BOARD MEETING OF JULY 31, 2014

J. Paul Oxer, Chair

TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Texas Department Of Housing And Community Affairs
BOARD MEETING

A G E N D A

9:00 a.m.
July 31, 2014

John H. Reagan Building
Room JHR 140, 105 W 15th Street
Austin, Texas

CALL TO ORDER, ROLL CALL — **J. Paul Oxer, Chairman**
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.***

RECOGNITION OF SANDY DONOHO, INTERNAL AUDITOR, ON HER RETIREMENT

CONSENT AGENDA
Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

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

EXECUTIVE

a) Presentation, Discussion, and Possible Action on the appointment of Betsy Schwing as Acting Internal Auditor — **Tim Irvine**, Executive Director

FINANCIAL ADMINISTRATION — **David Cervantes**, Chief Financial Officer

b) Presentation, Discussion, and Possible Action regarding the Ten Percent General Revenue Reduction Schedule to be included in the Legislative Appropriations Request for State Fiscal Years 2016-17

c) Presentation, Discussion, and Possible Action regarding Resolution No. 14-037, Designating Signature Authority and superseding Resolution No. 14-018

RULES

d) Presentation, Discussion, and Possible Action on the adoption of the repeal of 10 TAC §1.20, concerning Asset Review Committee — **Jeff Pender**, Deputy General Counsel

e) Presentation, Discussion, and Possible Action on the proposed amendment to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1-20.16, and directing its publication for public comment in the *Texas Register* — **Marni Holloway**, Director NSP

f) Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973

Patricia Murphy,
Chief of Compliance

g) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC §10.1004, concerning Income and Rent Limits

Stephanie Naquin,
Director of Multifamily Compliance

NEIGHBORHOOD STABILIZATION

Marni Holloway
Director NSP

h) Presentation, Discussion, and Possible Action to approve amendments to Neighborhood Stabilization Program One (NSP1) Contracts

77090000105	Housing Authority of the City of Brownsville	Brownsville
77090000106	City of Irving	Irving
77090000110	City of Galveston	Galveston
77090000113	Housing Authority of the City of San Benito	San Benito
77090000123	City of Harlingen	Harlingen
77090000153	Builders of Hope Community Development Corporation	Dallas
77099999124	City of Waelder	Waelder
77090000164	Frazier Revitalization, Inc.	Dallas
77090000169	Hidalgo County Housing Authority	Weslaco
77099999170	Midland County Housing Authority	Midland

COMMUNITY AFFAIRS

Michael DeYoung
Assist. DED, Network & Customer Service

i) Presentation, Discussion, and Possible Action on Program Year (PY) 2014 Community Services Block Grant ("CSBG") Discretionary Awards

j) Presentation, Discussion, and Possible Action on the Award of funds to Administer the Comprehensive Energy Assistance Program ("CEAP") in Bee, Live Oak, McMullen, and Refugio counties and the Community Services Block Grant program in Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio counties

k) Presentation, Discussion, and Possible Approval of the Section 8 Program 2015 Annual Public Housing Agency ("PHA") Plan for the Housing Choice Voucher Program

l) Presentation, Discussion, and Possible Action on Approval of the Final FFY 2015 Low Income Home Energy Assistance Program (LIHEAP) State Plan

HOUSING RESOURCE CENTER

Elizabeth Yevich
Dir. Housing Resource Ctr.

m) Presentation, Discussion, and Possible Action on the Draft 2015 Regional Allocation Formula Methodology

MULTIFAMILY FINANCE

Jean Latsha
Dir. Multifamily Finance

n) Presentation, Discussion, and Possible Action on Qualified Trustee Services for Multifamily Bond Transactions

o) Presentation, Discussion, and Possible Action on Inducement Resolution No. 14-038 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority - 2014 Waiting List for Patriot's Crossing Apartments

LEGAL — **Jeff Pender**, Deputy General Counsel

p) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Sunrise Village I (HOME 532336)

q) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Stone Manor apartments (HTC 70076)

r) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning San Marcos Senior Community II, LLP, owner of Sunrise Village II (HOME 536265/ HTC 96113)

ASSET MANAGEMENT: — **Cari Garcia**, Dir. Asset Management

s) Presentation, Discussion, and Possible Action on Material LURA Amendment

94237	Briarcrest Apartments	Madisonville

t) Presentation, Discussion, and Possible Action on Housing Tax Credit Application Amendments

13044	Villas of Vanston Park	Mesquite
09404	Cevallos Lofts	San Antonio

BOND FINANCE — **Tim Nelson**, Dir. Bond Finance

u) Presentation, Discussion, and Possible Action adopting Resolution No. 14-039 authorizing application to the Texas Bond Review Board for reservation of the 2014 single family private activity bond authority from the housing set-aside

HOME PROGRAM — **Jennifer Molinari**, Director of HOME

v) Presentation, Discussion, and Possible Action to authorize the issuance of the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability ("NOFA") and publication of the NOFA in the *Texas Register*

REPORT ITEMS

The Board accepts the following reports:

1. Report on the Department's 3rd Quarter Investment Report in accordance with the Public Funds Investment Act — **David Cervantes**, Chief Financial Officer
2. Report on the Department's 3rd Quarter Investment Report relating to funds held under Bond Trust Indentures. — **Tim Nelson**, Dir. Bond Finance
3. Report on Request for Proposal for firms registered as independent municipal advisors interested in providing financial advisory services to the Department
4. TDHCA Outreach Activities, June 2014 — **Michael Lyttle**, Chief of External Affairs
5. Status report on the development of the 2015-2019 State of Texas Consolidated Plan as required by the U.S. Department of Housing and Urban Development — **Elizabeth Yevich**, Dir. Housing Resource Ctr
6. Update on the Status of the Preparation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments — **Cameron Dorsey**, DED MF Finance & Fair Housing
7. Report to extend the Market Rate Ginnie Mae To Be Announced Program Administrator contract — **Eric Pike**, Director. THP

ACTION ITEMS

ITEM 2: PROGRAM PLANNING POLICY AND METRICS

Brooke Boston
DED SF, CA & Metrics

Report from the Deputy Executive Director for Single Family, Community Affairs, and Metrics

ITEM 3: FAIR HOUSING

Cameron Dorsey
DED MF Finance & Fair Housing

Presentation of report from the fair housing team and possible authorization to select crime data provider

ITEM 4: ASSET MANAGEMENT

Cari Garcia
Dir. Asset Management

Presentation, Discussion, and Possible Action on Material LURA Amendments

95026	Fonseca. Ltd.	El Paso
97089	Prado, Ltd.	El Paso
98091	NCDO Housing, Ltd	El Paso
01018	Western Whirlwind, Ltd.	Horizon City
01119	Cactus Rose, Ltd.	Anthony
02061	Painted Desert Townhomes	Clint
03222	Whispering Sands Townhomes	Anthony

ITEM 5: APPEALS

Jean Latsha
Director MF Finance

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under the Department's Program Rules

14063	Hudson Providence	Hudson
14106	Manor Lane Senior Apartments	Hondo
14130	Tays	El Paso
14181	The Trails on Mockingbird Lane	Abilene

ITEM 6: MULTIFAMILY FINANCE

Jean Latsha
Director MF Finance

a. Presentation, Discussion, and Possible Action regarding Awards from the 2014 State Housing Credit Ceiling and Approval of the Waiting List for the 2014 Housing Tax Credit Application Round, including resolution of any outstanding previous participation issues

b. Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

14405	Pine Grove	Orange

c. Presentation, Discussion, and Possible Action regarding Staff's Request for Guidance with respect to the Drafting of the 2015 Qualified Allocation Plan and Uniform Multifamily Rules

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

EXECUTIVE SESSION

J. Paul Oxer
Chairman

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

1. The Board may go into Executive Session Pursuant to Texas Government 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

2. 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, including:

   a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al., filed in federal district court, Northern District of Texas.*

   b) *Letter from Texas Rio Grande Legal Aid regarding Auburn Village Tax Credit Application*

   c) *Relman, Dane & Colfax PLLC letters to HUD concerning the State's Phase 2 Analysis of Impediments*

3. 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:

   a) Any posted agenda item

4. 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-

5. 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 & details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542; TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Jorge Reyes, 512-475-4577 at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

CONSENT AGENDA

1a

BOARD ACTION REQUEST

EXECUTIVE

JULY 31, 2014

Presentation, Discussion, and Possible Action on the appointment of Betsy Schwing as Acting Internal Auditor.

RECOMMENDED ACTION

WHEREAS, the current Internal Auditor has announced her retirement, effective today;

WHEREAS, TEX. GOV'T CODE §2306.073, provides that "the director, with the approval of the board, shall appoint an internal auditor who reports directly to the board and serves at the pleasure of the board;"

WHEREAS, the Executive Director has determined that Betsy Schwing, currently Senior Audit Project Manager for the Department, meets the statutory criteria specified in TEX, GOV'T CODE §2102.006(b), namely that "[A]n internal auditor must: (1) be a certified public accountant or a certified internal auditor; and (2) have at least three years of auditing experience;" and

WHEREAS, the Executive Director recommends the appointment of Ms. Schwing as Acting Internal Auditor on an interim basis as the most expedient way to ensure continuity of the operation of the internal audit function while evaluating the best long term solution

NOW, therefore, it is hereby

RESOLVED,

That the Executive Director's appointment of Betsy Schwing as Acting Internal Auditor is hereby approved.

BACKGROUND

The decision of the current Internal Auditor, Sandy Donoho, to retire has prompted a need to designate a successor in this extremely important role, but there has not been sufficient time to study the matter, to confer with Board Chair or Audit Committee Chair, and develop a well thought out plan for moving forward. Betsy Schwing is a skilled and experienced auditor who has the credentials required by law for an Internal Auditor. Designating Ms. Schwing as Acting Internal Auditor in the interim will provide for valuable continuity and allow for an orderly process to determine the best way to move forward.

1b

BOARD ACTION REQUEST

FINANCIAL ADMINISTRATION DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action regarding the “Ten Percent General Revenue Reduction Schedule” to be included in the Legislative Appropriations Request (“LAR”) for State Fiscal Years 2016-17

RECOMMENDED ACTION

WHEREAS the Texas Department of Housing and Community Affairs (“TDHCA” or “the Department”) must submit to the Office of the Governor and the Legislative Budget Board (“LBB”) a Ten Percent General Revenue Reduction Schedule within its State Fiscal Year 2016-17 LAR;

WHEREAS on July 7, 2014, the LBB provided the Department a certified target for the reduction schedule; and

WHEREAS Executive Staff has reviewed anticipated needs and resources and made appropriate recommendations;

NOW, therefore, it is hereby

RESOLVED, that staff is authorized to include the proposed Ten Percent General Revenue Reduction Schedule herewith attached in its LAR for SFY 2016-17.

BACKGROUND

Each state agency is required to develop and submit an LAR every biennium to the Governor’s Office of Budget, Planning and Policy (“GOBPP”) and to the LBB. The LAR is used by the LBB, the Senate Committee on Finance, and the House Committee on Appropriations to determine appropriate funding levels for each state agency. The Department’s LAR is due on August 4, 2014.

Staff is proposing to achieve the requested reductions in a manner that prioritizes non-programmatic funds such as administrative support, market studies, council support, continuum of care technical assistance prior to reducing services provided through housing trust fund and homeless housing and services programs.

Within the LAR, state agencies have been asked to include a supplemental schedule detailing how they would reduce their baseline General Revenue and General Revenue Dedicated Funds by 10 percent. Both the baseline General Revenue and the total amount by which this baseline must be reduced are determined by the Governor's Office and LBB.

At the Board Meeting on June 26, 2014, staff recommendations for the Department's LAR were approved. Included in the Board Action Item was the methodology for the "Ten Percent General Revenue Reduction." In addition, staff indicated that they would provide (upon receipt of the certified reduction target), a proposed schedule at the July 31st Board Meeting.

On July 7, 2014, the Governor's Office and the LBB provided the Department with a reduction target of $2,637,991. The majority of the Department's General Revenue is appropriated for the Housing Trust Fund and the Homeless Housing and Services Program. The proposed reduction schedule minimizes the impact on TDHCA's programs and services.

Included with this write-up is the proposed reduction schedule based on the certified amount from the GOBPP and the LBB that will be included in the Department's LAR.

Attachment:

- 6.I Ten Percent (10%) Biennial Base Reduction Options Schedule

Agency code: **332** Agency name: **Department of Housing and Community Affairs**

Item Priority and Name/ Method of Financing	**REVENUE LOSS** 2016	2017	Biennial Total	**REDUCTION AMOUNT** 2016	2017	Biennial Total	**TARGET**
1 Indirect Admin and Support							

Category: Administrative - Operating Expenses

Item Comment: The reduction would decrease General Revenue available for TDHCA central administration. This reduction would be consistent with continuing reductions in central administrative functions as federal funds, especially those with greater administrative requirements, decrease or remain level. To ensure adequate resources for support of federal programs, TDHCA has recently revisited estimates for fixed costs and continues to seek increased efficiencies and cost savings. Efficiencies achieved in the current biennium may allow TDHCA to absorb this reduction. NOTE: General Revenue applied to central administrative support derives from Earned Federal Funds (EFF). EFF are essentially a portion of the administrative funds TDHCA receives from its federal grant funding sources. EFF can be utilized to fund indirect support of federal activity, such as TDHCA Central Administration and support provided by other state agencies.

Strategy: 6-1-1 Central Administration

Method of Financing	2016	2017	Biennial Total	2016	2017	Biennial Total	TARGET
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$188,149	$188,150	$376,299	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$188,149**	**$188,150**	**$376,299**	
Item Total	**$0**	**$0**	**$0**	**$188,149**	**$188,150**	**$376,299**	

FTE Reductions (From FY 2016 and FY 2017 Base Request)

2 Information Assistance/Housing Resource Center

Category: Administrative - Contracted Admin Services

Item Comment: This would eliminate SFY 2016 and 2017 funding for this activity. Typically this funding has been utilized for market studies and other types of needs surveys. TDHCA anticipates that it will be able to utilize studies undertaken in SFY 2014-15 and previous biennium in developing program policies and/or that local funds associated with the Housing Tax Credit Program can be used for similarly related activities.

Strategy: 2-1-1 Center for Housing Research, Planning, and Communications

Method of Financing	2016	2017	Biennial Total	2016	2017	Biennial Total	TARGET
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$120,000	$120,000	$240,000	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$120,000**	**$120,000**	**$240,000**	

Agency code: **332** Agency name: **Department of Housing and Community Affairs**

	REVENUE LOSS			REDUCTION AMOUNT			TARGET
Item Priority and Name/ Method of Financing	**2016**	**2017**	**Biennial Total**	**2016**	**2017**	**Biennial Total**	
Item Total	**$0**	**$0**	**$0**	**$120,000**	**$120,000**	**$240,000**	

FTE Reductions (From FY 2016 and FY 2017 Base Request)

3 Information Assistance/Housing and Health Srvcs Coord Council

Category: Administrative - Contracted Admin Services

Item Comment: This would reduce funding for the Council without jeopardizing the overall objective of the Council's mission. Funding for professional services under this program would be eliminated but sufficient funding would remain for TDHCA staff support and Council travel.

Strategy: 2-1-1 Center for Housing Research, Planning, and Communications

	2016	2017	Biennial Total	2016	2017	Biennial Total	
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$149,497	$103,341	$252,838	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$149,497**	**$103,341**	**$252,838**	
Item Total	**$0**	**$0**	**$0**	**$149,497**	**$103,341**	**$252,838**	

FTE Reductions (From FY 2016 and FY 2017 Base Request)

4 Poverty Related Funds/Continuum of Care

Category: Programs - Grant/Loan/Pass-through Reductions

Item Comment: This would eliminate SFY 2016-17 General Revenue funding for this program. TDHCA might be able to continue to fund the activity through Community Services Block Grant Discretionary Funds.

Strategy: 3-1-1 Administer Poverty-related Funds through a Network of Agencies

	2016	2017	Biennial Total	2016	2017	Biennial Total	
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$50,000	$50,000	$100,000	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$50,000**	**$50,000**	**$100,000**	
Item Total	**$0**	**$0**	**$0**	**$50,000**	**$50,000**	**$100,000**	

Agency code: **332** Agency name: **Department of Housing and Community Affairs**

	REVENUE LOSS			REDUCTION AMOUNT			TARGET
Item Priority and Name/ Method of Financing	**2016**	**2017**	**Biennial Total**	**2016**	**2017**	**Biennial Total**	

FTE Reductions (From FY 2016 and FY 2017 Base Request)

5 Affordable Housing/Housing Trust Fund

Category: Programs - Grant/Loan/Pass-through Reductions

Item Comment: TDHCA uses the HTF to fund the Texas Bootstrap Program ("TBP") and the Amy Young Barrier Removal Program ("AYBR"). It is assumed that TDHCA would apply $3M per year to TBP in order to meet statutorily required funding levels and that the balance would be applied to AYBR. Given required TBP funding levels, the reduction would be able to be taken from the AYBR. Based on the average per unit cost of AYBR, the total impact would be a reduction of an estimated 33 households over the biennium. (15 fewer households in SFY 2016 and 18 fewer in 2017)

Strategy: 1-1-3 Provide Funding through the HTF for Affordable Housing

	2016	2017	Biennial Total	2016	2017	Biennial Total	Target
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$304,500	$353,155	$657,655	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$304,500**	**$353,155**	**$657,655**	
Item Total	**$0**	**$0**	**$0**	**$304,500**	**$353,155**	**$657,655**	

FTE Reductions (From FY 2016 and FY 2017 Base Request)

6 Poverty Related Funds/HHSP

Category: Programs - Service Reductions (Contracted)

Item Comment: Based on the estimated average cost per person served, it is estimated that the program will serve 1,011 fewer persons per year or 2,022. As costs vary significantly based on activities undertaken, the impact would likewise vary from city to city.

Strategy: 3-1-1 Administer Poverty-related Funds through a Network of Agencies

	2016	2017	Biennial Total	2016	2017	Biennial Total	Target
General Revenue Funds							
1 General Revenue Fund	$0	$0	$0	$505,600	$505,599	$1,011,199	
General Revenue Funds Total	**$0**	**$0**	**$0**	**$505,600**	**$505,599**	**$1,011,199**	
Item Total	**$0**	**$0**	**$0**	**$505,600**	**$505,599**	**$1,011,199**	

Agency code: **332** Agency name: **Department of Housing and Community Affairs**

	REVENUE LOSS			REDUCTION AMOUNT			TARGET
Item Priority and Name/ Method of Financing	**2016**	**2017**	**Biennial Total**	**2016**	**2017**	**Biennial Total**	
FTE Reductions (From FY 2016 and FY 2017 Base Request)							
AGENCY TOTALS							
General Revenue Total				**$1,317,746**	**$1,320,245**	**$2,637,991**	**$2,637,991**
Agency Grand Total	**$0**	**$0**	**$0**	**$1,317,746**	**$1,320,245**	**$2,637,991**	
Difference, Options Total Less Target							
Agency FTE Reductions (From FY 2016 and FY 2017 Base Request)							

1c

BOARD ACTION REQUEST

FINANCIAL ADMINISTRATION DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action regarding Resolution No. 14-037, Designating Signature Authority and superseding Resolution No. 14-018

RECOMMENDED ACTION

WHEREAS, the Governing Board has now determined that Resolution No. 14-018, designating signature authority, should be updated by the adoption of superseding Resolution No. 14-037 in order to conform to the Department's current organizational structure and operations;

NOW, therefore, it is hereby

RESOLVED, that Resolution No. 14-037, Designating Signature Authority for new signature designees is adopted in the form presented to this meeting, and Resolution No. 14-018 is hereby rescinded.

BACKGROUND

The Texas Department of Housing and Community Affairs (the "Department"), a public and official governmental agency of the State of Texas (the "State") was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended. The Act authorizes the Department: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State; (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

This Resolution updates and designates signature authority to reflect the current structure of the Department.

Texas Department of Housing and Community Affairs
RESOLUTION OF THE GOVERNING BOARD

SUPERSEDING RESOLUTION NO. 14-018
AND ADOPTING NEW RESOLUTION NO. 14-037

DESIGNATING SIGNATURE AUTHORITY

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department"), a public and official governmental agency of the State of Texas, was created and organized pursuant to and in accordance with the provisions of Texas Government Code, Chapter 2306, as amended; and

WHEREAS, Chapter 2306 of the Act authorizes the Department:

(a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); and

(b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and

(c) to pledge all or any part of the revenues receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, on April 10, 2014, the Governing Board adopted Resolution No. 14-018, designating signature authority to reflect the structure of the Department; and

WHEREAS, the Governing Board has now determined that Resolution No. 14-018, designating signature authority, should be superseded by a new Resolution No. 14-037 designating signature authority in order to conform to the Department's current organizational structure and operations;

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

SECTION 1 – Supersession of Prior Signature Authority. The Governing Board hereby supersedes Resolution No. 14-018 by enacting this new Resolution No. 14-037.

SECTION 2 – Designation of Signature Authority for Bond Transactions. The Governing Board hereby authorizes and designates the Chairman or Vice Chairman of the Board, the Board Secretary, the Assistant Board Secretary, the Executive Director or the Acting Executive Director, the Deputy Executive Director for Single Family, Community Affairs & Metrics, the Deputy Executive Director of Multifamily Finance and Fair Housing, the Deputy Executive Director of Asset Analysis and Management, the General Counsel, the Chief Financial Officer, the Director of Financial Administration, the Director of Bond Finance, the Director of Texas Homeownership and the Director of Multifamily Finance and each of them as signatories for single family and multifamily bond transactions including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such bond transactions.

SECTION 3 – Designation of Signatory Authority for Real Estate Transactions. The Governing Board hereby authorizes and designates the following persons to execute and deliver, as specified earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions:

(a) Executive Director or Acting Executive Director, Chief Financial Officer, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions;

(b) Executive Director or Deputy Executive Director for Single Family, Community Affairs & Metrics: All real estate or real estate-related transactions administered under any of the Single Family Programs and Community Affairs areas;

(c) Executive Director or Deputy Executive Director of Asset Analysis and Management: All real estate or real estate-related transactions administered under any of the Real Estate Analysis, Asset Management, or Program Services sections;

(d) Executive Director or Deputy Executive Director of Multifamily Finance and Fair Housing: All real estate or real estate-related transactions administered by the Multifamily Finance Division;

(e) Executive Director or Deputy Executive Director of Asset Analysis and Management and the Director of Asset Management: All real estate or real estate-related transactions administered by the Asset Management program;

(f) Executive Director or Director of Financial Administration: All real estate or real estate-related transactions administered by the Financial Administration Division;

(g) Executive Director or Deputy Executive Director of Multifamily Finance and Fair Housing, and the Director of Multifamily Finance Division: All real estate or real estate-related transactions administered by the Multifamily Finance Division;

(h) Executive Director or Deputy Executive Director of Asset Analysis and Management and the Director of Bond Finance: All real estate or real estate-related transactions administered by the Bond Finance Division;

(i) Executive Director or Deputy Executive Director for Single Family, Community Affairs & Metrics and the Director of Texas Home Ownership: All real estate or real estate-related transactions administered by the Texas Home Ownership Division;

(j) Executive Director or Deputy Executive Director for Single Family, Community Affairs & Metrics and the Director of the HOME Program: All real estate or real estate-related transactions administered under the HOME Single Family Division;

(k) Executive Director or Deputy Executive Director of Asset Analysis and Management and the Director of Program Services: All real estate or real estate-related transactions administered by the Program Services;

(l) Executive Director or Deputy Executive Director for Single Family, Community Affairs & Metrics and the Director of the Housing Trust Fund and the Office of Colonia Initiatives: All real estate or real-estate related transactions administered under the Housing Trust Fund and Office of Colonia Initiatives Division;

(m) Executive Director or Deputy Executive Director for Single Family, Community Affairs & Metrics and the Director of the Neighborhood Stabilization Program: All real estate or real-estate related transactions administered by the Neighborhood Stabilization Program Division; and

(n) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Executive Director or Acting Executive Director; provided however, that no person may be so designated other than the Executive Director or Acting Executive Director, Chief Financial Officer, a Deputy Executive Director, or a Director.

SECTION 4 –Designation of Signatory Authority for Fund Transfers. The Governing Board hereby authorizes and designates the following persons to execute and deliver any necessary fund transfer documents, including letters of instruction, in the manner prescribed below.

Fund transfers require dual signatures, consisting of one signatory from each of the following two groups:

(a) Chief Financial Officer or Director of Financial Administration and

(b) Executive Director or Acting Executive Director or any Deputy Executive Director whose duties do not include management or oversight of the funds that are subject of the transfer.

SECTION 5 – Execution of Documents. The Governing Board hereby authorizes the Executive Director or Acting Executive Director, or in their absence the Chief Financial Officer or a Deputy Executive Director, to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this Resolution.

SECTION 6 – Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

1d

BOARD ACTION REQUEST

LEGAL DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on the adoption of the repeal of 10 TAC §1.20, concerning Asset Review Committee.

RECOMMENDED ACTION

WHEREAS, a proposal to repeal 10 TAC §1.20, concerning Asset Review Committee was published for comment in the *Texas Register* on June 20, 2014;

WHEREAS, no comments were received; and

WHEREAS, eliminating the Asset Review Committee will create efficiencies and result in a savings of time and effort on the part of the Department's staff;

NOW, therefore, it is hereby

RESOLVED, that the referenced repeal of 10 TAC §1.20, concerning Asset Review Committee is hereby ordered and adopted, together with the preamble presented to this meeting, and the Executive Director and his designees are authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal, in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith to make such non-substantive technical corrections as they deem necessary to effectuate the foregoing.

BACKGROUND

The proposed repeal of 10 TAC §1.20, Asset Review Committee was published on June 20, 2014, in the *Texas Register* for the purpose of receiving public comment. Comments were accepted through July 11, 2014. No Comments were received.

Staff recommends adoption of the repeal of 10 TAC §1.20, Asset Review Committee as proposed in the June 20, 2014, issue of the *Texas Register*.

Attachment 1. Preamble: Adopted Repeal 10 TAC §1.20, Asset Review Committee

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 1, §1.20 concerning Asset Review Committee, without changes to the proposed repeal as published in the June 20, 2014 issue of the *Texas Register* (39 *TexReg* 4724).

REASONED JUSTIFICATION: Since 2005 the Asset Review Committee and its predecessor committees have developed and negotiated resolutions for delinquent loans. In early 2012, the formation of the Asset Management Division provided for a permanent staff capable of making the same asset resolution decisions being made by the Committee. By eliminating the Asset Review Committee and allowing the Asset Management Division to assume the Committee's remaining responsibilities, significant staff time and effort will be conserved. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053 which authorizes the Department to adopt rules. Additionally, the repeal is adopted pursuant to Texas Government Code, §2306.141 which specifically authorizes the Department to adopt rules governing the administration of its housing programs.
§1.20. Asset Review Committee

1e

BOARD ACTION REQUEST

SINGLE FAMILY PROGRAMS

JULY 31, 2014

Presentation, Discussion, and Possible Action on the proposed amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1 – 20.16, and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Department's Governing Board approved organizational changes on April 12, 2012, of which, a key component was a new Single Family business model that contemplated greater consistency and coordination among all Single Family Programs and provided a basis for improving efficiency;

WHEREAS, the Department's Governing Board adopted the Single Family Programs Umbrella Rule on October 9, 2012, and

WHEREAS, staff has identified the need to amend the Rule to increase efficiency and consistency among the Department's Single Family Programs;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed new rule, in the form presented to this meeting to be published in the *Texas Register* for review and public comment, and in connection therewith, to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Texas Department of Housing and Community Affairs ("the Department") continues to implement a unified Single Family business model. This model is a key objective of the organizational changes that were approved by the Department's Governing Board on April 12, 2012. This model is intended to promote consistency and improve efficiency and coordination among single family programs, thereby enabling persons served to access and obtain an array of single family products, assisting subrecipients in delivering those products more rapidly and smoothly, and supporting Department staff as it seeks to ensure full compliance, expeditious distribution of program resources, and more efficient operations. Programs included in this effort are the Department's HOME Investments Partnership Program ("HOME"), Housing Trust Fund ("HTF"), Bond/First Time Homebuyer ("FTHB"), Taxable Mortgage Program ("TMP"), Neighborhood Stabilization Program ("NSP") and the Office of Colonia Initiatives ("OCI").

Key changes to the Single Family Programs Umbrella Rule have been driven by stakeholder input, and U.S. Department of Housing and Urban Development ("HUD") regulatory changes. Advocacy groups have asked the Department to allow barrier removal to be allowed in manufactured housing units. Staff has consulted with several industry experts to determine the feasibility of expanding access to barrier removal for families living in manufactured housing, and determined that there is sufficient need. Therefore, the proposed amendment will allow rehabilitation of manufactured housing with non-federal funds. Additionally, the HOME Final Rule recently adopted by HUD has created a need to update the Texas Minimum Construction Standards (TMCS) for rehabilitation activities. The revised TMCS provide clear information to Contract Administrators regarding substandard conditions that must be corrected, along with standards for acceptable rehabilitation. Proposed Amendments to the Rule require compliance with TMCS, and provide a structure for waiver of requirements that cannot be met.

In order to ensure that stakeholder groups have ample opportunity to provide comment on the proposed amendments to the Single Family Umbrella Rule, the Department will provide several public input opportunities through a variety of mediums. An in-person stakeholder roundtable is scheduled for August 13, 2014 in Austin, and an online public forum will be established to provide further communication opportunities. A public hearing regarding the draft rule amendments will be held in Austin, Texas.

All Single Family programs must adhere to both the Single Family Umbrella Rules and the individual program rules applicable to specific single family programs. A brief overview of the amendments to the existing Single Family Umbrella Rule is provided below.

§20.1. Purpose.

Clarifies language in the section for defined terms

§20.2. Applicability.

Clarifies language in the section for defined terms and provides limitations on applicability of some sections of the Rule to the Amy Young Barrier Removal and Small Repair Programs

§20.3. Definitions.

Clarifies language in the section for defined terms
Modifies definitions for: Activity, Administrator, Agreement, Annual Income, Application, Deobligate, Household, Housing Contract System, Program Income, Set-up
Adds definitions for: Affirmative Marketing Plan, Affiliate, Affiliated Party, Amy Young Barrier Removal Program, Control, Housing Trust Fund, Limited English Proficiency, Mortgage, Mortgage Loan, Office of Colonia Initiatives, Small Repair, Texas Minimum Construction Standards
Deletes definitions for: Amortized, Deferred Payment Loan, Developer, Executive Director, Loan, Open Application Cycle

§20.4. Eligible Single Family Activities.

Clarifies language in the section for defined terms and allows for the Rehabilitation of a Manufactured Housing Unit with non-federal funds

§20.5. Funding Notices.

Clarifies language in the section for defined terms and adds requirements for Application deficiency correction

§20.6. Applicant Eligibility.

Clarifies language in the section for defined terms and adds a requirement that Applicants be in good standing with HUD and in compliance with all Department requirements in other Rules

§20.8. Single Family Housing Unit Eligibility Requirements.

Clarifies language in the section for defined terms, along with requirements for clear title at loan closing and the status of property taxes.

§20.9. General Administration and Program Requirements.

Clarifies language in the section for defined terms, removes requirements for Program Income so they can be tailored to each Program, adds requirements for compliance with Fair Housing regulations and removes requirements for records retention which are imposed by regulation.

§20.10. Inspection and Construction Requirements

Section is re-named and reorganized for clarity regarding the types of inspections that are required, and compliance with Texas Minimum Construction Standards

§20.11. Survey Requirements.

Clarifies language in the section for defined terms, and clarifies requirements for surveys

§20.12. Insurance Requirements for Acquisition Activities.

Clarifies language in the section for defined terms, provides limitation on requirements for Builder’s Risk Insurance

§20.13. Loan, Lien and Mortgage Requirements for Acquisition Activities Only.

Clarifies language in the section for defined terms, along with the treatment of debts when underwriting a loan with a non-purchasing spouse.

§20.14. Amendments and Modifications to Written Agreements and Contracts.

Clarifies language in the section for defined terms

§20.15. Sanctions and Deobligation.

Clarifies language in the section for defined terms and removes limitation on debarment to align with other Rules

§20.16. Waivers and Appeals.

New section added to align with other Rules, and provide a waiver structure for Texas Minimum Construction Standards

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 20, §§20.1 – 20.16, concerning Single Family Programs Umbrella Rule. The purpose of this proposed amendment section(s) is improving efficiency and effectiveness of Single Family Programs. The proposed amendments will make the following changes to the Single Family Programs Umbrella Rule:

§20.1. Purpose.

Clarifies language in the section for defined terms

§20.2. Applicability.

Clarifies language in the section for defined terms and provides limitations on applicability of some sections of the Rule to the Amy Young Barrier Removal and Small Repair Programs

§20.3. Definitions.

Clarifies language in the section for defined terms
Modifies definitions for: Activity, Administrator, Agreement, Annual Income, Application, Deobligate, Household, Housing Contract System, Program Income, Set-up
Adds definitions for: Affirmative Marketing Plan, Affiliate, Affiliated Party, Amy Young Barrier Removal Program, Control, Housing Trust Fund, Limited English Proficiency, Mortgage, Mortgage Loan, Office of Colonia Initiatives, Small Repair, Texas Minimum Construction Standards
Deletes definitions for: Amortized, Deferred Payment Loan, Developer, Executive Director, Loan, Open Application Cycle

§20.4. Eligible Single Family Activities.

Clarifies language in the section for defined terms and allows for the Rehabilitation of a Manufactured Housing Unit with non-federal funds

§20.5. Funding Notices.

Clarifies language in the section for defined terms and adds requirements for Application deficiency correction

§20.6. Applicant Eligibility.

Clarifies language in the section for defined terms and adds a requirement that Applicants be in good standing with HUD and in compliance with all Department requirements in other Rules

§20.8. Single Family Housing Unit Eligibility Requirements.

Clarifies language in the section for defined terms, along with requirements for clear title at loan closing and the status of property taxes.

§20.9. General Administration and Program Requirements.

Clarifies language in the section for defined terms, removes requirements for Program Income so they can be tailored to each Program, adds requirements for compliance with Fair Housing regulations and removes requirements for records retention which are imposed by regulation.

§20.10. Inspection and Construction Requirements

Section is re-named and reorganized for clarity regarding the types of inspections that are required, and compliance with Texas Minimum Construction Standards

§20.11. Survey Requirements.

Clarifies language in the section for defined terms, and clarifies requirements for surveys

§20.12. Insurance Requirements for Acquisition Activities.

Clarifies language in the section for defined terms, provides limitation on requirements for Builder's Risk Insurance

§20.13. Loan, Lien and Mortgage Requirements for Acquisition Activities Only.

Clarifies language in the section for defined terms, along with the treatment of debts when underwriting a loan with a non-purchasing spouse.

§20.14. Amendments and Modifications to Written Agreements and Contracts.

Clarifies language in the section for defined terms

§20.15. Sanctions and Deobligation.

Clarifies language in the section for defined terms and removes limitation on debarment to align with other Rules

§20.16. Waivers and Appeals.

New section added to align with other Rules, and provide a waiver structure for Texas Minimum Construction Standards

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amended rule will be in effect, enforcing or administering the proposed amendments do not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the amendments will be increased efficiency of Department Single Family Programs and consistency with federal requirements. There will not be any economic cost to any individuals required to comply with the proposed amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Marni Holloway, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. September 15, 2014.

STATUTORY AUTHORITY. The amendments are proposed pursuant to §2306.053 of the Texas Government Code, which authorizes the Department to adopt rules. The proposed amendments affect no other code, article, or statute.

TITLE 10. COMMUNITY DEVELOPMENT.

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.

CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE.

§20.1. Purpose.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), Texas Housing Trust Fund (HTF), Bond/First Time Homebuyer (FTHB), Taxable Mortgage Program (TMP), Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Texas Government Code, Chapter 2306 and any applicable statutes and federal regulations.

§20.2. Applicability.

Unless otherwise noted, this Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this Chapter. Where Program Rule conflict with this Chapter, the provisions of this Chapter will control Program decisions.

(1) The Amy Young Barrier Removal Program is excluded from the Inspection and Construction Requirements identified in **§20.10** and Survey Requirements in **§20.11** .

(2) Small Repair is excluded from having all the deficiencies noted on the inspection report being cured or addressed and the Survey Requirements in **§20.11**.

§20.3. Definitions.

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

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

(2) Administrator--A unit of local government, Nonprofit Organization, or other entity acting as a Community Housing Development Organization under 24 C.F.R. Part 92("CHDO"), Subrecipient, Developer or similar organization that has an executed written Agreement with the Department.

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

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

A. interlocking management or ownership;
B. identity of interests among family members;
C. shared facilities and equipment;
D. common use of employees; or
E. a business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5) Affiliated Party--A person or entity with a contractual relationship with the Administrator through an Agreement with the Department.

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

(7) Amy Young Barrier Removal Program--Program designed to remove barriers and address immediate health and safety issues as outlined in the Program Rule or NOFA.

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

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

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

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

(12) Chapter 2306--Texas Government Code, Chapter 2306.

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

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

(15) Conforming Mortgage Loan--A first-lien Mortgage Loan that meets Federal Housing Administration (FHA), U.S. Department of Agriculture (USDA), U.S. Department of Veterans Affairs (VA), and Fannie Mae or Freddie Mac guidelines.

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

(17) Contract Administrator (CA)--Same as "Administrator."

(18) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person or entity, whether through the ownership or voting securities, by contract or otherwise, including ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing member of a limited liability company or managing general partner of a limited partnership or any similar member.

~~(14) Deferred Payment Loan -- Any loan which includes deferral of payments~~

(19) ~~(15)~~ Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of the termination of or reduction of funds under a Contract or Agreement.

(20) Department--The Texas Department of Housing and Community Affairs as defined in Chapter 2306.

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

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

(23) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.

(24) Forgivable Loan--Financial assistance in the form of money that, by Agreement, is not required to be repaid if the terms of the Mortgage Loan are met.

(25) HOME Program--HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

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

(27) Housing Trust Fund (HTF)—State-funded Programs authorized under Section 2306 of Texas Government Code.

(28) Housing Contract System (HCS)--The electronic information system that is part of the “central database” established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities.

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

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

(31) Limited English Proficiency (LEP)--Requirements as issued by HUD and the Department of Justice to ensure meaningful and appropriate access to programs and activities by individuals who have a limited ability to read, write, speak or understand English.

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

(33) Loan to Value (LTV)--The amount of the Mortgage Loan(s) divided by the Single Family Housing Unit's appraised value, excluding Forgivable Loans.

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

(35) Mortgage-Has the same meaning as defined in Section 2306.004 of the Texas Government Code.

(36) Mortgage Loan--Has the same meaning as defined in Section 2306.004 of the Texas Government Code.

(37) Nonconforming Mortgage Loan--Any Mortgage Loan that does not meet the definition of a "Conforming Mortgage Loan" defined in this section.

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

(39) NOFA--Notice of Funding Availability.

(40) Nonprofit Organization--An organization that is organized as such under state or federal laws and does not have a pending Application for nonprofit status.

(41) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Texas Government Code which acts as a liaison to the colonias and manages some Programs in the colonias

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

(43) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.

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

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

(46) Program Income----Gross income received by the Administrator or Affliate directly generated from the use of Single Family funds.

(47) Program Manual--A set of guidelines designed to be an implementation tool for the single family Programs which allows the Administrator to search for terms, statutes, regulations, forms and attachments. The Program Manual is developed by the Department and amended or supplemented from time-to-time.

(48) Program Rule--Chapters of this Title which pertain to specific single family Program requirements.

(49) Reservation--Funds set-aside for a Household Applicant or single family Activity registered in the Department's registration system.

(50) Reservation System--The Department's computer registration system(s) that allows Administrators to reserve funds for a specific Household.

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

(52) Self-Help--Housing Programs that allow low, very low, and extremely low-income families to build or Rehabilitate their Single Family Housing Units through their own labor or volunteers

(53) Set-up--The creation of a new Activity in the Department database by an Administrator, which requires review and approval by the Department.

(54) Single Family Housing Unit--A home designed and built for one person or one Household for rental or owner-occupied. This includes the acquisition, construction, reconstruction or rehabilitation of an attached or detached unit. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(55) Small Repair--An Activity specific to the Colonia Self Help Center Program designed to address repairs by the homeowner using self help methods.

(56) Soft costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs. May also be referred to as "direct delivery" costs.

(57) Subgrantee--Same as "Administrator."

(58) Subrecipient--Same as "Administrator."

(59) TAC--Texas Administrative Code.

(60) TMCS- Texas Minimum Construction Standards as amended and described in the Miscellaneous Section of the Texas Register.

(61) TREC--Texas Real Estate Commission.

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (9) of this section are defined in each Program's Rules.

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

(1) Acquisition or acquisition with rehabilitation including accessibility modifications to Single Family Housing Units.

(2) rehabilitation, or new construction of Single Family Housing Units;

(3) rehabilitation or reconstruction of existing housing on the same site;

(4) new construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU);

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

(6) new construction of site-built housing on another site;

(7) refinance of an existing Mortgage;

(8) tenant-based rental assistance; and

(9) any other single family Activity as determined by the Department.

(c) Rehabilitation of an MHU with federal funds is an ineligible activity

§20.5. Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs) or other methods for the release of funding describing the submission and eligibility guidelines. The Program Rule or NOFA shall outline the process for correcting deficiencies.

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

(c) Funds may be subject to regional allocation in accordance with Chapter 2306.

(d) The Department will develop and publish Application materials for participation in the HCS and/or Reservation Systems. Eligible Applicants must comply with the provisions of the Application materials and NOFA and are responsible for the accuracy and timely completion and submission of all Applications.

§20.6. Applicant Eligibility.

(a) Eligible Applicants may include entities such as units of local governments, Nonprofit Organizations, or other entities as further provided in the Program Rule and/or NOFA.

(b) Applicants shall be in good standing with the Department, Texas Office of the Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations including those requirements in Chapter 1 of this Title.

(d) Resolutions must be provided in accordance with the applicable Program Rule or NOFA.

(e) The violations described in paragraphs (1) - (5) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:

(1) Applicant did not satisfy all eligibility requirements described in the Program Rule and NOFA to which they are responding;

(2) Applicant failed to make timely payment on fee commitments or on debts to the Department and for which the Department has initiated formal collection or enforcement actions;

(3) Applicant failed to comply with any other provisions of debt instruments held by the Department including, but not limited to, such provisions as timely payment of property taxes and proper placement and maintenance of insurance;

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

(5) current or previous noncompliance. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in noncompliance or otherwise violating the Rules of the Department may be terminated and/or not recommended for funding.

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

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

§20.7. Household Eligibility Requirements.

(a) The method used to determine Annual Income will be provided in the Program Rule or NOFA.

(b) Households must occupy the Single Family Housing Unit as their Principal Residence for a period of time as established by the Program Rule or NOFA.

§20.8. Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit to be acquired or constructed with Department funds must be located in the State of Texas, and must have good and marketable title at the closing of any Mortgage Loan.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Units must be current (including prior years) or the Household must be satisfactorily participating in an approved payment plan with the taxing authority, must qualify for an approved tax deferral plan or has received a valid exemption from real property taxes.

(c) An owner-occupied Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title. The Department will require the owner to be current on any existing Mortgage Loans or home equity loans prior to assistance.

§20.9. General Administration and Program Requirements.

(a) Costs incurred by Administrator for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the U.S. General Services Administration (GSA) per diem rates at: http://www.gsa.gov/portal/category/21287.

(b) Administrators must comply with all applicable local, state, and federal laws, regulations, and ordinances for procurement with single family Program funds.

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

(d) Administrators receiving Federal funds must also comply with HUD's Affirmative Fair Housing Marketing and Limited English Proficiency Requirements and the Age Discrimination Act of 1975. Administrators receiving Federal funds must also have an Affirmative Fair Housing Marketing Plan.**§20.10. Inspection and Construction Requirements**

(a) Construction Inspections

(1) Initial Inspections.

(A) An initial inspection identifying all substandard conditions listed in Texas Minimum Construction Standards along with any other health or safety concerns must be conducted for all rehabilitation or reconstruction projects.

(B) The initial inspection report must be provided to both the Department and the homeowner.

(C) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up in adequate detail.

(2) Interim Inspections of construction progress may be required to document construction Draw requests.

(3) Final Inspections.

(A) Final construction inspections are required for all new construction, reconstruction and rehabilitation Activities. The inspection must ensure that the construction of the Single Family Housing Unit is complete and meets all applicable codes and requirements including zoning ordinances as applicable, and have no observed deficiencies related to health and safety standards.

(B) Final inspections must document that all substandard conditions identified in the initial inspection have been corrected, repaired or removed. A copy of the final inspection report must be provided to the Department and the Household.

(C) Any deficiencies noted on the inspector's report must be corrected prior to the final Draw.

(D) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. If no Certificate of Occupancy is available from an incorporated area, a document from the local government entity showing that the Single Family Housing Unit has passed all required building codes must be obtained and provided to the Department.

(E) The Certificate of Occupancy may substitute for a final construction inspection, if available and acceptable to the Program. If no Certificate of Occupancy is available, a final construction inspection must be conducted and the report provided to the Department and homeowner.

(F) Cosmetic issues such as paint, wall texture, etc. identified in a final inspection will not be required to be corrected if utilizing a Self-Help construction Program, or if acceptable to the Program as outlined in Program Rule or NOFA.

(b) Other inspection requirements.

(1) All inspectors shall inspect properties utilizing applicable construction standards prescribed by the Department.

(2) All inspectors shall utilize Department approved and prescribed inspection forms/checklists for applicable inspections.

(3) Single Family Housing Units receiving only utility connections under the Colonia Self Help Center Program are exempt from inspection requirements.

(4) The Department reserves the right to reject any inspection report which in its sole determination does not accurately represent the property conditions or if the inspector does not meet Program requirements. If an inspection report is rejected, all related construction costs may be disallowed until appropriate corrections are made.

(c) Requirements for Use of professional inspectors or qualified inspection individuals.

(1) Professional home inspectors or qualified inspection individuals shall conduct all initial and final inspections for New Construction, Reconstruction and Rehabilitation activities.

(2) Municipal code officials, as applicable, shall conduct inspections inside of city limits and extraterritorial jurisdictions.

(3) The active TREC licensed professional home inspector may be a staff member of the Administrator.

(4) Inspectors used to verify compliance with this Chapter must meet Program requirements.

(d) Reconstruction and new construction Requirements

(1) Compliance with Accessibility Requirements--Applicant must submit one of the documents described in subparagraph (A) or (B) of this paragraph to ensure that requirements of Texas Government Code, §2306.514 and other Program Rules are met.

(A) Prior to commencement of construction, a copy of the proposed plans and specifications for reconstruction and new construction of Single Family Housing Units. All plans submitted must be prepared and executed by an architect licensed by the state of Texas;

(B) A certification of compliance from a licensed architect.

(e) Rehabilitation Requirements

(1) Administrators shall meet the applicable requirements of the Texas Minimum Construction Standards (TMCS) for all Rehabilitation projects.

(2) TMCS requirements may be waived only through the process provided in §20.16 of this Chapter.

§20.11. Survey Requirements.

When assistance is provided in the form of an acquisition Mortgage Loan:

(a) a Category 1A (Texas Society of Professional Surveyors) land title survey is required for single family acquisition where:

(1) the Department is a lien holder and the Program funds are used for construction or purchase because:

(A) the Rehabilitation project is enlarging the footprint; or

(B) the project is Reconstruction or New Construction or purchasing an existing home; and

(2) if allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the Household certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit;

(b) the Department reserves the right to determine the survey requirements on a per project basis if additional survey requirements would, at the sole discretion of the Department, benefit the project.

§20.12. Insurance Requirements for Acquisition Activities.

(a) Title Insurance requirements. A Mortgagee's Title Insurance Policy is required for all non-conforming Department Mortgage Loans as required by the Program Rules or NOFA, exclusive of Mortgage Loans financed with mortgage revenue bonds or through the Taxable Mortgage Program. The title insurance must be written by a title insurer licensed or authorized to do business in the jurisdiction where the Single Family Housing Unit is located. The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(b) Title Reports.

(1) Title reports may be provided in lieu of title commitments only for grants when title insurance is not available. Title reports shall be required when the grant funds exceed $20,000.

(2) The preliminary title report may not be older than allowed by the Program Rule or NOFA.

(3) Liens, or any other restriction or encumbrances that impair good and marketable title must be cleared on or before closing of the Department's transaction.

(c) Builder's Risk (non-reporting form only) is required where construction funds in excess of $20,000.00 for a Single Family Housing Unit is being financed and/or advanced by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

(1) The hazard insurance provisions are not applicable to HOME Program activities unless required in the Program Rule or NOFA.

(2) If Department funds are provided in the form of a Mortgage Loan, then:

(A) the Department requires property insurance for fire and extended coverage;

(B) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(C) the amount of hazard insurance coverage at the time the Mortgage Loan is funded should be no less than 100 percent of the current insurable value of improvements; and

(D) the Department should be named as a loss payee and mortgagee on the hazard insurance policy.

(e) Flood insurance must be maintained for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage.

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced into obtaining flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this Chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid and up to two (2) months of reserves may be collected at the closing of the Mortgage Loan. The Department must be named as loss payee on the policy.

§20.13. Loan, Lien and Mortgage Requirements for Activities With Acquisition.

(a) The requirements in this section shall apply to non-conforming Mortgage Loans for Activities with acquisition of real property, unless otherwise provided in the Program Rule, NOFA or Program guidelines.

(b) The fee requirements described in paragraphs (1) - (3) of this subsection apply to non-Conforming Mortgage Loans:

(1) Allowable expenses are restricted to reasonable third party fees.

(2) Fees charged by third party Mortgage lenders are limited to the greater of 2 percent of the Mortgage Loan amount or $3,500, including but not limited to origination, Application, and/or underwriting fees.

(3) Fees paid to other parties that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

(c) Maximum Debt Ratio. The total debt-to-income ratio may not exceed 45 percent. A borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of both the borrower and the “non-purchasing” spouse will be considered in the borrower's total debt-to-income ratio.

(d) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rule or NOFA.

(e) Lien position requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged Mortgage Loan is equal to or greater than the Department's Mortgage Loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least $1,000 or greater than the Department's Mortgage Loan. However liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loan, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(4) A subordinate Mortgage Loan may be re-subordinated, at the discretion of the Department, and as provided in the Program Rules or NOFA.

(f) Escrow Accounts.

(1) An escrow account must be established if:

(A) the Department holds a first lien Mortgage Loan which is due and payable on a monthly basis to the Department; or

(B) the Department holds a subordinate Mortgage Loan and the first lien lender does not require an escrow account, the Department may require an escrow account to be established.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the provisions described in subparagraphs (A) - (F) of this paragraph are applicable:

(A) The borrower must contribute monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;

(B) Escrow reserves shall be calculated based on land and completed improvement values;

(C) The Department may require up to two (2) months of reserves for hazard and/or flood insurance and property taxes to be collected at the time of closing to establish the required Escrow account;

(D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;

(E) The borrower will be required to deposit monthly funds to an escrow account with the Mortgage Loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due; and

(F) These funds are included in the borrower's monthly payment to the Department or to the servicer. The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) if applicable.

§20.14. Amendments to Agreements and Contracts and Modifications to Mortgage Loan Documents.

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract provided that the requirements of this section are met.

(b) Time extensions. The Executive Director or his/her designee may grant up to a cumulative twelve (12) months extension to the end date of any Contract unless otherwise indicated in the Program Rules or NOFA. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative twelve (12) months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.

(c) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.

(d) Changes in Households. Reductions in Contractual deliverables and Households shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10 percent of total award or Contract funds, shall be completed through an amendment to the Contract.

(e) Increases in Award and Contract Amounts.

(1) For a specific single family Program’s Contract, the Department can award a cumulative increase of funds up to the greater of 25 percent of the original award amount or $50,000.

(2) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract period.

(3) The requirements to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks and reporting requirements.

(4) Funding may come from Program funds, Deobligated funds or Program income.

(5) Qualifying requests will be recommended to the Executive Director for approval.

(6) The Board must approve requests for increase in Program funds in excess of the cumulative 25 percent or $50,000 threshold.

(f) The Executive Director may approve budget changes or amendments to the Contract that do not significantly decrease the benefits to be received by the Department.

(g) The single family Program's Director may approve Contract budget modifications provided the guidelines described in paragraphs (1) - (4) of this subsection are met:

(1) funds must be available in a budget line item;

(2) the budget change(s) are less than 10 percent of the total Contract’s budget;

(3) if units or activities are desired to be increased, but funds must be shifted from another budget line item in which units or activities from that budget line item have been completed, a Contract amendment will only be necessary if the cumulative budget changes exceed 10 percent of the Contract amount; and

(4) the cumulative total of all Contract’s budget modifications cannot exceed 10 percent of the total Contract's budget amount.

(5) If these guidelines are not met, an amendment to the Contract will be required.

(h) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Contract or NOFA or for any other reason in the Department’s reasonable discretion.

(i) In all instances noted in this section, where an expected Mortgage Loan transaction is involved, Mortgage Loan documents will be modified accordingly at the expense of the Administrator/borrower.

§20.15. Compliance and Deobligation.

The compliance requirements and Deobligation remedies identified under other provisions of this Title apply to all single family Program activities.

§20.16. Waivers and Appeals

(1) Appeal of TDHCA staff decisions or actions will follow requirements in Program Rules, NOFA, or Chapter 1 of this Title.

(2) Waiver of Texas Minimum Construction Standards

   a. Waiver may be requested if a legal or factual reason makes compliance with provisions of TMCS impossible.

b. Waivers must be approved prior to the commencement of rehabilitation work.

c. Lack of adequate initial inspection is not a valid basis for waiver

d. Waiver requests must be made in writing, specifically identify the grounds for waiver, and include all necessary documentation to support the request.

e. Each request will be reviewed by TDHCA staff with sufficient knowledge of the construction process to render an opinion on the validity of the request. The staff opinion will be provided to the Executive Director or his/her designee, along with the original request and the supporting documents.

f. On or before the fourteenth business day after receipt of the request by the Department, the Executive Director or his/her designee will approve or disapprove the request, and provide written notice to the Administrator.

g. Appeal of the Executive Director’s decision will follow the Staff Appeal process provided in other provisions of this Title.

1f

BOARD ACTION REQUEST

COMPLIANCE DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973

RECOMMENDED ACTION

WHEREAS, at the June 5, 2014 Board meeting the Board approved the amendment to be published in the *Texas Register*, the public comment period has ended,

NOW, **therefore, it is hereby**

RESOLVED that the amended 10 TAC §1.206 is adopted and that the Executive Director and his designees be and each of them are hereby authorized, empowered and directed, for and on behalf of the Department, to publish the amended 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973, in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Board approved the amended 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973 at the June 5, 2014, Board meeting to be published in the *Texas Register* for public comment. The rulemaking was published in the June 20, 2014 issue of the *Texas Register* and made available for public comment from June 20, 2014, through July 21, 2014. No comment was received.

Attachment 1. Preamble, adoption of amendment of 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973

The Texas Department of Housing and Community Affairs (the "Department") adopts the amended 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973 with changes to the proposed text as published in the June 20, 2014, issue of the Texas Register (36 TexReg 4724).

REASONED JUSTIFICATION: The Department has received new guidance from HUD regarding accessibility standards. The purpose of this amendment is to align the rule with federal and state requirements.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.
Comments were accepted from June 20, 2014 through July 21, 2014. No comments were received concerning the amendments.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The amendment affects no other code, article, or statute.

§1.206.Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973.

(a) The following types of Multifamily Housing Developments must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through the Uniform Federal Accessibility Standards (UFAS):
(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction before March 12, 2012;
(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submitted a full application for funding before January 1, 2014; and
(3) All Housing Tax Credit and Tax Exempt Bond Developments that were awarded after September 1, 2001 and submitted a full application before January 1, 2014.

(b) The following types of Multifamily Housing Developments must comply with the construction requirements of 2010 ADA standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" *Federal Register 79 FR 29671* and not otherwise modified in this subchapter:
(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction after March 12, 2012;
(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submit a full application for funding after January 1, 2014; and
(3) All Housing Tax Credit and Tax Exempt Bond Developments that submit a full application for funding after January 1, 2014.

(c) After March 12, 2012, Recipients of Emergency Solutions Grant and Homeless Housing and Services Program funds must comply with the 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" *Federal Register 79 FR 29671* and not otherwise modified in this subchapter.

1g

BOARD ACTION REQUEST

COMPLIANCE DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on an order adopting new 10 TAC §10.1004, concerning Income and Rent Limits

RECOMMENDED ACTION

WHEREAS, at the June 5, 2014 Board meeting the Board approved a proposed new rule to be published in the *Texas Register*, the public comment period has ended and staff has responded to comment,

NOW, **therefore, it is hereby**

RESOLVED that new 10 TAC §10.1004 is hereby adopted in the form presented at this meeting and that the Executive Director and his designees be and each of them are hereby authorized, empowered and directed, for and on behalf of the Department, to publish the new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, §10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange and HTF, in the Texas Register and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Board approved the publication of proposed new § 10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange and HTF at the June 5, 2014, Board meeting to be published in the *Texas Register* for public comment. The rulemaking was published in the June 20, 2014 issue of the *Texas Register* and made available for public comment from June 20, 2014, through July 21, 2014. One comment was received and changes have been proposed in response to comment.

Attachment 1. Preamble, reasoned response and new rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 10, Subchapter H, §10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange and HTF changes to the proposed text as published in the June 20, 2014, issue of the *Texas Register* (36 TexReg 4725).

REASONED JUSTIFICATION: The Board approved a new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, §10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange, and HTF at the December 12, 2013, Board meeting to be published in the *Texas Register* for public comment. The rulemaking was published in the January 10, 2014 issue of the *Texas Register* and made available for public comment from January 10, 2014, through February 10, 2014. Although no comment was received during the public comment period, Congress passed H.R. 2642 that impacted the identification of a rural eligible place under Section 520 of the Housing Act of 1949. As a result, the rule published in the *Texas Register* (39 TexReg 159) was withdrawn and the new rule underwent the rule making process again is now being proposed for final adoption in its final version.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.
Comments were accepted from June 20, 2014 through July 21, 2014, with comments received from Jamie Rickenbacker

COMMENT SUMMARY: Commenter suggested that where the rule references "bedroom size" it would be a more accurate statement to replace with "number of bedrooms" because size is a representation of floor space and the context of reference is specific to the number of bedrooms and not the size of the unit.

STAFF RESPONSE: Staff agrees with the comment and has replaced "bedroom size" with "number of bedrooms".

STATUTORY AUTHORITY. The new section is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The new rule affects no other code, article, or statute.

§10.1004. Housing Tax Credit Properties, TCAP, Exchange and HTF.

(a) Except for certain rural properties, Housing Tax Credit, TCAP, Exchange, and HTF Developments must use the Multifamily Tax Subsidy Program (MTSP) income limits released by HUD, generally, on an annual basis. The MTSP limit tables include:
(1) The 50 percent and 60 percent Area Median Gross Income (AMGI) by household size.
(2) In areas where the income limits did not decrease in 2007 and 2008 because of HUD's hold harmless policy, a HERA Special 50 percent and HERA Special 60 percent income limit by household size. These higher limits can only be used if at least one building in the Project (as defined on line 8b on Form 8609) was placed in service on or before December 31, 2008.

(b) If HUD releases a 30 percent, 40 percent, 60 percent or 80 percent income limit in the MTSP charts, the Department will use that data. Otherwise, the following calculation will be used, without rounding, to determine additional income limits:
(1) To calculate the 30 percent AMGI, the 50 percent AMGI limit will be multiplied by .60 or 60 percent.
(2) To calculate the 40 percent AMGI, the 50 percent AMGI limit will be multiplied by .80 or 80 percent.
(3) To calculate the 60 percent AMGI, the 50 percent AMGI limit will be multiplied by 1.2 or 120 percent.
(4) To calculate the 80 percent AMGI, the 50 percent AMGI limit will be multiplied by 1.6 or 160 percent.

