficiencies after 5:00 p.m. on the seventh business day following the date of the deficiency notice will be suspended from further processing. Applications with unresolved material deficiencies after 5:00 p.m. on the seventh business day following the date of the deficiency notice may be subject to termination. The Applicant will be provided with notice regarding staff action to suspend or terminate the Application. Applications that have been suspended or terminated will not retain their priority status; the Application will have its status based on the date a deficiency is resolved or the date an Application is re-submitted. Applications that continue to have a deficiency when the response is submitted are subject to either further suspension or termination. Applicants are encouraged to refer to §11.201(7)(C) of the 2019 Uniform Multifamily Rules for additional guidance on how applications with outstanding deficiencies will be handled if the funding source becomes oversubscribed during the period of time when it is suspended from processing.

All documentation should be submitted as a whole using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 11.1(g) of the 2019 QAP as it applies to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm on November 15, 2019. Please respond to this email as confirmation of receipt****

****All deficiencies must be corrected or clarified by 5 pm on November 15, 2019.**

****Please respond to this email as confirmation of receipt****

Thanks.

Shannon Roth

Multifamily Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3929
Fax: 512.475.1895

About TDHCA

The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit www.tdhca.state.tx.us or the [Learn about Fair Housing in Texas](#) page.

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

7c

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#19468, The Walzem, San Antonio ETJ)

RECOMMENDED ACTION

WHEREAS, an application for The Walzem, sponsored by the Bexar Management and Development Corporation requesting 4% Housing Tax Credits (HTC) and \$4,000,000 in Direct Loan funds under the General Set-Aside of the 2019-1 Multifamily Direct Loan Notice of Funding Availability (2019-1 NOFA), was submitted to the Department on August 23, 2019;

WHEREAS, the current Certification of Reservation from the Texas Bond Review Board was issued on August 15, 2019, and will expire on January 12, 2020;

WHEREAS, the proposed issuer of the bonds is the Bexar County Housing Finance Corporation;

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated a Category 2 and deemed acceptable by Executive Award and Review Advisory Committee (EARAC); and

WHEREAS, EARAC recommends \$4,000,000 in TCAP Repayment Funds (TCAP RF) for The Walzem and the issuance of a Determination Notice;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,326,147 in 4% HTC, and \$4,000,000 in TCAP RF, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for The Walzem, is hereby approved as presented to this meeting.

BACKGROUND

General Information: The Walzem proposes the new construction of 200 units to be located at the northwest corner of FM 78 and Walzem Road in the extraterritorial jurisdiction of San Antonio, Bexar County. The project will serve the general population. All of the units will be rent and income restricted at 60% of the Area Median Family Income (AMFI). Layered among the 60% HTC-restricted units will be six TCAP RF restricted units at 50% AMI/Low HOME and 20 TCAP RF restricted units at 60%

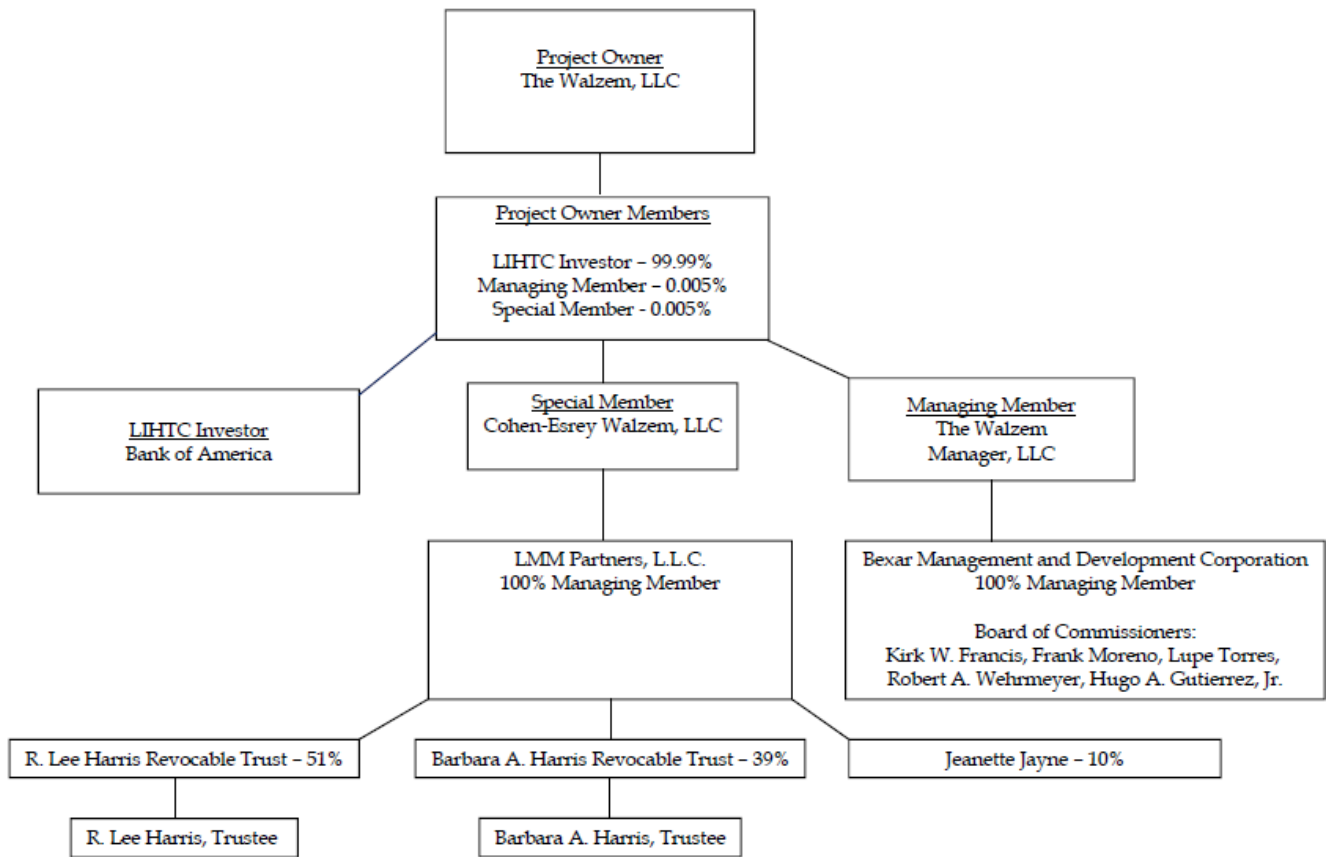
AMI/High HOME. Additionally, nine units will be considered HOME Match Eligible Units restricted to households at 80% AMI as a result of the net present value of the yield foregone on the Below Market Interest Rate TCAP RF loan and Cedar Rapids Bank & Trust loan.

The \$4,000,000 TCAP RF loan will be structured as a construction-to-permanent repayable loan at a 2.50% interest rate in accordance with section 3a of the 2019-1 NOFA, with a 30 year amortization and 16 year term. As a result of the divergence between staff's and the applicant's underwriting with regard to Total Housing Development Costs, staff has made the following a condition to Direct Loan closing in the Underwriting Report: "Receipt and acceptance by Contract Execution of the third-party cost review being used by the construction lender and limited partner. The Direct Loan amount will be reduced by the construction cost savings between the costs reviewed and concluded by the third-party, and the final Total Construction Contract budget indicated by the Applicant herein."

Organizational Structure: The Borrower is The Walzem, LLC and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and the previous participation was deemed acceptable by EARAC.

Public Comment: As of the date of posting, the Department has received 18 letters, signed by 24 individuals, expressing opposition to the proposed development from residents of the Ventura subdivision and a petition signed by 27 persons from the residents of Woodlake Estates also expressing opposition.

EXHIBIT A



19468 The Walzem - Application Summary

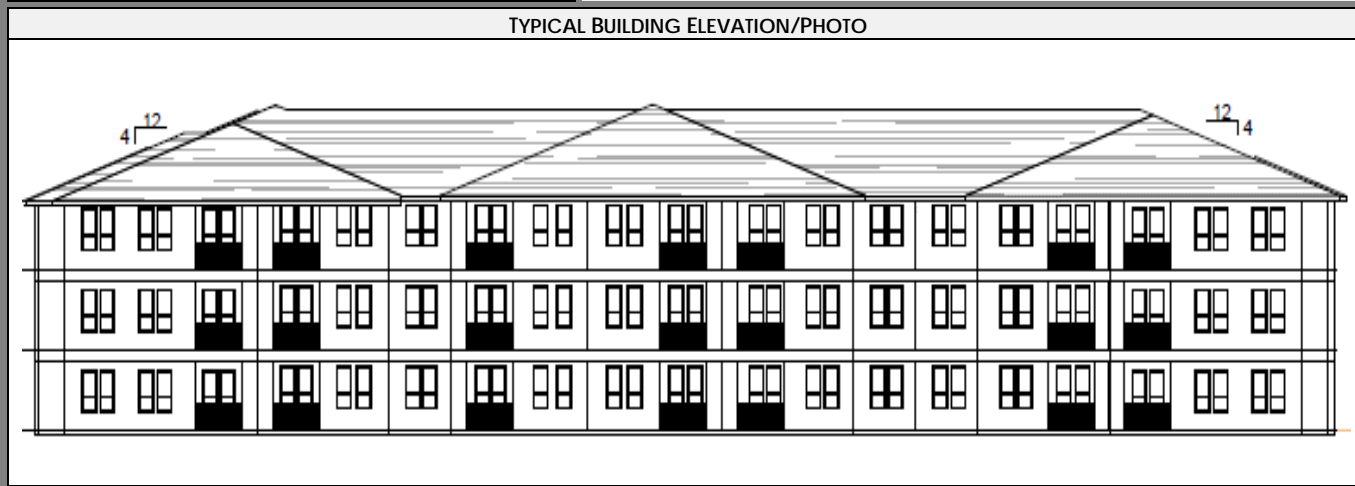
REAL ESTATE ANALYSIS DIVISION

December 5, 2019

PROPERTY IDENTIFICATION	
Application #	19468
Development	The Walzem
City / County	San Antonio / Bexar
Region/Area	9 / Urban
Population	General
Set-Aside	General
Activity	New Construction

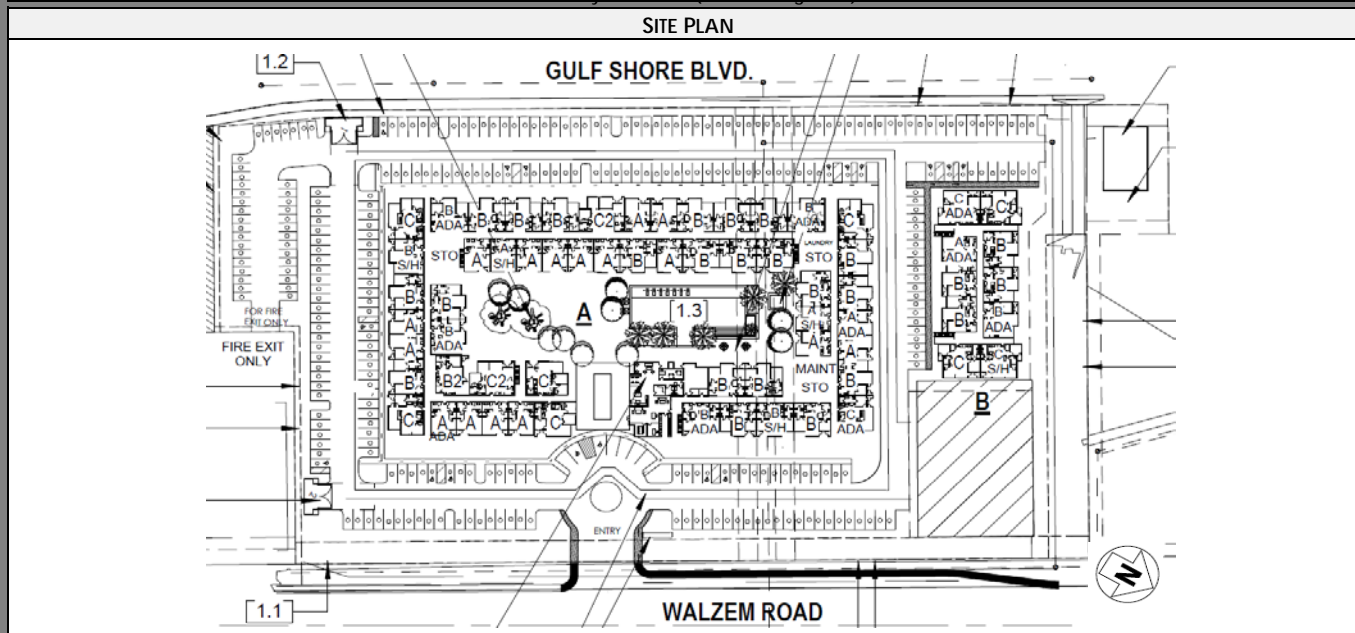
RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (4% Credit)	\$1,333,427	\$1,326,147	\$6,631/Unit	\$0.99		
	Amount	Rate	Amort	Term	Lien	
MF Direct Loan Const. to Perm. (Req	\$4,000,000	2.50%	30	16	2	

KEY PRINCIPAL / SPONSOR		
Bexar County Housing Authority through Bexar Management and Development Corporation Kirk W. Francis - Board Chairman		
Cohen-Esrey Development Jay Johnson - Development Director, Texas		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	60	30%	40%	-	0%
2	100	50%	50%	-	0%
3	40	20%	60%	200	100%
4	-	0%	MR	-	0%
TOTAL	200	100%	TOTAL	200	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.15	Expense Ratio	38.7%
Breakeven Occ.	85.2%	Breakeven Rent	\$790
Average Rent	\$858	B/E Rent Margin	\$68
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$3,729/unit	Controllable	\$2,498/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)		3.8%	
Highest Unit Capture Rate	19%	2 BR/60%	97
Dominant Unit Cap. Rate	19%	2 BR/60%	97
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs	
Avg. Unit Size	905 SF	Density	28.4/acre
Acquisition		\$11K/unit	\$2,100K
Building Cost	\$80.96/SF	\$73K/unit	\$14,648K
Hard Cost		\$102K/unit	\$20,317K
Total Cost		\$171K/unit	\$34,170K
Developer Fee	\$3,896K	(34% Deferred)	Paid Year: 7
Contractor Fee	\$2,844K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Cedar Rapids Bank & Trust	16/40	4.44%	\$15,700,000	1.41						Bank of America	\$13,127,526	
TDHCA	16/30	2.50%	\$4,000,000	1.15						Cohen-Esrey Development Group	\$1,342,780	
TOTAL DEBT (Must Pay)			\$19,700,000		CASH FLOW DEBT / GRANTS				\$0		TOTAL EQUITY SOURCES	\$14,470,306
											TOTAL DEBT SOURCES	\$19,700,000
											TOTAL CAPITALIZATION	\$34,170,306

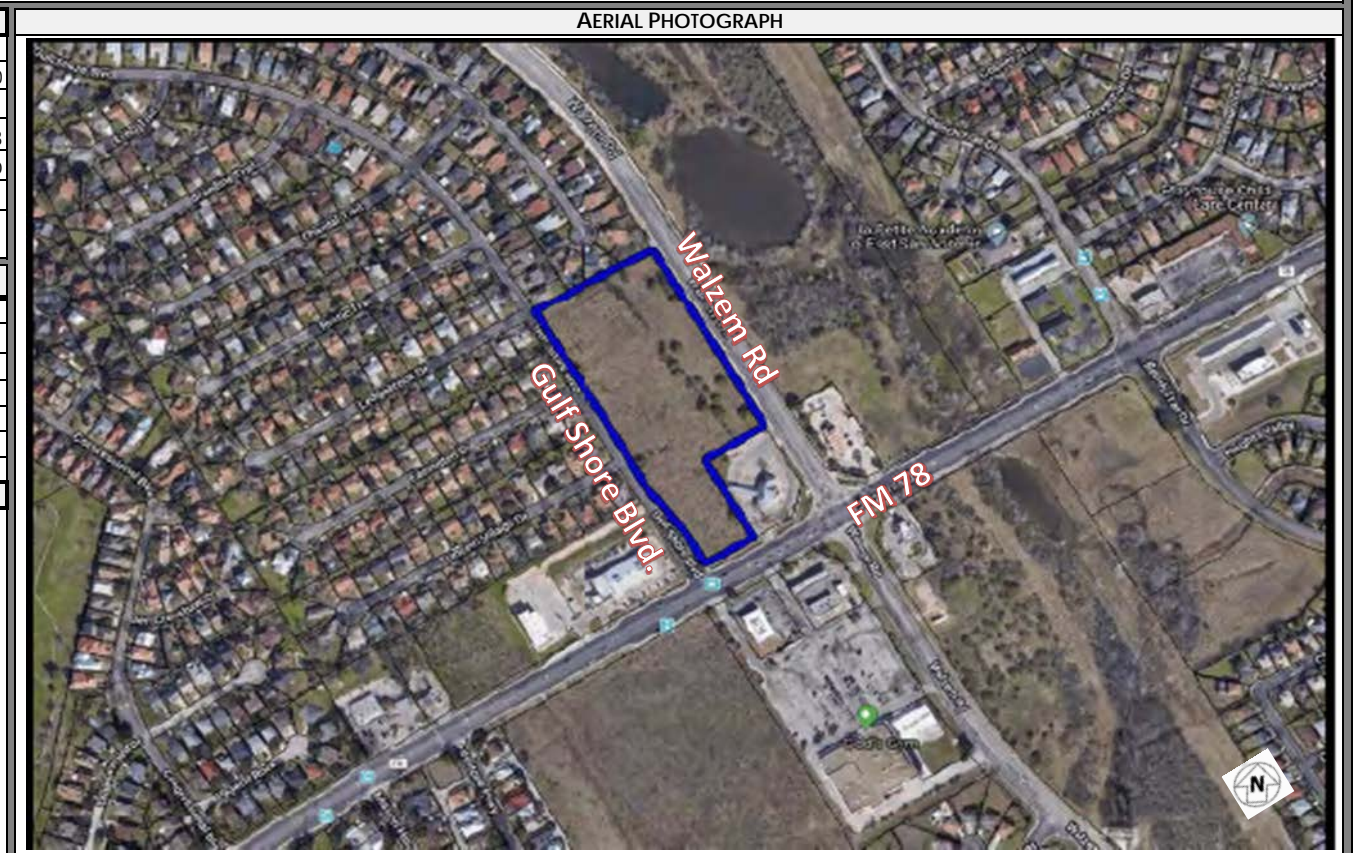
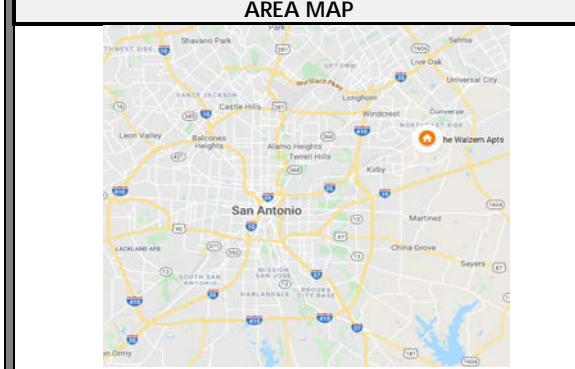
CONDITIONS

- 1 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
 - b: Updated term sheets with substantially final terms from all lenders
 - c: Substantially final draft of limited partnership agreement.
 - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
 - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
 - f: Receipt and acceptance (no later than 7 business days prior to the Direct Loan Closing) of the third-party cost review used by the construction lender and/or limited partner. The Direct Loan amount will be reduced by the cost difference between the costs concluded by the third-party reviewer and the Applicant's Total Construction Contract indicated by the Applicant on the development cost schedule.

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

BOND RESERVATION / ISSUER	
Issuer	Bexar County Housing Finance Corp
Expiration Date	1/12/2020
Bond Amount	\$26,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	69.2%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Low expense-to-income ratio due to property tax
▫	No new supply of affordable projects years in the area
▫	Feasibility indicators
WEAKNESSES/RISKS	
▫	Financial feasibility reliant on property tax-exempt
▫	Individual unit capture rates on one and two bedroom



November 6th, 2019

Name: Stephen Glover
Address: 7835 Pecan Heights
San Antonio, Texas 78244

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application # 19426 -The development of Montagne Apartments

Dear Madam:

I am writing this letter of opposition to the Tax Application #19426. I am oppose to all multifamily apartments erection by Herman and Kittle in the vacant site adjacent to Gold Gym on F.M. 78 near the dangerous intersection near Walzem road.

Even though I understand that this developer removed their application earlier for tax credits consideration by the state, the purpose of this letter is to still oppose any future efforts to bring forward a new application. By allowing this developer to build on this property adjacent to our neighborhood, the traffic congestion, the possibility of a decline of property values, an increase in crime all present a negative picture for any positive growth.

In addition, I am also opposing the tax application #19468 because of the greater potential of more deaths and accidents in this area. This property is across the street F.M. 78 from the Herman and Kittle proposed developer.

I feel that both properties would be ideal for retail use. This area could be better served by retail merchants , such as restaurants, stores that would help keep monies in this area instead of having to go elsewhere to enjoy a nice dinner rather than fast foods.

From: [RANDY WILLIAMS](#)
To: [Liz Cline](#)
Subject: Low rent apartments in Ventura
Date: Friday, November 01, 2019 4:34:52 PM

I am totally opposed to Low Rent Apartments in my neighborhood as I lived in Ventura more than 20 years. I don't need this decision lowering my property value and having to worry about the added crime which goes hand and hand with low rent. We have very little crime in Ventura. My tax dollars pay for most of their rent and food stamps for food, so they will steal us blind to pay for their alcohol and cigarettes. Then you add the added crime because of gangs with their drugs. I will have to arm myself to protect me and my property. I am very sure you or your family would not live Nextdoor to Low Rent Apartments. There is plenty of property on Foster road. Please listen to the community and do not let this happen. Don't let big business and tax revenue ruin our community because they don't care, they won't live here! I will reiterate my position, I am Opposed!!

Sent from my iPad

From: [RANDY WILLIAMS](#)
To: [Liz Cline](#)
Subject: Re: Low rent apartments in Ventura
Date: Tuesday, November 05, 2019 1:19:10 PM

The developer is Cohen Esrey and the tax application #19468. The entrance and exit for this complex will be in a dangerous place as it will be to close to the red light at Walzem & 78. There are a lot of accidents at that location already, please don't compound this problem by adding more traffic from the apartments. Thank You for responding!

Sent from my iPad

> On Nov 5, 2019, at 10:51 AM, Liz Cline <liz.cline@tdhca.state.tx.us> wrote:

>

> Good morning, Mr. Williams,

>

> Do you know the name, application number, or address of the apartments? There are multiple applications and we need to confirm which apartments in order to relay your opposition to the TDHCA Board.

>

> Regards,

>

>

> Liz Cline-Rew

> Multifamily Finance Housing Specialist

> Texas Department of Housing and Community Affairs

> 221 E. 11th Street | Austin, TX 78701

> Office: 512.475.3227

> Fax: 512.475.1895

>

> Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

>

>

> 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

>

>

>

> -----Original Message-----

> From: RANDY WILLIAMS <rndy.williams@yahoo.com>

> Sent: Friday, November 01, 2019 4:35 PM

> To: Liz Cline <liz.cline@tdhca.state.tx.us>

> Subject: Low rent apartments in Ventura

>

> I am totally opposed to Low Rent Apartments in my neighborhood as I lived in Ventura more than 20 years. I don't need this decision lowering my property value and having to worry about the added crime which goes hand and hand with low rent. We have very little crime in Ventura. My tax dollars pay for most of their rent and food stamps for food, so they will steal us blind to pay for their alcohol and cigarettes. Then you add the added crime because of gangs with their drugs. I will have to arm myself to protect me and my property. I am very sure you or your family would not live Nextdoor to Low Rent Apartments. There is plenty of property on Foster road. Please listen to the community and do not let this happen. Don't let big business and tax revenue ruin our community

because they don't care , they won't live here! I will reiterate my position, I am Opposed!!

>

> Sent from my iPad

Rubin Johnson
7518 Oriental Trail
San Antonio TX. 78244

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application #19468 and development of any multifamily apartments of Walzem & FM 78

Dear Madam;

I am writing to object to all multifamily apartment erection on this site and the site adjacent of Gulf shore in the Ventura Subdivision. By allowing developers to build on these properties adjacent to our neighborhood, the traffic, congestion, noise, crime, and litter will be unbearable for the current resident. Our property values will plummet and our already over crowded school system will be overwhelmed. Those of us who have lived in and invested in our homes for 30+years can no long safely enter FM 78 due to the heavy traffic and TX. Dot says they cannot put a traffic light there because it would be to close to the existing lights. We have no designated fire station and only the already understaffed Bexar County Sheriffs Department for protection.

I do not feel this is the best use of this land. We in this community would welcome retail merchants, such as a department store, nice restaurants, movie theaters and larger food store. I don't feel that these apartments are in the best interest for our area.

Sincerely

Rubin Johnson

A handwritten signature in black ink, appearing to read "Rubin Johnson", written over the typed name.

Name: HOWARD JAMES
Address: 7510 ORIENTAL TRAIL
San Antonio, TX. 78244

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application #19468 and development of any multifamily apartments of Walzem & FM 78

Dear Madam;

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I do not feel this is the best use of this land. We in this community would welcome retail merchants, such as a department store, nice restaurants, movie theaters and larger food store. I don't feel that these apartments are in the best interest for our area.

Sincerely



From: [Lisa Pfeiffer](#)
To: [Liz Cline](#)
Cc: [Jack Wallace](#)
Subject: Application # 19468- Cohen-Esrey
Date: Friday, October 25, 2019 6:45:58 AM
Attachments: [Cohen-Esrey.odt](#)

Good morning Ms. Cline,

I am sending you OBJECTIONS from the CONEN members regarding the above application for the Walzem Apartments. They may be coming up on a TDHCA agenda in the next few months.

In addition to the letter just a few other points. Jay Johnson met with Ventura II back in February & March. However, that is a community across the street from the proposed development site.

The actual proposed development site is in Ventura I. Mr. Johnson met with residents of Ventura I finally on Friday, October 11, 2019. This was verified by him and some of our members and the end result was that Ventura I residents have objections also. Hopefully this will be conveyed to your office in the near future.

At the Ventura I meeting and at our meeting the TDHCA application number seemed to keep eluding Mr. Johnson. However, Ms. Amy Putney, Chief of Staff, for Pct. 4 Commissioner Calvert put an end to that and gave us the application number.

I must say there is an impression of deception in who Mr. Johnson chose to meet with and when and the apparent elusiveness of the application number. Our effort is to set the record straight.

As you can see we have shared our objections with Commissioner Calvert in the attached letter.

Respectfully Submitted:

Lisa M. Pfeiffer
Vice Chair, CONEN
(210) 595-8754

Sent from Yahoo Mail. [Get the app](#)

Name: *Raymond Swientek*
Address: 7503 Oriantz Trail
San Antonio, TX. 78244

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application #19468 and development of any multifamily apartments of Walzem & FM 78

Dear Madam;

I am writing to object to all multifamily apartment erection on this site and the site adjacent of Gulf shore in the Ventura Subdivision. By allowing developers to build on these properties adjacent to our neighborhood, the traffic, congestion, noise, crime, and litter will be unbearable for the current resident. Our property values will plummet and our already over crowded school system will be overwhelmed. Those of us who have lived in and invested in our homes for 30+ years can no longer safely enter FM 78 due to the heavy traffic and TX. DOT says they cannot put a traffic light there because it would be too close to the existing lights. We have no designated fire station and only the already understaffed Bexar County Sheriffs Department for protection.

I do not feel this is the best use of this land. We in this community would welcome retail merchants, such as a department store, nice restaurants, movie theaters and larger food store. I don't feel that these apartments are in the best interest for our area.

Sincerely

Raymond J. Swientek

Name: *ROGER & GAIL COMATSER*
Address: *7523 ORIENTAL TRAIL*
San Antonio, TX. *78249*

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application #19468 and development of any multifamily apartments of Walzem & FM 78

Dear Madam;

I am writing to object to all multifamily apartment erection on this site and the site adjacent of Gulf shore in the Ventura Subdivision. By allowing developers to build on these properties adjacent to our neighborhood, the traffic, congestion, noise, crime, and litter will be unbearable for the current resident. Our property values will plummet and our already over crowded school system will be overwhelmed. Those of us who have lived in and invested in our homes for 30+ years can no longer safely enter FM 78 due to the heavy traffic and TX. DOT says they cannot put a traffic light there because it would be too close to the existing lights. We have no designated fire station and only the already understaffed Bexar County Sheriffs Department for protection.

I do not feel this is the best use of this land. We in this community would welcome retail merchants, such as a department store, nice restaurants, movie theaters and larger food store. I don't feel that these apartments are in the best interest for our area.

Sincerely

ROGER & GAIL COMATSER

**TEXAS Department of Housing and Community Affairs
Attn: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941**

**Robert Scammahorn
7050 Gulf Shore Blvd.
San Antonio, TX 78244**

This letter is to voice my opposition to the proposed Cohen-Esrey development on the corner of Walzem Road and FM 78 Tax ID #19468.

The reasons are too numerous to list them all but, here are a few negatives:

1. **TXDOT CR3 indicates that as of 11/16/2019 there have been 50 crashes involving 105 vehicles and 147 persons at or near the intersection consisting of 45 (\$1000 or more damages) and 10 (resulting in injuries)**
2. Adding another entry point on Walzem going South within one hundred yards of a major intersection where there is one of two dual turning lanes located onto FM78.
3. Having a dual turning lane going North on Walzem turning onto FM 78 and the traffic going West or East is blocked by the traffic coming South on Walzem at peak times.
4. This is the only dual turning lane on FM 78. The turning lanes are on Walzem exiting onto FM78 putting an extreme amount of pressure going East and West.
5. There is a new development on the Southern end of Walzem with an additional 600 plus homes when completed. If every home has two cars that's an additional 1200 cars plus the parts of Brentfield one and two, we're talking over 2000 cars using a mile long road exiting East and West onto FM78 and crossing FM78 going North on Walzem.

The list goes on and on. There has to be another place where affordable or market rate apartments can be built. We as a community hope that you deny any tax incentives to this group.

**Kind Regards,
Robert Scammahorn**

From: [Willie Daniels Jr.](#)
To: [Liz Cline](#)
Subject: Opposition to Apartment Build
Date: Thursday, October 24, 2019 1:09:50 PM

Ms Cline-Rew

This message is to inform you of my opposition to the build of apartments slated against Tax ID #: 19468 (Jay Johnson - Cohen Esrey) in San Antonio, TX.

Willie Daniels, Jr.
7123 Elk Trail Drive
San Antonio, TX 78244-1575
(210) 287-1796

From: vanessa.valles
To: Liz.Cline
Subject: opposition to the proposed Cohen-Esrey development - Walzem Road and FM 78 Tax ID #19468
Date: Sunday, November 17, 2019 6:56:50 PM

TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941

Vanessa Valles
7138 Elk Trail
San Antonio, TX 78244

This letter is to voice my opposition to the proposed Cohen-Esrey development on the corner of Walzem Road and FM 78 Tax ID #19468.

The reasons are too numerous to list them all but, here are a few negatives;

1. **Most frighten is TXDOT CR3 indicate as of 11/16/2019 there have been 50 crashes involving 105 vehicles and 147 persons at or near the intersection consisting of 45 (\$1000 or more damages) and 10 (resulting in injuries)**

There has to be a larger emphasis placed on the safety of the residents currently in our subdivision. At the present time we only have one exit / entry to our subdivision.its already a very dangerous intersection.

2. Adding another entry point on Walzem going south within one hundred yards of a major intersection where there is one of two dual turning lanes located onto FM78.
3. Having a dual turning lane going north on Walzem turning onto FM 78 and the traffic going west or east is blocked by the traffic coming south on Walzem at peak times.
4. This is the only dual turning lanes on FM 78. The turning lanes are on Walzem exiting on to FM78 putting an extreme amount of pressure going east and west.
5. There is a new development on the southern end of Walzem with an additional 600 plus homes when completed. If every home has two cars that's an additional 1200 cars plus the parts of Brentfield one and two we're talking over 2000 cars using a mile long road exiting east and west onto FM78 and crossing FM 78 going North on Walzem.

The list goes on and on. There has to be another place where affordable or market rate apartments can be built. We as a community hope that you deny any tax incentives to this group.

Sincerely,
Vanessa Valles

Sent from my iPhone

Name: DANEKA R. BROOKS
Address: 1514 ORIENTAL TRAIL
San Antonio, TX.
78244

Texas Department of Housing and Community Affairs
Attention: Ms. Liz Cline-Rew, Multifamily Finance Housing Specialist

Reference: Tax application #19468 and development of any multifamily apartments of Walzem & FM 78

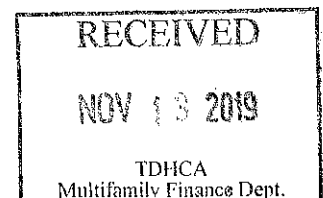
Dear Madam;

I am writing to object to all multifamily apartment erection on this site and the site adjacent of Gulf shore in the Ventura Subdivision. By allowing developers to build on these properties adjacent to our neighborhood, the traffic, congestion, noise, crime, and litter will be unbearable for the current resident. Our property values will plummet and our already over crowded school system will be overwhelmed. Those of us who have lived in and invested in our homes for 30+ years can no longer safely enter FM 78 due to the heavy traffic and TX. DOT says they cannot put a traffic light there because it would be too close to the existing lights. We have no designated fire station and only the already understaffed Bexar County Sheriff's Department for protection.

I do not feel this is the best use of this land. We in this community would welcome retail merchants, such as a department store, nice restaurants, movie theaters and larger food store. I don't feel that these apartments are in the best interest for our area.

Sincerely,

Daneka R. Brooks



TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941

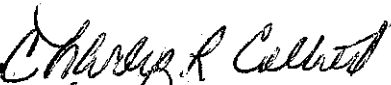
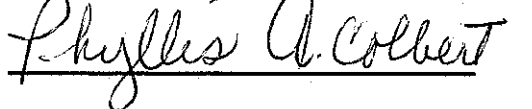
Charles & Phyllis Colbert
7108 Elk Trail
San Antonio, TX 78244

This letter is to voice my opposition to the proposed Cohen-Esrey development on the corner of Walzem Road and FM 78 Tax ID #19468.

The reasons are too numerous to list them all but, here are a few negatives;

1. Most frighten is TXDOT CR3 indicate as of 11/16/2019 there have been 50 crashes involving 105 vehicles and 147 persons at or near the intersection consisting of 45 (\$1000 or more damages) and 10 (resulting in injuries)
2. Adding another entry point on Walzem going south within one hundred yards of a major intersection where there is one of two dual turning lanes located onto FM78.
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The list goes on and on. There has to be another place where affordable or market rate apartments can be built. We as a community hope that you deny any tax incentives to this group.

Sincerely 


**TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941**

**Michael & Julieta Gaither
7001 Elk Trail
San Antonio, TX 78244**

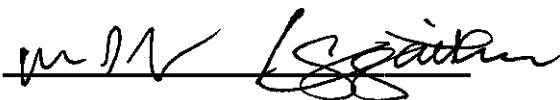
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TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941

Gerald D. Hartzell
7006 Elk Trail
San Antonio, TX 78244

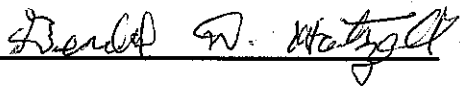
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Austin, Texas 78711-3941

Don & Wantanee Hood
7015 Elk Trail
San Antonio, TX 78244

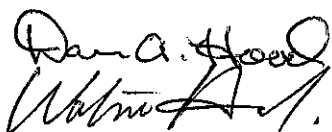
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TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941

Daniel & Pauline Lueb
7003 Elk Trail
San Antonio, TX 78244

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The list goes on and on. There has to be another place where affordable or market rate apartments can be built. We as a community hope that you deny any tax incentives to this group.

~~Sincerely,~~

A handwritten signature in black ink, appearing to be "Liz Cline-Rew", written over a horizontal line. The signature is stylized and somewhat illegible.

**TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941**

**Gisela Yocham
7019 Elk Trail
San Antonio, TX 78244**

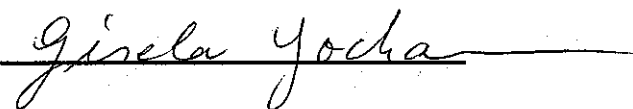
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The list goes on and on. There has to be another place where affordable or market rate apartments can be built. We as a community hope that you deny any tax incentives to this group.

Sincerely,


A handwritten signature in cursive script that reads "Gisela Yocham". The signature is written in black ink and is positioned above a horizontal line that extends across the width of the signature.

TEXAS Department of Housing and Community Affairs
Attention: Liz Cline-Rew, Multifamily Finance Housing Specialist
P.O. Box 13941
Austin, Texas 78711-3941

Eddie & Erika Smith
7010 Elk Trail
San Antonio, TX 78244

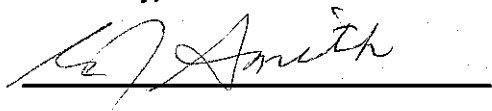
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Sincerely,



November 18, 2019

TX Department of Housing and Community Affairs
Attn: Ms. Liz Cline-Rew
Multifamily Finance Housing Specialist
221 East 11th Street
Austin, TX 78701-2410

RE: Tax Application #19468 and Development of Any
Multifamily Apartments on Walzem and FM 78

Dear Ms. Cline:

We, the residents of Woodlake Estates, are writing to object to all multifamily apartment erection on this site and the site adjacent to Gold's Gym and behind RBFCU. By allowing developers to build on these properties bordering our neighborhoods, the traffic, congestion, noise, crime and litter will be unbearable for the current residents. Our property values will plummet, and our already overcrowded school system will be overwhelmed. Those of us who have lived in and invested in our homes for years can no longer safely enter FM 78 due to the heavy traffic. Additionally, TX DOT informs us that they cannot install a traffic light there because it would be too close to the existing lights. We have no designated fire station and count only on the already understaffed Bexar County Sheriff's Department for protection.

We do not feel these apartments are either in the best interest of our area or the best use of this land. We in this community would welcome retail merchants such as a department store, nice restaurants, movie theaters and larger food stores.

We are merely asking that you give us an opportunity to find suitable businesses that will be interested in investing in this area.

Sincerely yours,

THE RESIDENTS OF WOODLAKE ESTATES SUBDIVISION
San Antonio, TX 78244

Zayad + Elizabeth Zayad

Luis + Lore Munoz

MARIO C AGUIRRE

MARIA MORA

Oscar + Christina Hernandez

Juan P. Tamez

Elisa Reyes

Juan Roberson

THOMAS YASSEZI

Cheryl

Dan Paul

Kayla Werbel

Jill

Jeremie + Anna Lagos

Juan

Vinnie Bilotto

Renee Bilotto

Gloria B. Verhina

Kathy Shows

Karin Cavazos

Robert Stallion

Eddie Mages

Traci Stallion

7305 Hidden Hills North

7306 Hidden H-N

7247 Hidden Hills N.

7247 Hidden Hills N.

7310 Hidden Hls N.

7307 Hidden Hills N.

7309 HIDDEN HILL

7313 Hidden Hills N.

7303 Hidden Hills N.

7301 Hidden Hls N. 78244

7215 HIDDEN HLS N 78244

7215 HIDDEN HLS N 78244

7123 Hidden Hls N 78244

6203 Shadow Moss Ct 78244

6206 shadow moss ct 78244

7243 Hidden Hills N 78244

7243 Hidden Hills N 78244

6214 Boca Raton SA 78244

6200 Shadow Moss SA 78244

7235 Hidden Hills N 78244

6462 Firestone Parkway

6434 Firestone Parkway

6462 Firestone Parkway

7d

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

7e

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7f

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action regarding the approval for publication in the *Texas Register* of the 2020-1 Multifamily Direct Loan Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, the Department has approximately \$13,872,985 in Program Year 2018 and 2019 HOME funds available;

WHEREAS, of the approximately \$13,872,985 in HOME funds, the Department has reserved \$4,733,439 in Community Housing Development Organization (CHDO) funds for multifamily activities;

WHEREAS, the amount of National Housing Trust Fund (NHTF) remaining from the 2020-2 Multifamily Direct Loan NOFA (2020-2 NOFA) for multifamily activities will not be known until January 7, 2020;

WHEREAS, should any NHTF remain unrequested on January 7, 2020, those funds will be made available in this 2020-1 NOFA; and

WHEREAS, staff recommends prioritizing all of these available funds in this 2020-1 NOFA in a manner that will allow the Department to meet various commitment and expenditure deadlines;

NOW, therefore, it is hereby

RESOLVED, that \$13,872,985 in HOME funds, and an amount of NHTF that is unrequested from the 2020-2 NOFA on January 7, 2020, be made available for Applicants through this 2020-1 NOFA;

FURTHER RESOLVED, that funds made available through this 2020-1 NOFA will ensure that the Department awards an appropriate amount of HOME funds to CHDOs in order to satisfy its obligation to HUD, and serve other Department priorities as described in the 2020 version of 10 TAC Chapter 13 and the 2020-1 NOFA; and

FURTHER RESOLVED, the Executive Director and staff as designated by the Executive Director are authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

BACKGROUND

The 2020-1 NOFA announces the availability of Multifamily Direct Loan funds for Applications received between January 13, 2020, and August 31, 2020 (if sufficient funds remain). The funds in the NOFA are inclusive of HOME Program Income accumulated February 2018 through January 2019, the 2019 Program Year HOME allocation, and potentially the 2018 and/or 2019 Program Year NHTF allocation.

The Soft Repayment Set-Aside will include an amount of NHTF to be determined on January 7, 2020, once the application submission deadline under the 2020-2 NOFA has passed. The NOFA will be updated around this time to reflect the actual amount of NHTF available, with potential Applicants notified via listserv email. Funds from this set-aside are available as deferred forgivable, deferred payable, or surplus cash flow loans to finance Developments serving a Supportive Housing population and/or provide 30% AMI units that would not have been available otherwise. All Applications received under this Set-Aside must be proposing new construction or reconstruction (as defined in 24 CFR Part 93).

The General Set-Aside is composed solely of HOME funds totaling of \$9,139,546, while the CHDO set-aside includes \$4,733,439 in HOME funds. Up to \$100,000 of HOME funds in the General set-aside may be awarded as CHDO Operating Expense Grants for up to two Applications submitted under the CHDO Set-Aside. All \$13,872,985 in HOME will be subject to the Regional Allocation Formula from January 13, 2020, through February 13, 2020, and then available statewide within the CHDO and General Set-Asides.

All Applications awarded under this NOFA will be subject to the requirements of 10 TAC Chapter 13 – the Multifamily Direct Loan rule – and applicable sections of 10 TAC Chapter 11, the Qualified Allocation Plan. Applications layered with 9% Housing Tax Credits will be further required to meet Competitive HTC criteria set forth in 10 TAC Chapter 11. Applications layered with Private Activity Bond financing will be subject to provisions of Chapter 12. All Applications will also be required to meet the applicable requirements in 10 TAC Chapters 1 and 2.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)
ANNUAL NOFA

1) Summary. The Texas Department of Housing and Community Affairs (the Department) announces the availability of **\$13,846,168¹** in HOME funds² and any unrequested NHTF funds remaining out of the 2020-2 NOFA for Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2020-1 NOFA will be accepted from January 13, 2020 through August 31, 2020 (if sufficient funds remain). The availability and use of these funds are subject to the following rules, as applicable:

a. Texas Administrative Code

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 10 (Uniform Multifamily Rules)

10 TAC Chapter 11 (Qualified Allocation Plan)

10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

b. Texas Government Code

Tex. Gov't. Code Chapter 2306

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

c. U.S. Department of Housing and Urban Development (HUD) Program Regulations

24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))

¹ Final amount to be determined on January 7, 2020, after the amount of NHTF requested under 2020-2 NOFA is known.

² HOME funds under this NOFA may only be awarded to Applications with Development sites in non-Participating Jurisdictions.

24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

d. Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19.

<https://www.tdhca.state.tx.us/fair-housing/index.htm>

e. Other Federal laws and regulations may that apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME, and NSP1 PI require compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

If HOME or NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

f. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.

2) Set-Asides. All funds will be subject to the Regional Allocation Formula (RAF, located in Attachment A) until February 13, 2020, and then available on a statewide basis within each Set-Aside. Applications under any and all Set-Asides may or may not be layered with 9% or 4% Housing Tax Credits (HTC). The funds made available under this NOFA are available under the following Set-Asides:

- a. **Community Housing Development Organization (CHDO) Set-Aside.** At least \$4,733,439 in HOME funds are reserved for nonprofit organizations that can be certified as Community Housing Development Organizations (CHDOs).
- b. **Soft Repayment Set-Aside.** \$ _____³ in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93..
- c. **General Set-Aside.** HOME funds in the amount of \$9,112,729 is available in this Set-Aside; currently anticipated to be \$9,112,729.

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request ⁴
		Fund Source	Amount Available	
CHDO	NC, A/R, R	HOME	\$4,733,439	\$3,000,000
Soft Repayment	NC	NHTF	\$ _____	\$1,000,000
General	NC, A/R, R	HOME	\$9,112,729	\$3,000,000

Key:

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93) A/R – Acquisition/Rehabilitation

R – Rehabilitation

3) Priorities within Set-Asides. Priority 1 Applications will be subject to various Application Acceptance Dates depending on the criteria described below. The Application Acceptance Dates are those that exist in 10 TAC §13.4(c) for Priority 2 or Priority 3 Applications. The Department will utilize the Scoring Criteria in 10 TAC §13.6.

a. Priority 1.

³ Amount to be determined on January 7, 2020, after the amount of NHTF requested under 2020-2 NOFA is known.
⁴ This total includes any other Multifamily Direct Loan Funds previously awarded to the Applicant by the Department for the Development, including any outstanding loan balances that will remain after the Direct Loan closing.

- i. **Applications submitted in the General and CHDO Set-Asides by February 13, 2020, that request less than RAF amount for the subregion in which the Development Site is located**. Applications submitted under the CHDO Set-Aside that request less than or equal to the amount listed for the subregion in which the Development Site is located January 13, 2020, through February 13, 2020, will have an Application Acceptance Date of February 13, 2020. Applications submitted in the General Set-Aside, that request less than or equal to the amount listed for the subregion in which the Development Site is located January 13, 2020 through February 13, 2020, will have an Application Acceptance Date of February 14, 2020.
 - ii. **4% HTC-layered Applications with TDHCA as the Bond Issuer that request greater than RAF amount for the subregion in which the Development Site is located, where TDHCA is the Bond Issuer and were not recommended for an award under 3) a. i. of this NOFA, or where TDHCA is the Bond Issuer and the Application is submitted under the Soft-Repayment Set-Aside**. Applications submitted under all Set-Asides that meet all of the following requirements will have an Application Acceptance Date of March 30, 2020:
 - 1. The Application is layered with 2020 4% HTC in which TDHCA is the Bond Issuer;
 - 2. The Application was not recommended for an award under 3)a i. of this NOFA; and
 - 3. The Application is submitted January 13, 2020, through March 30, 2020.
 - iii. **Applications that did not apply for or were not recommended for awards under 3) a. i. and ii, and submitted Applications January 13, 2020 through March 31, 2020, will have an Application Acceptance Date of March 31, 2020.**
- b. **Priority 2.** Applications applying contemporaneously for current year 9% HTC will have an Application Acceptance Date of April 1, 2020.
- c. **Priority 3.** Applications submitted after April 1, 2020, will have Application Acceptance Date on the business day of receipt, in accordance with 10 TAC §13.5(c).

1) **4) Interest Rates.**

- a. **Construction-to-Permanent Loans.** All Direct Loan requests structured as construction-to-permanent loans will be required to use the minimum required interest rate listed in the table below depending on the Set-Aside, Activity, whether or not HTC are also being requested, and whether or not the Direct Loan will be in first lien position during the permanent period. If the Debt Coverage Ratio is less than the minimum 1.15 with the minimum required interest rate as applicable, staff will make adjustments to the financing structure in accordance with 10 TAC §11.302(d)(4)(D)(i), with the exception of 10 TAC §11.302(d)(4)(D)(i)(II)(-a-).

Set-Aside and Priority	Activity	HTC layered	Direct Loan 1st Lien during	Minimum Required
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			Permanent Period	Interest Rate
CHDO or General – 4% HTC with TDHCA as Bond Issuer	NC, A/R, R	Y	Y or N	0%
CHDO or General – all other Applications	NC, A/R, R	Y	Y	2.0%
			N	2.50%
		N	Y	2.75%
			N	3.0%
Soft Repayment	NC only	Y or N	Y or N	0%

- b. **Construction-Only Loans.** All Direct Loan requests structured as construction only loans, regardless of the Set-Aside and Activity, may request an interest rate as low as 0% with the principal amount of the Direct Loan due upon the end of the construction loan term as established in 10 TAC §13.8(e)(1).

5) Maximum Per Unit Subsidy Limits and Maximum Rehabilitation Per-Unit Subsidy Limits.

- a. The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the 2020 Maximum Per Unit Subsidy Limits table provided in this Section 5:

2020 Maximum Per Unit Subsidy Limits		
Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$142,411	\$149,868
1 bedroom	\$164,203	\$171,802
2 bedroom	\$198,034	\$208,913
3 bedroom	\$253,490	\$270,266
4 bedroom or more	\$282,398	\$296,666

Smaller per unit subsidies are allowable and incentivized as point scoring items in 10 TAC §13.6.

- b. The Maximum Rehabilitation Per Unit Subsidy Limit is \$38,717 for Applications proposing rehabilitation.

6) Application Submission Requirements.

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on January 13, 2020 through August 31, 2020, at 5:00 p.m. Austin local time (if sufficient funds remain). An Applicant may have only one active

Application per Development at a time under this or any other Department NOFA, and may only have that Development apply under one Set-Aside at a time.

- b. Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at www.tdhca.state.tx.us. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
- c.** An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (MPPM) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.

 - i. If an Applicant has an active Application (i.e. the Board has not made a Direct Loan Award), but wishes to apply for additional funds, it must withdraw that Application and submit a new Application.
 - ii. Applicants for Developments that have received an award of Multifamily Direct Loan Funds or Housing Tax Credits prior to the date of the Application under this NOFA, should consult 10 TAC §13.5(h) regarding Eligibility Criteria, and provide the additional information required by 10 TAC §13.5(h)(2)(B), including clear evidence of the circumstances beyond their control that materially impair their ability to provide affordable housing. Evidence will include information from verifiable third-party sources that allows the Board to make an informed decision regarding eligibility.
- d. Minimum Requests.** The request for funds under the CHDO, Soft Repayment, and General Set-Asides may not be less than \$300,000 regardless of the Set-Aside under which an application is being submitted. However, if the underwriting report indicates that the Development will be feasible with an award of less than \$300,000, staff may recommend a lower award.
- e. Match Submission Requirements.** All Applicants must provide Match in the amount of **at least 7.5%** of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider’s willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.
- f.** The 2020 CHDO Certification Packet must be submitted with the 2020 Uniform Multifamily Application for Applicants applying under the CHDO Set-Aside.

- g. All 4% HTC-layered applications must provide evidence of a Reservation with submission of the MFDL Application submission.
- h. Each CHDO that is awarded HOME funds may also be eligible to receive a CHDO operating grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. An award of HOME funds under the CHDO Set-Aside does not guarantee that a CHDO will receive a grant for CHDO Operating Expenses.
- i. An Applicant under the CHDO, Soft Repayment, and General Set-Asides who are not also simultaneously applying for 2020 9% or 4% Housing Tax Credits are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Tex. Gov't Code §2306.147(b) requires the Department to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
- j. An Application must be uploaded to the Department's secure web transfer server in accordance with 10 TAC §11.201(1)(C).

7) Post Award Requirements. Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapter F and G.

- a. Awarded Applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- b. An Applicant will be required to record a Land Use Restriction Agreement (LURA) limiting residents' income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool, or as represented in the Application for the term of the LURA.
- c. An Applicant must have a current Data Universal Numbering System (DUNS) number and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. Applicants may apply for a DUNS number at dnb.com). Once you have the DUNS number, you can [register with the SAM](#).
- d. An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

8) Miscellaneous.

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME and NHTF fund sources. For proper completion of the application, the

Department strongly encourages potential Applicants to review the State and Federal regulations.

- b.** All Applicants must comply with public notification requirements in 10 TAC §11.203.
- c.** Waivers of any substantive or procedural provision of this NOFA, if available, will be treated in accordance with 10 TAC §13.1(c). 10 TAC §13.1(c) may not be waived.
- d.** For questions regarding this NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at andrew.sinnott@tdhca.state.tx.us.

Attachment A

Regional Allocation Formula under the General Set-Aside – URBAN

Region	Subregion Allocation Amount
1	\$132,110.34
2	\$61,876.35
3	\$2,623,497.49
4	\$530,280.89
5	\$261,068.05
6	\$572,849.63
7	\$1,356,613.25
8	\$512,503.83
9	\$426,958.63
10	\$361,847.13
11	\$426,921.60
12	\$305,724.16
13	\$479,353.00

Regional Allocation Formula under the General Set-Aside – RURAL

Region	Subregion Allocation Amount
1	\$475,829.98
2	\$328,085.81
3	\$411,083.33
4	\$1,097,845.12
5	\$731,836.00
6	\$344,737.06
7	\$169,655.09
8	\$472,200.51
9	\$352,582.40
10	\$456,518.42
11	\$658,254.77
12	\$284,917.83
13	\$37,834.33

7g

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion and possible action regarding an award of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability for Laurel Creek Apartments (#19053)

RECOMMENDED ACTION

WHEREAS, Application #19053, received an allocation of 9% Housing Tax Credits (HTC) and award of \$2,000,000 in National Housing Trust Fund (NHTF) under the 2019-1 Multifamily Direct Loan Notice of Funding Availability (2019-1 NOFA) on July 25, 2019, for Laurel Creek Apartments (formerly known as Foundation Village);

WHEREAS, the Fourth Amendment to the 2019-1 NOFA, which increased the maximum request under the Supportive Housing/ Soft Repayment set-aside to \$3,000,000, was approved at the Board meeting of September 5, 2019, and published in the *Texas Register* on September 20, 2019;

WHEREAS, the Applicant subsequently submitted an Application requesting an additional \$1,000,000 in NHTF for Laurel Creek Apartments;

WHEREAS, the current request from Application #19053 is a Priority 3 application targeting a Supportive Housing population under the 2019-1 NOFA that has received complete reviews for compliance with program and underwriting requirements;

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

WHEREAS, this Application has indicated that the additional NHTF “will provide a hedge against factors beyond our control, such as rising construction and labor costs, market uncertainty from changing trade policies, and unanticipated costs required by City of Austin as we go through the permitting process” as a criteria for the Board to consider in affirming their eligibility;

WHEREAS, the Applicant has indicated that construction costs have increased substantially, but does not yet have substantially final costs from their contractor;

WHEREAS, the Applicant anticipates having substantially final construction costs within the next 30 days, which will document the need for these additional funds and allow for the Department to complete its reevaluation of the transaction so that the Applicant and Department can execute a contract and the Department can commit its 2017 NHTF funds by February 5, 2020;

WHEREAS, an extension of the contract execution deadline in 10 TAC §13.11(d) is necessary to allow for the Department to complete its reevaluation of the transaction before executing the contract; and

WHEREAS, this Application has layered NHTF restrictions on 5 additional HTC-restricted units in connection with this \$1,000,000 NHTF request, resulting in a total of 16 units restricted to households at or below 30% Area Median Income;

NOW, therefore, it is hereby

RESOLVED, that an additional award of \$1,000,000 in NHTF from the 2019-1 NOFA for Laurel Creek Apartments is hereby approved in the form presented at this meeting;

FURTHER RESOLVED, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting, and demonstration by January 8, 2020, of at least \$1,000,000 of increased costs or lost fund sources (or a pro rata reduction may be applied upon the award), and completion of any other reviews required to assure compliance with the applicable rules and requirements;

FURTHER RESOLVED, that an extension of the original contract execution deadline in accordance with 10 TAC §13.11(j) to February 5, 2020, is hereby approved; and

FURTHER RESOLVED, that the Applicant must fulfill all conditions to enter into a Contract with the Department on or before February 5, 2020, or the Applicant may lose access to the NHTF funding in whole or in part, because HUD requires that the Department commit its 2017 NHTF funding by that date.

BACKGROUND

On December 6, 2018, the Board approved the issuance of a NOFA for up to \$34,557,797, which has subsequently been amended to increase the amount available to \$68,093,832.50 within four set-asides:

- \$19,998,832.50 in Supportive Housing/ Soft Repayment set-aside, composed of \$500,000 in TCAP RF and \$19,498,832.50 in National Housing Trust Fund
- \$500,000 of HOME funds under the CHDO set-aside,

- \$2 million in TCAP RF under the Preservation set-aside
- \$45,595,000 in the General set-aside, composed of \$27,945,000 in HOME, \$4 million in NSP1 Program Income, and \$13,650,000 in TCAP RF.

Laurel Creek Apartments was awarded an allocation of \$1,500,000 in 9% HTC and \$2,000,000 in NHTF on July 25, 2019, which proposed new construction of 88 one, two, and three bedroom units for a Supportive Housing population in Austin. At the time that the 9% HTC/ Direct Loan Application was submitted, \$2,000,000 was the maximum request under the Supportive Housing/ Soft Repayment set-aside under which they requested and received an award of NHTF. On August 28, 2019, the applicant purchased the property. On September 20, 2019, the Application requesting an additional \$1,000,000 in NHTF was submitted; however, as a result of the Regional Allocation Formula period for the Program Year 2019 NHTF not ending until October 21, 2019, the Application was not considered received until October 22, 2019. The applicant received environmental clearance in connection with the NHTF funds on October 30, 2019. While closing on the land occurred on August 28, 2019, NHTF funds may still be awarded and committed to this project since 24 CFR §58.22 – which discusses choice limiting activities – does not apply to NHTF.

The Applicant's expectation of increased building costs in Austin, as well as the uncertainty that comes with the City of Austin's site planning process (which historically has increased costs), were provided as justification for requesting additional Direct Loan funds. The Applicant anticipates having 50% construction drawing pricing within the next 30 days that will reflect construction cost increases beyond \$1,000,000. Once the Applicant has those substantially final construction costs as well as any other updates in costs, sources, income, and/or expenses, they will send that documentation to the Department, so that the Department can reevaluate the transaction and confirm the need for the additional \$1,000,000 in NHTF.

10 TAC §13.11(d) requires Direct Loan awardees to execute a contract within 60 days of environmental clearance being obtained, which, for Laurel Creek Apartments, would be December 30, 2019. However, because the Department will not have a chance to complete its reevaluation of the transaction with the increased costs until after that date, staff is recommending extending the original contract execution deadline to February 5, 2020.

It is also worth noting that this request for additional Direct Loan funds, which is anticipated to be funded with NHTF, will help the Department in meeting its commitment deadline for Program Year 2017 NHTF, for which all Program Year 2017 NHTF must be committed by February 5, 2020. As a result of the additional Direct Loan funds, 5 additional HTC-restricted units will also be subject to the NHTF Land Use Restriction Agreement, for a total of 16 NHTF units. Households in 20% (18) of the 88 total units will be offered voluntary services through the Children's HOME Initiative (CHI) Program through Foundation Communities.

Staff is recommending the Board's approval of Laurel Creek Apartments' supplemental Application for NHTF funds totaling \$1,000,000 as a deferred payable loan at 0% interest rate with a 35 year term – consistent with the terms of the previous \$2,000,000 NHTF award –

under the Supportive Housing/ Soft Repayment Set-Aside. The recommended Application and award amounts are outlined in the attached award recommendations log.

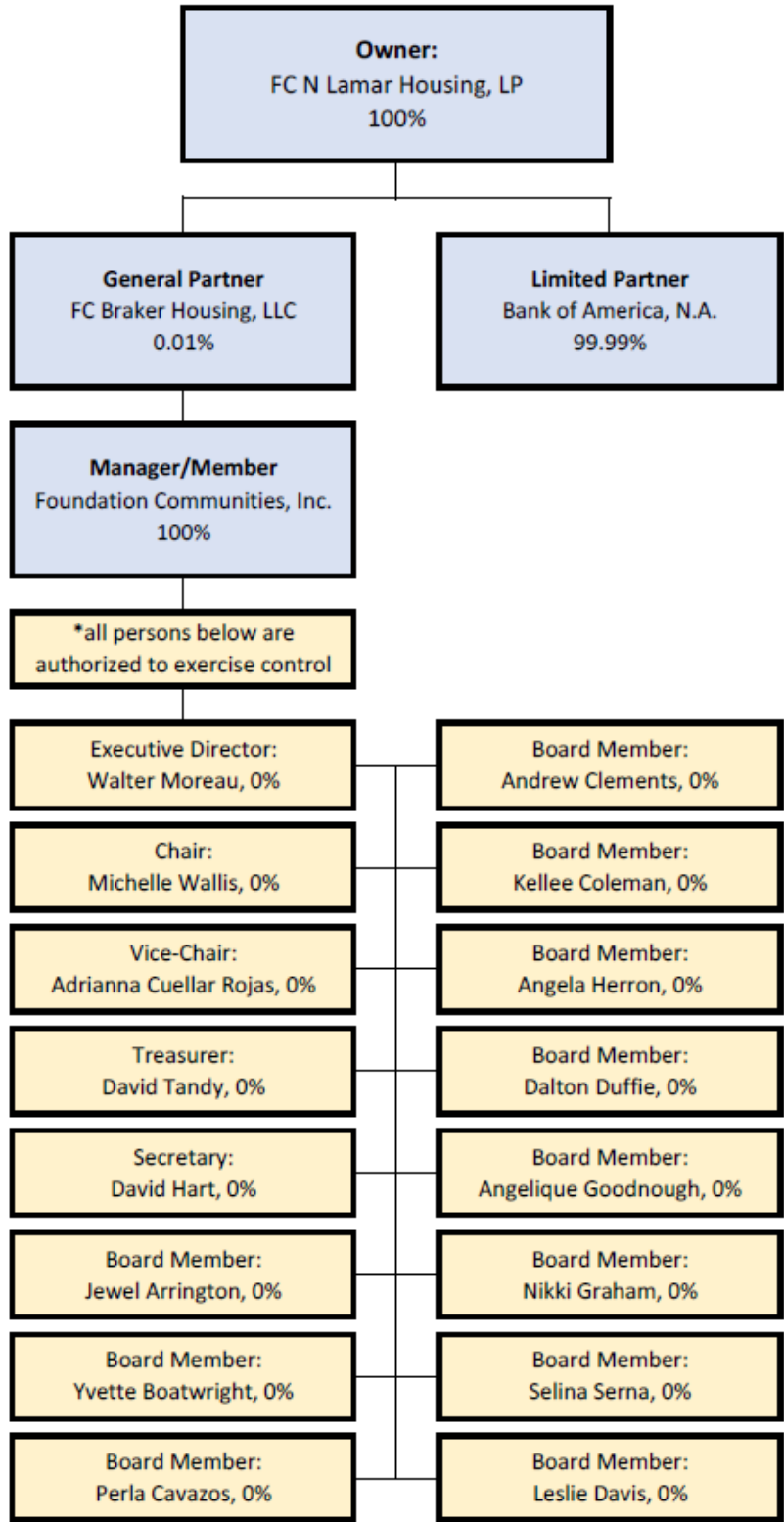
This Application has received a previous participation review and a recommendation from EARAC, and if the conditions herein are met will be underwritten and determined to meet the Real Estate Analysis rules and requirements by February 5, 2020, or the \$1,000,000 award may be reduced in whole or in part. Furthermore, the Applicant must fulfill all conditions to enter into a Contract with the Department on or before February 5, 2020, or the Applicant may lose access to the NHTF funding in whole or in part, because HUD requires that the Department commit its 2017 NHTF funding by that date.

Organizational Structure and Previous Participation: The borrower is FC N Lamar Housing, LP and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the Applicant was a Category 1 portfolio. The Executive Award Review and Advisory Committee (EARAC) recommends approval without further comment.

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

FOUNDATION VILLAGE - AUSTIN, TX

Owner Chart





3036 South First Street
Austin, TX 78704

tel: 512-447-2026
fax: 512-447-0288

www.foundcom.org

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September 13, 2019

Andrew Sinnott
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: #19053 Laurel Creek (Formerly Foundation Village)

Dear Andrew:

Per 10 TAC 13.5(h)(2), please accept this letter as a request for a finding of eligibility, required for projects that have previously been awarded Department funds. Foundation Village received an award of \$1,500,000 in 9% Housing Tax Credits (HTC) and a \$2,000,000 Multifamily Direct Loan (MFDL) Soft Repayable award on July 25, 2019. We respectfully request that the TDHCA Board find Foundation Village eligible for an additional \$1,000,000 in MFDL Soft Repayable funds, for a total of \$3,000,000 as allowed under the revised per-project limit authorized in the Fourth Amendment to the 2019 Multifamily Direct Loan NOFA.

As shown in our original HTC and MFDL application, Foundation Communities committed a \$2,857,400 owner contribution to bridge the funding gap for this supportive housing project. We are proposing that this additional \$1,000,000 in MFDL Soft Repayable funds be used to reduce the owner funds to \$1,857,400. This will provide a hedge against factors beyond our control, such as rising construction and labor costs, market uncertainty from changing trade policies, and unanticipated costs required by City of Austin as we go through the permitting process. We are on track to start construction in the spring of 2020 and do not anticipate any further exceptional conditions that will delay the project.

Additionally, we understand that TDHCA has a substantial allocation of Housing Trust Fund (HTF) dollars that have federally-dictated commitment and expenditure deadlines. As a supportive housing project, Foundation Village is well aligned with the goals of the HTF program and our commitment to deeply affordable units. As part of the 2nd request, we will increase our MFDL commitment from 11 to 14 30% MFI restricted units.



a Partner Agency of



United Way for Greater Austin



We ask the Board to find Foundation Village eligible for an additional \$1,000,000 in MFDL Soft Repayment funds. These funds will provide a critical source of risk mitigation to this deeply affordable project.

Sincerely,

Walter Moreau

Walter Moreau
Foundation Communities, Inc.



a Partner Agency of



United Way for Greater Austin





2019-1 Multifamily Direct Loan Program - Application Log - December 2, 2019

Per 2019-1 Multifamily Direct Loan Notice of Funding Availability published in the *Texas Register* on 12/21/2018, and 1st, 2nd, 3rd, 4th, and 5th Amendments to 2019-1 NOFA subsequently published in the *Texas Register*

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received within each set-aside.

											TCAP RF	\$500,000
											NHTF	\$19,498,833
											Total Set Aside Funding Level:	\$21,498,833
TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19601	McMullen Square Apartments	San Antonio	Bexar	8	R	\$ 500,000	General	100	4	4%	3/12/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19146	New Hope Housing Avenue J	Houston	Harris	6	NC	\$ 1,909,398	Supportive Housing	100	11	9%	TBD*	On waiting list for 2019 9% HTC
19053	Foundation Village	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	88	11	9%	4/2/2019	Recommended for NHTF at 7/25/19 Board meeting
19030	Freedom's Path at Kerrville II	Kerrville	Kerr	9	NC	\$ 1,909,398	Supportive Housing	38	38	9%	TBD*	On waiting list for 2019 9% HTC
19216	Heritage Heights at Abilene	Abilene	Taylor	2	NC	\$ 1,115,000	Elderly	48	8	9%	4/2/2019	Recommended for NHTF at 7/25/19 Board meeting
19506	Saline Creek Senior Village	Noonday	Smith	4	NC	-	Elderly	60	14	9%	6/3/2019	Application withdrawn 8/29/19
19419	Palladium Redbird	Dallas	Dallas	3	NC	-	General	300	33	4%	6/21/2019	Application withdrawn 8/6/19
19507	Merritt Sunset	Midland	Midland	12	NC	\$ 2,000,000	General	149	11		8/6/2019	
19508	Roosevelt Gardens	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	40	14		8/14/2019	To be recommended for award of NHTF at 12/12/19 Board meeting
19053	Foundation Village	Austin	Travis	7	NC	\$ 1,000,000	Supportive Housing		5	9%	10/22/2019	To be recommended for award of NHTF at 12/12/19 Board meeting
Total Amount Requested Under SH/SR Set Aside						\$ 12,433,796	Total Units	923	149			
Total Amount Awarded Under SH/SR Set Aside						\$ 3,615,000	Total Units	236	23			
Total Amount Remaining Under SH/SR Set Aside (NHTF)						\$ 16,383,833						
Total Amount Remaining Under SH/SR Set Aside (TCAP RF)						\$ -						

											Total Set Aside Funding Level:	\$500,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19028	Casitas Lantana	Brownsville	Cameron	11	NC	\$ 500,000	General	80	5	9%	10/10/2019	Awarded from waiting list for 2019 9% HTC on 10/10/19
Total Amount Requested Under CHDO Set Aside						\$ 500,000	Total Units	80	5			
Total Amount Awarded Under CHDO Set Aside						\$ 500,000	Total Units	80	5			
Total Amount Remaining Under CHDO Set Aside						\$ -						

											Total Set Aside Funding Level:	\$2,000,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19503	Sierra Royale Apartments	Robstown	Nueces	10	R	\$ 1,849,736	General	76	25		2/15/2019	Recommended for TCAP RF award at 10/10/19 Board meeting
Total Amount Requested Under Preservation Set Aside						\$ 1,849,736	Total Units	76	25			
Total Amount Awarded Under Preservation Set Aside						\$ 1,849,736	Total Units	0	0			
Total Amount Remaining Under Preservation Set Aside						\$ 150,264						

HOME (limited availability statewide)	\$27,945,000
NSP1 PI (available statewide, including PJs)	\$4,000,000
TCAP RF (available statewide, including PJs)	\$13,650,000
NSP1 PI and TCAP RF Total	\$17,650,000

											Total Set Aside Funding Level:	\$45,595,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19406	Primrose Village	Weslaco	Hidalgo	11	NC	\$ -	General	242	22	4%	1/14/2019	Direct Loan request withdrawn
19502	City Square Lofts	Garland	Dallas	3	NC	\$ -	General	126	3	9%	3/1/2019	Application withdrawn 7/11/19

19409	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	25	4%	3/8/2019	Recommended for NSP1 PI award at 5/23/19 Board meeting
19504	Avanti at Sienna Palms Legacy	Weslaco ETJ	Hidalgo	11	NC	\$ 1,650,000	Elderly	114	11	9%	3/11/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19418	Bridge at Loyola Lofts	Austin	Travis	7	NC	\$ 4,000,000	General	204	67	4%	3/15/2019	Recommended for TCAP RF award at 10/10/19 Board meeting
19051	Casa de Manana Apartments	Corpus Christi	Nueces	10	Recon	\$ 2,500,000	General	99	14	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19235	The Reserves at Saddleback Ranch	Wolfforth	Lubbock	1	NC	\$ 950,000	General	40	10	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19338	Ennis Trails	Ennis	Ellis	3	NC	\$ 1,150,000	Elderly	68	10	9%	TBD*	On waiting list for 2019 9% HTC
19214	Lakeridge Villas	Ennis	Ellis	3	NC	\$ 3,400,000	Elderly	48	21	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19285	Everly Plaza	Fort Worth	Tarrant	3	NC	\$ -	Elderly	88	24	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19126	3104 Division Lofts	Arlington	Tarrant	3	NC	\$ -	General	75	67	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19009	Churchill at Golden Triangle	Fort Worth	Tarrant	3	NC	\$ -	General	99	8	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19234	The Residences at Alsbury	Burleson	Johnson	3	NC	\$ 1,050,000	Elderly	83	11	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19236	Tool Cedar Trails	Tool	Henderson	4	NC	\$ 950,000	Elderly	48	10	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19365	Heritage Estates at Huntsville	Huntsville	Walker	6	NC	\$ 2,525,000	Elderly	48	19	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19179	Riverwood Commons II	Bastrop	Bastrop	7	NC	\$ 3,000,000	Elderly	36	17	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19095	Sagebrush Terrace	Jarrell	Williamson	7	NC	\$ -	Elderly	57	40	9%	4/2/2019	Withdrawn
19180	St. Elmo Commons	Austin	Travis	7	NC	\$ -	General	100	30	9%	4/2/2019	Terminated
19238	Franklin Trails	Franklin	Robertson	8	NC	\$ 2,850,000	Elderly	38	30	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19304	The Residences at Overlook Ridge	Canyon Lake	Comal	9	NC	\$ 1,700,000	Elderly	30	11	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19136	Luna Flats	San Antonio	Bexar	9	NC	\$ -	General	69	67	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19139	Hamilton Wolfe Lofts	San Antonio	Bexar	9	NC	\$ 4,000,000	General	74	69	9%	TBD*	On waiting list for 2019 9% HTC
19332	Avanti at South Bluff	Corpus Christi	Nueces	10	Recon	\$ 2,475,000	Elderly	42	15	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19367	Avanti Legacy Bayside	Corpus Christi	Nueces	10	NC	\$ 3,800,000	Elderly	60	23	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19330	Avanti Legacy at Emerald Point	McAllen	Hidalgo	11	NC	\$ -	Elderly	90	6	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19331	Avanti at Emerald Point	McAllen	Hidalgo	11	NC	\$ -	General	72	11	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19202	Heritage Heights at Big Spring	Big Spring	Howard	12	NC	\$ 2,745,000	Elderly	66	20	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19468	The Walzem	San Antonio	Bexar	9	NC	\$ 4,000,000	General	200	26	4%	8/23/2019	To be recommended for award of TCAP RF at 12/12/19 Board meeting
19610	Fish Pond at Corpus Christi	Corpus Christi	Nueces	10	NC	\$ 4,000,000	Elderly	112	28	4%	9/9/2019	
Total Amount Currently Requested Under General Set Aside: Development Sites in HOME-eligible areas						\$ 33,095,000	Total Units	655	224			
Total Amount Currently Requested Under General Set Aside: Development Sites in non-HOME-eligible areas						\$ 17,650,000	Total Units	1,465	413			
Total Amount Currently Requested Under General Set Aside: TOTAL						\$ 50,745,000	Total Units	2,120	637			
Total Amount Awarded Under General Set Aside (HOME)						\$ 27,945,000	Total Units	638	201			
Total Amount Awarded Under General Set Aside (TCAP RF)						\$ 5,650,000	Total Units	318	78			
Total Amount Awarded Under General Set Aside (NSP1 PI)						\$ 4,000,000	Total Units	93	25			
Total Amount Remaining Under General Set Aside (HOME)						\$ -						
Total Amount Remaining Under General Set Aside (TCAP RF)						\$ 8,000,000						
Total Amount Remaining Under General Set Aside (NSP1 PI)						\$ -						

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

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

3 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees (if applicable) were received. All 2019 9%-layered applications were considered received 4/2/19 in accordance with 10 TAC §13.4(c)(2).

