

# BOARD MEETING OF JANUARY 15, 2015

**J. Paul Ozer, Chair**

**Juan Muñoz, Vice-Chair**



**TEXAS DEPARTMENT OF  
HOUSING & COMMUNITY AFFAIRS**

*Building Homes. Strengthening Communities.*



**COMMUNITY AFFAIRS**

- e) Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant Program Award and Program Year 2015 Comprehensive Energy Assistance Program Award for Northeast Texas Opportunities Inc.
- f) Presentation, Discussion, and Possible Action regarding authorization to release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2015 Emergency Solutions Grants Program (“ESG”)

**Michael DeYoung**  
Director of Community Affairs

**HOME PROGRAM**

- g) Presentation, Discussion, and Possible Action to Approve amendments of three HOME CHDO Single Family Development Household Commitment Contracts issued under Reservation Agreement 11591 for the development of three single family homes by WREM Literacy Group, Inc. located in Hempstead

**Brooke Boston**  
Deputy Executive Director

**NEIGHBORHOOD STABILIZATION**

- h) Presentation, Discussion, and Possible Action regarding a Notice of Funding Availability (“NOFA”) for the Programming of Program Income (“PI”) from the Neighborhood Stabilization Program Round One (“NSP1”).
- i) Presentation, Discussion and Possible Action regarding the waiver of Notice of Funding Availability (“NOFA”) requirements from the Neighborhood Stabilization Program Round One (“NSP1”)

**Marni Holloway**  
Director, NSP

77090000106      City of Irving                      Irving

**MULTIFAMILY FINANCE**

- j) Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2014-1 HOME Multifamily Development Program Notice of Funding Availability for #14209 Riverside Village Apartments
- k) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer and Award of HOME Multifamily Development Program (“MFD”) Funds
- l) Presentation, Discussion, and Possible Action to Accept Guidance Issued by Staff in the Form of Frequently Asked Questions for the 2015 Competitive 9% Low Income Housing Tax Credit Application Round

**Jean Latsha**  
Dir., Multifamily Finance

14417      Waters at Sunrise                      Round Rock

**REPORT ITEMS**

The Board accepts the following reports:

1. TDHCA Outreach Activities for December
2. Compliance Division Update
3. Presentation, Discussion, and Possible action regarding the status of the 2014 Competitive (9%) Housing Tax Credit Application Cycle
4. Presentation, Discussion, and Possible Action regarding the Submission of Competitive (9%) Housing Tax Credit Pre-Applications in the 2015 Application Cycle

**Michael Lyttle**  
Chief of External Affairs

**Patricia Murphy**  
Chief of Compliance

**Jean Latsha**  
Dir., Multifamily Finance

5. Report providing an Update on the Board Action requested during Public Comment at the December 2014 Board meeting on the prequalification of individuals with disabilities in the HOME Program

**Brooke Boston**  
Deputy Executive Director

## **ACTION ITEMS**

### **ITEM 2: INTERNAL AUDIT**

- a) Report of the Meeting of the Audit Committee
- b) Presentation, Discussion, and Possible Action on the 2015 Internal Audit Charter and Board Resolution No. 15-011
- c) Presentation, Discussion, and Possible Action regarding State Auditor's Office audit reports on TDHCA's Financial Statements

**Mark Scott**  
Director of Internal Audit

### **ITEM 3: MULTIFAMILY FINANCE**

Presentation, Discussion, and Possible Action regarding approval for publication in the Texas Register of the 2015-1 HOME and TCAP Multifamily Development Program Notice of Funding Availability

**Jean Latsha**  
Dir., Multifamily Finance

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

### **EXECUTIVE SESSION**

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

**J. Paul Oxer**  
Chairman

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, including the appointment of the Director of Internal Audit
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, and pending before the Supreme Court of the United States*
  - b) *McCardell v. HUD et al.*
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 and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information.

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 three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Annette Cornier, 512-475-3803, 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 Annette Cornier, al siguiente número 512-475-3803 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

# CONSENT AGENDA

1a

**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for October 9, 2014, and November 13, 2014.

**RECOMMENDED ACTION**

Approve Board Meeting Minutes Summaries for October 9, 2014, and November 13, 2014

**RESOLVED**, that the Board Meeting Minutes Summaries for October 9, 2014, and November 13, 2014, are hereby approved as presented.



**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
October 9, 2014**

On Thursday, the ninth day of October, 2014, at 10:00 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) was held in Room JHR 140 of the John H. Reagan Building, Austin, Texas.

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

- J. Paul Oxer
- Leslie Bingham Escareño
- Tom Gann
- Dr. Juan Muñoz

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

1) The Consent Agenda was approved unanimously by the Board with the following items removed from Consent to allow for public comment and/or further discussion: Item 1(b) – Presentation, Discussion, and Possible Action to Approve Staffing for the Internal Audit Division; Item 1(e) – Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1-20.16; Item 1(f) – Presentation, Discussion and Possible Action on orders adopting new 10 TAC Chapter 2, Enforcement and adopting the repeal of 10 TAC §1.14 related to Administrative Penalties, the repeal of 10 TAC §5.17 related to Sanctions and Contract Close Out, and the repeal of 10 TAC Chapter 60 related to Administrative Penalties, all directed to be published in the *Texas Register*; and, Item 1(j) – Presentation, Discussion, and Possible Action to authorize the issuance of an Amendment to the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability (“NOFA”) and publication of the amended NOFA in the *Texas Register*.

2) Consent Agenda Item 1(b) – Presentation, Discussion, and Possible Action to Approve Staffing for the Internal Audit Division – staff recommendation regarding Internal Audit staffing levels was unanimously approved by the Board after clarification and discussion from Tim Irvine, TDHCA Executive Director, and Betsy Schwing, TDHCA Acting Director of Internal Audit.

3) Consent Agenda Item 1(e) – Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1-20.16 – was presented by Marni Holloway, TDHCA Director of the Neighborhood Stabilization Program/Single Family Programs with additional comments from Mr. Irvine and Homero Cabello, TDHCA Director of the Office of Colonia Initiatives. Following public comment (listed below), the Board unanimously approved staff recommendation to publish the adopted amendments in the *Texas Register*.

- Will Gudeman, Equity Community Development Corporation, testified in opposition to staff recommendation

4) Consent Agenda Item 1(f) – Presentation, Discussion and Possible Action on orders adopting new 10 TAC Chapter 2, Enforcement and adopting the repeal of 10 TAC §1.14 related to Administrative Penalties, the repeal of 10 TAC §5.17 related to Sanctions and Contract Close Out, and the repeal of 10 TAC Chapter 60 related to Administrative Penalties, all directed to be published in the *Texas Register* – was presented by Patricia Murphy, TDHCA Chief of Compliance. Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the proposed rules.

- Michael Lyttle, TDHCA Chief of External Affairs, read a letter into the record from the Texas Association of Community Action Agencies (“TACAA”) in opposition to staff recommendation
- Stella Rodriguez, TACAA, registered in opposition to staff recommendation
- Mark Bethune, Concho Valley Community Action Agency, registered in opposition to staff recommendation
- Vicky Smith, Community Action Committee of Victoria, Texas, registered in opposition to staff recommendation
- Christy Smith, Economic Community of the Gulf Coast, registered in opposition to staff recommendation

5) Consent Agenda Item 1(j) – Presentation, Discussion, and Possible Action to authorize the issuance of an Amendment to the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability (“NOFA”) and publication of the amended NOFA in the *Texas Register* – was presented by Jennifer Molinari, TDHCA Director of HOME. Following public comment (listed below), the Board unanimously approved staff recommendation to publish the proposed amended NOFA.

- Elena Quintanilla, South Plains Association of Governments, testified in support of staff recommendation

6) Report Item 2 – Report on Status of Efforts to Affirmatively Further Fair Housing – was presented by Cameron Dorsey, TDHCA Chief of Staff.

7) Action Item 2 – Report from the Audit Committee – was presented by Ms. Schwing.

8) Action Item 3(a) – Presentation, Discussion, and Possible Action on a Request for a Waiver of §11.3(e) of the 2014 Qualified Allocation Plan Relating to Developments in Certain Sub-regions and Counties for Villas at Plano Gateway – was presented by Jean Latsha, TDHCA Director of Multifamily Finance. Following public comment (listed below), the Board unanimously approved a motion to table the item until the November 2014 meeting.

- Kent Conine, Conine Development Company, testified in opposition to staff recommendation
- Jean Brown, Plano Housing Corporation, testified in opposition to staff recommendation
- Antoinette Jackson, Jones Walker, testified in opposition to staff recommendation

Note: Action Item 3(b) was moved to a later time on the agenda.

9) Action Item 4(a) – Presentation, Discussion, and Possible Action on a Waiver of 10 TAC §50.4(d)(16)(H) and approval of Land Use Restriction Agreement (“LURA”) Amendments for the following developments: #12404 Pine Club Apartments in Beaumont; #12405 Saddlewood Club

Apartments in College Station; #12406 Ridgewood West Apartments in Huntsville; #12407 Woodglen Park Apartments in Dallas; #12408 Willow Green Apartments in Houston; #12409 Tealwood Place Apartments in Wichita Falls – was presented by Cari Garcia, TDHCA Director of Asset Management. Following public comment (listed below), the Board denied staff recommendation and unanimously approved the waiver request and LURA amendment for “good cause.”

- Cynthia Bast, Locke Lord, testified in opposition to staff recommendation
- David Gath, general contractor, answered questions from the Board
- Mike Mikeiliff, general contractor, answered questions from the Board
- Dale Dotson, owner of DalCor (applicant), testified in opposition to staff recommendation
- Patricia Murphy, TDHCA Chief of Compliance, answered questions from the Board

10) Action Item 4(b) – Presentation, Discussion, and Possible Action on Material LURA Amendments for #95026 Fonseca Ltd., in El Paso; #97089 Prado, Ltd., in El Paso; #98091 NCDO Housing, Ltd., in El Paso; #01018 Western Whirlwind, Ltd., in Horizon City; #01119 Cactus Rose, Ltd., in Anthony; #02061 Painted Desert Townhomes in Clint; and, #03222 Whispering Sands Townhomes in Anthony – was presented by Ms. Garcia. Following public comment (listed below), the Board approved the material LURA amendments request.

- Frank Ainsa, Investment Builders, testified in support of the Board approving the material LURA amendments request
- Ike Monty, Investment Builders, testified in support of the Board approving the material LURA amendments request

11) No action was taken on Action Item 4(c) – Presentation, Discussion, and Possible Action regarding an appeal of staff decision under 10 TAC §10.902(a)(7) related to the denial of a change to the Land Use Restriction Agreement (“LURA”) for Sabine Park Apartments in Orange (File No 96134) – as it was withdrawn from the agenda.

12) No action was taken on Action Item 5(a) – Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under the Department's Program Rules for #14000 Trinity Oaks Apartments in Sulphur Springs and #14004 Northwest Apartments in Georgetown – as it was withdrawn from the agenda.

13) Action Item 5(b) – Presentation, Discussion, and Possible Action on Timely Filed Appeals of Underwriting for #14127 Haymon Krupp in El Paso; #14130 Tays Apartments in El Paso; #14129 Westfall Baines in El Paso; and, #14128 Sherman Plaza in El Paso – was presented by Ms. Latsha with further information provided by Mr. Irvine and Brent Stewart, TDHCA Director of Real Estate Analysis. Following public comment (listed below), the Board approved staff recommendation to deny the appeals.

- Sarah Anderson, representing the applicant, testified in opposition to staff recommendation
- Barry Palmer, Coats Rose, testified in opposition to staff recommendation
- Gerald Cichon, Housing Authority the City of El Paso, testified in opposition to staff recommendation

14) Action Item 3(b) – Presentation, Discussion, and Possible Action on Awards of Competitive 9% Low Income Housing Tax Credits from the 2014 State Housing Tax Credit ceiling from the Waiting List for the 2014 Housing Tax Credit Application Round – was presented by Ms. Latsha. The Board unanimously approved staff recommendation on the awards.

15) At 12:16 p.m. the Board went into Executive Session and reconvened in open session at 1:16 p.m. No action was taken in or as a result of Executive Session.

16) The following public comment was made on matters other than items for which there were posted agenda items:

- Jay Chapa, City of Fort Worth, provided comments on the draft 2015 Qualified Allocation Plan (“QAP”)
- Mark Tribb, Renaissance Heights Initiative, provided comments on the draft 2015 QAP
- Veronica Chapa, City of Houston, provided comments on the draft 2015 QAP
- Evan Smith, Purpose-Built Communities, provided comments on the draft 2015 QAP
- Becky McDougal, Uplift Education, provided comments on the draft 2015 QAP
- Craig Taylor, Communities for Veterans, provided comments on the draft 2015 QAP
- Rasheema Davis, YMCA of Metropolitan Fort Worth, provided comments on the draft 2015 QAP
- Veronica Tilley, Cook Children’s Physician Network Neighborhood Clinics, provided comments on the draft 2015 QAP
- Darryl Claiborne, ACH Child and Family Services, provided comments on the draft 2015 QAP
- Shauna Tribb, Renaissance Heights Initiative, provided comments on the draft 2015 QAP

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

There being no further business to come before the Board, the meeting adjourned at 3:02 p.m. The next meeting is set for Thursday, November 13, 2014.

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Secretary

Approved:

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Chair

**Texas Department of Housing and Community Affairs Governing Board**  
**Board Meeting Minutes Summary**  
**November 13, 2014**

On Thursday, the thirteenth day of November, 2014, at 9:30 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) was held in Room JHR 140 of the John H. Reagan Building, Austin, Texas.

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

- J. Paul Oxer
- Leslie Bingham Escareño
- Tom Gann
- Dr. Juan Muñoz

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

1) The Consent Agenda was approved unanimously by the Board with the following items removed from Consent to allow for public comment and/or further discussion: Item 1(f) – Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Subchapter A, §5.2 concerning Definitions; and §5.19 concerning Client Income Guidelines, and directing their publication in the *Texas Register*; Item 1(o) – Presentation, Discussion, and Possible Action on Inducement Resolution No. 15-005 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for 2014 Private Activity Bond Authority for Artist Lofts at Fort Worth Town Square.

2) Consent Agenda Item 1(f) - Following public comment (listed below) and clarifying comments from Sharon Gamble, TDHCA Community Affairs programs manager, and Megan Sylvester, TDHCA Legal Division, the Board unanimously approved staff recommendation to adopt the rules from Consent Agenda Item 1(f) – Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Subchapter A, §5.2 concerning Definitions; and §5.19 concerning Client Income Guidelines, and directing their publication in the *Texas Register*.

- Peggy Henderson, TDHCA staff, read a letter into the record from Maria Allen, City of Austin Health and Human Services Department, in opposition to staff recommendation
- Stella Rodriguez, Texas Association of Community Action Agencies, testified in opposition to staff recommendation
- Karen Swenson, Greater East Texas Community Action, testified in opposition to staff recommendation

3) Consent Agenda Item 1(o) – Presentation, Discussion, and Possible Action on Inducement Resolution No. 15-005 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for 2014 Private Activity Bond Authority for Artist Lofts at Fort Worth Town Square – was presented by Jean Latsha, TDHCA Director of Multifamily Finance. Following public comment

(listed below), the Board unanimously approved staff recommendation to proceed with the application and to send to the Board Review Board.

- Michael Lyttle, TDHCA Chief of External Affairs, read letters into the record from State Representative Nicole Collier and State Senator Wendy Davis in support of staff recommendation

4) Action Item 2 – Presentation, Discussion, and Possible Action on the Executive Director’s Appointment of the Director of Internal Audit – was presented by Tim Irvine, TDHCA Executive Director. The Board unanimously approved staff recommendation to appoint Mark Scott as TDHCA’s new Director of Internal Audit.

5) Action Item 3 – Presentation, Discussion, and Possible Action approving the Program Selection Guidelines for 2015 9% Housing Tax Credit Applicants placing Section 811 Units in Existing Properties and regarding contractual issues with HUD – was presented by Kate Moore, TDHCA 811 program manager. Following public comment (listed below), the Board unanimously approved staff recommendation regarding 811 program guidelines.

- Joanna Cordry, Texas Council for Developmental Disabilities, testified in support of staff recommendation
- Jean Langendorf, Disability Rights Texas, testified in support of staff recommendation
- Jemila Lea, Hogg Foundation for Mental Health, testified in support of staff recommendation
- Tanya Lavelle, Easter Seals Central Texas, registered support for staff recommendation
- Cate Graziani, Mental Health America of Texas, registered support for staff recommendation

6) Action Item 4(a) – Presentation, Discussion, and Possible Action on an order adopting the amendments to 10 TAC Chapter 11 §11.1(e), concerning Census Data; §11.2, concerning Program Calendar for Competitive Housing Tax Credits; §11.3(e), concerning Developments in Certain Sub-Regions and Counties; §11.3(f), concerning Additional Phase; §11.5, concerning Competitive HTC Set-Asides; §11.6, concerning Competitive HTC Allocation Process; §11.7, concerning Tie Breaker Factors; §11.8(b), concerning Pre-Application Threshold Criteria; §11.9(c)(4), concerning Opportunity Index; §11.9(c)(5), concerning Educational Excellence; §11.9(c)(7), concerning Tenant Populations with Special Housing Needs; §11.9(d)(1), concerning Local Government Support; §11.9(d)(4), concerning Quantifiable community Participation; §11.9(e)(3), concerning Pre-application Participation; §11.9(e)(7), concerning Funding Request Amount; and §11.10, concerning Challenges of Competitive HTC Applications; concerning the Housing Tax Credit Program Qualified Allocation Plan and directing its publication in the *Texas Register* – was presented by Ms. Latsha, Following public comment (listed below), the Board unanimously approved staff recommendation as amended to adopt and publish the aforementioned rules.

- Robbye Meyer, representing herself, testified in opposition to staff recommendation
- Claire Palmer, attorney representing various clients, testified in opposition to staff recommendation
- Ben Dempsey, StoneLeaf Communities, testified in opposition to staff recommendation and provided suggested revisions

- Devin Baker, representing James Washburn of the Rural Rental Housing Association of Texas, testified in opposition to staff recommendation
- Etta Paransky, City of Houston Housing and Community Development, testified in support of staff recommendation
- Cynthia Garcia, City of Fort Worth Housing and Economic Development, testified in opposition to staff recommendation and provided suggested revisions
- Evan Smith, Purpose Built Communities, testified in opposition to staff recommendation and provided suggested revisions
- Reeshema Davis, YMCA of Metropolitan Fort Worth, testified in opposition to staff recommendation and provided suggested revisions
- Debbie Roark, Texas Wesleyan University, testified in opposition to staff recommendation and provided suggested revisions
- Veronica Talley, Cook Children’s neighborhood clinics, testified in opposition to staff recommendation and provided suggested revisions
- Becky Madole, Uplift Education, testified in opposition to staff recommendation and provided suggested revisions
- Rod Teachey, Columbia Residential, testified in opposition to staff recommendation and provided suggested revisions
- Kelly Allen Gray, Fort Worth City Council member, testified in opposition to staff recommendation and provided suggested revisions
- Diana McIver, DMA Development, testified in opposition to staff recommendation and provided suggested revisions

7) Action Item 4(b) – Presentation, Discussion, and Possible Action on orders adopting the repeals of 10 TAC Chapter 10 Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and orders adopting the new Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and directing their publication in the *Texas Register* – was presented by Ms. Latsha. Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the repeals and new rules

- Rod Teachey, Columbia Residential, testified in opposition to staff recommendation
- Robbye Meyer, representing herself, testified in opposition to staff recommendation

8) Action Item 5(a) – Presentation, Discussion, and Possible Action on a Request for a Waiver of §11.3(e) of the 2014 Qualified Allocation Plan Relating to Developments in Certain Sub-regions and Counties for Villas at Plano Gateway – was presented by Ms. Latsha. After public comment (listed below), the Board denied staff recommendation and unanimously voted to grant the waiver request with contextual language regarding a significant amount of unused bond cap in association with the 4% Housing Tax Credit program and the Villas at Plano Gateway application

- Kent Conine, applicant/developer, testified in opposition to staff recommendation

- Toni Jackson, attorney with Jones Walker, testified in opposition to staff recommendation

9) Action Item 5(b) – Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer – was presented by Ms. Latsha. After public comment (listed below), the Board unanimously approved award issuance of a Determination Notice for the #14414 Villas at Plano Gate 4% Housing Tax Credit application providing it meets EARAC approval and all applicable statutory requirements

- Kent Conine, applicant/developer, testified in support of the award
- Toni Jackson, attorney with Jones Walker, testified in support of the award

10) Action Item 5(c) – Presentation, Discussion, and Possible Action to adopt the 2015 Multifamily Programs Procedures Manual – was presented by Ms. Latsha and staff recommendation to adopt the manual was unanimously approved by the Board.

11) Action Item 5(d) – Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2014-1 HOME Multifamily Development Program Notice of Funding Availability – was presented by Ms. Latsha. The Board unanimously approved staff recommendation regarding the awards.

