BOARD BOOK
OF
December 9, 2021

Leo Vasquez III, Chair

Paul Braden, Vice-Chair

Sharon Thomason, Member

Ajay Thomas, Member

Brandon Batch, Member

Kenny Marchant, Member

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT**

Fiscal Year 2021 (September 1, 2020, through August 31, 2021)

Owner Financing and Down Payment

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

Programs:

- Single Family Homeownership

Expended Funds: $2,441,964,228
Total Households Served: 12,253

Energy Related Assistance

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

Programs:

- Comprehensive Energy Assistance Program (CEAP)
    - Weatherization Assistance Program (WAP) , Expended Funds: $169,004,773

Total Households Served: 189,728

Multifamily New Construction

- Affordable rental units financed and developed

Programs:

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

Expended Funds: $146,034,415
Total Households Served: 7,950

Homelessness Services

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

Programs:

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

Expended Funds: $38,053,940
Total Individuals Served: 58,165

Multifamily Rehab Construction

- Affordable rental units financed and rehabilitated

Programs:

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

Expended Funds: $145,469,775
Total Households Served: 5,014

Supportive Services

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

Program:

- Community Services Block Grant Program (CSBG)

Expended Funds: $68,214,082
Total Individuals Served: 460,743

Owner Rehabilitation Assistance

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

Programs:

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

Expended Funds: $12,626,844

- Total Households Served: 211

Rental Assistance

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

Programs:

- Tenant-Based Rental Assistance (TBRA)*
- Section 8 Housing Choice Vouchers
- Section 811

Expended Funds: $26,014,486
Total Households Served: 4,821

Single Family Development

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

Programs:

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

Expended Funds: $2,234,286
Total Households Served: 49

Total Expended Funds: 3,070,372,721
Total Households Served: 741,982

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

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

** Administered through the federally funded HOME Investment Partnerships Program*
*** Does not include federal pandemic response funds*

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
GOVERNING BOARD MEETING

A G E N D A
9:00 AM
December 9, 2021

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

CALL TO ORDER
ROLL CALL **Leo Vasquez, Chair**
CERTIFICATION OF QUORUM

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

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

Resolution recognizing December 21, 2021, as National Homeless Persons' Memorial Day

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 November 10, 2021 — **Beau Eccles**, Board Secretary

ASSET MANAGEMENT

b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application — **Rosalio Banuelos**, Director of Asset Management

18018	Columbia Renaissance Square II Senior	Fort Worth
20077	Lockwood South	Houston
20419	Woodway Village Apartments	Austin
20449	EMLI at Pecan Creek	Aubrey

BOND FINANCE

c) Presentation, discussion, and possible action on Inducement Resolution No. 22-011 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for The Reserves (#22605) in Seagoville — **Teresa Morales**, Director of Multifamily Bonds

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

d) Presentation, discussion, and possible action on Resolution No. 22-012 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject — **Monica Galuski**, Director of Bond Finance

RULES

e) Presentation, discussion, and possible action on an order adopting the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool; and an order directing its publication in the Texas Register — **Brooke Boston**, Deputy Director of Programs

f) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; and directing their publication in the Texas Register

g) Presentation, discussion, and possible action on the draft 2022 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 — **Elizabeth Yevich**, Director Housing Resource Center

h) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; proposing new 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; and directing their publication for public comment in the Texas Register — **Monica Galuski**, Director of Bond Finance

i) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 28, Taxable Mortgage Program; proposing new 10 TAC Chapter 28, Taxable Mortgage Program; and directing their publication for public comment in the Texas Register

j) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and directing its publication for adoption in the Texas Register — **Abigail Versyp**, Director of Single Family and Homeless Programs

k) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and directing their publication for adoption in the Texas Register

l) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, and directing its publication for adoption in the Texas Register

m) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 25, Colonia Self-Help Center Rule, and directing its publication for adoption in the Texas Register

n) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 26, Texas Housing Trust Fund Rule, and directing its publication for adoption in the Texas Register

MULTIFAMILY FINANCE

o) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(8)(B) relating to visitability requirements associated with Franklin Place (#21468) and Mesa Place (#21469) — **Teresa Morales**, Director of Multifamily Bonds

p) Presentation, discussion, and possible action regarding the approval for publication in the Texas Register of the 2022-1 Multifamily Direct Loan Notice of Funding Availability — **Charlotte Flickinger**, Multifamily Direct Loan Manager

q) Presentation, discussion, and possible action regarding a Material Amendment of the Housing Tax Credit Application for The Palms at Blucher Park (HTC #21186) — **Cody Campbell**, Director of Multifamily Programs

r) Presentation, discussion, and possible action to adopt the 2022 Multifamily Programs Application Procedures Manual

COMMUNITY AFFAIRS

s) Presentation, discussion, and possible action regarding authorization to release a Notice of Funding Availability for 2022 Community Services Block Grant Discretionary funds for education and employment initiatives for Native American and migrant seasonal farm worker populations — **Michael De Young**, Director of Community Affairs

LEGAL

t) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning related properties Villa Elaina (HTF 853338 / CMTS 4210) and The Cornerstone (HTF 1000358 / CMTS 4319) — **Jeff Pender**, Deputy General Counsel

u) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Mission Pointe Club f/k/a Country Villa (HTC 91040 / CMTS 958)

TEXAS HOMEOWNERSHIP

v) Presentation, discussion, and possible action on the Participating Lender List for the Single Family Mortgage Loan and Mortgage Credit Certificate Programs — **Cathy Gutierrez**, Director of Texas Homeownership

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) Media Analysis and Outreach Report (October 2021) — **Michael Lyttle**, Director of External Affairs

b) Report on Activities Related to the Department's Response to COVID-19 Pandemic — **Brooke Boston**, Deputy Director of Programs

c) Report on the outcomes of the HUD Fair Housing Initiatives Program Grant — **Elizabeth Yevich**, Director Housing Resource Center

d) Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund — **Joe Guevara**, Director of Financial Administration

ACTION ITEMS

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions[1] — **Leo Vasquez**, Chair

ITEM 3: EXECUTIVE

Executive Director's Report — **Bobby Wilkinson**, Executive Director, TDHCA

ITEM 4: INTERNAL AUDIT

a) Report on the meeting of the Internal Audit and Finance Committee — **Ajay Thomas**, Chair of Audit and Finance Committee

b) Presentation, discussion, and possible approval of the Annual Internal Audit Plan for Fiscal Year 2022 — **Mark Scott**, Director of Internal Audit

ITEM 5: HOME AMERICAN RESCUE PLAN

Presentation, discussion and possible action on approval of a Draft HOME-ARP Plan to be released for public comment and to release Notices of Funding Availability after Plan acceptance — **Naomi Cantu**, Director of HOME ARP

ITEM 6: BOND FINANCE

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

a) Presentation, discussion, and possible action on Resolution No. 22-013 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Residential Mortgage Revenue Bonds, Series 2022A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject — **Monica Galuski**, Director of Bond Finance

b) Quarterly report relating to staff-issued Determination Notices for 2021 Non-competitive 4% Housing Tax Credit applications and summary of year-end activity — **Teresa Morales**, Director of Multifamily Bonds

ITEM 7: HOMEOWNER ASSISTANCE FUND

Presentation, discussion, and possible action on delegation of authority to the Department's Executive Director or designee to make up to $8.5 million in awards to eligible organizations to provide outreach and application intake assistance for the Homeowner Assistance Fund — **Monica Galuski**, Director of Bond Finance

ITEM 8: MULTIFAMILY FINANCE

a) Presentation, discussion, and possible action on a waiver of certain amenity requirements in 10 TAC §11.101(b)(4) (Commons at St. Anthony's Application #20042 (HTC) and #21506 (MFDL)) — **Cody Campbell**, Director of Multifamily Programs

b) Presentation, discussion, and possible action on timely filed appeal of allocation procedures for 2022 supplemental Housing Tax Credits

c) Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-1 Notice of Funding Availability (NOFA), as amended — **Charlotte Flickinger**, Multifamily Direct Loan Manager

21515 Southton Apartments

d) Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended

21502 Lockwood South
21510 Avanti at Viking Hills
21512 Dallas Stemmons
21521 Palladium W. Francis

ITEM 9: COMMUNITY AFFAIRS

a) Presentation, discussion, and possible action regarding the adoption of a final order concerning termination of CEAP and CSBG funding and contracts, and CEAP Provider and CSBG Eligible Entity status, of Galveston County Community Action Council, Inc. (SOAH Docket #332-21-2743.HCA) — **Michael De Young**, Director of Community Affairs

b) Presentation, discussion, and possible action on the selection of subrecipients to administer the Low Income Home Energy Assistance Program Comprehensive Energy Assistance Program in Brazoria, Fort Bend, Galveston, and Wharton counties (the service area previously served by Galveston County Community Action Council, Inc.)

c) Presentation, discussion, and possible action regarding authorization to proceed with the procurement of a statewide weatherization provider to support the Weatherization Assistance Program in the provision of home weatherization assistance to low income Texans, and authorization, if necessary, to amend the 2021 DOE WAP State Plan and the 2022 LIHEAP State Plan to effectuate the procurement of a statewide WAP provider and submit such amended Plans to the U.S. Department of Energy and U.S. Department of Health and Human Services

d) Presentation, discussion, and possible action regarding authorization to proceed with the procurement of a statewide Community Energy Assistance Program and Low

Income Household Water Assistance Program provider to support subrecipients in the provision of utility assistance to low income Texans, and authorization to amend the 2022 LIHEAP State Plan and the LIHWAP State Plan to effectuate the procurement of a statewide CEAP and LIHWAP provider and submit such amended Plans to the U.S. Department of Health and Human Services

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

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

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

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

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

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

OPEN SESSION

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

ADJOURN

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Kathleen Vale Castillo, 512-475-4144, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Kathleen Vale Castillo, al siguiente número 512-475-4144 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

Texas Department of Housing and Community Affairs
RESOLUTION

WHEREAS, more than 27,000 persons experiencing homelessness were counted in Texas on one day during the last two weeks of January 2020, including more than 1,400 unaccompanied homeless youth, as measured by the 2020 Annual Homeless Assessment Report;

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) awards state and federal funds to assist nonprofits and local governments in aiding persons affected by homelessness;

WHEREAS, the Department's homeless programs assisted more than 58,000 persons in State Fiscal Year 2021;

WHEREAS, the Department awarded more than $148 million in state-funded Homeless Housing and Services Program funds, federally-funded Emergency Solutions Grants annual and CARES Act funds, federally-funded Housing Stability Services funds under the Emergency Rental Assistance Program, and the donation-based Ending Homelessness Fund in State Fiscal Year 2021;

WHEREAS, the Department recognizes the perseverance of persons volunteering or working to alleviate homelessness;

WHEREAS, the Department recognizes the struggle of persons striving to end their homelessness and those who have lost their lives while experiencing homelessness; and

WHEREAS, December 21, 2021, is National Homeless Persons' Memorial Day, which annually falls on the first day of winter and the longest night of the year;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby commemorate December 21, 2021, as Homeless Persons' Memorial Day in Texas.

Signed this Ninth Day of December 2021.

Leo Vasquez, Chair

Paul A. Braden, Vice Chair

Brandon Batch, Member

Kenny Marchant, Member

Ajay Thomas, Member

Sharon Thomason, Member

Bobby Wilkinson, Executive Director

CONSENT AGENDA

1a

BOARD ACTION REQUEST

BOARD SECRETARY

DECEMBER 9, 2021

Presentation, discussion, and possible action on the Board meeting minutes summary for November 10, 2021

RECOMMENDED ACTION

Approve the Board meeting minutes summary for November 10, 2021

RESOLVED, that the Board meeting minutes summary for November 10, 2021, is hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
November 10, 2021

On Wednesday, the tenth day of November 2021, at 9:05 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held in Room JHR 140 of the John H. Reagan Building, 1400 Congress Avenue, Austin, Texas.

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

- Leo Vasquez, III, Chair
- Brandon Batch
- Kenny Marchant
- Ajay Thomas

Mr. Vasquez served as Chair, and James "Beau" Eccles, TDHCA General Counsel, served as Secretary.

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

2) Action Item 3 -- Executive Director's Report – was presented by Bobby Wilkinson, TDHCA Executive Director. The Board heard the report and took no action.

3) Action Item 4(a) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Meadowbrook Apartments) Series 2021 Resolution No. 22-009 and a Determination Notice of Housing Tax Credits – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to issue a determination notice of 4 percent tax credits for Meadowbrook Apartments and approve Resolution No. 22-009 regarding the issuance of tax-exempt multifamily housing revenue bonds as referenced in the item.

4) Action Item 4(b) – Presentation, discussion, and possible action regarding the Issuance of a Governmental Note (Fiji Lofts) Resolution No. 22-010 and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales. The Board unanimously approved staff recommendation to issue a determination notice of 4 percent housing tax credits for Fiji Lofts and approve Resolution No. 22-010 regarding the issuance of a tax-exempt unrated governmental note as referenced in the item.

5) Action Item 5 – Presentation, discussion, and possible action on an order approving and recommending to the Governor the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and an order approving and recommending to the Governor in accordance with Tex. Gov't Code §2306.6724(b) the new 10 TAC Chapter 11

concerning the Housing Tax Credit Program Qualified Allocation Plan, and, upon action by the Governor, directing its publication in the Texas Register – was presented by Brooke Boston, TDHCA Deputy Executive Director of Programs, with additional information from Mr. Wilkinson, Mr. Eccles, and Ms. Morales.

Following public comment (listed below), the Board voted unanimously to approve the repeal of 10 TAC Chapter 11 and approve the adoption of the new 10 TAC Chapter 11, as presented at the meeting, including the changes from referenced in testimony by Ms. Boston; moved that the executive director or his designees conform the rules to any changes to federal law or regulation upon their becoming law; and, the Qualified Allocation Plan, together with any changes, be delivered to the governor by November 15, 2021, all as expressed and subject to the conditions reference in the item.

- Michael Lyttle, TDHCA Director of External Affairs, read a letter into the record from the Honorable Jose Menendez, Texas State Senator, District 26, in opposition to staff recommendation
- Janine Sisak, DMA Development, testified in opposition to staff recommendation
- Lora Myrick, BETCO Consulting, testified in opposition to staff recommendation
- Tim Alcott, San Antonio Housing Authority, provided comments on the item
- Audrey Martin, Purple Martin Real Estate, testified in opposition to staff recommendation
- Tracey Fine, National Church Residences, provided comments on the item
- Walter Moreau, Foundation Communities, testified in support of staff recommendation
- Robbye Meyer, ARX Advantage, provided comments on the item
- Jason Arechiga, NRP Group, testified in opposition to staff recommendation
- Jennifer Hicks, Tru Casa Consulting, provided comments on the item
- Kathryn Saar, Brownstone Group, testified in opposition to staff recommendation
- Henry Flores, Madhouse Development, testified in opposition to staff recommendation
- Donna Rickenbacker, Marque Development, testified in opposition to staff recommendation
- Dennis Hoover, Rural Rental Housing Association of Texas, provided comments on the item
- Bobby Bowling, Tropicana Properties, testified in support of staff recommendation
- Sallie Burchett, Structure Development, provided comments on the item
- Emily Abeln, New Hope Housing, testified in opposition to staff recommendation
- Joe Pollock, Streamline Advisory Partners, provided comments on the item

6) Action Item 6(a) – Presentation, discussion, and possible action on Awards of Multifamily Direct Loan Funds from the 2021-3 Multifamily Direct Loan Notice of Funding Availability – was presented by Charlotte Flickinger, TDHCA Multifamily Direct Loan Manager. The Board unanimously approved staff recommendation to make an award of National Housing Trust Funds to Brenham Trails from the general set-aside of 2021-3 NOFA; adopt the prior previous

participation review; find that the deadline to sign a contract with the Department is July 29, 2022; and, all as expressed and subject to the conditions referenced in the item.

7) Action Item 6(b) – Presentation, discussion and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Application 18235 Memorial Apartments in McAllen – was presented by Cody Campbell, TDHCA Director of Multifamily Finance. The Board unanimously approved staff recommendation to approve the requested return and allocation of tax credits under the force majeure rule for Memorial Apartments in McAllen, as expressed and conditioned in the item, with the amendment that the date of the in-service date be moved up to December 31, 2022.

8) Action Item 6(c) – Presentation, discussion, and possible action regarding the issuance of a Determination Notice for Torrey Chase Apartments (#21463) in the Houston ETJ – was presented by Ms. Morales. The Board unanimously approved staff recommendation to issue a determination of 4 percent housing tax credits for Torrey Chase Apartments, subject to the Real Estate Analysis report and compliance conditions, all as expressed in the item.

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

There being no further business to come before the Board, the meeting adjourned at 11:18 a.m. The next meeting is set for Thursday, December 9, 2021.

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Secretary

Approved:

____

Chair

1b

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Columbia Renaissance Square II Senior (HTC #18018)

RECOMMENDED ACTION

WHEREAS, Columbia Renaissance Square II Senior (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2018 for the new construction of 120 multifamily units, of which 96 are HTC units, in Fort Worth, Tarrant County;

WHEREAS, Columbia Renaissance Square II, LP (the Development Owner or Owner) requests approval for a material amendment to the Application for an increase to the number of units by three, for a total of 123, increasing the net rentable area from 94,992 square feet to 97,943 square feet, and changing the designation of the target population from Elderly Preference to Elderly Limitation due to the loss of previously anticipated rent vouchers;

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 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 funding awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested amendment for Columbia Renaissance Square II Senior 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

Columbia Renaissance Square II Senior received a 9% HTC award in 2018 to construct 120 units (96 HTC and 24 Market units) in Fort Worth, Tarrant County. In a letter dated August 25, 2021, Sarah Andre, representative for the Owner, requested approval for various items.

The Owner requests approval for the addition of three units, increasing the total unit count from 120 units to 123 units, with 96 HTC units and 27 market rate units. However, the Owner stated the three additional one-bedroom units will not be rented. Two of the new units will be used for hospitality, and the other unit will be used as a model. The increase in the number of units results in a 2.5% increase in the residential density, which will increase from 26.34 units per acre to 27.00 units per acre. This change in density does not rise to the level of a material amendment to the Application. This change in the number of units will result in an increase in net rentable area from 94,992 SF at application to 97,943 SF, which is an increase of 3.1% or 2,951 SF. The table below is a comparison of the information submitted at Application and with this amendment request:

Material Alterations as defined in Tex. Gov't Code §2306.6712(d) and 10 TAC §10.405(a)(4)							
Application				**Amendment**			
Original Unit Mix				**Revised Unit Mix**			
BR/BA	S.F./Unit	No. of Units	NRA	**BR/BA**	**S.F./Unit**	**No. of Units**	**NRA**
1/1	714	2	1,428	**1/1**	**731**	**5**	**3,655**
1/1	744	94	69,936	**1/1**	**745**	**82**	**61,090**
1/1	984	18	17,712	**1/1**	**776**	**9**	**6,984**
2/2	986	6	5,916	**1/1**	**786**	**1**	**786**
Totals:		120	94,992	**1/1**	**864**	**2**	**1,728**
				2/1	**984**	**12**	**11,808**
				2/1	**986**	**8**	**7,888**
				2/1	**1,001**	**4**	**4,004**
						123	**97,943**

The revised Development plan continues to meet accessibility requirements.

The Owner also requests to change the designation of the target population from Elderly Preference to Elderly Limitation. At the time of application, the Owner anticipated receiving vouchers from the local housing authority that required the use of the Elderly Preference designation. However, those vouchers never materialized, and the designation is changing to Elderly Limitation. In addition, the Rental Assistance Demonstration (RAD) designations are no longer reflected in the revised Rent Schedule.

The Owner provided updated financial information that has been analyzed by the Real Estate Analysis (REA) Division. REA's analysis of the updated financial information indicates that the Development is expected to remain feasible, and there is no change to the previously recommended HTC amount.

Staff has determined that the proposed changes noted above would not have impacted the scoring of the Application.

Staff recommends approval of the amendment request as presented herein.

Real Estate Analysis Division
November 23, 2021

Addendum to Underwriting Report

TDHCA Application #: **18018** Program(s): **9% HTC**

Columbia Renaissance Square II Senior

Address/Location: Approx 2801 Moresby St

City: Fort Worth County: Tarrant Zip: 76105

	APPLICATION HISTORY
Report Date	**PURPOSE**
11/23/21	**Amendment**
07/20/18	Initial Underwriting

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

CONDITIONS STATUS

1 Receipt and acceptance by Commitment:

a: Receipt of MAP Invitation Letter for FHA loan, or letter from Lender indicating the date that the HUD concept meeting was held, and confirmation that based on that meeting the Lender intends to proceed with submitting the application to HUD.

Status: Satisfied

b: A revised term sheet from permanent lender that acknowledges Supportive Services pursuant to §10.302(d)(2)(K)(ii)

Status: Satisfied

2 Receipt and acceptance by 10% test:

a: HUD approval of RAD conversion including a commitment to enter into the Housing Assistance

Status: **Vouchers/RAD not received. No longer applicable.**

b: Architect certification that the development plans incorporate mitigation measures sufficient to satisfy HUD Acceptable Separation Distance ("ASD") guidelines for thermal radiation related to Above Ground Storage Tanks (ASTs) tanks on adjacent properties.

Status: **The Part 58 Environmental investigation concluded that the ASTs were located outside of any area of concern. Therefore no mitigation measures are necessary. An excerpt from the Part 58 is provided as evidence.**

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

Status: **The Noise Study came back negative, meaning all noise was within acceptable levels.**

3 Receipt and acceptance by Cost Certification:

a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

Status: At 10% Test: The Noise Study came back negative, meaning all noise was within acceptable levels.

b: Architect certification that mitigation measures for HUD ASD guidelines were successfully implemented in the completion of the Development.

Status: At 10% Test: The Part 58 Environmental investigation concluded that the ASTs were located outside of any area of concern. Therefore no mitigation measures are necessary. An excerpt from the Part 58 is provided as evidence.

c: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	10
50% of AMI	50% of AMI	39
60% of AMI	60% of AMI	47

ANALYSIS

This transaction has already closed. Due to the loss of RAD vouchers, the Applicant had to restructure the financing, which includes an $800k increase in the City of Fort Worth HOME loan, a smaller conventional (non-FHA) senior loan at a higher interest rate, and equity at $0.01 less credit price. The financing now includes a $500k sponsor loan to bridge the gap. Higher 2021 rents help offset the changes in financing.

The applicant is requesting an amendment to change the designation from "Elderly Preference" to "Elderly Limitation." Without the vouchers, this property will be considered "Elderly Limitation" restricting tenants' eligible age to 55 instead of age 62; this amendment will also help with lease-up since more people will age qualify.

A second part to the amendment is a design change. The original design of the building included a two-story vaulted atrium in the entry area that has been converted into three one-bedroom units: two hospitality suites (a place for a visiting family to stay) and one model unit for leasing. They are designated as market units with no revenue assumed.

This property is already constructed and in lease-up, therefore the final construction contract is used for cost.

Original credit recommendation of $1,500,000 in annual credits is still supported.

Manager of Real Estate Analysis: *Jeanna Adams*

Director of Real Estate Analysis: *Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Columbia Renaissance Square II Senior, Fort Worth, 9% HTC #18018

LOCATION DATA	
CITY:	Fort Worth
COUNTY:	Tarrant
Area Median Income	$80,800
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	30%	10	8.1%
1	99	80.5%	0	0	40%	-	0.0%
2	24	19.5%	0	0	50%	39	31.7%
3	-	0.0%	0	0	60%	47	38.2%
4	-	0.0%	0	0	MR	27	22.0%
TOTAL	**123**	**100.0%**	**-**	**-**	**TOTAL**	**123**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	77.60%
APP % Acquisition	3.39%
APP % Construction	9.00%
Average Unit Size	796 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		2018 Mrkt Analyst
TC 30%	$454	5	1	1	731	$454	$85	$369	$0	$0.50	$369	**$1,845**	**$1,845**	$369	$0.50	$0	$909	$1.24	$887
TC 30%	$454	3	1	1	745	$454	$85	$369	$0	$0.50	$369	**$1,107**	**$1,107**	$369	$0.50	$0	$909	$1.22	$887
TC 50%	$758	31	1	1	745	$758	$85	$673	$0	$0.90	$673	**$20,863**	**$20,863**	$673	$0.90	$0	$909	$1.22	$887
TC 60%	$909	38	1	1	745	$909	$85	$824	$0	$1.11	$824	**$31,312**	**$31,312**	$824	$1.11	$0	$909	$1.22	$887
MR		8	1	1	745	$0	$85		NA	$1.22	$909	**$7,272**	**$7,272**	$909	$1.22	NA	$909	$1.22	$887
MR		9	1	1	776	$0	$85		NA	$1.17	$909	**$8,181**	**$8,181**	$909	$1.17	NA	$909	$1.17	$887
MR		2	1	1	864	$0	$85		NA	$1.05	$909	**$1,818**	**$1,818**	$909	$1.05	NA	$909	$1.05	$887
TC 30%	$546	2	2	1	984	$546	$99	$447	$0	$0.45	$447	**$894**	**$894**	$447	$0.45	$0	$1,092	$1.11	$1,071
TC 50%	$910	8	2	1	984	$910	$99	$811	$0	$0.82	$811	**$6,488**	**$6,488**	$811	$0.82	$0	$1,092	$1.11	$1,071
TC 60%	$1,092	2	2	1	984	$1,092	$99	$993	$0	$1.01	$993	**$1,986**	**$1,986**	$993	$1.01	$0	$1,092	$1.11	$1,071
TC 60%	$1,092	7	2	1	986	$1,092	$99	$993	$0	$1.01	$993	**$6,951**	**$6,951**	$993	$1.01	$0	$1,092	$1.11	$1,071
MR		1	2	1	986	$0	$99		NA	$1.11	$1,092	**$1,092**	**$1,092**	$1,092	$1.11	NA	$1,092	$1.11	$1,071
MR		4	2	1	1,001	$0	$99		NA	$1.09	$1,092	**$4,368**	**$4,368**	$1,092	$1.09	NA	$1,092	$1.09	$1,071
MR	Hospitality Unit	1	1	1	745	$0	$85			$0.00	$0	**$0**	**$0**	$0	$0.00	NA			
MR	Hospitality Unit	1	1	1	745	$0	$85			$0.00	$0	**$0**	**$0**	$0	$0.00	NA			
MR	Model Unit	1	1	1	786	$0	$85			$0.00	$0	**$0**	**$0**	$0	$0.00	NA			
TOTALS/AVERAGES:		**123**			**97,943**				**$0**	**$0.96**	**$766**	**$94,177**	**$94,177**	**$766**	**$0.96**	**$0**	**$923**	**$1.16**	**$901**

ANNUAL POTENTIAL GROSS RENT:	**$1,130,124**	**$1,130,124**

STABILIZED PRO FORMA

Columbia Renaissance Square II Senior, Fort Worth, 9% HTC #18018

	STABILIZED FIRST YEAR PRO FORMA															
	COMPARABLES				APPLICANT				Original Underwriting		TDHCA				VARIANCE	
	Database		Tarrant County		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.96	$766	$1,130,124	**$1,058,616**	**$1,083,960**	$1,130,124	$766	$0.96		0.0%	$0
late fees, application fees, deposit fees							$15.12	$22,320	28,800							
Other							$4.39	$6,480	0							
Total Secondary Income							$19.51			28,800	$28,800	$19.51			0.0%	$0
POTENTIAL GROSS INCOME								$1,158,924	$1,087,416	$1,112,760	$1,158,924				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(86,919)	(81,556)	(83,457)	(86,919)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$1,072,005	$1,005,860	$1,029,303	$1,072,005				0.0%	$0
General & Administrative	$49,848	$405/Unit	$61,628	$501	3.25%	$0.36	$283	$34,825	$53,565	$48,498	$48,497.62	$394	$0.50	4.52%	-28.2%	(13,673)
Management	$46,464	4.3% EGI	49,573	$403	6.03%	$0.66	$525	$64,633	$60,352	$61,758	$64,320	$523	$0.66	6.00%	0.5%	313
Payroll & Payroll Tax	$152,502	$1,240/Unit	155,827	$1,267	16.79%	$1.84	$1,463	$180,000	$180,867	$181,088	$181,088	$1,472	$1.85	16.89%	-0.6%	(1,088)
Repairs & Maintenance	$85,821	$698/Unit	79,358	$645	9.33%	$1.02	$813	$100,000	$103,538	$72,000	$79,950	$650	$0.82	7.46%	25.1%	20,050
Electric/Gas	$28,268	$230/Unit	26,727	$217	2.71%	$0.30	$236	$29,000	$31,800	$26,727	$26,727	$217	$0.27	2.49%	8.5%	2,273
Water, Sewer, & Trash **Tenant Pays: WS**	$89,286	$726/Unit	43,105	$350	2.15%	$0.23	$187	$23,000	$23,000	$23,000	$23,000	$187	$0.23	2.15%	0.0%	-
Property Insurance	$34,212	$0.35 /sf	34,098	$277	3.73%	$0.41	$325	$40,000	$30,000	$33,378	$34,212	$278	$0.35	3.19%	16.9%	5,788
Property Tax (@ 100%) 2.784889	$91,236	$742/Unit	114,433	$930	10.26%	$1.12	$894	$110,000	$96,000	$113,578	$118,382	$962	$1.21	11.04%	-7.1%	(8,382)
Reserve for Replacements	$42,910	$349/Unit	18,233	$148	3.44%	$0.38	$300	$36,900	$36,000	$36,000	$36,900	$300	$0.38	3.44%	0.0%	-
Supportive Services			-	$0	1.03%	$0.11	$89	$11,000	$11,000	$11,000	$11,000	$89	$0.11	1.03%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	$0	0.45%	$0.05	$39	$4,800	$4,800	$3,840	$3,840	$31	$0.04	0.36%	25.0%	960
Security			-	$0	1.35%	$0.15	$118	$14,482	$8,100	$8,100	$14,482	$118	$0.15	1.35%	0.0%	-
License and Registration Fees			-	$0	0.42%	$0.05	$37	$4,518	$2,500	$2,500	$4,518	$37	$0.05	0.42%	0.0%	-
TOTAL EXPENSES					**60.93%**	**$6.67**	**$5,310**	**$ 653,158**	**$641,522**	**$621,467**	**$646,917**	**$5,259**	**$6.61**	**60.35%**	**1.0%**	**$ 6,241**
NET OPERATING INCOME ("NOI")					**39.07%**	**$4.28**	**$3,405**	**$418,847**	**$364,338**	**$407,836**	**$425,087**	**$3,456**	**$4.34**	**39.65%**	**-1.5%**	**$ (6,241)**
CONTROLLABLE EXPENSES							$2,982/Unit					$2,921/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Columbia Renaissance Square II Senior, Fort Worth, 9% HTC #18018

DEBT / GRANT SOURCES

	APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Original Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
	Cumulative DCR														Cumulative	
DEBT (Must Pay)	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
BBVA Compass	1.80	1.77	236,474	4.70%	35	15	$4,180,000	**$5,357,000**	**$5,357,000**	$4,180,000	15	35	4.70%	$243,636	1.72	19.2%
Fort Worth HFC	1.59	1.57	$31,048	2.00%	30	15	$700,000	**$700,000**	**$700,000**	$700,000	15	30	2.00%	$31,048	1.52	3.2%
City of Fort Worth HOME Loan	1.26	1.24	$69,474	1.00%	30	15	$1,800,000	**$1,000,000**	**$1,000,000**	$1,800,000	15	30	1.00%	$69,474	1.22	8.3%
			$336,996	**TOTAL DEBT / GRANT SOURCES**			**$6,680,000**			**$6,680,000**	**TOTAL DEBT SERVICE**			**$344,158**	1.22	30.8%
NET CASH FLOW	$88,091	$81,851								**APPLICANT**	**NET OPERATING INCOME**			**$418,847**	**$74,688**	**NET CASH FLOW**

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					Original Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
RBC Capital Markets	LIHTC Equity	64.9%	$1,500,000	0.94	$14,098,590	$14,248,575	$14,248,575	$14,098,590	$0.9399	$1,500,000	64.9%	$12,195	Previous Allocation
New Affordable Housing Partners, LLC	Deferred Developer Fees	2.0%	(42% Deferred)		$438,861	$327,935	$251,139	$438,861	(20% Deferred)		2.0%	**Total Developer Fee:**	**$2,225,000**
Sponsor Note		2.3%			$500,000			$500,000			2.3%		
Additional (Excess) Funds Req'd		0.0%						$0			0.0%		
TOTAL EQUITY SOURCES		69.2%			$15,037,451	$14,576,510	$14,499,714	$15,037,451			69.2%		
TOTAL CAPITALIZATION					**$21,717,451**	**$21,633,510**	**$21,556,714**	**$21,717,451**			**15-Yr Cash Flow after Deferred Fee:**		**$873,737**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					Original Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis										Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$9,362 / Unit	$1,151,500	$1,151,500	$1,151,500	$1,151,500	$9,362 / Unit				0.0%	$0
Acquisition Legal					$0	$50,000	$50,000	$0						$0
Off-Sites		$0		$624 / Unit	$76,741	$50,000	$50,000	$76,741	$624 / Unit		$0		0.0%	$0
Site Work		$498,915		$10,677 / Unit	$1,313,254	$1,625,000	$1,625,000	$1,228,395	$9,987 / Unit		$498,915		6.9%	$84,860
Site Amenities		$0		$5,167 / Unit	$635,480	$510,000	$510,000	$732,546	$5,956 / Unit		$0		-13.3%	($97,066)
Building Cost		$11,012,202	$112.72 /sf	$89,761/Unit	$11,040,589	$9,719,000	$9,521,322	$10,905,468	$88,662/Unit	$111.35 /sf	$10,905,468		1.2%	$135,121
Contingency		$0	0.00%	0.00%	$0	$810,950	$810,950	$0	0.00%	0.00%	$0		0.0%	$0
Contractor Fees		$1,611,556	14.00%	13.68%	$1,786,786	$1,771,193	$1,752,418	$1,909,700	13.80%	14.00%	$1,596,614		-6.4%	($122,914)
Soft Costs	0	$1,806,932		$17,714 / Unit	$2,178,761	$1,887,764	$1,887,764	$2,178,761	$17,714 / Unit		$1,806,932	$0	0.0%	$0
Financing	0	$384,334		$6,531 / Unit	$803,340	$933,451	$933,451	$803,340	$6,531 / Unit		$384,334	$0	0.0%	$0
Developer Fee	$0	$2,225,000	14.53%	13.19%	$2,225,000	$2,100,000	$2,100,000	$2,225,000	13.30%	14.65%	$2,225,000	$0	0.0%	$0
Reserves				$4,114 / Unit	$506,000	$1,024,652	$473,928	$486,653	$3,957 / Unit				4.0%	$19,347
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$17,538,939**		$176,565 / Unit	**$21,717,451**	**$21,633,510**	**$20,866,333**	**$21,698,104**	$176,407 / Unit		**$17,417,262**	**$0**	**0.1%**	**$19,347**
Acquisition Cost	$0				$0	$0								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			$0	$0								
Reserves					$0	($76,796)								
ADJUSTED BASIS / COST	**$0**	**$17,538,939**		$176,565/unit	**$21,717,451**	**$21,556,714**	**$20,866,333**	**$21,698,104**	$176,407/unit		**$17,417,262**	**$0**	**0.09%**	**$19,347**
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):						**$21,717,451**								

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Columbia Renaissance Square II Senior, Fort Worth, 9% HTC #18018

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$17,538,939	$0	$17,417,262
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$17,538,939	$0	$17,417,262
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$22,800,621	$0	$22,642,441
Applicable Fraction	77.60%	77.60%	77.60%	77.60%
TOTAL QUALIFIED BASIS	$0	$17,693,568	$0	$17,570,819
Applicable Percentage	3.39%	9.00%	3.39%	9.00%
ANNUAL CREDIT ON BASIS	$0	$1,592,421	$0	$1,581,374
CREDITS ON QUALIFIED BASIS	$1,592,421		$1,581,374	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9399	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,592,421	$14,967,262	**----**	----	----
Needed to Fill Gap	$1,546,692	$14,537,451	**----**	----	----
Previous Allocation	$1,500,000	$14,098,590	**$1,500,000**	**$0**	**$0**

Long-Term Pro Forma

Columbia Renaissance Square II Senior, Fort Worth, 9% HTC #18018

	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%	$1,072,005	$1,093,445	$1,115,314	$1,137,620	$1,160,372	$1,281,145	$1,414,487	$1,561,708	$1,724,252	$1,903,714	$2,101,854
TOTAL EXPENSES	3.00%	$653,158	$672,106	$691,610	$711,686	$732,351	$845,134	$975,479	$1,126,140	$1,300,308	$1,501,676	$1,739,562
NET OPERATING INCOME ("NOI")		**$418,847**	**$421,338**	**$423,703**	**$425,934**	**$428,021**	**$436,011**	**$439,009**	**$435,568**	**$423,944**	**$402,038**	**$362,292**
EXPENSE/INCOME RATIO		60.9%	61.5%	62.0%	62.6%	63.1%	66.0%	69.0%	72.1%	75.4%	78.9%	82.8%
MUST -PAY DEBT SERVICE												
BBVA Compass		$243,636	$243,636	$243,636	$243,636	$243,636	$243,636	$243,636	$243,636	$243,636	$243,636	$243,636
Fort Worth HFC		$31,048	$31,048	$31,048	$31,048	$31,048	$31,048	$31,048	$31,048	$31,048	$31,048	$31,048
City of Fort Worth HOME Loan		$69,474	$69,474	$69,474	$69,474	$69,474	$69,474	$69,474	$69,474	$69,474	$69,474	$69,474
TOTAL DEBT SERVICE		$344,158	$344,158	$344,158	$344,158	$344,158	$344,158	$344,158	$344,158	$344,158	$344,158	$344,158
DEBT COVERAGE RATIO		1.22	1.22	1.23	1.24	1.24	1.27	1.28	1.27	1.23	1.17	1.05
ANNUAL CASH FLOW		**$74,688**	**$77,180**	**$79,545**	**$81,775**	**$83,863**	**$91,852**	**$94,850**	**$91,410**	**$79,786**	**$57,880**	**$18,133**
Deferred Developer Fee Balance		$364,173	$286,993	$207,448	$125,672	$41,809	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$403,215	$873,737	$1,340,568	$1,766,409	$2,104,202	$2,282,868

August 25, 2021

Ms. Lee Ann Chance
Asset Manager, Region 3
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Columbia Renaissance Square II Senior, TDHCA #18018, Fort Worth, TX

Dear Ms. Chance:

Please accept this notification of changes for project 18018, Columbia Renaissance Square II Senior. The design of the development has changed, and we have three units more than we had at Application. We are also requesting a change from "Elderly Preference" to "Elderly Limitation."

Reason the Change is Necessary
The original design of the building included a two-story vaulted atrium in the entry area. It was decided that this design was inefficient, and so the second story area was changed into units. We were able to put two hospitality suites (a place for a visiting family to stay), and one additional unit on the second floor in the area that was originally designed as the vaulted atrium. The two hospitality suites garner no income. The third unit that as added is a non-revenue unit, as well, and will be used as a model unit for leasing.

Regarding the change to Elderly Limitation, at the time of application we anticipated receiving vouchers from the local housing authority that required the use of the "Elderly Preference" designation. However, those vouchers never materialized. Therefore, we prefer to change the designation to "Elderly Preference."

Good Cause for the Change & Foreseeable Nature of the Change
The original design of a two-story vaulted atrium was very inefficient. The cost of heating and cooling that area is excessive. The second story space is much better used as hospitality units. A hospitality suite that can be used by visiting families is a very nice amenity to have in a senior development. The additional non-revenue unit is an added benefit because it allows us to help seniors that may move to the development to visualize their unit. As you know, leasing to seniors who have been settled elsewhere for many years can take some time as well as the involvement of family members. We find that a model unit greatly facilitates the process.

This change was not foreseeable due to the compressed timeframe of application submittal. As you know, plans created for the application submission are preliminary and developed on a tight schedule. Once the owner had time to discuss value engineering and other refinements to the plans, the decision to use a more efficient layout was made.

Description of the Changes
At application there were 120 units with a NRA of 94,992. The unit mix was as follows:

Unit Type	NRA	No. of Units
1-1	714	2
1-1	744	94
2-1	984	18
2-1	986	6

The as-built development has 123 units with an area of 97,945. Three units totaling 2,276 sf of the total square footage are not actually rented out but are the non-rev units, leaving a Net Rentable Area of 95,669, just slightly larger than at application. The unit mix looks like this:

Unit Label	Unit Type	NRA	No. of Units
A1	1-1	745	80 -
A1 NR (model unit)	1-1	745	1
A1 Hospitality	1-1	745	1
A2	1-1	731	5
A1 Condition 6 & 7	1-1	776	9
A4 Hospitality	1-1	786	1
A3	1-1	864	2
B1 (2-1)	2-1	984	11
B2 (2-1)	2-1	986	9
B1 Condition 4 & 5	2-1	1001	4

The set-asides have not changed and are not affected by the addition of three non-revenue units.

Unit Count	**1 BR**	**2BR**	**Total**	**% of Total**	**% of LI**
30% LIHTC	8	2	10	8.3%	10.4%
50% LIHTC	31	8	39	32.5%	40.6%
60% LIHTC	38	9	47	39.2%	49.0%
Market	19	5	24	20%	
TOTALS:	96	24	120	100%	100%
	80%	20%	100%		

Included Documents
The following documentation reflecting these changes is attached:

- Revised building floor plans showing the locations of the two hospitality suites and the non-revenue unit.

Financial Impact
Because the changes documented herein do not collect revenue, they do not have a financial impact on the project.

We believe this change falls into the Material Amendment category and understand that it must be approved by the Board. A $2,500 Amendment Fee has been mailed to TDHCA. A copy of the check and receipt in included herein.

Sincerely,

Sarah Andre
Consultant to the Project

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Lockwood South (HTC #20077)

RECOMMENDED ACTION

WHEREAS, Lockwood South (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2020 for the new construction of 80 units, of which 72 units are designated as low-income, of multifamily housing in Houston, Harris County;

WHEREAS, Lockwood South Apts, LP (Applicant) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election);

WHEREAS, the revised election proposed by the Applicant does not affect the eight market rate units, but does change the set-asides for the 72 affordable units to eight units at 30% Area Median Income (AMI), 29 units at 50% AMI, and 35 units at 60% AMI;

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 the Applicant has complied with the amendment requirements under 10 TAC §10.405(a); and

WHEREAS, the requested change does not negatively affect the Development, impact the viability of the transaction, or impact the selection of the application for an award;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment for Lockwood South 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

Lockwood South was approved for a 9% HTC award in 2020 for the construction of 80 units, of which 72 are designated as low-income units, of multifamily housing in Houston, Harris County. The Applicant originally elected Average Income as the Qualified Low Income Housing Development Election for the Development. The Development was underwritten based on the Rent Schedule provided by the Applicant that originally identified the set-asides for the 72 affordable units as eight units at 30% AMI, 29 units at 50% AMI, 31 units at 60% AMI, and four units at 80% AMI. The remaining eight units for the Development were designated at market rate.

In a letter dated October 14, 2021, Sarah Andre, the representative for the Applicant, requested approval for a material amendment to the Application. The request is to revise the Qualified Low Income Housing Development Election from Average Income to 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 (i.e., 40% at 60% minimum set-aside election). The Applicant states that lenders and syndicators are not inclined to finance income averaging developments. Therefore, their lender and investor prefer that the Applicant switch to the traditional 40% at 60% minimum set-aside election because it is an election that the industry is accustomed to implementing without the level of risk associated with income averaging. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Applicant has provided a letter from Capital One Bank, N.A, the lender and the upper tier investor for the Development, stating that they will remain committed to the project, provided that the election is changed from Average Income to the 40% at 60% minimum set-aside election. With the revised election, the proposed to changes the original set-asides for the 72 affordable units is to designate eight units at 30% AMI, 29 units at 50% AMI, and 35 units at 60% AMI. Staff has confirmed that there would be no change to Application's score based on this revision.

The Development was re-underwritten based on the proposed set-asides and revised financials submitted with an Application for a Multifamily Direct Loan (MFDL). The results of the analysis indicate that there was 51.77% increase, or $4,006,177, in the building costs, from $7,738,726 to $11,744,897. Additionally, there was a 14.94% increase, or $3,483,661, in the total development costs, from $23,035,698 to $26,476,681. To address these cost increases, the Applicant has changed lenders, and their first lien debt will decrease from $4,312,000 to $3,155,452, and the interest rate will increase from 5% to 5.16%. The cash flow loan from the City of Houston will increase $3,500,000, from $4,000,000 to $7,500,000. Additionally, the Development will be considered for a $1,300,000 MFDL that is proposed by the Applicant to be in a second lien position, with a 0% interest rate, and a deferred repayment 15-year term. The request for the MFDL will be considered separate from this amendment request. The syndication rate has decreased by $0.02, from $0.93 to $0.91, which results in a $299,970 decrease in the syndication proceeds, from $13,948,605 to $13,648,635. The analysis supports the original tax credit allocation and indicates the Development is still feasible.

Staff recommends approval of the requested material amendment.

Real Estate Analysis Division
November 15, 2021

Addendum to Underwriting Report

TDHCA Application #: **21502** Program(s): **9% HTC / MDL**

Lockwood South Apartments

Address/Location: West of Lockwood Drive and South of Buffalo Bayou at Drennan Street

City: Houston County: Harris Zip: 77003

	APPLICATION HISTORY
Report Date	**PURPOSE**
11/15/21	**MDL Application**
09/03/20	Original Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Soft Repayable)					**$1,300,000**	**0.00%**	**0**	**15**	**2**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

* Multifamily Direct Loan Terms:

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

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

CONDITIONS STATUS

0 Receipt and acceptance by Direct Loan Closing:

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

b: Substantially final construction contract with Schedule of Values.

c: Updated term sheets with substantially final terms from all lenders

d: Substantially final draft of limited partnership agreement.

e: For Rehabilitation Developments, most recent annual operating statement.

f: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

1 Receipt and acceptance by Carryover:

a: Formal approval from the City of Houston to provide a loan in the amount of $7,500,000, identifying the source of the funds, and a detailed term sheet specifying all terms and conditions, and income restrictions.

Status: Will be cleared at Direct Loan Closing.

b: Substantially final ground lease between the Development Owner and the Buyer in the amount of the HTC Parcel acquisition price.

Status: Satisfied.

c: Executed design contract with architect (Humphreys & Partners) supporting the architectural and engineering estimates provided in the application.

Status: Satisfied.

2 Receipt and acceptance by 10% test:

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

3 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:

a: Certification that a Limited Phase II Subsurface Investigation was performed as recommended in the ESA to assess if the subsurface soils and/or groundwater have been negatively impacted by the identified RECs, and that any recommended mitigation measures were implemented.

b: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA			
Income Limit	Rent Limit	Number of Units	Original # of Units
30% of AMI	30% of AMI	8	8
50% of AMI	50% of AMI	29	29
60% of AMI	60% of AMI	35	31
80% of AMI	80% of AMI	0	4

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	13

ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

A request for a force majeure for this development was approved by the Board in October 2021.

The requested Direct Loan funding includes the conversion of 4 TC 80% units into TC 60% units for purposes of removing the income averaging election.

The Applicant has also requested an amendment in order to extend the placed in service deadline under the 2020 9% tax allocation from 12/31/22 to 10/1/23.

Operating Pro Forma

Rents have been updated to the 2021 Program Rents.

Since original underwriting, there has been a significant adjustment to budgeted Property Insurance of $30K/year to $67K / year per insurance quote provided.

Development Cost

Building Costs increased $4M.

Total Development Costs increased $3.4M

Sources of Funds

The Applicant has applied for a MultiFamily Direct Loan consistent with the requirements of NOFA 2021-3.

The Underwriter recommends approval of an MFDL in the amount of $1,300,000 at 0% interest, structured as Deferred Repayable as a second lien with a 15-year term (to match the senior debt) as requested by Applicant.

The current analysis continues to support the original tax credit award of $1,500,000.

Underwriter:	*Greg Stoll*
Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Lockwood South Apartments, Houston, 9% HTC #21502

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	$76,300
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	40	50.0%	0	8
2	24	30.0%	0	3
3	16	20.0%	0	2
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	80	100.0%	-	13

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	8	10.0%
40%	-	0.0%
50%	29	36.3%
60%	35	43.8%
70%	-	0.0%
80%	-	0.0%
MR	8	10.0%
TOTAL	80	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	87.36%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	879 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$445	30%/30%	$445	6	1	1	683	$445	$81	$364	$0	$0.53	$364	**$2,184**	**$2,184**	$364	$0.53	$0	$891	$1.30	$1,150
TC 50%	$743	30%/30%	$445	2	1	1	683	$445	$81	$364	$0	$0.53	$364	**$728**	**$728**	$364	$0.53	$0	$891	$1.30	$1,150
TC 50%	$743			2	1	1	683	$743	$81	$662	$0	$0.97	$662	**$1,324**	**$1,324**	$662	$0.97	$0	$891	$1.30	$1,150
TC 50%	$743			23	1	1	683	$743	$81	$662	$0	$0.97	$662	**$15,226**	**$15,226**	$662	$0.97	$0	$891	$1.30	$1,150
TC 60%	$891			6	1	1	683	$891	$81	$810	$0	$1.19	$810	**$4,860**	**$4,860**	$810	$1.19	$0	$891	$1.30	$1,150
MR				1	1	1	683	$0	$81		NA	$1.30	$891	**$891**	**$891**	$891	$1.30	NA	$891	$1.30	$1,150
TC 30%	$534	30%/30%	$535	1	2	2	991	$534	$104	$430	$0	$0.43	$430	**$430**	**$430**	$430	$0.43	$0	$1,069	$1.08	$1,400
TC 50%	$891	30%/30%	$535	1	2	2	991	$535	$104	$431	$0	$0.43	$431	**$431**	**$431**	$431	$0.43	$0	$1,069	$1.08	$1,400
TC 60%	$1,069	30%/30%	$535	1	2	2	991	$535	$104	$431	$0	$0.43	$431	**$431**	**$431**	$431	$0.43	$0	$1,069	$1.08	$1,400
TC 60%	$1,069			20	2	2	991	$1,069	$104	$965	$0	$0.97	$965	**$19,300**	**$19,300**	$965	$0.97	$0	$1,069	$1.08	$1,400
MR				1	2	2	991	$0	$104		NA	$1.08	$1,069	**$1,069**	**$1,069**	$1,069	$1.08	NA	$1,069	$1.08	$1,400
TC 30%	$618	30%/30%	$617	1	3	2	1,203	$617	$127	$490	$0	$0.41	$490	**$490**	**$490**	$490	$0.41	$0	$1,236	$1.03	$1,700
TC 50%	$1,030	30%/30%	$617	1	3	2	1,203	$617	$127	$490	$0	$0.41	$490	**$490**	**$490**	$490	$0.41	$0	$1,236	$1.03	$1,700
TC 60%	$1,236			8	3	2	1,203	$1,236	$127	$1,109	$0	$0.92	$1,109	**$8,872**	**$8,872**	$1,109	$0.92	$0	$1,236	$1.03	$1,700
MR				6	3	2	1,203	$0	$127		NA	$1.03	$1,236	**$7,416**	**$7,416**	$1,236	$1.03	NA	$1,236	$1.03	$1,700
TOTALS/AVERAGES:				**80**			**70,352**				**$0**	**$0.91**	**$802**	**$64,142**	**$64,142**	**$802**	**$0.91**	**$0**	**$1,013**	**$1.15**	**$1,335**

ANNUAL POTENTIAL GROSS RENT:			
	$769,704	**$769,704**	

STABILIZED PRO FORMA

Lockwood South Apartments, Houston, 9% HTC #21502

	STABILIZED FIRST YEAR PRO FORMA															
	COMPARABLES				APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database		Local Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.91	$802	$769,704	**$803,376**	**$803,376**	$769,704	$802	$0.91		0.0%	$0
laundry and fees							$20.00	$19,200	19,200							
Total Secondary Income							$20.00			19,200	$19,200	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$788,904	$822,576	$822,576	$788,904				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(59,168)	(61,693)	(61,693)	(59,168)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$729,736	$760,883	$760,883	$729,736				0.0%	$0
General & Administrative	$34,088	$426/Unit	$34,165	$427	4.26%	$0.44	$389	$31,120	$31,120	$34,165	$34,165	$427	$0.49	4.68%	-8.9%	(3,045)
Management	$33,935	4.5% EGI	$34,285	$429	5.12%	$0.53	$467	$37,368	$38,044	$38,044	$36,487	$456	$0.52	5.00%	2.4%	881
Payroll & Payroll Tax	$108,317	$1,354/Unit	$114,888	$1,436	13.70%	$1.42	$1,250	$100,000	$100,000	$108,317	$108,317	$1,354	$1.54	14.84%	-7.7%	(8,317)
Repairs & Maintenance	$59,044	$738/Unit	$47,449	$593	6.58%	$0.68	$600	$48,000	$48,000	$48,000	$48,000	$600	$0.68	6.58%	0.0%	-
Electric/Gas	$17,735	$222/Unit	$11,298	$141	0.77%	$0.08	$70	$5,600	$5,600	$11,298	$11,298	$141	$0.16	1.55%	-50.4%	(5,698)
Water, Sewer, & Trash	$50,217	$628/Unit	$52,622	$658	7.41%	$0.77	$676	$54,044	$50,400	$52,622	$52,622	$658	$0.75	7.21%	2.7%	1,422
Property Insurance	$31,910	$0.45 /sf	$45,555	$569	9.18%	$0.95	$838	$67,000	$30,000	$36,265	$67,000	$838	$0.95	9.18%	0.0%	-
Property Tax (@ 100%) 2.5608	$63,281	$791/Unit	$70,648	$883	12.53%	$1.30	$1,143	$91,472	$101,863	$90,184	$76,723	$959	$1.09	10.51%	19.2%	14,749
Reserve for Replacements				$0	3.29%	$0.34	$300	$24,000	$20,000	$20,000	$20,000	$250	$0.28	2.74%	20.0%	4,000
TDHCA Compliance fees ($40/HTC unit)				$0	0.39%	$0.04	$36	$2,880	$2,880	$2,880	$2,880	$36	$0.04	0.39%	0.0%	-
City of Houston Fees				$0	0.30%	$0.03	$27	$2,160	$2,160	$2,160	$2,160	$27	$0.03	0.30%	0.0%	-
TOTAL EXPENSES					**63.60%**	**$6.60**	**$5,801**	**$ 464,086**	$430,067	$443,936	**$460,095**	**$5,751**	**$6.54**	**63.05%**	**0.9%**	**$ 3,991**
NET OPERATING INCOME ("NOI")					**36.40%**	**$3.78**	**$3,321**	**$265,650**	$330,816	$316,947	**$269,641**	**$3,371**	**$3.83**	**36.95%**	**-1.5%**	**$ (3,991)**

CONTROLLABLE EXPENSES	$2,985/Unit	$3,180/Unit

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Lockwood South Apartments, Houston, 9% HTC #21502

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR														Cumulative	
DEBT (Must Pay)	**Fee**	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Capital One		1.38	1.36	194,983	5.16%	35	15	$3,155,452	$4,312,000	$4,312,000	$3,155,452	15	35	5.16%	$194,983	1.36	11.9%
TDHCA MDL Soft Repayable		1.38	1.36		0.00%	35	15	$1,300,000			$1,300,000	15	0	0.00%	$0	1.36	4.9%
CASH FLOW DEBT / GRANTS																	
City of Houston CDBG-DR		1.23	1.21	$25,000	1.00%	na	40	$7,500,000	$4,000,000	$4,000,000	$7,500,000	40	na	1.00%	$25,000	1.21	28.3%
Cadence McShane (General Contractor)		1.23	1.21		0.00%	0	0	$97,500			$97,500	0	0	0.00%		1.21	0.4%
City of Houston		1.23	1.21		0.00%	0	0	$500	$500	$500	$500	0	0	0.00%		1.21	0.0%
				$219,983	**TOTAL DEBT / GRANT SOURCES**			**$12,053,452**	**$8,312,500**	**$8,312,500**	**$12,053,452**	**TOTAL DEBT SERVICE**			**$219,983**	**1.21**	45.5%
NET CASH FLOW		$49,658	$45,667								**APPLICANT**	**NET OPERATING INCOME**			**$265,650**	**$45,667**	**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	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Richman Group Affordable Hsng Corp.	LIHTC Equity	51.5%	$1,500,000	0.91	$13,648,635	$13,948,605	$13,948,605	$13,648,635	$0.91	$1,500,000	51.5%	$18,750	Previous Allocation
Lockwood South Apts, LP	Deferred Developer Fees	2.9%	(33% Deferred)		$774,594	$774,594	$774,593	$774,593	(33% Deferred)		2.9%	**Total Developer Fee:**	**$2,332,644**
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%		
TOTAL EQUITY SOURCES		54.5%			$14,423,229	$14,723,199	$14,723,198	$14,423,228			54.5%		
TOTAL CAPITALIZATION					**$26,476,681**	$23,035,699	$23,035,698	**$26,476,680**				**15-Yr Cash Flow after Deferred Fee:**	**$337,577**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis										Eligible Basis			
	Acquisition	New Const. Rehab			**Total Costs**	Applicant	TDHCA	**Total Costs**			New Const. Rehab	Acquisition	%	$
Land Acquisition				$43,750 / Unit	$3,500,000	$3,500,000	$3,500,000	$3,500,000	$43,750 / Unit				0.0%	$0
					$0	$15,000	$15,000	$0						$0
Off-Sites				$6,250 / Unit	$500,000	$500,000	$500,000	$500,000	$6,250 / Unit				0.0%	$0
Site Work		$1,016,207		$12,703 / Unit	$1,016,207	$1,180,000	$1,180,000	$1,089,997	$13,625 / Unit		$1,016,207		-6.8%	($73,790)
Site Amenities		$450,415		$5,630 / Unit	$450,415	$500,000	$500,000	$473,050	$5,913 / Unit		$450,415		-4.8%	($22,635)
Building Cost		$11,744,897	$166.94 /sf	$146,811/Unit	$11,744,897	$7,738,720	$7,435,789	$11,633,859	$145,423/Unit	$165.37 /sf	$11,633,859		1.0%	$111,038
Contingency		$722,021	5.47%	5.27%	$722,021	$694,310	$673,105	$722,021	5.27%	5.51%	$722,021		0.0%	$0
Contractor Fees		$1,847,573	13.26%	12.80%	$1,847,573	$1,388,621	$1,388,621	$1,847,573	12.81%	13.37%	$1,847,573		0.0%	$0
Soft Costs	0	$2,220,646		$29,321 / Unit	$2,345,646	$2,760,757	$2,760,757	$2,345,646	$29,321 / Unit		$2,220,646	$0	0.0%	$0
Financing	0	$993,246		$20,610 / Unit	$1,648,767	$2,080,947	$2,080,947	$1,648,767	$20,610 / Unit		$993,246	$0	0.0%	$0
Developer Fee	$0	$1,934,991	10.19%	11.97%	$2,332,645	$2,332,645	$2,284,024	$2,332,644	11.97%	10.25%	$1,934,991	$0	0.0%	$1
Reserves				6 Months	$368,510	$344,699	$344,699	$368,510	7 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$20,929,997**		$330,959 / Unit	**$26,476,681**	$23,035,699	$22,662,942	**$26,462,067**	$330,776 / Unit		**$20,818,959**	**$0**	**0.1%**	**$14,614**
Acquisition Cost	$0				$0	$0								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			($1)	($1)								
Reserves					$0	$0								
ADJUSTED BASIS / COST	**$0**	**$20,929,997**		$330,959/unit	**$26,476,680**	$23,035,698	$22,662,942	**$26,462,067**	$330,776/unit		**$20,818,959**	**$0**	**0.1%**	**$14,613**

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$26,476,680**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Lockwood South Apartments, Houston, 9% HTC #20077

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$20,929,997	$0	$20,818,959
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$20,929,997	$0	$20,818,959
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$27,208,996	$0	$27,064,646
Applicable Fraction	87.36%	87.36%	87.36%	87.36%
TOTAL QUALIFIED BASIS	$0	$23,769,969	$0	$23,643,865
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$2,139,297	$0	$2,127,948
CREDITS ON QUALIFIED BASIS	$2,139,297		$2,127,948	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9099	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$2,139,297	$19,465,658	----	----	----
Needed to Fill Gap	$1,585,129	$14,423,228	----	----	----
Previous Allocation	$1,500,000	$13,648,635	**$1,500,000**	**$0**	**$0**

October 14, 2021

Ms. Lee Ann Chance
Asset Manager, Region 6
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Amendment Request, Lockwood South Apartments #20077

Dear Ms. Chance:

We would like to request an amendment for application #20077 Lockwood South Apartments, located in Houston, Texas.

At application, the Applicant selected income averaging on Tab 17, Section 8 "Qualified Low Income Housing Development Election." At this time, the Applicant would like to change this election to the "40% at 60%" set aside.

At application, Lockwood South designated 4 of its 72 low-income units as 80% AMFI and had 8 Market Rate units, for a total of 80 units. We propose to change these 80% AMFI designated units to 60% AMFI units. This change would not impact the score under the 9% Tax Credit rules. All the exhibits impacted by this change are enclosed.

Reason the Change is Necessary/Good Cause
As the development has progressed, it has become increasingly clear that the lenders and syndicators working with the Applicant are not at all inclined to provide financing to a development with income averaging§. To move forward with the development and attract debt and equity, the Applicant believes the change is necessary. A letter from our lender regarding this request is attached.

Unforeseen Nature of Change
The marketplace has changed dramatically since application leading to a variety of constraints on developments, one of which is investors being reluctant to accept projects with income-averaging. This change could not have been foreseen by the Developer.

Please let us know if you have any further questions or require further documentation by contacting me at (512) 698-3369.

Sincerely,

Sarah Andre,
Consultant to the Project

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Woodway Village Apartments (HTC #20419)

RECOMMENDED ACTION

WHEREAS, Woodway Village Apartments (Development) received an award of 4% Housing Tax Credits (HTCs) in 2020 for the acquisition and rehabilitation of 160 units of multifamily housing in Austin, Travis County;

WHEREAS, Austin Leased Housing Associates IV, LP (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income;

WHEREAS, the revised election does not affect how the Development was underwritten because the Owner will continue to designate all 160 units at 60% Area Median Income (AMI);

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 the Owner has complied with the amendment requirements under 10 TAC §10.405(a); and

WHEREAS, the requested change does not negatively affect the Development, impact the viability of the transaction, or impact the tax credit award;

NOW, therefore, it is hereby

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

BACKGROUND

Woodway Village Apartments (HTC #20419) was originally approved for a 4% HTC and Bond award in 2002 (HTC #02444) for the construction of 160 units of multifamily housing in Austin, Travis County. In 2020, the Development received a HTC award for acquisition and rehabilitation. In the 2020 Application, the Owner elected Average Income as the Qualified Low Income Housing Development Election, but identified all 160 units as designated at 60% AMI.

In a letter dated September 20, 2021, Ron Kowal, the representative for the Owner, submitted a request for a material amendment to their Application. The Owner requests to revise the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election).

The Owner states that the reason for their request is that the additional guidance issued by the Internal Revenue Service (IRS) has made income averaging less desirable for compliance and ongoing monitoring. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Owner provided an email from the lender confirming their consent to the change and that the property is to maintain a maximum 60% AMI threshold for all of the units, and a letter from Stratford Woodway Village Investors Limited Partnership, the investment limited partner, stating that they are aware of the change requested and that there will be no changes in the terms as a result of the new election. The Owner also states that the additional guidance was issued by the IRS after the date of the Application. Therefore, the proposed amendment was not reasonably foreseeable or preventable by the Owner at the time of Application.

This change does not affect the designation of the 160 units represented at Application or how the Development was underwritten. The Owner's requested amendment is prior to the recording of the Land Use Restriction Agreement (LURA) and the issuance of the IRS Forms 8609.

Staff recommends approval of the material amendment request.

September 20, 2021

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701
Attention: Lee Ann Chance

RE: Woodway Village – Request Regarding Income Set Aside Requirement

Dear Ms. Chance:

On behalf of Austin Leased Housing Associates IV, Limited Partnership (the "Owner"), the owner of the affordable multifamily housing project known as Woodway Village located at 4600 Nuckols Crossing Road, Austin, TX 78744 (the "Project"), please accept this request to amend the income restrictions to be placed on the Project from the average income election to the election of 40% of the units restricted to 60% of average median income.

The reason for this request is due to additional guidance that has been issued by the Internal Revenue Service which has made income averaging less desirable for compliance and ongoing monitoring. The additional guidance was issued after the date of the application and was therefore not reasonably foreseeable or preventable by the Owner at the time the application was submitted. This change will not require any changes to the Rent Schedule or financial information provided in the application to TDHCA.

If you have any questions in connection with this request, please reach out to Jaime Avery at (763) 354-5510 or Jaime.Avery@Dominiuminc.com.

Best regards,

Ron Kowal, Vice President of Austin Affordable Housing Corporation,
the sole member of AAHC Woodway Village GP, LLC,
the general partner of Austin Leased Housing Associates IV, Limited Partnership

22508284v2

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for EMLI at Pecan Creek (HTC #20449)

RECOMMENDED ACTION

WHEREAS, EMLI at Pecan Creek (the Development) received an award of 4% Housing Tax Credits (HTCs) in 2020 for the new construction of 254 units of multifamily housing in Aubrey, Denton County;

WHEREAS, EMLI Pecan TC I, LP (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income;

WHEREAS, the revised election will change from having an average income of 60% or less of median gross income, with incomes that could range from 20% to 80%, to now designate all 254 units at 60% Area Median Income (AMI);

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 the Owner has complied with the amendment requirements under 10 TAC §10.405(a); and

WHEREAS, the requested change does not negatively affect the Development, impact the viability of the transaction, or impact the tax credit award;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment for EMLI at Pecan Creek 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

EMLI at Pecan Creek (HTC #20449) was approved for a 4% HTC award in 2020 for the construction of 254 units of multifamily housing in Aubrey, Denton County. The Owner originally elected Average Income as the Qualified Low Income Housing Development Election, and identified the 254 units at 50%, 60%, and 70% of AMI designations.

In a letter dated November 4, 2021, Richard Ashton, the representative for the Owner, submitted a request for a material amendment to their Application. The Owner requests to revise the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election).

The Owner states that that the need for affordable housing in the market area is best served at the 60% AMI level based on the management feedback and area demographics, and their amendment request is in response to the market and to streamline the income qualification for individuals that need affordable housing. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Owner provided an email from Regions Bank, the lender, and a letter from Regions Real Estate Capital Markets, the investment limited partner, confirming their consent to the change and that the property is to maintain a maximum 60% AMI threshold for all of the units.

The Owner provided updated financial information that has been analyzed by the Real Estate Analysis (REA) Division. REA's analysis of the updated financial information indicates that the Development is expected to remain feasible, and there is no change to the previously recommended HTC amount.

Staff recommends approval of the material amendment request.

Real Estate Analysis Division
November 23, 2021

Addendum to Underwriting Report

TDHCA Application #: **20449** Program(s): **4% HTC**

EMLI At Pecan Creek

Address/Location: NWQ of Ike Byrom Rd and FM 2931

City: Aubrey County: Denton Zip: 76227

	APPLICATION HISTORY
Report Date	**PURPOSE**
11/23/21	**Amendment**
09/30/02	New Determination Notice
04/15/20	Initial Underwriting

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
LIHTC (4% Credit)	$1,413,138				**$1,413,138**				

CONDITIONS STATUS

1 Receipt and acceptance before Determination Notice:

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

Status: FEMA CLOMR and the Architect Letter submitted 9/24/20. Condition satisfied.

2 Receipt and acceptance by Cost Certification:

a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

c: Evidence that the units and buildings have met the requirements for use of a Green Discount Utility Allowance.

Status: Condition no longer applicable, unless the Green Discount UA is used at Cost Certification.

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

The Applicant is requesting an amendment to change election from income averaging to 40% of units at 60% AMI. Equity and debt providers have accepted this change. Per Applicant, the financing and development costs have not changed.

Rents are updated to 60% 2021 rents and minimal changes to operating expenses.

Current underwriting supports the original annual tax credit recommendation of $1,413,138. Underwriting no longer assumes a $300k decrease to permanent debt to meet the 1.15 minimum DCR. As currently underwritten DCR is 1.26.

Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

EMLI At Pecan Creek, Aubrey, 4% HTC #20449

LOCATION DATA	
CITY:	Aubrey
COUNTY:	Denton
Area Median Income	$89,000
PROGRAM REGION:	3

UNIT DISTRIBUTION

# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	110	43.3%	0	0	30%	-	0.0%
2	96	37.8%	0	0	40%	-	0.0%
3	48	18.9%	0	0	50%	-	0.0%
4	-	0.0%	0	0	60%	254	100.0%
5	-	0.0%	0	0	70%	-	0.0%
					80%	-	0.0%
					MR	-	0.0%
TOTAL	**254**	**100.0%**	**-**	**-**	**TOTAL**	**254**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.36%
APP % Construction	3.36%
Average Unit Size	936 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 60%	$1,001	110	1	1	759	$1,001	$66	$935	$0	$1.23	$935	**$102,850**	**$102,850**	$935	$1.23	$0	$1,039	$1.37	$1,039
TC 60%	$1,201	96	2	2	999	$1,201	$85	$1,116	$0	$1.12	$1,116	**$107,136**	**$107,136**	$1,116	$1.12	$0	$1,221	$1.22	$1,221
TC 60%	$1,389	48	3	2	1,218	$1,389	$104	$1,285	$0	$1.06	$1,285	**$61,680**	**$61,680**	$1,285	$1.06	$0	$1,437	$1.18	$1,437
TOTALS/AVERAGES		**254**			**237,858**				**$0**	**$1.14**	**$1,070**	**$271,666**	**$271,666**	**$1,070**	**$1.14**	**$0**	**$1,183**	**$1.26**	**$1,183**

ANNUAL POTENTIAL GROSS RENT:	**$3,259,992**	**$3,259,992**

STABILIZED PRO FORMA

EMLI At Pecan Creek, Aubrey, 4% HTC #20449

	STABILIZED FIRST YEAR PRO FORMA															
	COMPARABLES				APPLICANT				New Determination		TDHCA				VARIANCE	
	Database		Other		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$1.14	$1,070	$3,259,992	**$3,033,072**	**$3,033,405**	$3,259,992	$1,070	$1.14		0.0%	$0
Laundry/ Vending/ Amnity Income							$20.00	$60,960	60,960							
Total Secondary Income							$20.00			60,960	$60,960	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$3,320,952	$3,094,032	$3,094,365	$3,320,952				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(249,071)	(232,052)	(232,077)	(249,071)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$3,071,881	$2,799,904	$2,862,288	$3,071,881				0.0%	$0
General & Administrative	$109,563	$431/Unit	$149,938	$590	3.57%	$0.46	$431	$109,563	$68,009	$109,563	$109,563	$431	$0.46	3.57%	0.0%	0
Management	$107,887	4.3% EGI	$115,268	$454	3.87%	$0.50	$468	$118,825	$115,090	$114,492	$122,875	$484	$0.52	4.00%	-3.3%	(4,050)
Payroll & Payroll Tax	$324,341	$1,277/Unit	$356,915	$1,405	10.63%	$1.37	$1,285	$326,464	$290,464	$319,548	$319,548	$1,258	$1.34	10.40%	2.2%	6,916
Repairs & Maintenance	$182,617	$719/Unit	$164,681	$648	4.96%	$0.64	$600	$152,400	$139,853	$152,400	$152,400	$600	$0.64	4.96%	0.0%	-
Electric/Gas	$56,370	$222/Unit	$39,068	$154	1.27%	$0.16	$154	$39,068	$45,720	$39,068	$39,068	$154	$0.16	1.27%	0.0%	0
Water, Sewer, & Trash	$187,790	$739/Unit	$162,570	$640	5.29%	$0.68	$640	$162,570	$119,634	$162,570	$162,570	$640	$0.68	5.29%	0.0%	0
Property Insurance	$71,257	$0.30 /sf	$89,219	$351	2.80%	$0.36	$339	$86,000	$52,070	$52,070	$86,000	$339	$0.36	2.80%	0.0%	-
Property Tax (@ 100%) 1.7936	$202,547	$797/Unit	$330,911	$1,303	9.20%	$1.19	$1,113	$282,622	$238,506	$278,910	$304,351	$1,198	$1.28	9.91%	-7.1%	(21,729)
Reserve for Replacements	$110,265	$434/Unit	$72,307	$285	2.07%	$0.27	$250	$63,500	$63,500	$63,500	$63,500	$250	$0.27	2.07%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)			$11,430	$45	0.33%	$0.04	$40	$10,160	$10,160	$10,160	$10,160	$40	$0.04	0.33%	0.0%	-
Bond Trustee Fees				$0	0.16%	$0.02	$20	$5,000	$5,000	$5,000	$5,000	$20	$0.02	0.16%	0.0%	-
TOTAL EXPENSES					**44.15%**	**$5.70**	**$5,339**	**$1,356,172**	$1,148,006	$1,307,281	**$1,375,035**	**$5,414**	**$5.78**	**44.76%**	**-1.4%**	**$ (18,863)**
NET OPERATING INCOME ("NOI")					**55.85%**	**$7.21**	**$6,755**	**$1,715,709**	$1,651,898	$1,555,007	**$1,696,846**	**$6,680**	**$7.13**	**55.24%**	**1.1%**	**$ 18,863**
CONTROLLABLE EXPENSES							$3,110/Unit					$3,083/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

EMLI At Pecan Creek, Aubrey, 4% HTC #20449

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							New Determination		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR														Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Regions		1.24	1.26	1,365,353	3.56%	35	15	$27,300,000	$27,300,000	$27,300,000	$27,300,000	15	35	3.56%	$1,365,353	1.26	64.4%
Adjustment to Debt Per §11.302(c)(2)										($300,000)		15	35	3.56%		1.26	0.0%
				$1,365,353	TOTAL DEBT / GRANT SOURCES			$27,300,000			$27,300,000	TOTAL DEBT SERVICE			$1,365,353	1.26	64.4%
NET CASH FLOW		$331,493	$350,356								APPLICANT	NET OPERATING INCOME		$1,715,709	$350,355	NET CASH FLOW	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					New Determination		AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
Regions	LIHTC Equity	29.7%	$1,413,138	0.89	$12,574,413	$12,574,413	$12,574,413	$12,574,413	$0.8898	$1,413,138	29.7%	$5,564	Previous Allocation	
Liberty Multifamily, LLC	Deferred Developer Fees	5.9%	(55% Deferred)		$2,508,897	$2,508,897	$2,808,897	$2,508,897	(55% Deferred)		5.9%	Total Developer Fee:		$4,603,456
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%			
TOTAL EQUITY SOURCES		35.6%			$15,083,310	$15,083,310	$15,383,310	$15,083,310			35.6%			
TOTAL CAPITALIZATION					$42,383,310	$42,383,310	$42,383,310	$42,383,310			15-Yr Cash Flow after Deferred Fee:			$5,065,915

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					New Determination		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis										Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$3,937 / Unit	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$3,937 / Unit				0.0%	$0
Closing costs & acq. legal fees					$5,000	$5,000	$5,000	$5,000						$0
Off-Sites				$ / Unit	$0	$0	$0	$0	$ / Unit				0.0%	$0
Site Work		$2,375,864		$9,354 / Unit	$2,375,864	$2,375,864	$3,161,958	$3,161,958	$12,449 / Unit		$2,375,864		-24.9%	($786,094)
Site Amenities		$655,500		$2,581 / Unit	$655,500	$655,500	$0	$0	$ / Unit		$655,500		0.0%	$655,500
Building Cost		$19,294,561	$81.12 /sf	$75,963/Unit	$19,294,561	$19,294,561	$19,372,431	$19,372,431	$76,269/Unit	$81.45 /sf	$19,372,431		-0.4%	($77,870)
Contingency		$1,493,484	6.69%	6.69%	$1,493,484	$1,493,484	$1,493,484	$1,493,484	6.63%	6.67%	$1,493,484		0.0%	$0
Contractor Fees		$3,125,630	13.12%	13.12%	$3,125,630	$3,125,630	$3,125,630	$3,125,630	13.01%	13.08%	$3,125,630		0.0%	$0
Soft Costs	0	$2,505,145		$10,262 / Unit	$2,606,645	$2,606,645	$2,606,645	$2,606,645	$10,262 / Unit		$2,505,145	$0	0.0%	$0
Financing	0	$1,239,523		$21,076 / Unit	$5,353,253	$5,353,253	$5,353,253	$5,353,253	$21,076 / Unit		$1,239,523	$0	0.0%	$0
Developer Fee	$0	$4,603,456	15.00%	15.00%	$4,603,456	$4,603,456	$4,603,456	$4,603,456	14.90%	14.96%	$4,603,456	$0	0.0%	$0
Reserves				8 Months	$1,869,917	$1,869,917	$1,328,815	$1,362,692	6 Months				37.2%	$507,225
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	$0	$35,293,163		$166,863 / Unit	$42,383,310	$42,383,310	$42,050,672	$42,084,550	$165,687 / Unit		$35,371,033	$0	0.7%	$298,761
Acquisition Cost	$0				$0	$0								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			$0	$0								
Reserves					$0	$0								
ADJUSTED BASIS / COST	$0	$35,293,163		$166,863/unit	$42,383,310	$42,383,310	$42,050,672	$42,084,550	$165,687/unit		$35,371,033	$0	0.7%	$298,761
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					$42,383,310									

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

EMLI At Pecan Creek, Aubrey, 4% HTC #20449

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$35,293,163	$0	$35,371,033
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$35,293,163	$0	$35,371,033
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$45,881,112	$0	$45,982,343
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
TOTAL QUALIFIED BASIS	$0	$45,881,112	$0	$45,982,343
Applicable Percentage	3.36%	3.36%	3.36%	3.36%
ANNUAL CREDIT ON BASIS	$0	$1,541,605	$0	$1,545,007
CREDITS ON QUALIFIED BASIS	$1,541,605		$1,545,007	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.8898	Variance to Request	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,541,605	$13,717,544	----	----	----
Needed to Fill Gap	$1,695,093	$15,083,310	----	----	----
Previous Allocation	$1,413,138	$12,574,413	**$1,413,138**	**$0**	**$0**

50% Test for Bond Financing for 4% Tax Credits

Tax-Exempt Bond Amount	**$30,000,000**	
Aggregate Basis Limit for 50% Test	$60,000,000	
	Applicant	**TDHCA**
Land Cost	$1,000,000	$1,000,000
Depreciable Bldg Cost	$30,791,207	$30,999,671
Aggregate Basis for 50% Test	**$31,791,207**	**$31,999,671**

	Applicant	**TDHCA**
Percent Financed by Tax-Exempt Bonds	**94.4%**	**93.8%**

amount aggregate basis can increase before 50% test fails	$28,208,793	$28,000,329
	88.7%	87.5%

Long-Term Pro Forma

EMLI At Pecan Creek, Aubrey, 4% HTC #20449

	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%	$3,071,881	$3,133,318	$3,195,985	$3,259,904	$3,325,102	$3,671,182	$4,053,281	$4,475,150	$4,940,927	$5,455,183	$6,022,963
TOTAL EXPENSES	3.00%	$1,356,172	$1,395,669	$1,436,327	$1,478,181	$1,521,265	$1,756,464	$2,028,385	$2,342,801	$2,706,394	$3,126,904	$3,613,292
NET OPERATING INCOME ("NOI")		**$1,715,709**	**$1,737,649**	**$1,759,658**	**$1,781,724**	**$1,803,837**	**$1,914,718**	**$2,024,896**	**$2,132,349**	**$2,234,533**	**$2,328,279**	**$2,409,671**
EXPENSE/INCOME RATIO		44.1%	44.5%	44.9%	45.3%	45.8%	47.8%	50.0%	52.4%	54.8%	57.3%	60.0%
MUST -PAY DEBT SERVICE												
TOTAL DEBT SERVICE		$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353	$1,365,353
DEBT COVERAGE RATIO		1.26	1.27	1.29	1.30	1.32	1.40	1.48	1.56	1.64	1.71	1.76
ANNUAL CASH FLOW		**$350,355**	**$372,296**	**$394,304**	**$416,371**	**$438,484**	**$549,364**	**$659,543**	**$766,996**	**$869,180**	**$962,926**	**$1,044,317**
Deferred Developer Fee Balance		$2,158,542	$1,786,246	$1,391,942	$975,571	$537,087	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$1,987,908	$5,065,915	$8,687,545	$12,831,766	$17,463,001	$22,527,636

EMLI AT PEACN CREEK

November 4, 2021

TDCHA
Mark Fugina
Senior Asset Manager – Region 3
221 East 11th Street
Austin, TX 78701

RE: 20449 EMLI at Pecan Creek
Request to change to 60% set-aside from income averaging

The letter is to request a change of rent and income set-aside from income averaging to all units at the 60% AMI level. Enclosed please find the consent of the equity investor and lender.

We feel that the need for affordable housing in the market area is best served at the 60% AMI level based on the management feedback and area demographics. We would like to make this change in response to the market and to streamline the income qualification for interested individuals that need affordable housing.

Feel free to contact me for any additional information to process this request.

Regards,

Richard Ashton
Member of the General Partner
214-563-3273
rashton@liberty42.com

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on Inducement Resolution No. 22-011 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for The Reserves (#22605) in Seagoville.

RECOMMENDED ACTION

WHEREAS, a bond pre-application, as further detailed below, was submitted to the Department for consideration of an inducement resolution;

WHEREAS, Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

WHEREAS, approval of the inducement will allow staff to submit an application to the Bond Review Board (BRB) for the issuance of a Certificate of Reservation associated with the Development;

NOW, therefore, it is hereby

RESOLVED, that based on the foregoing, Inducement Resolution No. 22-011 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-applications listed herein, is hereby approved in the form presented to this meeting.

BACKGROUND

General Information: The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 180 days to close on the private activity bonds.

During the 180-day process, the Department will review the complete application for compliance with the Department's Rules, including, but not limited to, site eligibility and threshold, as well as previous participation as it relates to developments previously funded through the Department. During the review of the full application, staff will also underwrite the transaction and determine financial feasibility in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be presented to the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development.

This inducement resolution would reserve approximately $27M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year was $169,558,383 and was reserved with applications submitted as part of the 2021 Lottery or applications subsequently added to the Department's waiting list. The Department's set-aside for 2022 has not been announced, but is anticipated to be approximately $175M. It is expected that applications submitted as part of the 2022 Lottery will consume all of the Department's set-aside for the 2022 program year. The pre-application listed below did not participate in the Lottery, and will be added to the Department's waiting list for a bond reservation under the 2022 program year.

22605 – The Reserves

New construction of 240 units is proposed for this multifamily development to be located at approximately 1803 East Seagoville Road, 620 No Name Street, and 1908 Cain Lane in Seagoville, Dallas County. This transaction is proposed to be Priority 1b, and will serve the general population. The development proposed 240 units, 204 of which will be rent and income restricted at 60% of Area Median Family Income (AMFI), with the remaining 36 units being rent and income restricted at 30% of AMFI. The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: $27,000,000

RESOLUTION NO. 22-011

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS OR NOTES WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENT; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended, (the "Act") for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low, very low and extremely low income and families of moderate income (all as defined in the Act); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds or notes for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds or notes; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds or notes; and

WHEREAS, it is proposed that the Department issue its revenue bonds or notes in one or more series for the purpose of providing financing for the multifamily residential rental development (the "Development") more fully described in Exhibit A attached hereto. The ownership of the Development as more fully described in Exhibit A will consist of the applicable ownership entity and its principals or a related person (the "Owners") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owners have made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the Development and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Development from the proceeds of tax-exempt and taxable, as applicable, obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owners have indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Development will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owners for some or all of the costs associated with the Development listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable, as applicable, obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owners, the Department reasonably expects to incur debt in the form of tax-exempt and taxable, as applicable, obligations for purposes of paying the costs of the Development described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Development one or more Applications for Allocation of Private Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Development on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

ARTICLE 1

OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Development in an aggregate principal amount not to exceed those amounts, corresponding to the Development, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds or notes in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3. Reimbursement. The Department reasonably expects to reimburse the Owners for all or a portion of the costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction, reconstruction or renovation, as applicable, of its Development and listed on Exhibit A attached hereto ("Costs of the Development") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation and equipping of its Development, including reimbursing the applicable Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Development; (b) to fund certain reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4. Principal Amount. Based on representations of the Owners, the Department reasonably expects that the maximum aggregate principal amount of debt issued to reimburse the Owners for the Costs of the Development will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Development, which Development will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6. The Development. Substantially all of the proceeds of the Bonds shall be used to finance the Development, which is to be occupied entirely by Eligible Tenants, as determined by the Department, and which is to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owners for costs of its Development.

Section 1.8. Costs of Development. The Costs of the Development may include any cost of acquiring, constructing, rehabilitating, or reconstructing, as applicable, improving, equipping, installing and expanding the Development. Without limiting the generality of the foregoing, the Costs of the Development shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Development, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Development, the placing of the Development in operation and that satisfy the Code and the Act. The Owners shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owners and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds or notes); (b) the receipt of an opinion from Bracewell LLP or other nationally recognized bond counsel acceptable to the Department ("Bond Counsel"), substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Development's necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12. Related Persons. The Department acknowledges that financing of all or any part of the Development may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owners.

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of the Development which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Development may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.15. Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Development and Owners. The Board finds that:

(a) the Development is necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;

(b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;

(c) the Owners are financially responsible;

(d) the financing of the Development is a public purpose and will provide a public benefit; and

(e) the Development will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Development will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 9th day of December, 2021.

EXHIBIT "A"

Descriptions of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
The Reserves	Seagoville Reserves, LLC, a Texas limited liability company	Managing Member: 1908 CAIN, LLC, a Texas limited liability company	$27,000,000
Costs: Acquisition/construction of a 240-unit affordable, multifamily housing development to be known as The Reserves, to be located at approximately 1803 East Seagoville Road, 620 No Name Street, and 1908 Cain Road, Seagoville, Dallas County, Texas 75159			

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on Resolution No. 22-012 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt the attached resolution.

BACKGROUND

To begin the issuance of tax exempt single family mortgage revenue bonds, the Department must submit an application to the Texas Bond Review Board to draw down private activity bond authority, also known as volume cap. Staff is requesting authorization to submit one or more applications for a maximum reservation of $205,200,000 of volume cap to be used for the issuance of Residential Mortgage Revenue Bonds, Series 2022A. Staff expects that the Series 2022A Bonds will use bond authority that has been carried forward for this purpose.

Final approval of the issuance of Residential Mortgage Revenue Bonds, Series 2022A, is being considered by the Board under item 6a.

RESOLUTION NO. 22-012

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AUTHORIZING STATE DEBT APPLICATION; 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 $205,200,000 with respect to qualified mortgage bonds; and

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

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 $205,200,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

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

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

Section 1.4 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the

Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of 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, 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 9th day of December, 2021.

1e

BOARD ACTION REQUEST

PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order adopting the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool; and an order directing its publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, Texas Gov't Code §661.002(c) requires that state agencies adopt rules relating to the operation of their agency sick leave pool which the Department does in 10 TAC §1.3, Sick Leave Pool;

WHEREAS, HB 2063 enacted during the 87th Regular Legislative Session requires state agencies to also establish a state employee family leave pool via rule, and staff recommends doing so through an amendment to 10 TAC §1.3; and

WHEREAS, such proposed rulemaking was published in the *Texas Register* for public comment from October 29, 2021, to November 29, 2021, and no comment was received;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the action herein 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 any requested revisions to the preambles.

BACKGROUND

10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool, requires revision to incorporate the requirements enacted by HB 2063, which requires state agencies to establish, by rule, a state employee family leave pool. The rule amendment was released for public comment as reflected in the preamble below and no comment was received. Staff is recommendation adoption without changes.

Preamble, including required analysis, for adoption of amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes, the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool. The purpose of the amendment is to incorporate the requirements enacted by HB 2063 (87^{th} Regular Legislative Session) which requires state agencies establish a state employee family leave pool via rule.

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.
Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amendment would be in effect:
1. The amendment does not create or eliminate a government program but relates to changes to the Department's sick leave pool policy.
2. The amendment 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 amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation.
6. The amendment does not repeal a rule.
7. The amendment will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amendment 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 has evaluated the amendment and determined that the 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 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 amendment as to its possible effects on local economies and has determined that for the first five years the 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 amendment is in effect, the public benefit anticipated as a result of the changed sections would be implementation of HB 2063 and the provision of a clear policy relating to the Department's family leave pool. 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 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.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from October 29, 2021, to November 29, 2021, to receive input on the amendment. No comment was received.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

§1.3 Sick Leave Pool and Family Leave Pool

(a) A sick leave pool is established to help alleviate hardship caused to an employee and employee's immediate family if a catastrophic illness or injury forces the employee to exhaust all accrued paid leave time earned by that employee and to lose compensation from the state.

(b) A family leave pool is established to help alleviate hardship caused to an employee and employee's immediate family if they are caring for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic or are bonding with and caring for children during a child's first year following birth, adoption, or foster placement which forces the employee to exhaust all accrued paid leave time earned by that employee and to lose compensation from the state.

(c) The Department's Human Resources Director is designated as the pool administrator to both pools.

(d) The pool administrator will recommend a policy, operating procedures, and forms for the administration of this section to the Executive Director for inclusion in the Department's Personnel Policies and Procedures Manual.

(e) Operation of both pools shall be consistent with Tex. Gov't Code, Chapter 661, as amended.

1f

BOARD ACTION REQUEST

EXECUTIVE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; 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, the Department uses its Section 8 Housing Choice Voucher Program to offer the Project Access program in collaboration with the Texas Health and Human Services Commission, which assists low-income persons with disabilities in transitioning from institutions into the community by providing vouchers for them to access affordable housing;

WHEREAS, staff sought to make revisions to the rule to expand the pool of households that would be eligible to utilize a Project Access voucher; and

WHEREAS, the rule was submitted to the *Texas Register* for public comment which was accepted from October 29, 2021, through November 29, 2021 and two comments were received which are described in the preamble of the rule attached;

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 repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative, and the new adopted 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative, in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, and make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

The Project Access rule was proposed for revision, specifically relating to which households are eligible to participate in the program. Because the program often has a waiting period before a voucher becomes available, TDHCA has sought to identify interim solutions to allow a household to exit an institution; those interim solutions often only offer temporary rental assistance to 'tide them over' until a Project Access voucher becomes available. Currently the only interim solution that would still enable the household to access a Project Access voucher is using the TDHCA HOME TBRA program. The rule changes being adopted:

1. Make minor administrative corrections;
2. Clarify the existing language relating to the HOME TBRA program participants being eligible for a Project Access voucher; and
3. Add two other interim programs that if used to help a household exit an institution would still allow that household to access a Project Access voucher when one becomes available. Those two programs are:
   - HHSC funded programs that assist households with short-term rental assistance, whose assistance from HHSC is within six months of expiration and the household is not eligible for extension or renewal; and
   - HHSC funded group home housing.

The suggested revisions to the rule were presented to the Department's Disability Advisory Workgroup to garner feedback and suggested edits on September 15, 2021. No concerns were raised nor were alternative suggestions proposed.

After approval, the rule was released for public comment from October 29, 2021, through November 29, 2021 and two comments were received. The comments are summarized in the preamble attached.

Attachment 1: Preamble, including required analysis, for adoption of the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative. The purpose of the repeal is to expand the pool of households that may be eligible for a Project Access voucher and facilitating a more rapid exit from an institution into the community.

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.

Mr. Bobby Wilkinson 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 changes to minimally expand the pool of households eligible to participate in the Project Access program.

2. The repeal 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 repeal does not require additional future legislative appropriations.

4. The repeal will 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 repeal will not expand, limit, or repeal an existing regulation.

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 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 has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be the expanded pool of households that may be eligible for a Project Access voucher and the acceleration of a household's possible exit from an institution into the community. 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. The public comment period was held from October 29, 2021, to November 29, 2021, to receive input on the action. No comment was received.

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 amended sections affect no other code, article, or statute.

§5.801, Project Access Initiative

Attachment 2: Preamble, including required analysis, for adoption of new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC §5.801, Project Access Initiative.

The purpose of the rule is to expand the pool of households that may be eligible for a Project Access voucher and facilitating a more rapid exit from an institution into the community.

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.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relate to changes to existing regulations applicable to household eligibility for the Project Access program.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section 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 section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section 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 has evaluated the new section and determined that the actions 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 new sections 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 section as to its possible effects on local economies and has determined that for the first five years the new section 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 new section is in effect, the public benefit anticipated as a result of the new section would expanding the pool of households that may be eligible for a Project Access voucher and facilitating a household's more rapid exit from an institution into the community. There will not be economic costs to individuals required to comply with the new sections.

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 rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from October 29, 2021, to November 29, 2021, to receive input on the action. Comment was received from: (1) North Central Texas Council of Governments, and (2) North Texas Aging and Disability Services.

COMMENT SUMMARY: Both commenters indicated their support for the amendment that allows applicants to be considered for the program if they exit institutions with a Tenant Based Rental Assistance (TBRA) voucher, and for the revision that deems eligible those individuals who exited State Support Living Centers (SSLCs) to group homes. The commenters also both suggested that in future rule revisions TDHCA consider creating an exception for individuals who are on the Project Access wait list and are compelled to exit nursing facilities through an involuntary discharge prior to receiving a Project Access voucher. Commenter 1 noted that currently such individuals generally have no viable housing options other than institutional care in the form of assisted living (i.e., institutional care) or shelters and that they essentially forfeit their best option for independent living.

STAFF RESPONSE: Staff appreciates the comments made in support of the amendments. Staff will consider the comment made regarding those exiting nursing facilities through involuntary discharge in future rule-making as suggested. No changes are made to the rule in response to these comments.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

§5.801, Project Access Initiative

(a) Purpose. The Project Access Program (PA Program) is a program that utilizes federal Section 8 Housing Choice Vouchers, Non Elderly Disabled Vouchers, and Mainstream Vouchers administered by the Texas Department of Housing and Community Affairs (the Department) to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. This rule provides the parameters and eligibility standards for this program.

(b) Definitions.

(1) At-Risk Applicant--A household that has applied to the Department's Section 8 Project Access program, and exited an Institution prior to issuance of a Department Section 8 Housing Choice Voucher using an alternate short term rental assistance solution and is at risk of that short term rental assistance ending.

(2) HHSC--Texas Health and Human Services Commission.

(3) HUD--The U.S. Department of Housing and Urban Development.

(4) Institution--Congregate settings populated exclusively or primarily with individuals with disabilities; congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or settings that provide for daytime activities primarily with other individuals with disabilities. This definition includes but is not limited to a nursing facility, state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD. The definition for Institution is further limited for vouchers funded with NED as further provided for in subsection (e)(2)(C) of this section. This definition does not include a prison, jail, halfway house, or other setting that persons reside in as part of a criminal proceeding.

(5) Mainstream Vouchers (MVP) --HUD's Mainstream Voucher Program.

(6) Non-Elderly Disabled (NED)--HUD's Non-Elderly Disabled Program.

(7) Section 8--HUD's Section 8 Housing Choice Voucher Program administered by the Department.

(c) Regulations Governing Program. All Section 8 Program rules and regulations, including but not limited to, criterion at 24 CFR Part 982 apply to the program.

(d) Project Access in the Department's PHA Plan. Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan. The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan.

(e) Eligibility for the Project Access Program.

(1) A household that participates in the Project Access Program must meet all Section 8 eligibility criteria, and one member of the household must meet the eligibility criteria in subparagraphs (A) and (B) of this paragraph:

(A) Must have a disability as defined in 24 CFR §5.403; and

(B) Must meet one of the criteria in clauses (i) or (ii) of this subparagraph:

(i) be a resident of an Institution at the time of voucher issuance; or

(ii) be an At-Risk Applicant that meets one of the criteria of subclauses (I) through (IV) of this clause:

(I) A current recipient of Tenant-Based Rental Assistance (TBRA) from a HOME Investment Partnership Program, whose assistance from that HOME source is within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution prior to receiving the TBRA assistance;

(II) A household with a household member who meets the criteria of an At-Risk Applicant and has lost their TBRA from a HOME Investment Partnership Program due to lack of available funding;

(III) A household that is a current recipient of rental assistance funded by HHSC, whose assistance from HHSC is within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution immediately prior to receiving the assistance; or

(IV) A household that is a current recipient of HHSC funded group home housing that was a previous resident of a state hospital immediately prior to receiving the group home assistance.

(2) NED and Mainstream Vouchers have additional eligibility criteria which are:

(A) The household member with the disability as defined in 24 CFR §5.403, must be 18 but under 62 years of age at the time of voucher issuance;

(B) For NED only, the head of household, spouse, co-head, or sole member, must be a person with a disability; and

(C) For NED only, the qualifying household member must not be an At-Risk Applicant as described in this subsection, must be residing in a nursing facility, Texas state psychiatric hospital, or intermediate care facility immediately prior to voucher issuance, and must also be referred by the applicable HHSC funded agency.

(f) Waiting List and Allocation of Vouchers.

(1) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of the vouchers used in the Project Access Program will be reserved for households with a household member eligible for a pilot program in partnership with the HHSC for Texas state psychiatric hospitals who otherwise meets the criteria of the Project Access Program at the time of voucher issuance.

(2) The Department's Waiting List for PA vouchers will be kept "open" and the Department will accept an application for the PA Program at any time. An applicant for the PA Program is placed on a Waiting List until a voucher becomes available. An applicant who qualifies for the Project Access HHSC Pilot Program in subsection (f)(1) of this section is placed on a Waiting List for Project Access HHSC Pilot Program, and also for the general PA Program Waiting List.

(3) The Department will select applicants off the Waiting List for the Project Access HHSC Pilot Program, and for the general PA Program waitlist to ensure that the Department is utilizing all NED and Mainstream Vouchers before issuing other Section 8 Vouchers.

(4) Maintaining Status on the Project Access Waiting List. A household on the Project Access waiting list may maintain their order and eligibility for a Project Access voucher if the household:

(A) Applied for the PA Program and was placed on the waiting list prior to transition out of an Institution; and

(B) Received continuous rental assistance from one of the eligible sources identified under (e)(1)(B)(ii) or other Department funding for rental assistance from the time of exit from an Institution until the issuance of the Project Access voucher.

1g

BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

DECEMBER 9, 2021

Presentation, discussion, and possible action on the draft 2022 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 plan and report to be a rule;

WHEREAS, the draft 2022 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 20, 2021, through January 10, 2022;

NOW, therefore, it is hereby

RESOLVED, that staff is hereby directed to cause the draft 2022 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, 2020, through August 31, 2021).

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 22 days of public comment from Monday, December 20, 2021, through Monday, January 10, 2022. Note that the Proposed Rulemaking actions and the draft 2022 SLIHP have different public comment period dates for accepting public comment due to the *Texas Register* posting schedule. Both comment periods start on the same day, but the rule comment period ends earlier as the required comment period is shorter.

Draft 2022 SLIHP and Public Comment

The draft 2022 SLIHP will be made available for 30 days of public comment from Monday, December 20, 2021, through Tuesday, January 18, 2022, 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 or by email to the following address: info@tdhca.state.tx.us. A public hearing for the draft 2022 SLIHP will be held at 2:00 p.m. Austin local time on Wednesday, January 12, 2022 over the GoToWebinar service, utilizing the link https://attendee.gotowebinar.com/register/1755905095225612812. Participants can also call into the public hearing using the telephone number +1 562-247-8422247-8422 with the access code+1 562-247-8422247-8422.

The full text of the draft 2022 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 2022 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

It is expected that the 2022 SLIHP and the final rule action will be presented to the Board for approval at the board meeting on Thursday, February 10, 2022. The approved 2022 SLIHP will then be distributed to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members.

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 2022 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.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect:

1. The proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption by reference the 2022 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 readoption in order to adopt by reference the 2022 SLIHP.

7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The proposed 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 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 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 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 2022 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 22 day public comment period for the rule will be held Monday, December 20, 2021, to Monday, January 10, 2022, 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, or email info@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, MONDAY, JANUARY 10, 2022.

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 2022 SLIHP, which offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The 2022 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, 2020, through August 31, 2021).

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 2022 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 or decrease the number of individuals subject to the rule's applicability.

8. The proposed new 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 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 effect 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 2022 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 2022 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 2022 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 2022 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 2022 SLIHP.

REQUEST FOR PUBLIC COMMENT. The 22 day public comment period for the rule will be held Monday, December 20, 2021, to Monday, January 10, 2022, 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 or email info@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, MONDAY, JANUARY 10, 2022.

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 ~~2021~~2022 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The full text of the ~~2021~~2022 SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the ~~2021~~2022 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

1h

BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; proposing new 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, the Department finances mortgage loans originated through the Texas Homeownership Division through two programs: the Texas First Time Homebuyer Program (the FTHB Program) and the Taxable Mortgage Program;

WHEREAS, 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule (the FTHB Rule), sets forth the parameters for administration of the FTHB Program;

WHEREAS, staff is seeking to make revisions to the rule that will facilitate the inclusion of forgivable second mortgage loans for down payment assistance through the FTHB Program; and

WHEREAS, upon Board approval, the proposed rule will be submitted to the *Texas Register* to be released for public comment, which will be accepted from December 24, 2021, through January 24, 2022;

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 repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule and the new proposed 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.

BACKGROUND

Tex. Gov't Code §2306.053 authorizes the Department to adopt rules governing the administration of the Department and its programs. The FTHB Rule sets forth the parameters for administration of the FTHB Program, and is proposed for revision to facilitate the inclusion of forgivable second mortgage loans for down payment and closing cost assistance, which requires the elimination of the requirement that borrowers repay all or a portion of down payment assistance received.

The new rule being proposed reflects notable changes that include:

- Addition, removal, and modification of definitions for clean-up and clarification;
- Modification of 10 TAC §27.4 to eliminate the requirement for repayment of down payment assistance to facilitate the inclusion of forgivable second mortgage loans for down payment and closing cost assistance; and
- Other minor technical corrections.

Upon Board approval, the proposed rule actions will be published in the *Texas Register* and released for public comment from December 24, 2021, to January 24, 2022. Behind the preamble is a copy of the rule in blackline form reflecting the changes being proposed from the current version of the rule.

Attachment 1: Preamble, including required analysis, for the proposed repeal of 10 TAC Chapter 27, First Time Homebuyer Program Rule

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 27, First Time Homebuyer Program Rule. The purpose of the proposed repeal is to allow the Department to make forgivable second mortgage loans for down payment assistance through the FTHB Program.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this 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 has determined that, for the first five years the proposed repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to minimally expand the pool of households eligible to participate in the Project Access program.

2. The repeal 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 repeal does not require additional future legislative appropriations.

4. The repeal will 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 repeal will not expand, limit, or repeal an existing regulation.

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 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 has evaluated the 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 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 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 changed sections would be the expanded pool of households that may be eligible for a Project Access voucher and the acceleration of a household's possible exit from an institution into the community. 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 December 24, 2021, to January 24, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Monica Galuski, P.O. Box 13941, Austin, Texas 78711-3941 or email monica.galuski@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 24, 2022.

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 amended sections affect no other code, article, or statute.

10 TAC Chapter 27, First Time Homebuyer Program Rule

§27.1 Purpose
§27.2 Definitions
§27.3 Restrictions on Residences Financed and Applicant
§27.4 Occupancy and Use Requirements
§27.5 Application Procedure and Requirements for Commitments by Mortgage Lenders
§27.6 Criteria for Approving Participating Mortgage Lenders
§27.7 Resale of the Residence
§27.8 Conflicts with Bond Indentures and Applicable Law
§27.9 Waiver

Attachment B: Preamble, including required analysis, for proposed new 10 TAC Chapter 27, First Time Homebuyer Program Rule

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 27, First Time Homebuyer Program Rule.

The purpose of the proposed rule is to facilitate the inclusion of forgivable second mortgage loans for down payment assistance through the FTHB Program.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this 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 has determined that, for the first five years the proposed new section would be in effect:

1. The new section does not create or eliminate a government program but relate to changes to existing regulations applicable to household eligibility for the Project Access program.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section 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 section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section 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 has evaluated the proposed new section and determined that the proposed actions 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 new sections 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 proposed new section as to its possible effects on local economies and has determined that for the first five years the proposed new section 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 new section is in effect, the public benefit anticipated as a result of the new section would expanding the pool of households that may be eligible for a Project Access voucher and facilitating a household's more rapid exit from an institution into the community. There will not be economic costs to individuals required to comply with the new sections.

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 new section 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held December 24, 2021, to January 24, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Monica Galuski, P.O. Box 13941, Austin, Texas 78711-3941 or email monica.galuski@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 24, 2022.

STATUTORY AUTHORITY. The proposed new section is made 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.

CHAPTER 27 TEXAS FIRST TIME HOMEBUYER PROGRAM RULE

§27.1 Purpose

(a) The purpose of the Texas First Time Homebuyer Program is to facilitate the origination of single-family Mortgage Loans for eligible first time ~~homebuyers~~Homebuyers, and to ~~provide to qualifying homebuyers~~make available down payment and closing cost assistance to eligible Homebuyers. The Texas First Time Homebuyer Program is administered in accordance with Texas Government Code, Chapter 2306. Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule) does not apply to the activities under this chapter, except if these activities are combined with activities subject to Chapter 20 of this title.

(b) Assistance under this Program is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the program at any time and in its sole discretion.

§27.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Participation Packet indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 2 of this title (relating to Enforcement).

(1) Applicable Median Family Income--The Department's determination, as permitted by Texas Government Code, §2306.123, of the median income of an individual or family for an area using a source or methodology acceptable under federal law or rule. The Applicable Median Family Income, as updated from time to time, may be found on the Department's website ~~(www.tdhca.state.tx.us)~~ in the "Combined Income and Purchase Price Limits Table."

(2) Applicant--A person or persons applying for financing of a Mortgage Loan under the Program.

(3) Areas of Chronic Economic Distress--Those areas in the state, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the U.S. Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

(4) Average Area Purchase Price--With respect to a Residence financed under the Program, the average purchase price of single-family residences in the statistical area in which the Residence is located which were purchased during the most recent twelve (12) month period for which statistical information is available, as determined in accordance with §143(e) of the Code.

(5) Code--The Internal Revenue Code of 1986, as amended from time to time.

(6) Contract for Deed Exception--The exception for certain Mortgage Loan eligibility requirements, as provided in the Master Mortgage Origination Agreement, available with respect to a principal residence owned under a contract for deed by a person whose family income is not more than 50% of the area's Applicable Median Family Income.

(7) Federal Housing Administration--A division of the U.S. Department of Housing and Urban Development, also known as FHA.

(8) First Time Homebuyer--A person who has not owned a home during the three (3) years preceding the date on which an application under this program is filed. A person will be considered to have owned a home if the person had a present ownership interest in a home during the three (3) years preceding the date on which the application was filed. In the event there is more than one person applying with respect to a home, each ~~applicant~~Applicant must separately meet this three year requirement.

~~(9~~ (9) Homebuyer--An Applicant that is approved by the Program and purchases a Residence.

(10) Master Mortgage Origination Agreement--The contract between the Department and a Mortgage Lender, together with any amendments thereto, setting forth certain terms and conditions relating to the origination and sale of Mortgage Loans by the Mortgage Lender and the financing of such Mortgage Loans by the Department.

(~~10~~11) Mortgage Lender--the entity, as defined in §2306.004 of the Tex. Gov't Code, that is participating in the Program and signatory to the Master Mortgage Origination Agreement.

(~~11~~12) Participation Packet--The application submitted to the Department by the proposed Mortgage Lender to participate in the Program.

(~~12~~13) Program--The Texas First Time Homebuyer Program.

(~~13~~14) Purchase Price Limit--The Purchase Price Limits published and updated from time to time in the "Combined Income and Purchase Price Limits Table" found on the Department's website equal to 90% of the Average Area Purchase Price, subject to certain exceptions for Targeted Area Loans.

(~~14~~15) Qualified Veteran Exemption to First Time Homebuyer Requirement--A qualified veteran who has not previously received financing as a ~~first time homebuyer~~First Time Homebuyer through a single family mortgage revenue bond program is exempt from the requirement to be a ~~first time homebuyer.~~First Time Homebuyer. The veteran must certify that he or she has not previously obtained a Mortgage Loan financed by single family mortgage revenue bonds, and is utilizing the veteran exception set forth in §143(d)(2)(D) of the IRS Code. Qualified veterans must also complete a worksheet evidencing qualification as a veteran and provide copies of discharge papers.

~~(15~~ (16) Regulations--The applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

(17) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal living space. This is intended to have the same meaning as Home as defined in §2306.1071 of the Tex. Gov't Code.

(~~16~~18) Rural Housing Service--A division of the United States Department of Agriculture, also known as RHS.

(~~17~~19) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, or an Area of Chronic Economic Distress. Applicants purchasing in Targeted Areas may have higher income and purchase price limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

(~~18~~20) Targeted area exemption to ~~first~~First time ~~homebuyer requirement--Borrower's~~Homebuyer Requirement--Applicants purchasing homes in targeted areas financed through the program are exempt from the requirement to be a ~~first time homebuyer~~First Time Homebuyer and income and purchase price limits may be higher as found in the "Combined Income and Purchase Price Limits Table" located on the Department's website.

(~~19~~20) United States Department of Veterans Affairs--Also known as VA.

§27.3 Restrictions on Residences Financed and Applicant

(a) Type of Residence and Number of Units. To be eligible for assistance under the Program an Applicant must apply with respect to a ~~home~~Residence that is either a new or existing single family residence, new or existing condominium or townhome, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or FHA guidelines, as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence, and the duplex was first occupied for residential purposes at least five years prior to the closing of the Mortgage Loan.

(b) Homebuyer Education. Each Applicant must complete a Department approved pre-purchase homebuyer education course.

(c) Income Limits. An Applicant applying for a Mortgage Loan must meet Applicable Median Family Income requirements.

(d) Down Payment Assistance. An Applicant meeting the Applicable Median Family Income requirements in subsection (c) of this section may qualify for down payment and closing cost assistance in connection with the Mortgage Loan on a first come, first served basis, subject to availability of funds.

(e) Residential Property Standards. The Residence must meet all standards required by the State of Texas, local jurisdiction, and as required by the Federal Mortgage Lender.

§27.4 Occupancy and Use Requirements

(a) Occupancy requirement. The ~~Applicant~~Homebuyer must occupy the property within a reasonable time (not to exceed 60 days) after the date of closing as his or her Residence. ~~Borrower's receiving down payment assistance must repay all or a portion of the assistance no later than upon repayment of the associated first Mortgage Loan, whether due to sale of the property, refinance, or otherwise.~~

(b) Use for a business. Homebuyer may not use more than 15% of the ~~residence~~Residence in a trade or business (including childcare services) on a regular basis for compensation. If the ~~residence~~Residence is to be used, in part, for a trade or business, a schematic drawing from an appraiser must be provided.

(c) ~~Borrower~~Homebuyer may not use the Residence, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home, and shall continue to occupy the Residence as ~~Borrower's~~Homebuyer's principal living space, unless waived by the Executive Director or their designee, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond ~~Borrower's~~Homebuyer's control.

§27.5 Application Procedure and Requirements for Commitments by Mortgage Lenders

(a) An Applicant seeking assistance under the Program must first contact a participating Mortgage Lender. A list of participating Mortgage Lenders may be obtained on the Department's website or by contacting the Department.

(b) Applicant shall complete an application with a participating Mortgage Lender.

(c) Application Fees. Fees that may be collected by the Mortgage Lender from the Applicant relating to a Mortgage Loan include:

(1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points; and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by FHA , RHS, VA, Freddie Mac or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area in which the Residence is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the Mortgage Loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private Mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time, a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The Mortgage Lender must register the Mortgage Loan in accordance with the Department's published procedures.

§27.6 Criteria for Approving Participating Mortgage Lenders

(a) To be approved by the Department for participation in the program, a Mortgage Lender must meet the requirements in the Participation Packet to be a qualified Mortgage Lender as specified by:

(1) FHA;

(2) RHS;

(3) VA; or

(4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements.

(b) As a condition for participation in the Program, a qualified Mortgage Lender must:

(1) agree to originate Mortgage Loans and assign those loans and related Mortgages and servicing to the Department's master servicer;

(2) originate, process, underwrite, close and fund originated loans; and

(3) be an approved Mortgage Lender with the Program's master servicer.

§27.7 Resale of the Residence

Mortgage Loans that are financed with the proceeds of tax-exempt bonds, or for which a Mortgage Credit Certificate has been or will be issued, will be subject to federal income tax recapture provisions. Assumption of a Mortgage Loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

§27.8 Conflicts with Bond Indentures and Applicable Law

All assistance provided under the Program is funded through or facilitated by the Department's mortgage revenue bond indentures and is subject to changes in the mortgage revenue bond indentures and applicable law. If there is a conflict between this chapter and any bond indenture or applicable law regarding the use of the funds from mortgage revenue bonds, the mortgage revenue bond indenture or applicable law shall control.

§27.9 Waiver

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program, except 10 TAC §27.8, if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306.

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BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 28, Taxable Mortgage Program; proposing new 10 TAC Chapter 28, Taxable Mortgage Program; and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, the Department finances mortgage loans originated through the Texas Homeownership Division through two programs: the Texas First Time Homebuyer Program and the Taxable Mortgage Program (the TMP Program);

WHEREAS, 10 TAC Chapter 28, Taxable Mortgage Program (the TMP Rule), sets forth the parameters for administration of the TMP Program;

WHEREAS, staff is seeking to make revisions to the rule that will facilitate the inclusion of second mortgage loans for down payment assistance, and to remove purchase price limits for the TMP Program; and

WHEREAS, upon Board approval, the proposed rule will be submitted to the *Texas Register* to be released for public comment, which will be accepted from December 24, 2021, through January 24, 2022;

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 repeal of 10 TAC Chapter 28, Taxable Mortgage Program and the new proposed 10 TAC Chapter 28, Taxable Mortgage Program, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.

BACKGROUND

Tex. Gov't Code §2306.053 authorizes the Department to adopt rules governing the administration of the Department and its programs. The TMP Rule sets forth the parameters for administration of the TMP Program, and is proposed for revision to (i) facilitate the inclusion of forgivable second mortgage loans for down payment and closing cost assistance, which requires the elimination of the requirement that borrowers repay all or a portion of down payment assistance received, and (ii) remove purchase price Limits, in recognition of the taxable nature of the program and the self-limiting nature of established income limits.

The new rule being proposed reflects notable changes that include:

- Removal of the definitions of Average Area Purchase Price and Purchase Price Limits;
- Addition, removal, and modification of definitions for clean-up and clarification;
- Modification of 10 TAC §28.4 to eliminate the requirement for repayment of down payment assistance to facilitate the inclusion of forgivable second mortgage loans for down payment and closing cost assistance; and
- Other minor technical corrections.

Upon Board approval, the proposed rule actions will be published in the *Texas Register* and released for public comment from December 24, 2021, to January 24, 2022. Behind the preamble is a copy of the rule in blackline form reflecting the changes being proposed from the current version of the rule.

Attachment 1: Preamble, including required analysis, for the proposed repeal of 10 TAC Chapter 28, Taxable Mortgage Program

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 28, Taxable Mortgage Program. The purpose of the proposed repeal is to facilitate the inclusion of forgivable second mortgage loans for down payment assistance, and to remove purchase price limits for the TMP Program.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this 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 has determined that, for the first five years the proposed repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to minimally expand the pool of households eligible to participate in the Project Access program.

2. The repeal 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 repeal does not require additional future legislative appropriations.

4. The repeal will 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 repeal will not expand, limit, or repeal an existing regulation.

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 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 has evaluated the 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 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 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 changed sections would be the expanded pool of households that may be eligible for a Project Access voucher and the acceleration of a household's possible exit from an institution into the community. 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 December 24, 2021, to January 24, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Monica Galuski, P.O. Box 13941, Austin, Texas 78711-3941 or email monica.galuski@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 24, 2022.

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 amended sections affect no other code, article, or statute.

10 TAC Chapter 28, Taxable Mortgage Program

§28.1 Purpose
§28.2 Definitions
§28.3 Restrictions on Residences Financed and Applicant
§28.4 Occupancy and Use Requirements
§28.5 Application Procedure and Requirements for Commitments by Mortgage Lenders
§28.6 Criteria for Approving Participating Mortgage Lenders
§28.7 Resale of the Residence
§28.8 Conflicts with Bond Indentures and Applicable Law
§28.9 Waiver

Attachment B: Preamble, including required analysis, for proposed new 10 TAC Chapter 28, Taxable Mortgage Program Rule

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 28, Taxable Mortgage Program.

The purpose of the proposed rule is to facilitate the inclusion of forgivable second mortgage loans for down payment assistance, and to remove purchase price limits for the TMP Program.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this 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 has determined that, for the first five years the proposed new section would be in effect:

1. The new section does not create or eliminate a government program but relate to changes to existing regulations applicable to household eligibility for the Project Access program.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section 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 section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section 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 has evaluated the proposed new section and determined that the proposed actions 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 new sections 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 proposed new section as to its possible effects on local economies and has determined that for the first five years the proposed new section 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 new section is in effect, the public benefit anticipated as a result of the new section would expanding the pool of households that may be eligible for a Project Access voucher and facilitating a household's more rapid exit from an institution into the community. There will not be economic costs to individuals required to comply with the new sections.

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 new section 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held December 24, 2021, to January 24, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Monica Galuski, P.O. Box 13941, Austin, Texas 78711-3941 or email monica.galuski@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, January 24, 2022.

STATUTORY AUTHORITY. The proposed new section is made 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.

CHAPTER 28 TAXABLE MORTGAGE PROGRAM

§28.1 Purpose

(a) The purpose of the Taxable Mortgage Program is to facilitate the origination of single-family mortgage loans and to refinance existing Mortgage Loans for eligible ~~homebuyers~~Homebuyers and in both cases to ~~provide~~make down payment and closing cost assistance available to eligible Homebuyers. Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule) does not apply to the activities under this chapter, except if these activities are combined with activities subject to Chapter 20 of this title.

(b) Assistance under this program is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the program at any time and in its sole discretion.

§28.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Participation Packet indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 2 of this title (relating to Enforcement).

(1) Applicable Median Family Income--The Department's determination, as permitted by Texas Government Code, §2306.123, of the median income of an individual or family for an area using a source or methodology acceptable under federal law or rule. The Applicable Median Family Income, as updated from time to time, may be found on the Department's website ~~(www.tdhca.state.tx.us)~~ in the "Combined Income and Purchase Price Limits Table."

(2) Applicant--A person or persons applying for financing of a Mortgage Loan under the Program.

(3) Areas of Chronic Economic Distress--Those areas in the state, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the U.S. Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

~~(4) Average Area Purchase Price--With respect to a Residence financed under the Program, the average purchase price of single-family residences in the statistical area in which the Residence is located which were purchased during the most recent twelve (12) month period for which statistical information is available, as determined in accordance with §143(e) of the Code.~~

~~(5~~ (4) Code--The Internal Revenue Code of 1986, as amended from time to time.

(~~6~~5) Department Designated Areas of Special Need--Geographic areas designated by the Department from time to time as areas of special need.

(~~7~~6) Federal Housing Administration--A division of the U.S. Department of Housing and Urban Development, also known as FHA.

(7) Homebuyer--An Applicant that is approved by the Program and purchases a Residence.

(8) Master Mortgage Origination Agreement--The contract between the Department and a Mortgage Lender, together with any amendments thereto, setting forth certain terms and conditions relating to the origination and sale of Mortgage Loans by the Mortgage Lender and the financing of such Mortgage Loans by the Department.

(9) Mortgage Lender--The entity, as defined in §2306.004 of the Texas Government Code, participating in the Program and signatory to the Master Mortgage Origination Agreement.

(10) Participation Packet--The application submitted to the Department by the proposed Mortgage Lender to participate in the Program.

(11) Program--The Taxable Mortgage Program.

~~(12) Purchase Price Limit--The Purchase Price Limits published and updated from time to time in the "Combined Income and Purchase Price Limits Table" found on the Department's website equal to 90 percent of the Average Area Purchase Price, subject to certain exceptions for Targeted Area Loans.~~

~~(13~~ (12) Regulations--The applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

(~~14~~13) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal living space. Has the same meaning as Home in Chapter 2306 of the Texas Government Code.

(~~15~~14) Rural Housing Service--A division of the United States Department of Agriculture, also known as RHS.

(~~16~~15) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, or an Area of Chronic Economic Distress, or a Department Designated Area of Special Need. Applicants purchasing in Targeted Areas may have higher income ~~and purchase price~~ limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

(~~17~~16) United States Department of Veterans Affairs--Also known as VA.

§28.3 Restrictions on Residences Financed and Applicant

(a) Type of Residence and Number of Units. To be eligible for assistance under the Program an Applicant must apply with respect to a ~~home~~Residence that is either a new or existing single family residence, new or existing condominium or townhome, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or FHA guidelines, as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence, and the duplex was first occupied for residential purposes at least five years prior to the closing of the Mortgage Loan.

(b) Homebuyer Education. Each Applicant must complete a Department approved pre-purchase homebuyer education course.

(c) Income Limits. An Applicant applying for a Mortgage Loan must meet Applicable Median Family Income requirements.

(d) Down Payment Assistance. An Applicant meeting the Applicable Median Family Income requirements in subsection (c) of this section may qualify for down payment and closing cost assistance in connection with the Mortgage Loan on a first come, first served basis, subject to availability of funds.

(e) Residential Property Standards. The Residence must meet all standards required by the State of Texas, local jurisdiction, and as required by the Mortgage Lender.

§28.4 Occupancy and Use Requirements

(a) Occupancy requirement. The ~~Applicant~~Homebuyer must occupy the property within a reasonable time (not to exceed 60 days) after the date of closing as his or her Residence~~. Borrower's receiving down payment assistance must repay all or a portion of the assistance no later than upon repayment of the associated first Mortgage Loan, whether due to sale of the property, refinance, or otherwise~~.

(b) Use for a business. Homebuyer may not use more than 15% of the Residence in a trade or business (including childcare services) on a regular basis for compensation. If the Residence is to be used, in part, for a trade or business, a schematic drawing from an appraiser must be provided.

(c) ~~Borrower~~Homebuyer may not use the Residence, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home, and shall continue to occupy the Residence as ~~Borrower's~~Homebuyer's principal living space, unless waived by the Executive Director or their designee, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond ~~Borrower's~~Homebuyer's control.

§28.5 Application Procedure and Requirements for Commitments by Mortgage Lenders

(a) An Applicant seeking assistance under the Program must first contact a participating Mortgage Lender. A list of participating Mortgage Lenders may be obtained on the Department's website or by contacting the Department.

(b) Applicant shall complete an application with a participating Mortgage Lender.

(c) Application Fees. Fees that may be collected by the Mortgage Lender from the Applicant relating to a Mortgage Loan include:

(1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points; and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by FHA, RHS, VA, Freddie Mac or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area

in which the Residence is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the Mortgage Loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private Mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time, a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The Mortgage Lender must register the Mortgage Loan in accordance with the Department's published procedures.

§28.6 Criteria for Approving Participating Mortgage Lenders

(a) To be approved by the Department for participation in the program, a Mortgage Lender must meet the requirements in the Participation Packet to be a qualified Mortgage Lender as specified by:

(1) FHA;

(2) RHS;

(3) VA; or

(4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements.

(b) As a condition for participation in the Program, a qualified Mortgage Lender must:

(1) agree to originate Mortgage Loans and assign those loans and related Mortgages and servicing to the Department's master servicer;

(2) originate, process, underwrite, close and fund originated loans; and

(3) be an approved Mortgage Lender with the Program's master servicer.