* = Board action taken 7/25/19 states that 2019 9% HTC-layered applications that did not receive 9% allocation on 7/25/19 will be considered Priority 3 applications in accordance with 10 TAC 13.4(c)(3) should they come off waiting list before 11/26/19.

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, Application #19508, which requested \$2,000,000 in Direct Loan funds for Roosevelt Gardens, is a Priority 3 application proposing to serve a Supportive Housing population under the 2019-1 NOFA and has received complete reviews for compliance with program and underwriting requirements;

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

WHEREAS, Roosevelt Gardens is and will continue to be subject to a federally-funded Housing Opportunities for People with AIDS (HOPWA) contract with the City of Austin that requires the property to have a preference for people living with HIV and AIDS, and the NHTF Units and the HOME Match Eligible Units will also have this preference;

WHEREAS, the Direct Loan is the only source of Department funding for this Application and 10 TAC §13.8(c)(7)(A) requires Applications in which the Direct Loan is the only source of Department funding to provide equity in amounts not less than 20% of Total Housing Development Costs, with the Board having the ability to approve less than 20% owner equity if the reduced level of equity will be sufficient to provide reasonable assurance of the owner's ability to complete construction and stabilization timely;

WHEREAS, the Applicant has provided evidence of \$5,000,000 (63% of Total Housing Development Costs) in soft financing primarily from the City of Austin and \$218,770 (2.8% of Total Housing Development Costs) in owner equity as a way to provide reasonable assurance of the owner's ability to complete construction and stabilization timely;

WHEREAS, the Applicant has also provided documentation confirming liquid assets of approximately 10% of the Total Housing Development Costs that can be made available if necessary;

WHEREAS, 10 TAC §13.8(c)(7)(B) requires an “as completed” Appraisal for Applications proposing new construction that results in total repayable loan to value of not more than 80%;

WHEREAS, the Applicant provided an “as is” Appraisal that estimates the market value of the current 50-year-old 22-unit property at \$2,550,000;

WHEREAS, the Applicant has provided a waiver request of 10 TAC §13.8(c)(7)(B) in accordance with 10 TAC §10.207, stating that the total repayable loan to value is at 78% based on the “as is” appraisal and that the total repayable loan to value for the Department’s loan will only decrease once the property is demolished and reconstructed into 40 new units;

WHEREAS, staff believes that the risk that is intended to be mitigated by 10 TAC §13.8(c)(6)(C) is being mitigated by the reasonable expectation that the post-demolition and new construction value of the property will significantly exceed the current as-is value that shows the Department’s loan at 78% loan to value;

WHEREAS, the Applicant has also asserted that waiving these rules would allow the Department to fulfill its obligation in Tex. Gov’t Code §2306.001(2) of providing for the housing needs of extremely low income individuals and families and its obligation in Tex. Gov’t Code §2306.001(6) of addressing at the state level and coordinating interagency efforts to address the problem of homelessness in this state;

WHEREAS, this Application has committed to restricting 14 of the 40 Units with National Housing Trust Fund (NHTF) income and rent restrictions with the remaining units subject to 50% AMI income and rent restrictions under a 99-year restrictive covenant with the City of Austin (2 of these Units will also have HOME Match restrictions from the Department); and

WHEREAS, staff recommends the Board approve the lower amount of owner equity being provided and the waiver requested and award this Application the requested \$2,000,000 in NHTF in order to coordinate interagency efforts to address the problem of homelessness in this state;

NOW, therefore, it is hereby

RESOLVED, that an award of \$2,000,000 in NHTF from the 2019-1 NOFA for Roosevelt Gardens is hereby approved in the form presented at this meeting;

FURTHER RESOLVED, that the Applicant must fulfill all conditions to enter into a Contract with the Department on or before February 5, 2020, or the Applicant may

lose access to the NHTF funding in whole or in part, because HUD requires that the Department commit its 2017 NHTF funding by that date; and

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

BACKGROUND

On December 6, 2018, the Board approved the issuance of a NOFA for up to \$34,557,797, which has subsequently been amended to increase the amount available to \$68,093,832.50 within four set-asides:

- \$19,998,832.50 in Supportive Housing/ Soft Repayment set-aside, composed of \$500,000 in TCAP RF and \$19,498,832.50 in National Housing Trust Fund
- \$500,000 of HOME funds under the CHDO set-aside,
- \$2 million in TCAP RF under the Preservation set-aside
- \$45,595,000 in the General set-aside, composed of \$27,945,000 in HOME, \$4 million in NSP1 Program Income, and \$13,650,000 in TCAP RF

Roosevelt Gardens was constructed in 1969, and has had minimal repairs and upgrades completed since that date. Given the age and state of the property, demolition and new construction makes the most sense according to the Applicant. The Appraisal confirms the Applicant's decision, stating that "the improvements contribute value, but because land values have been rapidly increasing in the area, their economic life expectancy is nearing their end." Additionally, by taking advantage of the City of Austin's recently-passed Affordability Unlocked density bonus program, the Applicant will be able to replace the existing 22 units with 40 units.

Staff is recommending the Board's approval of the reduced owner equity and waiver of appraisal requirements requested in Project Transitions' application (19508) based on Project Transitions demonstrating that they could not have foreseen or prevented needing these waivers as a result of limitations under which a small nonprofit must operate. Approval of the reduced owner equity and waiver will allow the Department to ultimately award NHTF totaling \$2,000,000 as a deferred forgivable loan at 0% interest rate with a 40-year term under the Supportive Housing/Soft Repayment Set-Aside and assist Project Transitions in creating 40 units for a Supportive Housing population with a preference for people living with HIV and AIDS. The waiver requested impacts Department requirements regarding risk mitigation (10 TAC §13.8(c)(7)(B)).

Additional risk mitigation in order to satisfy the intent of the requirements in 10 TAC §13.8(c)(7)(A), includes the fact that the totality of the funding for this development (inclusive of the Department's NHTF loan) is composed of soft debt with minimal repayment terms. Furthermore, the Applicant has the ability to advance approximately 10% of Total Housing Development Costs should there be any cost overruns or delays in funding by the City of Austin or the Department. Finally, Foundation Communities, an Austin-area nonprofit with decades of development experience, will serve as co-developer with Project Transitions.

The \$2,000,000 NHTF loan comprises approximately 25% of Total Housing Development Costs, with additional funding coming from the City of Austin (\$4,950,000), permit waivers, a \$50,000 predevelopment grant from the Department, and deferred developer fee and owner equity from Project Transitions.

The NHTF loan will be superior to the City of Austin's loan, and will maintain first lien position during the construction and permanent periods. The recommended application and award amounts are outlined in the attached award recommendations log behind this Board item.

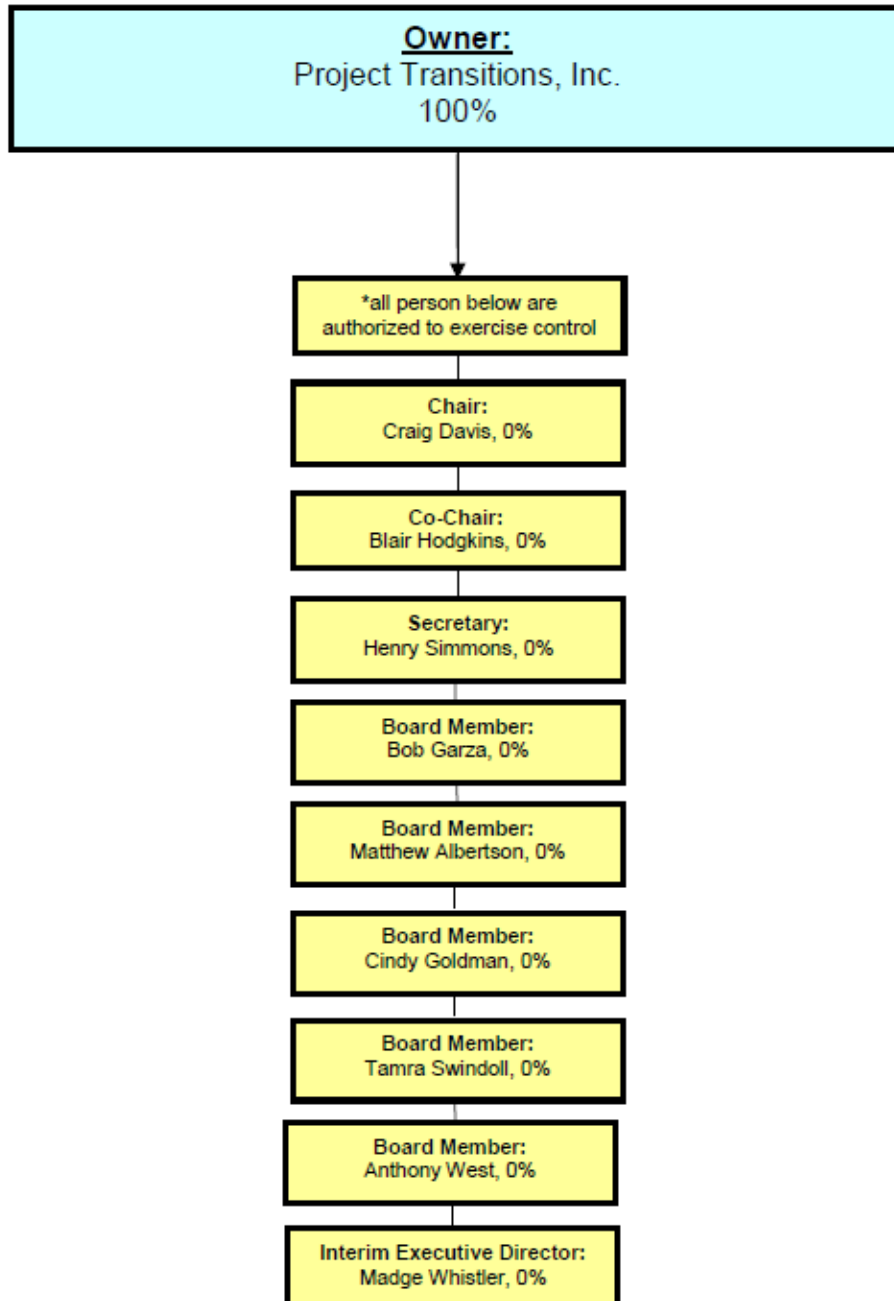
This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements, and has received a recommendation without conditions from EARAC.

Organizational Structure and Previous Participation: The borrower is the Project Transitions, and includes principals as indicated in the organization chart below. At the time of the Previous Participation Review, the applicant was a Category 1. EARAC recommends approval without conditions.

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

ROOSEVELT GARDENS - AUSTIN, TEXAS

Ownership Chart



19508 Roosevelt Gardens - Application Summary

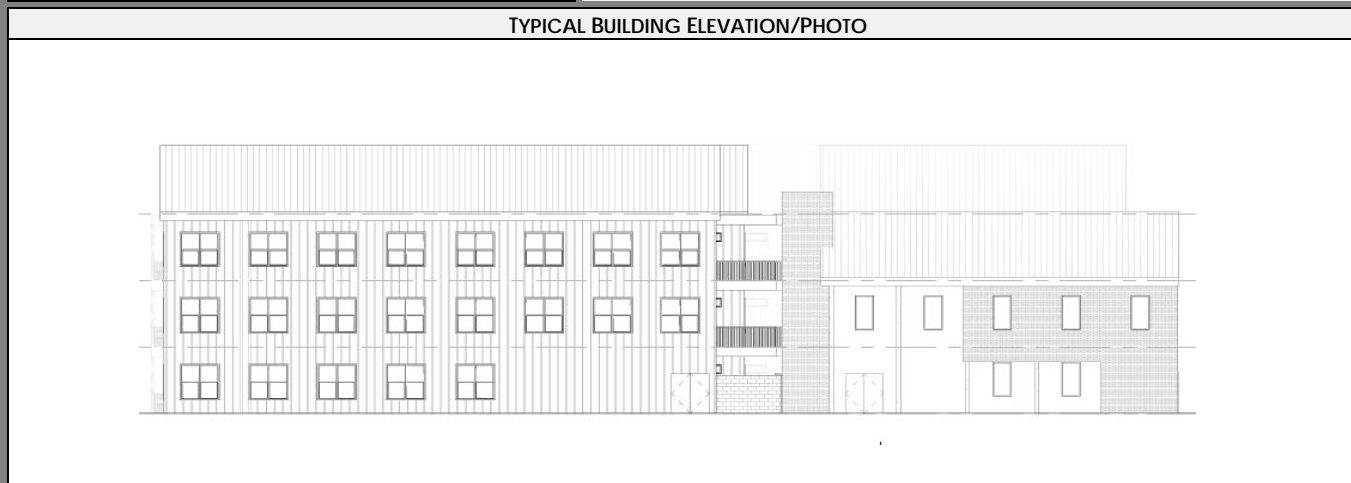
REAL ESTATE ANALYSIS DIVISION

December 4, 2019

PROPERTY IDENTIFICATION	
Application #	19508
Development	Roosevelt Gardens
City / County	Austin / Travis
Region/Area	7 / Urban
Population	Supportive Housing
Set-Aside	Supportive Housing/Soft Repayment
Activity	Reconstruction (Built in 1969)

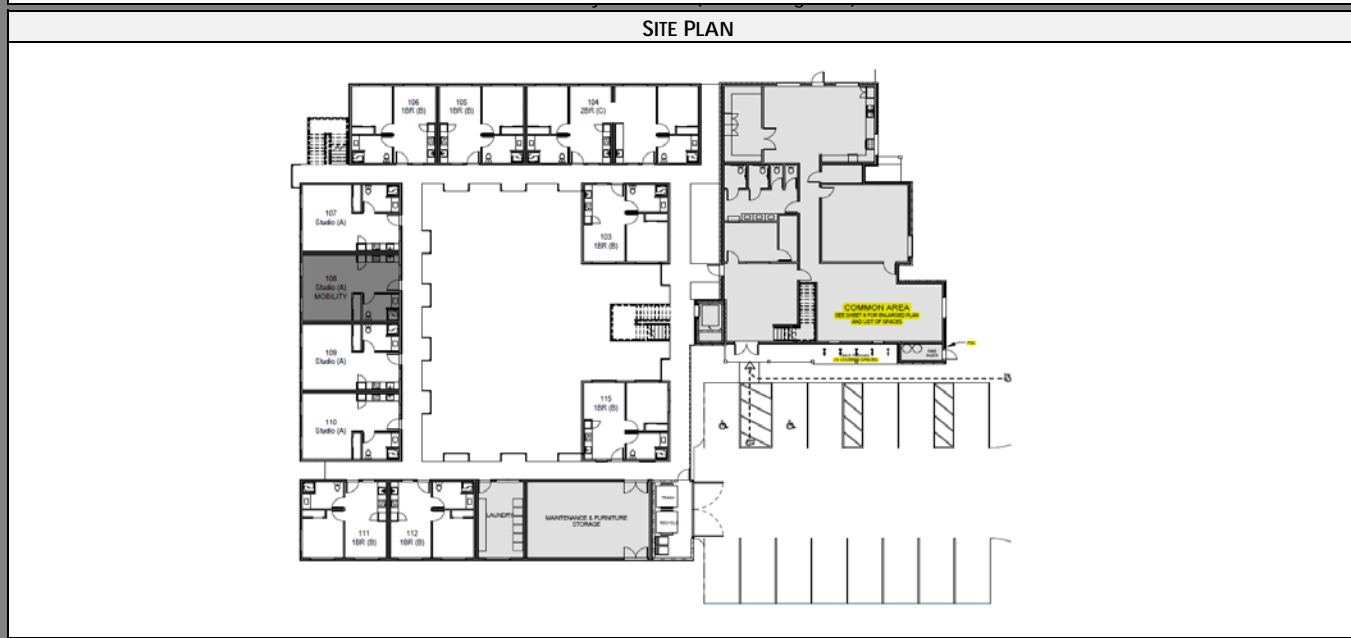
RECOMMENDATION						
TDHCA Program	Request	Recommended				
	Amount	Rate	Amort	Term	Lien	
Multifamily Direct Loan (Deferred Forgivable)	\$2,000,000	Rate	0%	40	1	

KEY PRINCIPAL / SPONSOR		
Project Transitions, Inc. Cynthia Herrera (Executive Director) Madge Whistler		
True Casa Consulting, Inc. Jennifer Hicks		
Foundation Communities, Inc (Co-Developer) Walter Moreau (Executive Director)		
Related Parties	Contractor - No	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	12	30%	30%	14	35%
1	22	55%	40%	-	0%
2	6	15%	50%	26	65%
3	-	0%	60%	-	0%
4	-	0%	MR	-	0%
TOTAL	40	100%	TOTAL	40	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	N/A	Expense Ratio	100.0%
Breakeven Occ.	95.0%	Breakeven Rent	\$231
Average Rent	\$231	B/E Rent Margin	\$0
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,294/unit	Controllable	\$3,381/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (30% Maximum)			0.4%
Highest Unit Capture Rate	2%	0 BR/50%	8
Dominant Unit Cap. Rate	1%	1 BR/50%	14
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	40	100% Total Units	


DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	511 SF	Density	60.6/acre
Acquisition		\$00K/unit	\$K
Building Cost	\$201.37/SF	\$103K/unit	\$4,116K
Hard Cost		\$128K/unit	\$5,111K
Total Cost		\$198K/unit	\$7,928K
Developer Fee	\$759K	(79% Deferred)	N/A
Contractor Fee	\$708K	30% Boost	No

DEBT					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
City of Austin	40/0	0.00%	\$4,950,000	N/A	Project Transitions, Inc.	0/0	0.00%	\$218,660	N/A	Project Transitions, Inc.	\$603,100
TDHCA	40/0	0.00%	\$2,000,000	N/A	TDHCA Pre-Development	0/0	0.00%	\$50,000	N/A		
					City of Austin Fee Waiver	0/0	0.00%	\$105,876	N/A		
TOTAL DEBT (Must Pay)			\$6,950,000		CASH FLOW DEBT / GRANTS			\$374,536		TOTAL EQUITY SOURCES	\$603,100
										TOTAL DEBT SOURCES	\$7,324,536
										TOTAL CAPITALIZATION	\$7,927,636

CONDITIONS

- 1 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
 - b: Updated term sheets with substantially final terms from all lenders.
 - c: Executed HOPWA Contract.
 - d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- 2 Receipt and acceptance by Cost Certification:
 - a: Certification that testing for asbestos was performed on the existing structure prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented along with certification that all demolition was performed pursuant to all applicable laws and regulations.
 - b: Certification on whether any of the existing plumbing systems was used as part of the reconstruction at the site. If they were used, then certification that testing for lead in drinking water was performed on the existing plumbing system.

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

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<input type="checkbox"/>	Development covered by HOPWA assistance
<input type="checkbox"/>	Applicant experience in assisted living
<input type="checkbox"/>	Funding sources to cover shortages in operations
WEAKNESSES/RISKS	
<input type="checkbox"/>	Dependent on HOPWA assistance
<input type="checkbox"/>	Sponsor's first TDHCA project
AREA MAP	
	





DEVELOPMENT IDENTIFICATION

TDHCA Application #: 19508 Program(s): MDL

Roosevelt Gardens

Address/Location: 5606 Roosevelt Avenue

City: Austin County: Travis Zip: 78756

Population: Supportive Housing Program Set-Aside: At-Risk Area: Urban

Activity: Reconstruction Building Type: Garden (Up to 4-story) Region: 7

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
Multifamily Direct Loan (Deferred Forgivable)	\$2,000,000	0.00%		40	\$2,000,000	0.00%		40	1

* Multifamily Direct Loan Terms:
 * The term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).
 * Lien position after conversion to permanent. The Department's lien position during construction may vary.

CONDITIONS

- 1 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
 - b: Updated term sheets with substantially final terms from all lenders.
 - c: Executed HOPWA Contract.
 - d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
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SET-ASIDES

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	14

DEVELOPMENT SUMMARY

Roosevelt Gardens will be a reconstruction development of an existing apartment complex. Project Transitions, Inc (Owner and Applicant) is proposing to demolish 22 units and reconstruct 40 units of supportive housing. The Development will consist of one three-story elevator served building with 12 efficiencies, 22 one-bedroom, and 6 two-bedroom units.

All units will be covered with a Housing Opportunities for Persons with AIDS (HOPWA) that covers operating expenses and supportive services for the property. HOPWA is a HUD sponsored program and the only Federal program dedicated to the housing needs people living with AIDS. Under HOPWA, residents pay 30% of their income towards rent with all utilities will be paid by landlord. HUD sends funds to certain cities who administers the funds to different groups. The City of Austin is committing \$4.95M to the Development.

Because the Development is Supportive Housing, it is exempt from §11.302(g)(4)(A) expense to income ratio, §11.302(g)(4)(B) first year debt coverage ratio, and §11.302(g)(5)(A) fifteen year DCR per §11.302(g)(6)(B)(iii),

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Development covered by HOPWA assistance
▫	Applicant experience in assisted living
▫	Funding sources to cover shortages in operations

WEAKNESSES/RISKS	
▫	Dependent on HOPWA assistance
▫	Sponsor's first TDHCA project
▫	

DEVELOPMENT TEAM

PRIMARY CONTACTS

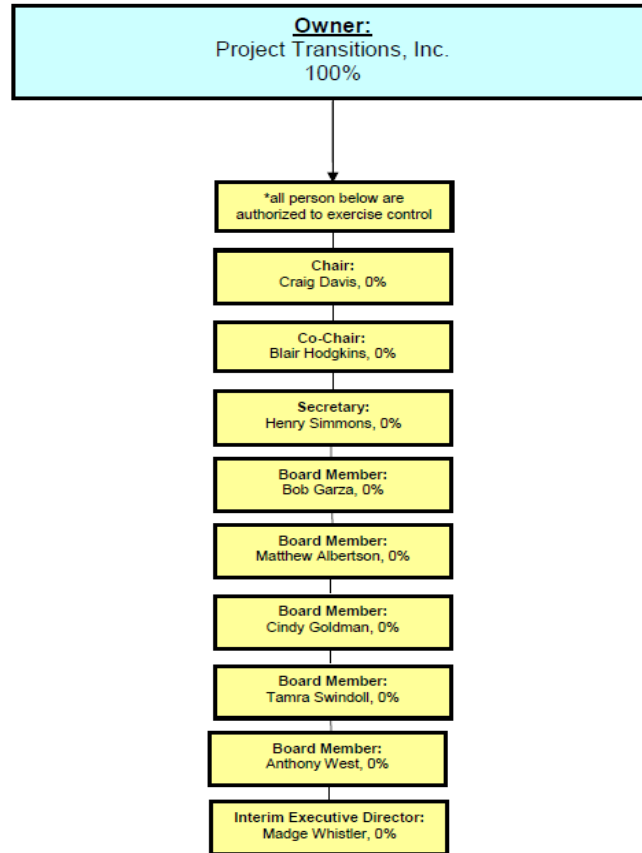
Name: Madge Whistler
 Phone: (512) 454-8646
 Relationship: Applicant

Name: Blair Hodgkins
 Phone: (737) 666-9060
 Relationship: Applicant

OWNERSHIP STRUCTURE

ROOSEVELT GARDENS - AUSTIN, TEXAS

Ownership Chart



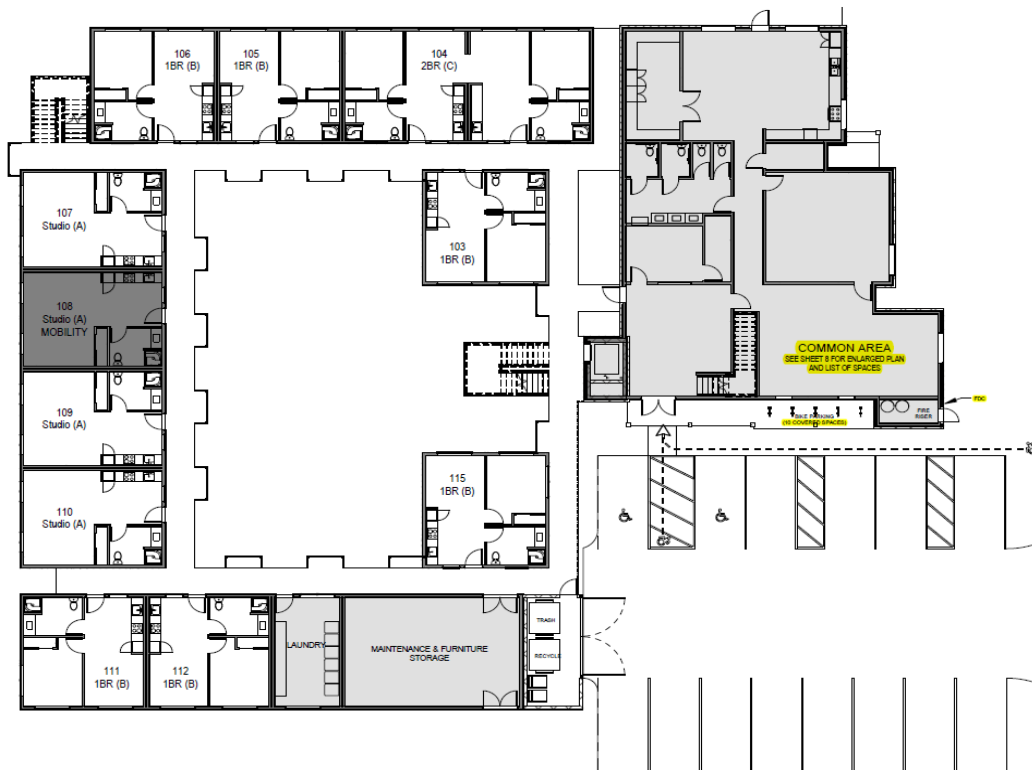
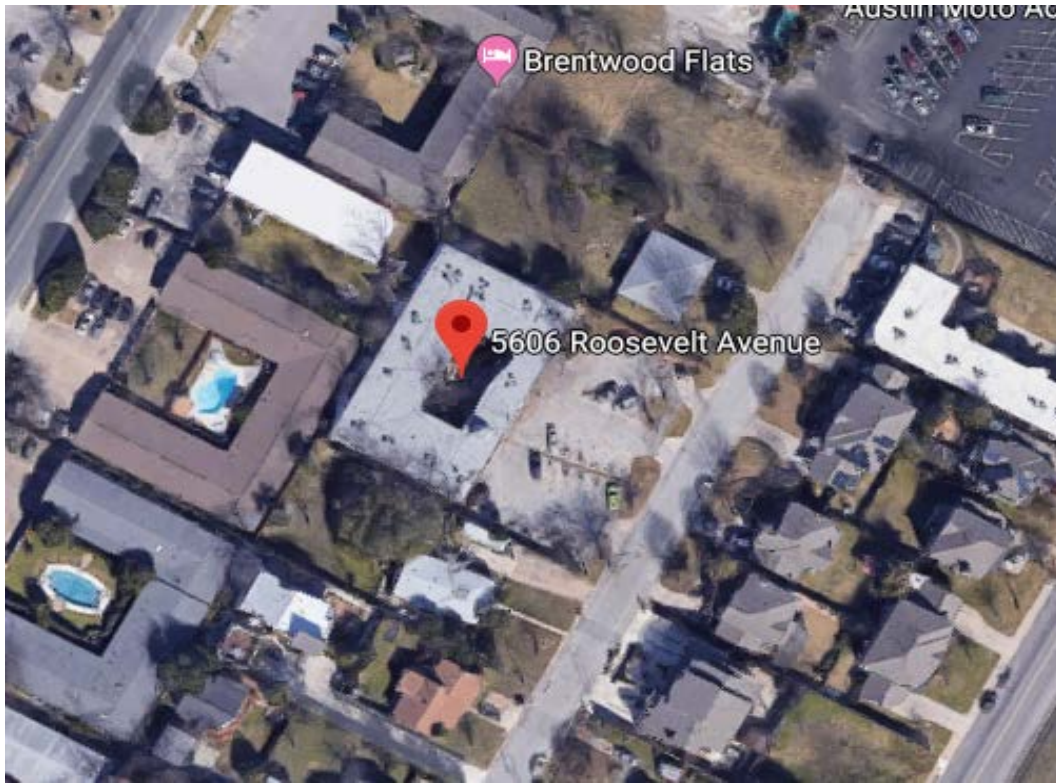
- Project Transitions is a non-profit organization that is dedicated to serving people with HIV and AIDS by providing housing, supportive services, hospice care, and other services. Project Transitions was started in 1986 and has operated Roosevelt Gardens since 1995. Project Transitions also operates a Thrift Store as part of their funding to cover any extra expenses and does fundraising outside of project cash flow.

Project Transitions currently operates 30 units of Supportive Housing (22 at Roosevelt Gardens and 8 at Highland Terrace).

Foundation Communities is a 10% Co-Developer in this Project and has extensive experience in the Affordable Housing Industry. They will help in setting up the property management system and compliance for this project.

DEVELOPMENT SUMMARY

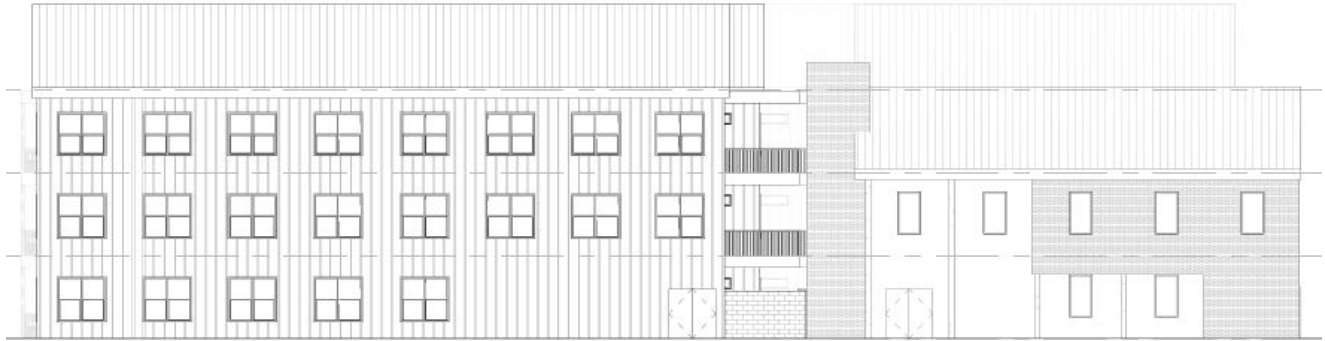
SITE PLAN



Comments:

The Development will have only 14 parking spaces (0.4/unit), less than 1 per unit. Architect confirms that this meets local code requirements that includes optional reductions and modification of parking requirements per "Affordability Unlocked" ordinance No 2090509-027.

BUILDING ELEVATION



Comments:

Three-story, elevator served building, and 9ft ceilings with limited articulation. No balconies in any of the units.

Project will have a over 5K square feet of common area for the residents which includes a commercial kitchen, classroom, community lounge, food pantry, meeting rooms, supportive services rooms, and laundry.

RELOCATION PLAN

Project Transition's Relocation Plan will notify the residents of the planned reconstruction and will allow at least 30 days for the residents to decide between permanent or temporary relocation. Applicant has budgeted \$333,960 for Housing Expenses and \$16,745 for moving costs. HOPWA Master Leasing will be used to reimburse some of the costs to arrive at a Net Relocation budget of \$138K.

According to Applicant, the plan is to temporarily relocate clients together under a master leasing agreement at another apartment complex in North Central Austin, if possible and intends to lock-in a master lease agreement in early to mid 2020. Project Transitions intends to temporarily move its supportive services offices.

BUILDING CONFIGURATION

Building Type	1										Total Buildings	
Floors/Stories	3											
Number of Bldgs	1											1
Units per Bldg	40											
Total Units	40											40
Avg. Unit Size (SF)	511 sf	Total NRA (SF)				20,440	Common Area (SF)				5,468	

SITE AND ACQUISITION

Site Acreage: Development Site: 0.66 acres Density: 60.6 units/acre
Site Control: 0.658 **Site Plan:** 0.658 **Appraisal:** 0.658 **ESA:** 0.658

Control Type: Warranty Deed Executed Date 1/1/1995

Development Site: 0.66 acres Cost: NA NA per unit

Owner: Project Transitions, Inc.

Related-Party Seller/Identity of Interest: N/A

Project Transitions has owned this site since January 1995 and will remain the owner.

APPRAISED VALUE

Appraiser: The Aegis Group, Inc Date: 8/9/2019

Total Development: (as-is) \$2,550,000 Per Unit: \$63,750

Comments:

Appraiser did not conclude or provide a value for the land as vacant. Because no acquisition cost is being claimed by Applicant, the Underwriter accepted the appraisal.

GENERAL INFORMATION

Flood Zone:	<u>Zone X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>MF-3-NP</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1969</u>	Title Issues?	<u>No</u>

Surrounding Uses:

Northeast: Roosevelt Avenue, single and multi-family residences
Southeast: Single-family residence
Southwest: Multi-family apartment complexes
Northwest: Single-family residence

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Phase Engineering, Inc Date: 2/19/2019

Recognized Environmental Conditions (RECs) and Other Concerns:

- The on-site building was constructed in the 1960s, thus a visual asbestos inspection was conducted by Phase Engineering, Inc. Potential asbestos containing building materials (ACBMs) in the form of wall material, ceiling material, and miscellaneous building materials... In the event of renovation and / or demolition, sampling may be required of suspect asbestos containing materials prior to these activities to satisfy the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA) and the Texas Department of State Health Services (TDSHS) rules and regulations at that time. (p 46)
- Since the on-site buildings were constructed prior to 1986, testing for lead in the drinking water is recommended if any of the existing plumbing systems are planned for use in future development of the subject property. (p 48)

Comments:

Applicant is demolishing the entire project and reconstructing a new building, there is no expectation of using any of the previous utilities and new water lines and plumbing will be installed.

MARKET ANALYSIS

Provider: Affordable Housing Analysts

Date: 8/14/2019

Contact: Robert (Bob) Coe

Phone: (281) 387-7552

Primary Market Area (PMA): 13 sq. miles 2 mile equivalent radius

PMA consists of 15 census tracts. Primary roads include Burnet Rd, Airport Blvd and Koenig Lane.

ELIGIBLE HOUSEHOLDS BY INCOME								
Travis County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	\$11,928	\$12,768	\$15,336	\$15,336	---	---	---
	Max	\$19,890	\$22,710	\$25,560	\$28,380	---	---	---
50% AMGI	Min	\$19,872	\$21,288	\$25,560	\$25,560	---	---	---
	Max	\$33,150	\$37,850	\$42,600	\$47,300	---	---	---

AFFORDABLE HOUSING INVENTORY								
Competitive Supply (Proposed, Under Construction, and Unstabilized)								
File #	Development			In PMA?	Type	Target Population	Comp Units	Total Units
	None							
Other Affordable Developments in PMA since 2015								
19436	Granada				New	General	n/a	258
18602	Oaks on Lamar				A/R	General	n/a	176
16420	Pathways at North Loop				A/R	Elderly Preference	n/a	130
Stabilized Affordable Developments in PMA (pre-2015)							Total Units	10
							Total Developments	1

Proposed, Under Construction, and Unstabilized Competitive Supply:

Granada (19436) and Oaks on Lamar (#18602) are new General population projects under construction, however, they are not considered competitive. Pathways at North Loop (\$16420) is Elderly Preference project so it is not considered competitive.

OVERALL DEMAND ANALYSIS				
	Market Analyst		Underwriter	
	HTC	Assisted	HTC	Assisted
Total Households in the Primary Market Area	32,264		33,434	
Senior Households in the Primary Market Area	0		0	
Potential Demand from the Primary Market Area	8,397		8,242	
10% External Demand	840		824	
Potential Demand from Other Sources	0		0	
GROSS DEMAND	9,237		9,067	

Subject Affordable Units	40		40	
Unstabilized Competitive Units	0		0	
RELEVANT SUPPLY	40		40	
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	0.4%		0.4%	

Population: **Housing** Market Area: **Urban** Maximum Gross Capture Rate: **30%**

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
AMGI Band	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate
30% AMGI	4,856	486	14	0	0.26%	3,775	377	14	0	0.34%
50% AMGI	7,986	799	26	0	0.30%	4,348	435	26	0	0.54%

Demand Analysis:

Minimum eligible income is calculated at 50% rent to income for Supportive Housing. Gross demand includes both renter and owner households. Qualifying incomes are considered from \$1 to the maximum AMI. Section 8 vouchers will also be accepted at the property. Gross Captures Rate is well below maximum threshold.

Market Analyst noted that drawing area for the Subject includes Travis County and surrounding counties (Williamson, Bastrop, Caldwell and Hays). The target population for the property is People Living with HIV/AIDS (PLWHA). According to Texas HIV Surveillance Report, 2017 Annual Report, the estimated number of PLWHA for the five county area is 9,358. The Market Analyst determined a Gross Capture Rate (GCR) of 2.45% for this target population. (pp. 79-80)

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
Unit Type	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
0 BR/30%	484	48	4	0	0.8%	176	18	4	0	2.1%
0 BR/50%	782	78	8	0	0.9%	307	31	8	0	2.4%
1 BR/30%	2,064	206	8	0	0.4%	654	65	8	0	1.1%
1 BR/50%	3,403	340	14	0	0.4%	1,176	118	14	0	1.1%
2 BR/30%	1,577	158	2	0	0.1%	472	47	2	0	0.4%
2 BR/50%	2,724	272	4	0	0.1%	817	82	4	0	0.4%

Market Analyst Comments:

Considering the strong absorption history of similar properties and the lack of available quality affordable Supportive Housing units in this market, I project that the subject property will lease an average of 15 to 25 units per month until achieving stabilized occupancy. (p. 86)

Underwriter Comments:

Affordable properties monitored in the PMA average 99% occupancy.

Revisions to Market Study: 0

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA Pro Forma)

NOI:	\$0	Avg. Rent:	\$231	Expense Ratio:	100.0%
Debt Service:	\$0	B/E Rent:	\$231	Controllable Expenses:	\$3,381
Net Cash Flow:	\$0	UW Occupancy:	95.0%	Property Taxes/Unit:	\$0
Aggregate DCR:	N/A	B/E Occupancy:	95.0%	Program Rent Year:	2018

The Project is supported by a Facilities-Based HOPWA contract that helps to cover operating costs. The HOPWA funding covers the budgeted expenses for the property less the rents earned for the property (which are no more than 30% of the resident's income.) This funding structure delivers an operating budget that breaks even at a 1.0 Debt Coverage Ratio and strict limiting requirements on any cash flow above 1.0. Applicant has stated that the HOPWA contract is renewed annually with a budget of what is expected to be required monthly to run the Project.

As stated above, the Owner operates a thrift store and has fundraisers to help cover any operations shortages beyond the HOPWA subsidies. Owner has received HOPWA funds for approximately 25 years.

Applicant's rent schedule shows rents at 30% of the max program rents and negative NOI at -\$118,804.

Landlord pays all utilities.

Applicant's operating expenses of \$5,660/unit are within 5% of REA's estimate of \$5,778/unit. This amount is consistent with other SRO's run by Foundation Communities (a partner in this project).

In the event that HOPWA subsidies are no longer available, the Project can still operate as an SRO at 1.01 DCR by leasing it at max program rents which are substantially lower than market rents in the Austin area.

Supportive Services Budget

Sources	Year 1	Year 2	Year 3	Total
HOPWA	\$241,900	\$249,157	\$256,632	\$747,689
Grants	\$10,150	\$10,455	\$10,769	\$31,374
Individual Donors	\$9,900	\$10,197	\$10,503	\$30,600
Thrift Shop Revenue	\$22,654	\$23,334	\$24,034	\$70,022
TOTAL SOURCES	\$284,604	\$293,143	\$301,938	\$879,685
Uses				
Program Management Salary	\$22,050	\$22,712	\$23,393	\$68,155
Supportive Services Social Workers Salary	\$115,500	\$118,965	\$122,534	\$356,999
24-Hour Desk Clerks	\$89,856	\$92,552	\$95,329	\$277,737
Payroll Taxes	\$17,397	\$17,919	\$18,457	\$53,773
Worker's Comp	\$1,800	\$1,854	\$1,910	\$5,564
Health Insurance	\$28,026	\$28,867	\$29,733	\$86,626
Communications	\$900	\$927	\$955	\$2,782
Supplies/Printing	\$2,500	\$2,575	\$2,652	\$7,727
Training/Travel/Mileage	\$800	\$824	\$849	\$2,473
Food and Commodities	\$5,775	\$5,948	\$6,126	\$17,849
TOTAL	\$284,604	\$293,143	\$301,938	\$879,685

Related-Party Property Management Company: TBD

Revisions to Rent Schedule: 1

Revisions to Annual Operating Expenses: 1

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	\$/ac	\$/unit	\$0	Contractor Fee	\$707,731
Off-site + Site Work		\$17,734/unit	\$709,360	Soft Cost + Financing	\$1,205,519
Building Cost	\$201.37/sf	\$102,898/unit	\$4,115,934	Developer Fee	\$759,000
Contingency	5.92%	\$7,136/unit	\$285,432	Reserves	\$144,660
Total Development Cost	\$198,191/unit	\$7,927,636		Rehabilitation Cost	N/A

Building Cost:

Applicant's Building Cost is \$4.115M (\$201.37/sf, \$107K/unit). Very high building cost per square foot compared to other submitted projects in 2019 is in part due to the lost efficiencies for a small project, lower number of units (40), and smaller unit size(average 511 sf). With only 40 units, much of the total cost is for non-rentable area (corridors, community area, commercial community kitchen, office/leasing space, etc). In this case net rentable area is only 61% of gross building area. Which is comparable to more typical developments. Applicant's budget,shows that the net cost to build the rentable square footage is \$122.78 sf or \$62.7K/unit.

Applicant has provided two third party construction contracts one at schematic in February and one at 95% completion dated in October that both support the cost numbers. The most current bid shows \$4.9M in building costs which is \$857K higher than Applicant's submitted figures. The Applicant plans on requesting more bids and adjusting the scope of work to adhere to the submitted budget numbers.

The Applicant has submitted documentation of available assets that can help absorb any construction cost increases that can materialize between now and construction commencement.

Specifications include an elevator, commercial kitchen, and green features such as extra insulation, Energy Star appliances and lighting,high efficiency HVAC, high quality windows, and heat pump water heaters.

Relocation:

Since this is a reconstruction project, the tenants will need to be temporarily housed until the project is rebuilt. Applicant has budgeted \$350K for relocation expenses.

Soft Costs:

Architecture fees at \$8K/unit.

Reserves:

6 months of operating expenses and debt service.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$7,927,636	\$0	\$0

Related-Party Contractor: 0

Related-Party Cost Estimator: 0

Revisions to Development Cost Schedule:	0
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UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
TDHCA	Multifamily Direct Loan (Deferred Forgivable)	\$2,000,000	0.00%	25%
City of Austin	General Obligation Bond Funds	\$4,950,000	0.00%	62%
TDHCA Pre-Development	TDHCA TCAP RF Funds	\$50,000	0.00%	1%
Project Transitions, Inc.	Deferred Dev Fee	\$603,100	8%	8%
City of Austin Fee Waiver	Direct Loan Match	\$105,876	1%	1%
Project Transitions, Inc.	Owner Contribution	\$218,660	0.00%	3%
		\$7,927,636	Total Sources	

Comments:

Project Transitions, Inc was awarded \$4,950,000 in General Obligation Bond funding from the Austin Housing Finance Corporation. The source of the funds is non-federal. Terms of the loan will be for a minimum of 40 years at zero percent interest. Repayment of the loan will be deferred on a yearly basis and forgiven at the end of the loan period contingent upon compliance with the loan agreement.

Applicant has requested a \$2,000,000 Multifamily Direct Loan within the Supportive Housing/Soft Repayable setaside. The loan will be deferred forgivable for 40 years at 0% interest.

On July 25th, 2019, Project Transitions, Inc. was approved by the TDHCA Board for a \$50,000 TDHCA Pre-Development grant for this project.

Owner is deferring \$603K of the \$759K total Developer Fee. In addition, they are providing \$218K in equity.

PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
City of Austin	\$4,950,000	0.00%	0	40	\$4,950,000	0.00%	0	40	62%
TDHCA	\$2,000,000	0.00%	0	40	\$2,000,000	0.00%	0	40	25%
TDHCA Pre-Development	\$50,000	0.00%	0	0	\$50,000	0.00%	0	0	1%
City of Austin Fee Waiver	\$105,876	0.00%	0	0	\$105,876	0.00%	0	0	1%
Project Transitions, Inc.	\$218,660	0.00%	0	0	\$218,660	0.00%	0	0	3%
Total	\$7,324,536				\$7,324,536				

Comments:

City of Austin is waiving \$105,876 in impact and permit fees through the SMART Housing program.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% IC	% Def
Project Transitions, Inc.	\$603,100	79%	79%	\$603,100	8%	8%	79%
Total	\$603,100			\$603,100			
				\$7,927,636	Total Sources		

Comments:

The Deferred Developer Fee is not repayable within 15 years but because this is a Supportive Housing Project, this rule does not apply.

Revisions to Sources Schedule:	1
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CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	\$7,927,636
Permanent Sources (debt + non-HTC equity)	\$7,324,536
Gap in Permanent Financing	\$603,100

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$0	\$0

	Amount	Interest Rate	Amort	Term	Lien
TDHCA Multifamily Direct Loan	\$2,000,000	0%	0	40	1

Deferred Developer Fee	\$603,100	(79% deferred)
Repayable in	N/A	

Comments:

Underwriter recommends the \$2,000,000 deferred forgivable Multifamily Direct Loan with a term of 40 years and 0% interest rate.

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

UNIT MIX/RENT SCHEDULE
Roosevelt Gardens , Austin, MDL #19508

LOCATION DATA	
CITY:	Austin
COUNTY:	Travis
Area Median Income	\$95,900
PROGRAM REGION:	7

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	12	30.0%	12	0	20%	-	0.0%
1	22	55.0%	22	0	30%	14	35.0%
2	6	15.0%	6	0	40%	-	0.0%
3	-	0.0%	0	0	50%	26	65.0%
4	-	0.0%	0	0	60%	-	0.0%
5	-	0.0%	0	0	70%	-	0.0%
						80%	- 0.0%
						MR	- 0.0%
TOTAL	40	100.0%	40	-	TOTAL	40	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	NA
Applicable Fraction	100%
APP % Acquisition	NA
APP % Construction	NA
Average Unit Size	511 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 30%	\$497	HTF 30%	\$497	4	0	1	440	\$497	\$0	\$497	(\$348)	\$0.34	\$149	\$596	\$596	\$149	\$0.34	(\$348)	\$149	\$0.34	\$1,050
TC 50%	\$828	HTF 50%	\$828	8	0	1	440	\$828	\$0	\$828	(\$580)	\$0.56	\$248	\$1,987	\$1,987	\$248	\$0.56	(\$580)	\$248	\$0.56	\$1,050
TC 30%	\$532	HTF 30%	\$533	8	1	1	442	\$532	\$0	\$532	(\$372)	\$0.36	\$160	\$1,279	\$1,279	\$160	\$0.36	(\$372)	\$160	\$0.36	\$1,050
TC 50%	\$887	HTF 50%	\$887	14	1	1	442	\$887	\$0	\$887	(\$621)	\$0.60	\$266	\$3,725	\$3,725	\$266	\$0.60	(\$621)	\$266	\$0.60	\$1,050
TC 30%	\$639	HTF 30%	\$640	2	2	2	906	\$639	\$0	\$639	(\$447)	\$0.21	\$192	\$384	\$384	\$192	\$0.21	(\$447)	\$192	\$0.21	\$1,550
TC 50%	\$1,065	HTF 50%	\$1,065	4	2	2	906	\$1,065	\$0	\$1,065	(\$746)	\$0.35	\$320	\$1,278	\$1,278	\$320	\$0.35	(\$746)	\$320	\$0.35	\$1,550
TOTALS/AVERAGES:				40			20,440				(\$539)	\$0.45	\$231	\$9,250	\$9,250	\$231	\$0.45	(\$539)	\$231	\$0.45	\$1,125

ANNUAL POTENTIAL GROSS RENT:	\$111,002	\$111,002
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STABILIZED PRO FORMA

Roosevelt Gardens , Austin, MDL #19508

STABILIZED FIRST YEAR PRO FORMA												
COMPARABLES			APPLICANT				TDHCA				VARIANCE	
Database	Foundation Comm 3 SRO's		% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$0.45	\$231	\$111,002	\$111,002	\$231	\$0.45		0.0%	\$0
Laundry, Damages, Lease Term Fees					\$9.06	\$4,350						
Late Charges, App Fees, NSF Fees					\$2.08	\$996						
HOPWA Subsidy					\$0.00	\$0	\$64,462					
Total Secondary Income					\$11.14		\$5,346	\$11.14			0.0%	\$0
POTENTIAL GROSS INCOME						\$116,348	\$180,810				-35.7%	(\$64,462)
Vacancy & Collection Loss					7.5% PGI	(8,726)	(9,041)	5.0% PGI			-3.5%	314
Rental Concessions						-	-				0.0%	-
EFFECTIVE GROSS INCOME						\$107,622	\$171,770				-37.3%	(\$64,148)

General & Administrative	\$15,023	\$376/Unit	\$14,700	\$367	21.68%	\$1.14	\$583	\$23,334	\$14,700	\$367	\$0.72	8.56%	58.7%	8,634
Management	\$17,754	6.0% EGI	\$17,094	\$427	16.73%	\$0.88	\$450	\$18,001	\$8,588	\$215	\$0.42	5.00%	109.6%	9,413
Payroll & Payroll Tax	\$45,904	\$1,148/Unit	\$87,346	\$2,184	51.83%	\$2.73	\$1,394	\$55,777	\$55,777	\$1,394	\$2.73	32.47%	0.0%	-
Repairs & Maintenance	\$36,158	\$904/Unit	\$20,924	\$523	32.72%	\$1.72	\$880	\$35,211	\$24,000	\$600	\$1.17	13.97%	46.7%	11,211
Electric/Gas	\$7,665	\$192/Unit	\$25,219	\$630	12.83%	\$0.68	\$345	\$13,812	\$25,219	\$630	\$1.23	14.68%	-45.2%	(11,407)
Water, Sewer, & Trash	\$30,439	\$761/Unit	\$15,527	\$388	16.46%	\$0.87	\$443	\$17,718	\$15,527	\$388	\$0.76	9.04%	14.1%	2,191
Property Insurance	\$13,105	\$0.64 /sf	\$10,328	\$258	16.25%	\$0.86	\$437	\$17,484	\$17,484	\$437	\$0.86	10.18%	0.0%	-
Property Tax (@ 0%) 2.1965	\$22,363	\$559/Unit	\$10,657	\$266	0.00%	\$0.00	\$0	\$0	\$0	\$0.00	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$11,777	\$294/Unit	\$13,854	\$346	9.29%	\$0.49	\$250	\$10,000	\$10,000	\$250	\$0.49	5.82%	0.0%	-
Cable TV			-	\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0.00	\$0.00	0.00%	0.0%	-
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)				\$0	1.26%	\$0.07	\$34	\$1,360	\$474	\$12	\$0.02	0.28%	186.9%	886
TOTAL EXPENSES					179.05%	\$9.43	\$4,817	\$ 192,697	\$171,770	\$4,294	\$8.40	100.00%	12.2%	\$ 20,927
NET OPERATING INCOME ("NOI")					-79.05%	-\$4.16	-\$2,127	(\$85,075)	\$0	\$0	\$0.00	0.00%	-28728774%	\$ (85,075)

CONTROLLABLE EXPENSES	\$3,646/Unit	
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Roosevelt Gardens , Austin, MDL #19508

DEBT / GRANT SOURCES																		
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE								
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative				
		UW	App											DCR	LTC			
City of Austin		#DIV/0!	#DIV/0!	-	0.00%	0	40	\$4,950,000	\$4,950,000	40	0	0.00%		#DIV/0!	62.4%			
Adjustment to Debt Per §10.302(c)(2)										40	0	0.00%		#DIV/0!	0.0%			
TDHCA		#DIV/0!	#DIV/0!		0.00%	0	40	\$2,000,000	\$2,000,000	40	0	0.00%		#DIV/0!	25.2%			
TDHCA		#DIV/0!	#DIV/0!		0.00%	0	0	\$0	\$0	0	0	0.00%		#DIV/0!	0.0%			
CASH FLOW DEBT / GRANTS																		
TDHCA Pre-Development		#DIV/0!	#DIV/0!		0.00%	0	0	\$50,000	\$50,000	0	0	0.00%		#DIV/0!	0.6%			
City of Austin Fee Waiver		#DIV/0!	#DIV/0!		0.00%	0	0	\$105,876	\$105,876	0	0	0.00%		#DIV/0!	1.3%			
Project Transitions, Inc.		#DIV/0!	#DIV/0!		0.00%	0	0	\$218,660	\$218,660	0	0	0.00%		#DIV/0!	2.8%			
				\$0				TOTAL DEBT / GRANT SOURCES	\$7,324,536	\$7,324,536			TOTAL DEBT SERVICE	\$0	#DIV/0!	92.4%		
NET CASH FLOW		\$0	(\$85,075)											TDHCA	NET OPERATING INCOME	\$0	\$0	NET CASH FLOW

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Additional (Excess) Funds Req'd		0.0%				\$0			0.0%		
TOTAL EQUITY SOURCES		7.6%			\$603,100	\$603,100			7.6%		
TOTAL CAPITALIZATION					\$7,927,636	\$7,927,636				15-Yr Cash Flow after Deferred Fee:	#NUM!

DEVELOPMENT COST / ITEMIZED BASIS												
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS				COST VARIANCE		
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		Total Costs	Total Costs	%	\$		
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition						
Land Acquisition			\$ / Unit	\$0	\$0	\$ / Unit			0.0%	\$0		
Building Acquisition			\$ / Unit	\$0	\$0	\$ / Unit			0.0%	\$0		
			\$0	\$0	\$0					\$0		
Demolition			\$3,532 / Unit	\$141,270	\$145,000	\$3,625 / Unit			-2.6%	(\$3,730)		
Site Work			\$12,592 / Unit	\$503,690	\$501,948	\$12,549 / Unit			0.3%	\$1,742		
Site Amenities			\$1,610 / Unit	\$64,400	\$65,400	\$1,635 / Unit			-1.5%	(\$1,000)		
Building Cost			\$201.37 / sf	\$102,898/Unit	\$4,115,934	\$4,115,934	\$102,898/Unit	\$201.37 /sf	0.0%	\$0		
Contingency			5.92%	\$285,432	\$300,493	6.22%			-5.0%	(\$15,061)		
Contractor Fees			13.85%	\$707,731	\$707,731	13.80%			0.0%	\$0		
Soft Costs			\$25,494 / Unit	\$1,019,769	\$1,019,769	\$25,494 / Unit			0.0%	\$0		
Financing			\$4,644 / Unit	\$185,750	\$185,750	\$4,644 / Unit			0.0%	\$0		
Developer Fee			14.85%	\$759,000	\$759,000	14.80%			0.0%	\$0		
Reserves			9 Months	\$144,660	\$144,660	10 Months			0.0%	\$0		
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)			\$198,191 / Unit	\$7,927,636	\$7,945,685	\$198,642 / Unit			-0.2%	(\$18,049)		
Acquisition Cost				\$0								
Contingency				\$0								
Contractor's Fee				\$0								
Financing Cost				\$0								
Developer Fee				\$0								
Reserves				\$0								
ADJUSTED BASIS / COST				\$198,191/unit	\$7,927,636	\$7,945,685	\$198,642/unit		\$0	\$0	-0.2%	(\$18,049)
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					\$7,927,636							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Roosevelt Gardens , Austin, MDL #19508

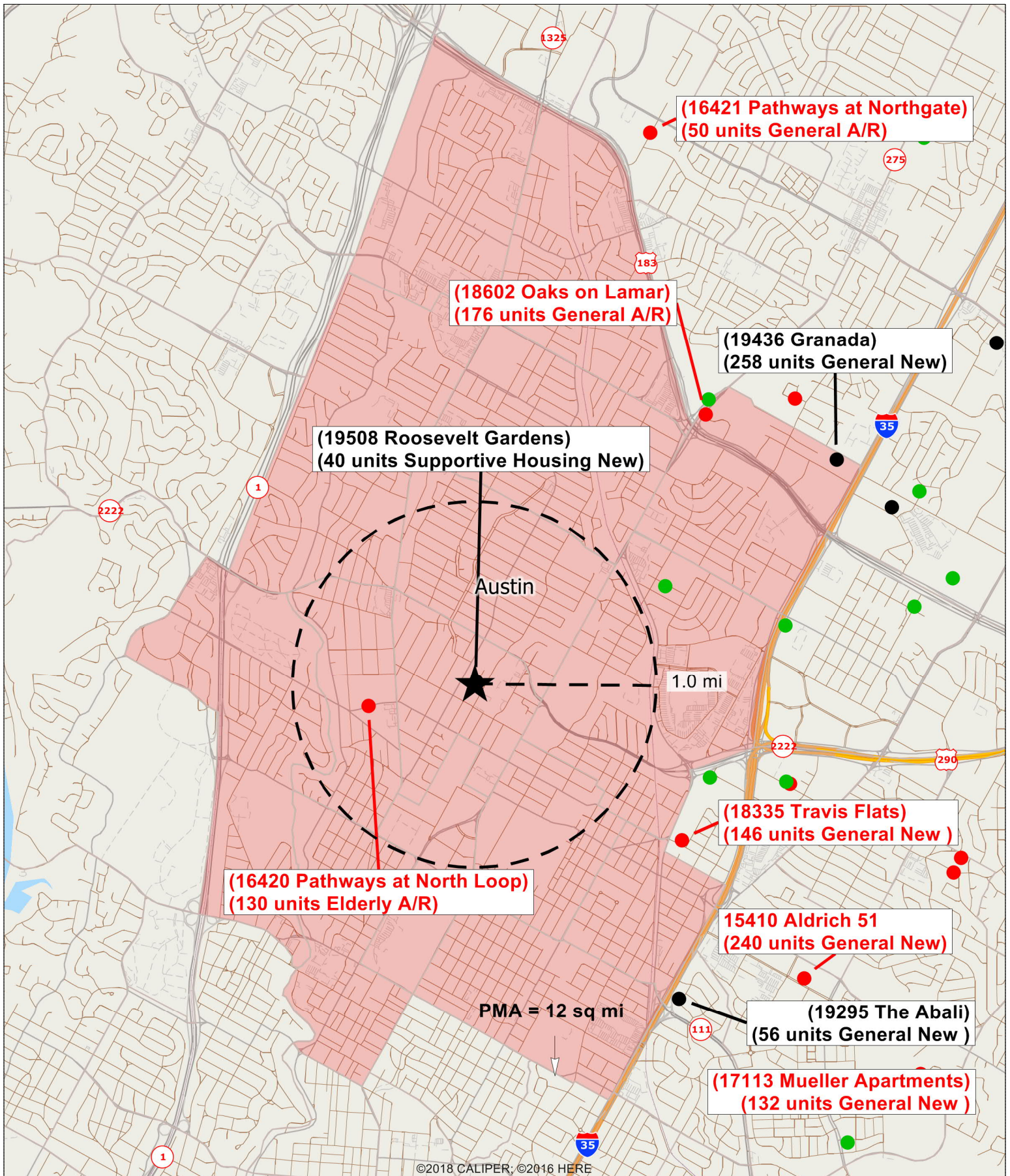
BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Garden (Up to 4-story)	20,440 SF	\$120.61	2,465,261
Adjustments				
Exterior Wall Finish	1.80%		2.17	\$44,375
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.23%		3.89	79,505
Roof Adjustment(s)			0.00	0
Subfloor			(0.15)	(3,134)
Floor Cover			2.56	52,326
Breezeways	\$28.50	6,847	9.55	195,110
Balconies	\$28.51	584	0.81	16,652
Plumbing Fixtures	\$1,070	-16	-0.84	(17,120)
Rough-ins	\$525	40	1.03	21,000
Built-In Appliances	\$1,780	40	3.48	71,200
Exterior Stairs	\$2,280	4	0.45	9,120
Heating/Cooling			2.21	45,172
Storage Space	\$28.50	0	0.00	0
Carports	\$12.25	0	0.00	0
Garages		0	0.00	0
Common/Support Area	\$84.60	6,236	25.81	527,558
Elevators	\$81,000	1	3.96	81,000
Other:			0.00	0
Fire Sprinklers	\$2.59	33,523	4.25	86,825
SUBTOTAL			179.79	3,674,849
Current Cost Multiplier	0.99		(1.80)	(36,748)
Local Multiplier	0.87		(23.37)	(477,730)
Reserved				0
TOTAL BUILDING COSTS			154.62	\$3,160,370
Plans, specs, survey, bldg permits	3.30%		(5.10)	(\$104,292)
Contractor's OH & Profit	11.50%		(17.78)	(363,443)
NET BUILDING COSTS		\$67,316/unit	\$131.73/sf	\$2,692,636

Long-Term Pro Forma

Roosevelt Gardens , Austin, MDL #19508

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	\$171,770	\$175,205	\$178,709	\$182,284	\$185,929	\$205,281	\$226,647	\$250,236	\$276,281	\$305,037
TOTAL EXPENSES	3.00%	\$171,770	\$176,837	\$182,054	\$187,427	\$192,958	\$223,178	\$258,158	\$298,651	\$345,528	\$399,799
NET OPERATING INCOME ("NOI")		\$0	(\$1,632)	(\$3,345)	(\$5,143)	(\$7,029)	(\$17,897)	(\$31,512)	(\$48,415)	(\$69,247)	(\$94,762)

19508 Roosevelt Gardens PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

TRUE CASA CONSULTING, LLC

August 12, 2019

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

RE: Roosevelt Gardens
5606 Roosevelt Avenue
Austin, TX 78756
TDHCA #19550

Dear Marni:

On behalf of Project Transitions, Inc. (the “Applicant”), please accept this letter as a request for Board approval – per 13.8(c)(7)(A)– to have an equity amount of less than 20% in the development sources for Roosevelt Gardens (#19550) for which the Direct Loan is the only source of Department funding for the Development.

Please also accept this letter as a request for waiver of 13.8(c)(7)(B) which requires that if the Direct Loan is the only source of Department funding for the project an “As-Is” appraisal that provides a loan to value not greater than 80% must be provided.

20% Owner Equity

Since 1988, Project Transitions - an Austin-based non-profit - has been deeply committed to their mission of serving persons living with HIV/AIDS providing supportive housing, recuperative care and hospice in a compassionate and caring environment. Project Transitions (PT), as the only provider of supportive housing for persons living with HIV/AIDS in the Central Texas region, owns and operates 30 units of multifamily housing in two projects quietly tucked into their surrounding neighborhoods.

Roosevelt Gardens – one of those properties - is an existing affordable housing community that the Applicant has owned since 1995. The facility was built in 1969, and despite ongoing maintenance and upgrades over the past two decades, the property and systems are tired and in great need of replacement. In order to ensure high-quality affordable supportive housing for current residents and to respond to the backlogged waiting list, Project Transitions will demolish the existing 22-unit Roosevelt Gardens and construct a new 40-unit Roosevelt Gardens.

The property currently has a facilities-based Housing Opportunities for People With HIV/AIDS (HOPWA) contract that covers the cost of budgeted operations and supportive services for the property with residents paying only 30% of their income toward rent. 87% of Project Transitions’ residents have incomes below 30% MFI. This contract will remain on the property after the new construction.

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The waiver is being requested on the grounds that the property just breaks even with the HOPWA facilities-based contract with no ability to support debt. The majority of the capital stack for the project essentially functions as owner equity which includes a \$4.95M deferred forgivable loan from the City of Austin awarded in May and to close in August, a \$50,000 pre-development grant from TDHCA awarded in July, \$105,876 in fee waivers from the City of Austin, \$218,660 in owner equity to bridge private fundraising and TDHCA's \$2M deferred forgivable funding request. The Applicant will also defer a majority of the developer fee - \$603,100 – as is common for mission-based, nonprofit developers. The \$4.95M soft loan from the City – covering over 62% of the total development cost for the project and already committed and about to close - significantly mitigates any inherent risk of a Direct Loan only transaction.

“As Complete” Appraisal with 80% LTV

The “as is” appraisal provided with the application shows a value of \$2,550,000. With an MFDL application amount of \$2,000,000 the loan to value is 78 percent which is under the 80% threshold for the “as is” appraisal. An “as complete” appraisal would yield an appraised value of at least double this amount. The Travis Central Appraisal District valuation is \$3,046,400. Again, this is before any rehabilitation. With this documentation, it is very clear that the MFDL loan will have a loan to value significantly less than 80%. A further mitigation of risk is the City of Austin's \$4,950,000 which is already committed and will be closed on the project prior to the TDHCA funding being committed.

Per 10 TAC 10.207(a), please find below the two requirements that a waiver must meet in order to be granted along with the documentation specific to this waiver request and how it meets those requirements:

- 1) **“...the waiver was both not reasonably foreseeable and was not preventable by the Applicant.”**

Roosevelt Gardens is a mission-driven, deeply supportive housing community that serves Persons Living with HIV and AIDS that are extremely low income and housing unstable. As a normal characterization of Supportive Housing, there is no ability to support debt as rents are low and operating expenses are higher. For Roosevelt Gardens, this lack of rental income is even more pronounced with the HOPWA facilities-based contract. HOPWA funding covers all budgeted operating expenses and a good portion of the supportive services for the property minus any rental income. Residents are charged just 30% of their income toward rent. HOPWA will not cover debt payments and, therefore, the property breaks even.

The capital stack of the Roosevelt Gardens development includes all soft funding as well as owner equity and a majority of the developer fee deferred, as is typical for non-profit, mission-based developers. The HOPWA funding present at this property is such a unique funding stream and one that must be preserved with this development to ensure the project serves the lowest incomes and those persons whose health will decline the fastest.

Roosevelt Gardens is an existing and occupied property that has been providing deeply affordable housing with wrap-around supportive services for the past 25 years. The property has been maintained with the severely limited income generated off the property and after almost five decades the property is tired. The as-is appraisal yields a loan to value less than the required 80%. Once the renovation takes place, the value will easily double or even triple. To

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require a non-profit provider to pay for another appraisal just to yield an “as-complete” value seems illogical when the “as is” appraisal meets the test before the rehab.

- 2) **“The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov’t Code, §§2306.001, 2306.002, 2306.359, and 2306.6701,.... than not granting the waiver.”**

By granting this waiver, TDHCA will be adhering to the policies and purposes referenced in Texas Gov’t Code 2306.001 and 2306.002 as follows:

- 1) Texas Gov’t Code 2306.001 (2) by providing for the housing needs of extremely low income individuals. All units at Roosevelt Gardens will be set-aside for persons with very low incomes with 35% of the units set-aside for persons with extremely low incomes. It is expected that over 87% of the residents will have extremely low incomes.
- 2) Texas Gov’t Code 2306.001 (6) by providing an interagency effort to address homelessness. The majority of residents at Roosevelt Gardens have either been homeless or were on the verge of homelessness. By approving this waiver, TDHCA will be joining hands with the City of Austin and HUD to provide a multi-lateral response to ending homelessness for Persons Living with HIV and AIDS which has the profound correlated effect of stopping the transmission of HIV and therefore getting a step closer to the goal of ending the AIDS epidemic by 2030.
- 3) Texas Gov’t Code 2306.002 (a)(1) by re-confirming the belief that EVERY Texan should have a decent, safe, and affordable living environment. By approving this waiver, TDHCA is ensuring that People Living with HIV and AIDS will be supported in quality affordable housing with supportive services in a project integrated in a high-opportunity neighborhood in Austin.

Please feel free to contact me with any questions at (512) 203-4417.

Sincerely,



Jennifer Hicks

True Casa Consulting, LLC



2019-1 Multifamily Direct Loan Program - Application Log - December 2, 2019

Per 2019-1 Multifamily Direct Loan Notice of Funding Availability published in the *Texas Register* on 12/21/2018, and 1st, 2nd, 3rd, 4th, and 5th Amendments to 2019-1 NOFA subsequently published in the *Texas Register*

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received within each set-aside.

											TCAP RF	\$500,000
											NHTF	\$19,498,833
											Total Set Aside Funding Level:	\$21,498,833
TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19601	McMullen Square Apartments	San Antonio	Bexar	8	R	\$ 500,000	General	100	4	4%	3/12/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19146	New Hope Housing Avenue J	Houston	Harris	6	NC	\$ 1,909,398	Supportive Housing	100	11	9%	TBD*	On waiting list for 2019 9% HTC
19053	Foundation Village	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	88	11	9%	4/2/2019	Recommended for NHTF at 7/25/19 Board meeting
19030	Freedom's Path at Kerrville II	Kerrville	Kerr	9	NC	\$ 1,909,398	Supportive Housing	38	38	9%	TBD*	On waiting list for 2019 9% HTC
19216	Heritage Heights at Abilene	Abilene	Taylor	2	NC	\$ 1,115,000	Elderly	48	8	9%	4/2/2019	Recommended for NHTF at 7/25/19 Board meeting
19506	Saline Creek Senior Village	Noonday	Smith	4	NC	-	Elderly	60	14	9%	6/3/2019	Application withdrawn 8/29/19
19419	Palladium Redbird	Dallas	Dallas	3	NC	\$ -	General	300	33	4%	6/21/2019	Application withdrawn 8/6/19
19507	Merritt Sunset	Midland	Midland	12	NC	\$ 2,000,000	General	149	11		8/6/2019	
19508	Roosevelt Gardens	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	40	14		8/14/2019	To be recommended for award of NHTF at 12/12/19 Board meeting
19053	Foundation Village	Austin	Travis	7	NC	\$ 1,000,000	Supportive Housing		5	9%	10/22/2019	To be recommended for award of NHTF at 12/12/19 Board meeting
Total Amount Requested Under SH/SR Set Aside						\$ 12,433,796	Total Units	923	149			
Total Amount Awarded Under SH/SR Set Aside						\$ 3,615,000	Total Units	236	23			
Total Amount Remaining Under SH/SR Set Aside (NHTF)						\$ 16,383,833						
Total Amount Remaining Under SH/SR Set Aside (TCAP RF)						\$ -						

											Total Set Aside Funding Level:	\$500,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19028	Casitas Lantana	Brownsville	Cameron	11	NC	\$ 500,000	General	80	5	9%	10/10/2019	Awarded from waiting list for 2019 9% HTC on 10/10/19
Total Amount Requested Under CHDO Set Aside						\$ 500,000	Total Units	80	5			
Total Amount Awarded Under CHDO Set Aside						\$ 500,000	Total Units	80	5			
Total Amount Remaining Under CHDO Set Aside						\$ -						

											Total Set Aside Funding Level:	\$2,000,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19503	Sierra Royale Apartments	Robstown	Nueces	10	R	\$ 1,849,736	General	76	25		2/15/2019	Recommended for TCAP RF award at 10/10/19 Board meeting
Total Amount Requested Under Preservation Set Aside						\$ 1,849,736	Total Units	76	25			
Total Amount Awarded Under Preservation Set Aside						\$ 1,849,736	Total Units	0	0			
Total Amount Remaining Under Preservation Set Aside						\$ 150,264						

HOME (limited availability statewide)	\$27,945,000
NSP1 PI (available statewide, including PJs)	\$4,000,000
TCAP RF (available statewide, including PJs)	\$13,650,000
NSP1 PI and TCAP RF Total	\$17,650,000

											Total Set Aside Funding Level:	\$45,595,000
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments
19406	Primrose Village	Weslaco	Hidalgo	11	NC	\$ -	General	242	22	4%	1/14/2019	Direct Loan request withdrawn
19502	City Square Lofts	Garland	Dallas	3	NC	\$ -	General	126	3	9%	3/1/2019	Application withdrawn 7/11/19

19409	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	25	4%	3/8/2019	Recommended for NSP1 PI award at 5/23/19 Board meeting
19504	Avanti at Sienna Palms Legacy	Weslaco ETJ	Hidalgo	11	NC	\$ 1,650,000	Elderly	114	11	9%	3/11/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19418	Bridge at Loyola Lofts	Austin	Travis	7	NC	\$ 4,000,000	General	204	67	4%	3/15/2019	Recommended for TCAP RF award at 10/10/19 Board meeting
19051	Casa de Manana Apartments	Corpus Christi	Nueces	10	Recon	\$ 2,500,000	General	99	14	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19235	The Reserves at Saddleback Ranch	Wolfforth	Lubbock	1	NC	\$ 950,000	General	40	10	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19338	Ennis Trails	Ennis	Ellis	3	NC	\$ 1,150,000	Elderly	68	10	9%	TBD*	On waiting list for 2019 9% HTC
19214	Lakeridge Villas	Ennis	Ellis	3	NC	\$ 3,400,000	Elderly	48	21	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19285	Everly Plaza	Fort Worth	Tarrant	3	NC	\$ -	Elderly	88	24	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19126	3104 Division Lofts	Arlington	Tarrant	3	NC	\$ -	General	75	67	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19009	Churchill at Golden Triangle	Fort Worth	Tarrant	3	NC	\$ -	General	99	8	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19234	The Residences at Alsbury	Burleson	Johnson	3	NC	\$ 1,050,000	Elderly	83	11	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19236	Tool Cedar Trails	Tool	Henderson	4	NC	\$ 950,000	Elderly	48	10	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19365	Heritage Estates at Huntsville	Huntsville	Walker	6	NC	\$ 2,525,000	Elderly	48	19	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19179	Riverwood Commons II	Bastrop	Bastrop	7	NC	\$ 3,000,000	Elderly	36	17	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19095	Sagebrush Terrace	Jarrell	Williamson	7	NC	\$ -	Elderly	57	40	9%	4/2/2019	Withdrawn
19180	St. Elmo Commons	Austin	Travis	7	NC	\$ -	General	100	30	9%	4/2/2019	Terminated
19238	Franklin Trails	Franklin	Robertson	8	NC	\$ 2,850,000	Elderly	38	30	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19304	The Residences at Overlook Ridge	Canyon Lake	Comal	9	NC	\$ 1,700,000	Elderly	30	11	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19136	Luna Flats	San Antonio	Bexar	9	NC	\$ -	General	69	67	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19139	Hamilton Wolfe Lofts	San Antonio	Bexar	9	NC	\$ 4,000,000	General	74	69	9%	TBD*	On waiting list for 2019 9% HTC
19332	Avanti at South Bluff	Corpus Christi	Nueces	10	Recon	\$ 2,475,000	Elderly	42	15	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19367	Avanti Legacy Bayside	Corpus Christi	Nueces	10	NC	\$ 3,800,000	Elderly	60	23	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19330	Avanti Legacy at Emerald Point	McAllen	Hidalgo	11	NC	\$ -	Elderly	90	6	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19331	Avanti at Emerald Point	McAllen	Hidalgo	11	NC	\$ -	General	72	11	9%	4/2/2019	Recommended for 9% HTC w/out DL funds at 7/25/19 Board meeting
19202	Heritage Heights at Big Spring	Big Spring	Howard	12	NC	\$ 2,745,000	Elderly	66	20	9%	4/2/2019	Recommended for HOME at 7/25/19 Board meeting
19468	The Walzem	San Antonio	Bexar	9	NC	\$ 4,000,000	General	200	26	4%	8/23/2019	To be recommended for award of TCAP RF at 12/12/19 Board meeting
19610	Fish Pond at Corpus Christi	Corpus Christi	Nueces	10	NC	\$ 4,000,000	Elderly	112	28	4%	9/9/2019	
Total Amount Currently Requested Under General Set Aside: Development Sites in HOME-eligible areas						\$ 33,095,000	Total Units	655	224			
Total Amount Currently Requested Under General Set Aside: Development Sites in non-HOME-eligible areas						\$ 17,650,000	Total Units	1,465	413			
Total Amount Currently Requested Under General Set Aside: TOTAL						\$ 50,745,000	Total Units	2,120	637			
Total Amount Awarded Under General Set Aside (HOME)						\$ 27,945,000	Total Units	638	201			
Total Amount Awarded Under General Set Aside (TCAP RF)						\$ 5,650,000	Total Units	318	78			
Total Amount Awarded Under General Set Aside (NSP1 PI)						\$ 4,000,000	Total Units	93	25			
Total Amount Remaining Under General Set Aside (HOME)						\$ -						
Total Amount Remaining Under General Set Aside (TCAP RF)						\$ 8,000,000						
Total Amount Remaining Under General Set Aside (NSP1 PI)						\$ -						

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

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

3 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees (if applicable) were received. All 2019 9%-layered applications were considered received 4/2/19 in accordance with 10 TAC §13.4(c)(2).