12) Action Item 5(e) – Presentation, Discussion, and Possible Action to Approve the Programming of Funds from the Tax Credit Assistance Program and issuance of a NOFA – was presented by Ms. Latsha. Eric Weiner, TDHCA HOME Administrator for Multifamily, provided clarifying information. The Board unanimously approved staff recommendation to program the funds and issue the NOFA.

13) No action was taken on Action Item 6 – Appeal of a denial recommendation for a HOME reservation participation agreement for Starr County – as it was pulled from the agenda and will be presented at the December 2014 meeting.

14) The Board heard public comment on non-agenda items from Kathleen Crook, Rancho del Sol Neighborhood Association, who expressed concerns about a 2013 9% Housing Tax Credit (“HTC”) award for #13133 Verde Palms in El Paso; Ike Monty, developer, who expressed support for 2014 9% HTC application #14194 Laureles del Este in Fabens; and Mr. Lyttle read a letter into the record from State Representative Richard Raymond in support of 2014 9% HTC application #14090 Stone Oaks Apartments in Laredo

15) At 12:14 p.m. the Board went into Executive Session and reconvened in open session at 1:10 p.m. No action was taken in or as a result of Executive Session.

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

There being no further business to come before the Board, the meeting adjourned at 2:18 p.m. The next meeting is set for Thursday, December 18, 2014.



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Secretary

Approved:

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Chair

1b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action to approve a Housing Tax Credit Application Amendment for the Villa Oaks (#93100)

**RECOMMENDED ACTION**

**WHEREAS**, Villa Oaks received an award of 9% Housing Tax Credits in 1993 to rehabilitate 212 multifamily units in Houston;

**WHEREAS**, the current owner, Windcrest PCF, Ltd is requesting approval to convert twenty-four 2-bedroom townhome units to twenty-four 3-bedroom units by converting a first floor dining room into a third bedroom and incorporating a dining area into the living room;

**WHEREAS**, conversion of the units will occur as units are vacated so as not to displace current residents or increase their rents;

**WHEREAS**, pursuant to 10 TAC §10.405(a)(4)(B), a modification of the number of units or bedroom mix of units requires Board approval; and

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

**NOW, therefore, it is hereby**

**RESOLVED**, that the amendment of the Housing Tax Credit Application for Villa Oaks is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

**BACKGROUND**

On August 8, 2014, the Development Owner requested an amendment to convert thirty-two 2-bedroom units to thirty-two 3-bedroom units. On November 13, 2014, the request was amended to include only twenty-four of the units. The conversion of the other eight units would not meet

the Department's requirements regarding bedroom size. Windcrest PCF, Ltd. (the "Owner") purchased the property formerly known as Windcrest on Sherwood Apartments in November 2013. The property is now 92% occupied.

The Owner reports a high demand for 3-bedroom units in the market during their year of ownership. They have twenty-four 2 bedroom units that could be converted to 3-bedroom units fairly easily. The plan calls for the first floor dining room to be converted into a bedroom. A half bathroom is available on the first floor, and two bathrooms are present on the second floor. The Owner has provided a new rent schedule, new floor plans, and estimated costs to convert the units.

Staff recommends approval of the amendment request subject to owner's notification to the tenants of the twenty-four 2-bedroom units to be converted about the change requested and conversion of the 3-bedroom units upon normal turnover of the unit or upon request by the tenant. The implementation of the new 3-bedroom rental rate will not be triggered by a tenant request or a lease renewal but may only be implemented upon normal turnover. An existing household may not be evicted or non-renewed for other than good cause.

August 8, 2014

Lucy Trevino  
TDHCA

Dear Lucy,

We purchased Villa Oaks (formerly Windcrest) a little over a year ago. When we purchased the property it was not in good shape. There was extensive deferred maintenance and very low occupancy. The property had not been in compliance with TDHCA for years. In the short time we have owned it we completed major interior and exterior renovations. The property is now 92% leased. We have also brought the property in full compliance with TDHCA.

In our year of ownership we have realized the high demand for 3 bedroom units in this market. We have 31 2 bedroom units that we believe could be converted to 3 bedrooms fairly easily. We are requesting TDHCA to amend our LURA and allow us convert these 2 bedroom units into 3 bedroom units. We believe this will benefit Villa Oaks and the community at large.

Please find attached:

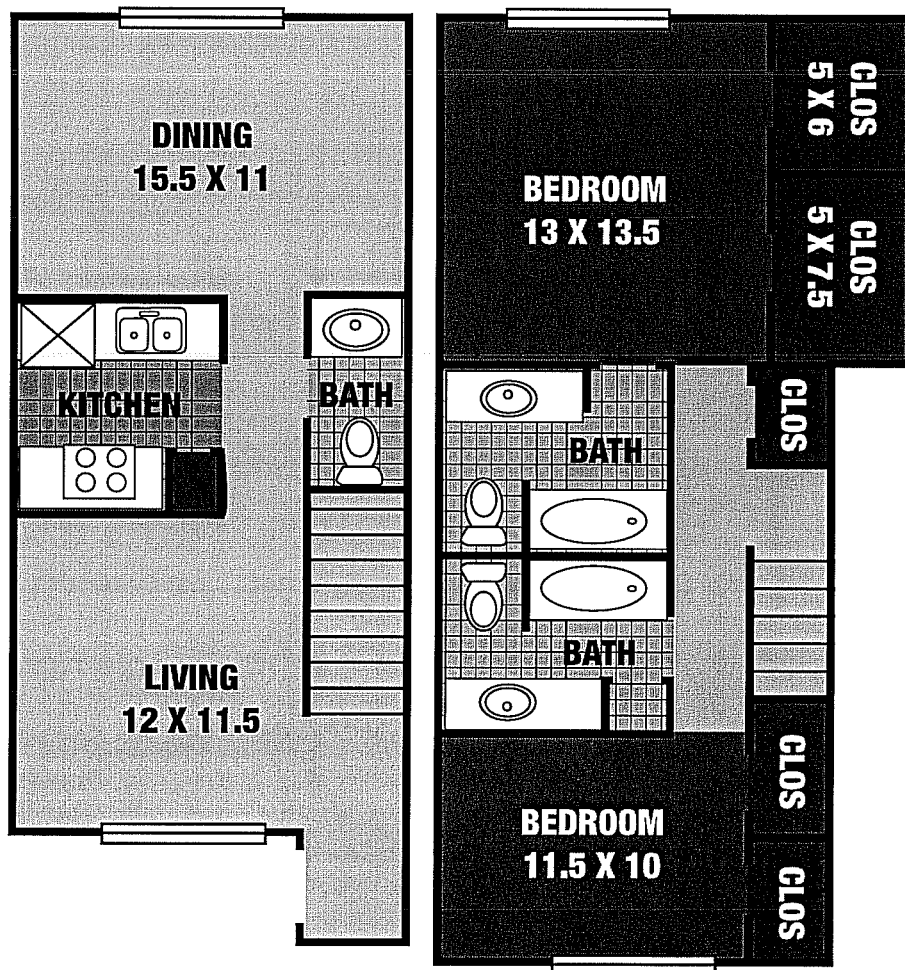
- New rent schedule
- New floor plans
- Unit conversion estimated costs

I appreciate you taking the time to review our application. If you need anything else, please do not hesitate to ask. I look forward to hearing from you soon.

Best Regards,  
Melanie Myers  
Thrive FP  
512-627-3565

# PLAN B4

2 BEDROOM TOWNHOUSE ~ 2-1/2 BATH  
1120 SQ. FT.



#306

Rent: \$904

Deposit: \$150

Application Fee: \$18.50

Special:



# NELFREDO, INC. DBA Alfred Painting

Alfred Painting & Carpet Clean  
 P.O. Box 657  
 Bellaire, TX 77402-0657  
 Harris

Voice: 713 272-8985  
 Fax: 713 666-1718

# INVOICE

Invoice Number: 3408635  
 Invoice Date: Aug 27, 2014  
 Page: 1  
 Duplicate

<b>Bill To:</b>
Villa Oaks Townhomes 1521 Sherwood Forest Houston, Tx 77043

<b>Ship to:</b>
Villa Oaks Apts 1521 Sherwood Forest Houston, TX 77043

<b>Customer ID</b>	<b>Customer PO</b>	<b>Payment Terms</b>	
20-VILLAOAKS		Net 30 Days	
<b>Sales Rep ID</b>	<b>Shipping Method</b>	<b>Ship Date</b>	<b>Due Date</b>
SEVLUI	VARIOUS		9/26/14

Quantity	Item	Description	Unit Price	Amount
1.00	AAPAA7	APT 407 2x2 1/2(t/h) Full paint; two-tone, color change; Heavy kilz throughout due to mold; Apply mildewcide to wood studs; Heavy sheet rock repairs throughout living room, bathroom and kitchen due to mold Resurface: Kitchen counter (MS); Kitchen cabinets; 2 Tub and Tile; 3 Bath counter (MS); 3 Bath cabinet Full clean Make Ready Upgrades: Replace light fixtures, kitchen and bath faucets, ceiling fans, switch plates; Towel bars, toilet paper holder, shower rods, toilet seat; Door knobs, mini blinds, vertical blinds, vent hood, garbage disposal; Smoke detector, Door stoppers, Fire extinguisher (Property supply material) MAKE READY EXTRAS: Remove bath cabinet downstairs to remove damaged sheet rock with mold; Rebuild bath cabinet	9,150.00	9,150.00
Subtotal				Continued
Sales Tax				Continued
Total Invoice Amount				Continued
Payment/Credit Applied				
<b>TOTAL</b>				<b>Continued</b>

Check/Credit Memo No:



# NELFREDO, INC. DBA Alfred Painting

Alfred Painting & Carpet Clean  
 P.O. Box 657  
 Bellaire, TX 77402-0657  
 Harris

Voice: 713 272-8985  
 Fax: 713 666-1718

# INVOICE

Invoice Number: 3408635  
 Invoice Date: Aug 27, 2014  
 Page: 2  
 Duplicate

Bill To:
Villa Oaks Townhomes 1521 Sherwood Forest Houston, Tx 77043

Ship to:
Villa Oaks Apts 1521 Sherwood Forest Houston, TX 77043

Customer ID	Customer PO	Payment Terms	
20-VILLAOAKS		Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
SEVLUI	VARIOUS		9/26/14

Quantity	Item	Description	Unit Price	Amount
		with drawers and doors and install sink and plumbing fixtures; Kitchen install new splash guard; Build new cabinet drawers and doors in kitchen and bath cabinets; Remove both bath cabinets upstairs to remove damaged sheet rock with mold; Rebuild both cabinets with drawers and doors and install sink with plumbing fixtures; Install bath counter top; Replace 1 bedroom door; Ceramic tile repair behind faucet in tub; Dining room conversion to bedroom:-Remove kitchen bar top and install new sheet rock to close off dining room and build wood frame and install new 32" door with trim to create a third bedroom Alfred's supply labor and material PER BID WORK DONE		
Subtotal				9,150.00
Sales Tax				
Total Invoice Amount				9,150.00
Payment/Credit Applied				
<b>TOTAL</b>				<b>9,150.00</b>

Check/Credit Memo No:

1c

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action to approve a material amendment to a Housing Trust Fund Land Use Restriction Agreement (“LURA”) for Redbud Trail Apartments in McKinney (File No. 92041B).

**RECOMMENDED ACTION**

**WHEREAS**, Redbud Trail Apartments was financed with Housing Trust Fund (“HTF”) and Multifamily Mortgage Revenue Bonds (“Bond”) in 1993 to acquire 150 units in McKinney;

**WHEREAS**, the HTF LURA requires that 100% of the units be leased and rented or made available to Low-Income Tenants;

**WHEREAS**, the Bond Regulatory Agreement compliance period has expired and is no longer active;

**WHEREAS**, Atlantic Housing Foundation, Inc., the current “Owner”, acquired the property in 2004 and has continued to use one of the residential units for non-residential purposes as a Leasing Office;

**WHEREAS**, the Owner began using a second residential unit for non-residential purposes as a Resident Activity Center approximately four years ago;

**WHEREAS**, as a result of a non-compliance finding in 2013, the Owner has requested to amend the LURA to reduce the number of low income units from 150 to 148; and

**WHEREAS**, the 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 Trust Fund LURA for Redbud Trail Apartments to reduce the number of low income units from 150 to 148.

## **BACKGROUND**

Redbud Trail Apartments is located in McKinney, and under a prior owner received Multifamily Mortgage Revenue Bonds and a HTF award in 1993 for the acquisition of 150 low income units. During a TDHCA monitoring visit on November 18, 2013, compliance staff identified that Unit #113 and Unit #114 were not being made available for rent as low income units. Unit #113 is being used as a Leasing Office, and Unit #114 is being used as a Resident Activity Center.

When Atlantic Housing Foundation, Inc, purchased the property in 2004, Unit #113 was already being used as the Leasing Office. The Owner states that having a Leasing Office is valuable to the development as it is used by staff and residents to complete leases and renewals, to make payments, to submit work order and emergency repairs and to conduct day-to-day operations. There is no space at the development to construct a Leasing Office. Even if space were available, the property owner, a non-profit organization, indicates that they do not have the financial resources to construct a new Leasing Office.

Unit #114 was converted to a Resident Activity Center approximately four years ago to provide the residents with services at no cost that educate, enrich and create a sense of community. If Resident Activity Center is removed, the following services would have to be cancelled:

- After-school tutoring;
- ESL classes;
- Computer Training;
- Resident Safety/Crime Watch Meetings (with local police department);
- School supply drive and giveaways;
- Thanksgiving meals for residents;
- Movie Nights;
- Music and Craft Classes;
- Health, Fitness and Nutrition Awareness Classes; and
- Various other parties/events.

The Leasing Office was converted from a 2 bedroom unit; it contains an office for the manager, a leasing desk, small resident waiting area, file room, office equipment, a bathroom and small break area. The Resident Activity Center is also a converted 2 bedroom unit with a computer room, large front room and kitchen for meetings and events. The option of combining the Leasing Office and Resident Activity Center has been explored but is not possible. In addition to not having enough space, combining spaces would create noise and confusion for the staff to conduct daily business with resident activities going on at the same time.

The occupancy of the property averages three to five vacancies (occupancy is approximately 97%); therefore, there is a limited likelihood that households seeking affordable housing would be turned away by not making these units available for rent. Moreover it is in the Owner's best financial interest to maximize rental income. They believe that using these units for this purpose accomplishes that goal because the activities and amenities conducted in these units increase or maintain high levels of occupancy. Further the Owner will agree to not convert these spaces back into rental units through the duration of the LURA.

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 October 29, 2014 and no negative comment regarding the proposed changes was received.

Staff recommends approval of the following changes to the LURA by replacing *Section 2.2. Occupancy Requirements*. with the language below:

*“(a) Subject to subsection (c), during the Term, Owner will make continuously available for occupancy by Low Income Families as Qualifying Units (including compliance with Article III hereof) not less than one hundred forty-eight (148) Units, of which, not less than eighty-five Units shall be made available for occupancy by Very Low Income Families and provide two additional units for use as community space and leasing offices.”*



September 24, 2014

TX Dept. of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78711

RE: Request for Material Adjustment to the LURA  
Redbud Apartments – CMTS ID: 2515, HTF file #92041B

Dear Ms. Morales:

This letter is in response to the July 2, 2014 TDHCA findings regarding units 113 and 114 at Redbud Apartments. Unit #113 is currently being used as a Leasing Office; unit 114 is currently being used as a Resident Activity Center; this leaving 148 units available for rent. The LURA requires all 150 units to be made available for rent to low or very low income families. The owner is requesting a material amendment to the LURA in order to keep units 113 & 114 as they are, thereby reducing the number of units for rent.

Unit #113 – Leasing Office:

When the property was purchased in 2004, this unit was already being used as the Leasing Office. Having a Leasing Office is valuable to the development as it is used by the staff as well as current and future residents to:

- Complete lease/renewal paperwork
- Make payments to a person instead of placing money in a drop box
- Submit work orders and emergency repairs
- Conduct day to day operations

There is no space at the development to construct a Leasing Office. The company is owned by Atlantic Housing Foundation (a non-profit organization), so construction of a Leasing Office would not be financially feasible even if space was available.

Unit #114 – Resident Activity Center:

This unit was converted to a Resident Activity Center approximately 4 years ago to provide the residents with services at no cost that educate, enrich and create a sense of community.

It is our strong belief that removal of this service/unit would adversely impact the residents as the following services would be cancelled:

- After-school tutoring
- ESL Classes
- Computer Training
- Resident Safety / Crime Watch Meetings (with local Police Dept.)
- School supply drives & giveaways
- Thanksgiving meals for residents
- Movie Nights
- Music & Craft Classes
- Health, fitness & nutrition awareness classes
- Various other parties/events

The Leasing Office was converted from a 2 bedroom unit; it contains an office for the manager, a leasing desk, small resident waiting area, file room, office equipment, a bathroom and small break area. The Resident Activity Center is also a converted 2 bedroom unit with a computer room, large front room & kitchen for meetings and events. The option of combining the Leasing Office and Resident Activity Center has been explored and is not possible. In addition to not having enough space, combining spaces would create too much noise and confusion for the staff to conduct daily business with resident activities going on at the same time.

With the average occupancy being approximately only 97%, we are not turning away families in need of housing by leaving these units as they are.

We are in the process of deciding on a date for the required Public Hearing. Please advise how to further proceed in the material amendment process and where to send the \$2,500 check.

Feel free to contact me if you have questions or need further clarification.

Sincerely,



Damitra L. Gage  
Compliance Manager

1d



**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**JANUARY 15, 2014**

Presentation, Discussion, and Possible Action to ratify a Housing Tax Credit Application Amendment previously approved by the Executive Director for Fairfield Creek Estates in Houston (#12170)

**RECOMMENDED ACTION**

**WHEREAS**, Fairfield Creek Estates received an award of 9% Housing Tax Credits in 2012 to construct 140 multifamily units in Cypress;

**WHEREAS**, the Development Owner requested approval for a reduction of the site acreage from 7.341 acres to 6.8614, due to the Texas Department of Transportation widening the highway and taking a 75 foot landscape easement, specifically 0.4796 of an acre;

**WHEREAS**, the original “footprint” of the development and location of the buildings remains unchanged;

**WHEREAS**, the reduced acreage also increases the residential density by 6.99%, which is more than a 5% increase requiring Board approval under 10 TAC §10.405(a)(4)(F), other than for changes required by local government;

**WHEREAS**, the Executive Director of the Department considered the requested change a local matter being addressed by state government, and approved the request subject to Board ratification;

**WHEREAS**, the site acreage and the changes in residential density do not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded; and,

**WHEREAS**, the Executive Director requests ratification from the Governing Board;

**NOW, therefore, it is hereby**

**RESOLVED**, that the approval of the amendment of the Housing Tax Credit application for Fairfield Creek Estates is ratified as presented to this meeting and the Executive Director and his designees were each authorized and empowered to take the prior action to effectuate the foregoing.

### **BACKGROUND**

Fairfield Creek Estates received a 2012 HTC award to newly construct 140 age-restricted multifamily units in Cypress, Harris County. The property fronts on U.S. Highway 290 and has a 75 foot landscape easement between the improved area and the U.S. Highway 290 frontage road. TxDOT is currently widening the highway and is taking a portion of the landscape easement, specifically 0.4796 of an acre.

The proposal was in process prior to the acquisition of the property. The Seller of the land retained the right to the proceeds over a \$6 a foot purchase price, thus the partnership will be receiving a net of \$6 per foot, less the Seller costs and the partnership costs for legal services and this amendment. The net proceeds equal approximately \$21,000 less \$4,500 (for Seller Fees and the fee for this amendment) less Legal Fees. According to the Owner, there will be deferred developer fee in excess of the net proceeds to be received; therefore there will be no excess proceeds.

The total acreage is being reduced by 0.4796 acres, from 7.341 acres to 6.8614 acres, resulting in a decrease in acreage of 6.53%. The density of the property is increasing by 1.33, from 19.07 to 20.40 units per acre, resulting in an increase in density of 6.99% though 100% of this increase is based on the lost land being used for road right of way and no increase in density of the whole usable original site is anticipated.

Under the recently approved Asset Management rules for Amendments at Subchapter E, §10.405(a)(4), this amendment is not considered a material alteration, and may be approved by the Executive Director if the change is required by local government. The Executive Director considered the requested change a local matter being addressed by state government, but requests ratification of the decision by the Governing Board.

Staff recommends ratification of the amendment request previously approved by the Executive Director.



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Rick Perry  
GOVERNOR

BOARD MEMBERS  
J. Paul Oxer, *Chair*  
Juan S. Muñoz, PhD, *Vice Chair*  
Leslie Bingham-Escareño  
T. Tolbert Chisum  
Tom H. Gann  
J.B. Goodwin

December 11, 2014

Writer's direct phone # 512.475.2550  
Email: [lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)

W. Barry Kahn  
Owner  
Hettig/Kahn Development Corp.  
5325 Katy Freeway, Suite One  
Houston, TX 77007

RE: APPLICATION AMENDMENT FOR FAIRFIELD CREEK ESTATES, HTC 12170, CMTS ID 4867

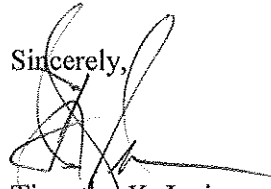
Dear Mr. Kahn:

The Texas Department of Housing and Community Affairs received your email on November 10, 2014, requesting approval to amend the legal description and unit density of the development named above.