(c) Treatment of Rural Properties. Section 42(i)(8) of the Code permits certain Housing Tax Credit, Exchange, and Tax Credit Assistance properties to use the national non-metropolitan median income limit when the area median gross income limit for a place is less than the national non-metropolitan median income. The Department will identify rural eligible places in accordance with:
(1) Section 520 of the Housing Act of 1949 as amended from time to time; and
(2) Chapter 2306 of the Texas Government Code, as amended from time to time.
(3) The Department allows the use of rural income limits for HTF multifamily rental Developments that are considered rural using the process described in this subsection.

(d) Rent limits are a calculation of income limits and cannot exceed 30 percent of the applicable Imputed Income Limit. Rent limits are published by ~~bedroom size~~ number of bedrooms and will be rounded down to the nearest dollar. Example 1004(1): To calculate the 30 percent 1 bedroom rent limit:
(1) Determine the imputed income limited by multiplying the ~~bedroom size~~ number of bedrooms by 1.5: 1 bedroom x 1.5 persons = 1.5.
(2) To calculate the 1.5 person income limit, average the 1 person and 2 person income limits: If the 1 person 30 percent income limit is $12,000 and the 2 person 30 percent income limit is $19,000, the imputed income limit would be $15,500 ($12,000 + $19,000 = $31,000/2 = $15,500).
(3) To calculate the 30 percent 1 bedroom rent limit, multiply the imputed income limit of $15,500 by 30 percent, then divide by 12 months and round down. In this example, the 30 percent 1 bedroom limit is $387 ($15,500 times 30 percent divided by 12 = $387.50 per month. Rounded down the limit is $387). Example 1004(2): to calculate the 50 percent 2 bedroom rent limit:
(A) Determine the imputed income limited to be calculated by multiplying the ~~bedroom size~~ number of bedrooms by 1.5: 2 bedrooms x 1.5 persons = 3.
(B) The 3 person income limit is already published; for this example the applicable 3 person 50 percent income limit is $27,000.
(C) To calculate the 50 percent 2 bedroom rent limit, multiply the $27,000 by 30 percent, then divide by 12. In this example, the 50 percent 2 bedroom limit is $675 ($27,000 times 30 percent divided by 12 = $675. No rounding is needed since the calculation yields a whole number).

(e) The Department releases rent limits assuming that the gross rent floor is set by the date the Housing Tax Credits were allocated.
(1) For a 9 percent Housing Tax Credit, the allocation date is the date the Carryover Agreement is signed by the Department.
(2) For a 4 percent Housing Tax Credit, the allocation date is the date of the Determination Notice.
(3) For TCAP, the allocation date is the date the accompanied credit was allocated.
(4) For Exchange, the allocation date is the effective date of the Subaward agreement.

(f) Revenue Procedure 94-57 permits, but does not require, owners to set the gross rent floor to the limits that are in effect at the time the Project (as defined on line 8b on Form 8609) places in service. However, this election must be made prior to the Placed in Service Date. A Gross Rent Floor Election form is available on the Department's website. Unless otherwise elected, the initial date of allocation described in subsection (e) of this section will be used.
(1) In the event an owner elects to set the gross rent floor based on the income limits that are in effect at the time the Project places in service and wishes to revoke such election, prior approval from the Department is required. The request will be treated as a non-material amendment, subject to the fee described in §10.901 of this chapter (relating to Fee Schedule) and the process described in §10.405 of this chapter (relating to Amendments and Extensions).
(2) An owner may request to change the election only once during the Compliance Period.

(g) For the HTF program, the date the LURA is executed is the date that sets the gross rent floor.

(h) Held Harmless Policy.
(1) In accordance with Section 3009 of the Housing and Economic Recovery Act of 2008, once a Project (as defined on line 8b on Form 8609) places in service, the income limits shall not be less than those in effect in the preceding year.
(2) Unless other guidance is received from the U.S. Treasury Department, in the event that a place no longer qualifies as rural, a Project that was placed in service prior to loss of rural designation can continue to use the rural income limits that were in effect before the place lost such designation for the purposes of determining the applicable income and rent limit. However, if in any subsequent year the rural income limits increase, the existing project cannot use the increased rural limits. Example 1004(3): Project A was placed in service in 2010. At that time, the place was classified as Rural. In 2012 that place lost its rural designation. The rural income limits increased in 2013. Project A can continue to use the rural income limits in effect in 2012 but cannot use the higher 2013 rural income limits. For owners that execute a carryover for a Project located in a rural place that loses such designation prior to the placed in service date, unless other guidance is received from the U.S. Treasury Department, the Department will monitor using the rent limits calculated from the rural limits that were in effect at the time of the carryover. However, for the purposes of determining household eligibility, such Project must use the applicable MTSP income limits published by HUD.

1h

BOARD ACTION REQUEST

NEIGHBORHOOD STABILIZATION PROGRAM

JULY 31, 2014

Presentation, Discussion, and Possible Action to approve amendments to Neighborhood Stabilization One ("NSP1") Contracts

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("the Department') entered into NSP1 contracts on September 1, 2009, a number of which had original expiration dates of August 31, 2011, and;

WHEREAS, the contracts have exhausted all administrative extensions, and further extensions require approval by the TDHCA Board;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director or his designee be and each of them are hereby authorized, empowered, and directed, for and on behalf of this Board to approve extensions of no more than one year to NSP1 contracts to enable their full, timely, and compliant completion and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing for the following NSP1 Contracts: 77090000105, Housing Authority of the City of Brownsville; 77090000106, City of Irving; 77090000110, City of Galveston; 77090000113, Housing Authority of the City of San Benito; 77090000123, City of Harlingen; 77090000153, Builders of Hope Community Development Corporation; 77099999124, City of Waelder; 77090000164, Frazier Revitalization, Inc.; 77090000169, Hidalgo County Housing Authority; and 77099999170, Midland County Housing Authority, be and hereby are approved as presented to this meeting,

BACKGROUND

The Neighborhood Stabilization Program ("NSP") is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" ("HERA"), as a supplemental allocation to the Community Development Block Grant ("CDBG") Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned and foreclosed properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

Many NSP Subrecipients have experienced significant difficulty in completing the projects required under their NSP1 contracts. Difficulties have been created by changing federal guidance early in the program, local market conditions, and lack of subrecipient capacity. NSP staff continues to work closely with subrecipients to provide both remote and on-site technical assistance, along with assistance and training provided through HUDs NSP Technical Assistance program. All subrecipients have now completed the initial phases of their NSP programs, and are working to sell homes to eligible households.

The NSP Contracts for Purchase and Rehabilitation activities originally had end-dates of August 31, 2011. The NSP Rule allows the Executive Director to extend contracts up to one year, further extensions require Board approval. As the NSP has evolved, it has become apparent that the original end dates for the contracts were not achievable and were too ambitious, and that subrecipients will require additional time to sell homes that have been previously constructed, or purchased and rehabilitated.

Approval of extension for the contracts listed, is conditioned on receipt of an acceptable work-out plan that includes identification of the issues that have prevented timely completion of the NSP Contract, along with a plan to mitigate those issues. Extensions may not exceed the time required to complete and occupy NSP properties, and in no instance may they exceed one year.

1i

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on Program Year (PY) 2014 Community Services Block Grant ("CSBG") Discretionary Awards

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("Department") set aside a total of $600,000 in State CSBG discretionary funds to be awarded through a Notice of Funding Availability ("NOFA") approved by the Board at the January 23, 2014, board meeting;

WHEREAS, the NOFA solicited applications for a Statewide Homeless Initiative, Texas Interagency Council for the Homeless Support Activities, a Migrant Seasonal Farmworker Homelessness Initiative, and a Native American Homelessness Initiative;

WHEREAS, staff has not completed the Previous Participation process[1];

WHEREAS, staff has reviewed and evaluated the applications received and recommends Board approval of four awards, totaling $600,000, to three applicants for the 2014 CSBG Discretionary funds conditioned on a positive recommendation from staff on the Previous Participation process;

WHEREAS, the Board approves one award in the amount of $300,000 to Texas Homeless Network for the Statewide Homeless Initiative; one award in the amount of $100,000 to Texas Homeless Network for Texas Interagency Council for the Homeless Support Activities; one award in the amount of $100,000 to Opportunity Center for the Homeless, Inc. for the Migrant Seasonal Farmworker Homelessness Initiative, Inc.; and one award in the amount of $100,000 to Urban Inter-Tribal Center of Texas for the Native American Homelessness Initiative; and,

WHEREAS, staff recommends the contract period for these awards be September 1, 2014, through August 31, 2015;

NOW, therefore, it is hereby

[1] Staff may make an oral presentation regarding the results of the Previous Participation and remove the conditional designation from the award; place a condition on the award; propose a substitute award based on qualified applications; and/or may not recommend any or all awards.

RESOLVED, that staff funding award recommendations for the 2014 CSBG Discretionary Awards, be and they hereby are approved as presented to this meeting.

BACKGROUND

The Department set aside a total of $600,000 in State CSBG Discretionary funds to be awarded through a NOFA approved by the Board at the January 23, 2014 meeting. The Department received six applications; two were from one entity. One of the applications was terminated because it did not meet threshold requirements.

The NOFA sought applications for four types of projects and identified the maximum award amount for each project: $300,000 for a Statewide Homeless Initiative, $100,000 for Texas Interagency Council for the Homeless Support Activities, $100,000 each for a Migrant Seasonal Farmworker Homelessness Initiative, and a Native American Homelessness Initiative.

Based on the Department's scoring and ranking of the applications, staff recommends that the Board approve a total of four awards, totaling $600,000, to three applicants. These applicants were scored utilizing a standardized scoring instrument and the applicants recommended for funding are the applicants with the highest ranking applications in each category. The attached table reflects project type, applicant organizations, final scores, amount of funds requested, and the funding recommendation amount.

The Statewide Homeless Initiative focuses on increasing the availability of services addressing homelessness in rural and non-metropolitan areas of the State by increasing the capacity of organizations to participate in competitive applications for Federal Continuum of Care funds from the U.S. Department of Housing and Urban Development ("HUD"), Emergency Solutions Grant funds from the Department, or Rural Housing Stability Assistance Program funds from HUD. The Texas Interagency Council for the Homeless Support Activities grant will utilize resources in a way that maximizes the Texas Interagency Council for the Homeless' ability to meet its statutory duties. The funds for the Migrant Seasonal Farmworker Homelessness Initiative and the Native American Homelessness Initiative are to fund new or existing projects for education and/or employment assistance and services to prevent homelessness for individuals and families that are homeless or at-risk of homelessness within the targeted communities.

2014 COMMUNITY SERVICES BLOCK GRANT DISCRETIONARY FUNDS NOFA
APPLICATION SCORES AND AWARD RECOMMENDATIONS

Project Type:	Name of Applicant Organization:	Final Score	Funds Requested	Award Recommendation
Statewide Homeless Initiative (Statewide)				
Statewide	Texas Homeless Network	240	$300,000	$300,000
Texas Interagency Council for the Homeless Support Activities (TICH)				
TICH	Texas Homeless Network	329	$100,000	$100,000
Migrant Seasonal Farmworker Homelessness Initiative (MSFW)				
MSFW	Opportunity Center for the Homeless	543	$100,000	$100,000
MSFW	South Plains Community Action Agency	511	$100,000	0
MSFW	Marian High School NTI Career Institute	disqualified	$99,389	0
Native American Homelessness Initiative (Nat.Am.)				
Nat.Am.	Urban Inter-Tribal Center of Texas	521	$100,000	$100,000
	TOTAL		**$799,389**	**$600,000**

1j

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on the Award of funds to administer the Comprehensive Energy Assistance Program ("CEAP") in Bee, Live Oak, McMullen and Refugio counties and the Community Services Block Grant Program ("CSBG") in Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio counties.

RECOMMENDED ACTION

WHEREAS, pursuant to Texas Government Code, §§2306.053, .092, and .097, the Texas Department of Housing and Community Affairs ("the Department") is provided the authority to administer the CEAP and the CSBG;

WHEREAS, the Department administers the CEAP (funded through the Low-Income Home Energy Assistance Program grant) and CSBG programs with funding from the U.S. Department of Health and Human Services;

WHEREAS, due to the voluntary relinquishment of these programs by Bee Community Action Agency, there is no existing CEAP service provider in Bee, Live Oak, McMullen and Refugio counties and no existing CSBG service provider in Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio counties;

WHEREAS, on May 8, 2014, the Department received authorization from this Board to release a Request for Applications ("RFA") targeted to providing CEAP services in Bee, Live Oak, McMullen and Refugio counties and CSBG services in Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio counties; and

WHEREAS, on June 10, 2014, the Department released an RFA and received four qualifying responses by the June 30, 2014, deadline;

WHEREAS, staff has not completed the Previous Participation process[1]

NOW, therefore, it is hereby

[1] Staff may make an oral presentation regarding the results of the Previous Participation and remove the conditional designation from the award; propose conditions on an award; propose a substitute award based on qualified responses; and/or may not recommend any or all awards.

RESOLVED, that the Board awards CEAP funds to Community Action Corporation of South Texas for Bee County; CEAP funds to Community Action Committee of Victoria Texas for Refugio County, CEAP funds to Community Council of South Central Texas, Inc. for Live Oak and McMullen counties, CSBG funds to Community Action Corporation of South Texas for Bee, Kenedy, and Kleberg counties; CSBG funds to Community Action Committee of Victoria Texas for Aransas and Refugio counties; CSBG funds to Community Council of South Central Texas, Inc. for Live Oak and McMullen counties, in the amounts shown in Exhibit A conditioned on a positive recommendation from EARAC on the Previous Participation process.

FURTHER RESOLVED, that if entities are awarded CSBG funds through this action, that organization shall be the designated as the eligible entity to receive CSBG funds for the associated county(ies) until such time that the designation requires review.

BACKGROUND

Due to the voluntary relinquishment by Bee Community Action Agency, the counties of Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio are not receiving CSBG and CEAP services as of May 31, 2014.

At the May 8, 2014 Board meeting, Staff requested approval for the release of an RFA to identify an entity (entities) that would enable the Department to restore CSBG and CEAP services to the affected counties. The RFA allowed that applicant organizations may apply for one or more counties in the service area of the programs. The application deadline was June 30, 2014. Staff received and scored application responses from four entities: Community Action Corporation of South Texas; Community Action Committee of Victoria, Texas; Community Council of South Central Texas, Inc.; and Kleberg County Human Services.

After thorough review and consideration of applications and past performance, Department staff recommends that the Department award CEAP funds to Community Action Corporation of South Texas for Bee County; CEAP funds to Community Action Committee of Victoria Texas for Refugio County; CEAP funds to Community Council of South Central Texas, Inc. for Live Oak and McMullen counties; CSBG funds to Community Action Corporation of South Texas for Bee, Kenedy, and Kleberg counties; CSBG funds to Community Action Committee of Victoria Texas for Aransas and Refugio counties; and CSBG funds to Community Council of South Central Texas, Inc. for Live Oak and McMullen counties. All awarded entities are existing network providers.

CSBG funds are to be utilized for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income individuals to become fully self-sufficient. CEAP funds are to assist low income households in meeting their energy needs, with priority given to the elderly, disabled, families with young children in the home Families, Households with High Energy Burden, and Households with High Energy Consumption. CEAP also encourages consumers to control energy costs for years to come through energy education. Further, funding provides for State administration and State training and technical assistance activities.

ATTACHMENT A

JUNE 2014 RFA FOR CSBG AND CEAP

IN ARANSAS, BEE, KENEDY, KLEBERG, LIVE OAK, MCMULLEN, AND REFUGIO COUNTIES

APPLICATION SCORES AND AWARD RECOMMENDATIONS

COUNTY	Name of Applicant Organization:	CSBG Estimated Funds	Final Score	Award Recommendation
Aransas	Community Action Committee of Victoria Texas	$23,435	839	yes
Bee	Community Action Corporation of South Texas	27,740.00	927	yes
Kenedy	Community Action Corporation of South Texas	29,667.00	927	yes
Kenedy	Kleberg County Human Services	0.00	493	*no*
Kleberg	Community Action Corporation of South Texas	43,488.00	927	yes
Kleberg	Kleberg County Human Services	0.00	493	*no*
Live Oak	Community Council of South Central Texas, Inc.	9,296.00	438	yes
McMullen	Community Council of South Central Texas, Inc.	15,326.00	438	yes
Refugio	Community Action Committee of Victoria Texas	7,557.00	839	yes
TOTAL CSBG FUNDS AVAILABLE		**$156,509**		

COUNTY	Name of Applicant Organization:	CEAP Estimated Funds	Final Score	Award Recommendation
Bee	Community Action Corporation of South Texas	$122,571.04	927	yes
Live Oak	Community Council of South Central Texas, Inc.	52,097.88	438	yes
McMullen	Community Council of South Central Texas, Inc.	237,263.34	438	yes
Refugio	Community Action Committee of Victoria Texas	52,611.99	839	yes
TOTAL CEAP FUNDS AVAILABLE		**$464,544.25**		

1k

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on the Section 8 Program 2015 Annual Public Housing Agency ("PHA") Plan for the Housing Choice Voucher Program.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("the Department") is designated as a PHA and

WHEREAS, 42 U.S.C §1437c-1(a) and (b) requires PHAs to submit an annual PHA Plan to the U.S. Department of Housing and Urban Development ("HUD");

Now, therefore, it is hereby

RESOLVED, that the Department's 2015 Annual PHA Plan is hereby approved in the form presented to this meeting and authorizing the Department to identify Project Access clients as a preference population;

FURTHER RESOLVED, that if material public comment is not receive that would require reconsideration of the plan, staff is authorized and directed to file the plan with HUD with no further Board review; and

FURTHER RESOLVED, that if there are material public comments, staff is directed to bring the plan, with such comments and any recommended revisions, back to this Board for reconsideration.

BACKGROUND

Section 511 of the Quality Housing and Work Responsibility Act of 1998 created the requirement for submission of PHA plans by PHAs. The PHA Plan is a guide to PHA policies, programs, operations, and strategies for meeting local housing needs and goals. The Annual Plan, which is prepared and submitted to HUD every year, provides information about program operations and services for the upcoming fiscal year, in a predetermined format.

The Department's 2015 Annual Plan adopts the two local preferences below to the Project Access voucher program that applies to applicants who are eligible for admission at the time they are applying for assistance. These two items already exist in the Department's rules, but have been clarified in the Plan as preference populations.

- An applicant on the pilot program referenced at 10 TAC Chapter 5, §5.801 with a disability transitioning out of a State Psychiatric Hospital.
- The applicant is a person with a disability transitioning from a nursing home intermediate care facility, or board and care facility.

To ensure public participation, the Department will appoint annually a Resident Advisory Board, which will consist of all tenants with active Section 8 contracts, to review and comment on the proposed 2015 Annual Plan. The Plan will be available for review at the Department's Administrative Office from August 4, 2014 – September 16, 2014, on weekdays between 8:00 am and 5:00 pm. The Plan will also be available at the Department's website: www.tdhca.state.tx.us. Upon Board approval, the Department will publish a notice 45 days prior to scheduling a public hearing to receive further public comment. If there are no comments, the plan will be submitted to HUD. If there are material comments, the plan will be resubmitted back to the Board for final approval.

PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 8/30/2011

1.0	**PHA Information** PHA Name: Texas Department of Housing and Community Affair PHA Code: TX-901 PHA Type: ☐ Small ☒ High Performing ☐ Standard ☒ HCV (Section 8) PHA Fiscal Year Beginning: (MM/YYYY): 01/2015					
2.0	**Inventory** (based on ACC units at time of FY beginning in 1.0 above) Number of PH units: _________________ Number of HCV units: 1540					
3.0	**Submission Type** ☐ 5-Year and Annual Plan ☒ Annual Plan Only ☐ 5-Year Plan Only					
4.0	**PHA Consortia** ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)					
	Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
					PH	HCV
	PHA 1:					
	PHA 2:					
	PHA 3:					
5.0	**5-Year Plan.** Complete items 5.1 and 5.2 only at 5-Year Plan update.					
5.1	**Mission.** State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:					
5.2	**Goals and Objectives.** Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.					
6.0	**PHA Plan Update** (a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: ▪ Have adopted a local preference for the Project Access voucher program. (b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions. Main administrative office: 221 East 11th Street, Austin, TX 78701 TDHCA Website: http://www.tdhca.state.tx.us					
7.0	**Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.** *Include statements related to these programs as applicable.*					
8.0	**Capital Improvements.** Please complete Parts 8.1 through 8.3, as applicable.					
8.1	**Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit the *Capital Fund Program Annual Statement/Performance and Evaluation Report,* form HUD-50075.1, for each current and open CFP grant and CFFP financing.					
8.2	**Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan,* form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan.					
8.3	**Capital Fund Financing Program (CFFP).** ☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.					

9.	HOUSING NEEDS. **BASED ON INFORMATION PROVIDED BY THE APPLICABLE CONSOLIDATED PLAN, INFORMATION PROVIDED BY HUD, AND OTHER GENERALLY AVAILABLE DATA, MAKE A REASONABLE EFFORT TO IDENTIFY THE HOUSING NEEDS OF THE LOW-INCOME, VERY LOW-INCOME, AND EXTREMELY LOW-INCOME FAMILIES WHO RESIDE IN THE JURISDICTION SERVED BY THE PHA, INCLUDING ELDERLY FAMILIES, FAMILIES WITH DISABILITIES, AND HOUSEHOLDS OF VARIOUS RACES AND ETHNIC GROUPS, AND OTHER FAMILIES WHO ARE ON THE PUBLIC HOUSING AND SECTION 8 TENANT-BASED ASSISTANCE WAITING LISTS. THE IDENTIFICATION OF HOUSING NEEDS MUST ADDRESS ISSUES OF AFFORDABILITY, SUPPLY, QUALITY, ACCESSIBILITY, SIZE OF UNITS, AND LOCATION.**

IX. HOUSING NEED ANALYSIS – SECTION 8

June 2014

When analyzing local housing markets and developing strategies for meeting housing problems, HUD suggests the consideration of several factors. These factors include how much a household spends on housing costs, the physical condition of housing and whether or not the household is overcrowded.

An excess cost burden is identified when a household pays more than 30 percent of its gross income for housing costs. When so much is spent on housing, other basic household's needs may suffer.

The measure of physical inadequacy is the number of units lacking complete kitchen and/ or plumbing facilities. While this is not a complete measures of physical inadequacy, the lack of plumbing and/ or kitchen facilities can serve as a strong indication of one type of housing inadequacy.

Overcrowded housing conditions may occur when a residence accommodates more than one person per each room in the dwelling. Overcrowding may indicate a general lack of affordable housing in a community where households have been forced to share space, either because other housing units are not available or because the units are too expensive.

The following table estimates the number of low-income households with housing needs for the 30 TDHCA Section 8 service areas. The figures are adjusted to 2012 levels based on population growth estimates.

	Number
Population	296,854
Number of Individuals in Poverty	41,979
Number of Cost Burdened Households	15,180
Number of Overcrowded Households	2,031
Number of Substandard Housing Units	529

The TDHCA waiting list currently consists of 896 applications. The waiting list figure is a composite of several statewide jurisdictional waiting lists, as well as the Project Access waiting list.

9.1	**Strategy for Addressing Housing Needs**. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.**

10.0

Additional Information. Describe the following, as well as any additional information HUD has requested.

(a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan.

The Department will continue to strive for maximum utilization of Section 8 vouchers in areas served by the state program.

- Administrative processes have been updated to ensure property owner and tenant payment are processed and paid in a timely manner.
- Throughout the state, jurisdiction payment standard have been established to enable families to rent decent and affordable housing.
- A notice of Disaster Preference has been established to allow the Department to provide housing choice voucher to individuals and families in our program area that are impacted by a disaster, which will include, but not be limited to, communities with a state of Texas declared or documented extenuating circumstances such as imminent threat to health and safety.
- TDHCA currently identifies 140 Project Access Housing Choice Vouchers to assist low-income persons with disabilities to transition from institutions into the community by providing access to affordable housing. The allocation will remain at 140 for calendar Year 2015. TDHCA has adopted a tenant selection preference for admissions for person with a specific disability.

The Department is taking, and will continue to take, the necessary steps required to develop and implement procedures that will demonstrate our determination to ensure compliance with Section 8 program requirements. TDHCA will continue exploring ways to make additional safe, sanitary and decent housing available in some of the smaller areas, which do not have adequate housing stock. The Department will also continue to work closely with the State's local PHAs to address the affordable housing needs of the citizens of Texas.

(b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification"

- Substantive changes to calculation of rent payments, programs eligibility requirements, or organization of the waiting list;
- Additions of new activities are not presently in the plan.

If a substantive change is made, TDHCA will submit a revised plan that has met full public process requirements. The amendment or modification will not be implemented until accepted by HUD.

11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced 5-Year and Annual PHA Plans. The 5-Year and Annual PHA plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission and strategies for serving the needs of low-income and very low-income families. This form is to be used by all PHA types for submission of the 5-Year and Annual Plans to HUD. Public reporting burden for this information collection is estimated to average 12.68 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

Privacy Act Notice. The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated there under at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

Instructions form HUD-50075

Applicability. This form is to be used by all Public Housing Agencies (PHAs) with Fiscal Year beginning April 1, 2008 for the submission of their 5-Year and Annual Plan in accordance with 24 CFR Part 903. The previous version may be used only through April 30, 2008.

1.0 PHA Information
Include the full PHA name, PHA code, PHA type, and PHA Fiscal Year Beginning (MM/YYYY).

2.0 Inventory
Under each program, enter the number of Annual Contributions Contract (ACC) Public Housing (PH) and Section 8 units (HCV).

3.0 Submission Type
Indicate whether this submission is for an Annual and Five Year Plan, Annual Plan only, or 5-Year Plan only.

4.0 PHA Consortia
Check box if submitting a Joint PHA Plan and complete the table.

5.0 Five-Year Plan
Identify the PHA's Mission, Goals and/or Objectives (24 CFR 903.6). Complete only at 5-Year update.

5.1 Mission. A statement of the mission of the public housing agency for serving the needs of low-income, very low-income, and extremely low-income families in the jurisdiction of the PHA during the years covered under the plan**.**

5.2 Goals and Objectives. Identify quantifiable goals and objectives that will enable the PHA to serve the needs of low income, very low-income, and extremely low-income families.

6.0 PHA Plan Update. In addition to the items captured in the Plan template, PHAs must have the elements listed below readily available to the public. Additionally, a PHA must:

(a) Identify specifically which plan elements have been revised since the PHA's prior plan submission.

(b) Identify where the 5-Year and Annual Plan may be obtained by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central off ice of the PHA. PHAs are strongly encouraged to post complete PHA Plans on its official website. PHAs are also encouraged to provide each resident council a copy of its 5-Year and Annual Plan.

PHA Plan Elements. (24 CFR 903.7)

1. **Eligibility, Selection and Admissions Policies, including Deconcentration and Wait List Procedures.** Describe the PHA's policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV and unit assignment policies for public housing; and procedures for maintaining waiting lists for admission to public housing and address any site-based waiting lists.

2. **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA's anticipated resources, such as PHA Operating, Capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources.

3. **Rent Determination.** A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units.

4. **Operation and Management.** A statement of the rules, standards, and policies of the PHA governing maintenance management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA.

5. **Grievance Procedures.** A description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants.

6. **Designated Housing for Elderly and Disabled Families.** With respect to public housing projects owned, assisted, or operated by the PHA, describe any projects (or portions thereof), in the upcoming fiscal year, that the PHA has designated or will apply for designation for occupancy by elderly and disabled families. The description shall include the following information: **1**) development name and number; **2**) designation type; **3**) application status; **4**) date the designation was approved, submitted, or planned for submission, and; **5**) the number of units affected.

7. **Community Service and Self-Sufficiency.** A description of: (**1)** Any programs relating to services and amenities provided or offered to assisted families; (**2)** Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs under Section 3 and FSS; **(3)** How the PHA will comply with the requirements of community service and treatment of income changes resulting from welfare program requirements. **(Note: applies to only public housing).**

8. **Safety and Crime Prevention.** For public housing only, describe the PHA's plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must include: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities.

9. **Pets.** A statement describing the PHAs policies and requirements pertaining to the ownership of pets in public housing.

10. **Civil Rights Certification.** A PHA will be considered in compliance with the Civil Rights and AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction.

11. **Fiscal Year Audit.** The results of the most recent fiscal year audit for the PHA.

12. **Asset Management.** A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

13. **Violence Against Women Act (VAWA).** A description of: **1)** Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; **2)** Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and **3)** Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

7.0 Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers

(a) Hope VI or Mixed Finance Modernization or Development. **1)** A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Mixed Finance Modernization or Development; and **2)** A timetable for the submission of applications or proposals. The application and approval process for Hope VI, Mixed Finance Modernization or Development, is a separate process. See guidance on HUD's website at: http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm

(b) Demolition and/or Disposition. With respect to public housing projects owned by the PHA and subject to ACCs under the Act: **(1)** A description of any housing (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and **(2)** A timetable for the demolition or disposition. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at: http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm
Note: This statement must be submitted to the extent **that approved and/or pending** demolition and/or disposition has changed.

(c) Conversion of Public Housing. With respect to public housing owned by a PHA: **1)** A description of any building or buildings (including project number and unit count) that the PHA is required to convert to tenant-based assistance or that the public housing agency plans to voluntarily convert; **2)** An analysis of the projects or buildings required to be converted; and **3)** A statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at: http://www.hud.gov/offices/pih/centers/sac/conversion.cfm

(d) Homeownership. A description of any homeownership (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval.

(e) Project-based Vouchers. If the PHA wishes to use the project-based voucher program, a statement of the projected number of project-based units and general locations and how project basing would be consistent with its PHA Plan.

8.0 Capital Improvements. This section provides information on a PHA's Capital Fund Program. With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects must be completed along with the required forms. Items identified in 8.1 through 8.3, must be signed where directed and transmitted electronically along with the PHA's Annual Plan submission.

8.1 Capital Fund Program Annual Statement/Performance and Evaluation Report. PHAs must complete the *Capital Fund Program Annual Statement/Performance and Evaluation Report* (form HUD-50075.1), for each Capital Fund Program (CFP) to be undertaken with the current year's CFP funds or with CFFP proceeds. Additionally, the form shall be used for the following purposes:

(a) To submit the initial budget for a new grant or CFFP;

(b) To report on the Performance and Evaluation Report progress on any open grants previously funded or CFFP; and

(c) To record a budget revision on a previously approved open grant or CFFP, e.g., additions or deletions of work items, modification of budgeted amounts that have been undertaken since the submission of the last Annual Plan. The Capital Fund Program Annual Statement/Performance and Evaluation Report must be submitted annually.

Additionally, PHAs shall complete the Performance and Evaluation Report section (see footnote 2) of the *Capital Fund Program Annual Statement/Performance and Evaluation* (form HUD-50075.1), at the following times:

1. At the end of the program year; until the program is completed or all funds are expended;

2. When revisions to the Annual Statement are made, which do not require prior HUD approval, (e.g., expenditures for emergency work, revisions resulting from the PHAs application of fungibility); and

3. Upon completion or termination of the activities funded in a specific capital fund program year.

8.2 Capital Fund Program Five-Year Action Plan

PHAs must submit the *Capital Fund Program Five-Year Action Plan* (form HUD-50075.2) for the entire PHA portfolio for the first year of participation in the CFP and annual update thereafter to eliminate the previous year and to add a new fifth year (rolling basis) so that the form always covers the present five-year period beginning with the current year.

8.3 Capital Fund Financing Program (CFFP). Separate, written HUD approval is required if the PHA proposes to pledge any

portion of its CFP/RHF funds to repay debt incurred to finance capital improvements. The PHA must identify in its Annual and 5-year capital plans the amount of the annual payments required to service the debt. The PHA must also submit an annual statement detailing the use of the CFFP proceeds. See guidance on HUD's website at:
http://www.hud.gov/offices/pih/programs/ph/capfund/cffp.cfm

9.0 Housing Needs. Provide a statement of the housing needs of families residing in the jurisdiction served by the PHA and the means by which the PHA intends, to the maximum extent practicable, to address those needs. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

9.1 Strategy for Addressing Housing Needs. Provide a description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

10.0 Additional Information. Describe the following, as well as any additional information requested by HUD:

(a) Progress in Meeting Mission and Goals. PHAs must include (i) a statement of the PHAs progress in meeting the mission and goals described in the 5-Year Plan; (ii) the basic criteria the PHA will use for determining a significant amendment from its 5-year Plan; and a significant amendment or modification to its 5-Year Plan and Annual Plan**. (Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).**

(b) Significant Amendment and Substantial Deviation/Modification. PHA must provide the definition of "significant amendment" and "substantial deviation/modification". **(Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan.)**

(c) PHAs must include or reference any applicable memorandum of agreement with HUD or any plan to improve performance. **(Note: Standard and Troubled PHAs complete annually).**

11.0 Required Submission for HUD Field Office Review. In order to be a complete package, PHAs must submit items (a) through (g), with signature by mail or electronically with scanned signatures. Items (h) and (i) shall be submitted electronically as an attachment to the PHA Plan.

(a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations*

(b) Form HUD-50070, *Certification for a Drug-Free Workplace* **(PHAs receiving CFP grants only)**

(c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* **(PHAs receiving CFP grants only)**

(d) Form SF-LLL, *Disclosure of Lobbying Activities* **(PHAs receiving CFP grants only)**

(e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* **(PHAs receiving CFP grants only)**

(f) Resident Advisory Board (RAB) comments.

(g) Challenged Elements. Include any element(s) of the PHA Plan that is challenged.

(h) Form HUD-50075.1***, Capital Fund Program Annual Statement/Performance and Evaluation Report* (Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.1.

(i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* **(Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.2.

11

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action on Approval of the Final FFY 2015 Low Income Home Energy Assistance Program (LIHEAP) State Plan, for submission to the U.S. Department of Health and Human Services (USHHS).

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("TDHCA") develops and submits a State Plan to the USHHS each year to administer the LIHEAP;

WHEREAS, the Department received grant guidance on development of the annual State Plan plan from USHHS on July 17, 2014, and presented a Draft FFY 2015 LIHEAP State Plan to the June 5, 2014, TDHCA Board meeting to release for public comment; and

WHEREAS, the Department has prepared Final FFY 2015 LIHEAP State Plan to reflect public comment received, non-substantive corrections, and USHHS guidance;

NOW, therefore, it is hereby

RESOLVED, that the Final FFY 2015 LIHEAP State Plan, in the form presented to this meeting, is hereby approved for submission to the USHHS.

BACKGROUND

The Department develops and submits a LIHEAP Plan each year on or before September 1 to the USHHS. USHHS provides a model plan to guide the format and content. The draft, upon approval by the Board on June 5, 2014, was released for public comment. The public comment period was open from June 20, 2014, to July 21, 2014, and a public hearing was held on July 10, 2014, at Department Headquarters. One individual commented on the draft; a summary with Department response follows.

Summary of Comments and Department Response

The Department received one submission of public comment. The following summary represents the official comments and the Department's response. The name of the commenter and the organization that they represent appear at the end.

Comment 1:
Commenter submitted comment related to Section 1, Determination of Eligibility – Countable Income:

"The checked boxes of applicable forms of countable income do not necessarily correlate with 10 TAC, Chapter 5, Community Affairs, Subchapter A, General Provisions, §5.19, Client Income Guidelines.

(A) Uncheck the "Jury Duty" box on the federal form/application for consistency with state rules;

(B) Uncheck the "Veterans Administration benefits" box on the federal form/application for consistency with state rules;

(C) Remove Social Security Disability Insurance (SSDI) as counted income from the previously referenced TAC because the federal form/application does not list SSDI as countable income. The inclusion of SSDI benefit as counted income for determining eligibility is an injustice to persons with disabilities because the benefit usually throws them over the income bracket.

(D) Please clarify the "Excluding MediCare deduction" box, which is checked;

(E) Please clarify the "General Assistance benefits" box, which is checked.

Department Response 1:
In response to the comment on Section 1, Determination of Eligibility – Countable Income, the Department offers the following response:

(A) This box was checked in error and the Department accepts this comment
(B) Under the §5.19 of the Texas Administrative Code, certain types of Veterans Administration benefits such as military retirement pay are counted as income while other benefits such as VA disability benefits are excluded. Staff does not propose adopting this comment.
(C) The Texas Administrative Code pertaining to countable income is not currently open for public comment. The commenter may provide this comment when the official comment period for that section of the rule is open.

Therefore, no change to the Plan is recommended.

(D) According to information posted at http://www.medicare.gov/your-medicare-costs/paying-parts-a-and-b/pay-parts-a-and-b-premiums.html:
"If you get Social Security, Railroad Retirement Board (RRB) benefits, or Civil Service benefits, your Medicare Part B (Medical Insurance) premium will get deducted from your benefit payment. If you don't get these benefit payments and you sign up for Part B, you'll get a bill."

(E) The Social Security Administration defines general assistance benefits as "a term used to describe aid provided by State and local governments to needy individuals or families who do not qualify for major assistance programs and to those whose benefits from other assistance programs are insufficient to meet basic needs…General assistance is often the only resource for individuals who cannot qualify for unemployment insurance, or whose benefits are inadequate or exhausted. Help may either be in cash or in kind, including such assistance as groceries and rent.

Comment 2:
Commenter submitted comment related to the Poverty Income Level:

"Raise the threshold of poverty income level from 125% of poverty to 150% of poverty. The ever increasing cost of living, continuity of care, and consistency with DOE programs are reasons the threshold should be raised."

Department response 2:
In response to comments on the poverty income level, staff offers the following response:

The Low-Income Home Energy Assistance Act of 1981, §2602, requires States to "assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs." Setting the maximum eligibility limits for LIHEAP at 125% of Federal Poverty Income Guidelines (FPG), allows the Department to help those most in need and meet this statutory requirement. Further, the majority of LIHEAP Subrecipients administer the Community Services Block Grant (CSBG) program, which also sets maximum eligibility limits at 125% FPG, allowing for consistency during the intake and eligibility determination process. The Department will keep LIHEAP eligibility at 125% FPG and suggests no plan change.

Therefore, no change to the Plan is recommended.

Appendix A – Collected Public Comments on the FFY 2015 LIHEAP Plan

Commenter #	Contact	Organization
1	Stella Rodriguez	Texas Association of Community Action Agencies (TACAA)

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

MODEL PLAN

PUBLIC LAW 97-35, AS AMENDED

FEDERAL FISCAL YEAR 2015

DRAFT

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
Expiration Date: 04/30/2014

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 the greater of—
>
> > (i) an amount equal to 150 percent of the poverty level for such State; or
> > (ii) 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 disbursal 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.

(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 ___, 2014

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.

Designation letter here

Section 1[1]

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

☒	Heating assistance	Start date: 12/01/2014	End date: 02/28/2015
☒	Cooling assistance	Start date: 03/01/2015	End date: 11/30/2015
☒	Crisis assistance	Start date: 01/01/2015	End date: 12/31/2015
☒	Weatherization assistance	Start date: 01/01/2015	End date: 12/31/2015

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%.**

10% heating assistance

40% cooling assistance

20% crisis assistance

Up to 15% weatherization assistance[2]

0% carryover to the following Federal fiscal year

10% administrative and planning costs

5% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

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

---

[1] Capitalized terms are defined in Title 10, Chapter 1 or Chapter 5 of the Texas Administrative Code (as applicable and amended) or by federal law.

[2] If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

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): year-round crisis

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

SNAP Nominal Payments

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP clients?

☐ Yes ☒ No

Amount of Minimal Assistance: $___NA________

Frequency of Assistance:

☐ Once per year
☐ Once every five years
☐ Other (describe): ___________NA_________________

Determination of Eligibility – Countable Income

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

☒ Gross Income
☐ Net Income

2. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP.

☒ 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)
☒ 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 (Some types are included, some types are excluded)
☐ 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.)
☒ Other

Worker's compensation, military family allotments (except where excluded by other federal law), net gambling or lottery winnings;

Section 2 - HEATING ASSISTANCE

Eligibility, 2605(b)(2) – Assurance 2

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

2014 HHS poverty income level: 125%

OR

FY 2015 state's median income 60%[3]

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

☒ Yes[4] ☐ No

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

	Yes	No
● Do you require an assets test?	☐	☒
● Do you have additional/differing eligibility policies for:		
• Renters?	☐	☒
• Renters living in subsidized housing?	☐	☒
• Renters with utilities included in the rent?[5]	☒	☐
● Do you give priority in eligibility to:		
• Elderly?	☒	☐
• Disabled?	☒	☐
• Young children?	☒	☐
• Households with high energy burdens?	☒	☐
• Other? Households with high energy consumption	☒	☐

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

---

[3] 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, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State 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.

[4] Currently, §5.407(e) of 10 Texas Administrative Code states: "A Household unit cannot be served if the meter is utilized by another Household." The Department is considering a change to this rule to allow for assistance in certain circumstances.

[5] If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.
Subrecipients use a household 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*. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children.

*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)

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

2.6 Describe benefit levels:

$0 Minimum benefit $1200 Maximum benefit

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

☒ Yes ☐ No -- If yes, describe.
Under energy crisis, a Household may receive repair of existing heating and cooling units not to exceed $2,500. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed $2,500.

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:

2014 HHS poverty income level 125%

OR

FY 2015 median income 60%[6]

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

☒ Yes[7] ☐ No

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

	Yes	No
● Do you require an assets test?	☐	☒
● Do you have additional/differing eligibility policies for:		
• Renters?	☐	☒
• Renters living in subsidized housing?	☐	☒
• Renters with utilities included in the rent?	☒[8]	☐
● Do you give priority in eligibility to:		
• Elderly?	☒	☐
• Disabled?	☒	☐
• Young children?	☒	☐
• Households with high energy burdens?	☒	☐
• Other? Households with high energy consumption	☒ _	☐

[6] 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, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State 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.

[7] Currently, §5.407(e) of 10 Texas Administrative Code states: "A Household unit cannot be served if the meter is utilized by another Household." The Department is considering a change to this rule to allow for assistance in certain circumstances.

[8] If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application period, etc.
Subrecipients use a household 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*. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children.

*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:

$0 Minimum benefit $1200 Maximum benefit

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?
☒Yes ☐ No -- If yes, describe.
Under energy crisis, a Household may receive repair of existing heating and cooling units not to exceed $2,500. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed $2,500

Section 4: CRISIS ASSISTANCE,

Eligibility - 2604(c), 2605(c)(1)(A)

4.1 Designate the income eligibility threshold used for the crisis component:

2014 HHS poverty income level 125%

OR

FY 2015 state median income 60%

4.2 Provide your LIHEAP program's definition for determining a crisis.
A bona fide Household crisis exists when extraordinary events or situations resulting from extreme weather conditions and/or fuel supply shortages or a terrorist attack have depleted or will deplete Household financial resources and/or have created problems in meeting basic Household expenses, particularly bills for energy so as to constitute a threat to the well-being of the Household, particularly the Elderly, Persons with Disabilities, or children age 5 and younger. A utility disconnection notice may constitute a Household energy crisis.

4.3 What constitutes a life-threatening crisis?
To be determined through dialogue with affected program partners. Definition will be included with proposed final plan.

Crisis Requirements, 2604(c)

4.4 Within how many hours do you provide crisis assistance that will resolve the energy crisis for eligible households? 48 Hours

4.5 Within how many hours do you provide crisis assistance that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours[9]

Crisis Eligibility, 2605(c)(1)(A)

4.6 Do you have additional eligibility requirements for **CRISIS ASSISTANCE?**

☐ Yes ☒ No

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

	Yes	No
• Do you require an assets test?	☐	☒

• Do you give priority in eligibility to:

[9] 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.

• Elderly?	☒	☐
• Disabled?	☒	☐
• Young children?	☒	☐
• Households with high energy burdens?	☒	☐
• Other? Households with high energy consumption	☒	☐

● In order to receive crisis assistance:

• Must the household have received a shut-off notice or have a near empty tank?	☒	☐
• Must the household have been shut off or have an empty tank?	☒	☐
• Must the household have exhausted their regular heating benefit?	☐	☒
• Must renters with heating costs included in their rent have received an eviction notice?	☐	☒
• Must heating/cooling be medically necessary?	☐	☒
• Must the household have non-working heating or cooling equipment?	☐	☒
• Other?	☐	☒

● Do you have additional/differing eligibility policies for:

• Renters?	☐	☒
• Renters living in subsidized housing?	☐	☒
• Renters with utilities included in the rent?	☒[10]	☐

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 $1200

---

[10] If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

☒ Other
Heading and cooling equipment repair or replace up to $2,500

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

According to state program rules: "Subrecipients shall accept applications at sites that are geographically and physically accessible to all Households requesting assistance. If Subrecipient's office is not accessible, Subrecipient shall make reasonable accommodations to ensure that all Households can apply for assistance."

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 yes, 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.

Benefit Levels, 2605(c)(1)(B)

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis	$__________ maximum benefit
Summer Crisis	$__________ maximum benefit
Year-round Crisis	$1200 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.
purchase of portable heating/cooling units, temporary shelter, blankets, fans, 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 Heating/Cooling Assistance	Winter Crisis	Summer Crisis	Year-round Crisis
Heating system repair			X
Heating system replacement			
Cooling system repair			X
Cooling system replacement			
Wood stove purchase			X
Pellet stove purchase			X
Solar panel(s)			
Windmill(s)			
Utility poles / Gas line hook-ups			
Other (Specify): _______________			

4.17 Do any of the utility vendors you work with enforce a winter moratorium on shut offs?
☒ Yes ☐_ No ________

4.18 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.
Public Utilities Commission rules, states:
"An electric utility cannot disconnect a customer anywhere in its service territory on a day when:
(1) 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, according to the nearest National Weather Service (NWS) reports; or
(2) the NWS issues a heat advisory for any county in the electric utility's service territory, or when such advisory has been issued on any one of the preceding two calendar days."

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:

2014 HHS poverty income level 125**%**
OR
FY 2015 state median income 60**%**[11]

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component?** ☐ Yes ☒ No

5.3 Name the agency. _NA____

5.4 Is there a separate monitoring protocol for weatherization? ☒ Yes ☐ No

WEATHERIZATION - Types of Rules

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

_☐ Entirely under LIHEAP (not DOE) rules

☐ Entirely under DOE WAP (not LIHEAP) rules

☐ Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

- ☐ Income Threshold
- ☐ Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.
- ☐ Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities) is permitted.
- ☐ Other (describe)

☒ Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

---

[11] 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, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State 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.

☒ 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)
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.

Eligibility, 2605(b)(5) – Assurance 5

	Yes	No
5.6 Do you require an assets test?	☐	☒
5.7 Do you have additional/differing eligibility policies for:		
• Renters?	☐	☒
• Renters living in subsidized housing?	☐	☒
5.8 Do you give priority in eligibility to:		
• Elderly?	☒	☐
• Disabled?	☒	☐
• Young children?	☒	☐
• Households with high energy burdens?	☒	☐
• Other? Households with high energy consumption	☒	☐

Benefit Levels

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?
☒ Yes ☐ No

5.10 What is the maximum amount? $5000, 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

☐ Install storm windows

☒ heating system repairs

☐ Heating system replacement

☒ Cooling system repairs

- [ ] Cooling system replacement
- [x] Energy related roof repair
- [x] Major appliance repairs
- [x] Major appliance replacement
- [ ] Install windows/sliding glass doors
- [ ] Install doors (interior/exterior)
- [x] Install water heater
- [x] Water conservation measures
- [x] Compact fluorescent light bulbs
- [x] Other (describe)
  Solar screens or window film

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:

- [x] Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- [x] 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.
- [x] Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.
- [x] 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?**
Annual program article in propane vendor newsletter, report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

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), presentation at area events organized by state representatives and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

8.4 How do you provide alternate outreach and intake for **CRISIS ASSISTANCE**?
In instances of natural disaster, Subrecipient coordinates with other assistance organizations (shelters, Red Cross, etc.) Annual program article in propane vendor newsletter, report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by or at the direction or request of elected officials and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

Role	Heating	Cooling	Crisis	Weatherization
Who determines client eligibility?	Local governments, CAAs and Other Non-profits	Local govern	Local govern	Local governments,

Role	Heating	Cooling	Crisis	Weatherization
		ments, CAAs and Other Non-profits	ments, CAAs and Other Non-profits	CAAs and Other Non-profits
Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Non-profits	Local govern ments, CAAs and Other Non-profits	Local govern ments, CAAs and Other Non-profits	N/A
Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Non-profits	Local govern ments, CAAs and Other Non-profits	Local govern ments, CAAs and Other Non-profits	N/A
Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Non-profits

8.5 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 receiving Federal funds under the CSBG Act.

(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.

The Department administers the program through the existing 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 the Department rules. If Subrecipients are successfully administering the program, the Department may offer to renew the contract.

When the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if Subrecipient fails to administer the program correctly, the Department reassigns the service area or a portion to another existing Subrecipient or conducts 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 the Texas Government Code, §2105.204.

8.6 How many local administering agencies do you use?

44

8.7 Have you changed any local administering agencies from last year?

☒ Yes ☐ No

8.8 Why?

- ☐ Agency was in noncompliance with grantee requirements for LIHEAP
- ☐ Agency is under criminal investigation
- ☐ Added agency
- ☒ Agency closed
- ☐ Other - describe

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

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. A sample copy is attached with the Program Integrity Assessment Report.

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. A sample copy is attached with the Program Integrity Assessment Report.

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, how?

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 ☐

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	Type	Brief Summary	Resolved?	Action Taken
1 The Department was unable to fully document information entered in the LIHEAP household report.	A-133 audit	The Department was unable to replicate the formula used to determine report data.	Yes	The Department created a replicable formula to use when determining report data.
2 The Department did not provide a definition for “life-threatening crisis” for use by Subrecipients during benefit determination.	Internal Audit	While no instances of an ineligible household receiving service were found, Subrecipients were not documenting what the “life threatening crisis” consisted of.	Yes	The Department is working with Subrecipients to develop a definition for “life threatening crisis” which will be included in the state rules.

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 the Single Audit Act and OMB Circular A-133.

☐ Local agencies/district offices are required to have an annual audit (other than A-133).

☒ Local agencies/district offices' A-133 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 A-133; 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.

10.7. Describe how you select local agencies for monitoring reviews? The Compliance Division performs a Risk Assessment to determine Subrecipients with the highest risk, based on award amount, the number of Department programs awarded to the Subrecipient, prior monitoring concerns and/or unresolved issues and prior Single Audit issues. Subsequent to this, we determine the last date of monitoring for the Subrecipient. If the Subrecipient was monitored more than 12 months prior, then the Subrecipient will be monitored. If the Subrecipient was monitored 12 months or less prior to the Risk Assessment, then the division considers monitoring for on-going concerns of the Subrecipient and/or for cost effectiveness when monitoring another Department program.

Site Visits: After the description above, site visits will be performed on those with the highest risk.

Desk Reviews: After the description above, desk reviews will be performed on those with lower risk score.

10.8. How often is each local agency monitored? At least once, every two 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)
- [x] Public Hearing(s)
- [x] Draft Plan posted to website and available for comment
- [x] Hard copy of plan is available for public view and comment
- [x] Comments from applicants are recorded
- [x] Request for comments on draft Plan is advertised
- [ ] Stakeholder consultation meeting(s)
- [ ] Comments are solicited during outreach activities
- [x] Other, describe: Comments are solicited via on-line forums.

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

Will be completed after the public participation process is complete.

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?

June 12, 2014 – Event Description to be completed

11.4 How many parties commented on your plan at the hearing(s)?

11.5 Summarize the comments you received at the hearing(s).

11.6 What changes did you make to your LIHEAP plan as a result of the public hearing(s)?

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?
N/A

12.4 Describe your fair hearing procedures for **households whose applications are denied.**
Subgrantee contracts include the following section:

SECTION 39. 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 §5.405 the State Rules. The rule states:

(a) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/clients. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. This notification shall include written notice of the right of a hearing and specific reasons for the denial by component. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) Subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(3) Subrecipients shall hold the appeal hearing within ten (10) business days after the Subrecipient received the appeal request from the applicant.

(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 business day following the decision (1 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 and no further appeal is afforded to the applicant.

(b) 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.

(c) Applicants/clients 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 Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient.

(e) If client 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; can be made in person or by mail.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

Applicants are required to submit an application each program year. During the intake process, applicants are assigned a priority rating based on indicators such as poverty level, energy burden and use, and the presence of vulnerable household members. The applicant is informed of their rating at that time and informed whether their application will be acted on immediately or if higher priority applicants will be served first. If due to a low priority rating an applicant does not receive services during a program year, the applicant must re-apply the following year. This is a program requirement and is not subject to applicant appeal.

If an applicant is concerned that their application has been mishandled, the applicant may file a complaint with the Department. TDHCA has an online complaint system, and staff phone numbers are posted online. In general, applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient. Applicants who call are encouraged to use the online system but rarely do. Staff records the complaint and proceeds as if the complaint were a denial of services appeal, as described in Section 12.4 above.

12.7 When and how are applicants informed of these rights?
Applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient.

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?

1. Identify household needs.
2. Provide literature and energy conservation education.
3. Refer client to other appropriate programs.
4. Encourage responsible vendor and consumer behavior.
5. Subrecipients provide applications, forms, and energy education materials in Spanish, English, or other language when appropriate.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?
Assurance 16 activities are a separate budget category at both the state and Subrecipient levels. Both the accounting and the reporting systems do not allow expenditures over the 5% cap.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.
These activities have no impact on the number of Households served. While some Households may benefit from these activities to the extent where they no longer require assistance, there are always more Households that request the assistance.

13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

The Department does not administer Assurance 16 as a stand-alone program or component. All clients benefit from these activities as part of intake and outreach. Benefit levels are the same as previously described.

13.5 How many households applied for these services?
The Department does not administer Assurance 16 as a stand-alone program or component. Households are not required to apply for these services.

13.6 How many households received these services?
Since the Department does not administer Assurance 16 as a stand-alone program or component and there is no application requirement, this information is not applicable.

Section 14: Leveraging Incentive Program, 2607A

14.1 Do you plan to submit an application for the leveraging incentive program?

☒ Yes[12] ☐ No

14.2 Describe instructions to the third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records.

Pursuant to the Memorandum of Understanding between the Department and the Texas Public Utility Commission, the Commission will make available to the Department information on LITE-UP electric discount program electric activities sufficient for the Department to report activities to USHHS for the previous federal fiscal year.

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:

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 the LIHEAP program?
Electric utility discount	Texas Public Utility Commission	The Department will refer eligible LIHEAP households to LITE-UP (Rate discount for Elderly households), and the Commission will refer eligible LITE-UP households to the Department.

[12] Should funding be available.

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:

b. Local Agencies:

☒ Formal training conference

How often?

☒ Annually

☐ Biannually

☐ As needed

☒ Other – Describe: The annual conference is held by the Texas Association of Community Action Agencies, and the Department provides training at this annual conference.

☒ On-site training

How often?

☐ Annually

☐ Biannually

☒ As needed

☒ Other – As needed as determined either by the Department or by request of the agency.

☐ Employees are provided with policy manual

☐ Other – Describe:

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 performance goals and measures that will be tracked for the upcoming Federal fiscal year.
Optional

16.2 Summarize results of performance goals and measures for the prior Federal fiscal year.

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.

☒ 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:

b. Describe strategies in place for advertising the above-referenced resources.

☐ 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.

REQUIRED Type of Identification Collected	Collected from Applicant Only	Collected from All Adults in HH	Collected from HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required ☐ Requested ☐	Required ☐ Requested ☐	Required ☐ Requested ☐
Social Security Number (without actual card)	Required ☐ Requested ☐	Required ☐ Requested ☐	Required ☐ Requested ☐

REQUIRED Type of Identification Collected	Collected from Applicant Only	Collected from All Adults in HH	Collected from HH Members Seeking Assistance*
Government-issued identification card (i.e.,: driver's license, state ID, Tribal ID, passport, etc.)	Required ☒ Requested ☐	Required ☐ Requested ☐	Required ☐ Requested ☐
Other:___________________	Required ☐ Requested ☐	Required ☐ Requested ☐	Required ☐ Requested ☐

*Households may include members who are not seeking assistance and may not be included in the household count.

b. Describe any exceptions to the above policies.

17.3. Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members.

☐ 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
☐ Match SSN/Tribal ID number with tribal database [
☒ Other – describe:

At this time, the Department only verifies 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/non-nationals must provide documentation of immigration status
☒ Citizens/Nationals must provide a copy of their birth certificate, naturalization papers, or passport
☒ Noncitizens/non-nationals are verified through the SAVE system
☐ Tribal members are verified through Tribal database/Tribal ID card

☐ Other – describe:

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:

SECTION 9. 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 5, Subchapter A §5.22 requires that:

Client Records. The Department requires Subrecipient organizations that administer Community Affairs Programs and serve clients to document client services. 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.

17.7. Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- [ ] All vendors must register with the State
- [ ] All vendors must supply a valid SSN or TIN/W-9 form
- [x] 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?

- [ ] Applicants required to submit proof of physical residency
- [x] 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
- [x] Separation of duties between intake and payment approval
- [ ] Payments coordinated among other heating assistance programs to avoid duplication of payments
- [x] 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
- [x] 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
- [x] 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?

- [ ] Vendors are checked against an approved vendors list
- [ ] Centralized computer system/database is used to track payments to all vendors
- [x] 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
☐ 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.

☒ 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 Administrative Penalties 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 Nonprocurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of

records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 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 pint 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 11th 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.
- Cooling component benefit matrix.
- Local Agency Monitoring Schedule

Attachment 3: Benefit Matrix

Pursuant to 10 Texas Administrative Code, Chapter 5 §5.422(d), all benefits are determined based on a sliding scale:

(d) Sliding scale benefit for all CEAP components:

(1) Benefit determinations are based on the Household's income, the Household size, the energy cost and/or the need of the Household, and the availability of funds;

(2) Energy assistance benefit determinations will use the sliding scale described in subparagraphs (A) - (C) of this paragraph:

(A) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,200;

(B) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,100; and

(C) Households with Incomes of 76% to at or below 125% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,000; and

(3) A Household may receive repair of existing heating and cooling units not to exceed $2,500. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed $2,500.