* = Board action taken 7/25/19 states that 2019 9% HTC-layered applications that did not receive 9% allocation on 7/25/19 will be considered Priority 3 applications in accordance with 10 TAC 13.4(c)(3) should they come off waiting list before 11/26/19.

8a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and an order adopting the new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing both its publication in the *Texas Register* and adoption of its Substantial Amendment to the One Year Action Plan (OYAP)

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) is authorized to make awards of loans or grants to developers for the State of Texas;

WHEREAS, the Department plans to administer the varying fund sources used in making these awards of loans and grants in a specific manner that necessitates this Multifamily Direct Loan Rule;

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

WHEREAS, public comment was accepted and such rulemaking is being adopted without substantive changes for publication in the *Texas Register*;

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and adopting new 10 TAC Chapter 13, Multifamily Direct Loan Rule, together with the preamble presented to this meeting, is hereby ordered and approved for publication in the *Texas Register* and its Substantial Amendment to the One Year Action Plan (OYAP) adopted; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the 10 TAC Chapter 13, Multifamily Direct Loan Rule, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including requested revisions to the preambles.

BACKGROUND

Attached to this Board Action Request is the final 10 TAC Chapter 13, Multifamily Direct Loan Rule. Changes to the Multifamily Direct Loan Rule are generally clarifications that staff identified as necessary to provide clear information to Applicants. Due to changes in 10 TAC Chapter 11, the Qualified Application Plan, that the Board approved at its November meeting, several citations are corrected, and 10 TAC §13.8(c)(4) was amended to clarify that annual payments are allowed for surplus cash flow loans.

The Board approved the proposed repeal and replacement of 10 TAC Chapter 13, Multifamily Direct Loan Rule, at the Board meeting on October 10, 2019, as published in the *Texas Register* for public comment on October 25, 2019. Public comment, in accordance with the Citizen Participation Plan requirements in 24 CFR §91.105, was accepted between 8:00 a.m. Austin local time on October 14, 2019, and 5:00 p.m. Austin local time on November 14, 2019. In compliance with the requirements of the State Administrative Procedures Act, the public comment period started at 8:00 a.m. Austin local time on October 25, 2019, and ended at 5:00 p.m. Austin local time on November 14, 2019. Staff has reviewed all comments received and provided a reasoned response to these comments in the attached preamble.

This action also has resulted in a Substantial Amendment to the 2019 One-Year Action Plan because of the change in the method of distribution of National Housing Trust Funds. When the Department submits the Substantial Amendment to HUD, the Department will also submit a minor amendment to the 2019 One-Year Action Plan, to reflect the rulemaking under 10 TAC Chapters 11 and 13.

Attachment A: Preamble, including required analysis, for repeal of 10 TAC Chapter 13, the Multifamily Direct Loan Rule

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule. The purpose of the repeal is to provide for clarification of the existing rule through new rulemaking action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department or in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be increased clarity and improved access to the Multifamily Direct Loan funds. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS: The Department accepted public comment between October 25, 2019, and November 14, 2019, to receive stakeholder comment regarding the repealed sections. No public comment was received on the repeal of 10 TAC Chapter 13.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

10 TAC Chapter 13, Multifamily Direct Loan Rule

- §13.1 Purpose
- §13.2 Definitions
- §13.3 General Loan Requirements
- §13.4 Set-Asides, Regional Allocation, and Priorities
- §13.5 Award Process
- §13.6 Scoring Criteria
- §13.7 Maximum Funding Requests
- §13.8 Loan Structure and Underwriting Requirements
- §13.9 Construction Standards
- §13.10 Development and Unit Requirements
- §13.11 Post-Award Requirements
- §13.12 Pre-Closing Amendments to Direct Loan Terms
- §13.13 Post-Closing Amendments to Direct Loan Terms

Attachment B: Preamble, including required analysis, for new 10 TAC Chapter 13, Multifamily Direct Loan Rule

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 13, Multifamily Direct Loan Rule. The purpose of the new section is to provide compliance with Tex. Gov't Code §2306.111 and to update the rule to: clarify program requirements in multiple sections, codify in rule practices of the division, and change citations to align with changes to other multifamily rules. In general, most changes are corrective in nature, intended to gain consistency with state or federal rules, delete duplicative language or provisions, correct or update rule references, and clarify language or processes to more adequately communicate the language or process. Changes that do not fall within these general categories are in: §13.4(a)(1)(A), related to the Supportive Housing/Soft Repayment Set-Aside; §13.5(h), related to Eligibility Criteria (and Determinations); §13.6(6), related to Tenant Populations with Special Housing Needs; §13.8(c)(9), related to Criteria for Construction-to-Permanent Loans; §13.8(b), related to Closing Memo to Underwriting Report; §13.8(g), related to Pass-Through Loans; and §13.13(c), related to Executive Amendments.

Tex. Gov't Code §2001.0045(b) does not apply to the action on this rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, administration of the Multifamily Direct Loan Program.
2. The new rule does not require a change in work that would require the creation of new employee positions nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The rule changes do not require additional future legislative appropriations.
4. The rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not expand, limit, or repeal an existing regulation.
7. The rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.111.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures for multifamily direct loan applications and award through various Department fund sources. Other than in the case of a small or micro-business that is an applicant for such a loan product, no small or micro-businesses are subject to the rule. It is estimated that approximately 200 small or micro-businesses are such applicants; for those entities the new rule provides for a more clear, transparent process for applying for funds and does not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the rule because this rule is applicable only to direct loan applicants for development of properties, which are not generally municipalities. The fee for applying for a Multifamily Direct Loan product is \$1,000, unless the Applicant is a nonprofit that provides supportive services or the Applicant is applying for Housing Tax Credits in conjunction with Multifamily Direct Loan funds, in which case the application fee may be waived. These fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing.

There are 1,296 rural communities potentially subject to the rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 13 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for MFDL resources that are located in rural areas is approximately fifteen. In those cases, a rural community securing a loan will experience an economic benefit, including, potentially, increased property tax revenue from a multifamily Development.

3. The Department has determined that because there are rural MFDL awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive MFDL awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The rule does not

contemplate or authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule may provide a possible positive economic effect on local employment in association with this rule since MFDL Developments, layered with housing tax credits, often involve a typical minimum investment of \$10 million in capital, and more commonly an investment from \$20 million to \$30 million. Such a capital investment has direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to predict during rulemaking where these positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to be quantified for any given community until MFDL awards and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that significant construction activity is associated with any MFDL Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive MFDL awards.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be improved clarity of program requirements in multiple sections, codification in rule practices of the division, and change citations to align with changes to other multifamily rules. There will not be any economic cost to any individuals required to comply with the new sections because this rule does not have any new requirements that would cause additional costs to applicants.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because it does not have any new requirements that would cause additional costs to applicants.

SUMMARY OF PUBLIC COMMENTS AND REASONED RESPONSES. The Department accepted public comment between October 25, 2019, and November 14, 2019, with comments regarding the new rule received from (1) True Casa Consulting and (2) Foundation Communities.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the adopted new sections affect no other code, article, or statute.

General Comments

COMMENT SUMMARY: Commenter (1) asks that TDHCA provide separate equity requirements for Applicants under the Soft Repayment Set-Aside with Direct Loan funds as their only source of permanent funding.

STAFF RESPONSE: In response to Commenter (1), staff believes the use of grants as a source of equity-like funding may help in meeting the requirement of 10 TAC §13.8(c)(9)(A) on a case-by-case basis. 10 TAC §13.8(c)(9)(A) already allows for that possibility that an Applicant, regardless of the set-aside under which they are requesting Direct Loan funds, may request meeting the owner equity requirement through equity-like sources from foundations, corporations, and local government(s). Additionally, Commenter (1) references the owner equity requirement of 20% of Total Housing Development Costs in the 2019 MFDL Rule, rather than the owner equity requirement of 10% of Total Housing Development Costs found in the proposed 2020 MFDL Rule. The reduction in the owner equity requirement is a result of similar stakeholder input received over the past year.

Staff recommends no change as a result of this comment.

COMMENT SUMMARY: Commenter (2) expressed concerns regarding the waiver limitations added to 10 TAC §13.1(c) and asks that TDHCA clarify potential preclusions.

STAFF RESPONSE: In response to Commenter (2), staff appreciates the concerns raised regarding the additional language under the waivers section in 10 TAC §13.1(c). However, with respect to the specific example cited by Commenter (2), staff does not believe that the additional language will impact an applicant's ability to request an exception under 10 TAC §11.302(i)(6)(A) or potentially meet the positive cash flow requirement for Direct Loan-funded developments. In the state's 2019 One Year Action Plan approved by HUD earlier this year, in response to the question "Describe the eligibility requirements for recipients of HTF funds (as defined in 24 CFR §93.2)," the state responded, in part, by stating "all Applications must meet the Underwriting requirements at 10 TAC §11.302, including acceptable pro forma projections through year 30, minimum 1.15 Debt Coverage Ratio, and minimum replacement reserve requirements."

Staff recommends no change as a result of this comment.

COMMENT SUMMARY: Commenter (2) also asks that TDHCA provide an exception to the prohibition on using Department funds as pass-through financing for only those Department funds awarded under the Soft Repayment Set-Aside. Commenter addresses that other soft funding sources may permit their funding to be used as pass-through financing.

STAFF RESPONSE: In response to Commenter (2), staff acknowledges that Developments may desire to use Department funds as pass-through financing but the lease requirements in 24 CFR §92.253 and §93.303 for HOME and NHTF, respectively, state that there must be a written lease

between the tenant and the owner of rental housing assisted with HOME and/or NHTF. This requirement prohibits the Department from making Direct Loan awards to any entity other than the Development Owner. Additionally, the written agreement requirements in 24 CFR §92.504 and §93.404 for HOME and NHTF, respectively, further discuss the Department's ability, as the grantee or participating jurisdiction, to directly ensure and monitor the performance of owners of rental housing. TCAP Repayment Funds, meanwhile, are subject to the HOME requirements stated above by virtue of the Department's requirement in 10 TAC §13.2(6) that requires the Department's investment of TCAP RF in a development to result in HOME Match-Eligible Units. Beyond the federal prohibitions on using a pass-through financing structure, Tex. Gov't Code §2306.185(d) requires restrictions under §2306.185(a) and §2306.269 to be enforceable by the Department. In order to ensure any restrictions under a Contract and/or Land Use Restriction Agreement are enforceable, these agreements must be with the Development Owner.

Staff recommends no change as a result of this comment.

COMMENT SUMMARY: Commenter (2) requests that TDHCA delineate the Loan Closing and Construction Commencement dates in the Multifamily Direct Loan Contract rather than in both the Contract and the Award Letter and Loan Term Sheet (ALLTS).

STAFF RESPONSE: Staff acknowledges the importance of ensuring certainty and consistency with regard to Loan Closing and Construction Commencement timelines. Staff agrees the reference to the Contract is more consistent with Program documents and has removed the reference to the ALLTS in 10 TAC §13.11(b)(4).

COMMENT SUMMARY: Commenter (2) requests that TDHCA permit the submission of substantially final loan closing documents rather than require completely final information.

STAFF RESPONSE: Staff acknowledges that non-substantial changes to some loan closing documents may occur during the period in which loan terms are underwritten and loan closing documents are negotiated by Borrowers' attorneys and Legal staff. Staff has determined that permitting the use of substantially final documents for preparation of loan closing documents under 10 TAC §13.11(b)(11)(D) is reasonable, and has made the corresponding change to the rule.

2020 MULTIFAMILY DIRECT LOAN RULE

§13.1	Purpose
§13.2	Definitions
§13.3	General Loan Requirements
§13.4	Set-Asides, Regional Allocation, and Priorities
§13.5	Award Process
§13.6	Scoring Criteria
§13.7	Maximum Funding Requests and Minimum Number of MFDL Units
§13.8	Loan Structure and Underwriting Requirements
§13.9	Construction Standards
§13.10	Development and Unit Requirements
§13.11	Post-Award Requirements
§13.12	Pre-Closing Amendments to Direct Loan Terms
§13.13	Post-Closing Amendments to Direct Loan Terms

§13.1. Purpose.

(a) Authority. The rules in this chapter apply to the funds provided to Multifamily Developments through the Multifamily Direct Loan Program (MFDL or Direct Loan Program) by the Texas Department of Housing and Community Affairs (the Department). Notwithstanding anything in this chapter to the contrary, loans and grants issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapter 2306 (sometimes referred to as the State Act), and federal law pursuant to the requirements of Title II of the Cranston-Gonzalez National Affordable Housing Act, Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 - Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization Programs, Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289), and the implementing regulations 24 CFR Part 91, Part 92, Part 93, and Part 570 as they may be applicable to a specific fund source. The Department is authorized to administer Direct Loan Program funds pursuant to Tex. Gov't Code, Chapter 2306, Subchapter I, Housing Finance Division.

(b) General. This chapter applies to an award of MFDL funds by the Department and establishes the general requirements associated with the application and award process for such funds. Applicants pursuing MFDL assistance from the Department are required to certify, among other things, that they have familiarized themselves with all applicable rules that govern that specific program including, but not limited to this chapter, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 10 of this title (relating to Uniform Multifamily Rules), Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan (QAP)), and Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules) will apply if MFDL funds are

layered with those other Department programs. The Applicant is also required to certify that it is familiar with any other federal, state, or local financing sources that it identifies in its Application. Any conflict with rules, regulations, or statutes will be resolved on a case by case basis that allows for compliance with all requirements. Conflicts that cannot be resolved may result in Application ineligibility, with the right to an Appeal as provided in 10 TAC §1.7 of this title (relating to Appeals Process) or 10 TAC §11.902 of this title (relating to Appeals Process), as applicable.

(c) Waivers. Requests for waivers of any program rules or requirements must be made in accordance with 10 TAC §11.207 of this title (relating to Waiver of Rules), as limited by the rules in this chapter. In no instance will the Department consider a waiver request that would violate federal program requirements or state or federal statute, as provided in paragraphs (1) through (3) of this subsection.

(1) Waivers for Layered Developments. For Direct Loan Developments contemporaneously layered with Competitive Housing Tax Credits, the Board may not waive any provision of the Notice of Funding Availability (NOFA). The Board may not waive rules that are federally required, or that have been incorporated as a required part of the Department's Consolidated Plan or One Year Action Plan (OYAP) to the U.S. Department of Housing and Urban Development (HUD);

(2) Waivers for Non-Layered Developments. For Direct Loan Developments not contemporaneously layered with Competitive Housing Tax Credits, an Applicant may request that the Department amend its NOFA, amend its Consolidated Plan or OYAP, or ask HUD to grant a waiver of its regulations. If the Applicant's request is approved by the Department's Governing Board (Board), the Application Acceptance Date will then be the date the Department completes the amendment process or receives a waiver from HUD. If this date occurs after the NOFA closes, the Applicant will be required to apply, and the Direct Loan awardee (pre-closing) may be required to reapply under a new or otherwise open NOFA; and

(3) Waivers under Closed NOFAs. The Board may not waive any portion of a closed NOFA prior to Construction Completion. Thereafter, the Board may only waive any portion of a closed NOFA as part of an approved Asset Management Division work out. Allowable Post-Closing Amendments are described in 10 TAC §13.13 of this title.

(d) Eligibility and Threshold Requirements. Applications for Multifamily Direct Loan funds must meet all applicable eligibility and threshold requirements of Chapter 11 of this title (relating to the Qualified Allocation Plan (QAP)), unless otherwise excepted in this rule or NOFA.

§13.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Tex. Gov't Code, Chapter 2306, §§141, 142, and 145 of the Internal Revenue Code, 24 CFR Part 91, Part 92, Part 93, and 2 CFR Part 200, and 10 TAC Chapters 1 of this title regarding Administration, 2 of this title regarding Enforcement, 10 of this title regarding Uniform Multifamily Rules, and 11 of this title regarding the Qualified Allocation Plan.

(1) Application Acceptance Date--The date the MFDL Application is considered received by the Department as described in this chapter, chapter 11 of this title, or in the NOFA.

(2) Construction Completion--That necessary title transfer requirements and construction work have been performed and the following documents have been issued for the Development: certificate(s) of occupancy (if new construction), Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 for instances in which a federally insured HUD loan is being utilized, and a Final Construction Inspection Letter from Department staff. In addition, for Developments not layered with Housing Tax Credits, Construction Completion means all corrections requested as a result of the Department's Final Construction Inspection were cleared as evidenced by receipt of the Closed Final Development Inspection Letter.

(3) Community Housing Development Organization (CHDO)--A private nonprofit organization with experience developing or owning affordable rental housing that meets the requirements in 24 CFR Part 92 for purposes of receiving HOME Investment Partnerships Program (HOME) funds under the CHDO Set-Aside. In addition, a member of a CHDO's board cannot be a Principal of the Development beyond their role as a board member of the CHDO or be an employee of the development team, and may not receive financial benefit other than reimbursement of expenses from the CHDO (e.g., a voting board member cannot also be a paid executive).

(4) Deobligated Funds--The funds released by the Development Owner or recovered by the Department canceling a Contract or award involving some or all of a contractual financial obligation between the Department, and a Development Owner or Applicant.

(5) Federal Affordability Period--The period commencing on the date of Construction Completion and ending on the date which is the required number of years as defined by the federal program from the date of Construction Completion.

(6) HOME Match-Eligible Unit--A Unit in the Development that is not assisted with HOME Program funds, but would qualify as eligible for Match under 24 CFR Part 92. Unless otherwise identified by the provisions in the Notice of Funding Availability (NOFA), TCAP Repayment Funds (TCAP RF) and matching contribution on NSP and NHTF Developments must meet all criteria to be classified as HOME-Match Eligible Units.

(7) Housing Contract System (HCS)--The electronic information system established by the Department for tracking, funding, and reporting Department Contracts and Developments. The HCS is primarily used for Direct Loan Programs administered by the Department.

(8) Land Use Restriction Agreement (LURA) Term--The period commencing on the effective date of the LURA and ending on the date which, at a minimum, is the greater of the loan term or 30 years. The LURA may include the Federal Affordability Period, in addition to the State Affordability Period requirements and State restrictive criteria.

(9) Matching contribution (Match)--A contribution to a Development from nonfederal sources that may be in one or more of the forms provided in subparagraphs (A) through (E) of this paragraph:

(A) Cash contribution (grant), except for cash contributions made by investors in a limited partnership or other business entity subject to pass through tax benefits in a tax credit transaction or owner equity (including Deferred Developer Fee and General Partner advances);

(B) Reduced fees or donated labor from certain eligible contractors, subcontractors,

architects, attorneys, engineers, excluding any contributions from a party related to the Developer or Owner;

(C) Net present value of yield foregone from a below market interest rate loan as described in HUD Community Planning and Development (CPD) Notice 97-03;

(D) Waived or reduced fees or taxes from cities or counties not related to the Applicant in connection with the proposed Development; or

(E) Donated land or land sold by an unrelated third party at a price below market value, as evidenced by a third party appraisal.

(10) Relocation Plan--A residential anti-displacement and relocation assistance plan for which subparagraphs (A) and (B) of this paragraph apply:

(A) Includes provisions consistent with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§4601-4655), implementing regulations at 49 CFR Part 24, and policy guidance in Real Estate Acquisition and Relocation Policy and Guidance (HUD Handbook 1378) and the TDHCA Relocation Handbook; and in some HOME and NSP funded Developments Section 104(d) of the Housing and Community Development Act of 1974 (as amended), and 24 CFR Part 42 (as modified for NSP); and

(B) Is in form and substance consistent with requirements of the Department.

(11) Section 234 Condominium Housing Basic Mortgage Limits (Section 234 Condo Limits)--

The per-unit subsidy limits for all MFDL funding. These limits take into account whether or not a Development is elevator served and any local conditions that may make development of multifamily housing more or less expensive in a given metropolitan statistical area. If the high cost percentage adjustment applicable to the Section 234 Condo Limits for HUD's Fort Worth Multifamily Hub is applicable for all Developments that TDHCA finances through the MFDL Program, then confirmation of that applicability will be included in the applicable NOFA.

(12) Site and Neighborhood Standards--HUD requirements for new construction or reconstruction Developments funded by NHTF (24 CFR §93.150) or new construction Developments in HOME (24 CFR §92.202). Proposed Developments that are unable to comply with requirements in 24 CFR §983.57(e)(2) and (3) will not be eligible for HOME or NHTF.

(13) State Affordability Period--The LURA Term as described in the MFDL contract and loan documents and as required by the Department in accordance with the State Act which is usually an additional period after the Federal Affordability Period.

(14) Surplus Cash--Except when the first lien mortgage is a federally insured HUD mortgage which shall be subject to HUD's surplus cash definition, Surplus Cash is any cash remaining:

(A) After the payment of:

(i) All sums due or currently required to be paid under the terms of any superior lien;

(ii) All amounts required to be deposited in the reserve funds for replacement;

(iii) Operating expenses actually incurred by the borrower for the Development during the period with an appropriate adjustment for an allocable share of property taxes and insurance premiums;

(iv) Recurring maintenance expenses actually incurred by the borrower for the Development during the period; and

(v) All other obligations of the Development approved by the Department; and

(B) After the segregation of an amount equal to the aggregate of all special funds required to be maintained for the Development; and

(C) Excluding payment of:

(i) All sums due or currently required to be paid under the terms of any subordinate liens against the property;

(ii) Any development fees that are deferred including those in eligible basis; and

(iii) Any payments or obligations to the borrower, ownership entities of the borrower, related party entities; any payment to the management company exceeding 5% of the effective gross income; incentive management fee; asset management fees; or any other expenses or payments that shall be negotiated between the Department and borrower.

§13.3. General Loan Requirements.

(a) Funding Availability. Direct Loan funds may be made available through a NOFA or other similar governing document that includes the basic Application and funding requirements.

(b) Oversourced Developments. Direct Loan funds may not be contracted if an underwriting report issued by the Department's Real Estate Analysis Division concludes the Development does not need all or part of the MFDL funding for which it has applied because it is oversourced, and for which a timely appeal has been completed, as provided in 10 TAC §1.7 of this title (relating to Appeals Process) or 10 TAC §11.902 of this title (relating to Appeals Process), as applicable.

(c) Funding Sources. Direct Loan funds are composed of annual HOME and National Housing Trust Fund (NHTF) allocations from HUD, repayment of TCAP or TCAP RF loans, HOME Program Income, NSP1 Program Income (NSP1 PI or NSP), and any other similarly encumbered funding that may become available by Board action, except as otherwise noted in this chapter. Similar funds include any funds that are identified by the Board to be loaned or granted for the development of multifamily property and are not governed by another chapter in this title, with the exception of State funds appropriated for a specific purpose.

(d) Eligible and Ineligible Activities.

(1) Eligible Activities. Direct Loan funds may be used for the predevelopment, acquisition, new construction, reconstruction, rehabilitation, or preservation of affordable housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, or operating cost reserves, all subject to applicable HUD guidance. Other expenses, such as financing costs, relocation expenses of any displaced persons, families, businesses, or organizations may be included. MFDL funds may be used to assist Developments previously awarded by the Department when approved by specific action of the Board. Eligible Activities may have fund source restrictions or may be restricted by a NOFA.

(2) Ineligible Activities. Direct Loan funds may not be used for:

(A) Adaptive Reuse Developments; or

(B) Developments layered with Housing Tax Credits that have elected the income averaging election under Section 42(g)(1)(C) of the Internal Revenue Code that have more than 15% of the Units designated as Market Rate Units.

(e) Ineligible Costs. All costs associated with the Development and known by the Applicant must be disclosed as part of the Application. Costs ineligible for reimbursement with Direct Loan

funds in accordance with 24 CFR Part 91, Part 92, Part 93, Part 570, and 2 CFR Part 200, as federally required or identified in the NOFA, include but are not limited to:

- (1) Offsite costs;
- (2) Stored Materials;
- (3) Site Amenities;
- (4) Detached Community Buildings;
- (5) Carports and/or garages;
- (6) Parking garages;
- (7) Swimming pools;
- (8) Commercial Space costs;
- (9) Reserve accounts not related to NHTF;
- (10) TDHCA fees;
- (11) Syndication and organizational costs;
- (12) Delinquent fees, taxes, or charges;
- (13) Costs incurred more than 24 months prior to the effective date of the Direct Loan contract, unless the Application is awarded TCAP RF;
- (14) Costs that have been allocated to or paid by another fund source, including but not limited to: Deferred Developer Fee, contingency, and general partner loans and advances;
- (15) Deferred Developer Fee;
- (16) Bond fees;
- (17) Community Facility spaces that are not for the exclusive use of tenants and their guests;
- (18) The portion of soft costs that are allocated to support ineligible hard costs; and
- (19) Other costs limited by Award or NOFA, or as established by the Board.

§13.4. Set-Asides, Regional Allocation, and Priorities.

(a) Set-Asides. Specific types of Activities or Developments for which a portion of MFDL funds may be reserved in a NOFA will be grouped in Set-Asides. The Soft Repayment Set-Aside, CHDO Set-Aside, and General Set-Aside, as described below, are fixed Set-Asides that will be included in the annual NOFA (except if CHDO requirements are waived or reduced by HUD). The remaining Set-Asides described below are flexible Set-Asides and are applicable only if identified in a NOFA; flexible Set-Asides are not required to be programmed on an annual basis. The amount of a single award may be credited to multiple Set-Asides, in which case the credited portion of funds may be repositioned into an oversubscribed Set-Aside prior to a defined collapse deadline. Applications under any and all Set-Asides may or may not be layered with other Department Multifamily programs except as provided in this section or as determined by the Board to address unique circumstances not addressed by these rules.

(1) Fixed Set-Asides:

(A) Soft Repayment Set-Aside. The Soft Repayment Set-Aside will be funded primarily with NHTF allocations received by the Department. The Soft Repayment Set-Aside is reserved for developments providing Supportive Housing and/or extremely low-income and rent restrictions that would not exist otherwise. Soft repayment loans may be structured as deferred payable, deferred forgivable, or Surplus Cash flow loans at an interest rate as low as 0%. It is the responsibility of the Applicant to account for any Eligible Basis and/or taxable event implications when requesting any of the potential loan

structures available in this set-aside. Applicants seeking to qualify under this set-aside must propose Developments that meet either the requirements of clause (i) or (ii) of this subparagraph:

- (i) The Supportive Housing requirements in 10 TAC §11.1(d)(121) including the underwriting considerations for Supportive Housing Developments in 10 TAC §11.302(g)(3) of this title (relating to Underwriting and Loan Policy); or
- (ii) The requirements in subclauses (I) - (IV) of this clause, for which all Units assisted with MFDL funds:

- (I) Must be available for households earning 30% AMI or less and have rents no higher than the rent limits for extremely low-income tenants in 24 CFR §93.302(b);
- (II) May not also be receiving any project-based subsidy;
- (III) May not be receiving tenant-based voucher or tenant-based rental assistance, to the extent that there are other available Units within the Development that the voucher-holder may occupy; and
- (IV) May not be restricted to 30% AMI or less by Housing Tax Credits, or any other fund source.

(B) CHDO Set-Aside. Unless waived or reduced by HUD, a portion of the Department's annual HOME allocation, will be set aside for eligible CHDOs meeting the requirements of the definition of Community Housing Development Organization in 24 CFR §92.2 and 10 TAC §13.2(4) of this chapter. Applicants under the CHDO Set-Aside must be proposing to develop housing on Development Sites located outside Participating Jurisdictions (PJ), unless the award is made within a Persons with Disabilities (PWD) set-aside, or the requirement under Tex. Gov't Code §2306.111(c)(1) has been waived by the Governor as the result of a disaster declaration. CHDO funds are typically available as fully-repayable amortizing debt consistent with 10 TAC §13.8 of this chapter (relating to Loan Structure and Underwriting Requirements). In instances where an application submitted under the CHDO Set-Aside also would qualify under the Soft Repayment Set-Aside, funds under this Set-Aside may be structured in accordance with the Soft Repayment Set-Aside requirements. A grant for CHDO operating expenses may be awarded in conjunction with an award of MFDL funds under this Set-Aside in accordance with 24 CFR §92.208. Applications under the CHDO Set-Aside may not have a for profit special limited partner within the ownership organization chart.

(C) General Set-Aside. The General Set-Aside is for all other applications that do not meet the requirements of the Soft Repayment, CHDO, or Flexible Set-Asides, if any. A portion of the General Set-Aside may be reallocated into the CHDO Set-Aside in order to fully fund a CHDO award that exceeds the remaining amount in the Set-Aside.

(2) Flexible Set-Asides:

(A) 4% HTC and Bond Layered Set-Aside. The 4% and Bond Layered Set-Aside is reserved for Applications layered with 4% Housing Tax Credits and Private Bond funds where the Development Owner does not meet the definition of a CHDO, but that the Application does meet all other MFDL requirements.

(B) Persons with Disabilities (PWD) Set-Aside. The PWD Set-Aside is reserved for Developments restricting Units for residents who meet the requirements of Tex. Gov't

Code §2306.111(c)(2) while not exceeding the number of Units limited by 10 TAC §1.15 of this title (relating to the Integrated Housing Rule). MFDL funds will be awarded in a NOFA for the PWD Set-Aside only if sufficient funds are available to award at least one Application within a Participating Jurisdiction under Tex. Gov't Code §2306.111(c)(1).

(C) 9% HTC Layered Set-Aside. The 9% Layered Set-Aside is reserved for Applications that are layered with 9% Housing Tax Credits that do not meet the definition of CHDO, but that do meet all other MFDL requirements. Awards under this set-aside are dependent on the concurrent award of a 9% HTC allocation; however, an allocation of 9% HTC does not ensure that a sufficient amount of MFDL funds will be available for award.

(D) Additional Set-Asides may be developed, subject to Board approval, to meet the requirements of specific funds sources, or address Department priorities. To the extent such Set-Asides are developed, they will be reflected in a NOFA or other similar governing document.

(b) Regional Allocation and Collapse. All funds received directly from HUD in the annual NOFA will be allocated to regions and potentially subregions based on a Regional Allocation Formula (RAF) within the applicable Set-Asides (unless the funds have already been through a RAF). The RAF methodology may differ by fund source. HOME funds will be allocated in accordance with Tex. Gov't Code Chapter 2306. The end date for the RAF will be identified in the NOFA, but in no instance shall it be less than 30 days from the date a link to the Board approved NOFA or NOFA Amendment is published on the Department's website.

(1) After expiration of the RAF, remaining funds within each respective Set-Aside may collapse on an end date identified in the NOFA. All Applications received prior to these collapse period deadlines will continue to hold their priority unless they are withdrawn, terminated, suspended, or funded.

(2) Funds remaining after expiration of the Set-Asides on the end date identified in the NOFA, which have not been requested in the form of a complete Application, may be made available statewide on a first-come first-served basis to Applications submitted after the collapse dates, as further described in the NOFA.

(3) In instances where the RAF would result in regional or subregional allocations insufficient to fund an Application, the Department may use an alternative method of distribution, including an early collapse, revised formula or other methods as approved by the Board, and reflected in the NOFA.

(c) Priorities for the Annual NOFA. Complete Applications received during the period of the RAF will be prioritized for review and recommendation to the Board, if funds are available both in the region or subregion and in the Set-Aside under which the Application is received. If insufficient funds are available in a region or subregion to fund all Applications then the oversubscribed Applications will be evaluated only after the RAF and/or Set-Aside collapse and in accordance with the additional priority levels below, unless an Application received earlier is withdrawn or terminated. If insufficient funds are available within a region, subregion, or Set-Aside, the Applicant may request to be considered under another Set-Aside if they qualify, prior to the collapse. Applications will be reviewed and recommended to the Board if funds are available in accordance with the order of prioritization described in paragraphs (1) - (3) of this subsection.

(1) Priority 1. Applications not layered with current year 9% Housing Tax Credits (HTC) that

are received prior to the Market Analysis Delivery Date as described in 10 TAC §11.2 of this title (relating to Program Calendar for Housing Tax Credits). Priority 1 Applications may be prioritized based on score within their respective Set-Aside for a certain time period, for certain populations, or for certain geographical areas, as further described in the NOFA.

(2) Priority 2. Applications layered with current year 9% HTC will be prioritized based on their recommendation status and score for an HTC allocation under the provisions of the Qualified Allocation Plan (QAP). All Priority 2 applications will be deemed received on the Market Analysis Delivery Date identified in Chapter 11 of this title, relating to the QAP. Priority 2 applications will be recommended for approval of the MFDL award at the same meeting when the Board approves the 9% HTC allocations. Applications for 9% HTC allocations are not guaranteed the availability of MFDL funds, as further provided in §13.5(f) of this chapter.

(3) Priority 3. Applications that are received after the Market Analysis Delivery Date identified in the QAP will generally have a first come first served basis for any remaining funds, until the final deadline identified in the annual NOFA. However, the NOFA may describe an additional prioritization period for certain populations, or for certain geographical areas. Applications layered with 9% HTC that are on the waitlist after the late July Board meeting will be considered Priority 3 Applications; if the Applicant receives an allocation later in the year, the Application Acceptance date will be the date the Commitment Notice is issued, and MFDL funds are not guaranteed to be available.

(d) Other Priorities. The Board may set additional priorities for the annual NOFA, and for one time or special purpose NOFAs.

§13.5. Award Process.

(a) Notice of Funding Availability (NOFA). All MFDL funds from the annual allocation will be distributed pursuant to the terms of a published NOFA that provides the specific collapse dates and deadlines as well as set-aside and RAF amounts applicable to the MFDL program, along with scoring criteria, priorities, award limits, and other Application information. Other funds may be distributed by NOFA or through other lawful methods approved by the Board. Set-asides, RAFs, and total funding amounts may increase or decrease in accordance with the provisions herein without further Board action as long as the NOFA itself did not require Board action.

(b) Applications. MFDL Applicants must follow the applicable requirements in 10 TAC Chapter 11 Subchapter C (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules).

(c) Application Acceptance Date. Applications will be considered received on the business day of receipt, unless a different time period is described in the Department's rules or NOFA. If an Application is received after 5:00 p.m., Austin local time, it will be determined to have been received on the following business day. Applications received on a non-business day will be considered received on the next day the Department is open. Applications will be considered complete at the time all Application materials, required third party reports and application fee(s) are received by the Department. Within certain Set-Asides or priorities, the date of receipt may be fixed, regardless of the earlier actual date a complete Application is received, if so specified in the Department's rules or NOFA. If multiple Applications have the same Application Acceptance Date, in the same region or subregion (as applicable), and within the same Set-Aside, then score and tiebreaker factors, as described in §13.6 of this chapter (relating to

Selection Criteria) for MFDL or 10 TAC §11.7 and §11.9 of this title (relating to Tie Breaker Factors and Competitive HTC Selection Criteria, respectively) for Applications layered with 9% HTC, will be used to determine the Application's rank.

(d) Market Analysis. Applications proposing Rehabilitation that request MFDL as the only source of Department funding may be exempted from the Market Analysis requirement in 10 TAC §11.205(2) (relating to Required Third Party Reports) if the Development's rent rolls for the most recent six months reflect occupancy of at least 80% of all habitable Units.

(e) Environmental Clearance. All Applicants for MFDL funds must include the following language in the purchase contract or site control agreement if the subject property is not already owned by the Applicant: "Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until the Department has provided Purchaser and/or Seller with a written notification that: (A) It has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, (i) the purchase may proceed, or (ii) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or (B) It has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required."

(f) Oversubscribed Funds for 9% HTC-Layered Applications. Should MFDL funds be oversubscribed in a Set-Aside or for a fund source that has geographic limitations within a Set-Aside, Applications concurrently requesting 9% HTC will be notified and may amend their Application to accommodate another fund source and make changes that still meet threshold requirements in 10 TAC Chapter 11 and 13 of this title, and do not impact scoring under 10 TAC Chapter 11 of this title. The Department will provide notice to all impacted Applicants in the case of over-subscription, which will include a deadline for response. If MFDL funds become available between the Market Analysis Delivery Date, and the last Board meeting in July, they will not be reserved for 9% HTC-layered Applications, unless the reservation is described in the NOFA.

(g) Source of Direct Loan Funds. When determining the source of funds that an Application will receive when recommended for an award, the Department will select sources of funds for recommended Applications, as provided in paragraphs (1) – (4) of this subsection.

(1) The Department will generally select the recommended source of funds to award to an Application in the order described in subparagraphs (A) – (C) of this paragraph, which may be limited by the type of activity an Application is proposing or the proposed Development Site of an Application:

(A) Federal funds with commitment and expenditure deadlines will be selected first;

(B) Federal funds that do not have commitment and expenditure deadlines will be selected next; and

(C) Nonfederal funds that do not have commitment and expenditure deadlines will be selected last; however,

(2) The Department may also consider repayment risk or ease of compliance with other fund sources when assigning the source of funds to recommend for award to an Application;

(3) The Department may move to the next fund source prior to exhausting another selection; and

(4) The Department will make the final decision regarding the fund source to be recommended for an award (within a Set-Aside that has multiple fund sources), and this recommendation may be not be appealed.

(h) Eligibility Criteria and Determinations. The Department will evaluate Applications received under the Annual NOFA for eligibility and threshold pursuant to the requirements of this chapter and Chapter 11 of this title (relating to the Qualified Allocation Plan). The Department may terminate the Application if there are changes at any point prior to MFDL loan closing that would have had an adverse effect on the score and ranking order of the Application that would have resulted in the Application being ranked below another Application received prior to the subject Application.

(1) Applicants requesting MFDL as the only source of Department funds must meet the Experience Requirement as provided in either subparagraph (A) or (B) of this paragraph:

(A) The Experience Requirement as provided in 10 TAC §11.204(6) of this title (relating to Required Documentation for Application Submission); or

(B) Alternatively by providing the acceptable documentation listed in §11.204(6)(i)-(ix) of this title evidencing the successful development, and at least five years of the successful operation, of a project or projects with at least twice as many affordability restricted Units as requested in the Application.

(2) The Executive Director or authorized designee must make eligibility determinations for Applications for Developments that meet the criteria in subparagraph (A) or (B) of this paragraph regardless of available fund sources:

(A) Received an award of funds for the Development from the Department within 15 years preceding the Application Acceptance Date; or

(B) Started or completed construction, and are not proposing acquisition or rehabilitation.

(3) An Application that requires an eligibility determination must identify that fact prior to, or in their Application so that an eligibility determination may be made subject to the Applicant's appeal rights under 10 TAC §11.902 or 10 TAC §1.7 of this title, as applicable. A finding of eligibility under this section does not guarantee an award. Applications requiring eligibility determinations generally will not be funded with HOME, or NSP funds.

(A) Requests under this subsection will not be considered more than 60 calendar days prior to the first Application Acceptance Date published in the NOFA, for the Set-Aside in which the Applicant plans to apply.

(B) Criteria for consideration include clauses (i) - (iii) of this subparagraph:

(i) Evidence of circumstances beyond the Applicant's control that could not have been prevented with appropriate due diligence; or

(ii) Force Majeure events (not including weather events); and

(iii) Evidence that no further exceptional conditions exist that will delay or cause further cost increases.

(C) Criteria for consideration shall not include weather events, typical construction or financing delays.

(D) Applications for Developments that previously received an award from the Department in within 15 years preceding the Application Acceptance Date will be evaluated at no more than the amount of Developer Fee proposed the last time that the Department published an Underwriting Report. MFDL funds may not be used to fund

increased Developer Fee, regardless of the allowability of the increase under other Department rules.

(i) Effective rules and contractual terms. The contractual terms of an award will be governed by and reflect the rules in effect at the time of Application; however, any changes in federal requirements will be reflected in the contractual terms. Further provided, that if after award, but prior to execution of such Contract, there are new rules in effect, the Direct Loan awardee may elect to be governed by the new rules, provided the Application would continue to have been eligible for award under the rules in effect at the time of Application.

§13.6. Scoring Criteria.

The criteria identified in paragraphs (1) - (6) of this section will be used in the evaluation and ranking of Applications if other Applications have the same Application Acceptance Date, within the same Set-Aside, and having the same prioritization. There is no rounding of numbers in this section, unless rounding is explicitly indicated for that particular calculation or criteria. The scoring items used to calculate the score for a 9% HTC-Layered Application will be utilized for scoring for an MFDL Application, and evaluated in the same manner, except as specified below. Scoring criteria in Chapter 11 of this title will always be superior to Scoring Criteria in this chapter if an MFDL Application is also concurrently requesting 9% HTC:

(1) Opportunity Index. Applicants eligible for points under 10 TAC §11.9(c)(4) (relating to the Opportunity Index) (7 points).

(2) Resident Services. Applicants eligible for points under 10 TAC §11.9(c)(3)(A) (relating to Resident Services) (10 points) and Applicants eligible for points under 10 TAC §11.9(c)(3)(B) (relating to Resident Services) (1 point).

(3) Underserved Area. Applicants eligible for points under 10 TAC §11.9(c)(5) (relating to Underserved Area) (up to 5 points).

(4) Subsidy per Unit. An Application that caps the per MFDL eligible cost per Unit subsidy limit below Section 234 Condo Limits or HUD 221(d)(4) statutory limits (as applicable) for all Direct Loan Units regardless of Unit size at:

(A) \$100,000 per MFDL eligible cost per Unit (4 points).

(B) \$80,000 per MFDL eligible cost per Unit (8 points).

(C) \$60,000 per MFDL eligible cost per Unit (10 points).

(5) Rent Levels of Residents. Except for Applications submitted under the Soft Repayment Set-Aside, an Application may qualify to receive up to 13 points for placing the following rent and income restrictions on the proposed Development for the Federal and State Affordability Periods. These Units must not be restricted to 30% or less of AMI by another fund source; however, layering on other HTC Units may be considered for scoring purposes.

(A) At least 20% of all low-income Units at 30% or less of AMI (13 points);

(B) At least 10% of all low-income Units at 30% or less of AMI or, for a Development located in a Rural Area, 7.5% of all low-income Units at 30% or less of AMI (12 points); or

(C) At least 5% of all low-income Units at 30% or less of AMI (7 points).

(6) Tiebreaker. In the event that two or more Applications receive the same number of points based on the scoring criteria above, staff will recommend for award the Application that proposes the greatest percentage of 30% AMI MFDL Units within the Development that would convert to households at 15% AMI in the event of a tie as represented in the Tiebreaker

Certification submitted at the time of Application.

§13.7. Maximum Funding Requests and Minimum Number of MFDL Units.

(a) Maximum Funding Request. The maximum funding request for an Application will be identified in the NOFA, and may vary by development type, set-aside, or fund source.

(b) Maximum New Construction or Reconstruction Per-Unit Subsidy Limits. While more restrictive per-Unit subsidy caps are allowable and incentivized as point scoring items in 10 TAC §13.6 of this chapter (relating to Scoring Criteria), the per-Unit subsidy limit for a Development will be determined by the Department as the Section 234 Condo limits with the applicable high cost percentage adjustment in effect at the start date of the NOFA, which are the maximum MFDL eligible cost per-Unit subsidy limits that an Applicant may use to determine the amount of MFDL funds combined with other federal funds that may subsidize a Unit.

(c) Maximum Rehabilitation Per-Unit Subsidy Limits. The MFDL eligible cost per-Unit to rehabilitate a Development may not exceed the HUD 221(d)(4) statutory limits, subject to high cost factors.

(d) Minimum Number of MFDL Units. The minimum required number of MFDL Units will be determined by the MFDL per-Unit subsidy limits and the cost allocation analysis, which will ensure the amount of MFDL Units as a percentage of total Units is equal to or greater than the percentage of MFDL funds requested as a percentage of total eligible MFDL Development costs.

§13.8. Loan Structure and Underwriting Requirements.

(a) Loan Structures. Except for awards made under the Soft Repayment Set-Aside, all Multifamily Direct Loans awarded under the annual NOFA as construction-to-permanent loans will be underwritten as fully repayable (must pay) at an interest rate specified in the NOFA and approved by the Board, and a 30 year amortization with a loan term that matches the term of any superior loans (within six months) at the time of Application. If the Department determines that the Development does not support this structure, the Department may recommend an alternative that makes the Development feasible under all applicable sections of this chapter and 10 TAC §11.302 (relating to Underwriting Rules and Guidelines), or may conclude the Development is infeasible and recommend denial. The interest rate, amortization period, and term for the loan will be fixed by the Board at the time of award, and can only be amended prior to loan closing by the process in 10 TAC §13.12 (relating to Pre-Closing Amendments to Direct Loan Terms).

(b) Closing Memo to Underwriting Report. Any changes to the total development cost, expenses, income, and/or other sources of funds from time of the publication of the initial Underwriting Report at the time of award to the time of loan closing, must be reevaluated by Real Estate Analysis staff, who will typically publish a Closing Memo to the Underwriting Report, and may recommend changes to the principal amount and/or the repayment structure for the Multifamily Direct Loan that will allow the Department to mitigate any increased risk or to ensure that the Development is not oversubsidized. Where the Department determines such risk is not adequately mitigated, the award may be terminated or reconsidered by the Board. Increases in the principal amount or scheduled payment amounts of any superior loans that cause the total Debt Coverage Ratio (DCR) to decrease by more than .05 require approval by the Board. If the changes cause the total DCR to no longer comply with 10 TAC §11.302 of this title (relating to Underwriting Rules and Guidelines), the award may be subject to termination.

(c) Criteria for Construction-to-Permanent Loans. Direct Loans awarded through the Department must adhere to the following criteria as identified in paragraphs (1) - (9) of this subsection if being requested as construction-to-permanent loans, for which the interest rate will be specified in the NOFA and approved by the Board:

(1) The construction term for MFDL loans shall be coterminous with any superior construction loan(s), but no greater than 36 months. In the event the MFDL loan is the only loan with a construction term, the construction term shall be 24 months;

(2) No interest will accrue during the construction term;

(3) The permanent term for MFDL loans at the time of award shall be no less than 10 years and no greater than 40 years and the amortization schedule shall be 30 years. The Department's loan must mature at the same time or within six months of the shortest term of any senior debt so long as neither exceeds 40 years and six months;

(4) For a non-surplus cash loan, an amortized loan shall be structured with a regular monthly payment beginning on the first of the month following the end of the construction term and continuing for the loan term. For a surplus cash loan, an amortized loan shall be structured with an annual payment beginning on the first of the month following the end of the construction term and continuing for the loan term;

(5) If the first lien mortgage is a federally insured HUD mortgage, the Department may approve a loan structure with annual payments beginning the following year after the end of the construction term payable from surplus cash flow as defined by HUD provided that the DCR, inclusive of the loan, continues to meet the requirements in this title;

(6) If the proposed first lien is a federally insured HUD mortgage that requires the Direct Loan to be subject to 75% of surplus cash flow as defined by HUD, staff will require the debt service coverage ratio on both the HUD insured loan and the Department's loan - as restricted to 75% of Surplus Cash Flow - to continue to meet the minimum 1.15 DCR in accordance with 10 TAC §11.302(d)(4)(D) (relating to Acceptable Debt Coverage Ratio Range), and may require payment of the remaining 25% from other sources;

(7) Loans shall be secured with a deed of trust with a permanent lien position that is superior to any other sources for financing including hard repayment debt that is in an amount less than or equal to the Direct Loan amount and superior to any other sources that have soft repayment structures, non-amortizing balloon notes, have deferred forgivable provisions, or in which the lender has an identity of interest with any member of the Development Team. Parity liens may only be considered with USDA Rural Development;

(8) If the Direct Loan amounts are more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application must include documents identified in either subparagraphs (A) or (B) of this paragraph:

(A) A letter from a Third Party Certified Public Accountant verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10% of the Total Housing Development Cost as a short term loan for the Development; or

(B) Evidence of a line of credit or equivalent tool in the sole determination of the Department equal to at least 10% of the Total Housing Development Cost from a financial institution that is available for use during the proposed Development activities; and

(9) If the Direct Loan is the only source of permanent Department funding for the Development, the Development Owner must provide all items required in subparagraphs (A)

and (B) of this paragraph:

- (A) Equity in an amount not less than 10% of Total Housing Development Costs; however,
 - (i) An Applicant for Direct Loan funds may request Board approval to have an equity requirement of less than 10% that would not have to meet the waiver requirements in 10 TAC §11.207 of this title. The request must specify the proposed equity that will be provided and provide support for why that reduced level of equity will be sufficient to provide reasonable assurance that such owner will be able to complete construction and stabilization timely; and
 - (ii) "Sweat equity" or other forms of equity that cannot be readily accessed will not be allowed to count toward the equity requirement; and
- (B) Evidence submitted through the Application Submission Process that shows the Direct Loan amount is not greater than 80% of the Total Housing Development Costs.

(d) Evaluations. All Direct Loan Applicants in which third-party financing entities are part of the sources of funding must include a pro forma and lender approval letter evidencing review of the Development and the Principals as described in 10 TAC §11.9(e)(1) of this title (relating to Competitive HTC Selection Criteria). Where no third-party financing exists, the Department reserves the right to procure a third-party evaluation which will be required to be prepaid by the Applicant.

(e) Criteria for Construction Only Loans. Direct Loans through the Department must adhere to the following criteria as identified in paragraphs (1) - (3) of this subsection if being requested as construction only loans:

- (1) The term of the construction loan must be coterminous with any superior construction loan(s), but no greater than 36 months. In the event that the Direct Loan is the only construction loan, the term may not exceed 24 months;
- (2) The interest rate will be specified in the NOFA and approved by the Board; and
- (3) Up to 50% of the construction loan may be advanced at loan closing should there be sufficient costs to reimburse that amount.

(f) Criteria for Permanent Refinance Loans. If the Department's Loan will repay existing debt, the first payment will be due the month after the month of loan closing, unless the Board approves another date.

(g) Pass-Through Loans. Department funds may not be used as pass-through financing. The Department's Borrower must be the Development Owner.

§13.9. Construction Standards.

All Developments financed with Direct Loans will be required to meet at a minimum the applicable requirements in Chapter 11 of this title (relating to the Qualified Allocation Plan). In addition, Developments must meet all applicable state and local codes, ordinances, and standards; the 2015 International Existing Building Code (IEBC) or International Building Code (IBC), as applicable. Should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC or IBC, as applicable. Developments must also meet the requirements in subsections (a) - (e) of this section:

(a) Third-Party Recommendations. Recommendations made in the Environmental Site Assessment (§11.305 of this title) and any Scope of Work and Cost Review (§11.306 of this title) with respect to health and safety issues, life expectancy of major systems (structural support;

roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented;

(b) Lead and Asbestos Testing. For properties originally constructed prior to 1978, the Scope of Work and Cost Review and scope of work must be provided to the party conducting the lead-based paint and/or asbestos testing, and the Development Owner must implement the mitigation recommendations of the testing report;

(c) Broadband Infrastructure. The broadband infrastructure requirements described in 24 CFR §92.251(a)(2)(vi) or (b)(1)(x) for HOME, NSP, or TCAP RF; or 24 CFR §93.301(a)(2)(vi) or 24 CFR §93.301(b)(2)(vi) for NHTF, as applicable;

(d) Properties in Catastrophe Areas. Developments located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4011 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008); and

(e) Minimum Construction Standards. Rehabilitation Developments funded with federal sources may also be required to meet Minimum Rehabilitation Standards, as required by HUD.

§13.10. Development and Unit Requirements.

(a) Proportionality. The bedroom/bathroom/amenities and square footages for Direct Loan Units must be comparable to the bedroom/bathroom/amenities and square footages for the total number of Units in the Development based on the amount of Direct Loan funds requested as a percentage of total MFDL eligible costs. As a result of this requirement, the Department will use the Proration Method as the Cost Allocation Method in accordance with CPD Notice 16-15, except as described in subsection (b) of this section. Additionally, the amount of Direct Loan funds requested cannot exceed the per-unit subsidy limit described in this chapter or in the applicable NOFA. Direct Loan Units must be provided as a percentage of each Unit Type, in proportion to the percentage of total costs included in the Direct Loan.

(b) Floating Units. For HOME, NSP, and TCAP RF, Direct Loan Units must float throughout the Development unless the Development also contains public housing Units that will receive Operating Fund or Capital Fund assistance under Section 9 of the 1937 Act as defined in 24 CFR §5.100. For NHTF, Direct Loan Units must float throughout the Development, except as prohibited by 24 CFR §93.203. Floating Direct Loan Units may only float among the Units as described in the Direct Loan Contract and Direct Loan LURA, or as specifically approved in writing by the Department.

(c) Unit Match Requirements.

(1) For a Development funded with NSP and/or NHTF, a required matching contribution will result in at least one HOME Match-Eligible Unit, in addition to the NSP and/or NHTF Units.

(2) For a Development funded with HOME, a required matching contribution may or may not result in a HOME Match-Eligible Unit, beyond the Department's HOME assisted Units.

(3) For a Development funded with TCAP RF in the annual NOFA, a matching contribution in addition to the Match that the Department counts from the TCAP RF investment will result in some amount of TCAP RF assisted Units being considered HOME Match-Eligible Units.

(d) Minimum Affordability Period. The minimum affordability period for all Direct Loan Units awarded under a NOFA will match the greater of the term of the loan, or 30 years unless a lesser period is approved by the Board. The Department reserves the right to extend the Affordability

Period for Developments that fail to meet Program requirements.

(e) Restricted Units. If the Department is the only source of permanent funding for the Development by virtue of equity from HTC and MFDL funding, all Units must be income and rent restricted under a combination of HTC and Direct Loan LURAs, regardless of the amount of deferred Developer Fee as a permanent source. If the MFDL funding is the only source of permanent funding for the Development, all Units must be income and rent restricted by the Direct Loan LURA, and all costs must be MFDL eligible, regardless of the amount of deferred Developer Fee as a permanent source.

(f) Income Levels Committed at Time of Application. If the Direct Loan funds are used in a 9% or 4% HTC-Layered Development that is electing Income Averaging to qualify under IRC §42, the Direct Loan Units required by the LURA must continue to be provided at the income levels committed at the time of Application. Unit designations may not change to meet Income Averaging requirements.

§13.11. Post-Award Requirements.

(a) Direct Loan awardees must satisfactorily complete the following Post-Award Requirements after the Board approval date. If a Direct Loan award is declined by the Direct Loan awardee and returned after Board approval, or if the Direct Loan awardee or Affiliates fail to timely enter into the Contract, close the loan, begin and complete construction, or leave a portion of the Direct Loan award unexpended, penalties may apply under 10 TAC §11.9(f) (relating to Competitive HTC Selection Criteria), and/or the Department may prohibit the Applicant and all Affiliates from applying for MFDL funds for a period of two years.

(b) Extensions to the benchmarks in paragraphs (1) - (4) and (7) of this subsection may only be approved by the Executive Director or authorized designee in accordance with 10 TAC §13.12 or 10 TAC §13.13 of this chapter, as applicable.

(1) Award Letter and Loan Term Sheet (ALLTS). If provided, Direct Loan awardees must execute and return to the Department an Award Letter and Loan Term Sheet provided by the Department within 15 calendar days after receipt. The ALLTS will be conditional in nature, and provide a basic outline of the terms and conditions approved by the Board.

(2) Environmental Clearance. In order to obtain environmental clearance, Direct Loan awardees must submit a fully completed environmental review (if applicable) including any applicable reports to the Department within 90 calendar days of the Board approval date. If the awardee was contemporaneously awarded 9% HTC and selected Readiness to Proceed points under 10 TAC §11.9(c)(8), this period is 14 calendar days of the Board approval date. Applicants or Direct Loan awardees that commit any choice limiting activities as defined by HUD in 24 CFR Part 58 prior to obtaining environmental clearance will be subject to termination of the Direct Loan award.

(3) Contract Execution. After a Development receives environmental clearance (if applicable), the Department will draft a Contract to be emailed to the Direct Loan awardee. Direct Loan awardees must execute and return a Contract to the Department within 30 calendar days after receipt of the Contract.

(4) Loan Closing and Construction Commencement. Loan closing must occur and construction must begin on or before the date described in the Contract. If construction has not commenced within 12 months of the Contract Effective Date, the award may be

terminated.

(5) Quarterly Construction Status Reports. The Development Owner is required to submit quarterly Construction Status Reports to the Asset Management Division as described and by the deadlines specified in 10 TAC §10.402(h) of this title (relating to Construction Status Report).

(6) Mid-Construction Development Inspection Letter. In addition to any other obligations required as the result of any other Department funding sources, the Development Owner must submit a Mid-Construction Development Inspection Request once the Development has met at least 25% construction completion as indicated on the G703 Continuation Sheet or HUD equivalent form. Department inspection staff will issue a Mid-Construction Development Inspection Letter that confirms work is being done in accordance with the applicable codes, the construction contract, and construction documents. Regardless of how Direct Loan funds are allocated among acquisition, Hard, and Soft costs, up to 50% of the Direct Loan award may be released prior to issuance of the Mid-Construction Development Inspection Letter, with the remaining 50% available for distribution in accordance with the percentage of Construction Completion.

(7) Construction Completion. Construction must be completed, as reflected by the Development's certificate(s) of occupancy (if applicable), Certificate of Substantial Completion (AIA Form G704), and issuance of a Closed Final Development Inspection Letter by the Department within the construction term of any superior construction loan(s) or 24 months of the actual loan closing date if no superior construction loan(s) exist, with the repayment period beginning at the same time as the repayment on any superior permanent loan(s) or on the first day of the 25th month following the actual date of loan closing if no superior permanent loan(s) exist, unless extended in accordance with applicable provisions in §13.12 or §13.13 of this chapter. The Closed Final Development Inspection Letter issued by the Department will verify committed amenities have been provided and confirm compliance with all applicable accessibility requirements; this letter may include deficiencies that require resolution. The Final Development Inspection may be conducted concurrently with a Uniform Physical Condition Standards (UPCS) inspection. However, any letters associated with a UPCS inspection will not satisfy the Closed Final Development Inspection Letter required by this subsection.

(8) Initial Occupancy. Initial occupancy of all MFDL assisted Units by eligible households shall occur within six months of the final Direct Loan draw. Requests to extend the initial occupancy period must be accompanied by documentation of marketing efforts and a marketing plan. The marketing plan may be submitted to HUD for final approval, if required by the MFDL fund source.

(9) Per Unit Repayment. Repayment will be required on a per Unit basis for Units that have not been rented to eligible households within 18 months of the final Direct Loan draw.

(10) Termination and Repayment for Failure to Complete. Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four years of the effective date of a Direct Loan Contract.

(11) Loan Closing. In preparation for closing any Direct Loan, the Development Owner must submit the items described in subparagraphs (A) - (F) of this paragraph. Providing incomplete documents, or not responding timely to subsequent Department requests for materials

needed to facilitate closing, may significantly inhibit the Department's ability to meet closing timelines.

(A) Documentation of the prior closing or concurrent closing with all sources of funds necessary for the long-term financial feasibility of the Development.

(B) Due diligence items determined by the Department to be prudent and necessary to meet the Department's rules and to secure the interests of the Department, as requested by Staff.

(C) When Department funds have a first lien position during the construction period, assurance of completion of the Development in the form of payment and performance bonds in the full amount of the construction contract or equivalent guarantee in the sole determination of the Department is required. Development Owners utilizing the USDA §515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA.

(D) Documentation required for preparation of closing loan documents includes, but is not limited to:

(i) Substantially final information necessary for REA staff to reevaluate the transaction prior to loan closing, including but not limited to a substantially final development cost schedule, sources and uses, operating pro forma, annual operating expenses, rent schedule, updated written financial commitments or term sheets, and any additional financing exhibits that have changed since the time of Application.

(ii) Draft Owner/General Contractor agreement and draft Owner/Architect agreement prior to closing with final executed copies required by the day of closing;

(iii) Survey of the Property that includes a certification to the Department, Development Owner, Title Company, and other lenders;

(iv) Plans and specifications for review by the Department's inspection staff. Inspection staff will issue a plan review letter that is intended to assist in identifying early concerns associated with the Department's final construction requirements; and

(v) If layered with Housing Tax Credits, a fully executed limited partnership agreement between the General Partner and the tax credit investor entity (may be provided concurrent with closing).

(E) If required by the fund source, prior to Contract Execution unless an earlier period is described in Chapters 10, 11, or 12 of this title, the Development Owner must provide verification of:

(i) Environmental clearance from the Department or HUD, as applicable;

(ii) Site and Neighborhood clearance from the Department;

(iii) Documentation necessary to show compliance with the Uniform Relocation Assistance and Property Act and any other relocation requirements that may apply; and

(iv) Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.

(F) The Direct Loan Contract as executed, which will be drafted by the Department's counsel or its designee for the Department. No changes proposed by the Developer or Developer's counsel will be accepted unless approved by the Department's Legal Division or its designee.

(12) Loan Documents. The Development Owner is required to execute all loan closing documents required by and in the form and substance acceptable to the Department's Legal Division.

(A) Loan closing documents include but are not limited to a promissory note, deed of trust, construction loan agreement (if the proceeds of the loan are to be used for construction), LURA, Architect and/or licensed engineer certification of understanding to complete environmental mitigation if such mitigation is identified in HUD's environmental clearance or the Real Estate Analysis Division (REA) Underwriting Report and assignment and security instruments whereby the Developer, the Development Owner, and/or any Affiliates (if applicable) grants the Department their respective right, title, and interest in and to other collateral, including without limitation the Owner/Architect agreement and the Owner/General Contractor agreement, to secure the payment and performance of the Development Owner's obligations under the loan documents.

(B) Loan terms and conditions may vary based on the type of Development, Real Estate Analysis Underwriting Report, and the Set-Aside under which the award was made.

(13) Disbursement of Funds. The Borrower must comply with the requirements in subparagraphs (A) - (K) of this paragraph in order to receive a disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Borrower's compliance with these requirements is required with a request for disbursement:

(A) All requests for disbursement must be submitted through the Department's Housing Contract System, using the MFDL draw workbook or such other format as the Department may require;

(B) Documentation of the total construction costs incurred and costs incurred since the last disbursement of funds must be submitted. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702/ G703 or HUD equivalent form;

(C) Disbursement requests must include a down-date endorsement to the Direct Loan (mortgagee) title policy or Nothing Further Certificate that includes a title search through the date of the Architect's signature on AIA form G702 or HUD equivalent form. For release of retainage the down-date endorsement to the Direct Loan title policy or Nothing Further Certificate must be dated at least 30 calendar days after the date of the completion as certified on the Certificate of Substantial Completion (AIA Form G704) with \$0 as the work remaining to be completed. If AIA Form G704 or HUD equivalent form indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed. Disbursement requests for acquisition and closing costs are exempt from this requirement;

(D) At least 50% of Direct Loan funds will be withheld from the initial disbursement of loan funds to allow for periodic disbursements;

(E) The initial draw request for the Development must be entered into the Department's Housing Contract System no later than 15 calendar days prior to the one year anniversary of the effective date of the Direct Loan Contract;

(F) Up to 75% of Direct Loan funds may be drawn before providing evidence of Match. Thereafter, the Borrower must provide evidence of Match being credited to the Development prior to release of the final 25% of funds;

(G) Developer Fee disbursement shall be limited by subparagraph (H) of this paragraph and is further conditioned upon clauses (i) - (iii), as applicable:

(i) For Developments in which the loan is secured by a first lien deed of trust against the Property, 75% shall be disbursed in accordance with percent of construction completed. 75% of the total allowable fee will be multiplied by the percent completion, as documented by the construction contract and as may be verified by an inspection by the Department. The remaining 25% shall be disbursed at the time of release of retainage; or

(ii) For Developments in which the loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits, Developer Fees will not be reimbursed by the Department, except as follows. If all other lenders and syndicator in a Housing Tax Credit Development (if applicable) provide written confirmation that they do not have an existing or planned agreement to govern the disbursement of Developer Fees and expect that Department funds shall be used to fund Developer Fees, they shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(iii) The Department may reasonably withhold any disbursement in accordance with the Loan Documents and if it is determined that the Development is not progressing as reasonably necessary to meet the benchmarks for the timely completion of construction of the Development as set forth in the loan documents, or that cost overruns have put the Development Owner's ability to repay its Direct Loan or complete the construction at risk in accordance with the terms of the loan documents and within budget. If disbursement has been withheld under this subsection, the Development Owner must provide evidence to the satisfaction of the Department that the Development will be timely completed and occupied in order to continue receiving funds. If disbursement is withheld for any reason, disbursement of any remaining Developer Fee will be made only after construction of the Development has been completed, and all requirements for expenditure and occupancy have been met; and

(H) Expenditures must be allowable and reasonable in accordance with federal and state rules and regulations. The Department shall review each expenditure requested for reasonableness. The Department may request the Development Owner make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of Department funds to Development Owner as may be necessary or advisable for compliance with all program requirements;

(I) Table Funding may be permitted at the time of closing, for disbursement of funds related to eligible acquisition costs and eligible softs costs incurred, and in an amount not to exceed 50% of the total funds. Table Funding must be requested in writing and will not be considered unless the Direct Loan Contract has been executed, and all necessary documentation has been submitted to and accepted by the Department at least 10 calendar days prior to the anticipated closing date;

(J) Following 50% construction completion, any funds will be released in accordance with the percentage of construction completion as documented on AIA Form G702/703 or

HUD equivalent form. 10% of requested Hard Costs will be retained and will not be released until the final draw request. If the Development is receiving funds from more than one MFDL source, the retainage requirement will apply to each fund source individually. All of the items described in clauses (i) - (xii) of this subparagraph are required in order to approve the final draw request:

- (i) Fully executed Certificate of Substantial Completion (AIA Form G704) with \$0 as the cost estimate of work that is incomplete. If AIA Form G704 indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed;
 - (ii) A down date endorsement to the Direct Loan title policy or Nothing Further Certificate dated at least 30 calendar days after the date of completion as certified on the Certificate of Substantial Completion (AIA Form G704);
 - (iii) For Developments not layered with Housing Tax Credits, a Closed Final Development Inspection Letter from the Department;
 - (iv) For Developments subject to the Davis-Bacon Act, evidence from the Department's Senior Labor Standards Specialist that the final wage compliance report was received and approved or confirmation that HUD maintains Davis-Bacon oversight as a result of a HUD-insured first lien loan;
 - (v) Certificate(s) of Occupancy (if New Construction);
 - (vi) Development completion reports, which includes, but is not limited to, documentation of full compliance with the Uniform Relocation Act/104(d), Match Documentation requirements, and Section 3 of the Housing and Urban Development Act of 1968, as applicable to the Development, and any other applicable requirement; and
 - (vii) If applicable to the Development, certification from Architect or a licensed engineer that all HUD environmental mitigation conditions have been met; and
- (K) The final draw request must be submitted within 24 months from loan closing unless Development Period has been extended in accordance with 10 TAC §13.12 or 10 TAC §13.13 of this chapter, as applicable.

(14) Annual Audits and Cost Certifications under 24 CFR §93.406(b).

(A) Annual Audits under 24 CFR §93.406(b). Unless otherwise directed by the Department, the Development Owner shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under the Direct Loan Contract, subject to the conditions and limitations set forth in the executed Direct Loan Contract. All approved audit reports will be made available for public inspection within 30 days after completion of the audit.

(B) Cost Certifications under 24 CFR §93.406(b).

(i) Non-HTC-Layered Developments. Within 180 calendar days of the later of all title transfer requirements and construction work having been performed, as reflected by the Development's Certificate(s) of Occupancy (if New Construction) or Certificate of Substantial Completion (AIA Form G704 or HUD equivalent form), or when all modifications required as a result of the Department's Final Construction Inspection are cleared as evidenced by receipt of the Closed Final Development Inspection Letter, the Development Owner will submit to the Department a cost certification done by

an independent licensed certified public accountant of all Development costs (including project NHTF eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

(ii) HTC-Layered Developments. With the Cost Certification required by the Low Income Housing Tax Credit Program, the Development Owner must submit to the Department a cost certification completed by an independent licensed certified public accountant of all Development costs (including NHTF project eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

§13.12. Pre-Closing Amendments to Direct Loan Terms.

(a) Executive Approval Required Pre-Closing. The Executive Director or authorized designee may approve amendments to loan terms prior to closing as described in paragraphs (1) - (6) of this subsection.

(1) Extensions of up to six months to the loan closing date required in 10 TAC §13.11(e) of this chapter (relating to Post-Award Requirements) may be approved prior to closing. An Applicant must submit sufficient evidence documenting good cause, including but not limited to, documented delays caused by circumstances outside the control of the applicant or constraints in arranging a multiple fund source closing. An extension will not be available if an Applicant has:

(A) Failed to timely begin or complete a process required to close; including, but not limited to:

- (i) The process of finalizing all equity and debt financing;
- (ii) The environmental clearance process;
- (iii) The due diligence processing requirements; or

(B) Made changes to the Development that require significant additional underwriting by the Department without at least 45 days to complete the review.

(2) Changes to the loan maturity date to accommodate the requirements of other lenders or to maintain parity of term may be approved prior to closing.

(3) Extensions of up to 12 months to the Construction Completion date or date of receipt of a Closed Final Development Inspection Letter required in 10 TAC §13.11(g) of this chapter may be requested but generally are not approved prior to initial loan closing. Extensions under this paragraph are determined based on documentation that the extension is necessary to complete construction and that there is good cause for the extension.

(4) Changes to the loan amortization or interest rate that cause the annual repayment amount to decrease less than 20%, or any changes to the amortization or interest rate that increase the annual repayment amount up to 20%, may be approved prior to closing.

(5) Decreases in the Direct Loan amount, provided the decrease does not jeopardize the financial viability of the Development may be approved prior to closing, though the Development Owner may be subject to penalties as further described in 10 TAC §13.11 of this chapter (relating to Post-Award Requirements). Increases will not be approved unless the Applicant competes for the additional funding under an open NOFA.

(6) Changes to other loan terms or requirements that would not require a Waiver, as necessary to facilitate the loan closing without exposing the Department to undue financial risk.

(b) Board Approval Required Pre-Closing. Board approval is necessary for any other changes prior to closing.

§13.13. Post-Closing Amendments to Direct Loan Terms.

(a) Good Cause Extensions. The Executive Director or authorized designee may approve extensions of up to 12 months under 10 TAC §13.11(g) or (m)(11) of this chapter (relating to Post-Award Requirements) based on documentation that there is good cause for the extension.

(b) Amendments to MFDL Awards. Except in cases of Force Majeure, changes to terms of awards subject to mandatory HUD reporting requirements will only be processed after the Construction Completion is reported to the federal oversight entity as completed, and the last of the MFDL funds have been drawn.

(c) Executive Amendments. The Executive Director or authorized designee may approve amendments to loan terms post-closing as described in paragraphs (1) - (3) of this subsection. Board approval is necessary for any other changes post-closing.

(1) Changes in Terms. Changes to the amortization or maturity date to accommodate the requirements of other lenders or maintain parity of term may be approved post-closing, provided the changes result in the Direct Loan continuing to meet the requirements of 10 TAC §13.8(c)(1) and (3) of this chapter (relating to Loan Structure and Underwriting Requirements), and NOFA requirements.

(2) Post-Closing Subordinations or Re-subordinations of MFDL Liens. Re-subordination of the Direct Loan in conjunction with refinancing may be approved post-closing, provided the conditions in subparagraphs (A) - (E) of this paragraph are met:

(A) The Borrower is current with loan payments to the Department, and no notice has been given of any Event of Default on any MFDL loan. Histories of late or non-payment on any other MFDL loan may result in denial of the request;

(B) The refinance does not propose payment to any of the Development Owner or Developer parties (including the Limited Partners);

(C) A proposal for partial repayment of the MFDL lien is made with the request; and

(D) The new superior lien is in an amount that is equal to or less than the original senior lien and does not negatively affect the financial feasibility of the Development.

(i) For purposes of this section, a negative effect on the financial feasibility of the Development shall mean a reduction in the total Debt Coverage Ratio (DCR) of more than 0.05, or if the DCR no longer meets the requirements of 10 TAC §11.302 of this title; and

(ii) Changes to accommodate refinancing with a new superior lien that is in an amount that exceeds the original senior lien and which will be directly applied to property improvements, as evidenced by the loan or security agreements (exclusive of fees associated with the refinance and any required reserves), will be considered on a case by case basis.

(E) The subordination or re-subordination request does not include a request to subordinate or resubordinate any MFDL LURA, with the exception of partial subordination or re-subordination of receivership rights (subject to the proposed receiver entity or Affiliate not having been Debarred by the Department or on the Federal Suspended or Debarred Listing).

