

**BOARD BOOK OF  
June 25, 2020**



**Leslie Bingham, Vice-Chair**

**Paul Braden, Member**

**Sharon Thomason, Member**

**Leo Vasquez III, Member**

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT

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

**Owner Financing and Down Payment**

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

Programs:

- Homebuyer Assistance Program (HBA)\*
- Single Family Homeownership

Expended Funds: \$1,693,834,604  
Total Households Served: 9,605

**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: \$147,270,662  
Total Households Served: 162,668

**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: \$108,945,178  
Total Households Served: 7,062

**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: \$12,162,959  
Total Individuals Served: 71,350

**Multifamily Rehab Construction**

- Affordable rental units financed and rehabilitated

Programs:

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

Expended Funds: \$56,792,063  
Total Households Served: 2,503

**Supportive Services**

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

Program:

- Community Services Block Grant Program (CSBG)

Expended Funds: \$31,103,729  
Total Individuals Served: 561,906

**Owner Rehabilitation Assistance**

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

Programs:

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

Expended Funds: \$11,384,025  
Total Households Served: 251

**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: \$11,021,909  
Total Households Served: 1,932

**Single Family Development**

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

Programs:

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

Expended Funds: \$3,769,888  
Total Households Served: 85

Total Expended Funds: \$2,076,285,016  
Total Households Served: 817,362

All FY2019 data as reported in TDHCA's 2020 State Low Income Housing Plan and Annual Report (SLIHP).

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

\* Administered through the federally funded HOME Investment Partnerships Program

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

**A G E N D A  
9:00 AM  
June 25, 2020**

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

**Governing Board Webinar registration:**

<https://attendee.gotowebinar.com/register/7575413421244122635>

Dial-in number: +1 (415) 930-5321, access code 256-792-799 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

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

CALL TO ORDER

ROLL CALL

Leslie Bingham, Vice Chair

CERTIFICATION OF QUORUM

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

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

**CONSENT AGENDA**

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

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

Agenda alter any requirements under Chapter 551 of the Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

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

**EXECUTIVE**

- a) Presentation, discussion, and possible action on Board meeting minutes summary for April 23, 2020

**J. Beau Eccles**  
General Counsel

**ASSET MANAGEMENT**

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

**Rosalio Banuelos**  
Director of Asset Management

19242	The Tramonti	Houston
19245	Huntington Chimney Rock	Houston
19315	Hammack Creek	Kennedale

- c) Presentation, discussion, and possible action regarding approval of a Material Amendment to the Land Use Restriction Agreement

542076	Bridgeport Estates Phase II	Bridgeport
531301	Spring Garden Apartments IV	Springtown
1000370	Bridgeport IV	Bridgeport
1000608	Estates of Bridgeport Iva	Bridgeport

**LEGAL**

- d) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Villa Main Apartments (HTC 060193 / CMTS 4403)
- e) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning George Gervin Apartments (HTF 859X03 / CMTS 2651)
- f) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Meadowlake Village Apartments (HTC 11189 / HOME 1004196 / CMTS 4463)

**Jeff Pender**  
Deputy General Counsel

**COMMUNITY AFFAIRS**

- g) Presentation, discussion, and possible action on approval of the 2021 Low Income Home Energy Assistance Program State Plan for submission to the U.S. Department of Health and Human Services and approval of the associated 2021 awards

**Michael DeYoung**  
Director of Community Affairs

**MULTIFAMILY FINANCE**

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

**Teresa Morales**  
Director of Multifamily Bonds

20452	Enclave at Lake Pointe	Houston ETJ
20457	Pinewood Apartments	Houston
20444	Plano Kathryn Senior Living	Plano
20458	Kinwood Apartments	McKinney
20459	Spring Villas	Austin
20461	Cascade at Onion Creek	Austin
20419	Woodway Village	Austin

- i) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20406, Gala at Central Park, Hurst)
- j) Presentation, discussion, and possible action on the Fourth Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability and the ability to make

**Andrew Sinnott**  
Multifamily Loan Programs Administrator



future amendments with Executive Director approval to the 2020-1 Multifamily Direct Loan Notice of Funding Availability, as necessary to meet the 2018 commitment deadline for the National Housing Trust Fund

- k) Presentation, discussion, and possible action on the 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Substantial Amendment of the 2015-2019 State of Texas Consolidated Plan
- l) Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2020-1 Multifamily Direct Loan Notice of Funding Availability

20502 Heritage Heights at Big Spring Big Spring

**BOND FINANCE**

- m) Presentation, discussion, and possible action on Inducement Resolution No. 20-023 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**Teresa Morales**  
Director of  
Multifamily Bonds

20615 The Montage San Antonio ETJ

- n) Presentation, discussion, and possible action on Inducement Resolution No. 20-024 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

20617 Murdeaux Villas Dallas

**HOUSING RESOURCE CENTER**

- o) Presentation, Discussion, and Possible Action on the 2020-2024 State of Texas Consolidated Plan

**Elizabeth Yevich**  
Director of  
Housing Resource Center

**COMPLIANCE**

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

**Patricia Murphy**  
Director of Compliance

20187	Cortez Plaza	El Paso
20190	Nuestra Senora	El Paso
20310	Highpoint at Wynnewood	Dallas
20016	Reserve at Sulphur Springs	Sulphur Springs
20111	St. Andrew's Townhomes	Arlington
20156	Whispering Trees	Carrizo Springs
20100	Southlawn at Milby	Houston

**CONSENT AGENDA REPORT ITEMS**

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

- a) Outreach and Activities Report (May-June)
- b) Report on Activities Related to the Department's Response to COVID-19 Pandemic

**Michael Lyttle**  
Director of  
External Affairs

**Brooke Boston**  
Director of Programs

**ACTION ITEMS**

**ITEM 3: INTERNAL AUDIT**

- a) Report on the meeting of the Internal Audit and Finance Committee

**Sharon Thomason**  
Chair of Audit and  
Finance Committee

**ITEM 4: FINANCIAL ADMINISTRATION**

a) Approval of updated FY 2021 Operating Budget

**Joe Guevara**  
Director of Financial  
Administration

b) Approval of the FY 2021 Housing Finance Division Budget

**ITEM 5: COMPLIANCE**

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

**Patricia Murphy**  
Director of Compliance

20316	Virginia Flats	Beaumont
20288	Providence at Buna	Buna
20138	The Ella	Houston

**ITEM 6: MULTIFAMILY FINANCE**

a) Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §11.201(1)(A) of the 2020 Qualified Allocation Plan regarding the errors in the calculation of Application fees

**Marni Holloway**  
Director of  
Multifamily Finance

b) Report of Third Party Requests for Administrative Deficiency under 10 TAC §11.10 of the 2020 Qualified Allocation Plan

20018	The Park Tower	Fort Worth
20051	Village at McArdle	Corpus Christi
20054	Gulf Shore Villas	Rockport
20075	New Hope Housing Savoy	Houston
20077	Lockwood South Apartments	Houston
20083	Lakeview Preserve	Irving
20089	Hamilton Wolfe Lofts	San Antonio
20092	Fiesta Trails	San Antonio
20144	The Enchanted Gardens	Victoria
20147	Kestral on Cooper	Arlington
20150	Palmville Homes	San Benito
20177	Avanti Legacy Valor Heights	McAllen
20181	Avanti Valley View	Hidalgo
20184	The Heritage at Abilene	Abilene
20200	Lofts at Temple Medical District	Temple
20223	Campanile on Briar Hollow	Houston
20235	Madisonville Estates	Madisonville
20240	Livingston Pioneer Crossing	Livingston
20264	Juliette Fowler Residences	Dallas
20272	Westwind of Dumas	Dumas
20273	La Grange Springs	La Grange
20309	Los Ebanos	Bishop
20317	Merritt Edge Senior Village	Midland
20329	Fish Pond at Huntsville	Huntsville
20342	The Cottages at Cedar Ridge	Elgin

c) Presentation, discussion, and possible action on timely filed appeals of application termination under 10 TAC §11.902 of the 2020 Qualified Allocation Plan

20030	Akins East	Austin
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d) Presentation, discussion, and possible action on timely filed scoring appeals under 10 TAC §11.902 of the 2020 Qualified Allocation Plan

20092	Fiesta Trails	San Antonio
20329	Fish Pond at Huntsville	Huntsville
20342	The Cottages at Cedar Ridge	Elgin

e) Presentation, discussion, and possible action to issue a list of approved Applications for 2020 Housing Tax Credits (HTC) in accordance with Tex. Gov't Code §2306.6724(e)

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

**EXECUTIVE SESSION**

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

**Leslie Bingham**  
Vice Chair

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

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

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

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

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

**OPEN SESSION**

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

**ADJOURN**

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

1a

**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**JUNE 25, 2020**

Presentation, discussion, and possible action on Board meeting minutes summary for April 23, 2020

**RECOMMENDED ACTION**

Approve the Board meeting minutes summary for April 23, 2020

**RESOLVED**, that the Board meeting minutes summary for April 23, 2020, is hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board**  
**Board Meeting Minutes Summary**  
**April 23, 2020**

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

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

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

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

- 1) The Board unanimously approved a resolution recognizing and celebrating May 2020 as Community Action Month in Texas.
- 2) The Board unanimously approved a resolution recognizing and celebrating May 2020 as National Mobility Awareness Month.
- 3) The Board unanimously approved the Consent Agenda as presented.
- 4) Action Item 3(a) – Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code to allow for payment of mortgages as a homelessness prevention activity under the Homeless Housing and Services Program – was presented by Abigail Versyp, TDHCA Director of Single Family and Homeless Programs. The Board unanimously approved staff recommendation to grant the waivers.
- 5) Action Item 4(a) – Report regarding the impact of the coronavirus on the municipal market and on the Department’s mortgage revenue bond programs – was presented by Monica Galuski, TDHCA Director of Bond Finance. Following public comment (listed below), the Board unanimously approved a motion to accept the report.
  - Gary Machak, financial advisor to TDHCA with Stifel, provided information on the item
- 6) Action Item 4(b) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS - Oaks on Clark Apartments) Resolution No. 20-015 and a Determination Notice of Housing Tax Credits – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff

recommendation approving the bond resolution and the issuance of 4% housing tax credits along with the underwriting condition as specified by Ms. Morales during her presentation.

7) Action Item 4(c) – Presentation, discussion, and possible action regarding the Issuance of Governmental Notes (Granada Terrace Apartments) Resolution No. 20-016 and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the bond resolution and the issuance of 4% housing tax credits.

- Sarah André, consultant for the applicant, registered support for staff recommendation

8) Chairwoman Bingham used her discretion to take agenda items out of order and the Board took up Action Item 5(d) – Presentation, discussion, and possible action regarding requests for waiver of the Department’s Multifamily Program Rules for 20001 Farm Street Village, Bastrop; 20128 OST Lofts, Houston; and 20147 Kestrel on Cooper, Arlington. Marni Holloway, TDHCA Director of Multifamily Finance, presented the item with additional information from Bobby Wilkinson, TDHCA Executive Director.

Following public comment (listed below), the Board voted unanimously to approve the waiver request for 20147 Kestrel on Cooper. The Board also unanimously approved staff recommendation on 20001 Farm Street Village to deny the waiver request. *Consideration of 20128 OST Lofts did not occur as it was moved to the May meeting upon request from the applicant.*

- The Honorable Tony Tinderholt, State Representative, Texas House District 94, provided information on sub item 20147
- Linda Brown, Casa Linda Development Corporation, testified in opposition to the waiver request from 20147
- Megan Lasch, O-SDA Industries and the Applicant requesting the waiver, testified in support of the waiver request from 20147
- Alicia Gray, Heart of Arlington Neighborhood Association, testified in support of the waiver request from 20147
- Kim Schwimmer, Land Experts, testified in opposition to the waiver request from 20147
- Derek Carter, Heart of Arlington Neighborhood Association, testified in support of the waiver request from 20147
- Ryan Combs, an applicant with a competing application to 20147, testified in opposition to the waiver request from 20147
- Avis Chaisson, Paladium USA International, registered in opposition to the waiver request from 20147 but did not testify
- Michael Lyttle, TDHCA Director of External Affairs, read a letter into the record from the Honorable John P. Cyrier, State Representative, Texas House District 17, which expressed opposition to staff recommendation on sub item 20001

- Mr. Lyttle also read a letter into the record from Connie Schroeder, Mayor, City of Bastrop, which opposition to staff recommendation on sub item 20001
- Sandy Watson, Zimmerman Development, registered but did not testify in support of staff recommendation on sub item 20001
- Sarah André, representing applicant 20001, testified in opposition to staff recommendation
- Jason Haskins, Hatch and Ulland Owen Architects associated with applicant 20001, provided information on the item
- Isabel Atkinson registered but did not testify in opposition to staff recommendation on sub item 20001
- Debbie Bresette, Bastrop County resident, testified in opposition to staff recommendation on 20001
- Sallie Burchette, Structure Development, testified in opposition to staff recommendation on 20001
- Cynthia Bast, Locke Lord attorney representing 20001, provided information on the item
- James McDonald, Zimmerman Properties, testified in support of staff recommendation on 20001

9) The Board returned to the order of items on the agenda and took up Action Item 4(d) – Presentation, discussion, and possible action on Resolution No. 20-017 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2020 Series A and Single Family Mortgage Revenue Refunding Bonds, 2020 Series B (Taxable); 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 – presented by Ms. Galuski. The Board unanimously approved staff recommendation to approve the resolution.

10) Action Item 5(a) – Presentation, discussion, and possible action on the draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Opportunity for a Public Hearing – was presented by Andrew Sinnott, TDHCA Multifamily Loan Programs Administrator. The Board unanimously approved staff recommendation to publish the draft standards for public comment.

11) Action Item 5(b) – Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20401, Palladium Port Aransas, Port Aransas) – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to issue the 4% housing tax credits and award the direct loan funds.

12) Ms. Holloway, with additional information from Mr. Eccles, presented Action Item 5(c) – Presentation, discussion, and possible action on the process of staff determinations regarding points awarded under 10 TAC §11.9(d)(4) related to Quantifiable Community Participation



20012	Merritt Gardens	Midland
20034	Ranch Court Apartments	Andrews
20063	Azalea West	Fort Worth
20066	Vista at Everest	San Antonio
20069	Vista at Interpark	San Antonio
20079	Fairview Terrace	Brenham
20115	Avenue at Sycamore Park	Fort Worth
20116	Dian Street Villas	Houston
20120	Lennox House	Grand Prairie
20123	Meander Park	Granbury
20145	Gala at Ridgmar	Fort Worth
20148	High View Place	Killeen
20149	Provision at Fort Worth	Fort Worth
20153	Provision at Bomber Road	White Settlement
20155	Gala at Premier	Plano
20158	Redwood Apartments	Dumas
20167	Laurel Flats	Tyler
20184	The Heritage at Abilene	Abilene
20186	The Residences at Ridgehill	Kerrville
20187	Cortez Plaza	El Paso
20190	Nuestra Senora	El Paso
20204	Heritage Senior Residences	Houston
20210	Amber Ridge Apartments	Angleton
20211	Ennis Trails	Ennis
20216	Henderson Trails	Henderson
20220	Trinity Estates	Trinity
20222	Brenham Trails	Brenham
20231	Walnut Trails	San Angelo
20233	Quinlan Estates	Quinlan
20267	Valley View Estates	Fabens
20294	Sagebrush Apartments	Brady
20295	Hwy 79 Senior Living	Henderson
20317	Merritt Edge	Midland
20344	Merritt Sunset	Midland

Following public comment (listed below), the Board unanimously approved how staff made determinations on the QCP points.

- Cynthia Bast, Locke Lord attorney, testified in support of staff determinations on the QCP points
- Janine Sisak, DMA Companies, testified in opposition to staff determinations on the QCP points

- Mr. Lyttle read letters into the record from the Honorable Carol Alvarado, State Senator, Texas Senate District 6, and the Honorable Christina Morales, State Representative, Texas House District 145, in opposition to staff determinations on the QCP points
- Ryan Combs, Gardner Capital, testified in support of staff determinations on the QCP points
- Joseph Brophy, Housing Trust Group, testified in opposition to staff determinations on the QCP points
- Alyssa Carpenter, consultant, testified in support of staff determinations on the QCP points
- Quinn Gormley, developer, testified in opposition to staff determinations on the QCP points
- Russ Michaels, Texas Interfaith Housing, testified in support of staff determinations on the QCP points
- Ryan Wilson, Franklin Development, registered in support of staff determinations on the QCP points but did not want to testify
- Eva Bonilla, Linwood Neighborhood Association, testified in opposition to staff determinations on the QCP points
- Lora Myrick, BETCO Consulting, testified in opposition to staff determinations on the QCP points
- Brad McMurray, Prospera, testified in opposition to staff determinations on the QCP points
- James McDonald, Zimmerman Properties, testified in opposition to staff determinations on the QCP points
- Donna Rickenbacker, DWR Development, testified in support of staff determinations on the QCP points
- Zachary Krotchtengel, Marque Real Estate, testified in opposition to staff determinations on the QCP points

13) Action Item 6(a) – Presentation, discussion, and possible action on adoption of amendments to 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period;

§10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for adoption in the *Texas Register* – was presented by Patricia Murphy, TDHCA Director of Compliance, with additional information from Mr. Wilkinson.

Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the rules except for 10 TAC §10.614 Utility Allowances which will be tabled for consideration at a future meeting.

- Roger Arriaga, Texas Affiliation of Affordable Housing Providers, testified in opposition to staff recommendation
- Jim Beats, Diamond Property Consultants, testified in opposition to staff recommendation
- Jen Brewerton, Dominionium, testified in opposition to staff recommendation

14) Action Item 6(b) – Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee; and an order adopting new 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee and directing that they be published for adoption in the *Texas Register* – was presented by Ms. Murphy. The Board unanimously approved staff recommendation to adopt the new rules for final production.

15) Action Item 6(c) – Presentation, discussion, and possible action on an order adopting new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication in the *Texas Register* – was presented by Cate Tracz, TDHCA Manager of Fair Housing. The Board unanimously approved staff recommendation to adopt the new rules for final publication.

16) Action Item 7(a) – Presentation, discussion and possible action on the Programming of Community Services Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds – was presented by Michael De Young, TDHCA Director of Community Affairs. The Board unanimously approved staff recommendation on the programming of the CSBG funds.

17) Action Item 7(b) – Presentation, discussion and possible action on the Programming of Low Income Home Energy Assistance Program funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds and Update on Administrative Flexibilities – was presented by Mr. De Young. The Board unanimously approved staff recommendation on the programming of the LIHEAP funds.

18) Action Item 7(c) – Presentation, discussion and possible action on the programming of Community Development Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to award such funds and opportunity for Public Hearing on a Material Amendment to the 2019 One-Year Action Plan, and 2015-2019 Consolidated Plan – was presented by Mr. De Young. The Board unanimously approved staff recommendation on the programming of the CDBG funds.

19) Action Item 7(d) – Presentation, discussion and possible action on the Programming of Emergency Solutions Grant (ESG) Program funds in the first allocation available to Texas through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and Authorization to Award Such Funds, and, if needed, an emergency rulemaking to accomplish this action – was presented by Ms. Versyp. The Board unanimously approved staff recommendation on the programming of the ESG funds as well as approval for emergency rulemaking if necessary.

20) Action Item 7(e) – Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for HOME Tenant-Based Rental Assistance for disaster response for qualified persons and households most impacted by COVID-19 – was presented by Ms. Versyp. The Board unanimously approved staff recommendation to approve the waivers.

21) Action Item 7(f) – Presentation, discussion, and possible action relating to the use of Reserve for Replacement Account funds as provided for in 10 TAC §10.404(a)(7)(C)(i) to address responsiveness for households impacted by the COVID-19 pandemic, and, if needed, an emergency rulemaking to accomplish this action – was presented by Tom Gouris, TDHCA Director of Special Initiatives. The Board unanimously approved staff recommendation on the use of reserve funds as well as authority for emergency rulemaking if necessary.

22) Action Item 7(g) – Presentation, discussion and possible action on waivers relating to certain requirements under 10 TAC Chapter 11, the Qualified Allocation Plan (QAP) and 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule in relation to the Department’s response to the COVID-19 pandemic – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the waivers.

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

- Mark English, E&A Team, Inc., provided comments on an upcoming webinar regarding fair housing and fair housing accessibility training
- Victoria Calder provided comments in opposition to any consideration of an award for 2020 9% housing tax credit application 20123 Meander Park

- Anita Branch provided comments in opposition to any consideration of an award for 2020 9% housing tax credit application 20123 Meander Park

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 2:55 p.m. The next meeting is set for Thursday, May 21, 2020.

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Secretary

Approved:

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Chair

1b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application for The Tramonti (HTC #19242)

**RECOMMENDED ACTION**

**WHEREAS**, The Tramonti (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2019 for the construction of 104 units of multifamily housing in the City of Houston in Fort Bend County;

**WHEREAS**, Tramonti Housing Partners, Ltd. (the Applicant) is now requesting approval for a change in the development site acreage from 3.74 to 4.00, which results in a 6.50% change in residential density from 27.81 units per acre to 26 units per acre;

**WHEREAS**, Board approval is required for a modification of the residential density of at least 5% as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F), and the Owner has complied with the amendment requirements therein; and

**WHEREAS**, the requested change does not materially alter the Development in a negative manner, affect the HTC recommendation, and would not have adversely affected the selection of the Application in the Application Round;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment to the Application for The Tramonti is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

**BACKGROUND**

The Tramonti received an award of 9% Housing Tax Credits in 2019 for the new construction of 104 units of general population multifamily housing in Houston, Fort Bend County. The Development is proposed to be owned by Tramonti Housing Partners, Ltd., with Tramonti HP General, LLC as its 0.01% General Partner owned by MGroup Holdings, Inc., which is owned by Laura Musemeche and Mark Musemeche.

The Applicant is now requesting approval for a change in acreage from 3.74 acres to 4.00 acres (an increase of 6.95%), and as a result, the residential density will change from 27.81 to 26 units per acre (a related decrease of 6.50%), requiring approval by the Board under Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F). According to the Applicant's representative, nothing on the actual site was changed; the acreage was simply updated due to an adjustment of the property line between the Development and its adjacent property, Huntington Chimney Rock (HTC #19245), owned by the same Principals. As the property line that separates the two properties is proposed to be moved approximately 30 feet to the south, the 0.26 acre difference is proposed to be moved from one development to the other, but the combined land for both properties will not change.

At the time of application, the original plan was to move the deeded plat line boundary splitting an existing 40-foot roadway easement between The Tramonti (HTC #19242) and Huntington Chimney Rock (HTC #19245) and grant the entire easement to Huntington Chimney Rock. It was initially anticipated that the easement could be abandoned due to the outdated and nonexistent use of the area's street patterns. However, the process to abandon the existing easement was determined to be costly and requiring a lengthy city approval process. In order to construct this Development efficiently, the Applicant is requesting to claim 0.26 acres for The Tramonti site from the Huntington Chimney Rock site and maintain the property boundary as identified in the deeded plat to avoid re-platting. The proposed changes were not foreseeable or preventable by the Applicant and were not fully determined until the process to abandon the easement was begun.

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



**From:** [mark musemeche](#)  
**To:** [Lucy Trevino](#)  
**Cc:** [Ofelia Elizondo](#)  
**Subject:** RE: request for non material application amendment - 19242 and 19245  
**Date:** Tuesday, April 14, 2020 4:08:38 PM  
**Attachments:** [original surveys from application.pdf](#)  
[Final plat of property.pdf](#)  
[huntington CR application site plan.pdf](#)  
[site plan - huntington chimney rock.pdf](#)

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Here you go!

Basically, all that happened is the property line that separates the two applications moved approx. 30 feet to the south which is the line that existed per the original platted lots and that became the same lot line upon final replat. This change did not affect any site plan design on the Tramonti application and only required us to redo the site plan design for the Huntington application.

Im asking for approval to amend the site plan for the Huntington ( 19245) and to amend the size of each tract of land as follows: Application 19242 was 3.74 acres now is 4.00 acres and for application 19245 was 3.57 acres and is now 3.32 acres. The .26 acre difference moved from one site to the other but the overall combined amount of land for both applications did not change.

---

**From:** Lucy Trevino <lucy.trevino@tdhca.state.tx.us>  
**Sent:** Tuesday, April 14, 2020 1:35 PM  
**To:** mark musemeche <mark@mgroupcompanies.com>  
**Cc:** Ofelia Elizondo <ofelia@mgroupcompanies.com>  
**Subject:** RE: request for non material application amendment - 19242 and 19245

Hi Mark,

Could you send me before and after surveys and site plans that demonstrate the changes.

## Lucy Trevino

Senior Asset Manager

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.2550

### About TDHCA

The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or the [Learn about Fair Housing in Texas](#) page.

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).*

---

**From:** mark musemeche <[mark@mgroupcompanies.com](mailto:mark@mgroupcompanies.com)>

**Sent:** Tuesday, April 14, 2020 11:48 AM

**To:** Lucy Trevino <[lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)>

**Cc:** Ofelia Elizondo <[ofelia@mgroupcompanies.com](mailto:ofelia@mgroupcompanies.com)>

**Subject:** RE: request for non material application amendment - 19242 and 19245

**Importance:** High

Hi Lucy-

Just following up to this email from late last year. Can you let me know if you have any questions or need any further clarification to move this site plan change along?

Thanks!

Mark

---

**From:** mark musemeche

**Sent:** Tuesday, November 5, 2019 4:38 PM

**To:** Lucy Trevino ([lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)) <[lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)>

**Cc:** Ofelia Elizondo <[ofelia@mgroupcompanies.com](mailto:ofelia@mgroupcompanies.com)>; mark musemeche <[mark@mgroupcompanies.com](mailto:mark@mgroupcompanies.com)>

**Subject:** request for non material application amendment - 19242 and 19245

Hi Lucy,

I need your help approving a non material change to the site boundary line that adjoins application 19242 " The Tramonti" and application 19245 " The Huntington at Chimney Rock" . We are just adjusting a line from one application to the other.

The reason and background for the change is as follows:

At time of the application, we thought the 40 foot road way easement that runs along the north property line of the Huntington tract and south boundary of the Tramonti tract, could be abandoned due to the outdated and nonexistent use of the street patterns in the area. In other words, there is no existing street or alignment of any future street that would trigger such need for the road way easement. Furthermore, there is a deep and wide drainage easement to the west of the property that would be problematic and costly to bridge across so the likelihood of the roadway being abandoned was high.

However, what we have come up against is the process to abandon the easement requires lengthy city approval, a cost to pay for the land being abandoned to the City and a re-plat of the property which triggers a lot of other development obligations. This is a 4-6 month process and not a certainty that the City would even accept the abandonment. Accordingly, it makes no sense to abandon the easement when it is not needed for our designs.

Because we were acquiring two separate parcels of land to develop two separate applications , we

were able to locate the contiguous property line where we wanted so that it best served the design and applications we submitted. That line was not the same line per the recorded plats. There is no city approval process nor delay when you buy and develop on land that is already platted. As noted above, we would have to replat the property in order to keep the property line as submitted per the applications. We are no longer doing this.

Application 19242 was proposed as 3.74 acres more or less and will now be 4.00 acres which is the size of the existing platted lot- a .26 acre difference. Application 19245 was proposed as 3.57 acres and will now be 3.32 acres as per the recorded existing plat- again a .26 acre difference. There is a cost of the land being relocated of \$60,715 that will be reduced on application 19245 but added to application 19242.

Because of the revised property line location on application 19245, we had to revise that application's site plan. This is not a material change to the application but non the less, we would like for staff to approve the change so that we do not have to address this at time of cost cert.

Thank you in advance and please let me know if you need any additional exhibits or clarification regarding this request.

**Mark Musemeche , A.I.A.**

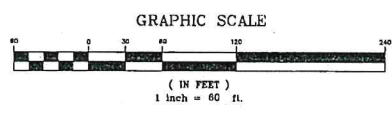
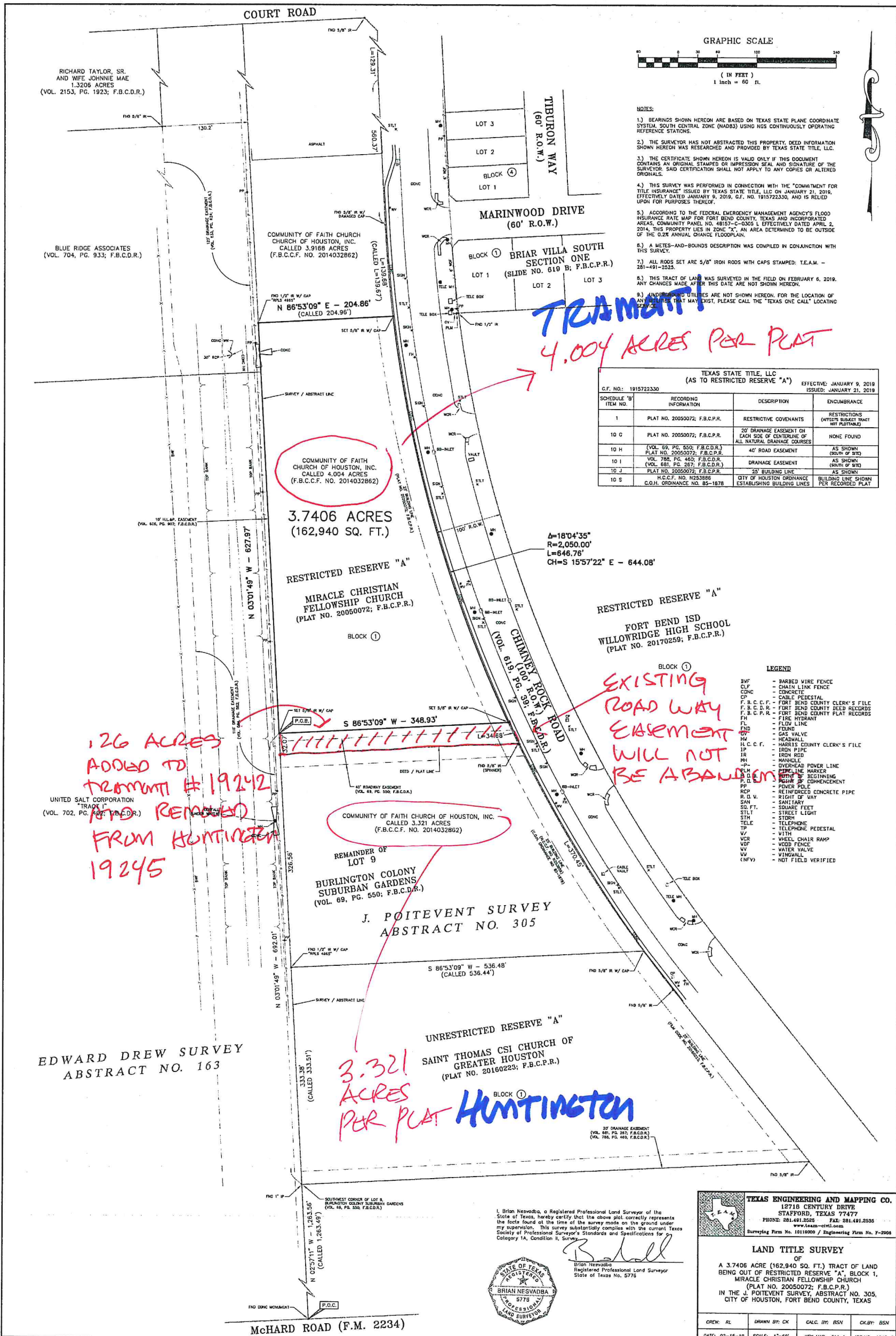
**MGROUP**

1013 Van Buren Houston, Texas 77019 713.522.4141 (W) 713.522.9775 (F)

[Mark@mgrouppcompanies.com](mailto:Mark@mgrouppcompanies.com)



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- NOTES:
- 1) BEARINGS SHOWN HEREON ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD83) USING NGS CONTINUOUSLY OPERATING REFERENCE STATIONS.
  - 2) THE SURVEYOR HAS NOT ABSTRACTED THIS PROPERTY. DEED INFORMATION SHOWN HEREON WAS RESEARCHED AND PROVIDED BY TEXAS STATE TITLE, LLC.
  - 3) THE CERTIFICATE SHOWN HEREON IS VALID ONLY IF THIS DOCUMENT CONTAINS AN ORIGINAL STAMPED OR IMPRESSION SEAL AND SIGNATURE OF THE SURVEYOR. SAID CERTIFICATION SHALL NOT APPLY TO ANY COPIES OR ALTERED ORIGINALS.
  - 4) THIS SURVEY WAS PERFORMED IN CONNECTION WITH THE "COMMITMENT FOR TITLE INSURANCE" ISSUED BY TEXAS STATE TITLE, LLC ON JANUARY 21, 2019, EFFECTIVELY DATED JANUARY 9, 2019, CI. NO. 1915722330, AND IS RELEASABLE UPON PURPOSES THEREOF.
  - 5) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP FOR FORT BEND COUNTY, TEXAS AND INCORPORATED AREAS, COMMUNITY PANEL NO. 48157-C-0005-1 EFFECTIVELY DATED APRIL 2, 2014, THIS PROPERTY LIES IN ZONE "X", AN AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN.
  - 6) A METES-AND-BOUNDS DESCRIPTION WAS COMPILED IN CONJUNCTION WITH THIS SURVEY.
  - 7) ALL RODS SET ARE 5/8" IRON RODS WITH CAPS STAMPED: T.E.A.M. - 291-491-2525.
  - 8) THIS TRACT OF LAND WAS SURVEYED IN THE FIELD ON FEBRUARY 6, 2019. ANY CHANGES MADE AFTER THIS DATE ARE NOT SHOWN HEREON.
  - 9) UNDERGROUND UTILITIES ARE NOT SHOWN HEREON. FOR THE LOCATION OF ANY UTILITIES THAT MAY EXIST, PLEASE CALL THE "TEXAS ONE CALL" LOCATING SERVICE.

**TRAMONTI!**  
4.004 ACRES PER PLAT

TEXAS STATE TITLE, LLC  
(AS TO RESTRICTED RESERVE "A")

C.I. NO.: 1915722330 EFFECTIVE: JANUARY 9, 2019  
ISSUED: JANUARY 21, 2019

SCHEDULE "B" ITEM NO.	RECORDING INFORMATION	DESCRIPTION	ENCUMBRANCE
1	PLAT NO. 20050072; F.B.C.P.R.	RESTRICTIVE COVENANTS	RESTRICTIONS (AFFECTS SUBJECT TRACT NOT PLOTTABLE)
10 G	PLAT NO. 20050072; F.B.C.P.R.	20' DRAINAGE EASEMENT ON EACH SIDE OF CENTERLINE OF ALL NATURAL DRAINAGE COURSES	NONE FOUND
10 H	(VOL. 69, PG. 550; F.B.C.D.R.) PLAT NO. 20050072; F.B.C.P.R.	40' ROAD EASEMENT	AS SHOWN (BOUND OF STD)
10 I	(VOL. 788, PG. 465; F.B.C.D.R.) (VOL. 681, PG. 287; F.B.C.D.R.)	DRAINAGE EASEMENT	AS SHOWN (BOUND OF STD)
10 J	PLAT NO. 20050072; F.B.C.P.R.	25' BUILDING LINE	AS SHOWN
10 S	H.C.L.F. NO. 725386 C.O.H. ORDINANCE NO. 85-1878	CITY OF HOUSTON ORDINANCE ESTABLISHING BUILDING LINES	BUILDING LINE SHOWN PER RECORDED PLAT

COMMUNITY OF FAITH CHURCH OF HOUSTON, INC.  
CALLED 4.004 ACRES  
(F.B.C.C.F. NO. 2014032862)

3.7406 ACRES  
(162,940 SQ. FT.)

RESTRICTED RESERVE "A"  
MIRACLE CHRISTIAN FELLOWSHIP CHURCH  
(PLAT NO. 20050072; F.B.C.P.R.)

RESTRICTED RESERVE "A"  
FORT BEND ISD WILLOWRIDGE HIGH SCHOOL  
(PLAT NO. 20170259; F.B.C.P.R.)

1.26 ACRES  
ADDED TO  
TRAMONTI # 19242  
AND REMOVED  
FROM HUNTINGTON  
19245

COMMUNITY OF FAITH CHURCH OF HOUSTON, INC.  
CALLED 3.321 ACRES  
(F.B.C.C.F. NO. 2014032862)

REMAINDER OF LOT 9  
BURLINGTON COLONY SUBURBAN GARDENS  
(VOL. 69, PG. 550; F.B.C.D.R.)

J. POITEVENT SURVEY  
ABSTRACT NO. 305

UNRESTRICTED RESERVE "A"  
SAINT THOMAS CSI CHURCH OF GREATER HOUSTON  
(PLAT NO. 20160223; F.B.C.P.R.)

3.321 ACRES  
PER PLAT HUNTINGTON

EDWARD DREW SURVEY  
ABSTRACT NO. 163

- LEGEND
- BWF - BARBED WIRE FENCE
  - CLF - CHAIN LINK FENCE
  - CONC - CONCRETE
  - CP - CABLE PEDESTAL
  - F.B.C.C.F. - FORT BEND COUNTY CLERK'S FILE
  - F.B.C.D.R. - FORT BEND COUNTY DEED RECORDS
  - F.B.C.P.R. - FORT BEND COUNTY PLAT RECORDS
  - FH - FIRE HYDRANT
  - FL - FLOW LINE
  - FOUND - FOUND
  - GV - GAS VALVE
  - HW - HEADWALL
  - H.C.C.F. - HARRIS COUNTY CLERK'S FILE
  - IP - IRON PIPE
  - IR - IRON ROD
  - MH - MANHOLE
  - OP - OVERHEAD POWER LINE
  - P.M. - PIPER LINE MARKER
  - PP - POINT OF BEGINNING
  - PP - POINT OF COMMENCEMENT
  - PP - POWER POLE
  - REP - REINFORCED CONCRETE PIPE
  - R.O.W. - RIGHT OF WAY
  - SAN - SANITARY
  - SQ. FT. - SQUARE FEET
  - STLT - STREET LIGHT
  - STH - STORE
  - TELE - TELEPHONE
  - TP - TELEPHONE PEDESTAL
  - W/V - WOOD FENCE
  - WCR - WHEEL CHAIR RAMP
  - WVF - WATER VALVE
  - WV - WINGWALL
  - (NFV) - NOT FIELD VERIFIED

I, Brian Nesvada, a Registered Professional Land Surveyor of the State of Texas, hereby certify that the above plat correctly represents the facts found at the time of the survey made on the ground under my supervision. This survey substantially complies with the current Texas Society of Professional Surveyors' Standards and Specifications for Category 1A, Condition II, Survey.



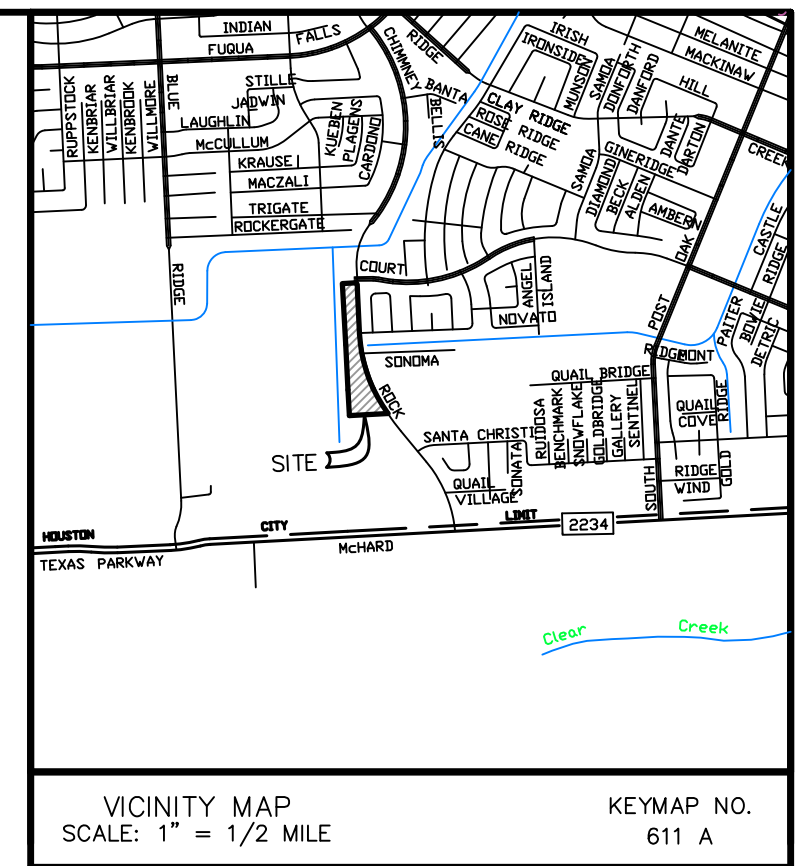
Brian Nesvada  
Registered Professional Land Surveyor  
State of Texas No. 5778

TEXAS ENGINEERING AND MAPPING CO.  
12718 CENTURY DRIVE  
STAFFORD, TEXAS 77477  
PHONE: 281.481.5555 FAX: 281.481.2555  
www.team-civil.com  
Surveying Firm No. 10118000 / Engineering Firm No. 7-2908

LAND TITLE SURVEY  
OF  
A 3.7406 ACRE (162,940 SQ. FT.) TRACT OF LAND  
BEING OUT OF RESTRICTED RESERVE "A", BLOCK 1,  
MIRACLE CHRISTIAN FELLOWSHIP CHURCH  
(PLAT NO. 20050072; F.B.C.P.R.)  
IN THE J. POITEVENT SURVEY, ABSTRACT NO. 305,  
CITY OF HOUSTON, FORT BEND COUNTY, TEXAS

CREW: RL	DRAWN BY: CK	CALC. BY: BSN	CHK BY: BSN
DATE: 02-15-19	SCALE: 1"=60'	KEY MAP: 611 A	JOB NO.: 1245-5





MISSOURI CITY CONGREGATION OF  
MISSJHOVAH'S WITNESSES, TEXAS  
2.33 ACRES  
(FILE NO. 2014106364; F.B.C.D.R.)

**COURT ROAD**  
(100' R.O.W.)  
(VOL. 619, PG. 24; F.B.C.D.R.)  
(VOL. 633, PG. 602; F.B.C.D.R.)

**NEW HOPE BAPTIST CHURCH**  
(SLIDE NO. 1395A; F.B.C.P.R.)  
BLOCK ① RESTRICTED RESERVE "A"

RICHARD TAYLOR, SR.  
AND WIFE, JOHNNIE MAE  
1.3206 ACRES  
(VOL. 2153, PG. 1923; F.B.C.D.R.)

BLUE RIDGE ASSOCIATES  
(VOL. 704, PG. 933; F.B.C.D.R.)

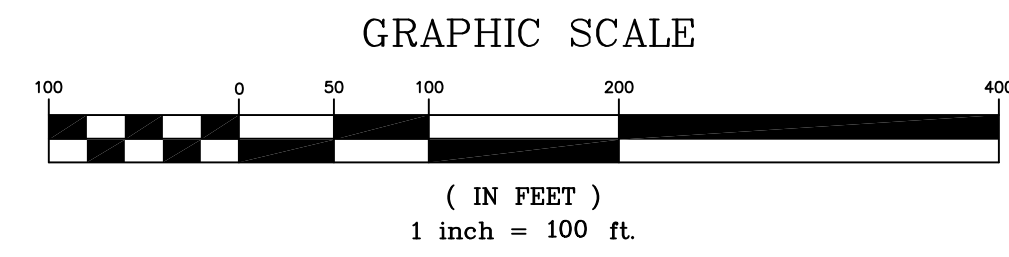
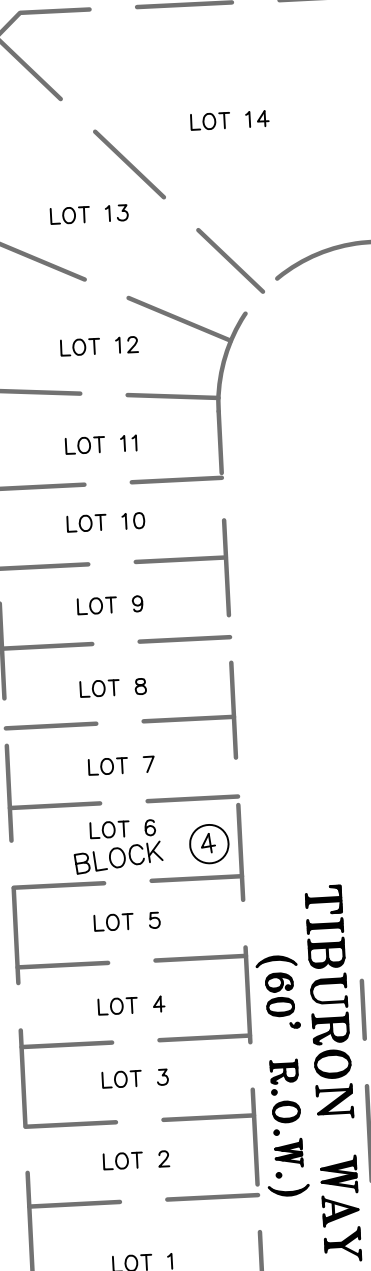
10' ALL-AP. EASEMENT  
(VOL. 606, PG. 907; F.B.C.D.R.)

UNITED SALT CORPORATION  
"TRACT I"  
(VOL. 702, PG. 402; F.B.C.D.R.)

**EDWARD DREW SURVEY**  
ABSTRACT NO. 163

UNRESTRICTED RESERVE "A"  
BLOCK ①  
**SAINT THOMAS CSI CHURCH OF  
GREATER HOUSTON**  
(PLAT NO. 20160223; F.B.C.P.R.)

**McHARD ROAD (F.M. 2234)**



UNRESTRICTED RESERVE TABLE		
A	3.9306 ACRES	(171,217 SQ. FT.)
B	4.0022 ACRES	(174,341 SQ. FT.)
C	3.3211 ACRES	(144,669 SQ. FT.)

**LEGEND**

- F. B. C. D. R. - FORT BEND COUNTY DEED RECORDS
- F. B. C. P. R. - FORT BEND COUNTY PLAT RECORDS
- FND - FOUND
- IP - IRON PIPE
- IR - IRON ROD
- ND - NUMBER
- PG. - PAGE
- P. D. B. - POINT OF BEGINNING
- P. D. C. - POINT OF COMMENCEMENT
- R. D. W. - RIGHT OF WAY
- SQ. FT. - SQUARE FEET
- VOL. - VOLUME
- W/ - WITH

**J. POITEVENT SURVEY**  
ABSTRACT NO. 305

UNRESTRICTED RESERVE "A"  
**FORT BEND ISD  
WILLOWRIDGE HIGH SCHOOL**  
(PLAT NO. 20170259; F.B.C.P.R.)  
BLOCK ①

**Tramonti site**  
**Huntington site**

**CHIMNEY ROCK ROAD**  
(VOL. 619, PG. 389; F.B.C.D.R.)

Final Plat " After" survey

LINE TABLE			
LINE	BEARING	DISTANCE	
LT	S 44°56'51" E	27.82'	

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	3°36'51"	2050.00'	129.31'	S 01°59'28" E - 129.29'
C2	3°54'14"	2050.00'	139.68'	S 04°57'57" E - 139.66'
C3	29°23'58"	2050.00'	1051.89'	S 21°37'03" E - 1040.39'

**RESERVES AT COURT  
AND CHIMNEY ROCK**

A SUBDIVISION OF A 11.254 ACRE TRACT  
OF LAND BEING A REPLAT OF MIRACLE  
CHRISTIAN FELLOWSHIP CHURCH  
(PLAT NO. 20050072; F.B.C.P.R.)  
AND ADDITION IN THE J. POITEVENT SURVEY,  
ABSTRACT NO. 305, CITY OF HOUSTON,  
FORT BEND COUNTY, TEXAS

1 BLOCK 3 RESERVES 0 LOTS

REASON FOR REPLAT:  
TO CREATE 3 RESERVES

~ OWNERS ~  
**IMPACT CHURCH OF HOUSTON**  
P.O. BOX 3464  
Pearland, Texas 77588  
PHONE: 281.467.0000

**TRAMONTI HOUSTON PARTNERS, LTD.**  
1013 Van Buren  
Houston, Texas 77019  
PHONE: 281.467.0000

**HUNTINGTON CR PARTNERS, LTD.**  
1013 Van Buren  
Houston, Texas 77019  
PHONE: 281.467.0000

~ ENGINEER / SURVEYOR ~  
**TEXAS ENGINEERING AND MAPPING COMPANY**  
12718 Century Drive  
Stafford, Texas 77477

PHONE: 281.491.2525 FAX: 281.491.2535  
SURVEYING FIRM NO. 10119000 / ENGINEERING FIRM NO. F-2806  
www.team-civil.com  
JOB NO. 1245-6  
DECEMBER 23, 2019



**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application for Huntington Chimney Rock (HTC #19245)

**RECOMMENDED ACTION**

**WHEREAS**, Huntington Chimney Rock (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2019 for the construction of 100 units of elderly housing in the City of Houston in Fort Bend County;

**WHEREAS**, Huntington CR Partners, Ltd. (the Applicant) is now requesting approval for a change in the development site acreage from 3.58 to 3.32, which results in a 7.83% change in residential density from 27.93 units per acre to 30.12 units per acre due to the reallocation of 0.26 acre to The Tramonti (HTC #19242), a new 9% HTC development also approved in 2019;

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

**WHEREAS**, the requested change does not materially alter the Development in a negative manner, affect the HTC recommendation, and would not have adversely affected the selection of the Application in the Application Round;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment to the Application for Huntington Chimney Rock is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

**BACKGROUND**

Huntington Chimney Rock received an award of 9% Housing Tax Credits in 2019 for the new construction of 100 units of elderly housing in Houston, Fort Bend County. The Development is

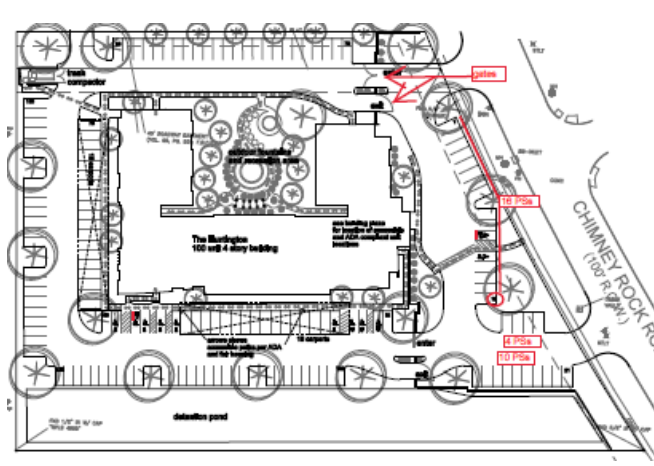
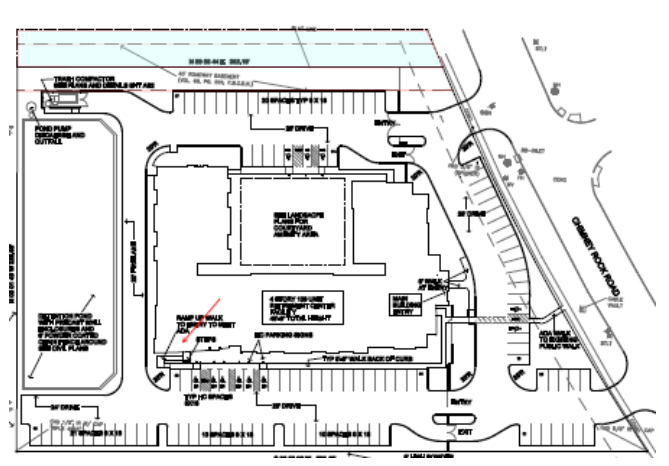
proposed to be owned by Huntington CR Partners, Ltd., with CR Huntington General, LLC as its 0.02% General Partner owned by MGroup Holdings, Inc., which is owned by Laura Musemeche and Mark Musemeche.

The Applicant is now requesting approval for a change in acreage from 3.58 acres to 3.32 acres (a decrease of 7.26%) and subsequent change in the residential density from 27.93 to 30.12 units per acre (an increase of 7.83%), which requires approval by the Board under Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F). According to the Applicant's representative, the acreage was simply updated due to an adjustment of the property line between the Development and its adjacent property, The Tramonti (HTC #19242), owned by the same Principals. As the property line that separates the two properties is proposed to be moved approximately 30 feet to the south, the 0.26 acre difference is proposed to be moved from one development to the other, but the combined land for both properties will not change.

At the time of application, the original plan was to move the deeded plat line boundary splitting an existing 40-foot roadway easement between Huntington Chimney Rock (HTC #19245) and The Tramonti (HTC #19242) and grant the entire easement to Huntington Chimney Rock. It was initially anticipated that the easement could be abandoned due to the outdated and nonexistent use of the area's street patterns. However, the process to abandon the existing easement was determined to be costly and requiring a lengthy city approval process. In order to construct this Development efficiently, the Applicant is requesting to remove 0.26 acres from the Huntington Chimney Rock site and maintain the property boundary as identified in the deeded plat to avoid re-platting. The proposed changes were not foreseeable or preventable by the Applicant and were not fully determined until the process to abandon the easement was begun.

According to the Applicant's representative, the site changes that result from the 0.26 reduction in acreage include relocating the detention pond and rearranging the planned parking. At application, the property agreed to provide 35 carports for a fee and 115 free surface spaces. The revised site plan removes the fee-based carports, while maintaining sufficient free surface parking to meet city code requirements for elderly developments. No impact is identified to the units and common spaces. These changes to the site plan are considered notification items under 10 TAC §10.405(a)(2)(B). A comparison of the originally proposed site plan and the revised site plan is shown in the table below.

**Material Alterations as defined in Texas Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F)**

Application	Amendment
<p>Density: 27.93 units per acre (100 units constructed on 3.58 acres)</p>  <p>The Hamilton 100 unit 4 story building</p> <p>CHIMNEY ROCK RD. (100' R.O.W.)</p>	<p>Density: 30.12 units per acre (100 units constructed on 3.32 acres)</p>  <p>CHIMNEY ROCK RD. (100' R.O.W.)</p>

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



**From:** [mark musemeche](#)  
**To:** [Lucy Trevino](#)  
**Cc:** [Ofelia Elizondo](#)  
**Subject:** RE: request for non material application amendment - 19242 and 19245  
**Date:** Tuesday, April 14, 2020 4:08:38 PM  
**Attachments:** [original surveys from application.pdf](#)  
[Final plat of property.pdf](#)  
[huntington CR application site plan.pdf](#)  
[site plan - huntington chimney rock.pdf](#)

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Here you go!

Basically, all that happened is the property line that separates the two applications moved approx. 30 feet to the south which is the line that existed per the original platted lots and that became the same lot line upon final replat. This change did not affect any site plan design on the Tramonti application and only required us to redo the site plan design for the Huntington application.

Im asking for approval to amend the site plan for the Huntington ( 19245) and to amend the size of each tract of land as follows: Application 19242 was 3.74 acres now is 4.00 acres and for application 19245 was 3.57 acres and is now 3.32 acres. The .26 acre difference moved from one site to the other but the overall combined amount of land for both applications did not change.

---

**From:** Lucy Trevino <lucy.trevino@tdhca.state.tx.us>  
**Sent:** Tuesday, April 14, 2020 1:35 PM  
**To:** mark musemeche <mark@mgroupcompanies.com>  
**Cc:** Ofelia Elizondo <ofelia@mgroupcompanies.com>  
**Subject:** RE: request for non material application amendment - 19242 and 19245

Hi Mark,

Could you send me before and after surveys and site plans that demonstrate the changes.

## Lucy Trevino

Senior Asset Manager

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.2550

### About TDHCA

The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or the [Learn about Fair Housing in Texas](#) page.

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).*

---

**From:** mark musemeche <[mark@mgroupcompanies.com](mailto:mark@mgroupcompanies.com)>

**Sent:** Tuesday, April 14, 2020 11:48 AM

**To:** Lucy Trevino <[lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)>

**Cc:** Ofelia Elizondo <[ofelia@mgroupcompanies.com](mailto:ofelia@mgroupcompanies.com)>

**Subject:** RE: request for non material application amendment - 19242 and 19245

**Importance:** High

Hi Lucy-

Just following up to this email from late last year. Can you let me know if you have any questions or need any further clarification to move this site plan change along?

Thanks!

Mark

---

**From:** mark musemeche

**Sent:** Tuesday, November 5, 2019 4:38 PM

**To:** Lucy Trevino ([lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)) <[lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)>

**Cc:** Ofelia Elizondo <[ofelia@mgroupcompanies.com](mailto:ofelia@mgroupcompanies.com)>; mark musemeche <[mark@mgroupcompanies.com](mailto:mark@mgroupcompanies.com)>

**Subject:** request for non material application amendment - 19242 and 19245

Hi Lucy,

I need your help approving a non material change to the site boundary line that adjoins application 19242 " The Tramonti" and application 19245 " The Huntington at Chimney Rock" . We are just adjusting a line from one application to the other.

The reason and background for the change is as follows:

At time of the application, we thought the 40 foot road way easement that runs along the north property line of the Huntington tract and south boundary of the Tramonti tract, could be abandoned due to the outdated and nonexistent use of the street patterns in the area. In other words, there is no existing street or alignment of any future street that would trigger such need for the road way easement. Furthermore, there is a deep and wide drainage easement to the west of the property that would be problematic and costly to bridge across so the likelihood of the roadway being abandoned was high.

However, what we have come up against is the process to abandon the easement requires lengthy city approval, a cost to pay for the land being abandoned to the City and a re-plat of the property which triggers a lot of other development obligations. This is a 4-6 month process and not a certainty that the City would even accept the abandonment. Accordingly, it makes no sense to abandon the easement when it is not needed for our designs.

Because we were acquiring two separate parcels of land to develop two separate applications , we

were able to locate the contiguous property line where we wanted so that it best served the design and applications we submitted. That line was not the same line per the recorded plats. There is no city approval process nor delay when you buy and develop on land that is already platted. As noted above, we would have to replat the property in order to keep the property line as submitted per the applications. We are no longer doing this.

Application 19242 was proposed as 3.74 acres more or less and will now be 4.00 acres which is the size of the existing platted lot- a .26 acre difference. Application 19245 was proposed as 3.57 acres and will now be 3.32 acres as per the recorded existing plat- again a .26 acre difference. There is a cost of the land being relocated of \$60,715 that will be reduced on application 19245 but added to application 19242.

Because of the revised property line location on application 19245, we had to revise that application's site plan. This is not a material change to the application but non the less, we would like for staff to approve the change so that we do not have to address this at time of cost cert.

Thank you in advance and please let me know if you need any additional exhibits or clarification regarding this request.

**Mark Musemeche , A.I.A.**

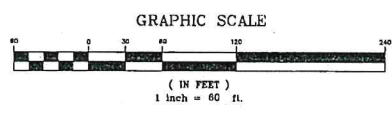
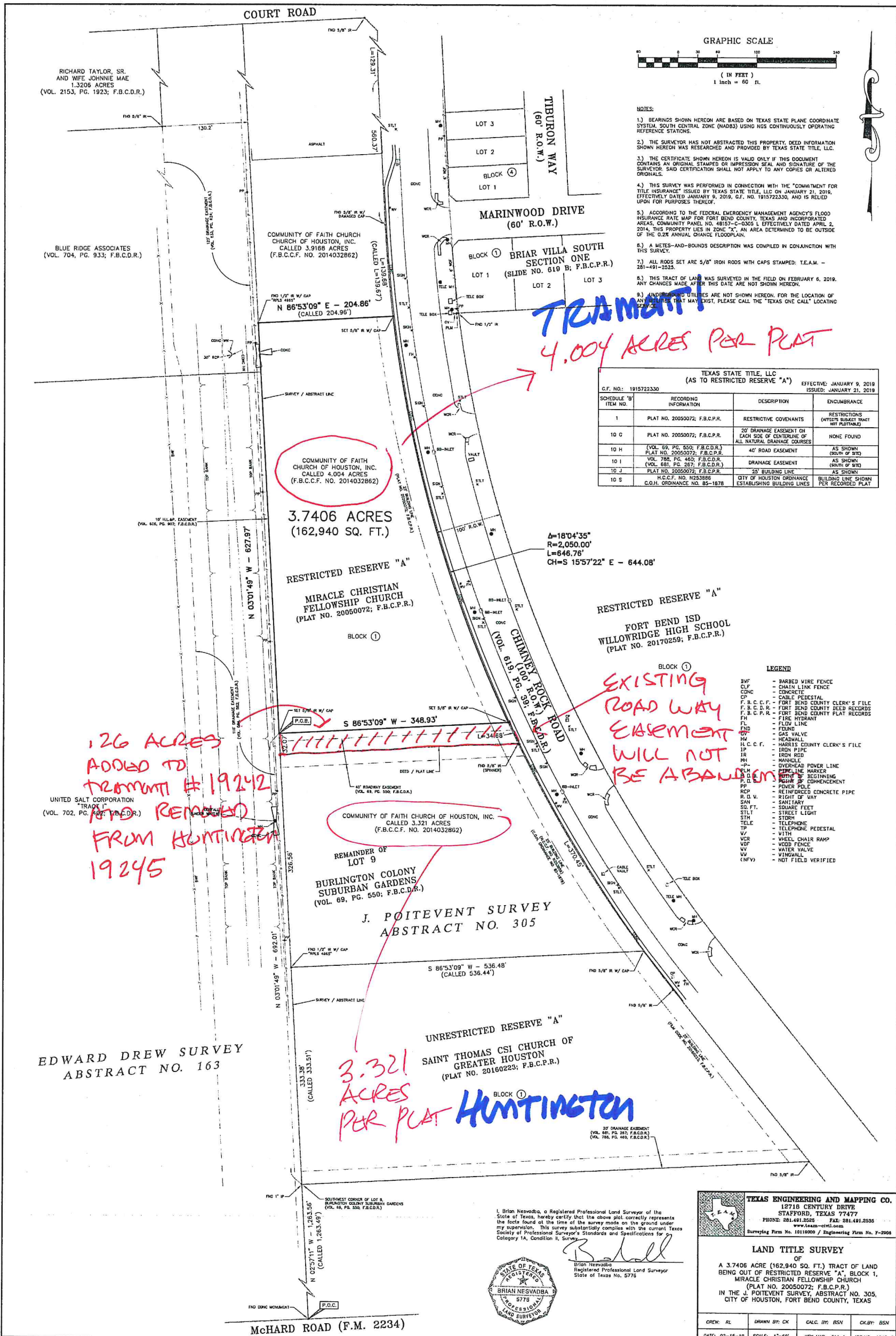
**MGROUP**

1013 Van Buren Houston, Texas 77019 713.522.4141 (W) 713.522.9775 (F)

[Mark@mgrouppcompanies.com](mailto:Mark@mgrouppcompanies.com)



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- NOTES:
- 1) BEARINGS SHOWN HEREON ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD83) USING NGS CONTINUOUSLY OPERATING REFERENCE STATIONS.
  - 2) THE SURVEYOR HAS NOT ABSTRACTED THIS PROPERTY. DEED INFORMATION SHOWN HEREON WAS RESEARCHED AND PROVIDED BY TEXAS STATE TITLE, LLC.
  - 3) THE CERTIFICATE SHOWN HEREON IS VALID ONLY IF THIS DOCUMENT CONTAINS AN ORIGINAL STAMPED OR IMPRESSION SEAL AND SIGNATURE OF THE SURVEYOR. SAID CERTIFICATION SHALL NOT APPLY TO ANY COPIES OR ALTERED ORIGINALS.
  - 4) THIS SURVEY WAS PERFORMED IN CONNECTION WITH THE "COMMITMENT FOR TITLE INSURANCE" ISSUED BY TEXAS STATE TITLE, LLC ON JANUARY 21, 2019, EFFECTIVELY DATED JANUARY 9, 2019, CI. NO. 1915722330, AND IS RELEASABLE UPON PURPOSES THEREOF.
  - 5) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP FOR FORT BEND COUNTY, TEXAS AND INCORPORATED AREAS, COMMUNITY PANEL NO. 48157-C-0005-1 EFFECTIVELY DATED APRIL 2, 2014, THIS PROPERTY LIES IN ZONE "X", AN AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN.
  - 6) A METES-AND-BOUNDS DESCRIPTION WAS COMPILED IN CONJUNCTION WITH THIS SURVEY.
  - 7) ALL RODS SET ARE 5/8" IRON RODS WITH CAPS STAMPED: T.E.A.M. - 291-491-2525.
  - 8) THIS TRACT OF LAND WAS SURVEYED IN THE FIELD ON FEBRUARY 6, 2019. ANY CHANGES MADE AFTER THIS DATE ARE NOT SHOWN HEREON.
  - 9) UNDERGROUND UTILITIES ARE NOT SHOWN HEREON. FOR THE LOCATION OF ANY UTILITIES THAT MAY EXIST, PLEASE CALL THE "TEXAS ONE CALL" LOCATING SERVICE.

**TRAMONTI!**  
4.004 ACRES PER PLAT

TEXAS STATE TITLE, LLC  
(AS TO RESTRICTED RESERVE "A")

C.I. NO.: 1915722330 EFFECTIVE: JANUARY 9, 2019  
ISSUED: JANUARY 21, 2019

SCHEDULE "B" ITEM NO.	RECORDING INFORMATION	DESCRIPTION	ENCUMBRANCE
1	PLAT NO. 20050072; F.B.C.P.R.	RESTRICTIVE COVENANTS	RESTRICTIONS (AFTER SUBJECT TRACT NOT PLOTTABLE)
10 G	PLAT NO. 20050072; F.B.C.P.R.	20' DRAINAGE EASEMENT ON EACH SIDE OF CENTERLINE OF ALL NATURAL DRAINAGE COURSES	NONE FOUND
10 H	(VOL. 69, PG. 550; F.B.C.D.R.) PLAT NO. 20050072; F.B.C.P.R.	40' ROAD EASEMENT	AS SHOWN (BOUND OF STD)
10 I	(VOL. 788, PG. 465; F.B.C.D.R.) (VOL. 681, PG. 287; F.B.C.D.R.)	DRAINAGE EASEMENT	AS SHOWN (BOUND OF STD)
10 J	PLAT NO. 20050072; F.B.C.P.R.	25' BUILDING LINE	AS SHOWN
10 S	H.C.L.F. NO. 725386 C.O.H. ORDINANCE NO. 85-1878	CITY OF HOUSTON ORDINANCE ESTABLISHING BUILDING LINES	BUILDING LINE SHOWN PER RECORDED PLAT

COMMUNITY OF FAITH CHURCH OF HOUSTON, INC.  
CALLED 4.004 ACRES  
(F.B.C.C.F. NO. 2014032862)

3.7406 ACRES  
(162,940 SQ. FT.)

RESTRICTED RESERVE "A"  
MIRACLE CHRISTIAN FELLOWSHIP CHURCH  
(PLAT NO. 20050072; F.B.C.P.R.)

RESTRICTED RESERVE "A"  
FORT BEND ISD WILLOWRIDGE HIGH SCHOOL  
(PLAT NO. 20170259; F.B.C.P.R.)

1.26 ACRES  
ADDED TO  
TRAMONTI # 19242  
AND REMOVED  
FROM HUNTINGTON  
19245

COMMUNITY OF FAITH CHURCH OF HOUSTON, INC.  
CALLED 3.321 ACRES  
(F.B.C.C.F. NO. 2014032862)

REMAINDER OF LOT 9  
BURLINGTON COLONY SUBURBAN GARDENS  
(VOL. 69, PG. 550; F.B.C.D.R.)

J. POITEVENT SURVEY  
ABSTRACT NO. 305

UNRESTRICTED RESERVE "A"  
SAINT THOMAS CSI CHURCH OF GREATER HOUSTON  
(PLAT NO. 20160223; F.B.C.P.R.)

3.321 ACRES  
PER PLAT HUNTINGTON

EDWARD DREW SURVEY  
ABSTRACT NO. 163

- LEGEND
- BWF - BARBED WIRE FENCE
  - CLF - CHAIN LINK FENCE
  - CONC - CONCRETE
  - CP - CABLE PEDESTAL
  - F.B.C.C.F. - FORT BEND COUNTY CLERK'S FILE
  - F.B.C.D.R. - FORT BEND COUNTY DEED RECORDS
  - F.B.C.P.R. - FORT BEND COUNTY PLAT RECORDS
  - FH - FIRE HYDRANT
  - FL - FLOW LINE
  - FOUND - FOUND
  - GV - GAS VALVE
  - HW - HEADWALL
  - H.C.C.F. - HARRIS COUNTY CLERK'S FILE
  - IP - IRON PIPE
  - IR - IRON ROD
  - MH - MANHOLE
  - OP - OVERHEAD POWER LINE
  - P.M. - PIPE LINE MARKER
  - PP - POINT OF BEGINNING
  - PP - POINT OF COMMENCEMENT
  - PP - POWER POLE
  - REP - REINFORCED CONCRETE PIPE
  - R.O.W. - RIGHT OF WAY
  - SAN - SANITARY
  - SQ. FT. - SQUARE FEET
  - STLT - STREET LIGHT
  - STH - STORE
  - TELE - TELEPHONE
  - TP - TELEPHONE PEDESTAL
  - W/V - WOOD FENCE
  - WCR - WHEEL CHAIR RAMP
  - WVF - WATER VALVE
  - WV - WINGWALL
  - (NFV) - NOT FIELD VERIFIED

I, Brian Nesvada, a Registered Professional Land Surveyor of the State of Texas, hereby certify that the above plat correctly represents the facts found at the time of the survey made on the ground under my supervision. This survey substantially complies with the current Texas Society of Professional Surveyors' Standards and Specifications for Category 1A, Condition II, Survey.



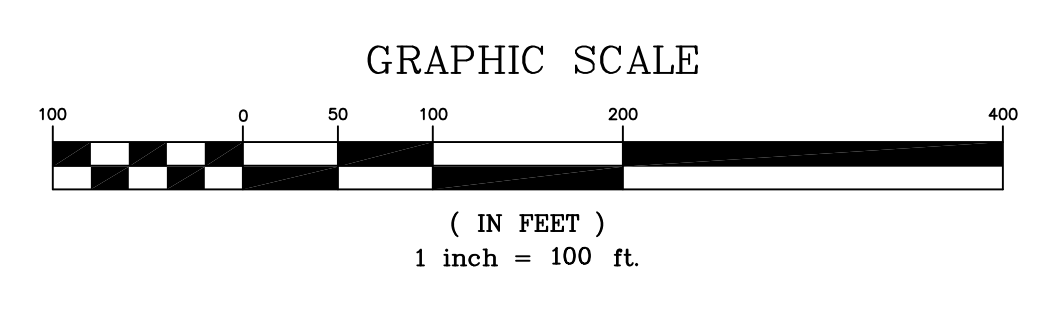
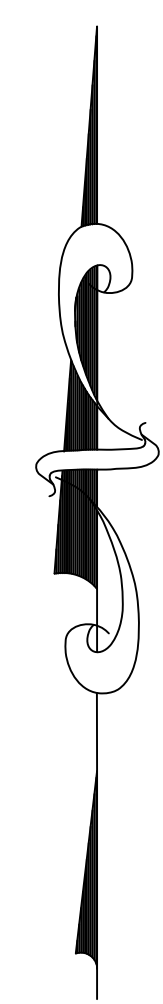
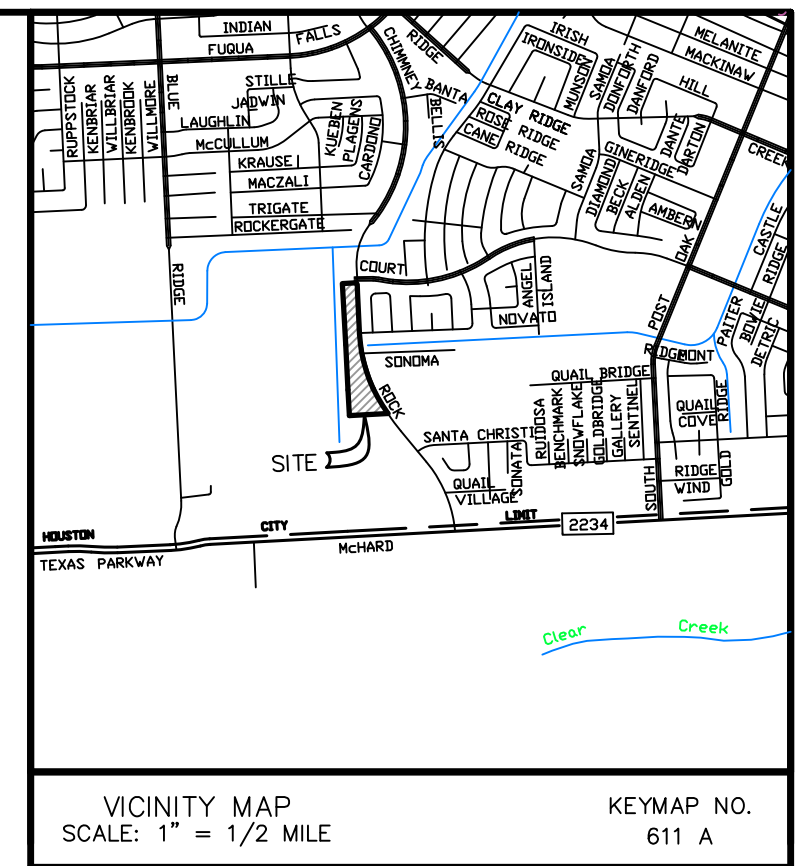
Brian Nesvada  
Registered Professional Land Surveyor  
State of Texas No. 5778

TEXAS ENGINEERING AND MAPPING CO.  
12718 CENTURY DRIVE  
STAFFORD, TEXAS 77477  
PHONE: 281.481.2525 FAX: 281.481.2555  
www.team-civil.com  
Surveying Firm No. 10118000 / Engineering Firm No. 7-2908

LAND TITLE SURVEY  
OF  
A 3.7406 ACRE (162,940 SQ. FT.) TRACT OF LAND  
BEING OUT OF RESTRICTED RESERVE "A", BLOCK 1,  
MIRACLE CHRISTIAN FELLOWSHIP CHURCH  
(PLAT NO. 20050072; F.B.C.P.R.)  
IN THE J. POITEVENT SURVEY, ABSTRACT NO. 305,  
CITY OF HOUSTON, FORT BEND COUNTY, TEXAS

CREW: RL	DRAWN BY: CK	CALC. BY: BSN	CHKD BY: BSN
DATE: 02-15-19	SCALE: 1"=60'	KEY MAP: 611 A	JOB NO.: 1245-5





UNRESTRICTED RESERVE TABLE		
A	3.9306 ACRES	(171,217 SQ. FT.)
B	4.0022 ACRES	(174,341 SQ. FT.)
C	3.3211 ACRES	(144,669 SQ. FT.)

- LEGEND**
- F. B. C. D. R. - FORT BEND COUNTY DEED RECORDS
  - F. B. C. P. R. - FORT BEND COUNTY PLAT RECORDS
  - FND - FOUND
  - IP - IRON PIPE
  - IR - IRON ROD
  - ND - NUMBER
  - PG. - PAGE
  - P. D. B. - POINT OF BEGINNING
  - P. D. C. - POINT OF COMMENCEMENT
  - R. D. W. - RIGHT OF WAY
  - SQ. FT. - SQUARE FEET
  - VOL. - VOLUME
  - W/ - WITH

Final Plat "After" survey

LINE TABLE			
LINE	BEARING	DISTANCE	
LT	S 44°56'51" E	27.82'	

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	3°36'51"	2050.00'	129.31'	S 01°59'28" E - 129.29'
C2	3°54'14"	2050.00'	139.68'	S 04°57'57" E - 139.66'
C3	29°23'58"	2050.00'	1051.89'	S 21°37'03" E - 1040.39'

## RESERVES AT COURT AND CHIMNEY ROCK

A SUBDIVISION OF A 11.254 ACRE TRACT OF LAND BEING A REPLAT OF MIRACLE CHRISTIAN FELLOWSHIP CHURCH (PLAT NO. 20050072; F.B.C.P.R.) AND ADDITION IN THE J. POITEVENT SURVEY, ABSTRACT NO. 305, CITY OF HOUSTON, FORT BEND COUNTY, TEXAS

1 BLOCK 3 RESERVES 0 LOTS

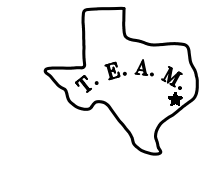
REASON FOR REPLAT:  
TO CREATE 3 RESERVES

~ OWNERS ~  
**IMPACT CHURCH OF HOUSTON**  
P.O. BOX 3464  
Pearland, Texas 77588  
PHONE: 281.467.0000

**TRAMONTI HOUSTON PARTNERS, LTD.**  
1013 Van Buren  
Houston, Texas 77019  
PHONE: 281.467.0000

**HUNTINGTON CR PARTNERS, LTD.**  
1013 Van Buren  
Houston, Texas 77019  
PHONE: 281.467.0000

~ ENGINEER / SURVEYOR ~  
**TEXAS ENGINEERING AND MAPPING COMPANY**



12718 Century Drive  
Stafford, Texas 77477  
PHONE: 281.491.2525 FAX: 281.491.2535  
SURVEYING FIRM NO. 10119000 / ENGINEERING FIRM NO. F-2806  
www.team-civil.com  
JOB NO. 1245-6  
DECEMBER 23, 2019

MISSOURI CITY CONGREGATION OF MISSJHOVAH'S WITNESSES, TEXAS  
2.33 ACRES  
(FILE NO. 2014106364; F.B.C.D.R.)  
**COURT ROAD (100' R.O.W.)**  
(VOL. 619, PG. 24; F.B.C.D.R.)  
(VOL. 633, PG. 602; F.B.C.D.R.)

**NEW HOPE BAPTIST CHURCH**  
(SLIDE NO. 1395A; F.B.C.P.R.)  
BLOCK ① RESTRICTED RESERVE "A"

RICHARD TAYLOR, SR. AND WIFE, JOHNNIE MAE  
1.3206 ACRES  
(VOL. 2153, PG. 1923; F.B.C.D.R.)

BLUE RIDGE ASSOCIATES  
(VOL. 704, PG. 933; F.B.C.D.R.)

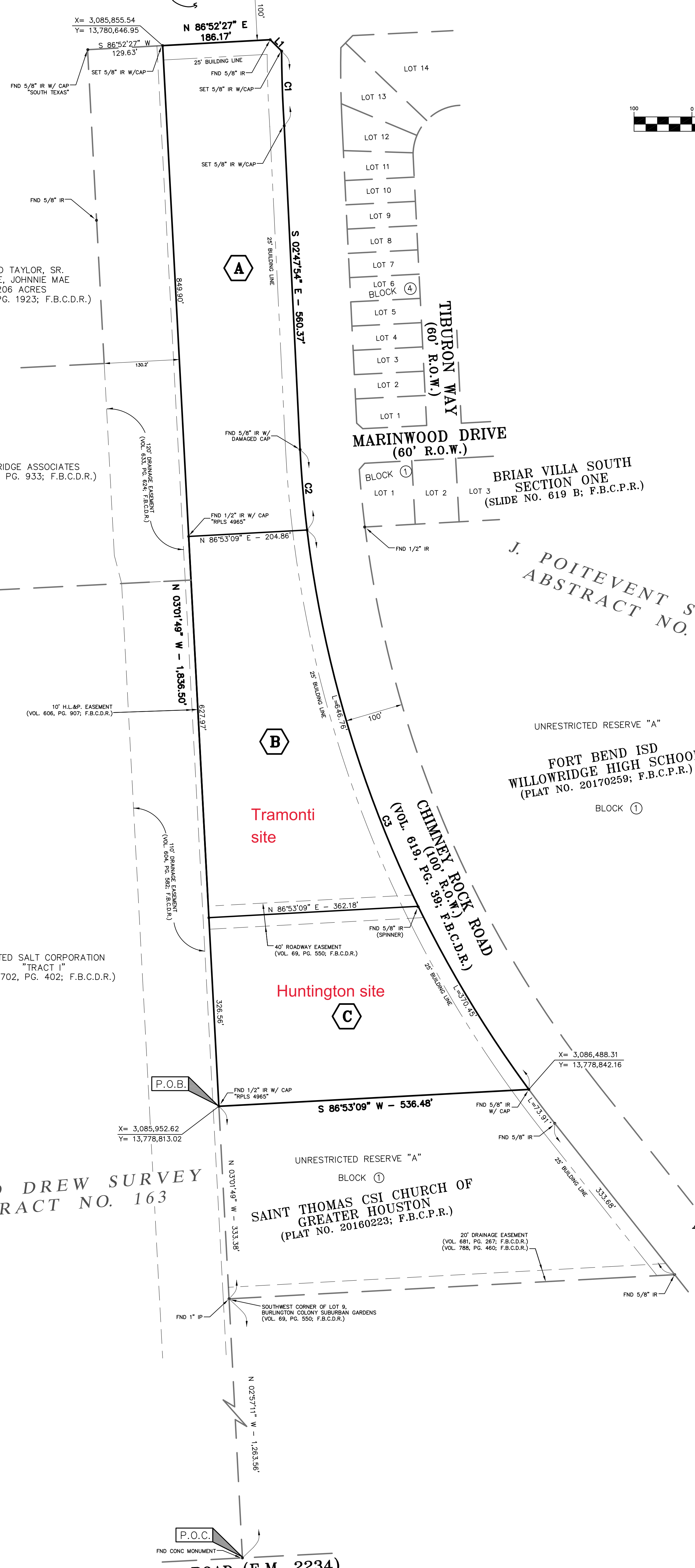
10' ALL AP. EASEMENT  
(VOL. 606, PG. 907; F.B.C.D.R.)

UNITED SALT CORPORATION "TRACT I"  
(VOL. 702, PG. 402; F.B.C.D.R.)

**EDWARD DREW SURVEY**  
ABSTRACT NO. 163

**SAINT THOMAS CSI CHURCH OF GREATER HOUSTON**  
(PLAT NO. 20160223; F.B.C.P.R.)

**McHARD ROAD (F.M. 2234)**



**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Hammack Creek (HTC #19315)

**RECOMMENDED ACTION**

**WHEREAS**, Hammack Creek (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2019 for the construction of 107 new multifamily units in Kennedale, Tarrant County;

**WHEREAS**, KD Hammack Creek Housing, LP (Applicant) requests approval for various material amendments to the Application including: a significant modification of the site plan, a revision to the architectural design resulting in changes in Development costs and the financing structure, a modification of the number of units without a change to the total number of Low-Income Units (from 107 to 112, increasing the market rate units by five), changes to the bedroom mix (an increase of three one-bedroom units, one two-bedroom unit, and one three-bedroom unit), and a 13.48% modification of the residential density (due to a change from 7.964 to 7.346 acres);

**WHEREAS**, Board approval is required for a significant modification of the site plan, a modification of the number of units or bedroom mix of units, a significant modification of the architectural design of the Development, a modification of the residential density of at least 5%, as directed in Tex. Gov't Code §2306.6712(d)(1), (2), (5), and (6) and 10 TAC §10.405(a)(4)(A), (B), (E), and (F), and the Applicant has complied with the amendment requirements therein;

**WHEREAS**, the amendment request also identifies minor changes such as an increase of 4.22% in the Net Rentable Area (NRA), an increase of 0.94% in the common area (from 6,620 to 6,682 square feet), and a reduction in the parking spaces from 223 to 215 spaces, which are deemed Notification Items under 10 TAC §10.405(a)(2)(B) and (C); and

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

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested amendments for Hammack Creek are 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**

Hammack Creek received a 9% HTC award in 2019 in the amount of \$1.5M annually to construct 107 units (86 HTC and 21 Market units) in Kennedale, Tarrant County. In a letter dated April 28, 2020, Alyssa Carpenter, the representative for the Applicant, requested approval for various material amendments to the Application. The request also includes changes to the site plan and architectural design plans that are considered Notification Items under 10 TAC §10.405(a)(2)(B) and (C). The Applicant states the amendments are the result of unforeseen changes that were not proposed by local authorities until after the Development was awarded.

The first material amendment is a significant modification to the site plan and a revision to the architectural design. The Applicant states that the Texas Department of Transportation would not allow for the median cut on Kennedale Parkway as proposed in the original design plan. As a result, the City of Kennedale wanted the entire Development to be consolidated and located to the east off Kennedale-Sublett Road. This required a shift of acreage away from Kennedale Parkway and towards Kennedale-Sublett Road, and it results in an increase in acreage from 7.964 to 8.021 acres. However, there will be a 0.675-acre dedication to the City for a right-of-way to widen Kennedale-Sublett Road. After the dedication, the developed site will be 7.346 acres, a reduction of 7.76% or 0.618-acre from the original site plan. This change results in a material amendment for the 13.48% modification of the residential density that will increase from 13.44 units per acre to 15.25 units per acre. The shift to the site is possible because the Developer controls all of the proposed acreage.

The second material amendment is for a change to the number of units. The Development was originally designed with 107 units composed of 86 units designated as Low-Income Units and 21 market rate units. The Applicant has provided a letter from the City of Kennedale stating that based on their growth and desire to serve residents of all income levels, they requested the Developer to add five market rate units. Therefore, the revised design plans include a modification of the number of units to add five additional market units, increasing the total number of units from 107 to 112 without affecting the total number of Low-Income Units. The additional five units result in a change to the unit mix by adding three one-bedroom units, one two-bedroom unit, and one three-bedroom unit.

The Applicant also identifies minor changes to the original site and architectural design plans that are considered Notification Items under 10 TAC §10.405(a)(2)(B) and (C). The architectural design changes were made due to the City's desire for a more urban design. The exterior walls of the buildings will be staggered by unit in order to be more visually appealing, which also results in slight changes to the exterior walls of the unit plans. There were also slight changes to the square footages of some of the units due to waterproofing requirements and HUD recalculations

that result in an overall increase in the NRA from 102,292 to 106,612 square feet, an increase of 4.22% or 4,320 square feet. The revised design plans also indicate there was a slight increase in the common area. At underwriting, the common area was identified as 5,940 square feet representing the air-conditioned spaces and covered patios. However, the design plan provided at Application indicates that the entire common area including the unconditioned was 6,620 square feet. The revised design now identifies the entire common area as 6,682 square feet, an increase of 0.94% or 62 square feet. These revisions do not affect the number of buildings identified at Application; however, the parking will be reduced from 223 uncovered spaces to 215 spaces, of which 62 are carport spaces. The Applicant states the decreased spaces will still meet the City’s parking requirement of 151 spaces for the Development. Based on the revised site plan, the number of accessible parking spaces will increase from 11 at Application to 15.

The table below is a comparison of the information submitted at Application and this material amendment request:

<b>Material Alterations as defined in Tex. Gov’t Code §2306.6712(d)(2)(6) and 10 TAC §10.405(a)(4)(B) and(F)</b>							
<b>Application</b>				<b>Amendment</b>			
<u>Residential Density</u>				<u>Residential Density</u>			
Based on 107 Units				Based on 112 Units			
Original Units/Acre: 13.44				Revised Units/Acre: 15.25			
				<b>Differences</b>			
				<b>Units/Acre: 1.81</b>			
				<b>13.48% Increase</b>			
<u>Modification to Number of Units</u>				<u>Modification to Number of Units</u>			
<u>BR/BA</u>	<u>S.F./Unit</u>	<u>No. of Units</u>	<u>NRA</u>	<u>BR/BA</u>	<u>S.F./Unit</u>	<u>No. of Units</u>	<u>NRA</u>
1/1	671	19	12,749	1/1	671	20	13,420
1/1	804	2	1,608	1/1	787	4	3,148
2/2	916	43	39,388	2/2	916	24	21,984
3/2	1,129	43	48,547	2/2	916	18	16,488
Total		107	102,292	2/2	926	1	926
				2/2	926	1	926
				3/2	1,130	44	49,720
						112	106,612
							<b>4,370 s.f.</b>
							<b>4.22% Increase</b>
Total Number of Units:				Total Number of Units:			
1BR/1BA		21		1BR/1BA		24	
2BR/2BA		43		2BR/2BA		44	
3BR/2BA		43		3BR/2BA		44	
		107				112	
							<b>5 Units (Increase)</b>



The table below is a comparison of the information submitted at Application and the Notification Items included with the amendment request:

<b>Notification Items under 10 TAC §10.405(a)(2)(A), (B), and (C)</b>			
<b>Application</b>		<b>Amendment</b>	
Site Acreage:	7.964 acres	<b>Site Acreage:</b>	<b>7.346 acres</b> <b>Difference</b> <b>0.618 acres</b> <b>7.76% reduction</b>
Net Rentable Area (NRA):	102,292 s.f.	<b>Net Rentable Area (NRA):</b>	<b>106,612 s.f.</b> <b>4320 s.f.</b> <b>4.22% increase</b>
Common Area:	6,620 s.f. (representing conditioned and unconditioned spaces)	<b>Common Area:</b>	<b>6,682 s.f.</b> <b>62 s.f.</b> <b>0.94% increase</b>
Parking:	223 spaces	<b>Parking:</b>	<b>215 spaces</b> <b>8 spaces</b> <b>3.49% reduction</b>

The Applicant provided updated financial information that has been analyzed by the Real Estate Analysis (REA) Division. The results indicate there was a 25.19% or \$646,605 increase in the site work, a \$1,291,531 or 15.31% increase in the building costs, and an overall increase of \$2,146,429 or 10.08% in the total development costs from the amounts identified at Application. The Applicant has provided a draft Schedule of Values that indicates the cost increases are largely attributed to the changes in the design plans that include upgrades that are above average in comparison to other developments containing affordable units. To address the increased costs, the Applicant will increase their first lien debt by \$1,665,000, from \$7,335,000 to \$9,000,000, but will have a more favorable interest rate of 4.0%, a reduction of 0.75% from the previous commitment. The Applicant has also provided an updated term sheet from the syndicator that indicates the credit price increased \$0.01, from \$0.92 to \$0.93, resulting in an additional \$149,985 in equity proceeds. The Developer's contribution will also increase \$331,444, resulting in an increase in the amount of Deferred Developer Fee from \$163,596 to \$495,040.

REA's analysis of the changes to the costs and financing structure indicates that with the Development is feasible, and that there is no change to the previous recommended credit allocation.

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.



**Addendum to Underwriting Report**

TDHCA Application #: 19315 Program(s): 9% HTC

Hammack Creek

Address/Location: NEQ Kennedale Sublett Rd. and Kennedale Pkwy.

City: Kennedale County: Tarrant Zip: 76060

APPLICATION HISTORY	
Report Date	PURPOSE
06/04/20	Amendment
07/23/19	New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
LIHTC (0% Credit)	\$1,500,000				\$1,500,000				

**CONDITIONS STATUS**

- 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:** Applicant submitted email dated August 27, 2019 from HUD indicating that the concept package was received and will proceed for further consideration for FHA 221(d)(4) loan program. **Condition satisfied.**
  - b: Revised purchase contract detailing the Seller's obligations to provide \$840K in improvements prior to execution of the acquisition.
 

**Status:** Applicant submitted a modified purchase contract, indicating that the Seller will provide \$840K in site improvements. **Condition satisfied.**
  - c: Amended Site Design and Development Feasibility Report including a detailed depiction of all proposed pre-development Seller improvements.
 

**Status:** Applicant submitted an addendum letter to the site design and feasibility report dated September 16, 2019 from Barron-Stark Engineers. The addendum letter includes a detailed Off-Site Cost breakdown, itemizing the \$840K in pre-development site-improvements. **Condition satisfied.**

2 Receipt and acceptance by Carryover:

- a Wetlands and Jurisdictional Waters of the United States Determination Report with a clear determination of the wetland status of the subject site, indicating whether any mitigation is required.

**Status:** Applicant submitted a Wetland Delineation report from Phase Engineering, Inc. dated August 30, 2019. The report concludes that the stream that traverses the subject property is subject to Section 404 of the Clean Water Act and a Department of the Army Permit is required to discharge dredged and/or fill material into it.

3 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:** Pending

4 Receipt and acceptance by Cost Certification:

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

**Status:** Pending

- b: If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.

**Status:** Pending

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

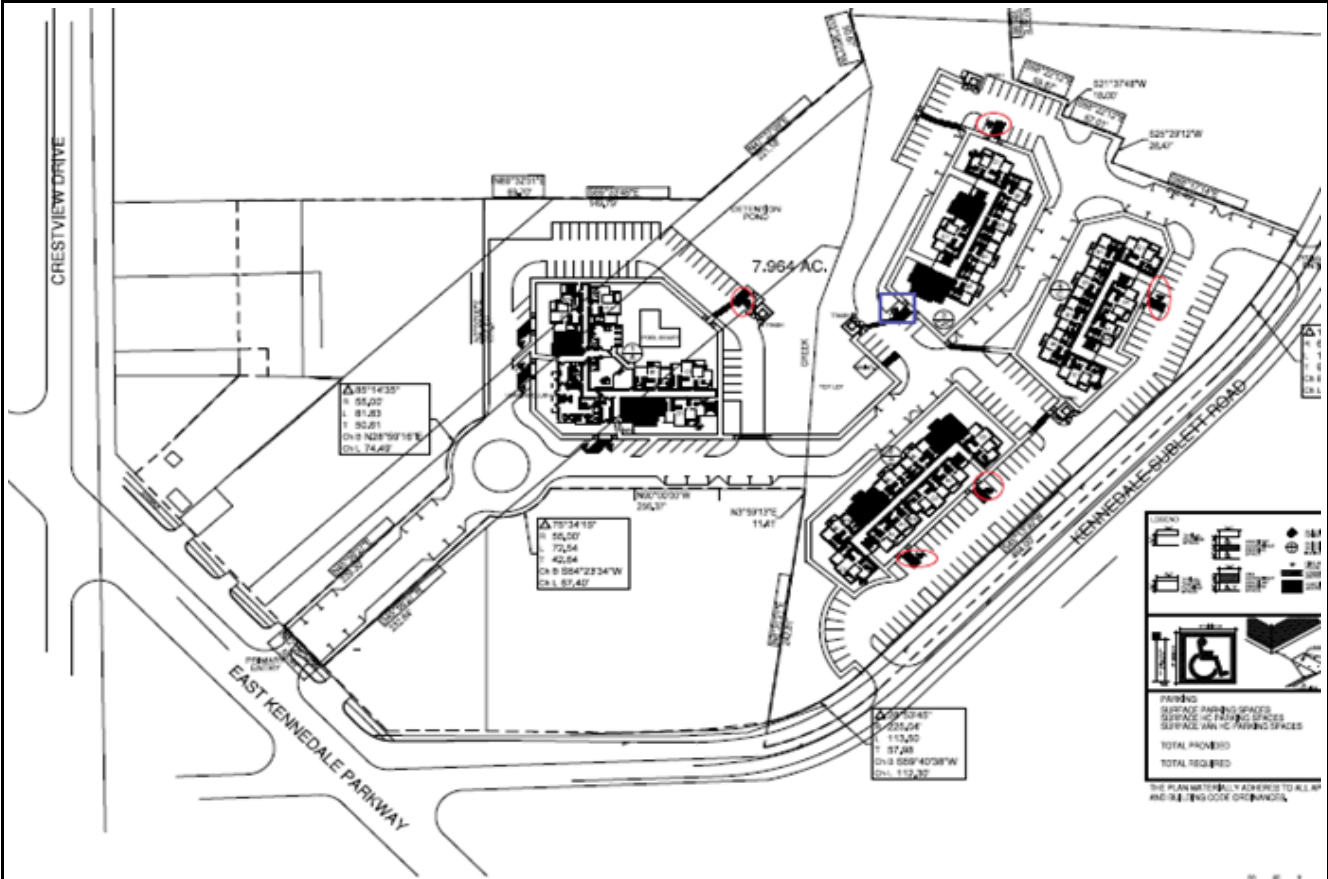
## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	9
50% of AMI	50% of AMI	35
60% of AMI	60% of AMI	42

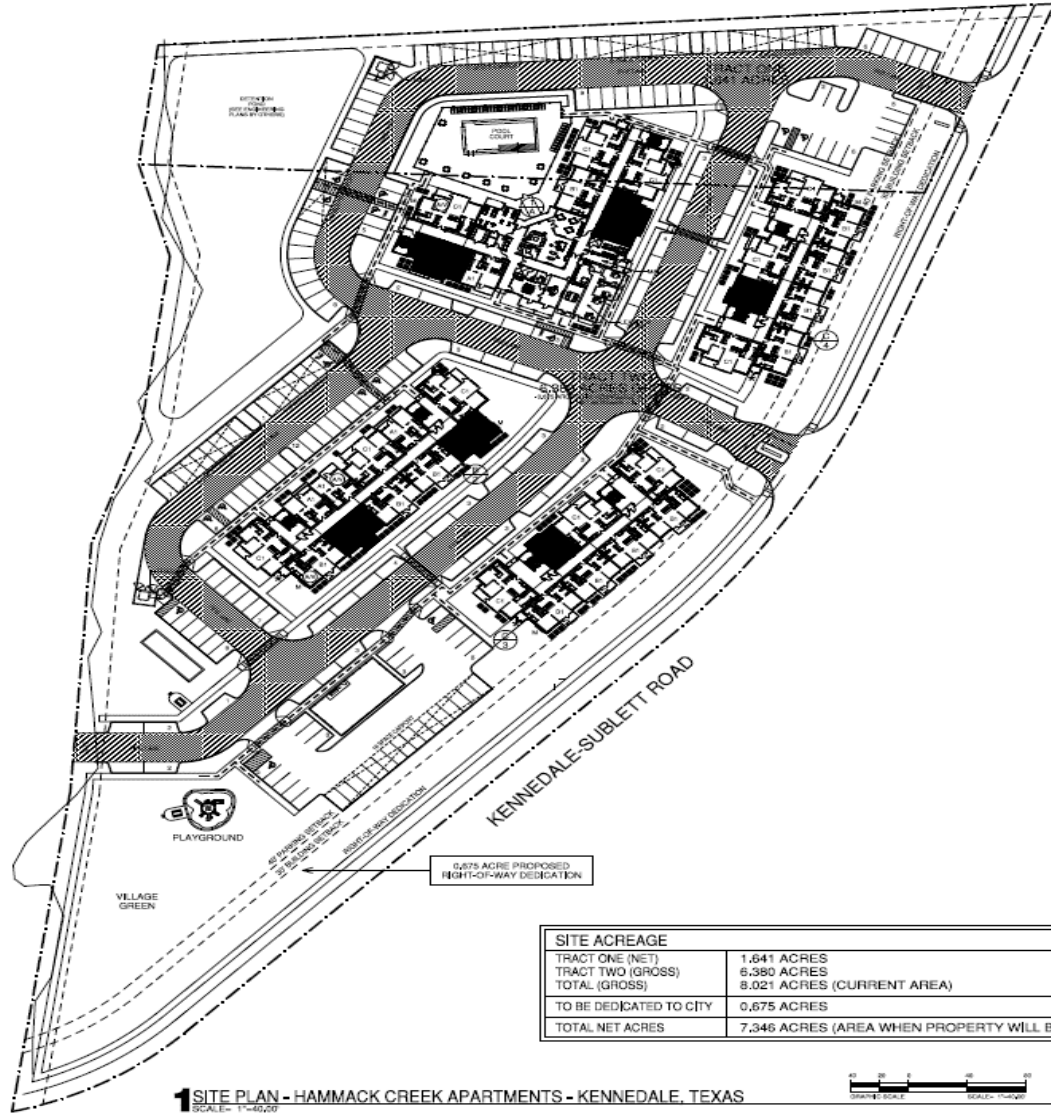
## ANALYSIS

Applicant has submitted an amendment request for a modification to the site plan, acreage and change in architectural design, including the addition of 5 Market rate units.

## ORIGINAL SITE PLAN & BUILDING ELEVATION



# AMENDED SITE PLAN & BUILDING ELEVATION



These changes are being requested due to unforeseen post-award requirements imposed by the Texas Department of Transportation (TX DoT) and the City of Kennedale.

At Application, it was contemplated that the development site would contain 7.964 acres as part of a proposed mixed-use, with a main monument entrance located off Kennedale Parkway. Post HTC award and during the engineering and approvals process, the TX DoT did not approve the anticipated median cut on Kennedale Parkway that would serve the proposed entrance. Consequently, the City of Kennedale requested consolidation of the entire development, relocating all improvements to the East of Kennedale-Sublett Road. As a result, the total gross acreage will increase to 8.021 acres, with a net final acreage of 7.346 acres after the dedication of a 0.675-acre ROW to widen Kennedale-Sublett Road.

At Application, 107 total units were proposed: 86 low income units and 21 market rate units. Of the low income units, 9 were at 30%, 35 at 50%, and 42 at 60%. This amendment proposes to add 5 market rate units for 112 total units, per the City's request for the development to serve residents with higher incomes. There is no change to the total number or income distribution of low income units originally proposed.

With this amendments also comes a slight change in the square footages to some units due to waterproofing requirements and HUD recalculations. Total Net Rentable Square Footage increased 4,320 s.f. Additionally, in response to the City's desire for a more urban design, the exterior walls of the buildings have been staggered by unit for more visual appeal, which also results in slight changes to the exterior walls of the unit plans. The total number of buildings is the same as application.

The residential density has also increased. At Application, residential density for the 107 units on 7.964 acres was 13.44 units per acre. The residential density in this amendment request is calculated to be 15.25/acre for the 112 units on 7.346 net acres. This is a difference of 1.81 spaces or 13.47%. Finally, parking has been reduced from 223 uncovered spaces at application to 215 total spaces, 62 of which are now carport spaces. This still meets requirement of 151 spaces.

#### **Operating Pro Forma**

Applicant updated rents based on the then current 2019 HTC rents. Underwritten analysis reflects current 2020 HTC rents. The Applicant's rent updates reflect a 6% increase in rental income. Applicant's expenses also increased by less than 1%, and NOI shows an increase of \$67K (15%). Underwriter's NOI reflects a similar overall increase of 14%; however, updates to rents (10.5% increase) and expenses (7.5% increase) are based on the additional 5 market rate units.

Although the Applicant and Underwriter's NOI are equivalent, Applicant's updated proforma reflects expenses that are 7.5% lower than the Underwriter's updated expenses. Therefore, the Underwriter's proforma is used to determine feasibility.

#### **Development Cost**

At Application, \$840K of Seller improvements were anticipated and included in the acquisition price. Applicant has excluded these costs in this amendment request and only included the price for the land. Underwriter's updated pro rata calculation for the total 8.021 acres is \$765,387.

Applicant's revised costs includes \$167K in off sites for sewer laterals, a \$646K (25%) increase in site work, and a \$1.3M (15%) increase in building costs. Applicant provided a draft Schedule of Values and describes cost increases largely attributed to the change in development plans.

The quality and design of the Subject described in this amendment request is above average when comparing it to other developments offering low income units. Revised development plans depict four 3-story garden style buildings with some differentiating features, ornamentation and articulation, above average stone exteriors (50% on average), 9 foot ceilings, irregular shaped units, double vanities in all 3 bedroom units (40% of the units) and 4/12 roof pitch. As a result of these factors, Applicant's revised building cost of \$91.25/s.f. is comparable to Marshall & Swift's ("M&S") Good Quality costing model rather than the traditionally used Average Quality costing model.

Total development costs increased approximately \$2.1M (10%), but are within 2.4% of the Underwriter's updated total costs. Therefore, the Applicant's costs are used to determine the credit amount.

**Sources of Funds**

Updated letter from Dougherty provides a \$9M FHA 221d(4) loan (increase of \$1.67M) at a more favorable interest rate of 4.25% (including MIP). Total debt service increased \$48K (11.4%); however total Debt Coverage Ratio (DCR) improved from 1.16 to 1.18.

The Developer's deferred fee contribution has increased \$331K (up from \$163K).

Updated term sheet from Boston Financial indicates increased credit price at \$0.93 (up from \$0.92). This generates an additional \$150K in equity proceeds.

Underwriter recommends no changes to the previous tax credit award.

Underwriter: Diamond Unique Thompson

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

**UNIT MIX/RENT SCHEDULE**  
*Hammack Creek, Kennedale, 9% HTC #19315*

LOCATION DATA	
CITY:	Kennedale
COUNTY:	Tarrant
Area Median Income	\$81,500
PROGRAM REGION:	3

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	24	21.4%	0	0	30%	9	8.0%
2	44	39.3%	0	0	40%	-	0.0%
3	44	39.3%	0	0	50%	35	31.3%
4	-	0.0%	0	0	60%	42	37.5%
5	-	0.0%	0	0	70%	-	0.0%
					80%	-	0.0%
					MR	26	23.2%
<b>TOTAL</b>	<b>112</b>	<b>100.0%</b>	<b>-</b>	<b>-</b>	<b>TOTAL</b>	<b>112</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	76.79%
APP % Acquisition	3.42%
APP % Construction	9.00%
Average Unit Size	952 sf

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 30%	\$458	3	1	1	671	\$458	\$42	\$416	(\$32)	\$0.57	\$384	\$1,152	\$1,248	\$416	\$0.62	\$0	\$985	\$1.47	\$985
TC 50%	\$764	3	1	1	671	\$764	\$42	\$722	(\$52)	\$1.00	\$670	\$2,010	\$2,166	\$722	\$1.08	\$0	\$985	\$1.47	\$985
TC 60%	\$917	4	1	1	787	\$917	\$42	\$875	(\$63)	\$1.03	\$812	\$3,248	\$3,500	\$875	\$1.11	\$0	\$985	\$1.25	\$985
MR		14	1	1	671	\$0	\$42		NA	\$1.27	\$855	\$11,970	\$11,970	\$855	\$1.27	NA	\$855	\$1.27	\$985
TC 30%	\$550	3	2	2	916	\$550	\$56	\$494	(\$37)	\$0.50	\$457	\$1,371	\$1,482	\$494	\$0.54	\$0	\$1,125	\$1.23	\$1,125
TC 50%	\$917	13	2	2	916	\$917	\$56	\$861	(\$61)	\$0.87	\$800	\$10,400	\$11,193	\$861	\$0.94	\$0	\$1,125	\$1.23	\$1,125
TC 60%	\$1,101	17	2	2	916	\$1,101	\$56	\$1,045	(\$74)	\$1.06	\$971	\$16,507	\$17,765	\$1,045	\$1.14	\$0	\$1,250	\$1.36	\$1,250
MR		9	2	2	916	\$0	\$56		NA	\$1.12	\$1,027	\$9,243	\$9,243	\$1,027	\$1.12	NA	\$1,027	\$1.12	\$1,250
MR		2	2	2	926	\$0	\$56		NA	\$1.11	\$1,027	\$2,054	\$2,054	\$1,027	\$1.11	NA	\$1,027	\$1.11	\$1,250
TC 30%	\$636	3	3	2	1,130	\$636	\$69	\$567	(\$45)	\$0.46	\$522	\$1,566	\$0	\$0	\$0.00	(\$567)	\$0	\$0.00	\$1,250
TC 50%	\$1,060	19	3	2	1,130	\$1,060	\$69	\$991	(\$73)	\$0.81	\$918	\$17,442	\$18,829	\$991	\$0.88	\$0	\$1,495	\$1.32	\$1,495
TC 60%	\$1,272	21	3	2	1,130	\$1,272	\$69	\$1,203	(\$88)	\$0.99	\$1,115	\$23,415	\$25,263	\$1,203	\$1.06	\$0	\$1,495	\$1.32	\$1,495
MR		1	3	2	1,130	\$0	\$69		NA	\$1.05	\$1,185	\$1,185	\$1,185	\$1,185	\$1.05	NA	\$1,185	\$1.05	\$1,495
<b>TOTALS/AVERAGES:</b>		<b>112</b>			<b>106,612</b>				<b>(\$54)</b>	<b>\$0.95</b>	<b>\$907</b>	<b>\$101,563</b>	<b>\$105,898</b>	<b>\$946</b>	<b>\$0.99</b>	<b>(\$15)</b>	<b>\$1,191</b>	<b>\$1.25</b>	<b>\$1,265</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>												\$1,218,756	\$1,270,776						
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**STABILIZED PRO FORMA**

**Hammack Creek, Kennedale, 9% HTC #19315**

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	Alpha Barnes Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.95	\$907	\$1,218,756	\$1,148,196	\$1,148,832	\$1,270,776	\$946	\$0.99		-4.1%	(\$52,020)
0					\$0.00	\$0	0							
late fees, app fees, NSF fees					\$20.00	\$26,880	25,680							
retained deposits and interest income					\$0.00	\$0	0							
Total Secondary Income					\$20.00			25,680	\$26,880	\$20.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$1,245,636	\$1,173,876	\$1,174,512	\$1,297,656				-4.0%	(\$52,020)
Vacancy & Collection Loss					7.5% PGI	(93,423)	(88,041)	(88,088)	(97,324)	7.5% PGI			-4.0%	3,902
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$1,152,213	\$1,085,835	\$1,086,424	\$1,200,332				-4.0%	(\$48,119)

General & Administrative	\$48,719	\$435/Unit	\$61,502	\$549	3.92%	\$0.42	\$403	\$45,154	\$45,154	\$46,647	\$48,719	\$435	\$0.46	4.06%	-7.3%	(3,565)
Management	\$47,974	4.3% EGI	\$56,060	\$501	4.00%	\$0.43	\$412	\$46,089	\$43,433	\$43,457	\$48,013	\$429	\$0.45	4.00%	-4.0%	(1,924)
Payroll & Payroll Tax	\$143,016	\$1,277/Unit	\$184,591	\$1,648	12.32%	\$1.33	\$1,268	\$141,989	\$141,989	\$136,632	\$143,016	\$1,277	\$1.34	11.91%	-0.7%	(1,027)
Repairs & Maintenance	\$80,524	\$719/Unit	\$78,781	\$703	5.57%	\$0.60	\$573	\$64,200	\$64,200	\$64,200	\$67,200	\$600	\$0.63	5.60%	-4.5%	(3,000)
Electric/Gas	\$25,070	\$224/Unit	\$17,419	\$156	1.86%	\$0.20	\$191	\$21,400	\$21,400	\$18,771	\$19,524	\$174	\$0.18	1.63%	9.6%	1,876
Water, Sewer, & Trash	\$82,805	\$739/Unit	\$134,308	\$1,199	4.98%	\$0.54	\$512	\$57,352	\$57,352	\$79,108	\$82,805	\$739	\$0.78	6.90%	-30.7%	(25,453)
Property Insurance	\$31,420	\$0.29 /sf	\$21,882	\$195	2.92%	\$0.32	\$300	\$33,648	\$33,648	\$30,018	\$31,420	\$281	\$0.29	2.62%	7.1%	2,228
Property Tax (@ 100%) 3.0210	\$90,058	\$804/Unit	\$91,719	\$819	13.18%	\$1.42	\$1,355	\$151,805	\$156,459	\$147,883	\$168,948	\$1,508	\$1.58	14.08%	-10.1%	(17,143)
Reserve for Replacements	\$49,032	\$438/Unit	\$27,962	\$250	2.43%	\$0.26	\$250	\$28,000	\$26,750	\$26,750	\$28,000	\$250	\$0.26	2.33%	0.0%	-
Supportive Services			\$18,113	\$162	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$2,916	\$26	0.30%	\$0.03	\$31	\$3,440	\$3,440	\$3,440	\$3,440	\$31	\$0.03	0.29%	0.0%	-
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>51.47%</b>	<b>\$5.56</b>	<b>\$5,295</b>	<b>\$ 593,077</b>	\$593,825	\$596,906	<b>\$641,086</b>	<b>\$5,724</b>	<b>\$6.01</b>	<b>53.41%</b>	<b>-7.5%</b>	<b>\$ (48,009)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>48.53%</b>	<b>\$5.24</b>	<b>\$4,992</b>	<b>\$559,136</b>	\$492,010	\$489,518	<b>\$559,246</b>	<b>\$4,993</b>	<b>\$5.25</b>	<b>46.59%</b>	<b>0.0%</b>	<b>\$ (110)</b>

CONTROLLABLE EXPENSES							\$2,947/Unit						\$3,226/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Hammack Creek, Kennedale, 9% HTC #19315*

<b>DEBT / GRANT SOURCES</b>																					
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									AS UNDERWRITTEN DEBT/GRANT STRUCTURE												
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative					
		UW	App						Applicant	TDHCA						DCR	LTC				
Dougherty Mortgage( FHA 221d4)	0.25%	1.18	1.18	473,874	4.00%	40	40	\$9,000,000	\$7,335,000	\$7,335,000	\$9,000,000	40	40	4.00%	\$473,874	1.18	38.4%				
<b>CASH FLOW DEBT / GRANTS</b>																					
City of Kennedale		1.18	1.18		0.00%	0	0	\$500	\$500	\$500	\$500	0	0	0.00%		1.18	0.0%				
				<b>\$473,874</b>	<b>TOTAL DEBT / GRANT SOURCES</b>				<b>\$9,000,500</b>					<b>\$9,000,500</b>	<b>TOTAL DEBT SERVICE</b>				<b>\$473,874</b>	<b>1.18</b>	<b>38.4%</b>
<b>NET CASH FLOW</b>		\$85,372	\$85,262											<b>TDHCA</b>	<b>NET OPERATING INCOME</b>	\$559,246	\$85,373	<b>NET CASH FLOW</b>			

<b>EQUITY SOURCES</b>															
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE									
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
						Applicant	TDHCA							Total Developer Fee:	\$2,743,458
Boston Financial	LIHTC Equity	59.6%	\$1,500,000	0.93	\$13,948,605	\$13,798,620	\$13,798,620	\$13,949,000	\$0.9299	\$1,500,000	59.6%	\$13,393	Applicant Request		
OM Housing	Deferred Developer Fees	2.1%	(18% Deferred)		\$495,040	\$163,596	\$163,596	\$460,032	(17% Deferred)		2.0%				
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%				
<b>TOTAL EQUITY SOURCES</b>		<b>61.7%</b>			<b>\$14,443,645</b>	<b>\$13,962,216</b>	<b>\$13,962,216</b>	<b>\$14,409,032</b>			<b>61.6%</b>				
<b>TOTAL CAPITALIZATION</b>					<b>\$23,444,145</b>	\$21,297,716	\$21,297,716	<b>\$23,409,532</b>						15-Yr Cash Flow after Deferred Fee:	<b>\$1,358,210</b>

<b>DEVELOPMENT COST / ITEMIZED BASIS</b>														
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS				COST VARIANCE					
Eligible Basis	New Const. Rehab	Total Costs	Prior Underwriting		Eligible Basis	New Const. Rehab	Acquisition	%	\$					
			Applicant	TDHCA										
Land Acquisition		\$7,143 / Unit	\$800,000	\$1,600,000	\$759,950	\$765,387	\$6,834 / Unit		4.5%	\$34,613				
Seller Improvements	\$0	\$ / Unit	\$0	\$0	\$840,050	\$0	\$ / Unit	\$0	0.0%	\$0				
Closing costs & acq. legal fees			\$80,000	\$40,000	\$40,000	\$80,000				\$0				
Off-Sites		\$1,491 / Unit	\$167,000	\$0	\$0	\$167,000	\$1,491 / Unit		0.0%	\$0				
Site Work	\$2,550,941	\$22,776 / Unit	\$2,550,941	\$2,006,492	\$2,006,492	\$2,550,941	\$22,776 / Unit	\$2,550,941	0.0%	\$0				
Site Amenities	\$662,956	\$5,919 / Unit	\$662,956	\$560,800	\$560,800	\$662,956	\$5,919 / Unit	\$662,956	0.0%	\$0				
Building Cost	\$9,728,059	\$91.25 /sf	\$86,858/Unit	\$9,728,059	\$8,436,528	\$7,919,961	\$10,337,232	\$92,297/Unit	\$96.96 /sf	\$10,220,755	-5.9%	(\$609,173)		
Contingency	\$525,915	4.06%	4.01%	\$525,915	\$750,532	\$734,108	\$525,915	3.83%	3.91%	\$525,915	0.0%	\$0		
Contractor Fees	\$1,681,063	12.48%	12.33%	\$1,681,063	\$1,553,179	\$1,553,179	\$1,681,063	11.80%	12.04%	\$1,681,063	0.0%	\$0		
Soft Costs	0	\$2,171,618	\$19,389 / Unit	\$2,171,618	\$2,164,469	\$2,164,469	\$2,171,618	\$19,389 / Unit		\$2,171,618	\$0	0.0%	\$0	
Financing	0	\$802,171	\$11,832 / Unit	\$1,325,188	\$1,138,192	\$1,138,192	\$1,325,188	\$11,832 / Unit		\$802,171	\$0	0.0%	\$0	
Developer Fee	\$0	\$2,718,408	15.00%	15.00%	\$2,743,458	\$2,435,002	\$2,348,591	\$2,743,458	14.52%	14.60%	\$2,718,408	\$0	0.0%	\$0
Reserves			11 Months	\$1,007,947	\$612,522	\$511,168	\$1,007,947	11 Months				0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$20,841,131</b>	\$209,323 / Unit	<b>\$23,444,145</b>	\$21,297,716	\$20,576,959	<b>\$24,018,705</b>	\$214,453 / Unit	<b>\$21,333,827</b>	<b>\$0</b>	<b>-2.4%</b>	<b>(\$574,560)</b>	
Acquisition Cost	\$0			(\$34,613)										
Contingency		\$0		\$0										
Contractor's Fee		\$0		\$0										
Financing Cost		\$0		\$0										
Developer Fee	\$0	\$0		\$0										
Reserves				\$0										
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$20,841,131</b>	\$209,014/unit	<b>\$23,409,532</b>			<b>\$24,018,705</b>	\$214,453/unit	<b>\$21,333,827</b>	<b>\$0</b>	<b>-2.5%</b>	<b>(\$609,173)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$23,409,532</b>									

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Hammack Creek, Kennedale, 9% HTC #19315*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	<b>ADJUSTED BASIS</b>	\$0	\$20,841,131	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$20,841,131	\$0	\$21,333,827
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$27,093,470	\$0	\$27,733,975
Applicable Fraction	76.79%	76.79%	76.79%	76.79%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$20,803,915	\$0	\$21,295,731
Applicable Percentage	3.42%	9.00%	3.42%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,872,352	\$0	\$1,916,616
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,872,352		\$1,916,616	

**ANNUAL CREDIT CALCULATION  
BASED ON APPLICANT BASIS**

**FINAL ANNUAL LIHTC ALLOCATION**

Method	Annual Credits	Proceeds	Credit Price \$0.9299		
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$1,872,352	\$17,411,628	----	----	----
<b>Needed to Fill Gap</b>	\$1,549,469	\$14,409,032	----	----	----
<b>Applicant Request</b>	\$1,500,000	\$13,949,000	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

**BUILDING COST ESTIMATE**

CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Garden (Up to 4-story)	106,612 SF	\$92.29	9,839,168
Adjustments				
Exterior Wall Finish	4.72%		4.36	\$464,431
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.59%		3.31	353,229
Roof Adjustment(s)			(0.25)	(26,653)
Subfloor			(0.15)	(16,347)
Floor Cover			2.56	272,927
Breezeways	\$30.21	16,604	4.70	501,579
Balconies	\$30.01	7,635	2.15	229,103
Plumbing Fixtures	\$1,008	308	2.91	310,464
Rough-ins	\$530	224	1.11	118,720
Built-In Appliances	\$1,830	112	1.92	204,960
Exterior Stairs	\$2,460	16	0.37	39,360
Heating/Cooling			2.21	235,613
Storage Space	\$30.21	405	0.11	12,234
Carports	\$12.25	12,400	1.42	151,900
Garages		0	0.00	0
Common/Support Area	\$86.20	5,295	4.28	456,421
Elevators		0	0.00	0
<b>Other:</b>			0.00	0
Fire Sprinklers	\$2.59	128,916	3.13	333,892
<b>SUBTOTAL</b>			<b>126.45</b>	<b>13,481,001</b>
Current Cost Multiplier	1.00		0.00	0
Local Multiplier	0.90		(12.64)	(1,348,100)
Reserved				0
<b>TOTAL BUILDING COSTS</b>			<b>113.80</b>	<b>\$12,132,901</b>
Plans, specs, survey, bldg permits	3.30%		(3.76)	(\$400,386)
Contractor's OH & Profit	11.50%		(13.09)	(1,395,284)
<b>NET BUILDING COSTS</b>		\$92,297/unit	\$96.96/sf	\$10,337,232

## Long-Term Pro Forma

*Hammack Creek, Kennedale, 9% HTC #19315*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,200,332	\$1,224,338	\$1,248,825	\$1,273,802	\$1,299,278	\$1,434,508	\$1,583,812	\$1,748,657	\$1,930,658	\$2,131,603	\$2,353,462	\$2,598,412
TOTAL EXPENSES	3.00%	\$641,086	\$659,838	\$679,143	\$699,018	\$719,479	\$831,205	\$960,428	\$1,109,902	\$1,282,820	\$1,482,878	\$1,714,356	\$1,982,212
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$559,246</b>	<b>\$564,500</b>	<b>\$569,682</b>	<b>\$574,784</b>	<b>\$579,799</b>	<b>\$603,302</b>	<b>\$623,385</b>	<b>\$638,755</b>	<b>\$647,838</b>	<b>\$648,725</b>	<b>\$639,106</b>	<b>\$616,199</b>
EXPENSE/INCOME RATIO		53.4%	53.9%	54.4%	54.9%	55.4%	57.9%	60.6%	63.5%	66.4%	69.6%	72.8%	76.3%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$473,874	\$473,641	\$473,399	\$473,147	\$472,884	\$471,404	\$469,596	\$467,388	\$464,693	\$461,402	\$457,384	\$452,478
DEBT COVERAGE RATIO		1.18	1.19	1.20	1.21	1.23	1.28	1.33	1.37	1.39	1.41	1.40	1.36
<b>ANNUAL CASH FLOW</b>													
<b>ANNUAL CASH FLOW</b>		<b>\$85,373</b>	<b>\$90,860</b>	<b>\$96,283</b>	<b>\$101,637</b>	<b>\$106,914</b>	<b>\$131,899</b>	<b>\$153,789</b>	<b>\$171,366</b>	<b>\$183,145</b>	<b>\$187,323</b>	<b>\$181,722</b>	<b>\$163,722</b>
Deferred Developer Fee Balance		\$374,659	\$283,800	\$187,517	\$85,880	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$21,034</b>	<b>\$631,582</b>	<b>\$1,358,210</b>	<b>\$2,181,887</b>	<b>\$3,076,709</b>	<b>\$4,008,413</b>	<b>\$4,932,624</b>	<b>\$5,792,779</b>

April 28, 2020

Lee Ann Chance  
TDHCA Asset Management Division  
PO Box 13941  
Austin, TX 78711

RE: Application Amendment for 19315 Hammack Creek Apartments

Dear Ms. Chance:

This letter concerns an application amendment for HTC 19315 Hammack Creek Apartments in Kennedale for changes to the development acreage, site, site plan, and total number of units. These changes are necessary due to access decisions by the Texas Department of Transportation and requirements of the City of Kennedale. These changes were unforeseen at the time of application because they were not proposed by local authorities until after award. The good cause for these changes is to follow local requirements. The amendment fee check has been mailed to TDHCA.