The property fronts on Highway 290 and had a 75 foot landscape easement between the improved area and the Highway 290 frontage road. The Texas Department of Transportation is currently widening the highway and is taking a portion of the landscape easement, specifically 0.4796 of an acre. The total acreage is being reduced by 0.4796 acres, from 7.341 acres to 6.8614 acres, resulting in a decrease in acreage of 6.53%. The density of the property is increasing by 1.33, from 19.07 to 20.40 units per acre, resulting in an increase in density of 6.99%. The landscape easement does not infringe on the improvements or the driveways.

The amendment to the application does not materially alter the development in a negative manner and does not adversely affect the application score. Your request for approval is granted. Although the new rule regarding executive director authority to approve such matters relates to local governments, this is a local matter being addressed by state government. It seems to me entirely consistent with the intent of the new rule, but in a spirit of transparency I will take this approval to my Governing Board for ratification at its January meeting. If you have questions or need additional information, please contact Lucy Trevino at 512.475.2550 or at [lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us).

Sincerely,



Timothy K. Irvine  
Executive Director

TKI/LRT



APPLICATION AMENDMENT FOR FAIRFIELD CREEK ESTATES, HTC 12170, CMTS ID 4

December 11, 2014

Page 2

cc: R. Morrow, Locke Lord (sent by email only at: [rmorrow@lockelord.com](mailto:rmorrow@lockelord.com))  
Christopher Forte (sent by email only at: [christopher.forte@hudsonhousing.com](mailto:christopher.forte@hudsonhousing.com))

## Lucy Trevino

---

**From:** Barry Kahn [bkahn@hettig-kahn.com]  
**Sent:** Monday, November 10, 2014 4:04 PM  
**To:** Lucy Trevino (lucy.trevino@tdhca.state.tx.us)  
**Cc:** rmorrow@lockelord.com; Christopher Forte  
**Subject:** Fairfield Creek Estates  
**Attachments:** http\_\_\_www.txdot.gov\_txdoteforms\_GetForm\_formName=\_CR-2.xdp&appID=\_TRF&status=\_reportError.jsp&configFile=WFServletConfig.pdf; Exhibit A - 14-7986-1B.doc; 7 341 AC TRACT ALTA Survey--as built.pdf; Memorandum of Condemnation Negotiations Agreement.pdf

Re Fairfield Creek Estates  
TCHCA #12170 CMTD ID 4867  
LURA Amendment

Dear Lucy,

The property fronts on Highway 290 and had a 75' landscape easement between the improved area and the Highway 290 frontage road. TXDot is currently widening the highway and this has been in process prior to our acquisition of the property. The Seller of the land retained the right to the proceeds over the \$6 a foot purchase price (see attached agreement), thus the partnership will be receiving a net of \$6 less the Seller costs (we have been informed approximately \$2,000) and the partnership costs for legal and this amendment. Currently there will be deferred developer fee exceeding the net proceeds to be received, thus there will be no excess proceeds.

A proposal has now been received from TXDot which includes a legal description of the land to be taken in the landscape easement which is attached. On pages 75-79 are legal descriptions and drawing of the land to be taken for the widening. Page 78 shows the portion to be taken in relation to the rest of the site. Also attached is the as built survey so you can see the landscape easement doesn't infringe on the improvements or driveways.

The word attachment is the legal previously used for the LURA with a save and except addition for the land to be taken. We hereby request an amendment to the LURA before it is filed to include the exception for the land to be taken, thus saving an amendment afterwards. We understand this may need to go to the board in the December meeting and will send a \$2,500 amendment fee under separate cover.

Please let us know if there is anything else you will need. Thank you.

W. Barry Kahn  
Hettig/Kahn Development Corp.  
5325 Katy Freeway, Suite One  
Houston, Texas 77007  
(713) 871-0063  
[bkahn@hettig-kahn.com](mailto:bkahn@hettig-kahn.com)

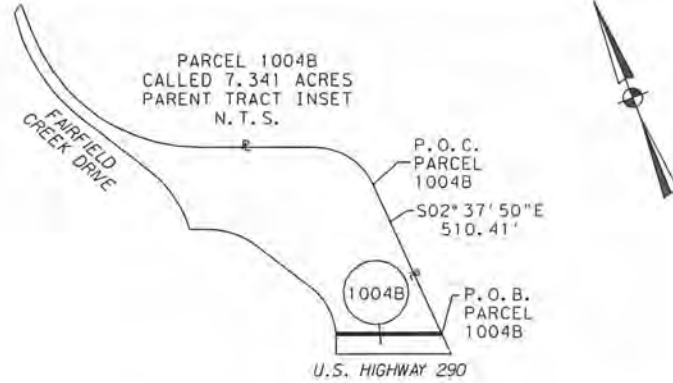


NOTES:

1. DATUM STATEMENT  
ALL HORIZONTAL COORDINATES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (1993 ADJUSTMENT), SOUTH CENTRAL ZONE. TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) MONUMENTS L1010202, N1020248, N1020238, N1020128, N1020327 AND N1020247 WERE HELD FIXED USING THEIR PUBLISHED HORIZONTAL VALUES. THE COORDINATE POSITION FOR ALL POINTS ARE BASED ON GPS SURVEYS MEETING THE STANDARDS OF ACCURACY SET FORTH IN THE FEDERAL GEODETIC CONTROL COMMITTEE PUBLICATION ENTITLED GEOMETRIC GEODETIC ACCURACY STANDARDS AND SPECIFICATIONS FOR USING GPS RELATIVE POSITIONING TECHNIQUES, REPRINTED WITH CORRECTIONS AUGUST 1, 1989.  
ALL DISTANCES AND COORDINATES SHOWN ARE SURFACE AND MAY BE CONVERTED TO GRID BY DIVIDING BY A COMBINED ADJUSTMENT FACTOR OF 1.00013.
2. GEOSOLUTIONS, LLC DID NOT RESEARCH OWNERSHIP OR EASEMENT INFORMATION. GEOSOLUTIONS HAS RELIED UPON POSTLE PROPERTY SERVICE, INC. FOR OWNERSHIP AND EASEMENT INFORMATION. ABSTRACTING WAS UPDATED IN SEPTEMBER 2012. FIELD SURVEYS WERE COMPLETED IN DECEMBER OF 2012, MAP SET WAS COMPLETED IN FEBRUARY OF 2013.
3. A PROPERTY DESCRIPTION OF EVEN DATE WAS PREPARED IN CONJUNCTION WITH THIS PARCEL PLAT.
4. ACCESS WILL BE PERMITTED TO THE REMAINDER PROPERTY ABUTTING THE HIGHWAY FACILITY.
5. \*\* THE MONUMENT DESCRIBED AND SET MAY BE REPLACED WITH A TXDOT TYPE II RIGHT-OF-WAY MARKER UPON COMPLETION OF THE HIGHWAY CONSTRUCTION PROJECT UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL LAND SURVEYOR, EITHER EMPLOYED OR RETAINED BY TXDOT.

LEGEND

- SET 5/8" IR W/TXDOT ALUM. CAP
- ADL ■ SET 5/8" IR W/TXDOT ALUM. CAP STAMPED "ADL" (ACCESS DENIAL)
- FND 5/8" IR W/TXDOT ALUM. CAP
- SET 5/8" IR W/GS CAP (UNLESS NOTED)
- FND. (TYPE INDICATED AT LOCATION)
- PROPERTY LINE
- LANDHOOK
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- SURVEY LINE
- ① PARCEL NUMBER
- H.C.D.R. DEED RECORDS HARRIS COUNTY TEXAS
- O.P.R.O.R.P.H.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY HARRIS COUNTY TEXAS
- ACCESS DENIAL LINE
- PROPOSED R.O.W. LINE
- CITY LIMITS LINE
- EXISTING R.O.W. LINE
- SURVEY LINE



REVISIONS		

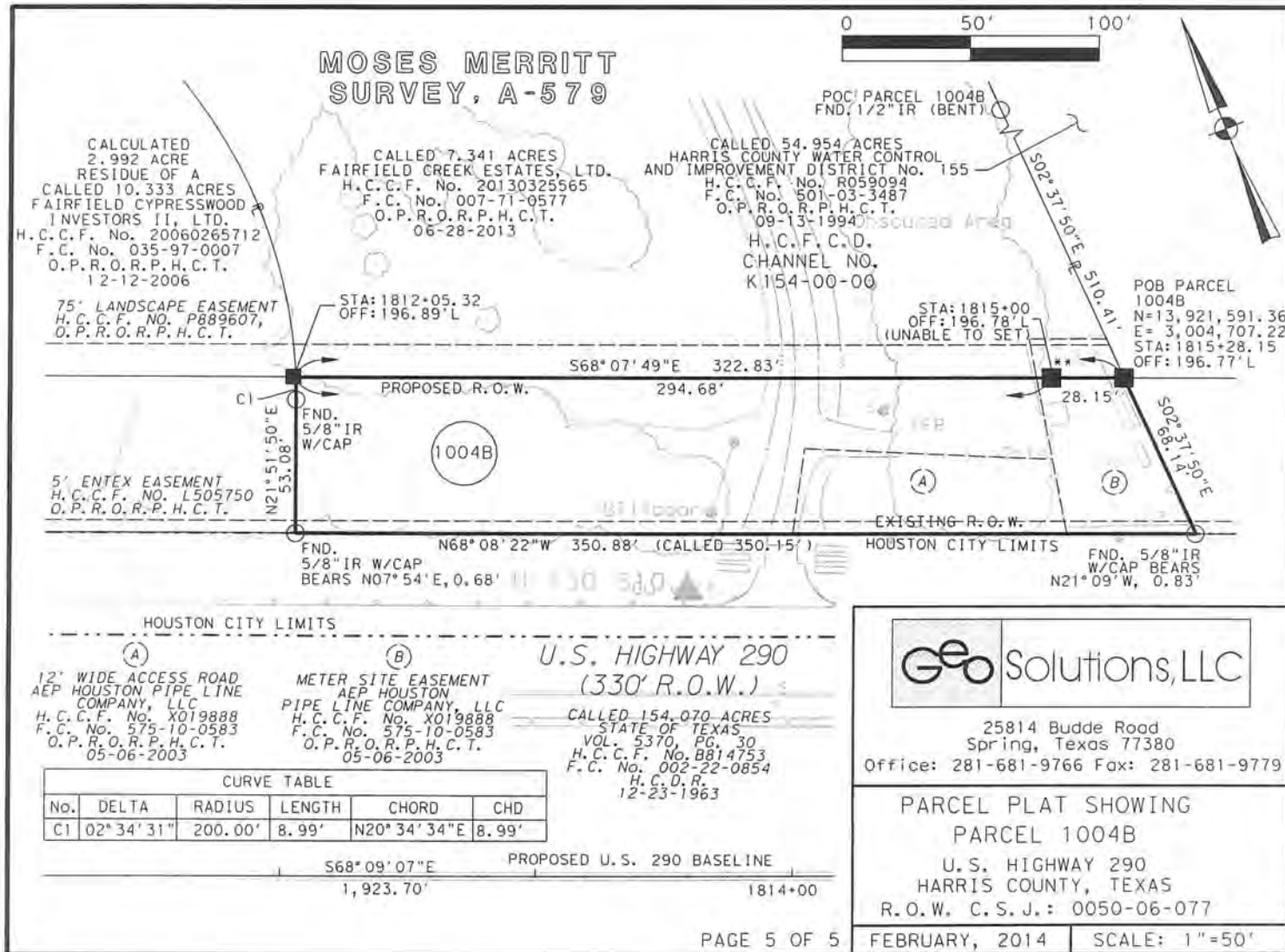
EXISTING	TAKING	REMAINING
7.341 AC.	0.4796 AC. 20,892 SQ.FT.	6.861 AC. LT

**Geo Solutions, LLC**

25814 Budde Road  
Spring, Texas 77380  
Office: 281-681-9766 Fax: 281-681-9779  
Firm No. 100159-00

PARCEL PLAT SHOWING  
PARCEL 1004B  
U.S. HIGHWAY 290  
HARRIS COUNTY, TEXAS  
R.O.W. C.S.J. : 0050-06-077

FEBRUARY, 2014	SCALE: N.T.S.
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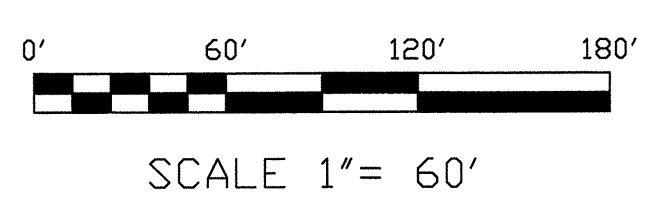
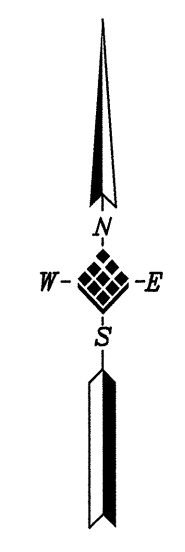
25814 Budde Road  
Spring, Texas 77380  
Office: 281-681-9766 Fax: 281-681-9779

PARCEL PLAT SHOWING  
PARCEL 1004B  
U.S. HIGHWAY 290  
HARRIS COUNTY, TEXAS  
R.O.W. C.S.J.: 0050-06-077

FEBRUARY, 2014 SCALE: 1"=50'

FILE: US290 S10 P-1004B.dgn

**CYPRESSWOOD DRIVE**  
(100' ROW) (FILM CODE NO. 352101, H.C.M.R.)



LINE	BEARING	DISTANCE
L1	S 00°37'08" W	124.70'
L2	N 68°08'32" E	350.15'
L3	N 21°51'09" E	52.42'
L4	N 68°08'51" W	49.42'
L5	N 00°36'58" E	99.58'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	550.00'	658.96'	620.25'	S 33°42'41" E	68°38'49"
C2	200.00'	228.41'	216.20'	S 35°19'04" E	65°26'07"
C3	200.00'	180.45'	174.39'	N 03°59'42" W	51°41'43"
C4	250.00'	173.82'	170.60'	N 48°59'42" W	38°18'17"
C5	375.00'	229.77'	226.19'	N 12°12'07" W	35°06'23"
C6	575.00'	304.80'	301.24'	N 14°34'11" W	30°22'17"
C7	25.00'	40.66'	36.33'	N 47°12'52" E	93°11'48"

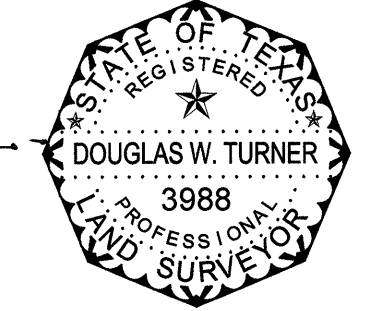
**SURVEYOR'S CERTIFICATE**

TO: Fairfield Creek Estates, Ltd., a Texas Limited Partnership, HKV Fairfield Creek, LLC, Hudson SLP LLC, Hudson Housing Capital LLC and their respective successors and assigns, Capital One, National Association, a national banking association and its successors and/or assigns, Fidelity National Title Insurance Company, Hudson Fairfield Creek LLC and Hudson Housing Tax Credit Fund XLII LP and Hudson Housing Funding LLC

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1-4, 7(a), 7(b)(1), 7(c), 8, 9, 11(a), 11(b), 16, & 18 of Table A thereof. The field work was completed on April 23, 2013.

Date of Plat or Map: September 18, 2014

*Douglas W. Turner*  
Douglas W. Turner  
Registered Professional Land Surveyor  
Texas Registration Number 3988



**J. W. MOODY SURVEY, A-547**

**MOSES MERRITT SURVEY, A-579**

- SYMBOL LEGEND**
- FOUND MONUMENT
  - SET 5/8" IRON ROD
  - △ CONTROLLING MONUMENT
  - ⊕ WATER VALVE
  - ⊕ WATER METER
  - ⊕ FIRE HYDRANT
  - ⊕ SERVICE POLE
  - GUY WIRE
  - ⊕ POWER POLE
  - OVER HEAD POWER LINE
  - ⊕ ELECTRICAL JUNCTION BOX
  - ⊕ STREET LIGHT STANDARD
  - ⊕ TRAFFIC SIGN
  - ⊕ TRANSFORMER BOX
  - ⊕ LIGHT STANDARD
  - ⊕ TYPE "A" INLET
  - ⊕ HANDICAP PARKING
  - ⊕ CABLE TV JUNCTION BOX
  - ⊕ TYPE "B-B" INLET
  - ⊕ TYPE "C" INLET
  - ⊕ STORM SEWER MANHOLE
  - ⊕ SANITARY SEWER MANHOLE
  - ⊕ WELL HEAD
  - ⊕ GATE
  - ⊕ UNDERGROUND TELEPHONE MARKER
  - ⊕ TELEPHONE JUNCTION BOX
  - ⊕ ADVERTISEMENT SIGN
  - //— CHAIN LINK FENCE
  - //— TOP OF BANK
  - //— ASPHALT PAVING
  - //— GUARD RAIL
  - //— UNDERGROUND GAS LINE PER CENTERPOINT ENERGY MAPS
  - //— UNDERGROUND ELECTRIC LINE PER CENTERPOINT ENERGY MAPS

- NOTES:**
- The surveyor has relied on Courthouse Specialists to provide copies of recorded deeds, plats or other instruments describing the subject property and adjoining tracts, used to support the determination of the location of the intended boundaries of the land surveyed.
  - By scaling the surveyed tract onto the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) No. 48201C0860L, revised date June 18, 2007, the subject property is in ZONE X (unshaded), defined as areas determined to be outside the 0.2% annual chance floodplain. The surveyor makes no representation as to the accuracy of said FIRM or that it is the most current published flood map.
  - This survey was prepared without the benefit of a title commitment or report. The surveyor has not abstracted the subject property, nor made any independent investigation or search for easements of record, restrictive covenants or any other encumbrances.
  - The utility appurtenances shown hereon include those visible at the time of the survey and are for general locative purposes only. In providing this boundary survey, no attempt has been made to obtain or show data concerning existence, size, depth, condition, capacity or location of any utility existing on or adjacent to the site, whether private, municipal or public owned.
  - The bearings shown hereon are referenced to the Texas Coordinate System of 1983, South Central Zone.

- The accompanying survey was made on the ground and shows the location of all visible buildings, structures and other visible improvements situated on the above premises; there are no visible encroachments on the subject property or upon adjacent land abutting said property except as shown hereon and was made in accordance with laws and/or Minimum Standards of the State of Texas.
- This survey is issued in conjunction with the legal description by IDS Engineering Group of the same certification date shown hereon which is hereby referenced as part 2 of 2. This survey is part 1 of 2.
- At the time of the survey there was observable evidence of earth moving work, building construction, or building additions.
- At the time of the survey there was no observable evidence of the site being used as a solid waste dump, sump, or sanitary land fill.
- At the time of the survey there was no parking striping visible (e.g. handicapped, garage, regular, etc.). Parking striping shown hereon is based site plans.

**ABBREVIATION TABLE**

- FND. FOUND
- POB POINT OF BEGINNING
- RCP REINFORCED CONCRETE PIPE
- CMP CORRUGATED METAL PIPE
- CONC. CONCRETE
- O.P.R.R.P. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY TEXAS

DATE	REVISION

**IDS Engineering Group**  
13333 NW Freeway, Suite 300  
Houston, TX 77040  
Phone: 713-462-3178

**ALTA/ACSM SURVEY**

**7.341 ACRES**  
**J. W. MOODY SURVEY, A-547**  
**& MOSES MERRITT SURVEY, A-579**  
**HARRIS COUNTY, TEXAS**

DRAWN: CJG	ORIGINAL ISSUE DATE: SEPTEMBER 18, 2014	ORIGINAL SCALE: 1" = 60'
APPROVED FOR ISSUE:	JOB NO.: 2070-001-51-532	



1e

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant Program Award and Program Year 2015 Comprehensive Energy Assistance Program Award for North East Texas Opportunities Inc.

**RECOMMENDED ACTION**

**WHEREAS**, the Department has received notification of awards from the U.S. Department of Health and Human Services (“HHS”) for the 2015 Community Services Block Grant (“CSBG”) award and the 2015 Low Income Home Energy Assistance Program (“LIHEAP”) award;

**WHEREAS**, the LIHEAP Act of 1981 (42 USC §§8623-8624) allows LIHEAP funds to be utilized to provide energy assistance, as well as 10% for planning and administration;

**WHEREAS**, on July 31, 2014, the Board authorized a 2015 LIHEAP Plan that allocates 80% of LIHEAP program funds to the Comprehensive Energy Assistance Program (“CEAP”);

**WHEREAS**, the CEAP funds are allocated based on the formula detailed in 10 TAC §5.403, Distribution of CEAP Funds; and

**WHEREAS**, the CSBG funds are allocated based on the formula detailed in 10 TAC §5.203, Distribution of CSBG Funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that the awards to North East Texas Opportunities, Inc. (“NETO”) for Program Year 2015 CEAP in the approximate amount of \$839,618 and Program Year 2015 CSBG in the approximate amount of \$228,342 be and are hereby approved.