2014 LIHEAP Monitoring Schedule

June

On-Site Subrecipient	Program	PY
EAC Gulf Coast	LI-WAP	2013-14
CSA South Tx	LIHEAP - CEAP	2014
NCI	LIHEAP - CEAP	2014
AACOG	LI-WAP	

July

On-Site Subrecipient	Program	PY
Panhandle CS	LIHEAP - CEAP	2014
Nueces County	LI-WAP	2014
Rolling Plains	LIHEAP - CEAP	2014

August

On-Site Subrecipient	Program	PY
Cameron Willacy	LIHEAP - CEAP	2014
City of Fort Worth	LIHEAP - CEAP	2014
El Paso CAP	LIHEAP - CEAP	2014
Community Services Inc.	LIHEAP - CEAP	2014
Dallas County	LI-WAP	2014
City of Fort Worth	LI-WAP	2014

Texas Department of Housing and Community Affairs

MONITORING INSTRUMENT

SUBRECIPIENT INFORMATION

Subrecipient:____

Address: ____

____

City: ____________________________________ Zip Code:________________________

Executive Director: ____

Program Director: ____

Fiscal Officer: ____

Other Personnel: ____

Board Chairperson: ____

Chairperson email: ____

Chairperson Mailing Address: ____

City: ________________________ Zip Code: _______________

DEPARTMENT INFORMATION

Monitor: ____________________________________ Monitor: _______________________________

Notification of Monitoring Review: ____

Date of Monitoring Review: ____

Subrecipient Staff Notified: ____

Notification By: Letter:___ Telephone: ______ Other: _______

Monitoring Report Due: ____

Comprehensive Energy Assistance Program
Community Services Block Grant

MONITORING INSTRUMENT

Contents:

SECTION I. PROGRAM OVERVIEW

PY 2012 CONTRACT INFORMATION (if applicable)

CEAP Contract #: 5812000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

CSBG Contract #: 6112000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

CSBG Discretionary
Contract #: 6112000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

DOE Contract #: 5612000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

LI-WAP Contract #: 8112000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

Contract Dates

CEAP - 1/1/2012 – 12/31/2012 **CSBG - 1/1/2012 – ___ / ___ / _____**
DOE - 4/1/2012 – 3/31/2013 **LI-WAP - 4/1/2012 – 3/31/2013**
CSBG Disc- ___ / ___ / _____– ___ / ___ / _____

PY 2013 CONTRACT INFORMATION

CEAP Contract #: 5813000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

CSBG Contract #: 6113000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

CSBG Discretionary
Contract #: 6112000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

DOE Contract #: 5613000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

LI-WAP Contract #: 8113000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

DOE-ARRA Contract #: 5609000___ ___ ___ ___ **Contract Amount $ ___ ___, ___ ___ ___, ___ ___ ___.00**

Contract Dates

CEAP - 1/1/2013 – 12/31/2013 **CSBG - 1/1/2013 – ___ / ___ / _____**
DOE - 4/1/2013 – 3/31/2014 **LI-WAP - 4/1/2013 – 3/31/2014**
DOE-ARRA - 4/1/2013 - ___ / ___ / ______ **CSBG Disc- ___ / ___ / _____– ___ / ___ / _____**

---

1. What is the Subrecipient's Fiscal Year? ____ / ____ / _______ - ____ / ____ / _______

2. What software and/or system does the Subrecipient use to perform the agency's accounting functions? ________________________________

3. Is the system manual, automated, or a combination? ________________________________

4. How many bank accounts and/or open checking accounts does the Subrecipient have? ________

5. (a). How many signatures are required on a check? ________

(b). Who signs checks?

____

____

____

____

(c). Do names on bank signature cards match signatures on checks? Yes No

6. Does the Subrecipient utilize check plates or a signature stamp? If yes, then complete (a-b): Yes No

(a) Are the check plates and/or stamp located in a secure location? Yes No N/A

(b) Is access only limited to authorized staff? Yes No N/A

(c). Is there a policy and/or procedure on the proper use of the check plates and/or signature stamp? Yes No N/A

7. Date of last full procurement for the following:

Single Audit ________________________________

Other Procurement ________________________________

8. Is the fidelity bond current and is the policy in effect? Yes No

9. Is the inventory current and submitted timely? Yes No N/A

10. Date of last Personnel Policies and Procedures Revision? ________________________________

11. Date of last Board By-Law Revision? ________________________________

12. (a) Note program expenditure percentage and percentage of contract period expired.

Program____________
_____% of expenditures
_____% of contract period expired

Program____________
_____% of expenditures
_____% of contract period expired

(b) Is the % of expenditures acceptable? Yes No

13. Is there a Cost Allocation Plan (CAP) or Indirect Cost Rate (ICR) to allocate shared costs? CAP IDR

14. How many board members do Bylaws specify? _______

15. How often are board meetings held? ______________________________________

16. Does the Subrecipient administer the Head Start Program within their CSBG service area? Yes No

17. Has the Subrecipient made progress towards clients reaching self sufficiency and Transitioning Persons Out of Poverty? If no, explain why. Yes No

____
____
____

18. List the number of clients enrolled in the case management program as reported on Part XI of the MPR: _______

19. How many clients have been reported as transitioning out of poverty as reported on Part XII of the MPR? _______

20. Number of Clients that have TOP: _______

A 12. Were cooperative agreements made to other social service organizations? (5.432)

SECTION II. FINANCIAL REVIEW

☐ **CEAP** ☐ **CSBG** ☐ **WAP**

Review Question	Yes	No	N/A	Notes
1. Are MERs derived from monthly financial statements?				Months reviewed:
2. Are MER financial figures reconciled to the General Ledger and accounting work papers before they are submitted to TDHCA?				
3. Are Monthly Expenditure Reports and Monthly Performance Reports submitted to TDHCA by the required deadline? (15th of the Month)				
4. Can MER expenditures be traced to the original book of entry?				Months reviewed:
a. Are the expenditures allowable?				
b. Does the support documentation justify sampled expenses?				
5. Were sampled expenditures obligated by the end of the contract period?				
6. Does Subrecipient follow its own financial Policies and Procedures for purchases?				
7. Are bank accounts reconciled at least monthly to the General Ledger?				Months reviewed:
a. Does the reconciled cash agree with the General Ledger? If no, see Question #6b. If so, skip to Question #7.				
b. Are the differences resolved and approved by a designated person monthly?				Name and Title:

Review Question	Yes	No	N/A	Notes
c. Are the reconciling items that make up the total difference between the two balances adequately described and dated (as of their origination date)?				
d. Are reconciling items resolved in a timely manner (preferably within 30 days)?				
e. Are the reconciliations reviewed by a supervisor or manager that is <u>not</u> the reconciler?				
f. Are the reconciliations prepared timely (within 30 days of the cut-off date)?				
8. Besides bank/cash accounts does the Subrecipient have an Indirect Cost Pool?				
a. If yes, it is reconciled periodically (preferably at least monthly)?				
9. Does the Subrecipient follow their policies and procedures for outstanding checks?				
10. Is there a separation of duties to ensure effective control over preparation, authorization, and distribution of checks or electronic payments?				
11. Has Subrecipient requested more than a thirty-day supply of funds, unless otherwise justified?				
12. If TDHCA funds are in an interest-bearing account, is interest earned allocated back to the program (for amounts over $250 that were earned in one year)?				
13. Has Subrecipient used the Department funds to pay late fees to IRS or other penalties?				

Review Question	Yes	No	N/A	Notes
14. Is the methodology for the Subrecipient's allocation method justified?				
15. Review the Subrecipient's most recently submitted IRS form 990. (if applicable) Are there any notable concerns, conditions, and/or issues?				
16. Has Subrecipient paid and are they current for: *a.* TWC Taxes (state unemployment)				
b. State Workers' Comp.				
c. Payroll Taxes				
17. During the last three years has the IRS or any other organization placed any liens on the agency for delinquent payments?				
a. If so, has the subrecipient made any agreements or payment plans with the IRS?				
18. Does the subrecipient follow their policies and procedures regarding Journal Entries, Adjusting Entries, and/or Reversing Entries?				
19. Do they have proper support documentation, explanation, and justification for each Journal Entry and/or Reversing Entry?				
20. Does the Subrecipient utilize company credit cards and/or credit lines/accounts? If yes, answer the following:				
21. Is there a process to ensure internal controls over the use of the credit cards/credit accounts?				
22. Does the prior year Indirect Cost Rate match the approved rate?				

SECTION III. PROCUREMENT

☐ **CEAP** ☐ **CSBG** ☐ **WAP**

Procurement Methods:

A. Small purchase;
B. Sealed bid;
C. Competitive negotiations;
D. Non-competitive negotiations;
E. Alternative procedures

23. Which method is used for a. Labor	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
b. Services	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
c. Materials	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
d. Vehicles	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
e. Equipment	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
f. Office supplies	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP
g. Other:	Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP Method: ______________ Program(s): CEAP CSBG WAP

Questions	Yes	No	NA	NOTES
24. Has subrecipient obtained advanced written approval from TDHCA for any purchase of with a unit acquisition cost of more than $5,000?				
25. Did the Subrecipient establish a clear, accurate description of the specifications for the technical requirements of the material, equipment, or services to be procured?				
26. Did the Subrecipient obtain price quotes from at least 3 different vendors?				
a. Did the Subrecipient select the vendor whose price was the lowest?				
b. Are the prices paid in line with the prices quoted?				
i. If No, was there justification for not selecting the vendor whose price was the lowest?				
27. Was the procedure well documented?				
28. Did the subrecipient enter into a written contract?				

B.

(Answer this section only if Competitive Sealed bid, Competitive Negotiations, Non-competitive negotiations, or if an Alternative procedure this method was used.)

Questions	Yes	No	NA	NOTES
29. Were the advertising requirements met?				
30. Was the correct time allotted to respond?				
31. Did the Subrecipient use established selection criteria? *for example*: • Integrity • Financial resources • Record of past performance • Technical resources • Price				

Questions	Yes	No	NA	NOTES
a. Were points attached to each criterion?				
b. Was price given the greatest number of points? If no, state why?				
32. Did the subrecipient follow its own established selection criteria?				
33. Was the responsible bidder whose price was lowest awarded the bid? If no, why?				
34. Were the bids publicly opened?				
35. Did the bid package allow for free & open competition?				
36. Was all necessary information provided to bidders?				
37. Was the procedure well documented?				
38. Based upon the analysis of the procurement effort, did the subrecipient select the correct vendor(s)?				

C.

(Answer this section only if the State CO-OP method was used.)

Questions	Yes	No	NA	NOTES
39. Did the subrecipient use the State Co-Op as a method of Procurement?				
40. Was Membership current at time of purchase for? a. Subrecipient				
b. Vendor				
41. Did the Subrecipient pay the State Co-Op listed price?				
42. Does the documentation support the purchase?				

D. Procurement Overview

Questions	Yes	No	NA	NOTES
43. Did the Subrecipient verify that all of their current Contractors do not appear on any Federal Debarment list?				
44. Does the contract contain the following provisions?				
a. Administrative, contractual or legal remedies for breach of contract				
b. Early termination				
c. For contracts in excess of $10,000, compliance with E. O. 11375 Amending E. O. 11246 Equal Employment Opportunity				
d. Copeland "anti-kickback" Act"				
e. Reporting and patent rights under any contract involving research, developmental, experimental, or demonstration work, with respect to any discovery or invention which arises or is developed in the course of, or under such contract.				
f. Hold harmless				
g. Conflict of interest & nepotism				
h. Prohibit political activity				
i. Prevent Fraud and abuse				
j. Amend contract				
k. Legal authority to sign contract				
l. Access to records				
m. Three year record retention				
n. For contracts in excess of $100,000, compliance with Clean Air and Clean Water Acts				
o. Non-discrimination provision				

SECTION IV. INVENTORY

☐ CEAP ☐ CSBG ☐ WAP

Questions	Yes	No	NA	NOTES
45. Has Subrecipient reported cumulative inventory for prior year funding?				
46. Have recent inventory purchases been verified on-site?				
47. Is there a separation of duties over the custody, record keeping, authorization, and reconciliation of inventory?				
a. If not, are there compensating controls?				
48. Does the Subrecipient have an inventory control system that makes it possible to track materials used on an individual home back to the point of purchase?				

SECTION V. AUDIT

Questions	Yes	No	NA	NOTES
49. Has the audit certification letter, if required, been submitted to Compliance Division?				
a. If not, is the Audit Certification Letter delinquent?				
50. Has the Subrecipient submitted the most current Single Audit report to the Department?				
a. If no, is the audit delinquent?				
51. Are there any unresolved audit findings?				
52. Have the audit findings been discussed with the Board?				
a. If yes, how were the findings cleared?				

Questions	Yes	No	NA	NOTES
53. Has the Subrecipient submitted all pertinent documents to the Federal Audit Clearinghouse i.e. Data collection form and copy of reporting package.				
54. Has the Subrecipient used a competitive solicitation process in the last four (4) years to procure audit services?				

SECTION VI. MONITORING

Questions	Yes	No	NA	NOTES
55. Has the Subrecipient received monitoring and/or performance reviews from their other Federal funding agencies?				List other Federal Agencies and outstanding issues:
a. If yes, were there any outstanding issues?				
56. Have all CSBG/ CEAP/ WAP findings requiring corrective actions from the previous monitoring reports been satisfactorily addressed?				
57. Has the Subrecipient had any of its program/program funds terminated since the last monitoring visit? (if yes, note the program and the reason(s))				

SECTION VII. PERSONNEL POLICIES and PRACTICES

Questions	Yes	No	NA	NOTES
58. Is there a provision in the personnel policies to prohibit conflict of interest?				
59. Is there a provision in the personnel policies to prohibit nepotism?				
60. Do personnel policies correctly address sectarian activities?				
61. Is there a provision to provide equal opportunity and prohibit discrimination on the basis of: a. Race				
b. Color				
c. Religion				
d. Sex				

Questions	Yes	No	NA	NOTES
e. National origin				
f. Age				
g. Handicap				
h. political affiliation/belief				
62. Is information regarding equal opportunity and non-discrimination provided to program participants, employees, subcontractors and/or interested parties?				
63. Is there a provision to prohibit political activity and lobbying?				
64. Has Subrecipient included a section in personnel policies insuring that any person reporting a violation by the Subrecipient shall not be discriminated against?				
65. Has the subrecipient implemented provision to establish, maintain, and utilize internal controls & procedures sufficient to prevent, detect, and correct incidents of fraud, waste, & abuse?				

SECTION VIII. TIME SHEETS and TRAVEL/MILEAGE RECORDS

☐ **CEAP** ☐ **CSBG** ☐ **WAP**

Questions	Yes	No	NA	NOTES
66. Does Subrecipient follow a Board approved travel policy or the Department travel policy?				
67. Does Subrecipient maintain documentation on mileage reimbursement?				
68. Are travel reconciliations (including advances) submitted in accordance with Subrecipient policy?				
69. Are the expenditures allowable?				
70. Are travel expenses charged to the correct category?				
71. Are personnel activity reports completed correctly?				
a. Does the Subrecipient use an after the fact actual activity for employees?				

Questions	Yes	No	NA	NOTES
b. Does it account for the total activity for which the employee was compensated?				
c. Is it signed by the employee and/or designated supervisory official?				
d. Is it prepared at least monthly & does it coincide with one or more pay periods?				
72. Do timesheets substantiate payroll expenditures?				
a. Are charges on timesheets correctly allocated to reflect activity report?				
73. Were merit payments and/or bonuses provided based on established policy and procedure?				
a. Were they charged equitably to the program?				

Section IX. GENERAL

Questions	Yes	No	NA	NOTES
74. Has Subrecipient developed a written policy/procedure on the use of the Declaration of Income Statement (DIS) form?				
75. Has Subrecipient implemented the use of the DIS form according to the established policy/procedure?				
76. Did Subrecipient document income for all household member 18 years or older?				
77. Is the income documentation for the client files dated less than 12 months from the unit start date?				
78. Are client files and other applicable program documents retained for a minimum of 3 years?				

<table>
<tr><th colspan="2">SUBRECIPIENT TRAINING NEEDS</th></tr>
<tr><td>As a result of the monitoring, should the subrecipient receive training? If Yes, please list and comment on the type of training(s) the subrecipient requires.

YES NO</td><td>Type of Training and Comments

A.)______________________________ ⬡ Required ⬡ Recommended
B.)______________________________ ⬡ Required ⬡ Recommended
C.)______________________________ ⬡ Required ⬡ Recommended
D.)______________________________ ⬡ Required ⬡ Recommended
E.)______________________________ ⬡ Required ⬡ Recommended</td></tr>
</table>

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

Monitoring Instrument
CEAP Attachment

Questions	Yes	No	NA	Notes
Vendor Agreements A1. Are there current (2 years or less) signed vendor agreements on file?				
a. Do the vendor agreements contain the required provisions?				
A2. Are all of the counties in the service area served equitably?				
A3. Have all represented racial and ethnic groups been equitably served? (If no, state reason(s))				
A4. Has the Subrecipient prioritized all clients?				
A5. Do expended funds on MER match to MPR funds reported?				
A6. Did Subrecipient document income for all household members 18 years and older that received direct TDHCA services?				
A7. Are the client applications for the current program year?				
A8. Were the correct benefit determinations made for all CEAP components?				
A9. Did the Subrecipient document referrals to the local Weatherization provider?				
A10. Were the following Assurance 16 activities thoroughly documented in the client files: a. encourage and enable households to reduce home energy needs				
b. needs assessment and counseling				
c. assistance with energy vendors				

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

Questions	Yes	No	NA	Notes
A11. Did Subrecipient provide energy conservation education to the clients?				
b. Was an energy needs assessment performed				
c. Did the subrecipient perform a budget counseling on the client?				
d. Were referrals made.				
A12. Did subrecipient perform outreach activities to target clients?				
A13. In the client file review, was a client's water, wastewater or other non-gas/electric utilities paid with CEAP funds?				
a. If A13 is yes, Is there documentation reflecting the inability to separate non-gas/electric utilities from the bill, requiring other items to be charged.				

Utility Assistance Component

Questions	Yes	No	NA	Notes
A13. Did the subrecipient select the correct number of months for households that met the: a. Elderly, Disabled or Child 5 and younger				
b. Non- Elderly, Disabled or Child 5 and younger.				
A14. Did the Subrecipient select the highest remaining months for payment?				
A15. Does the Subrecipient evaluate energy bills and billing histories prior to providing assistance?				
A16. Did the subrecipient provide Utility Assistance Component benefits over the maximum allowable?				

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

Household Crisis Component

Questions	Yes	No	NA	Notes
A17. Is the crisis related to weather, fuel supply shortage, or disconnect notice?				
A18. Did the Subrecipient follow their established weather criteria for determining if an energy crisis exists?				
A19. Is documentation to support a local household crisis determination available?				
A20. Did the Subrecipient address or resolve the crisis within 18/48 hours?				
A21. Was the resolution of the household crisis documented?				
A22. Did the Subrecipient provide equipment with Energy Star rated and International Residential Code (IRC) compliant appliances?				
A23. Was the installation of portable heating or cooling units: a. limited to the vulnerable population?				
b. approved by the Department when more than two (2) units were installed or for purchasing an A/C over 110V?				
A24. a. Were HC funds expended for work performed on a Central HVAC system?				
b. Was work performed on Central HVAC systems limited to service and repair and not the replacement of a Central HVAC system?				
A25. Were emergency propane deliveries limited to 250 gallons per crisis?				
A26. Were utility bill disconnect payments limited to two (2) per client?				

Questions	Yes	No	NA	Notes
A27. Did a natural disaster occur, resulting in energy supply, for the purchase or expenditures of: a. temporary shelter				
b. Cost for transportation				
c. Utility reconnection				
d. Blankets				
e. Utility deposits and payments				
f. fans, a/c's and generators?				
A28. Did the subrecipient provide Household Crisis Component benefits over the maximum allowable?				

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

CEAP DENIED FILES

Contractor:	Monitor:
Date:	Monitor:

Client	Application	Income Doc	Denial Notice	Appeal?	Results of Appeal / Comments

Reasons for denial	Number of files
Over Income	
Client did not provide the required information	
Not a Bona Fide crisis	
Client refused to participate in the Co-Pay program	
Other	

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

<u>Monitoring Instrument</u>
<u>WAP Attachment</u>

Questions	Yes	No	NA	Notes
C1. Does the Subrecipient have General Liability Insurance coverage?				
C2. Does the policy cover bodily injury & property damage?				
C3. Does the liability policy provide coverage for lead based paint or related work?				
C4. Does the Subrecipient have Pollution Occurrence Insurance coverage?				
C5. If the policy(ies) includes coverage for programs in addition to WAP, is the cost allocated to WAP fair and reasonable? If no, explain:				
C6. Has the Subrecipient exceeded the insurance Budget Line Item? If yes, did the Subrecipient charge the additional cost to Administration?				Cost of policy: $______________________ Cost to WAP: $______________________
C7. Have all WAP findings requiring corrective actions from the previous monitoring reports been satisfactorily addressed?				
C8. Are all of the counties in the service area served?				
C9. Have all represented racial and ethnic groups been equitably served? (If no, state reason(s)).				
C10. Of the Units Inspected, were Energy Audits or the Priority List conducted on each unit?				
C11. Were the Energy Audits completed prior to the home receiving WAP services?				
C12. Are all units' final CFM readings above the Building Tightness Limit? If no, unit must be brought above the BTL?				

Questions	Yes	No	NA	Notes
C14. Does the agency provide the client any educational material? If yes, what type(s)? a. oral b. written c. visual				
C15. Did the Agency provide clients who live in homes built before 1978 "*Renovate Right – Important Lead Hazard Information for Families, Child Care Providers and Schools"*?				
C16. Do the Subrecipients verify LSW practices?				
C17. Does Subrecipient verify that all Subcontractor-required records are kept on-site during the renovation work?				
C18. Does the Subrecipient verify that all required records are maintained to document the renovation?				
C19. Does the Subrecipient verify that all required records are retained upon completion of the renovation work, including a signed statement from the Certified Renovator that includes the following areas?				
C20. Does the Subrecipient verify that all non-certified workers received training applicable to all lead-safe work practices involved in the renovation process?				
C21. Has the Subrecipient verified that a copy of the records demonstrating compliance with the EPA RRP Rule have been distributed to the owner and/or the occupant of the renovated unit (if applicable)?				
C22. Have Subrecipients verified that subcontractors have completed the required LSW training?				
C23. Has the Subrecipient followed the Texas Historical Commission requirement for homes to be weatherized that meet the historical evaluation criteria?				

Client Files

Questions	Yes	No	NA	Notes
C24. Has the Subrecipient prioritized all clients according to program requirements?				
C25. Does the Subrecipient have documented procedures for handling WAP applications?				
C26. Does the agency maintain compliance with 10 CFR 440.18 regarding units				

Questions	Yes	No	NA	Notes
weatherized after September 30, 1994?				
C27. Are referrals received from the local LIHEAP program? List attempts to obtain referrals.				
C28. Does the agency coordinate/leverage the WAP with other available resources? If yes, list the programs/agencies.				
C29. Do material amounts listed on the BWR equal the amounts listed on material invoices and/or the inventory removal sheets?				
C30. Did the agency request and receive a waiver to exceed the cost per unit for any individual weatherized unit?				
C31.Do all efficiency measures installed contain the required SIR of one (1) or greater?				
C32. Are health/safety and efficiency repair measures listed in the correct order on the audit?				
C33. Do the WAP files contain: *a. Complete and signed/dated assessment*				
b. Complete/Signed BWR				
c. Complete/Signed Material/Labor Invoices				
d. Complete Blower Door Data Sheet				
e. Complete Attic Inspection Form				
f. Complete Wall Inspection Form				
g. 12 month Billing History				
h. Copy of Audit				
i. Rental Agreement (if applicable)				
j. Signed Lead Form				
k. Historic Commission Review				
l. Mold Form				
C33. Of the multifamily projects selected in the On-site Unit Inspection sample, determine if any of the multifamily buildings have twenty-five (25) or more units.				
C32. Was written approval obtained from TDHCA for all WAP multifamily projects containing buildings of twenty five units or more, units with shared heating and/or cooling plants prior to commencing the project?				
C33. Have all shared costs for each WAP multifamily project been appropriately allocated to all affected dwelling units per				

Questions	Yes	No	NA	Notes
building in each project?				
C34. Do all multifamily master files contain the following: a. Permission to Perform an Assessment for Multifamily Project form				
b. Landlord Financial Participation form				
c. Landlord Agreement form				
d. Completed Attachment B and C per building				

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

Attachment C
Single- Family Review Worksheet

Agency:	**Program Monitor:**
Monitoring Dates:	**Program Monitor:**

Client #	Application	Income Docum.	Signed/ Dated Asmnt with labor estimate	Comp Signed BWR	Mat/ Labor Invoice	Comp. Blower Door Sheet	Comp. Attic Insp Form	Comp. Wall Insp Form	12 Month Billing History	Copy of. Energy Audit	Rental Agrmnt	Signed Lead Info Form	Mold Form	SHC Form	Unit Type
															D L
															D L
															D L
															D L
															D L
															D L
															D L
															D L
															D L
															D L
															D L
															D L

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

Attachment C
Multi-Family Review Worksheet
☐ **N/A**

Agency:	**Program Monitor:**
Monitoring Dates:	**Program Monitor:**

Client #	Application	Income Docum.	Signed/ Dated Asmnt with labor estimate	Comp Signed BWR	Mat/ Labor Invoices	Comp. Blower Door Sheet	Comp. Attic Insp Form	Comp. Wall Insp Form	12 Month Billing History	Copy of. Energy Audit	Rental Agrmnt	Signed Lead Info Form	Mold Form	Unit Type
														D L
														D L
														D L
														D L
														D L
														D L
														D L
														D L
														D L
														D L
														D L

Texas Department of Housing and Community Affairs
Compliance Division
Community Affairs Monitoring Section

WAP DENIED FILES

Contractor:	Monitor:
Date:	Monitor:

Client	Application	Income Doc	Denial Notice	Appeal?	Results of Appeal / Comments

Reasons for denial	**Number of files**
Over Income	
Client did not provide the required information	
WX beyond scope of work	
Applicant no longer resides at address	
Other	

CMCA Household Crisis Monitoring Checklist (10-10-13)

Contractor:		Date:		Monitors:	

Poverty Guidelines (1-24-13)

Income Guidelines	1	2	3	4	5	6	7	8	8+
100%	$ 11,490.00	$ 15,510.00	$ 19,530.00	$ 23,550.00	$ 27,570.00	$ 31,590.00	$ 35,610.00	$ 39,630.00	$ 4,020.00
125%	$ 14,363.00	$ 19,388.00	$ 24,413.00	$ 29,438.00	$ 34,463.00	$ 39,488.00	$ 44,513.00	$ 49,538.00	$ 5,025.00
$ -	0%	0%	0%	0%	0%	0%	0%	0%	----

Income Percentages

0-50%	$1,200
51-75%	$1,100
76-125%	$1,000

Maximum Levels

Disconnect	2
Central System	Repair Only

Maximum Levels

Elderly; Disabled; Child 5 and under	Portable Heating or Cooling Unit (no more than 2)

Monthly Income #1:		Monthly Income #2:		Monthly Income #3:		Monthly Income #4:		@ 12 months:	$ -

Client ID	Application	Elderly Disabled 5 & Under	Document Subrecipient Income % Calculation	Income Calculated Correctly	Priority Rating Form	Billing Hist	A16 activities	Utility Disconnect Crisis	# of payments within maximum	Bill Payment Crisis	Service/ Repair Central System	Emergency Propane	Temporary Shelter	Weather Crisis	Natural Disaster	18 / 48	Payment Doc	Maximum HC amount	Maximum HC Central System	HC within maximum allowed
	Y / N	Y / N		Y / N	Y / N	Y / N	Y / N	Y / N / NA	Y / N / NA	Y / N / NA	Y / N / NA	Y / N / NA	Y / N / NA	Y / N	Y / N / NA	Y / N	Y / N	$1,200	$0	Y / N
Notes																				
																		$1,200	$0	
Notes																				

CMCA Utility Assistance Monitoring Checklist (10-10-13)

Subrecipient:		Date:		Monitors:	

Poverty Guidelines (1-24-13)

Income Guidelines	1	2	3	4	5	6	7	8	8+
100%	$ 11,490.00	$ 15,510.00	$ 19,530.00	$ 23,550.00	$ 27,570.00	$ 31,590.00	$ 35,610.00	$ 39,630.00	$ 4,020.00
125%	$ 14,363.00	$ 19,388.00	$ 24,413.00	$ 29,438.00	$ 34,463.00	$ 39,488.00	$ 44,513.00	$ 49,538.00	$ 5,025.00
$ -	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	-----

Benefit Levels by Income Percentage

Income Percentages

0-50%	$1,200
51-75%	$1,100
76-125%	$1,000

Household Type

Elderly; Disabled; Child 5 and under	8 maximum payments
Non Eld/Dis/5 & under	6 maximum payments

Monthly Income #1:		Monthly Income #2:		Monthly Income #3:		@ 12 months:	$

Client ID	Application	Elderly Disabled 5 & Under	Document Subrecipient Income % Calculation	Income Calculated Correctly	Priority Rating Form	Billing Hist	A16 activities	Subrecipient Max payments	# of payments within maximum	Correct Months Selected	Payment Doc	Maximum UA amount	UA within maximum allowed
	Y / N	Y / N		Y / N	Y / N	Y / N	Y / N		Y / N	Y / N	Y / N	$1,200	Y / N
Notes:													
	Y / N	Y / N		Y / N	Y / N	Y / N	Y / N		Y / N	Y / N	Y / N	$1,200	Y / N
Notes:													

Compliance Division
Community Affairs Monitoring Section
WAP Unit Inspections Checklist - Priority List

Date of Inspection: ______________________________
Client File #: ______________________________
PY: ☐ **PY13** ☐ **PY14**
Unit Type: ☐**SF** ☐**MF** ☐**MB** ☐**SH**
Program Monitor______________________________
Return Required: ☐ **Yes** ☐ **No Comment:**

1. WAP Unit Inspections Checklist	Yes	No	N/A
Health and Safety Measures Performed:			
Space Heater			
Furnace			
Water Heater			
Gas Stove			
CO Detector			
Smoke Detector			
LSW			
Other H/S Measures			
ASHRAE			
All Measures addressed?			
H/S Finding?			
Questioned Cost?			
Disallowed Cost?			

Total Expenditure: $
Comment:

2. WAP Unit Inspections Checklist	Yes	No	N/A	Qnty.
Infiltration Measures Performed:				
Caulk				
Weatherstripping				
Door Sweep				
Related Repairs				
Door Installed	*			
Window Installed	*			
Items charged, Installed				
Final Above BTL				
Prof. Workmanship				
Total Exp below $750				
All Measures addressed?				
Attic Insul Finding?				
Questioned Cost?				
Disallowed Cost?				

Comment:

Duct Diagnostics

Type	Total	Outside
Pre		
Post		
Onsite		

Attic Insulation R-Values

Pre R-Value	
Post R-Value	
Local R-Value Req.	

3. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Duct Sealing Measures Performed:			
Duct Blower Performed			
Supply Ducts in Uncond.			
Return Ducts			
Duct Replacement			
Other			
Items charged, Installed			
Related Repairs			
MISM Compliance			
Reduction in total loss			
Prof. Workmanship			
Total Exp below $750			
All Measures addressed?			
Duct Seal Finding?			

Total Expenditure: $
Comment:

4. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Attic Insulation Measures Performed:			
Blown-in			
Batt			
Other repairs			
Ventilation			
Items charged, Installed			
Knob and Tube			
Related Repairs			
MISM Compliance			
Heat Sources Blocked			
Attic Hatch Blocked			
Depth Markers (Rulers)			
Attic Tag			
Prof. Workmanship			
All Measures addressed?			
Attic Insul Finding?			

Total Expenditure: $
Comment:

CFM Reading

Post		@	
On-site		@	
BTL		@	

5. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**	Qnty.
CFL/Water Savers/Pipe and Water Heater Insulation Measures Performed:				
CFLs				
Water Savers				
Pipe Insulation				
Water Heater Insulation				
Items charged, Installed				
Prof. Workmanship				
10 or less CFLs inst				
All Measures addressed?				
CFL/WS/Insul Finding?				
Questioned Cost?				
Disallowed Cost?				

Comment:

6. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Sidewall Insulation Measures Performed:			
Knob and Tube			
Above Window			
Below Window			
Above Door			
Dense Packed			
Items charged, Installed			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Wall Insul Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

Attic Insulation R-Values

Installed R-Value	
Local R-Value Req.	

7. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Smart Thermostat Measure Performed:			
Smart Thermostat			
Client consulted/trained			
Items charged, Installed			
Prof. Workmanship			
All Measures addressed?			
Smart Therm Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

8. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Refrigerator Replacement Measure Performed:			
Refrigerator Replaced			
Items charged, Installed			
Prof. Workmanship			
Metered 30 Minutes			
Pre-1993			
All Measures addressed?			
Rfrig Rplcmt Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

9. WAP Unit Inspections Checklist	Yes	No	N/A
Solar Screen/Window Film Measure Performed:			
Solar Screen			
Window Film			
Items charged, Installed			
Prof. Workmanship			
Inst w/less 18" eave			
Inst w/no Natural Shade			
Inst w/no Perm Shade			
All Measures addressed?			
Screen / Film Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

10. WAP Unit Inspections Checklist	Yes	No	N/A
Floor Insulation Measures Performed:			
Blown-in			
Batt			
Items charged, Installed			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Floor Insul Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

Attic Insulation R-Values

Pre R-Value	
Post R-Value	
Local R-Value Req.	

11. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
Repair Measures Performed:			
Door Replacement	*		
Window Replacement	*		
Related to WX measure			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Repair Measures Finding?			
Total Exp Below $500 Max			
Questioned Cost?			
Disallowed Cost?			

Total Expenditure: $

Comment:

12. WAP Unit Inspections Checklist	**Yes**	**No**	**N/A**
HVAC / EVAP Measures Performed:			
Furnace Replacement			
A/C Comp Replacement			
Manual J / S Completed			
Clean / HVAC Tune Up			
Air Filters			
Replaced Window Unit			
3 or less Wndw units repl			
Meets Current EER/SEER			
MISM Compliance			
All Measures addressed?			
HVAC/EVAC Finding?			
Questioned Cost?			
Disallowed Cost?			

Comment:

1m

BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

JULY 31, 2014

Presentation, Discussion, and Possible Action on the 2015 Regional Allocation Formula Methodology

RECOMMENDED ACTION

WHEREAS, Texas Government Code, §§2306.1115 and 2306.111(d) require that the Department use a Regional Allocation Formula to allocate its HOME funds, Housing Tax Credits, and some Housing Trust Funds and

WHEREAS, the proposed Regional Allocation Formula utilizes appropriate statistical data to measure affordable housing needs and available resources in 13 State Service Regions used for planning purposes,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees are authorized and empowered to publish the Draft 2015 Regional Allocation Formula Methodology for the HOME Investment Partnerships Program, Housing Tax Credit, and Housing Trust Fund programs in the *Texas Register* for public comment and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Regional Allocation Formula ("RAF") utilizes appropriate statistical data to measure the affordable housing need and available resources in the 13 State Service Regions that are used for planning purposes. The RAF also allocates funding to rural and urban areas within each region. The Department has flexibility in determining variables to be used in the RAF, per Texas Governing Code §2306.1115(a)(3), "the department shall develop a formula that…includes other factors determined by the department to be relevant to the equitable distribution of housing funds." The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources.

The HOME Investment Partnerships ("HOME"), Housing Tax Credit ("HTC") and Housing Trust Fund ("HTF") program RAFs each use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. For example, Section 2306.111(c) of the Texas Government Code requires that 95% of HOME funding be set aside for non-participating jurisdictions ("non-PJs"). Therefore, the HOME RAF only uses need and available resource data for non-PJs.

The Draft 2015 RAF methodology will be made available for official public comment from August 15, 2014, through September 15, 2014, at 6:00pm Central Time. A public hearing will be held on Tuesday, September 9, 2014, at 2:00 p.m. in the Stephen F. Austin Building, Room 170, 1700 North Congress Avenue, Austin, TX 78701.

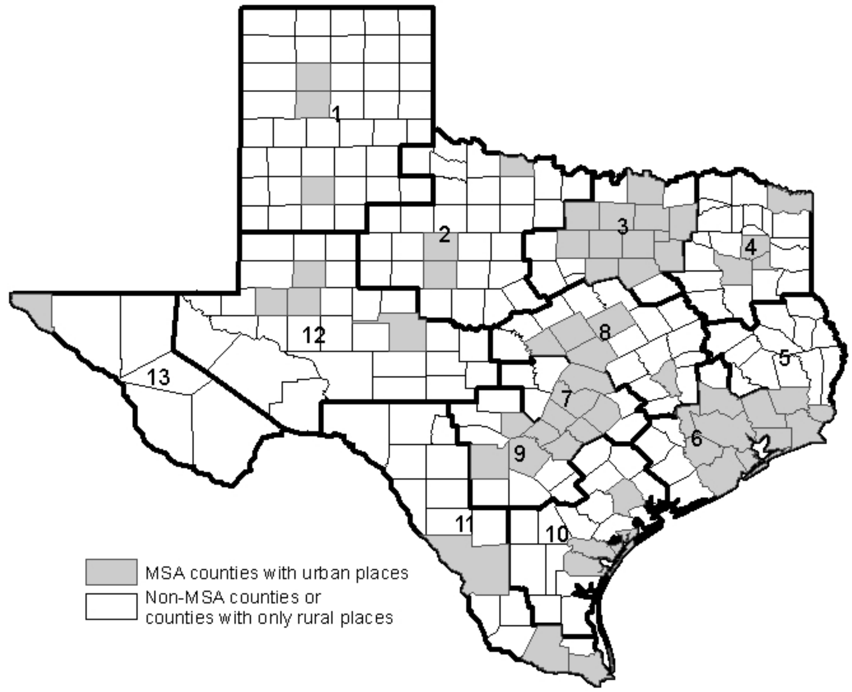
The Draft RAF Methodology is found in Attachment A. Attachment B consists of sample allocations for the HTC, HOME and HTF programs when using the draft methodology. Once approved, the final methodology will be published on the Department's website. It should be noted with this action that the Board is approving the publication of the proposed methodology for public comment, not specific allocation amounts.

Attachment A: Draft 2015 RAF Methodology

Attachment A:

DRAFT 2015 REGIONAL ALLOCATION FORMULA METHODOLOGY

Legislative Requirement



Sections 2306.111 and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula ("RAF") for the HOME Investment Partnerships ("HOME") Program, Housing Trust Fund ("HTF") Program and Housing Tax Credit ("HTC") Program. The RAF presented below analyzes housing need and availability in the State's urban and rural areas and allocates funding accordingly.

Texas Government Code §2306.1115 states:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology below outlines the need for housing assistance and the availability of housing assistance in urban and rural areas, in keeping with the statutory requirements.

Methodology

Affordable Housing Need

Affordable housing need will be measured by variables that relate to the types of assistance available through TDHCA programs.

HTC and HOME both offer assistance for reduced-rent apartments. HOME offers Tenant-Based Rental Assistance. Therefore, people in need of rental assistance should be included in the analysis. The column on the RAF table for renters with cost burden measures the number of people in Texas that pay over 30% of their income on rent. The column for renters experiencing overcrowding measures the number of units with more than one person per room, including the kitchen and bathroom. Both rent burden and overcrowding will be used as variables in the RAF.

HOME also offers homebuyer assistance and single-family development programs. For single-family development, typically the homes are built by nonprofits or units of local government and the homes are purchased by or leased to low-income homeowners. HTF offers the Bootstrap Loan Program for potential homeowners who use sweat equity, along with low-interest loans, to build their homes. Qualified eligible households who are ready for homeownership are measured, broken out in different income levels. In addition, areas with high numbers of homeowners experiencing cost burden or overcrowding may signify a need for homebuyer assistance. Therefore, factors of income, homeowner cost burden, and homeowner overcrowding are incorporated in the RAF.

HOME offers homeowner rehabilitation assistance. However, there is a lack of available data to measure the need for homeowner rehabilitation at the regional level. Data regarding units lacking kitchen facilities and plumbing did not have sufficient accuracy and; the margins of error were larger than the estimates in some regions. Age of housing stock was considered, but there is no data to substantiate the correlation between a specific unit age and need for rehabilitation. Therefore, numbers of units with substandard conditions and numbers of units over 30 or 50 years of age could not be included in the RAF.

Income is the primary measurement of eligibility for housing assistance through TDHCA. HTC serves households who earn 0-60% Area Median Family Income ("AMFI"). HOME and HTF serve households who earn 0-80% AMFI. While eligibility for housing assistance is measured by AMFI, the AMFI datasets showing how many households are in each AMFI category are available only every other year, while the measurement of people in poverty is measured yearly. In order to use the most up-to-date data, the measurement of people in poverty will be used. The percentage of people at 200% poverty is strongly linked with the percentage of people earning 0-80% AMFI. People at or below 200% of the poverty level will qualify for a majority of housing assistance offered through TDHCA's HOME, HTC and HTF programs.

The extent of Texans needing affordable housing is measured using three variables:

1. Cost burden (renters for HTC and HOME; owners for HOME and HTF)
2. Overcrowding (renters for HTC and HOME; owners for HOME and HTF); and
3. People at or below 200% of the poverty rate.

Housing Availability

The extent of additional affordable housing needed to address Texan's needs is determined by:

1. Vacant units (rental units for HOME and HTC; homes for sale for HOME and HTF)

Affordable housing availability will be measured by variables that relate directly to housing resources. In order to take into account both market-rate and subsidized units, vacancies will be used. High numbers of vacancies indicate the market has an adequate supply to oversupply of housing. Vacancies offer a direct measure of housing availability.

Urban and Rural Areas

In TDHCA's governing statute (updated per House Bill 429, 83 Regular Session), §2306.004 states:

> 28-a) "Rural area" means an area that is located:
>
> (A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or
>
> (B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

The Texas Government Code §2306.004(28-a)(B) is applied to "census-designated places" ("places") which correlates to cities, towns and other areas similar to incorporated cities and towns, as designated by the census. The requirement regarding population of 25,000 and the requirement regarding boundaries can be applied to places. For the RAF, which is a more macro view than one city, town, etc, data is used from each county. County data is more complete than adding together all the cities, towns, etc. If the RAF only added together the cities, towns, etc, then people and units that do not live in cities, town, etc, will be excluded. Limiting the data for the RAF to only cities, towns, etc, in each region substantially hinders its decision-making capabilities as an allocation tool. Using the data from counties instead of cities, towns, etc., to allocate for urban and rural areas allows for a more complete picture of the state's demographics. According to Texas Government Code §2306.1115(b), TDHCA must use appropriate data to develop the formula, and data from counties is the most appropriate data.

Using Metropolitan Statistical Area ("MSA") data, as provided by the U.S. Office of Management and Budget, the RAF allocation process accounts for the fact that even though a county may be part of an

MSA, all of its places meet the definition of rural per §2306.004(28-a). If an MSA county has no places designated as urban, the need and availability of the whole county will be counted toward the rural allocation (i.e., the MSA county had no places over 25,000, nor any places touching a boundary of a place with 25,000). Therefore, the allocation process refers to "MSA counties with urban places" and "Non-MSA counties and counties with only rural places." The need and availability of "MSA counties with urban places" directs the allocation toward the urban places, and the need and availability of "Non-MSA counties and counties with only rural places" directs the allocation toward the rural places.

Note that the RAF does not state that all places in an MSA county with urban places are urban for designations of specific sites. The rural and urban designation for site-specific applications is made at the place-level.

An example of the variables used in the RAF is in Table 1 below. While HTC, HOME and HTF programs use different variables, only one example is used in this Methodology: the HTC Program. Note that sample numbers are used for clarity.

Table 1: Example of variables used, by Sub-region

Region (MSA Counties with urban places)	Column A: People at 200% Poverty	Column B: HH at 200% Poverty	Column C: Cost Burden, Renters	Column D: Overcrowded Renters	Column E: Vacancies, Rental
1	150,000	53,571	25,000	4,000	6,000
2	100,000	35,714	20,000	2,000	4,000
3	150,000	53,571	25,000	4,000	6,000
4	100,000	35,714	20,000	2,000	4,000
5	150,000	53,571	25,000	4,000	6,000
6	100,000	35,714	20,000	2,000	4,000
7	150,000	53,571	25,000	4,000	6,000
8	100,000	35,714	20,000	2,000	4,000
9	150,000	53,571	25,000	4,000	6,000
10	100,000	35,714	20,000	2,000	4,000
11	150,000	53,571	25,000	4,000	6,000
12	100,000	35,714	20,000	2,000	4,000
13	150,000	53,571	25,000	4,000	6,000

Region (Non-MSA counties and counties with only rural places)	Column A: People at 200% Poverty	Column B: HH at 200% Poverty	Column C: Cost Burden, Renters	Column D: Overcrowded Renters	Column E: Vacancies, Rental
1	40,000	14,286	7,000	700	700
2	25,000	8,929	2,000	400	500
3	40,000	14,286	7,000	700	700
4	25,000	8,929	2,000	400	500

Region (Non-MSA counties and counties with only rural places)	Column A: People at 200% Poverty	Column B: HH at 200% Poverty	Column C: Cost Burden, Renters	Column D: Overcrowded Renters	Column E: Vacancies, Rental
5	40,000	14,286	7,000	700	700
6	25,000	8,929	2,000	400	500
7	40,000	14,286	7,000	700	700
8	25,000	8,929	2,000	400	500
9	40,000	14,286	7,000	700	700
10	25,000	8,929	2,000	400	500
11	40,000	14,286	7,000	700	700
12	25,000	8,929	2,000	400	500
13	40,000	14,286	7,000	700	700

Regions	Column A: People at 200% Poverty	Column B: HH at 200% Poverty	Column C: Cost Burden, Renters	Column D: Overcrowded Renters	Column E: Vacancies, Rental
Total	2,080,000	742,857	356,000	47,300	73,900

Weights

To allocate funds, the RAF will use each sub-region's ratios of the State's total. In order to account for the amount of population that the variables affect, all the variables that measure need will be added together[1] (i.e., compounded) before taking the percentage of each sub-region's need over the amount of the total need in the State.

Examples of how the weights work in the RAF are in Tables 2 through 4 on the following pages. Building off the usefulness of Table 1, which showed the HTC program, Tables 2 through 4 also are examples of the HTC program RAF. Note that the column header letters will also build off the previous table, so if the letters are not in alphabetical order, the column header letter refers to a previous table.

Table 2 (below) shows only Region 1 in MSA counties and the total of all the regions, in order to simplify the example. Table 2 illustrates how the Compounded Need Variable is derived: Households at 200% of poverty, cost-burdened renters, and over-crowded renters are added together, thereby compounding the need. This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need, preventing these variables from having a disproportionate or arbitrary amount of weight for their size.

[1] Note that in order for *people* in poverty to be combined with *households* with cost burden and *households* with overcrowding, the number of people in poverty is divided by the average size of a household in Texas: 2.80 per the 2008-2012 American Community Survey 5-year estimates.

Table 2: Compounded Need Variables

Area	Column B: HH at 200% Poverty	Column C: Cost Burden, Renters	Column D: Overcrowded Renters	Column E: Compounded Need Variables
Region 1 (MSA Counties with urban places)	53,571	25,000	4,000	82,571
[redacted]				
Total of all Regions	742,857	356,000	47,300	1,146,157

Note: Columns B, C and D are from Table 1.

In order to apply weights, percentages of need and availability variables must be taken from the state as a whole. These percentages illustrate the relative need of the sub-region. Table 3 (below) demonstrates how the percentages are derived.

Table 3: Percentages Taken

Area	Column E: Compounded Need Variables	Column F: Percent of State's Total Need	Column G: Unoccupied Units, Rental	Column H: Percent of State's Total Availability
Region 1 (MSA Counties with urban places)	82,571	7.2%	6,000	8.1%
[redacted]				
Total of all Regions	1,146,157		73,900	

Note: Column E is from Table 2.

A successful allocation formula will provide more funding for high housing need and remove funding for an abundance of housing resources. In order to get the right relationship between housing and need, the housing availability variable will have negative weight. If the weights were equal, each variable would receive 50% of the weight. Because the availability variable should be negative, the need variables are weighted at 50% each and the availability variable is weighted at -50%, giving the appropriate relationship between funding and current availability of resources. The compounded need variable will receive 150% weight (50% per variable). Table 4 shows the application of the weights based on a statewide availability of $40,000,000. [2]

[2] Although the *Attachment B – Sample Allocation for the HTC Program* is based on a statewide availability of $50,000,000, the Methodology example is based on a statewide availability of $40,000,000 to show a proportional adjustment when initial HTC allocations fall under $500,000.

Table 4: Weight Application

Area	Column F: Percent of State's Total Need	Column I: Weight of Need Variables	Column J: Need Variable Allocation*	Column H: Percent of State's Total Availability	Column K: Weight of Availability Variable	Column L: Availability Variable Allocation~	Column M: Total Allocation+
Region 1 (MSA Counties with urban places)	7.2%	150.0%	$ 4,322,519	8.1%	-50%	$ (1,623,816)	$ 2,698,703

Note: Column F and H taken from Table 3.
*Column J is calculated as follows: Column F x Column I x statewide availability of funds.
~Column L is calculated as follows: Column H x Column K x statewide availability of funds.
+Column M is calculated as follows: Column J + Column L.

Exceptions to the RAF

According to Texas Government Code §2306.111(d-1), there are certain instances when the RAF would not apply to HOME, HTC, and HTF funds. For instance, specific set-asides will be subject to the RAF. This includes set-asides for contract-for-deed conversions and set-asides mandated by state or federal law, if these set-asides are less than 10 percent of the total allocation of funds or credits. Set-asides for funds allocated to serve persons with disabilities will not be subject to the RAF. The total amount available through the RAF will not include funds for at-risk development, with instances mentioned in this paragraph.

Also in §2306.111(d-1), specifically for HTC, 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF to allocate funds between each sub-region.

Finally, pursuant to §2306.111(d-1) specifically for HTF, funds that do not exceed $3 million for each programmed activity will be subject to the RAF.

HOME, HTC and HTF Data Differences

Even though the RAF applies to HOME, HTC and HTF, there are some differences between the programs that need to be addressed within the formulas. For example, HOME and HTF serve homeowners and those wanting to buy or build a home, while HOME and HTC serve renters. Therefore, renters' needs would be counted for HOME and HTC; homebuyer needs would be counted for HOME and HTF.

Because HOME and HTC fund rehabilitation, substandard housing units would ideally be included in the RAF. However, at this time, staff has not identified a data source that would provide an estimate of these units that is accurate at the regional level.

In addition, according to §2306.111(c)(1) and (2), 95 percent of the funds for HOME must be spent outside Participating Jurisdictions (PJs). PJs are areas that receive funding directly from HUD. The other 5 percent of State HOME funds must be spent on activities that serve people with disabilities in any area of the State; this portion of HOME is not subject to the RAF because it is set-aside for persons with disabilities (see *Exceptions to the RAF* above). Because 95 percent of funds cannot be spent within a PJ, the housing need and availability in those jurisdictions should not be counted in HOME's RAF.

The PJ designations are subject to change yearly depending on HUD's funding. According to HUD's 2014 allocation, thirty-three of the PJs are cities and eight of the PJs are counties. These PJs will be subtracted from the HOME version of the RAF.

HTC $500,000 Adjustment

Texas Government Code §2306.111(d-3) is a special requirement regarding funding and the RAF that applies only to HTC. This provision requires that TDHCA allocate at least 20 percent of credits to rural areas and that $500,000 be available for each urban and rural sub-region, which number 26 in total. The overall state rural percentage of the total tax credit ceiling amount will be adjusted to a minimum of 20 percent only at the time of actual award, if needed. Usually, the 20 percent allocation to rural areas occurs naturally, but, if not, one more deal for rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the regional amount of rural and urban funding is adjusted to a minimum of $500,000, if needed. This is done as a final adjustment to the sub-regional allocation amounts available for award. The process proportionately takes funds from sub-regions with initial funding amounts in excess of $500,000 and reallocates those funds to those sub-regions with initial funding amounts that are less than $500,000. The process is complete when each sub-region has at least $500,000.

Tables 5 through 6 below show the process of determining the amount to adjust from sub-regions with more than $500,000. These tables build from the previous tables included in this methodology and, for ease of explanation, Region 1 and 2's "MSA counties with urban places" and Region 1 and 2's "Non-MSA counties and counties with no urban places" are included. Again, the column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

These four sub-regions are examined below because the most common movement for funds during the $500,000 adjustment is from MSA counties to Non-MSA counties. The first step in the $500,000 adjustment process is illustrated in Table 5: the amount over or under $500,000 is determined for each sub-region.

Table 5: Sub-region amount over/under $500,000

Area	Column M: Initial Sub-region amount	Column N: Amount needed to reach $500,000	Column O: Amount over $500,000 that can be reallocated
Region 1 (MSA Counties with urban places)	$2,698,703	$-	$2,198,703
Region 1 (Non-MSA Counties or Counties with only rural places)	$961,482	$-	$461,482
Region 2 (MSA Counties with urban places)	$1,938,732	$-	$1,438,732
Region 2 (Non-MSA Counties or Counties with only rural places)	$457,720	$42,280	$-

Note: Column M is from Table 4.

Note that Column O above is the amount in Column M (if the amount in Column M is over $500,000) minus $500,000; at least $500,000 is maintained in each sub-region before the adjustment process. Next the amounts in Column N are totaled for the entire state and the amounts in Column O are totaled for the entire state. In this simplified example, the Column N's total would be $42,280. The Column O total would be $4,098,917.

The subsequent step in the adjustment process is to determine the percentage to be reallocated. Following the example in Table 5, if only Region 1 and 2 were used in the RAF, the percentages would be seen in Column P in Table 6 below. The proportion of the total amount to be reallocated is in Column Q. Finally, Column M is adjusted by Column Q to equal the final Sub-Amount in Column R.

Table 6: Proportional adjustment

Area	Column P: Proportion of amount available to be reallocated*	Column Q: Amount to be reallocated~	Column R: Final Sub-Amount for Compounded Need+
Region 1 (MSA Counties with urban places)	54%	$ (22,679)	$ 2,676,024
Region 1 (Non-MSA Counties or Counties with only rural places)	11%	$ (4,760)	$ 956,722
Region 2 (MSA Counties with urban places)	35%	$ (14,840)	$ 1,923,892
Region 2 (Non-MSA Counties or Counties with only rural places)	n/a	$ 42,280	$ 500,000

**Column P is calculated as follows: if Column M is over $500,000, then ((Column M-$500,000)/$4,098,917)*

~Column Q is calculated as followed: if Column P is a percentage, then (Column P$42,280); if Column P is n/a, then Column Q equals Column N.*

+Column R is calculated as follows: Column M + Column Q.

