

BOARD BOOK OF APRIL 27, 2017



J. Paul Ozer, Chair
Leslie Bingham Escareño, Vice-Chair
Juan Muñoz, Member
T. Tolbert Chisum, Member
Tom H. Gann, Member
J. B. Goodwin, Member

Texas Department of Housing and Community Affairs

Programmatic Impact in Fiscal Year 2015

The Texas Department of Housing and Community Affairs (“TDHCA”) is the State of Texas’ lead agency responsible for affordable housing and administers a statewide array of programs to help Texans become more independent and self-sufficient. Key information on these programs – including the total number of households/individuals served and total funding administered for Fiscal Year 2015 (September 1, 2014 through August 31, 2015) – is detailed below:

Multifamily New Construction & Rehab:

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

Total Households Served: 5,799

Total Funding: \$509,129,481

Single Family New Construction, Rehab, Sweat Equity, and Stabilization:

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

Total Households Served: 344

Total Funding: \$21,748,157

Homeownership Down Payment and Mortgage Loan Assistance:

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

Total Households Served: 2,723

Total Funding: \$210,397,552

Rental Assistance:

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

Total Households Served: 1,551

Total Funding: \$12,070,451

Weatherization Assistance Program:

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

Total Households Served: 4,511

Total Funding: \$25,305,577

Comprehensive Energy Assistance Program:

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

Total Households Served: 151,481

Total Funding: \$105,197,290

Homelessness

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

Total Individuals Served: 65,417

Total Funding: \$12,167,801

Community Services Block Grant:

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

Total Individuals Served: 324,398

Total Funding: \$28,162,011

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

**A G E N D A
9:00 AM
April 27, 2017**

**William B. Travis Building
Room 1-111
1701 Congress Avenue
Austin, Texas**

CALL TO ORDER

ROLL CALL

Leslie Bingham-Escareño, Vice Chair

CERTIFICATION OF QUORUM

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

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

Resolution recognizing May as *Community Action Month*

Resolution recognizing May as *National Mobility Awareness Month*

CONSENT AGENDA

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

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

EXECUTIVE

- a) Presentation, discussion, and possible action on Board Meeting Minutes summary for the meeting of January 26, 2017

J. Beau Eccles
Board Secretary

LEGAL

- b) Presentation, discussion, and possible action regarding the adoption of agreed final order concerning Oakridge Apartments (HTC 93159 / CMTS 1189)
- c) Presentation, discussion, and possible action regarding the adoption of agreed final order concerning Autumn Creek (HTC 70071 / CMTS 906)
- d) Presentation, discussion, and possible action regarding the adoption of three agreed final orders concerning Pinnacle properties, including Rosemont of Oak Hollow (HTC 01435 / BOND MF048 / CMTS 445), Rosemont at Timber Creek (HTC 010157 / CMTS 300), and Rosemont at Sierra Vista (HTC 04482 / CMTS 4179)
- e) Presentation, discussion, and possible action regarding the adoption of agreed final order concerning Lakewood Gardens (HTC 91059 / CMTS 2305)
- f) Presentation, discussion, and possible action regarding the adoption of agreed final order concerning Vicksburg Ltd. (HTC 91104 / CMTS 980)

Jeffrey T. Pender
Deputy General Counsel

ASSET MANAGEMENT

- g) Presentation, discussion and possible action regarding Ownership Transfers prior to IRS Form 8609 Issuance or Construction Completion
- | | |
|------------------------------------|--------------|
| 14023 Heritage Square Apartments | Jacksonville |
| 14024 Creekside Village Apartments | Jacksonville |
| 14025 Heritage Place Apartments | Jacksonville |
- h) Presentation, discussion and possible action regarding Material Amendments to Housing Tax Credit
- | | |
|------------------------------|--------|
| 16057 Silverleaf at Mason | Mason |
| 16105 Tuscany Park at Arcola | Arcola |
| 16178 Palladium Anna | Anna |

Raquel Morales
Director

BOND FINANCE

- i) Presentation, discussion, and possible action on Resolution 17-015 regarding the annual approval of the Department's Investment Policy
- j) Presentation, discussion, and possible action on Resolution 17-016 regarding the annual approval of the Department's Interest Rate Swap Policy

Monica Galuski
Director

COMMUNITY AFFAIRS

- k) Presentation, discussion, and possible action on release of the draft Federal Fiscal Years 2018-2019 Community Services Block Grant ("CSBG") State Plan for public comment, with a link to be published in the *Texas Register*
- l) Presentation, discussion, and possible action on the Program Year ("PY") 2017 Department of Energy ("DOE") Weatherization Assistance Program ("WAP") State Plan and Awards
- m) Presentation, discussion, and possible action on release of the draft FFY 2018 Low Income Home Energy Assistance Program ("LIHEAP") State Plan to be made available for Public Comment and to be announced in the *Texas Register*

Michael DeYoung
Director

MULTIFAMILY FINANCE

- n) Presentation, discussion, and possible action on the issuance of Determination Notices for Housing Tax Credits with another issuer
- | | |
|--------------------------------|---------|
| 17412 Pathways at Gaston Place | Austin |
| 17417 Fenix Estates | Houston |
- o) Presentation, discussion, and possible action on the 2016 State of Texas National Housing Trust Fund Allocation Plan

Marni Holloway
Director

RULES

- p) Presentation, discussion and possible action on proposed amendments to 10 TAC §1.13, concerning adjudicative hearing procedures, and directing that they be published for public comment in the *Texas Register*
- q) Presentation, discussion, and possible action on an Order proposing the repeal of 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and an Order proposing new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and directing its publication for public comment in the *Texas Register*
- r) Presentation, discussion, and possible action on an Order proposing the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and an Order proposing new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and directing its publication for public comment in the *Texas Register*
- s) Presentation, discussion, and possible action on orders repealing all sections of 10 TAC Chapter 23, Single Family HOME Program, and orders adopting new 10 TAC Chapter 23, Single Family HOME Program ("HOME Rule"), concerning HOME single family activities, and directing their publication in the *Texas Register*

Jeffrey T. Pender
Deputy General Counsel

Homero Cabello, Jr
Director, SF Ops and Services

Jennifer Molinari
Director, HOME and Homeless Program

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, April 2017 – May 2017

Michael Lyttle
Chief, External Affairs

- b) Report on the reallocation of recaptured Program Year 2015 Emergency Solutions Grants Program funding
- c) Report on increase to the escrow account related to an Advances and Security Agreement (the “Advances Agreement”) with the Federal Home Loan Bank of Dallas (“FHLB”)

Jennifer Molinari
 Director, HOME and
 Homeless Program
Monica Galuski
 Director, Bond Finance

ACTION ITEMS

ITEM 3: REPORTS

- a) Staff will present a summary of determinations under 10 TAC §11.10 of the 2017 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency

17165 Merritt Headwaters	Dripping Springs
17736 Providence at Ted Trout Drive	Hudson
17204 Vista Bella	Lago Vista
- b) Report on 2018 Qualified Allocation Plan (“QAP”) Project

Marni Holloway
 Director, MF Finance

ITEM 4: RULES

- a) Presentation, discussion, and possible action on an order proposing actions to 10 TAC Chapter 10, Uniform Multifamily Rules including the: 1) proposed amendment in Subchapter F, Compliance Monitoring, of §10.610, Written Policies and Procedures 2) proposed amendment in Subchapter F, Compliance Monitoring, of §10.613 Lease Requirements; and directing that they be published for public comment in the *Texas Register* and 3) adoption of the Department’s Emergency Transfer Plan required by 24 CFR §92.359 and 24 CFR §93.356
- b) Presentation, discussion, and possible action on orders proposing adoption of a new section §5.2014, VAWA Requirements to 10 TAC Chapter 5, Community Affairs Programs, and orders proposing actions to 10 TAC Chapter 7, Homelessness Programs to add a new section §7.2007, VAWA Requirements, and directing that they be published for public comment in the *Texas Register*
- c) Presentation, discussion and possible action on proposed new 10 TAC §1.25, concerning information security and privacy requirements for contractors, the repeal of 10 TAC §1.24, concerning Protected Health Information, and the repeal of 10 TAC §5.18, concerning information technology security practices, and directing that they be published for public comment in the *Texas Register*

Patricia Murphy
 Chief, Compliance

Jennifer Molinari
 Director, HOME and
 Homeless Program

Jeffrey T. Pender
 Deputy General Counsel

ITEM 5: BOND FINANCE

- a) Presentation, discussion, and possible action on Resolution 17-017 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2017 Series A, Single Family Mortgage Revenue Refunding Bonds, 2017 Series B (Taxable) and Single Family Mortgage Revenue Bonds, 2017 Series C (Taxable); approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this Resolution, and containing other provisions relating to the subject
- b) Presentation, discussion, and possible action on Resolution No. 17-018 authorizing the issuance and delivery of Texas Department of Housing and Community Affairs Series 2017 Issuer Note; approving the form and substance of related documents; authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this Resolution; and containing other provisions relating to the subject

Monica Galuski
 Director

ITEM 6: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on timely filed appeal of application termination under the 2017 Uniform Multifamily Rules

17069 Arlinda Gardens	Bryan
17742 Las Villas del Rio Hondo	Rio Hondo
17403 Lord Road Apartments	San Antonio
- b) Presentation, discussion, and possible action regarding a request for waiver of rules for Blue Flame, HTC #17330

Marni Holloway
 Director

- c) Presentation, discussion, and possible action on possible actions to assist 9% housing tax credit-layered Direct Loan awardees and applicants that have suffered adverse changes in syndication rates
- d) Presentation, discussion, and possible action on an Amendment to the 2017-1 Multifamily Direct Loan Notice of Funding Availability

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):

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

Leslie Bingham-Escareño
Vice Chair

OPEN SESSION

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

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact 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 Elena Peinado, 512-475-3814, 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 Elena Peinado, al siguiente número 512-475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

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

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

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

property with a handgun that is carried openly.

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

NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Texas Department of Housing and Community Affairs
RESOLUTION

WHEREAS, Community Action Agencies are nonprofit private and public organizations established under the Economic Opportunity Act of 1964 to ameliorate the effects of poverty and help persons experiencing poverty to transition to self sufficiency;

WHEREAS, Community Action builds and promotes economic stability, enhancing stronger communities, and ensuring the opportunity to live in dignity;

WHEREAS, nationally Community Action has enhanced the lives of millions by providing essential, life-changing services and opportunities;

WHEREAS, Community Action serves 99% of America's counties in rural, suburban, and urban communities and works towards the goal of ending poverty in our lifetime;

WHEREAS, Texas has a strong vibrant network of Community Action Agencies to deliver Community Action to Texans in need;

WHEREAS, Community Action will continue to implement innovative and cost-effective programs to improve the lives and living conditions of the impoverished; continue to provide support and opportunities for all eligible households in need of assistance; and continue to develop and carry out effective welfare system reforms; and

WHEREAS, the Texas Department of Housing and Community Affairs and the State of Texas support the Community Action network in Texas in working to improve communities and make Texas a better place to live not only during Community Action Month in May, but throughout the entire year;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate May 2017, as Community Action Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the hard work and dedication of all Texas Community Action agencies.

Signed this twenty-seventh day of April 2017.



Leslie Bingham Escareño

Tom Gann

J. B. Goodwin

Juan Muñoz

Timothy K. Irvine, Executive
Director

Texas Department of Housing and Community Affairs

RESOLUTION

WHEREAS, May 2017 is National Mobility Awareness Month, which is dedicated to showing the community at large how People with Disabilities can live active, mobile lifestyles, and raise awareness of the mobility solutions available in the local community;

WHEREAS, the goal of the Texas Department of Housing and Community Affairs (“the Department”) is to ensure that all Texans have access to safe and decent affordable housing;

WHEREAS, it is the policy of the Department to support equal housing opportunities in the administration of its all its Single Family and Multifamily Programs, especially in regards to People with Disabilities accessing new home construction, home rehabilitation, housing vouchers, and rental assistance programs and services;

WHEREAS, this year, the Department is celebrating 7 years of offering the Amy Young Barrier Removal Program, named in honor of the late advocate for Texans with Disabilities who helped shape the state-funded program to improve the quality of life for People with Disabilities throughout the State of Texas;

WHEREAS, the Amy Young Barrier Removal Program provides one-time grants of up to \$20,000 for Persons with Disabilities, both renters and homeowners earning up to 80% of the Area Median Family Income, who need home modifications to increase accessibility and eliminate hazardous conditions in their homes;

WHEREAS, since 2010, the Amy Young Barrier Removal Program has completed approximately \$16.8 million worth of accessibility modifications on approximately 880 homes of Texans with Disabilities, such as constructing roll-in showers, installing shower wands and lever faucets, widening doorways, modifying kitchens and laundry rooms with accessible cabinetry and appliances, building ramps, and improving walkways with handrails, paving, and lighting to accommodate program participants' specific needs;

WHEREAS, the Department applauds the approximately 25 nonprofit organizations and local governments around the state who are Amy Young Barrier Removal Program Administrators who advocate for improving mobility and longevity of their clients through quality construction, pragmatic solutions and compassionate service; and

WHEREAS, the Department encourages Texans to explore the numerous TDHCA programs and resources related to increasing and maintaining mobility during National Mobility Awareness Month and throughout the year;

NOW, therefore, it is hereby

RESOLVED, that in the pursuit of the goal and responsibility of increasing mobility opportunities of Texans with Disabilities, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate May 2017 as National Mobility Awareness Month and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of National Mobility Awareness Month.

Signed this Twenty-Seventh Day of April, 2017.



Leslie Bingham Escareño

Tom Gann

J.B. Goodwin

Juan Muñoz

Timothy K. Irvine, Executive
Director

1a

BOARD ACTION REQUEST
BOARD SECRETARY
APRIL 27, 2017

Presentation, discussion, and possible action on Board meeting minutes summary for January 26, 2017

RECOMMENDED ACTION

Approve the Board meeting minutes summary for January 26, 2017

RESOLVED, that the Board meeting minutes summary for January 26, 2017, is hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
January 26, 2017

On Thursday, the twenty-sixth day of January 2017, at 9:00 a.m., the regular meeting of the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") was held in Room 1-111, William B. Travis Building, 1701 Congress Ave., Austin, Texas.

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

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

J. Paul Oxer served as Chair, and James "Beau" Eccles, TDHCA General Counsel, served as secretary.

The Board unanimously approved a resolution commemorating February 2017 as Black History Month in Texas.

1) Following public comment (listed below), the Board unanimously approved the Consent Agenda.

- Snowy Voice, Creek Nation of Oklahoma, thanked TDHCA for Community Services Block Grant ("CSBG") award to the Urban Inter-Tribal Center of Texas

2) Action Item 3(a) – Report on allegations of a "cover up" at the Hidalgo County Community Service Agency ("Hidalgo") – was presented by Patricia Murphy, TDHCA Chief of Compliance. The Board heard the report, listened to public comment (listed below), and took no action.

- Jaime Longoria, Hidalgo County Community Service Agency, provided additional information on the agenda item.

3) Action Item 3(b) – Report on 2018 Qualified Allocation Plan ("QAP") Project – was presented by Marni Holloway, TDHCA Director of Multifamily Finance. The Board heard the report and took no action.

4) Action Item 3(c) – Report on the submission of National Housing Trust Fund Allocation Plan to the U.S. Department of Housing and Urban Development ("HUD") – was presented by Ms. Holloway with additional information from Tim Irvine, TDHCA Executive Director. The Board heard the report and took no action.

5) Action Item 4(a) – Presentation, Discussion and possible action on approval of the Internal Audit Charter – was presented by Mark Scott, TDHCA Director of Internal Audit. The Board unanimously approved staff recommendation to approve the charter.

6) Action Item 4(b) – Presentation and discussion of SAO reports – was presented by Mr. Scott with additional information from Mr. Irvine and David Cervantes, TDHCA Chief Financial Officer. Following public comment (listed below), the Board unanimously approved staff recommendation to accept the audit reports.

- Hillary Eckford, State Auditor’s Office, provided information on the agenda item.
- Philip Stringer, State Auditor’s Office, provided information on the agenda item

7) Action Item 4(c) – Internal Audit review of Compliance Monitoring – was presented by Mr. Scott. The Board heard the review and took no action.

8) Action Item 4(d) – Report on the meeting of the Audit Committee – was presented by Mr. Scott. The Board heard the report and took no action.

9) Action Item 4(e) – Presentation and Discussion of the Internal Audit Self Assessment for Peer review – was presented by Mr. Scott. The Board heard the report and took no action.

10) Action Item 5 – Presentation, Discussion, and Possible Action on recommendation to debar Ebenezer Anene for a period of ten years – was presented by Ms. Holloway acting in her capacity as Chair of the TDHCA Enforcement Committee. The Board unanimously approved staff recommendation to debar Ebenezer Anene for a period of ten years.

11) The Board took no action on Action Item 6 – Presentation, Discussion and Possible Action regarding Amendments to HOME Direct Loan Terms for #13232 Pine Lake Estates, Nacogdoches – as it was pulled from the agenda.

12) Action Item 7(a) – Presentation, Discussion, and Possible Action regarding an exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application #17010 Baxter Lofts – was presented by Ms. Holloway. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the exemption.

- Sally Burchett, consultant for Baxter Lofts, testified in support of staff recommendation

13) Action Item 7(b) – Presentation, Discussion, and Possible Action regarding an exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application #17255 Trinity Oaks Apartments – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the exemption.

14) Action Item 7(c) – Presentation, Discussion, and Possible Action regarding a Request for Rural Designation under 10 TAC §10.204(5) – was presented by Ms. Holloway. Following public comment (listed below), the Board unanimously approved staff recommendation to deny the request.

- Ginger McGuire, Rural Rental Housing Association of Texas, provided general comments on the agenda item.

15) Action Item 7(d) – Presentation, Discussion and Possible action regarding a request for waiver of rules for Bishop Court, HTC#16049 – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the waiver request.

16) Action Item 7(e) – Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) Application of Bishop Courts in Bishop HTC #16049 – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the amendment request.

17) Action Item 7(f) – Presentation, Discussion, and Possible Action on a waiver relating to 10 TAC §10.101(b)(5) concerning Common Amenities associated with multifamily applications submitted under the 2017 program year – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the waiver.

18) The Board unanimously adopted a resolution by acclain recognizing Chairman Oxer’s achievements as board chair and thanking him for his service as this meeting was his last in that role.

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

There being no further business to come before the Board, the meeting adjourned at 11:00 a.m. The next meeting is set for Thursday, February 28, 2017.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Oakridge Apartments (HTC 93159 / CMTS 1189)

RECOMMENDED ACTION

WHEREAS, Oakridge Apartments (HTC 93159 / CMTS 1189), owned by Ahouramazda, LLC (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, representatives of Owner have attended multiple informal conferences and signed a prior Agreed Final Order in 2016;

WHEREAS, Owner complied with the requirements of the prior Agreed Final Order, paying a partial penalty of \$500 and correcting all Uniform Physical Condition Standards (“UPCS”) violations;

WHEREAS, TDHCA identified new file monitoring violations that were not timely resolved and were referred to the Enforcement Committee for an administrative penalty;

WHEREAS, on February 28, 2017, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$7,700, with \$5,000 to be paid in monthly installments of \$1,000 beginning July 1, 2017, and ending November 1, 2017, and the remaining \$2,700 to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before July 1, 2017;

WHEREAS, unresolved compliance findings include a written tenant selection criteria violation, a violation for failure to have an affirmative marketing plan and evidence of outreach marketing, a utility allowance violation, an annual eligibility certification violation for one unit, a household income violation for one unit, and a lease notice violation; and

WHEREAS, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$7,700, subject to partial forgiveness as outlined above for noncompliance at Oakridge Apartments, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Ahouramazda, LLC ("Owner") is the owner of Oakridge Apartments ("Property"), a low income apartment complex composed of 46 units, located in Dallas County. Records of the Texas Secretary of State list Claudia Amini as the manager of Ahouramazda, LLC. The property is also associated with Ramin Amini. The property is managed internally by Ahouramazda, LLC, with Hector M. Molina as the onsite property manager.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by a prior owner in 1995 in consideration for an annual housing tax credit allocation in the amount of \$34,726 to rehabilitate and operate the Property. Current owner acquired the property and signed an Agreement to Comply in 2010.