**Change in Acreage, Site, and Site Plan**

At Application, the development site was 7.964 acres as part of a proposed mixed-use development that would have the development's main monument entrance off Kennedale Parkway. After HTC award and during the engineering and approvals process, the Texas Department of Transportation did not allow for the median cut on Kennedale Parkway that would serve the proposed entrance. With the inability to have the entrance off Kennedale Parkway, the City of Kennedale wanted the entire multifamily development to be consolidated and located to the east off Kennedale-Sublett Road. To do this, there is some shift of acreage away from Kennedale Parkway and towards Kennedale-Sublett Road, but all proposed acreage is under the control of the developer. The acreage will increase to 8.021 acres, but will be a final 7.346 acres after the dedication of a 0.675-acre ROW to widen Kennedale-Sublett Road. Please see the attached letters from the engineer and the City of Kennedale regarding the change in development site.

Please find the attached survey with the new proposed site. Note that it shows the area that will be dedicated to the City for the expansion of Kennedale-Sublett Road and the new final site acreage after dedication of 7.346 acres. The ESA submitted at the time of Application examines the entire development site that is being proposed in this amendment. A comparison showing the site at application and the proposed site is also attached.

With the shift in the site, all buildings are now located closer to Kennedale Sublett Rd. Parking has been reduced from 223 uncovered spaces at application to 215 total spaces. This still meets requirement of 151 spaces. 62 of the total spaces are carport spaces.

**Change in Number of Units**

At Application, the development proposed 107 total units: 86 low income units and 21 market rate units. Of the LI units, 9 were at 30%, 35 at 50%, and 42 at 60%. This amendment proposes to add 5 market rate units for 112 total units. Per the letter from the City of Kennedale, the City requested that additional market rate units be added to the development to serve residents with higher incomes. There is no change to the total number or income distribution of LI units proposed

at Application. The 5 market rate units have been added to Building Type A. Building Types B and C have the same number and type of units as at application. Please see the revised architectural plans.

**Change on Unit and Building Plans**

Please see revised unit and building plans. There is a slight change in the square footages to some units due to waterproofing requirements and HUD recalculations. Due to the City's desire for a more urban design, the exterior walls of the buildings have been staggered by unit for more visual appeal, which also results in slight changes to the exterior walls of the unit plans. The number of buildings is the same as application.

**Change in Residential Density**

The residential density at Application was 107 units / 7.964 acres for 13.44 units per acre. The residential density after this notification is 112 units / 7.346 acres for 15.25 units per acre. This is a difference of 1.81 or 13.47%.

**Change in Development Financing**

Revised application and financing forms are attached that correspond with the changes proposed in this amendment request.

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

Regards,

A handwritten signature in black ink, consisting of a stylized initial 'A' followed by a long horizontal line extending to the right.

Alyssa Carpenter





February 19, 2020

TDHCA  
Austin, Texas

**Re:** Entrance from Kennedale Parkway -  
Hammack Creek Apartments  
Kennedale, Texas

Dear TDHCA:

The Hammack Creek Apartments multifamily development was designed as part of a larger mixed-use development plan with a main entrance off of Kennedale Parkway. During the subsequent engineering and development approvals process, we have been informed that the Texas Department of Transportation (TxDOT) will not allow for a median cut on Kennedale Parkway to enter the proposed development. Entrances to the entire mixed-use development may only be located off of Crestview Road and Kennedale-Sublett Road at the current time. Due to the location of the Hammack Creek Apartments, the entrance to the multifamily development must be located off Kennedale-Sublett Road.

Based on this new information and in consultation with the City of Kennedale, the site plan for the Hammack Creek Apartments has been modified to access exclusively from Kennedale-Sublett Road. Because of the inability to have the entrance as original proposed from Kennedale Parkway, the City of Kennedale requested all multifamily buildings be consolidated closer to the entrance off Kennedale-Sublett Road. This results in a slight modification of the development boundaries, though the majority of the land area is the same as originally proposed. The acreage increased from 7.94 acres to 8.021 gross acres and includes additional land to the east. However, the City of Kennedale will require a right-of-way dedication in order to widen Kennedale-Sublett Road. This results in the final development acreage of 7.346 acres. See the attached survey and site plan for the changes.

Please contact me with any questions.

*Barron Starks Engineers*

A handwritten signature in black ink, appearing to read 'Charles Stark', written over a light blue horizontal line.

Charles F. Stark, PE RPLS  
Managing Principal

February 20, 2020

Ms. Sharon Gamble  
Housing Tax Credit Program Administrator  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

Re: Hammack Creek Apartments, Kennedale, Texas

Dear Ms. Gamble:

Thank you for your approval of Housing Tax Credits for the construction of the Hammack Creek Apartments that will be located in Kennedale, Texas.

We have worked closely with the developer on the site plan for the multifamily apartment and larger mixed-use development at the intersection of Kennedale Parkway and Kennedale Sublett Road. The mixed use development was initially proposed with a large monument-type entrance off Kennedale Parkway that would be located in a commercial area on the parkway. However, we have been informed that Texas Department of Transportation will not allow for a southbound entrance off Kennedale Parkway into the development. Some street realignment may be necessary for this entrance. Due to the inability to have the main entrance off Kennedale Parkway at the current time, it is the City of Kennedale's preference that the residential buildings for the Hammack Creek Apartments be rearranged and consolidated to an entrance off Kennedale Sublett Road. Because of this, the best location for the site is to slightly shift some of the development site to the east and allow for a connection to the commercial by connecting to the 'urban style spine road' at a later date, which will give needed flexibility to plan and develop the entire area as a mixed-use property. This change is important to the City's long-term development plans for this corridor.

Additionally, this development was presented to the City with 107 total units which included 21 units that are at market rate and not income restricted. Based on growth in our City and the desire to serve residents of all incomes, we are requesting that the development add additional market rate units. In response, the developer has added 5 market rate units for a total of 112 units.

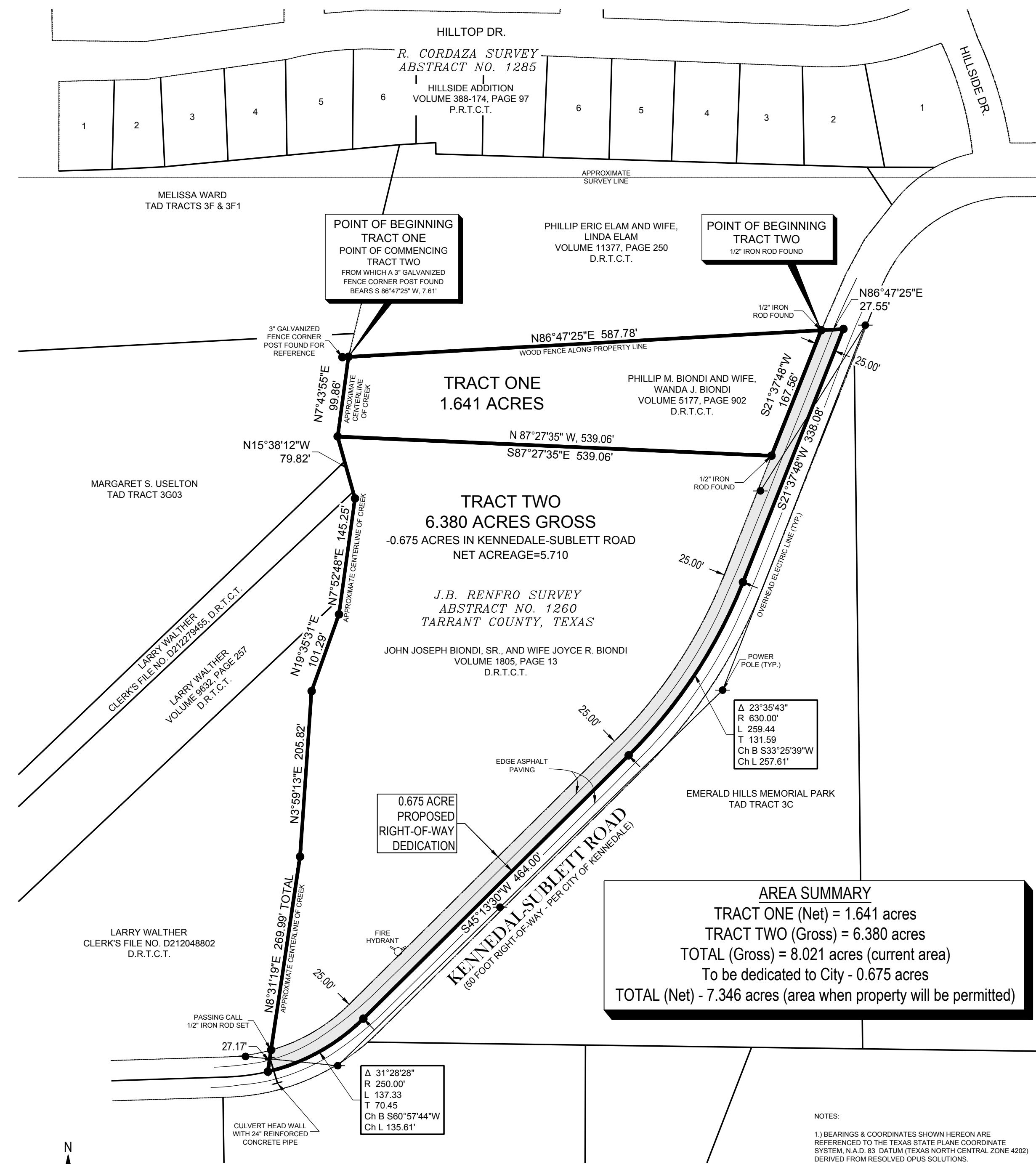
Thank you for your attention and continued support of affordable housing. Please feel free to call me if you have any questions or need additional information.

Sincerely,



Melissa Dailey, AICP  
Director of Planning and Economic Development





AREA SUMMARY	
TRACT ONE (Net)	= 1.641 acres
TRACT TWO (Gross)	= 6.380 acres
TOTAL (Gross)	= 8.021 acres (current area)
To be dedicated to City	- 0.675 acres
TOTAL (Net)	= 7.346 acres (area when property will be permitted)

**BEING** 8.021 acres, in two tracts, situated in the **J.B. RENFRO SURVEY, ABSTRACT NO. 1260**, City of Kennedale, Tarrant County, Texas, being all of that certain tracts of land described in deed to Phillip M. Biondi and wife, Wanda J. Biondi, recorded in Volume 5177, Page 902, Deed Records, Tarrant County, Texas, (called 1.65 acres) and being a portion out of that certain (called 8.71 acre), tract of land described in deed to John Joseph Biondi, Sr., and wife, Joyce R. Biondi, recorded in Volume 1805, Page 13, Deed Records, Tarrant County, Texas, (called 8.71 acres), said 8.021 acres in two tract being more particularly described as follows:

**TRACT ONE**  
**BEING** 1.641 acres (called situated in the J.B. RENFRO SURVEY, ABSTRACT NO. 1260, City of Kennedale, Tarrant County, Texas, being all of that certain called 1.65 acre tract of land described in deed to Phillip M. Biondi and wife, Wanda J. Biondi, recorded in Volume 5177, Page 902, Deed Records, Tarrant County, Texas, said 1.641 acres being more particularly described as follows:

**BEGINNING** at a point at the northwest corner of said Biondi tract, (recorded in Vol. 5177, Pg. 902), in the approximate centerline of a creek, at the southwest corner of that certain tract of land described in deed to Phillip Eric Elam and wife, Linda Elam, recorded in Volume 11377, Page 250, Deed Records, Tarrant County, Texas, said point being (per deed call) S 61°48'24" E, a distance of 505.44 feet from the southeast corner of Lot 4-R, Block J, CRESTDALE ADDITION, an addition to the City of Kennedale, according to the plat recorded in Volume 388-12, Page 21, Plat Records, Tarrant County, Texas, from said **Beginning Point** a 3" galvanized fence corner post found bears S 86°47'25" W, a distance of 7.61 feet for reference;

**THENCE** N 86°47'25" E, along the common line of said Biondi tract, (recorded in Vol. 5177, Pg. 902), said Elam tract, and with a wood fence, a distance of 587.78 feet to a 1/2" iron rod found in the west line of Kennedale-Sublett Road (a 50 foot Right-of-Way), at the northeast corner of said Biondi tract, (recorded in Vol. 5177, Pg. 902) and the southeast corner of said Elam tract;

**THENCE** S 21°37'48" W, along the west line of said Kennedale-Sublett Road, a distance of 167.56 feet to a 1/2" iron rod found at the southwest corner of said Biondi tract, (recorded in Vol. 5177, Pg. 902);

**THENCE** N 87°27'35" W, along the south line of said Biondi tract, (recorded in Vol. 5177, Pg. 902), a distance of 539.06 feet to the southwest corner of said Biondi tract, (recorded in Vol. 5177, Pg. 902) in the approximate centerline of said creek;

**THENCE** N 07°43'55" E, along the approximate OF said creek, A distance of 99.86 feet to the **POINT OF BEGINNING** and containing 1.641 acres of land more or less.

**TRACT TWO**  
**BEING** 6.380 acres situated in the **J.B. RENFRO SURVEY, ABSTRACT NO. 1260**, City of Kennedale, Tarrant County, Texas, being the remainder portion of that certain tract of land described in deed to John Joseph Biondi, Sr., and wife, Joyce R. Biondi, recorded in Volume 1805, Page 13, Deed Records, Tarrant County, Texas, said herein described 6.380 acres being more particularly described as follows:

**COMMENCING** at a point at the northwest corner of said Biondi tract (recorded in Vol. 1805, Pg. 13) and the northwest corner of that certain tract of land described in deed to Phillip M. Biondi and wife, Wanda J. Biondi, recorded in Volume 5177, Page 902, Deed Records, Tarrant County, Texas, in the approximate centerline of a creek, at the southwest corner of that certain tract of land described in deed to Phillip Eric Elam and wife, Linda Elam, recorded in Volume 11377, Page 250, Deed Records, Tarrant County, Texas, said point being (per deed call) S 61°48'24" E, a distance of 505.44 feet from the southeast corner of Lot 4-R, Block J, CRESTDALE ADDITION, an addition to the City of Kennedale, according to the plat recorded in Volume 388-12, Page 21, Plat Records, Tarrant County, Texas, from said **Commencing Point** a 3" galvanized fence corner post found bears S 86°47'25" W, a distance of 7.61 feet, for reference;

**THENCE** N 86°47'25" E, along the common line of said Biondi tract (recorded in Vol. 1805, Pg. 13), said Biondi Tract (recorded in Vol. 5177, Pg. 902) and said Elam tract, a distance of 587.78 feet to a 1/2" iron rod found in the west line of Kennedale-Sublett Road (a 50 foot Right-of-Way), at the northeast corner of said Biondi tract (recorded in Vol. 5177, Pg. 902), the southeast corner of said Elam tract, in the north line of said Biondi tract (recorded in Vol. 1805, Pg. 13) for the **POINT OF BEGINNING** of the herein described 6.380 acre tract;

**THENCE** N 86°47'25" E, continuing along the north line of said Biondi tract (recorded in Vol. 1805, Pg. 13), a distance of 27.55 feet to a point in the approximate centerline of said Kennedale-Sublett Road at the northeast corner of said Biondi tract (recorded in Vol. 1805, Pg. 13);

**THENCE** along the approximate centerline of said Kennedale-Sublett Road and along the easterly and southeasterly line of said Biondi tract (recorded in Vol. 1805, Pg. 13), as follows:  
 S 21°37'48" W, a distance of 338.08 feet to a point at the beginning of a curve to the right, whose radius is 630.00 feet and whose long chord bears S 33°25'39" W, a distance of 257.61 feet;

Along said curve in a westerly direction, through a central angle of 23°35'43", an arc distance of 259.44 feet to a point at the end of said curve;  
 S 45°13'30" W, a distance of 464.00 feet to a point at the beginning of a curve to the right, whose radius is 250.00 feet and whose long chord bears S 60°57'44" W, a distance of 135.61 feet;

Along said curve in a westerly direction, through a central angle of 31°28'28", arc distance of 137.33 feet to a point at the end of said curve at the south corner of said Biondi tract (recorded in Vol. 1805, Pg. 13), at the intersection of Kennedale-Sublett Road and said creek;

**THENCE** leaving the approximate centerline of said Kennedale-Sublett Road and along the west line of said Biondi tract (recorded in Vol. 1805, Pg. 13), along the approximate centerline of a creek as follows:

N 08°31'19" E, passing at a distance of 27.17 feet passing a 1/2" iron rod set in the north line of said Kennedale-Sublett Road, an continuing, in all, a distance of 269.99 feet;  
 N 03°59'13" E, a distance of 205.82 feet;  
 N 19°35'31" E, a distance of 101.29 feet;  
 N 07°52'48" E, a distance of 145.25 feet;  
 N 15°38'12" W, a distance of 79.82 feet to a point at the southwest corner of said Biondi tract (recorded in Vol. 5177, Pg. 902);

**THENCE** S 87°27'35" E, along the south line of said Biondi tract (recorded in Vol. 5177, Pg. 902), a distance of 539.06 feet to a 1/2" iron rod found in the west line of said Kennedale-Sublett Road, at the southeast corner of said Biondi tract (recorded in Vol. 5177, Pg. 902);

**THENCE** N 21°37'48" E along the west line of said Kennedale-Sublett Road and along the east line of said Biondi tract (recorded in Vol. 5177, Pg. 902), a distance of 167.56 feet to the **POINT OF BEGINNING** and containing 6.380 acres of land more or less of which 0.675 acres lies within Kennedale-Sublett Road.

Area Exhibit  
 8.021 Acres In Two Tracts  
 Situated in the  
**J.B. RENFRO SURVEY, ABSTRACT NO. 1260**  
 City of Kennedale, Tarrant County, Texas

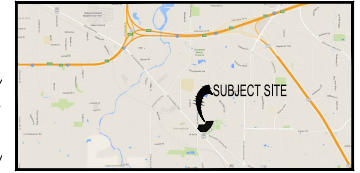
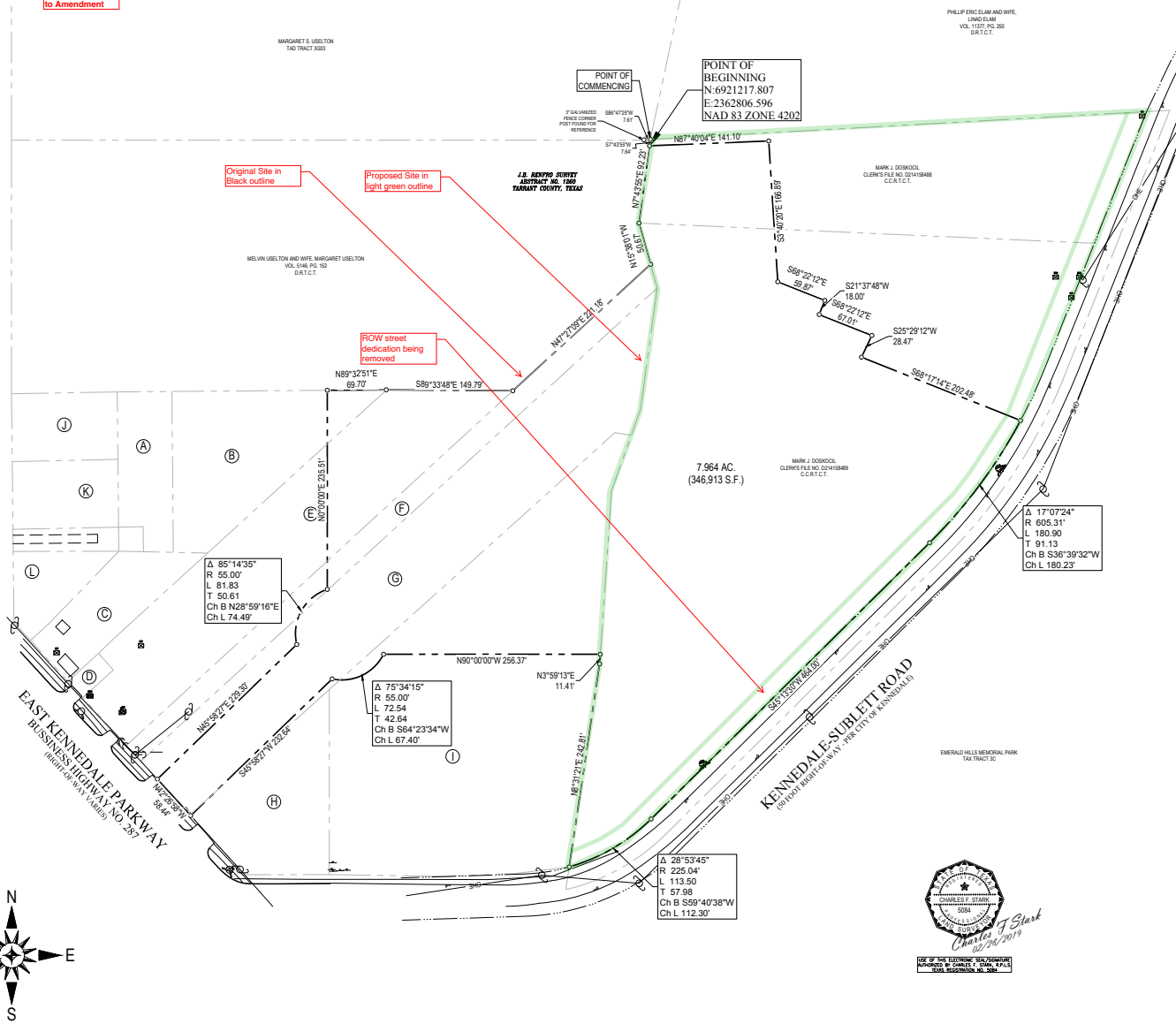
- NOTES:
- 1) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, N.A.D. 83 DATUM (TEXAS NORTH CENTRAL ZONE 4202) DERIVED FROM RESOLVED OPUS SOLUTIONS.
  - 2) FLOOD NOTE:  
 ANY REFERENCE TO THE 100 YEAR FLOOD PLAIN OR FLOOD HAZARD ZONES ARE AN ESTIMATE BASED ON THE DATA SHOWN ON THE FLOOD INSURANCE RATE MAP PROVIDED BY FEMA AND SHOULD NOT BE INTERPRETED AS A STUDY OR DETERMINATION OF THE FLOODING PROPENSITIES OF THIS PROPERTY. ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR TARRANT COUNTY, DATED SEPT. 23, 2009 MAP NO. 48436C0340K, THE PROPERTY DESCRIBED HEREIN DOES NOT APPEAR TO LIE WITHIN A SPECIAL FLOOD HAZARD AREA.
  - 3) THIS SURVEY HAS BEEN PREPARED IN CONFORMANCE WITH THE TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE AND MEETS THE REQUIREMENTS OF A CATEGORY IA, CONDITION 2 TITLE SURVEY.

	6221 Southwest Boulevard, Suite 100 Fort Worth, Texas 76132 (O) 817.231.8100 (F) 817.231.8144 Texas Registered Engineering Firm F-10998 Texas Registered Survey Firm F-10158800 www.barronstark.com	JOB NO. 307-9537
	SHEET 1 of 1	

USER: GARY GREEN  
 PLOTTED ON: 2/18/2020 12:05 PM  
 FILE NAME: N:\BARRON STARK\SWIFT ENG\307\04\HOUSING\6307 - HAMMACK CREEK APARTMENTS\SURVEY\DRAWINGS\307-9537 VHC AREA EXHIBIT PROP FROM DEED KENNEDALE-SUBLETT RD OPTION.DWG

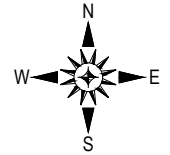
Change in Site from Application to Amendment

CRESTVIEW DRIVE (RIGHT-OF-WAY VARIATION)



LEGEND	
SYMBOLS	LINE TYPES
	— DNE — DNE
	— C — C
	— G — G
	— X — X
	— X — X

<b>A</b>	TITLE COMMITMENT EXHIBIT A, TRACT 3, PARCEL B LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 3011	<b>G</b>	TITLE COMMITMENT EXHIBIT A, TRACT 7 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 301A
<b>B</b>	TITLE COMMITMENT EXHIBIT A, TRACT 3, PARCEL A LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302	<b>H</b>	TITLE COMMITMENT EXHIBIT A, TRACT 1 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 301
<b>C</b>	TITLE COMMITMENT EXHIBIT A, TRACT 4 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 303A, 303B & 303	<b>I</b>	TITLE COMMITMENT EXHIBIT A, TRACT 2 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302C
<b>D</b>	TITLE COMMITMENT EXHIBIT A, TRACT 6 SWAN & SCOTT VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302A	<b>J</b>	CALDECI HOLDINGS, LLC VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 301B
<b>E</b>	TITLE COMMITMENT EXHIBIT A, TRACT 8 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302	<b>K</b>	CALDECI HOLDINGS, LLC VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. 3012
<b>F</b>	TITLE COMMITMENT EXHIBIT A, TRACT 5 LARRY W. WALKER VOL. 102, PG. 201 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302B	<b>L</b>	JACK OLIVAN AND WIFE, LINA OLIVAN VOL. 102, PG. 202 CLERK'S FILE NO. 021227945 C.C.T.C.T. TAX TRACT 302B



NO.	REVISIONS	DATE

6221 Southwest Boulevard, Suite 100  
Fort Worth, Texas 76120  
Tel: 817.231.2100 Fax: 817.231.8144  
www.barronstark.com  
Barron-Stark-Swift Consulting Engineers

Boundary Survey  
7.964 Situated in the  
**J.B. RENFRO SURVEY, ABSTRACT NO. 1260**  
City of Kennedale, Tarrant County, Texas

CLIENT No. 307  
PROJECT No. 9537  
DESIGN: ---  
DRAWN: GC  
CHECKED: CFS  
DATE: FEBRUARY 2019

1c

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action regarding approval of a Material Amendment to the Land Use Restriction Agreement for Bridgeport Estates Phase II (HOME #542076), Spring Garden Apartments IV (HOME #531301), Bridgeport IV (HOME #1000370), and Estates of Bridgeport IVa (HOME #1000608)

**RECOMMENDED ACTION**

**WHEREAS**, Bridgeport Estates Phase II received a HOME award in 2002 for the new construction of 10 units in Bridgeport, Wise County; Spring Garden Apartments IV received a HOME award in 2003 for the new construction of 12 units in Springtown, Parker County; Bridgeport IV received a HOME award in 2004 for the new construction of 20 units in Bridgeport, Wise County; and Estates of Bridgeport IVa received a HOME award in 2005 for the new construction of six units in Bridgeport, Wise County (collectively, the Developments);

**WHEREAS**, the LURA for each of the Developments specifies that the Development Owner must be a Community Housing Development Organization (CHDO), and the Developments are still within the federal affordability period specified in 24 CFR §92.252;

**WHEREAS**, the original Development Owner for the Developments, Affordability Housing of Parker County, Inc. (AHPC), is an entity certified as a CHDO;

**WHEREAS**, on February 7, 2020, AHPC recorded a resolution to transfer ownership of the Developments to its Affiliate, Affordable Housing of North Texas, Inc. (AHNT), an entity that shares the same Principals, but that does not meet the requirements of the U.S. Department of Housing and Urban Development to be certified as a CHDO and is not a subsidiary of a CHDO;

**WHEREAS**, under the HOME Final Rule, 24 CFR Part 92, published July 24, 2013, this transfer does not meet the requirements specified in 24 CFR §92.300, but the Department's Legal Division conferred with a representative for the HUD Fort Worth Regional Office that there is not a similar restriction for this type of transfer prior to the 2013 rule;

**WHEREAS**, since the Developments are all pre-2013 CHDO commitments (prior to the federal rule changes surrounding CHDO), the Owner has the option to request a LURA Amendment to remove the CHDO requirement from the LURAs;

**WHEREAS**, AHPC requests approval for a material amendment to the LURA for each of the Developments to remove the CHDO provision in order to allow AHNT to assume the HOME loans and be in compliance as the new Owner of the Developments;

**WHEREAS**, Board approval is required for a LURA amendment deemed material by the Executive Director as specified in 10 TAC §10.405(b)(2)(G), and the Owner has complied with the amendment and notification requirements as directed in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing; and

**WHEREAS**, the requested changes do not negatively affect the Developments, impact the viability of the transactions, impact the scoring of the Applications, or affect the amount of funds awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for the Developments is approved as a part of a work-out as allowed under 10 TAC §13.1(c)(3) 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**

On February 7, 2020, Mike Swan, the representative for Affordable Housing of Parker County, Inc., the prior Owner for the Developments, provided a recorded resolution from their Board approving the transfer of ownership for seven properties (including the Developments) to Affordable Housing of North Texas, Inc. (AHNT). AHNT is an Affiliate of AHPC and shares common Principals as its Board members. Transfers between affiliates are usually allowed under the Department's rules; however, this transfer was complicated by the existing CHDO requirements for the Developments. On April 21, 2020, the Owner submitted a letter requesting approval for a material amendment to the LURA for each of the Developments to remove the requirement for the Development Owner to be a CHDO in order to allow AHNT to assume the HOME loans.

Mr. Swan explained that the Owner determined that placing the properties under the ownership of a separate single purpose entity would allow them to be grouped by their funding source, and will simplify financial audit process required by USDA for their other properties. However, after discussions with staff, Mr. Swan learned AHNT cannot assume the HOME loan for the Developments because their LURAs specify that the Owner must be a CHDO, and AHNT does not meet all requirements in 24 CFR §92.300 to qualify to be certified as a CHDO by the

Department. Furthermore, the entity is not a CHDO subsidiary. After discussions between the Department's Legal Division and Mr. Swan, it was determined that AHNT will not be able to meet the requirements to be certified as a CHDO. Therefore, the Department's Legal Division conferred with the Department's representative at the HUD Fort Worth Regional Office, who confirmed that, because the Developments are all pre-2013 CHDO commitments (before the federal rules surrounding CHDOs changed), it is not a federal requirement to have a CHDO own the Developments. Thus, another option would be for AHPC to request a material LURA amendment to remove the CHDO requirement from the LURA for the Developments.

The tenants at the Developments were notified of the LURA amendment request, and a public hearing was conducted via a teleconference on April 30, 2020. No negative comments were received.

Staff recommends approval of the requested material LURA amendments as presented herein.



**Affordable Housing of Parker County, Inc.**  
**101 Swan Ct.**  
**Springtown, Texas 76082**  
**AFFORDABLE, SAFE, DECENT HOUSING FOR ALL**  
**SERVING PARKER & WISE COUNTIES**



My name is Michael Swan and I am the executive director of Affordable Housing of Parker County.

Recently I have had a discussion with the organizations CPA, Charles Paul about our organization and the difficulties we have had with the different standards that USDA requires as compared to the funders of our organization. During our discussion he reminded me that my father Allan Swan, had conversation with him about building a separate organization under the name Affordable housing of North Texas, Inc.

The reasons for this would help simplify the audit process, since the current organization has USDA and TDHCA projects, in which USDA requirements are different from TDHCA. USDA requires an audit of the borrower within three months and a budget of the borrower rather than just the project itself. We feel that this is overly burdensome as the financial health of the TDHCA properties is irrelevant to the USDA project.

During the audit process over the years, USDA has made assertions that they have authority over the TDHCA projects since the borrower listed on the USDA project is listed as Affordable Housing of Parker County. It is my belief as well as our board of directors, that the best alternative is to separate the projects by funding source. Additionally, that would make the annual audit easier as there is only one standard of regulations to apply.

Affordable Housing is also the owners for two to other projects. This is currently the way the other two affiliated organizations are set up because it is per the regulations that the two individual projects be audited separately. AHPC Spring Garden V, LP is a low income housing tax credit project and Bridgeport Estates III is a HUD directly supported project.

An added benefit of us having a new organization by the name of Affordable Housing of North Texas, would be to clear up the idea of that we only operate in Parker County. Four of the TDHCA Projects are actually in Wise County, and currently receive Subsidy from Palo Pinto County. Additionally, we have had several TBRA Contracts in Dallas and other counties around North Texas Region. Providing the recent history and current counties we do serve, we would be able to expand the opportunity to other counties within our North Texas Region. Affordable Housing of Parker County is currently in compliance with all standards and regulations and is in good financial condition. This change will keep all projects within their individual requirements in which it would be beneficial to both corporations. During this process of changing the TDHCA projects we would like you to know that the board of directors and the bylaws remain the same for both organizations, as well as our employees.

On November 6<sup>th</sup> 2019 the Secretary of state approved the New Corporation Affordable Housing of North Texas, Inc.

Before pursuing this action, I spoke with TDHCA about the changes we would like to make. TDHCA informed me that a transfer was possible but would endure a process. During the process it has come to our attention that we would have to make changes to some of our properties LURA's because of the CHDO requirement in the LURA's, Since Affordable Housing of North Texas, Inc. (AHNT) is a new corporation we wouldn't be able to apply for a CHDO until we have been in business for a year, therefore I would like to amend the following LURA's by removing the CHDO Requirements:

531301	4007	Spring Garden Apartments IV
542076	4202	Bridgeport Estates Phase II
1000370	4307	Bridgeport IV
1000608	4333	Estates of Bridgeport IVA

The following amendments are necessary in order for the transfer of the deeds from Affordable Housing of Parker Co, Inc. to Affordable housing of North Texas, Inc. to proceed. If you should need any other information regarding are request, please let us know.

We appreciate your assistance with this process and TDHCA has always been very helpful to Affordable Housing whether it was to provide training or to provide assistance when there is a problem and help keep our properties in compliance, and we look forward to working with TDHCA in the future to meet our goals, as we continue to provide Affordable, Safe, and Decent Housing for all.

Thank you,

Michael G. Swan Sr.



**Executive Director of:**

**Affordable Housing of Parker Co, Inc.**

**Affordable Housing of North Texas, Inc.**



1d

**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Villa Main Apartments (HTC 060193 / CMTS 4403)

**RECOMMENDED ACTION**

**WHEREAS**, Villa Main Apartments, owned by Villa Main Housing Associates, Ltd. (Owner), had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, all findings that had been referred for an administrative penalty were resolved informally before consideration by the Enforcement Committee;

**WHEREAS**, Owner's representatives have agreed, subject to Board approval, to enter into an Agreed Final Order stipulating that violations occurred and assessing no administrative penalty; 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 no administrative penalty, but stipulating that violations occurred at Villa Main Apartments (HTC 060193 / CMTS 4403), as presented at this meeting, but authorizing staff to make any necessary non-substantive technical corrections, is hereby adopted as the order of this Board.

## BACKGROUND

Villa Main Housing Associates, Ltd. (Owner) is the owner of Villa Main Apartments (Property), a low income apartment complex composed of 140 units, located in Jefferson County. Records of the Texas Secretary of State list Villa Main Housing Associates GP, LLC. as its general partner. The LLC is member managed by Port Arthur Affordable Housing Inc., which has the following officers: Ronnie Linden (President and Director), Seledonio Quesada (Secretary and Director), and Roosevelt Petry Jr (Director). CMTS lists Seledonio Quesada as the primary contact for Owner. The property is managed by Arnold Grounds Multifamily, with Jimmy Arnold entered into CMTS as the primary contact.

The Property is subject to a Land Use Restriction Agreement (LURA) signed in 2008 in consideration for a housing tax credit allocation in the annual amount of \$440,440 to acquire, rehabilitate and operate the Property. The Property was referred for an administrative penalty for failure to resolve Uniform Physical Condition Standards (UPCS) violations identified during a 2018 inspection, along with a rejected casualty loss claim for which damage was reported to the Department and not timely resolved. While a legitimate casualty loss claim was received on November 28, 2018, for fire damage and was accepted by the Department, an additional casualty loss claim was made for a number of units that did not meet the classification requirement of a sudden loss. Both the 2018 UPCS violations and the rejected casualty loss damage were referred to the Enforcement Committee together. A copy of the 2018 UPCS inspection report is attached to the proposed Agreed Final Order. The Property has no history of prior administrative penalty referrals and a subsequent UPCS inspection was timely resolved in January of 2020. Many corrective submissions were received by the Enforcement Committee for the referred June to sign an Agreed Final Order assessing no administrative penalty for noncompliance at Villa Main Apartments, but stipulating that violations had occurred and were not timely corrected.

Consistent with direction from the Department's Enforcement Committee, an Agreed Final Order stipulating that violations occurred is recommended, with no administrative penalty. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST VILLA	§	BEFORE THE
MAIN HOUSING ASSOCIATES, LTD. WITH	§	TEXAS DEPARTMENT OF
RESPECT TO VILLA MAIN APARTMENTS	§	HOUSING AND COMMUNITY
(HTC FILE # 60193 / CMTS # 4403)	§	AFFAIRS
	§	
	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 25<sup>th</sup> day of June, 2020, 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 **VILLA MAIN HOUSING ASSOCIATES, LTD.**, a Texas limited partnership (Respondent).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (APA), Tex. Gov't Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov't Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov't Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (FOF)**

**Jurisdiction:**

1. During 2006, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$440,440 to build and operate Villa Main Apartments (Property) (HTC file No. 60193 / CMTS No. 4403 / LDLD No. 898).

2. Respondent signed a land use restriction agreement (LURA) regarding the Property. The LURA was effective August 29, 2008, and filed of record at Document Number 2008042481 of the Official Public Records of Real Property of Jefferson County, Texas (Records), as amended by a First Amendment executed on August 6, 2010, and filed in the Records at Document Number 2010039596. 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.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

4. A Uniform Physical Condition Standards (UPCS) inspection was conducted on October 17, 2018. Inspection reports showed numerous serious property condition violations, a violation of 10 TAC 10.621 (Property Inspection Standards). Notifications of noncompliance were sent and an April 8, 2019, corrective action deadline was set. Partial corrective action was timely received, but it was incomplete and the remaining findings were referred for an administrative penalty (see violation list at *Exhibit 1*). Multiple corrective submissions were made in response to an informal conference notice issued by the Enforcement Committee, and final corrective action was ultimately received on February 21, 2020, resolving the final violation.
5. A casualty loss claim was submitted to the Department on November 28, 2018. The claim included six of the units from the above 2018 UPCS inspection: units 109, 195, 107, 239, 173, and 213. It also included three additional units that were not part of the 2018 UPCS inspection: units 175, 233, and 211. Another claim for a casualty loss by fire was also submitted on November 28, 2020 and was accepted. However, the claim for the units noted above was rejected by the Department because the type of loss did not meet the classification requirement for a sudden loss. The damage was classified as a UPCS violation, notification of noncompliance was sent, and a May 1, 2019, corrective action deadline was set. Partial corrective documentation was received, but it was incomplete and the units were referred for an administrative penalty. Multiple corrective submissions were made in response to an informal conference notice issued by the Enforcement Committee, and final corrective action was ultimately received on February 21, 2020, resolving the final violation.
6. All violations listed above are considered resolved at the time of this Order.

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<sup>1</sup> 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.

## CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. 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 §10.621 in 2018 and 2019, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.<sup>2</sup>
5. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
6. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
7. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
8. It is appropriate to assess no administrative penalty in accordance with the policies situated at 10 TAC Chapter 2.

*[Remainder of page intentionally blank]*

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<sup>2</sup> HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TAC 10.621(a)

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 not be assessed an administrative penalty.

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 1, 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 June 25, 2020.

By: \_\_\_\_\_  
Name: Leslie Bingham  
Title: Vice 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 25th day of June, 2020, personally appeared Leslie Bingham, 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 25th day of June, 2020, 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:**

**VILLA MAIN HOUSING ASSOCIATES, LTD.**, a Texas limited partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

(9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired;

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

(j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

1e

**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning George Gervin Apartments (HTF 859X03 / CMTS 2651)

**RECOMMENDED ACTION**

**WHEREAS**, George Gervin Apartments, owned by George Gervin Youth Center, Inc. (Owner), had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, all findings that had been referred for an administrative penalty were resolved informally before consideration by the Enforcement Committee;

**WHEREAS**, Owner's representatives have agreed, subject to Board approval, to enter into an Agreed Final Order stipulating that violations occurred and assessing no administrative penalty;

**WHEREAS**, on May 26, 2020, Owner's representatives participated in an informal online conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$1,000, with \$300 to be paid within 30 days of signature and the remaining \$700 to be forgiven if owner and management representatives attend the next available Direct Loan (HOME) Compliance Training and submit certificates of attendance; 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 \$1,000, subject to partial forgiveness as indicated above, for noncompliance at George Gervin Apartments (HTF 859X03 / CMTS 2651), 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

George Gervin Youth Center, Inc. (Owner) is the owner of George Gervin Apartments (Property), a low income apartment complex composed of four units, located in Bexar County. Records of the Texas Secretary of State list the following members and/or officers: Deborah Valdez (Director), Raul Rodriduez (Secretary, Treasurer, Director), Roger Martin (President, Director), Dr. Carl Elder (Director), Leif Wilson (Director), and Gordon Hudson (Director). CMTS lists Frances Boynes as the primary contact for the Owner; she is the Chief Executive Officer. The property is managed by Morris Realty, with Brian Morris listed as the primary contact in CMTS.

Owner controls three properties that were considered for an administrative penalty, however, a penalty recommendation is only being made for CMTS 2651. The three properties were awarded interest free loans by TDHCA and are each subject to a Land Use Restriction Agreement (“LURA”) signed as follows:

<b>Property</b>	<b>TDHCA Funding</b>	<b>LURA</b>	<b>Units</b>
CMTS 2651 George Gervin Apartments	HTF Loan, in original principal amount of \$189,183	Effective 1999. 30 year plus 10 month term.	4
CMTS 4205 George Gervin Garden Apartments	HOME Loan, in original principal amount of \$200,000	Effective 2001. 30 year term.	4
CMTS 4206 George Gervin Garden Apartments	HTF Loan, in original principal amount of \$250,000	Effective 2003. 20 year term.	4

Owner was previously referred for an administrative penalty in 2014 for a low-income unit being used on a transient basis for CMTS 4205, but that referral was closed informally when full corrections were received. Owner was referred for an administrative penalty in 2016 for all three properties, with violations relating to Tenant Selection Criteria, Tenant Rights and Resources Guide, pre-on-site documentation, two units being used on a transient basis, three units with household income violations, and two units occupied by nonqualified students. At the time of their informal conference in 2017, all affected units were vacant and undergoing remodeling work, and owner represented that all files had been lost during a move. An informal conference was held and Agreed Final Orders were recommended for each property. The Orders were violated because Tenant Selection Criteria remained incomplete, and Owner failed to provide a statement that remaining vacant units were ready for occupancy. A total penalty of \$1250 was paid for violating the three Orders, and final corrections were ultimately made over a year after the deadline set by the Committee.

Owner was referred for an administrative penalty again in 2019. Referred violations for CMTS 4205 and 4206 included Tenant Selection Criteria, three income recertifications, and two household income findings, but all were corrected while the corrective action deadline for CMTS 2651 was pending, and before an informal conference notice was issued. However, during its review of corrective documentation submitted for CMTS 2651, Compliance found that the Tenant Selection Criteria finding had been prematurely marked as corrected for CMTS 4205 and 4206, with multiple criteria requirements unfulfilled. Therefore, the Enforcement Committee sent an informal conference notice, setting a conference date and indicating that a penalty would be considered for all three properties for the Tenant Selection Criteria violation. The informal conference was rescheduled multiple times due to

additional corrections received and social distancing required by COVID-19. A conference was held in May, and Owner representatives presented possible mitigating factors, including complications in the review timeline and contact information entered for CMTS 4205 and 4206. Partial contact information for the owner had been deleted from TDHCA's online system for both properties and could only be re-entered by TDHCA staff, and Owner claimed that they did not receive automatic notices regarding TDHCA uploads for those two properties. Partial contact information remained in the system and all correspondence is available in the Attachments section of CMTS. Owner representatives also discussed confusion since they had received a close-out letter indicating full resolution for CMTS 4205 and 4206 in October 2019, and they had conflated the three properties, thinking that all three were resolved. The three properties have very similar names and are in the same location, which has caused confusion in the past.

As a result of these mitigating factors, the Enforcement Committee voted to only consider an administrative penalty for CMTS 2651, for which there were no complications in the monitoring review timeline or the contact information entered. The maximum potential administrative penalty for the referred Tenant Selection Criteria violation is \$1,000. Committee members discussed all relevant factors and determined that a maximum administrative penalty is appropriate because Owner has repeatedly violated Tenant Selection Criteria requirements and has previously violated Agreed Final Orders for all three properties. Additionally, while Owner is submitting corrections in response to reviews, they frequently submit only partial corrections that do not follow TDHCA instructions and do not reliably respond to TDHCA contacts via email. They also would benefit from training. However, improvements have been made since the last informal conference and owner representatives stated that they are committed to further improvements. They intend to fix communication problems, and they will check CMTS attachments regularly going forward to ensure that they receive all TDHCA correspondence. They are also going to work on issues caused by accidentally conflating the three properties. Committee members recommend a settlement with a forgivable component as an incentive to attend training.

Owner participated in an informal online conference with the Enforcement Committee on May 26, 2020, and agreed to sign an Agreed Final Order with the following terms:

1. A \$1,000 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must submit \$300 portion of the administrative penalty on or before July 25, 2020;
3. At least one owner and one management representative must attend the next available Direct Loan (HOME) Compliance Training, then provide copies of completion certificates to TDHCA;
4. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$700 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.

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 \$1,000 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	§	BEFORE THE
GEORGE GERVIN YOUTH CENTER, INC.	§	TEXAS DEPARTMENT OF
	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
GEORGE GERVIN APARTMENTS	§	
(HTF FILE # 859003 / CMTS # 2651)	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 25<sup>th</sup> day of June 2020, 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 **GEORGE GERVIN YOUTH CENTER, INC.**, a Texas nonprofit corporation (Respondent).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (APA), Tex. Gov't Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov't Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov't Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (FOF)**

**Jurisdiction:**

1. During 2003, Respondent was awarded an HTF loan by the Board, in the amount of \$189,183 to build and operate George Gervin Apartments (Property) (HTC file No. 859003 / CMTS No. 2651 / LDLD No. 649).

2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective July 30, 1999, and filed of record at Document Number 99-0158161, of the Official Public Records of Real Property of Bexar County, Texas (“Records”), as amended by a First Amendment executed to be effective May 18, 2001, and recorded of record at Document Number 2001-0094876 in the Records.
3. Respondent is subject to the regulatory authority of TDHCA.

**Compliance Violations<sup>1</sup>:**

4. Property has a history of violations and previously signed an Agreed Final Order on February 2, 2017, agreeing to a \$250 Administrative Penalty which was to be fully forgivable provided that Respondent submitted complete corrections within thirty days. The Agreed Final Order was violated when Respondent failed to submit complete Tenant Selection Criteria, and the full administrative penalty was paid as required.
5. An on-site monitoring review was conducted on February 28, 2019, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a July 10, 2019, corrective action deadline was set. The corrections were partially accepted and a new corrective action deadline of November 10, 2019, was set, however, the following violations were not resolved before the final corrective action deadline:
  - a. Respondent failed to maintain written policies and procedures, including tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. The violation was corrected on May 20, 2020, after intervention by the Enforcement Committee.
6. All violations listed above are considered resolved at the time of this Order.

**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).

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<sup>1</sup> 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.

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 §10.610 in 2019, by not maintaining written policies and procedures, including tenant selection criteria, meeting minimum TDHCA requirements;
5. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
6. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
7. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
8. An administrative penalty of \$1,000 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Governing Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$1,000, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay a \$300 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 at least one representative from Respondent and at least one representative from the property management company shall attend the next available Direct Loan (HOME) Compliance Training offered via the Texas Apartment Association (TAA) and submit completion certificates within thirty days of attendance. TAA does not schedule courses during the summer and will post the 2020/2021 training schedule in the fall, with registration available online at <https://www.taa.org/event-category/affordable-housing/>.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty and the remaining amount of the administrative penalty 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 \$700 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 completion certificates 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](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> 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 1, 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 June 25, 2020.

By: \_\_\_\_\_  
Name: Leslie Bingham  
Title: Vice 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 25th day of June 2020, personally appeared Leslie Bingham, 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 25th day of June 2020, 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:**

**GEORGE GERVIN YOUTH CENTER, INC.,** a Texas nonprofit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**Exhibit 1**

**Exhibit 1**

**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)

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership

Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;



- (5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;
  - (6) Agreements among parties associated with the transfer;
  - (7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;
  - (8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;
  - (9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired;
  - (10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.
- (i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).
- (j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:
- (1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or
  - (2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.
- (k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.
- (l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297

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**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Meadowlake Village (HTC 11189 / HOME 1004196 / CMTS 4463)

**RECOMMENDED ACTION**

**WHEREAS**, Meadowlake Village Apartments, owned by Mabank Residential Apartments, LP (Owner), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, unresolved compliance findings include one household income violation for unit 19, which is currently vacant but ready for occupancy;

**WHEREAS**, the ownership group for this property has a history of past administrative penalty referrals, and has previously signed multiple Agreed Final Orders for related properties;

**WHEREAS**, on May 6, 2020, Owner's representatives participated in an informal online 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 \$3,500 to be paid within 30 days of the date this order is signed by the Department's Governing Board and the remaining \$1,500 to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before July 27, 2020, or within 30 days of occupancy for unit 19, whichever is later; 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 Meadowlake Village Apartments (HTC 11189 / HOME 1004196 / CMTS 4463), 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

Mabank Residential Apartments, LP (Owner) is the owner of Meadowlake Village Apartments (Property), a low income apartment complex composed of forty units, located in Kaufman County. Records of the Texas Secretary of State list Mabank Residential Apartments GP, LLC as the general partner, with the following members and/or officers: Warren L Maupin (Member) and Terri Lynn Maupin (Member). CMTS lists Warren Maupin as the primary contact for Owner. The property is self-managed.

The Property is subject to a HOME Land Use Restriction Agreement (HOME LURA) signed in 2011 in consideration for an interest-free HOME loan in the amount of \$300,000, and a Housing Tax Credit Land Use Restriction Agreement (HTC LURA) signed in 2013 in consideration for a housing tax credit allocation in the annual amount of \$395,449, both to acquire, rehabilitate and operate the Property.

Owner was previously referred for an administrative penalty for Meadowlake in 2017 for file monitoring findings, including one household income violation, an affirmative marketing violation, and supportive services violations, but the referral was closed informally when full corrections were received. Owner has a history of referrals for other properties including Crystal Falls (CMTS 1021), Lake Ridge (CMTS 959), Cameron Terrace (CMTS 4322), and Holland House (CMTS 4471). Of those, administrative penalty agreed final orders were previously signed for Cameron Terrace and Holland House. Owner has a history of noncompliance, showing a pattern of late and incomplete submissions throughout the portfolio, including consistent problems with supportive services.

The following new compliance violations were identified during the 2019 onsite file monitoring review. They were then referred for an administrative penalty and have since been resolved, but are relevant consideration for an administrative penalty:

1. Failure to provide complete written policies and procedures, including tenant selection criteria;
2. Failure to provide tenant income certification and documentation for unit 5;
3. Failure to provide social services; and
4. Household income violation for unit 8.

The following new compliance violations have not been resolved at the time of this order:

1. Household income violation for unit 19

The maximum potential administrative penalty relating to the 2019 onsite file monitoring review violations indicated above is \$5,750, but a \$3,000 portion of that relates to supportive services, which some Committee members felt was too high. Committee members considered a variety of factors before making a recommendation. Owner has improved and is submitting timely corrections for initial corrective action deadlines, but the submissions remain incomplete and there are frequently delays after Compliance staff issues a follow up letter that details problems with submissions and requests further documentation. The Owner representative appears to be knowledgeable about program requirements, and indicates he will become more involved with reviews. Multiple corrective submissions have been received and only one finding is currently unresolved, which relates to a vacant unit, showing that the owner is making an effort to comply. However, the same types of violations are being identified across the portfolio during each review, there is a history of repeated referrals for an administrative penalty, and Committee members acknowledge the importance of deterring future violations for the ownership group. Committee members voted to recommend an administrative

penalty of \$5,000, with \$3,500 due at signing and making the remainder forgivable as an incentive to correct the final violation for unit 19.

Owner participated in an informal online conference with the Enforcement Committee on May 6, 2020, regarding the referred 2019 onsite file monitoring review violations outlined above, 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 \$3,500 portion of the administrative penalty on or before July 27, 2020;
3. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before July 27, 2020, or within 30 days of occupancy, whichever is later;
4. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$1,500 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.

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	§	BEFORE THE
MABANK RESIDENTIAL APARTMENTS, LP	§	TEXAS DEPARTMENT OF
	§	HOUSING AND COMMUNITY
WITH RESPECT TO	§	AFFAIRS
MEADOWLAKE VILLAGE APARTMENTS	§	
(HTC # 11179 / HOME # 1004196 / CMTS	§	
# 4463)	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 25<sup>th</sup> day of June 2020, 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 **MABANK RESIDENTIAL APARTMENTS, LP**, a Texas limited partnership (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 2011, Respondent was awarded a HOME loan by the Board, in the amount of \$300,000, along with an allocation of Low Income Housing Tax Credits, in an annual amount of \$395,449 to acquire, rehabilitate, and operate Meadowlake Village Apartments (Property) (HTC file No. 11179 / CMTS No. 4463 / LDLD No. 915).
2. Respondent signed two land use restriction agreements (collectively LURAs) regarding the Property. The first was a Land Use Restriction Agreement (HOME LURA), dated as of December 22, 2011, and filed of record at Document Number 2012-0000804 of the Official Public Records of Real Property of Kaufman County, Texas ("Records"). The second was a Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low Income Housing Credits (HTC LURA), dated as of February 6, 2013, and filed of record at Document Number 2013-0003085 of the Records, as amended by that first amendment effective February 6, 2013, and filed of record at Document Number 2013-0008937 of the Records, as amended by that second amendment signed May 20, 2014, and filed of record at Document Number 2014-0008354 of the Records.
3. Respondent is subject to the regulatory authority of TDHCA.

### **Compliance Violations<sup>1</sup>:**

4. An on-site monitoring review was conducted on April 18, 2019, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent on December 5, 2019, and a grace period was provided through February 7, 2020, however, the following violations were not resolved before the deadline:
  - a. Respondent failed to maintain complete written policies and procedures, including tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. Acceptable corrective documentation was submitted on April 22, 2020, after intervention by the Enforcement Committee.
  - b. Respondent failed to provide complete tenant income certification and documentation for unit 5, for which employment income was not properly verified at move-in, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), Section 2.4 of the HOME

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<sup>1</sup> 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.

LURA, and Section 4 of the HTC LURA, which require screening of tenants to ensure qualification for the program. Acceptable corrective documentation was submitted on March 19, 2020, after intervention by the Enforcement Committee.

- c. Respondent failed to provide evidence that required supportive services were being provided, a violation of Appendix A of the HTC LURA and 10 TAC §10.619 (Monitoring for Social Services). No services were identified during the onsite review, and an incomplete list of services was provided during the corrective action period. Acceptable corrective documentation was submitted on March 19, 2020, after intervention by the Enforcement Committee.
  - d. Respondent failed to provide complete documentation that household incomes were within prescribed limits upon initial occupancy for units 8 and 19, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income), Section 2.4 of the HOME LURA, and Section 4 of the HTC LURA, which require screening of tenants to ensure qualification for the program. Acceptable documentation for unit 8 was received on March 19, 2020, and the finding was dropped. The violation for unit 19 remains unresolved; the unit is currently vacant.
5. The following violations remain outstanding at the time of this order:
- a. Household income violation for unit 19 described in FOF #4d;

#### **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 §10.610 in 2019, by not maintaining written policies and procedures, including tenant selection criteria, meeting minimum TDHCA requirements;
5. Respondent violated 10 TAC §10.611, Section 2.4 of the HOME LURA, and Section 4 of the HTC LURA, by failing to provide complete tenant income certification and documentation to ensure qualification for the program for one unit;
6. Respondent violated 10 TAC §10.619 (Monitoring for Social Services) and Appendix A of the HTC LURA in 2019, by not providing supportive services;



7. Respondent violated 10 TAC §10.611, Section 2.4 of the HOME LURA, and Section 4 of the HTC LURA in 2019, by failing to provide documentation that household income was within prescribed limits upon initial occupancy for two units;
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 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 \$3,500 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 Exhibit A and submit full documentation of the corrections to TDHCA on or before July 27, 2020 or within 30 days of occupancy by a qualified household, whichever is later.

**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 and the remaining amount of the administrative penalty will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the

amount of \$1,500 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](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 2, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

*[Remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on June 25, 2020.

By: \_\_\_\_\_  
Name: Leslie Bingham  
Title: Vice 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 25th day of June 2020, personally appeared Leslie Bingham, 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 25th day of June 2020, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas



## Exhibit 1

### File Monitoring Violation Resources and Instructions

#### **Resources:**

1. Refer to the following link for all references to the rules at 10 TAC Chapter 10 that are referenced below:  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:  
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:  
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>  
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>  
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. 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:**

6. **Household income above limit upon initial occupancy for unit 19:** You have represented that this unit is currently vacant, but ready for occupancy. You must occupy the unit by a qualified household, and submit the full new tenant file by July 27, 2020, or within 30 days of occupancy, whichever is later. A full tenant file must include the following.
  - i. Tenant application;
  - ii. Verifications of all sources of income and assets;
  - iii. Tenant income certification;
  - iv. Lease and lease addendum;
  - v. Tenant Rights and Resources Guide Acknowledgment; and
  - vi. A copy of the tenant selection criteria under which the household was screened.

Remember that items i-iii above must be dated within 120 days of one another, and documents must not be backdated.

**Exhibit 2:**

**Texas Administrative Code**

TITLE 10                    COMMUNITY DEVELOPMENT  
PART 1                    TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
CHAPTER 10                UNIFORM MULTIFAMILY RULES  
SUBCHAPTER E    POST AWARD AND ASSET MANAGEMENT REQUIREMENTS  
RULE §10.406                Ownership Transfers (§2306.6713)

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The following exceptions to the ownership transfer process outlined herein apply:

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff may make a recommendation to the Board for the

debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period/Federal Affordability Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of 8609's, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the procedure described in §10.405(b)(1) of this chapter (relating to Non-Material LURA Amendments) has been followed and approved.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(A) of Subchapter C;

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(B) of Subchapter C;

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

(9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired;

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of Subchapter C (relating to Ineligible Applicants and Applications).

(j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this chapter (relating to Fee Schedule, Appeals, and other Provisions).

Source Note: The provisions of this §10.406 adopted to be effective January 5, 2017, 41 TexReg 10569; amended to be effective January 4, 2018, 42 TexReg 7610; amended to be effective December 30, 2018, 43 TexReg 8297



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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on approval of the 2021 Low Income Home Energy Assistance Program State Plan for submission to the U.S. Department of Health and Human Services and approval of the associated 2021 awards

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) develops and submits a State Plan to the U.S. Department of Health and Human Services (USHHS) each year to administer the Low Income Home Energy Assistance Program (LIHEAP);

**WHEREAS**, the Board approved a draft 2021 LIHEAP State Plan on April 23, 2020, which was then made available for public comment and that public comment is addressed below;

**WHEREAS**, the final 2021 LIHEAP State Plan (the Plan) includes the awards to subrecipients of 2021 LIHEAP funds as recommended by the Executive Award Review and Advisory Committee (EARAC); and

**WHEREAS**, the Plan also includes non-substantive corrections;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Plan and 2021 LIHEAP awards, in the form presented at this meeting, are hereby approved for submission to the USHHS; and

**FURTHER RESOLVED**, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to contract for the awards represented in the Plan and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings such as anticipated grant guidance on development of the Plan from USHHS or to make such non-substantive technical corrections as they or any of them may deem necessary or advisable to effectuate the foregoing.

**BACKGROUND**

The Department develops and submits a LIHEAP Plan each year on or before September 1 to USHHS. USHHS provides a model plan to guide the format and content. The draft, upon approval by the Board on April 23, 2020, was released for public comment. The public comment period was open from May 8, 2020, to June 1, 2020, and public hearings were held virtually due to COVID-19. One virtual public

hearing took place during business hours whereas the other public hearing took place after business hours. Individuals representing five organizations commented on the draft. A summary of these comments with Department response is provided below.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) requires a review of LIHEAP awards prior to recommendation to the Board. These LIHEAP awards are subject to this review. The review has been performed and the entities listed at the end of Attachment A have been recommended by EARAC for award.

**Attachment A: Summary of Public Comment and Staff Recommendations Related to the 2021  
Low Income Home Energy Assistance Program State Plan**

The Department conducted two virtual public hearings on May 27, 2020, to solicit public comment on the draft 2021 LIHEAP State Plan. A summary of the public comment and staff’s recommendations are as follows:

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMENDATION: The Department accepted public comment May 8, 2020, through June 1, 2020. Comment was received from individuals representing five organizations, including the Texas Association of Community Action Agencies (TACAA). Comments and responses are presented in the following list. Note that public comment numbers were assigned as noted to the left and used to identify commenters.

<b>#</b>	<b>Commenter</b>	<b>Organization</b>
1	Stella Rodriguez, Executive Director	Texas Association of Community Action Agencies (represents 31 of 37 CEAP subrecipients and 19 of 22 WAP subrecipients)
2	Hanna Adams, Executive Director	Cornerstone Community Action Agency
3	Dennis Chapman, CEAP Program Administrator	Travis County Health and Human Services
4	Cyrus Reed, Interim Director	Lone Star Chapter, Sierra Club
5	Desiree Davis, Utility Assistance Director	BakerRipley

**Section 1.2, Estimated Funding Allocation**

COMMENT SUMMARY (4): Commenter suggests increasing the funding allocation for weatherization because the CARES Act has made more money available this year for direct heating and cooling assistance.

STAFF RESPONSE: The Department appreciates the suggestion, but because there has been a severe decrease in weatherization of homes for the year due to COVID-19, and access to homes may continue to be limited, the Department does not feel it is prudent to make such a change. No changes will be made to the estimated funding allocations in the Plan. Since mid-March, COVID-19 has severely hampered the production of weatherized homes throughout Texas because weatherization staff and crews have been unable to access homes for fear of spreading the virus. The weatherization network has largely been shut down the past three to four months and is only recently considering re-opening in a slow and strategic way. The Department also cannot predict whether there will be a second phase of COVID-19 responsiveness in the fall which could further limit weatherization production issues; therefore, the Department will keep the weatherization allocation at 15% directing 75% of the funding towards utility assistance.

**Section 1.4, Categorical Eligibility**

COMMENT SUMMARY (3): Commenter recommends that Women Infants and Children (WIC) and Supplemental Nutrition Assistance Program (SNAP) be added as categorically eligible for cooling, heating, crisis, and weatherization because most applicants with SNAP and WIC are eligible anyway.

STAFF RESPONSE: WIC is not a categorically eligible category supplied in the Plan template although Temporary Assistance for Needy Families (TANF) is. Only the Supplemental Security Income and Means-tested Veterans programs are determined at the federal level, and therefore automatically meet the requirements of LIHEAP; alternatively, in Texas TANF and SNAP eligibility are determined at the state level using a different eligibility process for SNAP and TANF than LIHEAP. The Department would not have assurance that federal eligibility for LIHEAP is being met if the current state standard for SNAP and TANF were used. Even though most clients who receive TANF or SNAP are also eligible for LIHEAP assistance, there could be some who are not, which would result in disallowed costs. As a result, staff proposes no changes to the Plan.

### **Section 2.3 Heating Assistance, 3.3 Cooling Assistance, and 4.7 Crisis Assistance, Priority**

COMMENT SUMMARY (2): Commenter recommends unchecking the “Households with high energy burdens” and “Other-Households with high-energy consumption” categories because by indicating all categories (i.e., elderly, disables, young children, high-energy burden, and high-energy consumption) as priority, essentially there is no priority.

STAFF RESPONSE: Low-income vulnerable, high-energy burden and high-energy consumption populations are mentioned in the LIHEAP Statute as populations to focus assistance upon; therefore, the Department believed it important enough to be codified in 10 TAC §6.307(e) and also to implement a priority rating system in each subrecipient’s Service Delivery Plan as described in 10 TAC §6.306. The Department understands the rationale behind the comment in that by establishing too many separate populations as priority, this dilutes the impact of having a priority designation, thereby eliminating the need for a priority-based system. To counter this, Department guidance found on the Department’s CEAP Program Guidance webpage offers a method to establish a point-based priority system wherein vulnerable populations and populations with high energy burden and high energy consumption become the populations with the greatest chance of being served. The Department appreciates the comment, but because it is mentioned within LIHEAP Statute and is a Department rule, the Department proposes no changes to priority categories at this time.

### **Section 2.5 Heating Assistance, “Other Description”**

COMMENT SUMMARY (1, 2): Commenters request that alternative billing be allowed to determine benefit levels in lieu of collecting utility billing histories. With so many utility providers in Texas and customers frequently moving from one provider to another, it is difficult and time consuming to obtain billing histories for customers from multiple companies, hindering the opportunity to expeditiously expend the funds. Furthermore, one commenter states, over half of the states in the U.S. do not require billing histories. The other commenter suggests that there are other proven billing methods available that could be developed and adopted which serve the purposes of CEAP.

The commenters also suggest reducing the minimum sample size of 30 files to 15 files to develop an Alternative Billing Method (ABM). One commenter states that 30 files is not universally applicable since some agencies are large and others are small. The other commenter suggests it will be much easier for subrecipients to obtain 15 versus 30 files given the deregulated utility system in Texas.

STAFF RESPONSE: Section 2610(a) of the LIHEAP Statute addresses the provision for collection of data. Collecting utility billing histories is a reporting requirement established by USHHS so that clients with the greatest energy burden and need can be prioritized. However, the Department is aware of the

challenges this poses for subrecipients; in an effort to pursue relief for subrecipients, the Department sent a letter on May 13, 2020, to USHHS requesting a waiver be granted for this particular reporting requirement. The Department awaits USHHS' response before next steps are determined.

To note, the number 30 is used because it is largely considered to be a statistically valid sample size. However, because it is becoming more common for clients to move from one vendor to another in Texas' deregulated utility market, the Department recognizes that following current Department approved ABM guidance in obtaining a sample size of at least 30 client files of similar household size with complete billing histories is becoming more difficult. Staff has been told that in some cases, in recent years, some subrecipients have been unable to obtain the required sample size per Department guidance due to lack of full 12 month billing histories. Based on the comments received, the Department will maintain the 30 files minimum standard, but at the same time work with the CEAP network to develop a simpler, reliable, and workable ABM calculation. In the meantime, subrecipients should keep in mind that the larger the sample size the more statistically valid it is which results in more accurate billing histories.

#### **Section 2.6 Heating Assistance, 3.6 Cooling Assistance, and 4.13 Crisis Assistance, Benefit Levels**

COMMENT SUMMARY (1): Commenter states that the last sentence of the first paragraph of this Section is confusing and unclear making it difficult to distinguish between single HVAC appliances versus an HVAC system with multiple components. Commenter adds that such assistance is allowable under the Utility Assistance Component as well as the Crisis Assistance Component. Commenter also suggests the sentence become a stand-alone paragraph and provides suggested new language to help clear up any confusion.

STAFF RESPONSE: The language surrounding the allowance for repair or replacement of the heating and cooling unit, or heating and cooling system is challenging. As suggested, the Department will make this a stand-alone paragraph and modify the language based on the comment to read "If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable" and place it in Sections 2.6, 3.6, and 4.13.

#### **Section 2.6 Heating Assistance, 3.6 Cooling Assistance, and 4.13 Crisis Assistance, Benefit Levels**

COMMENT SUMMARY (4): Commenter believes language regarding Energy Star products and appropriately sized units using Manual J procedures should be added in sections of the Plan where it addresses repair and replacement of heating and cooling units. Specifically, in the Heating, Cooling and Crisis Assistance Sections, the commenter provides the following language to be added: "Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures." Such language should assure that cooling and heating units are appropriately sized for the conditioned space so as not to waste federal and state resources while assuring comfort for the home or apartment.

STAFF RESPONSE: The Department constantly seeks ways to reduce waste and be a good steward of federal funds, so this comment is highly valued. The Department agrees with the comment to encourage the purchase of Energy Star heating and cooling components as well as to appropriately

size the units thereby reducing utility costs for low-income households. The Department appreciates the comment and will add the suggested language to the appropriate sections of the Plan.

### **Section 3.7 Cooling Assistance, Other Benefits**

COMMENT SUMMARY (2): Commenter requests to use in-house staff who are qualified to install HVAC systems and HVAC components, but notes that the existence of such funds to pay for this are problematic. Commenter explains that it would cost less to use qualified in-house staff than use vendors.

STAFF RESPONSE: The Department is always open to and seeking more streamlined and cost efficient methods to administer its programs, so this comment is highly valued. Subrecipients using in-house staff to conduct HVAC repair/replacement would theoretically operate more efficiently and allow subrecipients to more cost-effectively address this measure; however, the following information should be taken into consideration. This is by no means an exhaustive list of considerations.

The Department considers the decision to use qualified in-house staff to repair/replace HVAC components a subrecipient level decision. In-house staff may repair/replace HVAC components as long as in-house staff are truly qualified (i.e., certified and licensed) to conduct such tasks. Salaries for the staff must be budgeted as Program Services while HVAC parts must be charged to the Utility Assistance Component or the Crisis Assistance Component depending on the eligibility of the household. Subrecipients using this option are cautioned not to increase Program Services expenditures over the allowable percentage. Subrecipients must also consider crisis assistance timeframes of 18 hours for life-threatening conditions and 48 hours for extreme weather and disaster conditions across their service area, warranty obligations, liability for improper repair/replacement, proper procurement and inventory control of HVAC parts, and environmental considerations for refrigerant disposal.

HVAC repair/replacement is already addressed in general terms in the Heating, Cooling and Crisis Assistance Sections leaving the details to each individual subrecipient in how to conduct HVAC repair/replacement; therefore, the Department proposes no changes to the Plan.

### **Section 5.2 Weatherization Assistance, Interagency Agreement**

COMMENT SUMMARY (4): Commenter suggests adding an outreach component to the weatherization program by executing interagency agreements with other low-income program offices to perform outreach to target groups. The commenter names the Transmission and Delivery Utilities (TDU) as agencies with whom the Department could share an agreement because they also run low-income programs in Texas. This would assure funds are targeted and spent in the TDU's service territory in conjunction with their own programs and would be of great benefit.

STAFF RESPONSE: The Department not only allows but encourages subrecipients to execute interagency agreements with other low-income program offices such as TDUs in order to collaborate and share in their outreach efforts. The Department believes this to be a more effective approach (i.e., eliminating the intermediary) in outreach efforts and serving the low-income communities throughout the state. The Department appreciates the comment but proposes no changes to the Plan.

### **Section 5.11 Weatherization Assistance, Weatherization Measures**

COMMENT SUMMARY (1): Commenter would like the amount allowed for structural and ancillary weatherization measures to be increased from \$500 to \$800 because the need for repairs continues to increase as well as the cost of repairs. Increasing the amount will benefit the protection of energy conservation measures.

STAFF RESPONSE: Subrecipients should keep in mind that weatherization is not a rehabilitation or general repairs program. Typically, ancillary items would be considered contributory items and can be wrapped into the energy conservation measure (ECM) cost per LIHEAP Priority List instructions which would not be counted towards the \$500 incidental repair allowance. As an effort to control repair cost, units requiring repairs that would exceed the \$500 allowance should be leveraged with DOE and modeled in the approved energy audit following WPN 19-5 guidance to determine if the excessive repair cost could be cost justified in the whole house savings to investment ratio (SIR) with a ranking of one or higher. The Department appreciates the comment, but believes the \$500 maximum to be sufficient.

### **Section 10.6, Agency Monitoring Schedule**

COMMENT SUMMARY (1): Commenter recommends following the CEAP monitoring schedule of every three years for WAP monitoring to lighten the monitoring burden on both the Department and its subrecipients. Commenter also suggests that during the off years a desk review of LIHEAP WAP could occur. Either method would decrease the number of total unit inspections completed during site visits two out of three years which for some agencies lasts close to a week.

STAFF RESPONSE: Although conducting on-site LIHEAP WAP inspections every third year would certainly decrease the burden on the Department as well as the subrecipients, staff believes such a significant reduction of on-site inspections will increase risk and the likelihood of higher potential disallowed costs. The Subrecipient Monitoring Division is allotted the necessary full time staff to conduct LIHEAP WAP inspections on an annual basis, and the LIHEAP WAP inspections take significantly less time than DOE inspections. As a result, staff appreciates the comment, but proposes no changes to the Monitoring Schedule or the Plan.

### **Section 17.4, Citizenship/Legal Residency Verification**

COMMENT SUMMARY (1, 2): Commenters recommend that clients be allowed to sign an attestation of citizenship or legal residency as another option of proof of citizenship/legal residency. One commenter notes that because it is an option afforded in the USHHS State Plan template it is therefore an option acceptable to USHHS. Also, under "Other-describe:", one of the commenters recommends acceptance of voter registration cards as proof of legal status because it is a hardship for low-income people to acquire a birth certificate due to the added expense and associated travel to and from a county office to obtain one. A voter registration card is free and easier to obtain.

STAFF RESPONSE: The Department as the pass-through recipient of federal funds must abide by and ensure adherence to the laws prescribed for the programs the Department administers. While the Department is generally eager to support the network of subrecipients and strives to be responsive to comment, in this case the Department is also obligated to ensure the benefits provided under LIHEAP are in fact eligibly disseminated. As it relates to the comment regarding self-attestation by clients as to their citizenship/legal status, USHHS has indicated to the Department, and the



Department has relayed to its subrecipients through the adoption of such rules in February 2019, that this is not an acceptable form of verification and that if self-attestation is used, and a household is later identified as being ineligible, those costs would be disallowed and its repayment would be a fiscal responsibility of the subrecipient (and the Department). The Department does not authorize self-attestation for this reason. As a result of this comment, the Department will submit a clarification request from USHHS to clarify the self-attestation checkbox in the Plan that seems to indicate self-attestation is acceptable.

As it relates to the voter registration card, 42 CFR §435.407 Types of Acceptable Documentary Evidence of Citizenship allows identification cards issued by the Federal, State, or local government (e.g., voter registration card) to be accepted as proof of identity, but not citizenship. As a stand-alone document, a voter registration card cannot by itself prove legal status because a person may obtain one and still not be qualified for benefits under PRWORA. The Department proposes no changes to the Plan regarding the comments for this Section.

### **General Comments**

COMMENT SUMMARY (1, 2): Commenters recommend the Department change 10 TAC Chapter 6 to allow the payment of two utility bills (e.g., electric, gas or propane) every month year-round. The rationale is that the Department recently allowed this flexibility, in response to the COVID-19 disaster. Commenters believe payment of both fuel sources every month year-round will benefit many households most of which have multiple fuel sources and that this truly addresses the intent of LIHEAP which is to reduce low-income household's energy burden. Commenters note this is a rule not addressed in the Plan, but rather addressed in 10 TAC Chapter 6.

STAFF RESPONSE: As stated, this is a change which will be more appropriately addressed at the next rulemaking opportunity; however, the Department will reflect upon this comment as it analyzes subrecipient expenditure and performance reporting data through the duration of the flexibility to allow payments for two separate fuel sources. Staff appreciates the recommendation, will make note of this comment to consider at the next rulemaking opportunity, and hopes the commenters will comment on this once again at such time.

COMMENT SUMMARY (1): Commenter notes that the recommendations offered are first and foremost to ensure the targeted low-income population is assisted by streamlining the program and expeditiously administering the funds.

STAFF RESPONSE: The Department very much appreciates the review of the Plan and any comments offered. Although not all comments result in changes to the Plan, the back-and-forth process ultimately makes it a collaborative and more streamlined program that works for the benefit of low-income Texans.

COMMENT SUMMARY (1): Commenter expresses appreciation for the publication of the draft Plan in red-line format because it makes it easier for the public to see proposed changes from the previous year.

STAFF RESPONSE: The Department appreciates the feedback and will take this into consideration as it continues to publish future Plans for not only LIHEAP, but other programs as well.

COMMENT SUMMARY (4): Commenter is supportive of the increases to the funding levels per household (i.e., increasing the maximum payment for service and repair of heating and cooling units from \$3,000 to \$5,000, and the overall increase to the maximum benefit from \$5,400 to \$8,200). The new amounts make sense even if fewer households may be helped through the Community Action agencies.

STAFF RESPONSE: The increase in benefit levels are a result of the 10 TAC Chapter 6 revisions which occurred in the latter half of 2019, becoming effective January 1, 2020. The Department appreciates the comment and hopes that the new amounts will more effectively serve low-income Texans.

COMMENT SUMMARY (5): Commenter indicated support of the comments filed by TACAA, particularly reiterating the need for self-attestation for verification of citizenship and the allowance to pay for two separate fuel sources monthly year-round. These recommendations will ensure that the commenter's organization will continue to provide assistance to the vulnerable households in Harris County.

STAFF RESPONSE: Staff appreciates the comment and addressed TACAA's comments above.

## 2021 CEAP ALLOCATIONS

Contract Period: January 1, 2021 - December 31, 2021

	SUBRECIPIENT	ALLOCATION
1	Aspermont Small Business Development Center, Inc.	\$801,056
2	BakerRipley	\$14,750,546
3	Bexar County Community and Development Programs	\$7,571,947
4	Big Bend Community Action Committee, Inc.	\$937,366
5	Brazos Valley Community Action Programs	\$3,791,450
6	City of Fort Worth Neighborhood Services Department	\$5,638,953
7	City of Lubbock Community Development Department	\$1,325,528
8	Combined Community Action, Inc.	\$836,600
9	Community Action Committee of Victoria, Texas	\$1,438,401
10	Community Action Corporation of South Texas	\$4,768,578
11	Community Action Inc. of Central Texas	\$789,695
12	Community Council of South Central Texas, Inc.	\$4,767,506
13	Community Services Northeast Texas, Inc.	\$2,459,350
14	Concho Valley Community Action Agency	\$1,570,703
15	Cornerstone Community Action Agency	\$1,236,536
16	County of Hidalgo Community Services Agency	\$5,442,411
17	Dallas County Health and Human Services	\$9,271,431
18	Economic Action Committee of the Gulf Coast	\$247,387
19	Economic Opportunities Advancement Corporation of Planning Region XI	\$2,814,432
20	El Paso Community Action Program-Project BRAVO	\$5,238,675
21	Galveston County Community Action Council, Inc.	\$2,902,100
22	Greater East Texas Community Action Program	\$7,913,972
23	Hill Country Community Action Association, Inc.	\$1,959,151
24	Kleberg County Human Services	\$630,600
25	Nueces County Community Action Agency	\$1,804,565
26	Panhandle Community Services	\$3,115,462
27	Pecos County Community Action Agency	\$615,271
28	Rolling Plains Management Corporation	\$2,573,341
29	South Plains Community Action Association, Inc.	\$1,490,988
30	South Texas Development Council	\$970,224
31	Texas Neighborhood Services	\$1,465,386
32	Texoma Council Of Governments	\$3,652,606
33	Travis County Health and Human Services	\$3,443,608
34	Tri-County Community Action, Inc.	\$1,870,542
35	Webb County Community Action Agency	\$1,541,275
36	West Texas Opportunities, Inc.	\$3,081,201
37	Williamson-Burnet County Opportunities, Inc.	\$795,667
	<b>TOTAL</b>	<b>\$115,524,510</b>

Note: All figures are estimates and based on 2020 allocations. Staff will proportionally revise the award amounts according to formula upon Congressional approval and receipt of grant notifications from the U.S. Department of Health and Human Services.

## 2021 LIHEAP WAP ALLOCATIONS

Contract Period: January 1, 2021 - December 31, 2021

<b>Subrecipient</b>		<b>Allocation</b>
1	Alamo Area Council of Governments	\$1,843,561
2	BakerRipley	\$2,823,858
3	Big Bend Community Action Committee, Inc.	\$298,593
4	Brazos Valley Community Action Programs	\$727,154
5	City of Fort Worth Neighborhood Services Department	\$1,080,620
6	Combined Community Action, Inc.	\$470,455
7	Community Action Committee of Victoria, Texas	\$656,052
8	Community Action Corporation of South Texas	\$2,516,841
9	Community Council of South Central Texas, Inc.	\$429,329
10	Concho Valley Community Action Agency	\$388,928
11	Dallas County Health and Human Services	\$1,775,589
12	Economic Opportunités Advancement Corporation of Planning Region XI	\$617,044
13	El Paso Community Action Program-Project BRAVO	\$1,004,039
14	Greater East Texas Community Action Program	\$2,068,953
15	Hill Country Community Action Association, Inc.	\$586,572
16	Nueces County Community Action Agency	\$347,022
17	Panhandle Community Services	\$597,823
18	Rolling Plains Management Corporation	\$942,168
19	South Plains Community Action Association, Inc.	\$540,399
20	Texoma Council of Governments	\$1,170,886
21	Travis County Health and Human Services	\$660,605
22	West Texas Opportunities, Inc.	\$591,269
<b>TOTAL</b>		<b>\$22,137,760</b>

Note: All figures are estimates and based on 2020 allocations. Staff will proportionally revise the award amounts according to formula upon Congressional approval and receipt of grant notifications from the U.S. Department of Health and Human Services.

**LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

**MODEL PLAN**

**PUBLIC LAW 97-35, AS AMENDED**

**FEDERAL FISCAL YEAR 2021**

**GRANTEE: Texas Department of Housing and Community Affairs**

**EIN: 17426105429**

**ADDRESS: P.O. Box 13941**

**Austin, Texas 78711-3941**

**LIHEAP COORDINATOR: Michael DeYoung**

**EMAIL: michael.deyoung@tdhca.state.tx.us**

**TELEPHONE: (512) 475-2125 FAX: (512) 475-3935**

**CHECK ONE: TRIBE / TRIBAL ORGANIZATION \_\_\_\_\_ STATE X \_\_\_\_\_ INSULAR AREA \_\_\_\_\_**

**Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
Washington, DC 20447**

**August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01**

**OMB Approval No. 0970-0075**

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

## Assurances

The Texas Department of Housing and Community Affairs agrees to:

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs, and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed an amount equal to 150 percent of the poverty level for such State; or

(i) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a Federal fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-

income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that--

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the Federal fiscal year preceding the Federal fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to--

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that--

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a Federal fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) beginning in Federal fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

\* This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed \$200,000. Neither territories with annual allotments of \$200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.



Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: \_\_\_\_\_

Title: Executive Director, Texas Department of Housing and Community Affairs

Date: August 2020 (*Exact date to be notated in USHHS OLDC system at time of submission*)

**The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.**

**The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.**

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

**Section 1<sup>1</sup>**

**Program Components, 2605(a), 2605(b)(1) – Assurance 1, 2605(c)(1)(C)**

1.1 Check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Dates of Operation<sup>2</sup>

- Heating assistance      Start date: 10/01/2020    End date: 09/30/2022
- Cooling assistance      Start date: 10/01/2020    End date: 09/30/2022
- Crisis assistance      Start date: 10/01/2020    End date: 09/30/2022
- Weatherization assistance    Start date: 10/01/2020      End date: 09/30/2022

**Estimated Funding Allocation, 2604(c), 2605(k)(1), 2605(b)(9), 2605(b)(16) – Assurances 9 and 16**

1.2 Estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%**

15% heating assistance

50% cooling assistance

10% crisis assistance

Up to 15% weatherization assistance<sup>3</sup>

0% carryover to the following Federal fiscal year

10% administrative and planning costs

0% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

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<sup>1</sup> Capitalized terms are defined in Title 10, Chapters 1, 2, or 6 (as applicable) of the Texas Administrative Code or by federal law.

<sup>2</sup> Identification of these periods does not limit the payment of assistance on any “seasonal” basis.

<sup>3</sup> If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

**Alternate Use of Crisis Assistance Funds, 2605(c)(1)(C)**

1.3 The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

- Heating assistance
- Weatherization assistance
- Cooling assistance
- Other (specify): funds are utilized for all eligible components

**Categorical Eligibility, 2605(b)(2)(A) – Assurance 2, 2605(c)(1)(A), 2605(b)(8A) – Assurance 8**

1.4 Do you consider households categorically eligible if one household member receives one of the following categories of benefits in the left column below?  Yes  No

Program	Cooling	Heating	Crisis	Weatherization
Temporary Assistance for Needy Families	No	No	No	No
Supplemental Security Income	Yes	Yes	Yes	Yes
Supplemental Nutrition Assistance Program	No	No	No	No
Means-tested Veterans Programs	Yes	Yes	Yes	Yes

1.5 Do you automatically enroll households without a direct annual application?  
 Yes  No

1.6 How do you ensure there is no difference in the treatment of categorically eligible households from those not receiving other public assistance when determining eligibility and benefit amounts?  
 Texas provides Categorical Eligibility for SSI and Means-Tested Veterans Programs into its program. State rules have a provision that there is to be no difference in the treatment of Categorically Eligible Households. The Department has a system for persons to submit complaints, and the monitoring reviews would also note any differences in treatment of persons that are or are not Categorically Eligible.

**SNAP Nominal Payments**

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP households? If you answered “yes” to question 1.71 you must provide a response to 1.7b, 1.7c, 1.7d.

- a.  Yes  No
- b. Amount of Nominal Assistance: \$ \_\_\_ NA \_\_\_\_\_
- c. Frequency of Assistance:
  - Once per year
  - Once every five years
  - Other (describe): \_\_\_\_\_ NA \_\_\_\_\_

d. How do you confirm that the household receiving a nominal payment has an energy cost or need?

## Determination of Eligibility – Countable Income

1.8 In determining a household's income eligibility for LIHEAP, do you use gross income or net income?

- Gross Income (except for self-employment or farm income or gambling/lottery winnings) <sup>4</sup>  
 Net Income

1.9. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP. <sup>5</sup>

- Wages (except as prohibited by the Workforce Investment Act of 1998)  
 Self-employment income  
 Contract income  
 Payments from mortgage or sales contracts  
 Unemployment Insurance  
 Strike pay  
 Social Security Administration (SSA) benefits  
     Including MediCare deduction       Excluding MediCare deduction  
 Supplemental Security Income (SSI)  
 Retirement / pension benefits  
 General Assistance benefits (except as excluded by federal law or 10 TAC §6.4-)  
 Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)  
 Supplemental Nutrition Assistance Program (SNAP) benefits  
 Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits  
 Loans that need to be repaid  
 Cash gifts  
 Savings account balance  
 One-time lump-sum payments, such as rebates/credits, refund deposits, etc.  
 Jury duty compensation  
 Rental income  
 Income from employment through Workforce Investment Act (WIA)  
 Income from work study programs  
 Alimony  
 Child support  
 Interest, dividends, or royalties  
 Commissions  
 Legal settlements  
 Insurance payments made directly to the insured  
 Insurance payments made specifically for the repayment of a bill, debt, or estimate  
 Veterans Administration (VA) benefits (except for 38 USC 1315, 1521, 1541, 1542)  
 Earned income of a child under the age of 18  
 Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.  
 Income tax refunds  
 Stipends from senior companion programs, such as VISTA  
 Funds received by household for the care of a foster child  
 AmeriCorps Program payments for living allowances, earnings, and in-kind aid.  
 Reimbursements (for mileage, gas, lodging, meals, etc.)

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<sup>4</sup> Exceptions on use of net income are provided for in 10 TAC §6.4.

<sup>5</sup> Any income received by a household that is received from a federal, State, local government, or disaster relief agency that is in excess of the amounts of what would be received if not for the CARES Act legislation, will be excluded per 10 TAC §6.4(c)(28).

Other Any item not excluded in 10 TAC §6.4 or by other federal law

## Section 2 - HEATING ASSISTANCE

### Eligibility, 2605(b)(2) – Assurance 2

2.1 Designate the income eligibility threshold used for the heating component:

<i>Household Size</i>	<i>Eligibility Guidelines</i>	<i>Eligibility Threshold</i>
All Household Sizes	USHHS Poverty Guidelines	150%
All Household Sizes	State Median Income	60% <sup>6</sup>

2.2 Do you have additional eligibility requirements for **HEATING ASSISTANCE**?

Yes  No <sup>7</sup>

2.3 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>                          | <u>No</u>                           |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: |                                     |                                     |
| ● Renters?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>8</sup>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:                    |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?<br>Households with high energy consumption          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

<sup>6</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State's median income (SMI). The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. Texas will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>7</sup> 10 TAC §6.307(f) states: "A Dwelling Unit cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if: (1) the members of the separate structures that share a meter meet the definition of a Household per §6.2 of this Chapter (relating to Definitions); (2) the members of the separate structures that share a meter submit one application as one Household; and (3) all persons and applicable income from each structure are counted when determining eligibility."

<sup>8</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent.

## Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Households with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

2.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need:
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need
  - Other (Describe: Alternative Billing Method)

*Other Description:* Other - Utility assistance payment can be based on the previous twelve (12) month's home energy consumption history or, if this data is unavailable, payments may be based on payments of the current program year's bill or utilize an alternative billing method (ABM) for clients with incomplete billing histories. The Department recommends an alternative billing method where the subrecipient determines the average consumption amount (kWh, therms, MCF, gallons, etc.) per month, for each household size and type based on a minimum sample size of 30 files that contain complete billing histories. Subrecipients can propose other types of ABMs. The ABM proposed by the subrecipient must be approved by the Department prior to utilization.

The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Per 10 TAC §6.309(e), Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of \$1,500 per Component; Households with incomes 76%-150% FPIG have a maximum of \$1,400 per Component; and there is a maximum of up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.

## Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.6 Describe estimated benefit levels for FY 2020:

\$1 Minimum benefit      \$8,200 Maximum benefit

Note: Households are eligible for up to \$1,600 under Utility Assistance Component and up to \$1,600 under Crisis Assistance Component. The level of assistance is dependent on Household income and meeting CEAP program eligibility requirements. Non-vulnerable population households with inoperable heating and cooling units may be eligible for an additional \$5,000 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.

The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount.

The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$1,500 per Component; incomes 76%-150% FPIG up to \$1,400 per Component; and up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.

The maximum benefit amount per household is \$8,200 per program year and could be reached if a household received up to \$1,600 in Crisis Assistance, \$1,600 in Utility Assistance, and a \$5,000 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

2.7 Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?

Yes       No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$5,000 if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

**Section 3: COOLING ASSISTANCE**

**Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2**

3.1 Designate the income eligibility threshold used for the cooling component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>9</sup>

3.2 Do you have additional eligibility requirements for **COOLING ASSISTANCE**

Yes       No

3.3 Check the appropriate boxes below and describe the policies for each.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
● Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters with utilities included in the rent? <sup>10</sup>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>9</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income. Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>10</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer’s rent.



- Other?    
Households with high energy consumption

3.3 Check the appropriate boxes below and describe the policies for each.

Explanations of policies for each “yes” checked above:

10 TAC §6.307(e) states “Subrecipients must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.”

Priority must be given to Elderly, Disabled, Households with Young Children, and Households with High Energy Burden and High Energy Consumption.

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application periods, etc.

Subrecipients use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household’s income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per-program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

**Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need
  - Other (describe)

**Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.6 Describe benefit levels:

\$1 Minimum benefit \$8,200 Maximum benefit

Note: Households are eligible for up to \$1,600 under Utility Assistance Component and up to \$1,600 under Crisis Assistance Component dependent on Household income and meeting eligibility requirements. Non-vulnerable population households may be eligible for an additional \$5,000 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households with an inoperable heating and cooling unit, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.

The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount.

The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes at 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of \$1,500 per Component; Households with incomes 76%-150% FPIG have a maximum of \$1,400 per Component; and there is a maximum of up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.

The maximum benefit amount per household is \$8,200 per program year and could be reached if a Household received up to \$1,600 in Crisis Assistance, \$1,600 in Utility Assistance, and a \$5,000 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

Yes  No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$5,000 if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

**Section 4: CRISIS ASSISTANCE,**

**Eligibility - 2604(c), 2605(c)(1)(A)**

4.1 Designate the income eligibility threshold used for the crisis component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>11</sup>

4.2 Provide your LIHEAP program’s definition for determining a crisis.

Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions):

- (1) Extreme Weather Conditions, with assistance provided within 48 hours;
- (2) Disaster, with assistance provided within 48 hours; or
- (3) Life Threatening Crisis, with assistance provided within 18 hours.

4.3 What constitutes a life-threatening crisis?

A Life Threatening Crisis exists when the life of at least one person in the applicant Household who is a U.S. Citizen, U.S. National, or a Qualified Alien would likely, in the opinion of a reasonable person, be endangered if utility assistance or heating and cooling assistance is not provided due to a Household member who needs electricity for life-sustaining equipment or whose medical professional has prescribed that the person with a medical condition requires that the ambient air temperature be maintained at a certain temperature. Examples of life-sustaining equipment include, but are not limited to, kidney dialysis machines, oxygen concentrators, and cardiac monitors. Documentation must not be requested about the medical condition of the applicant, but the applicant must state that such a device is required in the Dwelling Unit to sustain life.

**Crisis Requirements, 2604(c)**

4.4 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households? 48 Hours

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<sup>11</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas may use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. Texas will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

4.5 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours<sup>12</sup>

**Crisis Eligibility, 2605(c)(1)(A)?**

4.6 Do you have additional eligibility requirements for **CRISIS ASSISTANCE**?

Yes  No

4.7 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>                          | <u>No</u>                           |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:  |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?<br>Households with high energy consumption  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● In order to receive crisis assistance: <sup>13</sup>   |                                     |                                     |
| ● Must the household have received a shut-off notice or have a near empty tank?  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must the household have been shut off or have an empty tank?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must the household have exhausted their regular heating benefit?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must renters with heating costs included in their rent have received an eviction notice?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must heating/cooling be medically necessary?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must the household have non-working heating or cooling equipment?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Explanation for Other: Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions): |                                     |                                     |
| (1) Extreme Weather Conditions, with assistance provided within 48 hours;  |                                     |                                     |
| (2) Disaster, with assistance provided within 48 hours; or   |                                     |                                     |
| (3) Life Threatening Crisis, with assistance provided within 18 hours.   |                                     |                                     |
| ● Do you have additional/differing eligibility policies for:   |                                     |                                     |

<sup>12</sup> Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides “some form of assistance that will resolve the energy crisis” not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

<sup>13</sup> The program has different requirements depending on whether the household contains a member of a priority group.

- Renters?
- Renters living in subsidized housing?
- Renters with utilities included in the rent? <sup>14</sup>

**Determination of Benefits**

4.8 How do you handle crisis situations?

- Separate component
- Fast Track
- Other

4.9 If you have a separate component, how do you determine crisis assistance benefits?

- Amount to resolve crisis, up to a maximum of \$1,600
- Other  
Heating and cooling equipment repair or replace up to \$5,000

**Crisis Requirements, 2604(c)**

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

- Yes  No

Explain: In addition to what is already stated in Section 2604(c)(3) regarding the requirement that each subrecipient accept applications at sites that are geographically accessible to all Households in the area to be served, 10 TAC §6.313(c) states “Subrecipient shall handle Reasonable Accommodation requests, in accordance with §1.204 of this title (relating to Reasonable Accommodations).” 10 TAC §1.204 (b) General Considerations in Handling of Reasonable Accommodations. An applicant, participant, or occupant who has a disability may request an accommodation and, depending on the program funding the property or activity and whether the accommodation requested is a reasonable accommodation, their request must be timely addressed.”

4.11 Do you provide individuals who have physical disabilities the means to:

- Submit applications for crisis benefits without leaving their homes?  
 Yes  No If no, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant’s home to take the application.

- Travel to the sites at which applications for crisis assistance are accepted?  
 Yes  No If yes, explain.

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<sup>14</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from client’s rent.

If you answered “No” to both questions 4.11, please explain alternative means of intake to those who are homebound or physically disabled.

**Benefit Levels, 2605(c)(1)(B)**

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis      \$ 0 maximum benefit

Summer Crisis     \$ 0 maximum benefit

Year-round Crisis \$1,600 maximum benefit

4.13 Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits?

Yes  No If yes, describe.

Non-Vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$5,000 if the Household is experiencing crisis conditions.

If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.

LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c).

All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c), which include blankets, fans, air conditioners, and generators.

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes  No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

Type of Assistance	Winter Crisis	Summer Crisis	Year-round Crisis
Heating system repair			X
Heating system replacement (only components of a central HVAC system)			X
Cooling system repair			X
Cooling system replacement (only components of a central HVAC system)			X
Wood stove purchase			
Pellet stove purchase			
Solar panel(s)			
Utility poles / Gas line hook-ups			
Other (Specify): For Households which include a member of a Vulnerable Population, service and repair or purchase of portable heating and cooling units can be provided if a system is non-existent up to \$5000. For Households who do not have a member of a Vulnerable Population, such assistance is limited to times when the county is experiencing Extreme Weather Conditions.			X

4.16 Do any of the utility vendors you work with enforce a winter moratorium on shut offs? If you respond "Yes" to question 4.16, you must respond to question 4.17.  Yes  No

4.17 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Specific to energy assistance clients, §25.483(i) of the Texas Public Utilities Commission rules provides that a Retail Electric Provider (REP) shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider. Additionally, the rule provides that if an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided; and that a REP shall allow at

least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.

There are protections for several other categories of clients and situations applicable to LIHEAP clients served:

§25.483(g) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent Critical Care Residential Customer when that customer establishes that disconnection of service will cause some person at that residence to become seriously ill or more seriously ill.

§25.483(h) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer has been designated as a Chronic Condition Residential Customer pursuant to 25.497 with noted rule exceptions.

§25.483(j) provides that a REP shall not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of 25.480 (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency. The term “extreme weather emergency” shall mean a day when:

(A) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or

(B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.

## Section 5: WEATHERIZATION ASSISTANCE

### Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2

5.1 Designate the income eligibility threshold used for the weatherization component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>15</sup>

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component?**  Yes  No

5.3 If yes, name the agency. N/A

5.4 Is there a separate monitoring protocol for weatherization?  Yes  No

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<sup>15</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. TDHCA will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.



**WEATHERIZATION - Types of Rules**

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

- Entirely under LIHEAP (not DOE) rules
- Entirely under DOE WAP (not LIHEAP) rules
- Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

- Income Threshold
- Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.
- Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities).
- Other (describe): Adhere to DOE WAP regulation 10 CFR Section 440.18(f)(2) regarding re-weatherization. 10 TAC Part 1, Chapter 6, Subchapter D, Weatherization Assistance Program, is one area where the LIHEAP funded weatherization program adheres to DOE regulations. TDHCA uses a priority list for LIHEAP households at 150% or below USHHS poverty income level. Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization. If LIHEAP funds are included in a DOE unit, the SIR/audit must be used to justify all measures.

Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

- Income Threshold.
- Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.
- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)

**Eligibility, 2605(b)(5) – Assurance 5**

5.6 Do you require an assets test? 

<u>Yes</u>	<u>No</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

5.7 Do you have additional/differing eligibility policies for:

- Renters? 

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- Renters living in subsidized housing? 

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5.8 Do you give priority in eligibility to:

- Elderly?
- Disabled?
- Young children?
- Households with high energy burdens?
- Other?

Explanation: Households with high energy consumption

### Benefit Levels

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?

5.10 If yes, what is the maximum amount? \$8,000

NOTE: unless additional expenditure is authorized in writing by the Department. **Types of Assistance, 2605(c)(1), (B) & (D)**

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

- Weatherization needs/assessments/audits
- Caulking and insulation
- Storm windows
- Furnace/heating system modifications/repairs
- Furnace replacement
- Cooling system modifications/repairs
- Water conservation measures
- Compact fluorescent light bulbs
- Energy related roof repair
- Major appliance repairs
- Major appliance replacement
- Windows/sliding glass doors
- Doors
- Water Heater

Cooling system replacement

Other (describe)

Solar screens or window film. Smart thermostats, miscellaneous repairs up to \$500 for structural and ancillary only if required to enable effective weatherization; Window screens to help prevent exposure to the Zika virus for Households with pregnant women.

If any of the questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.

### **Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)**

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.

Publish articles in local newspapers or broadcast media announcements.

Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.

Mass mailing(s) to prior-year LIHEAP recipients.

Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.

Execute interagency agreements with other low-income program offices to perform outreach to target groups.

Other (specify):

### **Section 7: Coordination, 2605(b)(4) – Assurance 4**

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

Joint application for multiple programs

Intake referrals to/from other programs

One-stop intake centers

Other – describe:

**Section 8: Agency Designation, 2605(b)(6) – Assurance 6**

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency
- Welfare Agency
- Other – describe:

**Alternate Outreach and Intake, 2605(b)(15) – Assurance 15**

8.2 How do you provide alternate outreach and intake for **HEATING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

8.3 How do you provide alternate outreach and intake for **COOLING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

8.4 How do you provide alternate outreach and intake for **CRISIS ASSISTANCE**?

In instances of natural disaster, subrecipients coordinate with other assistance organizations (shelters, Red Cross, etc.). Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

<b>Question 8.5</b>	<b>Heating</b>	<b>Cooling</b>	<b>Crisis</b>	<b>Weatherization</b>
8.5a. Who determines client eligibility?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments , CAAs and Other Nonprofits	Local governments, CAAs and Other Non-profits
8.5b. Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments , CAAs and Other Nonprofits	N/A
8.5c. Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments , CAAs and Other Nonprofits	N/A
8.5d. Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Nonprofits-most

				subcontract with local contractors
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Note for 8.5: In the USHHS-OLDC system where the State Plan is entered, it only allows states to select one type of entity. The Department will select Nonprofits; although we will also contract with Units of government and CAAs.

8.6 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

Currently, the Department administers all aspects of program delivery through subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and Department rules. If subrecipients are successfully administering the program, the Department may offer to renew the contract.

Under this model, if the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if a subrecipient fails to administer the program correctly, the Department will proceed with the process provided for in Department rules of removing funds and reassign the service area or a portion to another existing subrecipient or conduct solicitation or selection of a new subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected subrecipient may request a hearing in accordance with §2105.204 of the Texas Government Code.

However, the Department retains the right to go through a procurement process for some or all aspects of the LIHEAP program.

8.7 How many local administering agencies do you use? 37

8.8 Have you changed any local administering agencies from last year?  Yes  No

8.9 If so, why?

- Agency was in noncompliance with grantee requirements for LIHEAP
- Agency is under criminal investigation
- Added agency
- Agency closed
- Other – describe – voluntary relinquishment

## Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7

9.1 Do you make payments directly to home energy suppliers?

Heating  Yes  No

Cooling  Yes  No

Crisis  Yes  No

Are there exceptions?  Yes  No

If yes, describe:

9.2 How do you notify the client of the amount of assistance paid?

The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. The Department provides subrecipients with a Department approved Vendor Agreements to utilize. The document can be found at the Department's website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor Agreements are used in all components. The Department provides subrecipients with a Department approved Vendor Agreement to utilize. The document can be found at the Department's website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households?  Yes  No. If so, describe the measures unregulated vendors may take.

## Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10

10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?

1. Review annual audits
2. Monitor fiscal records
3. Review current and prior year monthly expenditure and performance reports

### Audit Process

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133?  Yes  No

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding <sup>16</sup>	Type	Brief Summary	Resolved?	Action Taken
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10.4. Audits of Local Administering Agencies

What types of annual audit requirements do you have in place for local administering agencies/district offices?

Local agencies/district offices are required to have an annual audit in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).<sup>17</sup>

Local agencies/district offices are required to have an annual audit (other than 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)).

10.4 (continued)

Local agencies/district offices 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) or other independent audits are reviewed by Grantee as part of compliance process.

Grantee conducts fiscal and program monitoring of local agencies/district offices.

### Compliance Monitoring

10.5. Describe the Grantee’s strategies for monitoring compliance with the Grantee’s and Federal LIHEAP policies and procedures by:

Grantee employees:

Internal program review

Departmental oversight

Secondary review of invoices and payments

Other program review mechanisms are in place. Describe: Cross Division peer review of documents

Local Administering Agencies/District Offices:

On-site evaluation

Annual program review

Monitoring through Central Database

Desk reviews

Client File Testing/Sampling

Other program review mechanisms are in place. Describe: Desk review of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

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<sup>17</sup> For 2019, Subrecipients will follow the audit requirements in 45 CFR 75 Subpart F, as applicable, and the requirements in the Texas Single Audit Act.

(Uniform Guidance); A review of the Subrecipient's resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

- 10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.  
See attached monitoring schedule and monitoring instruments.

Describe how you select local agencies for monitoring reviews?

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews. Selection of contracts for monitoring is primarily based on risk assessment. LIHEAP subrecipients are monitored at least once every three years. This is a component of the risk assessment score. If a subrecipient also has Community Service Block Grant funds, the LIHEAP monitoring may be done at the same time. Subrecipients that leverage LIHEAP funds with DOE funds for weatherization are subject to a programmatic fiscal and inspection review according to the DOE monitoring schedule (once a year). Contracts may also be selected for monitoring based on other factors, such as prior findings, complaints, or special requests.

- 10.7. Site Visits: Onsite monitoring visits are conducted at least once every three years. The Department will inspect a minimum of 5% of all LIHEAP weatherized units reported as complete.  
Desk Reviews: Some materials are requested and reviewed at the Department's office prior to the onsite visit.

- 10.8. How often is each local agency monitored? At least once every three years.

- 10.9. What is the combined error rate for eligibility determinations? (Optional question) Optional

- 10.10. What is the combined error rate for benefit determinations? (Optional question)  
Optional

- 10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) -0

- 10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) -0

### **Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)**

- 11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)



- Comments are solicited during outreach activities
- Other, describe:

11.2 What changes did you make to your LIHEAP plan as a result of this participation?  
 Changes were made to the LIHEAP Plan as a result of Public Hearing participation as described in Section 11.6. Additionally, a change was made as a result of written comments as described here:

**Section 2.6 Heating Assistance, 3.6 Cooling Assistance, and 4.13 Crisis Assistance, Benefit Levels**

The following language was added in the appropriate Sections of the Plan: “Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.”

**Public Hearings, 2605(a)(2)**

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
Wednesday, May 27, 2020 from 2:00 - 2:30 p.m.	Virtual Hearing via GoToWebinar due to COVID-19 To Register: <a href="https://attendee.gotowebinar.com/register/6842808822375322637">https://attendee.gotowebinar.com/register/6842808822375322637</a> Dial-in number: +1 (415) 930-5321, access code 351-573-674 (Persons who use the dial-in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments.)
Wednesday, May 27, 2020 from 5:15 - 5:45 p.m.	Virtual Hearing via GoToWebinar due to COVID-19 To Register: <a href="https://attendee.gotowebinar.com/register/8052177054929158157">https://attendee.gotowebinar.com/register/8052177054929158157</a> Dial-in number: +1 (562) 247-8321, access code 210-536-015 (Persons who use the dial-in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments.)

11.4 How many parties commented on your plan at the hearing(s)? 3

11.5 Summarize the comments you received at the hearing(s).

**Section 1.4, Categorical Eligibility**

COMMENT SUMMARY: Commenter recommends that Women Infants and Children (WIC) and Supplemental Nutrition Assistance Program (SNAP) be added as categorically eligible for cooling, heating, crisis, and weatherization because most applicants with SNAP and WIC are eligible anyway.

**Section 2.3 Heating Assistance, 3.3 Cooling Assistance, and 4.7 Crisis Assistance, Priority**

COMMENT SUMMARY: Commenter recommends unchecking the “Households with high energy burdens” and “Other-Households with high-energy consumption” categories because by indicating all categories (i.e., elderly, disables, young children, high-energy burden, and high-energy consumption) as priority, essentially there is no priority.

### **Section 2.5 Heating Assistance, “Other Description”**

COMMENT SUMMARY: Commenters request that alternative billing be allowed to determine benefit levels in lieu of collecting utility billing histories. With so many utility providers in Texas and customers frequently moving from one provider to another, it is difficult and time consuming to obtain billing histories for customers from multiple companies, hindering the opportunity to expeditiously expend the funds. Furthermore, one commenter states, over half of the states in the U.S. do not require billing histories. The other commenter suggests that there are other proven billing methods available that could be developed and adopted which serve the purposes of CEAP.

The commenters also suggest reducing the minimum sample size of 30 files to 15 files to develop an Alternative Billing Method (ABM). One commenter states that 30 files is not universally applicable since some agencies are large and others are small. The other commenter suggests it will be much easier for subrecipients to obtain 15 versus 30 files given the deregulated utility system in Texas.

### **Section 2.6 Heating Assistance, 3.6 Cooling Assistance, and 4.13 Crisis Assistance, Benefit Levels**

COMMENT SUMMARY: Commenter states that the last sentence of the first paragraph of this Section is confusing and unclear making it difficult to distinguish between single HVAC appliances versus an HVAC system with multiple components. Commenter adds that such assistance is allowable under the Utility Assistance Component as well as the Crisis Assistance Component. Commenter also suggests the sentence become a stand-alone paragraph and provides suggested new language to help clear up any confusion.