Attachment B: Sample allocations for the HTC, HOME and HTF programs

Texas Department of Housing and Community Affairs
DRAFT 2015 Housing Tax Credit Regional Allocation Formula Template, Table 1

Region (MSA Counties with urban places)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	200,874	71,741	36,002	3,482	6,358
2	99,129	35,403	16,429	1,285	4,338
3	2,171,941	775,693	401,950	65,529	101,565
4	171,722	61,329	24,683	3,414	4,240
5	142,055	50,734	18,735	1,812	4,407
6	2,080,634	743,084	349,785	68,893	104,129
7	540,176	192,920	131,313	16,131	17,735
8	328,905	117,466	61,184	5,500	19,483
9	750,022	267,865	118,488	16,683	26,943
10	202,003	72,144	33,177	5,439	6,553
11	867,380	309,779	62,968	24,341	10,542
12	135,593	48,426	18,818	2,010	3,541
13	407,173	145,419	44,786	8,919	6,845

Region (Non-MSA Counties and counties with only rural places)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	130,702	46,679	9,497	2,489	2,451
2	103,793	37,069	9,286	1,319	2,263
3	92,672	33,097	11,472	1,702	1,767
4	257,079	91,814	22,981	3,174	4,699
5	163,106	58,252	15,439	2,132	3,343
6	67,532	24,119	9,192	705	2,030
7	39,675	14,170	3,967	652	1,114
8	110,413	39,433	9,154	1,289	2,675
9	74,073	26,455	7,056	1,567	1,204
10	100,168	35,774	8,123	2,048	2,258
11	157,736	56,334	8,634	2,875	2,167
12	66,500	23,750	4,627	1,167	862
13	11,008	3,931	804	232	237
Total	9,472,064	3,382,880	1,438,550	244,789	343,749

Texas Department of Housing and Community Affairs

DRAFT 2015 Housing Tax Credit Regional Allocation Formula Compounded need, Table 2

Estimated RAF $ 50,000,000

Region (MSA Counties with urban places)	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Initial Sub-region amount
1	111,225	2.2%	$ 1,646,564	6,358	1.8%	$ (462,401)	$ 1,184,163
2	53,117	1.0%	$ 786,344	4,338	1.3%	$ (315,492)	$ 470,852
3	1,243,172	24.5%	$ 18,403,846	101,565	29.5%	$ (7,386,567)	$ 11,017,279
4	89,426	1.8%	$ 1,323,861	4,240	1.2%	$ (308,365)	$ 1,015,497
5	71,281	1.4%	$ 1,055,239	4,407	1.3%	$ (320,510)	$ 734,729
6	1,161,762	22.9%	$ 17,198,648	104,129	30.3%	$ (7,573,040)	$ 9,625,608
7	340,364	6.7%	$ 5,038,728	17,735	5.2%	$ (1,289,822)	$ 3,748,906
8	184,150	3.6%	$ 2,726,147	19,483	5.7%	$ (1,416,950)	$ 1,309,197
9	403,036	8.0%	$ 5,966,521	26,943	7.8%	$ (1,959,497)	$ 4,007,024
10	110,760	2.2%	$ 1,639,683	6,553	1.9%	$ (476,583)	$ 1,163,100
11	397,088	7.8%	$ 5,878,460	10,542	3.1%	$ (766,693)	$ 5,111,767
12	69,254	1.4%	$ 1,025,233	3,541	1.0%	$ (257,528)	$ 767,705
13	199,124	3.9%	$ 2,947,819	6,845	2.0%	$ (497,820)	$ 2,449,999

Region (Non-MSA Counties and counties with only rural places)	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	58,665	1.2%	$ 868,477	2,451	0.7%	$ (178,255)	$ 690,222
2	47,674	0.9%	$ 705,762	2,263	0.7%	$ (164,582)	$ 541,180
3	46,271	0.9%	$ 684,995	1,767	0.5%	$ (128,509)	$ 556,486
4	117,969	2.3%	$ 1,746,405	4,699	1.4%	$ (341,746)	$ 1,404,658
5	75,823	1.5%	$ 1,122,481	3,343	1.0%	$ (243,128)	$ 879,353
6	34,016	0.7%	$ 503,564	2,030	0.6%	$ (147,637)	$ 355,928
7	18,789	0.4%	$ 278,146	1,114	0.3%	$ (81,018)	$ 197,128
8	49,876	1.0%	$ 738,364	2,675	0.8%	$ (194,546)	$ 543,818
9	35,078	0.7%	$ 519,287	1,204	0.4%	$ (87,564)	$ 431,723
10	45,945	0.9%	$ 680,171	2,258	0.7%	$ (164,219)	$ 515,953
11	67,843	1.3%	$ 1,004,348	2,167	0.6%	$ (157,600)	$ 846,747
12	29,544	0.6%	$ 437,368	862	0.3%	$ (62,691)	$ 374,676
13	4,967	0.1%	$ 73,538	237	0.1%	$ (17,236)	$ 56,301
Total	5,066,219	100%		343,749	100%		$ 50,000,000

Region (MSA Counties with urban places)	Initial Sub-region amount	Amount needed to reach $500,000	Amount over $500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	$ 1,184,163	$ -	$ 684,163	2%	$ (19,986.17)	$ 1,164,176	2.33%
2	$ 470,852	$ 29,148	$ -	0%	$ 29,147.80	$ 500,000	1.00%
3	$ 11,017,279	$ -	$ 10,517,279	28%	$ (307,237.17)	$ 10,710,042	21.42%
4	$ 1,015,497	$ -	$ 515,497	1%	$ (15,059.01)	$ 1,000,438	2.00%
5	$ 734,729	$ -	$ 234,729	1%	$ (6,857.03)	$ 727,872	1.46%
6	$ 9,625,608	$ -	$ 9,125,608	24%	$ (266,582.81)	$ 9,359,025	18.72%
7	$ 3,748,906	$ -	$ 3,248,906	9%	$ (94,909.02)	$ 3,653,997	7.31%
8	$ 1,309,197	$ -	$ 809,197	2%	$ (23,638.75)	$ 1,285,558	2.57%
9	$ 4,007,024	$ -	$ 3,507,024	9%	$ (102,449.32)	$ 3,904,575	7.81%
10	$ 1,163,100	$ -	$ 663,100	2%	$ (19,370.88)	$ 1,143,729	2.29%
11	$ 5,111,767	$ -	$ 4,611,767	12%	$ (134,721.75)	$ 4,977,046	9.95%
12	$ 767,705	$ -	$ 267,705	1%	$ (7,820.36)	$ 759,885	1.52%
13	$ 2,449,999	$ -	$ 1,949,999	5%	$ (56,964.56)	$ 2,393,034	4.79%
MSA total	$ 42,605,826					$ 41,579,377	83.16%

Region (Non-MSA Counties and counties with only rural places)	Initial Sub-region amount	Amount needed to reach $500,000	Amount over $500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	$ 690,222	$ -	$ 190,222	0%	$ (5,556.89)	$ 684,665	1.37%
2	$ 541,180	$ -	$ 41,180	0%	$ (1,202.97)	$ 539,977	1.08%
3	$ 556,486	$ -	$ 56,486	0%	$ (1,650.10)	$ 554,836	1.11%
4	$ 1,404,658	$ -	$ 904,658	2%	$ (26,427.43)	$ 1,378,231	2.76%
5	$ 879,353	$ -	$ 379,353	1%	$ (11,081.90)	$ 868,271	1.74%
6	$ 355,928	$ 144,072	$ -	0%	$ 144,072.33	$ 500,000	1.00%
7	$ 197,128	$ 302,872	$ -	0%	$ 302,872.48	$ 500,000	1.00%
8	$ 543,818	$ -	$ 43,818	0%	$ (1,280.05)	$ 542,538	1.09%
9	$ 431,723	$ 68,277	$ -	0%	$ 68,276.59	$ 500,000	1.00%
10	$ 515,953	$ -	$ 15,953	0%	$ (466.02)	$ 515,487	1.03%
11	$ 846,747	$ -	$ 346,747	1%	$ (10,129.40)	$ 836,618	1.67%
12	$ 374,676	$ 125,324	$ -	0%	$ 125,323.50	$ 500,000	1.00%
13	$ 56,301	$ 443,699	$ -	0%	$ 443,698.90	$ 500,000	1.00%
Non-MSA total	$ 7,394,174				$ -	$ 8,420,623	16.84%
Total		$ 1,113,392	$ 38,113,392			$ 50,000,000	

Minimum needed for each region	$ 500,000
Amount availble to be reallocated	$ 38,113,392
Amount needed to bring underallocated regions to $500,0000	$ 1,113,392

Texas Department of Housing and Community Affairs
DRAFT 2015 HOME Allocation Formula Compounded Need, Table 1 - Raw Data

Region (MSA Counties with urban places)	People at 200% Poverty without PJs	HH at 200% Poverty without PJs	Cost Burden, Owners without PJs	Cost Burden, Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Unoccupied Units, For Sale without PJs	Unoccupied Units, For Rent without PJs
1	31,348	11,196	3,450	3,369	678	407	375	613
2	18,251	6,518	2,103	1,248	167	147	606	573
3	438,338	156,549	99,407	65,627	9,226	8,543	8,767	12,569
4	101,540	36,264	11,681	10,319	1,946	1,805	1,734	1,742
5	62,109	22,182	6,576	6,176	1,217	785	1,028	1,659
6	113,684	40,601	18,210	14,374	2,987	2,327	2,003	2,927
7	243,019	86,793	54,497	43,074	5,375	4,794	4,857	6,027
8	128,872	46,026	13,445	17,031	1,362	1,893	2,920	7,914
9	85,119	30,400	15,437	10,975	2,253	1,843	1,579	2,010
10	81,303	29,037	6,865	10,292	1,559	2,274	1,439	3,077
11	115,156	41,127	6,249	5,528	4,101	2,485	1,094	1,878
12	62,104	22,180	5,935	7,528	1,889	682	574	1,633
13	90,908	32,467	5,876	4,156	3,105	1,435	442	391

Region (non-MSA Counties and counties with only rural places)	People at 200% Poverty without PJs	HH at 200% Poverty without PJs	Cost Burden, Owners without PJs	Cost Burden, Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Unoccupied Units, For Sale without PJs	Unoccupied Units, Rental without PJs
1	130,702	46,679	7,373	9,497	2,938	2,489	1,260	2,451
2	103,793	37,069	7,959	9,286	1,348	1,319	1,956	2,263
3	92,672	33,097	9,310	11,472	1,524	1,702	1,893	1,767
4	256,545	91,623	22,585	22,885	4,921	3,153	3,886	4,699
5	163,106	58,252	11,869	15,439	3,028	2,132	2,679	3,343
6	67,532	24,119	5,113	9,192	1,333	705	895	2,030
7	39,675	14,170	5,608	3,967	620	652	1,081	1,114
8	110,413	39,433	9,857	9,154	2,113	1,289	2,352	2,675
9	74,073	26,455	9,314	7,056	1,930	1,567	1,506	1,204
10	100,168	35,774	5,706	8,123	2,304	2,048	1,434	2,258
11	157,736	56,334	7,376	8,634	4,018	2,875	1,092	2,167
12	66,500	23,750	3,396	4,627	1,357	1,167	1,118	862
13	11,008	3,931	705	804	218	232	320	237
Total	2,945,674	1,052,026	355,902	319,833	63,517	50,750	48,890	70,083

Texas Department of Housing and Community Affairs

DRAFT 2015 HOME Regional Allocation Formula Compounded Need, Table 2 - Weights

Estimated RAF	$ 24,000,000.00

Region (MSA Counties with urban places)	Total of all Need Variables	Proportion of Total Need Variables	150% Weight	Regional Unoccupied Units	Proportion of Total Unoccupied Units	-50.00%	Sub-region amount
1	19,100	1.0%	$ 373,279	988	0.8%	$ (99,653)	$ 273,626
2	10,183	0.6%	$ 199,017	1,179	1.0%	$ (118,918)	$ 80,100
3	339,352	18.4%	$ 6,632,190	21,336	17.9%	$ (2,152,018)	$ 4,480,172
4	62,015	3.4%	$ 1,212,006	3,476	2.9%	$ (350,601)	$ 861,406
5	36,936	2.0%	$ 721,861	2,687	2.3%	$ (271,019)	$ 450,841
6	78,499	4.3%	$ 1,534,167	4,930	4.1%	$ (497,256)	$ 1,036,911
7	194,533	10.6%	$ 3,801,879	10,884	9.1%	$ (1,097,795)	$ 2,704,084
8	79,757	4.3%	$ 1,558,739	10,834	9.1%	$ (1,092,752)	$ 465,987
9	60,908	3.3%	$ 1,190,359	3,589	3.0%	$ (361,998)	$ 828,361
10	50,027	2.7%	$ 977,707	4,516	3.8%	$ (455,498)	$ 522,209
11	59,490	3.2%	$ 1,162,656	2,972	2.5%	$ (299,765)	$ 862,890
12	38,214	2.1%	$ 746,842	2,207	1.9%	$ (222,605)	$ 524,237
13	47,039	2.6%	$ 919,318	833	0.7%	$ (84,019)	$ 835,299

Region (non-MSA Counties and counties with only rural places)	Total of all Need Variables	Percentage of total need variables	150% Weight	Regional Unoccupied Units	Proportion of Total Unoccupied Units	-50.00%	Sub-region amount
1	68,976	3.7%	$ 1,348,050	3,711	3.1%	$ (374,303)	$ 973,747
2	56,981	3.1%	$ 1,113,617	4,219	3.5%	$ (425,542)	$ 688,075
3	57,105	3.1%	$ 1,116,044	3,660	3.1%	$ (369,159)	$ 746,885
4	145,167	7.9%	$ 2,837,100	8,585	7.2%	$ (865,911)	$ 1,971,190
5	90,720	4.9%	$ 1,773,005	6,022	5.1%	$ (607,398)	$ 1,165,606
6	40,462	2.2%	$ 790,768	2,925	2.5%	$ (295,025)	$ 495,743
7	25,017	1.4%	$ 488,917	2,195	1.8%	$ (221,395)	$ 267,522
8	61,846	3.4%	$ 1,208,702	5,027	4.2%	$ (507,039)	$ 701,663
9	46,322	2.5%	$ 905,295	2,710	2.3%	$ (273,339)	$ 631,956
10	53,955	2.9%	$ 1,054,484	3,692	3.1%	$ (372,387)	$ 682,097
11	79,237	4.3%	$ 1,548,588	3,259	2.7%	$ (328,713)	$ 1,219,874
12	34,297	1.9%	$ 670,289	1,980	1.7%	$ (199,709)	$ 470,580
13	5,890	0.3%	$ 115,121	557	0.5%	$ (56,181)	$ 58,940
Total	1,842,028	100%		118,973	100%		$ 24,000,000

Texas Department of Housing and Community Affairs
DRAFT 2015 Housing Trust Fund Regional Allocation Formula Compounded Need, Table 1 - Raw Data

Region (MSA Counties with urban places)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Owners	Cost Burden, Renters	Overcrowded Owners	Overcrowded Renters	Unoccupied Units, For Sale	Unoccupied Units, For Rent
1	200,874	71,741	19,220	36,002	3,224	3,482	2,318	6,358
2	99,129	35,403	8,781	16,429	1,097	1,285	1,838	4,338
3	2,171,941	775,693	322,020	401,950	36,950	65,529	29,634	101,565
4	171,722	61,329	17,625	24,683	3,088	3,414	2,530	4,240
5	142,055	50,734	11,897	18,735	2,294	1,812	1,592	4,407
6	2,080,634	743,084	277,732	349,785	40,535	68,893	29,250	104,129
7	540,176	192,920	89,891	131,313	8,457	16,131	7,882	17,735
8	328,905	117,466	28,356	61,184	3,390	5,500	4,783	19,483
9	750,022	267,865	89,049	118,488	13,488	16,683	9,804	26,943
10	202,003	72,144	19,039	33,177	3,057	5,439	2,724	6,553
11	867,380	309,779	54,209	62,968	28,732	24,341	5,606	10,542
12	135,593	48,426	11,652	18,818	3,135	2,010	1,085	3,541
13	407,173	145,419	33,072	44,786	8,253	8,919	3,080	6,845

Region (non-MSA Counties and counties with only rural places)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Owners	Cost Burden, Renters	Overcrowded Owners	Overcrowded Renters	Unoccupied Units, For Sale	Unoccupied Units, For Rent
1	130,702	46,679	7,373	9,497	2,938	2,489	1,260	2,451
2	103,793	37,069	7,959	9,286	1,348	1,319	1,956	2,263
3	92,672	33,097	9,310	11,472	1,524	1,702	1,893	1,767
4	257,079	91,814	22,675	22,981	4,921	3,174	3,886	4,699
5	163,106	58,252	11,869	15,439	3,028	2,132	2,679	3,343
6	67,532	24,119	5,113	9,192	1,333	705	895	2,030
7	39,675	14,170	5,608	3,967	620	652	1,081	1,114
8	110,413	39,433	9,857	9,154	2,113	1,289	2,352	2,675
9	74,073	26,455	9,314	7,056	1,930	1,567	1,506	1,204
10	100,168	35,774	5,706	8,123	2,304	2,048	1,434	2,258
11	157,736	56,334	7,376	8,634	4,018	2,875	1,092	2,167
12	66,500	23,750	3,396	4,627	1,357	1,167	1,118	862
13	11,008	3,931	705	804	218	232	320	237
Total	9,472,064	3,382,880	1,088,804	1,438,550	183,352	244,789	123,598	343,749

Texas Department of Housing and Community Affairs

DRAFT 2015 Housing Trust Fund Regional Allocation Formula Compounded Need, Table 2 - Weights

Estimated RAF $ 4,000,000.00

Region (MSA Counties with urban places)	Total of all Need Variables	Proportion of Total Need Variables	150% Weight	Regional Unoccupied Units	Proportion of Total Unoccupied Units	-50.00%	Sub-region amount
1	133,669	2.1%	$ 126,533	8,676	1.9%	$ (37,129)	$ 89,404
2	62,995	1.0%	$ 59,632	6,176	1.3%	$ (26,430)	$ 33,202
3	1,602,142	25.3%	$ 1,516,612	131,199	28.1%	$ (561,463)	$ 955,149
4	110,139	1.7%	$ 104,259	6,770	1.4%	$ (28,972)	$ 75,287
5	85,472	1.3%	$ 80,909	5,999	1.3%	$ (25,673)	$ 55,236
6	1,480,029	23.4%	$ 1,401,017	133,379	28.5%	$ (570,792)	$ 830,225
7	438,712	6.9%	$ 415,291	25,617	5.5%	$ (109,627)	$ 305,664
8	215,896	3.4%	$ 204,370	24,266	5.2%	$ (103,846)	$ 100,525
9	505,573	8.0%	$ 478,583	36,747	7.9%	$ (157,258)	$ 321,325
10	132,856	2.1%	$ 125,763	9,277	2.0%	$ (39,701)	$ 86,063
11	480,029	7.6%	$ 454,402	16,148	3.5%	$ (69,105)	$ 385,297
12	84,041	1.3%	$ 79,555	4,626	1.0%	$ (19,797)	$ 59,758
13	240,449	3.8%	$ 227,613	9,925	2.1%	$ (42,474)	$ 185,139

Region (non-MSA Counties and counties with only rural places)	Total of all Need Variables	Percentage of total need variables	150% Weight	Regional Unoccupied Units	Proportion of Total Unoccupied Units	-50.00%	Sub-region amount
1	68,976	1.1%	$ 65,294	3,711	0.8%	$ (15,881)	$ 49,413
2	56,981	0.9%	$ 53,939	4,219	0.9%	$ (18,055)	$ 35,884
3	57,105	0.9%	$ 54,057	3,660	0.8%	$ (15,663)	$ 38,394
4	145,565	2.3%	$ 137,794	8,585	1.8%	$ (36,739)	$ 101,055
5	90,720	1.4%	$ 85,877	6,022	1.3%	$ (25,771)	$ 60,106
6	40,462	0.6%	$ 38,302	2,925	0.6%	$ (12,517)	$ 25,784
7	25,017	0.4%	$ 23,681	2,195	0.5%	$ (9,393)	$ 14,288
8	61,846	1.0%	$ 58,545	5,027	1.1%	$ (21,513)	$ 37,032
9	46,322	0.7%	$ 43,849	2,710	0.6%	$ (11,597)	$ 32,251
10	53,955	0.9%	$ 51,075	3,692	0.8%	$ (15,800)	$ 35,275
11	79,237	1.3%	$ 75,007	3,259	0.7%	$ (13,947)	$ 61,060
12	34,297	0.5%	$ 32,466	1,980	0.4%	$ (8,473)	$ 23,993
13	5,890	0.1%	$ 5,576	557	0.1%	$ (2,384)	$ 3,192
Total	6,338,375	100%		467,347	100%		$ 4,000,000

1n

To Be Posted
three days
prior to the meeting

10

To Be Posted
three days
prior to the meeting

1p

BOARD ACTION REQUEST

LEGAL SERVICES

JULY 31, 2014

Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Sunrise Village I (HOME 532336)

RECOMMENDED ACTION

WHEREAS, Sunrise Village Phase I, owned by Southside Community Center, has a history of uncorrected compliance findings of the applicable land use restriction agreements and the associated statutory and rule requirements;

WHEREAS, on June 17, 2014, representatives for Southside Community Center met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order calling for a $250.00 penalty;

WHEREAS, the compliance violations at Sunrise Village Phase I that were subject to an administrative penalty have now been resolved, with the exception of one Uniform Physical Standards ("UPCS") violation; and

WHEREAS, the one UPCS violation is required to be resolved on or before August 30, 2014;

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 the Agreed Final Order assessing a $250.00 administrative penalty as outlined above for noncompliance at Sunrise Village Phase I (HOME 532336), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Southside Community Center, is the owner of Sunrise Village Phase I, a 40-unit apartment complex located in San Marcos, Hays County, which is subject to a Land Use Restriction Agreement ("LURA") signed in 1994, in consideration for an allocation of HOME funds in the amount of $1,607,121.00, awarded by TDHCA.

Despite multiple attempts by the Compliance Division, Legal Division, and Administrative Penalty Committee, the above property owner has failed to remain in compliance with LURA requirements and does not fully and timely respond to monitoring deadlines. The property owner consistently submits late corrective documentation and often only after referral to the Administrative Penalty Committee. A previous referral was closed informally when corrective documentation was received, but the property was referred again for possible assessment of administrative penalties during 2014 for violations identified during the Uniform Physical Condition Standards inspection that was conducted during 2013.

Notice of an administrative penalty informal conference was sent on April 15, 2014, and work orders were submitted on May 1, 2014, resolving all but one UPCS violation for a damaged refrigerator gasket in the kitchen on unit 150 of Building 13. Representatives of the owner met with the Administrative Penalty Committee on July 17, 2014, and agreed to pay a penalty of $250.00 and to submit corrective documentation for the final UPCS violation on or before August 30, 2014. The property is currently in the corrective action period for new file violations found during TDHCA's 2014 file monitoring review, and may be subject to an additional penalty recommendation if violations are not timely resolved.

Southside Community Center is also the general partner for Sunrise Village II (HOME 536265 / HTC 96113), which is also being presented to the Board for an Agreed Final Order.

Consistent with direction from the Department's Administrative Penalty Committee, a penalty in the amount of $250.00 is recommended for Southside Community Center.

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
SOUTHSIDE COMMUNITY CENTER	§ §	TEXAS DEPARTMENT OF
WITH RESPECT TO SUNRISE	§	HOUSING AND
VILLAGE PHASE I	§ §	COMMUNITY AFFAIRS
(HOME FILE # 532336)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 31st day of July, 2014, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **SOUTHSIDE COMMUNITY CENTER,** 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 Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §1.14 and 10 TEX. ADMIN. CODE Chapter 60.

2. In 1994, Southside Community Center ("Respondent") was awarded an allocation of HOME funds by the Board, in the amount of $1,607,121.00 to build and operate Sunrise Village Phase I ("Property") (HTC file No. 532336 / CMTS No. 2722 / LDLD No. 55).

3. Respondent signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective July 15, 1994, and filed of record at Volume 1088, Page 75 of the Official Public Records of Real Property of Hays County, Texas ("Records"), as amended by a First Amendment executed on September 12, 2011, and filed in the Records at Volume 4187, Page 374.

4. Respondent is a Texas nonprofit corporation that is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations[1]:

1. An on-site monitoring review was conducted on May 11, 2012, 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 August 13, 2012 corrective action deadline was set, however, the following violation was not corrected before the deadline:

    a. Respondent failed to provide an affirmative marketing plan, a violation of 10 TEX. ADMIN. CODE §60.114 (Requirements Pertaining to Households with Rental Assistance).

    The affirmative marketing plan violation was not resolved until July 19, 2013, 340 days late, after intervention by the Administrative Penalty Committee.

2. On May 1, 2013, TDHCA sent notice that Respondent had failed to timely submit their 2012 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.603 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report by the last day of April of each year.

    Final parts were submitted on July 8, 2013, 69 days late, after intervention by the Administrative Penalty Committee.

3. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on August 26, 2013. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.616 (Property Condition Standards). Notifications of noncompliance were sent and a January 26, 2014 corrective action deadline was set.

    Partial corrective action was received on May 1, 2014, 95 days late, after intervention by the Administrative Penalty Committee, but the following violation remains unresolved:

    a. Damaged refrigerator gasket in the kitchen of unit 150 of Building 13.

4. The following violations remain outstanding at the time of this order:

    a. UPCS violation described in FOF #3a;

[1] Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 AND 60 refer 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, 10 TAC §1.14 and 10 TAC, Chapter 60.

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

3. Respondent violated 10 TEX. ADMIN. CODE § 60.114 in 2012 by failing to provide an affirmative marketing plan.

4. Respondent violated 10 TEX. ADMIN. CODE § 10.603 in 2013 by failing to submit the Annual Owner's Compliance Reports for the year 2012.

5. Respondent violated 10 TEX. ADMIN. CODE § 10.616 and I.R.C. §42 in 2013, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.

6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.

7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.

9. An administrative penalty of $250.00 is an appropriate penalty in accordance with 10 TAC §§60.307 and 60.308.

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 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 $250.00, to be submitted to the address below on or before August 30, 2014, in the form of a cashier's check payable to the "Texas Department of Housing and Community Affairs".

IT IS FURTHER ORDERED that Respondent shall resolve the damaged refrigerator gasket violation in the kitchen of unit 150 of Building 13, and submit evidence to document the corrections to TDHCA on or before August 30, 2014, in the correct format and including all necessary parts as indicated at http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf.

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. The penalty payment must be submitted to the following address:

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on ________________________, 2014.

By: ____________________________
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

By: ____________________________
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _______ day of ________________, 2014, personally appeared J. Paul Oxer, 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 _______ day of ________________, 2014, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

____
Notary Public, State of Texas

STATE OF TEXAS____________ §
§
COUNTY OF ________________ §

BEFORE ME, ______________________, a notary public in and for the State of ________________, on this day personally appeared ______________________, known to me or proven to me through ______________________________ 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 Sunrise Village Phase I, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.

3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

SOUTHSIDE COMMUNITY CENTER, a Texas nonprofit corporation

By: ______________________________

Name: ______________________________

Title: ______________________________

Given under my hand and seal of office this ______ day of ____________, 2014.

____
Signature of Notary Public

____
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF ______________
My Commission Expires: ___________________

1q

BOARD ACTION REQUEST

LEGAL SERVICES

JULY 31, 2014

Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Stone Manor Apartments (HTC 70076)

RECOMMENDED ACTION

WHEREAS, Stone Manor, owned by Manor Stone Partners, L.P., has a history of uncorrected compliance findings of the applicable land use restriction agreements and the associated statutory and rule requirements;

WHEREAS, on June 17, 2014, a representative for Manor Stone Partners, L.P. met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order calling for a partially forgivable penalty of $2,000.00, with $1,500.00 to be forgiven if all violations are resolved on or before August 30, 2014;

WHEREAS, the compliance violations at Stone Manor that were subject to an administrative penalty have now been resolved, with the exception of Parts B and D of the 2012 and 2013 Annual Owner's Compliance Reports; 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 the Agreed Final Order assessing a partially forgivable $2,000.00 administrative penalty as outlined above for noncompliance at Stone Manor (HTC 70076), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Manor Stone Partners, L.P. is the current owner of Stone Manor, a 108-unit apartment complex located in Dallas, Dallas County, which is subject to a Land Use Restriction Agreement ("LURA") signed in 1992 in consideration for an allocation of low income housing tax credits in the annual amount of $55,886.00, awarded by TDHCA to the prior owner Manor Park Joint Venture. 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. Although an Agreement to Comply was not signed when the property was purchased by Manor Stone Partners, L.P. in 2001, the property was purchased subject to the terms of the LURA.

Despite multiple attempts by the Compliance Division, Legal Division, and Administrative Penalty Committee, the above property owner has failed to remain in compliance with the LURA. A previous referral during 2009 was closed informally when corrective documentation was received, but the property was referred again for possible assessment of administrative penalties after failing to submit the 2012 and 2013 annual reports and failing to fully resolve the 2011 Uniform Physical Condition Standards ("UPCS") inspection. Partial corrective action was received for the UPCS inspection, but violations relating to damaged and/or missing window screens in Buildings 1 through 6 were not resolved until the matters were referred to the Administrative Penalty Committee. Respondent claimed that city code allowed an exemption from the requirement to repair and/or install window screens but did not provide acceptable evidence to show that the property was fully complying with those city code requirements until the morning of June 17, 2014, the date of the property's second administrative penalty informal conference.

Representative of the owner met with the Administrative Penalty Committee on June 17, 2014, and agreed to pay a maximum total penalty of $2,000.00, with the possibility of a $1,500.00 reduction if fully acceptable corrective documentation is submitted for all violations within 30 days of Board approval of the Agreed Final Order. All violations subject to a penalty have been resolved with the exception of Parts B and D of the 2012 and 2013 Annual Owner's Compliance Reports, which remain outstanding.

Consistent with direction from the Department's Administrative Penalty Committee, a partially forgivable penalty in the amount of $2,000.00 is recommended for Manor Stone Partners, L.P.

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
MANOR STONE PARTNERS, L.P.	§ §	TEXAS DEPARTMENT OF
WITH RESPECT TO STONE MANOR	§	HOUSING AND
(LIHTC FILE # 70076)	§	COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 31st day of July, 2014, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **MANOR STONE PARTNERS, L.P.**, 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 Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §1.14 and 10 TEX. ADMIN. CODE Chapter 60.
2. In 1990, Manor Park Joint Venture ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of $55,886.00 to rehabilitate Stone Manor ("Property") (HTC file No. 70076 / CMTS No. 908 / LDLD No. 98).
3. Prior Owner signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective February 17, 1992, and filed of record at Volume 92035, Page 1046 of the Official Public Records of Real Property of Dallas County, Texas ("Records"). 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. When the property was purchased by Respondent in 2001, the property was purchased subject to the terms of the LURA.

4. Respondent is a Texas limited partnership that is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations[1]:

1. On September 12, 2007, TDHCA sent notice that Respondent had failed to timely submit their 2006 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.10 (Annual Owner's Compliance Report Certification and Review), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

   The final part was submitted on January 6, 2010, 982 days late, after intervention by the Administrative Penalty Committee.

2. On May 28, 2008, TDHCA sent notice that Respondent had failed to timely submit their 2007 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.105 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

   The final part was submitted on January 6, 2010, 616 days late, after intervention by the Administrative Penalty Committee.

3. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on July 25, 2008. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.116 (Property Condition Standards). Notifications of noncompliance were sent and a February 27, 2008 corrective action deadline was set. TDHCA verified resolution of the violations on January 20, 2010, during a reinspection performed after intervention by the Administrative Penalty Committee. Full resolution took 693 days.

4. An on-site monitoring review was conducted on December 9, 2008, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 12, 2009, corrective action deadline was set, however, the following violations were not corrected before the deadline:
   a. Respondent failed to incorporate required lease language, a violation of 10 TEX. ADMIN. CODE §60.110 (Lease Requirements), which requires leases to include language stating that evictions or non-renewal of leases for other than good cause are prohibited;

[1] Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 AND 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

b. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for four units, a violation of 10 TEX. ADMIN. CODE §60.108 (Determination, Documentation and Certification of Annual Income) and the LURA;

c. Respondent collected gross rents that exceeded income limits as a result of an unsupported $35.00 application fee charged to 41 units, a violation of 10 TEX. ADMIN. CODE § 60.118 (Special Rules Regarding Rents and Rent Limit Violations). TDHCA publishes maximum rent limits for the tax credit program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Application fees can only be charged for the actual cost of checking a prospective tenant's income, credit history, and landlord references, and owners are required to support the fees with invoices. Respondent was unable to provide invoices supporting their application fees at the time that the finding was recorded.

The final file monitoring violation was resolved on October 27, 2011, 898 days late, after intervention by the Administrative Penalty Committee.

5. A UPCS inspection was conducted on April 14, 2009. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.116 (Property Condition Standards). Notifications of noncompliance were sent and an September 17, 2009 corrective action deadline was set. TDHCA verified resolution of the violations on January 20, 2010, during a reinspection performed after intervention by the Administrative Penalty Committee. Full resolution took 281 days.

6. On May 21, 2009, TDHCA sent notice that Respondent had failed to timely submit their 2008 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.105 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

   The final part was submitted on January 6, 2010, 265 days late, after intervention by the Administrative Penalty Committee.

7. A UPCS inspection was conducted on October 24, 2011. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.118 (Property Condition Standards). Notifications of noncompliance were sent and an April 12, 2012, corrective action deadline was set. Partial corrective action was received, but violations relating to damaged and/or missing window screens in Buildings 1 through 6 were not resolved until the Administrative Penalty Committee intervened. Respondent claimed that city code allowed an exemption from the requirement to repair and/or install window screens, but did not provide acceptable evidence to show that the property was fully complying with those city code requirements until the morning of June 17, 2014, the date of the property's second administrative penalty informal conference. Full resolution took 786 days.

8. On May 1, 2013, TDHCA sent notice that Respondent had failed to timely submit their 2012 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.603 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

   Parts A and C were submitted on June 16, 2014, 412 days late. Parts B and D have not been submitted.

9. On May 1, 2014, TDHCA sent notice that Respondent had failed to timely submit their 2013 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

   Parts A and C were submitted on June 16, 2014, 47 days late. Parts B and D have not been submitted.

10. The following violations remain outstanding at the time of this order:
    a. 2012 Annual Owner's Compliance Report violation described in FOF #8;
    b. 2013 Annual Owner's Compliance Report violation described in FOF #9;

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TAC §1.14 and 10 TAC, Chapter 60.

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 TEX. ADMIN. CODE §60.10 in 2007, 10 TEX. ADMIN. CODE § 60.105 in 2008 and 2009, 10 TEX. ADMIN. CODE §10.603 in 2013, and 10 TEX. ADMIN. CODE §10.607 in 2014, by failing to submit Annual Owner's Compliance Reports for the years 2006, 2007, 2008, 2012, and 2013;

5. Respondent violated 10 TEX. ADMIN. CODE § 60.116 in 2008 and 2009, 10 TEX. ADMIN. CODE § 60.118 in 2011, 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.

6. Respondent violated 10 TEX. ADMIN. CODE §60.110 in 2008, by failing to incorporate required lease language.

7. Respondent violated representations made on page 1 of the LURA, Section 4 of the LURA, and 10 TEX. ADMIN. CODE §60.108 in 2008, by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for four units.

8. Respondent violated 10 TEX. ADMIN. CODE § 60.118 in 2008, by charging excessive application fees resulting in gross rents exceeding the allowable limits, and not making timely corrections once the violations were discovered;

9. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.

10. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

11. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.

12. An administrative penalty of $2,000.00 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §§60.307 and 60.308.

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 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 $2,000.00, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a $500.00 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before August 30, 2014.

IT IS FURTHER ORDERED that Respondent shall fully submit Parts B and D of the 2012 and 2013 Annual Owner's Compliance Reports online via the Compliance Monitoring and Tracking System at https://pox.tdhca.state.tx.us/aims2/pox on or before August 30, 2014, reporting data as of December 31 of 2012 and 2013, respectively.

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 $1,500.00 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, then the remaining administrative penalty in the amount of $1,500.00 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" within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this order.

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. If it comes due and payable, the penalty payment must be submitted to the following address:

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on ________________________, 2014.

By: ______________________________
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

By: ______________________________
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _______ day of _________________, 2014, personally appeared J. Paul Oxer, 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 _______ day of _________________, 2014, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF ________________ §

BEFORE ME, ______________________, a notary public in and for the State of ________________, on this day personally appeared ______________________, known to me or proven to me through ______________________________ 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 Stone Manor, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.

3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

MANOR STONE PARTNERS, L.P., a Texas limited partnership

PALLAS PARTNERS III, INC., a Texas corporation, its general partner

By: ______________________________

Name: Ted Paul Palles

Title: President

Given under my hand and seal of office this ______ day of ____________, 2014.

____
Signature of Notary Public

____
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____________

My Commission Expires: __________________

1r

BOARD ACTION REQUEST

LEGAL SERVICES

JULY 31, 2014

Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning San Marcos Senior Community II, LLP, owner of Sunrise Village II (HOME 536265 / HTC 96113)

RECOMMENDED ACTION

WHEREAS, Sunrise Village II, owned by San Marcos Senior Community II, LLP, has a history of uncorrected compliance findings of the applicable land use restriction agreements and the associated statutory and rule requirements;

WHEREAS, on June 17, 2014, representatives for San Marcos Senior Community II, LLP met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order calling for a $250.00 penalty;

WHEREAS, the compliance violations at Sunrise Village II that were subject to an administrative penalty have now been resolved, with the exception of one pre-onsite documentation violation that cannot be corrected, and two household income above limit upon initial occupancy violations that are not currently correctable; 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 the Agreed Final Order assessing a $250.00 administrative penalty as outlined above for noncompliance at Sunrise Village II (HOME 536265 / HTC 96113), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

San Marcos Senior Community II, LLP is the owner of Sunrise Village II, a 60-unit apartment complex located in San Marcos, Hays County, which is subject to the following land use restriction agreements (collectively, "LURAs"):

1. A HOME LURA signed in 1997, in consideration for an allocation of HOME funds in the amount of $450,000.00, awarded by TDHCA.
2. A Housing Tax Credit LURA signed in 1999, in consideration for an allocation of housing tax credits in the annual amount of $250,558.00, awarded by TDHCA.

Despite multiple attempts by the Compliance Division, Legal Division, and Administrative Penalty Committee, the above property owner has failed to remain in compliance with the LURA and does not fully and timely respond to monitoring deadlines. The property owner consistently submits late corrective documentation and often only after referral to the Administrative Penalty Committee. The property was referred for a penalty during 2012, 2013, and 2014 for file and physical violations.

Multiple rounds of corrective documentation were submitted after each referral to the Administrative Penalty Committee, but full resolution could not be achieved, so notice of an administrative penalty informal conference was sent on April 15, 2014. Work orders were submitted on May 1, 2014, resolving all UPCS violations. In addition, acceptable corrective documentation has now been received for the 2012 and 2013 file monitoring violations, with the exception of the following:

1. Pre-onsite documentation violation for failure to submit a complete copy of form 8609 upon request. Although owner has responded multiple times, they are unable to locate the necessary Form 8609 attachments. The owner elected on Form 8609 to treat the buildings as part of a multiple building project, and attachments should have been filed with the IRS along with Form 8609 to define the project. A "Schedule A Summary" was submitted to TDHCA; however, it does not meet the requirements outlined in http://www.irs.gov/pub/irs-pdf/i8609.pdf. Owner indicates that they have no further information and that it is not on file with the IRS, therefore, the violation cannot be resolved.
2. Household income above limit upon initial occupancy violations for units 2512 and 2618, which cannot currently be corrected. Unit 2512 is currently vacant but ready for occupancy. The lease for the tenant in unit 2618 will expire on August 31, 2014. Both will be occupied by qualified households as soon as possible. The recommended penalty amount indicated below does not include consideration for either household income violation because both are incorporated into a new letter issued by the Compliance Division on May 13, 2014, regarding the property's April 24, 2014 onsite review, which is currently in its corrective action period and is not being presented to the Board at this time.

Representatives of the owner met with the Administrative Penalty Committee on July 17, 2014, and agreed to pay a penalty of $250.00. The property is currently in the corrective action period for new file violations found during TDHCA's 2014 file monitoring review, which incorporates the two household income violations indicated above, and may be subject to an additional penalty recommendation if violations are not timely resolved.

Southside Community Center, general partner for San Marcos Senior Community II, LLP, is also associated with Sunrise Village Phase I (HOME 532336), which is also being presented to the Board for an Agreed Final Order.

Consistent with direction from the Department's Administrative Penalty Committee, a penalty in the amount of $250.00 is recommended for San Marcos Senior Community II, LLP.

ENFORCEMENT ACTION AGAINST SAN MARCOS SENIOR COMMUNITY II, LLP WITH RESPECT TO SUNRISE VILLAGE II (HOME FILE # 536265 / HTC FILE # 96113)	§ § § § § § § § §	BEFORE THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 31st day of July, 2014, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **SAN MARCOS SENIOR COMMUNITY II, LLP**, 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 Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §1.14 and 10 TEX. ADMIN. CODE Chapter 60.

2. In 1996, San Marcos Senior Community II, LLP ("Respondent") was awarded an allocation of HOME funds by the Board, in the amount of $450,000.00 to build and operate Sunrise Village II ("Property") (HOME File No. 536265 / CMTS No. 1574 / LDLD No. 403).

3. In 1996, San Marcos Senior Community II, LLP ("Respondent") was awarded an allocation of Housing Tax Credit funds by the Board, in the annual amount of $250,558.00 to build and operate Sunrise Village II ("Property") (HOME File No. 536265 / CMTS No. 1574 / LDLD No. 403).

4. Respondent signed two land use restriction agreements (collectively, "LURA's") regarding the Property. The HOME LURA was effective May 30, 1997, and filed of record at Volume 1326, Page 247 of the Official Public Records of Real Property of Hays County, Texas ("Records"). The HTC LURA was effective August 12, 1999, and filed of record at Document Number 9924728 in the Records.

5. Respondent is a Texas limited partnership that is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations[1]*:*

1. An on-site monitoring review was conducted on May 11, 2012, 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 August 13, 2012, corrective action deadline was set, however, the following violations were not corrected before the deadline:
   a. Respondent failed to provide required pre-onsite documentation requested by the Department in accordance with 10 Tex. Admin. Code § 60.115 (Onsite Montioring), which requires Respondent to provide requested documentation. Specifically, TDHCA requested a complete copy of Form 8609, complete with all attachments.

   b. Respondent failed to provide an affirmative marketing plan, a violation of 10 Tex. Admin. Code §60.114 (Requirements Pertaining to Households with Rental Assistance).

   c. Respondent failed to provide evidence of material participation by a nonprofit organization, a violation of Appendix A of the HTC LURA and 10 Tex. Admin. Code §60.117 (Monitoring for Non-Profit Participation or HUB Participation), which require a nonprofit organization to materially participate.

   d. Respondent failed to provide supportive services to tenants, a violation of Appendix A of the HTC LURA and 10 Tex. Admin. Code §60.116, which require Respondent to provide specific supportive services and maintain sufficient documentation to prove that the services are being provided.

   An acceptable affirmative marketing plan, evidence of supportive service provision, and evidence of material participation by a nonprofit were submitted on July 11, 2013, 332 days late, after intervention by the Administrative Penalty Committee. Respondent has also submitted documentation multiple times regarding the pre-onsite documentation violation, but it has omitted the required Form 8609 attachments that are needed to clear this violation. The owner elected on Form 8609

---

[1] Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 Tex. Admin. Code, Chapters 10 and 60 refer 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.

to treat the buildings as part of a multiple building project, and attachments should have been filed with the IRS along with Form 8609 to define the project. A "Schedule A Summary" was submitted to TDHCA; however, it does not meet the requirements outlined in http://www.irs.gov/pub/irs-pdf/i8609.pdf. Owner indicates that they have no further information and that the violation cannot be resolved.

2. An on-site monitoring review was conducted on May 30, 2013, 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 September 10, 2013, corrective action deadline was set, however, the following violations were not corrected before the deadline:

    a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 2512 or 2618 a violation of 10 TEX. ADMIN. CODE §10.606 (Determination, Documentation and Certification of Annual Income) and the LURA.

    Both household income violations remain unresolved. The lease for the tenant in unit 2512 expired in April of 2014, and the unit is currently vacant but ready for occupancy. The lease for the tenant in unit 2618 will expire on August 31, 2014.

3. A UPCS inspection was conducted on August 26, 2013. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.616 (Property Condition Standards). Notifications of noncompliance were sent and a January 28, 2014, corrective action deadline was set. Fully acceptable work orders were received on May 1, 2014, 93 days late, after intervention by the Administrative Penalty Committee.

4. The following violations remain outstanding at the time of this order:

    a. Pre-onsite documentation violation described in FOF #1a, which cannot be corrected;

    b. Household income above limit upon initial occupancy violations described in FOF #2, which cannot currently be corrected and are incorporated into a letter issued by the Compliance Division on May 13, 2014, regarding their April 24, 2014 onsite review.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TAC §1.14 and 10 TAC, Chapter 60.

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 TEX. ADMIN. CODE §60.115 in 2012, by failing to submit pre-onsite documentation.

5. Respondent violated 10 TEX. ADMIN. CODE § 60.114 in 2012, by failing to provide an affirmative marketing plan;

6. Respondent violated Appendix A of the HTC LURA and 10 TEX. ADMIN. CODE §60.117 in 2012, by failing to provide evidence of material participation by a nonprofit organization.

7. Respondent violated Appendix A of the HTC LURA and 10 TEX. ADMIN. CODE §60.116 in 2012, by failing to provide required supportive services.

8. Respondent violated representations made on page 1 of the LURA, Section 4 of the LURA and 10 TEX. ADMIN. CODE §10.606 in 2013, by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for two units.

9. Respondent violated 10 TEX. ADMIN. CODE § 10.616 and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards in 2013, when major violations were discovered and not timely corrected.

10. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.

11. 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.

12. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 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.

13. An administrative penalty of $250.00 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §§60.307 and 60.308.

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 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 $250.00, to be submitted to the address below on or before August 30, 2014, in the form of a cashier's check payable to the "Texas Department of Housing and Community Affairs".

IT IS FURTHER ORDERED THAT the $250.00 assessed penalty does not include the household income above limit upon initial occupancy violations described in FOF #2. Those violations cannot currently be corrected and are incorporated into a letter issued by the Compliance Division on May 13, 2014, regarding on onsite review conducted on April 24, 2014. If the violations found during that review are not timely resolved in a manner acceptable to the Compliance Division, Respondent may be referred back to the Administrative Penalty Committee and an additional penalty may be considered for submission to the Board.

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. The penalty payment must be submitted to the following address:

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on ________________________, 2014.

By: ______________________________
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

By: ______________________________
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _______ day of _________________, 2014, personally appeared J. Paul Oxer, 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 _______ day of _________________, 2014, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF ________________ §

BEFORE ME, ______________________, a notary public in and for the State of ________________, on this day personally appeared ______________________, known to me or proven to me through ______________________________ 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 San Marcos Senior Community II, LLP, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.

3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

SAN MARCOS SENIOR COMMUNITY II, LLP, a Texas limited partnership

SOUTHSIDE COMMUNITY CENTER, a Texas nonprofit corporation, its general partner

By: ______________________________

Name: ______________________________

Title: ______________________________

Given under my hand and seal of office this ______ day of ____________, 2014.

____
Signature of Notary Public

____
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF ______________

My Commission Expires: __________________

1s

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JULY 31, 2014

Presentation, Discussion, and Possible Action to approve a material amendment to a Land Use Restriction Agreement ("LURA") Amendment for Briarcrest Apartments in Madisonville (File No. 94237).

RECOMMENDED ACTION

WHEREAS, Briarcrest Apartments received an award of 9% Housing Tax Credits in 1994 to rehabilitate 16 units in Madisonville;

WHEREAS, the LURA requires that 100% of the units in the Project shall be leased and rented or made available to Low-Income Tenants;

WHEREAS, one of the residential units has been and continues to be used for non-residential purposes as a management office;

WHEREAS, the owner originally represented in the application that it would provide specific amenities at the development, including recreation facilities, public telephone service, limited access security fence, and playground equipment, and these amenities are not currently present;

WHEREAS, the development owner has requested to amend the LURA to reduce the number of low income units from 16 to 15 and to replace the missing amenities with other more appropriate amenities; and

WHEREAS, the development owner has complied with the procedures for a material amendment to the LURA including the notification requirements under the Department's LURA Amendment Rule, 10 TAC §10.405(b);

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees are hereby, authorized, directed, and empowered, for and on behalf of the Department, to amend the Housing Tax Credit LURA for Briarcrest Apartments to reduce the number of low income units from 16 to 15 and to amend the list of amenities required at the Development by specifically listing the approved required amenities selected as requested by the development owner and as presented to this meeting.

BACKGROUND

Briarcrest Apartments is located in Madisonville, and received an allocation of housing tax credits in 1994 for the acquisition and rehabilitation of 16 low income units. During a TDHCA monitoring visit on January 22, 2014, compliance staff identified that Unit #1 was not available for rent as a low income unit and was instead being utilized as an on-site management/leasing office. MWS Management ("MWS") advised that they assumed management of the property in June 2013. The prior management company converted Unit # 1 to an exempt employee occupied unit for the manager. The property was managed from that unit until the manager was replaced in October 2013. When the unit became vacant MWS continued using it as a leasing office. At the time of original application, the owner had another property within two miles of Briarcrest and both properties were managed from that location. The owner currently does not own the other property and, therefore, management of Briarcrest was moved onsite unto Unit #1. MWS believes that this is the only viable option for management of the property since there is no physical space or financial capacity to build a management office at the property.

As part of the monitoring report, compliance staff also identified that the owner did not provide a notice to the tenants regarding the amenities as specified in 10 TAC §10.613(k). The LURA does not specifically identify the required amenities at the property. Therefore, to complete the required notice, MWS confirmed through the original application that the amenities selected/required are: Limited Access Security; Designated Playground and Equipment; Recreation Facilities; and Public Phones. MWS is in the process of replacing the playground equipment but requests to substitute amenities for the limited access security, recreation facilities and public phones. The owner requests to replace the Recreation Area and Facilities with a Horseshoe Pit, the Public Telephone with a Secured Bicycle Parking area, and the Limited Access Security Fence with a Barbeque Grill and Picnic Table, and a Partial Privacy Fence.

It should be noted that the term "recreation area and facilities" was not defined in the 1994 Qualified Allocation Plan. The Development did have public telephones but these were removed by the telephone company and are obsolete. The Development has never had a limited access security fence but has had a partial wooden privacy fence around the perimeter of the property. The application specified that at least four amenities must be provided but did not assign a point value. Therefore, the substitutions requested would meet the minimum number of amenities required.

The owner has complied with 10 TAC, §10.405(b) of the Asset Management rules adopted by the Board; given the appropriate notifications to the tenants and elected officials and provided the opportunity for public input. The public hearing was held on July 15, 2014.

Staff recommends approval of the following changes to the LURA by replacing Section 4(c) with the language below:

"The Development will contain a total of 16 Units (including Units occupied by a resident manager or other employee, such that they are not treated as "residential rental units" for purposes of Section 42 of the Code), of which 15 Units treated as residential rental units will be Low-Income Units and one unit will be treated as a management/leasing office. During the Term of this Declaration, residential units at the Development shall be leased and rented or made available to members of the general public who qualify as Low-Income Tenants; such that each building in the Development shall at all times satisfy the Minimum Applicable Fraction for such building. The Development Owner's failure to ensure that each building in the Development complies with such requirement will cause the Department to report such fact to the Service and may result in the reduction and recapture by the Service of Tax Credits, as well as other enforcement action by the Service and/or the Department. After the Compliance Period, Minimum Applicable Fraction will be monitored in accordance with Department Rules."

Appendix A – Additional Use Restrictions – Amenity Requirements

All of the following amenities must be compliant with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (§42 U.S.C. §3601 et seq.), and the Fair Housing Amendments Act of 1988 (§42 U.S.C. §3601 et seq.); the Civil Rights Act of 1964 (§42 U.S.C. §2000a et seq.); the Americans with Disabilities Act of 1990 (§42 U.S.C. §12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from time to time) produced by the International Code Council and the Texas Accessibility Standards (Texas Government Code, Title 10 §2306.257; §2306.6705(7)). In addition, Pursuant to Texas Government Code, Title 10 §2306.6722, any Development supported with a Housing Tax Credit allocation shall comply with the accessibility standards that are required under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C. The Development will comply with the accessibility standards that are required under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C. (Texas Government Code, Title 10 §2306.6722 and §2306.6730).

Common Amenities:

The owner has represented that the following amenities will be present at the property through the Extended Use Period. <u>No rent or fees may be charged for any of the amenities marked below throughout the Extended Use Period.</u> The amenities selected must be made available for the benefit of all tenants.

- Horseshoe Pit
- Secured Bicycle Parking
- Barbeque Grill and Picnic Table
- Partial Privacy Fence
- Playground and Equipment

MWS
MANAGEMENT

T: 936 857 3557
F: 936 857 9000
E: mjs35@aol.com
P.O. Box 1809 Waller, Texas 77484
509 Ellen Powell Drive Prairie View, Texas 77446

MWS Real Estate Services

June 11, 2014

Texas Department of Housing and Community Affairs
Attn: Lee Ann Chance, Asset Manager
221 East 11th Street
Austin, Texas 78701

RE: Briarcrest Apartments #94237- Request for LURA and Application Amendment

Dear Lee Ann:

On behalf of the Owner, we are requesting a material amendment to the LURA and a non-material amendment to the application for Briarcrest Apartments, LTD. (TDHCA #94237) The amendments are due to the following changes that we are proposing to implement:

We are requesting a reduction in the number of low income units by one unit, as we would like to change unit #1 into an office. Upon the selling of a "sister property" located in Madisonville, TX, the previous management company made the unit into a managers unit and began managing the property out of that occupied unit. Previously, the property was managed out of Lance Street Apartments until May 2013. MWS Management assumed the management of the property in June 2013. The manager was replaced in October 2013, at which time the unit became vacant and still served as an office so that we could continue to manage the day to day activities on site. This change is necessary, because without it, we are unable to manage the property feasibly. This was not foreseeable at the time of Application because, at the time, the owner had a property located within 2 miles of Briarcrest, and the property was managed out of that facility. We have reviewed other options, and the limited space at the property does not make it viable to construct an office building or to bring in a portable building. A reduction in the number of low income units is the only practical financial option and achievable option to be able to manage the property by collecting rent, overseeing the daily activities on site, hosting community activities, and administering day to day work orders. Please see the enclosed audit reports for the past 3 years. Because unit #1 has operated as an office since May 2013 in a non-revenue unit capacity, it will not have any negative financial impact as a result of the change.

In addition, we are requesting an amendment to the Application and LURA as a result to changes in items that received points in the application. We are requesting to amend the following items:

- Recreational Facilities- we would like to replace this item with a Horseshoe Pit
- Public Telephone Service- We would like to replace this item with secured bicycle parking
- Barbecue Grill and Picnic Table- We would like to add these two items
- Playground Equipment- We would like to replace these items.

Each item chosen is worth one point each and has the same point value as items that were chosen at the time of application. The recreational facilities were never constructed and the public telephone service is no longer in existence as these type amenities were discontinued by the telephone companies. The Barbecue Grill and Picnic Tables are added amenities and the playground equipment is being replaced, as previous playground equipment was removed as a result of deterioration and safety concerns. It is necessary that we exchange/replace these items as mentioned above in order to bring the property into compliance, and will allow our residents and children activities on site.

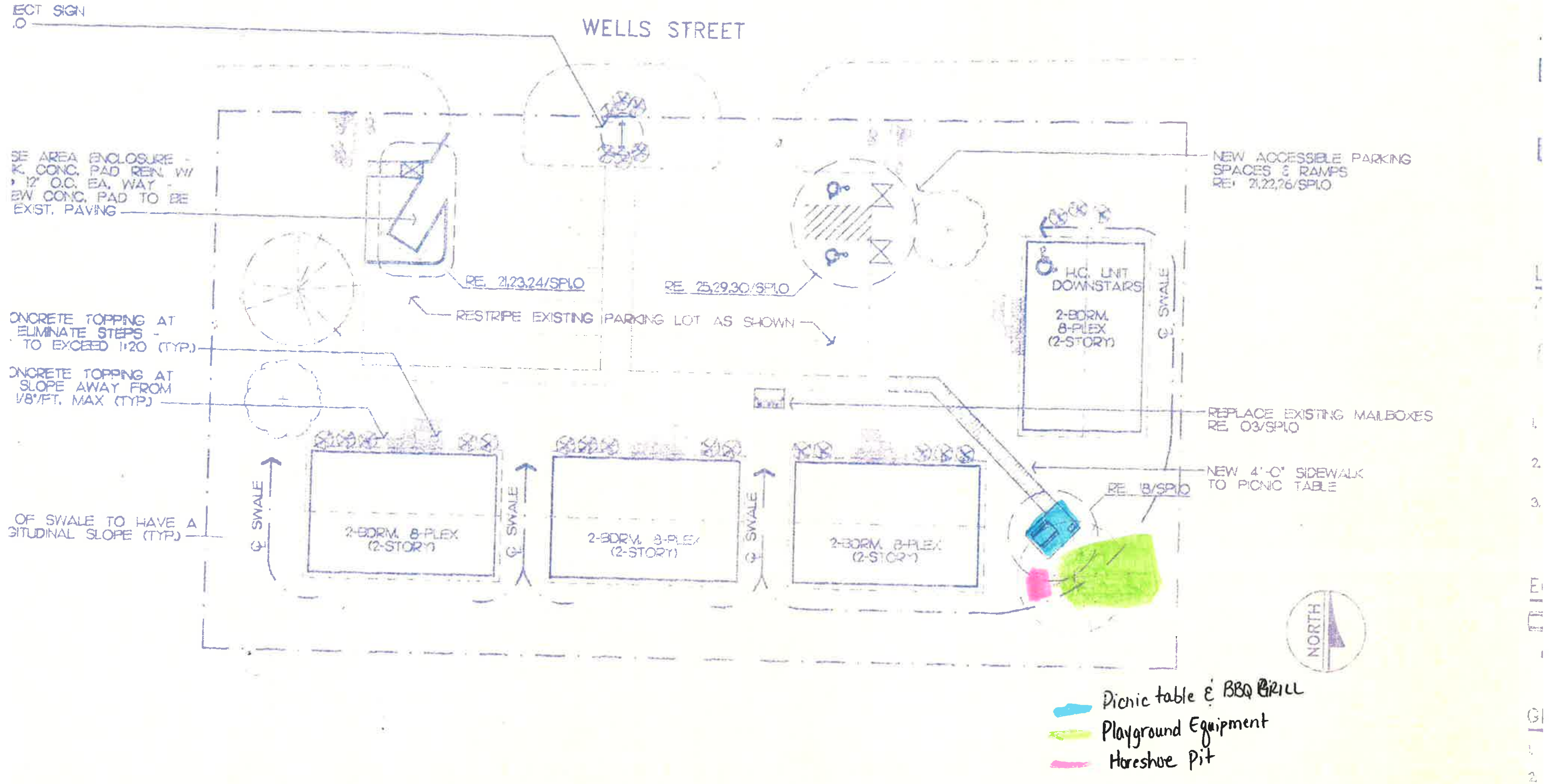
Please see the attached sample notification letters for the public hearing which we will schedule tentatively July 08, 2014 at 10:00 AM.

Sincerely,

Randi Ladig

Randilyn Ladig
Director of Operations
MWS Management

Enclosures: 3 year Financial Audit Reports
Sample Notification Letters
Site Map


WELLS STREET
ECT SIGN
NEW ACCESSIBLE PARKING SPACES & RAMPS RE: 21,22,26/SP1.0
RE: 21,23,24/SP1.0
RE: 25,29,30/SP1.0
RESTRIPE EXISTING PARKING LOT AS SHOWN
H.C. UNIT DOWNSTAIRS
2-BDRM. 8-PLEX (2-STORY)
SWALE
REPLACE EXISTING MAILBOXES RE: 03/SP1.0
NEW 4'-0" SIDEWALK TO PICNIC TABLE
RE: 18/SP1.0
CONCRETE TOPPING AT ELIMINATE STEPS - TO EXCEED 1:20 (TYP.)
CONCRETE TOPPING AT SLOPE AWAY FROM 1/8"/FT. MAX (TYP.)
OF SWALE TO HAVE A GITUDINAL SLOPE (TYP.)
EXIST. PAVING
NORTH
Picnic table & BBQ GRILL
Playground Equipment
Horeshoe Pit

1t

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action to approve an Application Amendment for the Villas of Vanston Park in Mesquite (#13044).

RECOMMENDED ACTION

WHEREAS, the Villas of Vanston Park received an award of 9% Housing Tax Credits during the 2013 competitive cycle to newly construct 160 multifamily units targeted towards the general population in Mesquite;

WHEREAS, the Applicant for the Villas of Vanston Park is requesting approval for a modification of the number of units, a modification of the bedroom mix of units and a net reduction of 2.57% in the net rentable square footage of the units;

WHEREAS, pursuant to 10 TAC §10.405(a), the Board shall reevaluate a Development that undergoes a substantial change, as identified in §10.405(a)(4)

NOW, therefore, it is hereby

RESOLVED, that the amendment of the Housing Tax Credit Application for the Villas of Vanston Park is approved as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

The application for the Villas of Vanston Park originally proposed the new construction of 160 total units consisting of 48 one-bedroom units and 112 two-bedroom units. Additionally, the original proposal called for 113 low-income units, 39 market rate units and eight market rate live-work units. The eight live-work units were included in the development plan at the request of the City of Mesquite to meet its requirements for zoning, revitalization and economic development. However, subsequent to the tax credit award the Mesquite City Council directed city staff to locate commercial/retail functions along Gus Thomasson Road to be consistent with the City's vision for revitalization along this street. This change would result in five of the original eight live-work units to be converted into strictly commercial/retail units thereby causing a reduction in the total number of residential units from 160 to 155. The elimination of the five market rate live-work units also causes a change to the originally proposed bedroom unit mix and net rentable area. A table reflecting the changes is provided below:

Unit Mix- Application			
# Units	# Beds	# Baths	NRA
26	1	1	672
22	1	1	679
112	2	2	954
160			**139,258**

Unit Mix- Amendment			
# Units	# Beds	# Baths	NRA
24	1	1	672
22	1	1	683
4	2	2	933
103	2	2	955
2	2	2	1,212
155			**135,675**

Despite the changes described the number of low income units remains the same from that approved at application. The changes impact only the market rate units.

The Department's Real Estate Analysis Division confirmed that the changes requested have no negative impact to the underwriting and the original credit recommendation remains unchanged. Likewise, the Department's Multifamily Finance Division confirmed that there would be no point loss as a result of the changes requested.

Staff recommends approval of the Applicant's amendment requests.

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
July 10, 2014

2nd Addendum to Underwriting Report

TDHCA Application #: **13044** Program(s): **9% HTC**

Villas of Vanston Park

Address/Location: 4540 Gus Thomasson Rd

City: Mesquite County: Dallas Zip: 75150

	APPLICATION HISTORY
Report Date	**PURPOSE**
07/10/14	**Application Amendment**
12/19/13	Carryover memo
07/24/13	Original Underwriting Report

CONDITIONS STATUS

1 Receipt and acceptance by Commitment:

a: Firm commitment from the City of Mesquite for $1,127,400 permanent loan with a term of at least 15 years, and clearly stating all terms and conditions.

Status: Condition satisfied.

b: Copy of executed 2nd amendment to sublease agreement.

Status: Condition satisfied.

2 Receipt and acceptance by Carryover:

- CPA documentation consistent with §10.204(7)(E)(ii) certifying eligibility of cost of construction of mid-block street connecting Gus Thomasson Rd & Forest Dr.

Status: Condition satisfied.

3 Receipt and acceptance by Cost Certification:

- Documentation clearing environmental issues contained in the ESA report, specifically:

  * Architect certification that a noise abatement program was implemented and post construction noise levels do not exceed HUD acceptable levels.

4 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

ANALYSIS

Deal Summary

Applicant received an allocation of 9% housing tax credits in the 2013 application round. Subsequently, the Applicant requested approval for the following three amendments to its 2013 tax credit application: (1) a modification of the total number of units; (2) a modification of the bedroom mix of units; and (3) a net reduction of 2.57% in the total net rentable square footage.

The application originally proposed a total of 160 units, consisting of 113 low-income units, 39 market rate units and 8 market rate live-work units. The live-work units were created at the request of the City of Mesquite to meet its requirements for zoning, revitalization and economic development. However, in December 2013 Mesquite city staff notified the Applicant that 5 of the 8 live-work units would need to be converted into strictly commercial/retail units. This was at the instruction of the City Council in order to be consistent with the City's vision for revitalization and economic plan. A summary of the changes proposed follows:

Unit Mix- Application			
# Units	# Beds	# Baths	NRA
26	1	1	672
22	1	1	679
112	2	2	954
160			**139,258**

Unit Mix- Amendment			
# Units	# Beds	# Baths	NRA
24	1	1	672
22	1	1	683
4	2	2	933
103	2	2	955
2	2	2	1,212
155			**135,675**

Operating Pro Forma

The Applicant revised the rent schedule to reflect the new unit mix as well as additional secondary income of $25/unit/month for income received from the rental of the proposed retail/commercial space. The Department added an additional $10/unit/month in secondary income to account for the retail space, which is half of the owner's projected amount. Underwritten expenses changed by less than 3%. The Applicant's NOI remains within 5% of the Department's calculated NOI.

Development Costs

Hard costs reflected minimal changes primarily due to the exclusion of $125K for the 5 live-work units that are being converted to commercial/retail space. As a result of that change, contractor and developer fees are overstated by $145K and $54K, respectively. Overall the Applicant's total development costs remain within 5% of the Department's revised cost estimate.

Sources of Funds

The Applicant confirmed no changes have occurred to the financing structure. The development's debt coverage remains acceptable when taking the changes discussed previously into account.

Conclusion

Staff has confirmed that the changes requested do not impact the original credit recommendation.