Owner was first referred for an administrative penalty in 2013 for Uniform Physical Condition Standards ("UPCS") and reporting violations. That referral was closed with a warning letter upon full correction. Owner was referred again in 2016 for UPCS violations identified during a subsequent inspection. No corrections were submitted to Compliance in response to the inspection letter and no corrections were submitted to Legal in response to the informal conference notice. The Committee met with the owner on January 26, 2016, and the Board approved an Agreed Final Order calling for a \$1,000 penalty, with \$500 payable at signing, and the remaining \$500 to be forgiven if complete corrections were made within 30 days. All violations were resolved and the penalty case was closed, but the Enforcement Committee was aware that a file monitoring review had just been completed, and gave Owner three specific recommendations to ensure future compliance:

1. Reply to emails from the Department;
2. Ensure that a reply was timely uploaded to CMTS for the 2016 file monitoring review; and
3. Attend TDHCA training courses, including First Thursday Income Eligibility Training and HTC Compliance Training.

Owner ignored all three recommendations. Both the Owner and Property Manager continued to ignore TDHCA correspondence, they did not upload a reply to CMTS for the 2016 file monitoring review, and they did not attend training. Owner has now been referred for a penalty for failure to resolve the 2016 file monitoring violations.

The following compliance violations identified during the 2016 file monitoring review were referred for an administrative penalty and have been resolved:

1. Failure to provide pre-onsite documentation;
2. Failure to provide Tenant Rights and Resources Guide to units 106, 214, 216, and 222;

3. Failure to provide Fair Housing Disclosure Notice to unit 203; and
4. Failure to provide Notice of Amenities and Services to unit 203;

The following compliance violations identified during the 2016 file monitoring review were referred for an administrative penalty and are unresolved:

1. Failure to maintain written policies and procedures, including tenant selection criteria;
2. Failure to maintain an Affirmative Marketing Plan and evidence of associated marketing efforts;
3. Failure to calculate and implement an updated utility allowance;
4. Failure to collect an Annual Eligibility Certification for unit 122 for the years 2013 through 2016;
5. Household income violation for unit 216. This household was above the income limit upon initial occupancy on June 5, 2015, and the violation was repeated when the lease was renewed in 2016 despite notice from TDHCA that the household was above the income limit;
6. Lease violations relating to failure to provide and execute required notices, including failure to post the Tenant Rights and Resources Guide in a common area in the office;

Property manager attended an informal conference with the Enforcement Committee on February 28, 2017. Property manager did not have written authorization to make binding decisions on behalf of Owner. The Enforcement Committee contacted Owner by phone, but there was no response. Although the Department is required to offer an informal conference, an Owner is not required to attend. The Committee received no prior notice that the Owner would not be attending and Owner had not requested rescheduling, so the informal conference was held with only the mitigating statements provided by the property manager. Owner later contacted the Legal division and requested a repayment plan, which was approved by the Committee and incorporated into the recommendation being presented to the Board. Owner has agreed to sign an Agreed Final Order with the following terms:

1. A \$7,700 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must submit a \$5,000 portion of the administrative penalty in monthly installments of \$1,000, beginning July 1, 2017 and ending November 1, 2017;
3. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before July 1, 2017;
4. Property manager must attend First Thursday Income Eligibility Training, then provide copies of completion certificates to TDHCA, on or before July 1, 2017.
5. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$2,700 will be forgiven; and
6. If Owner violates any provision of the Agreed Final Order, the remaining administrative penalty in the amount of \$2,700 will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of

\$7,700 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
AHOURLAMAZDA, LLC WITH
RESPECT TO
OAKRIDGE APARTMENTS
(HTC FILE # 93159 / CMTS # 1189)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") considered the matter of whether enforcement action should be taken against **AHOURLAMAZDA, LLC**, a Texas limited liability company ("Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 1995, Beverly Partners Ltd ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$34,726 to build and operate Oakridge Apartments ("Property") (HTC file No. 93159 / CMTS No. 1189 / LDDL No. 426).
2. Prior Owner signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective November 9, 1995, and filed of record at Volume 96008, Page 0953 of the Official Public Records of Real Property of Dallas County, Texas ("Records"). In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed

restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.

3. Respondent took ownership of the Property and signed an agreement with TDHCA to assume the duties imposed by the LURA and to comply fully with the terms thereof (Agreement to Assume and Comply), effective February 17, 2010, and filed the same in the Records at Document Number 2010000041489, thereby further binding Respondent to the terms of the LURA.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. Property has a history of violations and previously signed an Agreed Final Order on March 19, 2016, agreeing to a \$1,000 Administrative Penalty, of which \$500 was to be paid at signing and the remaining \$500 was to be fully forgivable provided that Respondent submitted full corrective documentation to resolve all Uniform Physical Condition Standards (“UPCS”) violations by March 28, 2016. Respondent paid the \$500 administrative penalty and submitted full corrections as required.
6. An on-site monitoring review was conducted on January 28, 2016, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a July 11, 2016, corrective action deadline was set, however, the following violations were not corrected before the deadline:
 - a. Respondent failed to submit pre-onsite documentation, a violation of 10 TAC §10.607 and §10.618, which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review. The required documentation was submitted on January 17, 2017, 190 days past the corrective deadline, after an administrative penalty informal conference notice was sent;
 - b. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Tenant Selection Criteria, now Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. A document labeled “Statement of Rental Policy” was submitted in response to an administrative penalty informal conference notice, but it did not meet the minimum requirements under the rule;
 - c. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing Requirements), which requires developments to maintain an affirmative marketing plan that meets minimum requirements, and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

A plan labeled "Marketing Strategy and Tactics" was submitted in response to an administrative penalty informal conference notice, but it outlined general marketing for the property and did not include any affirmative marketing requirements;

- d. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. A utility allowance was submitted on January 17, 2017, but it was the utility allowance published by the Dallas County Housing Agency, not the City of Dallas Housing Authority. The development is located within the municipal boundaries of the City of Dallas, and as a result, the Dallas County Housing Authority is not the applicable organization;
- e. Respondent failed to provide an Annual Eligibility Certifications for unit 122, a violation of 10 TAC §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household. Unit Status Reports indicate that the household occupied the unit in 2009. The last Annual Eligibility Certification observed in the file was from 2012;
- f. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for unit 216, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. Pay stubs in the file during the onsite review showed that the household occupying the unit on June 5, 2015, did not qualify at move-in. The same household signed a Tenant Rights and Resources Guide Acknowledgment on February 20, 2017, the date suggesting that this lease was renewed after TDHCA notified Respondent that the household was over income. This was later confirmed by the property manager;
- g. Respondent failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. A photograph of the Tenant Rights and Resources Guide taped to a door was submitted, but the required certification has not been submitted;
- h. Respondent failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for units 106, 214, 216, and 222, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. The required form was submitted for units 106, 214, 216, and 222 on February 22, 2017, 226 days past the corrective deadline, after an administrative penalty informal conference notice was sent;
- i. Respondent failed to provide the Fair Housing Disclosure Notice for unit 203, a violation of 10 TAC §10.612 (Tenant File Requirements), which, at the time of move-in for this unit during 2014, required all developments to provide prospective households with a fair housing disclosure notice within a certain time period. This form has since been combined with the Notice of Amenities and Services into a

replacement document called a "Tenant Rights and Resources Guide", which also has not been provided. The required form was submitted on February 22, 2017, 226 days past the corrective deadline, after an administrative penalty informal conference notice was sent; and

- j. Respondent failed to provide a Notice of Amenities and Services to unit 203, a violation of 10 TAC §10.613 (Lease Requirements), which, at the time of move-in for this unit during 2014, required owners to provide to each household, at the time of execution of an initial lease and whenever there was a subsequent change in amenities and services, a notice describing those amenities and services. This form has since been combined with the Fair Housing Disclosure Notice into a replacement document called a "Tenant Rights and Resources Guide", which also has not been provided. The required form was submitted on February 22, 2017, 226 days past the corrective deadline, after an administrative penalty informal conference notice was sent.
7. The following violations remain outstanding at the time of this order:
- a. Written tenant selection criteria violation described in FOF #6.b;
 - b. Affirmative marketing plan violation described in FOF #6.c;
 - c. Utility allowance violation described in FOF #6.d;
 - d. Annual Eligibility Certification violation described in FOF #6.e;
 - e. Household income violation described in FOF #6.f; and
 - f. Lease notice violation described in FOF #6.g.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.607 and §10.618 in 2016, by not submitting pre-onsite documentation in preparation for an onsite monitoring review;
5. Respondent violated 10 TAC §10.610 in 2016, by not maintaining written tenant selection criteria meeting TDHCA requirements;
6. Respondent violated 10 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan and maintain evidence of outreach marketing efforts;

7. Respondent violated 10 TAC §10.614 in 2016, by failing to properly calculate a utility allowance;
8. Respondent violated 10 TAC §10.612 between 2013 and 2016, by failing to collect Annual Eligibility Certifications for unit 122.
9. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2015 by failing to provide documentation that household income was within prescribed limits upon initial occupancy for unit 216. This violation was then repeated in 2016 when the lease was renewed.
10. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office;
11. Respondent violated leasing requirements in 10 TAC §10.613 in 2015 and 2016, by failing to provide a Tenant Rights and Resources Guide to units 106, 214, 216, and 222, and have the households sign an acknowledgment form;
12. Respondent violated 10 TAC §10.612 in 2014, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for unit 203;
13. Respondent violated 10 TAC §10.613 in 2014, by failing to execute the Notice of Amenities and Services for unit 203;
14. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
15. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
16. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
17. An administrative penalty of \$7,700 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$7,700, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$5,000 portion of the assessed administrative penalty in monthly installments of \$1,000 each, by cashier's check payable to the "Texas Department of Housing and Community Affairs", with the first payment due on July 1, 2017 and the final payment due on November 1, 2017.

IT IS FURTHER ORDERED that the property manager at Oakridge Apartments shall attend First Thursday Income Eligibility Training offered by TDHCA, and submit a completion certificate to the Department on or before July 1, 2017.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before July 1, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty in the amount of \$2,700, and that remaining amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$2,700 shall be due and payable to the Department, and the Department shall send written notice to Respondent that it has violated a provision of this Order. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs", to be paid as follows, either: (1) a lump sum to be paid on or before November 1, 2017, (2) a sum added to the ongoing monthly installments such that the full payment of the entire penalty is made on or before November 1, 2017, or (3) the property closing date if sold before November 1, 2017.

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IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (“CMTS”) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. Penalty payments must be submitted to the following address:

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

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 4, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1

File Monitoring Violation Resources and Instructions

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. Refer to the following link for copies of forms that are referenced below:

<http://www.tdhca.state.tx.us/pmcomp/forms.htm>

3. Technical support and training presentations are available at the following links:

Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>

Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>

Affirmative Marketing: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

Tenant Selection Criteria: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

Online Reporting: <http://www.tdhca.state.tx.us/pmcomp/reports.htm>

FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>

4. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

5. **Important notes -**

- i. Do not backdate any documents listed below.
- ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

6. **Written policies and procedures** – Respondent submitted written policies labeled “Statement of Rental Policy”, however, that document was incomplete.

How to prepare compliant criteria: Prepare updated written policies and procedures addressing all requirements at 10 TAC §10.610. Staff recommends using that rule as a checklist. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. A cheat sheet for further verification is available at <http://www.tdhca.state.tx.us/pmcdocs/15-AOCR-TSC.pdf>, however, please note that the cheat sheet was only published as an aide for annual reporting and, as such, should not be relied upon as a primary resource; you are required to follow all requirements of the rule.

What to submit: Once your written policies and procedures are complete, the owner must review the criteria, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2.

6. Lease violations, including Tenant Rights and Resources Guide, Fair Housing Disclosure Notice, and Notice of Amenities and Services.

What to submit: The owner must review the applicable Owner Certification at Attachment 2, verify that all requirements described by the certification have been met, then submit a signed Owner Certification via CMTS.

7. Affirmative marketing plan –

What is affirmative marketing and information regarding frequent problems observed: Respondent submitted a document labeled “Marketing Strategy and Tactics”, however, it was a general marketing strategy, and did not include any affirmative marketing requirements. First read the rule at 10 TAC §10.617, then watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm> to gain a general understanding regarding affirmative marketing. Next, review the following list of frequent problems observed, which include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations that are least likely to apply *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply;
- Not affirmatively marketing to the disabled. All properties must market to the disabled population;
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area;
- Not including evidence of special outreach efforts, such as marketing letters, to those “least likely to apply” populations through specific media, organizations, or community contacts that work with “least likely to apply” populations or work in areas where “least likely to apply” populations live;
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process; and

Steps to complete affirmative marketing plan:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply. The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The groups *currently* identified by the tool are Persons with Disabilities, White, Not Hispanic, and Asian. Persons with disabilities must always be selected as a group least likely to apply. You must run the Tool yourself to ensure that the data remains the same. If you use this Tool and save a copy with your Plan, you may rely upon its results.

Alternatively, you may perform your own analysis to determine groups that are considered least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified.

- c. Identify specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply, including organizations that assist persons with disabilities. For example, a local housing authority serves the general public, not a specific racial or ethnic demographic; therefore, marketing to the housing authority is not generally considered affirmative marketing *unless* you are required to market to the White or Not-Hispanic populations, in which case more general marketing of this type would be acceptable to market to those groups. An Asian Chamber of Commerce or local Asian publication could be an avenue to market to the Asian population if that group is identified as one that is least likely to apply. Similarly, local groups that focus on helping the mentally disabled, physically disabled, disabled veteran affairs groups, etc, could be a way to market to the disabled community. Some examples of groups that focus on the disabled: Easter Seals, United Cerebral Palsy, American Council of the Blind, The Blinded Veterans Association.
- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*
- g. Maintain all documentation in your files for future review.

What to submit: Once your Affirmative Marketing Plan *and* outreach materials are complete, the owner must review them, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2.

[Remainder of page intentionally blank]

7. **Utility Allowance** – In January, Respondent submitted a utility allowance published by the Dallas County Housing Agency, not the City of Dallas Housing Authority. The development is located within the municipal boundaries of the City of Dallas, and as a result, the applicable housing authority is the City of Dallas Housing Authority. Their website is at <http://www.dhadal.com> and their published utility allowance is currently available at <http://www.dhadal.com/Business/2/Utility%20Allowances>.

What to submit: Calculate a utility allowance in accordance with 10 TAC §10.614 and submit a copy of the new utility allowance via CMTS. Also submit the development's updated Unit Status Report to demonstrate that the utility allowance has been implemented. Rent will be tested development-wide once the proper allowance is implemented, and any resulting noncompliance will be cited at that time and provided a separate corrective action period of 90 days. For more information, see <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>

8. **Tenant file violations for units 122 and 216:**

What to submit if the affected households remain in the units:

Unit # 122	Bldg. # 3	BIN # TX9301984	
Finding	Failure to collect data required by §10.612(b)(1) and/or §10.612(b)(2)		
Noncompliance Date	09/23/2013	Current Status Uncorrected	Correction Date
Reason	Owners of HTC developments must collect and maintain current data annually on each household that includes the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification (AEC) or the Income Certification Form. This household initially occupied the unit on September 23, 2009 and the last AEC form present in the file was executed on September 10, 2012.		
Corrective Action	Have the household execute either form with the required information and submit a copy of the form to the Department for review. Do not backdate the certification.		
Unit # 216	Bldg. # 2	BIN # TX9301983	
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household		
Noncompliance Date	06/06/2015	Current Status Uncorrected	Correction Date
Reason	A household occupied this unit on June 5, 2015. Paycheck stubs in the file indicate that the household did not qualify upon initial occupancy.		
Corrective Action	If circumstances have changed and the household currently qualifies, then certify the household under current circumstances and submit the application, Income Certification, all documentation of income and assets, and any additional screening documentation to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with an eligible household and submit: the lease and lease addendums, the rental application and supplemental rental application, the Income Certification, all documentation of income and assets, and the Tenants Rights and Resources Guide Acknowledgement to the Department for review.		

What to submit if circumstances have changed:

Circumstance with respect to units listed above	Instruction
If unit is occupied by a new qualified household	Submit the full tenant file*.
If unit is occupied by a nonqualified household on a month-to-month lease	A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.** B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 7/1/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.

<p>If unit is occupied by a nonqualified household with a non-expired lease</p>	<p>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.**</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 7/1/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
<p>If unit has been vacant <i>more than</i> 30 days</p>	<p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 7/1/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
<p>If unit has been vacant <i>less than</i> 30 days</p>	<p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 7/1/2017 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</p>

**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and Tenant Rights and Resources Guide Acknowledgment.*

*** If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with requirements of the rule at 10 TAC 10.610(f)*

Attachment 2

Owner Certifications referenced in Attachment 1

(see attached)

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Oakridge Apartments CMTS ID: 1159

The above referenced Development was monitored on 1/28/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.610, Written Policies and Procedures. Please see attached Findings Report for details as to the specific policy/procedure affected and the reason for which the noncompliance was cited. Update that policy/procedure as detailed and submit a copy of the updated policy/procedure, with a revised effective date as required under the rule, to support this certification.

Under 10 TAC §2.401(c)(1), The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.610 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.610 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.610 has been corrected in the manner described and that all required written policies and procedures under §10.610 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2016

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Oakridge Apartments CMTS ID: 1189

The above referenced Development was monitored on 1/28/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.617, Affirmative Marketing Requirements. Please see attached Findings Report for details as to the specific reason for which the noncompliance was cited.

Under 10 TAC §2.401(c)(1), *The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.617 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.617 is attached to ensure ongoing compliance.*

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.617 has been corrected in the manner described and that all required affirmative marketing requirements under §10.617 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
March 2017

Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance

Development Name: Oakridge Apartments CMTS ID: 1189

The above referenced Development was monitored on 1/28/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.613(k) which states:

(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

- (1) Information about Fair Housing and tenant choice;*
- (2) Information regarding common amenities, unit amenities, and services; and,*
- (3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.*
- (4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.*

Through this certification, you hereby certify the following:

1. That a correctly executed Tenant Rights and Resources Guide is laminated and posted in a common area of the leasing office;
2. All low-income households have been provided the Tenant Rights and Resources Guide and executed the required acknowledgement; and,
3. All future low-income households will be provided the Tenant Rights and Resources Guide and execute the acknowledgement of receipt no more that 120 days prior to move in .

Under 10 TAC §2.401(e), a person shall be recommended for debarment if they control a Development that during two sequential monitoring visits is found to be out of compliance with the lease requirements described in §10.613. If at the next onsite review, there has been not been an ownership transfer and noncompliance is assessed for failure to execute required lease provisions, the owner will be recommended for debarment from participation in programs administered by the Department. A copy of §10.613 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.613(k) has been corrected in the manner described and that all required lease language under §10.613 is in the lease and lease addendum. I further certify that I understand that if this event of noncompliance is cited at the next onsite review of _____, the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2016

Attachment 3

Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. Onsite manager must attend First Thursday Training in order to get a full overview of the process. Sign up at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>. Forms discussed below are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

1. **Intake Application:** The Department does not have a required form to screen households, but we make a sample form available for that purpose. It is required that households be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with "none" or "n/a." The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the The Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a "Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs" that includes the additional requirements.
2. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
 - a. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan;
 - b. **Employment Verification Form:** Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
 - c. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits;
 - d. **Telephone Verifications:** these are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature;
 - e. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.

3. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:

- a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
- b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan.
- c. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.

4. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include (and be signed by) each adult household member.

5. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in

the lease or lease addendum. TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.

6. **Tenant Rights and Resources Guide:** As of 1/8/2015, the Fair Housing Disclosure Notice and Tenant Amenities and Services Notice have been replaced by the Tenant Rights and Resources Guide, a copy of which is available online at: <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureBooklet.doc>.