**BACKGROUND**

The Department received notifications from HHS for PY 2015 for LIHEAP and CSBG and the Governing Board approved awards at the Board Meeting of December 18, 2014, for the subrecipients recommended by the Executive Award and Review Advisory Committee (“EARAC”). At that time, Staff requested the authority to work on an agreement with NETO to address concerns identified by EARAC and recommend approval by the Board of the CSBG and CEAP awards.

EARAC has approved the terms of the agreement and NETO has scheduled a Board meeting in order for its Board to review and approve the agreement prior to TDHCA Board approval. With the requested TDHCA Board approval, CEAP and CSBG services will be initiated at the time the agreement is countersigned by TDHCA. The agreement requires NETO to provide a complete list of all outstanding debts, propose a payment plan acceptable to TDHCA, develop an implementation plan for CEAP, develop a Quality Improvement Plan, and provide a leadership succession plan for TDHCA review.

CEAP provides funding to pay utility bills. CSBG primarily provides administrative support and case management activities.

If approved, the Board action would award approximately \$839,618 for the PY 2015 CEAP and approximately \$228,342 for CSBG for utility bill payment activities and case management activities in the NETO service area.

1f

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding authorization to the release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2015 Emergency Solutions Grants Program (“ESG”)

**RECOMMENDED ACTION**

**WHEREAS**, ESG funds are annually awarded to the State of Texas by the U.S. Department of Housing and Urban Development (“HUD”);

**WHEREAS**, the Texas Legislature designated the Texas Department of Housing and Community Affairs (the “Department”) to administer the ESG pursuant to Texas Government Code §2306.094;

**WHEREAS**, eligible activities under the 2015 ESG grant were approved by the Board as part of the 2015 One Year Action Plan (“OYAP”); and

**WHEREAS**, ESG funds will be made available to eligible applicants to carry out the purpose of the ESG based on a competitive process;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director be granted the authority to release a Notice of Funding Availability for Fiscal Year 2015 ESG funds;

**FURTHER RESOLVED**, that to the extent that subsequent revisions to the NOFA are required in order to facilitate the use of the funds by the applicants, the Board also authorizes staff to make such revisions in accordance with, and to the extent limited by the ESG federal and state regulations; and

**FURTHER RESOLVED**, that the award and commitment of funds in response to this NOFA are authorized to be made by staff and if, subsequent to the award of funds from the FY2015 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will be used to fully fund any application partially funded in the FY2015 NOFA and then make additional awards to compliant TDHCA ESG Subrecipients that have a current contract with the Department. The minimum amount of an additional award is \$25,000, and all will be presented to the Board for ratification; and,

**FURTHER RESOLVED**, that staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such other act as may be necessary to effectuate the foregoing;

### **BACKGROUND**

The ESG is funded by HUD, and for Program Year (“PY”) 2015 the Department expects to receive level funding of approximately \$8,239,076. Federal program rules require the Department to commit all funds within 60 days of receipt of an award letter from HUD and the Department anticipates receipt of this letter by summer 2015. The Department’s anticipated contract period for PY2015 ESG is October 1, 2015, through September 30, 2016.

The ESG Program focuses on assisting people to regain stability quickly in permanent housing after experiencing a housing crisis and/or homelessness and also assists persons who are at-risk of homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; and homelessness prevention and rapid re-housing assistance.

### **Allocations**

The NOFA will reflect an allocation of funds as follows:

- ESG funds will be reserved for each of the HUD-designated 2015 Continuum of Care (“CoC”) Regions using a combination of the region’s proportionate share of the state’s population of persons in poverty and the region’s proportionate share of the state’s population of homeless persons. This method is a departure from prior years in which funds were reserved (or regionally allocated) utilizing the Uniform State Service regions. In an effort to enhance coordination of state and HUD efforts to address issues of homelessness, the CoC regions are now being utilized.
- Eligible Applications will be ranked by score within the CoC region in which they are geographically located. ESG funds reserved for each region will be obligated starting with the applicant with the highest score until all regional funds have been awarded. In some cases, the CoC is taking responsibility for the competitive award process within their CoC geographic area.
- Within each CoC region, applicants may request no less than \$125,000 unless the initial amount available in the CoC region is less than \$125,000. In those cases, applicants must request an amount equal to the available allocation for that region. The purpose of this minimum is twofold: first, to ensure that administrative funds at the state and local level are used more efficiently

through the oversight of fewer contracts, and secondly to more fully encourage local collaboration within the CoC.

- Remaining funds from each region with too few qualifying applications will be pooled together and utilized to fully fund applications that were partially funded during the first distribution, in an effort to fully fund all requests, starting with the region with the greatest proportional share of the state's homeless population.
- Any funds still remaining will then be pooled together and distributed to unfunded eligible applications in rank order by score, starting within the regions with the greatest proportional share of the state's homeless population that did not have an application that was funded in the previous step, and continuing with applications from each of the regions with the greatest proportional share of the state's homeless population that did receive additional funds under the previous step.
- As a final distribution option, if there are not enough eligible applicants to be funded and there are still funds remaining, the Department may award recommended applicants in that region with an award amount in excess of the funds requested and above the award amount limits identified in the NOFA, starting with the regions with the greatest proportional share of the state's homeless population, awarding Applications in rank order by score.

If, subsequent to announcement of awards made under the FY2015 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will first be to fully fund any application partially funded in the FY2015 NOFA and then used to make additional awards to compliant TDHCA ESG Subrecipients with a current contract. The minimum amount of an additional award will be \$25,000 and will be presented to the Board for ratification

1g



**BOARD ACTION REQUEST**  
**HOME PROGRAM DIVISION**  
**JANUARY 15, 2015**

**RECOMMENDED ACTION**

Presentation, Discussion, and Possible Action to Approve amendments of three HOME CHDO Single Family Development Household Commitment Contracts issued under Reservation Agreement 11591 for the development of three single family homes by WREM Literacy Group, Inc. located in Hempstead.

**WHEREAS**, the Department executed a Reservation System Participation Agreement with WREM Literacy Group, Inc., on May 9, 2013;

**WHEREAS**, WREM Literacy Group, Inc. has completed three single family homes and transferred ownership to eligible households under Agreement 11591, and the HOME Director approved an amendment, as permitted by the HOME Rules, to extend the Household Commitment Contract end dates for project numbers 38899, 38947 and, 38994, by three months to end on January 30, 2015, January 30, 2015, and February 24, 2015, respectively; and

**WHEREAS**, WREM Literacy Group, Inc. has experienced additional delays in completing these single family development construction activities for project numbers 38899, 38947 and 38994, and has requested an additional three months extension to complete construction;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the amendment to extend the end date of HOME Household Commitment Contracts for project numbers 38899, 38947 and 38994 by three months, as presented to this meeting.

**BACKGROUND**

On May 9, 2013, the Department executed a 24-month Reservation System Participation Agreement (“RSP Agreement”) with WREM Literacy Group, Inc. for the acquisition and development of single family residential units targeting low-income homebuyers in Waller County. The RSP Agreement allows WREM Literacy Group, Inc. access to funds made available in the HOME Reservation System for Single Family Development.

WREM Literacy Group, Inc. has submitted 11 projects under the agreement. Three of the projects are complete, five are pending approval or loan closing for the lot acquisition and

interim construction loan and have not begun construction, and three are currently under construction. The three under construction are project numbers 38899, 38947 and 38994.

On December 5, 2014, the Department executed amendments to the Household Commitment Contracts for each of the three units currently under construction. The amendments granted WREM Literacy Group, Inc. an additional three months to complete construction for each project due to delays in closing of the lot acquisition and interim construction loans for the projects.

WREM was working on submitting construction draws when staff identified certain matters requiring clarification. WREM met with staff, obtained additional guidance, and is submitting these draws. This was a significant factor in the need for additional time to complete these activities.

On December 31, 2014, WREM Literacy Group, Inc. submitted a request for an additional extension of three months per project due to construction delays. The reason for the delays cited in the request include inclement weather and delays in obtaining necessary infrastructure from the City of Hempstead. The requested amendment to the Household Commitment Contract end dates will extend the contracts an additional three months for a total of 15 months from the original contract signature. Based on WREM Literacy Group, Inc.'s execution of the first three homes and the fact that these homes are nearing completion, staff believes that the second set of three homes can be accomplished if the request for additional time is approved.

Because the cumulative total of this extension request exceeds 12 months, the Executive Director does not have authority to grant the extension; Board approval is necessary. Due to the unique nature of the Single Family Development Program and, to ensure that the Department can meet the HUD HOME commitment and expenditure deadlines for CHDO funds, staff recommends approval of the amendment request. Staff has reviewed the documentation submitted to support the request and finds that WREM Literacy Group's request is reasonable.

1h

**BOARD ACTION REQUEST**  
**NEIGHBORHOOD STABILIZATION PROGRAM**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding a Notice of Funding Availability (“NOFA”) for the Programming of Program Income (“PI”) from the Neighborhood Stabilization Program Round One (“NSP1”).

**RECOMMENDED ACTION**

**WHEREAS**, the Neighborhood Stabilization Program Round One (“NSP1”) is a HUD-funded program authorized by HR 3221, the “Housing and Economic Recovery Act of 2008” (“HERA”) administered by TDHCA for the purpose of redeveloping into affordable housing, or acquiring and holding, 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;

**WHEREAS**, more than 600 land bank properties have been purchased with NSP funds across the State, of which some can be placed into their final eligible use through the use of NSP1 PI to fund construction of new single family homes that will provide continued support for the stabilization of local real estate markets;

**WHEREAS**, the Department has collected approximately \$5 million in NSP1 repayments, also termed PI, which have not yet been programmed; and

**WHEREAS**, the Department desires to support the redevelopment of land bank properties, facilitate homeownership for low income families, and mitigate the risk of land bank properties not timely achieving their required final eligible use;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of up to \$5,000,000 is authorized through the release of a NOFA for applicants conducting redevelopment of NSP Land Bank properties;

**FURTHER RESOLVED**, that to the extent that revisions to the NOFA are required in order to facilitate the use of the funds by the Applicants conducting redevelopment of NSP land bank properties, the Board also authorizes staff to make such revision in accordance with, and limited by, the NSP regulations;

**FURTHER RESOLVED**, that the award and commitment of funds in response to this NOFA are authorized to be made by staff in accordance with the NOFA; and if, subsequent to the award of funds from the NOFA, additional funds become available, the additional funding may be used to increase the amounts of the awards to awardees of the NOFA, all to be subsequently presented to the Board for ratification; and,.

**FURTHER RESOLVED**, that to the extent the NOFA is approved, staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such other act as may be necessary to effectuate the foregoing.

### **BACKGROUND**

The Neighborhood Stabilization Program Round One (“NSP1”) is a HUD-funded program authorized by HR 3221, 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. NSP1 activities have generated PI through loan payoffs that occur at the time of homeowners sales and through monthly payments on amortized homeowner and rental development loans.

Using NSP1 funds, more than 600 land bank properties were purchased across the State by NSP1 subrecipients. NSP regulations require that land bank properties be placed into a final eligible use within ten years from grant closeout. While some of the properties have been redeveloped using other fund sources, the use of NSP1 PI to fund construction of new single family homes will provide continued support for the stabilization of local real estate markets and support continued progress toward timely placement of each such property into an eligible use.

Staff recommends that accumulated NSP1 PI be programmed to fund the construction of new single family homes on land bank lots. For ease of administration the funds will be distributed via Developer Agreements with eligible applicants. Eligible entities are only those entities with existing NSP1 land bank properties that qualify as developers under federal NSP1 Notices. One of the attributes of the NOFA is that the “setaside requirement” for NSP1, which guides the proportion of grant funds used to serve households at or below 50% of AMI will not be applied to this activity because it has already been met.

In addition to the use of the NSP1 funds for redevelopment of lots, eligible applicants will be able to access funds so that eligible households purchasing the new homes can access NSP Homebuyer Assistance in the form of a subordinate deferred-payable loan of no more than \$30,000. Current NSP Homebuyer Assistance qualification criteria and limitations will apply to those households.

**1i**

**BOARD ACTION REQUEST**  
**NEIGHBORHOOD STABILIZATION PROGRAM**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding the approval of a waiver of Notice of Funding Availability (“NOFA”) requirements from the Neighborhood Stabilization Program Round One (“NSP1”) for the City of Irving.

**RECOMMENDED ACTION**

**WHEREAS**, the NSP1 NOFA included a setaside requirement that no less than 35% of a subrecipient’s project funds be used to serve households at or below 50% of Area Median Income and

**WHEREAS**, the City of Irving has requested a partial waiver of the setaside requirement to reduce the number of required setaside units from eight to six, in order to facilitate timely completion of their NSP1 contract;

**NOW, therefore, it is hereby**

**RESOLVED**, that an amendment to the City of Irving NSP1 Contract No. 77090000106 reducing the setaside requirement to six units is approved and

**FURTHER RESOLVED**, that staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such other act as may be necessary to effectuate the foregoing.

**BACKGROUND**

The Neighborhood Stabilization Program (“NSP”) is a HUD-funded program authorized by HR3221, the “Housing and Economic Recovery Act of 2008”, 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

According to the city, the City of Irving has experienced significant difficulties in finding households at or below 50% of Area Median Income that meet NSP underwriting criteria. Their outreach efforts have not been successful. They have nine units that must be sold before contract expiration on August 31, 2015. Under the NSP1 NOFA and their current contract with the Department, the City of Irving is required to sell seven of the nine remaining units to setaside households; to date they have closed one setaside home so that seven still remain. The current request from the City reduces their contractual requirement so that only five of the remaining nine total units must be sold to setaside households.

The City has provided an Action Plan that includes specific activities they will undertake to meet the setaside requirement on those five units. They have requested and received support from NSP staff in meeting the goal and staff will continue to serve as a strong resource. If more than five qualified setaside households are identified, the City will exceed the reduced requirement.

The setaside requirement in the NSP1 NOFA is driven by a NSP regulatory requirement that no less than 25% of the total grant funds be used to serve households at or below 50% of AMI. The Texas NSP has used more than 60% of the total grant funds to serve setaside households, far exceeding the regulatory requirement.





December 15, 2014

Marni Holloway, Texas NSP Director  
Texas Department of Housing and Community Affairs  
Attn: Neighborhood Stabilization Program  
P.O. Box 13941  
Austin, Texas 78711-3941

Subject: Texas NSP Contract No. 77090000106

Ms. Holloway,

Thank you for taking the time to meet with the City of Irving on November 21. As evidenced by the productive conversation at that meeting, the City of Irving and the Texas Department of Housing and Community Affairs (TDHCA) are both committed to the expedient sale of the homes associated with the Neighborhood Stabilization Program (NSP). To that end, and based on the partnership actions discussed, the City of Irving is submitting an Action Plan for the sale of the remaining NSP-associated homes in Irving.

The City of Irving has utilized NSP funds through TDHCA to construct 14 single-family attached homes on Tudor Lane, a formerly high crime neighborhood in Irving. These 14 homes are part of an overall effort to build a total of 27 homes on this street through a combination of state, federal, local, and private funds. The City of Irving also utilized NSP funds to acquire, rehabilitate, and resell seven single family homes in various locations. To date, the City of Irving has sold 11 of the 21 NSP homes and has another 4 NSP homes under sales contract.

#### **City of Irving/TDHCA NSP Action Plan**

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##### ***Increased Outreach to Target Markets***

The City of Irving has been committed to thorough community outreach and marketing of the available homes to target markets through a wide variety of methods and venues, including but not limited to:

- The development of marketing materials, brochures, flyers, and other printed materials, both for the overall program and for target 50% Area Median Family Income (AMFI) set-aside populations
- Outreach to local housing authorities and partnership with various nonprofits such as the YWCA and Dallas County Home Loan Counseling Center
- Spanish language radio and television ads and interviews
- Utilization of local cable (Irving Community Television Network) channel
- Monthly seminars for potential homebuyers

- Participation in and coordination of housing fair events. The BCL of Texas Housing Fair held in February, in partnership with the City of Irving, was very successful; plans are in place to hold another fair in 2015.
- Open house, block party, and other tours of properties
- Presentations to key stakeholder groups such as the MetroTex Realtor Association
- Listing of the properties on the MLS system
- City Spectrum (City newsletter) articles
- Dedicated web page on the City's website and social media usage

In addition to the actions used above, many of which are ongoing, the City of Irving will increase its outreach efforts through the hiring of a temporary, part-time staff member to aid in community outreach. This person will preferably be bilingual and will be able to explain property availability, program requirements, and purchase processes to the people with whom he/she comes in contact. Possible outreach venues include: targeted seminars at apartment complexes, supermarkets (or other retail establishments), and faith-based organizations; workshops at recreation centers; targeted, by-invitation tours of Tudor Lane homes/open houses; and other outreach events/initiatives. This person can also aid City of Irving staff in making contact with people who attended program orientation but did not apply for the program.

The City of Irving will also create and utilize additional marketing materials. These will include new posters and flyers which can be placed at sites frequented by the target population. Additionally, the City of Irving is looking into the development of a web-based pre-screening and information tool which will cover possible program eligibility and information related to the purchase process for those clients who might potentially qualify for zero percent financing.

The City of Irving currently hosts a monthly program orientation for participants in its Down Payment Assistance (DPA) Program. While the City of Irving holds NSP-specific orientation sessions following the monthly meetings for interested clients, the City of Irving and TDHCA staff discussed the possibility of TDHCA participating in or hosting orientation seminars in Irving to aid in potential client understanding of the 0% financing processes. These TDHCA meetings would be most effective if held in conjunction with the monthly DPA orientation sessions and could be offered as frequently as possible for TDHCA.

***Review of Denied or Borderline Client Files***

City of Irving staff will be reviewing files to determine if there are clients whose files might need to be reevaluated. TDHCA offered to review certain borderline clients to see if there were ways that the clients could possibly qualify for assistance, and the City of Irving is grateful for this aid. City of Irving staff will evaluate the files of clients who were either only slightly over the 50% AMFI threshold or were lacking in one or two of the financing criteria. City of Irving staff will communicate regularly with TDHCA staff in the evaluation of these files.

***Softening of Some Financing Requirements***

Due to the specific challenges faced by the City of Irving in qualifying clients for 0% financing, TDHCA has offered to provide assistance in investigating the financing requirements to see if there are places in which the restrictions can be lessened, on a case-by-case basis. City of Irving staff will be communicating with TDHCA staff regarding these cases.

***Partial Waiver of the 50% Set-aside Requirement for Homes on Tudor Lane***

Although the City of Irving is thankful for the assistance provided by TDHCA and is committed to accomplishing the objectives listed above, these measures are not sufficient to meet the challenge of expeditiously selling the remaining homes within six months. As such, the City of Irving is requesting a partial waiver to complement the practices listed above.

As you are aware, the City of Irving faces several obstacles in finding qualified purchasers of 50% AMFI set-aside homes. While TDHCA offers 0% financing with reduced credit score requirements to this population, the City of Irving finds that the lack of job stability and collections requirements to be significant challenges to the qualification of 0% financing program participants. Clients in this income category tend to hold hourly, non-skilled positions, and families in this position struggle with the job stability requirements of this program. In at least four cases, the City of Irving has identified clients making the requisite income level, who, due to the time lag involved with cases of job instability, have ended up with incomes above the 50% threshold. In half of these cases, the families did not have sufficient credit to qualify for traditional loan programs.

Another complicating factor is that the City of Irving does not have an internal source and/or referral source, such as a Housing Authority, to market these homes to clients below 50% AMFI. While the City of Irving continues to make outreach to the regional housing authorities, the City of Irving has not been able to successfully receive homebuyer referrals from the housing authorities.

One other significant challenge faced by the City of Irving is the overall housing market in Irving. From a market standpoint, Irving is competing with surrounding Metroplex cities (i.e. Euless, Grand Prairie, Arlington) with significantly lower home prices than those in Irving. The data below was provided by Zillow.com in November 2014:

<i>City</i>	<i>Price Per Square Foot</i>	<i>Feb. 2012 Median Sales Price</i>	<i>Sept. 2014 Median Sales Price</i>	<i>Percent Change</i>
<i>Irving</i>	\$118	\$110,000	\$191,823	74.38%
<i>Grand Prairie</i>	\$79	\$143,000	\$162,974	13.97%
<i>Euless</i>	\$99	\$157,000	\$158,066	.68%
<i>Arlington</i>	\$82	\$106,000	\$143,021	34.93%

As shown in the chart above, Irving's price per square foot is 49.37% higher than that of its nearest neighbor, Grand Prairie, and 17% higher than the Dallas-Ft. Worth metro area median of \$101 per square foot. Additionally, due to a robust and stable housing market in Irving, the median sales price of homes in Irving is increasing at a higher rate than in neighboring cities. Qualifying homebuyers in such a manner as to ensure affordability (no more than 30% of gross income going toward housing costs) in a market with significant increases in valuation (impacting both sales prices and tax valuation) limits the number of families qualifying for homes. This requires significant supplement from the City of Irving's Home Investment Partnerships Grant, in addition to state down payment assistance, for families below 50% AMI to qualify. The City of Irving is willing to provide such supplement, where applicable.