§28.7 Resale of the Residence

Mortgage Loans that are financed with the proceeds of tax-exempt bonds, or for which a Mortgage Credit Certificate has been or will be issued, will be subject to federal income tax recapture provisions. Assumption of a Mortgage Loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

§28.8 Conflicts with Bond Indentures and Applicable Law

All assistance provided under the Program is funded through or facilitated by the Department's mortgage revenue bond indentures and is subject to changes in the mortgage revenue bond indentures and applicable law. If there is a conflict between this chapter and any bond indenture or applicable law regarding the use of the funds from mortgage revenue bonds, the mortgage revenue bond indenture or applicable law shall control.

§28.9 Waiver

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program, except 10 TAC §28.8, if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306, or for good cause, as determined by the Board.

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BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order repealing 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and an order adopting new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and directing its publication for adoption in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, on September 2, 2021, the Board approved a draft of the proposed new rule which was published in the Texas Register and for which public comment was accepted from September 17, 2021, through October 18, 2021; and

WHERAS, public comment was received, staff has considered the comment, and a rule is now proposed for the Board to adopt;

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 new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, in the form presented to this meeting, to be adopted and submitted to 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 the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

The purpose of repealing 10 TAC Chapter 20, Single Family Programs Umbrella Rule and adoption of a new 10 TAC Chapter 20, is to update and clarify current definitions and rules, remove rules related to household eligibility that are fully contained within the rule for each Single Family Program, incorporate requirements that are common requirements for all Single Family Programs (including underwriting requirements for repayable mortgages loans) and streamline processes, particularly as they relate to contract amendments. Staff has summarized the significant changes incorporated into the new Single Family Programs Umbrella Rule below:

- Definitions for Area Median Family Income, Borrower, CFR, Draw Request, and State Median Family Income are added, outdated definitions are removed;
- Household Eligibility Requirements removed. These requirements are outlined in detail in each rule for each program;

- Removes requirement of fair marketing plan analysis at contract closeout and requirement for submission of close-out analysis for future applications;
- Incorporates requirement to submit construction plans which is a common requirement for all single family programs;
- Codifies allowance of exceptions to the Texas Minimum Construction Standards for rehabilitation;
- Updates requirements for providers of inspection services;
- Removes reference to insufficient credit, which was previously included but not defined. Includes a conforming change removing requirements for mitigation of insufficient credit;
- Updates calculation of payments for deferred loans, including student loans, to better conform to Mortgagee Letter 2021-13 published by HUD on June 17, 2021;
- Clarifies that requirements for Department's subordination to leveraged loans applies to repayable leveraged loans only; and
- Streamlines amendment process for contract amendments otherwise permitted by program requirements.

The draft rule was released for public comment and comment was accepted from September 17, 2021, through October 18, 2021. Comment was received from one commenter and their comment as well as staff's response are provided in the preambles following.

Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 20, Single Family Programs Umbrella Rule

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 20, Single Family Programs Umbrella Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

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 Department's Single Family 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 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 a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Department's Single Family Programs.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect 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 has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has 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 section 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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS. The Department accepted public comment between September 17, 2021 and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; 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 repealed sections affect no other code, article, or statute.

10 TAC Chapter 20, Single Family Programs Umbrella Rule

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Attachment B: Preamble for adopting new 10 TAC Chapter 20, Single Family Programs Umbrella Rule

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 20, Single Family Programs Umbrella Rule. The purpose of the new sections is to implement a more germane rule and better align administration to federal and state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to administration of the Department's Single Family Programs.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule changes will not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not expand or repeal an existing regulation.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new 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. There are approximately 60 rural communities currently participating in construction activities under Single Family Programs that are subject to the rule for which no economic impact of the rule is projected during the first year the rule is in effect.

3. The Department has determined that because the rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, 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 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 rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

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 participation in the Department's Single Family Programs is at the discretion of the local government or other eligible subrecipients, 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). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be a more germane rule that better aligns administration to federal and state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

SUMMARY OF PUBLIC COMMENTS. The Department accepted public comment between September 17, 2021 and October 18, 2021. Comments regarding the proposed rule received is summarized herein and a reasoned response provided. Comment was received from one commenter listed: Stephanie Hamby, Galilee CDC Executive Director.

§20.9 Inspection Requirements for Construction Activities

Commenter noted concern with requiring the Amy Young Barrier Removal Program (AYBRP) to adhere to the Texas Minimum Construction Standards. They state that most projects use a majority of the available funding for disability-specific accessibility issues, and that this requirement will severely limit the eligibility of many homes where substandard, but non-life threatening, conditions are required to be addressed. In addition commenter felt that §20.9(f)(2)(B), relating to addressing all substandard conditions in the work write-up and cost estimate, would draw funding away from higher-priority accessibility rehabilitations. Commenter stated that previous department approved inspection forms specific to AYBRP were adequate in addressing disability-specific rehabilitation for homeowners.

Staff Response: The updates to the Texas Minimum Construction Standards (TMCS) were designed to provide the benefit of clarity without imposing additional requirements. Staff has carefully reviewed the comment, and agrees with the commenter that removal of the exemption for the Amy Young Barrier Removal Program may inadvertently impose additional requirements, that may cause some eligible households to not be able to be assisted. Staff has incorporated an exception to the requirement for the Amy Young Barrier Removal Program in substantially the same manner in which it appeared in prior iterations of the rule.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Tex. Gov't 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. The rule has been reviewed by legal counsel and found to be a valid exercise of the Department’s legal authority.

CHAPTER 20 SINGLE FAMILY PROGRAMS UMBRELLA RULE

§20.1 Purpose.

This chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the Department) single family Programs, which include the Department's HOME Investment Partnerships Program (HOME), Texas Housing Trust Fund (Texas HTF), Texas Neighborhood Stabilization Program (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Chapter 2306 of the Tex. Gov't Code and any applicable statutes and federal regulations.

§20.2 Applicability.

(a) This chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this chapter. Where a Program Rule is less restrictive and federal law does not preempt the item, the provisions of this chapter will govern Program decisions.

(b) Activities performed under Chapter 27 (relating to Texas First Time Homebuyer Program Rule) and Chapter 28 (related to Taxable Mortgage Program) of this title are excluded from this chapter.

§20.3 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context indicates otherwise. 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, the Program Rules, the Texas Administrative Code (TAC), or applicable federal regulations.

(1) Activity--The assistance provided to a specific Household or Administrator by which funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing Mortgage, tenant-based rental assistance, or other Department approved Expenditure under a single family housing Program.

(2) Administrator--A unit of local government, Nonprofit Organization or other entity acting as a subrecipient, Developer, or similar organization that has an executed written Agreement with the Department.

(3) Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants and homebuyers who are considered "least likely" to know about or apply for housing based on an evaluation of market area data. May be referred to as "Affirmative Fair Housing Marketing Plan" (AFHMP).

(4) Affiliate--If, directly or indirectly, either one Controls or has the power to Control the other or a third person Controls or has the power to Control both. The Department may determine Control to include, but not be limited to:

(A) Interlocking management or ownership;

(B) Identity of interests among family members;

(C) Shared facilities and equipment;

(D) Common use of employees; or

(E) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5) Affiliated Party--A person or entity with a contractual relationship with the Administrator as it relates to a Program, the form of assistance under a Program, or an Activity.

(6) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's Reservation System as defined in this chapter.

(7) Amy Young Barrier Removal Program--A program designed to remove barriers and address immediate health and safety issues for Persons with Disabilities as outlined in the Program Rule.

(8) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for housing or other types of assistance as defined under the Program Rule.

(9) Applicant--An individual, unit of local government, nonprofit corporation or other entity, as applicable, who has submitted to the Department or to an Administrator an Application for Department funds or other assistance.

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

(11) Area Median Family Income (AMFI)--The income limits published annually by the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher Program that is used by the Department to determine the income eligibility of Households to participate in Single Family Programs.

(12) Borrower--a Household that is borrowing funds from or through the Department for the acquisition, new construction and/or rehabilitation of the Household's Principal Residence.

(13) Certificate of Occupancy--Document issued by a local authority to the owner of premises attesting that the structure has been built in accordance with building ordinances.

(14) CFR--Code of Federal Regulations.

(15) Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

(16) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(17) Concern--A policy, practice or procedure that has not yet resulted in a Finding, but if not changed will or may result in a Finding, or disallowed costs.

(18) Contract--The executed written agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

(19) Contract Term--The timeframe in which funds may be expended under the Contract or Agreement for certain administrative costs and for all the hard and soft costs of Activities, as further described in the Contract or Agreement.

(20) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management, operations or policies of any person or entity, whether through the ownership of voting securities, ownership interests, or by contract or otherwise.

(21) Debt--A duty or obligation to pay money to a creditor, lender, or person which can include car payments, credit card bills, loans, child support payments, and student loans.

(22) Debt-to-Income Ratio--The percentage of gross monthly income from Qualifying Income that goes towards paying off Debts and is calculated by dividing total recurring monthly Debt by gross monthly income expressed as a percentage.

(23) Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of expiration of, termination of, or reduction of funds under a Contract or Agreement.

(24) Developer--Any person, general partner, Affiliate, or Affiliated Party or affiliate of a person who owns or proposes a Development or expects to acquire control of a Development and is the person responsible for performing under the Contract with the Department.

(25) Development--A residential housing project for homeownership that consists of one or more units owned by the Developer during the development period and financed under a common plan which has

applied for Department funds. This includes a project consisting of multiple units of housing that are located on scattered sites.

(26) Domestic Farm Laborer--Individuals (and the Household) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.

(27) Draw Request--a request submitted to the Department, by an Administrator, seeking reimbursement of Program funds for completing an expenditure relating to the Program.

(28) Enforcement Committee--The Committee as defined in Chapter 2 of this title (relating to Enforcement).

(29) Finding--An Administrator's material failure to comply with rules, regulations, the terms of the Contract, or to provide services under a 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 may jeopardize continued operations of the Administrator. A Finding includes the identification of an action or failure to act that results or may result in disallowed costs.

(30) Forgivable Loan--Financial assistance in the form of a Mortgage Loan that is not required to be repaid if the terms of the Mortgage Loan are met.

(31) HOME Program--A HUD funded Program authorized under the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(32) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit as their primary residence. May also be referred to as a "family" or "beneficiary."

(33) Housing Contract System (HCS)--The electronic information system or systems that are part of the "central database" established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities. May also be known as Contract System.

(34) HUD--The United States Department of Housing and Urban Development or its successor.

(35) Improvement Survey--A boundary survey plus land improvements by a Texas surveyor with a surveyor's seal, license number, and signature, meeting the requirements of the Texas Board of Professional Land Surveying under Chapter 663, Part 29, Title 2 of the TAC, showing (at a minimum) the accompanying legal description; all boundaries clearly labeled with calls and distance found on the ground and per the legal description; the location of all improvements, structures, visible utilities, fences, or walls; any boundary or visible encroachments; all adjoinders and recording information; location of all easements, setback lines, and utilities; or other recorded matters affecting the use of the property.

(36) Life-of-Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the Mortgage Loan.

(37) Limited English Proficiency (LEP)--Refers to persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

(38) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires written Department approval.

(39) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code or Federal Housing Administration (FHA) guidelines as required by the Department.

(40) Mortgage--Has the same meaning as defined in §2306.004 of the Tex. Gov't Code.

(41) Mortgage Loan--Has the same meaning as defined in §2306.004 of the Tex. Gov't Code.

(42) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.

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

(44) Nonprofit Organization--An organization in which no part of its income is distributable to its members, directors or officers of the organization and has a current tax exemption classification status from the Internal Revenue Service in accordance with the Internal Revenue Code.

(45) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Tex. Gov't Code, which acts as a liaison to the colonias and manages some Programs in the colonias.

(46) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.

(47) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such an impairment; or is being regarded as having such impairment. Included in this meaning is the term handicap as defined in the Fair Housing Act, and disability as defined by other applicable federal or state law.

(48) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."

(49) Program--The specific fund source from which single family funds are applied for and used.

(50) Program Income--Gross income received by the Administrator or Affiliate directly generated from the use of single family funds, including, but not limited to gross income received from matching contributions under the HOME Program.

(51) Program Manual--A set of guidelines designed to be an implementation tool for a single family Program. A Program Manual is developed by the Department and amended or supplemented from time to time.

(52) Program Rule--Chapters of Part 1 of this title which pertain to specific single family Program requirements.

(53) Qualifying Income--The income used to calculate the Borrower's debt-to-income ratio and excludes the total of any income not received consistently for the past 12 months from the date of Application including, but not limited to, income from a full or part time job that lacks a stable job history, potential bonuses, commissions, and child support. Income received for less than 12 months such as retirement annuity or court ordered payments will be considered only if it is expected to continue at least 24 months in the foreseeable future.

(54) Reservation--Funds set-aside for a Household submitted through the Department's Reservation System.

(55) Reservation System--The Department's online tracking system that allows Administrators to reserve funds for a specific Household.

(56) Resolution--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws of the issuing organization.

(57) Reverse Mortgage--A Home Equity Conversion Mortgage insured by the FHA.

(58) Self-Help--Housing Programs that allow low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers.

(59) Service-Area--The geographical area where an Administrator conducts Activities under a Contract.

(60) Single Family Housing Unit--A residential dwelling designed and built for a Household to occupy as its primary residence where single family Program funds are used for rental, acquisition, construction, reconstruction or rehabilitation Activities of an attached or detached housing unit, including Manufactured Housing Units after installation. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(61) State Median Family Income (SMI)--The median income for the state adjusted for household size and published annually by the U.S. Department of Housing and Urban Development (HUD).

(62) TAC--Texas Administrative Code.

(63) Texas Housing Trust Fund (Texas HTF)--Funding source for state-funded Programs authorized under Chapter 2306 of Tex. Gov't Code.

(64) TMCS--Texas Minimum Construction Standards.

§20.4 Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

(1) Rehabilitation or new construction of Single Family Housing Units;

(2) Reconstruction of an existing Single Family Housing Unit on the same site;

(3) Replacement of existing owner-occupied housing with a new MHU;

(4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;

(5) Refinance of an existing Mortgage or Contract for Deed mortgage;

(6) Tenant-based rental assistance; and

(7) Any other single family Activity as determined by the Department.

§20.5 Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs), or other methods describing submission and eligibility guidelines and requirements.

(b) Funds may be allocated through Contract awards by the Department or by Department authority to submit Reservations.

(c) Funds may be subject to regional allocation in accordance with Chapter 2306 of the Tex. Gov't Code.

(d) Eligible Applicants must comply with the provisions of the Application materials and funding notice and are responsible for the accuracy and timely submission of all Applications and timely correction of all deficiencies.

§20.6 Administrator Applicant Eligibility.

(a) Eligible Applicants seeking to administer a single family Program are limited to entities described in the Program Rule and/or NOFA; and

(1) Shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(2) Shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in Chapters 1 and 2 of this title (relating to Administration and Enforcement).

(3) Must provide Resolutions in accordance with the applicable Program Rule.

(b) The actions described in the following paragraphs (1) - (3) of this subsection may cause an Applicant and any Applications they have submitted to administer a Single Family Program to be ineligible:

(1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;

(2) Applicant is debarred by HUD or the Department; or

(3) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed by the Executive Award and Review Advisory Committee (EARAC) for its compliance history by the Department, as provided in §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title. An Application submitted by an Applicant found to be in noncompliance or otherwise violating the rules of the Department may be recommended with conditions or not recommended for funding by EARAC.

(c) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(d) The Department may decline to fund any Application to administer a Single Family Program if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.

(e) If an Applicant/Administrator is originating or servicing a Mortgage Loan, the Applicant/Administrator must possess all licenses required under state or federal law for taking the Application of and/or servicing a residential mortgage loan and must be in good standing with respect thereto, unless Applicant/Administrator is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

§20.7 Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit must be located in the State of Texas.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current prior to the date of Mortgage Loan closing or effective date of the grant agreement. Delinquent property taxes will result in disapproval of the Activity unless one or more of the following conditions are satisfied:

(1) Household must be satisfactorily participating in an approved installment agreement in accordance with Texas Tax Code §33.02 with the taxing authority, and must be current for at least three consecutive months prior to the date of Application;

(2) Household must have qualified for an approved tax deferral plan agreement in accordance with Texas Tax Code §§33.06 or 33.065; or

(3) Household must have entered into an installment agreement under Texas Tax Code §§31.031 or 31.032, have made at least one payment under the agreement, and be current on the installment plan.

(c) A Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title as of the date of the Mortgage Loan closing or effective date of the grant agreement.

(d) Prior to any Department assistance, the owner must be current on any existing Mortgage Loans or home equity loans.

(e) Housing that is built through new construction or reconstruction must meet the requirements of Texas Gov't Code §2306.514 (relating to accessibility), 10 TAC Chapter 21 (relating to Energy Efficiency), and applicable building codes. Plans submitted for housing under new construction or reconstruction must be prepared or certified by an architect or engineer licensed by the state of Texas.

§20.8 Fair Housing, Waitlist Policy, Affirmative Marketing and Procedures, Housing Counseling, Denials, Notice to Applicants, Reasonable Accommodations, and Limited English Proficiency.

(a) Fair Housing. In addition to Chapter 1, Subchapter B of this title (relating to Accessibility and Reasonable Accommodations), an Administrator must comply with all applicable state and federal rules, statutes, or regulations, involving accessibility including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Architectural Barriers Act as well as state and local building codes that contain accessibility requirements; where local, state, or federal rules are more stringent, the most stringent rules shall apply. Administrators receiving Federal or state funds must comply with the Age Discrimination Act of 1975.

(b) Preferences. Administrators of the Amy Young Barrier Removal Program may have a preference prioritizing Households to prevent displacement from permanent housing, or to foster returning to permanent housing related to inaccessible features of the unit.

(c) Waitlist Policy. An Administrator receiving Federal funds must have a Waitlist Policy. The Waitlist Policy must be submitted to the Department each time the Administrator applies for a new contract or a new type of activity. The Administrator may submit a previously approved Waitlist Policy if no changes need to be made. The Waitlist Policy must be submitted at a minimum of every three years if the Administrator continues to accept new Applications. An Administrator receiving Federal funds must submit a Waitlist Policy with an Affirmative Fair Housing Marketing Plan as described in subsection (d) of this section, relating to Affirmative Marketing and Procedures.

(1) A Waitlist Policy must include any Department approved preferences used in selecting Applicants from the list. An Administrator that has defined preferences in its written waitlist procedures or tenant selection plans, as applicable, will employ preferences first and select Applicants from the waiting list that meet the defined preference, still using the neutral random selection process. An Administrator of a federally funded Program may only request to establish preferences that are included in Department planning documents, specifically the One Year Action Plan or Consolidated Plan, or as otherwise allowed for CDBG funded Activities.

(2) An Administrator must accept Applications from possible eligible Applicants for a minimum of a 21 calendar day period. A first-come, first-served basis may not be implemented during initial selection. At the close of the minimum 21 calendar day Application acceptance period, an Administrator must select Applications through a neutral random selection process that the Administrator described in its written policies and procedures. After the Administrator has allowed for the minimum 21 calendar day period to accept Applications and has used a neutral random selection process to assist Households, the Administrator may accept Applications on a first-come, first-served basis if funds remain in the current contract or Activity type. The Director of Programs, or designee, may approve an exemption from the 21 calendar day period and the neutral random selection process for Administrators of HOME disaster set-aside Tenant Based Rental Assistance, as necessary to respond to the disaster.

(d) Affirmative Marketing and Procedures. An Administrator receiving Federal funds must have an Affirmative Fair Housing Marketing Plan (AFHMP) and satisfy the requirements of this subsection. The AFHMP must be submitted to the Department each time the Administrator applies for a new contract or a new type of activity, and reflect marketing activities specific to the activity type. The Administrator may submit a previously approved AFHMP if no changes need to be made. The plan must be submitted at least one time in any three-year period if the Administrator continues to accept new Applications.

(1) Administrators must use the AFHMP form on the Department's website, HUD Form 935.2B, or create an equivalent AFHMP that includes:

(A) Identification of the population "least likely to apply" for the Administrator's Program(s) without special outreach efforts. Administrators may use the Department's single family affirmative marketing tool to determine populations "least likely to apply." If Administrators use another method to determine the populations "least likely to apply" the AFHMP must provide a detailed explanation of the methodology used. Persons with Disabilities must always be included as a population least likely to apply.

(B) Identification of the methods of outreach that will be used to attract persons identified as least likely to apply. Outreach methods must include identification of a minimum of three organizations with whom the Administrator plans to conduct outreach, and whose membership or clientele consists primarily of protected class members in the groups least likely to apply. If the Administrator is unable to locate three such groups, the reason must be documented in the file.

(C) Identification of the methods to be used for collection of data and periodic evaluation to determine the success of the outreach efforts. If efforts have been unsuccessful, the Administrator's AFHMP should be revised to include new or improved outreach efforts.

(D) Description of the fair housing trainings required for Administrator staff, including delivery method, training provider and frequency. For programs involved in homebuyer transactions, training must include requirements of the Fair Housing Act relating to financing and advertising, expected real estate broker conduct, as well as redlining and zoning for all programs, and discriminatory appraisal practices.

(E) A description of applicable housing counseling programs and educational materials that will be offered to Applicants. An Administrator offering any TDHCA Mortgage Loan utilizing federal funds must require that Households receive housing counseling prior to the date of the Mortgage Loan closing. Housing counseling may take place in-person or by telephone. Counseling may be provided online only if it is customized to the individual Household. Counseling must address pre- and/or post-purchase topics, as applicable to the Borrower's needs. A certificate of completion of counseling must be dated not more than 12 months prior to the date of submission of Mortgage Loan Application. For an Applicant who will receive construction assistance from a federally funded Program on or after August 1, 2021, housing counseling must be provided by HUD-certified counselors working for agencies participating in HUD's Housing Counseling Program.

(2) Applicability.

(A) Affirmative marketing is required as long as an Administrator of federal funds is accepting Applications or until all dwelling units are sold in the case of single family homeownership programs.

(B) An Administrator that currently has an existing list of Applicants and is not accepting new Applications or establishing a waitlist is not required to affirmatively market until preparing to accept new Applications, but must develop a plan as described in this subsection.

(C) An Administrator providing assistance in more than one Service Area must provide a separate plan for each market area in which the housing assistance will be provided.

(D) Administrators must include the Equal Housing Opportunity logo and slogan on any commercial and other media used in marketing outreach.

(E) Copies of all outreach and media ads must be kept and made available to the Department upon request.

(e) Mobility Counseling. An Administrator offering homeownership or rental assistance that allows the Household to relocate from their current residence must provide the Household access to mobility counseling. For homeownership, mobility counseling may be included in housing counseling and education trainings, and must cover the criteria noted in paragraphs (1) - (3) of this subsection.

(1) Mobility counseling must, at a minimum, include easily understandable information that the Household can use in determining areas of opportunity within a Service Area, which must at minimum include the following: which areas have lower poverty rates, average income information of different areas, school ratings, crime statistics, available area services, public transit, and other items the Administrator deems appropriate in helping the Household make informed choices when identifying housing.

(2) Mobility counseling may be offered online or in-person, and must be customized for the Household.

(3) An Administrator must collect signed certifications from Applicants acknowledging they have received mobility counseling.

(f) Denials. In the case of any Applicant's denial from a program, a letter providing the specific reason for the denial must be provided to the Applicant within fourteen calendar days of the denial. Administrators must keep a record of all denied Applicants including the basis for denial. Such records must be retained for the record retention period described by the Agreement or other sources.

(g) Notice to Applicants. Administrator must provide Applicants with eligibility criteria, which shall include the procedures for requesting a reasonable accommodation to the Administrator's rules, policies, practices, and services, including but not limited to, as it relates to the Application process.

(h) A copy of all Reasonable Accommodation requests and the Administrator's compliant responses to such requests, in accordance with §1.204 of this title (relating to Reasonable Accommodations), must be kept as stated in §1.409 of this title (relating to Records Retention).

(i) Provisions Related to Limited English Proficiency.

(1) Administrator must have a Language Access Plan that ensures persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in services, activities, programs, and other benefits.

(2) Materials that are critical for ensuring meaningful access to an Administrator's major activities and programs, including but not limited to Applications, mortgage loan Applications, consent forms and

notices of rights, should be translated for any population considered least likely to apply that meets the threshold requirements of Safe Harbor LEP provisions as provided by HUD and published on the Department's website. Materials considered critical for ensuring meaningful access should be outlined in the Administrator's Language Access Plan.

(3) The Administrator is required to translate Vital Documents under Safe Harbor guidelines, they must include in their Language Access Plan how such translation services will be provided (e.g., whether the Administrator will use voluntary or contracted qualified translation services, telephonic services, or will identify bilingual staff that will be available to assist Applicants in completing vital documents and/or accessing vital services). If the Administrator plans to use bilingual staff in its translation services, contact information for bilingual staff members must be provided.

(4) The Language Access Plan must be submitted to the Department upon request and be available for review during monitoring visits. HUD and the Department of Justice have issued requirements to ensure meaningful and appropriate access to programs for LEP individuals.

(5) Administrators must offer reasonable accommodations information and Fair Housing rights information in both English and Spanish, and other languages as required by the inclusion of "least likely to apply" groups to reach populations identified as least likely to apply.

(j) The Waitlist Policy and AFHMP, any documentation supporting the plans, and any changes made to the plans, must be kept in accordance with recordkeeping requirements for the specific Program, and in accordance with 10 TAC §1.409 (relating to Records Retention).

§20.9 Inspection Requirements for Construction Activities.

(a) The inspection requirements in this section are applicable to all construction activities, except for the Amy Young Barrier Removal Program, to the extent funded with Texas HTF.

(b) Interim inspections of construction progress are required for a Draw Request.

(c) Final inspections are required for all single family construction Activities. The inspection must document that the Activity is complete; meets all applicable codes, requirements, zoning ordinances; and has no known deficiencies related to health and safety standards. A copy of the final inspection report must be provided to the Department and to the Household.

(d) New construction requirements.

(1) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit complies with subsection (c) of this section.

(2) Applicant must demonstrate compliance with Tex. Gov't Code §2306.514, "Construction Requirements for Single Family Affordable Housing," and applicable Program Rules.

(e) Reconstruction requirements.

(1) The initial inspection must identify substandard conditions listed in TMCS along with any other health or safety concerns, unless the unit has been condemned or in the case of a HOME and CSHC Activity, the unit to be reconstructed is an MHU.

(A) A copy of the initial inspection report must be provided to the Department and to the Household as applicable. The initial inspection may be waived if the local building official certifies that the extent of the subject property's substandard conditions is beyond repair, or the property has been condemned.

(B) Substandard conditions identified in the initial inspection report must provide adequate detail to evidence the need for reconstruction.

(2) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit complies with subsection (c) of this section.

(3) Applicant must demonstrate compliance with Tex. Gov't Code §2306.514, "Construction Requirements for Single Family Affordable Housing," and applicable Program Rules.

(f) Rehabilitation requirements.

(1) Single Family Housing Units that have been condemned by the Municipality, County, or the State are not eligible for rehabilitation.

(2) The initial inspection must identify all substandard conditions listed in TMCS, along with any other health and safety concerns

(A) A copy of the initial inspection report must be provided to the Department and to the Household.

(B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate.

(3) Final inspections must document that all substandard and health and safety issues identified in the initial inspection have been corrected. All deficient items noted on the final inspection report must be corrected prior to approval of the final Draw Request.

(4) Administrator shall meet the applicable requirements of the TMCS. Exceptions to specific provisions of TMCS may be granted in accordance with the TMCS exception request process.

(5) Correction of cosmetic issues, such as paint, wall texture, etc., will not be required if acceptable to the Program as outlined in the Program Rule, or if utilizing a Self-Help Construction Program.

(g) Inspector Requirements.

(1) Inspectors selected by the Administrator to verify compliance with this chapter must be certified by the Administrator to have sufficient professional certifications, relevant education or experience in a field directly related to home inspection, which may include but is not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and electrical systems found in Single Family Housing Units.

(2) Inspectors shall utilize Department-approved inspection forms, checklists, and standards when conducting inspections.

(h) The Department reserves the right to reject any inspection report if, in its sole and reasonable determination, the report does not accurately represent the property conditions or if the inspector does not meet Program requirements. All related construction costs in a rejected inspection report may be disallowed until the deficiencies are adequately cured.

§20.10 Survey Requirements.

(a) The Amy Young Barrier Removal Program is excluded from the survey requirements, to the extent funded with the Texas HTF.

(b) When Program funds are used for acquisition or construction, an Improvement Survey is required when:

(1) The rehabilitation project is enlarging the footprint; or

(2) The Activity is reconstruction, new construction, or acquisition of an existing home.

(c) If allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the owner certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit, and the title company accepts the certification and survey.

(d) The Department reserves the right to determine the survey requirements on a per Activity basis if additional survey requirements would, at the sole discretion of the Department, benefit the Activity.

§20.11 Insurance and Title Requirements.

(a) The Amy Young Barrier Removal Program is excluded from this section, to the extent funded with the Texas HTF.

(b) Title Insurance Requirements. A "Mortgagee's Title Insurance Policy" is required for all Department Mortgage Loans, exclusive of subordinate lien Mortgage Loans for down payment assistance and closing costs.

(1) The title insurance policy shall be issued by an entity that is licensed and in good standing with the Texas Department of Insurance.

(2) The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(3) The policy must include survey deletion coverage.

(c) Title Reports.

(1) Title reports are acceptable only for grants.

(2) Title reports must disclose the current ownership, easements, restrictions, and liens relating to the property, and include a search for judgements, mortgages or liens, affidavits, deed restrictions, building setback and easements, and any other factors which may impair the good and marketable title to the property.

(3) The preliminary title report may not be older than six months from the date of submission of the Activity to the Department.

(d) Builder's Risk. Builder's Risk (non-reporting form only) is required when the Department provides construction funds for a Single Family Housing Unit. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(e) Hazard Insurance. If Department funds are provided in an amount that exceeds $20,000, then:

(1) The Department requires property insurance for fire and extended coverage;

(2) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(3) The amount of hazard insurance coverage should be no less than 100% of the current insurable value of improvements as of the date of Mortgage Loan closing or effective date of the grant agreement; and

(4) The Department must be named as a loss payee and mortgagee on the hazard insurance policy for any Activity receiving a Mortgage Loan from the Department.

(f) Flood Insurance. Flood insurance must be maintained for all structures located in special flood hazard areas as determined by the U.S. Federal Emergency Management Agency (FEMA).

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced or required to obtain flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid. For Amortizing Mortgage Loans, a minimum of two months of reserves must be collected at the closing of the Mortgage Loan. The Department must be named as the loss payee on the policy.

§20.12 Loan, Lien and Mortgage Requirements for Activities.

(a) The fees to be paid by the Department or Borrower upfront or through the closing must be reasonable for the service rendered, in accordance with the typical fees paid in the market place for such activities and:

(1) Fees charged by third party Mortgage lenders are limited to the greater of 2% of the Mortgage Loan amount or $3,500, including but not limited to origination, loan application, and/or underwriting fees, and

(2) Fees paid to other parties that are supported by an invoice and/or reflected on the Closing Disclosure will not be included in the limit in paragraph (1) of this subsection.

(b) A Loan made by a third-party lender in conjunction with Mortgage Loan from a federal source must be fixed-rate and may not include pre-payment penalties, balloon payments, negative amortization, or interest-only periods.

(c) Mortgage Loan Underwriting Requirements. The requirements in this subsection shall apply to all non-forgivable amortizing Mortgage Loans.

(1) Debt-to-Income Ratio. The Household's total Debt-to-Income Ratio shall not exceed 45% of Qualifying Income (unless otherwise allowed or dictated by a participating lender providing a fixed rate Mortgage Loan that is insured or guaranteed by the federal government or a conventional Mortgage Loan that adheres to the guidelines set by Fannie Mae and Freddie Mac.) A potential Borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form(s) and the deed of trust as a non-purchasing spouse. The non-purchasing spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of the primary potential Borrower(s) and the non-purchasing spouse will be considered in the potential Borrower's total Debt-to-Income Ratio.

(2) Credit Qualifications.

(A) The Department may utilize credit reports submitted by the Administrator that are not more than 90 days old as part of the Mortgage Loan Application or may obtain tri-merge credit reports on all potential Borrowers submitted to the Department for approval at the time of Mortgage Loan Application. In addition to the initial credit report, the Department may, at its discretion, obtain one or more additional credit reports before Mortgage Loan closing to ensure the potential Borrower still meets Program requirements. Acceptable outstanding debt means that all accounts are paid as agreed and are current.

(B) Unacceptable Credit. Applicants meeting one or more of the following criteria will not be qualified to receive a single family Mortgage Program Loan from the Department:

(i) A credit history reflecting payments on any open consumer, retail and/or installment account (e.g., auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan, with the exception of a medical account) which have been delinquent for more than 30 days on two or more occasions within the last 12 months and must be current for the six months immediately preceding the date of the Mortgage Loan Application;

(ii) A foreclosure or deed-in-lieu of foreclosure or a potential Borrower in default on a mortgage at the time of the short sale any of which had occurred or been completed within the last 24 months prior to the date of Mortgage Loan Application;

(iii) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens where the potential Borrower has not entered into a satisfactory repayment arrangement and been current for at least 12 months prior to the date of Mortgage Loan Application;

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is outstanding at the date of Mortgage Loan Application or any time prior to closing of the Mortgage Loan;

(v) Any account (with the exception of a medical account that is delinquent or has been placed for collection) that has been placed for collection, profit and loss, charged off, or repossession within the last 24 months prior to the date of Mortgage Loan Application;

(vi) Any reported delinquency on any government debt at the date of Mortgage Loan Application;

(vii) A bankruptcy that has been filed within the past 24 months prior to the date of the Mortgage Loan; or

(viii) Any reported child support payments in arrears unless the potential Borrower has evidence of having met satisfactory payment arrangements for at least 12 months prior to the date of the Mortgage Loan.

(C) Mitigation for Unacceptable Credit. The following exceptions will be considered as mitigation to the unacceptable credit criteria in subparagraph (B) of this paragraph.

(i) The potential Borrower is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products, and has demonstrated the ability and willingness to meet debt obligations as determined by the Department.

(ii) The potential Borrower provides documentation to evidence that the outstanding delinquency or unpaid account has been paid or settled or the potential Borrower has entered into a satisfactory repayment arrangement or debt management plan and been current for at least 12 consecutive months prior to the date of Mortgage Loan.

(iii) The potential Borrower submits to the Department a written explanation of the cause for the previous delinquency, which has since been brought current and is acceptable to the Executive Director or his or her designee.

(iv) Any and all outstanding judgments must be released prior to closing of Mortgaged Loan.

(v) If a potential Borrower is currently participating in a debt management plan, and the trustee or assignee provides a letter to the Department stating they are aware and agree with the potential borrower applying for a Mortgage Loan. If a potential Borrower filed a bankruptcy, the bankruptcy must have been discharged or dismissed more than 12 months prior to the date of Mortgage Loan Application and the potential Borrower has re-established good credit with at least one existing or new active consumer account or credit account that is in good standing with no delinquencies for at least 12 months prior to the date of Mortgage Loan Application.

(vi) If a Chapter 13 Bankruptcy was filed, a potential Borrower must have satisfactorily made 12 consecutive payments and obtain court trustee's written approval to enter into Mortgage Loan.

(D) Liabilities.

(i) The potential Borrower's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than 10 monthly payments remaining. Debts for which the potential borrower is a co-signer will be included in the total monthly obligations. For payments with 10 or fewer monthly payments remaining, there shall be no late payments within the past 12 months or the debt will be included into the Debt-to-Income Ratio calculation. Payments on installment debts which are paid in full prior to the date of closing are not included for qualification purposes. Payments on all revolving debts, including credit cards, payday loans, lines of credit, unsecured loans, and installment loans that have been opened within three months of closing a prior account with the same lender will be included in the Debt-to-Income Ratio calculation, even if the potential Borrower intends to pay off the accounts, unless the account is paid in full and closed. Any revolving account with an outstanding balance but no specific minimum payment reflected on the credit report and no monthly statement showing the required monthly payment will include a payment amount calculated as the greater of 5% of the outstanding balance or $10.

(ii) if a potential Borrower provides written evidence that a debt will be deferred at least 12 months from the date of closing, the debt will not be included in the Debt-to-Income Ratio calculation. Payments on any type of loan that have been deferred or have not yet commenced, including student loans and accounts in forbearance, will be calculated using .5% of the outstanding balance or monthly payment reported on the potential Borrower's credit report, whichever is less. Other types of loans with deferred payment will be calculated using the monthly payment shown on the potential Borrower's credit report.

If the credit report does not include a monthly payment for the loan, the monthly payment shown in the loan agreement or payment statement will be utilized.

(E) Equal Credit Opportunity Act. The Department and/or the Administrator on behalf of the Department will comply with all federal and state laws and regulations relating to the extension of credit, including the Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691 et seq.) and its implementing regulation at 12 CFR Part 1002 (Regulation B) when qualifying potential Borrower(s) to receive a single family Mortgage Loan from the Department.

(d) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rules.

(e) Lien Position Requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged Mortgage Loan is equal to or greater than the Department's Mortgage Loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined repayable or amortized loans; however, liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(f) Loan Terms. All Mortgage Loan terms must meet all of the following criteria:

(1) May not exceed a term of 30 years;

(2) May not be for a term of less than five years; and

(3) Interest rate may be as low as 0% as provided in the Program Rules.

(g) Loan Assumption. A Mortgage Loan may be assumable if the Department determines the potential Borrower assuming the Mortgage Loan is eligible according to the underwriting criteria of this section and complies with all Program requirements in effect at the time of the assumption.

(h) Cash Assets. An Applicant with unrestricted cash assets in excess of $25,000 must use such excess funds towards the acquisition of the property in lieu of loan proceeds. Unrestricted cash assets for this purpose are Net Family Assets defined in 24 CFR §5.603.

(i) Appraisals.

(1) An appraisal is required by the Department on each property that is part of an acquisition Activity, except for down payment assistance only, prior to closing to determine the current market value.

(2) The appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation.

(3) The Appraiser must have an active and current license by the Texas Appraisal Licensing and Certification Board.

(j) Combined Loan to Value. The Combined Loan to Value ratio of the property may not exceed 100% of the cost to acquire the property. The lien amounts of Forgivable Loans shall be included when determining the Combined Loan to Value ratio. The cost to acquire the property may exceed the appraised value only for an amount not to exceed the closing costs but in no case may result in cash back to the Borrower or exceed the limits under subsection (a) of this section.

(k) Escrow Accounts.

(1) An escrow account for real estate taxes, hazard and flood insurance premiums, and other related costs must be established if:

(A) The Department holds a first lien Mortgage Loan which is due and payable on a monthly basis to the Department; or

(B) The Department holds a subordinate Mortgage Loan and the first lien lender does not require an escrow account.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the following provisions described in subparagraphs (A) - (G) of this paragraph are applicable:

(A) The Borrower must contribute monthly payments to cover the anticipated costs, as calculated by the Department, of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;

(B) Escrow reserves shall be calculated based on land and completed improvement values;

(C) The Department may require up to two months of payment reserves for hazard and/or flood insurance, and property taxes to be collected at the time of closing to establish the required amounts in the escrow account;

(D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;

(E) The Borrower will be required to deposit monthly funds to an escrow account managed by the Mortgage Loan servicer for payment of the taxes and insurance on the property. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due;

(F) These funds are included in the Borrower's monthly loan payment to the Department or to the Mortgage Loan servicer; and

(G) The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) under 12 U.S.C. §2601 and its implementing regulations at 12 CFR Part 1024 (Regulation X), as applicable.

(l) Requirements for Originating Mortgage Loans for the Department.

(1) Any Administrator or staff member of an Administrator originating Mortgage Loans for the Department must be properly licensed and registered as a residential mortgage loan originator in accordance with Chapters 157 and 180 of the Texas Finance Code and its implementing regulations at Chapter 81, Part 4 of Title 7 of the TAC, unless exempt from licensure or registration pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(A) The Department reserves the right to reject any Mortgage Loan Application originated by an Administrator or individual that is not properly licensed or registered.

(B) The Department will not reimburse any expenses related to a Mortgage Loan Application received from an Administrator or individual that is not properly licensed or registered.

(2) Only Administrators approved by the Department may issue initial mortgage disclosures, including the Loan Estimate and other integrated disclosures for Mortgage Loans made by the Department as required under RESPA and its implementing Regulation X, the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank) at 124 Stat.1375, the Truth in Lending Act (TILA) at 15 U.S.C. §1601 and its implementing regulations at 12 CFR §1026 (Regulation Z), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any Mortgage Loan Application and Loan Estimate submitted by an Administrator that has not received Department approval because the loan product as disclosed is not offered or the Borrower does not qualify for that loan product.

(B) The Department will not reimburse any expenses related to a Loan Estimate or Application received from an Administrator that does not have Department approval.

(3) Only an Administrator approved by the Department may issue final mortgage disclosures, including the Closing Disclosures and other integrated disclosures, for Mortgage Loans made by the Department as required under RESPA--Regulation X, Dodd Frank, TILA, Regulation Z), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any Closing Disclosure issued by an Administrator or title company without Department approval.

(B) The Department reserves the right to refuse to fund a Mortgage Loan with a Closing Disclosure that does not have Department approval.

(4) The Department will not allow disbursement of any portion of the Department's Mortgage Loan for acquisition until seller delivers to the Borrower a fully executed deed to the property. After execution of the deed, the deed must be recorded in the records of the county where the property is located.

(5) The first monthly mortgage payment upon closing of the Mortgage Loan with monthly scheduled payments will be due one full month after the last day of the month in which the Mortgage Loan closed.

(m) Principal Residence. Loans are only permitted for potential Borrowers who will occupy the property as their Principal Residence. The property must be occupied by the potential Borrower within the later of 60 days after Mortgage Loan closing or construction completion, whichever occurs last. It must remain the Household's Principal Residence as defined in the Mortgage Loan documents or in the case of Forgivable Loans, until the forgiveness period has concluded in accordance with the Mortgage documents.

(n) Life-of-Loan Flood Certifications will be required to monitor for FEMA flood map revisions and community participation status changes for the term of the Mortgage Loan.

(o) Requirements for Subordinating to a Refinanced Loan. The Department may consent to the refinancing of the Household's superior third-party lender mortgage and execute a subordination agreement when the following conditions are met:

(1) Borrower is not refinancing into an adjustable rate mortgage;

(2) Combined loan balances do not exceed 100% of appraised value;

(3) There is no increase in principal or interest payments, with the exception made for Borrowers refinancing from a 30-year term to a shorter loan term;

(4) The Borrower will not receive any proceeds from the transaction unless it is for overpayment of Borrower's costs;

(5) All lienholders have consented to the refinancing; and

(6) In the case of Reverse Mortgages insured by the federal government (e.g. Home Equity Conversion Mortgage insured by the Federal Housing Administration), all other requirements are met.

§20.13 Amendments to Written Agreements and Contracts.

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract that is not a Household commitment contract, provided that the requirements of this section are met unless otherwise indicated in the Program Rules.

(1) Time extensions. The Executive Director or his/her designee may grant up to a cumulative 12 months extension to the end date of any Contract unless otherwise indicated in the Program Rules. Any additional time extension beyond a cumulative 12 months granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative 12 months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.

(2) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.

(3) Changes in Households Served. Reductions in Contractual deliverables and the number of Households to be served shall require an amendment to the Contract. If such amendment is not approved, the Applicant will have the right to appeal in accordance with §1.7 of this title (relating to Appeals Process).

(4) Increases in Award and Contract Amounts.

(A) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract Term.

(B) The considerations to approve an increase in funding shall include, at a minimum, fund availability, and Administrator's ability to continue to meet existing deadlines, benchmarks, and reporting requirements.

(C) Increases in funds may come from Program funds, Deobligated funds, or Program Income.

(D) Qualifying requests will be recommended to the Executive Director or his/her designee for approval.

(E) The Board must approve requests for increases in Program funds in excess of 25% of the original Contract amount.

(5) The Division Director may approve Contract budget amendments that move unexpended funds from one eligible cost category to another if the amendment would not have impacted the award of funds

(6) The Division Director may approve other amendments to a Contract or an Agreement, including amendments to the Administrator's Service Area, benchmarks, or selection of Activities administered

under a Contract or an Agreement, provided that the amendment would not have negatively impacted the priority of Board approved Applications.

(b) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Program Rule and/or Contract, or for any other reason in the Department's reasonable discretion.

(c) In all instances noted in this section, where an expected Mortgage Loan transaction is involved, Mortgage Loan documents will be modified accordingly at the expense of the Administrator/borrower.

§20.14 Compliance and Monitoring.

(a) The Department will perform monitoring of single family Program Contracts and Activities in order to ensure that applicable requirements of federal laws and regulations, and state laws and rules have been met, and to provide Administrators with clear communication regarding the condition and operation of these Contracts and Activities so they understand clearly, with a documented record, how they are performing in meeting obligations.

(1) The physical condition of assisted properties and Administrator's documented compliance with contractual and Program requirements may be subject to monitoring.

(2) The Department may contract with an independent third party to monitor an Activity for compliance with any conditions imposed by the Department in connection with the award of any Department funds, and appropriate state and federal laws.

(b) If an Administrator has Contracts for more than one single family Program, or other programs through the Department or the State, the Department may, at its discretion, coordinate monitoring of those programs with monitoring of single family Contracts under this chapter.

(c) In general, Administrators will be scheduled for monitoring based on federal or state monitoring requirements, or a risk assessment process including but not limited to: the number of Contracts administered by the Administrator, 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, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Administrators will have an onsite review, and which may have a desk review.

(d) The Department will provide an Administrator with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Administrator by email to the Administrator's chief executive officer at the email address most recently provided to the Department by the Administrator. In general, a 30 calendar day notice will be provided. However, if a credible complaint of fraud is received, the Department reserves the right to conduct unannounced monitoring visits, or provide a shorter notice period. If the Department receives a complaint under §1.2 of this title (relating to Department Complaint System to the Department), it will follow the procedures outlined therein instead of this section. It is the responsibility of the Administrator to maintain current contact information with the Department for the organization, key staff members, and governing body in accordance with §1.22 of this title (relating to Providing Contact Information to the Department).

(e) Upon request, an Administrator 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, along with access to assisted properties.

(f) Post Monitoring Procedures. After the review, a written monitoring report will be prepared for the Administrator describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Administrator. 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.

(g) Administrator Response. If there are any Findings and/or Concerns of noncompliance requiring corrective action, the Administrator will be provided a 30 day corrective action period, which may be extended for good cause. In order to receive an extension, the Administrator must submit a written request to the Compliance Division within the corrective action period, stating the basis for good cause that the Administrator believes justifies the extension. In general, the Department will approve or deny the extension request within three business days. Failure to timely respond to a corrective action notice and/or failure to correct all Findings will be taken into consideration if the Administrator applies for additional funding and may result in suspension of the Contract, referral to the Enforcement Committee, or other action under this title.

(h) Monitoring Close Out. After completion of the monitoring review, a close out letter will be issued to the Administrator. If the Administrator supplies evidence establishing continual compliance that negates the Finding of noncompliance, the issue of noncompliance will be rescinded. If the Administrator's response satisfies all Findings and Concerns noted in the monitoring letter, the issue of noncompliance will be noted as resolved. In some circumstances, the Administrator may be unable to secure documentation to resolve a Finding. In those instances, if there are mitigating circumstances, the Department may note the Finding is not resolved but may close the issue with no further action required. If the Administrator's response does not correct all Findings noted, the close out letter will identify the documentation that must be submitted to correct the issue. Results of monitoring Findings may be reported to the EARAC for consideration relating to Previous Participation.

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

(1) If the issue is related to a federal program requirement or prohibition, Administrators may contact an applicable federal program officer for guidance, or request that the Department contact applicable federal program officer for guidance without identifying the Administrator.

(2) If the issue is related to a provision of the Contract or a requirement of the TAC, or a provision of UGMS or TxGMS (as applicable), the Administrator may submit an appeal to the Executive Director consistent with §1.7 of this title (relating to Appeals Process).

(3) An Administrator may request Alternative Dispute Resolution (ADR). An Administrator must 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).

(j) If an Administrator does not respond to a monitoring letter or fails to provide acceptable evidence of timely compliance after notification of an issue, the matter will be reported to the Department's Enforcement Committee for consideration of administrative penalties, full or partial cost reimbursement, or suspension.

(k) An Administrator must provide timely response to corrective action requirements imposed by other agencies. Administrator records may be reviewed during the course of monitoring or audit of the Department by HUD, the Office of the Inspector General, the State Auditor's Office, or others. If a Finding or Concern is identified during the course of a monitoring or audit by another agency, the Administrator is required to provide timely action and response within the conditions imposed by that agency's notice.

§20.15 Appeals.

Appeal of Department staff decisions or actions will follow requirements in Program Rules and Chapter 1 of this title (relating to Administration).

From:	Stephanie Hamby
To:	Abigail Versyp
Cc:	Diana Velez
Subject:	Public comment
Date:	Monday, October 18, 2021 1:20:17 PM
Attachments:	Public Comment Umbrella rule.docx

Hi Abigail,
I have attached a document with my comments on 10 TAC chapter 20 and 26. Please let me know if you need anything else.

Have a great day.

Thanks,

Stephanie Hamby
Executive Director
Galilee CDC
39 Buick St.
San Angelo, TX 76901
325-655-6700
Stephanie.hamby@galileecdc.org

Public Comment on:

10 TAC Chapter 20, Single Family Programs Umbrella Rule.

Galilee CDC is based in region 12 and we have been administering the AYBR program for over 6 years. We are the only administrator in our region, and we mainly work in Tom Green County and will serve within 60 miles of San Angelo, Texas. We are a small city in comparison to many others working with the program and therefore have a limited number of skilled professionals in our community. Below are comments on a few changes being proposed as they would cause hardships for us to continue to effectively manage this program.

Section 20.9 Inspection Requirements for Construction Activities

(2) (f) Rehabilitation Requirements

(2) Initial inspection must identify substandard conditions listed in TMCS

Requiring us to use the TMCS for the Amy Young Barrier Removal program will severely limit the number of homes that we will be able to work on. The AYBR program is targeting remodel work to be done for accessibility reasons, to allow the disabled individual to remain safely in the home. Our focus is to look at the interior of the home and identify through inspection and meeting with the residents what the main issues are in the home. Mainly those include, remodeling bathrooms, kitchens, widening doorways, installing new flooring, and grab bars. We address items such as HVAC issues and electrical panels that need to be replaced as part of the substandard conditions of the home. The exterior of the home is mainly affected by the need for a ramp or extended sidewalk. The amount of work required to address the above issues maxes out the budget of $22,500 for hard costs per house every time.

(B)All substandard conditions identified must be addressed in the work write up and cost estimate.

If our inspectors are required to identify the substandard issues on the TMCS form, which then we must address, we would spend most of the funding on issues that have nothing to do with accessibility for the homeowner. Driveways, garages, sheds, and crawl spaces are not areas we focus the limited funding on. These requirements will require us to focus on items in the home that are not the highest level priority to be addressed for the disabled person.

We have been using the previous department approved inspection forms for years and that has worked well allowing us to address each house and occupant needs on an individual basis. Each disability is different and the way we address that need with this program will be unique.

1k

BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order repealing sections of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and an order adopting new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the repeal of the existing 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities and a new proposed 10 TAC Chapter 21 were approved in draft form at the Board meeting of September 2, 2021, and published for public comment in the *Texas Register*; and

WHEREAS, public comment on the proposed changes was accepted from September 17, 2021, through October 18, 2021, and no public comment was received;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board hereby adopts the new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and directs their publication in the *Texas Register*, together with their preamble, in the form presented to this meeting; and

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 new 10 TAC Chapter 21, regarding Minimum Energy Efficiency Requirements for Single Family Construction Activities, in the form presented to this meeting and as published in the Texas Register, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

BACKGROUND

The purpose of repealing 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities and proposing a new 10 TAC Chapter 21 is to include flexibility for purchase of otherwise energy efficient units of manufactured housing when units that have Energy Star certification are either not available, or the cost of the units exceeds the resources available and reasonable alternatives could be made available. The proposed rule also clarifies the requirements for providers of energy efficiency inspection services selected by Administrators of single family programs.

The Department held a virtual roundtable discussion on July 7, 2021, regarding the Minimum Energy Efficiency Requirements for Single Family Construction Activities and other single family rules being presented under separate items at this meeting. Comments and suggestions received from the roundtable discussions were taken into consideration during the preparation of the proposed rule as presented at this meeting. The proposed changes to 10 TAC Chapter 21 were approved in draft form at the TDHCA board meeting on September 2, 2021, and were published for public comment in the *Texas Register* issue dated September 17, 2021, to allow for public comment. Public comments were accepted in writing and via e-mail through October 18, 2021, and no comment was received.

Attached are the preambles, the repeal and new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities.

Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities.

The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

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 existing minimum energy efficiency standards for Single Family 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 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 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 existing minimum energy efficiency standards for Single Family Programs.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect 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 has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).
The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has 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 section 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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via email; 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 repealed sections affect no other code, article, or statute.

CHAPTER 21 MINIMUM ENERGY EFFICIENCY REQUIREMENTS FOR SINGLE FAMILY CONSTRUCTION ACTIVITIES

§21.1 Purpose
§21.2 General Requirements
§21.3 Definitions
§21.4 New Construction and Reconstruction Activities
§21.5 Manufactured Housing Unit Activities
§21.6 Rehabilitation Activities

Attachment B: Preamble for adopting new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes, new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities. The purpose of the new sections is to implement a more germane rule and provide flexibility in the event of limited supply of EnergyStar Certified Manufactured Housing Units.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.
The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.
Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to minimum energy efficiency requirements for the Department's Single Family Programs.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The new rule changes will not result in an increase in fees paid to the Department or a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not expand or repeal an existing regulation.
7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new 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. There are approximately 60 rural communities currently participating in construction activities under Single Family Programs that are subject to the rule for which no economic impact of the rule is projected during the first year the rule is in effect.

3. The Department has determined that because the rule serves to implement a more germane rule and provide flexibility in the event of limited supply of EnergyStar Certified Manufactured Housing Units, and does not establish new requirements for which there would be an associated cost, 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 or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).
The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because the proposed rule provides flexibility in the event of limited supply of EnergyStar Certified Manufactured Housing Units, and does not establish new requirements or activities that may positively or negatively impact local economies.
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 participation in the Department's Single Family Programs is at the discretion of the local government or other eligible subrecipients, 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 new section is in effect, the public benefit anticipated as a result of the new section will be a more germane rule that provides flexibility in the event of limited supply of EnergyStar Certified Manufactured Housing Units. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; no comments were received.

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. The rule has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities

§21.1 Purpose.

(a) Tex. Gov't Code, §2306.187 requires that the Department develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities in Single Family Programs.

(b) This chapter describes the Minimum Energy Efficiency Requirements for all single family construction activities, which includes the Department's HOME Investments Partnership Program (HOME), Texas Housing Trust Fund (Texas HTF), Neighborhood Stabilization Program (NSP), Office of Colonia Initiatives (OCI) Programs, and other single family Programs as developed by the Department.

§21.2 General Requirements.

Unless otherwise noted, this chapter only applies to single family Programs. Program rules may impose additional requirements related to any provision of this chapter. Elements of local residential building codes that require a greater degree of energy efficiency than this chapter, in part or in whole, shall also be followed.

§21.3 Definitions.

(a) Any capitalized terms that are defined in Tex. Gov't Code Chapter 2306, and Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), or other applicable Department Program Rule, have, when capitalized, the meanings ascribed to them therein.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

(1) ENERGY STAR Certified Appliances, Equipment, and Products--Labeled appliances, equipment, and products that are independently certified to save energy without sacrificing features or functionality, meeting the U.S. EPA's specifications for energy efficiency and performance.

(2) ENERGY STAR Certified Home--A new construction home that has earned the ENERGY STAR label and has undergone a process of inspections, testing, and verification to meet requirements set forth by the U.S. EPA.

(3) ENERGY STAR Certified Manufactured Housing Unit--A manufactured home that has been designed, produced, and installed by the home manufacturer to meet ENERGY STAR requirements for energy efficiency.

(4) RESNET--Residential Energy Services Network. RESNET is an independent, nonprofit organization established in 1995 to help homeowners reduce the cost of their utility bills by making their homes

more energy efficient. RESNET-certified Home Energy Systems Raters are required to inspect, test, and verify homes for ENERGY STAR certification.

(5) U.S. EPA--United States Environmental Protection Agency.

(6) WaterSense Labeled Fixtures--Labeled products that are backed by independent, third-party testing and certification, meeting the U.S. EPA's specifications for water efficiency and performance.

§21.4 New Construction and Reconstruction Activities.

(a) Single family residential dwellings, as defined in §388.002 of the Texas Health and Safety Code, that are newly constructed or reconstructed shall comply with §388 of the Health and Safety Code (Texas Building Energy Performance Standards).

(b) Effective September 1, 2016, the Texas State Energy Conservation Office adopted the 2015 International Residential Code (Chapter 11) as the state-mandated energy code for all residential construction, which includes one- and two-family residences of three stories or less above grade.

§21.5 Manufactured Housing Unit Activities.

(a) All Manufactured Housing Units installed as replacement for sub-standard housing shall be ENERGY STAR certified; or

(b) In cases where the type of product is not ENERGY STAR, or if ENERGY STAR products are not reasonably available due to supply shortages or cost limitations, Administrators may select the highest rated product available, so long as the product delivers at least 10% energy savings in comparison to products meeting the minimum code.

§21.6 Rehabilitation Activities.

(a) All Rehabilitation activities shall comply with this chapter.

(b) Certifications of compliance with this chapter shall be conducted by the Administrator or a code or other qualified inspector for release of final payment from the Department as outlined in the Program Rule. Inspectors selected by the Administrator to verify compliance with this chapter must be certified by the Administrator to have sufficient professional certifications, relevant education, or experience in a field directly related to home inspection, which may include, but is not limited to, installing, servicing, repairing or maintaining the structural, mechanical, plumbing, and electrical systems found in Single Family Housing Units.

(c) If the proposed scope of work or the awarded construction contract for the Rehabilitation of an existing single family residential unit includes an item described in paragraphs (1) - (10) of this subsection, the specific requirement so noted in paragraphs (1) - (10) of this subsection shall apply:

(1) Replacement or installation of central heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of Chapter 14 of the 2015 International Residential Code;

(2) Replacement or installation of duct systems serving heating, cooling, and ventilation equipment shall be installed in accordance with the provisions of Chapter 16 of the 2015 International Residential Code;

(3) If central heating and cooling equipment is replaced or installed, attic insulation shall be installed or increased according to Chapter 11, Figure N1102.1.2 of the 2015 International Residential Code, including insulation covering the top plates of exterior walls. Eave baffles and access hatches shall be installed as specified in Chapter 11, Sections N1102.2.3- N1102.2.4 of the 2015 International Residential Code;

(4) If ductless heating and cooling systems (also known as mini-split, multi-split, or variable refrigerant flow (VRF) heat pump systems) are replaced or installed, they shall be ENERGY STAR certified;

(5) If exhaust fans are replaced or installed in bathrooms or kitchens, they shall be ENERGY STAR certified and installed in accordance with Chapter 15 of the 2015 International Residential Code;

(6) If windows are installed, they shall be ENERGY STAR certified windows, meeting the U-factor and Solar Heat Gain Coefficient for the climate zone of the dwelling as identified in Chapter 11, Table N1102.1.2 of the 2015 International Residential Code;

(7) If doors are installed, they shall be ENERGY STAR certified doors;

(8) Electrical fixtures, equipment, and appliances that are replaced or installed, where applicable, shall be ENERGY STAR certified products;

(9) Plumbing fixtures that are replaced or installed, where applicable, shall be WaterSense labeled products; and

(10) Domestic water heaters, storage and tankless, when replaced or installed, shall meet the Federal Energy Conservation Standards required by 10 CFR §430.32, as they may be revised from time to time.

11

BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, and an order proposing new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the repeal of the existing 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule and a new proposed 10 TAC Chapter 24 were approved in draft form at the Board meeting of September 2, 2021, and published for public comment in the *Texas Register*; and

WHEREAS, public comment on the proposed changes was accepted from September 17, 2021, through October 18, 2021, and no public comment was received;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule in the form presented to this meeting, to be adopted and submitted to 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 the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

The purpose of repealing 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule and proposing a new 10 TAC Chapter 24, is to update and clarify current definitions, align terminology with defined terms in the Single Family Umbrella Rule, remove rules that are duplicated either in this Chapter, or in 10 TAC Chapter 20, and refine the Administrator certification process. Changes are proposed for most sections in the Chapter; therefore, the Department recommended repeal and replacement instead of amending the existing chapter. The significant updates proposed to 10 TAC Chapter 24 are:

- Definitions for New Construction, Rehabilitation, and Very Low Income are added; outdated, duplicative, or unutilized definitions are removed;
- Conforming change to common use of the defined term "Administrator" incorporated throughout;
- Rules duplicated in 10 TAC Chapter 20 struck throughout;
- Contents of §24.11, Types of Funding Transactions are moved to §24.5, Program Activities;
- Allows for initial title commitments to be 90 days old as of the date of submission rather than 30 days old, and clarifies that an updated commitment is required prior to closing; and
- Clarifies requirements for Administrator certification.

The proposed changes to the Texas Bootstrap Loan Program Rule were approved in draft form at the TDHCA board meeting on September 2, 2021, and were published for public comment in the *Texas Register* issue dated September 17, 2021, to allow for public comment. Public comments were accepted in writing and via e-mail through October 18, 2021, and no comment was received.

Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this 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 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 Texas Bootstrap 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, nor a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Texas Bootstrap 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 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 has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV’T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV’T CODE §2001.024(a)(5). Mr. Wilkinson has 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 section 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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; 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 repealed sections affect no other code, article, or statute.

10 TAC Chapter 24, Texas Bootstrap Loan Program Rule

§24.1 Purpose
§24.2 Definitions
§24.3 Allocation of Funds
§24.4 Administrator Requirements
§24.5 Program Activities
§24.6 Prohibited Fees
§24.7 Distribution of Funds
§24.8 Criteria for Funding and Reservations
§24.9 Program Administration
§24.10 Owner-Builder Qualifications
§24.11 Property Guidelines and Related Issues
§24.12 Administrator Certification

Attachment B: Preamble for adopting new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes, new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule. The purpose of the new sections is to implement a more germane rule and better align administration to state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to administration of the Texas Bootstrap Loan Program

2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule changes will not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not expand or repeal an existing regulation.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new 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. There are approximately 10 rural communities currently participating in the Texas Bootstrap Loan Program that are subject to the rule for which no economic impact of the rule is projected during the first year the rule is in effect.

3. The Department has determined that because the rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, there will be no economic effect on small or micro-businesses or rural communities

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

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 participation in the Texas Bootstrap Loan Program is at the discretion of the eligible subrecipients, 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, Executive Director, has also determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be a more germane rule that better aligns administration to state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via email; no comments were received.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Tex. Gov't 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. The rule has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

10 TAC Chapter 24, Texas Bootstrap Loan Program Rule

§24.1 Purpose.

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the Department), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(b) The Texas Bootstrap Loan Program is a self-help housing construction Program designed to provide Very Low Income families an opportunity to help themselves attain homeownership or repair their existing homes under applicable building codes and housing standards.

§24.2 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(1) Capital Recovery Fee--A charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Administrator that authorizes the Administrator to originate certain loans under the Texas Bootstrap Loan Program.

(3) New Construction--A Single Family Housing Unit that is newly built on a previously vacant lot that will be occupied by an Income Eligible Household.

(4) Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(5) Rehabilitation--The improvement, including reconstruction, or modification of an existing Single Family Housing Unit through an alteration, addition, or enhancement on the same lot.

(6) Very Low Income--Household income does not exceed the greater of 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

§24.3 Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF.

(b) The Department may make loans for the Texas Bootstrap Loan Program from:

(1) Available funds in the Texas Housing Trust Fund established under Tex. Gov't Code, §2306.201; or

(2) Federal block grants that may be used for the purposes of this chapter.

(c) Each state fiscal year the Department shall transfer at least $3 million (or another amount if so required by Tex. Gov't Code or the General Appropriations Act) to the Texas Bootstrap Loan Program from money received under federal block grants or from available funds in the Texas Housing Trust Fund.

(d) The Department may use up to 10% of Program funds available per state fiscal year to enhance the ability of tax-exempt organizations described by Tex. Gov't Code, §2306.755(a), to increase the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

§24.4 Administrator Requirements.

(a) Eligible Administrators. The following organizations or entities are eligible to become Administrators of the Texas Bootstrap Loan Program:

(1) Colonia Self Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; or

(2) Nonprofit Organizations certified by the Department pursuant to Tex. Gov't Code, §2306.755.

(b) Eligibility requirements. The Administrator must enter into a Loan Origination Agreement with the Department in order to be eligible to submit an Activity through the Reservation System. The

Administrator must have the capacity to administer and manage resources as evidenced by previous experience of managing state or federal programs.

§24.5 Program Activities.

(a) Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, New Construction, or Rehabilitation of single family residential housing. Administrators may reserve funds by submitting a loan application on behalf of an Owner-Builder Applicant for the Texas Bootstrap Loan Program.

(b) Manufactured Housing Units are not eligible housing types for the Texas Bootstrap Loan Program.

(c) All Bootstrap Program Loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following Activities are permitted by the Department under the Program:

(1) Purchase Money Loans. All Program funds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property. The Department makes a loan to the Owner-Builder and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds;

(2) Residential Construction Loans. This transaction is treated as a purchase money loan and is a one-time closing with the Owner-Builder. Construction period may be up to 12 months;

(3) Interim Construction (Closing with Administrator) Loans. Interim construction is a commercial transaction between the Administrator and the Department that is with respect to a specific Owner-Builder. The construction period may be up to 12 months. Once the construction of the home is completed, the closing with the Owner-Builder will take place as a purchase money loan; and

(4) Purchase of Mortgage Loans. The Department may purchase and take assignments from Mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this subsection or for residential construction transactions as described in paragraph (2) of this subsection.

§24.6 Prohibited Fees.

The fees described in paragraphs (1) - (8) of this section are prohibited Program fees and may not be charged directly to the Owner-Builder; however, these fees may be charged as an allowable fee by a third party lender or servicer for a Texas Bootstrap loan:

(1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;

(2) Loan origination fees;

(3) Application fees;

(4) Discount fees;

(5) Underwriter fees;

(6) Loan processing fees;

(7) Loan servicing fees; and

(8) Other fees not approved by the Department in writing prior to expenditure.

§24.7 Distribution of Funds.

(a) Set-Asides. In accordance with Tex. Gov't Code §2306.753(d), at least two-thirds of the dollar amount of Program loans made in each fiscal year must be made to Owner-Builders whose real property is located in a census tract that has a median household income that is not greater than 75% of the median state household income for the most recent year for which statistics are available.

(b) Balance of State. The remaining one-third of the dollar amount of Program loans made may be made to Owner-Builders anywhere in the state.

(c) Loan Priority. The Department may allow an Administrator access to the Reservation System 24 hours prior to all other Administrators for reservations for Owner-Builder Applicants that meet the following criteria:

(1) Annual household income is less than $17,500; or

(2) Real property is located in a county or municipality that agrees in writing to waive the Capital Recovery Fees, building permit fee or other fees related to the house(s) to be built with the loan proceeds. Owner-Builder Applicant will not receive priority if there are none of the fees described in §24.6 of this chapter (relating to Prohibited Fees) imposed by the county or municipality or water supply company.

§24.8 Criteria for Funding and Reservations.

(a) The Department will distribute Program funds in accordance with the Texas Housing Trust Fund (Texas HTF) Plan in effect at the time. The Department will publish an announcement for a NOFA in the Texas Register and post the NOFA on the Department's website. The rules referenced in §24.1 of this Chapter (relating to Purpose) and the NOFA will establish and define the terms, conditions, and maximum Reservation amounts allowed per Administrator. The Department may also set a deadline for receiving Reservations or Applications. The NOFA will indicate the approximate amount of available funds. The Department may increase the amount of funds made available through the NOFA from time to time without republishing the NOFA in the Texas Register. Such increases will be reflected on the Department's website.

(b) Any Reservation containing false information will be disqualified. The Department will review and process all Reservations in the order received.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (5) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations that do not comply with such requirements may be disqualified. The Administrator will be notified in writing of any cancelled or disqualified Reservations.

(4) If a Reservation contains deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction in the form of a deficiency notice to the Administrator. If the Administrator is unable to cure any deficiencies within 14 calendar days, the Department may decline to fund the Reservation. The Department may provide one 14 calendar day extension to the curative deadline outlined in the deficiency notice.

(5) Prior to issuing an Applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an Applicant eligibility letter to the Owner-Builder Applicant, but the Administrator or Owner-Builder Applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the Administrator or Owner-Builder Applicant has satisfied all requirements of the Program.

§24.9 Program Administration.

(a) Pursuant to Tex. Gov't Code §2306.754(b), the Department shall not exceed $45,000 in household assistance for any Texas Bootstrap Loan Program loan. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for $45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds, excluding Texas HTF.

(b) The Department shall make loans for Owner-Builder Applicants to enable them to:

(1) Build new residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity; or

(2) Improve existing residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity.

(c) Upon approval by the Department, the Administrator shall enter into, execute, and deliver to the Department the Loan Origination Agreement. The Department may terminate the Loan Origination Agreement in whole or in part if the Administrator has not performed as outlined in the Program Rule, NOFA, Loan Origination Agreement, or Program Manual.

(d) If the Owner-Builder Applicant qualifies for the Program, the Department will issue an Applicant eligibility letter which reserves up to $45,000 in funds for 12 months from the date of the Applicant eligibility letter. The Owner-Builder Applicant will not be required to re-qualify if the Owner-Builder Applicant closes by the expiration date on the Applicant eligibility letter. If an Owner-Builder Applicant does not close by the expiration date, the Owner-Builder Applicant must re-qualify for the Program; however, the Department may grant an extension of up to 180 days from the expiration date on the original Applicant eligibility letter. If the Owner-Builder Applicant fails to close on the loan after the extension is granted the Reservation or loan will be cancelled.

(e) Roles and responsibilities for administering the Program Contract. Administrators are required to:

(1) Qualify potential Owner-Builders for loans;

(2) Provide Owner-Builder homeownership education classes;

(3) Supervise and assist Owner-Builders to build or Rehabilitate housing;

(4) Facilitate loans made or purchased by the Department under the Program; and

(5) Implement and administer the Program on behalf of the Department.

(f) Loan Servicing Agreement. Administrators may service Program loans originated on behalf of the Department. Administrators servicing Program loans on behalf of the Department must obtain prior approval and enter into a loan servicing agreement with the Department. Loan servicing agreements may be reevaluated from time to time and may be terminated at the discretion of the Department.

(g) First Year Consultation Agreement. If the Department notifies the Administrator that an Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents, within the first 12 months of funding, the Administrator must meet with the Owner-Builder and provide counseling to assist in bringing the payments current. After such consultation and in the event that the Department and Administrator are not able to bring the Program loan current, the Department in accordance with its administrative rules, may apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participation in the Program.

(h) Administrative Fee. The Administrator will be granted a 10% administrative fee upon completion of the house and funding of each Mortgage loan.

(i) Construction Plans. If the activity is New Construction or reconstruction, Administrator must submit a legible copy of the proposed construction plans for approval by the Department prior to the Administrator accepting applications for Owner-Builder Applicants.

(j) Work Write-up. If Administrator's activity is Rehabilitation, Administrator must adhere to TMCS and submit work write-ups and cost estimates for Department approval prior to construction.

(k) Loan Program Requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (6) of this subsection:

(1) Minimum loan amount is $1,000;

(2) Loan term may not exceed 30 years;

(3) Loan term may not be less than five years;

(4) Loan must be at zero percent (0%) interest for the entire loan term;

(5) When refinancing a Contract for Deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property; and

(6) Owner-Builder must have resided in Texas for the preceding six months prior to the date of loan application.

(l) Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder Applicant complies with all Program requirements in effect at the time of the assumption.

§24.10 Owner-Builder Qualifications.

The Owner-Builder must:

(1) Own or be purchasing a piece of real property with the conveyance of said property evidenced by a warranty deed or Contract for Deed;

(2) Be qualified as Very Low Income. Eligibility Income calculated utilizing the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the

Owner-Builder Applicant, co-Applicant and any other persons living in the home. No income is excluded in this calculation.

(3) Execute a self-help agreement committing to specify and satisfy one of the criteria provided for in subparagraphs (A) - (D) of this paragraph:

(A) Provide at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator;

(B) Provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state-certified Administrator;

(C) Provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator; or

(D) If due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator;

(4) Successfully complete an Owner-Builder homeownership education class prior to loan funding;

(5) Not have any outstanding judgments or liens on the property; and

(6) Occupy the residence as a Principal Residence within 30 days of the end of the construction period or the closing of the loan, whichever is later. If the Owner-Builder fails to do so, the Department may declare the loan in default and accelerate the note. Any additional habitable structures must be removed from the property prior to closing; however, a portion of the structure may be utilized as storage upon the Department's written approval prior to closing.

§24.11 Property Guidelines and Related Issues.

(a) A final appraisal is required by the Department on each property prior to loan closing.

(b) Title Commitment.

(1) A copy of the preliminary title report including complete legal description and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required at the time of submission, and must not be more than 90 days old.

(2) Title commitments must list the Department's Loan.

(3) The final title commitment or title report submitted to the Department to draft Loan documents should not be more than 30 days old at the time of the submission in order to remain valid and effective at the date of the loan closing. Title commitments older than 90 days are no longer valid and must be updated prior to the date of loan closing.

(c) For acquisition of existing Single Family Housing Unit that will not be rehabilitated, a property inspection will be required to be completed by an inspector licensed by the Texas Real Estate Commission. A copy of the inspection report must be submitted and any deficiencies listed on the report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. may not be required to be corrected if utilizing a self-help construction Program. A copy of the inspection report must be provided to the Owner-Builder Applicant and the Department. The Administrator or the Owner-Builder Applicant will be responsible for the selection and the fee of the licensed inspector.

§24.12 Administrator Certification.

(a) An Administrator must be certified prior to execution of a loan origination agreement or a loan servicing agreement. Administrator certification expires after three years, after which an Administrator must apply for recertification.

(b) Initial Certification. Initial certification for entities must meet all of the criteria listed in subsections (d) - (n) of this section.

(c) Recertification. Recertification for loan origination requires that an Administrator be in good standing with the Department. Submission of the criteria listed subsections (d) - (j) of this section is only required if any changes have occurred. Recertification for the purposes of loan servicing activities requires that the Administrator be in good standing with the Department and that they complete an annual recertification to the loan servicing agreement.

(d) An Application for certification or recertification must be submitted in the format required by the Department.

(e) If the Applicant is a Nonprofit Organization, Applicant must demonstrate:

(1) The Applicant is registered and in good standing with Office of the Secretary of State and the State Comptroller's Office as a nonprofit corporation under the Texas Business Code or a nonprofit organization under any other state not-for-profit/nonprofit statute as evidenced by charter or Certificate of Formation;

(2) The net earnings of the Applicant may not inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation;

(3) The Applicant has been granted 501(c)(3) tax-exempt status (by submission of a current letter of determination from the Internal Revenue Service (IRS) as a charitable, nonprofit corporation or as a subordinate organization of a central nonprofit corporation under §501(c)(3) of the Internal Revenue

Code of 1986, as evidenced by a certificate from the IRS dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as an Administrator.

(4) The Applicant have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of Formation, Resolutions, or Bylaws.

(f) The Applicant must conform to the United States Generally Accepted Accounting Principles (GAAP) as evidenced by a notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department or certification from a Certified Public Accountant.

(g) If the Applicant proposes to provide interim or residential construction funds, it must provide an audited financial statement for the most recent fiscal year or a signed and dated financial statement for the period since last published audit. If the Applicant does not have audited financial statements or a signed and dated financial statement for the period since last published audit must provide a resolution from the Board of Directors that is signed and dated within 6 months from the date of Application and certifies that the accounting procedures used by the organization conform to the GAAP. Certified Administrators that do not have audited financial statements or a signed and dated financial statement for the period since last published audit are restricted to only originating permanent loans and will be ineligible for any interim or residential construction loans, until the Department has reviewed the most current audited financial statements.

(h) The Applicant must demonstrate capacity for carrying out Mortgage Loan origination and self-help housing construction Activities, as evidenced by resumes or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization.

(i) Religious or Faith-based Organizations (RFOs) may sponsor an Applicant if the Applicant meets all the requirements of this section. While the governing board of an Applicant sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the RFO may retain control over appointments to the board. Additionally, RFOs must comply with the following:

(1) Housing developed must be made available exclusively for the residential use of Program beneficiaries, and must be made available to all persons regardless of religious affiliations or beliefs;

(2) Texas Bootstrap Loan Program funds may never be used to support any explicitly religious activities such as worship, religious instruction, or proselytizing; and

(3) Compliance with paragraphs (1) and (2) of this subsection must be evidenced by the Bylaws, charter or Certificate of Formation.

(j) Program Design. The Applicant must have policies for how the Owner-Builders participating in its Program will meet the self-help requirements.

(k) The Applicant must provide to the Department the number of houses they are proposing to build, type of proposed financing structure and construction timelines, to evidence its ability to carry out the Program.

(l) The Applicant must provide copies of Program guidelines and homebuyer course curriculum to evidence its experience in qualifying potential Owner-Builders and in providing education classes, counseling and training.

(m) The Applicant must be in compliance with 10 TAC §1.403, (relating to Single Audit Requirements), and 10 TAC §20.8, (relating to Fair Housing, Affirmative Marketing and Reasonable Accommodations) at the time of Application.

(n) The Applicant must be in compliance with any existing Contracts awarded by the Department and is subject to the Department's Previous Participation Review process provided for in 10 TAC §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC) of this title.

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BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order repealing all sections of 10 TAC Chapter 25, Colonia Self-Help Center Rule, and an order adopting new 10 TAC Chapter 25, Colonia Self-Help Center Rule, and directing its publication for adoption in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, HB 2893 (87^{th} Regular Session), which adds Nueces County to the listing of counties in which the Texas Department of Housing and Community Affairs (the Department) must establish a Colonia Self-Help Center, and HB 1301 (87^{th} Regular Session), which includes additional eligible public service activities, have both been passed into law, to be effective September 1, 2021;

WHEREAS, the Department seeks to update 10 TAC Chapter 25 to comply with new statutory requirements regarding the addition of Nueces County, increase the programmatic cap on assistance for construction activities, update definitions and clarify administrative requirements;

WHEREAS, on September 2, 2021, the Board approved a draft of the proposed new rule which was published in the Texas Register and for which public comment was accepted from September 17, 2021, through October 18, 2021, and

WHEREAS, public comment was received, staff has considered the comment, and a rule is now proposed for the Board to adopt;

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 repeal of 10 TAC Chapter 25 and new 10 TAC Chapter 25, regarding the Colonia Self Help Center Rule, in the form presented to this meeting, to be adopted and submitted to 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 the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

The purpose of repealing 10 TAC Chapter 25, Colonia Self-Help Center Rule (CSHC), and adopting a new 10 TAC Chapter 25, is to update and clarify current definitions, align terminology with defined terms in the Single Family Umbrella Rule and federal requirements, include Nueces County as required by HB 2893, include new eligible activities as required by HB 1301, and increase program cost limitations for construction activities in response to rising costs nationally. Changes are proposed for numerous sections in the Chapter; therefore, the Department proposes repeal and replacement instead of amending the existing Chapter. Staff has summarized the significant changes proposed to the Colonia Self-Help Center Rule below.

- Nueces County is added to the counties in which a Colonia Self-Help Center must be established;
- Definitions related to income levels of households served and Rehabilitation are clarified; outdated, duplicative, or unutilized definitions are removed;
- Requirement to comply with Model Subdivision Rules adopted by the county is codified;
- Requirements related to activities that would trigger relocation or potentially violate the one-for-one replacement requirements is codified;
- The cost limitations for construction projects are increased to reflect rising construction costs; and
- Additional public service activities outlined in statutory changes are included as eligible activities.

The draft rule was released for public comment and comment was accepted from September 17, 2021, through October 18, 2021. Comment was received from two commenters and their comments as well as staff's response are provided in the preambles following.

Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Rule

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

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 Colonia Self-Help Center Program.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Colonia Self-Help Center 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 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 has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has 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 section 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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; 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 repealed sections affect no other code, article, or statute.

10 TAC Chapter 25, Colonia Self-Help Center Rule

§25.1 Purpose and Services
§25.2 Definitions
§25.3 Eligible and Ineligible Activities
§25.4 Colonia Self-Help Centers Establishment
§25.5 Allocation, Deobligation and Termination, and Reobligation
§25.6 Colonia Self-Help Center Application Requirements
§25.7 Colonia Residents Advisory Committee Duties and Award of Contracts
§25.8 Colonia Self-Help Center Contract Operation and Implementation
§25.9 Administrative Thresholds
§25.10 Expenditure Thresholds and Closeout Requirements

Attachment B: Preamble for adopting new 10 TAC Chapter 25, Colonia Self-Help Center Rule

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 25, Colonia Self-Help Center Rule. The purpose of the new sections is to include Nueces County and new public service activities as required by statutory changes to Tex. Gov't Code, Ch. 2306 adopted by the 87th Texas legislature, to implement a more germane rule, and better align administration to federal and state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but it does extend eligibility of an existing program and call for the establishment of a Self-Help Center in Nueces County.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule changes will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule can be considered to "expand" the existing regulations because the rule requires the establishment of a Colonia Self-Help Center in Nueces County. However, this addition to the rule is necessary to ensure compliance with updates to Tex. Gov't Code, Ch. 2306 adopted by the 87th Texas legislature.

7. The new rule will increase the number of individuals subject to the rule's applicability because the rule requires the establishment of a Colonia Self-Help Center in Nueces County, which adds individuals in that county's service area as possible beneficiaries of assistance that is subject to the regulations.

8. The new rule will not negatively affect the state's economy, and may be considered to have a positive effect on the state's economy because the establishment of an additional Colonia Self-Help Center will provide public benefit to residents of the county that were previously unserved by the Program.

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. There are approximately 8 rural communities currently participating in construction activities under the Colonia Self-Help Center that are subject to the new rule for which there is no economic impact of the rule during the first year the rule is in effect. Although a new Colonia Self-Help Center is being established which would provide public benefit to additional persons, the total amount of funding available to all Colonia Self-Help Centers is unchanged, and the total number of housing units expected to be constructed is unchanged.

3. The Department has determined that because a public benefit to residents of Nueces County will be made available through the establishment of a Colonia Self-Help Center, there may be a possible positive economic effect on small or micro-businesses or rural communities, although the specific impact is not able to be quantified.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule may provide a possible positive economic effect on local employment because job training is a possible activity and because increased funding limitations for construction activities may create employment opportunities in the construction sector and supportive businesses; however, because the total amount of funding available for the Colonia Self-Help Center Program is not increased, there is no way to determine during rulemaking where the positive effects may occur. The impact is not able to be quantified for any given community.

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 participation in the Single Family HOME Program is at the discretion of the local government or other eligible subrecipients, 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). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section includes adding Nueces County as required by updates to Tex. Gov't Code, Ch. 2306 adopted by the 87th Texas legislature, implementation of a more germane rule, and better alignment to federal and state requirements There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the Colonia Self-Help Center Program is a federally funded program, and no increase in the requirement to match federal funds is proposed in the rule.

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comment received is summarized herein and a reasoned response provided. Comment was received from the two commenters listed: Commenter 1, Robb Stevenson, Executive Director, Equity CDC; and Commenter 2, Cassie Allred, Webb County Program Administrator.

§25.2 Definitions and §25.3 Eligible and Ineligible Activities

Commenter 1 notes the prevalence of Manufactured Home Units (MHU) in colonias, and suggests the Department consider revising 10 TAC 25.2(16) and 25.3(b)(1) to allow rehabilitation activities for MHUs built before 1995, and consider allowing external rehabilitation on older MHUs, specifically for accessibility modifications.

Staff Response: The Colonia Self Help Center rehabilitation program is utilized to address hazardous or unsafe environment for colonia communities. When compared to the cost of replacement, the rehabilitation of an MHU tends to be quite costly when bringing the unit up to current housing standards. Due to these prohibitive costs, staff believes that owners of MHUs can be better served with that amount of assistance by having the unit replaced. Therefore, staff does not concur that MHUs should be eligible for rehabilitation. However, MHUs will remain eligible for replacement. Staff recommends no changes in response to this comment.

§25.8 Colonia Self-Help Center Contract Operation and Implementation

Commenter 2 states that 10 TAC §25.8(k)(2), eligibility requirement related to compliance with Model Subdivision Rules, violates allowable legal exceptions under §232.029 of the Local Government Code. They provide sample documents that demonstrate Webb County's compliance with Local, State, and Federal requirements, and feel that this rule would unfairly disqualify many properties located within Webb County colonias.

Staff Response: The Colonia Self Help Center program does allow for assistance to colonia residents who have multiple residential dwellings on a single property. Under the CDBG Public Service National Objective, these multi dwelling properties can be assisted with surveys and plotting to bring them into compliance with the adopted Model Subdivision Rules. The County advises the Department how the funds will be utilized based on community input and county direction. While the Department understands the vast landscape in which our beneficiaries reside, the Department needs to comply with health and safety requirements. To only assist one household and leave the other residential dwellings unassisted may result in hazardous or unsafe environment for the beneficiaries. Furthermore, the beneficiaries that reside in different dwellings would have to be part of the same household to qualify under this CDBG Low Mod Income National Objective. Staff recommends no change to the rule.

§25.10 Expenditure Thresholds and Closeout Requirements

Commenter 2 suggests that the Department create an avenue for appealing 10 TAC §25.10(a), related to Expenditure Thresholds, for extenuating circumstances that prevent the Administrator from meeting threshold requirements.

Staff Response: All contracts issued by the Department are subject to Chapter 1 Subchapter A (§1.7) which allows for an appeals process. No edits are proposed in response to this comment.

Commenter 2 recommends that the Department, when awarding additional funds to ongoing contracts, provide additional time allowances for expenditure thresholds. They state that additional funds increase the threshold amount but shorten the allotted time.

Staff Response: The Department occasionally makes additional awards through an amendment to existing contracts after the administrator agrees to accept the funds and acknowledges that the funds can be utilized within the four-year contract period. In addition, the Department has authorized an additional 6-month extension for projects initiated, but not yet completed when it can do so under federal expenditure deadlines. Staff recommends no change to the Rules as proposed.

STATUTORY AUTHORITY. The new sections 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. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

10 TAC Chapter 25, Colonia Self-Help Center Rule

§25.1 Purpose and Services.

The purpose of this Chapter is to establish the requirements governing the Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements), and including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (the Department) by the legislature of the annual Texas Community Development Block Grant (CDBG) allocation from the U.S. Department of Housing and Urban Development (HUD). Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home and otherwise improve living conditions in the designated Colonia service areas or in another area the Department has determined is suitable.

§25.2 Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found 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), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), and Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements). Common definitions used under the CDBG Program are incorporated herein by reference.

(1) Beneficiary--A person or family benefiting from the Activities of a Colonia Self-Help Center Contract.

(2) Colonia Resident Advisory Committee (C-RAC)--As established by Tex. Gov't Code §2306.584, advises the Department's Governing Board regarding the needs of Colonia residents, appropriate and effective programs that are proposed or operated through the CSHCs, and activities that may be undertaken through the CSHCs to better serve the needs of Colonia residents.

(3) Colonia Self-Help Center (CSHC)--Those centers established by the Department through its authority under Tex. Gov't Code §2306.582.

(4) Colonia Self-Help Center Provider--An organization with which the Administrator has an executed Contract to administer Colonia Self-Help Center Activities.

(5) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.

(6) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the Draw process. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.

(7) Direct Delivery Costs--Soft costs related to and identified with a specific housing unit. Eligible Direct Delivery Costs include:

(A) Preparation of work write-ups, work specifications, and cost estimates;

(B) Legal fees, recording fees, architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit;

(C) Home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and

(D) Other costs as approved in writing by the Department.

(8) Housing Assistance Guidelines (HAG)--The guidelines provided by the Unit of General Local Government that outline the process and procedures used to administer and implement the Colonia Self-Help Center Program. These guidelines cannot conflict with state statute, program rules, regulations and/or contract requirements.

(9) Implementation Manual--A set of guidelines designed by the Department as an implementation tool for the Administrator and/or Colonia Self-Help Center Subawardee that have been awarded Community Development Block Grant Funds, which provides terms, regulations, procedures, forms, and attachments.

(10) Income Eligible Household--Household income does not exceed the limits established below:

(A) Extremely Low Income--Households whose annual incomes do not exceed 30% of the Area Median Family Income in accordance with the current CDBG Program Income Limits, as defined by HUD;

(B) Low Income--Households whose annual incomes do not exceed 50% of the Area Median Family Income in accordance with the current CDBG Program Income Limits, as defined by HUD; and

(C) Moderate Income--Households whose annual incomes do not exceed 80% of the Area Median Family Income in accordance with the current CDBG Program Income Limits, as defined by HUD.

(11) M Number--a several digit identification number, preceded by the letter "M" and assigned by the Texas Water Development Board to colonias that have been identified by the Office of the Attorney General of Texas.

(12) New Construction--A Single Family Housing Unit that is newly built by certified Community Housing Development Organizations (CHDOs) or Community Based Development Organizations (CBDOs) on a previously vacant lot that will be occupied by an Income Eligible Household.

(13) Performance Statement--An exhibit in the Contract which specifies in detail the scope of work to be performed.

(14) Public Service Activities--Activities other than New Construction, Reconstruction, and Rehabilitation activities that are provided by a Colonia Self-Help Center to benefit Colonia residents. These include, but are not limited to, construction skills classes, solid waste removal, tool lending library, technology classes, home ownership classes and technology access.

(15) Reconstruction--The demolition and rebuilding of a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased or decreased; however, the number of rooms may be increased or decreased dependent on the number of Household members living in the Single Family Housing Unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard Manufactured Housing Unit with a new, site-built housing unit or a new Manufactured Housing Unit.

(16) Rehabilitation--The improvement or modification of an existing Single Family Housing Unit that is not a Manufactured Housing Unit through an alteration, addition, or enhancement on the same lot.

(17) Unit of General Local Government (UGLG)--A city, town, county, or other general purpose political subdivision of the state.

§25.3 Eligible and Ineligible Activities.

(a) A CSHC may only serve Income Eligible Households in the targeted Colonias by:

(1) Providing assistance in obtaining Loans or grants to build a home;

(2) Teaching construction skills necessary to repair or build a home;

(3) Providing model home plans;

(4) Operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in Colonias who are building or repairing a residence or installing necessary residential infrastructure;

(5) Assisting to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a Colonia, including potable water, wastewater disposal, drainage, streets, and utilities;

(6) Surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;

(7) Providing Housing Counseling related to all applicable single family activities that take place on or after August 1, 2020, and that satisfies HUD Counseling Requirements in 24 CFR Part 214;

(8) Applying for Grants and Loans to provide housing and other needed community improvements;

(9) Providing other services that the CSHC, with the approval of the Department, determines are necessary to assist Colonia residents in improving their physical living conditions such as Rehabilitation, Reconstruction, and New Construction, including help in obtaining suitable alternative housing outside of a Colonia area;

(10) Providing assistance in obtaining Loans or grants to enable an Income Eligible Household to acquire fee simple title to property that originally was purchased under a Contract for Deed, contract for sale, or other executory contract;

(11) Providing title-related services for unrecorded Contracts for Deed, clouded titles, property transfers, intestate estates, and other title ownership matters;

(12) Providing access to computers, the internet and computer training;

(13) Providing monthly programs to educate Income Eligible Households on their rights and responsibilities as property owners;

(14) Assisting with measures to secure employment;

(15) Assisting with establishment or expansion of a small business;

(16) Assisting with development of professional skills; and

(17) Education in management of personal finances and achieving financial literacy.

(b) Ineligible Activities include:

(1) Rehabilitation (excluding Reconstruction) of an MHU; and

(2) Any Activity not allowed by the Housing and Community Development Act of 1974 (42 U.S.C. §§5301, et seq.).

(c) A CSHC will only provide grants, financing, or Mortgage Loan services for New Construction, Reconstruction, and Rehabilitation of a home in a Colonia that is connected to a Department-approved source of potable water and wastewater disposal.

§25.4 Colonia Self-Help Centers Establishment.

(a) Pursuant to Section 2306.582 of the Tex. Gov't Code, the Department has established CSHCs in Cameron (also serves Willacy), El Paso, Hidalgo, Maverick, Nueces, Starr, Val Verde, and Webb Counties.

(b) The Department has designated:

(1) Appropriate staff in the Department who are designated to assist the CSHCs in understanding the requirements of the Program, provide training, and access CDBG funding to enable the CSHCs to carry out Programs;

(2) Five Colonias in each service area are to be identified by the UGLG to receive concentrated attention from the CSHCs in consultation with the C-RAC; and

(3) A geographic area for the services provided by each CSHC.

(c) The Department shall make a reasonable effort to secure:

(1) Contributions, services, facilities, or operating support from the county commissioner's court of the county in which a CSHC is located which it serves to support the operation of that CSHC; and

(2) An adequate level of CDBG funds to provide each CSHC with funds for low interest Mortgage financing, Grants for Self-Help Programs, a revolving loan fund for septic tanks, a tool lending program, and other Activities the Department determines are necessary.

(d) Consistent with federal rules and regulations, as provided for in the General Appropriations Act, the CSHC in El Paso shall provide technology and computer access to residents of targeted colonias. Any CSHC may establish a technology center to provide internet access to Colonia residents.

§25.5 Allocation, Deobligation and Termination, and Reobligation.

(a) Allocation.

(1) The Department distributes CSHC funds to UGLGs from the 2.5% set-aside appropriated to the Department from the annual CDBG allocation to the state of Texas.

(2) The Department shall allocate no more than $1 million per CSHC award except as provided by this chapter. If there are insufficient funds available from any specific program year to fully fund an Application, the awarded Administrator may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.

(3) A baseline award will first be calculated for a CSHC beginning at $500,000 (or a lesser amount as provided for in paragraph (2) of this subsection). The Department will add to the baseline award up to an additional $100,000 for each Expenditure Threshold that has been met on the current CSHC Contract, as defined in §25.10 of this chapter (relating to Expenditure Thresholds and Closeout Requirements). An additional amount up to $100,000 may be added for an accepted Application submitted by the deadline. An Administrator may request that the Board add additional funds to a baseline award, despite the failure to meet one or more Expenditure Thresholds. To add funds to a CSHC Contract being considered for award, the Board must find that the failure to meet each Expenditure Threshold requirement was principally related to factors beyond the control of the Administrator. If the Board decides to award

these additional funds in whole or in part, it must also determine that the award of these funds to the Administrator does not create a substantial risk to the State of recapture of CDBG funds by HUD.

(b) Deobligation and Termination.

(1) At any point in which an Administrator has missed one of the Expenditure Thresholds required in §25.10 of this chapter, the Department will send a notification of possible deobligation. An Administrator will have the opportunity to submit a mitigation plan that outlines how it will bring the Contract back into compliance, and how it will ensure that subsequent Expenditure Thresholds can be achieved. If the Department approves the mitigation plan, it will take no further action on deobligation at that time. If the Department receives no response, or if the mitigation plan is insufficient to be approved by the Department, the Department will send notice to the Administrator and the UGLG official to announce the initiation of deobligation proceedings and to identify the Administrator's rights under Tex. Gov't Code, Chapter 2105 and 10 TAC §1.411 (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code). Approval of such action will be presented to the Department's Board.

(2) At any point in which the Department has determined that a Contract should be terminated for violation of program requirements, the Department will send a notification of possible termination of Contract. A Subrecipient will have the opportunity to submit a mitigation plan that outlines how it will bring the Contract back into compliance. If the Department approves the mitigation plan, it will take no further action on termination at that time. If the Department receives no response, or if the mitigation plan is insufficient to be approved by the Department, the Department will send notice to the Administrator and the UGLG official to announce the initiation of deobligation proceedings and to identify the Administrator's rights under Tex. Gov't Code, Chapter 2105 and 10 TAC §1.411. Approval of such action will be presented to the Department's Board.

(3) During the time that a deobligation or termination process is pending, the Department may reduce an Administrator's Contract by up to 24.99% of the Contract and may publish a Request for Administrators (RFA) to identify another UGLG to implement the CSHC Program in the affected service area. No award to a respondent of an RFA will be made in an amount greater than 24.99% of the original Administrator's Contract until the process provided by Tex. Gov't Code, Chapter 2105 has been completed. Once that process is completed, an Administrator awarded a Contract through the RFA may receive up to the maximum award available, subject to funding availability.

(c) Reobligation.

(1) When funds become available from the proceedings of subsection (b) of this section, they will be held for a period of at least 90 days while an RFA for the service area is initiated. Unless debarred by HUD or the Department, a prior Administrator is not precluded from applying under an RFA for this service area.

(2) In all cases, funds for a given service area will continue to be allocated to that service area unless no acceptable respondents are identified. Only in such cases that no qualified provider can be identified for a given service area will funds available for that area be reissued to other CSHC Contracts for other service areas.

§25.6 Colonia Self-Help Center Application Requirements.

(a) At least three months prior to the expiration of its current Contract, or when 90% of the funds under the current Contract have been expended, whichever comes first, the current Administrator may submit its Application to the Department.

(b) The Department will prioritize funding to CSHCs whose Contracts are reaching expiration before funding CSHCs that are requesting additional funding for an existing Contract that is not nearing expiration. Among all other non-expiring Applications, the Department shall review Applications on a first-come, first-served basis. Recommendations for award will be made until all CSHC funds for the current program year and deobligated CSHC funds are committed.

(c) Each Application must utilize the Department's forms and documents where applicable, and include:

(1) Evidence of the submission of the Administrator's current Single Audit, if applicable;

(2) A Colonia identification form and the M number assigned by the Texas Water Development Board for each Colonia to be served, including all required documentation as identified on the form;

(3) A boundary map for each of the five designated Colonias;

(4) A description of the method of implementation. For each Colonia to be served by the CSHC, the Administrator shall describe the services and Activities to be delivered;

(5)A proposed Performance Statement which must include the number of Colonia residents estimated to be assisted from each Activity, the Activities to be performed (including all Sub-Activities under each budget line item), and the corresponding budget;

(6) A proposed Contract Budget which must adhere to the following limitations:

(A) The Administration line item may not exceed 15% of the total Contract;

(B) The Public Services Activities line item must be at least 8% but not more than 10% of the total Contract;

(C) For UGLGs self-administering the Program, Direct Delivery Costs for all New Construction and Reconstruction Activities cannot exceed 10% per unit provided by the CSHC Program. Direct Delivery Costs for Rehabilitation are limited to 15% per unit provided by the CSHC Program;

(7) The CSHC's Proposed Housing Assistance Guidelines, which must include an Affirmative Fair Housing Marketing Plan as described under Chapter 20 of this title and all program parameters for Rehabilitation, Reconstruction, or New Construction;

(8) Evidence of model subdivision rules adopted by the County;

(9) Written policies and procedures, as applicable, for:

(A) Solid waste removal;

(B) Construction skill classes;

(C) Homeownership classes;

(D) Technology access, including any technology hardware inventory purchased with CSHC funds;

(E) Homeownership assistance; and/or

(F) Tool lending library, including any library inventory purchased with CSHC funds. All CSHCs are required to operate a tool lending library;

(10) Authorized signatory form and direct deposit authorization;

(11) UGLG resolution authorizing the submission of the Application and appointing the primary signatory for all Contract documents;

(12) Acquisition report (even if there is no acquisition activity);

(13) Certification of exemption for HUD funded projects;

(14) Initial disclosure report for the Texas Department of Agriculture;

(15) All forms required for a Previous Participation Review under §1.302 of this title (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter); and

(16) All forms required by §20.8 of this title (relating to Fair Housing, Affirmative Marketing and Reasonable Accommodations).

(d) Upon receipt of the Application, the Department will perform an initial review to determine whether the Application is complete and that each Activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)).

(e) The Department may reduce the funding amount requested in the Application in accordance with §25.5(a) of this chapter. Should this occur, the Department shall notify the appropriate Administrator before the Application is submitted to C-RAC for review, comments and approval. The Department and the Administrator will work together to jointly agree on the performance measures and proposed funding amounts for each Activity.

(f) The Department shall execute a four-year Contract with the Administrator, unless the award is for more than the Administrator's proportional allocation. If the Administrator requirements are completed prior to the end of the Contract Term, the Administrator may submit a new Application. Contract extensions may be granted for up to six months by the Department.

(g) The Department may decline to fund any Application if the Activities do not, in the Department's sole determination, represent a prudent use of CSHC funds. The Department is not obligated to proceed with any action pertaining to any Application which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

§25.7 Colonia Resident Advisory Committee Duties and Award of Contracts.

(a) The Board shall appoint one committee member to represent each of the counties in which a CSHC is located to serve on the C-RAC. The members of the C-RAC shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the Commissioners Court of the county in which a CSHC is located. Each committee member:

(1) Must be a resident of a Colonia in the county the member represents;

(2) May not be a board member, contractor, or employee of the Administrator;

(3) May not have any ownership interest in an entity that is awarded a Contract under this chapter; and

(4) May not be listed on the federal or state suspended or debarment list and must not be in default on any Department obligation.

(b) The C-RAC members' terms will expire every four years. C-RAC members may be reappointed by the Board; however, the Board shall review and reappoint members at least once every four years. In the event that a C-RAC member is unable to complete the four-year Contract Term, Counties may propose an eligible candidate to be appointed by the Board to fulfill the remainder of the term.

(c) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.

(d) The C-RAC shall advise the Board regarding:

(1) The housing needs of Colonia residents;

(2) Appropriate and effective programs that are proposed or are operated through the CSHCs; and

(3) Activities that might be undertaken through the CSHCs to serve the needs of Colonia residents.

(e) The C-RAC shall advise the Office of Colonia Initiatives as provided by §775.005 of the Tex. Gov't Code.

(f) Award of Contracts.

(1) The Department will schedule C-RAC meetings for the review of satisfactorily completed CSHC applications from Administrators. The C-RAC shall meet no less than 30 days prior to the board meeting at which the Board is scheduled to award a CSHC Contract, and may meet at other times as needed.

(2) Any Administrator whose Application is being considered at the C-RAC meeting must be present to answer questions that C-RAC may have.

(3) After the C-RAC makes a recommendation on an Application, the recommendation will then proceed through the Department's award process.

(g) Reimbursement to C-RAC members for their reasonable travel expenses in the manner provided by §25.9(1) of this chapter (relating to Administrative Thresholds) shall be paid by the Administrator or Administrators whose Applications were considered at the meeting.

§25.8 Colonia Self-Help Center Contract Operation and Implementation.

(a) The Department shall contract with an UGLG for the operation of a CSHC. The UGLG may subaward the activity to a Nonprofit Organization, Community Action Agency, or Housing Authority that has demonstrated the ability to carry out all or part of the functions of a CSHC. The UGLG must perform the requirements of a pass-through entity, as further described in 2 CFR §200.332 and TxGMS.

(b) The Administrator is required to complete an environmental review in accordance with 24 CFR Part 58, and receive the Authority to Use Grant Funds from the Department before:

(1) Any commitment of CDBG funds (i.e., execution of a legally binding Agreement and expenditure of CDBG funds) for Activities other than those that are specifically exempt from environmental review; and

(2) Any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e., demolition, excavating, etc.) or limit the choice of alternatives (i.e., acquisition of real property, Rehabilitation of buildings or structures, etc.).

(c) Request for Payments. The Administrator shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis; however, the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the Administrator's full and satisfactory performance of its obligations under the Contract. The Department may reduce a request for payment if documentation is insufficient or the performance is unsatisfactory.

(1) $2,500 is the minimum amount for a Draw to be processed, unless it is the final Draw request. If an Administrator fails to submit a draw for 12 consecutive months the Contract may be subject to termination for failure to meet the Contract obligations.

(2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Administrator is responsible for maintaining a complete record of all costs incurred in carrying out the Activities of the Contract.

(3) Draw requests for all housing Activities will only be reimbursed upon satisfactory completion of types of Activities (e.g., all plumbing completed, entire roof is completed, etc.), consistent with the construction contract.

(4) The Administrator will be the principal contact responsible for reporting to the Department and submitting Draw requests.

(d) Reporting. The Administrator shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the tenth calendar day of the month after the end of each calendar quarter. The Administrator shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, Activities completed and total number of Beneficiaries. Processing of draws may be suspended until the Administrator's quarterly reports are submitted and approved by the Department. If an Administrator fails to submit Activity data within a 24-consecutive-month period, the Contract may be subject to termination for failure to meet the Contract obligations.

(e) Amendments. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract.

(1) One Contract Extension of no more than six months may be granted beyond the four-year Contract period.

(2) Changes in Beneficiaries. Any changes to increase contractual deliverables and Beneficiaries shall require a Contract amendment.

(3) The Department, at its discretion and in coordination with an Administrator, may increase a Contract Budget amount and the number of Activities and Beneficiaries to be assisted based on the availability of CSHC funds, the exemplary performance in the implementation of an Administrator's current Contract, and the time available in the four-year Contract period. Upon Board approval, the cap on the maximum Contract amount may be exceeded if the terms of this paragraph are met by the Administrator.

(f) Participating Households must provide at least 15% of the labor necessary to construct or Rehabilitate the Single Family Housing Unit by contributing the labor personally and/or through non-contract labor assistance from family, friends, or volunteers. Volunteer hours at the CSHC may also fulfill the 15% labor requirement.

(g) Program funds can be used for Rehabilitation, Reconstruction, or New Construction. Assistance may be provided in the form of a grant or a forgivable loan to the household. Additional funds from other sources may be leveraged with Program funds. Program funds cannot exceed the following limits:

(1) Program funds for Rehabilitation cannot exceed $75,000 in Program funds per unit per Income Eligible Household.

(2) Program funds for Reconstruction or New Construction cannot exceed $100,000 in Program funds per unit per Income Eligible Household.

(3) An additional $5,000 in Program funds is available for properties with non-functioning and/or unpermitted cesspools or septic tanks that need replacement with an appropriately sized on-site sewage facility, or connection to a Department-approved source of potable water and wastewater disposal.

(h) All Direct Delivery Costs must be eligible and based on actual expenses for the specific housing unit. Subawardees acting on behalf of an UGLG shall incorporate Direct Delivery Costs into its bid proposals.

(i) Prior to Department approval of CSHC construction activity, the CSHC must document that existing on-site sewage facilities (septic systems) have been inspected by a Texas Commission on Environmental Quality-authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366 and the rules adopted under that chapter. Cesspools that have not been previously permitted are unacceptable and must be replaced by an appropriately sized on-site sewage facility or the home must be connected to a Department-approved source of potable water and wastewater disposal.

(j) New Construction, Reconstruction, and Rehabilitation activities. An Administrator under the CSHC Program must adhere to the Inspection Requirements for Construction Activities under Chapter 20 of this title and the Minimum Energy Efficiency Requirements for Single Family Construction Activities under Chapter 21 of this title.

(1) New Construction Requirements.

(A) No initial inspection is required, however building construction plans must be submitted to the Department for approval.

(B) A Certificate of Occupancy is acceptable confirmation of meeting construction requirements. If the activity occurs in a jurisdiction that does not issue Certificates of Occupancy, a Qualified Inspector shall inspect the property applying all applicable construction standards and forms prescribed by the Department.

(2) Reconstruction Requirements.

(A) The initial inspection must identify all substandard conditions as described by Texas Minimum Construction Standards (TMCS) and any health or safety concerns that are beyond repair; confirm that a governmental entity has condemned the unit; or identify the unit as an MHU that will not be rehabilitated. The work write-up and cost estimate shall address all substandard conditions in sufficient detail to justify the need for reconstruction.

(B) A Certificate of Occupancy is acceptable confirmation of meeting construction requirements. If the activity occurs in a jurisdiction that does not issue Certificates of Occupancy, a Qualified Inspector shall inspect the property applying all applicable construction standards and forms prescribed by the Department.

(C) Administrator must demonstrate compliance with §2306.514 Tex. Gov't Code, "Construction Requirements for Single Family Affordable Housing".

(3) Rehabilitation Requirements.

(A) The initial inspection must identify all substandard conditions as described by TMCS and any health or safety concerns. The work write-up and cost estimate shall address all substandard conditions in sufficient detail.

(B) The final inspection shall document that all elements incorporated into the contracted work-write up have been addressed satisfactorily prior to the final draw request.

(k) Primary residences being assisted with any construction activities (Rehabilitation, Reconstruction and New Construction) must:

(1) Comply with adopted Model Subdivision Rules for the county in which assistance is being provided; and

(2) Have only one Single Family Housing Unit per property that is being used as living space. If additional structures are located on the same property and utilized for living space, temporarily or otherwise, this property is not eligible. Relocation assistance is not an eligible expense under the CSHC Program.

(l) The Administrator's initial HAG, as well as any amendments to the HAG, shall be approved by commissioners' court and the Department prior to implementation.

(m) Residents shall have access to all Public Service Activities identified in the Contract on at least one weekday each week, for a period long enough to provide access to activities after the typical workday.

(n) The purchase of new tools, new computers and computer equipment, if included in the approved budget, shall occur within the first 24 months of the Contract Term. Purchase of these items after 24 months must be approved by the Department in writing prior to purchase.

§25.9 Administrative Thresholds.

Administrative Draw request. Administrative Draw requests are funded out of the portion of the Contract budget specified for administrative cost (administration line item of the Contract budget). These costs are not directly associated with an Activity. The administration line item will be disbursed as described in paragraphs (1) - (8) of this section:

(1) Threshold 1. The initial administrative Draw request allows up to 10% of the administration line item may be drawn down prior to the start of any project Activity included in the Performance Statement of the Contract (provided that all Pre-Draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified in paragraphs (2) - (8) of this section.

(2) Threshold 2. Up to an additional 15% (25% of the total) of the administration line item to be drawn down after a start of project Activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given Program Activity, the "start of project Activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project Activity that has commenced (and for which reimbursement is being sought), the submission of a Draw request that includes sufficient back-up documentation for expenses of non-administrative project Activities evidences a start of project Activity. Direct Delivery Costs charges will not constitute a start of project Activity.

(3) Threshold 3. Up to an additional 25% (50% of the total) of the administration line item may be drawn down after compliance with the 20-month threshold requirement has been demonstrated as described in §25.10 of this chapter (relating to Expenditure Thresholds and Closeout Requirements).

(4) Threshold 4. Up to an additional 25% (75% of the total) of the administration line item may be drawn down after compliance with the 32-month threshold requirement has been demonstrated as described in §25.10 of this chapter.

(5) Threshold 5. Up to an additional 15% (90% of the total) of the administration line item may be drawn down after compliance with the 44-month threshold requirement has been demonstrated as described in §25.10 of this chapter.

(6) Threshold 6. Up to an additional 5% (95% of the total) of the administration line item may be drawn down upon receipt of all required close-out documentation.

(7) Threshold 7. The final 5% (100% of the total), less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item, may be drawn down following receipt of the programmatic close-out letter issued by Department.

(8) Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract is eligible.

§25.10 Expenditure Thresholds and Closeout Requirements.

(a) Administrators must meet the expenditure threshold requirements described in paragraphs (1) - (4) of this subsection. If an Administrator fails to expend and submit expenditure documentation by the due date, the deobligation process outlined in §25.5 of this chapter (relating to Allocation, Deobligation and Termination, and Reobligation) may be initiated. A Contract may also be subject to termination for failure to meet the Contract obligations, and the Department may elect not to provide future funds to the Administrator. In such cases, the Administrator will be notified in writing of the processes described in Tex. Gov't Code, Chapter 2105 and §1.411 of this title (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code). These thresholds will be proportionally reduced when the Contract Term is less than four years, although if reasonable for the proposed Activities the Department may allow a longer proportional period for the Environmental Assessment and the 30% reimbursement request.

(1) Six-Month Threshold. An Environmental Assessment that meets the environmental clearance requirements of the Contract must be submitted to the Department within six months from the start date of the Contract;

(2) Twenty-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 30% of the total CSHC funds awarded within 20 months from the start date of the Contract;

(3) Thirty-two-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 60% of the total CSHC funds awarded within 32 months from the start date of the Contract; and

(4) Forty-four-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 90% of the total CSHC funds awarded within 44 months from the start date of the Contract.

(b) For purposes of meeting a threshold in this section, "expended and submitted" means that a Draw request was received by the Department, is complete, and all costs needed to meet a threshold are adequately supported. The Department will not be liable for a threshold violation if a Draw request is not received by the threshold date.

(c) The final Draw Request and complete closeout documents must be submitted no later than 60 days after the end of the Contract Term. If closeout documents are not received by this deadline, the remaining Contract balance may be subject to deobligation as the Department's liability for such costs will have expired. If an Administrator has reserved funds in the project completion report for a final Draw Request, the Administrator has 90 days after the end of the Contract Term to submit the final Draw Request, with the exception of the Department's portion of audit costs which may be reimbursed upon submission of the final Single Audit, but no later than one year after the end of the Contract Term.

From:	robb equitycdc.org
To:	Abigail Versyp
Subject:	Public Comments - CSHC & AYBR
Date:	Monday, October 18, 2021 4:30:30 PM

Hello Ms. Versyp:

Thank you for the opportunity to comment on the proposed rule changes. I think the vast majority of the proposed changes are improvements that are postitive and very much appreciated.

Here are a couple of comments on rules that I think could still be improved:

COLONIA SELF-HELP CENTER

Sec. 25.2 Definitions, (16) Rehabilitation, and (a corresponding rule) 25.3(b)(1) Ineligible Activities
MHUs are very common in the colonias. The rehabilitation of MHUs is not prohibited by CDBG. To exclude (by definition) all MHUs from even being considered for rehabilitation in the CSHC Program seems a bit extreme. Please at least consider adopting the AYBR rule for MHUs whereby administrators can consider the rehabilitation of MHUs dating from 1995 or newer and consider exterior work only (especially accessibility modifications) for older MHUs, if the unit is otherwise free of hazardous conditions.

AMY YOUNG BARRIER REMOVAL PROGRAM

Sec. 26.25 AYBR Eligibility (c)
Real property is not very liquid – especially in rural, low-income areas (some of which are experiencing population decreases) where properties can take a long time to sell. Please consider the use of a passbook rate to discount any real property that is not the principal residence. Just taking the net cash value from tax roles may not fully account for the losses that would be likely incurred if an owner was forced to sell quickly for whatever reason.

Sincerely,

Robb Stevenson

From:	Albert Alvidrez
To:	Abigail Versyp; Evan Williams
Cc:	Chad Landry
Subject:	FW: Public Comments- Webb County Colonia Self-Help Center Rule
Date:	Monday, October 18, 2021 3:57:57 PM
Attachments:	Public Comment - Proposed Self-Help Center Program Rule 7220013.docx Model Rules Determination Planning letter Exhibit - SAMPLE Certificate of Compliance with Plat Requirements.pdf Model Rules Determination Planning letter.pdf Planning Exception Reference to multiple utility connections -232.029(n).docx
Importance:	High

FYI

-----Original Message-----
From: Cassie Allred <cagarza@webbcountytx.gov>
Sent: Monday, October 18, 2021 11:26 AM
To: abigail.versyp@tdhca.tx.us
Cc: Yadira Soto <yadira.soto@tdhca.state.tx.us>; Albert Alvidrez <albert.alvidrez@tdhca.state.tx.us>; Juan Palacios <juan.palacios@tdhca.state.tx.us>; James Flores <jflores@webbcountytx.gov>; Maria G. Silva <mgsilva@webbcountytx.gov>
Subject: Public Comments- Webb County Colonia Self-Help Center Rule
Importance: High

Good Morning:
Attached, please find Webb County's Public Comments regarding the proposed changes to the Colonia Self-Help Center Rule. In addition to our comments, we have provided corroborating sample documents that demonstrate the procedures Webb County currently has in place to ensure compliance with Local, State and Federal requirements. We respectfully ask that this proposed rule be reconsidered specifically, because any changes would almost exclusively impact Webb County colonia residents.

Thank you,

Cassie Allred
Program Administrator
Webb County Self-Help Center
Phone - (956) 523-4759
Fax - (956) 728-1483
cagarza@webbcountytx.gov

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS TDHCA Governing Board Approved Draft of 10 TAC Chapter 25, Colonia Self-Help Center Rule

Public Comment Period

Starts: 8:00 a.m. Austin local time on September 17, 2021
Ends: 5:00 pm. Austin local time on October 18, 2021
Comments received after 5:00 p.m. Austin local time on October 18, 2021 will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs Attn: Abigail Versyp Colonia SHC Rule Public Comment P.O. Box 13941 Austin, Texas 78711-3941 Email: abigail.versyp@tdhca.state.tx.us
Written comments may be submitted in hard copy, fax, or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

25.8 Colonia Self-Help Center Contract Operation and Implementation

(k)(2) Page 17 of 19

(2) Have only one Single Family Housing Unit per property that is being used as living space. – if additional structures are located on the same property and utilized for living space, temporarily or otherwise, the property is not eligible. – Relocation assistance is not an eligible expense under the CSHC Program.

COMMENT – THIS PROPOSED RULE CHANGE VIOLATES ALLOWABLE LEGAL EXCEPTIONS UNDER SECTION 232.029 OF THE LOCL GOVERNMENT CODE. THIS RULE WILL UNFAIRLY DISQUALIFY MANY WEBB COUNTY COLONIA RESIDENTS. WEBB COUNTY HAS PROCEDURES IN PLACE THAT ARE OVERSEEN AND ENFORCED BY THE WEBB COUNTY PLANNING DIRECTOR/FLOODPLAIN ADMINISTRATOR TO ENSURE THAT ALL FEDERAL, STATE AND LOCAL LAWS/REGULATIONS ARE FOLLOWED. WEBB COUNTY OBTAINS A CERTIFICATION (samples attached) FROM THE PLANNING DIRECTOR PRIOR TO ANY ASSISTANCE, CERTIFYING THAT THE PROPERTY TO BE WORKED ON IS IN FACT IN COMPLIANCE WITH MODEL SUBDIVISION RULES. THE ADDITION OF THIS RULE WOULD UNFAIRLY DISQUALIFY PROPERTIES THAT ARE IN COMPLIANCE WITH MODEL SUBDIVISION RULES.

25.10 Expenditure Thresholds and Closeout Requirements

(a) page 18 of 19

(a) Administrators must meet the expenditure threshold requirements described in paragraphs (1) – (4) of this subsection. If an Administrator fails to expend and submit expenditure documentation by the due date, the deobligation process outlined in §25.5 of this chapter may be initiated. A Contract may also be subject to termination for failure to meet the contract obligations, and the Department may elect not to provide future funds to the Administrator. In such cases, the Administrator will be notified in writing of the processes described in Tex.; Gov't Code, Chapter 2105 and §1.411 of this ~~Title~~ Part (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code).- These thresholds will be proportionally reduced when the Contract Term is less than four years, although if reasonable for the proposed Activities the Department may allow longer proportional period for the Environmental Assessment and the 30% reimbursement request.

COMMENT: EXPENDITURE THREHOLDS SHOULD MAKE ALLOWANCES FOR EXTENUATING CIRCUMSTANCES. FINANCIAL PENALTIES FOR UNTTAINABLE EXPENDITURE THRESHOLDS CAUSE DETRIMENTAL DAMAGE TO FUTURE CONTRACTS. ADMINISTRATORS SHOULD HAVE AN AVENUE TO APPEAL TO TDHCA ON A CASE BY CASE BASIS WHEN THRESHOLDS ARE MISSED.

COMMENT: IN CASES WHERE ADDITIONAL FUNDS ARE AWARDED TO ONGOING CONTRACTS, ADDITIONAL TIME ALLOWANCES SHOULD BE CONSIDERED FOR EXPENDITURE THRESHOLDS. ADDITINONAL FUNDS INCREASE THE THRESHOLD AMOUNT BUT SHORTEN THE ALLOTTED TIME.

RHONDA M. Tiffin
Planning Director

PLANNING DEPARTMENT OF WEBB COUNTY, TEXAS

• 1110 Washington St., Suite 302 Laredo, TX 78040 • Phone: (956) 523-4100 • Fax: (956) 523-5008 •

September 21, 2020

James Flores
1308 San Agustin St.
Laredo, TX 78040

RE: Public utility connections to the residential structures located on Los Altos, Phase I, Block 02, Lot 12, Issue ID 10556

Dear Mr. Flores:

Please let this correspondence serve to describe the circumstances guiding the legal authority to connect water/sewer and electrical services to the above-referenced property and the applicability, of the model subdivision rules adopted pursuant to 16.343, Water Code. In that regard, please be advised of the following:

1. Water and sewer service connections to the five (5) existing dwellings on this property were authorized by the grant-funded exceptions set-out by Sec. 232.029(n), Local Government Code. Evidence of compliance with conditions imposed for grant-funded exceptions are contained in Exhibit A, attached hereto;

2. Electrical service connections to the five (5) existing dwellings on this property were authorized pursuant to the provisions of Sec. 232.028(b), Local Government Code as evidenced by the certificate approved by Commissioners Court contained in Exhibit B, attached hereto;

3. As evidenced in Exhibit B attached, this property was subdivided and a plat was approved by Commissioners Court on 8/26/1985 and recorded in Vol. 4, Pg. 52 of the Webb County Plat Records. The lot remains in its original platted configuration and has not been further subdivided.

It is the opinion of our office that this property's connection to public utility services under the above described authorities and our regulatory oversight is consistent with state law. Should you require additional information, please do not hesitate to contact our office.

Sincerely,

Jorge A. Calderon, CFM
Asst. Planning Director

COUNTY OF WEBB
CERTIFICATION REGARDING THE CONNECTION OF UTILITIES

Determinations required pursuant to Sections 232.028(b) of the Texas Local Government Code

Legal description of property: **Block 2, Lot 12, Los Altos, Phase I**

The E-911 (physical address) associated with this request is: **245 Amanecer Rd., Units A, B, C, D & E**

Requested by: **Abel Hernandez, Owners**

The following determinations have been made by the Webb County Commissioners Court:

1. ☒ A plat or replat of the above described property has been prepared and approved by the Webb County Commissioners Court on 8/26/1985. Said plat was filed for record on 08/28/1985 and is recorded in Volume 4, Page 52 of the Webb County Plat Records.
2. ☒ Water service facilities have been constructed or installed to service the property in compliance with the provisions of Section 232.023, Texas Local Government Code and are fully operable.
3. ☒ Sewer service facilities have been constructed or installed to service the property in compliance with the provisions Section 232.023, Texas Local Government Code and are fully operable, or a permitted on-site sewage disposal system has been installed.
4. ☐ Electrical ~~and gas~~ facilities, if available, have been constructed or installed to service the property in compliance with the provisions Section 232.023, Texas Local Government Code.

For authorization under this section, the Court relied on the following documents:

☒ A plat for this property as recorded in Volume 4 Page 52 of the Webb County Plat Records, approved by the Commissioners Court on 08/26/1985 and/or filed for record on 08/28/1985.

☒ Correspondence from the City of Laredo utilities department advising that water and sewer services have been installed in the subdivision and are fully operable (copy attached); and

☒ Other: Acknowledgement from owner(s) acknowledging limitations on existing and future dwelling in compliance with the Model Subdivision Rules and the Inter-local Agreement between Webb County and the City of Laredo for the extension of water and sewer facilities.

Subject to the above-described certification(s), the following utility connection(s) are authorized:

☒ water (certification under item 1 is required) ☒ sewer (certification under item 1 is required)

☐ electricity (certification under items 2 & 3 is required) ☐ gas (certification under items 2 & 3 is required)

LIMITATIONS: Connection limited to 5 dwellings only

Reviewed and recommended for approval by:

Hon. Homero Ramirez
Webb County Attorney

Rhonda M. Tiffin, CFM
Planning Director/Floodplain Admin

Approved by the Webb County Commissioners Court on this the 10th day of December, 2007.