### **Section 3.7 Cooling Assistance, Other Benefits**

COMMENT SUMMARY: Commenter requests to use in-house staff who are qualified to install HVAC systems and HVAC components, but notes that the existence of such funds to pay for this are problematic. Commenter explains that it would cost less to use qualified in-house staff than use vendors.

### **Section 5.11 Weatherization Assistance, Weatherization Measures**

COMMENT SUMMARY: Commenter would like the amount allowed for structural and ancillary weatherization measures to be increased from \$500 to \$800 because the need for repairs continues to increase as well as the cost of repairs. Increasing the amount will benefit the protection of energy conservation measures.

### **Section 10.6, Agency Monitoring Schedule**

COMMENT SUMMARY: Commenter recommends following the CEAP monitoring schedule of every three years for WAP monitoring to lighten the monitoring burden on both the Department and its subrecipients. Commenter also suggests that during the off years a desk review of LIHEAP WAP could occur. Either method would decrease the number of total unit inspections completed during site visits two out of three years which for some agencies lasts close to a week.

### **Section 17.4, Citizenship/Legal Residency Verification**

COMMENT SUMMARY: Commenters recommend that clients be allowed to sign an attestation of citizenship or legal residency as another option of proof of citizenship/legal residency. One commenter notes that because it is an option afforded in the USHHS State Plan template it is therefore an option acceptable to USHHS. Also, under “Other-describe:”, one of the commenters recommends acceptance of voter registration cards as proof of legal status because it is a hardship for low-income people to acquire

a birth certificate due to the added expense and associated travel to and from a county office to obtain one. A voter registration card is free and easier to obtain.

### **General Comments**

COMMENT SUMMARY: Commenters recommend the Department change 10 TAC Chapter 6 to allow the payment of two utility bills (e.g., electric, gas or propane) every month year-round. The rationale is that the Department recently allowed this flexibility, in response to the COVID-19 disaster. Commenters believe payment of both fuel sources every month year-round will benefit many households most of which have multiple fuel sources and that this truly addresses the intent of LIHEAP which is to reduce low-income household's energy burden. Commenters note this is a rule not addressed in the Plan, but rather addressed in 10 TAC Chapter 6.

COMMENT SUMMARY: Commenter notes that the recommendations offered are first and foremost to ensure the targeted low-income population is assisted by streamlining the program and expeditiously administering the funds.

COMMENT SUMMARY: Commenter expresses appreciation for the publication of the draft Plan in red-line format because it makes it easier for the public to see proposed changes from the previous year.

11.6 What changes did you make to your LIHEAP plan as a result of the comments received at the public hearing(s)?

### **Section 2.6 Heating Assistance, 3.6 Cooling Assistance, and 4.13 Crisis Assistance, Benefit Levels**

STAFF RESPONSE: The language surrounding the allowance for repair or replacement of the heating and cooling unit, or heating and cooling system is challenging. As suggested, the Department will make this a stand-alone paragraph and modify the language based on the comment to read "If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable" and place it in Sections 2.6, 3.6, and 4.13.

### **Section 12: Fair Hearings, 2605(b)(13) – Assurance 13**

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?  
None

12.2 How many of those fair hearings resulted in the initial decision being reversed? N/A

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings? None

12.4 Describe your fair hearing procedures for **households whose applications are denied**.  
Subrecipient contracts include the following section:

### **APPEALS PROCESS**

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely

manner. Subrecipient must establish a denial of service complaint procedure in accordance with 10 TAC §6.8 of the State Rules. The rule states:

(b) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/customers. At a minimum, the procedures described in paragraphs (b)(1) - (8) of this subsection shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) A Subrecipient must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.

(3) Subrecipients shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within ten (10) business days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven (7) calendar days before the appeal hearing.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing.

(c) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(d) Applicants/customers who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001.

(e) The hearing under subsection (d) shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in §1.13, relating to Contested Case Hearing Procedures, of this title.

(f) If the applicant/customer appeals to the Department, the funds should remain encumbered until the Department completes its decision.

## 12.5 When and how are applicants informed of these rights?

Within ten days of the determination, the subrecipient must provide written notification to the applicant.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

An Applicant requests a hearing with the Subrecipient initially. If not satisfied with the results of the Subrecipient's hearing, the Applicant then appeals to the Texas Department of Housing and Community Affairs. The Department then schedules a fair administrative hearing.

12.7 When and how are applicants informed of these rights?

Applicants are informed of their rights either by 1) informing them on the application itself, 2) handing them a document with such information at the time of application, 3) displaying posters at intake offices, or 4) providing them the information in the denial of LIHEAP assistance letter that is mailed to the applicant.

### **Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16**

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?

N/A- The State does not use funds under Assurance 16.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?

NA-The State does not use funds under Assurance 16.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.5 How many households applied for these services?

NA-The State does not use funds under Assurance 16.

13.6 How many households received these services?

NA-The State does not use funds under Assurance 16.

### **Section 14: Leveraging Incentive Program, 2607A**

14.1 Do you plan to submit an application for the leveraging incentive program?

Yes       No

14.2 Describe instructions to any third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records.      NA

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

Resource	What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with LIHEAP?
NA	NA	NA	NA

**Section 15: Training**

15.1 Describe the training you provide for each of the following groups:

a. Grantee Staff:

Formal training on grantee policies and procedures

How often?

Annually

Biannually

As needed

Other – Describe:

Employees are provided with policy manual

Other – Describe:

Employees are provided with a notebook with plans, rules, the contract, and budget. The Department training team provides grantee staff with programmatic training. New staff are provided an orientation training, and invited to attend Subrecipient trainings as well.

b. Local Agencies:

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe: The Department offers a manager training for newly hired managers or Executive Directors, as needed, which is then followed up with individualized technical assistance. The Department conducts quarterly network calls and/or webinars to update Subrecipients on changes. The Department provides training at an annual conference which is sponsored by the Texas Association of Community Action Agencies. The Department provides Energy Audit training to agencies as needed, along with Department posted Energy Audit Student Guide and Best Practices on its website. The Department provides a template for developing the Annual Service Delivery Plan and a guide for developing it. The Department develops data tools and trains agencies on how to analyze their data to improve efficiency and productivity.

On-site training

How often?

Annually

- Biannually
- As needed
- Other –

The Department identifies key areas for training needs based upon monitor reports and Subrecipient requests. The Department provides on-site training as needed to individual agencies or through regional trainings on a variety of topics such as: process mapping, production, data analysis, intake, client file documentation, weatherization assessments, audits, final inspections, working with contractors, and reporting.

- Employees are provided with policy manual
- Other – Describe: The Department uses an online portal that agencies use daily for quick responses to questions or for requesting training. The Department schedules a webinar each quarter to provide information, training, and technical assistance to the local agencies. The Department hosts an additional weatherization quarterly webinar to provide updates on rules, regulations, and technical issues that are identified. The Department creates tools, guides, best practices, and FAQs that are posted on program webpages.

c. Vendors

- Formal training conference

How often?

- Annually
- Biannually
- As needed
- Other – Describe:

- Policies communicated through vendor agreements
- Policies are outlined in a vendor manual
- Other – Describe:

15.2 Does your training program address fraud reporting and prevention?

- Yes
- No

**Section 16: Performance Goals and Measures, 2605(b)**

16.1 Describe your progress toward meeting the data collection and reporting requirements of the four required LIHEAP performance measures. Include timeframes and plans for meeting these requirements and what you believe will be accomplished in the coming federal fiscal year.

The Department was able to meet the four LIHEAP performance measures.

The Department currently requires subrecipients to upload data related to the four performance measures into our State reporting system. The Department has made this reporting a contractual requirement for all LIHEAP subrecipients. The Department periodically reviews uploaded summary reports and offers technical assistance to subrecipients who may not understand what to report or may not upload the data in a timely fashion.

**Section 17: Program Integrity, 2605(b)(10)**

17.1 Fraud Reporting Mechanisms

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse. Select all that apply.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

Note: TDHCA’s website has a webpage named “Report Fraud, Waste, and Abuse by TDHCA Management and Staff” directing persons who suspect fraud, waste, and abuse by TDHCA management and staff to report to the State Auditor’s Office at <https://sao.fraud.texas.gov/ReportFraud/>. Subrecipients are required to establish fraud, waste, and abuse procedures.

17.1 (continued)

b. Describe strategies in place for advertising the above-referenced resources. Select all that apply.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

17.2 Identification Documentation Requirements

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>



Government-issued identification card (e.g.,: driver's license, state ID, Tribal ID, passport, etc.)	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
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#	Other	Applicant Only Required	Applicant Only Requested	All Adults in Household Required	All Adults in Household Requested	All Household Members Required	All Household Members Requested
1	Other: clients provide identification to the subrecipients at the time of application. See attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

\*Households may include members who are not seeking assistance and may not be included in the household count. A live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household.

b. Describe any exceptions to the above policies: NA

### 17.3 Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members. Select all that apply.

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff (for tribal grantees only)
- Match SSN/Tribal ID number with tribal database or enrollment records (for tribal grantees only)
- Other – describe:

Subrecipients verify the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (SAVE) system.

### 17.4 Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients' submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status
- Citizens must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe: U.S. Nationals will have to provide documentation of that status.

### 17.5 Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members
  - Pay stubs
  - Social Security award letters
  - Bank statements
  - Tax statements
  - Zero-income statements
  - Unemployment Insurance letters
  - Other – describe: Court Documents or government benefit statements as applicable.
  
- Computer data matches:
  - Income information matched against state computer system (e.g., SNAP, TANF)
  - Proof of unemployment benefits verified with state Department of Labor
  - Social Security income verified with SSA
  - Utilize state directory of new hires
  
- Other – describe:

### 17.6 Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
  - Grantee employees
  - local agencies/district offices
- Employees must sign confidentiality agreement
  - Grantee employees
  - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe: Grantee contracts include the following section:

### RECORD KEEPING REQUIREMENTS

Subrecipient acknowledges that all information collected, assembled, or maintained by subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

**Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.409 requires that:**

(a) Client Records including Multifamily Development Owners. The Department requires subrecipient organizations to document client services and assistance. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization

policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

(b) Records of client eligibility must be retained for five (5) years starting from the date the Household activity is completed, unless otherwise provided in federal regulations governing the program.

(c) Other records must be maintained as described in the Contract or the LURA, and in accordance with federal or state law for the programs described in the Chapters of this Part.

### 17.7 Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State/Tribe
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

### 17.8 Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
  - Account ownership
  - Consumption
  - Balances
  - Payment history
  - Account is properly credited with benefit
  - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

### 17.9 Benefits Policy – Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors? Select all that apply.

- Vendors are checked against an approved vendors list
- Centralized computer system/database is used to track payments to all vendors
- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor

- Direct payment to households are made in limited cases only
- Vendors are only paid once they provide a delivery receipt signed by the client
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

#### 17.10 Investigations and Prosecutions

Describe the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient may be referred to the Department's Enforcement Committee or proposed for debarment.

## **Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used

in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 19: Certification Regarding Drug-Free Workforce Requirements

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

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

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

*Controlled substance* means a controlled substance in Schedules I through V of the Controlled



Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

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

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

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

## Certification Regarding Drug-Free Workplace Requirements

### Alternate I. (Grantees Other Than Individuals)

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

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;  
(2) The grantee's policy of maintaining a drug-free workplace;  
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and  
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --  
(1) Abide by the terms of the statement; and  
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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

Austin, Travis County, Texas, 78701

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

Alternate II. (Grantees Who Are Individuals)

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

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

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Statement for Loan Guarantees and Loan Insurance

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

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

## **REQUIRED ATTACHMENTS**

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix. (Attachment 3)
- Cooling component benefit matrix. (Attachment 3)
- Local Agency Monitoring Schedule (Attachment 4)

## **Attachment 3**

### **Benefit Matrix**

Program rules found at 10 Texas Administrative Code, §6.309(e):

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=309](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=309) . .

All benefits are determined based on a sliding scale.

(e) Benefit determinations for the Utility Assistance Component and the Crisis Assistance Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection:

- (1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed \$1,600 per Component;
- (2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed \$1,500 per Component; and
- (3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$1,400 per Component; and

(f) Service and Repair of existing heating and cooling units: Households may receive up to \$5,000 for service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system based on requirements in §6.310, relating to Crisis Assistance Component.

## Attachment 4

### Monitoring Schedule for FY 2021

	SUBRECIPIENT	REVIEW TYPE	Date of Next Monitoring Review	DATE OF LAST FULL ONSITE REVIEW (IF APPLICABLE)
1	Alamo Area Council of Governments	On-Site	2020	February 2019
2	Aspermont Small Business Development Center, Inc.	On-Site	2022	May 2019
3	BakerRipley	On-Site	2021	July 2019
4	Bexar County Community and Development Programs	On-Site	2022	January 2020
5	Big Bend Community Action Committee, Inc.	On-Site	2021	May 2019
6	Brazos Valley Community Action Programs	On-Site	2020	August 2018
7	Cornerstone Community Action Agency	On-Site	2021	March 2018
8	City of Fort Worth Neighborhood Services Department	On-Site	2022	February 2020
9	City of Lubbock Community Development Department	On-Site	2021	February 2019
10	Combined Community Action, Inc.	On-Site	2022	November 2019
11	Community Action Committee of Victoria, Texas	On-Site	2022	Septmber 2019
12	Community Action Corporation of South Texas	On-Site	2022	July 2019
13	Community Action Inc. of Central Texas	On-Site	2021	October 2018
14	Community Council of South Central Texas, Inc.	On-Site	2021	November 2018
15	Community Services Northeast Texas, Inc.	On-Site	2021	May 2018
16	Concho Valley Community Action Agency	On-Site	2021	October 2018
17	County of Hidalgo Community Services Agency	On-Site	2021	August 2018
18	Dallas County Health and Human Services	On-Site	2020	February 2018
19	Economic Action Committee of the Gulf Coast	On-Site	2022	July 2019
20	Economic Opportunities Advancement Corporation of Planning Region XI	On-Site	2022	January 2020
21	El Paso Community Action Program-Project BRAVO	On-Site	2022	February 2020
22	Galveston County Community Action Council, Inc.	On-Site	2022	March 2019
23	Greater East Texas Community Action Program	On-Site	2022	February 2019
24	Hill Country Community Action Association, Inc.	On-Site	2021	December 2018
25	Kleberg County Human Services	On-Site	2022	November 2019
26	Nueces County Community Action Agency	On-Site	2022	February 2019
27	Panhandle Community Services	On-Site	2020	November 2017
28	Pecos County Community Action Agency	On-Site	2022	February 2019
29	Rolling Plains Manangement Corporation	On-Site	2021	November 2018
30	South Plains Community Action Association, Inc.	On-Site	2021	April 2018
31	South Texas Development Council	On-Site	2021	May 2018
32	Texas Neighborhood Services	On-Site	2022	May 2019
33	Texoma Council Of Governments	On-Site	2022	August 2019
34	Travis County Health and Human Services	On-Site	2020	April 2018
35	Tri-County Community Action, Inc.	On-Site	2021	November 2018
36	Webb County Community Action Agency	On-Site	2022	December 2019
37	West Texas Opportunities, Inc.	On-Site	2022	March 2019
38	Williamson-Burnet County Opportunities, Inc.	On-Site	2022	April 2019



GOVERNOR GREG ABBOTT

November 18, 2019

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Azar:

In accordance with Sections 2306.092 and 2306.097 of the Texas Government Code and 42 U.S.C. §§ 8621–8630, I hereby designate the Texas Department of Housing and Community Affairs as the lead agency for administration of the Low-Income Home Energy Assistance Program in the State of Texas. The executive director of that agency is authorized to make assurances of certification that may be required as part of the annual application process.

This delegation of authority supersedes all previous delegations for this purpose and shall remain in full force and effect until modified or rescinded by me or by a succeeding governor.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott". The signature is written in a cursive, flowing style.

Greg Abbott  
Governor

GA:cgd



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS  
J.B. Goodwin, *Chair*  
Leslie Bingham-Escareño, *Vice Chair*  
Paul A. Braden, Member  
Asusena Reséndiz, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

August 21, 2019

Robert Wilkinson: (512) 475-3296  
Email: [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Azar:

In accordance with Section 2306.092 and 2306.097 of the Texas Government Code and the federal Low Income Home Energy Assistance Program (42 U.S.C. §§ 8621 through 8630), the Texas Department of Housing and Community Affairs is designated by Governor Greg Abbott as the lead agency for administration of the Low Income Home Energy Assistance Program (LIHEAP) in the state of Texas. I, as the executive director of the agency, am authorized by the Governor to make assurances of certification as required as part of the annual LIHEAP application process. I hereby delegate to Michael DeYoung, Director of the Community Affairs Division, authority to make such assurances of certification as necessary to effectuate the submission of the annual State of Texas LIHEAP Application and Plan.

This delegation of authority shall remain in full force and effect until modified or rescinded by federal or state statute, or by me, my successor, or my assignee.

Respectfully,

A handwritten signature in black ink, appearing to read "R D Wilkinson II".

Robert Wilkinson  
Executive Director

(RW/rdg)  
cc: Michael DeYoung





1h

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

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

**RECOMMENDED ACTION**

**WHEREAS**, seven applications as further detailed below were submitted to the Department for consideration of a Determination Notice of 4% Housing Tax Credits;

**WHEREAS**, the Executive Award and Review Advisory Committee (EARAC) considered the program requirements, underwriting requirements and compliance history associated with each application listed herein; and

**WHEREAS**, EARAC recommends each of the seven applications for an award of 4% Housing Tax Credits, in the specific amounts noted herein, and subject to any underwriting conditions as noted in the Real Estate Analysis Report and any compliance conditions as reflected in Exhibit A, as applicable;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of Determination Notices in the respective amounts for each of the applications listed herein, subject to underwriting conditions as found in the Real Estate Analysis report posted to the Department's website, and subject to any EARAC conditions as reflected in Exhibit A, is hereby approved in the form presented at this meeting; and

**BACKGROUND**

The 4% Housing Tax Credit (HTC) program is considered a non-competitive program in that there is not a specific ceiling amount of HTCs that can be issued each year. Rather, the ceiling amount of HTCs that can possibly be issued is limited by the amount of Private Activity Bond volume cap available. The Texas Bond Review Board (BRB) administers the Private Activity Bond program for the State of Texas, and for the 2020 calendar year, the state received approximately \$3 billion in Private Activity Bond authority, of which approximately \$800 million is reserved for multifamily housing until August 15<sup>th</sup> of each year. After such date, there may be more Private Activity Bond volume cap that goes towards multifamily housing.

Individual projects receive a Certification of Reservation (Reservation) from the BRB that allows for a statutory 180-day closing timeline. For those projects seeking 4% HTCs (as the majority of them do),

they must complete the Department's review process, the bond issuer's process, and the Attorney General's process in order to close within the prescribed timeframe. The Department accepts applications on a monthly basis throughout the year. The year from which the Reservation is issued is what determines the QAP to which the application must adhere. Included in this Board presentation as Exhibit B is a list of the 4% HTC applications staff has processed thus far for 2020. The list reflects all applications received and includes a column that denotes the applications' status, specifically, those that have already closed, have been approved by the Board, are active and currently under review, and those that are pre-applications that will utilize the Department as the bond issuer and an HTC application will be forthcoming.

The Reservations from the BRB for the developments described herein were issued under the Priority 3 designation unless noted otherwise, which does not have a prescribed restriction on the percentage of Area Median Family Income (AMFI) that must be served (beyond the federal requirement). The AMFI levels proposed to be served for each of the projects are indicated in their respective summaries, below.

#### 20452 Enclave at Lake Pointe

Enclave at Lake Pointe is a new construction development proposed to be located at 12400 North Lake Houston Parkway in the extraterritorial jurisdiction of Houston, Harris County. As a condition of the CDBG-DR loan from the Harris County Community Services Department, all 132 units will serve the elderly population (all household members must be age 55 or older), and 15 of the units will have a preference for supportive housing populations. The Reservation from the Bond Review Board was issued under the Priority 2 designation, which requires a minimum of 80% of the units to be rent and income restricted at 60% of AMFI and allows up to 20% of the units to be leased at market rate. However, the development proposes all units to be affordable, as 11 units will be rent and income restricted at 30% of AMFI, 16 units will be rent and income restricted at 50% of AMFI, and the remaining 105 units will be rent and income restricted at 60% of AMFI. The Harris County Housing Finance Corporation is serving as the bond issuer.

Recommended HTC Amount: \$723,725

#### 20457 Pinewood Apartments

Pinewood Apartments involves the acquisition and rehabilitation of 240 units located at 5900 Greens Road in Houston, Harris County. The development originally received an award of 4% Housing Tax Credits on April 14, 2000, and was built in 2001, under the name Timber Point Apartments. All of the units are proposed to be rent and income restricted at 60% of AMFI, which is consistent with the existing restrictions in the housing tax credit LURA and the general population will continue to be served. The Harris County Housing Finance Corporation is serving as the bond issuer.

Recommended HTC Amount: \$1,106,302

### 20444 Plano Kathryn Senior Living

Plano Kathryn Senior Living is proposed to be located west of Kathryn Road and Highway 121 in Plano, Collin County, and involves the new construction of 252 units to serve the elderly population. The Reservation from the Bond Review Board was issued under the Priority 2 designation, which requires a minimum of 80% of the units to be rent and income restricted at 60% of AMFI. Additionally, it allows up to 20% of the units to be leased at market rate. However, the application reflects an intent to rent and income restrict all of the units at 60% of AMFI. The Plano Public Facility Corporation is serving as the bond issuer.

Recommended HTC Amount: \$1,774,750

### 20458 Kinwood Apartments

Kinwood Apartments involves the acquisition and rehabilitation of 200 units located at 3300 North McDonald Street in McKinney, Collin County. The development originally received an award of 4% Housing Tax Credits on April 14, 2000, and was built in 2001 under the name Creek Point. The general population will continue to be served and all of the units are proposed to be rent and income restricted at 60% of AMFI, which is consistent with the existing restrictions in the housing tax credit LURA. The McKinney Housing Finance Corporation is serving as the bond issuer.

Recommended HTC Amount: \$1,240,383

### 20459 Spring Villas

Spring Villas is proposed to be located at 7430 Bluff Springs Road in the extraterritorial jurisdiction of Austin, Travis County, and involves the new construction of 304 units for the general population. The development will include 16 units rent and income restricted at 30% of AMFI, 286 units rent and income restricted at 60% of AMFI, and two employee-occupied units. The Travis County Housing Finance Corporation is serving as the bond issuer.

Recommended HTC Amount: \$2,295,524

### 20461 Cascades at Onion Creek

The Cascades at Onion Creek is a new construction development of 264 units for the general population to be situated at approximately 11601 South IH 35 in Austin, Travis County. The multifamily apartments will be part of a larger master planned development of over 200 acres that will include single-family homes and a public park. The application reflects an intent to elect the income averaging minimum set-aside. The development proposes that 15 units will be rent and income restricted at 30% of AMFI, 16 units will be rent and income restricted at 40% of AMFI, 30 units will be rent and income restricted at 50% of AMFI, 127 units will be rent and income restricted at 60% of AMFI, and 76 units will be rent and

income restricted at 70% of AMFI. The Travis County Housing Finance Corporation is serving as the bond issuer.

Recommended HTC Amount: \$1,422,168

20419 Woodway Village

Woodway Village involves the acquisition and rehabilitation of 160 units located at 4600 Nuckols Crossing Road in Austin, Travis County. The subject project received an award of 4% Housing Tax Credits on November 14, 2002, and was built in 2004. The project is proposed to continue to serve the general population; however, the application reflects an intent to elect the income averaging minimum set-aside associated with the new award. Staff notes that, while this is acceptable, the applicant must also continue to follow the current restrictions, requiring that all of the units are rent and income restricted at 60% of AMFI, until the term of the original LURA ends on December 31, 2034. Austin Affordable PFC, Inc. is serving as the bond issuer.

Recommended HTC Amount: \$1,168,103

**EXHIBIT A**  
**Previous Participation Results**

<b>Application Number</b>	<b>Development Name</b>	<b>Category</b>	<b>PPR Conditions</b>
20452	Enclave at Lake Pointe	2	N/A
20457	Pinewood	1	N/A
20444	Plano Kathryn Senior Living	1	N/A
20458	Kinwood	1	N/A
20459	Spring Villas	1	N/A
20461	Cascades at Onion Creek	1	N/A
20419	Woodway Village	2	N/A



## 4% (Non-Competitive) Housing Tax Credit Program 2020 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
20451	19440	Ventura at Parmer Lane	Austin ETJ	10/10/2019	Closed	216	216	\$ 34,000,000	\$ 2,189,841	\$ 2,189,841
20600		Oaks on Clark	San Antonio	4/23/2020	Closed	80	80	\$ 12,000,000	\$ 607,290	\$ 597,284
20605	19608	Reserve at San Marcos	San Marcos	3/26/2020	Closed	376	320	\$ 41,000,000	\$ 1,857,733	\$ 1,857,733
20448	18458; 19431	Scharbauer Flats	Midland	2/20/2020	Closed	300	300	\$ 40,000,000	\$ 2,895,615	\$ 2,895,615
20410		Traders Flats	San Antonio	5/21/2020	Closed	324	324	\$ 38,000,000	\$ 1,863,629	\$ 1,863,629
20465	19428	Riverstone	San Marcos	11/7/2019	Closed	336	336	\$ 50,000,000	\$ 2,349,942	\$ 2,349,942
20414		The Arbor at Wayforest	Houston	3/26/2020	Closed	192	192	\$ 20,000,000	\$ 1,262,807	\$ 1,262,807
20420		Pan American	San Antonio	4/23/2020	Closed	100	100	\$ 15,000,000	\$ 674,355	\$ 674,355
20460	18423; 19400	Villas del San Xavier	San Marcos	12/12/2019	Approved	156	156	\$ 25,000,000	\$ 1,059,750	\$ 1,059,750
TBD	19438	Legacy Senior	Round Rock	11/7/2019	Approved	157	157	\$ 20,000,000	\$ 732,029	\$ 732,029
TBD	18456; 19470	Jackie Robinson Apartments	El Paso	12/12/2019	Approved	186	186	\$ 30,000,000	\$ 1,290,195	\$ 1,290,195
20429	19452	Las Palmas	La Feria	1/16/2020	Approved	36	35	\$39,120,000 (portfolio)	\$ 87,983	\$ 87,983
20422	19445	Brush Country Cottages	Dilley	1/16/2020	Approved	28	28	-	\$ 89,069	\$ 89,069
20423	19446	Chula Vista	San Diego	1/16/2020	Approved	44	44	-	\$ 149,982	\$ 149,982
20424	19447	Cielo Lindo	Edcouch	1/16/2020	Approved	34	34	-	\$ 101,022	\$ 101,022
20425	19448	La Estancia	Sebastian	1/16/2020	Approved	32	32	-	\$ 101,210	\$ 101,210
20426	19449	La Posada I & II	Ela	1/16/2020	Approved	74	74	-	\$ 208,076	\$ 208,076
20427	19450	La Reina	La Villa	1/16/2020	Approved	30	30	-	\$ 65,586	\$ 65,586
20428	19451	La Sombra	Donna	1/16/2020	Approved	50	50	-	\$ 118,354	\$ 118,354
20430	19453	Leuty Avenue	Justin	1/16/2020	Approved	24	24	-	\$ 80,261	\$ 80,261
20432	19455	Los Naranjos	Alton	1/16/2020	Approved	30	30	-	\$ 67,810	\$ 67,810
20433	19456	Oak Haven	Donna	1/16/2020	Approved	24	24	-	\$ 63,090	\$ 63,090
20434	19457	Raintree	Alamo	1/16/2020	Approved	32	32	-	\$ 82,925	\$ 82,925
20435	19458	Seagraves Gardens	Seagraves	1/16/2020	Approved	32	32	-	\$ 91,709	\$ 91,709
20436	19459	Silver Trail	Menard	1/16/2020	Approved	24	24	-	\$ 67,091	\$ 67,091
20437	19460	The Village	Tomball	1/16/2020	Approved	64	64	-	\$ 172,768	\$ 172,768
20438	19461	Valley View	Valley View	1/16/2020	Approved	24	24	-	\$ 78,834	\$ 78,834
20439	19462	Villa Vallarta	Rio Grande City	1/16/2020	Approved	40	40	-	\$ 122,529	\$ 122,529
20440	19463	Vista Verde	Cotulla	1/16/2020	Approved	24	24	-	\$ 82,514	\$ 82,514
20441	19464	Willowick	Gainesville	1/16/2020	Approved	60	60	-	\$ 171,018	\$ 171,018
20442	19465	Windmill	Giddings	1/16/2020	Approved	28	28	-	\$ 77,926	\$ 77,926
20443	19466	Windwood I & II	Kingsland	1/16/2020	Approved	68	68	-	\$ 151,618	\$ 151,618
20407		New Hope Housing Avenue J	Houston	2/20/2020	Approved	100	100	\$ 23,000,000	\$ 1,290,647	\$ 1,290,467
20421	19442	Richcrest Apartments	Houston	3/26/2020	Approved	288	286	\$ 30,000,000	\$ 1,974,441	\$ 1,974,441
20404		Tampico Apartments	San Antonio	3/26/2020	Approved	200	136	\$ 23,000,000	\$ 739,670	\$ 739,670
20409		McKinney Flats	McKinney	3/26/2020	Approved	205	205	\$ 32,000,000	\$ 1,393,849	\$ 1,393,849
20418		Park at 38 Thirty	San Antonio	3/26/2020	Approved	196	196	\$ 25,000,000	\$ 1,027,837	\$ 1,027,837
20446	19432	St. Johns Square	San Antonio	3/26/2020	Approved	252	54	\$ 50,000,000	\$ 473,449	\$ 449,524
20401		Palladium Port Aransas	Port Aransas	4/23/2020	Approved	183	165	\$ 19,000,000	\$ 1,155,074	\$ 1,155,074
20601	19611	Granada Terrace Apartments	Houston	4/23/2020	Approved	156	156	\$ 12,000,000	\$ 882,061	\$ 882,061
20449	19469	EMLI at Pecan Creek	Aubrey	4/23/2020	Approved	254	254	\$ 20,000,000	\$ 1,484,333	\$ 1,484,333
20408		Vi Collina	Austin	4/23/2020	Approved	170	170	\$ 24,000,000	\$ 1,340,220	\$ 1,340,220
20447	19472	Franklin Park	Austin	5/21/2020	Approved	163	163	\$ 15,000,000	\$ 737,361	\$ 737,361
20611	20402	333 Holly	The Woodlands	5/21/2020	Approved	332	332	\$ 36,800,000	\$ 2,484,301	\$ 2,484,301
20612	20403	The Pines	The Woodlands	5/21/2020	Approved	152	152	\$ 22,000,000	\$ 1,469,273	\$ 1,469,273
20413		Residences at Merritt Hill	Rowlett	5/21/2020	Approved	260	260	\$ 33,000,000	\$ 1,888,671	\$ 1,888,671
20603	19612	Scott Street Lofts	Houston	5/21/2020	Approved	123	98	\$ 18,000,000	\$ 741,693	\$ 711,964
20400		Palladium West Francis	Midland	5/21/2020	Approved	240	188	\$ 25,000,000	\$ 1,596,885	\$ 1,596,885
20412		1604 Lofts Apartments	San Antonio	5/21/2020	Approved	324	324	\$ 38,000,000	\$ 1,895,702	\$ 1,895,702
20416		The Estates at Owen Tech	Austin	5/21/2020	Approved	174	174	\$ 20,000,000	\$ 1,213,610	\$ 1,213,610
20405		Gala at Fate	Fate	5/21/2020	Approved	185	185	\$ 25,000,000	\$ 1,166,285	\$ 1,166,285
20604	19468	The Walzem	San Antonio	5/21/2020	Approved	200	200	\$ 20,000,000	\$ 1,326,147	\$ 1,280,892
20450		Mira Vista	San Antonio	5/21/2020	Approved	312	312	\$ 28,000,000	\$ 1,783,385	\$ 1,783,385
20406		Gala at Central Park Apartments	Hurst	6/25/2020	Approved	94	94	\$ 15,000,000	\$ 486,783	\$ 486,783
20444		Plano Kathryn Senior Living	Plano	6/25/2020	Approved	252	252	\$ 30,000,000	\$ 1,774,750	\$ 1,774,750
20452		Enclave at Lake Pointe	Houston	6/25/2020	Approved	132	132	\$ 14,200,000	\$ 723,725	\$ 723,725
20419		Woodway Village	Austin	6/25/2020	Approved	160	160	\$ 30,000,000	\$ 1,196,513	\$ 1,168,103
20457		Pinewood Apartments	Houston	6/25/2020	Approved	240	240	\$ 30,000,000	\$ 1,174,359	\$ 1,106,302
20458		Kinwood Apartments	McKinney	6/25/2020	Approved	200	200	\$ 30,000,000	\$ 1,245,289	\$ 1,240,383
20459		Spring Villas	Austin	6/25/2020	Approved	304	302	\$ 45,000,000	\$ 2,295,642	\$ 2,295,524
20461		Cascade at Onion Creek	Austin	6/25/2020	Approved	264	264	\$ 35,000,000	\$ 1,431,091	\$ 1,422,168
						<b>9,340</b>	<b>8,922</b>	<b>\$ 1,093,000,000</b>	<b>\$ 57,407,607</b>	<b>\$ 57,188,098</b>
20415		Avenue on 34th Apartments	Houston	7/23/2020	Active	70	56	\$ 8,000,000	\$ 324,609	\$ -
20602	03438	The Vermillion	Houston	7/23/2020	Active	260	260	\$ 29,000,000	\$ 1,372,549	\$ -
20609		Pecan Grove	Seguin	7/23/2020	Active	198	198	\$ 26,000,000	\$ 1,353,160	\$ -
20466		Blue Water Gardens	Hereford	7/23/2020	Active	132	132	\$ 16,750,000	\$ 730,914	\$ -
20467		Greenline North	San Antonio	7/23/2020	Active	292	292	\$ 50,000,000	\$ 1,946,883	\$ -
20456		The Hollows	Channelview CDP	7/23/2020	Active	192	192	\$ 20,000,000	\$ 1,043,287	\$ -
20471		Northwood	Houston ETJ	7/23/2020	Active	288	288	\$ 30,000,000	\$ 2,378,498	\$ -
20463		Trinity Oaks	Sulphur Springs	9/3/2020	Active	48	48	\$ 2,129,000	\$ 497,000	\$ -
20464		Pine Terrace	Mount Pleasant	9/3/2020	Active	76	76	\$ 3,371,000	\$ 210,127	\$ -

20411		Kitty Hawk Flats Apartments	San Antonio	9/3/2020	Active	239	239	\$	28,000,000	\$	1,482,838	\$	-	
20606	19610	Fish Pond at Corpus Christi	Corpus Christi	9/3/2020	Active	112	111	\$	10,000,000	\$	675,744	\$	-	
20454		South Terrace	Waco	9/3/2020	Active	250	250	\$	25,000,000	\$	1,452,219	\$	-	
20473		Agave East	Austin ETJ	9/3/2020	Active	240	240	\$	35,000,000	\$	1,355,697	\$	-	
20474		Canyon Pass	San Antonio	9/3/2020	Active	264	264	\$	35,000,000	\$	2,003,601	\$	-	
20475		Northview Apartments	San Antonio	9/3/2020	Active	156	156	\$	25,000,000	\$	1,270,215	\$	-	
20477		Sphinx at Throckmorton Villas	McKinney	9/3/2020	Active	220	216	\$	28,000,000	\$	1,670,582	\$	-	
20476		Grand Station Apartments	Austin	9/3/2020	Active	216	216	\$	35,000,000	\$	1,380,252	\$	-	
20481		Echo East	San Antonio	9/3/2020	Active	192	192	\$	20,000,000	\$	1,306,258	\$	-	
20483	02412	Shady Oaks	Fort Worth	9/3/2020	Active	138	138	\$	15,000,000	\$	654,862	\$	-	
20478		Vera at Odessa	Odessa	9/3/2020	Active	288	288	\$	35,000,000	\$	1,425,204	\$	-	
20482		W. Leo Daniels Towers	Houston	9/3/2020	Active	100	100	\$	15,000,000	\$	833,142	\$	-	
20479		The Oaks	Dallas	10/8/2020	Active	260	243	\$	35,000,000	\$	1,488,978	\$	-	
						<b>3,971</b>	<b>3,952</b>	<b>\$</b>	<b>491,250,000</b>	<b>\$</b>	<b>25,367,641</b>	<b>\$</b>	<b>-</b>	
20613		Riverside Senior	Fort Worth	5/21/2020	Pre-Application	264	264		TBD	\$	1,818,482	\$	-	
20610		Terrace at Southern Oaks	Dallas	5/21/2020	Pre-Application	300	300		TBD	\$	2,000,114	\$	-	
20615		The Montage	San Antonio ETJ	6/25/2020	Pre-Application	216	216		TBD	\$	1,454,238	\$	-	
20617	02469	Murdeaux Villas	Dallas	6/25/2020	Pre-Application	280	280		TBD	\$	17,294,118	\$	-	
						<b>1,060</b>	<b>1,060</b>	<b>\$</b>	<b>-</b>	<b>\$</b>	<b>22,566,952</b>	<b>\$</b>	<b>-</b>	
20417		St. Joe Apartments	Houston	3/19/2020	Withdrawn	307	307	\$	51,757,648	\$	4,596,000	\$	-	
20468		Preserve at the Port	San Antonio	7/23/2020	Withdrawn	384	384	\$	37,000,000	\$	1,654,968	\$	-	
20431	19454	Los Laureles	Edcouch	1/16/2020	Withdrawn	23	23		-	\$	88,153	\$	88,153	
20455		Redwood	San Marcos	7/23/2020	Withdrawn	296	296	\$	50,000,000	\$	2,107,712	\$	-	
						<b>714</b>	<b>714</b>	<b>\$</b>	<b>88,757,648</b>	<b>\$</b>	<b>6,339,121</b>	<b>\$</b>	<b>88,153</b>	
						<b>TOTAL*</b>	<b>14,371</b>	<b>13,934</b>	<b>\$</b>	<b>1,584,250,000</b>	<b>\$</b>	<b>105,342,200</b>	<b>\$</b>	<b>57,188,098</b>

\*Totals include Approved, Active and Pre-Application Status



# 20452 Enclave at Lake Pointe - Application Summary

REAL ESTATE ANALYSIS DIVISION  
June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20452
Development	Enclave at Lake Pointe
City / County	Houston / Harris
Region/Area	6 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

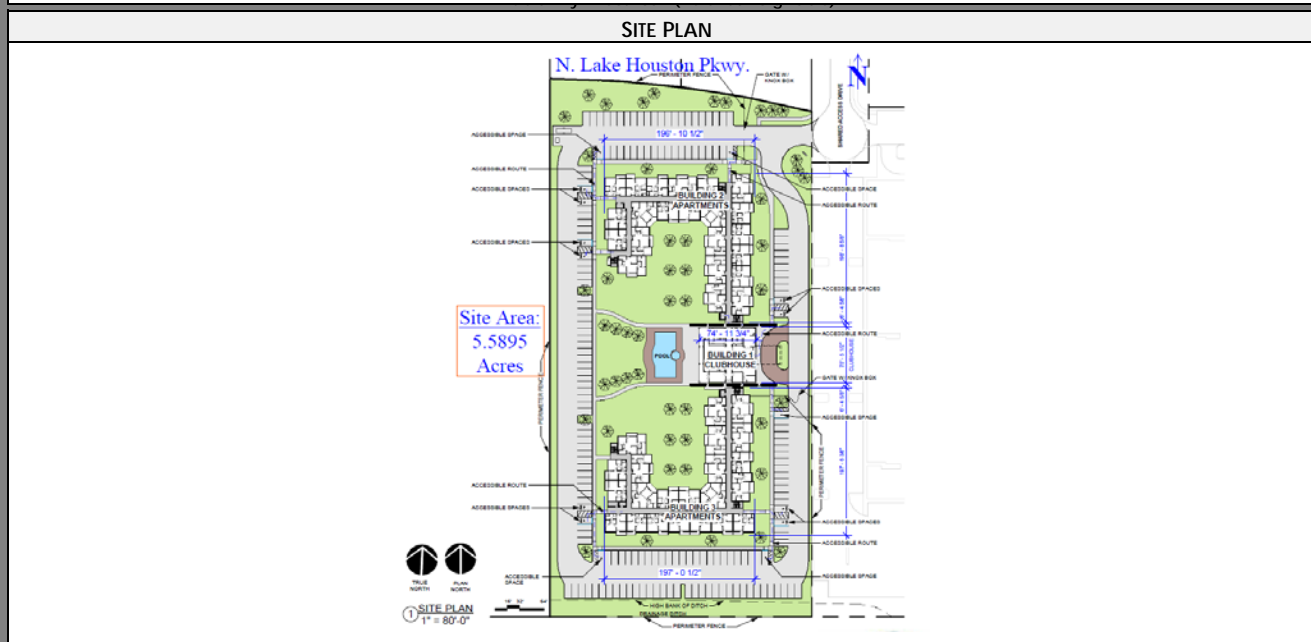
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$723,725	\$723,725	\$5,483/Unit	\$0.94

KEY PRINCIPALS / SPONSOR		
<ul style="list-style-type: none"> <li>Amay Inamdar / Magellan Housing Texas, LLC. (70% Co-Developer)</li> <li>Royal American Development, Inc. (30% Co-Developer)</li> </ul>		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	11	8%
1	72	55%	40%	-	0%
2	60	45%	50%	16	12%
3	-	0%	60%	105	80%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>132</b>	<b>100%</b>	<b>TOTAL</b>	<b>132</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.30	Expense Ratio	61.9%
Breakeven Occ.	84.3%	Breakeven Rent	\$735
Average Rent	\$809	B/E Rent Margin	\$74
Property Taxes	\$850/unit	Exemption/PILOT	0%
Total Expense	\$5,693/unit	Controllable	\$3,195/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	2.8%		
Highest Unit Capture Rate	9%	1 BR/60%	57
Dominant Unit Cap. Rate	9%	1 BR/60%	57
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	N/A		

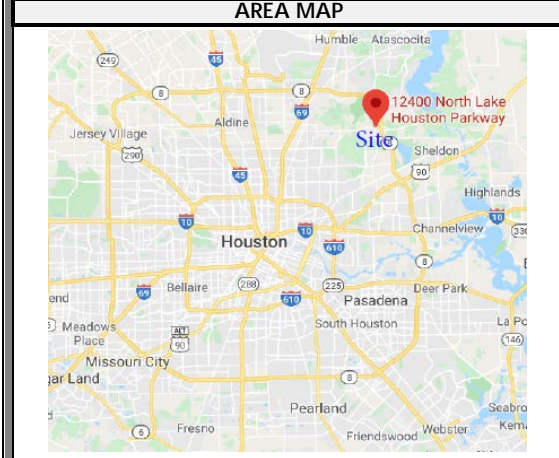
DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	804 SF	Density	23.6/acre
Acquisition		\$21K/unit	\$2,785K
Building Cost	\$116.81/SF	\$94K/unit	\$12,396K
Hard Cost		\$113K/unit	\$14,955K
Total Cost		\$206K/unit	\$27,247K
Developer Fee	\$3,105K	(23% Deferred)	Paid Year: 6
Contractor Fee	\$2,094K	30% Boost	No

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Harris County HFC / Citibank	15/35	3.00%	\$7,000,000	1.43	Harris County - CDBG/DR	20/0	0.25%	\$12,720,000	1.30	Royal Bank of Canada	\$6,802,330	
										Enclave at Lake Pointe Developer, LLC	\$724,496	
<b>TOTAL DEBT (Must Pay)</b>					<b>CASH FLOW DEBT / GRANTS</b>					<b>TOTAL EQUITY SOURCES</b>	<b>\$7,526,826</b>	
			<b>\$7,000,000</b>					<b>\$12,720,000</b>		<b>TOTAL DEBT SOURCES</b>	<b>\$19,720,000</b>	
											<b>TOTAL CAPITALIZATION</b>	<b>\$27,246,826</b>

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
  - b: Term sheet stating all terms and conditions reflecting the award of the CDBG funds from Harris County to a conduit entity that will in turn loan the funds to the Applicant.
  - c: Term sheet stating all terms and conditions reflecting a non-forgivable loan of the CDBG funds from the conduit entity to the Applicant.

BOND RESERVATION / ISSUER	
Issuer	Harris County HFC
Expiration Date	8/10/2020
Bond Amount	\$14,200,000
BRB Priority	Priority 2
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	60.5%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>o Gross capture rate of 2.8% with unit capture rates only ranging from 1% to 9%</li> <li>o New construction &amp; attractive design should enhance leasing</li> <li>o Overall Feasibility Indicators</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>o Single point of ingress/egress</li> <li>o Low visibility</li> </ul>	





# 20457 Pinewood Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION

June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20457
Development	Pinewood Apartments
City / County	Houston / Harris
Region/Area	6 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 2001)

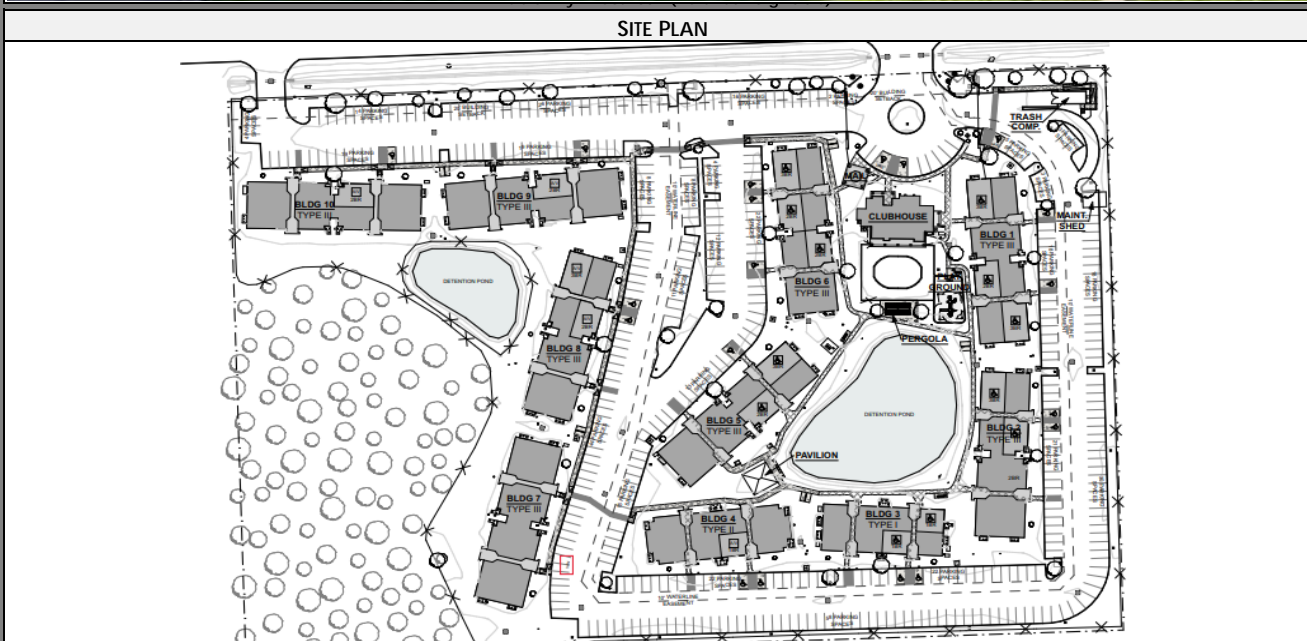
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,174,359	\$1,106,302	\$4,610/Unit	\$0.93

KEY PRINCIPALS / SPONSOR		
Armand E. Brachman Paul R. Sween & Ryan J. Lunderby of Dominion Texas and Austin Affordable Housing Corp.		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	40	17%	40%	-	0%
2	104	43%	50%	-	0%
3	96	40%	60%	240	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>240</b>	<b>100%</b>	<b>TOTAL</b>	<b>240</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.27	Expense Ratio	45.5%
Breakeven Occ.	81.8%	Breakeven Rent	\$874
Average Rent	\$991	B/E Rent Margin	\$117
Property Taxes	\$855/unit	Exemption/PILOT	0%
Total Expense	\$5,108/unit	Controllable	\$2,917/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	5.8%		
Highest Unit Capture Rate	16%	3 BR/60%	96
Dominant Unit Cap. Rate	15%	2 BR/60%	104
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten	TDHCA's Costs - Based on PCA		
Avg. Unit Size	881 SF	Density	19.4/acre
Acquisition		\$96K/unit	\$23,000K
Building Cost	\$19.39/SF	\$17K/unit	\$4,098K
Hard Cost		\$21K/unit	\$5,068K
Total Cost		\$160K/unit	\$38,320K
Developer Fee	\$4,355K	(82% Deferred)	Paid Year: 10
Contractor Fee	\$710K	30% Boost	No

REHABILITATION COSTS / UNIT				
Site Work	\$2K	9%	Finishes/Fixture	\$1K 5%
Building Shell	\$13K	60%	Amenities	\$1K 4%
HVAC	\$1K	6%	Total Exterior	\$16K 78%
Appliances	\$2K	9%	Total Interior	\$4K 22%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Merchant's Capital	15/35	3.43%	\$23,540,000	1.27	Cash Flow From Operations	0/0	0.00%	\$800,188	1.27	Stratford Capital Group	\$10,287,584
										Dominium	\$3,691,895
<b>TOTAL DEBT (Must Pay)</b>			<b>\$23,540,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$800,188</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$13,979,479</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$24,340,188</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$38,319,667</b>

**CONDITIONS**

1 Receipt and acceptance before Determination Notice:

- a: Revised Scope and Cost Review (SCR) that is fully compliant with §11.306, including a revised SCR Supplement schedule.

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

**BOND RESERVATION / ISSUER**

Issuer	Harris County Housing Finance Corp.
Expiration Date	9/4/2020
Bond Amount	\$30,000,000
BRB Priority	Priority 3
Bond Structure	Freddie Mac Tax Exempt Loan
% Financed with Tax-Exempt Bonds	106.0%

**RISK PROFILE**

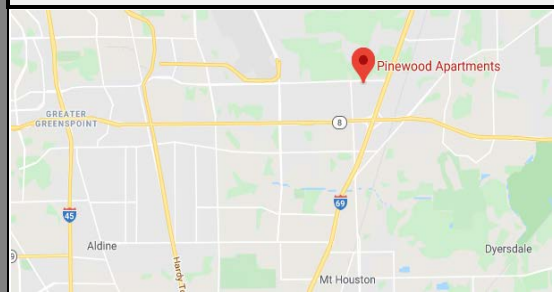
**STRENGTHS/MITIGATING FACTORS**

- Lakefront amenities should compete well in submarket.
- Proximity to jobs
- Developer experience with LIHTC properties in Texas.
- Low controllable expenses and Expense Ratio.

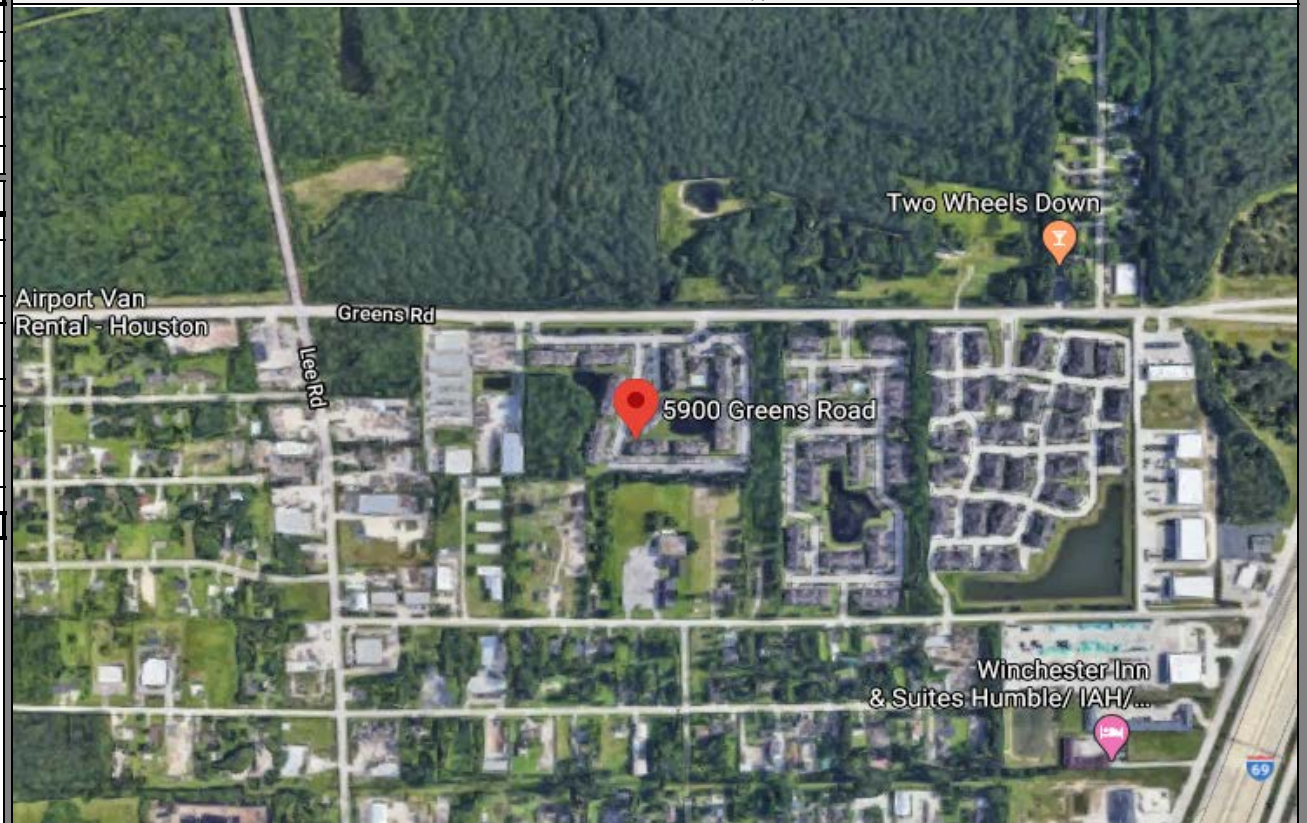
**WEAKNESSES/RISKS**

- Site is less than 1/4 mile from George Bush Intl Airport
- Developer Fee is 82% deferred.

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**





# 20444 Plano Kathryn Senior Living - Application Summary

REAL ESTATE ANALYSIS DIVISION

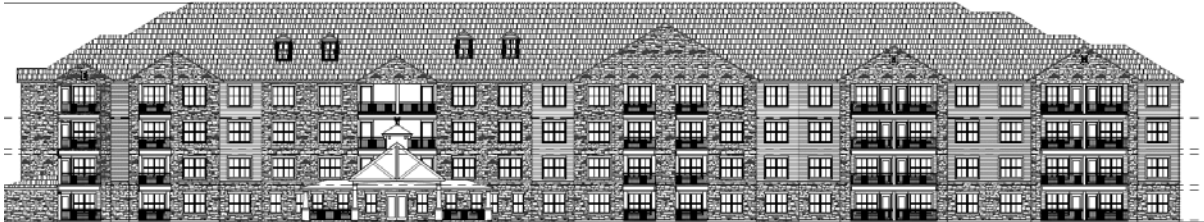
June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20444
Development	Plano Kathryn Senior Living
City / County	Plano / Collin
Region/Area	3 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION			
TDHCA Program	Request	Recommended	
LIHTC (4% Credit)	\$1,774,750	\$1,774,750	\$7,043/Unit \$0.85

KEY PRINCIPALS / SPONSOR		
Kent Conine Bill Fisher Sonoma Housing Advisors Rise Residential Plano Facility Corporation -Related Party Bond Issuer		
Related Parties	Contractor - Yes	Seller - No

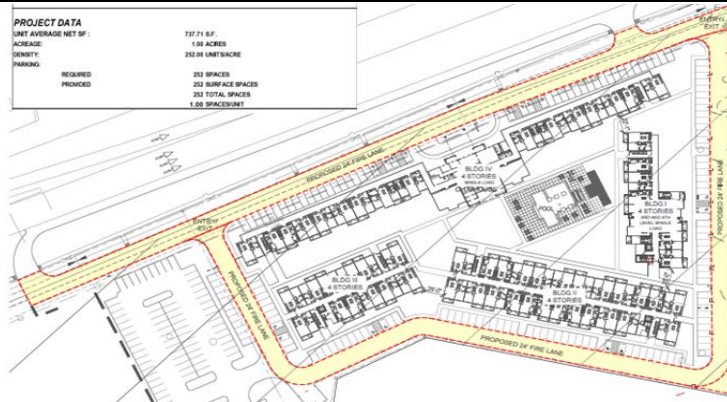
## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	76	30%	30%	-	0%
1	148	59%	40%	-	0%
2	28	11%	50%	51	20%
3	-	0%	60%	150	60%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>252</b>	<b>100%</b>	<b>TOTAL</b>	<b>201</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	37.3%
Breakeven Occ.	84.6%	Breakeven Rent	\$843
Average Rent	\$924	B/E Rent Margin	\$81
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$3,914/unit	Controllable	\$2,728/unit

## SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	7.3%		
Highest Unit Capture Rate	57%	0 BR/60%	46
Dominant Unit Cap. Rate	50%	1 BR/60%	88
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	738 SF	Density	35.3/acre
Acquisition		\$12K/unit	\$2,922K
Building Cost	\$111.43/SF	\$82K/unit	\$20,716K
Hard Cost		\$109K/unit	\$27,346K
Total Cost		\$194K/unit	\$48,785K
Developer Fee	\$5,480K	(45% Deferred)	Paid Year: 8
Contractor Fee	\$3,828K	30% Boost	Yes

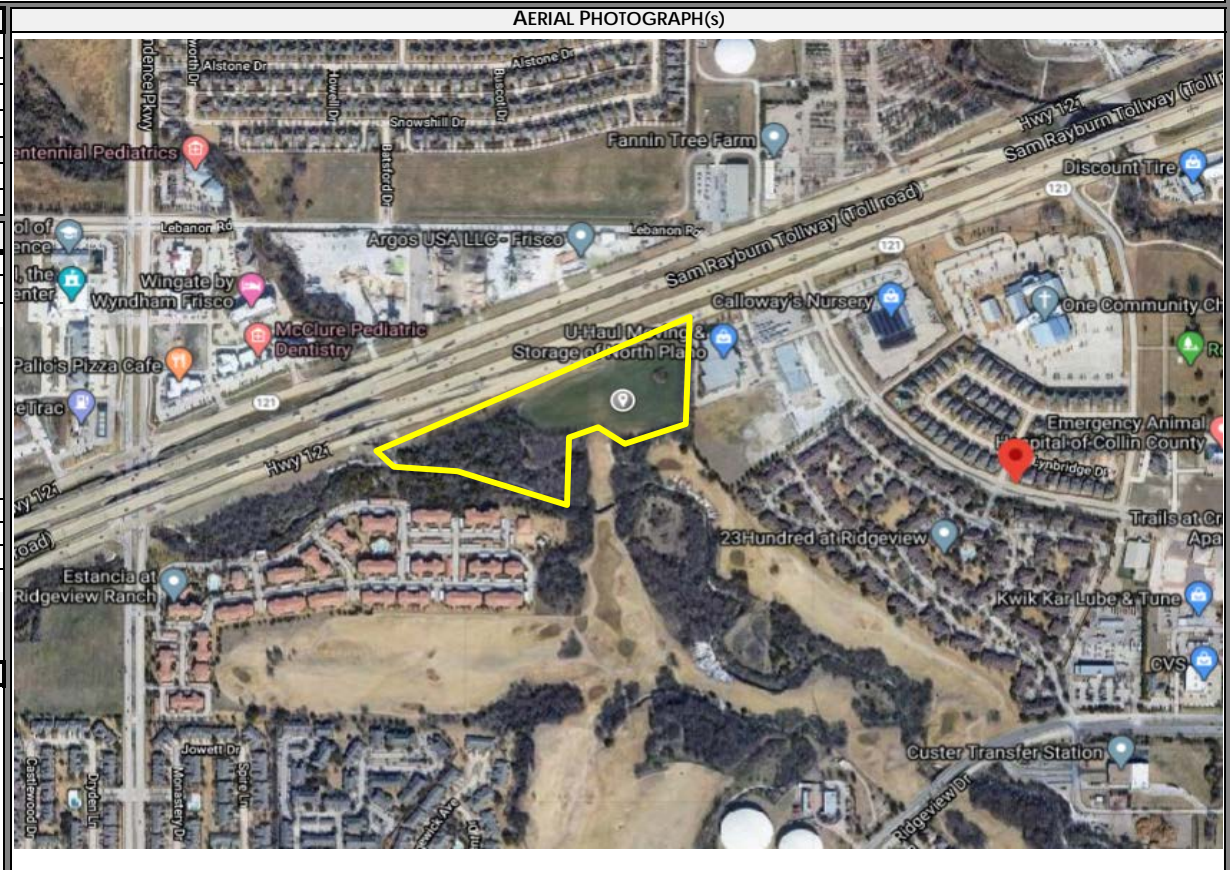
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
IBC Bank Brownsville	15/40	3.55%	\$30,500,000	1.16	FHLB AHP Grant Loan	0/0	0.00%	\$750,000	1.16	42 Equity Partners	\$15,081,879
TOTAL DEBT (Must Pay)			\$30,500,000		CASH FLOW DEBT / GRANTS			\$750,000		DDF Note from Developer	\$2,453,431
										TOTAL EQUITY SOURCES	\$17,535,310
										TOTAL DEBT SOURCES	\$31,250,000
										TOTAL CAPITALIZATION	\$48,785,310

**CONDITIONS**

- Receipt and acceptance by Cost Certification:
- Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

BOND RESERVATION / ISSUER	
Issuer	Plano Public Facility Corporation
Expiration Date	7/11/2020
Bond Amount	\$30,000,000
BRB Priority	Priority 2
Bond Structure	Freddie Mac TEL
% Financed with Tax-Exempt Bonds	73.6%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>Developer experience</li> <li>Overall Feasibility Indicators</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>Debt coverage at 1.15 times</li> <li>Greater than 50% capture rate on 60% efficiency and</li> <li>feasibility dependent on tax exemption</li> </ul>	
AREA MAP	





# 20458 Kinwood Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION  
June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20458
Development	Kinwood Apartments
City / County	McKinney / Collin
Region/Area	3 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 2001)

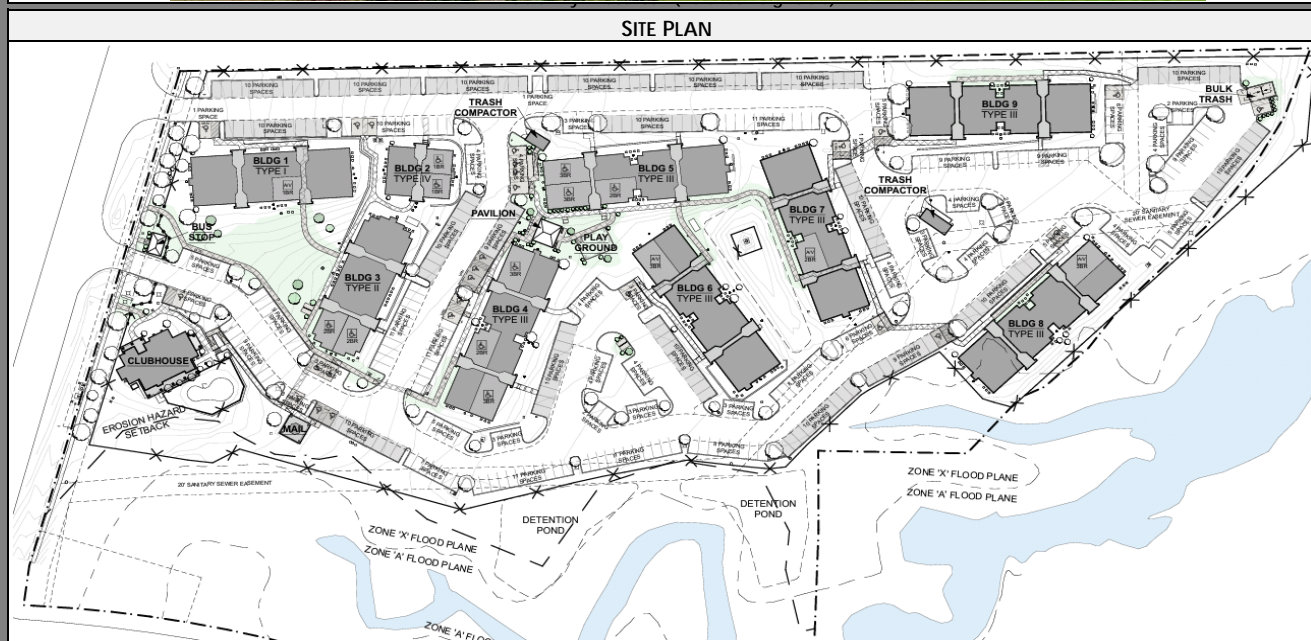
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,245,289	\$1,240,383	\$6,202/Unit	\$0.93

KEY PRINCIPALS / SPONSOR		
Armand E. Brachman & Paul R. Sween of Dominium Holdings I, LLC		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	32	16%	40%	-	0%
2	88	44%	50%	-	0%
3	80	40%	60%	200	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>200</b>	<b>100%</b>	<b>TOTAL</b>	<b>200</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.23	Expense Ratio	39.6%
Breakeven Occ.	81.9%	Breakeven Rent	\$1,008
Average Rent	\$1,141	B/E Rent Margin	\$133
Property Taxes	\$878/unit	Exemption/PILOT	0%
Total Expense	\$5,104/unit	Controllable	\$2,931/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	4.1%		
Highest Unit Capture Rate	21%	3 BR/60%	80
Dominant Unit Cap. Rate	17%	2 BR/60%	88
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	882 SF	Density	15.2/acre
Acquisition		\$129K/unit	\$25,750K
Building Cost	\$23.85/SF	\$21K/unit	\$4,207K
Hard Cost		\$24K/unit	\$4,881K
Total Cost		\$200K/unit	\$40,051K
Developer Fee	\$4,530K	(44% Deferred)	Paid Year: 6
Contractor Fee	\$639K	30% Boost	Yes

REHABILITATION COSTS / UNIT			
Site Work	\$1K	4%	Finishes/Fixture \$4K 15%
Building Shell	\$14K	57%	Amenities \$1K 4%
HVAC	\$1K	6%	Total Exterior \$16K 69%
Appliances	\$2K	8%	Total Interior \$7K 31%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Merchants Capital	15/35	3.50%	\$25,450,000	1.23	Cash Flow from Operations	0/0	0.00%	\$1,062,326	1.23	Stratford Capital Group	\$11,535,569
										Deferred Developer Fee	\$2,003,576
<b>TOTAL DEBT (Must Pay)</b>			<b>\$25,450,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$1,062,326</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$13,539,145</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$26,512,326</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$40,051,471</b>

**CONDITIONS**

- Receipt and acceptance before Determination Notice:
    - Revised Scope and Cost Review (SCR) that is fully compliant with §11.306, including a revised SCR Supplement schedule.
  - Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
    - Architect certification that buildings were tested for the presence of radon and any recommended mitigation measures 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.

**BOND RESERVATION / ISSUER**

Issuer	Kinney Housing Finance Corporation
Expiration Date	8/5/2020
Bond Amount	\$30,000,000
BRB Priority	3
Bond Structure	Freddie Mac Forward TEL
% Financed with Tax-Exempt Bonds	99.2%

**RISK PROFILE**

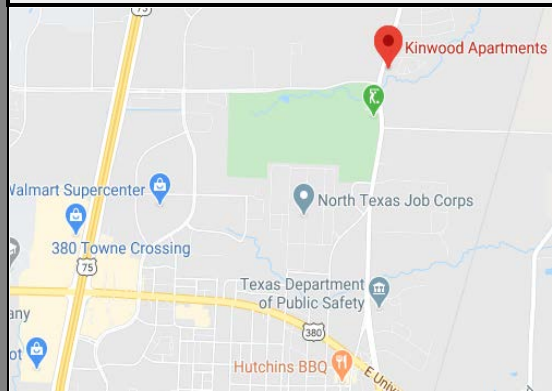
**STRENGTHS/MITIGATING FACTORS**

- Overall Feasibility Indicators
- Applicant's construction and management of LIHTC properties in Texas.
- Low Expense-to-Income Ratio
- Efficient parking with nearly 1 carport per unit.

**WEAKNESSES/RISKS**

- 5.52% contingency on a rehabilitation
- Building Costs account for only 11% of the Total Development Costs.
- Limited unit accessibility from community entrance.

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**





# 20459 Spring Villas - Application Summary

REAL ESTATE ANALYSIS DIVISION

June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20459
Development	Spring Villas
City / County	Austin / Travis
Region/Area	7 / Urban
Population	General
Set-Aside	General
Activity	New Construction

RECOMMENDATION					
TDHCA Program	Request	Recommended			
LIHTC (4% Credit)	\$2,295,642	\$2,295,524	\$7,551/Unit	\$0.91	

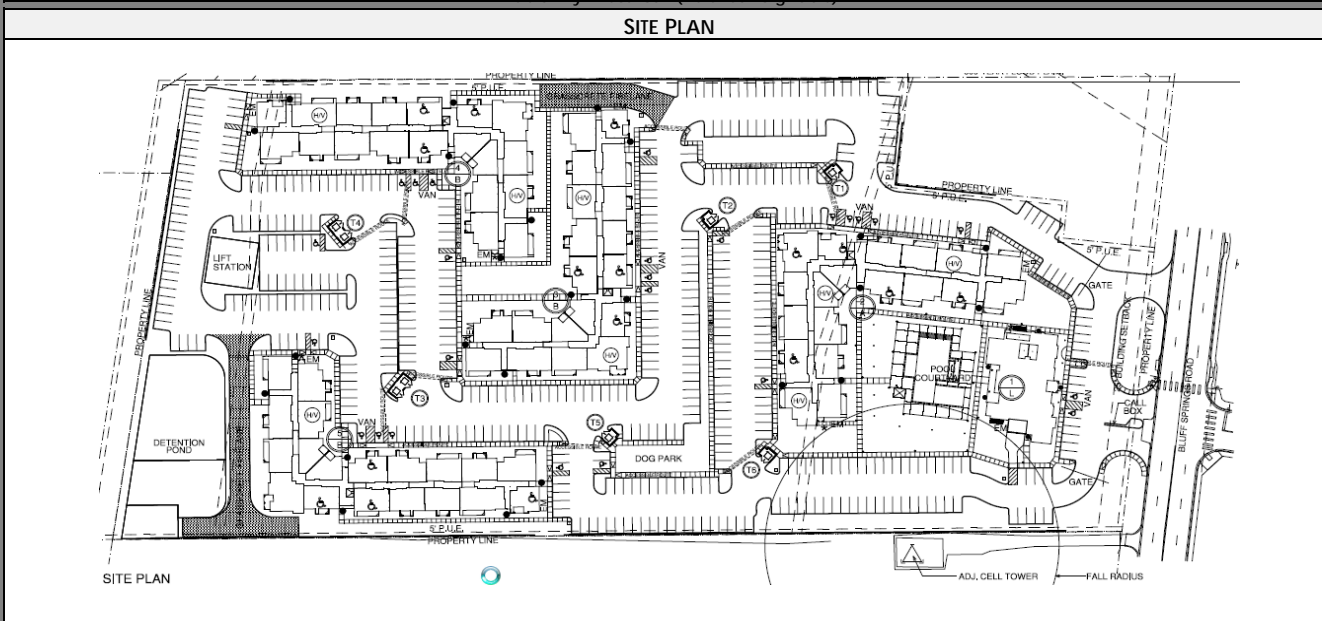
KEY PRINCIPALS / SPONSOR		
<b>AMTEX Development LLC</b> (Arjun Nagarkatti - President & David Yarden - VP of Finance & General Council)		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	16	5%
1	48	16%	40%	-	0%
2	160	53%	50%	-	0%
3	80	26%	60%	288	95%
4	16	5%	MR	-	
<b>TOTAL</b>	<b>304</b>	<b>100%</b>	<b>TOTAL</b>	<b>304</b>	<b>100%</b>

**PRO FORMA FEASIBILITY INDICATORS**

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.28	Expense Ratio	33.5%
Breakeven Occ.	79.1%	Breakeven Rent	\$1,049
Average Rent	\$1,229	B/E Rent Margin	\$180
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,628/unit	Controllable	\$3,320/unit



**MARKET FEASIBILITY INDICATORS**

Gross Capture Rate (15% Maximum)	9.0%
Highest Unit Capture Rate	58% 2 BR/60% 150
Dominant Unit Cap. Rate	58% 2 BR/60% 150
Premiums (↑60% Rents)	#DIV/0! #DIV/0!
Rent Assisted Units	N/A

**DEVELOPMENT COST SUMMARY**

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	938 SF	Density	28.0/acre
Acquisition	\$10K/unit		\$3,025K
Building Cost	\$93.29/SF		\$26,613K
Hard Cost			\$33,792K
Total Cost			\$61,511K
Developer Fee	\$6,914K (10% Deferred)		Paid Year: 2
Contractor Fee	\$4,422K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Boston Capital	15/40	4.48%	\$39,828,639	1.28						CREA	\$21,001,947	
										AMTEX Development LLC	\$680,575	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$39,828,639</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$21,682,522</b>
											<b>TOTAL DEBT SOURCES</b>	<b>\$39,828,639</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$61,511,161</b>

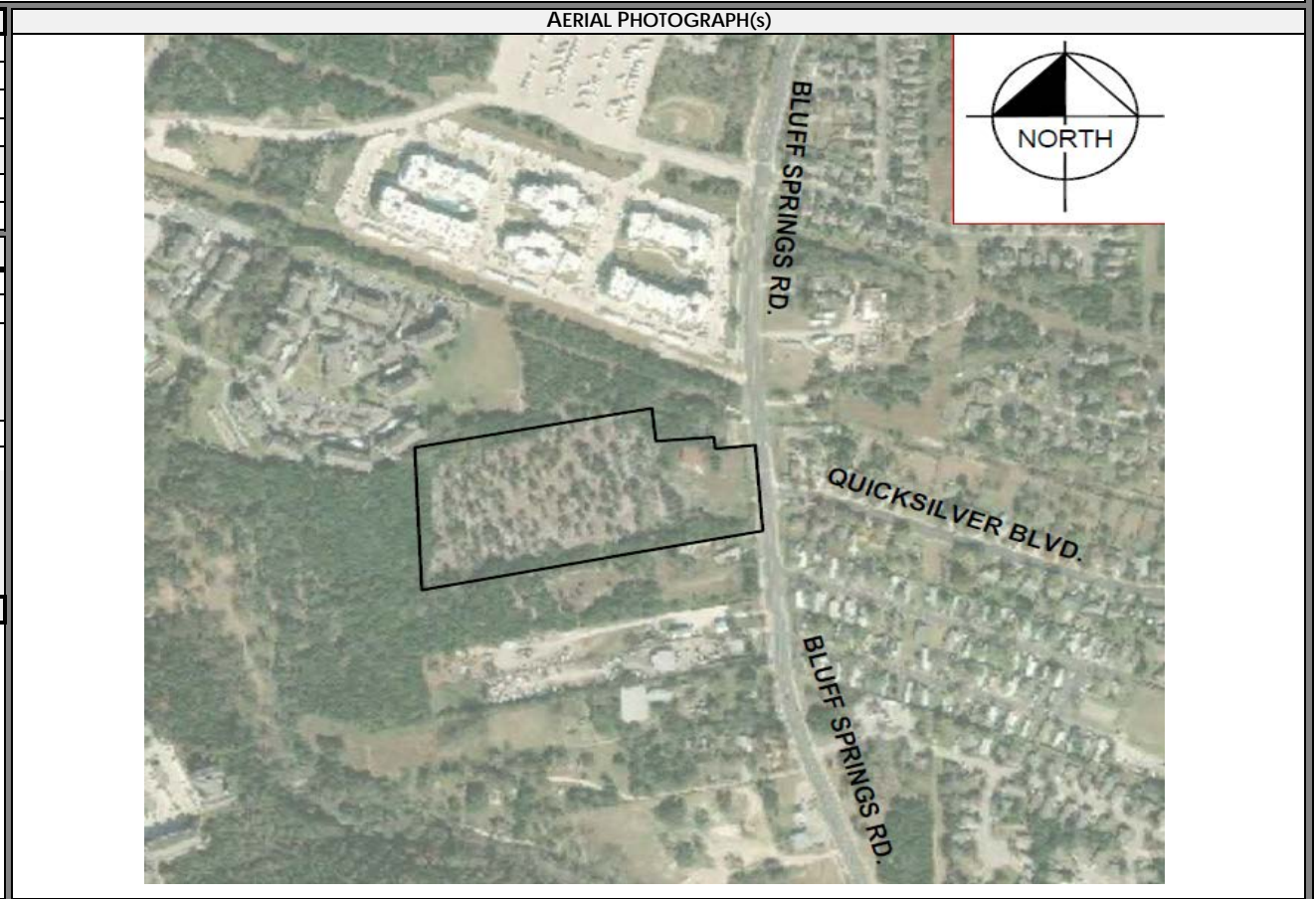
**CONDITIONS**

1 Receipt and acceptance by Cost Certification:

- a: Certification that testing for asbestos and lead-based paint was performed on the existing structure 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.

BOND RESERVATION / ISSUER	
Issuer	Travis County Housing Finance Corp
Expiration Date	8/30/2020
Bond Amount	\$45,000,000
BRB Priority	Priority 3
<b>Bond Structure</b>	<b>Private Placement</b>
<b>% Financed with Tax-Exempt Bonds</b>	<b>91.0%</b>
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>▫ Experienced LIHTC developer</li> <li>▫ Overall Feasibility Indicators</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>▫ Feasibility dependent on property tax exemption</li> </ul>	
AREA MAP	





# 20461 Cascade at Onion Creek - Application Summary

REAL ESTATE ANALYSIS DIVISION  
June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20461
Development	Cascade at Onion Creek
City / County	Austin / Travis
Region/Area	7 / Urban
Population	General
Set-Aside	General
Activity	New Construction

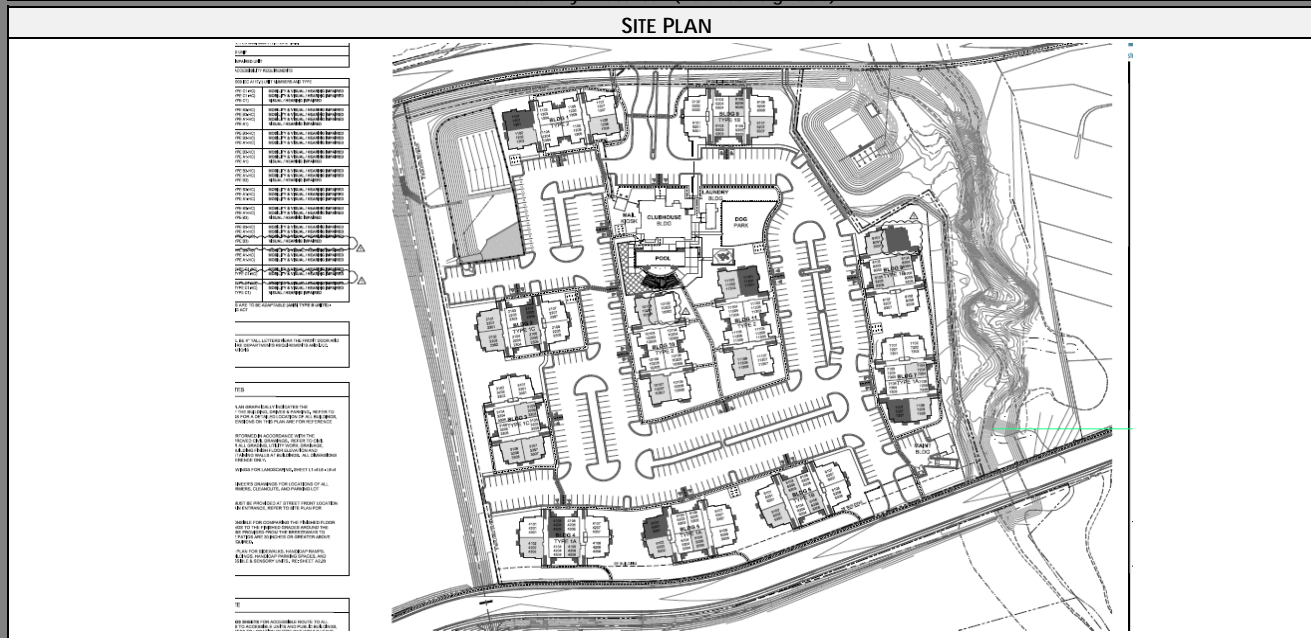
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,431,091	\$1,422,168	\$5,387/Unit	\$0.88

KEY PRINCIPALS / SPONSOR		
Cadence Multifamily, LLC Robert Ruggio/Curtis Davidson Co-developer( 75%), SLP, Guarantor TCC Hill Country Development Corp-GP, Co-developer (25%) Travis County Housing Finance Corp-landlord Streamline RealtyPartners-Consultant		
Related Parties	Contractor - No	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	15	6%
1	96	36%	40%	16	6%
2	132	50%	50%	30	11%
3	36	14%	60%	127	48%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>264</b>	<b>100%</b>	<b>TOTAL</b>	<b>188</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.20	Expense Ratio	36.2%
Breakeven Occ.	82.8%	Breakeven Rent	\$990
Average Rent	\$1,108	B/E Rent Margin	\$118
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,528/unit	Controllable	\$3,438/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (15% Maximum)	9.4%		
Highest Unit Capture Rate	48%	2 BR/60%	61
Dominant Unit Cap. Rate	48%	2 BR/60%	61
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	944 SF	Density	20.0/acre
Acquisition		\$16K/unit	\$4,280K
Building Cost	\$90.40/SF	\$85K/unit	\$22,539K
Hard Cost		\$110K/unit	\$29,006K
Total Cost		\$195K/unit	\$51,441K
Developer Fee	\$5,598K	(38% Deferred)	Paid Year: 6
Contractor Fee	\$3,148K	30% Boost	No

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Mason Joseph HUD 221 (d)(4)	40/40	3.35%	\$36,800,000	1.20						AHP	\$12,512,573	
										Deferred Developer Fee	\$2,128,046	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$36,800,000</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$14,640,619</b>
											<b>TOTAL DEBT SOURCES</b>	<b>\$36,800,000</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$51,440,619</b>

**CONDITIONS**

1 Receipt and acceptance by Cost Certification:

- a: Certification from Appraisal District that the property qualifies for property tax exemption.
- b: Executed ground lease with TCHFC Cascades Land LLC clearly specifying all terms and conditions, including who will retain ownership of land and improvements at the end of the lease.
- c: Architect certification that a noise assessment was completed, and that all recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

**BOND RESERVATION / ISSUER**

<b>Issuer</b>	Travis County Housing Finance Corporation	
<b>Expiration Date</b>	8/30/2020	
<b>Bond Amount</b>	\$35,000,000	
<b>BRB Priority</b>	Priority 3	
<b>Bond Structure</b>	FHA 221(d)(4)/Short-Term Cash Collateralized	
<b>% Financed with Tax-Exempt Bonds</b>	73.0%	

**RISK PROFILE**

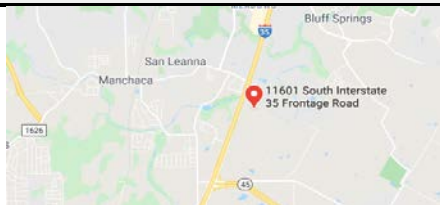
**STRENGTHS/MITIGATING FACTORS**

- Master development
- Land price
- Strong feasibility indicators
- Tax exemption

**WEAKNESSES/RISKS**

- One way I-35 frontage road access
- Many affordable units under construction
- Developer lack of LIHTC experience

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



# 20419 Woodway Village - Application Summary

REAL ESTATE ANALYSIS DIVISION  
June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20419
Development	Woodway Village
City / County	Austin / Travis
Region/Area	7 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 2004)

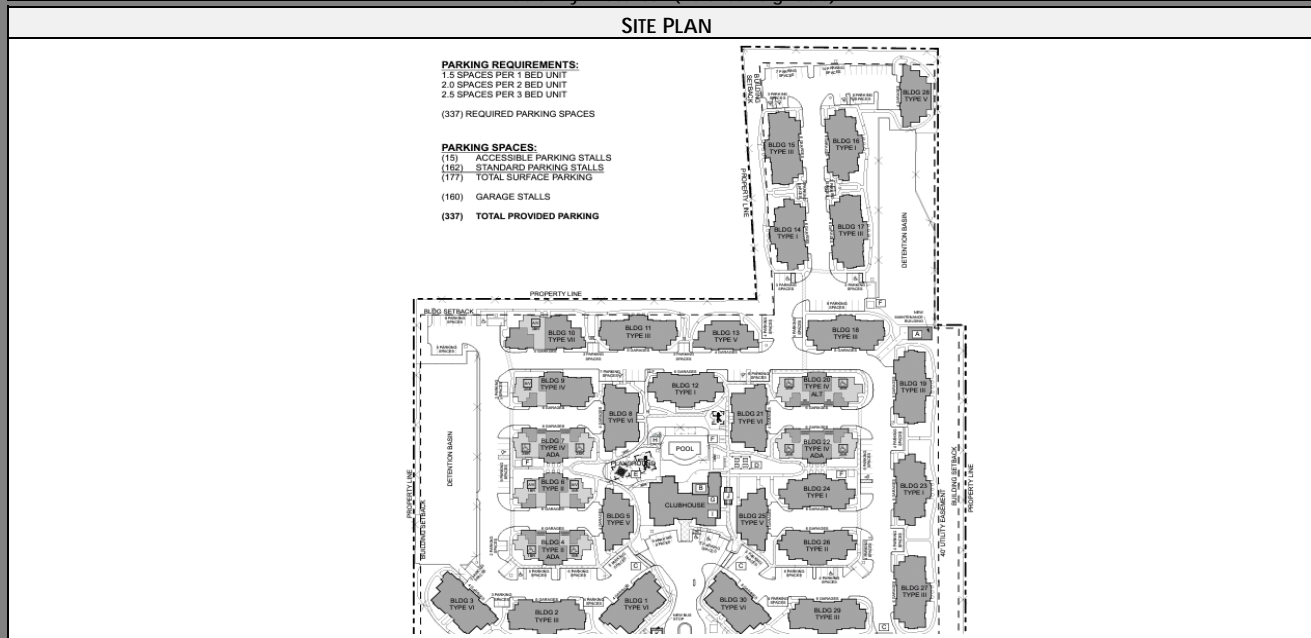
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,196,513	\$1,168,103	\$7,301/Unit	\$0.93

KEY PRINCIPALS / SPONSOR		
Paul Sween & Armand Brachman Dominium Holdings LLC		
and		
Michael Gerber Austin Affordable Housing Corporation		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	32	20%	40%	-	0%
2	63	39%	50%	-	0%
3	65	41%	60%	160	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>160</b>	<b>100%</b>	<b>TOTAL</b>	<b>160</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.28	Expense Ratio	38.8%
Breakeven Occ.	80.2%	Breakeven Rent	\$1,063
Average Rent	\$1,229	B/E Rent Margin	\$167
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,381/unit	Controllable	\$3,924/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	1.6%		
Highest Unit Capture Rate	6%	3 BR/60%	65
Dominant Unit Cap. Rate	6%	3 BR/60%	65
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten	TDHCA's Costs - Based on PCA		
Avg. Unit Size	1,041 SF	Density	13.1/acre
Acquisition		\$111K/unit	\$17,795K
Building Cost	\$41.92/SF	\$44K/unit	\$6,981K
Hard Cost		\$56K/unit	\$8,971K
Total Cost		\$221K/unit	\$35,385K
Developer Fee	\$4,100K	(81% Deferred)	Paid Year: 9
Contractor Fee	\$1,256K	30% Boost	Yes

REHABILITATION COSTS / UNIT					
Site Work	\$3K	5%	Finishes/Fixture	\$8K	14%
Building Shell	\$29K	52%	Amenities	\$5K	8%
HVAC	\$6K	10%	Total Exterior	\$36K	72%
Appliances	\$1K	2%	Total Interior	\$14K	28%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Merchant's Capital	15/35	3.55%	\$21,260,000	1.28						Stratford Capital	\$10,804,954
										Applicant Deferred Fee	\$3,319,782
<b>TOTAL DEBT (Must Pay)</b>			<b>\$21,260,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$14,124,735</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$21,260,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$35,384,735</b>

**CONDITIONS**

1 Receipt and acceptance before Determination Notice:

- a: Revised Scope and Cost Review (SCR) that is fully compliant with §11.306.
- b: A revised term sheet from permanent lender that acknowledges Supportive Services pursuant to §11.302(d)(2)(K)(ii).

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	<b>Austin Affordable PFC, Inc.</b>
Expiration Date	<b>8/18/2020</b>
Bond Amount	<b>\$30,000,000</b>
BRB Priority	<b>Priority 3</b>
Bond Structure	<b>Freddie Mac TEL</b>
% Financed with Tax-Exempt Bonds	<b>96.0%</b>

**RISK PROFILE**

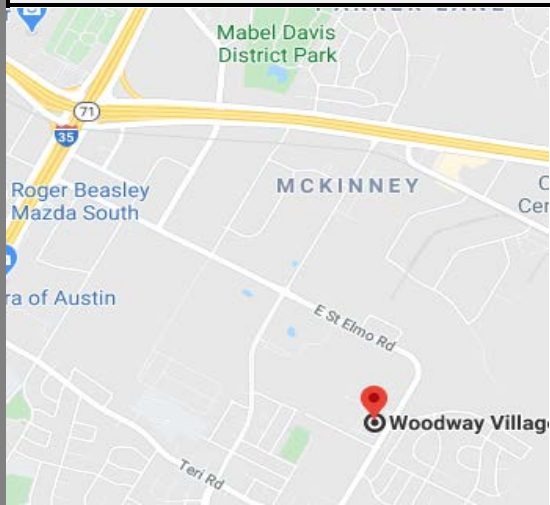
**STRENGTHS/MITIGATING FACTORS**

- Developer experience with LIHTC properties in Texas
- Substantial job growth in all of Austin MSA.

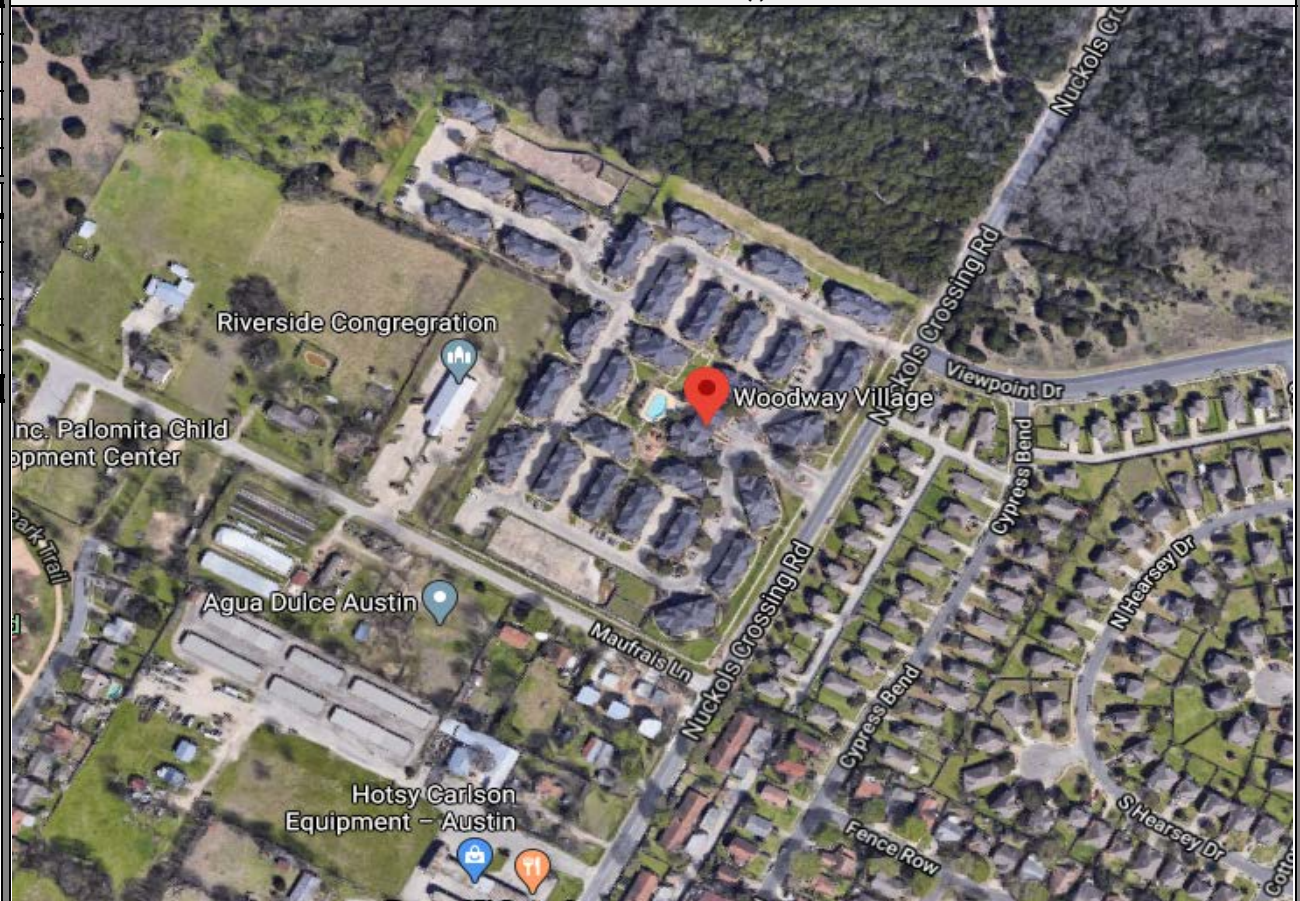
**WEAKNESSES/RISKS**

- Only 28% of rehab costs allocated for unit interiors
- 81% Deferred Developer Fee

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



1i

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20406, Gala at Central Park, Hurst)

**RECOMMENDED ACTION**

**WHEREAS**, an application for Gala at Central Park, sponsored by the Hurst Public Facilities Corporation and Gala at Central Park GP, LLC, requesting 4% Housing Tax Credits (HTC) was submitted to the Department on December 12, 2019;

**WHEREAS**, with regard to the Direct Loan funds, the application was originally submitted under the 2020-2B Multifamily Direct Loan Notice of Funding Availability (2020-2B NOFA) concurrent with the request for 4% HTC but the applicant has since withdrawn the application as a result of withdrawing their previous bond reservation and resubmitted under the 2020-1 Multifamily Direct Loan Notice of Funding Availability (2020-1 NOFA) requesting National Housing Trust Fund (NHTF) under the Soft Repayment set-aside;

**WHEREAS**, the current Certification of Reservation from the Texas Bond Review Board was issued on June 4, 2020, and will expire on December 1, 2020;

**WHEREAS**, the proposed issuer of the bonds is the Hurst Public Facility Corporation;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated a Category 1 and deemed acceptable by Executive Award and Review Advisory Committee (EARAC); and

**WHEREAS**, EARAC recommends \$3,000,000 in NHTF for Gala at Central Park and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$486,783 in 4% HTC, and the award of \$3,000,000 in NHTF, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Gala at Central Park is hereby approved as presented to this meeting.



## **BACKGROUND**

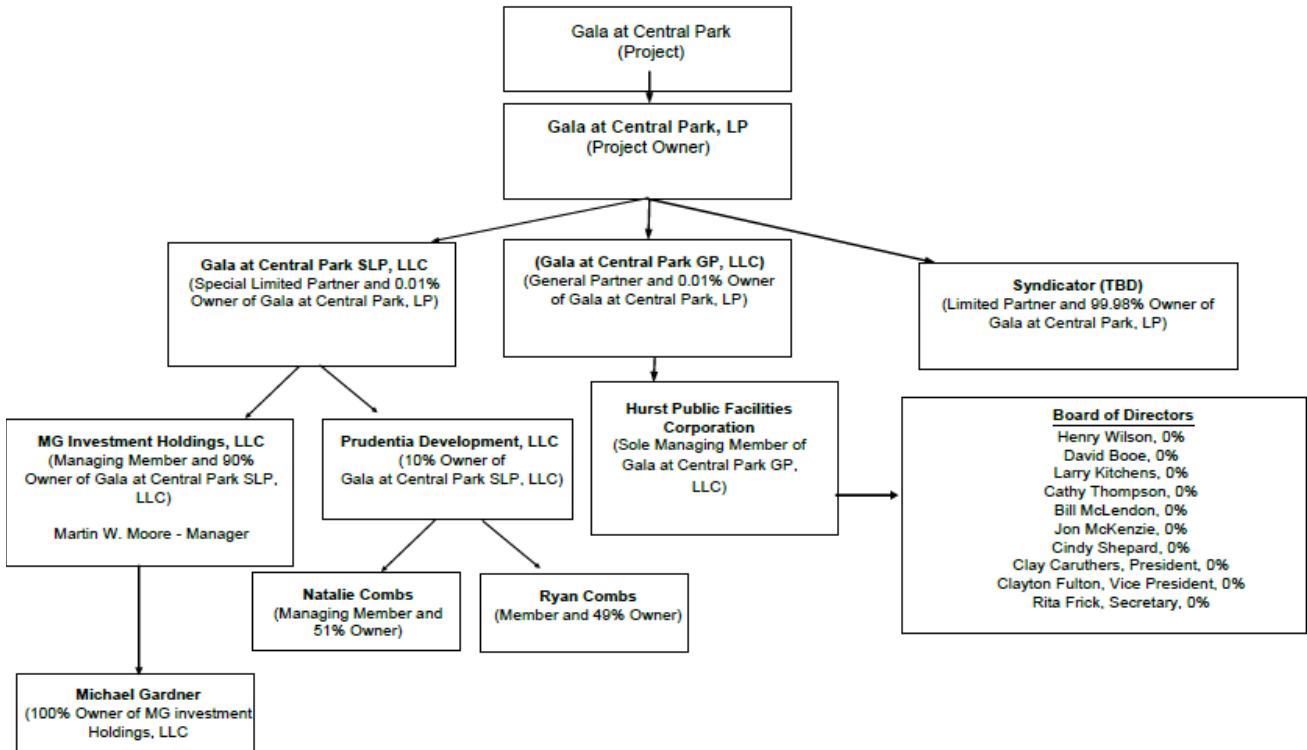
*General Information:* The project proposes the new construction of 94 units for the elderly population located on the south side of West Pipeline Road and west of Buena Vista Drive in Hurst, Tarrant County. The Certificate of Reservation was issued as part of the BRB Private Activity Bond 2020 Lottery under the Priority 3 designation, which does not have a prescribed restriction on the percentage AMFI that must be served (beyond the federal requirement). The applicant has elected to utilize the income averaging minimum set-aside, as the project will provide 19 units rent and income restricted at 40% of AMFI, 39 units rent and income restricted at 60% of AMFI, and 36 units rent and income restricted at 70% of AMFI.

Moreover, 19 units will be further restricted to households earning the greater of the federal poverty limit or 30% AMFI or less and have rents no higher than the rents for extremely low income households in accordance with 24 CFR §93.302(b) as a result of the NHTF investment. These 19 NHTF units will float throughout the property by Unit Type but are anticipated to be layered among the 19 40% HTC units for underwriting purposes. This \$3,000,000 NHTF award is anticipated to help the Department meet its federal commitment deadline of October 3, 2020, for Program Year 2018 NHTF. If the Applicant and the Department have not executed a contract for the NHTF funds by October 2, 2020, the Department may reduce the NHTF funds in whole or in part, notwithstanding any other deadline in the Texas Administrative Code. The NHTF loan will be structured as a 0% surplus cash flow loan in accordance with 10 TAC §13.2(14), amortized over a 35 year period with a 15 year term.

*Organizational and Site Control Structure:* The Borrower/applicant is Gala at Central Park, LP and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC. Gala at Central Park, LP will enter into a long-term ground lease with Hurst Public Facilities Corporation, the sole member of the general partner, upon closing on the financing.

*Public Comment:* There were no letters of support or opposition received by the Department.

## EXHIBIT A



# 20406 Gala at Central Park - Application Summary

REAL ESTATE ANALYSIS DIVISION

June 18, 2020

PROPERTY IDENTIFICATION	
Application #	20406
Development	Gala at Central Park
City / County	Hurst / Tarrant
Region/Area	3 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (4% Credit)	\$486,783	\$486,783	\$5,179/Unit	\$0.91		
	Amount	Rate	Amort	Term	Lien	
Multifamily Direct Loan (Soft Repayable)	\$3,000,000	0.00%	35	15	2	

KEY PRINCIPALS / SPONSOR		
Michael Gardner / Gardner Capital Ryan Combs / Prudentia Development Hurst Public Facilities Corporation		
Related Parties	Contractor - Yes	Seller - Yes

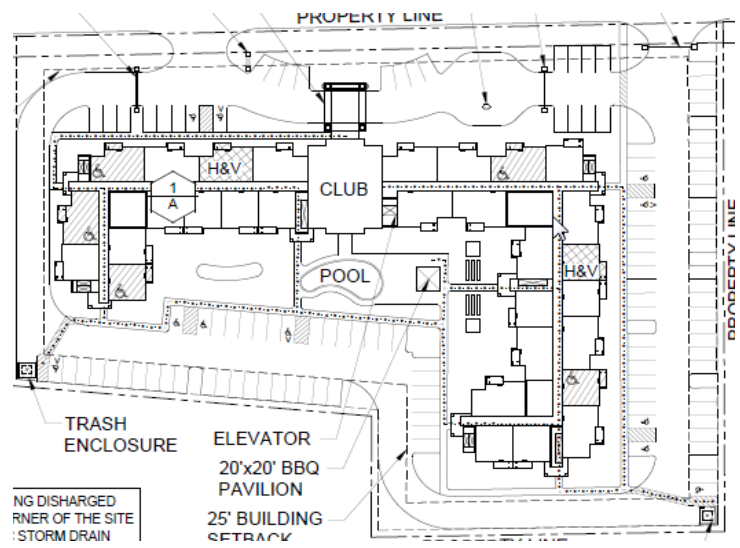
## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	46	49%	40%	19	20%
2	48	51%	50%	-	0%
3	-	0%	60%	39	41%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>94</b>	<b>100%</b>	<b>TOTAL</b>	<b>58</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS					
Pro Forma Underwritten			TDHCA's Pro Forma		
Debt Coverage	✓ 1.28	Expense Ratio	✓ 41.0%		
Breakeven Occ.	✓ 80.7%	Breakeven Rent	\$782		
Average Rent	\$899	B/E Rent Margin	✓ \$117		
Property Taxes	Exempt	Exemption/PILOT	100%		
Total Expense	\$4,181/unit	Controllable	\$3,047/unit		

## SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	✓ 1.1%		
Highest Unit Capture Rate	✓ 3%	2 BR/30%	10
Dominant Unit Cap. Rate	✓ 3%	2 BR/60%	20
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	N/A		


DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	802 SF	Density	24.9/acre
Acquisition		\$00K/unit	\$15K
Building Cost	\$97.62/SF	\$78K/unit	\$7,361K
Hard Cost		\$102K/unit	\$9,583K
Total Cost		\$179K/unit	\$16,821K
Developer Fee	\$2,010K	(39% Deferred)	Paid Year: 6
Contractor Fee	\$1,342K	30% Boost	No

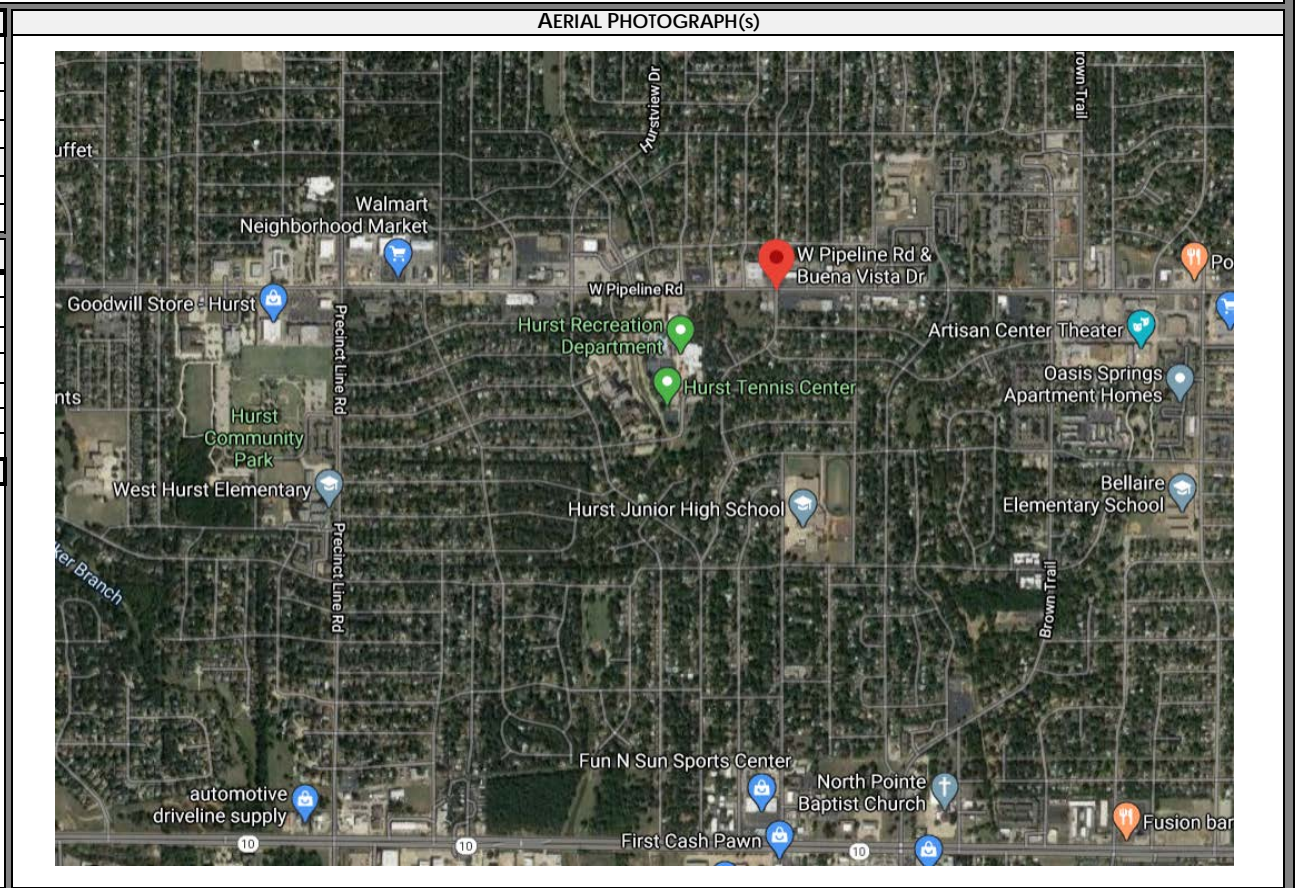
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Citi Bank	15/35	3.77%	\$8,610,000	1.28	TDHCA	15/35	0.00%	\$3,000,000		Citi Bank	\$4,429,280
										Dallas Region Developer	\$781,694
<b>TOTAL DEBT (Must Pay)</b>			<b>\$8,610,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$3,000,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$5,210,973</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$11,610,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$16,820,973</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- 2 Receipt and acceptance by Cost Certification:
  - a: Architect certification that all recommendations from the noise study are incorporated into the development plans.

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	Hurst Public Facilities Corp
Expiration Date	12/1/2020
Bond Amount	\$15,000,000
BRB Priority	3
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	82.0%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer experience with LIHTC properties in Texas
▫	Site contributed by the City of Hurst
▫	Full Property Tax Exemption
WEAKNESSES/RISKS	
▫	Market Rents below TC 70% for 2 Bd units.
▫	Parking ratio of 1.2 spaces/unit or 0.8 spaces/bed.
AREA MAP	
	





**2020-1 Multifamily Direct Loan Program - Application Log - June 18, 2020**

Per 2020-1 Multifamily Direct Loan Notice of Funding Availability (as amended by First Amendment, Second Amendment, and Third Amendment to 2020-1 NOFA)

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Chapter 11 Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules. This log will be updated periodically as staff completes application reviews and as more applications are received. The 2020-1 NOFA Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

*Applications sorted by Application Acceptance Date within each set-aside in accordance with Section 3 of the 2020-1 NOFA.*

Soft Repayment (NHTF only)												Total Set Aside Funding Level:	\$12,509,857
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20501	Samano	Brownsville	Cameron	11	ADR	\$ 2,000,000	Supportive Housing	40	14	N	3/31/2020		
20224	Crossroads Apartments	Fort Worth	Tarrant	3	NC	\$ 1,954,000	Supportive Housing	68	13	9%	4/1/2020		
20002	Amadillo Studios	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	110	14	9%	4/1/2020		
20040	Espero Austin at Rutland	Austin	Travis	7	NC	\$ -	Supportive Housing	135	25	9%	4/1/2020	Terminated	
20406	Gala at Central Park	Hurst	Tarrant	3	NC	\$ 3,000,000	Elderly	94	19	4%	6/4/2020	To be recommended for award at 6/25/20 Board meeting	
<b>Total Amount Requested Under Soft Repayment Set Aside</b>						<b>\$ 8,954,000</b>	<b>Total Units</b>	<b>447</b>	<b>85</b>				
<b>Total Amount Awarded Under Soft Repayment Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under Soft Repayment Set Aside</b>						<b>\$ 12,509,857</b>							

CHDO (HOME funds only)												Total Set Aside Funding Level:	\$4,733,439
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20317	Merritt Edge	Midland	Midland	12	NC	\$ -	Elderly	124	20	9%	4/1/2020	Application withdrawn	
20344	Merritt Sunset	Midland	Midland	12	NC	\$ -	General	149	21	9%	4/1/2020	Application withdrawn	
20012	Merritt Gardens	Midland	Midland	12	NC	\$ -	Elderly	120	20	9%	4/1/2020	Ineligible for HOME funds under CHDO set-aside	
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>393</b>	<b>61</b>				
<b>Total Amount Awarded Under CHDO Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under CHDO Set Aside</b>						<b>\$ 4,733,439</b>							

General (HOME funds only)												Total Set Aside Funding Level:	\$9,112,729
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20502	Heritage Heights at Big Spring	Big Spring	Howard	12	NC	\$ 255,000	Elderly	66	2	N	3/31/2020	To be recommended for award at 6/25/20 Board meeting	
20329	Fish Pond at Huntsville	Huntsville	Walker	6	NC	\$ 2,650,000	Elderly	48	27	9%	4/1/2020		
20200	Lofts at Temple Medical District	Temple	Bell	8	NC	\$ 3,000,000	Elderly	120	25	9%	4/1/2020		
20463	Trinity Oaks	Sulphur Springs	Hopkins	4	A/R	\$ 925,000	Elderly	48	16	4%	4/28/2020		
20464	Pine Terrace	Mount Pleasant	Titus	4	A/R	\$ 1,650,000	Elderly	76	28	4%	4/28/2020		
<b>Total Amount Requested Under General Set Aside</b>						<b>\$ 8,480,000</b>	<b>Total Units</b>	<b>358</b>	<b>98</b>				
<b>Total Amount Awarded Under General Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under General Set Aside</b>						<b>\$ 9,112,729</b>							

\* = \$5,385,999.20 in NHTF potentially being added to the Soft Repayment set-aside via the First Amendment to the 2020-1 NOFA being considered at the 2/20/20 Board meeting.

1 = Housing Activity: NC=New Construction, R=Rehabilitation, ADR= Adaptive Reuse

2 = Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Noncompetitive Tax Credits

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on the Fourth Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability and the ability to make future amendments with Executive Director approval to the 2020-1 Multifamily Direct Loan Notice of Funding Availability, as necessary to meet the 2018 commitment deadline for the National Housing Trust Fund

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously approved the 2020-1 Multifamily Direct Loan Notice of Funding Availability (2020-1 NOFA), which included \$13,846,168 in HOME funds;

**WHEREAS**, the Board previously approved the First Amendment to the 2020-1 NOFA reprogramming \$5,385,999.20 in National Housing Trust Fund (NHTF) into the Soft Repayment set-aside of the 2020-1 NOFA;

**WHEREAS**, the Board previously approved the Second Amendment to the 2020-1 NOFA reprogramming \$4,123,858 in NHTF into the Soft Repayment set-aside of the 2020-1 NOFA;

**WHEREAS**, the Board previously approved the Third Amendment to the 2020-1 NOFA reprogramming \$3,000,000 in NHTF into the Soft Repayment set-aside of the 2020-1 NOFA;

**WHEREAS**, the Department has \$4,733,439 in HOME available under the Community Housing Development Organization (CHDO) set-aside of the 2020-1 NOFA, for which \$0 is currently being requested;

**WHEREAS**, as a result of recently-issued Memorandum from HUD regarding waivers and suspensions of HOME program requirements in response to the COVID-19 pandemic, the Department has the ability to reprogram funds from the CHDO set-aside into the General set-aside;

**WHEREAS**, the pool of potential applicants for these HOME funds under the General set-aside is far greater than the pool of potential applicants for HOME funds under the CHDO set-aside and will therefore result in a greater likelihood of meeting HOME commitment and expenditure deadlines in the future;

**WHEREAS**, staff recommends reprogramming all \$4,733,439 in HOME funds from the CHDO set-aside to the General set-aside of the 2020-1 NOFA; and

**WHEREAS**, staff is seeking Board approval to quickly amend the 2020-1 NOFA as needed in order to meet an upcoming federal commitment deadline for NHTF;

**NOW, therefore, it is hereby**

**RESOLVED**, that \$4,733,439 in HOME funds be moved from the CHDO set-aside to the General set-aside;

**FURTHER RESOLVED**, that with Executive Director approval future amendments to the 2020-1 NOFA may be made as needed in order to meet the upcoming federal commitment deadline for NHTF without Board approval; and

**FURTHER RESOLVED**, the Executive Director and staff as designated by the Executive Director are authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments, and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

#### **BACKGROUND**

On December 12, 2019, the Board approved the 2020-1 NOFA. On December 27, 2019, the 2020-1 NOFA was published in the *Texas Register* announcing the availability of up to \$13,846,168 in HOME funds for the development of affordable multifamily rental housing. On February 27, 2020, the Board approved the First Amendment to the 2020-1 NOFA reprogramming \$5,385,999 in available NHTF into the 2020-1 Soft Repayment set-aside. The Amended 2020-1 NOFA was published in the *Texas Register* on March 13, 2020. On April 23, 2020, the Board approved the Second Amendment to the 2020-1 NOFA reprogramming \$4,123,858 in NHTF from the 2020-2B Special Purpose NOFA into the Soft Repayment set-aside. The Amended 2020-1 NOFA was published in the *Texas Register* on May 8, 2020. On May 21, 2020, the Board approved the Third Amendment to the 2020-1 NOFA reprogramming \$3,000,000 in NHTF from the 2020-2B Special Purpose NOFA into the Soft Repayment set-aside. The Amended 2020-1 NOFA was published in the *Texas Register* on June 5, 2020.

Earlier this month, three applications under the CHDO set-aside withdrew. These withdrawals resulted in all \$4,733,439 of HOME funds under that set-aside being unrequested. Additionally, on April 10, 2020, HUD issued a memorandum suspending the CHDO set-aside requirement for 2017, 2018, 2019, and 2020 allocations of HOME funds. As a result, the Department has the ability to reprogram all \$4,733,439 in HOME currently available under the CHDO set-aside to the General set-aside, for which for-profit and nonprofit (CHDO or non-CHDO) applicants may submit applications.