In accordance with 10 TAC §10.613(k), a laminated copy of this guide must be posted in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The Tenant Rights and Resources Guide includes:

- a) Information about Fair Housing and tenant choice; and
- b) Information regarding common amenities, unit amenities, and services.

A representative of the household must receive a copy of the Tenant Rights and Resources Guide and sign an acknowledgment of receipt of the brochure prior to, but no more than 120 days prior to, the initial lease execution date.

In the event that there is a prior finding for a Fair Housing Disclosure Notice, Tenant Amenities and Services Notice, the Tenant Rights and Resources Guide was not provided timely, or the household does not certify to receipt of the Tenant Rights and Resources Guide, resolution will be achieved by providing the household with the Tenant Rights and Resources Guide and receiving a signed acknowledgment. A copy of the acknowledgment form is available at:

<http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureSignaturePage.pdf>.

Attachment 4:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

1c

BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Autumn Creek (HTC 70071 / CMTS 906)

RECOMMENDED ACTION

WHEREAS, Autumn Creek, owned by Autumn Apartments, LP (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, representatives of Owner have attended multiple informal conferences and signed a prior Agreed Final Order in 2013;

WHEREAS, an administrative penalty of \$3,000 was due under the previous Agreed Final Order and the \$3,000 administrative penalty was paid;

WHEREAS, TDHCA identified new file monitoring violations that were not timely resolved and were referred to the Enforcement Committee for an administrative penalty;

WHEREAS, on February 28, 2017, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$500, to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before May 29, 2017;

WHEREAS, unresolved compliance findings include an Affirmative Marketing Plan violation and two lease notice violations relating to the Tenant Rights and Resources Guide; and

WHEREAS, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$500, subject to full forgiveness as outlined above for noncompliance at Autumn Creek, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Autumn Apartments, LP (“Owner”) is the owner of Autumn Creek (“Property”), a low income apartment complex composed of 82 units, located in Dallas County. Records of the Texas Secretary of State list the general partner as Wehner Enterprises, LLC, with the following member managers for that organization: Ryan Wehner, Jordon Wehner, and Adam Wehner. CMTS lists Ryan Wehner as the primary contact for Owner, and Alicia Morales as primary contact for the management company. The property is self managed.

The Property is subject to a Land Use Restriction Agreement (“LURA”) signed by a prior owner in 1990 in consideration for a housing tax credit allocation in the annual amount of \$43,020 to rehabilitate and operate the Property. Current owner acquired the property in 2006 and did not receive prior Department approval, but the LURA remains in effect per Section 2 of the LURA which stipulates that its restrictions run with the land. Current owner signed a LURA amendment in 2015.

Owner was previously referred for an administrative penalty for file monitoring and Uniform Physical Condition Standards (“UPCS”) violations. Their first referral was closed informally when acceptable corrections were received after working closely with the Compliance Division. A second referral was closed with an Agreed Final Order approved by the Board, calling for a \$3,000 penalty, with \$500 payable at signing and \$2,500 to be forgiven if fully acceptable corrections were received as required by the Order. The Order was violated and the full penalty was paid, but the violations were ultimately resolved.

Owner has been referred again, and corrective documentation was submitted to the Compliance Division by mail on November 17, 2016, four months after the deadline and after the property was referred for an administrative penalty. A copy of that submission was uploaded to CMTS on January 3, 2017, and resolved the majority of the tenant file violations, but did not properly address the affirmative marketing plan or lease notice violations relating to the Tenant Rights and Resources Guide.

The following new compliance violations identified during 2016 were referred for an administrative penalty and have been resolved:

1. Utility allowance violation;
2. Lease violations relating to failure to provide and execute required notices, including:
 - a. Failure to execute the Tenant Rights and Resources Guide Acknowledgment for unit 225; and
 - b. Failure to execute the Notice of Amenities and Services for units 108, 117, and 224.
3. Household income violation for unit 103; and
4. Annual Eligibility Certification violations for units 120, 126, 137, 226, and 236.

The following new compliance violations identified during 2016 were referred for an administrative penalty and are unresolved:

1. Failure to maintain an Affirmative Marketing Plan and evidence of associated marketing efforts.
2. Affirmative Marketing Plan violation.
3. Lease violations relating to failure to provide and execute required notices, including:

- a. Failure to post the Tenant Rights and Resources Guide in a common area in the office; and
- b. Failure to execute the Tenant Rights and Resources Guide Acknowledgment for unit 103, a household that has since vacated the unit without signing.

Owner and property manager participated in an informal conference with the Enforcement Committee on February 28, 2017, and provided details to the Committee regarding compelling personal mitigating circumstances that were determined to be a primary factor in the repeated referral. They agreed to sign an Agreed Final Order with the following terms:

1. A \$500 administrative penalty, subject to full forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before May 29, 2017;
3. If Owner complies with all requirements and addresses all violations as required, the full administrative penalty in the amount of \$500 will be forgiven; and
4. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, fully forgivable administrative penalty in the amount of \$500 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
AUTUMN APARTMENTS, L.P. WITH
RESPECT TO
AUTUMN CREEK APARTMENTS
(HTC FILE # 70071 / CMTS # 906)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **AUTUMN APARTMENTS, L.P.**, a Texas limited partnership (“Respondent”).

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 1990, Rolling Creek Apartments, Ltd. (“Prior Owner”) was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$43,020 to rehabilitate and operate Autumn Creek Apartments (“Property”) (HTC file No. 70071 / CMTS No. 906 / LDLD No. 104).
2. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 12, 1990, and filed of record at Volume 90242, Page 1653 of the Official Public Records of Real Property of Dallas County, Texas (“Records”), as

amended by a First Amendment executed on March 26, 2015, and filed in the Records at Document Number 201500101251. In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.

3. Respondent took ownership of the Property on February 28, 2006 and, although an Agreement to Comply was not signed, Respondent is bound to the terms of the LURA in accordance with Section 2 thereof, and signed the above referenced First Amendment.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. Property has a history of violations and previously signed an Agreed Final Order on February 11, 2013, agreeing to a \$3,000 Administrative Penalty.
6. An on-site monitoring review was conducted on January 27, 2016, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a July 11, 2016, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing Requirements), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was received in response to an administrative penalty informal conference notice, but the plan did not provide any documentation to support groups identified as least likely to apply, did not include a community contact to market to the disabled, and did not include marketing materials. This finding is unresolved;
 - b. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. Acceptable corrective documentation to resolve the violation was submitted January 3, 2017, 176 days past the corrective deadline, after an administrative penalty informal conference notice was sent;
 - c. Respondent failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

application process and upon any subsequent change to common amenities, unit amenities, or services. This finding is unresolved;

- d. Respondent failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for units 103 and 224, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. Acceptable corrective documentation to resolve the violation for unit 225 was submitted January 3, 2017, 176 days past the corrective deadline, after an administrative penalty informal conference notice was sent. The affected household in unit 103 moved out before signing the necessary forms, and the finding is unresolved;
- e. Respondent failed to provide a Notice of Amenities and Services to units 108, 117, and 224, a violation of 10 TAC §10.613 (Lease Requirements), which, at the time of move-in for these units during 2014, required owners to provide to each household, at the time of execution of an initial lease and whenever there was a subsequent change in amenities and services, a notice describing those amenities and services. This form has since been combined with the Fair Housing Disclosure Notice into a replacement document called a "Tenant Rights and Resources Guide". Acceptable corrective documentation to resolve the violations for units 108, 117, and 224 was submitted January 3, 2017, 176 days past the corrective deadline, after an administrative penalty informal conference notice was sent;
- f. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for unit 103, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. Acceptable corrective documentation to resolve the violation was submitted January 3, 2017, 176 days past the corrective deadline, after an administrative penalty informal conference notice was sent; and
- g. Respondent failed to provide an Annual Eligibility Certifications for units 120, 126, 237, 226, and 236, a violation of 10 TAC §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household. Acceptable corrective documentation to resolve the violations was submitted January 3, 2017, 176 days past the corrective deadline, after an administrative penalty informal conference notice was sent.

7. The following violations remain outstanding at the time of this order:

- a. Affirmative marketing plan violation described in FOF #6a;
- b. Tenant Rights and Resources Guide lease notice violation described in FOF #6c; and
- c. Tenant Rights and Resources Guide lease notice violation described in FOF #6d;

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan.
5. Respondent violated 10 TAC §10.614 in 2016 by failing to properly calculate a utility allowance.
6. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
7. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to provide a Tenant Rights and Resources Guide to units 103 and 224, and have the households sign acknowledgment forms.
8. Respondent violated 10 TAC §10.613 in 2014, by failing to execute the Notice of Amenities and Services for units 108, 117, and 224.
9. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2015, by failing to provide documentation that household income was within prescribed limits upon initial occupancy for unit 103.
10. Respondent violated 10 TAC §10.609 in 2016 by failing to collect Annual Eligibility Certifications for units 120, 226, 237, 226, and 236.
11. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
12. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

13. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
14. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before May 29, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System ("CMTS") by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

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

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 3, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1

File Monitoring Violation Resources and Instructions

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. Refer to the following link for copies of forms that are referenced below:

<http://www.tdhca.state.tx.us/pmcomp/forms.htm>

3. Technical support and training presentations are available at the following links:

Affirmative Marketing: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>

4. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

5. **Important notes -**

- i. Do not backdate any documents listed below.
- ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

6. **Affirmative marketing plan –**

How to prepare a compliant plan and marketing materials: First read the rule at 10 TAC §10.617, then watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm> to gain a general understanding regarding affirmative marketing. Next, review the following list of frequent problems observed, which include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations that are least likely to apply *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply;
- All properties must affirmatively market to the disabled population;
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area;
- Not including evidence of special outreach efforts, such as marketing letters, to those “least likely to apply” populations through specific media, organizations, or community contacts that work with “least likely to apply” populations or work in areas where “least likely to apply” populations live; and
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process.

Steps to complete affirmative marketing plan:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply. The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The groups *currently* identified by the tool are: Persons with Disabilities, Black/African American, Hispanic, and Asian. Persons with Disabilities must always be selected as a group least likely to apply. You must run this Tool yourself to ensure that the data remains the same. If you use this Tool and save a copy with your Plan, you may rely upon its results. Alternatively, you may perform your own analysis to determine groups that are considered least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified.
- c. Identify specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply, including organizations that assist persons with disabilities. For example, a local housing authority serves the general public, not a specific racial or ethnic demographic; therefore, marketing to the housing authority is not affirmative marketing. The same is true for the Department Of Human Services, Texas Work Force Solutions, and Texas Neighborhood Service. A Hispanic Chamber of Commerce or local Hispanic publication could be an avenue to market to the Hispanic population if that group is identified as one that is least likely to apply. Similarly, local groups that focus on helping the mentally disabled, physically disabled, disabled veteran affairs groups, etc, could be a way to market to the disabled community. Some examples of groups that focus on the disabled: Easter Seals, United Cerebral Palsy, American Council of the Blind, The Blinded Veterans Association.
- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
- e. Comply with all requirements of 10 TAC §10.617;
- f. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms "reasonable accommodation" and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *"Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX."*
- g. Maintain all documentation in your files for future review.

What to submit: Once your Affirmative Marketing plan *and* outreach materials are complete, the owner must review them, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2.

6. Lease violations, including Tenant Rights and Resources Guide, Fair Housing Disclosure Notice, and Notice of Amenities and Services.

What to submit: The owner must review the applicable Owner Certification at Attachment 2, verify that all requirements described by the certification have been met, then submit a signed Owner Certification via CMTS.

Attachment 2

Owner Certifications

(see attached)

Once you complete the requirements of Attachment 1, the owner should review these certifications, then sign and submit via CMTS.

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Autumn Creek CMTS ID: 906

The above referenced Development was monitored on 1/27/2016 to determine if the Development is in compliance with the requirements of the HTC program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.617, Affirmative Marketing Requirements. Please see attached Findings Report for details as to the specific reason for which the noncompliance was cited.

Under 10 TAC §2.401(c)(1), *The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.617 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.617 is attached to ensure ongoing compliance.*

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.617 has been corrected in the manner described and that all required affirmative marketing requirements under §10.617 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
March 2017

Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance

Development Name: Autumn Creek CMTS ID: 906

The above referenced Development was monitored on 1/27/2016 to determine if the Development is in compliance with the requirements of the HTC program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.613(k) which states:

(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

- (1) Information about Fair Housing and tenant choice;
- (2) Information regarding common amenities, unit amenities, and services; and,
- (3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.
- (4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.

Through this certification, you hereby certify the following:

1. That a correctly executed Tenant Rights and Resources Guide is laminated and posted in a common area of the leasing office;
2. All low-income households have been provided the Tenant Rights and Resources Guide and executed the required acknowledgement; and,
3. All future low-income households will be provided the Tenant Rights and Resources Guide and execute the acknowledgement of receipt no more that 120 days prior to move in .

Under 10 TAC §2.401(e), a person shall be recommended for debarment if they control a Development that during two sequential monitoring visits is found to be out of compliance with the lease requirements described in §10.613. If at the next onsite review, there has been not been an ownership transfer and noncompliance is assessed for failure to execute required lease provisions, the owner will be recommended for debarment from participation in programs administered by the Department. A copy of §10.613 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.613(k) has been corrected in the manner described and that all required lease language under §10.613 is in the lease and lease addendum. I further certify that I understand that if this event of noncompliance is cited at the next onsite review of _____, the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

IDHCA
December 2016

Attachment 3:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

1d

BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action regarding the adoption of Agreed Final Orders concerning Pinnacle properties, including Rosemont of Oak Hollow (HTC 01435 / BOND MF048 / CMTS 445), Rosemont at Timber Creek (HTC 010157 / CMTS 300), and Rosemont at Sierra Vista (HTC 04482 / CMTS 4179)

RECOMMENDED ACTION

WHEREAS, Rosemont of Oak Hollow (“Oak Hollow”), owned by Oak Hollow Housing, L.P., had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, Rosemont at Timber Creek (“Timber Creek”), owned by TX Timbercreek Housing, L.P., had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, Rosemont at Sierra Vista (“Sierra Vista”), owned by TX Scyene Housing, L.P., has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, all findings that had been referred for an administrative penalty for Oak Hollow and Timber Creek were resolved informally before consideration by the Enforcement Committee, but multiple violations were corrected after the deadlines set by that Committee;

WHEREAS, all but one finding that had been referred for an administrative penalty for Sierra Vista were resolved informally before consideration by the Enforcement Committee;

WHEREAS, on March 28, 2017, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into Agreed Final Orders stipulating that violations occurred, and assessing no administrative penalty for Oak Hollow and Timber Creek, and an Agreed Final Order assessing an administrative penalty of \$500 for Sierra Vista, to be fully forgiven if all violations are resolved as specified in the Agreed Final Order on or before May 29, 2017;

WHEREAS, unresolved compliance findings include a household income violation for unit 10103 at Sierra Vista; and

WHEREAS, staff has based its recommendations for Agreed Final Orders on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that three Agreed Final Orders, one assessing an administrative penalty of \$500 for Rosemont at Sierra Vista, subject to forgiveness as outlined above, and two assessing no administrative penalty but stipulating that violations occurred at Rosemont of Oak Hollow and Rosemont at Timber Creek, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, are hereby adopted as the order of this Board.

BACKGROUND

The following properties and owners are related entities under the Pinnacle portfolio. All are self-managed by Pinnacle, American Management Services Central, LLC, and received funding from TDHCA for new construction.

Property	Owner	LURA Effective Dates	Units	Location
Rosemont of Oak Hollow ("Oak Hollow")	Oak Hollow Housing, L.P. ("Oak Hollow Owner")	HTC: 10/22/2002 BOND: 12/1/2001	153	Dallas
Rosemont at Timber Creek ("Timber Creek")	TX Timbercreek Housing, L.P. ("Timber Creek Owner")	HTC: 6/23/2003	100	Dallas
Rosemont at Sierra Vista ("Sierra Vista")	TX Scyene Housing, L.P. ("Sierra Vista Owner")	HTC: 8/10/2006	250	Dallas

Records of the Texas Secretary of State do not list individual owners or members for Oak Hollow Owner or Timber Creek Owner, instead listing layers of corporations, eventually terminating with Delaware corporations, as shown in the signature lines of the proposed Agreed Final Orders. Readily available public documents do not list individual members and officers for Delaware corporations, but Pinnacle has represented that Larry Goodman is the president of CAH-IDA Holdings, LLC, which ultimately controls Oak Hollow Owner and Timber Creek Owner. Records of the Texas Secretary of State show that Sheila Reynolds is a director and vice president, and Vicki Horton is a director of Laureland / Scyene Holding Company, Inc., which ultimately controls Sierra Vista Owner. Pinnacle represents that Troy Broussard is the president of Laureland / Scyene Holding Company, Inc. Ted Broadfoot, Larry Goodman, and Deann Davis attended the informal conference on March 28, 2017, as representatives of Pinnacle and the owning entities. All three properties list Larry Goodman as the primary owner contact and Mollie Kickbush as the primary management company contact in CMTS. CMTS also lists Melissa Stampley as onsite manager for Oak Hollow, Annie McGriff as onsite manager for Timber Creek, and Chandra Barkwell as onsite manager for Sierra Vista.

The following compliance violations identified during 2015 were referred for an administrative penalty and have been resolved:

Oak Hollow:

1. Failure to maintain a compliant Affirmative Marketing Plan and evidence of associated marketing efforts.
2. Household income violations for 12 units.

Timber Creek:

1. Failure to maintain a compliant Affirmative Marketing Plan and evidence of associated marketing efforts.
2. Household income violations for 7 units.

Sierra Vista:

1. Household income violations for 11 units.

The following compliance violations identified at Sierra Vista during 2015 were referred for an administrative penalty and are unresolved. All other findings for the properties are corrected.

1. Household income violations for 1 unit.

Owner participated in an informal conference with the Enforcement Committee on March 28, 2017, and agreed to sign Agreed Final Orders with the following terms:

Oak Hollow:

1. A \$0 administrative penalty, but stipulating that violations occurred and were not timely corrected.

Timber Creek:

1. A \$0 administrative penalty, but stipulating that violations occurred and were not timely corrected.

Sierra Vista:

1. A \$500 administrative penalty, subject to forgiveness as indicated below;
2. Owner must correct the file monitoring violation as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before May 29, 2017;
3. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$500 will be forgiven; and
4. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, Agreed Final Orders assessing no administrative penalty but stipulating that violations occurred and were not timely resolved are recommended for Rosemont of Oak Hollow and Rosemont at Timber Creek, and an Agreed Final Order assessing a probated and, upon successful completion of probation, fully forgivable administrative penalty in the amount of \$500 is recommended for Rosemont at Sierra Vista. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST TX
TIMBERCREEK HOUSING, L.P. WITH
RESPECT TO
ROSEMONT AT TIMBER CREEK
(HTC 01057/ CMTS # 300)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **TX TIMBERCREEK HOUSING, L.P.**, a Texas limited partnership (“Respondent”).

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 2001, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$555,757 to build and operate Rosemont at Timber Creek (“Property”) (HTC file No. 01057 / CMTS No. 300 / LDLD No. 641).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective June 23, 2003, and filed of record at Document Number 200302699624 of the Official Public Records of Real Property of Dallas County, Texas (the “Records”), as amended by a First Amendment executed on July 15, 2005, and filed in the Records at Document Number 200503437655.

3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on December 14, 2015, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 12, 2016, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An acceptable plan was submitted October 4, 2016, 145 days past the corrective deadline, after an administrative penalty informal conference notice was sent; and
 - b. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 116, 414, 612, 915, 1115, 1412, and 1713, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. File documentation was collected, but property did not provide asset verifications in the form required by the Compliance Division. The final asset verification was submitted on November 3, 2016, 175 days past the corrective deadline, after an administrative penalty informal conference notice was sent. The documentation corrected the findings for units 116, 612 and 1115. Findings for units 414, 915, 1412, and 1713 were dropped.
5. All violations listed above have been resolved.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

4. Respondent violated 10 TAC §10.617 in 2015, by failing to provide a complete affirmative marketing plan;
5. Respondent violated Section 4 of the LURA and 10 TAC §10.611 in 2015 by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 116, 612, and 1115.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
9. An administrative penalty of \$0 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$0.