Hon. Danny Valdez
Webb County Judge

Attested by:

Hon. Margie Ramirez Ibarra, Webb County Clerk

§ 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun:

(i) on or before May 1, 1997; or

(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1).

(e) A person requesting service may obtain a certificate under Subsection (c)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

(i) on or before May 1, 1997; or

(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

(i) on or before May 1, 1997; or

(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42.

(f) A person requesting service may obtain a certificate under Subsection (c)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent:

(1) after September 1, 1995; or

(2) after September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42.

(g) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) The prohibition established by this section shall not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot being sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, which is located within a subdivision where the utility has previously established service and was subdivided by a plat approved prior to September 1, 1989.

(j) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1997, 75th Leg., ch. 1062, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, § 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 684, § 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 708, § 3, 4, eff. Sept. 1, 2005.

1n

BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund Rule, and an order adopting new 10 TAC Chapter 26, Texas Housing Trust Fund Rule, and directing their publication for adoption in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.202, the Department is required to use the Housing Trust Fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, nonprofit organizations and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe and sanitary housing;

WHEREAS, the proposed new 10 TAC Chapter 26, Texas Housing Trust Fund Rule further clarifies program administration, updates terminology and promotes alignment with the Single Family Umbrella Rule, codifies existing requirements, and incorporates the requirements of the Texas Minimum Construction Standards into the Amy Young Barrier Removal Program;

WHEREAS, on September 2, 2021, the Board approved a draft of the proposed new rule which was published in the Texas Register and for which public comment was accepted from September 17, 2021, through October 18, 2021; and

WHERAS, public comment was received, staff has considered the comment, and a rule is now proposed for the Board to adopt;

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 new 10 TAC Chapter 26, regarding the Texas Housing Trust Fund Rule, in the form presented to this meeting, to be adopted and submitted to 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 the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

The purpose of repealing 10 TAC Chapter 26, Texas Housing Trust Rule, and adopting a new 10 TAC Chapter 26, Texas Housing Trust Fund Rule, is to further clarify program administration, update terminology and promote alignment with the Single Family Umbrella Rule, and codify existing requirements to the Amy Young Barrier Removal Program. Changes are proposed for most sections in both Subchapters; therefore, the Department proposed repeal and replacement instead of amending the existing Chapter. Staff has summarized the significant changes proposed to the Texas Housing Trust Fund Rule below.

- Unutilized definition for Qualified Inspector is removed;
- Conflict of Interest requirement is now included, which had previously been required of subrecipients in their contracts only;
- Minimum time that funds are held for subregions and regions during a NOFA period is reduced from 90 days to 30 days;
- The term of Amy Young Barrier Removal Program Reservation Agreements is established as not greater than 36 months;
- Reservation submission requirements and review process are clarified;
- A requirement for the building contractor to provide information related to their required one-year warranty and any warranty information provided by the manufacturer or installer to the assisted household is added.

The draft rule was released for public comment and comment was accepted from Friday, September 17, 2021, through Monday, October 18, 2021. Comment was received from four commenters and their comments as well as staff’s response are provided in the preambles following.

Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund Rule

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

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 Texas Housing Trust Fund.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce 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 a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration the Texas Housing Trust Fund.

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 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 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 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 section 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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; 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 proposed repealed sections affect no other code, article, or statute.

10 TAC Chapter 26, Texas Housing Trust Fund Rule

SUBCHAPTER A GENERAL GUIDANCE

§26.1 Purpose
§26.2 Definitions
§26.3 Allocation of Funds
§26.4 Use of Funds
§26.5 Prohibited Activities
§26.6 Administrator Eligibility and Requirements
§26.7 Conflict of Interest

SUBCHAPTER B AMY YOUNG BARRIER REMOVAL PROGRAM

§26.20 Amy Young Barrier Removal Program Purpose
§26.21 Amy Young Barrier Removal Program Definitions
§26.22 Amy Young Barrier Removal Program Geographic Dispersion
§26.23 Amy Young Barrier Removal Program Administrative Requirements
§26.24 Amy Young Barrier Removal Program Reservation System Requirements
§26.25 Amy Young Barrier Removal Program Household Eligibility Requirements
§26.26 Amy Young Barrier Removal Program Property Eligibility Requirements
§26.27 Amy Young Barrier Removal Program Construction Requirements
§26.28 Amy Young Barrier Removal Program Project Completion Requirements

Attachment B: Preamble for adopting new 10 TAC Chapter 26, Texas Housing Trust Fund Rule

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 26, Texas Housing Trust Fund Rule. The purpose of the new sections is to implement a more germane rule and better align administration to state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to administration of the Texas Housing Trust Fund.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule changes will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not expand or repeal an existing regulation.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new 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. There are approximately 20 rural communities currently participating in the Texas Housing Trust Fund that are subject to the rule for which no economic impact of the rule is projected during the first year the rule is in effect.

3. The Department has determined that because the rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, 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 or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

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 participation in the programs funded with the Texas Housing Trust Fund is at the discretion of the eligible subrecipients, 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). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be a more germane rule that better aligns administration to state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

SUMMARY OF PUBLIC COMMENTS. Public comment was received from September 17, 2021, to October 18, 2021. Comment received is summarized herein and a reasoned response provided. Comment was received from the four commenters listed: Commenter 1, Stephanie Hamby, Executive Director, Galillee CDC; Commenter 2, Olivia Figueroa, Executive Director, A.Y.U.D.A Inc.; Commenter 3, Robb Stevenson, Executive Director, Equity CDC; and Commenter 4, Tanya Lavelle, Policy Specialist, Disability Rights Texas.

General Comments

Commenter 4 noted that the Winter Storm Uri highlighted an increased risk of harm to populations that rely on life-sustaining medical equipment, and suggests the Department allow for Amy Young Barrier Removal funds to be used for purchasing and installing generators in applicable households.

Staff Response: The rule as proposed includes a provision allowing for accessibility modifications that vary from the 2010 American Disability Act (ADA) Standards in order to meet the specific accessibility needs of the household, which may include purchase an installation of a generator if such equipment is required due to the specific nature of the disability. Because this is already allowable, no changes were made in response to this comment.

§26.2 Definitions

Commenter 1 noted concern with the removal of qualified inspector requirements in Section 26.1, especially as it relates to a proposed requirement in 10 TAC Chapter 20 to inspect all units for substandard conditions in the Texas Minimum Construction Standards.

Staff Response: The edits to the definition of a qualified inspector are outlined and provide greater discretion to Amy Young Barrier Program Administrators in selection of an inspector. The Administrator is responsible for ensuring inspectors are qualified to inspect proposed projects. Additionally, the proposed requirements related to TMCS for the Amy Young Barrier Removal Program have been struck in 10 TAC Chapter 20 in response to public comment received from the commenter. No changes were made in response to this comment.

§26.21(1) Amy Young Barrier Removal Program Definitions

Commenter 2 suggests that the Department revise §26.21(1) with a higher percent allowance for Administrative Fee Funds, to account for increasing operating costs and the cost of living. Commenter 3 offers 13%-15% of project costs as an example.

Staff Response: In 2019, the Department amended 10 TAC Chapter 26 and increased the per project allowance from $20,000 to $22,500, and as such, the administrative amounts increased. To further increase Administrative Fee Funds to 13%-15% per project, would mean the Project Fund allocation would decrease by 3%-5% resulting in a negative impact to the number of households served. No edits are proposed in response to this comment.

§26.25(c) Amy Young Barrier Removal Program Household Eligibility Requirements

Commenter 3 suggests that as it relates to calculating a household's assets, the Department should consider the use of a passbook rate to discount real property that is not the primary residence in 26.25(c). They state real property is not very liquid, and that taking the net cash value from tax rolls would not accurately account for losses that would likely be incurred if forced to sell quickly.

Staff Response: The rule as proposed increases the limit for liquid assets from $20,000 to $25,000. The Amy Young Barrier Removal Program is a state funded program and not statutory required. Program funds are limited and target the most in need. Households with additional assets, including real property, have an additional resource that others do not. No edits are proposed in response to this comment.

§26.27 Amy Young Barrier Removal Program Construction Requirements

Commenter 1 stated that the changes related to requiring adherence to the Texas Minimum Construction Standards (TMCS) would create costly distractions from the purpose of Amy Young Barrier Removal projects. Commenter 1 stated that requiring use of TMCS will limit the eligibility of many homes by increasing the likelihood of "walk-away" projects.

Staff Response: The updates to the Texas Minimum Construction Standards (TMCS) were designed to provide the benefit of clarity without imposing additional requirements. Staff has carefully reviewed the comment, and agrees with the commenter that the Amy Young Barrier Removal (AYBR) Program should not be required to address substandard conditions that are not directly related to hazards to life, health, and safety. Staff has included an exemption to the requirements of TMCS for the AYBR Program within the Single Family Umbrella Rules, and has included a list of items related to life, health, and safety specifically for the AYBR Program as it appeared in the prior iteration of the rule in response to this comment.

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. The rule has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

CHAPTER 26 TEXAS HOUSING TRUST FUND RULE

§26.1 Purpose.

This chapter clarifies the administration of the Texas Housing Trust Fund (Texas HTF). The Texas HTF provides loans, grants or other comparable forms of assistance to income-eligible individuals, families, and households. The Texas HTF is administered in accordance with Tex. Gov't Code, Chapter 2306, Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), and Chapter 24 of this title (relating to Texas Bootstrap Loan Program Rule).

§26.2 Definitions.

Definitions may be found in Tex. Gov't Code, Chapter 2306; Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 24 of this title (relating to Texas Bootstrap Loan Program Rule), unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

§26.3 Allocation of Funds.

(a) The Department administers all Texas HTF funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306. The Department may solicit gifts and grants to endow the fund.

(b) Pursuant to Tex. Gov't Code §2306.202(b), use of the Texas HTF is limited to providing:

(1) Assistance for individuals and families of low and very low income;

(2) Technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;

(3) Security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and

(4) Subject to the limitations in Tex. Gov't Code §2306.251, the Department may also use the fund to acquire property to endow the fund.

(c) Set-Asides. In accordance with Tex. Gov't Code §2306.202(a) and program guidelines:

(1) In each biennium, the first $2.6 million available through the Texas 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;

(2) Any additional funds may also be made available to for-profit organizations provided that at least 45% of available funds, as determined on September 1 of each state fiscal year, in excess of the first $2.6 million shall be made available to Nonprofit Organizations; and

(3) The remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to Tex. Gov't Code §2306.202.

§26.4 Use of Funds.

(a) Use of additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations, or interest earnings, the Department will redistribute the funds in accordance with the Texas HTF plan in effect at the time the additional funds become available.

(b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the Texas HTF plan in effect at the time.

(c) Use of excess loan repayments and interest earnings. The Texas HTF may be used to respond to unanticipated challenges that may arise in the course of implementing approved single family Program Contracts, activities, or assets that are not readily addressed with federal funds. In the event that Texas HTF loan repayments and interest earnings exceed the requirements under the Texas HTF interest earnings and loan repayments Rider in the General Appropriations Act, up to $250,000 per biennium of these excess Texas HTF loan repayments and interest earnings may be used for this purpose. 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. These funds may be used as described in this subsection.

(1) Funds are to be used for internal disposition.

(2) Neither Households nor Program Administrators are eligible to apply for these funds.

(3) Any funds used under this subsection requires authorization of the Executive Director.

(4) Uses for the funds must meet at least one of the following criteria:

(A) For Households previously assisted by the Department with Department funds, for which the Department has confirmed that further work is still required, and for which the original source of funds is no longer able to be used; or

(B) Properties previously owned by Households assisted by the Department, having been foreclosed upon by the Department, and requiring additional carrying costs or improvements to sell the property or transfer the property for an affordable purpose.

§26.5 Prohibited Activities.

(a) Persons receiving or benefiting from Texas HTF funds, as determined by the Department, may not be currently delinquent or in default with child support, government loans, or any other debt owed to the State of Texas.

(b) The activities described in paragraphs (1) - (8) of this subsection are prohibited in relation to the origination of a Texas HTF loan, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with a Texas HTF loan:

(1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas HTF funds;

(2) Loan origination fees;

(3) Application fees;

(4) Discount fees;

(5) Underwriter fees;

(6) Loan processing fees;

(7) Loan servicing fees; and

(8) Other fees not approved by the Department in writing prior to expenditure.

§26.6 Administrator Eligibility and Requirements.

Administrator must enter into a written Agreement with the Department in order to be eligible to access the Texas Housing Trust Fund.

§26.7 Conflict of Interest.

In addition to the conflict of interest requirements in Uniform Grants Management Standards (UGMS) or Texas Grants Management Standards (TXGMS) (as applicable to the Contract), no person who is an employee, agent, consultant, officer, trustee, director, member of a governing board or other oversight body, elected official or appointed official of the Administrator who exercises or has exercised any functions or responsibilities with respect to Texas HTF activities under the State Act, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Texas HTF assisted activity, or have an interest in any Texas HTF Contract, subcontract, or agreement, or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

SUBCHAPTER B AMY YOUNG BARRIER REMOVAL PROGRAM

§26.20 Amy Young Barrier Removal Program Purpose.

The Amy Young Barrier Removal Program (the Program or AYBRP) provides one-time grants in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grant limits per household will be identified in the Notice of Funding Availability (NOFA). Grants are for home modifications that increase accessibility and eliminate substandard conditions.

§26.21 Amy Young Barrier Removal Program Definitions.

The following words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26, Subchapter A of this title (relating to Texas Housing Trust Fund Rule).

(1) Administrative Fee--Funds equal to 10% of the Project Costs (combined Hard and Soft Costs) paid to an Administrator upon completion of a project.

(2) Hard Costs--Site-specific costs incurred during construction, including, but not limited to: general requirements, building permits, jobsite toilet rental, dumpster fees, site preparation, demolition, construction materials, labor, installation equipment expenses, etc.

(3) Low-Income--Household income does not exceed the greater of 80% of the Area Median Family Income or 80% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

(4) Project Costs--Program funds (combined Hard and Soft Costs) that directly assist a Household.

(5) Reservation System Participant (RSP)--Administrator who has executed a written Agreement with the Department that allows for participation in the Reservation System.

(6) Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs, per §20.3 of this title (relating to Definitions).

§26.22 Amy Young Barrier Removal Program Geographic Dispersion.

(a) The process to promote geographic dispersion of program funds is as described in this subsection:

(1) For a published period not less than 30 days and in accordance with the NOFA, each state region will be allocated funding amounts for its rural and urban subregions. During this initial period, these funds may be reserved only for Households located in these rural and urban subregions;

(2) After the initial release of funds under paragraph (1) of this subsection, each state region will combine any remaining funds from its rural and urban subregions into one regional balance for a second published period not to exceed 90 calendar days. During this second period, these funds may be reserved only for Households located in that state region; and

(3) After no more than 180 calendar days following the initial release date, any funds remaining across all state regions will collapse into one statewide pool. For as long as funds are available, these funds may be reserved for any Households anywhere in the state on a first-come, first-served basis.

(b) If any additional funds beyond the original program allocations that derive from Texas HTF loan repayments, interest earnings, deobligations, and/or other Texas HTF funds in excess of those funds required under Rider 8 or the Department's appropriation made under the General Appropriations Act may be reprogrammed at the discretion of the Department.

§26.23 Amy Young Barrier Removal Program Administrative Requirements.

(a) To participate in the Program, an eligible participant must first be approved as an Administrator by the Department through the submission of a Reservation System Access Application. Eligible participants include, but are not limited to: Colonia Self-Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; Councils of Government; Units of Local Government; Nonprofit Organizations; Local Mental Health Authorities; and Public Housing Authorities. An eligible participant may be further limited by NOFA.

(b) The Applicant must enter into an RSP Agreement with the Department in order to be eligible to reserve funds for the Amy Young Barrier Removal Program.

(1) A Nonprofit Organization must submit a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective throughout the term of the RSP Agreement to access the Reservation System.

(2) A private Nonprofit Organization must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the State of Texas.

(3) The Applicant must demonstrate at least two years of capacity and experience in housing rehabilitation in Texas. The Applicant will be required to provide a summary of experience that must describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing rehabilitation. It must also describe organizational knowledge and experience in serving Persons with Disabilities.

(4) The Applicant must provide evidence of adherence to applicable financial accountability standards, demonstrated by an audited financial statement by a Certified Public Accountant for the most recent fiscal year. For a Nonprofit Organizations that does not yet have audited financial statements, the Department may accept a resolution from the Board of Directors that is signed and dated within the six months preceding the Application and that certifies that the procedures used by the organization conform to the requirements in 10 TAC §1.402, (relating to Cost Principles and Administrative Requirements).

(5) An Applicant must submit a current roster of all Board Members, Council Members, Commissioners, or other Members of its legal governing body, including names and mailing addresses.

(6) The Applicant must submit a resolution from the Applicant's direct governing body that authorizes the submission of the Application and is signed and dated within the six months preceding the date of application submission. The resolution must include the name and title of the individual authorized to execute an RSP Agreement.

(7) The Applicant's history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter A, §1.302 and §1.303, (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter, and Executive Award and Review Advisory Committee (EARAC), respectively). Access to funds may be subject to terms and conditions.

(8) If applicable, the Applicant must submit copies of executed contracts with consultants or other organizations that are assisting in the implementation of the applicant's AYBR Program activities. The Applicant must provide a summary of the consultant or other organization's experience in housing rehabilitation and/or serving Persons with Disabilities.

(c) Administrators must follow the processes and procedures as required by the Department through its governing statute (Chapter 2306 of the Government Code), Administrative Rules (Texas Administrative Code, Title 10, Part 1), Reservation Agreement, Program Manual, forms, and NOFA.

§26.24 Amy Young Barrier Removal Program Reservation System Requirements.

(a) Terms of Agreement. The term of an RSP Agreement will not exceed the lesser of 36 months, or the term limitation defined in the NOFA. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this chapter in effect as of the date of submission by the Administrator.

(b) Limit on Number of Reservations. The limitation on the number of Reservations will be established in the NOFA.

(c) Administrator must remain in good standing with the Department and the state of Texas. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

(d) Reservations will be processed in the order submitted on the Reservation System. Submission of a Reservation consisting of support documentation on behalf of a Household does not guarantee funding.

(e) Reservations may be submitted in stages, and shall be processed through each stage as outlined in the Program Manual.

(f) Administrator must submit a substantially complete request for each stage of the Reservation as outlined in the Program Manual. Administrators must upload all required information and verification documentation in the Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of 14 calendar days beginning at the start of the first day following the date the Administrator is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests shall not constitute a Reservation of Funds.

(g) If a Household is determined to be eligible for assistance from the Department, the Department will reserve up to the maximum award amount permitted under the NOFA in Project Costs and an Administrative Fee equal to 10% of the combined Hard and Soft costs in the Contract System on behalf of the Household, funding permitting.

§26.25 Amy Young Barrier Removal Program Household Eligibility Requirements.

(a) At least one Household member shall meet the definition of Persons with Disabilities.

(b) The assisted Household must be qualified as Low-Income.

(c) The assisted Household's liquid assets shall not exceed $25,000. Liquid assets are considered to be cash deposited in checking or savings accounts, money markets, certificates of deposit, mutual funds, or brokerage accounts; the net value of stocks or bonds that may be easily converted to cash; and the net cash value calculated utilizing the appraisal district's market value for any real property that is not a principal residence. Funds in tax deferred accounts for retirement or education savings (e.g., Individual Retirement Accounts, 401(k)s, 529 plans) and whole life insurance policies are excluded from the liquid assets calculation.

(d) The Household may be ineligible for the program if there is debt owed to the State of Texas, including a tax delinquency; a child support delinquency; a student loan default; or any other delinquent debt owed to the State of Texas.

§26.26 Amy Young Barrier Removal Program Property Eligibility Requirements.

(a) Owner-occupied homes are eligible for Program assistance. In owner-occupied homes, the owner of record must reside in the home as their permanent residence unless otherwise approved by the Department. If the property is family-owned and the owner of record is deceased or not a Household member, the Department may deem the property renter-occupied unless satisfactory documentation is provided to the Department that confirms otherwise.

(b) Certain rental units are eligible for Program assistance and must meet the following requirements:

(1) In rental units, all Household occupants, including the Person with Disability, must be named on the Program intake application and household income certification.

(2) The owner of record for the property shall provide a statement allowing accessibility modifications to be made to the property.

(c) The following rental properties are ineligible for Program assistance:

(1) Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;

(2) Rental units in properties that are financed with any federal funds or that are subject to 10 TAC Chapter 1, Subchapter B, §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973);

(3) Rental units that have substandard and unsafe conditions identified in the initial inspection. Program funds may not be used to correct substandard or unsafe conditions in rental units, but may be used for accessibility modifications only after the substandard and unsafe conditions have been corrected at the property owner's expense; or

(4) Rental units owned by a property owner who is delinquent on property taxes associated with the property occupied by the Household.

§26.27 Amy Young Barrier Removal Program Construction Requirements.

(a) Inspections.

(1) Initial inspection arranged by the Administrator is required and must identify the accessibility modifications needed by the Person with Disability; assess and document the condition of the property; and identify all deficiencies ~~listed in the Texas Minimum Construction Standards (TMCS).~~<u>that constitute life-threatening hazards and unsafe conditions.</u>

(2) Final inspection arranged by the Administrator is required and must verify, assess, and document that all construction activities have been repaired, replaced, and/or installed in a professional manner consistent with all applicable building codes and Program requirements, and as required in the Work Write-Up as described in subsection (e) of this section.

(b) A Manufactured Housing Unit may be eligible for Program assistance if it was constructed on or after January 1, 1995. The Department may allow Manufactured Housing Units older than January 1, 1995, to receive only exterior accessibility modifications (i.e., ramps, handrails, concrete flatwork) as long as the Administrator can verify that the unit itself will be free of hazardous and unsafe conditions.

(c) Construction standards.

~~(1) Administrators must follow the requirements of TMCS.~~

(1) Administrator must follow all applicable sections of local building codes and ordinances, pursuant to Section 214.212 of the Local Government Code. Where local codes do not exist, the 2015 International Residential Code (IRC), including Appendix J for Existing Buildings and Structures, is the applicable code for the Program.

(2) Accessibility modifications shall be made with consideration to 2010 American Disability Act (ADA) Standards, but may vary from the ADA Standards in order to meet specific accessibility needs of the household as requested and agreed to by the assisted household.

(3) Administrators must adhere to Chapter 21 of this title, (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities).

(4) Administrators and subcontractors must honor a twelve-month warranty on all completed items in their scope of work.

(d) ~~Substandard~~Life-threatening hazards and unsafe conditions.

(1) Administrator~~s~~ may make repairs to eliminate ~~substandard~~ life-threatening hazards and correct unsafe conditions in the ~~housing unit~~Single-Family Housing Unit as long as no more than 25% of the Project Hard Costs budget is utilized for this purpose, unless otherwise approved by the Department.

(2) Life-threatening hazards and unsafe conditions include, but are not limited to: faulty or damaged electrical systems; faulty or damaged gas-fueled systems; faulty, damaged or absent heating and cooling systems; faulty or damaged plumbing systems, including sanitary sewer systems; faulty, damaged or absent smoke, fire and carbon monoxide detection/alarm systems; structural systems on the verge of collapse or failure; environmental hazards such as mold, lead-based paint, asbestos or radon; serious pest infestation; absence of adequate emergency escape and rescue openings and fire egress; and the absence of ground fault circuit interrupters (GFCI) and arc fault circuit interrupters (AFCI) in applicable locations.

(3) If the work write-up addresses any of the following line items, the percentage of Project Hard Costs devoted to eliminating substandard, unsafe conditions may only exceed 25% by the amount of the following line item's cost: emergency escape, rescue openings and fire egress; ground fault circuit interrupters (GFCI); arc fault circuit interrupters (AFCI); and smoke, fire, and carbon monoxide detection/alarm systems. The combination of these line items plus the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

4) All areas and components of the ~~housing~~Single-Family Housing Unit must be free of ~~all identified deficiencies listed in the initial inspection except that correction of cosmetic issues, such as paint, wall~~

~~texture, etc., will not be required if acceptable to the Household.~~ life-threatening hazards and unsafe conditions at project completion.

(e) Work-Write Ups. The Department shall review work-write ups (also referred to as "scope of work") and cost estimates prior to the Administrator soliciting bids.

(f) Bids. The Department shall review all line item bids Administrator selects for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. An Administrator seeking a change order must obtain written Department approval prior to the commencement of any work related to the proposed change. Failure to get prior Departmental approval may result in disallowed costs.

§26.28 Amy Young Barrier Removal Program Project Completion Requirements.

(a) The Administrator has 90 calendar days from the date the Department approves the line item contract bid the Administrator selected for award to complete all construction activities and submit the Project and Administrative Draw Request, with required supporting documentation, in the Housing Contract System for reimbursement by the Department. The Department may grant a one-time, 30-calendar day extension to the Project completion deadline. The Department may grant additional extensions due to extenuating circumstances that are beyond the Administrator's control.

(b) The Administrator must submit evidence with the final Draw that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents.

(c) The Administrator must provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price.

(d) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative Draw Request per Department instructions. Interim Draws may not be permitted. The Department reserves the right to delay Draw approval in the event that the Household expresses dissatisfaction with the work completed in order to resolve any outstanding conflicts between the Household and the Administrator and its subcontractors.

From:	Stephanie Hamby
To:	Abigail Versyp
Cc:	Diana Velez
Subject:	Public comment
Date:	Monday, October 18, 2021 1:20:17 PM
Attachments:	Public Comment Umbrella rule.docx

Hi Abigail,
I have attached a document with my comments on 10 TAC chapter 20 and 26. Please let me know if you need anything else.

Have a great day.

Thanks,

Stephanie Hamby
Executive Director
Galilee CDC
39 Buick St.
San Angelo, TX 76901
325-655-6700
Stephanie.hamby@galileecdc.org

10 TAC Chapter 26, Texas Housing Trust Fund Rule

26.1 Definitions

(b) removal of qualified inspector requirements

In our small community we are fortunate to have qualified employees for the inspections. However, the above comments also effect this change as well. One inspector is qualified for all the items listed on the TMCS form but the other would need to bring additional individuals to the inspections. This would increase the cost of each inspection dramatically which cuts into the amount of funds we have to allocate to the actual work. The detail of the TMCS also requires additional time spent on each inspection which adds to the cost. With a limited amount of funds allocated to soft cost, these forms are not effective for the amount of time and money allowed to each job.

I appreciate the opportunity to comment on the rule changes. If there is further questions or clarification needed, please feel free to contact me.

Stephanie Hamby

Galilee CDC

325-655-6700

Stephanie.hamby@galileecdc.org

From:	Olivia Figueroa
To:	Abigail Versyp
Cc:	Diana Velez; Glynis Vitanza
Subject:	PUBLIC COMMENT - Chapter 26. Texas Housing Trust Fund Rule
Date:	Saturday, October 09, 2021 8:43:46 PM

Dear Mrs. Versyp;

We would like to make a comment on Chapter 26 - Texas Housing Trust Fund Rule

§ 26.21 Amy Young Removal Program Definitions

(1) Administrative Fee Funds equal to 10% of the Project Costs (Combined hard and Soft costs) paid to an Administrator upon completion of a project.

We would like to request a higher percentage of administrative fee funds to the Administrator. As you might be aware, everything is getting costlier and its getting harder and harder to maintain operations for non-profits like ourselves. Anything from 13%-15% would adjust to the current cost of living.

Respectfully;

Olivia Figueroa
Executive Director
A.Y.U.D.A. INC
915-851-0272

From:	robb equitycdc.org
To:	Abigail Versyp
Subject:	Public Comments - CSHC & AYBR
Date:	Monday, October 18, 2021 4:30:30 PM

Hello Ms. Versyp:

Thank you for the opportunity to comment on the proposed rule changes. I think the vast majority of the proposed changes are improvements that are postitive and very much appreciated.

Here are a couple of comments on rules that I think could still be improved:

COLONIA SELF-HELP CENTER

Sec. 25.2 Definitions, (16) Rehabilitation, and (a corresponding rule) 25.3(b)(1) Ineligible Activities
MHUs are very common in the colonias. The rehabilitation of MHUs is not prohibited by CDBG. To exclude (by definition) all MHUs from even being considered for rehabilitation in the CSHC Program seems a bit extreme. Please at least consider adopting the AYBR rule for MHUs whereby administrators can consider the rehabilitation of MHUs dating from 1995 or newer and consider exterior work only (especially accessibility modifications) for older MHUs, if the unit is otherwise free of hazardous conditions.

AMY YOUNG BARRIER REMOVAL PROGRAM

Sec. 26.25 AYBR Eligibility (c)
Real property is not very liquid – especially in rural, low-income areas (some of which are experiencing population decreases) where properties can take a long time to sell. Please consider the use of a passbook rate to discount any real property that is not the principal residence. Just taking the net cash value from tax roles may not fully account for the losses that would be likely incurred if an owner was forced to sell quickly for whatever reason.

Sincerely,

Robb Stevenson

From:	Tanya Lavelle
To:	Abigail Versyp
Subject:	Comments re: 10 TAC 26
Date:	Friday, October 15, 2021 4:58:45 PM
Attachments:	image001.png DRTx Comments on AYBR 10.15.21.pdf

Hi Abigail,
Please find attached DRTx comments re: 10 TAC 26, AYBR program.
Thank you

Tanya Lavelle, MPAff
Policy Specialist – Housing, Transportation and Disaster Team
Disability Rights Texas
tlavelle@disabilityrightstx.org
She/her/hers/ella

What's getting in your way? Let us know by taking a few minutes to complete our community survey. Your input helps us plan our work and focus on the most important issues facing Texans with disabilities.

¿Qué se interpone en tu camino? Háganos saber tomándose unos minutos para completar nuestra encuesta comunitaria. Su opinión nos ayuda a planificar nuestro trabajo y enfocarnos en los problemas más importantes que enfrentan los texanos con discapacidades.

Điều gì Đang Cản trở Quý vị? Thực hiện Khảo sát của Chúng tôi và Cho Chúng tôi Biết. Ý kiến dóng góp của bạn giúp chúng tôi lập kế hoạch công việc và tập trung vào những vấn dề quan trọng nhất mà người khuyết tật Texas phải dối mặt.

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Please note: During the pandemic, our intake and phone lines are open and we are providing clients services mainly through phone, email and video communication. However, our offices throughout the state remain closed to the public until further notice. Visit our special COVID-19 resource page for information about your rights during this time.

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DISABILITY RIGHTS TEXAS | *The Protection and Advocacy Agency for Persons with Disabilities in Texas*
www.drtx.org | 2222 W. Braker Ln. | Austin, TX 78758 | 512.454.4816 *main* | 800.252.9108 *intake*
Follow us on Facebook, Twitter, Instagram, and YouTube

Disability Rights TEXAS

2222 West Braker Lane
Austin, Texas 78758
MAIN OFFICE 512.454.4816
TOLL-FREE 800.315.3876
FAX 512.323.0902

DRTx Comments on 10 TAC Chapter 26, Texas Housing Trust Fund Rule

Disability Rights Texas (DRTx) is Texas' federally-designated Protection and Advocacy (P&A) agency for persons with disabilities. We provide a wide range of services for people with disabilities to ensure that their rights are upheld and that they are not discriminated against based on their disability. We also work to ensure that the needs of people with disabilities are met so that they can live as independently as possible.

To live independently in the community persons with disabilities must have access to safe, accessible homes. The Amy Young Barrier Removal (AYBR) Program is a unique program that focuses on making accessibility and safety modifications to the homes of low-income persons with disabilities, allowing them to enjoy their homes, and ultimately avoid displacement. To that end we have the following recommendations to proposed changes to 10 TAC Chapter 6 that we believe will improve outcomes for persons with disabilities:

- *Ensure that modifications addressing substandard conditions are directly related to disability*
  By changing the stated purpose of the AYBR from "life threatening hazards" to "substandard conditions", TDHCA is expanding the modifications that are eligible for funding under the program. The definition of substandard conditions in the Texas Minimum Construction Standards is broad, inclusive of everything from structural integrity to the need for storage or living space. For example, using AYBR funds to replace a failing HVAC system to improve the comfort of a home is very different from replacing an HVAC system at the request of a tenant's pulmonologist to mitigate a breathing condition. To protect the true purpose of the program - to help people with disabilities have an accessible, safe place to live in their community - **we believe that it is important to confirm that any changes made to address substandard conditions be directly related to a person's disability.**

- *Consider allowing AYBR funds to be used for generators*
  As extreme weather becomes more common in Texas, it is increasingly important to seek out solutions to ensure that persons with disabilities are safe. As we saw during Winter Storm Uri, people who rely on things like life-sustaining medical equipment are at risk of great harm if they lose electricity. For people who depend on life-sustaining medical equipment, a generator is a matter of safety and accessibility, and is just as necessary as any other home modification to ensuring that persons with disabilities can live as independently as possible in their communities. **We recommend allowing AYBR funds to be used to purchase generators for people who rely on life-sustaining medical equipment.**

Thank you for the opportunity to provide comments on these important issues.

Please contact Tanya Lavelle, DRTx Policy Specialist with questions
tlavelle@disabilityrightstx.org

10

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(8)(B) relating to visitability requirements associated with Franklin Place (#21468) and Mesa Place (#21469)

RECOMMENDED ACTION

WHEREAS, two applications as further detailed below were submitted to the Department for consideration of a Determination Notice of 4% Housing Tax Credits;

WHEREAS, Franklin Place Townhomes and Mesa Place Townhomes, which are related properties, have requested a waiver of specific requirements relating to visitability due to existing topographical constraints associated with some of the buildings at each of the properties;

WHEREAS, a waiver of 10 TAC §11.101(b)(8)(B)(ii), relating to an accessible route from the common use facilities to ground floor units, and 10 TAC §11.101(b)(8)(B)(iii) of the QAP relating to the requirement for a zero-step entrance, visitability requirements relating to a bathroom or half-bath on the entry level and light switches, outlets and thermostats at accessible heights was submitted; and

WHEREAS, staff recommends the waivers be granted relating to certain buildings at each of the properties, as further discussed herein, on the basis that the circumstances are not within the control of the Applicant as the existing townhomes were built with elevated floor levels in response to the site's topography and based on the extra accessible parking that will be provided as mitigation for granting the waiver of 10 TAC §11.101(b)(8)(B)(ii) relating to the accessible route;

NOW, therefore, it is hereby

RESOLVED, that a waiver of 10 TAC §11.101(b)(8)(B)(ii) and §11.101(b)(8)(B)(iii) of the QAP for specific buildings, as discussed herein, at Franklin Place (#21468) and Mesa Place (#21469) is hereby granted.

BACKGROUND

Franklin Place Townhomes proposes the acquisition and rehabilitation of an existing property located at 600 Belvidere Street in El Paso, El Paso County. The development consists of 96 units and was originally constructed in 1999 (#99089) after receiving an award of 9% Housing Tax Credits on November 20, 1998. The general population will continue to be served and all of the units will be rent and income restricted at 60% of Area Median Family Income (AMFI). The development must also adhere to an additional use restriction of the existing LURA, which requires at least 29 of the units to be rent and income restricted at or below 50% of AMFI until its expiration on December 31, 2038. Franklin Place Townhomes and Mesa Place Townhomes, further described below, will be financed with a single bond issuance by the Alamito Public Facility Corporation.

Mesa Place Townhomes proposes the acquisition and rehabilitation of an existing property located at 5450 Suncrest Drive in El Paso, El Paso County. The development consists of 128 units and was originally constructed in 2000 (99095) after receiving an award of 9% Housing Tax Credits on October 22, 1999. The general population will continue to be served and all of the units will be rent and income restricted at 60% of AMFI. The development must adhere to an additional use restriction of the existing LURA, which requires at least 78 of the units to be rent and income restricted at or below 50% of AMFI until its expiration on December 31, 2040.

Visitability relating to accessible route: A waiver of 10 TAC §11.101(a)(8)(B)(ii) of the QAP for specific buildings has been requested relating to visitability requirements for Franklin Place Townhomes and Mesa Place Townhomes. The inability to comply is similar for both properties. The QAP requires there be an accessible or exempt route from common use facilities to the affected units (i.e. ground floor units), to the extent required by the Fair Housing Act Design Manual. Although the properties met the Fair Housing Act Design Guidelines at the time of construction, as townhomes were considered exempt from any visitability requirements, the current QAP does not exempt prior TDHCA-funded developments from current requirements. Specifically, the topography and elevation changes throughout each of these developments does not allow for sidewalks and ramps to comply with visitability requirements throughout each of the sites.

For each of the properties, the application included photographs demonstrating the topography of the site, a topographic map, and a certification from a third-party architect that affirmed the changes in the site elevation make compliance with the an accessible or exempt route from the common use facilities to the units on the ground floor of some of the buildings not possible. The site plan within the application represented that extra accessible parking will be provided, so while a pedestrian accessible route is not possible, the additional parking does provide for mitigation and basis to recommend the waiver associated with the accessible route visitability requirement be granted for specific buildings at each of the developments. Included herein is a schedule for Franklin Place and Mesa Place that identifies the buildings by which the accessible route could be achieved and; therefore, do not need a waiver and those buildings by which a waiver is being requested.

Visitability relating to zero-step entrance and other visitability requirements: Similar to the accessible route impediment, the topography and elevation changes across both development sites do not allow for all of the ground floor units to have a zero-step entrance in order to comply with the Department's visitability requirements under 10 TAC §11.101(b)(8)(B)(iii). For the majority of the units, the finished floor levels respond to the site's topography and are in proximity to the sidewalks which do not allow adequate room for an accessible ramp to be created to each unit entrance. This was demonstrated by the aforementioned photographs of typical unit entrances, a topographic map, and a certification from the third-party architect. Moreover, given the inability for a zero-step entrance, a waiver of the other visitability requirements under §11.101(b)(8)(B)(iii) is necessary. Specifically, as it relates to a bathroom or half-bath on the entry level that complies with the Fair Housing Act Design Manual, that such bath have appropriate blocking for a grab bar, an accessible route from the entrance to such bathroom, and light switches, electrical outlets and thermostats at accessible heights.

Pursuant to 10 TAC §11.207 of the QAP, a waiver may be requested and granted by the Board if the applicant is able to establish that the need for the waiver is not within the control of the applicant. Staff recommends approving the requested waivers for only the affected units on both applications due to the unique facts and circumstances relating to the topography of these existing developments. Moreover, staff believes that granting the waiver allows the Department to better serve the policies and purposes articulated in Tex. Gov't Code §2306.001 and 2306.002 by re-developing affordable units and assisting the local government in meeting the needs of their community.

Mobility Accessibility: Another commonality shared by these properties is that the single-story buildings are located in close proximity to the clubhouse, allowing for an accessible route from the mobility accessible units. Mobility-accessible units are only available within the single-story buildings at each of the subject sites, and although the application initially represented that the only mobility accessible units at both developments were two-bedroom units, the applicant modified the application for Franklin Place to reflect that one three-bedroom unit would be made accessible and for Mesa Place that one three-bedroom and one four-bedroom will be made accessible in order to provide a distribution of accessible units across all unit types. These units are located in the buildings that are on the flattest part of the sites.

D Y K E N E L S O N A R C H I T E C T U R E
DNAworkshop
235 South 14th Street, Baton Rouge, Louisiana 70802 [225] 224 3363 DNA-Workshop.com

Architect Vistibility Certification

Re: Franklin Place Townhomes (Rehab Development)
600 Belvidere Street,
El Paso, TX 79912

To Whom It May Concern:

I (We) certify that the Development topography presents a challenge with all townhome buildings (buildings 3 through 24) that prevents compliance with the accessible route requirements under visitability.

Franklin Place Townhomes was originally approved as designed for construction in the early 2000s and complies with the Fair Housing Act (FHA) Design Guidelines. Per FHA's Design Guidelines, townhomes are not considered "covered units" and are exempt from meeting any visitability requirements. Therefore, all townhomes were situated on the hillside of the property and the flatter terrain had been reserved for the clubhouse and two single story residential buildings, with all units being adaptable (per FHA). This had allowed for connecting accessible route between clubhouse and pool, accessible units.

The rehabilitation program of the property had taken the existing conditions of the property into consideration when locating the new fully accessible mobility units. The four units at Building 1 will include 3 accessible mobility units with the fourth unit meeting visitability requirements. In Building 2, both of the duplex units will be converted into fully accessible mobility units. One of these two units at Building 2 will receive 1 bedroom addition to be converted into 3-bedroom accessible unit. The existing sidewalks will be demolished and replaced with new to provide an accessible route that meets current code.

Our proposed site plan will include upgrades to bring Buildings 1, 2 and 25 into compliance with the zero-step entrance requirements. The finish floor elevations for Buildings 1, 2, and 25 are set close to sidewalk level and will allow for new sidewalks to connect to an accessible entrance. Parking stall access will be provided via new double sided curb ramps and connected to the accessible route of travel.

Elevation difference between townhome buildings and sidewalk do not allow for sidewalk and ramps that would comply with the required accessibility guidelines for running and cross slopes. Majority of the townhome buildings have retaining walls separating them from the sidewalks and/ or set of stairs leading to entry door landings. Providing a zero-step entrance at standard dwelling units should not be required if an accessible route or parking cannot be achieved at building. Therefore, we propose that these remaining buildings not be required to comply with the vistibility requirements due to the significant terrain and in feasibility for this portion of the property.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Dyke Nelson
AIA, LEED AP BD+C
DNA Workshop
235 South 14th Street
Baton Rouge, LA 70802

Building 24

Clubhouse, Building 1 and 2 parking area

Building 23

Building 22 and 21

Building 23 (right) and 21 (left)

Building 21 and 18 (left)

Building 13

Building 19

Building 20

Building 3 and 4

Building 4

Building 5 (right) and 6 (left)

Building 8 and 10

Building 7

Building 10

Franklin Place Townhomes
Schedule of Accessible Buildings and Units

Building Number	Accessible Units	Visitable Units	Visitable Building
1	3	1	yes
2	2		yes
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25 - Clubhouse			yes
Total	**5**	**1**	**3**

SITE INFORMATION

SIZE:	6.000 ACRES
ZONING DISTRICT:	APARTMENT/ OFFICE DISTRICT
PROPERTY CLASS:	A-O APARTMENTS
PARCEL ID#:	2 W14599900300150
FLOOD ZONE:	ZONE C - OUTSIDE OF FLOOD PLAIN
RETENTION/ DETENTION:	NO RETENTION OR DETENTION ON-SITE

1 ARCHITECTURAL SITE PLAN
1" = 30'-0"

GENERAL NOTES

1. ALL DIMENSIONS ARE TO FACE OF FINISH, UNLESS NOTED OTHERWISE.
2. CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
3. IN THE CASE OF CONFLICT, CONTRACTOR TO NOTIFY ARCHITECT.
4. CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS AND COORDINATE WITH NEW. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT.
5. CONTRACTOR SHALL PATCH AND SEAL EXISTING CEILING, WALLS, FLOORS, AND ROOF TO MATCH EXISTING.
6. CONTRACTOR TO REFERENCE SHEET G002 & G003 FOR ACCESSIBILITY REQUIREMENTS
7. ALL REPAIRS & COMPONENT REPLACEMENTS TO BE INSTALLED IN ACCORDANCE WITH APPLICABLE BUILDING CODES.
8. SEAL AT ALL EXTERIOR DOORS, PLUMBING, AND ELECTRICAL PENETRATIONS TO PREVENT MOISTURE AND AIR LEAKAGE.
9. PROVIDE FINAL CLEANING AT ALL UNITS AND COMMON AREAS.

GENERAL SITE NOTES

1. SIDEWALKS: REMOVE AND REPAIR/ REPLACE EXISTING DAMAGED CONCRETE SIDEWALKS. PROVIDE ACCESSIBLE ROUTE TO ALL AMENITIES AND NEW ADA UNITS. DAMAGED CURBING TO BE REMOVED AND REPLACED WITH MATCHING PROFILE.
2. PARKING: REPAIR DAMAGED AND FAILING ASPHALT PARKING LOT AREAS AND PREP PARKING LOT FOR ASPHALT SEAL COAT AT EXISTING ASPHALT LOCATIONS. SEAL COAT ASPHALT AT ALL DRIVEWAYS AND PARKING LOTS. RESTRIPE PARKING LOTS COMPLETELY, INCLUDING ADA PARKING SPACES.
3. RAMPS: DEMO CURB AND SIDEWALK AND INSTALL DOUBLE ADA RAMP AT ACCESSIBLE PARKING SPACES WHERE SHOWN ON SITE PLAN. INCLUDES NEW CURBING.
4. DUMPSTER ENCLOSURES: INSTALL NEW VINYL ENCLOSURE AT EXISTING REMAINING DUMPSTER LOCATION, TYPICAL. NEW ADA ACCESSIBLE DUMPSTER ON NEW CONCRETE PAD WITH VINYL ENCLOSURE AND BOLLARDS TO BE PROVIDED AS SHOWN ON SITE PLAN.
5. SITE LIGHTING:
   A. INSTALL NEW WALL PACK LIGHTS AT ALL EXISTING LOCATIONS.
   B. REPLACE EXISTING UNIT ENRTY AND REAR PORCH LIGHT WITH NEW LED LIGHTS, TYPICAL.
   C. INSTALL NEW LED BULBS IN ALL POST LIGHTS AT POOL.

SITE LEGEND

- HANDICAPPED UNITS
- AV — AUDITORY / VISUALLY IMPAIRED UNITS
- VISITABILITY UNIT 6
- NEW DEPRESSED SIDEWALK AND ACCESSIBLE RAMP
- NEW CONCRETE PAVING PATCH AS REQ`D
- AREA OF SIDEWALKS TO BE REPAIRED, VERIFY ON SITE W/ ARCHITECT
- AREA OF DRIVEWAY & PARKING LOT TO BE REPAIR AND RESTRIPE
- DESIGNATED ACCESSIBLE ROUTE - CONTRACTOR TO REPAIR / REPLACE SIDEWALKS, CURB CUTS, ETC. AS REQ`D
- EXISTING RETAINING WALL/ FENCE
- EXISTING TREES
- EXISTING SITE LIGHTING POLE

PARKING SPACES:	
STANDARD PARKING	202
ACCESSIBLE PARKING	9
VAN ACCESSIBLE PARKING	3
TOTAL	214

PARKING SPACES DO MEET ALL APPLICABLE CODES AND REQUIREMENTS IDENTIFIED BELOW

APPLICABLE CODES:

2010 ADA STANDARDS FOR ACCESSIBLE DESIGN (MET)

EL PASO, TEXAS - CODE OF ORDINANCES TITLE 20 - ZONING

CHAPTER 20.14 - OFF-STREET PARKING LOADING AND STORAGE STANDARDS, ARTICLE 1. - VEHICULAR PARKING, 20.14.020 - SCOPE.

CODE IS NOT APPLICABLE TO EXISTING BUILDINGS, UNLESS THERE IS AN ADDITION OR ENLARGEMENT WHICH EXCEED FIFTY PERCENT OF THE ORIGINAL SQUARE FOOTAGE, OR THERE IS A CHANGE OF USE.

FRANKLIN PLACE TOWNHOMES

600 BELVIDERE ST., EL PASO, TX 79912

DNAworkshop
DYKE NELSON ARCHITECTURE 235 SOUTH 14TH ST, BATON ROUGE, LA 70802 DNA-WORKSHOP.COM [225] 224 3363

REVISIONS

1	08/31/21	Plan Review8/24
2	09/14/21	DNA REV.
3	09/24/21	CITY REV.01
5	10/29/21	PCR #3
6	11/30/21	TDHCA REV#2

JOB NUMBER: 21-009
ISSUED: 8/13/2021

ISSUED FOR: CONSTRUCTION

REGISTERED ARCHITECT JOSEPH DYKE NELSON 25152 STATE OF TEXAS

ARCHITECTURAL SITE PLAN

FP-A002

PHASE: CD

Architect Visitability Certification

Re: Mesa Place Townhomes (Rehab Development)
5450 Suncrest Dr,
El Paso, TX 79912

To Whom It May Concern:

I (We) certify that the Development topography present a challenge with townhome buildings specified in the attached table that prevents compliance with the accessible route requirements under visitability.

Mesa Place Townhomes was approved as designed for construction in the early 2000s and complies with the Fair Housing Act (FHA) Design Guidelines. Per FHA's Design Guidelines, townhomes are not considered "covered units" and are exempt from meeting any visitability requirements. Therefore, all townhomes were situated on the hillside of the property and the flatter terrain had been reserved for the clubhouse and the three single story residential buildings, with all units being adaptable (per FHA). This had allowed for connecting accessible route between clubhouse, amenities, and accessible units.

The rehabilitation program of the property had taken the existing conditions of the property into consideration when locating the new fully accessible mobility units. The four units in Building 2, 28, and 32 will each include two accessible mobility units with two units meeting visitability. Existing sidewalks will be demolished and replaced with new accessible route that meets current code. Building finish floor elevation is set close to sidewalk level and allows for new sidewalks to connect to zero-step accessible entrance. Parking access will be provided via new double sided curb ramps.

Our proposed site plan will include upgrades to bring Buildings 1 (Clubhouse), 2, 28, and 32 into compliance with the zero-step entrance requirements. The finish floor elevations for Buildings 1 (Clubhouse), 2, 28, and 32 are set close to sidewalk level and will allow for new sidewalks to connect to an accessible entrance. Unit D, situated close to grade level, in Building 30 will receive a bedroom and bathroom addition to be converted into 4-bedroom accessible unit. Accessible ramp extending from sidewalk will provide a zero-step unit entrance. Parking stall access will be provided via new double sided curb ramps and connected to the accessible route of travel.

Elevation difference between townhome buildings and sidewalk do not allow for sidewalk and ramps that would comply with the required accessibility guidelines for running and cross slopes. Majority of the townhome buildings have retaining walls separating them from the sidewalks and/ or set of stairs leading to entry door landings. Providing a zero-step entrance at standard dwelling units should not be required if an accessible route or parking cannot be achieved at building. Therefore, we propose that these remaining buildings not be required to comply with the vistibility requirements due to the significant terrain and in feasibility for this portion of the property.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Dyke Nelson
AIA, LEED AP BD+C
DNA Workshop
235 South 14th Street
Baton Rouge, LA 70802

Building 3

Building 4

Building 5

Building 7

Building 9 (right)

Building 15

Building 9 and 11

Building 21

Building 23


Building 26

Building 31

Mesa Place Townhomes
Schedule of Accessible Buildings and Units

Building Number	Accessible Units	Visitable Units	Visitable Building
1 - Clubhouse			yes
2	2	2	yes
3			
4			
5			
6			
7			
8			
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14			
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16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28	2	2	yes
29			
30	1		
31			
32	2	2	yes
33			
Total	**7**	**6**	**4**

BLDG ID	BLDG TYPE	RESIDENTIAL BUILDINGS AREAS															
		UNIT TYPES										AREAS CALCULATION					
		2BR	2BR - AV	2BR - HC	2BR - ADAPTABLE	3BR	3BR - AV	4BR	4BR - AV	FLOORS	NO. OF UNITS	1ST FLOOR BLDG NSF	1ST FLOOR BLDG GSF (NRA*)	2ND FLOOR BLDG NSF	2ND FLOOR BLDG GSF (NRA*)	BLDG TOTAL NSF	BLDG TOTAL GSF (NRA*)
2	TYPE II			3	1					1	4	3,588	3,792	0	0	3,588	3,792
3	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
4	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
5	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
6	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
7	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
8	TYPE III					3	1			2	4	2,400	2,568	2,204	2,568	4,604	5,136
9	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
10	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
11	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
12	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
13	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
14	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
15	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
16	TYPE IV							3	1	2	4	2,596	2,776	2,252	2,604	4,848	5,380
17	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
18	TYPE IV							4		2	4	2,596	2,776	2,252	2,604	4,848	5,380
19	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
20	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
21	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
22	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
23	TYPE I	3	1							2	4	1,832	1,992	1,700	1,992	3,532	3,984
24	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
25	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
26	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
27	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
28	TYPE II			2	2					1	4	3,588	3,792	0	0	3,588	3,792
29	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
30	TYPE III					4				2	4	2,400	2,568	2,204	2,568	4,604	5,136
31	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
32	TYPE II			2	2					1	4	3,588	3,792	0	0	3,588	3,792
33	TYPE I	4								2	4	1,832	1,992	1,700	1,992	3,532	3,984
TOTAL		63	1	7	5	43	1	7	1	-	128					127,616	142,376
		128															
1	LEASING OFFICE	ACCESSIBLE TO TENANTS								1	0	2,313	2,542	0	0	2,403	2,542
		RESTRICTED TO EMPLOYEE										90		0	0		
GRAND TOTAL																130,019	144,918

UNIT MIX

UNIT TYPE		BEDROOMS	BATHROOMS	UNIT GSF (NRA*)	GSF (NRA*) TOTAL	UNIT NSF	NSF TOTAL	QTY.	GSF (NRA*) (GRAND TOTAL)	NSF (GRAND TOTAL)
2BR	2BR- 1ST FLOOR	2	2.5	498	996	458	883	63	62,748	55,629
	2BR- 2ND FLOOR			498		425				
2BR- AV	2BR- 1ST FLOOR	2	2.5	498	996	458	883	1	996	883
	2BR- 2ND FLOOR			498		425				
2BR-HC	2BR- HC	2	2	948	948	897	897	7	6,636	6,279
2BR-ADAPTABLE	2BR-ADAPTABLE	2	2	948	948	897	897	5	4,740	4,485
3BR	3BR- 1ST FLOOR	3	2.5	642	1284	600	1151	43	55,212	49,493
	3BR- 2ND FLOOR			642		551				
3BR- AV	3BR- 1ST FLOOR	3	2.5	642	1284	600	1151	1	1,284	1,151
	3BR- 2ND FLOOR			642		551				
4BR	4BR- 1ST FLOOR	4	3.5	694	1345	649	1212	7	9,415	8,484
	4BR- 2ND FLOOR			651		563				
4BR- AV	4BR- 1ST FLOOR	4	3.5	694	1345	649	1212	1	1,345	1,212
	4BR- 2ND FLOOR			651		563				
TOTAL								128	142,376	127,616

* NET RENTABLE AREA (NRA)--THE UNIT SPACE THAT IS AVAILABLE EXCLUSIVELY TO THE TENANT AND IS HEATED AND COOLED BY A MECHANICAL HVAC SYSTEM. NRA IS MEASURED TO THE OUTSIDE OF THE STUDS OF A UNIT OR TO THE MIDDLE OF WALLS IN COMMON WITH OTHER UNITS. NRA DOES NOT INCLUDE COMMON HALLWAYS, STAIRWELLS, ELEVATOR SHAFTS, JANITOR CLOSETS, ELECTRICAL CLOSETS, BALCONIES, PORCHES, PATIOS, OR OTHER AREAS NOT ACTUALLY AVAILABLE TO THE TENANTS FOR THEIR FURNISHINGS, NOR DOES NRA INCLUDE THE ENCLOSING WALLS OF SUCH AREAS.

SITE INFORMATION 1

SIZE:	8.98 ACRES
ZONING DISTRICT:	C-1 (COMMERCIAL DISTRICT), A-0 (APARTMENT DISTRICT)
PARCEL ID#:	264226
GEO ID#:	M34799900200150
FLOOD ZONE:	PARCEL LIES WITHIN A ZONE DESIGNATION OF "C", WHICH INDICATES THAT THIS PARCEL DOES NOT LIE WITHIN A FLOOD HAZARD AREA. MINOR PORTION OF PROPERTY ALONG SUNCREST DRIVE IS IN ZONE B (0.2% ANNUAL CHANCE). NO STRUCTURE LOCATED WITHING THIS AREA.
RETENTION/ DETENTION:	NO RETENTION/ DETENTION ON-SITE 1

ACCESSIBLE ROUTE NOTE:

1. ACCESSIBLE PARKING SPACES SHALL MEET UFAS REQUIREMENTS AND SHALL BE CONSTRUCTED PER DETAILS SHOWN ON THESE PLAN.
2. ACCESSIBLE ROUTE SHALL BE 36" WIDE (MIN.) AND HAVE A SLOPE OF LESS THAN 2%. CHANGES IN LEVEL ALONG THE ACCESSIBLE ROUTE SHALL NOT EXCEED 1/2". SEE UFAS FOR LANDING REQUIREMENTS.
3. TACTILE WARNING STRIPS TO BE INSTALLED AT RAMPS AND SIDEWALKS THAT CROSS INTO TRAFFIC AREAS.
4. DOOR CLEAR APPROACH, SPACE REQUIREMENTS AND LANDING SHALL BE PER UFAS.

SITE LEGEND

- HANDICAPPED UNITS
- AV — AUDITORY / VISUALLY IMPAIRED UNITS
- VISITABILITY UNIT 6
- NEW DEPRESSED SIDEWALK AND ACCESSIBLE RAMP
- NEW CONCRETE PAVING PATCH AS REQ'D
- AREA OF SIDEWALKS TO BE REPAIRED/REPLACED VERIFY ON SITE W/ ARCHITECT
- AREA OF DRIVEWAY & PARKING LOT TO BE REPAIR AND RESTRIPE
- DESIGNATED ACCESSIBLE ROUTE - CONTRACTOR TO REPAIR / REPLACE SIDEWALKS, CURB CUTS, ETC. AS REQ'D
- PROPERTY LINE
- EXISTING TREES, TO REMAIN

PARKING SPACES	SURFACE PARK.	CARPORT PARK.
STANDARD PARKING	275	-
ACCESSIBLE PARKING	9	-
VAN ACCESSIBLE PARKING	9	-
TOTAL	293	-
GRAND TOTAL	**293**	

PARKING SPACES DO MEET ALL APPLICABLE CODES AND REQUIREMENTS IDENTIFIED BELOW

APPLICABLE CODES:

2010 ADA STANDARDS FOR ACCESSIBLE DESIGN (MET)

EL PASO, TEXAS - CODE OF ORDINANCES TITLE 20 - ZONING

CHAPTER 20.14 - OFF-STREET PARKING LOADING AND STORAGE STANDARDS, ARTICLE 1. - VEHICULAR PARKING, 20.14.020 - SCOPE.

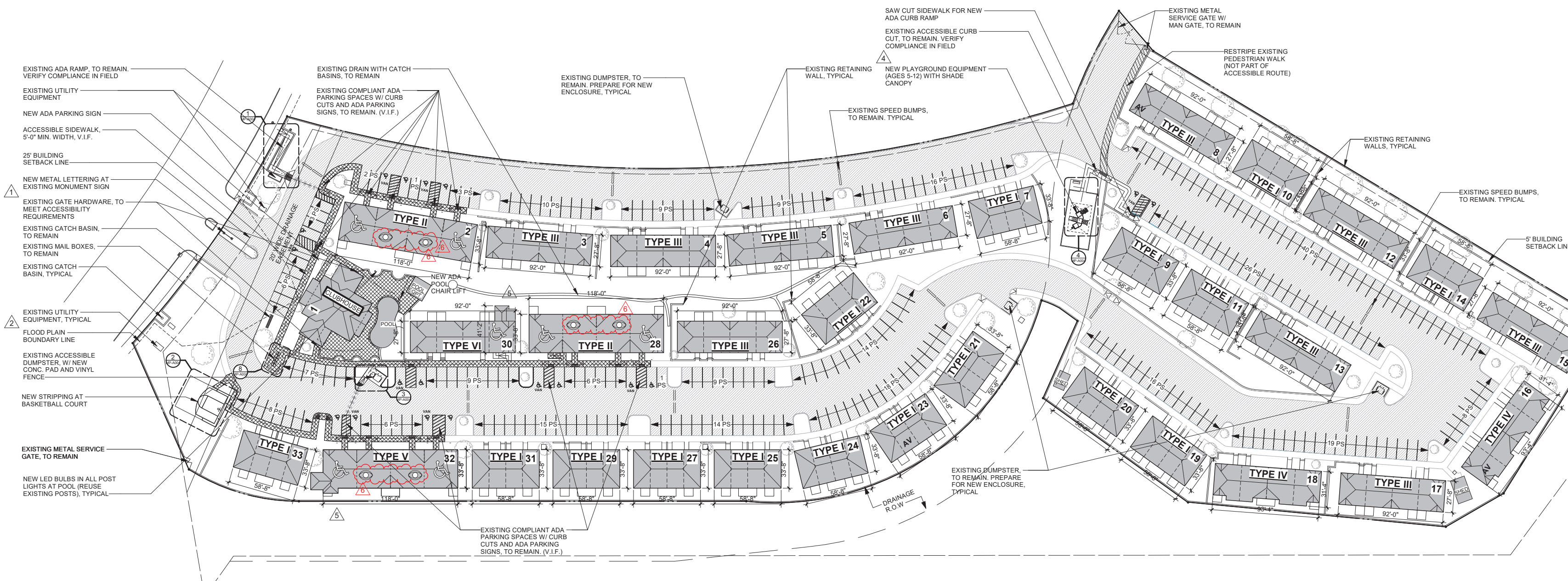
CODE IS NOT APPLICABLE TO EXISTING BUILDINGS, UNLESS THERE IS AN ADDITION OR ENLARGEMENT WHICH EXCEED FIFTY PERCENT OF THE ORIGINAL SQUARE FOOTAGE, OR THERE IS A CHANGE OF USE.

GENERAL NOTES

1. ALL DIMENSIONS ARE TO FACE OF FINISH, UNLESS NOTED OTHERWISE.
2. CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
3. IN THE CASE OF CONFLICT, CONTRACTOR TO NOTIFY ARCHITECT.
4. CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS AND COORDINATE WITH NEW. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT.
5. CONTRACTOR SHALL PATCH AND SEAL EXISTING CEILING, WALLS, FLOORS, AND ROOF TO MATCH EXISTING.
6. CONTRACTOR TO REFERENCE SHEET G002 & G003 FOR ACCESSIBILITY REQUIREMENTS
7. ALL REPAIRS & COMPONENT REPLACEMENTS TO BE INSTALLED IN ACCORDANCE WITH APPLICABLE BUILDING CODES.
8. SEAL AT ALL EXTERIOR DOORS, PLUMBING, AND ELECTRICAL PENETRATIONS TO PREVENT MOISTURE AND AIR LEAKAGE.
9. PROVIDE FINAL CLEANING AT ALL UNITS AND COMMON AREAS.

GENERAL SITE NOTES

1. SIDEWALKS: REMOVE AND REPAIR/ REPLACE EXISTING DAMAGED CONCRETE SIDEWALKS. PROVIDE ACCESSIBLE ROUTE TO ALL AMENITIES AND NEW ADA UNITS. DAMAGED CURBING TO BE REMOVED AND REPLACED WITH MATCHING PROFILE.
2. PARKING: REPAIR DAMAGED AND FAILING ASPHALT PARKING LOT AREAS AND PREP PARKING LOT FOR ASPHALT SEAL COAT AT EXISTING ASPHALT LOCATIONS. SEAL COAT ASPHALT AT ALL DRIVEWAYS AND PARKING LOTS. RESTRIPE PARKING LOTS COMPLETELY, INCLUDING ADA PARKING SPACES.
3. RAMPS: DEMO CURB AND SIDEWALK AND INSTALL DOUBLE ADA RAMP AT ACCESSIBLE PARKING SPACES WHERE SHOWN ON SITE PLAN. INCLUDES NEW CURBING.
4. DUMPSTER ENCLOSURES: INSTALL NEW VINYL ENCLOSURE AT EXISTING REMAINING DUMPSTER LOCATION, TYPICAL. NEW ADA ACCESSIBLE DUMPSTER ON NEW CONCRETE PAD WITH VINYL ENCLOSURE AND BOLLARDS TO BE PROVIDED AS SHOWN ON SITE PLAN.



1 ARCHITECTURAL SITE PLAN
1" = 50'-0"

MESA PLACE TOWNHOMES

5450 SUNCREST DRIVE, EL PASO, TX 79912

DNAworkshop
DYKE NELSON ARCHITECTURE 235 SOUTH 14TH ST, BATON ROUGE, LA 70802 DNA-WORKSHOP.COM [225] 224 3363

REVISIONS

1	8/31/21	Plan Review8/24
2	9/14/21	DNA REV.
4	10/29/21	PCR COM#3
5	11/19/21	TDHCA REV
6	11/30/21	TDHCA REV#2

JOB NUMBER: 21-008

ISSUED: 08/13/21

ISSUED FOR: PERMITTING

REGISTERED ARCHITECT JOSEPH DYKE NELSON 25152 STATE OF TEXAS

NEW ARCHITECTURAL SITE PLAN

MP-A002

PHASE: CD

1p

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

1q

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding a Material Amendment of the Housing Tax Credit Application for The Palms at Blucher Park (HTC #21186).

RECOMMENDED ACTION

WHEREAS, an award of 9% housing tax credits to an application for the development of Palms at Blucher Park (the Development) was approved by the Board in 2021, for the construction of 72 multifamily units in two buildings in Corpus Christi, Nueces County;

WHEREAS, construction cost increases created a funding gap of approximately $2,500,000, and the Applicant successfully increased a City of Corpus Christi HOME loan from $300,000 to $1,000,000 and increased equity pricing from $0.91 to $0.93 to partially address this funding gap;

WHEREAS, a redesign of the site plan would reduce the construction costs adequately to balance the sources and uses while retaining the total number of units and amenity package anticipated in the Application, and the Applicant is requesting approval to materially amend its application to allow for the redesign; and

WHEREAS, the negative effects of the requested changes will be mitigated by the originally proposed 72 units of affordable housing being forthcoming without delay or additional financing from the Department, in a location and configuration that the City and trustees find desirable, and without impacting the scoring of the application;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendments of the application for Palms at Blucher Park is approved as presented to this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Palms at Blucher Park received a 9% HTC award in 2021 for the new construction of 72 multifamily units in two buildings on two sites, with all units restricted to rents for tenants within the 30% to 60% range of Area Median Gross Income in Corpus Christi, Nueces County. On October 13, 2021, the Owner submitted a request for approval of a material amendment of the application. In its treatment of amendments of the application, Tex. Gov't Code §2306.6712 specifies six changes as material alterations and includes "[a]ny other modification considered significant by the Board" as a seventh material alteration. The following bullets provide an itemized discussion of the alterations proposed by the current amendment that the aforementioned state law specifies as material alterations.

- There is a significant modification of the site plan with respect to both sites [§2306.6712(d)(1)]. The layout and building footprint of each site change substantially. These changes do not violate the Rules and would not have affected the scoring of the application or the recommendation for an award.

- There is a modification of the bedroom mix of units [§2306.6712(d)(2)]. This modification is that the number of one-bedroom units decreased by one unit and the number of two-bedroom units increased by one unit. These changes do not violate the Rules and would not have affected the scoring of the application or the recommendation for an award.

- There is a reduction of more than three percent in the square footage of the Common Areas [§2306.6712(d)(4)]. The tables given in the original and amended architectural site plans provide the information presented below to describe the changes proposed for Common Area. Labels are as stated in the corresponding table.

	Original Plan		Amended Plan	
	Space	Square Feet	Space	Square Feet
Building 1:	Common Areas	3,122	Community Areas	2,952
	Corridors/Vestibules	7,763	Open Air Corridors	2,831
	Stairs	1,640	Stairs	1,132
	Trash Rooms	840	Trash Rooms	0
Building 2:	Common Areas	3,116	Community Areas	2,846
	Corridors/Vestibules	5,615	Open Air Corridors	8,672
	Stairs	1,329	Stairs	1,482
	Trash Rooms	804	Trash Rooms	589
TOTALS:		24,229		20,504

  The Table above indicates that the amendment decreases the common/community area (office and amenity area) of the combined buildings (3,122 + 3,116 = 6,238 vs. 2,952 + 2,846 = 5,798) by 7.1%, and the area of the corridors, stairs, and trash rooms (7,763 + 1,640 + 840 + 5,615 + 1,329 + 804 = 17,991 vs. 2,831 + 1,132 + 0 + 8,672 + 1,482 + 589 = 14,706) decreases by 18.3%. The combined area of the Common/Community space and Corridors decreases by 15.4%. This calculation is consistent with the definition of Common Area in the Rules [§11.1(d)(22)]. These changes do not violate the Rules and would not have affected the scoring of the application or the recommendation for an award.

- There is a significant modification of the architectural design [§2306.6712(d)(5)]. In addition to eliminating the podium parking of both buildings, the most notable changes that the amendment proposes for each building include changing the building area, number of units, number of stories containing residential units, building footprint, and location on the site. The proposed changes eliminate the elevator from Building 1, and replace the initially proposed heated and air conditioned enclosed corridors with open corridors which are not heated or air conditioned. Removing the podium parking of each building will eliminate 52 covered parking spaces and reduce the total number of parking spaces from 148 to 109. After all changes, 72% of the parking spaces will be on the site of Building 1 that contains 21% of the units. The proposed distribution of parking spaces between the two sites is attributable to the developer's effort to honor the City's request to work with the trustees of Blucher Park. These changes do not violate the Rules and would not have affected the scoring of the application or the recommendation for an award.

- There is a modification of the residential density of the development of at least five percent [§2306.6712(d)(6)] in that the amendment substantially changes the density of each site. The Building 1 site of 1.162 acres will change from 34.4 units per acre (UPA) to 12.9 UPA, and the 0.8604 acre site of Building 2 will change from 37.2 UPA to 66.2 UPA. The two sites together remain at the original density of 35.6 UPA. The alterations of density are the most obvious examples cooperating with the trustees of Blucher Park. These changes do not violate the Rules and would not have affected the scoring of the application or the recommendation for an award.

Staff agrees with the developer's affirmation that the need for the modifications to close the funding gap was not reasonably foreseeable by the applicant at the time that the application was submitted or preventable by the applicant. Regarding other changes in the development proposal, it is clear that mitigating the impact of the development on the adjacent bird sanctuary is driving most or all of these changes. This effort at mitigation and, therefore, the related alterations, appear necessary based on the concerns of the Blucher Park trustees and the City's support for these concerns. The Development Owner has complied with the amendment requirements under 10 TAC §10.405(a).

Staff recommends approval of the amendment request as presented herein.

Real Estate Analysis Division
November 23, 2021

Addendum to Underwriting Report

TDHCA Application #: **21186** Program(s): **9% HTC**

Palms at Blucher Park

Address/Location: 209 S. Carancahua & 209, 217, 223, 227 S. Tancahua

City: Corpus Christi County: Nueces Zip: 78401

	APPLICATION HISTORY
Report Date	**PURPOSE**
11/23/21	**Amendment**
06/17/21	Original Underwriting

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

CONDITIONS STATUS

1 Receipt and acceptance by Commitment:

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

Status: NA: No longer utilizing FHA financing

2 Receipt and acceptance by Cost Certification:

- Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.

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

SET-ASIDES

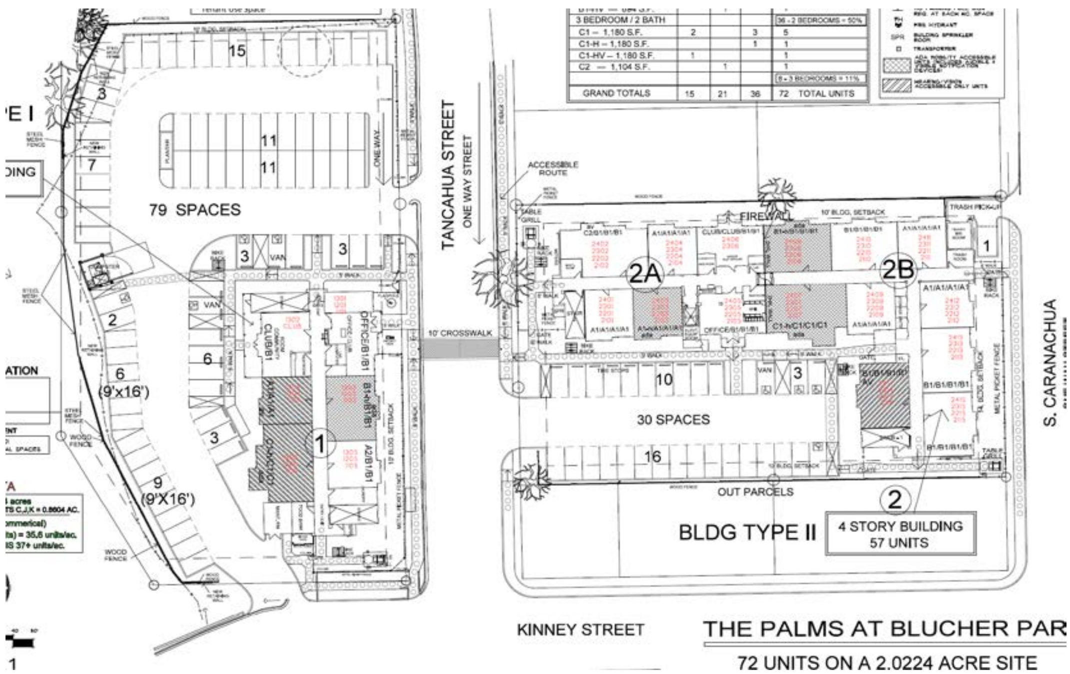
TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	8
50% of AMI	50% of AMI	15
60% of AMI	60% of AMI	49

ANALYSIS

The applicant has requested an amendment due to increased costs and the subsequent building plan and site changes to value engineer the project.

The City of Corpus Christi increased their HOME loan award from $300,000 to $1,000,000; tax credit pricing increased from $0.91 to $0.93. The permanent debt financing has changed from a HUD-insured mortgage to conventional bank financing. These additional sources were insufficient to address the entire construction cost gap leading to a change in site plan.
In considering the change to the site plan, the Corpus Christi City Council asked the owner to work with the trustees that maintain Blucher Park adjacent to the development . The trustees requested the elevation of Building 1 be reduced to be more conducive to the bird sanctuary and asked for more units to be put in Building 2. As a result, Building 2 will have 57 total units, and Building 1 will have only 15 units, along with the community center/office. A one-bedroom unit was changed to a two-bedroom unit. This allows Building 1 to be reduced to three stories, with Building 2 increased to four stories slab on grade.

On July 21, 2021 the City of Corpus Christi Board of Adjustment provided a reduced parking waiver to allow 1.5 onsite parking spaces per residential unit; this eliminated the need for the structured parking. The revised site plan provides for 109 surface parking spaces.



Construction costs have increased $933k since original underwriting due to the overall increase in the cost of materials and labor that have occurred throughout the construction industry. A signed contractor bid was provided.

NRA has increased from 59,646 to 60,054 sf.

The current analysis supports the original recommendation of $1,500,000 in annual tax credits.

Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Palms at Blucher Park, Corpus Christi, 9% HTC #21186

LOCATION DATA	
CITY:	Corpus Christi
COUNTY:	Nueces
Area Median Income	$69,300
PROGRAM REGION:	10
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION

# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	28	38.9%	0	0
2	36	50.0%	0	0
3	8	11.1%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	**72**	**100.0%**	**-**	**-**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	9.00%
Average Unit Size	834 sf

55%	Income	20%	30%	40%	50%	60%	70%	80%	MR	TOTAL
Average Income	# Units	-	8	-	15	49	-	-	-	72
	% Total	0.0%	11.1%	0.0%	20.8%	68.1%	0.0%	0.0%	0.0%	100.0%

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$390	3	1	1	661	$390	$95	$295	$0	$0.45	$295	**$885**	**$885**	$295	**$0**	**$0**	$1,133	$1.71	$1,133
TC 50%	$650	6	1	1	661	$650	$95	$555	$0	$0.84	$555	**$3,330**	**$3,330**	$555	**$1**	**$0**	$1,133	$1.71	$1,133
TC 60%	$780	18	1	1	661	$780	$95	$685	$0	$1.04	$685	**$12,330**	**$12,330**	$685	**$1**	**$0**	$1,133	$1.71	$1,133
TC 60%	$780	1	1	1	659	$780	$95	$685	$0	$1.04	$685	**$685**	**$685**	$685	**$1**	**$0**	$1,133	$1.72	$1,133
TC 30%	$468	4	2	2	894	$468	$104	$364	$0	$0.41	$364	**$1,456**	**$1,456**	$364	**$0**	**$0**	$1,388	$1.55	$1,388
TC 50%	$780	7	2	2	894	$780	$104	$676	$0	$0.76	$676	**$4,732**	**$4,732**	$676	**$1**	**$0**	$1,388	$1.55	$1,388
TC 60%	$936	25	2	2	894	$936	$104	$832	$0	$0.93	$832	**$20,800**	**$20,800**	$832	**$1**	**$0**	$1,388	$1.55	$1,388
TC 30%	$540	1	3	2	1,180	$540	$121	$419	$0	$0.36	$419	**$419**	**$419**	$419	**$0**	**$0**	$1,731	$1.47	$1,731
TC 50%	$901	2	3	2	1,180	$901	$121	$780	$0	$0.66	$780	**$1,560**	**$1,560**	$780	**$1**	**$0**	$1,731	$1.47	$1,731
TC 60%	$1,081	4	3	2	1,180	$1,081	$121	$960	$0	$0.81	$960	**$3,840**	**$3,840**	$960	**$1**	**$0**	$1,731	$1.47	$1,731
TC 60%	$1,081	1	3	2	1,104	$1,081	$121	$960	$0	$0.87	$960	**$960**	**$960**	$960	**$1**	**$0**	$1,731	$1.57	$1,731
TOTALS/AVERAGES:		**72**			**60,054**				**$0**	**$0.85**	**$708**	**$50,997**	**$50,997**	**$708**	**$0.85**	**$0**	**$1,327**	**$1.59**	**$1,327**

ANNUAL POTENTIAL GROSS RENT:	$611,964	$611,964	

STABILIZED PRO FORMA

Palms at Blucher Park, Corpus Christi, 9% HTC #21186

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES				APPLICANT				Original UW		TDHCA				VARIANCE	
	Database		County Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.85	$708	$611,964	**$583,296**	**$583,296**	$611,964	$708	$0.85		0.0%	$0
Laundry, vending, late fees, app fees							$20.00	$17,280	17,280							
Total Secondary Income							$20.00			17,280	$17,280	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$629,244	$600,576	$600,576	$629,244				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(47,193)	(45,043)	(45,043)	(47,193)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$582,051	$555,533	$555,533	$582,051				0.0%	$0
General & Administrative	$35,458	$492/Unit	$34,649	$481	6.01%	$0.58	$486	$35,000	$35,000	$34,649	$34,649	$481	$0.58	5.95%	1.0%	351
Management	$34,775	5.1% EGI	$36,364	$505	4.77%	$0.46	$386	$27,769	$27,769	$27,777	$29,103	$404	$0.48	5.00%	-4.6%	(1,334)
Payroll & Payroll Tax	$88,589	$1,230/Unit	$77,878	$1,082	14.52%	$1.41	$1,174	$84,500	$84,500	$84,500	$84,500	$1,174	$1.41	14.52%	0.0%	-
Repairs & Maintenance	$73,829	$1,025/Unit	$30,725	$427	7.86%	$0.76	$635	$45,750	$45,750	$46,800	$46,800	$650	$0.78	8.04%	-2.2%	(1,050)
Electric/Gas	$16,632	$231/Unit	$15,016	$209	2.23%	$0.22	$181	$13,000	$13,000	$15,016	$15,016	$209	$0.25	2.58%	-13.4%	(2,016)
Water, Sewer, & Trash **Tenant Pays: WS**	$49,120	$682/Unit	$50,057	$695	4.04%	$0.39	$326	$23,500	$23,500	$23,500	$23,500	$326	$0.39	4.04%	0.0%	-
Property Insurance	$44,641	$0.74 /sf	$49,532	$688	6.53%	$0.63	$528	$38,000	$38,000	$38,000	$38,000	$528	$0.63	6.53%	0.0%	-
Property Tax (@ 50%) 2.6146	$33,644	$467/Unit	$24,004	$333	4.81%	$0.47	$389	$28,000	$28,000	$26,573	$29,183	$405	$0.49	5.01%	-4.1%	(1,183)
Reserve for Replacements					3.09%	$0.30	$250	$18,000	$18,000	$18,000	$18,000	$250	$0.30	3.09%	0.0%	-
Supportive Services					1.37%	$0.13	$111	$8,000	$8,000	$8,000	$8,000	$111	$0.13	1.37%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)					0.49%	$0.05	$40	$2,880	$2,880	$2,880	$2,880	$40	$0.05	0.49%	0.0%	-
TOTAL EXPENSES					**55.73%**	**$5.40**	**$4,506**	**$ 324,399**	$324,399	$325,694	**$329,631**	**$4,578**	**$5.49**	**56.63%**	**-1.6%**	**$ (5,232)**
NET OPERATING INCOME ("NOI")					**44.27%**	**$4.29**	**$3,578**	**$257,652**	$231,134	$229,838	**$252,420**	**$3,506**	**$4.20**	**43.37%**	**2.1%**	**$ 5,232**

CONTROLLABLE EXPENSES	$2,802/Unit		$2,840/Unit		

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Palms at Blucher Park, Corpus Christi, 9% HTC #21186

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR							Original UW							Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Wells Fargo		1.20	1.22	211,228	4.54%	35	16	$3,700,000	$4,100,000	$4,100,000	$3,700,000	16	35	4.54%	$211,227	1.22	19.4%
Adjustment to Debt Per §11.302(c)(2)	0.00%											16	35	4.54%		1.22	0.0%
CASH FLOW DEBT / GRANTS																	
City of Corpus Christi HOME		1.20	1.22		3.00%	40	40	$1,000,000	$300,000	$300,000	$1,000,000	40	40	3.00%	$0	1.22	5.2%
City of Corpus Christi		1.20	1.22		0.00%	0	0	$500	$500	$500	$500	0	0	0.00%	$0	1.22	0.0%
				$211,228	TOTAL DEBT / GRANT SOURCES			$4,700,500	$4,400,500	$4,400,500	$4,700,500		TOTAL DEBT SERVICE		$211,227	1.22	24.6%
NET CASH FLOW		$41,192	$46,424								APPLICANT	NET OPERATING INCOME		$257,652	$46,424	NET CASH FLOW	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE							AS UNDERWRITTEN EQUITY STRUCTURE					
						Original UW							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Wells Fargo	LIHTC Equity	73.1%	$1,500,000	0.93	$13,948,605	$13,648,635	$13,648,635	$13,948,605	$0.93	$1,500,000	73.1%	$20,833	Previous Allocation
TG 110/LAI/Prospera	Deferred Developer Fees	2.3%	(20% Deferred)		$440,068	$277,432	$274,221	$439,568	(20% Deferred)		2.3%	Total Developer Fee:	$2,219,350
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%		
TOTAL EQUITY SOURCES		75.4%			$14,388,673	$13,926,067	$13,922,856	$14,388,173			75.4%		
TOTAL CAPITALIZATION					$19,089,173	$18,326,567	$18,323,356	$19,088,673			15-Yr Cash Flow after Deferred Fee:		$460,453

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS							TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis					Original UW					Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$14,639 / Unit	$1,054,000	$1,054,000	$1,054,000	$1,054,000	$14,639 / Unit				0.0%	$0
Closing costs & acq. legal fees					$14,625	$14,625	$14,625	$14,625					0.0%	$0
Off-Sites				$ / Unit	$0	$0	$0	$0	$ / Unit				0.0%	$0
Site Work		$1,286,327		$21,338 / Unit	$1,536,327	$1,536,327	$1,536,327	$1,536,327	$21,338 / Unit		$1,286,327		0.0%	$0
Site Amenities		$400,000		$5,556 / Unit	$400,000	$400,000	$400,000	$400,000	$5,556 / Unit		$400,000		0.0%	$0
Structured Parking		$0		$ / Unit	$0	$1,739,486	$1,739,486		$ / Unit		$0		0.0%	$0
Building Cost		$5,357,681	$142.84 /sf	$119,144/Unit	$8,578,354	$5,959,447	$6,364,239	$7,952,136	$110,446/Unit	$132.42 /sf	$5,357,681		7.9%	$626,218
Contingency		$493,081	7.00%	6.65%	$699,337	$674,468	$674,468	$692,192	7.00%	7.00%	$493,081		1.0%	$7,145
Contractor Fees		$1,055,370	14.002%	13.13%	$1,472,056	$1,443,360	$1,443,360	$1,472,056	13.91%	14.00%	1055192.398		0.0%	$0
Soft Costs	$0	$1,858,354		$26,238 / Unit	$1,889,104	$1,862,750	$1,862,750	$1,889,104	$26,238 / Unit		$1,858,354	$0	0.0%	$0
Financing	$0	$771,520		$13,202 / Unit	$950,520	$1,256,589	$1,256,589	$950,520	$13,202 / Unit		$771,520	$0	0.0%	$0
Developer Fee	$0	$1,683,595	15.00%	14.90%	$2,219,350	$2,107,304	$2,107,304	$2,139,858	15.00%	15.00%	$1,683,323	$0	3.7%	$79,492
Reserves				6 Months	$275,000	$275,000	$261,801	$263,769	6 Months				4.3%	$11,231
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	$0	$12,905,928		$265,120 / Unit	$19,088,673	$18,323,356	$18,714,949	$18,364,587	$255,064 / Unit		$12,905,478	$0	3.9%	$724,086
Acquisition Cost	$0				$0	$0								
Contingency		($0)			$0	$0								
Contractor's Fee		($178)			$0	$0								
Financing Cost		$0												
Developer Fee	$0	($272)	15.00%		$0	$0								
Reserves					$0	$0								
ADJUSTED BASIS / COST	$0	$12,905,478		$265,120/unit	$19,088,673	$18,323,356	$18,714,949	$18,364,587	$255,064/unit		$12,905,478	$0	3.9%	$724,086

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):	$19,088,673

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction
ADJUSTED BASIS	$0	$12,905,478	$0	$12,905,478
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$12,905,478	$0	$12,905,478
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$16,777,122	$0	$16,777,122
Applicable Fraction	100.00%	100.00%	100%	100%
TOTAL QUALIFIED BASIS	$0	$16,777,122	$0	$16,777,122
Applicable Percentage	4.00%	9.00%	4.00%	9.00%
ANNUAL CREDIT ON BASIS	0	$1,509,941	$0	$1,509,941
CREDITS ON QUALIFIED BASIS	$1,509,941		$1,509,941	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9299	Variance to Request	
Method	Annual Credits	Proceeds	Credit Allocation	Credits	Proceeds
Eligible Basis	$1,509,941	$14,041,047	----	----	----
Needed to Fill Gap	$1,547,270	$14,388,173	----	----	----
Previous Allocation	$1,500,000	$13,948,605	**$1,500,000**	$0	$0

Long-Term Pro Forma

Palms at Blucher Park, Corpus Christi, 9% HTC #21186

	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%	$582,051	$593,692	$605,566	$617,677	$630,030	$695,604	$768,004	$847,938	$936,192	$1,033,632	$1,141,213	$1,259,991
TOTAL EXPENSES	3.00%	$324,399	$333,853	$343,586	$353,604	$363,918	$420,221	$485,320	$560,597	$647,652	$748,341	$864,811	$999,548
NET OPERATING INCOME ("NOI")		**$257,652**	**$259,838**	**$261,980**	**$264,073**	**$266,113**	**$275,383**	**$282,683**	**$287,341**	**$288,540**	**$285,290**	**$276,402**	**$260,443**
EXPENSE/INCOME RATIO		55.7%	56.2%	56.7%	57.2%	57.8%	60.4%	63.2%	66.1%	69.2%	72.4%	75.8%	79.3%
MUST -PAY DEBT SERVICE													
TOTAL DEBT SERVICE		$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227	$211,227
DEBT COVERAGE RATIO		1.22	1.23	1.24	1.25	1.26	1.30	1.34	1.36	1.37	1.35	1.31	1.23
ANNUAL CASH FLOW		**$46,424**	**$48,611**	**$50,753**	**$52,845**	**$54,885**	**$64,156**	**$71,456**	**$76,114**	**$77,312**	**$74,063**	**$65,175**	**$49,216**
Deferred Developer Fee Balance		$393,144	$344,532	$293,780	$240,934	$186,049	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$116,859	$460,453	$832,916	$1,218,649	$1,597,464	$1,943,636	$2,224,782

Locke Lord LLP

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

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

October 25, 2021

VIA E.MAIL

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

Re: **Request to Amend Tax Credit Application**
Palms at Blucher Park, Nueces County, Texas (the "**Development**")
TDHCA No. 21186

Dear Cody:

We represent TG 110 Palms at Blucher Park, LP ("**Owner**"), in connection with the Development. Owner received an allocation of Housing Tax Credits in the 2021 Application Round.[1] Due to circumstances beyond Owner's control, Owner is seeking to amend its Application with a redesign of the site plan and changes to financing to address a funding gap that became apparent when the Housing Tax Credits were awarded. Approval of this amendment request will allow Owner to close on the transaction in the first quarter of 2022, without reducing the total number of units proposed for the Development.

Background Information

The Development is located in the urban core of Corpus Christi and was the highest scoring Application in Region 10. It enjoys the full support of City Council. The Development Site consists of

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

two tracts, each approximately one acre in size, immediately across the street from one another. Owner proposes to construct one building on each tract.

Concurrently with receiving the Housing Tax Credit award, Owner proceeded to obtain an updated estimate from the contractor, in advancement of closing. Owner was advised of an increase in construction costs that left a funding gap of approximately $2,500,000. (See Exhibit A – Email from Contractor.) To address the gap, Owner approached the City of Corpus Christi and was able to increase its HOME loan award from $300,000 to $1,000,000. It approached the equity investor and was able to increase the tax credit pricing from $0.91 to $0.93. These additional sources were insufficient to address the entire construction cost gap; only a redesign of the site plan would reduce the construction costs adequately to balance the sources and uses while retaining the total number of units and amenity package anticipated in the Application.

Amendments Requested

Key elements of the redesign, which will be discussed in more detail below and at Exhibit B – Detailed Changes, are:

- Eliminate the podium style design and use slab on grade
- Reduce the number of units in Building 1 and increase the number of units in Building 2
- Reduce parking from 2 spaces per unit to 1.5 spaces per unit

Changes to financing are:

- Change debt financing from HUD-insured mortgage to conventional bank financing, to avoid the delays associated with processing the site design change through HUD
- Increase City of Corpus Christi HOME funds
- Increase Housing Tax Credit pricing

Change to Slab on Grade; Movement of Units from Building 1 to Building 2. The change from podium style to slab on grade includes the movement of some units from Building 1 to Building 2, changes in elevation, and a change of a one-bedroom unit to a two-bedroom unit. Blucher Park is a public park contiguous to the Building 1 tract of the Development Site. The park is a well-known bird sanctuary. In considering the change to the site plan, the Corpus Christi City Council asked Owner to work with the trustees that maintain Blucher Park. The trustees requested that Owner reduce the elevation of Building 1 to be more conducive to the birds and asked for more units to be put in Building 2. As a result, Building 2 will have 57 total units, and Building 1 will have only 15 units, along with the community center/office. This allows Building 1 to be reduced to three stories, with Building 2 increased to four stories slab on grade.

It is important to note that the accessibility between the two tracts, across Tancahua Street, will be maintained as described in the original Application. The City has committed to maintain this accessibility and has approved and funded a crosswalk. This accessibility is noted on the new site plan.

Parking. To eliminate the podium style construction, Owner must reconfigure the parking plan and eliminate some parking spaces. While the City of Corpus Christi has limited parking requirements in its downtown core, the Development was originally planned with two (2) parking spaces per residential unit. On July 21, 2021 the City of Corpus Christi Board of Adjustment provided a reduced parking waiver for the Development. The approval allows for one and a half (1.5) onsite parking spaces per residential unit. The revised site plan provides for 109 onsite spaces. This parking ratio is consistent with TDHCA's requirements, when city requirements are not available. It is also consistent with the experience of Prospera Housing Community Services in its operation of Housing Tax Credit properties in Corpus Christi and other parts of the state – a ratio of 1.5 parking spaces per residential unit adequately serves a property.

Updated Exhibits for the Tax Credit Application, including supporting documentation, is included in this package for TDHCA's analysis. See also Exhibit C – Letter from Architect.

Good Cause for Change

The proposed changes do not impact the Application's scoring or Owner's commitment to resident amenities. The need for this change was not foreseeable. While COVID-related cost increases had been evident in the marketplace before Owner filed its Application, the industry generally thought that the onset of vaccines and return to work would causes to stabilize or decrease. Continued increase was not anticipated. The change to the site plan allows Owner to continue to deliver 72 quality affordable housing units, in a location preferred by the City of Corpus Christi. Owner can do this without seeking additional financial support from TDHCA and can close timely, without requiring extensions from TDHCA. This situation has been well-mitigated by owner.

Conclusion

In light of the foregoing, Owner respectfully requests TDHCA's approval to amend the Application as described in this package.

A check in the amount of $2,500.00 is enclosed for payment of the amendment fee. We request for this item to be heard at the December Board meeting so that closing can occur in the first quarter of 2022. Please contact me if you need any additional information.

Thank you for your time and attention to this matter.

Sincerely,

Cynthia L. Bast

Cynthia L. Bast

cc: Gil Piette
Ryan Sweeney
Jacque Woodring
Cindy Marquez
Ray Lucas
Prospera Housing Community Services

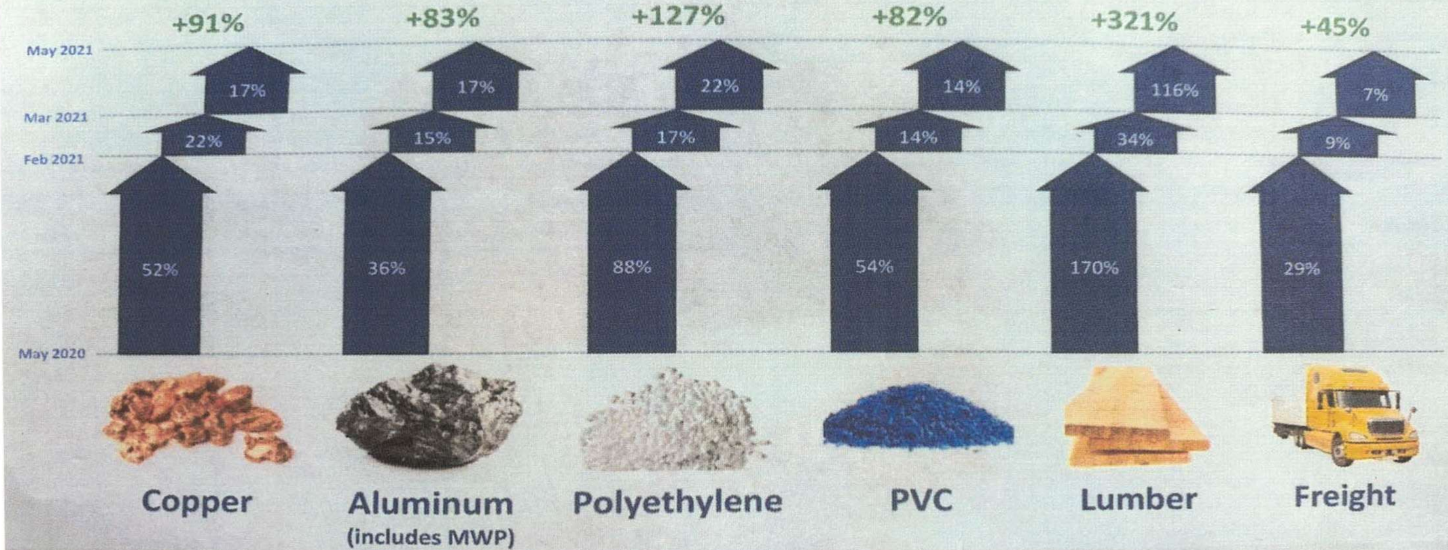
Exhibit A – Email from Contractor

Exhibit B – Detailed List of Site Plan Changes

Exhibit C – Letter from Architect

Exhibit A – Email from Contractor

Raw Material and Freight Costs (May 2020 to May 2021)



From: luke007rhl@aol.com,
To: bradfordmc@prosperahcs.org,
Subject: Fwd: Rising Costs & Supply Chain Issues
Date: Mon, Oct 11, 2021 5:01 pm
Attachments:

Raymond H. Lucas
President of the General Partner
Lucas & Associates, LP
3419 Nacogdoches Suite123
San Antonio, Texas 78217
Phone # (210) 821-4399
Cell # (210) 508-3357

-----Original Message-----
From: Tye Burch <tyeb@GalaxyBuilders.com>
To: Raymond Lucas <luke007rhl@aol.com>
Sent: Tue, Jul 20, 2021 10:53 am
Subject: Rising Costs & Supply Chain Issues

Ray,

Per our discussion I have listed specific items below that either we are seeing continually rise in price or are having issues with being supplied.

Continually Rising Prices (Multifamily):
- Metals (stairs & handrails) – 5% increase from 3 months ago
- OSB Sheathing – 250% increase over past 12 months
- Insulation – 48% increase over past 12 months
- PVC piping (utilities & plumbing) & Romex wiring (electrical) – 15% to 20% increase over last 3 months
- Copper wiring – 30% increase over past 3 to 6 months

Supply Chain Issues (Material shortage or extra long lead times):
- Carports
- Finger joint trim
- OSB sheathing
- Fiber cement siding
- Insulation
- RC channels (drywall)
- Plastic electrical boxes

Tye Burch
Director of Preconstruction
Galaxy Builders, Ltd.
(210) 493-0550

Exhibit B – Detailed List of Site Plan Changes

Exhibit B
Palms at Blucher Park – TDHCA # 21186
Detailed Description of Project Changes

Design Changes:

Parking

The number of onsite parking spaces reduced from 148 to 109 with approval from the City of Corpus Christi.

Site Plan

The site plan changed as Building 1 was reduced from 40 units to 15 units and Building 2 was increased from 32 units to 57 units. Building 1 continues to contain the office and main community center. Both tracts include surface parking with most of the parking on the tract containing Building 1.

Elevations

The project continues to have two buildings. Building 1 has changed from 4 stories on a podium to 3 stories slab on grade. Building 2 has changed from 3 stories on a podium to 4 stories slab on grade.

Unit Configuration

The project has swapped out a one bedroom unit for a two bedroom unit.

Unit Sizes

All unit sizes continue to meet the TDHCA minimum standard size. The total unit sizes have increased 408 sq ft (from 59,646 sq ft to 60,054 sq ft).

Common area and Common spaces

The common areas decreased:

All common area for community room, office, exercise, kids play, computer room, used for the enjoyment of the residents reduced by 7.04% When including corridors, stairways, elevators, etc. in the common area such overall common area reduced by 18%.

Elevators

Both buildings originally had elevators since they were both at least four stories above grade level. Now Building 1 is only three stories, and an elevator is not required.

Trash Compactors

Both buildings had trash compactors since they were four or more stories above grade. Now Building 1 has a dumpster instead of a trash compactor.

Enclosed Corridors

At Application, the enclosed corridors were to be air conditioned. The enclosed corridors are not air conditioned in the redesign.

Changes in Financing:

Change in Interim and Permanent Loan

The interim construction loan is now a first lien Wells Fargo conventional construction loan and the permanent loan is a Wells Fargo conventional 16 year (35 year amortization) instead of an FHA loan and unsecured bridge loan.

Increased City HOME fund loan from $300,000 to $1,000,000

The City of Corpus Christi has approved HOME funds of $1,000,000 to cover the increased cost of construction. Terms are 40 years with an interest rate of 3%. Payable form cash flow.

Increase in Credit pricing

Wells Fargo has agreed to increase credit pricing to $0.93.

Elimination of City of Corpus Christi Fee Waivers

No waivers are necessary as the HOME funds qualify as the local governmental support.

Increase in deferred developer fees

Deferred fees have been increased to cover the remaining gap.

Exhibit C – Letter from Architect

GNB inc. Gonzalez Newell Bender
ARCHITECTURE
URBAN PLANNING
INTERIOR DESIGN

Gonzalez Newell Bender, Inc.

architecture ♦ interior design ♦ land planning ♦ urban design

1630 Lockhill Selma Road ♦ San Antonio, Texas 78213
Tel (210) 692-0331 ♦ gonzalez@gnbarch.com

October 20, 2021

Project: TG 110 Palms at Blucher Park, LP
3419 Nacogdoches Rd.
San Antonio, TX 78217

Project: Palms at Blucher Park
S. Tancahua St. & S. Caranchaua St.
Corpus Christi, TX 78401
TDHCA# 21186

TO WHOM IT MAY CONCERN:

After necessary modifications to the previously submitted plans for Project 21186, Palms at Blucher Park, the community area totals look to be significantly greater than the 3% deviation allotted as described by 10 TAC §11.1(d)(22), however the discrepancy is a result of transitioning from interior corridors to unconditioned open corridors and the modifications required when reducing from a 4-story to a 3-story building such as removal of the trash room in building one as well as a loss of a stair square footage.

I have included a breakdown of the previous and current square footages for community areas to illustrate that the current design is minimally above the 3% requirement as it pertains to the functional community spaces.

Original Common Spaces Bldg. 1	
3122	Common Areas
7763	Corridors
1640	Stairs
840	Trash Rms
13365	**Total**

Common Spaces Bldg. 1	
2952	Common Areas
2831	Enclosed Corridors*
1132	Stairs
0	Trash Rm**
6915	**Total**

Common Areas	
Original Design Sq/Ft	6238
Current Design Sq/Ft	5798
Reduction Sq/Ft	**440**
Percentage of Reduction	**7.05%**

Original Common Spaces Bldg. 2	
3116	Common Areas
5615	Corridors
1329	Stairs
804	Trash Rms
10864	**Total**

Common Spaces Bldg. 2	
2846	Common Areas
8672	Enclosed Corridors*
1482	Stairs
589	Trash Rm
13589	**Total**

Net Rentable Area	
Original Design Sq/Ft	59646
Current Design Sq/Ft	60054
Increased Sq/Ft	**408**
Percentage of Increase	**0.68%**

*** Unconditioned**

**** Removed and Dumpster Location provided**

From the original design to the current design items such as corridors/ breezeways, trash rooms, and stairs were modified or removed altogether. If we look directly at the common areas, there was minimal change.

Please feel free to reach out to regarding any further questions or concerns.

IN PURSUIT OF DESIGN EXCELLENCE

Gonzalez Newell Bender, Inc
Project Architect

Francisco D. Gonzalez, AIA

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

1s

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding authorization to release a Notice of Funding Availability for 2022 Community Services Block Grant Discretionary funds for education and employment initiatives for Native American and migrant seasonal farm worker populations

RECOMMENDED ACTION

WHEREAS, Community Services Block Grant (CSBG) funds are awarded annually to the Texas Department of Housing and Community Affairs (the Department) by the U.S. Department of Health and Human Services (USHHS);

WHEREAS, the Department reserves 90% of the allotment for CSBG eligible entities to provide services/assistance to the low-income population in all 254 counties; up to 5% for state administration expenses; and the remaining amount for state discretionary use;

WHEREAS, at the Board meeting of June 17, 2021, the Department established a set aside of $1,750,000 for 2022 CSBG Discretionary (CSBG-D) activities in the 2022-2023 CSBG State Plan, including $300,000 for Native American and migrant seasonal farm worker population education and employment initiatives; and

WHEREAS, CSBG-D funds for Native American and migrant seasonal farm worker population education and employment initiatives will be made available to eligible applicants to carry out the purpose of the CSBG pursuant to 42 U.S. Code Chapter 106;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director be granted the authority to release a Notice of Funding Availability (NOFA) for 2022 CSBG-D funds for Native American and migrant seasonal farm worker population education and employment initiatives;

FURTHER RESOLVED, that to the extent that subsequent revisions to the NOFA are required in order to facilitate the use of the funds by the applicants, the Board also authorizes staff to make such revisions in accordance with, and to the extent limited by the CSBG federal and state regulations;

FURTHER RESOLVED, that the budget for USHHS has not yet been passed by Congress and the Department reserves the right to cancel this NOFA at its sole discretion if insufficient 2022 CSBG funding is received; and

FURTHER RESOLVED, that staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such other acts as may be necessary to effectuate the foregoing.

BACKGROUND

Each year the Department sets aside 5% (approximately $1,750,000) of its annual CSBG allocation for state discretionary use. Each year funds from CSBG-D are used for specific identified activities that the Department supports and other ongoing initiatives such as employment and education programs for Native American and migrant seasonal farm workers. This year, $300,000 has been targeted for Native American and migrant seasonal farm worker populations for employment and education programs for which the Department is issuing this NOFA. This amount is substantively unchanged from the amounts programmed for this activity last year. The Department will release funds competitively. The budget for USHHS has not yet been passed by Congress, and the Department reserves the right to cancel this NOFA at its sole discretion if insufficient 2022 CSBG funding is received.

In the event that the Department does not have sufficient eligible applications to fund in this activity, the Department may, at the discretion of the Executive Director, reprogram the funds from this activity into another eligible discretionary activity specified in the 2022-2023 CSBG State Plan.

The Department's anticipated contract period for Program Year 2022 CSBG-D Native American and migrant seasonal farm worker education and employment initiatives is March 1, 2022, through February 28, 2023.

The NOFA and Scoring Attachment B are attached for review and approval as part of this item. The other attachments referenced in the NOFA, Attachments A and Attachments C through H, are submission forms of required information or certifications, and are not included within this Board Action Request.

Notice of Funding Availability (NOFA) for 2022 Community Services Block Grant (CSBG) Discretionary Funds for Education and Employment Services to Native American and Migrant Seasonal Farm Worker (MSFW) Populations

The Texas Department of Housing and Community Affairs (the Department) is pleased to announce a NOFA for 2022 CSBG Discretionary funds for education and employment services to Native American and MSFW populations. The Department is seeking organizations interested in administering projects focused on employment and education in Native American and MSFW populations.

Interested applicants must meet the requirements set forth in the application and must submit a complete application through the established system described in the NOFA before **Friday, January 7, 2022, 5:00 p.m. Austin local time**.

The Notice of Funding Availability (NOFA) is available on the Department's web site at http://www.tdhca.state.tx.us/nofa.htm and the application forms referenced in this packet and submission instructions are available on the Department's web site at https://www.tdhca.state.tx.us/community-affairs/csbg/index.htm. The Department looks forward to receiving your completed application. Should you have any related questions, please contact Rita Gonzales-Garza at (512) 475-3905 or rita.garza@tdhca.state.tx.us.

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I. Application Instructions

A. Application Deadline:

All applications must be submitted before **Friday, January 7, 2022, 5:00 p.m. Austin local time.**

B. Electronic Submission:

All applications must be submitted electronically to be considered eligible applications. Applications must be submitted through the Wufoo system using the following link:

https://tdhca.wufoo.com/forms/native-americansmigrant-seasonal-farm-worker-nofa/

C. Application Questions

Application questions may be submitted via electronic mail to rita.garza@tdhca.state.tx.us. Answers will be provided in the order in which they are received. Please do not submit the same question twice as you await a response.

The deadline to submit questions related to the content of the NOFA and Application is Thursday January 6, 2022, by 5:00 p.m. CST (Austin local time). Questions related to the content of the NOFA submitted after this deadline may not be answered.

II. Proposed Timeline for NOFA and Application

Date	Action
December 10, 2021	The application will be available through the TDHCA Website: http://www.tdhca.state.tx.us/nofa.htm
January 6, 2022 5:00 p.m. (Austin local)	Deadline to submit questions regarding the NOFA and application prior to application submission
January 7, 2022 5:00 p.m. (Austin local/CST)	Deadline for Applicants to submit applications in response to this NOFA
February 10, 2022	Anticipated date for the Department to present funding recommendations to Board of Directors
March 1, 2022	Anticipated Contract Start Date*
February 28, 2023	Anticipated Contract End Date*

*Any Appeal may delay the Contract Start and End Date

III. General Information

A. Background

The Department has been designated as the state agency to administer the CSBG Program. On an annual basis, the Department receives CSBG funds from the U.S. Department of Health and Human Services (USHHS) to ameliorate the causes of poverty within communities.

The Department is permitted to reserve up to 5% of CSBG funds for state discretionary use for which the Department's Board has determined specific uses. This NOFA releases the portion of these 2022 CSBG Discretionary (CSBG-D) funds aimed at education and employment services for Native Americans and MSFWs.

Capitalized words in this NOFA, unless otherwise defined herein, have the meaning outlined in Chapter 2306 of the Texas Government Code or in Title 10 Texas Administrative Code (TAC), Chapters 1, 2 or 6, as applicable.

B. CSBG-D Subrecipient Performance Requirements:

This NOFA is for services to Native American and MSFW populations. The NOFA will provide funding to organizations to provide new or existing projects that provide education and/or employment assistance and services focusing on the direct needs of individuals and families within the MSFW population or the Native American population. The successful applicant must ensure that participants receive case management along with employment and/or education assistance and services.

This activity must be completed throughout the 12-month contract period. The contract period is anticipated to be March 1, 2022, through February 28, 2023.

Subrecipient must complete activities that have the following results:

- For employment projects, an increase in employment skills or increase in persons assisted in obtaining jobs; and/or
- For education projects, an increase in education and or skills that are expected to lead to an increase in income.

Persons eligible for direct assistance must have an annual income at or below 125% of the Federal Poverty Income Guidelines issued annually by HHS.

C. Funds Available and Award Amounts

In this NOFA, the Department makes available $300,000 of 2022 non-formula CSBG funds to be utilized for the following discretionary projects:

Category 1:	Migrant Seasonal Farm Worker Employment Assistance and Services Projects (Two projects at $100,000 each)	$200,000
Category 2:	Native American Education Employment Assistance and Services Projects	$100,000

An applicant must apply for $100,000 per application and an applicant (or Affiliate as defined in 10 TAC §6.2(b)(1)) is limited to receiving an award in only one category (unless no other eligible applications under either Category are recommended). If applying in both categories, the applicant must indicate in the application on Attachment A which award it will accept if the score results in a recommendation for both.

If sufficient eligible applications are received that meet threshold criteria it is anticipated that three awards of $100,000 each will be made by the Department's Board of Directors (Board). The Department intends to fund the two highest scoring applications for assistance to the MSFW population, and the one highest scoring application for assistance to the Native American population. However, if sufficient eligible applications are not received to accomplish that, then the next highest scoring application meeting threshold and scoring criteria in either category will be recommended. If no other applications in either category remain except from an applicant (or Affiliate) that has already been recommended for an award, the Department may recommend a second award to the next highest scoring application. In the event that the Department does not receive sufficient eligible applications in response to this NOFA to exhaust available funding, the Department reserves the right to reprogram the funds.

The availability of 2022 CSBG-D funds to subrecipient organizations is dependent on the Department's receipt and availability of funds from USHHS. Access to funds may be limited to the amount of 2022 CSBG-D funds available to the Department from USHHS, and is subject to Board decisions regarding its use.

D. Eligible Applicant Organizations

Organizations eligible to apply for CSBG-D NOFA funds are: Private Nonprofit Organizations with 501(c) status, Public Housing Authorities, Local Mental Health Authorities, Units of General Local Government, and Regional Councils of Governments who are proposing an educational and/or employment project targeted to either MSFW populations or Native Americans.

E. Ineligible Applicant Organizations

Organizations ineligible to apply for the competitive FFY 2022 CSBG-D funds are:

- Private Nonprofit Organizations that do not have a Certificate of Formation (or Articles of Incorporation);
- Private Nonprofit Organizations that the Texas Secretary of State's Office website states are not authorized to do business in Texas;
- Organizations for which persons on the organization's governing body or employees are debarred or suspended by the Department or another governmental agency; and
- Organizations for which persons on the organization's governing body or employees are on the suspended or debarred listed for the System for Award Management in accordance with 2 CFR Part 180.

F. Private Nonprofit Organizations.

The Department is not requiring that an organization submit a Certificate of Formation or proof of eligible status. However, it is the applicant's responsibility to ensure that its information including its Certificate of Formation (formally known as Articles of Incorporation) with the Texas Secretary of State's Office is correct and complete at the time of application. The Department will confirm proof of active status directly with the Texas Secretary of State. No administrative deficiencies will be issued for failure to have the appropriate status and governing documents reflected on the Secretary of State's Office when confirmed by the Department. Failure to have this information will cause the application to be terminated without further review as further described in Section VI, A of the NOFA.

G. Registration Requirements

Prior to contract execution, the successful applicant must provide the Department with the organization's Data Universal Numbering System (DUNS) and proof of registration with the Central Contractor Registration (CCR). If the organization is not registered, go to *https://www.sam.gov* to renew, update, or create a new registration.

IV. State and Federal Requirements

Subrecipient shall comply with all provisions of the Federal and State laws and regulations including but not limited to:

Public Law 105-285, Title II - Community Services Block Grant Program, Subtitle B Community Services Block Grant Program of the Community Services Block Grant Act, Chapter 106 of the Community Services Block Grant Act (42 U.S.C. §9901 *et seq.*), as amended by the "Community Services Block Grant

Amendments of 1994" (P.L. 103-252) and the Coats Human Services Reauthorization Act of 1998 (P.L. 105-285);

Chapter 2306 of the Texas Government Code;

Title 10 Texas Administrative Code, Part 1, Chapters 1 and 2;
Title 10 Texas Administrative Code, Part 1, Chapter 6, Subchapters A and B;
2 CFR Part 200, as applicable; and
Texas Grant Management Standards.

Subrecipient shall also comply with the Drug-Free Workplace Act of 1988, the Pro-Children Act of 1994, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), the Americans with Disabilities Act of 1990 (ADA), as amended (42 U.S.C. 12101 et seq.) and Executive Order 13166 of August 11, 2000 related to Limited English Proficiency.

Subrecipient shall practice non-discrimination and provide equal opportunity in compliance with federal law in keeping with the President's Executive Order 11246 of September 24, 1965, and ensure that a person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.

Subrecipient shall comply with political activity prohibitions and shall not utilize CSBG funds to influence the outcome of any election, or the passage or defeat of any legislative measure or to directly or indirectly hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of subrecipients, the State of Texas, or the government of the United States. Subrecipient shall comply with 45 CFR. §87.2 and ensure that CSBG funds are not to be used for sectarian or inherently religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation.

Subrecipient shall comply with Chapter 2264 of the Texas Government Code and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States.

Subrecipient is not permitted to award any funds provided by this contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. The Subrecipient will be required to agree that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf

V. Application Content

Attachments A-H are Threshold Documents. Each page of the application, excluding the Single Audit, must be numbered. Each Application must contain the items listed below in the following order:

- Table of Contents – must include page numbers.
- Attachment A – Applicant Information Form – Form must be placed on the top of the application.
- Attachment B – Application Questions Parts 1-4 – Complete the NOFA Application Questions document. Applications that do not include a completed document with responses to NOFA questions will be deemed ineligible. Please use the following format to provide any information

which is requested in response to questions if the space provided in the Excel worksheet is insufficient:

- ✓ 11 font
- ✓ Standard 8½ " x 11" paper with 1" margins
- ✓ Provide brief descriptions of requested information.

- Attachment C – Audit Information – All applications must include the following documents relating to fiscal accountability, even if this information has been previously submitted to the Department.
  A. An application must include a completed Audit Certification Form, found on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm.
  B. An organization that is subject to the Federal Single Audit Act requirements must certify that the Single Audit for the latest fiscal year is available at the Federal Audit Clearinghouse. An Organization that is subject only to the State Single Audit Act must submit one copy of the organization's most recent Single Audit report.
  C. An organization not subject to either the Federal or the State Single Audit requirements must submit one copy of a third-party audit of financial statements prepared by a Certified Public Accountant, including any notes to the audit.
- Attachment D – Uniform Previous Participation Form for Single Family and Community Affairs.
- Attachment E – Certifications Regarding Legal Actions, Debarment & Compliance with Laws.
- Attachment F – Private Nonprofit Organization's Tax-Exempt Status Documentation. Existing Internal Revenue Service (IRS) ruling – All private nonprofit organizations must provide documentation of their status as a tax-exempt entity under Section 501(c) of the Internal Revenue Code. The ruling should be on IRS letterhead which is legible and signed by the IRS District Director. Expired advanced rulings from the IRS are not acceptable. If an organization is a subsidiary of a parent organization, documentation of the parent organization's IRS ruling and a copy of the page listing the affiliate organization in the documents filed with the IRS by the parent organization.
- Attachment G – Applicant Certifications
  The certification must be signed by the organization's Executive Director or equivalent title, with contractual signatory authority. If such cannot be attested, then attach a document explaining why.
- Attachment H – CSBG Budget Worksheets
  A. The proposed budget for CSBG is to be submitted utilizing the Attachment H form. There are several tabs within the spreadsheet to complete. Complete the budget based on the estimated funds available noted in Section III. C (i.e., $100,000).
  B. This NOFA does not have limitations on the amount of funds utilized for the provision of direct services or for the costs of staff assigned to provide the direct services, as long as the costs meet federal and state requirements.

VI. Application Review Process

A. Eligibility Prescreening Review

The Department will review applications to determine if they meet the following eligibility prescreening criteria. If the Department determines that any of these criteria have not been satisfied, the application will not be reviewed and the applicant will be sent a notice of the elimination of their application from consideration, and notified of their opportunity to appeal. The prescreening criteria are:

- All application threshold documents A through H must be submitted by the application deadline.
- Application documents must be submitted electronically to be considered eligible applications. Applications are to be submitted through the Wufoo using the following link: https://tdhca.wufoo.com/forms/native-americansmigrant-seasonal-farm-worker-nofa/
- An Applicant must meet all requirements as set forth in III. General Information, D. Eligible Applicant Organizations; and
- An Applicant must not be an ineligible applicant organization as set forth in III. General Information, E. Ineligible Applicant Organizations.

Any applicant not meeting these threshold criteria will be terminated. A notice of termination will be sent, and an applicant will have an opportunity to appeal the decision in accordance with 10 TAC §1.7, Staff Appeals Process.

B. Deficiency Notices

After the application receipt deadline, the Department will not consider any unsolicited information that an applicant may want to provide. If the Department identifies deficiencies within the Attachments it will issue a deficiency notice to request the deficiency be resolved. *Applicants will have three (3) business days from the date of issuance of the deficiency notice to provide the requested information.* Deficiency notices will be e-mailed to the applicant's chief executive and the person specified as the "person to contact with application questions" in the applicant information form (Attachment A). If the applicant does not provide the requested information within the 3 business day time period, the applicant will be sent a notice indicating termination of the application.

C. Scoring of Applications

Applications received from eligible organizations with no threshold deficiencies will be reviewed and scored by the Department. The Department will utilize a standard scoring instrument to evaluate, score, and rank each application. The scoring instrument will award points based on the applicant's response to the requested information in Attachment B. The Department reserves the right to reject applications with a score below 50% of the maximum eligible points. If all applicants score below the minimum point threshold, the Department reserves the right to review the top overall scoring entity and if, in the Department's judgment, they can appropriately administer the CSBG-D funds, may recommend an award to its Governing Board.

Upon completion of scoring each application, applicants will be provided a scoring notice with an opportunity to appeal.

The Department will consider and evaluate prior monitoring and/or audit issues during its application scoring. Additionally, other factors to be considered in the scoring of each application will include, but not be limited to:

- Capacity to effectively administer federal funds and to ensure compliance with regulations;

- Ability to demonstrate staff and organizational capacity to deliver the proposed services; and,
- Ability to demonstrate positive past performance with Department or other federally funded programs, including the results of Department monitoring reviews, timeliness of submission of reports, and other information deemed relevant to performance.

D. Awards

Applicants whose applications score competitively will be reviewed by the Department's Executive Award Review Advisory Committee in accordance with 10 TAC Chapter 1, Subchapter C, and subsequently brought to the Department's Governing Board for consideration of an award.

E. Appeals Process

An appeal of a staff determination must be submitted in writing and in accordance with the Texas Administrative Rule Title 10, Part 1, Chapter 1, Subchapter A, §1.7 which can be found at the Secretary of State's website at:

http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=1&sch=A&rl=Y.

VII. Appendices

Federal and State Resources:

CSBG Act, COATES Human Services Reauthorization Act of 1998, available at
https://www.acf.hhs.gov/ocs/resource/community-services-block-grant-statute

Texas Administrative Code - 10 TAC Chapter 1, Administration, available at
http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=1

Texas Administrative Code - 10 TAC Chapter 2, Enforcement, available at
http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=2

Texas Administrative Code - 10 TAC Chapter 6, Subchapter A, General Provisions, available at
http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y

Texas Administrative Code - 10 TAC Chapter 6, Subchapter B, Community Services Block Grant, available at
http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=B&rl=Y

VIII. List of Attachments

Attachments are posted separately on the TDHCA website as fillable MS Excel documents at http://www.tdhca.state.tx.us/nofa.htm

- Attachment A-G:
  - Attachment A: Applicant Information Form
  - Attachment B: Application Questions Parts 1-4
  - Attachment C: Audit Information
  - Attachment D: Uniform Previous Participation Information
  - Attachment E: Certifications Regarding Legal Actions, Debarment & Compliance with Laws
  - Attachment F: Private Nonprofit Organization's Tax-Exempt Status Documentation
  - Attachment G: Applicant Certifications
- Attachment H: CSBG Budget Worksheets

NOFA for 2022 CSBG Disrectionary Funds for Native American and MSFW Populations
Attachment B: Part 1 - Experience

Applicant Name:	#REF!

Instructions:

When responding to the questions in Attachment B - Part 1 - 4:

1. Attachments: Applicant must complete all areas highlighted in **pink** and upload attachments according to the instructions found on the Wufoo submission page.

2. Responses: If the response is provided in a separate document, please ensure that the response is uploaded as the appropriate entry in the Wufoo submission. If the Department is unable to clearly determine which question the response pertains to, the applicant may not receive points for their response.

3. Years of Experience: When responding to years of experience, if the experience is 6 months or greater, round your response up to one year. If it is less than six months, do not. For example: 1 year 5 months would be 1 year and 1 year 6 months would be 2 years.

4. All applicants must complete all parts of the application questions.

Attachment B: Part 1 - Experience

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
1.1	The applicant's experience administering other state or federally funded programs subject to 2 CFR Part 200 or UGMS (currently administered directly by applicant) during the past 10 years. Funds from the Texas Department of Housing and Community Affairs (TDHCA) must be included. If applicant received the grant for more than one fiscal year, list each year it was received.	State or federally funded grant programs administered: Note: A maximum of 50 points will be awarded. • 5 points for each state or federally funded program administered	50			

Table 1.1 In the table below, list all current state or federally funded grant programs administered directly by the applicant and the number of years administering the grant (indicate each grant source only once), including TDHCA funds. Add additional pages as necessary.

Grant Name	Funding Entity Providing Award	Purpose of Award	# Years of Award	Federal or State Funds (Y/N)

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)

1.2	Provide the following information on the experience in delivering **employment skills or employment related assistance** for the population for which applicant is applying (i.e., either Native American or migrant seasonal farm worker). For example, if the applicant indicated they are applying for funds to assist Native American populations, they will only receive points for this question only if the experience relates to assisting Native Americans. No points will be given if you do not specify whether the experience or persons served were MSFW or Native American.	In assigning points, reviewer will consider the depth to which the nature of the experience in delivering **employment skills or employment related assistance** is described: a. A maximum of 30 points will be awarded, based on the population served includes the population for which the applicant is applying (i.e., either Native American or migrant seasonal farm worker), and the depth of relevant employment skills or employment related assistance experience with either Native Americans or migrant seasonal farm workers (as applicable). Number of points awarded will be dependent on the specificity of description and experience related to direct employment skills or employment related assistance with the targeted population. b. A maximum of 10 points may be awarded, with 4 points for 2 years of experience, 8 points for 3-4 years, 10 points for 5+ years of providing direct employment skills or employment related assistance to the targeted population. c. Provide points for the number of unduplicated persons (MSFW or Native Americans) served with employment skills or employment related assistance for the most recently completed TDHCA CSBG Discretionary contract that were: 5-15 persons award 5 points; 16-29 persons award 10 points; 30-45 persons award 20 points 46-55 persons award 30 points 56+ persons award 40 points	**80**			

a. In the space below, provide a detailed description of relevant prior experience providing services related to employment skills or employment related assistance enabling persons to improve their employability or increase wages for the particular target population (MSFWs or Native Americans) for which the applicant is applying. Must indicate whether the experience was targeted to providing those services to either Native American or MSFW in order to receive points. If general population, explain such.

b. In the space below, in reference to what is described in a. above, provide information on the number of years (and include particular years i.e. 2015-2020) of relevant experience providing direct employment skills or employment related assistance to the population for which the applicant is applying (i.e., either Native Americans or migrant seasonal farm workers).
c. In the space below, provide information on either the number of unduplicated Native Americans or the number of unduplicated migrant seasonal farm workers that were served by the applicant for the most recently **completed** TDHCA CSBG Discretionary contract with employment skills or employment related assistance. Specify: 1) the time period of the contract and 2) the number of persons served by each targeted population.