Senior Asset Manager: *Raquel Morales*

Director of Real Estate Analysis: *Brent Stewart*

UNIT MIX/RENT SCHEDULE

Villas of Vanston Park, Mesquite, 9% HTC #13044

LOCATION DATA	
CITY:	Mesquite
COUNTY:	Dallas
PROGRAM REGION:	3
PIS Date:	On or After 1/18/2013
IREM REGION:	Dallas

UNIT DISTRIBUTION					
# Beds	# Units	% Total	Income	# Units	% Total
Eff			30%	12	7.7%
1	46	29.7%	40%		
2	109	70.3%	50%	48	31.0%
3			60%	53	34.2%
4			MR	42	27.1%
TOTAL	155	100.0%	TOTAL	155	100.0%

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjustment	130%
Applicable Fraction	72.50%
APP % Acquisition	
APP % Construction	9.00%
Average Unit Size	875 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	Tenant Pd UA's (Verified)	Max Net Program Rent	Delta to Max Program	Rent per NRA	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent per NRA	Delta to Max Program	Market Rent	Rent per NRA	TDHCA Savings to Market
TC30%	$379	4	1	1	672	$379	$61	$318	$0	$0.47	$318	**$1,272**	**$1,272**	$318	$0.47	$0	$698	1.04	$380
TC50%	$633	7	1	1	672	$633	$61	$572	$0	$0.85	$572	**$4,004**	**$4,004**	$572	$0.85	$0	$698	1.04	$126
TC60%	$759	9	1	1	672	$759	$61	$698	$0	$1.04	$698	**$6,282**	**$6,282**	$698	$1.04	$0	$698	1.04	$0
MR		4	1	1	672	$0	$61		NA	$1.04	$698	**$2,792**	**$2,792**	$698	$1.04	NA	$698	1.04	$0
TC50%	$633	8	1	1	683	$633	$61	$572	$0	$0.84	$572	**$4,576**	**$4,576**	$572	$0.84	$0	$698	1.02	$126
TC60%	$759	6	1	1	683	$759	$61	$698	$0	$1.02	$698	**$4,188**	**$4,188**	$698	$1.02	$0	$698	1.02	$0
MR		8	1	1	683	$0	$61		NA	$1.02	$698	**$5,584**	**$5,584**	$698	$1.02	NA	$698	1.02	$0
TC30%	$456	4	2	2	933	$456	$74	$382	$0	$0.41	$382	**$1,528**	**$1,528**	$382	$0.41	$0	$838	0.90	$456
TC30%	$456	4	2	2	955	$456	$74	$382	$0	$0.40	$382	**$1,528**	**$1,528**	$382	$0.40	$0	$838	0.88	$456
TC50%	$760	33	2	2	955	$760	$74	$686	$0	$0.72	$686	**$22,638**	**$22,638**	$686	$0.72	$0	$838	0.88	$152
TC60%	$912	38	2	2	955	$912	$74	$838	$0	$0.88	$838	**$31,844**	**$31,844**	$838	$0.88	$0	$838	0.88	$0
MR		26	2	2	955	$0	$74		NA	$0.88	$838	**$21,788**	**$21,788**	$838	$0.88	NA	$838	0.88	$0
MR		2	2	2	955	$0	$74		NA	$0.88	$838	**$1,676**	**$1,676**	$838	$0.88	NA	$838	0.88	$0
MR		2	2	2	1,212	$0	$74		NA	$0.69	$838	**$1,676**	**$1,676**	$838	$0.69	NA	$838	0.69	$0
TOTALS/AVERAGES:		**155**			**135,675**				**$0**	**$0.82**	**$719**	**$111,376**	**$111,376**	**$719**	**$0.82**	**$0**	**$796**	**$0.91**	**$78**

ANNUAL POTENTIAL GROSS RENT:		
	$1,336,512	**$1,336,512**

STABILIZED PRO FORMA

Villas of Vanston Park, Mesquite, 9% HTC #13044

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database		Other	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.82	$719	$1,336,512	**$1,383,432**	**$1,383,432**	$1,336,512	$719	$0.82		0.0%	$0
App Fees, Late Rents, Lease Terminations, Pet Fee						$15.33	$28,512	28,512						0.0%	(28,512)
Other Income from 4,280 SF Retail						$25.31	$47,076	0						0.0%	(47,076)
Underwriter's Total Secondary Income									28,512	$55,800	$30.00			100.0%	55,800
POTENTIAL GROSS INCOME			$ -				$1,412,100	$1,411,944	$1,411,944	$1,392,312				-1.4%	($19,788)
Vacancy & Collection Loss						7.5% PGI	(105,908)	(105,896)	(105,896)	(104,423)	7.5% PGI			-1.4%	1,484
Non-Rental Units/Concessions							-	0						0.0%	-
EFFECTIVE GROSS INCOME			$ -				$1,306,193	$1,306,048	$1,306,048	$1,287,889				-1.4%	($18,304)
General & Administrative	$52,765	$340/Unit	44,894	3.25%	$0.31	$274	$42,400	$42,400	$46,342	$44,894	$290	$0.33	3.49%	-5.6%	(2,494)
Management	$52,529	4.6% EGI	55,486	5.00%	$0.48	$421	$65,310	$65,302	$65,302	$64,394	$415	$0.47	5.00%	1.4%	915
Payroll & Payroll Tax	$166,790	$1,076/Unit	180,864	14.58%	$1.40	$1,229	$190,440	$190,440	$186,698	$180,864	$1,167	$1.33	14.04%	5.3%	9,576
Repairs & Maintenance	$86,183	$556/Unit	70,653	5.24%	$0.50	$442	$68,500	$68,500	$72,932	$70,653	$456	$0.52	5.49%	-3.0%	(2,153)
Electric/Gas	$48,974	$316/Unit	37,669	2.76%	$0.27	$232	$36,000	$36,000	$38,884	$37,669	$243	$0.28	2.92%	-4.4%	(1,669)
Water, Sewer, & Trash	$93,199	$601/Unit	108,323	7.23%	$0.70	$610	$94,500	$94,500	$111,817	$108,323	$699	$0.80	8.41%	-12.8%	(13,823)
Property Insurance	$33,945	$0.25 /sf	25,293	3.06%	$0.29	$258	$40,000	$40,000	$34,941	$33,945	$219	$0.25	2.64%	17.8%	6,055
Property Tax 2.7034	$95,461	$616/Unit	98,567	8.42%	$0.81	$710	$110,000	$110,000	$108,136	$104,757	$676	$0.77	8.13%	5.0%	5,243
Reserve for Replacements	$42,955	$277/Unit	40,000	2.97%	$0.29	$250	$38,750	$40,000	$40,000	$38,750	$250	$0.29	3.01%	0.0%	-
Cable TV			-	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Supportive service contract fees			10,000	0.77%	$0.07	$65	$10,000	$10,000	$10,000	$10,000	$65	$0.07	0.78%	0.0%	-
TDHCA Compliance fees			4,520	0.52%	$0.05	$44	$6,800	$6,800	$4,520	$4,520	$29	$0.03	0.35%	50.4%	2,280
TDHCA Bond Administration Fees (TDHCA as Bond			-	0.00%	$0.00	$0	$0	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Security			10,000	0.77%	$0.07	$65	$10,000	$10,000	$10,000	$10,000	$65	$0.07	0.78%	0.0%	-
TOTAL EXPENSES			**$ 686,270**	**54.56%**	**$5.25**	**$4,598**	**$ 712,700**	**$713,942**	**$729,574**	**$ 708,770**	**$4,573**	**$5.22**	**55.03%**	**0.6%**	**$ 3,930**
NET OPERATING INCOME ("NOI")				**45.44%**	**$4.37**	**$3,829**	**$593,493**	**$592,106**	**$576,474**	**$579,119**	**$3,736**	**$4.27**	**44.97%**	**2.5%**	**$14,374**
CONTROLLABLE EXPENSES		$2,890/Unit	$2,854/Unit			$2,786/Unit		$431,840/Unit	$456,674/Unit		$2,854/Unit				

LONG TERM OPERATING PRO FORMA

	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	$1,306,193	$1,332,316	$1,358,963	$1,386,142	$1,413,865	$1,561,021	$1,723,493	$1,902,876	$2,100,929	$2,319,595	$2,561,020	$2,827,573
LESS: TOTAL EXPENSES	712,700	733,428	754,764	776,728	799,337	922,748	1,065,410	1,230,346	1,421,057	1,641,597	1,896,660	2,191,681
NET OPERATING INCOME	**$593,493**	**$598,889**	**$604,198**	**$609,414**	**$614,528**	**$638,273**	**$658,083**	**$672,529**	**$679,871**	**$677,998**	**$664,361**	**$635,893**
LESS: DEBT SERVICE	557,636	557,636	557,636	557,636	557,636	557,636	557,636	557,636	557,636	557,636	557,636	557,636
NET CASH FLOW	**$35,857**	**$41,253**	**$46,562**	**$51,778**	**$56,892**	**$80,637**	**$100,447**	**$114,894**	**$122,236**	**$120,362**	**$106,725**	**$78,257**
CUMULATIVE NET CASH FLOW	$35,857	$77,110	$123,672	$175,450	$232,343	$589,360	$1,053,813	$1,601,857	$2,201,585	$2,811,304	$3,377,480	$3,832,320
DEFERRED DEVELOPER FEE BALANCE	$291,529	$250,276	$203,714	$151,936	$95,043	$0	$0	$0	$0	$0	$0	$0
DCR ON UNDERWRITTEN DEBT (Must-Pay)	1.06	1.07	1.08	1.09	1.10	1.14	1.18	1.21	1.22	1.22	1.19	1.14
EXPENSE/EGI RATIO	54.56%	55.05%	55.54%	56.04%	56.54%	59.11%	61.82%	64.66%	67.64%	70.77%	74.06%	77.51%

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Villas of Vanston Park, Mesquite, 9% HTC #13044

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR														Cumulative	
DEBT (Must Pay)	**MIP**	UW	App	Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	DCR	LTC
Community Bank of Texas		1.16	1.19	$500,598	6.50%	30	15	$6,600,000	$6,600,000	$6,600,000	$6,600,000	15	30	6.50%	500,598	1.19	29.0%
CASH FLOW DEBT / GRANTS																	
City of Mesquite (Non-Federal CF)		1.08	1.11	$33,822	3.00%	10	10	$1,127,400	$1,127,400	$1,127,400	$1,127,400	15	30	3.00%	57,038	1.06	5.0%
City of Mesquite (Grant)		1.08	1.11		0.00%	0	0	$537,600	$537,600	$537,600	$537,600	0	0	0.00%		1.06	2.4%
City of Mesquite (In-Kind)		1.08	1.11		0.00%	0	0	$195,000	$195,000	$195,000	$195,000	0	0	0.00%		1.06	0.9%
TOTAL DEBT / GRANT SOURCES				**$534,420**				**$8,460,000**			**$8,460,000**				**$557,636**		37.2%
NET CASH FLOW		$44,699	$59,073										**NET OPERATING INCOME**	**$593,493**	**$35,857**	**NET CASH FLOW**	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	
Bank of America	LIHTC Equity	61.3%	$1,500,000	0.93	$13,936,050	$13,936,050	$13,936,050	$13,936,050	$0.9291	$1,500,000	61.3%	$89,910	
Developer Fee	Deferred Developer Fees	1.4%	(13% Deferred)		$327,386	$327,386	$326,486		(0% Deferred)		0.0%	**Total Developer Fee:**	**$2,450,000**
Additional (Excess) Funds Req'd		0.0%			$0	$0	$900	$327,386			1.4%	**15-Year Cash Flow:**	**$1,053,813**
TOTAL EQUITY SOURCES		62.8%			$14,263,436	$14,263,436	$14,263,436	$14,263,436			62.8%	**Cash Flow after Deferred Fee:**	**$726,427**
TOTAL CAPITALIZATION					**$22,723,436**			**$22,723,436**					

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis										Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$5,290 / Unit	$820,000	$820,000	$820,000	$820,000	$5,290 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$0	$0	$ / Unit			$0	0.0%	$0
City Constructed Off-Sites/Sitework					$195,000	$195,000	$195,000	$195,000						$0
Off-Sites		$612,600		$5,243 / Unit	$812,600	$812,600	$812,600	$812,600	$5,243 / Unit		$612,600		0.0%	$0
Sitework		$1,693,900		$10,928 / Unit	$1,693,900	$1,693,900	$1,693,900	$1,693,900	$10,928 / Unit		$1,693,900		0.0%	$0
Site Amenities		$305,000		$1,968 / Unit	$305,000	$305,000	$305,000	$305,000	$1,968 / Unit		$305,000		0.0%	$0
Retail Space			$0.00 /sf	$/Unit	$0	$0	$0	$215,916	$1,393/Unit	$1.59 /sf			-100.0%	($215,916)
Structured Parking			$10.50 /sf	$9,194/Unit	$1,425,000	$1,425,000	$1,425,000	$1,425,000	$9,194/Unit	$10.50 /sf			0.0%	$0
Building Costs		$9,081,500	$66.94 /sf	$58,590/Unit	$9,081,500	$9,207,000	$9,116,256	$9,102,218	$58,724/Unit	$67.09 /sf	$9,102,218		-0.2%	($20,718)
Contingency		$772,436	6.61%	5.80%	$772,436	$772,436	$772,436	$772,436	5.70%	6.59%	$772,436		0.0%	$0
Contractor's Fees		$1,890,000	15.16%	13.41%	$1,890,000	$1,890,000	$1,890,000	$1,890,000	13.19%	14.00%	$1,748,061		0.0%	$0
Indirect Construction	0	$1,150,000		$7,903 / Unit	$1,225,000	$1,225,000	$1,225,000	$1,225,000	$7,903 / Unit		$1,150,000	$0	0.0%	$0
Developer's Fees	$0	$2,450,000	15.20%	13.81%	$2,450,000	$2,450,000	$2,450,000	$2,450,000	13.73%	14.43%	$2,307,767	$0	0.0%	$0
Financing	0	$613,500		$7,697 / Unit	$1,193,000	$1,067,500	$1,067,500	$1,193,000	$7,697 / Unit		$613,500	$0	0.0%	$0
Reserves				$5,548 / Unit	$860,000	$860,000	$578,694	$569,370	$3,673 / Unit				51.0%	$290,630
UNADJUSTED BASIS / COST	**$0**	**$18,568,936**		$146,603 / Unit	**$22,723,436**	$22,723,436	$22,351,386	**$22,669,440**	$146,254 / Unit		**$18,305,482**	**$0**	**0.2%**	**$53,996**
Acquisition Cost for Identity of Interest Seller					$0									
Contingency		$0												
Contractor's Fee		($144,839)												
Interim Interest		$0												
Developer's Fee	$0	($53,885)			$0									
ADJUSTED BASIS / COST	**$0**	**$18,370,212**		$146,603/unit	**$22,723,436**			**$22,669,440**	$146,254/unit		**$18,305,482**	**$0**	**0.2%**	**$53,996**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$22,723,436**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Villas of Vanston Park, Mesquite, 9% HTC #13044

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$18,370,212	$0	$18,305,482
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$18,370,212	$0	$18,305,482
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$23,881,275	$0	$23,797,127
Applicable Fraction	72.50%	72.50%	72.50%	72.50%
TOTAL QUALIFIED BASIS	$0	$17,312,978	$0	$17,251,974
Applicable Percentage	0.00%	9.00%	0.00%	9.00%
ANNUAL CREDIT ON BASIS	$0	$1,558,168	$0	$1,552,678
CREDITS ON QUALIFIED BASIS	$1,558,168		$1,552,678	

ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,558,168	$14,476,472
Gap	$1,535,238	$14,263,436
Original Request	$1,500,000	$13,936,050
Current Request	$1,500,000	$13,936,050

FINAL ANNUAL LIHTC ALLOCATION

Method	Current Request	Variance to Request
Credits	**$1,500,000**	$0
Total Equity Proceeds	**$13,936,050**	$0

Building Cost/SF

Development Category	New Construction	Category Building Cost/SF (Mean)	**$62.03 /sf**
NRA	135,675	Calculated Building Cost/SF (3)	**$66.94 /sf**
Elevator Served Enclosed Corridors (1)	0	Building Cost Variance ($)	**-$4.90 /sf**
Common Area (2)	0	Variance to Mean (%)	**7.9%**
Total SF for QAP Calculation	**135,675**	Building Cost/SF reported in Application (3)	**$67.86 /sf**
		Variance to Mean based on Application	**9.4%**

(1) Supportive Housing, Qualified Elderly or 4-Story Development

(2) Up to $50 SF/Unit common area for Supportive Housing

(3) Excludes Structured Parking

DIRECT CONSTRUCTION COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Wrap (3 or 4-story)	135,675 SF	$61.28	8,313,755
Adjustments				
Exterior Wall Finish	3.20%		1.96	$266,040
	0.00%		0.00	0
9 ft. ceilings	3.40%		2.08	282,668
Roofing			0.00	0
Subfloor			(0.12)	(15,829)
Floor Cover			2.68	363,609
Breezeways	$25.73	34,510	6.54	887,971
Balconies	$25.82	10,445	1.99	269,647
Plumbing Fixtures	$940	336	2.33	315,840
Rough-ins	$465	201	0.69	93,465
Built-In Appliances	$1,750	155	2.00	271,250
Exterior Stairs	$2,125	12	0.19	25,500
Heating/Cooling			2.06	279,491
Enclosed Corridors	$45.79	0	0.00	0
Carports	$11.30	0	0.00	0
Garages		0	0.00	0
Comm &/or Aux Bldgs	$74.16	4,500	2.46	333,720
Elevators			0.00	0
Other:			0.00	0
Other: fire sprinkler	$2.30	174,685	2.96	401,776
SUBTOTAL			**89.10**	**12,088,902**
Current Cost Multiplier	0.98		(1.78)	(241,778)
Local Multiplier	0.91		(8.02)	(1,088,001)
TOTAL DIRECT CONSTRUCTION COSTS			**79.30**	**$10,759,122**
Plans, specs, survey, bldg permits	3.90%		(3.09)	($419,606)
Contractor's OH & Profit	11.50%		(9.12)	(1,237,299)
NET DIRECT CONSTRUCTION COSTS		$58,724/unit	$67.09/sf	$9,102,218

Shackelford

3333 Lee Parkway, Tenth Floor
Dallas, Texas 75219
Telephone 214.780.1400
Facsimile 214.780.1401

John C. Shackelford
Direct Dial 214.780.1414
jshackelford@shackelfordlaw.net

June 10, 2014

Via Email
Ms. Cari Garcia
Texas Department of Housing and Community Affairs
P.O. Box 13941
221 East 11th Street
Austin, Texas 78711-3941

Re: TDHCA #13044 - Villas of Vanston Park in Mesquite, Dallas County, Texas (the "Development") Request to Amend Tax Credit Application; Our File No. 51131.2

Dear Ms. Garcia,

This Firm represents Vanston Park Investments, L.P. ("Applicant"), and I have been requested by Joseph Agumadu and Jay Oji to request the following three amendments to its 2013 tax credit application:

Amendment Request #1: Modification of the number of units

Amendment Request #2: Modification of bedroom mix of units

Amendment Request #3: A net reduction of 2.57% in the square footage of the units due to Amendment Request #1

Background.

Applicant submitted a 2013 Application for 160 total units, consisting of 113 low-income credit units, 39 market rate units, and 8 market rate live-work units. These 8 live-work units were created at the request of City of Mesquite (the "City") to meet its requirements for zoning, revitalization, and economic development.

During underwriting, Applicant provided to the Texas Department of Housing and Community Affairs ("TDHCA") the following information:

- City's Community Revitalization Plan/Gus Thomasson Corridor Revitalization Code definition of Live-Work as "a mixed use unit consisting of a commercial and residential function. The commercial function can be anywhere in the unit. It is intended to be occupied by a business operator who lives in the same structure that contains the commercial activity or industry."

- Answers to staff's questions regarding the 8 live-work units and the units having commercial grade storefront glass of 1,584 square feet.

<u>Description of Amendment Requests #1, #2 and #3</u>.

A. Amendment Request #1.

In December 2013, the City's staff notified Applicant that the City Council had instructed the City's staff to locate commercial/retail functions along the Gus Thomasson Road to be consistent with the City's vision for Gus Thomasson Road's revitalization and the City's 380 Economic Plan.

To accomplish this objective, the City required Applicant to turn 5 of the 8 live-work units along Gus Thomasson Road into strictly commercial/retail units. It was a complete surprise to Applicant that the City compelled this change in use. Applicant had neither prior knowledge of the City's desire to change the use of these 5 units nor was it foreseeable by Applicant at the time of submission of its Application. This requirement by the City was made known to Applicant in December, 2013 when it was working with the City's staff to secure permits and loan/grant documents. Moreover, Applicant had no control over the City's new requirement to reduce the live-work units to 3. Accordingly, this requirement reduced the market rate live-work unit mix from 8 to 3 units in the Development and the overall units from 160 to 155 units.

The City did not anticipate any issues arising with TDHCA from this requirement since it did not impact the low-income housing tax credit units and it only affected the market rate live-work units specifically set aside to fulfill the City's commercial and revitalization efforts. In support of this is a letter from Richard Gertson, Director of Community Development for the City, which is attached hereto as Exhibit "A."

B. Amendment Request #2.

In addition to the total number of units in the Development being reduced from 160 to 155, Applicant requests a modification to the original bedroom mix of units. This modification is caused solely by the reduction in the total number of units. The units that must be converted from live-work units to purely commercial/retail units were market rate units to begin with, but nevertheless there is a change in the bedroom mix from what was originally filed in the Application. The 5 live-work units to be eliminated consisted of 2 one-bedroom units and 3 two-bedroom units. The elimination of these 5 market rate live-work units automatically causes a modification of the bedroom mix of units. Again, there is NO alteration in the bedroom mix of units that are low-income housing tax credit units. The only units affected are the market rate units. Section 50.13 of the 2013 Qualified Action Plan ("QAP") does not distinguish between low income housing tax credit units and market rate units with respect to a material alteration and therefore Board approval is requested for this modification.

C. Amendment Request #3.

By reducing the number of live-work units from 8 to 5, it automatically reduces the amount of square footage in the application for residential uses from 139,258 by 4,206 square feet, which is a reduction of 3.02%. Pursuant to the 2013 QAP, Section 50.13(b)(4)(D), states that a material modification of a Development occurs if there is a reduction of 3% or more in the square footage of the units or common areas. However, Applicant subsequent to filing the Application increased the total square footage of the Development by 623 square feet. Consequently, the current net reduction in square feet is only 3,583 square feet, resulting in a net percentage reduction of 2.57%. If you determine that the square footage reduction relative to the original Application requires Board approval, Applicant respectfully requests it. If, on the other hand, you determine in this instance the net reduction in square footage is only 2.57% and it does not constitute a material alteration of the proposed Development, then Applicant requests approval from Tim Irvine, as Executive Director of TDHCA.

Impact of Requested Amendments.

I am hopeful you agree that the requested amendments do not alter any items for which Applicant received points, nor do they adversely impact the updated underwriting analysis submitted to TDHCA contemporaneously herewith. Please see Exhibit "B" attached hereto. The commercial rents anticipated to be generated by the 4,206 square feet of now commercial/retail space (formerly live-work space) are essentially the same as the underwritten market rents for the live-work units.

The requested amendments only insignificantly modify the characteristics of the Development proposed in the Application as the Development's structure and layout remain identical as planned. Also, the requested amendments do not modify the number of low-income housing tax credit units, the income/rent levels that the low-income units will serve, and the amount of tax credits.

Conclusion.

The requested amendments are required by action taken by the City subsequent to the filing of the Application and the award of tax credits in July, 2013. Additionally, the requested amendments neither negatively impact the financial viability of the development as originally proposed nor the amount of tax credits awarded. Given the above, Applicant respectfully requests Board to approve Amendments #1 and #2 and for Mr. Irvine to approve Amendment #3.

Thank you for your consideration.

Very truly yours,

John C. Shackelford

JCS:tlw

cc: Tim Irvine, Esq. (via email)
Barbara Deane, Esq. (via email)
Cameron Dorsey (via email)
Jean Latsha (via email)
Raquel Morales (via email)
Ellen Rourke (via email)
Jay Oji (via email)
Joseph Agumadu (via email)
Richard Gerston (via email)

L:\51131\2\TDHCA Letter 6-6-14.docx

EXHIBIT “A”

MESQUITE
TEXAS
Real. Texas. Service.

COMMUNITY DEVELOPMENT DEPARTMENT

Richard G. Gertson, ICMA-CM, AICP, CNU, Director
Keith Smith, CBO, Building Inspection
Jeff Armstrong, AICP, Planning & Zoning
Sherri Johnston, IPMC-C, Environmental Code
Charlene Orr, Historic Mesquite, Inc.

Phone: 972.216.6365
Fax: 972.216.6464

Writer's E-mail: rgertson@cityofmesquite.com

June 10, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
221 East 11th Street
Austin, Texas 78711-3941

Re: Villas of Vanston Park (the "Project") – Application #13044 (the "Application")

Dear Mr. Irvine,

The City of Mesquite ("City") supports the Project, and we believe that it offers the City a rare catalyst for the revitalization of the distressed Gus Thomasson Commercial Corridor. We have worked closely with Sphinx Development Corporation on the Project's Community Revitalization Plan ("Plan"), and in June 2013, we testified before the Texas Department of Housing and Community Affairs ("TDHCA") board to win the Plan's board appeal. The City has also committed $15,000 of funding per tax credit unit through Resolution Number 05-2013 for the Project.

The Project's Application contemplated 8 Live-Work units as market rate units, and a few months ago, we instructed the Project to use 5 Live-Work units to have strictly commercial / retail functions. The City did not expect this modification to impact the Project. However, it has recently come to our attention that the requested change in total unit count from 160 to 155 represents a Material Alteration to the Project that will require TDHCA board consent.

We respectfully request that the TDHCA board approve these proposed modifications to the Project. We expect the future retail and commercial activity will serve the Project's residents, and the Project is an important means for long-term stabilization of housing conditions in the Gus Thomasson Commercial Corridor.

Thank you, and please do not hesitate to call me with any questions.

Sincerely,

Richard G. Gertson, ICMA-CM, AICP
Director of Community Development

EXHIBIT "B"

ORIGINAL	COMPARISON	PROPOSED	COMMENTS
3, including Garage	Buildings on Site	3, including Garage	*Same*
3 Unit Types	Building Configuration	7 Unit Types	*4 additional variant types to account for Live/Work units, Irregular Corners and Handicap units*
160 Units 0%	No. of Units % Change	155 Units 3.02%	*Proposing 5 MR Live/Work units for commercial use*
139,258 SF 0% 0 SF	Total NRA % Change Commercial Space	135,675 SF 2.57% 4,280 SF	*NRA is reduced by 2.57%.* *Added Commercial space*
 12 Units 48 Units 53 Units 113 Units 47 Units 160 Units	**Rent Roll** 30% AMGI 50% AMGI 60% AMGI HTC LI Total MR Total Total Units	 12 Units 48 Units 53 Units 113 Units **42 Units** **155 Units**	 *53% of LI Units at <50%AMGI* *Reduced Live/Work units by 5 for 4,280 SF of Commercial lease space*
$115,286 $2,376 $0 $117,662 $1,306,047	Pro-forma Income Other Income Commercial Rent Potential Gross Income(PGI) Effective Annual Gross Income (EGI)	$111,576 $2,376 ***$3,923*** $117,675 $1,306,193	*PGI is same given that commercial rental income, estimated at $11.00/SF, offsets lost rent from LW units EGI is same or similar.*
$9,207,000 $66.11	**Project Cost Schedule** Building Cost Cost Per SF	 $9,081,500 $66.94	*Building cost is reduced by $125,500 or $29.83/SF of unfinished 5 residential units or 4,280 SF of retail shell-space. Total cost/SF is within limits (10%) TDHCA mean*
$22,723,000 $18,694,436	Total Housing Development Total Eligible Costs	$22,597,936 $18,654,936	*Total Eligible costs are similar; LIHTC amount is not impacted.*
$22,723,436	Total Development Cost	$22,723,436	*Same*
1.18 DCR	Stabilized Operating Pro forma	1.19 DCR	*Same*

VVP Cpmparison - UnderwrittenVsProposed

BUILDING CONFIGURATION

Submitted/Underwritten

Building Label		#1	#2	#3
Number of Stories		3	3	3
Number of Buildings		1	1	1
A1		17	6	3
A2		10	12	0
B		37	27	48
Totals	160	64	45	51

Unit Label	# of BR	# of Bth	Sq. Ft./Unit	Tot Units	Tot SF Type
A1	1	1	672	26	17,472
A2	1	1	679	22	14,938
B	2	2	954	112	106,848
			Totals	259	139,258

Proposed/Designed

Building Label		#1-A	#1-B	#2-C	#2-D	#3-GARAGE
Number of Stories		3	3	3	3	3.5
Number of Buildings		1	1	1	1	0
A1		6	8	6	3	0
A1-LW		1	0	0	0	0
A2		4	6	12	0	0
B1-CON 1		12	14	27	48	0
B1-CON 2		2	2	0	0	0
B1-LW		2	0	0	0	0
B2		2	0	0	0	0
Totals	155	29	30	45	51	0

Unit Label	# of BR	# of Bth	Sq. Ft./Unit	Tot Units	Tot SF Type
A1	1	1	672	23	15456
A1-LW	1	1	672	1	672
A2	1	1	683	22	15026
B1-CON 1	2	2	955	101	96455
B1-CON 2	2	2	933	4	3732
B1-LW	2	1.5	955	2	1910
B2	2	2	1,212	2	2424
			Totals	155	135,675
		Totals Commercial, 5 LW Units			4,280 SF

UNIT MIX/RENTROLL

Submitted/Underwritten

HTC Unit	# Units	Unit NRA	Tot NRA	Rent Collected	Tot. Mo Rent
TC30%	2	672	1,344	318	$ 636
TC50%	7	672	4,704	572	$ 4,004
TC60%	9	672	6,048	698	$ 6,282
MR	8	672	5,376	698	$ 5,584
TC30%	2	679	1,358	318	$ 636
TC50%	8	679	5,432	572	$ 4,576
TC60%	6	679	4,074	698	$ 4,188
MR	6	679	4,074	698	$ 4,188
TC30%	8	954	7,632	382	$ 3,056
TC50%	33	954	31,482	686	$ 22,638
TC60%	38	954	36,252	838	$ 31,844
MR	33	954	31,482	838	$ 27,654
Total	160		139,258		$ 115,286

App Fees, Late Rents, Lease Terminations, Pet Fees			$ 2,376
Other Income			$ -
+ TOTAL NONRENTAL INCOME	$ 38.10		$ 2,376
= POTENTIAL GROSS MONTHLY INCOME			$ 117,662
- Provision for Vacancy & Collection Loss		7.5%	$ 8,825
- Rental Concessions			$ -
= EFFECTIVE GROSS MONTHLY INCOME			$ 108,837
x 12 = EFFECTIVE GROSS ANNUAL INCOME			$ 1,306,048

Proposed/Designed

HTC Unit	# Units	Unit NRA	Tot NRA	Rent Collected	Tot. Mo Rent
TC30%	4	672	2,688	318	$ 1,272
TC50%	7	672	4,704	572	$ 4,004
TC60%	9	672	6,048	698	$ 6,282
MR	4	672	2,688	698	$ 2,792
TC50%	8	683	5,464	572	$ 4,576
TC60%	6	683	4,098	698	$ 4,188
MR	8	683	5,464	698	$ 5,584
TC30%	4	933	3,732	382	$ 1,528
TC30%	4	955	3,820	382	$ 1,528
TC50%	33	955	31,515	686	$ 22,638
TC60%	38	955	36,290	838	$ 31,844
MR	26	955	24,830	838	$ 21,788
MR	2	955	1,910	838	$ 1,676
MR	2	1212	2,424	838	$ 1,676
Total	155		135,675		$ 111,376

App Fees, Late Rents, Lease Terminations, Pet Fees			$ 2,376
Other Income from 4,280 SF Retail	@ $11.00/SF		$ 3,923
+ TOTAL NONRENTAL INCOME	$ 40.64		$ 6,299
= POTENTIAL GROSS MONTHLY INCOME			$ 117,675
- Provision for Vacancy & Collection Loss		7.5%	$ 8,826
- Rental Concessions			$ -
= EFFECTIVE GROSS MONTHLY INCOME			$ 108,849
x 12 = EFFECTIVE GROSS ANNUAL INCOME			$ 1,306,193

TDHCA SET-ASIDES / COST PER SF

Submitted/Underwritten

	% of LI	% of Total	
TC30%	11%	8%	12
TC50%	42%	30%	48
TC60%	47%	35%	53
HTC LI Total			113
MR			47
MR Total			47
Total Units			160

Cost Per Square Foot Table	Development is Rehabilitation	No	Cost Per Sq. Ft.	N/A
	If No above Development is elevator served,	No		
	If not "Rehabilitation," select "Yes" if the Development is one of the following:			
(Building Costs)	Elevator served	If "Yes" above, these elections do not apply. See manual for instructions.		
	No			
$ 9,207,000	Cost Per Sq. Ft. =			
	N/A			
Development is New Construction, Reconstruction, or Adapti		Yes	Cost Per Sq. Ft.	$ 66.11

Proposed/Designed

	% of LI	% of Total	
TC30%	11%	8%	12
TC50%	42%	31%	48
TC60%	47%	34%	53
HTC LI Total			113
MR			42
MR Total			42
Total Units			155

Cost Per Square Foot Table	Development is Rehabilitation	No	Cost Per Sq. F	N/A
	If No above Development is elevator serve	No		
	If not "Rehabilitation," select "Yes" if the Development is one of the following:			
(Building Costs)	Elevator served	If "Yes" above, these elections do not apply. See manual for instructions.		
	No			
$ 9,081,500	Cost Per Sq. Ft. =			
	N/A			
Development is New Construction, Reconstruction, or Adap		Yes	Cost Per Sq. F	$ 66.94

CONSTRUCTION COST

Submitted/Underwritten

	TOTAL DEVELOPMENT SUMMARY		
	Total	Eligible Basis	
	Cost	Acquisition	New/Rehab.
Subtotal Acquisition Cost	$820,000	$0	$0
Subtotal Off-Sites Cost	$309,000	$0	$0
Subtotal Site Work Cost	$2,392,500	$0	$2,392,500
Subtotal Site Amenities Cost	$305,000	$0	$305,000
BUILDING COSTS*:			
Concrete	575,000		575,000
Masonry	1,024,000		1,024,000
Metals			0
Woods and Plastics	2,320,000		2,320,000
Thermal and Moisture Protection	204,000		204,000
Roof Covering	200,000		200,000
Doors and Windows	800,000		800,000
Finishes	1,100,000		1,100,000
Specialties			0
Equipment			0
Furnishings	178,000		178,000
Special Construction	470,000		470,000
Conveying Systems (Elevators)			0
Mechanical (HVAC; Plumbing)	1,360,000		1,360,000
Electrical	976,000		976,000
Individually itemize costs below:			
Structured Parking	1,425,000		0
Other (specify) - see footnote 1	0		0
Subtotal Building Costs	$10,632,000	$0	$9,207,000

Proposed/Designed

	TOTAL DEVELOPMENT SUMMARY		
	Total	Eligible Basis	
	Cost	Acquisition	New/Rehab.
Subtotal Acquisition Cost	$820,000	$0	$0
Subtotal Off-Sites Cost	$309,000	$0	$0
Subtotal Site Work Cost	$2,392,500	$0	$2,392,500
Subtotal Site Amenities Cost	$305,000	$0	$305,000
BUILDING COSTS*:			
Concrete	575,000		575,000
Masonry	1,024,000		1,024,000
Metals			0
Woods and Plastics	2,255,000		2,255,000
Thermal and Moisture Protection	204,000		204,000
Roof Covering	200,000		200,000
Doors and Windows	800,000		800,000
Finishes	1,067,500		1,067,500
Specialties			0
Equipment			0
Furnishings	178,000		178,000
Special Construction	470,000		470,000
Conveying Systems (Elevators)			0
Mechanical (HVAC; Plumbing)	1,332,000		1,332,000
Electrical	976,000		976,000
Individually itemize costs below:			
Structured Parking	1,425,000		0
Other (specify) - see footnote 1	0		0
Subtotal Building Costs	$10,506,500	$0	$9,081,500

PROJECT COST SUMMARY

Submitted/Underwritten

TOTAL BUILDING COSTS & SITE WORK	$13,329,500	$0	$11,904,500
Subtotal Ancillary Hard Costs	$2,565,000	$0	$2,565,000
TOTAL DIRECT HARD COSTS	$15,894,500	$0	$14,469,500
Subtotal Indirect Const. Cost	$1,322,436	$0	$1,247,436
Subtotal Developer's Fees	$2,450,000	$0	$2,450,000
Subtotal Financing Cost	$1,067,500	$0	$613,500
Subtotal Reserves	$860,000	$0	$0
TOTAL HOUSING DEVELOPMENT COSTS5	$22,723,436	$0	$18,654,936
- Commercial Space Costs6	0		
TOTAL RESIDENTIAL DEVELOPMENT COSTS	$22,723,436		

Proposed/Designed

TOTAL BUILDING COSTS & SITE WORK	$13,204,000	$0	$11,779,000
Subtotal Ancillary Hard Costs	$2,565,000	$0	$2,565,000
TOTAL DIRECT HARD COSTS	$15,769,000	$0	$14,344,000
Subtotal Indirect Const. Cost	$1,322,436	$0	$1,247,436
Subtotal Developer's Fees	$2,450,000	$0	$2,450,000
Subtotal Financing Cost	$1,067,500	$0	$613,500
Subtotal Reserves	$860,000	$0	$0
TOTAL HOUSING DEVELOPMENT COSTS5	$22,597,936	$0	$18,654,936
- Commercial Space Costs6	-125,500		
TOTAL RESIDENTIAL DEVELOPMENT COSTS	$22,723,436		

STABILIZED PROFORMA

Submitted/Underwritten

POTENTIAL GROSS ANNUAL RENTAL INCOME	$1,411,944
EFFECTIVE GROSS ANNUAL INCOME	$1,306,048
TOTAL ANNUAL EXPENSES	$713,942
NET OPERATING INCOME	$592,106
DEBT SERVICE	$500,598
NET CASH FLOW	$91,508
Debt Coverage Ratio	1.18
City of Mesquite Loan Interest	$33,822

Proposed/Designed

POTENTIAL GROSS ANNUAL RENTAL INCOME	$1,407,372
EFFECTIVE GROSS ANNUAL INCOME	$1,306,193
TOTAL ANNUAL EXPENSES	$712,700
NET OPERATING INCOME	$593,493
DEBT SERVICE	$500,598
NET CASH FLOW	$92,895
Debt Coverage Ratio	1.19
City of Mesquite Loan Interest	$33,822

Villas at Vanston Park

Gus Thomasson
Mesquite, Texas

Project Team:

Owner:	Sphinx Development Corporation 3030 LBJ Freeway, Suite 1350 Dallas, Texas 75234 P 214-342-1405 F 214-342-1409
Contractor:	TBD
Architect:	JHP Architecture / Urban Design 8340 Meadow Road, Suite 150 Dallas, Texas 75231 P 214-363-5687 F 214-363-9563
Structural Engineer:	Integrity Structural Corp. 12777 Jones Road, Suite 388 Houston, Texas 77070 P 281-894-7099 F 281-894-8943
MEP Engineer:	Lippe & Associates Consulting Engineers 15950 Midway Road Addison, Texas 75001 P 972-387-3500 F 972-387-3849

Direct Consultants to Owner

Civil Engineer:	CEI Engineering Associates, Inc. 3030 LBJ Fwy., Suite 1250 Dallas, Texas P 972-422-3737 F 972-488-6732
Garage Engineer:	NAPCO, LLC 6949 Low Bid Lane San Antonio, Texas 78250 F 210-509-9111
Landscape:	Michael Bardis Landscape Architect 715 Oakwood Trail Fort Worth, Texas 76112 F 817-451-1214
Interiors:	Moore Design Group 2111 Clark Street, Suite A Dallas, Texas 75204 P 214-651-7100

Issue For Design Development
April 14, 2014

JHP

JHP Architecture / Urban Design
8340 Meadow Road Suite 150
Dallas, Texas 75231
Telephone: 214-363-5687
Fax: 214-363-9563

NOT FOR REGULATORY APPROVAL, PERMIT, OR CONSTRUCTION.

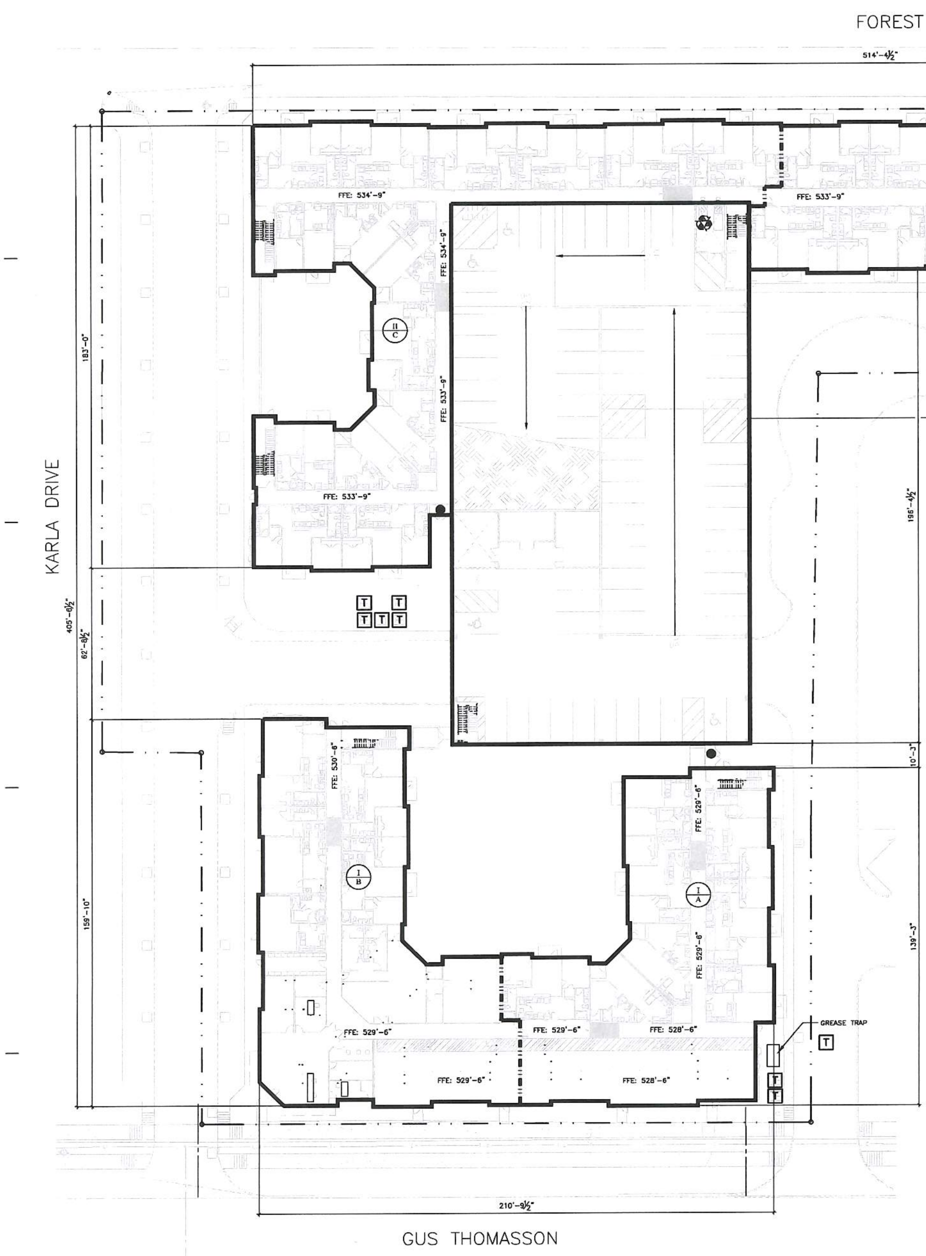
JOHN M. SCHRADER

Registered Architect of the State of TEXAS
Registration Number: 17828

Villas at Vanston Park
Mesquite, Texas

Project Number: 2012100.00
Drawn By: LB
Issue For
DD 4.14.2014

Revision	Date
△	
△	
△	
△	
△	
△	



25 Architectural Site Plan
Scale: 1" = 20'-0"

PLAN NORTH TRUE NORTH

TDHCA AMENITIES AND DESIGN REQUIREMENTS

MANDATORY DEVELOPMENT AMENITIES

A. ALL NEW CONSTRUCTION UNITS MUST BE WIRED WITH RG-6/U COAX OR BETTER AND CAT3 PHONE CABLE OR BETTER, WIRED TO EACH BEDROOM, DINING ROOM AND LIVING ROOM;
B. LAUNDRY CONNECTIONS;
C. BLINDS OR WINDOW COVERINGS FOR ALL WINDOWS;
D. SCREENS ON ALL OPERABLE WINDOWS;
E. DISPOSAL AND ENERGY-STAR RATED DISHWASHER;
F. ENERGY-STAR RATED REFRIGERATOR;
G. OVEN/RANGE;
H. EXHAUST/VENT FANS (VENTED TO THE OUTSIDE) IN BATHROOMS;
I. AT LEAST ONE ENERGY-STAR RATED CEILING FAN PER UNIT;
J. ENERGY-STAR RATED LIGHTING IN ALL UNITS WHICH MAY INCLUDE COMPACT FLUORESCENT BULBS OR LED LIGHT BULBS;
K. PLUMBING FIXTURES (TOILETS AND FAUCETS) MUST MEET DESIGN STANDARDS AT 30 TAC §290.252 (RELATING TO DESIGN STANDARDS);
L. ALL UNITS MUST HAVE CENTRAL HEATING AND AIR-CONDITIONING (PACKAGED TERMINAL AIR CONDITIONERS MEET THIS REQUIREMENT FOR SRO UNITS IN SUPPORTIVE HOUSING DEVELOPMENTS ONLY); AND
M. ADEQUATE PARKING SPACES CONSISTENT WITH LOCAL CODE, UNLESS THERE IS NO LOCAL CODE, IN WHICH CASE THE REQUIREMENT WOULD BE 1.5 SPACES PER UNIT FOR NON-QUALIFIED ELDERLY DEVELOPMENTS AND ONE (1) SPACE PER UNIT FOR QUALIFIED ELDERLY.

COMMON AMENITIES 150 UNITS (18 POINTS REQUIRED):

a. SWIMMING POOL (3 POINTS);
b. FURNISHED FITNESS CENTER. EQUIPPED WITH FITNESS EQUIPMENT OPTIONS WITH AT LEAST ONE OPTION PER EVERY 40 UNITS OR PARTIAL INCREMENTS OF 40 UNITS: STATIONARY BICYCLE, ELLIPTICAL TRAINER, TREADMILL, ROWING MACHINE, UNIVERSAL GYM, MULTI-FUNCTIONAL WEIGHT BENCH, SAUNA, STAIR-CLIMBER OR OTHER SIMILAR EQUIPMENT. EQUIPMENT SHALL BE COMMERCIAL USE GRADE OR QUALITY. ALL DEVELOPMENTS MUST HAVE AT LEAST TWO EQUIPMENT OPTIONS BUT ARE NOT REQUIRED TO HAVE MORE THAN FIVE EQUIPMENT OPTIONS REGARDLESS OF THE NUMBER OF UNITS (2 POINTS);
c. EQUIPPED AND FUNCTIONING BUSINESS CENTER OR EQUIPPED COMPUTER LEARNING CENTER. MUST BE EQUIPPED WITH 1 COMPUTER FOR EVERY 30 UNITS LOADED WITH BASIC PROGRAMS, 1 LASER PRINTER FOR EVERY 3 COMPUTERS (MINIMUM OF ONE PRINTER) AND AT LEAST ONE SCANNER WHICH MAY BE INTEGRATED WITH PRINTER. 5 COMPUTERS, 2 PRINTERS (2 POINTS);
d. FURNISHED COMMUNITY ROOM (2 POINTS);
e. SERVICE COORDINATOR OFFICE IN ADDITION TO LEASING OFFICES (1 POINT);
f. SECURED ENTRY (APPLICABLE ONLY IF ALL UNIT ENTRIES ARE WITHIN THE BUILDING'S INTERIOR) (1 POINT);
g. FURNISHED AND STAFFED CHILDREN'S ACTIVITY CENTER THAT MUST HAVE AGE APPROPRIATE FURNISHINGS AND EQUIPMENT. APPROPRIATE LEVELS OF STAFFING MUCH BE PROVIDED DURING AFTER-SCHOOL HOURS AND DURING SCHOOL VACATIONS (3 POINTS);
a. COMMON AREA WI-FI (1 POINT);
b. SECURED BICYCLE PARKING (1 POINT); AND
c. LIMITED GREEN AMENITIES (2 POINTS)
i. NATIVE TREES AND PLANTS INSTALLED THAT ARE APPROPRIATE TO THE DEVELOPMENT SITE'S SOIL AND MICROCLIMATE TO ALLOW FOR SHADING IN THE SUMMER AND HEAT GAIN IN THE WINTER.
ii. INSTALL WATER-CONSERVING FIXTURES THAT MEET THE EPA'S WATERSENSE LABEL. SUCH FIXTURES MUST INCLUDE LOW-FLOW OR HIGH EFFICIENCY TOILETS, BATHROOM LAVATORY FAUCETS, SHOWERHEADS AND KITCHEN FAUCETS;
iii. INSTALL ENERGY- STAR QUALIFIED HOT WATER HEATERS OR INSTALL THOSE THAT ARE PART OF AN OVERALL ENERGY-STAR EFFICIENT SYSTEM;
iv. INSTALL INDIVIDUAL OR SUB-METERED UTILITY METERS;
v. INSTALL DAYLIGHT SENSOR, MOTION SENSORS OR TIMERS ON ALL EXTERIOR LIGHTING AND INSTALL FIXTURES THAT INCLUDE AUTOMATIC SWITCHING ON TIMERS OR PHOTOCELL CONTROLS FOR ALL LIGHTING NOT INTENDED FOR 24-HOUR OPERATION OR REQUIRED FOR SECURITY
vi. RECYCLE SERVICE PROVIDED THROUGHOUT THE COMPLIANCE PERIOD.

UNIT AMENITIES (7 POINTS REQUIRED):

1. NINE FOOT CEILINGS IN LIVING ROOM AND ALL BEDROOMS (AT MINIMUM) (0.5 POINT);
2. MICROWAVE OVENS (0.5 POINT);
3. SELF - CLEANING OR CONTINUOUS CLEANING OVENS (0.5 POINT);
4. REFRIGERATOR WITH ICEMAKER (0.5 POINT);
5. THIRTY (30) YEAR SHINGLE OR ROOFING (0.5 POINT);
6. 100% MASONRY ON EXTERIOR (2 POINTS);
7. R-15 WALLS/R-30 CEILINGS (RATING OF WALL/CEILING SYSTEM) (1.5 POINTS); AND
8. 14 SEER HVAC (OR GREATER) OR EVAPORATIVE COOLERS IN DRY CLIMATES FOR NEW CONSTRUCTION. (1.5 POINTS)

UNIT TYPE	HANDICAP UNITS	A/V UNITS
A	2	2
B	6	2

28 Tax Credits

NOTES:

1. REFER TO OWNER'S CONSULTANTS CIVIL DRAWINGS FOR GRADING, DIMENSIONAL CONTROL, UTILITIES, PAVING SPECIFICATIONS AND PARKING QUANTITIES AND LAYOUT DETAILS.
2. REFER TO OWNERS GEOTECHNICAL CONSULTANT FOR SOIL PREP REQUIREMENTS OF SUBGRADE.
3. REFER TO OWNER'S CONSULTANT LANDSCAPE ARCHITECTS DRAWINGS FOR ALL INFORMATION RELATING TO POOL LAYOUT AND DETAILING, SIDEWALKS, FENCING, PLANTING AND SCREENING AREAS.
4. REFER TO A320 FOR BUILDING PLAN NOTES

XX XX — BUILDING NUMBER / BUILDING FIRE SEPARATION AREA

PROPERTY LINES

HANDICAP PARKING SPACES, VERIFY W/ CIVIL DRWGS FOR SURFACE PARKING

SPRINKLER CLOSET LOCATION

FDC — FIRE DEPARTMENT CONNECTION

ACCESSIBLE PATH

TYPE "A" HANDICAP UNITS

T — T (TRANSFORMER) SG (SWITCH GEAR) 3T (3 PHASE TRANSFORMER)

2 HR. WALLS

RECYCLING OR RECYCLING CONTAINER

24 Site Plan Notes and Legend

30 Vicinity Map
N.T.S.

JHP

JHP Architecture / Urban Design
8340 Meadow Road Suite 150
Dallas, Texas 75231
Telephone: 214-363-5687
Fax: 214-363-9563

NOT FOR REGULATORY APPROVAL, PERMIT, OR CONSTRUCTION.

JOHN M. SCHRADER

Registered Architect of the State of TEXAS
Registration Number: 17828

Villas at Vanston Park
Mesquite, Texas

Project Number: 2012100.00
Drawn By: LB
Issue For
DD 4.14.2014

Revision Date

SITE PLAN

A101

PROJECT TABULATION

Villas at Vanston
Mesquite, Texas

JHP Architecture / Urban Design
Project Number 2012100.00

14-Apr-2014

Site Acreage	3.4 Net Acres
Project Density	45.59 Units Per Acre
Project Efficiency	80.4% [1]

UNIT DATA:

Description / Unit	A1 1B/1B Cond.1	A1-LW 1B/1B Cond.1	A2 1B/1B Cond. 1	B1 2B/2B Cond. 1	B1 2B/2B Cond. 2	B1-LW 2B/1.5B Cond. 1	B2 2B/2B Cond. 1	Totals/Avg.
Total Number	23	1	22	101	4	2	2	155
Net Square Footage	672	672	683	955	933	955	1,212	875
Gross Square Footage	719	672	722	1,001	981	855	1,498	923
Total Units per Family	23	1	22	105		2	2	
Percent of Total	14.84%	0.65%	14.19%	67.74%		1.29%	1.29%	100%
Percentage of Mix		30%			70%			
Unit Net Totals	15,456	672	15,026	96,455	3,732	1,910	2,424	135,675
Unit Gross Totals	16,537	672	15,884	101,101	3,924	1,910	2,996	143,024

Net S.F.
When applied to the Unit Data, the net square footage includes all enclosed conditioned dwelling unit space.
When applied to the Building Data the net square footage includes the enclosed conditioned floor area of the dwelling units, amenity areas, corridors and
Measurements are taken to the exterior face
face of stud of the enclosing wall.

Gross S.F.
When applied to the Unit Data, the gross square footage includes all enclosed conditioned and unconditioned dwelling unit space.
When applied to the Building Data the gross square footage includes the enclosed conditioned and and building service areas.
Measurements are taken to the exterior face
face of stud of the enclosing wall.

BUILDING DATA:

Building	Area	Building Area	A1 1B/1B Cond.1	A1-LW 1B/1B Cond. 1	A2 1B/1B Cond. 1	B1 2B/2B Cond. 1	B1 2B/2B Cond. 2	B1-LW 2B/1.5B Cond. 1	B2 2B/2B Cond. 1	Total Units per Floor	Total Units
Building I	Area A	1st Floor	2		2	4				8	30
		2nd Floor	3		2	5	1			11	
		3rd Floor	3		2	5	1			11	
	Area B	1st Floor		1	0	2		2		5	29
		2nd Floor	3		2	5	1		1	12	
		3rd Floor	3		2	5	1		1	12	
Building II	Area C	1st Floor	2		4	9				15	45
		2nd Floor	2		4	9				15	
		3rd Floor	2		4	9				15	
	Area D	1st Floor	1			16				17	51
		2nd Floor	1			16				17	
		3rd Floor	1			16				17	
Building III	Garage	Garage Level 1									
		Garage Level 2									
		Garage Level 3									
		Garage Level 4									
		UNIT TOTAL	23	1	22	101	4	2	2	Unit Total	155
Total Units per Family			23	1	22	105		2	2	Total Parking Required	
Parking Spaces Required by Owner			23	1	22	210		4	4	264	
Parking Spaces Required by Zoning			23	1	22	105		2	2	155	

Building	Area	Floor	Unit Net S.F. per Floor	Unit Gross S.F. per Floor	Storage Net S.F. per Floor	Amenity S.F. per Floor	Retail S.F. per Floor	Corridor S.F. per Floor	Total Net S.F. per Floor	Total Net S.F. per Floor	Total Gross S.F. per Floor	Total Gross S.F. per Floor
Building I	Area A	1st Floor	6,530		0		1,656		8,186	26,486		32,816
				6,886				2,378			10,920	
		2nd Floor	9,090		60		0		9,150			
				9,587		0		1,301			10,948	
		3rd Floor	9,090		60		0		9,150			
				9,587		0		1,301			10,948	
	Area B	1st Floor	4,492		0		2,624		7,116	27,720		36,815
				4,584		4,335		440			11,983	
		2nd Floor	10,302		0		0		10,302			
				11,085		0		1,331			12,416	
		3rd Floor	10,302		0		0		10,302			
				11,085		0		1,331			12,416	
Building II	Area C	1st Floor	12,671		120		0		12,791	38,373		48,128
				13,335		0		2,654			16,109	
		2nd Floor	12,671		120		0		12,791			
				13,335		0		2,574			16,029	
		3rd Floor	12,671		120		0		12,791			
				13,335		0		2,535			15,990	
	Area D	1st Floor	15,952		0		0		15,952	47,856		56,878
				16,735		0		2,247			18,982	
		2nd Floor	15,952		0		0		15,952			
				16,735		0		2,213			18,948	
		3rd Floor	15,952		0		0		15,952			
				16,735		0		2,213			18,948	
Building III	Garage	Garage Level 1									27,328	104,969
		Garage Level 2									26,949	
		Garage Level 3									26,949	
		Garage Level 4									23,743	

Total Unit Net S.F.	Total Unit Gross S.F.	Total Storage [3] Net S.F.	Amenity Gross S.F.	Total Retail Gross S.F.	Total Corridor Gross S.F.	Total Building Net S.F.	Total Gross Building S.F.
135,675	143,024	480	4,335	4,280	22,518	140,435	279,606

[1] Project Efficiency is calculation : [total unit net SF+ leasable storage+retail] / total residential gross SF
[2] Corridor Area Includes: Corridors, Mechanical, Stairs, Mailrooms, Brick Ledges and other supporting areas.
[3] Balconies on the ground floor are flat work and not considered part of the structural slab. Balconies that are part of the supporting structure are included in the Gross Square Footage of the unit.
[4] Storage Area is estimated, support rooms such as Fire Risers, Telephone, Cable and Security may utilize some of this area.
[5] Leasing office 1,965 S.F. 2356 S.F. is resident amenity support areas

JHP

JHP Architecture / Urban Design
8340 Meadow Road Suite 150
Dallas, Texas 75231
Telephone: 214-363-5687
Fax: 214-363-9563

NOT FOR REGULATORY APPROVAL, PERMIT, OR CONSTRUCTION.

JOHN M. SCHRADER

Registered Architect of the State of TEXAS
Registration Number: 17828

Villas at Vanston Park
4540 Gus Thomasson Rd.
Mesquite, Texas

Project Number: 2012100.00
Drawn By: LB
Issue For
DD 4.14.2014

Revision Date

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action to approve application amendments for the Cevallos Lofts in San Antonio (#09404).