All HOME funds in the 2020-1 NOFA are currently and will continue to be available statewide.



The Department has a federal commitment deadline for its 2018 NHTF funds on October 3, 2020. Staff believes that it will have sufficient funds under contract to meet this deadline. However, if circumstances change, staff would like the ability, with Executive Director approval, to take immediate action to amend the 2020-1 NOFA in order to meet the 2018 NHTF commitment deadline, including but not limited to reprogramming returned NHTF funding, extending the expiration date in the NOFA for NHTF applications, increasing the amount that may be applied for in NHTF funding, or adding additional activities for NHTF funding, if allowed by the Consolidated Plan and One Year Action Plan. Staff will report any actions taken under this authority to a subsequent Board meeting.

Moving forward, staff will continue to monitor the demand for Direct Loan funds, and may recommend further amendments to the NOFA as necessary.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
MULTIFAMILY DIRECT LOAN  
2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)  
ANNUAL NOFA  
FOURTH AMENDMENT  
EFFECTIVE JUNE 26, 2020

THIS AMENDMENT MOVES \$4,733,439 IN HOME FUNDS FROM THE CHDO SET-ASIDE TO THE GENERAL SET-ASIDE. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTION 2. ALL OTHER SECTIONS OF THE 2020-1 NOFA REMAIN AS ORIGINALLY PUBLISHED, OR AS OTHERWISE PUBLISHED IN THE FIRST, SECOND, OR THIRD AMENDMENTS TO THE 2020-1 NOFA.

- 2) **Set-Asides.** All funds will be subject to the Regional Allocation Formula (RAF, located in Attachment A) until February 13, 2020, and then available on a statewide basis within each Set-Aside. Applications under any and all Set-Asides may or may not be layered with 9% or 4% Housing Tax Credits (HTC). The funds made available under this NOFA are available under the following Set-Asides:
- a. **Community Housing Development Organization (CHDO) Set-Aside.** At least \$0 in HOME funds are reserved for nonprofit organizations that can be certified as Community Housing Development Organizations (CHDOs).
  - b. **Soft Repayment Set-Aside.** \$12,509,857.20 in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93. Applicants in this Set-Aside must meet the Supportive Housing requirements in 10 TAC §11.1(d)(122) including the underwriting considerations for Supportive Housing Developments in 10 TAC §11.302(g)(4) or the requirements in 10 TAC §13.4(a)(1)(A)(ii).
  - c. **General Set-Aside.** HOME funds in the amount of \$13,846,168 is available in this Set-Aside.

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request
CHDO	NC, A/R, R	HOME	\$0	\$0
Soft Repayment	A/NC, NC	NHTF	\$12,509,857.20 <sup>1</sup>	\$3,000,000
General	NC, A/R, R	HOME	\$13,846,168	\$3,000,000

**Key:**

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)

A/R – Acquisition/Rehabilitation

R – Rehabilitation

A/NC – Acquisition/New Construction

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<sup>1</sup> Because the Department has not yet met its federal commitment deadline for the 2018 or 2019 NHTF funds, the Department will condition all NHTF awards under this NOFA, that the award of NHTF funds may be proportionally reduced or terminated if the Department and Applicant are unable to enter into a Contract by a specific date listed in the Board approval, despite any other deadlines existing in the Texas Administrative Code.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**ANNUAL NOFA**  
**THIRD AMENDMENT**  
**EFFECTIVE MAY 22, 2020**

**THIS AMENDMENT ADDS \$3,000,000 IN NATIONAL HOUSING TRUST FUND (NHTF) TO THE SOFT REPAYMENT SET-ASIDE AND INCREASES THE MAXIMUM PER APPLICATION REQUEST IN THE SOFT REPAYMENT SET-ASIDE TO \$3,000,000. ALL NHTF IS AVAILABLE ON A STATEWIDE BASIS. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTIONS 1, 2B, AND THE TABLE IN SECTION 2. ALL OTHER SECTIONS OF THE 2020-1 NOFA REMAIN AS ORIGINALLY PUBLISHED, OR AS OTHERWISE PUBLISHED IN THE FIRST AMENDMENT TO THE 2020-1 NOFA.**

**1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of up to **\$26,356,025.20 in total HOME<sup>1</sup> and NHTF funding** for the development of affordable multifamily rental housing for low-income Texans. Applications under the CHDO and General Set-Asides of the 2020-1 NOFA will be accepted from January 13, 2020 through August 31, 2020 (if sufficient funds remain). Applications under the Soft Repayment Set-Aside of the 2020-1 NOFA will be accepted February 28, 2020 through August 31, 2020 (if sufficient funds remain). The availability and use of these funds are subject to the following rules, as applicable:

**a. Texas Administrative Code**

- 10 TAC Chapter 1 (Administration)
- 10 TAC Chapter 2 (Enforcement)
- 10 TAC Chapter 10 (Uniform Multifamily Rules)
- 10 TAC Chapter 11 (Qualified Allocation Plan)
- 10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)
- 10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

**b. Texas Government Code**

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<sup>1</sup> HOME funds under this NOFA may only be awarded to Applications with Development Sites in non-Participating Jurisdictions.

Tex. Gov't. Code Chapter 2306

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

- c. U.S. Department of Housing and Urban Development (HUD) Program Regulations  
24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))  
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

- d. Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19

<https://www.tdhca.state.tx.us/fair-housing/index.htm>

- e. Other Federal laws and regulations that may apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME and NSP1 PI must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME and NSP1 PI funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME and NSP1 PI require compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

**If HOME or NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.**

- f. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.

2) **b. Soft Repayment Set-Aside.** \$12,509,857.20 in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93. Applicants in this Set-Aside must meet the Supportive Housing requirements in 10 TAC §11.1(d)(122) including the underwriting considerations for Supportive Housing Developments in 10 TAC §11.302(g)(4) or the requirements in 10 TAC §13.4(a)(1)(A)(ii).

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request
CHDO	NC, A/R, R	HOME	\$4,733,439	\$3,000,000
Soft Repayment	A/NC, NC	NHTF	\$12,509,857.20 <sup>2</sup>	\$3,000,000
General	NC, A/R, R	HOME	\$9,112,729	\$3,000,000

**Key:**

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)

A/R – Acquisition/Rehabilitation

R – Rehabilitation

A/NC – Acquisition/New Construction

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<sup>2</sup> Because the Department has not yet met its federal commitment deadline for the 2018 or 2019 NHTF funds, the Department will condition all NHTF awards under this NOFA, that the award of NHTF funds may be proportionally reduced or terminated if the Department and Applicant are unable to enter into a Contract by a specific date listed in the Board approval, despite any other deadlines existing in the Texas Administrative Code.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**ANNUAL NOFA**  
**SECOND AMENDMENT**  
**EFFECTIVE APRIL 24, 2020**

**THIS AMENDMENT ADDS \$4,123,858 IN NATIONAL HOUSING TRUST FUND (NHTF) TO THE SOFT REPAYMENT SET-ASIDE. ALL NHTF IS AVAILABLE ON A STATEWIDE BASIS. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTIONS 1, 2B, AND THE TABLE IN SECTION 2. ALL OTHER SECTIONS OF THE 2020-1 NOFA REMAIN AS ORIGINALLY PUBLISHED, OR AS OTHERWISE PUBLISHED IN THE FIRST AMENDMENT TO THE 2020-1 NOFA.**

**1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of up to **\$23,356,025.20** in total HOME<sup>1</sup> and NHTF funding for the development of affordable multifamily rental housing for low-income Texans. Applications under the CHDO and General Set-Asides of the 2020-1 NOFA will be accepted from January 13, 2020 through August 31, 2020 (if sufficient funds remain). Applications under the Soft Repayment Set-Aside of the 2020-1 NOFA will be accepted February 28, 2020 through August 31, 2020 (if sufficient funds remain). The availability and use of these funds are subject to the following rules, as applicable:

**a. Texas Administrative Code**

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 10 (Uniform Multifamily Rules)

10 TAC Chapter 11 (Qualified Allocation Plan)

10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

**b. Texas Government Code**

Tex. Gov't. Code Chapter 2306

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<sup>1</sup> HOME funds under this NOFA may only be awarded to Applications with Development Sites in non-Participating Jurisdictions.

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

- c. U.S. Department of Housing and Urban Development (HUD) Program Regulations  
24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))  
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

- d. Fair Housing  
Federal Fair Housing Act, 42 U.S.C. 3601-19  
<https://www.tdhca.state.tx.us/fair-housing/index.htm>

- e. Other Federal laws and regulations that may apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME and NSP1 PI must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME and NSP1 PI funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME and NSP1 PI require compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

**If HOME or NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.**

- f. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.



2) **b. Soft Repayment Set-Aside.** \$9,509,857.20 in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93. Applicants in this Set-Aside must meet the Supportive Housing requirements in 10 TAC §11.1(d)(122) including the underwriting considerations for Supportive Housing Developments in 10 TAC §11.302(g)(4) or the requirements in 10 TAC §13.4(a)(1)(A)(ii).

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request
CHDO	NC, A/R, R	HOME	\$4,733,439	\$3,000,000
Soft Repayment	A/NC, NC	NHTF	\$9,509,857.20 <sup>2</sup>	\$2,000,000
General	NC, A/R, R	HOME	\$9,112,729	\$3,000,000

**Key:**

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)

A/R – Acquisition/Rehabilitation

R – Rehabilitation

A/NC – Acquisition/New Construction

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<sup>2</sup> Because the Department has not yet met its federal commitment deadline for the 2018 or 2019 NHTF funds, the Department will condition all NHTF awards under this NOFA, that the award of NHTF funds may be proportionally reduced or terminated if the Department and Applicant are unable to enter into a Contract by a specific date listed in the Board approval, despite any other deadlines existing in the Texas Administrative Code.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**ANNUAL NOFA**  
**FIRST AMENDMENT**  
**EFFECTIVE FEBRUARY 28, 2020**

**THIS AMENDMENT ADDS \$5,385,999.20 IN NATIONAL HOUSING TRUST FUND (NHTF) TO THE SOFT REPAYMENT SET-ASIDE AND INCREASES THE MAXIMUM REQUEST UNDER THE SOFT REPAYMENT SET-ASIDE FROM \$1,000,000 TO \$2,000,000. NONE OF THIS \$5,385,999.20 IN NHTF WILL BE SUBJECT TO THE REGIONAL ALLOCATION FORMULA, THEREFORE ALL NHTF IS AVAILABLE ON A STATEWIDE BASIS. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTIONS 1, 2B, AND THE TABLE IN SECTION 2. ALL OTHER SECTIONS OF THE 2020-1 NOFA REMAIN AS ORIGINALLY PUBLISHED.**

**1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of up to **\$19,232,167.20** in HOME funds<sup>1</sup> and NHTF funding for the development of affordable multifamily rental housing for low-income Texans. Applications under the CHDO and General Set-Asides of the 2020-1 NOFA will be accepted from January 13, 2020 through August 31, 2020 (if sufficient funds remain). **Applications under the Soft Repayment Set-Aside of the 2020-1 NOFA will be accepted February 28, 2020 through August 31, 2020 (if sufficient funds remain).** The availability and use of these funds are subject to the following rules, as applicable:

**a. Texas Administrative Code**

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 10 (Uniform Multifamily Rules)

10 TAC Chapter 11 (Qualified Allocation Plan)

10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

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<sup>1</sup> HOME funds under this NOFA may only be awarded to Applications with Development Sites in non-Participating Jurisdictions.

- b. Texas Government Code  
Tex. Gov't. Code Chapter 2306  
<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>
- c. U.S. Department of Housing and Urban Development (HUD) Program Regulations  
24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))  
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))
- d. Fair Housing  
Federal Fair Housing Act, 42 U.S.C. 3601-19.  
<https://www.tdhca.state.tx.us/fair-housing/index.htm>
- e. Other Federal laws and regulations may that apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME and NSP1 PI must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME and NSP1 PI funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME and NSP1 PI require compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

**If HOME or NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.**

- f. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.

- 2) **b. Soft Repayment Set-Aside.** \$5,385,999.20 in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93. Applicants in this Set-Aside must meet the Supportive Housing requirements in 10 TAC §11.1(d)(122) including the underwriting considerations for Supportive Housing Developments in 10 TAC §11.302(g)(4) or the requirements in 10 TAC §13.4(a)(1)(A)(ii).

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request
CHDO	NC, A/R, R	HOME	\$4,733,439	\$3,000,000
Soft Repayment	NC	NHTF	\$5,385,999.20 <sup>2</sup>	\$2,000,000
General	NC, A/R, R	HOME	\$9,112,729	\$3,000,000

**Key:**

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)                      A/R – Acquisition/Rehabilitation

R – Rehabilitation

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<sup>2</sup> Because the Department has not yet met its federal commitment deadline for the 2018 or 2019 NHTF funds, the Department will condition all NHTF awards under this NOFA, that the award of NHTF funds may be proportionally reduced or terminated if the Department and Applicant are unable to enter into a Contract by a specific date listed in the Board approval, despite any other deadlines existing in the Texas Administrative Code.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2020-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**ANNUAL NOFA**

**1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of **\$13,846,168**<sup>1</sup> in HOME funds<sup>2</sup> and any unrequested NHTF funds remaining out of the 2020-2 NOFA for Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2020-1 NOFA will be accepted from January 13, 2020 through August 31, 2020 (if sufficient funds remain). The availability and use of these funds are subject to the following rules, as applicable:

**a. Texas Administrative Code**

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 10 (Uniform Multifamily Rules)

10 TAC Chapter 11 (Qualified Allocation Plan)

10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

**b. Texas Government Code**

Tex. Gov't. Code Chapter 2306

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

**c. U.S. Department of Housing and Urban Development (HUD) Program Regulations**

24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))

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<sup>1</sup> Final amount to be determined on January 7, 2020, after the amount of NHTF requested under 2020-2 NOFA is known.

<sup>2</sup> HOME funds under this NOFA may only be awarded to Applications with Development sites in non-Participating Jurisdictions.

24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

d. Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19.

<https://www.tdhca.state.tx.us/fair-housing/index.htm>

e. Other Federal laws and regulations may that apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME, and NSP1 PI require compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

**If HOME or NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.**

f. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.

**2) Set-Asides.** All funds will be subject to the Regional Allocation Formula (RAF, located in Attachment A) until February 13, 2020, and then available on a statewide basis within each Set-Aside. Applications under any and all Set-Asides may or may not be layered with 9% or 4% Housing Tax Credits (HTC). The funds made available under this NOFA are available under the following Set-Asides:

- a. **Community Housing Development Organization (CHDO) Set-Aside.** At least \$4,733,439 in HOME funds are reserved for nonprofit organizations that can be certified as Community Housing Development Organizations (CHDOs).
- b. **Soft Repayment Set-Aside.** \$ \_\_\_\_\_<sup>3</sup> in NHTF is available in this Set-Aside. Applicants within this Set-Aside must restrict rent and income for all Direct Loan-assisted units to 30% as defined in 24 CFR Part 93..
- c. **General Set-Aside.** HOME funds in the amount of \$9,112,729 is available in this Set-Aside; currently anticipated to be \$9,112,729.

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request <sup>4</sup>
CHDO	NC, A/R, R	HOME	\$4,733,439	\$3,000,000
Soft Repayment	NC	NHTF	\$ _____	\$1,000,000
General	NC, A/R, R	HOME	\$9,112,729	\$3,000,000

**Key:**

NC – New Construction (For the Soft Repayment Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)                      A/R– Acquisition/Rehabilitation  
R – Rehabilitation

**3) Priorities within Set-Asides.** Priority 1 Applications will be subject to various Application Acceptance Dates depending on the criteria described below. The Application Acceptance Dates are those that exist in 10 TAC §13.4(c) for Priority 2 or Priority 3 Applications. The Department will utilize the Scoring Criteria in 10 TAC §13.6.

**a. Priority 1.**

- i. **Applications submitted in the General and CHDO Set-Asides by February 13, 2020, that request less than RAF amount for the subregion in which the Development Site is located.** Applications submitted under the CHDO Set-Aside that request less than or equal to the amount listed for the subregion in which the Development Site

<sup>3</sup> Amount to be determined on January 7, 2020, after the amount of NHTF requested under 2020-2 NOFA is known.  
<sup>4</sup> This total includes any other Multifamily Direct Loan Funds previously awarded to the Applicant by the Department for the Development, including any outstanding loan balances that will remain after the Direct Loan closing.

is located January 13, 2020, through February 13, 2020, will have an Application Acceptance Date of February 13, 2020. Applications submitted in the General Set-Aside, that request less than or equal to the amount listed for the subregion in which the Development Site is located January 13, 2020 through February 13, 2020, will have an Application Acceptance Date of February 14, 2020.

- ii. **4% HTC-layered Applications with TDHCA as the Bond Issuer that request greater than RAF amount for the subregion in which the Development Site is located, where TDHCA is the Bond Issuer and were not recommended for an award under 3) a i. of this NOFA, or where TDHCA is the Bond Issuer and the Application is submitted under the Soft-Repayment Set-Aside.** Applications submitted under all Set-Asides that meet all of the following requirements will have an Application Acceptance Date of March 30, 2020:
  1. The Application is layered with 2020 4% HTC in which TDHCA is the Bond Issuer;
  2. The Application was not recommended for an award under Section 3(a)(i) of this NOFA; and
  3. The Application is submitted January 13, 2020, through March 30, 2020.
- iii. **Applications that did not apply for or were not recommended for awards under Section 3(a)(i) and (ii), and submitted Applications January 13, 2020 through March 31, 2020, will have an Application Acceptance Date of March 31, 2020.**

- b. **Priority 2.** Applications applying contemporaneously for current year 9% HTC will have an Application Acceptance Date of April 1, 2020.
- c. **Priority 3.** Applications submitted after April 1, 2020, will have Application Acceptance Date on the business day of receipt, in accordance with 10 TAC §13.5(c).

**4) Interest Rates.**

- a. **Construction-to-Permanent Loans.** All Direct Loan requests structured as construction-to-permanent loans will be required to use the minimum required interest rate listed in the table below depending on the Set-Aside, Activity, whether or not HTC are also being requested, and whether or not the Direct Loan will be in first lien position during the permanent period. If the Debt Coverage Ratio is less than the minimum 1.15 with the minimum required interest rate as applicable, staff will make adjustments to the financing structure in accordance with 10 TAC §11.302(d)(4)(D)(i), with the exception of 10 TAC §11.302(d)(4)(D)(i)(II)(-a-).

Set-Aside and Priority	Activity	HTC layered	Direct Loan 1 <sup>st</sup> Lien during Permanent Period	Minimum Required Interest Rate



<b>CHDO or General – 4% HTC with TDHCA as Bond Issuer</b>	NC, A/R, R	Y	Y or N	0%
<b>CHDO or General – all other Applications</b>	NC, A/R, R	Y	Y	2.0%
			N	2.50%
		N	Y	2.75%
			N	3.0%
<b>Soft Repayment</b>	NC only	Y or N	Y or N	0%

- b. **Construction-Only Loans.** All Direct Loan requests structured as construction only loans, regardless of the Set-Aside and Activity, may request an interest rate as low as 0% with the principal amount of the Direct Loan due upon the end of the construction loan term as established in 10 TAC §13.8(e)(1).

**5) Maximum Per Unit Subsidy Limits and Maximum Rehabilitation Per-Unit Subsidy Limits.**

- a. The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the 2020 Maximum Per Unit Subsidy Limits table provided in this Section 5:

<b>2020 Maximum Per Unit Subsidy Limits</b>		
<b>Bedrooms</b>	<b>Non-elevator property</b>	<b>Elevator-served property</b>
0 bedroom	\$142,411	\$149,868
1 bedroom	\$164,203	\$171,802
2 bedroom	\$198,034	\$208,913
3 bedroom	\$253,490	\$270,266
4 bedroom or more	\$282,398	\$296,666

Smaller per unit subsidies are allowable and incentivized as point scoring items in 10 TAC §13.6.

- b. The Maximum Rehabilitation Per Unit Subsidy Limit is \$38,717 for Applications proposing rehabilitation.

**6) Application Submission Requirements.**

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on January 13, 2020 through August 31, 2020, at 5:00 p.m. Austin local time (if sufficient funds remain). An Applicant may have only one active Application per Development at a time under this or any other Department NOFA, and may only have that Development apply under one Set-Aside at a time.

- b. **Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
- c. An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (MPPM) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.
  - i. If an Applicant has an active Application (i.e. the Board has not made a Direct Loan Award), but wishes to apply for additional funds, it must withdraw that Application and submit a new Application.
  - ii. Applicants for Developments that have received an award of Multifamily Direct Loan Funds or Housing Tax Credits prior to the date of the Application under this NOFA, should consult 10 TAC §13.5(h) regarding Eligibility Criteria, and provide the additional information required by 10 TAC §13.5(h)(2)(B), including clear evidence of the circumstances beyond their control that materially impair their ability to provide affordable housing. Evidence will include information from verifiable third-party sources that allows the Board to make an informed decision regarding eligibility.
- d. **Minimum Requests.** The request for funds under the CHDO, Soft Repayment, and General Set-Asides may not be less than \$300,000 regardless of the Set-Aside under which an application is being submitted. However, if the underwriting report indicates that the Development will be feasible with an award of less than \$300,000, staff may recommend a lower award.
- e. **Match Submission Requirements.** All Applicants must provide Match in the amount of **at least 7.5%** of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider’s willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.
- f. The 2020 CHDO Certification Packet must be submitted with the 2020 Uniform Multifamily Application for Applicants applying under the CHDO Set-Aside.
- g. All 4% HTC-layered applications must provide evidence of a Reservation with submission of the MFDL Application submission.
- h. Each CHDO that is awarded HOME funds may also be eligible to receive a CHDO operating grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208

as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. An award of HOME funds under the CHDO Set-Aside does not guarantee that a CHDO will receive a grant for CHDO Operating Expenses.

- i. An Applicant under the CHDO, Soft Repayment, and General Set-Asides who are not also simultaneously applying for 2020 9% or 4% Housing Tax Credits are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Tex. Gov't Code §2306.147(b) requires the Department to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
- j. An Application must be uploaded to the Department's secure web transfer server in accordance with 10 TAC §11.201(1)(C).

**7) Post Award Requirements.** Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapter F and G.

- a. Awarded Applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- b. An Applicant will be required to record a Land Use Restriction Agreement (LURA) limiting residents' income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool, or as represented in the Application for the term of the LURA.
- c. An Applicant must have a current Data Universal Numbering System (DUNS) number and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. Applicants may apply for a DUNS number at [dnb.com](http://dnb.com)). Once you have the DUNS number, you can [register with the SAM](#).
- d. An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

**8) Miscellaneous.**

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME and NHTF fund sources. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.
- b. All Applicants must comply with public notification requirements in 10 TAC §11.203.
- c. Waivers of any substantive or procedural provision of this NOFA, if available, will be treated in accordance with 10 TAC §13.1(c). 10 TAC §13.1(c) may not be waived.

- d.** For questions regarding this NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at [andrew.sinnott@tdhca.state.tx.us](mailto:andrew.sinnott@tdhca.state.tx.us).

**Attachment A**

**Regional Allocation Formula under the General Set-Aside – URBAN**

<b>Region</b>	<b>Subregion Allocation Amount</b>
1	\$132,110.34
2	\$61,876.35
3	\$2,623,497.49
4	\$530,280.89
5	\$261,068.05
6	\$572,849.63
7	\$1,356,613.25
8	\$512,503.83
9	\$426,958.63
10	\$361,847.13
11	\$426,921.60
12	\$305,724.16
13	\$479,353.00

**Regional Allocation Formula under the General Set-Aside – RURAL**

<b>Region</b>	<b>Subregion Allocation Amount</b>
1	\$475,829.98
2	\$328,085.81
3	\$411,083.33
4	\$1,097,845.12
5	\$731,836.00
6	\$344,737.06
7	\$169,655.09
8	\$472,200.51
9	\$352,582.40
10	\$456,518.42
11	\$658,254.77
12	\$284,917.83
13	\$37,834.33

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on the 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Substantial Amendment of the 2015-2019 State of Texas Consolidated Plan

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) requires the submission of a five-year Consolidated Plan that includes the National Housing Trust Fund (NHTF) HUD-funded program in accordance with 24 CFR §91.250;

**WHEREAS**, the Board approved the draft 2020-2024 State of Texas Consolidated Plan (the Plan) as presented at its meeting on March 26, 2020, and released for public comment;

**WHEREAS**, the Board approved the draft NHTF Rehabilitation Standards at its meeting on April 23, 2020, which also served as a public hearing for the item, and whereby the draft was released for public comment through May 26, 2020; and

**WHEREAS**, TDHCA did not receive any public comment for consideration herein;

**NOW, therefore, it is hereby**

**RESOLVED**, the 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards, in the form presented to this meeting, are hereby approved and the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to submit the 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards as an attachment to the 2020-2024 State of Texas Consolidated Plan to HUD, and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable; and

**FURTHER RESOLVED**, if determined necessary to meet its NHTF Expenditure deadline that the Executive Director and his designees may add Rehabilitation as an eligible activity and submit these Rehabilitation Standards to HUD as a Substantial Amendment to the 2015-2019 Consolidated Plan.

**BACKGROUND**

The 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards (the NHTF Rehabilitation Standards) only apply to the National Housing Trust Fund (NHTF) HUD-funded program administered by TDHCA. At this time, the NHTF program is statutorily dedicated to serve extremely low-income (ELI) families and households.

TDHCA has served ELI populations using HUD-allocated NHTF funds by awarding Multifamily Direct Loans for eligible multifamily new construction and reconstruction activities. Nevertheless, TDHCA is not authorized to utilize NHTF for multifamily rehabilitation activities until it has standards for such activity approved by HUD. Staff are hereby presenting these proposed final NHTF Rehabilitation Standards as a part of a larger, multidivisional effort to expand the scope of eligible NHTF activities to include those rehabilitation activities contemplated under 24 CFR Part 93 and the 2020 State Administrative Rules.

As required, Staff first presented the draft 2020 NHTF Rehabilitation Standards to the Board for consideration on April 23, 2020. The Board approved and released them for public comment.

Due to the ongoing public health concern related to COVID-19, the Department held its virtual public hearing to receive public comment orally from interested stakeholders and the public at the same April 23, 2020 virtual Board meeting. An extended 33-day public comment period ensued between April 23, 2020, and May 26, 2020. No public comments were received.

The proposed final Standards are now being presented to the Board for consideration in substantially the same form as approved at the April 23, 2020 Board meeting. No substantive revisions were made, but minor technical and administrative revisions have been included in anticipation of HUD's review. Pending Board approval, the final Standards will be submitted to HUD as an attachment to the 2020-2024 State of Texas Consolidated Plan.

The Department has an upcoming NHTF commitment deadline. If deemed necessary, this action provides the Executive Director and his designees the ability to add Rehabilitation as an eligible activity and submit these Rehabilitation Standards to HUD as a Substantial Amendment to the 2015-2019 Consolidated Plan.



**2020 Program Year  
TDHCA | Multifamily Finance Division  
Multifamily Direct Loan Program**

# **2020 National Housing Trust Fund (NHTF) Multifamily Minimum Rehabilitation Standards**

## **IMPORTANT NOTICE REGARDING THESE STANDARDS**

**TDHCA encourages the reproduction and distribution of this document to all relevant parties participating in Rehabilitation; including but not limited to, staff, general contractors, and subcontractors. If not distributed, at a minimum, all parties with the ability to exercise control over the Development must be informed and so acknowledge compliance with all applicable construction requirements, building codes, necessary materials, accessibility standards, installation methods, etc., regardless of whether expressly stated herein. As such, these Standards must be included in all construction and maintenance documents by reference. Moreover, specific sections may be expressly required in, or the Standards in their entirety, may be required to be attached to particular documents, as determined by the Department.**

**Moreover, it is important to remember these Standards serve as a starting point for eligible NHTF-assisted Multifamily Rehabilitation activities. Additional project requirements, rules, and regulations WILL APPLY and may be more detailed in Program Documents. IT IS THE RESPONSIBILITY OF THE DEVELOPMENT OWNER/BORROWER TO ENSURE COMPLIANCE WITH ANY AND ALL APPLICABLE PROGRAM REQUIREMENTS, RULES, AND REGULATIONS THAT MAY BE REQUIRED IN ADDITION TO THE MINIMUM CONDITIONS PROVIDED IN THESE STANDARDS.**

## Table of Contents

<b>I.</b>	<b>Introduction</b>	<b>4</b>
<b>II.</b>	<b>Definitions</b>	<b>5</b>
<b>III.</b>	<b>Minimum Standards for Major Systems (24 CFR §93.301(b)(ii))</b>	<b>6</b>
	Structural Support and Roofing Systems	
	Cladding and Weatherproofing Systems (e.g. windows, doors, siding, gutters)	
	Plumbing Systems	
	Electrical Systems	
	Heating, Ventilation, and Air Conditioning Systems (HVAC)	
<b>IV.</b>	<b>Mandatory Development and Unit Standards (24 CFR §93.301(b)(1)(i),(iii),(iv),(vi), and (x))</b>	<b>32</b>
	Health and Safety	
	Lead-Based Paint	
	Accessibility & Visitability	
	Disaster Mitigation	
	Energy & Water Efficiency	
	Broadband Infrastructure	
	Development and Unit Amenities	
<b>V.</b>	<b>Inspections, Construction Documents, &amp; Compliance (24 CFR 93.301(b)(2) and (3))</b>	<b>33</b>
	Inspection Procedures and Compliance	
	Construction Documents (e.g. Work Write-Ups)	
	Cost Estimates, Certifications, & Annual Audits	
<b>VI.</b>	<b>Scope of Work and Post-Rehabilitation Standards (24 CFR §93.301(b)(1)(viii) and (ix))</b>	<b>34</b>
	Uniform Physical Condition Standards (UPCS)	
	Scope and Cost Review (SCR)	
	Capital Needs Assessment (CNA)	
<b>VII.</b>	<b>Appendix</b>	<b>35</b>
	Appendix A, B, and C	
<b>VIII.</b>	<b>Attachments</b>	<b>42</b>
	<i>Attachment A – TDHCA Uniform Physical Condition Standards (UPCS) Checklist</i>	
	<i>Attachment B – TDHCA Scope and Cost Review (SCR) Supplement</i>	

# **NHTF MINIMUM REHABILITATION STANDARDS MULTIFAMILY DIRECT LOAN PROGRAM**

**2020 Program Year  
(ending Aug. 31, 2021)**

## **Introduction**

These National Housing Trust Fund (NHTF) Minimum Rehabilitation Standards (hereinafter referred to as “Standards”) are intended to provide the minimum acceptable standards for affordable multifamily rental housing developments Rehabilitated in whole or part using Multifamily Direct Loan Program (MFDL Program) NHTF funds in the State of Texas.

These Standards are designed to ensure clarity, efficiency, and feasibility in the successful completion of eligible rehabilitation projects. Accordingly, these Standards only provide the necessary descriptions of the minimum elements of rehabilitation, as required by the U.S. Department of Housing and Urban Affairs (HUD) and 24 CFR §93.301(b). Accordingly, these Standards only address those minimum standards for: (1) Health and Safety; (2) Major Systems; (3) Lead-Based Paint; (4) Accessibility; (5) Disaster Mitigation; (6) Uniform Physical Condition Standards (UPCS); and (5) Property Condition or Capital Needs Assessment (SCR/CNA).

Recommendations made in applicable Mandatory Assessments regarding health and safety or life expectancy of major systems must be implemented. Additionally, estimates (based on age and condition) of the remaining useful life of major system(s) are required to be conducted upon project completion of each major system, in accordance with 24 CFR §93.301(b)(1)(ix). If the remaining useful life of one or more major system is determined to be less than the applicable period of affordability, a replacement reserve shall provide adequate monthly payments to effectively repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ix).

Unless otherwise required, these Standards do not supersede or preempt State and local codes, ordinances, and requirements for developing and maintaining the Development. All applicable codes, ordinances, and zoning requirements must also be adhered. In the absence of State or local building codes, ordinances, or requirements for Rehabilitation, the International Existing Building Code (IEBC) or International Building Code (IBC) (as applicable) of the International Code Council (ICC), in the version adopted by the Multifamily Direct Loan Rule, 10 TAC Chapter 13, shall apply in addition to these minimum Standards.

## Definitions

The following words and terms, when used in these Standards, shall have the meaning as provided herein, unless the context clearly indicates otherwise. Any capitalized terms or phrases not specifically mentioned in this section shall have the meaning as defined in Title 10, Part 1, Chapter 1 of the Texas Administrative Code (**Administration**), Title 10, Part 1, Chapter 2 of the Texas Administrative Code (**Enforcement**), Title 10, Part 1, Chapter 10 of the Texas Administrative Code (the **Uniform Multifamily Rules**), Title 10, Part 1, Chapter 11 of the Texas Administrative Code (the **Qualified Allocation Plan (QAP)**), Title 10, Part 1, Chapter 13 of the Texas Administrative Code (the **Multifamily Direct Loan Rule**)(collectively referred to as the **State Multifamily Rules**); or as otherwise defined in Tex. Gov't Code, Chapter 2306 (the **Governing Statute**), §141, 142, and 145 of the Internal Revenue Code (the **Code**), or 24 CFR Part 91, Part 92, Part 93, and 2 CFR Part 200.

1. **Accessible Route**--a continuous, unobstructed path connecting all accessible elements and spaces in a facility or building that complies with the space and reach requirements of the applicable accessibility standard(s).
2. **Plumbing Fixtures**--all relevant plumbing components, which include toilets, urinals, bidets, faucets, lavatories, sinks, showers, bathtubs, and floor drains. Plumbing appliances include washing machines, dishwashers, domestic water heaters, garbage disposals, and water softeners.
3. **Plumbing System**--all relevant plumbing components, which include but are not limited to: piping, fittings, devices, faucets, containers and receptacles that are used to supply, distribute, receive or transport potable water and wastewater.
4. **Substandard Conditions**--any condition that threatens the health and/or safety of the occupants. Substandard Conditions include any condition which threatens, defeats, or will lead to the lack of functional viability of a single feature of a structure. Hazardous conditions are a type of Substandard Conditions.

## **Minimum Standards for Major Systems (24 CFR §93.301(b) and 24 CFR §93.301(b)(1)(ix))**

### **Major Systems**

These Standards provide the minimum rehabilitation requirements for Major Systems herein. In accordance with 24 CFR §93.301(b), the Major Systems with minimum standards provided herein are:

- foundation;
- structural support, roofing;
- cladding & weatherproofing;
- plumbing;
- electrical; and
- heating, ventilation, and air conditioning (HVAC).

### **General Requirements, Standard Conditions, and Substandard Conditions**

The Minimum Standard Conditions and Substandard Conditions for each Major System are sufficiently detailed in method and material to provide the MINIMUM threshold for Rehabilitation activities that NHTF-assisted Multifamily Developments MUST MEET OR EXCEED.

It is important to remember any threshold requirements provided herein do not supersede or preempt State and local codes, ordinances, and requirements for building and maintenance with which NHTF-assisted housing must comply. Rather, compliance must be accomplished in addition to meeting or surpassing these Standards. In the absence of such State or local building codes, ordinances, or other requirements, the applicable version(s) of the International Existing Building Code (IEBC) or International Building Code (IBC) of the International Code Council (ICC), as adopted in 10 TAC Chapter 13, shall apply in addition to these Standards.

### **Determining the Scope of Work**

This section shall guide the determination as to the minimum scope of work required. In conjunction with the mandatory property assessments required in these Standards, a determination must consider the requirements of the ICC Code Set, in the version adopted by 10 TAC Chapter 13 and as applied to these Standards. Accordingly, the determination will consider the ICC Principles of Safety, Capacity, and Convenience.

Each repair should be detailed as required through the use of plans, drawings, specifications (conforming to the MasterFormat) and work write-ups. At a minimum, each repair should be detailed in a work write up that accurately specifies the location, required demolition (if applicable), and the methods and materials for the project -- all with enough detail to determine the desired outcome or finished product. Work write ups may reference plans and specifications as needed but must be detailed enough to complete repairs.

### **1.0 Basic Site Work**

- a. Minimum Standard Conditions.** The subject lot or defined site shall be free of debris, garbage or other accumulations of site stored items which create possibilities of infestations. The site should be

generally level as allowed by natural topography, well drained, and accessible. Additional drainage features should be added if need is evidenced by existing erosion, standing water or evidence of water damage. In addition to any applicable requirements herein, any and all deficiencies noted in the Uniform Property Conditions Standards or the 2012 ICC Property Maintenance Code must also be addressed.

**b. Substandard Conditions.** Substandard conditions for Basic Site Work include but are not limited to those conditions listed in **(1) – (14)**, for which adequate repair or replacement is required, as applicable and further detailed herein:

- (1)** Accumulated debris, waste, or garbage either in enclosed areas such as storage buildings or on the property;
- (2)** Deteriorated outbuildings, sheds, wells, privies, or other structures which are no longer in use or are made unusable by their condition;
- (3)** Holes, ditches, exposed water meter boxes or other condition which creates a tripping hazard, excluding drainage ditches which are part of a designed drainage system;
- (4)** Rodents, insects, or other infestations;
- (5)** Standing water or depressions which hold water during wet weather;
- (6)** Leaking water supply or leaking sewage system;
- (7)** Obsolete sanitary piping systems such as Orangeberg, clay or other non-standard pipe;
- (8)** Scaling, calcified or otherwise compromised water supply lines;
- (9)** Exposed pipes, railings or other installations creating tripping hazards;
- (10)** Damaged, missing or deteriorated walkways, steps and decks which create tripping hazards or are otherwise unsafe;
- (11)** Stairways or steps above 30" from the finished grade without a functioning guard rail;
- (12)** Except on an Accessible Route any change in level in a walkway shall not be greater than  $\frac{3}{4}$ ";
- (13)** On any Accessible Route any change in level shall not be greater than  $\frac{1}{2}$ ". Any change in level between  $\frac{1}{4}$ " and  $\frac{1}{2}$ " must be beveled 45 degrees; and
- (14)** Any walkway or driveway that exceeds 5% damage in the form of cracking, spalling, holes, heaving or other damage.

**c. Other Conditions/Requirements.**

- (1) Debris and Brush Removal.** The premises shall be free from accumulations of rubbish and garbage that present health and safety hazards. The premises shall be free from trees and shrubs that are damaging the dwelling or present a hazard. Tree limbs in danger of falling on roof areas shall be removed. No vegetation should touch existing buildings, utility service lines, fences, or extend over walkways or parking areas.
- (2) Drainage.** Surface drainage shall be diverted to a storm sewer or other approved point of collection that does not create a hazard. Lots need to be graded to drain surface water away from the foundation at a minimum slope of 6" within the first 10'. Where lot lines or other physical barriers prohibit this, drains, swales, and/or rain gardens shall be constructed to ensure drainage away from the structure. Use of alternative drainage methods must be approved by TDHCA. Rain gutters shall be installed if none exist. Gutters shall slope 1" for every 20 linear feet with downspouts installed at a minimum every 40'. Downspouts must empty into a splashblock or be diverted at least five feet from the building. Special care must be taken to not discharge water onto adjacent properties.
- (3) Driveways, Sidewalks, and Patios.** Paved surfaces shall be free from hazards which can cause tripping and falling. Paved surfaces adjacent to the foundation shall not slope towards the

structure so that water can collect at the foundation. If tripping hazards and drainage problems exist, the paved surface shall be removed and rebuilt.

**(A) Driveways.** Following existing driveway demolition, all organic matter shall be removed. Subsoil shall be compacted uniformly and evenly. Forms shall be constructed to provide a minimum slope of 1/8" per foot away from the house and at a depth to provide 4" of concrete. Install either number 4 rebar on 12" centers or 6" x 6" number 10 welded reinforcing wire. Expansion joints shall be installed at all radius points, sidewalk intersections and house slab tie-ins. Concrete mix shall provide a minimum of 3,500 psi at 28 days. If reinforcing steel is not used, control joints shall be sawed in every 10' and be broom finished. Asphalt or gravel driveways may be installed if concrete is prohibitively expensive due to the length of a driveway, or if they are customary for the neighborhood.

**(B) Sidewalks and Patios.** Following existing sidewalk demolition, all organic matter shall be removed. Subsoil shall be compacted uniformly and evenly. Forms shall be constructed to provide a minimum slope of 1/8" per foot away from any building, at a depth to provide 3 1/2" of concrete, and at least 3' wide. Accessible Route cross slope shall not exceed 2%. Expansion joints shall be installed at all radius points, sidewalk intersections and slab tie-ins. Control joints shall be sawed in every 5' and be room finished. If sidewalks and patios are installed and are connected to an entry door an accessible entry will be required.

**(4) Ramps.** On Accessible Routes, ramps shall meet the requirements of the 2010 ADA and the applicable Accessibility requirements provided in these Standards.

**(5) Vermin and Insects.** The premises shall be free from infestations of vermin and wood-boring insects. Inspections shall be performed by state licensed extermination contractors if evidence of infestation exists. Conditions which increase or cause infestation shall be removed (e.g. accumulation of rubbish garbage, unsanitary conditions, presence of consistent moisture, untreated wood in contact with soil, etc.). One or more of the following termite treatments shall be included in the Rehabilitation if infestation is observed; chemical termiticide treatment, termite baiting system installed and maintained according to the manufacturer's label, use of pressure-preservative treated wood, use of naturally durable termite-resistant wood, and/or termite shields.

**(6) Landscaping for Additions.** When an addition is built, underground utilities run, grade changes made, or the soil is otherwise disturbed, proper compaction and a fine finish grading shall be done and seed, sod or native plants shall be installed matching as closely as possible the existing surrounding yard.

## **2.0 Foundations**

**a. General Requirements and Standard Conditions.** Foundation work shall be completed in its entirety prior to beginning work on other areas of the housing unit(s). Leveling shall be done in such a manner as to provide an acceptable degree of tolerance. When leveling takes place, doors, windows and other openings shall be reasonably plumb, level and easy to operate. Interior wall coverings shall be repaired and Plumbing Systems shall be inspected to insure the system functions as intended. Foundation leveling shall include grading of the soil to provide a slope away from the home of at least 6" for the first 10'. If the lot does not allow for this grade, a French drain shall be installed to drain water away from the house, or swales shall be designed and built to control rain water runoff. Refer to Section 6.3 (relating to Minimum Standards for Sanitary Drainage).



Foundation walls shall be a minimum of 6" above grade, or 4" above grade if masonry veneer is existing or will be installed. Underpinning shall be required when foundation leveling is a part of Rehabilitation. Any room additions shall comply with the 2015 IRC or later.

In regards to safety, the ICC contains provisions considered necessary for safe installation; however, they are merely minimum requirements. Providing a safe foundation, leveling, repair, or installation and minimizing hazards can be done by following the principles of foundation construction and stabilization, fully complying with any limitations placed on the use of products and materials and permitting only qualified persons to participate.

With foundations, capacity refers to its ability to carry live and dead loads with respect to the soil's plasticity. Unsafe conditions often occur because existing foundations were not properly planned or designed for the soil conditions at the site low to the ground making it difficult to access Plumbing Systems. Convenience also refers to similar concerns, whereby crawlspaces are often too low to the ground, making it difficult to access Plumbing Systems. While raising the housing may not be feasible, every practical effort must be made to increase the crawlspace clearance to a minimum of 12" above grade when leveling housing.

**b. Substandard Conditions.** At a minimum, repair or replacement is required if any of the conditions in (1) – (7) exist:

- (1) Evidence of wood destroy insect damage;
- (2) Water and/or fire damage or dry rot to wooden piers, beams, joists, and subfloor;
- (3) Inadequate support of beams, sills, or joists;
- (4) Lack of drainage away from the home;
- (5) Cracked, damaged, buckled skirting;
- (6) Untreated wood in contact with the soil; or
- (7) Any other condition which meets the definition of a hazardous or substandard condition.

**c. Other Requirements/Conditions.**

**(1) Slab on Grade.** All concrete floors shall be without serious deterioration or conditions that present a falling or tripping hazard. With existing concrete floors, cracks longer than six inches in concrete slabs, 3/4 inch along walkways or steps, or any missing or uneven sections shall be repaired. Slab on grade foundations that are failing, as demonstrated by an inspection by a structural engineer, shall not be rehabilitated.

**(2) Pier and Beam.** Piers shall have allowable spans between piers or posts. Piers shall support beams which in turn support floor joists. Joists must not be more than 24" on center and, if not continuous, overlap beams shall be at least 12". If major leveling is required, a structural engineer shall inspect the foundation to determine the number of piers that need to be added, repaired, or replaced.

Newly installed footings shall be a minimum of 12" below undisturbed ground surface and the surface shall be level. Termite shields shall be installed on newly installed posts, regardless of pier material.

Skirting shall extend four inches below and at least 18" above grade or up to the exterior cladding and be lapped and fastened under the cladding material. Access to the crawlspace

shall be 18" high by 24" wide (if in the floor) or 16" high by 24" wide (if on the perimeter wall), and is not allowed to be installed under a door. Venting of the crawlspace shall be one square foot per 350 square feet of crawl space area and one vent opening within three feet of each corner. Crawlspace floor shall be covered with six mil polyethylene. Skirting is not permitted in flood zones.

### **3.0 Structural Support and Roofing**

#### **3.1 Roofing Systems**

**a. Description.** All relevant roofing components, which include but are not limited to, trusses, rafters, ridge beams, collar ties, ceiling joists, top plates of walls, and sheathing. Moreover, Truss Designs for Replacement Roofs complying with wood roof framing, includes: slope, span, and spacing; location of all joints, required bearing widths; design loads; joint connector type and description; lumber size, species, and grade; connection requirements; bracing locations; and roof tie-downs and uplift resistance details for high wind areas, or as otherwise provided in Section R802 of the 2015 IRC.

**b. General Requirements and Standard Conditions.** The Roof System and the roof covering shall safely support the loads imposed. Framing and decking shall be structurally sound, properly fastened, and form a sound base for attaching the roof covering. The Roof System shall be configured to provide a positive drainage plane.

**c. Substandard Conditions.** At a minimum, any Roof System that is incapable of safely supporting the load or fails to safely provide adequate drainage must be repaired or replaced. Deteriorated, missing or loose framing or sheathing must also be corrected. Generally, repair or replacement is required for any applicable condition listed in (1) – (10):

- (1) Multiple layers of roof covering materials (more than two);
- (2) Water damage caused by leaks through the roofing system;
- (3) Missing, worn, or upturned shingles;
- (4) Damaged, missing, or improperly installed roof jacks, flashings, drip edges on both rakes and eaves;
- (5) Exposed nails or other fasteners;
- (6) Structural damage to trusses;
- (7) Extensive patchwork and repairs;
- (8) Missing, damaged, loose, leaking, blocked, improperly sloped gutters and downspouts;
- (9) Wear and tear leading to a failed system within five years from the initial inspection; or
- (10) Any other Hazardous or Substandard condition.

#### **3.2 Structures**

**a. General Requirements and Standard Conditions.** Roof structures incapable of safely supporting the load or providing adequate slope for drainage shall be repaired or replaced. Sagging roofs shall be replaced or stabilized. Stabilization of sagging roofs that will not be replaced shall be designed by a structural engineer.

**b. Other Requirements/Conditions.**

**(1) Truss Design for Replacement Roofs.** Truss designs for replacement roofs shall comply with wood roof framing in Section R802 of the 2015 IRC which includes; slope, span, and spacing; location of all joints, required bearing widths; design loads; joint connector type and description; lumber size, species, and grade; connection requirements; bracing locations; and roof tie-downs and uplift resistance details for high wind areas.

**(2) Roof Framing for Replacement Roofs.** Purlin support braces shall be installed every 4' O.C. Continuous purlins shall be installed between support braces. Purlins shall be a minimum of 2" x 4" studs. Ceiling joists shall comply with Span Tables R802.4(1) and R802.4(2).

**(3) Sheathing Replacement.** 5/8" CDX plywood shall be installed with clips spaced O.C. between rafters for rafter spacing of 24".

**(4) Ventilation.** Unconditioned attics shall be cross ventilated. A one to one ratio shall be installed; for every one foot of soffit vent area there shall be one foot of ridge, gable, or turtle vent area. Soffit vents shall have baffles installed providing at least one inch of airspace to prevent wind washing and/or attic insulation blocking soffit vents. All vents shall have corrosion-resistant wire cloth screening or similar material.

**(5) Radiant Barrier.** A radiant barrier should be installed in all accessible attic areas.

Powered attic vents, whether connected to the structure's electrical system or powered by photovoltaic, are not allowed.

### **3.3 Roof Covering**

**a. General Requirements and Standard Materials.** Asphalt shingles shall be fastened to solidly sheathed decks. Asphalt shingles shall be used only on roof slopes of 2:12 or greater slope. Slopes, if applicable, less than 2:12 require appropriate membrane designed for such surfaces. Metal roof panels must either be naturally corrosion resistant or provided corrosion resistance per the manufacturer's requirements. Metal roofs shall only be installed on slopes of 3:12 (for lapped, nonsoldered-seam), ½:12 (for lapped, nonsoldered-seam panels with applied lap sealant), or ¼:12 (for standing-seam roof systems). Otherwise, roof weatherproofing, reinforcement, and surfacing shall be completed in accordance with applicable provisions of the IBC or IEBC.

**(1) Flashings.** Flashings shall be installed in a manner that prevents moisture from entering walls or the roof through penetrations, at eaves and rakes, at wall/roof intersections, wherever there is a change in roof slope or direction and around roof openings. Wall/roof intersections extending to eaves shall be provided with kick-out flashing. All wall/roof intersections shall have step flashing with at least 1" space between the roof covering and the adjacent wall cladding. Metal flashings shall be a No. 26 galvanized sheet metal and corrosion resistant. A cricket or saddle shall be installed on the ridge side of any chimney or penetration greater than 30" wide.

**(2) Valley Flashings.** Closed valleys (covered with asphalt shingles) shall be lined with one ply of smooth roof roofing or self-adhering polymer modified bitumen underlayment prior to asphalt shingle installation.

## **4.0 Minimum Standards for Walls, Ceilings, & Flooring**

### **4.1 Walls and Ceilings**

**a. General Requirements and Standard Conditions.** On exterior walls, all defects or deterioration that would allow the elements to enter wall cavities shall be corrected through Rehabilitation. Replacement of sections of walls and ceilings shall match adjoining materials as closely as possible (e.g. thickness of the existing material). When replacement of entire wall or ceiling coverings or sections of them is replaced, priming and painting of the entire wall or ceiling shall be completed.

**b. Substandard Conditions.** Repair or replacement is required if any condition listed in (1) – (7) exists:

- (1) Water damage or dry rot of siding, trim, or interior wall coverings;
- (2) Exposed nails or popped seams;
- (3) Peeling or chipped paint, holes, cracks, or gaps in interior wall coverings or exterior cladding;
- (4) Broken, fire damaged or missing exterior cladding;
- (5) Sagging or missing ceiling sections;
- (6) Wood destroying insect damage in exterior cladding; or
- (7) Any other condition characterized Hazardous or Substandard.

**c. Other Requirements/Conditions.**

**(1) Walls.**

**(A) Exterior Walls.** If removing the exterior cladding, deteriorated exterior wall sheathing, studs, and bottom and top plates shall be replaced. Deteriorated or missing insulation shall be replaced and wall cavities shall be insulated to a minimum R-13.

Masonry repair or replacement shall match existing masonry as closely as possible, installed plumb, true, and in line with existing courses. If weep holes are filled or nonexistent, they shall be provided at least every 3' at the slab and at least 1 above each window.

Siding repair or replacement shall match existing siding as closely as possible and provide for a positive drainage plain. All joints and seams shall fall on center of wall framing. Overlap and water sealing shall be completed in accordance with the manufacturer's installation instructions.

**(B) Interior Walls.** A structural engineer shall inspect interior bearing walls that are proposed to be moved. Non-bearing walls do not require a structural engineer. Moved or newly installed walls shall be constructed with 2x4 studs with the bottom plate securely fastened to the floor and the top plate securely fastened to ceiling joists.

All new gypsum board shall be installed according the manufacturer's installation instructions and shall be installed a minimum of ½" above the finished floor, taped, floated, and feathered prior to painting. New wall coverings shall not show noticeable blemishes or dents and tape shall not show

after painting. All interior walls shall be painted with a No Volatile Organic Compound (VOC) paint.

**(C) Bathroom Walls.** Bathroom walls that are to be replaced shall be replaced with appropriate backer board. If tile will be installed in the shower/tub area, concrete board, or equivalent, shall be installed. Green board shall be installed in the rest of the bathroom. Bathroom wall coverings shall be installed a minimum of ½" above the finished floor, taped, floated, and feathered prior to painting. New wall coverings shall not show noticeable blemishes or dents and tape shall not show after painting. All bathroom walls shall be painted with a semi- or high-gloss paint No Volatile Organic Compound (VOC) paint.

**(2) Ceilings.** For ceiling structure, see the Roofing Chapter. Replacement of ceiling coverings shall be with 5/8" Type X gypsum board. Fastening shall be in accordance with the manufacturer's installation instructions. All new gypsum board shall be taped, floated, feathered, primed, and painted with at least 2 coats of No Volatile Organic Compound (VOC) paint. When ceilings are replaced, all ceiling fixtures removed and reinstalled for replacement shall be air sealed.

**(3) Painting and Finishes.** All areas not to be painted shall either be removed and reinstalled or completely covered to prevent overspray or splatter. Receptacle and switch plates shall be removed and reinstalled.

**(A) Interior Walls:** All walls that were repaired or replaced shall be painted with at least two coats of No Volatile Organic Compound (VOC) paint. Bathroom walls shall have a semi- or high-gloss sheen.

**(B) Exterior Walls:** Replaced or repaired exterior cladding, with the exception of brick veneer, shall be painted with at least two coats of exterior grade paint. Existing exterior walls not replaced or repaired but still painted must comply with all applicable requirements in (i) – (iv):

**(i)** The ground shall be protected with a drop cloth. For pre-1978 housing determined or assumed to have lead-based paint, all scraped paint shall be disposed of in accordance with applicable HUD and EPA guidelines, and as provided in these Standards;

**(ii)** Peeling and chipped paint shall be scraped loose;

**(iii)** The entire area to be painted shall be power washed prior to painting; and

**(iv)** All areas not to be painted (e.g. windows, doors and their trim, exterior lighting fixtures) shall be covered to prevent overspray.

**(C) Trim and Baseboards.** All installed trim around doors, windows, and floors shall be painted with at least one coat of No Volatile Organic Compound (VOC) paint on both sides (except for baseboard trim).

#### 4.1 Minimum Standards for Flooring

**a. General Requirements and Standard Conditions.** All flooring, including transitions between rooms, must be effective, relatively level, free of tripping hazards, and adhere to or exceed all applicable Accessibility standards. Floor covering and subflooring(s) must function as intended, as demonstrated through sufficient inspection. Related deficiencies must be corrected during Rehabilitation, as provided in these Standards.

**b. Substandard Conditions.** Deteriorated, inadequate, and weakened floor framing and subfloors can be the result of poor initial construction, foundation settling or failure, careless remodeling, water, or wood boring insects. A thorough inspection shall be conducted to identify all subfloor and flooring deficiencies.

**(1) Repair or Replacement.** The conditions in (A) – (D) require corrective measures be completed:

**(A)** Damaged, rotten, loose, weak or otherwise deteriorated subfloor;

**(B)** Torn, missing, broken, or otherwise damaged floor covering that creates a tripping hazard;

**(C)** Missing baseboards, shoe molding, or transition strips; or

**(D)** Any other condition that meets the definition of Hazardous or Substandard.

In doing so, repairs to severely sloped or uneven floors must satisfy all corrective measures or replacement will be required. New floor coverings shall be installed because the existing floor covering is ineffective, there are obvious trip hazards, because the subfloor was replaced, or because other work requires it, such as increasing the square footage of a room.

Replacement flooring may be required if necessary for Accessibility purposes; other concurrent work; or significant subflooring repairs/replacement occur. If required, any and all applicable Foundation work must be completed first. Thereafter, flooring replacement shall be conducted in accordance with the manufacturer's installation requirements.

**c. Other Requirements/Conditions.**

**(1) Subfloor.**

**(A) Concrete Slab.** If the concrete slab foundation is functioning as intended and is relatively level, no additional subfloor preparation is required. If it is functioning as intended, but not relatively level or has settlement cracks, self-leveling flooring compound shall be installed prior to installation of the floor covering.

**(B) Bathrooms, Kitchens, and High Traffic Areas.** When replacing subflooring in bathrooms, kitchens, and high traffic areas (e.g. hallways, breezeways) in housing with pier and beam foundations, the newly installed subfloor shall be 19/32" high performance paneling or 3/4" CDX plywood installed as the subfloor with floor joists not more than 24" on center.. All subfloor shall be installed with screws and include subfloor caulking adhesive.

**(C) Other Habitable Rooms.** Other habitable rooms requiring subfloor replacement shall have 3/4" CDX plywood installed as the subfloor with floor joists not more than 24" on center. All subfloor shall be installed with screws and include subfloor caulking adhesive.

**(2) Floor Coverings.**

**(A) Kitchens and Bathrooms.** Replacement floor coverings in kitchens, bathrooms, laundry rooms, and utility rooms shall be water resistant. Transitions between rooms shall match the new floor covering or match as closely as possible existing floor covering that is left in place. Sheet vinyl and VCT shall not be used in rooms with Plumbing Fixtures in pier and beam housing. Replacement floor coverings shall be selected for durability, safety, and ease of maintenance.

**(B) Other Habitable Rooms.** Replacement flooring in other habitable rooms may include VCT, however laminate planks or ceramic tile is preferred (if ceramic tile is installed on a

pier and beam foundation, the floor system may need to be structurally reinforced to support the extra load). Transitions between rooms shall match the new floor covering or match as closely as possible existing floor covering that is left in place. Sheet vinyl shall not be installed. Replacement floor coverings shall be selected for durability, safety, and ease of maintenance.

**(C) Vinyl Composition Tile (VCT).** VCT shall be 12" x 12" x 1/8" and stored inside a conditioned space for a minimum of 48 hours prior to installation to allow materials to condition to the inside environment. VCT shall be fitted tightly, with no gaps showing at walls, doors, or trim. Full cover shall be achieved. Base boards or shoe molding shall be installed.

**(D) Laminate Planks.** Laminate flooring shall be stored inside a conditioned space for a minimum of 48 hours prior to installation to allow materials to condition to the inside environment, and installed per the manufacturer's instructions. Door trim may need to be cut to fit planks seamlessly between rooms. Laminate planks shall be fitted tightly, with no gaps showing at walls, doors, or trim. Full cover shall be achieved, but it shall not fit tightly against walls so that it is allowed to "float". Base boards or shoe molding shall be installed.

**(E) Carpeting.** Carpeting is generally discouraged; removal of existing carpeting should be conducted where practicable. Otherwise, carpeting must be of good quality, in sanitary condition, and preferably low pile. Carpet installation must be completed per the manufacturer's instructions and over appropriate pad(s). Carpet installation is not permitted in kitchens or bathrooms. Replacement floor covering(s) shall be selected for durability, safety, and ease of maintenance.

## **5.0 Other Cladding and Weatherproofing (e.g. Windows, Doors, Siding, Gutters)**

### **5.1 Minimum Standards for Doors and Windows**

- a. General Requirements and Standard Conditions.** Applicable Foundation work must be completed prior to repairing or replacing doors and windows. Each habitable room that contains a window shall have at least one window that is in operable condition and capable of being held in the open condition without assistance or device. Habitable bedrooms must have a minimum of one window that meets egress requirements. Bathrooms, bedrooms and utility rooms shall have a door that is easily operable and fitted with functioning hardware that tightly latches the door.

All windows repaired or replaced as part of the scope of work must operate safely, effectively, and conveniently regardless of user's age or ability. Each window must have an operable screen. Repaired or replaced windows must meet or exceed the requirements of an Energy-Star Rating. Additionally, blinds or window coverings must be provided for all windows.

- b. Substandard Conditions.** At a minimum, the conditions in (1) – (11) must be repaired or replaced:

- (1)** Broken, missing or cracked window panes;
- (2)** Rotten or deteriorated sills, frames or trim;
- (3)** Missing seal or sealant or dried, cracked or missing putty or caulking around window panes;
- (4)** Windows painted shut, inoperable or difficult to open and close;
- (5)** Security bars that do not open from the inside without any special knowledge or tools;

- (6) Windows and exterior doors that do not lock;
- (7) Broken, damaged, or deteriorated doors;
- (8) Doors that do not shut and latch or lock smoothly with the strike plate;
- (9) Exterior doors that are not listed as exterior doors;
- (10) Rotted, deteriorated or damaged thresholds, jambs, frames, or trim; and
- (11) Any other condition that can reasonably be characterized as Hazardous or Substandard.

**5.2 Minimum Standards for Doors**

**a. General Requirements and Standard Conditions.**

All doors shall be in good operating order, easy to open, close and latch. All replacement doors must be installed true and plumb with trim installed on both sides. Hardware style (e.g. knob, lever handle, passage), finish (e.g. chrome, brushed nickel, satin), and any glazing shall be identified in the scope of work. All doors that come into contact with interior walls when opened shall have base board mounted, rubber tipped door stops installed.

**(1) Interior Doors.** Interior door replacements must be installed true and plumb, with trim installed on both sides. Bathroom doors shall be able to be locked.

**(2) Exterior Doors.** Exterior doors include, but are not limited to, doors connecting the conditioned space with an attached garage. Replacement exterior doors must be at least Energy Star qualified, or its equivalent, double bore exterior doors. Doors connecting the conditioned space to an attached garage shall also be fire rated. All exterior doors shall be keyed alike with a sufficient number of key copies provided to the residents.

**b. Other Requirements/Conditions.**

**(1) Accessibility and Universal Design.** Accessible doors may be required depending on the Unit or Household Type(s). Universal design principles state that housing should be built to accommodate any person regardless of age or physical ability. Consultation(s) should be made to determine whether the conditions in (A) – (C) are necessary:

**(A)** Heavily used Interior doors widened to accommodate a 36" door with a threshold no higher than 1/8". If not feasible due to structural constraints, clear swing hinges can be installed;

**(B)** Automatic door openers can be installed; and

**(C)** Lever handles will be installed on all doors.

**5.3 Minimum Standards for Windows**

**a. General Requirements and Standard Conditions.** All windows shall be in good operating order, easy to open, close, latch, and lock. Windows that cannot be repaired must be adequately replaced. Flashing materials shall provide a positive drainage plane.

**b. Performance Chart.** Replacement windows shall meet or exceed Energy-Star or equivalent Ratings. The Performance Chart included herein provides the minimum performance ratings required for all replaced and, if practical, repaired windows.

<b>Performance:</b>	<b>CZ2</b>	<b>CZ3</b>	<b>CZ4</b>
<b>Performance Measure:</b>			
U-Factor	0.65	0.50	0.35



SHGC	0.35	0.35	Not Required
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#### 5.4 Minimum Standards for Gutters and Downspouts

**a. General Requirements and Standard Conditions.** All gutters and downspouts must be installed or replaced (repair alone is insufficient). Gutters shall have a slope no less than 1:20 and all seams made weather tight, if applicable. Downspouts shall be installed at a minimum every 40' and shall discharge water at least five feet from the foundation. Drainage five feet away from the foundation may be accomplished through the installation of a French drain, swales, or other means of directing water away from the foundation. Water shall not be discharged onto an adjoining property.

### 6.0 Plumbing, Potable Water, and Sanitary Sewer Systems

#### 6.1 Minimum Standards for Plumbing Systems

**a. General Requirements and Standard Conditions.** The Plumbing System must effectively provide both a safe and adequate supply of potable water, and a safe and sanitary method of distributing wastewater. Effective Plumbing Systems adhere to the mandatory plumbing principles in (1)-(7):

- (1) Sewer gases shall not be allowed to enter any housing Unit;
- (2) Sewer leaks must be identified, repaired or replaced, and improper disposal methods discontinued;
- (3) Water leaks must also be identified and repaired or replaced;
- (4) Water must be free from hazardous contaminants and safe for drinking, bathing and other uses.
- (5) An adequate supply of water must be available for all water needs, which includes having adequate pressure at each fixture.
- (6) Supply, drain, waste, and vent pipes shall not interfere with structural integrity. Notching and drilling of structural members shall comply with the requirements of the 2009 IRC, Figure R602.6(1) and (2).
- (7) Plumbing work shall be performed by state licensed individuals, and plumbing inspections performed by experienced and qualified individuals knowledgeable in the field of plumbing.

**b. Substandard Conditions.** Existence of any condition listed in (1)-(11) shall require, at a minimum, adequate repair or replacement. If replaced, newly installed Plumbing Systems, piping, and fittings must be properly installed, connected, free flowing; and must be free of leakage and corrosion of water or sewer gases.

- (1) Lack of any required condition, as provided in (A) – (F):
  - (A) Continuous sanitary water supply;
  - (B) Continuously functioning sanitary waste water disposal system;
  - (C) Functioning shut-off valves at toilets, sinks and lavatories;
  - (D) Access to waste lines such as clean-outs;
  - (E) A minimum of one functioning toilet, bathroom sink, or tub/shower;
  - (F) Functioning kitchen sink; or

- (2) Septic system or Plumbing Fixtures not performing as intended;
- (3) Leaks in any supply or waste lines;
- (4) Deteriorated, corroded, or leaky supply or drain pipes;
- (5) Supply or drain piping consisting of a mixture of different types of piping or fittings, or is run in an inefficient manner;
- (6) Missing, blocked, or improperly installed required conditions listed in (A)-(D):
  - (A) Vent pipes;
  - (B) Gas shut off valve on natural gas Domestic Water Heater (DWH);
  - (C) Temperature and pressure-relief valve (TPRV) on DWH;
  - (D) Shut off valves at the water meter, each toilet, each sink, DWH, or tub/shower locations; or
- (7) Natural gas domestic water heaters (DWH) located in bathrooms, bedrooms, closets or utility rooms where a clothes dryer is present;
- (8) Natural gas DWH combustion air taken from conditioned space;
- (9) Inadequate natural gas DHW vent (e.g. not double walled or skirted at roof penetrations);
- (10) Rusted or corroded DHW pipes or storage tanks; and
- (11) Any other condition reasonably characterized Hazardous or Substandard.

## 6.2 Minimum Standards for Potable Water

a. **General Requirements and Standard Conditions.** Water service lines shall be properly connected to a public or approved private system functioning as intended. All newly installed supply lines must be flushed and fittings tested. Privately owned wells and systems must also be tested for water quality. Testing must occur prior to commencing Rehabilitation; and must be conducted by a local health department or other qualified, unaffiliated source. Appropriate corrective measures are required for privately supplied water determined not suitable for use.

b. **Other Requirements/Conditions.**

(1) **Water Supply.** All dwellings shall have adequate, safe, and potable water supplied through a safe Plumbing System to all fixtures.

(2) **Water Quality.** Supply systems shall provide for the delivery of potable water through a safe system of piping, free from leaks and other defects and not subject to the hazards of backflow. If supplied water is not free of bacteria, chemicals, excessive minerals, relatively free of odor, taste, color and turbidity, corrective measures to improve water quality (e.g. water softening, water filtering) should be installed.

(3) **Exterior Pipe Protection.** All newly installed exterior water lines shall be buried at a minimum depth of 6" below the final grade, or be protected from freezing in accordance with local climate.

(4) **Water Pressure.** The average static pressure at the building entrance shall be between 40-80 psi. If pressure exceeds 80 psi, an approved pressure reducing device shall be installed. If pressure is less than 40 psi, a thorough evaluation shall be conducted to determine the reason(s) for low pressure and appropriate corrective measures shall be completed.

(6) **Pipes.** New supply water piping shall be type "L" copper tubing with wrought copper solder joint fittings, PEX, or CPVC. All fittings shall be compatible with pipe material. Joints between dissimilar metals shall be made with dielectric fittings to prevent joint

deterioration due to electrolysis. All piping shall be adequately supported to prevent sagging or breakage.

**(7) Valves.** The main water line shall have an accessible service shut-off valve for each building or Unit, as applicable. All hot and cold water supply lines feeding all Plumbing Fixtures shall be equipped with functional and accessible shut-off valves. Access panels for tub/shower enclosures must be provided for access to valves and maintenance, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access. All valves shall be tested and must not leak.

### 6.3 Minimum Standards for Sanitary Drainage

**a. General Requirements and Standard Conditions.** The sanitary drainage system consists of the pipes designed to provide adequate circulation of air, exhaust of sewer gasses, prevent loss of water seals in traps and provide for wastewater flowing out of the home and into an approved sewage disposal system. All fixtures shall be connected to an approved sewage disposal system and free of leaks. New sewage disposal systems shall comply with EPA and Texas Commission on Environmental Quality (TCEQ) requirements.

**b. Substandard Conditions.**

**(1) Unapproved Private Systems.** Unapproved systems include pit privies, cesspools, ponds, lakes, streams and rivers. If any of these systems are in use, they must be abandoned and the housing Unit must be connected to an approved sewer disposal system.

**(2) On-Site Sewage Facilities (OSSF).** Prior to conducting Rehabilitation, all OSSF systems shall be inspected by a licensed OSSF inspector. If not performing as intended, an existing OSSF system must be repaired, replaced, or abandoned as provided in (A)-(B):

**(A) Repair or Replacement.** If repair is suitable, the tank shall be drained and all components tested and repaired or replaced. Special attention must be given to the drainage field; tree cutting and site clearing of the field may be required and replacement made. The drainage field must be designed for the existing soil conditions and the water table at the site and installed by a licensed installer.

**(B) Abandonment.** If a public system is available to connect to, and the existing OSSF system has reached the end of its Useful Life, abandonment is required. The existing tank shall be pumped, collapsed, and filled. A licensed plumber shall connect the housing to a public system and include a clean out close to the home.

**c. Other Requirements/Conditions.**

**(1) Traps.** Bell traps, "S" traps, and drum traps are prohibited. If any of these exist, they shall be replaced with a "P" trap. All fixtures shall be trapped and conform to the requirements in (A)-(F):

**(A)** All waste lines shall be trapped by a water seal trap as near to the fixture as possible but in no case more than 24" from the fixture;

**(B)** All traps shall be set level with respect to their water seals and sink traps shall be protected from contact and damage if sinks are made accessible for individuals using wheelchairs or other mobility device(s);

- (C) Trap size shall not be less than the following inside diameters: 1 ¼" for lavatories; 1 ½" for tubs, showers, kitchen sinks and dishwashers; 2" for clothes washers and; and 3" for floor drains in utility rooms;
- (D) No trap shall be larger than the drainage pipe coming from a fixture;
- (E) Access panels shall be provided to enclosed traps and concealed connections, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access; and
- (F) Wall and ceiling openings for plumbing shall be air sealed with caulk (gap less than ¼") or expanding foam (gaps more than ¼").

**(2) Vents.** Plumbing Systems shall be designed to prevent sewer gases from entering the housing Unit(s), allow waste to adequately drain into an approved sewer system, and shall be vented to the exterior so that water released from fixtures may draw in air to allow for smooth and even drainage. All vents must also meet or exceed the requirements in (A) – (E):

- (A) All Plumbing Systems shall have at least one main vent stack, running from the main drain through the roof, terminating to the exterior. If only one main vent exists, it shall be no less than 3" inside diameter from top to bottom;
- (B) Plumbing vent systems shall only be used for the purpose of venting the system;
- (C) Existing vents shall be at a minimum 6" above the high side of the roof penetration. Newly installed vents shall be a minimum 12" above the high side. Through the roof vent penetrations shall be flashed and sealed to provide a positive drainage plain;
- (D) All vent stacks terminating in an attic shall be extended or replaced. No vent stacks shall terminate near any window or door or under soffits; and
- (E) Air admittance valves are allowed as long as they are American Society of Sanitary Engineering (ASSE) 1051-2009 approved and installed in accordance with the manufacturer's installation instructions.

#### **6.4 Minimum Standards for Plumbing Fixtures**

**a. General Requirements for Standard Conditions.** All Plumbing Fixtures shall be free of leaks or defects which interfere with their ability to perform as intended. Existing fixtures in good and safe working order are generally not required to be repaired or replaced.

**b. Other Requirements/Conditions.** Any and all replacement Plumbing Fixtures and appliances must be installed per the manufacturer's installation instructions, including water sealing, and must be completed in accordance with all applicable requirements provided in (1)-(7):

- (1) All replacement fixtures shall meet or exceed the requirements of WaterSense qualified or equivalent products. Kitchen faucets requiring replacement shall provide 2.2 gallons per minute (GPM) and a 15-year drip free warranty. The scope of work must identify the height toilet(s), whether it is round or elongated, and whether a new faucet is single lever or not.
- (2) All replacement plumbing appliances must meet or exceed the requirements of Energy Star, or equivalent, qualified products.
- (3) All replacement shower fixtures shall use anti-scald control devices. Access panels shall be provided to these valves, if possible with wall and plumbing configuration prior

to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access.

**(4)** All fixtures shall be supported and securely attached in a manner consistent with normal installation methods and installed level.

**(5)** All faucets shall have the hot water line on the left side of the faucet. Existing supply lines that are reversed shall be changed.

**(6)** If existing garbage disposals are not performing as intended or are not hardwired to the electrical system, they shall be removed, repaired or replaced. New garbage disposals shall be hard wired and switched in an accessible location as close as possible to the kitchen sink.

**(7)** All repaired or replacement fixtures and appliances shall be tested for leaks and proper operation.

**6.5 Minimum Standards for Domestic Water Heaters (DWH)**

**a. General Requirements and Standard Conditions.** All DWHs, with the exception of tankless water heaters, shall have, at a minimum, a 30 gallon storage capacity that can supply a continuous flow of hot water that is at least 102 degrees F, with gas or electric shut-off valves as well as cold water supply shut-off valves, all installed and functioning as intended. Larger capacity DWHs may be installed if necessary to serve larger households. Replacement DWHs shall meet or exceed the requirements of Energy Star qualified, or equivalent, products.

**(1) Temperature and Pressure Release Valve (TPRV).** Each unit shall be equipped with a TPRV must capable of releasing pressure at 150 psi or 210 degrees Fahrenheit. Water release shall extend to the exterior of the housing, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access.

**(2) DWH Enclosure.** Each DSW shall be enclosed in a sealed closet designed for this purpose, with gas DSWs having combustion air drawn from outside the conditioned space. Gas DWHs inside conditioned spaces must be in separate closets that is not in the same room as a clothes dryer or any type of exhaust vent. All DWHs installed in a garage must be installed at a minimum 18" AFF with primary drainage draining to the exterior. DWHs in other locations shall be supported by a minimum three foot concrete base, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to install a concrete base.

**(3) Energy Factors (EF) Table.** Replacement DWHs shall meet or exceed the Energy Factors (EF) requirements identified by size and type in the Energy Factors (EF) Table:

2020 Program Year Energy Factors (EF) Table		
Energy Factors (EF):	Gas DWH EF	Electric DWH EF
Replacement DSWs must meet or exceed the EF identified for each size in this table.		
<b>Storage Size (Gal):</b>		

30	0.63	0.94
40	0.61	0.93
50	0.59	0.92
60	0.57	0.91
70	0.55	0.90
80	0.53	0.89

## 7.0 Electrical Systems

### 7.1 Minimum Standards for General Electrical Service

**a. General Requirements and Standard Conditions.** Electrical systems must provide a safe and adequate supply of electrical current that meets the needs of the residents. Accordingly, Electrical Systems must meet or exceed the safety and efficiency requirements provided in (1)-(6), which require that the system is:

- (1) Properly grounded and free of hazards with all components properly secured and covered to prevent contact or electric shock;
- (2) In good condition, with all electrical components up to date, lacking deterioration, and free of shorts;
- (3) Sufficiently providing adequate, consistent, and appropriate current and voltage levels at each outlet, fixture, and piece of equipment, as per its intended use;
- (4) Equipped with conductors, fixtures, boxes, and equipment that are properly sized and rated for their intended use;
- (5) Adequate for its current use considering resident behavior and lifestyles;
- (6) Equipped with an adequate quantity of appropriately located lighting, receptacles, and switches; and
- (7) Maintained, repaired, or otherwise replaced primarily in accordance with the ICC Principles of Safety, Capacity, and Convenience.

**b. Substandard Conditions.** At a minimum, repair or replacement is required if any of the conditions in (1)-(17) exist:

- (1) Inadequate capacity (e.g. excessive use of power strips and/or multiple outlet adaptors);
- (2) Two-wire systems (lacking grounding);
- (3) Wiring or components missing, broken, disconnected, loose, burnt or melted, unsupported, corroded, cracked, or split;
- (4) Panel boxes that show evidence of water intrusion or infestation;
- (5) Frayed or burnt wiring or wire insulation;
- (6) Circuits, switches, receptacles, or wiring is not compatible with the amperage or other characteristics of the electricity in use;
- (7) Flexible cords are used as permanent wiring (unless Non-Metallic (NM) cable(s) otherwise installed in accordance with local building codes);
- (8) Exposed wiring on interior walls or the exterior that are not protected in conduit or raceways (unless Non-Metallic (NM) cable(s) otherwise installed in accordance with local building codes);
- (9) Receptacles in bathrooms and kitchens within 6' of a water source and exterior receptacles that are not ground fault circuit interrupter (GFCI) protected;
- (10) Reverse polarity;
- (11) Unlabeled circuits;
- (12) Missing cover plates;

- (13) Components not securely attached to the structure;
- (14) Inadequate lighting in rooms and outside of entry doors; or
- (15) Any other condition reasonably characterized as meeting the definition of a Hazardous or Substandard Condition.

**c. Other Requirements/Conditions.** Additions, alterations, renovations, and repairs to electrical systems and equipment must be conducted in accordance with the applicable requirements of new electrical systems and equipment by appropriately licensed electricians. Rehabilitation of existing systems and equipment is generally not simultaneously required to comply with the overlapping, otherwise applicable provisions of the IEBC. Nevertheless, any and all additions, alterations, and repairs MUST NOT cause existing electrical systems or equipment to become unsafe, hazardous, or overloaded. IBC 2015, Appendix K (Administrative Provision).

## 7.2 Minimum Standards for Existing Wiring and Fixtures

**a. General Requirements and Standard Conditions.** Existing electrical service and components must be safe, efficient, and in good working condition for its intended use. Moreover, the capacity of the system must meet the demand of the residents. Replacement is not mandatory for existing service and components that meet or exceed these Standard Conditions, unless otherwise required by code or local ordinance. Voluntary replacement may be permitted to more efficiently and cost-effectively meet the needs of the community and the current or intended demands of the residents.

**b. Substandard Conditions.** Overloaded circuits are not permitted and must be addressed by separating the load and adding an adequate number of circuits necessary to safely and efficiently carry the load.

**c. Other Requirements/Conditions.**

**(1) Secure Fastening of Fixtures and Equipment.** All components shall be securely fastened to framing members by mechanical means. No fixture or socket shall hang by unsupported wiring. All existing receptacles, switches, and junction boxes shall contain a proper cover plate. In no case shall the structural integrity of the building be compromised.

**2. New Wiring.** New wiring shall be installed in a neat and workmanlike manner with all wiring run inside of walls. If wall or ceiling cavities are not accessible, wiring shall be run in properly sized and rated raceway or wire mold, secured along the walls with proper fasteners, flush to the surface and straight.

**3. Aluminum Wiring:** All aluminum wiring in housing to be rehabilitated shall be replaced with a 3-wire system and in accordance with these Standards. Properly sized service aluminum entry wiring is generally not required to be replaced.

**4. Knob and Tube Wiring.** Knob and tube wiring shall be replaced with a 3-wire system and in accordance with these Standards.

## 7.3 Minimum Standards for Sizing of Service and All Electrical Homes

**a. General Requirements and Standard Conditions.** The service entrance cable shall have the same rating (amperage) as the meter base and service equipment. Replacement of a

service entrance shall require calculation of the usage or load within the building to assist in determining the appropriate size. The service entrance must be properly sized for its intended post-Rehabilitation capacity. Room-by-room specifications noting electrical outlets and fixtures shall be included in the scope of work. Nameplate ratings of all appliances must be reviewed for actual VA ratings.

**b. Other Requirements/Conditions:**

**Main Service Panel.** Panels shall be in proper working condition with no evidence of overheating, arcing, corrosion, or failure. The panel shall bear the UL label and shall be marked as suitable for service equipment. Any panels (or installed breakers) identified as substandard by the U.S. Consumer Product Safety Commission shall be replaced. Panels with evidence of malfunction or deterioration shall be replaced.

**7.4 Minimum Standards for Material and Equipment Installation**

**General Requirements and Standard Conditions.** All materials, components, and equipment shall be listed or labeled by a qualified electrical products testing laboratory (e.g. “UL” or “CSA”). Listed materials, components, and equipment must be installed per the intended use, with location determined in accordance with the manufacturer’s installation instructions.

**7.5 Minimum Standards for Grounding**

**General Requirements and Standard Conditions.** All electrical systems shall consist of a single phase 3-wire grounded neutral service entrance and shall provide system grounding and equipment grounding protection.

The service panel shall be connected to the grounding electrode system and an eight foot (8’) galvanized or copper clad steel ground rod. All electrical panels shall meet or exceed the bonding requirements of the National Electrical Code (NEC).

If present, metal water pipes shall be bonded to the grounding electrode systems as a means to ground the Plumbing System and prevent pipes and fixtures from becoming energized and hazardous.

All wiring and equipment shall be grounded in accordance with the grounding requirements of the NEC.

**7.6 Minimum Standards for Overcurrent Protection**

**a. General Requirements and Standard Conditions.** The number of circuits installed shall not exceed the rating on the panel. The selection of a panel shall provide room for future expansion. All circuits shall be clearly, accurately, and permanently labeled with tags provided. All unused openings shall be properly plugged, capped or sealed with listed materials.



**b. Substandard Conditions.** Tandem breakers shall only be used in panels designed for them. The use of tandem breakers in order to exceed the 16 circuits permitted on an 100 amp panel shall not be permitted. Any service equipment containing fuse over-current protection shall be replaced with properly rated circuit breaker type over-current protection devices.

**c. Other Requirements/Conditions.** Panel board over-current devices shall be properly sized and located at the exterior in a subpanel if the main service panel is in the interior. All existing circuits shall be load tested for tripping.

## **7.7 Minimum Standards for Service Panel and Sub-Panel Connections**

**a. General Requirements and Standard Conditions.** All existing or new service panels shall be securely fastened to the dwelling. All panel boxes shall be listed and enclosed in 16 gauge sheet steel cabinets with doors and catches. Conductors entering the service shall have proper connectors and shall be securely and neatly attached at terminals. All circuits shall be marked and identified inside the panel box and any sub-panels.

**b. Substandard Conditions.** Wires shall not have any obvious nicks in the insulation and shall be properly bonded. Service panels shall not be located in bathrooms or closets. When replacement is necessary, the design and location of the service panel shall be considered in conjunction with the relevant needs and desires of the residents.

**c. Other Requirements/Conditions.**

**(1) Panel Boxes.** If replacement is required, new panel boxes and subpanels must be installed at 48" AFF (as measured from the main shut off switch or to the highest breaker in the box). Relevant local code requirements will apply with regard to this measurement should this Section 7.7(c) conflict with the local code.

**(2) Weather head(s).** Weather heads shall be at least 12' above the finished grade.

**(3) Sub-panels.** Sub-panels, add-on boxes, or disconnects to existing services for additional circuits shall be allowed only if the existing service equipment is listed and designed for such extension and the installation is in compliance with the NEC. Sub-panels are allowed if the existing service panel has adequate capacity but no available expansion slots.

**(4) Service Disconnect.** The main disconnect shall be accessible and clearly marked as a service disconnect.

## **7.8 Minimum Standards for Branch Circuits**

**a. General Requirements and Standard Conditions.** Protection against physical damage of exposed electrical equipment shall be provided throughout Rehabilitation.

**b. Other Requirements/Conditions.**

**(1) Dedicated Circuits.** No less than one dedicated 20 amp circuit shall be present for each bathroom and no less than two 20 amp small appliance branch circuits serving the kitchen. A dedicated circuit shall not serve other receptacles. All 240 volt appliances or equipment shall be on separate circuits. The number of small appliances used by the occupants shall be taken into consideration when planning the circuit loads and placement of receptacles to avoid overloading a circuit and to eliminate the use of

extension cords or multiplex outlets. Additional circuits may be necessary and are allowed. Dedicated circuits are required for at least those appliances listed in subparagraphs (A) – (L) of this paragraph, if applicable and as sized in accordance with the manufacturer's instructions:

- (A) Refrigerators;
- (B) Separate freezers;
- (C) Electric range or cook top;
- (D) Electric oven;
- (E) Clothes dryer;
- (F) Electric water heater;
- (G) Electric furnace/air handler;
- (H) Microwave oven;
- (I) Air conditioner;
- (J) Sump pumps and water wells;
- (K) Septic system aerators; and
- (L) Any other major electric appliance.

**(2) Circuit Load Distribution.** All circuit wiring shall be properly sized to serve the load.

**(3) Two-wire Systems.** All 2-wire, ungrounded wiring shall be replaced with 3-wire, grounded wiring.

**(4) Unused Switches, Receptacles, Fixtures, Conductors and Openings.** Unused switches, receptacles, fixtures, and conductors that are obtainable or otherwise within reach shall be removed. All unused openings in outlets, devices, junction boxes, conduit bodies and fittings, raceways, cabinets, and equipment cases or housings shall be effectively closed with knockout seals to prevent vermin, insects, and building materials from coming into contact with wiring.

**(5) Wire Splices.** All splices shall be placed in accessible and listed junction boxes that are properly covered.

**(6) AFCI Protected Circuits.** All newly installed branch circuits that supply 15 and 20 amp receptacles installed in family rooms, dining rooms, living rooms, parlors, libraries, dens, sun rooms, recreational rooms, closets, hallways and similar rooms or areas shall be protected by a combination type arc-fault circuit interrupter installed to provide protection of the branch circuit.

## 7.9 Minimum Standards for Receptacles

**a. General Requirements and Standard Conditions.** All replacement receptacles must be tamper resistant, and shall be listed/labeled and installed per manufacturer's instructions. Boxes must be specifically designed for its intended purpose, properly sized (rated for the size of the circuit), and mechanically fastened with attached cover plates installed. Receptacles located in damp or wet areas must be weatherproof and the wiring shall be run in boxes, conduit(s) and fittings that are listed for wet locations.

### (1) Receptacle Locations

**(A) All Rooms.** All habitable spaces must have receptacles. In each family room, dining room, living room, parlor, library, den, sun room, bedroom, recreation room, or similar room or area, receptacles shall be installed so that at a minimum each wall has at least one receptacle. Receptacles shall be spaced so that at no point along the perimeter of the floor is more than 6' from a receptacle. Other rooms that

are not regularly used by residents/occupants are permitted to have only a minimum of one receptacle per room. Receptacles should not be located lower than 15" above the finished floor.

**(B) Bathrooms.** All bathrooms must have at least one dedicated 20 amp receptacle outlet that is GFCI protected and located at least 3' from the outside edge of the sink. The receptacle shall be located not lower than 30" and not higher than 48" above the finished floor. Receptacles shall not be located within or directly over a bathtub or shower stall, and shall be at least 12" from the outer edge of the bathtub or shower opening.

**(C) Kitchens.** The kitchen shall have GFCI protected duplex receptacles on at least two separate 20 amp appliance circuits at the kitchen counter top spaced not more than 48" from each other. A separate dedicated, non-GFCI protected receptacle shall be required for each refrigerator and electric range or cook top, located directly behind it.

**(D) Other Exterior(s).** Exterior receptacles shall be GFCI protected and enclosed in a listed or labeled weatherproof box. One shall be required at the front of the house and one at the back.

**(2) GFCI Protection.** Receptacles located in bathrooms, kitchens, in a garage, at the exterior, and anywhere else located within 6' of a sink, shall be GFCI protected. Single use, dedicated receptacles for use by equipment and appliances such as washing machines and sump pumps shall not be GFCI protected, and shall be single, rather than duplex, receptacles when replaced.

## 7.10 Minimum Standards for Lighting

**General Requirements and Standard Conditions.** Every habitable room and all living spaces (e.g., bathroom, toilet room, laundry room, furnace or utility room, and hallways) shall be provided adequate natural or artificial lighting, as applicable, and in accordance with paragraphs (1) – (3) of this section:

**(1) Natural lighting.** Natural lighting must be provided by exterior glazed openings that generally open directly onto a public way, yard, or court. The net glazed area generally must span a minimum eight (8) foot area of the floor in the room or adjoining space served.

**(2) Artificial lighting.** Artificial lighting must provide at least an average illumination of 10 footcandles (107 lux) over an area of the room served at a height of 30 inches above the floor.

**(3) Safety lighting.** All stairways (e.g. interior within dwelling unit and exterior serving dwelling unit(s)) must be illuminated by at least one artificial light fixture controlled by a remote wall switch located at the top and bottom of the stairway.

## 7.10 Minimum Standards for Fixtures and Switches

- a. **General Requirements and Standard Conditions.** All replacement fixtures shall be listed or labeled, Energy Star qualified or equivalent, and must be installed in accordance with the manufacturer's installation instructions. If existing fixtures are in a good and safe condition, securely fastened to framing members, replacement is not required.
- b. **Substandard Conditions.** No fixture or receptacle shall hang from a base by unsupported wiring.

**c. Other Requirements/Conditions.**

**(1) Fixture and Switch Locations.** At a minimum, a permanently installed lighting fixture controlled by a wall switch is required in each room of the structure. Switches shall not be located in tub/shower areas or behind the swing of a door. All new wall switches must be located in a convenient and Accessible location.

**(2) Closet Fixtures.** All light fixtures installed in closets shall be surface mounted or recessed can lights. Recessed can lights shall be Insulation Contact Air Tight (ICAT) rated or its equivalent. Closet fixtures shall be a minimum 6" away from any storage, clothing, or other items, and have a protective cover over the bulb.

**(3) Lamps (Light Bulbs).** All replacement lamps must meet or surpass the industry standards for Energy Star qualified or equivalent Compact Florescent Lamps (CFLs) or Light Emitting Diodes (LEDs). Refer to Section 4.12 (*regarding* Minimum Standards for Lighting) for additional details.

### **7.11 Minimum Standards for Smoke and Carbon Monoxide Detectors**

**a. General Requirements for Smoke Detectors.** Each dwelling shall have listed or labeled smoke detectors installed in each bedroom and in the hallway immediately adjacent to bedrooms. Smoke detectors shall draw their primary power from the electrical system, with battery backup, and without interruption except for over current protection. Smoke detectors shall be interconnected so that all detectors sound the alarm when any one senses smoke

**b. General Requirements for Carbon Monoxide Detectors.** In dwellings with attached garages and/or fuel-fired appliances, carbon monoxide detectors shall be installed. CO detectors shall be listed as complying with UL 2075 and installed outside the immediate vicinity of bedrooms. CO detectors shall be permanently installed and hard wired to the electrical system with battery backup.

## **8.0 Heating, Ventilation, and Air Conditioning (HVAC)**

### **8.1 Minimum Standards for HVAC Systems**

**a. General Requirements and Standard Conditions.** In conjunction with other systems, the HVAC system of a housing unit must effectively maintain a comfortable living environment for the residents/occupants. At a minimum, paragraphs (1) – (3) of this Section 8.1(a) require all HVAC systems:

- (1)** Provide a reliable source of heated or cooled air, as applicable, and at a comfortable temperature for all habitable rooms;
- (2)** Control ventilation and indoor air quality; and
- (3)** Be free of contaminants that negatively affect indoor air quality.

**b. Substandard Conditions.** Repair or replacement is required if any Hazardous condition applies, which include but are not limited to, those listed in paragraphs (1) - (14) of this Section:

- (1)** Lack of a steady and dependable source of heating and cooling to all living areas;
- (2)** Gas-fired air handler inside the conditioned space which draws; combustion air from the interior;
- (3)** Combustion gases not venting to the exterior;
- (4)** Leaking, damaged, rusted or cracked heat exchanger;

- (5) Leaking, corroded or damaged gas supply pipe;
- (6) Missing gas shut-off at each appliance;
- (7) Lack of a functioning pilot or electric start;
- (8) Inadequate duct system that does not supply necessary conditioned air to all living areas;
- (9) Leaking ducts or returns;
- (10) Mismatched or poorly repaired equipment;
- (11) Deficiencies are too numerous to justify repair expenses;
- (12) Unvented gas-fired wall heaters in enclosed rooms. If existing, the wall unit shall be removed and the gas line capped;
- (13) Gas-fired kitchen stoves and/or ovens without ventilation to the exterior;
- (14) Lack of a functioning carbon-monoxide detector in homes with gas-fired appliances or equipment.

**c. Other Requirements/Conditions.**

**(1) Sizing and Selecting a New System.** Replacement heating and cooling equipment shall be sized in accordance with the current version of the Air Conditioning Contractors of America (ACCA) 16 Manual J or other approved methodology. Equipment selection shall comply with the current version of ACCA Manual S or other approved methodology. Data for heating and cooling loads shall be calculated in accordance with required post-rehabilitation conditions.

**(2) Installation.** Installation of new systems shall comply with the manufacturer's installation instructions, as appropriate for the fuel source. All replacement equipment shall have a permanent electrical receptacle, switch, light fixture near the equipment, and installed in an accessible manner so that future inspecting, maintaining, and repairing the system can be completed.

**(3) Programmable Thermostat.** A programmable thermostat shall be installed when a new heating and cooling system is installed. Upon installation, the temperature settings shall be done by the contractor, the occupants shall be educated on using the thermostat and the instructions and warranty shall be provided to the occupants. The location of the thermostat shall be in a central location and not within 3' of doors, windows, appliances, or televisions and installed not higher than 48" AFF, measured from the center of the thermostat.

**(4) Specific Requirements for Cooling Equipment.**

**(A) Climate Zones.**

**(i)** Cooling equipment in Climate Zones 2 and 3 shall be 14.5 Seasonal Energy Efficiency Ratio (SEER)/12 Energy Efficiency Ratio (EER) Energy Star qualified, or its equivalent; or alternatively, shall be a heat pump.

**(ii)** Cooling equipment in Climate Zone 4 shall be 13 SEER, or its equivalent; or alternatively, shall be a heat pump.

*\*Refer to Section 8.1(c)(3) of these Standards for details regarding Heating Equipment.\**

**(B) Indoor Air Handler.** If the indoor air handler is being replaced, the outdoor coil shall also be replaced and it shall be matched to the indoor air handler, unless the outdoor coil is in good working condition and is compatible and properly sized to the new indoor air handler.

**(5) Specific Requirements for Heating Equipment.**

**(A) Climate Zones.**

**(i)** Heating equipment in Climate Zones 2 and 3 shall be greater than or equal to 80% AFUE gas furnace (or its equivalent); greater than or equal to 8.2 HSPF/14.5 SEER/12 EER air-source heat pump, Energy Star qualified with electric backup (or its equivalent); or

alternatively, shall be a ground-source heat pump, Energy Star qualified (or its equivalent).

(ii) Heating equipment in Climate Zone 4 shall be greater than or equal to 90% AFUE gas furnace (or its equivalent); greater than or equal to 8.5 HSPF/14.5 SEER/12 EER air-source heat pump, Energy Star qualified with electric backup (or its equivalent); or alternately, shall be a ground-source heat pump, Energy Star qualified (or its equivalent).

## **8.2 Minimum Standards for the Distribution System.**

**a. General Requirements and Standard Conditions.** The distribution system (e.g. ductwork) must provide an adequate supply of conditioned air to each habitable room, as well as an adequate amount of return air from each habitable room. Existing distribution systems must be inspected to determine whether the system is operating efficiently, properly balanced, and adequately supplying conditioned air -- as this is required for all habitable rooms.

### **b. Other Requirements/Conditions.**

**(1) Duct Cleaning.** If the distribution system is dirty, but is otherwise operating effectively, duct cleaning is required. This requires complete duct sealing by mechanical means and with duct mastic (so as to adequately eliminate the source of dirt and debris entering the system). Duct cleaning must include all dryer vents.

**(2) Replacement and Relocation.** Replacement shall ensure all newly installed distribution systems are sized per the current version of the ACCA Manual D (or other Agency-approved methodology). Every effort should be made to relocate the replacement distribution system to the conditioned space through the installation of dropped soffits. If this is not possible, locating the distribution system in the attic shall require mechanical fastening, sealed with duct mastic, and insulated to R-8. Distribution systems shall not be located at the exterior of the home exposing the system to the elements

**(3) Installation.** Connections and routing of new ductwork shall be completed without kinks or sharp bends and without excessive coiled or looped flexible ductwork. All connections shall be mechanically fastened, sealed with mastic, and properly supported. Runs shall be insulated to R-8 if installed in unconditioned space.

**(4) Room Pressurization.** Room pressure balancing systems are recommended. Unbalanced distribution systems require transfer grills or jumper ducts to be installed to provide balance with rooms when doors are closed (with respect to the rest of the housing unit). Undercutting doors is prohibited.

## **8.3 Minimum Standards for Ventilation and Indoor Air Quality**

**a. General Requirements and Standard Conditions.** At a minimum, sufficient ventilation must be provided so as to ensure adequate, continuous, non-contaminated air circulation throughout the Development.

### **b. Additional Requirements/Conditions.**

**(1) Exhaust fans.** Exhaust fans shall comply with or exceed the applicable requirements in 2012 IRC, Chapter 15, and must be at least Energy Star qualified (or its equivalent). All bathroom, toilet rooms, and kitchen fans shall exhaust to the exterior (either through the roof or a gable wall), be mechanically fastened, sealed with duct mastic, insulated to R-6, and have a mechanical damper. Flashing shall be installed to provide a positive drainage plain. Flex duct terminating at a gable vent is prohibited.

**(A) Bathroom and Toilet Room Exhaust Fans.** All bathrooms and toilet rooms must be ventilated by exhaust fans (vented to the outside) unless an operable window is present. If a continuous fan is installed, it shall be greater than or equal to 20 cfm. Intermittent fans shall be greater than or equal to 50 cfm. Neither shall exceed 1.5 sones. Bathroom exhaust fans shall be installed on a dedicated GFCI protected circuit. Light kit, night light, and/or a heating element may be included with exhaust fans. Combustion appliances venting to the exterior shall not be located in bathrooms.

**(B) Kitchen Exhaust Fans.** Kitchens require mechanical exhaust fan(s) (e.g. kitchen range hoods) be installed unless adequately ventilated by an existing and operational exhaust fan (vented to the outside). If a continuous fan is installed, it shall be greater than or equal to 5 cfm. Intermittent fans shall be greater than or equal to 100 cfm.

**(C) Garage Exhaust Fans.** If a garage is attached to a Unit (e.g. sharing a common wall), then a UL listed exhaust fan shall be installed in the garage and connected to the operation of the garage door. The exhaust fan must at least turn on when the door is opened and off after 20 minutes.

**(2) Supply Air.** If supply air is installed and connected to the return plenum, subparagraphs (A) - (D) of this paragraph shall apply, which requires:

**(A)** Supply air inlets must not be located within 10 linear feet from known contamination sources such as stacks, vents, exhaust hood, or vehicle exhaust;

**(B)** Rodent and insect screens must be installed;

**(C)** Ventilation must come directly from the outdoors and not from adjacent dwelling units, garages, crawlspaces, or attics; and

**(D)** The duct must be mechanically fastened, sealed with duct mastic, insulated to R-6, and shall have a mechanical damper.

## **Mandatory Development and Unit Standards**

### **Health and Safety**

NHTF-assisted housing must be free of all health and safety defects, must meet minimum standards of habitability and functionality, and all inspected items with an observed deficiency must be corrected. Additionally, NHTF-assisted housing is subject to the requirements in 24 CFR §93.301(b)(1)(i) regarding identifying life-threatening deficiencies, which must be addressed immediately if the housing is occupied at the time of rehabilitation.

### **Lead-Based Paint**

NHTF-assisted housing is subject to the regulations at 24 CFR Part 35, subparts A, B, J, K, and R regarding lead-based paint poisoning prevention in residential structures. Applicants, developers, and builders of any project requiring the rehabilitation of structures built prior to 1978 must read, fully understand, and comply with 24 CFR Part 35, subparts A, B, J, K, and R. Inspection and testing for lead-based paint must be completed prior to determination of the scope of rehabilitation, a copy of the inspection and testing report must be provided as part of the work write-up.

### **Accessibility & Visitability**

NHTF-assisted housing must meet the accessibility requirements of 24 CFR Part 8 (implementing Section 504 of the Rehabilitation Act of 1973) and Titles II and III of the Americans with Disabilities Act (implemented at 28 CFR Parts 35 and 36), as applicable. “Covered multifamily dwellings”, as defined at 24 CFR §100.201, must also meet applicable design and construction requirements at 24 CFR §100.205 (implementing Fair Housing Act). Other required accessibility and visitability features are further described in 10 TAC Chapter 1, Subchapter B, and 10 TAC §11.101(b)(8).

### **Disaster Mitigation**

Where relevant, NHTF-assisted housing must be improved to mitigate the impact of potential disasters, in accordance with applicable State and local codes, ordinances, and requirements, in addition to the Uniform Physical Condition Standards or other requirements established by HUD.

### **Broadband Infrastructure**

HTF-assisted housing must provide for the installation of broadband infrastructure to be completed in accordance with 24 CFR §93.301(b)(2)(vi) and at no charge to the residents. 10 TAC §11.101(b)(4)(A).

### **Environmental Requirements**

HTF-assisted housing must meet the minimum environmental requirements in 24 CFR §93.301(f)(2).

### **Development and Unit Amenities**

Housing improvements beyond those described in these Standards must include all applicable amenities and energy and water efficiency features in accordance with 10 §TAC 11.101(b)(4), (5), and (6), as amended.



## **Inspections, Construction Documents, & Compliance (24 CFR §93.301(b)(2)-(3))**

### **Inspections**

All NHTF-assisted rehabilitation projects must comply with TDHCA written inspection procedures. TDHCA will conduct initial, mid-progress, and final inspections during construction to identify any deficiencies that must be addressed and ensure that all work is in accordance with approved standards, as applicable. *See*, 24 CFR §93.301(b)(3). TDHCA is responsible for initial and ongoing on-site inspections for rental housing during the affordability period. *See*, 24 CFR §§93.301(b)(3) and 93.301(e); *see also*, 10 TAC §13.11(Post-Award Requirements).

### **Work Write-Ups**

Each repair should be detailed as required through the use of plans, drawings, specifications (conforming to the MasterFormat work write-ups). At a minimum each repair should be detailed in a work write up that specifies the location, required demolition, and methods and materials with enough detail to determine the desired outcome or finished product. Work-write ups can reference plans and specifications as needed but must be detailed enough to complete repairs. Moreover, work write-ups must comply with State and local codes, ordinances, requirements, and TDHCA standards.

### **Cost Estimates**

Written Cost Estimates are required for all NHTF-assisted rehabilitation projects. Cost estimates must be reasonably prepared and submitted to the Department for approval in accordance with Title 10, Part 1, Chapter 10 of the Texas Administrative Code and these Standards. *See*, 24 CFR §93.301(b)(2) and (3); *see also*, 10 TAC §13.11(Post-Award Requirements)(regarding documents that must be submitted to the Department for review and approval prior to loan closing).

### **NHTF Annual Auditing, Recordkeeping, and Certifications**

NHTF-assisted housing must comply with the auditing, recordkeeping, and cost certification requirements of 24 CFR §93.406 and 24 CFR §93.406.

## Scope of Work and Post-Rehabilitation Standards

### **Uniform Physical Conditions Standards (UPCS)**

All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the entire Affordability Period. 10 TAC §10.621; 24 CFR §5.703.

At a minimum, NHTF-assisted housing must comply with HUD's Uniform Physical Condition Standards (UPCS), as found in 24 CFR §5.705 and further provided for in 24 CFR §5.703. Developments must also comply with all local health, safety, and building codes; ordinances; and zoning requirements. Developments in jurisdictions without applicable State or local building codes must adhere to the International Existing Building Code (IEBC), and where the International Building Code (IBC) of the International Code Council in addition to the UCPS. Refer to **Appendix A: Uniform Physical Condition Standards (UPCS)** for additional details.

### **AND**

### **Scope and Cost Review (SCR)**

This report is required for NHTF-assisted Rehabilitation Developments. The SCR Report must be prepared in accordance with 10 TAC §11.306 (relating to Scope and Cost Review Guidelines) and submitted as required under 10 TAC §11.205(3)(relating to Scope and Cost Review (SCR)). Importantly, the report must be accompanied by the Department's SCR Supplement in the form of an excel workbook as published on the Department's website. Refer to **Appendix B: Scope and Cost Review (SCR)** for additional details.

### **AND**

### **Capital Needs Assessment (CNA)**

All NHTF-assisted Rehabilitation Developments must also submit a capital needs assessment (CNA) estimating the useful life of each major system. 10 TAC §11.205(3). The CNA shall determine the work to be performed and identify the long-term physical needs of the project. 24 CFR §93.301(b)(1)(ii). Moreover, the assessment must include a comparison between the local building code and no earlier than the 2015 version of the IEBC of the International Code Council. 10 TAC §11.205(3). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must be established with adequate monthly payments made to repair or replace the systems as needed. See, 24 CFR §93.301(b)(1)(ii); *see also*, 10 TAC §10.404 (Reserve Accounts).

In addition to the minimum CNA requirements, the Report must be accompanied by the Department's SCR Supplement in the form of an excel workbook as published on the Department's website. 10 TAC §11.205(3)(relating to Scope and Cost Review(SCR)). Refer to **Appendix C: Capital Needs Assessment (CNA)** for additional details.

**APPENDIX TO  
2020 NHTF MINIMUM REHABILITATION STANDARDS**

## APPENDIX A: Uniform Physical Condition Standards (UCPS)

### Introduction

All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the entire Affordability Period. 10 TAC §10.621; 24 CFR §5.703. This requires that, at a minimum, NHTF-assisted housing comply with HUD's Uniform Physical Condition Standards (UPCS) provided in 24 CFR Part 5, Subpart G.

Importantly, the UPCS is a minimum threshold requirement for NHTF-assisted housing. Developments are still responsible for complying with applicable local health, safety, and building codes; ordinances; and zoning requirements. Even Developments in jurisdictions without applicable State or local building codes must still comply with the 2012 International Existing Building Code (IEBC) in addition to the UPCS.

### UPCS Compliance Inspections

The Department's Compliance Division or its Affiliate(s) is responsible for conducting UPCS inspections of NHTF-assisted multifamily developments. See §200.853. Inspection frequency will be determined using the scoring and ranking methodology of HUD's Real Estate Assessment Center (REAC). See §200.857(a) – (b). Unless otherwise determined by the Department, UPCS Inspections will be conducted once every three years during the Affordability Period.

During an Inspection, observable deficiencies for inspectable items will be identified for all major areas of NHTF-assisted rehabilitated housing, including the **(1) Site; (2) Building Exterior; (3) Building Systems; (4) Dwelling Units; (5) Common Areas; and (6) Health and Safety Considerations**. Correcting deficiencies is an important part of the Applicant/Borrower's ongoing responsibility to maintain the physical state of the Development so that it is decent, safe, sanitary, and in good repair. This responsibility must be maintained throughout the entire Affordability Period.

**Depending on the type of Deficiency identified, the responsibility to address and remedy Deficiencies may either be (1) immediate or (2) completed with the project's scope of work.**

1. **Life Threatening Deficiencies (LTD)** are identified in the Exigent Health and Safety Report(s) and require immediate attention or remedy. **For projects involving the acquisition or rehabilitation of occupied housing, Life Threatening Deficiencies MUST be immediately addressed AND remedied.** Life Threatening Deficiencies include, but not are limited to, the following (categorized below by major Inspectable Areas):

#### Site:

- Air Quality – propane/natural gas/methane gas detected
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment

#### Building Exterior:

- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – Emergency/Fire Exits Blocked/Unusable
- Fire Escapes – blocked egress/ladders; visibly missing components

- Windows – security bars prevent egress

**Building Systems:**

- Domestic Water – misaligned chimney/ventilation system
- Electrical System – missing breakers/fuses; missing covers
- Fire Protection – missing/damaged/expired extinguishers
- Air Quality – propane/natural gas/methane gas detected
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable
- HVAC – misaligned chimney/ventilation system

**Common Areas:**

- Electrical – missing breakers; missing covers
- HVAC – misaligned chimney/ventilation systems
- Outlets/Switches/Cover Plates – missing/broken
- Windows – security bars prevent egress
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable

**Unit:**

- Electrical System – missing breakers/fuses; missing covers
- Air Quality – propane/natural gas/methane gas detected
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable
- Water Heater – misaligned chimney/ventilation system
- HVAC System – misaligned chimney/ventilation system
- Outlets/Switches – missing; missing/broken cover plates
- Smoke Detector – missing/inoperable
- Windows – security bars prevent egress

2. **Non-Life Threatening Deficiencies** generally include all other observable deficiencies. Any and all Non-Life Threatening Deficiencies must be completed with a project’s scope of work and thus corrected prior to project completion. Non-Life Threatening Deficiencies include but are not limited to those listed as “NLT” or “Non-Life Threatening Deficiencies” in ***Attachment A – TDHCA Uniform Physical Condition Standards Checklist (UPCS Checklist)***.

**Required Documentation**

All NHTF-assisted multifamily housing must complete and timely submit the ***TDHCA Uniform Physical Condition Standards Checklist (UPCS Checklist)*** to the Department for review and approval.

## **APPENDIX B: Scope and Cost Review (SCR) (10 TAC §11.205(3); 10 TAC §11.306)**

### **Introduction**

All NHTF-assisted Developments (excluding Reconstruction) must submit a Scope and Cost Review (SCR) Report. The SCR must meet the minimum requirements provided in 10 TAC §11.306 (relating to Scope and Cost Review Guidelines) and 10 TAC §11.205(3)(relating to Required Third Party Reports: Scope and Cost Review). Pursuant to 10 TAC §11.306(a), the objective of the SCR is to provide a self-contained report that comprehensively details and evaluates the current conditions of the Development, and identifies a scope of work for the proposed repairs, replacements, and improvements to an existing multifamily property.

### **Scope and Cost Review Guidelines**

The SCR author must evaluate the sufficiency of the Applicant's scope of work and provide an independent review of the Applicant's proposed costs. It is the Applicant's responsibility to ensure the scope of work and cost estimates (including the Development Cost Schedule) submitted in the Application are provided to the author, as these must also be included in the SCR Report. Importantly, the report should be in sufficient detail for the Underwriter to fully understand all current conditions, scope of work and cost estimates. The report must also include the following statement, "any person signing this Report acknowledges that the Department may publish the full report on the Department's website, release the report in response to a request for public information and make other use of the report as authorized by law." 10 TAC §11.306(a).

Under 10 TAC §11.306(b), the SCR must include analysis in conformity with the American Society for Testing and Materials (ASTM) "Standard Guide for Property Condition Assessments. Baseline Property Condition Assessment Process (ASTM Standard Designation: E 2018)," unless the exceptions in 10 TAC §11.306(f) or (g) apply. Moreover, 10 TAC §11.306(c) requires good quality color photographs of the subject Real Estate (front, rear, and side elevations, on-site amenities, interior of the structure) be included. Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables must also be included.

**Discussion and analysis must be provided for 10 TAC §11.306(d)(1) – (8). This includes, but is not limited to, discussion and analysis of:**

- (1) Descriptions of Current Conditions;**
- (2) Descriptions of Scope of Work;**
- (3) Useful Life Estimates;**
- (4) Code Compliance;**
- (5) Program Rules;**
- (6) Accessibility Requirements;**
- (7) Reconciliation of Scope of Work and Costs; and**
- (8) Cost Estimates.**

Any costs not identified and discussed in sufficient detail in the SCR as part of 10 TAC §11.306(d)(6), (d)(8)(A), and (d)(8)(B) will not be included in the underwritten Total Development Cost in the Report.

### **Third Party, Unrelated, and Nonaffiliated Author(s)**

The SCR shall be conducted by a Third Party at the expense of the Applicant, and addressed to Texas Department of Housing and Community Affairs as the client. Copies of reports provided to the Department which were commissioned by other financial institutions should address the Texas Department of Housing and Community Affairs as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to the Texas Department of Housing and Community Affairs. 10 TAC §11.306(h).

The SCR report must also include a statement that the individual and/or company preparing the SCR report will not materially benefit from the Development in any other way than receiving a fee for performing the SCR. Because of the Department's heavy reliance on the independent cost information, the provider must not be a Related Party to or an Affiliate of any other Development Team member. The SCR report must contain a statement indicating the report preparer has read and understood the requirements of 10 TAC §11.306 (esp., §11.306(i)).

### **Health and Safety Recommendations**

Any recommendations made in the SCR regarding health and safety, life expectancy of major systems (structural support; roofing; cladding and waterproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented. 10 TAC §13.9(1); 24 CFR §93.301(b)(1)(ix) (requiring an estimate (based on age and condition) of the remaining useful life of these systems be conducted upon project completion of each major system). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must provide adequate monthly payments, so as to repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ix).

For properties originally constructed prior to 1978, the SCR and rehabilitation scope of work must be provided to the party conducting the lead-based paint and/or asbestos testing. 10 TAC §13.9(2). The rehabilitation must implement the mitigation recommendations of the testing report. 10 TAC §13.9(2).

### **Required Documentation**

#### ***Attachment B – TDHCA Scope and Cost Review (SCR Supplement)***

The SCR must include the Department's Scope and Cost Review Supplement (SCR Supplement) in the excel form published on the Departments website (and attached for reference purposes). The purpose of the SCR Supplement is to consolidate and show reconciliation of the scope of work and costs of the immediate physical needs identified by the SCR author with the Applicant's scope of work and costs provided in the Application. The consolidated scope of work and costs shown on the SCR Supplement will be used by the Underwriter in the analysis, as it details the projected repairs and replacements through at least thirty (30) years.

## **APPENDIX C: Capital Needs Assessment (CNA) (24 CFR §93.301(b)(1)(ii))**

### **Introduction**

All NHTF-assisted Rehabilitation Developments must also submit a capital needs assessment that estimates the useful life of each major system. The CNA will determine the work to be performed and identify the long-term physical needs of the project. 24 CFR §93.301(b)(1)(ii). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must be established with adequate monthly payments made to repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ii).

Importantly, the CNA must adhere to all applicable requirements of 10 TAC §11.205(3)(relating to Required Third Party Reports), including being accompanied by the Department's SCR Supplement in the excel form published on the TDHCA website (and attached to these Standards for reference purposes).

### **Capital Needs Assessment Guidelines**

The CNA must be completed by an independent, Third Party engineer or architect approved by the Department. The performing engineer or architect must:

- conduct an interview with the appropriate onsite Development personnel (e.g. property management, maintenance personnel) to assess prior, ongoing or chronic repairs, maintenance issues, and deficiencies;
- complete an onsite visit and physical inspection of both the interior and exterior units and structures on the property;
- analyze and provide recommendations regarding the presence of environmental hazards and potential efficiency or other mitigation considerations, in accordance with these standards;
- analyze and provide recommendations as to the reasonability of the proposed budget as it relates to the work to be performed, including but not limited to an analysis of the: (1) Development Site; (2) Structural Systems; (3) Interior Systems; and (4) Mechanical, Plumbing, Electrical, HVAC, and Safety (e.g. fire protection, elevator requirements, safety lighting) Systems and related requirements; and
- depending on the aforementioned determinations, the assessment must assess and provide recommendations regarding the proposed budget as it relates to the conclusions of the assessment. Moreover, any and all components of major systems reaching the end of their useful life or otherwise bearing critical conditions, must be identified. If the remaining useful life of any major system is less than 50% of the expected useful life, immediate rehabilitation (replacement or repair, as appropriate) is required. If the remaining useful life of any component of the major systems is less than the term of the affordability period, replacement reserves with adequate payments being made as required to finance future repair(s) or replacement(s) is required.