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
1.3	Provide the following information on the experience in delivering **education related assistance** for the population for which applicant is applying (i.e., either Native American or migrant seasonal farm worker). For example, if the applicant indicated they are applying for funds to assist Native American populations, they will only receive points for this question only if the experience relates to assisting Native Americans. No points will be given if you do not specify whether the experience or persons served were MSFW or Native American.	In assigning points, reviewer will consider the depth to which the nature of the experience in delivering **education related assistance** is described: a. A maximum of 30 points will be awarded, based on the population served includes the population for which the applicant is applying (i.e., either Native American or migrant seasonal farm worker), and the depth of relevant experience in providing direct education related assistance experience with either Native Americans or migrant seasonal farm workers (as applicable). Number of points awarded will be dependent on the specificity of description and experience related to direct education related	**80**			

		assistance with the targeted population. b. A maximum of 10 points may be awarded, with 4 points for 2 years of experience, 8 points for 3-4 years, 10 points for 5+ years of providing direct education related assistance to the targeted population. c. Provide points for the number of unduplicated persons served with education related assistance in the previous 12 months that were either Native American or migrant seasonal farm workers: 5-15 persons award 5 points; 16-29 persons award 10 points; 30-45 persons award 20 points 46-55 persons award 30 points 56+ persons award 40 points				

a. In the space below, provide a detailed description of relevant prior experience providing services related to increasing individuals education aimed at improving their employability or increasing their wages (types of services, etc.) for the particular target population (MSFWs or Native Americans) for which the applicant is applying. Must indicate whether the experience was targeted to providing those services to either Native American or MSFW in order to receive points. If general population, explain such.
b. In the space below, in reference to what is described in a., provide information on the number of years (and include particular years i.e. 2015-2020) of relevant experience providing <u>direct education related assistance</u> to the population for which the applicant is applying (i.e., either Native Americans or migrant seasonal farm workers).

c. In the space below, provide information on either the number of unduplicated Native Americans or the number of uduplicated migrant seasonal farm workers that were served by the applicant for the most recently **completed** TDHCA CSBG Discretionary contract with direct education related assistance. Specify: 1) the time period of the contract and 2) the number of persons served by each targeted population.

210	**0**	**0**	**0**

NOFA for 2022 CSBG Disrectionary Funds for Native American and MSFW Populations
Attachment B: Part 2 - Prior Performance

Applicant Name:	**#REF!**					
Attachment B: Part 2 - Prior Performance						
Section	**Question**	**Scoring Mechanism**	**Maximum Points**	**Self-Score**	**Reviewer 1 (TDHCA use only)**	**Reviewer 2 (TDHCA use only)**
2.1	In the table below, list all funded programs administered and monitored in the past 3 years. Provide copies of the most recent monitoring reports for each of the programs listed in response to question 1.1. If the grant has **not been monitored**, provide information on the name of agency providing funds, contact name, email and phone number and an explanation as to why it hasn't been monitored. Provide follow-up responses from funding agency and your organization to demonstrate resolution of monitoring findings/deficiencies. If follow-up response has not been released, explain. For ease of review, please number the pages of the documents, even if the numbering is handwritten. Deficiencies are those which identify issues related to fraud, waste, abuse, or financial irregularity, or <u>significant</u> non-compliance with either federal rules, state regulations/rules including, but not limited to 2 CFR Part 200 or Uniform Grant Management Standards.	Number of monitoring findings/deficiencies and disallowed costs identified in monitoring reviews of funded programs. For each of the most recent monitoring reports for each program, determine: (1) Monitoring report had findings/deficiencies: Deduct -10 points per finding/deficiency. (2) Applicant shows history of not cooperating with or not submitting TDHCA requested monitoring documentation: Deduct -20 points per fund source of non-cooperation. (3) Monitoring report had disallowed costs in excess of $1,000 amount based on other than minor administrative errors): Deduct -10 points per grant program in addition to (1)-(3) point deductions above. NOTE: If a monitoring report is not attached and/or explanatory information is not provided: Deduct -10 points per grant.	**(points to be deducted based on review)**			

Table 2.1 (Instruction: Please provide copies of the most recent monitoring reports for each funding source. If the grant has not been monitored in the past 36 months, provide a document from the funding source to that effect. Scan all monitoring reports into one document and include a cover page labeled as "Documents in response to Question #2.1" and number each page consecutively. The numbering can be hand written at the bottom of each page.)

Funding Source	Name of Most Recent Monitoring Report	Page #	# of Findings/Deficiencies # of Deficiencies	Copy of Report attached (Y/N) Date of Last Monitoring (MM/DD/YY)	Amount of Disallowed Costs

Section	Question and Response	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
2.2	In the most recently funded and closed CSBG-D contract, determine if applicant failed to submit their monthly performance or monthly expenditure reports or final performance or final expenditure reports to the Department by the due date?	If Departmental records show late submissions of performance or expenditure reports during the last funded and closed CSBG-D contract: Deduct -2 points per late submission No late submissions = 0 points	**(points to be deducted based on review)**			

	Response: If Yes some were submitted late, list which type of report (fiscal or performance) below in highlighted area:					
2.3	Has the applicant been placed on a modified cost reimbursement basis of payment for TDHCA Community Affairs funded programs during the past 3 years (a contract sanction whereby reimbursement of costs incurred by a Subrecipient is made only after the Department has reviewed and approved backup documentation provided by the Subrecipient to support such costs)? **Response:** Select Yes or No in the drop down menu of the cell below: Is the applicant currently on a modified cost reimbursement method of payment for TDHCA funded programs? **Response:** Select Yes or No in the drop down menu of the cell below:	Applicant's history of being on a modified cost reimbursement method of payment for TDHCA Community Affairs Division funded programs. • Yes, during the past 3 years: Deduct -20 points • Yes, currently on modified cost reimbursement: Deduct -50 points • No, not during the past 3 years: 0 point deduction	**(points to be deducted based on review)**			
2.4	Provide the following information related to your organization's expenditures of CSBG Discretionary funds for the most recently completed TDHCA CSBG Discretionary contract. If no funding was received, leave blank.	Prior Performance - Expenditures: For each percentage point not spent per year, one point will be deducted. (i.e., 81.4% = 19 points deducted, 81.5% = 18 points deducted) Note: The Department will verify expenditures from our records.	**(points to be deducted based on review)**			

Year	Contract Period	CSBG Discretionary Award Amount	Final Expenditure Amount	% of Funds Expended

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
2.5	Complete the table below. Provide the	**Prior Performance Persons Served**	**(points to be**			

	requested information for the most recently completed TDHCA CSBG Discretionary contract.	• Deduct 5 points for every performance statement target for which 90% of the target that was not met. Deductions will not be taken for exceeding the target. **Note:** The Department will verify performance from our records.	**deducted based on review)**			
Contract Period Dates	**Performance Statement #**	**Description of activity/service (per TDHCA contract)** **Note:** include all performance statements in the contract	**Number to Be Served (target)**	**# of Persons Reported in Final Performance Report**		**% of Target Achieved**
			TBD	**0**	**0**	**0**

NOFA for 2022 CSBG Disrectionary Funds for Native American and MSFW Populations
Attachment B: Part 3 - Efficiency

Applicant Name:	#REF!

Attachment B: Part 3 - Efficiency

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
3.1	**In the table below,** provide information on the costs that are proposed to be charged to the CSBG-D grant. Administrative costs include those expenses related to management staff such as the executive director, accounting staff, human resource staff, administrative personnel, and overhead costs related to same staff. The Department recommends limiting administrative costs (admin staff and their overhead costs) to no more than 20% of the funds requested. **Programmatic costs** relate to costs for staff who provide direct client services and carry out duties such as intake, client interview, casework, case management, referrals, and follow-up. It also includes the overhead costs related to these direct client program staff. Direct client assistance costs relate to costs for direct assistance to clients such as education or employment related assistance (tuition, uniforms, books, etc.). In the table below, break out the part of the Overhead Costs that are administrative and programmatic.	Percentage of CSBG costs budgeted for **programmatic costs** (staff, fringe, and overhead related to programmatic staff) excluding direct client assistance costs: 80-100%: 50 points 60-79%: 40 points 40-59%: 30 points 20-39%: 20 points Less than 20%: 0 points **NOTE:** If calculation for Programmatic Costs is found to be incorrect, 5 points will be deducted.	**50**			

Section 3.1 – Table

Proposed CSBG Budget	Format	Answer

a. Administrative salaries and fringe related to administrative staff (for example Ex Dir, CFO, admin staff)	Dollar figure	
b. Programmatic salaries and fringe of program staff (for example program directors, case workers, homeless service liaison)	Dollar figure	
c. Direct Client Assistance costs (e.g. rent, food, education assistance, tuition) NOTE: From Budget Support Sheet B6.	Dollar figure	
d. Costs that are budgeted related to Travel, Supplies, Equipment, Contractual, and Other categories excluding indirect costs in category e.	Dollar figure	
e. Indirect costs (for applicants with a federally approved Indirect Cost Rate Plan or for entities claiming the de minimus rate)	Dollar figure	
f. Total CSBG-D funds requested in budget	Dollar figure a+b+c+d+e	$ -
g. Percentage of total CSBG funds budgeted for **programmatic salaries and fringe of program staff**	Percentage b/f	#DIV/0!

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	(TDHCA use only)	(TDHCA use only)
3.2	Provide information on the amount and percentage of the CSBG-D grant request that will be utilized for Direct Client Assistance, **excluding** any funds that will be used for salaries and overhead costs of Programmatic staff. Figures for Section 3.1c above will be utilized for this question and should match Budget Sheet B6. □	Percentage of CSBG costs budgeted for direct client assistance costs: 80-100%: 110 points 60-79%: 90 points 40-59%: 70 points 20-39%: 50 points 10-19% 30 points Less than 10%: 0 points **NOTE:** If calculation is found to be incorrect, -5 points will be deducted.	**110**			
			160	**0**	**0**	**0**

NOFA for 2022 CSBG Disrectionary Funds for Native American and MSFW Populations
Attachment B: Part 4 - Proposed Employment and Education Services/Activities

Applicant Name:	#REF!					
Attachment B: Part 4 - Proposed Employment and Education Services/Activities						
Section	**Question**	**Scoring Mechanism**	**Maximum Points**	**Self-Score**	**Reviewer 1 (TDHCA use only)**	**Reviewer 2 (TDHCA use only)**
4.1	**In the table below,** briefly describe the initiatives and how your organization will implement the proposed initiatives and evaluate progress on accomplishing what is proposed. Break down the distinct tasks for the education initiative and the employment initiative separately. Make sure to relate the task to either education or employment intitiatives.	**Evaluation of Initiative:** Review plan to evaluate proposed initiative and award points as follows: Evaluation plan should include, but not be limited to, identification of the tasks, steps to accomplish tasks, evaluation, frequency of evaluation, and a completion time. • Award up to 30 points if the tasks clearly set forth activities that will lead to accomplish what is proposed in the application. • Award up to 20 points if the steps to be taken to achieve the tasks are clearly delineated. • Award up to 20 points if the process used to evaluate the initiative is comprehensive. • Award up to 10 points if frequency for when evaluation will occur is reasonable for the tasks. • Award up to 5 points for the completion time. If completion time allotted to achieve results is insufficient, award 0 points. NOTE: If a task does not clearly relate to either education or employment initiatives, no points will be received for that initiative.	**85**			

Section 4.1 – Table

Evaluation Process - Itemize each activity/service (choronologically if possible), enter name of activity/service, describe the activity/service, identify the steps to accomplish the activity/service, briefly describe process to evaluate the activity/service, describe frequency of evaluation of the activity/service, and a completion date for activity/service. Enter one row per activity/service. *Note:* Applicants may attach a separate document with additional details related to the processes to be utilized to evaluate the activity/service and be sure to identify the question # and activity #.

Task # **Description Proposed Activity/ Service for Initiative**	**Task Description to Carry-Out Activity/Service**	**Steps to Accomplish Activity/Service**	**Brief Description of Evaluation Processes Used to Assess Accomplishment of Activity/Service**	**Frequency for evaluation to occur**	**Completion Date** **(month/year)**
# 1 (example)	Evaluate types of training curricula. Develop curricula for six	Gather information on the type of curricullum	The Program Coordinator (PC) will	During the first three	**End of**

Provide training curricula on computer skills and basic job skills (example)	week long sessions on: 1) Basic computer skills (including basic skills of Microsoft platforms 2) Basic job skills Provide training on basic computer skills and job skills.	available to teach computer skills and basic job skills to ensure that the most up to date information is provided. - Purchase curricula and create curricula based on the most up to date information. - Hire staff and provide training.	consult with field experts to ensure the accuracy of the content, cultural appropriateness and relevance of skill formation. The Program Coordinator (PC) will assess the progress at successful implementation of the curricullum and the success of enrollees.	months of the program and every 3 months for the duration of the program, evaluate relevancy of job skills being taught and the success of the training at meeting student and employment market needs.	**Contract Period**	**THIS EXAMPLE, ADDRESSING "TRAINING CURRICULA", IS PROVIDED TO DEMONSTRATE HOW TO DESCRIBE THE ACTIONS AND STEPS TO ACCOMPLISH OR DELIVER THE SERVICE/ACTIVITY AND METHODS TO EVALUATE TO COMPLETION. BE THOROUGH, YET CONCISE.**
EMPLOYMENT INITIATIVE: Identify each major activity/service below.(add rows as necessary)						
EDUCATION INITIATIVE: Identify activity/service below. (add rows as necessary)						

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
4.2	Provide targets for the total number of unduplicated persons to be served through the grant considering both the Education and Employment components (only counting the individual once, even if they will receive both education and employment service/assistance).	Award points as follows: Award 1 point for each unduplicated person to be served, with a MAXIMUM of 150 points.	**150**			
4.3	Provide targets for the number of unduplicated persons to receive case management (a process where a case worker meets with client one on one in an on-going basis to identify, develop, and implement a plan to meet short and long-term goals) considering both the Education and Employment components. Only count the individual once, even if they will receive both education and employment service/assistance)	Award points as follows: Award 1 point for each unduplicated person to receive case management, with a MAXIMUM of 150 points. **NOTE**: Do not overestimate your target numbers because in the subsequent application for funds, you will be penalized for not meeting targets proposed in your application in Attachment B Part 2 Question 2.5.	**150**			

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
4.4	**Employment Initiative:** Provide targets for the number of unduplicated persons that you anticipate will achieve the stated goal or receive the stated service as a result of assistance provided through the proposed initiative. An individual can be counted as an unduplicated person receiving a service only once in each activity during the contract term (ONLY COUNT THE PRIMARY RECIPIENT, SUCH AS THE HEAD OF HOUSEHOLD, DO NOT COUNT THE ENTIRE HOUSEHOLD). NOTE: The Department will utilize these proposed targets in the contract and applicant will be evaluated in a future application cycle on their performance (i.e., points deducted for not meeting proposed targets from prior application).	**Award points as follows:** 3 points awarded for each person for a.-b. with a **MAXIMUM of 60 points for a. and 60 points for b.** 1 point for each person for c.-d. with a **MAXIMUM of 20 points for c. and 20 points for d.** **NOTE**: Do not overestimate your target numbers because in the subsequent application for funds, you will be penalized for not meeting targets proposed in your application in Attachment B Part 2 Question 2.5.	**160**			

Table 4.4 - Employment Initiative						Target
a.	Number of persons that will obtain employment.					
b.	Number of persons that will obtain an increase in income and or benefits or increased hours.					
c.	Number of persons that will obtain work skills or experience (not related to job search, but actual work skills) to obtain employment or to obtain an increase in employment (a better job, better wages, etc.) through job/vocational training and apprenticeships.					
d.	Number of persons to be provided job search and readiness assistance (such as coaching, resume writing, interview skills training, pre-employment physicals, background checks, career counseling & workshops, etc.).					

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
4.5	**Education Initiative:** Provide targets for the number of unduplicated persons that you anticipate will achieve the stated goal or receive the stated service as a result of assistance provided through the proposed initiative. An individual can be counted as an unduplicated person receiving a service only once in each activity during the contract term (ONLY COUNT THE PRIMARY RECIPIENT, SUCH AS THE HEAD OF HOUSEHOLD, DO NOT COUNT THE ENTIRE HOUSEHOLD). NOTE: The Department will utilize these proposed targets in the contract and applicant will be evaluated in a future application cycle on their performance (i.e., points deducted for not meeting proposed targets).	**Award points as follows:** 1 point awarded for each person to achieve stated goal or will receive stated service in a. through f., with a **MAXIMUM of 20 points per each category a.-f.** **NOTE**: Do not overestimate your target numbers because in the subsequent application for funds, you will be penalized for not meeting targets proposed in your application in Attachment B Part 2 Question 2.5.	120			

Table 4.5 - Education Initiative		Target
a.	Number of persons that will enroll and work towards obtaining a recognized credential, certificate, or degree related to the achievement of educational or vocational skills (a trade school or community college).	
b.	Number of persons that will demonstrate improved basic education or receive adult literacy classes, ESL, basic education, or applied technology classes (excluding high school and GED).	
c.	Number of persons that will enroll in programs to gain competencies required for employment by obtaining a high school diploma or GED.	
d.	Number of persons that will enroll and work towards obtaining an Associate's degree.	
e.	Number of persons that will enroll and work towards obtaining a Bachelor's degree.	
f.	Number of persons that will obtain a degree (associate's or bachelor's degree) within contract year.	

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
4.6	**Unduplicated Persons:**	**Award points as follows:**	160			

	Provide targets for the number of unduplicated persons that you anticipate will receive the following types of assistance through the proposed <u>education and employment</u> initiative. An individual can be counted as an unduplicated person receiving a service only once in each activity during the contract term (ONLY COUNT THE PRIMARY RECIPIENT, SUCH AS THE HEAD OF HOUSEHOLD, DO NOT COUNT THE ENTIRE HOUSEHOLD).	1 point awarded for each person to achieve stated goal or will receive stated service in b. through e. with a **MAXIMUM of 40 points per each initiative (b.-e.). No points for a.** **NOTE**: <u>Do not overestimate your target numbers</u> because in the subsequent application for funds, you will be penalized for not meeting targets proposed in your application in Attachment B Part 2 Question 2.5.				

Table 4.6 - Unduplicated Persons	Target
a. Number of persons enrolled in the education or employment program who will receive assistance, either funded with the grant or other funding source, for rent, food, utilities, child care, or transportation.	
b. Number of persons to receive assistance with tools, uniforms, clothes, equipment, tuition aid, books, and supplies which enable them to obtain or retain a job or complete their education goals.	
c. Number of persons to receive education in computer skills or job skills.	
d. Number of persons to receive Financial Literacy Education or Counseling in order to achieve or maintain capacity to meet basic needs or reported improved financial well being.	

Section	Question	Scoring Mechanism	Maximum Points	Self-Score	Reviewer 1 (TDHCA use only)	Reviewer 2 (TDHCA use only)
4.7	Provide the following information in the yellow-highlighted area below: Describe the **coordination and outreach efforts** that will be conducted and how your organization will coordinate with other service providers in the service area to meet the varied client needs of clients to enable them to further their education or obtain employment or increased wages.	In assigning points, reviewer will consider the depth to which items are described: Applicant provided information that demonstrates: a. Clear coordination and outreach efforts: 10 point maximum b. Variety of client needs addressed through coordination efforts: 10 point maximum c. Coordination efforts were not sufficiently demonstrated: -5 points	**20**			

4.7 Response

845	**0**	**0**	**0**

NOFA for 2022 CSBG Disrectionary Funds for Native American and MSFW Populations
Attachment B: Scoring Summary

Applicant Name:		#REF!		
Checklist of Application Questions Requesting Attachments				
Question		**Attachment Item Requested**		
	2.1	Most recent monitoring report for each grant listed in 1.1 in the last 3 years		
Application Question Sections				
Scoring Section	**Maximum Points**	**Points Received**	**Reviewer 1**	**Reviewer 2**
Part 1: Experience	**210**	**0**	**0**	**0**
Part 2: Prior Performance	**Deductions To Be Determined**	**0**	**0**	**0**
Part 3: Efficiency	**160**	**0**	**0**	**0**
Part 4: Proposed Employment and Education Services/Activities	**845**	**0**	**0**	**0**
Maximum Points=1215				
Final Score (Minimum Score = 607)**		**0**	**0**	**0**

***The Self-Score column on Attachment B Parts 1-4 are to be completed by the Applicant; however, the Department does not base its scoring of the application on the Applicant's self-score. ***

***The Department reserves the right to reject applications with a score below 50% of the maximum eligible points. See Section VI of the NOFA for further details.*

****TDHCA reserves the right to request further information related to the application for clarification purposes during the scoring review period.****

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BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning related properties Villa Elaina (HTF 853338 / CMTS 4210) and The Cornerstone (HTF 1000358 / CMTS 4319)

RECOMMENDED ACTION

WHEREAS, Villa Elaina, owned by Mary Lee Foundation, has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, The Cornerstone, owned by Mary Lee Community, has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, Mary Lee Community is a nonprofit organization created to operate in support of the parent nonprofit, the Mary Lee Foundation;

WHEREAS, representatives of MLF Owner and MLC Owner have attended multiple informal conferences and signed a prior Agreed Final Order for Villa Elaina on 9/24/2015 relating to 2014 Uniform Physical Condition Standards inspection violations;

WHEREAS, because fully acceptable corrections were received, that 2015 Agreed Final Order stipulated that violations had occurred and were not timely corrected, but assessed no administrative penalty;

WHEREAS, TDHCA identified findings of noncompliance during its regularly scheduled 2021 desk monitoring reviews and referred them for an administrative penalty when they were not timely corrected;

WHEREAS, unresolved compliance findings for The Cornerstone include failure to properly implement the Tenant Rights and Resources Guide, three household income findings relating to households that were not properly screened for occupancy, and failure to implement an updated utility allowance;

WHEREAS, unresolved compliance findings for Villa Elaina include failure to properly implement the Tenant Rights and Resources Guide, two household income findings relating to households that were not properly screened for occupancy, failure to ensure that all units are occupied by special needs households, failure to meet additional state required rent and occupancy restrictions for three units at 30% of Area Median Income and corresponding rent levels, and failure to implement an updated utility allowance;

WHEREAS, on November 16, 2021, Owner's representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order for each property, in the aggregate total of $11,250;

WHEREAS, the Agreed Final Order for The Cornerstone assesses an administrative penalty of $4,900, of which 25% is to be paid within thirty days of approval, and the remaining 75% is to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before February 28, 2022, and if property management attends Income Determination Training and Compliance Training no later than February 28, 2022;

WHEREAS, the Agreed Final Order for Villa Elaina assesses an administrative penalty of $6,350, of which 25% is to be paid within thirty days of approval, and the remaining 75% is to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before February 28, 2022, and if property management attends Income Determination Training and Compliance Training no later than February 28, 2022; and

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

NOW, therefore, it is hereby

RESOLVED, that Agreed Final Orders assessing administrative penalties of $4,900 for noncompliance at The Cornerstone and $6,350 for noncompliance at Villa Elaina, subject to partial forgiveness as outlined above, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Mary Lee Foundation is the owner of Villa Elaina, a low income apartment complex composed of 22 units, located in Austin, Travis County. Villa Elaina is subject to a Land Use Restriction Agreement ("Villa Elaina LURA") signed in 2004 in consideration for a State Housing Trust Fund loan in the original amount of $116,743 to rehabilitate the Property. The current principal balance on the loan is $53,504.45, and the Villa Elaina LURA will expire in 2059. The Foundation was founded by Charlene Crump in 1963, and records of the Texas Secretary of State list the following members and officers: Bill Martin (Director), Beth Weber (Director), Mike Peays (Director), Wayne Johnson (President), Charlene Crump (Vice President and Secretary). CMTS lists William J. Whitley as the primary contact for the owner and management. The property is self-managed.

Mary Lee Community is a nonprofit organization organized in 2000 to support the parent nonprofit, Mary Lee Foundation, by owning real estate. It is the owner of The Cornerstone, a low income apartment complex composed of 30 units, of which 8 are restricted, located in Austin, Travis County. The Cornerstone is subject to a Land Use Restriction Agreement ("Cornerstone LURA") signed in 2005 in consideration for a State Housing Trust Fund loan in the original amount of $39,624 to rehabilitate the Property. This loan has been paid off, and the Cornerstone LURA will expire in 2035. Records of the Texas Secretary of State indicate the following members and officers for Mary Lee Community: Wallace Van Wyk (Director and President), Charlene Crump (Director, Secretary, and Treasurer), Gloria Wilburn (Director), John Meinkowsky (Director), and David Bravo (Director). CMTS lists Charlene Crump as the primary contact for the owner, and William J. Whitley as the primary contact for management. The property is self-managed.

The properties have been referred for an administrative penalty previously for reporting violations, file monitoring violations, and UPCS violations, but management has typically submitted full corrections to revolve noncompliance before an informal conference is set. An Agreed Final Order was signed in 2015 for UPCS violations at Villa Elaina; full corrections for those violations were received shortly before the 2015 informal conference, and the Agreed Final Order stipulated that violations occurred and were not timely corrected, but recommended no penalty assessment since findings were corrected and no orders had previously been signed. The property manager then retired in 2019, and the quality of corrections and responsiveness has declined. The current property manager is submitting late and insufficient corrective documentation, frequently submitting unrequested documents repeatedly rather than following staff instructions. This property manager was hired in August of 2019 and admitted during the 2021 informal conference that he was very confused about TDHCA file monitoring requirements. He attended one training course in February of 2020, but he did not attend further trainings due to the pandemic. However, TDHCA trainings were held online during the pandemic. Property manager does not appear to be supervised by ownership. No plan for improvement was provided by management or owner representatives during an informal conference held on November 16, 2021, though they did commit to attending training and stated that they intended to fully comply. After the conference, they also indicated that they were willing to hire an outside consultant to help correct their files.

The following new compliance violations were identified during 2021. They were referred for an administrative penalty and have been resolved:

The Cornerstone:

1. Failure to sign the appropriate Tenant Rights and Resources Guide acknowledgment form for units 124, 224, and 226;
2. Failure to implement an updated utility allowance.

Villa Elaina:

1. Failure to properly implement the Tenant Rights and Resources Guide at the management office, and failure to sign the appropriate Tenant Rights and Resources Guide acknowledgment form for units 103, 104, 106, 110, and 206; and
2. Failure to implement an updated utility allowance.

The following new compliance violations were identified during 2021. They were referred for an administrative penalty and have not been resolved:

The Cornerstone:

1. Failure to properly implement the Tenant Rights and Resources Guide at the management office, and failure to sign the appropriate Tenant Rights and Resources Guide acknowledgment form for units 125 and 127; and
2. Units 124, 125, and 226 not leased to low-income households; the households were not properly screened at initial occupancy and eligibility could not be determined; and

Villa Elaina:

1. Units 104 and 206 not leased to low-income households; the households were not properly screened at initial occupancy and eligibility could not be determined;
2. Failure to ensure that all units are occupied by special needs households; and
3. Failure to meet additional state required rent and occupancy restrictions for three units at 30% of Area Median Income and corresponding rent levels.

There are no health and safety hazards created by the current list of unresolved violations, but there are potential economic impacts if the units are occupied by unqualified households. The Department is currently unable to ascertain qualification for multiple units because files are incomplete. Additionally, Villa Elaina does not have enough units designated at the 30% AMI and rent level. They need to designate three more units, and will need to refund rents, which may represent a significant economic impact for those residents. Committee members did not feel that these violations are intentional, nor is the submission of incorrect documentation, but it was clear that the property manager needs training and supervision. The LURAs for both properties have long terms; in particular, the LURA for Villa Elaina does not expire until 2059. It is therefore critical to get ownership's attention now so that we can curb future violations. The recommended administrative penalties are the maximum allowed under the rule, but with a significant forgivable portion as an incentive to correct.

Owner representatives participated in an informal conference with the Enforcement Committee on November 16, 2021, and agreed to sign two separate Agreed Final Orders with the following terms:

1. A $4,900 administrative penalty for The Cornerstone, with 25% ($1,225) to be paid at signing and the remaining 75% ($3,675) to be forgiven if all violations are addressed as indicated in the Agreed Final Order and full documentation of corrections is submitted on or before February 28, 2022.
2. A $6,350 administrative penalty for Villa Elaina, with 25% ($1,587.50) to be paid at signing and the remaining 75% ($4,762.50) to be forgiven if all violations are addressed as indicated in the Agreed Final Order and full documentation of corrections is submitted on or before February 28, 2022.
3. Property management must attend the following courses and submit completion certificates on or before February 28, 2022[1]:
   a. Income Determination Training; and
   b. Housing Tax Credit Compliance Training.
4. If the owner complies with all requirements and addresses all violations as required by the Agreed Final Order, the designated portion of the administrative penalty will be forgiven; and
5. If the owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a partially probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of $4,900 for The Cornerstone and $6,350 for Villa Elaina are recommended. These will be reportable items of consideration under previous participation for any new award to the principals of the owner.

[1] *This deadline is later because while Income Determination Training is offered in December, Compliance Training will not be held again until the middle of February. The Compliance Training course is not vital to fixing the above findings, but is important for operating the property in a compliant manner going forward. Therefore, the two deadlines are different.*

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
MARY LEE COMMUNITY	§	TEXAS DEPARTMENT OF
	§	
WITH RESPECT TO	§	HOUSING AND COMMUNITY
THE CORNERSTONE	§	AFFAIRS
	§	
(HTF 1000358 / CMTS 4319)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 9th day of December, 2021, 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 **MARY LEE COMMUNITY,** 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 2005, Respondent received a monthly amortizing State Housing Trust Fund loan in the amount of $39,624 to build and operate The Cornerstone (Property) (HTF No. 1000358 / Loan No. 7001000358 / CMTS No. 4319 / LDLD No. 239).

2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective February 24, 2005, and filed of record at Document Number 2005037118 of the Official Public Records of Real Property of Travis County, Texas (Records).

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

Compliance Violations[2]*:*

4. An on-site monitoring review was conducted on January 27, 2021, 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 2, 2021, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

   a. Respondent failed to implement the current version Tenant Rights and Resources Guide, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.

   b. Respondent failed to provide the current Tenant Rights and Resources Guide and get a signed Acknowledgment for units 124, 125, 217, 224 and 226, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. This violation was corrected for units 124, 224, and 226 after referral for an administrative penalty. Units 125 and 127 remain uncorrected.

   c. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 124, 124, and 226, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), 10 TAC §10.612 (Tenant File Requirements), which describes file requirements, and a violation of Section 2.2 of the LURA, which requires screening of tenants to ensure qualification for the program.

   d. Respondent failed to implement an updated utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. The Unit Status Report was updated with the correct utility allowance after referral for an administrative penalty.

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[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.

5. The following violations remain outstanding at the time of this order:
    a. Tenant Rights and Resources Guide leasing violations described in FOF #4a and 4b; and
    b. Household income 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 Chapter 2.

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

3. Respondent violated leasing requirements in 10 TAC §10.613 in 2021, by failing to implement the current version of the Tenant Rights and Resources Guide by posting that guide in a common area of the leasing office.

4. Respondent violated leasing requirements in 10 TAC §10.613 in 2021, by failing to provide a current Tenant Rights and Resources Guide for five units and have the households sign the current acknowledgment form.

5. Respondent violated 10 TAC §10.611, 10 TAC §10.612, and Section 2.2 of the LURA in 2021, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for three units.

6. Respondent violated 10 TAC § 10.614 in 2021 by failing to properly calculate a utility allowance.

7. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.

8. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

9. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.

10. An administrative penalty of $4,900 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 $4,900, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a $1,225 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 the Department via CMTS on or before February 28, 2022.

IT IS FURTHER ORDERED that property management staff, shall attend Income Determination Training and HTC Compliance Training offered by TDHCA and submit completion certificates to the Department via CMTS on or before February 28, 2022.

IT IS FURTHER ORDERED that the training completion deadline above may be adjusted by TDHCA staff since the training course schedule for 2022 has not yet been finalized.

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 $3,675, 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 $3,675 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 11th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on ___December 9___, 2021.

By: ______________________________
Name: Leo Vasquez
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 _______ §

Before me, the undersigned notary public, on this 9th day of December, 2021, personally appeared Leo Vasquez, 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 9th day of December, 2021, 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 ______________________________ *(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 ________________________, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of ___________________ for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

MARY LEE COMMUNITY, a Texas nonprofit corporation

By: ______________________________

Name: ______________________________

Title: ______________________________

Given under my hand and seal of office this ______ day of ____________, 20__.

____
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

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

   FAQ's: http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm

4. **All corrections must be submitted via CMTS:** See link for steps to upload documents http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf.

5. **Important notes -**

   a. Do not backdate any documents listed below.

   b. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

Instructions:

9. **Lease violation for Tenant Rights and Resources Guide (property-wide):** Based upon documentation received, Respondent is using both the current Tenant Rights and Resource Guide from 2017 as well as the previous version from 2015. The only allowable version is the 2017 version that is located on the Department's website, https://www.tdhca.state.tx.us/pmcomp/forms.htm. Complete the Guide with the required information as per the Land Use Restriction Agreement (LURA).

   To correct, upload a copy of the current completed Guide and evidence that a laminated version is posted in the leasing office.

10. **Lease violation for Tenant Rights and Resources Guide (Units 125 and 217):** Both affected households moved out before signing the required lease documentation.

    To correct, occupy units with qualifying households with properly documented income and assets, and upload full tenant files to the Department, including a copy of the application, third party or firsthand documentation verifying all sources of income and assets, Income Certification, Lease and Lease Addenda, and the Tenant Rights and Resources Guide Acknowledgement. Remember that the Tenant Rights and Resources Guide Acknowledgement must use the 2017 form version.

    In the event that the unit remains vacant at the time of the deadline, follow the instructions at page 10 of this Agreed Final Order.

11. **Household income above limit upon initial occupancy for units:** Follow the instructions below with respect to units 124, 125, 226, and submit documentation.

Unit 124: The Head of Household with a move-in date of 4/1/2020 disclosed in the application a money market account and real estate that were not verified. If this household remains in the unit, verify the money market account with Robinhood Financial, verify the Real Estate, and update the executed Income Certification. Upload the verified asset documentation and updated Income Certification to the Department for review. If the household's circumstances have changed, a current certification can be performed. In either scenario, upload the following documentation for review: household(s) application, income and asset documentation, first and signatory pages of the lease contract, applicable lease addenda and the acknowledgment page of the Tenant Rights and Resources Guide. If the household does not qualify or the household has vacated, see instructions at page 10.
Unit 125: Household that triggered the finding has vacated. See instructions at page 10.
Unit 226: Head of household with a move-in date of 1/1/2021 disclosed income of $600 per month from a rental property. This real estate and rental income was not verified. Additionally, the household has a live-in aide, but no documentation was in the file to determine the need for a live-in aid. Verify the real estate and rental income from the real estate. Update the executed Income Certification and submit to the Department for review along with the asset documentation. If the household's circumstances have changed, a current certification can be performed. In either scenario, submit the following documentation to the Department for review: household(s) application, income and asset documentation, first and signatory pages of the lease contract, applicable lease addenda and the acknowledgment page of the Tenant Rights and Resources Guide. In addition, submit the verification for a live-in aide by providing a physician or health care provider's verification of the need for a live-in-aide as a reasonable accommodation. If the household does not qualify or the household has vacated, see instructions on the following page.

If the original household does not qualify or the household has vacated, follow the instructions on the next page

If the original household does not qualify or has vacated, follow these instructions and submit documentation:

Circumstance	Instruction
I. If unit is occupied by a new qualified household	Submit the full tenant file*.
II. If unit is occupied by a nonqualified household with a non-expired lease	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; 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 2/28/2022 is acceptable for this circumstance provided that Requirement A above is fulfilled by that deadline.
III. If unit has been vacant *more than* 30 days	A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA. 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 2/28/2022 is acceptable for this circumstance provided that Requirement A above is fulfilled by that deadline.
IV. If unit has been vacant *less than* 30 days	A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA. 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). 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 2/28/2022 is acceptable for this circumstance provided that Requirements A and B above are fulfilled by that deadline.

** A full tenant file must include A-E below. Technical support is at Exhibit 2.*

A. Tenant application;
B. Verifications of all sources of income and assets;
C. Tenant income certification;
D. Lease and lease addendum; and
E. Tenant Rights and Resources Guide Acknowledgment.

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 10.802(g)*

Exhibit 2

Tenant File Guidelines

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

**Important Note* The application, verifications of income and assets, and Tenant Income Certification (1 – 5 below) must be signed within 120 days of one another. If one component is outside of that time frame, you must recertify.*

1. **Intake Application:** Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose. All households must be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with "none" or "n/a." The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a "Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs" that includes the additional requirements. TDHCA also has an application form that you can use; using our form is not required for the application, but it does screen for all requirements.
2. **Release and Consent**: Have tenant sign TDHCA's Release and Consent form so that verifications may be collected by the property.
3. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
    a. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan (at least two months' worth of check stubs for HOME, NHTF, NSP, and TCAP RF);
    b. **Employment Verification Form**: Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
    c. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) would be acceptable for social security and/or employment benefits. Acceptable verifications for child support could include documents such as divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;

d. **Telephone Verifications**: These are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature. These are appropriate if there is an unusual circumstance relating to the tenant file;

e. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.

4. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
   a. **First hand verifications** such as bank statements to verify a checking account. Ensure that you collect at least six months' worth of checking account statements. For savings accounts, collect a statement showing the account balance as of the income certification date.
   b. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.

5. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member.

6. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. Additionally,

certain programs must include a Lead Warning Statement and the TDHCA VAWA lease addendum, per 10 TAC 10.613(f) and (h). TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above. For Section 811 units, you must use the HUD Model Lease, HUD form 92236-PRA.

7. **Tenant Selection Criteria:** In accordance with 10 TAC §10.610(b), you must maintain written Tenant Selection Criteria and a copy of those written criteria under which an applicant was screened must be included in the household's file.

8. **Tenant Rights and Resources Guide:** In accordance with 10 TAC §10.613(l), you must customize the guide for your property and post a laminated copy in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The guide includes:

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

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

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 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 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. 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 paragraphs (1) and (2) of this subsection 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. 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 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 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 Requirements 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).

Source Note: The provisions of this §10.406 adopted to be effective February 5, 2020, 45 TexReg 722

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
MARY LEE FOUNDATION	§ §	TEXAS DEPARTMENT OF
WITH RESPECT TO	§	HOUSING AND COMMUNITY
VILLA ELAINA	§ §	AFFAIRS
(HTF 853338/ CMTS 4210)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 9th day of December, 2021, 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 **MARY LEE FOUNDATION,** 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 2004, Respondent received a monthly amortizing State Housing Trust Fund loan in the amount of $116,743 to rehabilitate and operate Villa Elaina (Property) (HTF file 853338 / Loan No. 700853338/ CMTS No. 4210 / LDLD No. 299). A Predevelopment

Housing Trust Fund loan in the amount of $19,244 was also provided in 2003 (Predevelopment Loan No. 8510200009).

2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective February 26, 2004, and filed of record at Document Number 2004035861 of the Official Public Records of Real Property of Travis County, Texas (Records), as amended by a First Amendment executed on February 29, 2012, and filed in the Records at Document Number 2012053160.

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

Compliance Violations[3]:

4. Property has a history of violations and previously signed an Agreed Final Order on May 24, 2015, stipulating that violations had occurred and were not timely corrected, but assessing no administrative penalty.

5. An on-site monitoring review was conducted on January 28, 2021, 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 2, 2021, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

    a. Respondent failed to implement the current version Tenant Rights and Resources Guide, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. This violation was corrected after referral for an administrative penalty.

    b. Respondent failed to provide the current Tenant Rights and Resources Guide and get a signed Acknowledgment for units 103, 104, 106, 110, 206, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. This violation was corrected after referral for an administrative penalty.

    c. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 104 and 206, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual

[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.

Income), 10 TAC §10.612 (Tenant File Requirements), which describes file requirements, and a violation of Section 2.2 of the LURA, which requires screening of tenants to ensure qualification for the program.

d. Respondent failed to designate units 108, 201, and 202 as special needs housing and provide supporting documentation, a violation of Section 2.2 of the LURA, which requires all units to be available for occupancy by a Special Needs Individual or Special Needs Family, and a violation of 10 TAC §10.618(c)(4) (Onsite Monitoring), which requires provision of documentation deemed necessary by the Department. Such documentation would include support for additional property-specific LURA requirements, such as Special Needs designations for each household in order to comply with this LURA.

e. Respondent failed to meet additional state required rent and occupancy restrictions for units 103, 106, and 110, a violation of Section 3.1(a) of the LURA, which requires eleven units to have households with an income at or below 30% of the income limit for household size and a gross rent restricted to the 30% limit for bedroom size; a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), which provides for certification and designation of households; and a violation of 10 TAC §10.622 (Special Rules Regarding Rents and Rent Limit Violations), which requires refunds for overcharged rents.

f. Respondent failed to implement an updated utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. The Unit Status Report was updated with the correct utility allowance after referral for an administrative penalty.

6. The following violations remain outstanding at the time of this order:

a. Household income violations described in FOF #5c;

b. Special needs violations described in FOF #5d; and

c. Additional state required rent and occupancy restriction violations described in FOF #5e.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC Chapter 2.

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

3. Respondent violated leasing requirements in 10 TAC §10.613 in 2021, by failing to implement the current version of the Tenant Rights and Resources Guide by posting that guide in a common area of the leasing office;

4. Respondent violated leasing requirements in 10 TAC §10.613 in 2021, by failing to provide a current Tenant Rights and Resources Guide for five units and have the households sign the current acknowledgment form;

5. Respondent violated 10 TAC §10.611, 10 TAC §10.612, and Section 2.2 of the LURA in 2021, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for two units;

6. Respondent violated Section 2.2 of the LURA and 10 TAC §10.618(c)(4) by not ensuring the designation of all households as special income and not providing supporting documentation;

7. Respondent violated Section 3.1(a) of the LURA, 10 TAC §10.611, and 10 TAC §10.622 in 2021, by failing to meet additional state required rent and occupancy restrictions for three units;

8. Respondent violated 10 TAC § 10.614 in 2021 by failing to properly calculate a utility allowance;

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 $6,350 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 $6,350, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a $1,587.50 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 the Department via CMTS on or before February 28, 2022.

IT IS FURTHER ORDERED that property management staff, shall attend Income Determination Training and HTC Compliance Training offered by TDHCA and submit completion certificates to the Department via CMTS on or before February 28, 2022.

IT IS FURTHER ORDERED that the training completion deadline above may be adjusted by TDHCA staff since the training course schedule for 2022 has not yet been finalized.

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 $4,762.50, 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 $4,762.50 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 11th 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 9___, 2021.

By: ______________________
Name: Leo Vasquez
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 _______ §

Before me, the undersigned notary public, on this 9th day of December, 2021, personally appeared Leo Vasquez, 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 9th day of December, 2021, 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 ______________________________*(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 ________________________, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of ___________________ for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

MARY LEE FOUNDATION, a Texas nonprofit corporation

By: ______________________________

Name: ______________________________

Title: ______________________________

Given under my hand and seal of office this ______ day of ____________, 20__.

____
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
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

   FAQ's: http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm
4. **All corrections must be uploaded via CMTS:** See link for steps to upload documents http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf.
5. **Important notes -**
   a. Do not backdate any documents listed below.
   b. A transfer of a qualified household from another unit is not sufficient to correct any findings.

Instructions:

6. **Special Needs Housing (Units 108, 201, 202)**:

   Units 201 and 202: Special Needs Certifications were received, certifying that both units are special needs, but the Unit Status Report does not designate these units as special needs. Update the Unit Status Report in CMTS to designate both units as special needs.

   Unit 108: A Special Needs Certification was received, but it was blank and therefore does not certify the unit as special needs. Upload a completed Special Needs Certification or alternate documentation demonstrating the special needs status to CMTS and update the Unit Status Report in CMTS to designate the special needs status. A Special Needs Certification is the easiest way to document special needs status, but you may upload alternate documentation of their special needs status from any point since move- in. Some examples of alternate documentation:
   a. Income Certification form, Part VIII Household Demographics includes a "Disabled" column that can verify disability status if it is checked and the form is signed and dated;
   b. Annual Eligibility Certification, Part II Household Composition includes a "Disabled" column that can verify disability status if it is checked and the form is signed and dated;
   c. An eligibility letter for Social Security disability benefits can verify disability status;
   d. Income Certification form, Part II Household Composition includes a "Date of Birth" column that might document the age of a resident that is aged 60 or older if the form is signed and dated;
   e. Copy of an identification card to document that a resident is aged 60 or older;
   f. A doctor's note regarding disability status; and/or

g. Documentation (including a self-certification) supporting any of the special needs categories listed under Section 2.2(a) of the LURA.

7. **Household income above limit upon initial occupancy for units:** Previously submitted documentation does not meet the threshold for Corrective Action. Follow the instructions below with respect to units 104 and 206, and upload documentation.

Unit 104: The Head of Household (McCann) disclosed on his application that he was in the process of selling his house; however the real estate asset was not verified or clarified and the monitor was unable to determine eligibility. Property management submitted a partial recertification on 10/26/2021, but it did not correct the real estate issue. Manager then sent an explanation on 11/12/2021, saying the real estate was owned by a daughter, but property records do not support that statement.

TDHCA has reviewed the county real estate records. 106 Drover Circle, Wimberley, TX 78676 was owned by this household as of move-in on 4/1/2020. The property was sold to SkayP, LLC on 6/15/2020. This means that the fair market value of the real estate should have been included in the household's assets at move-in. Since assets exceeded $5,000 at the time of move-in, the Under $5,000 Asset Certification form may not be used and each asset must be individually verified.

<u>To correct</u>, choose either Option 1 or Option 2, and upload documentation.

<u>Option 1</u>: To correct as of the move-in date of 4/1/2020, upload all of the following:

a. Checking account statements for accounts 7739 and 1978 for the periods covering 10/1/2019 through 4/1/2020;
b. Savings account statements for accounts 9620 and 8929, showing the account balances as of 4/1/2020;
c. Verifications of any other household assets as of 4/1/2020; and
d. No further documentation is needed for the real estate asset; TDHCA will use county appraisal district and county clerk data, proving ownership by the head of household as of 4/1/2020.

<u>Option 2</u>: Certify the household under current circumstances and upload all of the following:

a. Application* based upon current circumstances;
b. Verifications*:
    1. Income: All sources of income for both household members.
    2. Assets: All sources of assets for both household members. For checking accounts, you must provide six months' worth of consecutive statements. For savings accounts, you must provide a statement that shows the balance during the period being certified. Ensure that accounts 7739, 1978, 9620, and 8929 are included, along with all other current assets.
c. Income Certification*;
d. First and signatory pages of the current lease;
e. Applicable lease addenda; and
f. Acknowledgment page of the 2017 version of the Tenant Rights and Resources Guide.

**The application, verifications, and Income Certification work together and must be dated within 120 days of one another. Do not backdate any documents. Technical support regarding tenant files is at Exhibit 2.*

Unit 206: The Taylor household that moved in 9/1/2020 had assets that were not properly verified. Verifications in the file were dated over 120 days from the date of move-in, including a Chase Account, a Vanguard Account, and a Velocity Account. TDHCA requested copies of asset documentation within 120 days of move-in.

On 10/26/2021, TDHCA received a partial tenant file, including a lease dated 9/1/2021 and a note regarding M. Taylor moving out on 9/1/2021. TDHCA misunderstood and thought this was a new household. Upon further review, it appears that M. Taylor moved out of the unit on 9/1/2021, but A. Taylor remains in the unit and renewed her lease on 9/1/2021. The file submitted on 10/26/2021 was also incomplete. Problems include: No application was provided; M. Taylor's birthdate was accidentally used for A. Taylor; no assets were verified; Tenant Rights and Resources Guide Acknowledgment is the old 2015 form instead of the 2017 version.

To correct, you must certify the household under current circumstances and upload:

a. Application* for A. Taylor, using current circumstances;
b. Verifications* of all sources of income and assets:
    1. Income: Include the social security benefits letter;
    2. Assets: Verify A. Taylor's checking and savings accounts. For checking accounts, you must provide six months' worth of consecutive statements. For savings accounts, you must provide a statement that shows the balance during the period being certified.
c. Income Certification* (remember to correct her birthdate when you redo this form);
d. First and signatory pages of the current lease for A. Taylor;
e. Applicable lease addenda; and
f. Acknowledgment page of the 2017 version of the Tenant Rights and Resources Guide.

**The application, verifications, and Income Certification work together and must be dated within 120 days of one another. Do not backdate any documents. Technical support regarding tenant files is at Exhibit 2.*

8. **Additional state required rent and occupancy restrictions (Units 103, 106, 100)**: Previously submitted documentation does not meet the threshold for Corrective Action.
    a. **Unit 103:** The household was not found to meet the income or rent limits as designated at the 30% limits. To correct, Respondent must identify *an additional unit* at the Development that does meet the income and rent limits at 30% and upload this tenant file to the Department for review. The Unit Status Report (USR) must also be updated to reflect this newly designated 30% unit.
    b. **Units 106 and 110:** The households in units 106 and 110 were found to have rents that exceeded the 30% limit. Respondent must reduce the rents for these units to the 30% limit, update the tenant lease contracts and the USR to show the new rents, notify the households of the rent change, and refund overcharged rents to the households. To correct, submit the updated USR and upload updated leases reflecting the reduced rent, notification to the households of the reduction in rent, and copies of the cancelled checks to evidence that the overcharged rent has been refunded.

Exhibit 2

Tenant File Guidelines

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

**Important Note* The application, verifications of income and assets, and Tenant Income Certification (1 – 5 below) must be signed within 120 days of one another. If one component is outside of that time frame, you must recertify.*

1. **Intake Application:** Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose. All households must be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with "none" or "n/a." The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a "Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs" that includes the additional requirements. TDHCA also has an application form that you can use; using our form is not required for the application, but it does screen for all requirements.
2. **Release and Consent**: Have tenant sign TDHCA's Release and Consent form so that verifications may be collected by the property.
3. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
   a. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan (at least two months' worth of check stubs for HOME, NHTF, NSP, and TCAP RF);
   b. **Employment Verification Form**: Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
   c. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) would be acceptable for social security and/or employment benefits. Acceptable verifications for child support could include documents such as divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;

d. **Telephone Verifications**: These are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature. These are appropriate if there is an unusual circumstance relating to the tenant file;

e. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.

4. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
   a. **First hand verifications** such as bank statements to verify a checking account. Ensure that you collect at least six months' worth of checking account statements. For savings accounts, collect a statement showing the account balance as of the income certification date.
   b. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.

5. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member.

6. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. Additionally,

certain programs must include a Lead Warning Statement and the TDHCA VAWA lease addendum, per 10 TAC 10.613(f) and (h). TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above. For Section 811 units, you must use the HUD Model Lease, HUD form 92236-PRA.

7. **Tenant Selection Criteria:** In accordance with 10 TAC §10.610(b), you must maintain written Tenant Selection Criteria and a copy of those written criteria under which an applicant was screened must be included in the household's file.

8. **Tenant Rights and Resources Guide:** In accordance with 10 TAC §10.613(l), you must customize the guide for your property and post a laminated copy in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The guide includes:

    c) Information about Fair Housing and tenant choice; and
    d) Information regarding common amenities, unit amenities, and services.

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

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 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 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. 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 paragraphs (1) and (2) of this subsection 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. 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 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 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 Requirements 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).

Source Note: The provisions of this §10.406 adopted to be effective February 5, 2020, 45 TexReg 722

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BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Mission Pointe Club f/k/a Country Villa (HTC 91040 / CMTS 958)

RECOMMENDED ACTION

WHEREAS, Mission Pointe Club, owned by related organizations ACA Mission, LLC and PA Mission Pointe, LLC (collectively the "Owner"), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, representatives of Owner signed a prior Agreed Final Order in 2017 relating to file monitoring findings identified during a 2016 onsite monitoring review;

WHEREAS, that prior Agreed Final Order was violated and a penalty of $1,250 was paid;

WHEREAS, TDHCA identified new findings of noncompliance during its regularly scheduled 2021 desk monitoring review and referred them for an administrative penalty when they were not timely corrected;

WHEREAS, on November 10, 2021, Owner's representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of $5,000, with $2,500 to be paid within 30 days of signature and the remaining $2,500 to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before February 7, 2022;

WHEREAS, currently unresolved compliance findings that are eligible for an administrative penalty include one program unit that exceeded the income limit at initial occupancy, failure to implement a properly calculated utility allowance, and overcharged rents for seven units as a result of the improperly calculated utility allowance;

WHEREAS, additional unresolved compliance findings that are not eligible for an administrative penalty but remain unresolved from past monitoring reviews include failure to affirmatively market, and failure to implement written policies and procedures meeting minimum standards; and

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

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of $5,000, subject to partial forgiveness as outlined above, for noncompliance at Mission Pointe Club f/k/a Country Villa (HTC 91040 / CMTS 958), 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

ACA Mission, LLC and PA Mission Pointe, LLC (collectively, "Owner") are the owners of Mission Pointe Club f/k/a Country Villa ("Property"), a low income apartment complex composed of 260 units, located in Tarrant County. Records of the Texas Secretary of State list the following members and/or officers for both organizations: Asa Cascavilla and Philip Cascavilla. CMTS lists Asa Cascavilla as the primary contact for Owner. The property is self-managed. Regional supervisor for owner is Beyanca Martinez.

The Property is subject to a Land Use Restriction Agreement (LURA) signed by a prior owner in 1993 in consideration for a housing tax credit allocation in the annual amount of $315,350 to acquire, rehabilitate and operate the Property. PA Mission Pointe, LLC acquired the property in 2009, and transferred 50% of the property to a related entity, ACA Mission, LLC in 2010. The LURA remains in effect per Section 2 of the LURA which stipulates that its restrictions run with the land.

Owner was previously referred for an administrative penalty in 2013, for failure to provide adequate documentation that household incomes were within prescribed limits upon initial occupancy for six units. Corrections were submitted after an administrative penalty informal conference was set. The referred violations were resolved as required and the 2013 administrative penalty referral was closed informally with a warning letter.

In 2017, an Agreed Final Order calling for an administrative penalty in the amount of $1,250 was signed. Of that, $500 was payable at signing and the remainder was to be fully deferred and forgiven provided that Owner met the requirements of the Agreed Final Order. The Order included violations for failure to submit pre-onsite documentation, and failure to respond to a request for monitoring, which had subcomponents for failure to submit an affirmative marketing plan, compliant written policies and procedures, utility allowance, and tenant files for seven units. Owner signed the order and submitted corrective documentation, but did not fully comply and the full penalty was paid.

The following new compliance violations were identified during 2021. They were then referred for an administrative penalty and have been resolved:

1. Failure to provide pre-onsite documentation; and
2. Household income violations for units 440 and 214.

The following new compliance violations were identified during 2021. They were then referred for an administrative penalty and have not been resolved:

1. Household income violation for unit 465;
2. Failure to properly calculate the utility allowance; and
3. Gross rent violations for seven units, caused by the miscalculated utility allowance.

The following unresolved prior noncompliance was checked again during the 2021 monitoring review and remains unresolved, but is not currently eligible for consideration for an administrative penalty because these items were previously penalized and are no longer monitored by the Compliance Monitoring Division. They are now monitored by the Fair Housing group, which is aware of the findings. The Enforcement Committee has requested correction, but did not include these findings in the 2021 Agreed Final Order.

1. Failure to provide complete written policies and procedures; and
2. Failure to maintain an Affirmative Marketing Plan and evidence of associated marketing efforts.

Owner participated in an informal conference with the Enforcement Committee on November 10, 2021, and agreed to sign an Agreed Final Order with the following terms:

1. A $5,000 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must submit $2,500 portion of the administrative penalty on or before January 10, 2022;
3. Owner must correct file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before February 7, 2022;
4. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of $2,500 will be forgiven; and
5. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Overall, this case is a matter of balancing factors for the Enforcement Committee. The Owner has violated a past order, but is willing to comply and has implemented improvements this year.

The LURA will expire December 31, 2022, and the Committee agreed that we should incentivize settlement and voluntary correction prior to expiration. The violation for the over-income household in unit 465 is serious, but it was one of the first move-ins handled by a new property manager. The household vacated on November 3 upon lease expiration, and new software has been implemented to prevent recurrence. Management has attended Income Determination Training, and regional management will be performing a supervisory check of tenant files going forward. The gross rent violations for seven units are also serious, and although the actual overcharged amounts on a monthly basis appear to be small - approximately $10 per month in most cases - the accumulated impact over a number of months is significant for low income residents. With that said, Committee members did not think that Owner was intentionally overcharging residents. The overcharge stems from a utility allowance calculation problem that was clarified with owner in November by providing sample unit calculations in a more visual way, and owner has now agreed to refund as required. There is also a $5 pest control fee that contributed to the overcharge. Owner and management thought the gross rent violation was a matter of semantics, but did not contact TDHCA to clarify until November, after referral for a penalty. The property pays all utilities except for electricity, then they charge $55 to residents for utilities as a component of the rent, rather than fully separating all utilities into a utility allowance as required for Post-15 year properties. By providing sample calculations, TDHCA staff was able to show them that there is an overcharge under their theory and under the rule. The property has reduced rents going forward, but has not yet refunded overcharged rents. This same rent problem has now been identified for an additional 202 units, which are within the original corrective action period that will expire January 1, 2022, but may receive an extension if requested for good cause. After that date, those 202 findings will also be eligible for an administrative penalty. The Committee's hope is that the initial seven units will be corrected soon and can be used as a template for the additional 202 units, but further penalties are possible.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of $5,000 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 PA MISSION POINTE LLC AND PA MISSION POINTE, LLC WITH RESPECT TO MISSION POINTE CLUB (FKA) COUNTRY VILLA (HTC FILE # 91040 / CMTS # 958)	§ § § § § § § § §	BEFORE THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 9th day of December, 2021, 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 **PA MISSION POINTE LLC,** a Texas limited liability company and **PA MISSION POINTE, LLC**, a Texas limited liability company (collectively, 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 1993, Tarrant Country Villa Associates, LP ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of $315,351 to acquire, rehabilitate and operate Mission Pointe Club (fka) Country Villa (Property) (HTC file No. 91040 / CMTS No. 958 / LDLD No. 404).

2. Prior Owner signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective February 26, 1993, and filed of record at Volume 10964, Page 0298 of the Official Public Records of Real Property of Tarrant County, Texas ("Records").

3. PA Mission Pointe, LLC purchased the Property on June 24, 2009 and transferred 50% of the property to related entity, ACA Mission, LLC, on July 30, 2010. Respondent is bound to the terms of the LURA in accordance with Section 2 thereof.

4. In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.

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

Compliance Violations[1]:

6. Property has a history of violations and previously signed an Agreed Final Order in 2017, agreeing to a $1,250 Administrative Penalty. This Order was violated and uncorrected violations include: failure to provide complete written policies and procedures, and failure to maintain an affirmative marketing plan and evidence of associated marketing efforts.

7. An on-site monitoring review was conducted on February 22, 2021, 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 June 9, 2021, corrective action deadline was set. Corrections were submitted timely, but additional findings were identified during the review of those documents, and a corrective action deadline was set for November 2, 2021. The following violations were not resolved before the applicable corrective action deadlines and were referred for an administrative penalty:

    a. Respondent failed to submit pre-onsite documentation, a violation of 10 TAC §10.607 (Reporting Requirements) and §10.618 (Onsite Monitoring), which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review. Final documentation to correct this finding was submitted September 24, 2021.

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[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.

b. Respondent failed to provide complete documentation proving that household incomes were within prescribed limits upon initial occupancy for units 214 and 440, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), 10 TAC §10.612 (Tenant File Requirements), and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. Both violations were corrected with new households on September 24, 2021.

c. Household income for unit 465 exceeded income limits upon initial occupancy, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), 10 TAC §10.612 (Tenant File Requirements), and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. The affected household moved out in November of 2021.

d. Respondent failed to implement a properly calculated utility allowance, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. It is also a violation of 10 TAC §10.623(b)(7), which requires utilities paid to an owner[2] to be accounted for in the utility allowance for housing tax credit properties after the end of the Compliance Period. The current utility allowance that must be implemented is $91 for a one-bedroom unit and $122 for a two-bedroom unit.

e. Respondent collected gross rents that exceeded income limits as a result of the miscalculated utility allowance and a mandatory pest control fee for units 146, 163, 214, 363, 440, 464, and 465. TDHCA publishes maximum rent limits for the tax credit program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding the maximum rent is a violation of 10 TAC §10.622 (Special Rules Regarding Rents and Rent Limit Violations) and 10 TAC §10.623 (Monitoring Procedures for Housing Tax Credit Properties after the Compliance Period).

[2] All utilities except for electricity are currently paid by Respondent, and households are charged a monthly utility fee allocated by unit.

8. The following violations remain outstanding at the time of this order:
   a. Household income violation described in FOF #7c;
   b. Utility allowance violation described in FOF #7d; and
   c. Gross rent violations described in FOF #7e.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC Chapter 2.

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.

4. Respondent violated 10 TAC §10.607 and §10.618 in 2021, by not submitting pre-onsite documentation in preparation for the monitoring review.

5. Respondent violated 10 TAC §10.611, 10 TAC §10.612, and Section 4 of the LURA in 2021, by failing to provide documentation that household income was within prescribed limits upon initial occupancy for three units.

6. Respondent violated 10 TAC §10.614 in 2021, by failing to implement a properly calculated utility allowance.

7. Respondent violated 10 TAC §10.622 and 10 TAC §10.623 in 2021, by collecting gross rents that exceeded income limits.

8. 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.

9. 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.

10. 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.

11. An administrative penalty of $5,000 is an appropriate penalty in accordance with 1 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 $5,000, subject to partial deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a $2,500 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 7, 2022.

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 $2,500, 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 $2,500 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 11th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on December 9, 2021.

By: ________________________________
Name: Leo Vasquez
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 ______ §

Before me, the undersigned notary public, on this 9th day of December, 2021, personally appeared Leo Vasquez, 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 9th day of December, 2021, 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, ____________________________, a notary public in and for the State of ___________, on this day personally appeared Philip Cascavilla, 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 Philip Cascavilla, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager / Director for ACA Mission, LLC. I am the authorized representative of ACA Mission, LLC, the co-owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

ACA MISSION, LLC,
a Texas limited liability company

By: ______________________________
Name: Philip Cascavilla
Title: Manager / Director

Given under my hand and seal of office this ______ day of ______________, 20__.

____
Signature of Notary Public

____
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF____________
My Commission Expires: ____________

STATE OF TEXAS §
§
COUNTY OF__________________ §

BEFORE ME, ______________________________, a notary public in and for the State of ____________, personally appeared Philip Cascavilla, 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 Philip Cascavilla, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager / Director for PA Mission Pointe, LLC. I am the authorized representative of PA Mission Pointe, LLC, the co-owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

PA MISSION POINTE LLC,
a Texas limited liability company

By: ____________________________

Name: Philip Cascavilla

Title: Manager / Director

Given under my hand and seal of office this ______ day of ______________, 20__.

____
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

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

   FAQ's: http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm

4. **All corrections must be submitted via CMTS:** See link for steps to upload documents http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf.

5. **Important notes** -
   i. Do not backdate any documents listed below.
   ii. A transfer of a qualified household from another unit is not sufficient to correct any findings.

Instructions:

6. **Household income above limit upon initial occupancy for unit 465:** The affected household has moved out. To correct as required:
   a. If the unit is occupied by a new qualified household as of 2/7/2022, submit the full tenant file*.
   b. If the unit is vacant as of 2/7/2022:
      i. Respondent must submit a letter by 2/7/2022 certifying that the unit is ready for occupancy; and
      ii. Respondent must occupy the unit by a qualified household, then submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/7/2022 is acceptable for this circumstance provided that Requirement "6.b.ii" above is fulfilled by that deadline.

**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; and
   E. Tenant Rights and Resources Guide Acknowledgment.

Remember that parts A-C must be dated within 120 days of one another.

See Exhibit 2 for technical support regarding tenant files.

7. **Utility Allowance**: Property is using the public housing authority schedule, but is miscalculating. The current utility allowance that must be implemented is $91 for a one-bedroom unit and $122 for a two-bedroom unit. To correct, update the Unit Status Report in CMTS by 2/7/2022 to implement those utility allowance numbers for all units.

8. **Gross rent violations for units 146, 163, 214, 363, 440, 464, and 465:** Violation was caused by a utility allowance miscalculation, and a $5 mandatory pest fee. To correct the findings, submit all of the following via CMTS by 2/7/2022:

    a. Update the Unit Status Report in CMTS to show the correct utility allowances calculated by TDHCA. The allowances in the unit status report must be $91 for a 1 bedroom unit and $122 for a 2 bedroom unit.

    b. Submit a spreadsheet with calculations showing the correct tenant paid rent amount for each unit listed above.

    The formula is Tenant paid rent + mandatory fees + utility allowance = gross rent limit.

    c. Calculate the rent refunds required for each unit above in a spreadsheet. Submit spreadsheet to TDHCA, along with rent ledgers for each unit.

    d. Amend each lease and submit copies to TDHCA, reflecting rent reduction.

    Note, lease amendments were submitted on 11/10/2021, but the new rents shown in those amendments appear to have similar errors as seen previously. For the sample unit 465 that was analyzed for you on 11/8/2021, the new lease amendment uploaded on 11/10/2021 shows a rent reduction to $826 per month. However, this will cause the compliance monitor to count $826 tenant paid rent + a utility allowance of $91 + a mandatory pest fee of $5, for a total of $922. The limit for this unit is $917. If the intention was to reduce to $821 tenant paid rent plus a $5 mandatory pest fee, please separate the two in the lease amendments so that TDHCA can accurately verify gross rents.

    e. Refunds must be issued, not credited to amounts owed to Respondent. Either:

        i. Submit copies of cancelled refund checks, proving that tenants received the refunds; or

        ii. Submit evidence of a trust account. If a household has moved out and cannot be located, the refund must be deposited into a trust account for the tenant per 10 TAC 10.622(e). 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.

Additionally, it would be the best practice to sign appropriate TAA water/sewer/garbage addenda for the $55 monthly utility reimbursement that is being separately billed by the property. This addendum does not need to be submitted to the Department for Mission Pointe because the amount will be included in the utility allowance.

Exhibit 2

Tenant File Guidelines

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

**Important Note* The application, verifications of income and assets, and Tenant Income Certification (1 – 5 below) must be signed within 120 days of one another. If one component is outside of that time frame, you must recertify.*

1. **Intake Application:** Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose. All households must be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with "none" or "n/a." The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a "Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs" that includes the additional requirements. TDHCA also has an application form that you can use; using our form is not required for the application, but it does screen for all requirements.
2. **Release and Consent**: Have tenant sign TDHCA's Release and Consent form so that verifications may be collected by the property.
3. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
    a. **Income Verification for Households with Section 8 Certificates (HTC only):** If you correctly use this form, you do not need to further verify income or assets, but you do need to collect all other components of the tenant file. This form is signed by the Public Housing Authority, verifying that the household is eligible at initial occupancy or at recertification. The form may only be used if the housing authority performed an income certification or recertification within 120 days of the effective date of the application that you collect (step 1 above) and the Income Certification form that is signed (step 5 below). If outside of that period, you must verify income and assets yourself.

    b. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan (at least two months' worth of check stubs for HOME, NHTF, NSP, and TCAP RF);

    c. **Employment Verification Form**: Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;

d. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) would be acceptable for social security and/or employment benefits. Acceptable verifications for child support could include documents such as divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;

e. **Telephone Verifications**: These are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature. These are appropriate if there is an unusual circumstance relating to the tenant file;

f. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.

4. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:

   a. **Under $5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than $5,000, as reported on the Intake Application, the TDHCA Under $5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.

   b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan (at least six months' worth of bank statements for HOME and HTF).

   c. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.

5. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member.

6. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at http://www.tdhca.state.tx.us/pmcomp/irl/index.htm When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. Additionally, certain programs must include a Lead Warning Statement and the TDHCA VAWA lease addendum, per 10 TAC 10.613(f) and (h). TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.

7. **Tenant Rights and Resources Guide:** As of 1/8/2015, the Fair Housing Disclosure Notice and Tenant Amenities and Services Notice have been replaced by the Tenant Rights and Resources Guide and its acknowledgment form, copies of which are available online at: http://www.tdhca.state.tx.us/pmcomp/forms.htm

   In accordance with 10 TAC §10.613(l), you must customize the guide for your property and post a laminated copy in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The guide includes:

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

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

   In the event that there is a prior finding for a Fair Housing Disclosure Notice, Tenant Amenities and Services Notice, the Tenant Rights and Resources Guide was not provided timely, or the household does not certify to receipt of the Tenant Rights and Resources Guide, resolution will be achieved by providing the household with the Tenant Rights and Resources Guide and receiving a signed acknowledgment.

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 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 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. 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 paragraphs (1) and (2) of this subsection 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. 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 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 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 Requirements 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).

Source Note: The provisions of this §10.406 adopted to be effective February 5, 2020, 45 TexReg 722

1v

BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

DECEMBER 9, 2021

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

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.149, the Board has the specific duty and power to compile a list of approved mortgage lenders; and

WHEREAS, the Department has compiled a Participating Lender List for the Single Family Mortgage Loan and Mortgage Credit Certificate Programs;

NOW, therefore, it is hereby

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

BACKGROUND

Attached is the current Participating Lender List for both the Single Family Mortgage Loan and Mortgage Credit Certificate Programs. The process to request to become a Participating Lender is open, ongoing, and non-competitive. The Single Family Mortgage Loan lender approval process is a shared process between TDHCA and the Master Servicer (currently Idaho Housing and Finance Association). As a condition precedent to participation in a Program, the proposed Mortgage Lender must first have been approved by the Servicer and shall have executed and delivered an Application to Participate, the Master Mortgage Origination Agreement, and/or the Master Mortgage Credit Certificate Participation Agreement, as well as an Opinion of Counsel and Board Resolution from Mortgage Lender related to the lender's participation in the program. Proposed Mortgage Lenders can submit documentation for consideration at any time. To keep participating lenders advised of current policies and maintain current written agreements, all lenders are required to execute the Annual Acknowledgement of Program Participation in the TDHCA Single Family Mortgage Loan and/or Mortgage Credit Certificate programs. Additionally, a three-year lender recertification, including execution of all program documents, is required. On an annual basis, the Master Servicer conducts a review of the financial statements and quality control systems of participating lenders. To date, 243 lending institutions providing mortgage options throughout the state been approved to participate in one or both of the Department's single family programs. Of the list below, 8 are new participants to the program(s) that were added this year.

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

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

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

Celebrity Home Loans*
Cendera Funding, Inc.
Certainty Home Loans
Champions Lending, LLC dba Champions Mortgage
Cherry Creek Mortgage Co., Inc.
Citizens Bank of Las Cruces
City Bank Mortgage
City First Mortgage Services, LLC
City Lending, Inc.
Citywide Home Loans
CLM Mortgage, LLC
ClosingMark Home Loans, Inc.
CMG Mortgage, INC DBA CMG Financial
Colonial National Mortgage , a Division of Colonial Savings, F.A.
Columbus Capital Lending
Commerce Home Mortgage, Inc.
Commonwealth Mortgage of Texas, LP
Compass Mortgage, Inc.
Cornerstone First Mortgage, Inc.
Cornerstone Home Lending, Inc.
Corridor Mortgage Group, Inc.
Counselors Mortgage Corp
Crestmark Mortgage Company, Ltd. (Cornerstone is the General Partner)
CrossCountry Mortgage, Inc.
DAS Acquisition Company, LLC
Data Mortgage, Inc. dba Essex Mortgage, Inc.
DHA Financial, LLC
DHI Mortgage Co., Ltd.
Diamond Residential Mortgage Corp.
Directions Equity, LLC
Draper and Kramer Mortgage Corp dba 1st Advantage Mortgage
Eagle Home Mortgage, LLC
eCU Mortgage, LLC
Efinity Mortgage DBA Efinity Mortgage
Elite Financing Group, LLC.
Encompass Lending Group, LP
Envoy Mortgage, Ltd
Eustis Mortgage Corporation dba Finance Home America
Everett Financial, Inc., dba Supreme Lending
Fairway Independent Mortgage Corp
FBC Mortgage, LLC
Financial Concepts Mortgage, LLC.
First American Mortgage
First California Mortgage DBA FirstCal
First Centennial Mortgage Corporation
First Choice Loan Services, Inc.

First Community Bank
First Community Mortgage, Inc.*
First Continental Mortgage, LTD.
First National Bank of Trenton
FirstTrust Home Loans, Inc.
FNBT dba First Community Mortgage
Freedom Mortgage Corporation
Gardner Financial Services, Ltd. dba Legacy Mutual Mortgage
Gateway Mortgage Group, LLC
GenEquity Mortgage, Inc.
Geneva Financial, LLC
Gershman Investment Corporation
Global Home Finance, Inc.
Gold Standard Mortgage
Gold Star Mortgage Financial Group
Great Plains National Bank
Guaranteed Rate Affinity
Guaranteed Rate, Inc.
Guild Mortgage Company
Hallmark Home Mortgage, LLC.
Hamilton Group Funding, Inc.
Hancock Mortgage
Hancock Whitney Bank
Harvest Residential Mortgage Services
Highlands Residential Mortgage
HomeBridge Financial Services, Inc,
Homespire Mortgage Corporation
Hometown Lenders, LLC
Hometrust Mortgage Company
Homeway Mortgage
Homewood Mortgage, LLC
IberiaBank Mortgage Company
IHS Mortgage, LLC
Impact Capital Mortgage
Independent Bank
Infinity Mortgage Holdings, LLC
Inspire Home Loans, Inc.
Integrity First Financial Group, Inc.
InterLinc Mortgage Services, LLC
International City Mortgage, Inc.
Jefferson Bank
JMJ Financial Group
JNC Mortgage Company
JP Morgan Chase
JSB Mortgage Corporation
KBHS Home Loans, LLC

Keller Mortgage LLC (dba's Primero Home Loans, Smarter Mortgages)
Land Home Financial Services, Inc.
LeaderOne Financial Corp.
LHM Financial Corp dba CNN Mortgage
Liberty Bank and Trust Co.
Liberty Mortgage (Wendeburg Interests)
Loan Simple Inc.
LoanDepot LLC dba iMortgage
LoanPeople, LLC
LoanStar Home Loans, LLC dba LoanStar Home Lending
M/I Financial, LLC
Mann Mortgage
Mid America Mortgage, Inc.
Midwest Equity Mortgage
Mission Mortgage of Texas, Inc.
MLD Mortgage, Inc. DBA The Money Store
Moria Development, Inc. dba Peoples Mortgage Company
Mortgage Financial Services, LLC
Mortgage Pros, Inc
Mortgage Services, Inc.
Mountain West Financial Services, LLC
Movement Mortgage, LLC
Nations Reliable Lending, LLC
Network Funding, L.P.
New ERA Mortgage Services, Inc.
New Penn Financial, LLC
NFM Lending
NFM, Inc. DBA NFM Lending
Northpointe Bank
Norwich Commerical Group, Inc. dba Norcom Mortgage
NOVA Financial & Investment Corporation
Oak Mortgage Group
On Q Financial, Inc.
Open Mortgage, LLC
Origin Bank
Pacific Union Financial, LLC.
Paramount Residential Mortgage Group (PRMG)
Patriot Bank Mortgage, Inc.
Patriot Home Mortgage, Inc.*
Peoples Home Equity Mortgage Lending
Perl Mortgage, Inc.
Pilgrim Mortgage, LLC
Planet Home Lending, LLC
PNC Mortgage
Precious Realty & Mortgage, LLC
Premier Nationwide Lending (NTFN, Inc.)

Primary Residential Mortgage
PrimeLending, a Plains Capital Company
PrimeWest Mortgage Corp.
Princess Palace, LLC dba Impact Mortgage
Prodigy, Inc.
Prompt Mortgage, LLC
Prospect Mortgage
Prosperity Home Mortgage, LLC
Pulte Mortgage LLC
RANLife,Inc.
Regions Bank
Reliance First Capital, LLC
Republic State Mortgage Company
Residential Bancorp
Residential Wholesale Mortgage, Inc.
Right Start Mortgage, Inc.
RMC Mortgage Corporation
Rocky Mountain Mortgage Company
RoundPoint Mortgage Servicing Corporation*
Secure Financial Services, Inc. dba Secure Mortgage Company
Security American Mortgage
Security National Mortgage Company
Sente Mortgage
Sequoia Mortgage, LLC
SFMC, LP dba Service First Mortgage Co
Southwest Funding, LP
Starboard Financial Management LLC dba Starboard Financial
Stearns Lending, Inc.
Stride Bank, National Association*
Success Mortgage Partners, Inc.
Summit Funding
Sun West Mortgage Company, Inc.
SWBC Mortgage Corporation
Synergy One Lending, Inc.
Texana Bank
Texas Bank Financial dba Texas Bank Mortgage Co.
The Home Lending Group dba Modern Mortgage
The Lending Partners, LLC
The Mortgage Firm, Inc.*
Top One Mortgage LLC
Town Square Mortgage & Investments, Inc. dba Town Square Financial
Tri-State Mortgage Company
TXL Mortgage Corporation
Union Home Mortgage Corporation
United Fidelity Funding Corp.
US Bank Home Mortgage

V.I.P. Mortgage, Inc.
VanDyk Mortgage Corporation
Veterans United Home Loans
Victorian Finance, LLC
VIP Mortgage
W.J. Bradley Mortgage Capital
Wallick & Volk, Inc.
Waterstone Mortgage Company
Wells Fargo Home Mortgage
WestStar Bank
Weststar Mortgage Corporation
Willow Bend Mortgage
Wolfe Financial, Inc. dba Integrity Mortgage Group
Woodside Mortgage Corporation
Total - 243

*- Recent Participation Approvals

Report Items

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TDHCA Outreach and Media Analysis, October 2021

A compilation of TDHCA media analysis designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public, and outreach activities, such as trainings and webinars. The following is an analysis of print and broadcast news, and social media reporting for the time period of October 1 through October 31, 2021 (news articles specifically mentioned the Department and/or Texas Rent Relief Program).

Total number of articles referencing TDHCA: 174
Breakdown by Medium:[1]

- Print: 13 (Editorials/Columnists = 0)
- Broadcast: 66
- Trade, Government or Internet-Based Publications: 95

Figure 1 News Tone

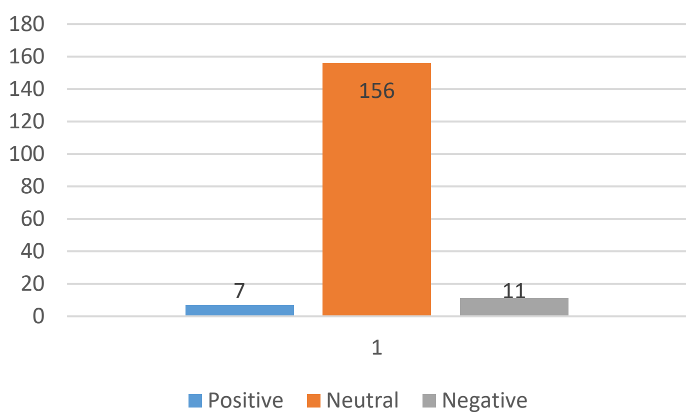
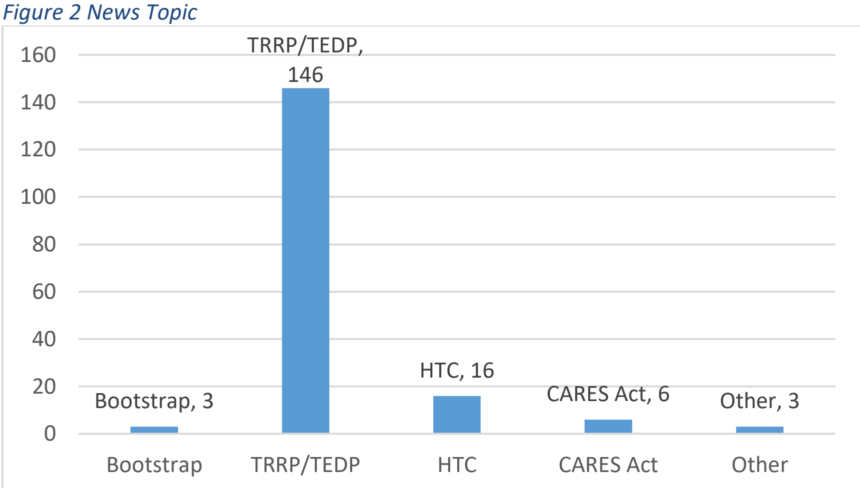
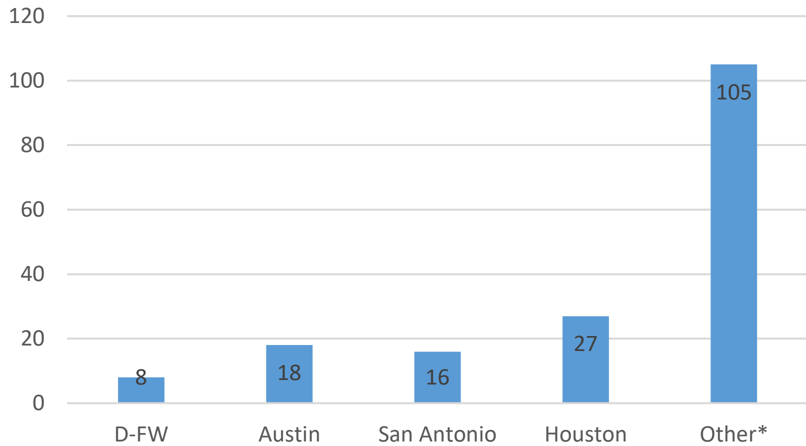


Figure 2 News Topic



[1] *Broadcast numbers may represent instances in which TDHCA was referenced on a television or radio station's website, rather than in a specific broadcast news segment*

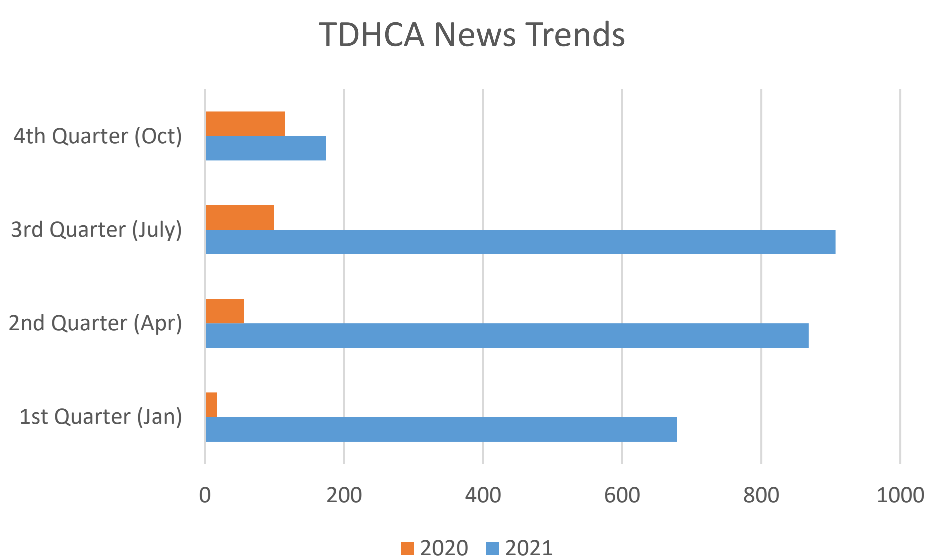
Figure 3 Media Market



Summary:

Reporting on Department activities by the news media totaled 174 references in October 2021. Positive news mentions spotlighted Texas Bootstrap Loan Program funding to Habitat for Humanity Smith County, ceremonies for HTC recipients, and TRR disbursements totaling $1 billion. Negative new mentions reflected TRR payment status (review and payment process times) and delays for payments causing evictions.

The following table illustrates the number of news mentions during each quarter of 2021 compared to 2020. There were 174 news articles mentioning TDHCA and/or the Texas Rent Relief Program in the first month (October) of the fourth quarter of 2021.



Social media:

Through October 2021, TDHCA has gained more than 3,100 followers to its Twitter account and more than 6,200 followers to its Facebook account. TDHCA's YouTube views totaled more than 18,000 views in October. The following is a summary analysis of TDHCA's efforts to engage stakeholders and the public on federal and state resources, initiatives and programs.

Month/Yr	Posts	Clicks	Engagements	Shared posts	Liked posts
January 2021	50	20	56	20	18
February 2021	52	193	2,609	1,163	18
March 2021	71	322	355	144	55
April 2021	57	70	4,155	1,152	30
May 2021	60	211	2,861	766	39
June 2021	80	224	10,688	3,303	45
July 2021	101	649	8,443	2,440	62
August 2021	54	650	9,292	2,345	707
Sept. 2021	58	144	4,316	1,105	50
Oct. 2021	46	216	4,526	1,039	124

* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post

Month/Yr	Tweets	Clicks	Engagements	Retweets	Liked posts
January 2021	52	224	13	4	7
February 2021	61	186	92	38	39
March 2021	80	313	77	20	37
April 2021	95	144	418	159	218
May 2021	64	282	72	24	30
June 2021	97	352	79	33	34
July 2021	102	520	46	15	24
August 2021	53	818	44	12	27
Sept. 2021	61	105	81	12	30
Oct. 2021	45	89	68	11	47

* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post

YouTube

Month	Views	Watch time (hours)	Avg. view duration	Impressions	Impressions click-through rate
January 2021	684	105.8	9:16	7,760	2.2%
Feb. 2021	11,479	1,174	6:08	91,326	1.8%

March 2021	34,663	990.5	1:42	53,853	5.6%
April 2021	29,652	623.6	1:15	41,923	6.3%
May 2021	25,522	617.7	2:14	44,358	6.1%
June 2021	32,719	833.2	1:31	47,805	5.5%
July 2021	37,996	864.4	1:21	54,038	5.9%
August 2021	45,140	1,044.4	1:23	71,161	5.6%
Sept. 2021	18,200	658.4	2:09	63,000	5.5%
Oct. 2021	18,280	734.9	2:24	66, 979	5.5%

October 2021

Video	Views		Average view duration	Average percentage viewed
Total	**18,280**		**2:24**	**24.3%**
Texas Rent Relief Program Completing Application Tutorial	4,590	25.1%	0:41	71.0%
Texas Rent Relief Program Tenant Application Tutorial	3,270	17.9%	3:15	22.7%
Texas Rent Relief Program Registration Tutorial	2,987	16.3%	0:29	77.3%
Tutorial - Additional Funding Requests	2,421	13.2%	3:11	38.5%
Texas Rent Relief Program Mobile Tenant Application Tutorial	1,055	5.8%	1:53	55.7%
Texas Rent Relief Program Landlord Tips	905	5.0%	1:19	57.5%
Texas Rent Relief Program Landlord Application Tutorial	769	4.2%	2:24	35.1%
Texas Rent Relief Program Landlord Assistance with a Tenant Appli...	514	2.8%	2:12	27.8%
Texas Eviction Diversion Program Overview – September 9, 2021	486	2.7%	5:17	34.5%
Texas Community Resiliency Program (CRP) NOFA & Application W...	169	0.9%	12:00	15.1%
TERAP Webinar on Monthly Reporting and Duplication of Benefits	138	0.8%	5:26	7.7%
Texas Emergency Mortgage Assistance Program TEMAP Webinar -...	111	0.6%	5:17	14.4%
Housing Stability Services Contract Implementation Webinar	100	0.6%	11:23	12.0%
Housing Stability Services Contract Implementation Webinar	98	0.6%	10:15	10.8%
Housing Stability Services Reporting and Housing Contract System...	94	0.5%	8:42	14.3%
Fair Housing 101: The Basics of Fair Housing in Texas	50	0.3%	16:25	15.6%
20 IncomeDeterminationTraining	43	0.3%	0:49	0.5%
TEMAP NOFA 2 Implementation Workshop	42	0.2%	6:32	23.2%
Housing Contract System and TEMAP Monthly Reporting Webinar ...	41	0.2%	10:54	24.8%
TEMAP Implementation Workshop - June 8, 2021	40	0.2%	10:40	23.5%
Como Completar Su Aplicación para el Programa de Asistencia de ...	37	0.2%	0:32	49.9%
TEMAP Monthly Reporting Webinar for Part C Programs - October ...	36	0.2%	3:42	19.2%
Fair Housing Special Topics: How to Create an Affirmative Marketin...	30	0.2%	11:13	15.6%

Como Registrarse Para el Programa de Asistencia de Pago de Rent...	25	0.1%	0:41	46.3%
Fair Housing Special Topics: Reasonable Accommodations, Modifi...	24	0.1%	17:11	17.7%
Utility Allowance Training - May 5, 2021	24	0.1%	14:42	12.9%
Consejos para la solicitud del propietario	23	0.1%	1:08	41.9%
TERAP Implementation Workshop	23	0.1%	24:27	16.6%
Fair Housing Special Topics: Assistance Animals, Service Animals, ...	22	0.1%	32:05	35.1%
Overview of Updates to Compliance, Affirmative Marketing and Writ...	21	0.1%	3:44	4.8%
Fair Housing Special Topics: The Violence Against Women Act in F...	18	0.1%	14:44	19.1%
Consejos para la solicitud de inquilinos	18	0.1%	1:37	48.3%
TERAP Application Workshop	17	0.1%	4:12	5.8%
Accessing Texas Department of Aging and Disability Services	16	0.1%	4:24	62.0%
TERAP Demographics Reporting Update Workshop	14	0.1%	10:02	27.2%
TDHCA Governing Board meeting - July 8, 2021	7	0.0%	0:16	0.1%
TDHCA's Multifamily Direct Loan Training - Sept. 24, 2020	7	0.0%	25:47	8.8%
TDHCA Utility Allowance Roundtable - Oct. 13, 2020	6	0.0%	6:01	9.6%
TDHCA Board Audit & Finance Committee - June 17, 2021	5	0.0%	6:08	24.5%
Average Income Webinar - Sept. 2, 2020	5	0.0%	5:48	4.3%
TDHCA Governing Board meeting - July 22, 2021	4	0.0%	0:01	0%
Digital Outreach Webinar	4	0.0%	1:03	3.7%
TEMAP Reporting Webinar	3	0.0%	1:29	4.6%
Section 811 PRA Updates for Referral Agents	3	0.0%	19:05	33.2%
TERAP Monthly Reporting Workshop - March 1, 2021	3	0.0%	9:11	24.8%
TDHCA Governing Board meeting - June 17, 2021	2	0.0%	0:32	0.2%
Fair Housing Special Topics: Limited English Proficiency and Langu...	2	0.0%	0:34	1.0%
Texas Rent Relief Webinar Fridays - March 5, 2021	2	0.0%	0:30	0.8%
Virtual Roundtable - TDHCA's Enforcement Rule	2	0.0%	3:53	4.5%
Rental Assistance	1	0.0%	1:29	12.8%

TDHCA Outreach October 2021

A compilation of outreach activities such as meetings, trainings and webinars.

Organizer	Meeting Date	Meeting Title	Attendees (with organizer)
Coronavirus Relief Bill Rental Assistance (CRBRA); Texas Rent Relief	Oct. 06	Bi- Monthly TAJF Open Office Hours for Q&A	11

CRBRA	Oct. 08	Landlord verification training with vendors	186
Home Ownership	Oct. 10	4 Hr. Continuing Education Course “United Texas” for Houston Association of Realtors	40
Community Affairs	Oct. 13	October 2021 CEAP Network Check-In	135
Fair Housing	Oct. 13	Consultation with Continuums of Care on HOME-ARP	17
Housing Resource Center	Oct. 13	Housing and Health Services Coordination Council Quarterly Meeting	25
Compliance	Oct. 13	Income Determination presented by TDHCA sponsored by TAA	57
Community Affairs	Oct. 13	CEAP Service Delivery Plan Monthly Network Call	149
CDBG	Oct. 13	Housing Contract System, TEMAP reporting requirements	16
CDBG	Oct. 13	Texas Community Resiliency Program (CRP), NOFA and workshop	89
Amy Young Barrier Removal (AYBR) Program	Oct. 13	AYBR NOFA, Meals on Wheels, Ft. Hood Habitat for Humanity, Garland Habitat, Golden Crescent Habitat	12
AYBR	Oct. 13	AYBR NOFA, Equity CDC, AYUDA, ABC, El Paso Habitat, ASHTI, NW Harris County	14
Housing Resource Center	Oct. 15	HOME-ARP Consultation with Public Housing Authorities	34
CDBG	Oct. 15	Texas CRP NOFA and application workshop	89
Housing Resource Center	Oct. 19	Texas Interagency Council for the Homeless Quarterly Meeting	17
TRRP	Oct. 20	TAJF Office Hours	24
Housing Resource Center	Oct. 20	HOME-ARP Consultation with Disability and Fair Housing Advocates	91

Multifamily	Oct 20, 2021	New Meeting	16
CRBRA	Oct. 20	Bi- Monthly TAJF Open Office Hours for Q&A	32
HOME ARP	Oct. 21	Emergency Solutions Grant Annual Orientation	62
Home Ownership	Oct. 21	Monthly Lender Lunch & Learn	370
Home Ownership	Oct. 22	Greater El Paso Realtor Association – Realtor Expo	300
Housing Resource Center	Oct. 22	HOME-ARP Consultation with Texas Veterans Commission & Veteran Service Providers	12
Housing Resource Center	Oct. 22	HOME-ARP Consultation with Service Providers	117
Section 811	Oct. 22	Section 811 PRA Referral Agent Training	16
ERA Housing Stability Services (HSS)	Oct. 25	HSS Webinar	51
Compliance	Oct. 26	Housing Tax Credit presented by TDHCA sponsored by TAA	85

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Update on TDHCA Programs Addressing COVID-19 Pandemic Response
Report for December 9, 2021

This report provides an update on the programs TDHCA has targeted to assist with Texas' response to COVID-19 through reprogramming of existing funds, and through the administration of CARES Act, Coronavirus Relief Bill funds, and the American Rescue Plan Act.

Shaded rows reflect completed programs for which assistance is no longer available.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)	Other Notes
EARLY REPROGRAMMING OF EXISTING TDHCA PROGRAM FUNDS								
HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR	NA: Reservation Agreements	3-6 months of rental assistance made available through existing or new HOME subrecipients *Geography:* Was available where subrecipients applied. 23 administrators covered 120 counties *Income Eligibility:* Households at or below 80% AMFI based on current circumstances	All necessary waivers for this activity were authorized by the OOG and HUD via HUD's mega-waiver of April 10, 2020. The HUD waivers were extended by HUD in December 2020 to expire September 30, 2021.	Amount obligated exceeds original program funding because other previously deob-ligated available HOME funds have been used to allow eligible households to access a full 6 months of assistance.	No added TDHCA staffing No added admin funds	2,612 Includes active, pending PCR, and closed activ-ities	Up to $11,290,076 $11,299,354* 100.08% $10,901,285 96.56%	All originally programmed funds are obligated 2,695 (households) activities submitted, including total served * Amount Reserved
Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds	• Board approval March 2020 • Recipients contracts were effective March 26, 2020 • Expenditure Deadline was August 31, 2020	Used the existing network of Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19 *Geography*: Available statewide (excluding CWCCP and CSI) *Income Eligibility*: 200% poverty (normally is 125%)	None	**COMPLETED** 100% expended	No added TDHCA staffing No added admin funds	9,468 persons	$1,434,352 1,434,352 **100%** $1,434,352 **100%**	38 CAA subs

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Recaptured 2018/2019 HHSP	• Board approval March 2020 • 2018 had to be spent by August 31, 2020; 2019 had to be spent by December 31, 2020	Allow subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness *Geography*: Available 9 largest metro areas *Income Eligibility*: Generally 30% AMFI if applicable	Approval from Comptroller granted	**COMPLETED** 100% expended	No added TDHCA staffing No added admin funds	462 persons	$191,939.53 $191,939.53 100% $191,939.53 100%	9 subs
CARES ACT FUNDS								
CSBG CARES	• Board approved April 2020 • Must expend 90% by August 31, 2022 • 45 day closeout period	90% to CAAs using regular CSBG formula for households affected by COVID-19; 2% ($949,120) to Texas Homeless Network[1]; 7% for an eviction diversion pilot program; 1% for state admin *Geography*: Available statewide *Income Eligibility*: 200% of poverty (normally is 125%)	The flexibilities allowed by USHHS have been accepted	All contracts are in progress. The Eviction Diversion program has been completed	1 Art. IX FTE for CSBG reporting 1% admin ($474,560)	125,971 persons	$48,102,282 $48,102,282 100% $41,044,121 85%	40 CAA subs CSBG-CV Discretionary has various deadlines
LIHEAP CARES	• Board approved April 2020 • Must expend by September 30, 2021 • 45 day closeout period	99% to CEAP subs for households affected by COVID-19; 1% for state admin (no weatherization) *Geography*: Available statewide *Income Eligibility*: 150% of poverty	The flexibilities allowed by USHHS have been accepted	Program close out still underway. The amount unspent, $29.2 million, is an estimate of the funds that will be returned to HHS.	1 Art. IX FTE for CEAP TA/capacity (1 Filled) 1% admin ($892,670)	181,213 persons	$94,023,896 $93,483,658 99% $63,607,936 67.65%	37 subs with all contracts executed. No subs declined funds. Added program flexibilities to improve assistance to households impacted by Winter Storm Uri.

[1] The award to THN is to address homelessness and those at risk of homelessness as a result of COVID-19.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
CDBG CARES – Phases I, II and III	Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendments in October 2020, January 2021, and July 2021 80% of funds must be expended by November 3, 2023; remaining 20% by November 3, 2026 90-day closeout period	Planned Usage: rental assistance in 40 cities/counties; mortgage payment assistance in 40 counties; legal services; assistance for providers of persons with disabilities; food expenses; community resiliency activities; and possible HMIS data warehouse funds. *See Also Attached Report.* *Geography:* Varies by activity type.	HUD agreement executed November 3, 2020. All Plan Amendments approved.	*See Attached Report.*	CDBG Director position filled. 7 other positions filled. All FTES are Art. IX Up to 7% admin and TA budget ($9,929,238)	6,475 house-holds	1st allocation: $40,000,886 2nd Allocation: $63,546,200 3rd Allocation: $38,299,172 Total: $141,846,258 $101,035,350* 71% $31,755,821* 22.33%	*Income Eligibility:* For households at or below 80% of AMI. * Figure includes TDHCA admin funds.
ESG CARES – Phase I	• Board approved programming plan on April 2020, and conditional awards on July 23, 2020 • Expend by September 30, 2022 • 90 day closeout period	• Four streams: • Existing subs were offered 100% to 200% of current contract amount (~$12.5M) • ESG Coordinators decided via local process for their CoC, and awards made in three areas without ESG Coordinators by offering funds to CoC awardees (~$17.2M) • Legal/HMIS ($1.9M) • *Geography:* Locations of all funded grantees • *Income Eligibility*: 50% AMI for homeless prevention	• HUD mega-waivers accepted • One-Year Plan/ Con Plan amendment to HUD on May 8, 2021 • Additional OYAP/Con Plan amendment to HUD on September 16, 2021 to accept additional flexibilities (CPD notice 21-08)	• Signed grant agreement May 2020 • 101 contracts executed • 3 legal service providers • Actively evaluating providers for contract performance • Obligated balance updates in process due to reallocation of funds	4 Art. IX FTE (for all phases of ESG) 5 % admin ($1,682,448)	49,062 persons	$33,254,679 $31,904,144 95.93% $25,302,088 76.09%* *Does not include TDHCA admin drawn as this is not separated from ESG CARES II admin in HUD systems	This is the first $1B of national ESG. HMIS/Coordination funds totaling $417,949 was awarded to the 8 ESG Coordinators.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
ESG CARES – Phase II	• Board approved awards January 14, 2021. • Expend by September 30, 2022 • 90 Day closeout period	Two streams: • $61,031,041 for Homelessness Prevention and Rapid Rehousing. • $274,649 for ESG CARES and HMIS Coordination through each Continuum of Care. Amendment processed allowing greater flexibility upon request on eligible uses.	ESG Guidance issued by HUD on September 1, 2020. Plan Amendment submitted to HUD October 21, 2020. HUD signed grant agreement on October 27, 2020.	All contracts are in effect. Actively evaluating providers for contract performance.	FTEs noted under ESG CARES Phase I will be utilized for both phases. 5% admin ($3,232,247)	10,528 persons	$64,537,937 $64,537,937 **100%** $10,901,285 21.24%* *Does not include TDHCA admin drawn as this is not separated from ESG CARES II admin in HUD systems	This is the state's share of the second (final) allocation of $2.96 billion.
Housing Choice Voucher Program Admin	Expend by December 31, 2021 1st Award: $117,268 2nd Award: $140,871 (8/10/2020)	• Software upgrades with Housing Pro to allow more efficient remote interface • Landlord incentive payments • Ordered 3 tablets for inspections • October 2020 Board approved use of funds for retention payments to existing owners to ensure their ongoing participation in the program	Received HUD interpretation that using funds for software upgrades are acceptable. $11,620 was paid for the system purchase.	Only active use of funds currently is new landlord incentives and landlord retention reported in the following columns. It is unlikely that the full amount of these admin funds will be utilized. Unused admin is returned to HUD as it is not allowed to be used for voucher assistance.	No added TDHCA staffing.	156 Land-lord renewals 27 new landlord s added	$258,139 $82,074 31.80% $37,012 (Landlord Payments) 14.3%	$380M nationally. Purchases of Housing Pro upgrades complete. Training underway. Materials for landlord incentives completed.
Housing Choice Voucher Program MVP	Have to issue vouchers by December 31, 2021. Orig. Alloc.: $105,034*	15 additional MVP vouchers consistent with our award of MVP, which for TDHCA is for Project Access households. * A supplemental allocation from HUD is provided each quarter to support the 15 vouchers (amounts vary by quarter).	None needed.	Received award from HUD. Issued the 15 vouchers on May 22, 2020. After the 12/31/21 deadline, amount approved for rents will rolled into TDHCA's regular yearly budget authority award.	No added TDHCA staffing. No added admin funds.	13 families in current leases.	$110,302 HAP Paid $31,185 28.27%	2 vouchers outstanding; searching for units.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
CORONAVIRUS RELIEF BILL – PART OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2021								
Texas Rent Relief (TRR) Program (Funded with ERA1 and ERA2)	The program dedicates funds through Treasury specifically for rental and utility assistance. The first allocation through the Consolidated Appropriations Act is called ERA1. The second allocation from the American Rescue Plan Act, Section 3201, is called ERA2. ERA1: Required to expend all funds by September 30, 2022. ERA2: Required to expend all funds by September 30, 2025.	Program provides up to 15 months of rental and utility assistance including arrears (up to 18 months for ERA2). Households must reapply every 3 months. Program run by the state directly with no subrecipients. 10% of funds for Housing Stability services (see following row). Established a 10% set-aside for eviction diversion; applications and households facing utility disconnections are processed first. *Geography:* Statewide. *Income Eligibility:* For households at or <80% AMI.	Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021. As they are released, TRR policies are adjusted.	TRR began using funds from ERA2 in mid-October 2021. Program successfully obligated more than 65% of its ERA1 funds before September 30, 2021 making the state eligible to receive additional funds recaptured from other ERA grantees. Treasury has not yet released reallocation decisions. System closed to any new applications on November 5, 2021.	Positions filled include Director and 20 positions filled. Staffing now includes a team for the Stability Services activity. All FTES are Art. IX *Admin*: 10% ERA1 15% ERA2 $397,517,438	282,389	<u>Total Allocation</u> ERA1: $1,308,110,629 ERA2: $1,079,786,857 <u>Available for Rent/Utility Payments*</u> $1,995,888,421 <u>Expended**</u> $1,701,619,327 85.26% Admin. <u>Expended***</u> 56,911,526 14.3%	* Amount is total allocation less funds for HSS and Adm. **Expended and Served to Date per Internal Report Dec. 2, reflect all payments made, plus payments in process. *** Figure is per Internal Report as of 11/30/21.
Housing Stability Services (HSS) Program (funded by ERA1 and 2)	These funds are a subset of the ERA funds in the row above. Up to 10% of the funds from ERA1 and ERA2 are authorized for housing stability. ERA1: Expend funds by September 30, 2022 ERA2: Must expend funds by September 30, 2025	Program provides funds to local communities or nonprofits for them to provide eligible Texans with a variety of services that help household maintain or obtain stable housing including legal services, outreach services, shelter services, community services, and services offered at permanent supportive housing properties *Geography:* Available where Subrecipients are located. *Income Eligibility:* For households at or below 80% AMI.	Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021. As they are released, HSS policies are adjusted.	Contracts executed with Texas Access to Justice Foundation and 27 Subrecipient service providers. MOU with TVC to support two Homeless Veterans Coordinator positions executed. NOFA for ERA2 HSS was released November 12, 2021, making $84,000,000 available to eligible organizations. Applications are due January 7, 2022.	See above	3,773 house-holds served 72,023 meals served	Total (est) $163,552,903 <u>HSS ERA1</u> Avail: $71,552,903 Obligated: $71,363,823 99.7% Expended: 3,566,11 4.9% <u>HSS ERA2</u> Avail: $105,328,160 Obligated: $0 0% Expended: $0 0	

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Low-Income Household Water Assistance Program (LIHWAP1)	Part of the appropriation bill; provides dedicated funds through HHS for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program Must obligate and expend funds by: September 30, 2023	Program provides funds to assist low-income households by providing funds to owners/operators of public water and treatment systems to reduce arrearages charged. HHS has encouraged that grantees model the LIHEAP program and utilize their LIHEAP networks of subs. *Geography:* Statewide *Income Eligibility:* TBD	Executed agreement for funds on April 22, 2021. HHS approved TDHCA's LIHWAP Plan on October 22, 2021.	Contracts to be sent to providers in December 2021; approved by the Board in June 2021.	3 Art. IX FTEs Admin 15% Any FTES will be Art. IX	0	$51,801,876 $0 0% $0 0%	$638M Nationally
AMERICAN RESCUE PLAN (ARPA) – Public Law 117-2								
HOME ARP Program	Passed as Section 3205 of the American Rescue Plan, the program dedicates funds through HUD allowing flexible uses that can include typical HOME activities as well as homeless services and non-congregate shelter Must expend funds by September 30, 2030	Funds can be used for tenant based rental assistance, development of supportive rental housing, supportive services, non-congregate shelter, and operating costs/capacity building for eligible nonprofit organizations. *Geography:* Available where Subrecipients are located *Households Eligibility: (See Other Notes)*	The existing waiver from the Governor relating to limits on using the funds in rural areas will be utilized to allow the funds to assist homeless persons in urban and rural areas.	HUD released guidance September 13, 2021. Grant agreement signed on September 23, 2021 and now have access to an initial 5% of funds. Consultations were held October 7 to 22. Draft plan for Board approval is on the December 2021 agenda.	A HOME-ARP Division has been established and Director named. More positions to be filled. All FTES are Art. IX Up to 15% for admin/planning ($19,945,372)	0	$132,969,147 $0 0% $0 0%	$5B nationally Eligibility: homeless, at risk of homelessness with incomes up to 50% AMI, those fleeing Domestic Violence
LIHEAP	Passed as Section 2911 of the American Rescue Plan, dedicates funds through HHS for home energy costs. Must expend funds by: September 30, 2022	99% of funds were programmed in April 2021 to CEAP subs using a modified formula; 1% for state admin. *Geography*: Available statewide *Income Eligibility*: 150% of poverty	Not yet known.	Contracts have now been executed.	FTEs noted under CARES LIHEAP will be utilized for both allocations. 1% admin (TBD)	1,801	$134,407,308 $134,407,308 **100%** $2,725,556 .02%	$4.5B nationally.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Homeowner Assistance Fund (HAF)	Passed as section 3206 of the American Rescue Plan, dedicates funds through Treasury specifically for preventing mortgage delinquencies, defaults, foreclosures, loss of utilities and displacement. Must expend funds by September 30, 2026	The HAF Plan to be submitted to Treasury includes 1) a Reinstatement Program to reinstate delinquent mortgage loans, including principal and interest, as well a amounts advanced by the servicer for property charges (taxes, insurance, condo and homeowner association fees, and other related expenses advanced to protect lien position, and 2) a Property Charge Default Resolution Program, to bring current delinquent property charges, including past due property taxes, insurance premiums, condo and homeowner association fees, and cooperative maintenance or common charges, including up to 90 days of upcoming property charges. (*Cont. under Waivers)*	TDHCA submitted a grant agreement to Treasury by the April 23 deadline. TDHCA submitted its HAF plan to Treasury September 30, 2021. *(Continued from Planned Activities)* Additional programs may be submitted to Treasury in the future. *Geography:* Statewide *Income Eligibility:* Household income at or below greater of 100% AMI or 100% of national median income.	To receive funds beyond the initial 10%, the state must submit the HAF Plan. Staff obtained public comment on a draft plan. The Plan includes needs assessment, evidence of public engagement, program design, method for targeting, goals, readiness, and a budget.	4 positions filled including the Director, 2 program managers, and the outreach manager. All FTES are Art. IX Up to 15% ($126,332,101) for admin, planning, community engagement and needs assessment	0	$842,214,006 $0 0% $0 0%	$9.9B nationally. Treasury encourages states to use initial disbursement of 10% of funds for creating or funding pilot programs to serve targeted populations, and focus on rapid assistance options such as mortgage reinstatement programs.
LIHWAP2	Passed as Section 2912 of the American Rescue Plan, dedicates funds through HHS for home water costs Must obligate and expend funds by: September 30, 2023	See LIHWAP1 above. HHS will administer LIHWAP1 and 2 under one LIHWAP Plan. Because of the different funding sources, separate contracts will be required *Geography:* Statewide *Income Eligibility:* TBD	Executed agreement for funds on April 22, 2021. HHS approved TDHCA's LIHWAP Plan on October 22, 2021	With plan approval from HHS received on October 22, 2021, staff is now initiating contracts with providers, which were approved by the Board in June 2021.	FTEs noted under Appropriation Act LIHWAP will be utilized for both allocations. Admin % not yet known	0	$40,597,082 $0 0% $0 0%	$500M Nationally

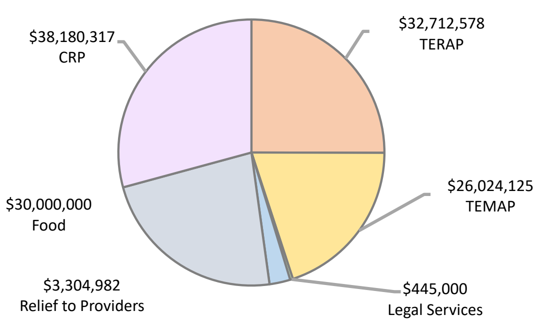
Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Emergency Housing Vouchers (EHV)	Passed as Section 3202 of the American Rescue Plan, dedicates vouchers through HUD for emergency rental assistance. HUD Authority to Recapture May Occur as Early As: 1 Year from Funding (if vouchers are unissued) Initial Funding Term Expires: Dec. 31, 2022 Can Reissue EHV until: Sept. 30, 2023 Renewal Funds Available for 'Occupied Units' through: Sept. 30, 2030	TDHCA is receiving 798 vouchers. The award includes funds for the vouchers ($7,933,560) plus funds to provide services ($2,793,000) and funds for admin ($763,788). Vouchers are for households who are: (1) homeless, (2) at risk of homelessness, (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or (4) recently homeless. *Geography*: TDHCA is working with CoC partners and HUD to make a final service area determination based on the number of vouchers allocated to the Department and input from CoC partners *Income Eligibility*: Not to exceed 50% of AMI	Significant waivers have been authorized by HUD. TDHCA will seek to maximize its use of these waivers, however the waivers are time-limited so TDHCA will be cautious not to authorize households based on waivers that, when expired, would make the household ineligible at renewal. TDHCA is required to update its PHA Admin Plan to reflect our plan for the service fee (see last column) and other program elements.	Contracts for Continuums of Care (CoCs) to provide referrals and services were approved at the July 8 Board meeting. The contract with the Waco CoC has been executed. Wichita Falls has withdrawn. Collaboration with the Balance of State (BoS) CoC is underway.	Program is being administered jointly by the Section 8 and Section 811 areas due to the unique nature of the program. 3-4 positions to be filled. To be paid for by EHV Admin and CSBG Admin. FTES are Art. IX Admin fee structure is complex, variable and tied to timing of household having found a unit, hence the use of CSBG Admin to support the positions.	0	Total $11,490,348 <u>Rent Payments</u> Avail: $7,933,560 Obligated: $0 0% Expended: $0 0% <u>Service Contracts</u> Avail: $2,793,000 Obligated: $175,000 6.3% Expended: $0 0%	$5 billion Nationally A service fee of $3,500 per unit is authorized separate from the rental assistance payment. The fee total is not tied to each voucher, but is a combined total of funds for services. Services may include: housing search assistance; deposits, holding fees, and application fees; owner-related uses; and other eligible uses.

As of November 24, 2021

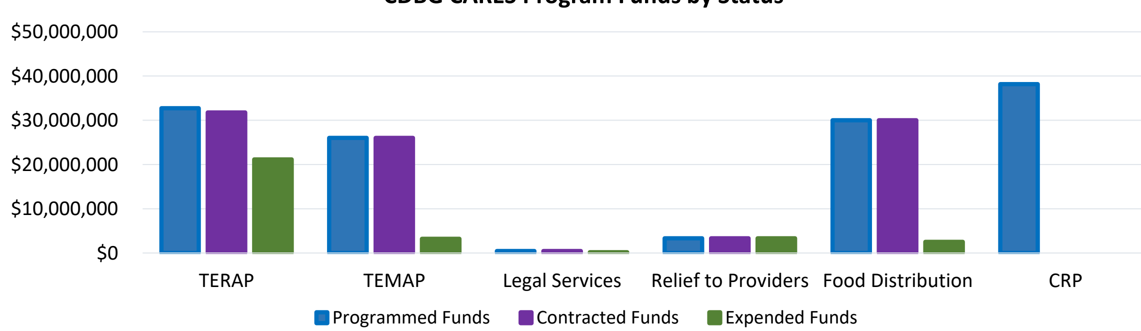
Texas Department of Housing and Community Affairs
CDBG CARES (Coronavirus Aid, Relief, and Economic Security) Act Programs

Texas Emergency Rental Assistance Program (TERAP)	Texas Emergency Mortgage Assistance Program (TEMAP)	Legal Services to Persons with Disabilities	Relief to Service Providers for Persons with Disabilities	Food Distribution	Community Resiliency Program
Rental assistance (up to six months, including arrears) to income-eligible households impacted by COVID-19 to help provide housing stability during the pandemic. Funds can also be used for eviction diversion, which provides rental assistance to tenants who have been sued for eviction.	Mortgage assistance (up to six months, including arrears) to income-eligible homeowners who have been economically impacted by COVID-19 to help provide housing stability during the pandemic.	Legal services assistance for persons with disabilities to obtain or retain housing as a result of COVID-19. Legal services include legal advice and legal representation by licensed attorneys in good standing with the State Bar of Texas.	Assistance to help providers continue serving residential persons with disabilities during the pandemic by reimbursing for allowable expenses undertaken to prevent, prepare for, or respond to COVID-19.	Assistance to eligible food bank providers that have been economically impacted by COVID-19. Funds will be utilized to reimburse food banks for bulk food purchases to be distributed statewide.	Assistance to low- and moderate-income persons, and rural and small metro communities, to create, expand or enhance public facilities that provide medical care, social services, and/or emergency housing to prevent the transmission of COVID-19 and allow for adequate social distancing or remote access.
Start Date: January 15, 2021 **Households Assisted to Date:** 5,693	**Start Date:** June 15, 2021 **Households Assisted to Date:** 679	**Start Date:** April 1, 2021 **Households Assisted to Date:** 103	**Start Date:** April 15, 2021 **Providers Assisted:** 50	**Start Date:** October 1, 2021 **Projected Persons to Assist:** 250,000	**NOFA Release Date:** October 1, 2021 **NOFA Deadline Date:** January 19, 2022
Program Administrators: 40 entitlement city and county governments throughout Texas	**Program Administrators:** 48 cities, counties and other local and regional service providers	**Program Administrator:** Disability Rights Texas	**Program Administrator:** My Health My Resources of Tarrant County	**Program Administrator:** Feeding Texas, a network of 21 member food banks	**Program Administrator:** *To be determined*
Service Area: 41 entitlement cities and counties	**Service area:** Statewide - All 254 counties in Texas	**Service area:** Statewide - All 254 counties in Texas	**Service area:** Statewide - All 254 counties in Texas	**Service area:** Statewide - All 254 counties in Texas	**Service Area:** Non-Entitlement communities
Programmed Funds: $32,712,577.97	**Programmed Funds:** $26,024,125.00	**Programmed Funds:** $445,000.00	**Programmed Funds:** $3,304,982.35	**Programmed Funds:** $30,000,000	**Programmed Funds:** $38,180,317.03
Contracted Funds: $31,777,003.66	**Contracted Funds:** $26,024,125.00	**Contracted Funds:** $445,000.00	**Contracted Funds:** $3,304,982.35	**Contracted Funds:** $30,000,000	**Contracted Funds:** $0
Expended Funds: $21,164,291.35	**Expended Funds:** $3,197,912.58	**Expended Funds:** $176,082.18	**Expended Funds:** $3,304,982.35	**Expended Funds:** $2,500,000.00	**Expended Funds:** $0

CDBG CARES Funds by Program



CDBG CARES Program Funds by Status



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BOARD REPORT ITEM

HOUSING RESOURCE CENTER

DECEMBER 9, 2021

Report on the outcomes of the HUD Fair Housing Initiatives Program Grant

BACKGROUND

On December 19, 2019, the U.S. Department of Housing and Urban Development (HUD) released a Notice of Funding Availability (NOFA) announcing the availability of $7.45 million for the Fair Housing Initiatives Program – Education and Outreach Initiative which seeks to increase, compliance with the Fair Housing Act by developing, implementing, carrying out, and coordinating education and outreach programs designed to inform members of the public concerning their rights and obligations under the provisions of the Fair Housing Act. The Texas Department of Housing and Community Affairs (TDHCA) submitted an application in response to the NOFA.

The NOFA allowed agencies of state governments to develop or bolster their capacity to educate members of the public about their Fair Housing rights and responsibilities. The NOFA required that funds be used for eligible activities, including, but not limited to developing educational advertising campaigns, developing and distributing materials, and conducting educational activities such as workshops, conferences, or seminars, that inform people of their rights and responsibilities under the Fair Housing Act.

On June 1, 2020, TDHCA was awarded a HUD Fair Housing Education Outreach Initiatives Grant in the amount of $124,867. This Grant was awarded for the purposes of increasing awareness of Fair Housing rights and responsibilities among low-income Texans and the stakeholders who work with TDHCA. TDHCA's Fair Housing, Data Management, and Reporting (FHDMR) division* undertook five activities to this end:

- Creating new Fair Housing training materials for existing and new training topics, and obtaining HUD approval for those materials;
- Conducting additional trainings throughout the 15-month grant period;
- Producing high quality posters in English and Spanish that provided basic Fair Housing information and directions on how to obtain more detailed information; and
- Promoting the brochures and recorded trainings on social media.

**On November 1, 2021, FHDMR was merged into TDHCA's Housing Resource Center after the administration of this grant had ended.*

In all, FHDMR staff revised three trainings that were part of its regular Fair Housing Month Training Series: A Fair Housing Overview, Reasonable Accommodations and Accessibility, and Assistance Animals. Additionally, FHDMR created three new trainings: Affirmative Marketing, Language Access Plans and Limited English Proficiency, and the Violence Against Women Act. All 6 of these trainings were submitted to HUD, and received HUD's approval for use.

From November 2020 through April 2021, FHDMR staff conducted 16 virtual trainings. 4,220 people registered for these trainings and 2,610 (62%) attended. Some registrants attended multiple training sessions. Across all 16 trainings, 1,073 unique attendees came to at least one of the 16 trainings. All of these trainings were recorded, and all six trainings that were conducted in April 2021 included both live closed captioning and live American Sign Language interpretation. The slides and transcripts for those six trainings were also translated into Spanish so that the largest limited English proficiency group in Texas would be able to easily access these trainings. In a survey of attendees, 56% of respondents rated the training's usefulness as a 10 out of 10, the highest rating possible.

FHDMR also designed and produced a Know Your Rights poster and had 30,000 copies printed. These brochures were sent by mail to 1,750 different organizations that work with TDHCA and low-income Texans. Digital copies of the brochures were also emailed to these groups and were uploaded to the TDHCA website. In the month of August, between 1,600 and 5,000 individuals viewed the brochure on TDHCA's website. Additionally, several organizations reached out to TDHCA to request additional physical copies of the poster.

During the month of August 2021, FHDMR also began a social media advertising campaign to drive individuals to our recorded Fair Housing trainings. In July 2021, before the campaign began, the trainings had 97 views. In August, that number rose to 5,796. This increase was not limited to just the recorded trainings. Other Fair Housing pages on the TDHCA site saw increases in traffic between 30% and 50%.

TDHCA was able to use all of the nearly $125,000 and had no unobligated balances.

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BOARD REPORT ITEM

FINANCIAL ADMINISTRATION DIVISION

DECEMBER 9, 2021

Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the State of Texas Housing Trust Fund.

WHEREAS, Tex. Gov't Code §2306.204 requires an independent audit of the Department's Housing Trust Fund to determine the amount of unencumbered fund balances that are greater than the amount required for the reserve fund and the report to be submitted to the board by December 31st of each year;

WHEREAS, Housing Finance Division unencumbered funds are the funds associated with any and all of the Department's housing finance activity that are not subject to any restriction precluding their immediate transfer to the housing trust fund. Such restrictions include: being subject to a state or federal law or other applicable legal requirement such as the General Appropriations Act, being held in trust subject to the terms of a bond indenture, or having been designated by the Department's Governing Board for a specific use or contingency;

WHEREAS, Tex. Gov't Code §2306.205 provides a formula for determining the amount of unencumbered fund balances and the amounts, if any, to transfer to the Housing Trust Fund before January 10th; and

WHEREAS, Staff has drafted a process for determining the three year-end values total and non highest rated bond indebtedness, the amount of unencumbered fund balances and the amounts, if any, to transfer to the State of Texas Housing Trust Fund;

NOW, therefore, it is hereby

RESOLVED, that the Draft Computation of Unencumbered Fund Balances Report as of August 31, 2021, is presented to this meeting and the Board and the Executive Director accepts this report in satisfaction of the requirements of Tex. Gov't Code §§2306.204 and 2306.205 with its final approval determined by the year-end audit performed by the State Auditor's Office.

BACKGROUND

Pursuant to Tex. Gov't Code §§2306.204 and 2306.205, the Department is required to transfer to the State of Texas Housing Trust Fund annually a portion of the unencumbered funds, if any, meeting certain threshold and criteria. This statute also requires the Department to undergo an annual audit of its unencumbered fund balances and to transfer excess funds to the State of Texas Housing Trust Fund based on a calculation set forth in the statute. Using the methodology outlined in the statute, Department staff developed a Standard Operating Procedure (#1210.05) to calculate statutorily required transfers to the State of Texas Housing Trust Fund.