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 1, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

ENFORCEMENT ACTION AGAINST
TX SCYENE HOUSING, L.P.
WITH RESPECT TO
ROSEMONT AT SIERRA VISTA
(HTC FILE # 04482 / CMTS # 4179)

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§
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§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **TX SCYENE HOUSING, L.P.**, a Texas limited partnership (“Respondent”).

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 2004, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$776,433 to build and operate Rosemont at Sierra Vista (“Property”) (HTC file No. 04482 / CMTS No. 4179 / LDLD No. 329).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective August 10, 2006, and filed of record at Document Number 200600472880 of the Official Public Records of Real Property of Dallas County, Texas.

3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on December 2, 2015, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a September 4, 2016, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1106, 4106, 7101, 10103, 25104, 30103, 21102, 21201, 21103, 36106, 38103, and 39103, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. File documentation was collected, but property did not provide asset verifications in the form required by the Compliance Division. Asset verifications were submitted between March 10, 2017 and March 27, 2017, 187 to 204 days past the corrective deadline, after an administrative penalty informal conference notice was sent. The documentation corrected all findings except for unit 10103.
5. The following violations remain outstanding at the time of this order:
 - a. Household income violation described in FOF #4.a;

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated Section 4 of the LURA and 10 TAC §10.611 in 2015 by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1106, 4106, 7101, 10103, 25104, 30103, 21102, 21201, 21103, 36106, 38103, and 39103.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

5. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
6. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
7. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
8. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before May 29, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

[remainder of page intentionally blank]

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (“CMTS”) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

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

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1

File Monitoring Violation Resources and Instructions

1. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
2. **Important notes -**
 - i. Do not backdate any documents listed below.
 - ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.
3. **Household income violation for unit 10103:**

Circumstance	Instruction
If unit is still occupied by the affected household, and that household qualifies for occupancy	Either 1) complete a retroactive certification that completely and clearly documents the sources of assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Submit a copy of the original application, asset verifications and updated Income Certification for review; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement.
If unit is occupied by a new qualified household	Submit the full tenant file*.
If unit is occupied by a nonqualified household on a month-to-month lease	A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.** B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after May 29, 2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.
If unit is occupied by a nonqualified household with a non-expired lease	A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.** B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after May 29, 2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.
If unit has been vacant <i>more than</i> 30 days	A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA. B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after May 29, 2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.

<p>If unit has been vacant <i>less than</i> 30 days</p>	<p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after May 29, 2017 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</p>
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**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and Tenant Rights and Resources Guide Acknowledgment.*

*** If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with requirements of the rule at 10 TAC 10.610(f)*

Attachment 2:
Texas Administrative Code

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

(a) **Ownership Transfer Notification.** All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) **Requirement.** Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) **Transfers Prior to 8609 Issuance or Construction Completion.** Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) **Non-Profit Organizations.** If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the

Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

ENFORCEMENT ACTION AGAINST
OAK HOLLOW HOUSING, L.P. WITH
RESPECT TO
ROSEMONT OF OAK HOLLOW
(HTC 01435/BOND MF048/CMTS # 445)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") considered the matter of whether enforcement action should be taken against **OAK HOLLOW HOUSING, L.P.**, a Texas limited partnership ("Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 2001, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$776,433 to build and operate Rosemont of Oak Hollow ("Property") (HTC file No. 01435 / BOND No. MF048/ CMTS No. 445 / LDDL No. 640).

2. Respondent signed a land use restriction agreement (“HTC LURA”) regarding the Property. The HTC LURA was effective October 22, 2002, and filed of record at Document Number 200209096350 of the Official Public Records of Real Property of Dallas County, Texas.
3. Respondent signed a land use restriction agreement (“BOND LURA”) regarding the Property. The BOND LURA was effective December 1, 2001, and filed of record at Document Number 200101645031 of the Official Public Records of Real Property of Dallas County, Texas.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. An on-site monitoring review was conducted on December 4, 2015, to determine whether Respondent was in compliance with HTC LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the HTC LURA and TDHCA rules. Notifications of noncompliance were sent and a May 29, 2016, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An acceptable plan was submitted October 14, 2016, 128 days past the corrective deadline, after an administrative penalty informal conference notice was sent; and
 - b. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1202, 1206, 1213, 1214, 1301, 1304, 1311, 1316, 2104, 2128, 2220, and 2308, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the HTC LURA, which requires screening of tenants to ensure qualification for the program. File documentation was collected, but property did not provide asset verifications in the form required by the Compliance Division. The final asset verification was submitted on December 13, 2016, 198 days past the corrective deadline, after an administrative penalty informal conference notice was sent. The documentation corrected the findings for units 1202, 1213, 1214, 1311, 1316, and 2308. Findings for units 1206, 1301, 1304, 2104, 2128 and 2220 were dropped.
6. All violations listed above have been resolved.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.617 in 2015, by failing to provide a complete affirmative marketing plan.
5. Respondent violated Section 4 of the HTC LURA and 10 TAC §10.611 in 2015 by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1202, 1213, 1214, 1311, 1316, and 2308.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
9. An administrative penalty of \$0 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$0.

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 1, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the HTC LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the HTC LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the HTC LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the HTC LURA does not require such continual ownership or a material HTC LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, HTC LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

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BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Lakewood Gardens (HTC 91059 / CMTS 2305)

RECOMMENDED ACTION

WHEREAS, Lakewood Gardens, owned by SBI Lakewood Gardens LP (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on March 28, 2017, an Owner’s representative participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$1,500, with \$750 to be paid within 30 days of Board’s adoption of the Agreed Final Order and the remaining \$750 to be forgiven if property staff attends training and all violations are resolved as specified in the Agreed Final Order on or before July 26, 2017;

WHEREAS, unresolved compliance findings include a written policies and procedures violation, a utility allowance violation, an affirmative marketing plan violation, and two lease notice violations; and

WHEREAS, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$1,500, subject to partial forgiveness as outlined above for noncompliance at Lakewood Gardens, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

SBI Lakewood Gardens LP ("Owner") is the owner of Lakewood Gardens ("Property"), a low income apartment complex composed of 46 units, located in Dallas County. Records of the Texas Secretary of State list the following members and/or officers: Steve Saye and Jeffrey Saye. CMTS lists both as the primary contact(s) for Owner. Selena Villarreal attended the informal conference with authorization to represent Owner. The property is self managed and the onsite manager is Cinthya Macias.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by a prior owner in 1991 in consideration for a housing tax credit allocation in the annual amount of \$38,910 to rehabilitate and operate the Property. Current owner acquired the property in 1997. The file does not indicate whether prior approval was received, but the LURA remains in effect per Section 2 of the LURA which stipulates that its restrictions run with the land.

The following compliance violations identified during 2016 were referred for an administrative penalty and have been resolved:

1. Failure to provide pre-onsite documentation;
2. Lease violations relating to failure to provide and execute required notices, including:
 - a. Failure to post the Tenant Rights and Resources Guide in a common area in the office;
 - b. Failure to execute the Tenant Rights and Resources Guide Acknowledgments for units 202 and 217;
 - c. Failure to execute the Notice of Amenities and Services for unit 202; and
 - d. Failure to execute the Fair Housing Disclosure Notice for unit 202.

The following compliance violations identified during 2016 were referred for an administrative penalty and are unresolved:

1. Failure to maintain compliant written policies and procedures, including tenant selection criteria;
2. Failure to calculate a utility allowance;
3. Failure to maintain a compliant Affirmative Marketing Plan and evidence of associated marketing efforts;
4. Lease violations relating to failure to provide and execute required notices, including:
 - a. Failure to execute the Notice of Amenities and Services for unit 207; and
 - b. Failure to execute the Fair Housing Disclosure Notice for unit 207.

An Owner representative participated in an informal conference with the Enforcement Committee on March 28, 2017, and agreed to sign an Agreed Final Order with the following terms:

1. A \$1,500 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must submit \$750 portion of the administrative penalty on or before May 27, 2017;
3. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before July 26, 2017;

4. Onsite manager and his/her supervisor must attend First Thursday Income Eligibility Training, then provide copies of completion certificates to TDHCA, on or before July 26, 2017;
5. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$750 will be forgiven; and
6. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of \$1,500 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
SBI LAKEWOOD GARDENS LP
WITH RESPECT TO
LAKEWOOD GARDENS
(HTC FILE # 91059 / CMTS # 2305)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") considered the matter of whether enforcement action should be taken against **SBI LAKEWOOD GARDENS LP**, a Texas limited partnership ("Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 1991, Richard W. Buck ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$38,910 to build and operate Lakewood Gardens (fka Bora Bora) ("Property") (HTC file No. 91059 / CMTS No. 2305 / LDLD No. 656).
2. Prior Owner signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective December 11, 1991, and filed of record at Volume 91243, Page 0013 of the Official Public Records of Real Property of Dallas County, Texas ("Records"). In

accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.

3. Respondent took ownership of the Property in 1997 and, although an Agreement to Comply was not signed, Respondent is bound to the terms of the LURA in accordance with Section 2 thereof.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. An on-site monitoring review was conducted on January 28, 2016, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a July 11, 2016, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Tenant Selection Criteria, now Written Policies and Procedures), which requires all developments to establish written policies and procedures, including tenant selection criteria, that meet minimum TDHCA requirements. Policies were submitted, but did not comply with minimum requirements and the finding is unresolved;
 - b. Respondent failed to submit pre-onsite documentation, a violation of 10 TAC §10.607 (Reporting Requirements) and 10 TAC §10.618 (Onsite Monitoring), which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review. The violation was corrected on January 12, 2017, 185 days past the original deadline, after intervention by the Enforcement Committee;
 - c. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. No utility allowance has been submitted;
 - d. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing Requirements), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was received in response to an administrative penalty informal conference notice, but the plan omitted the required marketing materials to prove that the development was carrying out marketing to the disabled. A plan was

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

submitted, but did not comply with minimum requirements and the finding is unresolved;

- e. Respondent failed to provide the Fair Housing Disclosure Notice for units 202 and 207, a violation of 10 TAC §10.612 (Tenant File Requirements), which, at the time of move-in for each unit during 2014, required all developments to provide prospective households with a fair housing disclosure notice within a certain time period. This form has since been combined with the Notice of Amenities and Services into a replacement document called a "Tenant Rights and Resources Guide", which also has not been provided. The violation for unit 202 was corrected on January 12, 2017, 185 days past the original deadline, after intervention by the Enforcement Committee. The violation for unit 207 remains unresolved;
 - f. Respondent failed to provide a Notice of Amenities and Services to units 202 and 207 a violation of 10 TAC §10.613 (Lease Requirements), which, at the time of move-in for this unit during 2014, required owners to provide to each household, at the time of execution of an initial lease and whenever there was a subsequent change in amenities and services, a notice describing those amenities and services. This form has since been combined with the Fair Housing Disclosure Notice into a replacement document called a "Tenant Rights and Resources Guide", which also has not been provided. The violation for unit 202 was corrected on January 12, 2017, 185 days past the original deadline, after intervention by the Enforcement Committee. The violation for unit 207 remains unresolved;
 - g. Respondent failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. The violation was corrected on January 12, 2017, 185 days past the original deadline, after intervention by the Enforcement Committee; and
 - h. Respondent failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for units 202 and 217, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. The violations were corrected on January 12, 2017, 185 days past the original deadline, after intervention by the Enforcement Committee.
6. The following violations remain outstanding at the time of this order:
- a. Written policies and procedures violation described in FOF #5.a;
 - b. Utility allowance violation described in FOF #5.c;
 - c. Affirmative marketing plan violation described in FOF #5.d;
 - d. Lease notice violation described in FOF #5.e;
 - e. Lease notice violation described in FOF #5.f.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.610 in 2016, by not maintaining written policies and procedures, including tenant selection criteria, meeting TDHCA requirements.
5. Respondent violated 10 TAC §10.607 and §10.618 in 2016, by not submitting pre-onsite documentation in preparation for the monitoring review.
6. Respondent violated 10 TAC §10.614 in 2016 by failing to establish a utility allowance.
7. Respondent violated 10 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan and evidence of outreach marketing.
8. Respondent violated 10 TAC §10.612 in 2014, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for units 202 and 207.
9. Respondent violated 10 TAC §10.613 in 2014, by failing to execute the Notice of Amenities and Services for units 202 and 207.
10. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
11. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to provide a Tenant Rights and Resources Guide to units 202 and 207, and have the households sign acknowledgment forms.
12. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
13. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

14. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
15. An administrative penalty of \$1,500 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$1,500, subject to partial deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$750 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before May 27, 2017.

IT IS FURTHER ORDERED that the onsite property manager and his/her supervisor shall attend First Thursday Income Eligibility Training offered by TDHCA and submit a completion certificate to the Agency on or before July 26, 2017.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before July 26, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty in the amount of \$750, which will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$750 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (“CMTS”) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. Penalty payment(s) must be submitted to the following address:

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

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 3, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1

File Monitoring Violation Resources and Instructions

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. Refer to the following link for copies of forms that are referenced below:

<http://www.tdhca.state.tx.us/pmcomp/forms.htm>

3. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

4. **Written tenant selection criteria** – Respondent submitted written tenant selection criteria, however, the criteria were incomplete.

How to prepare compliant criteria: Prepare updated written policies and procedures addressing all requirements at 10 TAC §10.610. Staff recommends using that rule as a checklist. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. A cheat sheet for further verification is available at <http://www.tdhca.state.tx.us/pmcdocs/15-AOCR-TSC.pdf>, however, please note that the cheat sheet was only published as an aide for annual reporting and, as such, should not be relied upon as a primary resource; you are required to follow all requirements of the rule.

What to submit: Once your written policies and procedures are complete, the owner must review the criteria, then submit them via CMTS along with the applicable signed Owner Certification included at Attachment 2.

6. **Utility Allowance** – Respondent has not submitted a utility allowance. There are many methods to calculate a utility allowance. See <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm> and 10 TAC §10.614. The easiest method, but not the only acceptable method, would be to use the utility allowance published by the applicable housing authority, the City of Dallas Housing Authority. Their website is at <http://www.dhadal.com> and their published utility allowance is currently available at <http://www.dhadal.com/Business/2/Utility%20Allowances>.

What to submit: Calculate a utility allowance in accordance with 10 TAC §10.614 and submit a copy of the new utility allowance via CMTS. Also submit the development's updated Unit Status Report within CMTS to demonstrate that the utility allowance has been implemented. Rent will be tested development-wide once the proper allowance is implemented, and any resulting noncompliance will be cited at that time and provided a separate corrective action period of 90 days outside of this Agreed Final Order.

7. **All lease notice violations, including Fair Housing Disclosure Notice, and Notice of Amenities and Services.**

What to submit: The owner must review the applicable Owner Certification at Attachment 2, verify that all requirements described by the certification have been met, then submit the applicable signed Owner Certification via CMTS.

5. **Affirmative marketing plan –**

How to prepare a compliant plan and marketing materials: Respondent submitted a plan, but it did not comply with minimum requirements. First read the rule at 10 TAC §10.617, then watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm> to gain a general understanding regarding affirmative marketing. Next, review the following list of frequent problems observed, which include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations that are least likely to apply *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply;
- Not affirmatively marketing to the disabled. All properties must market to the disabled population;
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area. One exception would be if “Not Hispanic” is identified as a group that is least likely to apply;
- Not including evidence of special outreach efforts, such as marketing letters, to those “least likely to apply” populations through specific media, organizations, or community contacts that work with “least likely to apply” populations or work in areas where “least likely to apply” populations live; and
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process.

Steps to complete affirmative marketing plan:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply. The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The groups *currently* identified by the tool are Persons with Disabilities, Black/African American, not Hispanic, and Asian. Persons with disabilities must always be selected as a group least likely to apply. *You must run the Tool yourself to ensure that the data remains the same.* If you use this Tool and save a copy with your Plan in your files, you may rely upon its results. Alternatively, you may perform your own analysis to determine groups that are considered least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified.

If “not Hispanic” is identified as a group that is “least likely to apply”, this group will be marked in your plan as “Other” and you would write in “Not Hispanic”. Many owners assume that the “Not Hispanic” group identified in the Affirmative Marketing Web Tool means “White”. This is not necessarily the case. TDHCA’s Compliance Division

explains the “Not Hispanic” category like this: Each household member has a Race *and* an Ethnicity. The Race could be White, American Indian or Alaskan Native, Asian, Black or African American, or Native Hawaiian or Other Pacific Islander. The Ethnicity could be either Hispanic or Not Hispanic. In other words, a person could be Black/African American *and* Hispanic. Likewise, a person could be White *and* Hispanic. In other words, the “Not Hispanic” demographic is not just “White”, it is literally everyone who is “Not Hispanic”.

- c. Identify specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply, including organizations that assist persons with disabilities. For example, a local housing authority serves the general public, not a specific racial or ethnic demographic; therefore, marketing to the housing authority is not affirmative marketing *unless* you are required to market to Not-Hispanic populations, in which case more general marketing of this type would be acceptable to market to that group. An Asian Chamber of Commerce or local Asian publication could be an avenue to market to the Asian population if that group is identified as one that is least likely to apply. Similarly, local groups that focus on helping the mentally disabled, physically disabled, disabled veteran affairs groups, etc, could be a way to market to the disabled community. Some examples of groups that focus on the disabled: Easter Seals, United Cerebral Palsy, American Council of the Blind, The Blinded Veterans Association.
- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*
- g. Maintain all documentation in your files for future review.

What to submit: Once your Affirmative Marketing plan *and* outreach materials are complete, the owner must review them, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2.

Attachment 2
Owner Certifications
(see attached)

The rules at 10 TAC §10 that are referenced in the attached certifications are available at this link
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Lakewood Gardens CMTS ID: 2305

The above referenced Development was monitored on 1/28/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.610, Written Policies and Procedures. Please see attached Findings Report for details as to the specific policy/procedure affected and the reason for which the noncompliance was cited. Update that policy/procedure as detailed and submit a copy of the updated policy/procedure, with a revised effective date as required under the rule, to support this certification.

Under 10 TAC §2.401(c)(1), *The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.610 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.610 is attached to ensure ongoing compliance.*

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.610 has been corrected in the manner described and that all required written policies and procedures under §10.610 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2014

Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance

Development Name: Lakewood Gardens CMTS ID: 2305

The above referenced Development was monitored on 1/28/2017 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.613(k) which states:

(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

- (1) Information about Fair Housing and tenant choice;*
- (2) Information regarding common amenities, unit amenities, and services; and,*
- (3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.*
- (4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.*

Through this certification, you hereby certify the following:

1. That a correctly executed Tenant Rights and Resources Guide is laminated and posted in a common area of the leasing office;
2. All low-income households have been provided the Tenant Rights and Resources Guide and executed the required acknowledgement; and,
3. All future low-income households will be provided the Tenant Rights and Resources Guide and execute the acknowledgement of receipt no more that 120 days prior to move in .

Under 10 TAC §2.401(e), a person shall be recommended for debarment if they control a Development that during two sequential monitoring visits is found to be out of compliance with the lease requirements described in §10.613. If at the next onsite review, there has been not been an ownership transfer and noncompliance is assessed for failure to execute required lease provisions, the owner will be recommended for debarment from participation in programs administered by the Department. A copy of §10.613 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.613(k) has been corrected in the manner described and that all required lease language under §10.613 is in the lease and lease addendum. I further certify that I understand that if this event of noncompliance is cited at the next onsite review of _____, the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2016

Attachment 3:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

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BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Vicksburg Ltd. (HTC 91104 / CMTS 980)

RECOMMENDED ACTION

WHEREAS, Vicksburg, a low income apartment complex in Brown County, owned by Vicksburg Ltd. (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on March 28, 2017, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$500, to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before June 26, 2017;

WHEREAS, unresolved compliance findings include three lease violations relating to required lease notice, an Affirmative Marketing Plan violation, and a violation for failure to have compliant written tenant selection policies and procedures; and

WHEREAS, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$500, subject to forgiveness as outlined above for noncompliance at Vicksburg, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Vicksburg Ltd. (“Owner”) is the owner of Vicksburg (“Property”), a low income apartment complex composed of 44 units, located in Brown County. Records of the Texas Secretary of State list the following members and/or officers: Kristina McCann. CMTS lists Ronald McCann as the primary contact for Owner. The property is self managed, and the onsite manager listed in CMTS is Libby Hobbs. All three owner and management representatives attended the informal conference.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by Owner in 1991 in consideration for a housing tax credit allocation in the amount of \$63,398 to build and operate the Property.