(3) Workout Arrangements. Changes required to the Department's loan terms or amounts that are part of an approved Asset Management Division work out arrangement may be approved after Construction Completion.

(d) Contract Assignments and Assumptions of MFDL Liens. The Executive Director or authorized designee may approve the Contract Assignment and Assumption of MFDL Liens following approval of an Ownership Transfer request if the conditions in paragraphs (1) – (3) of this subsection are met:

(1) The assignment or assumption is not prohibited by the Contract, Loan Documents, or regulations;

(2) The assignment or assumption request is based on either subparagraph (A) or (B) of this paragraph:

(A) There are insufficient funds available in the transaction to fully repay the Direct Loan at the time of acquisition, for which Deferred Developer Fee, Development Owner or Affiliate Contributions, or other similar liabilities will not be considered in determining whether the Direct Loan could be repaid at the time of acquisition; or

(B) The new superior lien will be directly applied to property improvements as evidenced by the loan or security agreements, exclusive of fees association with the new financing and any required reserves; and

(3) The corresponding Ownership Transfer has been approved in accordance with all requirements in 10 TAC §10.406 of this title (relating to Ownership Transfers), and no prospective Owner (including entity, person, Board Member, as those terms are defined in 2 CFR Part 180, including Limited Partners) have been subject to state Debarment or are on the Federal Suspended or Debarred Listing.

8b

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; an order adopting new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published in the Texas Register

RECOMMENDED ACTION

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

WHEREAS, 10 TAC §1.7 provides the Department's rule regarding the processing of appeals, and staff has identified a need to update a citation; to clarify the admissibility of documentation not originally part of the application; and to clarify the timing of when an opportunity to appeal is triggered; and

WHEREAS, the proposed rule actions were published in the Texas Register for public comment from September 20, 2019, through October 21, 2019, and response to that comment has been provided in the attached preamble to the rule adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the actions herein in the form presented to this meeting, to be published in the Texas Register for adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including any requested revisions to the preambles.

BACKGROUND

The Department process for Appeals is addressed in 10 TAC §1.7 and was last updated in September 2018. Staff since identified a citation that needed to be updated to align with the changes made to the multifamily rules and Qualified Allocation Plan. The cite change ensures that the reference to the QAP section relating to appeals is correct. Additionally, the rule warranted revision to clarify the admissibility of documentation not originally part of the application and to clarify the timing of when an opportunity to appeal is triggered. This rule was made available for public comment and three comments were received. The comment and Department response to that comment is summarized in the preamble attached.

Staff is recommending adoption of the rule as originally proposed with no changes.

Attachment 1: Preamble including required analysis, for adoption of repeal of 10 TAC §1.7, Appeals Process.

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC §1.7, Appeals Process. The purpose of the repeal is to eliminate an outdated rule that warrants revision while adopting new updated rules under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making a change to an existing activity, the procedures for the handling of Department appeals.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal existing regulations, but is associated with a simultaneous re-adoption making changes to an existing activity, the procedures for the handling of Department appeals.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

1. The Department has evaluated the rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The rule relates to the Department's procedures for the handling of Department appeals. Other than a Subrecipient of the Department that may find itself desiring to pursue an appeal to the Department, no small or micro-businesses are subject to the rules. However, if a Subrecipient considers itself a small or micro-business, the rule changes provide greater clarity regarding the appeals process.

3. The Department has determined that because the rules apply primarily to Applicants and existing Subrecipients, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there would be no economic effect on local employment because the rules relate only to processes that have already been in effect for existing Applicants and Subrecipients; therefore, no local employment impact statement is required to be prepared for the rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rules pertain to all parties that wish to file an appeal throughout the state, regardless of location, there are no "probable" effects of the revised rules on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed chapter would be an updated, more streamlined, and clearer version of the rule governing the appeals process. There will not be economic costs to individuals required to comply with the repealed chapter.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. PUBLIC COMMENT. The public comment period was held September 20, 2019, to October 21, 2019, to receive input on the repealed chapter. No comments on the repeal were received.

STATUTORY AUTHORITY. The repeal is adopted pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the repeal affects no other code, article, or statute.

§1.7, Appeals Process.

Attachment 2: Preamble for adopting new 10 TAC §1.7, Appeals Process

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC §1.7, Appeals Process. The purpose of the new rule is to update the rule to update a legal citation to have the language mirror the language in 10 TAC §11.902; to clarify the admissibility of documentation not originally part of the application; and to clarify the timing of when an opportunity to appeal is triggered.

Tex. Gov't Code §2001.0045(b) does apply to the new rule, as no exceptions are applicable, however, there are no costs associated with this action that would have warranted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the rule will be in effect:

1. The rule does not create or eliminate a government program, but relates to the repeal and simultaneous readoption making changes to an existing activity, the process for the submission of appeals to the Department.
2. The rule does not reduce work load such that any existing employee positions can be eliminated nor does it increase work load such that any new employee positions are required.
3. The rule does not require additional future legislative appropriations.
4. The rule does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not expand, limit, or repeal an existing regulation.
7. The rule will neither increase nor decrease the number of individuals subject to the rule.
8. The rule will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code Chapter 2306, Subchapter E.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable. There are no small or micro-businesses subject to the rule amendment for which the economic impact of the rule is projected to impact. There are no rural communities subject to the amendment for which the economic impact of the rule is projected to impact.

2. The rule relates to the Department's procedures for the handling of Department appeals. Other than a Subrecipient of the Department that may find itself desiring to pursue an appeal to the Department, no small or micro-businesses are subject to the rules. However, if a Subrecipient

considers itself a small or micro-business, the rule changes provide greater clarity regarding the appeals process.

3. The Department has determined that because the rule applies primarily to Applicants and existing Subrecipients, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that this rule relates to an appeals process that is applied statewide, the rule does not change issues affecting employment, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the new section will be a more accurate and clear rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the rule is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. PUBLIC COMMENT The public comment period was held September 20, 2019, to October 21, 2019, to receive input on the proposed rule. Public comment was received from: (1) Texas Association of Community Action Agencies, (2) Texas Apartment Association, and (3) Texas Association of Builders.

§1.7 (a) – Technical Clarification: To clarify the scope of this appeal rule versus the scope of §11.902 (adopted by the Board on November 7, 2019) minor edits were made to this subsection.

§1.7 (e)(1) – Timing for Filing of an Appeal to the Executive Director

Commenter Summary: Commenter (1) believes that providing only seven calendar days for the filing of an appeal is insufficient time to produce an appeal and support documentation. Because these are calendar days, seven calendar days could be reduced to only four calendar days when there is a holiday tied to a weekend. Because the Department is afforded 14 days to respond to an appeal, the commenter believes the appellant should also have 14 days. Commenter (2) generally approves of the changes to this section and also specifically is supportive of the revision to §1.7(e)(3)(C), allowing the ability to skip appellate review by the Executive Director.

Department Response: Staff appreciates the positive comments from Commenter (2). While in the case of some programs, appeals are not necessarily correlated to time sensitive deadlines, that is more often the case, and the rule was written to provide for timely submission in consideration of tight or looming deadlines. The deadline for appeal in this rule is patterned after the appeal rule for competitive Housing Tax Credits, which takes its seven day appeal deadline from statute. Having the same timing and deadlines in both rules is intended to decrease potential confusion about appeal timing. However, since appeals under this rule are not governed by a statutory deadline, the rule may be subject to waiver under the circumstances and standards outlined in §11.207, and the discretion outlined in subsection (g), as applicable. Therefore, no changes are recommended as a result of these comments.

§1.7(f)(1) – Timing for Filing of an Appeal to the Board

Commenter Summary: Commenter (1) believes that providing only seven calendar days for the filing of an appeal is insufficient time to produce an appeal and support documentation. Because these are calendar days, seven calendar days could be reduced to only four calendar days when there is a holiday tied to a weekend. Because the Department is afforded 14 days to respond to an appeal, the commenter believes the appellant should also have 14 days.

Department Response: See response for §1.7(e)(1) above.

§1.7 (g) – Board Decision

Commenter Summary: Commenters (2) and (3) do not support the revision made to this section which removes language that had provided for the Board’s ability to revisit a final decision of the Board for good cause within 45 days of the Board decision. The commenters believe that there may be times when the Board makes a decision that it will subsequently discover was incorrectly rendered due to an error in fact or in law. The commenters strongly urge the Department to keep the existing version of this section and not proceed with the proposed revision.

Department Response: Staff appreciates the submission of comment. The appeal process currently has three levels (staff, Executive Director, and the Board) with the opportunity to present evidence and argument at each level. The concern with the previous language is that it created the appearance of a fourth level appeal, and a potential 45 day waiting period following any decision by the Board under this rule for a party to claim that there was a mistake of law or fact. It is unclear if this part of subsection (g) has ever been utilized, however it is being eliminated in the interest of balancing appropriate process with accurate and final decision making. Therefore, no changes are recommended as a result of these comments.

h. STATUTORY AUTHORITY. The rule is adopted pursuant to TEX. GOV’T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute.

Note that the rule provided below reflects what is being proposed for adoption marked as edits to the current version of the rule.

§1.7. Appeals Process.

(a) Purpose. The purpose of this rule is to provide the procedural steps by which an appeal can be filed relating to Department decisions as authorized by Tex. Gov't Code §2306.0321 and §2306.0504 which together require an appeals process be adopted by rule for the handling of appeals relating to Department decisions and debarment. Appeals relating to competitive low income housing tax credits, or when multifamily mortgage revenue bonds or multifamily loans are contemporaneously layered with competitive low income housing tax credits, and their the associated underwriting, are governed by a separate appeals process provided at ~~§11140.902~~ of this Title (relating to Appeals Process (§2306.0321; §2306.6715)).

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. If not defined below, Capitalized terms used in this section have the meaning in the rules that govern the applicable program under which the appeal is being filed.

(1) Affiliated Party--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, has Control of, is Controlled by, or is under common Control with any other Person. All entities that share a Principal are Affiliates.

(2) Appeal--An Appealing Party's notice to challenge a decision or decisions made by staff and/or the Executive Director regarding an Application, Commitment, Contract, Loan Agreement, Debarment, or LURA as governed by this section.

(3) Appeal file--The written record of an Appeal that contains the applicant's Appeal; the correspondence, if any, between Department staff or the Executive Director and the Appealing Party; and the final Appeal decision response provided to the Appealing Party.

(4) Appealing Party--The Administrator, Affiliated Party, Applicant, Person, or Responsible Party Subchapter D, §2.401 of this Title (relating to Debarment from Programs Administered by the Department) who files, intends to file, or has filed on their behalf, an Appeal before the Department.

(c) Persons Eligible to Appeal. An Appeal may be filed by any Administrator, Applicant, Person, or Responsible Party as provided for in Subchapter D, §2.401 of this Title, or Affiliated Party of the Administrator, Applicant, Person or Responsible Party who has filed an Application for funds or reservation with the Department, or has received funds or a reservation from the Department to administer.

(d) Grounds to Appeal Staff Decision. Appeals may be filed using this process on the following grounds:

(1) Relating to applying for funds or (requesting to be approved for reservation authority an Appealing Party may appeal if there is:

(A) ~~d~~Disagreement with the determination of staff regarding the sufficiency or appropriateness of documents submitted to satisfy evidence of a given threshold or scoring criteria, including the calculation of any scoring based items;

(B) ~~d~~Disagreement with the termination of an application;

(C) ~~d~~Disagreement with the denial of an award or reservation request;

(D) ~~d~~Disagreement with the amount of the award recommended by the Department, unless that amount is the amount requested by the Applicant;

(E) ~~e~~Concern that the documents submitted were not processed by Department staff in accordance with the Application and program rules in effect; and/or

(F) ~~a~~A determination by the Board or the Executive Director that there is good cause for an Appeal because there are implicated interests to be protected by due process.

(2) Relating to issues that arise after the award or reservation determination by the Board, an Appealing Party may appeal if there is:

(A) ~~d~~Disagreement with a denial by the Department of a Contract, Commitment, Loan Agreement, or LURA amendment that was requested in writing; or

(B) ~~a~~A determination by the Board or the Executive Director that there is good cause for an Appeal because there are implicated interests to be protected by due process.

(3) Relating to debarment a Responsible Party may appeal a determination of debarment, as further provided for in §2.401(k) of this Title.

(4) Affiliated Party Appeals. An Affiliated Party has the ability to appeal only those decisions that directly impact the Affiliated Party, not the underlying agreements. An Affiliated Party may appeal a finding of failure to adequately perform under an Administrator's Contract, resulting in a "Debarment" or a similar action.

(e) Process for Filing an Appeal of Staff Decision to the Executive Director.

(1) An Appealing Party must file a written Appeal of a staff decision with the Executive Director not later than the seventh calendar day after notice has been provided to the Appealing Party. For purposes of this section, the date of notice will be considered the date of an Application-specific written communication from the Department to the Applicant; in cases in which no Application-specific written communication is provided, the date of notice will be the date that ~~posting of materials or logs are published~~ on the Department's website ~~is considered "notice" when such logs are identified as such in the application process, including but not limited to a Request for Proposals or Notice of Funding Opportunity, or in the rules for the applicable program~~ as a public notification mechanism.

(2) The written appeal must include specific information relating to the disposition of the Application or written request for change to the Contract, Commitment, Loan Agreement, and/or LURA. The Appealing Party must specifically identify the grounds for the Appeal based on the disposition of underlying documents.

(3) Upon receipt of an Appeal, Department staff shall prepare an Appeal file for the Executive Director. The Executive Director shall respond in writing to the Appealing Party not later than the fourteenth calendar day after the date of receipt of the Appeal. The Executive Director may take one of the following actions:-

(A) Concur with the Appeal and make the appropriate adjustments to the staff's decision; ~~or~~

(B) Disagree with the Appeal, in concurrence with staff's original determination, and provide the basis for rejecting the Appeal to the Appealing Party; or

(C) In the case of appeals in exigent circumstances (such as conflict with a statutory deadline) or with the consent of the appellant, for appeals received five calendar days or less of the next scheduled Board meeting, the Executive Director may decline to make a decision and have the appeal deferred to the Board per the process outlined in (f)(2), below, for final action.-

(f) Process for Filing an Appeal of the Executive Director's Decision to the Board.

(1) If the Appealing Party is not satisfied with the Executive Director's response to the Appeal provided in subsection (e)(3) of this section, they may appeal in writing directly to the Board within seven calendar days after the date of the Executive Director's response.

(2) In order to be placed on the agenda of the next scheduled meeting of the Department's Board, the Appeal must be received by the Department at least fourteen days prior to the next scheduled Board meeting. Appeals requested under this section received after the fourteenth

calendar day prior to the Board meeting will generally be scheduled at the next subsequent Board meeting. However, the Department reserves the right to place the Appeal on a Board meeting agenda if an Appeal that is timely filed under paragraph (1) of this subsection is received fewer than fourteen calendar days prior to the next scheduled Board meeting. The Executive Director shall prepare Appeal materials for the Board's review based on the information provided.

(3) If the Appealing Party receives additional information after the Executive Director has denied the Appeal, but prior to the posting of the Appeal for Board consideration, the new information must be provided to the Executive Director for further consideration or the Board will not consider any information submitted by the Applicant after the written Appeal. New information will cause the deadlines in this subsection to begin again. The Board will review the Appeal de novo and may consider any information properly considered by the Department in making its prior decision(s).

(4) Public Comment on an Appeal Presented to the Board. The Board will hear public comment on the Appeal under its Public Comment Procedures in §1.10 of this ~~Subchapter~~ subchapter (relating to Public Comment Procedures). While public comment will be heard, persons making public comment are not parties to the Appeal and no rights accrue to them under this section or any other Appeal process. Nothing in this section provides a right to Appeal any decision made on an Application, Commitment, Contract, Loan Commitment, or LURA if the Appealing Party does not have grounds to appeal as described in subsection (d) of this section.

(5) In the case of possible actions by the Board regarding Appeals, the Board may:

(A) Concur with the Appealing Party and grant the Appeal; or

(B) Disagree with the Appealing Party, in concurrence with the Executive Director's original determination, and provide the basis for rejecting the Appeal.

(C) In instances in which the Appeal, if granted by the Board would have resulted in an award to the Applicant, the Application shall be evaluated for an award as it relates to the availability of funds and staff will recommend an action to the Board in the meeting at which the Appeal is heard, or a subsequent meeting. If no funds are available in the current year's funding cycle, then the Appealing Party may be awarded funds from a pool of deobligated funds or other source, if available.

(D) In the case of actions regarding all other Appeals, the Board shall direct staff on what specific remedy is to be provided, allowable under current laws and rules.

(g) Board Decision. Appeals not submitted in accordance with this section will not be considered, unless the Executive Director or Board, in the exercise of its discretion, determines there is good cause to consider the appeal. The decision of the Board is final. ~~unless the Board determines within 45 days of a Board decision that it has erred in fact or law in its determination, in which case an Appeal may be reconsidered by the Board on a motion by a party to the Appeal or the Department.~~

(h) Limited Scope. The appeals process provided in this rule is of general application. Any statutory or specific rule with a different appeal process, including the limitations expressed in subsection (a), above, will be governed by the more specific statute or rule. Except as provided for in §2.401 of this ~~¶~~ §title, this ~~§~~ §section does not apply to matters involving a Contested Case Proceeding under §1.13 of this subchapter (relating to Contested Case Hearing Procedure).

8c

BOARD ACTION REQUEST

FAIR HOUSING, DATA MANAGEMENT AND REPORTING

DECEMBER 12, 2019

Presentation, discussion, and possible action on an order proposing new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication for public comment in the Texas Register

RECOMMENDED ACTION

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

WHEREAS, oversight of the affirmative marketing requirements and the written policies and procedures (sometimes called tenant selection criteria), and the associated review process, are being moved organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit, and as a result the two sections of the Compliance rule that govern those processes (10 TAC §10.610 and 10 TAC §10.617) are proposed to be repealed under separate action;

WHEREAS, those sections are being simultaneously proposed within a new subchapter within 10 TAC Chapter 10 and reflecting some revisions; and

WHEREAS, upon Board approval, the proposed rule actions will be published in the Texas Register for public comment from December 27, 2019, to January 27, 2020, and subsequently presented to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed action herein in the form presented to this meeting, to be published in the Texas Register for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including any requested revisions to the preamble.

BACKGROUND

Recently oversight of the affirmative marketing requirements on the Department's multifamily portfolio and the written policies and procedures (often called tenant selection criteria) on that portfolio, and the associated review process, have been reassigned organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit. As a result these two issues, currently addressed in the Compliance rule, are proposed to be repealed and moved into a new section of the rules at Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures. With that change in rule location, minimal edits are also being made. In particular, the

Department is modifying its Occupancy Standards in response to concerns from Development Owners, as a result of tenant complaints, to respond to comments made at the November board meeting, and to be more in line with how the U.S. Department of Housing and Urban Development (HUD) is currently enforcing a December 1998 HUD Notice of Statement of Policy regarding Occupancy Standards as a Fair Housing enforcement consideration (also called the Keating memorandum, as it was authored by HUD's General Counsel at the time, Frank Keating). The Department is also highlighting particular requirements for Multifamily Direct Loan-funded Developments.

Once approved in draft form, this proposed new rule will be published in the Texas Register for public comment and will be returned to the Board for final adoption.

To facilitate public review, the proposed rules reflect changes as blackline revisions to the current rule located at 10 TAC §10.610 and 10 TAC §10.617. However, the rule action will be submitted to the Texas Register as a proposed new rule located at 10 TAC Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, §§10.800-10.803. Staff will, upon action by the Board, publish the proposed rule in the Texas Register for public comment from December 27, 2019, to January 27, 2020. Staff will return to the Board for final adoption of the rules.

Attachment A: Preamble for proposed new 10 TAC Subchapter G Affirmative Marketing Requirements and Written Policies and Procedures

The Texas Department of Housing and Community Affairs (the Department) proposes new Subchapter G Affirmative Marketing Requirements and Written Policies and Procedures. The purpose of the proposed new sections is to provide compliance with Tex. Gov't Code §2306.053 and to update the rules to move requirements on the Department's multifamily portfolio relating to Affirmative Marketing and Written Policies and Procedures out of Subchapter F, detailing Compliance Monitoring requirements, and into a new subchapter to consolidate Fair Housing related requirements on the Department's multifamily portfolio into one separate location within the Uniform Multifamily Rules.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no changes to the rule generate costs to the properties in the Department's multifamily portfolio, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed rule does not create or eliminate a government program. This rule provides for an assurance that Fair Housing requirements relating to Affirmative Marketing and Written Policies and Procedures for Multifamily Activities are clearly relayed to participating properties in the Department's portfolio.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed rule changes do not require additional future legislative appropriations.
4. The proposed rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed rule is not creating a new regulation, except that it is moving a rule from one existing Subchapter to a new Subchapter and making minor revisions. The existing Subchapter is being amended to delete sections relating to Affirmative Marketing and Written Policies and Procedures for Multifamily Activities and those sections are being proposed as a new rulemaking simultaneously to provide for revisions.
6. The proposed rule will not expand, limit, or repeal an existing regulation.
7. The proposed rule will not increase nor decrease the number of individuals subject to the rule's applicability; and
8. The proposed rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.053.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. To the extent that multifamily properties in the Department's portfolio are considered small or micro-businesses, the economic impact of the rule on them is projected to be \$0 as the revisions being proposed are minor and add no costs to the property's operations. There are no rural communities subject to the proposed rule as these properties are not owned directly by municipalities; therefore the economic impact of the rule on rural communities is projected to be \$0.

3. The Department has determined that [because the rules apply to existing multifamily developments, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule has no economic effect on local employment because the rules relate only to a process which has already been in effect for existing multifamily properties in the Department's portfolio; therefore, no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that this new rule only administratively consolidates an existing set of rules relating to Fair Housing requirements into one separate Subchapter of the Uniform Multifamily Rules, while making minimal revisions, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be a consolidation of Fair Housing related requirements into one separate Subchapter of the Uniform Multifamily Rules. There will not be any economic cost to any individuals required to comply with the new sections because the processes described by the rule have already been in place through the rule found at Subchapter F of this Chapter relating to Uniform Multifamily Rules.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because this rule has already been in effect elsewhere in rule.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held from December 27, 2019, to January 27, 2020, to receive input on the new proposed sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 77113-3941, or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 27, 2020.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

Chapter 10 Uniform Multifamily Rules

Subchapter G Affirmative Marketing Requirements and Written Policies and Procedures

§10.800 Definitions

The capitalized terms in this subchapter shall have the meaning as defined in this title in Chapter 1 relating to Administration, Chapter 2 relating to Enforcement, Chapter 11 relating to the Qualified Action Plan, Chapter 12 relating to the Multifamily Housing Revenue Bond Rules, Chapter 13 relating to the Multifamily Direct Loan Rule, or Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the HOME Final Rule, and other federal or Department rules, as applicable.

§10.617-801 Affirmative Marketing Requirements

(a) Applicability. ~~Effective April 1, 2015~~ Compliance with this section is required for all Developments with five or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166.

(b) General. ~~Owners of Developments~~A Development Owner with five or more total units~~Units~~ must affirmatively market ~~their units~~the Units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or Affirmative Marketing Plan) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as "least likely to apply." ~~In general, those populations that are least likely to apply may include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, and families with children.~~To determine the "least likely to apply" populations, a Development Owner is encouraged to use Worksheet 1 of HUD Form 935.2A, but at a minimum the Owner must document that they have compared the demographic composition of the Development to the market area to determine the populations least likely to apply. All Affirmative Marketing Plans must provide for affirmative marketing to persons with disabilities~~Persons with Disabilities~~. Some Developments may be required by their LURAs to market units specifically to veterans or other populations.

(c) Plan format. A Development Owner must prepare, have in its onsite records, and submit to the Department upon request, a written Affirmative Marketing Plan. Owners are encouraged to use any version of HUD Form 935.2A to meet Affirmative Marketing requirements. ~~Owners~~An Owner participating in a HUD funded program~~program~~ administered by the Department must

use the version ~~required~~utilized by the program.

(d) Marketing and Outreach.

(1) The plan must include special outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live. The outreach efforts identified in the Affirmative Marketing Plan must be performed by the Development at least once per calendar year.

(2) To the extent that advertisements ~~Advertisements~~ and/or marketing materials are utilized for the Development, those materials must contain:

(A) The Fair Housing logo; ~~and~~

(B) The contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. ~~The information about reasonable accommodations must be in both English and Spanish;~~ and

(C) Property contact information must be provided in both English and Spanish, and may be required to be provided in other languages in accordance with Limited English Proficiency Requirements.

(e) Timeframes.

(1) An Owner must begin its affirmative marketing efforts for each of the identified populations least likely to apply at least ~~six months~~90 calendar days prior to the anticipated date the first building is to be available for occupancy. ~~As a condition of an award to a new Development, the Board may require affirmative marketing efforts to begin more than six months prior to the anticipated date the first building is to be placed in service; and~~

(2) An Owner must update its Affirmative Marketing Plan and populations that are least likely to apply every five years from the effective date of the current plan or, for HUD funded or USDA properties, as otherwise required by HUD or USDA.

(f) Record-keeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.

(g) Exception to Affirmative Marketing. If the Development has closed its ~~waiting~~ list, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open ~~waiting~~ list, or is marketing prior to placement in service as required under subsection (e)(1) of this section.

§10.610-802 Written Policies and Procedures

(a) The purpose of this section is to outline the policies and/or procedures of the Department (also called tenant section criteria) that are required to have written documentation. If an ~~owner~~ Owner fails to have such written policies and procedures, or fails to follow their written policies and procedures it will be handled as an Event of Noncompliance as further provided for in subsection (k) of this subchapter. ~~be cited as noncompliance with this section.~~

(1) Owners must inform applicants/tenants in writing, at the time of application, or at the time of other action actions described in this section, that such policies/procedures as described in this section are available, and that the Owner will provide copies upon request to applicants/tenants or their representatives.

(2) The Owner must have all policies and related documentation required by this section and the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation" available in the leasing office and anywhere else where applications are taken; ~~Developments~~ Developments that accept electronic applications must maintain on post to their website these written policies and procedures tenant selection criteria and the same noted forms. ~~the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."~~

(3) All policies must have an effective date. Any changes made to the policies require a new effective date, and a notice regarding the availability of new policies must be communicated to tenants in writing.

(4) In general, policies addressing credit, criminal history, and occupancy standards cannot be applied retroactively. Tenants who already reside in the ~~development~~ Development or applicants on the wait-list at the time new or revised tenant selection criteria are applied, and who are otherwise in good standing under the lease or wait-list, must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria or be passed over on the wait-list. However, criteria related to program eligibility may be applied retroactively when a market development receives a new award of tax credits, federal, or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.

(b) Tenant Selection Criteria. A Development Owner ~~Owners~~ must maintain current and prior versions of the written Tenant Selection Criteria, for the longer of the records retention period that applies to the program, or for as long as tenants who were screened under the historical criteria are occupying the Development. ~~The criteria under which an applicant was screened must be included in the household's file.~~

(1) The criteria identified by a Development must be reasonably related to the an applicant's ability to perform under the lease (for a Development with MFDL funding this means to pay the rent, not to damage the housing, and not to interfere with the rights and quiet enjoyment of other tenants) -and include at a minimum:

(A) Requirements that determine an applicant's basic eligibility for the ~~property~~Development, including any preferences, restrictions, and any other tenancy requirements. Any restrictions on student occupancy and any exceptions to those restrictions, as documented in the tenant file as provided for in 10 TAC §10.612(b)(2) must be stated in the policies; The tenant selection criteria must specifically list:

(i) ~~The income and rent limits;~~

(ii) ~~When applicable, restrictions on student occupancy and any exceptions to those restrictions; and~~

(iii) ~~Fees and/or deposits required as part of the application process. Developments with HOME, NHTF, NSP, Section 811 and/or TCAP RF units cannot collect an application deposit for units designated under these programs. Owners of HTC, TCAP and Exchange Developments are discouraged from collecting an application deposit. If an application deposit is collected it must soon after be converted into a refundable security deposit. No fees or deposits may be collected to place a household or applicant on a waiting list.~~

(B) Applicant screening criteria, including what applicant attributes are screened and what scores or findings would result in ineligibility~~;~~

(C) ~~Occupancy Standards. If fewer than two persons (over the age of six) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided.~~

(~~D~~) The following statement: Screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and ~~the Department's~~ TDHCA's rules;

(~~E~~) Specific age requirements if the Development is operating as an Elderly Property either under the Housing for Older Persons Act of 1995 as amended (HOPA), or the age related eligibly criteria required by its use of federal funds.

(2) The criteria must not:

(A) Include preferences for admission~~;~~ ~~A property may not have a preference unless it is either in a recorded LURA which has been approved by the Department (preferences are required to be in a LURA when a Development has MFDL funding, except for the preference allowed by paragraph (3) of this subsection).~~ is required by a program in which the Owner is participating

which requires the preference, or is allowed by paragraph (3) of this subsection. Owners that include preferences in their leasing criteria due to other federal financing must provide to the Department either written approval from HUD, USDA, or VA for such preference, or identify the statute, written agreement, or federal guidance documentation that permits the adoption of this preference;

(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. If an Owner adopts a minimum income standard for households participating in a voucher program, it is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount or \$2,500 annually; or

(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(3) If the Development is funded with HOME, TCAP RF, NHTF, or NSP funds, in accordance with 24 CFR §93.356 and 24 CFR §92.359, the criteria may have a preference for persons who have experienced domestic violence, dating violence, sexual assault, or stalking.

(4) Occupancy Standard Policy.

(A) If the Development restricts the number of occupants in a Unit in a more restrictive manner than found in Section 92.010 of the Texas Property Code, the Occupancy Standard Policy must allow at least two persons per Bedroom plus one additional person per Unit. An Efficiency Unit that is greater than 600 square feet, must also have an Occupancy Standard Policy of at least three persons per Unit. In an SRO or in an Efficiency that is less than 600 square feet, the Occupancy Standard Policy must allow at least two persons per Unit. Supportive Housing or Transitional Housing Developments where all Units in the Development are SROs or Efficiencies, are not required by the Department to have an Occupancy Standard Policy, except as required for the 811 PRA Program or as reflected in the Development's LURA.

B) A Development may adopt a more restrictive standard than described in subparagraph (A) of this paragraph, if the Development is required to utilize a more restrictive standard by a local governmental entity, or a federal funding source. However, the Development must have this information available onsite for Department review.

(C) Except for an Elderly Development that meets the requirements of the Housing for Older Persons Act exception under the Fair Housing Act, the Occupancy Standard Policy must state that children that join the household after the start of a lease term will not cause a household to be in violation of the lease.

(c) Reasonable Accommodations Policy. Owners must maintain a written Reasonable

Accommodations policy. The policy must be maintained at the Development. Owners are responsible for ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.

(1) The policy must provide:

(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation; ~~and~~

(B) How transfers related to a reasonable accommodation will be addressed; and

~~(C)~~ A timeframe in which the Owner will respond to a request that is compliant with 10 TAC §1.204(b)(3) and (d) (relating to Reasonable Accommodations).

(2) The policy must not:

(A) Require a household to make a reasonable accommodation request in writing;

(B) Require a household whose need is readily apparent to provide third party documentation of a disability;

(C) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation;

(D) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or

(E) Require a household to rent a unit that has already been made accessible.

~~(d) Waitlist List~~ Policy. Owners must maintain a written wait-list policy, regardless of current Unit availability. The policy must be maintained at the Development.

(1) The policy must include procedures the Development uses in:

(A) Opening, closing, and selecting applicants from the wait-list, including but not limited to the requirements in 10 TAC §10.615(b);

(B) Determining how lawful preferences are applied; and

(C) Procedures for prioritizing applicants needing accessible Units in accordance with 24 CFR §8.27, and Chapter 1, Subchapter B of this title.

~~(2) Developments with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted units. The Development's wait list policy must inform applicants and~~

~~current residents of the availability of lower rent units and the process for renting a lower rent unit. Unless otherwise approved at application, underwriting and cost certification, all unit sizes must be available at the lower rent limits. The wait list policy for Developments with lower rent restricted units must address how the waiting list for their lower rent restricted units will be managed and must include policies regarding changes in income that address the options available in §10.615 of this subchapter. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.~~

~~(e) Developments that elect the income averaging test and all Developments with additional rent and occupancy restrictions must have written policies regarding changes in income that address the options available in §10.615 of this subchapter.~~

(e) Changes in Household Designation Policy. This is applicable if a Development has adopted a policy in accordance with 10 TAC §10.611(c).

(f) Denied Application Policies. Owners must maintain a written policy regarding the procedures they will follow when denying an applications and when notifying denied applicants of their rights.

(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.

(2) Within seven days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:

(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based;

(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the Development. An appeals procedure is required for HOME Developments that are owned by Community Housing Development Organizations, and Units at Developments that lease Units under the Department's Section 811_PRA program. The appeals process must provide a 14 day period for the applicant to contest the reason for the denial, and comply with other requirements of the HUD Handbook 4350.3 4-9; and

(C) The TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."

(3) The Development must keep and may periodically be requested to submit to the Department a log of all denied applicants that completed the application process to include:

(A) Basic household demographic and rental assistance information, if requested during any part of the application process; and

(B) The specific reason for which an applicant was denied, ~~the date the decision was made; and~~

~~(C) The date the denial notice was mailed or hand-delivered to the applicant.~~

~~(4) A file of all rejected applications must be maintained the length of time specified in the applicable program's recordkeeping requirements and include:~~

~~(A) A copy of the written notice of denial; and~~

~~(B) The Tenant Selection Criteria policy under which an applicant was screened.~~

(5) If an 811 applicant is being denied, within three calendar days of the denial the Department's 811 PRA Program point of contact must be notified and provided with a copy of the written notice that was provided to the applicant.

(g) Non-renewal and/or Termination Notices. ~~Owners-A Development Owner~~ must maintain a written policy regarding procedures for providing households non-renewal and termination notices.

(1) The owner must provide in any non-renewal or termination notice, a specific and lawful reason for the termination or non-renewal.

(2) The notification must:

(A) Be delivered as required under applicable program rules and the lease. For HOME, TCAP RF, NHTF, NSP, HTC, TCAP and Exchange Developments, see 10 TAC §10.613(a)-(b) of this chapter (relating to Lease Requirements). For Section 811 PRA, see 24 CFR §-247.4(a)-(f);

(B) Include the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted;

(C) State how a person with a disability may request a reasonable accommodation in relation to such notice; and

(D) Include information on the appeals process if one is used by the property Development (this is required under some LURAs, for HOME Developments that are owned by Community Housing

Development Organizations, and for 811 PRA units).

~~(h) Unit Transfer Policies. Owners must maintain a written policy regarding procedures for households to request a unit transfer. The policy must address the following:~~

~~(1) How security deposits will be handled for both the current unit and the new unit;~~

~~(2) How transfers related to a reasonable accommodation will be addressed; and~~

~~(3) For HTC Developments, how transfers will be handled with regard to the multiple building project election on IRS Form(s) 8609 line 8(b) and accompanying statements in accordance with §10.616 of this subchapter, concerning Household Unit Transfer Requirements for All Programs.~~

(ih) At the time of application Owners must provide each adult in the household the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted.

~~(j) HTC Developments that have elected average income test must describe in their leasing criteria how units will be leased and inform applicants of the set asides that the Development offers. Owners must disperse 20%, 30%, 40%, 50%, 60%, 70% and 80% units designations across all unit types in a manner that does not violate fair housing laws. HTC Developments that have elected the income averaging test must maintain separate waiting lists for each of the set asides offered by the Development. The waiting lists must be available to both existing households and prospective tenants. The Development cannot provide a preference for applicants over existing households. The Development is not required to place existing households that receive rental assistance on a waiting list for a lower rent unit. Owners are encouraged to designate households that receive rental assistance at the level indicated by the contract rent for the unit.~~

~~(k) Developments that participate in the Section 811 program must have a written EIV policy that includes security practices and complies with the HUD Handbook 4350.3, Chapter 9. Owners are discouraged from adopting policies that exceed the minimum requirements established by HUD.~~

(hi) Policies and procedures will be reviewed periodically by the Department's Fair Housing staff, during monitoring visits, through as a result of resident complaints, or through an owner initiated written policies and procedures review. Owners may request a review of the written policies and procedures for a portfolio of Developments by submitting a request to wppfair.housing@tdhca.state.tx.us. After review by the Department, an Owners may make non-substantive changes to their policies. ~~Significant changes to reviewed policies without Department approval may result in findings of noncompliance.~~

(m) Development Owners must allow applicants to submit applications via mail and at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via email, website form, or fax. The Development's tenant selection criteria must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria.

§10.803 Compliance and Events of Noncompliance

(a) The Department will provide written notice to the Owner if the Department discovers through monitoring, review, resident complaint, or any other manner that the Development is not in compliance with the provisions of this subchapter. A 90 day Corrective Action Period will be provided. Documentation of correction must be received during the Corrective Action Period for an Event of Noncompliance to be considered corrected during the Corrective Action Period. The Department may extend the Corrective Action Period for up to six months from the date of the notice to the Development Owner only if there is good cause for granting an extension and the owner requests an extension during the original 90 day Corrective Action Period, and the request would not cause the Department or the Owner to miss a federal deadline. Requests for an extension may be submitted to: fair.housing@tdhca.state.tx.us.

(b) If an Owner submits evidence of corrective action during the Corrective Action Period that addresses each issue, but does not fully address all issues, the Department will give the Owner written notice and an additional 10 calendar day period to submit evidence of full corrective action.

(c) If communications to the Owner under this subchapter have a pattern of being returned to the Department as refused, unclaimed, or undeliverable, the Development may be considered not in compliance without further notice to the Owner. The Owner is responsible for providing the Department with current contact information, including address(es) (physical and electronic) and phone number(s). The Owner must also provide current contact information to the Department as required by §1.22 of this title (relating to Providing Contact Information to the Department), and ensure that such information is at all times current and correct.

(d) The Department will rely solely on the information supplied by the Owner in the Department's web-based Compliance Monitoring and Tracking System (CMTS) for notifications under this Subchapter. It is the Owner's sole responsibility to ensure at all times that such information is current, accurate, and complete. Correspondence sent to the email or physical address shown in CMTS will be deemed delivered to the Owner. Correspondence from the Department may be directly uploaded to the property's CMTS account using the secure electronic document attachment system. Once uploaded, notification of the attachment will be sent electronically to the email address listed in CMTS. The Department is not required to send a paper copy, and if it does so it does as a voluntary and non-precedential courtesy only.

(e) Events of Noncompliance identified in the evaluation of the requirements of this subchapter

| will be those specified in 10 TAC §10.625 of this chapter (relating to Events of Noncompliance).

8d

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 6, Community Affairs Programs; an order adopting new 10 TAC Chapter 6, Community Affairs Programs; and directing that they be published for adoption in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, 10 TAC Chapter 6 required revisions to improve clarity, to remedy discrepancies between rules, to reorganize subdivisions within the rules, to streamline the crisis assistance activity, and to correct identified areas of concern; and

WHEREAS, at the Board meeting of September 3, 2019, the Board approved the draft of these rules for public comment, comment has been received, and the Department has taken into consideration the comment and provided a reasoned response in the rules now being presented for adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adoption of the actions herein in the form presented to this meeting, to be published in the *Texas Register* for adoption, and in connection therewith, make such non-substantive technical corrections, including changes to the preambles, as they may deem necessary to effectuate the foregoing.

BACKGROUND

At the Board meeting of September 3, 2019, the Board approved proposed revisions to 10 TAC Chapter 6 which would improve clarity, remedy discrepancies between rules, reorganize subdivisions within the rules, and correct identified areas of concern. It is staff's goal that readers of the revised rules will find them easier to follow and understand.

The proposed rules were published for public comment in the *Texas Register* on September 20, 2019. Public comment was accepted from September 20, 2019, through October 21, 2019. In keeping with the requirements of the Administrative Procedures Act, staff has reviewed all comments received and has provided a reasoned response to those comments within the

preamble to the adoption of the rule that follows below. Comment was received from two organizations.

To the extent these new rules require the state to submit an amendment to its CSBG or LIHEAP plan, staff will submit the revisions to reflect this rulemaking without further public comment, and post the revisions on its website.

The full set of rules being repealed and adopted, including the *Texas Register* preambles, are provided in Attachments 1 and 2. Behind the adoption preamble, the rule is provided in blackline form reflecting the changes being recommended since the time of publication for public comment.

Summarized List of Substantive Rule Changes

- §6.2, Definitions
 - Modified the definitions of Categorical Eligibility, Concern, Deficiency, Expenditure, Finding, High Energy Burden, Household, Means Tested Veterans Program, Outreach, Persons with a Disability, Poverty Income Guidelines, and Qualified Alien.
 - Added definitions for Contract System, Contract Term, Discretionary Funds, Eligible Entity, Monthly Performance and Expenditure Report, and Service Area.
 - Removed the definitions for Subgrant and Subgrantee

- §6.3, Subrecipient Contract
 - In subsection (b), extended the timeframe for which Contract actions must be ratified by the governing body.

- §6.4, Income Determination
 - Divided subsection (a) into four separate subsections for clarity and specified that income data is collected for all Household members 18 years of age and older rather than just the applicant.
 - Moved language concerning Gross Annual Income and provided further clarification as to which income is determined for eligibility and certain exceptions.
 - Added an excluded income category for the ABLE Act of 2014.
 - Added state exclusions to excluded income.

- §6.5, Documentation and Frequency of Determining Customer Eligibility
 - Changed the frequency with which client income must be verified and applications submitted from each Program Year to at least every twelve months.

- §6.6, Subrecipient Contract
 - In subsection (b), clarified the rule is for Eligible Entities only and indicated the rule pertains to both an Eligible Entity's Board of Directors and, in the case of a Public Organization, an advisory board of directors.
 - In subsection (e), clarified the rule is for activities funded by non-discretionary CSBG, LIHEAP, or DOE WAP.

- §6.7, Subrecipient Reporting Requirements
 - In subsection (b), clarified that it is the Subrecipient's responsibility to demonstrate compliant use of funds during the Contract Term.
 - Clarified steps to be taken by a Subrecipient if funds are owed to the Department at the end of a Contract Term.

- §6.8, Potential Applicant/Applicant/Customer Denials and Appeals Rights
 - Added a clause to clarify that this section does not apply to entities only receiving Discretionary CSBG funds.
 - In subsection (g), clarified that funds that could be pledged to a complainant's Household should remain unencumbered until a final decision is made.

- §6.10, Compliance Monitoring
 - In subsection (a), added additional program names to the list of programs with which the Department will try to coordinate monitoring visits.
 - In subsection (b)(3), added more examples of what the Department may monitor to substantiate compliance.
 - In subsection (c), added that for private and public organizations, monitoring reports and responses must be provided to the governing body of the Subrecipient within the next two regularly scheduled meetings.

- §6.201, Background and Definitions
 - Added a clause to clarify that any references in this subchapter to an Eligible Entity's board means both the governing board of the Private Nonprofit or the advisory board of the Public organization.
 - Removed unnecessary details from the Community Action Plan definition.
 - Removed definitions of Discretionary Funds and Eligible Entity from this section and inserted them into §6.2.
 - Referenced §§2.203 and 2.204 in the definition of a Quality Improvement Plan.
 - Added definitions for Results Oriented Management and Accountability and Strategic Plan.
 - Added language to specify that case management services are CSBG-supported when defining TOP.

- §6.206, CSBG Community Assessment, Community Action Plan, and Strategic Plan
 - In subsection (d), added that marketing and Outreach efforts must be demonstrated in one or more counties by an Eligible Entity with a Service Area of one or more counties (rather than in a single county).
 - In subsection (g), added that the Community Assessment and the CAP must also comply with federal guidance and the Subrecipient's Contract.
 - In subsection (i), clarified that a hearing must occur annually and must have been posted and reflect that year's funding amount.
 - In subsection (j), added Strategic Plan.

- §6.207, Subrecipient Requirements
 - In subsection (i), clarified that information in paragraphs (A) through (L) must be contained in the forms or systems used to document case management services for TOP Households.
 - In subsection (h), changed Program Year to at least every twelve months.

- §6.210, Board Structure
 - Moved the Board residency requirement from §6.213 and clarified the requirement.
 - In subsection (f), added a 120-day timeframe within which a petition for adequate representation must be heard at a board meeting.
 - Moved the language on an Improperly Constituted Board from 6.213.

- §6.211, Board Administrative Requirements

- Moved and revised language concerning personal or financial interest in the firm or person selected to perform a subcontract from subparagraph (4) to subsection (b) for clarity.
- In subparagraph (4), changed “organization” to “entity or person”.
- §6.212, Board Size
 - Specified in (b)(3) that it is an advisory board who may petition the Public Organization to remove an advisory board member.
- §6.213, Board Responsibility
 - In (b)(7), added that the Board must also receive monitoring correspondence transmitted by the Department.
 - Removed subsection (d) and (e) because they were moved to §6.210.
- §6.214, Board Meeting Requirements
 - Added that advisory board members must also receive training in Texas Open Government laws.
- §6.301, Background and Definitions
 - Added definitions for Customer Obligations, Crisis Assistance, Disaster, and Natural Disaster.
 - Modified definitions for Extreme Weather Conditions and Life Threatening Crisis.
 - Removed definition for Household Crisis.
- §6.302, Purpose and Goals
 - Because they are part of Assurance 16 in LIHEAP Statute §2605, which is no longer used by the Department, removed needs assessment and budget counseling (as it pertains to energy needs) from CEAP services.
- §6.303, Distribution of CEAP Funds
 - Removed subsection (c) and inserted it into §6.304 because it is more germane to that section.
- §6.304, Deobligation and Reobligation of CEAP Funds
 - In subsections (a) and (b), revised the Deobligation process for CEAP by 1) identifying Expenditures as “Direct Services” Expenditures and 2) lowering the benchmark of Expenditures and Obligations a Subrecipient must achieve and moving up the date to earlier in the year that each benchmark must be achieved to avoid Deobligation. The Deobligation “test” still has two phases: a test to obligate 30% of funds by the April 15 Monthly Performance and Expenditure Report, and a test to obligate 50% of funds by the June 15 Monthly Performance and Expenditure Report.
 - Opportunities to avoid Deobligation in both “tests” are also further detailed and clarified.
 - In subsection (c), moved language from §6.303 to this section concerning the method by which Deobligated funds will be Reobligated and also adding that if six months or less remain to expend the funds, another method approved by the

- Department's Board may be used to ensure full Expenditure.
- In subsection (d), limited the timeframe by which a Subrecipient, which has had funds Deobligated, can expend its reduced amount to January 31 of the following year as reported in the Monthly Performance and Expenditure Report due February 15th.
 - In subsection (e), specified and referenced the formula which is used to Reobligate funds.
 - Added subsection (g) to identify that the consequence of not expending at least 98% of a prior year's Contract by the Monthly Performance and Expenditure Report due April 15th of the subsequent year for two consecutive original Contract Terms is good cause for nonrenewal of a Contract.
- §6.305, Subrecipient Eligibility
 - In subsection (b), clarified that the rule is referencing a Finding.
 - In subsection (d), clarified that special consideration would be given to Subrecipients operating LIHEAP or DOE WAP when designating a new Subrecipient to administer CEAP and referenced the statute from where this language originates.
 - §6.307, Subrecipient Requirements for Customer Eligibility Criteria, and Establishing Priority for Eligible Households
 - Moved the CEAP specific Categorical Eligibility requirements from §6.2 to this section.
 - In subsection (g), added situations whereby Unqualified Aliens may receive CEAP benefits.
 - Added a rule which requires Subrecipients to provide utility assistance year round.
 - §6.309, Types of Assistance and Benefit Levels
 - In subsection (b), increased the total maximum possible annual Household benefit to \$8,200.
 - In subsection (e), increased the benefit determinations for each of the sliding scale Incomes as they relate to the Federal Poverty Guidelines.
 - In subsection (f), changed the rule to state that Non-Vulnerable Households can receive up to \$5,000 for service and repair of existing heating and cooling units only in cases of a crisis whereas Vulnerable Households can receive service and repair of existing heating and cooling units under the utility assistance component.
 - In subsection (g), increased the maximum amount of assistance for service and repair or purchase of portable air conditioning/evaporative coolers and heating units to \$5,000. Also, removed conditions placed on the receipt of service and repair or purchase of portable air conditioning/evaporative coolers and heating units and moved them to §6.310 under the Crisis Assistance Component.
 - Moved paragraphs (5) and (11) to subparagraph (h).
 - In (h)(1)(B) and (C), removed the limitation of covering the eight highest bills for Vulnerable Population Households and the six highest bills for Non-Vulnerable Population Households. Also changed the rule to distinguish that Vulnerable Households can receive two utility disconnection notice payments and Non-Vulnerable Households cannot receive any disconnection notice payments;

however, the first bill payment for each Household may cover two separate fuel sources. Also clarified that benefits for Vulnerable and Non-Vulnerable Population Households cannot exceed the maximum annual benefit for the Utility Assistance Component.

- In (h)(2), reference an exception in the case of the first bill payment written in (h)(1)(C).
- §6.310, Household Crisis Component
 - Renamed this section to Crisis Assistance Component
 - Recrafted this section entirely to ensure crisis payments for utility assistance operates as a true crisis program and to streamline requirements.
 - Established that Crisis Assistance funds can only be expended in Extreme Weather Conditions, Disaster, or Life Threatening Crisis situation.
 - In subsection (e), increased the maximum amount of Crisis Assistance for service and repair or purchase of heating or cooling, or heating and cooling units to \$5,000.
- §6.311, Utility Assistance Component
 - Added a rule that service and repair of existing heating and cooling units can be serviced or repaired for Vulnerable Households using the Utility Assistance Component and shall not exceed \$3,000.
 - In subsection (c), increased the maximum amount of assistance for Vulnerable Population Households to replace a component(s) of the heating or cooling system to \$5,000.
- §6.312 Payment to Subcontractors and Vendors
 - In subsection (c), clarified that the Subrecipient must let the Household know of the amount of assistance that will be paid on their behalf.
- §6.313, Outreach, Accessibility, and Coordination
 - Removed a rule already inherent in the LIHEAP Act which must be followed regardless of whether it is written in Chapter 6 rules and added a rule that any Reasonable Accommodation requests must be handled in accordance with §1.204.
- §6.402, Purpose and Goals
 - In subsection (c), inserted language clarifying that special consideration would be given to Subrecipients operating LIHEAP or DOE WAP when designating a new Subrecipient to administer WAP and referenced the statute from where this language originates.
- §6.403, Definitions
 - Added a definition for Priority List.
- §6.404, Distribution of WAP Funds
 - Changed (5)(C) from subparagraph of paragraph (5) to its own subsection as it is not part of the county weather factor and therefore redesignated the formula into paragraphs instead of clauses.
 - Removed subsection (c) and inserted into §6.405 because it is more germane to that

- section.
 - Removed subsection (e) and (f) from this section and placed into §6.405 because it is more germane to that section.
- §6.405, Deobligation and Reobligation of Awarded Funds
 - Added subsections (a) and (b) from §6.404. Added language at the end of subsection (a) stating LIHEAP-WAP funding recapture will be consistent with Tex. Gov't Code, Chapter 2105.
 - In newly designated subsection (d), revised language for readability and clarity.
 - Moved the subsection which addresses situations wherein the Subrecipient does not submit an appeal within seven days of the Corrective Action Notice from being just after the subsection describing an appeal to the Board to the subsection just before it.
 - In newly designated subsection (m), revised to clarify situations wherein the Subrecipient wishes to appeal the Executive Director's denial of an appeal.
 - In subsection (n), clarified the language to indicate that one or more criteria will prompt Deobligation.
 - Inserted subsection (p) from §6.404 because it is more germane to this subsection.
- §6.406, Subrecipient Requirements for Establishing Priority for Eligible Households and Customer Eligibility Criteria
 - Removed subsection (b) because Department rules already require Subrecipients to follow Department and federal rules as well as §6.414.
 - Moved the WAP specific Categorical Eligibility requirements from §6.2 to this section.
- §6.407, Program Requirements
 - In subsection (b), clarified language concerning the use of an Energy Audit.
- §6.408, Department of Energy Weatherization Requirements
 - In subsection (d), removed redundant language concerning Electric Base Load (EBL) measures and Savings to Investment Ratio (SIR) which is already described in §6.403.
 - For further clarification in subsection (d), added language concerning the calculation of EBL and SIR when metering refrigerators.
 - In subsection (e), removed superfluous language regarding vehicles.
 - Removed subsection (f) because this rule already exists in §6.407(b).
 - In newly designated (f)(2), clarified that a Subrecipient must receive approval from the Department prior to beginning Weatherization on a multifamily building containing 25 or more units.
- §6.409, LIHEAP Weatherization Requirements
 - In subsection (b), revised the language to align with changes to the Priority List which now include instructions on how to use the Priority List.
 - Removed a rule already inherent in the LIHEAP Act which must be followed regardless of whether it is written in Chapter 6 rules and added a rule that any

- Reasonable Accommodation requests must be handled in accordance with §1.204.
- Removed subsection (d) because this is already described in subsection (b) regarding Priority List above.
 - In paragraph (d)(2), updated the language to include actions listed in §1.411(f) to be taken by the Department if Subrecipient fails to correct a Deficiency or Finding.
 - Removed paragraph (d)(3) as a result of paragraph (d)(2) being updated.
 - Removed paragraph (d)(4) and placed in §6.402(c) because it applies to both LIHEAP and DOE WAP rather than just LIHEAP WAP.
- §6.414, Eligibility for Multifamily Dwelling Units and Shelters
 - Added Shelters to the title of this section.
 - Added subsection (a) to establish that Multifamily buildings and Shelters are exempt from Household Status verification requirements.
 - In subsections (d), clarified that income determination is not required for Shelter residents.
 - In subsection (f), revised for clarity and to rename the forms in paragraphs (1)-(6) to be consistent with the names of the forms on the Department's website.
 - Added subsection (g) for Shelter Weatherization. Because Weatherization of Shelters is a rare and complex activity, the Department would like to issue guidance only on a case-by-case scenario.
 - Updated subsection (h) to align with Weatherization Program Notice (WPN) 17-4.
 - §6.416, Whole House Assessment
 - Updated subsection (b) to align with changes to the Priority List which now include instructions on how to use the Priority List.
 - General: Many technical corrections are made throughout the rules including capitalizing definitions, grammatical corrections, revising the plural use of Subrecipient, renumbering, removing quotations from acronyms, etc.

Attachment 1: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 6 Community Affairs Programs

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of Chapter 6, Community Affairs Programs, including Subchapter A, General Provisions; Subchapter B, Community Services Block Grant; Subchapter C, Comprehensive Energy Assistance Program; and Subchapter D, Weatherization Assistance Program. The purpose of the repeal is to eliminate outdated rules that warrant revision while adopting new updated rules under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making a change to an existing activity, the administration of Community Affairs programs.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that they are being replaced by new rules simultaneously to provide for revisions.
6. The action will repeal existing regulations, but is associated with a simultaneous re-adoption making changes to an existing activity, of the rules governing the administration of Community Affairs programs.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has

evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

1. The Department has evaluated the rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The rules relate to the Department's administration of all Community Affairs programs which include the Community Services Block Grant (CSBG), the Low Income Home Energy Assistance Program (LIHEAP) which can be further divided into the Comprehensive Energy Assistance Program and LIHEAP Weatherization Assistance Program (WAP), and the Department of Energy WAP (DOE WAP). Other than a Subrecipient of funds for any of these programs who may consider itself a small or micro-business, which would not generally be the case, no small or micro-businesses are subject to the rules. However, if a Subrecipient considers itself a small or micro-business, the rule changes provide greater clarity and streamline the crisis assistance activity.

3. The Department has determined that because the rules apply only to existing Subrecipients, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the rules as to their possible effects on local economies and has determined that for the first five years the repeal will be in effect there would be no economic effect on local employment because the rules relate only to regulations which have already been in effect for existing Subrecipients; therefore, no local employment impact statement is required to be prepared for the rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rules pertain to all Subrecipients throughout the state, regardless of location, there are no "probable" effects of the revised rules on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed chapter would be an updated, more streamlined, and clearer version of the rules governing Community Affairs programs. There will not be economic costs to individuals required to comply with the repealed chapter.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or

administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. SUMMARY OF PUBLIC COMMENT. The Department accepted public comment September 20, 2019, to October 21, 2019. There were no comments submitted regarding the repeal of 10 TAC Chapter 6.

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

10 TAC Chapter 6 Community Affairs Programs.

Subchapter A., General Provisions.

§6.1. Purpose and Goals.

§6.2. Definitions.

§6.3. Subrecipient Contract.

§6.4. Income Determination.

§6.5. Documentation and Frequency of Determining Customer Eligibility.

§6.6. Subrecipient Contact Information and Required Notifications.

§6.7. Subrecipient Reporting Requirements.

§6.8. Potential Applicant/Applicant/Customer Denials and Appeal Rights.

§6.9. Training Funds for Conferences.

§6.10. Compliance Monitoring.

Subchapter B., Community Services Block Grant.

§6.201. Background and Definitions.

§6.202. Purpose and Goals.

§6.203. Formula for Distribution of CSBG Funds.

§6.204. Use of Funds.

§6.205. Limitations on Use of Funds.

§6.206. CSBG Community Assessment, Community Action Plan, and Strategic Plan.

§6.207. Subrecipient Requirements.

§6.208. Designation and Re-designation of Eligible Entities in Unserved Areas.

§6.209. CSBG Requirements for Tripartite Board of Directors.

§6.210. Board Structure.

§6.211. Board Administrative Requirements.

§6.212. Board Size.

§6.213. Board Responsibility.

§6.214. Board Meeting Requirements.

Subchapter C. Comprehensive Energy Assistance Program.

§6.301. Background and Definitions.

§6.302. Purpose and Goals.

§6.303. Distribution of CEAP Funds.

§6.304. Deobligation and Reobligation of CEAP Funds.

§6.305. Subrecipient Eligibility.

§6.306. Service Delivery Plan.

§6.307. Subrecipient Requirements for Customer Eligibility Criteria and Establishing Priority for Eligible Households.

§6.308. Allowable Subrecipient Administrative and Program Services Costs.

§6.309. Types of Assistance and Benefit Levels.

§6.310. Household Crisis Component.

§6.311. Utility Assistance Component.

§6.312. Payments to Subcontractors and Vendors.

§6.313. Outreach, Accessibility, and Coordination.

Subchapter D. Weatherization Assistance Program.

§6.401. Background.

§6.402. Purpose and Goals.

§6.403. Definitions.

§6.404. Distribution of WAP Funds.

§6.405. Deobligation and Reobligation of Awarded Funds.

§6.406. Subrecipient Requirements for Establishing Priority for Eligible Households and Customer Eligibility Criteria.

§6.407. Program Requirements.

§6.408. Department of Energy Weatherization Requirements.

§6.409. LIHEAP Weatherization Requirements.

§6.410. Liability Insurance and Warranty Requirement.

§6.411 Customer Education.

§6.412. Mold-like Substances.

§6.413. Lead Safe Practices.

§6.414. Eligibility for Multifamily Dwelling Units.

§6.415. Health and Safety and Unit Deferral.

§6.416. Whole House Assessment.

§6.417. Blower Door Standards.

Attachment 2: Preamble for adopting new 10 TAC Chapter 6 Community Affairs Programs

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 6. Community Affairs Programs including Subchapter A, General Provisions; Subchapter B, Community Services Block Grant; Subchapter C, Comprehensive Energy Assistance Program; and Subchapter D, Weatherization Assistance Program. The purpose of the new chapter is to update the rules to provide greater clarity for Subrecipients while administering Community Affairs programs (i.e., CSBG, LIHEAP, and DOE WAP).

Tex. Gov't Code §2001.0045(b) does not apply to the new rules because it is exempt under §2001.0045(c)(4), which exempts rule changes necessary to receive a source of federal funds or to comply with federal law. The revisions update, streamline, and make clearer the rules governing the administration of Community Affairs programs. The Department does not anticipate any costs associated with this rule action. Compliance with the new rules are intended to ensure adherence to federal statute while operating federal grants.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rules would be in effect:

1. The new rules do not create or eliminate a government program, but relate to the repeal, and simultaneous re-adoption making changes to an existing activity, the administration of Community Affairs programs.
2. The new rules do not require a change in work that would require the creation of new employee positions, nor are the new rules significant enough to reduce workload to a degree that eliminates any existing employee positions.
3. The new rules do not require additional future legislative appropriations.
4. The new rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rules are not creating new regulations, except that they are replacing rules being repealed simultaneously to provide for revisions.
6. The new rules will not expand, limit, or repeal existing regulations.
7. The new rules will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The new rules will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting the new rules, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306, Subchapter E.

1. The Department has evaluated the new rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The new rules relate to the Department's administration of all Community Affairs programs which include the Community Services Block Grant (CSBG), the Low Income Home Energy Assistance Program (LIHEAP) which can be further divided into the Comprehensive Energy Assistance Program and LIHEAP Weatherization Assistance Program (WAP), and the Department of Energy WAP (DOE WAP). Other than a Subrecipient of funds for any of these programs who may consider itself a small or micro-business, which would not generally be the case, no small or micro-businesses are subject to the rules. However, if a Subrecipient considers itself a small or micro-business, the rule changes provide greater clarity and streamline the crisis assistance activity.

3. The Department has determined that because the new rules apply only to existing Subrecipients, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rules do not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new rules as to their possible effect on local economies and has determined that for the first five years the new rules will be in effect there would be no economic effect on local employment because the rules relate only to a process which has already been in effect for existing Subrecipients; therefore, no local employment impact statement is required to be prepared for the new rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the new rules pertain to all Subrecipients throughout the state, regardless of location, there are no "probable" effects of the new rules on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the new chapter is in effect, the public benefit anticipated as a result of the new chapter would be an updated, more streamlined, and clearer version of the rules governing Community Affairs programs. There will not be economic costs to individuals required to comply with the new chapter because the rules have already been in place through the rules found at the chapter being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new chapter is in effect, enforcing or administering the new chapter does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. SUMMARY OF PUBLIC COMMENT AND REASONED RESPONSE. The Department accepted public comment September 20, 2019, to October 21, 2019. Comments regarding the new rules were accepted in writing from (1) Stella Rodriguez, Executive Director, Texas Association of Community Action Agencies (represents 34 of 40 CSBG Eligible Entities, 31 of 37 CEAP Subrecipients, and 20 of 22 WAP Subrecipients) and (2) Christy Vargas, Support Specialist, South Plains Community Action Association.

1. Chapter 6, Subchapter A, §6.5(a)

COMMENT SUMMARY (1): Commenter requests that the frequency of applications be changed from “each Program Year” to “every twelve months” to expend CEAP funds sooner in the Program Year and to give Subrecipients more flexibility.

STAFF RESPONSE: The Department agrees in part. To provide Subrecipients with the flexibility they need to expend CEAP funds sooner in the Program Year, the frequency with which client income must be verified and applications submitted will be changed from “each Program Year” to “at least every twelve months”. The Department has made a corresponding change to Chapter 6, Subchapter B §6.207 (h).

2. Chapter 6, Subchapter A, §6.10(c)(1)

COMMENT SUMMARY (1): Commenter requests that more time be allowed for Subrecipients to provide their governing board all Department monitoring reports and Subrecipient responses. Commenter reasons that it is possible that these reports may not be received in time to be posted on the agenda for the Subrecipients next regularly scheduled meeting due to timing of when the reports are received or issued and the date of the next meeting. Commenter requests that these reports be permitted to be provided to the Subrecipient’s governing board within the next two regularly scheduled meetings, not one as was originally proposed.

STAFF RESPONSE: To ensure Subrecipients are able to provide their governing board all Department monitoring reports and Subrecipient responses to the monitoring reports within rule timeframes, staff agrees with the commenter’s request. The rule will be changed to reflect that these reports must be provided to the governing or advisory board within the next two regularly scheduled meetings rather than by the next regularly scheduled meeting.

3. Chapter 6, Subchapter B, §6.206(a) and (c)

COMMENT SUMMARY (1): Commenter requests that the language regarding submittal of Community Action Plans (CAP) specifically state that a CAP be submitted every three years and target goals submitted annually. Commenter observes that this change would be more consistent with and more accurately reflect current Department guidance while not conflicting with the CSBG Act.

STAFF RESPONSE: Per Section 676(b)(1) of the CSBG Act, the State will secure from each eligible entity, as a condition to receipt of CSBG funding, a Community Action Plan. Because funding is awarded each year to each eligible entity, the State must continue to secure a CAP from each eligible entity annually; however, the method by which the State collects the necessary information for the CAP from year to year may change based on guidance from USHHS, guidance from our national partners, and internal staff discussions. Currently, Department guidance concerning the CAP is that a fully revised CAP will be submitted every three years, to coincide with the Community Needs Assessment, but updated per Department guidance and submitted to the Department annually. The Department appreciates and understands the reasoning behind the comment, but will make no changes.

4. Chapter 6, Subchapter B, §6.207(j)

COMMENT SUMMARY (1): Commenter requests that the language in this subsection be changed to match changes made elsewhere in rule that provided for the ability of Eligible Entities to have the option of modifying either their Certificate of Formation/Articles of Incorporation or their bylaws. As it is currently written, Eligible Entities must amend both their Certificate of Formation/Articles of Incorporation and their bylaws which can be an unnecessary burden on entities trying to comply with the Organizational Standards. A Certificate of Formation/Articles of Incorporation are not as easily amended as bylaws because an entity must fill out a form, pay a small fee, and follow the Texas Secretary of State's process in order to change their Certificate of Formation/Articles of Incorporation. Additionally, a Certificate of Formation/Articles of Incorporation are developed in the formation of an organization which could be decades old.

STAFF RESPONSE: The HHS Organizational Standards require Eligible Entities that are Private Nonprofit Entities to operate in accordance with state corporate law, and to periodically provide its Board Members and its attorney a copy of governing documents. Chapter 22 Subpart C of the Texas Business Code, explains that the Certificate of Formation/Articles of Incorporation is generally the governing document in case of a conflict with the bylaws. Thus, Organizational Standards 5.3-5.5 must incorporate both documents. The requirement is not in conflict with other Department rules. No change is being recommended in accordance with this comment, though the Department notes that the change being requested regarding amendment of its bylaws has already been made in Chapter 6, Subchapter B, §6.209.

5. Chapter 6, Subchapter C, §6.301(b)(4)

COMMENT SUMMARY (2): Commenter requests that November not be removed as a winter month due to frequent freezing temperatures in the month of November.

STAFF RESPONSE: The Department appreciates the comment and will make this change.

6. Chapter 6, Subchapter C, §6.301(b)(5)

COMMENT SUMMARY (1): Commenter requests the insertion of "in the opinion of a reasonable person" within the definition of Life Threatening Crisis to afford frontline staff to make determinations of whether or not an eligible applicant is in danger.

STAFF RESPONSE: The Department appreciates the comment and will make this change.

7. Chapter 6, Subchapter C, §6.302

COMMENT SUMMARY (1): Commenter requests the removal of “needs assessment” and “budget counseling (as it pertains to energy needs)” from the list of CEAP eligible services because these services emanate from Assurance 16 which is used no longer in the delivery of CEAP services.

STAFF RESPONSE: The Department appreciates the comment and will make this change.

8. Chapter 6, Subchapter C, §6.304(a) and (b)

COMMENT SUMMARY (1): Commenter requests the addition of language to clarify that it is only Direct Services Expenditures that will be considered when calculating whether or not to deobligate CEAP funds from a Subrecipient.

STAFF RESPONSE: The Department appreciates the comment and will make this change.

9. Chapter 6, Subchapter C, §6.304(g)

COMMENT SUMMARY (1): Commenter requests that the benchmark that may prompt nonrenewal of a Contract be failure to Expend 98% of a prior year Contract for two consecutive years rather than failure to fully Expend a prior year Contract for two consecutive years.

STAFF RESPONSE: The Department appreciates the comment and will make this change.

10. Chapter 6, Subchapter C, §6.309(b)

COMMENT SUMMARY (1): Commenter requests that the total maximum possible annual Household benefit be increased up to \$8,200 rather than \$5,900 to allow Subrecipients to better assist low-income Households. It should be noted that in the letter submitted by Commenter (1), it reflects that they were requesting this amount be increased to \$9,500. However, the requested increases for each subcategory that comprise the maximum possible annual Household benefit aggregate to \$8,200. Therefore, the \$8,200 is effectively the amount they would like reflected in the rule, and this has been confirmed with Commenter (1).

STAFF RESPONSE: The Department is supportive of making changes that the network believes will facilitate and improve delivery of program services and expenditures; the Department will make this change.

11. Chapter 6, Subchapter C, §6.309(e)

COMMENT SUMMARY (1): To allow Subrecipients to better assist low-income Households, Commenter requests that the maximum benefit determinations be increased for each of the following Household Incomes:

- In §6.309(e)(1), maximum benefit from \$1,200 up to \$1,600 for Households with Incomes of 0% to 50% of Federal Poverty Guidelines
- In §6.309(e)(2), maximum benefit from \$1,100 up to \$1,500 for Households with Incomes of 51% to 75% of Federal Poverty Guidelines receive a benefit not to exceed \$1,500

- In §6.309(e)(3), maximum benefit from \$1,000 up to \$1,400 for Households with Incomes of 76% to 150% of Federal Poverty Guidelines receive a benefit not to exceed \$1,400

STAFF RESPONSE:

The Department is supportive of making changes that the network believes will facilitate and improve delivery of program services and expenditures; the Department will make this change.

12. Chapter 6, Subchapter C, §6.309(f) and (g)

COMMENT SUMMARY(1): Commenter requests that the amount of assistance for service and repair of existing heating and cooling units, as well as the amount of assistance for service and repair or purchase of portable air conditioning/evaporative coolers and heating units, be raised from \$3,500 to \$5,000 to allow Subrecipients to better assist low-income Households.

STAFF RESPONSE:

The Department is supportive of making changes that the network believes will facilitate and improve delivery of program services and expenditures; the Department will make this change.

13. Chapter 6, Subchapter C, §6.309(h)(1)(B)

COMMENT SUMMARY (1): To allow Subrecipients flexibility in how they choose to spend their CEAP funds, commenter requests that the rule be changed to allow Vulnerable Population Households to receive benefits up to the maximum amount to cover any remaining bills, rather than be limited to only the “eight highest bills”. Commenter also requests language be added to clarify that costs not exceed the maximum annual benefit “for the Utility Assistance Component”.

STAFF RESPONSE: The Department appreciates the comment and will make these changes.

14. Chapter 6, Subchapter C, §6.309(h)(1)(C)

COMMENT SUMMARY (1): To allow Subrecipients flexibility in how they choose to spend their CEAP funds, commenter requests that the rule be changed to allow Non-Vulnerable Population Households to receive benefits up to the maximum amount to cover up to six remaining bills rather than be limited to only the “six highest remaining bills”. Commenter also requests language be added to clarify that costs not exceed the maximum annual benefit “for the Utility Assistance Component”.

STAFF RESPONSE: The Department appreciates the comment and will make these changes.

15. Chapter 6, Subchapter C, §6.310(e)(4) and §6.311(c)

COMMENT SUMMARY (1): Commenter requests that the amount of assistance for service and repair, or purchase of heating or cooling units as well as the amount of assistance for the replacement of component(s) in order to repair the heating or cooling system, be raised from \$3,500 to \$5,000 to allow Subrecipients to better assist low-income Households.

STAFF RESPONSE: The Department is supportive of making changes that the network believes will facilitate and improve delivery of program services and expenditures; the Department will make this change.

16. Chapter 6, Subchapter C, §6.405(j) and (l)

COMMENT SUMMARY (1): Commenter requests that the amount of time given to a Subrecipient to appeal the Corrective Action Notice to the Executive Director be changed from seven calendar days to 14 calendar days because seven calendar days is insufficient time to produce an appeal and support documentation such as in the case of a holiday weekend wherein seven days can be reduced to four. Additionally, the §1.7, Appeals Process affords the Department 14 calendar days to respond to an appeal; therefore, the same timeframe should be applied to both parties.

STAFF RESPONSE: The Department has an appeal process reflected in Chapters 1 and 2 that are not out for public comment. Creating a different process in this Subchapter would create conflicts with the time periods outlined in these rules and with other parts of Chapter 6. Furthermore, the Board has previously determined in accordance with Tex. Gov't Code §2306.0321 that seven calendar days is a reasonable period in which to file an appeal. Staff also believes that treating all appeals similarly, unless another period is required by statute, is good public policy.

h. STATUTORY AUTHORITY. The new rules are adopted pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new sections affect no other code, article, or statute.

[Note that these rules are shown in blackline form below, reflecting the changes being recommended since the time of publication for public comment, for the purpose of the posting of Board materials but will be shown as clean proposed new language when submitted to the Texas Register for adoption.]

**TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 6 COMMUNITY AFFAIRS PROGRAMS**

SUBCHAPTER A GENERAL PROVISIONS

§6.1.Purpose and Goals.

(a) The rules established herein are for CSBG, LIHEAP, and DOE-WAP. Additional program specific requirements are contained within each program subchapter and Chapters 1 and 2 of this title (relating to Administration and Enforcement, respectively).

(b) Programs administered by the Community Affairs (CA) Division of the Texas Department of Housing and Community Affairs (the Department) support the Department's statutorily assigned mission.

(c) The Department accomplishes its mission chiefly by acting as a conduit for federal grant funds and other assistance for housing and community affairs programs. Ensuring program compliance with the state and federal laws that govern the CA programs is another important part of the Department's mission. Oversight and program mandates ensure state and federal resources are expended in an efficient and effective manner.

(d) In instances of a disaster, the Department may pursue waivers or explore flexibilities as addressed in HHS Information Memorandum (IM) 154 (and any other subsequent guidance or similar guidance for LIHEAP or DOE WAP) through HHS or DOE within the CA programs in order to serve low income Texans.

§6.2.Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the CSBG, LIHEAP, and DOE-WAP programs of the Community Affairs Division, a list of terms and definitions has been compiled as a reference. Any capitalized terms not specifically defined in this section or any section referenced in this chapter shall have the meaning as defined in Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), or applicable federal regulations.

(b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Refer to Subchapters B, C, and D of this chapter for program specific definitions.

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

Applicant, is reported on the same IRS Form 990, or is using the same federally approved indirect cost rate.

(2) Awarded Funds--The amount of funds or proportional share of funds committed by the Department's Board to a Subrecipient or service area.