The Draft Computation of Unencumbered Fund Balances Report as of August 31 (Exhibit A) reflects funds held by the Department deemed to be unencumbered of $146,809; the Calculation of Bonded Indebtedness Report (Exhibit B) only includes bonds and notes outstanding not rated in the highest long-term debt rating category to calculate the 2% threshold of $16,270,354; and the List of Bond Ratings (Exhibit C) from rating agencies. Since the unencumbered balance is less than the 2% threshold it does not meet the first threshold in Tex. Gov't Code §2306.205(a) for any transfer to the State of Texas Housing Trust Fund.

In conclusion, the Draft Computation of Unencumbered Fund Balances Report as of August 31, 2021, yielded a zero transfer to the State of Texas Housing Trust Fund. Again, this report is included for review in the year-end financial audit performed by the State Auditor's Office and is, therefore, subject to revision based on such audit.

EXHIBIT A

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Computation of Unencumbered Fund Balances
August 31, 2021

	S/F Program	RMRB Program	Taxable Mortgage Program	M/F Program	Operating Fund	Housing Trust Fund	Special Housing Programs	Governmental Fund	
Qualifying Assets:									
Cash and Cash Equivalents	53,783,019	50,710,127	17,501,329	173,551,900	8,830,301	9,689,286	27,837,866	1,114,001,753	
Investments @ fair value	725,084,715	309,099,147	0	496,329,250	0	0	0	0	
Fair Value Adjustment	(50,223,091)	(23,239,026)	0	(29,070,935)	0	0	0	0	
Loans and Contracts	151,262,949	122,484,904	67,359,669	929,654,973	751,505	45,260,200	113,416	467,666,238	
Real Estate owned, @ net	0	0	0	0	0	20,614	0		
Accrued Interest receivable	2,213,878	1,117,032	887,870	3,798,361	4	6	33,388	213,671	
Federal Receivable								21,470,188	
Legislative Appropriations								8,211,158	
Subtotal	882,121,470	460,172,184	85,748,868	1,574,263,549	9,581,810	54,970,106	27,984,670	1,611,563,008	
Less restrictions:									
Trust Indenture	(882,121,470)	(460,172,184)	(68,248,724)	(1,574,263,549)					
Operating Reserve					(1,027,047)		(6,972,953)		
Appropriated State Treasury Funds					(2,475,830)			(8,211,158)	
Designated for program use per Government Code, Chapter 2306						(45,280,820)			
Funds Reserved, Commited or under Contract						(9,689,286)			
Addt'l restrictions per Department			(17,500,144)		(2,351,332)				
Restricted Use of Fees for Administrative Expenses					(3,727,596)		(20,864,913)		
Federal Funds								(1,603,351,850)	
Subtotal	(882,121,470)	(460,172,184)	(85,748,868)	(1,574,263,549)	(9,581,805)	(54,970,106)	(27,837,866)	(1,611,563,008)	
Unencumbered fund balances	-	-	-	-	5	-	146,804	-	146,809

EXHIBIT B

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Calculation of Bonded Indebtedness as of August 31, 2021
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	$ 679,463,931	$ 30,000,000
RMRB	Aaa	312,528,733	10,000,000
Multifamily	Various	1,275,235,614	773,517,677
		$ 2,267,228,278	$ 813,517,677

Section 2306.205(a)	
2% of bonded indebtedness	$ 16,270,354
Unencumbered Fund Balance (UFB) per Calculation	$ 146,809
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	$ 32,540,707
Unencumbered Fund Balance (UFB) per Calculation	$ 146,809
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				8/31/2021	Rating Agencies		
					Moody's	Standard & Poor's	Fitch
Series	CUSIP	Maturity Date	Interest Rate	Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
2004B	88275FNN5	9/1/2034	VAR	$ 14,705,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2004D	88275FNP0	3/1/2035	VAR	$ 10,125,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2005A	88275FNQ8	9/1/2036	VAR	$ 12,930,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2007A	88275FMF3	9/1/2038	VAR	$ 11,945,000.00	Aaa/VMIG1	AA+/A-1+	#N/A N/A
2013A	88275FNT2	3/1/2036	2.800%	$ -	WR	NR	#N/A N/A
2015A	88275FNU9	9/1/2039	3.200%	$ 13,700,000.00	Aaa	AA+	#N/A N/A
2015B	88275FNV7	3/1/2046	3.125%	$ 8,305,000.00	Aaa	AA+	#N/A N/A
2016A	88275FNW5	3/1/2046	3.000%	$ 11,800,000.00	Aaa	AA+	#N/A N/A
2016B	88275FNX3	3/1/2039	3.180%	$ 21,070,000.00	Aaa	AA+	#N/A N/A
2017A	88275FNY1	9/1/2047	2.835%	$ 44,488,593.00	Aaa	AA+	#N/A N/A
2017B	88275FNZ8	9/1/2038	2.750%	$ 14,734,167.00	Aaa	AA+	#N/A N/A
2017C	88275FPA1	9/1/2047	3.100%	$ 30,239,199.00	Aaa	AA+	#N/A N/A
2018A	88275FPF0	9/1/2021	2.000%	$ 880,000.00	Aaa	AA+	#N/A N/A
	88275FPG8	3/1/2022	2.100%	$ 895,000.00	Aaa	AA+	#N/A N/A
	88275FPH6	9/1/2022	2.200%	$ 905,000.00	Aaa	AA+	#N/A N/A
	88275FPJ2	3/1/2023	2.250%	$ 925,000.00	Aaa	AA+	#N/A N/A
	88275FPK9	9/1/2023	2.300%	$ 945,000.00	Aaa	AA+	#N/A N/A
	88275FPL7	3/1/2024	2.450%	$ 955,000.00	Aaa	AA+	#N/A N/A
	88275FPM5	9/1/2024	2.500%	$ 965,000.00	Aaa	AA+	#N/A N/A
	88275FPN3	3/1/2025	2.600%	$ 970,000.00	Aaa	AA+	#N/A N/A
	88275FPP8	9/1/2025	2.650%	$ 990,000.00	Aaa	AA+	#N/A N/A
	88275FPQ6	3/1/2026	2.800%	$ 1,005,000.00	Aaa	AA+	#N/A N/A
	88275FPR4	9/1/2026	2.850%	$ 1,030,000.00	Aaa	AA+	#N/A N/A
	88275FPS2	3/1/2027	2.950%	$ 1,050,000.00	Aaa	AA+	#N/A N/A
	88275FPT0	9/1/2027	3.000%	$ 1,065,000.00	Aaa	AA+	#N/A N/A
	88275FPU7	3/1/2028	3.050%	$ 1,085,000.00	Aaa	AA+	#N/A N/A
	88275FPV5	9/1/2028	3.100%	$ 1,105,000.00	Aaa	AA+	#N/A N/A
	88275FPW3	3/1/2029	3.150%	$ 1,115,000.00	Aaa	AA+	#N/A N/A
	88275FPX1	9/1/2029	3.200%	$ 1,135,000.00	Aaa	AA+	#N/A N/A
	88275FPY9	9/1/2033	3.350%	$ -	Aaa	NR	#N/A N/A
	88275FPZ6	9/1/2038	4.125%	$ 15,110,000.00	Aaa	AA+	#N/A N/A
	88275FQA0	9/1/2043	4.250%	$ 18,890,000.00	Aaa	AA+	#N/A N/A
	88275FQB8	9/1/2048	4.250%	$ 23,805,000.00	Aaa	AA+	#N/A N/A
	88275FQC6	3/1/2049	4.750%	$ 41,245,000.00	Aaa	AA+	#N/A N/A
2019A	88275FQE2	9/1/2021	1.400%	$ 965,000.00	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
	88275FQZ5	9/1/2034	2.700%	$ 8,460,000.00	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%	$ 67,425,000.00	Aaa	AA+	#N/A N/A
2020A	88275FRF8	9/1/2021	0.400%	$ 1,210,000.00	Aaa	AA+	#N/A N/A
	88275FRG6	3/1/2022	0.550%	$ 1,225,000.00	Aaa	AA+	#N/A N/A
	88275FRH4	9/1/2022	0.600%	$ 1,235,000.00	Aaa	AA+	#N/A N/A
	88275FRJ0	3/1/2023	0.750%	$ 1,240,000.00	Aaa	AA+	#N/A N/A
	88275FRK7	9/1/2023	0.800%	$ 1,250,000.00	Aaa	AA+	#N/A N/A

	88275FRL5	3/1/2024	0.900%	$	1,260,000.00	Aaa	AA+	#N/A N/A
	88275FRM3	9/1/2024	0.950%	$	1,270,000.00	Aaa	AA+	#N/A N/A
	88275FRN1	3/1/2025	1.250%	$	1,280,000.00	Aaa	AA+	#N/A N/A
	88275FRP6	9/1/2025	1.250%	$	1,290,000.00	Aaa	AA+	#N/A N/A
	88275FRQ4	3/1/2026	4.000%	$	1,290,000.00	Aaa	AA+	#N/A N/A
	88275FRR2	9/1/2026	4.000%	$	1,300,000.00	Aaa	AA+	#N/A N/A
	88275FRS0	3/1/2027	5.000%	$	1,315,000.00	Aaa	AA+	#N/A N/A
	88275FRT8	9/1/2027	5.000%	$	1,325,000.00	Aaa	AA+	#N/A N/A
	88275FRU5	3/1/2028	5.000%	$	1,335,000.00	Aaa	AA+	#N/A N/A
	88275FRV3	9/1/2028	5.000%	$	1,340,000.00	Aaa	AA+	#N/A N/A
	88275FRW1	3/1/2029	1.900%	$	1,365,000.00	Aaa	AA+	#N/A N/A
	88275FRX9	9/1/2029	1.950%	$	1,370,000.00	Aaa	AA+	#N/A N/A
	88275FRY7	3/1/2030	2.000%	$	1,380,000.00	Aaa	AA+	#N/A N/A
	88275FRZ4	9/1/2030	2.050%	$	1,395,000.00	Aaa	AA+	#N/A N/A
	88275FSA8	3/1/2031	2.100%	$	1,410,000.00	Aaa	AA+	#N/A N/A
	88275FSB6	9/1/2031	2.150%	$	1,425,000.00	Aaa	AA+	#N/A N/A
	88275FSC4	9/1/2035	2.150%	$	11,615,000.00	Aaa	AA+	#N/A N/A
	88275FSD2	9/1/2040	2.500%	$	17,120,000.00	Aaa	AA+	#N/A N/A
	88275FSE0	9/1/2045	3.000%	$	20,005,000.00	Aaa	AA+	#N/A N/A
	88275FSF7	3/1/2050	3.000%	$	21,035,000.00	Aaa	AA+	#N/A N/A
	88275FSG5	3/1/2051	3.500%	$	75,505,000.00	Aaa	AA+	#N/A N/A
2020B	88275FSH3	3/1/2036	2.000%	$	10,201,972.00	Aaa	AA+	#N/A N/A
2020A Jr Lien	88275FSJ9	9/1/2030	2.040%	$	15,000,000.00	Aa1	AA+	#N/A N/A
	88275FSK6	9/1/2045	2.997%	$	15,000,000.00	Aa1	AA+	#N/A N/A
		Total Bonds Outstanding		$	679,463,931.00			
2018 Issuer Note	N/A	8/8/2025	3.500%	$	-			
Bonds/Notes Rated in the Highest Category (Aaa OR AAA)				$	649,463,931.00			
Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA)				$	30,000,000.00			

EXHIBIT C

RMRB Indenture					Rating Agencies		
				8/31/2021	Moody's	Standard & Poor's	Fitch
Series	CUSIP	Maturity Date	Interest Rate	Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
2019A	882750NX6	1/1/2022	1.950%	$ 835,000.00	Aaa	AA+	#N/A N/A
	882750NH1	7/1/2022	5.000%	$ 935,000.00	Aaa	AA+	#N/A N/A
	882750NY4	1/1/2023	2.050%	$ 870,000.00	Aaa	AA+	#N/A N/A
	882750NJ7	7/1/2023	5.000%	$ 975,000.00	Aaa	AA+	#N/A N/A
	882750NZ1	1/1/2024	2.200%	$ 905,000.00	Aaa	AA+	#N/A N/A
	882750NK4	7/1/2024	5.000%	$ 1,015,000.00	Aaa	AA+	#N/A N/A
	882750PA4	1/1/2025	2.350%	$ 945,000.00	Aaa	AA+	#N/A N/A
	882750NL2	7/1/2025	5.000%	$ 1,060,000.00	Aaa	AA+	#N/A N/A
	882750PB2	1/1/2026	2.500%	$ 985,000.00	Aaa	AA+	#N/A N/A
	882750NM0	7/1/2026	5.000%	$ 1,105,000.00	Aaa	AA+	#N/A N/A
	882750PC0	1/1/2027	2.650%	$ 1,015,000.00	Aaa	AA+	#N/A N/A
	882750NN8	7/1/2027	5.000%	$ 1,155,000.00	Aaa	AA+	#N/A N/A
	882750PD8	1/1/2028	2.750%	$ 1,060,000.00	Aaa	AA+	#N/A N/A
	882750NP3	7/1/2028	5.000%	$ 1,210,000.00	Aaa	AA+	#N/A N/A
	882750PE6	1/1/2029	2.900%	$ 1,115,000.00	Aaa	AA+	#N/A N/A
	882750NQ1	7/1/2029	5.000%	$ 1,270,000.00	Aaa	AA+	#N/A N/A
	882750PF3	1/1/2030	3.000%	$ 1,175,000.00	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%	$ 5,680,000.00	Aaa	AA+	#N/A N/A
	882750PH9	7/1/2039	3.800%	$ 16,800,000.00	Aaa	AA+	#N/A N/A
	882750PJ5	7/1/2044	3.900%	$ 20,915,000.00	Aaa	AA+	#N/A N/A
	882750PK2	1/1/2049	4.750%	$ 49,110,000.00	Aaa	AA+	#N/A N/A
	882750PL0	1/1/2050	3.950%	$ 28,925,000.00	Aaa	AA+	#N/A N/A
2021A	882750PM8	7/1/2022	0.25%	$ 585,000.00	Aaa	AA+	#N/A N/A
	882750PN6	1/1/2023	0.30%	$ 595,000.00	Aaa	AA+	#N/A N/A
	882750PP1	7/1/2023	0.35%	$ 600,000.00	Aaa	AA+	#N/A N/A
	882750PQ9	1/1/2024	0.45%	$ 605,000.00	Aaa	AA+	#N/A N/A
	882750PR7	7/1/2024	0.50%	$ 610,000.00	Aaa	AA+	#N/A N/A
	882750PS5	1/1/2025	0.60%	$ 620,000.00	Aaa	AA+	#N/A N/A
	882750PT3	7/1/2025	0.65%	$ 630,000.00	Aaa	AA+	#N/A N/A
	882750PU0	1/1/2026	0.75%	$ 635,000.00	Aaa	AA+	#N/A N/A
	882750PV8	7/1/2026	0.80%	$ 645,000.00	Aaa	AA+	#N/A N/A
	882750PW6	1/1/2027	5.00%	$ 645,000.00	Aaa	AA+	#N/A N/A
	882750PX4	7/1/2027	5.00%	$ 665,000.00	Aaa	AA+	#N/A N/A
	882750PY2	1/1/2028	5.00%	$ 675,000.00	Aaa	AA+	#N/A N/A
	882750PZ9	7/1/2028	5.00%	$ 705,000.00	Aaa	AA+	#N/A N/A
	882750QA3	1/1/2029	5.00%	$ 705,000.00	Aaa	AA+	#N/A N/A
	882750QB1	7/1/2029	5.00%	$ 720,000.00	Aaa	AA+	#N/A N/A
	882750QC9	1/1/2030	1.60%	$ 750,000.00	Aaa	AA+	#N/A N/A
	882750QD7	7/1/2030	1.65%	$ 755,000.00	Aaa	AA+	#N/A N/A
	882750QE5	1/1/2031	1.80%	$ 770,000.00	Aaa	AA+	#N/A N/A
	882750QF2	7/1/2031	1.85%	$ 780,000.00	Aaa	AA+	#N/A N/A
	882750QG0	1/1/2032	1.95%	$ 795,000.00	Aaa	AA+	#N/A N/A
	882750QH8	7/1/2032	1.95%	$ 805,000.00	Aaa	AA+	#N/A N/A
	882750QJ4	1/1/2033	2.00%	$ 815,000.00	Aaa	AA+	#N/A N/A
	882750QK1	7/1/2033	2.00%	$ 830,000.00	Aaa	AA+	#N/A N/A
	882750QL9	7/1/2036	2.05%	$ 5,210,000.00	Aaa	AA+	#N/A N/A
	882750QM7	7/1/2041	2.25%	$ 9,810,000.00	Aaa	AA+	#N/A N/A
	882750QN5	7/1/2046	2.45%	$ 11,550,000.00	Aaa	AA+	#N/A N/A
	882750QP0	7/1/2051	2.50%	$ 13,465,000.00	Aaa	AA+	#N/A N/A
	882750QQ8	1/1/2052	3.00%	$ 44,000,000.00	Aaa	AA+	#N/A N/A
2021B	882750QR6	7/1/2042	1.70%	56,468,733.00	Aaa	AA+	#N/A N/A
		Total Bonds Outstanding		$ 302,528,733.00			
2016 Issuer Note	N/A	9/28/2026	1.000%	$ 10,000,000.00			
Bonds/Notes Rated in the Highest Category (Aaa OR AAA)				$ 302,528,733.00			
Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA)				$ 10,000,000.00			

EXHIBIT C

Multifamily				Rating Agencies		
			8/31/2021	Moody's	Standard & Poor's	Fitch
MF Bond Issue	CUSIP	Private or Public	Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
1996 A MF Refunding (Brighton's Mark Development)	88275BBK3	Private Place	$ 8,075,000.00	#N/A N/A	NR	#N/A N/A
1998 A MF (Residence at the Oaks Project)	88275BDA3	Private Place	$ 2,464,000.00	#N/A N/A	NR	#N/A N/A
1998 B MF (Residence at the Oaks Project)	88275BDB1	Private Place	$ 1,316,000.00	#N/A N/A	NR	#N/A N/A
1998 C MF (Residence at the Oaks Project)	88275BDB1	Private Place	$ 43,000.00	#N/A N/A	NR	#N/A N/A
2000 A MF (Highland Meadow Village Apartments)	88275BEW4	Private Place	$ 5,661,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2000 A MF (Collingham Park Apartments)	88275BEZ7	Private Place	$ 6,885,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2000 B MF (Collingham Park Apartments)	88275BFA1	Private Place	$ 1,547,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 A MF (Skyway Villas Apartments)	88275BFN3	Public Offer	$ 4,110,000.00	WR	NR	WD
2001 B MF (Skyway Villas Apartments)	88275BFQ6	Private Place	$ 1,055,000.00	WR	#N/A N/A	#N/A N/A
2001 A-1 MF (Meridian Apartments)	88275ACG3	Public Offer	$ 6,861,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2001 B MF (Meridian Apartments)	88275ACH1	Private Place	$ 385,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2001 A-1 MF (Wildwood Apartments)	88275ACJ7	Public Offer	$ 5,569,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF Refunding (Reading Road)	88275BJJ8	Public Offer	$ -	#N/A N/A	NR/NR	#N/A N/A
2003 B MF Refunding (Reading Road)	88275BJK5	Private Place	$ -	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF (West Virginia Apartments)	88275BHT8	Public Offer	$ 5,230,000.00	WR	NR	WD
2003 A MF (West Virginia Apartments)	88275BHU5	Public Offer	$ 1,310,000.00	WR	NR	WD
2003 A MF (Primrose Houston School Apartments)	88275BJB5	Private Place	$ -	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF (Ash Creek Apartments)	88275BJS8	Private Place	$ -	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF (Peninsula Apartments)	88275BJU3	Public Offer	$ 8,735,000.00	#N/A N/A	NR	#N/A N/A
2003 A MF (Arlington Villas Apartments)	88275BJX7	Public Offer	$ 15,000,000.00	WR/WR	#N/A N/A	#N/A N/A
2003 B MF (Arlington Villas Apartments)	88275BJY5	Public Offer	$ 208,668.00	WR/WR	#N/A N/A	#N/A N/A
2004 A MF (Timber Ridge II Apartments)	88275BJZ2	Private Place	$ -	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Providence at Rush Creek II)	88275BKH0	Private Place	$ -	#N/A N/A	NR/NR	#N/A N/A
2004 MF (Humble Parkway Townhomes)	88275BKJ6	Public Offer	$ -	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Chisholm Trail Apartments)	88275BKR8	Public Offer	$ 8,900,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Evergreen at Plano Parkway)	88275BKX5	Private Place	$ 12,972,677.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Bristol Apartments)	88275BKT4	Public Offer	$ 10,400,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Pinnacle Apartments)	88275BKV9	Public Offer	$ 12,065,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2005 MF (Atascocita Pines Apartments)	88275BLV8	Public Offer	$ -	WR/WR	#N/A N/A	#N/A N/A
2005 MF (Tower Ridge Apartments)	88275BLX4	Public Offer	$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2005 MF (St. Augustine Estate Apartments)	88275BME5	Public Offer	$ -	Aaa/VMIG1	#N/A N/A	#N/A N/A
2005 MF (Providence Mockingbird Apartments)	None	Private Place	$ 10,112,966.00	Charter Mac Equity Issuer Trust		
2005 MF (Plaza at Chase Oaks Apartments)	None	Private Place	$ 10,145,900.00	Washington Mutual Bank		
2005 MF (Coral Hills Apartments)	88275BMP0	Public Offer	$ 3,785,000.00	#N/A N/A	AA+	#N/A N/A
2006 MF (Village Park Apartments)	88275BNC8	Public Offer	$ -	#N/A N/A	NR	#N/A N/A
2006 MF (Oakmoor Apartments)	88275BNA2	Private Place	$ 12,812,762.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (The Residences at Sunset Pointe)	88275AAA8	Public Offer	$ 14,900,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2006 MF (Hillcrest Apartments)	88275AAE0	Public Offer	$ -	#N/A N/A	NR	#N/A N/A
2006 MF (Meadowlands Apartments)	88275AAH3	Private Place	$ 11,087,667.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (East Tex Pines)	88275AAP5	Private Place	$ 12,155,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (Aspen Park)	88275AAR1	Public Place	$ 8,240,000.00	#N/A N/A	AA+	#N/A N/A
2006 MF (Idlewilde)	88275AAY6	Public Offer	$ 12,090,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Lancaster)	88275ABA79	Public Offer	$ 12,080,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Park Place at Loyola)	88275ABB5	Private Place	$ 13,102,315.00	#N/A N/A	#N/A N/A	#N/A N/A
2007 MF (Terraces at Cibolo)	88275ABC3	Public Place	$ 4,395,000.00	#N/A N/A	A+/A-1	#N/A N/A
2007 MF (Santora Villas)	88275ABD1	Private Place	$ 11,090,959.00	#N/A N/A	#N/A N/A	#N/A N/A
2007 MF (Costa Rialto)	None	Private Place	$ 9,647,346.00	Centerline Equity Issuer Trust		
2007 MF (Windshire)	88275ABN9	Public Offer	$ 12,200,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Residences @ Onion Creek)	88275ABX7	Public Offer	$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2008 MF (West Oaks Apartments)	88275ABY5	Public Offer	$ 11,075,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2008 MF (Costa Ibiza Apartments)	88275ACD0	Public Offer	$ 12,020,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2008 MF (Alta Cullen Refunding)	88275ACF5	Public Offer	$ 10,900,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2009 MF (Costa Mariposa)	88275ACK4	Public Offer	$ 12,125,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2009 MF (Woodmont)	88275ACL2	Public Offer	$ 13,330,000.00	WR/WR	#N/A N/A	#N/A N/A
2014 MF (Decatur Angle)	88275ACN8	Private Place	$ 22,141,249.00	#N/A N/A	#N/A N/A	#N/A N/A
2016 MF (Williamsburg Apts)	88275ACW8	Public Offer	$ 21,823,290.00	Aaa	#N/A N/A	#N/A N/A
2016 MF (Skyline Place Apartments)	88275ADC1	Public Offer	$ 17,669,224.98	Aaa	#N/A N/A	#N/A N/A
2017 MF (Casa Inc Apartments)	88275ADD9	Public Offer	$ 22,808,748.01	Aaa	#N/A N/A	#N/A N/A
2017 MF (Casa Brendan Apartments)	88275ADF4	Public Offer	$ 4,751,822.64	Aaa	#N/A N/A	#N/A N/A
2017 MF (Nuestro Hogar)	88275ADE7	Public Offer	$ 5,417,077.78	Aaa	#N/A N/A	#N/A N/A
2018 MF (Vista on Gessner)	88275ADH0	Public Offer	$ 49,180,924.37	Aaa	#N/A N/A	#N/A N/A
2018 MF (Springs Apartments)	88275ADJ6	Public Offer	$ -	#N/A N/A	NR	#N/A N/A
2018 MF (Crosby Plaza Apartments)	88275ADK3	Public Offer	$ -	#N/A N/A	NR	#N/A N/A
2018 MF (Oaks on Lamar)	88275ADN7	Public Offer	$ 16,227,821.02	#N/A N/A	AA+	#N/A N/A
2018 MF (Riverside Townhomes)	88275ADM9	Public Offer	$ 18,535,049.35	#N/A N/A	AA+	#N/A N/A
2018 A MF (Forestwood)	88275ADP2	Public Offer	$ 19,800,563.84	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2018 B MF (Forestwood)	88275ADQ0	Public Offer	$ 3,000,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2019 MF A (Park Yellowstone)	88275LAA4	Public Offer	$ 12,500,000.00	#N/A N/A	AA+	#N/A N/A
2019 MF B (Park Yellowstone)	88275ADS6	Public Offer	$ -	#N/A N/A	NR	#N/A N/A
2019 MF Series A (Lago de Plata)	88275ADT4	Private Place	$ 13,755,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2019 MF Series A (McMullen Square)		Private Place	$ 7,552,418.06	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2019 MF Series A (Northgate Village)	88275ADC9	Public Offer	$ 18,474,411.49	Aaa	#N/A N/A	#N/A N/A
2020 MF (Oaks on Clark)	88275LAB2	Public Offer	$ 9,821,010.11	#N/A N/A	#N/A N/A	#N/A N/A
2020 MF (Pines)	88275LAD8	Public Offer	$ 21,645,159.88	Aaa	#N/A N/A	#N/A N/A
2020 MF (333 Holly)	88275LAC0	Public Offer	$ 36,206,449.37	Aaa	#N/A N/A	#N/A N/A
2020 MF (Scott Street Lofts)	88275ADX5	Public Offer	$ 18,000,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2020 MF (The Walzem)		Private Place	$ 20,000,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2020 MF (Pecan Grove)	88275ADY3	Public Offer	$ 26,000,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2020 MF (Fishpond at Corpus Christi)	88275AEA4	Public Offer	$ 10,000,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2021 MF (Montage)	88275AEB2	Private Place	$ 34,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A

2021 MF (Oso Bay)	88275AEC0	Public Offer	$ 14,000,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2021 MF (Bella Vista)	88275LAE6	Public Offer	$ 14,923,174.35	Aaa	#N/A N/A	#N/A N/A
2021 MF (Crystal Falls Crossing)	88275LAF3	Public Offer	$ 14,000,000.00	Aaa	#N/A N/A	#N/A N/A
2021 MF (Shiloh Village)	88275LAG1	Public Offer	$ 21,887,072.46	Aaa	#N/A N/A	#N/A N/A
2021 MF (Ridgewood)	88275LAH9	Public Offer	$ 39,851,900.80	Aaa	#N/A N/A	#N/A N/A
2021 MF (Pineview)	88275LAJ5	Public Offer	$ 33,873,680.38	Aaa	#N/A N/A	#N/A N/A
2021 MF (Palladium Simpsom Stuart)	88275AED8	Public Offer	$ 25,750,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2021 MF (Corona Del Valle)	88275AEE6	Public Offer	$ 8,500,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A

Total Bonds Outstanding $ 968,183,307.89

MULTI-FAMILY HOUSING NOTES PAYABLE

2016 (Garden City Apartments)	$ 15,512,210.16
2016 (Gateway at Hutchins Apartments)	$ 26,765,206.41
2016 (Mercantile Apts)	$ 28,844,315.33
2018 (Preserve at Hunters Crossing)	$ 13,000,000.00
2019 (Ventura at Hickory Tree)	$ 28,100,000.00
2020 (Reserves at San Marcos)	$ 41,000,000.00
2020 (Vermillion)	$ 28,000,000.00
2020 (Granada Terrace)	$ 15,830,573.74
2020 (Legacy Riverside Senior)	$ 40,000,000.00
2021 (Murdeaux Villas)	$ 35,000,000.00
2021 (Caroline Lofts)	$ 20,000,000.00
2021 (Citadel)	$ 15,000,000.00

Total Notes Outstanding $ 307,052,305.64

Bonds/Notes Rated in the Highest Category (Aaa OR AAA) $ 501,717,936.51

Bonds/Notes NOT Rated in the Highest Category (Aaa OR AAA) $ 773,517,677.02

EXECUTIVE SESSION

The Chair may call an Executive Session at this point in the agenda in accordance with the provisions cited at the end of the official posted agenda[1].

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

Action Items

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Oral Presentation

4a

BOARD ACTION ITEM

INTERNAL AUDIT DIVISION

December 9, 2021

Report on the Meeting of the Audit and Finance Committee and Action on recommendations of that committee

Verbal Report

4b

BOARD ACTION REQUEST

INTERNAL AUDIT DIVISION

December 9, 2021

Presentation, Discussion and Possible Action on approval of the Fiscal Year 2022 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 2022 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 2022. The plan also outlines other planned activities that will be performed by the Internal Audit Division.

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

6a

BOARD ACTION REQUEST

BOND FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on Resolution No. 22-013 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Residential Mortgage Revenue Bonds, Series 2022A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

On September 1, 2021, the Department issued $150,000,000 Single Family Mortgage Revenue Bonds, 2021 Series A (Non-AMT) (Social Bonds). The issue was exceptionally well-received, and all proceeds have been fully committed. Market conditions remain conducive to the issuance of tax-exempt, single family mortgage revenue bonds (SFMRBs) to finance mortgage loans for low, very low, and moderate income homebuyers.

With this item, staff is seeking approval for the issuance of Texas Department of Housing and Community Affairs, Residential Mortgage Revenue Bonds, Series 2022A (the 2022A Bonds).

2022A Bonds

The 2022A Bonds will be issued in a maximum par amount of $190 million; total bond proceeds (par amount of bonds plus bond premium) will not exceed $205,200,000. Proceeds of the 2022A Bonds will be used to purchase Ginnie Mae mortgage-backed securities (MBS) backed by tax-exempt eligible mortgage loans, to pay all or a portion of the costs of issuance related to the 2022A Bonds, and to finance a portion of the down payment assistance, lender compensation, and second loan servicing fees related to the underlying mortgage loans. The 2022A Bonds are expected to be offered as traditional SFMRBs, with serial bonds, term bonds, and premium Planned Amortization Class (PAC) bonds. Depending on market conditions, proceeds of the 2022A Bonds may be invested in a Guaranteed Investment Contract (GIC) until expended; otherwise, proceeds will be invested in overnight obligations that meet indenture requirements. The 2022A Bonds are anticipated to be designated as “Social Bonds” and are expected to receive an Independent Second Party Opinion related thereto provided by Kestrel Verifiers.

2022A Mortgage Loans

Mortgage loans will be 30-year, fixed rate loans guaranteed by FHA, VA, or USDA and pooled into Ginnie Mae MBS. Initially, borrowers will have the choice of four or five points of down payment assistance (DPA), subject to modification in response to borrower demand or market conditions. Borrowers will choose how their DPA is structured: (1) repayable, where the DPA is provided as 0% interest, non-amortizing, 30-year second mortgage loan that is due on sale or refinance of the first loan, or (2) forgivable, where the DPA is provided as a 0% interest, non-amortizing, second mortgage loans that is fully repayable for the first three years, and forgiven three years after loan closing. The repayable option typically offers a mortgage rate on the first mortgage loan that is .25% to .375% lower than the forgivable option. The issuance of $190 million of par amount of 2022A Bonds will provide for $190 million in par amount of mortgage loans to be originated. The associated down payment assistance, lender compensation, and servicing fees for the second loans are expected to total approximately $13.8 million.

Underwriting Team

RBC Capital Markets will serve as senior manager, with Barclays and Jefferies serving as co-senior managers. Morgan Stanley, Piper Sandler, and Ramirez & Co. are co-managers for this transaction.

Timing

Preliminarily, the key events are as follows:

01/05/2022	Preliminary Official Statement is Released
01/12/2022	Bonds Priced and Bond Purchase Agreement is Executed
01/18/2022	Official Statement is Released
02/09/2022	Bond Closing

Department Contribution

The contribution by the Department will not exceed $10 million, which will to be used to fund a portion of the down payment and closing cost assistance and costs related to the acquisition of qualifying mortgage loans (including the payment of lender compensation and servicing fees for second mortgage loans) and to pay all or a portion of the costs of issuance of the 2022A Bonds. The contribution will be funded from amounts on deposit in the RMRB indenture. Capitalized interest of up to $5.5 million may be paid from the RMRB indenture as necessary. As with prior transactions, these amounts are maximums; the actual contribution and capitalized interest expense are expected to be less than that approved by the Board.

Summary

Staff will continue to work with the Department's financing team to ensure the economic viability of the 2022A Bonds. Depending on market conditions and other factors, the amount of 2022A Bonds issued may be less than approved by the Board.

Exhibits

The Exhibits for Resolution 22-013 can be found online at the Department's Board Meeting Information Center website: http://www.tdhca.state.tx.us/board/meetings.htm.

RESOLUTION NO. 22-013

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2022A; APPROVING THE FORM AND SUBSTANCE OF RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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 (the "Act"), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as 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 issue revenue bonds, to provide money to (i) make and acquire mortgage loans or participations therein, (ii) fund or increase the Department's reserves or funds (iii) pay the costs and expenses of issuing the bonds and (iv) pay interest on the bonds; and (b) to pledge all or part of the revenues, income or resources of the Department, including the revenues to be received by the Department from the mortgage loans or participations therein, to secure the payment of the principal, interest or redemption premium on the bonds; and

WHEREAS, the Department and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have executed and delivered that certain Amended and Restated Residential Mortgage Revenue Bond Trust Indenture dated as of July 1, 2019 (as amended and supplemented from time to time, the "RMRB Indenture"), providing for the issuance from time to time by the Department of one or more series of its Residential Mortgage Revenue Bonds; and

WHEREAS, the Department has a single family mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, pursuant to Resolution No. 17-003, the Board approved Program Guidelines setting forth the general terms of the mortgage loans to be originated under the Program (the "Mortgage Loans") and authorized execution and delivery of (i) a Mortgage Acquisition, Pooling and Servicing Agreement setting forth the terms under which Idaho Housing and Finance Association (the "Servicer"), will review, acquire, package and service the Mortgage Loans, and (ii) a Master Mortgage Origination Agreement in connection with the acceptance of new lenders in the Program (collectively, the "Program Documents"); and

WHEREAS, pursuant to Resolution No. 22-002, the Board approved certain modifications to the Program and the execution of revised Program Documents in connection therewith to authorize the making of forgivable Mortgage Loans for down payment and closing costs assistance; and

WHEREAS, the RMRB Indenture authorizes the issuance of additional Residential Mortgage Revenue Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department's Residential Mortgage Revenue Bonds, to be known as its Residential Mortgage Revenue Bonds, Series 2022A (the "Bonds") pursuant to the RMRB Indenture for the purpose of providing funds to make and acquire qualifying Mortgage Loans through the purchase of mortgage backed securities ("Mortgage Certificates"), to provide down payment and closing cost assistance and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Thirty-Sixth Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Supplemental Indenture") in substantially the form attached hereto relating to the Bonds; and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the "Bond Purchase Agreement") with RBC Capital Markets, LLC, as representative of the group of underwriters listed in the Bond Purchase Agreement (the "Underwriters"), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a Thirteenth Supplement to Depository Agreement relating to the Bonds (the "Depository Agreement"), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company (the "Trust Company"), in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the "Official Statement") and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") relating to the Bonds in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of a portion of the proceeds of the Bonds and any other amounts held under the RMRB Indenture with respect to the Bonds in one or more guaranteed investment contracts (the "GICs") on or after the closing date or in such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed $10,000,000 of Department funds for any purpose authorized under the Act and the RMRB Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying Mortgage Loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the use of an amount not to exceed $5,500,000 of funds on deposit under the RMRB Indenture to fund capitalized interest on the Bonds; and

WHEREAS, Chapter 1371, Texas Government Code, as amended ("Chapter 1371") authorizes the Department to take certain actions described in this Resolution related to the issuance of the Bonds; and

WHEREAS, the Board desires to approve the form of the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement, the Official Statement and the Continuing Disclosure Agreement and 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 further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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

ARTICLE 1
ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of any or all of the Bonds is hereby authorized, all under and in accordance with the RMRB Indenture, and that, upon execution and delivery of the Supplemental Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of Texas (the "Attorney General") for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Bonds to or upon the order of the Underwriters.

Section 1.2 Authority to Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Authorized Representatives of the Department are hereby authorized and empowered, in accordance with Chapter 1371, to fix and determine the interest rates, principal amounts and maturities of the Bonds, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on the Bonds shall not exceed 6% per annum; (b) the aggregate principal amount of the Bonds shall not exceed $190,000,000; (c) the final maturity of the Bonds shall occur not later than January 1, 2054; (d) the price at which the Bonds are sold to the Underwriters shall not exceed 108% of the aggregate principal amount thereof; and (e) the Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term debt instrument. In no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Approval, Execution and Delivery of the Supplemental Indenture. That the form and substance of the Supplemental Indenture are hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Supplemental Indenture and to deliver the Supplemental Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.5 Official Statement. That the Official Statement, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as an Authorized Representative may approve in order to permit such Authorized Representative, for and on behalf of the Board, to deem the Official Statement final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Trust Company.

Section 1.7 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.8 Approval of GIC Broker; Approval of Investment in GICs. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to select a GIC broker, if any, and that the investment of funds held under the RMRB Indenture in connection with the Bonds in GICs is hereby approved and that the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to complete arrangements for such investment in GICs or such other investments as the Authorized Representatives may approve.

Section 1.9 Authority to Designate Bonds as Social Bonds. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to designate the Bonds as "social bonds," and if such designation occurs, "(Social Bonds)" shall be added at the end of the name of the Bonds.

Section 1.10 Execution and Delivery of Other Documents. That the Authorized Representatives 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 and other papers, and to take such other acts, 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 RMRB Indenture, the Bonds, the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement and the Continuing Disclosure Agreement.

Section 1.11 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, or in the opinion of Bracewell LLP, Bond Counsel to the Department ("Bond Counsel"), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.12 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

Exhibit A – Supplemental Indenture
Exhibit B – Bond Purchase Agreement
Exhibit C – Official Statement
Exhibit D – Depository Agreement
Exhibit E – Continuing Disclosure Agreement

Section 1.13 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership of the Department and the Secretary or Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.14 Department Contribution. That the contribution of Department funds in an amount not to exceed $10,000,000 to be used for any purpose authorized under the Act and the RMRB Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying Mortgage Loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay all or a portion of the costs of issuance of the Bonds is hereby authorized.

Section 1.15 Use of RMRB Indenture Funds. That the use of an amount not to exceed $5,500,000 of funds on deposit under the RMRB Indenture to fund capitalized interest on the Bonds is hereby authorized.

ARTICLE 2
APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.2 Engagement of Other Professionals. That the Executive Director or the Director of Bond Finance and Chief Investment Officer is authorized to engage an accounting firm or firms to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Director of Bond Finance and Chief Investment Officer and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the issuance of the Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102 and the Act, the Executive Director or the Director of Bond Finance and Chief Investment Officer is hereby authorized to undertake all appropriate actions required under the RMRB Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the RMRB Indenture in accordance with the RMRB Indenture.

ARTICLE 3
CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Purpose of Bonds. That the Board hereby determines that the purpose for which the Department may issue the Bonds constitutes "public works" as contemplated by Chapter 1371.

ARTICLE 4
GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the RMRB Indenture to secure payment of the bonds issued under the RMRB Indenture and payment of the Department's costs and expenses for its single family mortgage revenue bond program thereunder and under the RMRB Indenture, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution accomplish 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 4.4 Notice of Meeting. That 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, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 9th day of December, 2021.

EXHIBITS

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.

6b

BOARD REPORT

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Quarterly report relating to staff-issued Determination Notices for 2021 Non-competitive 4% Housing Tax Credit applications and summary of year-end activity

In April 2021, the Board adopted a policy that allows a more streamlined approach to the review process associated with certain 4% Housing Tax Credit (HTC) applications. These applications include those where the Department's only role is in evaluating the 4% HTC and is not serving as the bond issuer or awarding Multifamily Direct Loan Funds.

Specifically, the Board approved a series of waivers relating to staff's evaluation of certain program and underwriting requirements. Regarding underwriting, the waivers allow staff to accept the reasonableness of certain costs in an application without independent verification. Moreover, the new approach recognizes the benefit in evaluating costs at cost certification when amounts are actually known, rather than speculating what they might be at the time of application.

As it relates to the program requirements, the waivers allowed for the administrative approval and issuance of the Determination Notice which would allow staff more flexibility in responding to an applicant's needs in a manner not bound by the Board calendar. Part of the adoption of this streamlined policy included a report item to be provided to the Board on a quarterly basis detailing the number of Determination Notices issued, along with a brief description of the projects.

The 4% HTC applications are reviewed by program, underwriting, and compliance staff within an approximately 90-day period, and Determination Notices are issued once all reviews are complete and the underwriting report is posted to the Department's website. Applications are still submitted at the beginning of each month and are then slated for a Determination Notice to be issued approximately 90 days later, which generally coincides with the Board meeting calendar, in order to provide internal and external expectations regarding the Determination Notice issuance date.

The 4% HTC applications listed in Exhibit A include those where the Determination Notice was issued administratively by staff. Over the last quarter (September through November), staff has administratively issued 9 Determination Notices that would have otherwise been presented to the Board for approval. This represents 2,320 total units and $21,278,515 in annual 4% Housing Tax Credits. Since implementation of the policy, staff has administratively issued 26 Determination Notices, representing 5,884 total units and $51,949,125 in annual 4% Housing Tax Credits.

2021 Year-End Summary

The 4% HTC application log is included as Exhibit B in this item, and highlights 4% activity for the 2021 calendar year. The log includes an Application Status column which denotes those deals that have already closed, have been approved and are pending closing, as well as those that are currently under review by the Department and considered active. Assuming all of the approved and active applications close under their current bond reservation, the 4% HTC program will produce 15,524 total units in 2021, which results in approximately $161 million in annual 4% Housing Tax Credits.

The total anticipated units produced in 2021 is slightly fewer than 2020, which produced 16,682 total unit. The number of anticipated awarded applications is fewer as well, at 70 applications in 2021 compared to 96 applications in 2020. The difference in these numbers can be mostly attributed to a 22-property portfolio transaction that yielded 802 total units in 2020.

The application log also reflects the applications that were withdrawn, either during the review process or after Board approval. The number of withdrawn applications in 2021 is in-line with what was seen in 2020. Exhibit B reflects the pre-applications received for which the Department will serve as the bond Issuer, which is an increase over the prior year. This demonstrates the increased demand for Private Activity Bond volume cap which is seen across all Issuers.

EXHIBIT A

4% Housing Tax Credit Recommended Applications

Application #	Development Information	Determination Notice Issue Date	Units	Recommended HTC Amount	Bond Issuer & Priority Designation	PPR Category and Conditions
21414	Waterview Apartments 1220 South Powell Parkway City: Anna County: Collin New Construction Target Population: General	September 29, 2021	300	$3,318,016	Texas Home Collaborative Priority 3	Category 1
21455	Vista North Shore Merrit Road and Harmony Hills Lane City: Rowlett County: Dallas New Construction Target Population: General	October 8, 2021	289	$3,134,991	Rowlett Housing Finance Corporation Priority 3	Category 2
21456	The Residences at Howard Lane 5724 E. Howard Lane City: Austin ETJ County: Travis New Construction Target Population: General	October 1, 2021	300	$1,912,595	Travis County Housing Finance Corporation Priority 3	Previously Approved
21457	El Prado at Estancia 1124 1/2 Avenida Mercado Street City: Austin County: Travis New Construction Target Population: General	October 1, 2021	318	$2,196,552	Austin Affordable PFC, Inc. Priority 3	Previously Approved
21458	Meadow Apartments 6224 Colton Road City: Austin ETJ County: Travis New Construction Target Population: General	September 13, 2021	288	$3,035,241	Travis County Housing Finance Corporation Carryforward	Category 1
21462	Parmore Fossil Creek SWC Fossil Creek Blvd. and Fossil Ridge Circle City: Haltom City County: Tarrant New Construction Target Population: Elderly	November 15, 2021	220	$1,960,963	Tarrant County Housing Finance Corporation Priority 3	Category 1
21465	Parmore Anna	November 15, 2021	185	$1,829,464	Collin County Housing Finance Corporation	Category 1

Application #	Development Information	Determination Notice Issue Date	Units	Recommended HTC Amount	Bond Issuer & Priority Designation	PPR Category and Conditions
	NEC of E. Finley and Florence Way City: Anna County: Collin New Construction Target Population: Elderly				Priority 3	
21471	The Narrows Approximately 300 County Road 137 City: Hutto County: Williamson New Construction Target Population: General	November 5, 2021	300	$2,510,584	Capital Area Housing Finance Corporation Priority 3	Category 1
21472	Lockhart Farms Approximately 1717 W. San Antonio Street City: Lockhart County: Caldwell New Construction Target Population: General	November 15, 2021	120	$1,380,109	Capital Area Housing Finance Corporation Priority 3	Category 1
Totals for Recommended Applications			**2,320**	**$ 21,278,515**		

EXHIBIT B

4% (Non-Competitive) Housing Tax Credit Program
2021 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
21444	20464	Pine Terrace	Mt. Pleasant	4/8/2021	Closed	76	76	$ 3,300,000	$193,440	$ 259,570
21421	20493	The Ridge at Lancaster	Dallas	1/14/2021	Closed	300	300	$ 50,000,000	$2,707,319	$ 2,707,319
21420	23; 19400; 2(	Villas del San Xavier	San Marcos	.2/12/2019; 2/11/202	Closed	156	156	$ 25,000,000	$1,059,750	$ 1,606,175
21418	20497	The Oleanders at Broadway	Galveston	2/11/2021	Closed	348	261	$ 51,757,648	$2,085,677	$ 2,074,543
21419	20490	2100 Memorial Drive	Houston	2/11/2021	Closed	197	160	$ 35,000,000	$2,091,385	$ 2,074,355
21613	20619	The Citadel	Houston	5/13/2021	Closed	74	67	$ 15,000,000	$1,289,532	$ 1,284,888
21614	2469; 20617	Murdeaux Villas	Dallas	4/8/2021	Closed	280	280	$ 35,000,000	$2,238,085	$ 2,218,728
21601	5044	Ridgewood at Panther Creek	The Woodlands	3/11/2021	Closed	300	300	$ 40,000,000	$3,269,484	$ 3,269,484
21602	4108	v at Grogran's Mill (fka: Tamara	The Woodlands	3/11/2021	Closed	300	300	$ 34,000,000	$2,761,636	$ 2,761,636
21605	20627	Palladium Simpson Stuart	Dallas	4/8/2021	Closed	270	270	$ 25,750,000	$2,135,593	$ 2,135,593
21607	20630	Caroline Lofts	Houston	5/13/2021	Closed	119	80	$ 20,000,000	$847,717	$ 847,717
21600	94063	Corona Del Valle	El Paso	4/8/2021	Closed	101	101	$ 8,500,000	$766,973	$ 760,792
21402		Belmont	Austin	4/8/2021	Closed	146	146	$ 30,000,000	$1,264,833	$ 1,264,833
21406		Midpark Towers	Dallas	3/11/2021	Closed	202	202	$ 20,000,000	$1,248,645	$ 1,243,088
21407		Espero Austin	Austin	3/11/2021	Closed	171	171	$ 20,000,000	$1,350,600	$ 1,350,588
21415		Temenos	Houston	6/17/2021	Closed	95	95	$ 15,500,000	$1,133,609	$ 1,133,609
21400	20479	The Oaks	Dallas	4/8/2021	Closed	260	243	$ 35,000,000	$1,967,029	$ 1,960,212
21604		Meadowbrook	Dallas	11/10/2021	Closed	180	162	$ 30,000,000	$1,823,422	$ 1,823,422
21411		Gateway Oak Cliff	Dallas	4/8/2021	Closed	230	184	$ 33,000,000	$1,643,367	$ 1,643,367
21410		Life at De Soto	Houston	4/8/2021	Closed	556	556	$ 50,000,000	$3,308,893	$ 3,308,893
21403		Bluebonnet Ridge	Ennis	4/8/2021	Closed	264	263	$ 23,000,000	$1,985,983	$ 1,985,983
21404		Agave	San Antonio	4/8/2021	Closed	288	288	$ 50,000,000	$2,559,042	$ 2,863,483
21408		The Residences at Arbor Oaks	Houston	4/8/2021	Closed	192	192	$ 20,000,000	$1,931,603	$ 1,931,603
21401	20492	Cowan Place	Fort Worth	3/11/2021	Closed	174	174	$ 20,000,000	$1,650,621	$ 1,650,621
21416	7907	Virginia Flats	Beaumont	5/13/2021	Closed	110	110	$ 15,000,000	$833,030	$ 833,030
21422	20144	Enchanted Gardens	Victoria	5/13/2021	Closed	168	168	$ 20,830,247	$1,555,427	$ 1,152,758
21428		Grand Avenue Flats	Austin	6/17/2021	Closed	275	275	$ 50,000,000	$2,419,820	$ 2,419,820
21423		El Rosario	Mission	6/17/2021	Closed	100	100	$20,000,000 (portfolio)	$805,597	$ 767,789
21424		La Merced Homes	Mercedes	6/17/2021	Closed	100	100	see 21423	$555,526	$ 523,454
21436		Capitol View Flats	Austin	6/17/2021	Closed	324	324	$ 50,000,000	$2,656,332	$ 2,656,332
21437		Enclave on Ross	Del Valle	6/17/2021	Closed	288	288	$ 40,000,000	$1,917,732	$ 1,917,732
21435		Yager Flats	Manor	6/17/2021	Closed	300	300	$ 32,524,093	$3,473,070	$ 3,460,215
21417		Westmoreland Station	Dallas	6/17/2021	Closed	248	223	$ 30,000,000	$2,320,054	$ 2,320,054
21438		Las Palmas	Eagle Pass	6/17/2021	Closed	64	64	$ 8,000,000	$385,862	$ 385,862
21413		Summit at Renaissance Park	Houston	6/17/2021	Closed	325	325	$ 50,000,000	$3,337,555	$ 3,320,362
21425		Granada Apartments	San Antonio	6/17/2021	Closed	265	265	$ 30,000,000	$2,176,952	$ 2,142,452
21426		The Lantana	San Marcos	6/17/2021	Closed	216	216	$ 26,000,000	$2,142,714	$ 2,112,864
21439		Riverstation Apartments	Dallas	6/17/2021	Closed	236	236	$ 28,000,000	$1,941,483	$ 1,940,716
21429		The Henderson on Reinli	Austin	6/17/2021	Closed	306	306	$ 45,000,000	$3,604,968	$ 3,601,141
21441	11400; 2049(	Marshall Apartments	Austin	12/10/2020	Closed	100	100	$ 16,500,000	$556,883	$ 556,883
21448	20462	Sunland Country	Harlingen	11/5/2020	Closed	166	166	$ 14,000,000	$941,981	$ 941,981
21445		Gardens of Balch Springs	Balch Springs	7/22/2021	Closed	200	200	$ 27,000,000	$1,705,989	$ 1,705,989
21440	01459	City Parc at West Oaks	Houston	7/22/2021	Closed	168	168	$ 22,650,000	$1,204,122	$ 1,199,972
21442		Bristol at Somerset	San Antonio	7/22/2021	Closed	348	348	$ 40,000,000	$2,741,353	$ 2,741,353
21450	20482	W. Leo Daniels Towers	Houston	9/2/2021	Closed	100	100	$ 15,000,000	$1,222,178	$ 1,222,178
21451	20489	Horizon Pointe	San Antonio	9/2/2021	Closed	312	312	$ 35,000,000	$3,135,059	$ 3,134,991
						9,998	**9,721**	**$ 509,674,093**	**$84,947,925**	**$ 85,218,430**
21414		Waterview Apartments	Anna	4/8/2021	Approved	300	300	$ 38,000,000	$3,318,016	$ 3,318,016
21608		Fiji Lofts	Dallas	11/10/2021	Approved	174	154	$ 25,000,000	$2,137,340	$ 2,080,856
21458		Meadow Apartments	Austin	10/14/2021	Approved	288	286	$ 35,000,000	$3,041,538	$ 3,035,241
21454		K Avenue Lofts	Plano	10/14/2021	Approved	226	179	$ 19,000,000	$1,203,498	$ 1,203,444
21455	20413	Vista North Shore	Rowlett	10/14/2021	Approved	289	289	$ 35,000,000	$3,135,059	$ 3,134,991
21603	2457	Park at Kirkstall	Houston ETJ	10/14/2021	Approved	240	240	$ 28,000,000	$2,052,396	$ 2,052,394
21471		The Narrows	Hutto	11/10/2021	Approved	300	300	$ 37,700,000	$2,510,584	$ 2,510,584
21456		The Residences at Howard Lan(	Austin	10/14/2021	Approved	300	300	$ 48,000,000	$1,912,595	$ 1,912,595
21457		El Prado at Estancia	Austin	10/14/2021	Approved	318	318	$ 48,000,000	$2,196,646	$ 2,196,552
21463		Torrey Chase Apartments	Houston	11/10/2021	Approved	280	280	$ 35,000,000	$2,597,494	$ 2,584,935
21462		Parmore Fossil Creek	Haltom City	11/10/2021	Approved	220	220	$ 25,000,000	$1,997,206	$ 1,960,963
21465		Parmore Anna	Anna	12/9/2021	Approved	185	185	$ 25,000,000	$1,865,707	$ 1,829,464
21433		Balcones Trail	Kyle	12/9/2021	Approved	276	276	$ 50,000,000	$2,605,587	$ 2,605,587
21472		Lockhart Farms	Lockhart	11/10/2021	Approved	120	120	$ 15,000,000	$1,380,109	$ 1,380,109
						3,516	**3,447**	**$ 463,700,000**	**$31,953,775**	**$ 31,805,731**
21464	20473	Agave East	Austin	12/9/2021	Active	240	240	$ 25,000,000	$2,136,183	$ -
21427		The Arbors at West Avenue	San Antonio	12/9/2021	Active	232	232	$ 25,000,000	$20,886,100	$ -
21467		Crosswinds Apartments	San Antonio	12/9/2021	Active	312	312	$ 45,000,000	$3,126,574	$ -
21466		Loma Vista Lofts	San Antonio	12/9/2021	Active	212	212	$ 20,000,000	$1,863,594	$ -
21468	98089	Franklin Place Townhomes	El Paso	12/9/2021	Active	96	96	$ 13,418,262	$431,296	$ -
21469	99095	Mesa Place Townhomes	El Paso	12/9/2021	Active	128	128	$ 13,418,262	$531,644	$ -
21470	3134	Cien Palmas	El Paso	12/9/2021	Active	150	148	$ 12,700,000	$918,419	$ -
21460		Cypress Creek at Stoney Ridge	Austin	1/13/2022	Active	280	227	$ 47,500,000	$11,692,576	$ -
21447		Progreso Heights	Progreso	1/13/2022	Active	120	120	$ 14,000,000	$756,782	$ -
21461		Stonegate Manor	Port Arthur	2/10/2022	Active	240	240	$ 40,000,000	$ 1,951,702	$ -

						2,010	**1,955**	**$**	**256,036,524**	**$**	**44,294,870**	**$**	**-**
				TOTAL		**15,524**	**15,123**	**$**	**1,229,410,617**	**$**	**161,196,570**	**$**	**117,024,161**
21618		Providence on the Park	Dallas	4/8/2021	Pre-Application	280	280		TBD		$2,334,513	$	-
21628		The Preserve at Cottonwood Cre	Wilmer	10/14/2021	Pre-Application	226	226		TBD		$2,495,507	$	-
21629		Union Acres	Center	10/14/2021	Pre-Application	100	100		TBD		$684,423	$	-
21630		Palladium Glenn Heights Town Cer	Glenn Heights	10/14/2021	Pre-Application	240	240		TBD		$1,893,040	$	-
21631		The Standard at Royal Lane	Dallas	11/10/2021	Pre-Application	300	270		TBD		$3,082,702	$	-
21609		Throckmorton Villas	McKinney	2/11/2021	Pre-Application	220	216		TBD		$1,957,902	$	-
21612		Villas at Shriner's Point	San Angelo	2/11/2021	Pre-Application	156	156		TBD		$1,229,185	$	-
21611		The Reserve at Vineyard Oaks	Fredricksburg	2/11/2021	Pre-Application	152	120		TBD		$960,737	$	-
21621		Palladium East Berry Street	Fort Worth	9/2/2021	Pre-Application	240	240		TBD		$2,233,160	$	-
21622		Palladium Oak Grove	Fort Worth	9/2/2021	Pre-Application	240	240		TBD		$2,235,058	$	-
21623		The Flats at White Rock	Dallas	9/2/2021	Pre-Application	263	237		TBD		$2,726,747	$	-
21624		Potter's House at Primrose	Dallas	9/2/2021	Pre-Application	280	280		TBD		$2,306,923	$	-
21625		Primrose at Sequoia Park	Denton	9/2/2021	Pre-Application	250	250		TBD		$1,952,193	$	-
21626		Rosemont at Pecan Creek	Denton	9/2/2021	Pre-Application	264	264		TBD		$2,302,382	$	-
21619		Champions Crossing	San Marcos	7/22/2021	Pre-Application	156	156		TBD		$1,165,038	$	-
21620		Coral Hills	Houston	7/22/2021	Pre-Application	172	172		TBD		$948,138	$	-
21606	20626	Palladium at Sorcey Park (FKA	Dallas	4/8/2021	Withdrawn	152	152	$	14,750,000		$1,044,403	$	-
21443	OSE UNDER E	Trinity Oaks	Sulpher Springs	4/8/2021	Withdrawn	48	48	$	2,200,000		$159,653	$	188,836
21473		Mayhill Grove	Denton	1/13/2022	Withdrawn	360	359	$	30,000,000		$2,851,328	$	-
21627		River Trails	San Antonio	9/2/2021	Withdrawn	220	220		TBD		$2,302,778	$	-
21615	20610	Terrace at Southern Oaks	Dallas	6/17/2021	Withdrawn	300	300	$	45,000,000		$2,000,114	$	-
21409		Cypress Creek Apartment	Austin	5/13/2021	Withdrawn	362	289	$	50,000,000		$1,538,141	$	-
21412		Celebration Arlington	Arlington	4/8/2021	Withdrawn	275	275	$	48,000,000		$2,330,099	$	2,330,099
21452	97093	istoric Oaks Allen Parkway Villa	Houston	10/14/2021	Withdrawn	222	222	$	35,000,000		$1,418,597	$	-
21453		Allen Parkway Village	Houston	10/14/2021	Withdrawn	278	278	$	45,000,000		$2,912,410	$	-
21446	ID NOT CLOS	Machuca	El Paso	7/22/2021	Withdrawn	144	144	$	20,000,000		$1,264,383	$	1,262,133
21431		Springwood	Balch Springs	6/17/2021	Withdrawn	284	284	$	45,000,000		$2,685,743	$	-
21432		Oakwood	Balch Springs	6/17/2021	Withdrawn	288	288	$	45,000,000		$2,719,888	$	-
21430		The Matador	Austin	6/17/2021	Withdrawn	285	285	$	50,000,000		$2,444,556	$	-
21405		The Conrad	Austin	5/13/2021	Withdrawn	280	280	$	45,000,000		$2,291,055	$	2,276,566
21610		Delafield Villas	Dallas	3/11/2021	Withdrawn	204	204		TBD		$1,799,031	$	-

7

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

8a

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on a waiver of certain amenity requirements in 10 TAC §11.101(b)(4) (Commons at St. Anthony's Application #20042 (HTC) and #21506 (MFDL))

RECOMMENDED ACTION

WHEREAS, at the Board Meeting on October 14, 2021, St. Anthony's Amarillo Housing 20, LP (Development Owner) received an award of $2,000,000 in national Housing Trust Fund for the Adaptive Reuse of St. Anthony's hospital in Amarillo (Development);

WHEREAS, the Development was previously approved for an allocation of $1,500,000 in Low Income Housing Tax Credits on July 23, 2020, which requires certain amenities, including energy efficient windows;

WHEREAS, because of the historic nature of the building and the National Park Service (NPS) requirements for qualifying for the historic tax credits that this development is receiving, the windows of the Development must be a close visual match to the original windows;

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

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

NOW, therefore, it is hereby

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

BACKGROUND

St. Anthony's hospital is a historic building in the North Heights neighborhood of Amarillo that was constructed in the early 1900s and operated as a hospital until 2001. It received an allocation of 9%

Housing Tax Credits (HTC) in July 2020 and an award of national Housing Trust Fund (NHTF) in October 2021 for the Adaptive Reuse of the building into 123 income and rent-restricted units serving the elderly, and is a catalyst for redevelopment of this neighborhood.

Section 11.101(b)(4) of the 2020 Qualified Allocation Plan (QAP), under which the development was awarded HTC funding, identifies specific development requirements, including mandatory development amenities. Among these mandatory amenities are Energy Star or equivalently rated windows.

Window efficiency is primarily rated using two metrics: the U-Factor, which measures how well windows keep warm air inside, and the Solar Heat Gain Coefficient (SHGC), which measures how much outside heat is blocked from entering. Amarillo is located within the North Central Climate Zone for purposes of determining Energy Star ratings, which means that windows for this area must have a U-factor of 0.30 or less and a SHGC of 0.40 or less.

Due to the historic nature of the building, the Applicant has also applied for historic tax credits from the National Park Service of the United States Department of the Interior (NPS). NPS Standards for Rehabilitation require that replacement windows match the appearance, dimensions, design, proportions, and profiles of the existing windows and further stipulate that the replacement windows must have clear glazing.

The Applicant has been unsuccessful in locating a product which meets both the NPS and HTC standards and has requested a waiver to 10 TAC §11.101(b)(4) as a result. As part of the waiver request, the Applicant has identified the product which meets NPS standards and comes closest to meeting stringent Energy Star requirements. While exact ratings are unavailable, the request suggests that the completed windows will likely have a U-factor rating of 0.40-0.45. U-factors range between 0.25 and 1.25, indicating that the proposed windows may be 15% less efficient in this regard than what is required by the QAP. SHGC ratings range between 0.00 and 1.00, and manufacturer literature regarding the proposed product indicate a SHGC rating of 0.41, indicating that the proposed windows may be one percent less efficient in this regard than what is required by the QAP. This replacement product is an acceptable equivalent under the NHTF Rehabilitation Standards, but since Adaptive Reuse is treated as new construction under the QAP, it must also meet those standards. Hence the need for this waiver.

Staff finds that the need for this waiver was not reasonably foreseeable or preventable by the Applicant as the NPS specific requirements for the windows were not known until after the LIHTC award. Accordingly, Staff recommends approval of the waiver requested by the Development Owner.

November 30, 2021

Ms. Char Flickinger
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

DELIVERY BY EMAIL: charlotte.flickinger@tdhca.state.tx.us

Re: Commons at St. Anthony's, TDHCA #21506
Waiver of Rules

Dear Ms. Flickinger:

On behalf of St. Anthony's Amarillo Housing 20, LP (the "Applicant"), please accept this letter as a request of waiver for 10 TAC §11.101(b)(4)(M) which is the Department requirements for energy efficient windows as a Mandatory Amenity. Because the project is utilizing historic tax credits, the adaptive reuse of the former St. Anthony's Hospital must comply with the Secretary of the Interior's Standards for Rehabilitation, which are published and overseen by the National Park Service (NPS). NPS requires that all replacement windows are a close visual match to the original windows of the building. Technical drawings for all windows are reviewed by NPS and are often scrutinized down to the 1/8 of an inch. In the case of St. Anthony's, since the original windows were aluminum with narrow profiles, replacement windows will be required to be constructed of aluminum or steel. Additionally, NPS requires that clear glass be used in all replacement windows with a minimum visible light transmittance of .70 being the threshold. The most energy efficient glass the team has been able to find to meet this requirement is Cardinal Glass 272 low e. Given the requirements for aluminum window sections coupled with the 272 low e glass, U values for the replacement windows will likely fall in the .40-.45 range, depending on size and glass percentage. The team has worked diligently to come up with a solution that meets both the very stringent NPS/Department of Interior rehab standards that are project-specific and required for allocation of historic tax credits and the TDHCA rules.

The Applicant asks for a waiver of 10 TAC §11.101(b)(4)(M) since the Development cannot obtain energy efficient windows that will meet both the TDHCA and National Park Service requirements. 10 TAC §11.101(b)(4) gives the Board the authority to waive certain Mandatory Development Amenities for Developments utilizing historic tax credits, with evidence that the amenity has not been approved by the Texas Historical Commission of which proof has been submitted to TDHCA as part of the Part 2 NPS approval.

The need for this was both not reasonably foreseeable and was not preventable by the Applicant given the need to balance the project-specific requirements of the historic tax credits and the TDHCA requirements which are written for a broader application. The waiver also 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. In §2306.001, the very first purpose listed for TDHCA is to "assist local governments in providing essential public services for their residents." The third purpose is "contribute to the preservation, development, and redevelopment of neighborhoods and communities...” The Commons at St. Anthony’s, achieves both of these purposes by providing redeveloping the vacant St. Anthony Hospital into 124-units of high-quality rental housing affordable to seniors in Amarillo, TX. The Commons at St. Anthony’s is located within the North Heights Neighborhood Association where there are multiple, local investment and development strategies in place to both direct investment to this historic area of Amarillo, while also preserving affordable housing opportunities. With the MFDL funding, the Commons at St. Anthony’s will be rehabilitated, preserved and rebirthed while allowing the City of Amarillo to offer this critical housing resource for lower income seniors.

We appreciate the thoughtful consideration of this waiver as it allows this critical housing resource to continue moving forward with the planned rehabilitation. Please feel free to contact me at (512) 203-4417 with any questions.

Best,
Jennifer Hicks, Consultant

NPS Form 10-168a (Rev. 2019)
National Park Service
OMB Control No. 1024-0009

Received

APR 0 9 2021

Division of Architecture

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 – DESCRIPTION OF REHABILITATION

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.	**NPS Project Number** 41259

1. Historic Property Name St. Anthony's Hospital

Street 200 NW 7th Avenue

City Amarillo County Potter State TX Zip 79107-5290

Name of Historic District or National Register property St. Anthony's Hospital

☒ Listed individually in the National Register of Historic Places; date of listing 01/14/2021

☐ Located in a Registered Historic District; name of district

☒ Part 1 – Evaluation of Significance submitted? Date submitted 9/13/2019 Date of certification 12/19/2019

2. Project Data (for phased projects, data entered in this section must be totals for entire project)

Date of building 1928

Estimated total rehabilitation costs (QRE) $24,100,800

Number of buildings in project 1

Floor area before / after rehabilitation 225,634 / 150,393 sq ft

Start date (estimated) 05/17/2021

Use(s) before / after rehabilitation vacant / housing

Completion date (estimated) 11/30/2022

Number of housing units before / after rehabilitation 0 / 124

Application includes phase(s) 1 of 1 phases

Number of low-moderate income housing units before / after rehabilitation 0 / 124

☐ Intend to elect IRS 60-month phased rehabilitation

3. Project Contact (if different from applicant)

Name Beth Jacob Company MacRostie Historic Advisors LLC

Street 614 Gravier St. City New Orleans State LA

Zip 70130 Telephone (504) 684-5796 Email Address bjacob@mac-ha.com

4. Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable]:

☐ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or

☒ if I am not the fee simple owner of the above described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011).

For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Craig Alter Signature (Sign in ink) [signature] Date 03/03/2021

Applicant Entity Commonwealth Development Corp. SSN or TIN 73-1642535

Street 11612 Bee Caves Rd., Bldg. 2, Ste. 152 City Austin State TX

Zip 78738 Telephone (512) 956-5432 Email Address c.alter@commonwealthco.net

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

NPS Official Use Only

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

☐ the rehabilitation described herein is consistent with the historic character of the property and, where applicable, with the district in which it is located and that the project meets the Secretary of the Interior's Standards for Rehabilitation. This letter is a preliminary determination only, since a formal certification of rehabilitation can be issued only to the owner of a "certified historic structure" after rehabilitation work is complete.

☒ the rehabilitation or proposed rehabilitation, AS AMENDED 5·13·21 AND REVISED 6·30·21 will meet the Secretary of the Interior's Standards for Rehabilitation if the attached conditions are met.

☐ the rehabilitation described herein is not consistent with the historic character of the property or the district in which it is located and that the project does not meet the Secretary of the Interior's Standards for Rehabilitation.

8/5/21

Date

[signature]

National Park Service Authorized Signature (Sign in ink)

RECEIVED
MAY 0 3 2021
NATIONAL PARK SERVICE
TAX INCENTIVE PROGRAM

☒ NPS conditions or comments attached

NPS Form 10-168b (Rev. 2019)
National Park Service
OMB Control No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
AMENDMENT / ADVISORY DETERMINATION

Received
MAY 27 2021
Division of Architecture

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

NPS Project Number 41259

1. Historic Property Name St. Anthony's Hospital

Street 200 NW 7th Avenue

City Amarillo County Potter State TX Zip 79107-5290

2. This form ☐ includes additional information requested by NPS for an application currently on hold.

☒ updates applicant or contact information.

☒ amends a previously submitted ☐ Part 1 ☒ Part 2 ☐ Part 3 application.

☐ requests an advisory determination that the completed phase ____ of ____ phases of this rehabilitation meets the Secretary of the Interior's Standards for Rehabilitation. Phase completion date ________ Estimated rehabilitation costs of phase (QRE) ________

Summarize information here; continue on following page if necessary.

AMENDMENT #1

This amendment includes a Window Condition Survey for St. Anthony's Hospital prepared by Wiss, Janney, Elstner Associates, Inc., dated April 20, 2021, for the two portions of the hospital where historic window replacement is proposed:

- The School of Nursing (1956/66). In reference to Part 2, Work Item 21.
- The 1960 Addition. In reference to Part 2, Work Item 43.

(Continued on next page)

3. Project Contact (if different from applicant)

Name Beth Jacob Company MacRostie Historic Advisors LLC

Street 614 Gravier St. City New Orleans State LA

Zip 70130 Telephone (504) 684-5796 Email Address bjacob@mac-ha.com

4. Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable]:

☐ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or

☒ if I am not the fee simple owner of the above described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011).

For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Chris Jaye Signature (Sign in ink) Chris Jaye Date 5/13/21

Applicant Entity Commonwealth Development Corporation of America SSN ________ or TIN 73-1642535

Street 24 S. Brooke St. City Fond du Lac State WI

Zip 54935 Telephone (608) 438-8415 Email Address c.jaye@commonwealthco.net

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

NPS Official Use Only

The National Park Service has reviewed this amendment to the Historic Preservation Certification Application and has determined that the amendment:

☐ meets the Secretary of the Interior's Standards for Rehabilitation.

☒ will meet the Secretary of the Interior's Standard for Rehabilitation if the attached conditions are met.

☐ does not meet the Secretary of the Interior's Standards for Rehabilitation.

☐ updates the information on file and does not affect the certification.

Advisory Determinations:

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

8/5/21

Date National Park Service Authorized Signature (Sign in ink)

RECEIVED
JUN 21 2021
NATIONAL PARK SERVICE
TAX INCENTIVE PROGRAM

☒ NPS conditions or comments attached

NPS Form 10-168e (Rev. 2019)
National Park Service
OMB Control No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
CONDITIONS

Historic Property Name St. Anthony's Hospital Project Number 41259

Property Address, City, State 200 NW 7th Avenue, Amarillo, TX

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

Part 2 and Amendment #1

1. **Masonry**: Demolition of select 1971 building components, 1966 dining room, and non-historic pedestrian bridges are approved as proposed. Reconstruction of exterior walls must carefully match the historic masonry. Detail photographs of all reconstruction masonry work must be provided with the Request for Certification of Completed Work.

2. **Pedestrian bridges**: Detailed elevation and section drawings of the proposed NW 7th Avenue pedestrian bridge modification must be provided for review and approval. Because this structure is not being fully removed, but rather shortened and capped, clarification is needed to better understand the scope of work. Alterations and finish materials must be compatible with the historic building.

3. **Windows/Doors**: Replacement windows must match the appearance, dimensions, design, proportions, and profiles of the existing windows and must have clear glazing. In order to ensure the proposed windows meet the Standards, detailed dimensioned drawings of both the existing and any proposed replacement windows, showing the in relationship to the wall assembly, must be submitted for review and approval. We note the historic aluminum windows have slim profiles that can present a challenge in finding matching replacements; custom window details may be required. Shop drawings for historic exterior door replacements must be provided as well.

4. **School of Nursing exterior**: Replacement soffit panels on the horizontal "fins" must match the historic – it is unclear if the existing corrugated aluminum panels are the historic finish or later alteration. Revised details must be provided.

5. **Finishes**: New finishes must be compatible with each historic building component. **A)** LVT is acceptable in concept, however, any such material must not attempt to replicate the appearance of a material that is inappropriate to the historic character. This includes faux-wood or imitation concrete. In additions where historic flooring is extant under non-historic finishes, the new flooring must approximate the historic in dimension, proportion, and general appearance (square tiles of neutral color). Product specifications for all flooring must be provided for review and approval. **B)** Unless documentation is provided that walls were historically textured, this approval does not extend to introducing an "orange peel" surface texture to walls or ceilings. **C)** If damaged finishes are removed within the Auditorium, new compatible finishes must installed. Details of specific finish treatments must be provided for review.

6. **Nursing Stations**: NPS considers nursing stations and public waiting areas as character-defining features and primary spaces of historic hospital complexes. These spaces shall be retained in the 1960 building per application drawings. Nursing stations in the 1928, 1949, and 1956 additions must be retained to the greatest extent possible. Details of when each station dates to and when specific alterations occurred must be provided in order to determine if loss of the spaces for residential units will meet the Standards. If select spaces are approved for modification, infill corridor walls must be detailed to express the historic location and function of the nursing station. Perhaps this can be achieved through half-height walls with glazing above.

7. **1960 addition interior**: The paired door openings and wood slab doors on Floors 2-5 are character-defining and must be retained. Doors should be fixed shut and walled from behind. It appears minimal design revision will be required to maintain unit entries where historic paired door openings are located. Historic doors must be retained and reused. Revised details must be provided.

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

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

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

8/5/21
Date

National Park Service Signature

8b

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on timely filed appeal of allocation procedures for 2022 supplemental Housing Tax Credits

RECOMMENDED ACTION

WHEREAS, on November 10, 2021, the Department's Governing Board approved and recommended to the Governor the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, including §11.1005(a), which stipulates that only those Applicants who submit an Intent to Request a Supplemental Allocation Form to the Department by November 19, 2021, (the deadline specified in the program calendar in §11.1002) are eligible to submit a Request for Supplemental Allocation of Housing Tax Credits;

WHEREAS, on November 12, 2021, the Department posted to its website the 2022 Supplemental 9% Credit Notice of Intent to Request form which was required to be submitted no later than November 19, 2021, as described in Section 11.1005(a) of the 2022 draft Qualified Allocation Plan;

WHEREAS, by November 19, 2021, the Department received 50 Notice of Intent Forms requesting approximately $3,754,277 in 2022 Supplemental 9% Tax Credits;

WHEREAS, on November 23, 2021, the Department posted to its website a log of all Notices of Intent received by the deadline;

WHEREAS, an Applicant from the 2019 Housing Tax Credit round timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the appeal related to the allocation procedures for 2022 supplemental Housing Tax Credits is hereby denied.

BACKGROUND

The draft 2022 Qualified Allocation Plan (QAP), approved by the Board on November 10, 2021, includes a new Subchapter F related to Supplemental Housing Tax Credits. This subchapter creates the availability of up to $5,000,000 from the 2022 Competitive Housing Tax Credit Ceiling to be allocated to supplement 9% Housing Tax Credit awards from 2019 and 2020 that have experienced and can document cost increases since the time of initial application. In response to feedback provided directly to the Department at a round table discussion held on September 20, 2021, Subchapter F includes a requirement that applicants intending to apply for an award of supplemental credits submit a Notice of Intent to the Department no later than November 19, 2021.

On November 12, 2021, the Department posted the forms necessary to complete the Notice of Intent to its website and subsequently sent electronic notification of the form's availability and due date. Fifty Notices were received by the deadline of November 19, 2021, with a total estimated request amount of $3,754,277. On November 23, 2021, the Department posted to its website a log of the received Notices, and the following day, an appeal related to this mandatory deadline was submitted by an Applicant from the 2019 Housing Tax Credit round.

The appeal primarily rests on the contention that enforcement of any provision of the QAP prior to the final approval by the Governor is not allowed under Texas Gov't Code §2306.6724(b), which states:

> Regardless of whether the board has adopted the plan annually or biennially, the board shall submit to the governor any proposed qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use. The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

The QAP was timely submitted to the Governor and was received back, approved with modifications, on December 1, 2021. The approved QAP maintains the requirement that a Notice of Intent be submitted no later than November 19, 2021, as had been adopted by the Board. Accordingly, the Executive Director determined that the issue of final approval had been resolved and denied the appeal.

TAMEA A. DULA
OF COUNSEL

tdula@coatsrose.com
Direct Dial
(713) 653-7322
Direct Fax
(713) 890-3918

November 24, 2021

By Email to bobby.wilkinson@tdhca.state.tx.us
TDHCA
221 East 11th Street
Austin, TX 78701
Attn: Bobby Wilkinson, Executive Director

By Email to cody.campbell@tdhca.state.tx.us
TDHCA
221 East 11th Street
Austin, TX 78701
Attn: Cody Campbell, Director
Multifamily Finance Division

RE: 2022 Supplemental Housing Tax Credits;
Appeal of Application Process and Pre-Application Threshold Criteria.

Dear Mr. Wilkinson and Mr. Campbell:

This letter is an appeal on behalf of MGroup Holdings, Inc., a Housing Tax Credit developer ("MGroup"), of the manner in which the application process for 2022 Supplemental Housing Tax Credits ("Supplemental Credits") is being conducted pursuant to Subchapter F of the **DRAFT** 2022 Qualified Allocation Plan, and, in particular, of the Pre-Application Threshold Criterion that the 2022 Supplemental 9% Credit Required Notice of Intent Form (the "Notification") must have been filed by November 19, 2021. This appeal is pursuant to Section 11.902(a)(1) of the 2021 QAP.

Awardees are being limited before Subchapter F is in effect.

We applaud the TDHCA's efforts to help projects that have been economically impacted by the Covid 19 Pandemic by providing the Supplemental Credits. The providing of the Supplemental Credits is a measured and effective way to deal with this situation. However, the TDHCA has been precipitous in implementing its plans and setting a critical deadline for the applications before the 2022 QAP has even been approved by the Governor. A substantial portion of the Housing Tax Credits available to the State of Texas are being directed to this purpose before the rules have been approved. To the extent that the Notification requirement is considered mandatory, it means that the participants in the Supplemental Round are being limited to those persons filing the Notification before the Supplemental Round has even been legally approved! This is inappropriate because the imposition of an early deadline (before the adoption of the 2022 QAP) means that only those persons closely following the Department's consideration of Subchapter F would know that a mandatory Notification deadline was going to be imposed even before the QAP becomes effective.

Developer was out of the country with no notice of early Notification requirement.

MGroup participated in the Staff's informal survey concerning 2022 supplemental tax credit allocations which was due by October 11, 2021, indicating that two of its projects, #19242 Tramonti, and #19245 Huntington at Chimney Rock were interested in applying for Supplemental Credits. It was generally known that the Supplemental Credits would be dealt with in the 2022 QAP through a new Subchapter F. However, MGroup's Principal, Mark Musemeche, was out of the country and did not receive any warning that a deadline would be imposed before the 2022 QAP was adopted.

Mr. Musemeche was in a remote part of northern Mexico with no access to internet or any cell coverage. Even if Internet service had been available, Mr. Musemeche would not have been able to check the TDHCA website concerning the status of Subchapter F because the TDHCA bars access to its website to Internet users from outside the USA. Please note that the possibility of a mandatory Notification deadline prior to the approval of the 2022 QAP was not widely discussed until publication of the Supplemental Board Book for the November 10, 2021 Board Meeting. Upon his return to the USA on November 20, 2021, Mr. Musemeche found the TDHCA's initial email notice of the Notification requirement that was sent on November 12, 2021, and a subsequent email reminder of the Notification deadline that was sent on November 19, 2021. **This means that his absence from the country for that one-week period eliminated MGroup's opportunity to apply for the Supplemental Credits.**

Enforcement of Subchapter F prior to adoption is problematic.

Normally a developer needs to keep apprised of developments with the TDHCA. In this instance, however, MGroup did not plan to participate in the 2022 Round, except for the Supplemental Credits being made available pursuant to the 2022 QAP. It was reasonable for MGroup to expect that there would not be any action needed with regard to the Supplemental Credits until after the 2022 QAP creating the Supplemental Credits had been approved by the Governor. Section 2306.6724(b) of the Government Code provides:

> (b) Regardless of whether the board has adopted the plan annually or biennially, the board shall submit to the governor any proposed qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for

> use. The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

(*emphasis added*) Given the statutory timing requirements, we think MGroup was reasonable in expecting to have the opportunity to review the 2022 QAP for the Subchapter F provisions after the Governor's approval without having already missed a critical deadline that would eliminate MGroup's ability to compete for the Supplemental Credits under the next year's plan.

As of today, Subchapter F does not exist in 10 TAC Chapter 11. Enforcement of a QAP after approval by the Governor but before publication in the Texas *Register* is something that the TDHCA has done in the past and we note that Chapter 2306 of the Government Code does not specifically require publication in the Texas *Register*. Enforcement of an exclusionary rule prior to approval of the 2022 QAP by the Governor is far more problematic, because Section 2306.6724 does specifically require approval by the Governor.

Notification does not impact the Applications, except to serve as a barrier.

During the regular Competitive Rounds there is a Pre-Application Process that permits developers to evaluate the competition and decide whether to participate by filing a Full Application. The Notification does not appear to serve any real purpose except to serve as a barrier to applying. Those qualified projects that need additional allocations of tax credits are going to apply for the Supplemental Credits. Because no large outlay of cash for third party reports is needed, it is unlikely that seeing the degree of competition for the Supplemental Credits would forestall anyone from applying, This is especially true since it turns out that the Supplemental Credits were under-subscribed!

Under-subscription for Supplemental Credits permits resolution.

Of the $5,000,000 to be made available for Supplemental Credits, 50 projects submitted Notifications indicating that they would be applying for only $3,754,277 in Supplemental Credits. This under-subscription indicates that if the Notification process was intended to be a barrier to applications, then it was certainly successful. We suggest that in view of the uncertainty as to whether the mandatory Notification prior to the Governor's approval of the 2022 QAP would be enforceable, it might be better to extend the deadline for the Notification in order to provide some leeway to MGroup and any qualified applicants who did not realize a preliminary Notification was required in order to participate in the Supplemental Credits.

In summary, we are appealing the mandatory Notification requirement that imposes a critical deadline on the Supplemental Credit appropriation process that pre-dates the Governor's approval of the 2022 QAP, including Subchapter F. In view of the Notification Log's indication that the set-aside was under-subscribed, we suggest that this whole issue may be resolved by either extending the Notification deadline until after the Governor approves of the QAP or making Notification non-mandatory, so that those who did not meet that deadline will be permitted to apply for the allocation.

Thank you for your attention to this issue. In the event that you do not feel this can be resolved by you in your Executive Director capacity, please know that we wish to take this appeal to the TDHCA Board at its December Board Meeting.

Very truly yours,

Tamea A. Dula

cc: Mark Musemeche
Barry J. Palmer

Original App Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Target Population (Supp. Hsg. = SH)	Estimated Supplemental Credit Request	Contact Name	Census Tract(s)	Best Possible Score
At-Risk Set-Aside															
20217	Somerville Estates	785 3rd Street	Somerville	77879	Burleson	8	Rural		x		Elderly	$10,000.00	Ryan Hudspeth	48051970500	163
20202	Pathways at Chalmers Courts Wes	NWC of Chalmers Ave. and Ea:	Austin	78702	Travis	7	Urban	x		x	General	$140,000.00	Suzanne Schwertner	48453000902	163
20332	GardenWalk of Farmersville	409 Hwy 78 South	Farmersville	75442	Collin	3	Rural		x		General	$10,750.00	Ryan Hudspeth	48085031100	162
20235	Madisonville Estates	1610 E Collard St	Madisonville	77864	Madison	8	Rural		x		Elderly	$13,000.00	Ryan Hudspeth	48313000400	162
19077	Telephone Road Elderly	6000 Telephone Road	Houston	77087	Harris	6	Urban	x		x	Elderly	$135,870.00	James Williams	48201332600	158
Estimated At-Risk Available		**$750,000**									**Total HTCs Requested**	**$309,620.00**			
Region 1/Rural															
20272	Westwind of Dumas	331 W. 16th Street	Dumas	79029	Moore	1	Rural				General	$44,000.00	Lora Myrick	48341950200	166
Estimated Amount Available		**$44,841**									**Total HTCs Requested**	**$44,000.00**			
Region 1/Urban															
19088	Metro Tower Lofts	1220 Broadway Street	Lubbock	79401	Lubbock	1	Urban				General	$79,927.27	Daniel Sailler, III	48303000700	159
20042	The Commons at St. Anthony's	SWC Amarillo Blvd. and N. Poll	Amarillo	79107	Potter	1	Urban				Elderly	$105,000.00	Jennifer Hicks	48375014800	157
Estimated Amount Available		**$79,977**									**Total HTCs Requested**	**$184,927.27**			
Region 2/Rural															
20212	Vernon Pioneer Crossing	1916 Stadium Drive	Vernon	76384	Wilbarger	2	Rural				Elderly	$40,000.00	Lora Myrick	48487950600	161
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$40,000.00**			
Region 2/Urban															
20306	The Trails of Abilene	733 ES 27th St.	Abilene	79602	Taylor	2	Urban				General	$57,639.68	Adrian Iglesias	48441012000	166
19216	Heritage Heights at Abilene	2401 S. 25th Street	Abilene	79605	Taylor	2	Urban				Elderly	$42,000.00	Adrian Iglesias	48441012300	155
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$99,639.68**			
Region 3/Rural															
20211	Ennis Trails	SEQ Dolfie Lane and Sonoma T	Ennis	75119	Ellis	3	Rural				General	$40,000.00	Michael Fogel	48139061700	166
19214	Lakeridge Villas	2500 W. Ennis Ave.	Ennis	75119	Ellis	3	Rural				Elderly	$43,054.00	Ryan Hudspeth	48139061400	153
19189	Lakewood Crossing	300 S Park	Granbury	76048	Hood	3	Rural				General	$43,050.00	Justin Zimmerman	48221160100	138
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$126,104.00**			
Region 3/Urban															
20018	The Park Tower	1209 Jacksboro Highway	Fort Worth	76114	Tarrant	3	Urban				General	$102,398.00	Val DeLeon	48439100800	171
20147	Kestrel on Cooper	2017-2025 S. Cooper St.	Arlington	76010	Tarrant	3	Urban				General	$65,000.00	Megan Lasch	48439122801	164
19315	Hammack Creek Apts	NEQ Kennedale Sublett Rd. an	Kennedale	76060	Tarrant	3	Urban				General	$105,000.00	Deepak P. Sulakhe	48439111404	153
Estimated Amount Available		**$987,864**									**Total HTCs Requested**	**$272,398.00**			
Region 4/Rural															
20262	Abbington Park	321 S. Standish Street	Henderson	75654	Rusk	4	Rural				Elderly	$56,000.00	Breck Kean	48401950800	166
19236	Tool Cedar Trails	NEQ N Tool Dr. and Oak Cir.	Tool	75143	Henderson	4	Rural				Elderly	$66,657.00	Michael Fogel	48213950800	153
20016	Reserve at Sulphur Springs	NWC of League Street and Bel	Sulphur Springs	75482	Hopkins	4	Rural				Elderly	$70,000.00	Brian McGeady	48223950402	137
Estimated Amount Available		**$88,912**									**Total HTCs Requested**	**$192,657.00**			
Region 4/Urban															
19225	Rosewood Senior Villas	2929 Calloway Road	Tyler	75707	Smith	4	Urban				Elderly	$86,428.49	Rosewood Senior Villas 1	48423001803	144
Estimated Amount Available		**$86,428**									**Total HTCs Requested**	**$86,428.49**			
Region 5/Rural															
19364	The Villas at Pine Grove	2602 S John Redditt Drive	Lufkin	75904	Angelina	5	Rural				Elderly	$185,000.00	Rick J. Deyoe	48005000902	153
Estimated Amount Available		**$66,652**									**Total HTCs Requested**	**$185,000.00**			
Region 5/Urban															
Estimated Amount Available		**$60,029**									**Total HTCs Requested**				
Region 6/Rural															
19365	Heritage Estates at Huntsville	1932 American Legion Dr	Huntsville	77320	Walker	6	Rural				Elderly	$40,000.00	Adrian Iglesias	48471790400	158

Original App Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Target Population (Supp. Hsg. = SH)	Estimated Supplemental Credit Request	Contact Name	Census Tract(s)	Best Possible Score
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$40,000.00**			
Region 6/Urban															
20075	New Hope Housing Savoy (receive	6315 Savoy Drive	Houston	77036	Harris	6	Urban			x	Supp Hsg	$103,030.00	Emily Abeln	48201432801	177
20204	Heritage Senior Residences	1120 Moy Street	Houston	77007	Harris	6	Urban				Elderly	$100,611.77	Carine Yhap	48201510600	176
20011	Canal Lofts	5601 Canal Street	Houston	77011	Harris	6	Urban				General	$105,000.00	Nathan Kelley	48201310500	176
20082	Connect South Apartments	6440 Hillcroft Avenue	Houston	77074	Harris	6	Urban			x	General	$105,000.00	Scott Puffer	48201421300	176
20077	Lockwood South Apartments	W. of Lockwood Drive & S. of I	Houston	77003	Harris	6	Urban			x	General	$105,000.00	Scott Puffer	48201310400	176
20205	Ella Grand	2077 S Gessner Rd.	Houston	77063	Harris	6	Urban				Elderly	$105,000.00	Janine Sisak	48201431101	165
19074	900 Winston	900 Winston	Houston	77009	Harris	6	Urban				Elderly	$105,000.00	Amay Inamdar	48201511400	165
19085	Gala at MacGregor	Approx 102 Carson Ct.	Houston	77004	Harris	6	Urban				Elderly	$102,183.00	Amy Dosen	48201312600	163
Estimated Amount Available		**$943,796**									**Total HTCs Requested**	**$830,824.77**			
Region 7/Rural															
20273	La Grange Springs	NEC of Hwy 77 and CR 2145	La Grange	78945	Fayette	7	Rural				General	$61,819.94	Robbye Meyer	48149970200	168
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$61,819.94**			
Region 7/Urban															
20192	Arbor Park	6306 McNeil Drive	Austin	78729	Travis	7	Urban				Elderly	$105,000.00	Janine Sisak	48453001785	168
Estimated Amount Available		**$267,161**									**Total HTCs Requested**	**$105,000.00**			
Region 8/Rural															
19238	Franklin Trails	S side of W. Decherd St., W of	Franklin	77859	Robertson	8	Rural				Elderly	$34,650.00	Michael Fogel	48395960300	150
Estimated Amount Available		**$43,164**									**Total HTCs Requested**	**$34,650.00**			
Region 8/Urban															
20171	Avanti Viking Hills	6501 Sanger Ave	Waco	76710	McLennan	8	Urban				General	$105,000.00	Enrique Flores, IV	48309002501	171
Estimated Amount Available		**$150,071**									**Total HTCs Requested**	**$105,000.00**			
Region 9/Rural															
20186	Residence at Ridgehill	160-170 Lehmann Dr	Kerrville	78020	Kerr	9	Rural				Elderly	$40,000.00	April Engstrom	48265960402	150
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$40,000.00**			
Region 9/Urban															
20069	Vista at Interpark	12727 N US Hwy 281	San Antonio	78216	Bexar	9	Urban				General	$75,000.00	Carine Yhap	48029192300	172
20066	Vista at Everest	522 Everest Ave	San Antonio	78209	Bexar	9	Urban				General	$75,000.00	Carine Yhap	48029120701	172
Estimated Amount Available		**$345,760**									**Total HTCs Requested**	**$150,000.00**			
Region 10/Rural															
20054	Gulf Shore Villas	1400 FM 3036	Rockport	78382	Aransas	10	Rural				General	$40,000.00	Rick J. Deyoe	48007950300	168
Estimated Amount Available		**$41,183**									**Total HTCs Requested**	**$40,000.00**			
Region 10/Urban															
19332	Avanti Legacy at South Bluff	502 S. Tancahua St.	Corpus Christi	78401	Nueces	10	Urban				Elderly	$40,000.00	Enrique Flores, IV	48355001200	120
19367	Avanti Legacy Bayside	5301 Lipes Blvd	Corpus Christi	78413	Nueces	10	Urban				Elderly	$40,000.00	Enrique Flores, IV	48355005412	68
Estimated Amount Available		**$81,386**									**Total HTCs Requested**	**$80,000.00**			
Region 11/Rural															
20181	Avanti Valley View	1000 N. Jackson Rd	Hidalgo	78557	Hidalgo	11	Rural				General	$63,325.00	Enrique Flores	48215021305	170
Estimated Amount Available		**$63,326**									**Total HTCs Requested**	**$63,325.00**			
Region 11/Urban															
20177	Avanti Legacy Valor Heights	125 Beaumont Ave	McAllen	78501	Hidalgo	11	Urban				Elderly	$105,000.00	Henry Flores	48215021201	176
20179	Avanti West	4701 S McColl Rd.	Edinburg	78504	Hidalgo	11	Urban				General	$105,000.00	Henry Flores	48215023902	175
19330	Avanti Legacy at Emerald Point	3300 N K Center	McAllen	78501	Hidalgo	11	Urban				Elderly	$84,000.00	Henry Flores	48215020904	160
19331	Avanti at Emerald Point	3301 N Jackson Road	McAllen	78501	Hidalgo	11	Urban				General	$84,000.00	Henry Flores	48215020904	160
Estimated Amount Available		**$378,077**									**Total HTCs Requested**	**$378,000.00**			

Original App Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Target Population (Supp. Hsg. = SH)	Estimated Supplemental Credit Request	Contact Name	Census Tract(s)	Best Possible Score
Region 12/Rural															
19202	Heritage Heights at Big Spring	120 Airbase Rd	Big Spring	79720	Howard	12	Rural				Elderly	$63,000.00	Adrian Iglesias	48227950802	149
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$63,000.00**			
Region 12/Urban															
Estimated Amount Available		**$56,194**									**Total HTCs Requested**				
Region 13/Rural															
20268	Inkwood Estates	107 S. San Elizario Rd	Clint	79836	El Paso	13	Rural				General	$63,000.00	Roy Lopez	48141010404	141
Estimated Amount Available		**$40,000**									**Total HTCs Requested**	**$63,000.00**			
Region 13/Urban															
20190	Nuestra Senora	415 Montana Avenue	El Paso	79902	El Paso	13	Urban			x	General	$86,294.00	Tom Deloye	48141001600	158
20297	Artcraft Palms	6137 Will Jordan Place	El Paso	79932	El Paso	13	Urban				General	$72,589.00	R. L. Bowling, IV	48141010219	155
Estimated Amount Available		**$145,178**									**Total HTCs Requested**	**$158,883.00**			
Estimated Total Available		**$5,000,000**	**Applications:**	**50**			**Total Amount Requested:**					**3,754,277**			

From:	TDHCA
To:	Cody Campbell
Subject:	TDHCA posts 2022 Supplemental 9% Credit Required Notice of Intent Form
Date:	Friday, November 12, 2021 3:14:59 PM

As part of the 2022 Supplemental Competitive (9%) Housing Tax Credit (HTC) Allocation process, the Multifamily Finance Division has posted the 2022 Supplemental 9% Credit Required Notice of Intent Form on the Department's website at https://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm.

Please note the submission of this Notice of Intent Form is required pursuant to Section 11.1005(a) of the 2022 Qualified Allocation Plan as part of the process of requesting a Supplemental Allocation; however, additional documentation will be required as part of the allocation process. Requesters should familiarize themselves with all requirements of Subchapter F of the 2022 QAP related to Supplemental Credits and remain abreast of any changes throughout the 2022 QAP approval process. Please refer to the 2022 QAP for additional information and deadlines. The most current version of the QAP is available in the November 10, 2021 Board book, which can be found on the Department's website at https://www.tdhca.state.tx.us/board/meetings.htm.

The request must be submitted using Serv-U to the same location as the original Application no later than 5 p.m., Austin local time, November 19, 2021. If you have questions about the Notice of Intent Form, please contact Colin Nickells at colin.nickells@tdhca.state.tx.us.

8c

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-1 Notice of Funding Availability (NOFA), as amended

Table 1 2021-3 NOFA Applications Recommended for Action				
App. ID	Application Name	Recommended Award	Fund Source	City
21515	Southton Apartments	$3,000,000	NHTF	San Antonio
Recommendation made under the Soft Repayment Set-Aside				

RECOMMENDED ACTION

WHEREAS, the Governing Board approved publication of the annual MFDL 2021-1 NOFA, along with its first and second amendment on December 10, 2020; June 17, 2021; and September 9, 2021, respectively;

WHEREAS, an Application for Southton Apartments (Application #21515), was submitted by Southton OZ, LLC (Applicant) to the Department on August 16, 2021;

WHEREAS, the Application requests $3,000,000 of national Housing Trust Fund (NHTF), and is a Priority 3 Application under the 2021-1 Multifamily Direct Loan Notice of Funding Availability (2021-1 NOFA) under the Soft Repayment set-aside;

WHEREAS, the Applicant is proposing new construction of 239 units in San Antonio to serve a general population and the Application has received complete reviews for compliance with program and underwriting requirements;

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the Applicant's compliance history is designated as a Category 1, and has been deemed acceptable by the Executive Award Review Advisory Committee (EARAC); and

WHEREAS, staff recommends approval of $3,000,000 in NHTF for Application #21515;

NOW, therefore, it is hereby

RESOLVED, that an award of $3,000,000 in NHTF funds from the 2021-1 NOFA to Southton OZ, LLC for Southton Apartments, subject to conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website, is hereby approved in the form presented at this meeting;

FURTHER RESOLVED, that because the Department has not yet met its 2020 NHTF commitment deadline, in accordance with the 2021-1 NOFA the deadline to sign a contract with the Department is July 29, 2022, despite any other deadline in 10 TAC Chapter 13; 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

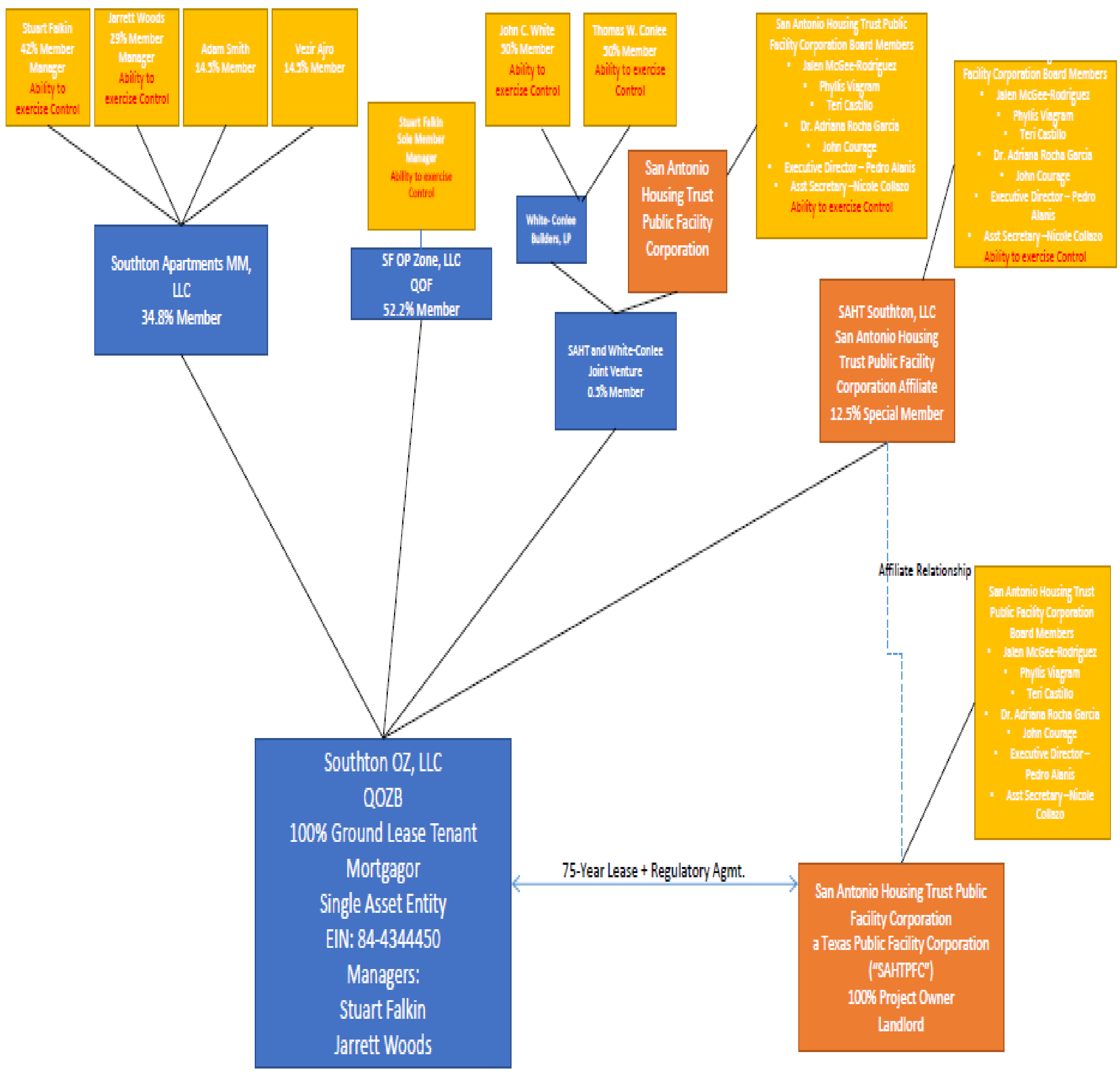
Description: Southton Apartments is the new construction of 239 units that will serve a general population in 10 three-story and one two-story, non-elevator buildings in San Antonio, located in Bexar County. Units will be efficiency, one or two bedrooms and rent/income levels range from 30% to 60% of the area median income (AMI).

Financing and Regulatory Terms: Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the second lien position $3,000,000 MFDL NHTF loan will have a 40-year term and amortization, structured as a Surplus Cash loan in keeping with FHA requirements set forth in HUD's Multifamily Accelerated Processing (MAP) Guide and referenced at 10 TAC §13.8(c)(7). The first priority loan is a HUD/FHA Section 221(d)(4) product.[1] Additional funding will be provided through tax abatement ($225,000), Opportunity Zone funding ($1,800,000), and sales tax rebates ($910,793). The Federal Affordability Period will be 30 years and the State Affordability Period will be 40 years.

Of the 25 MFDL units restricted to 30% AMI, there will be one efficiency unit, 14 one-bedroom and nine two-bedroom units. One additional HOME Match-Eligible Unit serving households at or below 80% AMI is also required.

Organizational Structure: The proposed borrower is Southton OZ, LLC, and includes principals with the ability to exercise control as indicated in the organizational chart below. The borrower will have a 75-year leasehold from the San Antonio Housing Trust Public Facility Corporation.

[1] The Department cannot presently commit new MFDL loans subordinate to FHA-insured products due to lack of agreement with HUD on the required form of subordination and associated riders. The prior agreed form in place since 2014 expired on August 31, 2021, and HUD's proffered replacement directly conflicts with Texas statutes. For Southton, the Department is negotiating with HUD/FHA to allow a hybrid of the formerly approved form and new form to be used, since FHA has already issued a firm commitment for this loan.



Southton OZ, LLC Ownership Organization Chart

21515 Southton Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION
December 2, 2021

PROPERTY IDENTIFICATION

Application #	**21515**
Development	**Southton Apartments**
City / County	**San Antonio / Bexar**
Region/Area	**9 / Urban**
Population	**General**
Set-Aside	**General**
Activity	**New Construction**

RECOMMENDATION

	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan	**$3,000,000**	**0.00%**	**30**	**40**	**2**

KEY PRINCIPALS / SPONSOR

Southton Oz/Stuart Falkin
Guarantor/Developer

San Antonio Housing Trust
SAHT

White-Conlee Builders/Thomas Conlee
Contractor

Related Parties	Contractor -	No	Seller -	No

TYPICAL BUILDING ELEVATION/PHOTO

UNIT DISTRIBUTION

# Beds	# Units	% Total
1	145	61%
2	84	35%
TOTAL	239	100%

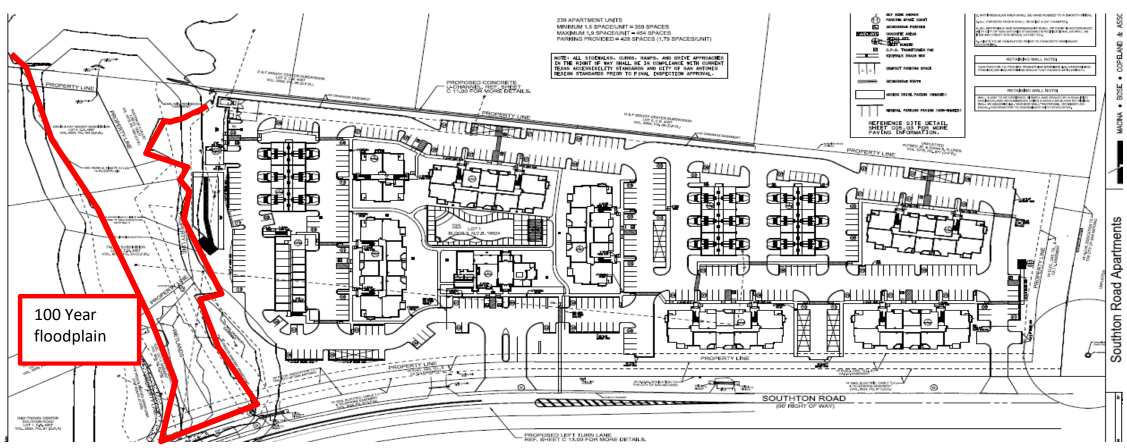
INCOME DISTRIBUTION

Income	# Units	% Total
30%	25	10%
40%	-	0%
MR	119	50%
TOTAL	239	100%

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.22	**Expense Ratio**	32.2%
Breakeven Occ.	81.0%	**Breakeven Rent**	$934
Average Rent	$1,071	**B/E Rent Margin**	$137
Property Taxes	Exempt	**Exemption/PILOT**	100%
Total Expense	$3,934/unit	**Controllable**	$2,845/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)			16.9%
Highest Unit Capture Rate	7%	1 BR/80%	44
Dominant Unit Cap. Rate	7%	1 BR/80%	44
Premiums (↑60% Rents)	Yes		$384/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	853 SF	**Density**	17.0/acre
Acquisition		$06K/unit	$1,525K
Building Cost	$105.61/SF	$90K/unit	$21,525K
Hard Cost		$113K/unit	$27,086K
Total Cost		$169K/unit	$40,498K
Developer Fee	$2,176K	(100% Deferred)	Paid Year: 6
Contractor Fee	$2,919K	**30% Boost**	No

DEBT (Must Pay)				
Source	Term	Rate	Amount	DCR
FHA 221(d)(4) Construction Perm	40/40	3.10%	$33,426,700	1.28
Multifamily Direct Loan (Soft Repayable)	40/40	0.00%	$3,000,000	1.16
TOTAL DEBT (Must Pay)			$36,426,700	

CASH FLOW DEBT / GRANT FUNDS				
Source	Term	Rate	Amount	DCR
CASH FLOW DEBT / GRANTS			$0	

EQUITY / DEFERRED FEES	
Source	Amount
Opportunity Zone Fund	$1,895,031
Southton OZ, LLC	$2,175,792
TOTAL EQUITY SOURCES	$5,965,854
TOTAL DEBT SOURCES	$36,426,700
TOTAL CAPITALIZATION	$42,392,554

CONDITIONS

1 Receipt and acceptance before Direct Loan Closing

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

b: Substantially final construction contract with Schedule of Values.

c: Updated term sheets with substantially final terms from all lenders.

d: Substantially final draft of limited partnership agreement.

e: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

f: Documentation that Noise Study has been completed and all recommendations have been incorporated into the development plan.

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

RISK PROFILE

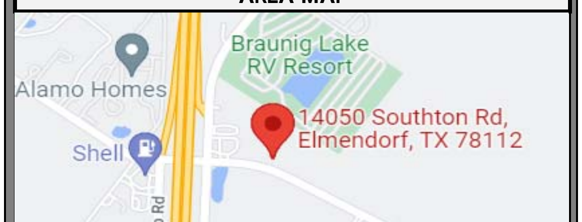
STRENGTHS/MITIGATING FACTORS

- Access to transit options and employers
- Low gross capture rate

WEAKNESSES/RISKS

- Developer Inexperience
- Debt coverage at 1.16 times

AREA MAP



AERIAL PHOTOGRAPH(s)

Real Estate Analysis Division
Underwriting Report
December 2, 2021

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **21515** Program(s): **MDL**

Southton Apartments

Address/Location: 14050 Southton Road

City: San Antonio County: Bexar Zip: 78112

Population: General Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Garden/Townhome Region: 9

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Soft Repayable)	$3,000,000	0.00%	40	40	**$3,000,000**	**0.00%**	**40**	**40**	**2**

* 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

0 Receipt and acceptance before Direct Loan Closing

a: Agreement of form of subordination and rider with FHA prior to MFDL commitment.

1 Receipt and acceptance before Direct Loan Closing

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

b: Substantially final construction contract with Schedule of Values.

c: Updated term sheets with substantially final terms from all lenders.

d: Substantially final draft of limited partnership agreement.

e: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

f: Documentation that Noise Study has been completed and all recommendations have been incorporated into the development plan.

g: A revised Market Study that addresses the correct unit mix and accounts for all comparable supply.

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 DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	25

DEVELOPMENT SUMMARY

New construction of 239 general population units located in San Antonio. The 11 buildings are a combination of garden and townhome style units, with building types III & IV having first floor garages. TDHCA NHTF financing requires 25 units with rent and income restrictions at 30% of AMI. The Developer is partnering with the San Antonio Housing Trust, which requires 120 units with rent and income restrictions at 80%, 60%, and 50% of AMI. (The 25 units at 50% AMI are layered with the NHTF units.)

This will be the developer's first project in Texas. Developer is using local general contractor and civil engineer.

The developer has submitted a Firm Submission to HUD for a FHA 221(d)(4) Construction Perm Loan. Developer will also contribute from a Qualified Opportunity Zone investment fund to finance the project.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Access to transit options and employers
▫	Low gross capture rate

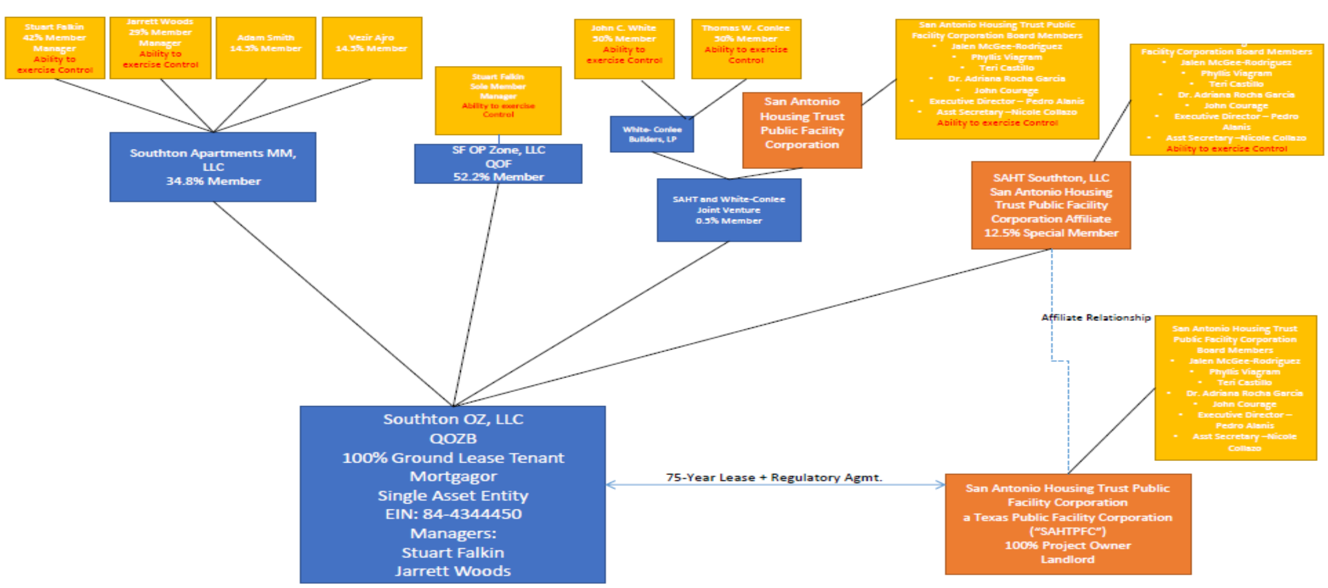
WEAKNESSES/RISKS	
▫	Developer Inexperience
▫	Debt coverage at 1.16 times

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Stuart Falkin	Name:	Jarrett Woods
Phone:	(908) 709-0909	Phone:	(972) 896-8025
Relationship:	Developer	Relationship:	Developer

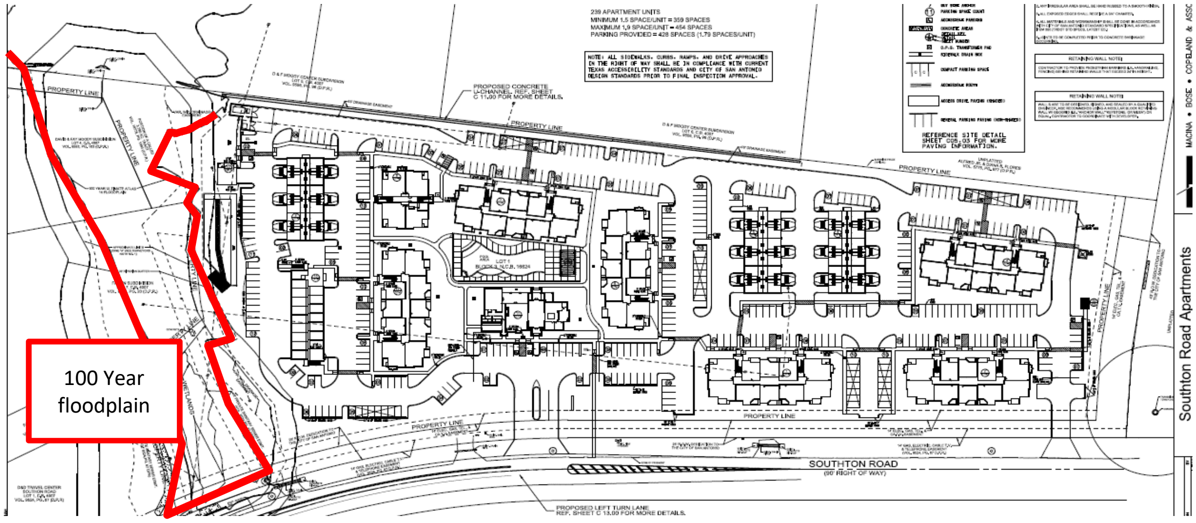
OWNERSHIP STRUCTURE

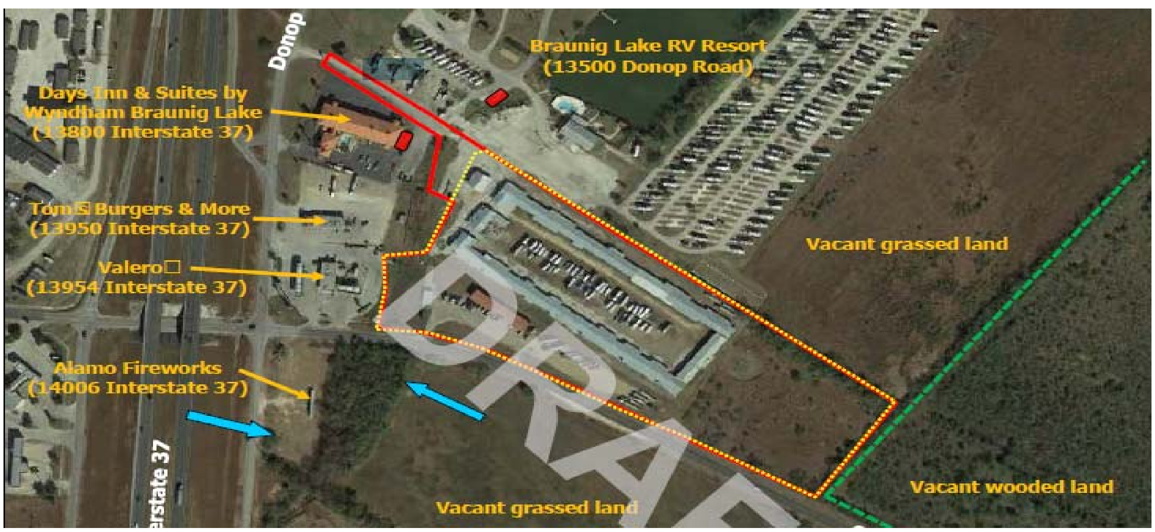


Southton OZ, LLC Ownership Organization Chart

DEVELOPMENT SUMMARY

SITE PLAN





Comments:

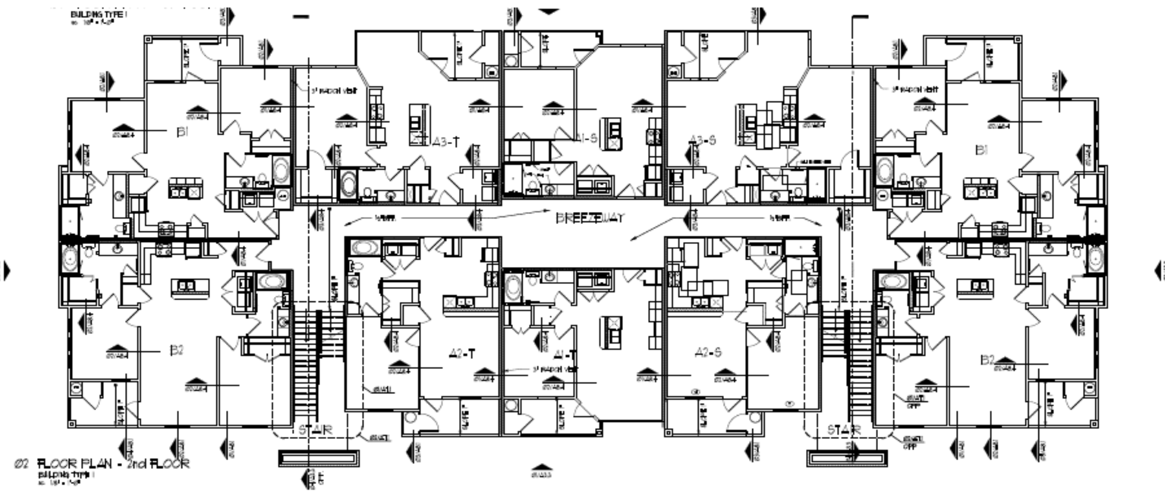
Mild topography for the intended use with slopes of 2%-4% throughout the property.

Parking	No Fee		Tenant-Paid		Total	
Open Surface	359	*1.5/unit*	0	--	359	*1.5/unit*
Carport	0	--	46	*0.2/unit*	46	*0.2/unit*
Garage	36	*0.2/unit*	18	*0.1/unit*	54	*0.2/unit*
Total Parking	**395**	*1.7/unit*	**64**	*0.3/unit*	**459**	*1.9/unit*

Comments:

Parking is compliant with code.

BUILDING PLAN (Typical)



Comments:

Wet islands in all units except Efficiency; some units have bath tubs while others only have standing showers; all units have a balcony/patio. Plumbing run is inefficient.

BUILDING ELEVATION

Comments:

Building articulation will have varying proportions of stone and fiber cement siding ranging between 17%-50% stone. Building types I & III will have 4/12 roof pitches while building types IV & V will have 5/12 roof pitches.

BUILDING CONFIGURATION

Building Type	I	III	IV	V	**Total Buildings**
Floors/Stories	3	2	3	3	
Number of Bldgs	6	1	3	1	**11**
Units per Bldg	30	11	12	12	
Total Units	180	11	36	12	**239**

Avg. Unit Size (SF) 853 sf	**Total NRA (SF) 203,809**	**Common Area (SF)* 12,665**

*Common Area Square Footage as specified on Architect Certification

SITE CONTROL INFO

Site Acreage: Development Site: 14.04 acres — Density: 17.0 units/acre

Site Control: 14.04 **Site Plan:** 14.04 **Appraisal:** 0 **ESA:** 14.04

Feasibility Report Survey: 14.04 **Feasibility Report Engineer's Plan:** 14.04

Control Type: Purchase and Sale Agreement & Ground Lease

Development Site: 14.04 acres Cost: $1,525,034 $6,381 per unit

Seller: Braunig Lake 50, LP

Buyer: Southton Oz, LLC

Assignee: San Antonio Housing Trust

Related-Party Seller/Identity of Interest: No

Comments:

Southton Oz, LLC will pay SAHT an advanced rent payment of $1,525,034 for 75 years of rent payments.

SITE INFORMATION

Flood Zone:	X	Scattered Site?	No
Zoning:	MF-18	Within 100-yr floodplain?	Yes
Re-Zoning Required?	No	Utilities at Site?	Yes
Year Constructed:	0	Title Issues?	No

Current Uses of Subject Site:

Mixed Use Office , Retail, and RV/Boat Storage; and Undeveloped land

Surrounding Uses:

North: Braunig Lake RV Resort and vacant gassed land
Southeast: Vacant wooded land and KB Home Southton Cove residential development
Southwest: Southton Road followed by vacant wooded and grassed land with a creek, and Alamo Fireworks
West: Valero retail fuel station, naturally vegetated creek area, Tom's Burgers & More, and Days Inn & Suites

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AEI Consultants Date: 10/11/2021

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

The final calculated DNL for all noise sources combined is 69 dB, which is considered Normally Unacceptable. Noise remediation will need to be completed to get DNL into compliance.