The following compliance violations identified during 2016 were referred for an administrative penalty and all are unresolved:

1. Lease violations relating to failure to provide and execute required notices, including:
 - a. Failure to execute the Tenant Rights and Resources Guide Acknowledgment for units 114 and 133; and
 - b. Failure to execute the Fair Housing Disclosure Notice for unit 122.
2. Failure to maintain a compliant Affirmative Marketing Plan and evidence of associated marketing efforts; and
3. Failure to maintain compliant written policies and procedures, including tenant selection criteria.

Owner participated in an informal conference with the Enforcement Committee on March 28, 2017, and agreed to sign an Agreed Final Order with the following terms:

1. A \$500 administrative penalty, subject to forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before June 26, 2017;
3. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$500 will be forgiven; and
4. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, fully forgivable administrative penalty in the amount of \$500 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
VICKSBURG LTD. WITH RESPECT
TO VICKSBURG LTD.
(HTC FILE # 91104 / CMTS # 980)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 27th day of April, 2017, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **VICKSBURG LTD.**, a Texas limited partnership (“Respondent”).

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 1991, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in the amount of \$63,398 to build and operate Vicksburg Ltd. (“Property”) (HTC file No. 91104 / CMTS No. 980 / LDLD No. 657).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 16, 1991, and filed of record at Volume 1096, Page 702 of the Official Public Records of Real Property of Brown County, Texas.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on February 3, 2016, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a June 7, 2016, corrective action deadline was set, however, the following violations were not fully corrected before the deadline:
 - a. Respondent failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for unit 114 and 133, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. These households vacated the units before signing the forms necessary to resolve the violation;
 - b. Respondent failed to provide the Fair Housing Disclosure Notice for unit 122, a violation of 10 TAC §10.608 (Lease Requirements), which, at the time of move-in during 2013, required all developments to provide prospective households with a fair housing disclosure notice within a certain time period. This form has since been combined with the Notice of Amenities and Services into a replacement document called a "Tenant Rights and Resources Guide", which also has not been provided because the household vacated the unit before signing the forms necessary to resolve the violation;
 - c. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing Requirements), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was received in response to an administrative penalty informal conference notice, but it was an old plan from 2014 that did not meet minimum standards; and
 - d. Respondent failed to maintain written policies and procedures, including tenant selection criteria, a violation of 10 TAC §10.610 (Tenant Selection Criteria, now Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
5. The following violations remain outstanding at the time of this order:
 - a. Lease notice violations described in FOF #5.a;
 - b. Lease notice violation described in FOF #5.b;
 - c. Affirmative marketing violation described in FOF #5.c;

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 10 and 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

- d. Written policies and procedures violation described in FOF #5.d.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated leasing requirements in 10 TAC §10.613 in 2015, by failing to provide a Tenant Rights and Resources Guide to units 114 and 133, and have the households sign acknowledgment form.
5. Respondent violated 10 TAC §10.608 in 2013, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for unit 122.
6. Respondent violated 10 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan.
7. Respondent violated 10 TAC §10.610 in 2016, by not maintaining written tenant selection criteria meeting TDHCA requirements.
8. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
9. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
10. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
11. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before June 26, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System ("CMTS") by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

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

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Attachment 3, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

Approved by the Governing Board of TDHCA on April 27, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared Leslie Bingham-Escareño, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 27th day of April, 2017, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Attachment 1

File Monitoring Violation Resources and Instructions

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

3. **Lease violations, including Tenant Rights and Resources Guide and Fair Housing Disclosure Notice** – The households in units 114, 122, and 133 moved out before signing the appropriate notices. This finding was previously uncorrectable, but the Compliance Division has prepared an Owner Certification that will now be accepted to resolve the finding.

What to submit: The owner must review the applicable Owner Certification at Attachment 2, verify that all requirements described by the certification have been met, then submit the signed Owner Certification via CMTS.

4. **Written tenant selection criteria** – Respondent submitted written tenant selection criteria, however, the criteria were incomplete.

How to prepare compliant criteria: Prepare updated written policies and procedures addressing all requirements at 10 TAC §10.610. Staff recommends using that rule as a checklist. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. A cheat sheet for further verification is available at <http://www.tdhca.state.tx.us/pmcdocs/15-AOCR-TSC.pdf>, however, please note that the cheat sheet was only published as an aide for annual reporting and, as such, should not be relied upon as a primary resource; you are required to follow all requirements of the rule.

What to submit: Once your written policies and procedures are complete, the owner must review the criteria, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2, along with a copy of the updated written policies with a new effective date.

5. **Affirmative marketing plan** –

How to prepare a compliant plan and marketing materials: First read the rule at 10 TAC §10.617, then watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm> to gain a general understanding regarding affirmative marketing. Next, review the following list of frequent problems observed, which include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply;

- Not affirmatively marketing to the disabled. All properties must market to the disabled;
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area;
- Not including evidence of special outreach efforts, such as marketing letters, to those “least likely to apply” populations through specific media, organizations, or community contacts that work with “least likely to apply” populations or work in areas where “least likely to apply” populations live;
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process; and

Steps to complete affirmative marketing plan:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply. The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The groups *currently* identified by the tool are Persons with Disabilities and Hispanic. Persons with disabilities must always be selected as a group least likely to apply. *You must run the Tool yourself to ensure that the data remains the same.* If you use this Tool and print a copy that you save with your Plan, you may rely upon its results. Alternatively, you may perform your own analysis to determine groups that are considered least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified.
- c. Identify specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply, including organizations that assist persons with disabilities. For example, a local housing authority serves the general public, not a specific racial or ethnic demographic; therefore, marketing to the housing authority is not affirmative marketing. A Hispanic Chamber of Commerce or local Hispanic publication could be an avenue to market to the Hispanic population if that group is identified as one that is least likely to apply. Similarly, local groups that focus on helping the mentally disabled, physically disabled, disabled veteran affairs groups, etc, could be a way to market to the disabled community. Some examples of groups that focus on the disabled: Easter Seals, United Cerebral Palsy, MHMR, American Council of the Blind, The Blinded Veterans Association.
- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo *and*

give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms "reasonable accommodation" and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *"Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX."*

- g. Maintain all documentation in your files for future review. Remember to keep a copy of the Affirmative Marketing Web Tool with the plan if you use its results.

What to submit: Once your Affirmative Marketing plan *and* outreach materials are complete, the owner must review them, then sign and upload to CMTS the applicable Owner Certification included at Attachment 2.

Attachment 2

Owner Certifications

(see attached)

Once you complete the requirements of Attachment 1, the owner should review these certifications, then sign and submit via CMTS.

The rules at 10 TAC §10 that are referenced in the attached certifications are available at this link

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Vicksburg CMTS ID: 980

The above referenced Development was monitored on 2/3/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.613(k) which states:

(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

- (1) Information about Fair Housing and tenant choice;*
- (2) Information regarding common amenities, unit amenities, and services; and*
- (3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.*
- (4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.*

Through this certification, you hereby certify the following:

1. That a correctly executed Tenant Rights and Resources Guide is laminated and posted in a common area of the leasing office;
2. All low-income households have been provided the Tenant Rights and Resources Guide and executed the required acknowledgement; and,
3. All future low-income households will be provided the Tenant Rights and Resources Guide and execute the acknowledgement of receipt no more that 120 days prior to move in .

Under 10 TAC §2401(e), a person shall be recommended for debarment if they control a Development that during two sequential monitoring visits is found to be out of compliance with the lease requirements described in §10.613. If at the next onsite review, there has been not been an ownership transfer and noncompliance is assessed for failure to execute required lease provisions, the owner will be recommended for debarment from participation in programs administered by the Department. A copy of §10.613 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.613(k) has been corrected in the manner described and that all required lease language under §10.613 is in the lease and lease addendum. I further certify that I understand that if this event of noncompliance is cited at the next onsite review of _____, the owner will be recommended for debarment.

Signature of Authorized Owner Representative Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2014

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Vicksburg

CMTS ID: 980

The above referenced Development was monitored on 2/3/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.610, Written Policies and Procedures. Please see attached Findings Report for details as to the specific policy/procedure affected and the reason for which the noncompliance was cited. Update that policy/procedure as detailed and submit a copy of the updated policy/procedure, with a revised effective date as required under the rule, to support this certification.

Under 10 TAC §2.401(c)(1), The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.610 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.610 is attached to ensure ongoing compliance.

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.610 has been corrected in the manner described and that all required written policies and procedures under §10.610 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
December 2016

**Texas Department of Housing and Community Affairs
Owner Certification of Corrected Noncompliance**

Development Name: Vicksburg CMTS ID: 980

The above referenced Development was monitored on 2/3/2016 to determine if the Development is in compliance with the requirements of the Housing Tax Credit program. The review resulted in a finding of noncompliance under Title 10, Chapter 10, Subchapter F related to Compliance Monitoring, §10.617, Affirmative Marketing Requirements. Please see attached Findings Report for details as to the specific reason for which the noncompliance was cited.

Under 10 TAC §2.401(c)(1), *The Department may debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation. Repeated failure to comply with the provisions prescribed in §10.617 may be considered a material violation of the LURA. Owners that repeatedly and materially violate their LURAs will be recommended for debarment from participation in programs administered by the Department. A copy of §10.617 is attached to ensure ongoing compliance.*

I, _____, on behalf of _____, am a duly authorized representative, who is so authorized by reason of my position as _____ to hereby certify, as true and correct, that the above referenced noncompliance related to §10.617 has been corrected in the manner described and that all required affirmative marketing requirements under §10.617 are fully compliant with the rule. If at the next onsite review, there has not been an ownership transfer and this event of noncompliance is cited again, I understand that the owner will be recommended for debarment.

Signature of Authorized Owner Representative

Date

Warning: Title 18, Section 1001 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency in the United States as to any matter within its jurisdiction.

TDHCA
March 2017

Attachment 3:

Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

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

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

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

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

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

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

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

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BOARD ACTION REQUEST

ASSET MANAGEMENT

April 27, 2017

Presentation, discussion, and possible action regarding an Ownership Transfer prior to IRS Form 8609 issuance or construction completion for Heritage Square Apartments (File No. 14023)

RECOMMENDED ACTION

WHEREAS, Heritage Square Apartments (the “Development”) received an award of 9% Housing Tax Credits (“HTC”) in 2014 for the acquisition and rehabilitation of 40 multifamily units in Jacksonville, Cherokee County;

WHEREAS, the General Partner, K.F. Group, L.L.C. is solely owned by James W. Fieser, James J. Fieser, and Diane S. Kinney each holding a 33.3% interest in the entity;

WHEREAS, there are two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., owned by James J. Fieser and Diane S. Kinney, each holding a 50% interest in the entity.

WHEREAS, Diane S. Kinney, 33.3% principal of the General Partner, K.F. Group, L.L.C., and 50% owner of K.F. Development Services, Inc., has requested to be removed from the Ownership structures of both the Development Owner and Developer;

WHEREAS, no new entities or principals will be added to the ownership structure and James W. Fieser and James J. Fieser will each remain as 50% owners in the General Partner, K.F. Group, L.L.C.;

WHEREAS, James W. Fieser, who was used to meet the Experience Requirement in the Application, and Fieser Development, Inc. will still serve as the sole Developer for the Development; and

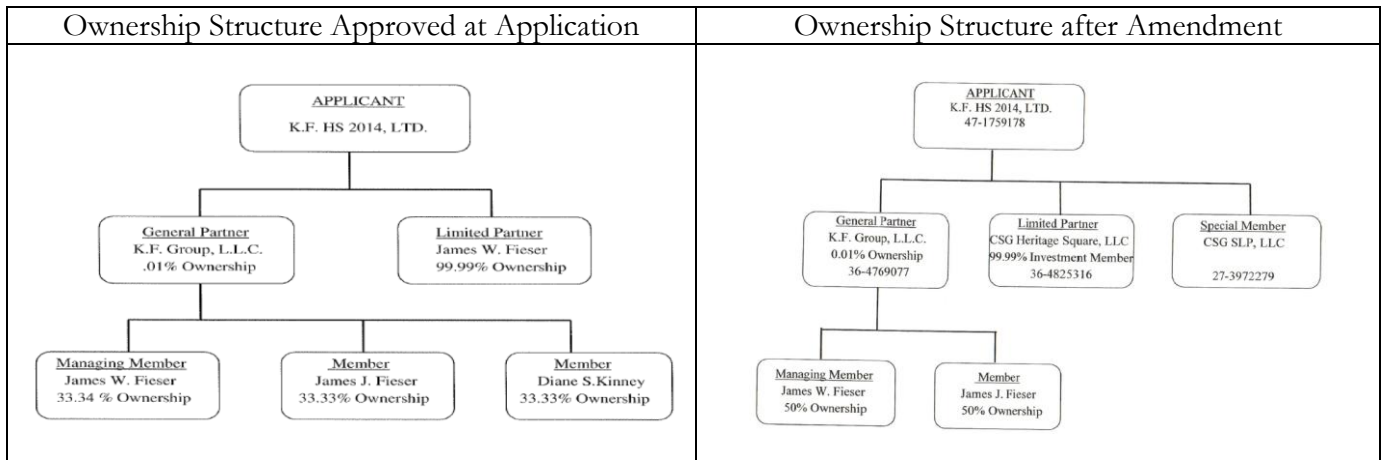
WHEREAS, the transfer of ownership is being requested prior to the issuance of IRS Form(s) 8609 and the completion of construction and 10 TAC §10.406(e) requires that parties reflected in the Application that have control must remain in the ownership structure and retain such control, unless approved otherwise by the Board;

NOW, therefore, it is hereby

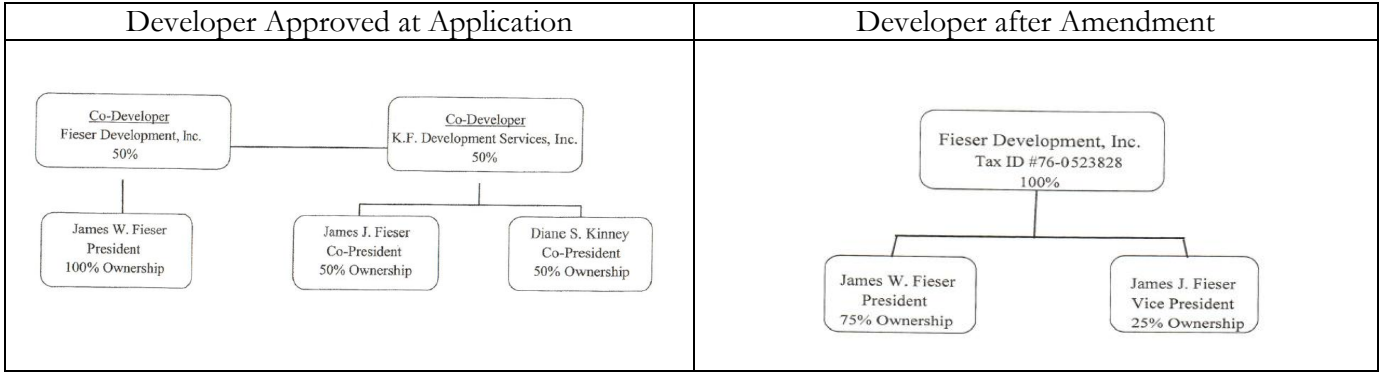
RESOLVED, that the ownership transfer for Heritage Square Apartments is approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Heritage Square Apartments was approved in 2014 for the acquisition and rehabilitation of 40 multifamily units located in Jacksonville, Cherokee County. The owner is requesting to remove Diane S. Kinney as a 33.3% principal of the General Partner, K.F. Group, L.L.C. At Application, K.F. Group, L.L.C. had three principals: James W. Fieser, James J. Fieser, and Diane S. Kinney each having a 33.3% ownership interest in the entity. With this change, K.F. Group, L.L.C. will remain as the sole General Partner entity and James W. Fieser and James J. Fieser will split the ownership 50/50 while Diane S. Kinney will be departing the ownership structure. The reason for this request as provided by the Applicant is that Diane S. Kinney made the decision to withdraw and terminate her membership from the ownership because she did not want any liability for the project. There are no new entities or principals coming into the ownership structure.



In addition to the ownership change, the owner has requested an amendment to the Application by removing the 50% Co-Developer, K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%) from the Developer structure. At Application, the Developer was comprised of two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%). The reason for this request was that Diane S. Kinney wants to remove herself from all developer responsibilities because she does not want any liability for the project. Furthermore, Diane S. Kinney, James J. Fieser, and James W. Fieser executed a Termination Agreement on July 20, 2015, which removed K.F. Development Services, Inc. as Co-Developer and confirmed Fieser Development Inc., solely owned by James W. Fieser (75%) and James K. Fieser (25%) as the sole Developer for the project. James W. Fieser was used to meet the Experience requirement in the 2014 Application, pursuant to 10 TAC §10.204(6) of the 2014 Uniform Multifamily Rules. The change to the Developer does not require approval by the board, but is being disclosed in this board action as it was a part of the Applicant’s request.



Staff recommends approval of the requested change in ownership for Heritage Square Apartments.

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 10, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Dee Patience
221 East 11th Street
Austin, Texas 78701

RE: Amendment Requests

Dee,

I understand that Kent Bedell is out of the office this week. He had instructed us to submit our Amendment Requests to you, since they needed to be received no later than March 13, 2017.

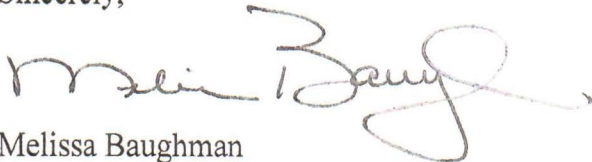
I have enclosed Amendment Requests for the following:

- K.F. Creekside, LTD. – Creekside Village Apartments, TDHCA #14024, CMTS #4998
- K.F. HP 2014, LTD. – Heritage Place Apartments, TDHCA #14025, CMTS #1011
- K.F. HS 2014, LTD. – Heritage Square Apartments, TDHCA #14023, CMTS #862

Also included is an Amendment Fee of \$2,500 with each request.

If you have questions or require additional information, please give me a call at 281-419-6114.

Sincerely,



Melissa Baughman
Sr. Project Coordinator

Sent via Fed Ex

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 9, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. HS 2014, LTD. – TDHCA #14023

Mr. Bedell,

Please accept this letter as my formal request to remove Diane S. Kinney as a principal of the ownership of K.F. HS 2014, LTD., TDHCA #14023 and to request an amendment to remove the Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

Request to Remove a Principal from the Ownership

The reason for the removal of Diane S. Kinney as a principal of the general partner is that Ms. Kinney, at a Special Meeting of all the Members of K.F. Group, L.L.C., a Texas Limited Liability Company, (the “Company”) on December 31, 2014, requested withdrawal and termination of her membership in the Company and requested that it be effective January 1, 2015. Ms. Kinney unconditionally waived all claims to any and all present and future assets of the Company. It was agreed upon by all Members. Attached is a copy of the Amendment to the Operating Agreement of K.F. Group, L.L.C. that was executed on December 31, 2014 as well as a copy of the original Operating Agreement of K.F. Group, L.L.C. that was adopted on April 6th, 2013.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to withdraw or terminate herself as a principal of the general partner for the application listed above. We did not note the change at 10% Test because the Ownership Structure of the Applicant did not change. K.F. Group, L.L.C. was and still is the general partner. It was our understanding that Members can change without any issue, but the Manager would have to be approved. James W. Fieser is the Member and Manger of K.F. Group, L.L.C.
James W. Fieser was used as the experience for the Application.