As required under the Notice of Funding Availability, the City of Irving must sell a total of eight properties to clients who are below 50% AMFI. To date, one home has been sold to a 50% AMFI family. All homes that are eligible for sale to families at 80% AMFI (or higher) have been sold or are under contract. This leaves seven properties to be sold to families at 50% AMFI or below. The City of Irving requests that this requirement be waived for four of the properties, specifically to properties on Tudor Lane. All four of these properties will be targeted to families at 80% of AMFI, with a focus on retaining buyers who are at 60-65% of AMFI. Upon TDHCA approval of the waiver, the City of Irving would sell the two remaining acquisition/rehab homes and three of the remaining Tudor Lane new homes to families below 50% AMFI. While TDHCA has committed to assisting the City of Irving in addressing some of the challenges listed above, and while the City of Irving will continue to target the sale of all of the homes to families below 50% AMFI, it is unlikely that the City of Irving will be able to sell seven homes to this segment of the population by August 2015.

The City of Irving is appreciative of the consideration that TDHCA has given to the sale of Irving's NSP homes. We look forward to continued partnership in this endeavor. If you have any questions, please contact Planning and Community Development Director Steve Reed at 972-721-3540.

Sincerely,



Michael Morrison  
Deputy City Manager  
City of Irving

c.c. Brooke Boston, Deputy Executive Director for Community Based Programs, TDHCA

1j

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2014-1 HOME Multifamily Development Program Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Department received twenty-eight (28) applications for HOME awards under the 2014-1 HOME Multifamily Development Program Notice of Funding Availability (NOFA);

**WHEREAS**, \$6,595,000 in HOME funds under the General Set Aside have been awarded under the NOFA to date and \$2,905,000 remains available under the General Set Aside to award to eligible applications;

**WHEREAS**, an application known as Riverside Village Apartments (14209) has received complete reviews for compliance with program and underwriting requirements; and

**WHEREAS**, Riverside Village Apartments was recently awarded Competitive (9%) Housing Tax Credits from the 2014 tax credit ceiling as a result of a previously-awarded application – Royal Gardens Rio Grande City – having returned its credits;

**NOW, therefore, it is hereby**

**RESOLVED**, that a commitment of HOME funding from the 2014-1 HOME Multifamily Development Program Notice of Funding Availability for Riverside Village Apartments is hereby approved in the form presented at this meeting, and as amended by the Board for any appeals or tax credit allocation decisions previously heard and determined; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting and completion of any other reviews required to ensure compliance with the applicable rules and requirements for HOME Multifamily Development Program funds.

**BACKGROUND**

On September 4, 2014, the Board approved the 2014-1 HOME Multifamily Development (MFD) Program Notice of Funding Availability (NOFA) with \$16,800,000 in funds (\$9,500,000 under the General Set Aside and \$7,300,000 under the Community Housing Development Organization

(CHDO) Set Aside). Due to the timing of the 9% tax credit cycle, 9% Housing Tax Credit applicants were allowed to request HOME funds in accordance with the January 2014 Board approved policy prior to the publication of the NOFA. These applications were accepted as submissions under the 2014-1 HOME MFD NOFA in accordance with the same policy and the Board action at the September Board meeting to approve the release of the NOFA. At the November 13, 2014, Board Meeting, \$7,595,000 in HOME funds under the General Set Aside were awarded under the NOFA. However, due to a subsequent declination of \$1,000,000 in HOME funds by the applicant Liberty Pass, \$2,905,000 remains available under the General Set Aside.

Staff is recommending the Board's approval of one (1) application for a HOME award, totaling \$500,000 under the General Set Aside. The recommended application and award amount for this application as well as previously awarded and recently received applications is outlined in the attached award recommendations log. This application proposes new construction in Rio Hondo in Cameron County and will result in 4 HOME-assisted units, which will be layered within the 60 tax credit units. This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should this recommended award be approved, as well as the recommended HOME award for Waters at Sunrise in a separate Board Action Request, \$5,705,000 will remain available under the NOFA with \$2,405,000 under the General Set-Aside and \$3,300,000 under the CHDO Set-Aside. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

The Application and Award Recommendations Log is attached.



**2014 HOME Multifamily Development (MFD) Program - Application Log - December 1, 2014**  
**Per 2014-1 HOME MFD Notice of Funding Availability published in the Texas Register on 09/19/2014**

**General Set-Aside**

Total Set Aside Funding Level: \$ **9,500,000**

File #	Reg.	Date Received (1)	Development Name	City	Housing Activity (2)	Reqstd HOME Units	Total units	Target Population	Layering <sup>(3)</sup>	Requested Project Funds	As Underwritten	Status
14227	9	2/24/2014	Liberty Pass	Selma	NC	7	104	General	9%	\$1,000,000.00	\$0.00	Approved 11/13/14; applicant subsequently declined HOME funds
14122	2	2/27/2014	Riverside Park Apartments	Early	NC	10	60	General	9%	\$1,000,000.00	\$1,000,000.00	Approved 11/13/14
14092	4	2/27/2014	Madison Oaks Apartments	Winnsboro	NC	8	60	General	9%	\$850,000.00	\$850,000.00	Approved 11/13/14
14087	3	2/28/2014	Cypress Creek Apartment Homes at Joshua Station	Joshua	NC	14	181	General	9%	\$1,000,000.00	\$1,000,000.00	Approved 11/13/14
14132	12	2/28/2014	Mission Village of Monahans	Monahans	NC	5	49	General	9%	\$600,000.00	\$600,000.00	Approved 11/13/14
14292	3	2/28/2014	Cypress Creek Apartment Homes at Parker Creek North	Royse City	NC	9	220	General	9%	\$1,000,000.00	\$1,000,000.00	Approved 11/13/14
14133	4	2/28/2014	Mission Village of Jacksonville	Jacksonville	NC	4	48	General	9%	\$445,000.00	\$445,000.00	Approved 11/13/14
14170	1	2/28/2014	The Reserves at Brookside	Borger	NC	6	48	General	9%	\$700,000.00	\$700,000.00	Approved 11/13/14
14158	3	2/28/2014	Bishop Gardens	Justin	NC	8	72	General	9%	\$1,000,000.00	\$1,000,000.00	Approved 11/13/14
14209	11	3/6/2014	Riverside Village Apartments	Rio Hondo	NC	4	60	General	9%	\$500,000.00	\$500,000.00	Recommended 1/15/15
<b>Total General Applications</b>			<b>9</b>	<b>Unit Totals:</b>		<b>71</b>	<b>842</b>	<b>Total:</b>		<b>\$ 8,095,000</b>	<b>\$ 7,095,000</b>	



**CHDO Set-Aside**

Total Set Aside Funding Level: \$ **7,300,000**

File #	Reg.	Date Received	Development Name	City	Housing Activity <sup>(1)</sup>	Reqstd HOME Units	Total units	Target Population <sup>(2)</sup>	Layering <sup>(3)</sup>	Requested Project Funds	As Underwritten	Status
14417	7	10/10/2014	Waters at Sunrise	Round Rock	NC	35	300	General	4%	\$4,000,000.00	\$4,000,000.00	Recommended 1/15/15
14501	11	10/29/2014	Cornerstone Apts	Brownsville	NC	28	108	General	NA	\$4,000,000.00		Terminated Pending Appeal
14502	3	12/1/2014	Blakemoor Manor	Kaufman	NC	46	80	Elderly	NA	\$4,000,000.00		Withdrawn
<b>Total CHDO Applications</b>			<b>3</b>	<b>Unit Totals:</b>		<b>109</b>	<b>488</b>	<b>Total:</b>		<b>\$12,000,000.00</b>	<b>\$4,000,000.00</b>	

Sorted by Date Received

1 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees were received. Time received is currently not reflected.

2 = Housing Activity: New Construction=NC, Rehabilitation=R

3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

1k

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer and Award of HOME Multifamily Development Program (“MFD”) Funds.

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit and HOME MFD application for Waters at Sunrise was submitted to the Department on October 10, 2014;

**WHEREAS**, in lieu of a Certification of Reservation, a Carryforward Designation Certificate was issued on January 10, 2014, and will expire on December 31, 2016;

**WHEREAS**, the proposed issuer of the bonds is the Capital Area Housing Finance Corporation;

**WHEREAS**, HOME Multifamily Development Program funding is available to award the subject application under the Community Housing Development Organization (“CHDO”) Set-Aside;

**WHEREAS**, the applicant has requested a waiver of §10.204(4)(D) of the Uniform Multifamily Rules regarding the deadline to submit the No Objection Resolution;

**WHEREAS**, the Executive Award and Review Advisory Committee (“EARAC”) recommends the issuance of the Determination Notice with the condition that closing occur within 120 days (on or before May 18, 2015); and

**WHEREAS**, the previous participation review in accordance with 10 TAC §1.5 was approved conditioned upon Board action regarding an HTF LURA amendment for Redbud Trail, a property affiliated with the Applicant, a matter that has been simultaneously approved by the Board as presented on the consent agenda for this meeting;

**NOW, therefore, it is hereby**

**RESOLVED**, the Board hereby grants a waiver of 10 TAC §10.204(4)(D) regarding the deadline to submit the no objection resolution;

**RESOLVED**, that the issuance of a Determination Notice of \$895,136 in 4% Housing Tax Credits, and award of a HOME commitment not to exceed \$4,000,000, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for the Waters at Sunrise is hereby approved in the form presented to this meeting; and

**FURTHER RESOLVED**, that provided the Applicant has not closed on the bond financing on or before May 18, 2015, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if necessary.

### **BACKGROUND**

*General Information:* Waters at Sunrise, located in Round Rock, Williamson County, involves the new construction of a mixed income development, serving multiple rent and income levels and consisting of 300 units. Of the 300 total residential units, seven units will be rent and income restricted at 50% of AMFI, 233 units will be rent and income restricted at 60% AMFI, and the remaining 60 units will be market rate with no rent or income restrictions. The HOME LURA will include seven Low Home units and 28 High Home units. The HOME units will be considered floating units throughout the development and identified as such in the HOME LURA. The development will serve the general population and is zoned appropriately.

There is approximately \$16,800,000 in funding available from the 2014 Multifamily Development Program Notice of Funding Availability (“NOFA”), of which \$7,300,000 is available to applications under the CHDO Set-Aside.

Pursuant to Texas Government Code §2306.67071 and §10.204(4) of the Uniform Multifamily Rules the applicant is required to submit a resolution of no objection from the local governing municipality. On December 18, 2014 the City of Round Rock adopted such resolution; it was sent to the applicant on December 31, 2014 and subsequently submitted to the Department on January 5, 2015. The rule (§10.204(4)) requires the resolution for Tax-Exempt Bond Development applications be submitted no later than 14 days before the Board meeting which would have been January 1, 2015 but given the holiday it was due on January 2, 2015. The timing associated with the submission of the resolution is primarily a consideration allowed in the rule for the benefit of the Applicant; it allows them time that may be needed to acquire the resolution after application submission. The applicant, in their request for a waiver of the 14-day deadline has expressed concerns that a delay in consideration of this award to the February Board meeting could result in significant financial risks that include rising construction costs and resulting contractor re-bids, interest rate volatility and the need to lock the interest rate which cannot be done until the lender has confirmation that the HTC and HOME awards have been made, and the carrying costs associated with the land that the applicant has incurred since they purchased the land in 2013. The applicant has asserted that the aforementioned financial risks and burdens that would result if consideration of the awards were delayed to the February Board meeting would be inconsistent with the policies and purposes of the Department as enumerated in Texas Government Code Chapter 2306. Specifically, the delivery of the units would be delayed, it increases costs and it exposes developers (particularly non-profit organizations as is the case with this application) to unnecessary risks. The Department’s purpose of assisting local governments in providing housing for its low-income citizens would be furthered if the waiver were granted. Staff recommends granting the request for the waiver in this particular circumstance but adds that this recommendation is not a suggestion that the deadlines imposed by the Department’s rules are to be taken lightly.

*Conditions to Award:* The application and underwriting report were reviewed by EARAC and it was recommended by EARAC that any Board approval of the Determination Notice include a condition related to the closing of the bonds. Specifically, EARAC recommends that the closing must occur on or before 120 days (May 18, 2015) and that if closing has not occurred by such date, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if necessary. This condition is generally consistent with the requirements of a bond transaction utilizing non-traditional carryforward (the subject applicant received a traditional carryforward reservation). For non-traditional carryforward reservations, a statutory 150-day deadline from the date of the reservation for closing is imposed and the Determination Notice for any associated 4% award expires if closing does not occur within this timeframe or if the financing structure or terms change. Traditional carryforward reservations are not specifically addressed in the rule and this recommendation addresses the proposal in a manner to result in consistency. Staff believes that closing within a reasonable period after Board action is important and consistent with the constraints present for most other bond transactions.

*Organizational Structure:* The Borrower is Waters at Sunrise, L. P. The General Partner is AHF – Waters at Sunrise, LLC, of which the sole member is Housing Initiatives Corporation, a not for profit organization that the Department has certified as meeting the CHDO requirements found in 24 CFR §92.2 and §92.300. Since AHF-Waters at Sunrise LLC is a wholly owned subsidiary of a CHDO (Housing Initiatives Corporation) that will be developing and owning the property, the CHDO will be serving in the sponsor capacity under §92.300 Section (4) for CHDO purposes and is comprised of the following board members and officers: Michael N. Nguyen, Daniel B. French and Joann Gonzalez. Approval of the HOME award under the CHDO set-aside will require the HOME LURA to include a provision that a CHDO remain in the ownership structure throughout the term of the HOME loan.

The EARAC met on November 21, 2014, and considered the previous participation review documentation relating to the organizational structure as noted above in accordance with the Previous Participation Reviews found in 10 TAC §1.5. After considering information provided EARAC recommended approval of the award conditioned upon resolution of issues related to Redbud Trail, an affiliated property of the applicant. Such issues will be considered resolved with Board action of the HTF LURA amendment on this Board agenda for Redbud Trail.

*Census Demographics:* The development is to be located at 2750 Sunrise Road in Round Rock. Demographics for the census tract (0215.07) include an AMFI of \$89,990; the total population is 9,196; the percent of population that is minority is 49.87%; the percent of the population that is below the poverty line is 5.53%; the number of owner-occupied units is 2,033 and the number of renter units is 951. (Census information is from FFIEC Geocoding for 2014.)

*Public Comment:* The Department has not received any letters of support or opposition for this Development.



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

January 7, 2015

**VIA EMAIL DELIVERY**

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

Re: Waters at Sunrise in Round Rock, Texas (the "**Development**")

Dear Teresa:

We represent Atlantic Housing Foundation, Inc. ("**Non-Profit**"), which has a reservation of tax-exempt bond authority for the construction and financing of the Development, with Capital Area Housing Finance Corporation as the issuer. Non-Profit has submitted an application for low-income housing tax credits and HOME funds from TDHCA. The purpose of this letter is to request that TDHCA proceed with consideration of the tax credit award and the HOME award at its upcoming meeting on January 15, 2015.

**Background Information**

The issue of concern presented by TDHCA relates to the "no objection" resolution required for the tax credit award, in accordance with Sections 10.204(4)(C) and (D) of the Uniform Multifamily Rules (the "**Rules**"). Non-Profit has been working closely with the City of Round Rock with regard to the Development since 2013. Initially, City officials objected to the proposed housing, primarily based on certain design standards. Non-Profit undertook a significant re-design and negotiation, which included foregoing its right to pursue ad valorem tax exemption for the Development. Finally, Non-Profit garnered the City's support and entered into a Development Agreement with the City of Round Rock, which was approved by City Council in October 2014. The Development Agreement specifically identified the proposed property and recited that the City has "no objection" to a tax credit award for the Development. At the meeting where the Development Agreement was approved, the City Council also adopted a "no objection" resolution. Upon submission of the "no objection" resolution to TDHCA, staff determined it was unacceptable because:

1. The resolution did not “identify the Development whether by legal description, address, Development name, Application number or other verifiable method.”
2. The statement with regard to notice did not specifically reference the applicable Texas Government Code and rule sections.
3. The statement with regard to the public hearing did not reference the applicable Texas Government Code and rule sections.

We firmly believe that the resolution submitted in October 2014 was compliant:

1. Based upon the agenda that is part of the public record, the location of the development was clearly known to the City Council when they were voting and can be considered part of their overall approval. We believe this qualifies as an “other verifiable method.”
2. With regard to the code references, we do not read the rule to require that the code section be referenced. Rather, we read 10.204(4)(D)(i) to require a certification that “notice has been provided to the Governing Body.” We view the phrase beginning with “in accordance with” as a qualification that is instructive to the applicant and the governing body as to how the notice should be given, but not mandatory for the text of the resolution. The same is true with regard to 10.204(4)(D)(iii). Moreover, the Texas Government Code only requires a statement to the effect that “notice has been provided to each governing body.” Thus, we did not interpret the rule as requiring more than is required by the statute.

Nonetheless, we asked the City to adopt a modified resolution to address TDHCA's concerns. That resolution was adopted December 18, 2014. On December 30, 2014, I contacted the City to obtain a copy of the signed resolution for submission to TDHCA. I was told that it had not been posted yet. (See email correspondence attached as Exhibit A). On December 31, 2014, the City forwarded the signed resolution. (See email correspondence attached as Exhibit B). Upon receipt, I forwarded the resolution to Non-Profit, not knowing that our client's offices were closed for the holidays, through January 2. When Non-Profit's offices re-opened on January 5, the resolution was forwarded to TDHCA.

TDHCA is concerned that the replacement "no objection" resolution was not submitted 14 calendar days before the meeting at which the tax credit award is to be considered. Technically, that day would have been January 1, a national holiday. Since the resolution was not available until December 31, and Non-Profit's offices were closed for the holidays on

December 31 and January 2, the first day that Non-Profit was able to deliver the resolution was January 5.

### Request

We respectfully request that consideration of Non-Profit's tax credit and HOME awards not be delayed on this technical matter and that the item be scheduled for the January 15 Board meeting. Granting relief in this instance is appropriate for a variety of reasons:

1. We believe Non-Profit is absolutely compliant with Chapter 2306 of the Texas Government Code and the Rules, and the spirit thereof. TDHCA has been in possession of a "no objection" resolution for this Development, along with a Development Agreement that contains "no objection" language since October 2014. While TDHCA staff did not approve the original form of that resolution, there is a reasonable dispute regarding that interpretation. The replacement resolution, submitted on January 5, simply corrects items that TDHCA found deficient.

2. Further delays in the financing for the Development expose Non-Profit to significant financial risks.

(a) First and foremost, construction costs are increasing, and availability of contractors and labor is limited. Non-Profit first bid this job on November 19, 2014, and the selected contractor has advised that the subcontractors will not hold bids beyond 60 days. Increased construction costs could impact the financial feasibility of the Development, particularly given that Non-Profit is not pursuing ad valorem tax exemption for this Development.

(b) Non-Profit has also expressed concerns to TDHCA about interest rate volatility, which can hit bond transactions particularly hard. Interest rates are currently at a level that make this Development feasible, and Non-Profit is anxious to lock that rate with its lender. The lender has advised that it cannot lock the rate until the tax credit and HOME awards are received. If these awards are delayed, domestic and international uncertainties could have an adverse impact on interest rates.

(c) Non-Profit already owns the land upon which the Development will be constructed. The acquisition was financed at a relatively high interest rate, and Non-Profit is paying all the carrying costs for the land. Further delay will continue to drain Non-Profit's resources. As noted above, Non-Profit has been pursuing this transaction and incurring costs associated with this transaction since 2013. As a charitable organization, all of the assets of Atlantic Housing Foundation are devoted to either the construction and operation of affordable



housing or the provision of supportive services to the residents of that affordable housing. But Non-Profit's resources only go so far. The more expenses Non-Profit incurs for this Development, the fewer resources it has to devote to other properties and other residents.


In short, the financial risks and burdens that would be imposed on Non-Profit if the tax credit and HOME awards do not proceed at the January 15 Board meeting would not be consistent with the overall governmental policies and purposes of TDHCA enumerated in the Texas Government Code, to encourage the development of affordable housing, maximize the number of units of affordable housing available, and support non-profit organizations in the acquisition, development, and operation of affordable housing.

3. Supporting this request also furthers TDHCA's purpose of assisting local governments in providing for the housing of low-income citizens. The City of Round Rock has not seen the new construction of a housing tax credit development for families since 2000. During the past 14 years, the City's population has grown by approximately 70%. Non-Profit worked diligently to secure the City's approval for this Development. Now, it is important to have residential units available as soon as possible.