RECOMMENDED ACTION

WHEREAS, Cevallos Lofts received a 2009 Determination Notice awarding $285,205 in annual 4% Housing Tax Credits and a Tax Credit Assistance Program (TCAP) loan of $7,000,000 to newly construct 252 multifamily units targeted towards the general population in San Antonio, Texas;

WHEREAS, the Development Owner has been paying down the zero percent interest TCAP loan and will, by September 1, 2014, have reduced the outstanding principal balance to $6,500,000;

WHEREAS, the Development Owner has submitted the final cost certification reflecting a credit request of $317,609 in annual 4% Housing Tax Credits, which is $32,404 (11%) more the amount of credits reflected in the Determination Notice;

WHEREAS, an increase in credits from determination notice of more than 10% is contingent upon approval by the Board pursuant to 10 TAC §10.402(c);

WHEREAS, the Development Owner has requested the Department's consideration and approval to restructure the current variable rate permanent financing by fixing the rate and creating $3,575,000 in new superior amortizing debt and debt service having priority to the Department's TCAP loan while also re-amortizing the remaining TCAP balance so that the Department's loan is amortized in full at 30 years instead of the original 35 years;

WHEREAS, staff believes the requested financing structure is substantial and pursuant to 10 TAC §10.405(a), the Board shall reevaluate a Development that undergoes a substantial change; and;

WHEREAS, staff has further negotiated with the Development Owner to pay down the TCAP loan by an additional $500,000 and required additional consideration to mitigate the risk of the increased debt superior to the TCAP loan in the form of a guarantee in the amount of the unpaid principal of the additional debt for as long as said additional debt is outstanding.

NOW, therefore, it is hereby

RESOLVED, that the amendments of the Housing Tax Credit and TCAP Applications for Cevallos Lofts to increase the 4% tax credit allocation by more than 10% and restructure and increase the permanent financing with priority to the TCAP funds is approved as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cevallos Lofts was awarded a 2009 Determination Notice for 4% tax credits associated with $21M in private activity tax exempt bonds issued through the San Antonio Housing Trust Finance Corporation to newly construct 252 multifamily units in San Antonio. The development subsequently applied for and received a $7,000,000 second lien TCAP loan at 0% interest with a 35-year amortization and 30-year maturity. The development proposed a mixed income development with 63 units restricted to low income tenants and the remaining 189 units offered at market rate in downtown San Antonio. The cost certification for the development has been submitted and reviewed by Asset Management, with a final credit request and recommendation of $317,609. The development's final construction costs and eligible basis, which have been certified by a third party CPA, supports the owner's requested credit amount. However, because the final requested and recommended tax credit amount exceeds 110% percent of the amount of credits reflected in the Determination Notice, approval is required by the Board. Additionally, the owner will be required to pay a Credit Increase Request Fee pursuant to §10.901 of the 2014 Uniform Multifamily Rules.

Prior to finalizing the cost certification review, the owner contacted TDHCA staff to discuss their intent to restructure the permanent financing for this development. Specifically, the owner is seeking to take advantage of the low interest rate environment and switch from an underlying variable rate tax-exempt bond structure to a fixed rate bond structure. This will allow the partnership to take advantage of the higher than originally projected cash flow as the development is already stabilized and performing very well. The additional cash flow that would result from a fixed, low interest rate bond structure would also allow additional debt service capacity to fund new loan proceeds in what is known as a taxable tail. This new loan would be amortized with the remaining original debt and have priority repayment such that all of the principal reduction would go toward eliminating the tail loan first. The additional loan proceeds would allow for a nearly immediate payment of the significant amount of deferred developer fee. The owner has asked the Department to consider and approve increased leverage from the senior lender on this transaction, Citi/Freddie Mac, in the form of a taxable tail in the amount of $3,575,000. The new debt would be cross-collateralized and cross-defaulted with the senior loan and would constitute additional leverage that would be senior to the TDHCA TCAP loan. To mitigate this, the owner initially proposed a modification to the TCAP loan to allow additional cash flow to be paid to the TCAP loan so that the Department can achieve an accelerated repayment in 30 rather than 35 years.

After several discussions and at the suggestion of staff, the owner proposed using $500,000 of the new debt to pay down a portion of the TCAP loan and then re-amortize the remaining balance to be repaid in 30 years versus 35 years as currently structured. Staff further requested that one of three additional mitigation scenarios be considered. 1) that the new debt be structured *pari passu* in term and priority with the TCAP debt, 2) recourse to the developer for the additional leverage in the form of an acceptable guarantee, or 3) a letter of credit to support the amount of the additional debt. The owner has offered a corporate guarantee for the TCAP loan up to the amount of the new debt that will be superior to the TCAP loan.

Staff evaluated the revised financial structure as proposed in the attached underwriting analysis and determined that the additional credit amount is warranted and the additional debt and restructuring will maintain financial feasibility.

Staff recommends approval of the Applicant's amendment requests.

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
July 31, 2014

Addendum to Underwriting Report

TDHCA Application #: **09761/09404** Program(s): **TCAP/4% Housing Tax Credit**

Cevallos Lofts

Address/Location: 301 E. Cevallos Street

City: San Antonio County: Bexar Zip: 78204

Analysis Purpose: Cost Certification

	APPLICATION HISTORY
Report Date	**PURPOSE**
07/31/14	**Cost Certification Underwriting Analysis and Amendment**
03/23/10	2nd Amendment to TCAP Underwriting Report
03/05/10	Amendment to TCAP Underwriting Report
03/05/10	TCAP Underwriting Report
02/22/10	Amendment to 4% HTC Underwriting Report (recommended after Board action)
08/28/09	4% HTC Underwriting Report (not recommended)

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Rate**	**Amort**	**Term**	**Amount**	**Rate**	**Amort**	**Term**	**Lien**
TCAP Permanent Loan Replacement	$7,000,000	0.00%	35	30	$6,000,000	0.00%	30	35	
LIHTC (Annual)	$285,205				$317,609				

CONDITIONS STATUS

1 All prior Conditions have been met or clarified in this report.

2 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

ANALYSIS

Cevallos Lofts was approved in March 2010 to receive a TCAP loan and a Determination Notice granting $285,205 in annual 4% housing tax credits to newly construct 252 multifamily units for the general population in San Antonio, Texas. The initial underwriting report did not recommend the transaction because of the significant amount of deferred developer fee projected at the time. The subsequent TCAP loan of $7M was structured at a 0% interest rate, 35-year amortization and 30-year maturity and greatly relieved the financial infeasibility conditions described in the original underwriting report. The property placed in service in December 2011 and has submitted the final cost certification in order to receive IRS Forms 8609 for the 4% housing tax credits.

In conjunction with the cost certification, the Development Owner has requested the Department's approval to modify their TCAP loan along with a restructure of their final financing for this transaction, which will be discussed in more detail in the Sources of Funds section of this memo. Finally, the owner's cost certification reflects a final credit request of $317,609, which is supported by the development's eligible basis and is 11% more than the amount granted in the 2009 Determination Notice. Pursuant to §10.402(c) of Subchapter E of the 2014 Uniform Multifamily Rules, increases to the amount of tax credits that exceed 110 percent of the amount of credits reflected in the Determination Notice are contingent upon approval by the Board and subject to a credit increase request fee as specified in §10.901 of this chapter.

Operating Pro Forma

The unit mix consists of 63 low income units and 189 market rate units. Rents are based on the current housing tax credit program rents less utility allowances for the low income units and the market rents collected as verified by the latest property rent roll (4/30/2014). As a 75% market rate deal the Underwriter assumed secondary income at $85/unit/month consistent with the property's historical information.

The Department's operating expense projection is 11% lower than the owner's and takes into account the property's actual operating history as submitted to the Department in the Annual Part D report. The owner's net operating income is within 5% of the Department's estimate. As a result, the Department's year one proforma is used to determine the development's debt capacity. The owner's submitted proforma meets the Department's current guidelines with respect to the DCR limit.

Development Cost

The owner's final total development costs, certified by a third party CPA, are within 5% of the Department's last underwritten costs and therefore considered acceptable for purposes of determining the development's need for permanent funds and calculating eligible basis. An eligible basis of $31,792,431 supports annual tax credits of $339,476. This amount will be compared to the Owner's cost certification request and the tax credits calculated based on the gap in need for permanent funds to determine a final credit recommendation.

Sources of Funds

As mentioned at the beginning of this memo, the Development Owner has requested to modify the Department's TCAP loan as a result of a restructure of the permanent financing. Specifically, the owner would like to take advantage of the low interest rate environment to switch from an underlying variable rate tax-exempt bond structure to a fixed rate bond structure. With this lower rate tax exempt bond structure, the partnership would experience higher cash flow and faster repayment of the developer fee overtime, but would prefer to obtain increased leverage from the senior lender (Citi/Freddie Mac) in the form of a taxable tail. A taxable tail loan, however, would be cross-collateralized and cross-defaulted with the senior loan and would place additional leverage that is senior to the TDHCA TCAP loan.

While the owner believes the additional default risk to the department is mitigated by the fact that the property is already stabilized and performing very well and has proposed an adjustment to the TCAP loan so that the Department can recapture the TCAP funds earlier. The owner has proposed to use a portion of the taxable tail loan proceeds, $500K, to pay down the principal balance of the TCAP loan. The owner has been paying on the TCAP loan for two years, thus paying down the original $7M balance to an approximate $6.5M balance now. A pay down of this principal at closing would bring the remaining TCAP loan balance to $6M, and the owner has also proposed a re-amortization to repay the balance in 30 years instead of 35 years. Debt service would essentially remain the same as before going forward. With all of the restructured debt the new operating proforma, expense to income ratio, debt coverage ratio and repayment of deferred developer fee are all within the underwriting constraints of the Department and therefore can be recommended.

Staff has further considered additional mitigation in the form of a guarantee from the corporate entities owned by the principals of the prime developer. Such guarantees would serve to enhance the repayment of the TCAP loan.

Asset Manager:	*Raquel Morales*
Director of Asset Management:	*Cari Garcia*

1u

BOARD ACTION REQUEST

BOND FINANCE DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action adopting Resolution No. 14-039 authorizing application to the Texas Bond Review Board for reservation of the 2014 single family private activity bond authority from the housing set-aside.

RECOMMENDED ACTION

See attached resolution

BACKGROUND

Federal law limits the amount of tax-exempt financing of certain private activities including single family housing bonds or mortgage credit certificate programs by allocating a limited amount of Volume Cap to each state. The Texas Bond Review Board administers the use of that Volume Cap for the State of Texas. Bond Finance is requesting authorization to apply for an amount not-to-exceed $400 million of unreserved 2014 housing Volume Cap from the housing set-aside under the 2014 state ceiling. The Volume Cap for housing collapses on August 15, 2014, after which the cap can be used for non housing activities. By reserving unused Volume Cap, the Department will help ensure the housing volume cap gets fully utilized for housing activities. All requested Volume Cap is expected to be used for future Mortgage Credit Certificate Programs ("MCC") programs. Any requested Volume Cap must be used within three years. If carried forward at the end of December, the Department would have until December 31, 2017 to use the Volume Cap for an MCC transaction.

For each new TDHCA MCC program (or single family bond issuance), the Governing Board of the Department starts the process by approving a resolution and filing an application for Volume Cap with the Texas Bond Review Board. Staff is not requesting final approval of a MCC program for 2014. Staff will come back to the Board at a later date with a final structure for the Board's review and consideration.

The chart below outlines the Department's available single family Volume Cap for the calendar year 2014. Carried forward Volume Cap from 2013 must be used by December 31, 2016, and 2014 requested Volume Cap must be used by December 31, 2017.

Projected Sources as of July 1, 2014	
2013 Unencumbered Cap - Carried Forward	400,000,000
2014 Housing Volume Cap Request - Proposed	**400,000,000**
2014 Unencumbered Cap - estimate, to be determined this Fall	500,000,000
Projected Available Cap as of January 1, 2015	1,300,000,000
Projected Uses	
2015 MCC (expected to Close January 2015)[1]	525,000,000
2015A Single Family Bonds (expected to Close September 2015)[2]	260,000,000
2016 MCC (expected to Close February 2016)[3]	260,000,000
Carryforward for Future Transactions[4]	255,000,000
Total Uses	1,300,000,000

1. Derived from 2013 unencumbered state ceiling and 2013 set-aside. Must be used by 12/31/16.
2. Derived from 2014 unencumbered state ceiling. Must be used by 12/31/17.
3. Derived from 2014 unencumbered state ceiling. Must be used by 12/31/17.
4. Included in estimated additional Unencumbered Cap of $500 million. Must be used by 12/31/17

By way of reference the actual MCC Volume Cap usage for the last three fiscal years has been $260 million for fiscal year 2012, $260 million for fiscal year 2013 and $525 million through July 2014.

RESOLUTION NO. 14-039

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a certified copy of the resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Governing Board has determined to authorize the filing of an Application for Reservation in the maximum amount of $400,000,000 with respect to qualified mortgage bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPLICATION FOR RESERVATION

Section 1.1 Application for Reservation. The Governing Board hereby authorizes Bracewell & Giuliani LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board an Application for Reservation in the maximum aggregate amount of $400,000,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of the Reservation. The Governing Board further authorizes the filing of a carry-forward designation request with respect to such Reservation.

Section 1.2 Authorization of Certain Actions. The Governing Board authorizes the Executive Director, the staff of the Department, as designated by the Executive Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the actions authorized in Section 1.1.

Section 1.3 Mortgage Credit Certificate Authority. The Department reserves the right, upon receipt of a Reservation, to convert all or any part of its authority to issue qualified mortgage bonds to mortgage credit certificates.

Section 1.4 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Deputy Executive Director of Multifamily Finance and Fair Housing of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Execution page follows

PASSED AND APPROVED this 31st day of July, 2014.

____
Chair, Governing Board

ATTEST:

____
Secretary to the Governing Board

(SEAL)

1v

BOARD ACTION REQUEST

HOME PROGRAM DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action to authorize the issuance of the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability ("NOFA") and publication of the NOFA in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("TDHCA" or "the Department") has approximately $8,630,407 to make available for HOME Program single family activities, and

WHEREAS, the Department is experiencing continued demand for funding for HOME Program single family activities under the Reservation System;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish a 2014 HOME Single Family Programs Reservation NOFA in the *Texas Register*; and

FURTHER RESOLVED, that funds in the amount of approximately $8,630,407 available from the Department's 2014 allocation of HOME funds is hereby made available to the 2014 HOME Single Family Programs NOFA to be published in the *Texas Register*.

BACKGROUND

The U. S. Department of Housing and Urban Development's ("HUD") State of Texas 2014 allocation to TDHCA for the HOME Program is $24,483,424. TDHCA has programmed the funds for various uses in accordance with the HUD- approved 2014 Consolidated Plan One-Year Action Plan ("OYAP"). Staff is proposing to release a HOME Single Family Programs Reservation System NOFA that includes $8,630,407 of the 2014 HOME allocation including mandatory set asides. These funds will be made available to single family HOME Program Reservation System Administrators for Homeowner Rehabilitation Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance activities. Approval for participation in the Reservation System is not a guarantee of funding availability.

Of the $8,630,407 that will be released under this NOFA, approximately $5,406,236 is subject to the Regional Allocation Formula ("RAF"); $2,000,000 will be set-aside for the Contract for

Deed Conversion Program; and $1,224,171 will be set aside under the Persons with Disabilities set-aside. The set-aside funds are not subject to the RAF. Funds subject to the RAF will be available in each Uniform State Service Region. Funds not requested in each Region will collapse together with any available Program Income and Deobligated Funds and made available statewide for any non set-aside activity for HRA, HBA, and TBRA activities.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 20, Single Family Umbrella Rule, and Chapter 23, the Single Family HOME Program, as amended ("HOME Program Rule"), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended ("HOME Final Rule").

The 2014 HOME Single Family Programs Reservation System NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules. Administrators will access the funds available under this NOFA either through existing agreements or by applying under an open application cycle. The RAF tables are not included in the NOFA; however, the tables will be available on the Department's website as stated in the NOFA.

REPORT ITEMS

R1

BOARD REPORT ITEM

FINANCIAL ADMINISTRATION DIVISION

JULY 31, 2014

REPORT ITEM

Report on the Department's 3rd Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")

BACKGROUND

The Department's investment portfolio consists of two distinct parts. One part is related to bond funds under trust indentures which are not subject to the PFIA, and the remaining portion is related to accounts excluded from the indentures but covered by the PFIA. The Department's total investment portfolio is $914,483,450, of which $885,118,384 is not subject to the PFIA. This report addresses the remaining $29,365,066 (See Page 1 of the Internal Management Report) in investments covered by the PFIA. These investments are deposited in the General Fund, Housing Trust Fund, Compliance, and Housing Initiative accounts which are all held at the Texas Treasury Safekeeping Trust Company ("TTSTC"), primarily in the form of overnight repurchase agreements which are fully collateralized and secured by the U.S. Government Securities. A repurchase agreement is the purchase of a security with an agreement to repurchase that security at a specific price and date which in this case was May 30, 2014, with an effective interest rate of 0.05%. The overall objective of these investments is to safeguard principal while maintaining liquidity.

Below is a description of each fund group and its corresponding accounts.

- The **General Fund** accounts maintain funds for administrative purposes to fund expenses related to the Department's ongoing operations. These accounts contain balances related to bond residuals, fee income generated from the Mortgage Credit Certificate program ("MCC"), escrow funds, single family and multifamily bond administration fees, and balances associated with the Below Market Interest Rate ("BMIR") Program.

- The **Housing Trust Fund** accounts maintain funds related to programs set forth by the Housing Trust Fund funding plan. The Housing Trust Fund provides loans and grants to finance, acquire, rehabilitate, and develop decent and safe affordable housing.

- The **Compliance** accounts maintain funds from compliance fees and asset management fees collected from multifamily developers. The number of low income units and authority to collect these fees is outlined in the individual Land Use Restriction Agreements ("LURAs") that are issued to each Developer. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the monitoring and administration of these properties.

- The **Housing Initiative** accounts maintain funds from fees collected from Developers in connection with the Department's Tax Credit Program. The majority of fees collected are application fees and commitment fees. The authority for the collection of these fees is outlined in the Department's Qualified Allocation Plan. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the administration of the Tax Credit Program.

This report is in the prescribed format and detail required by the Public Funds Investment Act. It shows in detail the types of investments, their maturities, their carrying (face amount) values, and fair values at the beginning and end of the quarter. The detail for investment activity is on Pages 1 thru 3.

During the 3rd Quarter, as it relates to the investments covered by the PFIA, the carrying value decreased by $2.8 million (See Page 1) for a total of $29,365,066. The decrease is described below by fund groups.

General Fund: The General Fund decreased by $332,943. While $1.6 million was received in bond administration fees and $352,531 in MCC fees, disbursements were made of $1.2 million transferred to fund the operating budget and $701,771 in bond maintenance fees. In addition, grant disbursements included $595,793 related to the Homeless Housing and Services Program.

Housing Trust Fund: The Housing Trust Fund decreased by approximately $2.1 million. This consists primarily of disbursements of $2.6 million for loans and grants, offset by $717,731 received in loan repayments.

Compliance: Compliance funds decreased $196,501. The Department received $1.5 million in income related to compliance fees while transferring $1.7 million to fund the operating budget.

Housing Initiative: Housing Initiative funds decreased $259,675. The Department received $580,936 in fees related to tax credit activities and transferred $848,750 to fund the operating budget.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOUSING FINANCE DIVISION

PUBLIC FUNDS INVESTMENT ACT
INTERNAL MANAGEMENT REPORT
(TEX. GOV'T CODE, §2256.023)
QUARTER ENDING MAY 31, 2014

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOUSING FINANCE DIVISION
PUBLIC FUNDS INVESTMENT ACT
Internal Management Report (Sec. 2256.023)
Quarter Ending May 31, 2014

(b) (4) Summary statement of each pooled fund group:

NON-INDENTURE RELATED:	Investment Type	FAIR VALUE (MARKET) @ 02/28/14	CARRYING VALUE @ 02/28/14	CARRYING VALUE @ 5/31/14	FAIR VALUE (MARKET) @ 5/31/14	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT RECVBL @ 5/31/14	RECOGNIZED GAIN
General Fund	Mortgage Backed Securities	2,119,177.13	2,027,139.56	1,759,111.34	1,840,197.41	(10,951.50)	10,510.46	0.00
General Fund	Repurchase Agreement	6,280,518.16	6,280,518.16	6,215,603.43	6,215,603.43	-	17.25	0.00
Housing Trust Fund	Repurchase Agreement	6,972,257.41	6,972,257.41	4,918,008.53	4,918,008.53	-	13.88	0.00
Compliance	Repurchase Agreement	8,801,666.12	8,801,666.12	8,605,165.49	8,605,165.49	-	23.91	0.00
Housing Initiatives	Repurchase Agreement	8,126,852.90	8,126,852.90	7,867,177.42	7,867,177.42	-	22.05	0.00
TOTAL		32,300,471.72	32,208,434.15	29,365,066.21	29,446,152.28	(10,951.50)	10,587.55	0.00

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:
Tim Nelson completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 10, 2014
David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 16, 2013

David Cervantes, Chief Financial Officer — Date 7/16/14

Tim Nelson, Director of Bond Finance — Date 7-15-14

Texas Department of Housing and Community Affairs
Non-Indenture Related Investment Summary
For Period Ending May 31, 2014

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 02/28/14	Beginning Market Value 02/28/14	Accretions/ Purchases	Amortizations/ Sales	Maturities	Transfers	Ending Carrying Value 05/31/14	Ending Market Value 05/31/14	Change In Market Value	Recognized Gain
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	1,554,031.22	1,554,031.22	1,009.60				1,555,040.82	1,555,040.82		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	10,983.21	10,983.21	21,474.04				32,457.25	32,457.25		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	73,198.89	73,198.89	428,748.48				501,947.37	501,947.37		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	67,034.61	67,034.61		(42,757.53)			24,277.08	24,277.08		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	629,969.92	629,969.92		(582,142.00)			47,827.92	47,827.92		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	1,861,867.67	1,861,867.67	407,807.60				2,269,675.27	2,269,675.27		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	283,355.81	283,355.81		(11,981.36)			271,374.45	271,374.45		0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	220,964.59	220,964.59	69,919.44				290,884.03	290,884.03		0.00
GNMA	General Fund	7.50	08/31/89	07/20/18	83,915.43	90,136.08			(4,594.78)		79,320.65	84,985.73	(555.57)	0.00
GNMA	General Fund	7.50	10/31/89	09/20/18	157,997.90	169,233.13			(18,502.37)		139,495.53	148,882.18	(1,848.58)	0.00
GNMA	General Fund	7.50	01/01/90	11/20/18	90,800.00	97,256.79			(14,641.56)		76,158.44	81,283.14	(1,332.09)	0.00
GNMA	General Fund	7.50	01/01/90	12/20/18	75,942.33	81,790.65			(4,001.66)		71,940.67	77,218.96	(570.03)	0.00
GNMA	General Fund	7.50	02/27/90	12/20/18	8,250.84	8,284.92			(384.76)		7,866.08	7,895.11	(5.05)	0.00
GNMA	General Fund	7.50	03/30/90	01/20/19	88,706.27	95,537.54			(4,789.27)		83,917.00	90,073.99	(674.28)	0.00
GNMA	General Fund	7.50	04/26/90	03/20/19	69,622.49	74,984.12			(3,469.03)		66,153.46	71,007.14	(507.95)	0.00
GNMA	General Fund	7.50	05/29/90	04/20/19	89,156.71	95,765.90			(5,088.99)		84,067.72	90,071.84	(605.07)	0.00
GNMA	General Fund	2.65	01/29/13	12/15/42	48,382.83	45,955.95			(653.13)		47,729.70	46,277.29	974.47	0.00
GNMA	General Fund	3.20	01/29/13	10/15/42	112,979.15	112,172.48			(556.53)		112,422.62	113,477.14	1,861.19	0.00
Repo Agmt	General Fund	0.05	05/30/14	06/02/14	1,579,112.24	1,579,112.24		(356,993.00)			1,222,119.24	1,222,119.24		0.00
GNMA	General Fund	8.19	07/25/90	06/20/15	5,134.36	5,206.14			(1,279.86)		3,854.50	3,868.65	(57.63)	0.00
GNMA	General Fund	8.75	10/31/89	09/20/18	15,470.25	15,549.30			(722.21)		14,748.04	14,815.88	(11.21)	0.00
GNMA	General Fund	7.50	11/30/89	10/20/18	202,214.67	217,008.70			(16,579.07)		185,635.60	198,516.85	(1,912.78)	0.00
GNMA	General Fund	8.75	11/30/89	09/20/18	14,666.41	14,741.36			(680.72)		13,985.69	14,050.02	(10.62)	0.00
GNMA	General Fund	8.75	01/01/90	11/20/18	45,986.11	49,896.77			(2,341.43)		43,644.68	46,964.29	(591.05)	0.00
GNMA	General Fund	8.75	05/29/90	02/20/19	8,327.83	8,370.39			(369.19)		7,958.64	7,995.25	(5.95)	0.00
GNMA	General Fund	8.75	04/26/90	03/20/19	61,067.40	66,921.93			(2,910.69)		58,156.71	63,471.07	(540.17)	0.00
GNMA	General Fund	8.75	06/28/90	04/20/19	4,389.34	4,410.32			(735.43)		3,653.91	3,669.18	(5.71)	0.00
GNMA	General Fund	7.19	01/22/90	11/20/14	12,291.09	12,369.75			(4,726.58)		7,564.51	7,598.40	(44.77)	0.00
GNMA	General Fund	7.19	01/01/90	11/20/14	2,573.55	2,581.91			(842.16)		1,731.39	1,735.67	(4.08)	0.00
GNMA	General Fund	7.19	01/01/90	12/20/14	3,508.16	3,531.35			(1,612.07)		1,896.09	1,903.35	(15.93)	0.00
GNMA	General Fund	7.19	01/20/90	01/20/15	10,911.99	10,977.46			(5,845.08)		5,066.91	5,088.55	(43.83)	0.00
GNMA	General Fund	8.19	01/01/90	01/20/15	6,258.52	6,299.51			(4,169.47)		2,089.05	2,095.48	(34.56)	0.00
GNMA	General Fund	7.19	02/27/90	01/20/15	7,880.12	7,927.72			(3,055.32)		4,824.80	4,845.31	(27.09)	0.00
GNMA	General Fund	8.19	02/27/90	12/20/14	3,017.20	3,047.43			(1,759.58)		1,257.62	1,261.62	(26.23)	0.00
GNMA	General Fund	7.19	02/27/90	01/20/15	10,698.05	10,767.80			(4,089.80)		6,608.25	6,640.37	(37.63)	0.00
GNMA	General Fund	8.19	02/27/90	01/20/15	9,468.57	9,539.96			(3,600.79)		5,867.78	5,903.05	(36.12)	0.00
GNMA	General Fund	7.19	03/30/90	01/20/15	5,344.11	5,387.61			(1,642.88)		3,701.23	3,724.18	(20.55)	0.00
GNMA	General Fund	8.19	03/30/90	01/20/15	8,844.81	8,947.68			(2,859.17)		5,985.64	6,030.65	(57.86)	0.00
GNMA	General Fund	7.19	03/30/90	02/20/15	2,737.47	2,746.37			(876.07)		1,861.40	1,866.00	(4.30)	0.00
GNMA	General Fund	8.19	03/30/90	02/20/15	10,319.24	10,397.98			(3,342.41)		6,976.83	7,016.88	(38.69)	0.00
GNMA	General Fund	7.19	04/26/90	03/20/15	9,671.47	9,731.43			(4,007.67)		5,663.80	5,690.82	(32.94)	0.00
GNMA	General Fund	8.19	04/26/90	03/20/15	2,812.11	2,822.77			(1,034.55)		1,777.56	1,782.43	(5.79)	0.00
GNMA	General Fund	7.19	04/26/90	03/20/15	2,498.40	2,506.52			(889.45)		1,608.95	1,612.92	(4.15)	0.00
GNMA	General Fund	8.19	04/26/90	03/20/15	27,164.84	27,427.25			(8,551.12)		18,613.72	18,744.95	(131.18)	0.00
GNMA	General Fund	7.19	05/29/90	04/20/15	5,087.89	5,129.25			(1,606.33)		3,481.56	3,503.15	(19.77)	0.00
GNMA	General Fund	8.19	05/29/90	03/20/15	4,862.78	4,882.23			(1,422.52)		3,440.26	3,451.20	(8.51)	0.00
GNMA	General Fund	7.19	05/29/90	04/20/15	7,773.71	7,823.69			(4,093.11)		3,680.60	3,700.99	(29.59)	0.00
GNMA	General Fund	8.19	05/29/90	04/20/15	31,079.41	31,461.69			(12,926.78)		18,152.63	18,280.24	(254.67)	0.00
GNMA	General Fund	7.19	06/28/90	05/20/15	3,619.24	3,631.69			(907.79)		2,711.45	2,719.15	(4.75)	0.00
GNMA	General Fund	7.19	06/28/90	05/20/15	3,522.09	3,534.49			(730.96)		2,791.13	2,799.42	(4.11)	0.00
GNMA	General Fund	8.19	06/28/90	05/20/15	25,182.27	25,437.37			(5,674.78)		19,507.49	19,666.09	(96.50)	0.00
GNMA	General Fund	6.19	06/28/90	05/20/15	6,413.03	6,683.34			(1,383.60)		5,029.43	5,262.29	(37.45)	0.00
GNMA	General Fund	7.19	09/13/90	06/20/15	4,071.59	4,106.04			(1,130.43)		2,941.16	2,961.01	(14.60)	0.00
GNMA	General Fund	8.19	09/13/90	07/20/15	9,744.03	9,873.53			(3,025.02)		6,719.01	6,743.27	(105.24)	0.00
GNMA	General Fund	7.19	09/13/90	07/20/15	5,938.12	5,958.25			(1,528.92)		4,409.20	4,421.28	(8.05)	0.00
GNMA	General Fund	8.19	09/13/90	08/20/15	14,517.16	14,645.06			(3,391.46)		11,125.70	11,210.92	(42.68)	0.00
GNMA	General Fund	6.19	09/13/90	07/20/15	7,503.80	7,820.09			(1,451.17)		6,052.63	6,332.87	(36.05)	0.00
GNMA	General Fund	8.19	09/28/90	08/20/15	10,286.60	10,423.51			(2,383.47)		7,903.13	7,977.26	(62.78)	0.00
GNMA	General Fund	6.19	09/28/90	08/20/15	16,087.35	16,765.43			(3,584.86)		12,502.49	13,081.36	(99.21)	0.00
GNMA	General Fund	7.19	09/28/90	08/20/15	15,212.30	15,329.28			(3,037.78)		12,174.52	12,256.09	(35.41)	0.00

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 02/28/14	Beginning Market Value 02/28/14	Accretions/ Purchases	Amortizations/ Sales	Maturities	Transfers	Ending Carrying Value 05/31/14	Ending Market Value 05/31/14	Change In Market Value	Recognized Gain
GNMA	General Fund	8.19	09/28/90	08/20/15	24,516.11	24,762.25			(6,018.43)		18,497.68	18,651.03	(92.79)	0.00
GNMA	General Fund	7.50	10/31/90	07/20/19	19,538.40	19,619.48			(729.62)		18,808.78	18,878.75	(11.11)	0.00
GNMA	General Fund	7.19	10/31/90	08/20/15	1,872.29	1,879.05			(316.33)		1,555.96	1,560.80	(1.92)	0.00
GNMA	General Fund	8.19	10/31/90	09/20/15	13,519.32	13,640.32			(2,645.07)		10,874.25	10,959.07	(36.18)	0.00
GNMA	General Fund	6.19	10/31/90	09/20/15	9,060.24	9,544.06			(1,572.02)		7,488.22	7,919.17	(52.87)	0.00
GNMA	General Fund	8.19	10/31/90	09/20/15	23,465.52	23,707.21			(4,811.52)		18,654.00	18,817.97	(77.72)	0.00
GNMA	General Fund	6.19	11/28/90	10/20/15	13,459.27	14,178.00			(2,102.11)		11,357.16	12,010.76	(65.13)	0.00
GNMA	General Fund	8.19	11/28/90	10/20/15	32,923.37	33,573.94			(12,459.32)		20,464.05	20,645.16	(469.46)	0.00
GNMA	General Fund	7.50	12/21/90	08/20/19	13,883.04	13,940.65			(529.44)		13,353.60	13,403.14	(8.07)	0.00
GNMA	General Fund	7.19	12/21/90	10/20/15	7,255.46	7,282.09			(1,030.24)		6,225.22	6,245.14	(6.71)	0.00
GNMA	General Fund	8.19	12/21/90	11/20/15	14,883.18	15,016.68			(4,840.60)		10,042.58	10,118.30	(57.78)	0.00
GNMA	General Fund	8.19	02/25/91	10/20/15	4,428.42	4,447.64			(743.60)		3,684.82	3,698.71	(5.33)	0.00
GNMA	General Fund	6.19	01/25/91	11/20/15	16,658.94	17,548.53			(3,923.79)		12,735.15	13,468.06	(156.68)	0.00
GNMA	General Fund				1,514.23	1,516.67			(1,514.23)				(2.44)	0.00
GNMA	General Fund	8.19	02/25/90	01/20/16	9,367.96	9,509.14			(1,626.29)		7,741.67	7,827.68	(55.17)	0.00
GNMA	General Fund	7.50	03/28/91	11/20/19	10,013.63	10,055.19			(389.47)		9,624.16	9,659.87	(5.85)	0.00
GNMA	General Fund	8.19	03/28/91	02/20/16	12,955.29	13,164.26			(1,828.06)		11,127.23	11,261.65	(74.55)	0.00
GNMA	General Fund	8.75	04/29/91	02/20/20	14,665.54	14,740.92			(528.16)		14,137.38	14,202.84	(9.92)	0.00
GNMA	General Fund	8.19	04/29/91	04/20/16	18,436.01	18,611.15			(3,577.70)		14,858.31	14,982.23	(51.22)	0.00
GNMA	General Fund	7.19	04/29/91	02/20/16	42,093.87	43,395.83			(6,108.06)		35,985.81	36,749.07	(538.70)	0.00
GNMA	General Fund	6.19	04/29/91	04/20/16	26,732.73	28,160.26			(6,477.89)		20,254.84	21,420.51	(261.86)	0.00
GNMA	General Fund	7.19	04/26/91	04/20/16	5,197.54	5,244.89			(1,870.77)		3,326.77	3,354.58	(19.54)	0.00
GNMA	General Fund	8.75	04/26/91	01/20/20	44,227.03	48,278.23			(1,529.10)		42,697.93	46,296.08	(453.05)	0.00
GNMA	General Fund	6.19	10/23/92	09/20/17	50,651.01	53,957.00			(4,839.99)		45,811.02	48,991.68	(125.33)	0.00
GNMA	General Fund	8.19	11/23/92	01/20/17	3,598.77	3,614.28			(1,149.11)		2,449.66	2,458.50	(6.67)	0.00
GNMA	General Fund	7.19	10/30/92	08/20/17	56,228.30	59,126.87			(7,550.78)		48,677.52	50,986.78	(589.31)	0.00
GNMA	General Fund	6.00	10/30/92	09/20/17	46,082.70	46,924.63			(3,832.69)		42,250.01	43,198.95	107.01	0.00
	General Fund Total				8,307,657.72	8,399,695.29	928,959.16	(993,873.89)	(268,028.22)	0.00	7,974,714.77	8,055,800.84	(10,951.50)	0.00
Repo Agmt	Housing Trust Fund	0.05	05/30/14	06/02/14	123,917.42	123,917.42		(93,544.33)			30,373.09	30,373.09		0.00
Repo Agmt	Housing Trust Fund	0.05	05/30/14	06/02/14	4,662.70	4,662.70	67.67				4,730.37	4,730.37		0.00
Repo Agmt	Housing Trust Fund	0.05	05/30/14	06/02/14	248,866.00	248,866.00	50,296.37				299,162.37	299,162.37		0.00
Repo Agmt	Housing Trust Fund	0.05	05/30/14	06/02/14	348,815.64	348,815.64		(138,737.52)			210,078.12	210,078.12		0.00
Repo Agmt	Housing Trust Fund	0.05	05/30/14	06/02/14	853,245.24	853,245.24		(841,504.00)			11,741.24	11,741.24		0.00
Repo Agmt	General Revenue Appn	0.05	05/30/14	06/02/14	97,816.39	97,816.39	122.33				97,938.72	97,938.72		0.00
Repo Agmt	General Revenue Appn	0.05	05/30/14	06/02/14	282,998.13	282,998.13	172,878.16				455,876.29	455,876.29		0.00
Repo Agmt	General Revenue Appn	0.05	05/30/14	06/02/14	792,578.32	792,578.32		(637,761.30)			154,817.02	154,817.02		0.00
Repo Agmt	General Revenue Appn	0.05	05/30/14	06/02/14	73,513.81	73,513.81	10,158.21				83,672.02	83,672.02		0.00
Repo Agmt	Housing Trust Fund-GR	0.05	05/30/14	06/02/14	149,061.41	149,061.41		(117,178.38)			31,883.03	31,883.03		0.00
Repo Agmt	Housing Trust Fund-GR	0.05	05/30/14	06/02/14	1,470,864.84	1,470,864.84		(348,750.11)			1,122,114.73	1,122,114.73		0.00
Repo Agmt	Boostrap -GR	0.05	05/30/14	06/02/14	83,342.08	83,342.08					83,342.08	83,342.08		0.00
Repo Agmt	Boostrap -GR	0.05	05/30/14	06/02/14	918,342.13	918,342.13		(879,802.13)			38,540.00	38,540.00		0.00
Repo Agmt	Boostrap -GR	0.05	05/30/14	06/02/14	1,056,733.30	1,056,733.30	776,006.15				1,832,739.45	1,832,739.45		0.00
Repo Agmt	Contract for Deed Conversion	0.05	05/30/14	06/02/14	467,500.00	467,500.00		(6,500.00)			461,000.00	461,000.00		0.00
	Housing Trust Fund Total				6,972,257.41	6,972,257.41	1,009,528.89	(3,063,777.77)	0.00	0.00	4,918,008.53	4,918,008.53	0.00	0.00
Repo Agmt	Multi Family	0.05	05/30/14	06/02/14	1,040,813.78	1,040,813.78		(9,386.82)			1,031,426.96	1,031,426.96		0.00
Repo Agmt	Multi Family	0.05	05/30/14	06/02/14	647,610.94	647,610.94	114,951.15				762,562.09	762,562.09		0.00
Repo Agmt	Low Income Tax Credit Prog.	0.05	05/30/14	06/02/14	7,113,241.40	7,113,241.40		(302,064.96)			6,811,176.44	6,811,176.44		0.00
	Compliance Total				8,801,666.12	8,801,666.12	114,951.15	(311,451.78)	0.00	0.00	8,605,165.49	8,605,165.49	0.00	0.00
Repo Agmt	Low Income Tax Credit Prog.	0.05	05/30/14	06/02/14	700,136.65	700,136.65	162,930.28				863,066.93	863,066.93		0.00
Repo Agmt	Low Income Tax Credit Prog.	0.05	05/30/14	06/02/14	7,045,391.48	7,045,391.48		(413,631.13)			6,631,760.35	6,631,760.35		0.00
Repo Agmt	Low Income Tax Credit Prog.	0.05	05/30/14	06/02/14	381,324.77	381,324.77		(8,974.63)			372,350.14	372,350.14		0.00
	Low Income Tax Credit Prog. Total				8,126,852.90	8,126,852.90	162,930.28	(422,605.76)	0.00	0.00	7,867,177.42	7,867,177.42	0.00	0.00
	Total Investment Summary				32,208,434.15	32,300,471.72	2,216,369.48	(4,791,709.20)	(268,028.22)	0.00	29,365,066.21	29,446,152.28	(10,951.50)	0.00

R2

BOARD REPORT ITEM

BOND FINANCE DIVISION

July 31, 2014

REPORT ITEM

Report on the Department's 3rd Quarter Investment Report relating to funds held under Bond Trust Indentures.

BACKGROUND

- The Department's Investment Policy, was revised and approved at the Board Meeting of April 11, 2013, to exclude funds invested under a bond trust indenture for the benefit of bond holders because each trust indenture controls the authorized investments under that particular trust indenture. Management of assets within an indenture is the responsibility of the Trustee. This internal management report is for informational purposes only and while not required under the Public Funds Investment Act, it is consistent with the prescribed format and detail as required by the Public Funds Investment Act. It shows in detail the types of investments, their maturity, their carrying (face amount) value and their fair value at the beginning and end of the quarter.

- The detail for investment activity can be found online at TDHCA's Board Meeting Information Center website at http://www.tdhca.state.tx.us/board/meetings.htm.

- Overall, the portfolio carrying value decreased by $38 million (See Page 1 of the attached Bond Trust Indenture Internal Management Report) for a total of $885,118,384. The decrease reflects loan repayments and bond redemptions.

  The portfolio consists of those investments described in the attached Bond Trust Indenture Internal Management Report.

	Beginning Quarter	Ending Quarter
Mortgage Backed Securities ("MBS")	88%	87%
Guaranteed Investment Contract/ Investment Agreement ("GIC/IA")	3%	5%
Repurchase Agreements	5%	4%
Money Markets and Mutual Funds	4%	4%

The 1% decrease in MBS is due to the principal payments received on the underlying mortgages. The 1% decrease in Repurchase Agreements and 2% increase in GIC/IA are a result of the deposit of mortgage repayments that are invested temporarily prior to bond redemptions.

The portfolio activity for the quarter:

- The maturities in MBS this quarter were $32 million which represents loan repayments or payoffs. The table below shows the trend in new loans and loan payoffs.

	3rd Qtr FY 13	4th Qtr FY 13	1st Qtr FY 14	2nd Qtr FY 14	3rd Qtr FY 14	Total
Purchases	40,975	3,109,759	-	-	-	3,150,734
Sales	-	-	20,238,887	-	-	20,238,887
Maturities	49,028,604	64,711,331	45,617,217	36,063,849	32,111,580	227,532,581

- The process of valuing investments at fair value (market value) identifies unrealized gains and losses. These gains or losses do not impact the overall portfolio because the Department does not typically liquidate these investments (mortgage backed securities) but holds them until maturity.

- The fair value (the amount at which a financial instrument could be exchanged in a current transaction between willing parties) increased $879,947 (See Pages 1 and 2), increasing the difference between fair value and carrying value (the Department's acquisition cost of its financial instruments net of amortization) with fair value being greater than the carrying value. The national average for a 30-year fixed mortgage, as reported by the Freddie Mac Primary Mortgage Market Survey as of May 31, 2014, was 4.12%, down from 4.37% at the end of February 2014. There are various factors that affect the fair value of these investments, but there is a correlation between the prevailing mortgage interest rates and the change in market value.

- Given the current financial environment, this change in market value is to be expected. However, the change is cyclical and is reflective of the overall change in the bond market as a whole.

- The ability of the Department's investments to provide the appropriate cash flow to pay debt service and eventually retire the related bond debt is more important than the relative value in the bond market as a whole.

- The more relevant measures of indenture parity, projected future cash flows, and the comparison of current interest income to interest expense are reported on page 3 in the Bond Trust Indenture Parity Comparison. This report shows parity (ratio of assets to liabilities) by indentures with assets greater than liabilities in a range from 99.46% to 132.16% which would indicate the Department has sufficient assets to meet its obligations. The interest comparison reflects interest income greater than interest expense and indicates a positive cash flow.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOND FINANCE DIVISION
BOND TRUST INDENTURES
Supplemental Internal Management Report
Quarter Ending May 31, 2014

Summary statement of each pooled fund group:

INDENTURE	FAIR VALUE (MARKET) @ 02/28/14	CARRYING VALUE @ 02/28/14	CHANGE IN CARRYING VALUE ACCRETION/ PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 05/31/14	FAIR VALUE (MARKET) @ 05/31/14	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT RECVBL @ 5/31/14	RECOGNIZED GAIN
Single Family	562,680,057.78	518,212,985.89	17,132,178.92	(30,547,389.80)	(20,299,134.56)	0.00	484,498,640.45	528,733,947.00	(231,765.34)	2,332,907.27	0.00
RMRB	336,005,547.97	315,143,954.08	5,370,070.44	0.00	(11,405,643.96)	0.00	309,108,380.56	330,968,276.78	998,302.33	1,100,274.30	0.00
CHMRB	5,885,286.14	5,376,144.31	174,293.23	(511.98)	(137,091.55)	0.00	5,412,834.01	5,888,925.23	(33,050.61)	30,085.40	0.00
Taxable Mortgage Program	10,075,620.26	9,951,817.88	182,149.32	(537,088.18)	(164,065.35)	0.00	9,432,813.67	9,620,261.36	63,645.31	17,177.87	0.00
Multi Family	76,255,959.40	74,679,394.88	6,879,745.51	(4,787,780.81)	(105,644.68)	0.00	76,665,714.90	78,325,094.73	82,815.31	0.00	0.00
TOTAL	990,902,471.55	923,364,297.04	29,738,437.42	(35,872,770.77)	(32,111,580.10)	0.00	885,118,383.59	953,536,505.10	879,947.00	3,480,444.84	0.00

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:
Tim Nelson completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 10, 2014
David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 16, 2013

David Cervantes, Chief Financial Officer — Date 7/16/14

Tim Nelson, Director of Bond Finance — Date 7-14-14

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
BOND FINANCE DIVISION
BOND TRUST INDENTURES
Supplemental Internal Management Report
Quarter Ending May 31, 2014

Summary statement of each pooled investment group:

INVESTMENT TYPE	FAIR VALUE (MARKET) @ 02/28/14	CARRYING VALUE @ 02/28/14	ACCRETION/ PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 05/31/14	FAIR VALUE (MARKET) @ 05/31/14	CHANGE IN FAIR VALUE (MARKET)	RECOGNIZED GAIN
INDENTURE RELATED:										
Mortgage-Backed Securities	870,692,733.20	803,154,558.69	0.00	0.00	(32,111,580.10)	0.00	771,042,978.59	839,461,100.10	879,947.00	0.00
Guaranteed Inv Contracts	28,630,967.27	28,630,967.27	14,078,985.55	(3,905,152.92)	0.00	0.00	38,804,799.90	38,804,799.90	-	0.00
Investment Agreements	1,394,727.44	1,394,727.44	3,472,375.23	0.00	0.00	0.00	4,867,102.67	4,867,102.67	-	0.00
Treasury-Backed Mutual Funds	37,501,754.88	37,501,754.88	6,324,414.99	(4,787,780.81)	0.00	0.00	39,038,389.06	39,038,389.06	-	0.00
Repurchase Agreements	52,682,288.76	52,682,288.76	5,862,661.65	(27,179,837.04)	0.00	0.00	31,365,113.37	31,365,113.37	-	0.00
INDENTURE RELATED SUBTOTAL:	990,902,471.55	923,364,297.04	29,738,437.42	(35,872,770.77)	(32,111,580.10)	0.00	885,118,383.59	953,536,505.10	879,947.00	0.00

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:
Tim Nelson completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 10, 2014
David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 16, 2013

David Cervantes, Chief Financial Officer — Date 7/16/14

Tim Nelson, Director of Bond Finance — Date 7-14-14

Texas Department of Housing and Community Affairs
Bond Finance Division
Executive Summary
As of May 31, 2014

	Single Family Indenture Funds	Residential Mortgage Revenue Bond Indenture Funds	Collateralized Home Mortgage Revenue Bond Indenture Funds	Taxable Mortgage Program	Multi-Family Indenture Funds	Combined Totals
PARITY COMPARISON:						
PARITY ASSETS						
Cash	$ 97,678		$ -		$ 19,061,978	$ 19,159,656
Investments (1)	$ 50,993,254	$ 17,642,403	$ 605,225	$ 3,784,423	$ 74,732,900	$ 147,758,205
Mortgage Backed Securities (1)	$ 434,880,318	$ 291,643,417	$ 4,807,689	$ 5,648,391	$ -	$ 736,979,815
Loans Receivable (2)	$ 2,110,003				$ 995,562,960	$ 997,672,963
Accrued Interest Receivable	$ 2,341,852	$ 1,100,274	$ 30,085	$ 9,907	$ 9,478,894	$ 12,961,012
TOTAL PARITY ASSETS	$ 490,423,104	$ 310,386,094	$ 5,442,999	$ 9,442,721	$ 1,098,836,732	$ 1,914,531,651
PARITY LIABILITIES						
Bonds Payable (1)	$ 444,225,000	$ 275,995,000	$ 4,100,000		$ 995,741,260	$ 1,720,061,260
Accrued Interest Payable	$ 4,371,793	$ 4,164,425	$ 18,601		$ 9,535,483	$ 18,090,302
Other Non-Current Liabilities (3)					$ 99,501,874	$ 99,501,874
TOTAL PARITY LIABILITIES	$ 448,596,793	$ 280,159,425	$ 4,118,601	$ -	$ 1,104,778,617	$ 1,837,653,436
PARITY DIFFERENCE	$ 41,826,311	$ 30,226,669	$ 1,324,398	N/A	$ (5,941,885)	$ 76,878,215
PARITY	**109.32%**	**110.79%**	**132.16%**	**N/A**	**99.46%**	**104.18%**

INTEREST COMPARISON For the ninth Fiscal Month Only (not Fiscal Year to Date) :

	Single Family Indenture Funds	Residential Mortgage Revenue Bond Indenture Funds	Collateralized Home Mortgage Revenue Bond Indenture Funds	Taxable Mortgage Program	Multi-Family Indenture Funds	Combined Totals
INTEREST INCOME						
Interest & Investment Income	$ 2,100,424	$ 1,104,228	$ 30,761	$ -	$ 3,520,945	$ 6,756,358
TOTAL INTEREST INCOME	$ 2,100,424	$ 1,104,228	$ 30,761	$ -	$ 3,520,945	$ 6,756,358
INTEREST EXPENSE						
Interest on Bonds	$ 1,422,378	$ 821,509	$ 23,562	$ -	$ 3,520,943	$ 5,788,392
TOTAL INTEREST EXPENSE	$ 1,422,378	$ 821,509	$ 23,562	$ -	$ 3,520,943	$ 5,788,392
NET INTEREST	$ 678,046	$ 282,719	$ 7,199	N/A	$ 2	$ 967,966
INTEREST RATIO	**147.67%**	**134.41%**	**130.55%**	**N/A**	**100.00%**	**116.72%**

(1) Investments, Mortgage Backed Securities and Bonds Payable reported at par value not fair value.
This adjustment is consistent with indenture cashflows prepared for rating agencies.
(2) Loans Receivable include whole loans only. Special mortgage loans are excluded.
(3) Other Non-Current Liabilities include "Due to Developers" (for insurance, taxes and other operating expenses) and "Earning Due to Developers" (on investments).

R3

BOARD REPORT ITEM

BOND FINANCE DIVISION

JULY 31, 2014

Report on Request for Proposal for firms registered as independent municipal advisors interested in providing financial advisory services to the Texas Department of Housing and Community Affairs ("the Department").

BACKGROUND

A Request for Proposal ("RFP") was posted on June 27th for firms registered as independent municipal advisors interested in providing financial advisory services to the Department and the RFP had a submission date of July 11, 2014.

Two joint proposals were received, each response involving the use of a Non-HUB and HUB firm working together, by the due date.

Based on a team review comprised of Department single family and multifamily staff, the firms selected to serve as Financial Advisor to the Department will be the following:

Lead Financial Advisor

- George K. Baum and Company – Dallas, TX

Co-Financial Advisor

- Kipling Jones & Co. Ltd – Houston, TX

The term of the award will be two years with the ability to renew and extend the award an additional two years.

R4

TDHCA Outreach Activities, June 2014

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Training Video Production/Housing and Health Services Coordination Council (HHSCC)	Austin	June 1-3	Housing Resource Center, Housing Trust Fund	Training
Grand Opening/San Gabriel Apartments	Georgetown	June 4	HOME, Policy & Public Affairs	Remarks, Participant
First Thursday Income Eligibility Training	Austin	June 5	Compliance	Training
Contract for Deed Conversion Assistance Grants Subrecipient Visits/Two Area Administrators	El Paso	June 5-6	Housing Trust Fund	Outreach/Marketing
Contract for Deed Conversion Assistance Grants Subrecipient Visits/One Area Administrator	San Elizario	June 6	Housing Trust Fund	Outreach/Marketing
Roundtable/Affirmatively Furthering Fair Housing	Austin	June 6	Multifamily & Fair Housing	Roundtable Hearing
Participating Lender Visits/Four Area Lenders	San Antonio	June 11-12	Homeownership	Outreach/Feedback
Training Video Production/HHSCC	Austin	June 13	Housing Resource Center	Training
Participating Lender Visits/Three Area Lenders	Dallas	June 16-17	Homeownership	Outreach/Feedback
National Assn. of Hispanic Real Estate Professionals Conference	Dallas	June 17	Homeownership	Panelist
Workshop/Single Family Environmental Clearance for Construction Projects Only	Austin	June 19-20	Program Services	Training
Public Hearing/Draft HHSCC 2014-2015 Biennial Plan	Dallas	June 23	Housing Resource Center	Public Hearing
Public Hearing/Draft HHSCC 2014-2015 Biennial Plan	Austin	June 24	Housing Resource Center	Public Hearing
Participating Lender Visits/Three Area Lenders	Houston	June 24-25	Homeownership	Outreach/Feedback

Internet Postings of Note, June 2014

A list of new or noteworthy documents posted to the Department's web site

Administrator Application for Contract for Deed Conversion Assistance Grants — *providing nonprofit organizations and units of local government access to the online Reservation System to reserve CFD Conversion Program Assistance Grant funds:*
www.tdhca.state.tx.us/htf/cfdc-assistance-grants.htm

HOME Single-Family Development Forms and Material — *providing links to technical assistance and administrative forms for Community Housing Development Organizations administering HOME funds:*
www.tdhca.state.tx.us/home-division/sfd.htm

2014 9% Housing Tax Credit Program: Individually Imaged Challenge Responses — *detailing applicants' responses to point challenges from other applicants competing in the 2014 HTC allocation cycle:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

Request for Application to Administer Community Services Block Grant and Comprehensive Energy Assistance Program — *seeking qualified applicants to administer CSBG and CEAP contracts in Aransas, Bee, Kenedy, Kleberg, Live Oak, McMullen, and Refugio Counties:*
www.tdhca.state.tx.us/community-affairs/csbg/nofas.htm

Comprehensive Energy Assistance Program: Administrative and Program Services Costs — *delineating between costs associated with administrative expenses versus those associated with program/service delivery:*
www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm

List of Approved Market Analysts — *detailing the names and email addresses of market analysts approved by the Department to provide market studies in support of applications for housing tax credits:*
www.tdhca.state.tx.us/rea/approved-analysts.htm

Request for Offer: Homebuyer/MCC Online Training Tools — *seeking a qualified vendor to develop online Homebuyer/MCC training tools for public education (links to the Comptroller's Office web page):*
http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=111942

Amy Young Barrier Removal Program: Administrator Log — *detailing the names, service area, and contact information for entities administering the Department's AYBR Program:*
www.tdhca.state.tx.us/htf/single-family/amy-young.htm

Draft Housing and Health Services Coordination Council 2014-2015 Biennial Plan — *outlining the findings and recommendations of the HHSCC with respect to service-enriched housing:*
www.tdhca.state.tx.us/hhscc/biennial-plans.htm

Community Services Block Grant Monthly Program Performance Report: Quick Check — *providing a checklist and additional explanatory details for CSBG subrecipients prior to signing off on a performance report:*
www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm

2014 Housing Tax Credit Award Limits and Estimated Regional Allocation: June 15 — *projecting the allocation of the estimated 9% HTC ceiling the Department expects to have available for the 2014 credit cycle:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

Staff Determinations on Housing Tax Credit Challenges — *detailing challenges to applications in the 2014 HTC cycle along with staff determinations:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2014 9% Housing Tax Credit Full-Application Logs by Date: June 20 — *detailing all active applications in the 2014 HTC cycle by subregion, with additional details on construction type, credits requested, and maximum score:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

Strategic Plan for Fiscal Years 2015-2019 — *defining the Department's mission, philosophy, external/internal assessments, and goals and measures for the time period referenced:*
www.tdhca.state.tx.us/housing-center/pubs-plans.htm

2014 Report on Customer Service — *evaluating the Department's facilities, staff, communications, Web site, complaint process, timeliness of service, and printed information:*
www.tdhca.state.tx.us/housing-center/pubs-plans.htm

Maximum Income and Purchase Price Limits Table — *specifying maximum limits associated with the Department's TMP 79 and MCC Programs with respect to income and home purchase price:*
www.tdhca.state.tx.us/homeownership/fthb/buyer_intro.htm

Fiscal Year 2015 Operating Budget — *detailing Department funding and fund use by a variety of metrics:*
www.tdhca.state.tx.us/finan.htm

Notice of Public Hearing for the 2015 Draft LIHEAP State Plan — *specifying the details of a planned hearing to accept comment on the on the proposed use and distribution of 2015 Low Income Home Energy Assistance Program funding:*
www.tdhca.state.tx.us/community-affairs/ceap/index.htm

4% Housing Tax Credit-Bond Status Log: July 1 — *detailing list of applicants seeking 4% credits in association with bond financing through local issuers:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm

Comprehensive Energy Assistance Program: Frequently Asking Questions — *providing answers received by the Department from entities administering its CEAP services:*
www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm

Upcoming Board Meeting Underwriting Reports — *providing the Department's Board an evaluation of individual applications for funding for affordable housing developments as completed throughout the month:*
www.tdhca.state.tx.us/rea/index.htm

R5

BOARD REPORT ITEM

HOUSING RESOURCE CENTER

JULY 31, 2014

REPORT ITEM

Status report on the development of the 2015-2019 State of Texas Consolidated Plan as required by the U.S. Department of Housing and Urban Development

BACKGROUND

The 2015-2019 State of Texas Consolidated Plan (the "Plan") is a document, required by the U.S. Department of Housing and Urban Development ("HUD"), that will, for the next five years, govern the funds received by the State of Texas from HUD for four programs: the Emergency Solutions Grants ("ESG") Program and the HOME Investment Partnerships Program ("HOME"), administered by the Texas Department of Housing and Community Affairs ("TDHCA"); the Community Development Block Grant ("CDBG") Program, operated by the Texas Department of Agriculture ("TDA"); and the Housing Opportunities for Persons with AIDS ("HOPWA") Program, operated by the Department of State Health Services ("DSHS").

All of these programs are annual block grants for community development and affordable housing which allow a broad range of eligible activities within HUD's regulations. Each state agency listed above determines which of the eligible activities will best serve the needs of the community. In order to determine the most pressing needs and develop effective, place-based, market-driven strategies to meet those needs, HUD requires grantees to develop this five year Plan. TDHCA coordinates the preparation of the Plan documents, even though two of the programs addressed in the document are administered through other state agencies.

To direct grantees in the development of the Plan, HUD has provided an online template, through its planning and reporting system, called the Integrated Disbursement & Information System ("IDIS"). The template is designed to help grantees analyze the needs within their jurisdictions and then propose strategies to meet those needs. First, the Needs Assessment and Market Analysis Chapter outlines levels of relative need in the areas of affordable housing, homelessness, special needs, and community development. This information is gathered through a number of methods, including consultation with local agencies, public outreach, and a review of demographic and economic datasets. The Market Analysis Chapter focuses on economic forces within Texas, as well as the current condition and availability of housing and community development resources in Texas. These data driven chapters form the basis of the Strategic Plan. The Strategic Plan details how each grantee 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. Finally, the Strategic Plan is used to create a One Year Action Plan, which will be updated once yearly for the next four years until the next Consolidated Plan is required.

TDHCA, TDA and DSHS are in the process of creating each chapter of the Plan: Needs Assessment, Market Analysis, Strategic Plan, and One Year Action Plan. Along with extensive research, the public and stakeholders have been consulted, beginning in April 2014. Further consultations are planned, including the following:

- Online Discussion Forum from July 11th to July 31st. This forum focuses on the Needs Assessment and Market Analysis Chapters.

- Public Hearing on July 23, 2014.

The entire draft Consolidated Plan will be presented to the Board on September 4, 2014. After a 30-day public comment period and several public hearings, staff will consider and incorporate public input into the Plan. Staff will then return to the Board on November 13, 2014, seeking approval to submit the final Plan to HUD due on or before December 15, 2014.