The decision to withdraw and terminate her membership in the Company was a decision that Diane S. Kinney made independently and of her own free will. Diane S. Kinney was not used as the experience in the Application for K.F. HS 2014, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. I have attached a No Financial Impact Statement for your review. A copy of the original and revised Organizational Chart of the Applicant is attached.

Amendment to Application - Removal of Co-Developer from Development Structure

On September 24, 2014, a Co-Development Agreement was executed by James W. Fieser, Diane S. Kinney and James J. Fieser agreeing to Co-Develop the acquisition and rehab of the multi-family apartment community located at 1308 Jacksonville Square, Jacksonville, Cherokee County, Texas.

The reason for removal of K.F. Development Services, Inc. as the Co-Developer of the Application for K.F. HS 2014, LTD. was due to Diane S. Kinney requesting to remove herself from all ownership responsibilities in the project. Ms. Kinney indicated that she did not want the liability.

When Ms. Kinney requested to remove herself from all areas of the ownership structure, James W. Fieser and James J. Fieser agreed to terminate the Co-Development Agreement. On July 20, 2015, a Termination Agreement was executed terminating the Co-Development Agreement dated September 24, 2014 (the "Contract") between Fieser Development, Inc. and K.F. Development Services, Inc.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to remove herself from any ownership role in the project. This was a decision that Ms. Kinney made independently.

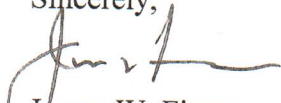
Diane S. Kinney was not used as the experience in the Application for K.F. HS 2014, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. Please see attached No Financial Impact Statement for your review.

Enclosed is our check in the amount of \$2,500 for the Amendment to the Application for the removal of the Co-Developer, K.F. Development Services, Inc.

If you have questions or need additional information, please give us a call at 281-419-6114.

Sincerely,


James W. Fieser
President

ATTACHMENTS

- Operating Agreement of K.F. Group, L.L.C.
- Amendment to the Operating Agreement of K.F. Group, L.L.C.
- Financial Impact Statement – Withdrawal and Termination of Diane S. Kinney as Member of K.F. Group, L.L.C.
- Co-Development Agreement – K.F. HS 2014, LTD.
- Termination Agreement – K.F. HS 2014, LTD.
- Organizational Charts for Applicant/Owner
- Organizational Charts for Developer
- Financial Impact Statement – Removal of Co-Developer from Development Structure

**OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

This Company Agreement of this MANAGER MANAGED LIMITED LIABILITY COMPANY organized pursuant to the Texas Business Organizations code, is entered into and shall become effective as of the Effective Date by and among the Company and the persons executing this Agreement as Members. It is the Members express intention to create a limited liability company in accordance with the Act, as currently written or subsequently amended or redrafted. Therefore, all provisions of this document shall be construed consistent with the afore described intent of the Members. Accordingly, in consideration of the conditions contained herein, he/she/they agree as follows:

ARTICLE I

Company Formation

- 1.1 **FORMATION.** The Members hereby form a Limited Liability Company ("Company") subject to the provisions of state law as currently in effect as of this date. Articles of Organization shall be filed with the Texas Secretary of State.
- 1.2 **REGISTERED OFFICE AND AGENT.** The name and address of the initial Texas registered agent for service of process shall be James W. Fieser, 26303 Oakridge Drive, Spring, Texas
- 1.3 **TERM.** The Company shall continue for a perpetual period.
- (a) Members whose capital interest as defined in Article 2.2 exceeds 50 percent vote for dissolution; or
- (b) Any event which makes it unlawful for the business of the Company to be carried on by the Members; or
- (c) Any other event causing dissolution of this Limited Liability Company under applicable state laws.
- 1.4 **CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.3, in the event of an occurrence described in ARTICLE 1.3(c), if there are at least one remaining

Member(s), said remaining Member(s) shall have the right to continue the business of the Company.

- 1.5 **BUSINESS PURPOSE.** The Company shall conduct any and all lawful business deemed appropriate to execute the company's objectives.
- 1.6 **PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be 26303 Oakridge Drive, Spring, Texas.
- 1.7 **THE MEMBERS.** The name and address of each member are listed below at Certification of Members. Members are the owners of this company.
- 1.8 **ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, no additional members may be admitted to the Company through issuance by the company of a new interest in the Company without the prior unanimous written consent of the Members.

ARTICLE II

Capital Contributions

- 2.1 **INITIAL CONTRIBUTIONS.** The Members initially shall contribute to the Company capital and the company shall keep record of the amount each contributed.
- 2.2 **ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

ARTICLE III

Profits, Losses and Distributions

- 3.1 **PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company, and as amended from time to time in accordance with Treasury Regulations.

- 3.2 **DISTRIBUTIONS.** The Members shall determine and distribute available funds annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Managers.

ARTICLE IV

Management

- 4.1 **MANAGEMENT OF THE BUSINESS.** This company shall be managed by an elected Manager. The initial elected manager shall be James W. Fieser. Members holding a majority of the capital interests in the Company may elect a Manager as the Members determine. The Manager will serve as the Manager of this company until a meeting of members is held and new Manager elected.
- 4.2 **MEMBERS.** Members shall not take part in the operation of the Company's affairs, unless they are elected Manager.
- 4.3 **POWERS OF MANAGER.** The Managers as authorized by Members, will make decisions as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the pre-payment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of their management powers, the Manager is authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all checks, drafts and other orders for the payment of the Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and, (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing.
- 4.4 **COMPANY INFORMATION.** Upon request, the Manager shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Manager's possession regarding the Company or its activities.
- 4.5 **INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an

action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.

- 4.6 **RECORDS.** The Manager shall cause the Company to keep at its principal place of business or at another location agreeable by the Members, the following:
- (a) A current list in alphabetical order of the full name and the last known street address of each Member;
 - (b) A copy of the Certificate of Formation and the Company Operating Agreement and all amendments;
 - (c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
 - (d) Copies of any financial statements of the limited liability company for the three most recent years.

ARTICLE V

Bookkeeping

- 5.1 **BOOKS.** The Manager shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or at another location agreeable by the Members. Such books shall be kept on such method of accounting as the Manager shall select. The company's accounting period shall be the calendar year.
- 5.2 **MEMBER'S ACCOUNTS.** The Managers shall maintain separate capital and distribution accounts for each member. Each member's capital account shall consist of his initial capital contribution increased by:


- (a) Any additional capital contribution made by him/her;
- (b) Credit balances transferred from his distribution account to his capital account; and decreased by:
 - (a) Distributions to him/her in reduction of Company capital;
 - (b) The Member's share of Company losses if charged to his/her capital account.

5.3 **REPORTS.** The Managers shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.

CERTIFICATION OF MANAGING MEMBER

The undersigned hereby agrees to serve as manager for this LLC.

Signed this 6th day of April, 2013.



Signature
Managing Member ("Manager")

James W. Fieser
26303 Oakridge Drive
Spring, Texas

CERTIFICATION OF MEMBERS

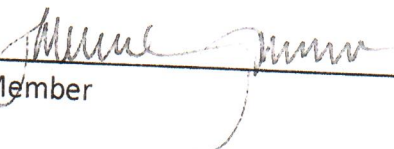
The undersigned hereby agree, acknowledge and certify to adopt this Operating Agreement.

Signed this 6th day of April, 2013.




Member Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas

**AMENDMENT
to the
OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

We, the Members of K. F. Group, L.L.C., a Texas Limited Liability Company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, at a Special Meeting of all the Members held on December 31, 2014, do hereby resolve and confirm the following:

1. WHEREAS Diane S. Kinney, an initial Member of the Company, has requested withdrawal and termination of her membership in the Company, to become effective on January 1, 2015;

AND WHEREAS Diane S. Kinney unconditionally waives all claim to any and all present and future assets of the Company;

AND WHEREAS the Company and its Members hereby agrees to indemnify and hold Diane S. Kinney harmless from any liability arising from its activities during her membership in the Company;

NOW THEREFORE the Members of the Company unanimously agree to terminate and end her membership effective January 1, 2015.

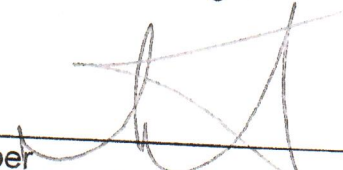
2. All other provisions of the Operating Agreement dated April 6, 2013 remain in full force and effect.

Agreed to this 31st day of December 2014.



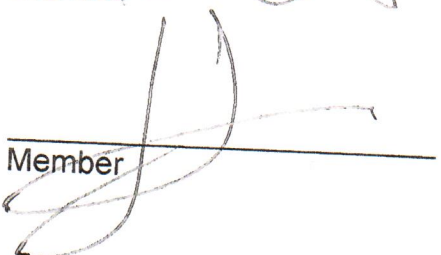
Member and Manager Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas 77380



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas 77380



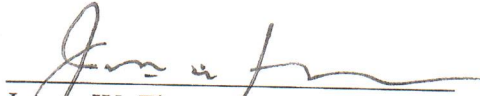
Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas 77380

Financial Impact Statement

The withdrawal and termination of Diane S. Kinney as a Member of K.F. Group, L.L.C., a Texas limited liability company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, does not have any financial impact on the Company.

Signed this 9th day of March, 2017.


James W. Fieser
Member and Manager
K.F. Group, L.L.C.

CO-DEVELOPMENT AGREEMENT - K.F. HS 2014, LTD.

THIS CO-DEVELOPER AGREEMENT ("Agreement") is made and entered into this 24 day of September, 2014 by and among Fieser Development, Inc., a Texas corporation (the "Developer"), and K.F. Development Services, Inc., a Texas corporation (the "Co-Developer").

RECITALS

1. The Developer has special abilities and experience in developing affordable housing projects eligible for low-income housing tax credits offered under the Internal Revenue Code of 1986.
2. The Partnership, K.F. HS 2014, LTD., desires to redevelop and rehabilitate a 40 unit multi-family apartment community with a street address of 1308 Jacksonville Square, Jacksonville, Cherokee County, Texas (the "Project").
3. Prior to the formation of the Partnership, Developer performed substantial services in connection with the development of the Project.
4. The Developer desires to engage Co-Developer to complete the development and to coordinate the construction of the Project.
5. As consideration for the compensation payable to the Co-Developer hereunder, the Co-Developer is willing to perform the services described herein and to guarantee completion of the Project, as more particularly set forth herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purpose of Agreement This Agreement specifies the services to be performed by the Co-Developer for the Developer as an independent contractor. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Partnership Agreement. The Co-Developer shall be responsible for ensuring the Project is constructed in a good and workmanlike manner in accordance with the Plans.
2. Development Services The Co-Developer has performed the following development services for the benefit of the Partnership:
 - (a) Obtaining local approvals for the construction of the Project;
 - (b) Negotiating the acquisition of the property on which the Project is to be acquired and rehabilitated;

- (c) Causing the Partnership to engage an architect to rehabilitate the Project; and
- (d) Assisting the Partnership in developing financial pro formas for the Project reflecting the reasonably anticipated cash distributions and tax benefits to be recognized by the Partnership.

3. Compensation The total compensation payable by the Partnership to the Developer as consideration for the services described in Section 2 of this Agreement shall be a Developer Fee paid by the Partnership, approved and funded through Churchill Stateside Group, LLC, its affiliates, and/or assigns., (the "Developer Fee"). The estimated Developer Fee is \$470,737.00, subject to final adjustments by the Partnership, Churchill Stateside Group, LLC. 5% of the Developer Fee actually received, less any un-reimbursable monies paid out by the Developer in the pursuit of said property, shall be paid by the Developer to the Co-Developer.

The Developer Fee shall be *paid* as set forth in the Partnership agreement.

4. Term of Agreement The term of this Agreement shall begin on the date set forth below and end when the Developer Fee has been paid in full.

5. Miscellaneous

A. Notices: Notices required under the Agreement shall be given in the manner set forth in the Partnership Agreement.

B. Interpretation: This Agreement shall be interpreted and construed in a manner that is consistent with the terms and provisions of the Partnership Agreement.

C. Amendment: This Agreement shall not be amended except in writing executed by all parties.

D. Waiver: No waiver of any right under this Agreement shall be deemed effective unless contained in a writing signed by all parties charged with such waiver, and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future such right or of any other right arising under this Agreement.

E. Severability: If any provision of this Agreement is or becomes invalid, illegal, or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken and the remainder of this Agreement shall remain in full force and effect.

F. Successors: This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their respective heirs, successors, and assigns, as the case may be.

G. Governing Law and Venue: This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.

H. Attorney Fees: Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

[Signatures on the following pages]


**Signature Page to the
Co-Development Agreement
(Heritage Square Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Corporation"

Fieser Development, Inc.,
a Texas Corporation

By:



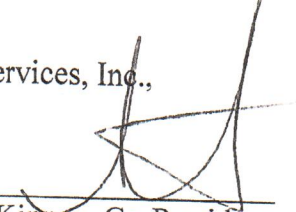
James W. Fieser, President

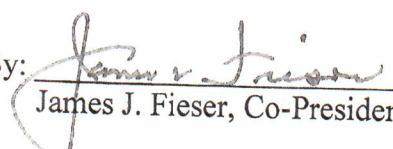
**Signature Page to the
Co-Development Agreement
(Heritage Square Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Co-Developer"

K.F. Development Services, Inc.,
a Texas Corporation

By: 
Diane S. Kinney, Co-President

By: 
James J. Fieser, Co-President

TERMINATION AGREEMENT – K.F. HS 2014, LTD.

THIS TERMINATION AGREEMENT (the “Agreement”) is made and entered into this 20 day of July, 2015 (the “Effective Date”) between Fieser Development, Inc. (the “Developer”) and K.F. Development Services, Inc. (the “Co-Developer”).

RECITALS

A. Developer and Co-Developer are parties to that certain Co-Development Agreement dated September 24, 2014 (the “Contract”) concerning the re-development of the multi-family apartment community with street address of 1308 Jacksonville Square, Jacksonville, Cherokee County, Texas (the “Project”). A copy of the Contract is attached to this Agreement as Exhibit “A” and made a part hereof for all purposes.

B. Co-Developer has requested that the Contract be terminated, and Developer has agreed to such termination.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties hereto agree as follows:

1. Termination. Developer hereby releases Co-Developer from any and all claims, suits, or demands, which Developer may have by virtue of the execution of the Contract. Co-Developer also hereby releases Developer from any and all rights, claims, suits, or demands which Co-Developer may have by virtue of the execution of the Contract. Developer and Co-Developer now declare the Contract **NULL AND VOID** and of no further force and effect.
2. Binding Effect. This Agreement shall bind and inure to the benefit of all the respective heirs, personal representatives, successors, and assigns of the parties hereto.
3. Governing Law and Venue. This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.
4. Attorney’s Fees. Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

[Signatures on the following pages]

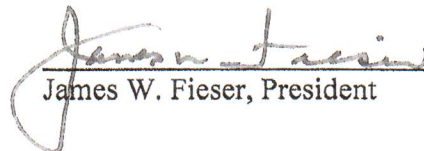
Signature Page
to
Termination Agreement
(Southwood Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Developer”

Fieser Development, Inc.,
a Texas Corporation

By:


James W. Fieser, President

Signature Page
to
Termination Agreement
(Southwood Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Co-Developer”

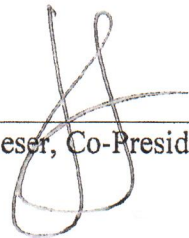
K.F. Development Services, Inc.,
a Texas Corporation

By:



Diane S. Kinney, Co-President

By:



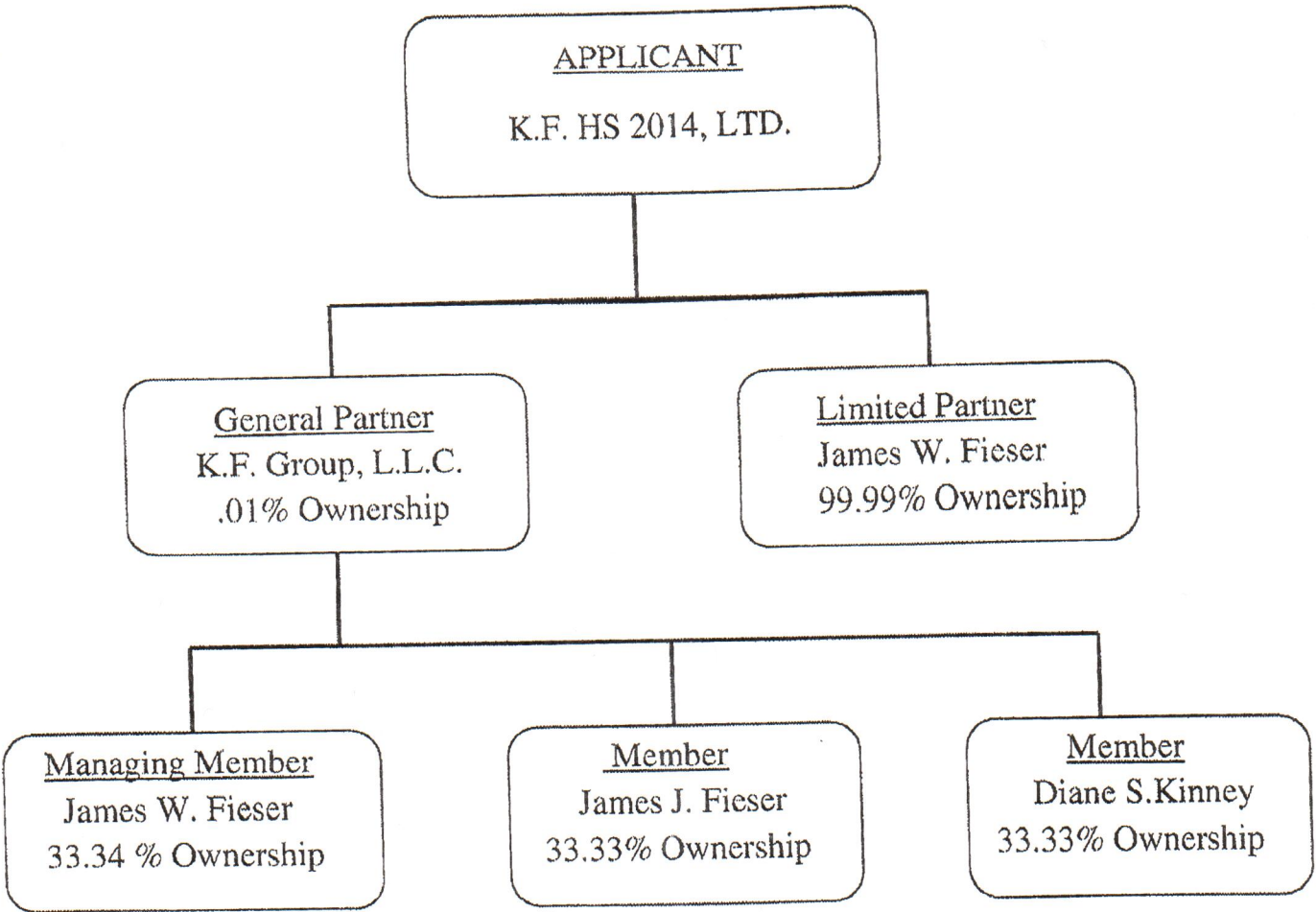
James J. Fieser, Co-President

Exhibit "A"