4. On a more global level, TDHCA has a public purpose of encouraging the development of affordable housing. While adherence to statutes is paramount and a body of rules is appropriate to ensure fairness in procedures, we ask this: How would delaying this agenda item until February encourage the development of affordable housing? It simply doesn't. It slows down delivery of the units, it increases costs, and it exposes developers (particularly non-profit organizations) to unnecessary risks.

We hope this presentation is sufficient for TDHCA to proceed with an agenda item to consider the tax credit and HOME awards on January 15. Thank you for your time and consideration.

Very truly yours,



Cynthia L. Bast

Enclosure

## Exhibit A

### **Bast, Cynthia L.**

---

**From:** Bradley Dushkin <bdushkin@roundrocktexas.gov>  
**Sent:** Tuesday, December 30, 2014 11:12 AM  
**To:** Bast, Cynthia L.  
**Cc:** Charlie Crossfield  
**Subject:** RE: Waters at Sunrise resolution

Hi Cynthia,

Copies of the signed items from the Dec 18 City Council meeting have not yet been uploaded to our portal, but I'll keep checking and forward it to you when it's there.

**Bradley Dushkin**  
**Senior Planner**  
**City of Round Rock**  
**301 W Bagdad, Suite 210**  
**Round Rock, Texas 78664**  
**512-671-2728**

[E-Trakit](#) – check the status of your application or permit

[CityView](#) – online GIS portal where you can view zoning, utility, tax info, and more for every property in the City

[Downtown Development Update](#) – keep up with latest in downtown redevelopment

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**From:** Bast, Cynthia L. [<mailto:cbast@lockelord.com>]  
**Sent:** Tuesday, December 30, 2014 9:53 AM  
**To:** Bradley Dushkin  
**Cc:** Charlie Crossfield  
**Subject:** RE: Waters at Sunrise resolution

Gentlemen,

Is there a signed copy of the resolution from the meeting? If we could have a copy, that would be most helpful. Thank you.

**Cynthia Bast**  
Partner  
**Locke Lord LLP**  
600 Congress Avenue  
Suite 2200  
Austin, Texas 78701  
T: 512-305-4707  
F: 512-391-4707  
[cbast@lockelord.com](mailto:cbast@lockelord.com)  
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Atlanta, Austin, Chicago, Dallas, Hong Kong, Houston, London, Los Angeles, New Orleans, New York, Sacramento, San Francisco, Washington DC

## Exhibit B

### **Bast, Cynthia L.**

---

**From:** Bradley Dushkin <bdushkin@roundrocktexas.gov>  
**Sent:** Wednesday, December 31, 2014 10:44 AM  
**To:** Bast, Cynthia L.  
**Cc:** Charlie Crossfield  
**Subject:** RE: Waters at Sunrise resolution  
**Attachments:** Waters at Sunrise - Revised Resolution-signed.pdf

attached

**Bradley Dushkin**  
Senior Planner  
City of Round Rock  
301 W Bagdad, Suite 210  
Round Rock, Texas 78664  
512-671-2728

[E-Trakit](#) – check the status of your application or permit

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**Sent:** Tuesday, December 30, 2014 9:53 AM  
**To:** Bradley Dushkin  
**Cc:** Charlie Crossfield  
**Subject:** RE: Waters at Sunrise resolution

Gentlemen,

Is there a signed copy of the resolution from the meeting? If we could have a copy, that would be most helpful. Thank you.

**Cynthia Bast**  
Partner  
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11

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action to Accept Guidance Issued by Staff in the Form of Frequently Asked Questions (“FAQs”) for the 2015 Competitive 9% Low Income Housing Tax Credit Application Round

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted and approved 10 TAC Chapter 10 Subchapters A, B, C, and G (“Uniform Multifamily Rules”) and 10 TAC Chapter 11 (“Qualified Allocation Plan” or “QAP”) on November 13, 2014;

**WHEREAS**, the QAP was approved by the Governor on December 1, 2014, and subsequently published in the *Texas Register*;

**WHEREAS**, pursuant to §10.2(b) of the Uniform Multifamily Rules and §11.1(b) of the QAP, staff may, from time to time, make available for use by applicants information and informal guidance in the form of frequently asked questions (“FAQs”);

**WHEREAS**, staff seeks the Board’s acceptance of FAQs and answers to be posted as attached hereto;

**NOW, therefore, it is hereby**

**RESOLVED**, the Board accepts the guidance issued by staff in the form of FAQs, which will be made available to potential applicants in the 2015 Competitive 9% Low Income Housing Tax Credit Application Round on the Department’s website, and authorizes staff to make such non-substantive technical correction as they deem necessary to effectuate the foregoing; and

**FURTHER RESOLVED**, that the Board reserves the right to make changes and corrections to such guidance if material additional information is brought to its attention which would affect such guidance.

## **BACKGROUND**

Pursuant to §10.2(b) of the Uniform Multifamily Rules (“Rules”) and §11.1(b) of the 2015 QAP, staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, FAQs, and responses to specific questions. This guidance, while not formally part of the Rules and QAP, serves to supplement those documents and address specific situations that may not be addressed in great detail in the Rules and/or QAP. Since the approval of the Rules and QAP by the Board in November 2014, staff has fielded hundreds of questions from possible Applicants. Of those questions, staff identified several as potentially having an impact on other applicants and applications and so will posted them in the form of FAQs on the Department’s website. A listserv announcement will provided periodically to ensure applicants became aware of any updates. Staff now seeks the Board’s acceptance of this guidance in order to confirm that these specific situations are being addressed in accordance with the Board’s interpretation of the Rules and QAP.

Staff recommends that the Board accept the FAQs and answers attached.



Posted:  
1/8/2015  
Updated:

## 2015 Competitive HTC Application Cycle Frequently Asked Questions (FAQs)

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Pursuant to §11.1(b) of the Qualified Allocation Plan (QAP), Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. These rules may need to be applied to facts and circumstances not contemplated at the time of their creation and adoption. When and if such situations arise the Board will use a reasonableness standard in evaluating and addressing Applications for Housing Tax Credits.

Following is a list of questions that the Department has received with respect to the 2015 Uniform Multifamily Rules and QAP and how various provisions of the rules will be applied to Applications submitted and reviewed by the Department during the 2015 competitive cycle. Each of the questions was received via email or phone over the past several weeks and at the application workshops held in early December. Each time an update is made the most recently updated date will be added to the box at the top right of this page. The FAQ is an opportunity to provide all Applicants and the public the same information that was relayed to the individuals who asked the questions. There are other questions which have been posed and addressed, but it was staff's assessment that they did not raise questions or issues with broad application.

Questions and answers are in the same order that their related sections appear in the rules. If questions and answers are added after the initial posting, the revision dates will appear at the top of this page and will be included next to each of the added questions. The Department may not send out a new listserv each time an update is made unless the update is extensive. Staff encourages interested individuals to check back periodically. At the January 15, 2015 board meeting, staff will present to the all questions and answers included in this FAQ for acceptance. However, staff will continue to supplement this FAQ; questions and answers with dates subsequent to any Board action will not have been reviewed by the board.

# 2015 Competitive Application Cycle FAQ

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## Chapter 10, Subchapter A – Uniform Multifamily Rules

### §10.3 – Definitions and Staff Determinations

**Q:** Will the Department underwrite Applications using an applicable percentage of 9%?

**A:** No. Unless new legislation has actually passed (not just been proposed) at the time an Application is submitted, the applicable percentage used in underwriting the Application will be 40 basis points over the current (February 2015) applicable percentage for 70% present value credits (for New Construction/Rehabilitation) in accordance with §10.3(a)(5) of the Uniform Multifamily Rules.

## Chapter 10, Subchapter B – Uniform Multifamily Rules

### §10.101(a)(3)-(4) – Undesirable Site Features and Neighborhood Characteristics

**Q:** Section 10.101(a)(4)(B)(ii) requires disclosure related to crime data in the “immediately surrounding area” and gives options for defining that area. If an Applicant determines that the Development Site is under the 18 per 1,000 persons threshold for one type of “immediately surrounding area” but not for another, is disclosure required?

**A:** No. For example, if the rate of part 1 violent crimes for the census tract in which the Development Site is located is lower than 18 per 1,000 persons annually but the rate for the police beat is over that threshold, disclosure is not required, assuming that disclosure is also not required pursuant to §10.101(a)(4)(B)(i) or (iii).

**Q:** How does the Department define “highly volatile liquids”?

**A:** Pursuant to 49 CFR §195.2, a Highly volatile liquid or HVL means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40 psia) at 37.8 °C (100 °F). HVLs are usually liquids at pipeline pressures and become gaseous when exposed to the atmosphere. HVLs in a gaseous state are heavier than air and will flow along the ground and collect in lower elevations of the ground profile. They do not usually dissipate rapidly. HVLs in a gaseous state are usually flammable and explosive upon contact with an ignition source. Some HVLs are toxic when inhaled in a gaseous state. All HVLs will displace oxygen and are therefore asphyxiants in a gaseous state (i.e., even if the HVL plume in a gaseous state has not reached a source of ignition or ignited, the plume can be deadly).

## Chapter 10, Subchapter C – Uniform Multifamily Rules

### §10.203 – Public Notifications and §11.8(b)(2) – Pre-Application Threshold Criteria

**Q:** Whom should applicants contact to obtain a list of neighborhood organizations on record with the county or state?

**A:** It is an applicant’s responsibility to perform the due diligence necessary to verify the existence of neighborhood organizations that would require notification or that could affect point elections for the QCP point item. While staff will publish a list of neighborhood Organizations that have requested to be on record with the state by being on record with the Department, the rules do not require an applicant to seek a list of neighborhood organizations from state or local elected



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officials. However, applicants are encouraged to do so to ensure that they have sought information from all possible sources.

## §10.204(5) – Experience Requirement

**Q:** Will the Department accept Experience Certificates from previous years?

**A:** Yes, but only those issued in 2014. Experience certificates issued prior to 2014 will not be sufficient for meeting the experience requirement for 2015. Applicants can submit documentation to evidence that the requirements are met with the full application or, for 9% HTC applications, at any time during the Application Acceptance Period. Submissions sent outside the full application should be sent to Elizabeth Henderson at [elizabeth.henderson@tdhca.state.tx.us](mailto:elizabeth.henderson@tdhca.state.tx.us).

## §10.205 – Required Third Party Reports

**Q:** How should the Primary Market Area (PMA) Map be submitted?

**A:** The PMA map and its defined census tracts or ZIP codes may be submitted directly to the Department (via the Serv-U system or emailed directly to Pamela Cloyde at [Pamela.cloyde@tdhca.state.tx.us](mailto:Pamela.cloyde@tdhca.state.tx.us)) from the market analyst as a pdf or an1 file. Submissions should include the development name and application number, and the PMA map is still required by 5pm on February 27, 2015. Failure to timely submit the map could result in termination of the application, so applicants are encouraged to also include a copy of the map behind tab with the application file.

## §10.207 – Waivers of Rules for Applications

**Q:** What is the process for requesting a waiver?

**A:** Requests for waivers will be accepted any time during the Application Acceptance Period but will not be accepted after a full application has been submitted, even if it is submitted prior to the deadline. However, staff may present to the Board consideration of a waiver for an active application as a result of a request for allowable relief, as in the case of a scoring appeal. There is no Department template or form for a waiver request. Requests for waivers for Competitive 9% HTC applications should be sent directly to Kathryn Saar at [kathryn.saar@tdhca.state.tx.us](mailto:kathryn.saar@tdhca.state.tx.us). Requests for waivers for 4% HTC/Bond applications should be sent to Teresa Morales at [teresa.morales@tdhca.state.tx.us](mailto:teresa.morales@tdhca.state.tx.us). Requests for waivers for HOME only applications should be sent to Eric Weiner at [eric.weiner@tdhca.state.tx.us](mailto:eric.weiner@tdhca.state.tx.us). Requests for waivers can also be submitted within a pre-application or application, in which case there is a place to indicate such on the payment receipt.

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## Chapter 11 – Qualified Allocation Plan

### §11.4 – Tax Credit Request and Award Limits

**Q:** If an application proposes to qualify for an increase in eligible basis (30% boost) under §11.4(c)(2)(D) by restricting 10% of the low-income units for households at or below 30% AMGI, can these same units be used to qualify for points under either §11.9(c)(1) related to Income Levels of Tenants or §11.9(c)(2) related to Rent Levels of Tenants?

**A:** No. The language in §11.4(c)(2)(D) reads, “Units must be in addition to Units required under any other provision of this chapter.” Therefore, the same units cannot be used to qualify for both the boost and points (whether under §11.9(c)(1) or (2)). Applicants should exercise caution in completing the application and should double check their calculations to ensure that a sufficient number of units have the appropriate rent and income levels for all elections made in the application.

**Q:** If an application could qualify for points under the Opportunity Index but chose not to elect such points (for instance, the Applicant elected Community Revitalization Plan points instead of Opportunity Index points), could the application qualify for an increase in eligible basis (30% boost) under §11.4(c)(2)(C)?

**A:** Yes. The language in §11.4(c)(2)(C) which reads, “the Development meets the criteria” suggests that it is possible that an Application’s score might not include points for Opportunity Index but that the characteristics/location of the Development Site could still allow the Application to elect the 30% boost under the above cited provision of the QAP.

### §11.5 – Competitive HTC Set-Asides

**Q:** Will applications proposing a Rental Assistance Demonstration (“RAD”) conversion be considered eligible to compete in the At-Risk Set-Aside?

**A:** No, unless 25% of the units are retained as public housing pursuant to §11.5(3)(D) of the QAP.

**Q:** If an application could qualify for points under the Opportunity Index but chose not elect such points (for instance, the Applicant elected Community Revitalization Plan points instead of Opportunity Index points), could the application be allowed to qualify for relocating the Development Site under the At-Risk Set-Aside pursuant to 11.5(3)(c)(iii)?

**A:** Yes. The language in §11.5(3)(c)(iii) which reads, “the Development Site must qualify for points,” suggests that it is possible that an Application’s score might not include points for Opportunity Index but that the characteristics/location of the Development Site could still allow the Application to relocate the site under the above cited provisions of the QAP.

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## §11.7 – Tie Breaker Factors

**Q:** If two applications (*e.g.* applications ‘A’ and ‘B’) have the same score and ‘A’ could have qualified for points under the Opportunity Index but the Applicant chose not elect the such points (for instance, Applicant for ‘A’ elected Community Revitalization Plan points instead of Opportunity Index points), can the Opportunity Index point level that could have been elected be used to determine whether the application wins the tie breaker for highest score on the Opportunity Index? In other words, could ‘A’ win the tie breaker under §11.7(1) using a point level that was not actually elected in the application?

**A:** No. The tie breaker provision is based on score. The language in §11.7(1) reads, “Applications scoring higher on the Opportunity Index,” and applications will not be awarded points that are not explicitly elected by the applicant. Therefore, if ‘B’ actually had points awarded under the Opportunity Index and ‘A’ did not, then ‘B’ would win the tie breaker. If neither application in this scenario actually had Opportunity Index points included in the application’s total score, staff would look to §11.7(2) to determine which application wins the tie breaker.

## §11.9-Competitive HTC Selection Criteria

### §11.9(c)(4) – Opportunity Index

**Q:** If a Development Site is NOT located within a census tract that has a poverty level below 15% or with income in the first or second quartile of median household income for the county or MSA as applicable, in order to qualify to elect points under §11.9(c)(4)(B), does the qualifying elementary school need to serve grades that align with TEA’s conventions for defining elementary schools (K-5 or K-6) as opposed to the qualifying school serving any number of grade levels?

**A:** Yes, but further explanation may be helpful. The scoring item is a two-pronged test.

First, in order for the Application to be eligible for points under the listed point options, the Development Site must pass a threshold test; it must be located in an area with the necessary median income level **OR** poverty level **OR** rating of the elementary school. If meeting the requirements of the first “prong” by way of a highly rated elementary school, the school (or schools) must serve all of the elementary grade levels, as laid out in §11.9(c)(4)(C).

Second, once the development site passes this first test, the applicant can assess whether the application qualifies for points from the menu of options based on proximity to the listed community assets. The application can qualify for points by being within 1.5 miles of these community assets. One of those assets is a school with a Met Standard Rating, but qualifying for these points is different than passing the test discussed in the first step/prong. Instead of the school needing to serve all of the elementary grade levels, it simply must have some grade levels, whether elementary, middle, or high school grades, have a Met Standard, and be within 1.5 miles of the development site (the site must also be in the attendance zone).

As an example, a site might be located within the attendance zones of two separate schools that, combined, make up the elementary school used to pass the first prong of the test (combined the schools serve K -6<sup>th</sup>). If the site is within 1.5 miles of just one of those two schools it can elect 3 points under §11.9(c)(4)(B)(2)(i).

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**Q:** If a Development Site is located within 1.5 linear miles of a child care center that has a child care program that serves only toddlers and pre-kindergarten children (and not infants), will the Application qualify for points under §11.9(c)(4)(B)(iv)?

**A:** Yes. The center only needs to serve at least one of the three groups in order to qualify for points.

**Q:** If a Development Site is located within 1.5 linear miles of a child care center that has a child care program that serves toddlers, pre-kindergarten, and school-age children, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?

**A:** Yes. While one center can qualify for points under both provisions, staff is aware that there are many centers that are licensed to serve school-age children that do not in fact serve them. The Department will require evidence that school-age children are actually served by the center in addition to the center maintaining the required license. "School-age children" is defined by the Department of Family and Protective Services as a child who is five years or older and who will attend school away from the center in August or September of that year. Typically, staff would expect centers qualifying for these points to serve children 5-12 years old.

**Q:** If a Development Site is located within 1.5 linear miles of a child care center that 1) has a child care program that currently serves toddlers and pre-kindergarten, 2) is licensed to serve school-age children but does not serve them, and 3) is proposing to serve school-age children in the near future, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?

**A:** No. Staff will review the facts as they exist on February 27, 2015 in determining general eligibility as well as eligibility for points.

**Q:** If a Development Site is located within 1.5 linear miles of a child care home which is licensed to serve (and actually does serve) infants, toddlers and pre-kindergarten, can the Application qualify for points under §11.9(c)(4)(B)(iv)?

**A:** No. Only proximity to child care centers will qualify an application for points. Applicants should refer to the Department of Family and Protective Services website for the distinctions between child care centers and homes.

**Q:** What qualifies as a full service grocery store? A health related facility? A senior center?

**A:** A full service grocery store is a store in which a typical household may buy the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods. A typical convenience store would not qualify.

A health related facility should have licensed health professionals providing direct care medical services (*e.g.* hospital, urgent care facility, dental clinic, general practitioner medical offices, etc.). A pharmacy, retail/wholesale medical devices business, gym with professional trainers, or salon with massage or other health/beauty services would not qualify.

A senior center is a facility (not a seniors club without its own meeting space) where the primary purpose is to provide services to seniors on a regular basis, at least three times per week. The facility should have regular staff, whether paid or volunteer, and should not be a general activity center with some events and/or services for seniors (such as a YMCA). A church or other non-secular institution or club that hosts occasional events for seniors would not qualify.

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Department staff welcomes written questions concerning actual examples of such facilities. Please contact Kathryn Saar at [kathryn.saar@tdhca.state.tx.us](mailto:kathryn.saar@tdhca.state.tx.us).

## **§11.9(c)(7) – Tenant Populations with Special Housing Needs**

**Q:** If an Application is proposing Reconstruction of a development that was originally constructed before 1978, is participation in the 811 Program required in order to qualify for points?

**A:** Staff will evaluate these applications on a case-by-case basis, but typically if an entire development site is being demolished and rebuilt, then participation in the 811 Program will be required in order to qualify for points. Applicants proposing reconstruction that involves partial demolition of the original site should contact Department staff for a formal determination.

**Q:** If an Application is proposing the use of vouchers but does not have a commitment of vouchers at the time of Application, is participation in the 811 Program required to qualify for points?

**A:** Applicants proposing the use of other project-based rental or long-term operating assistance that would preclude the development from participating in the 811 Program pursuant to §11.9(c)(7)(A)(iii) may indicate on the Application that the development is not eligible to participate in the 811 program and therefore select points by committing to set aside units for Tenants with Special Needs pursuant to §11.9(c)(7)(B). However, those Applicants will be required to show evidence that the vouchers are committed at the time of HTC Commitment. If vouchers committed would not preclude the development from participation in the 811 Program (for example, if vouchers were only committed for 5 units, leaving 5 available for participation in the 811 program), the Department will require participation in order to retain the award. Staff will not recommend that Applications selecting points under §11.9(c)(7) be allowed to forfeit those points at the time of Commitment.

**Q:** If an Application is proposing 8 units that have long-term rental assistance, is the development eligible to participate in the 811 Program and therefore required to do so in order to qualify for the points?