(3) Categorical Eligible/Eligibility--A method where a Subrecipient must deem a Household to be eligible for LIHEAP or DOE benefits if that Household includes at least one member that receives assistance under specific federal programs as identified in §6.307 and §6.406 (relating to Subrecipient Requirements for Customer Eligibility Criteria and Establishing Priority for Eligible Households and Subrecipient Requirements for Establishing Priority for Eligible Households and Customer Eligibility Criteria, respectively), as applicable.

(4) Child--Household member not exceeding 18 years of age.

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

(6) Community Action Agencies (CAAs)--Private Nonprofit Organizations and Public Organizations that carry out the Community Action Program, which was established by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States.

(7) Community Services Block Grant (CSBG)--An HHS-funded program which provides funding for CAAs and other Eligible Entities that seek to address poverty at the community level.

(8) Comprehensive Energy Assistance Program (CEAP)--A LIHEAP-funded program to assist low-income Households, in meeting their immediate home energy needs.

(9) Concern--A policy, practice or procedure that has not yet resulted in a Finding or Deficiency, but if not changed will or may result in a Finding or Deficiency.

(10) Contract--The executed written agreement between the Department and a Subrecipient performing an activity related to a program that describes performance requirements and responsibilities assigned by the document, for which the first day of the Contract Term is the point at which program funds may be considered by a Subrecipient for Expenditure, unless otherwise directed in writing by the Department.

(11) Contract System--A web-based data collection platform which allows Subrecipients of Community Services programs to sign and view Contracts and submit performance and financial reports online.

(12) Contract Term--The period of Expenditure under a Contract.

(13) Contracted Funds--The gross amount of funds Obligated by the Department to a Subrecipient as reflected in a Contract.

(14) Cost Reimbursement--A Contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has conducted such review as it deems appropriate, which may be complete or limited, such as on a sampling basis, and approved backup documentation provided by the Subrecipient to support such costs. Such a review and approval does not serve as a final approval and all uses of advanced funds remain subject to review in connection with future or pending reviews, monitoring, or audits.

(15) Declaration of Income Statement (DIS)--A Department-approved form used only when it is not possible for an applicant to obtain third party or firsthand verification of income.

(16) Deficiency--Consistent with the CSBG Act, a Deficiency exists when an Eligible Entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The Department's determination of a Deficiency may be based on the Eligible Entity's failure to provide CSBG services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives, or as provided for in §2.203(b) of this title (relating to Termination and Reduction of Funding for CSBG Eligible Entities). A Finding, Observation, or Concern that is not corrected, or is repeated, may become a Deficiency.

(17) Deobligate/Deobligation--The partial or full removal of Contracted Funds from a Subrecipient. Partial Deobligation is the removal of some portion of the full Contracted Funds from a Subrecipient, leaving some remaining balance of Contracted Funds to be administered by the Subrecipient. Full Deobligation is the removal of the full amount of Contracted Funds from a Subrecipient. This definition does not apply to CSBG non-Discretionary funds.

(18) Department of Energy (DOE)--Federal department that provides funding for a weatherization assistance program.

(19) Department of Health and Human Services (HHS)--Federal department that provides funding for CSBG and LIHEAP energy assistance and weatherization.

(20) Discretionary Funds--CSBG funds, excluding the 90% of the state's annual allocation that is designated for statewide allocation to CSBG Eligible Entities under §6.203 of this subchapter (relating to Formula for Distribution of CSBG Funds) and state administrative funds, maintained by the Department, at its discretion, for CSBG allowable uses as authorized by the CSBG Act.

(21) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(22) Elderly Person--

(A) For CSBG, a person who is 55 years of age or older; and

(B) For CEAP and WAP, a person who is 60 years of age or older.

(23) Eligible Entity--Those local organizations in existence and designated by the federal and state government to administer programs created under the Federal Economic Opportunity Act of

1964. This includes CAAs, limited-purpose agencies, and units of local government. The CSBG Act defines an Eligible Entity as an organization that was an Eligible Entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998 (October 27, 1998), or is designated by the Governor to serve a given area of the state and that has a tripartite board or other mechanism specified by the state for local governance.

(24) Emergency--defined as:

(A) A natural disaster;

(B) A significant home energy supply shortage or disruption;

(C) Significant increase in the cost of home energy, as determined by the Secretary of HHS;

(D) A significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data;

(E) A significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.), the national program to provide supplemental security income carried out under Title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the state temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) A significant increase in unemployment, layoffs, or the number of Households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) An event meeting such criteria as the Secretary of HHS, at the discretion of the Secretary of HHS, may determine to be appropriate.

(25) Expenditure--Funds that have been accrued or remitted for purposes of the award.

(26) Families with Young Children--A Household that includes a Child age five or younger. For LIHEAP-WAP only, a Family with Young Children also includes a Household that has a pregnant woman.

(27) Federal Poverty Income Guidelines--The official poverty income guidelines as issued by HHS annually.

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

(29) High Energy Burden--A Household whose energy burden exceeds 11% of annual gross income (as defined by the applicable program), determined by dividing a Household's annual home energy costs by the Household's annual gross income.

(30) High Energy Consumption--A Household that is billed more than \$1000 annually for related fuel costs for heating and cooling their Dwelling Unit.

(31) Household--An individual or group of individuals, excluding unborn children, who are living together as one economic unit. For DOE WAP this includes all persons living in the Dwelling Unit. For CSBG/LIHEAP it includes these persons customarily purchasing residential energy in common or making undesignated payments for energy. In CSBG/LIHEAP a live-in aide, or a Renter with a separate lease that includes a separate bill for utilities is not considered a Household member.

(32) Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty Households of that county.

(33) Low Income Household--defined as:

(A) For DOE WAP, a Household whose total combined annual income is at or below 200% of the Federal Poverty Income guidelines, or a Household who is Categorically Eligible;

(B) For CEAP and LIHEAP-WAP, a Household whose total combined annual income is at or below 150% of the Federal Poverty Income guidelines, or a Household who is Categorically Eligible; and

(C) For CSBG, a Household whose total combined annual income is at or below 125% of the Federal Poverty Income guidelines.

(34) Low Income Home Energy Assistance Program (LIHEAP)--An HHS-funded program which serves Low Income Households who seek assistance for their home energy bills and/or weatherization services.

(35) Means Tested Veterans Program--A program whereby applicants receive payments under §§1315, 1521, 1541, or 1542 of Title 38, United States Code, or under §306 of the Veterans' and Survivors' Pension Improvement Act of 1978. Benefit letters under 38 U.S.C. §§1315, 1541, and 1542 must include language indicating dependency and indemnity compensation. Benefit letters under 38 U.S.C. §1521 must indicate that it is for a veteran's pension, rather than for a service connected disability.

(36) Mixed Status Household--A Household that contains one or more members that are U.S. Citizens, U.S. Nationals, or Qualified Aliens, and one or more members that are Unqualified Aliens.

(37) Monthly Performance and Expenditure Report--Two separate but linked reports indicating a Subrecipient's or Eligible Entity's performance and financial information, due to the Department on or before the fifteenth day of each month of the Contract Term following the reporting month. If the fifteenth falls on a weekend or holiday, the reports must still be entered on or before the

fifteenth. The data the Department collects is subject to change based on changes required by DOE or HHS.

(38) Obligation--Funds become obligated upon approval of an award to Subrecipient by the Department's Governing Board, unless the Department does not receive sufficient funding from the cognizant federal entity.

(39) Observation--A notable policy, practice or procedure observed through the course of monitoring.

(40) Office of Management and Budget (OMB)--Office within the Executive Office of the President of the United States that oversees the performance of federal agencies and administers the federal budget.

(41) OMB Circulars--Instructions and information issued by OMB to Federal agencies that set forth principles and standards for determining costs for federal awards and establish consistency in the management of grants for federal funds. Uniform cost principles and administrative requirements for local governments and for nonprofit organizations, as well as audit standards for governmental organizations and other organizations expending federal funds are set forth in 2 CFR Part 200, unless different provisions are required by statute or approved by OMB.

(42) Outreach--The method used by a Subrecipient that attempts to identify customers who are in need of services, alerts these customers to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential customers.

(43) Performance Statement--A document which identifies the services to be provided by a Subrecipient.

(44) Person with a Disability--Any individual who is:

(A) An individual described in 29 U.S.C. §701 or has a disability under 42 U.S.C. §§12131 - 12134;

(B) Disabled as defined in 42 U.S.C. 1382(a)(3)(A), 42 U.S.C. §423, or in 42 U.S.C. §15001;

(C) Receiving benefits under 38 U.S.C. Chapter 11 or 15; or

(D) An individual with a disability as defined in §1.202(4).

(45) Population Density--The number of persons residing within a given geographic area of the state.

(46) Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the Code) of 1986 and which is exempt from taxation under subtitle A of the Code and that is not a Public Organization.

- (47) Production Schedule--The estimated monthly and quarterly performance targets and Expenditures for a Contract period. The Production schedule must be signed by the applicable approved signatory and approved by the Department in writing.
- (48) Program Year--January 1 through December 31 of each calendar year for CSBG and LIHEAP; July 1 through June 30 of each calendar year for DOE WAP.
- (49) Public Organization--A unit of government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.
- (50) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) and (c).
- (51) Referral--The documented process of providing information to a customer Household about an agency, program, or professional person that can provide the service(s) needed by the customer.
- (52) Reobligation--The reallocation of Deobligated funds to other Subrecipients.
- (53) Service Area--The geographical area where a Subrecipient must provide services under a Contract.
- (54) Single Audit--The audit required by OMB, 2 CFR Part 200, Subpart F, or Tex. Gov't Code, Chapter 738, Uniform Grant and Contract Management, as reflected in an audit report.
- (55) State--The State of Texas or the Department, as indicated by context.
- (56) Subcontractor--A person or an organization with whom the Subrecipient contracts with to provide services.
- (57) Subrecipient--An organization that receives federal funds passed through the Department to operate the CSBG, CEAP, DOE WAP and/or LIHEAP program(s).
- (58) Supplemental Security Income (SSI)--A means tested program run by the Social Security Administration.
- (59) System for Award Management (SAM)--Combined federal database that includes the Excluded Parties List System (EPLS).
- (60) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of applicants.
- (61) Texas Administrative Code (TAC)--A compilation of all state agency rules in Texas.
- (62) Uniform Grant Management Standards (UGMS)--The standardized set of financial management procedures and definitions established by Tex. Gov't Code Chapter 783 to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings

with grantees, and by ensuring accountability for the expenditure of public funds. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations. In addition, Tex. Gov't Code Chapter 2105, subjects Subrecipients of federal block grants (as defined therein) to the Uniform Grant and Contract Management Standards.

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

(64) Unqualified Alien--A person that is not a U.S. Citizen, U.S. National, or a Qualified Alien.

(65) Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurances regarding fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

(66) Vulnerable Populations--Elderly persons, Persons with a Disability, and Households with a Child at or below the age of five.

(67) Weatherization Assistance Program (WAP)--DOE and LIHEAP funded program designed to reduce the energy cost burden of Low Income Households through the installation of energy efficient weatherization materials and education in energy use.

§6.3.Subrecipient Contract.

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

(b) The governing body of the Subrecipient must pass a resolution authorizing its Executive Director or his/her designee to have signature authority to enter into contracts, sign amendments, and review and approve reports. All Contract actions including extensions, amendments or revisions must be ratified by the governing body at a subsequent regularly scheduled meeting no later than 120 calendar days from the Contract action. Minutes relating to this resolution must be on file at the Subrecipient level.

(c) Within 45 calendar days following the conclusion of a Contract issued by the Department, the Subrecipient shall provide a final expenditure and final performance report regarding funds expended under the terms of the Contract.

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

(e) Amendments and Extensions to Contracts.

(1) Except for quarterly amendments to non-Discretionary CSBG Contracts to add funds as they are received from HHS, and excluding amendments that move funds within budget categories but do not extend time or add funds, amendment and extension requests must be submitted in writing by the Subrecipient, and will not be granted if any of the following circumstances exist:

(A) If the award for the Contract was competitively awarded and the amendment would materially change the scope of Contract performance;

(B) If the Subrecipient is delinquent in the submission of their Single Audit or the Single Audit Certification form required by §1.403, (relating to Single Audit Requirements), in Chapter 1 of this title (relating to Administration);

(C) If the Subrecipient owes the Department disallowed amounts in excess of \$1,000 and a Department-approved repayment plan is not in place or has been violated;

(D) For amendments adding funds (not applicable to amendments for extending time) if the Department has cited the Subrecipient for violations within §6.10 of this subchapter (related to Compliance Monitoring) and the corrective action period has expired without correction of the issue or a satisfactory plan for correction of the issue; or

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

(2) Within 30 calendar days of a Subrecipient's request for a Contract amendment or extension request the request will be processed or denied in writing. If denied, the applicable reason from this subsection or other applicable reason will be cited. The Subrecipient may appeal the decision to the Executive Director consistent with Chapter 1, §1.7, of this title, (relating to the Appeals Process).

§6.4. Income Determination.

(a) Eligibility for program assistance is determined under the Federal Poverty Income Guidelines and calculated as described herein (some forms of income may qualify the Household as Categorically Eligible for assistance in §6.2(b)(3), however Categorical Eligibility does not determine the level of benefit, which is determined through the Income Determination process).

(b) Income means cash receipts earned and/or received by all Household members 18 years of age and older before taxes during applicable tax year(s), but not the excluded income listed in paragraph (2) of this subsection. Income is to be based on the Gross Annual Income (defined as the total amount of non-excluded income earned annually before taxes or any deductions) for all Household members 18 years of age and older.

(c) Exceptions to the use of Gross Income are:

(1) From non-farm or farm self-employment net receipts must be used (i.e., receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses); and

(2) From gambling or lottery winnings net income must be used.

(d) If an income source is not excluded in this subsection, it must be included when determining income eligibility. Excluded Income:

(1) Capital gains;

(2) Any assets drawn down as withdrawals from a bank;

(3) Balance of funds in a checking or savings account;

(4) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));

(5) Proceeds from the sale of property, a house, or a car;

(6) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;

(7) Tax refunds, Earned Income Tax Credit refunds;

(8) Jury duty compensation;

(9) Gifts, loans, and lump-sum inheritances;

(10) One-time insurance payments, or compensation for injury;

(11) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;

(12) Reimbursements (for mileage, gas, lodging, meals, etc.);

(13) Employee fringe benefits such as food or housing received in lieu of wages;

(14) The value of food and fuel produced and consumed on farms;

(15) The imputed value of rent from owner-occupied non-farm or farm housing;

(16) Federal non-cash benefit programs as Medicare, Medicaid, SNAP, WIC, and school lunches, and housing assistance (Medicare deduction from Social Security Administration benefits should not be counted as income);

(17) Combat zone pay to the military;

- (18) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill), Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- (19) Child support payments (amount paid by payor may not be deducted from income);
- (20) Income of Household members under 18 years of age including payment to children under the age of 18 made payable to a person over the age of 18;
- (21) Stipends from senior companion programs, such as Retired Senior Volunteer Program and Foster Grandparents Program;
- (22) AmeriCorps Program payments, allowances, earnings, and in-kind aid;
- (23) Depreciation for farm or business assets;
- (24) Reverse mortgages;
- (25) Payments for care of Foster Children;
- (26) Payments or allowances made under the Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (27) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));
- (28) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (93, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d));
- (29) Allowances, earnings, and payments to individuals participating in programs under the Workforce Innovation and Opportunity Act (29 U.S.C.3101));
- (30) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(g));
- (31) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858(q));
- (32) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

- (33) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459(e));
- (34) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (94, §6);
- (35) The first \$2,000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407 - 1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (36) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (101) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
- (37) Payments received under the Maine Indian Claims Settlement Act of 1980 (96, 25 U.S.C. 1728);
- (38) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (95);
- (39) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802 - 05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811 - 16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- (40) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (41) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. §1437a(b)(4));
- (42) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
- (43) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a));
- (44) Payments of up to \$100,000 a year from an account established under the Achieving a Better Life Experience Act of 2014 or the ABLE Act of 2014 (P.L. 113-295) to a qualified beneficiary that are expended on qualified disability expenses; and

(45) Any other items which are excluded by virtue of federal or state legislation or by adopted federal regulations that have taken effect. The Department will, from time to time, provide on its website updated links to such federal or state exclusions. Notwithstanding such information, a Subrecipient may rely on any adopted federal or state exclusion on and after the date on which it took effect.

(e) The requirements for determining whether an applicant Household is eligible for assistance require the Subrecipient to annualize the Household income based on verifiable documentation of income, within 30 days of the application date.

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

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

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

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

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

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

(B) Weekly wages by 52;

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

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

(E) Monthly wages by 12.

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

(h) If a federal or state requirement provides an updated definition of income or method for calculating income, the Department will provide written notice to Subrecipients about the implementation date for the new requirements.

(i) If proof of income is unobtainable, the applicant must complete and sign a Declaration of Income Statement (DIS).

(j) For CSBG and LIHEAP, a live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household. Example 4(1): A Household applies for assistance. There are four people in the Household. One of the four people is a live-in aide. To determine if the Household is qualified, annualize the income of the other three Household members and compare it to the three person income limit. However, if the amount of benefit is based on Household size (such as benefit level based on the number of people in the Household), then this is a four person Household.

(k) A Subrecipient shall not discourage anyone from applying for assistance. Subrecipient shall provide all potential customers with an opportunity to apply for programs.

§6.5. Documentation and Frequency of Determining Customer Eligibility.

(a) For CEAP and CSBG, income must be verified with a new application at least every twelve months~~annually, with a new application each Program Year.~~

(b) For WAP, income must be verified at the initial application. If the customer is on a wait-list for over 12 months since initial application, Household income must be updated within at least 12 months of the unit being initially inspected.

§6.6. Subrecipient Contact Information and Required Notifications.

(a) In accordance with §1.22 of this title (relating to Providing Contact Information to the Department), Subrecipient will notify the Department through the CA Contract System and provide contact information for key management staff (Executive Director, Chief Financial Officer, Program Director/Manager/Coordinator or any other person, regardless of title, generally performing such duties) vacancies and new hires within 30 days of such occurrence.

(b) For Eligible Entities, as vacancies exceed the 90 day threshold within the Eligible Entity's Board of Directors or for a Public Organization for the advisory board of directors, the Department will be notified of such vacancies and, if applicable, the sector the board member or advisory board member represented.

(c) Contact information for all members of the Board of Directors or advisory board of directors must be provided to the Department and shall include: each board member's name, the position they hold, their term, their mailing address (which must be different from the organization's mailing address), phone number (different from the organization's phone number), fax number (if applicable), and the direct e-mail address for the chair of the advisory board.

(d) The Department will rely solely on the contact information supplied by the Subrecipient in the Department's web-based Community Affairs Contract System. It is the Subrecipient's sole responsibility to ensure such information is current, accurate, and complete. Correspondence sent to the email or physical address shown in CA Contract System will be deemed delivered to the Subrecipient. Correspondence from the Department may be directly uploaded to the Subrecipient's CA contract account using a secure electronic document attachment system. Once uploaded, notification of the attachment will be sent electronically to the email address listed in the CA Contract System. The Department is not required to send a paper copy and if it does so it does as a voluntary and non-precedential courtesy only.

(e) Upon the hiring of a new program coordinator (e.g., the weatherization program coordinator) for an activity funded by non-discretionary CSBG, LIHEAP, or DOE-WAP the Subrecipient is required to contact the Department with written notification within 30 calendar days of the hiring, and to request training and technical assistance.

(f) Contact information for a primary and secondary contact are required to be provided to the Department and accurately maintained as it relates to the handling of disaster response and emergency services as provided for in §6.207(d).

§6.7.Subrecipient Reporting Requirements.

(a) Subrecipient must submit the Monthly Performance and Expenditure Report through the Community Affairs Contract System not later than the fifteenth day of each month following the reported month of the Contract Period. Reports are required even if a fund reimbursement or advance is not being requested. It is the responsibility of the Subrecipient to upload information into the Department's designated database.

(b) Subrecipient shall reconcile their expenditures with their performance on at least a monthly basis before seeking a request for funds for the following month. If the Subrecipient is unable to reconcile on a month-to-month basis, the Subrecipient must provide at the request of the Department, a written explanation for the variance and take appropriate measures to reconcile the subsequent month. It is the responsibility of a Subrecipient to demonstrate the compliant use of all funds provided during the Contract Term.

(c) If the Department has provided funds to a Subrecipient in excess of the amount of reported Expenditures in the ensuing month's report, no additional funds will be released until those excess funds have been expended. For example, in January a Subrecipient requests and is advanced \$50,000. In February, if the Subrecipient reports \$10,000 in Expenditures and an anticipated need for \$30,000, no funds will be released.

(d) Subrecipient shall electronically submit to the Department, no later than 45 days after the end of the Subrecipient Contract Term, a final accounting of the Contract's expenditure or reimbursement utilizing the final Monthly Performance and Expenditure Report. If this or a later reconciliation results in funds owed to the Department, Subrecipient shall, within 10 calendar days, either send funds to the Department, or contact the Department to enter into a time-limited Department approved repayment plan.

(e) CSBG Annual Report and National Survey. Federal requirements mandate all states to participate in the preparation of an annual performance measurement report. To comply with the requirements of 42 U.S.C. §9917, all CSBG Eligible Entities and other organizations receiving CSBG funds are required to participate.

(f) The Subrecipient shall submit other reports, data, and information on the performance of the DOE and LIHEAP-WAP program activities as required by DOE pursuant to 10 CFR §440.25 or by the Department.

(g) Subrecipient shall submit other reports, data, and information on the performance of the federal program activities as required by the Department.

(h) A Subrecipient may refer a Contractor to the Department for Debarment consistent with §2.401 of this title, (relating to Debarment from Participation in Programs Administered by the Department).

§6.8.Potential Applicant/Applicant/Customer Denials and Appeal Rights.

(a) This section does not apply to entities that only receive Discretionary CSBG funds.

(b) Subrecipient shall establish a written procedure for the handling of denials of service when the denial involves an individual inquiring or applying for services/assistance whom is communicating or behaving in a threatening or abusive manner.

(c) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/customers. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:

(1) Subrecipient shall provide a written denial of assistance notice to applicant within 10 calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The applicant wishing to appeal a decision must provide written notice to Subrecipient within 20 calendar days of receipt of the denial notice.

(2) A Subrecipient must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.

(3) Subrecipient shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within 10 business days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven calendar days before the appeal hearing.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply, but the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant must be notified in writing.

(d) If the applicant is not satisfied with Subrecipient's decision, the applicant may further appeal the decision in writing to the Department within 10 calendar days of notification of an adverse decision.

(e) Applicants/customers who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001.

(f) The hearing under subsection (d) of this section shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in §1.13 of this title, (relating to Contested Case Hearing Procedures).

(g) If the applicant/customer appeals to the Department, the Subrecipient's funds that could be pledged to that Household should remain unencumbered until the Department completes its decision.

§6.9. Training Funds for Conferences.

The Department may provide financial assistance to Subrecipients for training and technical activities for state sponsored, federally sponsored, and other relevant workshops and conferences. Subrecipients may use program training funds to attend conferences provided the conference agenda includes topics directly related to administering the program. Costs to attend the conference must be prorated by program for the appropriate portion. Only staff billed to the specific program, directly or indirectly, may charge any training and travel costs to the program.

§6.10. Compliance Monitoring.

(a) Purpose and Overview.

(1) This section provides the procedures that will be followed for monitoring for compliance with the programs in 10 TAC Chapter 6.

(2) Any entity administering any or all of the programs detailed in 10 TAC Chapter 6 is a Subrecipient. A Subrecipient may also administer other programs, including programs administered by other state or federal agencies and privately funded programs. If the Subrecipient has contracts for other programs through the Department, including but not limited to the Emergency Solutions Grants, Ending Homelessness Fund, Homeless Housing and Services Program, HOME Partnerships Program, the Neighborhood Stabilization Program, or the State Housing Trust Fund, the Department may, but is not required to and does not commit to, coordinate monitoring of those programs with monitoring of Community Affairs Division funds under this subchapter.

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

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

(1) In general, a Subrecipient will be scheduled for monitoring based on state or federal monitoring requirements and/or a risk assessment. Factors to be included in the risk assessment include but are not limited to: the number of Contracts administered by the Subrecipient, the amount of funds awarded and expended, the length of time since the last monitoring, findings identified during previous monitoring, issues identified through the submission or lack of submission of a single audit, complaints received by the Department, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Subrecipients will have an onsite review and which may have a desk review.

(2) The Department will provide a Subrecipient with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Subrecipient and Subgrantee by email to the Subrecipient's chief executive officer at the email address most recently provided to the Department by the Subrecipient. In general, a 30 day notice will be provided. However, if a credible complaint of fraud or other egregious noncompliance is received the Department reserves the right to conduct unannounced monitoring visits. It is the responsibility of the Subrecipient to provide to the Department the current contact information for the organization and the Board in accordance with §6.6 of this chapter (relating to Subrecipient Contact Information and Required Notifications) and §1.22 of this title (relating to Providing Contact Information to the Department).

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

- (A) Minutes of the governing board and any committees thereof, together with all supporting materials;
- (B) Copies of all internal operating procedures or other documents governing the Subrecipient's operations;
- (C) The Subrecipient's Board approved operating budget and reports on execution of that budget;
- (D) The Subrecipient's strategic plan or comparable document if applicable and any reports on the achievement of that plan;
- (E) Correspondence to or from any independent auditor;
- (F) Contracts with any third parties for goods or services and files documenting compliance with any applicable procurement and property disposition requirements;
- (G) All general ledgers and other records of financial operations (including copies of checks and other supporting documents);
- (H) Applicable customer files with all required documentation;
- (I) Applicable human resources records;
- (J) Monitoring reports from other funding entities;
- (K) Customer files regarding complaints, appeals and termination of services; and
- (L) Documentation to substantiate compliance with any other applicable Department contract provisions and state or federal requirements including, but not limited to UGMS, 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards, Lead Based Paint, the Personal Responsibility and Work Opportunity Act, and limited English proficiency requirements.

(c) Post Monitoring Procedures.

(1) In general, within 30 calendar days of the last day of the monitoring visit, a written monitoring report will be prepared for the Subrecipient describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Board Chair and the Subrecipient's Executive Director. For a Private Nonprofit Organization, all Department monitoring reports and Subrecipient responses to monitoring reports must be provided to the governing body of the Subrecipient ~~at the next regularly scheduled meeting~~within the next two regularly scheduled meetings. For a Public Organization all Department monitoring reports and Subrecipient responses to monitoring reports must be provided to the governing body of the Subrecipient, and for a CSBG Subrecipient to the advisory board ~~at the next regularly scheduled meeting~~within the next two regularly scheduled meetings. Issues of concern over which there is uncertainty or ambiguity may be discussed by the Department with the staff of cognizant

agencies overseeing federal funding. Certain types of suspected or observed improper conduct may trigger requirements to make reports to other oversight authorities, state and federal, including but not limited to the State Auditor's Office and applicable Inspectors General.

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

(3) Monitoring Close Out. Within 45 calendar days after the end of the corrective action period, a close out letter will be issued to the Subrecipient. If the Subrecipient supplies evidence establishing continual compliance that negates the finding of noncompliance, the issue of noncompliance will be rescinded. If the Subrecipient's timely response satisfies all findings and concerns noted in the monitoring letter, the issue of noncompliance will be noted as corrected. In some circumstances, the Subrecipient may be unable to secure documentation to correct a finding. In those instances, if there are mitigating circumstances, the Department may note the finding is not corrected but close the issue with no further action required. If the Subrecipient's response does not correct all findings noted, the close out letter will identify the documentation that must be submitted to correct the issue.

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

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

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

(C) A Subrecipient may request Alternative Dispute Resolution (ADR). Subrecipient should send a proposal to the Department's Dispute Resolution Coordinator to initiate ADR pursuant to §1.17 of this title (relating to Alternative Dispute Resolution).

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

SUBCHAPTER B COMMUNITY SERVICES BLOCK GRANT

§6.201. Background and Definitions.

(a) In addition to this subchapter, except where noted, the rules established in Subchapter A of this chapter (relating to General Provisions) and Chapters 1 and 2 (relating to Administration and Enforcement, respectively) of this title apply to the CSBG Program. The CSBG Act was amended by the "Community Services Block Grant Amendments of 1994" and the Coats Human Services Reauthorization Act of 1998. The Secretary is authorized to establish a community services block grant program and make grants available through the program to states to ameliorate the causes of poverty in communities within the states. Although Eligible Entities receive an allocation of CSBG funds, the CSBG program is not an entitlement program for eligible customers.

(b) The Texas Legislature designates the Department as the lead agency for the administration of the CSBG program pursuant to Tex. Gov't Code, §2306.092. CSBG funds are made available to Eligible Entities to carry out the purposes of the CSBG program.

(c) Except as otherwise noted herein all references in this subchapter to an Eligible Entity's board means both the governing board of the Private Nonprofit or the advisory board of the Public Organization.

(d) Definitions.

(1) Community Action Plan (CAP)--A plan required by the CSBG Act which describes the local Eligible Entity service delivery system, how coordination will be developed to fill identified gaps in services, how funds will be coordinated with other public and private resources, and how the local entity will use the funds to support innovative community and neighborhood based initiatives related to the grant.

(2) CSBG Act--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The CSBG Act authorized establishing a community services block grant program to make grants available through the program to states to ameliorate the causes of poverty in communities within the states.

(3) Direct Customer Support--includes salaries and fringe benefits of case management staff as well as direct benefits provided to customers.

(4) National Performance Indicator (NPI)--A federally defined measure of performance within the Department's Community Affairs Contract System for measuring performance and results of Subrecipients of funds.

(5) Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds.

(6) Quality Improvement Plan (QIP)--A plan developed by a CSBG Eligible Entity to correct Deficiencies identified by the Department as further described in §2.203 and §2.204 of this title (Termination and Reduction of Funding for CSBG Eligible Entities and Contents of a Quality Improvement Plan, respectively).

(7) Results Oriented Management and Accountability (ROMA)--ROMA provides a framework for continuous growth and improvement among Eligible Entities. ROMA implementation is a federal requirement for receiving federal CSBG funds, outlined in HHS IM 152.

(8) Strategic Plan--A planning document which takes into consideration the needs of the targeted community and identifies an organization's vision and mission; its strengths, weaknesses, opportunities, and threats; external and internal factors impacting the organization; and utilizes this information to set goals, objectives, strategies, and measure to meet over an identified period of time.

(9) Transitioned Out of Poverty (TOP)--a Household who was CSBG eligible and as a result of the delivery of CSBG-supported case management services attains an annual income in excess of 125% of the poverty guidelines for 90 calendar days.

(e) Use of certain terminology. In these rules and in the Department's administration of its programs, including the CSBG program, certain terminology is used that may not always align completely with the terminology employed in the CSBG Act. The term "monitoring" is used interchangeably with the CSBG Act term "review" as used in 42 U.S.C. §9915 of the CSBG Act. Similarly, the terms "findings," "concerns," and "violations" are used interchangeably with the term "deficiencies" as used in 42 U.S.C. §9915 of the CSBG Act although, in a given context, they may be assigned more specific, different, or more nuanced meanings, as appropriate.

§6.202.Purpose and Goals.

The Department passes through CSBG funds to Public Organizations and Private Nonprofits that are to comply with the purposes of the CSBG Act.

§6.203.Formula for Distribution of CSBG Funds.

(a) The CSBG Act requires that no less than 90% of the state's annual allocation be allocated to Eligible Entities. The Department currently utilizes a multi-factor fund distribution formula to equitably provide CSBG funds throughout the state to the CSBG Eligible Entities. The formula is subject to adjustment from time to time when amended as part of the CSBG State Plan.

(b) The distribution formula incorporates the most current U.S. Census Bureau Decennial Census and data from the American Community Survey for information on persons not to exceed 125% of poverty. The formula is applied as follows:

(1) Each Eligible Entity receives a \$50,000 base award;

(2) Then, the factors of poverty population, weighted at 98% and inverse population density, weighted at 2%, are applied to the state's allocation required to be distributed among Eligible Entities;

(3) If the base combined with the calculation resulting from the weighted factors in subparagraph (2) do not reach a minimum floor of \$150,000, then a minimum floor of \$150,000 is reserved for each of those CSBG eligible entities, resulting in a proportional reduction in other funds available for formula-based distribution;

(4) Then, the formula is re-applied to the balance of the 90% funds for distributing the remaining funds to the remaining CSBG eligible entities.

(c) Following the use of the decennial Census data, then on a biennial basis, the Department will use the most recent American Community Survey five year estimate data that is available. To the extent that there are significant reductions in CSBG funds received by the Department, the Department may revise the CSBG distribution formula through a rulemaking process.

(d) In years where permitted by the federal government, an Eligible Entity that does not obligate more than 20% of its base allocation in a Program Year (excluding any additional funds that may be distributed by the Department) by the end of the first quarter of the year following the allocation year for two consecutive years will have funding recaptured consistent with 42 U.S.C. §9907(a)(3). This recapture of funds does not trigger the procedures or protections of HHS IM 116. The Subrecipient of the funds will be provided a Contract for the average percentage of funds that they expended over the last two years. The Eligible Entity will be provided an opportunity to redistribute the funds through a competitive request for proposals to a Private Nonprofit Organization, located within the community served by the Eligible Entity. If the Eligible Entity selects this option it will be responsible for monitoring the Private Nonprofit Organization selected. If the Subrecipient does not provide them to an eligible Private Nonprofit Organization, located within the community served by the Subrecipient, the Department in accordance with HHS IM 42 shall redistribute the funds to another Eligible Entity to be used in accordance with the CSBG and Department rules.

(e) Five percent of the Department's annual allocation of CSBG funds may be expended on activities listed in 42 U.S.C. §9907(b)(A) - (H) and further described in the annual plan or by Board approval. The Department may also opt to distribute unexpended funds described in subsection (f) of this section for these activities.

(f) Up to 5% of the State's annual allocation of CSBG funds will be used for the Department's administrative purposes consistent with state and federal law.

§6.204. Use of Funds.

CSBG funds are contractually obligated to Eligible Entities, and accessed through the Department's web-based Community Affairs Contract System. Prior to executing a Contract for CSBG funds, the Department will verify that neither the entity, nor any member of the Eligible Entity's Board is federally debarred or excluded. Unless modified by Contract, the annual

allocation has a beginning date of January 1 and an end date of December 31, regardless of the Eligible Entity's fiscal year. Eligible Entities may use the funds for administrative support and/or for direct services such as: education, employment, housing, health care, nutrition, transportation, linkages with other service providers, youth programs, emergency services, i.e., utilities, rent, food, Shelter, clothing, etc.

§6.205.Limitations on Use of Funds.

(a) Construction of Facilities. CSBG funds may not be used for the purchase, construction or improvement of land, or facilities as described in (42 U.S.C. §9918(a)).

(b) The CSBG Act prohibits the use of funds for partisan or nonpartisan political activity; any political activity associated with a candidate, contending faction, or group in an election for public or party office; transportation to the polls or similar assistance with an election; or voter registration activity (for example, contacting a congressional office to advocate for a change to any law is a prohibited activity).

(c) Utility and rent deposit refunds from vendors must be reimbursed to the Subrecipient and not the customer. Refunds must be treated as program income, and returned to the Department within 10 calendar days of receipt.

§6.206.CSBG Community Assessment, Community Action Plan, and Strategic Plan.

(a) In accordance with the CSBG Act, each Eligible Entity must submit a Community Action Plan on an annual basis. The Community Action Plan is required to be submitted to the Department by a date directed by the Department, for approval prior to execution of a Contract.

(b) Consistent with organizational standards relating to Data Analysis and Performance, the Eligible Entity must present to its governing board for review or action, at least every 12 months, an analysis of the agency's outcomes and any operational or strategic program adjustments and improvements identified as necessary; and the organization must submit its annual CSBG Information Survey data report which reflects customer demographics and organization-wide outcomes.

(c) Every three years each Eligible Entity shall complete a Community Assessment (may also be called "Community Needs Assessment" or CNA), upon which the annual CAP will be based. Guidance on the content and requirements of the Community Assessment will be released by the Department. Information related to the Community Assessment shall be submitted to the Department on or before a date specified by the Department in the previous year's Contract. The Community Assessment will require, among other things, that the top five needs of the Service Area are identified.

(d) Services to Poverty Population. An Eligible Entity administering services to customers in one or more counties in its CSBG Service Area shall ensure that such services are rendered reasonably and in an equitable manner to ensure fairness among all potential applicants eligible for services. Services rendered must reflect the poverty population ratios in the Service Area and services

should be distributed based on the proportionate representation of the poverty population within a county. A variance of greater than plus or minus 20% may constitute a Deficiency. An Eligible Entity administering services to customers in one or more counties shall demonstrate marketing and outreach efforts to make available direct services to a reasonable percentage of the county's eligible population based on the most recent census or American Community Survey data, as directed by the Department. Services should also be distributed based on the proportionate representation of the poverty population within a county. Other CSBG-funded organizations shall ensure that services are rendered in accordance with requirements of the CSBG Contract.

(e) The CAP shall be derived from the Community Assessment and at a minimum include a budget, a description of the delivery of case management services, in accordance with the National Performance Indicators, and include a Performance Statement that describes the services, programs, activities, and planned outcomes to be delivered by the organization.

(f) The CAP must take into consideration the outcomes expected by previous CAPs. If past outcomes were not achieved as reported in the CA Contract System, or outcomes exceed the targeted goals, the Subrecipient must assess the reasons for the variance in outcomes, determine what will be done differently if continuing to include those outcome goals, and identify how any of issues or obstacles will be mitigated or addressed. An effective CAP should be constantly monitored and adjusted to optimize achievement of results consistent with CSBG Act goals.

(g) The Community Assessment and the CAP both require Department approval; those that do not meet the Department's requirements as articulated in these rules, in federal guidance, or in Subrecipient's Contract will be required to be revised until they meet the Department's satisfaction.

(h) If circumstances warrant amendments to the Community Assessment or the CAP, a Subrecipient must provide a written request to the Department identifying the specific requested change(s) to the document with a justification for each change. The Department will approve or deny amendment requests in writing.

(i) Hearing. In conjunction with the submission of the CAP, the Eligible Entity must annually submit to the Department a certification from its board that a public hearing was posted, and conducted on the proposed use of that year's funds.

(j) At least every five years, each Eligible Entity shall develop a Strategic Plan using the full ROMA cycle or a comparable system. The Strategic Plan shall meet the requirements of CSBG Organizational Standards (specifically Organization Standards 4.3, 6.1 through 6.5, and 9.3) and meet the requirements in the Department's Strategic Plan guidance. The Strategic Plan shall be submitted to the Department on or before a date specified by the Department in the Contract.

(k) Each CSBG Subrecipient must develop a Performance Statement which identifies the services, programs, and activities to be administered by that organization.

§6.207.Subrecipient Requirements.

(a) An Eligible Entity shall submit information regarding the planned use of funds as part of the CAP as described in §6.206 of this subchapter (relating to CSBG Community Assessment, Community Action Plan, and Strategic Plan).

(b) HHS issues terms and conditions for receipt of funds under the CSBG. Subrecipient will comply with the requirements of the terms and conditions of the CSBG award.

(c) CSBG Eligible Entities, and other CSBG organizations where applicable, are required to coordinate CSBG funds and form partnerships and other linkages with other public and private resources and coordinate and establish linkages between governmental and other social service programs to assure the effective delivery of services and avoid duplication of services.

(d) CSBG Eligible Entities will provide, on an emergency basis, the provision of supplies and services, nutritious foods, and related services as may be necessary to counteract the conditions of starvation and malnutrition among low-income individuals. The nutritional needs may be met through a referral source that has resources available to meet the immediate needs.

(e) CSBG Eligible Entities and other CSBG organizations are required to coordinate for the provision of employment and training activities through local workforce investment systems under the Workforce Innovation and Opportunity Act, as applicable.

(f) CSBG Eligible Entities are required to inform custodial parents in single-parent families that participate in programs, activities, or services about the resources available through the Texas Attorney General's Office with respect to the collection of child support payments and refer eligible parents to the Texas Attorney General's Office of Child Support Services Division.

(g) Documentation of Services. Subrecipient must maintain a record of referrals and services provided.

(h) Intake Form. To fulfill the requirements of 42 U.S.C. §9917, CSBG Subrecipient must complete and maintain an intake form that screens for income, assesses customer needs, and captures the demographic and household characteristic data required for the Monthly Performance and Expenditure Report, referenced in Subchapter A of this chapter (relating to General Provisions), for all Households receiving a community action service. CSBG Subrecipients must complete and maintain a manual or electronic intake form for all customers ~~for each program year~~ at least every twelve months.

(i) Case Management.

(1) An Eligible Entity is required to provide integrated case management services. Subrecipient is required to identify and set goals for Households they serve through the case management process. Subrecipient is required to evaluate and assess the effect its case management system has on the short-term (less than three months) and long-term (greater than three months) impact on customers, such as enabling the customer to move from poverty to self-sufficiency, to maintain stability. CSBG funds may be used for short term case management to meet immediate

needs. In addition, CSBG funds may be used to provide long-term case management to persons working to transition out of poverty and achieve self-sufficiency.

(2) An Eligible Entity must have and maintain documentation of case management services provided.

(3) An Eligible Entity is assigned a minimum TOP goal by the Department. Eligible Entities must provide ongoing case management services for these TOP Households. The case management services must include the components described in subparagraphs (A) - (L) of this paragraph. Subrecipients must also provide case management clients with a Customer Satisfaction Survey, described in subparagraph (M) of this paragraph, for the client to complete anonymously. At least annually, Subrecipients must evaluate the effectiveness of their case management services, as described in subparagraph (N) of this paragraph. The forms or systems utilized for each component may be manual or electronic forms provided by the Department or manual or electronic forms created by the Eligible Entity that at minimum contain the same information as the Department-issued form, which include the same components as those described in subparagraphs (A) - (L) of this paragraph.

(A) Self-Sufficiency Customer Questionnaire to assess a customer's status in the areas of employment, job skills, education, income, housing, food, utilities, child care, child and family development, transportation, healthcare, and health insurance;

(B) Self-Sufficiency Outcomes Matrix to assess the customer's status in the self-sufficiency domains noted in subparagraph (A) of this paragraph;

(C) Case Management Screening Questions to assess the customer's willingness to participate in case management services on an ongoing basis;

(D) For customers who are willing to engage in long term case management services, a Case Management Agreement between Subrecipient and customer;

(E) Release of Information Form;

(F) Case Management Service Plan to document planned goals agreed upon by the case manager and customer along with steps and timeline to achieve goals;

(G) Case management follow-up, which provides a system to document customer progress at completing steps and achieving goals. Case management follow-up should occur, at a minimum, every 30 days, either through a meeting, phone call or email. In person meetings should occur, at a minimum, once a quarter;

(H) A record of referral resources and documentation of the results;

(I) A system to document services received and to collect and report NPI data;

(J) A system to document case closure for persons that have exited case management;

(K) A system to document income for persons that have maintained an income level above 125% of the Federal Poverty Income Guidelines for 90 days;

(L) A system to document and notify customers of termination of case management services;

(M) Customer Satisfaction Survey; and

(N) On an annual basis, an Eligible Entity should determine the effectiveness of its case management services and identify strategies for improvement, including identification of reasons for customer terminations and strategies to limit their occurrence.

(j) Effective January 1, 2016, Eligible Entities shall meet the CSBG Organizational Standards as issued by HHS IM 138 (as revised), except that where the word bylaws is used the Department has modified the standards to read Certificate of Formation/Articles of Incorporation and bylaws; also, Eligible Entities must follow the requirements in UGMS including the State of Texas Single Audit Circular. Failure to meet the CSBG Organizational Standards as described in this subsection may result in HHS IM 116 proceedings as described in Chapter 2 of this title (relating to Enforcement).

§6.208. Designation and Re-designation of Eligible Entities in Unserved Areas.

If any geographic area of the state ceases to be served by an Eligible Entity, the requirements of 42 U.S.C. §9909 will be followed.

§6.209. CSBG Requirements for Tripartite Board of Directors.

(a) General Board Requirements:

(1) The Coats Human Services Reauthorization Act (Public Law 105-285) addresses the CSBG program and requires that Eligible Entities administer the CSBG program through a tripartite board. The Act requires that governing boards or a governing body be involved in the development, planning, implementation, and evaluation of the programs serving the low-income sector.

(2) Federal requirements for establishing a tripartite board require board oversight responsibilities for public entities, which differ from requirements for private organizations. Where differences occur between private and public organizations, requirements for each entity have been noted in related sections of the rule.

(b) Each CSBG Eligible Entity shall comply with the provisions of this rule and if necessary, the Eligible Entity's by-laws/Certificate of Formation/Articles of Incorporation shall be amended to reflect compliance with these requirements.

§6.210. Board Structure.

(a) Eligible Entities that are Private Nonprofit Organizations shall administer the CSBG program through a tripartite board that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities. Records must be retained for all seated board members in relation to their elections to the board for the longer of the board member's term on the Board, or the federal record retention period. Some of the members of the board shall be selected by the Private Nonprofit Organization, and others through a democratic process; the board shall be composed so as to assure that the requirements of the CSBG Act are followed and are composed as:

(1) One-third of the members of the board shall be elected public officials, holding office on the date of the selection, or their representatives. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the entity may select appointive public officials to serve on the board. The public officials selected to serve on the board may each choose one permanent representative or designate an alternate to serve on the board. Appointive public officials or their representatives or alternates may be counted in meeting the 1/3 requirement.

(2) Not fewer than 1/3 of the members are persons chosen in accordance with the Eligible Entity's Board-approved written democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member.

(3) The remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

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

(c) An Eligible Entity administering the Head Start Program must comply with the Head Start Act (42 U.S.C. §9837) that requires the governing body membership to comply with the requirements of §642(c)(1) of the Head Start Act.

(d) Residence Requirement. Board members must follow any residency requirements outlined in 42 U.S. Code §9910, or federal regulations made pursuant to that section. Low income representatives must reside in the CSBG Service Area.

(e) Selection.

(1) Public Officials:

(A) Elected public officials or appointed public officials, selected to serve on the board, shall have either general governmental responsibilities or responsibilities which require them to deal with poverty-related issues; and

(B) Permanent Representatives and Alternates. The public officials selected to serve on the board may each choose one permanent representative or designate an alternate to serve on the board.

(i) Permanent Representatives. The representative need not be a public official but shall have full authority to act for the public official at meetings of the board. Permanent representatives may hold an officer position on the board. If a permanent representative is not chosen, then an alternate may be designated by the public official selected to serve on the board. Alternates may not hold an officer position on the board.

(ii) Alternate Representatives. If the Private Nonprofit Entity or Public Organization advisory board chooses to allow alternates, the alternates for low-income representatives shall be elected at the same time and in the same manner as the board representative is elected to serve on the board. Alternates for representatives of private sector organizations may be designated to serve on the board and should be selected at the same time the board representative is selected. In the event that the board member or alternate ceases to be a member of the organization represented, he/she shall no longer be eligible to serve on the board. Alternates may not hold an officer position on the board.

(2) Low-Income Representatives:

(A) The CSBG Act and its amendments require representation of low-income individuals on boards. The CSBG statute requires that not fewer than one-third of the members shall be representatives of low-income individuals and families and that they shall be chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhoods served; and that each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member.

(B) Board members representing low-income individuals and families must be selected in accordance with a democratic procedure. This procedure, as detailed in subparagraph (D) of this paragraph, may be either directly through election, public forum, or, if not possible, through a similar democratic process such as election to a position of responsibility in another significant service or community organization such as a school PTA, a faith-based organization leadership group; or an advisory board/governing council to another low-income service provider; For a Private Nonprofit Entity the democratic selection process must be detailed in the agency's Certificate of Formation/Articles of Incorporation or ~~Bylaws~~bylaws, but the method detailed in the ~~Bylaws~~bylaws (if so described) must not be inconsistent with any method of selection of Board members outlined in the Certificate of Formation/Articles of Incorporation; failure to comply could result in a default procedure that does not meet the CSBG requirements and potentially jeopardizes the Eligible Entity status of the organization as detailed in §6.213 of this subchapter (relating to Board Responsibility). For a Public Organization the democratic procedure must be written in the advisory board's procedures, and approved at a board meeting.

(C) Every effort should be made by the Private Nonprofit Entity or Public Organization to assure that low-income representatives are truly representative of current residents of the CSBG Service Area, including racial and ethnic composition, as determined by periodic selection or reselection by the community. "Current" should be defined by the recent or annual demographic changes as documented in the needs/Community Assessment. This does not preclude extended service of low-income community representatives on boards, but it does suggest that continued board participation of longer term members be revalidated and kept current through some form of democratic process.

(D) The procedure used to select the low-income representative must be documented to demonstrate that a democratic selection process was used. Among the selection processes that may be utilized, either alone or in combination, are:

(i) selection and elections, either within neighborhoods or within the community as a whole; at a meeting or conference, to which all neighborhood residents, and especially those who are poor, are openly invited;

(ii) selection of representatives to a community-wide board by members of neighborhood or sub-area boards who are themselves selected by neighborhood or area residents;

(iii) selection, on a small area basis (such as a city block); or

(iv) selection of representatives by existing organizations whose membership is predominately composed of poor persons.

(E) A Public Organization must not adopt a democratic selection process that requires all of the low-income representatives to reside in the political boundaries of the Public Organization, or that excludes all residents not in the political boundaries of the Public Organization from all participation in the democratic selection of all of the low-income representatives.

(3) Representatives of Private Groups and Interests:

(A) The Private Nonprofit or Public Organization shall select the remainder of persons to represent the private sector on the board or it may select private sector organizations from which representatives of the private sector organization would be chosen to serve on the board; and

(B) The individuals and/or organizations representing the private sector should be selected in such a manner as to assure that the board will benefit from broad community involvement. The board composition for the private sector shall draw from officials or members of business, industry, labor, religious, law enforcement, education, school districts, representatives of education districts and other major groups and interests in the community served.

(f) An Eligible Entity must have written procedures under which a low-income individual, community organization, religious organization, or representative of such may petition for adequate representation on the board of the Eligible Entity. Such petitions must be heard at a subsequent board meeting not more than 120 days after receiving the petition.

(g) Improperly Constituted Board. If the Department determines that a board of an Eligible Entity is improperly constituted, the Department shall prescribe the necessary remedial action, a timeline for implementation, and possible sanctions as described in §2.202 of this title (relating to Sanctions and Contract Closeout).

§6.211. Board Administrative Requirements.

(a) Compensation. Board members are not entitled to compensation for their service on the board. Reimbursement of reasonable and necessary expenses incurred by a board member in carrying out his/her duties is allowed.

(b) Conflict of Interest. No board member may participate in the selection, award, or administration of a Subcontract supported by CSBG funds if the board member has the following financial or personal interests in the entity or person selected to perform a subcontract:

(1) The board member;

(2) Any member of his/her family related within three degrees of consanguinity, adoption, or by marriage;

(3) The board member's partner or Household member; or

(4) Any entity or person which employs or is about to employ any of the individuals described in paragraphs (1) - (3) of this subsection.

(c) No employee of the local CSBG Subrecipient or of the Department may serve on the board.

(d) A seated board member is permitted to be appointed to serve as an interim Executive Director for up to 180 days so long as the Department is so notified, the board member did not participate in the vote that designated them as the interim Executive Director, the board member does not vote during the period for which they serve as the interim Executive Director, and the member is not considered a member for purposes of quorum. In such cases, the board member seat is not considered vacated, and is available for that board member to return.

§6.212. Board Size.

(a) Board Service Limitations for Private Nonprofit Entities and Public Organizations. The Eligible Entity may establish term limits and/or procedures for the removal of board members.

(b) Vacancies/Removal of Board Members.

(1) Vacancies. In no event shall the board allow 25% or more of either the public, private, or low-income sector board positions to remain vacant for more than 90 days. An Eligible Entity shall report the number of board vacancies by sector in its Monthly Performance and Expenditure Report. Compliance with the CSBG Act requirements for board membership is a condition for

Eligible Entities to receive CSBG funding. There is no provision for a waiver or exception to these requirements.

(2) Removal of Board Members/Private Nonprofit Entities. Public officials or their representatives, may be removed from the board either by the board or by the entity that appointed them to serve on the board. Other members of the board may be removed by the board or pursuant to any procedure provided in the private nonprofit's Certificate of Formation/Articles of Incorporation or bylaws.

(3) Removal of Board Members/Public Organizations. Public officials or their representatives may be removed from the advisory board by the Public Organization, or by the advisory board if the board is so empowered by the Public Organization. The advisory board may petition the Public Organization to remove an advisory board member. All other board members may be removed by the advisory board.

(4) In order to meet the 1/3 requirement for the Public Official representation detailed in §6.210 of this rule (relating to Board Structure), board size shall be a number divisible by three.

§6.213. Board Responsibility.

(a) Tripartite boards have a fiduciary responsibility for the overall operation of the Eligible Entity. Members are expected to carry out their duties as any reasonably prudent person would do.

(b) At a minimum, board members are expected to:

(1) Maintain regular attendance of board and committee meetings;

(2) Develop thorough familiarity with core agency information as appropriate, such as the agency's bylaws, Certificate of Formation/Articles of Incorporation, sources of funding, agency goals and programs, federal and state CSBG statutes;

(3) Exercise careful review of materials provided to the board;

(4) Make decisions based on sufficient information;

(5) Ensure that proper fiscal systems and controls, as well as a legal compliance system, are in place;

(6) Maintain knowledge of all major actions taken by the agency; and

(7) Receive regular reports that include:

(A) Review and approval of all funding requests (including budgets);

(B) Review of reports on the organization's financial situation;

(C) Regular reports on the progress of goals specified in the Performance Statement or program proposal;

(D) Regular reports addressing the rate of expenditures as compared to those projected in the budget;

(E) Updated modifications to policies and procedures concerning employee's and fiscal operations;

(F) Updated information on community conditions that affect the programs and services of the organization; and

(G) Reports on any monitoring correspondence transmitted by the Department.

(c) Individuals that agree to participate on a tripartite governing board, accept the responsibility to assure that the agency they represent continues to:

(1) Assess and respond to the causes and conditions of poverty in their community;

(2) Achieve anticipated family and community outcomes; and

(3) Remains administratively and fiscally sound.

(4) Excessive absenteeism of board members compromises the mission and intent of the program.

§6.214. Board Meeting Requirements.

(a) A Board of an Eligible Entity must meet and have a quorum at least once per calendar quarter, and at a minimum five times per year and, must give each Board member a notice of meeting five calendar days in advance of the meeting.

(b) Tex. Gov't Code, Chapter 551, Texas Open Meetings Act, addresses specific requirements regarding meetings and meeting notices. Tex. Gov't Code, §551.001(3)(J), includes in the definition of a governmental body a nonprofit corporation that is eligible to receive funds under the federal CSBG program, and that is authorized by the state to serve a geographic area of the state. Thus, all Eligible Entities must follow the requirements of the Texas Open Meetings Act. As set forth in that law, there is the potential for individual criminal liability for violations.

(c) Tex. Gov't Code, §551.005 requires elected or appointed officials to receive training in Texas Open Government laws. The Department requires that all board members or advisory board members receive training in Texas Open Government laws, according to the requirements of §551.005.

(d) A copy of the attendance roster for all Board trainings shall be maintained at the Subrecipient level.

(e) The minimum number of members required to meet quorum is three unless the Subrecipient's Certification of Formation/Articles of Incorporation, ~~Bylaws~~bylaws, or the Texas Open Meetings Act requires a greater number.

SUBCHAPTER C COMPREHENSIVE ENERGY ASSISTANCE PROGRAM

§6.301. Background and Definitions.

(a) The Comprehensive Energy Assistance Program (CEAP) is funded through the Low Income Home Energy Assistance Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended). LIHEAP has been in existence since 1982. LIHEAP is a federally funded block grant program that is implemented to serve Low Income Households who seek assistance for their home energy bills. LIHEAP is not an entitlement program, and there are not sufficient funds to serve all eligible customers or to provide the maximum benefit for which a customer may qualify.

(b) Definitions.

(1) Crisis Assistance--A type of CEAP assistance limited to Households who meet the requirements related to Extreme Weather Conditions, Life Threatening Crisis, or a Disaster.

(2) Customer Obligations--Funds become obligated upon a Subrecipient's pledge of payment to a specific Household toward a service or form of assistance and it being recorded in Subrecipient's client tracking software.

(3) Disaster--An event declared by the President of the United States or the Governor of the State of Texas.

(4) Extreme Weather Conditions--For winter months (November, December, January, and February), extreme cold weather conditions exist when the temperature has been at least two degrees below the lowest winter month's temperature or below 32 degrees, for at least three days during the client's billing cycle. For summer months (June, July, August, and September), extreme hot weather conditions exist when the temperature is at least two degrees above the highest summer month's temperature for at least three days during the client's billing cycle. Extreme Weather Conditions will be based on either data for "1981-2010 Normals" temperatures recorded by National Centers for Environmental Information of the National Oceanic and Atmospheric Administration (NOAA) and available at <https://www.ncdc.noaa.gov/cdo-web/datatools/normals>, or on data determined by the Subrecipient, and approved by the Department in writing. Subrecipient must maintain documentation of local temperatures and reflect their standard for Extreme Weather Conditions in its Service Delivery Plan.

(5) Life Threatening Crisis--A Life Threatening Crisis exists when the life of at least one person in the applicant Household who is a U.S. Citizen, U.S. National, or a Qualified Alien would likely, in the opinion of a reasonable person, be endangered if utility assistance or heating and cooling

assistance is not provided due to a Household member who needs electricity for life-sustaining equipment or whose medical professional has prescribed that the person with a medical condition requires that the ambient air temperature be maintained at a certain temperature. Examples of life-sustaining equipment include, but are not limited to, kidney dialysis machines, oxygen concentrators, and cardiac monitors. Documentation must not be requested about the medical condition of the applicant, but the applicant must state that such a device is required in the Dwelling Unit to sustain life.

(6) Low on Fuel--A reference to propane tanks which are below 20% supply (according to customer).

(7) Natural Disaster--A Disaster that is primarily not of man-made origins.

(8) Vendor Refund--A sum of money refunded by a utility company or supplier due to a credit on the account or due to a deposit. See §6.312 of this subchapter (relating to Payments to Subcontractors and Vendors) for more information.

§6.302.Purpose and Goals.

The purpose of CEAP is to assist low-income Households, particularly those with the lowest incomes, and High Energy Consumption Households to meet their immediate home energy needs. The LIHEAP Statute requires priority be given to those with the highest home energy needs, meaning Low Income Households with High Energy Consumption, a High Energy Burden and/or the presence of Vulnerable Population in the Household. CEAP services include: energy education, ~~needs assessment, budget counseling (as it pertains to energy needs),~~ utility payment assistance, repair of existing heating and cooling units, and crisis-related purchase of portable heating and cooling units.

§6.303.Distribution of CEAP Funds.

(a) The Department distributes funds to Subrecipients by an allocation formula.

(b) The formula allocates funds based on the number of low income Households in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the Elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as:

(1) County Non-Elderly Poverty Household Factor (weight of 40%)--Defined by the Department as the number of Non-Elderly Poverty Households in the county divided by the number of Non-Elderly Poverty Households in the State;

(2) County Elderly Poverty Household Factor (weight of 40%)--Defined by the Department as the number of Elderly Poverty Households in the county divided by the number of Elderly Poverty Households in the State; and

(3) County Inverse Household Population Density Factor (weight of 5%)--Defined by the Department as:

(A) The number of square miles of the county divided by the number of Poverty Households of the county (equals the Inverse Poverty Household Population Density of the county); and

(B) Inverse Poverty Household Population Density of the county divided by the sum of Inverse Household Densities.

(4) County Median Income Variance Factor (weight of 5%)--Defined by the Department as:

(A) State Median Income minus the County Median Income (equals county variance); and

(B) County Variance divided by sum of the State County Variances.

(5) County Weather Factor (weight of 10%)--Defined by the Department as:

(A) County heating degree days plus the county cooling degree days, multiplied by the poverty Households, divided by the sum of county heating degree days and county cooling degree days of counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(c) All demographic factors are based on the most recent decennial U.S. Census for which Census Bureau published information is available.

(d) The total sum of paragraphs (1) - (5) of this subsection multiplied by total funds allocation equals the county's allocation of funds. The sum of the county allocations within each Subrecipient service area equals the Subrecipient's total allocation of funds.

(e) The Department may, in the future, undertake to reprocur the entities that comprise the network of CEAP providers, in which case this allocation formula will be reassessed and, if material changes are needed, amended by rulemaking.

§6.304. Deobligation and Reobligation of CEAP Funds.

(a) The Department may Deobligate funds from all budget categories from Subrecipients whose combined [Direct Services](#) Expenditures and Customer Obligations are less than 30% as of the April 15 Monthly Performance and Expenditure Report. Subrecipient may avoid Deobligation at this point if one of the following has occurred:

(1) On or before the first business day in April, the Subrecipient has submitted a written request for an exception due to extenuating circumstances with a plan to improve [Direct Services](#)

Expenditures and Customer Obligations. The request and plan must be approved by the Department in writing; or

(2) On or before the first business day in April, the Subrecipient has submitted a written request for training and/or technical assistance. Once such assistance has been delivered, as determined by the Department, the Subrecipient must submit a clear specific plan, as outlined by the Department, for improving [Direct Services](#) Expenditures and Customer Obligations, and that plan must be approved by the Department in writing.

(b) The Department may Deobligate funds from all budget categories from Subrecipients whose combined [Direct Services](#) Expenditures and Customer Obligations are less than 50% as of the June 15 Monthly Performance and Expenditure Report, unless on or before the first business day in June the Subrecipient submits a written request for an exception due to extenuating circumstances with a plan to improve [Direct Services](#) Expenditures and Customer Obligations. The request and plan must be approved by the Department in writing.

(c) Funds Deobligated under this section, or additional funds should they become available, will be reobligated proportionally by the formula described in §6.303 of this subchapter (relating to Distribution of CEAP Funds), or if six months or less remain for the Department to expend the funds another method approved by the Department's Board amongst all Subrecipients that did not have any funds Deobligated to ensure full utilization of funds.

(d) A Subrecipient which has had funds Deobligated under subsection (a) or (b) of this section that fully Expends the reduced amount of its Contract by January 31 of the following year as reported in the Monthly Performance and Expenditure Report due February 15, will have access to the full amount of the following Program Year CEAP allocation. A Subrecipient which has had funds Deobligated under subsection (a) or (b) of this section that fails to fully expend the reduced amount of its Contract will automatically have the following Program Year CEAP allocation Deobligated by the lesser of 24.99%, or the proportional amount that had been Deobligated from the prior year Contract.

(e) The cumulative balance of the funds made available through subsection (d) of this section will be allocated proportionally by the formula described in §6.303 of this subchapter to the Subrecipients not having funds reduced under that subsection.

(f) In no event will involuntary Deobligations that occur through subsection (a) or (b) of this section exceed 24.99% of the Subrecipient's Program Year CEAP Contracted Funds, without an opportunity for a hearing as required by Tex. Gov't Code, Chapter 2105.

(g) Failure by the Subrecipient to ~~fully~~ Expend [98% of](#) a prior year Contract by the Monthly Performance and Expenditure Report due April 15th of the subsequent year for two consecutive original Contract Terms is good cause for nonrenewal of a Contract.

§6.305.Subrecipient Eligibility.

(a) The Department administers the program through the existing Subrecipients that have demonstrated that they are operating the program in accordance with their Contract, the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If a Subrecipient is successfully administering the program, the Department may offer to renew the Contract.

(b) If the Department determines that a Subrecipient is not administering the program satisfactorily, the Subrecipient will be notified of such a Finding as provided for in §6.10 of this chapter (relating to Compliance Monitoring), and required to take corrective actions to remedy the problem. If Subrecipient fails to correct the Finding, in order to ensure continuity of services, the Department may reassign up to 24.99% of the funds for the service area to one or more other existing Subrecipients.

(c) If the Subrecipient does not complete the corrective action within the required timeframe, the Department may conduct a solicitation for selection of an interim Subrecipient. The affected Subrecipient may request a hearing in accordance with the Tex. Gov't Code, §2105.204.

(d) If it is necessary to designate a new Subrecipient to administer CEAP, the Department shall give special consideration to Subrecipients receiving funds under LIHEAP or DOE WAP, in accordance with Assurance 6 of the Low Income Home Energy Assistance Act of 1981.

§6.306. Service Delivery Plan.

Prior to any Expenditure of funds, Subrecipient is required to submit on an annual basis a Department formatted Service Delivery Plan (SDP), which includes information on how they plan to implement CEAP in their service area. The Department will notify CEAP Subrecipients when the SDP template and the annual updated forms are posted on the Department's website. The SDP must establish a Subrecipient's priority rating sheet and priority Households; the alternate billing method; how customer education is being addressed; how the Subrecipient is determining the number of payments to be made and which types of Households are qualified for a given number of payments; and the local standard to be used for Extreme Weather Conditions.

§6.307. Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households.

(a) The customer income eligibility level is at or below 150% of the federal poverty level in effect at the time the customer makes an application for services.

(b) Categorical Eligibility for CEAP benefits exists when at least one person in the Household receives assistance from:

(1) SSI payments from the Social Security Administration; or

(2) Means Tested Veterans Program payments. See paragraph (35) of §6.2 of this chapter (relating to Definitions).

(c) A complete application is required for all Households. Subrecipient shall determine customer income using the definition of income and process described in §6.4 of this chapter (relating to Income Determination). Household income documentation must be collected by the Subrecipient for the purposes of determining the Household's benefit level.

(d) Social security numbers are not required for applicants.

(e) Subrecipient must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.

(f) A Dwelling Unit cannot be served if the meter is utilized by another Household that is not a part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if:

(1) The members of the separate structures that share a meter meet the definition of a Household per §6.2 of this chapter (relating to Definitions);

(2) The members of the separate structures that share a meter submit one application as one Household; and

(3) All persons and applicable income from each structure are counted when determining eligibility.

(g) United States Citizen, United States National, or Qualified Alien. Except for items described in 10 TAC §6.310(c)(2),(4), (5) and (7) (relating to Crisis Assistance Component), Unqualified Aliens are not eligible to receive CEAP benefits. Mixed Status Households shall not be denied CEAP assistance based solely on the presence of a non-qualified member, except if the member is the sole member of the Household. A Public Organization must verify U.S. Citizen, U.S. National, or Qualified Alien status of all household members using SAVE.

(h) Subrecipient must begin providing utility assistance services to customers upon receipt of Contract and throughout the Contract Term unless Subrecipient has expended its entire Contract.

§6.308.Allowable Subrecipient Administrative and Program Services Costs.

(a) Funds available for Subrecipient administrative activities will be calculated by the Department as a percentage of direct services Expenditures. Administrative costs shall not exceed the maximum percentage of total direct services Expenditures, as indicated in the Contract. All other administrative costs, exclusive of administrative costs for program services, must be paid with nonfederal funds. Allowable administrative costs for administrative activities includes costs for general administration and coordination of CEAP, and all indirect (or overhead) costs, and activities as described in paragraphs (1) - (7) of this subsection:

(1) Salaries;

(2) Fringe benefits;

(3) Non-training travel;

(4) Equipment;

(5) Supplies;

(6) Audit (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract); and

(7) Office space (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract).

(b) Program Services costs shall not exceed the maximum percentage of total direct services Expenditures, as indicated in the Contract. Program Services costs are allowable when associated with providing customer direct services. Program services costs may include outreach activities and expenditures on the information technology and computerization needed for tracking or monitoring required by CEAP, and activities as described in paragraphs (1) - (9) of this subsection:

(1) Direct administrative cost associated with providing the customer direct service;

(2) Salaries and benefits cost for staff providing program services;

(3) Supplies;

(4) Equipment;

(5) Travel;

(6) Postage;

(7) Utilities;

(8) Rental of office space; and

(9) Staff time to provide energy conservation education, needs assessments, and referrals.

§6.309. Types of Assistance and Benefit Levels.

(a) Allowable CEAP Expenditures include customer education, utility payment assistance, repair of existing heating and cooling units, and crisis-related purchase of portable heating and cooling units.

(b) Total maximum possible annual Household benefit (all allowable benefits combined) shall not exceed ~~\$8,2005,900~~ during a Program Year.

(c) Benefit determinations are based on the Household's income (even if the Household is Categorically Eligible), the Household size, Vulnerable Populations in the Household, plus other priority status, whether a Household has one or more Unqualified Aliens for which calculation adjustments must be made as described in paragraphs (1) and (2) of this subsection, and the availability of funds.

(1) Count income for all Household members 18 years of age and older, including Unqualified Aliens; and

(2) Adjust the Household size for determining eligibility and benefit assistance level to exclude all Unqualified Aliens.

(d) For purposes of determining Categorical Eligibility or Vulnerable Populations (i.e. priority status), the Household is not considered to satisfy the definition of having Categorical Eligibility or Vulnerable Population if the only individual(s) in the Household with that Categorical Eligibility or Vulnerable Population status are Unqualified Aliens. For purposes of reporting, all individuals in the Households should be reported.

(e) Benefit determinations for the Utility Payment Assistance Component and the Crisis Assistance Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection:

(1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed \$1,~~62~~00 per Component;

(2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed \$1,~~51~~00 per Component; and

(3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$1,~~40~~00 per Component.

(f) Service and Repair of existing heating and cooling units. Households may receive up to \$~~5,000~~~~3,500~~ for service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system based on requirements in §6.310 (relating to Crisis Assistance Component) for Non-Vulnerable Population Households and §6.311 (relating to Utility Assistance Component) for Vulnerable Population Households.

(g) Assistance with service and repair or purchase of portable air conditioning/evaporative coolers and heating units cannot exceed \$~~5,000~~~~3,500~~. Refer to §6.310(c)(9) of this subchapter for requirements relating to service and repair or purchase of portable air conditioning/evaporative coolers and heating units.

(h) Subrecipient shall provide only the types of assistance described in paragraphs (1) - (9) of this subsection with funds from CEAP. Energy bills already paid may not be reimbursed by the program. Funds from CEAP shall not be used to weatherize dwelling units, for medicine, food,

transportation assistance (e.g., vehicle fuel), income assistance, or to pay for penalties or fines assessed to customers.

(1) Payment to vendors and suppliers of fuel/utilities, goods, and other services, such as past due or current bills related to the procurement of energy for heating and cooling needs of the residence, not to include security lights and other items unrelated to energy assistance as follows:

(A) Subrecipient may make utility payments on behalf of Households based on the previous 12 month's home energy consumption history, including allowances for cost inflation. If a 12 month's home energy consumption history is unavailable, Subrecipient may base payments on current Program Year's bill or utilize a Department-approved alternative method. Subrecipient will note such exceptions in customer files. Benefit amounts exceeding the actual bill shall be treated as a credit for the customer with the utility company.

(B) Vulnerable Population Households can receive benefits to cover ~~up to the eight highest~~ remaining bills within the Program Year, and up to two utility disconnection notice payments as long as the cost does not exceed the maximum annual benefit [for the Utility Assistance Component](#). The first bill payment may cover two separate fuel sources.

(C) Non-Vulnerable Population Households can receive benefits to cover up to ~~the six highest~~ remaining bills within the Program Year as long as the cost does not exceed the maximum annual benefit [for the Utility Assistance Component](#). The first bill payment may cover two separate fuel sources.

(2) Payment to vendors may only include one energy bill payment per month except in the case of subparagraphs 1(B) and 1(C) of this subsection;

(3) Needs assessment and energy conservation tips, coordination of resources, and referrals to other programs;

(4) Payment of water, wastewater and solid waste charges are not an allowable LIHEAP expense even in cases where those charges are an inseparable part of a utility bill. Whenever possible, Subrecipient shall negotiate with the utility providers to pay only the "home energy" (heating and cooling) portion of the bill or utilize other funds to pay for the water related charges;

(5) Payment of reconnection fees in line with the registered tariff filed with the Public Utility Commission and/or Texas Railroad Commission. Payment cannot exceed that stated tariff cost. Subrecipient shall negotiate to reduce the costs to cover the actual labor and material and to ensure that the utility does not assess a penalty for delinquency in payments;

(6) Payment of security deposits only when state law requires such a payment, or if the Public Utility Commission or Texas Railroad Commission has listed such a payment as an approved cost, and where required by law, tariff, regulation, or a deferred payment agreement includes such a payment. Subrecipient shall not pay such security deposits that the energy provider will eventually return to the customer;

(7) While rates and repair charges may vary from vendor to vendor, Subrecipient shall negotiate for the lowest possible payment. Prior to making any payments to an energy vendor a Subrecipient shall have a signed vendor agreement on file from the energy vendor receiving direct CEAP payments from the Subrecipient;

(8) Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating Household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent; and

(9) In lieu of deposit required by an energy vendor, Subrecipient may make advance payments. The Department does not allow CEAP Expenditures to pay deposits, except as noted in paragraph (6) of this subsection. Advance payments may not exceed an estimated two months' billings.

§6.310.Crisis Assistance Component.

(a) Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the conditions listed in paragraphs (1) to (3) of this subsection, and shall not exceed the caps as defined in §6.309 (relating to Types of Assistance and Benefit Levels):

(1) Extreme Weather Conditions, as defined in §6.301 of this subchapter (relating to Background and Definitions), with assistance provided within 48 hours;

(2) Disaster, as defined in §6.301 of this subchapter, with assistance provided within 48 hours; or

(3) Life Threatening Crisis, as defined in §6.301 of this subchapter, with assistance provided within 18 hours.

(b) In order to resolve the crisis, Subrecipient shall ensure that for customers assisted through Crisis Assistance services are provided within the timeframes as described in (a) of this section. The time limit commences upon completion of the application process. The application process is considered complete when an agency representative accepts an application and completes the eligibility process. Subrecipient must maintain written documentation in customer files showing crises resolved within the appropriate timeframe. The Department may disallow improperly documented Expenditures.

(c) Low Income Households as defined in §6.2 of this chapter (relating to Definitions) may be eligible for any one or more of the types of assistance listed in paragraphs (1) to (11) of this subsection:

(1) Payment of utilities or fuel bills and utility bill deposits necessary to retain heating or cooling.

(2) Temporary Shelter in the limited instances that supply of power to the Dwelling Unit is disrupted causing a temporary evacuation.

(3) Emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing.

(4) Cost to temporary Shelter or house individuals in hotel, apartments or other living situations in which homes have been destroyed or damaged when health and safety is endangered by loss of access to heating and cooling.