### **Required Documentation**

***Attachment B – TDHCA Scope and Cost Review (SCR Supplement)(as detailed in APPENDIX B).***



**ATTACHMENTS TO  
2020 NHTF MINIMUM REHABILITATION STANDARDS**

**ATTACHMENT A: Uniform Physical Condition Standards Checklist (UPCS Checklist)** (available as posted on the TDHCA website at <https://www.tdhca.state.tx.us/pmcomp/inspections/docs/REAC-UPCS-Inspection-Checklist.pdf> and as may be amended from time to time on the TDHCA [Compliance \(Physical Inspections\)](https://www.tdhca.state.tx.us/pmcomp/inspections/physical.htm) webpage at <https://www.tdhca.state.tx.us/pmcomp/inspections/physical.htm>).

**ATTACHMENT B: Scope and Cost Review Cost Schedule (SCR Supplement)**(available as posted on the TDHCA website at <https://www.tdhca.state.tx.us/readocs/17-PCASupplementExample.xls> and as may be amended from time to time on the TDHCA [Real Estate Analysis](https://www.tdhca.state.tx.us/rea/index.htm) webpage at <https://www.tdhca.state.tx.us/rea/index.htm>).

11

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2020-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously authorized the release of the 2020-1 Multifamily Direct Loan Notice of Funding Availability (NOFA) for up to \$13,864,168 with the application acceptance period beginning on January 13, 2020;

**WHEREAS**, the NOFA has since been amended several times to increase the amount available to \$26,356,025.20;

**WHEREAS**, Application #20502, which was received on March 31, 2020, as a Priority 1 application under the 2020-1 NOFA, has requested \$255,000 in Direct Loan funds for Heritage Heights at Big Spring, and has received complete reviews for compliance with program and underwriting requirements and was previously awarded 9% housing tax credits (9% HTC) and \$2,745,000 in HOME funds on July 25, 2019;

**WHEREAS**, in accordance with 10 TAC §1.301(f)(1), the compliance history is designated as a Category 1 and deemed acceptable without conditions by the Executive Award and Review Advisory Committee (EARAC);

**WHEREAS**, 10 TAC §13.5(h)(2) requires Applications for Developments previously awarded funds by the Department in the last 15 years (regardless of fund source) to be found eligible by the Executive Director;

**WHEREAS**, this Application provided evidence of circumstances beyond the Applicant's control that could not have been prevented with appropriate due diligence, including increased labor and material costs as a result of record low unemployment in the area and high demand for building materials, as criteria for the Executive Director to consider in affirming their eligibility;

**WHEREAS**, the Executive Director has found this Application to be eligible;

**WHEREAS**, staff recommends awarding \$255,000 in HOME funds in addition to the original award of \$2,745,000 in HOME funds; and

**WHEREAS**, this Application has layered HOME rent restrictions on an additional two (22 total) of the 66 units as a result of this addition of HOME funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that an award of \$255,000 in HOME funds from the 2020-1 NOFA for Heritage Heights at Big Spring is hereby approved in the form presented at this meeting; 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 HOME rules and requirements.

**BACKGROUND**

On December 12, 2019, the Board approved issuance of the 2020-1 NOFA for up to \$13,864,168, which has subsequently been amended to increase the amount available to \$26,356,025.20 within three set-asides:

- \$12,509,857.20 of National Housing Trust Fund in the Soft Repayment set-aside,
- \$4,733,439 of HOME funds under the CHDO set-aside,
- \$9,112,729 of HOME funds in the General set-aside.

Heritage Heights at Big Spring was awarded an allocation of 9% HTC and \$2,745,000 in HOME funds on July 25, 2019, which proposed new construction of 66 one- and two- bedroom units for an Elderly Limitation population in Big Spring. The Applicant encountered circumstances beyond their control that could not have been prevented or foreseen after the original HOME award, namely increased labor and material costs as a result of record low unemployment in the area and high demand for building materials. Total development costs increased \$1,172,301 (11%), which is being absorbed by \$539,946 in increased equity proceeds as a result of equity pricing increasing from \$0.83 to \$0.89, a \$358,230 increase in deferred developer fee, and the \$255,000 in additional HOME funds. Despite the increased development costs, the developer fee amount that was previously underwritten has not changed.

Staff is recommending the Board’s approval of Heritage Heights at Big Springs’ additional Direct Loan Application (20502) for additional HOME funds in the amount of \$255,000 (for total loan awards from the Department of \$3,000,000) as a hard repayable loan at 2.5% interest rate with a 30-year amortization and 30-year term under the General Set-Aside. The additional \$255,000 in HOME loan proceeds will be used to fund increased hard costs.

	Permanent Debt Total (all HOME)	Deferred Developer Fee	Year Deferred Fee Fully Paid (projected)
9%/HOME Application	\$2,745,0000	\$29,664	1
Current Request	\$3,000,000	\$387,895	8

As a result of the additional \$255,000 HOME investment, two additional (22 total) units of the 66 units will be restricted by HOME rent and income restrictions under the HOME Land Use Restriction Agreement. The Department has the ability to invest additional HOME funds in this project, despite having previously invested HOME funds in this project, since the federal affordability period has not yet begun.

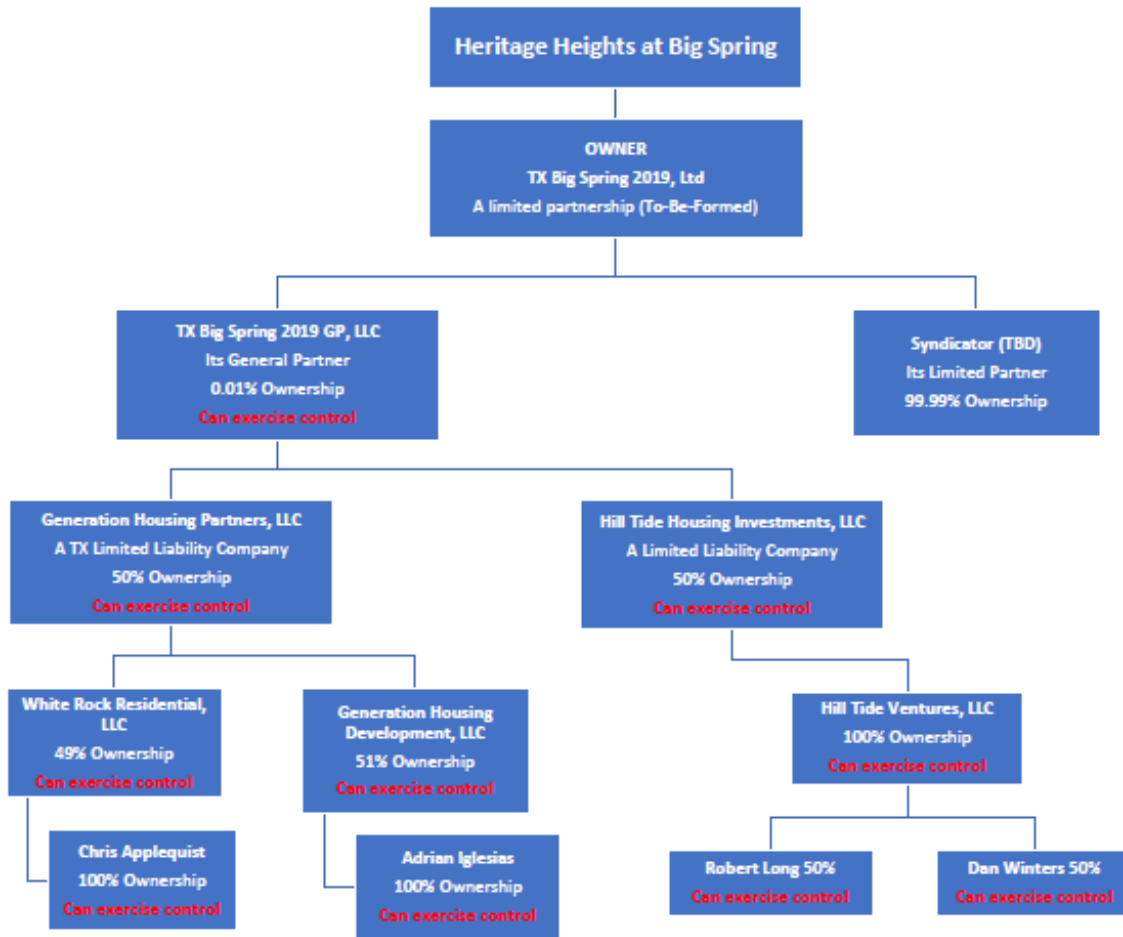
The recommended application and award amounts are outlined in the attached award recommendations log behind this Board item.

This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should this recommended award be approved, \$26,101,025.20 will remain available under the 2020-1 NOFA, of which nine applications requesting \$17,179,000 are still under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

*Organizational and Site Control Structure:* The borrower/applicant is TX Big Spring 2019, Ltd. and includes entities and principals as indicated in the organization chart below. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC. TX Big Spring 2019, Ltd. will own the property.

*Public Comment:* There have been no letters of support or opposition received by the Department in connection with this current application.



Guarantors:  
 Generation Housing Partners, LLC  
 Hill Tide Development, LLC

Historically Underutilized Business: Generation Housing Development, LLC  
 Ownership: 25%  
 Cash Flow: 25%  
 Developer Fee: 25%



Generation Housing Development

April 15, 2020

Andrew Sinnott  
Multifamily Loan Programs Administrator  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

RE: Heritage Heights at Big Spring, TDHCA #20502  
Eligibility for Award of Multifamily Direct Loan Funds

Dear Mr. Sinnott:

In accordance with 10 TAC 13.5(h)(2), please accept this letter as a request for a finding of eligibility for Heritage Heights at Big Spring, TDHCA #20502. Heritage Heights at Big Spring was previously awarded Competitive Housing Tax Credits ("HTC") in the amount of \$900,000 and Multifamily Direct Loan Funds ("MFDL") in the amount of \$2,745,000 by the Texas Department of Housing and Community Affairs ("TDHCA") during the 2019 funding cycle. The applicant for Heritage Heights at Big Spring, TX Big Spring 2019, Ltd, has purchased the land for the development and is proceeding forward to close on the financing for the development.

TX Big Spring 2019, Ltd respectfully requests that the TDHCA Board find Heritage Heights at Big Spring eligible for an additional award of \$255,000 in MFDL. Construction pricing increased dramatically in Big Spring area since the time construction costs were estimated for the HTC application, and the additional MFDL award is needed to address these increased construction costs.

These adverse factors were beyond the applicant's control because labor and material costs have continued to increase at a rate much higher than the rest of the state. Further, these circumstances could not have been prevented, as the cost increases have been largely driven by low unemployment and incredibly high demand for building materials. Additionally, we have found that the majority of the construction-related demand is currently being met by out-of-town subcontractors. In addition to the increasing cost of materials, these companies are incurring additional overhead for lodging and transportation. Due to the fact that the construction contract is nearing finalization, additional exceptional conditions and cost increases are not expected.

Under the MFDL application, the applicant is proposing to restrict two additional units to the High HOME rent levels, as compared to the original application. Furthermore, the applicant is deferring additional developer fee in order to address construction cost increases.



Generation Housing Development

We are grateful for TDHCA's assistance and partnership in TX Big Spring 2019, Ltd's efforts to provide high-quality affordable housing in Big Spring, and respectfully request a finding of eligibility for an award of MFDL funds to Heritage Heights at Big Spring.

Sincerely,

Chris Applequist  
Authorized Representative, TX Big Spring 2019, Ltd





**Addendum to Underwriting Report**

TDHCA Application #: **20502-19202** Program(s): **9% HTC MDL**

**Heritage Heights at Big Spring**

Address/Location: 120 Airbase Rd

City: Big Spring Howard Zip: 79720

APPLICATION HISTORY	
Report Date	PURPOSE
06/08/20	Increase in Direct Loan Amount
06/20/19	Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	\$2,745,000	2.50%	30	30	\$3,000,000	2.50%	30	30	1
LIHTC (9% Credit)	\$900,000				\$900,000				

\* Multifamily Direct Loan Terms:

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

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- 2 Receipt and acceptance by Cost Certification:
  - a: Certification that testing for asbestos was performed on the existing building prior to renovation or demolition activities, and if necessary, a certification that any appropriate abatement procedures were implemented.
  - b: Evidence that the units and buildings have met the requirements for use of a Green Discount Utility Allowance.

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

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	5
50% of AMI	50% of AMI	14
60% of AMI	60% of AMI	47

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
50% of AMFI	Low HOME	15
60% of AMFI	High HOME	7

## ANALYSIS

The Applicant received a \$900,000 tax credit allocation in 2019. It also received an award of a \$2,745,000 Multifamily Direct Loan as a First Lien Mortgage and the only source of permanent debt for the Development.

The Applicant is now applying to increase the Direct Loan amount by \$255,000 to the maximum \$3,000,000 to finance increased development costs.

Based on the previously awarded loan amount, the Direct Loan LURA would restrict 15 units at Low HOME Rent / 50% AMI and 5 units at High HOME / 60%. Due to the increased loan amount, the number of units restricted at High HOME /60% will increase to 7.

### Operating Pro Forma

The Development was originally underwritten at 2018 HTC and HOME rents. The HTC Rents have been updated to 2020 level. HOME Rents are updated to 2019 levels as the 2020 Rents are not yet available.

The only significant change to operating expenses is an increase in payroll from \$86,140 to \$104,310. The increase is supported by a current detailed staffing plan provided by the third party Property Manager.

The \$34/unit Direct Loan Compliance Fee has been excluded in light of a 2020 rule change stating that developments with both tax credits and Direct Loan funds will pay only the \$40/unit HTC Compliance Fee.

Net operating Income has increased from \$175,696 to \$192,287.

### Development Cost

Total Hard Construction Cost has increased 15%. The Applicant states the increase is the result of sub-contractor shortages and material cost increases in the West Texas region. The increased cost is documented by a draft AIA 101 Construction Contract and Schedule of Values from a Third Party Contractor.

Despite the increased development costs, Developer is unchanged.

Total Development Cost has increased \$1,172,301 (11%) to \$11,553,719.

Sources of Funds

Debt Source	INTERIM				PERMANENT				
	Amount	Interest Rate			Amount	Interest Rate	Amort	Term	LTC
M1 Bank	\$6,100,000	5.75%							
TDHCA	\$3,000,000	0.00%			\$3,000,000	2.50%	30	30	26%
BGO Architects	\$156,375				\$156,375				1%
City of Big Spring	\$250				\$250				0%
<b>Total</b>	<b>\$9,256,625</b>				<b>\$3,156,625</b>				

Equity & Deferred Fees	INTERIM			PERMANENT			
	Amount			Amount	Rate	% TC	% Def
Aegon	\$1,201,380			\$8,009,199	\$0.89	69%	
TX Big Spring Development	\$1,068,541			\$387,895		3%	32%
<b>Total</b>	<b>\$2,269,921</b>			<b>\$8,397,094</b>			
				<b>\$11,553,719</b>	<b>Total Sources</b>		

M1 Bank has replaced Chase as the construction lender, providing a \$6,100,000 construction loan (up from \$4,800,000).

Aegon has replaced National Equity Fund as the tax credit investor. Equity during construction has decreased from \$1,493,851 to \$1,201,380. But the credit price has increased from \$0.83 to \$0.89, yielding \$539,946 additional total equity.

Matching Funds provided by BGO Architects has increased to support the increased Direct Loan Amount.

Applicant's deferred Developer Fee has increased from \$29,664 to \$387,199.

Despite the increased Direct Loan amount, debt coverage remains at the maximum 1.35 due to the increased Program Rents.

The current analysis continues to support the previously awarded \$900,000 HTC Allocation.

Underwriter recommends approval of the requested \$255,000 in Direct Loan Funds, bringing the total amount to \$3,000,000, as a construction-to-permanent first lien repayable loan at 2.50% interest fully amortized over 30 years.

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

**UNIT MIX/RENT SCHEDULE**

*Heritage Heights at Big Spring, Big Spring, 9% HTC #19202*

**LOCATION DATA**

CITY:	Big Spring
COUNTY:	Howard
Area Median Income	\$64,200
PROGRAM REGION:	12

**UNIT DISTRIBUTION**

# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	30	45.5%	0	10	30%	5	7.6%
2	36	54.5%	0	12	40%	-	0.0%
3	-	0.0%	0	0	50%	14	21.2%
4	-	0.0%	0	0	60%	47	71.2%
5	-	0.0%	0	0	70%	-	0.0%
					80%	-	0.0%
					MR	-	0.0%
<b>TOTAL</b>	<b>66</b>	<b>100.0%</b>	<b>-</b>	<b>22</b>	<b>TOTAL</b>	<b>66</b>	<b>100.0%</b>

**Pro Forma ASSUMPTIONS**

Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.42%
APP % Construction	9.00%
Average Unit Size	867 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%	\$379	LH/50%	\$631	1	1	1	724	\$379	\$53	\$326	\$0	\$0.45	\$326	\$326	\$326	\$326	\$0.45	\$0	\$1,200	\$1.66	\$1,200
TC 30%	\$379			2	1	1	724	\$379	\$53	\$326	\$0	\$0.45	\$326	\$652	\$652	\$326	\$0.45	\$0	\$1,200	\$1.66	\$1,200
TC 50%	\$631	LH/50%	\$631	8	1	1	724	\$631	\$53	\$578	\$0	\$0.80	\$578	\$4,624	\$4,624	\$578	\$0.80	\$0	\$1,200	\$1.66	\$1,200
TC 60%	\$758			18	1	1	724	\$758	\$53	\$705	\$0	\$0.97	\$705	\$12,690	\$12,690	\$705	\$0.97	\$0	\$1,200	\$1.66	\$1,200
TC 60%	\$758	HH/60%	\$716	1	1	1	724	\$716	\$53	\$663	\$0	\$0.92	\$663	\$663	\$663	\$663	\$0.92	\$0	\$1,350	\$1.86	\$1,350
TC 30%	\$454			2	2	2	987	\$454	\$69	\$385	\$0	\$0.39	\$385	\$770	\$770	\$385	\$0.39	\$0	\$1,350	\$1.37	\$1,350
TC 50%	\$757	LH/50%	\$757	6	2	2	987	\$757	\$69	\$688	\$0	\$0.70	\$688	\$4,128	\$4,128	\$688	\$0.70	\$0	\$1,350	\$1.37	\$1,350
TC 60%	\$909	HH/60%	\$881	6	2	2	987	\$881	\$69	\$812	\$0	\$0.82	\$812	\$4,872	\$4,872	\$812	\$0.82	\$0	\$1,350	\$1.37	\$1,350
TC 60%	\$909			22	2	2	987	\$909	\$69	\$840	\$0	\$0.85	\$840	\$18,480	\$18,480	\$840	\$0.85	\$0	\$1,351	\$1.37	\$1,351
<b>TOTALS/AVERAGES:</b>				<b>66</b>			<b>57,252</b>				<b>\$0</b>	<b>\$0.82</b>	<b>\$715</b>	<b>\$47,205</b>	<b>\$47,205</b>	<b>\$715</b>	<b>\$0.82</b>	<b>\$0</b>	<b>\$1,284</b>	<b>\$1.48</b>	<b>\$1,284</b>

**ANNUAL POTENTIAL GROSS RENT:**

\$566,460    \$566,460

**STABILIZED PRO FORMA**

*Heritage Heights at Big Spring, Big Spring, 9% HTC #19202*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	County Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.82	\$715	\$566,460	\$524,604	\$524,604	\$566,460	\$715	\$0.82		0.0%	\$0
Vending, Laundry, Maintenance Charges						\$10.00	\$7,920	7,920						
Total Secondary Income						\$10.00		7,920	\$7,920	\$10.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$574,380	\$532,524	\$532,524	\$574,380				0.0%	\$0
Vacancy & Collection Loss					7.5% PGI	(43,079)	(39,939)	(39,939)	(43,079)	7.5% PGI			0.0%	-
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$531,302	\$492,585	\$492,585	\$531,302				0.0%	\$0

General & Administrative	\$40,089	\$607/Unit	\$28,898	\$438	4.80%	\$0.45	\$386	\$25,500	\$25,500	\$28,898	\$28,898	\$438	\$0.50	5.44%	-11.8%	(3,398)
Management	\$38,130	6.3% EGI	\$20,040	\$304	5.00%	\$0.46	\$403	\$26,565	\$24,629	\$24,629	\$26,565	\$403	\$0.46	5.00%	0.0%	(0)
Payroll & Payroll Tax	\$67,339	\$1,020/Unit	\$71,980	\$1,091	19.63%	\$1.82	\$1,580	\$104,310	\$86,140	\$86,140	\$104,016	\$1,576	\$1.82	19.58%	0.3%	294
Repairs & Maintenance	\$41,383	\$627/Unit	\$47,258	\$716	7.06%	\$0.65	\$568	\$37,500	\$37,500	\$39,600	\$39,600	\$600	\$0.69	7.45%	-5.3%	(2,100)
Electric/Gas	\$15,695	\$238/Unit	\$19,697	\$298	2.79%	\$0.26	\$224	\$14,800	\$13,800	\$15,695	\$15,695	\$238	\$0.27	2.95%	-5.7%	(895)
Water, Sewer, & Trash	\$30,357	\$460/Unit	\$56,105	\$850	7.43%	\$0.69	\$598	\$39,500	\$38,500	\$38,500	\$38,500	\$583	\$0.67	7.25%	2.6%	1,000
Property Insurance	\$24,404	\$0.43 /sf	\$19,072	\$289	3.73%	\$0.35	\$300	\$19,800	\$19,800	\$19,800	\$19,800	\$300	\$0.35	3.73%	0.0%	-
Property Tax (@ 100%) 2.5297	\$34,475	\$522/Unit	\$26,239	\$398	9.77%	\$0.91	\$786	\$51,900	\$47,900	\$43,650	\$48,270	\$731	\$0.84	9.09%	7.5%	3,630
Reserve for Replacements	\$29,813	\$452/Unit	\$20,489	\$310	3.11%	\$0.29	\$250	\$16,500	\$19,800	\$19,800	\$16,500	\$250	\$0.29	3.11%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$2,121	\$32	0.50%	\$0.05	\$40	\$2,640	\$2,640	\$2,640	\$2,640	\$40	\$0.05	0.50%	0.0%	-
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)			\$0	\$0	0.00%	\$0.00	\$0	\$0	\$680	\$680	\$0	\$0	\$0.00	0.00%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>63.81%</b>	<b>\$5.92</b>	<b>\$5,137</b>	<b>\$ 339,015</b>	<b>\$316,889</b>	<b>\$320,032</b>	<b>\$340,484</b>	<b>\$5,159</b>	<b>\$5.95</b>	<b>64.08%</b>	<b>-0.4%</b>	<b>\$ (1,469)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>36.19%</b>	<b>\$3.36</b>	<b>\$2,913</b>	<b>\$192,287</b>	<b>\$175,696</b>	<b>\$172,553</b>	<b>\$190,817</b>	<b>\$2,891</b>	<b>\$3.33</b>	<b>35.92%</b>	<b>0.77%</b>	<b>\$ 1,469</b>

CONTROLLABLE EXPENSES		\$3,358/Unit		\$3,435/Unit	
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Heritage Heights at Big Spring, Big Spring, 9% HTC #19202*

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE							
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App						Applicant	TDHCA						DCR	LTC
TDHCA		1.34	1.35	\$142,244	2.50%	30	30	\$3,000,000	\$2,745,000	\$2,745,000	\$3,000,000	30	30	2.50%	\$142,244	1.35	26.0%
<b>CASH FLOW DEBT / GRANTS</b>																	
City of Big Spring		1.34	1.35		0.00%	0	0	\$250	\$250	\$250	\$250	0	0	0.00%		1.35	0.0%
BGO Architects		1.34	1.35		0.00%	0	0	\$156,375	\$137,250	\$137,250	\$156,375	0	0	0.00%		1.35	1.4%
				<b>\$142,244</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$3,156,625</b>	<b>\$2,882,500</b>	<b>\$2,882,500</b>	<b>\$3,156,625</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$142,244</b>	<b>1.35</b>	<b>27.3%</b>

<b>NET CASH FLOW</b>	\$48,573	\$50,043	<b>APPLICANT NET OPERATING INCOME</b>												\$192,287	\$50,043	<b>NET CASH FLOW</b>
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EQUITY SOURCES														
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE								
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
						Applicant	TDHCA							
Aegon	LIHTC Equity	69.3%	\$900,000	0.89	\$8,009,199	\$7,469,253	\$7,469,253	\$8,009,199	\$0.8899	\$900,000	69.3%	\$13,636	Previous Allocation	
TX Big Spring Development	Deferred Developer Fees	3.4%	(32% Deferred)		\$387,895	\$29,665	\$29,664	\$387,895	(32% Deferred)		3.4%	Total Developer Fee:	\$1,229,707	
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%			
<b>TOTAL EQUITY SOURCES</b>					<b>72.7%</b>	<b>\$8,397,094</b>	<b>\$7,498,918</b>	<b>\$7,498,917</b>	<b>\$8,397,094</b>	<b>72.7%</b>				

<b>TOTAL CAPITALIZATION</b>	<b>\$11,553,719</b>	\$10,381,418	\$10,381,417	<b>\$11,553,719</b>	15-Yr Cash Flow after Deferred Fee:		<b>\$395,840</b>
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DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS				COST VARIANCE					
	Eligible Basis		Total Costs	Total Costs	Prior Underwriting		Total Costs	Eligible Basis		%	\$			
	Acquisition	New Const. Rehab			Applicant	TDHCA		New Const. Rehab	Acquisition					
Land Acquisition			\$5,682 / Unit	\$375,000	\$375,000	\$375,000	\$375,000	\$5,682 / Unit		0.0%	\$0			
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit		0.0%	\$0			
Site Work		\$853,730	\$13,087 / Unit	\$863,730	\$863,730	\$863,730	\$1,511,847	\$22,907 / Unit	\$853,730	-42.9%	(\$648,117)			
Site Amenities		\$234,630	\$3,555 / Unit	\$234,630	\$234,630	\$234,630	\$174,500	\$2,644 / Unit	\$234,630	34.5%	\$60,130			
Building Cost		\$4,342,562	\$98.83 /sf	\$85,728/Unit	\$5,658,061	\$4,758,061	\$4,715,913	\$5,163,916	\$78,241/Unit	\$90.20 /sf	\$4,342,562	9.6%	\$494,145	
Contingency		\$271,546	5.00%	5.00%	\$337,821	\$292,821	\$292,821	\$337,821	4.93%	5.00%	\$271,546	0.0%	\$0	
Contractor Fees		\$798,345	14.00%	14.00%	\$993,192	\$860,892	\$854,993	\$993,192	13.82%	14.00%	\$798,345	0.0%	\$0	
Soft Costs	0	\$753,910	\$12,029 / Unit	\$793,910	\$781,160	\$781,160	\$793,910	\$12,029 / Unit	\$753,910	\$0	0.0%	\$0		
Financing	0	\$599,025	\$12,669 / Unit	\$836,136	\$733,931	\$733,931	\$836,136	\$12,669 / Unit	\$599,025	\$0	0.0%	\$0		
Developer Fee	\$0	\$1,178,062	15.00%	13.30%	\$1,229,707	\$1,229,707	\$1,223,384	\$1,229,707	13.17%	15.00%	\$1,178,062	\$0	0.0%	\$0
Reserves			5 Months	\$190,669	\$251,486	\$225,092	\$190,669	5 Months			0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$0</b>	<b>\$9,031,810</b>	<b>\$175,056 / Unit</b>	<b>\$11,553,719</b>	<b>\$10,381,418</b>	<b>\$10,300,654</b>	<b>\$11,647,561</b>	<b>\$176,478 / Unit</b>	<b>\$9,031,810</b>	<b>\$0</b>	<b>-0.8%</b>	<b>(\$93,842)</b>		
Acquisition Cost	\$0			\$0	\$0									
Contingency		\$0		\$0	\$0									
Contractor's Fee		\$0		\$0	\$0									
Financing Cost		\$0												
Developer Fee	\$0	\$0		\$0	(\$1)									
Reserves				\$0	\$0									
<b>ADJUSTED BASIS / COST</b>	<b>\$0</b>	<b>\$9,031,810</b>	<b>\$175,056/unit</b>	<b>\$11,553,719</b>	<b>\$10,381,417</b>	<b>\$10,300,654</b>	<b>\$11,647,561</b>	<b>\$176,478/unit</b>	<b>\$9,031,810</b>	<b>\$0</b>	<b>-0.8%</b>	<b>(\$93,842)</b>		
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$11,553,719</b>									

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Heritage Heights at Big Spring, Big Spring, 9% HTC #19202*

<b>CREDIT CALCULATION ON QUALIFIED BASIS</b>				
	<b>Applicant</b>		<b>TDHCA</b>	
	<b>Acquisition</b>	<b>Construction Rehabilitation</b>	<b>Acquisition</b>	<b>Construction Rehabilitation</b>
<b>ADJUSTED BASIS</b>	\$0	\$9,031,810	\$0	\$9,031,810
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$9,031,810	\$0	\$9,031,810
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$11,741,353	\$0	\$11,741,353
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$11,741,353	\$0	\$11,741,353
Applicable Percentage	3.42%	9.00%	3.42%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,056,722	\$0	\$1,056,722
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,056,722		\$1,056,722	

Method	<b>ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS</b>		<b>FINAL ANNUAL LIHTC ALLOCATION</b>		
	<b>Annual Credits</b>	<b>Proceeds</b>	<b>Credit Price \$0.8899</b>	<b>Variance to Request</b>	
			<b>Credit Allocation</b>	<b>Credits</b>	<b>Proceeds</b>
<b>Eligible Basis</b>	\$1,056,722	\$9,403,883	----	----	----
<b>Needed to Fill Gap</b>	\$943,588	\$8,397,094	----	----	----
<b>Previous Allocation</b>	\$900,000	\$8,009,199	<b>\$900,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Heritage Heights at Big Spring, Big Spring, 9% HTC #19202*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	\$531,302	\$541,928	\$552,766	\$563,821	\$575,098	\$634,954	\$701,041	\$774,006	\$854,565	\$943,509
TOTAL EXPENSES	3.00%	\$339,015	\$348,920	\$359,116	\$369,614	\$380,420	\$439,424	\$507,661	\$586,583	\$677,875	\$783,484
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$192,287</b>	<b>\$193,008</b>	<b>\$193,650</b>	<b>\$194,208</b>	<b>\$194,678</b>	<b>\$195,530</b>	<b>\$193,380</b>	<b>\$187,423</b>	<b>\$176,690</b>	<b>\$160,025</b>
EXPENSE/INCOME RATIO		63.8%	64.4%	65.0%	65.6%	66.1%	69.2%	72.4%	75.8%	79.3%	83.0%
<b>MUST -PAY DEBT SERVICE</b>											
TOTAL DEBT SERVICE		\$142,244	\$142,244	\$142,244	\$142,244	\$142,244	\$142,244	\$142,244	\$142,244	\$142,244	\$142,244
DEBT COVERAGE RATIO		1.35	1.36	1.36	1.37	1.37	1.37	1.36	1.32	1.24	1.13
<b>ANNUAL CASH FLOW</b>											
		<b>\$50,043</b>	<b>\$50,764</b>	<b>\$51,406</b>	<b>\$51,964</b>	<b>\$52,434</b>	<b>\$53,287</b>	<b>\$51,137</b>	<b>\$45,179</b>	<b>\$34,447</b>	<b>\$17,781</b>
Deferred Developer Fee Balance		\$337,852	\$287,088	\$235,682	\$183,717	\$131,283	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$134,505</b>	<b>\$395,840</b>	<b>\$635,355</b>	<b>\$831,181</b>	<b>\$956,051</b>





**2020-1 Multifamily Direct Loan Program - Application Log - June 18, 2020**

Per 2020-1 Multifamily Direct Loan Notice of Funding Availability (as amended by First Amendment, Second Amendment, and Third Amendment to 2020-1 NOFA)

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Chapter 11 Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules. This log will be updated periodically as staff completes application reviews and as more applications are received. The 2020-1 NOFA Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

*Applications sorted by Application Acceptance Date within each set-aside in accordance with Section 3 of the 2020-1 NOFA.*

Soft Repayment (NHTF only)												Total Set Aside Funding Level:	\$12,509,857
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20501	Samano	Brownsville	Cameron	11	ADR	\$ 2,000,000	Supportive Housing	40	14	N	3/31/2020		
20224	Crossroads Apartments	Fort Worth	Tarrant	3	NC	\$ 1,954,000	Supportive Housing	68	13	9%	4/1/2020		
20002	Amadillo Studios	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	110	14	9%	4/1/2020		
20040	Espero Austin at Rutland	Austin	Travis	7	NC	\$ -	Supportive Housing	135	25	9%	4/1/2020	Terminated	
20406	Gala at Central Park	Hurst	Tarrant	3	NC	\$ 3,000,000	Elderly	94	19	4%	6/4/2020	To be recommended for award at 6/25/20 Board meeting	
<b>Total Amount Requested Under Soft Repayment Set Aside</b>						<b>\$ 8,954,000</b>	<b>Total Units</b>	<b>447</b>	<b>85</b>				
<b>Total Amount Awarded Under Soft Repayment Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under Soft Repayment Set Aside</b>						<b>\$ 12,509,857</b>							

CHDO (HOME funds only)												Total Set Aside Funding Level:	\$4,733,439
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20317	Merritt Edge	Midland	Midland	12	NC	\$ -	Elderly	124	20	9%	4/1/2020	Application withdrawn	
20344	Merritt Sunset	Midland	Midland	12	NC	\$ -	General	149	21	9%	4/1/2020	Application withdrawn	
20012	Merritt Gardens	Midland	Midland	12	NC	\$ -	Elderly	120	20	9%	4/1/2020	Ineligible for HOME funds under CHDO set-aside	
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>393</b>	<b>61</b>				
<b>Total Amount Awarded Under CHDO Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under CHDO Set Aside</b>						<b>\$ 4,733,439</b>							

General (HOME funds only)												Total Set Aside Funding Level:	\$9,112,729
TDHCA #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/ Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Application Acceptance Date	Comments	
20502	Heritage Heights at Big Spring	Big Spring	Howard	12	NC	\$ 255,000	Elderly	66	2	N	3/31/2020	To be recommended for award at 6/25/20 Board meeting	
20329	Fish Pond at Huntsville	Huntsville	Walker	6	NC	\$ 2,650,000	Elderly	48	27	9%	4/1/2020		
20200	Lofts at Temple Medical District	Temple	Bell	8	NC	\$ 3,000,000	Elderly	120	25	9%	4/1/2020		
20463	Trinity Oaks	Sulphur Springs	Hopkins	4	A/R	\$ 925,000	Elderly	48	16	4%	4/28/2020		
20464	Pine Terrace	Mount Pleasant	Titus	4	A/R	\$ 1,650,000	Elderly	76	28	4%	4/28/2020		
<b>Total Amount Requested Under General Set Aside</b>						<b>\$ 8,480,000</b>	<b>Total Units</b>	<b>358</b>	<b>98</b>				
<b>Total Amount Awarded Under General Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>				
<b>Total Amount Remaining Under General Set Aside</b>						<b>\$ 9,112,729</b>							

\* = \$5,385,999.20 in NHTF potentially being added to the Soft Repayment set-aside via the First Amendment to the 2020-1 NOFA being considered at the 2/20/20 Board meeting.

1 = Housing Activity: NC=New Construction, R=Rehabilitation, ADR= Adaptive Reuse

2 = Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Noncompetitive Tax Credits

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**BOARD ACTION REQUEST**  
**BOND FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on Inducement Resolution No. 20-023 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

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

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

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

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 20-023 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-application listed herein, is hereby approved in the form presented to this meeting.

**BACKGROUND**

**General Information:** The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a 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 \$35,000,000 in private activity bond volume cap. Staff notes that the Department's set-aside of \$159,839,794 for the 2020 program year has been met, in addition to \$69,000,000 from 2019 Carryforward, bringing the total in reserved applications to \$228,800,000 for 2020. The pre-application listed below will be placed on the Department's waiting list to receive a Reservation, bringing the total on the Department's waiting list to \$155 million.

**20615 – The Montage**

New Construction of 216 units is proposed for this multifamily development to be located at the Southwest quadrant of Walzem Road and FM 78 in San Antonio, Bexar County. The applicant disclosed Neighborhood Risk Factors (NRF) involving the underperformance of Metzger Middle School. The site is within the attendance zone of Metzger Middle School, and thus would typically require an NRF report, pursuant to 10 TAC §11.101(a)(3) of the Qualified Allocation Plan. However, in response to the COVID-19 pandemic, at the Board meeting of April 23, 2020, the Board granted a waiver regarding the requirement for mitigation relating to school performance for the remainder of the 2020 program year. This waiver is applicable to those 4% HTC applications submitted under the 2020 QAP that receive a Reservation from the Bond Review Board in the 2020 calendar year. This transaction is proposed to be Priority 3 and will serve the general population. All 216 units will be rent and income restricted at 60% of the Area Median Income. Staff notes that the 4% HTC full application was previously submitted to the Department in July 2019 through a local issuer; however, that application was ultimately withdrawn. The Department has received seven opposition letters from individuals in the community and one opposition letter from the Coalition of Northeast Neighborhoods (CONEN), all of which are included herein. The Department has also received an opposition letter from Bexar County Commissioner for the 4<sup>th</sup> Precinct, Tommy Calvert, which is also included.

Bond Inducement Amount: \$35,000,000

## RESOLUTION NO. 20-023

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

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

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

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

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

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

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

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

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

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

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

#### ARTICLE 1

##### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements

regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the “Attorney General”); (v) satisfaction of the Board that the respective Development meets the Department’s public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

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

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

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

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

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

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

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

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

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



from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

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

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

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

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

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

## ARTICLE 2

### CERTAIN FINDINGS AND DETERMINATIONS

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

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit; and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

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

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

ARTICLE 3

GENERAL PROVISIONS

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

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 25<sup>th</sup> day of June, 2020.

**EXHIBIT "A"**

Descriptions of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
The Montage	Saddlespur Pass Apartments, LP, a Texas limited partnership	General Partner/Member: BMDC Saddlespur Pass Apartments GP, LLC, a Texas limited liability company	\$35,000,000
Costs: Acquisition/construction of a 216-unit affordable, multifamily housing development to be known as The Montage Apartments, located on SWQ of FM 78 and Walzem Road, San Antonio, Bexar County, Texas 78224			



**TOMMY CALVERT**  
**BEXAR COUNTY COMMISSIONER, PRECINCT 4**

June 9, 2020

Honorable Greg Abbott  
Governor, State of Texas  
1100 San Jacinto  
Austin, Texas 78701

Dear Governor Abbott:

I am writing today to express my opposition to Texas Department of Housing and Community Affairs development number 20615 – a development by Herman and Kittle; located in northeast Bexar County Precinct 4. I am writing to ask your office to please communicate to your appointees on the board to vote against the granting of a state tax credit at this location for some of the following reasons.

Last year, Herman and Kittle participated in the most volatile town hall that I have seen in six years in office—residents of the area were uniformly opposed. The tide really turned against Herman and Kittle after members of the community did their own travel to a property operated by Herman and Kittle in New Braunfels, Texas. Our constituents took photos and placed them on a larger poster board for the community to see how poorly the company cared for their property at that location a few miles up IH-35 and another in the company's headquarters in Indiana. We just wanted you to be aware of some of the ratings and comments from the online reviews about the properties and hope you will protect us from becoming another poorly managed apartment community.

The community suggested that Herman and Kittle build a senior living facility, but the company did not follow up with a plan for such a facility. There are locations that would produce much less anger over increased traffic, crime, and economic decline, but in a sign of bad faith in listening to the community, the company has not chosen the path of community harmony for this northeast corridor. This community is not uniformly against affordable housing in northeast Bexar County. Just a few miles away, the NRP Group was able to get the support of neighborhoods who wanted affordable housing. The NRP Group drove them to their properties to see how well they are maintained and how they have not hurt property values, but we don't have a nearby quality comparison locally from Herman and Kittle.

There is a tremendous lack of trust because of the flip-flopping stances of the company. They abandoned working with the Bexar County Housing Finance Corporation after I would not grant support to the development. After those discussions broke off, Herman and Kittle said they would build a market rate apartment complex, which the community was not enthusiastic about, but at least they felt that they would be paying property taxes and contributing to police, fire, EMS, roads, and other services for the area. However, they went back on that promise too and are now asking taxpayers to give them an incentive and on top of that forgo paying taxes.

At a time that we need workforce and affordable housing because of an already large need that is now compounded by economic collapse and homelessness from the pandemic, the Herman and Kittle company has set the affordable housing community back and the programs that the state of Texas seeks to have assist working people. Other companies like NRP Group have helped to restore some faith and confidence, but the public relations and community trust have been fumbled where it's a loss for your office, your appointees, and the state agency that operates under the direction of your appointees.

I am requesting the company meet with residents surrounding the project site to see if they can work out setbacks, landscape buffers, crime concerns, transportation issues, and property value concerns. Unfortunately, we have seen the Texas Department of Housing and Community Affairs board members ignore the requests of the residents in another development across the street, in large part, because the laws in Texas favor the apartment developers over the residents. However, we believe that your leadership can provide better balance and a conservative solution to hold the line in the neighborhood from an over proliferation of low-income apartment complexes within a small area, when large swaths of property are available across the county with good school districts fitting the criteria set forth by TDHCA.

I am a supporter of affordable and workforce housing, but I respect even more the right of communities to shape their future and be governed in partnership with state leadership and live not in conflict with their government. Hence, I cannot support this project moving forward.

If you have any questions or would like to discuss this further, please call my office at 210-335-2614.

Always your voice,



Tommy Calvert  
Bexar County Commissioner, Precinct 4

CC: State Senator Eddie Lucio, Jr., Chair, Intergovernmental Relations Committee  
State Representative Angie Chen Button, Chair, Urban Affairs Committee  
State Senator, Pete Flores, District 19  
State Representative Barbara Gervin-Hawkins, District 120  
Theresa Morales, Multifamily Bond Administrator, TDHCA  
Ms. Leslie Bingham, Vice Chair, TDHCA Board of Directors  
Ms. Sharon Thomason, Member, TDHCA Board of Directors  
Mr. Paul A. Braden, Member, TDHCA Board of Directors  
Mr. Leo Vasquez, Member, TDHCA Board of Directors

June 5, 2020

Albert & Noelia Garcia

7832 Pecan Heights

San Antonio TRX 78244

Texas Department of Housing and Community Affairs

Attention: Theresa Morales Multifamily Bond Administrator

Reference: Tax application # 20615- The development of Montagne Apartments

Dear Madam:

I am writing this letter of opposition to the Tax Application # 20615. I am opposing to all multifamily apartments erection by Herman and Kittle in the vacant site adjacent to Gold's Gym on FM 78 near the dangerous intersection near Walzem Road.

Even though I understand that this developer removed their application earlier for tax credits considerate by the state, the purpose of this letter is to still oppose any future efforts to bring forward a new application. By allowing this developer to build on this property adjacent to our neighborhood, the traffic congestion, the possibility of a decline of property value, and increase in crime all presents a negative picture for any positive growth.

I feel that the property would be ideal for retail use. This area could be better served by retail merchants, such as restaurants, stores that would help keep monies in this area instead of having to go elsewhere to enjoy a nice dinner rather than fast foods.

Thank you

*Albert Garcia*

Albert Garcia

**From:** [bcarter47@att.net](mailto:bcarter47@att.net)  
**To:** [Teresa Morales](#)  
**Subject:** No more multi-housing - our area has enough of what it brings  
**Date:** Saturday, June 6, 2020 3:30:55 PM

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Ms. Morales,

My husband and I are in our 70's; we have owned our home in Spring Meadows for 30+ years. We used to feel safe in the neighborhood, but then Hurricane Katrina came along and all the people evacuated moved into the mall on Walzem and the trouble began. They had to find a permanent place to live and the county made affordable (section 9) housing available. Most didn't have nor did they want jobs. The crime steadily climbed in the area. Young people wandered around at all hours and vandalized places where they broke in and had already stolen everything worth stealing. Home break-ins became common place. People of my age no longer walked in their neighborhoods and definitely didn't go out after dark. We only have Bexar county to protect us and they are spread thin. New houses are going up by the minute and they are no-down, low payment, no credit check. People who are moving in have no pride in homeownership. We have homes with trampolines, cars, inflatable two-story water slides, bbq grills, etc. are stored in front yards. We should have moved out long ago, but now we are too old to make another move. But, we are armed in case of a home invasion. Just in case. Please please no more low cost housing in our area of town. Wal-Marts are robbed in our area. Please we do not want to live in another ghetto. The Glen is just around the corner and that's too close. Take your apartment complexes to the other side of San Antonio; we already have enough trash.

In case you think we are ignorant residents – we are both retired Air Force and hold Master's degrees.

Sincerely,  
Brenda K. Carter



**From:** [Brenda Minor](#)  
**To:** [Teresa Morales](#)  
**Subject:** Application for Apartments by Herman and Kittle Proposed to be Built at Walzem Road and FM 78  
**Date:** Thursday, June 11, 2020 2:05:08 PM

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**JUNE 11, 2020**

**Texas Dept. of Housing and Community Affairs**  
**Public Comment--Multifamily Finance Division**  
**P.O. Box 13941**  
**Austin, TX 78711-3941**  
**Phone 512-475-3800 (main office)**  
**Fax. 512-475-0764**

**Teresa Morales, Multifamily Bond Administrator**  
**512-475-3344**  
**Email: [teresa.morales@tdhca.state.tx.us](mailto:teresa.morales@tdhca.state.tx.us)**

**ATTN: TDHCA Board of Directors Members of the TDHCA Board**

**Ms. Leslie Bingham, Vice Chair**                      **Ms. Sharon Thompson**  
**Mr. Paul A Braden**                                      **Mr. Lee Vasquez**

**Governor Greg Abbott**  
**Office of Governor**  
**P.O. Box 12428**  
**512-463-2000**

**Re: Application for Apartments by Herman and Kittle Proposed to be Built at  
Walzem Road and FM 78**

**From: Brenda J. Minor**

Ventura I Subdivision Resident

7554 Lincoln Village Dr.

San Antonio. TX. 78244-1517

Email brenearn@sbcglobal.net

210-601-0330

I am writing to inform you that "I OPPOSE" the proposed plan of " Herman Kittle" to build the Apartments in said location due to insufficient infrastructure. It does not support this type of housing.

Sincerely,

Brenda J. Minor

**From:** [lmaranto@aol.com](mailto:lmaranto@aol.com)  
**To:** [Teresa Morales](#)  
**Subject:** Herman and Kittle Proposed Apartment Development  
**Date:** Tuesday, June 2, 2020 4:42:46 PM

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To Teresa Morales:

I want to express my strong disapproval for the subject apartment development planned at the intersection of Walzem Road and FM 78 in Bexar County, Texas.

I live in the neighborhood next to the proposed site. It should definitely not be financed through the Housing Tax Credits-Non Competitive 4% and TDHCA Tax Exempt Bonds.

The traffic at that intersection is horrible and cannot sustain more of it. It is already an unsafe intersection with far too many accidents.

Furthermore, the Judson Independent School District is currently overcrowded. The additional students from the proposed apartment complex would have a very negative impact on an already overcrowded school district.

Additionally, and most importantly the apartment complex would not be compatible or congruous to the single family homes in the surrounding neighborhoods.

Your support in disapproving the Herman and Kittle funding request would be greatly appreciated by all who currently live in the area.

Sincerely,

Leonard J. Maranto  
7307 Sawgrass  
San Antonio, Tx. 78244

Name: Irma Kramer  
Address: 7819 Pecan Heights  
San Antonio, Tx. 78244

Re: Tax application #20615: development of Montagne Apartments  
Attn: Theresa Morales Multifamily Bond Administrator  
Texas Department of Housing and Community Affairs

Dear Madame,

The purpose of this letter is to voice opposition to the future Herman and Kittle apartments at the intersection of Walzem Road and FM 78.

My property butts up right behind the proposed development, and as a single woman and senior citizen I am extremely concerned with my safety and privacy.

It is not uncommon for violence and disorderly behavior to be prevalent in these units so security becomes a prominent issue. Providing safety measures like video surveillance, 24 hour security or visitor screening do not always mitigate the high crime rates of public housing.

There is also the potential fear that residents could be ex-convicts or other undesirable sorts who will impact the quality of life of their neighbors.

I appreciate anything that can be done on behalf of the community in this neighborhood.

Respectfully submitted.



June 2, 2020,

Name: Stephen Glover  
Address: 7835 Pecan Heights  
San Antonio, Texas 78244

Texas Department of Housing and Community Affairs Board  
Attention: Ms. Leslie Bingham Vice Chair

Reference: Tax application # 20615 -The development of Montagne Apartments

Dear Madam:

I am writing this letter of opposition to the Tax Application 20615. I am oppose to all multifamily apartments erection by Herman and Kittle in the vacant site adjacent to Gold Gym on F.M. 78 near the dangerous intersection near Walzem road.

Even though I understand that this developer removed their application earlier for tax credits consideration by the state, the purpose of this letter is to still oppose any future efforts to bring forward a new application. By allowing this developer to build on this property adjacent to our neighborhood, the traffic congestion, the possibility of a decline of property values, an increase in crime all present a negative picture for any positive growth.

I feel that both properties would be ideal for retail use. This area could be better served by retail merchants , such as restaurants, stores that would help keep monies in this area instead of having to go elsewhere to enjoy a nice dinner rather than fast foods.

Thank You,

*Stephen Glover*  
[sglover6@yahoo.com](mailto:sglover6@yahoo.com)

June 4, 2020

ATTN: TDHCA Board of Directors, Members of the TDHCA Board

Reference: Development/Application #20615, Herman & Kittle Properties- Montage Apartments

CONEN is absolutely opposed to this proposed development. CONEN (Coalition of Northeast Neighborhoods) is a community group representing 8,427 homes in Northeast Bexar County. At least half of our communities will be impacted by this development.

For starters Herman & Kittle Properties has hedged this process for nearly a year now and their actions, conduct and behavior are becoming seemingly harrasing in nature!

In September 2019 there was a community meeting held by Pct. 4 Bexar County Commissioner Tommy Calvert attended by approximately 130 community members at which Herman & Kittle was met with unquestionable resistance to this proposed development.

In November 2019 Herman & Kittle Properties WITHDREW their PREVIOUS application with TDHCA the week prior to the hearing.

Now comes January 2020, Herman & Kittle resurfaces AGAIN with Commissioner Calvert's office. They were instructed by the commissioner to reconnect/communicate with the communities. That NEVER HAPPENED!!!

What is so baffling is that Herman & Kittle Properties want so much to build in this area, but they feel no obligation, moral or otherwise, to communicate with their potential neighbors?

In CONEN's previous objections there were numerous issues cited relevant to the Texas Property Code: the peaceful enjoyment of property and decimation of property values! This is very serious and one would hope that TDHCA would NOT grant permission/funding to a project that violates the Texas Property Code.

There were crime concerns, enormous traffic concerns, school capacities, etc.

As we sit here today, our Pct. 4 County Commissioner doesn't even have all the answers on this project. So that should tell you where the residents are on the actual details about this project.

As for Herman & Kittle Properties, Inc. themselves they can't make up their minds- they have gone from their original proposal last fall, to a "market rate" complex to whatever now. They have a D – (minus) rating with the BBB with no business record in San Antonio! This company has no credibility, integrity and now is proving to be extremely unreliable. This is the culmination of harrassment!

CONEN is respectfully requesting the TDHCA board deny the development application #20615 by Herman & Kittle Properties, Inc. on the Montage Apartments! We certainly wouldn't want to see TDHCA bcome complicit in potential violations of the Texas Property Code!

Other alternatives would be postponement and directing Herman & Kittle back to the impacted communities like County Commissioner Calvert did earlier this year.

CONEN certainly understands the urgent need for affordable housing! However, there are some places where it is just not the right fit! This is one of those cases.

If these tenants are placed in a place they are not wanted so be it! Another point to be understood is why Herman & Kittle insists on putting their prospective tenants in such a situation?

Sincerely,

Lisa M. Pfeiffer  
Vice-Chair, CONEN  
(210) 595-8754



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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action on Inducement Resolution No. 20-024 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

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

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

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

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 20-024 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-application listed herein, is hereby approved in the form presented to this meeting.

**BACKGROUND**

**General Information:** The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a 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 \$35,000,000 in private activity bond volume cap. Staff notes that the Department's set-aside of \$159,839,794 for the 2020 program year has been met, in addition to \$69,000,000 from 2019 Carryforward, bringing the total in reserved applications to \$228,800,000 for 2020. The pre-application listed below will be placed on the Department's waiting list to receive a Reservation, bringing the total on the Department's waiting list to \$155 million.

### **20617 – Murdeaux Villas**

The acquisition and rehabilitation of an existing affordable multifamily development located at 125 S Murdeaux Lane in Dallas, Dallas County. In 2002, Murdeaux Villas, originally known as Sphinx at Murdeaux, was allocated 4% housing tax credits and private activity bonds by the Department.

The rehabilitation plan proposed by the applicant involves a reconfiguration of the existing unit mix, which results in an increase to the overall unit count. More specifically, the applicant proposes to reconfigure several three- and four-bedroom units into one- and two-bedroom units which will increase the total unit count from 240 units to 280 units. This change to the unit mix and count constitutes an amendment to the application, as well as to the existing Land Use and Regulatory Agreement (LURA).

According to the applicant's sponsor, the property has had difficulty performing over the years and has indicated that the proposed reconfiguration of the unit mix will be supported by a market study. The applicant has indicated that the average occupancy the last two years has been 80% and that there are too many three- and four-bedroom units for one property in this particular submarket. The Department has not performed any independent research to substantiate the claim about the submarket.

With the financing having involved private activity bonds issued by the Department, staff can confirm that in December 2010, the Department was notified that the owner was in default under the senior loan documents and consequently requested that a Partial Payment of Claim (PPC) be approved by HUD. At the closing of the PPC, the senior loan had been bifurcated into a modified senior loan that reduced the principal balance, reset the interest rate and a second lien HUD-held mortgage was originated with an interest rate at AFR and payable from 75% of cash flow. The bonds were subsequently redeemed and paid in full from the proceeds of the insured loan, which was considered an extraordinary call on the bonds pursuant to the Trust Indenture that authorized the prepayment. The sponsor for the applicant has indicated that HUD has threatened foreclosure if the property is not sold or refinanced. Staff has not had any conversations with HUD that would corroborate this claim.

As reflected in the bond pre-application, the current owner has marketed the property for sale and the proposed purchaser is the entity that will be pursuing the amendment. This is unusual, as it is historically the case where the current owner, with authority and control over the property, would pursue such amendment. In terms of process, this Board Action Request is putting the Applicant and purchaser on notice that staff expects the amendment request to the Department to be submitted and

have been processed prior to any detailed review of the full housing tax credit and bond application, which pursuant to 10 TAC §11.201(2)(B)(ii) of the Qualified Allocation Plan, cannot be submitted until a Reservation from the BRB has been issued. Such amendment request must include independent market support that there is insufficient demand for the current numbers of three- and four-bedroom units. The applicant has indicated that they will submit all of the information and any third party reports necessary to review and process an amendment to the LURA, which will be brought before the Board at a subsequent Board meeting.

If an amendment is approved by the Board, staff will then perform a thorough review of the housing tax credit application (assuming a Reservation has been issued) for compliance with the Department's rules. The request for an award of 4% housing tax credits and private activity bonds will then be brought before the Board for consideration. Staff notes that adoption of the inducement resolution in no way assumes final approval of the transaction, as it relates to either the amendment or housing tax credits and private activity bonds. The adoption of the inducement resolution simply allows the Department to submit an application to the Bond Review Board for a Reservation of private activity bonds. It may be possible that while the amendment is under review by staff a Reservation is issued which will allow the applicant to submit a full housing tax credit and bond application, however, staff does not intend on presenting the request for financing on the same Board agenda as the amendment.

This transaction is proposed to be Priority 1 and will continue to serve the general population. All 280 of the units will be rent and income restricted at 50% of AMFI, which is consistent with the current restrictions. There has been no public comment received in conjunction with this bond pre-application.

Bond Inducement Amount: \$35,000,000

## RESOLUTION NO. 20-024

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

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

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

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

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

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

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

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

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

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

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

#### ARTICLE 1

##### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements

regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the “Attorney General”); (v) satisfaction of the Board that the respective Development meets the Department’s public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

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

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

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

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

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

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

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

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

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



from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

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

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

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

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

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

## ARTICLE 2

### CERTAIN FINDINGS AND DETERMINATIONS

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

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit; and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

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

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

ARTICLE 3

GENERAL PROVISIONS

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

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 25<sup>th</sup> day of June, 2020.

**EXHIBIT "A"**

Descriptions of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
Murdeaux Villas	Murdeaux Rehab Development, LP, a Texas limited partnership	General Partner/Member: Murdeaux Rehab Development, GP, LLC, a Texas limited liability company	\$35,000,000
Costs: Acquisition/rehabilitation of a 280-unit affordable, multifamily housing development to be known as Murdeaux Villas, located at 125 S Murdeaux Ln, Dallas, Dallas County, Texas 75217			

10

**BOARD ACTION REQUEST**

**HOUSING RESOURCE CENTER**

**JUNE 25, 2020**

Presentation, Discussion, and Possible Action on the 2020-2024 State of Texas Consolidated Plan

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) requires the submission of a five year Consolidated Plan in accordance with 24 CFR §91.520;

**WHEREAS**, the 2020-2024 State of Texas Consolidated Plan (Plan) covers five HUD-funded programs: the HOME Investment Partnerships Program (HOME), the Emergency Solutions Grants Program (ESG), the National Housing Trust Fund Program (NHTF), the Community Development Block Grant Program (CDBG), and the Housing Opportunities for Persons with AIDS Program (HOPWA). The Texas Department of Housing and Community Affairs (TDHCA or the Department), the Texas Department of Agriculture (TDA), and the Texas Department of State Health Services (DSHS) have collaborated to complete the Plan;

**WHEREAS**, the draft Plan was approved by the Board on March 26, 2020, and released for public comment; and

**WHEREAS**, the public comment has been considered and reasoned responses have been provided;

**NOW, therefore, it is hereby**

**RESOLVED**, that the 2020-2024 State of Texas Consolidated Plan, in the form presented to this meeting, is hereby approved and the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to submit the 2020-2024 State of Texas Consolidated Plan to HUD with the updated formula allocation amounts for NHTF, and, in connection therewith, to make such nonsubstantive grammatical and technical changes as they deem necessary or advisable.

**BACKGROUND**

The Plan covers five programs funded by HUD: TDHCA administers the HOME Program the ESG Program, and the National Housing Trust Fund Program (NHTF); TDA administers CDBG; and DSHS administers the HOPWA Program. All three state agencies collaborated to complete the Plan,

along with extensive input from other state agencies, stakeholders, advocates, and community members. TDHCA is lead agency for the Plan's development.

The Plan consists of five main chapters:

1. The **Process Chapter** describes the public input process.
2. The **Needs Assessment Chapter** outlines levels of relative need in the areas of affordable housing, homelessness, special needs, and community development. This information was gathered through consultation with local agencies, public outreach, and demographic and economic datasets.
3. The **Market Analysis Chapter** focuses on economic forces within Texas, as well as the current condition and availability of housing and community development resources Texas.
4. The **Strategic Plan** was formed from the Needs Assessment and Market Analysis, which are research-heavy chapters. The Strategic Plan details how the State will address its priority needs over a five-year period. The strategies must reflect the current condition of the market, expected availability of funds, and local capacity to administer the Plan.
5. The **One-Year Action Plan** is based on the Strategic Plan. The One Year Action Plan will be updated once yearly for the next four years until the next Consolidated Plan is required. The One-Year Action Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2020. The Program Year begins on September 1, 2020, and ends on August 31, 2021.

The Plan is due 45 days before the start of HUD's Program Year (PY), which is September 1 to August 31. Due to the COVID-19 Pandemic and as communicated through the CARES Act, the deadline to submit final Consolidated Planning documents for 2020 was pushed back to August 31, 2021. However, as staff has completed the 2020-2024 Consolidated Plan, the decision has been made to move forward and submit the 2020-2024 Consolidated Plan on or before the original due date of July 26, 2020. Staff will ensure that CARES Act amendments that are ready to be submitted in the 2019 One-Year Action Plan are submitted prior to submitting the 2020-2024 Consolidated Plan, to ensure those amendments will not also be required in the 2020-2024 Consolidated Plan.

Following the release of the draft 2020-2024 Plan, a 32-day public comment period was open from April 6, 2020, through May 6, 2020. During that time, one public hearing was held via GoToWebinar. A total of seven comments from the same commenter were received during the comment period, and the comment summary, along with staff reasoned responses, are provided below.

The Plan to be approved by the Board can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>. This Plan (with any nonsubstantive and technical changes) along with the NHTF Rehabilitation Standards (which are being approved separately at this meeting under another agenda item), is the document that will be submitted to HUD.

## 2020-2024 State of Texas Consolidated Plan Public Comment Response

### Public Comment from Texas Council on Family Violence (TCFV)

#### Comment Summary

TCFV respectfully asks TDHCA to formally recognize domestic violence as one of the main contributing factors of homelessness or being at-risk for homelessness and encourages TDHCA to strengthen housing supports for survivors of domestic violence by formally recognizing survivors as a stand-alone special high-needs category within the Plan. The research presents a case for domestic violence survivors to be included as one of the key populations/types of households that are more affected than others by common housing problems on page 50 of the Plan.

#### Response

TDHCA agrees with the importance of emphasizing the impact domestic violence can have on homelessness. TDHCA does not agree with establishing survivors of domestic violence as a stand-alone special high-needs population, as that minimizes the importance of those other special needs populations suggesting that they are not also of an equally high need. A responsive sentence has been added to page 51 of the Plan, however because of character limitations within HUD's Integrated Disbursement & Information System (IDIS) which is the required system to submit the Consolidated Plan, several edits were made to the section to reduce text elsewhere.

#### Comment Summary

TCFV respectfully asks TDHCA to continue to emphasize the importance of and encourage all Public Housing Authorities (PHAs) to consider adopting admission preferences for victims of domestic violence.

#### Response

TDHCA agrees with this comment and will continue to emphasize the importance as stated.

#### Comment Summary

TCFV would like TDHCA to review and draft language in the Plan that enhances recognition of unique safety considerations, housing needs, and barriers faced by survivors of domestic violence, due to survivors representing a high prevalence within the homeless population. In particular, among the broad range of housing options needed for survivors of domestic violence, transitional housing (up to 24 months) coupled with supportive services is a critical service for many survivors and TCFV urges TDHCA to clearly support this modality in all allowances possible. Research shows that transitional housing is a particularly good fit for survivors in high danger, in need of social support and services, and who need time to heal from trauma. To accomplish this, TCFV suggests TDHCA edit pages 50, 51, 82, 83, 90, 91, and 121 of the Plan. Additionally, on page



313 of the Plan, a transitional housing measurement is not mentioned. TCFV recommends a fair and comparable measurement to reflect the unique services provided to survivors by Victim Service Providers (VSPs) in transitional housing programs.

#### Response

TDHCA has acknowledged the need for transitional housing for high-risk populations including survivors of domestic violence. The plan notes, on page 339, that Transitional housing may allow all “clients living in transitional housing access to Homelessness Prevention services”. As the pages suggested for edits are focused on the data for the populations, not the preferred housing solutions, no revisions are made on those pages. It should be noted that both the ESG and HOPWA programs specifically allow for the activity of funding transitional housing by subrecipients, which includes allowing organizations that help survivors of domestic violence to apply for such funding. Currently TDHCA relies on local organizations to measure the need for transitional housing in their area, for victims of domestic violence as well as other critical populations, and apply for funds as necessary for the agency.

#### Comment Summary

Within the Homeless Needs Assessment and Rural Homeless Needs Assessment on pages 78-79 of the Plan, the number of domestic violence survivors are not reported within the Point-in-Time (PIT) data collection chart along with the other special needs populations. The U.S. Housing and Urban Development’s (HUD) 2019 PIT Count for Texas does list domestic violence survivors as a category including the following data: 1,470 (emergency shelter); 577 (transitional housing); 466 (unsheltered); with a total of 2,513 survivors of domestic violence. These numbers demonstrate a significant representation, but the PIT Count is not an accurate portrayal of services to homeless survivors of domestic violence. Oftentimes, VSPs do not participate in the PIT Count, due to funding challenges and confidentiality protections. A better illustration is the 2019 data from the National Network to End Domestic Violence’s (NNEDV) 14th Annual Domestic Violence Counts Report: Texas Summary. Every year, NNEDV conducts a one-day unduplicated count of adults and children seeking domestic violence services in the United States. This annual census, which took place most recently on September 12, 2019, documents the number of individuals who sought services in a single 24-hour period, as well as the types of services requested, the number of service requests that went unmet due to a lack of resources, and the issues and barriers that domestic violence programs face as they strive to provide services to survivors of domestic violence.

TCFV does appreciate the mention of HUD’s PIT count of domestic violence survivors on page 84 of the Plan, but the NNEDV data must be included in the formal Homeless Needs Assessment section on pages 78-79 of the plan, as it is a better representation of the need for survivors of domestic violence in Texas.

#### Response

TDHCA understands the importance of accurately portraying the homeless population and the causes of their homelessness and has included the recommended NNEDV data to update the

information found on page 52 of the Plan. Unfortunately, the charts found on pages 77-79 of the plan cannot be changed by TDHCA as the chart is predetermined by HUD and the data within the chart is pre-populated with PIT data for the noted year.

#### Comment Summary

While TCFV appreciates the inclusion of domestic violence survivors within the Plan, there are certain mentions that do not include the full spectrum of survivors who are protected by the Violence Against Women Act (VAWA) and Family Violence Prevention Services Act (FVPSA). TCFV recommends establishing a more consistent language throughout the Plan to include survivors of domestic violence, sexual assault, dating violence, or stalking when referring to those served by Violence Against Women Act (VAWA) and Family Violence Prevention Services Act (FVPSA) funded programs, rather than only referring to domestic violence victims/survivors.

#### Response

Due to character restrictions imposed by HUD's IDIS system, the Department is unable to provide this in-depth definition of VAWA and FVPSA at every mention of VAWA in the Plan. However, to address this comment, at the first mention of VAWA in section Needs Assessment 05, on page 42 of the Plan, it has been noted that throughout the remainder of the Plan reference to "households with VAWA characteristics" include, survivors of domestic violence, sexual assault, dating violence, or stalking.

#### Comment Summary

TCFV appreciates the inclusion of households that might invoke VAWA protections as one of the special needs populations on page 39 of the Plan. TCFV suggests replacing the existing sentence *Households with Violence Against Women Act (VAWA) characteristics are often women or girls* with the following language: Households experiencing domestic violence, sexual assault, dating violence, or stalking are a unique special needs population with unique housing and homelessness assistance needs. HUD's Criteria for Defining Homeless offers a special category – Category 4 – which defines Fleeing/Attempting to Flee Domestic Violence as *"Any individual or family who (i) is fleeing, or is attempting to flee, domestic violence; (ii) has no other residence; and (iii) lacks the resources or support networks to obtain other permanent housing."*

#### Response

See response immediately above.

#### Comment Summary

The statistics provided by TCFV reflect the alarming number of Texans who are affected by domestic violence and the intersection of homelessness. TCFV offers these as an update to some of TDHCA's domestic violence statistics within the Plan. We appreciate TDHCA for joining us in supporting the most accurate representation of Texans who are fleeing or attempting to flee domestic violence in order to offer the most updated and relevant information to provide the full scope of housing needs for survivors of domestic violence. TCFV also offers additional statistics to consider from the 2019 Texas State Plan where the data underscores the connection. TCFV

encourage the Department to incorporate this newer data in the Plan and thank TDHCA for the instances where they have already done so. The updated statistics are as follows:

- TCFV appreciates the inclusion of the Texas Department of Public Safety's 2017 Crime in Texas report that includes domestic violence statistics on page 47 of the Plan. The Texas Department of Public Safety's 2018 Crime in Texas report is now available with an almost 1% increase from 2017 with 197,023 incidents (0.9% increase).
- TCFV appreciates the inclusion of TCFV's 2016 Honoring Texas Victims domestic violence statistics on pages 47-48 of the Plan. TCFV's 2018 Honoring Texas Victims report is now available with the updated statistics that include 174 women killed by their intimate partner and 67% (116) killed at home. Additionally, 2018 marks the highest number women killed by an intimate partner in over a decade.
- TCFV appreciates the inclusion of the 2018 National Census of Domestic Violence Services statistical information on page 53 of the Plan. The 2019 data from the National Network to End Domestic Violence's (NNEDV) 14th Annual Domestic Violence Counts Report: Texas Summary is now available with updated statistics. According to the Texas Summary, there were 6,437 survivors served in one day; 1,417 unmet requests for services in one day; and 77% (1,096) were for housing and emergency shelter.
- Texas State Plan: Statistics for Consideration: TCFV recommends TDHCA to consider the additional domestic violence statistics that provide a broader representation of the intersection between homelessness and domestic violence from The Texas State Plan research that include the following: 1) In 47% of programs with project-based or scattered-site transitional housing, six or more survivors are wait-listed or turned down for housing **every month** due to lack of available units and 55% of agencies with rapid re-housing programs wait-list or turn down six or more survivors **every month** due to capacity. 2) In Texas, 90% of survivors accessing family violence services will experience homelessness as a result of fleeing an abusive relationship at least once. Almost half, 45.4%, will experience homelessness two or more times and 48% will also experience additional incidents of homelessness separate from the domestic violence. 3) In 2018, 82 of the women murdered by their intimate partner were in the process of, or had at some point, separated resulting in an inevitable need for housing.

#### Response

TDHCA would like to thank TCFV for providing these updated statistics and reports. The Department has updated the Plan where applicable to reflect the more up to date information and added in some of the recommended statistics from the TCFV 2019 State Plan on page 82 of the Consolidated Plan.

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**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Cortez Plaza (20187) and Nuestra Senora (20190)

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

**WHEREAS**, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

**WHEREAS**, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of noncompliance;

**WHEREAS**, in the case of application for Cortez Plaza (20187) and Nuestra Sonora (20190) the sponsors of the application (The Housing Authority of the City of El Paso, and Franklin Development) have 80 properties in their portfolio, meaning that if they have 40 Events of Noncompliance not corrected during the Corrective Action Period, they would be classified as a Category 3;

**WHEREAS**, there are 47 events of noncompliance that were not corrected within the 90-day corrective action period, exceeding 50% of the number of properties in the Combined Portfolio;

**WHEREAS**, 10 TAC §1.301(e)(2)(C) classifies a portfolio as a Category 3 if within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for three or fewer Monitoring Events and three events of noncompliance were not responded to during the Corrective Action Period;

**WHEREAS**, 10 TAC §1.301(e)(2)(D) classifies a portfolio as a Category 3 if within the three years immediately preceding the date of Application, a Development in the Combined Portfolio has been the subject of a final order entered by the Board and the terms have not been violated and 16 of the properties in this portfolio meet this criteria;

**WHEREAS**, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

**WHEREAS**, on June 4, 2020, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g);

**WHEREAS**, a new Previous Participation Rule became effective on May 17, 2020, for applications received after that date, reflecting the current policy of the Board and under the new rule this application would not be considered a Category 3;

**WHEREAS**, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

**WHEREAS**, staff requests the Board determine that EARAC may provide a positive award recommendation to the Board without conditions because this portfolio would not be considered a Category 3 under the new rule;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Board has considered the compliance history of the Applicant, and determines, for applications Cortez Plaza (20187) and Nuestra Senora (20190), that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; and

**FURTHER RESOLVED**, that the Application is authorized to proceed through its remaining evaluation and scoring, and be considered by EARAC for recommendation and possible conditions without being precluded from a positive recommendation by EARAC because of its compliance history.

### **BACKGROUND**

A new Previous Participation Rule became effective on May 17, 2020, for applications received after that date. The new rule states “(1) Previously approved. If EARAC or the Board previously approved the compliance history of an Applicant, with or without conditions (including approvals resulting from a Dispute under §1.303(g) of this Subchapter (relating to Executive Award and Review Advisory Committee (EARAC))) such conditions have not been violated, and no new Events of Noncompliance have occurred since the last approval, the compliance history will be deemed acceptable without further review or discussion and recommended as approved or approved with the same prior conditions.”

This applicant's compliance history was approved by the Board through the dispute process at the June 27, 2019, Board meeting. Since that time, no new Events of noncompliance have occurred and all conditions have been met. Although the new rule is not effective for this application because it was submitted before the adoption of the new rule, staff recommends the Board use their discretion to allow EARAC to consider a positive recommendation.

**From:** [Alyssa Carpenter](#)  
**To:** [Jo En Taylor](#)  
**Cc:** [tdeloye@hacep.org](mailto:tdeloye@hacep.org); [lucila@franklindev.net](mailto:lucila@franklindev.net); [Sharon Gamble](#); [Patricia Murphy](#); [Sarah Anderson](#); [Janna Cormier](#); [Meredith Edwards](#); [Marni Holloway](#); [Brooke Boston](#); [Homero Cabello](#)  
**Subject:** Re: EARAC RESULTS\_RE: Previous Participation Review for Applications 20187 and 20190  
**Date:** Tuesday, June 09, 2020 11:46:12 AM

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Dear Jo En:

In addition to our response on May 27, 2020, we would like to add that under the newly adopted Previous Participation Rule, this applicant would be deemed acceptable per the following new language:

(1) Previously approved. If EARAC or the Board previously approved the compliance history of an Applicant, with or without conditions (including approvals resulting from a Dispute under §1.303(g) of this Subchapter (relating to Executive Award and Review Advisory Committee (EARAC))) such conditions have not been violated, and no new Events of Noncompliance have occurred since the last approval, the compliance history will be deemed acceptable without further review or discussion and recommended as approved or approved with the same prior conditions.

As previously noted, since HACEP's last previous participation review in October 2019, there have been no new events of non-compliance, we are continuing to meet our conditions, and there have been no new events of noncompliance.

Again, we respectfully request that Compliance recommend to the Board that they use their discretion to allow the applications to move forward, and not preclude a positive recommendation because of the compliance history.

Regards,

Alyssa Carpenter

On Thu, Jun 4, 2020 at 4:08 PM Jo En Taylor  
<[joen.taylor@tdhca.state.tx.us](mailto:joen.taylor@tdhca.state.tx.us)> wrote:

>

> The Compliance Division has conducted a thorough review of the compliance history and response submitted for application 20187 (Cortex Plaza) and 20190 (Nuestra Sonora) and determined that the results of the previous participation review (PPR) remained a Category 3 under the rules in effect at application submittal. 10 TAC 1.301(f)(3)(B) states that: "After review of any corrective action submitted during the seven calendar day period, if the Application is still considered a Category 3, the Compliance Division will recommend to EARAC denial of the award." It is not within the authority of the Compliance Division to make an affirmative recommendation to EARAC because of this language in the PPR rule.

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> On June 4, 2020, the Executive Award Review Advisory Committee ("EARAC") was notified of the denial by Compliance. 10 TAC 1.301(f)(3)(B) goes on to state that: "EARAC will provide notice to the Applicant of the final recommendation from the Compliance Division and the specific rule or statutory-based requirement will be



identified, along with the Applicant's right to dispute the negative recommendation as described in §1.303 of this subchapter.”

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> The summary identified eighty (80) properties in the combined portfolio and a total of forty-seven (47) corrected Events of Noncompliance. The previous participation review (PPR) process identified the application as a Category 3 in accordance with 10 TAC §1.301(e)(3)(A):

>

> (3) Category 3. An Application will be considered a Category 3 if any one or more of the following criteria are met:

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> (A)The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three and equal or exceed 50% of the number of properties in the Combined Portfolio;

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> 10 TAC §1.303(g) provides an opportunity to dispute the EARAC recommendation. If you wish to, you must do so in writing to the attention of the Chair of EARAC (Brooke Boston at [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)). It is also not within the authority of EARAC to change Compliance’s determination, overrule their determination, or violate this rule. Please refer to the following rule for more information regarding the appeal process: Texas Administrative Code §1.303

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> Any written dispute of the recommendation must be submitted no later than 5PM, June 11, 2020. The response submitted to the Department during the PPR Category notification period (received on 5/27/2020) can be accepted by the Department as your formal appeal and included for Board consideration; however, if you wish to submit a different response, or additional information for consideration, please do so by the designated date. This item will be presented to the Board at their meeting on June 25, 2020.

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> Please feel free to contact me or Patricia Murphy at [patricia.murphy@tdhca.state.tx.us](mailto:patricia.murphy@tdhca.state.tx.us) if you have any questions regarding this matter.

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> Jo En Taylor

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> Senior Compliance Administrator, Compliance

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> Texas Department of Housing and Community Affairs

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> 221 E. 11th Street | Austin, TX 78701

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> Office: 512.475.0250

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> Fax: 512.475.3359

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> About TDHCA

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> The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or the Learn about Fair Housing in Texas page.

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**From:** [Jo En Taylor](#)  
**To:** [Alyssa Carpenter](#)  
**Cc:** [tdeloye@hacep.org](mailto:tdeloye@hacep.org); [lucila@franklindev.net](mailto:lucila@franklindev.net); [Sharon Gamble](#); [Patricia Murphy](#); [Sarah Anderson](#); [Janna Cormier](#); [Meredith Edwards](#)  
**Subject:** RE: Previous Participation Review for Applications 20187 and 20190  
**Date:** Thursday, May 28, 2020 6:50:10 AM

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Confirming receipt.

-----Original Message-----

From: Alyssa Carpenter <[ajcarpen@gmail.com](mailto:ajcarpen@gmail.com)>  
Sent: Wednesday, May 27, 2020 1:34 PM  
To: Jo En Taylor <[joen.taylor@tdhca.state.tx.us](mailto:joen.taylor@tdhca.state.tx.us)>  
Cc: [tdeloye@hacep.org](mailto:tdeloye@hacep.org); [lucila@franklindev.net](mailto:lucila@franklindev.net); Sharon Gamble <[sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)>; Patricia Murphy <[patricia.murphy@tdhca.state.tx.us](mailto:patricia.murphy@tdhca.state.tx.us)>; Sarah Anderson <[sarah@sarahandersonconsulting.com](mailto:sarah@sarahandersonconsulting.com)>; Janna Cormier <[janna.cormier@jcdevelopmentconsulting.com](mailto:janna.cormier@jcdevelopmentconsulting.com)>; Meredith Edwards <[meredith@meconsulting.ltd](mailto:meredith@meconsulting.ltd)>  
Subject: Re: Previous Participation Review for Applications 20187 and 20190

Dear Jo En:

Thank you for the opportunity to respond to the Previous Participation Review for applications #20187 Cortez Plaza and and #20190 Nuestra Senora.

We are pleased to note that since HACEP's last previous participation review in October 2019, there have been no new events of non-compliance, we are continuing to meet our conditions, and events are beginning to roll off the list. In fact, there have been no new events of noncompliance since June 2019.

We understand that under the PPR rules the compliance history will be recommended to EARAC as a denial. However, in light of the progress being made, we respectfully request that Compliance recommend to the Board that they use their discretion to allow the applications to move forward, and not preclude a positive recommendation because of the compliance history. Please see the attached Board Summary from November 2019 regarding the award for #19470 Jackie Robinson that recommended a positive recommendation.

Regards,

Alyssa Carpenter

On Fri, May 22, 2020 at 5:26 PM Jo En Taylor <[joen.taylor@tdhca.state.tx.us](mailto:joen.taylor@tdhca.state.tx.us)> wrote:

>

> A previous participation review (PPR) is being conducted in connection with a request for a 9% HTC award for application 20187 (Cortez Plaza) and 20190 (Nuestra Senora). Under the Department's previous participation rule the PPR is considered a Category 3 and the Compliance Division will recommend denial to the Executive Award Review Advisory Committee ("EARAC"). The PPR category determination is made based on rules in effect at the time of application submittal, following is a link to the rule: Texas Administrative Code §1.301 Any written comment for consideration prior to the Compliance Division making it final submission to EARAC, is due no later than May 29, 2020.

>

> The application brings in Paisano Housing Development Corporation (Housing Authority of the City of El Paso) and Franklin Development Properties. The combined portfolio is comprised of eighty (80) properties with a total of forty-seven (47) corrected Events of Noncompliance. The PPR is considered a Category 3 in accordance with §1.301(e)(3)(A):

>

> (3) Category 3. An Application will be considered a Category 3 if any one or more of the following criteria are

met:

>

> (A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three and equal or exceed 50% of the number of properties in the Combined Portfolio;

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> A copy of the summary that will be presented to EARAC is attached for your reference. All monitoring/inspection reports, follow-up letters, and associated closeout letters have previously been provided at the time of the action and through prior previous participation reviews. However, if you would like those reports sent another time, please let me know. All Events of Noncompliance have been previously disclosed to EARAC. This notice provides until May 29, 2020 to provide additional comment; However, since no new events have occurred since the last previous participation review, the submittal of additional comment on the prior events of noncompliance is not required.

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> Do not hesitate to contact me directly with any questions during this process.

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> Jo En Taylor

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> Senior Compliance Administrator

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> Texas Department of Housing and Community Affairs

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> 221 E. 11th Street | Austin, TX 78701

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> Office: 512.475.0250

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> Fax: 512.475.3359

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> About TDHCA

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> The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or the Learn about Fair Housing in Texas page.

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**BOARD ACTION REQUEST**  
**COMPLIANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Reserve at Sulphur Springs (20016), St. Andrew's Townhomes (20111), and Highpoint at Wynnewood (20310)

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

**WHEREAS**, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

**WHEREAS**, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of noncompliance;

**WHEREAS**, in the case of the applications for Reserve at Sulphur Spring (20016) and St. Andrew's Townhomes (20111) MVAH Partners is applying with Auxano Development LLC (who has no prior experience) and there are six properties with three events of noncompliance; in the case of the application for Highpoint at Wynnewood (20310) MVAH Partners is applying with Auxano Development LLC and Banc of America Community Development Corp who currently controls three developments, for a total of nine developments and five events of noncompliance;

**WHEREAS**, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

**WHEREAS**, on June 4, 2020, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g) and proposed conditions;

**WHEREAS**, a new Previous Participation Rule became effective on May 17, 2020, for applications received after that date, reflecting the current policy of the Board and under the new rule this application could be recommended for approval with conditions;

**WHEREAS**, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

**WHEREAS**, staff requests the Board determine that EARAC may provide a positive award recommendation to the Board with conditions;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Board has considered the compliance history of the Applicant, and determines, for application Reserve at Sulphur Springs (20016), St. Andrew's Townhomes (20111) and Highpoint at Wynnewood (20310) that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; however, warrants the imposition of conditions; and

**FURTHER RESOLVED**, that the Application is authorized to proceed through its remaining evaluation and scoring, and be considered by EARAC for recommendation with the conditions listed below because of the compliance history.

### **BACKGROUND**

The applicant has proposed the conditions noted below to improve their compliance operations. Staff has reviewed their suggestions and recommends approval with the following conditions for all developments in which MVAH Partners LLC and/or Banc of America Community Development Corporation have a portfolio interest:

**For all properties in the portfolios, including Highpoint at Wynnewood, St. Andrew's Townhomes and Reserve at Sulphur Spring:**

- 10 TAC §1.303(e)(3): The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.
- 10 TAC §1.303(e)(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.
- 10 TAC §1.303(e)(7) Owner agrees to establish an email distribution group in CMTS, to be kept in place until no later than a given date, and include agreed upon employee positions and/or designated Applicant members.

**For those portfolio properties with non-compliances relating to tenant incomes and rents, as shown on the Summary:**

- 10 TAC §1.303(e)(9): Owner or Subrecipient is required to ensure that agreed upon persons attend and/or review the trainings listed in (A), (B), (C) and/or (D) of this Paragraph (only for Applications made and

reviewed under §1.301 of this Subchapter) and/or (E) for applications made and reviewed under §1.302 of this Subchapter and provide TDHCA with certification of attendance or completion no later than a given date:

- (C) Review one or more of the TDHCA Compliance Training Presentation webinars:
- 2012 Income and Rent Limits Webinar Video; ...
- Income Eligibility Presentation Video; ...

**Agreed upon persons:**

For #12271; #15407; and #16184 – Regional Compliance Manager and Director of Regional Compliance.

For #93057 / 955081 – On-Site Property Manager Representative.

**Proposed Deadline:** December 31, 2020.



May 28th, 2020

By Email to: [joen.taylor@tdhca.state.tx.us](mailto:joen.taylor@tdhca.state.tx.us)  
Jo En Taylor, Senior Compliance Administrator  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: #20310 Highpoint at Wynnewood (“Highpoint”);  
Response to Previous Participation Review Report.

Dear Ms. Taylor:

Thank you for providing us with a copy of the Previous Participation Report (“PPR”) to be presented to the Executive Award Review Advisory Committee (“EARAC”) in connection with Application 20310 (Highpoint at Wynnewood) for 9% housing tax credits. We also acknowledge your substituted Summary sent to use on May 22, 2020, correcting the Summary to reflect that one of the reported non-compliances related to failure to provide evidence of insurance, rather than evidence of payment of property taxes. Please accept the following responses to the PPR:

1. We direct your attention to Sandra Molina’s email update on May 26, 2020 confirming receipt of evidence of payment of the insurance renewals for Oakridge Apartments, Development 1002047, Property ID 4937, and satisfying that noncompliance issue.
2. The 9% Application for Highpoint at Wynnewood shows that MVAH Partners LLC, Auxano Development, LLC, and Banc of America Community Development Corporation will all play roles with regard to Highpoint. However, we point out that Auxano Development, LLC has never filed an application with the TDHCA in the past. Accordingly, while it is clear that Highpoint the regulations require that Highpoint and related portfolio developments must accept certain Conditions in order to qualify for an award of 9% tax credits, we ask that Auxano Development, LLC be excluded from such Conditions, except as they affect Highpoint.
3. On behalf of Highpoint, we are submitting the attached Proposed Conditions to 9% Award to Highpoint at Wynnewood (see Exhibit A). We have selected these Conditions as being the ones most likely to help resolve the two problems we believe are demonstrated by the Summary: (a) failure to timely respond to notifications of non-compliance [1.303(e)(3), 1.303(e)(5) and 1.303(e)(7)]; and (b) failure to properly qualify tenants as to income and rent [1.303(e)(9)]. With regard to 1.303(e)(9) we submit the persons who would be required to provide certifications of attendance or completion and suggest that the deadline for such certifications be December 31, 2020.

Thank you for your attention to this matter. If you need additional information, please do not hesitate to call me at (513) 964-1141.





Very truly yours,

A handwritten signature in black ink, appearing to read 'B. McGeady', is written over the typed name.

Brian McGeady  
Authorized Signer

Exhibit A

cc: Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)  
Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)  
Tamea Dula at [tdula@coatsrose.com](mailto:tdula@coatsrose.com)



## EXHIBIT “A”

### **Proposed Conditions to 9% Award to Highpoint at Wynnewood:**

Referencing all Highpoint at Wynnewood and all other developments in which MVAH Partners LLC and/or Banc of America Community Development Corporation have a portfolio interest:

#### **For all properties in the portfolios, including Highpoint at Wynnewood:**

1.303(e)(3) The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.

1.303(e)(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.

1.303(e)(7) Owner agrees to establish an email distribution group in CMTS, to be kept in place until no later than a given date, and include agreed upon employee positions and/or designated Applicant members.

#### **For those portfolio properties with non-compliances relating to tenant incomes and rents, as shown on the Summary:**

1.303(e)(9) Owner or Subrecipient is required to ensure that agreed upon persons attend and/or review the trainings listed in (A), (B), (C) and/or (D) of this Paragraph (only for Applications made and reviewed under §1.301 of this Subchapter) and/or (E) for applications made and reviewed under §1.302 of this Subchapter and provide TDHCA with certification of attendance or completion no later than a given date...

(C) Review one or more of the TDHCA Compliance Training Presentation webinars:

- (i) 2012 Income and Rent Limits Webinar Video; ...
- (iii) Income Eligibility Presentation Video; ...

#### **Agreed upon persons:**

For #12271; #15407; and #16184 – Regional Compliance Manager and Director of Regional Compliance.

For #93057 / 955081 – On-Site Property Manager Representative.

**Proposed Deadline:** December 31, 2020



May 28th, 2020

By Email to: [joen.taylor@tdhca.state.tx.us](mailto:joen.taylor@tdhca.state.tx.us)  
Jo En Taylor, Senior Compliance Administrator  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: #20016 Reserve at Sulphur Springs (“Sulphur Springs”);  
#20111 St. Andrews Townhomes (“St. Andrews”);  
Response to Previous Participation Review Report.

Dear Ms. Taylor:

Thank you for providing us with a copy of the Previous Participation Report (“PPR”) to be presented to the Executive Award Review Advisory Committee (“EARAC”) in connection with Application 20016 (Sulphur Springs) and Application 20111 (St. Andrews) for possible awards of 9% housing tax credits. Please accept the following responses to the PPR:

We direct your attention to Sandra Molina’s email update on May 26, 2020 confirming receipt of evidence of payment of the insurance renewals for Oakridge Apartments, Development 1002047, Property ID 4937, and satisfying that noncompliance issue.

On behalf of Sulphur Springs and St. Andrews, we are submitting the attached Proposed Conditions to 9% Awards (see Exhibit A). We have selected these Conditions as being the ones most likely to help resolve the two problems we believe are demonstrated by the Summary: (a) failure to timely respond to notifications of non-compliance [1.303(e)(3), 1.303(e)(5) and 1.303(e)(7)]; and (b) failure to properly qualify tenants as to income and rent [1.303(e)(9)]. With regard to 1.303(e)(9) we submit the persons who would be required to provide certifications of attendance or completion and suggest that the deadline for such certifications be December 31, 2020.

Thank you for your attention to this matter. If you need additional information, please do not hesitate to call me at (513) 964-1141.

Very truly yours,

A handwritten signature in black ink, appearing to read 'B McGeady', is written over the typed name.

Brian McGeady  
Authorized Signer

Exhibit A

cc: Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)  
Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)  
Tamea Dula at [tdula@coatsrose.com](mailto:tdula@coatsrose.com)



## EXHIBIT “A”

### Proposed Conditions to 9% Awards

Referencing Reserve at Sulphur Springs and St. Andrews Townhomes:

**For all properties in the cited portfolio, including Reserve at Sulphur Springs and St. Andrews Townhomes:**

1.303(e)(3) The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.

1.303(e)(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.

1.303(e)(7) Owner agrees to establish an email distribution group in CMTS, to be kept in place until no later than a given date, and include agreed upon employee positions and/or designated Applicant members.

**For #12271; #15407; and #16184, being properties with non-compliances relating to tenant incomes and rents, as shown on the Summary:**

1.303(e)(9) Owner or Subrecipient is required to ensure that agreed upon persons attend and/or review the trainings listed in (A), (B), (C) and/or (D) of this Paragraph (only for Applications made and reviewed under §1.301 of this Subchapter) and/or (E) for applications made and reviewed under §1.302 of this Subchapter and provide TDHCA with certification of attendance or completion no later than a given date...

(C) Review one or more of the TDHCA Compliance Training Presentation webinars:

- (i) 2012 Income and Rent Limits Webinar Video; ...
- (iii) Income Eligibility Presentation Video; ...

**Agreed upon persons:**

Regional Compliance Manager and Director of Regulatory Compliance.

**Proposed Deadline:** December 31, 2020

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Whispering Trees (20156)

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

**WHEREAS**, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

**WHEREAS**, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of noncompliance;

**WHEREAS**, in the case of application for Whispering Trees (20156) there are 2 developments in this portfolio (1 of which ended participation in 2018) and a total of 3 Events thereby classifying them as a category 3 under both the new and the old Previous Participation Rule;

**WHEREAS**, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

**WHEREAS**, on June 4, 2020, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g);

**WHEREAS**, a new Previous Participation Rule became effective on May 17, 2020, for applications received after that date, reflecting the current policy of the Board and under the new rule this application could be recommended for approval with conditions;

**WHEREAS**, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

**WHEREAS**, staff requests the Board determine that EARAC may provide a positive award recommendation to the Board with conditions;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Board has considered the compliance history of the Applicant, and determines, for application Whispering Tree (20156) that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; however, warrants the imposition of conditions; and

**FURTHER RESOLVED**, that the Application is authorized to proceed through its remaining evaluation and scoring, and be considered by EARAC for recommendation with the conditions listed below because of the compliance history.

### **BACKGROUND**

The applicant for Whispering Trees currently controls one property that is associated with two events of noncompliance. To improve their compliance operations, the applicant proposed six conditions. Staff has reviewed their suggestions and finds that some of their proposed conditions are not necessary at this time. Staff recommends approval of the applicant's compliance history with the following conditions:

- The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.
- Owner is required to ensure that agreed upon persons attend and/or review the following trainings: Housing Tax Credit Training sponsored by the Texas Apartment Association, 1st Thursday Income Eligibility Training conducted by TDHCA staff and 2012 Income and Rent Limits Webinar Video and provide TDHCA with certification of attendance or completion no later than December 31, 2020.
- Owner agrees to hire a third party to perform reviews of an agreed upon percentage of its resident files on a quarterly basis, and complete the recommended actions of the reviewer for an agreed upon list of Developments. Evidence of reviews and corrections must be submitted to the Department upon request.



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

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

June 10, 2020

***Via Electronic Transmission***

Texas Department of Housing and Community Affairs  
Executive Award and Review Advisory Committee  
c/o Brooke Boston  
221 West 11th Street  
Austin, Texas 78701

Re: Whispering Trees Apartments, TDHCA No. 20156 (the "**Development**")  
Whispering Trees Apartments Limited Partnership (the "**Applicant**")

Dear Brooke:

We represent the Housing Authority of the City of Carrizo Springs (the "**Housing Authority**"), which has applied for 2020 Housing Tax Credits<sup>1</sup> for the Development referenced above. Pursuant to 10 TAC §1.303(g), the Applicant is Disputing a negative recommendation by EARAC that the Applicant is not eligible for a Housing Tax Credit award for the Development because the Housing Authority's compliance history falls into Category 3. We respectfully request that the matters below be considered for a recommendation of approval with conditions.

**Background**

The Housing Authority has provided affordable housing for low income families since 1966. The Housing Authority administers eighty-one HUD Public Housing Units, one hundred forty-nine HUD Section 8 Housing Choice Vouchers, fifty-one HUD Section 8 Project-Based Vouchers and sixty units with Department Housing Tax Credit and HOME compliance requirements. In all, three hundred and forty-one households receive housing assistance under housing programs administered by the Housing Authority.

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<sup>1</sup> Capitalized terms used by not defined in this letter shall have the meanings given to them in Title 10 of the Texas Administrative Code.

On May 22, 2020, the Applicant received a previous participation notice and submitted a response by letter on May 28, 2020. That letter is attached. In the letter, the Applicant proposed conditions to an award that it believes would be helpful to assure successful compliance for the Whispering Trees property. Those conditions are restated below:

(1) Applicant/Owner is required to ensure that each Person subject to previous participation review for the Combined Portfolio will correct all applicable issues of non-compliance identified by the previous participation review on or before a specified date and provide the Department with evidence of such correction within 30 calendar days of that date.

(3) The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.

(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.

(9) Owner or Subrecipient is required to ensure that agreed upon persons attend and/or review the trainings listed in (A), (B), (C) and/or (D) of this subsection (only for applications made and reviewed under §1.301 of this subchapter) and/or (E) for applications made and reviewed under §1.302 of this subchapter and provide TDHCA with certification of attendance or completion no later than a given date.

(10) Owner is required to submit the written policies and procedures for all Developments subject to a TDHCA LURA for review and will correct them as directed by the Department.

After further consideration, the Housing Authority has concluded that the interlocking requirements of Section 8 Housing Choice Vouchers, HOME, and Housing Tax Credits can be complex and may require additional assistance. **Therefore, the Applicant would like to add the following condition to its proposal:**



**(4) Owner agrees to hire a third party to perform reviews of an agreed upon percentage of their resident files on a quarterly basis, and complete the recommended actions of the reviewer for an agreed upon list of Developments. Evidence of reviews and corrections must be submitted to the Department upon request.**

Specifically, the Housing Authority has contacted Ms. Stephanie Naquin, multifamily compliance consultant for Novogradac & Company, to seek an engagement for quarterly review services. The engagement is pending, but the Housing Authority is comfortable with a condition that would require third party assistance in this fashion.

The Applicant requests a determination of eligibility for this very worthy property. Whispering Trees is approximately 40 years old, constructed with assistance from the USDA RD 515 program and the Section 8 Housing Choice Voucher program. The property has not been moderately or substantially rehabilitated since initial occupancy. An award of Housing Tax Credits would allow this small housing authority to preserve and significantly improve this residence for the families.

Sincerely,



Cynthia L. Bast

Attachment

cc: Alfredo Castañeda  
Thomas Andrews

ATTACHMENT



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Austin, TX 78701  
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Cynthia L. Bast  
Direct Telephone: 512-305-4707  
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May 28, 2020

***Via Electronic Transmission***

Jo En Taylor  
Texas Department of Housing and Community Affairs  
221 West 11th Street  
Austin, Texas 78701

Re: Whispering Trees Apartments, TDHCA No. 20156 (the "**Development**")

Jo En:

We represent the Housing Authority of the City of Carrizo Springs (the "**Housing Authority**"), which has applied for 2020 Housing Tax Credits<sup>1</sup> for the Development referenced above. This letter responds to the previous participation review notice issued by the Department on May 22, 2020 (the "**PPR Notice**"). We respectfully ask that the Compliance Division consider the circumstances and conditions described below and recommend the Application for award.

**Background**

The Housing Authority has provided affordable housing for low income families since 1966. The Housing Authority administers eighty-one HUD Public Housing Units, one hundred forty-nine HUD Section 8 Housing Choice Vouchers, fifty-one HUD Section 8 Project-Based Vouchers and sixty units with Department Housing Tax Credit and HOME compliance requirements. In all, three hundred and forty-one households receive housing assistance under housing programs administered by the Housing Authority.

Across its portfolio, the Housing Authority performs at a high level and is determined to continue doing so. The most recent HUD Section 8 Management Assessment Program performance assessment completed in April, 2019 rated the Housing Authority's performance at 100%; while HUD's most recent Real Estate Assessment Center rating of Public Housing

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<sup>1</sup> Capitalized terms used by not defined in this letter shall have the meanings given to them in the 2020 QAP.

administration overall is 89%. Additionally, in the last three years, four key staff have attended ten compliance and training sessions.

The Development at issue has demonstrated compliance with HUD and RD monitoring rules and regulations for over 40 years. The Housing Authority is confident that the Development will continue this compliance record and, if the Development receives a Housing Tax Credit award from the Department, that the Housing Authority will successfully guide the Development through the Department's additional rules and regulations. An award of Housing Tax Credits will provide much needed rehabilitation of the Development and improve the daily lives of the most vulnerable residents in Carrizo Springs.

### **Items of Non-Compliance**

The PPR Notice identifies three events involving two projects: Westwind Village and Villa Hermosa. All events were identified in 2017 and all were subsequently corrected.

Two events were identified at Westwind Village. Pursuant to an on-site monitoring review conducted on March 28, 2017, the Department found Westwind Village to be in violation of properly calculating utility allowances and providing tenant income certifications and supporting documents for three households. These events of non-compliance were subsequently corrected. Further, pursuant to an Agreed Final Order dated April 26, 2018, the Department assessed certain factors as applied to the specific facts and circumstances of Westwind Village and determined "it is appropriate to assess no administrative penalty." The Housing Authority has since remained in compliance with the Agree Final Order.

One event was identified for Villa Hermosa. Pursuant to an affirmative marketing plan review, the Department found an inconsistency in the Villa Hermosa Affirmative Marketing Plan. This event of non-compliance was subsequently corrected, and the Housing Authority sold Villa Hermosa in 2018.

Overall, the violations found are not egregious or indicative of operations that are detrimental to the residents. They reflect a misunderstanding of the utility allowance calculations as applied to housing authorities and some mistakes in reporting, which have since all been corrected. Upon gaining an understanding of the requirements, the Housing Authority took steps to change the performance and will impose additional conditions, as described below, to ensure that the Development does not experience the same issues.

### **Changes Made and Conditions to be Imposed**

The Housing Authority has studied in detail the events that gave rise to the non-compliance findings and has already taken steps to ensure they are not repeated. Regarding the mistake in utility allowance calculation, clarification provided by the Department and HUD regarding unit utility allowance requirements led the Housing Authority to determine a thorough review and understanding of the program limits will result in successful compliance reviews in future visits. And regarding the errors in reporting and marketing plan, as discussed, key staff at

the Housing Authority have attended numerous recent trainings. The Housing Authority believes these change have made a significant difference at Westwind Village and Villa Hermosa (before it was sold), as well as the Housing Authority's other properties, as evidenced by its recent HUD performance rating of 100%.

Further, to improve its overall program performance moving forward the Housing Authority is willing to accept all or any of the following conditions to the Proposed Owner's acquisition of the Property, all of which are derived from Section 1.303 of the Department's Previous Participation Rules:

(1) Applicant/Owner is required to ensure that each Person subject to previous participation review for the Combined Portfolio will correct all applicable issues of non-compliance identified by the previous participation review on or before a specified date and provide the Department with evidence of such correction within 30 calendar days of that date.

(3) The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department upon request or by a specified date.

(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.

(9) Owner or Subrecipient is required to ensure that agreed upon persons attend and/or review the trainings listed in (A), (B), (C) and/or (D) of this subsection (only for applications made and reviewed under §1.301 of this subchapter) and/or (E) for applications made and reviewed under §1.302 of this subchapter and provide TDHCA with certification of attendance or completion no later than a given date.

(10) Owner is required to submit the written policies and procedures for all Developments subject to a TDHCA LURA for review and will correct them as directed by the Department.

The Housing Authority has a long and reputable history of owning and operating developments in Carrizo Springs. With improvements implemented, the Housing Authority is confident that the Owner will timely reply to TDHCA inspections, adequately correct any non-

compliance matters, and operate the Whispering Trees Property in a manner that is in the best interests of the residents.

We respectfully request that the Compliance Division recommend the Application for award. Please let us know if additional information is required.

Thank you,

A handwritten signature in blue ink that reads "Cynthia L. Bast". The signature is written in a cursive, flowing style.

Cynthia L. Bast

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Southlawn at Milby (20100)

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

**WHEREAS**, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

**WHEREAS**, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of noncompliance;

**WHEREAS**, this applicant has a portfolio of seven developments and eight events of noncompliance that were not corrected during the corrective action period;

**WHEREAS**, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

**WHEREAS**, on June 4, 2020, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g);

**WHEREAS**, a new Previous Participation Rule became effective on May 17, 2020, for applications received after that date, reflecting the current policy of the Board and under the new rule this application could be recommended for approval with conditions;

**WHEREAS**, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

**WHEREAS**, staff requests the Board determine that EARAC may provide a positive award recommendation to the Board with conditions;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Board has considered the compliance history of the Applicant, and determines, for application Southlawn at Milby (20100) that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; however, warrants the imposition of conditions; and

**FURTHER RESOLVED**, that the Application is authorized to proceed through its remaining evaluation and scoring, and be considered by EARAC for recommendation with the conditions listed below because of the compliance history.

### **BACKGROUND**

The applicant has proposed the conditions noted below to improve their compliance operations. Staff has reviewed their suggestions and recommends approval with the following conditions:

- Owner agrees to hire a third party to perform reviews of 100% of the files for new residents prior to move-in and complete the recommended actions of the reviewer for an agreed upon list of Developments. Evidence of reviews and corrections must be submitted to the Department upon request.
- Owner will designate the Director of Affordable Housing Compliance to receive Compliance correspondence and ensure timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.
- Applicant is required to have qualified personnel or a qualified third party perform an assessment of its operations and/or processes and complete the recommended actions of the reviewer on or before December 31, 2020.



June 11, 2020

***Via Electronic Transmission***

Texas Department of Housing and Community Affairs  
Executive Award and Review Advisory Committee  
c/o Brooke Boston  
221 West 11th Street  
Austin, Texas 78701

Re: Southlawn at Milby, TDHCA No. 20100 (the "**Development**")

Dear Brooke:

We represent 2020 Southlawn 90, LP (the "**Applicant**"), which is Controlled by Eureka Multifamily Holdings ("**Eureka**") and has applied for 2020 Housing Tax Credits<sup>1</sup> for the Development referenced above. Pursuant to 10 TAC §1.303(g), the Applicant is Disputing a negative recommendation by EARAC that the Applicant is not eligible for a Housing Tax Credit award for the Development because the Applicant's compliance history falls into Category 3. We respectfully request that: (1) the event of non-compliance with regard to Lucero (f/k/a Oak Creek Village) be removed from the Applicant's record and (2) the factors below allow the Applicant to be eligible for a recommendation of approval with conditions.

**Lucero (f/k/a Oak Creek Village).** The Applicant's previous participation report shows two events of non-compliance. There is an inconsistency in the Application, which needs correction. On page 17 of the Application, the Applicant included a letter from its counsel, disclosing as follows:

From May 2014 through August 2017, 2013 Travis Oak Creek GP, LLC (the "**General Partner**") was the acting general partner for 2013 Travis Oak Creek, LP (the "**Partnership**") which is the owner of the above-referenced Property. Commencing on September 27, 2019, the General Partner once again became the acting general partner for Partnership. In the interim period from August 2017 through September 27, 2019, the General Partner's role as acting general partner was temporarily replaced with another partner in the Partnership.

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<sup>1</sup> Capitalized terms used by not defined in this letter shall have the meanings given to them in Title 10 of the Texas Administrative Code.

TDHCA previously has been advised that the Partnership referenced above was the subject of a lawsuit between its partners. In conjunction with the lawsuit, the investor Limited Partner, an affiliate of PNC Bank, took the position that the General Partner had been removed but did not process an ownership transfer package with TDHCA. The General Partner vigorously defended its legal position, but did not have Control of the Partnership while the lawsuit was pending. The General Partner was the HUB, and the investor Limited Partner did not bring a new HUB into the Partnership. When completing the previous participation form at Tab 39, the Applicant should have made this distinction with regard to the Lucero property. In accordance with the disclosure above, it should have indicated that the property was under its Control from May 2014 through August 2017 and then again from September 27, 2019 through the current date. Thus, the events of non-compliance that occurred while Affiliates of the Applicant did not Control the Partnership should be removed from the Applicant's previous participation report.

In addition, the notification regarding the UPCS matter was not delivered to Eureka, as it was caught in the transition between Control by PNC Bank and Eureka's return to Control. CMTS was not properly updated. As soon as the compliance department at Eureka learned of the findings, they set out to correct them.

**Other Properties.** Other properties on the previous participation report had events of non-compliance related to household income, affirmative marketing, and tenant selection. All of these events occurred under the supervision of a prior management and compliance team, which has since been replaced in its entirety. For the specific nature of the violations, see below:

**Union Pines.** This property encountered events of non-compliance for one unit with an over-income household and issues related to affirmative marketing requirements. The Applicant's records show that TDHCA extended the corrective action period for the violation on the over-income household, and the household vacated the unit prior to the end of that extension date. The affirmative marketing plan being used by the property had been approved by HUD, so Eureka believed it was compliant. Eureka worked on revisions with TDHCA and the matter is corrected.

**Union Park.** This property encountered events of non-compliance for several units with an over-income household and issues related to the tenant selection plan. Corrective action was submitted within the corrective action period but was not reviewed by TDHCA until after the corrective action period. TDHCA was not completely satisfied with Eureka's revisions to the tenant selection plan, so the final changes were implemented after the corrective action period. The over-income households were under lease so that the owner could not correct the non-compliance until the lease terminated. This kind of violation is often not capable of correction before the end of the corrective action period.

**Sterlingshire.** This property was cited for one over-income household and issues related to the tenant selection plan. TDHCA's rules regarding tenant selection plans had changed, and Eureka's plan required an update. Corrective action was submitted within the corrective action period but was not reviewed by TDHCA until after the corrective action period. TDHCA was not

completely satisfied with Eureka's revisions to the tenant selection plan, so the final changes were implemented after the corrective action period. The over-income household was in a HAP-subsidized unit and the process for income verification is different between the programs. The unit was under lease so that the owner could not correct the non-compliance until the lease terminated. This kind of violation is often not capable of correction before the end of the corrective action period.

**Resolution and Conditions.** Overall, you can see a consistency in the events of non-compliance that were found with the three properties above. Items included the admission of over-income households and failure to update affirmative marketing and tenant selection plans in accordance with TDHCA's rules. Notably, none of the events of non-compliance impacted the health or safety of residents.

Recognizing a need to improve its management and compliance functions, Eureka hired Ms. Jennifer Guerra as Vice President of Affordable Housing. Ms. Guerra is a 30-year veteran of the affordable housing industry, covering Housing Tax Credits, HOME, Section 8, and other programs. Ms. Guerra subsequently hired Renee Meader to serve as Director of Affordable Housing Compliance. Ms. Meader has over 20 years of affordable housing experience and previously worked for TDHCA as a compliance monitor. Together, Ms. Guerra and Ms. Meader are working to build a compliance department, which will include at least two more employees who will travel to the properties for training and auditing purposes. They have developed a TDHCA-approved Tenant Selection Plan that they are now using at all of their properties. They have ensured that the CMTS is up-to-date for prompt delivery of notifications. They have implemented quarterly monitoring of affirmative fair housing marketing efforts. They are improving training and file review processes.

However, the Applicant recognizes that it needs additional support until it can build a full compliance department to serve its properties. In this interim period, Eureka will be engaging Capstone Real Estate Services to perform a compliance review for each of the Housing Tax Credit properties in its portfolio and make recommendations for improvements in processes. Then, Capstone will review all new resident files to confirm eligibility prior to move-in. The Applicant believes the combination of these two new Directors, along with Capstone, will give it the requisite expertise to ensure compliance matters are handled effectively.

Thus, in accordance with 10 TAC §1.303(e), the Applicant proposes that its Category 3 status be mitigated by imposing the **following conditions for eligibility** for an award of Housing Tax Credits for the Development:

- (4) Owner agrees to hire a third party to perform reviews of an agreed upon percentage of their resident files on a quarterly basis, and complete the recommended actions of the reviewer for an agreed upon list of Developments. Evidence of reviews and corrections must be submitted to the Department upon request. *(Rather than a quarterly review, Capstone will review 100% of the files for new residents prior to move-in.)*

(5) Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control. *(Ms. Meader will be so designated.)*

(16) Applicant is required to have qualified personnel or a qualified third party perform an assessment of its operations and/or processes and complete the recommended actions of the reviewer on or before a specified deadline. *(This review would be performed by Capstone, as described above.)*

The Applicant is willing to discuss any other conditions the Department believes would be appropriate to ensure ongoing compliance with the Housing Tax Credit program. Please find the Applicant eligible to proceed.

Sincerely,



Cynthia L. Bast

cc: J. Kirk Standly, Esq.  
Sarah Andre  
Mark Rogers  
Harris Block  
Renee Meader  
Reed A. Standly, Esq.  
Jennifer Guerra

2a

## TDHCA Outreach Activities, May-June

A compilation of outreach and educational activities designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public.