R6

ORAL PRESENTATION

R7

BOARD REPORT ITEM

TEXAS HOMEOWNERSHIP DIVISION

JULY 31, 2014

In light of the current state of the municipal bond market, the Texas Department of Housing and Community Affairs ("the Department") will continue the use of its successful TBA Program that allows Housing Finance Agencies ("HFAs"), such as the Department, to sell into the Ginnie Mae ("GNMA") mortgage market which provides an advantage due to the lower interest rates it affords us as well as funding for down payment and closing cost assistance.

The Board originally approved the selection of the To Be Announced ("TBA") provider, First Southwest Company, on April 12, 2012, and gave staff the authority to extend the contract at the end of the one year term under two annual options. The TBA contract officially began October 1, 2012; however, the executed program document resolution only covered a one-year extension. Thus, this report provides notice that the second year extension option is being exercised.

To date, First Southwest Company has enabled us to deliver over $350 million in mortgage purchases with no failed deliveries. Since entering the TBA business, First Southwest Company has developed a very sophisticated process for monitoring daily trades and has also been very responsive to staff's questions regarding pricing and deliveries. As a result, staff is reporting to the Board that we will be exercising the second one-year extension of the contract.

ACTION ITEMS

2

ORAL PRESENTATION

3

BOARD ACTION REQUEST

FAIR HOUSING

JULY 31, 2014

Presentation of report from the fair housing team and possible authorization to select crime data provider

RECOMMENDED ACTION

WHEREAS, staff has followed the process of developing an Invitation for Bid to procure a crime statistics data provider;

WHEREAS, uniform crime statistics data will provide the Department with an objective tool to evaluate the suitability and/or eligibility of site locations associated with applications for Department funding; and

WHEREAS, staff has identified a source of funding to purchase such data;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board authorizes staff to select and contract with a qualified crime data statistics provider through an Invitation for Bid.

BACKGROUND

The Fair Housing Team has been very active since the last Board report on June 5, 2014. Below is a summary of each of the major fair housing related projects that are in various stages of research, planning, and implementation.

Fair Housing Tracking Database

The fair housing tracking database is nearing completion. Staff is currently working on finalizing details related to the formatting and structure of auto generated reports and populating call and daily tasks logs. The final query screen is also still in production. Included in the Board materials (Exhibit A) is an example of the type of report that will be generated from the tracking database. These reports can be customized to sort and categorize information by program, by impediment, by date of completion, by status, by AI Goal, etc. The Fair Housing Team has entered all of its action steps to date and is currently collecting information from each Division on activities that have been completed or are in progress that accomplish goals or reduce barriers to fair housing. This database will be critical in ensuring that the Department meets its obligation to maintain records of its efforts to affirmatively further fair housing ("AFFH"). However, staff also expects the database to be a useful tool in identifying areas where additional measures to AFFH could be implemented.

Collection of Demographic Data

The Department's Compliance Monitoring Tracking System ("CMTS") is designed to collect household data on tenants residing in multifamily properties monitored by the Department, including a household's size, demographics, and whether the household is utilizing rental assistance. Owners are required by rule to report such information to the Department on a quarterly basis. This information is compiled annually for the Housing Sponsor Report and is then made available on the Department's website. In reviewing the data collection screens and pulling data into a larger system to begin studying demographic patterns across the Department's portfolio, staff has identified a need for changes in the data collection screens – data must be collected on each individual household member rather than on a composite household basis. Making these changes will assist staff in completing a new annual report for HUD and in creating more accurate fair housing assessments and tools as it compiles and studies demographic trends. The Fair Housing Team recently met with compliance and information systems staff to review the issue; IS staff is currently creating a scope and cost estimate for the proposed changes. This is a complex process due to the current system having been designed to "communicate" with external property management software programs.

Invitation for Bid for Crime Statistics Data

Staff has worked through the process of developing an Invitation for Bid to procure a crime statistics data provider. The Uniform Multifamily Rules currently have development siting limitations associated with the level and proximity of crime in particular areas. As such, the level of crime in an area is a critical component in assessing the suitability of a multifamily application. However, accessing uniform crime statistics is very difficult; local law enforcement agencies track crime information in a variety of formats and make the information available in a variety of ways, few of which can be synthesized to create meaningful and objective standards, especially in cases where jurisdictions overlap.

To assist the Department in creating better crime thresholds for development siting, staff is requesting that the Board authorize staff to contract with a data provider. It is expected that the data would be available for all areas of the state and that the data would correlate to particular census tracts, which are already a commonly used geographic designation in other multifamily rules. The data would enable an objective assessment of each proposed site and the development community would have clarity prior to submission of an application, thus creating a more efficient and cost effective application process. The data may also be used to develop rules or policy positions for other Department programs.

Staff recommends that the Board authorize staff to select and contract with a respondent to the Invitation for Bid.

Affirmative Marketing and Tenant Selection Rules

On June 6, 2014, staff held a roundtable in Austin to discuss potential changes to the affirmative marketing and tenant selection rules for multifamily developments. Approximately 30 persons attended the roundtable representing owners, property managers, legal aid organizations, and tenant rights organizations. Prior to the roundtable, staff released a staff draft of a new proposed affirmative marketing rule which generated great feedback. Staff is currently incorporating those comments into the staff draft. One of the primary objectives in developing this rule is to assist property owners and managers in identifying and directing marketing and outreach activities to underserved, protected classes and to create clearer guidance on practices that will affirmatively further fair housing choice.

During the roundtable it was discussed that one of the more impactful affirmative marketing efforts could involve the Department's coordination of a centralized online apartment finder tool for the Department's properties. The Department currently has a tool called a vacancy clearinghouse that provides the opportunity to search for multifamily units in a given area of the state. Based on feedback, staff has reviewed "apartment finder" style search tools maintained by other states and private companies. Staff believes there are several improvements that can be made to the vacancy clearinghouse, including integrated mapping tools and enhanced marketing and portfolio information that could include photos and information on property and area amenities (*e.g.* proximity to other community services, schools, daycares, grocery stores, etc.). A proposal for these kinds of changes and enhancements is currently being developed.

The Fair Housing Team is also working with the directors of single family programs in the development of a single family affirmative marketing rule. The purpose in crafting such a rule is to provide administrators more guidance in how to ensure all persons have equal access to the programs administered at the local level. While currently under development and subject to future public input, staff envisions a fair housing training requirement for staff involved in the administration of funds and additional requirements to ensure participating households are provided with a full understanding of the housing choices available to them.

Fair Housing Information and Resources Website Updates

In addition to the possible website changes referenced above, the Fair Housing Team is re-developing the fair housing information and resources portion of the TDHCA website. The new website section will provide the public with plain language explanations of many fair housing requirements both generally and as they relate to TDHCA properties and programs, information on tenant rights and resources, streamlined information on how and where to enter housing discrimination complaints, information and toolkits that can be used to combat NIMBYism, information for local public officials concerning zoning best practices, credit information for unbanked residents and prospective homebuyer tools, and direct links to Fair Housing resources in multiple languages. Department staff is also currently in the process of reviewing the implementation of a Google translation tool for the full TDHCA site, which will correspond with the Department's Language Assistance Plan, which will be more fully described and integrated with Department functions through its new Fair Housing website area. These changes are currently all in the review process and it is expected that the new Fair Housing portion of the website will be launched within the next two months. Staff is excited about the new fair housing section and the significantly expanded content and resources it will offer. Moreover, in order to facilitate additional feedback and continual improvement in the fair housing web content, the website will include a user feedback and suggestions form that will be submitted directly to the fair housing team for review and consideration as well as a link external users can follow to join the newly created Fair Housing email list, which will provide external groups who are not engaged as direct funding recipients with a way to stay current on Fair Housing related events and topics.

Fair Housing workgroup

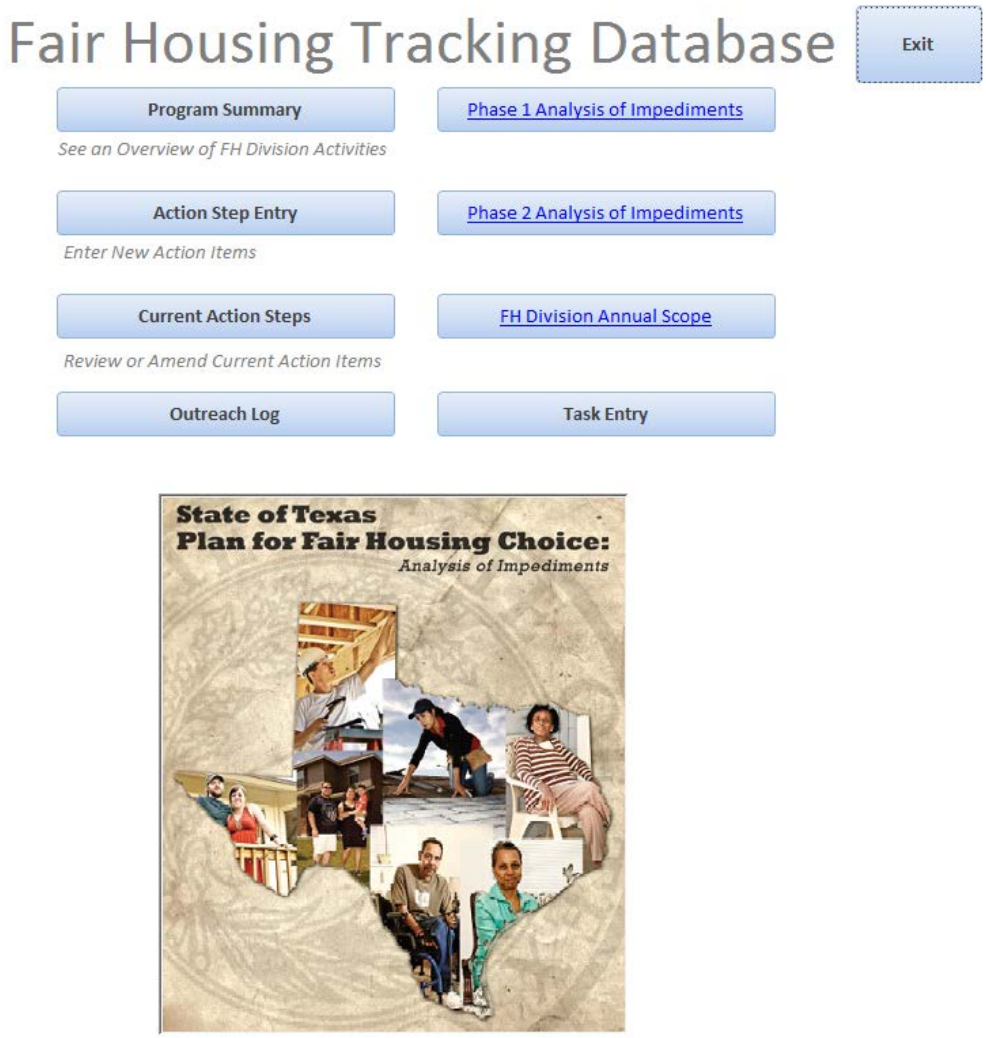
There are several state agencies that administer federal housing funding with fair housing responsibilities or with enforcement responsibilities. Representatives from each of the agencies, including the TDHCA, Texas Department of Agriculture, Texas General Land Office, Texas Department of State Health Services, and Texas Workforce Commission are now meeting on a regular monthly basis to discuss fair housing issues, discuss rule and policy changes, and brainstorm new ideas to improve agency coordination and resource sharing.

Internal Fair Housing Education and Training

In order to move Fair Housing goals and priorities forward, we need the help of everyone at TDHCA. Fair Housing is not a standalone division; rather, it is a Team that moves across divisions to bring education, awareness, training, and assistance in implementing division and agency-wide goals. We cannot accomplish our work without the hard work of everyone across the agency. Already we are accessing the help of our Single Family Division Directors, our Multifamily Finance Division Director, our IS team, our Compliance Division Director, our Program Planning Policy and Metrics staff, our Housing Resource Center staff, our Legal staff, and our Policy and Public Affairs staff. Building a consistent Fair Housing message is as much about developing an internal presence as it is an external one; to this end, a Fair Housing email group has been established, Fair Housing posters are now displayed in our TDHCA lobby and are available for staff download, the Fair Housing Team has met individually with the Director of each Division and has gathered feedback about each Division's fair housing goals and challenges, and staff is also planning a Brown Bag series to discuss its current efforts and planned goals and gather feedback on training and communication. The first of these Brown Bag sessions will occur on July 30th. In time, the Fair Housing Team hopes to make itself a resource for all staff and engage all Divisions in fruitful discussions about how we can continue to assess and remove barriers to fair housing choice for all Texans.

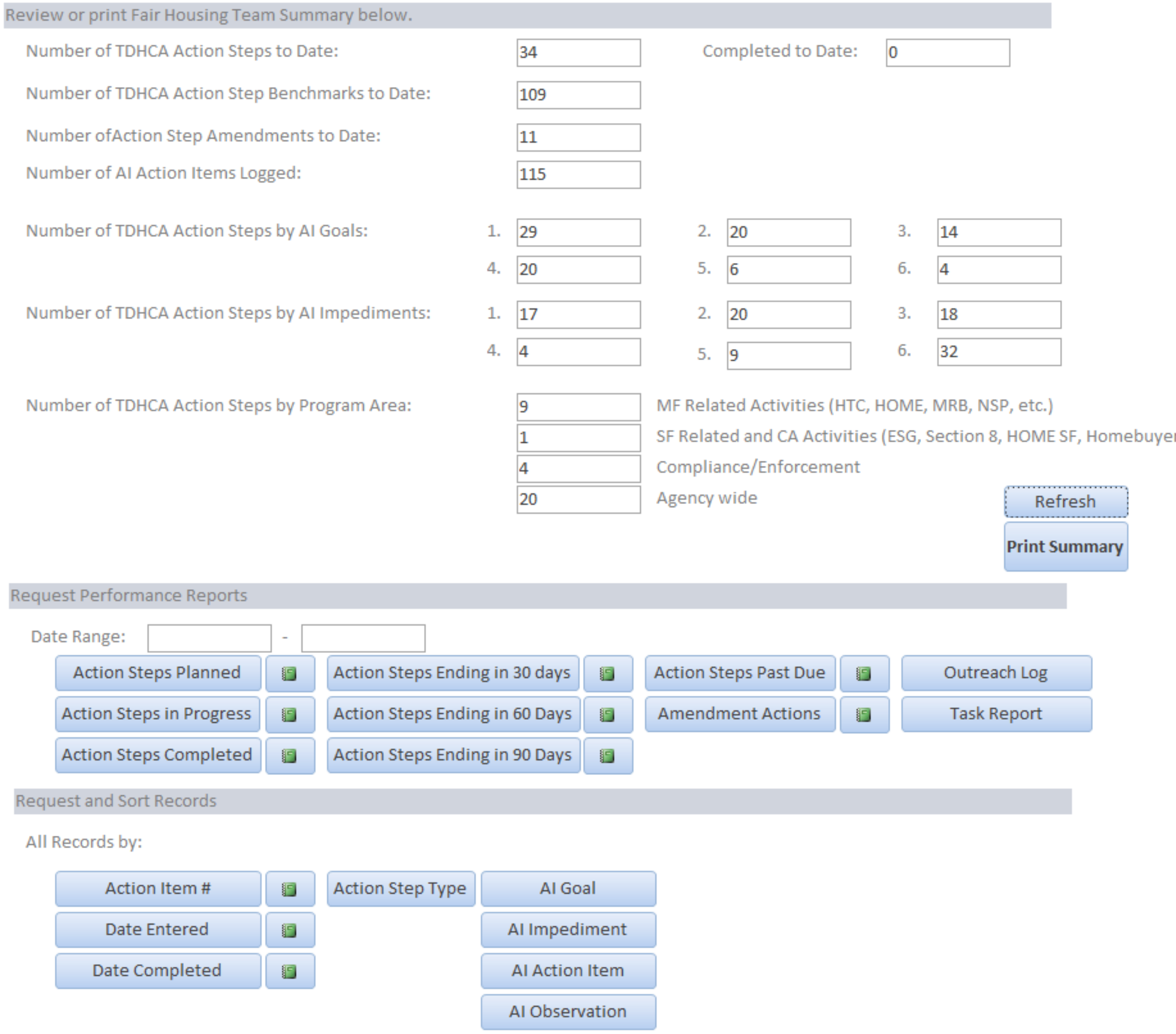
Exhibit A

Following is a series of screenshots from the Fair Housing Tracking Database that reflect the kinds of content that will be collected and updated as action steps are developed and implemented, Fair Housing tasks are accomplished, and outreach is provided.



I. *<u>Landing Screen includes</u>:*

Program Summary:	*Access Program Summary Highlights*
Action Step Entry:	*Enter New Action Steps and Connect Steps to AI Goals, Impediments, and Action Items*
Current Action Steps:	*Review and Edit Current Steps under the AI*
Outreach Log:	*Enter Calls and Emails on a Select Set of Topics, such as a) Referrals to TWC, b) Referrals to Legal Aid, c) Congressional Inquiries on Fair Housing topics, etc.*
Task Entry:	*A Daily Log of FH Team Activities*
Links to:	*Phase I and Phase II AIs and the FH Team's Annual Scope*



II. *<u>Program Summary screen includes</u>:*

High Level Summary of Action Steps and AI Metrics

Performance Reports *(Steps planned, In Progress, Completed, Action Steps Ending in monthly increments, Steps Past Due, Amendment Actions, and Outreach and Task reports)*

All Records Data and Reports by AI Goals, Impediments, Action Items, and Observations

TDHCA FH Action Steps by AI Goal

Goal 1 **Create greater mobility and improve housing opportunities for low income households and members of protected classes.**

Action Step ID	**1 Development of a Revised Affirmative Fair Housing Marketing Rule**
Begin Date:	6/6/2014 IN PROGRESS
Summary	Development of a proposed rule for Affirmative Fair Housing Marketing and hosting of a roundtable with the development and advocacy community to discuss feedback setup.
Action Step ID	**2 Internal Program Area and Monitoring Area Reviews**
Begin Date:	4/22/2014 IN PROGRESS
Summary	Set up meetings and collected information from all TDHCA program and monitoring areas. Data included: guiding documents of program areas, demographic data currently collected and TDHCA systems used, current efforts in furthering fair housing choice, and current goals or ideas regarding next steps.
Action Step ID	**3 Development of Fair Housing Tracking Database**
Begin Date:	4/22/2014 IN PROGRESS
Summary	Created mock up of Fair Housing Tracking database, mapped out the Phase 2 AI, and worked with staff to begin creation of database tool. The Fair Housing Tracking database will provide the Department with an ability to track its progress under the Phase 2 AI, actions resulting specifically from recommendations made, and issues encountered in achieving any of its Fair Housing goals.
Action Step ID	**4 Creation of a new TDHCA Fair Housing website section**
Begin Date:	6/11/2014 IN PROGRESS
Summary	Development of a new website concept for the Fair Housing page, to include better complaint direction, a list of essential resources that can be shared between state agencies, guidance on best practices and provision of policy guidance on a wide variety of fair housing topics, and resources (including toolkits) for renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials.
Action Step ID	**5 Development of An Evaluation Tool for Crime Data**
Begin Date:	4/24/2014 IN PROGRESS
Summary	Research of data provision services available for crime data collection, discussion with external parties on services available and how systems work, and creation of an informal bid process for a crime data vendor

III. <u>Sample AI Goal Report (Representative of general sorted report styles)</u>:

Includes Action Step ID, Begin Date, Status, and Summary of Step by AI Goal

Action Steps Ending in 30 Days

Projected End Date	Action Step Type	Action Step Title
7/30/2014	Policy Implementation	Development of a Revised Affirmative Fair Housing Marketing Rule

Summary Development of a proposed rule for Affirmative Fair Housing Marketing and hosting of a roundtable with the development and advocacy community to discuss feedback setup.

Areas Affected

Agency Wide ☐	HOME_SF ☐	NSP ☑	HTF ☐	Other ☐
ESG ☐	HOME_MF ☑	MF_MRB ☑	Homebuyer ☐	
Section8 ☐	HTC ☑	Colonia ☐	Monitoring Enforcement ☑	

Projected End Date	Action Step Type	Action Step Title
7/30/2014	Research & Data Collection	Development of An Evaluation Tool for Crime Data

Summary Research of data provision services available for crime data collection, discussion with external parties on services available and how systems work, and creation of an informal bid process for a crime data vendor

Areas Affected

Agency Wide ☑	HOME_SF ☐	NSP ☐	HTF ☐	Other ☐
ESG ☐	HOME_MF ☐	MF_MRB ☐	Homebuyer ☐	
Section8 ☐	HTC ☐	Colonia ☐	Monitoring Enforcement ☐	

Projected End Date	Action Step Type	Action Step Title
7/30/2014	Research & Data Collection	Development of a Demographic Collection Database

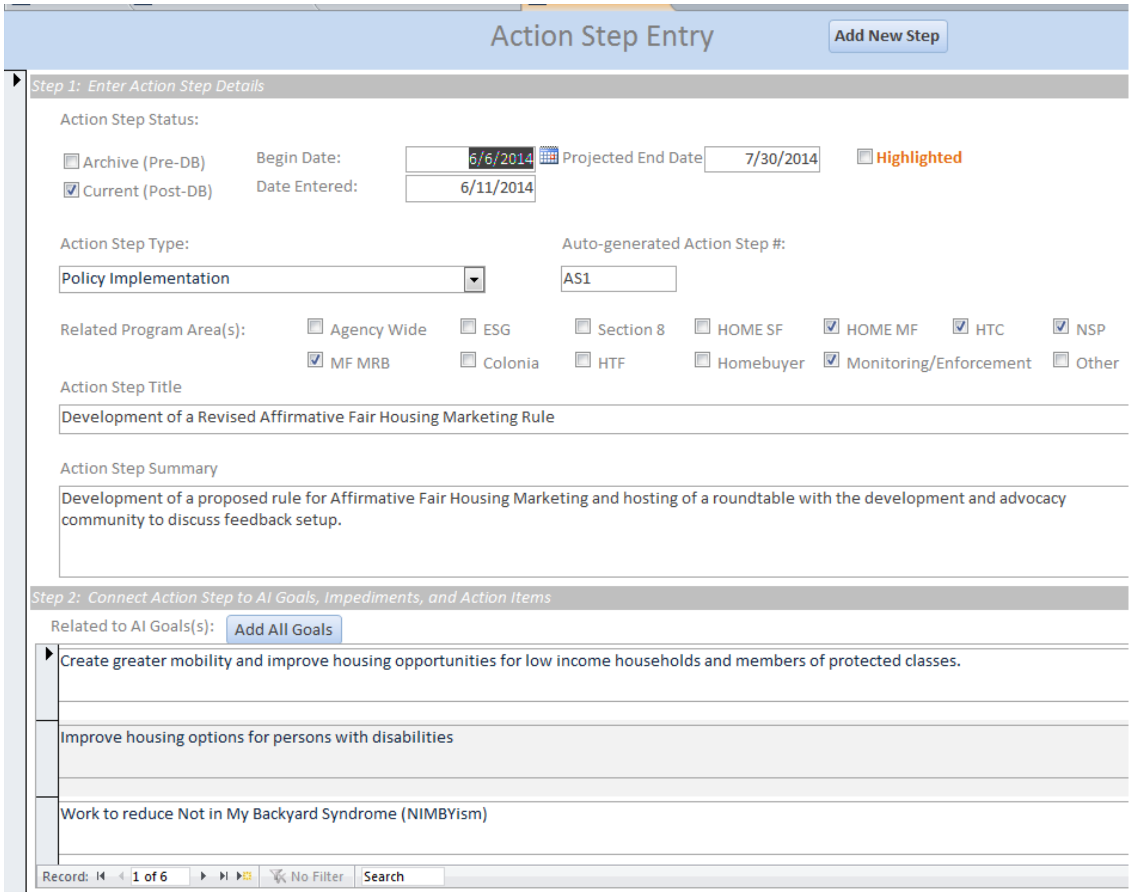
Summary Because of the wide array of service provision systems used by TDHCA staff, an agency-wide mechanism for capturing the demographic data of all households served by various program areas is warranted. The database will be developed first for Multifamily use (with an end date of 7/30/14) and will expand to include all Single Family and potentially also Community Affairs activities for purposes of better program planning and policy provision and to evaluate progress towards the goals identified in the AI.

Areas Affected

Agency Wide ☑	HOME_SF ☐	NSP ☐	HTF ☐	Other ☐
ESG ☐	HOME_MF ☐	MF_MRB ☐	Homebuyer ☐	
Section8 ☐	HTC ☐	Colonia ☐	Monitoring Enforcement ☐	

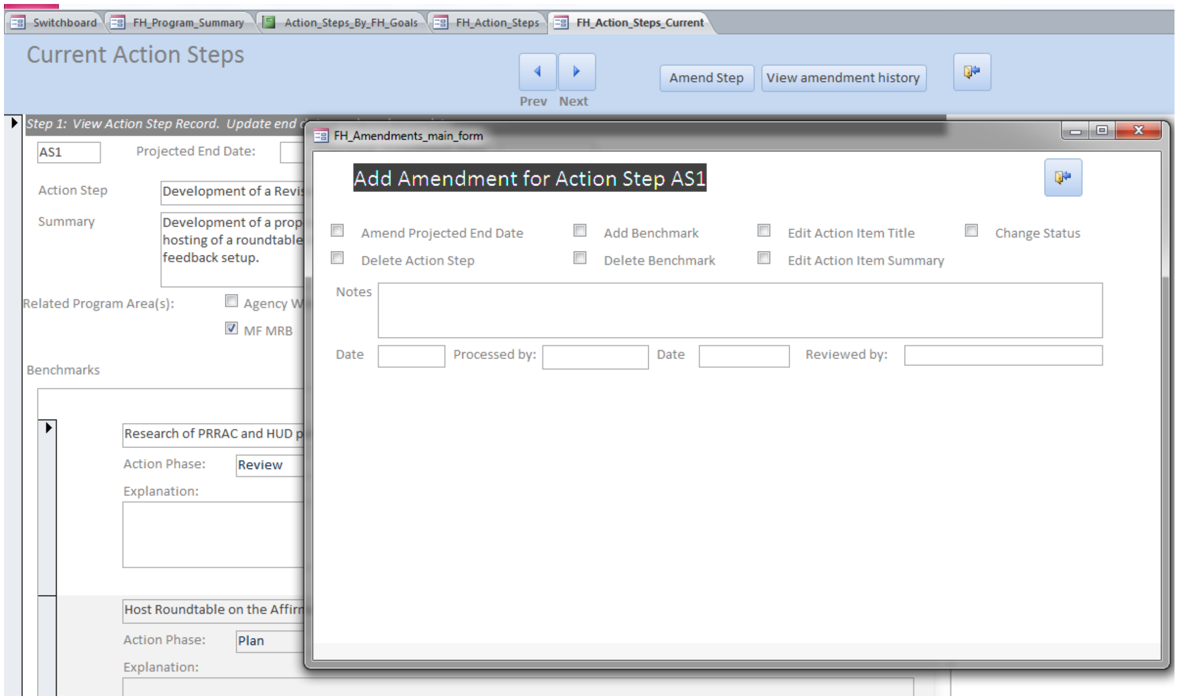
IV. Sample Action Step Progress Report (Representative of Action Step progress reports)

Includes detailed information by end date that includes the step type, title, summary, and primary Division areas affected; for use in tracking Department progress



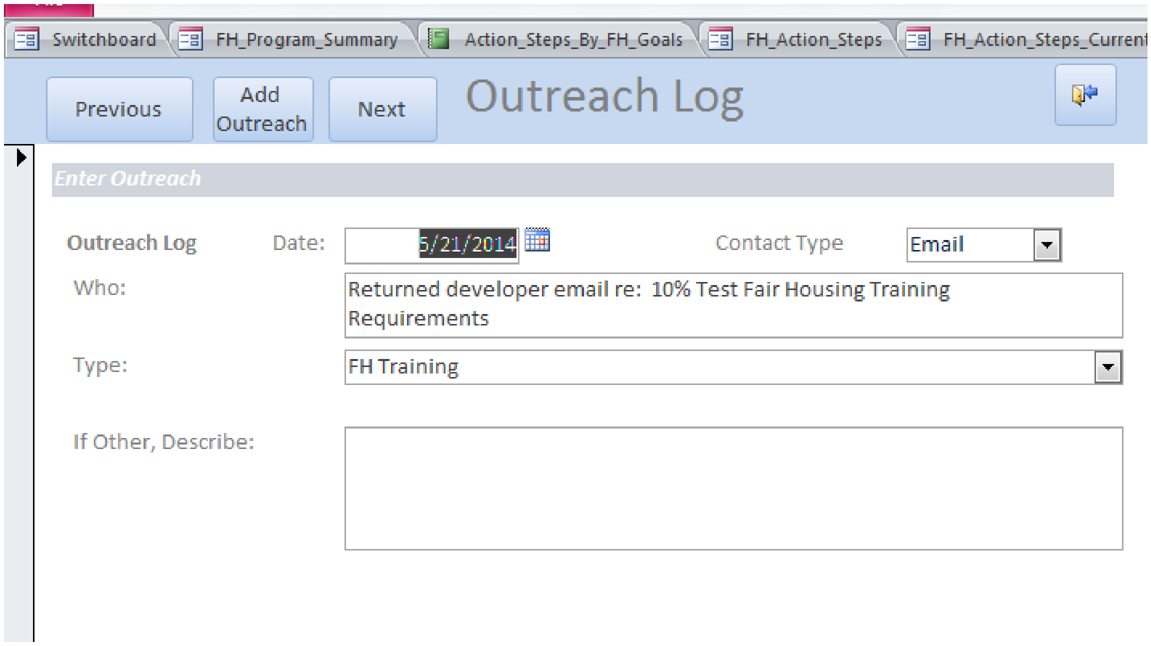
V. <u>*Action Step Entry Screen*</u>*:*

Steps are entered, receive an auto-generated tracking number, and are connected to pre-populated AI Goals, Impediments, Observations, and Action Items



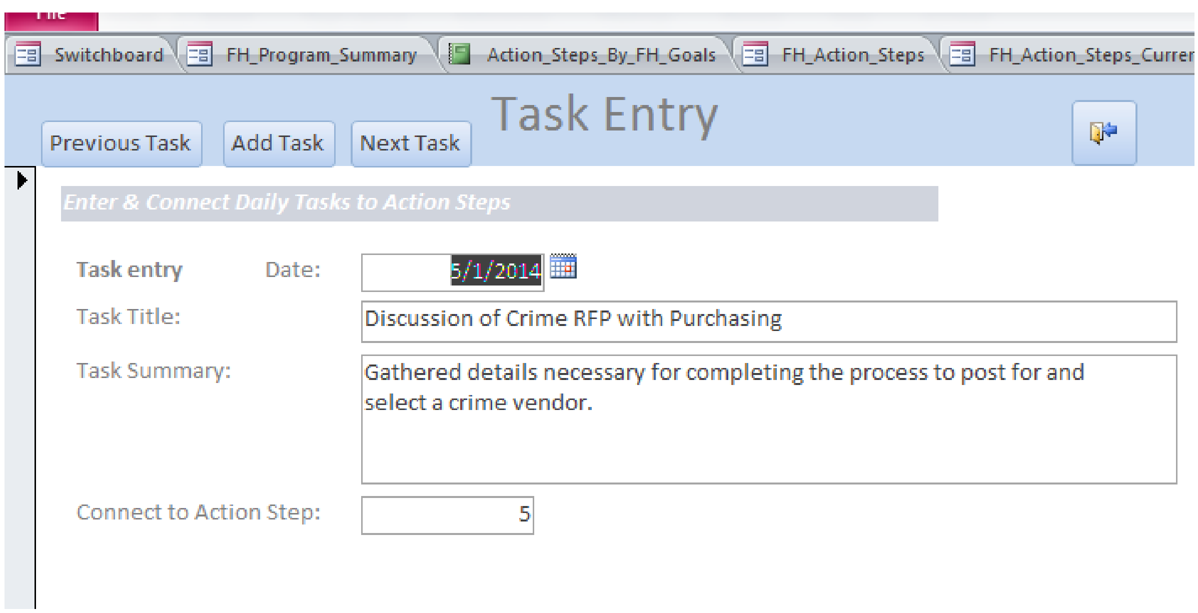
VI. *<u>Current Action Step and Amendment Controls</u>:*

The system currently rejects changes to the Current Action Steps unless the screen is unlocked through an Add Amendment screen, where the change is recorded, dated, and approved.



VII. <u>Outreach Log</u>

Outreach metrics can be tracked through the Outreach Log or generated in the form of Outreach reports. Selections include Phone or Email and Types include pre-populated drop down options.



VIII. <u>Task Log</u>

Daily tasks coordinated while progressing towards completion of Action Steps are logged during the month.

4

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

JULY 31, 2014

Presentation, Discussion, and Possible Action to approve material amendments to seven Land Use Restriction Agreements ("LURAs") for the following developments located in or around El Paso: Fonseca, Ltd., Prado, Ltd., NCDO Housing, Ltd., Western Whirlwind, Ltd., Cactus Rose, Ltd., Painted Desert Townhomes, and Whispering Sands Townhomes.

RECOMMENDED ACTION

WHEREAS, the Owners of seven related Developments, in or around El Paso, received an award of 9% Housing Tax Credits for each of the above-referenced Developments between the years of 1995 and 2003;

WHEREAS, each of the tax credit applications for these seven Developments received points and/or other preferences for having a Historically Underutilized Business ("HUB"), namely Investment Builders, Inc. ("IBI"), participate in the ownership of the Development;

WHEREAS, the LURAs each require that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall have an ownership interest and maintain regular, continuous, and substantial participation in the Development, operation, and ownership of the Development;

WHEREAS, all of these Developments are within their Compliance Periods, as defined in their respective LURAs;

WHEREAS, the Development Owner requests approval to amend all seven LURAs to replace the HUB requirement with a Qualified Nonprofit Organization requirement for the remainders of the respective Compliance Periods;

WHEREAS, although it may have certain common public policy reasons underlying its use as a scoring criterion, the Qualified Nonprofit Organization is a different preference item for the tax credit program than a HUB, advancing distinct State and Federal policy initiatives;

WHEREAS, staff has been unable to identify sufficient compelling policy reasons to approve the requested changes; and

WHEREAS, Board approval is required for material LURA amendments, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the requested LURA amendments for Fonseca, Ltd., Prado, Ltd., NCDO Housing, Ltd., Western Whirlwind, Ltd., Cactus Rose, Ltd., Painted Desert Townhomes, and Whispering Sands Townhomes are denied.

BACKGROUND

The HUB owner of each Development is Investment Builders, Inc. ("IBI"). IBI intends to sign a purchase and sale agreement to transfer the general partner interests in a larger portfolio of 25 Developments in the El Paso region to a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP"). The Owner reported that 18 of the 25 Developments do not require HUB participation. According to IBI, HACEP wants to purchase all or none of the portfolio and will do so only if these material LURA amendments and the subsequent ownership transfers are approved. While a LURA amendment and transfer of these Developments may be beneficial for the current and future Owner, neither has provided any explanation as to why they cannot continue to comply with the LURA requirement for a HUB through another means (such as a partnership with a HUB through the remaining compliance period). In a letter dated June 20, 2014, the current owner's legal representative reiterated that HACEP "is not interested in forming a partnership or joint venture with a HUB" and that even if they were interested, "there are no existing HUBs in El Paso, Texas that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor". Staff has asked for but not received documentation confirming this information. The transfers are subject to approval by the Department, which would be denied for these seven Developments, if these LURA amendments are not approved since transfer of these to a non-HUB would not comply with the requirements of the existing LURAs.

There is a central policy issue presented. Does the Board conclude that HUB incentives are primarily to provide an incentive for enabling HUBs to realize economic benefits from inclusion in the tax credit program, which IBI has confirmed it has received and represented that it now wishes to terminate the relationship, or, in the alternative, is the purpose to create an ongoing point in the transaction at which efforts should be expended to ensure that when and if one HUB exits another HUB is found to replace it. This latter approach would presumably require the current HUB to remain in the deal unless no alternative existed or other concerns, such as risk of failure, were present.

Staff evaluated each amendment request and based upon subsequent meetings and documentation provided by the owner, determined that the requests may benefit the developments and their tenants through the provision of additional supportive services, which would be added to the LURAs of each Development and additional financial capital to benefit all of the Developments as required for current and future capital improvement needs. The proposed nonprofit organization plans to provide additional supportive services to each of the Developments to include:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, etc.)
- Annual Health Fair
- Quarterly health and nutritional courses
- Notary public services during regular business hours
- Annual income tax preparation (offered by an income tax prep service)

- Twice monthly onsite social events

In addition, in support of this proposed amendment, the Owner emphasizes that HACEP is in a much stronger financial position than the current HUB to fund capital needs of the Developments and plans on making repairs to the Development in the immediate to near future to include roofing, cooling systems, water heaters, exterior building repairs, paint and minor interior repairs.

Each of the Developments was awarded tax credits in different years, and, therefore, there was a different emphasis on scoring points and the specifics of the HUB ownership requirement. For example, some LURAs require the HUB to be designated as the Managing General Partner within the ownership structure, while others require the HUB to hold an ownership interest of some sort. All the LURAs for these properties require material participation by the HUB in the development, operation, and ownership of the project. The policy to include HUB participation is a State policy initiative while the Qualified Nonprofit Organization preference is provided for in State and Federal statute. In this case, however, the State would not have received credit for the Qualified Nonprofit Organization participation because this is occurring so long after the initial award and issuance of 8609s. While both preferences are valued they serve different purposes.

The Owner stated that, because the proposed underlying general partner/owner is owned and controlled by a nonprofit organized by the Housing Authority rather than owned by an individual, it is legally incapable of being organized as a HUB. The Owner provided a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that HACEP cannot legally organize a wholly-owned or wholly-controlled subsidiary or an affiliate that would qualify as a HUB, as a HUB is defined by law as a "for profit" entity. The legal opinion does not specify whether or not HACEP could form a partnership with a third-party HUB to meet the requirement in the LURA. However, from conversations with the Owner's legal representative, it appears that HACEP is not interested in such a partnership and would like full control of ownership of the Development. The Owner also contends that, because the general partner possesses many of the characteristics of a typical HUB through their Board composition, they should be approved as a replacement even though not legally certified as a HUB. The board of directors of the proposed general partners are composed of the same persons who serve as directors on the HACEP board. A legal opinion from Art Provenghi stating that the majority of the HACEP's Board of Commissioners are women and/or Hispanic was also provided. The Owner also stated that new owners will use contracting criteria that gives preference to HUBs.

The letter from the Owner also identifies previous similar ownership transfers approved by the Department. The transfers of the general partner interests from a HUB to nonprofit entities affiliated with HACEP for Saul Kleinfeld, Ltd. (#95024) and for Meadowbrook Townhomes (#02067) were approved in 2004 by the Executive Director at that time. Other similar transfers were administratively approved by the Director of Multifamily Finance Production in 2007. A copy of the approval letters was provided by the Owner. In 2009, the Executive Director approved a similar transfer for Cedar Oak Townhomes (#04070), but the approval letter states that the loss of the HUB points would not have negatively affected the award. Staff also found evidence of denials of such transfers over the years. In October 2007, the board heard a request to eliminate the HUB without adding a nonprofit replacement (Chaparral Townhomes #01005). This item was tabled and the owner subsequently found a replacement HUB. In December 2007, the board heard discussion on three Developments with this HUB issue. Preston Trace, #04105, requested to delete the HUB requirement and ultimately the owner found a new

HUB. The original HUB of Freeport Oaks, #04255, and TownePark Fredericksburg II, #04260, lost its HUB status and a 90 day extension was granted wherein the Owner found a new HUB to participate in ownership. In May 2010, Brazos Landing, #01029, went before the board and requested the elimination of a HUB which was denied by the Board.

The rule for material LURA amendments (10 TAC §10.405(b)) which lays out a process for the amendment of a LURA was not in effect at the time of these prior requests as it was a rule first adopted by the Board on March 3, 2011. Staff did not find any record of similar transfers being approved since the rule has been in place. The last time the TDHCA Board approved a transfer from HUB to Non-Profit was on January 20, 2011,- and was with respect to the Townhomes of Bay Forest. This transfer was approved as part of a NSP workout solution in order to maintain affordable housing of the development and prevent imminent foreclosure. Most recently, on September 18, 2013, a requested transfer of a HUB ownership requirement to a Non-Profit for Sunset Arbor, #99126, was denied administratively. There is no specific provision in the rules regarding the substitution of a Non-Profit for a HUB, and there is no provision in the rules to make an assessment that the composition of a Non-Profit is like a HUB based solely on board composition.

The owner has complied with 10 TAC, §10.405(b) of the Asset Management rules adopted by the Board; given the appropriate notifications to the tenants and elected officials and provided the opportunity for public input. All public hearings have been held and there was minimal attendance and no negative comment on the proposed amendment request.

The attached table provides a summary of each Development's requirement. Staff believes the Owner has not provided sufficient evidence of the need for transfer from a HUB to a nonprofit, aside from the proposed new Owner's interest to solely own the Developments. While the Owner originally stated in the request letters that the "proposed amendment will have no effect on the operation of [the Development] or its financial stability", after further discussion, it appears there will be an added benefit provided by HACEP in both supportive services and financial capacity. This request has prompted an internal policy discussion on the intent of HUB participation and whether this particular HUB has obtained all of the original benefits of HUB participation in the tax credit program through the development and operation of Developments. And, although there are some benefits presented in this particular transaction, in general, staff is not prepared to make an affirmative recommendation to amend a material component of the LURA without Board discussion and approval. Therefore, staff recommends that the requested LURA amendments be denied.

#95026/Fonseca, Ltd.

Fonseca, Ltd. was approved during the 1995 competitive cycle to construct 14 new construction units in El Paso, Texas. The 15-year Federal Compliance Period has expired. However, the application received points at the time of application to extend the Compliance Period ten years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2021 and at that point the HUB requirement will automatically expire.

The original HUB general partner, Investment Builders, Inc. ("IBI"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Fonseca, Ltd. to Paisano Fonseca, LLC. The sole member of Paisano Fonseca, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the original tax credit application for the Development had the option to propose a Qualified Nonprofit Organization instead of a HUB, which would have resulted in a score reduction of two points and that the application would have continued to be competitive and receive tax credits. The Owner indicates that there were only four applications from El Paso in the 1995 tax credit round, and all four applications were submitted by IBI.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 13, 2014.

#97089/Prado, Ltd.

Prado, Ltd. was approved during the 1997 competitive cycle to construct 64 new construction units in El Paso, Texas. The Federal 15-year compliance period expires in 2014; however, the application received points at the time of application review to extend this period and additional 10 years, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2024 and at that point the HUB requirement will automatically expire.

The original HUB general partner, Investment Builders, Inc. ("IBI"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Prado, Ltd. to Paisano Prado I, LLC. The sole member of Paisano Prado I, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that the next application to be funded, which was not funded, was for a project from a HACEP affiliate, which did not have a HUB. The two projects were competing in the nonprofit set aside, and the LURA for Prado, Ltd. requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 13, 2014.

#98091/NCDO Housing, Ltd.

NCDO Housing, Ltd. was approved during the 1998 competitive cycle to construct 32 new construction units in El Paso, Texas. The letter from the Owner points out that the 15-year compliance period expires in 2015; however, the application received points at the time of application review to extend the Compliance Period 10 years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2025 and at that point the HUB requirement will automatically expire.

The original HUB general partner, IBI NCDO Housing LP, LLC ("IBI NCDO Housing"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in NCDO Housing, Ltd. to Paisano NCDO I, LLC. The sole member of Paisano NCDO I, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that only one other project was competing in the nonprofit set aside. Both projects were being developed by IBI. Neither the Owner nor the Department have been able to determine what the impact on the award would have been if the HUB points had not been claimed. The LURA for NCDO Housing, Ltd. currently requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.

The Owner held a public hearing for June 11, 2014.

#01018/Western Whirlwind, Ltd.
Western Whirlwind, Ltd. was approved during the 2001 competitive cycle to construct 36 new construction units in Horizon City, Texas. The application proposed and received points for having a joint venture between a for-profit and a nonprofit general partner. However, on June 28, 2006, the Department's Board approved the for-profit co-general partner, IBI Western Whirlwind, LLC, a HUB, to take complete ownership and control of the general partner interest, and the requirement for a HUB to hold an ownership interest and maintain regular, continuous, and substantial participation in the development and operation of the project is reflected in the LURA, as amended. The letter from the Owner states that the 15-year compliance period will end in 2018; however, the application received points at the time of application review to extend the Compliance Period ten years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2028 and at that point the HUB requirement will automatically expire.

IBI Western Whirlwind, LLC, the managing general partner, whose sole member is a HUB, has entered into a Purchase and Sale Agreement to transfer the managing general partnership interest in Western Whirlwind, Ltd. to Paisano Western Whirlwind, LLC. The sole member of Paisano Western Whirlwind, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a Non-Profit. However, there is no provision in the rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 12, 2014.

#01119/Cactus Rose, Ltd.
Cactus Rose, Ltd. was approved during the 2001 competitive cycle to construct 26 new construction units in Anthony, Texas. The letter from the Owner states that the 15-year compliance period will end in 2017; however, the application received points at the time of application review to extend the Compliance Period 10 years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2027 and at that point the HUB requirement will automatically expire.

IBI Cactus Rose, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Cactus Rose, Ltd. to Paisano Cactus Rose, LLC. The sole member of Paisano Cactus Rose, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit. However, there is no provision in the LURA or rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 16, 2014.

#02061/Painted Desert Townhomes

Painted Desert Townhomes was approved during the 2002 competitive cycle to construct 20 new construction units in Clint, Texas. The letter from the Owner points states that the 15-year compliance period will end in 2018; however, the application received points at the time of application review to extend the Compliance Period 25 years beyond the Federal requirement, for a total of 40 years, as reflected in the LURA. The 40-year Compliance Period will end on 2043 and at that point the HUB requirement will automatically expire.

IBI Painted Desert Townhomes, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Painted Desert Townhomes, Ltd. to Paisano Painted Desert, LLC. The sole member of Paisano Painted Desert, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Therefore, the award would have been made even if HUB points had not been claimed. The Owner also submitted a copy of the sheet from the application indicating that the application would have qualified for three points for either the HUB or a nonprofit. However, there is no provision in the LURA or rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 12, 2014.

#03222/Whispering Sands Townhomes

Whispering Sands Townhomes was approved during the 2003 competitive cycle to construct 36 new construction units in Anthony, Texas. The letter from the Owner states that the 15-year compliance period will end in 2019 which was confirmed by staff. Therefore the HUB requirement will automatically expire in five years.

IBI Whispering Sands Townhomes, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, and intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Whispering Sands Townhomes, Ltd. to Paisano Whispering Sands, LLC. The sole member of Paisano Whispering Sands, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Therefore, the award would have been made even if HUB points had not been claimed. The Owner also submitted a copy of the sheet from the application indicating that the application would have qualified for three points for either the HUB or a nonprofit. However, there is no provision in the LURA or rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing for June 16, 2014.

File #	Name	LURA Requirement	Point impact	Comments	Credit Period (First year)	Last Year of Extended Compliance Period	Departing Entity	Incoming Entity
95026	Fonseca, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	2 points loss for removing HUB	The Owner pointed out that the original tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB, which would have resulted in a score reduction of two points and that the application would have continued to be competitive and received tax credits. The Owner indicates that there were only four applications from El Paso in the 1995 tax credit round, and all four applications were submitted by IBI.	1997	2021	Investment Builders, Inc.	Paisano Fonseca, LLC
97089	Prado, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	5 points loss	The Owner pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that the next application to be funded, which was not funded, was for a project from a HACEP affiliate, which did not have a HUB. The two projects were competing in the nonprofit set aside, and the LURA for Prado, Ltd. requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.	1999	2023	Investment Builders, Inc.	Paisano Prado I, LLC
98091	NCDO Housing, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	5 points loss	The Owner pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that only one other project was competing in the nonprofit set aside. Both projects were being developed by IBI. Neither the Owner nor the Department have been able to determine what the impact on the award would have been if the HUB points had not been claimed. The LURA for NCDO Housing, Ltd. currently requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.	2000	2024	IBI NCDO Housing, LP, LLC	Paisano NCDO I, LLC
01018	Western Whirlwind, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest and must maintain regular, continuous, and substantial participation in the development, operation of the project	No point loss	went from NP at application to HUB via amendment. Now wants to go back to NP. The Owner pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit.	2003/2004	2028	IBI Western Whirlwind, LLC	Paisano Western Whirlwind, LLC
01119	Cactus Rose, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit.	2003	2027	IBI Cactus Rose, LLC	Paisano Cactus Rose, LLC
02061	Painted Desert Townhomes	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	Owner pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors.	2004	2043	IBI Painted Desert Townhomes, LLC	Paisano Painted Desert, LLC
03222	Whispering Sands Townhomes	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	Owner pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Does not appear accurate based on list posted on our website, but there would not have been a point difference had a nonprofit been proposed instead of a HUB.	2004/2005	2019	IBI Whispering Sands Townhomes, LLC	Paisano Whispering Sands, LLC

IBI entities - sole member is Investment Builders, Inc. (IBI), a HUB.

Paisano entities - sole member is Paisano Housing Redevelopment Corporation, a TX nonprofit corp. controlled by HACEP.

FONSECA, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Fonseca, Ltd. ("Fonseca") to amend the LURA to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Fonseca under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Fonseca desires to amend the LURA encumbering the property located at 627 Fonseca Drive, El Paso, Texas, to delete the requirement that the managing general partner, IBI, maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

2. **Reason for the Requested Change:** IBI and Paisano Fonseca, LLC ("Paisano Fonseca") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Fonseca to Paisano Fonseca. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI is a for profit corporation owned by Ike J. Monty and is a HUB. Paisano Fonseca is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Fonseca is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Cactus Rose cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Fonseca asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if Fonseca could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. One document was located. It is the 1995 Recommendations from TDHCA staff for awards under the General Set Aside. Four El Paso projects were recommended for awards of tax credits: Fonseca, Ltd., Western Redd Road, Ltd., Western Yarbrough, Ltd. and Saul Kleinfeld. All four projects were developed by IBI. The LURA pertaining to Fonseca, Ltd. shows that the project is required to have a HUB during the compliance period. However, the QAP indicates that IBI could have chosen a qualified nonprofit instead of a HUB. The 1995 QAP gave 5 points for using a HUB and 3 points for using a qualified nonprofit. (See Exhibit B). If IBI had elected to use a qualified nonprofit, its score would have been decreased by only 2 points. Given the scores of the other three projects, Fonseca, Ltd. would still have been competitive at 83 points. Additionally, Ike J. Monty and Cynthia Bast both recollect that the four listed projects were the only applications from El Paso in the 1995 round. Unfortunately, the submission logs for 1995 have not been located to confirm this point but Ike Monty feels strongly that his recollection is accurate. I would also refer you to the other attachment to my transmittal email, which is labeled IBI Portfolio TDHCA letters. The first relevant letter is dated August 20, 2004 from Edwina P. Carrington, Executive Director of TDHCA to Rudolf Montiel, P.E. Executive Director of HACEP. Ms. Carrington granted HACEP's request to substitute Affordable Housing Saul Kleinfeld, LLC (a HACEP entity) for the general partner in Saul Kleinfeld, Ltd. Other HACEP entities were approved to replace the original general partner in the other five named entities. Saul Kleinfeld had a HUB and no qualified nonprofit, just like ownership structure of Fonseca. The point is that TDHCA has already approved the substitution of an HUB with a HACEP entity in a project that is identical to Fonseca.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Fonseca cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Fonseca and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Fonseca, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Fonseca or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period has already expired.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Fonseca requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Fonseca, Ltd.

By: Investment Builders, Inc.,
General Partner

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

1995 QAP - Fonseca

(C) EXHIBIT 216: Label as EXHIBIT 216, evidence that a HUB, which has conducted business as such, has existed for at least one year and has been certified by the General Services Commission, and is either the project owner or has the *controlling interest* in the project owner. (5 points)

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS

(A) EXHIBIT 217: Label as EXHIBIT 217, evidence that the subject development has significant participation by a qualified non profit entity with substantial experience in the development and management of affordable housing. To qualify under this section, a non profit entity must have existed for at least 24 months prior to the date of the application with respect to the subject development, and must either be the project owner or hold the *controlling interest* in the project owner. Additional information to be provided with respect to the non profit entity shall include a schedule of properties owner (whether directly or indirectly) years of ownership, addresses of properties, number of units in the properties, and the percentage of direct or indirect ownership of each property. (3 points)

(B) [redacted] evidence that property owner has an executed [redacted] local tax exempt organization for the provision of special supportive services that would not otherwise be available to the tenants. [redacted]

(i) the duration of the service agreement,

(ii) the accessibility and appropriateness of the service to the tenants,

(iii) the experience of the service provider, and

(iv) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the Land Use Restrictive Covenants ([redacted])

(6) TENANT POPULATIONS WITH SPECIAL HOUSING NEEDS

(A) This criterion applies exclusively to elderly projects located in areas that are not served by RECDS. In addition, the project

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in Fonseca Apartments
627 Fonseca Drive
El Paso, Texas 79905

Sterling Corporate Tax Credit Fund IV, L.P.
c/o Ms. Laurie S. Amster
111 Great Neck Rd.
Great Neck, NY 11021

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Naomi Gonzalez
6044 Gateway East, Ste. 818
El Paso, Texas 79905

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that Fonseca, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Fonseca Apartments. The hearing will take place at the following time and location:

Friday, June 13, 2014
5:30 p.m.
Community Room
Fonseca Apartments
627 Fonseca Drive
El Paso, Texas 79905

Proposed Amendment:

Fonseca, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

<u>**THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.**</u>

Background Information:

- The Fonseca Apartments are owned by Fonseca, Ltd., a Texas limited partnership.

- The amendment is being proposed by Investment Builders, Inc. ("IBI"), which is the current managing general partner of Fonseca, Ltd. a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Fonseca, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Fonseca, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Fonseca, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Fonseca, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Fonseca Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

PRADO, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Prado , Ltd. ("Prado ") to amend the LURA to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Prado under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Prado desires to amend the LURA encumbering the property located at 151 S. Prado Road, El Paso, Texas, to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its ownership in and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization that materially participates in the operation of the project during the compliance period.

2. **Reason for the Requested Change:** IBI and Paisano Prado I, LLC ("Paisano Prado") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Prado to Paisano Prado. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI is a for profit Texas corporation owned by Ike J. Monty and is a HUB. Paisano Prado is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Prado is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano NCDO cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Prado asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if Prado could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Three documents were located: the 1997 LIHTC Application Submission Log, the 1997 Ad Hoc Committee Recommendation List show projects that were awarded tax credits and the 1997 Ad Hoc Committee Recommendation List showing the projects that did not receive an award. Two El Paso projects were competing in the nonprofit set aside. Prado, which was being developed by IBI, and Los Jardines, which was being developed by Paisano Housing Redevelopment Corp., a subsidiary of HACEP. The LURA pertaining to Prado shows that the project is required to have a HUB and a qualified nonprofit during the compliance period. The 1997 QAP gave 5 points for using a HUB. If IBI had not used a HUB, its score would have been reduced by 5 points (78 to 73). This would have given Los Jardines the highest score (77). However, Los Jardines was being developed by a Paisano Housing, which is a qualified nonprofit owned by HACEP. By operation of law, HACEP entities cannot qualify as HUBs, which tells me that HACEP was not proposing to use a HUB in its application. Thus, even if Los Jardines was awarded credits, the project would not have had a HUB and, most important, if TDHCA approves this request the HACEP entity that would have received the award will be the replacement for the HUB. In addition to the letter from Edwina P. Carrington to Rudolf Montiel, P.E. granting HACEP's request to substitute Affordable Housing Saul Kleinfeld, LLC (a HACEP entity) for the general partner in Saul Kleinfeld, Ltd, there are still more instances where TDHCA has approved requests to substitute a HACEP entity for a HUB. Please see the letter dated December 31, 2004 from Ms. Carrington to Ms. Richardson approving the substitution of Affordable Housing Meadowbrook, LLC (a HACEP entity) for the IBI HUB. Also please see the letter dated January 8, 2007 from Ms. Robbye Meyer to Vince Dodds approving the replacement of the IBI HUB in Western Redd Road, Ltd. and Western Yarbrough, Ltd. with an Affordable Housing entity owned by HACEP. Finally, please see the letter dated December 30, 2009 from Mr. Michael Gerber to Ms. Richardson approving the IBI HUB with HAC Cedar Oak, Inc., which is an entity owned by HACEP. In short, it appears that TDHCA has not had an issue with replacing an IBI HUB with a HACEP owned entity when requested to do so. Please see Exhibit D attached.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Prado cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Prado and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Prado will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Prado or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2014.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Prado requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Prado, Ltd.

By: Investment Builders, Inc.,
General Partner

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

Prado

(4) SPONSOR CHARACTERISTICS

(A) "EXHIBIT 210: Label as EXHIBIT 210, evidence that the ownership entity, general partner, general contractor or its principals have a record of successfully constructing or developing residential/commercial property. Evidence must be in the form of the AIA Document A111 - Standard Form of Agreement Between Owner & Contractor, the AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, Development Agreements and Partnership Agreements, HUD Form 9822, or other appropriate documentation verifying that the ownership entity, general partner, general contractor or their principals have the required experience. (NOTE: The names on the forms and agreements must tie back to the ownership entity, general partner, general contractor and their respective principals as listed in the application.) *Property Owners in noncompliance with any of the aforementioned programs, but which are not barred from having an Application recommended by §50.4(f), or which have had a continuing pattern of defaults and foreclosures are ineligible to claim the points for this item* (10 points). The term "successfully" is defined as acting in a capacity as the general contractor or developer of;

(i) at least 100 multifamily residential units or comparable commercial property (i.e., dormitory and hotel/motel); or

(ii) at least 35 multifamily residential units or comparable commercial property if the project applying for credits is a Rural Project."

(B) EXHIBIT 211: Label as EXHIBIT 211, evidence that the HUB has been certified by the General Services Commission and is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall require evidence of regular, continuous and substantial participation and this evidence shall include, but not limited to, the agreement to personally guarantee the interim construction loan secured (and all other guarantees to the equity investor) relative to the development of a Project by the person or persons upon whose purported ownership interest(s) and participation form the basis for which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence. The Department shall, during and after the Application Round, monitor those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation of HUB is being claimed and may require the submission of any additional documentation as required to verify said evidence. To qualify for these points, in addition to the certification from the General Services Commission, the historically underutilized person or persons whose ownership interest(s) form the basis of the HUB designation must provide the necessary loan and syndication guarantees to develop the Project. The Department's goal is to have substantive participation by those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly. (5 points)

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS.

EXHIBIT 212: Label as EXHIBIT 212, evidence that the Property owner has an executed agreement with a Local Tax Exempt Organization for the provision of special supportive services that would not otherwise be available to the tenants. The supportive services will be evaluated based upon the following:

(A) the duration of the service agreement,

(B) the accessibility and appropriateness of the service to the tenants,

(C) the experience of the service provider, and

(D) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the LURA. (Up to 5 points)

ALL-STATE LEGAL® EXHIBIT D

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

1831

TEXAS
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

WWW.TDHCA.STATE.TX.US

August 30, 2004

Rudolf Montiel, P.E.
Housing Authority of the City of El Paso
5300 East Paisano Drive
El Paso, Texas 79905

Re: ~~Development Owner~~	Development	HTC No.
~~Saul Kleinfeld, Ltd.~~	Saul Kleinfeld Apartments	95024
Western Pebble Hills, Ltd.	Western Pebble Hills Apartments	96067
Western Pellicano, Ltd.	Western Pellicano Apartments	96068

Dear Mr. Montiel:

A letter from Locke Liddell & Sapp LLP, dated August 25, 2004, requested approval from the Department for the replacement of the general partner of each of the Development Owners named above. The replacement general partners would be affiliates of the Housing Authority of the City of El Paso, as follow:

Development	HTC No.	New General Partner
Saul Kleinfeld Apartments	95024	Affordable Housing Saul Kleinfeld, LLC
Western Pebble Hills Apartments	96067	Affordable Housing Western Pebble Hills, LLC
Western Pellicano Apartments	96068	Affordable Housing Western Pellicano, LLC

Your request is granted.