MARKET ANALYSIS

Provider: Gill Group Date: 5/6/2021

Contact: Samuel T. Gill Phone: 573-624-6614

Primary Market Area (PMA): 159 sq. miles 7 mile equivalent radius

ELIGIBLE HOUSEHOLDS BY INCOME								
Bexar County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	$11,700	$12,510	$16,470	$16,470	---	---	---
	Max	$15,570	$17,790	$20,010	$22,230	---	---	---
60% AMGI	Min	$23,340	$25,020	$30,000	$30,000	---	---	---
	Max	$31,140	$35,580	$40,020	$44,460	---	---	---
80% AMGI	Min	$31,140	$33,360	$40,020	$40,020	---	---	---
	Max	$41,520	$47,440	$53,360	$59,280	---	---	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
20467	Greenline North	No	New	General	159	292
21442	Bristol at Somerset	No	New	General	263	348
20709	Watson Road	No	New	General	348	348
Other Affordable Developments in PMA since 2016						
18142	San Juan Mission Villas		New	Elderly Limitation	n/a	102
Stabilized Affordable Developments in PMA					Total Units	1,030
					Total Developments	4
					Average Occupancy	99%

Proposed, Under Construction, and Unstabilized Competitive Supply:

Greenline, Bristol, and Watson Road are all located outside the PMA, but share census tracts with the Subject's PMA , and therefore share some qualified demand.

OVERALL DEMAND ANALYSIS				
	Market Analyst		**Underwriter**	
	HTC	Assisted	**HTC**	
Total Households in the Primary Market Area	30,504		30,504	
Potential Demand from the Primary Market Area	4,793		4,793	
10% External Demand	479		479	
Potential Demand from Other Sources	0		0	
GROSS DEMAND	5,272		5,272	
Subject Affordable Units	117		120	
Unstabilized Competitive Units	0		770	
RELEVANT SUPPLY	117		890	
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	**2.2%**		**16.9%**	

Population:	General	Market Area:	Urban	Maximum Gross Capture Rate:	10%

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
	Market Analyst					Underwriter				
AMGI Band	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate
30% AMGI	1,316	132	20	0	1%	1,316	132	25	0	2%
60% AMGI	1,507	151	24	0	1%	1,507	151	27	0	2%
80% AMGI	1,717	172	73	0	4%	1,717	172	68	0	4%

Demand Analysis:

The Market Study submitted is inconsistent with the application. The market study considers 117 affordable units (20 at 30% AMI, 24 at 60% AMI, and 73 at 80% AMI) while the application consists of 120 restricted units (25 at 30%/50%, 27 at 60%, and 68 at 80%). The market study also does not consider comparable units at properties that are outside the designated PMA, but which relied on demand in some census tracts that are within the subject PMA.

The Underwriter's analysis including all 770 comparable units indicates a Gross Capture Rate of 16.9%, exceeding the 10% limit. But this is over-stated since it includes all possible competitive supply without all the relevant demand.

The recommendations of this report are conditioned on submission of a revised Market Study that addresses the correct unit mix and accounts for all comparable supply.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
	Market Analyst					Underwriter				
Unit Type	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
0 BR/30%	55	6	1	0	2%	55	6	1	0	2%
0 BR/60%	92	9	1	0	1%	92	9	1	0	1%
0 BR/80%	99	10	3	0	3%	99	10	3	0	3%
1 BR/30%	270	27	10	0	3%	270	27	15	0	5%
1 BR/60%	215	22	15	0	6%	215	22	14	0	6%
1 BR/80%	537	54	44	0	7%	537	54	44	0	7%
2 BR/30%	443	44	9	0	2%	443	44	9	0	2%
2 BR/60%	725	73	8	0	1%	725	73	12	0	2%
2 BR/80%	788	79	26	0	3%	788	79	21	0	2%

Market Analyst Comments:

The average annual wage of Bexar County employees was $61,933 in 2019. Wages have been increasing 5.3 percent per year.

It is projected that between 2021 and 2022, population in the market area will increase 1.6 percent to 96,410, and it is projected that between 2022 and 2023, population in the market area will increase 4.8 percent to 99,461. The population is anticipated to continue to increase at a stable rate through 2026.

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	$1,980,386	Avg. Rent:	$1,071	Expense Ratio:	32.2%
Debt Service:	$1,617,729	B/E Rent:	$934	Controllable Expenses:	$2,845
Net Cash Flow:	$362,657	UW Occupancy:	92.5%	Property Taxes/Unit:	$0
Aggregate DCR:	1.22	B/E Occupancy:	81.0%	Program Rent Year:	2021

The Applicant has two sets of rent restrictions, MDL units and San Antonio Housing Trust units. The MDL units have rents limited to 30% of NHTF rents and the San Antonio Housing Trust units are a combination of 50%, 60%, and 80% AMI units. Some of the 30% NHTF units will be used to satisfy the 50% AMI requirements for SAHT.

Application was initially submitted with with $44/unit/month secondary income and 7.0% vacancy assumption. These have been limited to $30/unit/month secondary income and 7.5% vacancy consistent with underwriting guidelines in the 2022 QAP.

Underwriter has elected to use Appicant's payroll and insurance expenses.

Low expense ratio of 32.4% due to the property tax exemption achieved through the partnership with SAHT, as well as program rents resulting from moderately high San Antonio MSA median income.

Without the tax exemption, debt coverage would fall to 0.98 and the development would be infeasible.

Project is underwritten at 18 units vacant; breakeven vacancy is 45 units.

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$108,621/ac	$6,381/unit	**$1,525,034**	Contractor Fee	**$2,919,037**
Off-site + Site Work		$23,268/unit	**$5,561,018**	Soft Cost + Financing	**$6,457,188**
Building Cost	$105.61/sf	$90,062/unit	**$21,524,827**	Developer Fee	**$2,175,792**
Contingency	0.00%	$/unit	**$0**	Reserves	**$334,627**
Total Development Cost	$169,446/unit	**$40,497,523**		**Rehabilitation Cost**	**N/A**

Acquisition:

$108K/acre is a moderate land price. This is a developing area in the opposite direction of New Braunfels, putting it outside of the high cost areas of the market.

Off-site:

Off-site works consists of creating a left turn lane for additional access to the property.

Site Work:

Site work consists of usual site costs including site utilities, roads and walks, landscaping, and general site improvements.

Building Cost:

Applicant's Building Cost is $105.61 psf / $90,062 per unit. Applicant's Hard Costs are supported by the FHA budget which is subject to a third party cost review.

Contingency:

Applicant did not include any contingency. Construction budget includes $1.3M Working Capital required by FHA which will be financed by a letter of credit in lieu of a cash escrow.

Contractor Fee:

Total contractor fee of 10.78% is consistent with QAP.

Developer Fee:

Total developer fee of 8% is below the maximum 15%.

Reserves:

Applicant included $334,627 as the cash portion of reserves. Construction budget includes $1.5M Operating Deficit Reserve required by FHA which will be financed by a letter of credit in lieu of a cash escrow.

Comments:

Applicant's Total Development Budget is consistent with the Statement of Sources and Uses submitted by the Lender to FHA.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$40,497,523	$0	$0

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES				
Funding Source	**Description**	**Amount**	**Rate**	**LTC**
TDHCA	Multifamily Direct Loan (Soft Repayable)	$3,000,000	0.00%	7%
Greystone - FHA 221(d)(4)	Conventional/FHA	$33,426,700	3.10%	83%
Opportunity Zone Fund	Owners' Equity	$1,895,031		5%
Southton OZ, LLC	Deferred Developer Fee	$2,175,792		5%
		$40,497,523	**Total Sources**	

Comments:

The FHA Loan is the 1st lien on the property. TDHCA MDL loan is being applied to as a soft repayable loan.

Under the QAP and the Direct Loan Rule and NOFA, when a Multifamily Direct Loan is subordinate to an FHA loan, only 75% of the cash remaining after the senior debt payment can be used to calculate the DCR for the MFDL, and the combined DCR must meet the minimum 1.15. Debt coverage based on the 75% limitation is 1.16 times.

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**LTC**
Greystone - FHA 221(d)(4)	$33,426,700	3.10%	40	40	$33,426,700	3.10%	40	40	83%
Multifamily Direct Loan (Soft Repayable)	$3,000,000	0.00%	0	0	$3,000,000	0.00%	40	40	7%
Total	**$36,426,700**				**$36,426,700**				

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	**Amount**	**Rate**	**% Def**	**Amount**	**Rate**	**% TC**	**% Def**
Opportunity Zone Fund - Owners' Equity	$1,895,031			$1,895,031		5%	
Southton OZ, LLC - Deferred Developer Fee	$2,175,792		100%	$2,175,792		5%	100%
Total	**$4,070,823**			**$4,070,823**			
				$40,497,523	**Total Sources**		

CONCLUSIONS

	Amount	Interest Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)	**$3,000,000**	**0.00%**	**40**	**40**	**2**

Deferred Developer Fee	**$2,175,792**	**(100% deferred)**
Repayable in	**6 years**	

Comments:

The Underwriter recommends approval of a MultiFamily Direct Loan in the amount of $3,000,000 as a second lien payable from Surplus Cash amortized at 0% interest over 40 years.

Underwriter:	*Jeff Price*
Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Southton Apartments, San Antonio, MDL #21515

LOCATION DATA	
CITY:	San Antonio
COUNTY:	Bexar
Area Median Income	$74,100
PROGRAM REGION:	9
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION

# Beds	# Units	% Total	Assisted	MDL
Eff	10	4.2%	0	1
1	145	60.7%	0	15
2	84	35.1%	0	9
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	239	100.0%	-	25

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	
Applicable Fraction	
APP % Acquisition	
APP % Construction	
Average Unit Size	853 sf

65%	Income	20%	30%	40%	50%	60%	70%	80%	MR	TOTAL
Average Income	# Units	-	25	-	-	27	-	68	119	239
	% Total	0.0%	10.5%	0.0%	0.0%	11.3%	0.0%	28.5%	49.8%	100.0%

UNIT MIX / MONTHLY RENT SCHEDULE

TDHCA Direct Loan Program		SAHT Restriction		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
		Market		4	0	1	566	$0	$105		NA	$1.52	$860	$3,440	$3,800	$950	$1.68	NA	$950	$1.68	$950
		Market		1	0	1	511	$0	$105		NA	$1.90	$970	$970	$950	$950	$1.86	NA	$950	$1.86	$950
		Market		12	1	1	715	$0	$117		NA	$1.43	$1,020	$12,240	$13,200	$1,100	$1.54	NA	$1,100	$1.54	$1,100
		Market		24	1	1	834	$0	$117		NA	$1.37	$1,145	$27,480	$27,360	$1,140	$1.37	NA	$1,140	$1.37	$1,140
		Market		1	1	1	672	$0	$117		NA	$1.46	$980	$980	$1,100	$1,100	$1.64	NA	$1,100	$1.64	$1,100
		Market		35	1	2	940	$0	$117		NA	$1.55	$1,460	$51,100	$39,900	$1,140	$1.21	NA	$1,140	$1.21	$1,140
		Market		42	2	2	1,053	$0	$165		NA	$1.23	$1,300	$54,600	$57,330	$1,365	$1.30	NA	$1,365	$1.30	$1,365
		80% SAHT	$1,038	3	0	1	566	$1,038	$0	$1,038	($178)	$1.52	$860	$2,580	$2,850	$950	$1.68	($88)	$950	$1.68	$950
		80% SAHT	$1,112	22	1	1	626	$1,112	$0	$1,112	($132)	$1.57	$980	$21,560	$23,540	$1,070	$1.71	($42)	$1,070	$1.71	$1,070
		80% SAHT	$1,112	14	1	1	715	$1,112	$0	$1,112	($92)	$1.43	$1,020	$14,280	$15,400	$1,100	$1.54	($12)	$1,100	$1.54	$1,100
		80% SAHT	$1,112	7	1	1	834	$1,112	$0	$1,112	($32)	$1.29	$1,080	$7,560	$7,784	$1,112	$1.33	$0	$1,140	$1.37	$1,140
		80% SAHT	$1,112	1	1	2	940	$1,112	$0	$1,112	($32)	$1.15	$1,080	$1,080	$1,112	$1,112	$1.18	$0	$1,140	$1.21	$1,140
		80% SAHT	$1,334	21	2	2	968	$1,334	$0	$1,334	($154)	$1.22	$1,180	$24,780	$28,014	$1,334	$1.38	$0	$1,365	$1.41	$1,365
		60% SAHT	$1,334	4	2	2	1,053	$1,334	$0	$1,334	($38)	$1.23	$1,296	$5,184	$5,336	$1,334	$1.27	$0	$1,365	$1.30	$1,365
		60% SAHT	$778	1	0	1	566	$778	$0	$778	($22)	$1.34	$756	$756	$756	$756	$1.34	($22)	$756	$1.34	$756
		60% SAHT	$834	7	1	1	626	$834	$0	$834	($24)	$1.29	$810	$5,670	$5,670	$810	$1.29	($24)	$810	$1.29	$810
		60% SAHT	$834	5	1	1	715	$834	$0	$834	($24)	$1.13	$810	$4,050	$4,050	$810	$1.13	($24)	$810	$1.13	$810
		60% SAHT	$834	2	1	1	834	$834	$0	$834	($24)	$0.97	$810	$1,620	$1,620	$810	$0.97	($24)	$810	$0.97	$810
		60% SAHT	$1,000	7	2	2	968	$1,000	$0	$1,000	($28)	$1.00	$972	$6,804	$6,804	$972	$1.00	($28)	$972	$1.00	$972
		60% SAHT	$1,000	1	2	2	1,053	$1,000	$0	$1,000	($28)	$0.92	$972	$972	$972	$972	$0.92	($28)	$972	$0.92	$972
30%/30%	$390	50% SAHT	$648	1	0	1	566	$390	$105	$285	($1)	$0.50	$284	$284	$285	$285	$0.50	$0	$950	$1.68	$950
30%/30%	$417	50% SAHT	$695	7	1	1	626	$417	$117	$300	$0	$0.48	$300	$2,100	$2,100	$300	$0.48	$0	$1,070	$1.71	$1,070
30%/30%	$417	50% SAHT	$695	5	1	1	715	$417	$117	$300	$0	$0.42	$300	$1,500	$1,500	$300	$0.42	$0	$1,100	$1.54	$1,100
30%/30%	$417	50% SAHT	$695	3	1	1	834	$417	$117	$300	$0	$0.36	$300	$900	$900	$300	$0.36	$0	$1,140	$1.37	$1,140
30%/30%	$549	50% SAHT	$833	8	2	2	968	$549	$165	$384	$0	$0.40	$384	$3,072	$3,072	$384	$0.40	$0	$1,140	$1.18	$1,140
30%/30%	$549	50% SAHT	$833	1	2	2	1,053	$549	$165	$384	$0	$0.36	$384	$384	$384	$384	$0.36	$0	$1,365	$1.30	$1,365
TOTALS/AVERAGES:				239			203,809				($37)	$1.26	$1,071	$255,946	$255,789	$1,070	$1.26	($8)	$1,156	$1.36	$1,156
ANNUAL POTENTIAL GROSS RENT:														$3,071,352	$3,069,468						

STABILIZED PRO FORMA

Southton Apartments, San Antonio, MDL #21515

	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						$1.26	$1,071	$3,071,352	$3,069,468	$1,070	$1.26		0.1%	$1,884
Fees, Deposits							$30.00	$86,040						
Total Secondary Income							$30.00		$86,040	$30.00			0.0%	$0
POTENTIAL GROSS INCOME								$3,157,392	$3,155,508				0.1%	$1,884
Vacancy & Collection Loss							7.5% PGI	(236,804)	(236,663)	7.5% PGI			0.1%	(141)
Rental Concessions								-	-				0.0%	-
EFFECTIVE GROSS INCOME								$2,920,588	$2,918,845				0.1%	$1,743
General & Administrative	$107,573	$450/Unit	$95,326	$399	5.11%	$0.73	$625	$149,375	$107,573	$450	$0.53	3.69%	38.9%	41,802
Management	$97,230	4.2% EGI	$94,184	$394	5.08%	$0.73	$620	$148,262	$145,942	$611	$0.72	5.00%	1.6%	2,320
Payroll & Payroll Tax	$318,788	$1,334/Unit	$347,702	$1,455	9.41%	$1.35	$1,150	$274,850	$274,850	$1,150	$1.35	9.42%	0.0%	-
Repairs & Maintenance	$186,046	$778/Unit	$150,614	$630	4.46%	$0.64	$545	$130,255	$155,350	$650	$0.76	5.32%	-16.2%	(25,095)
Electric/Gas	$47,231	$198/Unit	$31,664	$132	1.23%	$0.18	$150	$35,850	$10,284	$43	$0.05	0.35%	248.6%	25,566
Water, Sewer, & Trash **Tenant Pays: WS**	$153,490	$642/Unit	$134,655	$563	3.07%	$0.44	$375	$89,625	$134,655	$563	$0.66	4.61%	-33.4%	(45,030)
Property Insurance	$81,463	$0.40 /sf	$75,767	$317	1.76%	$0.25	$215	$51,385	$51,385	$215	$0.25	1.76%	0.0%	-
Property Tax (@ 0%) 2.4453	$176,346	$738/Unit			0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Reserve for Replacements					2.05%	$0.29	$250	$59,750	$59,750	$250	$0.29	2.05%	0.0%	-
TDHCA MDL Compliance ($34/MDL unit)					0.03%	$0.00	$4	$850	$850	$4	$0.00	0.03%	0.0%	-
TOTAL EXPENSES					**32.19%**	**$4.61**	**$3,934**	**$940,202**	**$940,639**	**$3,936**	**$4.62**	**32.23%**	**0.0%**	**$ (437)**
NET OPERATING INCOME ("NOI")					**67.81%**	**$9.72**	**$8,286**	**$1,980,386**	**$1,978,206**	**$8,277**	**$9.71**	**67.77%**	**0.1%**	**$ 2,180**

CONTROLLABLE EXPENSES	$2,845/Unit		$2,857/Unit

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Southton Apartments, San Antonio, MDL #21515

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
FHA 221(d)(4) Construction Perm	0.25%	1.28	1.28	1,542,729	3.10%	40	40	$33,426,700	$33,426,700	40	40	3.10%	$1,542,729	1.28	82.5%
Multifamily Direct Loan (Soft Repayable)		1.28	1.28		0.00%	0	0	$3,000,000	$3,000,000	40	40	0.00%	$75,000	1.16	7.4%
				$1,542,729	TOTAL DEBT / GRANT SOURCES			$36,426,700	$36,426,700	TOTAL DEBT SERVICE			$1,617,729	1.16	89.9%
NET CASH FLOW		$435,477	$437,657						APPLICANT	NET OPERATING INCOME			$1,980,386	$362,657	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
Opportunity Zone Fund	Owners' Equity	4.7%			$1,895,031	$1,895,031			4.7%		
Southton OZ, LLC	Deferred Developer Fees	5.4%	(100% Deferred)		$2,175,792	$2,175,792	(100% Deferred)		5.4%	Total Developer Fee:	$2,175,792
Additional (Excess) Funds Req'd		0.0%				$0			0.0%		
TOTAL EQUITY SOURCES		10.1%			$4,070,823	$4,070,823			10.1%		
TOTAL CAPITALIZATION					$40,497,523	$40,497,523			15-Yr Cash Flow after Deferred Fee:		$6,901,547

DEVELOPMENT COST / ITEMIZED BASIS

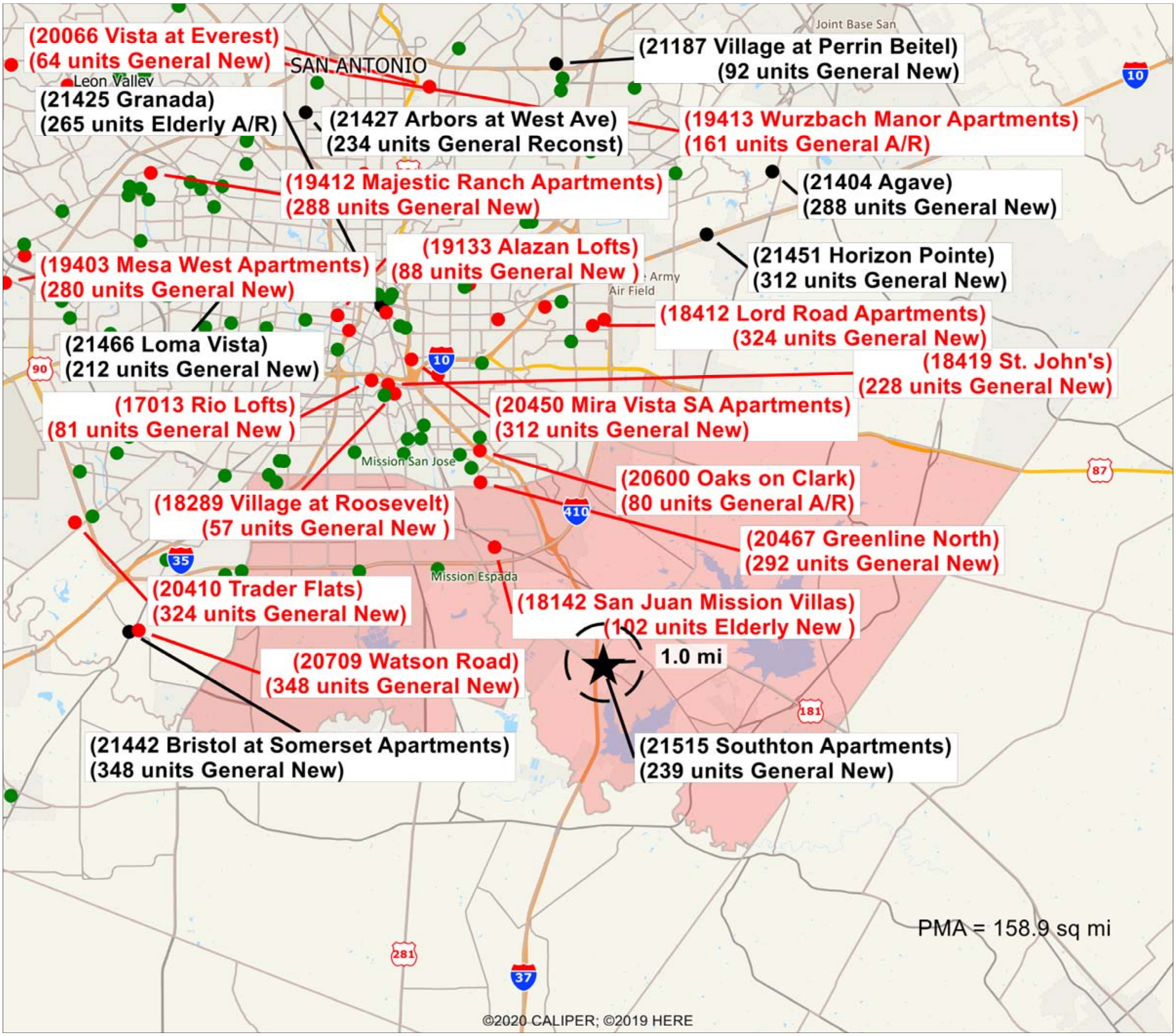
	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$6,381 / Unit	$1,525,034	$1,525,034	$6,381 / Unit				0.0%	$0
Building Acquisition				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Off-Sites				$2,075 / Unit	$496,000	$496,000	$2,075 / Unit				0.0%	$0
Site Work				$16,835 / Unit	$4,023,603	$4,023,603	$16,835 / Unit				0.0%	$0
Site Amenities				$4,357 / Unit	$1,041,415	$1,041,415	$4,357 / Unit				0.0%	$0
Building Cost			$105.61 /sf	$90,062/Unit	$21,524,827	$21,524,827	$90,062/Unit	$105.61 /sf			0.0%	$0
Contingency				0.00%	$0	$0	0.00%				0.0%	$0
Contractor Fees				10.78%	$2,919,037	$2,919,037	10.78%				0.0%	$0
Soft Costs				$10,856 / Unit	$2,594,536	$2,594,536	$10,856 / Unit				0.0%	$0
Financing				$16,162 / Unit	$3,862,652	$3,862,652	$16,162 / Unit				0.0%	$0
Developer Fee				8.03%	$2,175,792	$2,175,792	8.03%				0.0%	$0
Reserves				2 Months	$334,627	$334,627	2 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)				$169,446 / Unit	$40,497,523	$40,497,523	$169,446 / Unit				0.0%	$0
Acquisition Cost					$0							
Contingency					$0							
Contractor's Fee					$0							
Financing Cost												
Developer Fee					$0							
Reserves					$0							
ADJUSTED BASIS / COST	$0	$0		$169,446/unit	$40,497,523	$40,497,523	$169,446/unit		$0	$0	0.0%	$0
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					$40,497,523							

Long-Term Pro Forma

Southton Apartments, San Antonio, MDL #21515

	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%	$2,920,588	$2,978,999	$3,038,579	$3,099,351	$3,161,338	$3,490,373	$3,853,653	$4,254,745	$4,697,582	$5,186,510	$5,726,326	$6,322,327
TOTAL EXPENSES	3.00%	$940,202	$966,925	$994,421	$1,022,711	$1,051,819	$1,210,489	$1,393,509	$1,604,661	$1,848,321	$2,129,549	$2,454,199	$2,829,045
NET OPERATING INCOME ("NOI")		**$1,980,386**	**$2,012,074**	**$2,044,158**	**$2,076,640**	**$2,109,519**	**$2,279,884**	**$2,460,144**	**$2,650,083**	**$2,849,261**	**$3,056,961**	**$3,272,127**	**$3,493,282**
EXPENSE/INCOME RATIO		32.2%	32.5%	32.7%	33.0%	33.3%	34.7%	36.2%	37.7%	39.3%	41.1%	42.9%	44.7%
MUST -PAY DEBT SERVICE													
FHA 221(d)(4) Construction Perm		$1,542,729	$1,541,656	$1,540,550	$1,539,409	$1,538,232	$1,531,769	$1,524,223	$1,515,415	$1,505,131	$1,493,126	$1,479,111	$1,462,749
Multifamily Direct Loan (Soft Repayable)		$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000	$75,000
TOTAL DEBT SERVICE		**$1,617,729**	**$1,616,656**	**$1,615,550**	**$1,614,409**	**$1,613,232**	**$1,606,769**	**$1,599,223**	**$1,590,415**	**$1,580,131**	**$1,568,126**	**$1,554,111**	**$1,537,749**
DEBT COVERAGE RATIO		1.16	1.17	1.19	1.20	1.22	1.30	1.39	1.49	1.59	1.70	1.82	1.94
ANNUAL CASH FLOW		**$362,657**	**$395,418**	**$428,609**	**$462,231**	**$496,287**	**$673,115**	**$860,921**	**$1,059,669**	**$1,269,130**	**$1,488,835**	**$1,718,016**	**$1,955,533**
Deferred Developer Fee Balance		$1,813,135	$1,417,717	$989,109	$526,877	$30,590	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$2,976,950	$6,901,547	$11,798,049	$17,720,564	$24,721,361	$32,849,488	$42,149,068

21515 Southton PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

8d

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended

Table 1 2021-3 NOFA Applications Recommended for Action				
App. ID	Application Name	Recommended Award	Fund Source	City
21502	Lockwood South	$1,300,000	HOME*	Houston
21510	Avanti at Viking Hills	$4,500,000	HOME	Waco
21512	Dallas Stemmons	$540,300	HOME*	Dallas
21521	Palladium at West Francis	$2,472,726	NHTF*	Midland
*Recommendations are sourced from the General Set-Aside. Avanti at Viking Hills is sourced from the HOME Set-Aside.				

RECOMMENDED ACTION

WHEREAS, the Governing Board approved publication of the MFDL 2021-3 NOFA and its first, second, and third, amendments on June 18, 2021; September 2, 2021; and November 2, 2021, respectively, in response to previously approved Applicants' demonstrated need for gap financing caused by increased construction costs resulting from the COVID-19 pandemic;

WHEREAS, the 2021-3 NOFA provides a streamlined review under the Department's administrative rules for reviews approved under the prior application for eligibility and third-party reports, among others;

WHEREAS, as of December 1, 2021, the Department has received 22 Applications for the 2021-3 NOFA requesting a total of $56,094,410 in funding;

WHEREAS, as noted above in Table 1, four 2021-3 NOFA Applications requesting $8,813,026 are being recommended for an award;

WHEREAS, as these four applications were previously approved and have submitted applications in need of gap financing, the original results of Previous Participation Reviews (PPR) performed under 10 TAC §1.301 for the initial awarded applications are adopted for these current awards. All of the original PPR for the above recommended awards were favorable and there were no additional items to be checked as a result of the federal funding, at this time, and will be adopted for these 2021-3 NOFA recommendations;

WHEREAS, the Applications have deemed acceptable by the Executive Award Review Advisory Committee (EARAC); and

WHEREAS, staff recommends approval of the 2021-3 Applications referenced in Table 1.

NOW, therefore, it is hereby

RESOLVED, that the 2021-3 NOFA Applications Recommended for Action reflected in Table 1 are approved, subject to conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website and as described within this Board Action Request;

FURTHER RESOLVED, prior Previous Participation Reviews are adopted under federal requirements reflected in 2 CFR Part 180 and 2 CFR Part 2424;

FURTHER RESOLVED, that because the Department has not yet met its 2020 NHTF commitment deadline and in accordance with the 2021-3 NOFA, the latest deadline to sign a contract with the Department is July 29, 2022 despite any other deadline in 10 TAC Chapter 13; and

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

BACKGROUND

Three awards are to be from the General Set-Aside and one award is to be from the HOME Set-Aside in the 2021-3 NOFA, and would award $2,472,726 in NHTF and $6,340,300 in HOME funds, as follows:

21502 Lockwood South Apartments (Lockwood South): $1,300,000 HOME

Description: Previously approved for 9% LIHTC on July 23, 2020 (ID 20077), Lockwood South is the new construction of 80 units that will serve a general population in a four-story, elevator-served building, in Houston, located in Harris County. This development is the first phase of a multiple phased development along the Buffalo Bayou. Unit sizes range from one to three bedrooms and rent/income levels from 30% to 60% of the area median income (AMI), with eight market rate units.

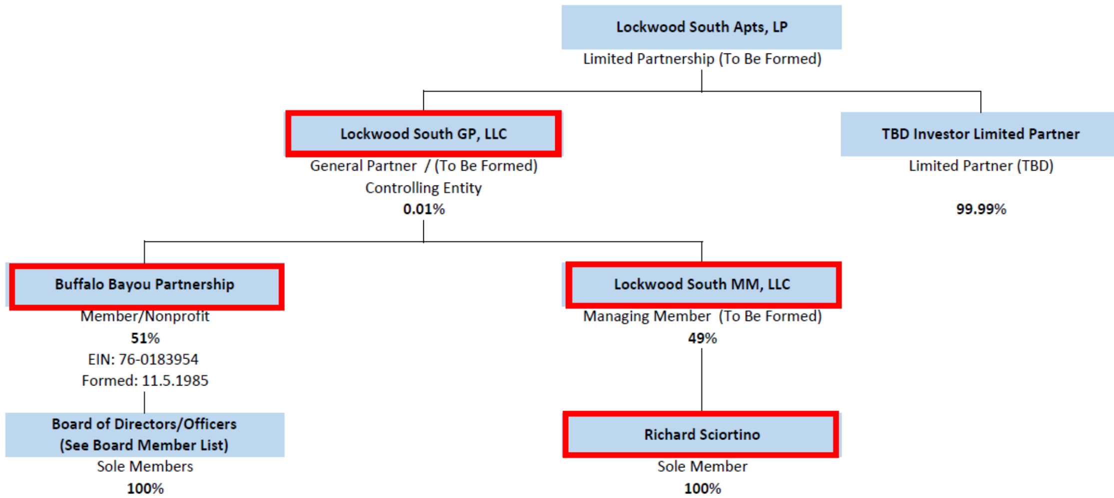
The Application documents a total development cost increase of $3,400,000 and building cost increase of $4,000,120. Lockwood South Apts, LP is requesting $1,300,000 in gap financing.

Financing and Regulatory Terms: Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the $1,300,000 MFDL HOME loan will be in second lien position with a 15-year term at 0% interest, no amortization, and structured as a Deferred Repayable loan. The MFDL HOME loan is in addition to a conventional bank loan in first lien position and Community Development Disaster Relief Block Grant (CDBG-DR) funds from the City of Houston. TDHCA will enter into a Shared Proceeds Agreement with the City of Houston providing that TDHCAhas a priority lien position in the event of default. The Applicant has filed a Notice of Intent to Apply for Supplemental Housing Tax Credits.[1] The Federal Affordability Period will be 20 years and the State Affordability Period will be 45 years.

Of the thirteen MFDL units restricted to 30% AMI, there will be eight one-bedroom, three two-bedroom, and two three-bedroom.

Organizational Structure: The proposed borrower is Lockwood South Apts, LP., and includes principals with the ability to exercise control as indicated in the organizational chart below.

[1] MFDL awardees under the 2021-3 NOFA that apply for 2022 Supplemental Credits will not be placed under MFDL contract until the results of the 2022 Supplemental Credit application round is complete.



Cash Flow Split

25%	Buffalo Bayou Partnership
75%	Lockwood South MM, LLC

Entities/Individuals in a red outline have the ability to exercise control

Real Estate Analysis Division
November 30, 2021

Addendum to Underwriting Report

TDHCA Application #: **21502** Program(s): **9% HTC / MDL**

Lockwood South Apartments

Address/Location: West of Lockwood Drive and South of Buffalo Bayou at Drennan Street

City: Houston County: Harris Zip: 77003

	APPLICATION HISTORY
Report Date	**PURPOSE**
11/30/21	**MDL Application**
09/03/20	Original Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Soft Repayable)					**$1,300,000**	**0.00%**	**0**	**15**	**2**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

* Multifamily Direct Loan Terms:

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

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

CONDITIONS STATUS

0 **Receipt and acceptance Prior to Direct Loan Commitment:**

a: Execution of Shared Proceeds Agreement with subordinate lender

b: Determination of potential award of 2022 Supplemental Housing Tax Credits

0 **Receipt and acceptance by Direct Loan Closing:**

c: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

d: Substantially final construction contract with Schedule of Values.

e: Updated term sheets with substantially final terms from all lenders

f: Substantially final draft of limited partnership agreement.

g: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

1 **Receipt and acceptance by Carryover:**

a: Formal approval from the City of Houston to provide a loan in the amount of $7,500,000, identifying the source of the funds, and a detailed term sheet specifying all terms and conditions, and income restrictions.

Status: Will be cleared at Direct Loan Closing.

b: Substantially final ground lease between the Development Owner and the Buyer in the amount of the HTC Parcel acquisition price.

Status: Satisfied.

c: Executed design contract with architect (Humphreys & Partners) supporting the architectural and engineering estimates provided in the application.

Status: Satisfied.

2 **Receipt and acceptance by 10% test:**

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

3 **Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:**

a: Certification that a Limited Phase II Subsurface Investigation was performed as recommended in the ESA to assess if the subsurface soils and/or groundwater have been negatively impacted by the identified RECs, and that any recommended mitigation measures were implemented.

b: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA			
Income Limit	Rent Limit	Number of Units	Original # of Units
30% of AMI	30% of AMI	8	8
50% of AMI	50% of AMI	29	29
60% of AMI	60% of AMI	35	31
80% of AMI	80% of AMI	0	4

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	13

ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

A request for a force majeure for this development was approved by the Board in October 2021.

The requested Direct Loan funding includes the conversion of 4 TC 80% units into TC 60% units for purposes of removing the income averaging election.

The Applicant has also requested an amendment in order to extend the placed in service deadline under the 2020 9% tax allocation from 12/31/22 to 10/1/23.

Operating Pro Forma

Rents have been updated to the 2021 Program Rents.

Since original underwriting, there has been a significant adjustment to budgeted Property Insurance of $30K/year to $67K / year per insurance quote provided.

Development Cost

Building Costs increased $4M.

Total Development Costs increased $3.4M

Sources of Funds

The Applicant has applied for a MultiFamily Direct Loan consistent with the requirements of NOFA 2021-3.

The Underwriter recommends approval of an MFDL in the amount of $1,300,000 at 0% interest, structured as Deferred Repayable as a second lien with a 15-year term (to match the senior debt) as requested by Applicant.
The current analysis continues to support the original tax credit award of $1,500,000.

Underwriter:	*Greg Stoll*
Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Lockwood South Apartments, Houston, 9% HTC #21502

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	$76,300
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	40	50.0%	0	8
2	24	30.0%	0	3
3	16	20.0%	0	2
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	80	100.0%	-	13

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	8	10.0%
40%	-	0.0%
50%	29	36.3%
60%	35	43.8%
70%	-	0.0%
80%	-	0.0%
MR	8	10.0%
TOTAL	80	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	87.36%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	879 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$445	30%/30%	$445	6	1	1	683	$445	$81	$364	$0	$0.53	$364	**$2,184**	**$2,184**	$364	$0.53	$0	$891	$1.30	$1,150
TC 50%	$743	30%/30%	$445	2	1	1	683	$445	$81	$364	$0	$0.53	$364	**$728**	**$728**	$364	$0.53	$0	$891	$1.30	$1,150
TC 50%	$743			2	1	1	683	$743	$81	$662	$0	$0.97	$662	**$1,324**	**$1,324**	$662	$0.97	$0	$891	$1.30	$1,150
TC 50%	$743			23	1	1	683	$743	$81	$662	$0	$0.97	$662	**$15,226**	**$15,226**	$662	$0.97	$0	$891	$1.30	$1,150
TC 60%	$891			6	1	1	683	$891	$81	$810	$0	$1.19	$810	**$4,860**	**$4,860**	$810	$1.19	$0	$891	$1.30	$1,150
MR				1	1	1	683	$0	$81		NA	$1.30	$891	**$891**	**$891**	$891	$1.30	NA	$891	$1.30	$1,150
TC 30%	$534	30%/30%	$535	1	2	2	991	$534	$104	$430	$0	$0.43	$430	**$430**	**$430**	$430	$0.43	$0	$1,069	$1.08	$1,400
TC 50%	$891	30%/30%	$535	1	2	2	991	$535	$104	$431	$0	$0.43	$431	**$431**	**$431**	$431	$0.43	$0	$1,069	$1.08	$1,400
TC 60%	$1,069	30%/30%	$535	1	2	2	991	$535	$104	$431	$0	$0.43	$431	**$431**	**$431**	$431	$0.43	$0	$1,069	$1.08	$1,400
TC 60%	$1,069			20	2	2	991	$1,069	$104	$965	$0	$0.97	$965	**$19,300**	**$19,300**	$965	$0.97	$0	$1,069	$1.08	$1,400
MR				1	2	2	991	$0	$104		NA	$1.08	$1,069	**$1,069**	**$1,069**	$1,069	$1.08	NA	$1,069	$1.08	$1,400
TC 30%	$618	30%/30%	$617	1	3	2	1,203	$617	$127	$490	$0	$0.41	$490	**$490**	**$490**	$490	$0.41	$0	$1,236	$1.03	$1,700
TC 50%	$1,030	30%/30%	$617	1	3	2	1,203	$617	$127	$490	$0	$0.41	$490	**$490**	**$490**	$490	$0.41	$0	$1,236	$1.03	$1,700
TC 60%	$1,236			8	3	2	1,203	$1,236	$127	$1,109	$0	$0.92	$1,109	**$8,872**	**$8,872**	$1,109	$0.92	$0	$1,236	$1.03	$1,700
MR				6	3	2	1,203	$0	$127		NA	$1.03	$1,236	**$7,416**	**$7,416**	$1,236	$1.03	NA	$1,236	$1.03	$1,700
TOTALS/AVERAGES:				**80**			**70,352**				**$0**	**$0.91**	**$802**	**$64,142**	**$64,142**	**$802**	**$0.91**	**$0**	**$1,013**	**$1.15**	**$1,335**

ANNUAL POTENTIAL GROSS RENT:		
	$769,704	**$769,704**

STABILIZED PRO FORMA

Lockwood South Apartments, Houston, 9% HTC #21502

	STABILIZED FIRST YEAR PRO FORMA															
	COMPARABLES				APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database		Local Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.91	$802	$769,704	**$803,376**	**$803,376**	$769,704	$802	$0.91		0.0%	$0
laundry and fees							$20.00	$19,200	19,200							
Total Secondary Income							$20.00			19,200	$19,200	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$788,904	$822,576	$822,576	$788,904				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(59,168)	(61,693)	(61,693)	(59,168)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$729,736	$760,883	$760,883	$729,736				0.0%	$0
General & Administrative	$34,088	$426/Unit	$34,165	$427	4.26%	$0.44	$389	$31,120	$31,120	$34,165	$34,165	$427	$0.49	4.68%	-8.9%	(3,045)
Management	$33,935	4.5% EGI	$34,285	$429	5.12%	$0.53	$467	$37,368	$38,044	$38,044	$36,487	$456	$0.52	5.00%	2.4%	881
Payroll & Payroll Tax	$108,317	$1,354/Unit	$114,888	$1,436	13.70%	$1.42	$1,250	$100,000	$100,000	$108,317	$108,317	$1,354	$1.54	14.84%	-7.7%	(8,317)
Repairs & Maintenance	$59,044	$738/Unit	$47,449	$593	6.58%	$0.68	$600	$48,000	$48,000	$48,000	$48,000	$600	$0.68	6.58%	0.0%	-
Electric/Gas	$17,735	$222/Unit	$11,298	$141	0.77%	$0.08	$70	$5,600	$5,600	$11,298	$11,298	$141	$0.16	1.55%	-50.4%	(5,698)
Water, Sewer, & Trash	$50,217	$628/Unit	$52,622	$658	7.41%	$0.77	$676	$54,044	$50,400	$52,622	$52,622	$658	$0.75	7.21%	2.7%	1,422
Property Insurance	$31,910	$0.45 /sf	$45,555	$569	9.18%	$0.95	$838	$67,000	$30,000	$36,265	$67,000	$838	$0.95	9.18%	0.0%	-
Property Tax (@ 100%) 2.5608	$63,281	$791/Unit	$70,648	$883	12.53%	$1.30	$1,143	$91,472	$101,863	$90,184	$76,723	$959	$1.09	10.51%	19.2%	14,749
Reserve for Replacements				$0	3.29%	$0.34	$300	$24,000	$20,000	$20,000	$20,000	$250	$0.28	2.74%	20.0%	4,000
TDHCA Compliance fees ($40/HTC unit)				$0	0.39%	$0.04	$36	$2,880	$2,880	$2,880	$2,880	$36	$0.04	0.39%	0.0%	-
City of Houston Fees				$0	0.30%	$0.03	$27	$2,160	$2,160	$2,160	$2,160	$27	$0.03	0.30%	0.0%	-
TOTAL EXPENSES					**63.60%**	**$6.60**	**$5,801**	**$ 464,086**	$430,067	$443,936	**$460,095**	**$5,751**	**$6.54**	**63.05%**	**0.9%**	**$ 3,991**
NET OPERATING INCOME ("NOI")					**36.40%**	**$3.78**	**$3,321**	**$265,650**	$330,816	$316,947	**$269,641**	**$3,371**	**$3.83**	**36.95%**	**-1.5%**	**$ (3,991)**
CONTROLLABLE EXPENSES							$2,985/Unit					$3,180/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Lockwood South Apartments, Houston, 9% HTC #21502

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR														Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Capital One		1.38	1.36	194,983	5.16%	35	15	$3,155,452	$4,312,000	$4,312,000	$3,155,452	15	35	5.16%	$194,983	1.36	11.9%
TDHCA MDL Soft Repayable		1.38	1.36		0.00%	35	15	$1,300,000			$1,300,000	15	0	0.00%	$0	1.36	4.9%
CASH FLOW DEBT / GRANTS																	
City of Houston CDBG-DR		1.23	1.21	$25,000	1.00%	na	40	$7,500,000	$4,000,000	$4,000,000	$7,500,000	40	na	1.00%	$25,000	1.21	28.3%
Cadence McShane (General Contractor)		1.23	1.21		0.00%	0	0	$97,500			$97,500	0	0	0.00%		1.21	0.4%
City of Houston		1.23	1.21		0.00%	0	0	$500	$500	$500	$500	0	0	0.00%		1.21	0.0%
				$219,983	**TOTAL DEBT / GRANT SOURCES**			**$12,053,452**	**$8,312,500**	**$8,312,500**	**$12,053,452**	**TOTAL DEBT SERVICE**			**$219,983**	**1.21**	45.5%
NET CASH FLOW		$49,658	$45,667								**APPLICANT**	**NET OPERATING INCOME**		**$265,650**	**$45,667**	**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	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Richman Group Affordable Hsng Corp.	LIHTC Equity	51.5%	$1,500,000	0.91	$13,648,635	$13,948,605	$13,948,605	$13,648,635	$0.91	$1,500,000	51.5%	$18,750	Previous Allocation
Lockwood South Apts, LP	Deferred Developer Fees	2.9%	(33% Deferred)		$774,594	$774,594	$774,593	$774,593	(33% Deferred)		2.9%	**Total Developer Fee:**	**$2,332,644**
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%		
TOTAL EQUITY SOURCES		54.5%			$14,423,229	$14,723,199	$14,723,198	$14,423,228			54.5%		
TOTAL CAPITALIZATION					**$26,476,681**	$23,035,699	$23,035,698	**$26,476,680**			**15-Yr Cash Flow after Deferred Fee:**		**$337,577**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis										Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$43,750 / Unit	$3,500,000	$3,500,000	$3,500,000	$3,500,000	$43,750 / Unit				0.0%	$0
					$0	$15,000	$15,000	$0						$0
Off-Sites				$6,250 / Unit	$500,000	$500,000	$500,000	$500,000	$6,250 / Unit				0.0%	$0
Site Work		$1,016,207		$12,703 / Unit	$1,016,207	$1,180,000	$1,180,000	$1,089,997	$13,625 / Unit		$1,016,207		-6.8%	($73,790)
Site Amenities		$450,415		$5,630 / Unit	$450,415	$500,000	$500,000	$473,050	$5,913 / Unit		$450,415		-4.8%	($22,635)
Building Cost		$11,744,897	$166.94 /sf	$146,811/Unit	$11,744,897	$7,738,720	$7,435,789	$11,633,859	$145,423/Unit	$165.37 /sf	$11,633,859		1.0%	$111,038
Contingency		$722,021	5.47%	5.27%	$722,021	$694,310	$673,105	$722,021	5.27%	5.51%	$722,021		0.0%	$0
Contractor Fees		$1,847,573	13.26%	12.80%	$1,847,573	$1,388,621	$1,388,621	$1,847,573	12.81%	13.37%	$1,847,573		0.0%	$0
Soft Costs	0	$2,220,646		$29,321 / Unit	$2,345,646	$2,760,757	$2,760,757	$2,345,646	$29,321 / Unit		$2,220,646	$0	0.0%	$0
Financing	0	$993,246		$20,610 / Unit	$1,648,767	$2,080,947	$2,080,947	$1,648,767	$20,610 / Unit		$993,246	$0	0.0%	$0
Developer Fee	$0	$1,934,991	10.19%	11.97%	$2,332,645	$2,332,645	$2,284,024	$2,332,644	11.97%	10.25%	$1,934,991	$0	0.0%	$1
Reserves				6 Months	$368,510	$344,699	$344,699	$368,510	7 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$20,929,997**		$330,959 / Unit	**$26,476,681**	$23,035,699	$22,662,942	**$26,462,067**	$330,776 / Unit		**$20,818,959**	**$0**	**0.1%**	**$14,614**
Acquisition Cost	$0				$0	$0								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			($1)	($1)								
Reserves					$0	$0								
ADJUSTED BASIS / COST	**$0**	**$20,929,997**		$330,959/unit	**$26,476,680**	$23,035,698	$22,662,942	**$26,462,067**	$330,776/unit		**$20,818,959**	**$0**	**0.1%**	**$14,613**
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):						**$26,476,680**								

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Lockwood South Apartments, Houston, 9% HTC #21502-20077

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$20,929,997	$0	$20,818,959
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$20,929,997	$0	$20,818,959
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$27,208,996	$0	$27,064,646
Applicable Fraction	87.36%	87.36%	87.36%	87.36%
TOTAL QUALIFIED BASIS	$0	$23,769,969	$0	$23,643,865
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$2,139,297	$0	$2,127,948
CREDITS ON QUALIFIED BASIS	$2,139,297		$2,127,948	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9099	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$2,139,297	$19,465,658	----	----	----
Needed to Fill Gap	$1,585,129	$14,423,228	----	----	----
Previous Allocation	$1,500,000	$13,648,635	**$1,500,000**	**$0**	**$0**

Long-Term Pro Forma

Lockwood South Apartments, Houston, 9% HTC #21502

	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%	$729,736	$744,331	$759,218	$774,402	$789,890	$872,102	$962,871	$1,063,088	$1,173,735	$1,295,898	$1,430,776
TOTAL EXPENSES	3.00%	$464,086	$477,635	$491,583	$505,942	$520,723	$601,428	$694,756	$802,691	$927,534	$1,071,949	$1,239,020
NET OPERATING INCOME ("NOI")		**$265,650**	**$266,696**	**$267,635**	**$268,460**	**$269,167**	**$270,674**	**$268,116**	**$260,397**	**$246,201**	**$223,949**	**$191,757**
EXPENSE/INCOME RATIO		63.6%	64.2%	64.7%	65.3%	65.9%	69.0%	72.2%	75.5%	79.0%	82.7%	86.6%
MUST -PAY DEBT SERVICE												
Capital One		$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983
TOTAL DEBT SERVICE		$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983	$194,983
DEBT COVERAGE RATIO		1.36	1.37	1.37	1.38	1.38	1.39	1.38	1.34	1.26	1.15	0.98
ANNUAL CASH FLOW		**$70,667**	**$71,713**	**$72,651**	**$73,477**	**$74,183**	**$75,691**	**$73,133**	**$65,414**	**$51,218**	**$28,966**	**($3,227)**
Deferred Developer Fee Balance		$703,927	$632,214	$559,562	$486,085	$411,902	$35,032	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$0	$337,577	$682,394	$969,760	$1,162,668	$1,215,318

20077 Lockwood South Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION
September 3, 2020

PROPERTY IDENTIFICATION	
Application #	**20077**
Development	**Lockwood South Apartments**
City / County	**Houston / Harris**
Region/Area	**6 / Urban**
Population	**General**
Set-Aside	**Non-Profit**
Activity	**New Construction**

RECOMMENDATION

TDHCA Program	Request	Recommended		
LIHTC (9% Credit)	$1,500,000	$1,500,000	$18,750/Unit	$0.93

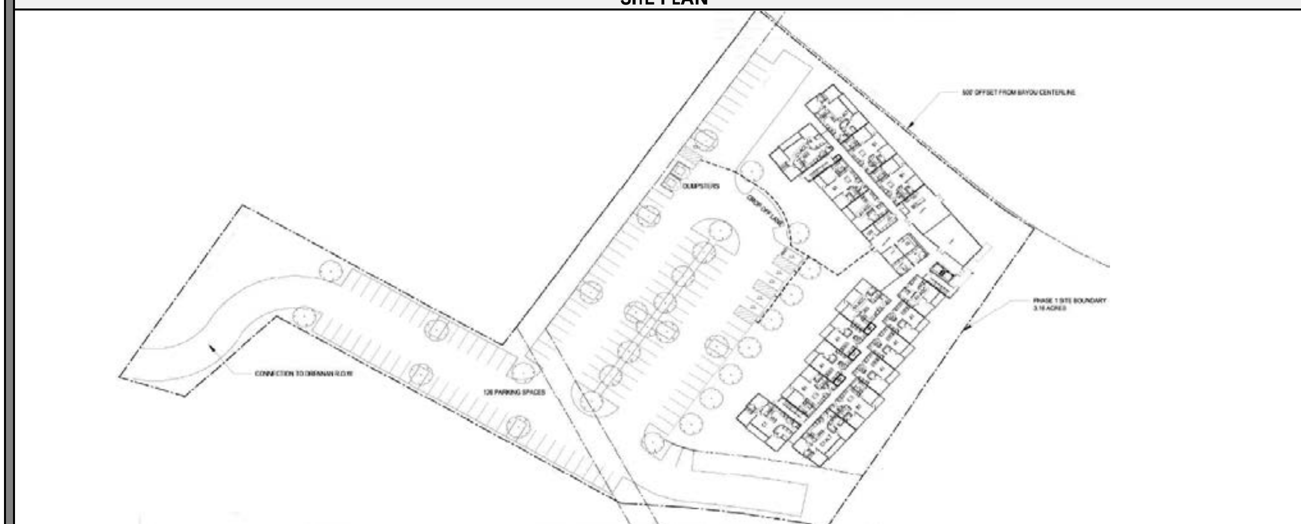
KEY PRINCIPALS / SPONSOR

Buffalo Bayou Partnership
&
Richard Sciortino / Brinshore Development

Related Parties	Contractor - Yes	Seller - No

TYPICAL BUILDING ELEVATION/PHOTO

SITE PLAN



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	8	10%
1	40	50%	50%	29	36%
2	24	30%	60%	31	39%
3	16	20%	80%	4	5%
4	-	0%	MR	8	10%
TOTAL	80	100%	TOTAL	80	100%

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.15	Expense Ratio	56.5%
Breakeven Occ.	87.2%	Breakeven Rent	$788
Average Rent	$837	B/E Rent Margin	$49
Property Taxes	$1,273/unit	Exemption/PILOT	0%
Total Expense	$5,376/unit	Controllable	$2,939/unit

MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)	2.7%		
Highest Unit Capture Rate	19%	3 BR/50%	1
Dominant Unit Cap. Rate	9%	1 BR/50%	27
Premiums (↑60% Rents)	Yes	$460/Avg.	

DEVELOPMENT COST SUMMARY

Costs Underwritten	Applicant's Costs		
Avg. Unit Size	879 SF	Density	25.3/acre
Acquisition		$44K/unit	$3,515K
Building Cost	$110.00/SF	$97K/unit	$7,739K
Hard Cost		$133K/unit	$10,613K
Total Cost		$288K/unit	$23,036K
Developer Fee	$2,333K	(33% Deferred)	Paid Year: 14
Contractor Fee	$1,389K	30% Boost	Yes

DEBT (Must Pay)				
Source	Term	Rate	Amount	DCR
Amegy Bank	18/35	5.00%	$4,312,000	1.27
TOTAL DEBT (Must Pay)			$4,312,000	

CASH FLOW DEBT / GRANT FUNDS				
Source	Term	Rate	Amount	DCR
City of Houston	40/40	1.00%	$4,000,000	1.15
City of Houston	0/0	0.00%	$500	1.15
CASH FLOW DEBT / GRANTS			$4,000,500	

EQUITY / DEFERRED FEES	
Source	Amount
Richman Group Affordable Hsng Corp.	$13,948,605
Lockwood South Apts, LP	$774,593
TOTAL EQUITY SOURCES	$14,723,198
TOTAL DEBT SOURCES	$8,312,500
TOTAL CAPITALIZATION	$23,035,698

CONDITIONS

1 Receipt and acceptance by Carryover:

a: Formal approval from the City of Houston to provide a loan in the amount of $4,000,000, identifying the source of the funds, and a detailed term sheet specifying all terms and conditions, and income restrictions.

b: Substantially final ground lease between the Development Owner and the Buyer in the amount of the HTC Parcel acquisition price.

c: Executed design contract with architect (Humphreys & Partners) supporting the architectural and engineering estimates provided in the application.

2 Receipt and acceptance by 10% test:

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

3 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:

a: Certification that a Limited Phase II Subsurface Investigation was performed as recommended in the ESA to assess if the subsurface soils and/or groundwater have been negatively impacted by the identified RECs, and that any recommended mitigation measures were implemented.

b: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

RISK PROFILE

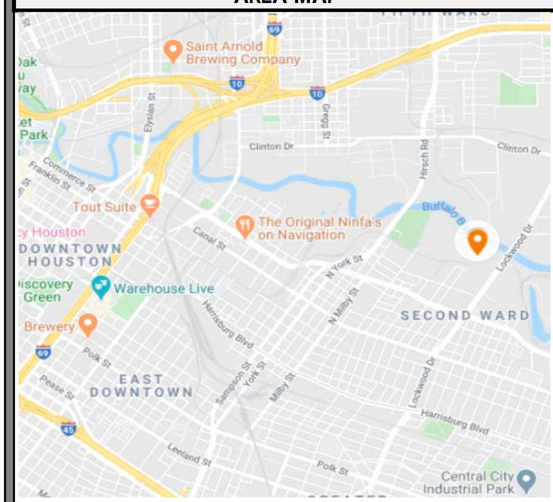
STRENGTHS/MITIGATING FACTORS

- Market rent premium potential
- Overall feasibility indicators
- Low gross capture rate

WEAKNESSES/RISKS

- Market exposure
- Inefficient parking
- Potential mitigation costs due to Phase II ESA subsurface investigations
- Low visibility

AREA MAP



AERIAL PHOTOGRAPH(s)

Real Estate Analysis Division
Underwriting Report
September 3, 2020
Summary Posted 8/7/2020

DEVELOPMENT IDENTIFICATION

TDHCA Application #: 20077 Program(s): 9% HTC

Lockwood South Apartments

Address/Location: West of Lockwood Drive and South of Buffalo Bayou at Drennan Street

City: Houston County: Harris Zip: 77003

Population: General Program Set-Aside: Non-Profit Area: Urban
Activity: New Construction Building Type: Garden (Up to 4-story) Region: 6

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

CONDITIONS

1 Receipt and acceptance by Carryover:

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	8
50% of AMI	50% of AMI	29
60% of AMI	60% of AMI	31
80% of AMI	80% of AMI	4

DEVELOPMENT SUMMARY

Lockwood South Apartments is a new construction development in Houston for the general population. There will be 80 units, with 72 reserved for income-qualified residents. There will be a mix of 1, 2 and 3 bedroom units. The development has applied to the City of Houston for CDBG-DR funding which will be structured as a loan to the partnership. The development is part of the 2002 Buffalo Bayou Master Plan and the 2020 Buffalo Bayou East Master Plan.

RISK PROFILE

	STRENGTHS/MITIGATING FACTORS
▫	Market rent premium potential
▫	Overall feasibility indicators
▫	Low gross capture rate
▫	

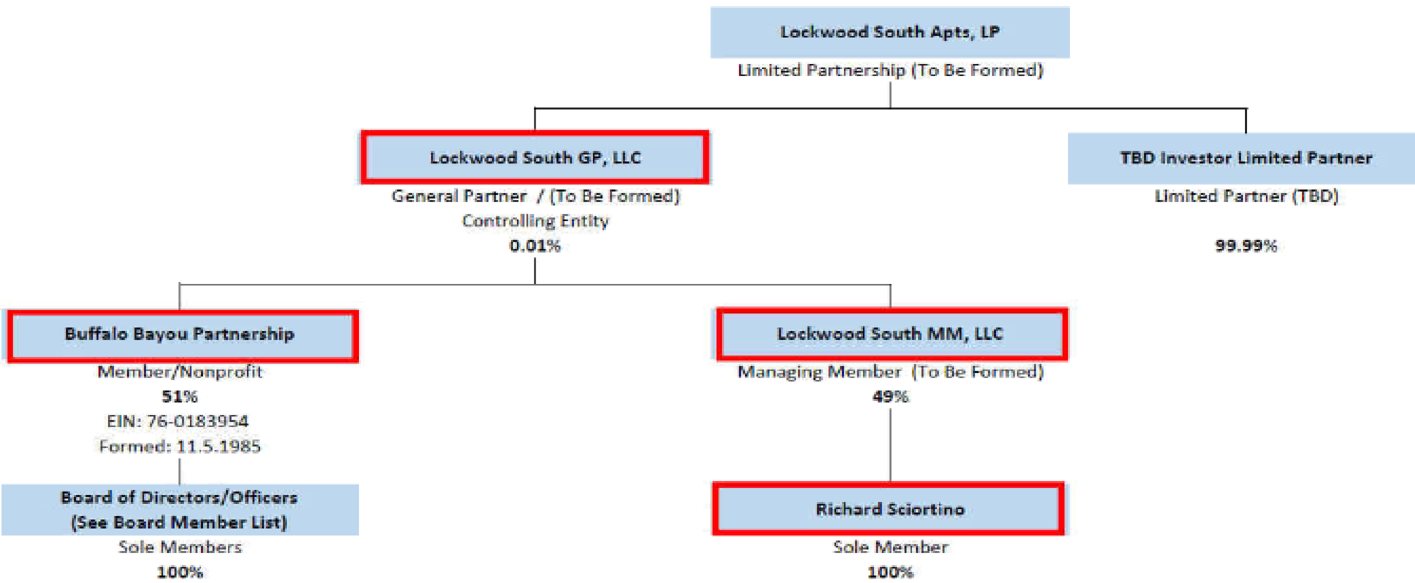
	WEAKNESSES/RISKS
▫	Market exposure
▫	Inefficient parking
▫	Potential mitigation costs due to Phase II ESA subsurface investigations
▫	Low visibility

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Scott Puffer	Name:	Ruben Esqueda
Phone:	(513) 603-0074	Phone:	(817) 329-8051

OWNERSHIP STRUCTURE

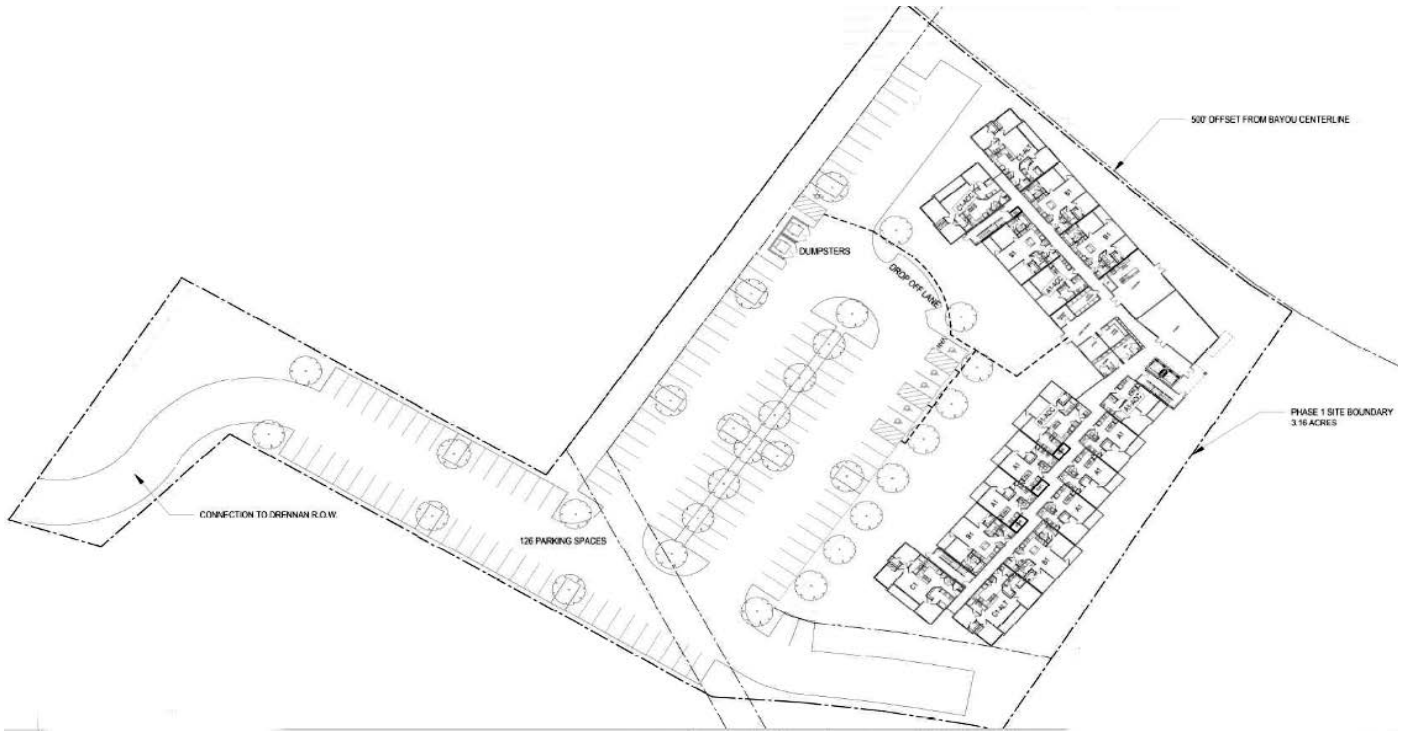


- Buffalo Bayou Partnership is an active Houston area community development non profit and will be involved in all aspects of the development through the compliance period, and will receive 25% of the developer fee plus 25% of the cash flow.

Established in 1994, Brinshore Development, LLC has undertaken dozens of developments, from large-scale master planned communities to the restoration of historic properties. The Brinshore portfolio encompasses more than 7,000 residential units valued at more than $1 billion.

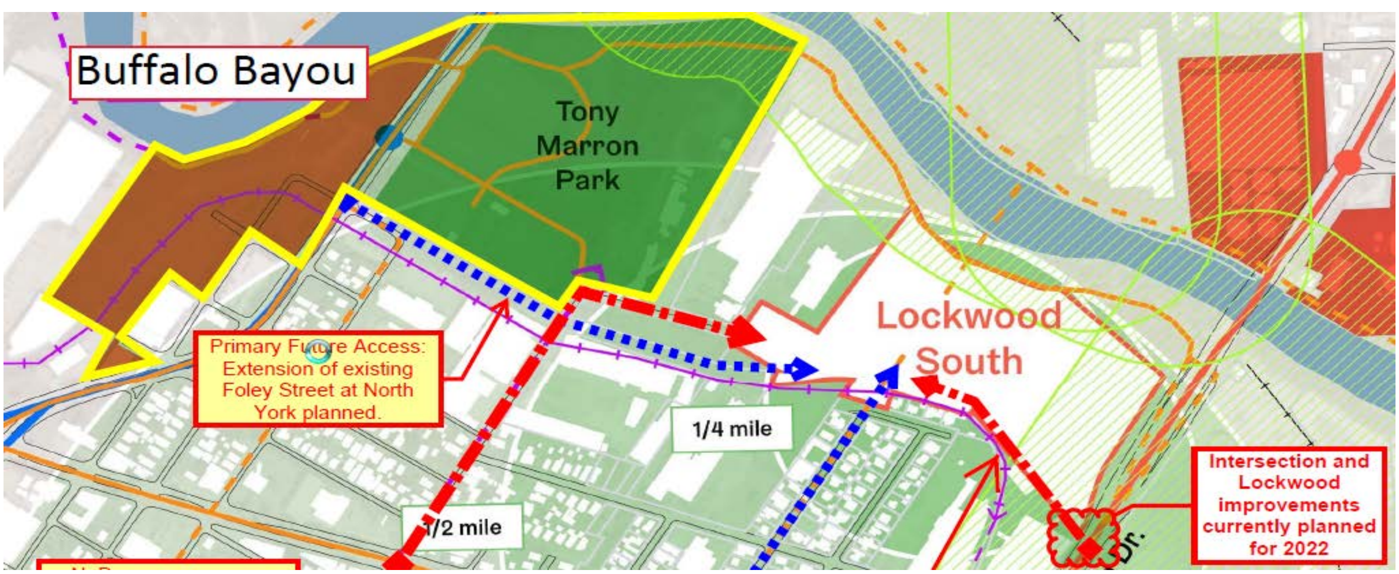
DEVELOPMENT SUMMARY

SITE PLAN



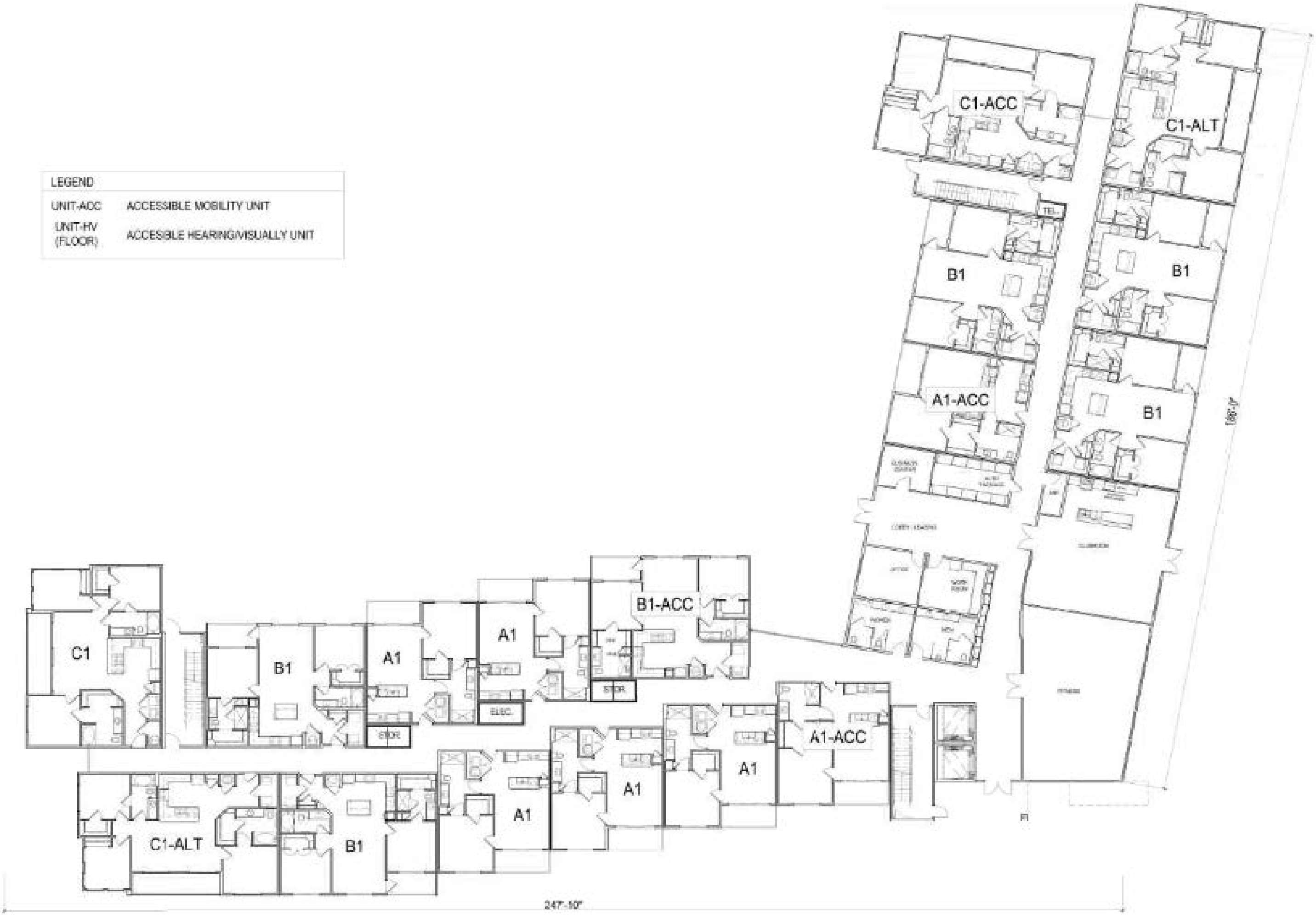
Comments:

The subject development is only the first of a multiple phased development along the Buffalo Bayou. Site plan provides 126 parking spaces (1.5 per unit) as required by City of Houston Code. But the building is located against the far northeastern boundary, with all parking concentrated in the opposite corner of the site and along the access drive, requiring a long walk from the outermost spaces to the building.



Access to the site is currently via narrow local streets through a very industrial area. Applicant states that "The current access via Drennan Street is viable per the City of Houston review, however, it was never intended to be the only access point. Future plans include an east-west vehicular access on the southern boundary of the site roughly following the decommissioned rail line from York Street to Lockwood Drive." Additional planned improvements to the area include a substantial expansion of Tony Marron Park to the west of the site.

BUILDING PLAN (Typical)



BUILDING ELEVATION

Comments:

Four-story elevator-served building with significant articulation and multiple exterior finish materials. Management/leasing offices and tenant amenities embedded within the multifamily building.

BUILDING CONFIGURATION

Building Type	A											Total Buildings
Floors/Stories	4											
Number of Bldgs	1											1
Units per Bldg	80											
Total Units	80											**80**

Avg. Unit Size (SF)	**879 sf**	**Total NRA (SF)**	**70,352**	**Common Area (SF)***	**20,406**

*Common Area Square Footage as specified on Architect Certification

SITE CONTROL INFO

Site Acreage: Development Site: 3.16 acres Density: 25.3 units/acre

Site Control: 11.4 **Site Plan:** 3.16 **Appraisal:** 3.16 **ESA:** 22

Control Type: Purchase and Sale Agreement Contract Expiration: 12/31/2020

Tract 1: 3.16 acres Cost: $3,000,000 Seller: CG 233, Inc.

Development Site: 3.16 acres Cost: $3,500,000 $43,750 per unit

Seller: CG 233, Inc.

Buyer: The Buffalo Bayou Partnership (BBP)

Assignee: Brinshore Development, LLC

Related-Party Seller/Identity of Interest: No

Comments:

CG 233, Inc. an unrelated party, owns an 11-acre tract that will be developed as part of the Buffalo Bayou East Master Plan. BBP will acquire a 3.16-acre parcel for the subject development Lockwood South Apartments for $3,500,000 which will be developed and operated by the Applicant through a ground lease. Applicant will make an up-front lease payment to BBP equal to the purchase price.

$43,750 per unit acquisition cost is relatively high for the LIHTC program, but is comparable to other applications in Houston this cycle, reflecting the competitive nature of the program.

SITE INFORMATION

Flood Zone:	x	Scattered Site?	No
Zoning:	No zoning in Houston	Within 100-yr floodplain?	No
Re-Zoning Required?	No	Utilities at Site?	Yes
Year Constructed:	N/A	Title Issues?	No

Current Uses of Subject Site:

None identified. Recreational hike & bike trail.

Surrounding Uses:

Northeast: Buffalo Bayou and industrial uses
Southeast: Lockwood Dr. followed by industrial uses
Southwest: Harris County Sherriff's Office and industrial uses
Northwest: Manufacturing

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AEI Consultants   Date: 2/24/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- A Phase I ESA in 2007 identified historical on-site land clearing and possible disposal activities, along with areas of debris/trash disposal, abandoned tires, railroad ties, and several commercial/industrial facilities which operate USTs and/or operations utilizing various chemicals and generating hazardous wastes were located in the vicinity and up-gradient of the subject property.

- Provider recommends the collection of subsurface soil and groundwater samples in the vicinity of the prior sample locations to determine if the subsurface contains elevated concentrations of contaminants.

  Multiple areas appeared to consist of fill material ... due to the unknown origin of the fill material at the subject property, the potential exists that the fill material beneath the subject property is contaminated, which represents a REC. However, in the event that the subject property undergoes activities that disturb the subsurface, including any future redevelopment activities, AEI recommends subsurface sampling to assess whether the fill material beneath the subject property is contaminated.

  A railroad spur running east to west was likely located on the southern end of the subject property ... in the event this area of the subject property is redeveloped for residential use, soil sampling may be warranted.

  Based on the presence of potential adverse noise sources within the established HUD threshold distances, AEI recommends completion of a HUD-compliant noise study

Comments:

Ensafe was contracted via the City Brownfields program to perform the ESA Phase II. The sampling plan and Quality Assurance Project Plan were reviewed and approved by the EPA for the collection of soil and groundwater samples to address concerns identified in the Phase I report. However, this Phase II report is not yet available.

MARKET ANALYSIS

Provider:	Affordable Housing Analysts	Date:	3/24/2020
Contact:	Bob Coe	Phone:	281-387-7552

Primary Market Area (PMA): 17 sq. miles 2 mile equivalent radius

ELIGIBLE HOUSEHOLDS BY INCOME								
Harris County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	$12,870	$12,870	$15,450	$15,450	$17,850	$17,850	---
	Max	$16,050	$18,330	$20,610	$22,890	$24,750	$26,580	---
50% AMGI	Min	$21,480	$21,480	$25,740	$25,740	$29,760	$29,760	---
	Max	$26,750	$30,550	$34,350	$38,150	$41,250	$44,300	---
60% AMGI	Min	$25,770	$25,770	$30,900	$30,900	$35,730	$35,730	---
	Max	$32,100	$36,660	$41,220	$45,780	$49,500	$53,160	---
80% AMGI	Min	$34,380	$34,380	$41,220	$41,220	$47,640	$47,640	---
	Max	$42,800	$48,880	$54,960	$61,040	$66,000	$70,880	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
17188	EaDo Lofts	Y	New	General	80	80
20011	Canal Lofts	Y	New	General	100	150
Other Affordable Developments in PMA since 2015						
15043	Cleme Manor		A/R	General	n/a	284
16405	New Hope Housing at Harrisburg		New	Supp Hsng	n/a	175
17417	Fenix Estates		New	Supp Hsng	n/a	200
18306	Campanile on Commerce		New	Eld. Limit	n/a	120
Stabilized Affordable Developments in PMA					Total Units	1,093
					Total Developments	6

Proposed, Under Construction, and Unstabilized Competitive Supply:

19296 McKee City Living is a comparable development under construction just outside of the PMA. If those units are included as competitive, Gross Capture Rate will still remain well below the threshold.

OVERALL DEMAND ANALYSIS		
	Market Analyst	
	HTC	Assisted
Total Households in the Primary Market Area	24,319	
Potential Demand from the Primary Market Area	8,419	
10% External Demand	842	
Potential Demand from Other Sources	0	
GROSS DEMAND	9,261	

Subject Affordable Units	72		
Unstabilized Competitive Units	180		
RELEVANT SUPPLY	252		
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	**2.7%**		

Population:	**General**	**Market Area:**	**Urban**	**Maximum Gross Capture Rate:**	**10%**

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND

	Market Analyst									
AMGI Band	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate					
30% AMGI	2,030	203	8	18	1%					
50% AMGI	2,531	253	29	72	4%					
60% AMGI	2,465	247	31	90	4%					
80% AMGI	2,232	223	4	0	0.2%					

Demand Analysis:

The capture rate calculation determines the percentage of the qualified demand that is needed to absorb the proposed units. The capture rates only reflect the demand for the 72 affordable units at the Subject property and do not include any of the 8 market units in the analysis. All capture rates are under the maximum thresholds.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE

	Market Analyst									
Unit Type	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate					
1 BR/30%	418	42	6	11	4%					
1 BR/50%	489	49	27	20	9%					
1 BR/60%	282	28	5	19	8%					
1 BR/80%	481	48	1	0	0.2%					
2 BR/30%	375	38	1	5	1%					
2 BR/50%	384	38	1	43	10%					
2 BR/60%	320	32	20	48	19%					
2 BR/80%	398	40	1	0	0.2%					
3 BR/30%	859	86	1	2	0.3%					
3 BR/50%	732	73	1	9	1%					
3 BR/60%	480	48	6	23	5%					
3 BR/80%	458	46	2	0	0.4%					

Market Analyst Comments:

"Occupancies of the affordable housing projects are high, with some 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 affordable General Population housing in the subject's primary market area." (p. 13)

"The primary market area had an estimated 2020 average household income of $59,744 with a median household income of $39,989." (p. 40)

Revisions to Market Study:	0

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	$330,816	Avg. Rent:	$837	Expense Ratio:	56.5%
Debt Service:	$287,146	B/E Rent:	$788	Controllable Expenses:	$2,939
Net Cash Flow:	$43,670	UW Occupancy:	92.5%	Property Taxes/Unit:	$1,273
Aggregate DCR:	1.15	B/E Occupancy:	87.2%	Program Rent Year:	2019

Applicant will make the Income Averaging election for the Development. All restricted units are underwritten at the maximum Net Program Rents at 30%, 50%, 60%, and 80% AMI.

Eight units (10% of the total) are unrestricted and underwritten at the HTC 80% Gross Program Rent.

Underwriter's estimates for operating expenses are based primarily on comparable properties in Houston.

Estimates are within 5% so feasibility is determined by the Applicant's pro forma.

Underwritten pro forma assumes 6 units vacant; break-even occurs with 10 units vacant.

Related-Party Property Management Company: 0

Revisions to Rent Schedule:	0	Revisions to Annual Operating Expenses:	0

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$1,107,595/ac	$43,938/unit	**$3,515,000**	Contractor Fee	**$1,388,621**
Off-site + Site Work		$27,250/unit	**$2,180,000**	Soft Cost + Financing	**$4,841,704**
Building Cost	$110.00/sf	$96,734/unit	**$7,738,720**	Developer Fee	**$2,332,644**
Contingency	7.00%	$8,679/unit	**$694,310**	Reserves	**$344,699**
Total Development Cost	$287,946/unit	**$23,035,698**		**Rehabilitation Cost**	**N/A**
Qualified for 30% Basis Boost?	Located in QCT with < 20% HTC units/HH				

Off-site:

The Feasibility Report states that Drennan Street should be extended to provide public access to the subject site which will also require public storm sewer and utility improvements along Drennan Street into the site. Applicant's cost schedule includes $500,000 for off-site utilities.

Site Work:

Site work includes $320K for grading, $281K for paving, and $546K for utilities. Site Amenities include $250K for landscaping and $234K for fencing.

Building Cost:

Four-story elevator-served building with significant articulation and multiple exterior finish materials. Units with nine foot ceilings and high quality finishes to compete with comparable market rate properties. Management/leasing offices and tenant amenities embedded within the multifamily building.

Underwriter's cost estimate based on Marshall & Swift Good Quality multifamily model to account for building design features. Applicant's cost is within 4% of Underwriter's estimate.

Contingency and Fees:

Applicant's budget includes maximum contingency, contractor fee and developer fee.

Soft Costs:

Architectural and Engineering fees are $1,235,000 total ($15,438 per unit). These values are more than double the average of similarly designed buildings in Houston on a total dollar fee basis, and more than triple on a per-unit basis. For this reason, an executed design contract for all members of the design team are required to be provided at Carryover. If executed contracts are not in place at Carryover, a letter from the architect itemizing the cost for each design phase must be provided.

Comments:

Total cost is within 2%, so the recommended financing structure is based on the Applicant's cost schedule.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$23,035,698	$14,834,928	$1,516,308

Related-Party Contractor: Yes

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	0

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
Amegy Bank	0	$16,400,000	5.50%	75%
Richman Group Affordable Hsng Corp.	HTC	$1,394,861	$0.93	6%
City of Houston	§11.9(d)(2)LPS Contribution	$500		0%
City of Houston	CDBG-DR	$4,000,000	1.00%	18%
		$21,795,361	Total Sources	

Comments:

Amegy Bank will provide $16,400,000 construction financing.

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Amegy Bank	$4,312,000	5.00%	35	18	$4,312,000	5.00%	35	18	19%
City of Houston	$4,000,000	1.00%	40	40	$4,000,000	1.00%	40	40	17%
City of Houston	$500				$500				0%
Total	**$8,312,500**				**$8,312,500**				

Comments:

Amegy Bank will provide permanent financing as a $4,312,000 loan at 5.00% amortized over 35 years.

Applicant has been recommended by the City of Houston for a $7,000,000 forgivable loan (CDBG Disaster Relief Fund) with 1% non-amortizing, interest only cash flow payments. Applicant indicates that after sizing the project and receiving cost estimates they will only request $4,000,000 in CDBG funds. The schedule of sources reflects $4,000,000 at 1.00%.

Recommendations for award will be announced after June 1st and submitted for city council approval. The City is aware the Applicant has committed to closing by November 30, 2020.

The Development Cost Schedule includes $8,200,771 that is not included in Tax Credit Eligible Basis. The $4,000,000 CDBG funding can be a applied to this ineligible cost. Therefore, no valid debt review is being performed.

The 1.00% interest-only payment can be serviced for $2.6M of the CDBG funds while maintaining the minimum 1.15 times debt coverage. The remainder of the interest would be subject to available cash flow.

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Richman Group Affordable Hsng Corp.	$13,948,605	$0.93		$13,948,605	$0.93	61%	
Lockwood South Apts, LP	$774,594		33%	$774,593		3%	34%
Total	**$14,723,199**			**$14,723,198**			
				$23,035,698	**Total Sources**		

Credit Price Sensitivity based on current capital structure	
$0.982	Maximum Credit Price before the Development is oversourced and allocation is limited
$0.921	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	0

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$23,035,698
Permanent Sources (debt + non-HTC equity)	$8,312,500
Gap in Permanent Financing	$14,723,198

Possible Tax Credit Allocations:	**Equity Proceeds**	**Annual Credits**
Determined by Eligible Basis	$14,100,253	$1,516,308
Needed to Balance Sources & Uses	$14,723,198	$1,583,298
Requested by Applicant	$13,948,605	$1,500,000

	RECOMMENDATION	
	Equity Proceeds	**Annual Credits**
Tax Credit Allocation	**$13,948,605**	**$1,500,000**

Deferred Developer Fee	**$774,593**	**(34% deferred)**
Repayable in	**14 years**	

Comments:

Recommended credit allocation is $1,500,000 as requested by the Applicant.

Underwriter:	*Greg Stoll*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Lockwood South Apartments, Houston, 9% HTC #20077

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	$76,300
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2019

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	40	50.0%	0	0
2	24	30.0%	0	0
3	16	20.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	**80**	**100.0%**	**-**	**-**

54%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	8	10.0%
40%	-	0.0%
50%	29	36.3%
60%	31	38.8%
70%	-	0.0%
80%	4	5.0%
MR	8	10.0%
TOTAL	**80**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	87.36%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	879 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$429	6	1	1	683	$429	$91	$338	$0	$0.49	$338	**$2,028**	**$2,028**	$338	$0.49	$0	$1,146	$1.68	$1,150
TC 50%	$716	27	1	1	683	$716	$91	$625	$0	$0.92	$625	**$16,875**	**$16,875**	$625	$0.92	$0	$1,146	$1.68	$1,150
TC 60%	$859	5	1	1	683	$859	$91	$768	$0	$1.12	$768	**$3,840**	**$3,840**	$768	$1.12	$0	$1,146	$1.68	$1,150
TC 80%	$1,146	1	1	1	683	$1,146	$91	$1,055	$0	$1.54	$1,055	**$1,055**	**$1,055**	$1,055	$1.54	$0	$1,146	$1.68	$1,150
MR		1	1	1	683	$0	$91		NA	$1.68	$1,146	**$1,146**	**$1,146**	$1,146	$1.68	NA	$1,146	$1.68	$1,150
TC 30%	$515	1	2	2	991	$515	$118	$397	$0	$0.40	$397	**$397**	**$397**	$397	$0.40	$0	$1,374	$1.39	$1,400
TC 50%	$858	1	2	2	991	$858	$118	$740	$0	$0.75	$740	**$740**	**$740**	$740	$0.75	$0	$1,374	$1.39	$1,400
TC 60%	$1,030	20	2	2	991	$1,030	$118	$912	$0	$0.92	$912	**$18,240**	**$18,240**	$912	$0.92	$0	$1,374	$1.39	$1,400
TC 80%	$1,374	1	2	2	991	$1,374	$118	$1,256	$0	$1.27	$1,256	**$1,256**	**$1,256**	$1,256	$1.27	$0	$1,374	$1.39	$1,400
MR		1	2	2	991	$0	$118		NA	$1.39	$1,374	**$1,374**	**$1,374**	$1,374	$1.39	NA	$1,374	$1.39	$1,400
TC 30%	$595	1	3	2	1,203	$595	$144	$451	$0	$0.37	$451	**$451**	**$451**	$451	$0.37	$0	$1,588	$1.32	$1,700
TC 50%	$992	1	3	2	1,203	$992	$144	$848	$0	$0.70	$848	**$848**	**$848**	$848	$0.70	$0	$1,588	$1.32	$1,700
TC 60%	$1,191	6	3	2	1,203	$1,191	$144	$1,047	$0	$0.87	$1,047	**$6,282**	**$6,282**	$1,047	$0.87	$0	$1,588	$1.32	$1,700
TC 80%	$1,588	2	3	2	1,203	$1,588	$144	$1,444	$0	$1.20	$1,444	**$2,888**	**$2,888**	$1,444	$1.20	$0	$1,588	$1.32	$1,700
MR		6	3	2	1,203	$0	$144		NA	$1.32	$1,588	**$9,528**	**$9,528**	$1,588	$1.32	NA	$1,588	$1.32	$1,700
TOTALS/AVERAGES:		**80**			**70,352**				**$0**	**$0.95**	**$837**	**$66,948**	**$66,948**	**$837**	**$0.95**	**$0**	**$1,303**	**$1.48**	**$1,335**

ANNUAL POTENTIAL GROSS RENT:	**$803,376**	**$803,376**	

STABILIZED PRO FORMA

Lockwood South Apartments, Houston, 9% HTC #20077

	STABILIZED FIRST YEAR PRO FORMA													
	COMPARABLES				APPLICANT				TDHCA				VARIANCE	
	Database		Local Comps		% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.95	$837	$803,376	$803,376	$837	$0.95		0.0%	$0
laundry and fees							$20.00	$19,200						
Total Secondary Income							$20.00		$19,200	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$822,576	$822,576				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(61,693)	(61,693)	7.5% PGI			0.0%	-
EFFECTIVE GROSS INCOME								$760,883	$760,883				0.0%	$0
General & Administrative	$34,088	$426/Unit	$34,165	$427	4.09%	$0.44	$389	$31,120	$34,165	$427	$0.49	4.49%	-8.9%	(3,045)
Management	$33,935	4.5% EGI	$34,285	$429	5.00%	$0.54	$476	$38,044	$38,044	$476	$0.54	5.00%	0.0%	-
Payroll & Payroll Tax	$108,317	$1,354/Unit	$114,888	$1,436	13.14%	$1.42	$1,250	$100,000	$108,317	$1,354	$1.54	14.24%	-7.7%	(8,317)
Repairs & Maintenance	$59,044	$738/Unit	$47,449	$593	6.31%	$0.68	$600	$48,000	$48,000	$600	$0.68	6.31%	0.0%	-
Electric/Gas	$17,735	$222/Unit	$11,298	$141	0.74%	$0.08	$70	$5,600	$11,298	$141	$0.16	1.48%	-50.4%	(5,698)
Water, Sewer, & Trash	$50,217	$628/Unit	$52,622	$658	6.62%	$0.72	$630	$50,400	$52,622	$658	$0.75	6.92%	-4.2%	(2,222)
Property Insurance	$31,910	$0.45 /sf	$36,265	$453	3.94%	$0.43	$375	$30,000	$36,265	$453	$0.52	4.77%	-17.3%	(6,265)
Property Tax (@ 100%) 2.5608	$63,281	$791/Unit	$70,648	$883	13.39%	$1.45	$1,273	$101,863	$90,184	$1,127	$1.28	11.85%	13.0%	11,679
Reserve for Replacements				$0	2.63%	$0.28	$250	$20,000	$20,000	$250	$0.28	2.63%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)				$0	0.38%	$0.04	$36	$2,880	$2,880	$36	$0.04	0.38%	0.0%	-
City of Houston Fees				$0	0.28%	$0.03	$27	$2,160	$2,160	$27	$0.03	0.28%	0.0%	-
TOTAL EXPENSES					**56.52%**	**$6.11**	**$5,376**	**$ 430,067**	**$443,936**	**$5,549**	**$6.31**	**58.34%**	**-3.1%**	**$ (13,868)**
NET OPERATING INCOME ("NOI")					**43.48%**	**$4.70**	**$4,135**	**$330,816**	**$316,947**	**$3,962**	**$4.51**	**41.66%**	**4.4%**	**$ 13,868**
CONTROLLABLE EXPENSES							$2,939/Unit			$3,180/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Lockwood South Apartments, Houston, 9% HTC #20077

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	**Fee**	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Amegy Bank		1.21	1.27	261,146	5.00%	35	18	$4,312,000	$4,312,000	18	35	5.00%	$261,146	1.27	18.7%
CASH FLOW DEBT / GRANTS															
City of Houston		1.11	1.16		1.00%	40	40	$4,000,000	$2,600,000	40	40	1.00%	$26,000	1.15	11.3%
City of Houston		1.11	1.16						$1,400,000	40	40	1.00%		1.15	6.1%
City of Houston		1.11	1.16		0.00%	0	0	$500	$500	0	0	0.00%		1.15	0.0%
				$286,146	**TOTAL DEBT / GRANT SOURCES**			**$8,312,500**	**$8,312,500**		**TOTAL DEBT SERVICE**		**$287,146**	**1.15**	36.1%
NET CASH FLOW		$30,801	$44,670						**APPLICANT**	**NET OPERATING INCOME**		**$330,816**	**$43,670**	**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
Richman Group Affordable Hsng Corp.	LIHTC Equity	60.6%	$1,500,000	0.93	$13,948,605	$13,948,605	$0.9299	$1,500,000	60.6%	$18,750	Applicant Request
Lockwood South Apts, LP	Deferred Developer Fees	3.4%	(33% Deferred)		$774,594	$774,593	(33% Deferred)		3.4%	**Total Developer Fee:**	**$2,332,644**
Additional (Excess) Funds Req'd		0.0%				$0			0.0%		
TOTAL EQUITY SOURCES		63.9%			$14,723,199	$14,723,198			63.9%		
TOTAL CAPITALIZATION					**$23,035,699**	**$23,035,698**			**15-Yr Cash Flow after Deferred Fee:**		**$127,371**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab			**Total Costs**	**Total Costs**			New Const. Rehab	Acquisition	%	$
Land Acquisition				$43,750 / Unit	$3,500,000	$3,500,000	$43,750 / Unit				0.0%	$0
Closing costs & acq. legal fees					$15,000	$15,000						$0
Off-Sites				$6,250 / Unit	$500,000	$500,000	$6,250 / Unit				0.0%	$0
Site Work		$1,180,000		$14,750 / Unit	$1,180,000	$1,180,000	$14,750 / Unit		$1,180,000		0.0%	$0
Site Amenities		$500,000		$6,250 / Unit	$500,000	$500,000	$6,250 / Unit		$500,000		0.0%	$0
Building Cost		$5,761,125	$110.00 /sf	$96,734/Unit	$7,738,720	$7,435,789	$92,947/Unit	$105.69 /sf	$5,761,125		4.1%	$302,931
Contingency		$520,879	7.00%	7.00%	$694,310	$673,105	7.00%	7.00%	$520,879		3.2%	$21,205
Contractor Fees		$1,114,680	14.00%	13.08%	$1,388,621	$1,388,621	13.50%	14.00%	$1,114,680		0.0%	$0
Soft Costs	0	$2,560,757		$34,509 / Unit	$2,760,757	$2,760,757	$34,509 / Unit		$2,560,757	$0	0.0%	$0
Financing	0	$1,262,496		$26,012 / Unit	$2,080,947	$2,080,947	$26,012 / Unit		$1,262,496	$0	0.0%	$0
Developer Fee	$0	$1,934,991	15.00%	15.00%	$2,332,645	$2,284,024	15.00%	15.00%	$1,934,991	$0	2.1%	$48,621
Reserves				6 Months	$344,699	$344,699	6 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$14,834,928**		$287,946 / Unit	**$23,035,699**	**$22,662,942**	$283,287 / Unit		**$14,834,928**	**$0**	**1.6%**	**$372,757**
Acquisition Cost	$0				$0							
Contingency		($0)			$0							
Contractor's Fee		$0			$0							
Financing Cost		$0										
Developer Fee	$0	($0)			($1)							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$14,834,928**		$287,946/unit	**$23,035,698**	**$22,662,942**	$283,287/unit		**$14,834,928**	**$0**	**1.6%**	**$372,757**
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					**$23,035,698**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Lockwood South Apartments, Houston, 9% HTC #20077

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$14,834,928	$0	$14,834,928
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$14,834,928	$0	$14,834,928
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$19,285,406	$0	$19,285,406
Applicable Fraction	87.36%	87.36%	87.36%	87.36%
TOTAL QUALIFIED BASIS	$0	$16,847,866	$0	$16,847,866
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$1,516,308	$0	$1,516,308
CREDITS ON QUALIFIED BASIS	$1,516,308		$1,516,308	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9299	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,516,308	$14,100,253	----	----	----
Needed to Fill Gap	$1,583,298	$14,723,198	----	----	----
Applicant Request	$1,500,000	$13,948,605	**$1,500,000**	**$0**	**$0**

BUILDING COST ESTIMATE

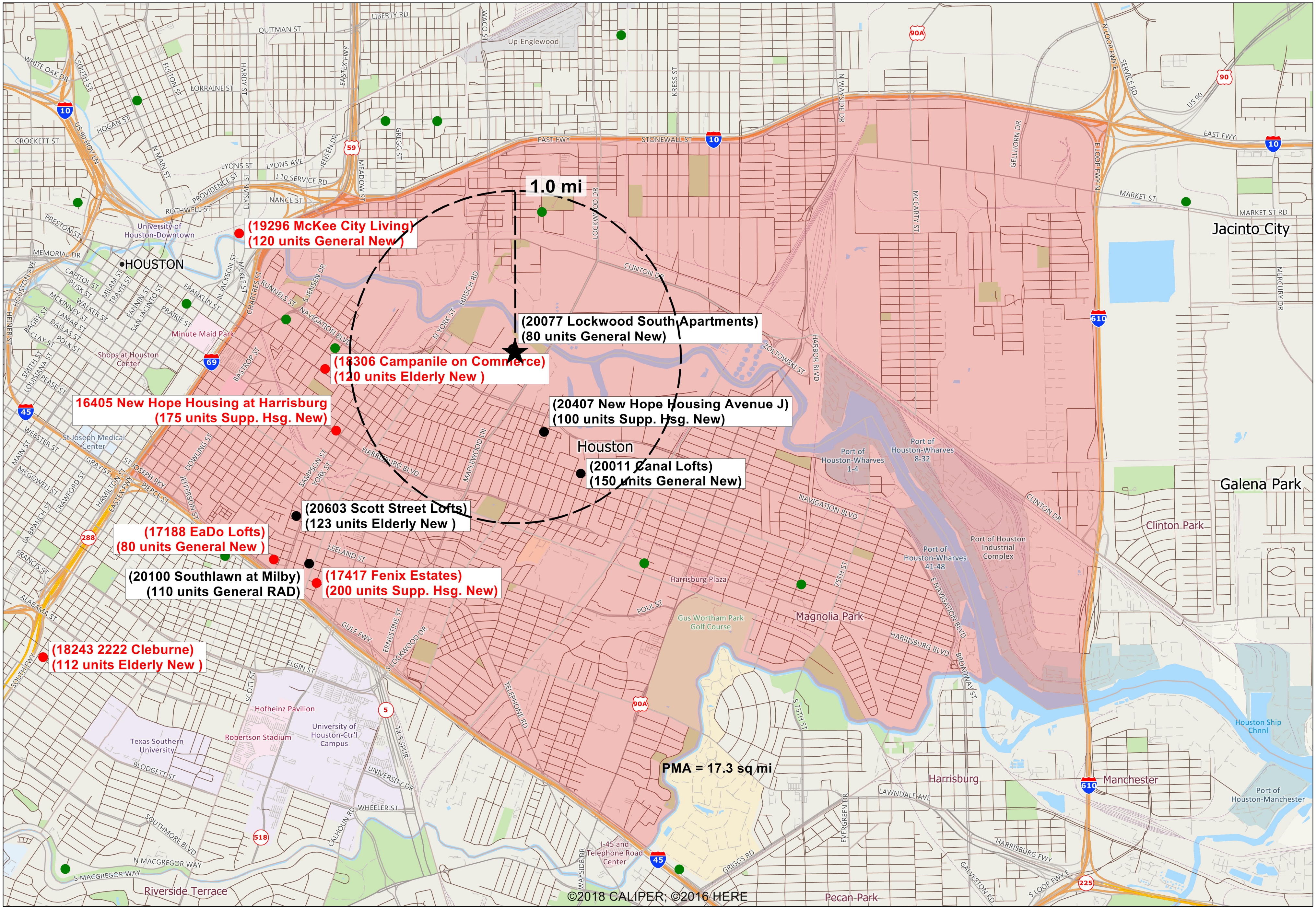
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost: Garden (Up to 4-story)		70,352 SF	$92.65	6,517,923
Adjustments				
Exterior Wall Finish	4.22%		3.91	$274,796
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.53%		3.27	229,887
Roof Adjustment(s)			0.00	0
Subfloor			0.22	15,653
Floor Cover			2.56	180,101
Enclosed Corridors	$84.20	13,766	16.48	1,159,060
Balconies	$30.57	6,185	2.69	189,060
Plumbing Fixtures	$1,080	80	1.23	86,400
Rough-ins	$530	160	1.21	84,800
Built-In Appliances	$1,830	80	2.08	146,400
Exterior Stairs	$2,460	2	0.07	4,920
Heating/Cooling			2.34	164,624
Storage Space	$84.20	0	0.00	0
Carports	$12.25	0	0.00	0
Garages		0	0.00	0
Common/Support Area	$84.54	6,272	7.54	530,220
Elevators	$106,800	2	3.04	213,600
Other:			0.00	0
Fire Sprinklers	$2.59	90,390	3.33	234,110
SUBTOTAL			**142.59**	**10,031,553**
Current Cost Multiplier	1.00		0.00	0
Local Multiplier	0.87		(18.54)	(1,304,102)
Reserved				0
TOTAL BUILDING COSTS			**124.05**	**$8,727,451**
Plans, specs, survey, bldg permits	3.30%		(4.09)	($288,006)
Contractor's OH & Profit	11.50%		(14.27)	(1,003,657)
NET BUILDING COSTS		$92,947/unit	$105.69/sf	$7,435,789

Long-Term Pro Forma

Lockwood South Apartments, Houston, 9% HTC #20077

	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%	$760,883	$776,100	$791,622	$807,455	$823,604	$909,325	$1,003,969	$1,108,463	$1,223,832	$1,351,210	$1,491,845
TOTAL EXPENSES	3.00%	$430,067	$442,589	$455,478	$468,747	$482,406	$556,967	$643,168	$742,838	$858,094	$991,388	$1,145,562
NET OPERATING INCOME ("NOI")		**$330,816**	**$333,512**	**$336,144**	**$338,708**	**$341,198**	**$352,358**	**$360,800**	**$365,625**	**$365,739**	**$359,821**	**$346,283**
EXPENSE/INCOME RATIO		56.5%	57.0%	57.5%	58.1%	58.6%	61.3%	64.1%	67.0%	70.1%	73.4%	76.8%
MUST -PAY DEBT SERVICE												
Amegy Bank		$261,146	$261,146	$261,146	$261,146	$261,146	$261,146	$261,146	$261,146	$261,146	$261,146	$261,146
City of Houston		$26,000	$26,000	$26,000	$26,000	$26,000	$26,000	$26,000	$26,000	$26,000	$26,000	$26,000
TOTAL DEBT SERVICE		$287,146	$287,146	$287,146	$287,146	$287,146	$287,146	$287,146	$287,146	$287,146	$287,146	$287,146
DEBT COVERAGE RATIO		1.15	1.16	1.17	1.18	1.19	1.23	1.26	1.27	1.27	1.25	1.21
ANNUAL CASH FLOW		**$43,670**	**$46,366**	**$48,999**	**$51,562**	**$54,053**	**$65,212**	**$73,655**	**$78,479**	**$78,593**	**$72,676**	**$59,137**
Deferred Developer Fee Balance		$730,923	$684,557	$635,559	$583,996	$529,943	$225,272	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$0	$127,371	$511,768	$906,636	$1,284,558	$1,610,725

20077 Lockwood South Apartments - PMA Map



<u>21510 Avanti at Viking Hills (Avanti Viking):</u> $4,500,000 HOME

Description: Previously approved for 9% LIHTC on July 23, 2020 (ID 20171), Avanti Viking is the new construction of 82 units that will serve a general population in a four-story, elevator served building in Waco, located in McLennan County. It will include one, two, and three-bedroom units with rent/income levels from 30% to 60% of the area median income (AMI), with thirteen market rate units.

The Application documents a building cost increase of $4,877,814, and the Applicant is requesting $4,500,000 in gap financing.

Financing and Regulatory Terms: Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the $4,500,000 MFDL HOME loan will be in second lien position with a 40-year term and amortization, structured as a Surplus Cash loan in keeping with FHA requirements set forth in HUD's Multifamily Accelerated Processing (MAP) Guide and referenced at 10 TAC §13.8(c)(7). The first priority loan is a HUD/FHA Section 221(d)(4) product.[2] The Applicant has filed a Notice of Intent to Apply for Supplemental Housing Tax Credits.[3] The Federal Affordability Period will be 20 years and the State Affordability Period will be 45 years.

Of the twenty-three MFDL HOME units, there will be one one-bedroom and two two-bedroom units restricted to 30% AMI, seven one-bedroom, four two-bedroom and three three-bedroom units restricted to 50% AMI, one one-bedroom, one two-bedroom, and three three-bedroom units restricted to 60% AMI. One additional HOME Match-Eligible Unit serving households at or below 80% AMI is required. The Applicant has elected to restrict these HOME Match-Eligible Units to 60% AMI.

The Department has elected to fund Avanti Viking under the General Set-Aside with HOME funds that will be restricted to 60% or below area median rent and income levels for that program.

Organizational Structure: The proposed borrower is Avanti Viking Hills, LP., and identifies principals with the ability to exercise control as indicated in the organizational chart below.

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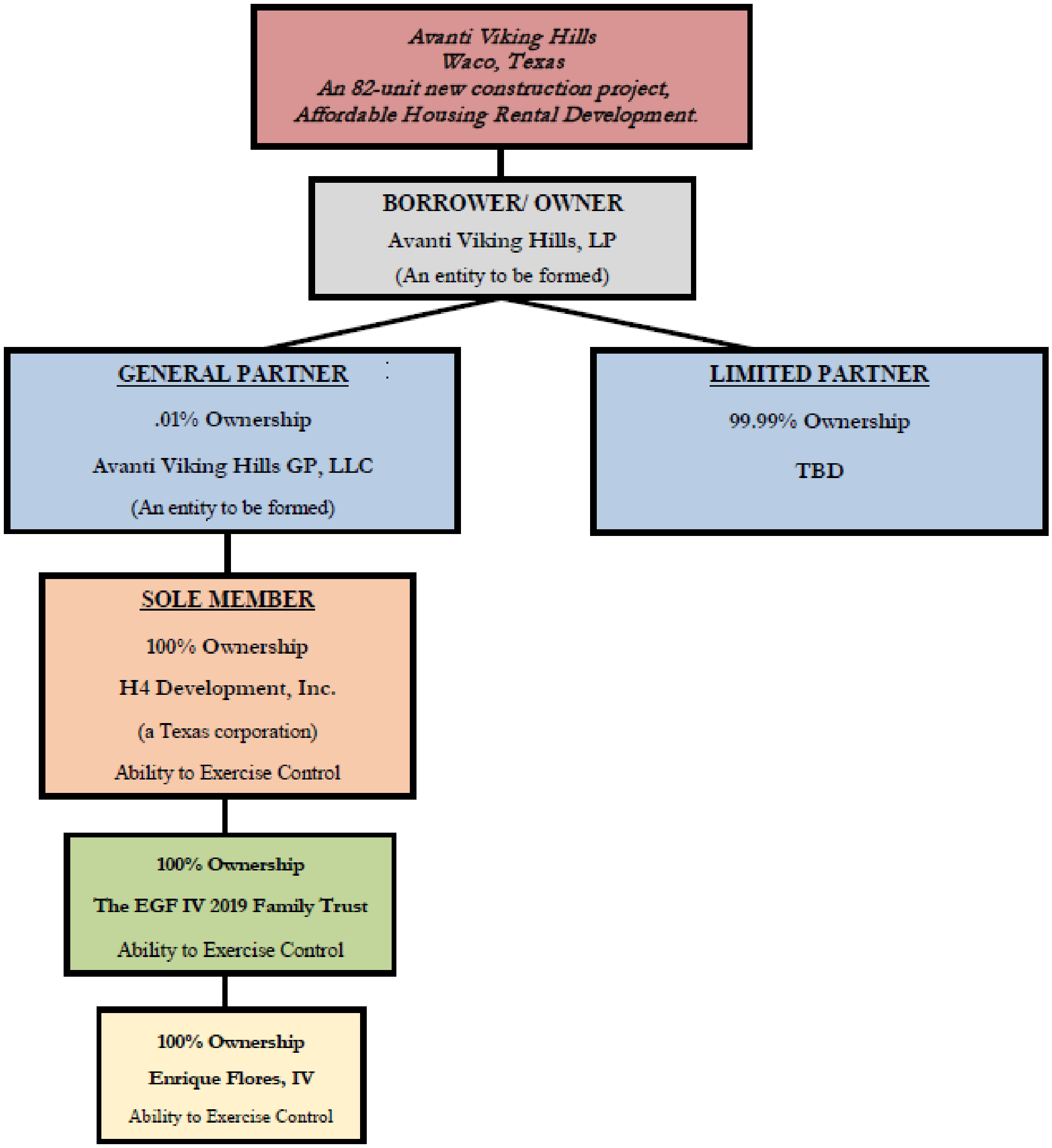
[2] The Department cannot presently commit new MFDL loans subordinate to FHA-insured products due to lack of agreement with HUD on the required form of subordination and associated riders. The prior agreed form in place since 2014 expired on August 31, 2021, and HUD's proffered replacement directly conflicts with Texas statutes. The Department continues to negotiate with HUD, and will reserve funds awarded to Avanti at Viking Hills for a period of time in keeping with the requirements of the 2021-3 NOFA, as amended. .

[3] MFDL awardees under the 2021-3 NOFA that apply for 2022 Supplemental Credits will not be placed under MFDL contract until the results of the 2022 Supplemental Credit application round is complete.


Avanti Viking Hills
Waco, Texas
An 82-unit new construction project,
Affordable Housing Rental Development.
BORROWER/ OWNER
Avanti Viking Hills, LP
(An entity to be formed)
GENERAL PARTNER
.01% Ownership
Avanti Viking Hills GP, LLC
(An entity to be formed)
LIMITED PARTNER
99.99% Ownership
TBD
SOLE MEMBER
100% Ownership
H4 Development, Inc.
(a Texas corporation)
Ability to Exercise Control
100% Ownership
The EGF IV 2019 Family Trust
Ability to Exercise Control
100% Ownership
Enrique Flores, IV
Ability to Exercise Control

Real Estate Analysis Division
December 2, 2021

Addendum to Underwriting Report

TDHCA Application #: **20171** Program(s): **9% HTC**

Avanti Viking Hills

Address/Location: 6501 & 6515 Sanger Ave

City: Waco County: McLennan Zip: 76710

	APPLICATION HISTORY
Report Date	**PURPOSE**
12/02/21	**MFDL Application**
07/21/20	Initial Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Soft Repayable)					**$4,500,000**	**0.00%**	**40**	**40**	**2**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

* Multifamily Direct Loan Terms:

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

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

CONDITIONS STATUS

0 **Receipt and acceptance prior to Direct Loan Commitment**

a: Agreement of form of subordination and rider with FHA

b: Determination of potential award of 2022 Supplemental Housing Tax Credits

0 **Receipt and acceptance before Direct Loan Closing**

c: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

d: Substantially final construction contract with Schedule of Values.

e: Updated term sheets with substantially final terms from all lenders

f: Substantially final draft of limited partnership agreement.

g: For Rehabilitation Developments, most recent annual operating statement.

h: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

i: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

1 Receipt and acceptance by Commitment:

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

Status: 12/10/20: DW. Condition Satisfied.

2 Documentation at Cost Certification clearing environmental issues identified in the ESA report,

a: Certification that testing for asbestos and lead-based paint was performed on the existing structure(s) prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	7
50% of AMI	50% of AMI	14
60% of AMI	60% of AMI	48

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	3
50% of AMFI	Low HOME	14
60% of AMFI	High HOME	6

ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

Direct Loan income and rent restrictions are layered on twenty-three units that wer already subject to HTC restrictions.

Operating Pro Forma

Rents have been updated to the 2021 Program Rents.

Utility allowances have been adjusted to the HUD Model allowances approved by TDHCA 11-19-2021.

Development Cost

Building Cost increased $4,877,814.

Total Development Cost increased $3,512,934.

Sources of Funds

The senior debt has decreased $875,000, from $5,500,000 (at 3.60% for 40 years with 0.35% MIP), to $4,625,000 (at 3.25% for 40 years with 0.25% MIP).

The credit price has decreased from $0.91 to $0.86, reducing equity by $749,925.

The deferred developer Fee has increased from $402,371 to $1,003,293.

The Applicant has applied for a MultiFamily Direct Loan consistent with the requirements of NOFA 2021-3.

Under the QAP and the Direct Loan Rule and NOFA, when a Multifamily Direct Loan is subordinate to an FHA loan, only 75% of the cash remaining after the senior debt payment can be used to calculate the DCR for the MFDL, and the combined DCR must meet the minimum 1.15.

Full amortization of the $4,500,000 MFDL would require annual debt service of $112,500, with a Debt Coverage Ratio of 0.97 times (based on 75% cash flow). An amendment to the 2021-3 NOFA allows loan payment structures with a balloon payment due at maturity. With annual debt service limited to $66,291 to maintain the minimum 1.15 DCR, the unpaid balance due at maturity will be $1,848,349.

Underwriter recommends approval of a construction-to-permanent loan as a second lien in the amount of $4,500,000 with scheduled annual payments of $66,291 payable from surplus cash at 0% interest, with 40-year amortization and 40-year term (to match the senior debt).

Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Avanti Viking Hills, Waco, 9% HTC #21510-20171

LOCATION DATA	
CITY:	Waco
COUNTY:	McLennan
Area Median Income	$64,500
PROGRAM REGION:	8
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	32	39.0%	0	9
2	28	34.1%	0	8
3	22	26.8%	0	6
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	**82**	**100.0%**	**-**	**23**

55%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	7	8.5%
40%	-	0.0%
50%	14	17.1%
60%	48	58.5%
70%	-	0.0%
80%	-	0.0%
MR	13	15.9%
TOTAL	**82**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	84.15%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	962 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$369			3	1	1	711	$369	$62	$307	$0	$0.43	$307	**$921**	**$921**	$307	$0.43	$0	$726	$1.02	$1,065
TC 30%	$369	30%/30%	$351	1	1	1	711	$351	$62	$289	$0	$0.41	$289	**$289**	**$289**	$289	$0.41	$0	$726	$1.02	$1,065
TC 50%	$616	LH/50%	$616	6	1	1	711	$616	$62	$554	$0	$0.78	$554	**$3,324**	**$3,324**	$554	$0.78	$0	$726	$1.02	$1,065
TC 50%	$616	LH/50%	$616	1	1	1	716	$616	$62	$554	$0	$0.77	$554	**$554**	**$554**	$554	$0.77	$0	$726	$1.01	$1,070
TC 60%	$739			12	1	1	711	$739	$62	$677	$0	$0.95	$677	**$8,124**	**$8,124**	$677	$0.95	$0	$726	$1.02	$1,065
TC 60%	$739	HH/60%	$721	1	1	1	716	$721	$62	$659	$0	$0.92	$659	**$659**	**$659**	$659	$0.92	$0	$726	$1.01	$1,070
TC 30%	$444	30%/30%	$422	2	2	2	1,039	$422	$82	$340	$0	$0.33	$340	**$680**	**$680**	$340	$0.33	$0	$871	$0.84	$1,308
TC 50%	$740	LH/50%	$740	4	2	2	1,039	$740	$82	$658	$0	$0.63	$658	**$2,632**	**$2,632**	$658	$0.63	$0	$871	$0.84	$1,308
TC 60%	$888			15	2	2	1,039	$888	$82	$806	$0	$0.78	$806	**$12,090**	**$12,090**	$806	$0.78	$0	$871	$0.84	$1,308
TC 60%	$888	HH/60%	$934	2	2	2	1,045	$888	$82	$806	$0	$0.77	$806	**$1,612**	**$1,612**	$806	$0.77	$0	$871	$0.83	$1,315
TC 30%	$512			1	3	2	1,219	$512	$103	$409	$0	$0.34	$409	**$409**	**$409**	$409	$0.34	$0	$1,006	$0.83	$1,546
TC 60%	$1,025			6	3	2	1,219	$1,025	$103	$922	$0	$0.76	$922	**$5,532**	**$5,532**	$922	$0.76	$0	$1,006	$0.83	$1,546
TC 60%	$1,025			1	3	2	1,252	$1,025	$103	$922	$0	$0.74	$922	**$922**	**$922**	$922	$0.74	$0	$1,006	$0.80	$1,550
TC 60%	$1,025			1	3	2	1,256	$1,025	$103	$922	$0	$0.73	$922	**$922**	**$922**	$922	$0.73	$0	$1,006	$0.80	$1,546
TC 50%	$854	LH/50%	$854	2	3	2	1,219	$854	$103	$751	$0	$0.62	$751	**$1,502**	**$1,502**	$751	$0.62	$0	$1,006	$0.83	$1,546
TC 50%	$854	LH/50%	$854	1	3	2	1,252	$854	$103	$751	$0	$0.60	$751	**$751**	**$751**	$751	$0.60	$0	$1,006	$0.80	$1,550
TC 60%	$1,025	HH/60%	$1,077	3	3	2	1,252	$1,025	$103	$922	$0	$0.74	$922	**$2,766**	**$2,766**	$922	$0.74	$0	$1,006	$0.80	$1,065
TC 60%	$1,025			7	3	2	1,219	$1,025	$103	$922	$0	$0.76	$922	**$6,454**	**$6,454**	$922	$0.76	$0	$1,006	$0.83	$1,308
MR				8	1	1	711	$0	$62		NA	$1.35	$961	**$7,688**	**$7,688**	$961	$1.35	NA	$961	$1.35	$961
MR				5	2	2	1,039	$0	$82		NA	$1.11	$1,154	**$5,770**	**$5,770**	$1,154	$1.11	NA	$1,154	$1.11	$1,154
TOTALS/AVERAGES:				**82**			**78,886**				**$0**	**$0.81**	**$776**	**$63,601**	**$63,601**	**$776**	**$0.81**	**$0**	**$891**	**$0.93**	**$1,220**

ANNUAL POTENTIAL GROSS RENT:	**$763,212**	**$763,212**	

STABILIZED PRO FORMA

Avanti Viking Hills, Waco, 9% HTC #21510-20171

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES				APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database		Local Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.81	$776	$763,212	$734,700	$734,700	$763,212	$776	$0.81		0.0%	$0
App Fees, Deposit Forfeitures							$10.00	$9,840	9,840							
Cable, Laundry, Vending & Pet Fees							$10.00	$9,840	9,840							
Total Secondary Income							$20.00			19,680	$19,680	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$782,892	$754,380	$754,380	$782,892				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(58,717)	(56,579)	(56,579)	(58,717)	7.5% PGI			0.0%	-
Rental Concessions								-	0	0	-				0.0%	-
EFFECTIVE GROSS INCOME								$724,175	$697,802	$697,802	$724,175				0.0%	$0
General & Administrative	$36,244	$442/Unit	$31,875	$389	3.52%	$0.32	$311	$25,500	$25,500	$31,875	$31,875	$389	$0.40	4.40%	-20.0%	(6,375)
Management	$30,420	5.2% EGI	$30,697	$374	5.15%	$0.47	$455	$37,281	$34,890	$34,890	$36,209	$442	$0.46	5.00%	3.0%	1,072
Payroll & Payroll Tax	$85,545	$1,043/Unit	$97,669	$1,191	12.66%	$1.16	$1,118	$91,652	$91,652	$91,652	$91,652	$1,118	$1.16	12.66%	0.0%	-
Repairs & Maintenance	$60,125	$733/Unit	$57,136	$697	6.21%	$0.57	$549	$45,000	$45,000	$49,200	$49,200	$600	$0.62	6.79%	-8.5%	(4,200)
Electric/Gas	$18,458	$225/Unit	$12,202	$149	2.15%	$0.20	$190	$15,600	$15,600	$12,202	$12,202	$149	$0.15	1.68%	27.9%	3,398
Water, Sewer, & Trash	$42,269	$515/Unit	$42,209	$515	4.85%	$0.44	$428	$35,100	$35,100	$42,209	$42,209	$515	$0.54	5.83%	-16.8%	(7,109)
Property Insurance	$27,138	$0.34 /sf	$22,991	$280	3.11%	$0.29	$275	$22,550	$22,550	$27,138	$22,991	$280	$0.29	3.17%	-1.9%	(441)
Property Tax (@ 100%) 2.7117	$48,924	$597/Unit	$45,942	$560	6.77%	$0.62	$598	$49,054	$49,070	$45,942	$45,942	$560	$0.58	6.34%	6.8%	3,112
Reserve for Replacements				$0	3.40%	$0.31	$300	$24,600	$24,600	$20,500	$20,500	$250	$0.26	2.83%	20.0%	4,100
Cable TV				$0	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Supportive Services				$0	1.58%	$0.15	$140	$11,444	$11,444	$11,444	$11,444	$140	$0.15	1.58%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)				$0	0.38%	$0.03	$34	$2,760	$2,760	$2,760	$2,760	$34	$0.03	0.38%	0.0%	-
TOTAL EXPENSES					**49.79%**	**$4.57**	**$4,397**	**$ 360,541**	$358,166	$369,812	**$367,765**	**$4,485**	**$4.66**	**50.78%**	**-2.0%**	**$ (7,224)**
NET OPERATING INCOME ("NOI")					**50.21%**	**$4.61**	**$4,435**	**$363,634**	$339,636	$327,990	**$356,410**	**$4,346**	**$4.52**	**49.22%**	**2.0%**	**$ 7,224**

CONTROLLABLE EXPENSES							$2,596/Unit					$2,770/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Avanti Viking Hills, Waco, 9% HTC #21510-20171

DEBT / GRANT SOURCES

DEBT (Must Pay)	Fee	APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE Cumulative DCR UW	App	Pmt	Rate	Amort	Term	Principal	Prior Underwriting Applicant	Prior Underwriting TDHCA	AS UNDERWRITTEN DEBT/GRANT STRUCTURE Principal	Term	Amort	Rate	Pmt	Cumulative DCR	Cumulative LTC
Colliers Mortgage LLC	0.25%	1.08	1.10	330,843	3.25%	40	40	$4,625,000	$5,500,000	$5,500,000	$4,625,000	40	40	3.25%	$218,323	1.67	19.8%
TDHCA		1.08	1.10		0.00%	40	40	$4,500,000			$4,500,000	40	40	0.00%	$66,291	1.15	19.3%
CASH FLOW DEBT / GRANTS																	
City of Waco		1.08	1.10		0.00%	0	0	$500	$500	$500	$500	0	0	0.00%			0.0%
IE2 Construction		1.08	1.10		0.00%	0	0	$337,500			$337,500	0	0	0.00%			1.4%
				$330,843	**TOTAL DEBT / GRANT SOURCES**			**$9,463,000**	$5,500,500	$5,500,500	**$9,463,000**			**TOTAL DEBT SERVICE**	**$284,614**	**1.15**	40.5%
NET CASH FLOW		$25,567	$32,791								**APPLICANT**	**NET OPERATING INCOME**		**$363,634**	**$79,020**	**NET CASH FLOW**	

EQUITY SOURCES

EQUITY / DEFERRED FEES	APPLICANT'S PROPOSED EQUITY STRUCTURE DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting Applicant	Prior Underwriting TDHCA	AS UNDERWRITTEN EQUITY STRUCTURE Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
RBC	LIHTC Equity	55.2%	$1,500,000	0.86	$12,898,710	$13,648,635	$13,648,635	$12,898,710	$0.8599	$1,500,000	55.2%	$18,293	Applicant Request
Avanti Viking Hills Development, LLC	Deferred Developer Fees	4.3%	(50% Deferred)		$1,003,292	$702,934	$402,371	$1,003,293	(50% Deferred)		4.3%	**Total Developer Fee:**	**$2,021,378**
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%		
TOTAL EQUITY SOURCES		59.5%			$13,902,002	$14,351,569	$14,051,006	$13,902,003			59.5%		
TOTAL CAPITALIZATION					**$23,365,002**	$19,852,069	$19,551,506	**$23,365,003**			**15-Yr Cash Flow after Deferred Fee:**		**$611,375**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS Eligible Basis Acquisition	Eligible Basis New Const. Rehab	Total Costs			Prior Underwriting Applicant	Prior Underwriting TDHCA	TDHCA COST / BASIS ITEMS Total Costs			Eligible Basis New Const. Rehab	Eligible Basis Acquisition	COST VARIANCE %	COST VARIANCE $
Land Acquisition				$28,049 / Unit	$2,300,000	$2,600,000	$2,300,000	$2,300,000	$28,049 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$0	$0	$ / Unit			$0	0.0%	$0
					$90,000	$26,000	$26,000	$90,000						$0
Off-Sites				$ / Unit	$0	$0	$0	$0	$ / Unit				0.0%	$0
Site Work		$1,114,840		$16,279 / Unit	$1,334,900	$1,214,968	$1,214,968	$1,334,900	$16,279 / Unit		$1,114,840		0.0%	$0
Site Amenities		$400,793		$4,888 / Unit	$400,793	$761,232	$761,232	$400,793	$4,888 / Unit		$400,793		0.0%	$0
Building Cost		$11,608,050	$154.27 /sf	$148,409/Unit	$12,169,524	$7,291,710	$6,718,136	$12,169,524	$148,409/Unit	$154.27 /sf	$11,608,050		0.0%	$0
Contingency		$609,982	4.65%	5.00%	$695,309	$648,754	$608,603	$695,309	5.00%	4.65%	$609,982		0.0%	$0
Contractor Fees		$925,962	6.74%	6.34%	$925,962	$1,388,333	$1,302,411	$925,962	6.34%	6.74%	$925,962		0.0%	$0
Soft Costs	0	$1,451,790		$25,806 / Unit	$2,116,129	$1,702,915	$1,702,915	$2,116,129	$25,806 / Unit		$1,451,790	$0	0.0%	$0
Financing	0	$596,686		$10,202 / Unit	$836,566	$1,568,188	$1,568,188	$836,566	$10,202 / Unit		$596,686	$0	0.0%	$0
Developer Fee	$0	$2,021,378	12.10%	11.50%	$2,021,378	$2,114,000	$2,021,378	$2,021,378	11.50%	12.10%	$2,021,378	$0	0.0%	$0
Reserves				8 Months	$474,442	$535,970	$535,970	$474,442	9 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$18,729,481**		$284,939 / Unit	**$23,365,003**	$19,852,069	$18,759,801	**$23,365,003**	$284,939 / Unit		**$18,729,481**	**$0**	**0.0%**	**$0**
Acquisition Cost	$0				$0	($300,000)								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			$0	($563)								
Reserves					$0	$0								
ADJUSTED BASIS / COST	**$0**	**$18,729,481**		$284,939/unit	**$23,365,003**	$19,551,506	$18,759,801	**$23,365,003**	$284,939/unit		**$18,729,481**	**$0**	**0.0%**	**$0**

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):	**$23,365,003**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Avanti Viking Hills, Waco, 9% HTC #21510-20171

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$18,729,481	$0	$18,729,481
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$18,729,481	$0	$18,729,481
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$24,348,325	$0	$24,348,325
Applicable Fraction	84.15%	84.15%	84.15%	84.15%
TOTAL QUALIFIED BASIS	$0	$20,488,225	$0	$20,488,225
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$1,843,940	$0	$1,843,940
CREDITS ON QUALIFIED BASIS	$1,843,940		$1,843,940	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.8599	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,843,940	$15,856,300	----	----	----
Needed to Fill Gap	$1,616,674	$13,902,003	----	----	----
Applicant Request	$1,500,000	$12,898,710	**$1,500,000**	**$0**	**$0**

Long-Term Pro Forma

Avanti Viking Hills, Waco, 9% HTC #21510-20171

	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%	$724,175	$738,659	$753,432	$768,500	$783,870	$865,456	$955,534	$1,054,986	$1,164,790	$1,286,023	$1,419,873	$1,567,654
TOTAL EXPENSES	3.00%	$360,541	$370,984	$381,734	$392,798	$404,186	$466,335	$538,151	$621,150	$717,085	$827,989	$956,212	$1,104,477
NET OPERATING INCOME ("NOI")		**$363,634**	**$367,674**	**$371,698**	**$375,703**	**$379,684**	**$399,121**	**$417,382**	**$433,837**	**$447,705**	**$458,034**	**$463,661**	**$463,177**
EXPENSE/INCOME RATIO		49.8%	50.2%	50.7%	51.1%	51.6%	53.9%	56.3%	58.9%	61.6%	64.4%	67.3%	70.5%
MUST -PAY DEBT SERVICE													
Colliers Mortgage LLC		$218,323	$218,180	$218,032	$217,879	$217,721	$216,850	$215,825	$214,620	$213,203	$211,536	$209,575	$207,268
TDHCA		$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291	$66,291
TOTAL DEBT SERVICE		**$284,614**	**$284,471**	**$284,323**	**$284,170**	**$284,012**	**$283,141**	**$282,117**	**$280,911**	**$279,494**	**$277,827**	**$275,866**	**$273,560**
DEBT COVERAGE RATIO		1.15	1.16	1.17	1.18	1.19	1.25	1.30	1.35	1.39	1.43	1.45	1.46
ANNUAL CASH FLOW		**$79,020**	**$83,203**	**$87,375**	**$91,532**	**$95,672**	**$115,980**	**$135,266**	**$152,925**	**$168,211**	**$180,207**	**$187,795**	**$189,618**
Deferred Developer Fee Balance		$924,273	$841,070	$753,695	$662,162	$566,490	$26,903	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$0	$611,375	$1,341,471	$2,153,073	$3,031,640	$3,957,455	$4,904,510

21512 Dallas Stemmons Apartments (Dallas Stemmons): $540,300 HOME

Description: Previously approved for 9% LIHTC on July 23, 2020 (ID 20024), Dallas Stemmons is the new construction of 87 units that will serve a general population in a three-story, non-elevator served building in Dallas, located in Dallas County. It will include one, two, and three-bedroom units with rent/income levels from 30% to 60% of the area median income (AMI), with two market rate units.