**A:** Assuming the other requirements in §11.9(c)(7)(i), (ii), and (iv) are met and that the Integrated Housing Rule and Section 811 Program requirements allowed for up to 10 Section 811 units, yes. In order to qualify for points, the remaining 2 units would be required to participate in the Section 811 Program.

## **§11.9(d)(2) – Commitment of Development Funding by Local Political Subdivision**

**Q:** If a Development Site is located within the city limits of a city what local political subdivisions would be eligible entities for the purpose of scoring points?

**A:** The Applicant for such a site could approach the following Local Political Subdivisions for funds:

- The county government for the county in which the Development Site is located;
- The city government for the city in which the Development Site is located;
- A government instrumentality of the city or county in which the Development Site is located provided at least 60% of the board of the instrumentality is made up of city council members or county commissioners, as applicable; or
- A government instrumentality of the city or county in which the Development Site is located provided at least 100% of the board of the instrumentality is appointed by city or county elected officials, as applicable.

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**Q:** If a Development Site is located within the extraterritorial jurisdiction (ETJ) of a municipality, what local political subdivisions would be eligible entities for the purpose of scoring points?

**A:** In most cases, where a Development Site is in the ETJ of City X, then the Place used to determine the Development Site's rural/urban designation is also City X. In these cases, the population of City X would be used to calculate the number of points for which the Application is eligible, and the Applicant could approach the following Local Political Subdivisions for funds:

- The county government for the county in which the Development Site is located;
- The city government for City X;
- A government instrumentality of City X or the county in which the Development Site is located provided at least 60% of the board of the instrumentality is made up of city council members or county commissioners, as applicable; or
- A government instrumentality of City X or the county in which the Development Site is located provided at least 100% of the board of the instrumentality is appointed by city or county elected officials, as applicable.

In some cases, a Development Site may be located in the ETJ of City X, but the rural/urban designation for the Development Site is derived from Place Y (*i.e.* an unincorporated Census Designated Place). In these cases, Applicants may approach City X or its government instrumentalities, but if they do so the Department will use the population of City X to determine eligibility for points. In cases where the Development Site is located within Place Y, Applicants can also approach the county or eligible instrumentalities thereof, and in those cases would use the population of that Place to calculate points. In many cases the population used to determine the amount of LPS funding can vary widely depending on which LPS is approached for funding. If applicants have any questions please contact staff to ensure that the correct minimum funding amounts for points are understood.

**Q:** Are tax abatements and vouchers considered permanent sources with respect to an Application being eligible for the additional point under §11.9(d)(2)(D)?

**A:** Yes. While contracts for vouchers and tax abatements might be for less than 15 years, because these types of sources are not expected to be re-paid they are considered permanent, much like an in-kind contribution or grant.

**Q:** Will the Department monitor applicants who claim points under §11.9(d)(2)(D) to ensure that owners close on the permanent source of development funding and maintain the funding for its full term?

**A:** The Department's Asset Management Division may monitor for owners who claimed these points and do not maintain the development funding for its full term. Applicants are reminded that by state statute (Sec. 2306.6720) each representation made to secure a housing tax credit allocation is enforceable by the Department. In addition, issues such as these may be taken into account as future applications undergo previous participation reviews and could result in ineligibility in the future.

**Q:** Can a resolution which is serving as a commitment of funds for purposes of the additional points under §11.9(d)(2)(C) include a number of options for the type of source being committed? For example, can it read that the LPS is prepared to commit X dollars in the form of either a fee waiver, tax abatement, or grant?

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- A:** Yes. The resolution can include flexibility with respect to the type of funding being committed. However, an amount of funding must still be specified in order to assess points. In addition, if an Applicant is also seeking a point under §11.9(d)(2)(D) for a permanent source, then all of the options listed in the resolution should be permanent sources meeting the requirements for the additional point. When submitting a resolution for the additional two points, Applicants should ensure that the submitted resolution supports ALL of the elected points under this scoring item.

# REPORT ITEMS



R1

## TDHCA Outreach Activities, December 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*

<b>Event</b>	<b>Location</b>	<b>Date</b>	<b>Division</b>	<b>Purpose</b>
2015 Housing Tax Credit Application Workshop	Austin	Dec 2	Multifamily	Training
2015 Housing Tax Credit Application Workshop	Dallas	Dec 3	Multifamily	Training
2015 Housing Tax Credit Application Workshop	Houston	Dec 4	Multifamily	Training
First Thursday Income Eligibility Training	Austin	Dec 4	Compliance	Training
TBRA Implementation Training/Concho Valley CAA	Austin	Dec 5	HOME	Training
Community Resource Coordination Groups State Workgroup	Austin	Dec 10	Housing Resource Center	Participant
Contract for Deed Conversion Training/Grantworks	Austin	Dec 12	HOME	Training
TBRA Implementation Training/City of Ballinger	Austin	Dec 18	HOME	Training
Public Comment Period/Draft 2015 State of Texas Low Income Housing Plan and Report	Austin	Dec 19- Jan 21	Housing Resource Center	Public Comment

## Internet Postings of Note, December 2014

*A list of new or noteworthy documents posted to the Department's web site*

**2015 75-Day Deadline for Outstanding Documentation** — listing deadlines by which time developers applying for 4% Housing Tax Credits and Bond financing must submit certain documentation material to the application:  
[www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

**2015 Housing Tax Credit Award Limits and Estimated Regional Allocation** — reflecting the estimated Competitive Housing Tax Credit ceiling that the Department expects to have available for the 2015 competitive cycle, as well as estimated funding limits:  
[www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm](http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm)

**HOME: Acknowledgement of Licensing Status** — serving to notify the Department regarding a mortgage loan originator's status regarding licensure as it relates to the HOME Program:  
[www.tdhca.state.tx.us/home-division/forms/home\\_forms\\_hra.htm](http://www.tdhca.state.tx.us/home-division/forms/home_forms_hra.htm); [www.tdhca.state.tx.us/home-division/forms/home\\_forms\\_hba.htm](http://www.tdhca.state.tx.us/home-division/forms/home_forms_hba.htm); [www.tdhca.state.tx.us/home-division/forms/home\\_forms\\_sfd.htm](http://www.tdhca.state.tx.us/home-division/forms/home_forms_sfd.htm)

**Amy Young Barrier Removal Program: Phase 2 Funding** — announcing availability of funding in which any funds remaining in the rural and urban set-asides will be combined into one balance of funds per region:  
[www.tdhca.state.tx.us/hf/single-family/amy-young.htm](http://www.tdhca.state.tx.us/hf/single-family/amy-young.htm)

**2014 Housing Finance Corporation Annual Report** — presenting data regarding single family activity of HFCs and demographic information for persons residing in HFC-financed multifamily units:  
<http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm>

**2014 Governor Approved Qualified Allocation Plan** — administering the distribution and allocation of 9% Housing Tax Credits during the 2015 allocation cycle (both blackline and clean versions):  
[www.tdhca.state.tx.us/multifamily/nofas-rules.htm](http://www.tdhca.state.tx.us/multifamily/nofas-rules.htm)

**2015 Multifamily Programs Procedures Manual** — *providing instructions for completing and submitting applications for financing through the Department's Housing Tax Credit Program and the multifamily Bond, HOME, Neighborhood Stabilization, and Housing Trust Fund programs:*  
[www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

**2015 Multifamily Competitive Housing Tax Credits Pre-Application** — *for developers participating in the pre-application cycle of the 2015 9% HTC allocation cycle (for planning purposes only):*  
[www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

**CSBG Monthly Performance Reporting Changes for Program Year 2015** — *detailing a new performance measure that requires the collection of additional information each month from subrecipients of the Community Services Block Grant Program:*  
[www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm](http://www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm)

**2015 Multifamily Uniform Application Templates** — *including forms for public notification and samples for Twice the State Average Per Capita, One Mile/Three Year Rule, Local Government and State Representative resolutions, among other documents:*  
[www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

**2015 Uniform Multifamily Rules** — *administering the Department's 2015 multifamily activities:*  
[www.tdhca.state.tx.us/multifamily/nofas-rules.htm](http://www.tdhca.state.tx.us/multifamily/nofas-rules.htm)

**2015 Multifamily Uniform Application** — *for applicants seeking financing through the 9% and 4% Housing Tax Credit, the Multifamily Mortgage Revenue Bond, and HOME Multifamily Development programs:*  
[www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

**Housing Tax Credit Property Inventory: November 13** — *detailing file numbers, property names, addresses, tenant populations served, funding allocation, and other information regarding properties financed through either the 9% or 4% HTC programs:*  
[www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm](http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm); [www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm](http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm)

**Draft 2015 State of Texas Low Income Housing Plan and Report** — *reporting on the administration, funding levels, performance measures and the distribution of the Department's resources from the previous fiscal year, as well as providing an overview of the state's housing needs:*  
[www.tdhca.state.tx.us/housing-center/pubs-drafts.htm](http://www.tdhca.state.tx.us/housing-center/pubs-drafts.htm); [www.tdhca.state.tx.us/housing-center/pubs-plans.htm](http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm)

**2015 Multifamily Bond Pre-Application Submission Timeline** — *listing dates for submission, public comment deadlines, and Board meetings at which time an inducement resolution could be made in association with applicants seeking bond financing:*  
<http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>

**Request for Proposals: Real Estate Brokerage/Auction Services** — *seeking a qualified entity to assist the Department with certain real estate transactions, as well as with the disposition of owned real estate (links to the Comptroller's Office web page):*  
[http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=115067](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=115067)

R2

**BOARD REPORT ITEM**  
**COMPLIANCE DIVISION**  
**JANUARY 15, 2015**

Compliance Division Update

**BACKGROUND**

At the Board meeting of February 20, 2014, the Compliance Division presented the first report on the results of Customer Service Surveys. Since then, the Compliance Division has been providing a report on a quarterly basis regarding the results of the surveys and other relevant updates. This is the quarterly update.

**Results of the customer service surveys**

The response rate for the customer service surveys is steady. There has been and continues to be a low response rate from the surveys sent to the Community Affairs and Single Family subrecipients. Multifamily properties are much more likely to respond. In all areas of the division the responses are neutral or positive with a few scattered criticisms (e.g., “quit changing the rules”, our website is not intuitive). However, by far, the positive comments outnumber the negative feedback. Some of the comments received included:

- Everyone we work with in the Compliance Division are great. Over the last several years there has been such an improvement in communication with TDHCA and for that I say...Thanks
- Inspectors from TDHCA are always very professional and friendly.
- I will use this space to commend Ms. Spillar for her professional, efficient and yet non-threatening manner. It's great when staff get the message that a compliance officer is there to help and guide rather than find flaws. She was thorough in going over our files and while she didn't find noncompliance, there were many questions that we had, and which she graciously answered, regarding ways we could improve our record-keeping system.

These surveys were created to provide a formal method for feedback and a means to improve communication with the Compliance Division. The Compliance Division also seeks to improve communication in other ways. In addition to these surveys the Compliance Division has participated on the community affairs network calls on November 19, 2014, and December 10, 2014, and a multifamily roundtable will be held on January 29, 2015. These roundtables are an informal gathering for staff to provide updates or targeted training. There is also an opportunity for attendees to ask questions, provide feedback or share ideas. In addition, the Compliance Division continues to offer monthly training on determining household eligibility and periodic training through the Texas Apartment Association about the Uniform Physical Condition Standards and compliance with the Housing Tax Credit program.

### **Other Compliance Matters**

The Compliance Division presented proposed amendments to the Previous Participation Rule at the Board meeting of October 9, 2014. The public comment period was November 7, 2014, through December 8, 2014. Commenters requested a workshop to be held in January “so that the developer community can discuss the changes that have been implemented within the last year, and consider the further implications to the TDHCA's affordable housing program.” A roundtable is scheduled for February 2, 2015.

The 2014 Annual Owner’s Compliance Report form was released on January 5, 2015. The report is due from all multifamily properties no later than April 30, 2015.

It is anticipated that the US Department of Housing and Urban Development (“HUD”) will release updated income limits in February. Staff will update the Department’s website shortly after the release of the data from HUD.

R3

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible action regarding the status of the 2014 Competitive (9%) Housing Tax Credit Application Cycle

**BACKGROUND**

The Department has executed Carryover Allocation Agreements for 72 awards of Competitive Housing Tax Credits to 2014 applications, totaling \$65,065,748 in annual tax credit allocation. A log of awarded applications is attached.

At the July 31, 2014 board meeting, 65 transactions received Housing Tax Credit awards, and the remaining active applications were placed on the Waiting List for the 2014 Housing Tax Credit Application Round. These awards were all conditioned upon completion of underwriting, completion of any other program reviews, and compliance with applicable laws and rules. After these awards were made, with some adjustments to credits awarded due to underwriting and using credits returned from previous rounds along with those received through the National Pool, the Department subsequently awarded another 7 transactions, for a total of 72 awards and \$65,065,748 in annual tax credit allocation. The details of the returned credit and subsequent awards are presented in the chart below. The Department allocated 100% of the 2014 ceiling to eligible applications, and these awards will produce 5,793 units restricted for low-income Texans.

<b>Date</b>	<b>Action</b>	<b>Credit Returned (or Awarded)</b>	<b>Balance of credit in statewide collapse</b>
July 31, 2014	Board approval of 65 applications; \$1.7 million in credit held separately as appeals are pending which could affect award recommendations	(\$60,098,409)	\$1,698,901
October 9, 2014	Credit held on July 31 awarded to Constitution Court in the amount of \$923,821, and Villas at West Mountain in the amount of \$745,065; remaining credit is considered in statewide collapse	(\$1,668,886)	\$30,015



July 31 – Sept 30	Additional underwriting reports completed resulting in additional credit available in statewide collapse	\$108,925	\$138,940
September 16, 2014	Return of \$1.4M in Urban Region 6 goes back to same sub-region; staff recommendation of \$1.1 million to The Women’s Home Housing Phase II; remaining \$335k added to statewide collapse	\$1,442,232 (\$1,109,195)	\$471,977
October 1, 2014	Return of \$500K in Urban Region 3 is not enough to fund next highest application in that sub-region, so credit added to statewide collapse	\$500,000	\$971,977
October 1, 2014	Most underserved region is Rural Region 8; staff recommends \$750k award to Belle Towers	(\$750,000)	\$221,977
October 2, 2014	National Pool received, and credit is added to statewide collapse	\$251,670	\$473,647
October 2014	Return of \$23,127 in rural region 8 added to statewide collapse	\$23,126	\$496,773
November 3, 2014	Return in the USDA set-aside of \$646,467 awarded to next USDA application Whitestone Apartments and Tamaric Apartments.	\$646,467 (\$499,957)	\$643,283
November 9, 2014	Return in urban region 6 of \$1,260,904 not enough to award next application, so credits go to statewide collapse. Credits go to most underserved sub-region, urban region 2, Royal Gardens (#14029)	\$1,260,904 (\$499,000)	\$1,405,187
December 2014	Return in rural region 11 of \$586,271 not enough to award next application, but rural region 11 most underserved, so credit awarded to Riverside Village (#14209)	\$586,271 (\$714,000)	\$1,277,458
December 2014	Most underserved sub-region is urban region 6; Glenwood Trails (#14145) requested \$1,496,555. Awarded remaining credit and allowed to re-size transaction.	(\$1,277,458)	\$0

Effective at 5pm on December 31, 2014, the Department received a return of credit from a 2012 allocation, Royal Gardens in Mineral Wells (#12174). The return made with a request that it be found to meet the requirements of §11.6(5) of the 2015 Qualified Allocation Plan, related to Credits Returned Resulting from Force Majeure Events. The matter will be brought to the Board at a later date.

R4

## Report 4

Presentation, Discussion, and Possible Action regarding the  
Submission of Competitive (9%) Housing Tax Credit Pre-  
Applications in the 2015 Application Cycle

Oral Presentation or 3-Day Posting

R5

**BOARD REPORT ITEM**

**HOME DIVISION**

**JANUARY 15, 2015**

Report providing an Update on the Board Action requested during Public Comment at the December 2014 Board meeting on the prequalification of individuals with disabilities in the HOME Program.

**UPDATE**

At the December 18, 2014, Board meeting public comment was made requesting that the Board consider an action item that would change the project setup requirements for Homebuyer Assistance (HBA) activities in the HOME Program. Comment specifically requested that the program allow for a preliminary approval process that would prevent individuals with disabilities from being denied funding, occurring after investing years of time, energy and funds into realizing their dream of homeownership.

First, we emphasize that this step is required of all households and in no way singles out persons with disabilities. The Department specifically provides for a set-aside of funds to ensure that persons with disabilities have greater access to HOME funds, in addition to their access to all other HOME funds.

It is also important to note that this type of concern is not a long-standing unaddressed issue of the program, but is in fact a new situation for the Department. The HOME Program historically had significant fund balances available and rarely, if ever, depleted those available funds making it rare for HOME clients to go unserved. Therefore, there was little to no need for a preliminary approval process; nearly all requests were funded. It is only in more recent award cycles that available funds have contracted and demand has simultaneously increased, resulting in program participants experiencing the unfortunate constraints that occur when there are limited funds.

The Department is always eager to hear input that can inform policy decisions and has been working specifically to address several factors relating to the HOME Programs design, including, how to achieve a system that can address the now expected contraction of funds and among other things, how it might be able to provide possible preliminary approvals on project set-ups.

Set-ups are the step in the process in which a household is submitted into the reservation system. The initial set-up approval does not prompt the denial of funding, but merely requires that certain documents must be provided prior to submission of a set up into the Department's system. The Department is sensitive to the fact that there is a cost to obtaining such documents, in particular the appraisal, and that cost can be burdensome when a set-up is not actually funded. It also can be the case that subrecipients approval and processing of a client does not occur within the time frame that allows for the set-up submission. However, the Department is also responsible to its funding entity that commitments of

funds are occurring appropriately and risk is being minimized. In many cases, the documents requested prior to a set-up are to mitigate potential risks.

Through a series of round tables over the last year, HOME Program staff has worked collaboratively with administrators and consultants to identify ways to mitigate some of the challenges that have been experienced. We continue to do so and realize some further program adjustments are still necessary. Our plan over the ensuing months is to continue to work with administrators, clients and consultants to develop a method of awarding HOME funds that can balance the competing needs of the program.

# **ACTION ITEMS**



2

2a

**BOARD REPORT ITEM**  
**INTERNAL AUDIT DIVISION**  
**JANUARY 15, 2015**

Report of the Meeting of the Audit Committee

**REPORT ITEM**

Verbal report.

**BACKGROUND**

2b

**BOARD ACTION REQUEST**  
**INTERNAL AUDIT**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action on the 2015 Internal Audit Charter.

**RECOMMENDED ACTION**

**WHEREAS**, the Internal Audit Division is required by audit standards to develop a charter, and to periodically update the charter,

**NOW, therefore it is hereby**

**RESOLVED**, the Internal Audit Charter is approved as presented.

**BACKGROUND**

Internal Audit Standards (the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*) require periodic approval of the Internal Audit Charter.



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Rick Perry  
GOVERNOR

**BOARD MEMBERS**  
J. Paul Oxer, *Chair*  
Juan S. Muñoz, PhD, *Vice Chair*  
Leslie Bingham-Escareño  
T. Tolbert Chisum  
Tom H. Gann  
J.B. Goodwin

### **TDHCA Internal Audit Charter** (Effective October 17, 2001, Amended January 15, 2015 as approved by the Department's Governing Board)

This charter is required by professional audit standards.

#### **Mission:**

The Office of Internal Audit (OIA) has been established at the Texas Department of Housing and Community Affairs (TDHCA) to provide independent, objective assurances and consulting services to TDHCA Board and management. The OIA helps TDHCA accomplish its objectives by bringing a systematic, disciplined approach for evaluating and improving the effectiveness of risk management, controls, and governance. The OIA helps the TDHCA to identify and manage financial and other risks, identify economies and efficiencies, safeguard assets, ensure compliance with legislative and regulatory requirements, and report accurate and reliable information to TDHCA's customers. It also provides a proactive and systematic approach for the identification of business improvements. The OIA conducts TDHCA's program of internal auditing under the authority of and in accordance with the Texas Internal Auditing Act, located in the Texas Government Code, Title 10, Chapter 2102.

The OIA reports to the TDHCA Governing Board and is managed by the Chief Audit Executive (CAE). The CAE must be certified as a Certified Public Accountant (CPA) or Certified Internal Auditor (CIA), to achieve compliance with the Internal Auditing Act. The operation title of the CAE is the Director of Internal Audit.

#### **Standards of Audit Practice**

The program of internal auditing follows the Texas Internal Auditing Act, Standards for the Professional Practice of Internal Auditing, and Generally Accepted Government Auditing Standards.

#### **Administration of the Program of Internal Auditing**

In accordance with the Internal Audit Act, the CAE shall report directly to the Governing Board and shall be independent of operational duties that could impair the independence of the auditing program. The CAE will work with members of TDHCA management, as designated by the Boards and the Executive Director, to ensure the performance of the internal audit plan and compliance with the requirements of external audit functions related to the agency's operations. The CAE will keep the full Governing Board apprised of the progress of both internal and external audits.