Sincerely,

Edwina P. Carrington

Edwina P. Carrington
Executive Director

MFP/BS
cc: Ruth Cedillo, Deputy Executive Director

T:\mfmu\LIHTC\Amendments of Ownership\95024 96067 96068 owner change.doc

507 SABINE - SUITE 400 • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (512) 475-3800.

TEXAS
DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

WWW.TDHCA.STATE.TX.US

3266

December 31, 2004

Ms. Christine R. Richardson
Locke Liddell & Sapp LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-4042

Re: Meadowbrook Townhomes, Ltd. (the Development Owner)
Meadowbrook Townhomes (the Development)
Housing Tax Credit Development No. 02067

Dear Ms. Richardson:

Your letter of December 13, 2004 requested approval to replace the general partner of the development owner named above. Under the request, Affordable Housing Meadowbrook, LLC (AHM) would replace IBI Meadowbrook, LLC, an organization whose sole member is Investment Builders Inc., an Historically Underutilized Business. AHM is a wholly-owned instrumentality of HACEP Acquisition Corp., a for-profit organization that is, itself, a wholly-owned instrumentality of the Housing Authority of the City of El Paso.

Your request is granted. This letter will be forwarded to our Portfolio Management and Compliance Division.

Sincerely,

Edwina P. Carrington

Edwina P. Carrington
Executive Director

MFP/BS
cc: Ruth Cedillo, Deputy Executive Director

T:\mfmu\LIHTC\Amendments of Ownership\02067 121604 transfer.doc

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

Michael Gerber
EXECUTIVE DIRECTOR

January 8, 2007

Mr. Vince Dodds
Chief Executive Officer
The Housing Authority of the City of El Paso
5300 East Paisano Drive
El Paso, Texas 79905-2931

Re:	Western Redd Road	HTC No. 95027	Western Carolina	HTC No. 97025
	Western Yarbrough	HTC No. 95028	Western Burgundy	HTC No. 97088
	Western Gallagher	HTC No. 96070 1531	Lee Seniors	HTC No. 98093
	Western Crosby	HTC No. 97023	Western Eastside Seniors	HTC No. 99097

Dear Mr. Dodds:

Your letters of December 22, 2006 requested approval for changes that have been made in the ownership structure of the development owner of each development named above. As indicated by the letters and accompanying documents, the name that follows each development name below is the name of the organization that is now the general partner of the owner. Each entity below is wholly owned and controlled by Paisano Housing Redevelopment Corp., a wholly owned and controlled affiliate of The Housing Authority of the City of El Paso.

Western Redd Road, HTC No. 95027
Affordable Housing Western Redd Road, LLC

Western Yarbrough, HTC No. 95028
Affordable Housing Western Yarbrough, LLC

Western Gallagher, HTC No. 96070
Affordable Housing Western Gallagher, LLC

Western Crosby, HTC No. 97023
Affordable Housing Western Crosby, LLC

Western Carolina, HTC No. 97025
Affordable Housing Western Carolina, LLC

Western Burgundy, HTC No. 97088
Affordable Housing Western Burgundy, LLC

Lee Seniors, HTC No. 98093
Affordable Housing Western Lee Elderly, LLC

Western Eastside Seniors, HTC No. 99097
Affordable Housing Eastside Elderly, LLC

Your request is granted. This letter will be forwarded to our Portfolio Management and Compliance Division.

Sincerely,

Robbye Meyer
Director of Multifamily Finance Production

RECEIVE
JAN 09 2007
COMPLIANCE

MFP/bs

Cc: Patricia Murphy, Manager of Compliance

Texas Department of Housing and Community Affairs

www.tdhca.state.tx.us

Rick Perry
Governor

Michael Gerber
Executive Director

December 30, 2009

Christine Richardson
Locke , Lord, Bissell & Liddell, LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-2748

Re: Cedar Oak Townhomes (the Development) El Paso
Cedar Oak Townhomes, Ltd. (the Development Owner)
Housing Tax Credit Development No. 04070 / 060250

Dear Ms. Richardson:

The Texas Department of Housing and Community Affairs received your letter of December 14, 2009. The letter requested approval for a change in the ownership structure of the development owner named above. The structure would change by replacing the current general partner, IBI Cedar Oak Townhomes, LLC, with HAC Cedar Oak, Inc. HAC Cedar Oak, Inc is an instrumentality of the Housing Authority of the City of El Paso.

Additionally, you have requested a waiver of the requirement to replace the Historically Underutilized Business (HUB) general partner with a non-HUB. The replacement of IBI Cedar Oak Townhomes with a non-HUB results in the loss of HUB points; however, this would not have negatively affected the award.

Your requests are granted. This letter will be forwarded to our Compliance and Asset Oversight Division and to the Real Estate Analysis Division.

Thank you for your letter.

Sincerely,

Michael Gerber
Executive Director

MFP/eh

Cc: Patricia Murphy, Chief of Compliance and Asset Oversight
Audrey Martin, Manager of Real Estate Analysis

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

December 30, 2009

Christine Richardson
Locke , Lord, Bissell & Liddell, LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-2748

Re: North Mountain Village (the Development) El Paso
North Mountain Village, Ltd. (the Development Owner)
Housing Tax Credit Development No. 05060

Dear Ms. Richardson:

The Texas Department of Housing and Community Affairs received your letter of December 14, 2009. The letter requested approval for a change in the ownership structure of the development owner named above. The structure would change by replacing the current general partners, IBI North Mountain Village, LLC and TMC North Mountain Village, LLC, with HAC North Mountain, Inc. HAC North Mountain, Inc is an instrumentality of the Housing Authority of the City of El Paso.

Additionally, you have requested a waiver of the requirement to replace the Historically Underutilized Business (HUB) general partner with a non-HUB. The replacement of TMC North Mountain Village, LLC with a non-HUB results in the loss of HUB points; however, this would not have negatively affected the award.

Your requests are granted. This letter will be forwarded to our Compliance and Asset Oversight Division and to the Real Estate Analysis Division.

Thank you for your letter.

Sincerely,

Michael Gerber
Executive Director

MFP/ch

Cc: Patricia Murphy, Chief of Compliance and Asset Oversight
Audrey Martin, Manager of Real Estate Analysis

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in the Prado Apartments
151 South Prado Road
El Paso, Texas 79907

Midland Corporate Tax Credit XII LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Midland Mortgage Investment Corporation
for itself and as agent for
Midland Affordable Housing Group
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St.
El Paso, Texas 79901

Representative Naomi Gonzalez
6044 Gateway East, Suite 818
El Paso, Texas 79905

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that Prado, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Prado Apartments. The hearing will take place at the following time and location:

Friday, June 13, 2014
5:30 p.m.
Public Room
Prado Apartments
151 South Prado Road
El Paso, Texas 79907

Proposed Amendment:

Prado, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Prado Apartments are owned by Prado, Ltd., a Texas limited partnership.

- The amendment is being proposed by Investment Builders, Inc. ("IBI"), which is the current managing general partner of Prado, Ltd. a Texas limited partnership.

- The co-general non-profit partner is TVP Non-Profit Corporation, a Texas nonprofit corporation ("TVP").

- IBI and TVP have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Housing Redevelopment Corporation ("Paisano Housing") and TVP will assign its general partnership interest to AHV Prado, LLC, a Texas limited liability company ("AHV Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization but is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Prado, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and AHV Housing will make presentations regarding why the amendment is being proposed. Tenants of the Prado Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

NCDO HOUSING, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by NCDO Housing, Ltd. ("NCDO") to amend the LURA to delete the requirement that the managing general partner, IBI NCDO Housing LP, LLC ("IBI NCDO Housing") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by NCDO under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: NCDO desires to amend the LURA encumbering the property located at 5250 Wren Avenue, El Paso, Texas, to delete the requirement that the managing general partner, IBI NCDO Housing maintain its ownership and its status as a HUB during the compliance period, and to substitute a requirement that during the remainder of the compliance period, the managing general partner be a Qualified Nonprofit Organization that materially participates in the operation of the project.

2. **Reason for the Requested Change:** IBI NCDO Housing and Paisano NCDO I, LLC ("Paisano NCDO") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI NCDO Housing has agreed to sell and assign its managing general partnership interest in NCDO to Paisano NCDO. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI NCDO Housing is a for profit Texas limited liability company whose sole member is IBI, which is a HUB. Paisano NCDO is a Texas limited liability company. Its sole member is

Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano NCDO is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano NCDO cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: NCDO asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if NCDO could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Two documents were located: the 1998 Low Income Tax Credit Application Submission Log and the 1998 LIHTC Allocation List. Two El Paso projects were competing in the nonprofit set aside: NCDO Housing, Ltd., and Santa Lucia Housing, both of which were being developed by IBI. The LURA pertaining to NCDO shows that the project is required to have a HUB and a qualified nonprofit during the compliance period. The 1998 QAP gave 5 points for using a HUB. If IBI had not used a HUB, its score would have been reduced by 5 points. However, this would not have impacted the award because only IBI was competing in the nonprofit set aside in El Paso. Reference should be made to the letters from TDHCA approving the substitution of the IBI HUB with an entity owned by HACEP. You have indicated that scoring information for these projects is either not available or does not show the effect on scoring of not claiming points for a HUB. My client does not have any records or information showing the effect on scoring if no HUB points had been claimed. See Exhibit C attached hereto.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano NCDO cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano NCDO and Paisano Housing are composed of the same persons who serve as directors on the HACEP board.

The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano NCDO will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of NCDO or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2015.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, NCDO requests that the proposed amendment be approved by TDHCA.

NCDO Housing, Ltd.

By: Investment Builders, Inc.
General Partner

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

NCDO Housing

(vi) at least 35 multifamily residential units or comparable commercial property if the project applying for credits is a Rural Project; or

(vii) Property Owners in noncompliance with HUD, TxRD, HOME, or LIHTC, but which are not barred from having an Application recommended by §49.4(f), or which have had a continuing pattern of defaults and foreclosures are ineligible to claim the points for this item.

10 10

(B) EXHIBIT 211: Label as EXHIBIT 211, evidence that the HUB has been certified by the General Services Commission and is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall require evidence of regular, continuous and substantial participation and this evidence shall include, but not limited to, the agreement to personally guarantee the interim construction loan secured (and all other guarantees to the equity investor) relative to the development of a Project by the person or persons upon whose purported ownership interest(s) and participation form the basis for which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence. The Department shall, during and after the Application Round, monitor those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation of HUB is being claimed and may require the submission of any additional documentation as required to verify said evidence. To qualify for these points, in addition to the certification from the General Services Commission, the historically underutilized person or persons whose ownership interest(s) form the basis of the HUB designation must provide the necessary loan and syndication guarantees to develop the Project. The Department's goal is to have substantive participation by those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly.

5 5

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS. EXHIBIT 212: Label as EXHIBIT 212, evidence that the Property owner has an executed agreement with a Local Tax Exempt Organization for the provision of special supportive services that would not otherwise be available to the tenants. The supportive services will be evaluated based upon the following:

(A) the duration of the service agreement,

(B) the accessibility and appropriateness of the service to the tenants,

(C) the experience of the service provider, and

(D) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the LURA.

Up to 5 5

ALL-STATE LEGAL EXHIBIT C

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in NCDO Housing
5250 Wren Avenue
El Paso, Texas 79907

Northeast Community Development Org.
c/o Dr. Gustavo Martinez, President
4756 Excalibur Drive
El Paso, Texas 79902

Midland Corporate Tax Credit V LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Marisa Marquez
1444 Montana, Ste. 100
El Paso, Texas 79902

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that NCDO Housing, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the NCDO Housing Apartments. The hearing will take place at the following time and location:

Wednesday, June 11, 2014
5:30 p.m.
Community Room
NCDO Housing
5250 Wren Avenue
El Paso, Texas 79907

Proposed Amendment:

NCDO Housing, Ltd. is proposing that the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits (the "LURA") be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

<u>**THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.**</u>

Background Information:

- The NCDO Housing Apartments are owned by NCDO Housing, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI NCDO Housing LP, LLC, ("IBI"), which is the current managing general partner of NCDO Housing, Ltd. a Texas limited partnership.

- The co-general non-profit partner is Northeast Community Development Organization, a Texas nonprofit corporation ("NCDO").

- IBI and NCDO have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano NCDO I, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its ownership and HUB and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano NCDO I, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from NCDO Housing, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano NCDO I, LLC will make presentations regarding why the amendment is being proposed. Tenants of the NCDO Housing Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

WESTERN WHIRLWIND LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Western Whirlwind, Ltd. ("Western Whirlwind") to amend the LURA to delete the requirement that the managing general partner, IBI Western Whirlwind, LLC ("IBI Western Whirlwind") maintain its status as a HUB during the compliance period and substantially participate in the operation of the project, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Western Whirlwind under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Western Whirlwind desires to amend the LURA encumbering the property located at 131 E. Lake Drive, Horizon City, Texas, to delete the requirement that the managing general partner, IBI Western Whirlwind, maintain its status as a HUB during the compliance period and substantially participate in the operation of the project and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Western Whirlwind and Paisano Western Whirlwind, LLC ("Paisano Western Whirlwind") have entered into a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Western Whirlwind to Paisano Western Whirlwind. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Western Whirlwind is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Western Whirlwind is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Western Whirlwind is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Western Whirlwind cannot be legally organized as a HUB. This scoring during the application process is not

3. **Good Cause for the Requested Amendment**: Western Whirlwind asserts that good cause exists to approve the requested amendment for the following reasons:

(a) Western Whirlwind was originally owned by IBI Western Whirlwind, a for profit entity, and Santa Lucia Community Development Corporation (SLCDO"), a qualified nonprofit organization. In 2006, SLCDO was allowed by TDHC to withdraw as a general partner and IBI Western Whirlwind, LLC, was allowed to become the sole general partner. The original LURA did not require that a HUB own an interest in the project or be a general partner. Nonetheless, IBI was a HUB although no points were claimed for that status. When TDHCA permitted SLCDO to withdraw, it required that the LURA be amended to provide that a HUB must maintain an ownership in and substantially participate in the operation of the project. Thus, because there was no HUB in the original ownership structure, IBI and Paisano Western Whirlwind are requesting an amendment that would return to ownership to resemble the original structure. Please see attached Exhibit E.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Western Whirlwind cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano

Western Whirlwind and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Western Whirlwind will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Western Whirlwind or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2018.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

Very truly yours,

Western Whirlwind, Ltd.

By: IBI Western Whirlwind, LLC

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

Texas Department of Housing and Community Affairs
Housing Tax Credit Program
U.S. Mailing Address: P.O. Box 13941, Austin, Texas 78711-3941
Private Carrier Delivery: 507 Sabine, Suite 400 Austin, TX 78701
Telephone: (512) 475-3340 Telecopier: (512) 475-0764

June 28, 2006

NOTICE OF BOARD DECISION RE: AMENDMENT REQUEST

To: Rick Morrow

HTC No. 01018, Western Whirlwind

Summary of Request: The owner requests approval for the for-profit co-general partner, IBI Western Whirlwind, LLC, a Historically Underutilized Business (HUB) to take complete ownership and control of the general partner interest. As proposed, the existing nonprofit co-general partner, Santa Lucia Community Development Organization, would withdraw from the ownership organization. In the application, the applicant qualified for three points under either of two mutually exclusive options: (1) operating the development as a joint venture between a for-profit and a nonprofit general partner, or (2) participation of a HUB in the ownership. The applicant chose to obtain the points for the joint venture instead of the HUB.

Governing Law:	§2306.6712, Texas Government Code. The code indicates that material alterations include any modification considered significant by the Board.
Owner:	Western Whirlwind, Ltd.
General Partner:	IBI Western Whirlwind, LLC (IBI); Santa Lucia Community Development Organization (SLCDO)
Developers:	Investment Builders Development Company, Inc.; SLCDO
Principals/Interested Parties:	Ike Monty (IBI); SLCDO
Syndicator:	MMA Financial, LLC
Construction Lender:	Midland Mortgage Investment Corporation
Permanent Lender:	Midland Affordable Housing Group Trust
Other Funding:	NA
City/County:	Horizon City/El Paso
Set-Aside:	Rural/Prison Communities (General Population)
Type of Area:	Rural
Type of Development:	New Construction
Population Served:	General Population
Units:	36 HTC units
2001 Allocation:	$267,524
Allocation per HTC Unit:	$7,431
Prior Board Actions:	7/01 – Approved award of tax credits
Underwriting Reevaluation:	The remaining principal would have sufficient financial resources to be acceptable as the sole general partner.
Staff Recommendation:	**Staff recommends approving the request with the stipulation to be included in an amendment to the LURA that the remaining and now, sole, general partner would continue to be a qualified HUB throughout the compliance period. The requested modifications would not materially alter the development in a negative manner and would not have adversely affected the selection of the application in the application round.**

THIS REQUEST WAS APPROVED AT THE BOARD MEETING OF JUNE 26, 2006. THE APPROVAL WILL BE CONFIRMED BY THE MINUTES AS APPROVED AND RECORDED IN A SUBSEQUENT BOARD MEETING.

Ben Sheppard

Ben Sheppard
Multifamily Finance Production

EXHIBIT
ALL-STATE LEGAL
E

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in Western Whirlwind
131 E. Lake Drive
Horizon City, Texas 79928

Midland Corporate Tax Credit XVII LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Midland Special Limited Partner, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Mary Gonzalez
1200 Santos Sanchez
Socorro, TX 79927

Mayor Walter Miller
14999 Darrington Road
Horizon City, Texas 79928

Please take notice that Western Whirlwind, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Western Whirlwind apartments. The hearing will take place at the following time and location:

Thursday, June 12, 2014
7:30 p.m.
Community Room
Western Whirlwind
131 E. Lake Drive
Horizon City, Texas 79928

Proposed Amendment:

Paisano Housing, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain its ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

<u>**THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.**</u>

Background Information:

- The Western Whirlwind apartments are owned by Western Whirlwind, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Western Whirlwind, LLC ("IBI"), which is the sole managing general partner of Western Whirlwind, Ltd., a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Western Whirlwind, LLC.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Western Whirlwind, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Western Whirlwind, Ltd.. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Western Whirlwind will make presentations regarding why the amendment is being proposed. Tenants of Western Whirlwind and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

CACTUS ROSE, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Cactus Rose, Ltd. ("Cactus Rose") to amend the LURA to delete the requirement that the managing general partner, IBI Cactus Rose, LLC ("IBI Cactus Rose") maintain its status as a HUB and an ownership interest in the project during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Cactus Rose under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Cactus Rose desires to amend the LURA encumbering the property located at 225 Poplar, Anthony, Texas to delete the requirement that Investment Builders, Inc., the sole member of the managing general partner, IBI Cactus Rose, maintain its status as a HUB and hold an ownership interest in the project, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the remainder of the compliance period, and materially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Cactus Rose, Paisano Cactus Rose, LLC ("Paisano"), and AHV Cactus Rose, Inc. intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Cactus Rose has agreed to sell and assign its managing general partnership interest in Cactus Rose to Paisano Cactus Rose. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Cactus Rose is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Cactus Rose is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Cactus Rose is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Cactus Rose cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Cactus Rose asserts that good cause exists to approve the requested amendment for the following reasons:

(a) Under the QAP in effect when the application for credits was filed for Cactus Rose, the developer of Cactus Rose could have structured ownership of Cactus Rose with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Cactus Rose was a rural set aside project and had no competitors. In short, the developer would have been awarded credits for Cactus Rose even if a HUB had not been used in the ownership structure. Please refer top Exhibit A, which is page 30 from the 2001 LIHTC Application Submission Procedures Manuel. Exhibit A shows that the same number of points could be claimed regardless of whether a HUB or a Qualified Nonprofit Organization was used in the ownership of Cactus Rose.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Cactus Rose cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Cactus Rose and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Cactus Rose, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Cactus Rose or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 2017.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Cactus Rose requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Cactus Rose, Ltd.

By: IBI Cactus Rose, LLC
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

 Cactus Rose

(K) The Project is comprised entirely of fourplexes and Town Homes. To qualify for these points the development must be on contiguous property under common ownership, management, and Control and must have a density of no more than 16 Units per acre. None of the residential buildings may share common roofs with other buildings. None of the residential buildings may have an exterior door that opens onto a breezeway or hallway that serves other units or buildings (5 points). 5 5

(L) Exhibit 205. For developments which involve rehabilitation of existing units, evidence that a majority of the development's residential Units are vacant and uninhabitable at the time the Application is submitted. Such evidence must be in the form of a letter and report from the local municipal authority citing substantial code violations. To qualify for these points, the Applicant or its Affiliates must not have owned a significant interest in, or have had Control of the Project during the period in which such Units were rendered uninhabitable (4 points). 4 0

(M) Exhibit 206. Evidence from the local municipal authority stating that the Project fulfills a need for additional affordable rental housing as evidenced in a local Consolidated Plan, Comprehensive Plan, other or local planning document. If the municipality does not have such a planning document, then a letter from the local municipal authority stating that there is no local plan and that the city supports the Project must be submitted (5 points). 5 5

(N) The Project consists of not more than 36 Units and is not a part of, or contiguous to, a larger Project. A Project may not receive points for this characteristic if it would otherwise qualify as a Rural Project (5 points). 5 0

(O) Exhibit 207. Evidence that the proposed Project is partially funded by a HOPE VI grant from HUD. The Project must have already received the commitment from HUD. Submission of a HOPE VI application to HUD does not qualify a Project for these points. Evidence shall include a copy of the commitment letter from HUD indicating the HOPE VI grant terms and grant award amount (5 points). 5 0

(4) Sponsor Characteristics. Projects may only receive points for one of the two criteria listed in subparagraphs (A) and (B) of this paragraph:

(A) EXHIBIT 208. Evidence that a HUB, as certified by the General Services Commission, is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall, during and after the Application Round, monitor those individuals whose purported ownership interest(s) and participation form the basis upon which the designation of HUB is being claimed and may require the submission of additional documentation as required to verify said evidence. The Department's goal is to have substantive participation by those individuals whose purported ownership interest(s) and participation form the basis which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly. The following documentation must be provided to qualify for these points: 3 3

(i) certification from the General Services Commission that the Person is a HUB; and

(ii) evidence of regular, continuous and substantial participation. This evidence shall include, but not be limited to, the agreement to personally guarantee the interim construction loan secured relative to the development of a Project (and to personally provide all other guarantees to the equity investor) by the person or persons whose purported ownership interest(s) and participation form the basis upon which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence (3 points).

ALL-STATE LEGAL EXHIBIT A

(B) Exhibit 209. Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Project involves a joint venture between a forprofit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Project as one of the General Partners, but is not required to have Control, to receive these points. However, projects without Control will not be eligible for the nonprofit set-aside. Such evidence must be in the form of an executed partnership agreement between the organizations participating in the joint venture. The partnership agreement must clearly identify the percentage interest of each organization.(3 points) 3 0

(5) Exhibit 210. Project Provides Supportive Services to Tenants. Evidence that the Project Owner has an executed agreement with a for profit organization or a tax-exempt entity for the provision of special supportive services for the tenants. The service provider must be an existing organization qualified by the Internal Revenue Service or other governmental entity. The provision of supportive services will be included in the LURA (up to 5 points, depending upon the services committed in accordance with subparagraph (B) of this paragraph). 5 5

(A) Both documents described in clauses (i) and (ii) of this subparagraph must be submitted for the service provider to be considered under this exhibit.

(i) A fully executed contract between the service provider and the Applicant that establishes that the services offered provide a benefit that would not be readily available to the tenants if they were not residing in the development.

(ii) A copy of the service provider's Articles of Incorporation or comparable chartering document.

(B) The supportive services contract will be evaluated using the criteria described in clauses (i) through (v) of this subparagraph. The contract must clearly state the:

(i) Cost of Services to the Project Owner. The cost shown in the contract must also be included in the Project's operating budget and proforma. The costs must be reasonable for the benefit derived by the tenants. Services for which the Project Owner does not pay, will not receive a point for this item (1 point).

(ii) Availability of Services - The services must be provided on site or with transportation provided to offsite locations. (1 point).

(iii) Duration of Contract - A commitment to provide the services for not less than five years or an option to renew the contract annually for not less than five years must be provided (1 point).

(iv) Experience of Service Provider - The Department will evaluate the experience of the organization as well as the professional and educational qualifications of the individuals delivering the services (1 point).

(v) Appropriateness - Services must be appropriate and provide a tangible benefit in enhancing the standard of living of a majority of low-income tenants (1 point).

(6) Tenant Populations With Special Housing Needs. Projects may receive points under as many of the subparagraphs as apply, in accordance with the terms of those subparagraphs.

(A) This criterion applies to elderly Projects which provide significant facilities and services specifically designed to meet the physical and social needs of the residents. Significant services may include congregate dining facilities, social and recreation programs, continuing education, welfare information and counseling, referral services, transportation and recreation. Other attributes of such Projects include providing hand rails along steps and interior hallways, grab bars in bathrooms, routes that allow for barrier-free travel, lever type doorknobs and single lever faucets. All multistory buildings (two or more floors) must be served by an elevator. Individual Units shall not be multistory. Elderly Projects must not contain any Units with three or more bedrooms. Such a Project must conform to the Federal Fair Housing Act and must be a Project which meets the definition of Qualified Elderly Project (10 points). 10 0

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in Cactus Rose
225 Poplar Street
Anthony, Texas 79821

Midland Corporate Tax Credit XIV LP
Midland Special Limited Partner, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Joseph E. Moody
5675 Woodrow Bean, Transmountain Dr.,
Ste. 12
El Paso, Texas 79924

Mayor Lee Vela
401 Wildcat Dr.
Anthony, Texas 79921

Please take notice that Cactus Rose, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Cactus Rose apartments. The hearing will take place at the following time and location:

Monday, June 16, 2014
5:30 p.m.
Community Room
225 Poplar Street
Anthony, Texas 79821

Proposed Amendment:

Cactus Rose, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Cactus Rose apartments are owned by Cactus Rose, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Cactus Rose, LLC ("IBI"), which is the sole managing general partner of Cactus Rose Townhomes, Ltd., a Texas limited partnership.

- IBI has have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Cactus Rose, LLC, a Texas limited liability company, which is a subsidiary of the Paisano Housing Redevelopment Corporation.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Cactus Rose, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Cactus Rose, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Cactus Rose, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Cactus Rose apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

PAINTED DESERT TOWNHOMES, LTD.
7400 Viscount Blvd., Ste. 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Painted Townhomes, Ltd. ("Painted Desert") to amend the LURA to delete the requirement that the managing general partner, IBI Painted Desert Townhomes, LLC ("IBI Painted Desert") maintain its status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Painted Desert under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Painted Desert desires to amend the LURA encumbering the property located at 12682 Rio Negro Drive, Clint, Texas, to delete the requirement that the managing general partner, IBI Painted Desert, maintain its ownership and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Painted Desert and Paisano Painted Desert, LLC ("Paisano Painted Desert") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Painted Desert has agreed to sell and assign its managing general partnership interest in Painted Desert to Paisano Painted Desert. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Painted Desert is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Painted Desert is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Painted Desert is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Painted Desert cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Painted Desert asserts that good cause exists to approve the requested amendment for the following reasons:

(a) The award to Painted Desert Townhomes was made under the rural set aside. The award would have been made even if HUB points had not been claimed because Painted Desert's records indicate that there were no competitors. (See Exhibit G attached hereto).

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Painted Desert cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Painted Desert and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Painted Desert, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Painted Desert or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 20.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Painted Desert requests that the proposed amendment be approved by TDHCA.

Painted Desert Townhomes, Ltd.

By: IBI Painted Desert Townhomes, LLC
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

(xiv) Greater than 75% masonry on exterior (3 points); 3 —

(G) The proposed Development provides housing density of no more than 42 Units per acre for multi-story elderly or urban infill Developments and no more than 24 Units per acre for all other Developments, as follows:

(i) 34 Units per acre or less for multi-story elderly or urban infill developments, or 16 Units or less per acre for all other Developments (6 points); or 6 —

(ii) 35 to 38 Units per acre for multi-story elderly or urban infill developments, or 17 to 20 Units per acre for all other Developments (4 points); or 4 —

(iii) 39 to 42 Units per acres for multi-story elderly or urban infill developments, 21 to 24 Units per acre for all other Developments (2 points). 2 —

(H) Exhibit 206. The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing. If maximum rent limitations had existed previously, then the restrictions must have expired at least one year prior to the date of Application to the Department (4 points). 4 —

(I) The Development is a mixed-income development comprised of both market rate Units and qualified tax credit Units. To qualify for these points, the project must be located in a submarket where the average rents based on the number of bedrooms for comparable market rate units are at least 10% higher on a per net rentable square foot basis than the maximum allowable rents under the Program. Additionally, excluding 4-bedroom Units, the proposed rents for the market rate units in the project must be at least 5% higher on a per net rentable square foot basis than the maximum allowable rents under the Program. The Market Study required by subsection (e)(12)(B) of this section must provide an analysis of these requirements for each bedroom type shown in proposed unit mix. Points will be awarded to Development's with a Unit based Applicable Fraction which is no greater than:

(i) 80% (8 points); or, 8 —

(ii) 85% (6 points); or, 6 —

(iii) 90% (4 points); or 4 —

(iv) 95% (2 points). 2 —

(J) Exhibit 207. Evidence that the proposed historic Residential Development has received an historic property designation by a federal, state or local Governmental Entity. Such evidence must be in the form of a letter from the designating entity identifying the Development by name and address and stating that the Development is: 6 —

(i) listed in the National Register of Historic Places under the United States Department of the Interior in accordance with the National Historic Preservation Act of 1966;

(ii) located in a registered historic district and certified by the United States Department of the Interior as being of historic significance to that district;

(iii) identified in a city, county, or state historic preservation list; or

(iv) designated as a state landmark (6 points).

(K) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points). 5 5

(L) Exhibit 208. Evidence that the proposed Development is partially funded by a HOPE VI, Section 202 or Section 811 grant from HUD. The Project must have already received the commitment from HUD. Submission of a HOPE VI, Section 202 or Section 811 grant application to HUD does not qualify a Development for these points. Evidence shall include a copy of the commitment letter from HUD indicating the HOPE VI, Section 202 or Section 811 grant terms and grant award amount (5 points). 5 —

(5) Sponsor Characteristics. Developments may only receive points for one of the two criteria listed in subparagraphs (A) and (B) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B), a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for subparagraphs (A) and (B) of this paragraph). 3 3

(A) Exhibit 209. Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB and is valid through July 31, 2002 and renewable after that date. ☒

(B) Exhibit 210. Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, Developments without Control will not be eligible for the nonprofit set-aside. ☐

(6) Exhibit 211. Development Provides Supportive Services to Tenants. Evidence that the Development Owner has an executed agreement with a for profit organization or a tax-exempt entity for the provision of special supportive services for the tenants. The service provider must be an existing organization qualified by the Internal Revenue Service or other governmental entity. The provision of supportive services will be included in the LURA (up to 7 points, depending upon the services committed in accordance with subparagraph (B) of this paragraph, plus two additional points pursuant to clause (vi) of subparagraph (B) of this paragraph). Acceptable services are described in subparagraphs (C) through (E) of this paragraph.

(A) Both documents described in clauses (i) and (ii) of this subparagraph must be submitted for the service provider to be considered under this exhibit.

(i) A fully executed contract, not more than 6 months old from the first day of the Application Acceptance Period between the service provider and the Applicant that establishes that the services offered provide a benefit that would not be readily available to the tenants if they were not residing in the Development.

(ii) A copy of the service provider's Articles of Incorporation or comparable chartering document.

(B) The supportive services contract will be evaluated using the criteria described in clauses (i) through (vi) of this subparagraph. The contract must clearly state the:

(i) Cost of Services to the Development Owner. The cost shown in the contract must also be included in the Development's operating budget and proforma. The costs must be reasonable for the benefit derived by the tenants. Services for which the Development Owner does not pay, will not receive a point for this item, except in the event that a supportive service provider is able to provide services with funds they receive from other sources. Evidence of the provider's other funding source(s) enabling the provision of service to the tenants of the proposed Development must be provided (1 point). 1 1

(ii) Availability of Services - The services must be provided on site or with transportation provided to offsite locations (1 point). 1 1

(iii) Duration of Contract - A commitment to provide the services for not less than five years or an option to renew the contract annually for not less than five years must be provided (1 point). 1 1

(iv) Experience of Service Provider - The Department will evaluate the experience of the organization as well as the professional and educational qualifications of the individuals delivering the services (1 point). 1 1

(v) Appropriateness - Services must be appropriate and provide a tangible benefit in enhancing the standard of living of a majority of low-income tenants (1 point). 1 1

(vi) Coordination with tenant services provided through housing programs – An extra two points will be awarded for services that are provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points). 2 —

(7) Tenant Characteristics – Populations with Special Needs Housing & Rent and Income Levels. Developments may receive points under as many of the subparagraphs as apply, in accordance with the terms of those subparagraphs.

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in Painted Desert Townhomes
12682 Rio Negro Drive
Clint, Texas 79836

SunAmerica Housing Fund 1099
c/o Tara Holleran
3850 Rocking J Road
Round Rock, Texas 78664

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Mary Gonzalez
1200 Santos Sanchez
Socorro, TX 79927

Mayor Dale T. Reinhardt
200 N. San Elizario Road
Clint, Texas 79836

Please take notice that Painted Desert Townhomes, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Painted Desert Townhomes Apartments. The hearing will take place at the following time and location:

Thursday, June 12, 2014
5:30 p.m.
Community Room
Painted Desert Townhomes
12682 Rio Negro Drive
Clint, Texas 79836

Proposed Amendment:

Painted Desert Townhomes, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Non Profit Organization.

<u>**THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.**</u>

Background Information:

- The Painted Desert Townhomes are owned by Painted Desert Townhomes, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Painted Desert Townhomes, LLC ("IBI"), which is the current managing general partner of Painted Desert Townhomes, Ltd. a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Painted Desert, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its owner in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Painted Desert, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Painted Desert Townhomes, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Painted Desert, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Painted Desert Townhomes Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

WHISPERING SANDS TOWNHOMES, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Whispering Sands Townhomes, Ltd. ("Whispering Sands") to amend the LURA to delete the requirement that the managing general partner, IBI Whispering Sands Townhomes, LLC ("IBI Whispering Sands") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Whispering Sands under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Whispering Sands desires to amend the LURA encumbering the property located at 500 Omar Street, Anthony, Texas, to delete the requirement that the managing general partner, IBI Whispering Sands maintain its ownership in and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

2. **Reason for the Requested Change:** IBI Whispering Sands and Paisano Whispering Sands, LLC ("Paisano Whispering Sands") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Whispering Sands has agreed to sell and assign its managing general partnership interest in Whispering Sands to Paisano Whispering Sands. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Whispering Sands is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Whispering Sands is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Whispering Sands is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Whispering Sands cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Whispering Sands asserts that good cause exists to approve the requested amendment for the following reasons:

(a) The award made to Whispering Sands was made under the rural set aside. The award would have been made even if HUB points had not been claimed because Whispering Sands' records indicate that there were no competitors. (See Exhibit F attached hereto).

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Whispering Sands cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Whispering Sands and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Whispering Sands, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Whispering Sands or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 2019.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Whispering Sands requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Whispering Sands Townhomes, Ltd.

By: IBI Whispering Sands Townhomes, LLC,
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

Whispering Sands

	Points Requested by Applicant: Pre-Application	Points Requested by Applicant: Application
(5) Sponsor Characteristics. Developments may only receive points for one of the three criteria listed in subparagraphs (A) through (C) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B) of this paragraph, a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for one of subparagraphs (A) through (C) of this paragraph). (A) Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB at the close of the Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2003 and renewable after that date. (B) Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, to also be eligible for the Nonprofit Set-Aside, as further described in §49.7 of this title, the Qualified Nonprofit Organization must have Control. (C) The proposed Development involves the rehabilitation of existing Units, or on- or off-site replacement of Units, that are owned by a Public Housing Authority, and which Units, or replacement Units, will continue to be owned by a partnership Controlled by said Public Housing Authority or its nonprofit affiliate as evidenced by a partnership agreement showing the Control by the said Public Housing Authority. A Housing Finance Agency is not considered to be a Public Housing Authority for purposes of this exhibit.	3	3
(6) Developments Targeting Tenant Populations of Individuals with Children. The Rent Schedule of the Application must show that 50% or more of the Units in the Development have more than 2 bedroom (1 point).	1	1
(7) Development Provides Supportive Services to Tenants. Points may be received under both subparagraphs (A) and (B) of this paragraph. (A) An Applicant will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).	2	2

ALL-STATE LEGAL® EXHIBIT F

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

---

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

---

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in
Whispering Sands Townhomes
500 Omar Street
Anthony, Texas 79821

MMA Financial Affordable Housing Fund IV, Ltd.
MMA Special Limited Partners, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Joseph E. Moody
5675 Woodrow Bean, Transmountain Dr., Ste. 12
El Paso, Texas 79924

Mayor Lee Vela
401 Wildcat Dr.
Anthony, Texas 79921

Please take notice that Whispering Sands Townhomes, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Whispering Sands Townhomes. The hearing will take place at the following time and location:

Wednesday, June 16, 2014
7:30 p.m.
Community Room
Whispering Sands Townhomes
500 Omar Street
Anthony, Texas 79821

Proposed Amendment:

Whispering Sands Townhomes, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

<u>THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.</u>

Background Information:

- The Whispering Sands Townhomes are owned by Whispering Sands Townhomes, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Whispering Sands Townhomes, LLC ("IBI"), which is the current managing general partner of Whispering Sands Townhomes, Ltd., a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Whispering Sands, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Whispering Sands, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Whispering Sands Townhomes, Ltd.. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Whispering Sands Townhomes, LLC will make presentations regarding why the amendment is being proposed. Tenants of Whispering Sands and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

AINSA HUTSON, LLP
ATTORNEYS AT LAW
5809 Acacia Circle · El Paso, Texas 79912
Tel: (915) 845-5300 · Fax: (915) 832-3547

Francis S. Ainsa Jr. Email: fain@acaciapark.com

June 20, 2014

Mr. Tim Irvine
Executive Director
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Cameron Dorsey
Deputy Executive Director of Multifamily Finance and Fair Housing
Ms. Cari Garcia
Director of Asset Management
Deputy Director
Mr. Rosalio Banuelos
Asset Manager
Ms. Barbara Deane
General Counsel
Texas Department of Housing and Community Affairs
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Applications by Cactus Rose, Ltd., Fonseca, Ltd., NCDO Housing, Ltd. Painted Desert Townhomes, Ltd. Prado, Ltd., Western Whirlwind, Ltd., and Whispering Sands Townhomes, Ltd. to amend the LURAs applicable to these projects to delete the requirement that the managing general partner maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Irvine, Mr. Gouris, Mr. Dorsey, Ms. Garcia, Mr. Banuelos, and Ms. Deane:

With this letter, I will reiterate the matters that we discussed during our meeting on June 18, 2014. In addition to all of you, the following individuals were also present at the meeting: Gerald Cichon, Chief Executive Officer of the Housing Authority of the City of El Paso ("HACEP"), Stan Waterhouse, Chief Operating Officer of HACEP, Ike J. Monty, President of Investment Builders, Inc. ("IBI"), Sarah Anderson, affordable housing consultant to HACEP, and the undersigned legal counsel to IBI and its subsidiaries.

For the record, I requested the meeting so that the HACEP representatives and the IBI representatives could discuss the TDHCA staff's concerns regarding the proposed amendments to the LURAs applicable to the referenced projects.

I will briefly summarize the arguments that were advanced by the IBI and the HACEP representatives for supporting the proposed amendments:

1. **Public Policy applicable to HUBs**: The public policy of the State of Texas to utilize HUBs in state contracting opportunities has been met with respect to the seven referenced projects and the substitution of a Qualified Nonprofit Organization controlled by HACEP will be better for the residents than retaining the current HUBs.

2. **Additional Supportive Services**: HACEP, through the substitute general partners that it controls, will furnish the following additional supportive services that are not being currently provided to the seven referenced projects:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)
- Annual Health fair
- Quarterly health and nutritional courses.
- Notary public services during regular business hours (i.e. qualifying PM)
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly onsite social events (i.e. potlucks, game night, sing-a-long, movie nights, birthday parties, holiday events, etc.)
- Senior Health Care Services

3. **HACEP's Financial Strength**: Over the long terms of the extended compliance periods, HACEP is in a much stronger financial position than the current HUBs to fund capital needs of the projects. HACEP's Audit Report for the years ended June 30, 2013, and June 30, 2012, is attached.

4. **HACEP's physical needs assessment:** HACEP has conducted inspections of the referenced projects including 25% of the interior units. Attached is an estimate by project totaling $1,281,765. The repairs include roofing, cooling systems, water heaters, exterior

building repairs and paint and minor interior repairs. These repairs vary from immediate to near future. HACEP has reserved these funds and they will be available for improvements subsequent to closing the transaction. Replacement reserves are available in addition to HACEP's reserves.

5. **Availability of HUBs in El Paso, Texas:** HACEP has indicated that it is not interested in forming a partnership or joint venture with a HUB with respect to any of the seven referenced projects. However, even if HACEP was interested, there are no existing HUBs in El Paso, Texas that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor. IBI has not been able to identify any person or persons who have the knowledge and/or desire to organize a HUB to own a general partnership interest in a tax credit project because of the regulatory burdens and long learning curve.

Both IBI and HACEP ask that you reconsider your recommendation that the TDHCA board not approve the proposed amendments to the LURAs and affirmatively recommend that good cause exists to approve the proposed amendments.

If you have any questions, do not hesitate to contact me.

Very truly yours,

Francis S. Ainsa Jr.

FSA/lb

cc: Investment Builders, Inc.
Housing Authority of the City of El Paso
Ms. Sarah Anderson

HOUSING AUTHORITY OF THE CITY OF EL PASO, TEXAS
IBI Acquisitions
Estimated Physical Needs Assessment
June 19, 2014

Community	Year Placed in Service	No. Units		Amount
Canyon Square	2011 / 2012	104	$	19,937
Desert Villas	2010 / 2011	94		13,485
Arrowhead Place	2002	24		34,731
Cactus Rose	2002	26		42,720
Fonesca	1997	14		24,297
NCDO I	2000	32		58,972
NCDO II	2001	16		10,240
Notre Dame Hills	2000	8		8,677
Patriot Hills	2001	22		29,927
Prado I	1999	64		120,748
Prado II	2000	16		10,778
Santa Lucia	2001	36		49,040
Sunshine Pass	2003	36		116,004
Western Whirlwind	2003	36		110,163
Whispering Sands	2004	36		76,005
Mission del Valle	2003	16		21,322
Mission Pass	2002 / 2003	36		36,571
Mountain Heights	2002	31		27,523
Tierra Socorro	2000	64		94,336
Hillside Senior Comm.	2000	25		74,696
Desert Breeze	2005	36		64,810
Geronimo	2003 / 2004	22		107,797
Painted Desert	2003 / 2004	20		38,514
Spanish Creek	2008 / 2009	136		78,100
Woodchase	2008 / 2009	128		12,370
	TOTALS	1078	$	1,281,765

AINSA HUTSON, LLP

ATTORNEYS AT LAW

5809 Acacia Circle · El Paso, Texas 79912

Tel: (915) 845-5300 · Fax: (915) 832-3547

Francis S. Ainsa Jr. Email: fain@acaciapark.com

July 7, 2014

Mr. Tim Irvine
Executive Director
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Cameron Dorsey
Deputy Executive Director of Multifamily Finance and Fair Housing
Ms. Cari Garcia
Director of Asset Management
Deputy Director
Mr. Rosalio Banuelos
Asset Manager
Ms. Barbara Deane
General Counsel
Texas Department of Housing and Community Affairs
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Applications by Cactus Rose, Ltd., Fonseca, Ltd., NCDO Housing, Ltd. Painted Desert Townhomes, Ltd. Prado, Ltd., Western Whirlwind, Ltd., and Whispering Sands Townhomes, Ltd. to amend the LURAs applicable to these projects to delete the requirement that the managing general partner maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Irvine, Mr. Gouris, Mr. Dorsey, Ms. Garcia, Mr. Banuelos, and Ms. Deane:

With this letter, I will supplement the letter that I sent to you on June 20, 2014. This supplement is intended to respond to additional queries posed by Tom Gouris. I will restate each query and provide a response:

1. **Additional Supportive Services:** At our meeting on June 18, 2014, Stan Waterhouse, HACEP's Chief Operating Officer, indicated that HACEP would provide to the seven projects the following additional supportive services that are not being currently provided, as outlined below:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)
- Annual Health fair
- Quarterly health and nutritional courses.
- Notary public services during regular business hours (i.e. qualifying PM)
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly onsite social events (i.e. potlucks, game night, sing-a-long, movie nights, birthday parties, holiday events, etc.)
- Senior Health Care Services

You have asked if HACEP will be willing to amend the LURAs to provide that the above described Supportive Services will be required to be provided to the seven referenced projects. Mr. Waterhouse has informed me that HACEP will agree to amend the LURAs as requested so long it has the right to discontinue providing a service if lack of attendance reasonably justifies discontinuation of the service, or if the service becomes cost prohibitive or if a reasonably qualified vendor cannot be found. In this event, HACEP will agree to propose a substitute supportive service to TDHCA for approval.

2. **Additional Property Tax Relief:** At our meeting on June 18, 2014, Stan Waterhouse, HACEP's Chief Operating Officer, discussed property taxes when HACEP is the owner of general partnership interests. Under V.A.T.C §23.21, affordable housing projects are appraised by the El Paso Central Appraisal District based on actual rentals received as opposed to fair market rental value. These results in a reduction in taxes compared to market rate projects. The reduction in appraised value reduces the taxes by approximately 50%. I am attaching El Paso CAD property reports on three representative HACEP projects to demonstrate that the El Paso CAD reduces the appraised value to a taxable value that is 50% of the appraised value. I have been advised by counsel to HACEP that its existing tax credit portfolio receives at least a 50% exemption from property taxes on this basis. However, some of HACEP's tax credit portfolio receives a greater exemption amount depending on certain factors and ownership

structures. There is a provision in the Texas Local Government Code (§392.005) that grants a full exemption to housing authorities for properties that are devoted to public purposes (i.e. public housing). There are also federal laws and interlocal agreements between HACEP and the local taxing authorities which afford HACEP exemptions from property taxes for its affordable housing developments. However, these particular provisions have generally been invoked only for developments which have federal public housing units, other affordable housing programs/services, or ownership structures, which is not the case here. HACEP's outside counsel anticipates a 50% property tax treatment for these properties, although there may be the possibility of additional exemptions applying.

3. **Availability of HUBs in El Paso, Texas**: Tom Gouris asked about the availability of existing HUBs in El Paso, Texas that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor. IBI has not been able to identify any person or persons who have the knowledge and/or desire to organize a HUB to own a general partnership interest in a tax credit project because of the regulatory burdens and long learning curve. In a perfect world, given enough time, IBI could possibly interest a qualified woman or minority to organize a HUB to own a general partnership interest in a tax credit project. However, in my judgment, I do not see it happening because, once potential owners realize the burdens, they look for less burdensome projects to own.

If you have any questions, do not hesitate to contact me.

Very truly yours,

Francis S. Ainsa Jr.

FSA/lb

cc: Investment Builders, Inc.
Housing Authority of the City of El Paso
Ms. Sarah Anderson

El Paso CAD

Property Search Results > 368942 WESTERN PELLICANO LTD for Year 2014

Property

Account

Property ID:	368942	Legal Description:	506 VISTA DEL SOL #138 LOT 82 (61232.00 SQ FT)
Geographic ID:	V89399950608200	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	11973 PELLICANO DR EL PASO, TX	Mapsco:	
Neighborhood:	EAST SOCORRO ISD NORTH OF I-10	Map ID:	NEB249
Neighborhood CD:	512		

Owner

Name:	WESTERN PELLICANO LTD	Owner ID:	143891
Mailing Address:	% HACEP ACQUISITION CORPORATION PO BOX 9367 EL PASO, TX 79995-9367	% Ownership:	100.0000000000%
		Exemptions:	LIH

Values

(+) Improvement Homesite Value:	+	$0	
(+) Improvement Non-Homesite Value:	+	$467,369	
(+) Land Homesite Value:	+	$0	
(+) Land Non-Homesite Value:	+	$150,631	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	$0	$0
(+) Timber Market Valuation:	+	$0	$0
(=) Market Value:	=	$618,000	
(–) Ag or Timber Use Value Reduction:	–	$0	
(=) Appraised Value:	=	$618,000	
(–) HS Cap:	–	$0	
(=) Assessed Value:	=	$618,000	

Taxing Jurisdiction

Owner: WESTERN PELLICANO LTD
% Ownership: 100.0000000000%
Total Value: $618,000

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$618,000	$309,000	$0.00
CEP	CITY OF EL PASO	0.678378	$618,000	$309,000	$2,096.19
G01	EL PASO COUNTY	0.433125	$618,000	$309,000	$1,338.36
ISO	SOCORRO I.S.D.	1.274794	$618,000	$309,000	$3,939.11
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$618,000	$309,000	$384.27
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$618,000	$309,000	$662.47
	Total Tax Rate:	2.725049			
				Taxes w/Current Exemptions:	$8,420.40
				Taxes w/o Exemptions:	$16,840.80

Improvement / Building

All improvmets valued at Income

Improvement #1:	Commercial	State Code:	B2	Living Area:	3382.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	1691.0
MA1	UPPER FLOOR AREA	*		1998	1691.0
49W	SECURITY FENCING--WROUGHT IRON	*		1998	2479.0
45C	YARD PAVING--CONCRETE	*		1998	18316.0
45B	YARD PAVING--ASPHALT	*		1998	19286.0
50M	STAIRWAY--METAL	*		1998	158.0
46R	RETAINING WALL--ROCK	*		1998	2567.0
54S	STORAGE	*		1998	48.0
29B	BALCONY	*		1998	166.0
29P	PORCH	*		1998	166.0

Improvement #2:	Commercial	State Code:	B2	Living Area:	8402.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	4201.0
MA1	UPPER FLOOR AREA	*		1998	4201.0
54S	STORAGE	*		1998	120.0
29P	PORCH	*		1998	425.0
29B	BALCONY	*		1998	425.0

Improvement #3:	Commercial	State Code:	B2	Living Area:	9301.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	5168.0
MA1	UPPER FLOOR AREA	*			4133.0
54S	STORAGE	*		1998	240.0
29B	BALCONY	*		1998	392.0
29P	PORCH	*		1998	502.0

Improvement #4:	Commercial	State Code:	B2	Living Area:	5859.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	3344.0
MA1	UPPER FLOOR AREA	*			2515.0
54S	STORAGE	*			71.0
29B	BALCONY	*		1998	226.0
29P	PORCH	*		1998	309.0
54S	STORAGE	*		0	84.0

Improvement #5:	Commercial	State Code:	B2	Living Area:	810.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	892	1998	810.0
60P	PEDESTRIAN CANOPY	*		1998	189.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	512824	APARTMENT AVG DISTRICT	1.4057	61232.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$467,369	$150,631	0	618,000	$0	$618,000
2013	$467,369	$150,631	0	618,000	$0	$618,000
2012	$467,369	$150,631	0	618,000	$0	$618,000
2011	$474,105	$143,895	0	618,000	$0	$618,000
2010	$505,312	$112,666	0	617,978	$0	$617,978

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	5/2/1997 12:00:00 AM	S	Seller Statement	SHIELDS, LINDA A	WESTERN PELLIC/			

Information relating to 2014 should be considered a "work in progress". Prior year data is informational only and does not necessarily replicate the values certified to the tax office.

Building and land detail information is not available prior to 2009.

Questions Please Call (915) 780-2000

Website version: 1.2.2.2

Database last updated on: 7/1/2014 8:36 PM

El Paso CAD

Property Search Results > 350242 WESTERN BURGUNDY LTD for Year 2014

Property

Account

Property ID:	350242	Legal Description:	1 LE BARRON PARK ELY PT OF 1 (285.24' ON ST - 610.05' ON WLY -283.81' ON NLY- 628.49' ON ELY) (174241.57 SQ FT)
Geographic ID:	L21799900100125	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	815 BURGUNDY DR EL PASO, TX	Mapsco:	
Neighborhood:	EASTSIDE--URBAN SOUTH OF I-10	Map ID:	SEA29
Neighborhood CD:	620		

Owner

Name:	WESTERN BURGUNDY LTD	Owner ID:	78417
Mailing Address:	% HOUSING AUTHORITY OF EL PASO 5300 E PAISANO DR EL PASO, TX 79905-2931	% Ownership:	100.0000000000%
		Exemptions:	UH

Values

(+) Improvement Homesite Value:	+	$0		
(+) Improvement Non-Homesite Value:	+	$1,146,517		
(+) Land Homesite Value:	+	$0		
(+) Land Non-Homesite Value:	+	$142,943	Ag / Timber Use Value	
(+) Agricultural Market Valuation:	+	$0	$0	
(+) Timber Market Valuation:	+	$0	$0	
(=) Market Value:	=	$1,289,460		
(–) Ag or Timber Use Value Reduction:	–	$0		
(=) Appraised Value:	=	$1,289,460		
(–) HS Cap:	–	$0		
(=) Assessed Value:	=	$1,289,460		

Taxing Jurisdiction

Owner: WESTERN BURGUNDY LTD
% Ownership: 100.0000000000%
Total Value: $1,289,460

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$1,289,460	$644,730	$0.00
CEP	CITY OF EL PASO	0.678378	$1,289,460	$644,730	$4,373.71
G01	EL PASO COUNTY	0.433125	$1,289,460	$644,730	$2,792.43
IYS	YSLETA I.S.D.	1.360000	$1,289,460	$644,730	$8,768.33
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$1,289,460	$644,730	$801.78
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$1,289,460	$644,730	$1,382.26
	Total Tax Rate:	2.810255			
				Taxes w/Current Exemptions:	$18,118.56
				Taxes w/o Exemptions:	$36,237.11

Improvement / Building

All improvmets valued at income

Improvement #1: Commercial State Code: B2 Living Area: 3984.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1999	3984.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1999	128.0
45C	YARD PAVING--CONCRETE	*		1999	31926.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1999	3200.0
49C	SECURITY FENCING--CHAIN LINK	*		1999	1200.0
45B	YARD PAVING--ASPHALT	*		1999	62406.0
49W	SECURITY FENCING--WROUGHT IRON	*		1999	1698.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1999	8838.0

Improvement #2: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #3: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #4: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT

MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #5: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #6: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #7: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #8: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #9: Commercial State Code: B2 Living Area: 1221.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	892	1998	1221.0
26S	SERVICE CANOPY	*		1998	1118.0

Improvement #10: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #11: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #12: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #13: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #14: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #15: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #16: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #17: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	520834	APARTMENT BELOW AVG DISTRICT	3.7705	164244.35	0.00	0.00	$0	$0
2	520824	APARTMENT AVG DISTRICT	0.2296	10000.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2013	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2012	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2011	$1,146,513	$142,943	0	1,289,456	$0	$1,289,456
2010	$1,166,699	$142,940	0	1,309,639	$0	$1,309,639

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	11/14/1997 12:00:00 AM	L	CAD/Other	NORTH LOOP COF	WESTERN BURGU	3277	1297	

All information contained herein, is considered in the public domain and is distributed without warranty of any kind, implied, expressed or statutory. The El Paso Central Appraisal District makes no claims, promises or guarantees about the accuracy, completeness, or adequacy of this information and expressly disclaims liability for any errors and omissions.

Information relating to 2014 should be considered a "work in progress". Prior year data is informational only and does not necessarily replicate the values certified to the tax office.

Building and land detail information is not available prior to 2009.

Questions Please Call (915) 780-2000

Website version: 1.2.2.2

Database last updated on: 7/1/2014 6:38 PM

This site only supports Internet Explorer 6+, Netscape 7+ and Firefox 1.5+.

El Paso CAD

Property Search Results > 22926 WESTERN REDD ROAD LTD for Year 2014

Property

Account

Property ID:	22926	Legal Description:	22 WEST HILLS #5 SELY PT OF 42 (297.18' ON ST- 208.55' ON SWLY-283.61' ON NWLY- 248.59' ON NELY)(65340.24 SQ FT)
Geographic ID:	W145999022041250	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	610 REDD RD EL PASO, TX	Mapsco:	
Neighborhood:	WESTSIDE EAST OF I-10	Map ID:	NWC118
Neighborhood CD:	110		

Owner

Name:	WESTERN REDD ROAD LTD	Owner ID:	517601
Mailing Address:	% HACEP ACQUISITION CORPORATION PO BOX 9387 EL PASO, TX 79995-9387	% Ownership:	100.0000000000%
		Exemptions:	LIH

Values

(+) Improvement Homesite Value:	+	$0		
(+) Improvement Non-Homesite Value:	+	$440,247		
(+) Land Homesite Value:	+	$0		
(+) Land Non-Homesite Value:	+	$160,083	Ag / Timber Use Value	
(+) Agricultural Market Valuation:	+	$0		$0
(+) Timber Market Valuation:	+	$0		$0
(=) Market Value:	=	$600,330		
(–) Ag or Timber Use Value Reduction:	–	$0		
(=) Appraised Value:	=	$600,330		
(–) HS Cap:	–	$0		
(=) Assessed Value:	=	$600,330		

Taxing Jurisdiction

Owner: WESTERN REDD ROAD LTD
% Ownership: 100.0000000000%
Total Value: $600,330

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$600,330	$300,165	$0.00
CEP	CITY OF EL PASO	0.678378	$600,330	$300,165	$2,036.25
G01	EL PASO COUNTY	0.433125	$600,330	$300,165	$1,300.09
IEP	EL PASO I.S.D.	1.235000	$600,330	$300,165	$3,707.04
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$600,330	$300,165	$373.28
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$600,330	$300,165	$643.53
	Total Tax Rate:	2.685255			
				Taxes w/Current Exemptions:	$8,060.19
				Taxes w/o Exemptions:	$18,120.39

Improvement / Building

All improvmets valued at income

Improvement #1: Commercial State Code: B2 Living Area: 6188.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	3094.0
MA1	UPPER FLOOR AREA	*			3094.0
29B	BALCONY	*			1805.0
49C	SECURITY FENCING--CHAIN LINK	*		1997	3360.0
49W	SECURITY FENCING--WROUGHT IRON	*		1997	730.0
45B	YARD PAVING--ASPHALT	*		1997	23010.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1997	213.0
45C	YARD PAVING--CONCRETE	*		1997	5752.0
50M	STAIRWAY--METAL	*		1997	118.0

Improvement #2: Commercial State Code: B2 Living Area: 8030.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	4015.0
MA1	UPPER FLOOR AREA	*			4015.0

Improvement #3: Commercial State Code: B2 Living Area: 11853.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	6881.0
MA1	UPPER FLOOR AREA	*			4972.0

Improvement #4: Commercial State Code: B2 Living Area: 610.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	692	1997	610.0
60P	PEDESTRIAN CANOPY	*			180.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	110924	APARTMENT AVG DISTRICT	1.5000	65340.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$440,247	$160,083	0	600,330	$0	$600,330
2013	$440,247	$160,083	0	600,330	$0	$600,330
2012	$440,247	$160,083	0	600,330	$0	$600,330
2011	$474,227	$126,106	0	600,333	$0	$600,333
2010	$862,401	$126,106	0	988,507	$0	$988,507

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	12/13/1995 12:00:00 AM	S	Seller Statement	INVESTMENT SUL	WESTERN REDD F	2987	1752	

5

To Be Posted
three days
prior to the meeting

6a

To Be Posted
three days
prior to the meeting

6b

To Be Posted
three days
prior to the meeting

6c

To Be Posted
three days
prior to the meeting