(5) Costs for transportation (i.e., cars, shuttles, buses) to move the individuals away from the crisis area to Shelters when health and safety is endangered by loss of access to heating and cooling.

(6) Utility reconnection costs.

(7) Blankets, as tangible benefits to keep individuals warm.

(8) For Non-Vulnerable Populations meeting the conditions described in subsection (a) of this section, service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system. If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient can replace the component(s) in order to repair the heating or cooling system.

(9) When a Household meets the definition of Life Threatening Crisis, purchase of portable heating and/or cooling units is allowable. Units must be Energy Star®. In cases where the type of unit is not Energy Star®, or if Energy Star® units are not available due to supply shortages, Subrecipient may purchase the highest rated unit available. Purchase of more than two portable heating and/or cooling units, which require performance of electrical work for proper installation, requires prior written approval from the Department.

(10) Purchase of fans. The number, type, size and cost of these items may not exceed the minimum needed to resolve the crisis.

(11) If necessary, the purchase of a generator is allowable when a Household meets the definition of Life Threatening Crisis.

(d) The 18 and 48-hour timeframes do not apply in the case of a Natural Disaster.

(e) Benefit Level for Crisis Assistance:

(1) Crisis Assistance for one Household cannot exceed the maximum allowable benefit level in one Program Year as defined in §6.309 of this subchapter (relating to Types of Assistance and Benefit Levels). If a Household's Crisis Assistance needs exceed that maximum allowable benefit, Subrecipient may pay up to the Crisis Assistance limit only if the remaining amount of Household need can be paid from other funds. If the Household's crisis requires more than the Household limit to resolve and no other funds are available, the crisis exceeds the scope of this component.

(2) Payments may not exceed Household's actual utility bill.

(3) Payments may not exceed the Maximum Household allowable assistance benefit level.

(4) Service and repair or purchase of heating or cooling, or heating and cooling units for up to ~~\$5,000~~^{\$3,500} will not be counted towards the total maximum Household allowable assistance under the utility assistance and crisis components.

(5) Temporary Shelter not to exceed the annual Households benefit limit for the duration of the contract period.

§6.311. Utility Assistance Component.

(a) A Subrecipient may use home energy payments to assist Low Income Households to reduce their home energy costs. Subrecipient shall combine home energy payments with energy conservation tips, participation by utilities, and coordination with other services in order to assist low income Households to reduce their home energy needs.

(b) Subrecipient must make payments directly to vendors and/or landlords on behalf of eligible Households.

(c) For Vulnerable Population Households, service and repair of existing heating and cooling units is allowed when the Household has an inoperable heating or cooling system. If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient can replace the component(s) in order to repair the heating or cooling system. The cost shall not exceed ~~\$5,000~~^{\$3,500} and will not be counted towards the total maximum per Household allowable under the Utility Assistance Component. Subrecipients may leverage this type of assistance with LIHEAP and/or DOE Weatherization.

§6.312. Payments to Subcontractors and Vendors.

(a) A bi-annual Vendor Agreement is required to be implemented by the Subrecipient and shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving CEAP beneficiaries. The Subrecipient must use the Department's current Vendor Agreement template, found on the CEAP Program Guidance page of the Department's website. These agreements are subject to monitoring procedures performed by the Department staff.

(b) Subrecipient shall maintain proof of payment to Subcontractors and vendors as required by Chapter 1, Subchapter D, of this part (relating to Uniform Guidance for Recipients of Federal and State Funds).

(c) Subrecipient shall notify each participating Household of the amount of assistance to be paid on its behalf. Subrecipient shall document this notification.

(d) Subrecipients shall use the Vendor Payment method for CEAP components. Subrecipient shall not make cash payments directly to eligible Household for any of the CEAP components.

(e) Payments to Vendors for which a valid Vendor Agreement is not in place may be subject to disallowed costs unless prior written approval is obtained from the Department.

(f) A Vendor Refund is program income and must be reimbursed to the Subrecipient, and not the customer. When a Vendor Refund is issued, Subrecipient shall determine which TDHCA Contract the payment(s) was charged to, the Household associated to the payment, and if the Contract remains open.

(1) If the Contract remains open, Subrecipient must enter the amount into the Contract System in the appropriate budget line item into the adjustment column in the next monthly report, and make the appropriate note in the system. This will credit back the Vendor Refund for the Subrecipient to expend on eligible expenses.

(2) If the Contract is closed, Subrecipient must return the Vendor Refund to the Department within ten calendar days of receipt. The payment must contain the Contract number and appropriate budget line item associated with the refund.

§6.313. Outreach, Accessibility, and Coordination.

(a) The Department may continue to develop interagency collaborations with other low-income program offices and energy providers to perform outreach to targeted groups.

(b) Subrecipient shall conduct outreach activities. Outreach activities may include:

(1) Providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

(2) Distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, Social Security offices, etc.;

(3) Providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;

(4) Coordinating with other low-income services to provide CEAP information in conjunction with other programs;

(5) Providing information on one-to-one basis for applicants in need of translation or interpretation assistance;

(6) Providing CEAP applications, forms, and energy education materials in English and Spanish (and other appropriate language(s));

(7) Working with energy vendors in identifying potential applicants;

(8) Assisting applicants to gather needed documentation; and

(9) Mailing information and applications.

(c) Subrecipient shall handle Reasonable Accommodation requests, in accordance with 10 TAC §1.204 of this title (relating to Reasonable Accommodations).

(d) Subrecipient shall coordinate with other social service agencies through cooperative agreements to provide services to customer Households. Cooperative agreements must clarify procedures, roles, and responsibilities of all involved entities.

(e) Subrecipient shall coordinate with other energy related programs. Specifically, Subrecipient shall make documented referrals to the local WAP Subrecipient.

(f) Subrecipient shall coordinate with local energy vendors to arrange for arrearage reduction, reasonably reduced payment schedules, or cost reductions.

SUBCHAPTER D WEATHERIZATION ASSISTANCE PROGRAM

§6.401. Background.

The Weatherization Assistance Program was established by the Energy Conservation in Existing Buildings Act of 1976, as amended 42 U.S.C. §§6851, et seq. The Department funds the Weatherization Programs through the Department of Energy Weatherization Assistance Program (DOE-WAP) which is funded through the U.S. Department of Energy Weatherization Assistance Program for Low Income Persons grant and the Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP) which is funded through the U.S. Department of Health and Human Services' Low-Income Home Energy Assistance Program (LIHEAP) grant.

§6.402. Purpose and Goals.

(a) DOE-WAP and LIHEAP-WAP offers awards to Private Nonprofit Organizations, and Public Organizations with targeted beneficiaries being Households with low incomes, with priority given to Vulnerable Populations, High Energy Burden, and Households with High Energy Consumption. In addition to meeting the income-eligibility criteria, the weatherization measures to be installed must meet specific energy-savings goals. Neither of these programs are entitlement programs and there are not sufficient funds to serve all customers that may be eligible.

(b) The programs fund the installation of weatherization materials and provide energy conservation education. The programs help control energy costs to ensure a healthy and safe living environment.

(c) Organizations administering a Department-funded weatherization program must administer both the DOE-WAP and the LIHEAP-WAP. Organizations that have one Weatherization program removed will have both program removed. If it is necessary to designate a new Subrecipient to administer WAP, the Department shall give special consideration to Subrecipients receiving funds under LIHEAP or DOE WAP, in accordance with Assurance 6 of the Low Income Home Energy Assistance Act of 1981.

(d) The Department shall administer and implement the DOE-WAP program in accordance with DOE rules (10 CFR Part 440), except that Categorical Eligibility will follow the eligibility reflected in the LIHEAP plan. The Department shall administer and implement the LIHEAP-WAP program in accordance with a combination of LIHEAP statute (42 U.S.C. §§6861, et seq.) and DOE rules. LIHEAP Weatherization measures may be leveraged with DOE Weatherization measures in which case all DOE rules and requirements as described in this title and in the Contract will apply.

§6.403. Definitions.

(a) Department of Housing and Urban Development (HUD)--Federal department that provides funding for certain housing and community development activities.

(b) Electric Base-Load Measure (EBL)--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.

(c) Energy Audit--The energy audit software and procedures used to determine the cost effectiveness of Weatherization measures to be installed in a Dwelling Unit. The Energy Audit shall be used for any Dwelling Unit weatherized utilizing DOE funds.

(d) Energy Repairs--Weatherization-related repairs necessary to protect or complete regular Weatherization energy efficiency measures.

(e) Multifamily Dwelling Unit--A structure containing more than one Dwelling Unit.

(f) Priority List--For LIHEAP-WAP only, a list developed by the Department, as may be updated from time to time, included in the Contract, and which provides the prescribed method to be used by Subrecipients when addressing weatherization measures.

(g) Rental Unit--A Dwelling Unit occupied by a person who pays rent for the use of the Dwelling Unit.

(h) Renter--A person who pays rent for the use of the Dwelling Unit.

(i) Reweathering--Consistent with 10 CFR §440.18(e)(2), if a Dwelling Unit has been damaged by fire, flood, or act of God and repair of the damage to Weatherization materials is not paid for by insurance; or if a Dwelling Unit was partially weatherized under a federal program during the period September 30, 1975, through September 30, 1994, the Dwelling Unit may receive further financial assistance for Reweathering.

(j) Shelter--a Dwelling Unit or Units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

(k) Significant Energy Savings--A Savings to Investment Ratio (SIR) of 1.0 or greater.

(l) Single Family Dwelling Unit--A structure containing no more than one Dwelling Unit.

(m) Weatherization Assistance Program Policy Advisory Council (WAP PAC)--The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the DOE WAP program.

(n) Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.

(o) Weatherization--A program conducted to reduce heating and cooling demand of Dwelling Units that are energy inefficient.

§6.404. Distribution of WAP Funds.

(a) Except for the reobligation of deobligated funds, the Department distributes funds to Subrecipients by an allocation formula.

(b) The allocation formula allocates funds based on the number of Low Income Households in a service area and takes into account certain special needs of individual service areas, as set forth in this subsection. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse Population Density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the Elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-Elderly Poverty Household Factor--The number of Non-Elderly Poverty Households in the County divided by the number of Non-Elderly Poverty Households in the State;

(2) County Elderly Poverty Household Factor--The number of Elderly Poverty Households in the county divided by the number of Elderly Poverty Households in the State;

(3) County Inverse Household Population Density Factor--

(A) The number of square miles of the county divided by the number of Households of the county (equals the inverse Household population density of the county); and

(B) Inverse Household Population density of the county divided by the sum of inverse Household densities.

(4) County Median Income Variance Factor--

(A) State median income minus the county median income (equals county variance); and

(B) County variance divided by sum of the State county variances;

(5) County Weather Factor--

(A) County heating degree days plus the county cooling degree days, multiplied by the poverty Households, divided by the sum of county heating and cooling degree days of counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(c) The five factors carry the following weights in the allocation formula: number of Non-Elderly Poverty Households (40%), number of poverty Households with at least one member who is 60 years of age or older (40%), Household density as an inverse ratio (5%), the median income of the county (5%), and a weather factor based on heating degree days and cooling degree days (10%). All demographic factors are based on the most current decennial U.S. Census. The formula is as follows:

(1) County Non-Elderly Poverty Household Factor (0.40) plus;

(2) County Elderly Poverty Household Factor (0.40) plus;

(3) County Inverse Household Population Density Factor (0.05) plus;

(4) County Median Income Variance Factor (0.05) plus;

(5) County Weather Factor (0.10);

(6) Total sum of paragraphs (1) - (5) of this subsection is multiplied by the total funds allocation to generate the county's allocation of funds.

(7) The sum of the county allocation within each Subrecipient service area equals the Subrecipient's total allocation of funds.

(d) In the event that a Subrecipient who has been awarded LIHEAP-WAP funds elects to voluntarily transfer some portion of their LIHEAP-WAP funds to the LIHEAP CEAP activity, a request to do so must be submitted prior to August 1 of the first year of the federal LIHEAP award period. The amount of funds being voluntarily transferred will be returned to the Department and redistributed among LIHEAP CEAP providers to ensure appropriate coverage among counties. This may mean the LIHEAP funds are awarded to that same Subrecipient having made the request, but alternatively could mean that the funds may be awarded to one or more other CEAP Subrecipients providing CEAP services in the counties for which the WAP funds were transferred. The Department will distribute the funds proportionally to the affected counties and CEAP Subrecipients in the service area using the allocation formula in §6.303 of this title (relating to Distribution of CEAP Funds).

(e) To the extent federal funding awarded to Texas is limited from one of the two WAP funding sources, possible allocations of funds to Subrecipients may be made in varying proportions from each source to maximize efficient program administration.

(f) The Department may, in the future, undertake to reprocur the entities that comprise the network of Weatherization providers, in which case this allocation formula will be reassessed and, if material changes are needed, amended by rulemaking.

§6.405. Deobligation and Reobligation of Awarded Funds.

(a) A Subrecipient that does not expend more than 20% of its Program Year formula allocation (excluding any additional funds that may be distributed by the Department and any funds voluntarily transferred to LIHEAP CEAP) by the end of the first quarter of the Contract Term following the Program Year for two consecutive years will have funding recaptured. A Subrecipient's Contract will be amended to reflect the average percentage of funds that expended over the last two years. LIHEAP-WAP funding recapture will be consistent with Tex. Gov't Code, Chapter 2105.

(b) The cumulative balance of the funds made available in subsection (a) of this section will be allocated proportionally by formula to Subrecipients that expended 90% of the prior year's Contract, excluding adjustments made in subsection (a) of this section, by the end of the original Contract Term.

(c) At any time that a Subrecipient believes they may be at risk of meeting one of the criteria noted in subsection (n) of this section relating to criteria for Deobligation of funds, notification must be provided to the Department unless excepted under subsection (o) of this section.

(d) A written "Notification of Possible Deobligation" will be sent to the Executive Director of the Subrecipient by the Department as soon as the Department identifies that a criterion listed in subsection (n) of this section is at risk of not being met. Written notice will be sent electronically and/or by mail. The notice will include an explanation of the criteria met. A copy of the written notice will be sent to the Board of Directors or other governing body of the Subrecipient by the Department at least 10 calendar days after the notice to the Executive Director has been released. A Notification will not be sent, and the steps in this section not triggered, if an Amendment increasing funds by at least 20% has been provided to the Subrecipient in the prior 90 calendar days.

(e) Within 15 calendar days of the date of the "Notification of Possible Deobligation" referenced in subsection (d) of this section, a Mitigation Action Plan must be submitted to the Department by the Subrecipient in the format prescribed by the Department unless excepted under subsection (o) of this section.

(f) A Mitigation Action Plan is not limited to but must include:

(1) Explanation of why the identified criteria under this section occurred setting out all fully relevant facts.

(2) Explanation of how the criteria will be immediately, permanently, and adequately mitigated such that funds are expended during the Contract Period. For example, if production or expenditures appear insufficient to complete the Contract timely, the explanation would need to

address how production or expenditures will be increased in the short- and long-term to restore projected full Expenditure and timely execution of the contract.

(3) If applicable because of failure to produce Unit Production or Expenditure targets under the existing Production Schedule, a detailed narrative of how the Production Schedule will be adjusted, going forward, to assure achievement of sufficient, achievable Unit Production and Expenditures to ensure timely and compliant full utilization of all funds.

(4) An explanation of how the other criteria under this section will be mitigated. For example, if Unit Production criteria for a time period were not met, then the explanation will need to include how the other criteria will not be triggered.

(5) If relating to a Unit Production or Expenditure criteria, a description of activities currently being undertaken including an accurate description of the number of units in progress, broken down by number of units in each of these categories: units that have been qualified, audited, assessed, contracted, inspected, and invoiced and as reflected in an updated Production Schedule.

(6) Provide any request for a reduction in Contracted Funds, reasons for the request, desired Contracted Funds amount, and revised Production Schedule reflecting the reduced Contracted Funds.

(g) At any time after sending a Notification of Deobligation, the Department or a third-party assigned by the Department may monitor, conduct onsite visits, perform other assessments, or engage in any other oversight of the Subrecipient that is determined appropriate by the Department under the facts and circumstances.

(h) The Department or a third-party assigned by the Department will review the Mitigation Action Plan, and where applicable, assess the Subrecipient's ability to meet the revised Production Schedule or remedy other Concern.

(i) After the Department's receipt of the Mitigation Action Plan, the Department will provide the Subrecipient a written Corrective Action Notice which may include one or more of the criteria identified in this section (relating to deobligation and other mitigating actions) or other acceptable solutions or remedies.

(j) The Subrecipient has seven calendar days from the date of the Corrective Action Notice to appeal the Corrective Action Notice to the Executive Director. Appeals may include:

(1) A request to retain the full Fund Award if Partial Deobligation was indicated;

(2) A request for only partial Deobligation of the full Contracted Fund if full Deobligation was indicated in the Corrective Action Notice; or

(3) Request for other lawful action consistent with the timely and full completion of the Contract and Production Schedule for all Contracted Funds.

(k) In the event that an appeal of a staff decision under this section is submitted to the Executive Director, the Executive Director may grant extensions or forbearance of targets included in the Production Schedule, may provide for continued operation of a Contract, may authorize Deobligation, or may take other lawful action that is designed to ensure the timely and full completion of the Contract for all Contracted Funds.

(l) In the event an appeal is not submitted within seven calendar days from the date of the Corrective Action Notice, the Corrective Action Notice will automatically become final without need of any further action or notice by the Department, and the Department will amend/terminate the Contract with the Subrecipient to effectuate the Corrective Action Notice.

(m) In the event the Executive Director denies an appeal of a staff decision under this section, the Subrecipient may appeal that decision in accordance with §1.7(f) of this title (relating to the Process for Filing an Appeal of the Executive Director's Decision to the Board).

(n) Any one or more of the criteria noted in this subsection will prompt the Deobligation process under this rule. If the criteria are met, then notification and ensuing processes discussed elsewhere in this subchapter will apply.

(1) Subrecipient fails to provide the Department with a Production Schedule for its current Contract within 30 calendar days of receipt of the draft Contract. The Production Schedule must be signed by the Subrecipient's Executive Director/Chief Executive Officer, and approved by the Department in writing;

(2) By the third program reporting deadline, Subrecipient must report at least one unit weatherized for each Weatherization Contract;

(3) By the fifth program reporting deadline, less than 25% of total expected unit production has occurred based on the Production Schedule, or less than 20% of total Awarded Funds have been expended;

(4) By the seventh program reporting deadline, less than 50% of total expected unit production has occurred based on the Production Schedule, or less than 50% of total Awarded Funds have been expended; or

(5) The Subrecipient fails to submit a required monthly report explaining any variances between the Production Schedule and actual results on Production Schedule criteria.

(o) Notification of Deobligation will not be required to be sent to a Subrecipient, and a Mitigation Action Plan will not be required to be provided to the Department, if any one or more of the following exceptions are satisfied:

(1) The total cumulative unit production for the Subrecipient, based on the monthly report as reported in the Community Affairs Contract System, is at least 75% of the total cumulative number of units to be completed as of the end of the month according to the Subrecipient's

forecast unit production within the Production Schedule for the time period applicable (i.e. cumulative through the month for which reporting has been made).

(2) The total cumulative expenditures for the Subrecipient, based on the monthly report as reported in the Community Affairs Contract System, is at least 75% of the total cumulative estimated expenditures to be expended as of the end of the month according to the Subrecipient's forecast expenditures within the Production Schedule for the time period applicable (i.e., cumulative through the month for which reporting has been made).

(3) The Subrecipient's monthly reports as reported in the Community Affairs Contract System, for the prior two months, as required under the Contract, reflects unit production that is 80% or more of the expected unit production amount to be completed as of the end of the month according to the Subrecipient's forecast unit production within the Production Schedule.

(p) A Subrecipient that has funds Deobligated under this section but that fully expends the reduced amount of its Contract, will have access to the full amount of the following Program Year WAP allocation. A Subrecipient which has had funds Deobligated under this section that fails to fully expend the reduced amount of its Contract will automatically have its following Program Year WAP allocation Deobligated by the lesser of 24.99% or the proportional amount that had been Deobligated in the prior year.

(q) Funds deobligated under this section, funds voluntarily relinquished, or additional funds should they become available, will be reobligated proportionally by the formula described in §6.404 of this subchapter (relating to Distribution of WAP Funds) or other method approved by the Department's Board amongst all Subrecipients that did not have any funds Deobligated during this evaluation period to ensure full utilization of funds within a limited timeframe including possible allocation of WAP funds to Subrecipients in varying populations from each funding source (DOE and LIHEAP), based on availability of the source.

§6.406.Subrecipient Requirements for Establishing Priority for Eligible Households and Customer Eligibility Criteria.

(a) Subrecipient shall establish eligibility and priority criteria to increase the energy efficiency of dwellings owned or occupied by Low Income persons who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption.

(b) Subrecipient shall determine applicant income eligibility in compliance with §6.4 of this chapter (relating to Income Determination).

(c) Categorical Eligibility for DOE-WAP benefits exist when at least one person in the Household receives assistance payments under Title IV or XVI of the Social Security Act at any time during the 12-month period preceding the determination of eligibility. Categorical Eligibility for LIHEAP-WAP benefits are the same as those specified for CEAP benefits described in §6.307(b) of this chapter (relating to Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households).

(d) Social Security numbers are not required for applicants.

(e) U.S. Citizen, U.S. National or Qualified Alien. Unqualified Aliens are not eligible to receive WAP benefits. Mixed Status Households shall not be denied WAP assistance based solely on the presence of a non-qualified member, except if the member is the sole member of the Household. A Public Organization must verify U.S. Citizen, U.S. National, or Qualified Alien status of all Household members using SAVE. Assistance shall be determined as follows:

(1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and

(2) Adjust the Household size for determining eligibility and benefit assistance level to exclude all Unqualified Aliens.

(f) For purposes of determining Categorical Eligibility or Vulnerable Populations (e.g. priority status) the Household is not considered to satisfy the definition of having Categorical Eligibility or Vulnerable Population if the only individual(s) in the Household with Categorical Eligibility or Vulnerable Population status is an Unqualified Alien. For purposes of reporting, all individuals in the Household should be reported.

§6.407. Program Requirements.

(a) Each Dwelling Unit weatherized requires completion of a written whole house assessment. Subrecipient must perform the whole house assessment then let that assessment guide whether the Dwelling Unit is best served through DOE funds using the audit, through LIHEAP-WAP funds using the priority list, or a combination of DOE and LIHEAP funds.

(b) Any Dwelling Unit that is weatherized using DOE funds must use the State of Texas approved Energy Audit as a guide for installed measures. A Subrecipient combining DOE funds with LIHEAP-WAP funds on an individual Dwelling Unit or building may not mix the use of the Energy Audit and the Priority List.

(c) Any Dwelling Unit that is weatherized using LIHEAP only must be completed using the Priority List as a guide for installed measures. Failure to complete a written whole house assessment as indicated in §6.416 of this subchapter (relating to Whole House Assessment) prior to Weatherization may lead to unit failure during quality control inspection.

(d) If a Subrecipient's Weatherization work does not consistently meet DOE Standard Work Specifications Weatherization standards, the Department may proceed with the removal of the programs from the Subrecipient.

§6.408. Department of Energy Weatherization Requirements.

(a) In addition to cost principles and administrative requirements listed in §1.402 in Chapter 1 of this part (relating to Cost Principles and Administrative Requirements), Subrecipients

administering DOE programs must also adhere to 10 CFR Part 440, 10 CFR Part 600, and the applicable International Residential Code (IRC).

(b) WAP Policy Advisory Council. In accordance with Tex. Gov't Code, §2110.005 and 10 CFR §440.17, the Department shall establish the Weatherization Assistance Program Policy Advisory Council (WAP PAC), with which it will consult prior to the submission of the annual plan and award of funds to DOE.

(c) Adjusted Average Expenditure Per Dwelling Unit. Expenditures of financial assistance provided under DOE-WAP funding for the Weatherization services for labor, weatherization materials, and program support shall not exceed the DOE adjusted average expenditure limit for the current Program Year per Dwelling Unit as provided by DOE, and as cited in the Contract, without special agreement via an approved waiver from the Department.

(d) Electric Base Load Measures. DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the Weatherization of eligible residential units. Refrigerators must be metered for a minimum of two hours when calculating the EBL and SIR.

(e) Subrecipients may not enter into vehicle lease agreements with WAP funds.

(f) Energy Audit Procedures.

(1) SIR for the Energy Audit procedures will determine the installation of allowable Weatherization measures. The Weatherization measures must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, and installation. An Energy Audit may consist of Incidental Repairs, Energy-Saving Measures (starting with Duct Sealing and Infiltration Reduction), and Health and Safety Measures. All Energy-Saving Measures must rank with an SIR of one or greater. The total Cumulative SIR, prior to Health and Safety measures, must be a one or greater in order to weatherize the dwelling unit.

(2) The Energy Audit has not been approved for multifamily buildings containing 25 or more units. Subrecipients that propose weatherizing a building containing 25 or more units must receive approval from the Department prior to beginning any Weatherization activity.

(3) Energy Auditors must use the established R-values for existing measures provided in the International Energy Conservation Code (IECC when entering data into the Energy Audit. Subrecipient must follow minimum requirements set in the applicable IRC or jurisdictions authorized by state law to adopt later editions.

(4) Subrecipients utilizing the Energy Audit must enter into the audit all materials and labor measures proposed to be installed.

§6.409.LIHEAP Weatherization Requirements.

(a) Allowable Expenditure per Dwelling Unit. Expenditures of financial assistance provided under LIHEAP-WAP funding for the weatherization services for labor, Weatherization materials, and program support shall not exceed the allowable figure as set forth in the current Contract, without prior written approval from the Department. The cumulative cost per unit (materials, labor and program support), shall not exceed the maximum allowable by the end of the Contract Term.

(b) Allowable Activities. Subrecipient is limited to Weatherization measures as detailed in the Priority List Exhibit to the Weatherization Contract. Measures must be addressed according to the instructions in the Exhibit.

(c) Outreach and Accessibility.

(1) Subrecipient shall conduct outreach activities, which may include but are not limited to:

(A) Providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

(B) Distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, social security offices, etc.;

(C) Providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;

(D) Coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;

(E) Providing information on one-to-one basis for applicants in need of translation or interpretation assistance;

(F) Providing LIHEAP applications, forms, and energy education materials in English and Spanish (and other appropriate language);

(G) Working with energy vendors in identifying potential applicants;

(H) Assisting applicants to gather needed documentation; and

(I) Mailing information and applications.

(d) LIHEAP Subrecipient Eligibility.

(1) The Department administers the program through the existing Subrecipients that have demonstrated that they are operating the program in accordance with their Contract, the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If a Subrecipient is successfully administering the program, the Department may offer to renew the Contract.

(2) If the Department determines that a Subrecipient is not administering the program satisfactorily, the Subrecipient will be required to take corrective actions to remedy the problem within the timeframe referenced in the issued monitoring report, unless it is a case of customer health or safety. If Subrecipient fails to correct the Deficiency or Finding, in order to ensure continuity of services, the Department may take an action in accordance with §1.411(f) of this title, (relating to Nonrenewal or Reduction of Block Grant Funds to a Specific Subrecipient).

§6.410.Liability Insurance and Warranty Requirement.

Subrecipient Weatherization work shall be covered by general liability insurance for an amount not less than combined total of materials, labor, support and health and safety. The Department strongly recommends Pollution Occurrence Insurance to be part of or an addendum to Subrecipient's general liability insurance coverage. Subrecipient must ensure that each Subcontractor performing Weatherization activities maintain adequate insurance coverage for all units to be weatherized. Weatherization contractors must provide a one-year warranty on their work for parts and labor; the period for the warranty coverage shall begin at the completion of installation. If Subrecipient relinquishes its Weatherization program, Weatherization work completed within 12 months of the date of surrender of the program, must be covered by general liability insurance or contractor warranty. Public Organizations that have self insurance complying with Tex. Gov't Code Chapter 2259 covering weatherization work, may, but are not required to, purchase additional coverage.

§6.411.Customer Education.

Subrecipient shall provide customer education to each WAP customer on energy conservation practices. Subrecipient shall provide education to identify energy waste, manage Household energy use, and strategies to promote energy savings. Subrecipient is encouraged to use oral, written, and visual educational materials.

§6.412.Mold-like Substances.

(a) If the Subrecipient's energy auditor discovers the presence of mold-like substances that the Weatherization Subcontractor cannot adequately address, then the Dwelling Unit shall be referred to the Texas Department of Licensing and Regulation or its successor agency.

(b) The Subrecipient shall provide the applicant written notification that their home cannot, at this time, be weatherized and why. Subrecipient shall also inform the applicant in writing that they should contact the Texas Department of Licensing and Regulation, or successor agency, to report the presence of mold-like substances. The applicant should be advised that when the issue is resolved they may reapply for Weatherization. Should the applicant reapply for Weatherization, the Subrecipient must obtain written documentation of resolution of the issue from the applicant prior to proceeding with any Weatherization work.

(c) If the energy auditor determines that the mold-like substance is treatable and covers less than the 25 contiguous square feet limit allowed to be addressed by the Texas Department of Licensing and Regulation's, or successor agency's guidelines, the Subrecipient shall notify the

applicant of the existence of the mold-like substance and potential health hazards, the proposed action to eliminate the mold-like substance, that no guarantee is offered that the mold-like substance will be eliminated, and that the mold-like substance may return. The energy auditor must obtain written approval from the applicant to proceed with the Weatherization work, and maintain the documentation in the customer file.

(d) Subrecipient shall be responsible for providing mold training to their employees and Weatherization Subcontractors.

§6.413. Lead Safe Practices.

Subrecipient are required to document that its Weatherization staff as well as all Subcontractors follow the Environmental Protection Agency's Renovation, Repair and Painting Program (RRP) Final Rule, 40 CFR Part 745 and HUD's Lead Based Housing Rule, 24 CFR Part 35, as applicable.

§6.414. Eligibility for Multifamily Dwelling Units and Shelters.

(a) Multifamily building and Shelter weatherization is not considered a federal public benefit and the activity is exempt from the requirements of §6.406(e) and (f) of this subchapter (relating to Subrecipient Requirements for Establishing Priority for Eligible Households and Customer Eligibility Criteria).

(b) A Subrecipient may weatherize a building containing Rental Units if not less than 66% (50% for duplexes and four-unit buildings) of the Dwelling Units in the building are occupied by low income Households, or will become occupied by Low-income Households within 180 days under a Federal, State, or local government program for rehabilitating the building or making similar improvements to the building.

(c) In order to weatherize large multifamily buildings containing twenty-five or more Dwelling Units or those with shared central heating (e.g., boilers) and/or shared cooling plants (e.g., cooling towers that use water as the coolant) regardless of the number of Dwelling Units, Subrecipient shall submit in writing to the Department a request for approval along with evidence which clearly shows that an investment of funds would result in Significant Energy Savings because of upgrades to equipment, energy systems, common space, or the building shell. When necessary, the Department will seek approval from DOE. Approvals from the Department in writing must be received prior to the installation of any Weatherization measures in this type of structure.

(d) In order to weatherize Shelters, Subrecipient shall submit a written request for approval from the Department. Written approval from the Department must be received prior to the installation of any Weatherization measures. Income determination is not required to be done for residents of Shelters.

(e) If roof repair is to be considered as an eligible repair cost under the Weatherization process, the expenses must be shared equally by all eligible Dwelling Units weatherized under the same roof. If multiple storied buildings are weatherized, eligible ground floor units must be allocated a

portion of the roof cost as well as the eligible top floor units. All Weatherization measures installed in multifamily units must meet the standards set in 10 CFR §440.18(d)(9) and (15), and Appendix A-Standards for Weatherization Materials.

(f) Subrecipient shall establish a multifamily master file for each multifamily project in addition to the applicable Dwelling Unit recordkeeping requirements found in the Contract. The multifamily master file must include, at a minimum, the forms listed in paragraphs (1) - (6) of this subsection: (Forms available on the Department's website.)

(1) Multifamily Project Preparation Checklist;

(2) Multifamily Project Completion Checklist;

(3) Landlord Permission to Perform Assessment and Inspections for Rental Units;

(4) Landlord Agreement;

(5) Landlord Financial Participation Form; and

(6) Multifamily Project Building Data Checklist.

(g) Subrecipient shall contact the Department for record keeping guidance if it wishes to weatherize a Shelter.

(h) For DOE WAP, if a public housing or assisted multi-family building has gone through the HUD Property Certification Procedure outlined in DOE Weatherization Program Notice 17-4 or is identified by the HUD and included on a list identified in Weatherization Program Notice 17-4 as having already gone through the HUD Property Certification Procedure, that building meets income eligibility without the need for further evaluation or verification by Subrecipient. A public housing or assisted housing building that does not appear on the list using HUD records may still qualify for the WAP. Income eligibility can be made on an individual basis by the Subrecipient based on information supplied by property owners and the Households in accordance with subsection (b) of this section.

(i) For any Dwelling Unit that is weatherized using funding provided under DOE WAP, all Weatherization measures installed must be entered into an approved Energy Audit. Weatherization measures installed shall begin with repair items, then continue with those measures having the greatest SIR and proceed in descending order to the measures with the smallest SIR or until the maximum allowable per Dwelling Unit expenditures are achieved, and finishing with Health and Safety measures.

§6.415. Health and Safety and Unit Deferral.

(a) Health and Safety expenditures with DOE WAP may not exceed 15% of total expenditures for Materials, Labor, Program Support, and Health and Safety at the end of the Contract Term. Health

and Safety expenditures with LIHEAP-WAP may not exceed 20% of total expenditures for Materials, Labor, Program Support, and Health and Safety at the end of the Contract Term.

(b) Subrecipient shall provide Weatherization services with the primary goal of energy efficiency. The Department considers establishing a healthy and safe home environment to be important to ensuring that energy savings result from Weatherization work.

(c) Subrecipient must test for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before Weatherization work can start. The Department has defined maximum acceptable CO readings in its Standard Work Specifications.

(d) A Dwelling Unit shall not be weatherized when there is a potentially harmful situation that may adversely affect the occupants or the Subrecipient's Weatherization crew and staff, or when a Dwelling Unit is found to have structural concerns that render the Dwelling Unit unable to benefit from Weatherization. The Subrecipient must declare their intent to defer Weatherization on an eligible unit on the assessment form. The assessment form should include the customer's name and address, dates of the assessment, and the date on which the customer was informed of the issue in writing. The written notice to the customer must include a clear description of the problem, conditions under which Weatherization could continue, the responsibility of all parties involved, and any rights or options the customer has. A copy of the notice must be given to the customer, and a signed copy placed in the customer application file. Only after the issue has been corrected to the satisfaction of the Subrecipient shall Weatherization work begin.

(e) If structural concerns or health and safety issues identified (which would be exacerbated by any Weatherization work performed) on an individual Dwelling Unit cannot be abated within program rules or within the allowable WAP limits, the Dwelling Unit exceeds the scope of this program.

§6.416. Whole House Assessment.

(a) Subrecipient must conduct a whole house assessment on all eligible Dwelling Units. Whole house assessments must be used to determine whether the Priority List or an Energy Audit is most appropriate for the unit. Whole house assessments must include, but are not limited to the items described in paragraphs (1) - (15) of this subsection:

- (1) Wall--Condition, type, orientation, and existing R-values;
- (2) Windows--Condition, type material, glazing type, leakiness, and solar screens;
- (3) Doors--Condition, type;
- (4) Attic--Type, condition, existing R-values, and ventilation;
- (5) Foundation--Condition, existing R-values, and floor height above ground level;

(6) Heating System--For all systems: unit type, fuel source (primary or secondary), thermostat, and output; for combustion systems only: vented or unvented efficiency, CO-levels, complete fuel gas analysis, gas leaks, and combustion venting;

(7) Cooling System--Unit type, condition, area cooled, size in BTU rating, Seasonal Energy Efficiency Rating (SEER) or Energy Efficiency Rating (EER), manufacture date, and thermostat;

(8) Duct System--Condition, existing insulation level, evaluation of registers, duct infiltration, return air register size, and condition of plenum joints;

(9) Water Heater--For all water heaters: condition, fuel type, energy factor, recovery efficiency, input and output ratings, size, existing insulation levels, existing pipe insulation; for combustion water heaters only: carbon monoxide levels, draft test, complete fuel gas analysis;

(10) Refrigerator--Condition, manufacturer, manufacture date and make, model, and consumption reading (minutes and meter reading); customer refusal must be documented;

(11) Lighting System--Quantity, watts, and estimated hours used per day;

(12) Water Savers--Number of showerheads, estimated gallons per minute and estimated minutes used per day;

(13) Health and Safety--For all units: smoke detectors, wiring, minimum air exchange, moisture problems, lead paint present, asbestos siding present, condition of chimney, plumbing problems, mold; for units with combustion appliances: unvented space heaters, carbon monoxide levels on all combustion appliances, carbon monoxide detectors;

(14) Air Infiltration--To be determined from Blower Door testing; areas requiring air sealing will be noted; and

(15) Repairs--Measures needed to preserve or protect installed Weatherization measures may include lumber, shingles, flashing, siding, masonry supplies, minor window repair, gutters, downspouts, paint, stains, sealants, and underpinning.

(b) If using the Energy Audit, all allowable Weatherization measures needed must be entered. Measures will be performed in order of highest SIR to lowest depending on funds available. If using the Priority List, included Weatherization measures must be addressed according to the instructions in the Exhibit to the Weatherization Contract.

§6.417. Blower Door Standards.

Subrecipient is required to use the blower door/duct blower data form adopted by the Department and available on the Department's website (<http://www.tdhca.state.tx.us/community-affairs/wap/index.htm>).

8e

BOARD ACTION REQUEST
COMPLIANCE DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on amendments to 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, staff proposes amending the current Compliance rule to clarify, add and remove requirements for Developments monitored by the Department;

WHEREAS, oversight of the affirmative marketing requirements and the written policies and procedures (sometimes called tenant selection criteria), and the associated review process, are being moved organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit, and as a result the text of those two sections of the Compliance rule that govern those processes (10 TAC §10.610 and §10.617) are proposed to be deleted and replaced with a reference to the new section of the TAC, while under separate action being proposed as new sections within chapter 10;

WHEREAS, staff recommends to the Board that there is a continuing need for these rule sections to exist, which is to ensure compliance with applicable sections of Tex. Gov't Code Chapter 2306, Internal Revenue Code §42, and applicable sections of 24 CFR §92.504 and 24 CFR §93.404; and

WHEREAS, such proposed rulemaking will be published in the *Texas Register* for public comment from December 27, 2019, through January 27, 2020, and subsequently returned to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the proposed actions to the Compliance Rule together with the preambles presented at this meeting, are hereby approved for publication in the *Texas Register* for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

BACKGROUND

On January 17, 2019, the Board adopted the current Compliance Rules. The current rules added requirements regarding the average income minimum set aside available under IRC §42(g) and incorporated requirements for new Department programs, including National Housing Trust Fund and the Section 811 Project Rental Assistance Program. Staff has been monitoring under these current rules and has recognized the need for changes.

These rules were on the Board meeting agenda for October 10, 2019, and were tabled to allow staff to meet with stakeholders and explain the proposed changes. A roundtable was held on October 21, 2019. In response to the roundtable, two changes have been made and are explained below. In addition, stakeholders expressed a desire to meet with Compliance staff quarterly to discuss ongoing and emerging issues. The first quarterly Compliance Roundtable will be held in Austin on December 13, 2019.

These rules were also on the Board meeting agenda for November 7, 2019, and were tabled at that time to address text in other proposed rules that affect this rule action. Since the meeting of November 7, 2019, one change has been made to the proposed amendments in 10 TAC §10.612 which is explained in detail below. Additionally, references have been updated to refer to the Texas Housing Trust Fund as THTF.

Non-substantive changes related to requirements for the Section 811 PRA program are proposed for 10 TAC §10.612 Tenant File Requirements, 10 TAC §10.613 Lease Requirements, 10 TAC §10.616 Household Unit Transfer Requirements for all Programs, and 10 TAC §10.624 Compliance Requirements for Developments with 811 PRA Units.

Only the sections noted in the recitals and proposed for action will be published in the *Texas Register* for public comment. Proposed substantive changes are explained below.

§10.605(b)- Elections Under IRC §42(g) Staff is proposing to delete from 10 TAC §10.605(b) an unnecessary requirement related to meeting the minimum set aside for developments that elect the average income minimum set aside. Specifically the following language is proposed to be deleted:

“Developments in the first year of the credit period that elect the average income test should lease Units in a manner to ensure that at all times, the average income and rent of the occupied units at the project does not exceed 60%. Example 605(1): A 100 Unit project places in service in April. If by October of that year, 50 of the Units are occupied and the other 50 have never been occupied, the designations of the 50 occupied Units must be equal to or less than 60% AMI and the percentage represented at application.”

§10.607(i)- Reporting Requirements Staff is proposing to delete requirements related to Housing Tax Credit Exchange properties filing 8609s with the Department. All Exchange properties have met the requirement. The process for amending their elections is addressed in the Department’s Asset Management rule. Specifically the following language is proposed to be deleted:

“(i) Exchange developments must submit IRS Form(s) 8609 with lines 7, 8(b), 9(b), 10(a), 10(c), and 10(d) completed 30 days after the Department issues the executed form(s). If an Owner elects to group buildings together into one or more multiple building projects, the owner must attach a statement identifying the buildings in the project. An owner may request to change the election made on line 8(b) only once during the Compliance Period. The request will be treated as a non-material amendment, subject to the fee described in §11.901 of this chapter (relating to Fee Schedule) and the process described in §10.405 of this chapter (relating to Amendments and Extensions).”

§10.610- Written Policies and Procedures Written policies and procedures (sometimes called tenant selection criteria), and the associated review process, are being moved organizationally within the Department from the Compliance Division to the Fair Housing, Data Management and Reporting unit. As a result parts of the text of the sections that govern those processes (10 TAC §10.610 and §10.617) are proposed to be deleted and replaced with a reference to the new section of the TAC, while under separate action they are being proposed as new sections within a separate subchapter within Chapter 10. Other parts of the text are incorporated into these rules.

§10.611(c)- Determination, Documentation and Certification of Annual Income Staff is proposing new language to address an Owner’s ability to change a household’s income designation from the time of move in. The rules adopted in January require owners to have a written policy regarding changes in tenant income. Most Owners did not adopt such a policy and had difficulty in incorporating the requirement into their written policies. The proposed repeal of 10 TAC §10.610 and some of the proposed amendments to 10 TAC §10.615 remove the requirement to have a written policy. Instead the proposed language in 10 TAC §10.611 identifies the times an Owner can

change the income designation given to a household at the time of move in. The proposed language is shown below:

(c) A household's income designation at the time of move in cannot be changed unless:

(1) The household goes over income and they are replaced with another low income household;

(2) The Development has a written policy and procedure for changing household designations as household income changes;

(3) The household receives rental assistance, and due to changes in their income, their portion of required rent exceeds the rent limit of their move in designation;

(4) The household is designated as Market Rate and a certification is performed that completely and clearly documents that the household is qualified as low income; or

(5) The household has been designated as low income and they become, or it is determined that they have been, an ineligible full time student household. If the Development has Units that do not have student restrictions, the household can continue occupancy, and their designation may be removed.

§10.612 Tenant File Requirements Tex. Gov't Code, Chapter 434 requires state agencies to screen applicants for veteran status and provide information. The following language is proposed to comply with this requirement:

(2) Documentation to support the Income Certification form including, but not limited to, applications, first hand or third party verification of income and assets, and documentation of student status (if applicable). *The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Cost Guard, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit with the Texas Veterans Portal at <https://veterans.portal.texas.gov/>."*

§10.614 Utility Allowances Staff is proposing a new requirement for Owners that elect to use the HUD Utility Schedule Model to calculate their utility allowance. The proposed rule would require the use of a rate plan that has a term of at least 12 months. Although the "Power to Choose" website may show plans that have a lower price per kilowatt for electricity, if that price is not available for a 12-month period, staff believes that it should not be used to calculate a utility allowance which is valid for a 12-month period. This may result in higher utility allowances, which could decrease the amount of rent an Owner can charge. Staff analyzed some areas to determine the difference and impact. In a sample zip code in Houston, for plans available for less than 12 months, the most affordable plan offered an energy rate of 3.9 cents per kWh. For plans with a term of longer than 12 months, the most affordable plan offered an energy rate of 4.7 cents per kWh. Calculating the HUD

Model with a rate plan that has a term of at least 12 months may result in an allowance that is approximately \$5.00 to \$10.00 more. At the October 21, 2019, roundtable stakeholders pointed out the HUD Utility Schedule Model is not the only method that allows owners to select the rate plan used to calculate the allowance and all methodologies should be required to use a term of 12 months. That change is included in this version of proposed amendments.

§10.617- Affirmative Marketing Requirements As noted above the text of this section is proposed to be deleted and replaced with a reference to the new section of the TAC, while under separate action it is being proposed as a new section within a separate subchapter within Chapter 10.

§10.618- Onsite Monitoring Clarifying language is proposed to be added to notify Owners of HOME, TCAP RF and NHTF Developments that if their Land Use Restriction Agreement requires a specific Unit mix that staff will confirm compliance with the exact requirements. Failure to provide the exact Unit mix will result in a finding of noncompliance.

§10.622- Special Rules Regarding Rents and Rent Limit Violations The following language is being proposed:

(j) Unless the household receives rental assistance, and due to changes in their income, their portion of required rent changes, Owners are not permitted to increase the tenant portion of rent during a period which is the lesser of 12 months or the lease term, even if there are increases in rent limits or decreases in utility allowances.

Some Owners require households to sign a lease addendum that permits increases in rent during the lease term if rent limits increase, utility allowances decrease, or to end rent specials. If adopted, this language would prevent Owners from changing rent during the term of a lease that is one year or less. Increases in rents that do not exceed the program limit will be permitted at lease renewal.

At the roundtable of October 21, 2019, stakeholders pointed out that residents who receive rental assistance may undergo an interim certification or recertification during a lease term which could result in an adjustment to their portion of rent.

Attachment [1]: Preamble, including required analysis, for proposed amendments to 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures; §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the 10.617 Affirmative Marketing Requirements; Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures; §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements; §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625. The amendments clarify the requirements of the Section 811 PRA program, delete unnecessary requirements, delete requirements related to written policies and procedures and refer readers to the new section of the TAC where that information is being relocated, require the application used by owners screen for veteran status and provide information, define the circumstances under which an Owner may change the designation given a household at the time of move in, in deregulated areas require a rate that is available for 12 months when calculating a utility allowance, delete requirements related to affirmative marketing and refer readers to the new section of the TAC where that information is being relocated notify Owners of HOME, TCAP RF, and NHTF that if their Land Use Restriction Agreement requires a specific Unit mix that staff will confirm compliance with the exact requirements, and prohibits rent increases during a lease term.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed amendments would be in effect, the proposed amendments do not create or eliminate a government program, but relates to changes to an existing activity, compliance monitoring.

2. The proposed amendments do not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The proposed amendments do not require additional future legislative appropriations.
4. The proposed amendments do not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The proposed amendments are not creating a new regulation.
6. The proposed amendments will not repeal an existing regulation.
7. The proposed amendments will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The proposed amendments will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the proposed amendments and determined that the proposed amendments will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed amendments do not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed amendments as to their possible effects on local economies and has determined that for the first five years the proposed amendments would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of the amended sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held December 27, 2019, to January 27, 2020, to receive input on the proposed amended sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Patricia Murphy, Rule

Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email patricia.murphy@tdhca.state.tx.us.
ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 27, 2020.

STATUTORY AUTHORITY. The proposed amendments are made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

Blacklined Sections of Rule Proposed for Amendment

§10.602 Notice to Owners and Corrective Action Periods

(a) The Department will provide written notice to the Owner if the Department does not receive the Annual Owner Compliance Report (AOCR) timely or if the Department discovers through monitoring, audit, inspection, review, or any other manner that the Development is not in compliance with the provisions of the LURA, deed restrictions, application for funding, conditions imposed by the Department, this subchapter, or other program rules and regulations, including but not limited to §42 of the Internal Revenue Code.

(b) For a violation other than a violation that poses an imminent hazard or threat to health and safety, the notice will specify a 30 day Corrective Action Period for noncompliance related failure to file the AOCR, and a 90 day Corrective Action Period for other violations. During the Corrective Action Period, the Owner has the opportunity to show that either the Development was never in noncompliance or that the Event of Noncompliance has been corrected. Documentation of correction must be received during the Corrective Action Period for an event to be considered corrected during the Corrective Action Period. The Department may extend the Corrective Action Period for up to six months from the date of the notice to the Development Owner only if there is good cause for granting an extension and the Owner ~~owner~~ requests an extension during the original 90 day Corrective Action Period, and the request would not cause the Department or the Owner to miss a federal deadline. Requests for an extension may be submitted to: compliance.extensionrequest@tdhca.state.tx.us. If an Owner submits evidence of corrective action during the Corrective Action Period that addresses each finding, but does not fully address all findings, the Department will give the Owner written notice and an additional 10 calendar day period to submit evidence of full corrective action. References in this subchapter to the Corrective Action Period include this additional 10 calendar day period.

(c) If any communication to the Owner under this section is returned to the Department as refused, unclaimed, or undeliverable, the Development may be considered not in compliance without further notice to the Owner. The Owner is responsible for providing the Department with current contact information, including address(es) (physical and electronic) and phone number(s). The Owner must also provide current contact information to the Department as required by §1.22 of this title (relating to Providing Contact Information to the Department), and ensure that such information is at all times current and correct.

(d) Treasury Regulations require the Department to notify Housing Tax Credit Owners of upcoming reviews and instances of noncompliance. The Department will rely solely on the information supplied by the Owner in the Department's web-based Compliance Monitoring and Tracking System (CMTS) to meet this requirement. It is the Owner's sole responsibility to ensure at all times that such information is current, accurate, and complete. Correspondence sent to the email or physical address shown in CMTS will be deemed delivered to the Owner. Correspondence from the Department may be directly uploaded to the property's CMTS account using the secure electronic document attachment system. Once uploaded, notification of the attachment will be sent

electronically to the email address listed in CMTS. The Department is not required to send a paper copy, and if it does so it does as a voluntary and non-precedential courtesy only.

(e) Unless otherwise required by law or regulation, Events of Noncompliance will not be reported to the IRS, referred for enforcement action, considered as cause for possible debarment, or reported in an applicant's compliance history or Previous Participation Review ~~previous participation review~~, until after the end of the Corrective Action Period described in this section.

(f) Upon receipt of facially valid complaints the Department may contact the Owner and request submission of documents or written explanations to address the issues raised by the complainant. The deadline to respond to the issue will be specific to the matter. Whenever possible and not otherwise prohibited or limited by law, regulation, or court order, the complaint received by the Department will be provided along with the request for documents or Owner response.

§10.605 Elections under IRC §42(g)

(a) Under the Code, HTC Development Owners elect a minimum set-aside requirement of 20/50 (20% of the Units restricted at the 50% income and rent limits), 40/60 (40% of the Units restricted at the 60% income and rent limits), or the average income test.

(b) HTC projects must meet the required election under IRC §42(g) no later than the end of the first year of the Credit Period. ~~Developments in the first year of the credit period that elect the average income test should lease Units in a manner to ensure that at all times, the average income and rent of the occupied units at the project does not exceed 60%. Example 605(1): A 100 Unit project places in service in April. If by October of that year, 50 of the Units are occupied and the other 50 have never been occupied, the designations of the 50 occupied Units must be equal to or less than 60% AMI and the percentage represented at application.~~

(c) An Owners that elects the average income test under IRC §42(g) must disperse 20%, 30%, 40%, 50%, 60%, 70%, and 80% Unit designations across all Unit Types to the greatest extent feasible, and in a manner that does not violate fair housing laws.

(d) Until and unless the Internal Revenue Service or the Treasury Department issues conflicting or additional guidance, the Department will examine the actual gross rent and income of all households to determine if a Project projects that elected the average income test are at or below the federal minimum of 60% AMI.

§10.607 Reporting Requirements

(a) The Department requires reports to be submitted electronically through CMTS ~~the Department's web-based Compliance Monitoring and Tracking System (CMTS)~~ and in the format prescribed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be ~~filed~~ emailed to cmts.requests@tdhca.state.tx.us for:

(1) 9% Housing Tax Credit Developments - no later than the date prescribed in §10.402(g) of this chapter (relating to the 10% Test);

(2) 4% Housing Tax Credit Developments - no later than the date prescribed in §10.402(e) of this chapter (relating to Post Bond Closing Documentation Requirements); or

(3) For all other ~~multifamily rental Developments~~ developments, no later than September 1st of the year following the award.

(b) Each Development is required to submit an Annual Owner's Compliance Report (AOCR). Depending on the Development, some or all of the Report must be submitted. The first AOCR is due the second year following the award in accordance with the deadlines set out in subsection (e) of this section. Example 607(1): A Development was allocated Housing Tax Credits in July 2015. The first report is due April 30, 2017, even if the Development has not yet commenced leasing activities.

(c) The AOCR is comprised of four parts:

(1) Part A "Owner's Certification of Program Compliance." All Owners must annually certify compliance with applicable program requirements. The AOCR Part A shall include answers to all questions required by the U. S. Department of the Treasury to be addressed, including those required by Treasury Regulation 1.42-5(b)(1) or the applicable program rules;

(2) Part B "Unit Status Report." All Developments must annually report and certify the information related to individual household income, rent, certification dates and other necessary data to ensure compliance with applicable program regulations. In addition, Owners are required to report on the race and ethnicity, family composition, age, use of rental assistance, disability status, and monthly rental payments of individuals and families applying for and receiving assistance or if the household elects not to disclose the information, such election;

(3) Part C "Housing for Persons with Disabilities." The Department is required to establish a system that requires Owners of state or federally assisted housing Developments with 20 or more housing Units to report information regarding housing Units designed for persons with disabilities. The certified answers to the questions on Part C satisfy this requirement; and

(4) Part D "Form 8703." Tax exempt bond properties must file Form 8703 each calendar year of the qualified project period. The form is due to the IRS by March 31 after the close of the calendar year for which the certification is made. The Department requires Tax Exempt Bond Development Owners to submit a copy of the filed Form 8703 for the preceding calendar year.

(d) The Owner ~~owner~~ is required to report certain financial information to the Department electronically through CMTS. If supplemental information is required, it must be uploaded to the Development's CMTS account.

(1) "Annual Owner's Financial Certification" (formerly Part D of the AOCR). Developments funded

by the Department must annually provide and certify to the data requested in the Annual Owner's Financial Certification (AOFC).

(2) Developments funded with Exchange or TCAP must also submit a "Quarterly Owner's Financial Certification" and these must be submitted in January, April, July, and October on the 15th business day of the month.

(e) Parts A, B, C, and D of the AOFC and the Annual Owner's Financial Certification must be provided to the Department no later than April 30th of each year, reporting data current as of December 31st of the previous year (the reporting year).

(f) Periodic Unit Status Reports. All Developments must submit a Quarterly Unit Status Report to the Department through the Compliance Monitoring and Tracking System. Quarterly reports are due in January, April, July, and October on the 10th day of the month. The report must report occupancy as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the preceding month. The first quarterly report is due on the first quarterly reporting date after leasing activity commences. Failure to report occupancy timely will result in a finding of noncompliance.

(g) Owners are encouraged to continuously maintain current resident data in the Department's CMTS. Under certain circumstances, such as in the event of a natural disaster, the Department may alter the reporting schedule and require all Developments to provide current occupancy data through CMTS.

(h) All rental Developments funded or administered by the Department will be required to submit a current Unit Status Report prior to an onsite monitoring visit.

~~(i) Exchange developments must submit IRS Form(s) 8609 with lines 7, 8(b), 9(b), 10(a), 10(c), and 10(d) completed 30 days after the Department issues the executed form(s). If an Owner elects to group buildings together into one or more multiple building projects, the owner must attach a statement identifying the buildings in the project. An owner may request to change the election made on line 8(b) only once during the Compliance Period. The request will be treated as a non-material amendment, subject to the fee described in §11.901 of this chapter (relating to Fee Schedule) and the process described in §10.405 of this chapter (relating to Amendments and Extensions).~~

§10.609 Notices to the Department

If any of the events described in paragraphs (1) – ~~(7)(6)~~ of this section occur, written notice must be provided to the Department within the respective timeframes. Failure to do so will result in an ~~finding of noncompliance~~ Event of Noncompliance, and may be taken into consideration during ~~Previous Participation Reviews~~ previous participation reviews in accordance with Chapter 1 Subchapter C of this title, or in Enforcement ~~enforcement~~ actions in accordance with Chapter 2 of this title.

(1) Written notice must be provided at least 30 days prior to any proposed sale, transfer, or exchange of the Development or any portion of the Development, and the Department must give its prior written approval to any such sale, transfer, or exchange, which will include a previous participation review on the proposed new ownership, requiring that they complete and provide a Previous Participation Review Form;

(2) Notification must be provided within 30 days following the event of any casualty loss, in whole or in part, to the Development, using the Department's Notice of Casualty Loss (for general casualty losses) or Notice of Disaster Casualty Loss (specific to loss as a result of a Presidentially Declared Disaster);

(3) Owners of Bond Developments shall notify the Department of the date on which 10% of the Units are occupied and the date on which 50% of the Units are occupied, and notice must occur within 90 days of each such date;

(4) Within 30 days after a foreclosure, the Department must be provided with documentation evidencing the foreclosure and a rent roll establishing occupancy on the day of the foreclosure; ~~and~~

(5) Within 10 days of a change in the contact information (including contact persons, physical addresses, mailing addresses, email addresses, phone numbers, and/or the name of the property as know by the public) for the Ownership entity, management company, and/or Development the Department's CMTS must be updated; ~~and~~

~~(6) Within 30 days of completion of the American Institute of Architects form G704- Certificate of Substantial Completion, or Form HUD-92485 for instances in which a federally insured HUD loan is utilized, an Owner must request a Final Construction Inspection; and~~

~~(7) Owners of Developments that participate in the Section 811 PRA program are required to notify the Department about the availability of Units as described in §10.624 of this subchapter.~~

§10.610 Written Policies and Procedures

~~See §10.802 of this chapter.~~

~~(a) The purpose of this section is to outline policies and/or procedures that are required to have written documentation. If an owner fails to follow their written policies and procedures it will be cited as noncompliance with this section.~~

~~(1) Owners must inform applicants/tenants in writing, at the time of application or other action described in this section, that such policies/procedures are available, and that the Owner will provide copies upon request to applicants/tenants or their representatives.~~

~~(2) The Owner must have all policies and related documentation required by this section available in the leasing office and anywhere else where applications are taken. Developments that accept electronic applications must post to their website the tenant selection criteria and the TDHCA form~~

based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."

~~(3) All policies must have an effective date. Any changes require a new effective date.~~

~~(4) In general, policies cannot be applied retroactively. Tenants who already reside in the development or applicants on the wait list at the time new or revised tenant selection criteria are applied and who are otherwise in good standing under the lease or wait list, must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria or be passed over on the wait list. However, criteria related to program eligibility may be applied retroactively when a market development receives a new award of tax credits, federal or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.~~

~~(b) Tenant Selection Criteria. Owners must maintain written Tenant Selection Criteria. The criteria under which an applicant was screened must be included in the household's file.~~

~~(1) The criteria must be reasonably related to the applicant's ability to perform under the lease and include:~~

~~(A) Requirements that determine an applicant's basic eligibility for the property, including any preferences, restrictions, and any other tenancy requirements. The tenant selection criteria must specifically list:~~

~~(i) The income and rent limits;~~

~~(ii) When applicable, restrictions on student occupancy and any exceptions to those restrictions; and~~

~~(iii) Fees and/or deposits required as part of the application process. Developments with HOME, NHTF, NSP, Section 811 and/or TCAP RF units cannot collect an application deposit for units designated under these programs. Owners of HTC, TCAP and Exchange Developments are discouraged from collecting an application deposit. If an application deposit is collected it must soon after be converted into a refundable security deposit. No fees or deposits may be collected to place a household or applicant on a waiting list.~~

~~(B) Applicant screening criteria, including what is screened and what scores or findings would result in ineligibility.~~

~~(C) Occupancy Standards. If fewer than two persons (over the age of six) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided.~~

~~(D) The following statement: Screening criteria will be applied in a manner consistent with all~~

~~applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and the Department's rules.~~

~~(E) Specific age requirements if the Development is operating as an Elderly Property either under the Housing for Older Persons Act of 1995 as amended (HOPA), or the age related eligibility criteria required by its use of federal funds.~~

~~(2) The criteria must not:~~

~~(A) Include preferences for admission. A property may not have a preference unless it is either in a recorded LURA which has been approved by the Department or is required by a program in which the Owner is participating which requires the preference. Owners that include preferences in their leasing criteria due to other federal financing must provide either written approval from HUD, USDA, or VA for such preference or identify the statute, written agreement, or federal guidance documentation that permits the adoption of this preference;~~

~~(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. If an Owner adopts a minimum income standard for households participating in a voucher program, it is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount or \$2,500 annually; or~~

~~(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.~~

~~(3) If the Development is funded with HOME, TCAP RF, NHTF, or NSP funds, in accordance with 24 CFR §93.356 and 24 CFR §92.359, the criteria may have a preference for persons who have experienced domestic violence, dating violence, sexual assault, or stalking.~~

~~(c) Reasonable Accommodations Policy. Owners must maintain a written Reasonable Accommodations policy. The policy must be maintained at the Development. Owners are responsible for ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.~~

~~(1) The policy must provide:~~

~~(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation; and~~

~~(B) A timeframe in which the Owner will respond to a request that is compliant with 10 TAC §1.204(b)(3) and (d) (relating to Reasonable Accommodations).~~

~~(2) The policy must not:~~

~~(A) Require a household to make a reasonable accommodation request in writing;~~

~~(B) Require a household whose need is readily apparent to provide third party documentation of a disability;~~

~~(C) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation;~~

~~(D) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or~~

~~(E) Require a household to rent a unit that has already been made accessible.~~

~~(d) Wait List Policy. Owners must maintain a written wait list policy, regardless of current unit availability. The policy must be maintained at the Development.~~

~~(1) The policy must include procedures the Development uses in:~~

~~(A) Opening, closing, and selecting applicants from the wait list;~~

~~(B) Determining how lawful preferences are applied; and~~

~~(C) Procedures for prioritizing applicants needing accessible units in accordance with 24 CFR §8.27 and Chapter 1, Subchapter B of this title.~~

~~(2) Developments with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted units. The Development's wait list policy must inform applicants and current residents of the availability of lower rent units and the process for renting a lower rent unit. Unless otherwise approved at application, underwriting and cost certification, all unit sizes must be available at the lower rent limits. The wait list policy for Developments with lower rent restricted units must address how the waiting list for their lower rent restricted units will be managed and must include policies regarding changes in income that address the options available in §10.615 of this subchapter. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.~~

~~(e) Developments that elect the income averaging test and all Developments with additional rent and occupancy restrictions must have written policies regarding changes in income that address the options available in §10.615 of this subchapter.~~

~~(f) Denied Application Policies. Owners must maintain a written policy regarding procedures for denying applications and notifying denied applicants of their rights.~~

~~(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.~~

~~(2) Within seven days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:~~

~~(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based;~~

~~(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the Development. An appeals procedure is required for HOME Developments that are owned by Community Housing Development Organizations, and units at Developments that lease units under the Department's Section 811-PRA program. The appeals process must provide a 14-day period for the applicant to contest the reason for the denial and comply with other requirements of the HUD Handbook 4350.3-4-9; and~~

~~(C) The TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."~~

~~(3) The Development must keep a log of all denied applicants that completed the application process to include:~~

~~(A) Basic household demographic and rental assistance information, if requested during any part of the application process;~~

~~(B) The specific reason for which an applicant was denied, the date the decision was made; and~~

~~(C) The date the denial notice was mailed or hand-delivered to the applicant.~~

~~(4) A file of all rejected applications must be maintained the length of time specified in the applicable program's recordkeeping requirements and include:~~

~~(A) A copy of the written notice of denial; and~~

~~(B) The Tenant Selection Criteria policy under which an applicant was screened.~~

~~(5) If an 811 applicant is being denied, within three calendar days the Department point of contact must be notified and provided with a copy of the written notice that was provided to the applicant.~~

~~(g) Non-renewal and/or Termination Notices. Owners must maintain a written policy regarding procedures for providing households non-renewal and termination notices.~~

~~(1) The owner must provide in any non-renewal or termination notice, a specific and lawful reason for the termination or non-renewal.~~

~~(2) The notification must:~~

~~(A) Be delivered as required under applicable program rules;~~

~~(B) Include the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted;~~

~~(C) State how a person with a disability may request a reasonable accommodation in relation to such notice; and~~

~~(D) Include information on the appeals process if one is used by the property.~~

~~(h) Unit Transfer Policies. Owners must maintain a written policy regarding procedures for households to request a unit transfer. The policy must address the following:~~

~~(1) How security deposits will be handled for both the current unit and the new unit;~~

~~(2) How transfers related to a reasonable accommodation will be addressed; and~~

~~(3) For HTC Developments, how transfers will be handled with regard to the multiple building project election on IRS Form(s) 8609 line 8(b) and accompanying statements in accordance with §10.616 of this subchapter, concerning Household Unit Transfer Requirements for All Programs.~~

~~(i) At the time of application Owners must provide each adult in the household the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted.~~

~~(j) HTC Developments that have elected average income test must describe in their leasing criteria how units will be leased and inform applicants of the set asides that the Development offers. Owners must disperse 20%, 30%, 40%, 50%, 60%, 70% and 80% units designations across all unit types in a manner that does not violate fair housing laws. HTC Developments that have elected the income averaging test must maintain separate waiting lists for each of the set asides offered by the Development. The waiting lists must be available to both existing households and prospective tenants. The Development cannot provide a preference for applicants over existing households. The Development is not required to place existing households that receive rental assistance on a waiting list for a lower rent unit. Owners are encouraged to designate households that receive rental~~

~~assistance at the level indicated by the contract rent for the unit.~~

~~(k) Developments that participate in the Section 811 program must have a written EIV policy that includes security practices and complies with the HUD Handbook 4350.3, Chapter 9. Owners are discouraged from adopting policies that exceed the minimum requirements established by HUD.~~

~~(l) Policies and procedures will be reviewed during monitoring visits, through resident complaints or through an owner initiated written policies and procedures review. Owners may request a review of the written policies and procedures for a portfolio of Developments by submitting a request to wpp@tdhca.state.tx.us. After review by the Department, Owners may make non-substantive changes to their policies. Significant changes to reviewed policies without Department approval may result in findings of noncompliance.~~

~~(m) Development Owners must allow applicants to submit applications via mail and at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via email, website form, or fax. The Development's tenant selection criteria must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria.~~

§10.611 Determination, Documentation and Certification of Annual Income

(a) For all rental programs administered by the Department, annual income shall be determined consistent with the Section 8 Program administered by HUD, using the definitions of annual income described in 24 CFR §5.609 as further described in the HUD Handbook 4350.3, as amended from time to time. For the Housing Tax Credit program, where there is a conflict between the HUD Handbook 4350.3 and the IRS Guide for Completing IRS Form 8823, the IRS guidance will be controlling. At the time of program designation as a low-income household, Owners must certify and document household income. In general, all low-income households must be certified prior to move in. Certification and documentation of household income is an Owner's responsibility, even if the Owner is using a manager's services to handle tenant intake and leasing. Accordingly, Owners should ensure that they hire competent and properly trained managers and that they exercise appropriate oversight of any manager's activities.

(b) For the initial certification of a household residing in a HOME, NHTF, NSP, or TCAP RF assisted unit ~~at a Development committed HOME funds after August 23, 2013~~, Owners ~~owners~~ must examine at least two months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation).

(c) A household's income designation at the time of move in cannot be changed unless:

(1) The household goes over income and they are replaced with another low income household;

(2) The Development has a written policy and procedure for changing household designations as household income changes;

(3) The household receives rental assistance, and due to changes in their income, their portion of required rent exceeds the rent limit of their move in designation;

(4) The household is designated as Market Rate and a certification is performed that completely and clearly documents that the household is qualified as low income; or

(5) The household has been designated as low income and they become, or it is determined that they have been, an ineligible full time student household. If the Development has Units that do not have student restrictions, the household can continue occupancy, and their designation may be removed.

§10.612 Tenant File Requirements

(a) At the time of program designation as a ~~low income~~low income household, typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

(1) A Department approved Income Certification form signed by all adults. At the time of program designation as a ~~low income~~low income household, Owners must certify and document household income. In general, all low-income households must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the ~~property Development~~ also participates in the Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;

(2) Documentation to support the Income Certification form including, but not limited to, applications, first hand or third party verification of income and assets, and documentation of student status (if applicable). The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Cost Guard, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit with the Texas Veterans Portal at <https://veterans.portal.texas.gov/>."

(3) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents; and

~~(4)~~(3) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this subchapter (relating to Lease Requirements).

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

(1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP, and Exchange Developments must collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification form or the Income Certification form or HUD Income Certification form or USDA Income Certification form.

(2) During the Compliance Period for all Housing Tax Credit, TCAP, and Exchange Developments and throughout the Affordability Period ~~affordability period~~ for all Bond developments and HOME, ~~NSP~~, and TCAP RF Developments ~~committed funds after August 23, 2013~~, Owners must collect and maintain current student status data for each low-income household. This information must be collected within 120 days before the anniversary of the effective date of the original student verification and can be collected on the Department's Annual Eligibility Certification or the Department's Certification of Student Eligibility form or the Department's Income Certification form. Throughout the Compliance Period for HTC, TCAP, and Exchange developments, low-income households comprised entirely of full-time students must qualify for a HTC program exception, and supporting documentation must be maintained in the household's file. For Bond ~~Developments~~ ~~developments~~, if the household is not an eligible student household, it may be possible to re-designate the full-time student household to an Eligible Tenant (ET). For HOME, ~~NSP~~, and TCAP RF Developments ~~committed funds after August 23, 2013~~, an individual does not qualify as a low income low-income or ~~very low income family~~ very low income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

(3) The types of properties-Developments described in subparagraphs (A) - (D) of this paragraph are required to recertify annually the income of each low-income household using a Department approved Income Certification form and documentation to support the Income Certification (see subsection (a)(1) - (2) of this section):

(A) Mixed income Housing Tax Credit, TCAP and Exchange projects (as defined by line 8(b) of IRS Form(s) 8609 and accompanying statements, if any) that have not completed the 15 year Compliance Period.

(B) All Bond Developments with less than 100% of the units set aside for households with an income less than 50% or 60% of area median income.

(C) HTF Developments with Market Rate units. However, HTF Developments with other Department administered programs will comply with the requirements of the other program.

(D) HOME, TCAP RF, and NHTF Developments. Refer to subsection (c) of this section.

(c) Ongoing tenant file requirements for HOME, ~~and~~ TCAP RF, and NHTF Developments:

(1) HOME, TCAP RF, and NHTF Developments must complete a recertification with verifications of each ~~HOME~~-assisted Unit every sixth year of the Development's affordability period. The recertification is due on the anniversary of the household's move-in date. For purposes of this

section the beginning of a HOME, TCAP RF and ~~Development~~NHTF Development affordability period is the effective date ~~on the first page of~~ in the HOME, TCAP RF, and NHTF LURA. For example, a HOME Development with a LURA effective date of May 2011, will have the years of the affordability determined in Example 612(1):

- (A) Year 1: May 15, 2011 - May 14, 2012;
- (B) Year 2: May 15, 2012 - May 14, 2013;
- (C) Year 3: May 15, 2013 - May 14, 2014;
- (D) Year 4: May 15, 2014 - May 14, 2015;
- (E) Year 5: May 15, 2015 - May 14, 2016;
- (F) Year 6: May 15, 2016 - May 14, 2017;
- (G) Year 7: May 15, 2017 - May 14, 2018;
- (H) Year 8: May 15, 2018 - May 14, 2019;
- (I) Year 9: May 15, 2019 - May 14, 2020;
- (J) Year 10: May 15, 2020 - May 14, 2021;
- (K) Year 11: May 15, 2021 - May 14, 2022; and
- (L) Year 12: May 15, 2022 - May 14, 2023.

(2) In the scenario described in paragraph (1) of this subsection, all households in HOME, TCAP RF, and NHTF Units must be recertified with source documentation during the sixth and twelfth years or between May 15, 2016, to May 14, 2017, and between May 15, 2022, and May 14, 2023.

(3) In the intervening years the Development must collect a self certification by the effective date of the original Income Certification from each household that is assisted with HOME, TCAP RF, and NHTF funds. The Development must use the Department's Income Certification form, unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's Income Certification form will be accepted. If the household reports on their self certification that their annual income exceeds the current 80% applicable income limit or there is evidence that the household's written statement failed to completely and accurately provide information about the household's characteristics and/or income, then an annual income recertification with verifications is required.

(d) Tenant File requirements for Section 811 PRA Units units. Files for households assisted under the Section 811 program must document the household's eligibility for the program, the deductions for

which the household qualifies and the following HUD forms:

- (1) Section 811 Project Rental Assistance Application;
- (2) Verification of disability, HUD 90102;
- (3) House Rules;
- (4) Move in move out inspection form HUD 90106, or TDHCA Section 811 Waiver of Move-in;
- ~~(5) TDHCA Section 811 Waiver of Move-in inspection;~~
- ~~(6) Damages (Security deposit Deductions);~~
- ~~(75) Tenant acknowledgement of the~~ Fact Sheet "How your rent is determined";
- ~~(86) Tenant acknowledgment of~~ Resident Rights and Responsibilities;
- ~~(97) Tenant acknowledgement of~~ EIV and You Brochure;
- ~~(108)~~ Verification of Age;
- ~~(119)~~ Verification of Social Security number;
- ~~(1210)~~ Screening for drug abuse and other criminal activity;
- ~~(1311)~~ 811 Tenant Selection Plan;
- ~~(1412)~~ Supplement to Application for Federally Assisted Housing: Form 92006;
- ~~(1513)~~ Annual Recertification Initial Notice;
- ~~(1614)~~ Annual Recertification First Reminder Notice;
- ~~(1715)~~ Annual Recertification Second Reminder Notice;
- ~~(1816)~~ Annual Recertification Third Reminder Notice;
- ~~(1917)~~ Race and Ethnic Data Reporting form: HUD 27061-H;
- ~~(2018)~~ HUD 9887 and HUD 9887-A;
- ~~(2119)~~ Annual Unit inspection;
- ~~(2220)~~ Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures: HUD

form 50059; and

(~~2321~~) HUD Model lease 92336-PRA.