### **Access to Information Needed for the Program of Internal Auditing**

Authorization is granted for the full and free access to any of the TDHCA's records (either manual or electronic), physical properties, activities, and personnel relevant to a review. In addition, audit personnel may make direct contact with any level of management or staff concerned with an audit. Documents and information given to internal auditors will be handled in the same prudent manner as by those employees normally accountable for them. All confidential information obtained as part of a review will remain confidential. TDHCA staff and management will cooperate with the OIA to ensure that external auditors are provided with the information needed during their audits.

The CAE has the duty and authority to ensure that TDHCA is in compliance with the Internal Auditing Act, and the requirements of external audits including the statutes relating to the State Auditor's Office. TDHCA staff members are required to cooperate in the ongoing efforts to ensure compliance with audit requirements.

### **Professional Conduct**

Audits and reviews are to be conducted in a professional manner, with the goal of providing value to TDHCA's Governing Board, management, and staff. Arrangements for conducting audits should cause the least possible disruption to the operations or activities under audit. Efforts will be made to minimize inconvenience to operating staff in the examination of records.

### **Confidentiality**

OIA treats its working papers as confidential. Internal auditing working papers may sometimes be requested by members of the public pursuant to the Public Information Act, by means of an open-records request. The Office of Attorney General has in the past ruled that internal audit work papers can be exempted from open-records request. In the event of court proceedings, client privilege cannot be invoked with respect to working papers. Working papers and files are to be protected at all times against access by unauthorized persons.

Completed audit reports are public documents, and are provided in accordance with the statute to the Governing Board, TDHCA management, the State Auditor's Office, the Legislative Budget Board, the Office of the Governor, and the Sunset Commission.

### **Scope of Work and Independence**

Internal auditing encompasses the examination and evaluation of the adequacy and effectiveness of the Department's system of internal control and the quality of performance in carrying out its assigned responsibilities. The scope of audit activities includes:

- Identifying risk associated with TDHCA operations, including administrative systems, accounting systems, and information-technology systems.
- Evaluating and assessing significant change-management functions and need or change services, processes, and operations coincident with their development, implementation, and/or expansion.
- Proactive consulting with management to improve control systems and operational effectiveness (See section on Advisory Services).
- Reviewing the reliability and integrity of financial and operating information and the means used to identify measure, classify, and report such information.
- Reviewing systems established to ensure compliance with policies, plans, procedures, laws and regulations that could have a significant impact on operations.

- Reviewing the means of safeguarding assets and, as appropriate, verifying the existence of assets.
- Reviewing and appraising the economy and efficiency with which resources are employed.
- Reviewing operations or programs to ascertain whether results are consistent with established objectives and goals, and determining whether the operations or programs are being carried out as planned.
- Tracking and assessing management's actions taken in response to audit recommendations.
- Assisting in the investigation of significant issues within the TDHCA and notifying the TDHCA Governing Board and management as appropriate.
- Evaluation of the scope of work of external auditors, as appropriate, for the purpose of providing optimal audit coverage to TDHCA at a reasonable overall cost.

### **Scope and Resource Impairments**

All scope limitation or potential limitations should be brought to the attention of the Chief Audit Executive, and significant issues in this regard will be reported to the Governing Board.

Internal Audit shall be free from control or undue influence in the selection and application of audit techniques, procedures and programs. Internal Audit shall be free from control or undue influence in the determination of facts revealed by the examination or in the development of recommendations or opinions as a result of the examination. Internal Audit shall be free from undue influence in the selection of areas, activities, personal relationships and managerial policies to be examined.

Adequate resources should be allocated to the program of internal auditing.

### **Advisory/Consulting Services**

The OIA may provide advisory services, the nature and scope of which are agreed upon with the Governing Board and management. They are intended to add value and improve TDHCA's operations. The types of advisory services the OIA provides include the following:

Assessment Services are those in which the auditor examines/evaluates a past, present or future aspect of an operation and gathers, compiles, and/or analyzes information to assist management in making decisions. Assessments are provided as timely as possible and generally do not include specific recommendations for management.

Facilitation services are those in which the auditor assists management in examining organizational performance for the purpose of promoting change. In a facilitation role, such as a Control Self Assessment, the auditor does not judge organizational performance. Instead, the auditor guides Management in identifying organizational strengths and opportunities for improvements.

Liaison services are those in which the auditor attends meetings and/or reviews the work products of an internal or external work group. The purpose of the liaison service is to advise the group on how their activities may affect the agency's risk profile.



### **Quality Assurance**

The CAE shall establish and maintain a program of quality assurance designed to evaluate the OIA's activities. The purpose of this program is to provide reasonable assurance that all work performed by the OIA conforms to established guidelines. The program includes training, supervision, and internal and external reviews. The CAE is responsible for ensuring that audits are conducted by staff with the necessary skills, knowledge and abilities to successfully complete the audit in accordance with professional standards. The State Auditor's Office and other external audit organizations review OIA reports and periodically review OIA working papers.

### **Training**

Each fiscal year, the OIA will be allocated a budget for training and educational materials. Internal auditors will maintain their professional proficiency through continuing education and training. Professional development will be provided through a variety of methods including progressively challenging audit assignments, external training courses, performance appraisals, and participation in professional organizations.

Auditors will acquire continuing professional education (CPE) hours sufficient to comply with professional standards and/or meet applicable licensing requirements. At a minimum, 80 hours of CPE will be completed each biennium by each auditor, with at least 20 CPE hours completed each year.

### **Supervision**

The quality assurance program will include audit supervision to ensure conformance with internal auditing standards and internal OIA policies and procedures.

### **Internal and External Reviews**

Internal reviews will be performed periodically to appraise the quality of the audit work performed. These reviews will include reviews of working papers, periodic discussions of the status of projects, and accountability for time budgets. External peer reviews will be arranged and conducted in accordance with the Institute of Internal Auditing guidelines, *The Professional Practices Framework* and the Government Accountability Office guidelines. The External peer reviews will be based on available time and fiscal budgets, with a goal of a three-year cycle.

### **Internal Audit Reports**

Written reports, which include management's responses, are prepared and issued following the conclusion of each audit. These reports include background information related to the areas audited as well as findings, recommendations, and management comments. The audit report will include the scope of the audit, the overall conclusion of the auditors, and the findings and recommendations. Draft audit reports will be provided to appropriate members of management, and management will provide corrective action plans when appropriate. Audit reports will be discussed in periodic open meetings of the Texas Department of Housing and Community Affairs.

### **Annual Activities**

#### **Annual Risk Assessment and Audit Work Plan**

The OIA is responsible for developing an annual audit plan using risk assessment techniques which identify individual audits to be conducted during each year. The Plan must be presented to the Governing Board for their review and approval. Deviations from the audit plan should be documented; and major deviations should be approved by the Governing Board.

The risk assessment process includes the following steps:

- Identification of Auditable Units and Risks  
This includes identification of activities for all divisions/programs. Requests or suggestions for audits are also included in the potential audit population.
- Risk Measurement and Prioritization  
This process includes evaluating the likelihood that an adverse event or outcome could occur, and the potential ramifications if it did in fact occur.

**Audit Follow-up Responsibilities**

Internal auditors are required to follow-up to ascertain that appropriate action is taken on audit findings. A report to the Governing Board on recommendation-implementation status will be provided periodically and no less than annually.

**Communication of Internal Audit Activities to the Governing Board.**

Results of internal audit work are communicated to management and the Governing Board in periodic written reports. Internal Audit reports and other audit activities are discussed in periodic open meetings of the Texas Department of Housing and Community Affairs. In limited and appropriate circumstances, matters may be addressed in Executive Session with the concurrence of the Legal Division that one or more specific provisions of law permit such treatment.

PASSED and APPROVED this 15th day of January 2015

Chair of the Governing Board

\_\_\_\_\_

Executive Director

\_\_\_\_\_

Board Secretary

\_\_\_\_\_

Chief Audit Executive

\_\_\_\_\_

**Board Resolution No. 15-011 pulled from the Agenda**

2c

**BOARD ACTION REQUEST**

**INTERNAL AUDIT DIVISION**

**JANUARY 15, 2015**

Presentation, discussion, and possible action regarding the Texas State Auditor's Office audit report #15-014 "A Report of the Audit of the Texas Department of Housing and Community Affairs' Fiscal Year 2014 Financial Statements".

**RECOMMENDED ACTION**

**WHEREAS**, the Department is required to undergo an annual audit of its books and accounts, an annual audit of the Housing Trust Fund, and to obtain audited financial statements for the Housing Finance Division and the Supplemental Bond Schedules,

**NOW, therefore, it is hereby**

**RESOLVED**, the annual financial audit, audit of the Housing Trust Fund and the audit of the Housing Finance Division and the Supplemental Bond Schedules are hereby accepted.

**BACKGROUND**

Audit requirements:

- 1) The Department's governing statute, Texas Govt. Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Texas Govt. Code §2306.204 requires an annual audit of the Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures require audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

Results of the audits conducted by the State Auditor's Office

SAO Report on the "The Audit of the Department of Housing and Community Affairs Fiscal Year End 2014 Financial Statements" Report # 15-014 available at <http://www.sao.state.tx.us/reports/report.aspx?reportnumber=15-014>

- a) FY 2014 Basic Financial Statements (SAO Report # 15-308)
- b) FY 2014 Revenue Bond Program Audit (SAO Report # 15-309)

- c) FY 2014 Computation of Unencumbered Fund Balances (SAO Report # 15-310)
- d) FY 2014 Report on Internal Control Over Financial Reporting and on Compliance and Other Matters (SAO Report # 15-311)
- e) FY2014 Report on Compliance with the Public Funds Investment Act (SAO Report # 15-312)

The basic financial statements are available in their entirety at:

<http://www.tdhca.state.tx.us/pdf/14-BasicFinancials.pdf>



John Keel, CPA  
State Auditor

A Report on  
**The Audit of the Department of Housing and  
Community Affairs' Fiscal Year 2014  
Financial Statements**

December 29, 2014

Members of the Legislative Audit Committee:

In our audit report dated December 19, 2014, we concluded that the Department of Housing and Community Affairs' (Department) basic financial statements and Revenue Bond Program Enterprise Fund financial statements for fiscal year 2014 were materially correct and presented in accordance with accounting principles generally accepted in the United States of America. We also concluded that the Department's computation of unencumbered fund balances of its Housing Finance Division complies with Texas Government Code, Sections 2306.204 and 2306.205. The Department published our audit report as part of its financial statements, which it intends to post on its Web site at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

We also issued a report on internal control over financial reporting and on compliance and other matters as required by auditing standards. Our procedures did not identify any material weaknesses in internal control over financial reporting or any noncompliance with laws or regulations that materially affected the financial statements. In addition, the major internal controls that we tested for the purpose of forming our opinions on the financial statements were operating effectively.

Our procedures were not intended to provide an opinion on internal control over financial reporting or to provide an opinion on compliance with laws and regulations. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance with laws and regulations.

Additionally, we concluded that the Financial Data Schedule prepared by the Department was fairly stated in all material respects in relation to the fiscal year 2013 basic financial statements taken as a whole. We also issued a report on the Department's compliance with the Public Funds Investment Act.

Auditors also performed agreed-upon procedures to assist the Department in determining whether the electronic submission of certain information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with related hard-copy documents. Our procedures determined that the Department's electronically submitted information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with the related hard-copy documents.

Auditors communicated certain issues that were not material or significant to the audit objectives in writing to the Department's management.

As required by auditing standards, we will also communicate to the Department's Board of Directors certain matters related to the conduct of a financial statement audit.

SAO Report No. 15-014

Members of the Legislative Audit Committee  
December 29, 2014  
Page 2

We appreciate the Department's cooperation during this audit. If you have any questions, please contact Cesar Saldivar, Audit Manager, or me at (512) 936-9500.

Sincerely,

John Keel, CPA  
State Auditor

cc: The Honorable Rick Perry, Governor  
Members of the Board of Directors  
Mr. J. Paul Ozer, P.E., Chair  
Dr. Juan Sanchez Muñoz, Vice Chair  
Mr. T. Tolbert Chisum  
Ms. Leslie Bingham Escareño  
Mr. Tom H. Gann  
Mr. J. B. Goodwin  
Mr. Timothy Irvine, Executive Director





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## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair  
Dr. Juan Sanchez Muñoz, Vice Chair  
Mr. T. Tolbert Chisum  
Ms. Leslie Bingham Escareño  
Mr. Tom H. Gann  
Mr. J. B. Goodwin

### Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2014, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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[www.sao.state.tx.us](http://www.sao.state.tx.us)

SAO Report No. 15-308

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department, as of August 31, 2014, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

### ***Emphasis of Matters***

#### ***Agency Financial Statements***

As discussed in Note 1, the financial statements of the Department are intended to present the financial position of the governmental activities, business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the State that is attributable to the transactions of the Department. They do not purport to, and do not, present fairly the financial position of the State of Texas as of August 31, 2014, the changes in its financial position, or, where applicable, its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

### ***Other Matters***

#### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

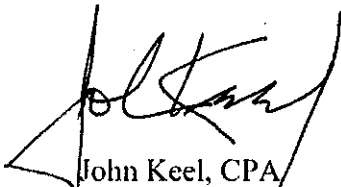
### *Other Information*

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Department's financial statements. The supplementary bond schedules are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 19, 2014, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



John Keel, CPA  
State Auditor

December 19, 2014



## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors  
Mr. J. Paul Oxer, P.E., Chair  
Dr. Juan Sanchez Muñoz, Vice Chair  
Mr. T. Tolbert Chisum  
Ms. Leslie Bingham Escareño  
Mr. Tom H. Gann  
Mr. J. B. Goodwin

### Report on the Financial Statements

We have audited the accompanying financial statements of the Revenue Bond Program Enterprise Fund (Program) of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2014, and the related notes to the financial statements, which collectively comprise the Program's basic financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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SAO Report No. 15-309

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Program of the Department, as of August 31, 2014, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

### ***Emphasis of Matters***

#### ***Fund Financial Statements***

As discussed in Note 1, the financial statements present only the Program, an enterprise fund of the Department and of State of Texas, and do not purport to, and do not, present fairly the financial position of the State of Texas or the Department as of August 31, 2014, the changes in its financial position, or, where applicable, its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

### ***Other Matters***

#### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### ***Other Information***

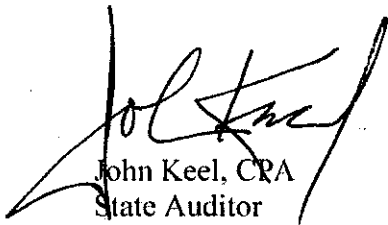
Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Program's financial statements. The supplementary bond schedules and supplemental schedules are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

The supplemental schedules have not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 19, 2014, of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



John Keel, CRA  
State Auditor

December 19, 2014



## Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors  
Mr. J. Paul Oxer, P.E., Chair  
Dr. Juan Sanchez Muñoz, Vice Chair  
Mr. T. Tolbert Chisum  
Ms. Leslie Bingham Escareño  
Mr. Tom H. Gann  
Mr. J. B. Goodwin

### Report on the Financial Statements

We have audited the accompanying Computation of Unencumbered Fund Balances (Computation) of the Department of Housing and Community Affairs' (Department) Housing Finance Division, as of and for the year ended August 31, 2014, and the related notes to the Computation, which collectively comprise the Department's Computation as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of the Computation in accordance with the provision of Texas Government Code, Sections 2306.204 and 2306.205; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the computation that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express opinions on the Computation based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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SAO Report No. 15-310



We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the Computation referred to above present fairly, in all material respects, the unencumbered fund balances of the Department's Housing Finance Division, as of August 31, 2014, in conformity with the criteria specified by management of the Department for compliance with the computation described in the Texas Government Code, Sections 2306.204 and 2306.205, as set forth in Note 1 of the Computation.

### ***Emphasis of Matters***

#### *Criteria for the Computation*

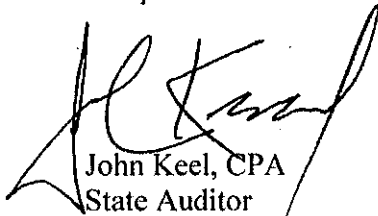
The Computation is presented on the basis of criteria described in Note 1 to the Computation for compliance with the provisions of Texas Government Code, Sections 2306.204 and 2306.205. The Computation is not intended to present unencumbered fund balances in accordance with accounting principles generally accepted in the United States of America. Unencumbered fund balances determined under the basis of presentation described in Note 1 may materially differ from those determined under accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

#### *Restriction on Use*

Our report is intended solely for the information and use of the Department and is not intended to be and should not be used by anyone other than this specified party.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 19, 2014, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



John Keel, CPA  
State Auditor

December 19, 2014

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JANUARY 15, 2015**

Presentation, Discussion, and Possible Action regarding approval for publication in the Texas Register of the 2015-1 HOME and TCAP Multifamily Development Program Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, Board Resolution 09-043 authorized the use of all funds available to the state by the Federal Government under the Tax Credit Assistance Program (“TCAP”) to be made in the form of loans;

**WHEREAS**, the Department has collected over \$6 million in TCAP loan repayments which were programmed for Multifamily Development at the November board meeting;

**WHEREAS**, the Department has available up to \$12 million in HOME funds as a result of HOME program income, deobligated HOME awards and unawarded 2014 Multifamily Development funds;

**WHEREAS**, the Department is obligated by the US Department of Housing and Urban Development (“HUD”) to award 15% of its annual HOME allocation to Community Housing Development Organizations (“CHDOs”); and

**WHEREAS**, the Department desires to allow interested parties to apply for funds to leverage their requests for Housing Tax Credits in the 2015 Application Cycle.

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of at least \$6,000,000 in TCAP, up to \$12 million in HOME general funds and up to \$10.2 million in HOME CHDO funds be made available through a Notice of Funding Availability (“NOFA”) for Applicants also applying for Housing Tax Credits in the form of interest bearing debt to further the Department’s mission to create more affordable housing;

**FURTHER RESOLVED**, that the administration of the funds made available through the NOFA will ensure that the Department awards an appropriate amount of HOME funds to CHDOs in order to satisfy its obligation to HUD;

**FURTHER RESOLVED**, that the NOFA will follow the policies and procedures set out by staff including the establishment of priorities for rural rental rehabilitation developments and mixed-income developments in High Opportunity Areas; and

**FURTHER RESOLVED**, staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

### **BACKGROUND**

President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 on February 17, 2009, which provided for dedicated funds to assist in the development of properties that had been awarded low income housing tax credits (“HTCs”) between October 1, 2006 and September 30, 2009. On May 21, 2009, the Board, by ratifying Resolution No. 09-043, determined that the state should utilize all funds made available to the state by the Federal Government under the Tax Credit Assistance Program and resolved to make awards consistent with the criteria also set forth in Board Resolution No. 09-0543. As of March 25, 2011, 59 developments (8,394 units) were funded with \$148,354,769 in TCAP funds granted by HUD under the American Recovery and Reinvestment Act.

In the TCAP grant agreement, HUD requires that loan repayments and interest earned after the financial closeout of the grant period are used for the development and operation of housing that remains affordable, for a period of not less than 15 years, to households whose annual income does not exceed 80 percent of the median family income for the area. These restrictions apply only to the first use of any loan repayments earned after the grant period. Once these funds are used to develop or operate affordable housing, any return on these funds is unrestricted.

Staff recommends that the accumulated TCAP loan repayments since the end of fiscal year 2013 and available HOME funds be made available in one NOFA. The NOFA will first establish a set-aside for CHDO applicants, whether those applicants are leveraging the funds with HTCs or not. The remaining funds, those referred to as being in the “General” set-aside, will be restricted to developments also utilizing HTCs. Funds in the General and CHDO set-asides will be subject to the Regional Allocation Formula (“RAF”) initially and then collapsed into two pots, one for each set-aside. Applications will be considered for award on a first-come, first-serve basis; however, all General set-aside applications layered with Competitive (9%) HTCs will be considered to be received on the same date and prioritized in a manner that favors rehabilitation developments in rural areas and mixed-income developments (those with at least 10% of the units serving as market rate units) in High-Opportunity areas as well as developments that are leveraged with funds from local political subdivisions. Because the Department is obligated to award a certain amount of funds to CHDO applications which is based on the total HOME allocation, all of the funding available in the General set-aside may not actually be awarded until all of the CHDO set-aside funds are awarded.

While those developments awarded HOME funds will be required to comply with the requirements of §10.307(b) of the 2015 Uniform Multifamily Rules (which includes reference to 24 CFR Part 92), those developments awarded TCAP funds will mirror the compliance requirements of the Housing Tax Credit Program. However, Applicants for TCAP funds may be required to comply with HOME income and rent restrictions in order to make them financially equivalent. Staff also recommends that only Applicants within Participating Jurisdictions, areas of the state where applicants are generally precluded from utilizing Department HOME funds, be eligible to apply for TCAP funds. However, the NOFA will be structured so that staff has the flexibility to award TCAP funds to Applications originally requesting

HOME funds in the event that there is there are not enough HOME funds available to fund Applications in non-Participating Jurisdictions.