Activity	Event	Date	Location	Division
Virtual Public Hearing	Public hearing on Competitive HTC – Regions 1-4	May 12	N/A	Multifamily Finance
Virtual Public Hearing	Public hearing on Competitive HTC – Regions 7-9, 12-13	May 13	N/A	Multifamily Finance
Virtual Public Hearing	Public hearing on Competitive HTC – Regions 5-6, 10-11	May 14	N/A	Multifamily Finance
Virtual Public Hearing	Public hearing on Draft 2021 LIHEAP State Plan	May 27	N/A	Community Affairs
Virtual Quarterly Meeting	Housing and Health Services Coordination Council (HHSCC) Quarterly Meeting	May 28	N/A	Housing Resources Center
Webinar	ESG Environmental Clearance for Emergency Shelters and Rehabilitation Requirements	June 3	N/A	Emergency Solutions Grants Program

### Internet Postings of Note

*The list of new or noteworthy postings to the Department's website.*

#### Asset Management

- Posted Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application (#19242, The Tramonti; #19245, Huntington Chimney Rock; #19315, Hammack Creek)
- Posted Presentation, discussion, and possible action regarding a Material Amendment to the Land Use Restriction Agreement (#542076, Bridgeport Estates Phase II; #531301, Spring Garden Apartments IV; #1000370, Bridgeport IV; #1000608, Estates of Bridgeport IVa)

#### Bootstrap Loan Program

- Added Census Tracts Eligible under the 2019 Texas Bootstrap Loan Program 2/3 Set-aside

- Added File Transfer Link and File Transfer step-by-step guide to Forms page

#### **Colonia SHC**

- Added File Transfer Link and File Transfer step-by-step guide

#### **Communications:**

- Added new Press page article for June (The Texas Homebuyer Program and the dream of homeownership)
- Added and updated resources and materials to COVID-19 agency resource page
- Added resources to Disaster Resources page
- Posted Strategic Plan for Fiscal Years 2021-25 and Report on Customer Service
- Added statewide COVID-19 mobile testing sites map to homepage

#### **Community Affairs**

- Added updated COVID-19 FAQs for subrecipient guidance
- Added revised Fan Flow Box and Kitchen Fans best practices for WAP
- Posted 2019 CAP Update ONLY forms
- Added CARES Act Funding Webinar, slides and conference call Q&A
- Posted 2021 CSBG Allocations, Budget Forms and CAP information (2021 Estimated Allocations with TOP Goals, 2021 Budget Forms, 2021 Budget Instructions, 2021 CAP Form, 2021 CAP-CIS Form, 2021 CAP Instructions, 2019 CAP Update ONLY Forms)
- Added Combustion Appliance Zone Testing video for best practices for WAP
- Added CA Performance Measures User Guide
- Posted updated COVID-19 FAQs (as of June 9)
- Added CSBG Organizational Standards Submissions Guidelines recorded webinar with Q&A
- Added Meeting and Exceeding Organizational Standards in Texas recorded webinar
- Added CSBG Organizational Standards Guide and Tools (Organizational Standards Guide for Public and Private Eligible Entities, Board Vacancy Tool, New Hire Orientation Tool, OS 4.3 Implementation Checklist, Board Meeting Minutes Cover Sheet Tool)

#### **Compliance**

- Added Compliance Monitoring Rule – Texas Administrative Code Title 10 Chapter 10 Subchapter F
- Posted update Income and Rent tool (as of April 1)
- Posted Monitoring Forms

#### **Fair Housing**

- Added Affirmative Marketing and Written Policies and Procedures – Texas Administrative Code Title 10 Chapter 10 Subchapter G

#### **Human Resources**

- Posted updated agency organizational chart

#### **HOME and Homeless:**

- Added ESG Annual Application Materials (Volume 1: Threshold spreadsheet, Fair Market Rents, Federal ESG Interim Rule, 24 CFR Part 576, HUD Income limits, Income Determination Training web link, State ESG Rule 10 TAC Chapter 7, Texas Property Code)
- Added 2020 Annual Application Materials handout
- Posted updated Waiver List for HOME TBRA General and PWD Set-asides
- Updated ESG CARES Act funding coordinators information
- Posted Review of HUD HOME Waivers Related to the COVID-19 Pandemic webinar

- Posted updated HOME COVID-19 TBRA Set-aside Reservation System Participation application
- Posted link for COVID-19 Federal and State Resources and Guidance Disaster Response Rehousing
- Posted updated COVID-19 Rental Coupon Contract
- Posted updated Indirect Cost Rate Worksheet
- Added 2020 ESG Program Annual Application Guidance recorded webinar
- Updated Environmental Review and Long Term Construction Requirements webinar
- Added Emergency Solutions Grants Environmental Clearance Handout
- Added HUD Guidance on Disease Risks and Homelessness
- Added Emergency Solutions Grants (ESG) Basics and ESG CARES webinar handout
- Posted updated FY 2019 ESG Supplemental Monthly Report spreadsheet and Reporting Guide
- Added COVID-19 Set-Aside Forms page (COVID-19 Setup Checklist, COVID-19 Project File Checklist, HOME Program Intake Application, HOME Program Intake Application (Spanish), COVID-19 Impact Certification Form, COVID-19 HIC, Determination of Conflict of Interest, Certification of Eligibility, COVID-19-RCC, TBRA Certification of Principal Residence, TBRA Certification of Principal Residence (Spanish), Request for Unit Approval, A good place to Live!)
- Posted updated HRA Project Setup Checklist, Contract for Deed Project Setup Checklist, and Activity Setup and Lot Acquisition/Interim Construction Loan Checklist

#### **Homeownership**

- Posted update for First Time Home Buyer Program buyer and lender requirements and Mortgage Credit Certification pages

#### **Housing Resource Center**

- Added Spanish-language information to Help for Texans page
- Added Fifth Substantial Amendment to the 2015-2019 State of Texas Consolidated Plan ( Adding HOPWA-CV), Fourth Substantial Amendment to the 2019 One-Year Action Plan (Addition of HOPWA-CV), and Third Minor Amendment to the 2019 One-Year Action Plan (Update to CSHC deobligated funds for COVID-19 response)
- Posted updated HHSCC Service-Enriched Housing Video
- Posted Fourth Substantial Amendment to the 2015-2019 State of Texas Consolidated Plan

#### **Housing Trust Fund**

- Added Minimum Energy Efficiency Requirements for Single Family Construction

#### **Internal Audit**

- Posted 2020 Internal Audit Report of the Multifamily Revenue Bond Program

#### **Migrant Labor Housing**

- Added COVID-19 Guidance for Shared or Congregate Housing (also in Spanish) for housing licensees

#### **Multifamily:**

- Posted updated application materials for 2020 4% HTC cycle
- Posted updated 2020 9% Housing Tax Credit Full Application Log (as of May 20)
- Posted updated 2020-1 Multifamily Direct Loan NOFA Application Log (as of June 4)
- Posted revised Uniform Application 2020 (as of May 11)
- Posted updated 2016 and 2017 Final HTC Bond Status Log



### **Neighborhood Stabilization Program**

- Added Data on the FY 2020 income limits applicable for NSP (as of April 1)

### **Notice of Funding Availability**

- 2020 Emergency Solutions Grants Program Annual Allocation Notice of Funding Availability
- Posted updated Amended 2020-1 Multifamily Direct Loan Annual Notice of Funding Availability

### **Program Services**

- Posted public comment for Environmental Review for Casitas Lantana
- Posted updated Uniform Relocation Act Income Limits (as of April 1)

### **Public Comment**

- Public comment period open for Draft 2021 Regional Allocation Formula Methodology

### **Purchasing**

- Updated list of No-Bid contracts as required by state

### **Real Estate Analysis**

- Posted 2020 9% HTC Underwriting Reports

### **Section 8**

- Added 2020 Annual PHA Plan

### **Section 811 PRA Program**

- Posted Damage Reimbursement Policy & Owner/Agent Certification and Damage Reimbursement Request Form

### **Frequently Used Acronyms**

AMFI	Area Median Family Income	LURA	Land Use Restriction Agreement
AYBR	Amy Young Barrier Removal Program	MF	Multifamily
CEAP	Comprehensive Energy Assistance Program	MFTH	My First Texas Home Program
CFD	Contract for Deed Program	MRB	Mortgage Revenue Bond Program
CFDC	Contract for Deed Conversion Assistance Grants	NHTF	National Housing Trust Fund
CHDO	Community Housing Development Organization	NOFA	Notice of Funding Availability
CMTS	Compliance Monitoring and Tracking System	NSP	Neighborhood Stabilization Program
CSBG	Community Services Block Grant Program	OIG	Office of Inspector General
ESG	Emergency Solutions Grants Program	QAP	Qualified Allocation Plan
EHF	Ending Homelessness Fund	QCP	Quantifiable Community Participation
FAQ	Frequently Asked Questions	REA	Real Estate Analysis
HBA	Homebuyer Assistance Program	RFA	Request for Applications
HHSCC	Housing and Health Services Coordination Council	RFO	Request for Offer
HHSP	Homeless Housing and Services Program	RFP	Request for Proposals
HRA	Homeowner Rehabilitation Assistance	RFQ	Request for Qualifications
		ROFR	Right of First Refusal
		SLIHP	State of Texas Low Income Housing Plan
		TA	Technical Assistance
		TBRA	Tenant Based Rental Assistance Program
		TICH	Texas Interagency Council for the

Program  
HRC Housing Resource Center  
HTC Housing Tax Credit  
HTF Housing Trust Fund  
HUD U.S. Department of Housing and  
Urban Development  
IFB Invitation for Bid

Homeless  
TSHEP Texas Statewide Homebuyer  
Education Program  
TXMCC Texas Mortgage Credit Certificate  
VAWA Violence Against Women Act  
WAP Weatherization Assistance Program

2b



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Update on TDHCA Programs in Response to COVID-19 and CARES Act  
As of June 17, 2020

This report provides an update on the programs TDHCA has targeted to assist with Texas' response to COVID-19 through reprogramming of existing funds and through the administration of CARES Act funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR	NA: Reservation Agreements	3-6 months of rental assistance made available through existing or new HOME subrecipients.  Geography: Available where subrecipients apply. Income Eligibility: Households at or below 80% AMFI based on current circumstances.	All necessary waivers for this activity were authorized by the OOG and HUD via HUD's mega-waiver of April 10, 2020.	14 contracted administrators. 8 administrators in the review and approval process.	No added TDHCA staffing.  No added admin funds.	2	Up to \$11,290,076  \$4,665 .04%  \$0 0%	14 subs.
Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds	<ul style="list-style-type: none"> <li>Board approval March 2020.</li> <li>Recipients contracts effective: 3/26/20</li> <li>Expenditure Deadline: 8/31/20</li> </ul>	Uses the existing network of Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19.  Geography: Available statewide (excluding CWCCP and CSI <sup>1</sup> ) Income Eligibility: 200% poverty (normally is 125%)	None	Contracts have been executed by subs. All funds obligated.	No added TDHCA staffing.  No added admin funds.	242 persons	\$1,477,993  1,477,993 100%  \$442,577 29.9%	38 CAA subs

<sup>1</sup> CWCCP and CSI were omitted from this specific type of award because they have outstanding balances owed to the Department. The counties these two entities cover include: Anderson, Cameron, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall, Van Zandt, and Willacy. It should be noted those counties will receive CSBG services under the CSBG CARES funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Recaptured 2018/2019 HHSP	<ul style="list-style-type: none"> <li>Board approval March 2020.</li> <li>Spend by 8/31/20</li> </ul>	<p>To allow subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness.</p> <p>Geography: Available 9 largest metro areas. Income Eligibility: Generally 30% AMFI if applicable</p>	Approval from Comptroller granted.	7 of the 9 contracts have been executed by subs.	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	0	<p>\$239,884</p> <p>\$148,668 62%</p> <p>\$0 0%</p>	9 subs
CSBG CARES	<ul style="list-style-type: none"> <li>Board approved April 2020. (\$47,456,000)</li> <li>By 8/31/20 need to decide on the 7% reserve</li> <li>Expend by 8/31/22</li> <li>45 day closeout</li> </ul>	<p>90% to CAAs using regular formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network<sup>2</sup>; 7% to be held in reserve for future emergency use or incentive awards; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 200% of poverty (normally is 125%)</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	Working on CSBG Plan Amendment. 35 of 40 contracts have been executed.	<p>1 Art. IX FTE for CSBG reporting (Posted)</p> <p>1% admin (\$474,560)</p>	0	<p>\$48,102,282</p> <p>\$38,978,674 81%</p> <p>\$0 0%</p>	40 CAA subs
LIHEAP CARES	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>By 8/31/20 need to decide on the 9% reserve</li> <li>Expend by 8/30/21</li> <li>45 day closeout</li> </ul>	<p>90% to CEAP subs using regular formula for households affected by COVID-19; 9% to be held in reserve for future emergency use or for subs; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 150% of poverty</p>	<p>The <a href="#">flexibilities allowed by USHHS</a> have been accepted. Told HHS no WAP w/ CARES.</p> <p>Sent waiver request 5/13/20 to HHS about performance measures for billing history.</p> <p>No 10% Carry Forward applies.</p>	27 of 37 contracts have been executed.	<p>1 Art. IX FTE for CEAP TA/capacity (Posted)</p> <p>1% admin (\$892,670)</p>	0	<p>\$94,023,896</p> <p>\$47,128,291 50%</p> <p>\$0 0%</p>	37 CAA subs. No subs declined funds.

<sup>2</sup> The award to THN is to: 1) address homelessness and at-risk of homelessness in the Balance of State Continuum of Care and to provide capacity building assistance to subrecipients of Emergency Solutions Grant CARES Act and 2020 and 2021 Emergency Solutions Grant funds as a result of COVID-19.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
CDBG CARES – Phase I	Board approved April 2020  All phases of CDBG to be expended by 9/30/22  90 day closeout	TBD by TDHCA  Geography: TBD Income Eligibility: TBD	Submitted HUD question asking to confirm that arrears on RA acceptable (field office agreed, CARES email FAQ no response yet). Will need waivers depending on what activity is decided.	Once decided, will do a 5 day posted comment period for a Con Plan amendment	TBD	0	\$40,000,886  \$0 0%  \$0 0%	.
CDBG CARES – Phase II	All phases of CDBG to be expended by 9/30/22	TBD by TDHCA  Geography: TBD Income Eligibility: TBD	Will need waivers depending on what activity is decided.	Once decided, will do a 5 day posted comment period for a Con Plan amendment	TBD	0	\$63,392,290  \$0 0%  \$0 0%	Office of Governor designated TDHCA for all remaining CDBG CARES on June 15, 2020.
ESG CARES – Phase I	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>Expend by 9/30/22</li> <li>90 day closeout</li> </ul>	<p>Four streams:</p> <ul style="list-style-type: none"> <li>Existing subs were offered 100% to 200% of current contract amount (\$12.5M new estimate)</li> <li>ESG Coordinators decide via local process for their CoC. (\$17,189,189 est.)</li> <li>For the 3 areas with no ESG Coordinator, we will ID from past CoC awards in the area (\$912,559 est.)</li> <li>Legal/HMIS (\$1.8M)</li> </ul> <p>Geography: Locations of all funded grantees Income Eligibility: 50% AMI for homeless prevention</p>	<ul style="list-style-type: none"> <li>HUD mega-waivers accepted.</li> <li>Additional waiver request to HUD was submitted on May 7. One-Year Plan/ Con Plan amendment to HUD on May 8.</li> <li>Signed HUD grant agreement sent to HUD 5/15/20.</li> <li>Funds live in HUD system 5/22/20.</li> </ul>	<ul style="list-style-type: none"> <li>Have firmed up award amounts for 49 of 51 existing subs offered funds. 33 contracts out.</li> <li>8 ESG Coordinators – have until 7/16/2020 to submit recs to us.</li> <li>Identified 2 possible awards in 3 areas without ESG coordinators.</li> </ul>	3 Art. IX FTE (assuming for next phases as well) (Posted)  5% admin (\$1,662,734)	0	\$33,254,679  \$792,996 2.4%  \$0 0%	<p>This is the first \$1B of national ESG.</p> <p>Contracts for legal services still under discussion.</p> <p>HMIS funds totaling \$365,826 will go to the 8 ESG Coordinators.</p>

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
ESG CARES – Phase II	Federal award amounts announced 6/9/2020.	TBD	TBD	Once decided, will take to Board and do a 5 day posted comment period for a Con Plan amendment	TBD	0	\$64,537,937 \$0 0% \$0 0%	This is the state's share of the second (final) allocation of \$2.96 billion.
Section 811	Spend by 9/30/23	TBD	TBD	Awaiting HUD release of funds	TBD	0	TBD	\$15M nationally
Housing Choice Voucher Program Admin	Expend by 7/31/20, with possibility to extend to 12/31/20	<ul style="list-style-type: none"> <li>Software upgrades with Housing Pro to allow more efficient remote interface.</li> <li>Landlord incentive payments.</li> </ul>	Received HUD interpretation that using funds for software upgrades are acceptable.	ISP negotiation complete with Housing Pro. Purchase Order for upgrades in process. Materials for landlord incentives completed.	No added TDHCA staffing.	0	\$117,268	\$380M nationally
Housing Choice Voucher Program MVP	12 months of assistance, start date begins whenever we designate with HUD.	15 additional MVP vouchers consistent with our award of MVP, which for us is for the Project Access List.	None needed.	Received award from HUD. Issued the 15 vouchers on 5/22/20.	No added TDHCA staffing.  No added admin funds.	0	105,034	Not counted as "served" until housed.
Housing Choice Voucher Program – Other/HAP	TBD	TBD	TBD	Awaiting HUD announcement or release of funds	TBD	0	TBD	\$870M nationally remaining

3a



**BOARD REPORT ITEM**  
**INTERNAL AUDIT DIVISION**  
**June 25, 2020**

Report on the Meeting of the Audit and Finance Committee and Action on recommendations of that committee

**Verbal Report**

4a

**BOARD ACTION REQUEST**  
**FINANCIAL ADMINISTRATION DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on the FY 2021 Operating Budget

**RECOMMENDED ACTION**

**WHEREAS**, the Governing Board of the Texas Department of Housing and Community Affairs (the Department or TDHCA) is required to approve a FY 2021 Operating Budget; and

**WHEREAS**, the Department is required to submit the budget to the Governor's Office and the Legislative Budget Board (LBB);

**NOW, therefore, it is hereby**

**RESOLVED**, that the FY 2021 Operating Budget, in the form presented to this meeting, is hereby approved; and

**FURTHER RESOLVED**, that upon approval by the TDHCA Governing Board, the Department will submit the budget to the Governor's Office and the LBB.

**BACKGROUND**

In accordance with Tex. Gov't Code §2306.112 *et seq.*, TDHCA is charged with preparing an operating budget for Board adoption on or before September 1 of each fiscal year. The budget includes operational expenses distributed among the Department's divisions. It does not include federal or state program funds that pass through to subrecipients except for administrative funds used by the Department associated with those federal or state funds that are retained and reflected in the budget. This budget anticipates maximizing all federal administrative resources. In addition, in accordance with internal auditing standards and the Board's internal audit charter, the budget includes the Internal Audit Division's annual operating budget.

This FY 2021 Internal Operating Budget, which the Board is being asked to approve, corresponds to the second year of the biennial General Appropriations Act (GAA) passed by the 86<sup>th</sup> Texas Legislature which appropriated \$289,491,426. In total, this budget provides for expenditures and associated revenues of \$28,837,470 or a \$1,109,484 (4%) increase from the prior year's budget.

The budget reflects 309 Full Time Equivalents (FTEs) (64 are related to the Manufactured Housing Division) which are appropriated in the GAA. There are an additional 11 FTEs associated with new non-appropriated federal funds with 10 of these being associated with CARES Act funds.

There is also one Article IX (Temporary) FTE associated with a Fair Housing Initiative Program (FHIP) grant that is set to run through May 2021.

Additionally, the Housing Finance Division budget, which is funded with fees generated from the Department's Bond, Housing Tax Credit, Asset Management, and Compliance activities, decreased by \$206,581 or -1.2%. This decrease is primarily attributed to a decrease in the Capital Budget and salary related savings.

For a complete explanation of the aforementioned budget categories and details, please see the accompanying Comparison Report.

**TEXAS DEPT. OF HOUSING AND COMMUNITY AFFAIRS**  
FY 2021 Operating Budget  
Comparison Report  
June 25, 2020

This Comparison Report provides an explanation of some of the changes to cost categories.

In total, this FY 2021 Operating Budget is \$28,837,470 or a \$1,109,484 (4.0 %) increase over the prior year budget.

\$1,100,961 of this increase is due to additional federal funding associated with the CARES Act and the new Fair Housing Initiative Program (FHIP) grant.

The remaining \$95,286 variance, net of the Capital Budget which decreased \$86,763, resulted in only a .35% increase. Below are the highlights of the FY 2021 Budget describing this change. Please refer to the Comparison by Expense Object schedule on Page 3.

1. **Salaries/Wages and Payroll Related Costs.** These two line items represent 83% of the total operating budget.

The budget reflects 320 Full Time Equivalents (FTEs), an increase of 9 FTES comprised of 11 additional FTEs related to the CARES Act and FHIP grant, offset by 2 eliminated positions.

The Salaries and Wages line item increased by \$794,261 or 4.3%. New CARES Act and FHIP grant staffing accounted for \$847,936 of this increase resulting from 11 additional Article IX (Temporary) FTEs. The remaining \$53,676 negative variance is primarily due to the normal growth rate of 1%, offset by salary savings from eliminated positions and retirements.

Payroll related costs increased \$190,622. The increase in payroll related costs is proportional to the increase or decrease in salaries.

2. **In State Travel.** In state travel increased \$17,485 or 3.1% primarily due to anticipated travel related to the new CARES Act grants of \$20,312, offset by reduction of \$2,827 related to current activities.
3. **Out of State Travel.** Out of State Travel remained unchanged.
4. **\*Professional Fees.** Professional Fees have increased by \$91,876 related to anticipated increases in audit costs and a new contract to support federal cost allocation training. This is offset by a decrease in anticipated costs for the Department's physical inspections and the completion of professional services for the Community Affairs division for ongoing updates related to a database that was part of the Capital Budget.

5. **Materials and supplies.** Materials and supplies decreased by \$25,212 due to an agency wide decrease in cost of consumable supplies such as toner and related materials.
6. **\*Repairs/Maintenance.** Repairs and Maintenance increased by \$29,726 primarily due the establishment of a Mitigation Fund of \$55K by Section 811 PRA Program to support landlords with excessive property damages from vacated tenants offset by lower software and hardware costs.
7. **Rentals and Leases.** Rentals and leases decreased by \$31,059 primarily due to the expiration of the lease agreement for space in Austin for the IS department. The IS staff will be relocated from the Twin Towers Office Complex (TTOC) to the main headquarters building at 221 East 11<sup>th</sup> Street.
8. **Advertising.** Agency advertising costs decreased \$83,350 or 96.2%. The decrease in advertising costs is primarily due to the completion of the initial phase of a marketing contract by the Texas Homeownership Division.
9. **Temporary Help.** Temporary Help increased \$110,608 or 85.1%. The increase in this category is primarily due to the continuation of the marketing contract with a new scope of services by the Texas Homeownership for \$92,000. In addition, the Section 811 PRA Program will execute a new contract to enhance the administration and documentation of the program.
10. **\*Furniture and Equipment.** Included in this category is the Legislature's approval of the Department's Hardware and Software Replacements project for FY 20 and FY21 as it relates to non-capital expenses such as update and replacement of end-user computers and operational software upgrades, including the replacement of desktop computers and laptops that will be six years old or older and software updates. The benefits of these planned purchases include increased security, better performance for end-user computers, and the ability to provide continued support for TDHCA's enterprise systems, such as the Central Database, PeopleSoft Financials, MITAS Financials/Servicing, and the Manufactured Housing System.

This line item decreased \$194,381 or 70.5%, due to an anticipated decrease in non-capital expenditures for items such as computers and printers, the majority of which occurred in the first year (2020) of the biennium.

11. **\*Capital Outlay.** This category is also included in the Department's Hardware and Software Replacement project as it relates to direct capital expenses such as server hardware upgrades and network equipment enhancements, to ensure systems remain supported by vendors and security and reliability remain at high levels. This line item increased \$119,323 due to an anticipated increase in capital expenditures for items such as server hardware replacements, which will occur in the second year (2021) of the biennium.

*\*The Department's Capital Projects are included in Professional Fees, Repairs/Maintenance, Furniture and Equipment and Capital Outlay. These projects include hardware and software replacements, ongoing CAPPs financials license fees, and the Disaster recovery services through the data center services performed by the Department of Information Resources.*

**Comparison by Expense Object**

	2020 Budget (a)	2021 Budget (b)	Variance (b) - (a)	% change	2020 Capital	2021 Capital	2021 CARES and FHIP	Adjusted Variance	Adjusted % Change
Salaries and Wages	\$ 18,488,647	\$ 19,282,908	\$ 794,261	4.30%			\$ 847,936	\$ (53,676)	-0.29%
Payroll Related Costs	4,437,276	4,627,898	190,622	4.30%			197,054	(6,432)	-0.14%
Travel In-State	547,900	565,385	17,485	3.19%			20,312	(2,827)	-0.52%
Travel Out-of-State	141,404	141,404	-	0.00%				-	0.00%
*Professional Fees	1,511,518	1,603,394	91,876	6.08%	51,707	51,709		91,874	6.29%
Material and Supplies	283,506	258,294	(25,212)	-8.89%			1,500	(26,712)	-9.42%
*Repairs/Maintenance	609,876	639,602	29,726	4.87%	46,988	47,731		28,983	5.15%
Printing and Reproduction	23,597	29,622	6,025	25.53%			8,500	(2,475)	-10.49%
Rentals and Leases	135,327	104,268	(31,059)	-22.95%			7,500	(38,559)	-28.49%
Membership Fees	86,930	87,380	450	0.52%				450	0.52%
Staff Development	148,850	152,954	4,104	2.76%				4,104	2.76%
Insurance/Employee Bonds	408,101	420,193	12,092	2.96%			13,158	(1,066)	-0.26%
Employee Tuition	7,000	6,000	(1,000)	-14.29%				(1,000)	-14.29%
Advertising	86,650	3,300	(83,350)	-96.19%				(83,350)	-96.19%
Freight/Delivery	20,950	23,350	2,400	11.46%				2,400	11.46%
Temporary Help	129,950	240,558	110,608	85.12%				110,608	85.12%
*Furniture and Equipment	275,778	81,397	(194,381)	-70.48%	242,628	35,797	4,000	8,450	25.49%
Communication and Utilities	360,900	422,240	61,340	17.00%			1,000	60,340	16.72%
*Capital Outlay	-	119,323	119,323	-		119,323		-	-
State Office of Risk Management	23,826	28,000	4,174	17.52%				4,174	17.52%
<b>Total Department</b>	<b>\$ 27,727,986</b>	<b>\$ 28,837,470</b>	<b>\$ 1,109,484</b>	<b>4.00%</b>	<b>\$ 341,323</b>	<b>\$ 254,560</b>	<b>\$ 1,100,961</b>	<b>\$ 95,286</b>	<b>0.35%</b>
FTES	311	320	9	2.89%			11	(2)	-0.64%
Method of Finance:									
General Revenue:	2020 Budget (a)	2021 Budget (b)	Variance (b) - (a)	% change	2020 Capital	2021 Capital	2021 CARES and FHIP	Adjusted Variance	Adjusted % Change
GR-General Revenue	\$ 816,670	\$ 809,636	\$ (7,034)	-0.86%				\$ (7,034)	-0.86%
GR-Earned Federal Funds	2,310,063	2,277,954	(32,108)	-1.39%				(32,108)	-1.39%
Federal Funds-Non-HERA	6,829,526	7,106,332	276,806	4.05%	97,803	72,782	86,626	215,201	3.20%
Federal Funds-NSP (HERA)	115,129	111,183	(3,946)	-3.43%				(3,946)	-3.43%
Federal Funds-CARES Act	-	1,014,335	1,014,335	-			1,014,335	-	-
Appropriated Receipts - Housing Finance	16,935,318	16,728,737	(206,581)	-1.22%	243,520	181,778		(144,839)	-0.87%
Appropriated Receipts - Migrant Labor Hsng	37,313	34,697	(2,616)	-7.01%				(2,616)	-7.01%
Appropriated Receipts - Manufact. Housing	512,296	511,892	(404)	-0.08%				(404)	-0.08%
Interagency Contracts	171,672	242,703	71,031	41.38%				71,031	41.38%
<b>Total, Method of Finance</b>	<b>\$27,727,986</b>	<b>\$28,837,470</b>	<b>\$1,109,484</b>	<b>4.00%</b>	<b>\$341,323</b>	<b>\$254,560</b>	<b>\$1,100,961</b>	<b>\$95,286</b>	<b>0.35%</b>

## Methods of Finance

The 2021 Budget includes the following sources:

### General Revenue

State appropriated funds including Housing Trust Fund, Housing and Health Services Coordinating Council, and Homeless Housing and Services Program.

Earned Federal Funds - Federal funds appropriated for indirect costs associated with administering federal funds.

### Federal Funds

Federal Funds-(Non-Housing and Economic Recovery Act (HERA)) - Core federal programs such as Community Services Block Grant (CSBG), Emergency Solutions Grant (ESG), HOME, U.S. Dept. of Energy (DOE), Section 8 Housing, Section 811 PRA Program, Low Income Home Energy Assistance Program (LIHEAP), and National Housing Trust Fund.

Neighborhood Stabilization Program - Federally appropriated funds specifically designated for HERA-NSP.

Federal Funds – (CARES Act )- Supplemental funding of core federal programs such as CSBG, ESG, Section 8, LIHEAP, and a new Community Development Block Grant for emergency relief of the impact of the Coronavirus pandemic.

### Appropriated Receipts - Housing Finance (HF):

Bond Admin Fees - Appropriated receipts associated with our Single Family and Multifamily bond programs such as application fees, issuance fees, and administration fees.

Low Income Housing Tax Credit Fees - Appropriated receipts associated with our housing tax credit program such as application fees and commitment fees.

Compliance Fees - Fees assessed to multifamily developers for the purpose of ensuring long-term compliance.

Asset Oversight Fees - Fees assessed to Tax Credit Assistance Program (TCAP) and Exchange property owners for the purpose of safeguarding the Department's financial interest in their properties.

Migrant Labor Housing Fees – Fees assessed for the purpose of inspections of migrant housing facilities.

**Appropriated Receipts (MH)** - Manufactured Housing Division fees generated through inspecting, licensing, and titling activities.

**Interagency Contracts** - Contract with the Texas Department of Agriculture for the Office of Colonia Initiatives (OCI) Self-Help Center's operation and administration; and a contract with the Texas Health and Human Services Commission (HHSC) for the Money Follows the Person program.





**FISCAL YEAR 2021  
OPERATING BUDGET**  
*(September 1, 2020 through August 31, 2021)*

**June 25, 2020**

*Prepared by the Financial Administration Division*

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
FY-2021 OPERATING BUDGET**

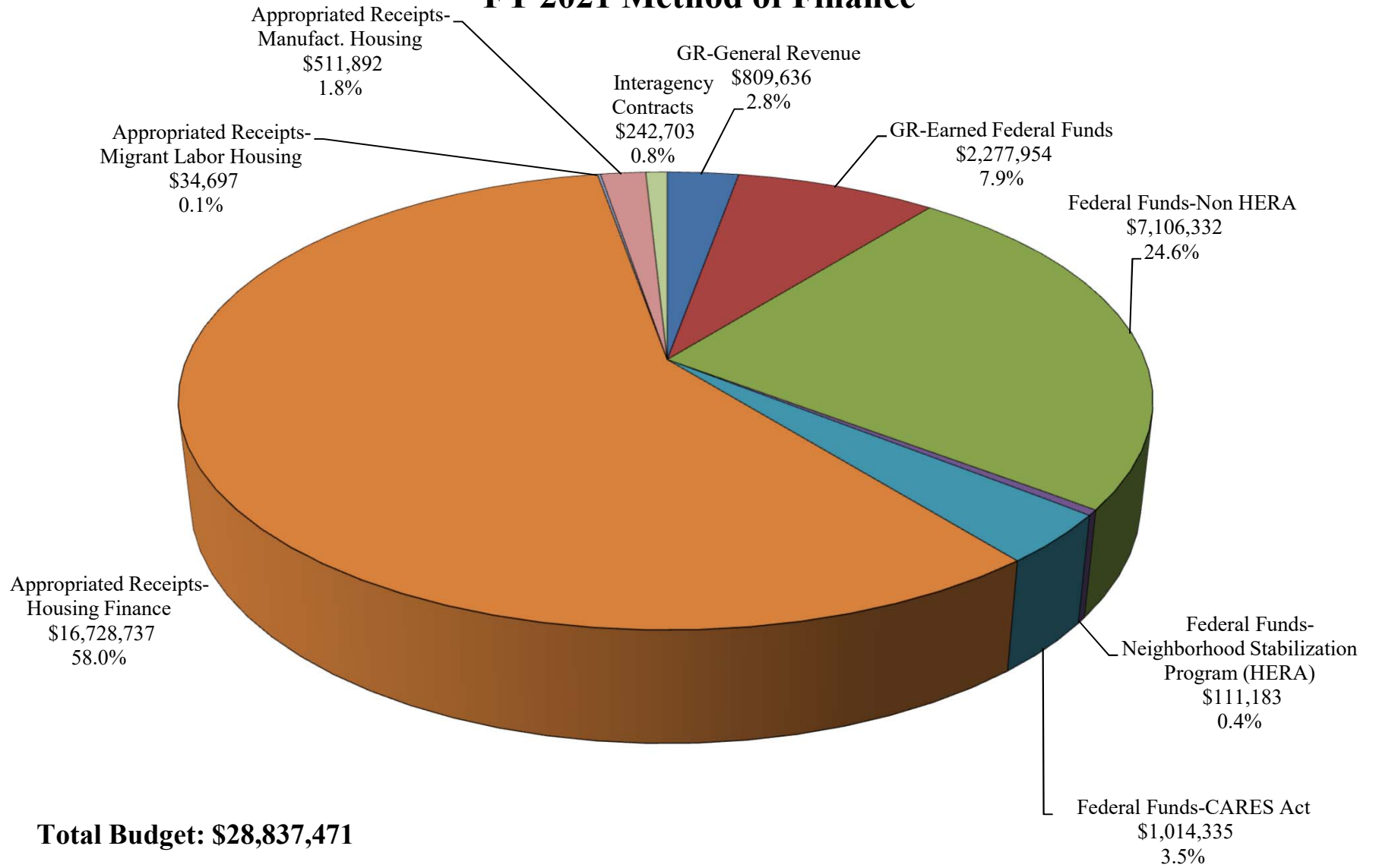
**T A B L E O F C O N T E N T S**

Method of Finance Chart.....1  
Agency Wide - By Method of Finance .....2

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# Texas Department of Housing and Community Affairs

## FY 2021 Method of Finance



## Agency Wide - By Method of Finance

September 1, 2020 thru August 31, 2021

Budget Categories				Appropriated	Interagency	MH	Total
	General Revenue	Federal Funds	CARES Act	Receipts	Contract	Appropriated Receipts	
Salaries	2,002,951	4,758,112	802,936	11,172,497	141,382	405,030	19,282,908
Payroll Related Costs	581,541	1,103,722	186,254	2,625,241	33,932	97,207	4,627,898
Travel In-State	30,294	196,207	10,000	318,883	10,000	-	565,385
Travel Out-of-State	2,672	42,492	-	96,241	-	-	141,404
Professional Fees	72,179	625,972	-	905,243	-	-	1,603,394
Materials/Supplies	60,318	38,433	500	159,043	-	-	258,294
Repairs/Maintenance	135,634	60,582	-	387,483	55,903	-	639,602
Printing and Reproduction	1,888	12,008	-	15,726	-	-	29,622
Rental/Lease	23,031	23,760	-	57,478	-	-	104,268
Membership Dues	1,762	25,819	-	59,799	-	-	87,380
Staff Development	14,058	42,433	-	96,464	-	-	152,954
Insurance/Employee Bonds	72,421	76,960	12,144	247,527	1,486	9,655	420,193
Employee Tuition	2,615	75	-	3,310	-	-	6,000
Advertising	75	1,500	-	1,725	-	-	3,300
Freight/Delivery	1,324	2,620	-	19,406	-	-	23,350
Temporary Help	20,954	50,962	-	168,642	-	-	240,558
Furniture/Equipment	2,962	27,908	2,500	48,028	-	-	81,397
Communications/Utilities	51,350	92,736	-	278,155	-	-	422,240
Capital Outlay	-	34,116	-	85,207	-	-	119,323
State Office of Risk Management	9,563	1,101	-	17,337	-	-	28,000
<b>Total</b>	<b>3,087,590</b>	<b>7,217,515</b>	<b>1,014,335</b>	<b>16,763,434</b>	<b>242,703</b>	<b>511,892</b>	<b>28,837,470</b>
Budget by Method of Finance, 2020	3,126,733	6,944,655	-	16,972,631	171,672	512,296	27,727,987
Variance from 2020	(39,142)	272,860	1,014,335	(209,197)	71,031	(404)	1,109,484

4b

**BOARD ACTION REQUEST**  
**FINANCIAL ADMINISTRATION DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on the FY 2021 Housing Finance Division Budget

**RECOMMENDED ACTION**

**WHEREAS**, the Governing Board of the Texas Department of Housing and Community Affairs (the Department or TDHCA) is required to approve a FY 2021 Housing Finance Division Budget; and

**WHEREAS**, the Department is required to submit the budget to the Governor's Office and the Legislative Budget Board (LBB);

**NOW, therefore, it is hereby**

**RESOLVED**, that the FY 2021 Housing Finance Division Budget, in the form presented to this meeting, is hereby approved; and

**FURTHER RESOLVED**, that upon approval by the TDHCA Governing Board, the Department will submit the budget to the Governor's Office and the LBB.

**BACKGROUND**

In accordance with Tex. Gov't Code §2306.113, the Department shall create a separate annual budget for the Housing Finance Division to certify the housing program fee revenue that supports the Department. While at the time the statute was created such a division existed, the duties associated with the Housing Finance Division have been spread among multiple divisions in the agency as reorganizations to improve efficiency have occurred. This budget is a subset of the whole operating budget and shows the Housing Finance revenues also known as Appropriated Receipts that support the operating budget.

This FY 2021 Housing Finance Division Budget, which the Board is being asked to approve, is \$16,728,737. The Housing Finance Budget complies with the provisions of the General Appropriations Act (GAA).

In addition, in accordance with Tex. Gov't Code §§2306.117 and 2306.118, the Department incurs operational and nonoperational expenses in carrying out the functions of the Housing Finance Division. These types of expenses may be paid only from revenues

or funds provided under this Chapter. The revenue and funds of the Department received by or payable through the programs and functions of the Housing Finance Division, other than funds necessary for the operation of the Housing Finance Division and appropriated funds, shall be administered outside the treasury with the Texas Treasury Safekeeping Trust Company.

## Housing Finance Budget Appropriated Receipts

September 1, 2020 thru August 31, 2021

Budget Categories	Program						Payroll Related Costs	Total
	Executive Administration	Agency Administration	Controls and Oversight	Bond Finance	Programs	Capital Budget		
Salaries	1,600,781	2,865,833	4,309,471	996,634	1,384,126		11,156,845	
Payroll Related Costs	-	-	-	-	-		2,621,485	
Travel In-State	47,569	7,378	219,716	21,070	23,151		318,883	
Travel Out-of-State	29,794	4,178	19,850	24,700	17,718		96,241	
Professional Fees	112,423	270,905	415,023	51,719	3,247	36,925	890,243	
Materials/Supplies	18,561	49,552	57,274	14,692	18,964		159,043	
Repairs/Maintenance	24,619	91,881	156,342	48,885	31,671	34,084	387,483	
Printing and Reproduction	1,689	3,729	2,383	6,050	1,876		15,726	
Rental/Lease	6,019	16,528	16,119	12,492	6,320		57,478	
Membership Dues	49,253	2,735	6,461	1,350	-		59,799	
Staff Development	10,475	30,516	27,590	11,500	16,382		96,464	
Insurance/Employee Bonds	31,543	60,101	102,737	20,459	32,399		247,239	
Employee Tuition	-	1,885	1,425	-	-		3,310	
Advertising	1,500	225	-	-	-		1,725	
Freight/Delivery	1,817	2,512	9,720	4,950	407		19,406	
Temporary Help	33,765	10,083	13,702	100,310	10,781		168,642	
Furniture/Equipment	6,500	6,065	5,395	1,800	2,706	25,562	48,028	
Communications/Utilities	36,444	58,184	96,956	46,888	39,683		278,155	
Capital Outlay	-	-	-	-	-	85,207	85,207	
State Office of Risk Management	1,696	5,489	6,675	1,203	2,273		17,337	
<b>Total</b>	<b>2,014,448</b>	<b>3,487,780</b>	<b>5,466,839</b>	<b>1,364,701</b>	<b>1,591,706</b>	<b>181,778</b>	<b>2,621,485</b>	<b>16,728,737</b>

### Method of Finance:

Single Family Bond Administration Fees	1,724,761
Multifamily Bond Administration Fees	536,307
Compliance Fees	3,497,864.20
Housing Tax Credit Fees	2,374,624.76
Asset Management Fees	463,376
<b>Subtotal:</b>	<b>8,596,934</b>
Central Support Single Family Bond Administration Fees	1,275,020
Central Support Multifamily Bond Administration Fees	1,264,692
Central Support Compliance Fees	2,870,148
Central Support Housing Tax Credit Fees	2,141,583
Central Support Asset Management Fees	580,361
<b>Subtotal:</b>	<b>8,131,803</b>
<b>Total, Method of Finance</b>	<b>16,728,737</b>



5a

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**JUNE 25, 2020**

Presentation, discussion, and possible action on Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Virginia Flats (20316), Providence at Buna (20288), and The Ella (20138)

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

**WHEREAS**, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

**WHEREAS**, 10 TAC §1.301(e)(3)(C) classifies an applicant as a Category 3 if within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for more than three Monitoring Events;

**WHEREAS**, 10 TAC §1.301(e)(3)(J) classifies an applicant as a Category 3 if despite past condition(s) agreed upon by any Person subject to previous participation review to improve their compliance operations, three or more new Events of Noncompliance have since been identified by the Department, and have not been resolved during the corrective action period;

**WHEREAS**, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

**WHEREAS**, as provided in 10 TAC §1.303(c)(4) related to EARAC recommendations, EARAC is not able to make a positive recommendation when the Compliance Division has recommended denial, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g);

**WHEREAS**, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application(s) despite any noncompliance; and

**WHEREAS**, due to the long history of noncompliance with this applicant and their inability to improve their compliance operations to an acceptable level, staff recommends that the Board find this applicant’s compliance history unsatisfactory;

**NOW, therefore, it is hereby**

**RESOLVED**, the Board affirms the Category 3 compliance assessment and the Compliance Division shall recommend denial of the award to EARAC, for Virginia Flats (20316), Providence at Buna (20288), and The Ella (20138).

### **BACKGROUND**

The Itex Group, LLC (“ITEX”) is the common entity among all three applications. Inclusive of its Affiliates and Principals, ITEX’s Events of Noncompliance include:

- Changes in Eligible Basis (cited at two properties)
- Noncompliance with Tenant Selection Criteria (cited at two properties)
- Noncompliance with Social Service Requirements (cited at one property)
- Noncompliance with Affirmative Marketing requirements (cited at one property)
- Violations of the Uniform Physical Condition Standards (cited at four properties)
- Noncompliance with Utility Allowance Requirements (cited at one property)
- Household income above the income limit upon initial occupancy (cited at two properties)

Of these 13 events of noncompliance, no response was received for six events during the corrective action period. It is important to note, during a recent revision to the Previous Participation rule non-responsiveness prior to January 2019 was “wiped clean” with this revision: “Events of failure to respond within the Corrective Action Period which have been fully corrected prior to January 1, 2019, will not be taken into consideration under Subsection (e)(2)(C) and (e)(3)(C) of this Section;” Therefore, since January 1, 2019, ITEX has failed to respond during the corrective action period to six events of noncompliance.

ITEX has a long history of noncompliance. At the Board meeting of July 31, 2014, there was a lengthy discussion and dispute about ITEX’s compliance history. At that time as well, non-responsiveness was a central piece of the staff recommendation. Staff was recommending an award with 16 conditions, one of which was “In order for the Department to determine if ITEX has successfully implemented the planned procedures, ITEX acknowledges that EARAC will not recommend ITEX or any ITEX affiliate for an award of any additional Department program funds administered by the Department including Housing Tax Credits through December 2015.” The idea was that ITEX was representing they had a plan to improve compliance operations and staff wanted to monitor and confirm they indeed had improved before recommending any additional awards. ITEX successfully disputed the inclusion of this condition, and was awarded with 15 conditions.

This concept itself has made its way into the PPR rule. The current rule finds an applicant to be a Category 3 if: “Despite past condition(s) agreed upon by any Person subject to previous participation review to

improve their compliance operations, three or more new Events of Noncompliance have since been identified by the Department, and have not been resolved during the corrective action period.”

The ITEX portfolio embodies this concept. Awards made on July 27, 2015, February 12, 2018, July 16, 2018, October 1, 2018 and October 29, 2018 were all made with conditions that were intended to improve ITEX’s compliance operations. Despite all the conditions they have agreed to and implemented, it is not clear if they cannot or will not comply with the Department’s rules. What is clear is that their compliance operations are unsatisfactory. This message was delivered directly to Chris Akbari (CEO and President of ITEX) from Patricia Murphy, Director of Compliance, in conversation at the December 2019 Board meeting, and was followed up with an email. Mr. Akbari did not reply to the email or the offer to come up with some ideas to help their compliance area. Staff does not believe the conditions proposed by the entity will work because they have largely been tried before, and ITEX has substantial noncompliance and continues not to respond to the Department during the corrective action period.

Staff recommends denial due to the applicant’s unsatisfactory compliance history.

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June 11, 2020

By Email to: [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)  
Brooke Boston, Chair  
Executive Award Review Advisory Committee  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: #20288 Providence at Buna (“Project”), Buna, Jasper County, Texas;  
Dispute of EARAC Recommendation.

Dear Ms. Boston:

This law firm represents Buna Providence CR 835, LP (“Applicant”) in connection with its 9% Tax Credit Application for the Project. Applicant disputes the Executive Award Review Advisory Committee’s (“EARAC”) recommendation to deny an award of tax credits to the Project. The PPR Results Summary (“Summary”) dated May 26, 2020 and updated on June 2, 2020, reflects a Category 3 status, but we believe that status should be Category 2. A copy of the Schedule is attached for your convenience as Exhibit A.

**Two Events of Noncompliance Relate to Developments Where Affiliate Had No Control.**

Two of the 15 Events of Noncompliance relate to #05198 Southwood Crossing Apartments and #060238 One Southwood Crossing, each of which sustained major damage as a result of Hurricane Harvey. These two developments were sponsored by the Port Arthur Housing Authority and have similar ownership structures. The housing authority’s entity, the Port Arthur Affordable Housing Corporation, was the 100% owner of the sole General Partners of both the development owners. Applicant’s affiliate (initially K. T. (Ike) Akbari, then Christopher A. Akbari) was a 0.01% Class B Special Limited Partner in each development owner. The Class B Special Limited Partner had some consent rights, but did not have control over the operation of the developments and did not have the authority to initiate action.

Efforts to line up federal disaster funding to supplement insurance on the developments have taken a long time, and the General Partners refused to close on the financing. In the interim the

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developments have been supported with partner loans from the Special Limited Partner. At the Special Limited Partners' request, the TDHCA asked the IRS for an extension of the deadline to place the developments back into service, but no response has been received. Recently, all partners have entered into a settlement agreement by which they have agreed to a restructuring that will provide ITEX Properties, LLC ("ITEX") with control of the developments as a 51% Co-General Partner. Documentation requesting consent for this change in control has been filed with the TDHCA. [Please see the Control Forms attached as Exhibit B. Additional documentation concerning lack of control is available upon request.] Prior to filing that documentation, however, ITEX did not have the authority to obtain financing essential to make Hurricane Harvey repairs. ITEX has been working hard to ready the developments for rehabilitation as soon as TDHCA approval is obtained. With the partners' agreement restructuring the organizations and subject to TDHCA consent, ITEX will be in control of both the developments and has committed to rehabilitating them with loans from Amegy Bank and the Texas General Land Office. Financing is anticipated to close within the next month, assuming TDHCA approval is obtained. We respectfully request that pursuant to §1.301(c)(11), the Southwood Crossing Apartments and the One Southwood Crossing developments be removed from the Schedule and that the Events of Noncompliance be adjusted accordingly. We believe the revised Schedule will indicate that there are 37 Properties in the Combined Portfolio, with 13 Total Events, 1 Uncorrected Event (subject to discussion below) and 6 Total No Responses within the Corrective Action Period ("CAP").

**Cypresswood Crossing Constitutes a Cure in Progress.**

The single Uncorrected Event with No Response within the CAP relates to #07093 Cypresswood Crossing, another development with Hurricane Harvey damage. This is a situation where the cure was accomplished on March 5, 2018, but photographic evidence of cures was delayed by the Corona Virus Pandemic. An explanation of the Cypresswood Crossing situation by the Applicant's affiliate follows:

For Cypresswood, we received a letter from TDHCA concerning property restoration on 10/9/19 with a response requested by 1/7/20. A UPCS Report for the inspection conducted on 11/26/19 was received on 12/4/19 with a response due on 3/3/20. We received a letter from TDHCA concerning the timely UPCS inspection EH&S Response on 12/18/19. We uploaded our response to the UPCS inspection on 3/3/20, as required. A close letter from TDHCA for the UPCS inspection was received on 3/17/20. Unfortunately, the overlapping requirements for the UPCS and the Restoration Notice contributed to one of the responses being missed. We believed all response requirements were being met by uploading the response on 3/3/20. We received a letter from TDHCA on 3/30/20 advising us of referral to the Enforcement Committee for failure to provide a Notice of Restoration for Harvey damage. We began uploading the Notice of Restoration, invoices and photos on 3/31/20; however, COVID-19 regulations restricted us from entering the units to take the required photos of the unit restorations. The property was restored 3/5/18 and the Notice of Restoration and all photos have been uploaded and are pending TDHCA review.

Subsequent to the statement shown above, further photos responding to multiple different requests were filed with the TDHCA on April 17, April 22, and May 29. Additionally, a Notice of Restoration on a requested new form was filed on May 31, 2020. Pursuant to letters from TDHCA dated June 1, 2020 and June 5, 2020, a Summary of Restoration Work and further photographs were submitted on June 10, 2020. The Applicant believes that evidencing the cure has been completed but does not yet have confirmation from the TDHCA.

**Reevaluation of Summary.**

If the TDHCA accepts our proposal that the Southwood Crossing Apartments and One Southwood Crossing should be removed from consideration in the Previous Participation Review because of lack of control, then we would like to point out that the total of Uncured Events (1) plus Late Cures (5) would be only 6, and under §1.301(e)(2)(A) the Combined Portfolio would qualify as a Category 2 Portfolio. Unfortunately, because of the 5 Late Cures, the Combined Portfolio would still be considered Category 3 under §1.301(e)(3)(J).

If Cypresswood Crossing is considered finally cured upon receipt of the photographs that have been uploaded to TDHCA in June, then the Combined Portfolio will have **Zero Uncured Events of Noncompliance.**

**Compliance Record is Actually Very Good, But Responses Are Late.**

The record of compliance for this Combined Portfolio is actually very good because there are only 3 uncorrected instances of noncompliance on the Summary. The Combined Portfolio should not include Southwood Crossing and One Southwood Crossing because of lack of control. That leaves only one uncured event of noncompliance (Cypresswood Crossing) and Applicant believes that sufficient photographs have now been uploaded to confirm that it is also cured. Portfolios with no uncured events of noncompliance qualify as Category 1 Portfolios under §1.301(e)(1), absent instances of failing to respond within the CAP.

**The Combined Portfolio with 39 total properties and only 3 uncorrected events of noncompliance and 6 failures to respond during the CAP is better than a Category 2 under §1.301(e)(2)(A).** -

In fact, even when you include the two developments we have asked to be disregarded, this Combined Portfolio fails to meet the following major benchmarks for a Category 3 developer:

*§1.301(e)(3)(A) - The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three and equal or exceed 50% of the number of Actively Monitored Developments in the Combined Portfolio;*

This Combined Portfolio has 15 events of noncompliance, of which 3 were not corrected (Southwood, One Southwood, and Cypresswood) and of which 6 had no response within the CAP. Based on this rule, the percentage of uncorrected Events of Noncompliance and failures to respond within the CAP equal 38.5% of the 39 Total Properties. If the two developments are disregarded, then the number of uncorrected noncompliances drops to one, the number of instances of failure to respond remains 6, and the combined percentage would be 18.9%. Both

Brooke Boston, Chair

June 11, 2020

Page 4

calculations fall substantially short of 50% of the Actively Monitored Developments, and demonstrate compliance on a level better than Category 3.

*§1.301(e)(3)(B) - The number of Events of Noncompliance that are currently uncorrected total 10% or more than the number of Actively Monitored Developments in the Combined Portfolio. Corrective action uploaded to CMTS or submitted during the seven day period referenced in Subsection (f) of this Section will be reviewed and the Category determination may change as appropriate;*

With 39 Monitored Developments, and 3 uncorrected events, the percentage is 7.7% which is less than 10%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the percentage would drop to 2.7%. Both percentages are under the 10% level and show better than Category 3 compliance.

*§1.301(e)(3)(C) - Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period to a Monitoring Event and the number of times is equal to or greater than 25% of the number of Actively Monitored Developments in the Combined Portfolio;*

The Combined Portfolio has 6 instances of failing to respond within the CAP, which is 15.4%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the Combined Portfolio would have 37 properties with 6 instances of failing to respond within the CAP, resulting in 16.2%. Both calculations are under 25% of the number of Actively Monitored Developments and indicate a compliance history that is better than Category 3.

The criterion which forces this Combined Portfolio into Category 3 is the number of situations where there was no response during the CAP [§1.301(e)(3)(J)]. We suggest that the better way to manage such an Applicant would be to initiate Conditions to an award, with the Conditions being tailored to reinforce the need to respond to the initial letter of noncompliance in a timely fashion. To that end, the Applicant has suggested that the Conditions listed on Exhibit C be attached to an award of tax credits to Providence at Buna. We respectfully request that EARAC reconsider its recommendation to the TDHCA Board and instead recommend approval subject to Conditions chosen to emphasize the need for prompt and timely responses to Compliance Division notices of noncompliance.

Thank you for your attention to this matter. If you need additional information, please do not hesitate to call me at 713-653-7322 or 832-647-4620.

Sincerely,



Tamea A. Dula



Brooke Boston, Chair  
June 11, 2020  
Page 5

Exhibits A - C

cc: Bobby Wilkinson at [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)  
Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)  
Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)

**EXHIBIT A**

**May 26, 2020 PPR Results Summary for Providence at Buna,  
Updated to June 2, 2020**

**(see attached)**

PPR Results Summary

PPR Name: Providence at Buna

PPR No. 20288

Category: 3

If Category 2 or 3 - Reason(s)

- 1 \$1.301(e) Determination of Compliance Status. Through a review of the form, Department records, and the compliance history of the Affiliated multifamily Developments, staff will determine the applicable category for the Application or ownership transfer request using the criteria in Paragraphs (1) through (3) of this subsection. The Application will be classified in the highest applicable category, based upon all Persons for whom previous participation review is conducted.
- 2 \$1.301(e)(2)(A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three but is less than 50% of the number of properties in the Combined Portfolio
- 3 \$1.301(e)(2)(B) There are uncorrected Events of Noncompliance but the number of Events of Noncompliance is 10% or less than the number of properties in the Combined Portfolio. If corrective action has been uploaded to the Department's Compliance Monitoring and Tracking System (CMTS) or if the noncompliance is corrected and evidence of corrective action is submitted during the seven day period referenced in Subsection (f) of this section it will be reviewed and the Category determination may change as appropriate
- 4 \$1.301(e)(3)(C) Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for more than three Monitoring Events;
- 5 \$1.301(e)(3)(J) Despite past condition(s) agreed upon by any Person subject to previous participation review to improve their compliance operations, three or more new Events of Noncompliance have since been identified by the Department, and have not been resolved during the corrective action period;

Applicant Contact Info #1: [miranda.sprague@itexgrp.com](mailto:miranda.sprague@itexgrp.com) Miranda Sprague [audrey@purplemartinre.com](mailto:audrey@purplemartinre.com) Audrey Martin  
 Applicant Contact Info #2: [apps@itexgrp.com](mailto:apps@itexgrp.com) Alison Morris

Date Contacted: 5/26/2020 Date Response Due: 6/2/2020

Associated Developments				Compliance								FALS		FAFS		
Program	TDHCA ID	Property #	Property Name	# of Events	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Subject to final order	Terms Violated	Past Due Loan	No evidence of Insurance	No evidence of current taxes	Past Due Fees
HTC	5345	17448	Sun Plaza Apartments	0							N	n/a				
HTC	4291	05199	Southwood Crossing Apartments	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4414	060238	One Southwood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4447	07093	Cypresswood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	N				N	n/a				
HTC	4475	07189	Sunlight Manor	1	Event 1 NC with tenant selection requirements in §10.610	Y	Y				N	n/a				
HTC/TCAP	4619	08174/13090009700	Oakleaf Estates	0							N	n/a				
HTC/TCAP	4664	09183/13090009790	Gracelake Townhomes	3	Event 1 Noncompliance with social service requirements	Y	Y	Event 2 NC related to Affirmative Marketing reqs in §10.617	Y	Y	N	n/a				
HTCEX	4699	15090009362	Magnolia Plaza aka Prince Hall Plaza	0							N	n/a				
HTC	4383	060092	Twelve Oaks	0							N	n/a				
HTC	4716	10239	Gardens at Cobb Park	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4778	11030/1001493	Pine Ridge Manor	0							N	n/a				
HTC	4779	11055	Valley at Cobb Park	0							N	n/a				
HTC/HM	4841	12166/1001687	Villa Brazos	0							N	n/a				
HTC	4958	13409	Park Central	0							N	n/a				
HTC	4978	13424	Willow Bend Apartments	0							N	n/a				
HTC	4979	13426	Velma Jeter	1	Event 1 NEW NC with utility allowance requirements in §10614	Y	Y				N	n/a				
HTC	4984	13428	Village at Palm Center	0							N	n/a				
HTC	4987	14405	Park Avenue Manor	3	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y	Event 2 NEW Changes in Eligible Basis or Applicable percentage	Y	N	N	n/a				
HTC	5119	15110	Place of Grace	0							N	n/a				
HTC	4948	15414	Retreat at Westlock	0							N	n/a				
HTC	4912	13203	Providence on Major	0							N	n/a				
HTC	5120	15116	The Carlyle	0							N	n/a				
HTC	3246	02099	(START 8/17) Norma's Plaza	0							N	n/a				
HTC	3391	03261	Pebble Creek Apartments	1	Event 1 Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC	3392	03262	Crystal Creek Apartments	0							N	n/a				
HTC	3393	03263	CedarRidge Apartments	1	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y				N	n/a				
HTC	4148	04430	Heatherbrook Apartments	0							N	n/a				
HTC	4121	04100/07026	O.W. Collins	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4839	12112/1001674	Inez Tims	0							N	n/a				
HTC	4947	13089	Pinewood Park	0							N	n/a				
HTC	5263	17412	Pathways at Gaston Place	0							N	n/a				
HTC	5275	17208	Waverly Village	0							N	n/a				
HTC	5342	19707	Providence at Ted Trout Drive	0							N	n/a				
HTC	5348	17411	Villa Americana	0							N	n/a				
HTC	5388	18095	Retreat West Beaumont	0							N	n/a				
HTC	5398	18283	Pines at Allen Street	0							N	n/a				
HTC	5449	18428	Sherman Plaza South	0							N	n/a				
HTC	5461	18439	Tays North	0							N	n/a				
HTC	4787	11086	La Belle View	0							N	n/a				
<b>39</b> Total # of Projects				<b>15</b> Total Events	<b>3</b> Total Uncorrected											
					<b>6</b> Total with no response provided to Dept during CAP											

**EXHIBIT B**

**Control Forms Submitted to TDHCA for  
Southwood Crossing Apartments and One Southwood Crossing**

**(see attached)**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE: This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.**

Name of Development: Southwood Crossing

TDHCA No.: 05199

Name of Development Owner: Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

---

<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf

and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June 2020.

**Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By: \_\_\_\_\_

  
Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:  \_\_\_\_\_  
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

**Texas Department of Housing and Community Affairs**

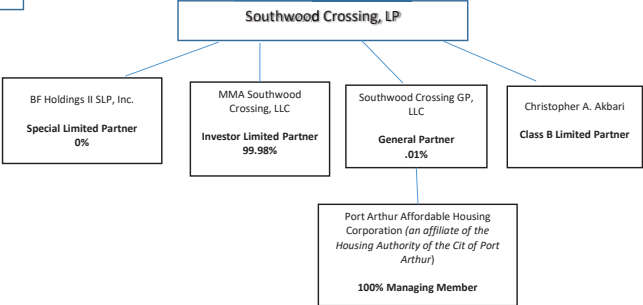
By: \_\_\_\_\_  
Its duly authorized officer or representative



**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

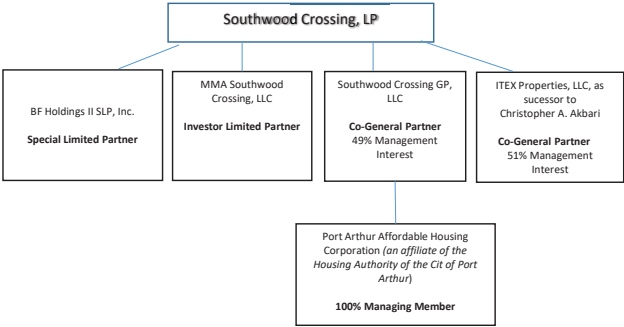
UPDATED MAY 13, 2020

**Original Structure at Closing 2005**



\*Note-Christopher A. Akbari is heir to K.T. (Ike) Akbari's Estate upon his date of death being 5/9/2015

**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE: This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.**

Name of Development:        One Southwood Crossing

TDHCA No.:    060238

Name of Development Owner:        One Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, One Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

---

<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf


and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June, 2020.

**One Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By: \_\_\_\_\_

  
Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:  \_\_\_\_\_  
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

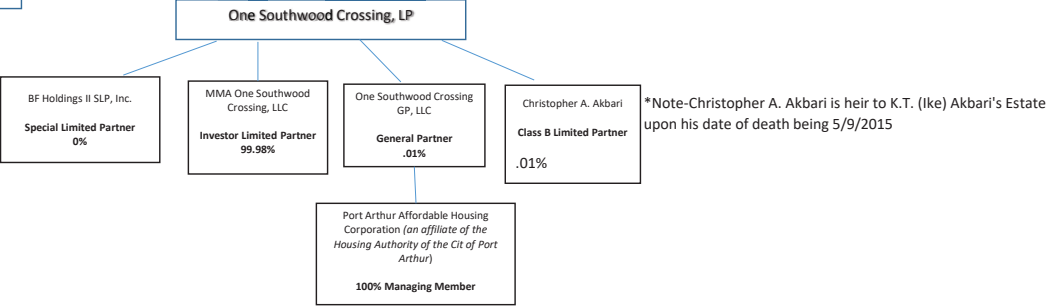
**Texas Department of Housing and Community Affairs**

By: \_\_\_\_\_  
Its duly authorized officer or representative

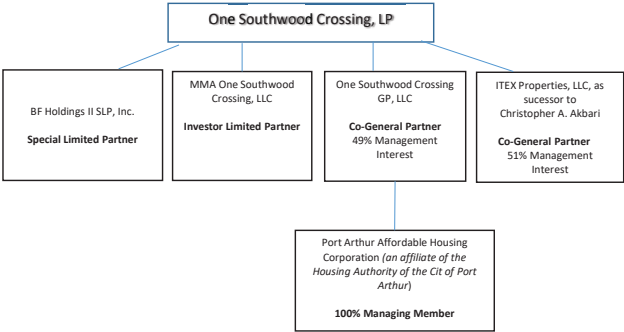
**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

UPDATED MAY 13, 2020

**Original Structure at closing 2006**



**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same

**EXHIBIT C**

**Suggested Conditions to an Award to Providence at Buna**

**(see attached)**

## Proposed 2020 EARAC Conditions

1. ITEX Property Management, LLC will be removed as the manager or excluded from consideration as the manager of any 2020 awards if ITEX Property Management, LLC fails to respond to any event of noncompliance within the corrective action period through 6/30/2021.
2. The compliance team will continue to conduct a review of all Housing Tax Credit applications (Move-ins) and annual recertifications for all tenants applying for or residing in all placed in service developments subject to a TDHCA LURA in the ITEX portfolio. Evidence of the reviews, including completed checklists, will be submitted to the Department upon request.
3. Owner has designated Tammy Bonner – Director of Affordable Housing Compliance to receive Compliance correspondence and provide timely responses to the Department on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.
4. ITEX will require that at least one of the following employees: VP of Operations, Compliance Director, Compliance Auditor(s), Regional Manager(s), or Site Staff will annually attend the trainings listed and provide certifications to TDHCA upon request.
  - a. Housing Tax Credit Training sponsored by the Texas Apartment Association;
  - b. 1st Thursday Income Eligibility Training conducted by TDHCA;
  - c. Review one or more of the TDHCA Compliance Training Webinars:
    - i. 2012 Income and Rent Limits Webinar Video;
    - ii. How to properly use the Income and Rent Tool;
    - iii. 2012 Supportive Services Webinar Video;
    - iv. How to identify and properly implement Supportive Services;
    - v. Income Eligibility Presentation Video;
    - vi. 2013 Annual Owner’s Compliance Report (AOOCR) Webinar Video;
    - vii. 2015 Tenant Selection Criteria Webinar Video;
    - viii. 2015 Tenant Selection Criteria Presentation;
    - ix. 2015 Tenant Selection Criteria- Q and A's;
    - x. §10.610 – Tenant Selection Criteria;
    - xi. 2015 Affirmative Marketing Requirements Webinar Video;
    - xii. 2015 Affirmative Marketing Requirements Presentation;
    - xiii. 2015 Affirmative Marketing Requirements- Q and A's;
    - xiv. Fair Housing Webinars (including but not limited to the 2017 FH Webinars)
  - d. Training for Certified Occupancy Specialist or Blended Occupancy Specialist
5. ITEX will require all Area Managers, Regional Managers and Compliance Staff to take the Housing Credit Certified Professional (HCCP) training and pass the certification exam within 12 months of employment.
6. ITEX will incentivize all on-site managers to take the TAA Certified Apartment Manager (CAM) and Housing Credit Certified Professional (HCCP) training and sit for the certification exam by paying for the training and exam.



7. The Executive Director, for good cause, may grant one extension for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

# COATS | ROSE

A PROFESSIONAL CORPORATION

TAMEA A. DULA  
OF COUNSEL

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Direct Dial  
(713) 653-7322  
Direct Fax  
(713) 890-3918

June 11, 2020

By Email to: [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)  
Brooke Boston, Chair  
Executive Award Review Advisory Committee  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: #20316 Virginia Flats (“Project”), Beaumont, Jefferson County, Texas;  
Dispute of EARAC Recommendation.

Dear Ms. Boston:

This law firm represents Beaumont 2250 W Virginia, LP (“Applicant”) in connection with its 9% Tax Credit Application for the Project. Applicant disputes the Executive Award Review Advisory Committee’s (“EARAC”) recommendation to deny an award of tax credits to the Project. The PPR Results Summary (“Summary”) dated May 26, 2020 and updated on June 2, 2020, reflects a Category 3 status, but we believe that status should be Category 2. A copy of the Schedule is attached for your convenience as Exhibit A.

**Two Events of Noncompliance Relate to Developments Where Affiliate Had No Control.**

Two of the 15 Events of Noncompliance relate to #05198 Southwood Crossing Apartments and #060238 One Southwood Crossing, each of which sustained major damage as a result of Hurricane Harvey. These two developments were sponsored by the Port Arthur Housing Authority and have similar ownership structures. The housing authority’s entity, the Port Arthur Affordable Housing Corporation, was the 100% owner of the sole General Partners of both the development owners. Applicant’s affiliate (initially K. T. (Ike) Akbari, then Christopher A. Akbari) was a 0.01% Class B Special Limited Partner in each development owner. The Class B Special Limited Partner had some consent rights, but did not have control over the operation of the developments and did not have the authority to initiate action.

Efforts to line up federal disaster funding to supplement insurance on the developments have taken a long time, and the General Partners refused to close on the financing. In the interim the

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developments have been supported with partner loans from the special limited partner. At the Special Limited Partners' request, the TDHCA asked the IRS for an extension of the deadline to place the developments back into service, but no response has been received. Recently, all partners have entered into a settlement agreement by which they have agreed to a restructuring that will provide ITEX Properties, LLC ("ITEX") with control of the developments as a 51% Co-General Partner. Documentation requesting consent for this change in control has been filed with the TDHCA. [Please see the Control Forms attached as Exhibit B. Additional documentation concerning lack of control is available upon request.] Prior to filing that documentation, however, ITEX did not have the authority to obtain financing essential to make Hurricane Harvey repairs. ITEX has been working hard to ready the developments for rehabilitation as soon as TDHCA approval is obtained. With the partners' agreement restructuring the organizations and subject to TDHCA consent, ITEX will be in control of both the developments and has committed to rehabilitating them with loans from Amegy Bank and the Texas General Land Office. Financing is anticipated to close within the next month, assuming TDHCA approval is obtained. We respectfully request that pursuant to §1.301(c)(11), the Southwood Crossing Apartments and the One Southwood Crossing developments be removed from the Schedule and that the Events of Noncompliance be adjusted accordingly. We believe the revised Schedule will indicate that there are 37 Properties in the Combined Portfolio, with 13 Total Events, 1 Uncorrected Event (subject to discussion below) and 6 Total No Responses within the Corrective Action Period ("CAP").

**Cypresswood Crossing Constitutes a Cure in Progress.**

The single Uncorrected Event with No Response within the CAP relates to #07093 Cypresswood Crossing, another development with Hurricane Harvey damage. This is a situation where the cure was accomplished on March 5, 2018, but photographic evidence of cures was delayed by the Corona Virus Pandemic. An explanation of the Cypresswood Crossing situation by the Applicant's affiliate follows:

For Cypresswood, we received a letter from TDHCA concerning property restoration on 10/9/19 with a response requested by 1/7/20. A UPCS Report for the inspection conducted on 11/26/19 was received on 12/4/19 with a response due on 3/3/20. We received a letter from TDHCA concerning the timely UPCS inspection EH&S Response on 12/18/19. We uploaded our response to the UPCS inspection on 3/3/20, as required. A close letter from TDHCA for the UPCS inspection was received on 3/17/20. Unfortunately, the overlapping requirements for the UPCS and the Restoration Notice contributed to one of the responses being missed. We believed all response requirements were being met by uploading the response on 3/3/20. We received a letter from TDHCA on 3/30/20 advising us of referral to the Enforcement Committee for failure to provide a Notice of Restoration for Harvey damage. We began uploading the Notice of Restoration, invoices and photos on 3/31/20; however, COVID-19 regulations restricted us from entering the units to take the required photos of the unit restorations. The property was restored 3/5/18 and the Notice of Restoration and all photos have been uploaded and are pending TDHCA review.

Subsequent to the statement shown above, further photos responding to multiple different requests were filed with the TDHCA on April 17, April 22, and May 29. Additionally, a Notice of Restoration on a requested new form was filed on May 31, 2020. Pursuant to letters from TDHCA dated June 1, 2020 and June 5, 2020, a Summary of Restoration Work and further photographs were submitted on June 10, 2020. The Applicant believes that evidencing the cure has been completed but does not yet have confirmation from the TDHCA.

**Reevaluation of Summary.**

If the TDHCA accepts our proposal that the Southwood Crossing Apartments and One Southwood Crossing should be removed from consideration in the Previous Participation Review because of lack of control, then we would like to point out that the total of Uncured Events (1) plus Late Cures (5) would be only 6, and under §1.301(e)(2)(A) the Combined Portfolio would qualify as a Category 2 Portfolio. Unfortunately, because of the 5 Late Cures, the Combined Portfolio would still be considered Category 3 under §1.301(e)(3)(J).

If Cypresswood Crossing is considered finally cured upon receipt of the photographs that have been uploaded to TDHCA in June, then the Combined Portfolio will have **Zero Uncured Events of Noncompliance.**

**Compliance Record is Actually Very Good, But Responses Are Late.**

The record of compliance for this Combined Portfolio is actually very good because there are only 3 uncorrected instances of noncompliance on the Summary. The Combined Portfolio should not include Southwood Crossing and One Southwood Crossing because of lack of control. That leaves only one uncured event of noncompliance (Cypresswood Crossing) and Applicant believes that sufficient photographs have now been uploaded to confirm that it is also cured. Portfolios with no uncured events of noncompliance qualify as Category 1 Portfolios under §1.301(e)(1), absent instances of failing to respond within the CAP.

**The Combined Portfolio with 39 total properties and only 3 uncorrected events of noncompliance and 6 failures to respond during the CAP is better than a Category 2 under §1.301(e)(2)(A).**

In fact, even when you include the two developments we have asked to be disregarded, this Combined Portfolio fails to meet the following major benchmarks for a Category 3 developer:

*§1.301(e)(3)(A) - The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three and equal or exceed 50% of the number of Actively Monitored Developments in the Combined Portfolio;*

This Combined Portfolio has 15 events of noncompliance, of which 3 were not corrected (Southwood, One Southwood, and Cypresswood) and of which 6 had no response within the CAP. Based on this rule, the percentage of uncorrected Events of Noncompliance and failures to respond within the CAP equal 38.5% of the 39 Total Properties. If the two developments are disregarded, then the number of uncorrected noncompliances drops to one, the number of instances of failure to respond remains 6, and the combined percentage would be 18.9%. Both

Brooke Boston, Chair

June 11, 2020

Page 4

calculations fall substantially short of 50% of the Actively Monitored Developments, and demonstrate compliance on a level better than Category 3.

§1.301(e)(3)(B) - *The number of Events of Noncompliance that are currently uncorrected total 10% or more than the number of Actively Monitored Developments in the Combined Portfolio. Corrective action uploaded to CMTS or submitted during the seven day period referenced in Subsection (f) of this Section will be reviewed and the Category determination may change as appropriate;*

With 39 Monitored Developments, and 3 uncorrected events, the percentage is 7.7% which is less than 10%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the percentage would drop to 2.7%. Both percentages are under the 10% level and show better than Category 3 compliance.

§1.301(e)(3)(C) - *Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period to a Monitoring Event and the number of times is equal to or greater than 25% of the number of Actively Monitored Developments in the Combined Portfolio;*

The Combined Portfolio has 6 instances of failing to respond within the CAP, which is 15.4%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the Combined Portfolio would have 37 properties with 6 instances of failing to respond within the CAP, resulting in 16.2%. Both calculations are under 25% of the number of Actively Monitored Developments and indicate a compliance history that is better than Category 3.

The criterion which forces this Combined Portfolio into Category 3 is the number of situations where there was no response during the CAP [§1.301(e)(3)(J)]. We suggest that the better way to manage such an Applicant would be to initiate Conditions to an award, with the Conditions being tailored to reinforce the need to respond to the initial letter of noncompliance in a timely fashion. To that end, the Applicant has suggested that the Conditions listed on Exhibit C be attached to an award of tax credits to Virginia Flats. We respectfully request that EARAC reconsider its recommendation to the TDHCA Board and instead recommend approval subject to Conditions chosen to emphasize the need for prompt and timely responses to Compliance Division notices of noncompliance.

Thank you for your attention to this matter. If you need additional information, please do not hesitate to call me at 713-653-7322 or 832-647-4620.

Sincerely,

A handwritten signature in black ink that reads "Tamea A. Dula". The signature is written in a cursive, flowing style.

Tamea A. Dula

Brooke Boston, Chair  
June 11, 2020  
Page 5

Exhibits A - C

cc: Bobby Wilkinson at [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)  
Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)  
Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)

**EXHIBIT A**

**May 26, 2020 PPR Results Summary for Virginia Flats,  
Updated to June 2, 2020**

**(see attached)**

PPR Results Summary

PPR Name: Virginia Flats

PPR No. 20316

Category: 3

If Category 2 or 3 - Reason(s)

- 1 §1.301(e) Determination of Compliance Status. Through a review of the form, Department records, and the compliance history of the Affiliated multifamily Developments, staff will determine the applicable category for the Application or ownership transfer request using the criteria in Paragraphs (1) through (3) of this subsection. The Application will be classified in the highest applicable category, based upon all Persons for whom previous participation review is conducted.
- 2 §1.301(e)(2)(A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three but is less than 50% of the number of properties in the Combined Portfolio
- 3 §1.301(e)(2)(B) There are uncorrected Events of Noncompliance but the number of Events of Noncompliance is 10% or less than the number of properties in the Combined Portfolio. If corrective action has been uploaded to the Department's Compliance Monitoring and Tracking System (CMTS) or if the noncompliance is corrected and evidence of corrective action is submitted during the seven day period referenced in Subsection (f) of this section it will be reviewed and the Category determination may change as appropriate
- 4 §1.301(e)(3)(C) Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for more than three Monitoring Events;
- 5 §1.301(e)(3)(J) Despite past condition(s) agreed upon by any Person subject to previous participation review to improve their compliance operations, three or more new Events of Noncompliance have since been identified by the Department, and have not been resolved during the corrective action period;

Applicant Contact Info #1: [miranda.sprague@itexgrp.com](mailto:miranda.sprague@itexgrp.com) Miranda Sprague [audrey@purplemartinre.com](mailto:audrey@purplemartinre.com) Audrey Martin  
 Applicant Contact Info #2: [apps@itexgrp.com](mailto:apps@itexgrp.com) Alison Morris

Date Contacted: 5/26/2020 Date Response Due: 6/2/2020

Associated Developments				Compliance							FALS		FAFS			
Program	TDHCA ID	Property #	Property Name	# of Events	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Subject to final order	Terms Violated	Past Due Loan	No evidence of Insurance	No evidence of current taxes	Past Due Fees
HTC	5345	17448	Sun Plaza Apartments	0							N	n/a				
HTC	4291	05199	Southwood Crossing Apartments	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4414	060238	One Southwood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4447	07093	Cypresswood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	N				N	n/a				
HTC	4475	07189	Sunlight Manor	1	Event 1 NC with tenant selection requirements in §10.610	Y	Y				N	n/a				
HTC/TCAP	4619	08174/13090009700	Oakleaf Estates	0							N	n/a				
HTC/TCAP	4664	09183/13090009790	Gracelake Townhomes	3	Event 1 Noncompliance with social service requirements	Y	Y	Event 2 NC related to Affirmative Marketing reqs in §10.617	Y	Y	N	n/a				
HTCEX	4699	15090009362	Magnolia Plaza aka Prince Hall Plaza	0							N	n/a				
HTC	4383	060092	Twelve Oaks	0							N	n/a				
HTC	4716	10239	Gardens at Cobb Park	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4778	11030/1001493	Pine Ridge Manor	0							N	n/a				
HTC	4779	11055	Valley at Cobb Park	0							N	n/a				
HTC/HM	4841	12166/1001687	Villa Brazos	0							N	n/a				
HTC	4958	13409	Park Central	0							N	n/a				
HTC	4978	13424	Willow Bend Apartments	0							N	n/a				
HTC	4979	13426	Velma Jeter	1	Event 1 NEW NC with utility allowance requirements in §10.614	Y	Y				N	n/a				
HTC	4984	13428	Village at Palm Center	0							N	n/a				
HTC	4987	14405	Park Avenue Manor	3	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y	Event 2 NEW Changes in Eligible Basis or Applicable percentage	Y	N	N	n/a				
HTC	5119	15110	Place of Grace	0							N	n/a				
HTC	4948	15414	Retreat at Westlock	0							N	n/a				
HTC	4912	13203	Providence on Major	0							N	n/a				
HTC	5120	15116	The Carlyle	0							N	n/a				
HTC	3246	02099	(START 8/17) Norma's Plaza	0							N	n/a				
HTC	3391	03261	Pebble Creek Apartments	1	Event 1 Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC	3392	03262	Crystal Creek Apartments	0							N	n/a				
HTC	3393	03263	CedarRidge Apartments	1	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y				N	n/a				
HTC	4148	04430	Heatherbrook Apartments	0							N	n/a				
HTC	4121	04100/07026	O.W. Collins	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4839	12112/1001674	Inez Tims	0							N	n/a				
HTC	4947	13089	Pinewood Park	0							N	n/a				
HTC	5263	17412	Pathways at Gaston Place	0							N	n/a				
HTC	5275	17208	Waverly Village	0							N	n/a				
HTC	5342	19707	Providence at Ted Trout Drive	0							N	n/a				
HTC	5348	17411	Villa Americana	0							N	n/a				
HTC	5388	18095	Retreat West Beaumont	0							N	n/a				
HTC	5398	18283	Pines at Allen Street	0							N	n/a				
HTC	5449	18428	Sherman Plaza South	0							N	n/a				
HTC	5461	18439	Tays North	0							N	n/a				
HTC	5445	18400	Anna Dupree Terrace	0							N	n/a				
<b>39</b> Total # of Projects				<b>15</b> Total Events	<b>3</b> Total Uncorrected											
					<b>6</b> Total with no response provided to Dept during CAP											



**EXHIBIT B**

**Control Forms Submitted to TDHCA for  
Southwood Crossing Apartments and One Southwood Crossing**

**(see attached)**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE: This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.**

Name of Development: Southwood Crossing

TDHCA No.: 05199

Name of Development Owner: Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

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<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf


and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June, 2020.

**Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By: \_\_\_\_\_

  
Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:   
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

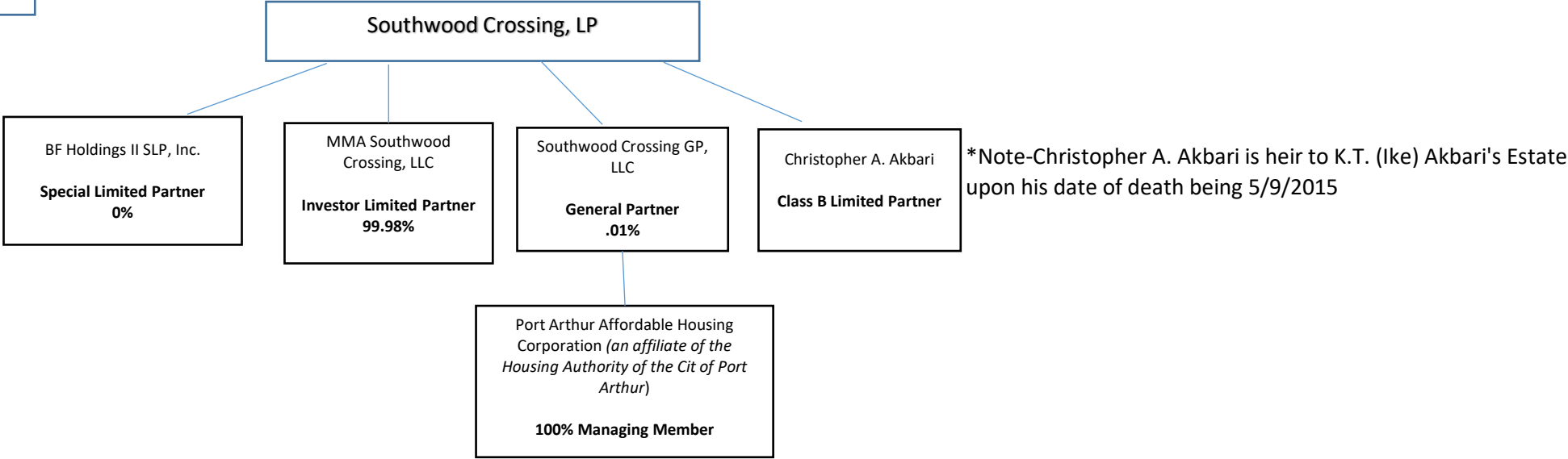
**Texas Department of Housing and Community Affairs**

By: \_\_\_\_\_  
Its duly authorized officer or representative

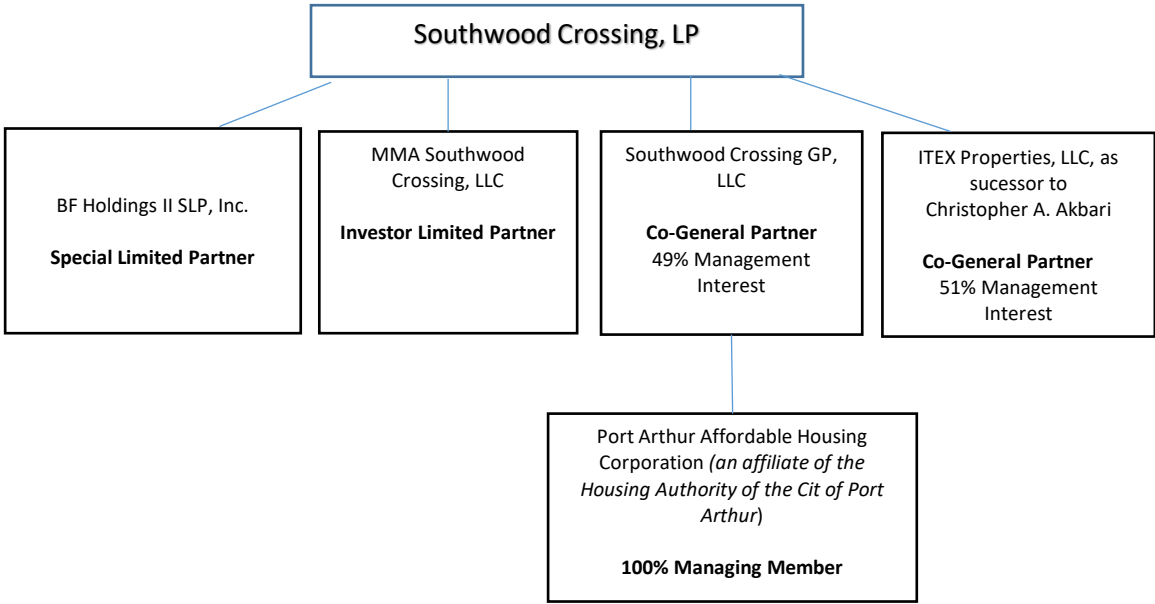
**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

UPDATED MAY 13, 2020

**Original Structure at Closing 2005**



**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE: This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.**

Name of Development:        One Southwood Crossing

TDHCA No.:    060238

Name of Development Owner:        One Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, One Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

---

<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf




and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June, 2020

**One Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By:

  
\_\_\_\_\_  
Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:   
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

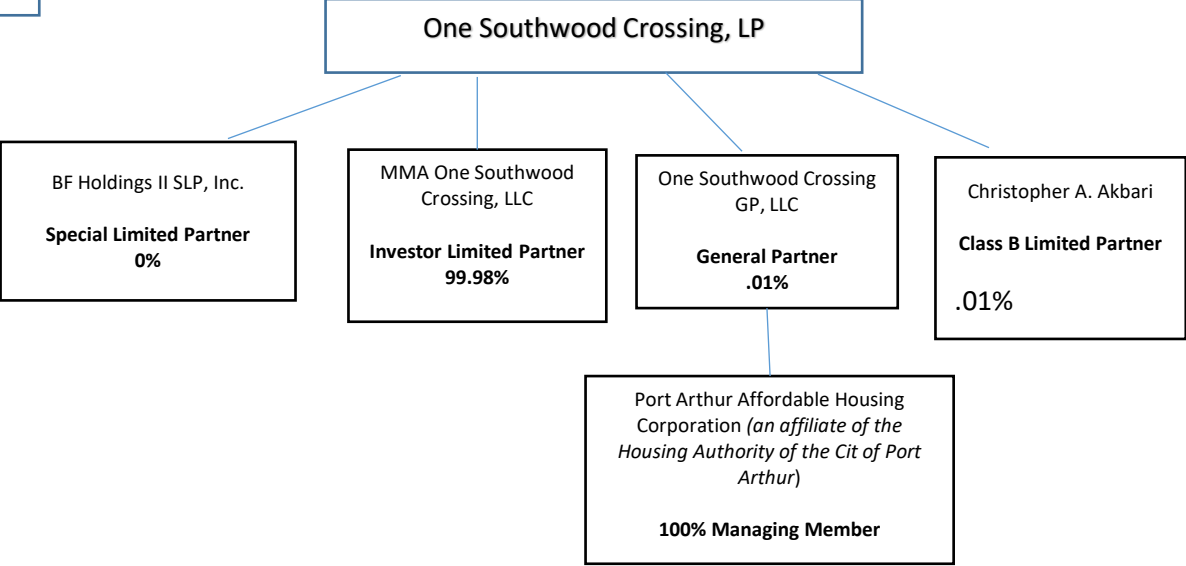
**Texas Department of Housing and Community Affairs**

By: \_\_\_\_\_  
Its duly authorized officer or representative

**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

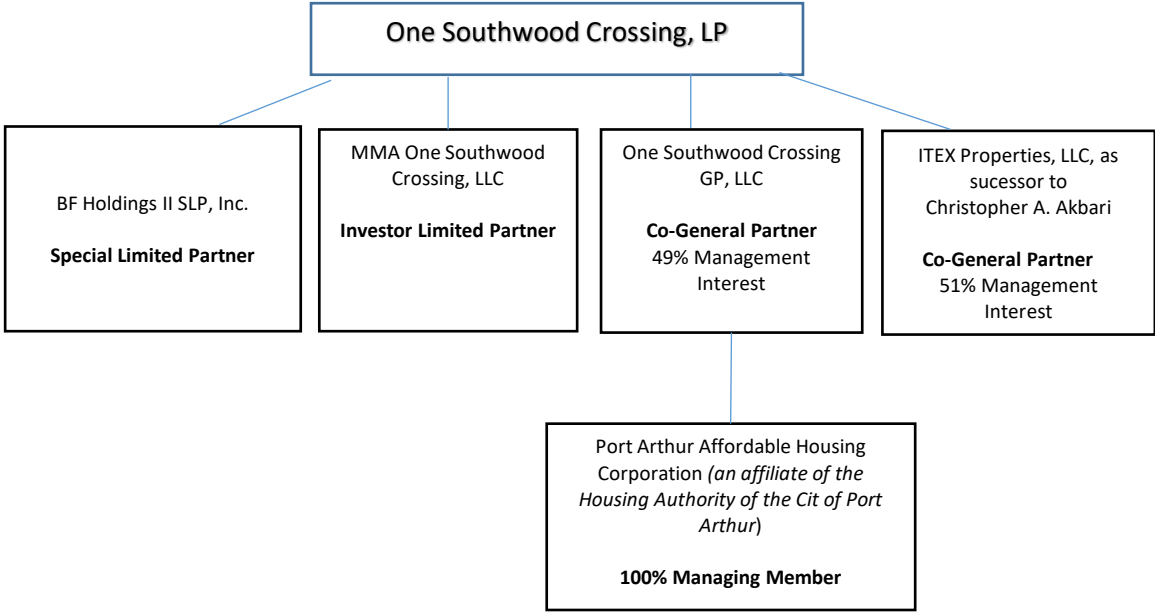
UPDATED MAY 13, 2020

**Original Structure at closing 2006**



\*Note-Christopher A. Akbari is heir to K.T. (Ike) Akbari's Estate upon his date of death being 5/9/2015

**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same

**EXHIBIT C**

**Suggested Conditions to an Award to Virginia Flats**

**(see attached)**

## **Proposed 2020 EARAC Conditions**

1. ITEX Property Management, LLC will be removed as the manager or excluded from consideration as the manager of any 2020 awards if ITEX Property Management, LLC fails to respond to any event of noncompliance within the corrective action period through 6/30/2021.
2. The compliance team will continue to conduct a review of all Housing Tax Credit applications (Move-ins) and annual recertifications for all tenants applying for or residing in all placed in service developments subject to a TDHCA LURA in the ITEX portfolio. Evidence of the reviews, including completed checklists, will be submitted to the Department upon request.
3. Owner has designated Tammy Bonner – Director of Affordable Housing Compliance to receive Compliance correspondence and provide timely responses to the Department on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.
4. ITEX will require that at least one of the following employees: VP of Operations, Compliance Director, Compliance Auditor(s), Regional Manager(s), or Site Staff will annually attend the trainings listed and provide certifications to TDHCA upon request.
  - a. Housing Tax Credit Training sponsored by the Texas Apartment Association;
  - b. 1st Thursday Income Eligibility Training conducted by TDHCA;
  - c. Review one or more of the TDHCA Compliance Training Webinars:
    - i. 2012 Income and Rent Limits Webinar Video;
    - ii. How to properly use the Income and Rent Tool;
    - iii. 2012 Supportive Services Webinar Video;
    - iv. How to identify and properly implement Supportive Services;
    - v. Income Eligibility Presentation Video;
    - vi. 2013 Annual Owner’s Compliance Report (AOOCR) Webinar Video;
    - vii. 2015 Tenant Selection Criteria Webinar Video;
    - viii. 2015 Tenant Selection Criteria Presentation;
    - ix. 2015 Tenant Selection Criteria- Q and A's;
    - x. §10.610 – Tenant Selection Criteria;
    - xi. 2015 Affirmative Marketing Requirements Webinar Video;
    - xii. 2015 Affirmative Marketing Requirements Presentation;
    - xiii. 2015 Affirmative Marketing Requirements- Q and A's;
    - xiv. Fair Housing Webinars (including but not limited to the 2017 FH Webinars)
  - d. Training for Certified Occupancy Specialist or Blended Occupancy Specialist
5. ITEX will require all Area Managers, Regional Managers and Compliance Staff to take the Housing Credit Certified Professional (HCCP) training and pass the certification exam within 12 months of employment.
6. ITEX will incentivize all on-site managers to take the TAA Certified Apartment Manager (CAM) and Housing Credit Certified Professional (HCCP) training and sit for the certification exam by paying for the training and exam.

7. The Executive Director, for good cause, may grant one extension for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

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A PROFESSIONAL CORPORATION

TAMEA A. DULA  
OF COUNSEL

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Direct Dial  
(713) 653-7322  
Direct Fax  
(713) 890-3918

June 11, 2020

By Email to: [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)  
Brooke Boston, Chair  
Executive Award Review Advisory Committee  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: #20138 The Ella (“Project”), Houston, Harris County, Texas;  
Dispute of EARAC Recommendation.

Dear Ms. Boston:

This law firm represents Houston Ella 1718 W 26, LP (“Applicant”) in connection with its 9% Tax Credit Application for the Project. Applicant disputes the Executive Award Review Advisory Committee’s (“EARAC”) recommendation to deny an award of tax credits to the Project. The PPR Results Summary (“Summary”) dated May 26, 2020 and updated on June 2, 2020, reflects a Category 3 status, but we believe that status should be Category 2. A copy of the Schedule is attached for your convenience as Exhibit A.

**Two Events of Noncompliance Relate to Developments Where Affiliate Had No Control.**

Two of the 15 Events of Noncompliance relate to #05198 Southwood Crossing Apartments and #060238 One Southwood Crossing, each of which sustained major damage as a result of Hurricane Harvey. These two developments were sponsored by the Port Arthur Housing Authority and have similar ownership structures. The housing authority’s entity, the Port Arthur Affordable Housing Corporation, was the 100% owner of the sole General Partners of both the development owners. Applicant’s affiliate (initially K. T. (Ike) Akbari, then Christopher A. Akbari) was a 0.01% Class B Special Limited Partner in each development owner. The Class B Special Limited Partner had some consent rights, but did not have control over the operation of the developments and did not have the authority to initiate action.

Efforts to line up federal disaster funding to supplement insurance on the developments have taken a long time, and the General Partners refused to close on the financing. In the interim the

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developments have been supported with partner loans from the Special Limited Partner. At the Special Limited Partners' request, the TDHCA asked the IRS for an extension of the deadline to place the developments back into service, but no response has been received. Recently, all partners have entered into a settlement agreement by which they have agreed to a restructuring that will provide ITEX Properties, LLC ("ITEX") with control of the developments as a 51% Co-General Partner. Documentation requesting consent for this change in control has been filed with the TDHCA. [Please see the Control Forms attached as Exhibit B. Additional documentation concerning lack of control is available upon request.] Prior to filing that documentation, however, ITEX did not have the authority to obtain financing essential to make Hurricane Harvey repairs. ITEX has been working hard to ready the developments for rehabilitation as soon as TDHCA approval is obtained. With the partners' agreement restructuring the organizations and subject to TDHCA consent, ITEX will be in control of both the developments and has committed to rehabilitating them with loans from Amegy Bank and the Texas General Land Office. Financing is anticipated to close within the next month, assuming TDHCA approval is obtained. We respectfully request that pursuant to §1.301(c)(11), the Southwood Crossing Apartments and the One Southwood Crossing developments be removed from the Schedule and that the Events of Noncompliance be adjusted accordingly. We believe the revised Schedule will indicate that there are 37 Properties in the Combined Portfolio, with 13 Total Events, 1 Uncorrected Event (subject to discussion below) and 6 Total No Responses within the Corrective Action Period ("CAP").

**Cypresswood Crossing Constitutes a Cure in Progress.**

The single Uncorrected Event with No Response within the CAP relates to #07093 Cypresswood Crossing, another development with Hurricane Harvey damage. This is a situation where the cure was accomplished on March 5, 2018, but photographic evidence of cures was delayed by the Corona Virus Pandemic. An explanation of the Cypresswood Crossing situation by the Applicant's affiliate follows:

For Cypresswood, we received a letter from TDHCA concerning property restoration on 10/9/19 with a response requested by 1/7/20. A UPCS Report for the inspection conducted on 11/26/19 was received on 12/4/19 with a response due on 3/3/20. We received a letter from TDHCA concerning the timely UPCS inspection EH&S Response on 12/18/19. We uploaded our response to the UPCS inspection on 3/3/20, as required. A close letter from TDHCA for the UPCS inspection was received on 3/17/20. Unfortunately, the overlapping requirements for the UPCS and the Restoration Notice contributed to one of the responses being missed. We believed all response requirements were being met by uploading the response on 3/3/20. We received a letter from TDHCA on 3/30/20 advising us of referral to the Enforcement Committee for failure to provide a Notice of Restoration for Harvey damage. We began uploading the Notice of Restoration, invoices and photos on 3/31/20; however, COVID-19 regulations restricted us from entering the units to take the required photos of the unit restorations. The property was restored 3/5/18 and the Notice of Restoration and all photos have been uploaded and are pending TDHCA review.



Subsequent to the statement shown above, further photos responding to multiple different requests were filed with the TDHCA on April 17, April 22, and May 29. Additionally, a Notice of Restoration on a requested new form was filed on May 31, 2020. Pursuant to letters from TDHCA dated June 1, 2020 and June 5, 2020, a Summary of Restoration Work and further photographs were submitted on June 10, 2020. The Applicant believes that evidencing the cure has been completed but does not yet have confirmation from the TDHCA.

**Reevaluation of Summary.**

If the TDHCA accepts our proposal that the Southwood Crossing Apartments and One Southwood Crossing should be removed from consideration in the Previous Participation Review because of lack of control, then we would like to point out that the total of Uncured Events (1) plus Late Cures (5) would be only 6, and under §1.301(e)(2)(A) the Combined Portfolio would qualify as a Category 2 Portfolio. Unfortunately, because of the 5 Late Cures, the Combined Portfolio would still be considered Category 3 under §1.301(e)(3)(J).

If Cypresswood Crossing is considered finally cured upon receipt of the photographs that have been uploaded to TDHCA in June, then the Combined Portfolio will have **Zero Uncured Events of Noncompliance.**

**Compliance Record is Actually Very Good, But Responses Are Late.**

The record of compliance for this Combined Portfolio is actually very good because there are only 3 uncorrected instances of noncompliance on the Summary. The Combined Portfolio should not include Southwood Crossing and One Southwood Crossing because of lack of control. That leaves only one uncured event of noncompliance (Cypresswood Crossing) and Applicant believes that sufficient photographs have now been uploaded to confirm that it is also cured. Portfolios with no uncured events of noncompliance qualify as Category 1 Portfolios under §1.301(e)(1), absent instances of failing to respond within the CAP.

**The Combined Portfolio with 39 total properties and only 3 uncorrected events of noncompliance and 6 failures to respond during the CAP is better than a Category 2 under §1.301(e)(2)(A).**

In fact, even when you include the two developments we have asked to be disregarded, this Combined Portfolio fails to meet the following major benchmarks for a Category 3 developer:

*§1.301(e)(3)(A) - The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three and equal or exceed 50% of the number of Actively Monitored Developments in the Combined Portfolio;*

This Combined Portfolio has 15 events of noncompliance, of which 3 were not corrected (Southwood, One Southwood, and Cypresswood) and of which 6 had no response within the CAP. Based on this rule, the percentage of uncorrected Events of Noncompliance and failures to respond within the CAP equal 38.5% of the 39 Total Properties. If the two developments are disregarded, then the number of uncorrected noncompliances drops to one, the number of instances of failure to respond remains 6, and the combined percentage would be 18.9%. Both

Brooke Boston, Chair

June 11, 2020

Page 4

calculations fall substantially short of 50% of the Actively Monitored Developments, and demonstrate compliance on a level better than Category 3.

§1.301(e)(3)(B) - *The number of Events of Noncompliance that are currently uncorrected total 10% or more than the number of Actively Monitored Developments in the Combined Portfolio. Corrective action uploaded to CMTS or submitted during the seven day period referenced in Subsection (f) of this Section will be reviewed and the Category determination may change as appropriate;*

With 39 Monitored Developments, and 3 uncorrected events, the percentage is 7.7% which is less than 10%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the percentage would drop to 2.7%. Both percentages are under the 10% level and show better than Category 3 compliance.

§1.301(e)(3)(C) - *Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period to a Monitoring Event and the number of times is equal to or greater than 25% of the number of Actively Monitored Developments in the Combined Portfolio;*

The Combined Portfolio has 6 instances of failing to respond within the CAP, which is 15.4%. Please also note that we have argued that Southwood Crossing and One Southwood Crossing are disregarded because of lack of control, then the Combined Portfolio would have 37 properties with 6 instances of failing to respond within the CAP, resulting in 16.2%. Both calculations are under 25% of the number of Actively Monitored Developments and indicate a compliance history that is better than Category 3.

The criterion which forces this Combined Portfolio into Category 3 is the number of situations where there was no response during the CAP [§1.301(e)(3)(J)]. We suggest that the better way to manage such an Applicant would be to initiate Conditions to an award, with the Conditions being tailored to reinforce the need to respond to the initial letter of noncompliance in a timely fashion. To that end, the Applicant has suggested that the Conditions listed on Exhibit C be attached to an award of tax credits to The Ella. We respectfully request that EARAC reconsider its recommendation to the TDHCA Board and instead recommend approval subject to Conditions chosen to emphasize the need for prompt and timely responses to Compliance Division notices of noncompliance.

Thank you for your attention to this matter. If you need additional information, please do not hesitate to call me at 713-653-7322 or 832-647-4620.

Sincerely,



Tamea A. Dula

Brooke Boston, Chair  
June 11, 2020  
Page 5

Exhibits A - C

cc: Bobby Wilkinson at [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)  
Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)  
Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)

**EXHIBIT A**

**May 26, 2020 PPR Results Summary for The Ella,  
Updated to June 2, 2020**

**(see attached)**

**PPR Results Summary**

PPR Name: The Ella

PPR No. 20138

Category: 3

If Category 2 or 3 - Reason(s)

- 1 §1.301(e) Determination of Compliance Status. Through a review of the form, Department records, and the compliance history of the Affiliated multifamily Developments, staff will determine the applicable category for the Application or ownership transfer request using the criteria in Paragraphs (1) through (3) of this subsection. The Application will be classified in the highest applicable category, based upon all Persons for whom previous participation review is conducted.
- 2 §1.301(e)(2)(A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three but is less than 50% of the number of properties in the Combined Portfolio
- 3 §1.301(e)(2)(B) There are uncorrected Events of Noncompliance but the number of Events of Noncompliance is 10% or less than the number of properties in the Combined Portfolio. If corrective action has been uploaded to the Department's Compliance Monitoring and Tracking System (CMTS) or if the noncompliance is corrected and evidence of corrective action is submitted during the seven day period referenced in Subsection (f) of this section it will be reviewed and the Category determination may change as appropriate
- 4 §1.301(e)(3)(C) Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for more than three Monitoring Events;
- 5 §1.301(e)(3)(J) Despite past condition(s) agreed upon by any Person subject to previous participation review to improve their compliance operations, three or more new Events of Noncompliance have since been identified by the Department, and have not been resolved during the corrective action period;

Applicant Contact Info #1: [miranda.sprague@texasrp.com](mailto:miranda.sprague@texasrp.com) Miranda Sprague [audrey@purplemartinre.com](mailto:audrey@purplemartinre.com) Audrey Martin  
 Applicant Contact Info #2: [apps@texasrp.com](mailto:apps@texasrp.com) Alison Morris

Date Contacted: 5/26/2020 Date Response Due: 6/2/2020

Associated Developments				Compliance							FALS			FAPS		
Program	TDHCA ID	Property #	Property Name	# of Events	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Subject to final order	Terms Violated	Past Due Loan	No evidence of insurance	No evidence of current taxes	Past Due Fees
HTC	5345	17448	Sun Plaza Apartments	0							N	n/a				
HTC	4291	05199	Southwood Crossing Apartments	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4414	060238	One Southwood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	Y				N	n/a				
HTC	4447	07093	Cypresswood Crossing	1	Event 1 NEW Changes in Eligible Basis or Applicable percentage	N	N				N	n/a				
HTC	4475	07189	Sunlight Manor	1	Event 1 NC with tenant selection requirements in §10.610	Y	Y				N	n/a				
HTC/TCAP	4619	08174/13090009700	Oakleaf Estates	0							N	n/a				
HTC/TCAP	4664	09183/13090009790	Gracelake Townhomes	3	Event 1 Noncompliance with social service requirements	Y	Y	Event 2 NC related to Affirmative Marketing reqs in §10.617	Y	Y	N	n/a				
					Event 3 NC with tenant selection requirements in §10.610	Y	Y									
HTCEX	4699	15090009362	Magnolia Plaza aka Prince Hall Plaza	0							N	n/a				
HTC	4383	060092	Twelve Oaks	0							N	n/a				
HTC	4716	10239	Gardens at Cobb Park	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4778	11030/1001493	Pine Ridge Manor	0							N	n/a				
HTC	4779	11055	Valley at Cobb Park	0							N	n/a				
HTC/HM	4841	12166/1001687	Villa Brazos	0							N	n/a				
HTC	4958	13409	Park Central	0							N	n/a				
HTC	4978	13424	Willow Bend Apartments	0							N	n/a				
HTC	4979	13426	Velma Jeter	1	Event 1 NEW NC with utility allowance requirements in §10614	Y	Y				N	n/a				
HTC	4984	13428	Village at Palm Center	0							N	n/a				
HTC	4987	14405	Park Avenue Manor	3	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y	Event 2 NEW Changes in Eligible Basis or Applicable percentage	Y	N	N	n/a				
					Event 3 NEW Violations of the Uniform Physical Condition Standards	Y	N									
HTC	5119	15110	Place of Grace	0							N	n/a				
HTC	4948	15414	Retreat at Westlock	0							N	n/a				
HTC	4912	13203	Providence on Major	0							N	n/a				
HTC	5120	15116	The Carlyle	0							N	n/a				
HTC	3246	02099	(START 8/17) Norma's Plaza	0							N	n/a				
HTC	3391	03261	Pebble Creek Apartments	1	Event 1 Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC	3392	03262	Crystal Creek Apartments	0							N	n/a				
HTC	3393	03263	CedarRidge Apartments	1	Event 1 HH income above limit/Unit not leased to LI HH	Y	Y				N	n/a				
HTC	4148	04430	Heatherbrook Apartments	0							N	n/a				
HTC	4121	04100/07026	O.W. Collins	1	Event 1 NEW Violations of the Uniform Physical Condition Standards	Y	N				N	n/a				
HTC/HM	4839	12112/1001674	Inez Tims	0							N	n/a				
HTC	4947	13089	Pinewood Park	0							N	n/a				
HTC	5263	17412	Pathways at Gaston Place	0							N	n/a				
HTC	5275	17208	Waverly Village	0							N	n/a				
HTC	5342	19707	Providence at Ted Trout Drive	0							N	n/a				
HTC	5348	17411	Villa Americana	0							N	n/a				
HTC	5388	18095	Retreat West Beaumont	0							N	n/a				
HTC	5398	18283	Pines at Allen Street	0							N	n/a				
HTC	5449	18428	Sherman Plaza South	0							N	n/a				
HTC	5461	18439	Tays North	0							N	n/a				
HTC	5445	18400	Anna Dupree Terrace	0							N	n/a				

**39** Total # of Projects      **15** Total Events      **3** Total Uncorrected      **6** Total with no response provided to Dept during CAP

**EXHIBIT B**

**Control Forms Submitted to TDHCA for  
Southwood Crossing Apartments and One Southwood Crossing**

**(see attached)**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE: This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.**

Name of Development: Southwood Crossing

TDHCA No.: 05199

Name of Development Owner: Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

---

<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf




and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June 2020.

**Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By: \_\_\_\_\_

  
Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:   
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

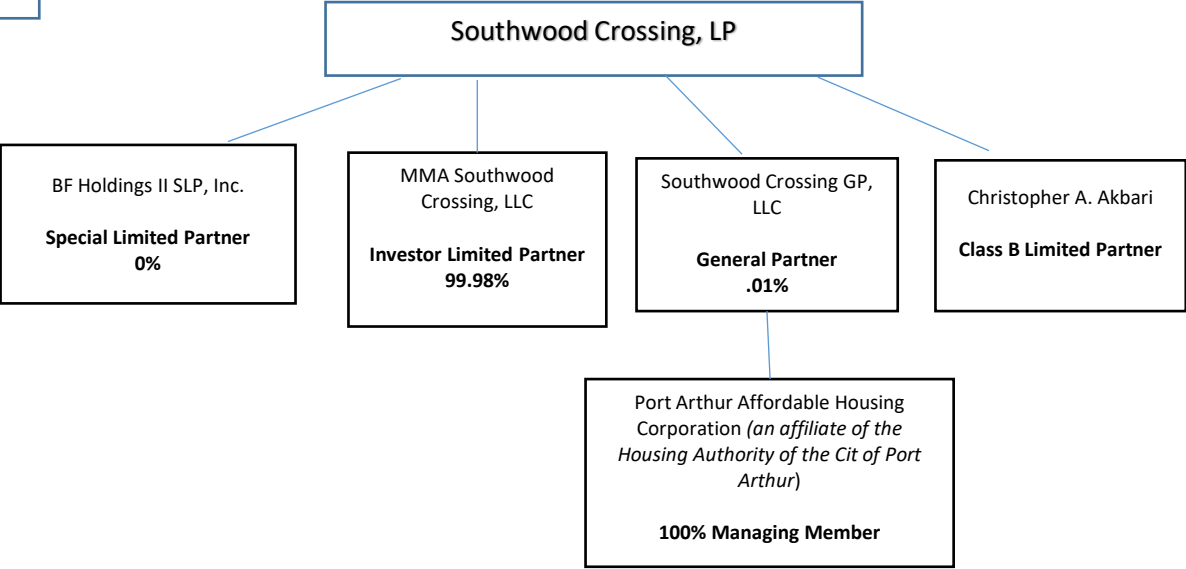
**Texas Department of Housing and Community Affairs**

By: \_\_\_\_\_  
Its duly authorized officer or representative

**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

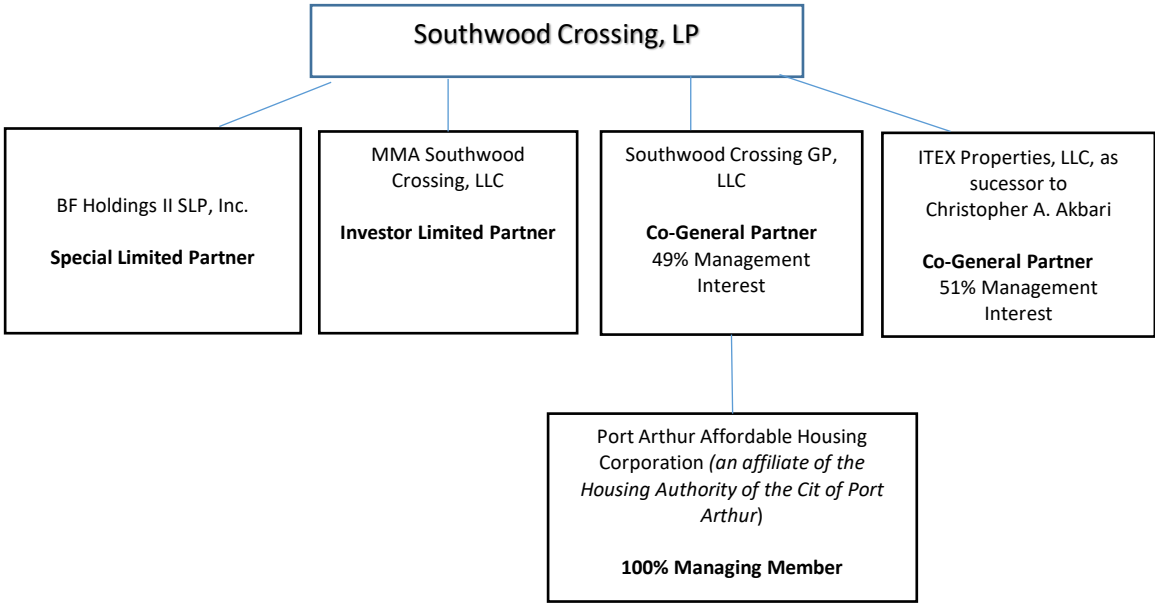
UPDATED MAY 13, 2020

**Original Structure at Closing 2005**



\*Note-Christopher A. Akbari is heir to K.T. (Ike) Akbari's Estate upon his date of death being 5/9/2015

**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**ASSIGNMENT AND ACCEPTANCE OF CONTROL FORM**

**NOTE:** This form should be revised by the Development Owner, as needed, to reflect the actual legal structure and number of Control Parties reflected in Attachment A, organizational chart for the Development Owner. For example, if there are three Control Parties, the form should reflect in paragraph 2 the establishment of the three separate Control Parties, not only two as reflected in the template.

Name of Development:        One Southwood Crossing

TDHCA No.:    060238

Name of Development Owner:        One Southwood Crossing, LP

Please find attached as Attachment A an organizational chart for the Development Owner, representing all parties with an ownership interest in the Development and their percentage of ownership interest. Only Persons listed in the original Application to TDHCA, or added through a subsequent TDHCA approved Ownership Transfer, are included on Attachment A. Multiple Persons are affiliated with the Development Owner. These Persons desire to identify for the Texas Department of Housing and Community Affairs (the "Department") which Persons Control the Development Owner for the purposes described herein.

In consideration of the premises herein expressed and for certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, One Southwood Crossing GP, LLC ("Control Party/Parties 1") and ITEX Properties, LLC ("Control Party/Parties 2")<sup>1</sup>, representing all parties with Control in Attachment A, each intending to be legally bound, do hereby agree as follows:

- 1) Capitalized terms used but not defined in this Assignment and Acceptance shall have the meanings given them in the rules of the Department.
- 2) Except as disclosed on the organizational chart at Attachment A hereto, which is incorporated herein by reference for all purposes, there is no other Person who exercises Control over the Development Owner.
- 3) Control Party 1 assigns to Control Party 2, and Control Party 2 accepts such assignment for Control Party 2 to exercise sole and unfettered authority and responsibility for ensuring that the Development Owner complies with each and all

---

<sup>1</sup> Note: if there is more than one Control Party 2 (i.e. two parties seek to be identified herein as "Control Party 2") then a second signature acknowledgement must be added to the last page, and any and all parties represented as "Control Party 2" hereby acknowledge their joint and several responsibility and liability for the obligations of Control Party 2 expressed herein.

of the requirements for which the Department will monitor the Development for the purpose of determining Events of Noncompliance for a Previous Participation Review ("Compliance Matters").

- 4) This Assignment and Acceptance will remain in full force and effect until such time, if any, as either Control Party 1 or Control Party 2 provides written notification to the Department, reflecting the signed agreement of all Control Parties, that it is terminated or changed.
- 5) Until such time as this assignment and acceptance is terminated or changed, Control Party 1 waives and relinquishes all right to receive notice from the Department of any matter relating to the compliance of the Development with any of the assigned matters and further waives and relinquishes any and all right to Control, direct, superintend, require review, or provide consent for any Compliance Matters. This does not in any manner limit the requirements, if any, under the governing documents of the Development Owner, that may be imposed on the Development Owners for any other matters not covered or subsumed hereby nor does it serve to restrict Control Party 2's ability to provide Control Party 1 information about Compliance Matters.
- 6) For so long as this Assignment and Acceptance remains in effect, Compliance Matters in connection with determining Previous Participation will not be attributed to Control Party 1. This Assignment and Acceptance agreement does not limit Control Party 1's obligations under federal or state law or regulation. In addition this Assignment and Acceptance Agreement does not negate possible accountability for other parties in the ownership structure, or Control Party 1, in relation to debarment proceedings if appropriate under 10 TAC §2.401, relating to Department's Debarment Rule.
- 7) Control Party 1 and Control Party 2 acknowledge and agree that the existence of this Assignment and Acceptance has been disclosed to any investor in the Development Owner, and approved by such investor.
- 8) All Controlling Parties hereby represents and warrants to each other and to the Department that they are duly organized and existing entities, formed under the laws of the states under which they are filed and are duly qualified to do business in all jurisdictions in which they are required to be so qualified. All Controlling parties are in good standing with the State of Texas.
- 9) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other actions on their behalf

and all necessary consents, licenses, permits and other approvals necessary have been obtained prior to the signing of this Assignment and Acceptance.

- 10) Control Party 1 and Control Party 2 represent and warrant to each other and the Department that the execution, delivery, and performance of this Assignment and Acceptance will not violate any of their constitutive documents or any statute, rule, regulation, agreement, order, ordinance, policy, or other requirement to which either of them is subject or create an event of default under any such requirement.
- 11) When executed, this Assignment and Acceptance will represent the legal, valid, and binding obligation of Control Party 1 and Control Party 2 as set forth herein, enforceable in accordance with its terms except as the same may be altered or affected by the application of the laws of bankruptcy and general principles of equity.
- 12) There are no agreements not reflected in this Assignment and Acceptance, written or unwritten, express or implied, in any way relating to the subject matter of this Assignment and Acceptance.
- 13) Each person who is executing this Assignment and Acceptance for and on behalf of a party hereto has been duly authorized, for and on behalf of such party, to execute this Assignment and Acceptance.
- 14) This Agreement is subject to the laws of the State of Texas, except as federal law may otherwise require.
- 15) Venue for any legal proceedings to enforce or construe any aspect of this Agreement shall lie exclusively within Travis County, Texas.
- 16) This Assignment and Acceptance shall not become effective until and unless it is acknowledged by the Department.

Executed this 10th day of June, 2020.

**One Southwood Crossing GP, LLC (Control Party 1)**  
**By: Port Arthur Affordable Housing Corporation,**  
**Managing Member**

By:



Seledonio Quesada, Director and Secretary

**ITEX Properties, LLC (Control Party 2)**

By:   
Christopher A. Akbari, Managing Member

Executed solely for purposes of acknowledgement in accordance with paragraph 16 hereof and not as a party.