§10.613 Lease Requirements

(a) Eviction and/or termination of a lease. HTC, TCAP, and Exchange Developments must specifically state in the lease or in an addendum attached to the lease that evictions or terminations of tenancy for other than good cause are prohibited. To terminate tenancy, the Owner must serve written notice to the tenant specifying the grounds for the action.

(b) HOME, TCAP RF, NHTF, and NSP Developments are prohibited from evicting low income ~~low income~~ residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, for completion of the tenancy period for Transitional Housing ~~transitional housing~~ (if applicable), or for other good cause. It must be specifically stated in the lease or in an addendum attached to the lease that evictions or non-renewal of leases for other than good cause are prohibited (24 CFR §92.253 and 24 CFR §93.303). Owners must also comply with all other lease requirements and prohibitions stated in 24 CFR §92.253 or 24 CFR §93.303, as applicable. To terminate or refuse to renew tenancy in HOME, TCAP RF, and NSP Developments, the Owner must serve written notice to the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

(c) In accordance with the Violence Against Women Act, an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking against the documented victim of such actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of a lease or good cause for termination of tenancy. The Department does not determine if an Owner has good cause or if a resident has violated the lease terms for other reasons. Challenges for evictions or terminations of tenancy must be made by a court of competent jurisdiction or an agreement of the parties (including an agreement made in arbitration), and the Department will rely on that determination.

(d) A ~~Developments~~ must use a lease or lease addendum that requires households to report changes in student status.

(e) Owners of HTC Developments are prohibited from locking out or threatening to lock out any Development resident, except by judicial process, unless the exclusion is necessary for the purpose of performing repairs or construction work, or in cases of emergency. Owners are further prohibited from seizing or threatening to seize the personal property of a resident except by judicial process unless the resident has abandoned the premises. These prohibitions must be included in the lease or lease addendum.

(f) For HOME, TCAP, TCAP RF, NHTF, 811 PRA, and NSP Developments, properties that were initially built for occupancy prior to 1978 must include in their lease or lease addendum a Lead Warning Statement. To demonstrate compliance, the Department will monitor that all households at HOME,

TCAP, TCAP RF, NHTF, and NSP Developments have signed the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards. (24 CFR §92.355, 24 CFR §93.361 and §570.487(c)). The addendum and disclosure are not required if all lead has been certified to have been cleared from the Development in accordance with 24 CFR §35.130, and the Owner has the required certification in its on-site records.

(g) ~~All An~~ Owners may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the Unit or other affiliated individual as defined in the VAWA 2013.

(h) All NHTF, TCAP RF, NSP, ~~811 PRA~~, and HOME Developments for which the contract is executed on or after December 16, 2016, must use the Department created VAWA lease addendum which provides the ability for the tenant to terminate the lease without penalty if the Department determines that the tenant qualifies for an emergency transfer under 24 CFR §5.2005(e). 811 PRA Units are prohibited from using the expired 2005 VAWA lease addendum. After OMB approval of a VAWA lease addendum, all 811 PRA households must have a valid and executed VAWA lease addendum. For the 811 PRA program certain addenda for the HUD model lease may be required such as Lead Based Paint Disclosure form, house rules, and pet rules. No other attachments to the lease are permissible without approval from the Department's 811 PRA staff.

(i) Leasing of HOME, ~~NSP or TCAP RF~~, or NHTF Units ~~units~~ to an organization that, in turn, rents those Units to individuals is not permissible for Developments with contracts dated on or after August 23, 2013. Leases must be between the Development and an eligible household. NSP Developments may only utilize Master Leases if specifically allowed in the Development's LURA.

(j) Housing Tax Credit Units ~~units~~ leased to an organization through a supportive housing program where the ~~Owner~~ receives a rental payment for the unit regardless of physical occupancy will be found out of compliance if the Unit remains vacant for over 60 days. The Unit ~~unit~~ will be found out of compliance under the finding-Event of Noncompliance "Violation of the Unit Vacancy Rule."

(k) It is a Development Owner's responsibility at all times to know what it has agreed to provide by way of common amenities, Unit ~~unit~~ amenities, and services.

(l) A Development Owner shall post in a common area of the leasing office a ~~laminated~~ copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

(1) Information about Fair Housing and tenant choice;

(2) Information regarding common amenities, Unit ~~unit~~ amenities, and services; and

(3) A certification that a representative of the household must sign prior to, but no more than 120

days prior to, the initial lease execution acknowledging receipt of this brochure.

(4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.

(m) For Section 811 PRA Units, Owners must use the HUD Model lease, HUD form 92236-PRA.

§10.614 Utility Allowances

(a) Purpose. The purpose of this section is to provide the guidelines for calculating a Utility Allowance under the Department's multifamily programs. The Department will cite noncompliance and/or not approve a Utility Allowance if it is not calculated in accordance with this section. Owners are required to comply with the provisions of this section as well as any existing federal or state program guidance.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. Other capitalized terms used in this section herein have the meanings assigned in Chapters 1, 2, 10, 11, and 12 of this title.

(1) Building Type. The HUD Office of Public and Indian Housing (PIH) characterizes building and Unit configurations for HUD programs. The Department will defer to the guidance provided by HUD found at: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11608.pdf (or successor Uniform Resource Locator (URL)) when making determinations regarding the appropriate building type(s) at a Development.

(2) Power to Choose. The Public Utility Commission of Texas database of retail electric providers in the areas of the state where the sale of electricity is open to retail competition: <http://www.powertochoose.org/> (or successor URL). In areas of the state where electric service is deregulated, the Department will verify the availability of residential service directly with the Utility Provider. If the Utility Provider is not listed as a provider of residential service in the Development's ZIP code for an area that is deregulated, the request will not be approved.

(3) Component Charges. The actual cost associated with the billing of a residential utility. Each Utility Provider may publish specific utility service information in varying formats depending on the service area. Such costs include, but are not limited to:

(A) Rate(s). The cost for the actual unit of measure for the utility (e.g., cost per kilowatt hour for electricity);

(B) Fees. The cost associated with a residential utility that is incurred regardless of the amount of the utility the household consumes (e.g., Customer Charge); and

(C) Taxes. Taxes for electricity and gas are regulated by the Texas Comptroller of Public Accounts and can be found <http://comptroller.texas.gov/> (or successor URL). Local Utility Providers have

control of the tax structure related to water, sewer and trash. To identify if taxes are imposed for these utilities, obtain documentation directly from the Utility Provider.

(4) Multifamily Direct Loan (MFDL). Funds provided through the HOME Program (HOME), Neighborhood Stabilization Program (NSP), National Housing Trust Fund (NHTF), Repayments from the Tax Credit Assistance Program (TCAP RF), or other program available through the Department, local political subdivision, or administrating agency for multifamily development that require a Utility Allowance. MFDLs may also include deferred forgivable loans or other similar direct funding, regardless if it is required to be repaid. Housing Tax Credits, Tax Exempt Bonds, and Project Based Vouchers are not MFDLs.

(5) Renewable Source. Energy produced from energy property described in IRC §48 or IRC §45(d)(1) through (4), (6), (9), or (11). The manner in which a resident is billed is limited to the rate at which the local Utility Provider would have charged the residents for the utility if that entity had provided it to them, and as may be further limited by the Texas Utilities Code or by regulation.

(6) Submetered Utility. A utility purchased from or through a local Utility Provider by the building Owner where the resident is billed directly by Owner of the building or to a third party billing company and the utility is:

(A) Based on the residents' actual consumption of that utility and not an allocation method or Ratio Utility Billing System (RUBS); and

(B) The rate at which the utility is billed does not exceed the rate incurred by the building Owner for that utility.

(7) Utility Allowance. An estimate of the expected monthly cost of any utility for which a resident is financially responsible, other than telephone, cable television, or internet.

(A) For HTC, TCAP, Exchange buildings, Bonds, and ~~TSHTF~~ ~~HTE~~ include:

(i) Utilities paid by the resident directly to the Utility Provider;

(ii) Submetered Utilities; and

(iii) Renewable Source Utilities.

(B) For a Development with an MFDL, unless otherwise prescribed in the program's Regulatory Agreement, include all utilities regardless of how they are paid.

(8) Utility Provider. The company that provides residential utility service (e.g., electric, gas, water, wastewater, and/or trash) to the buildings.

(c) Methods. The following options are available to establish a Utility Allowance for all programs except Developments funded with MFDL funds, which are addressed in subsection (d) of this section.

(1) Rural Housing Services (RHS) buildings or buildings with RHS assisted residents. The applicable Utility Allowance for the Development will be determined under the method prescribed by the RHS (or successor agency). No other utility method described in this section can be used by RHS buildings or buildings with RHS assisted residents.

(2) HUD-Regulated buildings layered with any Department program. If neither the building nor any resident in the building receives RHS rental assistance payments, and the rents and the Utility Allowances of the building are regulated by HUD (HUD-regulated building), the applicable Utility Allowance for all rent restricted Units in the building is the applicable HUD Utility Allowance. No other utility method described in this section can be used by HUD-regulated buildings. Unless further guidance is received from the U.S. Department of Treasury or the Internal Revenue Service (IRS), the Department considers Developments awarded an MFDL (e.g., HOME) to be HUD-Regulated buildings.

(3) Other Buildings. For all other rent-restricted Units, Development Owners must use one of the methods described in subparagraphs (A) - (E) of this paragraph:

(A) Public Housing Authority (PHA). The Utility Allowance established by the applicable PHA for the Housing Choice Voucher Program. The Department will utilize the Texas Local Government Code, Chapter 392 to determine which PHA is the most applicable to the Development.

(i) If the PHA publishes different schedules based on Building Type, the Owner is responsible for implementing the correct schedule based on the Development's Building Type(s). Example 614(1): The applicable PHA publishes a separate Utility Allowance schedule for Apartments (5+ Unitsunits), one for Duplex/Townhomes and another for Single Family Homes. The Development consists of 20 buildings, 10 of which are Apartments (5+ Unitsunits) and the other 10 buildings are Duplexes. The Owner must use the correct schedule for each Building Type.

(ii) In the event the PHA publishes a Utility Allowance schedule specifically for energy efficient Units, and the Owner desires to use such a schedule, the Owner must demonstrate that the building(s) meet the housing authority's specifications for energy efficiency once every five years.

(iii) If the applicable PHA allowance lists flat fees for any utility, those flat fees must be included in the calculation of the Utility Allowance if the resident is responsible for that utility.

(iv) If the individual components of a Utility Allowance are not in whole number format, the correct way to calculate the total allowance is to add each amount and then round the total up to the next whole dollar. Example 614(2): Electric cooking is \$8.63, Electric Heating is \$5.27, Other Electric is \$24.39, Water and Sewer is \$15. The Utility Allowance in this example is \$54.00.

(v) If an Owner chooses to implement a methodology as described in subparagraph (B), (C), (D), or (E) of this paragraph, for Units occupied by Section 8 voucher holders, the Utility Allowance remains the applicable PHA Utility Allowance established by the PHA from which the household's voucher is received.

(vi) If the Development is located in an area that does not have a municipal, county, or regional housing authority that publishes a Utility Allowance schedule for the Housing Choice Voucher Program, Owners must select an alternative methodology, unless the building(s) is located in the published Housing Choice Voucher service area of:

(I) A Council of Government created under Texas Local Government Code, Chapter 303, that operates a Housing Choice Voucher Program;

(II) The Department's Housing Choice Voucher Program; or

(III) Another PHA which publishes a separate utility allowance schedule specific to the Development's location.

(B) Written Local Estimate. The estimate must come from the local Utility Provider, be signed by the Utility Provider representative, -and specifically include all Component Charges for providing the utility service. In deregulated areas, the rate plan used to calculate the estimate must have a term of at least 12 months.

(C) HUD Utility Schedule Model. The HUD Utility Schedule Model and related resources can be found at <http://www.huduser.gov/portal/resources/utilallowance.html> (or successor URL). Each item on the schedule must be displayed out two decimal places. The total allowance must be rounded up to the next whole dollar amount. The Component Charges used can be no older than those in effect 60 days prior to the beginning of the 90 day period described in subsection (f)(3) of this section related to Effective Dates.

(i) The allowance must be calculated using the MS Excel version available at <http://www.huduser.org/portal/resources/utilmodel.html> (or successor URL), as updated from time to time, with no changes or adjustments made other than entry of the required information needed to complete the model.

(ii) In the event that the PHA code for the local PHA to the Development is not listed in "Location" tab of the workbook, the Department will use the PHA code for the PHA that is closest in distance to the Development using online mapping tools (e.g., MapQuest).

(iii) Green Discount. If the Owner elects any of the Green Discount options for a Development, documentation to evidence that the Units units and the buildings meet the Green Discount standard as prescribed in the model is required for the initial approval and every subsequent annual review.

(I) In the event the allowance is being calculated for an application of Department funding (e.g., 9%

Housing Tax Credits), upon request, the Department will provide both the Green Discount and the non-Green Discount results for application purposes.

(II) At lease up, the Owner ~~owner~~ may use the utility allowance taking into consideration the green discount if they obtain written documentation from a qualified professional (e.g., a qualified energy efficiency consultant) indicating that the Units ~~units~~ and buildings will meet the qualifications for the Green Discount within six months of the placed in service date or for MFDL within six months of the construction completion date.

(iv) Do not take into consideration any costs (e.g., penalty) or credits that a consumer would incur because of their actual usage. Example 614(3): The Electric Fact Label for ABC Electric Utility Provider provides a Credit Line of \$40 per billing cycle that is applied to the bill when the usage is greater than 999 kWh and less than ~~2~~ 2000 kWh. Example 614(4): A monthly minimum usage fee of \$9.95 is applied when the usage is less than 1000 kWh in the billing cycle. When calculating the allowance, disregard these types costs or credits.

(v) In deregulated areas, the rate plan used to calculate the allowance must have a term of at least 12 months.

(D) Energy Consumption Model. The model must be calculated by a properly licensed mechanical engineer. The individual must not be related to the Owner within the meaning of §267(b) or §707(b) of the Code. The utility consumption estimate must, at minimum, take into consideration specific factors that include, but are not limited to, Unit size, building type and orientation, design and materials, mechanical systems, appliances, characteristics of building location, and available historical data. In deregulated areas, the rate plan used to calculate the allowance must have a term of at least 12 months. Component Charges used must be no older than in effect 60 days prior to the beginning of the 90 day period described in subsection (f)(3) of this section related to Effective Dates; and

(E) An allowance based upon an average of the actual use of similarly constructed and sized Units in the building using actual utility usage data and Component Charges, provided that the Development Owner has the written permission of the Department. This methodology is referred to as the "Actual Use Method." For a Development Owner to use the Actual Use Method they must:

(i) Provide a minimum sample size of usage data for at least five Continuously Occupied Units of each Unit Type or 20% of each Unit Type, whichever is greater. If there are less than five Units of any Unit Type, data for 100% of the Unit Type must be provided; and

(ii) Upload the information in subclauses (I) - (IV) of this clause to the Development's CMTS account no later than the beginning of the 90 day period after which the Owner intends to implement the allowance, reflecting data no older than 60 days prior to the 90 day implementation period described in described in subsection (f)(3) of this section related to Effective Dates.

(I) An Excel spreadsheet listing each Unit for which data was obtained to meet the minimum sample

size requirement of a Unit Type, the number of bedrooms, bathrooms and square footage for each Unit, the household's move-in date, the utility usage (e.g., actual kilowatt usage for electricity) for each month of the 12 month period for each Unit for which data was obtained, and the Component Charges in place at the time of the submission;

(II) All documentation obtained from the Utility Provider (or billing entity for the utility provider) and/or copies of actual utility bills gathered from the residents, including all usage data not needed to meet the minimum sample size requirement and any written correspondence from the utility provider;

(III) The rent roll showing occupancy as of the end of the month for the month in which the data was requested from the utility provider; and

(IV) Documentation of the current Utility Allowance used by the Development.

(iii) Upon receipt of the required information, the Department will determine if the Development Owner has provided the minimum information necessary to calculate an allowance using the Actual Use Method. If so, the Department shall calculate the Utility Allowance for each bedroom size using the guidelines described in subclauses (I) - (V) of this clause;

(I) If data is obtained for more than the sample requirement for the Unit Type, all data will be used to calculate the allowance;

(II) If more than 12 months of data is provided for any Unit, only the data for the most current 12 will be averaged;

(III) The allowance will be calculated by multiplying the average units of measure for the applicable utility (i.e., kilowatts over the last 12 months by the current rate) for all Unit Types within that bedroom size. For example, if sufficient data is supplied for 18 two bedroom/one bath Units, and 12 two bedroom/two bath Units, the data for all 30 Units will be averaged to calculate the allowance for all two bedroom Units;

(IV) The allowance will be rounded up to the next whole dollar amount. If allowances are calculated for different utilities, each utility's allowance will be rounded up to the next whole dollar amount and then added together for the total allowance; and

(V) If the data submitted indicates zero usage for any month, the data for that Unit will not be used to calculate the Utility Allowance.

(iv) The Department will complete its evaluation and calculation within 45 days of receipt of all the information requested in clause (ii) of this subparagraph;

(d) In accordance with 24 CFR §§92.252 and 93.302, for an MFDL in which the Department is the funding source, the Utility Allowance will be established in the following manner:

(1) For Developments that, as a result of funding, must calculate the Utility Allowance under HUD Multifamily Notice H-2015-4, as revised from time to time, the applicable Utility Allowance for all rent restricted Units in the building is the applicable Utility Allowance calculated under that Notice. No other utility method described in this section can be used.

(2) Other Buildings. The Utility Allowance may be initiated by the Owner using the methodologies described in subsection (c)(3)(B), (C), (D), or (E) of this section related to Methods.

(3) If a request is not received by October 1st, the Department will calculate the Utility Allowance using the HUD Utility Schedule Model. For property specific data, the Department will use:

(A) The information submitted in the Annual Owner's Compliance Report;

(B) Entrance Interview Questionnaires submitted with prior onsite reviews; or

(C) The Owner ~~owner~~ may be contacted and required to complete the Utility Allowance Questionnaire. In such case, a five day period will be provided to return the completed questionnaire.

(D) Utilities will be evaluated in the following manner:

(i) For regulated utilities, the Department will contact the Utility Provider directly and apply the Component Charges in effect no later than 60 days before the allowance will be effective.

(ii) For deregulated utilities:

(I) The Department will use the Power to Choose website and search available Utility Providers by ZIP code;

(II) The plan chosen will be the median cost per kWh based on average price per kWh for the average monthly use of 1000 kWh of all available plans of at least 12 months; and

(III) The actual Component Charges from the plan chosen in effect no later than 60 days before the allowance will be effective will be entered into the Model.

(E) The Department will notify the Owner contact in CMTS of the new allowance and provide the backup for how the allowance was calculated. The Owner ~~owner~~ will be provided a five day period to review the Department's calculation and note any errors. Only errors related to the physical characteristics of the building(s) and utilities paid by the residents will be reconsidered; the utility plan and Utility Provider selected by the Department and Component Charges used in calculating the allowance will not be changed. During this five day period, the Owner ~~owner~~ also has the opportunity to submit documentation and request use of any of the available Green Discounts.

(F) The allowance must be implemented for rent due in all program Units ~~units~~ thirty days after the Department notifies the Owner of the allowance.

(4) HTC Buildings in which there are Units ~~units~~ under an MFDL program are considered HUD-Regulated buildings and the applicable Utility Allowance for all rent restricted Units in the building is the Utility Allowance calculated under the MFDL program. No other utility method described in this section can be used by HUD-regulated buildings. If the Department is not the awarding jurisdiction, Owners are required to obtain the Utility Allowance established by the awarding jurisdiction, and to document all efforts to obtain such allowance to evidence due diligence in the event that the jurisdiction is nonresponsive. In such an event, provided that, sufficient evidence of due diligence is demonstrated, the Department, in its sole discretion, may allow for the use of the methods described in subsection (c)(3)(~~A~~), (B), (C), ~~or~~ (D), or (E) of this section related to Methods to calculate and establish its utility allowance.

(e) Acceptable Documentation. For the Methods where utility specific information is required to calculate the allowance (e.g., base charges, cost per unit of measure, taxes) Owners should obtain documentation directly from the Utility Provider and/or Regulating State Agency. If the allowance is for a building in a deregulated area, the utility rate selected for use in calculation must have a term of at least 12 months unless the allowance is calculated using the method described in subsection (c)(3)(E), in which case the unit's actual effective utility rate will be used regardless of the rate's term. Any Component Charges related to the utility that are published by the Utility Provider and/or Regulating State Agency must be included. In the case where a utility is billed to the Owner of the building(s) and the Owner is billing residents through a third party billing company, the Component Charges published by the Utility Provider and not the third party billing company will be used.

(f) Changes in the Utility Allowance. An Owner may not change Utility Allowance methods, start or stop charging residents for a utility without prior written approval from the Department. Example 614(5): A Housing Tax Credit Development has been paying for water and sewer since the beginning of the Compliance Period. In year eight, the Owner decides to require residents to pay for water and sewer. Prior written approval from the Department is required. Any such request must include the Utility Allowance Questionnaire found on the Department's website and supporting documentation.

(1) The Department will review all requests, with the exception of the methodology prescribed in subsection (c)(3)(E) of this section related to Methods, within 90 days of the receipt of the request.

(2) If the Owner fails to post the notice to the residents and simultaneously submit the request to the Department by the beginning of the 90 day period, the Department's approval or denial will be delayed for up to 90 days after Department notification. Example 614(6): The Owner has chosen to calculate the electric portion of the Utility Allowance using the written local estimate. The annual letter is dated July 5, 2014, and the notice to the residents was posted in the leasing office on July 5, 2014. However, the Owner failed to submit the request to the Department for review until September 15, 2014. Although the Notice to the Residents was dated the date of the letter from the utility provider, the Department was not provided the full 90 days for review. As a result, the allowance cannot be implemented by the Owner ~~owner~~ until approved by the Department.

(3) Effective dates. If the Owner uses the methodologies as described in subsection (c)(3)(A) of this

section related to Methods, any changes to the allowance can be implemented immediately, but must be implemented for rent due at least 90 days after the change. For methodologies as described in subsection (c)(3)(B), (C), (D) and (E) of this section related to Methods, the allowance cannot be implemented until the estimate is submitted to the Department and is made available to the residents by posting in a common area of the leasing office at the Development. This action must be taken by the beginning of the 90 day period in which the Owner intends to implement the Utility Allowance. Nothing in this section prohibits an Owner from reducing a resident's rent prior to the end of the 90 day period when the proposed allowance would result in a gross rent issue.

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(g) Requirements for Annual Review.

(1) RHS and HUD-Regulated Buildings. Owners must demonstrate that the utility allowance has been reviewed annually and in accordance with the RHS or HUD regulations.

(2) Buildings using the PHA Allowance. Owners are responsible for periodically determining if the applicable PHA released an updated schedule to ensure timely implementation. When the allowance changes or a new allowance is made available by the PHA, it can be implemented immediately, but must be implemented for rent due 90 days after the PHA releases an updated schedule.

(3) Written Local Estimate, HUD Utility Model Schedule and Energy Consumption Model. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than October 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review. At the same time the request is submitted to the Department, the Owner must post, at the Development, the Utility Allowance estimate in a common area of the leasing office where such notice is unobstructed and visible in plain sight. The Department will review the request for compliance with all applicable requirements and reasonableness. If, in comparison to other approved Utility Allowances for properties of similar size, construction and population in the same geographic area, the allowance does not appear reasonable or appears understated, the Department may require additional support and/or deny the request.

(4) Actual Use Method. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than August 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review.

(h) For Owners participating in the Department's Section 811 Project Rental Assistance (PRA) Program, the Department will establish the Utility Allowance for all 811 PRA Units. On an annual basis, the Department will calculate a Utility Allowance and provide the Owner with a property-specific rent schedule containing the approved Utility Allowance. The allowance listed on the rent schedule only applies to 811 PRA Units, not the entire building, and is the only

allowance approved for use on 811 PRA Unitsunits.

(i) Combining Methods. In general, Owners may combine any methodology described in this section for each utility service type paid directly by the resident and not by or through the Owner of the building (e.g., electric, gas). For example, if residents are responsible for electricity and gas, an Owner may use the appropriate PHA allowance to determine the gas portion of the allowance and use the Actual Use Method to determine the electric portion of the allowance. RHS and certain HUD-Regulated buildings (e.g., buildings with HOME/ TCAP RF funds) are not allowed to combine methodologies.

(j) The Owner shall maintain and make available for inspection by the resident all documentation, including, but not limited to, the data, underlying assumptions and methodology that was used to calculate the allowance. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling Unit of the resident at the convenience of both the Owner and resident.

(k) Utility Allowances for Applications.

(1) If the application includes RHS assisted buildings or tenants, the utility allowance is prescribed by the RHS program. No other method is allowed.

(2) If the application includes HUD-Regulated buildings for HUD programs other than an MFDL program the applicable Utility Allowance for all rent restricted Units in the building is the applicable HUD Utility Allowance. No other utility method is allowed.

(3) If the application includes MFDL funds from the Department, Applicants may calculate the utility allowance in accordance with subsection (c)(3)(B), (C), (D), or (E) of this section related to Methods. Applicants must submit their utility allowance to the Compliance Division prior to full application submission. In the event that the application has an MFDL from the Department, and receives federal funds from a unit of local government, the Department will require the use of the allowance approved by the Department.

(4) If the application includes federal funds from a unit of local government but no MFDL from the Department, Applicants are required to request in writing the Utility Allowance from the awarding jurisdiction. If the awarding jurisdiction does not respond or requests the Department to calculate the allowance, the Department will establish the initial Utility Allowance in accordance with subsection (d)(3) of this section.

(5) For all other applications, Applicants may calculate the utility allowance in accordance with subsection (c)(3)(A), (B), (C), (D), or (E) of this section related to Methods.

(A) Upon request, the Compliance Division will calculate or review an allowance within 21 days but no earlier than 90 days from when the application is due.

(B) Example 614(8): An application for a 9% HTC is due March 1, 2017. The applicant would like Department approval to use an alternative method by February 15, 2017. The request must be submitted to the Compliance Division no later than January 25, 2017, three weeks before February 15, 2017.

(C) Example 614(9): An Applicant intends to submit an application for a 4% HTC with Tax Exempt Bonds on August 11, 2017, and would like to use an alternative method. Because approval is needed prior to application submission, the request can be submitted no earlier than May 13, 2017, (90 days prior to August 11, 2017) and no later than July 21, 2017, (21 days prior to August 11, 2017).

(6) All Utility Allowance requests related to applications of funding must:

(A) Be submitted directly to ua_application@tdhca.state.tx.us. Requests not submitted to this email address will not be recognized.

(B) Include the "Utility Allowance Questionnaire for Applications" along with all required back up based on the method.

(I) If Owners want to change to a utility allowance other than what was used for underwriting the Owner must submit Utility Allowance documentation for Department approval, at minimum, 90 days prior to the commencement of leasing activities. The Owner is not required to review the utility allowances, or implement new utility allowances, until the building has achieved 90% occupancy for a period of 90 consecutive days or the end of the first year of the Credit Period (if applicable), whichever is earlier.

(m) The Department reserves the right to outsource to a third party the review and approval of all or any Utility Allowance requests to use the Energy Consumption Model or when review requires the use of expertise outside the resources of the Department. In accordance with Treasury Regulation §1.42-10(c) any costs associated with the review and approval shall be paid by the Owner.

(n) All requests described in this subsection must be complete and uploaded directly to the Development's CMTS account using the "Utility Allowance Documents" in the type field and "Utility Allowance" as the TDHCA Contact. The Department will not be able to approve requests that are incomplete and/or are not submitted correctly.

§10.615 Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments

(a) Under the Code, HTC Development Owners may elect 20% of the Units restricted at the 50% income and rent limits (20/50), 40% of the Units restricted at the 60% income and rent limits (40/60) or the average income averaging minimum set aside. Many Developments have additional income and rent requirements (e.g., 30%, 40% and 50%) that are lower than or in addition to the election requirement. This requirement is referred to as "additional occupancy restrictions" and is reflected

in the Development's LURA.

(b) A Development with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted Units. The Development's wait-list policy must inform applicants and current residents of the availability of lower rent Units and the process for renting a lower rent Unit. Unless otherwise approved at Application, underwriting, and cost certification, all Unit sizes must be available at the lower rent limits. The wait-list policy for Developments with lower rent restricted Units must address how the waiting list for their lower rent restricted Units will be managed. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.

~~(c)~~ The Department will examine the actual gross rent and income levels of all households to determine if the additional income and rent requirements of the LURA are met. Until and unless the Internal Revenue Service or Treasury Department issue conflicting guidance, the Department will examine the actual gross rent and income of all households to determine if Developments that elected the average income averaging minimum set aside have met the federal requirements and any lower additional occupancy restriction reflected in the Development's LURA.

~~(c) One hundred percent HTC Developments (developments with no Market Rate units) with additional rent and occupancy restrictions are neither required nor prohibited from completing annual income recertifications. The Development's written policies and procedures must specify the Development's choice.~~

~~(1) If a 100% low income development that elects the 20/50 or 40/60 test under IRC §42(g) chooses to perform annual income recertifications, all households designated as meeting the additional rent and occupancy set aside must be recertified on an annual basis; failure to do so will be cited as noncompliance with written policies and procedures but not reported to the IRS on form 8823.~~

~~(2) If a 100% low income development elects the average income test and chooses to do annual income recertifications, all households must be recertified on an annual basis; failure to do so will be cited as noncompliance with written policies and procedures but not reported to the IRS on form 8823.~~

~~(3) If the income level of the household changes, the Owner may adjust the Unit's designation and rent (up or down) in accordance with all applicable lease terms. Owners that elect the average income test under IRC §42(g) must ensure that the project still has an average income equal to or less than 60% and the percentage represented at the time of Application.~~

~~(4) Owners that do not perform annual income recertifications may not increase the rent level of a household designated towards the Development's additional rent and occupancy restrictions. Example 615(1): A household was designated as a 50% household at the time of move in. The Development is not required to and does not perform annual income recertifications. New rent~~

~~limits are released and they are higher. The Development may increase the household's rent in accordance with the lease, but not above the new 50% rent limit.~~

~~(d) Developments that elect the 20/50 or 40/60 test under IRC §42(g) and have Market Units will be monitored as described in this subsection:~~

~~(1) The HTC program requires Mixed Income projects to complete annual income recertifications and comply with the Available Unit Rule. When a household's income at recertification exceeds 140% of the applicable current income limit elected by the minimum set-aside, the Owner must comply with the Available Unit Rule and lease the next available unit (same size or smaller) in the building to a low income household to maintain compliance.~~

~~(2) HTC Developments that elect the 20/50 or 40/60 test under IRC §42(g) with market rate units and additional rent and occupancy restrictions must have written policies and procedures that address changes in income at recertification. Owners may comply in the following ways:~~

~~(A) Households initially certified at the 30, 40, or 50% income and rent limits may maintain the designation they had at initial move in unless the household's income exceeds 140% of the highest income tier established by the minimum set-aside. The Unit will continue to meet the designation from the initial certification provided that the Owner does not charge gross rent in excess of the additional rent and occupancy rent limit;~~

~~(B) Owners may change the designation of a household at recertification and increase the rent accordingly provided that another household's rent is decreased to maintain the set aside requirement. Example 615(2): A 100 Unit development elected the 40/60 minimum set aside, and has an additional rent and occupancy restriction of 10 Units at 30% and 10 Units at 50%. A 30% household recertifies and their income exceeds the 30%. In accordance with the provisions of the lease, the owner may offer this household rent at a higher designation, and simultaneously lower the rent for another household that has been on the Development's waiting list for a 30% Unit; or~~

~~(C) If the household's income exceeds 140% of the highest income tier established by the minimum set-aside, the household must be redesignated as over income and the Next Available Unit Rule must be followed.~~

~~(e) HTC Developments that elect income averaging test and have market rate units must have written policies and procedures that address changes in income at recertification.~~

~~(1) If the income tier of a household changes, Owners are permitted but not required to adjust the household's rent to their new designation (higher or lower) as long as the project still has an average rent of equal to or less than the federally required 60% average, or the additional occupancy restriction reflected in the LURA. If the household income increases, and re-designating the rent to the new AMI tier would cause the project average to exceed the required AMI average, the Owner will remain in compliance if the rent is restricted to the limit that maintains the required AMI average.~~

(~~2d~~) Until and unless the Internal Revenue Service or the Treasury Department issue conflicting or additional guidance, the Department will monitor the Available Unit Rule in the following manner for ~~income averaging developments~~ Developments that elected the average income minimum set aside:

(~~1A~~) If the income of the household who, at the last certification, had an income and rent less than the 60% limits exceeds 140% of the 60% limit, the household must be redesignated as over income.

(~~2B~~) If the income of a household with an income or rent above the 60% level and less than or equal to the 70% limits exceeds 140% of the 70% limit, the household must be designated as over income.

(~~3C~~) If the income of a household with an income or rent above the 70% level and less than or equal to the 80% limits exceeds 140% of the 80% limit, the household must be designated as over income.

(~~4D~~) Owners are not required to terminate the tenancy of over income households. When the Unit occupied by an over income household is vacated, it must be reoccupied by a household with an income and rent level equal to or less than the rent level of the household that went over income. In addition, the Unit must be reoccupied by a household that restores the low income average of the project to 60% or less.

(~~ef~~) Units at 80% area median income and rent on HTC ~~Developments~~ developments. In certain years, the Department's Qualified Allocation Plan provided incentives to lease 10% of the Development's development's Market Rate Units ~~units~~ to households at 80% income and rents. This section provides guidance for implementation. If the LURA requires 10% of the Market Rate Units ~~units~~ be leased to households at 80% income and rent limits, the Owner ~~owner~~ must certify the 80% households at the time of move in only. Recertifications will not be required. Student rules do not apply to Units ~~units~~ occupied by 80% households. Noncompliance with the requirement to lease to 80% households is not reportable to the IRS on IRS Form 8823 but will be cited as noncompliance under the event "Development failed to meet additional state required rent and occupancy restrictions."

(~~fg~~) The Department does not require Developments to lease more Units under the additional occupancy restrictions than established in their LURA. However, if a Development inadvertently designates more households than required under the additional rent and occupancy restrictions, they may only decrease to the minimum number through attrition and new move ins, not by removing designations.

§10.616 Household Unit Transfer Requirements for All Programs

(a) The requirements and restrictions regarding household transfers for HTC, Exchange, and TCAP Developments are based on whether the tax credit project is 100% low-income or mixed income and if the Owner ~~owner~~ elected to treat buildings in the project as part of a multiple building project. To determine if a Development is a multiple building project, refer to the election on IRS Form(s) 8609 line 8(b) and accompanying statements (if any). If IRS Form(s) 8609 have not yet been issued

by the Department and filed by the Ownerowner, each building is its own project. The Department may allow Owners to indicate their intended 8(b) elections and will monitor accordingly. Failure to file the same elections with the IRS may result in noncompliance, additional monitoring, an additional monitoring fee and findings of noncompliance.

(1) 100% low-income multiple building projects: Households may transfer to any Unit unit in a 100% low-income multiple building project and retain their program designation. The household does not need to be and should not be certified at the time of transfer. The move in date remains the date the household was first designated under the program.

(2) Each building is its own project (100% low-income and mixed income projects). Developments that made the 20/50 or 40/60 election: at the time of transfer, the household must be certified and have a current annual income less than the income limit established by the minimum set aside the Owner owner-selected. Developments that elected the average income test under IRC §42(g): the household must be certified and their current designation averaged together with the designations of the other households in the project must be equal to or less than the percentage represented at the time of Application.

(3) Mixed income multiple building projects: Low-income households retain their program designation when they transfer to any Unit unit in a multiple building project if at the last annual certification their income was less than 140% of area median income level set by the minimum set aside.

(b) Household transfers for Bond, HTF, NHTF, HOME, TCAP RF, and NSP with floating Unitsunits. Households may transfer to any Unit within the Development. A certification is not required at the time of transfer. If the household transfers to a different Unit Type, the Development must maintain the Unit Type dispersion as reflected in its LURA, by re-leasing the vacated Unit unit to a program eligible household. If the Development is required to perform annual income recertifications, the recertification is due on the anniversary date the household originally moved into the Development. If the Development is layered with Housing Tax Credits, use the transfer guidelines described in subsection (a) of this section (relating to Household Unit Transfer Requirements).

(c) Household transfers for NHTF, HOME, TCAP RF, and NSP with fixed Unitsunits. Households may transfer to any Unit and do not need to be certified at the time of the transfer. If the household transfers to a Unit that is not fixed, the Development must re-lease the vacated Unit to a program eligible household. If the Development is required to perform annual income recertifications, the recertification is due on the anniversary date the household originally moved into the Development. If the Development is layered with Housing Tax Credits, use the transfer guidelines described in subsection (a) of this section (relating to Household Unit Transfer Requirements).

(d) Household Transfers in the Same Building for the HTC Programs. A Household may transfer to a new Unit within the same building (for the HTC program within the meaning of IRS Notice 88-91). The Unit unit designations will swap status.

~~(e) Household transfers for the Section 811 PRA must be approved by the Department in writing.~~

§10.617 Affirmative Marketing Requirements

See §10.801 of this chapter.

~~(a) Applicability. Effective April 1, 2015, compliance with this section is required for all Developments with five or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166.~~

~~(b) General. Owners of Developments with five or more total units must affirmatively market their units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or Affirmative Marketing Plan) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as "least likely to apply." In general, those populations that are least likely to apply may include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, and families with children. All Affirmative Marketing Plans must provide for affirmative marketing to persons with disabilities. Some Developments may be required by their LURAs to market units specifically to veterans or other populations.~~

~~(c) Plan format. Owners are encouraged to use any version of HUD Form 935.2A to meet Affirmative Marketing requirements. Owners participating in HUD funded programs administered by the Department must use the version required by the program.~~

~~(d) Marketing and Outreach.~~

~~(1) The plan must include special outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live.~~

~~(2) Advertisements and/or marketing materials must contain:~~

~~(A) The Fair Housing logo and~~

~~(B) The contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process. The information about reasonable accommodations must be in both English and Spanish.~~

~~(e) Timeframes.~~

~~(1) An Owner must begin its affirmative marketing efforts for each of the identified populations at least six months prior to the anticipated date the first building is to be available for occupancy. As a condition of an award to a new Development, the Board may require affirmative marketing efforts to begin more than six months prior to the anticipated date the first building is to be placed in~~

service; and

~~(2) An Owner must update its Affirmative Marketing Plan and populations that are least likely to apply every five years from the effective date of the current plan or, for HUD funded or USDA properties, as otherwise required by HUD or USDA.~~

~~(f) Record keeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.~~

~~(g) Exception to Affirmative Marketing. If the Development has closed its waiting list, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open waiting list, or is marketing prior to placement in service as required under subsection (e)(1) of this section.~~

§10.618 Onsite Monitoring

(a) The Department may perform an onsite monitoring review, a mail in desk review and physical inspection of any Development, and review and photocopy all documents and records supporting compliance with Departmental programs through the end of the Compliance Period or the end of the period covered by the LURA, whichever is later. The Development Owner shall permit the Department access to the Development premises and records.

(b) The Department will perform onsite monitoring reviews of each low-income Development. The Department will conduct:

(1) The first review of HTC Developments by the end of the second calendar year following the year the last building in the Development is placed in service;

(2) The first review of all Developments, other than those described in paragraph (1) of this subsection, as leasing commences;

(3) During the Federal Compliance Period subsequent reviews will be conducted at least once every three years;

(4) After the Federal Compliance Period, Developments ~~developments~~ will be monitored in accordance with §10.623 of this chapter (relating to Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period);

(5) A physical inspection of the Development including the exterior of the Development, Development amenities, and an interior inspection of a sample of Units;

(6) Limited reviews of physical conditions, including follow-up inspections to verify completion of reported corrective action, may be conducted without prior notice (unless access to tenant units is required, in which case at least 48 hours notice will be provided); and

(7) Reviews, meetings, and other appropriate activity in response to complaints or investigations.

(c) The Department will perform onsite file reviews or a mail in desk review and monitor:

(1) Low-income resident files in each Development, and review the Income Certifications;

(2) The documentation the Development Owner has received to support the certifications;

(3) The rent records; and

(4) Any additional aspects of the Development or its operation that the Department deems necessary or appropriate.

(d) The LURA for most HOME, NSP, TCAP RF, and NHTF Developments specifies a required Unit Mix. During onsite monitoring visits it will be determined if the minimum number of affordable units and exact square footage has been provided. Failure to provide the exact square footage listed in the LURA will be cited as "Failure to provide correct square footage". Failure to provide the required number of Units required by the LURA will be cited as "Household income above income limit upon initial occupancy"

Example 612(2). A TCAP RF LURA requires eight low-income units with the following Unit mix:

(A) Three one bedroom, one bath units with a Net Rentable Area (NRA) of 770 sq ft;

(B) One two bedroom one bath units with a Net Rentable Area (NRA) of 900 sq ft; and

(C) Four three bedroom two bath units with a Net Rentable Area (NRA) of 1000 sq ft.

If during the onsite review the Development has eight units designated as TCAP RF, but is not exactly the Units and square footage mix shown above (even if the actual square footage provided is greater) the noncompliance "Failure to provide correct square footage" will be cited.

(e) At times other than onsite reviews, the Department may request for review, in a format designated by the Department, information on tenant income and rent for each Low-Income Unit and may require a Development Owner to submit copies of the tenant files, including copies of the Income Certification, the documentation the Development Owner has received to support that certification, and the rent record for any low-income tenant.

(f) The Department will select the Low-Income Units and tenant records that are to be inspected and reviewed. Original records are required for review. The Department will not give Development Owners advance notice that a particular Unit, tenant record, or a particular year will be inspected or reviewed. However, the Department will give reasonable notice, as defined in Treasury Regulation 1.42-5, -to the Development Owner that an onsite inspection or a tenant record review will occur so the Development Owner may notify tenants of the inspection or assemble original tenant records for review. If a credible complaint of fraud or other egregious alleged or suspected

noncompliance is received, the Department reserves the right to conduct unannounced onsite monitoring visits.

(gf) In order to prepare for monitoring reviews and physical inspections and to reduce the amount of time spent onsite, Department staff must review certain requested documentation described in the onsite notification announcement. Owners are required to submit documentation by the required deadline indicated in the onsite notification announcement. Failure to submit required documentation will result in a finding of noncompliance.

§10.622 Special Rules Regarding Rents and Rent Limit Violations

(a) Rent or Utility Allowance Violations of the maximum allowable limit for the HTC program. Under the HTC program, the amount of rent paid by the household plus an allowance for utilities, plus any mandatory fees, cannot exceed the maximum applicable limit (as determined by the minimum set-aside elected by the Owner) published by the Department. If it is determined that an HTC Development, during the Compliance Period, collected rent in excess of the rent limit established by the minimum set-aside, the Owner ~~owner~~ must correct the violation by reducing the rent charged. The Department will report the violation as corrected on January 1st of the year following the violation. The refunding of overcharged rent does not avoid the disallowance of the credit by the IRS.

(b) Rent or Utility Allowance Violations of additional rent restrictions under the HTC program. ~~(for Developments that elected the 20/50 and 40/60 test under IRC §42(g) only).~~ If Owners agreed to additional rent and occupancy restrictions, the Department will monitor to confirm compliance. If noncompliance is discovered, the Department will require the Owner to restore compliance by refunding (not a credit to amounts owed the Development) any excess rents to a sufficient number of households to meet the set aside.

(c) Rent Violations of the maximum allowable limit due to application fees or application deposits not promptly converted into a security deposit under the HTC program. Under the HTC program, Owners may not charge tenants any overhead costs as part of the application fee. Owners must only charge the actual cost for application fees as supported by invoices from the screening company the Owner uses.

(1) The amount of time Development staff spends checking an applicant's income, credit history, and landlord references may be included in the Development's application fee. Development Owners may add up to \$5.50 per Unit for their other out of pocket costs for processing an application without providing documentation. Example 622(2): A Development's out of pocket cost for processing an application is \$17.00 per adult. The property may charge \$22.50 for the first adult and \$17.00 for each additional adult.

(2) Documentation of Development costs for application processing or screening fees must be made available during onsite visits or upon request. The Department will review application fee documentation during onsite monitoring visits. If the Development pays a flat monthly fee to a third

party for credit or criminal background checks, Owners must calculate the appropriate fee to be charged applicants by using the total number of applications processed, not just approved applications. Developments that pay a flat monthly fee must determine the appropriate application fee at least annually based on the prior year's activity. If the Department determines from a review of the documentation that the Owner has overcharged residents an application fee or collected impermissible deposits, the noncompliance will be reported to the IRS on Form 8823 under the category "gross rent(s) exceeds tax credit limits." The noncompliance will be corrected on January 1st of the next year.

(3) Owners are not required to refund the overcharged fee amount. To correct the issue, Owners ~~owners~~ must reduce the application fee for prospective applicants. Once the fee is reduced for prospective applicants, the Department will report the affected Units ~~units~~ back in compliance on January 1st of the year after they were overcharged the application fee or an impermissible deposit.

(4) Throughout the Affordability Period, Owners may not charge a deposit or any type of fee (other than an application fee) for a household to be placed on a waiting list.

(d) Rent or Utility Allowance Violations on Non-HTC Developments, HTC Developments ~~developments~~ after the Compliance Period, and foreclosed HTC properties for three years after foreclosure. If it is determined that the Development collected rent in excess of the allowable limit, the Department will require the Owner to refund (not a credit to amounts owed the Development) to the affected residents the amount of rent that was overcharged.

(e) Trust Account to be established. If the Owner is required to refund rent under subsection (b) or (d) of this section and cannot locate the resident, the excess monies must be deposited into a trust account for the tenant. The account must remain open for the shorter of a four year period, or until all funds are claimed. If funds are not claimed after the four year period, the unclaimed funds must be remitted to the Texas Comptroller of Public Accounts Unclaimed Property Holder Reporting Section to be disbursed as required by Texas unclaimed property statutes.

(f) Rent Adjustments for HOME₇ and TCAP RF Developments:

(1) 100% HOME/TCAP-RF assisted Developments. If a household's income exceeds 80% at recertification, the Owner ~~owner~~ must charge rent equal to 30% of the household's adjusted income;

(2) HOME/TCAP-RF Developments with any Market Rate units. If a household's income exceeds 80% at recertification, the Owner ~~owner~~ must charge rent equal to the lesser of 30% of the household's adjusted income or the comparable Market rent; and

(3) HOME/TCAP-RF Developments layered with other Department affordable housing programs. If a household's income exceeds 80% at recertification, the owner must charge rent equal to the lesser of 30% of the household's adjusted income or the rent allowable under the other Program ~~program~~.

(g) Special conditions for NSP Developments. To determine if a Unit is rent restricted, the amount of rent paid by the household, plus an allowance for utilities, plus any rental assistance payment must be less than the applicable limit.

(h) Employee Occupied Units (HTC and ~~STHTF~~ ~~HTF~~ Developments). IRS Revenue Rulings 92-61, 2004-82 and Chief Counsel Advice Memorandum POSTN-111812-14 provide guidance on employee occupied units. In general, employee occupied units are considered facilities reasonably required for the project(s) and not residential rental units. Since the building's applicable fraction is calculated using the residential rental units/space in a building, employee occupied units are taken out of both the numerator and the denominator.

(i) Owners of HOME, NSP, TCAP-RF, and NHTF must comply with §10.403 of this chapter which requires annual rent review and approval by the Department's Asset Management Division. Failure to do so will result in ~~an finding of noncompliance~~ Event of Noncompliance.

(j) Unless the household receives rental assistance, and due to changes in their income, their portion of required rent changes, Owners are not permitted to increase the tenant portion of rent during a period which is the lesser of 12 months or the lease term, even if there are increases in rent limits or decreases in utility allowances.

§10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period

(a) HTC properties allocated credit in 1990 and after are required under §42(h)(6) of the Code to record a LURA restricting the Development for at least 30 years. Various sections of the Code specify monitoring rules State Housing Finance Agencies must implement during the Compliance Period.

(b) After the Compliance Period, the Department will continue to monitor HTC Developments using the criteria detailed in paragraphs (1) - (14) of this subsection:

(1) The frequency and depth of monitoring household income, rents, social services and other requirements of the LURA will be determined based on risk. Factors will include changes in ownership or management, compliance history, timeliness of reports and timeliness of responses to Department requests;

(2) At least once every three years the property will be physically inspected including the exterior of the Development, all building systems and 10% of Low-Income Units. No less than five but no more than 35 of the Development's HTC Low-Income Units will be physically inspected to determine compliance with HUD's Uniform Physical Condition Standards;

(3) Each Development shall submit an annual report in the format prescribed by the Department;

(4) Reports to the Department must be submitted electronically as required in §10.607 of this subchapter (relating to Reporting Requirements);

(5) Compliance monitoring fees will continue to be submitted to the Department annually in the amount stated in the LURA;

(6) All HTC households must be income qualified upon initial occupancy of any Low-Income Unit. Proper verifications of income are required, and the Department's Income Certification form must be completed unless the Development participates in the Rural Rental Housing Program or a project-based HUD program, in which case the other program's certification form will be accepted;

(7) Rents will remain restricted for all HTC Low-Income Units. After the Compliance Period, utilities paid to the Owner are accounted for in the utility allowance. TCAP, Exchange, Bond, and STHTF Developments layered with Housing Tax Credits no longer within the Compliance Period also include utilities paid to the Owner as part of the utility allowance. The tenant paid portion of the rent plus the applicable utility allowance must not exceed the applicable limit. Any excess rent collected must be refunded;

(8) All additional income and rent restrictions defined in the LURA remain in effect;

(9) For Additional Use Restrictions, defined in the LURA (such as supportive services, nonprofit participation, elderly, etc.), refer to the Development's LURA to determine if compliance is required after the completion of the Compliance Period or if the Compliance Period was specifically extended beyond 15 years;

(10) The Owner shall not terminate the lease or evict low-income residents for other than good cause;

(11) The total number of required HTC Low-Income Units can be maintained Development wide;

(12) Owners may not charge fees for amenities that were included in the Development's Eligible Basis;

(13) Once a calendar year, Owners must continue to collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification form or the Income Certification form or HUD Income Certification form or USDA Income Certification form; and

(14) Employee occupied units will be treated in the manner prescribed in §10.622(h) of this chapter (relating to Special Rules Regarding Rents and Rent Limit Violations).

(c) After the first 15 years of the Extended Use Period, certain requirements will not be monitored as detailed in paragraphs (1) - (4) of this subsection.

(1) The student restrictions found in §42(i)(3)(D) of the Code. An income qualified household consisting entirely of full time students may occupy a Low-Income Unit. If a Development markets to students or leases more than 15% of the total number of units to student households, the property will be found in noncompliance unless the LURA is amended through the Material Amendments procedures found in §10.405 of this chapter (relating to Amendments);

(2) All households, regardless of income level or 8609 elections, will be allowed to transfer between buildings within the Development;

(3) The Department will not monitor the Development's application fee after the Compliance Period is over; and

(4) Mixed income Developments are not required to conduct annual income recertifications. However, Owners must continue to collect and report data in accordance with subsection (b)(13) of this section.

(d) While the requirements of the LURA may provide additional requirements, right and remedies to the Department or the tenants, the Department will monitor post year 15 in accordance with this section as amended.

(e) Unless specifically noted in this section, all requirements of this chapter, the LURA and §42 of the Code remain in effect for the Extended Use Period. These Post-Year 15 Monitoring Rules apply only to the HTC Developments administered by the Department. Participation in other programs administered by the Department may require additional monitoring to ensure compliance with the requirements of those programs.

§10.624 Compliance Requirements for Developments with 811 PRA Units

(a) One hundred and eighty days prior to the date an Owner expects to begin leasing, Developments that have agreed to rent Units to households assisted by Section 811 PRA must contact Department staff and begin accepting referrals. Failure to reserve the agreed upon number of Units for 811 households will be cited as noncompliance, be referred for administrative penalties, and be considered possible grounds for debarment.

(b) Throughout the term of an 811 PRA Use Agreement, Owners must maintain the required number of 811 PRA households, and provide notice to the Department when an 811 PRA household is expected to vacate. Notice must be provided when the Development is notified that 30 days prior to the date the household will vacate or in the event that the resident vacates without notice, upon discovery that the unit is vacant, whichever is earlier. Failure to notify the Department will be cited as noncompliance, be referred for administrative penalties, and be considered possible grounds for debarment.

(c) Compliance with 811 PRA requirements will be monitored at least once every three years, either through an onsite review or a desk review. During the review, Department staff will monitor for

compliance with program eligibility which includes the following:

(1) The household must include at least one person with a disability and who is 18 years of age or older and less than 62 years of age at the time of admission into the Development; and the person with a disability must be part of one or more of the target populations for the 811 program.

(2) The household's income is less than the extremely low income limit at move in.

(3) The Owner must check the following criminal history related to drug use of the household. Participants-Households in the 811 PRA program must not include:

(A) Any member(s) who was evicted in the last three years from federally assisted housing for drug-related criminal activity;

(B) Any member that is currently engaged in illegal use of drugs or for which the Owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents; and

(C) Any household member who is subject to a State sex offender lifetime registration requirement.

(4) Student Status. If the household includes a student, the student must meet all of the criteria described in HUD handbook 4350.3 par. 3-13B, as modified by the September 21, 2016, Federal Register Notice 5969-N-01.

(d) Noncompliance will be cited if the Development:

(1) Unit leased Leases to a household that is not eligible—qualified for the 811 PRA program in accordance with the requirements of subsection (c)(1) - (4) of this section;

(2) Fails to Use the Enterprise Income Verification system for documenting the household's income;

(3) Fails to properly document and calculate deductions in order to determine adjusted income (dependent, child care, disability assistance, elderly/disabled family, unreimbursed medical expenses);

(4) Fails to use the required HUD forms listed in §10.612(d) of this subchapter or the following forms when applicable:

(A) EIV summary report;

(B) EIV income report;

(C) EIV income discrepancy report;

(D) EIV No income reported;

(E) EIV no income report by health and human services or social security administration;

(F) EIV new hires report;

(G) Existing tenant search;

(H) Multiple Subsidy report;

(I) Failed EIV pre-screening report;

(J) Failed verification report;

(K) Deceased tenants report;

(L) Owner approval letter authorizing access to EIV for the EIV ~~EV~~-coordinators;

(M) EIV Coordinator Access Authorization form (CAAF);

(N) The rules of behavior for staff that use EIV reports/data to perform their job functions; and

(O) Cyber awareness challenge certificates of completion for anyone that uses EIV or has access to EIV data (annually);

(5) Accepts funding that limits the ability for the Department to place the agreed upon number of 811 Units at the Development;

(6) Violates §1.15 of this title (relating to Integrated Housing);

(7) Fails to properly calculate the tenant portion of rent;

(8) Fails to properly calculate the tenant security deposit;

(9) ~~(8)~~ Fails to use the HUD model lease;

(10) ~~(9)~~ Egregiously fails to disperse 811 PRA Units throughout the Development;

(11) ~~(10)~~ Fails to conduct required interim certifications; ~~or~~

(12) ~~(11)~~ Fails to conduct annual income recertification; or

(13) Fails to prominently display, as required by 24 CFR Part 110, Fair Housing Poster HUD-928.1 (English), HUD 928.1A (Spanish), and other language as required by Limited English Proficiency Requirements.

§10.625 Events of Noncompliance

Figure: 10 TAC §10.625 lists events for which a multifamily rental ~~Development~~ ~~development~~ may be found to be in noncompliance for compliance monitoring purposes. This list is not an exclusive list of events and issues for which an Owner may be subject to an administrative penalty, debarment, or other enforcement action. The first column of the chart identifies the noncompliance event. The second column indicates to which program(s) the noncompliance event applies. The last column indicates if the issue is reportable on IRS Form 8823 for HTC Developments.

201900178-2.pdf

Figure: 10 TAC §10.614(f)(3)

Method	Beginning of 90 Day Notification Period
Written Local Estimate	Date of letter from the Utility Provider
HUD Utility Schedule Model	Date entered as "Form Date"
Energy Consumption Model	60 days after the end of the last month of the 12 month period for which data was used to compute the estimate
Actual Use Method	Date the allowance is approved by the Department

Figure: 10 TAC §10.625

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Violations of the Uniform Physical Condition Standards	All Programs	Yes
Noncompliance related to Affirmative Marketing requirements described in §10.617 of this	All Programs	No
Development is not available to the general public because of leasing issues	HTC	Yes
TDHCA has received notice of possible Fair Housing Act Violation from HUD or DOJ and reported general public use violation in accordance with IRS 8823 Audit Guide Chapter 13	HTC	Yes

TDHCA has referred unresolved Fair Housing Design and Construction issue <u>or other Fair Housing noncompliance</u> to the Texas Workforce Commission	All programs	No
<u>Property Development</u> has gone through a foreclosure	All programs	Yes
<u>Property Development</u> is never expected to comply due to failure to report or allow monitoring	All programs	yes
Owner did not allow on-site monitoring or failed to notify residents resulting in inspection cancelation	All programs	Yes
LURA not in effect	All programs	Yes
Project failed to meet minimum set aside	HTC and Bonds	Yes
No evidence of, or failure to certify to material participation of a non-profit or HUB, if required by LURA	HTC	Yes, if non-profit issue, No, if HUB
Development failed to meet additional state required rent and occupancy restrictions	All programs	No
Noncompliance with social service requirements	HTC and Bond	No
Development failed to provide housing to the elderly as promised at application	All programs	No
Failure to provide special needs housing as required by LURA	All programs	No
Changes in Eligible Basis or Applicable percentage	HTC	Yes

Failure to submit all or parts of the Annual Owner's Compliance Report	All programs	Yes for part A, No for other parts
Failure to submit quarterly reports as required by §10.607	All programs	No
Noncompliance with utility allowance requirements described in §10.614 of this subchapter and/or Treasury Regulation §1.42-10	All programs	Yes if rent exceeds limit, no if related to noncompliance with other requirements, such as posting.

Noncompliance with lease requirements described in §10.613 of this subchapter	All programs	No
Asset Management Division has reported that Development has failed to establish and maintain a reserve account in accordance with §10.404 of this chapter	All programs	No
Failure to provide a notary public as promised at application	HTC	No
Violation of the Unit Vacancy Rule	HTC	Yes
Casualty Loss	All programs	Yes
Failure to provide pre-onsite documentation	All programs	No
Failure to provide amenity as required by LURA	HTC	No
Failure to pay asset management, compliance monitoring or other required fee	HTC, TCAP, Bond, NHTF, TCAP-RF, Exchange and HOME/NSP Developments committed funds	No
Change in ownership without department approval (other than removal of a general partner in accordance with §10.406 of this chapter)	All programs	No

Noncompliance with written policy and procedure requirements described in §10.610 of this subchapter	All programs	No, unless finding is because Owner refused to lease to
Program Unit not leased to Low-Income household/ Household income above income limit upon initial occupancy	All programs	Yes
Program unit occupied by nonqualified full-time students	HTC during the Compliance Period, Bond and HOME/NSP developments committed funds after August 23, 2013, NHTF, 811	Yes
Low-Income Units units used on a transient basis	HTC and Bond	Yes
Violation of the Available Unit Rule	All programs, but only during the Compliance Period for HTC, TCAP, and	Yes
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	All programs	Yes
Failure to provide Tenant Income Certification and documentation	All programs	Yes
Unit not available for rent	All programs	Yes
Failure to collect data required by §10.612(b)(1) and/or §10.612(b)(2)	HTC, TCAP, Exchange, and Bond	No
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	HTC, HOME, TCAP-RF, NHTF, and NSP	Yes
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	HOME	NA
Violation of the Integrated Housing Rule	All programs	No

Failure to resolve final construction deficiencies within corrective action period	All programs	No
Noncompliance with the required accessibility requirements such as §504 of the Rehabilitation Act of 1973, the 2010 ADA standards <u>as modified in the Department rules</u> , or other accessibility related requirements of a Department rule	HOME, NSP, TCAP- RF, NHTF, STHTF , and for HTC properties that were	No
Noncompliance with the notice to the Department requirements described in §10.609 of this	All programs	No
Failure to reserve <u>Units</u> units for Section 811 <u>PRA</u> participants	811 developments	NA
Failure to notify the Department of the availability of units	811 developments	NA
Owner failed <u>required criminal history</u> to check criminal history and drug use of household	811 <u>Developments</u> develop	NA
Failure to use Enterprise Income Verification System	811 developments	NA
Failure to properly document and calculate adjusted income	811 developments	NA
Failure to use required HUD forms	811 developments	NA
Accepted funding that limits 811 participation	811 developments	NA
Failure to properly calculate tenant portion of rent	811 developments	NA
Failure to use HUD model lease	811 developments	NA
Failure to disperse 811 units	811 developments	NA
Failure to conduct interim certifications	811 developments	NA
Failure to conduct annual income recertification	811 developments	NA

Asset Management Division has reported that Development has failed to review rents on an annual basis in accordance with §10.403 of this chapter	HOME, NSP, TCAP RF, and NHTF	NA
<u>Unit Leased to a household that is not qualified for the 811 PRA program</u>	<u>811 Developments</u>	<u>NA</u>
<u>Failure to submit documentation for a mail in review</u>	<u>All programs</u>	<u>Yes</u>
<u>Noncompliance with CHDO Requirements</u>	<u>HOME</u>	<u>NA</u>

8f

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 12, 2019

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order adopting new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing their publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, at its meeting of October 10, 2019, the Board approved for publication and public comment in the *Texas Register* the proposed repeal and replacement of 10 TAC Chapter 10 Subchapter E concerning the Post Award and Asset Management Requirements; and

WHEREAS, the proposed repeal and replacement were published in the October 25, 2019, issue of the *Texas Register* for public comment between October 25, 2019, and November 8, 2019, and staff has received comments from three commenters;

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the repeal and replacement of 10 TAC Chapter 10 Subchapter E, together with the preambles presented to this meeting, is hereby adopted for publication in the *Texas Register*; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, together with the preambles in the form presented to this meeting, to be published in the *Texas Register* for final adoption and, in connection therewith, make such non-substantive technical corrections, or preamble-related corrections, as they may deem necessary to effectuate the foregoing, including the preparation and requested revisions to the subchapter specific preambles.

BACKGROUND

Tex. Gov't Code §2306.053 provides for the Department to administer federal housing, community affairs, or community development programs, including the low income housing tax credit program. The Asset Management Division and its Rules, as a whole, are an integral part of administering the Department's federal housing programs, assisting in reviewing and ensuring the long-term affordability and safety of multifamily rental housing Developments in the Department's portfolio as required under Tex. Gov't Code §§2306.185 and 2306.186, performing the functions of processing amendments and ownership transfers as required under §§2306.6712 and 2306.6713, and performing essential functions required under various federal program (HOME, NSP, NHTF, Exchange, TCAP) rules and under Section 42 of the Internal Revenue Code.

Staff recommends that these rules be retained and that this be accomplished through repeal of the existing rules and adoption of new rules. The adoption of new rules will further clarify language and requirements on which questions are often received, correct references to processes, other rules and

forms that have been updated, reduce stakeholder reporting burdens of duplicative materials at 10% Test and cost certification submission, implement internal audit recommendations and federal requirements for the cost certification process, create more efficiency in the creation of Special Reserve Account Agreements and release of Special Reserve funds, and reduce the number of notification and non-material amendments related to changes in guarantors, revise requirements for annual rent reviews and Community Housing Development Organization (CHDO) certifications to clarify current Department practice and meet federal requirements, add additional notification requirements to Right of First Refusal documentation based on previous public comment, roundtable discussions, and stakeholder input, and remove requirements regulating broker fees and Department approvals of brokers under Qualified Contract requirements.

Behind the preamble for the new rule adoption, the rule is shown in its clean new form.

Upon Board approval, the new 2020 Asset Management Rules will be published in the *Texas Register* for adoption.

Attachment 1: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 10, Subchapter E, §§10.400-10.408, Post Award and Asset Management Requirements

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 10, Subchapter E, §§10.400 – 10.408, Post Award and Asset Management Requirements. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making changes to an existing activity, concerning the post award activities of Low Income Housing Tax Credit (LIHTC) and other Department-funded multifamily Developments.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation but is associated with the simultaneous re-adoption making changes to an existing activity, Post Award and Asset Management Requirements.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures for the handling of post award and asset management activities of multifamily developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the rule. If a small or micro-business is such an owner or participant, the new rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the new rule because this rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment, as the repealed rule will be replaced with a similar rule; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that no impact is expected on a statewide basis, there are also no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal of this rule is in effect, the public benefit anticipated as a result of the repealed sections will be unaffected as the repealed rule will be replaced with a similar rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments, as the repealed rule will be replaced with a similar rule.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between October 25, 2019, and November 8, 2019. No comments were received regarding the proposed repeal.

The Board adopted the final order authorizing the repeal on December 12, 2019.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

§10.400 Purpose

§10.401 General Commitment or Determination Notice Requirements and Documentation

§10.402 Housing Tax Credit and Tax Exempt Bond Developments

§10.403 Review of Annual HOME/NSP and National Housing Trust Fund Rents

§10.404 Reserve Accounts

§10.405 Amendments and Extensions

§10.406 Ownership Transfers (§2306.6713)

§10.407 Right of First Refusal

§10.408 Qualified Contract Requirements

Attachment 2: Preamble, including required analysis, adopting new 10 TAC Chapter 10, Subchapter E, §§10.400-10.408, Post Award and Asset Management Requirements

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 10, Subchapter E, §§10.400 – 10.408, Post Award and Asset Management Requirements with one technical citation update to the proposed text as published in the October 25, 2019, issue of the *Texas Register*. The purpose of the new section is to assist in reviewing and ensuring the long-term affordability and safety of multifamily rental housing Developments in the Department's portfolio as required under Tex. Gov't Code §§2306.185 and 2306.186, perform the functions of processing amendments and ownership transfers as required under §§2306.6712 and 2306.6713, and perform essential functions required under various federal program (HOME, NSP, NHTF, Exchange, TCAP) rules and under Section 42 of the Internal Revenue Code.

The updating of the rule through the new section will further clarify language and requirements on which questions are often received, correct references to processes, other rules, forms, or attachments that have been updated, reduce stakeholder reporting burdens of duplicative materials at 10% Test and cost certification submission, implement internal audit recommendations and federal requirements for the cost certification process, create more efficiency in the creation of Special Reserve Account Agreements and release of Special Reserve funds, reduce the number of notification and non-material amendments related to changes in guarantors, revise requirements for annual rent reviews and Community Housing Development Organization (CHDO) certifications to clarify current Department practice and meet federal requirements, add additional notification requirements to Right of First Refusal documentation based on previous public comment and stakeholder input at roundtables, and remove requirements regulating broker fees and Department approvals of brokers under Qualified Contract requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect, the new rule does not create or eliminate a government program, but relates to the re-adoption making changes to an existing activity, concerning the post award activities of Low Income Housing Tax Credit (LIHTC) and other Department-funded multifamily Developments.

2. The new rule does not require a change in work that would require the creation of new employee positions. While some additional work by the Department will be required associated with the additional annual rent reviews of TCAP-RF funded Developments, review of CHDO packages for any new CHDO or CHDO certified prior to 2016, review of NHTF cost certification forms, and review of additional documentation requested as part of ROFR notification requirements, the Department anticipates handling this additional work with existing staff resources. The rule changes do not reduce work load such that any existing employee positions could be eliminated.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule changes do not result in an increase in fees paid to the Department. However, the Department does anticipate a nominal decrease in fees paid to the Department through the reduction of requests for non-material amendments to add guarantors where guarantors are also the General Contractors or are only providing guaranties during the construction period.

5. The new rule is not creating a new regulation, but is replacing a rule being repealed simultaneously to provide for revisions. The new rule can be considered to "expand" certain existing regulations related to

Cost Certifications in §10.402(j)(3)(B), Review of Annual Rent Approvals in §10.403, Ownership Transfers in §10.406(f)(2), Right of First Refusal documentation in §10.407(c)(3), and Preliminary Qualified Contract Requests in §10.408(c)(2)(D). All of these additions, other than those made in the Right of First Refusal documentation, are necessary in order to observe and clarify requirements from the Department's Internal Auditor, certain federal programs, and Tex. Gov't Code. In the case of the additional items added to required documentation under Right of First Refusal, the Department is responding to external comment and input requesting that these items be added in order to further the Department's directive under Tex. Gov't Code §2306.256 of developing policies and implementing a program to preserve affordable housing in the state of Texas. Specifically, external comment was received during the 2019 rules cycle that communicated the concern that ROFR was not being successfully applied and that without robust notification and advertising, TDHCA's notifications of ROFR postings were not adequately reaching prospective, qualified buyers interested in preserving affordable housing that might otherwise terminate its affordability through the Qualified Contract process.

6. The new rule is not repealing an existing regulation but will limit notifications to the Department and the submission of non-amendments for guarantors where guarantors are not long-term parties to the transaction, will remove certain requirements related to broker approvals and fees under Qualified Contract rules, and will revise and update processes and required documentation to remove unnecessary redundancies and promote efficiency for stakeholders and internal staff related to Special Reserve, 10% Test, and Cost Certification requirements.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability. Though the new rule in §10.403, Review of Annual HOME/NSP and National Housing Trust Fund Rents, has been revised to specifically include TCAP-RF recipients, TCAP recipients were already previously included in the rule's applicability through the reference to Multifamily Direct Loan funds used as HOME match.

8. The new rule will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures for the handling of post award and asset management activities of multifamily Developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the rule. If a small or micro-business is such an owner or participant, the new rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the new rule because this rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule. Additionally, because this rule only provides for administrative processes required of properties in the Department's portfolio, no activities under this rule would support additional local employment opportunities. Alternatively, the rule would also not cause any negative impact on employment.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that no impact is expected on a statewide basis, there are also no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new rule sections will be increased efficiency and clarity in post award requirements as well as more robust notifications to local governments, housing authorities, and tenant associations when Owners of Developments with a LURA including a Right of First Refusal requirement submit a notice of intent to sell and post for ROFR. The possible economic cost to individuals required to comply with the new section will be the nominal difference in the cost of materials and/or staff time between providing a letter or emailed notice of intent to tenants at the Development and the Department (along with its list of qualified buyers) and providing additional letters or emailed notices of intent under the new rule to additional tenant organizations, mayors or elected members of the governing body of the municipalities in which the Development is located as applicable, the presiding officer of the governing body of the county in which the Development is located, and the local housing authority.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new rule does not have any foreseeable implications related to costs or revenues of the state or local government, as the costs to administer any additional requirements will potentially be offset by efficiency gains in other revised processes and will otherwise be absorbed by current Department resources.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between October 25, 2019, and November 8, 2019. Comments regarding the proposed new rule were accepted in writing and e-mail with comments received from: (1) Lauren Loney, Advocacy Co-Director for Texas Housers, (2) Sandy Hoy, General Counsel for the Texas Apartment Association (TAA), and (3) Tillie Croxdale, Real Estate Project Manager for Foundation Communities. Comments were only received on §10.402(b) – Housing Tax Credit and Tax Exempt Bond Developments, Determination Notices, §10.402(e)(1) – Post Bond Closing Documentation Requirements, §10.404(d)(4) – Special Reserve Accounts, §10.406(f)(2) – Ownership Transfers, Nonprofit Organizations, and §10.407(c) – Right of First Refusal, Required Documentation. One internal technical correction was made, which relates to the correction of a citation reference in §10.403 – Review of HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents, Applicability.

§10.402(b) – Housing Tax Credit and Tax Exempt Bond Developments, Determination Notices

COMMENT SUMMARY: Commenter (2) stated that TAA had concerns about the Board's ability to extend the expiration date of the notice for good cause which could result in a Development Owner missing out on participation in the program through a delay that was no fault of their own. The Commenter proposed the following change to the language:

"The Determination Notice expiration date may not be extended unless the Board determines that any delay was due to circumstances beyond the control of the Development Owner. The Determination Notice will be rescinded if the Tax Exempt Bonds

are not closed within the timeframe provided for by the Board on its approval of the Determination Notice, by the expiration of the Certificate of Reservation associated with the Determination Notice, or if there are material changes to the financing or Development as determined by the Department pursuant to its rules and any conditions of approval included in the Board approval or underwriting report....”

STAFF RESPONSE: To provide an extension of the Determination Notice expiration date would be to extend the 30-day timeframe by which an Applicant has to return the required fees and documentation due with the Determination Notice. Staff removed the language regarding the ability for the Board to extend such date in part to be consistent with the treatment of Commitment Notices for Competitive HTC awards and because it would be difficult, if not impossible, to present such an item to the Board before the expiration date in the Determination Notice. Should an Applicant not meet the requirements of the Determination Notice within the 30-day timeframe, then it would likely result in the Applicant’s ability to appeal which would ultimately be brought before the Board. The change is considered a technical correction related to updating how the consideration of an extension would take place and therefore staff recommends no change to the rule section.

§10.402(e)(1) – Post Bond Closing Documentation Requirements

COMMENT SUMMARY: Commenter (3) asked whether Fair Housing Trainers will be able to update their training certificates to conform with TDHCA requirements and, if not, whether the change in language will present an issue during Asset Management review.

STAFF RESPONSE: Staff added the specific language “attended *and passed*” in response to questions received last year during the 10% test reviews, at which point staff was asked by an external party whether a statement or certification from the fair housing training provider would be accepted if the training had been taken but had not been passed. However, the RFQ for acceptable training providers requires that a certificate be provided only in the event that a class is passed by a training participant. Therefore, Asset Management staff will continue to assume that the provision of such a certificate will demonstrate a passing score on required material. Although trainers may wish to make such changes to their provided certificates and the Department generally supports this idea, the Department is not currently requiring such changes and will continue to enforce its RFQ criteria for review and approval of Fair Housing training providers. Staff recommends no change to the rule section.

§10.403 – Review of HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents, Applicability

COMMENT SUMMARY: Staff noticed prior to routing the rule for adoption that this section of rule refers to an inaccurate citation reference. It references a citation as 24 CFR §92.252(d)(4), but it appears that it should be 24 CFR §92.252(d)(2). The section previously read: “The Department is also required by 24 CFR §92.219 and §92.252(d)(4) to approve rents where Multifamily Direct Loan funds are used as HOME match.” The second citation has been updated as stated above.

STAFF RESPONSE: Staff recommends the above technical correction to the rule section.

§10.404(d)(4) – Special Reserve Account

COMMENT SUMMARY: Commenter (1) made comments in support of staff’s rule change to the Special Reserve Account section as a minimum for what a property should be required to do to connect residents to the underused source of special reserve funding. The commenter requested that the issue be made the subject of future roundtables or Committee Meetings in order to make funds more readily available to tenants.