The Application documents a lumber cost increase of $988,661, and the Applicant is requesting $540,300 in gap financing.

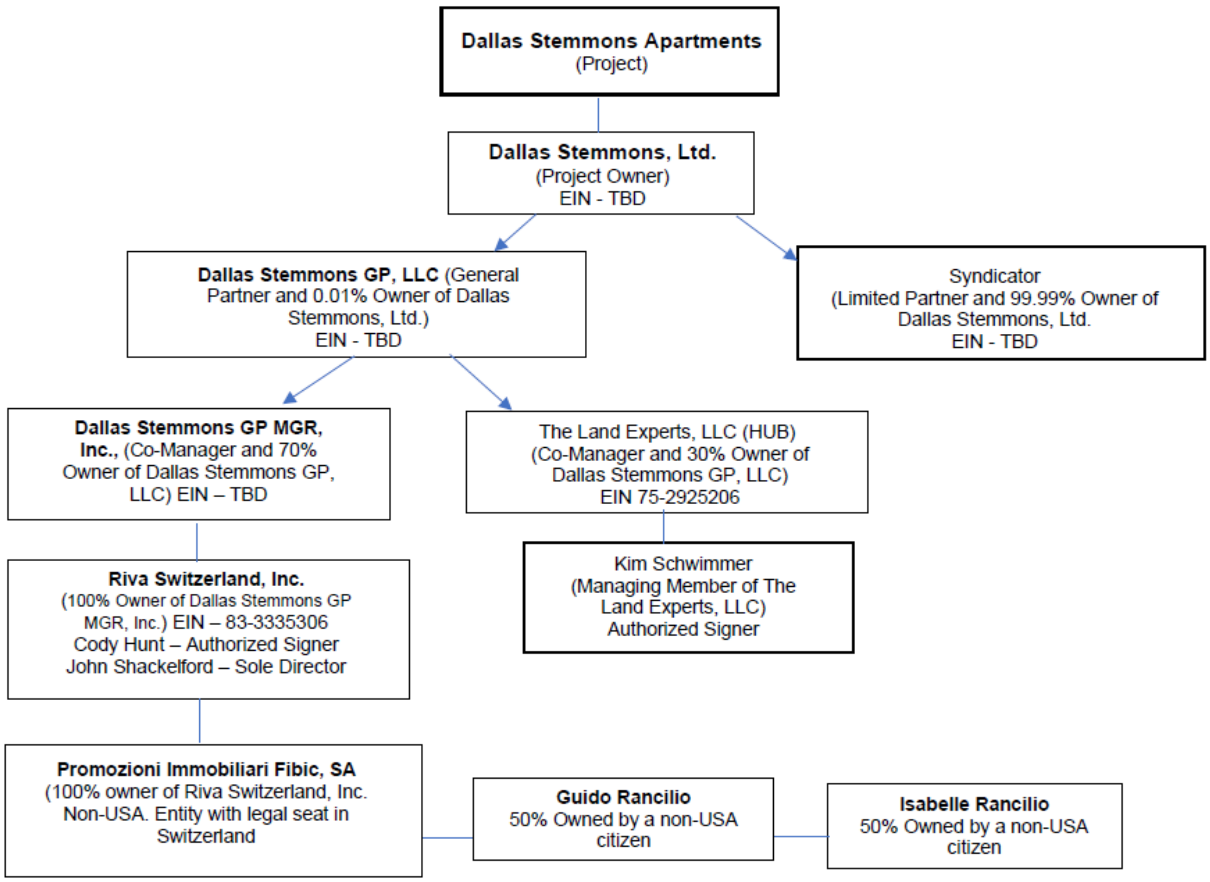
Financing and Regulatory Terms: Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the $540,300 MFDL HOME loan will hold a third lien position and have a 40-year term and amortization, structured as a Surplus Cash loan in keeping with FHA requirements set forth in HUD's Multifamily Accelerated Processing (MAP) Guide and referenced at 10 TAC §13.8(c)(7). The first priority loan is a HUD/FHA Section 221(d)(4) product.[4] The Federal Affordability Period will be 20 years and the State Affordability Period will be 45 years.

Of the 25 MFDL Home units restricted to 30% AMI, there will be eight one-bedroom, eleven two-bedroom, and six three-bedroom units.

Organizational Structure: The proposed borrower is, and identifies principals with the ability to exercise control as indicated in the organizational chart below.

[4] The Department cannot presently commit new MFDL loans subordinate to FHA-insured products due to lack of agreement with HUD on the required form of subordination and associated riders. The prior agreed form in place since 2014 expired on August 31, 2021, and HUD's proffered replacement directly conflicts with Texas statutes. The Department continues to negotiate with HUD, and will reserve funds awarded to Dallas Stemmons for a period of time in keeping with the requirements of the 2021-3 NOFA, as amended. Because this property is already in HUD's portfolio, TDHCA will request to use the previously negotiated form.

Dallas Stemmons Apartments
9% Tax Credit Application – 2020
Applicant/Owner Organizational Chart



Real Estate Analysis Division
December 1, 2021

Addendum to Underwriting Report

TDHCA Application #: **21512** Program(s): **9% HTC/MDL**

Dallas Stemmons Apartments

Address/Location: 11070 North Stemmons Freeway

City: Dallas County: Dallas Zip: 75229

	APPLICATION HISTORY
Report Date	**PURPOSE**
12/01/21	**MDL Memo**
07/06/20	Original Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Soft Repayable)					**$466,153**	**0.00%**	**40**	**40**	**2**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

* Multifamily Direct Loan Terms:
* Per 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6
* Lien position after conversion to permanent. The Department's lien position during construction may vary.

CONDITIONS STATUS

0 Receipt and acceptance prior to Direct Loan Commitment:
- a: Agreement of form of subordination and rider with FHA

0 Receipt and acceptance before Direct Loan Closing:
- b: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.
- c: Substantially final construction contract with Schedule of Values.
- d: Updated term sheets with substantially final terms from all lenders.
- e: Substantially final draft of limited partnership agreement.
- f: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

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

Status: A letter was submitted from Regions Bank dated September 3, 2020 stating that they are formally under application with Dallas Stemmons, Ltd. for the proposed HUD 221(d)(4) loan and are scheduling a concept meeting with the Fort Worth HUD office as well as continuing to work on submitting a Firm Application. Sponsor also submitted Region Bank's Engagement Letter dated September 2, 2020 outlining the terms of the loan.

Condition cleared.

2 Receipt and acceptance by 10% test:

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

Status: A letter dated 8/16/2021 was submitted by HEDK Architects that addresses noise levels at the property and describes how the building plans provide attenuation measures that will meet HUD guidelines

Condition cleared.

3 Receipt and acceptance by Cost Certification:

- Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	9
50% of AMI	50% of AMI	34
60% of AMI	60% of AMI	42

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	9

ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

The requested Direct Loan funding requires the restriction of nine (9) units at 30% AMI. As a result, the Applicant has layered 30% NHTF units on top of nine (9) 30% HTC units.

Operating Pro Forma

Rents have been updated to the 2021 Program Rents.

Development Cost

Since the original credit allocation, Building Cost has increased by $963K. Applicant provided a letter dated August 6, 2021 from their contractor, Treymore Construction, stating that lumber, hardware, trusses and manufactured beams have increased by a total of $988,661 since they entered into their original construction contract.

Underwriter's costs for Site Work, Site Amenities and Building Cost were derived from the HUD Contractor's and/or Mortgagor's Cost Breakdown provided by Applicant. The totals in each category deviate from Applicant's Development Cost Schedule due to varying line item classifications that were not broken out in the HUD schedule of values. However, the total Site Work, Site Amenities and Building Cost equal $11,559,844 which is only a $3 less than Applicant's total of $11,559,847. The $3 variance is likely due to rounding in the line items.

The NOFA states that Developer Fee may not increase, and the Deferred Developer Fee may not decrease from the original Real Estate Analysis report. The Direct Loan application includes $2,191,659 Developer Fee. But at original underwriting, Developer Fee was limited to $2,115,483. Therefore, as determined at original underwriting, Developer Fee will be limited to $2,115,483 (a $76,176 adjustnment).

Applicant's proposed Total Housing Development Costs is $21,359,35 (a $1.3M increase). As a result of the adjustment to Developer Fee, Total Development Cost is reduced by $76K to $21,283,175.

Sources of Funds

Senior FHA debt from Regions Bank has increased from $5,417,700 (at 3.95%) to $6,722,600 (at 3.00%).

Applicant has applied for an MFDL under NOFA 2021-3 in the amount of $540,000. However, the NOFA requires that Deferred Developer Fee may not decrease. As a result of the adjustment to Developer Fee, the requested Direct Loan amount would reduce the Deferred Developer Fee to $373K. In order to maintain the original $446K Deferred Fee, the recommended Multifamily Direct Loan is limited to $466,153.

Under the QAP and the Direct Loan Rule and NOFA, when a Multifamily Direct Loan is subordinate to an FHA loan, only 75% of the cash remaining after the senior debt payment can be used to calculate the DCR for the MFDL, and the combined DCR must meet the minimum 1.15.

Full amortization of the recommended $466,153 MFDL would require annual debt service of $11,654, with a Debt Coverage Ratio of 1.14 times (based on 75% cash flow). An amendment to the 2021-3 NOFA allows loan payment structures with a balloon payment due at maturity. With annual debt service limited to $9,439 to maintain the minimum 1.15 DCR, the unpaid balance due at maturity will be $88,595.

Conclusion

Underwriter recommends approval of a construction-to-permanent loan in the amount of $466,153 with scheduled annual payments of $9,439 payable from surplus cash at 0% interest, with 40-year amortization and 40-year term (to match the senior debt).

The MFDL will initially be in a 3rd lien position behind the 1st lien FHA loan and the 2nd lien equity bridge loan. When the full equity infusion pays off the bridge loan (after construction and stabilization), the MFDL will move into a 2nd lien position subordinate to the permanent FHA loan.

Underwriter:	*Gregg Kazak*
Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Dallas Stemmons Apartments, Dallas, 9% HTC #21512-20024

LOCATION DATA	
CITY:	Dallas
COUNTY:	Dallas
Area Median Income	$83,100
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	41	47.1%	0	4
2	37	42.5%	0	4
3	9	10.3%	0	1
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	87	100.0%	-	9

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	9	10.3%
40%	-	0.0%
50%	34	39.1%
60%	42	48.3%
70%	-	0.0%
80%	-	0.0%
MR	2	2.3%
TOTAL	87	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	97.70%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	907 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mkt Analyst
TC 30%	$500	30%/30%	$501	4	1	1	804	$500	$43	$457	$0	$0.57	$457	**$1,828**	**$1,828**	$457	$0.57	$0	$1,001	$1.25	$1,275
TC 50%	$834			24	1	1	804	$834	$43	$791	$0	$0.98	$791	**$18,984**	**$18,984**	$791	$0.98	$0	$1,001	$1.25	$1,275
TC 60%	$1,001			12	1	1	804	$1,001	$43	$958	$0	$1.19	$958	**$11,496**	**$11,496**	$958	$1.19	$0	$1,001	$1.25	$1,275
MR				1	1	1	804	$0	$43		NA	$1.25	$1,001	**$1,001**	**$1,001**	$1,001	$1.25	NA	$1,001	$1.25	$1,275
TC 30%	$600	30%/30%	$601	4	2	2	960	$600	$57	$543	$0	$0.57	$543	**$2,172**	**$2,172**	$543	$0.57	$0	$1,201	$1.25	$1,450
TC 50%	$1,001			7	2	2	960	$1,001	$57	$944	$0	$0.98	$944	**$6,608**	**$6,608**	$944	$0.98	$0	$1,201	$1.25	$1,450
TC 60%	$1,201			25	2	2	960	$1,201	$57	$1,144	$0	$1.19	$1,144	**$28,600**	**$28,600**	$1,144	$1.19	$0	$1,201	$1.25	$1,450
MR				1	2	2	960	$0	$57		NA	$1.25	$1,201	**$1,201**	**$1,201**	$1,201	$1.25	NA	$1,201	$1.25	$1,450
TC 30%	$694	30%/30%	$719	1	3	2	1,163	$694	$71	$623	$0	$0.54	$623	**$623**	**$623**	$623	$0.54	$0	$1,389	$1.19	$1,800
TC 50%	$1,157			3	3	2	1,163	$1,157	$71	$1,086	$0	$0.93	$1,086	**$3,258**	**$3,258**	$1,086	$0.93	$0	$1,389	$1.19	$1,800
TC 60%	$1,389			5	3	2	1,163	$1,389	$71	$1,318	$0	$1.13	$1,318	**$6,590**	**$6,590**	$1,318	$1.13	$0	$1,389	$1.19	$1,800
TOTALS/AVERAGES:				**87**			**78,951**				**$0**	**$1.04**	**$947**	**$82,361**	**$82,361**	**$947**	**$1.04**	**$0**	**$1,126**	**$1.24**	**$1,404**

ANNUAL POTENTIAL GROSS RENT:	Applicant	TDHCA
	$988,332	**$988,332**

STABILIZED PRO FORMA

Dallas Stemmons Apartments, Dallas, 9% HTC #21512-20024

	STABILIZED FIRST YEAR PRO FORMA															
	COMPARABLES				APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database		Expense Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$1.04	$947	$988,332	$918,612	$918,612	$988,332	$947	$1.04		0.0%	$0
Application, Pet, Late and NSF Fees							$12.50	$13,050	19,020							
Laundry, Vending, Cable							$7.50	$7,830	9,504							
Total Secondary Income							$20.00			20,880	$20,880	$20.00			0.0%	$0
POTENTIAL GROSS INCOME								$1,009,212	$947,136	$939,492	$1,009,212				0.0%	$0
Vacancy & Collection Loss							7.5% PGI	(75,691)	(71,035)	(70,462)	(75,691)	7.5% PGI			0.0%	-
Rental Concessions								-			-				0.0%	-
EFFECTIVE GROSS INCOME								$933,521	$876,101	$869,030	$933,521				0.0%	$0
General & Administrative	$37,920	$436/Unit	$59,127	$680	5.68%	$0.67	$610	$53,049	$66,293	$59,127	$59,127	$680	$0.75	6.33%	-10.3%	(6,078)
Management	$37,718	4.2% EGI	$40,185	$462	5.00%	$0.59	$537	$46,676	$43,805	$43,452	$46,676	$537	$0.59	5.00%	0.0%	-
Payroll & Payroll Tax	$112,216	$1,290/Unit	$144,006	$1,655	15.80%	$1.87	$1,696	$147,519	$159,985	$144,006	$144,006	$1,655	$1.82	15.43%	2.4%	3,513
Repairs & Maintenance	$63,090	$725/Unit	$64,848	$745	6.58%	$0.78	$706	$61,425	$61,425	$52,200	$56,550	$650	$0.72	6.06%	8.6%	4,875
Electric/Gas	$21,513	$247/Unit	$21,528	$247	1.78%	$0.21	$191	$16,648	$16,648	$21,480	$21,513	$247	$0.27	2.30%	-22.6%	(4,865)
Water, Sewer, & Trash	$64,088	$737/Unit	$63,823	$734	4.96%	$0.59	$532	$46,276	$46,276	$63,823	$63,823	$734	$0.81	6.84%	-27.5%	(17,547)
Property Insurance	$27,024	$0.34 /sf	$27,633	$318	4.66%	$0.55	$500	$43,500	$39,150	$27,633	$27,633	$318	$0.35	2.96%	57.4%	15,867
Property Tax (@ 100%) 2.7336	$76,680	$881/Unit	$74,416	$855	12.01%	$1.42	$1,288	$112,088	$87,000	$92,774	$104,920	$1,206	$1.33	11.24%	6.8%	7,168
Reserve for Replacements				$0	2.33%	$0.28	$250	$21,750	$21,750	$21,750	$21,750	$250	$0.28	2.33%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)				$0	0.36%	$0.04	$39	$3,400	$3,400	$3,400	$3,400	$39	$0.04	0.36%	0.0%	-
Franchise Tax				$0	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TOTAL EXPENSES					**59.17%**	**$7.00**	**$6,349**	**$ 552,331**	$545,732	$529,644	**$549,704**	**$6,318**	**$6.96**	**58.88%**	**0.5%**	**$ 2,628**
NET OPERATING INCOME ("NOI")					**40.83%**	**$4.83**	**$4,381**	**$381,190**	$330,369	$339,386	**$383,818**	**$4,412**	**$4.86**	**41.12%**	**-0.7%**	**$ (2,628)**
CONTROLLABLE EXPENSES							$3,735/Unit		$4,030/Unit	$3,915/Unit		$3,966/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Dallas Stemmons Apartments, Dallas, 9% HTC #21512-20024

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR							Prior Underwriting							Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Regions Bank - FHA 221(d)(4)	0.25%	1.26	1.25	305,597	3.25%	40	40	$6,722,600	$5,417,700	$5,417,700	$6,722,600	40	40	3.00%	$305,597	1.25	31.6%
TDHCA-MDL (Soft Repayable)		1.20	1.19	$13,500	0.00%	40	40	$540,000			$466,153	40	40	0.00%	$9,439	1.15	2.2%
CASH FLOW DEBT / GRANTS																	
City of Dallas		1.20	1.19		0.00%	0	0	$500			$500	0	0	0.00%			0.0%
				$319,097	**TOTAL DEBT / GRANT SOURCES**			**$7,263,100**	**$5,417,700**	**$5,417,700**	**$7,189,253**		**TOTAL DEBT SERVICE**		**$315,036**	**1.15**	**33.8%**
NET CASH FLOW		$64,721	$62,093								**APPLICANT**	**NET OPERATING INCOME**		**$381,190**	**$66,154**	**NET CASH FLOW**	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE							AS UNDERWRITTEN EQUITY STRUCTURE					
						Prior Underwriting							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Regions Bank	LIHTC Equity	64.1%	$1,500,000	0.91	$13,647,270	$14,097,180	$14,097,180	$13,647,270	$0.91	$1,500,000	64.1%	$17,241	Previous Allocation
RIVA and HUB	Deferred Developer Fees	2.1%	(20% Deferred)		$448,981	$490,971	$446,652	$446,652	(21% Deferred)		2.1%	**Total Developer Fee:**	**$2,115,483**
Additional (Excess) Funds Req'd		0.0%					$0	$0			0.0%		
TOTAL EQUITY SOURCES		66.2%			$14,096,251	$14,588,151	$14,543,832	$14,093,922			66.2%		
TOTAL CAPITALIZATION					**$21,359,351**	**$20,005,851**	**$19,961,532**	**$21,283,175**				**15-Yr Cash Flow after Deferred Fee:**	**$786,297**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS							TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis					Prior Underwriting					Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$24,713 / Unit	$2,150,000	$2,200,000	$2,200,000	$2,150,000	$24,713 / Unit				0.0%	$0
Broker Fee					$0	$25,000	$25,000	$0						$0
Off-Sites		$0		$ / Unit	$0	$0	$0	$0	$ / Unit		$0		0.0%	$0
Site Work		$1,111,974		$12,781 / Unit	$1,111,974	$1,111,973	$1,111,973	$1,075,355	$12,360 / Unit		$1,111,974		3.4%	$36,619
Site Amenities		$538,903		$6,194 / Unit	$538,903	$540,512	$540,512	$526,938	$6,057 / Unit		$538,903		2.3%	$11,965
Building Cost		$9,908,970	$125.51 /sf	$113,896/Unit	$9,908,970	$8,945,527	$8,520,718	$9,957,551	$114,455/Unit	$126.12 /sf	$9,908,970		-0.5%	($48,581)
Contingency		$468,105	4.05%	5.98%	$691,105	$495,733	$495,733	$691,105	5.98%	4.05%	$468,105		0.0%	$0
Contractor Fees		$1,479,966	12.30%	12.08%	$1,479,966	$1,483,722	$1,483,722	$1,479,966	12.08%	12.30%	$1,479,966		0.0%	$0
Soft Costs	0	$1,434,340		$16,918 / Unit	$1,471,840	$1,261,726	$1,261,726	$1,471,840	$16,918 / Unit		$1,434,340	$0	0.0%	$0
Financing	0	$613,760		$12,409 / Unit	$1,079,625	$1,088,340	$1,088,340	$1,079,625	$12,409 / Unit		$613,760	$0	0.0%	$0
Developer Fee	$0	$2,191,659	14.09%	13.89%	$2,191,659	$2,159,802	$2,051,762	$2,115,483	13.41%	14.09%	$2,191,659	$0	3.6%	$76,176
Reserves				10 Months	$735,309	$693,516	$406,441	$416,471	6 Months				76.6%	$318,838
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$17,747,677**		$245,510 / Unit	**$21,359,351**	**$20,005,851**	**$19,185,927**	**$20,964,334**	$240,969 / Unit		**$17,747,677**	**$0**	**1.9%**	**$395,017**
Acquisition Cost	$0				$0	$0								
Contingency		$0			$0	$0								
Contractor's Fee		$0			$0	$0								
Financing Cost		$0												
Developer Fee	$0	$0			($76,176)	($44,319)								
Reserves					$0	$0								
ADJUSTED BASIS / COST	**$0**	**$17,747,677**		$244,634/unit	**$21,283,175**	**$19,961,532**	**$19,185,927**	**$20,964,334**	$240,969/unit		**$17,747,677**	**$0**	**1.5%**	**$318,841**

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$21,283,175**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Dallas Stemmons Apartments, Dallas, 9% HTC #21512-20024

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$17,747,677	$0	$17,747,677
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$17,747,677	$0	$17,747,677
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$23,071,980	$0	$23,071,980
Applicable Fraction	97.70%	97.70%	97.70%	97.70%
TOTAL QUALIFIED BASIS	$0	$22,541,590	$0	$22,541,590
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$2,028,743	$0	$2,028,743
CREDITS ON QUALIFIED BASIS	$2,028,743		$2,028,743	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9098	Variance to Request	
Method	Annual Credits	Proceeds	Credit Allocation	Credits	Proceeds
Eligible Basis	$2,028,743	$18,457,870	----	----	----
Needed to Fill Gap	$1,549,092	$14,093,922	----	----	----
Previous Allocation	$1,500,000	$13,647,270	**$1,500,000**	**$0**	**$0**

Long-Term Pro Forma

Dallas Stemmons Apartments, Dallas, 9% HTC #21512-20024

	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%	$933,521	$952,192	$971,235	$990,660	$1,010,473	$1,115,644	$1,231,761	$1,359,964	$1,501,510	$1,657,788	$1,830,332	$2,020,835
TOTAL EXPENSES	3.00%	$552,331	$568,434	$585,011	$602,076	$619,643	$715,547	$826,437	$954,667	$1,102,968	$1,274,499	$1,472,918	$1,702,465
NET OPERATING INCOME ("NOI")		**$381,190**	**$383,757**	**$386,224**	**$388,584**	**$390,830**	**$400,097**	**$405,325**	**$405,297**	**$398,542**	**$383,290**	**$357,414**	**$318,370**
EXPENSE/INCOME RATIO		59.2%	59.7%	60.2%	60.8%	61.3%	64.1%	67.1%	70.2%	73.5%	76.9%	80.5%	84.2%
MUST -PAY DEBT SERVICE													
Regions Bank - FHA 221(d)(4)		$305,597	$305,376	$305,149	$304,914	$304,673	$303,350	$301,814	$300,029	$297,956	$295,548	$292,750	$289,501
TDHCA-MDL (Soft Repayable)		$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439	$9,439
TOTAL DEBT SERVICE		**$315,036**	**$314,815**	**$314,587**	**$314,353**	**$314,111**	**$312,789**	**$311,252**	**$309,468**	**$307,395**	**$304,986**	**$302,189**	**$298,940**
DEBT COVERAGE RATIO		1.15	1.16	1.16	1.17	1.18	1.20	1.22	1.22	1.21	1.18	1.13	1.04
ANNUAL CASH FLOW		**$66,154**	**$68,942**	**$71,637**	**$74,231**	**$76,719**	**$87,308**	**$94,072**	**$95,829**	**$91,147**	**$78,303**	**$55,225**	**$19,430**
Deferred Developer Fee Balance		$380,498	$311,555	$239,919	$165,688	$88,969	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		**$0**	**$0**	**$0**	**$0**	**$0**	**$327,715**	**$786,297**	**$1,264,197**	**$1,732,194**	**$2,153,051**	**$2,479,890**	**$2,654,273**

20024 Dallas Stemmons Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION
July 6, 2020

PROPERTY IDENTIFICATION

Application #	**20024**
Development	**Dallas Stemmons Apartments**
City / County	**Dallas / Dallas**
Region/Area	**3 / Urban**
Population	**General**
Set-Aside	**General**
Activity	**New Construction**

RECOMMENDATION

TDHCA Program	Request	Recommended		
LIHTC (9% Credit)	$1,500,000	$1,500,000	$17,241/Unit	$0.94

KEY PRINCIPALS / SPONSOR

- **John Shackelford / Riva Switzerland, Inc. (90% Co-Developer)**
- **Kim Schwimmer / The Land Experts, LLC (10% Co-Developer)**

Related Parties	Contractor - No	Seller - No

TYPICAL BUILDING ELEVATION/PHOTO

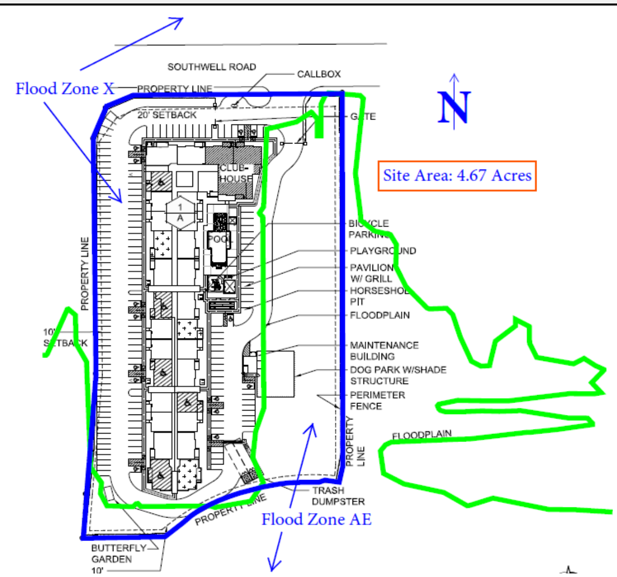
UNIT DISTRIBUTION / INCOME DISTRIBUTION

# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	9	10%
1	42	48%	40%	-	0%
2	36	41%	50%	34	39%
3	9	10%	60%	42	48%
4	-	0%	MR	2	2%
TOTAL	87	100%	TOTAL	87	100%

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.17	Expense Ratio	62.3%
Breakeven Occ.	87.5%	Breakeven Rent	$831
Average Rent	$880	B/E Rent Margin	$49
Property Taxes	$1,000/unit	Exemption/PILOT	0%
Total Expense	$6,273/unit	Controllable	$4,030/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)			1.0%
Highest Unit Capture Rate	6%	1 BR/50%	24
Dominant Unit Cap. Rate	6%	1 BR/50%	24
Premiums (↑60% Rents)	Yes		$50/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	905 SF	Density	18.6/acre
Acquisition		$26K/unit	$2,225K
Building Cost	$113.65/SF	$103K/unit	$8,946K
Hard Cost		$128K/unit	$11,094K
Total Cost		$229K/unit	$19,962K
Developer Fee	$2,115K	(21% Deferred)	Paid Year: 9
Contractor Fee	$1,484K	30% Boost	Yes

DEBT (Must Pay)				
Source	Term	Rate	Amount	DCR
Regions Bank - FHA 221(d)(4)	40/40	3.95%	$5,417,700	1.17
TOTAL DEBT (Must Pay)			$5,417,700	

CASH FLOW DEBT / GRANT FUNDS				
Source	Term	Rate	Amount	DCR
CASH FLOW DEBT / GRANTS			$0	

EQUITY / DEFERRED FEES	
Source	Amount
Regions Bank	$14,097,180
Developer Entity	$490,971
TOTAL EQUITY SOURCES	$14,588,151
TOTAL DEBT SOURCES	$5,417,700
TOTAL CAPITALIZATION	$20,005,851

CONDITIONS

1 Receipt and acceptance by Commitment:

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

2 Receipt and acceptance by 10% test:

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

3 Receipt and acceptance by Cost Certification:

- Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

RISK PROFILE

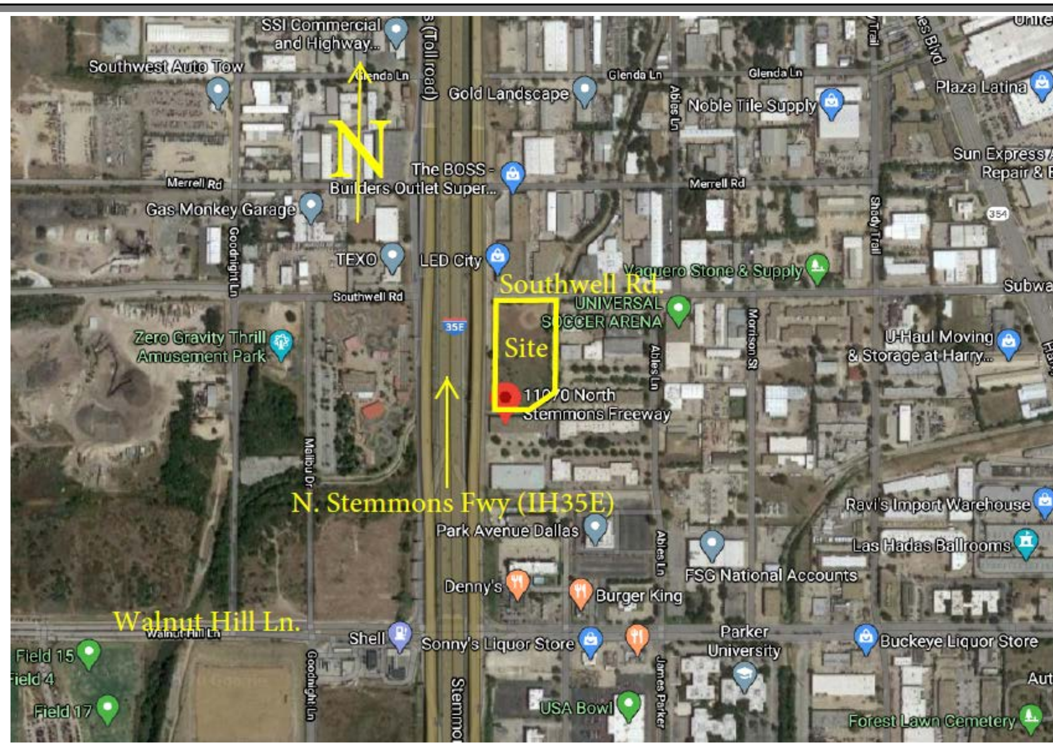
STRENGTHS/MITIGATING FACTORS

- Gross capture rate of 1% with unit capture rates ranging from 1% to 6%
- New construction and attractive design should enhance leasing
- Co-Developer experience with LIHTC properties in Texas

WEAKNESSES/RISKS

- Interest rate sensitivity
- Single point of access

AREA MAP



Real Estate Analysis Division
Underwriting Report
July 6, 2020

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **20024** Program(s): **9% HTC**

Dallas Stemmons Apartments

Address/Location:	11070 North Stemmons Freeway				
City:	Dallas	County:	Dallas	Zip:	75229
Population:	General	Program Set-Aside:	General	Area:	Urban
Activity:	New Construction	Building Type:	Garden (Up to 4-story)	Region:	3
Analysis Purpose:	New Application - Initial Underwriting				

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (9% Credit)	$1,500,000				**$1,500,000**				

CONDITIONS

1 Receipt and acceptance by Commitment:

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

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	9
50% of AMI	50% of AMI	34
60% of AMI	60% of AMI	42

DEVELOPMENT SUMMARY

New construction of 87 general population units. Mix to be comprised of 85 HTC units (98%) and 2 market rate units (2%). Single building will be a 3-story, walk-up garden style design.

Located in northwest Dallas along the feeder road to N. Stemmons Freeway (IH35E), approximately 10 miles from downtown. Subject is in an in-fill location, primarily surrounded by industrial office-warehouse properties, but also proximate to restaurants, schools, recreation, medical services and potential employers.

RISK PROFILE

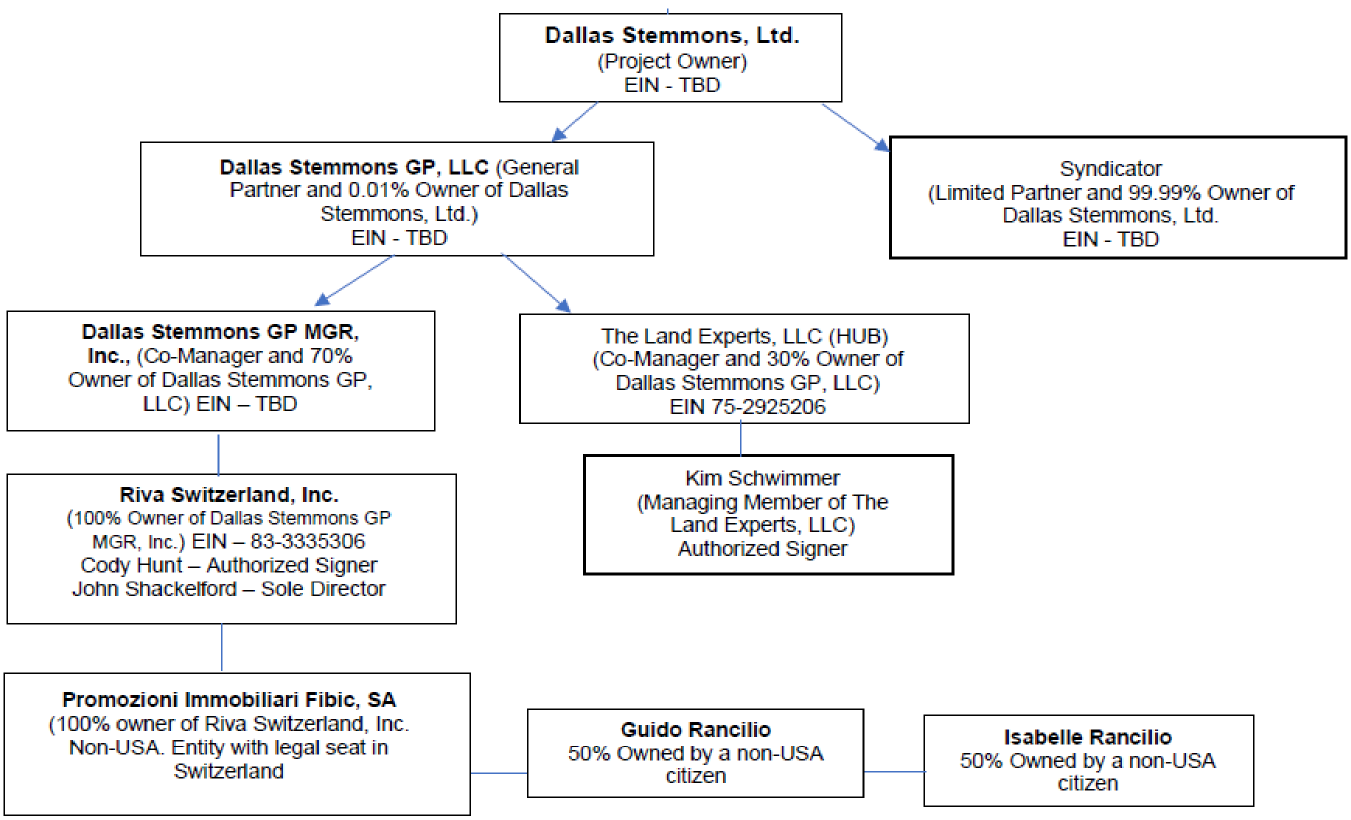
STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
▫ Gross capture rate of 1% with unit capture rates ranging from 1% to 6%	▫ Interest rate sensitivity
▫ New construction and attractive design should enhance leasing	▫ Single point of access
▫ Co-Developer experience with LIHTC properties in Texas	▫

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Cody Hunt	Name:	Sara Reidy
Phone:	(765) 274-8885	Phone:	(214) 941-0089
Relationship:	Co-Sponsor/Co-Developer	Relationship:	Application Consultant

OWNERSHIP STRUCTURE

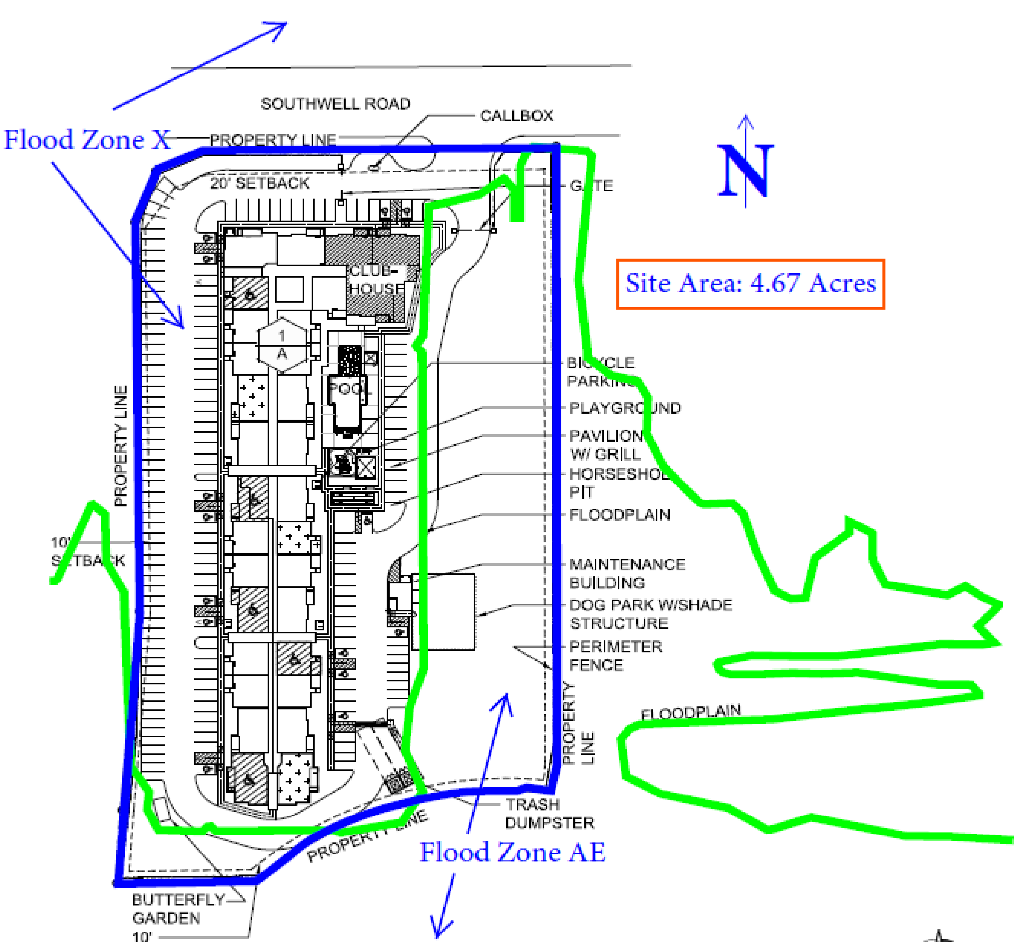


- Cost Estimator, Attorney, Property Manager and "Other" (Palladium USA International, Inc.) are related entities.
- Riva Switzerland, Inc. (100% owned by Promozioni Immobiliari Fibic, SA) is part of an international real estate development organization.
- The land Experts, LLC is a HUB based in Dallas that is focused on the development of affordable housing. They have been involved with the development of over 7 HTC properties in Texas.

DEVELOPMENT SUMMARY

AERIAL

SITE PLAN



Comments:

Site is relatively flat, sparsely wooded grassland. Storm water sheet flows north to south towards an on-site open concrete drainage channel (Wesco Channel). Wesco Channel drains north to south and continues on to the west into culverts that cross to the west side of Stemmons Freeway. No on-site detention is currently planned. The Preliminary Site Plan proposes that all storm water be collected in curb and grate inlets and discharged into the open concrete drainage channel along the east and south sides of the subject property.

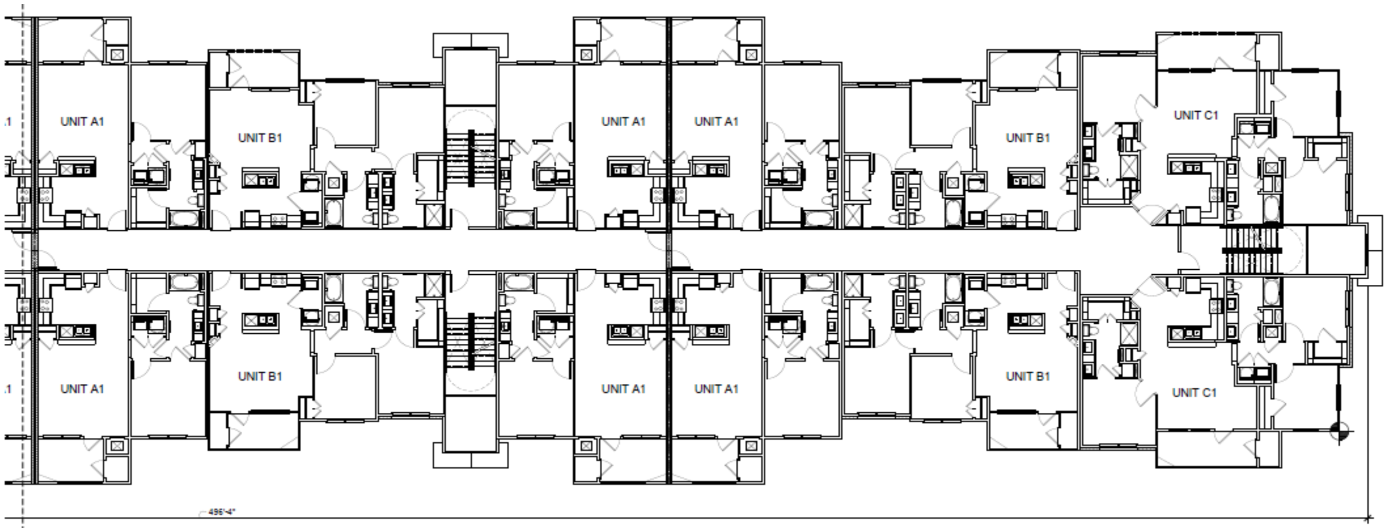
A portion of the site lies within Flood Zone AE along the east and south property boundaries. According to the feasibility study: "The proposed development is required to not disturb sensitive or protected resources such as the 100-year floodplain. If the proposed development encroaches onto the floodplain area, a fill permit will be necessary. The parking for the proposed development shall be 2 feet higher than the 100-year elevation of the Wesco Channel which is 438.18 feet above mean sea level." Furthermore, a Letter of Map Amendment or Revision ("LOMA / LOMR-F") through the Army Corps of Engineers will be required.

While Sponsor intends to adhere to the more stringent requirements set forth above, if the site is in the 100-year floodplain when it places in service, §11.101 and §11.301 of the 2020 QAP require that the finished ground floor elevation of the buildings must be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and the Owner must provide flood insurance coverage for the buildings and for the residents' personal property as long as the buildings remain in the floodplain.

Lot design encircles the building providing close-in parking. Access is at the northeast corner of the site off of Southwell Rd. According to the feasibility study, one point of access is allowed per City Code since the development is less than 200 units.

Parking meets Code with 163 open surface spaces (1.9/unit) to be provided at no charge to the residents.

BUILDING PLAN (Typical)



Comments:

Building is 3-stories with full-length enclosed corridors. Overall floor plan design requires multiple plumbing runs throughout. All units have 9 ft. ceilings, hard floor surfaces on over 50% of unit NRA's, walk-in closets and natural stone or quartz countertops. All 2 and 3 bedroom units are non-rectangular and feature double vanities. Finally, all 2 bedroom units and 3 bedroom HC units have island kitchens.

BUILDING ELEVATION

Comments:

Non-rectangular units with extended balcony enclosures provide attractive exterior building articulation. Multi-gabled roof design exhibits a higher than typical level of ornamentation. Exterior plans show an average combination of 36% masonry and 64%% cement fiber siding.

BUILDING CONFIGURATION

Building Type	A												**Total Buildings**
Floors/Stories	3												
Number of Bldgs	1												**1**
Units per Bldg	87												
Total Units	87												**87**

Avg. Unit Size (SF)	**905 sf**	**Total NRA (SF)**	**78,714**	**Common Area (SF)***	**4,036**

*Common Area Square Footage as specified on Architect Certification

SITE CONTROL INFO

Site Acreage: Development Site: 4.67 acres   Density: 18.6 units/acre

Site Control: 4.66   **Site Plan:** 4.67   **Appraisal:** N/A   **ESA:** 4.666

Control Type: Commercial Contract - Unimproved Property   Contract Expiration: 11/30/2020

Development Site: 4.67 acres   Cost: $2,200,000 $25,287 per unit

Seller: RWS Land Company, LLC

Buyer: Palladium USA International, Inc. or its permitted Assigns

Assignee: Dallas Stemmons, Ltd.

Related-Party Seller/Identity of Interest: No

SITE INFORMATION

Flood Zone:	X and AE	Scattered Site?	No
Zoning:	IR-Industrial Research Dist.	Within 100-yr floodplain?	Yes
Re-Zoning Required?	Yes	Utilities at Site?	Yes
Year Constructed:	N/A	Title Issues?	No

Current Uses of Subject Site:

Vacant land.

Surrounding Uses:

Subject is surrounded by industrial properties to the north, east and south, with Stemmons Freeway (IH35E) to the west.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Phase Engineering, Inc.   Date: 1/14/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- No REC's were reported.
- Noise levels exceed HUD threshold of 65 decibels.
- A portion of the site running along the southern and eastern borders falls within Flood Zone AE.

Comments:

Subject is within 15 miles from Dallas Love Field and DFW International Airport but the noise levels (recorded from 71 to 75 decibels) are primarily generated by traffic on Stemmons Freeway.

MARKET ANALYSIS

Provider: Affordable Housing Analysts — Date: 3/23/2020

Contact: Bob Coe — Phone: 281-387-7552

Primary Market Area (PMA): 20 sq. miles 3 mile equivalent radius

The PMA consists of 17 census tracts in northwest Dallas. The PMA's north boundary is I-635 and I-35 cuts through the PMA vertically.

ELIGIBLE HOUSEHOLDS BY INCOME								
Dallas County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	$14,010	$14,010	$16,830	$16,830	---	---	---
	Max	$17,460	$19,950	$22,440	$24,930	---	---	---
50% AMGI	Min	$23,370	$23,370	$28,050	$28,050	$32,400	$32,400	---
	Max	$29,100	$33,250	$37,400	$41,550	$44,900	$48,200	---
60% AMGI	Min	$28,050	$28,050	$33,660	$33,660	$38,880	$38,880	---
	Max	$34,920	$39,900	$44,880	$49,860	$53,880	$57,840	---

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						
	None					
Stabilized Affordable Developments in PMA (Market Analyst)					Total Units	1,163
					Total Developments	8

OVERALL DEMAND ANALYSIS				
	Market Analyst		**Underwriter**	
	HTC	Assisted	**HTC**	Assisted
Total Households in the Primary Market Area	28,239		28,239	
Potential Demand from the Primary Market Area	8,433		8,074	
10% External Demand	843		807	
Potential Demand from Other Sources	0		0	
GROSS DEMAND	9,276		8,881	
Subject Affordable Units	85		85	
Unstabilized Competitive Units	0		0	
RELEVANT SUPPLY	85		85	
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	**0.9%**		**1.0%**	

Population: General **Market Area:** Urban **Maximum Gross Capture Rate:** 10%

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
	Market Analyst					Underwriter				
AMGI Band	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate
30% AMGI	2,160	216	9	0	0.4%	1,696	170	9	0	0.5%
50% AMGI	5,198	520	34	0	1%	3,236	324	34	0	1%
60% AMGI	5,484	548	42	0	1%	3,142	314	42	0	1%

Demand Analysis:

The capture rate calculation determines the percentage of the qualified demand that is needed to absorb the proposed units. All capture rates are well under the maximum thresholds.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
	Market Analyst					Underwriter				
Unit Type	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/30%	331	33	4	0	1%	261	26	4	0	1%
1 BR/50%	400	40	24	0	5%	383	38	24	0	6%
1 BR/60%	404	40	13	0	3%	419	42	13	0	3%
2 BR/30%	438	44	5	0	1%	321	32	5	0	1%
2 BR/50%	609	61	7	0	1%	582	58	7	0	1%
2 BR/60%	552	55	23	0	4%	626	63	23	0	3%
3 BR/30%	1,257	126	0	0	0.0%	260	26	0	0	0.0%
3 BR/50%	1,023	102	3	0	0.3%	713	71	3	0	0.4%
3 BR/60%	2,762	276	6	0	0.2%	693	69	6	0	1%

Market Analyst Comments:

±41.34% of the households living in the primary market area earn less than $50,000 per year, with ±27.78% earning less than $35,000 per year, and ±16.68% earning less than $25,000 per year. Approximately 6.70% of the primary market area households earn less than $15,000 per year. (p. 45)

The average occupancy for apartments in the subject's primary market area was reported at 93.27%

Revisions to Market Study:	0

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	$330,369	Avg. Rent:	$880	Expense Ratio:	62.3%
Debt Service:	$283,238	B/E Rent:	$831	Controllable Expenses:	$4,030
Net Cash Flow:	$47,131	UW Occupancy:	92.5%	Property Taxes/Unit:	$1,000
Aggregate DCR:	1.17	B/E Occupancy:	87.5%	Program Rent Year:	2019

It is anticipated that HTC units will achieve full program rents.

The 2 market rate units are projected to achieve 60% HTC rents since they only comprise 2% of the mix.

Sponsor has projected monthly secondary income at $27.32/unit (vs. TDHCA's $20/unit underwriting standard). It was reported that their number is based off of actual results achieved within their portfolio of HTC properties.

Fee for related party management company (Omnium Management) is budgeted at 5%, which matches TDHCA's underwriting standard.

At $160K ($1,839/unit), Sponsor's budgeted payroll and payroll tax expense is 11% more than TDHCA's highest data point used for comparison. However, a reasonable Staffing Plan was submitted to support their estimate.

Sponsor's property taxes without any anticipated exemptions are budgeted at $87K ($1,000/unit) while TDHCA's underwritten taxes are $93K ($1,066/unit), a variance of only 6%. TDHCA's estimate is calculated using a fairly typical low income housing capitalization rate of 10%. It is noted that the Dallas CAD website indicates a 7.0% cap rate for Low Income Housing. However, Sponsor indicated that their budgeted number is based on an average of the taxes being paid on other HTC properties in their current North Texas portfolio.

Franchise tax of $1,646 was included by Sponsor as an operating expense. REA considers franchise tax to be a partnership expense and has therefore taken it out of operating expenses.

Average rent with 1 month concession on both 60% and market rate units is only $5 above break-even, but concessions are likely unnecessary with subject offering a combined 37% overall discount to market rents.

Breakeven occupancy occurs with 11 units vacant (underwritten at 7).

Pro Forma exhibits feasibility for 24 years at a permanent loan rate of 3.95% fixed plus an annual Mortgage Insurance Premium ("MIP") of 0.25%. However, all else equal, rate could only increase by 9 basis points (to 4.04%) before first year DCR would drop below the minimum 1.15 threshold.

As underwritten, 15 year residual cash flow is $381K after repayment of deferred developer fee.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule:	0		Revisions to Annual Operating Expenses:	1

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$471,519/ac	$25,575/unit	**$2,225,000**	Contractor Fee	**$1,483,722**
Off-site + Site Work		$18,994/unit	**$1,652,485**	Soft Cost + Financing	**$2,350,066**
Building Cost	$113.65/sf	$102,822/unit	**$8,945,527**	Developer Fee	**$2,115,483**
Contingency	4.68%	$5,698/unit	**$495,733**	Reserves	**$693,516**

Total Development Cost	$229,443/unit	**$19,961,532**	**Rehabilitation Cost**	**N/A**

Qualified for 30% Basis Boost?	High Opportunity Index [9% only]

Acquisition:

As part of acquisition cost, Sponsor included $25K labeled as a Broker Fee. They have indicated that it is compensation for assisting in the re-zoning process. Furthermore, it is not included in eligible basis.

Off-site:

None.

Site Work:

Certified cost of $1.1M ($13K/unit), with $696K for typical grading and concrete, $85K for electrical, $320K for on-site utilities, and $11K for bumpstops, striping & signage.

Amenity cost of $541K ($6.2K/unit) was also included in the site work certification, and is comprised of $141K for landscaping, $216K for pool & decking, $48K for recreational areas and $135K for fencing.

Building Cost:

Three-story walk-up building with full length corridors and more than typical exterior articulation and ornamentation. Overall floor plan design requires multiple plumbing runs throughout. All units have 9 ft. ceilings, hard floor surfaces on over 50% of unit NRA's, walk-in closets and natural stone or quartz countertops. All 2 and 3 bedroom units are non-rectangular and feature double vanities. Finally, all 2 bedroom units and 3 bedroom HC units have island kitchens.

TDHCA's typical methodology using Marshal & Swift's ("M&S") average quality construction values results in a total building cost estimate of $6.5M ($74K/unit - $82/sf), which is $2.5M (39%) less than Applicant's budget. However, in an effort to account for the proposed design features, TDHCA formulated their building cost estimate using M&S's good quality construction values. By doing so, TDHCA's building cost estimate came in at $425K less than Applicant's budget, a variance of 5%.

For scoring purposes, Sponsor limited their eligible building cost to $81.71/sf (vs. $114/sf budgeted actual cost).

Contingency:

Sponsor only budgeted 4.7%.

Soft Costs:

At $4.7K/unit, A&E costs fall within the typical range of what we have underwritten, as do total soft costs at $14.5K/unit (6%).

Developer Fee:

Developer fee is overstated by $44K.

Reserves:

Applicant's total capital reserves represent approximately 10 months of operating expenses and debt service.

Comments:

Applicant's Total Development Cost only varies from TDHCA's estimate by 4%. As a result, the recommended capital structure is being determined by Applicant's cost schedule.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$19,961,532	**$13,221,625**	**$1,511,369**

Related-Party Contractor: No

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	0

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
Regions Bank - FHA 221(d)(4)	FHA Loan	$5,417,700	3.95%	27%
Regions Bank	Bridge Loan	$9,230,000	4.45%	46%
Regions Bank	HTC	$4,032,514	$0.94	20%
Developer Entity	Deferred Fee	$1,325,137		7%
City of Dallas	§11.9(d)(2) LPS Loan	$500	1.00%	0%
		$20,005,851	**Total Sources**	

Comments:

A February 20, 2020 letter from the City of Dallas states that they will provide a line of credit not to exceed $500, which is the minimum amount required under §11.9(d)(2) of the 2020 QAP to score 1 point for a development located in an Urban sub region. Sponsor indicated that they will use the $500 and repay it during the interim construction period. It will be included as part of deferred develop fee during the permanent phase.

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Regions Bank - FHA 221(d)(4)	$5,417,700	4.20%	40	40	$5,417,700	3.95%	40	40	27%
Total	**$5,417,700**				**$5,417,700**				

Comments:

Underwritten interest rate on the 221(d)(4) loan not include the annual MIP of 25 basis points. However, underwritten debt service does include MIP in the calculation.

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Regions Bank	$14,097,180	$0.94		$14,097,180	$0.94	71%	
Developer Entity	$490,971		23%	$446,652		2%	22%
Total	**$14,588,151**			**$14,543,832**			
				$19,961,532	**Total Sources**		

Credit Price Sensitivity based on current capital structure	
$0.970	Maximum Credit Price before the Development is oversourced and allocation is limited
$0.914	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	1

CONCLUSIONS

Gap Analysis:	
Total Development Cost	$19,961,532
Permanent Sources (debt + non-HTC equity)	$5,417,700
Gap in Permanent Financing	$14,543,832

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	$14,204,023	$1,511,369
Needed to Balance Sources & Uses	$14,543,832	$1,547,526
Requested by Applicant	$14,097,180	$1,500,000

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	**$14,097,180**	**$1,500,000**

Deferred Developer Fee	**$446,652**	**(22% deferred)**
Repayable in	**9 years**	

Comments:

Credit recommendation of $1,500,000 is limited to the amount requested by Applicant.

Underwriter:	*Gregg Kazak*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Dallas Stemmons Apartments, Dallas, 9% HTC #20024

LOCATION DATA	
CITY:	Dallas
COUNTY:	Dallas
Area Median Income	$83,100
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2019

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	42	48.3%	0	0
2	36	41.4%	0	0
3	9	10.3%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
TOTAL	87	100.0%	-	-

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	9	10.3%
40%	-	0.0%
50%	34	39.1%
60%	42	48.3%
70%	-	0.0%
80%	-	0.0%
MR	2	2.3%
TOTAL	87	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	97.70%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	905 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mkt Analyst
TC 30%	$467	4	1	1	804	$467	$43	$424	$0	$0.53	$424	**$1,696**	**$1,696**	$424	$0.53	$0	$935	$1.16	$1,275
TC 50%	$779	24	1	1	804	$779	$43	$736	$0	$0.92	$736	**$17,664**	**$17,664**	$736	$0.92	$0	$935	$1.16	$1,275
TC 60%	$935	13	1	1	804	$935	$43	$892	$0	$1.11	$892	**$11,596**	**$11,596**	$892	$1.11	$0	$935	$1.16	$1,275
MR		1	1	1	804	$0	$43		NA	$1.16	$935	**$935**	**$935**	$935	$1.16	NA	$935	$1.16	$1,275
TC 30%	$561	5	2	2	960	$561	$57	$504	$0	$0.53	$504	**$2,520**	**$2,520**	$504	$0.53	$0	$1,122	$1.17	$1,450
TC 50%	$935	7	2	2	960	$935	$57	$878	$0	$0.91	$878	**$6,146**	**$6,146**	$878	$0.91	$0	$1,122	$1.17	$1,450
TC 60%	$1,122	23	2	2	960	$1,122	$57	$1,065	$0	$1.11	$1,065	**$24,495**	**$24,495**	$1,065	$1.11	$0	$1,122	$1.17	$1,450
MR		1	2	2	960	$0	$57		NA	$1.17	$1,122	**$1,122**	**$1,122**	$1,122	$1.17	NA	$1,122	$1.17	$1,450
TC 50%	$1,080	3	3	2	1,154	$1,080	$71	$1,009	$0	$0.87	$1,009	**$3,027**	**$3,027**	$1,009	$0.87	$0	$1,296	$1.12	$1,800
TC 60%	$1,296	6	3	2	1,154	$1,296	$71	$1,225	$0	$1.06	$1,225	**$7,350**	**$7,350**	$1,225	$1.06	$0	$1,296	$1.12	$1,800
TOTALS/AVERAGES:		**87**			**78,714**				**$0**	**$0.97**	**$880**	**$76,551**	**$76,551**	**$880**	**$0.97**	**$0**	**$1,050**	**$1.16**	**$1,402**
ANNUAL POTENTIAL GROSS RENT:												**$918,612**	**$918,612**						

STABILIZED PRO FORMA

Dallas Stemmons Apartments, Dallas, 9% HTC #20024

	STABILIZED FIRST YEAR PRO FORMA													
	COMPARABLES				APPLICANT				TDHCA				VARIANCE	
	Database		Expense Comps		% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$0.97	$880	$918,612	$918,612	$880	$0.97		0.0%	$0
Application, Pet, Late and NSF Fees							$18.22	$19,020						
Laundry, Vending, Cable							$9.10	$9,504						
Total Secondary Income							$27.32		$20,880	$20.00			36.6%	$7,644
POTENTIAL GROSS INCOME								$947,136	$939,492				0.8%	$7,644
Vacancy & Collection Loss							7.5% PGI	(71,035)	(70,462)	7.5% PGI			0.8%	(573)
Rental Concessions								-	-				0.0%	-
EFFECTIVE GROSS INCOME								$876,101	$869,030				0.8%	$7,071
General & Administrative	$37,862	$435/Unit	$59,127	$680	7.57%	$0.84	$762	$66,293	$59,127	$680	$0.75	6.80%	12.1%	7,166
Management	$37,660	4.2% EGI	$40,185	$462	5.00%	$0.56	$504	$43,805	$43,452	$499	$0.55	5.00%	0.8%	353
Payroll & Payroll Tax	$112,216	$1,290/Unit	$144,006	$1,655	18.26%	$2.03	$1,839	$159,985	$144,006	$1,655	$1.83	16.57%	11.1%	15,979
Repairs & Maintenance	$63,090	$725/Unit	$64,848	$745	7.01%	$0.78	$706	$61,425	$52,200	$600	$0.66	6.01%	17.7%	9,225
Electric/Gas	$21,480	$247/Unit	$21,528	$247	1.90%	$0.21	$191	$16,648	$21,480	$247	$0.27	2.47%	-22.5%	(4,832)
Water, Sewer, & Trash	$64,088	$737/Unit	$63,823	$734	5.28%	$0.59	$532	$46,276	$63,823	$734	$0.81	7.34%	-27.5%	(17,547)
Property Insurance	$27,024	$0.34 /sf	$27,633	$318	4.47%	$0.50	$450	$39,150	$27,633	$318	$0.35	3.18%	41.7%	11,517
Property Tax (@ 100%) 2.7336	$76,564	$880/Unit	$74,416	$855	9.93%	$1.11	$1,000	$87,000	$92,774	$1,066	$1.18	10.68%	-6.2%	(5,774)
Reserve for Replacements				$0	2.48%	$0.28	$250	$21,750	$21,750	$250	$0.28	2.50%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)				$0	0.39%	$0.04	$39	$3,400	$3,400	$39	$0.04	0.39%	0.0%	-
Franchise Tax				$0	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TOTAL EXPENSES					**62.29%**	**$6.93**	**$6,273**	**$ 545,732**	**$529,644**	**$6,088**	**$6.73**	**60.95%**	**3.0%**	**$ 16,088**
NET OPERATING INCOME ("NOI")					**37.71%**	**$4.20**	**$3,797**	**$330,369**	**$339,386**	**$3,901**	**$4.31**	**39.05%**	**-2.7%**	**$ (9,017)**
CONTROLLABLE EXPENSES							$4,030/Unit			$3,915/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Dallas Stemmons Apartments, Dallas, 9% HTC #20024

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Regions Bank - FHA 221(d)(4)	0.25%	1.20	1.17	283,238	4.20%	40	40	$5,417,700	$5,417,700	40	40	3.95%	$283,238	1.17	27.1%
				$283,238	**TOTAL DEBT / GRANT SOURCES**			**$5,417,700**	**$5,417,700**			**TOTAL DEBT SERVICE**	**$283,238**	**1.17**	27.1%
NET CASH FLOW		$56,148	$47,131						**APPLICANT**	**NET OPERATING INCOME**		**$330,369**	**$47,131**	**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
Regions Bank	LIHTC Equity	70.6%	$1,500,000	0.94	$14,097,180	$14,097,180	$0.94	$1,500,000	70.6%	$17,241	Applicant Request
Developer Entity	Deferred Developer Fees	2.5%	(23% Deferred)		$490,971	$446,652	(21% Deferred)		2.2%	**Total Developer Fee:**	**$2,115,483**
Additional (Excess) Funds Req'd		0.0%				$0			0.0%		
TOTAL EQUITY SOURCES		73.1%			$14,588,151	$14,543,832			72.9%		
TOTAL CAPITALIZATION					**$20,005,851**	**$19,961,532**			**15-Yr Cash Flow after Deferred Fee:**		**$380,546**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$25,287 / Unit	$2,200,000	$2,200,000	$25,287 / Unit				0.0%	$0
Broker Fee					$25,000	$25,000						$0
Off-Sites		$0		$ / Unit	$0	$0	$ / Unit		$0		0.0%	$0
Site Work		$1,111,973		$12,781 / Unit	$1,111,973	$1,111,973	$12,781 / Unit		$1,111,973		0.0%	$0
Site Amenities		$540,512		$6,213 / Unit	$540,512	$540,512	$6,213 / Unit		$540,512		0.0%	$0
Building Cost		$6,430,934	$113.65 /sf	$102,822/Unit	$8,945,527	$8,520,718	$97,939/Unit	$108.25 /sf	$6,430,934		5.0%	$424,809
Contingency		$404,171	5.00%	4.68%	$495,733	$495,733	4.87%	5.00%	$404,171		0.0%	$0
Contractor Fees		$1,188,263	14.00%	13.37%	$1,483,722	$1,483,722	13.91%	14.00%	$1,188,263		0.0%	$0
Soft Costs	0	$1,224,226		$14,503 / Unit	$1,261,726	$1,261,726	$14,503 / Unit		$1,224,226	$0	0.0%	$0
Financing	0	$596,987		$12,510 / Unit	$1,088,340	$1,088,340	$12,510 / Unit		$596,987	$0	0.0%	$0
Developer Fee	$0	$1,724,560	15.00%	15.31%	$2,159,802	$2,051,762	15.00%	15.00%	$1,724,560	$0	5.3%	$108,040
Reserves				10 Months	$693,516	$406,441	6 Months				70.6%	$287,075
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$13,221,625**		$229,952 / Unit	**$20,005,851**	**$19,185,927**	$220,528 / Unit		**$13,221,625**	**$0**	**4.3%**	**$819,924**
Acquisition Cost	$0				$0							
Contingency		$0			$0							
Contractor's Fee		$0			$0							
Financing Cost		$0										
Developer Fee	$0	($0)			($44,319)							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$13,221,625**		$229,443/unit	**$19,961,532**	**$19,185,927**	$220,528/unit		**$13,221,625**	**$0**	**4.0%**	**$775,605**

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate): $19,961,532

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Dallas Stemmons Apartments, Dallas, 9% HTC #20024

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$13,221,625	$0	$13,221,625
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$13,221,625	$0	$13,221,625
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$17,188,113	$0	$17,188,113
Applicable Fraction	97.70%	97.70%	97.70%	97.70%
TOTAL QUALIFIED BASIS	$0	$16,792,984	$0	$16,792,984
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
ANNUAL CREDIT ON BASIS	$0	$1,511,369	$0	$1,511,369
CREDITS ON QUALIFIED BASIS	$1,511,369		$1,511,369	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9398	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,511,369	$14,204,023	----	----	----
Needed to Fill Gap	$1,547,526	$14,543,832	----	----	----
Applicant Request	$1,500,000	$14,097,180	**$1,500,000**	**$0**	**$0**

BUILDING COST ESTIMATE

CATEGORY		FACTOR	UNITS/SF	PER SF	
Base Cost:	Garden (Up to 4-story)		78,714 SF	$89.93	7,079,067
Adjustments					
Exterior Wall Finish		2.91%		2.62	$206,094
Elderly		0.00%		0.00	0
9-Ft. Ceilings		3.36%		3.03	238,134
Roof Adjustment(s)				0.00	0
Subfloor				(0.16)	(12,594)
Floor Cover				4.18	329,025
Enclosed Corridors		$81.48	17,289	17.90	1,408,777
Balconies		$39.02	10,007	4.96	390,431
Plumbing Fixtures		$1,610	189	3.87	304,290
Rough-ins		$600	174	1.33	104,400
Built-In Appliances		$2,950	87	3.26	256,650
Exterior Stairs		$3,850	14	0.68	53,900
Heating/Cooling				2.62	206,231
Storage Space		$81.48	1,536	1.59	125,159
Carports		$12.25	0	0.00	0
Garages			0	0.00	0
Common/Support Area		$106.91	4,192	5.69	448,176
Elevators			0	0.00	0
Other:	Maint. Bldg.	$164	516	1.08	84,844
Fire Sprinklers		$2.68	101,731	3.46	272,639
SUBTOTAL				**146.04**	**11,495,222**
Current Cost Multiplier		1.00		0.00	0
Local Multiplier		0.87		(18.98)	(1,494,379)
Reserved					0
TOTAL BUILDING COSTS				**127.05**	**$10,000,843**
Plans, specs, survey, bldg permits		3.30%		(4.19)	($330,028)
Contractor's OH & Profit		11.50%		(14.61)	(1,150,097)
NET BUILDING COSTS			$97,939/unit	$108.25/sf	$8,520,718

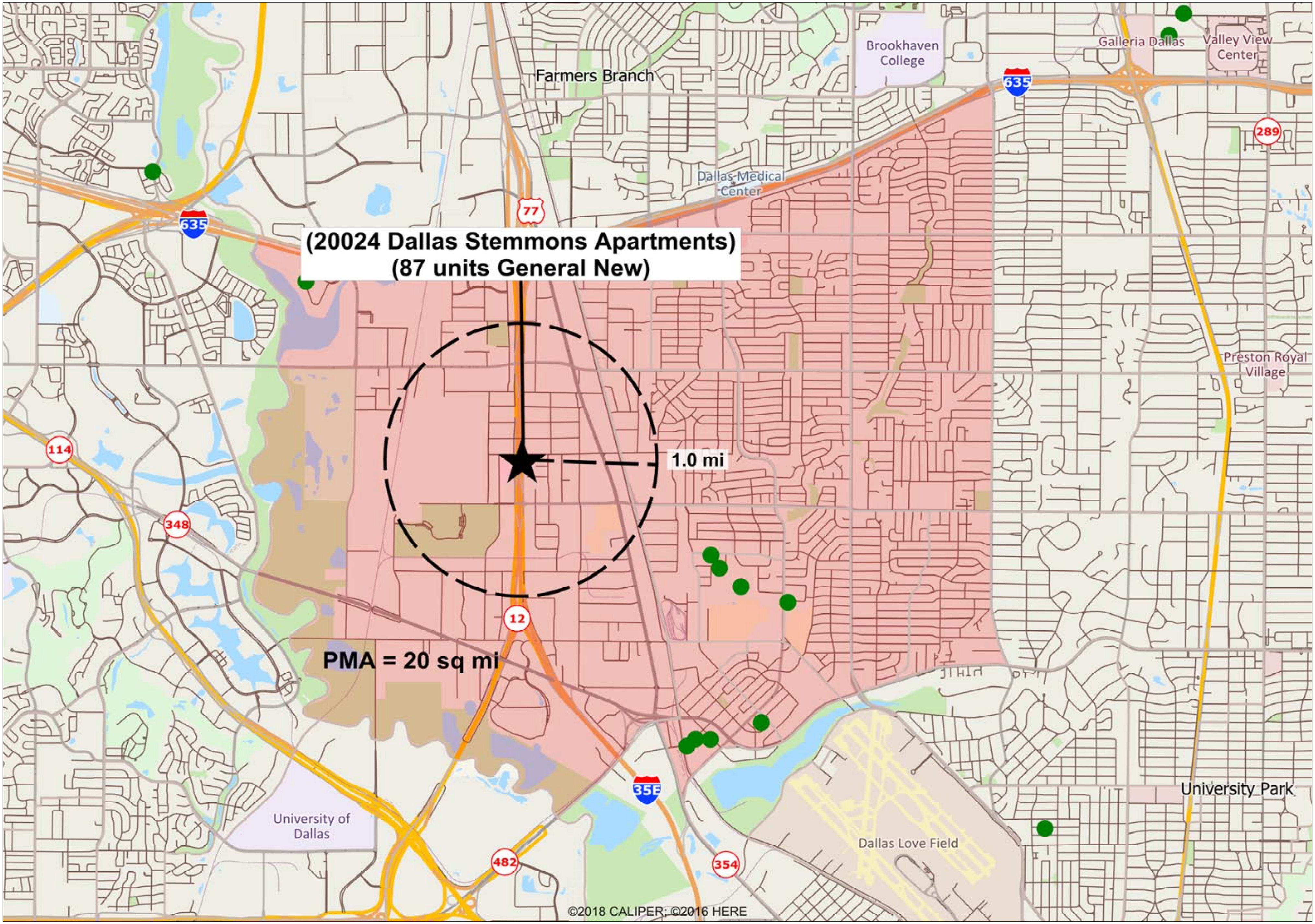
Long-Term Pro Forma

Dallas Stemmons Apartments, Dallas, 9% HTC #20024

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5
EFFECTIVE GROSS INCOME	2.00%	$876,101	$893,623	$911,495	$929,725	$948,320
TOTAL EXPENSES	3.00%	$545,732	$561,666	$578,069	$594,955	$612,339
NET OPERATING INCOME ("NOI")		**$330,369**	**$331,957**	**$333,426**	**$334,770**	**$335,980**
EXPENSE/INCOME RATIO		62.3%	62.9%	63.4%	64.0%	64.6%
MUST -PAY DEBT SERVICE						
TOTAL DEBT SERVICE		$283,238	$283,096	$282,949	$282,795	$282,636
DEBT COVERAGE RATIO		1.17	1.17	1.18	1.18	1.19
ANNUAL CASH FLOW		**$47,131**	**$48,861**	**$50,478**	**$51,975**	**$53,345**
Deferred Developer Fee Balance		$399,521	$350,660	$300,183	$248,208	$194,863
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0

	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	$1,047,022	$1,155,996	$1,276,313	$1,409,153	$1,555,819	$1,717,750	$1,896,535
TOTAL EXPENSES	$707,252	$817,009	$943,948	$1,090,772	$1,260,615	$1,457,104	$1,684,443
NET OPERATING INCOME ("NOI")	**$339,770**	**$338,987**	**$332,366**	**$318,381**	**$295,204**	**$260,645**	**$212,092**
EXPENSE/INCOME RATIO	67.5%	70.7%	74.0%	77.4%	81.0%	84.8%	88.8%
MUST -PAY DEBT SERVICE							
TOTAL DEBT SERVICE	$281,736	$280,640	$279,306	$277,681	$275,701	$273,290	$270,354
DEBT COVERAGE RATIO	1.21	1.21	1.19	1.15	1.07	0.95	0.78
ANNUAL CASH FLOW	**$58,034**	**$58,347**	**$53,060**	**$40,701**	**$19,503**	**($12,645)**	**($58,262)**
Deferred Developer Fee Balance	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW	$87,460	$380,546	$658,933	$890,313	$1,034,154	$1,040,077	$845,951

20024 Dallas Stemmons Apartments PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

21521 Palladium at West Francis: $2,472,726 NHTF

Description: Previously approved for 4% LIHTC and NHTF on May 21, 2020 (ID 20400), Palladium at West Francis is the new construction of 240 units that will serve a general population in 8 three-story, non-elevator, buildings in Fort Worth, located in Tarrant County. Unit sizes range from one to three bedrooms and rent/income levels from 30% to 80% of the area median income (AMI), with twenty-three market rate units.

The Application documents a lumber cost increase of $2,472,726. Palladium at West Francis is requesting $2,472,726 in gap financing.

Financing and Regulatory Terms: Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the $2,472,726 MFDL NHTF loan will have a 40-year term and amortization, structured as a Surplus Cash loan in keeping with FHA requirements set forth in HUD's Multifamily Accelerated Processing (MAP) Guide and referenced at 10 TAC §13.8(c)(7). The MFDL NHTF loan is in addition to a grant awarded by the City of Dallas. The first priority loan is a HUD/FHA Section 221(d)(4) product.[5] The Federal Affordability Period will be 30 years and the State Affordability Period will be 40 years.

Of the nine MFDL units restricted to 30% AMI, there will be three one-bedroom, five two-bedroom, and one three-bedroom. One additional HOME Match-Eligible Unit serving households at or below 80% AMI isrequired.

Section 10 TAC §13.5(d), Required Site Control Agreement Provisions, is inapplicable as the borrower acquired the property on October 28, 2020, before contemplating application for MFDL funds.

The Department has elected to fund Palladium at West Francis under the General Set-Aside with NHTF funds that will be restricted to 30% area median rent and income levels for that program.

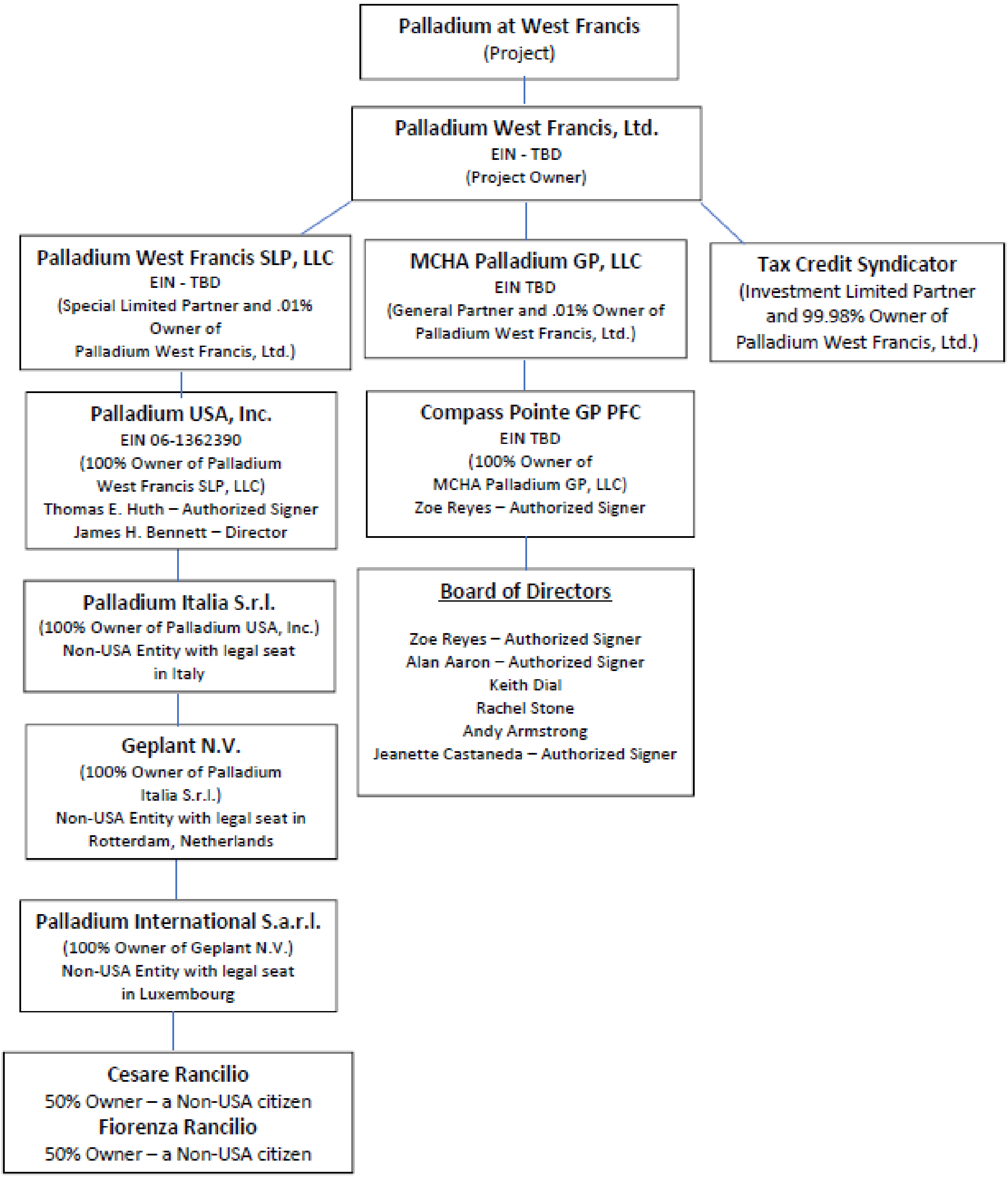
Organizational Structure: The proposed borrower is, and includes principals with the ability to exercise control as indicated in the organizational chart below.

[5] The Department cannot presently commit new MFDL loans subordinate to FHA-insured products due to lack of agreement with HUD on the required form of subordination and associated riders. The prior agreed form in place since 2014 expired on August 31, 2021, and HUD's proffered replacement directly conflicts with Texas statutes. The Department continues to negotiate with HUD, and will reserve funds awarded to Palladium at West Francis in keeping with the requirements of the 2021-3 NOFA, as amended. Because this property is already in HUD's portfolio TDHCA will request to use the previously negotiated form.

MF RCVD 4/13/20

PALLADIUM AT WEST FRANCIS OWNERSHIP STRUCTURE

Ability to Exercise Control - Thomas E Huth, Zoe Reyes, Alan Aaron, Jeanette Castaneda



Real Estate Analysis Division
December 2, 2021

Addendum to Underwriting Report

TDHCA Application #: **20400** Program(s): **4% HTC/MDL**

Palladium at West Francis

Address/Location: 1707 W Francis

City: Midland County: Midland Zip: 79701

	APPLICATION HISTORY
Report Date	**PURPOSE**
12/02/21	**MDL 2021-3 Award**
09/11/20	MDL Closing
05/18/20	Initial Underwriting

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
MF Direct Loan Const. to Perm. (Surplus Cash)					**$2,472,726**	**0.00%**	**30**	**40**	**3**
TDHCA MDFL - NHTF 2020 Award	$1,259,975	0.00%	30	40	**$1,259,975**	**0.00%**	**30**	**40**	**2**
LIHTC (4% Credit)	$1,630,492				**$1,630,492**				

* Multifamily Direct Loan Terms:

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

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

CONDITIONS STATUS

0 Receipt and acceptance Prior to MFDL (2021-3) Commitment:

a: Agreement of form of subordination and rider with FHA

1 Receipt and acceptance before Direct Loan Closing (MDL 2021-3):

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

b: Substantially final construction contract with Schedule of Values.

c: Updated term sheets with substantially final terms from all lenders.

d: Substantially final draft of limited partnership agreement.

e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

2 Receipt and acceptance by Cost Certification:

a: Certification from Appraisal District that the property qualifies for property tax exemption.

b: Executed ground lease with Compass Pointe GP PFC (CPPFC) clearly specifying all terms and conditions, including who will retain ownership of land and improvements at the end of the lease.

c: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	4
40% of AMI	40% of AMI	29
50% of AMI	50% of AMI	11
60% of AMI	60% of AMI	123
70% of AMI	70% of AMI	25
80% of AMI	80% of AMI	25

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	25

ANALYSIS

Applicant has submitted documentation for the final budget review to close the TDHCA Direct Loan.

Operating Pro Forma

NHTF Rents have been updated to 2021. Applicant's HTC rents have been updated to the 2021 HTC Rents, which were used in the Underwriter's initial analysis.

The Applicant limited the 70%, 80% and market rents to 60% rents because they based the rents on THF Palladium Midland. The Applicant also used 9% vacancy based on the THF Palladium Midland. Underwriter adjusted the standard 7.5% vacancy. If Applicant's 9.0% is used, the development remains feasible with a 1.26 Debt Coverage Ratio.

Development Cost

The construction contract Schedule of Values indicates total hard construction costs (Site Work, Site Amenities, and Building Cost) have increased by $2,472,728 due to increase in lumber cost relative to the previous underwriting.

The 2021-3 NOFA stipulates that Developer Fee cannot increase from the previous underwriting. At the time of Closing the original Direct Loan, Developer Fee was $5,534,885. The current Cost Schedule indicates $5,606,024 in Developer Fee. The Underwriter has adjusted the Developer down by $71,139 to the previous amount.

Total Development Cost has increased $2,915,121.

Sources of Funds

The senior debt has decreased from $33,250,000 at 3.10% to $31,300,000 at 2.77%. Debt coverage on the senior debt has improved from 1.30 to 1.44 times.

The previously awarded Multifamily Direct Loan remains unchanged at $1,259,975 at 0.00% interest for 30 years.

The Applicant is requesting an additional Multifamily Direct Loan in the amount of $2,472,726 at 0.00% interest over 30 years.

Under the QAP and the Direct Loan Rule and NOFA, when a Multifamily Direct Loan is subordinate to an FHA loan, only 75% of the cash remaining after the senior debt payment can be used to calculate the DCR for the MFDL, and the combined DCR must meet the minimum 1.15. Based on 75% of the available cash, the combined debt coverage includsive of both Direct Loans is 1.29 times.

Credit price has remained unchanged at $0.84. The current analysis results in a $767,873 increase in equity proceeds from the previous underwriting.

Deferred developer fee has increased by $364,547 and repays in 5 years.

The current analysis supports a credit allocation of $1,630,492. Final determination of the credit allocation will be made at Cost Certification.

Underwriter recommends approval of a construction-to-permanent MultiFamily Direct Loan in the amount of $2,472,726 as a third lien payable from Surplus Cash at 0% interest, with 40-year amortization and 40-year term (to match the senior debt).

Underwriter:	*Deborah Willson*
Manager of Real Estate Analysis:	*Jeanna Adams*
Director of Real Estate Analysis:	*Thomas Cavanagh*

UNIT MIX/RENT SCHEDULE

Palladium at West Francis, Midland, 4% HTC/MDL #21521-20400

LOCATION DATA	
CITY:	Midland
COUNTY:	Midland
Area Median Income	$90,700
PROGRAM REGION:	12

UNIT DISTRIBUTION					59.7%	Average Income	
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	80	33.3%	0	8	30%	4	1.7%
2	106	44.2%	0	11	40%	29	12.1%
3	54	22.5%	0	6	50%	11	4.6%
4	-	0.0%	0	0	60%	123	51.3%
5	-	0.0%	0	0	70%	25	10.4%
					80%	25	10.4%
					MR	23	9.6%
TOTAL	**240**	**100.0%**	**-**	**25**	**TOTAL**	**240**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	90.42%
APP % Acquisition	3.27%
APP % Construction	3.27%
Average Unit Size	928 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program (NHTF)		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%	$535	30%/30%	$535	1	1	1	750	$535	$60	$475	($0)	$0.63	$475	**$475**	**$475**	$475	$0.63	$0	$1,011	$1.35	$1,565
TC 40%	$714	30%/30%	$535	7	1	1	750	$535	$60	$475	($0)	$0.63	$475	**$3,325**	**$3,325**	$475	$0.63	$0	$1,011	$1.35	$1,565
TC 40%	$714			3	1	1	750	$714	$60	$654	($0)	$0.87	$654	**$1,962**	**$1,962**	$654	$0.87	$0	$1,011	$1.35	$1,565
TC 50%	$893			5	1	1	750	$893	$60	$833	($0)	$1.11	$833	**$4,165**	**$4,165**	$833	$1.11	$0	$1,011	$1.35	$1,565
TC 60%	$1,071			36	1	1	750	$1,071	$60	$1,011	($0)	$1.35	$1,011	**$36,396**	**$36,396**	$1,011	$1.35	($0)	$1,011	$1.35	$1,565
TC 70%	$1,250			9	1	1	750	$1,250	$60	$1,190	($179)	$1.35	$1,011	**$9,099**	**$9,099**	$1,011	$1.35	($179)	$1,011	$1.35	$1,565
TC 80%	$1,429			12	1	1	750	$1,429	$60	$1,369	($358)	$1.35	$1,011	**$12,132**	**$12,132**	$1,011	$1.35	($358)	$1,011	$1.35	$1,565
MR				7	1	1	750	$0	$60		NA	$1.35	$1,011	**$7,077**	**$7,077**	$1,011	$1.35	NA	$1,011	$1.35	$1,840
TC 30%	$642	30%/30%	$642	2	2	2	950	$642	$80	$562	$0	$0.59	$562	**$1,124**	**$1,124**	$562	$0.59	$0	$1,205	$1.27	$1,840
TC 40%	$857	30%/30%	$642	9	2	2	950	$642	$80	$562	$0	$0.59	$562	**$5,058**	**$5,058**	$562	$0.59	$0	$1,205	$1.27	$1,840
TC 40%	$857			4	2	2	950	$857	$80	$777	$0	$0.82	$777	**$3,108**	**$3,108**	$777	$0.82	$0	$1,205	$1.27	$1,840
TC 50%	$1,071			4	2	2	950	$1,071	$80	$991	$0	$1.04	$991	**$3,964**	**$3,964**	$991	$1.04	$0	$1,205	$1.27	$1,840
TC 60%	$1,285			58	2	2	950	$1,285	$80	$1,205	$0	$1.27	$1,205	**$69,890**	**$69,890**	$1,205	$1.27	$0	$1,205	$1.27	$1,840
TC 70%	$1,499			9	2	2	950	$1,499	$80	$1,419	($214)	$1.27	$1,205	**$10,845**	**$10,845**	$1,205	$1.27	($214)	$1,205	$1.27	$1,840
TC 80%	$1,714			8	2	2	950	$1,714	$80	$1,634	($429)	$1.27	$1,205	**$9,640**	**$9,640**	$1,205	$1.27	($429)	$1,205	$1.27	$2,520
MR				12	2	2	950	$0	$80		NA	$1.27	$1,205	**$14,460**	**$14,460**	$1,205	$1.27	NA	$1,205	$1.27	$2,520
TC 30%	$742	30%/30%	$742	1	3	2	1,150	$742	$99	$643	$0	$0.56	$643	**$643**	**$643**	$643	$0.56	$0	$1,386	$1.21	$2,520
TC 40%	$990	30%/30%	$742	5	3	2	1,150	$742	$99	$643	$0	$0.56	$643	**$3,215**	**$3,215**	$643	$0.56	$0	$1,386	$1.21	$2,520
TC 40%	$990			1	3	2	1,150	$990	$99	$891	$0	$0.77	$891	**$891**	**$891**	$891	$0.77	$0	$1,386	$1.21	$2,520
TC 50%	$1,238			2	3	2	1,150	$1,238	$99	$1,139	$0	$0.99	$1,139	**$2,278**	**$2,278**	$1,139	$0.99	$0	$1,386	$1.21	$2,520
TC 60%	$1,485			29	3	2	1,150	$1,485	$99	$1,386	$0	$1.21	$1,386	**$40,194**	**$40,194**	$1,386	$1.21	$0	$1,386	$1.21	$2,520
TC 70%	$1,733			7	3	2	1,150	$1,733	$99	$1,634	($248)	$1.21	$1,386	**$9,702**	**$9,702**	$1,386	$1.21	($248)	$1,386	$1.21	$2,520
TC 80%	$1,981			5	3	2	1,150	$1,981	$99	$1,882	($496)	$1.21	$1,386	**$6,930**	**$6,930**	$1,386	$1.21	($496)	$1,386	$1.21	$2,520
MR				4	3	2	1,150	$0	$99		NA	$1.21	$1,386	**$5,544**	**$5,544**	$1,386	$1.21	NA	$1,386	$1.21	$2,520
TOTALS/AVERAGES:				**240**			**222,800**				**($65)**	**$1.18**	**$1,092**	**$262,117**	**$262,117**	**$1,092**	**$1.18**	**($65)**	**$1,181**	**$1.27**	**$1,966**
ANNUAL POTENTIAL GROSS RENT:														**$3,145,404**	**$3,145,404**						

STABILIZED PRO FORMA

Palladium at West Francis, Midland, 4% HTC/MDL #21521-20400

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES				APPLICANT				1st MDL Closing				TDHCA				VARIANCE	
	Database		3 Midland comps		% EGI	Per SF	Per Unit	Amount	Applicant - 1st MDL Closing	Applicant - Orig UW	TDHCA - Orig UW	TDHCA - 1st MDL Closing	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT						$1.18	$1,092	$3,145,404	$3,283,682	$3,132,900	$3,277,430	$3,283,682	$3,145,404	$1,092	$1.18		0.0%	($0)
Application, Pet, Late and NSF							$17.60	$50,700	50,700	50,700								
Laundry, Vending, Cable							$2.50	$7,200	7,200	7,200								
Total Secondary Income							$20.10				57,600	57,600	$57,600	$20.00			0.5%	$300
POTENTIAL GROSS INCOME								$3,203,304	$3,341,582	$3,190,800	$3,335,030	$3,341,282	$3,203,004				0.0%	$300
Vacancy & Collection Loss							7.5% PGI	(240,248)	(250,619)	(239,310)	(250,127)	(250,596)	(240,225)	7.5% PGI			0.0%	(22)
Rental Concessions								-	0	0	0	0	-				0.0%	-
EFFECTIVE GROSS INCOME								$2,963,056	$3,090,963	$2,951,490	$3,084,902	$3,090,686	$2,962,779				0.0%	$277
General & Administrative	$82,404	$343/Unit	$86,152	$359	2.78%	$0.37	$343	$82,438	$71,576	$71,576	$82,404	$82,404	$82,404	$343	$0.37	2.78%	0.0%	34
Management	$89,746	4.2% EGI	$115,672	$482	4.28%	$0.57	$528	$126,803	$147,575	$147,575	$154,245	$154,534	$148,139	$617	$0.66	5.00%	-14.4%	(21,336)
Payroll & Payroll Tax	$284,870	$1,187/Unit	$274,707	$1,145	9.41%	$1.25	$1,162	$278,914	$289,776	$289,776	$284,870	$284,870	$274,707	$1,145	$1.23	9.27%	1.5%	4,207
Repairs & Maintenance	$167,020	$696/Unit	$139,044	$579	4.79%	$0.64	$592	$142,045	$142,045	$142,045	$144,000	$144,000	$144,000	$600	$0.65	4.86%	-1.4%	(1,955)
Electric/Gas	$50,791	$212/Unit	$38,134	$159	1.68%	$0.22	$207	$49,793	$49,793	$49,793	$41,871	$41,871	$41,871	$174	$0.19	1.41%	18.9%	7,922
Water, Sewer, & Trash	$180,508	$752/Unit	$223,188	$930	4.39%	$0.58	$542	$130,043	$130,043	$130,043	$223,188	$223,188	$180,508	$752	$0.81	6.09%	-28.0%	(50,465)
Property Insurance	$85,406	$0.38 /sf	$80,159	$334	3.24%	$0.43	$400	$96,000	$84,960	$84,960	$85,406	$85,406	$85,406	$356	$0.38	2.88%	12.4%	10,594
Property Tax (@ 0%) 1.8932	$117,783	$491/Unit	-	$0	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Reserve for Replacements	$62,795	$262/Unit	-	$0	2.43%	$0.32	$300	$72,000	$72,000	$72,000	$72,000	$72,000	$72,000	$300	$0.32	2.43%	0.0%	-
Supportive Services			-	$0	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)			-	$0	0.29%	$0.04	$36	$8,680	$8,977	$8,680	$8,680	$8,680	$8,680	$36	$0.04	0.29%	0.0%	-
0			-	$0	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TOTAL EXPENSES					**33.33%**	**$4.43**	**$4,115**	**$ 987,566**	$996,745	$996,448	$1,096,664	$1,096,953	**$1,037,715**	**$4,324**	**$4.66**	**35.03%**	**-4.8%**	**$ (50,149)**
NET OPERATING INCOME ("NOI")					**66.67%**	**$8.87**	**$8,231**	**$1,975,490**	$2,094,218	$1,955,042	$1,988,238	$1,993,732	**$1,925,064**	**$8,021**	**$8.64**	**64.97%**	**2.6%**	**$ 50,426**

TH

CONTROLLABLE EXPENSES	$2,847/Unit		$3,015/Unit

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Palladium at West Francis, Midland, 4% HTC/MDL #21521-20400

DEBT / GRANT SOURCES

DEBT (Must Pay)	Fee	APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE: Cumulative DCR UW	Cumulative DCR App	Pmt	Rate	Amort	Term	Principal	Applicant - 1st MDL Closing	Applicant - Orig UW	TDHCA - Orig UW	TDHCA - 1st MDL Closing	AS UNDERWRITTEN DEBT/GRANT STRUCTURE: Principal	Term	Amort	Rate	Pmt	Cumulative DCR	Cumulative LTC
TEB-Midland County PFC	0.25%	1.40	1.44	1,373,533	2.77%	40	40	$31,300,000	$33,250,000	$31,850,000	$31,850,000	$33,250,000	$31,300,000	40	40	2.77%	$1,373,533	1.44	59.4%
TDHCA MDL - NHTF 2020 Award		1.36	1.40	$41,999	0.00%	30	40	$1,259,975	$1,259,975	$1,259,975	$1,259,975	$1,259,975	$1,259,975	40	30	0.00%	$41,999	1.33	2.4%
TDHCA MDL 2021-3		1.29	1.32	$82,424	0.00%	30	40	$2,472,726					$2,472,726	40	30	0.00%	$82,424	1.29	4.7%
CASH FLOW DEBT / GRANTS																			
				$1,497,956	**TOTAL DEBT / GRANT SOURCES**			**$36,292,676**	$34,509,975	$33,109,975	$33,109,975	$34,509,975	**$36,292,676**	**TOTAL DEBT SERVICE**			**$1,539,956**	**1.29**	68.9%
NET CASH FLOW		$427,108	$477,534										**APPLICANT**	**NET OPERATING INCOME**			**$1,975,490**	**$435,534**	**NET CASH FLOW**

EQUITY SOURCES

EQUITY / DEFERRED FEES	APPLICANT'S PROPOSED EQUITY STRUCTURE: DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant - 1st MDL Closing	Applicant - Orig UW	TDHCA - Orig UW	TDHCA - 1st MDL Closing	AS UNDERWRITTEN EQUITY STRUCTURE: Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
PNC Bank	LIHTC Equity	26.0%	$1,630,492	0.84	$13,696,130	$12,928,257	$14,530,196	$14,530,196	$12,928,257	$13,696,130	$0.8400	$1,630,492	26.0%	$6,794	Applicant Request
Palladium USA/Midland County PFC	Deferred Developer Fees	7.6%	(71% Deferred)		$3,997,922	$2,302,261	$2,681,819	$2,681,819	$2,302,261	$2,666,808	(48% Deferred)		5.1%	**Total Developer Fee:**	**$5,534,885**
Additional (Excess) Funds Req'd		0.0%						$0	$0	$0			0.0%		
TOTAL EQUITY SOURCES		33.6%			$17,694,052	$15,230,518	$17,212,015	$17,212,015	$15,230,518	$16,362,938			31.1%		
TOTAL CAPITALIZATION					**$53,986,728**	$49,740,493	$50,321,990	$50,321,990	$49,740,493	**$52,655,614**				**15-Yr Cash Flow after Deferred Fee:**	**$8,032,036**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS: Eligible Basis Acquisition	Eligible Basis New Const. Rehab			Total Costs	Applicant - 1st MDL Closing	Applicant - Orig UW	TDHCA - Orig UW	TDHCA - 1st MDL Closing	TDHCA COST / BASIS ITEMS: Total Costs			Eligible Basis New Const. Rehab	Eligible Basis Acquisition	COST VARIANCE %	COST VARIANCE $
Land Acquisition				$8,750 / Unit	$2,100,000	$2,100,000	$2,100,000	$2,100,000	$2,100,000	$2,100,000	$8,750 / Unit				0.0%	$0
Off-Sites				$ / Unit	$0	$0	$0	$0	$0	$0	$ / Unit				0.0%	$0
Site Work		$4,236,999		$17,654 / Unit	$4,236,999	$4,236,999	$4,236,999	$5,621,292	$4,980,803	$4,980,803	$20,753 / Unit		$4,980,803		-14.9%	($743,804)
Site Amenities		$2,275,494		$9,481 / Unit	$2,275,494	$2,275,494	$2,344,839	$1,303,398	$1,640,179	$1,640,179	$6,834 / Unit		$1,640,179		38.7%	$635,315
Building Cost		$23,085,429	$103.62 /sf	$96,189/Unit	$23,085,429	$20,612,701	$21,226,315	$22,123,074	$20,504,213	$22,976,933	$95,737/Unit	$103.13 /sf	$22,976,933		0.5%	$108,496
Contingency		$921,079	3.11%	6.92%	$2,047,679	$1,672,078	$1,710,065	$1,710,065	$1,672,078	$2,047,679	6.92%	3.11%	$921,079		0.0%	$0
Contractor Fees		$3,816,378	12.50%	12.06%	$3,816,378	$3,816,378	$3,893,141	$3,893,141	$3,816,378	$3,816,378	12.06%	12.50%	$3,816,378		0.0%	$0
Soft Costs	0	$2,798,390		$12,655 / Unit	$3,037,140	$3,037,140	$3,035,759	$3,035,759	$3,037,140	$3,037,140	$12,655 / Unit		$2,798,390	$0	0.0%	$0
Financing	0	$2,152,136		$16,789 / Unit	$4,029,311	$4,195,657	$3,811,718	$3,811,718	$4,195,657	$4,029,311	$16,789 / Unit		$2,125,165	$0	0.0%	$0
Developer Fee	$0	$5,606,024	14.27%	13.87%	$5,606,024	$5,534,885	$5,679,636	$5,679,636	$5,534,885	$5,534,885	13.71%	14.28%	$5,606,024	$0	1.3%	$71,139
Reserves				12 Months	$2,492,299	$2,259,161	$2,283,518	$2,283,518	$2,259,161	$2,492,299	12 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$44,891,929**		$219,695 / Unit	**$52,726,753**	$49,740,493	$50,321,990	$51,561,601	$49,740,494	**$52,655,607**	$219,398 / Unit		**$44,864,951**	**$0**	**0.1%**	**$71,146**
Acquisition Cost	$0				$0	$0	$0									
Contingency		$0			$0	$0	$0									
Contractor's Fee		$0			$0	$0	$0									
Financing Cost		($26,971)														
Developer Fee	$0	$0			($71,139)	$0	$0									
Reserves					$0	$0	$0									
ADJUSTED BASIS / COST	**$0**	**$44,864,958**		$219,398/unit	**$52,655,614**	$49,740,493	$50,321,990	$51,561,601	$49,740,494	**$52,655,607**	$219,398/unit		**$44,864,951**	**$0**	**0.0%**	**$7**

TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$52,655,614**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Palladium at West Francis, Midland, 4% HTC/MDL #21521-20400

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$44,864,958	$0	$44,864,951
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$44,864,958	$0	$44,864,951
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$58,324,446	$0	$58,324,437
Applicable Fraction	90.42%	90.42%	90.42%	90.42%
TOTAL QUALIFIED BASIS	$0	$52,735,020	$0	$52,735,012
Applicable Percentage	3.27%	3.27%	3.27%	3.27%
ANNUAL CREDIT ON BASIS	$0	$1,724,435	$0	$1,724,435
CREDITS ON QUALIFIED BASIS	$1,724,435		$1,724,435	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.8400	**Variance to Request**	
Method	Annual Credits	Proceeds	**Credit Allocation**	**Credits**	**Proceeds**
Eligible Basis	$1,724,435	$14,485,252	----	----	----
Needed to Fill Gap	$1,947,969	$16,362,938	----	----	----
Applicant Request	$1,630,492	$13,696,130	**$1,630,492**	**$0**	**$0**

50% Test for Bond Financing for 4% Tax Credits

Tax-Exempt Bond Amount	**$31,300,000**	
Aggregate Basis Limit for 50% Test	$62,600,000	
	Applicant	**TDHCA**
Land Cost	$2,100,000	$2,100,000
Depreciable Bldg Cost	$40,651,255	$40,624,277
Aggregate Basis for 50% Test	**$42,751,255**	**$42,724,277**

Percent Financed by Tax-Exempt Bonds	**Applicant**	**TDHCA**
	73.2%	**73.3%**
amount aggregate basis can increase before 50% test fails	$19,848,745	$19,875,723
	46.4%	46.5%

Long-Term Pro Forma

Palladium at West Francis, Midland, 4% HTC/MDL #21521-20400

	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%	$2,963,056	$3,022,317	$3,082,764	$3,144,419	$3,207,307	$3,541,126	$3,909,690	$4,316,613	$4,765,890	$5,261,928	$5,809,593	$6,414,260
TOTAL EXPENSES	3.00%	$987,566	$1,015,925	$1,045,109	$1,075,143	$1,106,052	$1,274,642	$1,469,295	$1,694,081	$1,953,709	$2,253,627	$2,600,143	$3,000,556
NET OPERATING INCOME ("NOI")		**$1,975,490**	**$2,006,392**	**$2,037,654**	**$2,069,276**	**$2,101,255**	**$2,266,485**	**$2,440,395**	**$2,622,532**	**$2,812,181**	**$3,008,301**	**$3,209,451**	**$3,413,705**
EXPENSE/INCOME RATIO		33.3%	33.6%	33.9%	34.2%	34.5%	36.0%	37.6%	39.2%	41.0%	42.8%	44.8%	46.8%
MUST -PAY DEBT SERVICE													
TEB-Midland County PFC		$1,373,533	$1,372,449	$1,371,334	$1,370,188	$1,369,010	$1,362,604	$1,355,248	$1,346,800	$1,337,099	$1,325,958	$1,313,165	$1,298,473
TDHCA MDL - NHTF 2020 Award		$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999	$41,999
TDHCA MDL 2021-3		$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424	$82,424
TOTAL DEBT SERVICE		**$1,497,957**	**$1,496,872**	**$1,495,757**	**$1,494,611**	**$1,493,433**	**$1,487,027**	**$1,479,671**	**$1,471,223**	**$1,461,522**	**$1,450,382**	**$1,437,588**	**$1,422,897**
DEBT COVERAGE RATIO		1.29	1.31	1.32	1.34	1.36	1.45	1.55	1.66	1.77	1.89	2.02	2.15
ANNUAL CASH FLOW		**$477,534**	**$509,520**	**$541,897**	**$574,664**	**$607,822**	**$779,457**	**$960,724**	**$1,151,309**	**$1,350,659**	**$1,557,919**	**$1,771,862**	**$1,990,808**
Deferred Developer Fee Balance		$2,189,274	$1,679,754	$1,137,858	$563,193	$0	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$44,629	$3,594,756	$8,032,036	$13,403,774	$19,755,011	$27,127,138	$35,556,190	$45,070,740

20400 Palladium at West Francis - Application Summary

REAL ESTATE ANALYSIS DIVISION
May 18, 2020

PROPERTY IDENTIFICATION	
Application #	**20400**
Development	**Palladium at West Francis**
City / County	**Midland / Midland**
Region/Area	**12 / Urban**
Population	**General**
Set-Aside	**General**
Activity	**New Construction**

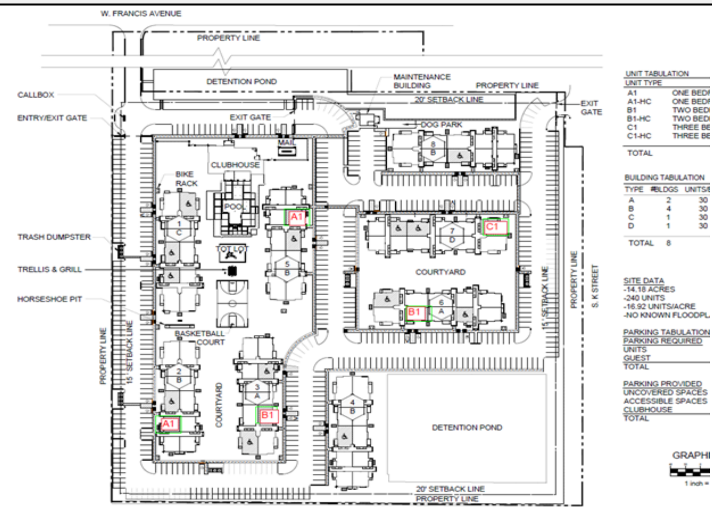
RECOMMENDATION					
TDHCA Program	**Request**	**Recommended**			
LIHTC (4% Credit)	**$1,596,885**	**$1,596,885**	**$6,654/Unit**		**$0.91**
Multifamily Direct Loan (Surplus Cash)	**$1,259,975**	**0.00%**	**30**	**40**	**2**

KEY PRINCIPAL / SPONSOR

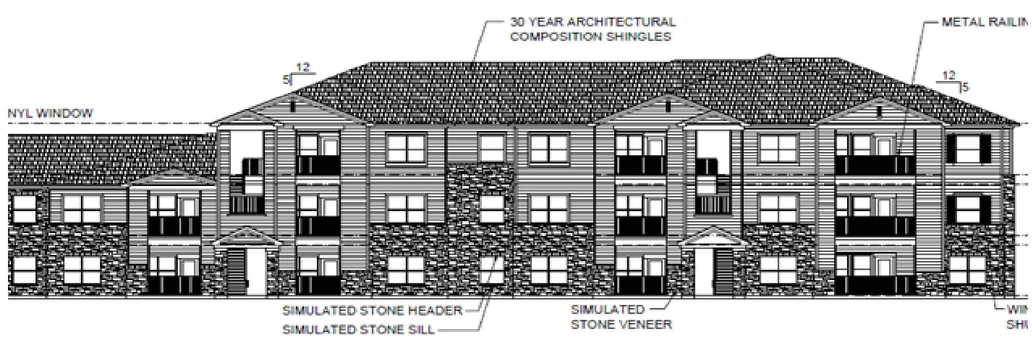
Palladium
80% co-developer/gaurantor/SLP
Tom Huth
Compass Pointe GP PFC
20% co-developer/GP

Related Parties	Contractor - No	Seller - No

Site Plan



Building



UNIT DISTRIBUTION			INCOME AVERAGING		
# Beds	**# Units**	**% Total**	**Income**	**# Units**	**% Total**
Eff	-	0%	**30%**	-	0%
1	80	33%	**40%**	33	14%
2	106	44%	**50%**	11	5%
3	54	33%	**60%**	123	51%
			70%	25	10%
			80%	25	10%
			MR	23	10%
TOTAL	240	100%	**TOTAL**	240	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	**Expense Ratio**	35.5%
Breakeven Occ.	82.3%	**Breakeven Rent**	$1,010
Average Rent	$1,138	**B/E Rent Margin**	$128
Property Taxes	Exempt	**Exemption/PILOT**	100%
Total Expense	$4,569/unit	**Controllable**	$3,235/unit

MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			5.3%
Highest Unit Capture Rate	42%	3 BR/60%	29
Dominant Unit Cap. Rate	32%	2 BR/60%	58
Premiums (↑60% Rents)	Yes		$319/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten	Applicant's Costs		
Avg. Unit Size	928 SF	**Density**	17.5/acre
Acquisition		$09K/unit	$2,100K
Building Cost	$95.27/SF	$88K/unit	$21,226K
Hard Cost		$123K/unit	$29,518K
Total Cost		$210K/unit	$50,322K
Developer Fee	$5,680K	(47% Deferred)	Paid Year: 7
Contractor Fee	$3,893K	**30% Boost**	Yes

DEBT (Must Pay)				
Source	Amort/Term	Rate	Amount	DCR
PNC Bank - 221(d)(4)	40/40	3.70%	$31,850,000	1.24
TDHCA MDL (75% Surplus Cash)	30/40	0.00%	$1,259,975	1.15
TOTAL DEBT (Must Pay)			$33,109,975	

CASH FLOW DEBT / GRANT FUNDS				
Source	Term	Rate	Amount	DCR
CASH FLOW DEBT / GRANTS			$0	

EQUITY / DEFERRED FEES	
Source	Amount
PNC Bank	$14,530,196
Palladium/Compass Pointe GP PFC	$2,681,819
TOTAL EQUITY SOURCES	$17,212,015
TOTAL DEBT SOURCES	$33,109,975
TOTAL CAPITALIZATION	$50,321,990

CONDITIONS

1 Receipt and acceptance before Direct Loan Closing

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

b: Substantially final construction contract with Schedule of Values.

c: Updated term sheets with substantially final terms from all lenders.

d: Substantially final draft of limited partnership agreement.

e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

2 Receipt and acceptance by Cost Certification:

a: Certification from Appraisal District that the property qualifies for property tax exemption.

b: Executed ground lease with Compass Pointe GP PFC (CPPFC) clearly specifying all terms and conditions, including who will retain ownership of land and improvements at the end of the lease.

c: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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	Midland County Public Finance Corporation
Expiration Date	7/4/2020
Bond Amount	$25,000,000
BRB Priority	Priority 3
Bond Structure	FHA 221(d)(4)/Short-Term Cash Collateralized
% Financed with Tax-Exempt Bonds	77.7%

RISK PROFILE

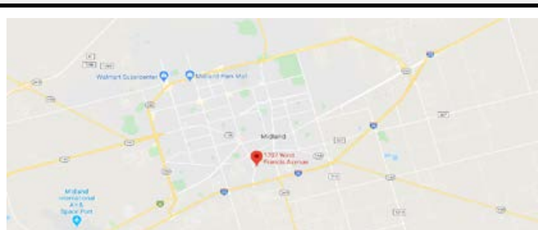
STRENGTHS/MITIGATING FACTORS

- Tax exemption
- Developer experience
- High market premiums possible

WEAKNESSES/RISKS

- High concentration of 60% units under construction
- Volatile oil industry market
- Feasibility relies on high AMI rents

AREA MAP



AERIAL PHOTOGRAPH(s)

Real Estate Analysis Division
Underwriting Report
May 18, 2020

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **20400** Program(s): **4% HTC/MDL**

Palladium at West Francis

Address/Location: 1707 W Francis

City: Midland County: Midland Zip: 79701

Population: General Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Garden (Up to 4-story) Region: 12

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
Multifamily Direct Loan (Surplus Cash)	$1,259,975	0.00%	30	40	**$1,259,975**	0.00%	30	40	**2**
LIHTC (4% Credit)	$1,596,885				**$1,596,885**				

* Multifamily Direct Loan Terms:

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

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

CONDITIONS

1 Receipt and acceptance before Direct Loan Closing

a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.

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c: Updated term sheets with substantially final terms from all lenders.

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a: Certification from Appraisal District that the property qualifies for property tax exemption.

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c: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
40% of AMI	40% of AMI	33
50% of AMI	50% of AMI	11
60% of AMI	60% of AMI	123
70% of AMI	70% of AMI	25
80% of AMI	80% of AMI	25

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	21

DEVELOPMENT SUMMARY

Palladium West Francis is a proposed family development in central Midland; it is located less than one mile north of I-20 and will include 23 market rate units. The co-developer/SLP owner built and operates a similar affordable property in Midland, (#14415) THF Palladium Midland, which is located less than 2.5 miles east of the Subject. Its March 2020 rent roll reports 91.7% occupancy and is receiving full program rents and premiums on its market units.

Including Subject's units, 721affordable family units at three new properties will have been awarded tax credits in central Midland over the last three years, with most of those units serving 60% AMI.