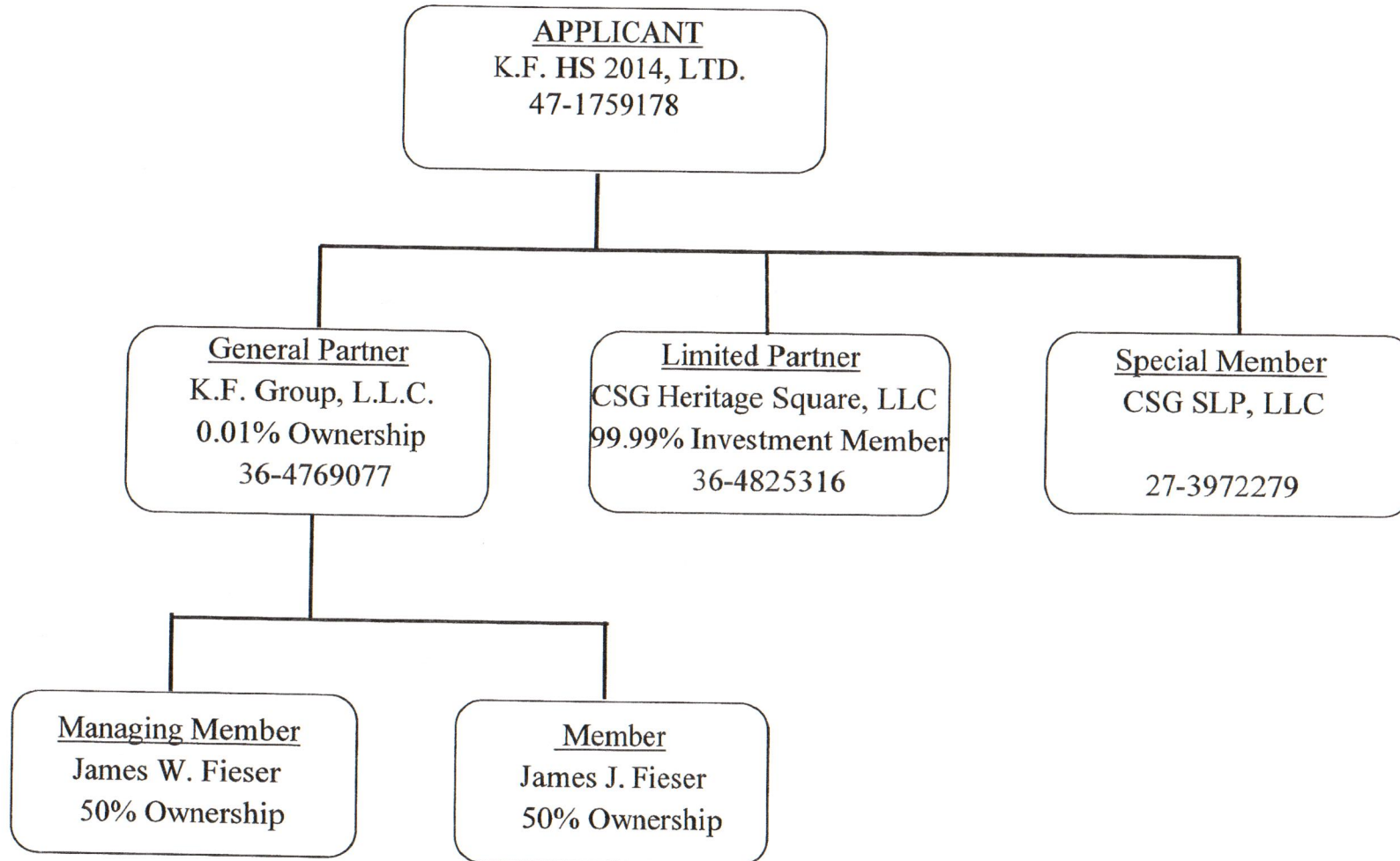
Co-Development Agreement – K.F. HS 2014, LTD.

[see attached]

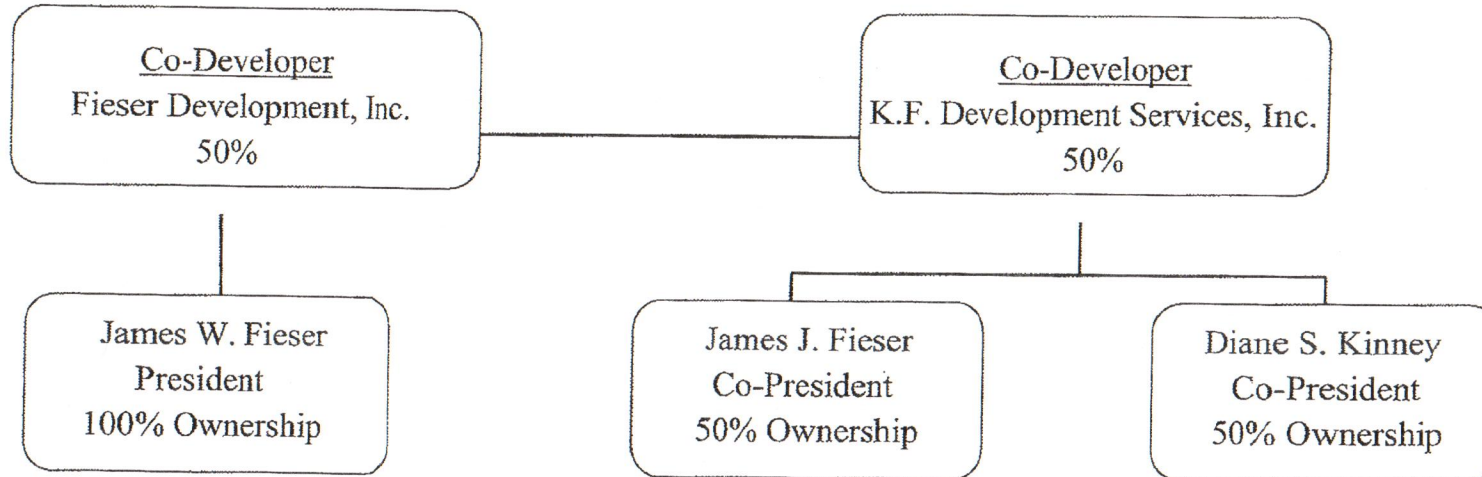
Exhibit "A"



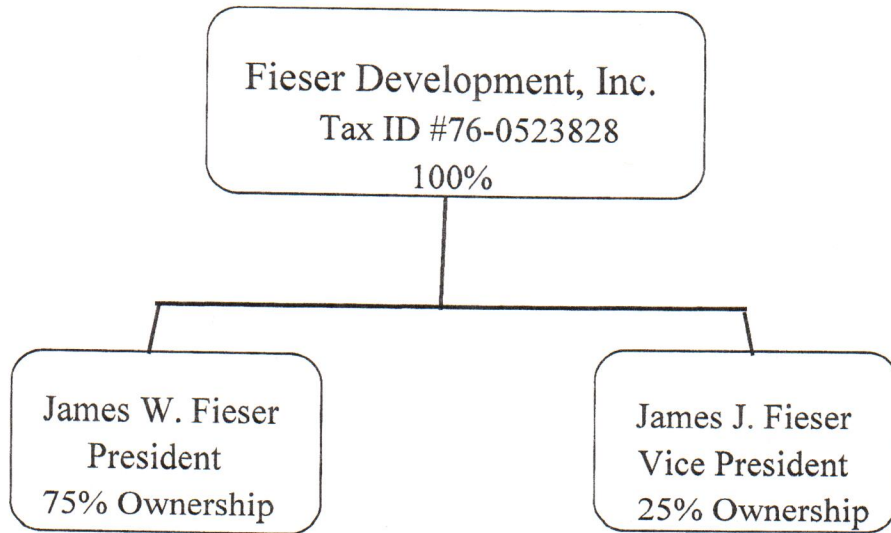
OWNER ORGANIZATIONAL CHART



DEVELOPER



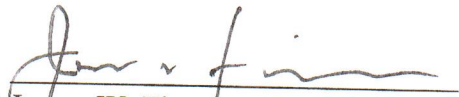
DEVELOPER



Financial Impact Statement

The withdrawal and termination of K.F. Development Services, Inc. as the Co-Developer of the Project, Heritage Square Apartments, has no financial impact.

Signed this 9th day of March, 2017.



James W. Fieser
President

Fieser Development, Inc., Developer

March 21, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. HS 2014, LTD. – TDHCA #14023

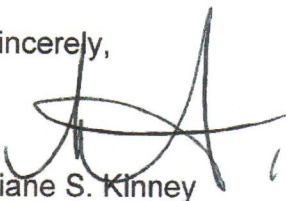
Mr. Bedell,

Please accept this letter as my statement for withdrawing as a principal of the ownership of K.F. HS 2014, LTD., TDHCA #14023 and request to be removed as Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

On December 31, 2014, I requested to be withdrawn and terminate membership in the Company effective January 1, 2015. I made this decision of my own free will and with the purpose of removing myself from all ownership responsibilities and eliminating personal liability.

If you have any additional questions or would like to discuss further, please contact me at 713-598-3266.

Sincerely,



Diane S. Kinney

BOARD ACTION REQUEST

ASSET MANAGEMENT

April 27, 2017

Presentation, discussion, and possible action regarding an ownership transfer prior to IRS Form 8609 issuance or construction completion for Creekside Village Apartments (File No. 14024)

RECOMMENDED ACTION

WHEREAS, Creekside Village Apartments (the “Development”) received an award of 9% Housing Tax Credits (“HTC”) in 2014 for the acquisition and rehabilitation of 40 multifamily units in Jacksonville, Cherokee County;

WHEREAS, the General Partner, K.F. Group, L.L.C. is solely owned by James W. Fieser, James J. Fieser, and Diane S. Kinney each holding a 33.3% interest in the entity;

WHEREAS, there are two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser and Diane S. Kinney, each holding a 50% interest in the entity.

WHEREAS, Diane S. Kinney, 33.3% principal of the General Partner, K.F. Group, L.L.C., and 50% owner of K.F. Development Services, Inc., has requested to be removed from the Ownership structures of both the Development Owner and Developer;

WHEREAS, no new entities or principals will be added to the ownership structure and James W. Fieser and James J. Fieser will each remain as 50% owners in the General Partner, K.F. Group, L.L.C.;

WHEREAS, James W. Fieser, who was used to meet the Experience Requirement in the Application, and Fieser Development, Inc. will still serve as the sole Developer for the Development; and

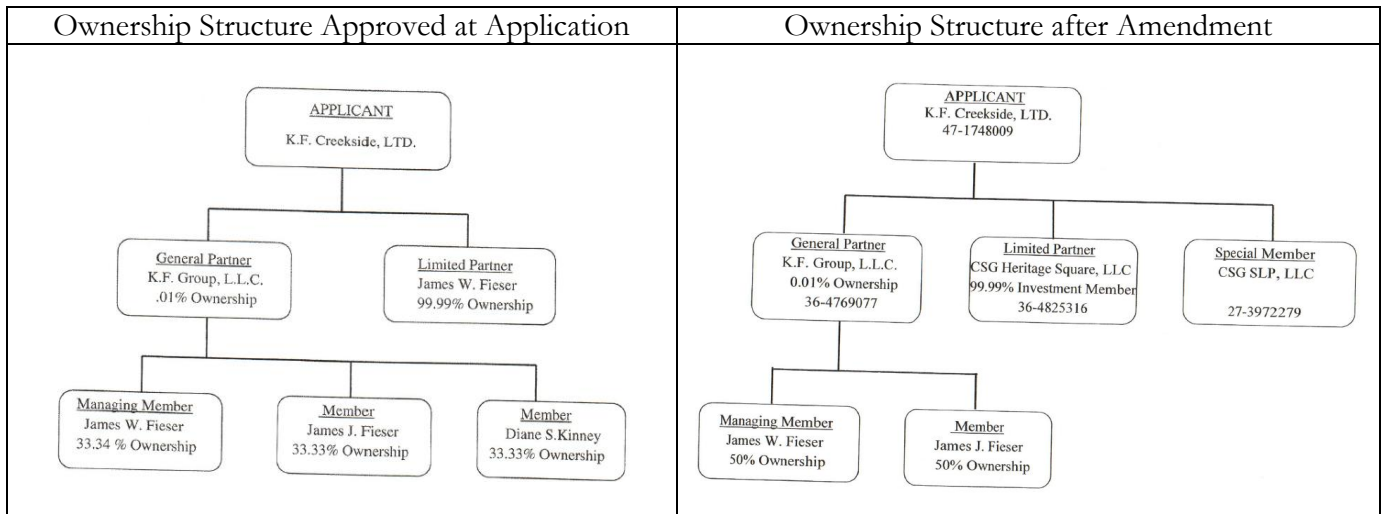
WHEREAS, the transfer of ownership is being requested prior to the issuance of IRS Form(s) 8609 and the completion of construction and 10 TAC §10.406(e) requires that parties reflected in the Application that have control must remain in the ownership structure and retain such control, unless approved otherwise by the Board;

NOW, therefore, it is hereby

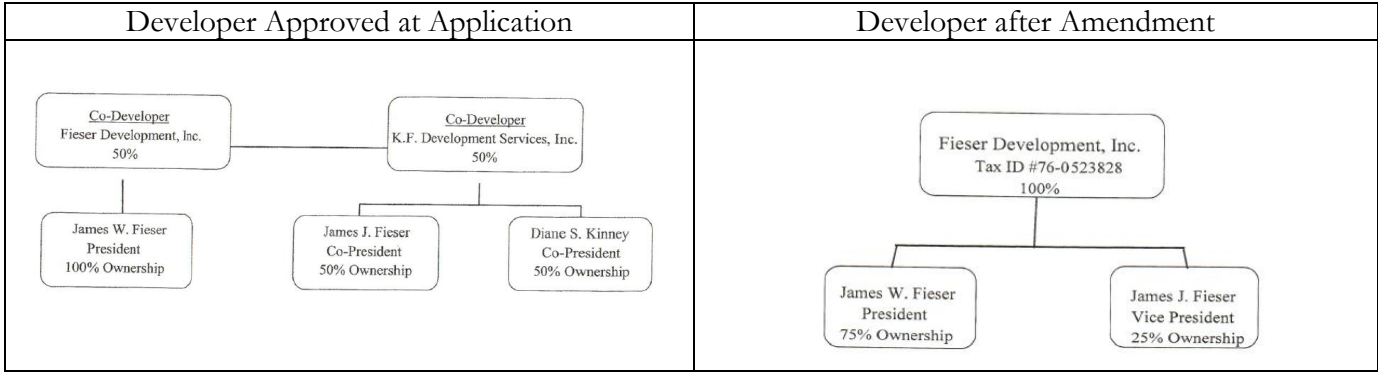
RESOLVED, that the ownership transfer for Creekside Village Apartments is approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Creekside Village Apartments was approved in 2014 for the acquisition and rehabilitation of 40 multifamily units located in Jacksonville, Cherokee County. The owner is requesting to remove Diane S. Kinney as a 33.3% principal of the General Partner, K.F. Group, L.L.C. At Application, K.F. Group, L.L.C. had three principals: James W. Fieser, James J. Fieser, and Diane S. Kinney each having a 33.3% ownership interest in the entity. With this change, K.F. Group, L.L.C. will remain as the sole General Partner entity and James W. Fieser and James J. Fieser will split the ownership 50/50 while Diane S. Kinney will be departing the ownership structure. The reason for this request as provided by the Applicant is that Diane S. Kinney made the decision to withdraw and terminate her membership from the ownership because she did not want any liability for the project. There are no new entities or principals coming into the ownership structure.



In addition to the ownership change, the owner has requested an amendment to the Application by removing the 50% Co-Developer, K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%) from the Developer structure. At Application, the Developer was comprised of two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%). The reason for this request was that Diane S. Kinney wants to remove herself from all developer responsibilities because she does not want any liability for the project. Furthermore, Diane S. Kinney, James J. Fieser, and James W. Fieser executed a Termination Agreement on July 20, 2015, which removed K.F. Development Services, Inc. as Co-Developer and confirmed Fieser Development Inc., solely owned by James W. Fieser (75%) and James K. Fieser (25%) as the sole Developer for the project. James W. Fieser was used to meet the Experience requirement in the 2014 Application, pursuant to 10 TAC §10.204(6) of the 2014 Uniform Multifamily Rules. The change to the Developer does not require approval by the board, but is being disclosed in this board action as it was a part of the Applicant's request.



Staff recommends approval of the requested change in ownership for Creekside Village Apartments.

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 10, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Dee Patience
221 East 11th Street
Austin, Texas 78701

RE: Amendment Requests

Dee,

I understand that Kent Bedell is out of the office this week. He had instructed us to submit our Amendment Requests to you, since they needed to be received no later than March 13, 2017.

I have enclosed Amendment Requests for the following:

- K.F. Creekside, LTD. – Creekside Village Apartments, TDHCA #14024, CMTS #4998
- K.F. HP 2014, LTD. – Heritage Place Apartments, TDHCA #14025, CMTS #1011
- K.F. HS 2014, LTD. – Heritage Square Apartments, TDHCA #14023, CMTS #862

Also included is an Amendment Fee of \$2,500 with each request.

If you have questions or require additional information, please give me a call at 281-419-6114.

Sincerely,



Melissa Baughman
Sr. Project Coordinator

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 9, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. Creekside, LTD. – TDHCA #14025

Mr. Bedell,

Please accept this letter as my formal request to remove Diane S. Kinney as a principal of the ownership of K.F. Creekside, LTD., TDHCA #14025 and to request an amendment to remove the Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

Request to Remove a Principal from the Ownership

The reason for the removal of Diane S. Kinney as a principal of the general partner is that Ms. Kinney, at a Special Meeting of all the Members of K.F. Group, L.L.C., a Texas Limited Liability Company, (the "Company") on December 31, 2014, requested withdrawal and termination of her membership in the Company and requested that it be effective January 1, 2015. Ms. Kinney unconditionally waived all claims to any and all present and future assets of the Company. It was agreed upon by all Members. Attached is a copy of the Amendment to the Operating Agreement of K.F. Group, L.L.C. that was executed on December 31, 2014 as well as a copy of the original Operating Agreement of K.F. Group, L.L.C. that was adopted on April 6th, 2013.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to withdraw or terminate herself as a principal of the general partner for the application listed above. We did not note the change at 10% Test because the Ownership Structure of the Applicant did not change. K.F. Group, L.L.C. was and still is the general partner. It was our understanding that Members can change without any issue, but the Manager would have to be approved. James W. Fieser is the Member and Manager of K.F. Group, L.L.C. James W. Fieser was used as the experience for the Application.

The decision to withdraw and terminate her membership in the Company was a decision that Diane S. Kinney made independently and of her own free will. Diane S. Kinney was not used as the experience in the Application for K.F. Creekside, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. I have attached a No Financial Impact Statement for your review. A copy of the original and revised Organizational Chart of the Applicant is attached.

Amendment to Application - Removal of Co-Developer from Development Structure

On September 24, 2014, a Co-Development Agreement was executed by James W. Fieser, Diane S. Kinney and James J. Fieser agreeing to Co-Develop the acquisition and rehab of the multi-family apartment community located at 1501 South Bolton, Jacksonville, Cherokee County, Texas.

The reason for removal of K.F. Development Services, Inc. as the Co-Developer of the Application for K.F. Creekside, LTD. was due to Diane S. Kinney requesting to remove herself from all ownership responsibilities in the project. Ms. Kinney indicated that she did not want the liability.

When Ms. Kinney requested to remove herself from all areas of the ownership structure, James W. Fieser and James J. Fieser agreed to terminate the Co-Development Agreement. On July 20, 2015, a Termination Agreement was executed terminating the Co-Development Agreement dated September 24, 2014 (the "Contract") between Fieser Development, Inc. and K.F. Development Services, Inc.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to remove herself from any ownership role in the project. This was a decision that Ms. Kinney made independently.

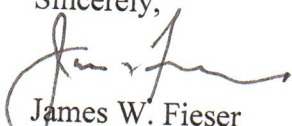
Diane S. Kinney was not used as the experience in the Application for K.F. Creekside, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. Please see attached No Financial Impact Statement for your review.

Enclosed is our check in the amount of \$2,500 for the Amendment to the Application for the removal of the Co-Developer, K.F. Development Services, Inc.

If you have questions or need additional information, please give us a call at 281-419-6114.