STAFF RESPONSE: Staff thanks the Commenter for support of the rule change and will look forward to bringing this topic forward for discussion and consideration during next year's rule cycle. Staff recommends no change to the rule section.

§10.406(f)(2) – Ownership Transfers, Nonprofit Organizations

COMMENT SUMMARY: Commenter (3) stated that after an investor exits the ownership structure at the end of 15 years, Foundation Communities (FC) will typically transfer ownership of a property to an FC affiliate nonprofit entity with a tax exempt status under Foundation Communities with a common board of directors and believes that the Community Housing Development Organization (CHDO) exemption should extend to these affiliates. The commenter suggested the below language:

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package. A nonprofit affiliate of a certified CHDO with a common board of directors and similar exempt purpose will be considered a certified CHDO.

STAFF RESPONSE: While staff understands the nature of the request, the HOME Final Rule Definitions in 24 CFR §§92.2 and 92.300 contain specific provisions that must be met in order for an entity to qualify as a CHDO (including but not limited to items such as meeting specific requirements for financial accountability, having paid staff, and having a history of community service over a specific period of time). As a recipient of Federal funds, TDHCA reviews entities on a case by case basis to determine whether these requirements are met by an entity, and cannot make the blanket statement recommended by the commenter. Staff recommends no change to the rule section.

§10.407(c) – Right of First Refusal, Required Documentation

COMMENT SUMMARY: Commenters (1) and (3) made comments in support of staff's changes to include a more robust notification requirement for the Development's offering a Right of First Refusal (ROFR) under their Land Use Restriction Agreements (LURAs). Commenter (1) stated that such comprehensive notice requirements as those proposed have been critical to state and local affordable housing preservation efforts across the country. Commenter (3) stated that the additional notification requirements are a critical aspect of an effective preservation strategy. Alternatively, Commenter (2) was not in support of these changes and raised concerns about the revisions to the notice requirements and stated that the rule dramatically increases the scope and volume of people and parties that must be contacted in the event of a sale and provided information about a ROFR purchase. In addition the Commenter stated that having to research such various parties and send emails would be a significant amount of work and there is no way to know whether any such parties will have an interest or the funds necessary to purchase a property. The Commenter stated that it makes more sense for TDHCA to rely upon its existing systems to notify potential buyers such as their website and email subscriber list.

STAFF RESPONSE: While Staff does not disagree with the fact that the new notice requirements may add a small amount of one-time additional work and effort to the process of submitting a ROFR package for review (as described in the proposed rule preamble), it also seems apparent based on community feedback during the rules cycle and the Asset Management round table discussions that while Commenter

(2) finds the current practice acceptable, other community members and external stakeholders (including Commenters 1 and 3) do not. Because the Right of First Refusal is a provision that largely depends on qualified entities having an awareness of an Owner's intent to sell, staff believes it is prudent to widen the scope of parties to be notified to ensure that the right of first refusal extended under IRS Code can be adequately accessed by intended parties. Staff also considers that providing a notice to external parties rather than assuming all external stakeholders and community members know where to access listings on the TDHCA website and how to join the appropriate TDHCA listserv will assist in limiting potential unintended barriers to the negotiation process. Staff recommends no change to the rule section.

STATUTORY AUTHORITY. The new sections are proposed pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

Post Award and Asset Management Requirements

§10.400. Purpose.

(a) The purpose of this subchapter is to establish the requirements governing the post award and asset management activities associated with awards of multifamily Development assistance pursuant to Tex. Gov't Code, Chapter 2306 and its regulation of multifamily funding provided through the Texas Department of Housing and Community Affairs (the "Department") as authorized by the legislature. This subchapter is designed to ensure that Developers and Development Owners of low-income Developments that are financed or otherwise funded through the Department maintain safe, decent and affordable housing for the term of the affordability period. Therefore, unless otherwise indicated in the specific section of this subchapter, any uncorrected issues of noncompliance outside of the corrective action period or outstanding fees (related to the Development subject to the request) owed to the Department, must be resolved to the satisfaction of the Department before a request for any post award activity described in this subchapter will be acted upon.

(b) The capitalized terms in this subchapter shall have the meaning as defined in this title in Chapter 1 relating to Administration, Chapter 2 relating to Enforcement, Chapter 10 relating to Uniform Multifamily Rules, Chapter 11 relating to the Qualified Action Plan, Chapter 12 relating to the Multifamily Housing Revenue Bond Rules, Chapter 13 relating to the Multifamily Direct Loan Rule, Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the HOME Final Rule, the NHTF Interim Rule, and other federal or Department rules, as applicable.

§10.401. General Commitment or Determination Notice Requirements and Documentation.

(a) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount in accordance with §42(m)(2)(A) or where the cost for the total development, acquisition, construction or rehabilitation exceeds the limitations established by the Department and the Board.

(b) All Commitments or Determination Notices, whether reflected in the Commitment or Determination Notice or not, are made subject to full compliance with all applicable provisions of law and the Department's rules, all provisions of Commitment and Contract, satisfactory completion of underwriting, and satisfactory resolution of any conditions of underwriting, award, and administrative deficiencies.

(c) The Department shall notify, in writing, the mayor, county judge, or other appropriate official of the municipality or county, as applicable, in which the Development is located informing him/her of the Board's issuance of a Commitment Notice, as applicable.

(d) The Department may cancel a Commitment, Determination Notice or Carryover Allocation prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or completion of construction with respect to a Development and/or apply administrative penalties if:

(1) The Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to meet any of the conditions of such Commitment, Determination Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Application process for the Development;

(2) Any material statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) An event occurs with respect to the Applicant or the Development Owner which would have made the Application ineligible for funding pursuant to Subchapter C of Chapter 11 of this title (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules) if such event had occurred prior to issuance of the Commitment, Determination Notice or Carryover Allocation; or

(4) The Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to comply with this chapter or other applicable Department rules, procedures, or requirements of the Department.

§10.402. Housing Tax Credit and Tax Exempt Bond Developments.

(a) Commitment. For Competitive HTC Developments, the Department shall issue a Commitment to the Development Owner which shall confirm that the Board has approved the Application and state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described in Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) and the determination that the Development satisfies the requirements of this chapter and other applicable Department rules. The Commitment shall expire on the date specified therein, which shall be 30 calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Commitment, pays the required fee specified in §11.901 of this title (relating to Fee Schedule, Appeals, and other Provisions), and satisfies any conditions set forth therein by the Department. The Commitment expiration date may not be extended.

(b) Determination Notices. For Tax Exempt Bond Developments, the Department shall issue a Determination Notice which shall confirm the Board's determination that the Development satisfies the requirements of this chapter as applicable and other applicable Department rules in accordance with the §42(m)(1)(D) of the Internal Revenue Code (the Code). The Determination Notice shall also state the Department's determination of a specific amount of housing tax credits that the Development may be eligible for, subject to the requirements set forth in the Department's rules, as applicable. The Determination Notice shall expire on the date specified therein, which shall be 30 calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Determination Notice, pays the required fee specified in Chapter 11, Subchapter E of this title, and satisfies any conditions set forth therein by the Department. The Determination Notice expiration date may not be extended. The Determination Notice will be rescinded if the Tax Exempt Bonds are not closed within the timeframe provided for by the Board on its approval of the Determination Notice, by the expiration of the Certificate of Reservation associated with the Determination Notice, or if there are material changes to the financing or Development as determined by the Department pursuant to its rules and any conditions of approval included in the Board approval or underwriting report.

(c) Tax Credit Amount. The amount of tax credits reflected in the IRS Form(s) 8609 may be greater or less than the amount set forth in the Determination Notice based upon the Department's determination as of each building's placement in service. Any increase of tax credits will only be permitted if it is determined necessary by the Department, as required by §42(m)(2)(D) of the Code through the submission of the Cost Certification package. Increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice must be approved by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director or designee and are subject to the Credit Increase Fee as described in Chapter 11, Subchapter E of this title (relating to Fee Schedule, Appeals, and other Provisions).

(d) Documentation Submission Requirements at Commitment of Funds. No later than the expiration date of the Commitment (or no later than December 31 for Competitive HTC Applications, whichever is

earlier) or Determination Notice, the documentation described in paragraphs (1) - (6) of this subsection must be provided. Failure to provide these documents may cause the Commitment or Determination Notice to be rescinded:

(1) For entities formed outside the state of Texas, evidence that the entity filed a Certificate of Application for foreign qualification in Texas, a Franchise Tax Account Status from the Texas Comptroller of Public Accounts, and a Certificate of Fact from the Office of the Secretary of State. If the entity is newly registered in Texas and the Franchise Tax Account Status or Certificate of Fact are not available, a statement can be provided to that effect;

(2) For Texas entities, a copy of the Certificate of Filing for the Certificate of Formation from the Office of the Secretary of State; a Certificate of Fact from the Secretary of State, and a Franchise Tax Account Status from the Texas Comptroller of Public Accounts. If the entity is newly registered and the Certificate of Fact and the Franchise Tax Account Status are not available, a statement can be provided to that effect;

(3) Evidence that the signer(s) of the Commitment or Determination Notice have sufficient authority to sign on behalf of the Applicant in the form of a corporate resolution which indicates the sub-entity in Control consistent with the entity contemplated and described in the Application;

(4) Evidence of final zoning that was proposed or needed to be changed pursuant to the Development plan;

(5) Evidence of satisfaction of any conditions identified in the Credit Underwriting Analysis Report, any conditions from the Executive Award Review and Advisory Committee as provided for in 10 TAC Chapter 1, Subchapter C (relating to Previous Participation), or any other conditions of the award required to be met at Commitment or Determination Notice; and

(6) Documentation of any changes to representations made in the Application subject to §10.405 of this subchapter (relating to Amendments and Extensions).

(7) For Applications underwritten with a property tax exemption, documentation must be submitted in the form of a letter from an attorney identifying the statutory basis for the exemption and indicating that the exemption is reasonably achievable, subject to appraisal district review. Additionally, any Development with a proposed Payment in Lieu of Taxes (PILOT) agreement must provide evidence regarding the statutory basis for the PILOT and its terms.

(e) Post Bond Closing Documentation Requirements. Regardless of the issuer of the bonds, no later than 60 calendar days following closing on the bonds, the Development Owner must submit the documentation in paragraphs (1) - (5) of this subsection.

(1) Training certificate(s) from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager has attended and passed at least five hours of Fair Housing training. The certificate(s) must not be older than two years from the date of submission and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five hour required minimum, even if they were attended on different dates;

(2) A training certificate from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineer responsible for certifying compliance with the Department's accessibility and construction standards has attended and passed at least five hours of Fair Housing training. The certificate must not be older than two years from the date of submission and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five hour required minimum, even if they were attended on different dates;

(3) Evidence that the financing has closed, such as an executed settlement statement;

(4) A confirmation from the Compliance Division evidencing receipt of the CMTS Filing Agreement form pursuant to §10.607(a) of this chapter; and

(5) An initial construction status report consisting of items (1) – (5) of §10.402(h) of this subchapter (relating to Construction Status Reports).

(f) Carryover (Competitive HTC Only). All Developments which received a Commitment, and will not be placed in service and receive IRS Form(s) 8609 in the year the Commitment was issued, must submit the Carryover documentation, in the form prescribed by the Department in the Carryover Manual, no later than the Carryover Documentation Delivery Date as identified in §11.2 of this title (relating to Program Calendar for Competitive Housing Tax Credits) of the year in which the Commitment is issued pursuant to §42(h)(1)(C) of the Code.

(1) Commitments for credits will be terminated if the Carryover documentation has not been received by this deadline, unless an extension has been approved. This termination is subject to right of appeal directly to the Board, and if so determined by the Board, immediately upon final termination by the Board, staff is directed to award the credits to other qualified Applicants on the approved waiting list.

(2) If the interim or permanent financing structure, syndication rate, amount of debt or syndication proceeds are finalized but different at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be re-evaluated by the Department for a reduction of credit or change in conditions.

(3) All Carryover Allocations will be contingent upon the Development Owner providing evidence that they have and will maintain Site Control through the 10% Test or through the anticipated closing date, whichever is earlier. For purposes of this paragraph, any changes to the Development Site acreage between Application and Carryover must be addressed by written explanation or, as appropriate, in accordance with §10.405 of this subchapter (relating to Amendments and Extensions).

(4) Confirmation of the right to transact business in Texas, as evidenced by the Franchise Tax Account Status (the equivalent of the prior Certificate of Account Status) from the Texas Comptroller of Public Accounts and a Certificate of Fact from the Office of the Secretary of State must be submitted with the Carryover Allocation.

(g) 10% Test (Competitive HTC Only). No later than July 1 of the year following the submission of the Carryover Allocation Agreement or as otherwise specified in the applicable year's Qualified Allocation Plan, documentation must be submitted to the Department verifying that the Development Owner has expended more than 10% of the Development Owner's reasonably expected basis, pursuant to

§42(h)(1)(E)(i) and (ii) of the Code and Treasury Regulations, 26 CFR §1.42-6. The Development Owner must submit, in the form prescribed by the Department, documentation evidencing paragraphs (1) - (7) of this subsection, along with all information outlined in the Post Award Activities Manual. Satisfaction of the 10% Test will be contingent upon the submission of the items described in paragraphs (1) - (7) of this subsection as well as all other conditions placed upon the Application in the Commitment. Requests for an extension will be reviewed on a case by case basis as addressed in §10.405(c) of this subchapter and §11.2 of this title, as applicable, and a point deduction evaluation will be completed in accordance with Tex. Gov't Code §2306.6710(b)(2) and §11.9(f) of this title. Documentation to be submitted for the 10% Test includes:

(1) An Independent Accountant's Report and Taxpayer's Basis Schedule form. The report must be prepared on the accounting firm's letterhead and addressed to the Development Owner or an Affiliate of the Development Owner. The Independent Accountant's Report and Taxpayers Basis Schedule form must be signed by the Development Owner. If, at the time the accountant is reviewing and preparing their report, the accountant has concluded that the taxpayer's reasonably expected basis is different from the amount reflected in the Carryover Allocation agreement, then the accountant's report should reflect the taxpayer's reasonably expected basis as of the time the report is being prepared;

(2) Any conditions of the Commitment or Real Estate Analysis underwriting report due at the time of 10% Test submission;

(3) Evidence that the Development Owner has purchased, transferred, leased, or otherwise has ownership of the Development Site. The Development Site must be identical to the Development Site that was submitted at the time of Application submission. For purposes of this paragraph, any changes to the Development Site acreage between Application and 10% Test must be addressed by written explanation or, as appropriate, in accordance with §10.405 of this subchapter (relating to Amendments and Extensions);

(4) A current survey or plat of the Development Site, prepared and certified by a duly licensed Texas Registered Professional Land Surveyor. The survey or plat must clearly delineate the flood plain boundary lines and show all easements and encroachments;

(5) For New Construction, Reconstruction, and Adaptive Reuse Developments, a certification from a Third Party civil engineer or architect stating that all necessary utilities will be available at the Development Site and that there are no easements, licenses, royalties, or other conditions on or affecting the Development that would materially or adversely impact the ability to acquire, develop, and operate as set forth in the Application. Copies of supporting documents may be required by the Department;

(6) For the Development Owner and on-site or regional property manager, training certificate(s) from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager attended and passed at least five hours of Fair Housing training. For architects and engineers, training certificate(s) from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineers responsible for certifying compliance with the Department's accessibility and construction standards has attended and passed at least five hours of Fair Housing training. Certifications required under this paragraph must not be older than two years from the date of submission of the 10% Test Documentation, and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered

training will not be counted towards the five hour required minimum, even if they were attended on different dates; and

(7) A Certification from the lender and syndicator identifying all known Guarantors. If identified Guarantors have changed from the Guarantors or Principals identified at the time of Application, a non-material amendment may be required in accordance with §10.405 of this subchapter (relating to Amendments and Extensions), and the new Guarantors or Principals must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation).

(h) Construction Status Report (All Multifamily Developments). All multifamily developments must submit a construction status report. Construction status reports shall be due by the tenth day of the month following each reporting quarter's end (January, April, July, and October) and continue on a quarterly basis until the entire Development is complete as evidenced by one of the following: Certificates of occupancy for each building, the Architect's Certificate(s) of Substantial Completion (AIA Document G704 or equivalent form) for the entire Development, the final Application and Certificate for Payment (AIA Document G702 and G703), or an equivalent form approved for submission by the construction lender and/or investor. For Competitive Housing Tax Credit Developments, the initial report must be submitted no later than October 10th following the year of award (this includes Developments funded with HTC and TDHCA Multifamily Direct Loans), and for Developments awarded under the Department's Multifamily Direct Loan programs only, the initial report must be submitted 90 calendar days after loan closing. For Tax Exempt Bond Developments, the initial construction status report must be submitted as part of the Post Bond Closing Documentation due no later than 60 calendar days following closing on the bonds as described in §10.402(e) of this section (relating to Post Bond Closing Documentation Requirements). The initial report for all multifamily Developments shall consist of the items identified in paragraphs (1) – (6) of this subsection, unless stated otherwise. All subsequent reports shall contain items identified in subparagraphs (4) – (6) of this paragraph and must include any changes or amendments to items in subparagraphs (1) – (3) if applicable:

(1) The executed partnership agreement with the investor or, for Developments receiving an award only from the Department's Direct Loan Programs, other documents setting forth the legal structure and ownership. If identified Guarantors or Principals of a Guarantor entity were not already identified as a Principal of the Owner, Developer, or Guarantor at the time of Application, a non-material amendment must be requested in accordance with §10.405 of this subchapter, and the new Guarantors and all of its Principals, as applicable, must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation);

(2) The executed construction contract for the General Contractor, prime subcontractor(s) and Affiliates or Related Party subcontractor(s);

(3) The construction loan agreement. If the loan has not closed, the anticipated closing date must be provided and, upon closing, the agreement must be provided to the Department;

(4) The most recent Application and Certificate for Payment (AIA Document G702 and G703) certified by the Architect of Record (or equivalent form approved for submission by the construction lender and/or investor) for the General Contractor, prime subcontractor(s) and Affiliates or Related Party subcontractor(s); and

(5) All Third Party construction inspection reports not previously submitted. If the lender and/or investor does not require third party construction inspection reports, the Development Owner must hire a third party inspector to perform these inspections on a quarterly basis and submit the reports to the Department. Third Party construction inspection reports must include, at a

minimum, a discussion of site conditions as of the date of the site visit, current photographs of the construction site and exterior and interior of buildings, an estimated percentage of construction completion as of the date of the site visit, identification of construction delays and other relevant progress issues, if any, and the anticipated construction completion date;

(6) Minority Owned Business Report (HTC only) showing the attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as required and further described in Tex. Gov't Code §2306.6734.

(i) LURA Origination.

(1) The Development Owner must request origination of the HTC LURA as directed in the Post Award Activities Manual. The Department will draft a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to specific commitments to provide tenant services, to lease to Persons with Disabilities, and/or to provide specific amenities. After origination, the Department executed LURA and all exhibits and addendums will be sent to the Development Owner to execute and record in the real property records for the county in which the Development is located. A copy of the fully executed, recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no Housing Tax Credits are allowed to be issued for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period. Nothing in this section negates a Development Owner's responsibility for full compliance with §42(h)(6) of the Code. The Department will not issue IRS Form(s) 8609 until it receives a copy of the fully executed, recorded LURA.

(2) LURAs for Direct Loan awardees will be prepared by the Department's Legal Division and executed at loan closing.

(j) Cost Certification (Competitive and Non-Competitive HTC, and related activities only). The Department conducts a feasibility analysis in accordance with §42(m)(2)(C)(i)(III) of the Code and Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) to make a final determination on the allocation of Housing Tax Credits. The requirements for cost certification include those identified in paragraphs (1) - (3) of this subsection.

(1) Development Owners must file cost certification documentation no later than January 15 following the first year of the Credit Period, as defined in §42(f)(1) of the Code.

(2) The Department will evaluate the cost certification documentation and notify the Development Owner of any additional required documentation needed to complete the review. The Department reserves the right to request additional documents or certifications as it deems necessary or useful in the determination of the Development's eligibility for a final Housing Tax Credit allocation amount. Any communication issued to the Development Owner pertaining to the cost certification documentation may also be sent to the syndicator.

(3) IRS Form(s) 8609 will not be issued until the conditions as stated in subparagraphs (A) - (G) of this paragraph have been met. The Development Owner has:

(A) Provided evidence that all buildings in the Development have been placed in service by:

(i) December 31 of the year the Commitment was issued;

(ii) December 31 of the second year following the year the Carryover Allocation Agreement was executed; or

(iii) the approved Placed in Service deadline;

(B) Provided a complete final cost certification package in the format prescribed by the Department. As used herein, a complete final cost certification package means a package that meets all of the Department's criteria with all required information and exhibits listed in clauses (i) - (xxxv) of this subparagraph, and pursuant to the Post Award Activities Manual. If any item on this list is determined to be unclear, deficient, or inconsistent with the cost certification review completed by the Department, a Request for Information (RFI) will be sent to the Development Owner.

(i) Owner's signed and notarized Statement of Certification verifying the CPA firm's licenses and validity, including any restrictions;

(ii) Owner Summary & Organization Charts for the Owner, Developer, and Guarantors;

(iii) Evidence of Qualified Nonprofit or CHDO Participation;

(iv) Certification and evidence of Historically Underutilized Business (HUB) Participation;

(v) Development Team List;

(vi) Development Summary with Architect's Certification;

(vii) Development Change Documentation;

(viii) As Built Survey;

(ix) A copy of the fully executed Closing Statement for each parcel of land and/or buildings purchased and included in the Development;

(x) Development Owner's Title Policy for the Development;

(xi) Title Policy Update;

(xii) Placement in Service;

(xiii) Evidence of Placement in Service;

(xiv) Architect's Certification of Completion Date and Date Ready for Occupancy (for Developments located in areas where Certificates of Occupancy (COs) are not issued by a local government or rehabilitation Developments that cannot provide COs);

- (xv) Auditor's Certification of Acquisition/Rehabilitation Placement in Service Election;
- (xvi) Independent Auditor's Report;
- (xvii) Independent Auditor's Report of Bond Financing;
- (xviii) Development Cost Schedule;
- (xix) Contractor's Application for Final Payment (G702/G703) for the General Contractor, all prime subcontractors, Affiliated Contractors, and Related Party Contractors;
- (xx) Additional Documentation of Offsite Costs;
- (xxi) Rent Schedule;
- (xxii) Utility Allowances;
- (xxiii) Annual Operating Expenses;
- (xxiv) 30 Year Rental Housing Operating Pro Forma;
- (xxv) Current Operating Statement in the form of a trailing twelve month statement;
- (xxvi) Current Rent Roll;
- (xxvii) Summary of Sources and Uses of Funds;
- (xxviii) Final Limited Partnership Agreement with all amendments and exhibits;
- (xxix) All Loan Agreements and Promissory Notes (except for Agreements and Notes issued directly by the Department);
- (xxx) Architect's Certification of Accessibility Requirements;
- (xxxi) Development Owner Assignment of Individual to Compliance Training;
- (xxxii) TDHCA Compliance Training Certificate (not older than two years from the date of cost certification submission);
- (xxxiii) TDHCA Final Inspection Clearance Letter or evidence of submitted final inspection request to the Compliance Division (IRS Form(s) 8609 will not be issued without a TDHCA Final Inspection Clearance Letter);
- (xxxiv) As required by 24 CFR §93.406(b) and the Multifamily Direct Loan Rule §13.11 (relating to Post-Award Requirements), for NHTF Developments layered with HTCs, a separate, additional cost certification form completed by an independent, licensed, certified public accountant of all Development costs

(including project costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract; and

(xxxv) Other Documentation as Required, including but not limited to conditions to be satisfied at cost certification as reflected in the Development's latest Underwriting Report;

(C) Informed the Department of and received written approval for all amendments, extensions, and changes in ownership relating to the Development in accordance with §10.405 of this subchapter (relating to Amendments and Extensions) and §10.406 of this subchapter (relating to Ownership Transfers (§2306.6713));

(D) Paid all applicable Department fees, including any past due fees;

(E) Met all conditions noted in the Department underwriting report, Determination Notice, and Commitment;

(F) Corrected all issues of noncompliance, including but not limited to noncompliance status with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for the subject Development, as described in this chapter. Developments in the corrective action period and/or with any uncorrected issues of noncompliance outside of the corrective action period will not be issued IRS Form(s) 8609s until all events of noncompliance are corrected or otherwise approved by the Executive Director or designee;

(G) Completed an updated underwriting evaluation in accordance with Chapter 11, Subchapter D of this title based on the most current information at the time of the review.

§10.403. Review of Annual HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents.

(a) Applicability. For participants of the Department's Multifamily HOME and NSP Direct Loan program, where Commitment of Funds occurred on or after August 23, 2013, the Department is required by 24 CFR §92.252(f) and for all National Housing Trust Fund (NHTF) participants by 24 CFR §93.302(c)(2), to review and approve or disapprove HOME/NSP/NHTF rents on an annual basis. The Department is also required by 24 CFR §92.219 and §92.252(d)(2) to approve rents where Multifamily Direct Loan funds (including TCAP-RF) are used as HOME match. Development Owners must submit documentation for the review of HOME/NSP/NHTF/TCAP-RF rents by no later than July 1st of each year as further described in the Post Award Activities Manual.

(b) Documentation for Review. The Department will furnish a rent approval request packet for this purpose that will include a request for Development information and an Owner's proposed rent schedule and will require submission of a current rent roll or unit status report, a copy of information used to determine gross Direct Loan rents, and utility allowance information. The Department may request additional documentation to perform a determination, as needed, including but not limited to annual operating statements, market surveys, or other information related to determining whether rents are sufficient to maintain the financial viability of a project or are in compliance with maximum rent limits.

(c) Review Process. Rents will be approved or disapproved within 30 days of receipt of all items required to be submitted by the Development Owner, and will be issued in the form of a signed letter from the Asset Management Division. Development Owners must keep copies of all approval letters on file at the Development site to be reviewed at the time of Compliance Monitoring reviews.

(d) Compliance. Development Owners for whom this section is applicable are subject to compliance under §10.622 of this chapter (relating to Special Rules Regarding Rents and Limit Violations) and may be subject to penalties under §10.625 of this chapter (relating to Events of Noncompliance). Approval of rents by the Asset Management Division will be limited to a review of the documentation submitted and will not guarantee compliance with the Department's rules or otherwise absolve an Owner of any past, current, or future non-compliance related to Department rules, guidance, Compliance Monitoring visits, or any other rules or guidance to which the Development or its Owner may be subject.

§10.404. Reserve Accounts.

(a) Replacement Reserve Account (§2306.186). The Department will require Development Owners to provide regular maintenance to keep housing sanitary, safe and decent by establishing and maintaining a reserve for replacement account for the Development in accordance with Tex. Gov't Code, §2306.186. The reserve account must be established, in accordance with paragraphs (3), (4), (5), and (6) of this subsection, and maintained through annual or more frequent regularly scheduled deposits, for each Unit in a Development of 25 or more rental Units regardless of the amount of rent charged for the Unit. If the Department is processing a request for loan modification or other request under this subchapter and the Development does not have an existing replacement reserve account or sufficient funds in the reserve to meet future capital expenditure needs of the Development as determined by a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in this section, or as indicated by the number or cost of repairs included in a third party Physical Needs Assessment (PNA), the Development Owner will be required to establish and maintain a replacement reserve account or review whether the amount of regular deposits to the replacement reserve account can be increased, regardless of the number of Units at the Development. The Department shall, through cooperation of its divisions responsible for asset management and compliance, ensure compliance with this section. The duties of the Development Owner under this section cease on the date of a change in ownership of the Development; however, the subsequent Development Owner of the Development is subject to the requirements of this section and any additional or revised requirements the Department may impose after reviewing a Development's compliance history, a PNA submitted by the Owner, or the amount of reserves that will be transferred at the time of any property sale.

(1) The LURA requires the Development Owner to begin making annual deposits to the replacement reserve account on the later of the:

(A) Date that occupancy of the Development stabilizes as defined by the First Lien Lender or, in the absence of a First Lien Lender other than the Department, the date the Property is at least 90% occupied; or

(B) The date when the permanent loan is executed and funded.

(2) The Development Owner shall continue making deposits into the replacement reserve account until the earliest of the:

(A) Date on which the owner suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored;

(B) Date on which the Development is demolished;

(C) Date on which the Development ceases to be used as a multifamily rental property; or

(D) End of the Affordability Period specified by the LURA, or if an Affordability Period is not specified and the Department is the First Lien Lender, then when the Department's loan has been fully repaid or as otherwise agreed by the Owner and Department.

(3) If the Department is the First Lien Lender with respect to the Development or if the establishment of a Reserve Account for repairs has not been required by the First Lien Lender or Bank Trustee, each Development Owner receiving Department assistance for multifamily rental housing shall deposit annually into a separate, Development-specific Reserve Account through the date described in paragraph (2) of this subsection:

(A) For New Construction Developments, not less than \$250 per Unit. Withdrawals from such account will be restricted for up to five years following the date of award except in cases in which written approval from the Department is obtained relating to casualty loss, natural disaster, reasonable accommodations, or demonstrated financial hardship (but not for the construction standards required by the NOFA or program regulations); or

(B) For Adaptive Reuse, Rehabilitation and Reconstruction Developments, the greater of the amount per Unit per year either established by the information presented in a Scope and Cost Review in conformance with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) or \$300 per Unit per year.

(4) For all Developments, a PNA must be conducted at intervals that are consistent with requirements of the First Lien Lender, other than the Department. If the Department is the First Lien Lender, or the First Lien Lender does not require a Third Party PNA, a PNA must be conducted at least once during each five year period beginning with the 11th year after the awarding of any financial assistance from the Department. PNAs conducted by the Owner at any time or for any reason other than as required by the Department in the year beginning with the 11th year of award must be submitted to the Department for review within 30 days of receipt by the Owner.

(5) Where there is a First Lien Lender other than the Department or a Bank Trustee as a result of a bond trust indenture or tax credit syndication, the Development Owner shall comply with the lesser of the replacement reserve requirements of the First Lien Lender or the requirements in paragraph (3) of this subsection. In addition, the Department should be listed as a party to receive notice under any replacement reserve agreement entered into by the Development Owner. The Development Owner shall submit on an annual basis, within the Department's required Development Owner's Financial Certification packet, requested information regarding:

(A) The reserve for replacement requirements under the first lien loan agreement (if applicable) referencing where those requirements are contained within the loan documents;

(B) Compliance with the first lien lender requirements outlined in subparagraph (A) of this paragraph;

(C) If the Owner is not in compliance with the lender requirements, the Development Owner's plan of action to bring the Development in compliance with all established reserve for replacement requirements; and

(D) Whether a PNA has been ordered and the Owner's plans for any subsequent capital expenditures, renovations, repairs, or improvements.

(6) Where there is no First Lien Lender but the allocation of funds by the Department and Tex. Gov't Code, §2306.186 requires that the Department oversee a Reserve Account, the Development Owner shall provide at their sole expense an escrow agent acceptable to the Department to act as Bank Trustee as necessary under this section. The Department shall retain the right to replace the escrow agent with another Bank Trustee or act as escrow agent at a cost plus fee payable by the Development Owner due to breach of the escrow agent's responsibilities or otherwise with 30 days prior notice of all parties to the escrow agreement.

(7) Penalties and Non-Compliance. If the Development Owner fails to comply with the replacement reserve account requirements stated herein, and request for extension or waiver of these requirements is not approved by the Department, then a penalty of up to \$200 per dwelling Unit in the Development and/or characterization of the Development as being in default with this requirement, may be imposed:

(A) A Reserve Account, as described in this section, has not been established for the Development;

(B) The Department is not a party to the escrow agreement for the Reserve Account, if required;

(C) Money in the Reserve Account:

(i) is used for expenses other than necessary repairs, including property taxes or insurance; or

(ii) falls below mandatory annual, monthly, or Department approved deposit levels;

(D) Development Owner fails to make any required deposits;

(E) Development Owner fails to obtain a Third-Party PNA as required under this section or submit a copy of a PNA to the Department within 30 days of receipt; or

(F) Development Owner fails to make necessary repairs in accordance with the Third Party PNA or §10.621 of this chapter (relating to Property Condition Standards).

(8) Department-Initiated Repairs. The Department or its agent may make repairs to the Development within 30 calendar days of written notice from the Department if the Development Owner fails to complete necessary repairs indicated in the submitted PNA or identified by Department physical inspection. Repairs may be deemed necessary if the Development Owner fails to comply with federal, state, and/or local health, safety, or building code requirements. Payment for necessary repairs must be made directly by the Development Owner or through a replacement Reserve Account established for the Development under this section. The Department or its agent will be allowed to produce a Request for Bids to hire a contractor to complete and oversee necessary repairs. On a case-by-case basis, the Department may determine that the money in the Reserve Account may be used for expenses other than necessary repairs, including property taxes or insurance, if:

(A) Development income before payment of return to Development Owner or deferred Developer Fee is insufficient to meet operating expense and debt service requirements; or

(B) Development income after payment of operating expenses, but before payment of return to Development Owner or deferred developer fee is insufficient to fund the mandatory deposit levels.

(C) In the event of subparagraph (A) or (B) of this paragraph, funds withdrawn must be replaced from Cash Flow after payment of Operating Expenses but before return to Development Owner or deferred Developer Fee until the mandatory deposit level is replenished. The Department reserves the right to re-evaluate payments to the reserve, increase such payments or require a lump sum deposit to the reserve, or require the Owner to enter into a separate Reserve Agreement if necessary to protect the long term feasibility of the Development.

(9) Exceptions to Replacement Reserve Account. This section does not apply to a Development for which the Development Owner is required to maintain a Reserve Account under any other provision of federal or state law.

(10) In the event of paragraph (7) or (8) of this subsection, the Department reserves the right to require by separate Reserve Agreement a revised annual deposit amount and/or require Department concurrence for withdrawals from the Reserve Account to bring the Development back into compliance. Establishment of a new Bank Trustee or transfer of reserve funds to a new, separate and distinct account may be required if necessary to meet the requirements of such Agreement. The Agreement will be executed by the Department, Development Owner, and financial institution representative.

(b) Lease-up Reserve Account. A lease-up reserve funds start-up expenses in excess of the revenue produced by the Development prior to stabilization. The Department will consider a reasonable lease-up reserve account based on the documented requirements from a third-party lender, third-party syndicator, or the Department. During the underwriting at the point of the Cost Certification review, the lease-up reserve may be counted as a use of funds only to the extent that it represents operating shortfalls net of escrows for property taxes and property insurance. Funds from the lease-up reserve used to satisfy the funding requirements for other reserve accounts may not be included as a use of funds for the lease-up reserve. Funds from the lease-up reserve distributed or distributable as cash flow to the Development Owner will be considered and restricted as developer fee.

(c) Operating Reserve Account. At various stages during the application, award process, and during the operating life of a Development, the Department will conduct a financial analysis of the Development's total development costs and operating budgets, including the estimated operating reserve account deposit required. For example, this analysis typically occurs at application and cost certification review. The Department will consider a reasonable operating reserve account deposit in this analysis based on the needs of the Development and requirements of third-party lenders or investors. The amount used in the analysis will be the amount described in the project cost schedule or balance sheet, if it is within the range of two to six months of stabilized operating expenses plus debt service. The Department may consider a greater amount proposed or required by the Department, any superior lien lender, or syndicator, if the detail for such greater amount is reasonable and well documented. Reasonable operating reserves in this chapter do not include capitalized asset management fees, guaranty reserves, or other similar costs. In no instance will operating reserves exceed 12 months of stabilized operating expenses plus debt service (exclusive of transferred replacement reserves for USDA or HUD financed rehabilitation transactions). Operating reserves are generally for the term of the permanent loan. In no instance will operating reserves released within five years be included as a cost.

(d) Special Reserve Account. If the funding program requires or allows for the establishment and maintenance of a Special Reserve Account for the purpose of assisting residents at the Development with expenses associated with their tenancy, this will be established in accordance with a written agreement with the Development Owner.

(1) The Special Reserve Account is funded through a one-time payment or annually through an agreed upon percentage of net cash flow generated by the Development, excess development funds at completion as determined by the Department, or as otherwise set forth in the written agreement. For the purpose of this account, net cash flow is defined as funds available from operations after all expenses and debt service required to be paid have been considered. This does not include a deduction for depreciation and amortization expense, deferred developer fee payment, or other payments made to Related Parties or Affiliates, except as allowed by the Department for property management. Proceeds from any refinancing or other fund raising from the Development will be considered net cash flow for purposes of funding the Special Reserve Account. The account will be structured to require Department concurrence for withdrawals.

(2) All disbursements from the account must be approved by the Department.

(3) The Development Owner will be responsible for setting up a separate and distinct account with a financial institution acceptable to the Department. A Special Reserve Account Agreement will be drafted by the Department and executed by the Department and the Development Owner.

(e) Other Reserve Accounts. Additional reserve accounts may be recognized by the Department as necessary and required by the Department, superior lien lender, or syndicator.

§10.405. Amendments and Extensions.

(a) Amendments to Housing Tax Credit (HTC) Application or Award Prior to Land Use Restriction Agreement (LURA) recording or amendments that do not result in a change to the LURA (§2306.6712). The Department expects the Development Owner to construct or rehabilitate, operate, and own the Development consistent with the representations in the Application. The Department must receive notification of any amendments to the Application. Regardless of development stage, the Board shall re-evaluate a Development that undergoes a material change, as identified in paragraph (3) of this subsection at any time after the initial Board approval of the Development (§2306.6731(b)). The Board may deny an amendment request and subsequently may rescind any Commitment or Determination Notice issued for an Application, and may reallocate the credits to other Applicants on the waiting list.

(1) Requesting an amendment. The Department shall require the Applicant to file a formal, written request for an amendment to the Application. Such request must include a detailed explanation of the amendment request and other information as determined to be necessary by the Department, and the applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule) in order to be received and processed by the Department. Department staff will evaluate the amendment request to determine if the change would affect an allocation of Housing Tax Credits by changing any item that received points, by significantly affecting the most recent underwriting analysis, or by materially altering the Development as further described in this subsection.

(2) Notification Items. The Department must be notified of the changes described in subparagraphs (A) - (F) of this paragraph. The changes identified are subject to staff agreement based on a review of the amendment request and any additional information or documentation

requested. Notification items will be considered satisfied when an acknowledgment of the specific change(s) is received from the Department.

(A) Changes to Development Site acreage required by the City or other local governmental authority, or changes resulting from survey discrepancies, as long as such change does not also result in a modification to the residential density of more than 5%;

(B) Minor modifications to the site plan that will not significantly impact development costs, including, but not limited to, relocation or rearrangement of buildings on the site (as long as the number of residential and non-residential buildings remains the same), and movement, addition, or deletion of ingress/egress to the site;

(C) Increases or decreases in net rentable square footage or common areas that do not result in a material amendment under §10.405(a)(4) of this section;

(D) Changes in amenities that do not require a change to the recorded LURA and do not negatively impact scoring, including changes to outdated amenities that could be replaced by an amenity with equal benefit to the resident community;

(E) Changes in Developers or Guarantors (notifications for changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period are not required) with no new Principals (who were not previously checked by Previous Participation review that retain the natural person(s) used to meet the experience requirement in Chapter 11 of this title (relating to Required Documentation for Application Submission); and

(F) Any other amendment not identified in paragraphs (3) and (4) of this subsection.

(3) Non-material amendments. The Executive Director or designee may administratively approve all non-material amendments, including, but not limited to:

(A) Any amendment that is determined by staff to exceed the scope of notification acknowledgement, as identified in paragraph (2) of this subsection but not to rise to a material alteration, as identified in paragraph (4) of this subsection;

(B) Changes in the natural person(s) used to meet the experience requirement in Chapter 11, §11.204(6) of this title provided that an appropriate substitute has been approved by the Multifamily Division prior to receipt of the amendment request (relating to Required Documentation for Application Submission);

(C) Changes in Developers or Guarantors (excluding changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period) not addressed in §10.405(a)(2)(E). Changes in Developers or Guarantors will be subject to Previous Participation requirements as further described in Chapter 11 of this title and the credit limitation described in §11.4(a) of this title; and

(D) For Exchange Developments only, requests to change elections made on line 8(b) of the IRS Form(s) 8609 to group buildings together into one or more multiple building projects. The request must include an attached statement identifying the buildings in the project. The change to the election may only be made once during the Compliance Period.

(4) Material amendments. Amendments considered material pursuant to paragraph (4) of this subsection must be approved by the Board. When an amendment request requires Board approval, the Development Owner must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting in which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting (§2306.6717(a)(4)). Material Amendment requests may be denied if the Board determines that the modification proposed in the amendment would materially alter the Development in a negative manner or would have adversely affected the selection of the Application in the Application Round. Material alteration of a Development includes, but is not limited to:

- (A) A significant modification of the site plan;
- (B) A modification of the number of Units or bedroom mix of units;
- (C) A substantive modification of the scope of tenant services;
- (D) A reduction of 3% or more in the square footage of the Units or common areas;
- (E) A significant modification of the architectural design of the Development;
- (F) A modification of the residential density of at least 5%;
- (G) A request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609;
- (H) Exclusion of any requirements as identified in Chapter 11, Subchapter B of this title (relating to Site and Development Requirements and Restrictions) and Chapter 11, Subchapter C of this title (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules); or
- (I) Any other modification considered material by the staff and therefore required to be presented to the Board as such.

(5) Amendment requests will be denied if the Department finds that the request would have changed the scoring of an Application in the competitive process such that the Application would not have received a funding award or if the need for the proposed modification was reasonably foreseeable or preventable by the Applicant at the time the Application was submitted, unless good cause is found for the approval of the amendment.

(6) This section shall be administered in a manner that is consistent with §42 of the Code. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department before a request for amendment will be acted upon.

(7) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants identified in the Application and Credit Underwriting Analysis Report at the time of award and as approved by the Board, the procedure described in

subparagraphs (A) and (B) of this paragraph will apply to the extent such request is not prohibited based on statutory and/or regulatory provisions:

(A) For amendments that involve a reduction in the total number of Low-Income Units, or a reduction in the number of Low-Income Units at any rent or income level, as approved by the Board, evidence noted in either clause (i) or (ii) of this subparagraph must be presented to the Department to support the amendment.

(i) In the event of a request to implement (rent to a household at an income or rent level that exceeds the approved AMI limits established by the minimum election within the Development's Application or LURA) a revised election under §42(g) of the Code prior to an Owner's submission of IRS Forms 8609 to the IRS, Owners must submit updated information and exhibits to the Application as required by the Department and all lenders and the syndicator must submit written acknowledgement that they are aware of the changes being requested and confirm any changes in terms as a result of the new election; or

(ii) For all other requests for reductions in the total number of Low-Income Units or reductions in the number of Low-Income Units at any rent or income level, prior to issuance of IRS Forms 8609 by the Department, the lender and syndicator must submit written confirmation that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request; however, any affirmative recommendation to the Board is contingent upon concurrence from Department staff that the Unit adjustment is necessary for the continued financial feasibility of the Development; and

(B) If it is determined by the Department that the loss of low-income targeting points would have resulted in the Application not receiving an award in the year of allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all Persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for 24 months from the time that the amendment is approved.

(b) Amendments to the LURA. Department approval shall be required for any amendment to a LURA in accordance with this section. An amendment request shall be submitted in writing, containing a detailed explanation of the request, the reason the change is necessary, the good cause for the change, financial information related to any financial impact on the development, information related to whether the necessity of the amendment was reasonably foreseeable at the time of application, and other information as determined to be necessary by the Department, along with any applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule, Appeals, and other Provisions). The Department may order or require the Development Owner to order a Market Study or appraisal at the Development Owner's expense. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department, before a request for amendment will be acted upon. The Department will not approve changes that would violate state or federal laws including the requirements of §42 of the Code, 24 CFR Part 92 (HOME Final Rule), 24 CFR Part 93 (NHTF Interim Rule), Chapter 1 of this title (relating to Administrative Requirements), Chapter 11 of this title (relating to Qualified Allocation Plan), Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules), Chapter 13 of this title (relating to

Multifamily Direct Loan Rule), Tex. Gov't Code, Chapter 2306, and the Fair Housing Act. For Tax-Exempt Bond Developments, compliance with their Regulatory Agreement and corresponding bond financing documents. Prior to staff taking a recommendation to the Board for consideration, the procedures described in paragraph (3) of this subsection must be followed.

(1) Non-Material LURA Amendments. The Executive Director or designee may administratively approve all LURA amendments not defined as Material LURA Amendments pursuant to paragraph (2) of this subsection. A non-material LURA amendment may include but is not limited to:

(A) HUB participation removal. Removal of a HUB participation requirement will only be processed as a non-material LURA amendment after the issuance of 8609s and requires that the Department find that:

(i) the HUB is requesting removal of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

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

(iii) where the HUB will be replaced as a general partner or special limited partner that is not a HUB and will sell its ownership interest, an ownership transfer request must be submitted as described in §10.406 of this subchapter;

(B) A change resulting from a Department work out arrangement as recommended by the Department's Asset Management Division; or

(C) A correction of error.

(2) Material LURA Amendments. Development Owners seeking LURA amendment requests that require Board approval must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting at which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting. (§2306.6717(a)(4)). The Board must consider the following material LURA amendments:

(A) Reductions to the number of Low-Income Units;

(B) Changes to the income or rent restrictions;

(C) Changes to the Target Population;

(D) The removal of material participation by a Nonprofit Organization as further described in §10.406 of this subchapter;

(E) A change in the Right of First Refusal period as described in amended §2306.6726 of the Tex. Gov't Code;

(F) Any amendment that affects a right enforceable by a tenant or other third party under the LURA; or

(G) Any LURA amendment deemed material by the Executive Director.

(3) Prior to staff taking a recommendation to the Board for consideration, the Development Owner must provide notice and hold a public hearing regarding the requested amendment(s) at least 15 business days prior to the scheduled Board meeting where the request will be considered. Development Owners will be required to submit a copy of the notification with the amendment request. If a LURA amendment is requested prior to issuance of IRS Forms 8609 by the Department, notification must be provided to the recipients described in subparagraphs (A) - (E) of this paragraph. If an amendment is requested after issuance of IRS Forms 8609 by the Department, notification must be provided to the recipients described in subparagraph (A) - (B) of this paragraph.

(A) Each tenant of the Development;

(B) The current lender(s) and investor(s);

(C) The State Senator and State Representative of the districts whose boundaries include the Development Site;

(D) The chief elected official for the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction); and

(E) The county commissioners of the county in which the Development Site is located (if the Development Site is located outside of a municipality).

(4) Contents of Notification. The notification must include, at a minimum, all of the information described in subparagraphs (A) - (D) of this paragraph.

(A) The Development Owner's name, address and an individual contact name and phone number;

(B) The Development's name, address, and city;

(C) The change(s) requested; and

(D) The date, time and location of the public hearing where the change(s) will be discussed.

(5) Verification of public hearing. Minutes of the public hearing and attendance sheet must be submitted to the Department within three business days after the date of the public hearing.

(6) Approval. Once the LURA Amendment has been approved administratively or by the Board, as applicable, Department staff will provide the Development Owner with a LURA amendment for execution and recording in the county where the Development is located.

(c) HTC Extensions. Extensions must be requested if the original deadline associated with Carryover, the 10% Test (including submission and expenditure deadlines), construction status reports, or cost certification requirements will not be met. Extension requests submitted at least 30 calendar days in advance of the applicable deadline will not be required to submit an extension fee as described in §11.901 of this title. Any extension request submitted fewer than 30 days in advance of the applicable deadline or after the applicable deadline will not be processed unless accompanied by the applicable fee. Extension requests will be approved by the Executive Director or designee, unless, at staff's discretion it warrants Board approval due to extenuating circumstances stated in the request. The extension request must specify a requested extension date and the reason why such an extension is required. If the Development Owner is requesting an extension to the Carryover submission or 10% Test deadline(s), a point deduction evaluation will be completed in accordance with Tex. Gov't Code, §2306.6710(b)(2), and §11.9(f) of this title (relating to Factors Affecting Scoring and Eligibility in current and future Application Rounds). Therefore, the Development Owner must clearly describe in their request for an extension how the need for the extension was beyond the reasonable control of the Applicant/Development Owner and could not have been reasonably anticipated. Carryover extension requests will not be granted an extended deadline later than December 1st of the year the Commitment was issued.

§10.406. Ownership Transfers (§2306.6713).

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning

CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package.

(3) Exceptions to the above may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this subchapter (relating to LURA Amendments that require Board Approval). The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

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

(2) Ownership transfer information, including but not limited to the type of sale, terms of any new financing introduced as a result of the transfer, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C of this title (relating to Required Documentation for Application Submission);

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of this title (relating to Required Documentation for Application Submission);

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted as further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

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

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of this title (relating to Ineligible Applicants and Applications).

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this section (relating to Reserve Accounts).

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this title (relating to Fee Schedule, Appeals, and other Provisions).

§10.407. Right of First Refusal.

(a) General. This section applies to Development Owners that agreed to offer a Right of First Refusal (ROFR) to a Qualified Entity or as applicable a Qualified Nonprofit Organization, as memorialized in the applicable LURA. For the purposes of this section a Qualified Nonprofit Organization also includes an entity 100% owned by a Qualified Nonprofit Organization pursuant to §42(h)(5)(C) of the Code and operated in a similar manner. The purpose of this section is to provide administrative procedures and guidance on the process and valuation of properties under the LURA. All requests for ROFR submitted to the Department, regardless of existing regulations, must adhere to this process.

(1) The Development Owner may market the Property for sale and sell the Property to a Qualified Entity, or as applicable a Qualified Nonprofit Organization without going through the ROFR process outlined in this section unless otherwise restricted or prohibited and only in the following circumstances:

(A) The LURA includes a 90-day ROFR and the Development Owner is selling to a Qualified Nonprofit Organization;

(B) The LURA includes a two year ROFR and the Development Owner is selling to a Qualified Nonprofit Organization that meets the definition of a Community Housing Development Organization (CHDO) under 24 CFR Part 92, as approved by the Department; or

(C) The LURA includes a 180-day ROFR, and the Development Owner is selling to a Qualified Entity that meets the definition of a CHDO under 24 CFR Part 92, or that is controlled by a CHDO, as approved by the Department. Where the Development Owner is not required to go through the ROFR process, it must go through the ownership transfer process in accordance with §10.406 of this subchapter.

(2) A ROFR request must be made in accordance with the LURA for the Development. If there is a conflict between the Development's LURA and this subchapter, every effort will be made to harmonize the provisions. If the conflict cannot be resolved, requirements in the LURA will supersede this subchapter. If there is a conflict between the Development's LURA and Tex. Gov't Code Chapter 2306, every effort will be made to harmonize the provisions. A Development Owner may request a LURA amendment to make the ROFR provisions in the LURA consistent with Tex. Gov't Code Chapter 2306 at any time.

(3) If a LURA includes the ROFR provision, the Development Owner may not request a Preliminary Qualified Contract (if such opportunity is available under the applicable LURA and §10.408) until the requirements outlined in this section have been satisfied.

(4) The Department reviews and approves all ownership transfers pursuant to §10.406 of this subchapter. Thus, if a proposed purchaser is identified in the ROFR process, the Development Owner and proposed purchaser must complete the ownership transfer process. A Development Owner may not transfer a Development to a Qualified Nonprofit Organization or Qualified Entity that is considered an ineligible entity under the Department's rules. In addition, ownership transfers to a Qualified Entity or as applicable a Qualified Nonprofit Organization pursuant to the ROFR process are subject to Chapter 1, Subchapter C of this title (relating to Previous Participation).

(5) Satisfying the ROFR requirement does not terminate the LURA or the ongoing application of the ROFR requirement to any subsequent Development Owner.

(6) If there are multiple buildings in the Development, the end of the 15th year of the Compliance Period will be based upon the date the last building(s) began their credit period(s). For example, if five buildings in the Development began their credit periods in 2005 and one in 2006, the 15th year would be 2020. The ROFR process is triggered upon:

(A) The Development Owner's determination to sell the Development to an entity other than as permitted in paragraph (1) of this subsection; or

(B) The simultaneous transfer or concurrent offering for sale of a General Partner's and limited partner's interest in the Development Owner's ownership structure.

(7) The ROFR process is not triggered if a Development Owner seeks to transfer the Development to a newly formed entity:

(A) That is under common control with the Development Owner; and

(B) The primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the Development using assistance administered through a state financing program.

(8) This section applies only to a Right of First Refusal memorialized in the Department's LURA. This section does not authorize a modification of any other agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity. The enforceability of a contractual agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity may be impacted by the Development Owner's commitments at Application and recorded LURA.

(b) Right of First Refusal Offer Price. There are two general expectations of the ROFR offer price identified in the outstanding LURAs. The descriptions in paragraphs (1) and (2) of this subsection do not alter the requirements or definitions included in the LURA but provide further clarification as applicable:

(1) Fair Market Value is established using either a current appraisal (completed within three months prior to the ROFR request and in accordance with §11.304 of this title (relating to Appraisal Rules and Guidelines)) of the Property or an executed purchase offer that the Development Owner would like to accept. In either case the documentation used to establish Fair Market Value will be part of the ROFR property listing on the Department's website. The purchase offer must contain specific language that the offer is conditioned upon satisfaction of the ROFR requirement. If a subsequent ROFR request is made within six months of the previously approved ROFR posting, the lesser of the prior ROFR posted value or new appraisal/purchase contract amount must be used in establishing Fair Market Value;

(2) Minimum Purchase Price, pursuant to §42(i)(7)(B) of the Code, is the sum of the categories listed in (A) and (B) of this paragraph:

(A) The principal amount of outstanding indebtedness secured by the project (other than indebtedness incurred within the five year period immediately preceding the date of said notice); and

(B) All federal, state, and local taxes incurred or payable by the Development Owner as a consequence of such sale. If the Property has a minimum Applicable Fraction of less than one, the offer must take this into account by multiplying the purchase price by the

applicable fraction and the fair market value of the non-Low-Income Units. Documentation submitted to verify the Minimum Purchase Price calculation will be part of the ROFR property listing on the Department's website.

(c) Required Documentation. Upon establishing the ROFR offer price, the ROFR process is the same for all types of LURAs. To proceed with the ROFR request, documentation must be submitted as directed in the Post Award Activities Manual, which includes:

(1) ROFR fee as identified in §11.901 of this title (relating to Fee Schedule, Appeals, and other Provisions);

(2) A notice of intent to the Department;

(3) Certification that the Development Owner has provided a notice of intent to all additional required persons and entities in subparagraph (A) of this paragraph and that such notice includes, at a minimum the information in subparagraph (B) of this paragraph;

(A) Copies of letters or emailed notices to all persons and entities listed in clauses (i) to (vi) of this subparagraph must be attached to the Certification along with evidence of submission or receipt:

(i) All tenants and tenant organizations, if any, of the Development;

(ii) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(iii) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(iv) Presiding officer of the Governing Body of the county in which the Development is located;

(v) The local housing authority, if any; and

(vi) All qualified buyers maintained on the Department's list of qualified buyers.

(B) Letters must include, at a minimum, all of the information required in clauses (i) to (vii) of this subparagraph and must not contain any statement that violates Department rules, statute, Code, or federal requirements:

(i) The Development's name, address, city, and county;

(ii) The Development Owner's name, address, individual contact name, phone number, and email address;

(iii) Information about tenants' rights to purchase the Development through the ROFR;

(iv) The date that the ROFR notice period expires;

(v) The ROFR offer price;

(vi) A physical description of the Development, including the total number of Units and total number of Low-Income Units; and

(vii) Contact information for the Department staff overseeing the Development's ROFR application.

(4) Documentation evidencing any contractual ROFR between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity, along with evidence that such Qualified Nonprofit Organization or Qualified Entity is in good standing in the state of its organization;

(5) Documentation verifying the ROFR offer price of the Property:

(A) If the Development Owner receives an offer to purchase the Property from any buyer other than a Qualified Entity or Qualified Nonprofit Organization that the Development Owner would like to accept, the Development Owner may execute a sales contract, conditioned upon satisfaction of the ROFR requirement, and submit the executed sales contract to establish fair market value; or

(B) If the Development Owner of the Property chooses to establish fair market value using an appraisal, the Development Owner must submit an appraisal of the Property completed during the last three months prior to the date of submission of the ROFR request, establishing a value for the Property in compliance with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) in effect at the time of the request. The appraisal should take into account the existing and continuing requirements to operate the Property under the LURA and any other restrictions that may exist. Department staff will review all materials within 30 calendar days of receipt. If, after the review, the Department does not agree with the fair market value proposed in the Development Owner's appraisal, the Department may order another appraisal at the Development Owner's expense; or

(C) If the LURA requires valuation through the Minimum Purchase Price calculation, submit documentation verifying the calculation of the Minimum Purchase Price as described in subsection (b)(2) of this section regardless of any existing offer or appraised value;

(6) Description of the Property, including all amenities and current zoning requirements;

(7) Copies of all documents imposing income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Property;

(8) A current title commitment or policy not older than six months prior to the date of submission of the ROFR request;

(9) The most recent Physical Needs Assessment, pursuant to Tex. Gov't Code §2306.186(e) conducted by a Third-Party. If the PNA/SCR identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to proceed with a Right of First Refusal Request;

(10) Copy of the monthly operating statements, including income statements and balance sheets for the Property for the most recent 12 consecutive months (financial statements should identify amounts held in reserves);

(11) The three most recent consecutive annual operating statements (audited would be preferred);

(12) Detailed set of photographs of the Property, including interior and exterior of representative units and buildings, and the Property's grounds;

(13) Current and complete rent roll for the entire Property; and

(14) If any portion of the land or improvements is leased for other than residential purposes, copies of the commercial leases.

(d) Posting and offers. Within 30 business days of receipt of all required documentation, the Department will review the submitted documents and notify the Development Owner of any deficiencies. During that time, the Department will notify any Qualified Entity or as applicable any Qualified Nonprofit Organization identified by the Development Owner as having a contractual ROFR of the Development Owner's intent to sell. Once any deficiencies are resolved and the Development Owner and Department come to an agreement on the ROFR offer price of the Property, the Department will list the Property for sale on the Department's website and contact entities on the buyer list maintained by the Department to inform them of the availability of the Property at a price as determined under this section. The Department will notify the Development Owner when the Property has been listed. The ROFR posting period commences on the date the Property is posted for sale on the Department's website. During the ROFR posting period, a Qualified Nonprofit Organization or Qualified Entity can submit an offer to purchase as follows:

(1) if the LURA requires a 90 day ROFR posting period with no priority for any particular kind of Qualified Nonprofit Organization or tenant organization, any Qualified Nonprofit Organization or tenant organization may submit an offer to purchase the property.

(2) If the LURA requires a two year ROFR posting period, a Qualified Nonprofit Organization may submit an offer to purchase the Property as follows:

(A) During the first six months of the ROFR posting period, only a Qualified Nonprofit Organization that is a Community Housing Development Organization (CHDO) under 24 CFR Part 92, or that is 100% owned by a CHDO, as approved by the Department, may submit an offer;

(B) During the next six months of the ROFR posting period, only a Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or that is 100% owned by Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or a tenant organization may submit an offer; and

(C) During the final 12 months of the ROFR posting period, any Qualified Nonprofit Organization may submit an offer.

(3) If the LURA requires a 180-day ROFR posting period a Qualified Entity may submit an offer to purchase the Property as follows:

(A) During the first 60 days of the ROFR posting period, only a Qualified Entity that is a CHDO under 24 CFR Part 92, or that is controlled by CHDO, as approved by the Department, may submit an offer;

(B) During the second 60 days of the ROFR posting period, only a Qualified Entity as described by Tex. Gov't Code §2306.6706, or that is controlled by Qualified Entity as described by Tex. Gov't Code §2306.6706, or a tenant organization such may submit an offer;

(C) During the final 60 days of the ROFR posting period, any Qualified Entity may submit an offer.

(4) If the LURA does not specify a required ROFR posting timeframe, or, is unclear on the required ROFR posting timeframe, and the required ROFR value is determined by the Minimum Purchase Price method, any Development that received a tax credit allocation prior to September 1, 1997, is required to post for a 90-day ROFR period and any Development that received a tax credit allocation on or after September 1, 1997, and until September 1, 2015, is required to post for a two year ROFR, unless the LURA is amended under §10.405(b), or after September 1, 2015 is required to post for a 180-day ROFR period as described in Tex. Gov't Code, §2306.6726.

(e) Acceptance of offers. A Development Owner may accept or reject any offer received during the ROFR posting period; provided however, that to the extent the LURA gives priority to certain classifications of Qualified Nonprofit Organizations or Qualified Entities to make offers during certain portions of the ROFR posting period, the Development Owner can only negotiate a purchase contract with such classifications of entities during their respective periods. For example, during the CHDO priority period, the Development Owner may only accept an offer from and enter into negotiations with a Qualified Nonprofit Organization or Qualified Entity in that classification. A property may not be transferred under the ROFR process for less than the Minimum Purchase Price, but if the sequential negotiation created by statute yields a higher price, the higher price is permitted.

(f) Satisfaction of ROFR.

(1) A Development Owner that has posted a Property under the ROFR process is deemed to have satisfied the ROFR requirements in the following circumstances:

(A) The Development Owner does not receive any bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(B) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(C) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation

Review process pursuant to Chapter 1, Subchapter C of this title (relating to Previous Participation), and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(D) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period at or above the posted ROFR offer price; or

(2) A Development Owner with a LURA that identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR will satisfy the ROFR if:

(A) The identified beneficiary is in existence and conducting business;

(B) The Development Owner offers the Development to the identified beneficiary pursuant to the terms of the ROFR;

(C) If the ROFR includes a priority for a certain type of Qualified Entity (such as a CHDO) to have the first opportunity make an offer to acquire the Development, the identified beneficiary meets such classification; and

(D) The identified entity declines to purchase the Development in writing, and such evidence is submitted to and approved by the Department.

(g) Non-Satisfaction of ROFR. A Development Owner that has posted a Property under the ROFR process does not satisfy the ROFR requirements in the following circumstances:

(1) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), and the Development Owner does not accept the offer;

(2) The LURA identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR, and such entity no longer exists or is no longer conducting business and the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers;

(3) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and then fails to accept any of such other offers;

(4) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, and such failure is determined to be the fault of the Development Owner;

(5) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title (relating to Previous Participation), the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers; or

(6) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation in), and the Development Owner fails to accept any of such offers.

(h) Activities Following ROFR.

(1) If a Development Owner satisfies the ROFR requirement pursuant to subsection (f)(1) - (2) of this section, it may request a Preliminary Qualified Contract (if such opportunity is available under §10.408) or proceed with the sale to an entity that is not a Qualified Nonprofit Organization or Qualified Entity at or above the ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation).

(2) Following notice that the ROFR requirement has been met, if the Development Owner does not post the Property for Qualified Contract in accordance with §10.408 or sell the Property to an entity that is not a Qualified Nonprofit Organization or Qualified Entity within 24 months of the Department's written indication that the ROFR has been satisfied, the Development Owner must follow the ROFR process for any subsequent transfer.

(3) If the Department determines that the ROFR requirement has not been met during the ROFR posting period, the Owner may not re-post under this provision at a ROFR offer price that is higher than the originally posted ROFR offer price until 24 months has expired from the Department's written indication that the ROFR has not been satisfied. The Development Owner may market the Property for sale and sell the Property to a Qualified Nonprofit Organization or Qualified Entity during this 24 month period in accordance with subsection (a)(1) of this section.

(i) Sale and closing.

(1) Prior to closing a sale of the Property, the Development Owner must obtain Department approval of the transfer through the ownership transfer process in accordance with §10.406 of this chapter (relating to Ownership Transfers (§2306.6713)). The request should include, among other required transfer documents outlined in the Post Award Activities Manual, the final settlement statement and final sales contract with all amendments.

(2) If the closing price is materially less than the ROFR offering price or the terms and conditions of the sale change materially from what was submitted in the ROFR posting, in the Department's sole determination, the Development Owner must go through the ROFR process again with a

revised ROFR offering price equal to the reduced closing price or adjusted terms and conditions based upon the revised terms, before disposing of the Property.

(j) Appeals. A Development Owner may appeal a staff decision in accordance with §11.902 of this title (relating to Appeals Process).

§10.408. Qualified Contract Requirements.

(a) General. Pursuant to §42(h)(6) of the Code, after the end of the 14th year of the Compliance Period, the Development Owner of a Development utilizing Housing Tax Credits can request that the allocating agency find a buyer at the Qualified Contract Price. If a buyer cannot be located within one year, the Extended Use Period will expire. This section provides the procedures for the submittal and review of a Qualified Contract Request.

(b) Eligibility. Development Owners who received an award of credits on or after January 1, 2002, are not eligible to request a Qualified Contract prior to the 30 year anniversary of the date the property was placed in service (§2306.185); if the property's LURA indicates a commitment to an Extended Use Period beyond 30 years, the Development Owner is not eligible to request a Qualified Contract until the expiration of the Extended Use Period. Development Owners awarded credits prior to 2002 may submit a Qualified Contract Request at any time after the end of the year preceding the last year of the Initial Affordability Period, provided it is not precluded by the terms of the LURA, following the Department's determination that the Development Owner is eligible. The Initial Affordability Period starts concurrently with the credit period, which begins at placement-in-service or is deferred until the beginning of the next tax year, if there is an election. Unless the Development Owner has elected an Initial Affordability Period longer than the Compliance Period, as described in the LURA, this can commence at any time after the end of the 14th year of the Compliance Period. References in this section to actions which can occur after the 14th year of the Compliance Period shall refer, as applicable, to the year preceding the last year of the Initial Affordability Period, if the Development Owner elected an Initial Affordability Period longer than the Compliance Period.

(1) If there are multiple buildings placed in service in different years, the end of the Initial Affordability Period will be based upon the date the last building placed in service. For example, if five buildings in the Development began their credit periods in 2005 and one began in 2006, the 15th year would be 2020.

(2) If a Development received an allocation in multiple years, the end of the Initial Affordability Period will be based upon the last year of a multiple allocation. For example, if a Development received its first allocation in 2004 and a subsequent allocation and began the credit period in 2006, the 15th year would be 2020.

(c) Preliminary Qualified Contract Request. All eligible Development Owners must file a Preliminary Qualified Contract Request.

(1) In addition to determining the basic eligibility described in subsection (b) of this section, the pre-request will be used to determine that:

(A) The Development does not have any uncorrected issues of noncompliance outside the corrective action period;

(B) There is a Right of First Refusal (ROFR) connected to the Development that has been satisfied;

(C) The Compliance Period under the LURA has expired; and

(2) In order to assess the validity of the pre-request, the Development Owner must submit:

(A) Preliminary Request Form;

(B) Qualified Contract Pre-Request fee as outlined in §11.901 of this title (relating to Fee Schedule);

(C) Copy of all regulatory agreements or LURAs associated with the Property (non-TDHCA);

(D) Copy of a Physical Needs Assessment, conducted by a Third Party, that is no more than 12 months older than the request date. If the PNA identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to submit a Qualified Contract Request.

(3) The pre-request will not bind the Development Owner to submit a Request and does not start the One Year Period (1YP). A review of the pre-request will be conducted by the Department within 90 days of receipt of all documents and fees described in paragraph (2) of this subsection. If the Department determines that this stage is satisfied, a letter will be sent to the Development Owner stating that they are eligible to submit a Qualified Contract (QC) Request.

(d) Qualified Contract Request. A Development Owner may file a QC Request any time after written approval is received from the Department verifying that the Development Owner is eligible to submit the Request.

(1) Documentation that must be submitted with a Request is outlined in subparagraphs (A) - (P) of this paragraph:

(A) A completed application and certification;

(B) The Qualified Contract price calculation worksheets completed by a licensed Third-Party certified public accountant (CPA). The CPA shall certify that they have reviewed annual partnership tax returns for all years of operation, loan documents for all secured debt, and partnership agreements. They shall also certify that they are not being compensated for the assignment based upon a predetermined outcome;

(C) A thorough description of the Development, including all amenities;

(D) A description of all income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Development;

(E) A current title report;

(F) A current appraisal with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy);

(G) A current Phase I Environmental Site Assessment (and Phase II, if necessary) with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy);

(H) A copy of the most recent Physical Needs Assessment of the property conducted by a Third Party, if different from the assessment submitted during the preliminary qualified contract request, consistent with Chapter 11, Subchapter D of this title;

(I) A copy of the monthly operating statements for the Development for the most recent 12 consecutive months;

(J) The three most recent consecutive annual operating statements (audited would be preferred) for the Development;

(K) A detailed set of photographs of the Development, including interior and exterior of representative units and buildings, and the property's grounds;

(L) A current and complete rent roll for the entire Development;

(M) A certification that all tenants in the Development have been notified in writing of the request for a Qualified Contract. A copy of the letter used for the notification must also be included;

(N) If any portion of the land or improvements is leased, copies of the leases;

(O) The Qualified Contract Fee as identified in §11.901 of this title (relating to Fee Schedule); and

(P) Additional information deemed necessary by the Department.

(2) Unless otherwise directed by the Department pursuant to subsection (g) of this section, the Development Owner shall contract with a broker to market and sell the Property. The fee for this service will be paid by the seller.

(3) Within 90 days of the submission of a complete Request, the Department will notify the Development Owner in writing of the acceptance or rejection of the Development Owner's QC Price calculation. The Department will have one year from the date of the acceptance letter to find a Qualified Purchaser and present a QC. The Department's rejection of the Development Owner's QC Price calculation will be processed in accordance with subsection (e) of this section and the 1YP will commence as provided therein.

(e) Determination of Qualified Contract Price. The QC Price calculation is not the same as the Minimum Purchase Price calculation for the ROFR. The CPA contracted by the Development Owner will determine the QC Price in accordance with §42(h)(6)(F) of the Code taking the following into account:

(1) Outstanding indebtedness secured by, or with respect to, the building;

(2) Distributions to the Development Owner of any and all cash flow, including incentive management fees, capital contributions not reflected in outstanding indebtedness or adjusted investor equity, and reserve balance distributions or future anticipated distributions, but

excluding payments of any eligible deferred developer fee. These distributions can only be confirmed by a review of all prior year tax returns for the Development;

(3) All equity contributions will be adjusted based upon the lesser of the consumer price index or 5% for each year, from the end of the year of the contribution to the end of year fourteen or the end of the year of the request for a QC Price if requested at the end of the year or the year prior if the request is made earlier than the last year of the month; and

(4) These guidelines are subject to change based upon future IRS Rulings and/or guidance on the determination of Development Owner distributions, equity contributions and/or any other element of the QC Price.

(f) Appeal of Qualified Contract Price. The Department reserves the right, at any time, to request additional information to document the QC Price calculation or other information submitted. If the documentation does not support the price indicated by the CPA hired by the Development Owner, the Department may engage its own CPA to perform a QC Price calculation and the cost of such service will be paid for by the Development Owner. If a Development Owner disagrees with the QC Price calculated by the Department, a Development Owner may appeal in writing in accordance with §11.901(5) of this title (relating to Fee Schedule). A meeting will be arranged with representatives of the Development Owner, the Department and the CPA contracted by the Department to attempt to resolve the discrepancy. The 1YP will not begin until the Department and Development Owner have agreed to the QC Price in writing. Further appeals can be submitted in accordance with §11.902 of this title (relating to Appeals Process (§2306.0321; §2306.6715)).

(g) Marketing of Property. By submitting a Request, the Development Owner grants the Department the authority to market the Development and provide Development information to interested parties. Development information will consist of pictures of the Development, location, amenities, number of Units, age of building, etc. Development Owner or broker contact information will also be provided to interested parties. The Development Owner is responsible for providing staff any requested information to assist with site visits and inspections. Marketing of the Development will continue until such time that a Qualified Contract is presented or the 1YP has expired. Notwithstanding subsection (d)(2) of this section, the Department reserves the right to contract directly with a Third Party in marketing the Development. Cost of such service, including a broker's fee, will be paid for by the existing Development Owner. The Department must have continuous cooperation from the Development Owner. Lack of cooperation will cause the process to cease and the Development Owner will be required to comply with requirements of the LURA for the remainder of the Extended Use Period. Responsibilities of the Development Owner include but are not limited to the items described in paragraphs (1) - (3) of this subsection. The Development Owner must:

- (1) Allow access to the Property and tenant files;
- (2) Keep the Department informed of potential purchasers; and
- (3) Notify the Department of any offers to purchase.

(h) Presentation of a Qualified Contract. If the Department finds a Qualified Purchaser willing to present an offer to purchase the property for an amount at or above the QC Price, the Development Owner may accept the offer and enter into a commercially reasonable form of earnest money agreement or other contract of sale for the property and provide a reasonable time for necessary due diligence and closing of the purchase. If the Development Owner chooses not to accept the QC offer that the Department presents, the QC request will be closed and the possibility of terminating the Extended Use Period through

the Qualified Contract process is eliminated; the Property remains bound by the provisions of the LURA for the remainder of the Extended Use Period. If the Development Owner decides to sell the development for the QC Price pursuant to a QC, the purchaser must complete all requirements of an ownership transfer request and be approved by the Department prior to closing on the purchase, but the consummation of such a sale is not required for the LURA to continue to bind the Development for the remainder of the Extended Use Period.

(1) The Department will attempt to procure a QC only once during the Extended Use Period. If the transaction closes under the contract, the new Development Owner will be required to fulfill the requirements of the LURA for the remainder of the Extended Use Period.

(2) If the Department fails to present a QC before the end of the 1YP, the Department will file a release of the LURA and the Development will no longer be restricted to low-income requirements and compliance. However, in accordance with §42(h)(6)(E)(ii) of the Code, for a three year period commencing on the termination of the Extended Use Period, the Development Owner may not evict or displace tenants of Low-Income Units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credit rents. Additionally, the Development Owner should submit to the Department a request to terminate the LURA and evidence, in the form of a signed certification and a copy of the letter, to be approved by the Department, that the tenants in the Development have been notified in writing that the LURA will be terminated and have been informed of their protections during the three year time frame.

(3) Prior to the Department filing a release of the LURA, the Development Owner must correct all instances of noncompliance at the Development.

(i) Compliance Monitoring during Extended Use Period. For Developments that continue to be bound by the LURA and remain affordable after the end of the Compliance Period, the Department will monitor in accordance with the applicable requirements in Subchapters F and G of this chapter (relating to Uniform Multifamily Rules).