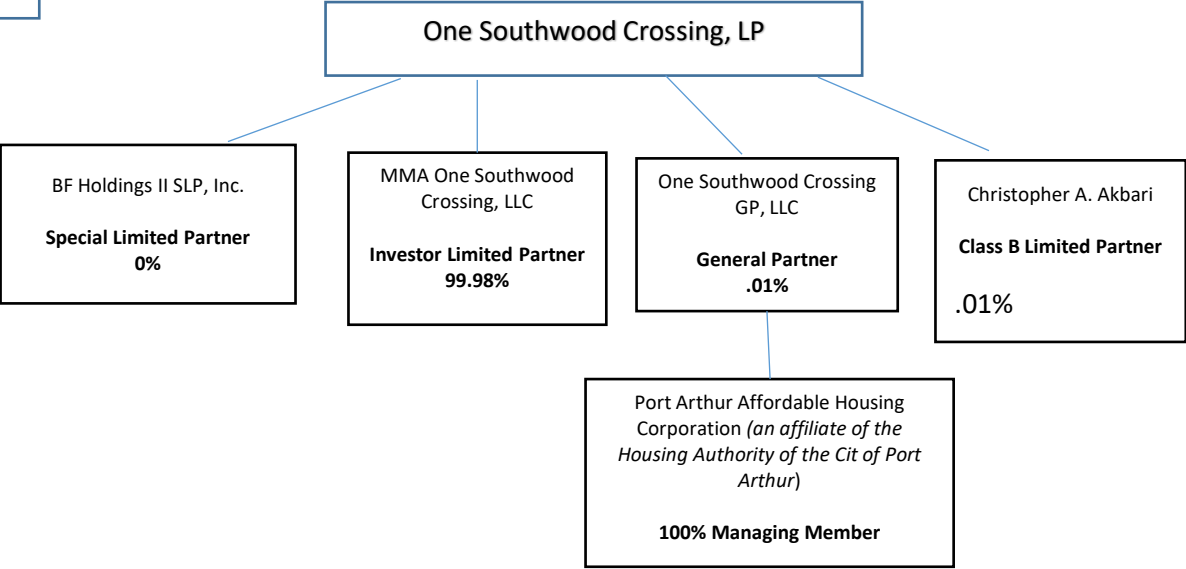
**Texas Department of Housing and Community Affairs**

By: \_\_\_\_\_  
Its duly authorized officer or representative

**Southwood Crossing Apartments  
3901 TX-73  
Port Arthur, TX 77642**

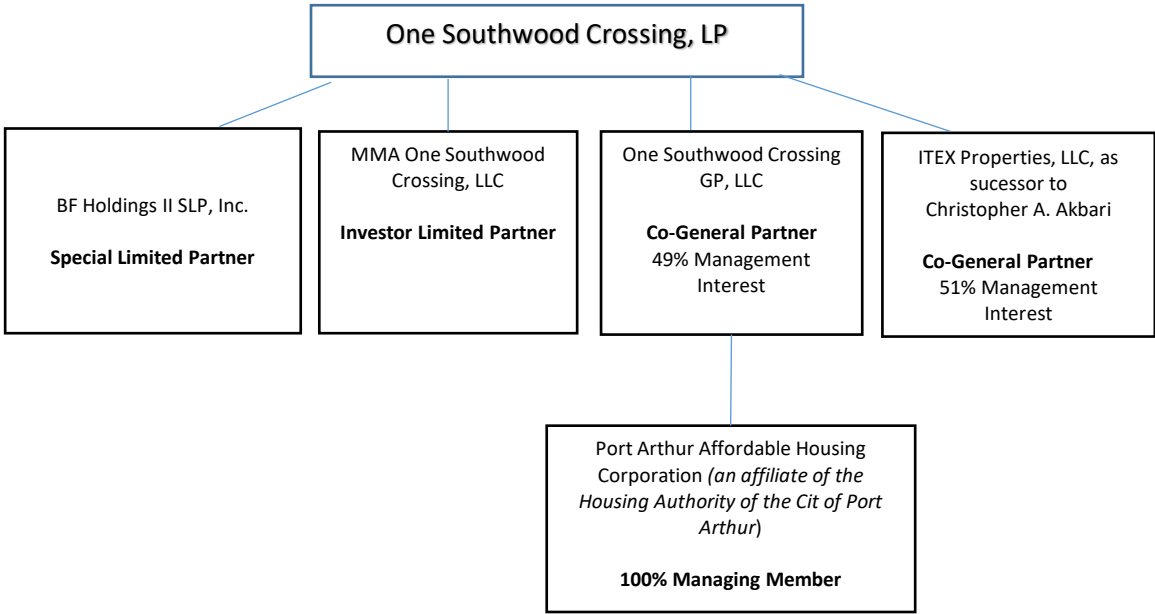
UPDATED MAY 13, 2020

**Original Structure at closing 2006**



\*Note-Christopher A. Akbari is heir to K.T. (Ike) Akbari's Estate upon his date of death being 5/9/2015

**Structure after approval of pending GP interest transfer**



\*Guarantors to remain the same



**EXHIBIT C**

**Suggested Conditions to an Award to The Ella**

**(see attached)**

## Proposed 2020 EARAC Conditions

1. ITEX Property Management, LLC will be removed as the manager or excluded from consideration as the manager of any 2020 awards if ITEX Property Management, LLC fails to respond to any event of noncompliance within the corrective action period through 6/30/2021.
2. The compliance team will continue to conduct a review of all Housing Tax Credit applications (Move-ins) and annual recertifications for all tenants applying for or residing in all placed in service developments subject to a TDHCA LURA in the ITEX portfolio. Evidence of the reviews, including completed checklists, will be submitted to the Department upon request.
3. Owner has designated Tammy Bonner – Director of Affordable Housing Compliance to receive Compliance correspondence and provide timely responses to the Department on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.
4. ITEX will require that at least one of the following employees: VP of Operations, Compliance Director, Compliance Auditor(s), Regional Manager(s), or Site Staff will annually attend the trainings listed and provide certifications to TDHCA upon request.
  - a. Housing Tax Credit Training sponsored by the Texas Apartment Association;
  - b. 1st Thursday Income Eligibility Training conducted by TDHCA;
  - c. Review one or more of the TDHCA Compliance Training Webinars:
    - i. 2012 Income and Rent Limits Webinar Video;
    - ii. How to properly use the Income and Rent Tool;
    - iii. 2012 Supportive Services Webinar Video;
    - iv. How to identify and properly implement Supportive Services;
    - v. Income Eligibility Presentation Video;
    - vi. 2013 Annual Owner’s Compliance Report (AOCR) Webinar Video;
    - vii. 2015 Tenant Selection Criteria Webinar Video;
    - viii. 2015 Tenant Selection Criteria Presentation;
    - ix. 2015 Tenant Selection Criteria- Q and A's;
    - x. §10.610 – Tenant Selection Criteria;
    - xi. 2015 Affirmative Marketing Requirements Webinar Video;
    - xii. 2015 Affirmative Marketing Requirements Presentation;
    - xiii. 2015 Affirmative Marketing Requirements- Q and A's;
    - xiv. Fair Housing Webinars (including but not limited to the 2017 FH Webinars)
  - d. Training for Certified Occupancy Specialist or Blended Occupancy Specialist
5. ITEX will require all Area Managers, Regional Managers and Compliance Staff to take the Housing Credit Certified Professional (HCCP) training and pass the certification exam within 12 months of employment.
6. ITEX will incentivize all on-site managers to take the TAA Certified Apartment Manager (CAM) and Housing Credit Certified Professional (HCCP) training and sit for the certification exam by paying for the training and exam.

7. The Executive Director, for good cause, may grant one extension for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

6a

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §11.201(1)(A) of the 2020 Qualified Allocation Plan regarding the errors in the calculation of Application fees

**RECOMMENDED ACTION**

**WHEREAS**, the Governor approved the 2020 Qualified Allocation Plan (QAP) on November 26, 2019, with certain revisions to 10 TAC §11.201(1)(A) related to the deficiency requirements for correcting errors in the calculation of Application fees;

**WHEREAS**, the revision requires that the deficiency period for curing fee calculation errors be three business days from the date the fee was originally required to be submitted, and may not be extended; with failure to cure such an error timely considered grounds for termination;

**WHEREAS**, staff has found one instance of such an error in Application 20167 Laurel Flats;

**WHEREAS**, it is not possible for staff to implement the rule via the Administrative Deficiency process as the rule allows because staff did not review for fee calculation errors within a time frame that would have allowed the Applicant to correct the issue within “three business days from the date the fee was originally required to be submitted;”

**WHEREAS**, an additional amendment to the 2020 QAP in order to correct the error is not possible, therefore a waiver of 10 TAC §11.201(1)(A) is necessary; and

**WHEREAS**, staff recommends waiving the 10 TAC §11.201(1)(A) requirement that the deficiency period for curing fee calculation errors be three business days from the date the fee was originally required to be submitted;

**NOW, therefore, it is hereby**

**RESOLVED**, that the sentence in 10 TAC §11.201(1)(A) that the deficiency period for curing fee calculation errors be three business days from the date the fee was originally required to be submitted is hereby waived for all 2020 Applications.

## BACKGROUND

The TDHCA Governing Board approved the final 2020 QAP at its meeting of November 7, 2019, for transmission to the Governor as required by Tex. Gov't Code §2306.6724. Deadlines for Allocation of Low Income Housing Tax Credits. The QAP includes the following requirements at 10 TAC §11.201(1)(A):

(A) An Applicant requesting funding from the Department must submit an Application in order to be considered for an award. An Application must be complete (including all required exhibits and supporting materials) and submitted by the required program deadline. If an Application, including the corresponding Application fee as described in §11.901 of this chapter, is not submitted to the Department on or before the applicable deadline, the Applicant will be deemed not to have made an Application; provided, however, that errors in the calculation of applicable fees may be cured via an Administrative Deficiency. The deficiency period for curing fee errors will be three business days from the date the fee was originally required to be submitted, and may not be extended. Failure to cure such an error timely will be grounds for termination.

The date the fee was originally required to be submitted was February 28, 2020. Staff did not begin its review of Application 20167 Laurel Flats until March 30, 2020, making it impossible for the Applicant to meet the rule requirement via the Administrative Deficiency process as the rule allows. Due to the timing requirements in Tex. Gov't Code §2306.6724, further amendment of the QAP is not an available solution.

Waiver of the sentence that the deficiency period for curing fee errors will be three business days from the date the fee was originally required to be submitted provides fairness for Applicants, and allows staff to address the issue through the administrative deficiency process as described at 10 TAC §11.201(7) and as allowed by 10 TAC §11.201(1)(A) without individual waiver requests. The change will be made to the 2021 QAP, so that additional waivers will not be required. In this case, staff sent the Applicant an Administrative Deficiency regarding the issue, and the Applicant cured the issue timely.

## SUBCHAPTER C APPLICATION SUBMISSION REQUIREMENTS, INELIGIBILITY CRITERIA, BOARD DECISIONS AND WAIVER OF RULES

### §11.201 Procedural Requirements for Application Submission

This subchapter establishes the procedural requirements for Application submission. Only one Application may be submitted for a Development Site in an Application Round. While the Application Acceptance Period is open or prior to the Application deadline, an Applicant may withdraw an Application and subsequently file a new Application utilizing the original pre-application fee (as applicable) that was paid as long as no substantive evaluation was performed by the Department and the re-submitted Application relates to the same Development Site, consistent with §11.9(e)(3) regarding pre-application Site changes. Applicants are subject to the schedule of fees as set forth in §11.901 of this chapter (relating to Fee Schedule).

#### (1) General Requirements.

(A) An Applicant requesting funding from the Department must submit an Application in order to be considered for an award. An Application must be complete (including all required exhibits and supporting materials) and submitted by the required program deadline. If an Application, including the corresponding Application fee as described in §11.901 of this chapter, is not submitted to the Department on or before the applicable deadline, the Applicant will be deemed not to have made an Application; provided, however, that errors in the calculation of applicable fees may be cured via an Administrative Deficiency. The deficiency period for curing fee errors will be three business days from the date the fee was originally required to be submitted, and may not be extended. Failure to cure such an error timely will be grounds for termination.

(B) Applying for multifamily funds from the Department is a technical process that must be followed completely. As a result of the competitive nature of some funding sources, an Applicant should proceed on the assumption that deadlines are fixed and firm with respect to both date and time and cannot be waived except where authorized and for truly extraordinary circumstances, such as the occurrence of a significant natural disaster that makes timely adherence impossible. If checks or original Carryover Allocation Agreements are physically delivered to the Department, it is the Applicant's responsibility to be within the Department's doors by the appointed deadline. All Applications and all related materials are to be delivered electronically pursuant to the Multifamily Programs Procedures Manual. Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Applicants must ensure that all documents are legible, properly organized and tabbed, and that materials are fully readable by the Department.

(C) The Applicant must timely upload a PDF copy and Excel copy of the complete Application to the Department's secure web transfer server. Each copy must be in a single file and individually bookmarked as further described in the Multifamily Programs Procedures Manual. Additional files required for Application submission (e.g., Third Party Reports) outside the Uniform Application must also be uploaded to the secure web transfer server. It is the responsibility of the Applicant to confirm the upload to the Department's secure web transfer server was successful and to do so in advance of the deadline. Where there are instances of computer problems, mystery glitches, etc. that prevent the Application from being received by the Department prior to the deadline the Application may be terminated.

(D) Applications must include materials addressing each and all of the items enumerated in this chapter and other chapters as applicable. If an Applicant does not believe that a specific item should be applied, the Applicant must include, in its place, a statement identifying the required item, stating that it is not being supplied, and a statement as to why the Applicant does not believe it should be required.

6b



**BOARD REPORT ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Report of Third Party Request for Administrative Deficiency under 10 TAC §11.10 of the 2020 Qualified Allocation Plan

20018	The Park Tower	Fort Worth
20051	Village at McArdle	Corpus Christi
20054	Gulf Shore Villas	Rockport
20075	New Hope Housing Savoy	Houston
20077	Lockwood South Apartments	Houston
20083	Lakeview Preserve	Irving
20089	Hamilton Wolfe Lofts	San Antonio
20092	Fiesta Trails	San Antonio
20144	The Enchanted Gardens	Victoria
20147	Kestral on Cooper	Arlington
20150	Palmville Homes	San Benito
20177	Avanti Legacy Valor Heights	McAllen
20181	Avanti Valley View	Hidalgo
20184	The Heritage at Abilene	Abilene
20200	Lofts at Temple Medical District	Temple
20223	Campanile on Briar Hollow	Houston
20235	Madisonville Estates	Madisonville
20240	Livingston Pioneer Crossing	Livingston
20264	Juliette Fowler Residences	Dallas
20272	Westwind of Dumas	Dumas
20273	La Grange Springs	La Grange
20309	Los Ebanos	Bishop
20317	Merritt Edge Senior Village	Midland
20329	Fish Pond at Huntsville	Huntsville
20342	The Cottages at Cedar Ridge	Elgin

**BACKGROUND**

Pursuant to 10 TAC §11.10 of the 2020 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency (RFAD), an unrelated person or entity may bring new, material information about an Application to staff's attention. Third parties may request that staff consider whether an Application should be the subject of an Administrative Deficiency, based on the information submitted with the request. Staff will consider the request and proceed, as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. Requestors must provide, at the time of filing the request, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient

credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered. The deadline for submission of RFADs was May 1, 2020.

The following describes the staff determinations for 2020 Competitive Housing Tax Credit (HTC) RFADs received, and reflects all determinations on active applications made as of June 18, 2020. All requests referenced herein were received and reviewed in accordance with 10 TAC §11.10. Where staff determined that the request substantiated the issuance of a Notice of Administrative Deficiency for the Application, the Applicant was provided the opportunity to respond to the submitted request. Staff has reviewed both the request and response in making its determination.

Each entry below identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and the name and organization of the requestor. A brief summary of each request has been included, followed by Department staff's analysis of the request, and finally the staff resolution of the request. The Department has posted to its website each request received, deficiency notice released, supporting documentation received from the Applicant, and staff determination to the applicable applications. Any subsequent RFAD determinations will be reported to the Board at a subsequent meeting.

The Department's Governing Board has final decision-making authority on any of the issues reflected herein, and thus these determinations are subject to change. However, an RFAD requester may not formally appeal the staff determination of an RFAD through the Appeals Process. See 10 TAC §11.902(b); 10 TAC §11.10

Where staff concluded that a request result in loss of points or other action, the impacted Applicants have already been notified and given the separate opportunity to appeal the staff determination. Staff has also provided notice of the result of the request to the requestor.

<b>TDHCA ID#</b>	20018	<b>Development Name:</b>	The Park Tower
<b>City:</b>	Fort Worth	<b>Region:</b>	3
<b>Requester:</b>	Thomas E. Huth, Palladium USA		

**Nature and Basis of Request:**

The request asked the Department to review the Application’s proximity to Application 20063 Azalea West, which is within two miles of the Development Site, to determine which Application should be reviewed for a possible award of credits pursuant to 10 TAC §11.3(b) related to the Two Mile Same Year Rule.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that a Notice of Administrative Deficiency was not necessary for this request as a determination could be made without one.

**Analysis and Resolution:**

Both Applications have a score of 171 points. Staff reviewed the tiebreakers and determined that Application 20063 Azalea West should be revised for a possible award based on the first tiebreaker.

<b>TDHCA ID#</b>	20018	<b>Development Name:</b>	The Park Tower
<b>City:</b>	Fort Worth	<b>Region:</b>	3
<b>Requester:</b>	Meredith Edwards		

**Nature and Basis of Request:**

The request asked the Department to review the Application to determine whether the Applicant should have reported the presence of an Undesirable Site Feature. The request stated that the Development Site is located within 500 feet of the Gachman Metals and Recycling company. The request also questioned whether the Application provided appropriate documentation to qualify for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan.

**Applicant Response to Notice of Administrative Deficiency:**

While this Application is not currently in a position to be awarded due to the 10 TAC §11.3(b) Two Mile Same Year Rule, staff sent an Administrative Deficiency to the Applicant requesting information regarding Gachman Metals and Recycling. The Applicant responded timely. Based on the response, the Applicant was notified of the ineligibility of the Development Site. Any appeal of the determination to the board will be heard at the early July meeting.

**Analysis and Resolution:**

Staff will review the Application as a backup application should Application 20063 Azalea West lose points or eligibility. Review will include the information in the request and response. Any decisions made by staff will be handled in the same manner as any other staff decision, with notifications and appeal rights provided to the Applicant.

<b>TDHCA ID#</b>	20051	<b>Development Name:</b>	Village at McArdle
<b>City:</b>	Corpus Christi	<b>Region:</b>	10
<b>Requester:</b>	David Fournier, Fish Pond Development		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the Feasibility Report included a preliminary site plan that meets the requirements of 10 TAC §11.204(15).

**Applicant Response to Notice of Administrative Deficiency:**

Staff sent an Administrative Deficiency to the Applicant requesting information regarding the request, and the Applicant responded timely. In its response, the Applicant detailed how the preliminary site plan met each requirement for such a plan listed in 10 TAC §11.204(15)(E).

**Analysis and Resolution:**

Per 10 TAC §11.204(15) related to Feasibility Reports, the report must include:

(E) Preliminary site plan prepared by the civil engineer with a statement that the plan materially adheres to all applicable zoning, site development, and building code ordinances. The site plan must identify all structures, site amenities, parking spaces and driveways, topography (using either existing seller topographic survey or U.S. Geological Survey (USGS)/other database topography), site drainage and detention, water and waste water utility tie-ins, general placement of retaining walls, set-back requirements, and any other typical or locally required items. Off-site improvements required for utilities, detention, access or other requirement must be shown on the site plan or ancillary drawings.

Staff reviewed the response and determined that the response sufficiently addressed the Administrative Deficiency.

<b>TDHCA ID#</b>	20054	<b>Development Name:</b>	Gulf Shore Villas
<b>City:</b>	Rockport	<b>Region:</b>	10
<b>Requester:</b>	Mark Moseley, cdc		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the OnTheMap report submitted to support points under Proximity to Jobs had been digitally manipulated and whether the zoning documentation provided to support points under Readiness to Proceed was sufficient. The request asked whether the Application qualifies for the points requested under Underserved Area, and whether appropriate documentation for the utility allowance was provided.

**Applicant Response to Notice of Administrative Deficiency:**

Staff was able to make some determinations without the need for a deficiency notice. Regarding the documentation for the utility allowance, though the Application form states “Rockport Housing Authority,” the documentation indicates that the form is for the “locality” of Rockport, Texas. The request included no evidence that the Proximity to Jobs document is not valid. Staff determined that the Application qualified for three points instead of four points under Underserved Area because Application 93007 exists within the census tract. Regarding scoring for Readiness to Proceed, the request states that “[n]either the street address nor the legal description of the zoning ordinance matches the land in the application,” but no evidence of this was presented; only the point that the street address and legal descriptions differ on application documents. Staff reviewed the legal descriptions associated with the site and determined that while the Aransas County Appraisal District refers to the “Splinter Fleet Subdivision” and the City of Rockport refers to the “Rockport Center Subdivision,” the two descriptions refer to the same site. Staff determined that the Application qualifies for points under Readiness to Proceed.

Staff sent an Administrative Deficiency under 10 TAC §11.1(c)(2) requesting information regarding points requested for Proximity to Jobs, and the Applicant responded timely. In its response, the Applicant stated

that he was unable to use correctly the OnTheMap program using the given directions, and therefore used his own method of gaining the information from the program.

**Analysis and Resolution:**

Per 10 TAC §11.9(c)(7)(B):

(B) Proximity to Jobs. A Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) - (vi) of this subparagraph. The data used will be based solely on that available through US Census' OnTheMap tool. Jobs counted are limited to those based on the work area, all workers, and all primary jobs. Only the 2017 data set (as of October 1 but before Pre-Application Final Delivery Date) will be used. The Development will use OnTheMap's function to import GPS coordinates that clearly fall within the Development Site, and the OnTheMap chart/map report submitted in the Application must include the report date.

(vi) The Development is located within 1 mile of 2,000 jobs. (1 point)

The 2020 Application Manual included step-by-step directions for using the OnTheMap tool. Using those steps, staff was able to locate the Development Site using the coordinates provided in Tab 47 of the Application and to run a report that showed fewer than 2,000 jobs within required radius, which is the lowest number required to score points under this item. Staff was not able to duplicate the report submitted by the Applicant, and it was clear that the report included areas that were outside of the required one-mile radius.

The Applicant was provided a Scoring Notice that denied the one point requested for this scoring item. The Applicant appealed to the Executive Director. If the Executive Director denies the appeal, any board appeal will be heard at the early July meeting.

<b>TDHCA ID#</b>	20075	<b>Development Name:</b>	New Hope Housing Savoy
<b>City:</b>	Houston	<b>Region:</b>	6
<b>Requester:</b>	Casey Bump, Bonner Carrington		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the Application qualified for points under 10 TAC §11.9(c)(7)(B) related Proximity to Jobs. Particularly, the requestor suspected that dates included in the OnTheMap Primary Jobs analysis had been modified in an effort to adjust the date the data was collected.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that a Notice of Administrative Deficiency was not necessary for this request as determination could be made without one.

**Analysis and Resolution:**

Pursuant to 10 TAC §11.10 related to RFAD:

Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

Staff determined that the evidence provided was not sufficient to prove that the date was incorrect and does not believe the supporting documentation is susceptible to confirmation.

<b>TDHCA ID#</b>	20077	<b>Development Name:</b>	Lockwood South Apartments
<b>City:</b>	Houston	<b>Region:</b>	6
<b>Requester:</b>	Casey Bump, Bonner Carrington		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the Application should have reported the presence of an Undesirable Site Feature, as, per the request, the Development Site is located in close proximity to the Southern Crushed Concrete plant.

**Applicant Response to Notice of Administrative Deficiency:**

Staff sent an Administrative Deficiency to the Applicant requesting information regarding the request, and the Applicant responded timely. In the response, the Applicant provided photographs of the plant which indicate that the rock crushing machine depicted in the request has been removed from the site, and the nearest residential structure would be more than 440 yards away from the nearest remaining crushing machine.

**Analysis and Resolution:**

Per 10 TAC §11.101(a)(2):

If a state or federal cognizant agency would require a new facility under its jurisdiction to have a minimum separation from housing, the Department will defer to that agency and require the same separation for a new housing facility near an existing regulated or registered facility.

Staff determined that the concrete crushing facility meets the minimum distance requirements set by the Texas Commission on Environmental Quality.

<b>TDHCA ID#</b>	20083	<b>Development Name:</b>	Lakeview Preserve
<b>City:</b>	Irving	<b>Region:</b>	3
<b>Requester:</b>	Brian Kimes, JES Development Company		
<b>Requester:</b>	Alyssa Carpenter		

**Nature and Basis of Request:**

The requests ask the Department to review the Application above to determine whether the information provided in the Application related to the Development Site’s location within the 100-year floodplain is sufficient to find the Development Site eligible under 10 TAC §11.101(a)(1). The request also states that the Applicant did not budget enough funds to complete the amount of site work indicated in the Application to comply with the rule.

**Applicant Response to Notice of Administrative Deficiency:**

Staff issued an Administrative Deficiency, and the Applicant responded timely. In the response, the Applicant provided information showing that by meeting the requirements of the Corridor Development Certificate process and requirements, as stated in the Feasibility Report, the finished ground floor elevations will be required to be at least two feet above the 100-year floodplain and the parking and drive areas will be required to be at or above the 100-year floodplain elevation.

**Analysis and Resolution:**

In this case, the local requirements are more stringent than the Department’s requirement for the Development Site. Staff determined that the application meets the requirements of 10 TAC §11.101(a)(1). However, staff is unable to determine that the Development Site should be found to be an eligible site. Per 10 TAC §11.101(a)(2)(K) of the 2020 QAP, an Undesirable Site Feature can include:

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

Regarding the cost of the site work, staff relies on the costs certified by the engineer in all cases. If at the time of cost certification the costs are found to be higher than reported, staff will review to ensure the development is still feasible.

Staff determined that the fact that South MacArthur Boulevard sits 1-2 feet below the floodplain and provides the only access point to the Development Site means that residents would have no choice, but to drive through even minimal flooding to reach or leave their homes. Staff provided the Applicant with written notice of the determination to find the site ineligible, pending the Applicant’s ability to appeal.

<b>TDHCA ID#</b>	20089	<b>Development Name:</b>	Hamilton Wolfe Lofts
<b>City:</b>	San Antonio	<b>Region:</b>	9
<b>Requester:</b>	Vaughn Zimmerman, Hays Street Lofts, LP		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application qualifies for points under Concerted Revitalization Plan (CRP). Particularly, the request questions whether the provided CRP described eligible problems that are appropriate for a CRP, as stated in 10 TAC §11.9(d)(7) related to CRP.

**Applicant Response to Notice of Administrative Deficiency:**

Staff sent an Administrative Deficiency under 10 TAC §11.3(a)(2), and the Applicant responded timely. In its response, the Applicant provided information showing that the CRP meets the rule in question.

**Analysis and Resolution:**

Per the response:

Section 11.9(d)(7)(A)(iii)(II) of the QAP provides *suggestions* for what *may* be considered eligible problems but does not state that these suggestions constitute an exhaustive list of all City or County revitalization needs. Nonetheless, the SA Tomorrow Medical Center Area Regional Plan does cite 2 of the 3 example problems provided in §11.9(d)(7)(A)(II)(b) and (c), ... (-b-) **declining quality of life for area residents**, and (c) **“or, if economic revitalization is already underway, lack of new affordable housing options for long-term residents.**

Staff determined that the CRP meets the requirements of the rule.

<b>TDHCA ID#</b>	20092	<b>Development Name:</b>	Fiesta Trails
<b>City:</b>	San Antonio	<b>Region:</b>	9
<b>Requester:</b>	Vaughn Zimmerman, Zimmerman AH 715 Aero, LLC		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the Application provided appropriate documentation to qualify for points under Opportunity Index. Particularly, the request questions whether Interstate Highway I-10 and a railroad track constitute “barriers” as described in 10 TAC §11.9 (c)(4)(A)(ii).

**Applicant Response to Notice of Administrative Deficiency:**

The Department issued a deficiency to the Applicant regarding this matter and the Applicant responded timely. In response to a deficiency notice prompted by the RFAD, the Applicant cited previous findings of staff regarding this issue, stating that this application should be treated the same.

**Analysis and Resolution:**

Per 10 TAC §11.9(c)(4):

(A) A proposed Development is eligible for up to two (2) opportunity index points if it is located entirely within a census tract with a poverty rate of less than the greater of 20% or the median poverty rate for the region and meets the requirements in (i) or (ii) of this subparagraph.

(ii) The Development Site is located entirely within a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region, with a median household income in the third quartile within the region, and is contiguous to a census tract in the first or second quartile, without physical barriers such as (but not limited to) highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more; and, (1 point)

Staff reviewed each of the previous determinations cited by the Applicant and found that each instance had a different fact pattern, and none matched the facts of this case. Staff found that Interstate 10 represents a physical barrier along the entire western boundary between the census tract and two first quarter census tracts, and railroad tracks represent a physical barrier along the entire eastern boundary between the census tract and one first quarter census tract. The Applicant was provided a scoring notice wherein the previously published application score was reduced by seven points for the scoring item, and the Application lost its six pre-application points. The Applicant appealed to the Executive Director, and he denied the appeal. The Applicant’s appeal to the Board will be heard during the June 25, 2020, board meeting.

<b>TDHCA ID#</b>	20144	<b>Development Name:</b>	The Enchanted Gardens
<b>City:</b>	Victoria	<b>Region:</b>	10
<b>Requester:</b>	David Fournier, Fish Pond Development		



**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application provided complete documentation of site control, whether the Application provided appropriate documentation to qualify for points under Proximity to Jobs, and whether the Application provided appropriate documentation to qualify for points under Input from Community Organizations.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that per 10 TAC §11.10, the Application has a noncompetitive score relative to other Applications in the same subregion and will likely not be eligible for an award through the collapse.

**Analysis and Resolution:**

The information provided in the request will be considered if staff review the Application. If it is found that the Application does not qualify for points under any scoring item, the Applicant will be sent a scoring notice, and will have the ability to appeal staff’s decision.

<b>TDHCA ID#</b>	20147	<b>Development Name:</b>	Kestrel on Cooper
<b>City:</b>	Arlington	<b>Region:</b>	3
<b>Requester:</b>	Cynthia Bast, on behalf of 20006 Western Star Estates		
<b>Requester:</b>	Casey Bump, Bonner Carrington		

**Nature and Basis of Request:**

The requests ask the Department to review the Application to determine whether the Application provided appropriate documentation to qualify for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan, particularly, whether the submitted HANA plan is still in effect and whether the rule requirement for sufficient funding was met.

**Applicant Response to Notice of Administrative Deficiency:**

Staff issued an Administrative Deficiency regarding the issue and the Applicant responded timely. In response to the notice, the Applicant provided evidence that the HANA plan is still in effect.

**Analysis and Resolution:**

Staff reviewed the response and agreed that the plan was still in effect because the ordinance adopting the “99 Square Miles” plan specifically states that “[e]xisting and future studies, ordinances, and initiatives will serve as implementation tools and/or components of 99 Square Miles.”

Per 10 TAC §11.9(d)(7)(A)(iii), for a CRP to be eligible:

- (III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

Staff found that the evidence of instances of street and roadwork completed in the area did not meet this standard. Staff did not base its determination on the type of funding, but on the requirement of the rule. No evidence of committed, sufficient funding as described in the rule had been provided. Staff agreed that street repairs are mentioned in the plan, and determined that the documentation previously provided did not indicate that the repairs were anything more than general street maintenance unrelated to any plan, and certainly did not indicate that it was a result of funding committed to the plan. The previously published

application score was reduced by seven points for the scoring item, and the Applicant appealed to the Executive Director.

In the appeal, the Applicant asserted that staff was not clear about the issue in its deficiency notice that the provided information was deficient, and the appeal included documentation of how the investments in street repair are tied to the actual needs described in the plan, and evidence of further investments that have been made in accordance with the actual needs described in the plan.

<b>TDHCA ID#</b>	20150	<b>Development Name:</b>	Palmville Homes
<b>City:</b>	San Benito	<b>Region:</b>	11
<b>Requester:</b>	Kathy Krickhahn, on behalf of 20310 Highpoint at Wynnewood		

The request asks the Department to review the Application above to determine whether the information provided in the Neighborhood Risk Factors (NRF) report meets the requirements of 10 TAC §11.101(a)(3)(C).

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not necessary to answer the request.

**Analysis and Resolution:**

Per the rule:

(C) Should any of the neighborhood risk factors described in subparagraph (B) of this paragraph exist, the Applicant must submit the Neighborhood Risk Factors Report that contains the information described in clauses (i) - (viii) of this subparagraph and mitigation pursuant to subparagraph (D) of this paragraph ***if such information pertains to the Neighborhood Risk Factor(s) disclosed*** so staff may conduct a further Development Site and neighborhood review. The Neighborhood Risk Factors Report cannot be supplemented or modified unless requested by staff through the deficiency process. (emphasis added)

Further, the NRF packet itself allows the Applicant to select which information is submitted and states “or such other mitigation as the Applicant determines appropriate to support a staff determination that the proposed Development Site should be found eligible, as such information might be considered to pertain to the Neighborhood Risk Factor(s) disclosed.” Contrary to the assertion that this application falls below a “threshold” showing a minimum amount of documentation, staff found that both the rule and the form allow for the applicant to determine the extent and amount of supporting information that “pertains to the Neighborhood Risk Factor(s) disclosed” with the NRF packet.

<b>TDHCA ID#</b>	20177	<b>Development Name:</b>	Avanti Legacy at Valor Heights
<b>City:</b>	McAllen	<b>Region:</b>	11
<b>Requester:</b>	Donna Zimmerman, JZ-LZ R2K, LLC		

The request asks the Department to review the Application to determine whether the Applicant should have disclosed a business that may be a junkyard as an Undesirable Site Feature.

**Applicant Response to Notice of Administrative Deficiency:**

Staff issued an Administrative Deficiency regarding the issue, and the Applicant responded timely.

**Analysis and Resolution:**

Per 10 TAC §11.101(a)(2)(A):

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Texas Transportation Code §396.001;

In the response, the Applicant provided evidence that the repair shop is not a junkyard based on the applicable section of the code and based on the findings of the City of McAllen. Staff found that the assertion(s) in the RFAD have been addressed through the Administrative Deficiency process.

<b>TDHCA ID#</b>	20181	<b>Development Name:</b>	Avanti Valley View
<b>City:</b>	Hidalgo	<b>Region:</b>	11
<b>Requester:</b>	Sunny Philip, South Texas Collaborative for Housing Development		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application is eligible to compete in the Rural Set-aside because it does not meet the requirements of 10 TAC §11.204(5)(B).

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that per 10 TAC §11.10, the request is not one that falls within the Administrative Deficiency process contemplated in the rule, and staff did not review the matter further. Staff determined that an Administrative Deficiency was not necessary as staff could make a determination without one.

**Analysis and Resolution:**

Per 10 TAC §11.204(5)(B):

(B) Certain areas located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area can request a Rural designation from the Department for purposes of receiving an allocation Housing Tax Credits (§2306.6740). In order to apply for such a designation, a letter must be submitted from a duly authorized official of the political subdivision or census designated place addressing the factors outlined in clauses (i) - (vi) of this subparagraph. Photographs and other supporting documentation are strongly encouraged. In order for the area to be designated Rural by the Department for the current Application Round, such requests must be made no later than December 15 of the previous year. If staff is able to confirm the findings outlined in the request, the Rural designation will be granted without further action and will remain in effect until such time that the population as described in clause (i) of this subparagraph exceeds 25,000.

The request actually questions whether staff made an appropriate decision when it granted the City of Hidalgo’s request to be designated Rural as provided by Tex. Gov’t Code §2306.6740 and this rule. Staff considered each piece of documentation included in the city’s request and made a determination about whether the documentation met the requirements if the rule.

**(i) the population of the political subdivision or census designated place does not exceed 25,000;**

The population of the City of Hidalgo, according to the 2020 Site Demographic Characteristics Report, is 13,593.

**(ii) the characteristics of the political subdivision or census designated place and how those differ from the characteristics of the area(s) with which it shares a contiguous boundary;**

The request includes the following information regarding differing characteristics:

- Based on population, the City of Hidalgo is 564% smaller than Pharr, TX and 1029% smaller than McAllen, TX. These data points represent significant differences between the three municipalities.
- The Poverty Rate in the City of Hidalgo over the last three years has increased by 4.20%. In same three-year time frame, the poverty rates in Pharr, TX and McAllen, TX have decreased by 4.10% and 0.20%. As the Rio Grande Valley urbanizes, employment opportunity should lift the region out of poverty. The City of Pharr and McAllen are experiencing the benefits of urbanization.
- The Unemployment rates have consistently decreased in McAllen and Pharr since 2015. The City of Hidalgo has experienced a different story. In 2016, Hidalgo increased its unemployment rate from 8.9% to 10.2% (+1.3%). A significant shift of the unemployment rate signifies economic volatility and minimal diversification. The consistent improvement of unemployment rates in McAllen and Pharr point to the benefits of urban maturity
- According to the U.S. Census Bureau, over 32% of the City of Hidalgo's workforce is categorized within the Natural Resources and Production Occupations. The City of McAllen, arguably the most urbanized area in the Rio Grande Valley, is at 16.20% for both categories. Hidalgo's higher dependence on Natural Resources and Production is a clear indicator of the difference in economic characteristics between a rural and urban region.
- According to the American Community Survey, 58% of the population in the City of Hidalgo has obtained a High School Graduate Degree or Higher. College graduates make up 18% of the City of Hidalgo's population. When compared to McAllen, the City of Hidalgo has 15.8% less high school graduates and 11.8% less college graduates. Given the size, distance, economic makeup, and education attainment the City of Hidalgo is not similar to its urban neighbor.

**(iii) the percentage of the total border of the political subdivision or census designated place that is contiguous with other political subdivisions or census designated places designated as urban. For purposes of this assessment, less than 50% contiguity with urban designated places is presumptively rural in nature;** The City of Hidalgo is located in southern Hidalgo County directly across the Rio Grande from the Mexican city of Reynosa, Tamaulipas. The perimeter of the City of Hidalgo is approximately 15.34 miles. The percentage of total border that is contiguous with other designated urban areas is 14.92% (Pharr) and 18.70% (McAllen), for a total of 33.63%.

**(iv) the political subdivision or census designated place contains a significant number of unimproved roads or relies on unimproved roads to connect it to other places;**

The City of Hidalgo has a significant number of unimproved roads and relies on these roads to connect residents to other places. According to the Texas Department of Transportation, many of the roads located in the City of Hidalgo are only supported by Curb-Surface drainage and Sub-surface drainage. Although most of the roads are composed of some level of Asphaltic concrete, the majority lack curbs, sidewalks, and drainage infrastructure. Neither TDHCA nor TxDOT have thoroughly defined an unimproved road, so the City of Hidalgo has created their own standards. The City of Hidalgo considers an improved road to include curb, gutters, and sidewalk with a surface of asphalt or concrete. Anything less would be considered unimproved.

The request includes an analysis showing examples of the unimproved roads in the city.

**(v) the political subdivision or census designated place lacks major amenities commonly associated with urban or suburban areas; and**

The City of Hidalgo, when compared to its contiguous neighbors, lacks amenities that would designate the area as urban in nature. Most developed urban areas have access to reliable public transportation, urgent care, and a college or university education. After reviewing each category below, it is clear that the City of Hidalgo does not benefit from the same level of access to amenities as its urban neighbors. The City of Hidalgo, when compared to its contiguous neighbors, lacks amenities that would designate the area as urban in nature. Most developed urban areas have access to reliable public transportation, urgent care, and a college or university education. After reviewing each category below, it is clear that the City of Hidalgo does not benefit from the same level of access to amenities as its urban neighbors.

The request includes an analysis of available amenities.

**(vi) the boundaries of the political subdivision or census designated place contain, or are surrounded by, significant areas of undeveloped or agricultural land. For purposes of this assessment, significant being more than one-third of the total surface area of political subdivision/census designated place, or a minimum of 1,000 acres immediately contiguous to the border.**

The boundaries of Hidalgo contain a significant amount of undeveloped and agricultural land - more than 50% or 3,304 acres consist of undeveloped and agricultural land. These areas contain a higher number of residents without sewage service and unpaved streets, not commonly associated with the surrounding incorporated urban and suburban areas.

According to GIS data, over 80,000 acres of undeveloped land are immediately contiguous to the boundaries of the City of Hidalgo, TX. Not only does the City satisfy the first requirement of at least 1/3 of the land designated as undeveloped, but also meets the second requirement of at least 1000 acres of agricultural land immediately contiguous to its borders.

Based on the evidence provided in the request, staff determined that the City of Hidalgo met the requirements to be designated as Rural.

<b>TDHCA ID#</b>	20184	<b>Development Name:</b>	The Heritage at Abilene
<b>City:</b>	Abilene	<b>Region:</b>	2
<b>Requester:</b>	Adrian Iglesias, Generation Housing Development		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application qualifies for points under Concerted Revitalization Plan (CRP), Historic Revitalization, Leveraging of Private, State and Federal Resources, and Pre-application Participation. The request also asks if the Development is infeasible under 10 TAC §11.302(i)(2) and if the Application should be terminated for failure to disclose a Neighborhood Risk Factor for blighted structures

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not necessary to answer the requests regarding blight, and infeasibility as staff could make a determination on those issues. Staff issued an Administrative Deficiency regarding Historic Revitalization.

Staff reviewed the structures indicated as blighted in the request. Of the 11 properties indicated in the request, no more than three meet the rule description of “vacant structures that have fallen into such significant disrepair, overgrowth, and/or vandalism that they would commonly be regarded as blighted.” Staff found no evidence that the three properties were abandoned.

Staff determined that per the rule, if staff review (including underwriting staff) requires changes to the forms related to calculating the score for Leveraging of Private, State and Federal Resources, the calculation will be performed again and the score adjusted if necessary. Development feasibility under 10 TAC §11.302(i)(2) will be determined during underwriting and no action on the issue will be taken at this time. Regarding Historic Revitalization, in response to the deficiency notice, the Applicant provided a letter from the Texas Historical Commission stating that both buildings qualify.

**Analysis and Resolution:**

Per the rule at 10 TAC §11.9(d)(7)(A)(ii):

(ii) A plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The problems identified by staff stem from the fact that the Department had not been provided a document that meets the requirements in clause (iii) of the subparagraph. While the Comprehensive Plan describes Abilene neighborhoods *in general*, it includes no documentation of a study or recommendations for “Original Town South” or any other area included in Neighborhood Empowerment Zone #1. The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1. No such document showing such planning had been provided. The Applicant provided a resolution creating the zone and excerpts from the statutory requirements for creating the zone.

The previously published application score was reduced by seven points for the item, and the Applicant appealed to the Executive Director. If the Executive Director denies the appeal, any board appeal will be heard at the early July meeting.

<b>TDHCA ID#</b>	20200	<b>Development Name:</b>	Lofts at Temple Medical District
<b>City:</b>	Temple	<b>Region:</b>	8
<b>Requester:</b>	Cynthia Bast, on behalf of 20010 Paige Estates		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the OnTheMap report submitted in the Application qualifies because the report is not dated “as of October 1 but before Pre-Application Final Delivery Date.”

**Applicant Response to Notice of Administrative Deficiency:**

Staff issued an Administrative Deficiency regarding the issue, and the Applicant responded timely. In its response, the Applicant provided information showing that the OnTheMap report meets the rule in question. Per the response:

The rule does not establish a requirement that the date on the submitted report be before the preapplication deadline, only that the data set used be the data that is available “(as of October 1 but before Pre- Application Final Delivery Date)” and the data set that we submitted using the OnTheMap tool meets this requirement.

**Analysis and Resolution:**

Staff determined that the OnTheMap report meets the requirements of the rule.

<b>TDHCA ID#</b>	20200	<b>Development Name:</b>	Lofts at Temple Medical District
<b>City:</b>	Temple	<b>Region:</b>	8
<b>Requester:</b>	Enrique Flores, IV, on behalf of 20171 Avanti Viking Hills		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the provided OnTheMap report using the 2015 data set is acceptable.

**Applicant Response to Notice of Administrative Deficiency:**

Staff sent an Administrative Deficiency under 10 TAC §10.3(a)(2), and the Applicant responded timely. In its response, the Applicant states:

The 2017 data set is not capable of calculating the proximity of all primary jobs because it lacks federal workers as confirmed in the attached email from the census bureau. . . . The 2015 LODS data available through the US Census' OnTheMap tool is the only available data for 'All Primary Jobs' as prescribed by the QAP and better reflects the true number of jobs within 1 mile of the development site and should be used for scoring purposes.

**Analysis and Resolution:**

The QAP specifies which data to use, and does not allow for an Applicant to define its own requirements for scoring. Staff determined that the information provided using the 2015 dataset will be disregarded. Because the Development Site is located within a one-mile radius of 15,542 primary jobs according to the 2017 report, the Application qualifies for and will be awarded five points for Proximity to Jobs. Staff sent a scoring notification to the Applicant, and the Applicant did not appeal.

<b>TDHCA ID#</b>	20223	<b>Development Name:</b>	Campanile on Briar Hollow
<b>City:</b>	Houston	<b>Region:</b>	6
<b>Requester:</b>	Scott Puffer, on behalf of 20082 Connect South		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Applicant provided appropriate notifications. Particularly, the request questions whether the President of the Board for the Houston Independent School District elected after the pre-application was submitted was notified.



**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not necessary as staff could answer the request without one.

**Analysis and Resolution:**

Per 10 TAC §11.203

If notifications were made in order to satisfy requirements of pre-application submission (if applicable to the program) for the same Application, then no additional notification is required at Application. However, re-notification is required by all Applicants who have submitted a change from pre-application to Application that reflects a total Unit increase of greater than 10% or a 5% increase in density (calculated as units per acre) as a result of a change in the size of the Development Site. In addition, **should the jurisdiction of the official holding any position or role described in paragraph (2) of this section change** between the submission of a pre- application and the submission of an Application, **Applicants are required to notify the new entity** no later than the Full Application Delivery Date. (emphasis added)

The rule does not require that a person elected to the same jurisdiction be notified.

<b>TDHCA ID#</b>	20235	<b>Development Name:</b>	Madisonville Estates
<b>City:</b>	Madisonville	<b>Region:</b>	8
<b>Requester:</b>	Kathy Krickhahn, on behalf of 20310 Highpoint at Wynnewood		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application included appropriate documentation for points under 10 TAC §11.9(d)(6)(A) related to Input from Community Organizations. Particularly, the request asks if appropriate evidence of tax-exempt status for the Madisonville Noon Lions Club was provided.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not necessary because the issue had been identified during staff review.

**Analysis and Resolution:**

The Application included a letter from the Madisonville Noon Lions Club along with a page from the organization’s webpage showing pictures of members of the organization providing a community service. It also included a webpage announcing the organization’s annual gun show, which according to other announcements found by staff raises money for scholarships for area youth. The announcements for the gun show indicate W.C. Bennett as the show director. In response to a deficiency notice, the Applicant provided evidence of tax-exempt status for the Madisonville Lions Club. The letter is addressed to William C. Bennett. Staff is convinced that even though the names of the club differ slightly, the organizations are the same.

Review of the IRS search site indicates that the organization is on a list of organizations whose federal tax exempt status was automatically revoked for not filing a Form 990-series return or notice for three



consecutive years. Per the site, “just because an organization appears on this list, it does not mean the organization is currently revoked, as they may have been reinstated.” The site indicates that the organization’s status was revoked on November 15, 2012, and the site includes a determination letter dated August 20, 2014, which confirms the organization’s exempt status.

<b>TDHCA ID#</b>	20240	<b>Development Name:</b>	Livingston Pioneer Crossing
<b>City:</b>	Livingston	<b>Region:</b>	5
<b>Requester:</b>	Donald Ball, Buna Providence CR 835, LP		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether staff properly reviewed the Application regarding appropriate documentation to qualify for points under Readiness to Proceed.

**Applicant Response to Notice of Administrative Deficiency:**

Per 10 TAC §11.10:

If the assertion(s) in the RFAD have been addressed through the Application review process, and the RFAD does not contain new information, staff will not review or act on it. The RFAD may not be used to appeal staff decisions regarding competing Applications (§2306.6715(b)). Any RFAD that questions a staff decision regarding staff's scoring of an Application filed by another Applicant will be disregarded.

Staff determined that the assertion(s) in the RFAD question staff’s scoring determinations and have been addressed through the Application review process, and the RFAD does not contain new information.

**Analysis and Resolution:**

Staff review indicated that the letters appropriately identified the closing date as November 30, 2020.

<b>TDHCA ID#</b>	20264	<b>Development Name:</b>	Juliette Fowler Residences
<b>City:</b>	Dallas	<b>Region:</b>	3
<b>Requester:</b>	Ryan Combs		
<b>Requester:</b>	Lisa Stephens, Saigebrook Development		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether staff properly reviewed the Application regarding appropriate documentation to qualify for points under 10 TAC §11.9(b)(2) related to Sponsor Characteristics.

**Applicant Response to Notice of Administrative Deficiency:**

Per 10 TAC §11.10:

If the assertion(s) in the RFAD have been addressed through the Application review process, and the RFAD does not contain new information, staff will not review or act on it. The RFAD may not be used to appeal staff decisions regarding competing Applications (§2306.6715(b)).

Any RFAD that questions a staff decision regarding staff's scoring of an Application filed by another Applicant will be disregarded.

Staff determined that the assertion(s) in the RFAD question staff's scoring determinations and have been addressed through the Application review process, and the RFAD does not contain new information.

**Analysis and Resolution:**

Staff review indicated that relevant information was included in the Application and in the Applicant's request for an experience certification for Nicole Gann; and in response to a deficiency notice, the Applicant provided a summary of that information.

<b>TDHCA ID#</b>	20264	<b>Development Name:</b>	Juliette Fowler Residences
<b>City:</b>	Dallas	<b>Region:</b>	3
<b>Requester:</b>	Lisa Stephens, Saigebrook Development		

**Nature and Basis of Request:**

The request asked the Department to review the Application above to determine whether the Option Agreement provided as evidence of Site Control is a legally enforceable document because it does not include a price and proof of consideration.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not necessary because a determination could be made without one.

**Analysis and Resolution:**

Staff reviewed the Site Control documentation and determined that the option agreement recites sufficient consideration, and it was clarified through a deficiency notice that the land will be transferred without cost between related entities.

<b>TDHCA ID#</b>	20272	<b>Development Name:</b>	Westwind of Dumas
<b>City:</b>	Dumas	<b>Region:</b>	1
<b>Requester:</b>	Vaughn Zimmerman, Zimmerman AH Albatross		

**Nature and Basis of Request:**

The request asked the Department to review the Application above to determine whether it should be terminated because site work costs included in eligible basis exceed \$15,000 per Unit and the Application did not include a letter from a CPA as required by 10 TAC §11.204(8)(E).

**Analysis and Resolution:**

The assertion(s) in the RFAD were addressed through the Application review and deficiency process. In response to an Administrative Deficiency, the Applicant provided the CPA letter. Staff does not consider this a Material Deficiency.

<b>TDHCA ID#</b>	20273	<b>Development Name:</b>	La Grange Springs
<b>City:</b>	La Grange	<b>Region:</b>	7
<b>Requester:</b>	Donna Zimmerman, JZ-LZ AH BETCO, LLC		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application provided appropriate documentation to qualify for points under Cost per Square Foot and under Input from Community Organizations. Particularly, the requests questions whether the Development qualifies as a high cost development under 10 TAC §11.9(e)(2)(A), and whether one of the letters provided appropriately expresses support for the development as required by 10 TAC §11.9(d)(6).

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that an Administrative Deficiency was not appropriate for the request as a determination could be made without one.

**Analysis and Resolution:**

10 TAC §11.9(e)(2)(A) gives the requirements for being considered a “high cost development” but does not require that a development be one to score points. Staff review indicated that the Application, as submitted, does not qualify for the 12 points requested using the hard costs calculation, but does qualify for the points using the subtotal building costs calculation. Staff review indicated that the letter submitted by the La Grange Chamber of Commerce sufficiently identifies the Development and states its support.

<b>TDHCA ID#</b>	20309	<b>Development Name:</b>	Los Ebanos
<b>City:</b>	Bishop	<b>Region:</b>	10
<b>Requester:</b>	Rick Deyoe, 20054 Gulf Shore Villas		

**Nature and Basis of Request:**

The request asks the Department to review the Application to determine whether the Applicant should have disclosed an Undesirable Site Feature due to area chemical plants and plans for a windmill farm. The request also asks whether the Application provided appropriate documentation to qualify for points under 10 TAC §11.9(c)(4) related to Opportunity Index; under 10 TAC §11.9(d)(1) related to Local Government Support; and under 10 TAC §11.9(e)(4) related to Leveraging of Private, State and Federal Resources. The request states that documentation regarding a farmland designation was not provided, suggests that there is no zoning, and questions the water and sewer expenses.

**Applicant Response to Notice of Administrative Deficiency:**

Staff sent an Administrative Deficiency regarding the Undesirable Site Feature and scoring for Leveraging of Private, State and Federal Resources, and the Applicant responded timely. In the response, the Applicant provided revised application documents to qualify for points. The Applicant stated that “[a] few mistakes from changing to the newer application occurred. They have been corrected and the Development Cost Schedule and the Sources and uses are corrected. It now shows that correct deferred amount and falls within scoring guidelines.” The Applicant provided information regarding the distance of the Development Site from the chemical plants, and an email from the ESA provider identifying the distance “as well as being topographically down-gradient from the site, and cross-gradient from the prevailing wind direction, these features do not pose a significant risk to development.”

**Analysis and Resolution:**

Staff did not consider the revised documents submitted as evidence for scoring under Leveraging of Private, State and Federal Resources, but found that the Application qualified for the points as originally submitted.

As stated in the rule, should REA staff issue an Administrative Deficiency that requires a change, then the calculation will be performed again and the score adjusted, as necessary. Staff found no Undesirable Site Features within any threshold distance of the Development Site because the closest chemical plant was nearly 2.5 miles away.

Staff review of the Application indicated that the Application included enough Opportunity Index items to score full points without using the grocery store item (or the library). No Multifamily Direct Loan funds are requested, so farmland documentation is not required. Letter from the City of Bishop confirmed that the city “cannot extend zoning, building codes or permits within the city’s ETJ.”

Regarding scoring for Local Government Support, the request questions the validity of the February 26, 2020, resolution provided in the Application. The Department has since received public comment about the issue that indicates that the City of Bishop has tabled its action to “ratify previous action taken by council at their February 24, 2020 meeting and consider adopting resolution No. 5-27-20A; a resolution in support of the Community Development of Brownsville’s application of housing tax credits for the development of affordable housing just north of Bishop, Texas to be called Los Ebanos.” In light of this proposed action by the City Council, staff determined that the resolution submitted in the Application had not been adopted before the Full Application Delivery Date in 10 TAC §11.2(a). The Applicant has received a scoring notice and will have the ability to appeal staff’s determination.

<b>TDHCA ID#</b>	20317	<b>Development Name:</b>	Merritt Edge Senior Village
<b>City:</b>	Midland	<b>Region:</b>	12
<b>Requester:</b>	Michael Fogel		

**Nature and Basis of Request:**

The request asks the Department to review whether the Application provided a complete OnTheMap report to qualify for points under 10 TAC §11.9(b)(7)(B) related to Proximity to Jobs, and whether the Application included documentation to qualify for points under 10 TAC §11.9(b)(2) related to Sponsor Characteristics. The request states that “[i]n both instances, Proximity to Jobs and Sponsor Characteristics, the applicant failed to provide sufficient supporting documentation for the points claimed (5 total). Furthermore, providing the missing support after application submission is not permitted to cure the issue.”

**Applicant Response to Notice of Administrative Deficiency:**

Staff issued an Administrative Deficiency and the Applicant responded timely. In the response, the Applicant indicated that the same information that would be included in a single narrative was included in the Nonprofit Organizations exhibit, the Previous Participation forms, and the nonprofit legal opinion. The Applicant also explained that the coordinates indicated on the application document change as the mouse is moved so do represent the coordinates entered into the program.

**Analysis and Resolution:**

Per 10 TAC §11.9 related to Competitive HTC Selection Criteria:

- (a) General Information. This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Tex. Gov't Code, Chapter 2306, Code §42, and other criteria established in a manner consistent with Chapter 2306 and Code §42. . . . Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is

required but fail to provide **any** supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. (emphasis added)

Staff review of the Application indicated that the Application included **some** support documentation to support the request for points under Proximity to Jobs, and while not a single narrative, the information indicated by the applicant in the deficiency response is included in the Application and does constitute **some** supportive documentation. Staff determined that a clarification was necessary and sent a deficiency notice requesting the Applicant provide the full OnTheMap report and a single narrative for the nonprofit’s experience and material participation.

<b>TDHCA ID#</b>	20329	<b>Development Name:</b>	Fish Pond at Huntsville
<b>City:</b>	Huntsville	<b>Region:</b>	6
<b>Requester:</b>	Vaughn Zimmerman, Zimmerman AH Albatross		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether it should be terminated because site work costs included in eligible basis exceed \$15,000 per Unit and the Application did not include a letter from a CPA as required by 10 TAC §11.204(8)(E).

**Analysis and Resolution:**

The assertion(s) in the RFAD were addressed through the Application review and deficiency process. In response to an Administrative Deficiency, the Applicant provided the CPA letter. Staff does not consider this a Material Deficiency.

<b>TDHCA ID#</b>	20342	<b>Development Name:</b>	Cottages at Cedar Ridge
<b>City:</b>	Elgin	<b>Region:</b>	7
<b>Requester:</b>	Donna Zimmerman, JZ-LZ AH BETCO, LLC		

**Nature and Basis of Request:**

The request asks the Department to review the Application above to determine whether the Application should be eligible for points under 10 TAC §11.9(c)(8) related to Readiness to Proceed.

**Applicant Response to Notice of Administrative Deficiency:**

Staff determined that a Notice of Administrative Deficiency was not necessary for this request as determination could be made without one.

**Analysis and Resolution:**

Staff had previously identified the issue and sent the Applicant a scoring notice. The Applicant appealed to the Executive Director and he denied the appeal. The appeal to the Board will be heard at the June 25, 2020 Board meeting.

6c

**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on timely filed appeal of material deficiencies in HTC Application 20030, Akins East under the Department's Multifamily Program Rules

**RECOMMENDED ACTION**

**WHEREAS**, the appeal relates to Competitive Housing Tax Credit (HTC) application 20030 Akins East, which was submitted to the Department by the Full Application Delivery Date;

**WHEREAS**, staff determined that the Application should be terminated due to a number of threshold deficiencies under 10 TAC §11.204(9) related to architectural drawings omitted from the Application, subject to the Applicant's ability to appeal;

**WHEREAS**, the Applicant timely filed an appeal; and

**WHEREAS**, the Director denied the appeal;

**NOW, therefore, it is hereby**

**RESOLVED**, that the appeal for 20030 Akins East is hereby denied.

**BACKGROUND**

HTC Application 20030 Akins East proposes the New Construction of 181 Units for an Elderly population. The Development would be located in Austin and would provide 145 restricted Units and 36 market rate Units.

10 TAC §11.204, related to Required Documentation for Application Submission, identifies the threshold documentation that is required at the time of Application submission, unless specifically indicated or otherwise required by Department rule.

Per 10 TAC §11.204(9) related to Architectural Drawings, an Application must include:

- (A) For all Developments a site plan must be submitted that includes the items identified in clauses (i) - (xii) of this subparagraph;
  - (i) states the size of the site on its face;
  - (ii) includes a Unit and building type table matrix that is consistent with the Rent Schedule and Building/Unit Configuration forms provided in the Application in labeling buildings and Units;
  - (iii) includes a table matrix specifying the square footage of Common Area space on a building by building basis;

- (iv) identifies all residential and common buildings in place on the Development Site and labels them consistently with the Rent Schedule and Building/Unit Type Configuration forms provided in the Application;
  - (v) shows the locations (by Unit and floor) of mobility and hearing/visual accessible Units (unless included in residential building floor plans);
  - (vi) clearly delineates the flood plain boundary lines or states there is no floodplain;
  - (vii) indicates placement of detention/retention pond(s) or states there are no detention ponds;
  - (viii) describes, if applicable, how flood mitigation or other required mitigation will be accomplished;
  - (ix) indicates the location and number of parking spaces, garages, and carports;
  - (x) indicates the location and number of accessible parking spaces, garages, and carports, including van accessible spaces;
  - (xi) includes information regarding local parking requirements; and
  - (xii) indicates compliant accessible routes or if a route is not accessible a cite to the provision in the Fair Housing Design Manual providing for its exemption.
- (B) Building floor plans must be submitted for each building type. Building floor plans must include the locations of the accessible Units and must also include square footage calculations for balconies, breezeways, corridors and any other areas not included in net rentable area;
- (C) Unit floor plans for each type of Unit must be included in the Application and must include the square footage for each type of Unit. Unit floor plans must be submitted for the accessible Units. Applications for Adaptive Reuse are only required to include Unit floor plans for each distinct floor plan such as one-Bedroom, or two-Bedroom, and for all floor plans that vary in Net Rentable Area by 10% from the typical floor plan; and
- (D) Elevations must be submitted for each side of each building type (or include a statement that all other sides are of similar composition as the front) and include a percentage estimate of the exterior composition and proposed roof pitch. Applications for Rehabilitation and Adaptive Reuse may submit photographs if the Unit configurations are not being altered and post-renovation drawings must be submitted if Unit configurations are proposed to be altered.

None of these documents were included in the Application. Staff sent a notice of termination to the Applicant on April 30, 2020. The notice was dated April 29, 2020, but since staff did not send the notification until April 30, 2020, the due date for appeal was May 7, 2020. The appeal was timely received.

In the appeal, the Applicant states that shortly after submitting the Application they discovered that the architectural drawings were not included, and their efforts to provide them prior to the end of the Application Acceptance Period fell short. The Applicant proposes that the submission of the Rent Schedule and the Building and Unit Configuration form provides sufficient mitigation for the absence of the architectural documents. Staff did not agree with that claim, as the only item listed above that is covered by the submission of these forms is the square footage of the Units, and the Executive Director denied the appeal.



Because the Application did not include the documents and information required under 10 TAC §11.204(9) related to Architectural Drawings, Staff recommends the Board deny the appeal.

20030  
Akins East  
Termination Letter



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
Leslie Bingham, *Vice Chair*  
Paul A. Braden, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

April 29, 2020

*Writer's direct dial: 512/475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Matthew Rieger  
HTG Akins, LLC  
3225 Aviation Avenue, 6<sup>th</sup> Floor  
Coconut Grove, FL 33133

RE: STATUS OF 2020 COMPETITIVE HOUSING TAX CREDIT APPLICATION 20030 AKINS EAST, AUSTIN

Dear Mr. Rieger:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the application submission indicated above. Staff review indicates that the Application has a number of threshold deficiencies under 10 TAC §11.204(9) related to architectural drawings, including but not limited to those listed below.

1. The Application did not include a Development Site Plan, as required by §11.204(9)(A), and did not include the information required under subclauses (i) – (xii);
2. the Application did not include building floor plans, as required by §11.204(9)(B);
3. the Application did not include Unit floor plans, as required by §11.204(9)(C), and;
4. the Application did not include building elevations, as required by §11.204(9)(D).

Per 10 TAC §11.1(d)(78) related to Material Deficiency, staff has determined individually and collectively, that the listed deficiencies are properly characterized as constituting Material Deficiencies. Accordingly, the Application is terminated, pending the Applicant's ability to appeal.

An appeal process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in 10 TAC §11.902 of the 2020 QAP. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further



20030 Application Status

April 29, 2020

Page 2

appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instructions on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

Marni

Holloway

Marni Holloway

Multifamily Finance Director

Digitally signed by  
Marni Holloway  
Date: 2020.04.30  
11:54:42 -05'00'

# Appeal Documents



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May 7, 2020

Bobby Wilkinson  
Executive Director  
Texas Dept. of Housing & Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

Via Email

Re: Appeal of Termination Letter dated April 29, 2020  
HTG Akins, LLC – Akins East (TDHCA# 20030)

Dear Mr. Wilkinson,

HTG Akins, LLC in accordance with 10 TAC §11.902(a)(8) and §11.902(c) (“Appeals Process”) of the Qualified Allocation Plan, submits this letter as formal Appeal of the application Termination Letter dated April 29, 2020.

The termination letter referenced above, states that Application 20030, Akins East did not include the following exhibits:

1. The Application did not include a Development Site Plan, as required by §11.204(9)(A), and did not include the information required under subclauses (i) – (xii);
2. the Application did not include building floor plans, as required by §11.204(9)(B);
3. the Application did not include Unit floor plans, as required by §11.204(9)(C), and;
4. the Application did not include building elevations, as required by §11.204(9)(D).

On February 28<sup>th</sup> two versions of the Akins East application were uploaded to the TDHCA FTP server. The first application file named “TDHCA #20030 – Akins East – Full App.pdf” was uploaded at 4:25 pm. At 4:55 pm, another application with the file name “TDHCA #20030 – Akins East – Full App\_Revised.pdf” was uploaded to the FTP server. When the initial application was uploaded at 4:25 we soon realized that the file did not include the architectural plans. Upon realizing that the application did not include the architectural plans, our staff moved quickly to insert the plans into the application file and re-submit. Unfortunately, there were multiple staff members working in the PDF file simultaneously and the application file was incorrectly saved and ultimately that tab was not uploaded.

We learned on Monday, March 2<sup>nd</sup> after internally circulating the master uploaded file that we had inadvertently omitted of the architectural documents. In previous application years, best practice for an omission of this nature would be to wait for staff to determine administrative deficiency and respond accordingly. We would have certainly liked to contact staff upon the discovery, but respectfully understand the volume of matters in front of them upon application submission.

We honestly considered that this omission would be addressed through administrative deficiency rather than a termination. Since there are technical aspects regarding project characteristics throughout the tabs of the application that can only be generated by architectural drawings (Rent Schedule & Building Unit Configuration), submitting arbitrary and false information would violate the applicant’s certification.

We are respectfully requesting that staff's decision to terminate Akins East be overturned and that our application be given a Selection and Threshold review. We are requesting Akins East be reinstated for the simple reason that the omission was identified in time, and it was only our remedy that fell short. We have not revised any of our architectural plans since application submission and certify that we have not "benefited" from any additional time. At the application deadline, we were in receipt of the full set of architectural drawings and site plan. The uploaded application included both the Rent Schedule and Building Unit Configuration Tabs, which evidences that the architectural plans were in our possession. The unit mix, sizes and building numbers are identical to the architectural plans which we have uploaded to the FTP server as "Akins East Appeal Support Documentation." We have enclosed emails from the architect and engineer which included the final design exhibits.

We understand that staff review of Akins East can be attributed to the terminations of applications 20041, and 20040, which are both pending appeal. Furthermore, we recognize that approval of our appeal in no way guarantees Akins East will receive an award of tax credits.

In closing, we humbly ask that you approve our appeal for Akins East. We believe TDHCA staff and the Governing Board members have recently set precedent that applications should not be terminated or penalized for inconsequential errors. We would like to once again highlight Akins East as the development that contributes most to the East MLK Combined Neighborhood Plan. Akins East scores competitively and is proposing to offer the most affordable units of any other development in Region 7.

Thank you for your consideration. If you have any questions or need any additional information, please feel free to contact Val DeLeon at 512-417-0985 or [valentind@htgf.com](mailto:valentind@htgf.com).

Sincerely,



Matthew Rieger  
Manager of Managing Member,  
HTG Akins, LLC

Enclosures

Name	Size	Time
Phase 1 ESA - Akins East - 02.18.20.pdf	106.49 MB	2/27/2020, 12:34:43 PM
TDHCA #20030 - Akins East - Full App.pdf	129.68 MB	2/28/2020, 4:25:16 PM
TDHCA #20030 - Akins East - Full App.xlsx	2.51 MB	2/28/2020, 4:25:31 PM
TDHCA #20030 - Akins East - SIR.pdf	15.84 MB	2/28/2020, 4:25:47 PM
TDHCA #20030 - Akins East - Full App_REVISSED.xlsx	2.51 MB	2/28/2020, 4:46:04 PM
TDHCA #20030 - Akins East - Full App_REVISSED.pdf	131.1 MB	2/28/2020, 4:55:07 PM
20030_Akins East_Market Study.pdf	6.03 MB	3/30/2020, 3:56:42 PM

Initial Application Upload

Revised Application Upload



Valentin Deleon

---

From: Joel Albea <jca@overlandpartners.com>  
Sent: Friday, February 28, 2020 12:02 PM  
To: Valentin Deleon  
Cc: Megan Silva; Grayson Hughes  
Subject: Akins East Architectural Update with Latest Civil Background  
Attachments: Akins East\_2020 02 28.pdf

Architectural Attachment

Val – Please see attached Architectural package updated to reflect the latest civil site plan on the garage level and level 1. Everything else is the same as before.

Thanks,  
Joel Albea, MBA, AIA, LEED AP  
ASSOCIATE PRINCIPAL

*Relator | Competition | Achiever | Strategic | Command*

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Valentin Deleon

---

From: Megan Silva <megan.silva@wginc.com>  
Sent: Thursday, February 27, 2020 5:44 PM  
To: Valentin Deleon; Joel Albea  
Cc: Jonathan Williamson; Grayson Hughes  
Subject: Akins Civil Package  
Attachments: Mimecast Large File Send Instructions

Attachment from Civil Engineer with Site Plan



I'm using Mimecast to share large files with you. Please see the attached instructions.

---

Val-  
Please see attached SIR, Site Plan, and CAD file for the Akins site. Please let me know if you need anything changed by tomorrow.

Thanks!

# TDHCA Response



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
Leslie Bingham, *Vice Chair*  
Paul A. Braden, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

May 21, 2020

*Writer's direct dial: (512) 475-3296*  
*Email: [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)*

Matthew Rieger  
HTG Akins, LLC  
3225 Aviation Avenue, 6<sup>th</sup> Floor  
Coconut Grove, FL 33133

RE: APPEAL RESPONSE FOR 2020 COMPETITIVE HOUSING TAX CREDIT APPLICATION 20030 AKINS EAST, AUSTIN

Dear Mr. Rieger:

The Texas Department of Housing and Community Affairs ("the Department") received your appeal dated May 7, 2020, for the application indicated above. Staff review indicated that the Application had a number of threshold deficiencies under 10 TAC §11.204(9) related to architectural drawings. Because the documents were omitted from the Application, the Application was terminated pending your ability to appeal.

The appeal states that shortly after submitting the application you discovered that the architectural drawings were not included, and your efforts to provide them prior to the end of the Application Acceptance Period were not successful. I do not agree that the submission of the Rent Schedule and the Building and Unit Configuration form provides sufficient evidence of satisfaction of the submission of the multitude of detailed architectural documents required as part of the application by 10 TAC §11.204(9).

You further state in your appeal that you had presumed that the omission of the architectural drawings from this Application would be addressed by staff through the administrative deficiency process. By definition, though, an administrative deficiency allows an applicant "to provide non-material missing information" at staff's request. See 10 TAC §11.1(d)(2). Here, the materiality of the omitted documents is beyond question; the Application did not contain any of the QAP-required architectural drawings describing the proposed development. Accordingly, I am denying the appeal.



If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have any questions or require further information, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or by phone at 512-936-7834.

Sincerely,

A handwritten signature in black ink, appearing to read "Bobby Wilkinson", with a stylized flourish at the end.

Bobby Wilkinson  
Executive Director

# Board Appeal Documents



May 29, 2020

Governing Board Members  
Texas Dept. of Housing & Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

Via Email

Re: Appeal Response Letter dated May 21, 2020  
HTG Akins, LLC – Akins East (TDHCA# 20030)

Dear Board Members,

HTG Akins, LLC, in accordance with 10 TAC §11.902(d) of the Qualified Allocation Plan (“Appeals Process”), hereby submits this letter as our formal Appeal of the Appeal Response Letter dated May 21, 2020.

The Appeal Response letter referenced above, states that Application 20030, Akins East did not include the following exhibits:

1. Site Plan, as required by §11.204(9)(A), and did not include the information required under subclauses (i) – (xii);
2. building floor plans, as required by §11.204(9)(B);
3. Unit floor plans, as required by §11.204(9)(C), and;
4. building elevations, as required by §11.204(9)(D).

On February 28, 2020 two versions of the Akins East application were uploaded to the TDHCA FTP server. The first application file named “TDHCA #20030 – Akins East – Full App.pdf” was uploaded at 4:25 pm. Immediately upon realizing that the file uploaded at 4:25 pm did not include the architectural plans, we moved quickly to re-submit our application with the architectural plans. At 4:55 pm, a second application with the file name “TDHCA #20030 – Akins East – Full App\_Revised.pdf” was uploaded to the FTP server, however, due to the fact that multiple staff members were working in the application PDF file simultaneously, the version of the application which was uploaded at 4:55 pm did not contain our architectural plans.

On Monday, March 2, 2020 we circulated the master application file sent to TDCHA at 4:55 pm on February 28, 2020 and realized our error. Again, the architectural plans were not in our application. In previous application years, best practice for an omission of this nature would be to wait for staff to determine administrative deficiency and respond accordingly. We would have liked to contact staff upon the discovery, but we understand and respect the process.

It was our firm expectation that this error would be addressed through administrative deficiency rather than a termination. Since there are no scoring implications and the technical aspects regarding project characteristics throughout the tabs of the application can only be generated by architectural drawings (Rent Schedule & Building Unit Configuration), submitting arbitrary and false information would violate the applicant’s certification.

The QAP's definition of Material Deficiency reads, "...**Inability to provide documentation that existed prior to submission of an Application to substantiate claimed points or meet threshold requirements is material and may result in denial of the requested points or a termination in the case of threshold items.**" [Emphasis added] We assert that the Threshold items in question did exist prior to submission of the Application and that instead of termination, staff should have asked for proof that we were in receipt of the Threshold exhibits. We provided such information in our original appeal to Executive Director Wilkinson and have attached it again for reference.

It is important to note that we believe that this Board has already established precedent regarding how to handle this situation. At the board meeting held on May 25, 2017 similar appeals were granted for project numbers 17148, 17363, and 17306.

Most relatable to this appeal regarding missing information from the application is the appeal for TDHCA Project 17363 Long Branch starting on page 100 of the 170525-Board Transcript. On 17363, Mr. Eccles pointed out that the "crux of this [the appeal] is whether staff should have asked under an administrative deficiency for those things that were not submitted in the application." Mr. Eccles further posed this question to the Board "I think going to be the most relevant to what the Board does next, had these materials now, whether you ask for them or not, joined the record such that the appeal was granted, points would be available." Ms. Holloway stated items submitted in a deficiency response "become part of the application document." Ms. Holloway even testified that the applicant after the deadline, and upon the deficiency request "submitted more information that should have been included in the application to begin with." The Attorney for application 17363 pointed out that other places in the application had similar information that clearly would support what was submitted. In the 17363 Long Branch appeal, Ms. Bingham Escareno moved to approve the appeal for the supplemental information be included in 17363 Long Branch and Mr. Vasquez seconded. At the call for the question, all voted in favor.

In closing, we humbly ask that you grant our appeal for Akins East. We believe TDHCA staff and the Board have recent precedent to guide them that applications should not be terminated or penalized for inconsequential errors. Additionally, we would like to once again highlight Akins East as the development that contributes most to the East MLK Combined Neighborhood Plan. Akins East scores competitively and is proposing to offer the most affordable units of any other development in Region 7.

Thank you for your consideration. If you have any questions or need any additional information, please feel free to contact Val DeLeon at 512-417-0985 or [valentind@htgf.com](mailto:valentind@htgf.com).

Sincerely,



Matthew Rieger  
Manager of Managing Member,  
HTG Akins, LLC

Enclosures





## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
Leslie Bingham, *Vice Chair*  
Paul A. Braden, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

May 21, 2020

*Writer's direct dial: (512) 475-3296*  
*Email: bobby.wilkinson@tdhca.state.tx.us*

Matthew Rieger  
HTG Akins, LLC  
3225 Aviation Avenue, 6<sup>th</sup> Floor  
Coconut Grove, FL 33133

RE: APPEAL RESPONSE FOR 2020 COMPETITIVE HOUSING TAX CREDIT APPLICATION 20030 AKINS EAST, AUSTIN

Dear Mr. Rieger:

The Texas Department of Housing and Community Affairs ("the Department") received your appeal dated May 7, 2020, for the application indicated above. Staff review indicated that the Application had a number of threshold deficiencies under 10 TAC §11.204(9) related to architectural drawings. Because the documents were omitted from the Application, the Application was terminated pending your ability to appeal.

The appeal states that shortly after submitting the application you discovered that the architectural drawings were not included, and your efforts to provide them prior to the end of the Application Acceptance Period were not successful. I do not agree that the submission of the Rent Schedule and the Building and Unit Configuration form provides sufficient evidence of satisfaction of the submission of the multitude of detailed architectural documents required as part of the application by 10 TAC §11.204(9).

You further state in your appeal that you had presumed that the omission of the architectural drawings from this Application would be addressed by staff through the administrative deficiency process. By definition, though, an administrative deficiency allows an applicant "to provide non-material missing information" at staff's request. See 10 TAC §11.1(d)(2). Here, the materiality of the omitted documents is beyond question; the Application did not contain any of the QAP-required architectural drawings describing the proposed development. Accordingly, I am denying the appeal.



If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

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Sincerely,

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Bobby Wilkinson  
Executive Director

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Initial Application Upload

Revised Application Upload

Valentin Deleon

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Sent: Friday, February 28, 2020 12:02 PM  
To: Valentin Deleon  
Cc: Megan Silva; Grayson Hughes  
Subject: Akins East Architectural Update with Latest Civil Background  
Attachments: Akins East\_2020 02 28.pdf

Architectural Attachment

Val – Please see attached Architectural package updated to reflect the latest civil site plan on the garage level and level 1. Everything else is the same as before.

Thanks,  
Joel Albea, MBA, AIA, LEED AP  
ASSOCIATE PRINCIPAL

*Relator | Competition | Achiever | Strategic | Command*

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Valentin Deleon

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To: Valentin Deleon; Joel Albea  
Cc: Jonathan Williamson; Grayson Hughes  
Subject: Akins Civil Package  
Attachments: Mimecast Large File Send Instructions

Attachment from Civil Engineer with Site Plan



I'm using Mimecast to share large files with you. Please see the attached instructions.

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Val-  
Please see attached SIR, Site Plan, and CAD file for the Akins site. Please let me know if you need anything changed by tomorrow.

Thanks!



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

The University of Texas at Austin  
Thompson Conference Center  
Room 3.102  
2405 Robert Dedman Drive  
Austin, Texas

May 25, 2017  
9:02 a.m.

BOARD MEMBERS:

J.B. GOODWIN, Chair  
LESLIE BINGHAM ESCAREÑO, Vice Chair  
PAUL BRADEN, Member  
TOM H. GANN, Member  
ASUSENA RESÉNDIZ Member  
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director

1 Board grant our appeal, and award two points to this  
2 application.

3 MR. GOODWIN: Thank you.

4 MS. MARTIN: Thank you.

5 MR. GOODWIN: Any questions?

6 (No response.)

7 MR. GOODWIN: Any other speakers?

8 (No response.)

9 MR. GOODWIN: If not, we will take a vote on  
10 the motion. All those in favor, say aye.

11 (A chorus of ayes.)

12 MR. GOODWIN: Any opposed?

13 (No response.)

14 MR. GOODWIN: The appeal is granted.

15 MS. MARTIN: Thank you.

16 MR. GOODWIN: Thank you. The next group?

17 MS. HOLLOWAY: You ready? The next application  
18 is 17363, for Residences of Long Branch. The application  
19 does not qualify for three points under 10 TAC 11.9(c)(6),  
20 related to underserved area. Because the site does not  
21 include -- the application does not include evidence that  
22 the development site is in a census tract within the  
23 boundaries of an incorporated area.

24 And four points under 11.9(d)(6) related to  
25 input from community organizations. Because the



1 application did not include evidence of the organizations  
2 that provided letters to score points under this item are  
3 tax-exempt organizations.

4 This one is a little bit different than the  
5 ones that we talked about. Because we just don't have  
6 evidence within the application. This is something that  
7 potentially would have been curable in the past. I can't  
8 tell you that for sure.

9 So this is one of those places that we need  
10 your direction. For 11.9(c)(6), part of that rule says,  
11 the application contains evidence substantiating  
12 qualification for the points.

13 The appeal asserts that staff could use various  
14 documents within the application to conclude that the site  
15 qualifies for the points. The application did not include  
16 documentation of the boundaries of the entire census  
17 tract, or of the positioning of those boundaries relative  
18 to the boundaries relative to the boundaries of the  
19 incorporated area.

20 So there was a map somewhere else in the  
21 application that we could go to, to verify that. On input  
22 from community organizations, the development site must  
23 now fall within the boundaries of any qualifying  
24 neighborhood organization.

25 And the application must include support

1 letters from a tax-exempt community or civic organization  
2 that serves the community in which the development site is  
3 located. The Applicant included such letters and  
4 screenshots from the organization's websites, but did not  
5 include evidence that the organizations were tax-exempt.

6 The rule states in part that if the community  
7 or civic organization must provide evidence of its tax-  
8 exempt status. The letters and screenshots of the  
9 organization's website self describing themselves as  
10 nonprofit are not commonly accepted as reliable evidence  
11 of a tax-exempt status.

12 The appeal states that they should be able to  
13 correct these omissions through an administrative  
14 deficiency. Staff is recommending that the Board deny the  
15 appeal.

16 MR. GOODWIN: Any questions?

17 (No response.)

18 MR. GOODWIN: Since the circumstances are a  
19 little different on this one, compared to the others, how  
20 many would fall into this similar category?

21 MS. HOLLOWAY: Probably several.

22 MR. GOODWIN: Several?

23 MS. HOLLOWAY: Several.

24 MR. GOODWIN: Okay.

25 MS. HOLLOWAY: This one is not as -- we are

1 requesting two points instead of three points. It is, we  
2 are requesting three points. And if you would have let us  
3 provide additional information, we could prove it up.

4 MR. GOODWIN: Okay.

5 MS. HOLLOWAY: And the same with the community  
6 organizations.

7 MR. GOODWIN: And was the additional  
8 information, should it, or should it not have been  
9 included in the original application?

10 MS. HOLLOWAY: It should have been included in  
11 the original application. This is, again goes back to  
12 that -- what is allowable under an administrative  
13 deficiency. What can we fix. What can we not fix?

14 MR. GOODWIN: And the others, we had that  
15 information within the application.

16 MS. HOLLOWAY: Right.

17 MR. GOODWIN: It is allows us to go from three  
18 points to two points, or twelve to eleven.

19 MS. HOLLOWAY: Uh-huh.

20 MR. GOODWIN: But here, there is no information  
21 in the application. It would have to be supplied as  
22 supplemental information?

23 MS. HOLLOWAY: Yes.

24 MR. GOODWIN: Okay.

25 MS. HOLLOWAY: Absolutely.

1 MR. GOODWIN: So this time, I look for a motion  
2 to accept public comment before we get into --

3 MS. BINGHAM ESCAREÑO: I will so move.

4 MR. GOODWIN: So moved?

5 MR. GANN: Seconded by Mr. Gann.

6 MR. GOODWIN: All in favor, say aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Okay.

9 MS. BINGHAM ESCAREÑO: Mr. Chairman, can I ask  
10 Marni a question real quickly.

11 MR. GOODWIN: Sure.

12 MS. BINGHAM ESCAREÑO: Because I may not have  
13 heard you. Did you say just a minute ago that this one,  
14 just this one right now that we are doing, that something  
15 like this in the past was satisfied with an administrative  
16 deficiency?

17 MS. HOLLOWAY: Potentially.

18 MS. BINGHAM ESCAREÑO: Okay. That is fine.  
19 Yes. I didn't mean to pin you in. I just didn't know if  
20 I heard "was" or "wasn't."

21 MS. HOLLOWAY: Yes.

22 MS. BINGHAM ESCAREÑO: Okay. I have got you.

23 MR. GOODWIN: Okay.

24 MR. LITNER: Good morning, Chairman. Members  
25 of the Board. My name is Craig Litner with Pedcor

1 Investments. And I am representing the Applicant, of  
2 Residence of Long Branch.

3 Pedcor has submitted several applications over  
4 the past few years, and we are very familiar with the  
5 review process. We do a good job, to the point that staff  
6 used our 9 percent application from last year as an  
7 example at this year's workshop.

8 That being said, like everyone else has said  
9 today, it is impossible to submit a perfect application.  
10 And when we received the mistakes or deficiencies, we own  
11 the mistake. We correct those deficiencies in a timely  
12 manner and we try not to make those mistakes again.

13 The difference here is that we are having  
14 trouble owning mistakes that don't exist. First, the site  
15 definitely qualifies for three underserved points. There  
16 is no doubt that the site is within a census tract with no  
17 other existing tax credit developments.

18 The application requires that we submit a  
19 census tract map showing the location of the site, and  
20 indicate that we are requesting three points, which we did  
21 in Tabs 8 and 9. Tab 10 is a checklist of supporting  
22 documentation, which is in your supplemental Board book on  
23 page 188.

24 And it is important because unlike a colonia or  
25 an economically distressed area, there is no requirement

1 to submit another census tract map. And this makes sense  
2 because a census tract map is already submitted, which is  
3 all you needed to determine eligibility for points.

4 As we pointed out in our appeal to the  
5 Executive Director, we submitted the exact same thing last  
6 year, and were awarded points. And neither the  
7 application or scoring is changed in a material way. So  
8 there was no lesson that we should have learned from a  
9 previous application.

10 Still, when staff issued the deficiency this  
11 year, we went ahead and sent in another map, zoomed out  
12 slightly farther, to show the entire census tract.  
13 Nowhere in the rural application, manual, anywhere, did  
14 staff ask for a map that shows the entire boundary of the  
15 census tract or the city boundaries, which is again, the  
16 same as last year.

17 And this is where our frustration comes in,  
18 where it is hard to take ownership of a mistake. We  
19 submitted the map in the original application. When there  
20 was a request for another map, we submitted that. But we  
21 are still in a position where staff wants to dock points.

22  
23 So we have done everything we have been asked  
24 to do. And as you just heard from Marni earlier today,  
25 relative to Blue Flame, staff actively went out and

1 researched that site to make sure that it was in a  
2 community revitalization area.

3 But yet, the write-up for this item says, staff  
4 does not engage in proving that an application qualifies  
5 for points. So those two things contradict each other.

6 This application also qualifies for points for  
7 input from community organizations. The fact is we  
8 submitted two letters from two organizations that are tax-  
9 exempt. As was suggested in the workshop this year, we  
10 were to submit screenshots, which we did. Yet the  
11 supplement of the Board book says that letters and the  
12 screenshots of the organization's websites self-  
13 describing them as being nonprofit are not commonly  
14 accepted, even though this was suggested in the workshop.

15  
16 So again, another contradiction. But again,  
17 the real key here is that the application materials for  
18 this item do not require specific documentation. There is  
19 nothing specific that is required.

20 So when staff issued the deficiency, asking  
21 about the status, we pointed to the information in the  
22 letters themselves, which clearly state that they are  
23 nonprofits. We also sent in more information, as well as  
24 the determination letters from the IRS, and we did this in  
25 a timely manner.

1           So once again, we are struggling to understand  
2 when it was that we didn't do what was requested. And  
3 again, we have done everything we were asked to do.

4           So I am here today to respectfully request that  
5 you award our appeal, or grant our appeal and award the  
6 points for both underserved areas and input from community  
7 organizations. Thank you.

8           MR. GOODWIN: Thank you. Any questions?

9           (No response.)

10          MR. GOODWIN: Thank you.

11          MR. SHACKELFORD: Good morning. John  
12 Shackelford, with Shackelford, Bowen, McKinley and Norton  
13 in Dallas, and we represent the Applicant on this matter.

14  
15           Good morning, Mr. Goodwin -- Chairman Goodwin,  
16 the rest of the members of the Board and Mr. Irvine and  
17 Mr. Eccles. To the new Board members, welcome to the  
18 circus. We appreciate you giving of your time.

19           As Mr. Litner just described, you know our  
20 first position is that we think that we did satisfy the  
21 rules. The people that put together the applications, as  
22 Mr. Litner mentioned to you, had done these in the past.  
23 We have been a model for doing good applications.

24           We think we have satisfied the rules as  
25 written. We try to be cognizant of what the new rules



1 are. Nothing really changed in this point-scoring item  
2 from the previous year.

3 The things that Mr. Litner mentioned that we  
4 had provided to staff was what was provided in previous  
5 years. And so we think we complied.

6 Alternatively, just assume for a moment, if we  
7 did not, in this view that staff is taking this year, let  
8 me speak to that.

9 In addition to agreeing with what Mr. Jackson  
10 said earlier, and Ms. Martin and Ms. Latsha and Ms.  
11 Anderson, agree with all of what they had to say. And Ms.  
12 Bingham, Commissioner, what you said at the outset, too.

13 Staff and Board members already recognize that  
14 there has been a shift. What I would like to say to the  
15 new Board members is, this is not just a small shift by  
16 staff. This is a seismic shift by staff in how the  
17 approach is to the administrative deficiency process.

18 And I appreciate what Marni said earlier today  
19 as well, as just sort of clarifying her comments that she  
20 made at the last month's Board meeting. I think that was  
21 very generous on her part to do that. So we think, first  
22 off, that we complied with the rule as it is.

23 But secondly, if we did not, we think this does  
24 fall under the administrative deficiency process under the  
25 10 TAC rules that Marni mentioned earlier, that was read

1 into the record by Mr. Jackson. We think this is just  
2 supplementing material that could be supplemented.

3 The rules don't require that the census tract  
4 map show that it is entirely within the boundaries. Staff  
5 easily could have asked us, hey, can you supplement your  
6 application with respect to this, and we would have done  
7 so. Same for the community points as well.

8 In addition to the screenshots, the letters  
9 from the nonprofit entities themselves saying that they  
10 are nonprofits. If they had said, you know, can you  
11 supplement that by providing us with the IRS determination  
12 letters, we could have done that.

13 So we have been consistent with what we have  
14 done in the past. And the other point I would like to  
15 make before we get off this administrative deficiency  
16 process is, I want to echo what Barry Palmer said as well,

17 In connection with the change in the point  
18 system is, you know, if staff wanted to make a change in  
19 policy on how they are going to interpret what complies  
20 with the administrative deficiency process, I feel like  
21 something that has changed this dramatically from a  
22 historical perspective, fair notice should have been given  
23 to the development community. And I feel like there was  
24 an oversight, probably on staff, that that wasn't done,  
25 starting last year, in the workshops, leading into this

1 year. But by the time the applications got put together,  
2 and then we find out just last month that staff is taking  
3 a different position. I think that is inequitable.

4 And as Mr. Palmer mentioned, these applicants,  
5 they spend \$50,000 to he said, maybe \$75,000. I have seen  
6 some use as much as \$100,000 on these applications. That  
7 is no small amount of money to have at risk, and to have  
8 their application be jeopardized.

9 And not being able to just provide some  
10 supplemental information that we think we have already  
11 complied with in the first place. So I respectfully  
12 request that you grant the appeal of this Applicant.

13 MR. GOODWIN: Any questions?

14 MR. BRADEN: Mr. Chair?

15 MR. GOODWIN: Yes.

16 MR. BRADEN: When was the 501(c)(3)  
17 determination letter provided?

18 MR. SHACKELFORD: Well, we got an  
19 administrative deficiency notice. But it said please  
20 explain our position on why we thought we were entitled to  
21 the points. But we were not allowed to submit any  
22 additional information and that sort of that approach that  
23 has taken this year on the administrative deficiency  
24 process.

25 Despite the statement, don't provide us

1 anything, we provided it anyway. Just to try to make --  
2 play it safe. So we ended up providing to the Department  
3 those IRS determination letters.

4 MR. BRADEN: It wasn't provided as part of the  
5 original application?

6 MR. SHACKELFORD: No, because we didn't think  
7 we needed to, under what is required in the application.  
8 Our interpretation of what is required in the application  
9 or in the procedures manual, or by what is required by the  
10 rules.

11 MR. GOODWIN: Any other questions?

12 (No response.)

13 MR. GOODWIN: Thank you, John.

14 MR. SHACKELFORD: Thank you.

15 MS. BAST: Cynthia Bast again, from Locke Lord,  
16 here to support the appeal for this Applicant. For our  
17 new Board members, I will note that you will be seeing a  
18 lot of the Shackelford firm, the Coats Rose firm, and the  
19 Locke Lord firm, because we regularly represent these  
20 applicants.

21 But what you don't normally see is all of us  
22 getting up here and agreeing with one another, and being  
23 on the same page. And today, we pretty much are, with  
24 regard to seeking the Board's determination that we need  
25 to continue with the long-standing practice.

1           While we are here arguing about administrative  
2 deficiencies, and whether a map was zoomed out far enough,  
3 or placed behind one tab or another, I would like to point  
4 back to something that Ms. Martin brought up, which is the  
5 policy objectives of this program, as given to us by the  
6 Legislature in a very legislative QAP with certain  
7 priorities.

8           This particular development meets so many of  
9 the policy objectives, in the Government Code and the  
10 rules. And the Applicant simply wants to point those out,  
11 so that that concept doesn't get missed in the minutiae of  
12 these arguments.

13           This is a site that is right on a bus route,  
14 within a half mile of commuter rail. It is rich in  
15 amenities, with a library, a park, grocery store, jobs,  
16 good schools. Even the community organization which  
17 provided a letter of support is within walking distance  
18 with a thrift store and a food bank.

19           Now, everyone thinks that they have a good  
20 deal. And for the most part, that is true. Everyone  
21 does. And it is going to make a tremendous impact on  
22 whatever community gets a tax credit deal, but that is  
23 exactly why we have these point priorities.

24           And to take these points away for this level of  
25 technicality does not meet the policy objectives set forth

1 in our governing statute, and our rules for this agency.  
2 And so we ask you to consider that as you regard this  
3 appeal. Thank you.

4 MR. GOODWIN: Any questions?

5 MR. ECCLES: I have a question for Marni,  
6 actually.

7 MR. GOODWIN: Okay.

8 MS. HOLLOWAY: Yes.

9 MR. ECCLES: Now, on this appeal, we are  
10 talking about two things; underserved areas under  
11 11.9(c)(6).

12 MS. HOLLOWAY: Yes.

13 MR. ECCLES: Which includes the requirement  
14 that the application contain evidence substantiating  
15 qualification for the points.

16 MS. HOLLOWAY: Yes.

17 MR. ECCLES: And in this instance, a census  
18 tract within the boundaries of an incorporated area where  
19 the census -- an incorporated area that has not received a  
20 competitive tax credit allocation, and it continues from  
21 there.

22 MS. HOLLOWAY: That is correct.

23 MR. ECCLES: The staff's position was, such  
24 evidence did not exist in the original application. But  
25 it, upon request has provided now?

1 MS. HOLLOWAY: The administrative deficiency  
2 that -- how we are approaching deficiencies this year is,  
3 we found this issue on their application. Please explain  
4 to us how you still meet this criteria without submitting  
5 additional information.

6 Going back to, Applicants may not supplement  
7 their application. That is kind of the crux of this one.

8 In many cases, they have been able to say, oh, there is  
9 this other map for this other thing somewhere else in the  
10 application. And we would say, okay, that works. In this  
11 instance, we did not have that available to us.

12 MR. ECCLES: The same for the second part of  
13 this appeal where 11.9(d)(6) includes the requirement that  
14 quote community or civic organizations must provide  
15 evidence of its tax-exempt status.

16 MS. HOLLOWAY: Correct.

17 MR. ECCLES: Such a proffer from the community  
18 organization was not made initially, but subsequently upon  
19 not you asking for it under an administrative deficiency,  
20 but it was proffered anyway.

21 MS. HOLLOWAY: Correct.

22 MR. ECCLES: So really, the crux of this is  
23 whether staff should have asked under an administrative  
24 deficiency for these things that were not in the  
25 application as stated by the rule and interpreted by

1 staff.

2 MS. HOLLOWAY: Yes. I would agree with that.

3 MR. ECCLES: And this is the question that is,  
4 I think going to be most relevant to what the Board does  
5 next. Had these materials now, whether you ask for them  
6 or not, joined the record such that if the appeal were  
7 granted, points would be available under the requested  
8 sections.

9 MR. IRVINE: In other words, phrased another  
10 way, if it is granted, will the record have substantiation  
11 for the points that are conferred?

12 MS. HOLLOWAY: I would imagine that if the  
13 deficiency response included those items and they are  
14 posted to the application, in the deficiency response  
15 section, of course, that becomes part of the application  
16 document.

17 MR. ECCLES: However, here they were not asked  
18 for in the administrative deficiency process.

19 MS. HOLLOWAY: Well, and I don't know that we  
20 are sort of parsing out what we asked for and what we  
21 didn't ask for. We are just putting it in there.

22 MR. IRVINE: Well, I also think that to the  
23 extent that we are asking for more guidance on how to  
24 administer the administrative deficiency, it is within  
25 their larger authority to say yes. Treat this one as an



1 administrative deficiency and accept that as a response.

2 MR. ECCLES: Indeed. And that is what I am  
3 trying to delineate where the record is, where the  
4 application is at this moment, as it relates to the points  
5 initially requested.

6 MS. HOLLOWAY: As it relates to the points,  
7 they have received a scoring notice that takes away the  
8 points for these two items. Because their response in  
9 their administrative deficiency, while it provided this  
10 information we didn't ask for, they did not tell us how  
11 the application as submitted meets these requirements.

12 MR. ECCLES: But the matters that they have  
13 submitted at this point, would they satisfy --

14 MS. HOLLOWAY: Had they been in the application  
15 to begin with, there never would have been a deficiency.

16 MR. ECCLES: Yes. That is where I am going.

17 MR. GOODWIN: Okay.

18 MS. BINGHAM ESCAREÑO: But you have them in  
19 your hand now. You have the two -- whatever documents  
20 satisfied those two --

21 MS. HOLLOWAY: The Applicant went ahead and  
22 sent more than we requested, and included the information  
23 that should have been in the application to begin with.

24 MR. GOODWIN: Okay.

25 MR. BRADEN: So historically, with respect to

1 the evidence of tax-exempt status, have we asked for and  
2 received 501(c)(3) letters?

3 MS. HOLLOWAY: Actually what I found out that I  
4 thought was a little distressing was that in years past,  
5 if that information wasn't there, that program staff,  
6 reviewers were going and looking for it and doing that  
7 research for the Applicants. And actually, I need to  
8 speak to this -- the research comment about Blue Flame.

9 I was actually doing research to shore up my  
10 position that that site was outside of the CRP when I  
11 found that terms thing. So I mean, I was getting it all  
12 together to come talk to you all and found out that in  
13 fact, this was the true situation. And you can't unknow  
14 what you know. So there is the distinction.

15 MR. GOODWIN: Great.

16 MR. BRADEN: But the factual matter, the  
17 Applicant was a 501(c)(3) entity. This determination is  
18 probably years old. It is not like they got a recent  
19 determination?

20 MS. HOLLOWAY: I don't know the age of that  
21 particular organization that was providing that support.  
22 I am aware that yes, sometimes letters get stale. We do  
23 not have a current requirement and rule for --

24 MR. BRADEN: No. What I am trying to determine  
25 is, they didn't neglect to put it in the file, because

1 they were waiting for it to show up in the mail.

2 MS. HOLLOWAY: I don't believe so. I would  
3 imagine, if that was the issue, we would have heard that.

4 MR. GOODWIN: But Paul, I want to make sure  
5 that it is -- this is some entity supporting the  
6 application, not the Applicant.

7 MR. BRADEN: Right. That is correct.

8 MS. HOLLOWAY: Right.

9 MR. GOODWIN: Okay. John, you wanted to make  
10 another comment?

11 MR. SHACKELFORD: Just real quick, Mr. Eccles.  
12 John Shackelford, here on behalf of the Applicant. We  
13 did provide a map in the original application, just for  
14 clarity's sake.

15 There was a map in there, showing the location  
16 of the site, showing the census tract. The map that staff  
17 is asking for, in hindsight, that is not required by the  
18 rules. I would say it is almost as if we have to read  
19 their minds for what they were looking for -- is a map  
20 that shows, like it was mentioned, a wider view, that  
21 shows that the entire boundaries of the census tract are  
22 located in an incorporated area.

23 That is the map that was being sought. We  
24 provided a map that showed again, the census tract and  
25 where our site is. But it just wasn't a wide enough view

1 back that showed the entire boundary of the census tract  
2 being located within an incorporated area.

3 And then I would say, on the IRS letters, you  
4 know, you can get IRS determination letters for a  
5 nonprofit last year, and it has already been revoked. And  
6 so even providing IRS determination letters really isn't  
7 full evidence that currently the nonprofit is a nonprofit,  
8 tax-exempt entity.

9 MR. ECCLES: Well, and just to the point of  
10 needing to read staff's mind on this one, the rule states  
11 that the Applicant has to proffer evidence substantiating  
12 qualification for the points. And the points are, a  
13 census tract within the boundaries of an incorporated  
14 area.

15 So whether it is one map or two maps that show  
16 that, it is just to say that, if you included that  
17 evidence, they would have seen it. Did you -- are you  
18 saying that the application included maps or information  
19 that would have enabled staff to determine that the  
20 development was in a census tract within the boundaries of  
21 an incorporated area?

22 MR. SHACKELFORD: Let me first say, I think the  
23 discussion we are having proves why the administrative  
24 deficiency process would be applicable. Because your  
25 interpretation of what that says, I think is different

1 from my interpretation of what that says.

2 MR. ECCLES: I understand.

3 MR. SHACKELFORD: Because we are in the census  
4 tract. That satisfies the requirements. We are in an  
5 incorporated area, and inside it, is inside that census  
6 tract. I think we just satisfied the reading that you  
7 just gave.

8 And so therefore, I think if we have an issue  
9 like this come up, that is then incumbent upon staff to  
10 say, okay. This is where you put the administrative  
11 deficiency process, Applicant. Can you come back with  
12 another map that shows that 100 percent of the boundaries  
13 of your census tract lie within the incorporated area?

14 MR. ECCLES: And I understand your position. I  
15 was actually addressing something else that you had said.

16 MR. SHACKELFORD: I think Mr. Litner would like  
17 to talk also.

18 MR. LITNER: Yes. I would just like to clarify  
19 a couple of things. So just to make sure we are clear, we  
20 did submit a map as required in a previous tab.

21 As I mentioned in my speech, Tab 10 lists what  
22 is required to go behind it, if you are claiming those  
23 points in the manner that we were. And there is nothing  
24 that is listed that should have gone in the application.  
25 Okay.

1           But we did submit a census tract map. We were  
2 not requested to submit another one. But on our own, we  
3 went ahead and submitted one. It is in the Board book,  
4 and it is zoomed out slightly further. And it shows the  
5 whole census tract.

6           Similar to the community input letters. We  
7 submitted what we thought was asked for, both in the  
8 application and manual workshops. Even though we weren't  
9 asked to submit more information, we submitted more on our  
10 own.

11           So everything is in there. And just to  
12 clarify, if you were to review, those points would be  
13 awarded. Not just based on my opinion; based on what was  
14 submitted on our own without request.

15           MR. GOODWIN: Okay.

16           MR. LITNER: Thank you.

17           MR. GOODWIN: Any other comments?

18           MR. LACEY: My name is Gary Lacey, and I am  
19 going to kind of give a different slant on this, from the  
20 other side. I represent one of the developers that are  
21 bunched, you know, up in Region 3.

22           The QAP states on the community support  
23 letters -- and this is just my opinion -- basically it is  
24 looking for two different things. It wants the letter  
25 from the nonprofit, and then it wants proof, evidence of

1 its tax-exempt status.

2 Now, that's a little bit different than just  
3 the letter from the IRS stating, you know, that you got  
4 this back in 2007. The status is active, inactive, those  
5 type of things.

6 So there is actually two material pieces to  
7 this. You are getting the letter. And then you are  
8 getting also the tax-exempt status. So that is two  
9 material pieces of information that are coming in.

10 What happened with this application is, they  
11 did not submit a material fact, which was the status of  
12 the tax-exempt entities. And then they wanted to try to  
13 add it at the end, which should not be allowed.

14 MR. GOODWIN: Thank you for the opinion.

15 MR. LACEY: Thank you.

16 MR. GOODWIN: Any other speakers?

17 (No response.)

18 MR. GOODWIN: Do I hear I a motion on how the  
19 Board might proceed?

20 MS. BINGHAM ESCAREÑO: Mr. Chairman, I will  
21 move approval the appeal submitted for application 17363,  
22 Long Branch.

23 MR. GOODWIN: Do I hear a second?

24 MR. VASQUEZ: Second.

25 MR. GOODWIN: Second by Mr. Vasquez. Any other

1 discussion?

2 (No response.)

3 MR. GOODWIN: All in favor, say aye.

4 (A chorus of ayes.)

5 MR. GOODWIN: All opposed?

6 (No response.)

7 MR. GOODWIN: Why don't you cool off just a  
8 moment. We are going to take a little short ten minute  
9 modern convenience break.

10 VOICE: Thank you very much.

11 (Whereupon, a short recess was taken.)

12 MR. GOODWIN: Marni, are you ready?

13 MS. HOLLOWAY: Okay. All right. Our next  
14 appeal is application 17331. This is Westwind of Killeen.  
15 This application does not qualify for three points under  
16 10 TAC 11.9(c)(5) of the 2017 QAP, which is related to  
17 educational quality.

18 Because the application did not include  
19 evidence of the Index 1 score for the educational service  
20 center. To qualify for two of the three points under  
21 educational quality, the application must include evidence  
22 that the development site is within the attendance zone of  
23 an elementary school, a middle school and a high school  
24 with an Index 1 score at or above the lower of the score  
25 for the educational service center or the state-wide



6d

**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 20092 Fiesta Trails

**RECOMMENDED ACTION**

**WHEREAS**, the appeal relates to Competitive Housing Tax Credit (HTC) Application 20092 Fiesta Trails, which was submitted to the Department by the Full Application Delivery Date;

**WHEREAS**, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

**WHEREAS**, the Applicant timely filed an appeal; and

**WHEREAS**, the Executive Director denied the appeal;

**NOW, therefore, it is hereby**

**RESOLVED**, that the scoring appeal for 20092 Fiesta Trails is hereby denied.

**BACKGROUND**

10 TAC §11.9, related to Competitive HTC Selection Criteria, identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 85 income-restricted Units for the general population in San Antonio.

Staff received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(c)(4) related to Opportunity Index. Per 10 TAC §11.9(c)(4):

(A) A proposed Development is eligible for up to two (2) opportunity index points if it is located entirely within a census tract with a poverty rate of less than the greater of 20% or the median poverty rate for the region and meets the requirements in (i) or (ii) of this subparagraph.

(ii) The Development Site is located entirely within a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region, with a median household income in the third quartile within the region, and is contiguous to a census tract in the first or second quartile, without physical barriers such as (but not limited to) highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more; and, (1 point)

Staff found that Interstate 10 represents a physical barrier along the entire western boundary between the census tract and two first quarter census tracts, and railroad tracks represent a physical barrier along the entire eastern boundary between the census tract and one first quarter census tract. The previously published application score was reduced by seven points for the scoring item, and the Application lost its six pre-application points, pending the Applicant's ability to appeal. The Applicant appealed, and the Executive Director denied the appeal.

In response to a deficiency notice prompted by the RFAD, the Applicant cited previous findings of staff regarding this issue. The response cited the review of applications 18038 and 18162, both located in Lubbock, where staff found that there was no barrier – not because there was a crossing, but because the barrier between the tracts, identified as the elevated portion of Avenue Q, ended where Avenue Q flattens at Clovis Road but the census tract boundary continued without a barrier. Per that finding, “the site is in an area south of where the barrier begins and where the contiguous census tract can be accessed via Clovis Road. Applying the rules of the QAP to this specific situation as it is presented in the submitted Application; staff does not believe that there is a barrier between the census tracts that would make the Application ineligible for points.” The response also cited the review of application 19126 located in Arlington, where there simply was no barrier between the census tracts.

The appeal states that “[t]he issue here is very simple: Does the mere existence of a highway or a railroad as a contiguous boundary between census tracts necessarily create a physical barrier between the census tracts when there are vehicular and pedestrian crossings providing access?” Per the appeal:

We strongly urge you to acknowledge that mere reference to “limited access highways” with speed limits of 50-mph or more does not mean that such a highway necessarily constitutes a “barrier” when it is designed to provide cross-traffic access. If there is no means of crossing that highway without leaving the census tract, then there is a physical barrier. If, however, there are crossings specifically designed for vehicular and pedestrian traffic, then no “physical barrier” exists. Likewise, for railroad tracks. If there are sanctioned level railroad crossings designed for vehicular and pedestrian safety, then there is no “physical barrier” to the other side of the railroad tracks where a more prosperous census tract may be located.

The appeal suggests that “failing to have the Development Site located in a high median income area can be overcome by having a contiguous census tract with a high median income, if there is

the capability of travel between the two census tracts.” Though the appeal cites two streets crossing between the census tracts, the map actually shows no place to cross between the tracts except at the northern and southern boundaries. No residential streets or pedestrian paths connect between the two census tracts where they are “contiguous” – only the major streets that define the northern and southern extremes of the subject tract. Thus, the only “boundary between the census tracts,” as stated by the rule, is the railroad track, itself. On the other side of the tracks is a large quarry and some forested parkland.

As support for its position, the appeal cites the review of application 20233, located in Quinlan, and states that “even though #20233 Quinlan Estates has only one (1) singular 80-foot right-of-way at the intersection of Highway 276 and Highway 36, the Department correctly awarded Quinlan Estates with Q3 Opportunity Index points because there is no physical barrier between the Q3 side of Highway 36 and the Q2 side of Highway 36.” In fact, Highway 36 is not considered a barrier between the census tracts because Highway 36 does not run between the subject tract and tract 48231961501, which is the first quarter contiguous tract indicated in the application. The appeal also cites application 20024, located in Dallas, that per the appeal “is also requesting Q3 Opportunity Index points with census tract crossings similar to Fiesta Trails, presumably because they are using the Department’s recent and current interpretation of what constitutes a physical barrier under 10 TAC §11.9(c)(4)(A)(ii).” While staff has not fully reviewed Application 20024, review of this issue found that there is a Dallas Area Rapid Transit (DART) line that does not represent a boundary because there are at least four crossings along the boundary between the tracts. In fact, staff’s finding in this case would be best compared to staff’s review of application 19189, located in Granbury, where staff found and the Board agreed that even though a bridge ran over the barrier and connected the two census tracts, there was still a barrier between the tracts.

Documents submitted for the Board appeal include an updated map showing Fredericksburg Road as a crossing, but this road is a one-way connector from the first-quarter tract to the west side frontage road of I-10.

Staff Recommends the Board deny the appeal.

# 20092 Fiesta Trails Scoring Notification



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2020 Application Round  
REVISED-Scoring Notice - Competitive Housing Tax Credit Application

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Date: May 28, 2020

**THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for Fiesta Trails, TDHCA Number: 20092**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2020 Application Round**  
**REVISED-Scoring Notice - Competitive Housing Tax Credit Application**

**Page 2 of Final Scoring Notice: 20092, Fiesta Trails**

**Section 1:**

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):

139

Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):

132

Difference between Requested and Awarded:

7

**Section 2:**

Points Awarded for §11.9(c)(8) Readiness to Proceed:

0

Points Awarded for §11.9(d)(1) Local Government Support:

17

Points Awarded for §11.9(d)(4) Quantifiable Community Participation:

4

Points Awarded for §11.9(d)(5) Community Support from State Representative:

8

Points Awarded for §11.9(d)(6) Input from Community Organizations:

4

Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:

0

**Section 3:**

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:

6

**Section 4:**

**Final Score Awarded to Application by Department staff (Including all points):**

159

**Section 5:**

**Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:**

§11.9(c)(4) Opportunity Index. The Application requested seven (7) points but is not eligible for points under this item because there are barriers between the subject census tract and qualifying census tracts. (Requested 7, Awarded 0)

§11.9(e)(3) Pre-application Participation. The Application requested six (6) points but is not eligible for points under this item because the Application final score (inclusive of only scoring items reflected on the self score form) varies by more than four (4) points from what was reflected in the preapplication self score. (Requested 6, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 4, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2020 Application Round**  
**REVISED-Scoring Notice - Competitive Housing Tax Credit Application**

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In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

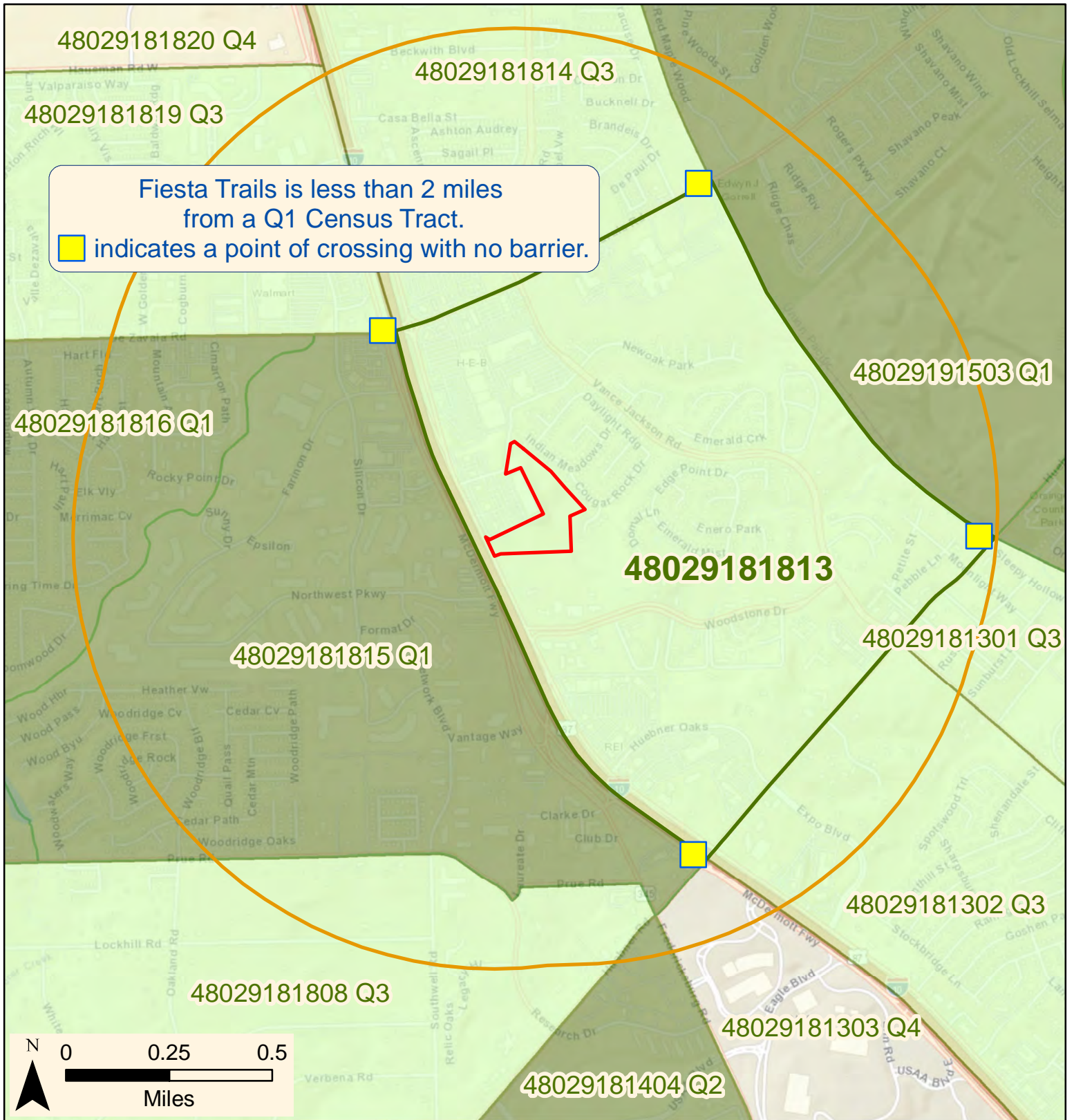
If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

*Sharon D. Gamble*

Sharon D. Gamble  
Competitive HTC Program Administrator





## Q3 Distance Map

### Fiesta Trails

12485 W Interstate 10  
San Antonio, Texas



Fiesta Trails



1 Mile radius



Census Tract 48029181813



Q1 and Q2 Census Tracts



Q3 Census Tracts









# Fiesta Trails Q3 Tract


Proof of No Barriers

## Legend

-  48029181813 - Fiesta Trails Tract
-  Adjacent Q1 Tracts
-  Fiesta Trails
-  Tract Boundary Images

 Tract Boundary Image #1

 Tract Boundary Image #4

 Tract Boundary Image #2

 Tract Boundary Image #3

Lockhill Selma Rd

Google Earth

© 2019 Google



1 mi



# Appeal Documents

# COATS | ROSE

A PROFESSIONAL CORPORATION

TAMEA A. DULA  
OF COUNSEL

tdula@coatsrose.com  
Direct Dial  
(713) 653-7322  
Direct Fax  
(713) 890-3918

June 4, 2020

By Email to [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)  
Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78711-3941

RE: #20092 - Fiesta Trails, San Antonio, Bexar County, Texas;  
Appeal of Final Scoring Notice - Requesting Reinstatement of 13 Points.