Applicant has elected to income average. Development AMFI Average is 59.91%.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Tax exemption
▫	Developer experience
▫	High market premiums possible

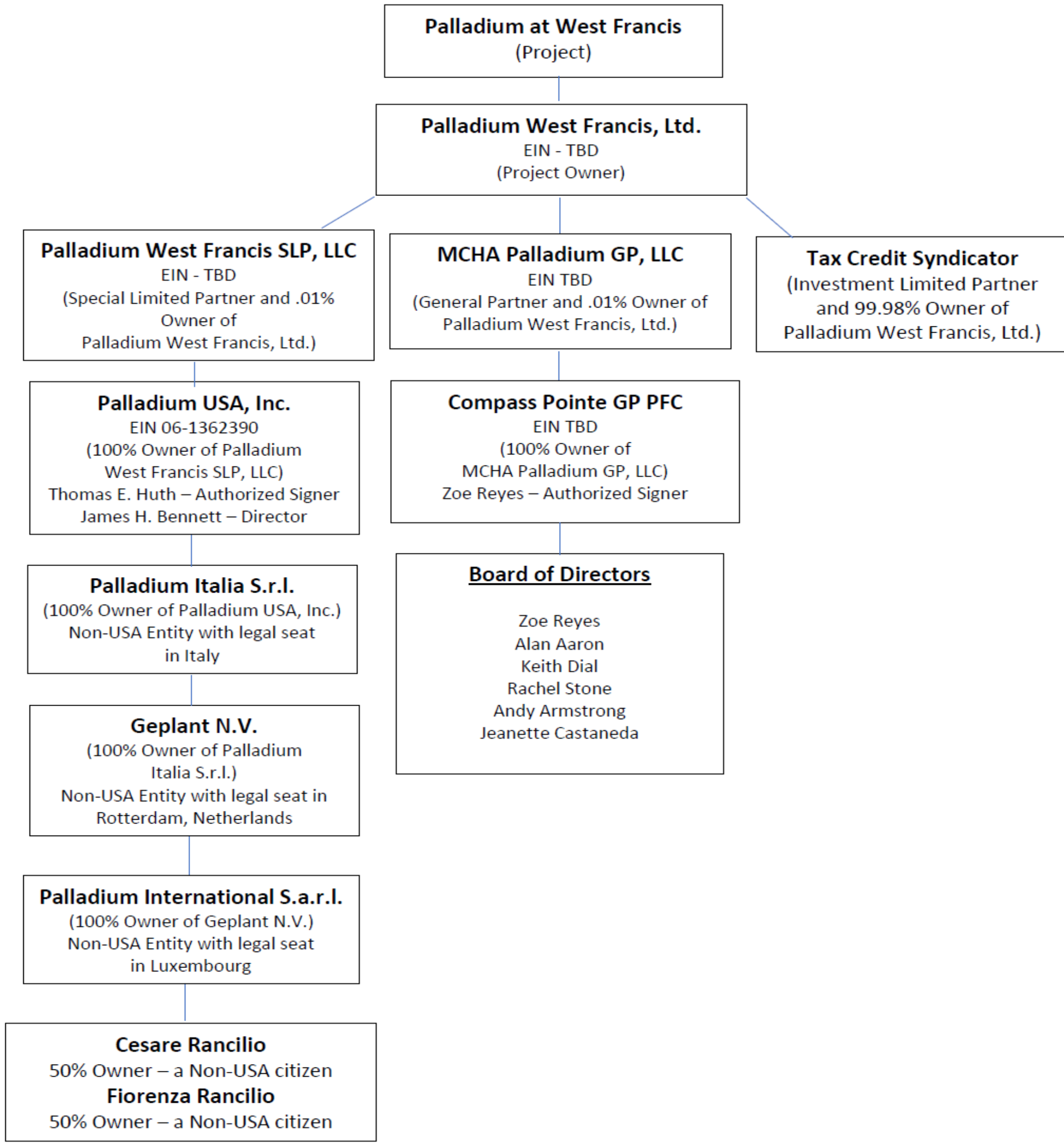
WEAKNESSES/RISKS	
▫	High concentration of 60% units under construction
▫	Volatile oil industry market
▫	Feasibility relies on high AMI rents

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Tom Huth	Name:	Sara Reidy
Phone:	(972) 774-4400	Phone:	(214) 941-0089
Relationship:	Co-Developer/SLP/Guarantor	Relationship:	Consultant

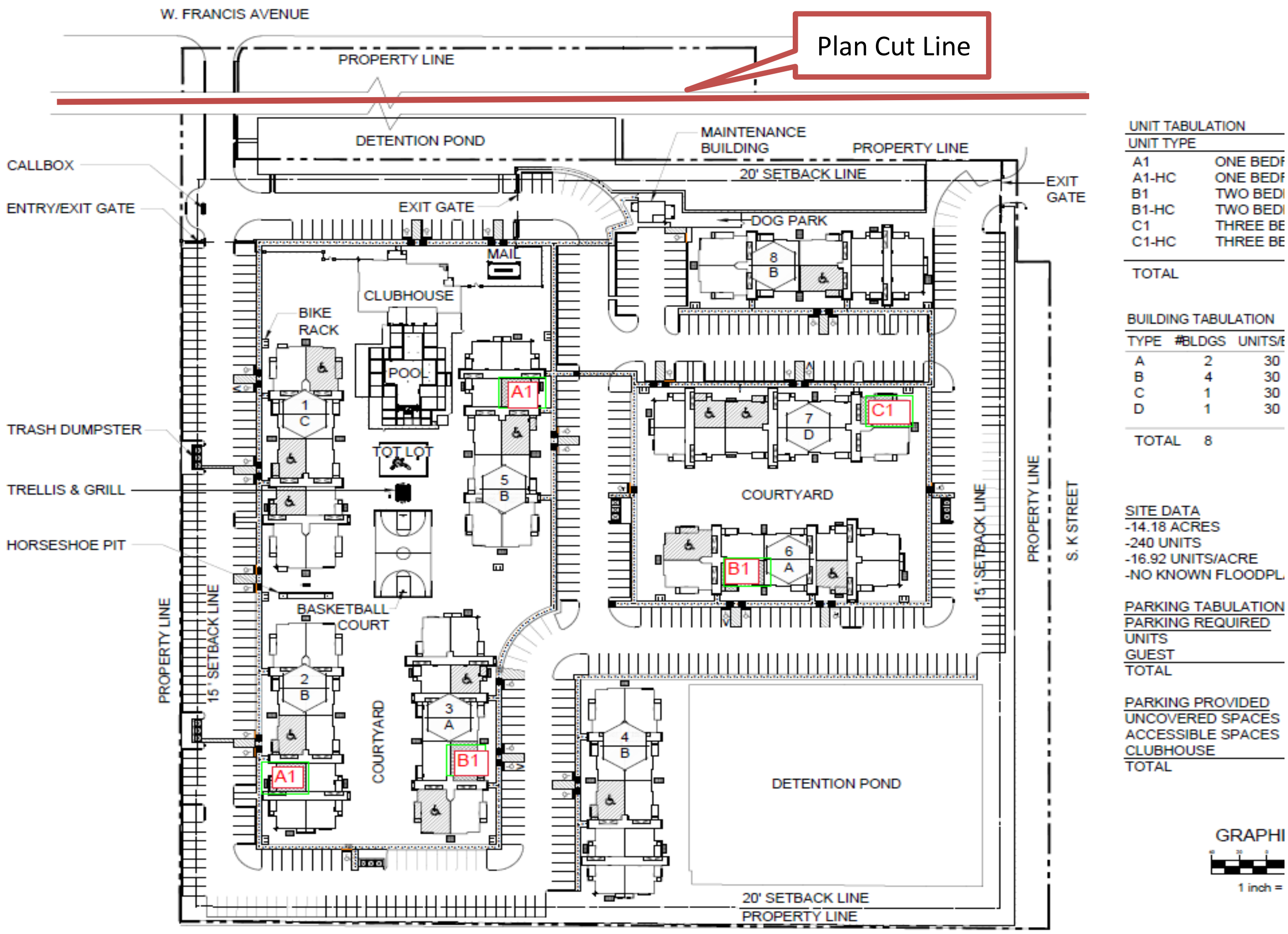
OWNERSHIP STRUCTURE



- Affiliates of the Applicant are also affiliates of the Developer, Cost Estimator, Guarantor and Property Manager.
- Compass Pointe GP PFC (CPPFC) was created by the Midland County Housing Authority (MCHA) in 2015. MCHA participated in the development of #15400, Compass Pointe. Palladium USA is a full service real estate firm located in Dallas. They have participated in 12 LIHTC developments in Texas since 2013. http://www.palladiumusa.com/us/, including #14415 THF Palladium Midland. Palladium 80% co-developer/guarantor, CPPFC 20% co-developer

DEVELOPMENT SUMMARY

SITE PLAN



Comments:

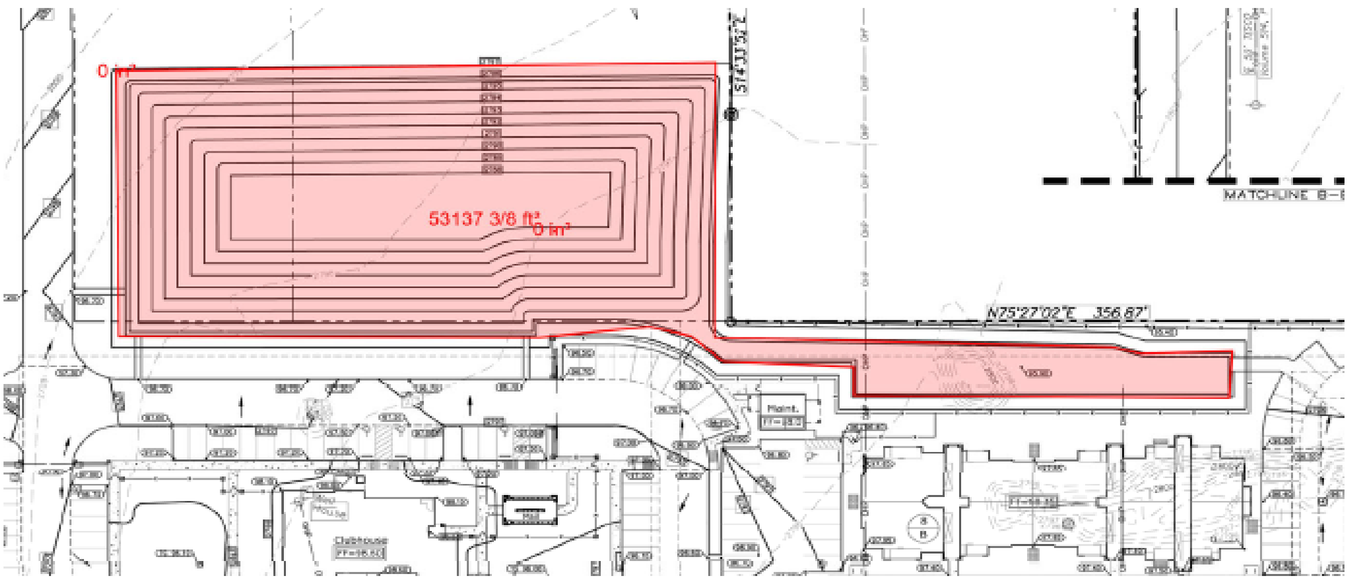
A large, private access drive from W. Francis Avenue will be constructed to the site; the site will also have access to South K Street to the east.

There is an existing 50' and 10' wide Tesco electrical easement and two water wells located near the center of the subject property. These water wells and existing electrical easement will be required to be abandoned. The site slopes from the northwest to the southeast with approximately 7 feet of elevation change.

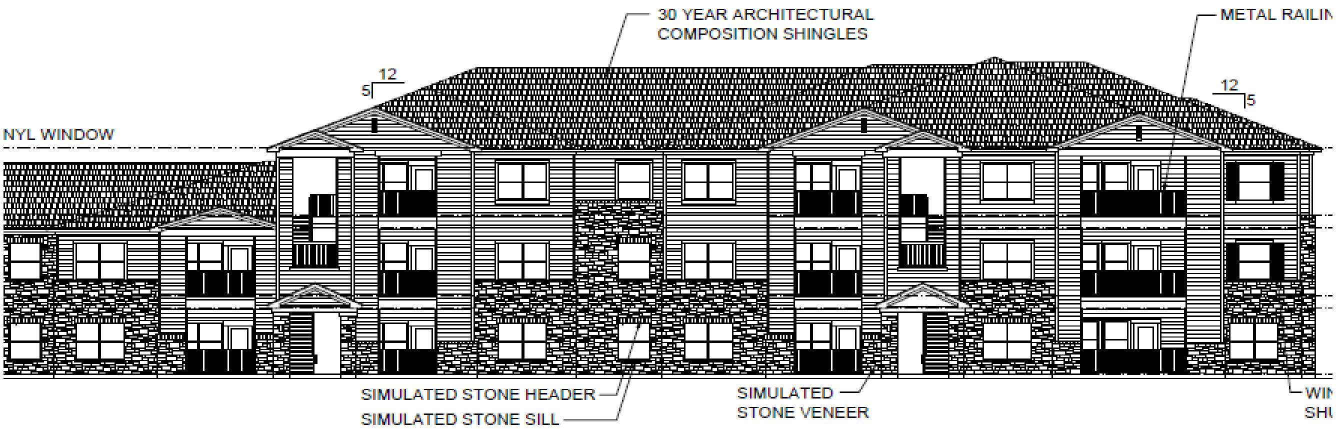
Access to the site is provided by W. Francis Ave. to the north, and South K St. to the northeast.

Per Applicant, they are keeping grass areas to minimum and installing crushed granite to conserve water. Amenities include a basketball court, tot lot, horseshoe pit, dog park, and pool area with grills. The site will house two earthen detention ponds; a small one at the front of the property that attaches to a current large earthen detention pond on the adjacent property, and a large pond at the rear of the property as shown below.

501 parking spaces are provided; 467 are required. A site plan with the exclusion of the required 25% garages per Section 3.13 of the Zoning Ordinance was adopted through the zoning change on 11/26/19. Parking is efficient and flows throughout the property.



BUILDING ELEVATION



Comments:
Three building types are three story walk-ups; one is a 3/2 split. Composition shingle roofs with 4/12 pitch and some 5/12 details. Exteriors are fiber cement siding (60%) and simulated stone veneer (40%). Some window are shuttered and porches have metal railings.

BUILDING CONFIGURATION

Building Type	A	B	C	D									Total Buildings
Floors/Stories	3	3	3	3/2									
Number of Bldgs	2	4	1	1									**8**
Units per Bldg	30	30	30	30									
Total Units	60	120	30	30									**240**

Avg. Unit Size (SF)	**928 sf**	**Total NRA (SF)**	**222,800**	**Common Area (SF)**	**4,068**

* Common Area as stated in Architect Certification

SITE AND ACQUISITION

Site Acreage: Development Site: 13.73 acres Density: 17.5 units/acre

Site Control: 14.18 **Site Plan:** 14.18 **Appraisal:** 0 **ESA:** 14.18

Control Type: Contract of Sale Contract Expiration: 8/15/2020

Total Acquisition:	14.18 acres				
Development Site:	13.73 acres	Cost:	$2,100,000	$8,750	per unit

Seller: Karen Pinard

Buyer: Palladium USA International, Inc.

Assignee: Compass Pointe GP Public Facilities Corporation

Related-Party Seller/Identity of Interest: No

Comments:

After purchase, land will be assigned to Compass Pointe GP Public Facilities Corporation (CPPFC) to achieve property tax exemption.

There is a draft 99 year Ground Lease between (CPPFC) and Palladium West Francis, Ltd (who will construct and own all improvements). Ground lease payment of $2.1M payment for 15-year compliance period followed by annual $100 rent payments.

Seller retains rights to oil and minerals. Land and improvements revert to Landlord at lease end.

0.453 acres will be dedicated to the city for right of way for South K Street; the city will construct the road in the future. This reduces the site acreage to be encumbered by the LURA from 14.18, to 13.73 acres.

GENERAL INFORMATION

Flood Zone:	X	Scattered Site?	No
Zoning:	MF-22	Within 100-yr floodplain?	No
Re-Zoning Required?	No	Utilities at Site?	Yes
Year Constructed:	0	Title Issues?	No

Surrounding Uses:

The adjoining property to the north consists of a 1-story single-family home, a 1-story metal shop and driveway. The adjoining property to the west consists of a single-family residential property. W Francis Avenue is north of the Subject property and provides access to the Subject property, and South K St. is to the northeast of the Subject. The Subject property is adjacent to undeveloped tracts of land to the south, and east.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Phase Engineering, Inc Date: 11/21/2019

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

Several oil wells are in the vicinity, but all are acceptable distances from the Subject.

MARKET ANALYSIS

Provider: Affordable Housing Analysts　　Date: 3/3/2020

Contact: Bob Coe　　Phone: 281-387-7552

Primary Market Area (PMA): 812 sq. miles 16 mile equivalent radius

The PMA consists of 18 census tracts around west Midland, extending south and west to the county line.

ELIGIBLE HOUSEHOLDS BY INCOME								
Midland County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	$14,520	$14,520	$17,430	$17,430	$20,970	$20,970	---
	Max	$19,050	$21,780	$24,510	$27,210	$29,400	$31,590	---
40% AMGI	Min	$20,400	$20,400	$24,510	$24,510	$28,290	$28,290	---
	Max	$25,400	$29,040	$32,680	$36,280	$39,200	$42,120	---
50% AMGI	Min	$25,500	$25,500	$30,630	$30,630	$35,370	$35,370	---
	Max	$31,750	$36,300	$40,850	$45,350	$49,000	$52,650	---
60% AMGI	Min	$30,600	$30,600	$36,750	$36,750	$42,450	$42,450	---
	Max	$38,100	$43,560	$49,020	$54,420	$58,800	$63,180	---
70% AMGI	Min	$35,700	$35,700	$42,870	$42,870	$49,530	$49,530	---
	Max	$44,450	$50,820	$57,190	$63,490	$68,600	$73,710	---
80% AMGI	Min	$40,830	$40,830	$49,020	$49,020	$56,610	$56,610	---
	Max	$50,800	$58,080	$65,360	$72,560	$78,400	$84,240	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
19431	Scharbauer Flats	No	New	General	0	300
18437	Ventura at Tradewinds	Yes	New	General	204	204
Other Affordable Developments in PMA since 2015						
19228	Chaparral Apartments		A/R	General	n/a	124
16210	Merritt Monument		New	General	n/a	104
15400	Compass Pointe Apartments		New	General	n/a	206
Stabilized Affordable Developments in PMA (pre-2015)					Total Units	944
					Total Developments	8

Proposed, Under Construction, and Unstabilized Competitive Supply:

Ventura at Tradewinds (#18437) is reported to have recently started lease up about 4 miles southwest of the Subject and has 204 competitive 60% units; all of these units are included in the capture rate calculations.

Scharbauer Flats (#19431) is an awarded project with 300 competitive 60% units located less than four miles northeast of the Subject and less than 2 miles outside the PMA. Market Analyst did not include these 300 units in their capture rate calculations. Given the small area of Midland, and that these two properties PMA's overlap several dense census tracts in central Midland, Underwriter ran an extended market area (EMA) that includes overlapping PMA's for Subject, Scharbauer Flats and Ventura at Tradewinds. The Extended PMA encompasses all of Midland County.

The EMA GCR is 5.5% showing there is enough income qualified demand to absorb the 721 proposed affordable units. The EMA 60% AMI Band capture rate is 9.2%, suggesting that all of Midland County is reaching saturation of 60% AMI units. The 3B 60% AMI unit capture rate is 58%, approaching the 65% unit capture rate limit.

Applicant has elected income averaging.

Underwriter's EMA information is shown in the right column on the Overall Demand Analysis table. Underwriter's AMGI Band and Unit Type capture rate tables reflect capture rates generated by Market Analyst's PMA for comparison sake and because the EMA produces satisfactory capture rates.

OVERALL DEMAND ANALYSIS				
	Market Analyst		Underwriter	
	PMA		PMA	EMA
Total Households in the Primary Market Area	43,622		43,622	68,736
Potential Demand from the Primary Market Area	6,959		7,215	12,503
10% External Demand	696		721	1,250
Potential Demand from Other Sources	0		0	0
GROSS DEMAND	7,655		7,936	13,753
Subject Affordable Units	217		217	217
Unstabilized Competitive Units	204		204	504
RELEVANT SUPPLY	421		421	721
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	**5.5%**		**5.3%**	**5.2%**

Population:	**General**	**Market Area:**	**Urban**	**Maximum Gross Capture Rate:**	**10%**

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
	Market Analyst					Underwriter				
AMGI Band	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate
30% AMGI	554	55	21	0	3%	658	66	21	0	3%
40% AMGI	561	56	12	0	2%	579	58	12	0	2%
50% AMGI	563	56	11	0	2%	583	58	11	0	2%
60% AMGI	3,602	360	123	204	8%	3,662	366	123	204	8%
70% AMGI	840	84	25	0	3%	870	87	25	0	3%
80% AMGI	430	43	25	0	5%	863	86	25	0	3%

Demand Analysis:

The capture rate calculation determines the percentage of the qualified demand that is needed to absorb the proposed units; capture rates do not include the Subject's 23 market units.

Midland's economy and therefore population is driven by the oil industry. When demand for oil is high, demand for housing in Midland is high; when oil production wanes, the demand for housing in Midland wanes. At this time, WTI crude oil price is $12.25 which is a 74% decrease from 2 months ago before the Covid pandemic.
One cannot predict what the oil industry and therefore housing demand in Midland will look like when these units will come on line and start leasing in approximately 2 years.

Market Analyst allows income overlapping between bedroom sizes, whereas Underwriter assumes one household can only actually occupy one unit, even if they qualify for a 1 bedroom 40% unit and a 2 bedroom 30% unit. Due to this difference, Market Analyst is double counting some households and therefore has higher unit demands as shown below.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
	Market Analyst					Underwriter				
Unit Type	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/30%	257	26	7	0	2%	246	25	7	0	3%
1 BR/40%	282	28	4	0	1%	300	30	4	0	1%
1 BR/50%	286	29	5	0	2%	286	29	5	0	2%
1 BR/60%	552	55	36	36	12%	302	30	36	36	22%
1 BR/70%	352	35	9	0	2%	259	26	9	0	3%
1 BR/80%	386	39	12	0	3%	435	43	12	0	3%
2 BR/30%	177	18	9	0	5%	175	17	9	0	5%
2 BR/40%	169	17	6	0	3%	184	18	6	0	3%
2 BR/50%	258	26	4	0	1%	157	16	4	0	2%
2 BR/60%	687	69	58	84	19%	407	41	58	84	32%
2 BR/70%	300	30	9	0	3%	237	24	9	0	3%
2 BR/80%	276	28	8	0	3%	369	37	8	0	2%
3 BR/30%	207	21	5	0	2%	209	21	5	0	2%
3 BR/40%	452	45	2	0	0%	195	19	2	0	1%
3 BR/50%	200	20	2	0	1%	115	11	2	0	2%
3 BR/60%	452	45	29	84	23%	245	24	29	84	42%
3 BR/70%	200	20	7	0	3%	185	19	7	0	3%
3 BR/80%	279	28	5	0	2%	282	28	5	0	2%
	5,772					4,503				

Market Analyst Comments:

Merritt Monument is a 104-unit Family HTC project (83 restricted units; 21 market rate units) which opened in July 2019 and reached 95% occupancy 11/1/2019, which equates to an average absorption of approximately 25 units per month. Compass Pointe Apartments, a 206-unit Family property (all restricted) was completed in March 2017, and attained stabilized occupancy by the end of August 2017, which equates to an average absorption of approximately 30 units per month. Palladium Midland, a 264-unit mixed-income Family property began leasing in July 2016, completed their construction in February 2017, and was 100% leased and occupied by September 2017. This equates to an average absorption of approximately 19 units per month. (p. 89)

The average rental rate for apartments in the subject's primary market area is reported at $1.50 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 primary market area was reported at 97.10%. Occupancy rates and rental rates in this primary market area have remained strong over the past few years, with overall stable rental rates. (p. 12)

±31.31% of the households living in the primary market area earn less than $50,000 per year, with ±20.87% earning less than $35,000 per year, and ±13.78% earning less than $25,000 per year. (p. 42)

In the past, a decline in the regional oil and gas economy as measured by the Texas Permian Basin Petroleum Index has always led to decline in the general economy as measured by the Midland-Odessa Regional Economic Index. (p. 34)

Revisions to Market Study:	3

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA Pro Forma)					
NOI:	$1,988,238	Avg. Rent:	$1,138	Expense Ratio:	35.5%
Debt Service:	$1,648,424	B/E Rent:	$1,010	Controllable Expenses:	$3,235
Net Cash Flow:	$339,815	UW Occupancy:	92.5%	Property Taxes/Unit:	$0
Aggregate DCR:	1.15	B/E Occupancy:	82.3%	Program Rent Year:	2020

Applicant elected income averaging with units ranging from 30% to 80% AMI; Development AMFI Average is 59.91%.

Applicant's pro forma assumes full 2019 program rents except for 80% 2B, which are assumed at $100 below max based on Applicant's pro forma. Market rents are assumed at 2-10% discount to 80% gross rents on two and three bedroom units. There are 9.6% market units, and therefore pro forma cannot assume premiums over highest AMI gross rent.

Underwriter's rent schedule is updated with 2020 HTC Program Rents for Midland, increasing Potential Gross rent by $145K. NHTF rents are unchanged since 2020 NHTF rents have not yet been released.

Based upon the market rents achieved at THF Palladium, Subject is likely to achieve higher premiums during times of strong oil production. If we assumed the Palladium THF market rents then annual income would increase $115k and DCR would be 1.19. During times of low oil production, Midland's economy contracts; if we assume gross 60% rents for the 73 70%, 80% and market units, DCR would decrease to 1.08 and project would be infeasible.

Applicant's expenses are 9.1% lower than Underwriter's and therefore, Underwriter's pro forma is used for analysis. This is mainly due to the water/sewer/trash (WST) expense. Applicant assumes $542/unit whereas Underwriter assumes $930/unit. The $930 is the per unit amount of co-developer's THF Palladium Midland (236 units, less than 3 miles away) 2018 year end operating statement. Applicant provided THF Palladium Midland's current budget, and for 2020 the WST plus electric budget is $1,158/unit, which is very similar to Underwriter's assumptions.

Per Applicant, Subject is a smaller and tighter site with less irrigation than THF Palladium, therefore they are projecting a 40% reduction in WST. Given the sites, density, and reported WST expense of other affordable properties in Midland and the known high WST costs in Midland, Underwriter assumes $930/unit. THF Palladium is 1.92 acres smaller than Subject and has large detention areas as well.

Underwriter removed the franchise expense as it is considered a partnership expense.

Expense ratio is low at 35%. This is not only due to the property tax exemption assumed since CPPFC is part of the ownership structure, but also due to market units being assumed near the 80% AMI level. If the tax exemption is not granted, the DCR would decrease to 1.00 and the project would not be feasible.

The project is underwritten at 18 units vacant, it breaks even with 42 vacant.

Deferred fee pays off in year 7 with a 15 year residual cash flow of $5.9M.

The FHA 221 (d)(4) loan is underwritten at a 3.7% interest rate; it is likely, given the current market, that the loan will close with a lower interest rate thereby reducing the annual debt service, improving debt coverage and increasing annual cash flow. If the rate decreases to 3.5%, DCR would increase to 1.17, deferred fee would pay off in year 6 and the 15 year residual cash flow would increase to $6.5M.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule:	3		Revisions to Annual Operating Expenses:	3

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$152,972/ac	$8,750/unit	**$2,100,000**	Contractor Fee	**$3,893,141**
Off-site + Site Work		$27,424/unit	**$6,581,838**	Soft Cost + Financing	**$6,847,477**
Building Cost	$95.27/sf	$88,443/unit	**$21,226,315**	Developer Fee	**$5,679,636**
Contingency	6.15%	$7,125/unit	**$1,710,065**	Reserves	**$2,283,518**

Total Development Cost	$209,675/unit	**$50,321,990**	**Rehabilitation Cost**	**N/A**

Qualified for 30% Basis Boost?	Located in QCT with < 20% HTC units/HH

Site Work:

Applicant's site work is estimated at $17.7k/unit; Underwriter utilized the HUD lender cost review amount of $23.4k/unit. Applicant's site work costs have been certified by a civil engineer and they have provided a CPA letter allocating the costs that should be included in eligible basis.

Site work includes general costs such as grading, concrete, utilities, etc. There is a large amount of earthen detention planned.

Applicant's amenity costs are $9.8k/unit and lender cost review amount is $5.4k/unit. The combined site work and amenities cost is similar, therefore costs may be allocated differently between these two line items by Applicant and lender cost reviewer. Site amenities include: pool with seating areas, a trellis and grill; basketball court, horseshoe pit, a playground, and a dog park.

Building Cost:

Applicant's building cost of $95.27/sf is used for analysis. Underwriter utilized the HUD lender cost review building cost of $99.30/sf.

Buildings are basic garden walk ups. Two bedroom units have plumbed islands and two and three bedroom units have double sinks in some bathrooms.

Contingency:

Underwriter moved $125k of soft cost contingency and half of the working capital reserve ($637k) to contingency. Contingency totals 6.15% of the allowable 7%.

Reserves:

Underwriter moved $637k of the $1.274M working capital reserve to contingency so reserves do not exceed the 12 month operating expense maximum. As underwritten, total reserves equal 10.5 months of operating expenses and debt service.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$50,321,990	**$43,543,876**	**$1,673,658**

Related-Party Contractor: No

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	3

UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	**Amount**	**Reservation Date**	**Priority**
Midland County Public Finance Corporation	$25,000,000	1/6/2020	Priority 3
Closing Deadline	**Bond Structure**		
7/4/2020	FHA 221(d)(4)/Short-Term Cash Collateralized		

Percent of Cost Financed by Tax-Exempt Bonds	77.7%

Comments:

RBC will purchase $25M in tax exempt bonds issued by Midland PFC, which will be cash-collateralized by a $31.85M taxable FHA 221(d)(4) mortgage. As construction draws on bonds are made, a simultaneous draw will be made on the FHA loan that replenishes cash in the trust estate. At conversion from interim, the cash collateral held by the trustee will be used to retire the bonds leaving the full $31.85M FHA taxable loan as the primary permanent debt.

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
PNC Bank - 221(d)(4)	Federal Loan	$25,000,000	1.45%	50%
PNC Bank - 221(d)(4)	Federal Loan	$6,850,000	3.70%	14%
PNC Bank	Bridge Loan	$9,146,509	4.64%	18%
TDHCA Multifamily Direct Loan	Surplus Cash	$1,259,975	0.00%	3%
PNC Bank	HTC	$2,918,917	$0.91	6%
Palladium/Compass Pointe GP PFC	Deferred Fee	$4,930,182		10%
		$50,105,583	**Total Sources**	

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**LTC**
PNC Bank - 221(d)(4)	$31,850,000	3.70%	40	40	$31,850,000	3.70%	40	40	63%
TDHCA MDL (75% Surplus Cash)	$1,259,975	0.00%	30	40	$1,259,975	0.00%	30	40	3%
Total	**$33,109,975**				**$33,109,975**				

Comments:

The FHA 221 (d)(4) loan is underwritten at a 3.7% interest rate with an additional 0.25% MIP. It is likely, given the current market, that the loan will close with a lower interest rate.

The $1,259,975 MF Direct Loan will be a construction-to-permanent loan at a 0% interest amortized over 30 years. FHA guidelines require any subordinate debt to be payable from surplus cash and only allows 75% of surplus cash to be dedicated to service the subordinate debt.

Pursuant to the TDHCA Direct Loan Rule §13.8(c)(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."

Pursuant to the TDHCA Direct Loan Rule §13.8(c)(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)".

$63k of 221(d)(4) below market loan interest used as MDL match (5% of loan).

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	**Amount**	**Rate**	**% Def**	**Amount**	**Rate**	**% TC**	**% Def**
PNC Bank	$14,530,196	$0.91		$14,530,196	$0.91	29%	
Palladium/Compass Pointe GP PFC	$2,681,819		47%	$2,681,819		5%	47%
Total	**$17,212,015**			**$17,212,015**			
				$50,321,990	**Total Sources**		

Credit Price Sensitivity based on current capital structure	
$1.078	Maximum Credit Price before the Development is oversourced and allocation is limited
$0.722	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	1

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$50,321,990
Permanent Sources (debt + non-HTC equity)	$33,109,975
Gap in Permanent Financing	$17,212,015

Possible Tax Credit Allocations:	**Equity Proceeds**	**Annual Credits**
Determined by Eligible Basis	$15,228,759	$1,673,658
Needed to Balance Sources & Uses	$17,212,015	$1,891,620
Requested by Applicant	$14,530,196	$1,596,885

	RECOMMENDATION	
	Equity Proceeds	**Annual Credits**
Tax Credit Allocation	**$14,530,196**	**$1,596,885**

	Amount	**Interest Rate**	**Amort**	**Term**	**Lien**
TDHCA Multifamily Direct Loan	**$1,259,975**	**0%**	**30**	**40**	**2**

Deferred Developer Fee	**$2,681,819**	**(47% deferred)**
Repayable in	**7 years**	

Comments:

Underwriter recommends the annual credit amount of $1,596,885 as requested by Applicant and the requested MDL award of $1,259,975 at 0%, amortized over 30 years, repayable from 75% of surplus cash and subject to a minimum 1.15 times inclusive debt coverage ratio.

Underwriter:	*Jeanna Adams*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Palladium at West Francis, Midland, 4% HTC/MDL #20400

LOCATION DATA	
CITY:	Midland
COUNTY:	Midland
Area Median Income	$90,700
PROGRAM REGION:	12

UNIT DISTRIBUTION					59.9%	Average Income	
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	80	33.3%	0	7	30%	-	0.0%
2	106	44.2%	0	9	40%	33	13.8%
3	54	22.5%	0	5	50%	11	4.6%
4	-	0.0%	0	0	60%	123	51.3%
5	-	0.0%	0	0	70%	25	10.4%
					80%	25	10.4%
					MR	23	9.6%
TOTAL	**240**	**100.0%**	**-**	**21**	**TOTAL**	**240**	**100.0%**

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	90.42%
APP % Acquisition	3.27%
APP % Construction	3.27%
Average Unit Size	928 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program (NHTF)		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 40%	$680	30%/30%	$484	7	1	1	750	$484	$45	$439	$0	$0.59	$439	**$3,073**	**$3,073**	$439	$0.59	$0	$1,290	$1.72	$1,565
TC 40%	$680			4	1	1	750	$680	$45	$635	($35)	$0.80	$600	**$2,400**	**$2,540**	$635	$0.85	$0	$1,290	$1.72	$1,565
TC 50%	$850			5	1	1	750	$850	$45	$805	($44)	$1.01	$761	**$3,805**	**$4,025**	$805	$1.07	$0	$1,290	$1.72	$1,565
TC 60%	$1,020			36	1	1	750	$1,020	$45	$975	($53)	$1.23	$922	**$33,192**	**$35,100**	$975	$1.30	$0	$1,290	$1.72	$1,565
TC 70%	$1,190			9	1	1	750	$1,190	$45	$1,145	($62)	$1.44	$1,083	**$9,747**	**$10,305**	$1,145	$1.53	$0	$1,290	$1.72	$1,565
TC 80%	$1,361			12	1	1	750	$1,361	$45	$1,316	($71)	$1.66	$1,245	**$14,940**	**$15,480**	$1,290	$1.72	($26)	$1,290	$1.72	$1,565
MR				7	1	1	750	$0	$45		NA	$1.72	$1,290	**$9,030**	**$9,030**	$1,290	$1.72	NA	$1,290	$1.72	$1,565
TC 40%	$817	30%/30%	$581	9	2	2	950	$581	$60	$521	$0	$0.55	$521	**$4,689**	**$4,689**	$521	$0.55	$0	$1,388	$1.46	$1,840
TC 40%	$817			6	2	2	950	$817	$60	$757	($43)	$0.75	$714	**$4,284**	**$4,542**	$757	$0.80	$0	$1,388	$1.46	$1,840
TC 50%	$1,021			4	2	2	950	$1,021	$60	$961	($54)	$0.95	$907	**$3,628**	**$3,844**	$961	$1.01	$0	$1,388	$1.46	$1,840
TC 60%	$1,225			58	2	2	950	$1,225	$60	$1,165	($64)	$1.16	$1,101	**$63,858**	**$67,569**	$1,165	$1.23	$0	$1,388	$1.46	$1,840
TC 70%	$1,429			9	2	2	950	$1,429	$60	$1,369	($75)	$1.36	$1,294	**$11,646**	**$12,321**	$1,369	$1.44	$0	$1,388	$1.46	$1,840
TC 80%	$1,634			8	2	2	950	$1,634	$60	$1,574	($246)	$1.40	$1,328	**$10,624**	**$11,104**	$1,388	$1.46	($186)	$1,388	$1.46	$1,840
MR				12	2	2	950	$0	$60		NA	$1.46	$1,388	**$16,656**	**$16,656**	$1,388	$1.46	NA	$1,388	$1.46	$1,840
TC 40%	$943	30%/30%	$699	5	3	2	1,150	$699	$74	$625	$0	$0.54	$625	**$3,125**	**$3,125**	$625	$0.54	$0	$1,760	$1.53	$2,520
TC 40%	$943			2	3	2	1,150	$943	$74	$869	($49)	$0.71	$820	**$1,640**	**$1,738**	$869	$0.76	$0	$1,760	$1.53	$2,520
TC 50%	$1,179			2	3	2	1,150	$1,179	$74	$1,105	($61)	$0.91	$1,044	**$2,088**	**$2,210**	$1,105	$0.96	$0	$1,760	$1.53	$2,520
TC 60%	$1,415			29	3	2	1,150	$1,415	$74	$1,341	($74)	$1.10	$1,267	**$36,743**	**$38,889**	$1,341	$1.17	$0	$1,760	$1.53	$2,520
TC 70%	$1,651			7	3	2	1,150	$1,651	$74	$1,577	($86)	$1.30	$1,491	**$10,437**	**$11,039**	$1,577	$1.37	$0	$1,760	$1.53	$2,520
TC 80%	$1,887			5	3	2	1,150	$1,887	$74	$1,813	($127)	$1.47	$1,686	**$8,430**	**$8,800**	$1,760	$1.53	($53)	$1,760	$1.53	$2,520
MR				4	3	2	1,150	$0	$74		NA	$1.53	$1,760	**$7,040**	**$7,040**	$1,760	$1.53	NA	$1,760	$1.53	$2,520
TOTALS/AVERAGES:				**240**			**222,800**				**($59)**	**$1.17**	**$1,088**	**$261,075**	**$273,119**	**$1,138**	**$1.23**	**($9)**	**$1,439**	**$1.55**	**$1,901**

ANNUAL POTENTIAL GROSS RENT:	$3,132,900	$3,277,430

STABILIZED PRO FORMA

Palladium at West Francis, Midland, 4% HTC/MDL #20400

	STABILIZED FIRST YEAR PRO FORMA													
	COMPARABLES				**APPLICANT**				**TDHCA**				**VARIANCE**	
	Database		**3 Midland comps**		**% EGI**	**Per SF**	**Per Unit**	**Amount**	**Amount**	**Per Unit**	**Per SF**	**% EGI**	**%**	**$**
POTENTIAL GROSS RENT						$1.17	$1,088	$3,132,900	$3,277,430	$1,138	$1.23		-4.4%	($144,530)
Application, Pet, Late and NSF							$17.60	$50,700						
Laundry, Vending, Cable							$2.50	$7,200						
Total Secondary Income							$20.10		$57,600	$20.00			0.5%	$300
POTENTIAL GROSS INCOME								$3,190,800	$3,335,030				-4.3%	($144,230)
Vacancy & Collection Loss							7.5% PGI	(239,310)	(250,127)	7.5% PGI			-4.3%	10,817
Rental Concessions								-	-				0.0%	-
EFFECTIVE GROSS INCOME								$2,951,490	$3,084,902				-4.3%	($133,412)

TH

General & Administrative	$82,404	$343/Unit	$86,152	$359	2.43%	$0.32	$298	$71,576	$82,404	$343	$0.37	2.67%	-13.1%	(10,828)
Management	$89,746	4.2% EGI	$115,672	$482	5.00%	$0.66	$615	$147,575	$154,245	$643	$0.69	5.00%	-4.3%	(6,670)
Payroll & Payroll Tax	$284,870	$1,187/Unit	$274,707	$1,145	9.82%	$1.30	$1,207	$289,776	$284,870	$1,187	$1.28	9.23%	1.7%	4,906
Repairs & Maintenance	$167,020	$696/Unit	$139,044	$579	4.81%	$0.64	$592	$142,045	$144,000	$600	$0.65	4.67%	-1.4%	(1,955)
Electric/Gas	$50,791	$212/Unit	$38,134	$159	1.69%	$0.22	$207	$49,793	$41,871	$174	$0.19	1.36%	18.9%	7,922
Water, Sewer, & Trash	$180,508	$752/Unit	$223,188	$930	4.41%	$0.58	$542	$130,043	$223,188	$930	$1.00	7.23%	-41.7%	(93,145)
Property Insurance	$85,406	$0.38 /sf	$80,159	$334	2.88%	$0.38	$354	$84,960	$85,406	$356	$0.38	2.77%	-0.5%	(446)
Property Tax (@ 0%) 1.8932	$117,783	$491/Unit	-	$0	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Reserve for Replacements	$62,795	$262/Unit	-	$0	2.44%	$0.32	$300	$72,000	$72,000	$300	$0.32	2.33%	0.0%	-
Supportive Services			-	$0	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees ($40/HTC unit)			-	$0	0.29%	$0.04	$36	$8,680	$8,680	$36	$0.04	0.28%	0.0%	-
Franchise Tax			-	$0	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TOTAL EXPENSES					**33.76%**	**$4.47**	**$4,152**	**$ 996,448**	**$1,096,664**	**$4,569**	**$4.92**	**35.55%**	**-9.1%**	**$ (100,216)**
NET OPERATING INCOME ("NOI")					**66.24%**	**$8.77**	**$8,146**	**$1,955,042**	**$1,988,238**	**$8,284**	**$8.92**	**64.45%**	**-1.7%**	**$ (33,196)**

CONTROLLABLE EXPENSES	$2,847/Unit		$3,235/Unit	

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Palladium at West Francis, Midland, 4% HTC/MDL #20400

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	Fee	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC Bank - 221(d)(4)	0.25%	1.24	1.22	1,606,424	3.70%	40	40	$31,850,000	$31,850,000	40	40	3.70%	$1,606,424	1.24	63.3%
TDHCA MDL (75% Surplus Cash)		1.24	1.22		0.00%	30	40	$1,259,975	$1,259,975	40	30	0.00%	$41,999	1.15	2.5%
CASH FLOW DEBT / GRANTS															
				$1,606,424	TOTAL DEBT / GRANT SOURCES			$33,109,975	$33,109,975	TOTAL DEBT SERVICE			$1,648,424	1.15	65.8%
NET CASH FLOW		$381,814	$348,618						TDHCA	NET OPERATING INCOME			$1,988,238	$339,815	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	
PNC Bank	LIHTC Equity	28.9%	$1,596,885	0.91	$14,530,196	$14,530,196	$0.91	$1,596,885	28.9%	$6,654	Applicant Request	
Palladium/Compass Pointe GP PFC	Deferred Developer Fees	5.3%	(47% Deferred)		$2,681,819	$2,681,819	(47% Deferred)		5.3%	Total Developer Fee:		$5,679,636
Additional (Excess) Funds Req'd		0.0%				$0			0.0%			
TOTAL EQUITY SOURCES		34.2%			$17,212,015	$17,212,015			34.2%			
TOTAL CAPITALIZATION					$50,321,990	$50,321,990			15-Yr Cash Flow after Deferred Fee:			$5,854,979

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$8,750 / Unit	$2,100,000	$2,100,000	$8,750 / Unit				0.0%	$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$4,236,999		$17,654 / Unit	$4,236,999	$5,621,292	$23,422 / Unit		$5,621,292		-24.6%	($1,384,293)
Site Amenities		$2,344,839		$9,770 / Unit	$2,344,839	$1,303,398	$5,431 / Unit		$1,303,398		79.9%	$1,041,441
Building Cost		$21,226,315	$95.27 /sf	$88,443/Unit	$21,226,315	$22,123,074	$92,179/Unit	$99.30 /sf	$22,123,074		-4.1%	($896,759)
Contingency		$948,065	3.41%	6.15%	$1,710,065	$1,710,065	5.89%	3.26%	$948,065		0.0%	$0
Contractor Fees		$3,893,141	13.54%	13.19%	$3,893,141	$3,893,141	12.66%	12.98%	$3,893,141		0.0%	$0
Soft Costs	0	$2,797,009		$12,649 / Unit	$3,035,759	$3,035,759	$12,649 / Unit		$2,797,009	$0	0.0%	$0
Financing	0	$2,417,872		$15,882 / Unit	$3,811,718	$3,811,718	$15,882 / Unit		$2,417,872	$0	0.0%	$0
Developer Fee	$0	$5,679,636	15.00%	14.70%	$5,679,636	$5,679,636	14.25%	14.52%	$5,679,636	$0	0.0%	$0
Reserves				11 Months	$2,283,518	$2,283,518	10 Months				0.0%	$0
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)	**$0**	**$43,543,876**		$209,675 / Unit	**$50,321,990**	**$51,561,601**	$214,840 / Unit		**$44,783,487**	**$0**	**-2.4%**	**($1,239,611)**
Acquisition Cost	$0				$0							
Contingency		$0			$0							
Contractor's Fee		$0			$0							
Financing Cost		$0										
Developer Fee	$0	$0			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$43,543,876**		$209,675/unit	**$50,321,990**	**$51,561,601**	$214,840/unit		**$44,783,487**	**$0**	**-2.4%**	**($1,239,611)**
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					**$50,321,990**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Palladium at West Francis, Midland, 4% HTC/MDL #20400

CREDIT CALCULATION ON QUALIFIED BASIS	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$43,543,876	$0	$44,783,487
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$43,543,876	$0	$44,783,487
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$56,607,039	$0	$58,218,533
Applicable Fraction	90.42%	90.42%	90.42%	90.42%
TOTAL QUALIFIED BASIS	$0	$51,182,198	$0	$52,639,257
Applicable Percentage	3.27%	3.27%	3.27%	3.27%
ANNUAL CREDIT ON BASIS	$0	$1,673,658	$0	$1,721,304
CREDITS ON QUALIFIED BASIS	$1,673,658		$1,721,304	

	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price $0.9099	Variance to Request	
Method	Annual Credits	Proceeds	Credit Allocation	Credits	Proceeds
Eligible Basis	$1,673,658	$15,228,759	----	----	----
Needed to Fill Gap	$1,891,620	$17,212,015	----	----	----
Applicant Request	$1,596,885	$14,530,196	**$1,596,885**	**$0**	**$0**

50% Test for Bond Financing for 4% Tax Credits

Tax-Exempt Bond Amount	**$31,850,000**	
Aggregate Basis Limit for 50% Test	$63,700,000	
	Applicant	**TDHCA**
Land Cost	$2,100,000	$2,100,000
Depreciable Bldg Cost	$38,864,990	$40,104,601
Aggregate Basis for 50% Test	**$40,964,990**	**$42,204,601**

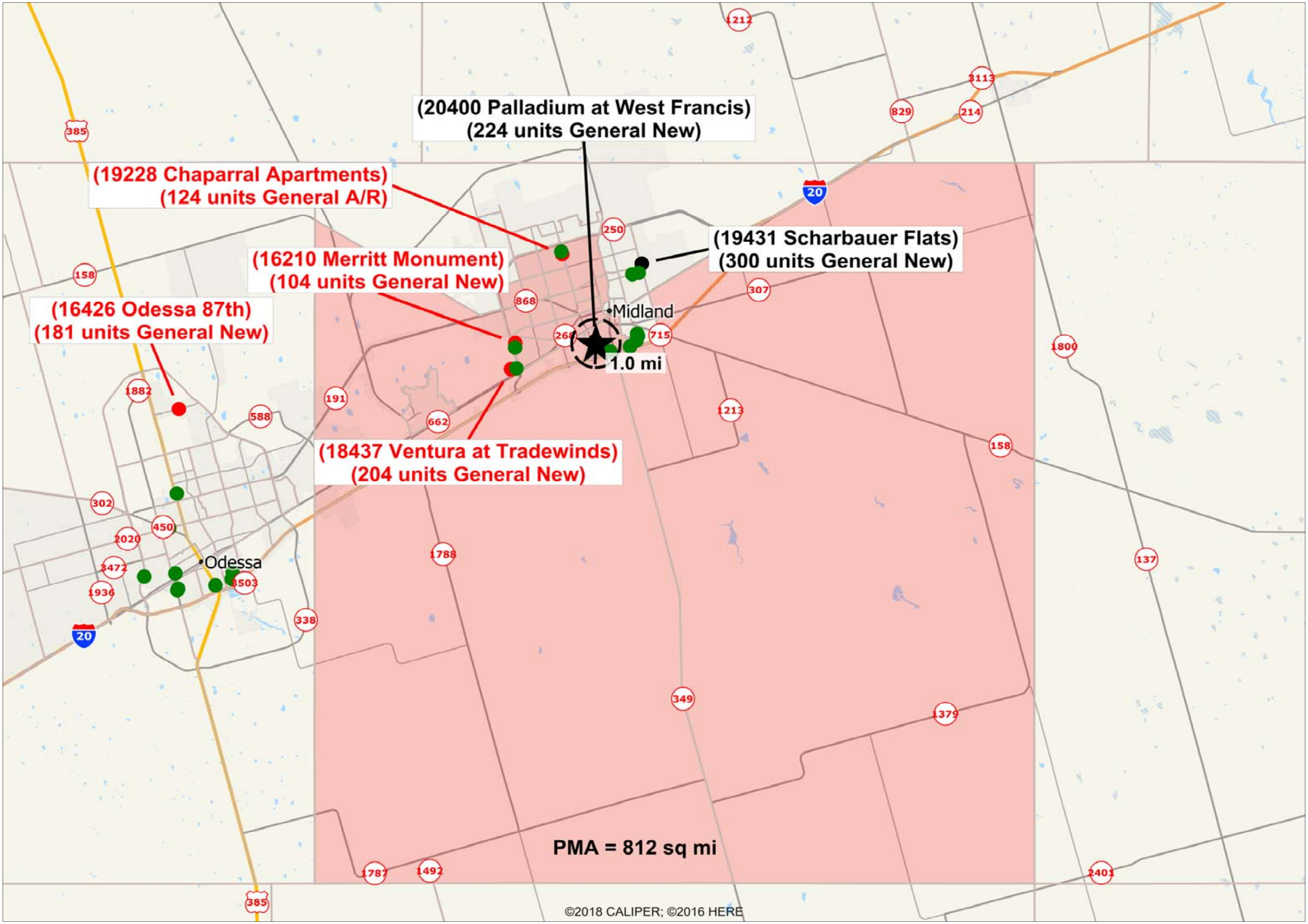
	Applicant	TDHCA
Percent Financed by Tax-Exempt Bonds	**77.7%**	**75.5%**
amount aggregate basis can increase before 50% test fails	$22,735,010 55.5%	$21,495,399 50.9%

Long-Term Pro Forma

Palladium at West Francis, Midland, 4% HTC/MDL #20400

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	$3,084,902	$3,146,601	$3,209,533	$3,273,723	$3,339,198	$3,686,744	$4,070,463	$4,494,120	$4,961,872	$5,478,308	$6,048,494	$6,678,026
TOTAL EXPENSES	3.00%	$1,096,664	$1,128,022	$1,160,289	$1,193,493	$1,227,661	$1,413,980	$1,629,016	$1,877,243	$2,163,837	$2,494,787	$2,877,024	$3,318,567
NET OPERATING INCOME ("NOI")		**$1,988,238**	**$2,018,579**	**$2,049,244**	**$2,080,230**	**$2,111,537**	**$2,272,764**	**$2,441,447**	**$2,616,877**	**$2,798,035**	**$2,983,520**	**$3,171,470**	**$3,359,459**
EXPENSE/INCOME RATIO		35.5%	35.8%	36.2%	36.5%	36.8%	38.4%	40.0%	41.8%	43.6%	45.5%	47.6%	49.7%
MUST -PAY DEBT SERVICE													
TOTAL DEBT SERVICE		$1,648,424	$1,647,538	$1,646,619	$1,645,665	$1,644,675	$1,639,140	$1,632,481	$1,624,472	$1,614,837	$1,603,248	$1,589,308	$1,572,540
DEBT COVERAGE RATIO		1.21	1.23	1.24	1.26	1.28	1.39	1.50	1.61	1.73	1.86	2.00	2.14
ANNUAL CASH FLOW		**$339,815**	**$371,041**	**$402,625**	**$434,566**	**$466,862**	**$633,624**	**$808,966**	**$992,405**	**$1,183,197**	**$1,380,272**	**$1,582,162**	**$1,786,919**
Deferred Developer Fee Balance		$2,342,004	$1,970,963	$1,568,338	$1,133,772	$666,911	$0	$0	$0	$0	$0	$0	$0
CUMULATIVE NET CASH FLOW		$0	$0	$0	$0	$0	$2,164,186	$5,854,979	$10,447,015	$15,978,665	$22,483,624	$29,989,079	$38,513,472

20400 Palladium West Francis PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

9a

BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding the adoption of a final order concerning termination of CEAP and CSBG funding and contracts, and CEAP Provider and CSBG Eligible Entity status, of Galveston County Community Action Council, Inc. (SOAH Docket #332-21-2743.HCA)

RECOMMENDED ACTION

WHEREAS, Galveston County Community Action Council, Inc. (Respondent) is the designated Eligible Entity to administer the Community Services Block Grant Program (CSBG), and is a designated utility assistance provider that administers the Comprehensive Energy Assistance Program (CEAP), in the four county service area including Brazoria, Fort Bent, Galveston, and Wharton Counties;

WHEREAS, in 2020, Respondent received an allocation of funding from the Department under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) as a supplement to its CEAP and CSBG funding;

WHEREAS, on August 10, 2020, the Department notified Respondent of its failure to timely expend its CEAP and CSBG funds, and requested that Respondent submit a Quality Improvement Plan (QIP) explaining how it would correct the deficiency;

WHEREAS, on September 8, 2020, Respondent submitted its QIP to the Department;

WHEREAS, on October 13, 2020, the Department rejected the proposed QIP for its CEAP and CSBG programs and notified Respondent that the Department would seek to reduce and terminate Respondent's CEAP funding and seek permission to begin proceedings to terminate Respondent's CSBG funding and Respondent's CSBG Eligible Entity Status;

WHEREAS, on November 24, 2020, Respondent voluntarily offered a second QIP;

WHEREAS, on December 3, 2020, the Department and Respondent agreed in writing to a second QIP (Second QIP), which provided that if Respondent successfully implemented the Second QIP by meeting all stipulated benchmarks for monthly pledges (CEAP) and expenditures (CSBG) for the months of November 2020, December 2020 and January 2021, the Department would postpone seeking a final decision on any action regarding Respondents failure to timely expend funds until March 11, 2021;

WHEREAS, Respondent met the CSBG expenditure goal of the Second QIP for the month of December 2020, but failed to meet its expenditure goals for November 2020 and January 2021;

WHEREAS, Respondent met the CEAP pledge goal of the Second QIP for the months of November and December 2020, but failed to meet its expenditure goal for January 2021;

WHEREAS, Respondent met only three of the six agreed benchmarks and thereby failed to meet all of the requirements of the Second QIP, as agreed in the December 3, 2020 letter;

WHEREAS, Department timely notified Respondent of its intent to seek permission from the Board at its March 11, 2021 meeting to begin the process to terminate the CSBG and CEAP funding and contracts for good cause and remove Respondent's Eligible Entity status for CSBG and utility provider status for CEAP;

WHEREAS, at the March 11, 2021 Board meeting, staff was authorized to take the necessary steps to reduce the Respondent's CEAP and CEAP CARES funding, and initiate proceedings at the State Office of Administrative Hearings (SOAH) to terminate Respondent's CSBG contracts and Eligible Entity Status, and terminate Respondent's CEAP contracts and utility provider status;

WHEREAS, the Department contracted with three temporary providers to provide 24.99% of Respondent's CEAP funding in Respondent's service area;

WHEREAS, all things proper and necessary were done to convene a video conference hearing on this matter at SOAH on September 13 and 17, 2021;

WHEREAS, on November 5, 2021, the SOAH administrative law judge (ALJ) issued a Proposal for Decision (PFD), a copy of which is attached, hereto as **Attachment A**, finding that the Department has good cause to terminate all of Respondent's funding and contracts for the CEAP and CSBG programs, and to terminate Respondent's CSBG Eligible Entity Status and CEAP utility provider status;

WHEREAS, Respondent filed exceptions to the PFD on November 19, 2021 and the Department filed a reply to those exceptions on November 22, 2021;

WHEREAS, the ALJ notified the parties by letter, a copy of which is attached, hereto as **Attachment B**, on November 29, 2021 that after reviewing the exceptions and replies filed no changes would be made to the PFD; and

WHEREAS, because of the rapid approach of the peak heating season in Respondent's service area, the potential for inefficiency, confusion and delay in the distribution of funds due to the uncertainty created by the presence of multiple apparent CEAP providers in the Respondent's service area (including

Respondent), the uncertainty of whether there will be a moratorium this winter on shutting off electric service for failure to pay, and the threat of significantly increased heating fuel costs, and the need to create immediate certainty in the four county service area as to who the eligible population should go to for CEAP services and funding, the Board should make this order effective upon signing, as authorized by Tex. Gov't Code §2001.144(a)(3).

NOW, therefore, it is hereby

RESOLVED, that the Board approves and accepts the Proposal for Decision submitted to the Governing Board by SOAH in this matter, accepts the findings of fact and conclusions of law, contained therein, as its own, makes additional findings of fact and conclusions of law concerning the necessity of making this order final upon signing, authorizes staff to make any non-substantive technical corrections, and hereby adopts the same as the order of this Board; and

FURTHER RESOLVED, that, in accordance with the good cause found by the order, that GCCAC's CEAP and CEAP CARES contracts, as well as their CEAP provider status, are hereby terminated, and that GCCAC's CSBG and CSBG CARES contracts and funding, and their CSBG Eligible Entity status, will terminate immediately upon the end of the review period outlined in 42 U.S.C. §9915(b)

BACKGROUND

Galveston County Community Action Council, Inc. (Respondent) is a designated Eligible Entity that administers the Community Service Block Grant Program (CSBG) and a designated utility assistance provider that administers the Comprehensive Energy Assistance Program (CEAP) for Brazoria, Fort Bend, Galveston, and Wharton counties. Additionally, in 2020, Respondent received an allocation of funding from the Texas Department of Housing and Community Affairs (Department) under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) as a supplement to its CEAP and CSBG funding.

The determinative issue in this Board Action Request is whether the Department has "good cause" to terminate Respondent's funding under its CEAP, CSBG and CARES Act contracts and to terminate Respondent's CSBG Eligible Entity status and utility provider status for CEAP . Under Texas law, "good cause," in the context of federal block grant funding, may be found for any of the following reasons:

1. Ineffective rendition of services to clients, including failure to perform on a contract and material failure to expend funds, constitute good cause for the reduction or non-renewal of the CEAP and CSBG contracts and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F), 2.202(b), .203(j).

2. Failure to comply with the terms of an agreement regarding CSBG, failure to provide CSBG services, or to meet appropriate standards, goals, or other requirements established by the State, constitute deficiencies, 10 Tex. Admin Code § 6.2(b)(16), for which failure to correct deficiencies constitutes good cause for proceedings to terminate its Eligible Entity status. 10 Tex. Admin Code § 2.203(e).

On August 10, 2020, the Department issued a letter to Respondent notifying it that it was failing to make timely expenditures of the CEAP and CSBG funds, and required Respondent to submit a Quality Improvement Plan (QIP) that would correct the problem. On September 8, 2020, Respondent provided the Department the requested QIP which the Department rejected. On November 24, 2020, Respondent volunteered to implement a second proposed QIP to address the timely expenditures issues. On December 3, 2020, the Department and Respondent agreed in writing to the corrective action plan, providing that if Respondent implemented its proposed corrective action plan by meeting the benchmarks for monthly total pledges and expenditures by January 31, 2021, the Department would postpone seeking a final decision on any action until March 11, 2021. Specifically, the benchmarks were:

- Fully achieving the monthly target amount of total pledges (in dollars) for CEAP and CEAP CARES of $84,000 for November, $42,000 for December, and $1,008,000 in January 2021; and
- Fully achieving the monthly target amount of expenditures for CSBG and

CSBG CARES of $275,000 for November, $275,000 for December, and $275,000 for January 2021.

Respondent made CSBG expenditures to satisfy the monthly target for December 2020, but only received pledges of $229,519 and $132,484 for CSBG and CSBG CARES in November 2020 and January 2021, respectively. Respondent met monthly CEAP pledge targets for November and December 2020, but only expended $302,099 for CEAP and CEAP CARES in January 2021 instead of the promised $1,008,000. Accordingly, Respondent met only half of the agreed goals thereby failing to meet all established benchmarks as agreed to in the corrective action plan.

The Department timely notified Respondent of its intent to seek termination of the CSBG and the CEAP contracts for good cause and to remove Respondent's Eligible Entity status for CSBG.

On March 11, 2021, the TDHCA Board approved staff's recommendation to grant the Department authority to terminate Respondent's 2020 CEAP and CEAP CARES Act contracts effective March 31, 2021, award up to 24.99% of these funds to one or more temporary providers, immediately terminate Respondent's ability to access the 2021 CEAP funding, authorize the Department to proceed with the procurement of a permanent CEAP provider(s) for Respondent's service area, and take all action necessary to initiate termination proceedings to remove the Eligible Entity status of Respondent under the CSBG Act. The Department entered into agreements with three temporary providers; Baker Ripley, Combined Community Action and EAC Gulf Coast. EAC Gulf Coast has expended its allotted 24.99% of Respondent's 2021 CEAP funding and has requested additional funding. Baker Ripley and Combined CA have not yet fully expended their 2021 allotments.

On July 27, 2021, the Department issued its notice of hearing to Respondent. A videoconference hearing convened on September 13 and 17, 2021, before the State Office of Administrative Hearings (SOAH). At the hearing, Staff presented testimony that showed that Respondent significantly delayed making necessary expenditures and pledges in a timely manner while disproportionately charging overhead and administrative expenses. Staff also presented evidence that Respondent had failed to meet the benchmark goals in its December 3, 2020, corrective action plan agreement with the Department. At the hearing Respondent testified concerning the circumstances surrounding the lack of expenditures in the last couple of years including, among others, the COVID-19 pandemic, accessing applicants, high staff turnover and disallowed costs.

Following the presentation of evidence, the record closed on September 17, 2021. Exceptions and Replies to Exceptions were filed. The ALJ issued the PFD without changes based on the exceptions and replies on November 29, 2021.

In addition to adopting the findings and conclusions made by the SOAH administrative law judge (ALJ), staff recommends that the Board make findings in support of making this order final on the date it is signed instead of further waiting for motions for rehearing and replies to motions for rehearing to be filed and ruled on. The motion for rehearing process would take at least an additional forty days from the date this order is signed, putting implementation of this order on hold through most of January 2022, and probably longer. Making an order final upon signing is permitted under Tex. Gov't Code §2001.144(a)(3) upon a finding of "imminent peril to the public health, safety, or welfare." Staff believes that the rapid approach of the peak heating season in Respondent's service area, the potential for inefficiency, confusion and delay in the distribution of funds due to the presence of multiple providers in the same service area after January 2022, the uncertainty of whether there will be a moratorium this winter on shutting off electric service for failure to pay, and the threat of significantly increased heating fuel costs constitute imminent peril to the health and welfare of CEAP recipients in the four county area served currently by temporary providers, and justifies making this order immediately effective upon signing to allow for the designation of new CEAP providers, along with a proportionate share of the remaining 2021 CEAP contract funds previously allotted to GCCAC, at this meeting.

Consistent with the above discussion, staff requests that the Board approve the accompanying Final Order and, in addition to adopting the ALJ's findings and conclusions, adopt the included proposed findings of fact and conclusions of law regarding the imminent peril to public health, welfare and safety necessary to make this order final upon signing.

TEXAS DEPARTMENT OF HOUSINGAND	§	**BEFORE THE**
COMMUNITY AFFAIRS,	§	
Petitioner	§	
	§	**TEXAS DEPARTMENT OF HOUSING**
v.	§	**AND COMMUNITY AFFAIRS**
	§	
GALVESTON COUNTY COMMUNITY	§	
ACTION COUNCIL, INC.,	§	
Respondent	§	

FINAL ORDER

General Remarks and official action taken:

On this 9th day of December, 2021, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") considered the matter of whether action should be taken against **GALVESTON COUNTY COMMUNITY ACTION COUNCIL, INC.,** ("Respondent"). The Department alleges that Respondent failed to timely expend funds awarded to it under the Department's Comprehensive Energy Assistance Program (CEAP) and the Community Services Block Grant program (CSBG), to assist eligible persons and families in its four county service area. The Department alleges that such conduct constitutes good cause to terminate: Respondent's CEAP and CEAP CARES contracts and funding; Respondent's CSBG and CSBG CARES contracts and funding; and Respondent's CSBG Eligible Entity status and provider status for CEAP.

The Governing Board of TDHCA has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.092; Tex. Admin. Code §1.13 and Texas Gov't Code Chapter 2105.

A contested case hearing before the State Office of Administrative Hearings was properly provided pursuant to Tex. Gov't Code §2306.051-.052 on September 13 and 17, 2021. A Proposal for Decision was served on all parties, who were given the opportunity to file exceptions and replies to the Proposal for Decision. Exceptions and replies to exceptions were filed. The Administrative Law Judge (ALJ) declined to change the Proposal for Decision (PFD) based on the filings.

The Governing Board of TDHCA, after review and consideration of the Proposal for Decision, adopts all findings of fact and conclusions of law, makes additional findings of fact and conclusions of law related to the conditions necessitating the finality of this order upon signing, and enters this Final Order:

FINDINGS OF FACT

1. Galveston County Community Action Council, Inc. (Respondent) is a designated Eligible Entity that administers the Community Service Block Grant Program (CSBG) and a designated utility assistance provider that administers the Comprehensive Energy Assistance Program (CEAP) for Brazoria, Fort Bend, Galveston, and Wharton counties. Additionally, in 2020, Respondent received an allocation of funding from the Texas Department of Housing and Community Affairs (Department) under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) as a supplement to its CEAP and CSBG funding.

2. Respondent and the Department entered into Contract No. 61190003050, for CSBG funding on or about January 8, 2019, to be effective January 1, 2019, and to conclude December 31, 2019. The contract was amended twice resulting in an increase of the final reimbursable allowable cost amount to $934,196, and three times to extend the expiration date to August 31, 2020.

3. Respondent and the Department entered into Contract No. 58190002989, for CEAP funding on or about March 20, 2019, to be effective February 21, 2019, and to conclude December 31, 2019. The contract was amended seven times, including a voluntary deobligation of funding by Respondent, and an expiration date of August 31, 2020.

4. Due to low levels of expenditure of 2019 CEAP contract funds by Respondent, and the need for those funds as demonstrated in other Texas counties, Respondent voluntarily deobligated a significant portion of its remaining funding effective May 2020.

5. On or about December 30, 2019, Respondent and the Department entered into Contract No. 61200003222 for CSBG funding for 2020 (2020 CSBG Contract). The 2020 CSBG Contract was amended three times resulting in a final contract amount of $987,241, and twice to change the expiration date to June 30, 2021.

6. On or about February 18, 2020, Respondent and the Department entered into Contract No. 58200003161 for CEAP funding for 2020 (2020 CEAP Contract). The 2020 CEAP Contract was effective January 1, 2020, and scheduled to conclude December 31, 2020. The contract was amended twice resulting in a final contract amount of $3,413,806.00, and extending the contract expiration date to March 31, 2021.

7. Respondent and the Department entered into Contract No. 58990003304, for CARES CEAP funding on or about June 9, 2020, to be effective March 27, 2020, and to conclude July 30, 2021, with total CEAP funding (including CARES funding) of $2,125,721.

8. Around June 10, 2020, Respondent and the Department entered into Contract No. 61200003343 for CARES CSBG funding to be effective March 27, 2020, and conclude July 31, 2021. Total CSBG funding (including CARES CSBG funding) was $1,347,722. The contract was amended once to allow for reimbursement of pre-award costs from January 20, 2020, to March 27, 2020.

9. Provisions in each of the contracts between Respondent and the Department defined cause for termination of the contract to include failure to expend funds in a timely manner, and also allowed for termination of the contract for a reasonable belief that the subcontractor cannot or will not comply with requirements of the contract.

10. On August 10, 2020, the Department issued a letter to Respondent notifying it of the deficiency of lack of expenditures of the CEAP or CSBG funds (Deficiency) and requesting submittals of Quality Improvement Plans (QIPs).

11. On September 8, 2020, Respondent provided the Department the requested QIPs.

12. Respondent failed to resolve the noted Deficiency through the QIP process.

13. On November 24, 2020, Respondent offered to implement a second QIP to address the Deficiency.

14. On December 3, 2020, the Department and Respondent agreed in writing to a reasonable corrective action plan, providing that if Respondent implemented its proposed November 24, 2020QIP by meeting the benchmarks for monthly total pledges and expenditures by January 31, 2021, the Department would postpone seeking a final decision on any action until March 11, 2021. Specifically, the benchmarks were:

- Fully achieving the monthly target amount of Total Pledges (in dollars) for CEAP and CEAP CARES of $84,000 for November, $42,000 for December, and $1,008,000 in January 2021; and

- Fully achieving the monthly target amount for CSBG and CSBG CARES of $275,000 for November, $275,000 for December, and $275,000 for January 2021.

15. Respondent obtained pledges to satisfy the monthly target for December 2020, but only received pledges of $229,519 and $132,484 for CSBG and CSBG CARES in November

2020 and January 2021, respectively.

16. Respondent met monthly expenditure targets for November and December 2020, but only expended $302,099 for CEAP and CEAP CARES in January 2021.

17. Respondent failed to meet all established benchmarks agreed to in the November 24, 2020 QIP.

18. The Department timely notified Respondent of its intent to terminate the CSBG and the CEAP contracts for good cause and to remove Respondent's eligible entity status for CSBG and provider status for CEAP. Respondent timely contested the Department's proposed action.

19. On July 27, 2021, Staff of the Department issued its notice of hearing to Respondent. The notice stated the time, place, and nature of the hearing; a statement of legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed by the state agency.

20. A videoconference hearing convened on September 13 and 17, 2021, before State Office of Administrative Hearings (SOAH) Administrative Law Judge Srinivas Behara. Staff was represented by its general counsel James "Beau" Eccles. Respondent appeared through legal counsel Billy A. Williams, Jr. and Thomas McQuage. Following presentation of evidence, the record closed on September 17, 2021.

Imminent Peril Findings of Fact:

21. The 2022 CEAP contract year begins January 1, 2022. Postponing the finality of this final order past the new year will create unnecessary inefficiencies and delay in distributing benefits because multiple providers will need to coordinate their efforts in distributing 2022 CEAP funds (including GCCAC), and will cause confusion in the service area as to what entity is able to provide CEAP funds and services. The same is true regarding CSBG funds and services, and since the termination of CSBG contracts and Eligible Entity status is subject to a separate federal review period, additional months of confusion and inefficiencies as to who will be the service area's CSBG provider in 2022 will result if the Board's order is not made final today.

22. The peak heating season is rapidly approaching in the GCCAC service area and the status of voluntary moratoria on cutting off electric service for failure to pay is

uncertain at this time.

23. Rising natural gas and other heating fuel prices intensifies the need to assure the rapid distribution of assistance to make utility payments in the GCCAC service area.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Gov't Code § 2306.092; Tex. Admin. Code § 1.13, and Tex. Gov't Code Chapter 2105.

2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority issue a proposal for decision with findings of fact and conclusions of law. Tex. Admin. Code § 1.13(b).

3. Proper and timely notice of the hearing was provided. Tex. Gov't Code §§ 2001.051-.052.

4. Staff had the burden of proof by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427.

5. Respondent is an Eligible Entity for CSBG. 42 U.S.C. § 9902(a)(l)(A).

6. Respondent's ineffective rendition of services to clients, including Respondent's failure to perform on a contract and material failure to expend funds, constitute good cause for the reduction or non-renewal of the CEAP and CSBG contracts and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F), 2.202(b), .203(j).

7. Respondent's failure to comply with the terms of an agreement regarding CSBG, failure to provide CSBG services, or to meet appropriate standards, goals, or other requirements established by the State, constitute Deficiencies. 10 Tex. Admin Code § 6.2(b)(16).

8. Respondent's failure to correct Deficiencies identified in the August 10, 2020 letter constitutes good cause for proceedings to terminate its Eligible Entity status. 10 Tex. Admin Code § 2.203(e).

9. Respondent's failure to meet pledge goals agreed to in the December 3, 2020 email agreement between the Department and Respondent constitutes good cause for reduction of funding or non-renewal of the CEAP or CEAP CARES contracts and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F), 2.202(b)(6)

10. Respondent's failure to meet pledge goals agreed to in the December 3, 2020 email agreement between the Department and Respondent constitutes good cause for termination of the 2020 CSBG Contract and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F).

11. Good cause exists to terminate: Respondent's CEAP and CEAP CARES contracts and funding; Respondent's CSBG and CSBG CARES contracts and funding; and Respondent's CSBG Eligible Entity status and CEAP provider status.

Imminent Peril Conclusions of Law:

12. Pursuant to Tex. Gov't Code §2001.144(a)(3), the rapid approach of the peak heating season in Respondent's service area, the potential for inefficiency, confusion and delay in the distribution of funds due to the presence of multiple providers in the same service area, the uncertainty of whether there will be a moratorium this winter on shutting off electric service for failure to pay, and the threat of significantly increased heating fuel costs constitute imminent perils to the health and welfare of individuals and families in GCCAC's four-county service area requiring CEAP and CSBG services.

13. Pursuant to Tex. Gov't Code §2001.144(a)(3), this order of the Texas Department of Housing and Community Affairs is final on the date it is signed.

IT IS THEREFORE ORDERED that, in accordance with the good cause found by this order, that GCCAC's CEAP and CEAP CARES contracts and funding, as well as their CEAP provider status, are hereby terminated, and their CSBG and CSBG CARES contracts and funding, and their CSBG Eligible Entity status, will terminate immediately upon the end of the review period outlined in 42 U.S.C. §9915(b)

IT IS FURTHER ORDERED that this Order is final and effective on the date signed.

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

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Approved by the Governing Board of TDHCA on December 9, 2021.

By: ______________________________
Name: Leo Vasquez
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 9th day of December, 2021, personally appeared
Leo Vasquez, 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 9th day of December, 2021, 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

ATTACHMENT A

PROPOSAL FOR DECISION

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

November 5, 2021

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

VIA E-FILE TEXAS

RE: Docket No. 332-21-2743.HCA; Texas Department of Housing and Community Affairs v. Galveston County Community Action Council, Inc.

Dear Mr. Wilkinson:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507, a SOAH rule which may be found at soah.texas.gov.

Sincerely,

Srinivas Behara
Administrative Law Judge

VB/eh
Enclosure
xc: James Eccles, General Counsel, Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, TX 78701 (with 1 CD) - **VIA EFILE TEXAS and INTERAGENCY MAIL**
Billy A. Williams, Jr., P.O. Box 523, Galveston, TX 77553-0523 – **VIA EFILE TEXAS**

SOAH DOCKET NO. 332-21-2743.HCA

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, Petitioner	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
GALVESTON COUNTY COMMUNITY ACTION COUNCIL, INC., Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Department of Housing and Community Affairs (Department) brought this enforcement action against Galveston County Community Action Council, Inc. (Respondent), alleging failure to comply with program objectives and federal and state requirements for two block grant funded programs: (1) the Comprehensive Energy Assistance Program (CEAP), and (2) the Community Service Block Grant (CSBG). After considering the evidence, applicable law, and the arguments of counsel, the Administrative Law Judge (ALJ) finds good cause exists to terminate Respondent's contracts, funding, and eligibility status for CEAP and CSBG.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There were no contested issues of notice or jurisdiction in this proceeding. Therefore, those matters are set out in the findings of fact and conclusions of law without further discussion here.

The hearing was held by videoconference on September 13 and 17, 2021, before State Office of Administrative Hearings (SOAH) ALJ Srinivas Behara. Staff was represented by its general counsel James Eccles. Respondent appeared through counsel Billy A. Williams, Jr. and Thomas McQuage. Following presentation of evidence, the record closed on September 17, 2021.

II. UNDISPUTED BACKGROUND AND APPLICABLE LAW

A. CEAP and CSBG Funds

The Department is authorized to administer certain federal block grant funds received by the State of Texas.[1] Relevant here, from 2019-2021, the Department received federal block grant funds for two of its community affairs programs, the CEAP and the CSBG, pursuant to the Community Services Block Grant Act, 42 U.S.C. § 9901 et seq., and the Low-Income Home Energy Assistance Act of 1981, PL-97-35. The State of Texas has delegated authority to the Department to administer those funds.[2]

The CSBG is designed to lessen poverty in communities through grant funding for services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services and/or health.[3] The CEAP is a utility assistance program designed to assist low income households in meeting their immediate energy needs and to encourage consumers to control energy costs for years to come through energy education.[4] In response to the COVID-19 pandemic, the federal government passed the Coronavirus Aid, Relief, and Economic Security Act, PL 116-136 (CARES), which supplemented 2020 CEAP and CSBG funding in response to the COVID-19 pandemic. These funds are distributed to Subrecipients under the CEAP and Subrecipients/Eligible Entities under the CSBG.[5] Subrecipients that enter into a

[1] *See generally* Tex. Gov't Code, Ch. 2105.

[2] *See* Tex. Gov't Code § 2306.092. The general framework for the Department's administration and enforcement of block grant funding, through its governing board, can be found in Title 10, Part 1, Chapters 1 and 2 of the Texas Administrative Code; 10 Texas Administrative Code Chapter 6, Subchapters B and C, specifically address the CSBG and the CEAP.

[3] *See* 10 Tex. Admin. Code § 6.201.

[4] *See* 10 Tex. Admin. Code § 6.301.

[5] For ease of reference in this Proposal for Decision, unless otherwise indicated, the term Subrecipient includes the term Eligible Entity when referring to Respondent. *See* 10 Tex. Admin. Code § 1.401(8) (defining Subrecipient as "an entity receiving . . . federal or state funds from the Department under Chapters 6, 7, or 20, or as identified by Contract . . . ."); 10 Tex. Admin. Code § 6.2(23) (defining Eligible Entity as "local organizations . . . designated by the federal and state government to administer programs created under the Federal economic Opportunity Act of 1964 . . . ."); *see also* 10 Tex. Admin. Code §§ 1.411(b), 6.2(23).

contract with the Department to administer programs are required to follow all legal requirements governing these programs.[6]

Through its governing board (Board), the Department has developed general policies and guidelines for administering CEAP and CSBG funds to a Subrecipient.[7] The Department executes a one-year term contract with a Subrecipient for distribution of CEAP and CSBG funds.[8] Each contract, along with the Department's administrative rules, contains strict requirements for distribution of funds to the community. The contracts provide that the Department may terminate the contract, in whole or in part, at any time the Department determines that there is "cause" for termination, which may include failure to comply with any term in the contract or reasonable belief that the Subrecipient cannot or will not comply with requirements of the contract.[9] The contracts further state that failure to expend the funds in a timely manner may result in either the termination of the contract or ineligibility to receive additional funding or a reduction in the original allocation of funds.[10]

Respondent, as a Subrecipient, entered into CEAP and CSBG contracts with the Department to distribute funds to eligible residents in Brazoria, Fort Bend, Galveston, and Wharton counties.[11] The following contracts and funding amounts are relevant here:

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[6] 10 Tex. Admin. Code §§ 2.102(7), .202(a).

[7] 10 Tex. Admin. Code §§ .204, .207, .303, .305. Unless modified by contract, the annual allocation has a beginning date of January 1 and an end date of December 31, regardless of the entity's fiscal year.

[8] 10 Tex. Admin. Code § 6.3

[9] *See, e.g.,* Pet. Ex. 3 at 3.

[10] *See, e.g.,* Pet. Ex. 3 at 3.

[11] Dept. Ex. 18 at 1 and 11.

	CEAP[12]	CSBG[13]
2020	$3,281,375	$987,241
2020 CARES Act	$2,018,176	$1,329,308

B. Deficiencies in Administering CEAP and CSGB Funds

The Department, in order to protect state or federal funds, may take reasonable and appropriate actions, including, but not limited to, terminating of a contract, in whole or in part, at any time the Department established there is good cause for termination.[14] The Department must first notify a Subrecipient in writing of any allegation that the Subrecipient has failed to comply with the Department's rules and/or the terms of a contract (Deficiency), which includes failure to expend contract funds to serve clients.[15] If a Subrecipient does not resolve the Deficiency or does not propose a reasonable corrective action plan, the uncorrected Deficiency will be considered a final decision that the entity has failed to comply with requirements in a review, and can be considered good cause for proceedings to terminate Subrecipient/Eligible Entity status or reduce funding.[16]

If the Department determines that the development and implementation of a Quality Improvement Plan (QIP) is an appropriate requirement and/or that additional training and

[12] Dept. Ex. 3 (2019 CEAP Contract); Dept. Ex. 6 (2020 CEAP CARES Contract); Dept. Ex. 5 (2020 CEAP Contract). Due to low levels of expenditure of 2019 CEAP contract funds by Respondent, and the need for those funds as demonstrated in other Texas counties, Respondent voluntarily deobligated a significant portion of its remaining funding effective May 2020.

[13] Dept. Ex. 7 (2020 CSBG Contract) (amended three times, resulting in expiration date of June 30, 2021); Dept. Ex. 8 (2020 CSBG CARES Contract); *see also* Dept Ex. 18 at 2

[14] 10 Tex. Admin. Code § 2.202(b)(6).

[15] 10 Tex. Admin. Code §§ 2.202(b)(6), .203(d); *see also* 10 Tex. Admin. Code §§ 6.2(b)(16), .304(g)

[16] 10 Tex. Admin. Code § 1.411(f)(1)(F), (H) (defining "good cause" for nonrenewal or reduction of funding to include the following: "ineffective rendition of services to clients, which may include Subrecipient's failure to perform on a contract and materially failing to extend funds" and "material failure of the services of the Subrecipient to meet the needs of groups or classes of individuals who are poor or underprivileged or have a disability.").

technical assistance are needed, that requirement will be stated in the final determination letter.[17] The Subrecipient will be provided 25 calendar days to submit a proposed QIP identifying dates for correction.[18] In general, the Deficiency should be cured within 60 calendar days from the date of the final determination letter.[19] The Department will either approve the proposed QIP or specify the reasons for disapproval.[20] The Subrecipient's inability to resolve the Deficiency within a reasonable timeframe may trigger the commencement of formal legal proceedings to terminate its Subrecipient status.[21]

Here, in a review of Respondent's performance and expenditure reports, the Department found that Respondent was not able to achieve a sufficient level of service to the community and was unable to provide a coordinated service plan that would be achievable to serve the four-county area. Specifically, on August 10, 2020, the Department issued a letter to Respondent notifying it of a Deficiency for lack of expenditures of CEAP or CSBG funds.[22] The Department indicated that the "lack of expenditures results in an insufficient number of clients receiving assistance. These funds are sitting unused while residents ... are in dire need of assistance."[23] For CEAP funds, the Department noted that, "[e]ven with the voluntary deobligation of ... 55% from its 2019 contract, only 75% of the adjusted remaining 2019 contract funds were reported as expended," and "only 9.36% of funds have been expended on the 2020 contract even though the contract is halfway through its term."[24] For CSBG funds, the Department highlighted that "[o]nly 67.5% of the 2019 contract has been reported as expended" and the "2020 contract totaling $977,072, which started

[17] 10 Tex. Admin. Code § 2.203(f).

[18] 10 Tex. Admin. Code § 2.203(f).

[19] 10 Tex. Admin. Code § 2.203(f).

[20] 10 Tex. Admin. Code § 2.203(g).

[21] 10 Tex. Admin. Code § 2.203(g).

[22] Pet. Ex. 11.

[23] Pet. Ex. 11 at 2.

[24] Pet. Ex. 11 at 2.

on January 1, 2020, has drawn no funds, nor has its CSBG CARES contract, totaling $1,346,722."[25] The Department requested submittals of QIPs by September 8, 2020, to address the lack of effective delivery of services for CEAP and CSBG funds.[26]

C. Respondent's Quality Improvement Plans

On September 8, 2020, Respondent timely provided the Department with QIPs attempting to address issues regarding spending for CSBG and CEAP.[27] By letters dated October 13, 2020, the Department reviewed the QIPs and determined that they did not resolve the Deficiency.[28] The Department determined that no further training and technical assistance were appropriate and that it had good cause to terminate and not renew the CSBG contracts; terminate Respondent's status as a provider; and reduce and not renew the CEAP contracts.[29] On October 20, 2020, the Department notified the United States Health and Human Services Department that Respondent had not been able to meet the acceptable levels of program assistance reaching clients under CEAP and CSBG and expenditures of CARES funding during the COVID-19 pandemic.

On November 24, 2020, Respondent offered to implement a second QIP.[30] Respondent noted that it is "going to come into compliance as we knowingly admit we have not done our part. This time, there are no excuses, the fault has and is with [Respondent]."[31] In an email communication, dated December 3, 2020, Robert Quintero, Respondent's Executive Director, and Bobby Wilkinson, the Department's Executive Director, agreed in writing that if Respondent implemented its proposed November 24, 2020 QIP by meeting the benchmarks for monthly total

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[25] Pet. Ex. 11 at 2.

[26] Pet. Ex. 11 at 2 and 3.

[27] Pet. Ex. 12.

[28] Pet. Ex. 13 at 1 and 3.

[29] Pet. Ex. 13 at 1 and 3.

[30] Pet. Ex. 15.

[31] Pet. Ex. 15 at 2.

pledges and expenditures by January 31, 2021, the Department would postpone seeking a final decision on any action until March 11, 2021.[32] The Department and Respondent agreed to the following terms:

> (1) to fully achieve the monthly target amounts for CEAP and CEAP CARES funds of $84,000 for November 2020; $42,000 for December 2020; and $1,008,000 for January 2021;
>
> (2) to fully achieve the monthly target amounts for CSBG and CSBG CARES funds of $275,000 for November 2020; $275,000 for December 2020; and $275,000 for January 2021;[33] and
>
> (3) for both programs, satisfaction of the benchmarks would be confirmed through monthly required reporting with the January 2021 report (due February 15) as the basis for any Board action in March 2021.

D. Department's Good Cause Assertion

If the Department determines that a QIP is not appropriate or that the QIP has not been met within the specified and approved deadline agreed to within the QIP, the Department will contact the Eligible Entity to notify it that the Department will be requesting authorization to pursue a hearing at SOAH.[34] SOAH then issues a proposal for decision to the Department's Board recommending whether there is cause to terminate or reduce funding to the Eligible Entity.[35]

At the Department's Board meeting on March 11, 2021, the Department indicated that "[Respondent] failed to meet all of the established benchmarks and despite given ample training and technical assistance, and the Department providing this additional time period in which to exhibit performance, [Respondent] has been unable to exhibit their ability to effectively serve its

[32] Pet. Ex. 16.

[33] Pet. Ex. 16.

[34] 10 Tex. Admin. Code § 2.203(i).

[35] 10 Tex. Admin. Code § 2.203(j).

clients."[36] The Department further presented data, based on Respondent's submitted reports, showing that Respondent only met two of the three benchmarks set for CEAP and CEAP CARES funds and only one of three benchmarks set for CSBG and CSBG CARES funds.[37] The Department indicated that "not only were the benchmarks not met, but performance did not reflect a trend of consistently increasing improvement as the most recent month of performance was the poorest performance of the three months."[38]

The Department further asserted that, "[c]onsidering the length of time and the many opportunities that [Respondent] has had to improve its utility assistance delivery to low-income persons ... and the amount of training and technical assistance provided by the Department ... in the past three years . . . ," there was no further assistance that could be provided and "delays in terminating [Respondent's] CEAP contracts create unacceptable risk to the Department as the likelihood of returned federal funds will be high not to mention that eligible households in need of utility assistance will go unassisted."[39] The Department provided a notice of termination of the 2020 CEAP contract, the 2020 CEAP CARES contract, 2020 CSBG contract, and the 2020 CSBG CARES contract for good cause. The Department also notified Respondent of the intent to remove its Eligible Entity status.[40]

Respondent timely contested the proposed termination, which led to this case being referred to SOAH. The purpose of this proceeding is to determine whether there is good cause to terminate the Department's funding to Respondent. Staff has the burden of proof by a preponderance of the evidence.[41] In refuting good cause, Respondent does not dispute the issues

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[36] Pet. Ex. 18 at 2 and 3.

[37] Pet. Ex. 18 at 6, 7, and 16.

[38] Pet. Ex. 18 at 16.

[39] Pet. Ex. 18 at 7.

[40] Pet. Ex. 18.

[41] 1 Tex. Admin. Code § 155.427; *Granek v. Texas St. Bd. of Med. Examn'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

regarding the failure to expend funds but contends there were extraordinary, unforeseen circumstances that caused the issues, which included the COVID-19 pandemic, the lack of applicants, and the February 2021 Texas winter storm.

III. EVIDENCE

At the hearing, Staff offered eighteen exhibits, which were admitted into evidence without objection, and called one witness, Cathy Collingsworth, to testify. Respondent offered four exhibits, which were admitted without objection, and called two witnesses to testify: Robert Quintero and Sivam Mahasivam.

Ms. Collinsworth, the manager of Fiscal and Reporting in the Community Affairs Division at the Department, testified about CEAP, CSBG, and CARES funding in general; the importance of prompt and efficient distribution of funds given the immediate nature of households needs; and the contracts requirements at issue between Respondent and the Department. She testified that as a Subrecipient of the funds under the contracts, Respondent was required to provide services to eligible households in the four-county service area of Galveston, Brazoria, Fort Bend and Wharton counties. Ms. Collingsworth noted that funds under CEAP provide energy assistance and funds under CSBG provide assistance for basic needs, like food, clothing, utility, school tuition and books, and cleaning supplies. She further testified that under CEAP, the eligible population is households that are at or below 150% of federal poverty guidelines and under the CSBG—at or below 200% of federal poverty guidelines.

Ms. Collinsworth noted that Subrecipients such as Respondent were required to submit expenditure reports, which her department then reviewed to confirm if they either met or exceeded contractual spending requirements. According to Ms. Collingsworth, based on the monthly expenditure reports submitted by Respondent for the 2019 and 2020 CEAP Contracts, Respondent had not made any expenditures until August 2019 and September 2020, respectively. Ms. Collinsworth stated that by May 2020, Respondent was subject to deobligation, which meant

Respondent voluntarily relinquished some of its funding because it was not able to fully extend the 2019 CEAP Contract. Those funds were sent to other providers so that overall funding would not be forfeited by the State of Texas. Ms. Collinsworth further noted that administration charges (*e.g.*, rent, utilities, and salaries) are earned as a percentage of direct client assistance/services (*e.g.*, telephone bills, utilities bills, etc.) provided to clients. According to Ms. Collingsworth, however, Respondent claimed its administration charges under the 2020 CEAP Contract for May, June, July, and August 2020, when it did not provide direct client assistance on the contract for those months. Ms. Collinsworth indicated that by December 2020, Respondent was "in the hole" as there was an imbalance between the amounts of direct client assistance funds available and the amounts Respondent claimed to justify its overhead and administration charges.

According to Ms. Collinsworth, Respondent's initial QIPs were rejected because Respondent admitted its funds would not be spent but Respondent did not provide any real plan on how it was going to resolve the Deficiency. Ms. Collingsworth stated that for Respondent's November 2020 QIP, Respondent was allowed to commit to "pledges," which could be made going forward, rather than actual expenditures—which were typically required by the Department.

Ms. Collingsworth testified that, based on the reports submitted by Respondent, Respondent did not meet the benchmarks it set out in the November 24, 2020 QIP for CSBG, CEAP, and CEAP CARES funds. For example, in January 2021, Respondent committed to pledges of $1,008,000 but only received about $302,000 in pledges. Ms. Collingsworth testified that for the four-county service area, Respondent's commitment was not that high and could have been met. Ms. Collingsworth further noted that for CSBG CARES funds, Respondent met the pledges for December 2020, but did not meet its own benchmarks for November 2020 and January 2021. Ms. Collingsworth stated that the Department was able to move 24.99% of Respondent's CEAP funds to temporary providers. According to Ms. Collingsworth, the Department could not deobligate Respondent's CSBG funds as long as Respondent maintained its Eligible Entity status.

Mr. Quintero, Respondent's Executive Director, admitted that funds under the Respondent's 2020 contracts were not expended timely. He testified about circumstances surrounding the lack of funds expenditure in the last couple of years. Mr. Quintero testified about the impact of COVID-19 pandemic on Respondent's operations, which included difficulties accessing and processing potential applicants in need; high staff turnover; and employees having to quarantine while ensuring proper and complete application submittals. According to Mr. Quintero, for the past few years, the Department began scrutinizing and disallowing costs for Respondent's clients who had missing or incomplete applications and files. For example, in 2017, the Department disallowed almost $300,000, and the Department offered training to Respondent to better screen applications and documentation. Mr. Quintero also indicated that very little advice or help was received from the Department during the pandemic, despite begin awarded additional CARES funds.

Mr. Quintero testified that Respondent began experiencing problems with funds expenditure back in 2018 due to the limitation of making pledges on a month-to-month basis and additional funds allocation from the Department. Mr. Quintero acknowledged that the Deficiency identified by the Department was not whether Respondent could eventually expend the funds under the contracts but whether Respondent timely and efficiently expended the funds. Mr. Quintero admitted that Respondent did not meet the benchmarks it set up in its November 2020 QIP. According to Mr. Quintero, Respondent had not started to provide direct client assistance on the 2020 CEAP Contract and the 2020 CSBG Contract until September 2020, and on the 2020 CSBG CARES Contract until July 2020. Mr. Quintero also did not dispute that Respondent started to expend its administrative and overhead services charges under the 2020 CEAP Contract in May 2020. Finally, Mr. Quintero noted that towards the end of 2020, Respondent had already expended all of those administrative and overhead services charges but without expending all the funds directly to the community.

According to Mr. Quintero, by September 2021, Respondent had completed expenditures under its 2019 CSBG Contract and 2020 CSBG CARES Contract, and Respondent intended to complete the expenditures under the 2020 CSBG Contract by December 31, 2021. Mr. Quintero stated that because Respondent did not have funds to administer CEAP, no further expenditures for that contract could be made. Mr. Quintero described the efforts Respondent took to expend the funds, which included the following: working every food distribution center in the area; assembling street teams; social media outreach; attending all public services' Zoom meetings; advertising through google ads; purchasing billboards in depressed areas; and collaborating with local charities to send out applications. Mr. Quintero acknowledged that Respondent was not meeting its contractual spending requirements fast enough but that it was doing what it could to expedite the spending.

Mr. Mahasivam, Respondent's part-time Chief Financial Officer, testified mainly about issues with expenditures of Respondent's 2019 CEAP Contract. Mr. Mahasivam stated that, in his opinion, the reason why Respondent was behind on the expenditures under the 2019 CEAP Contract was because the full allocation (i.e., receipt of the funds) came in September 2019, and it was essentially impossible for Respondent to expend the funds in the three remaining months. Mr. Mahasivam testified that because of the September 2019 allocation and disruption in the delivery system, it would take Respondent several years to get back on track for CEAP. According to Mr. Mahasivam, Respondent also got behind on the 2019 CEAP Contract because all administrative and program services charged under the contract were made in contemplation to spend fully on the contract, which did not happen. Ms. Mahasivam indicated that Respondent was placed in a difficult position between choosing to lay off staff or improving its production, both of which were complicated because of the pandemic.

IV. ANALYSIS

The preponderant evidence demonstrated that Staff met its burden to prove good cause for termination of Respondent's CEAP and CSBG funding and contracts under the following provisions: 10 Texas Administrative Code § 1.411(f)(1)(F) (good cause may include Subrecipient's failure to perform on a contract and materially failing to extend funds); 10 Texas Administrative

Code § 2.202(b)(6) (good cause may include not providing services to clients or failing to expend contract funds to serve clients); 10 Texas Administrative Code § 2.203(e) (failure to resolve an identified Deficiency or propose a reasonable corrective action plan); and the contracts' termination provisions, which allow termination for failure to comply with any term in the contract or reasonable belief that the Subrecipient cannot or will not comply with requirements of the contract, or failure to expend the funds in a timely manner may result in termination of the contract.[42]

On July 25, 2019, April 23, 2020, and June 25, 2020, the Department approved estimated awards of $3,281,375 in 2020 CEAP funds, $2,018,176 in CEAP CARES funds, respectively, to Respondent. On August 10, 2020, due to continued inadequate performance in serving clients and expending funds, the Department provided Respondent until September 8, 2020, to submit documentation to immediately address the lack of effective delivery of services to Respondent's four-county service area. After disapproving Respondent's QIPs, the Department agreed to allow Respondent to implement its November 2020 QIP with proposed benchmarks before making any final decision. Respondent admitted that "this time, there are no excuses, the fault has and is with [Respondent]." Accordingly, although Respondent articulated numerous efforts it took to expend the funds, its additional excuses for not meeting the benchmarks were not persuasive. Plainly stated, despite the agreement to extend the time for Respondent to meet its contractual obligations, Respondent did not meet all the benchmarks it set in the QIP. Moreover, as shown in *figure a* below, the evidence supported the Department's conclusion that "not only were the benchmarks not met, but performance did not reflect a trend of consistently increasing improvement as the most recent month of performance [January 2021 for CSGB and CEAP] was the poorest performance of the three months."[43]

[42] Pet. Ex. 5 at 3.

[43] Pet. Ex. 18 at 16.

Fund	Month	Performance Benchmark (Expenditures)	Actual Expenditures	Benchmark Met?
CSBG and CSBG CARES	November 2020	$275,000	$229,519	No
CSBG and CSBG CARES	December 2020	$275,000	$316,020	Yes
CSBG and CSBG CARES	January 2021	$275,000	$132,484	No
Fund	**Month**	**Performance Benchmark (Pledges)**	**Actual Pledges**	**Benchmark Met?**
CEAP and CEAP CARES	November 2020	$84,000	$142,846	Yes
CEAP and CEAP CARES	December 2020	$42,000	$174,855	Yes
CEAP and CEAP CARES	January 2021	$1,008,000	$302,099	No

figure a

Based on the above analysis, the ALJ concludes that based on Respondent's failure to timely expending funds, Staff met its burden to demonstrate good cause to terminate Respondent's CEAP and CSBG contracts; reduce funding or non-renew the funding; and terminate Respondent's CSBG Eligible Entity status and CEAP provider status.

V. FINDINGS OFFACT

1. Galveston County Community Action Council, Inc. (Respondent) is a designated Eligible Entity that administers the Community Service Block Grant Program (CSBG) and a designated utility assistance provider that administers the Comprehensive Energy Assistance Program (CEAP) for Brazoria, Fort Bend, Galveston, and Wharton counties. Additionally, in 2020, Respondent received an allocation of funding from the the Texas Department of Housing and Community Affairs (Department) under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) as a supplement to its CEAP and CSBG funding.

2. Respondent and the Department entered into Contract No. 61190003050, for CSBG funding on or about January 8, 2019, to be effective January 1, 2019, and to terminate

December 31, 2019. The contract was amended twice resulting in an increase of the final reimbursable allowable cost amount to $934,196, and three times to extend the expiration date to August 31, 2020.

3. Respondent and the Department entered into Contract No. 58190002989, for CEAP funding on or about March 20, 2019, to be effective February 21, 2019, and to terminate December 31, 2019. The contract was amended seven times, including a voluntary deobligation of funding by Respondent, and an expiration date of August 31, 2020.

4. Due to low levels of expenditure of 2019 CEAP contract funds by Respondent, and the need for those funds as demonstrated in other Texas counties, Respondent voluntarily deobligated a significant portion of its remaining funding effective May 2020.

5. On or about December 30, 2019, Respondent and the Department entered into Contract No. 61200003222 for CSBG funding for 2020 (2020 CSBG Contract). The 2020 CSBG Contract was amended three times resulting in a final contract amount of $987,241, and twice to change the expiration date to June 30, 2021.

6. On or about February 18, 2020, Respondent and the Department entered into Contract No. 58200003161 for CEAP funding for 2020 (2020 CEAP Contract). The 2020 CEAP Contract was effective January 1, 2020, and scheduled to terminate December 31, 2020. The contract was amended twice resulting in a final contract amount of $3,413,806.00, and extending the contract expiration date to March 31, 2021.

7. Respondent and the Department entered into Contract No. 58990003304, for CARES CEAP funding on or about June 9, 2020, to be effective March 27, 2020, and to terminate July 30, 2021, with total CEAP funding (including CARES funding) of $2,125,721.

8. Around June 10, 2020, Respondent and the Department entered into Contract No. 61200003343 for CARES CSBG funding to be effective March 27, 2020, and terminate July 31, 2021. Total CSBG funding (including CARES CSBG funding) was $1,347,722. The contract was amended once to allow for reimbursement of pre-award costs from January 20, 2020, to March 27, 2020.

9. Provisions in each of the contracts between Respondent and the Department defined cause for termination of the contract to include failure to expend funds in a timely manner, and also allowed for termination of the contract for a reasonable belief that the subcontractor cannot or will not comply with requirements of the contract.

10. On August 10, 2020, the Department issued a letter to Respondent notifying it of the deficiency of lack of expenditures of the CEAP or CSBG funds (Deficiency) and requesting submittals of Quality Improvement Plans (QIPs).

11. On September 8, 2020, Respondent provided the Department the requested QIPs.

12. Respondent failed to resolve the noted Deficiency through the QIP process.

13. On November 24, 2020, Respondent offered to implement a second QIP to address the Deficiency.

14. On December 3, 2020, the Department and Respondent agreed in writing to a reasonable corrective action plan, providing that if Respondent implemented its proposed November 24, 2020QIP by meeting the benchmarks for monthly total pledges and expenditures by January 31, 2021, the Department would postpone seeking a final decision on any action until March 11, 2021. Specifically, the benchmarks were:

- Fully achieving the monthly target amount of Total Pledges (in dollars) for CEAP and CEAP CARES of $84,000 for November, $42,000 for December, and $1,008,000 in January 2021; and

- Fully achieving the monthly target amount for CSBG and CSBG CARES of $275,000 for November, $275,000 for December, and $275,000 for January 2021.

15. Respondent obtained pledges to satisfy the monthly target for December 2020, but only received pledges of $229,519 and $132,484 for CSBG and CSBG CARES in November 2020 and January 2021, respectively.

16. Respondent met monthly expenditure targets for November and December 2020, but only expended $302,099 for CEAP and CEAP CARES in January 2021.

17. Respondent failed to meet all established benchmarks agreed to in the November 24, 2020 QIP.

18. The Department timely notified Respondent of its intent to terminate the CSBG and the CEAP contracts for good cause and to remove Respondent's eligible entity status for CSBG and provider status for CEAP. Respondent timely contested the Department's proposed action.

19. On July 27, 2021, Staff of the Department issued its notice of hearing to Respondent. The notice stated the time, place, and nature of the hearing; a statement of legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed by the state agency.

20. A videoconference hearing convened on September 13 and 17, 2021, before State Office of Administrative Hearings (SOAH) Administrative Law Judge Srinivas Behara. Staff was represented by its general counsel James Eccles. Respondent appeared through counsel Billy A. Williams, Jr. and Thomas McQuage. Following presentation of evidence, the record closed on September 17, 2021.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Gov't Code § 2306.092; Tex. Admin. Code § 1.13, and Tex. Gov't Code Chapter 2105.

2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority issue a proposal for decision with findings of fact and conclusions of law. Tex. Admin. Code § 1.13(b).

3. Proper and timely notice of the hearing was provided. Tex. Gov't Code §§ 2001.051-.052.

4. Staff had the burden of proof by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427.

5. Respondent is an Eligible Entity for CSBG. 42 U.S.C. § 9902(a)(l)(A).

6. Respondent's ineffective rendition of services to clients, including Respondent's failure to perform on a contract and material failure to expend funds, constitute good cause for the reduction or non-renewal of the CEAP and CSBG contracts and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F), 2.202(b), .203(j).

7. Respondent's failure to comply with the terms of an agreement regarding CSBG, failure to provide CSBG services, or to meet appropriate standards, goals, or other requirements established by the State, constitute Deficiencies. 10 Tex. Admin Code § 6.2(b)(16).

8. Respondent's failure to correct Deficiencies identified in the August 10, 2020 letter constitutes good cause for proceedings to terminate its Eligible Entity status. 10 Tex. Admin Code § 2.203(e).

9. Respondent's failure to meet pledge goals agreed to in the December 3, 2020 email agreement between the Department and Respondent constitutes good cause for reduction of funding or non-renewal of the CEAP or CEAP CARES contracts and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F), 2.202(b)(6).

10. Respondent's failure to meet pledge goals agreed to in the December 3, 2020 email agreement between the Department and Respondent constitutes good cause for termination of the 2020 CSBG Contract and funding. 10 Tex. Admin. Code §§ 1.411(f)(1)(F).

11. Good cause exists to terminate: Respondent's CEAP and CEAP CARES contracts and funding; Respondent's CSBG and CSBG CARES contracts and funding; and Respondent's CSBG Eligible Entity status and CEAP provider status.

SIGNED November 5, 2021.

/s/ Srinivas Behara
Administrative Law Judge
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT B

EXCEPTIONS LETTER

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

November 29, 2021

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

VIA E-FILE TEXAS

RE: Docket No. 332-21-2743.HCA; Texas Department of Housing and Community Affairs v. Galveston County Community Action Council, Inc.

Dear Mr. Wilkinson:

I issued a Proposal for Decision (PFD) in this case on November 5, 2021. Respondent timely filed exceptions to the PFD, and Petitioner timely replied. Respondent does not refute any specific findings of fact or conclusions of law contained in the PFD, and Respondent does not point to any factual inaccuracy in the record evidence. Instead, without specific references to evidence in the record, Respondent seeks to add context to or clarify the summary of evidence contained in the PFD. The exceptions are not supported by the record evidence and, even if adopted, would not change the analysis as to whether good cause exists to terminate Respondent's contracts. Accordingly, I recommend that the exceptions be rejected and the PFD should be adopted as written. Because SOAH has concluded its involvement in the matter, the case is being returned to the Texas Department of Housing and Community Affairs. *See* Tex. Gov't Code § 2003.051(a).

Regards,

Srinivas Behara
Administrative Law Judge

VB/eh
Enclosure
xc: James Eccles, General Counsel, Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, TX 78701 - **VIA EFILE TEXAS** Billy A. Williams, Jr., P.O. Box 523, Galveston, TX 77553-0523 – **VIA EFILE TEXAS**

9b

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action on the selection of subrecipients to administer the Low Income Home Energy Assistance Program Comprehensive Energy Assistance Program in Brazoria, Fort Bend, Galveston, and Wharton counties (the service area previously served by Galveston County Community Action Council, Inc.)

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code, §§2306.053, .092, and .097, the Texas Department of Housing and Community Affairs (the Department) is provided the authority to administer the Low Income Home Energy Assistance Program (LIHEAP) Comprehensive Energy Assistance Program (CEAP);

WHEREAS, the Department administers the CEAP from LIHEAP funds from the U.S. Department of Health and Human Services;

WHEREAS, on March 11, 2021, the Board authorized staff to initiate proceedings to remove the CEAP funds from Galveston County Community Action Council, Inc. (GCCAC) in Brazoria, Fort Bend, Galveston, and Wharton counties and to release a Request for Applications to identify one or more permanent CEAP providers for the service area;

WHEREAS, on April 5, 2021, the Department released an RFA to administer the CEAP in Brazoria, Fort Bend, Galveston, and Wharton counties and received seven applications by the April 30, 2021, deadline;

WHEREAS, four of the seven timely-received applications were evaluated and scored by staff while the remaining three were not reviewed because the RFA stated that applications from organizations not currently receiving LIHEAP or CSBG funds would only be evaluated and scored if no organizations apply that currently receive LIHEAP or CSBG funds, or if those that have applied are found ineligible, not approved for award, or are unable to meet conditions placed on the award;

WHEREAS, BakerRipley (BR), Combined Community Action, Inc. (CCA), and Economic Action Committee of the Gulf Coast (EACGC) were the highest scoring applicants for the counties for which they applied;

WHEREAS, a Previous Participation Review was performed and these awards were recommended by the Executive Award Review and Advisory Committee (EARAC) in accordance with 10 TAC Chapter 1, Subchapter C, on November 15, 2021;

WHEREAS, the four RFA respondents whose applications were evaluated and scored were all issued scoring notices along with notice of their right to appeal, and no appeals were filed; and

WHEREAS, concurrent with the RFA process, GCCAC requested a hearing with the State Office of Administrative Hearing (SOAH); a hearing was set in September 2021; the Administrative Law Judge (ALJ) at SOAH issued a Proposal for Decision (PFD) on November 5, 2021, finding good cause to terminate GCCAC's funding and eligibility status as a CEAP provider; GCCAC filed exceptions with SOAH in response to the PFD and on November 29, 2021, the ALJ recommended the exceptions be rejected and that the PFD should be adopted as written; and the Board is being presented with the ALJ decision for approval on December 9, 2021;

NOW, therefore, it is hereby

RESOLVED, that BR, CCA, and EACGC are each awarded the 2021 CEAP, 2022 CEAP, and American Rescue Plan Act (ARPA) CEAP funds for the respective counties for which they applied as shown in Exhibit A, and shall henceforth be the designated permanent network providers to receive CEAP funds for the associated counties until such time that the designation requires review, in accordance with 10 TAC §1.411.

BACKGROUND

At the Board meeting of March 11, 2021, the Board approved the Department's request to remove and not renew the CEAP funds for GCCAC and allow temporary providers to provide CEAP services in Brazoria, Fort Bend, Galveston, and Wharton counties. Additionally, the Board authorized staff to release an RFA to identify and select permanent provider(s) for the CEAP program in these counties.

The RFA was released on April 5, 2021, and encouraged applicant organizations to apply for GCCAC's service area. The application deadline was April 30, 2021. Staff received seven applications before the deadline from the following organizations:

1. BakerRipley (BR)
2. Combine Community Action, Inc. (CCA)
3. County of Galveston
4. Economic Action Committee of the Gulf Coast (EACGC)
5. Greater East Texas Community Action Program (GETCAP)
6. The Chosen Ones Outreach Ministries of Galveston, Inc.
7. St. Vincent's House

It is noted that GCCAC also submitted an application, but it was received after the deadline and did not comply with submittal requirements contained in the RFA. GCCAC appealed Department staff's and Executive Director's decision to not review and terminate their application. On June 17, 2021, the Board concurred with the Executive Director's decision to deny their appeal and terminate GCCAC's application.

Three of the seven applications were not evaluated and scored because of the RFA requirement stating that applications from organizations currently receiving LIHEAP or CSBG funds would be evaluated and scored first. Only when no organizations apply that currently receive LIHEAP or CSBG funds, or if those that have applied are found ineligible, or are not approved for an award, or are unable to meet conditions placed on the award, would applications from organizations not currently receiving LIHEAP or CSBG funds be evaluated and scored. County of Galveston, The Chosen Ones Outreach Ministries of Galveston, Inc., and St. Vincent's House were not currently receiving LIHEAP or CSBG funds, therefore their applications were not scored.

The remaining four applications were scored and each satisfied the threshold requirements with BR being the highest scoring applicant for Brazoria and Galveston counties, CCA the highest scoring applicant for Fort Bend County, and EACGC the highest scoring applicant for Wharton County. GETCAP submitted an application for Galveston County but received a score below that of BR and is therefore not recommended for award. GETCAP was provided with a scoring notice and the opportunity to appeal, but chose not to do so. The awards for BR, CCA, and EACGC were reviewed and recommended by the Executive Award Review and Advisory Committee (EARAC) in accordance with 10 TAC Chapter 1, Subchapter C.

The table below summarizes which organizations applied for which counties and the highest scoring respondent for each county.

Exhibit A:

County	Applicant(s)	Highest Scoring Respondent
Brazoria	BR	BR
Fort Bend	CCA	CCA
Galveston	BR, GETCAP	BR
Wharton	EACGC	EACGC

*Applications not scored: County of Galveston, The Chosen Ones Outreach Ministries of Galveston, St. Vincent's House

Concurrent with the RFA process described above, GCCAC requested an administrative hearing with SOAH to contest the Department's enforcement action against GCCAC alleging failure to comply with program objectives and federal and state requirements for Community Services Block Grant (CSBG) and CEAP. The hearing took place September 13 and 17, 2021. After considering the evidence, applicable law, and the arguments of counsel, on November 5, 2021, the Administrative Law Judge (ALJ) found good cause to terminate GCCAC's contracts, funding, and eligibility status for both CSBG and CEAP. GCCAC filed exceptions with SOAH in response to the Proposal for Decision (PFD); however, on November 29, 2021, the ALJ recommended that the exceptions be rejected and that the PFD should be adopted as written. At the Board meeting of December 9, 2021, the Board is being presented the PFD for adoption and a final order terminating GCCAC's contracts, funding, and eligibility status for both CSBG and CEAP.

Having completed the RFA process to select permanent providers in Brazoria, Fort Bend, Galveston, and Wharton counties along with the SOAH ALJ's finding that good cause exists to terminate GCCAC's CEAP contracts, funding, and status as a CEAP service provider, staff recommends the Board grant Department staff the authority to designate BR as the permanent CEAP service provider in Brazoria and Galveston counties, CCA as the permanent CEAP service provider in Fort Bend County, and EACGC as the permanent CEAP service provider in Wharton County. With the designation as permanent CEAP provider, BR, CCA, and EACGC will be each awarded their proportional share of 2021 CEAP, 2022 CEAP, ARPA CEAP, and all future CEAP funds for their respective counties until such time the designation requires review, in accordance with 10 TAC §1.411.

9c

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding authorization to proceed with the procurement of a statewide weatherization provider to support the Weatherization Assistance Program in the provision of home weatherization assistance to low income Texans, and authorization, if necessary, to amend the 2021 DOE WAP State Plan and the 2022 LIHEAP State Plan to effectuate the procurement of a statewide WAP provider and submit such amended Plans to the U.S. Department of Energy and U.S. Department of Health and Human Services

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) administers a Weatherization Assistance Program (WAP), funded with both U.S. Department of Energy (DOE) funds and Low Income Home Energy Assistance Program (LIHEAP) funds, which is operated by a network of private nonprofits and local government entities;

WHEREAS, the Board approved the 2021 DOE WAP State Plan for submission to DOE at the Board meeting of May 13, 2021, and DOE approved the Plan on June 23, 2021, and the Board approved the 2022 LIHEAP State Plan for submission to the U.S. Department of Health and Human Services (USHHS) at the Board meeting of June 17, 2021, and USHHS accepted the Plan on October 13, 2021;

WHEREAS, each year Texas receives an annual allocation of DOE WAP formula funds in the approximate amount of $8 million and receives USHHS LIHEAP formula funds of which approximately $15 million are allocated towards WAP activities;

WHEREAS, on November 15, 2021, the President of the United States signed the Infrastructure Investment and Jobs Act into law which will provide additional DOE weatherization funding that is expected to result in approximately $200 to $250 million being made available for Texas;

WHEREAS, with this amount of imminent funding being injected into the WAP, there is a likelihood that the network of 21 subgrantee WAP providers will not be able to fully expend such WAP funds thereby not timely providing low income Texans with this federal benefit;

WHEREAS, the Department has identified a critical need to meet the home energy conservation needs of low income Texans that can best be addressed through the Department contracting with a statewide WAP service provider to perform weatherization assistance throughout the state funded by the Infrastructure

Investment and Jobs Act as well as annual allocation funds that are relinquished or deobligated from subgrantees; and

WHEREAS, the Department wishes to procure a statewide WAP provider which will be allocated a portion of the WAP funds from the Infrastructure Investment and Jobs Act as well as any voluntarily relinquished or deobligated WAP funds from subgrantees to provide weatherization assistance making the homes of low income Texans more energy efficient while ensuring full utilization of WAP funds, and to release a Request for Proposal (RFP) towards this effort;

NOW, therefore, it is hereby

RESOLVED, that Department staff be granted the authority to make any necessary amendments to the 2021 DOE State Plan and 2022 LIHEAP State Plan to reflect the procurement of a statewide WAP provider to support the Department and the WAP network in their mission to provide home weatherization assistance for low income Texans and which can effectively expend and utilize the WAP funding allocated to Texas in the Infrastructure Investment and Jobs Act as well as any relinquished or deobligated funds from the 21 WAP subgrantees, and staff is authorized to submit such plan amendments to DOE and USHHS; and

FURTHER RESOLVED, that Department staff be granted the authority to release a Request for Proposal (RFP) towards this effort.

BACKGROUND

The Department is the designated lead agency that administers the WAP in Texas. Weatherization funding makes homes more energy efficient, safer, and healthier for low income Texans. Each year the Department receives an annual allocation of WAP funds from both DOE and USHHS in the amount of approximately $8 million and $15 million, respectively. The yearly allocations are dependent upon congressional approval and federal agency formula and can therefore vary from year to year, but because past performance often indicates future trends then yearly funding allocations will continue to increase. Texas' allotment of WAP funds are subsequently distributed by formula established in 10 TAC §6.404 to the 21 subgrantees to provide home weatherization assistance to low income Texans in each of their respective service areas.

In addition to the annual allocations described above, President Biden recently signed the Infrastructure Investment and Jobs Act into law on November 15, 2021, which will inject an estimated $200-$250 million into Texas' WAP, a 900% increase in funding. The DOE WAP funding from this Act currently has no expiration date; however, staff does not want to delay in getting this assistance out to low income households in Texas and is committed to using these funds as promptly as possible.

In the past year and a half, the WAP network of subgrantees as a whole have been struggling to find ways to weatherize homes during a pandemic resulting in dramatic decreases in expenditure of their yearly allocation of WAP funds. The causes of such decreases in WAP activity vary from region to region, but in general a few primary causes are the low income homeowner's hesitation to allow weatherization contractors into their homes for fear of contracting the COVID-19 virus, equipment supply shortages (e.g., refrigerators, HVAC units), and cost of equipment increases. Several WAP subgrantees have expressed concerns about their ability to fully expend their portion of the yearly WAP allocations. Additionally, the DOE WAP program requirements are quite stringent, in particular relating to the qualifications of the subrecipient staff members performing weatherization evaluations and inspections; these rigorous requirements on small organizations can compound the difficulty in administering the program. The Texas WAP subgrantee network may not be fully prepared to receive and utilize such a tremendous funding increase as the Infrastructure Investment and Jobs Act will provide.

Taking into consideration the decrease in subgrantee weatherization activity due to the pandemic, supply shortages, cost increases, a 900% increase in WAP funding as a result of the Infrastructure Investment and Jobs Act, the possibility that future congressional bills such as the Build Back Better Act currently being negotiated in Congress may contain additional WAP funding, and hearing concerns from several WAP subgrantees, the potential exists that some of the WAP subgrantees may not be able to fully expend the WAP funds in their service area and therefore not maximize use of these funds for weatherizing low income households in their communities.

To prevent the return of any current and future WAP funding to the federal government, to assist subgrantees having difficulty spending their proportional share of WAP funding, and most importantly to ensure that we maximize the provision of home weatherization assistance to low income Texans, the Department is seeking authority to procure a statewide WAP provider. To fund this effort initially, the Department will program a portion of the estimated $200-250 million received from the Infrastructure Investment and Jobs Act into the procurement and contracting of a statewide WAP provider. Additionally, any funds that a subgrantee voluntarily relinquishes or are deobligated from a subgrantee for lack of performance and expenditure will also be allocated to the statewide WAP provider.

If approved by the Board, staff will submit a plan amendment to DOE and USHHS and release an RFP with the objective of securing a contract with a statewide WAP service provider to provide critical support to Texas' WAP and subgrantee network to ensure Texas' allotment of WAP funding is maximized to provide the greatest benefit to low income Texans and not have any portion of it returned to the federal government.

9d

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

DECEMBER 9, 2021

Presentation, discussion, and possible action regarding authorization to proceed with the procurement of a statewide Community Energy Assistance Program and Low Income Household Water Assistance Program provider to support subrecipients in the provision of utility assistance to low income Texans, and authorization to amend the 2022 LIHEAP State Plan and the LIHWAP State Plan to effectuate the procurement of a statewide CEAP and LIHWAP provider and submit such amended Plans to the U.S. Department of Health and Human Services

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) is provided the authority to administer the Low Income Home Energy Assistance Program (LIHEAP) Comprehensive Energy Assistance Program (CEAP) which provides heating and cooling assistance to low income households and the Low Income Household Water Assistance Program (LIHWAP) which provides water and wastewater assistance to low income households;

WHEREAS, the Department administers the CEAP and LIHWAP using funds from the U.S. Department of Health and Human Services (USHHS);

WHEREAS, the Board approved the 2022 LIHEAP State Plan for submission to USHHS at the Board meeting of June 17, 2021, and USHHS accepted the Plan on October 13, 2021, and the Board authorized Department staff to submit the LIHWAP State Plan to USHHS at the Board meeting of June 17, 2021, and USHHS accepted the Plan on October 25, 2021;

WHEREAS, each year Texas receives an annual allocation of LIHEAP formula funds from USHHS in the approximate amount of $165 million, 80% of which the Department allocates towards CEAP;

WHEREAS, on March 27, 2020, the President of the United States (President) signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) into law which provided $94,023,896 of LIHEAP formula funds to Texas, 99% of which the Department allocated towards CEAP, and a portion of which went unused by the existing network of CEAP providers resulting in funds being returned to HHS;

WHEREAS, on December 27, 2020, the President signed the Consolidated Appropriations Act of 2021 which provided approximately $51 million of LIHWAP formula funds for Texas to assist low-income households pay their water and wastewater bills;

WHEREAS, on March 11, 2021, the President signed the American Rescue Plan Act of 2021 into law which increased LIHWAP funding for Texas by approximately $40 million and added another $134 million of LIHEAP formula funds to Texas, 99% of which the Department allocated towards CEAP, and some of the existing network of CEAP providers have indicated that they anticipate challenges in expending such funds;

WHEREAS, on November 15, 2021, the President signed the Infrastructure Investment and Jobs Act into law which will provide an additional amount of between approximately $2.5 million and $8.7 million each year of LIHEAP for the next five years of formula funds to Texas, 80% of which the Department will also allocate towards CEAP;

WHEREAS, with the extraordinary amount of current and imminent LIHEAP and LIHWAP funding, the network of 36 subrecipient providers is not expected to fully expend such CEAP and LIHWAP funds thereby not fully providing low income Texans with these federal benefits;

WHEREAS, the Department has identified a critical need to meet the energy and water assistance needs of low income Texans that can best be addressed through the Department contracting with a statewide CEAP and LIHWAP service provider to support the state in ensuring CEAP and LIHWAP funds are fully expended; and

WHEREAS, the Department wishes to procure a statewide CEAP and LIHWAP provider which can be allocated any voluntarily relinquished or deobligated CEAP or LIHWAP funds from subrecipients, or otherwise allocated funds, to provide heating and cooling energy assistance or water and wastewater assistance to meet the needs of low income Texans and ensure full utilization of LIHEAP and LIHWAP funds from USHHS and to release a Request for Proposal (RFP) towards this effort;

NOW, therefore, it is hereby

RESOLVED, that Department staff be granted the authority to make any necessary amendments to the 2022 LIHEAP State Plan and LIHWAP State Plan to reflect the procurement of a statewide CEAP and LIHWAP provider to provide heating and cooling energy assistance and water and wastewater assistance to low income Texans, and is authorized to submit such plan amendments to USHHS; and

FURTHER RESOLVED, that Department staff be granted the authority to release a Request for Proposal (RFP) towards this effort.

BACKGROUND

The Department is the designated lead agency that administers the LIHEAP CEAP and LIHWAP in Texas with the overall responsibility of ensuring that low income Texans' heating and cooling assistance and water and wastewater needs are met. In the past year, the Department's allotment of LIHEAP funding from USHHS has seen dramatic increases and indications are that the increases will only continue to rise. In addition, in 2021, the Department received $92.3 million in LIHWAP funding from USHHS.

Each year the Department receives an annual allocation of LIHEAP funds from USHHS after USHHS accepts the Department's annual LIHEAP State Plan. This yearly allocation is dependent upon congressional approval and USHHS formula but can vary between $130 and $175 million per year. For 2022 the Department expects to receive an approximate annual allocation of $165 million, 80% of which is programmed into CEAP and subsequently distributed by formula to the 36 subrecipient CEAP providers to assist low income Texans in each of their respective service areas.

In March 2020, the CARES Act was passed into law which provided $94,023,896 of LIHEAP formula funds to Texas. The Department allotted 99% of these funds toward CEAP, with the remainder being used for administration. These funds were required to be expended by September 30, 2021. In spite of staff making efforts to deobligate funds from low performers and reobligate funds to higher performers, a portion of these funds went unused by the existing network of CEAP providers. This has resulted in an estimated $30 million in CEAP CARES funds being returned to HHS.

In December 27, 2020, President Trump signed the Consolidated Appropriations Act of 2021 which introduced the LIHWAP and provided approximately $51 million of LIHWAP formula funds for Texas to assist low-income households pay their water and wastewater bills.

President Biden signed the American Rescue Plan Act (ARPA) into law on March 11, 2021, providing additional supplemental LIHEAP and LIHWAP funding to Texas in the amount of $134 million and $42 million, respectively. On April 8, 2021, the Board approved an item granting Department staff the authority to disburse the $134 million in ARPA LIHEAP funding to the CEAP subrecipients to provide home energy assistance to eligible households using the distribution formula in 10 TAC §6.303.

On June 17, 2021, the Board approved an item granting Department staff the authority to submit the LIHWAP State Plan to USHHS and to disburse the $92 million in LIHWAP funding to the 36 CEAP subrecipients to provide water and wastewater assistance to eligible households using the distribution formula in 10 TAC §6.303.

In October, the Department released the ARPA CEAP funding. Several subrecipients have expressed concerns about their ability to fully expend their proportional share of the $134 million in CEAP funds. The Department will soon release the LIHWAP funding to the same subrecipients, adding to the extraordinary amount of funding allocated to each subrecipient this year.

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act into law which will provide an additional amount of between approximately $2.5 million and $8.7 million each year for five years of LIHEAP formula funds to Texas, 80% of which the Department will also allocate towards CEAP.

Taking into consideration all these allocations of LIHEAP and LIHWAP funding, along with the possibility that future congressional bills such as the Build Back Better Act currently being negotiated in Congress may be passed with more LIHEAP or LIHWAP funding, and based on the history of subrecipients not fully expending CARES LIHEAP funds and their concerns that they may not fully expend their portion of the ARPA LIHEAP funding, staff feels it is prudent to identify other solutions to provide these funds to eligible Texans in need.

To prevent the return of any current and future LIHEAP or LIHWAP funding to the federal government, to assist any subrecipients having difficulty spending their proportional share of LIHEAP or LIHWAP funding, and most importantly to ensure maximization of heating and cooling and water and wastewater assistance to low income Texans, the Department is seeking authority to procure a statewide CEAP and LIHWAP provider to support the subrecipients showing an inability to spend their CEAP or LIHWAP allocation and meet the needs of low income Texans in their service area. To fund this effort initially, the Department will reprogram any funds that subrecipients voluntarily relinquish to the statewide provider. Any funds which are deobligated from a subrecipient for lack of performance and expenditure may also be allocated to the statewide provider. Additionally, if large appropriations of LIHEAP or LIHWAP are allocated to the state in excess of a typical annual appropriation level, the Department may allocate funds to the statewide CEAP and LIHWAP providers.

If approved by the Board, staff will submit a plan amendment for both the 2022 LIHEAP State Plan and the LIHWAP State Plan to USHHS and release an RFP with the objective of securing a contract with a statewide CEAP and LIHWAP service provider to provide critical support to ensure Texas' allotment of LIHEAP and LIHWAP funding is maximized to provide the greatest benefit to low income Texans and not have any portion of it returned to the federal government.