Dear Mr. Wilkinson:

Our law firm is writing on behalf of the Applicant, Fiesta Trails Ltd., an affiliate of the San Antonio Housing Authority and The NRP Group, LLC, to appeal the Staff's Final Scoring Notice issued on May 28, 2020. Staff denied seven (7) claimed points for being in a high opportunity area under §11.9(c)(4) of the 2020 QAP; and as a result, the Applicant also lost six (6) Pre-Application points under §11.9(9)(e)(3). We request reinstatement of all 13 points.

**The issue here is very simple: Does the mere existence of a highway or a railroad as a contiguous boundary between census tracts necessarily create a physical barrier between the census tracts when there are vehicular and pedestrian crossings providing access?**

Access to the High Opportunity Index points requires being entirely within a census tract with a poverty rate of less than the greater of 20% or the median poverty rate for the region and either (i) having a median household income rate in the two highest quartiles within the uniform service region; or (ii) having a median household income in the third quartile plus being contiguous to a census tract in the first or second quartile without physical barriers between, and where the Development Site is not more than 2 miles from the boundary line. [The complete §11.9(c)(4) is attached as Exhibit A for your reference.]

Census tracts are frequently defined by using streets, highways, railroads and similar artificial structures as their boundaries, but such boundaries do not typically prevent access from one census tract to the adjoining one. In the High Opportunity Index requirements, failing to have

9 Greenway Plaza, Suite 1000 Houston, Texas 77046  
Phone: 713-651-0111 Fax: 713-651-0220  
Web: [www.coatsrose.com](http://www.coatsrose.com)

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the Development Site located in a high median income area can be overcome by having a contiguous census tract with a high median income, if there is the capability of travel between the two census tracts. Presumably the mitigating factor behind this provision is to facilitate social intercourse and commerce between the more prosperous census tract and the lower income one.

Fiesta Trails is located in Census Tract 48029181813, which is contiguous with Q1 census tracts on its west and east: [Census tracts will be referenced by short-form version, using the last six numbers.]

1. I-10 is the boundary line between Census Tract 1818.13 and Census Tract 1818.15 on its west. Census Tract 1818.15 has a Q1 median income and is accessible within less than two miles from the Development Site via the De Zavala Road underpass with turn-arounds, which is less than two miles from the Development Site. The underpass has traffic lights and pedestrian crosswalks to facilitate access between the two census tracts. The frontage road has a 45 mph speed limit, and De Zavala has a 45-mph speed limit at the intersection. Please see Exhibit B attached.

2. Census Tract 1818.13 also has access to Census Tract 1818.15 within two miles from the Development Site via the Huebner Road intersection, which has a vehicular and pedestrian underpass with turn-arounds under the elevated I-10. The frontage road has a 45 mph speed limit and Huebner Road has a 45-mph speed limit at the intersection. Please see Exhibit C attached.

3. Fiesta Trails also has access to Census Tract 1915.03 to the east. The boundary between the two census tracts is a single railroad track which can be crossed into Census Tract 1915.03 at both De Zavala Road and at Huebner Road using the pedestrian and vehicular railroad crossings located at those intersections. The signaled level railroad crossing at De Zavala is currently being upgraded to be fully accessible for pedestrians, with sidewalks on each side of the intersection. Please see Exhibit D attached.

4. The railroad crossing at Huebner Road is older, but still a fully signaled level crossing with pedestrian crosswalks and sidewalks on both sides of the street. Please see Exhibit E attached.

The foregoing clearly shows that I-10 and the single railroad track that serve as boundaries to Census Tract 1818.13 do not serve as **physical barriers** to the higher-income census tracts located to the west and east. Both pedestrian and vehicular access is available in two places for each higher-income census tract. We strongly urge you to acknowledge that mere reference to “limited access highways” with speed limits of 50-mph or more does not mean that such a highway necessarily constitutes a “barrier” when it is designed to provide cross-traffic access. If there is no means of crossing that highway without leaving the census tract, then there is a physical barrier. If, however, there are crossings specifically designed for vehicular and pedestrian traffic, then no “physical barrier” exists. Likewise, for railroad tracks. If there are sanctioned level railroad crossings designed for vehicular and pedestrian safety, then there is no

“physical barrier” to the other side of the railroad tracks where a more prosperous census tract may be located.

This interpretation of what does or does not constitute a “physical barrier” is consistent with Staff’s current interpretation of this requirement in §11.9(c)(4)(A)(ii):

A. The May 20, 2020 Application Log indicates which applications have received Scoring Notices and which applications are still under review. Based on this log, Application #20233 Quinlan Estates has received a complete and final score that includes points under 10 TAC §11.9(c)(4)(A)(ii). Even though #20233 Quinlan Estates has only one (1) singular 80-foot right-of-way at the intersection of Highway 276 and Highway 36, the Department *correctly* awarded Quinlan Estates with Q3 Opportunity Index points because *there is no physical barrier* between the Q3 side of Highway 36 and the Q2 side of Highway 36.

B. The Department is in the process of reviewing #20024 Dallas Stemmons Apartments that is also requesting Q3 Opportunity Index points with census tract crossings similar to Fiesta Trails, presumably because they are using the Department’s recent *and current* interpretation of what constitutes a physical barrier under 10 TAC §11.9(c)(4)(A)(ii).

Thank you for the opportunity to address this issue on behalf of our clients. We respectfully request that you grant this appeal and reinstate the seven (7) High Opportunity Index points, which should automatically result in the reinstatement of the six (6) Pre-Application Participation points. If you determine that you do not agree with this appeal, then we ask that this matter be posted for appeal to the TDHCA Board at its next available Board Meeting. A copy of the Appeal Election Form is enclosed.

Sincerely,



Tamea A. Dula

Enclosures

Exhibits A – E  
Appeal Election Form

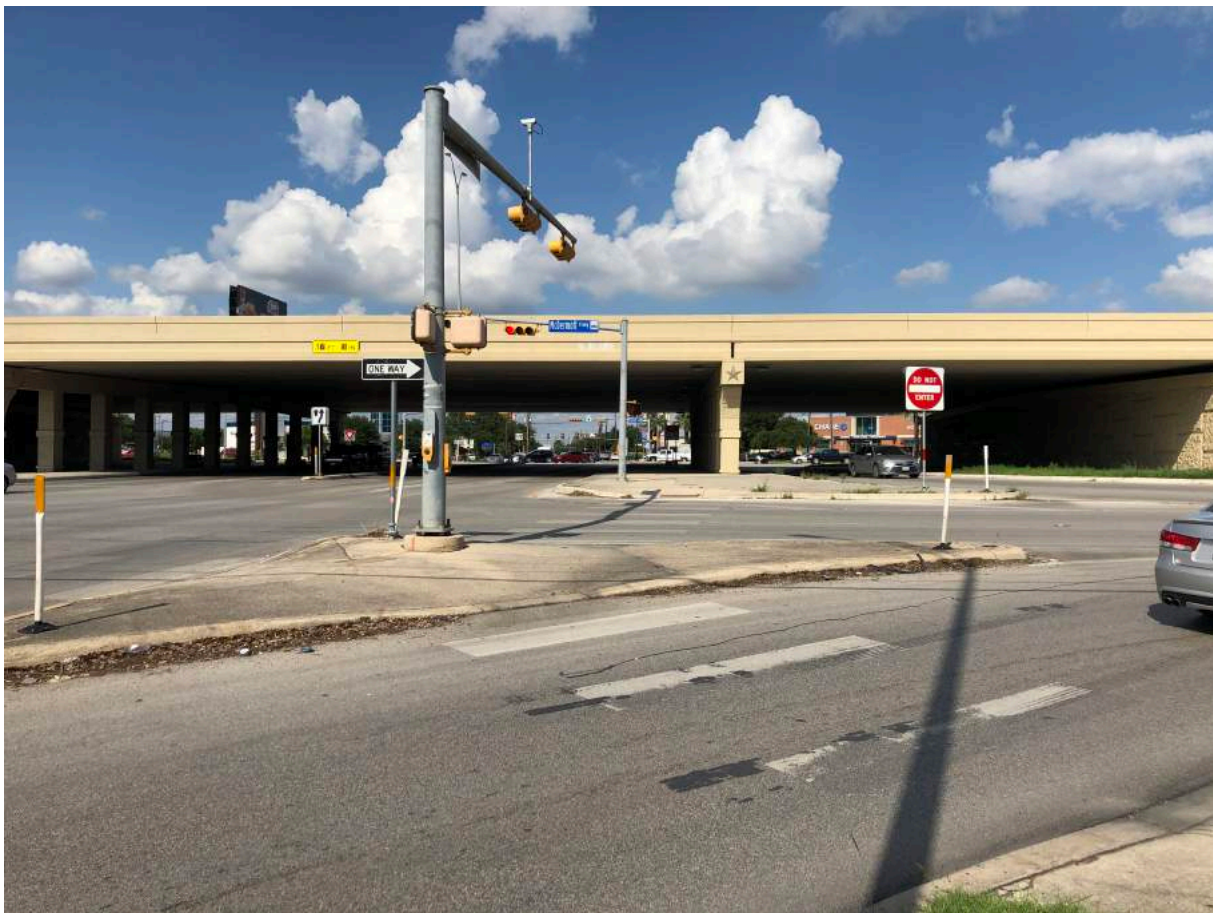
cc: Marni Holloway  
Sharon Gamble  
Jason Arechiga  
Sarah Andre  
Barry Palmer

## EXHIBIT A

Section 11.9(c)(4)(A)(ii) of the 2020 QAP reads as follows:

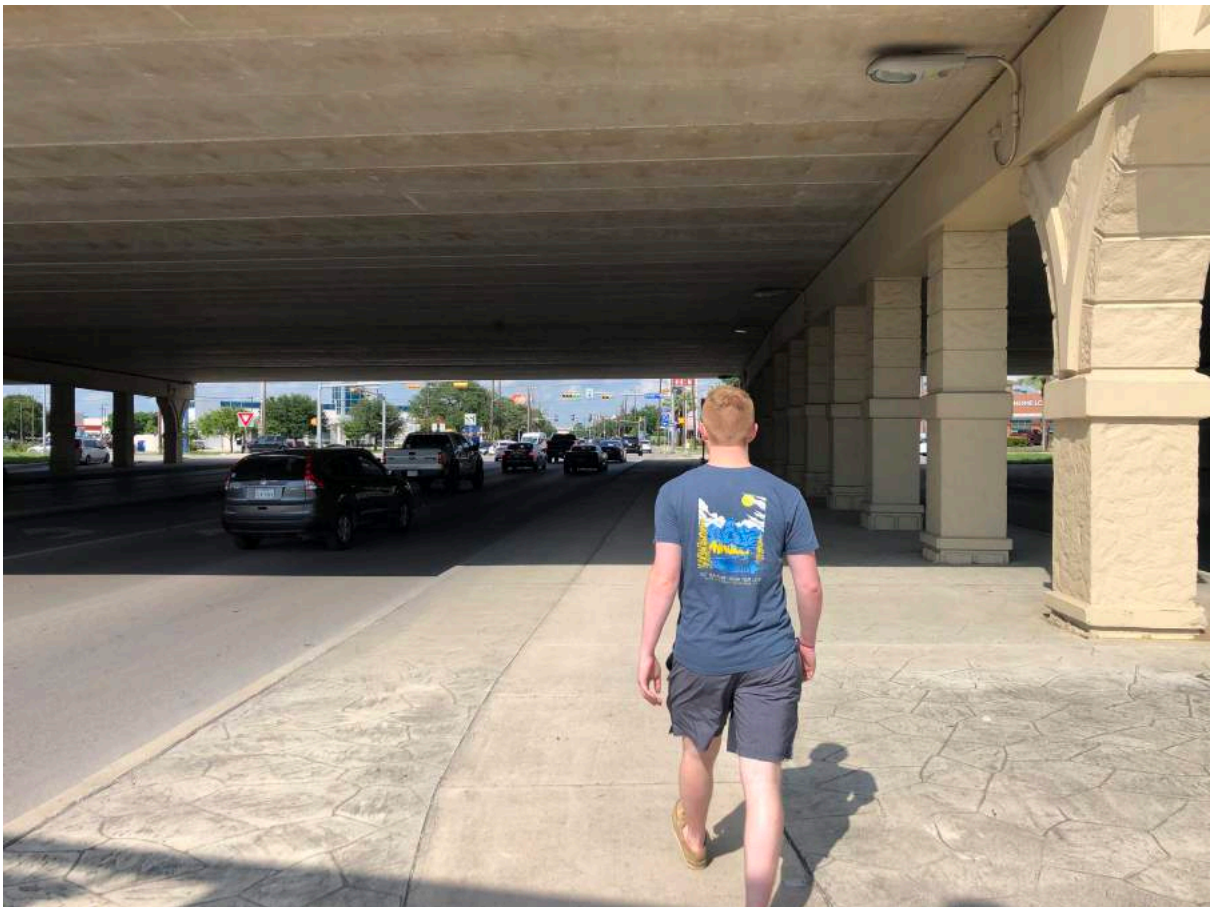
*(ii) The Development Site is located entirely within a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region, with a median household income in the third quartile within the region, **and is contiguous to a census tract in the first or second quartile, without physical barriers such as (but not limited to) highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more;** and, (1 point) [Emphasis added]*

# EXHIBIT B - De Zavala Road Underpass w/Traffic Signals and Pedestrian Crosswalk



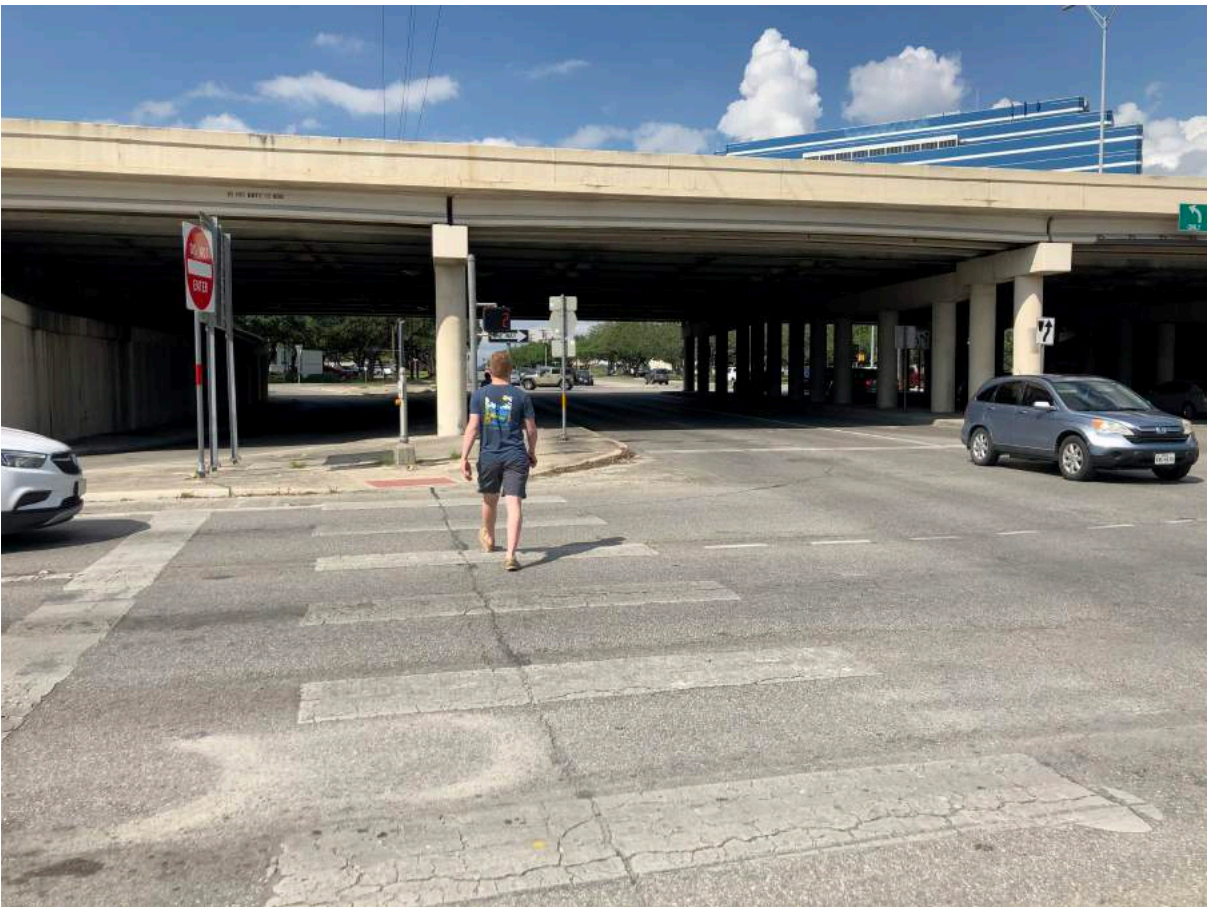


# EXHIBIT B - De Zavala Road Underpass w/Traffic Signals and Pedestrian Crosswalk





# EXHIBIT C - Huebner Road Underpass w/Traffic Signals and Pedestrian Crosswalk





# EXHIBIT C - Huebner Road Underpass w/Traffic Signals and Pedestrian Crosswalk





# EXHIBIT D - De Zavala Road Vehicular/Pedestrian Railroad Crossing





# EXHIBIT D - De Zavala Road Vehicular/Pedestrian Railroad Crossing





# EXHIBIT E - Huebner Road Vehicular/Pedestrian Railroad Crossing





MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2020 Application Round  
REVISED-Scoring Notice - Competitive Housing Tax Credit Application

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Appeal Election Form: 20092, Fiesta Trails

**Note: If you do not wish to appeal this notice, do not submit this form.**

I am in receipt of my 2020 scoring notice and am filing a formal appeal to the Executive Director on or before Thursday, June 4, 2020.

**If my appeal is denied by the Executive Director:**

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed 

Title Senior Vice President of Development

Date June 3, 2020

**Please email to Sharon Gamble:  
<mailto:sharon.gamble@tdhca.state.tx.us>**

# Appeal Response





## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

### BOARD MEMBERS

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

June 16, 2020

*Writer's direct dial: (512) 475-3296*  
*Email: [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)*

Tamea Dula  
Coates Rose, PC  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

RE: SCORING APPEAL RESPONSE FOR 20092 FIESTA TRAILS, SAN ANTONIO

Dear Ms. Dula:

The Texas Department of Housing and Community Affairs received your appeal dated June 4, 2020, regarding scoring for the Application named above. Staff received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(c)(4) related to Opportunity Index. Per 10 TAC §11.9(c)(4):

(A) A proposed Development is eligible for up to two (2) opportunity index points if it is located entirely within a census tract with a poverty rate of less than the greater of 20% or the median poverty rate for the region and meets the requirements in (i) or (ii) of this subparagraph.

(ii) The Development Site is located entirely within a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region, with a median household income in the third quartile within the region, and is contiguous to a census tract in the first or second quartile, without physical barriers such as (but not limited to) highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more; and, (1 point)

Staff found that Interstate 10 represents a physical barrier along the entire western boundary between the census tract and two first quarter census tracts, and railroad tracks represent a physical



barrier along the entire eastern boundary between the census tract and one first quarter census tract. As such, the requirements of 11.9(c)(4)(A)(ii) are not met, which disqualifies the application from seeking the additional points under 11.9(c)(4)(B). The previously published application score was reduced by seven points for the scoring item, which also caused the Application to lose its six pre-application points, pending the Applicant's ability to appeal.

In response to a deficiency notice prompted by the RFAD, the Applicant cited previous findings of staff regarding this issue. The response cited the review of applications 18038 and 18162, both located in Lubbock, in which staff found that those sites did not have a barrier; in those cases, it appears that determination was made not because there was a crossing, but because the barrier between the tracts, identified as the elevated portion of Avenue Q, ended where Avenue Q flattens at Clovis Road but the census tract boundary continued without a barrier. A better comparison for staff's finding in this case would be application 19189, located in Granbury, where staff found and the Board agreed that even though a bridge ran over the barrier and connected the two census tracts, there was still a barrier between the tracts.

The appeal states that "[t]he issue here is very simple: Does the mere existence of a highway or a railroad as a contiguous boundary between census tracts necessarily create a physical barrier between the census tracts when there are vehicular and pedestrian crossings providing access?" Per the appeal:

We strongly urge you to acknowledge that mere reference to "limited access highways" with speed limits of 50-mph or more does not mean that such a highway necessarily constitutes a "barrier" when it is designed to provide cross-traffic access. If there is no means of crossing that highway without leaving the census tract, then there is a physical barrier. If, however, there are crossings specifically designed for vehicular and pedestrian traffic, then no "physical barrier" exists. Likewise, for railroad tracks. If there are sanctioned level railroad crossings designed for vehicular and pedestrian safety, then there is no "physical barrier" to the other side of the railroad tracks where a more prosperous census tract may be located.

The appeal suggests that "failing to have the Development Site located in a high median income area can be overcome by having a contiguous census tract with a high median income, if there is the capability of travel between the two census tracts." But this is not what the rule requires. Indeed, the rule is clear that I-10, as a highway with a speed limit of 50 miles per hour or more, is a specific example of a "physical barrier" under the rule. There is simply no room under the wording of 10 TAC §11.9(c)(4)(A)(ii) to interpret I-10 as being other than a "physical barrier."

Furthermore, the map showing the census tract boundaries in this Application shows a rail line along the entire eastern boundary of the subject census tract. Though the appeal cites two streets crossing between the census tracts, the map actually shows no place to cross between the tracts except at the northern and southern boundaries. No residential streets or pedestrian paths connect between the two census tracts where they are "contiguous" – only the major streets that define the northern and southern extremes of the subject tract. Thus, the only "boundary between the census tracts," as stated by the rule, is the railroad track, itself. This fails to satisfy the wording of §11.9(c)(4)(A)(ii).

I find that Interstate 10 and the railroad track constitute barriers along the entire western and eastern boundaries between the relevant census tracts, and that Staff was correct in concluding that the Application does not qualify for seven points under 10 TAC §11.9(c)(4) and therefore also does not qualify for six points under Pre-Application Participation. Accordingly, I am denying the appeal. If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have any questions or require further information, please contact Marni Holloway, Multifamily Finance Director, at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II". The signature is fluid and cursive, with the letters "R", "D", and "W" being the most prominent.

Bobby Wilkinson  
Executive Director

# Board Appeal



June 18, 2020

Board of Directors  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

*Re: Scoring Notice Appeal for Fiesta Trails, San Antonio, Application #20092*

Dear Vice Chair Bingham and Directors Braden, Thomason and Vasquez:

I am writing on behalf of the Applicant for #20092 Fiesta Trails to appeal the Scoring Notice that the Department issued on May 28, 2020. In summary, as the result of a competitor's RFAD, TDHCA asked the Applicant to verify how the site qualifies for High Opportunity Points by specifically proving that there are no barriers between the census tract in which the Fiesta Trails site sits and the adjacent higher income census tracts.

As everyone knows, a barrier is an obstacle that prevents movement or access. A tall fence with no gate, a swift river with no bridge, a highway with no underpass could all be barriers. In correspondence dated June 16, 2020 Mr. Wilkinson acknowledges that there are connections to the adjacent census tracts, but that they should not qualify as they are at the "extremes of the tract". This position conflicts with the way the Department considers contiguity elsewhere in the QAP. Specifically, for Underserved Points, the Department considers a census tract contiguous if it touches another for any length, no matter how small.

Mr. Wilkinson's position is also inconsistent with the Webster's definition of contiguous, "touching along a boundary or at a *point*". I am simply perplexed as to how anyone, upon observation and investigation, could believe that a barrier exists between the census tract for Fiesta Trails and the adjacent census tracts which are Q1 and Q2 census tracts. We have previously illustrated this point with photographs and maps. I understand that these two-dimensional representations may be hard to decipher. In a year without Covid-19, I am sure staff would have driven the site and been able to see the lack of barriers firsthand.

In the absence of site visits, the Applicant has created a video that easily demonstrates that there are no barriers and that clearly shows both pedestrian and vehicular traffic traveling from one census tract to the next. The video may be found here: <https://vimeo.com/430411484>. I hope that you will click on this link and watch the video, it should make the point quite clear. Future residents of Fiesta Trails will have easy access to jobs, shops and other amenities in higher income census tracts. I have also included an exhibit that features a 5<sup>th</sup> connection shown in the application, but not highlighted.

We respectfully request that TDHCA consider this information and reinstate the Q3 Opportunity Index points for this application, thereby treating this application in the same manner as other applications this cycle.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah H. Andre".

Sarah H. Andre,  
Consultant to the Project

# 20092 Fiesta Trails

Q3 Contiguity No Barriers

**Legend**

- Q1 & Q2
- Q3
- 48-29181813- Q3
- Connection



Google Earth

1 mi





**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 20329 Fish Pond at Huntsville.

**RECOMMENDED ACTION**

**WHEREAS**, the appeal relates to Competitive Housing Tax Credit (HTC) Application 20329 Fish Pond at Huntsville, which was submitted to the Department by the Full Application Delivery Date;

**WHEREAS**, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

**WHEREAS**, the Applicant timely filed an appeal; and

**WHEREAS**, the Executive Director believed he lacked the legal authority to grant the appeal because of the specificity of the rule;

**NOW, therefore, it is hereby**

**RESOLVED**, staff request that the Board determine whether the Application meets the requirements of the rule or whether the rule should be waived, also determining whether the Application qualifies for full points under 10 TAC §11.9(e)(1) related to Financial Feasibility.

**BACKGROUND**

10 TAC §11.9, related to Competitive HTC Selection Criteria, identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 48 Units for the Elderly population in Huntsville, of which 42 will be income-restricted and six will be market rate.

Staff determined that the Application was eligible for only twenty four (24) points under 10 TAC §11.9(e)(1) related to Financial Feasibility because the Application did not include a letter from a third party permanent lender indicating a review of the Development and the Principals, pending the Applicant's ability to appeal. The Application includes a request for Multifamily Direct Loan Program funds as the only permanent debt financing for the Development. The Applicant

appealed and the Executive Director denied the appeal, noting that although the applicant made a compelling argument he believed he lacked the legal authority to grant the appeal because of the specificity of the rule.

The appeal points out that the Applicant was “unable to get a certification from the permanent lender, because the permanent lender is TDHCA itself. Section 11.204(7)(B) of the QAP states that no term sheet is required when TDHCA is a lender. Because it was impossible for the Applicant to receive a certification from TDHCA, as the permanent lender, we believe the certification from CBOT should suffice.”

The Applicant’s assessment of the rule at 10 TAC §11.204(7)(B) is correct. However, 10 TAC §11.9(e)(1) includes two thresholds for scoring – the second of which awards two additional points for Applications that include Supportive Housing with no third-party permanent lender, or Applications with financing structures that include a third-party permanent lender that makes assurances regarding the review of the Development and the Principals. The Application is not Supportive Housing and does not include such a financing structure. Therefore, it does not meet the requirements for 26 points under 10 TAC §11.9(e)(1).

Staff requests that the Board determine whether the Application meets the requirements of the rule or whether the rule should be waived, also determining whether the Application qualifies for full points under 10 TAC §11.9(e)(1) related to Financial Feasibility.



# 20329 Fish Pond at Huntsville

## Scoring Notification



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2020 Application Round  
REVISED-Scoring Notice - Competitive Housing Tax Credit Application

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David Fournier

Phone #: (512) 970-3889

Email: [dfournier@fishpondliving.com](mailto:dfournier@fishpondliving.com)

Second Email: [juli@betcohousinglab.com](mailto:juli@betcohousinglab.com)

Date: May 28, 2020

**THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for Fish Pond at Huntsville, TDHCA  
Number: 20329**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2020 Application Round**  
**REVISED-Scoring Notice - Competitive Housing Tax Credit Application**

**Page 2 of Final Scoring Notice: 20329, Fish Pond at Huntsville**

**Section 1:**

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	134
Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	132
Difference between Requested and Awarded:	2

**Section 2:**

Points Awarded for §11.9(c)(8) Readiness to Proceed:	5
Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

**Section 3:**

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:	0
---	---

**Section 4:**

<b>Final Score Awarded to Application by Department staff (Including all points):</b>	<b>170</b>
---	------------

**Section 5:**

**Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:**

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is eligible for only twenty four (24) points under this item because the Application did not include a letter from a third party permanent lender indicating a review of the Development and the Principals. (Requested 26, Awarded 24)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 4, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

*Sharon D. Gamble*

Sharon D. Gamble  
 Competitive HTC Program Administrator

# Appeal Documents



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

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

June 3, 2020

**Via Email**

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

Re: Fish Pond at Huntsville, TDHCA No. 20329 - **Appeal for Scoring**

Dear Bobby:

We represent the Applicant<sup>1</sup> for the Development referenced above, which has applied for 2020 Housing Tax Credits. The Applicant received a scoring notice as follows:

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is eligible for only twenty four (24) points under this item because the Application did not include a letter from a third party permanent lender indicating a review of the Development and the Principals. (Requested 26, Awarded 24)

The Applicant believes it should receive the full 26 points for financial feasibility, for the reasons described below.

Section 11.9(e)(1) of the QAP states:

To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive twenty-four (24) points. If the letter is from the Third Party permanent lender, or if the Development is Supportive Housing and meets the requirements of 10 TAC §11.1(d)(122)(E)(i), and evidences review of the Development and the Principals, it will receive twenty-six (26) points.

---

<sup>1</sup> Capitalized terms used but not defined in this letter shall have the meanings given them in the 2020 QAP.

The Applicant presented a financing plan that included a construction loan from Community Bank of Texas (“CBOT”) in the amount of \$5,379,908 and a permanent loan from TDHCA in the amount of \$2,650,000. See the Sources and Uses at Exhibit A. In satisfaction of Section 11.9(e)(1) of the QAP, the Applicant presented a pro forma signed by a representative of CBOT, along with a term sheet for construction financing, in which CBOT certified:

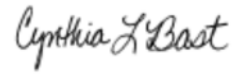
Additionally, we have performed a preliminary review of the credit worthiness of **Fish Pond Living at Huntsville, LP** and its Principals. At this time, **CommunityBank of Texas** has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

TDHCA does not dispute that the evidence presented by CBOT qualifies for the 24 points. However, the 2 additional points have been denied because the certification evidencing review of the Development and the Principals did not come from the Third Party permanent lender. In this instance, the Applicant was unable to get a certification from the permanent lender, because the permanent lender is TDHCA itself. Section 11.204(7)(B) of the QAP states that no term sheet is required when TDHCA is a lender. Because it was impossible for the Applicant to receive a certification from TDHCA, as the permanent lender, we believe the certification from CBOT should suffice.

It is important to note that this particular section of the QAP was modified from prior competitive rounds. In QAPs for 2018 and 2019, the additional 2 points were awarded for a letter, evidencing review of the Development and the Principals, from either the construction lender or the permanent lender. When proposing the 2020 QAP, TDHCA changed the requirement for the letter to come from the permanent lender, but the Department failed to contemplate a scenario where TDHCA was the only permanent lender. An applicant should not be ineligible for these 2 points merely because it chooses TDHCA as its permanent lender. Surely, this could not have been the intention. In fact, when a developer of Supportive Housing pointed out that some applicants do not have permanent debt and requested a modification during the public comment period, the Department inserted an exception for Supportive Housing Developments that do not have permanent debt. Clearly, TDHCA did not intend for any applicant to be ineligible for these 2 points by virtue of its financial structuring; an exception for applicants using TDHCA as the permanent lender should have been inserted to keep all applicants on a level playing field. Moreover, the Multifamily Application Procedures Manual suggests that the letter regarding “approval of Principals” should come from the lender, and does not specify that this must be supplied by the permanent lender. See Exhibit C.

In the face of impossibility and ambiguity, we ask you to determine that the letter presented by CBOT, which meets all criteria for 26 points, except for the fact that CBOT is the construction lender, be sufficient evidence for this Applicant. We respectfully request that you grant the Applicant's appeal and restore the 2 points for this Application.

Sincerely,



Cynthia L. Bast

cc: Fish Pond Development, LLC  
BETCO Consulting, LLC

Exhibit A - Applicant's Sources and Uses

Exhibit B - Evidence from CBOT

Exhibit C - Multifamily Application Procedures Manual

## **Exhibit A**

### Applicant's Sources and Uses



## Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
<b>Debt</b>										
TDHCA	<a href="#">MF Direct Loan Const. to Perm. (Repayable)</a>	\$2,650,000			\$ 2,650,000	2.00%	30	15		1
TDHCA	<a href="#">MF Direct Loan Const. Only (Repayable)</a>	\$0	0.00%							
TDHCA	<a href="#">Multifamily Direct Loan (Soft Repayable)</a>	\$0	0.00%		\$ -	0.00%	0	0		
TDHCA	<a href="#">Mortgage Revenue Bond</a>	\$0	0.00%		\$ -	0.00%	0	####		
Community Bank of Texas	Conventional Loan	\$5,379,908	4.25%	1						
<b>Third Party Equity</b>										
CREA, LLC	<a href="#">HTC</a> \$ 900,000	\$ 1,583,842			\$ 7,919,208				0.88	
<b>Grant</b>										
City of Huntsville	<a href="#">§11.9(d)(2)LPS Contribution</a>	\$ 250			\$ 250					
<b>Deferred Developer Fee</b>										
		\$ 1,370,159			\$ 215,951					
<b>Other</b>										
Watermark Commercial Contractors,	<a href="#">Direct Loan Match</a>				\$ 198,750					
<b>Total Sources of Funds</b>		\$ 10,984,159			\$ 10,984,159					
<b>Total Uses of Funds</b>					\$ 10,984,159					

**Exhibit B**

Evidence from CBOT

## 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

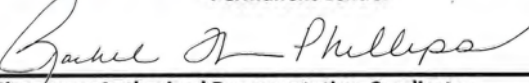
INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$404,292	\$412,378	\$420,625	\$429,038	\$437,619	\$483,166	\$533,455
Secondary Income	\$ 8,640	\$ 8,813	\$ 8,989	\$ 9,169	\$ 9,352	\$ 10,326	\$ 11,400
POTENTIAL GROSS ANNUAL INCOME	\$412,932	\$421,191	\$429,614	\$438,207	\$446,971	\$493,492	\$544,855
Provision for Vacancy & Collection Loss	(\$30,970)	(\$31,589)	(\$32,221)	(\$32,866)	(\$33,523)	(\$37,012)	(\$40,864)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$381,962	\$389,601	\$397,393	\$405,341	\$413,448	\$456,480	\$503,991
EXPENSES							
General & Administrative Expenses	\$17,000	\$17,510	\$18,035	\$18,576	\$19,134	\$22,181	\$25,714
Management Fee	\$ 19,098	\$ 19,480	\$ 19,870	\$ 20,267	\$ 20,672	\$ 22,824	\$ 25,200
Payroll, Payroll Tax & Employee Benefits	\$ 57,000	\$ 58,710	\$ 60,471	\$ 62,285	\$ 64,154	\$ 74,372	\$ 86,218
Repairs & Maintenance	\$ 38,000	\$ 39,140	\$ 40,314	\$ 41,524	\$ 42,769	\$ 49,581	\$ 57,478
Electric & Gas Utilities	\$ 10,000	\$ 10,300	\$ 10,609	\$ 10,927	\$ 11,255	\$ 13,048	\$ 15,126
Water, Sewer & Trash Utilities	\$ 36,500	\$ 37,595	\$ 38,723	\$ 39,885	\$ 41,081	\$ 47,624	\$ 55,210
Annual Property Insurance Premiums	\$ 17,500	\$ 18,025	\$ 18,566	\$ 19,123	\$ 19,696	\$ 22,834	\$ 26,470
Property Tax	\$ 30,000	\$ 30,900	\$ 31,827	\$ 32,782	\$ 33,765	\$ 39,143	\$ 45,378
Reserve for Replacements	\$ 12,000	\$ 12,360	\$ 12,731	\$ 13,113	\$ 13,506	\$ 15,657	\$ 18,151
Other Expenses	\$ 2,838	\$ 2,923	\$ 3,011	\$ 3,101	\$ 3,194	\$ 3,703	\$ 4,293
TOTAL ANNUAL EXPENSES	\$239,936	\$246,943	\$254,157	\$261,583	\$269,228	\$310,968	\$359,237
NET OPERATING INCOME	\$142,026	\$142,658	\$143,237	\$143,759	\$144,221	\$145,513	\$144,754
DEBT SERVICE							
First Deed of Trust Annual Loan Payment	\$117,539	\$117,539	\$117,539	\$117,539	\$117,539	\$117,539	\$117,539
Second Deed of Trust Annual Loan Payment	0	0	0	0	0	0	0
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
<b>ANNUAL NET CASH FLOW</b>	\$24,487	\$25,119	\$25,698	\$26,220	\$26,682	\$27,974	\$27,215
<b>CUMULATIVE NET CASH FLOW</b>	\$24,487	\$49,606	\$75,304	\$101,523	\$128,205	\$264,843	\$402,814
Debt Coverage Ratio	1.21	1.21	1.22	1.22	1.23	1.24	1.23
Deferred Developer Fee							
\$	215,951.13	191,464	166,345	140,647	114,428	87,746	(67,442)

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

  
 \_\_\_\_\_  
 Signature, Authorized Representative, Construction or  
 Permanent Lender

STEPHEN W. ROSE  
 \_\_\_\_\_  
 Printed Name

Phone: (713) 308-5754  
 Email: srose@cbote.com  
 \_\_\_\_\_

  
 \_\_\_\_\_  
 Signature, Authorized Representative, Syndicator

2/26/2020  
 \_\_\_\_\_  
 Date  
 Rachel Thomas Phillips  
 \_\_\_\_\_  
 Printed Name

02/26/2020  
 \_\_\_\_\_  
 Date

If a revised form is submitted, date of submission: \_\_\_\_\_





February 26, 2020

Fish Pond Living at Huntsville, LP  
David Fournier  
9702 Angelwylde Drive  
Austin, Texas 78733

Re: Fish Pond at Huntsville

Dear David,

CommunityBank of Texas (the "Bank") is pleased to provide the following term sheet for construction financing to Fish Pond Living at Huntsville, LP (the "Borrower") for the development of Fish Pond at Huntsville Apartments, a 48-unit senior LIHTC project to be built in Huntsville, Texas. The proposed terms and conditions are as follows:

**Summary of Terms**

- Borrower:** Fish Pond Living at Huntsville, LP
- Guaranty:** Construction loan guaranty will be provided by Fish Pond Development, LLC and David Fournier. The General Contractor will provide full project Payment and Performance Bonds.
- Project:** Fish Pond at Huntsville
- Credit Facility:** Construction loan of up to \$5,379,908:
- Priced at a variable rate of Prime Floating – 0.50% subject to a minimum all-in rate of 4.25% (floor of 4.25%)
  - 30-month construction loan, plus one 6-month extension as below
  - one 6-month extension subject to 1) completion of project, 2) project sources and uses being balanced, 3) receipt of required tax credit equity payments, 4) No event of default has occurred or potential for default to occur, 5) 85% occupancy and 6) No material adverse change in the financial condition of the Project, Borrower and Guarantor(s).
  - Interest only due monthly during construction period
  - Total construction loan period including extension is 36-months

Note: Construction draws will be processed through the Bank, Title Company, and with approval of a 3<sup>rd</sup> party construction engineering firm hired by or acceptable to the Bank.

**Loan-to-value:** 1) Actual loan amount will be based on LTV not to exceed 80% during construction period, based on rent-restricted value plus value of the tax credits. Appraisal report will be in form and substance acceptable to the Bank.

**Collateral:**

- 1<sup>st</sup> lien deed of trust and assignment of leases and rents on the subject property
- UCC filing on furniture, fixtures, and equipment
- Assignment of Tax Credits
- Assignment and subordination of deferred developer fee and other management fees collected by general partner or a related entity.
- Assignment and subordination of management, construction, architectural contracts, etc.

**Fees:** Origination fee of 1.00% of the construction loan (payable at construction loan closing), a 0.25% fee for the extension (payable upon exercise). Borrower will also pay for all reasonable costs incurred by the Bank in connection with the loans including, but not limited to, legal fees and expenses, appraisal/survey fees, title insurance premiums and search fees, UCC searches, environmental assessment fees, and inspecting architect fees, whether the facilities contemplated herein are funded or not. This obligation will survive whether the loans are approved or not.

**Reporting Requirements:** Include but are not limited to:

- Annual audited financial statements of Borrower
- Annual financial statements of Guarantors
- Annual evidence of tax credit compliance
- Monthly operating statements on the property once construction is complete

**Summary of Conditions**

This proposal is subject to all the following conditions being met prior to construction closing:

**Tax Credit Allocation:** Receipt of an annual allocation of Low-Income Housing Tax Credits from the Texas Department of Housing & Community Affairs (TDHCA) in a minimum amount of \$900,000.

**Other Funds:** The Bank acknowledges other anticipated project financing to include the following:

- TDHCA Direct Loan (priced at 2% fixed, 15 year term, 30 year amort. fully funded during construction and maintained as permanent loan) - \$2,650,000
- City of Huntsville - \$250
- GC match - \$198,750

**Tax Credit Equity:** Tax credit investor and equity terms (including price and pay-in schedule) subject to Bank approval. Current model has CREA, LLC purchasing the tax credits at \$0.88/credit, providing total equity of \$7,919,208.

**Developer Fee:** Timing of payment of developer profit to be mutually agreed upon between Bank and Borrower. It is expected that the developer fee payment will mirror the developer fee payment schedule negotiated in the equity agreement. Current model has estimated deferred developer fee iao \$215,951.

**Project Budget:** The Bank's current understanding of the project budget is based on initial verbal discussions and files provided by the Borrower on February 13, 2020. The Bank acknowledges that this project budget is subject to change.

However, significant changes to the budget that materially affect the project may result in changes to the terms and conditions proposed herein.

**Other Conditions:** Receipt and approval of those items listed in the Due Diligence Checklist

**Readiness to Proceed:** We understand the Borrower is taking advantage of the Readiness to Proceed application points, and as such, provided the tax credits are awarded and accepted, this transaction will close on or before November 30, 2020.

To move forward on the terms and structure outlined above, the Borrower shall return a Borrower executed version of this term sheet to CommunityBank of Texas.

The attached 15-year *pro forma* was prepared by **Fish Pond Living at Huntsville, LP** (Applicant) for **Fish Pond Huntsville Apartments** to be located in **Huntsville, Texas**. The *pro forma* is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on **CommunityBank of Texas's** current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15x debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of **Fish Pond Living at Huntsville, LP** and its Principals. At this time, **CommunityBank of Texas** has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

This discussion letter does not represent a commitment by the Bank for the proposed financing, nor does it define all the terms and conditions of loan documents, but is a framework upon which a loan request may be submitted and considered. Issuance of a commitment by the Bank is subject to the approval of the loan request under the Bank's internal approval process, which includes, but is not limited to, a review of the Borrower's then current financial condition and review and approval of all third-party reports, in addition to completion of loan documents in form and substance acceptable to the Bank.

If you should have any questions concerning these terms and conditions, please feel free to call me at (713) 308-5754. David, thank you for giving us the opportunity to consider financing for this project.

Sincerely,

CommunityBank of Texas, N.A.

By:   
Stephen W. Rose, Executive Vice President

Agreed to:

Fish Pond Living at Huntsville, LP

By:   
Authorized Signer of Borrower

## **Exhibit C**

### **Multifamily Application Procedures Manual**

- At least 5% of the total Units must be restricted to 30% AMGI. The form will calculate the percentage based on the information reflected in the *Rent Schedule*.
- If the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding, mark the appropriate box.
- The form will calculate Housing Tax Credit funding request as a percent of Total Housing Development Cost based on information reflected in the *Development Narrative* and the *Development Cost Schedule*. **Note that the rule calls for the funding request to be LESS THAN a certain percentage without rounding.**
- No more than 50% of the developer fee can be deferred to be eligible. **NOTE: This form does not perform this calculation.**
- No supporting documentation is necessary unless claiming points based on a commitment of CDBG-DR, HOPE VI, RAD or Choice Neighborhood Funding.

**NOTE: Remember to select the points being requested from the drop-down in the “Total Points Claimed” field. Although the form will calculate eligible points based on the information provided, the points requested WILL NOT auto-populate.**

#### ❖ Tab 35 – Supporting Documentation

- Evidence must be consistent with the *Summary Sources and Uses of Funds and Financing Narrative*. If changes occur, update the form to match the new information.
- Executed Pro Forma from a Permanent or Construction Lender (if requesting points for financial feasibility). The pro forma must include:
  - the first 5 years and every fifth year thereafter for a 15 year period;
  - all projected income, operating expenses, and debt service;
  - the general growth factor applied to income and expense;
  - a minimum 1.15 DCR throughout the 15 years for all Third Party lenders that require scheduled repayment;
  - signature and contact information of an authorized representative of the lender.
- Letter from lender regarding approval of Principals. \*\*\*
- Include term sheets for all interim and permanent financing that are consistent with other parts of the Application, and provided in one or more of the forms identified and include the requirements set forth in §11.204(7)(A)-(B) of the QAP. **Reminder!! Term sheet must include an acknowledgment of the amounts and terms of all other anticipated sources of funds or the Sources and Uses must be signed by an authorized representative from each funding source.**
- **Reminder:** For Direct Loan Applications or Tax Exempt Bond Applications utilizing FHA financing, the Application shall include applicable pages from the HUD Application for Multifamily Housing Project. If the HUD application has not yet been submitted then a statement to that effect should be included in the Application along with an estimated date for submission.
- Any federal, state or local gap financing, whether soft or hard debt must be identified at the time of Application and a term sheet must be provided for each.
- If the Development is financed through more than 5% Development Owner contributions provide the required documentation described in §11.204(7)(C) in the full Application.
- Include term sheets for syndication of tax credits that include the requirements set forth in §11.204(7)(D) of the QAP.
- Letter from the Texas Historical Commission as applicable to historic tax credit financing under §11.9(e)(6) or otherwise.
- Include evidence of rental assistance or other subsidies if applicable.



# Appeal Response



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

### BOARD MEMBERS

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

June 16, 2020

*Writer's direct dial: (512) 475-3296*  
*Email: [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)*

Cynthia Bast  
Locke Lord Attorneys and Counselors, LLP  
600 Congress, Ste. 2200  
Austin, Texas 78701

RE: SCORING APPEAL RESPONSE FOR 20329 FISH POND AT HUNTSVILLE, HUNTSVILLE

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs received your appeal dated June 3, 2020, regarding scoring for the Application named above. Staff had determined that the Application was eligible for only twenty four (24) points under 10 TAC §11.9(e)(1) related to Financial Feasibility because the Application did not include a letter from a third party permanent lender indicating a review of the Development and the Principals, pending the Applicant's ability to appeal. The Application includes a request for Multifamily Direct Loan Program funds as the only permanent debt financing for the Development.

The appeal points out that the Applicant was "unable to get a certification from the permanent lender, because the permanent lender is TDHCA itself. Section 11.204(7)(B) of the QAP states that no term sheet is required when TDHCA is a lender. Because it was impossible for the Applicant to receive a certification from TDHCA, as the permanent lender, we believe the certification from CBOT should suffice." Your assessment of the rule at 10 TAC §11.204(7)(B) is correct. However, 10 TAC §11.9(e)(1) includes two thresholds for scoring – the second of which awards two additional points for Applications that include Supportive Housing with no third-party permanent lender, or Applications with financing structures that include a third-party permanent lender that makes assurances regarding the review of the Development and the Principals.

I find that because this Application is not Supportive Housing and does not include such a financing structure, it does not meet the specific requirements for 26 points under 10 TAC §11.9(e)(1).



Accordingly, I am denying the appeal. Although your appeal makes compelling arguments regarding an equitable interpretation of the rule, I do not believe I have the authority to grant points despite the plain-worded requirements of the rule. If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have any questions or require further information, please contact Marni Holloway, Multifamily Finance Director, at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II". The signature is written in a cursive style with a double underline at the end.

Bobby Wilkinson  
Executive Director

**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action on timely filed appeal under the Department's Multifamily Program Rules for Application 20342 The Cottages at Cedar Ridge

**RECOMMENDED ACTION**

**WHEREAS**, the appeal relates to Competitive Housing Tax Credit (HTC) Application 20342 The Cottages at Cedar Ridge, which was submitted to the Department by the Full Application Delivery Date;

**WHEREAS**, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

**WHEREAS**, the Applicant timely filed an appeal; and

**WHEREAS**, the Executive Director denied the appeal;

**NOW, therefore, it is hereby**

**RESOLVED**, that the scoring appeal for 20342 The Cottages at Cedar Ridge is hereby denied.

**BACKGROUND**

10 TAC §11.9, related to Competitive HTC Selection Criteria, identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 64 Units for the Elderly population in Elgin, of which 40 will be restricted and 24 will be market Rate.

10 TAC §11.9(d)(8) related to Readiness to Proceed (RTP) allows five points for a Development located in a disaster impacted county declared by the Federal Emergency Management Agency to be eligible for individual assistance within three years preceding December 1, 2019. The proposed Development is located in Travis County, which is not an eligible county under the rule. Staff issued a notification of scoring adjustment alerting the Applicant of the loss of five points, subject to the Applicant's ability to appeal. Per the rule:

(8) Readiness to proceed in disaster impacted counties. An Application for a proposed Development that is located in a county declared by the Federal Emergency Management Agency to be eligible for individual assistance within three years preceding December 1, 2019, that provides a certification that they will close all financing and fully execute the construction contract on or before the last business day of November or as otherwise permitted under subparagraph (C) of this paragraph. For the purposes of this paragraph only, an Application may be designated as "priority." (5 points)

The appeal states that Travis County was included in FEMA declaration 4416-DR-TX, issued on March 22, 2016. The declaration was amended nine times: twice to adjust the incident period to May 22, 2016, through June 24, 2016; six times to add counties to the declaration, and on March 1, 2017, to indicate a change in FEMA personnel. The appeal suggests that each of these amendments amounts to a new declaration, so that Travis County was "declared" to be in a disaster area on March 1, 2017, and therefore within the time frame required by the rule. The appeal also asserts that "[e]ven if Travis County is not an eligible county under 10 TAC §11.9(c)(8), the Applicant relied on TDHCA's published guidance and therefore TDHCA should deem it eligible."

After reviewing the appeal, staff determined that Travis County was declared to be in a disaster area on March 22, 2016. While the amendments established different dates of declaration for the counties subsequently added, they did not change the declaration date for Travis County. That date remains March 22, 2016, which is outside the time frame contemplated by the rule. It was also clear that while on November 20, 2019, Staff published a list of counties eligible for points under RTP that included Travis County in error, Staff also posted a corrected list two days later on November 22, 2019, and followed the posting that same day with a list serve announcement explaining the change. Per 10 TAC §11.1(b) related to Due Diligence and Applicant Responsibility:

Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP, or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature, and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application.

Staff Recommends the Board deny the appeal.

20342 The Cottages at Cedar  
Ridge  
Scoring Notification



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

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Leo Vasquez, Member

April 30, 2020

*Writer's direct dial: (512) 936-7834*  
*Email: [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)*

Lee Zieben  
Cottages Cedar Ridge, Ltd.  
1980 Post Oak Blvd., Ste. 2020  
Houston, Texas 77056

RE: NOTICE OF SCORING ADJUSTMENT: 20342 THE COTTAGES AT CEDAR RIDGE, ELGIN

Dear Mr. Zieben:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the Application named above. Upon review, staff has determined that the Application does not qualify for points under 10 TAC §11.9(c)(8) of the 2020 Qualified Allocation Plan (QAP) related to Readiness to Proceed because the Development Site is not located in an eligible county. Per the rule:

(8) Readiness to proceed in disaster impacted counties. An Application for a proposed Development that is located in a county declared by the Federal Emergency Management Agency to be eligible for individual assistance within three years preceding December 1, 2019, that provides a certification that they will close all financing and fully execute the construction contract on or before the last business day of November or as otherwise permitted under subparagraph (C) of this paragraph.

On November 20, 2019, the Department posted a list of counties eligible for points under Readiness to Proceed that inadvertently included counties named in FEMA Declaration 4416 (see attached), which were eligible for public assistance but not for individual assistance. The Department posted a corrected list on November 22, 2019 (see attached). Because Travis County is not an eligible county, the Application is not eligible for the five (5) points requested under §11.9(c)(8), subject to your ability to appeal.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this decision to the Executive Director, the appeal must be filed, in writing, with the Department not later than seven (7) calendar days after the date of this notification. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't

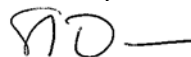


20294 Scoring Notification  
April 30, 2020  
Page 2

Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SD" followed by a horizontal line.

Sharon D. Gamble  
Competitive HTC Administrator



**From:** [TDHCA](#)  
**To:** [Sharon Gamble](#)  
**Subject:** TDHCA: Revised 2020 Multifamily Uniform Application Materials  
**Date:** Friday, November 22, 2019 4:25:42 PM

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The Texas Department of Housing and Community Affairs' (TDHCA) Multifamily Finance Division has posted revised 2020 Multifamily Uniform Application materials at <http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>.

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Grimes County remains eligible because it is included under FEMA major disaster declaration 4332-DR-TX, which includes counties impacted by Hurricane Harvey. This revision does not affect the list of counties eligible for points under 10 TAC Section 11.9(d)(3), related to declared disaster areas.

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If you have questions about any of the posted documents, please contact TDHCA Competitive HTC Program Administrator Sharon Gamble at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us).

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# PUBLIC NOTICE FEMA 4416-DR-TX

 Navigation

 Search

 Languages

Individual Assistance  
Declaration Factors

News

## Date of Notice:

Friday, March 22, 2019

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by Severe Storms and Flooding between September 10, 2019 to November 2, 2019. This notice applies to the Public Assistance (PA), Individual Assistance (IA), and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207.

Under a major disaster declaration (FEMA 4416-DR-TX) signed by the President on February 25, 2019, the following counties have been designated adversely affected by the disaster **and eligible for Public Assistance:** Archer, Baylor, Brown, Burnet, Callahan, Comanche, Coryell, Dimmit, Edwards, Fannin, Franklin, Grimes, Haskell, Hill, Hopkins, Houston, Jones, Kimble, Kinney, Knox, Llano, Madison, Mason, McCulloch, Menard, Nolan, Real, San Saba, Sutton, Throckmorton, Travis, Uvalde, and Val Verde. Additional counties may be designated at a later date. All counties in the State of Texas are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed

for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts through this notification.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50-percent of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and piers), or the

project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Texas and local officials will confirm to FEMA that proposed actions comply with all applicable state and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Texas to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA, IA, and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to Kevin Jaynes, Regional Environmental Officer,

Federal Emergency Management Agency, Region 6, 800 North Loop 288, Denton, TX 76209 or by emailing [FEMA-R6-EHP@fema.dhs.gov](mailto:FEMA-R6-EHP@fema.dhs.gov). Comments should be sent in writing within 15 days of the date of this notice.

Last Updated: 03/22/2019 - 09:58

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 Official website of the Department of Homeland Security

# Appeal Documents



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

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

May 7, 2020

**Via Email**

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

Re: The Cottages at Cedar Ridge, Elgin (20342)  
**Appeal for Scoring**

Dear Bobby:

We represent the Applicant<sup>1</sup> for the Development referenced above, which has applied for 2020 Housing Tax Credits. This letter responds to the Notice of Scoring Adjustment issued April 30, 2020 in which TDHCA denied the Application's request for readiness to proceed points under §11.9(c)(8). Specifically, the letter stated:

On November 20, 2019, the Department posted a list of counties eligible for points under Readiness to Proceed that inadvertently included counties named in FEMA Declaration 4416 (see attached), which were eligible for public assistance but not for individual assistance. The Department posted a corrected list on November 22, 2019 (see attached). Because Travis County is not an eligible county, the Application is not eligible for the five (5) points requested under §11.9(c)(8), subject to your ability to appeal.

**A. Our client believes Travis County is an eligible county under §11.9(c)(8).**

Section 11.9(c)(8) provides that an Application may receive five points if the proposed Development is located in a county FEMA declared "to be eligible for individual assistance within three years preceeding December 1, 2019." The Development at issue is located in Travis County. At issue is FEMA's declaration that Travis County is eligible for individual assistance, first made on June 11, 2016 (the "**Initial Declaration**," attached hereto as Exhibit A). The Initial Declaration was subsequently amended nine times to include additional counties and clarify other administrative matters (collectively, the "**Amendments**," attached hereto as Exhibit B). The last of the Amendments is dated effective as of March 1, 2017. Because the Initial Declaration as amended by the Amendments is last dated in 2017, Travis County received a FEMA declaration

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<sup>1</sup> Capitalized terms used but not defined in this letter shall have the meanings given them in the 2020 QAP.

within three years preceding December 1, 2019 and is an eligible county under §11.9(c)(8). Therefore, we respectfully ask that you restore these points.

**B. Even if Travis County is not an eligible county under §11.9(c)(8), the Applicant relied on TDHCA's published guidance and therefore TDHCA should deem it eligible.**

Nevertheless, even if you now determine Travis County is not an eligible county under the readiness to proceed rules, the Applicant relied on TDHCA's prior published guidance to the fact that it is. On November 20, 2019, TDHCA published a list of eligible counties under §11.9(c)(8) (the "**Eligible County List**"). The Eligible County List provided that Travis County was indeed eligible under §11.9(c)(8). TDHCA's Notice of Scoring Adjustment indicates that the Eligible County List was subsequently updated; however, before the new list was issued, our client had already begun acting on TDHCA's published guidance. To our client's knowledge no such eligible county list has ever been amended in this way. Because the Applicant relied on TDHCA's published guidance, it would be unfair to revoke the points obtained in reliance thereon, and we therefore respectfully ask that you restore these points.

Sincerely,



Cynthia L. Bast

cc: AHG Properties, LLC  
TICO Development, LLC

Exhibit A -- Notice of Scoring Adjustment  
Exhibit B -- Initial Declaration  
Exhibit C -- Amendments



**Exhibit A**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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April 30, 2020

*Writer's direct dial: (512) 936-7834*  
*Email: [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)*

Lee Zieben  
Cottages Cedar Ridge, Ltd.  
1980 Post Oak Blvd., Ste. 2020  
Houston, Texas 77056

RE: NOTICE OF SCORING ADJUSTMENT: 20342 THE COTTAGES AT CEDAR RIDGE, ELGIN

Dear Mr. Zieben:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the Application named above. Upon review, staff has determined that the Application does not qualify for points under 10 TAC §11.9(c)(8) of the 2020 Qualified Allocation Plan (QAP) related to Readiness to Proceed because the Development Site is not located in an eligible county. Per the rule:

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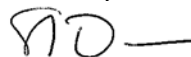


20294 Scoring Notification  
April 30, 2020  
Page 2

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Sharon D. Gamble  
Competitive HTC Administrator

**From:** [TDHCA](#)  
**To:** [Sharon Gamble](#)  
**Subject:** TDHCA: Revised 2020 Multifamily Uniform Application Materials  
**Date:** Friday, November 22, 2019 4:25:42 PM

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# PUBLIC NOTICE FEMA 4416-DR-TX

 Navigation

 Search

 Languages

Individual Assistance  
Declaration Factors

News

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In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and piers), or the

project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Texas and local officials will confirm to FEMA that proposed actions comply with all applicable state and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Texas to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA, IA, and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to Kevin Jaynes, Regional Environmental Officer,

Federal Emergency Management Agency, Region 6, 800 North Loop 288, Denton, TX 76209 or by emailing [FEMA-R6-EHP@fema.dhs.gov](mailto:FEMA-R6-EHP@fema.dhs.gov). Comments should be sent in writing within 15 days of the date of this notice.

Last Updated: 03/22/2019 - 09:58

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 Official website of the Department of Homeland Security



**Exhibit B**



# FEMA Initial Notice

(/)

## Date of Notice:

Navigation

Saturday, June 11, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

ACTION: Notice.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-4272-DR), dated June 11, 2016, and related determinations.

FOIA Statistics  
(/disaster/4272/foia)

EFFECTIVE DATE: June 11, 2016.

News  
(/disaster/4272/updates-  
blog-and-news)

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 11, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and flooding beginning on May 26, 2016, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for emergency protective measures (Category B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William J. Doran III, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Texas have been designated as adversely affected by this major disaster:

Austin, Brazoria, Brazos, Fort Bend, Grimes, Hidalgo, Hood, Montgomery, San Jacinto, Travis, Waller, and Washington Counties for Individual Assistance.

Austin, Brazoria, Brazos, Fort Bend, Grimes, Hidalgo, Hood, Montgomery, San Jacinto, Travis, Waller, and Washington Counties for emergency protective measures (Category B), including direct federal assistance, under the Public Assistance program.

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

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

---

W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 06/13/2016 - 15:13

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**Exhibit C**





# FEMA Amendment No. 1

(/)

## Date of Notice:

Navigation

Wednesday, June 22, 2016

Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 1 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

FOIA Statistics  
(/disaster/4272/foia)

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated June 11, 2016, and related determinations.

News  
(/disaster/4272/updates-  
blog-and-news)

EFFECTIVE DATE: June 22, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.



SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Bastrop, Burleson, Eastland, Lee, Liberty, Stephens, and Tyler Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 06/22/2016 - 16:06

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# FEMA Amendment No. 2

(/)

## Date of Notice:

Navigation

Friday, June 24, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 2 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

FOIA Statistics  
(/disaster/4272/foia)

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated

News  
(/disaster/4272/updates-  
blog-and-news)

June 11, 2016, and related determinations.

EFFECTIVE DATE: June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 24, 2016.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 06/24/2016 - 14:09



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# FEMA Amendment No. 3

(/)

## Date of Notice:

Navigation

Wednesday, June 29, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 3 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

FOIA Statistics  
(/disaster/4272/foia)

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated June 11, 2016, and related determinations.

News  
(/disaster/4272/updates-  
blog-and-news)

EFFECTIVE DATE: June 29, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Fayette, Harris, Kleberg, Palo Pinto, and Parker Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 06/29/2016 - 18:51

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# FEMA Amendment No. 4

(/)

**Date of Notice:**

Navigation

Friday, July 8, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 4 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

FOIA Statistics  
(/disaster/4272/foia)

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated June 11, 2016, and related determinations.

News  
(/disaster/4272/updates-  
blog-and-news)

EFFECTIVE DATE: July 8, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.



SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Bandera, Brown, Caldwell, Houston, Jasper, and Polk Counties for Public Assistance.

Bastrop, Eastland, Fayette, and Kleberg Counties for Public Assistance (already designated for Individual Assistance.)

Fort Bend, Grimes, Hood, San Jacinto, and Washington Counties for Public Assistance [Categories A and C-G] (already designated for Individual Assistance and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program.)

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and

Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 07/08/2016 - 15:48

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# FEMA Amendment No. 5

(/)

## Date of Notice:

Navigation

Wednesday, July 20, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 5 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

FOIA Statistics  
(/disaster/4272/foia)

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated June 11, 2016, and related determinations.

News  
(/disaster/4272/updates-  
blog-and-news)

EFFECTIVE DATE: July 20, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Bosque, Callahan, Coleman, Comanche, Erath, Falls, Fisher, Leon, Madison, Somervell, Trinity, and Walker Counties for Public Assistance.

Lee, Palo Pinto, Stephens, and Tyler Counties for Public Assistance (already designated for Individual Assistance.)

Brazos County for Public Assistance [Categories A and C-G] (already designated for Individual Assistance and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program.)

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and

Households - Other Needs; 97.036, Disaster Grants -  
Public Assistance (Presidentially Declared Disasters);  
97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 07/21/2016 - 12:13

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# FEMA Amendment No. 6

(/)

**Date of Notice:**

Navigation

Monday, July 25, 2016  
Billing Code 9111-23-P

Search

DEPARTMENT OF HOMELAND SECURITY

Languages

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

Texas Severe  
Storms and  
Flooding (DR-4272)  
(/disaster/4272)

Docket ID FEMA-2016-0001

Designated Areas  
(/disaster/4272/designated-  
areas)

Texas; Amendment No. 6 to Notice of a Major Disaster  
Declaration

Disaster Federal  
Register Notices  
(/disaster/4272/notices)

AGENCY: Federal Emergency Management Agency, DHS.

Individual  
Assistance  
Declaration Factors  
(/individual-  
assistance-  
declaration-factors)

ACTION: Notice.

SUMMARY: This notice amends the notice of a major  
disaster declaration for the State of Texas (FEMA-4272-  
DR), dated June 11, 2016, and related determinations.

FOIA Statistics  
(/disaster/4272/foia)

EFFECTIVE DATE: July 25, 2016.

News  
(/disaster/4272/updates-  
blog-and-news)

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Hardin, Navarro, and Throckmorton Counties for Public Assistance.

Burleson and Liberty Counties for Public Assistance (already designated for Individual Assistance.)

Austin, Brazoria, Montgomery, and Waller Counties for Public Assistance [Categories A and C-G] (already designated for Individual Assistance and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program.)

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and

Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 07/25/2016 - 11:26

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# FEMA Amendment No. 7

(/)

Navigation	<b>Date of Notice:</b> Monday, August 1, 2016 Billing Code 9111-23-P
Search	DEPARTMENT OF HOMELAND SECURITY
Languages	Federal Emergency Management Agency
Texas Severe Storms and Flooding (DR-4272) (/disaster/4272)	[Internal Agency Docket No. FEMA-4272-DR]  Docket ID FEMA-2016-0001
Designated Areas (/disaster/4272/designated- areas)	Texas; Amendment No. 7 to Notice of a Major Disaster Declaration
Disaster Federal Register Notices (/disaster/4272/notices)	AGENCY: Federal Emergency Management Agency, DHS.
Individual Assistance Declaration Factors (/individual- assistance- declaration-factors)	ACTION: Notice.  SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-4272-DR), dated June 11, 2016, and related determinations.
FOIA Statistics (/disaster/4272/foia)	EFFECTIVE DATE: August 1, 2016
News (/disaster/4272/updates- blog-and-news)	FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now May 22, 2016, through and including June 24, 2016.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.

Last Updated: 08/01/2016 - 17:01

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# FEMA Amendment No. 8

[\(U\)](#)

	<b>Date of Notice:</b>
<a href="#">Navigation</a>	Monday, August 1, 2016 Billing Code 9111-23-P
<a href="#">Search</a>	DEPARTMENT OF HOMELAND SECURITY
<a href="#">Languages</a>	Federal Emergency Management Agency
	[Internal Agency Docket No. FEMA-4272-DR]
<a href="#">Texas Severe Storms and Flooding (DR-4272) (/disaster/4272)</a>	Docket ID FEMA-2016-0001
<a href="#">Designated Areas (/disaster/4272/designated-areas)</a>	Texas; Amendment No. 8 to Notice of a Major Disaster Declaration
<a href="#">Disaster Federal Register Notices (/disaster/4272/notices)</a>	AGENCY: Federal Emergency Management Agency, DHS.
<a href="#">Individual Assistance Declaration Factors (/individual-assistance-declaration-factors)</a>	ACTION: Notice.
<a href="#">FOIA Statistics (/disaster/4272/foia)</a>	SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA-4272-DR), dated June 11, 2016, and related determinations.
<a href="#">News (/disaster/4272/updates-blog-and-news)</a>	EFFECTIVE DATE: August 1, 2016.
	FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 11, 2016.

Hall County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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W. Craig Fugate,

Administrator,

Federal Emergency Management Agency.



Last Updated: 08/01/2016 - 17:05

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<https://www.oig.dhs.gov/hotline>

 Official website of the Department of Homeland Security



# FEMA Amendment No. 9

[\(U\)](#)

## Date of Notice:

[Navigation](#)

Wednesday, March 1, 2017  
Billing Code 9111-23-P

[Search](#)

DEPARTMENT OF HOMELAND SECURITY

[Languages](#)

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4272-DR]

[Texas Severe  
Storms and  
Flooding \(DR-4272\)  
\(/disaster/4272\)](#)

Docket ID FEMA-2017-0001

[Designated Areas  
\(/disaster/4272/designated-  
areas\)](#)

Texas; Amendment No. 9 to Notice of a Major Disaster  
Declaration

[Disaster Federal  
Register Notices  
\(/disaster/4272/notices\)](#)

AGENCY: Federal Emergency Management Agency, DHS.

[Individual  
Assistance  
Declaration Factors  
\(/individual-  
assistance-  
declaration-factors\)](#)

ACTION: Notice.

[FOIA Statistics  
\(/disaster/4272/foia\)](#)

SUMMARY: This notice amends the notice of a major  
disaster declaration for State of Texas (FEMA-4272-DR),  
dated June 11, 2016, and related determinations.

[News  
\(/disaster/4272/updates-  
blog-and-news\)](#)

EFFECTIVE DATE: March 1, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster,  
Office of Response and Recovery, Federal Emergency  
Management Agency, 500 C Street, SW, Washington, DC  
20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of William J. Doran III as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

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Robert J. Fenton,

Acting Administrator,

Federal Emergency Management Agency.

Last Updated: 03/13/2017 - 12:30

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<https://www.oig.dhs.gov/hotline>

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# Appeal Response



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
Leslie Bingham, *Vice Chair*  
Paul A. Braden, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

May 12, 2020

*Writer's direct dial: (512) 475-3296*  
*Email: [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)*

Cynthia L. Bast  
Locke Lord  
600 Congress, Ste. 2200  
Austin Texas 78701

RE: SCORING APPEAL RESPONSE FOR 20342 THE COTTAGES AT CEDAR RIDGE, ELGIN

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs received your appeal dated May 7, 2020, regarding scoring for the Application named above. Staff found that the Application did not qualify for five points under 10 TAC §11.9(d)(8) related to Readiness to Proceed in a disaster impacted county (RTP) because the Application is located in Travis County, which is not an eligible county under the rule. The previously published application score was reduced by five points, pending the Applicant's ability to appeal.

Per the rule, in order to qualify for points under RTP, the Development Site must be located in a county declared by the Federal Emergency Management Agency (FEMA) to be eligible for individual assistance within three years preceding December 1, 2019. Per the appeal, Travis County was included in FEMA declaration 4416-DR-TX, issued on March 22, 2016. The declaration was amended nine times: twice to adjust the incident period to May 22, 2016, through June 24, 2016; six times to add counties to the declaration, and on August 1, 2016, and March 1, 2017, to indicate a change in FEMA personnel. The appeal suggests that each of these amendments amounts to a new declaration, so that Travis County was "declared" to be in a disaster area on March 1, 2017, and therefore within the time frame required by the rule. The appeal also asserts that "[e]ven if Travis County is not an eligible county under §11.9(c)(8), the Applicant relied on TDHCA's published guidance and therefore TDHCA should deem it eligible."

After reviewing the appeal, I have determined that Travis County was declared to be in a disaster area on March 22, 2016. While the amendments established different dates of declaration for the counties subsequently added, they did not change the declaration date for Travis County. That date



remains March 22, 2016, which is outside the time frame contemplated by the rule. It is also clear to me that while on November 20, 2019, Staff published a list of counties eligible for points under RTP that included Travis County in error, Staff also posted a corrected list two days later on November 22, 2019, and followed the posting that same day with a list serve announcement explaining the change. Per 10 TAC §11.1(b) related to Due Diligence and Applicant Responsibility:

Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP, or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature, and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application.

Because the appeal did not provide clear evidence that Travis County was declared by FEMA to be eligible for individual assistance within three years preceding December 1, 2019, I find that Staff was correct in concluding that the Application does not qualify for five points under §11.9(c)(8) related to RTP. Accordingly, I am denying the appeal. If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2020 QAP for full instruction on the appeals process. Please note that §11.902(f) of the 2020 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have any questions or require further information, please contact Marni Holloway, Multifamily Finance Director, at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Bobby Wilkinson", with a stylized flourish at the end.

Bobby Wilkinson  
Executive Director

6e

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JUNE 25, 2020**

Presentation, discussion, and possible action to issue a list of approved Applications for 2020 Housing Tax Credits (HTC) in accordance with Tex. Gov't Code §2306.6724(e)

**RECOMMENDED ACTION**

**WHEREAS**, in accordance with Tex. Gov't Code §2306.6724(e), the Board shall review the recommendations of Department staff regarding applications and shall issue a list of approved applications each year in accordance with the Qualified Allocation Plan (QAP) not later than June 30;

**WHEREAS**, not all applications on the approved list have completed the review process in accordance with the QAP, not all applicants' appeal rights have concluded, and not all applications will ultimately receive an award of housing tax credits;

**WHEREAS**, the list, as orally revised to reflect the determinations by the Board of any appeals or other actions taken at this Board meeting of June 25, 2020, constitutes the complete list of approved applications that may therefore be eligible for commitments of allocations of housing tax credits in this competitive cycle; and

**WHEREAS**, a list reflecting such Board determinations at the June 25, 2020, meeting, will be issued not later than June 26, 2020;

**NOW, therefore, it is hereby**

**RESOLVED**, the attached list of active applications for the 2020 competitive HTC application round, as orally modified to reflect actions taken at this Board meeting, is approved in accordance with Tex. Gov't Code §2306.6724(e), subject to meeting the requirements of the Qualified Allocation Plan (QAP) and associated applicable rules.

**BACKGROUND**

The Department's Board is required by Tex. Gov't Code §2306.6724(e) to "review the recommendations of department staff regarding applications and shall issue a list of approved applications each year in accordance with the qualified allocation plan not later than June 30."

Moreover, as required by Tex. Gov't Code §2306.6724(f), the Board “shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.” At the Board meeting of July 23, 2020, the list presented to the Board will clearly identify those applications being recommended for a Commitment.

One-hundred thirty-eight competitive (9%) HTC applications were submitted prior to the application deadline of February 28, 2020. To date, thirteen applications have been withdrawn or terminated. Applications that may be ineligible for an award due to the requirements of Tex. Gov't Code §2306.6711(f) related to the “Two Mile Same Year rule,” and/or Tex. Gov't Code §2306.6711(h) related to developments reserved for elderly persons, are included in this list with their status identified.

This is the “list of approved applications” required by Tex. Gov't Code §2306.6724(e). They are approved in the sense that they have not yet been identified as having any material deficiency or other defect that would cause them to be ineligible, or if such matters have been identified they are still within the period where such matters may be appealed. As provided by 10 TAC §11.6(3) of the QAP, Award Recommendation Methodology, the Department will not perform a detailed review of all applications; it reviews priority applications that are most likely to be competitive. Priority applications are identified based on self-score, a limited preliminary review, and other relevant factors, such as outcome of awards based on collapses. As staff continues the review process, applications remain subject to the identification of material and/or administrative deficiencies, revised scoring, and/or applications may be found to be ineligible or to involve ineligible applicants.

The attached list includes the current score for each active application as well as relevant application information. Those applications that have received a final scoring notice are identified in the “Review Status” column with a “C,” indicating that a complete program review has been completed. Those applications that are currently under review are identified with a “UR” and those with an “N” have not been prioritized for review.

At this time, applications may remain subject to underwriting, completion of any remaining program review, and a previous participation review, including the opportunity to pursue the appeal process, where applicable. Further, the credit amount reflected on this list is the requested credit amount and may change to reflect a recommended credit amount and/or may have conditions placed on the award in July, if recommended for an award. Information about completed underwriting reviews may be found at the Real Estate Analysis webpage <http://www.tdhca.state.tx.us/rea/reports-9-percent.htm>. In addition to applications that may be removed from the list for issues of financial feasibility, applications may also be removed from the list of approved applications as determinations are made on appeals, as applications make determinations regarding the credit award limit of \$3 million (in accordance with §11.4 of the QAP), or as the Board determines under operation of rule or law.

Staff recommends the Board approve the attached list of active applications for the 2020 competitive HTC application round, as orally modified to reflect Board determinations on any related actions taken at this meeting.



**Texas Department of Housing / Community Affairs**  
**2020 Competitive (9%) Housing Tax Credit ("HTC") Program**  
**List of Approved Applications pursuant to Tex. Gov't Code §2306.6724(e)**

The Application log is organized by region and subregion. Applicants selecting the At-Risk/USDA Set-Asides are listed first and are organized by best possible score rather than by region. The data was compiled using information submitted by each applicant. Some of this data has not yet been reviewed or verified by the Department and errors may be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Applicants are encouraged to review 10 TAC §§11.1(b) concerning Due Diligence and Applicant Responsibility. Applicants that identify an error in the log should contact Sharon Gamble at sharon.gamble@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

**Construction Types:**  
 NC=New Construction  
 Recon=Reconstruction  
 Rehab=Rehabilitation  
 AcR=Acquisition/Rehabilitation

**Secondary Types:**  
 ADR=Adaptive Reuse  
 SS=Scattered Site  
 AdPh=Additional Phase

**NOTE:**  
 These scoring categories are NOT included in the "Self Score Total" column:  
 §11.9(c)(8) - Readiness to Proceed in a Disaster Impacted Area ("RTP")  
 §11.9(d)(1) - Local Government Support  
 §11.9(d)(4) - Quantifiable Community Participation ("QCP")  
 §11.9(d)(5)(A) - Community Support from State Representative  
 §11.9(d)(5)(B) - Community Support instead of State Representative  
 §11.9(d)(6) - Input from Community Organizations  
 §11.9(d)(7) - Community Revitalization Plan ("CRP")

**NOTE:**  
 Scores for all items are based on information submitted in the Application and have not all been confirmed. Where the greatest linear distance from the nearest Housing Tax Credit assisted Development is used as a tie-breaker, distances noted are approximate. The review status is reflected as "UR" for under review or "C" for complete, or the box is blank if the application is currently not under or prioritized for review.

Version Date: June 18, 2020

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Construction Type	Low-Income Units	Market Rate Units	Total Units	Target Population (Supp. Hsg. = SH)	HTC Request	Direct Loan	Applicant Contact Name	Census Tract(s)	Self Score Total	§11.9(c)(8)	§11.9(d)(1)	§11.9(d)(4)	§11.9(d)(5)(A)	§11.9(d)(5)(B)	§11.9(d)(6)	§11.9(d)(7)	Best Possible Score	Review Status	Underwriting Status	Notes		
<b>At-Risk Set-Aside</b>																																	
20150	Palmville Homes	1400 N. Reagan St.	San Benito	78586	Cameron	11	Urban	x	x	AcR		84	0	84	General	1,020,000		Arthur J. Schuldt, Jr.	48061011400	130	5	17	4	0	8	4	0	168	C	UR			
20100	Southlawn at Milby	1810 Milby St.	Houston	77003	Harris	6	Urban	x		NC		90	20	110	General	2,000,000		Mark Rogers	48201310200	129	5	17	4	8	0	4	0	167	C	UR			
20015	New Caney Oaks	19633 FM 1485 Rd.	New Caney	77357	Montgomery	6	Rural		x	AcR		99	2	101	General	911,500		Devin Baker	48339692700	123	5	17	8	0	8	0	5	166	C	UR			
20251	Mathis Apts	500 Freeman St	Mathis	78368	San Patricio	10	Rural		x	AcR		31	1	32	General	345,100		Murray Calhoun	48409011300	121	5	17	8	0	8	0	7	166	C	UR			
20248	Cedar Cove Apts	1400 Eagle Lake Dr.	Sealy	77474	Austin	6	Rural		x	AcR		54	0	54	General	426,967		Melissa Baughman	48015760300	127	5	17	4	0	8	4	0	165	C	UR			
20233	Quinlan Estates, LP	801 W. Main St.	Quinlan	75474	Hunt	3	Rural		x	AcR		32	0	32	Elderly	347,325		Josefina Garcia	48231961503	131	0	17	4	8	0	4	0	164	C	UR			
20220	Trinity Estates	219 E. Pegoda Rd.	Trinity	75862	Trinity	5	Rural		x	AcR		36	0	36	Elderly	383,122		Josefina Garcia	48455950500	124	0	17	4	0	8	4	7	164	C	UR			
20217	Somerville Estates	785 3rd St.	Somerville	77879	Burleson	8	Rural		x	AcR		24	0	24	Elderly	262,203		Corey Farmer	48051970500	123	0	17	4	0	8	4	7	163	C	UR			
20120	Lennox House	110 NW 2nd St.	Grand Prairie	75050	Dallas	3	urban	x		AcR		39	1	40	Elderly	449,052		Tracey Fine	48113015500	123	0	17	4	0	8	4	7	163	C	UR			
20202	Pathways at Chalmers We	NWC Chalmers Ave./E	Austin	78702	Travis	7	Urban	x	x	Recon		140	16	156	General	2,000,000		Suzanne Schwertner	48453000902	123	0	17	8	8	0	0	7	163	C	UR			
20079	Fairview Terrace	700 Eleanor St.	Brenham	77833	Washington	8	Rural	x	x	Recon		80	0	80	General	1,450,000		Ben Menjares	48477170100	123	0	17	4	0	8	4	7	163	C	UR			
20332	GardenWalk of Farmersvill	409 Hwy 78 S.	Farmersville	75442	Collin	3	Rural		x	AcR		32	0	32	General	341,385		Corey Farmer	48085031100	129	0	17	4	0	8	4	0	162	C	UR			
20235	Madisonville Estates	1610 E Collard St	Madisonville	77864	Madison	8	Rural		x	AcR		32	0	32	Elderly	351,767		Corey Farmer	48313000400	122	0	17	4	0	8	4	7	162	C	UR			
20256	Timpson Seniors Apts	329 Marcus St	Timpson	75975	Shelby	5	Rural		x	AcR		27	1	28	Elderly	283,500		Murray Calhoun	48419950200	121	0	17	8	0	8	0	7	161	C	UR			
20281	Bayou Bend Apts	3025 Waller St.	Waller	77484	Waller	6	Rural		x	AcR		56	0	56	General	445,800		Melissa Baughman	48473680300	120	5	17	4	0	8	4	3	161	C	UR			
20148	High View Place	731 Wolf St.	Killeen	76541	Bell	8	Urban	x	x	AcR		70	0	70	General	960,000		Arthur J. Schuldt, Jr.	48027022900	128	0	17	4	8	0	4	0	161	C	UR			
20047	Evening Star Villa	11800 S. Glen Dr.	Houston	77099	Harris	6	urban	x		AcR		61	1	62	Elderly	625,001		Tracey Fine	48201453403	123	5	17	4	0	8	4	0	161	C	UR			
20310	Highpoint at Wynnewood	~ 1805 S. Zang	Dallas	75224	Dallas	3	Urban	x		NC		114	6	120	General	1,810,000		Kathy Krickhahn	48113006200	121	0	17	8	8	0	0	7	161	UR				
20156	Whispering Trees Apts	401 Pecan Dr.	Carrizo Springs	78834	Dimmit	11	Rural		x	AcR		51	0	51	General	540,801		Alfredo Castaneda	48127950200	120	0	17	4	8	0	4	7	160	C				
20121	Eberhart Place	808 Eberhart Ln.	Austin	78745	Travis	7	urban	x		AcR		37	1	38	Elderly	387,943		Tracey Fine	48453002410	123	0	17	4	0	8	4	0	156					
20162	Hacienda Santa Barbara	525 Three Missions Dr	Socorro	79927	El Paso	13	Rural		x	NC		40	0	40	General	706,994		Ruben Trujillo	48141010408	109	0	17	4	8	0	4	0	142					
20250	Town Oaks Apts	120 Water St.	Kenedy	78119	Karnes	9	Rural		x	AcR		46	2	48	General	526,522		Dennis Hoover	48255970300	92	5	17	4	0	8	4	7	137	C				
20330	Fish Pond at Prospect Hill	1601 Buena Vista St.	San Antonio	78207	Bexar	9	Urban	x		AcR		55	0	55	Elderly	656,498		Alan Stalcup	48029170200	117	0	0	4	8	0	0	5	134					
20333	GardenWalk of Roys City	330 N. Erby Campbell	Royse City	75189	Rockwall	3	Rural		x	AcR		32	0	32	General	340,784		Corey Farmer	48397040402	128	0	0	4	0	0	0	0	132					
20187	Cortez Plaza	201 Cortez	El Paso	79905	El Paso	13	Urban	x	x	NC		123	0	123	General	1,760,000		Tom Deloye	48141003100	92	0	0	4	8	0	4	0	108					
<b>Estimated At-Risk Available</b>		<b>\$12,232,941</b>																															
<b>USDA Set-Aside</b>		<b>\$4,077,647</b>																															
																<b>Total HTCs Requested</b>		<b>19,332,264</b>															

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Construction Type	Low-Income Units	Market Rate Units	Total Units	Target Population (Supp. Hsg. = SH)	HTC Request	Direct Loan	Applicant Contact Name	Census Tract(s)	Self Score Total	\$11.9(c)(8)	\$11.9(d)(1)	\$11.9(d)(4)	\$11.9(d)(5)(A)	\$11.9(d)(5)(B)	\$11.9(d)(6)	\$11.9(d)(7)	Best Possible Score	Review Status	Underwriting Status	Notes			
<b>Region 1/Rural</b>																																		
20272	Westwind of Dumas	~ 331 W. 16th St.	Dumas	79029	Moore	1	Rural				NC	56	8	64	General	703,287		Kelly Garrett	48341950200	133	0	17	4	8	0	4	0	166	C	UR				
20158	Redwood Apartments	Second / Texas Ave.	Dumas	79029	Moore	1	Rural				NC	48	0	48	General	805,367		Vaughn C. Zimmerman	48341950200	131	0	17	4	8	0	4	0	164	UR					
<b>Estimated Amount Available</b>		<b>\$710,445</b>														<b>Total HTCs Requested</b>	<b>1,508,654</b>																	
<b>Region 1/Urban</b>																																		
20042	Commons at St. Anthony's	SWC Amarillo Blvd. / N Amarillo		79107	Potter	1	Urban				NC/AR	124	0	124	Elderly	1,500,000		Craig Alter	48375014800	117	0	17	4	8	0	4	7	157	C	UR				
<b>Estimated Amount Available</b>		<b>\$1,267,543</b>														<b>Total HTCs Requested</b>	<b>1,500,000</b>																	
<b>Region 2/Rural</b>																																		
20212	Vernon Pioneer Crossing	~ 1916 Stadium Dr.	Vernon	76384	Wilbarger	2	Rural				NC	58	6	64	Elderly	824,345		Noor Jooma	48487950600	128	0	17	4	0	8	4	0	161	C	UR				
<b>Estimated Amount Available</b>		<b>\$600,000</b>														<b>Total HTCs Requested</b>	<b>824,345</b>																	
<b>Region 2/Urban</b>																																		
20306	The Trails at Abilene	801 Block ES 27th St.	Abilene	79602	Taylor	2	Urban				NC	40	8	48	General	823,424		Adrian Iglesias	48441012000	133	0	17	4	8	0	4	0	166	C	UR				
20184	The Heritage at Abilene	1101 S 9th St	Abilene	79602	Taylor	2	Urban				NC/AR	29	0	29	Elderly	600,000		April Engstrom	48441011900	131	0	17	4	0	8	4	0	164	C		Score Pending Appeal			
<b>Estimated Amount Available</b>		<b>\$600,000</b>														<b>Total HTCs Requested</b>	<b>1,423,424</b>																	
<b>Region 3/Rural</b>																																		
20211	Ennis Trails	SEQ Dolfie Ln. / Sonon Ennis		75119	Ellis	3	Rural				NC	48	24	72	General	603,503		Michael Fogel	48139061700	133	0	17	4	0	8	4	0	166	C	UR				
<b>Estimated Amount Available</b>		<b>\$609,549</b>														<b>Total HTCs Requested</b>	<b>603,503</b>																	
<b>Region 3/Urban</b>																																		
20197	Villas at Western Heights	1501 / 1515 Fort Worth	Dallas	75208	Dallas	3	Urban				NC	104	26	130	Elderly	1,500,000		Steve Lollis	48113004300	131	0	17	4	8	0	4	7	171	C	UR				
20264	Juliette Fowler Residences	NEC S Fulton St. / E. Si	Dallas	75214	Dallas	3	Urban	x			NC	144	0	144	Elderly	1,500,000		Nicole Gann	48113001301	139	0	17	4	0	8	4	0	172	C	UR				
20027	Garland Senior Living	2222 Monarch Dr / 30 Garland		75040	Dallas	3	Urban				NC	92	30	122	Elderly	1,500,000		Tom Huth	48113019026	139	0	17	4	0	8	4	0	172	C	UR				
20046	Brandywine Apartments	500 Rockingham Dr.	Richardson	75080	Dallas	3	urban				AcR	50	0	50	Elderly	748,634		Tracey Fine	48113019211	138	0	17	8	0	8	0	0	171	C	UR				
20155	Gala at Premier	NWQ Enterprise Dr / F Plano		75075	Collin	3	Urban				NC	77	20	97	Elderly	1,406,327		Ryan Combs	48085031622	138	0	17	4	0	8	4	0	171	C	UR				
20063	Azalea West	NWC Azalea / Carroll	Fort Worth	76107	Tarrant	3	Urban				NC	68	12	80	General	1,500,000		Sally Gaskin	48439102000	138	0	17	4	0	8	4	0	171	C	UR				
20147	Kestrel on Cooper	2017-2025 S. Cooper	Arlington	76010	Tarrant	3	Urban				NC	76	14	90	General	1,500,000		Megan Lasch	48439122801	131	0	17	8	0	8	0	7	171	C	UR				
20115	Avenue at Sycamore Park	2601 Ave. J	Fort Worth	76105	Tarrant	3	Urban	x			NC	91	17	108	General	1,475,000		Eleanor M.C.	48439103500	131	0	17	4	8	0	4	7	171	C	UR				
20025	Palladium Fain Street	4001 Fain St.	Fort Worth	76111	Tarrant	3	Urban				NC	81	9	90	General	1,377,102		Tom Huth	48439101201	131	0	17	4	8	0	4	7	171	C	UR				
20024	Dallas Stemmons Apartme	11070 N. Stemmons F	Dallas	75229	Dallas	3	Urban				NC	85	2	87	General	1,500,000		Cody Hunt	48113009900	137	0	17	4	8	0	4	0	170	C	UR				
20153	Provision at Bomber Road	NEQ Silver Creek / Mc White Settlem		76108	Tarrant	3	Urban				NC	85	11	96	General	1,500,000		Ryan Combs	48439110701	130	0	17	4	0	8	4	7	170	C	UR				
20132	The Lex on Jessamine	NWC Jessamine / Herr	Fort Worth	76110	Tarrant	3	Urban				NC	72	0	72	General	1,500,000		Lisa Stephens	48439104100	137	0	17	8	0	8	0	0	170	UR					
20006	Western Star Estates	200, 150, 120 (part) E. Arlington		76018	Tarrant	3	Urban				NC	73	11	84	General	1,500,000		Brian Kimes	48439111540	137	0	17	4	8	0	4	0	170						
20224	Crossroads Apartments	~ 1105 E. Lancaster Av	Fort Worth	76102	Tarrant	3	Urban	x			NC	61	7	68	Supp Hsg	865,774	x	Don Shisler	48439101700	130	0	17	4	8	0	4	7	170						
20145	Gala at Ridgmar	NEC Plaza Pkwy / Lanc	Fort Worth	76116	Tarrant	3	Urban				NC	81	10	91	Elderly	1,500,000		Ryan Combs	48439123000	135	0	17	4	0	8	4	0	168			Exceeds Elderly Max			
20320	Mariposa at Mesquite	N.W. of US 80 / N. Gal Mesquite		75150	Dallas	3	Urban				NC	96	84	180	Elderly	1,500,000		Stuart Shaw	48113017814	134	0	17	4	0	8	4	0	167			Exceeds Elderly Max			
20111	St. Andrews Townhomes	~ NEC New York / Grei	Arlington	76108	Tarrant	3	Urban				NC	62	0	62	Elderly	1,395,000		Brian McGeady	48439111513	134	0	17	4	8	0	4	0	167			Exceeds Elderly Max			
20275	The Park on 14th	SWC 14th St. / G Ave.	Plano	75074	Collin	3	Urban				NC	48	12	60	General	736,959		Janine Sisak	48085031900	134	0	17	4	0	8	4	0	167						
20149	Provision at Fort Worth	E Rendon Crowley, E o	Fort Worth	76028	Tarrant	3	Urban				NC	90	30	120	General	1,500,000		Ryan Combs	48439111203	133	0	17	4	0	8	4	0	166						
20049	Cowan Place	5400 E. Rosedale St.	Fort Worth	76105	Tarrant	3	Urban	x			NC	108	12	120	Elderly	1,500,000		Mary-Margaret Lemc	48439103601	125	0	17	4	0	8	4	7	165			Exceeds Elderly Max			
20083	Lakeview Preserve	2800 S. MacArthur Blv	Irving	75060	Dallas	3	Urban				NC	84	0	84	General	1,500,000		Christopher Shear	48113015100	139	0	17	4	8	0	4	0	172	C		Terminated, Pending Appeal			
20018	The Park Tower	1209 Jacksboro Hwy.	Fort Worth	76114	Tarrant	3	Urban				NC	78	12	90	General	1,462,830		Matthew Rieger	48439100800	131	0	17	4	8	0	4	7	171			Terminated, Pending Appeal			
<b>Estimated Amount Available</b>		<b>\$16,915,537</b>		<b>Elderly Max \$6,845,718</b>														<b>Total HTCs Requested</b>	<b>30,467,626</b>															



Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Construction Type	Low-Income Units	Market Rate Units	Total Units	Target Population (Supp. Hsg. = SH)	HTC Request	Direct Loan	Applicant Contact Name	Census Tract(s)	Self Score Total	\$11.9(c)(8)	\$11.9(d)(1)	\$11.9(d)(4)	\$11.9(d)(5)(A)	\$11.9(d)(5)(B)	\$11.9(d)(6)	\$11.9(d)(7)	Best Possible Score	Review Status	Underwriting Status	Notes					
<b>Region 4/Rural</b>																																				
20262	Abbington Park	SEC S. Standish St. / W Henderson		75654	Rusk	4	Rural				NC	58	6	64	Elderly	917,831		Breck Kean	48401950800	133	0	17	4	0	8	4	0	166	C	UR						
20216	Henderson Trails	E side of US 79 at Pam Henderson		75654	Rusk	4	Rural				NC	60	0	60	Elderly	945,766		Michael Fogel	48401950900	132	0	17	4	0	8	4	0	165	C	UR						
20016	Reserve at Sulphur Springs	NWC League St. S. / Br Sulphur Springs		75482	Hopkins	4	Rural				NC	72	0	72	Elderly	1,000,000		Brian McGeady	48223950402	121	0	0	4	8	0	4	0	137								
<b>Estimated Amount Available</b>		<b>\$1,591,791</b>														<b>Total HTCs Requested</b>		<b>2,863,597</b>																		
<b>Region 4/Urban</b>																																				
20167	Laurel Flats	1208 E. Houston	Tyler	75702	Smith	4	Urban				NC	88	1	89	General	1,124,289		April Engstrom	48423000900	135	0	17	4	0	8	4	0	168	C	UR						
<b>Estimated Amount Available</b>		<b>\$1,208,191</b>														<b>Total HTCs Requested</b>		<b>1,124,289</b>																		
<b>Region 5/Rural</b>																																				
20240	Livingston Pioneer Crossing	1549 N Dogwood Av	Livingston	77351	Polk	5	Rural				NC	76	4	80	Elderly	1,046,000		Noor Jooma	48373210302	133	5	17	4	8	0	4	0	171	C	UR						
20288	Providence at Buna	330 CR 835	Buna	77612	Jasper	5	Rural		x		NC	80	0	80	Elderly	1,046,000		Miranda Sprague	48241950700	132	5	17	4	8	0	4	0	170								
<b>Estimated Amount Available</b>		<b>\$1,056,975</b>														<b>Total HTCs Requested</b>		<b>2,092,000</b>																		
<b>Region 5/Urban</b>																																				
20316	Virginia Flats	2250 W. Virginia St.	Beaumont	77705	Jefferson	5	Urban				AcR	78	32	110	General	903,811		Miranda Sprague	48245002300	125	5	17	4	8	0	4	0	163	C	UR						
20232	Beaumont Trails	SWQ Spindletop Sq / N Beaumont		77703	Jefferson	5	Urban				NC	57	3	60	Elderly	869,106		Michael Fogel	48245000400	135	0	14	4	0	0	4	0	157								
<b>Estimated Amount Available</b>		<b>\$913,180</b>														<b>Total HTCs Requested</b>		<b>1,772,917</b>																		
<b>Region 6/Rural</b>																																				
20210	Amber Ridge Apartments	114 Woodway Dr	Angleton	77515	Brazoria	6	Rural				NC	42	6	48	General	570,864		Vaughn C. Zimmerman	48039662100	132	5	17	4	0	8	4	0	170	UR							
20329	Fish Pond at Huntsville	148 FM 247	Huntsville	77340	Walker	6	Rural				NC	48	0	48	Elderly	900,000	x	David Fournier	48471790102	132	5	17	4	8	0	4	0	170	C		Score Pending Appeal					
<b>Estimated Amount Available</b>		<b>\$600,000</b>														<b>Total HTCs Requested</b>		<b>1,470,864</b>																		
<b>Region 6/Urban</b>																																				
20075	New Hope Housing Savoy	6301 Savoy Dr.	Houston	77036	Harris	6	Urban		x		NC	120	0	120	Supp Hsg	1,500,000		Joy Horak-Brown	48201432801	132	5	17	4	8	0	4	7	177	C	UR						
20114	3300 Caroline Street	3300 Caroline St.	Houston	77004	Harris	6	Urban		x		NC	149	0	149	Supp Hsg	1,500,000		Neal Drobenare	48201312500	141	5	17	4	8	0	4	0	179	UR							
20223	Campanile on Briar Hollow	SEC Post Oak Blvd./Bri	Houston	77027	Harris	6	Urban				NC	72	13	85	Elderly	1,500,000		Les Kilday	48201411300	139	5	17	4	8	0	4	0	177	C	UR						
20141	Richmond Senior Village	5615 Richmond Ave.	Houston	77057	Harris	6	Urban				NC	100	25	125	Elderly	1,500,000		Doak Brown	48201432702	138	5	17	4	8	0	4	0	176	C	UR						
20116	Dian Street Villas	1433 Dian St.	Houston	77008	Harris	6	Urban		x		NC	96	12	108	General	1,500,000		Jervon Harris	48201511200	138	5	17	4	8	0	4	0	176	C	UR						
20138	The Ella	1718 W. 26th St.	Houston	77008	Harris	6	Urban				NC	100	80	180	General	1,500,000		Miranda Sprague	48201511100	138	5	17	4	8	0	4	0	176	C	UR						
20204	Heritage Senior Residence	NEC Center St. / Moy	Houston	77007	Harris	6	Urban				NC	94	41	135	Elderly	1,500,000		Dan Wilson	48201510600	138	5	17	4	0	8	4	0	176	C	UR						
20011	Canal Lofts	5601 Canal St.	Houston	77011	Harris	6	Urban				NC	100	50	150	General	1,500,000		Nathan Kelley	48201310500	131	5	17	4	8	0	4	7	176	C	UR						
20077	Lockwood South Apartm	W. of Lockwood, S. of	Houston	77003	Harris	6	Urban		x		NC	72	8	80	General	1,500,000		Scott Puffer	48201310400	131	5	17	4	8	0	4	7	176	C	UR						
20097	Regency Lofts	3232 Dixie Dr.	Houston	77021	Harris	6	Urban				NC	102	18	120	General	1,500,000		Donna Rickenbacker	48201313200	131	5	17	4	0	8	4	7	176	C	UR						
20082	Connect South Apartment	6440 Hillcroft Ave.	Houston	77074	Harris	6	Urban		x		NC	70	7	77	General	1,500,000		Scott Puffer	48201421300	131	5	17	4	8	0	4	7	176	C							
20205	Ella Grand	2077 S. Gessner Rd.	Houston	77063	Harris	6	Urban				NC	115	30	145	Elderly	1,500,000		Janine Sisak	48201431101	137	5	17	4	0	8	4	0	175								
20128	OST Lofts	5520 Old Spanish Trail	Houston	77023	Harris	6	Urban				NC	106	19	125	General	1,500,000		Donna Rickenbacker	48201311800	131	5	17	4	8	0	4	5	174								
20125	Parkway Meadows	W. Gulf Bank, W. of W	Houston	77088	Harris	6	Urban				NC	64	18	82	General	1,495,797		Ryan Hettig	48201533000	125	5	17	8	8	0	0	7	170								
<b>Estimated Amount Available</b>		<b>\$15,304,922</b>		<b>Elderly Max \$6,310,219</b>														<b>Total HTCs Requested</b>		<b>20,995,797</b>																
<b>Region 7/Rural</b>																																				
20273	La Grange Springs	NEC of Hwy 77 / CR 21	La Grange	78945	Fayette	7	Rural				NC	64	8	72	General	900,000		Butch Richardson	48149970200	130	5	17	4	0	8	4	0	168	C	UR						
20292	Carver Ridge Apartments	S. of CR 137 / CR 1660	Hutto	78634	Williamson	7	Rural				NC	56	16	72	General	600,000		Justin Zimmerman	48491020809	132	0	17	4	0	8	4	0	165	UR							
20342	The Cottages at Cedar Ridge	County Line Rd / N. Av	Elgin	78621	Travis	7	Rural				NC	40	24	64	Elderly	600,000		Lee Zieben	48453001854	132	0	17	4	8	0	4	0	165	UR		Score Pending Appeal					
<b>Estimated Amount Available</b>		<b>\$600,000</b>														<b>Total HTCs Requested</b>		<b>2,100,000</b>																		

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Construction Type	Low-Income Units	Market Rate Units	Total Units	Target Population (Supp. Hsg. = SH)	HTC Request	Direct Loan	Applicant Contact Name	Census Tract(s)	Self Score Total	\$11.9(c)(8)	\$11.9(d)(1)	\$11.9(d)(4)	\$11.9(d)(5)(A)	\$11.9(d)(5)(B)	\$11.9(d)(6)	\$11.9(d)(7)	Best Possible Score	Review Status	Underwriting Status	Notes	
<b>Region 7/Urban</b>																																
20002	Armadillo Studios	1508 S Lamar Blvd	Austin	78704	Travis	7	Urban	x	NC			110	0	110	Supp Hsg	1,500,000	x	Walter Moreau	48453001303	141	0	17	8	0	8	0	0	174	C	UR		
20192	Arbor Park	6306 McNeil Dr.	Austin	78729	Travis	7	Urban		NC			120	27	147	Elderly	1,500,000		Janine Sisak	48453001785	135	0	17	4	8	0	4	0	168	UR			
20139	The Loretta	13653 Rutledge Spur	Austin	78717	Williamson	7	Urban	x	NC			137	0	137	General	1,500,000		Walter Moreau	48491020311	129	0	17	4	8	0	4	0	162	C	UR		
20030	Akins East	3417 E Martin Luther	Austin	78721	Travis	7	Urban		NC			145	36	181	Elderly	1,500,000		Matthew Rieger	48453002109	130	0	17	4	8	0	4	7	170		Terminated; pending appeal		
<b>Estimated Amount Available</b>		<b>\$4,469,306</b>	<b>Elderly Max \$1,591,967</b>												<b>Total HTCs Requested</b>	<b>6,000,000</b>																
<b>Region 8/Rural</b>																																
20222	Brenham Trails	SWQ S Market St. / Ry	Brenham	77833	Washingtor	8	Rural		NC			41	8	49	Elderly	978,020		Michael Fogel	48477170300	113	0	17	4	0	8	4	0	146	C	UR		
<b>Estimated Amount Available</b>		<b>\$685,616</b>											<b>Total HTCs Requested</b>	<b>978,020</b>																		
<b>Region 8/Urban</b>																																
20171	Avanti Viking Hills	6501 & 6515 Sanger A	Waco	76710	McLennan	8	Urban		NC			69	13	82	General	1,500,000		Enrique Flores, IV	48309002501	138	0	17	4	8	0	4	0	171	C	UR		
20200	Lofts at Temple Medical	Di NW of 400 SW HK Doc	Temple	76504	Bell	8	Urban		NC			102	18	120	Elderly	1,500,000	x	Steve Lollis	48027021000	131	0	17	4	0	8	4	7	171	UR			
20010	Paige Estates	11th St. & Ross Ave.	Waco	76706	McLennan	8	Urban		NC			38	0	38	Elderly	705,000		Brian Kimes	48309000400	131	0	17	4	0	8	4	5	169				
<b>Estimated Amount Available</b>		<b>\$2,092,617</b>											<b>Total HTCs Requested</b>	<b>3,705,000</b>																		
<b>Region 9/Rural</b>																																
20186	The Residence at Ridgehill	160-170 Lehmann Dr	Kerrville	78020	Kerr	9	Rural		NC			43	17	60	Elderly	900,000		April Engstrom	48265960402	117	0	17	4	0	8	4	0	150	C	UR		
<b>Estimated Amount Available</b>		<b>\$600,000</b>											<b>Total HTCs Requested</b>	<b>900,000</b>																		
<b>Region 9/Urban</b>																																
20089	Hamilton Wolfe Lofts	NWC Hamilton Wolfe	San Antonio	78240	Bexar	9	Urban		NC			74	0	74	General	1,500,000		Jason Arechiga	48029181403	132	0	17	4	0	8	4	7	172	C	UR		
20069	Vista at Interpark	SWC Interpark Blvd / S	San Antonio	78216	Bexar	9	Urban		NC			64	0	64	General	1,500,000		Dan Wilson	48029192300	139	0	17	4	8	0	4	0	172	C	UR		
20066	Vista at Everest	SE of Everest Ave/E Sa	San Antonio	78209	Bexar	9	Urban		NC			64	0	64	General	1,500,000		Dan Wilson	48029120701	139	0	17	4	8	0	4	0	172	UR			
20188	Village at Boyer	1510 Hoefgen Ave.	San Antonio	78210	Bexar	9	Urban	x	NC			86	0	86	General	1,500,000		Bradford McMurray	48029140200	131	0	17	4	8	0	4	7	171				
20072	Culebra Place Apartments	7796 Culebra Rd.	San Antonio	71852	Bexar	9	Urban		NC			120	0	120	General	1,500,000		Jennifer M. Bartlett	48029171923	134	0	17	4	0	8	4	0	167				
20092	Fiesta Trails	12485 W Interstate 1C	San Antonio	78230	Bexar	9	Urban	x	NC			74	0	74	General	1,500,000		Jason Arechiga	48029181813	126	0	17	4	0	8	4	0	159	C		Score Pending Appeal	
20198	Village at Perrin Beitel	2611 NE Loop 410	San Antonio	78217	Bexar	9	Urban	x	NC			80	12	92	General	1,500,000		Bradford McMurray	48029121204	132	0	17	4	8	0	4	7	172		2 mi same yr 20091		
20008	Trailside Creek	592 Ira Lee Rd.	San Antonio	71119	Bexar	9	Urban		NC			56	0	56	Elderly	1,000,000		Brian Kimes	48029120902	138	0	17	4	8	0	4	0	171		2 mi same yr 20091,20198		
20280	Hays Street Lofts	715 Chestnut	San Antonio	78202	Bexar	9	Urban		NC			112	22	134	General	1,388,440		Jamie McDonald	48029191900	131	0	17	8	8	0	0	7	171		2 mi same yr 20188		
<b>Estimated Amount Available</b>		<b>\$5,572,161</b>	<b>Elderly Max \$2,413,860</b>												<b>Total HTCs Requested</b>	<b>12,888,440</b>																
<b>Region 10/Rural</b>																																
20054	Gulf Shore Villas	1400 FM 3036	Rockport	78382	Aransas	10	Rural		NC			48	8	56	General	987,222		Rick Deyoe	48007950300	130	5	17	4	8	0	4	0	168	C	UR	Score Pending Appeal	
20309	Casitas Los Ebanos	N. of CR 70 on CR 81A	Bishop	78343	Nueces	10	Rural	x	NC			50	0	50	General	658,147		Mark Moseley	48355005900	100	5	8.5	4	8	0	4	0	129.5	C		Score Pending Appeal	
<b>Estimated Amount Available</b>		<b>\$664,803</b>											<b>Total HTCs Requested</b>	<b>1,645,369</b>																		
<b>Region 10/Urban</b>																																
20051	Village at McArdle	5314 McArdle Rd.	Corpus Christi	78411	Nueces	10	Urban	x	NC			70	12	82	General	1,392,807		Bradford McMurray	48355002400	136	5	17	4	8	0	4	0	174	C	UR		
20144	The Enchanted Gardens	4600 N. Ben Jordan St	Victoria	77901	Victoria	10	Urban		NC			82	14	96	Elderly	1,392,807		Rick J. Deyoe	48469001604	135	5	17	4	8	0	4	0	173	UR			
20331	Fish Pond at Fitzgerald	SWC of Fitzgerald & Cl	Corpus Christi	78401	Nueces	10	Urban		NC			81	9	90	General	1,392,807		David Fournier	48355006400	131	5	17	4	0	0	4	7	168				
<b>Estimated Amount Available</b>		<b>\$1,407,645</b>											<b>Total HTCs Requested</b>	<b>4,178,421</b>																		
<b>Region 11/Rural</b>																																
20181	Avanti Valley View	NWC S Jackson Rd & E	Hidalgo	78557	Hidalgo	11	Rural		NC			68	12	80	General	1,407,261		Enrique Flores	48215021305	132	5	17	4	8	0	4	0	170	C	UR		
20004	Bamboo Estates Apartmen	NE Quadrant of Farm	Progreso	78579	Hidalgo	11	Rural	x	NC			75	4	79	General	1,400,000		Sunny K. Philip	48215022800	131	5	17	4	8	0	4	0	169				
<b>Estimated Amount Available</b>		<b>\$947,948</b>											<b>Total HTCs Requested</b>	<b>2,807,261</b>																		
<b>Region 11/Urban</b>																																

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Construction Type	Low-Income Units	Market Rate Units	Total Units	Target Population (Supp. Hsg. = SH)	HTC Request	Direct Loan	Applicant Contact Name	Census Tract(s)	Self Score Total	\$11.9(c)(8)	\$11.9(d)(1)	\$11.9(d)(4)	\$11.9(d)(5)(A)	\$11.9(d)(5)(B)	\$11.9(d)(6)	\$11.9(d)(7)	Best Possible Score	Review Status	Underwriting Status	Notes	
20093	Brownsville Lofts	1860 Central Blvd.	Brownsville	78520	Cameron	11	Urban				NC	64	6	70	General	1,283,000		Jacob Mooney	48061013004	138	5	17	4	8	0	4	0	176	C	UR		
20177	Avanti Legacy Valor Heights	SEC 2nd St. & Business	McAllen	78501	Hidalgo	11	Urban				NC	85	8	93	Elderly	1,500,000		Enrique Flores	48215021201	138	5	17	4	8	0	4	0	176	C	UR		
20179	Avanti West	NWC of W Alberta Rd.	Edinburg	78539	Hidalgo	11	Urban				NC	70	2	72	General	1,500,000		Enrique Flores, IV	48215023902	137	5	17	4	8	0	4	0	175	C	UR		
20134	Hibiscus Village	2400 Hibiscus Ave.	McAllen	78501	Hidalgo	11	Urban			x	NC	84	12	96	General	1,500,000		Arnold Padilla	48215020721	135	5	17	4	8	0	4	0	173	C	UR		
20293	Pendleton Square	NEC Doctors Memoria	Harlingen	78550	Cameron	11	Urban				NC	60	0	60	General	1,022,682		Justin Zimmerman	48061011302	134	5	17	4	0	8	4	0	172				
20324	BCC Village Townhomes	Mayorca Court at May	Brownsville	78526	Cameron	11	Urban				NC	11	21	32	General	239,515		Melissa Fisher	48061012613	131	5	17	4	8	0	0	0	165				
<b>Estimated Amount Available</b>		<b>\$6,332,842</b>										<b>Total HTCs Requested</b>			<b>7,045,198</b>																	
<b>Region 12/Rural</b>																																
20034	Ranch Court Apartments	1325 NW County Rd.	Andrews	79714	Andrews	12	Rural				NC	48	0	48	General	539,333		Justin Zimmerman	48003950100	126	0	17	4	8	0	4	0	159	C	UR		
20294	Sagebrush Apartments	218 Lynn Gavit	Brady	76825	McCulloch	12	Rural				AcR	60	0	60	General	599,999		Mark Mayfield	48307950300	110	0	17	4	8	0	0	3	142				
<b>Estimated Amount Available</b>		<b>\$600,000</b>										<b>Total HTCs Requested</b>			<b>1,139,332</b>																	
<b>Region 12/Urban</b>																																
20317	Merritt Edge	205 Corporate Dr.	Midland	79705	Midland	12	Urban			x	NC	74	50	124	Elderly	867,683	x	Colby Denison	48329000100	135	0	17	4	8	0	4	0	168	C	UR		
20231	Walnut Trails	NWQ NW Dr./W. Hou: San Angelo		76901	Tom Green	12	Urban				NC	48	0	48	General	867,661		Michael Fogel	48451001101	134	0	17	4	8	0	4	0	167				
20344	Merritt Sunset	Thomason Dr. & Loop	Midland	79703	Midland	12	Urban			x	NC	109	40	149	General	1,301,492	x	Colby Denison	48329001300	54	0	17	4	8	0	0	0	83				
20012	Merritt Gardens	5606 & 5614 Starboar	Midland	79706	Midland	12	Urban			x	NC	65	55	120	Elderly	1,301,492	x	Colby Denison	48329010114	46	0	17	4	8	0	0	0	75				
<b>Estimated Amount Available</b>		<b>\$876,650</b>										<b>Total HTCs Requested</b>			<b>4,338,328</b>																	
<b>Region 13/Rural</b>																																
20268	Inkwood Estates	107 S. San Elizario Rd.	Clint	79836	El Paso	13	Rural				NC	40	0	40	General	900,000		Roy Lopez	48141010404	108	0	17	4	8	0	4	0	141	C	UR		
20267	Valley View Estates	~ 1510 Fabens St.	Fabens	79838	El Paso	13	Rural				NC	40	0	40	General	900,000		Roy Lopez	48141010505	106	0	0	4	8	0	4	0	122				
<b>Estimated Amount Available</b>		<b>\$600,000</b>										<b>Total HTCs Requested</b>			<b>1,800,000</b>																	
<b>Region 13/Urban</b>																																
20190	Nuestra Senora	415 Montana Ave.	El Paso	79902	El Paso	13	Urban			x	NC	80	0	80	General	1,232,777		Tom Deloye	48141001600	118	0	17	4	8	0	4	7	158	UR			
20297	Artcraft Palms	SEC of Artcraft Rd. / Ri	El Paso	79932	El Paso	13	Urban				NC	100	24	124	General	1,232,778		R.L. Bowling, IV	48141010219	122	0	17	4	8	0	4	0	155	C	UR		
20261	Sunset Vista Seniors	1333 Pullman Dr	El Paso	79936	El Paso	13	Urban				NC	42	2	44	Elderly	674,400		Roy Lopez	48141010338	122	0	17	4	8	0	4	0	155				
<b>Estimated Amount Available</b>		<b>\$2,492,277</b>										<b>Total HTCs Requested</b>			<b>3,139,955</b>																	
<b>Estimated Total Available</b>		<b>\$81,552,939</b>		<b>Applications: 123</b>								<b>Total Amount Requested:</b>			<b>138,644,603</b>																	