Sincerely,


James W. Fieser
President

ATTACHMENTS

- Operating Agreement of K.F. Group, L.L.C.
- Amendment to the Operating Agreement of K.F. Group, L.L.C.
- Financial Impact Statement – Withdrawal and Termination of Diane S. Kinney as Member of K.F. Group, L.L.C.
- Co-Development Agreement – K.F. Creekside, LTD.
- Termination Agreement – K.F. Creekside, LTD.
- Organizational Charts for Applicant/Owner
- Organizational Charts for Developer
- Financial Impact Statement – Removal of Co-Developer from Development Structure

**OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

This Company Agreement of this MANAGER MANAGED LIMITED LIABILITY COMPANY organized pursuant to the Texas Business Organizations code, is entered into and shall become effective as of the Effective Date by and among the Company and the persons executing this Agreement as Members. It is the Members express intention to create a limited liability company in accordance with the Act, as currently written or subsequently amended or redrafted. Therefore, all provisions of this document shall be construed consistent with the afore described intent of the Members. Accordingly, in consideration of the conditions contained herein, he/she/they agree as follows:

ARTICLE I

Company Formation

- 1.1 **FORMATION.** The Members hereby form a Limited Liability Company ("Company") subject to the provisions of state law as currently in effect as of this date. Articles of Organization shall be filed with the Texas Secretary of State.
- 1.2 **REGISTERED OFFICE AND AGENT.** The name and address of the initial Texas registered agent for service of process shall be James W. Fieser, 26303 Oakridge Drive, Spring, Texas
- 1.3 **TERM.** The Company shall continue for a perpetual period.
- (a) Members whose capital interest as defined in Article 2.2 exceeds 50 percent vote for dissolution; or
- (b) Any event which makes it unlawful for the business of the Company to be carried on by the Members; or
- (c) Any other event causing dissolution of this Limited Liability Company under applicable state laws.
- 1.4 **CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.3, in the event of an occurrence described in ARTICLE 1.3(c), if there are at least one remaining

Member(s), said remaining Member(s) shall have the right to continue the business of the Company.

- 1.5 **BUSINESS PURPOSE.** The Company shall conduct any and all lawful business deemed appropriate to execute the company's objectives.
- 1.6 **PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be 26303 Oakridge Drive, Spring, Texas.
- 1.7 **THE MEMBERS.** The name and address of each member are listed below at Certification of Members. Members are the owners of this company.
- 1.8 **ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, no additional members may be admitted to the Company through issuance by the company of a new interest in the Company without the prior unanimous written consent of the Members.

ARTICLE II

Capital Contributions

- 2.1 **INITIAL CONTRIBUTIONS.** The Members initially shall contribute to the Company capital and the company shall keep record of the amount each contributed.
- 2.2 **ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

ARTICLE III

Profits, Losses and Distributions

- 3.1 **PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company, and as amended from time to time in accordance with Treasury Regulations.

- 3.2 **DISTRIBUTIONS.** The Members shall determine and distribute available funds annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Managers.

ARTICLE IV

Management

- 4.1 **MANAGEMENT OF THE BUSINESS.** This company shall be managed by an elected Manager. The initial elected manager shall be James W. Fieser. Members holding a majority of the capital interests in the Company may elect a Manager as the Members determine. The Manager will serve as the Manager of this company until a meeting of members is held and new Manager elected.
- 4.2 **MEMBERS.** Members shall not take part in the operation of the Company's affairs, unless they are elected Manager.
- 4.3 **POWERS OF MANAGER.** The Managers as authorized by Members, will make decisions as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the pre-payment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of their management powers, the Manager is authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all checks, drafts and other orders for the payment of the Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and, (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing.
- 4.4 **COMPANY INFORMATION.** Upon request, the Manager shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Manager's possession regarding the Company or its activities.
- 4.5 **INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an

action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.

- 4.6 **RECORDS.** The Manager shall cause the Company to keep at its principal place of business or at another location agreeable by the Members, the following:
- (a) A current list in alphabetical order of the full name and the last known street address of each Member;
 - (b) A copy of the Certificate of Formation and the Company Operating Agreement and all amendments;
 - (c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
 - (d) Copies of any financial statements of the limited liability company for the three most recent years.

ARTICLE V

Bookkeeping

- 5.1 **BOOKS.** The Manager shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or at another location agreeable by the Members. Such books shall be kept on such method of accounting as the Manager shall select. The company's accounting period shall be the calendar year.
- 5.2 **MEMBER'S ACCOUNTS.** The Managers shall maintain separate capital and distribution accounts for each member. Each member's capital account shall consist of his initial capital contribution increased by:

(a) Any additional capital contribution made by him/her;
(b) Credit balances transferred from his distribution account to his capital account;
and decreased by:

(a) Distributions to him/her in reduction of Company capital;


(b) The Member's share of Company losses if charged to his/her capital account.

5.3 **REPORTS.** The Managers shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.

CERTIFICATION OF MANAGING MEMBER

The undersigned hereby agrees to serve as manager for this LLC.

Signed this 6th day of April, 2013.



Signature
Managing Member ("Manager")

James W. Fieser

26303 Oakridge Drive

Spring, Texas

CERTIFICATION OF MEMBERS


The undersigned hereby agree, acknowledge and certify to adopt this Operating Agreement.

Signed this 6th day of April, 2013.



Member Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas

**AMENDMENT
to the
OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

We, the Members of K. F. Group, L.L.C., a Texas Limited Liability Company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, at a Special Meeting of all the Members held on December 31, 2014, do hereby resolve and confirm the following:

1. WHEREAS Diane S. Kinney, an initial Member of the Company, has requested withdrawal and termination of her membership in the Company, to become effective on January 1, 2015;

AND WHEREAS Diane S. Kinney unconditionally waives all claim to any and all present and future assets of the Company;

AND WHEREAS the Company and its Members hereby agrees to indemnify and hold Diane S. Kinney harmless from any liability arising from its activities during her membership in the Company;

NOW THEREFORE the Members of the Company unanimously agree to terminate and end her membership effective January 1, 2015.

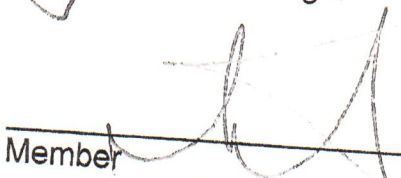
2. All other provisions of the Operating Agreement dated April 6, 2013 remain in full force and effect.

Agreed to this 31st day of December 2014.



Member and Manager Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas 77380



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas 77380



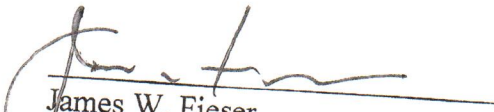
Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas 77380

Financial Impact Statement

The withdrawal and termination of Diane S. Kinney as a Member of K.F. Group, L.L.C., a Texas limited liability company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, does not have any financial impact on the Company.

Signed this 9th day of March, 2017.


James W. Fieser
Member and Manager
K.F. Group, L.L.C.

CO-DEVELOPMENT AGREEMENT - K.F. Creekside, LTD.

THIS CO-DEVELOPER AGREEMENT ("Agreement") is made and entered into this 2nd day of September, 2014 by and among Fieser Development, Inc., a Texas corporation (the "Developer"), and K.F. Development Services, Inc., a Texas corporation (the "Co-Developer").

RECITALS

1. The Developer has special abilities and experience in developing affordable housing projects eligible for low-income housing tax credits offered under the Internal Revenue Code of 1986.
2. The Partnership, K.F. Creekside, LTD., desires to redevelop and rehabilitate a 40 unit multi-family apartment community with a street address of 1501 South Bolton, Jacksonville, Cherokee County, Texas (the "Project").
3. Prior to the formation of the Partnership, Developer performed substantial services in connection with the development of the Project.
4. The Developer desires to engage Co-Developer to complete the development and to coordinate the construction of the Project.
5. As consideration for the compensation payable to the Co-Developer hereunder, the Co-Developer is willing to perform the services described herein and to guarantee completion of the Project, as more particularly set forth herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purpose of Agreement This Agreement specifies the services to be performed by the Co-Developer for the Developer as an independent contractor. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Partnership Agreement. The Co-Developer shall be responsible for ensuring the Project is constructed in a good and workmanlike manner in accordance with the Plans.
2. Development Services The Co-Developer has performed the following development services for the benefit of the Partnership:
 - (a) Obtaining local approvals for the construction of the Project;
 - (b) Negotiating the acquisition of the property on which the Project is to be acquired and rehabilitated;

- (c) Causing the Partnership to engage an architect to rehabilitate the Project; and
- (d) Assisting the Partnership in developing financial pro formas for the Project reflecting the reasonably anticipated cash distributions and tax benefits to be recognized by the Partnership.

3. Compensation The total compensation payable by the Partnership to the Developer as consideration for the services described in Section 2 of this Agreement shall be a Developer Fee paid by the Partnership, approved and funded through Churchill Stateside Group, LLC, its affiliates, and/or assigns., (the "Developer Fee"). The estimated Developer Fee is \$437,416.00, subject to final adjustments by the Partnership, Churchill Stateside Group, LLC. 5% of the Developer Fee actually received, less any un-reimbursable monies paid out by the Developer in the pursuit of said property, shall be paid by the Developer to the Co-Developer.

The Developer Fee shall be *paid* as set forth in the Partnership agreement.

4. Term of Agreement The term of this Agreement shall begin on the date set forth below and end when the Developer Fee has been paid in full.

5. Miscellaneous

- A. Notices: Notices required under the Agreement shall be given in the manner set forth in the Partnership Agreement.
- B. Interpretation: This Agreement shall be interpreted and construed in a manner that is consistent with the terms and provisions of the Partnership Agreement.
- C. Amendment: This Agreement shall not be amended except in writing executed by all parties.
- D. Waiver: No waiver of any right under this Agreement shall be deemed effective unless contained in a writing signed by all parties charged with such waiver, and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future such right or of any other right arising under this Agreement.
- E. Severability: If any provision of this Agreement is or becomes invalid, illegal, or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken and the remainder of this Agreement shall remain in full force and effect.
- F. Successors: This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their respective heirs, successors, and assigns, as the case may be.

G. Governing Law and Venue: This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.

H. Attorney Fees: Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

[Signatures on the following pages]


**Signature Page to the
Co-Development Agreement
(Creekside Village Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Corporation"

Fieser Development, Inc.,
a Texas Corporation

By:


James W. Fieser, President

**Signature Page to the
Co-Development Agreement
(Creekside Village Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Co-Developer"

K.F. Development Services, Inc.,
a Texas Corporation

By: 
Diane S. Kinney, Co-President

By: 
James J. Fieser, Co-President

TERMINATION AGREEMENT – K.F. Creekside, LTD.

THIS TERMINATION AGREEMENT (the “Agreement”) is made and entered into this 20 day of July, 2015 (the “Effective Date”) between Fieser Development, Inc. (the “Developer”) and K.F. Development Services, Inc. (the “Co-Developer”).

RECITALS

A. Developer and Co-Developer are parties to that certain Co-Development Agreement dated September 24, 2014 (the “Contract”) concerning the re-development of the multi-family apartment community with street address of 1501 South Bolton, Jacksonville, Cherokee County, Texas (the “Project”). A copy of the Contract is attached to this Agreement as Exhibit “A” and made a part hereof for all purposes.

B. Co-Developer has requested that the Contract be terminated, and Developer has agreed to such termination.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties hereto agree as follows:

1. Termination. Developer hereby releases Co-Developer from any and all claims, suits, or demands, which Developer may have by virtue of the execution of the Contract. Co-Developer also hereby releases Developer from any and all rights, claims, suits, or demands which Co-Developer may have by virtue of the execution of the Contract. Developer and Co-Developer now declare the Contract **NULL AND VOID** and of no further force and effect.
2. Binding Effect. This Agreement shall bind and inure to the benefit of all the respective heirs, personal representatives, successors, and assigns of the parties hereto.
3. Governing Law and Venue. This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.
4. Attorney’s Fees. Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

[Signatures on the following pages]

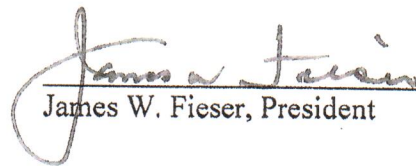
Signature Page
to
Termination Agreement
(Creeside Village Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Developer”

Fieser Development, Inc.,
a Texas Corporation

By:


James W. Fieser, President

Signature Page
to
Termination Agreement
(Creekside Village Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Co-Developer”

K.F. Development Services, Inc.,
a Texas Corporation

By:



Diane S. Kinney, Co-President

By:



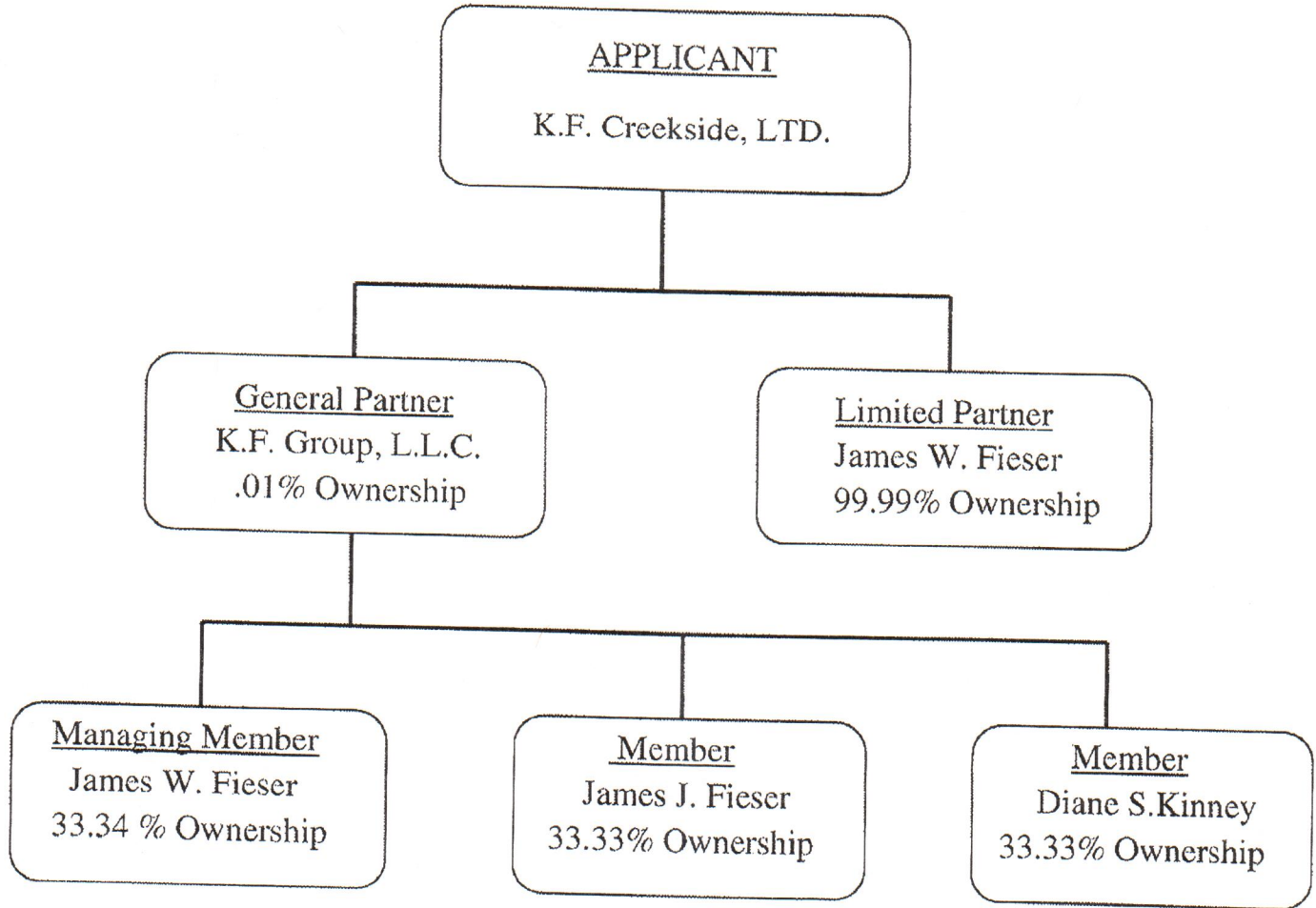
James J. Fieser, Co-President

Exhibit "A"

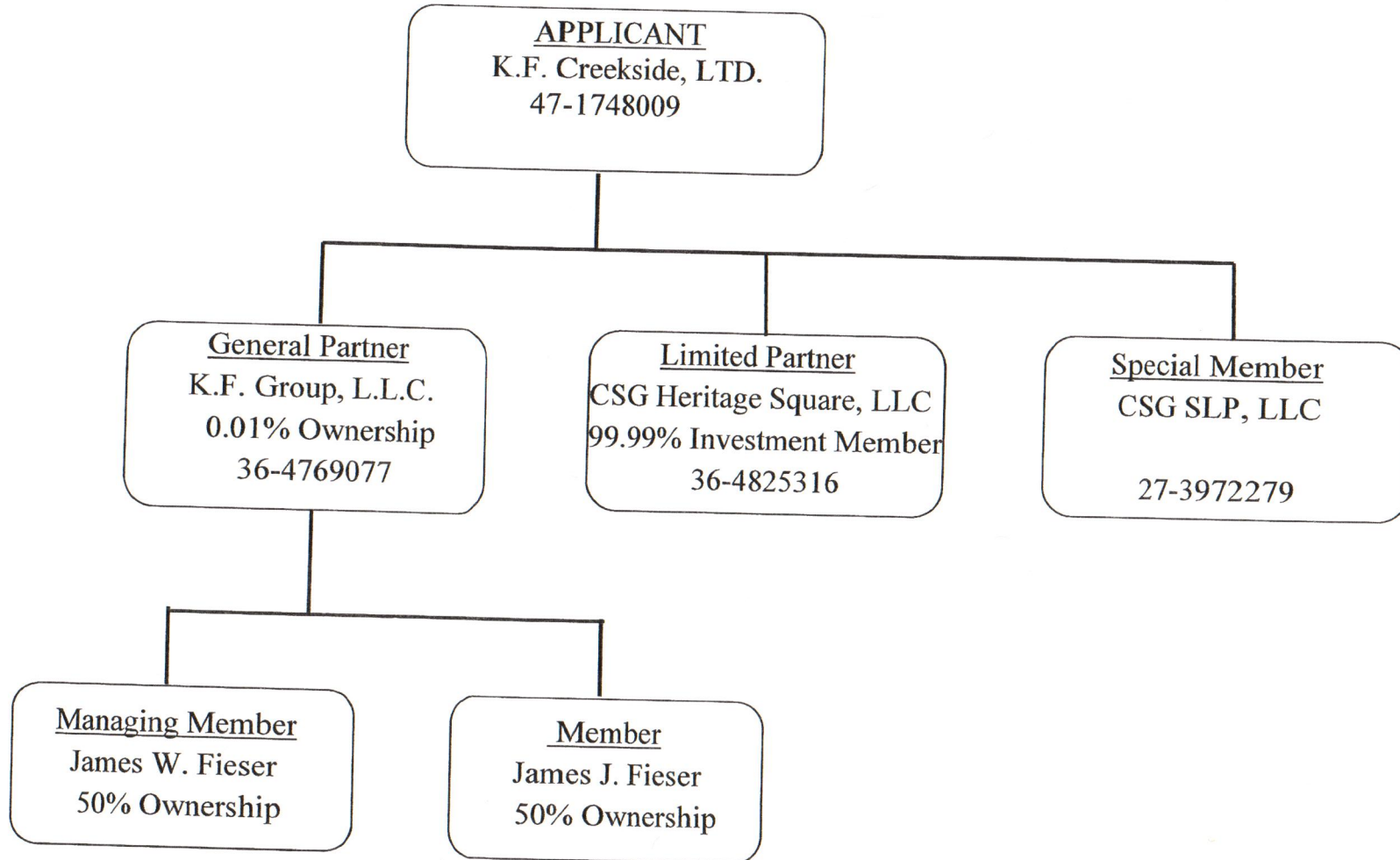
Co-Development Agreement – K.F. Creekside, LTD.

[see attached]

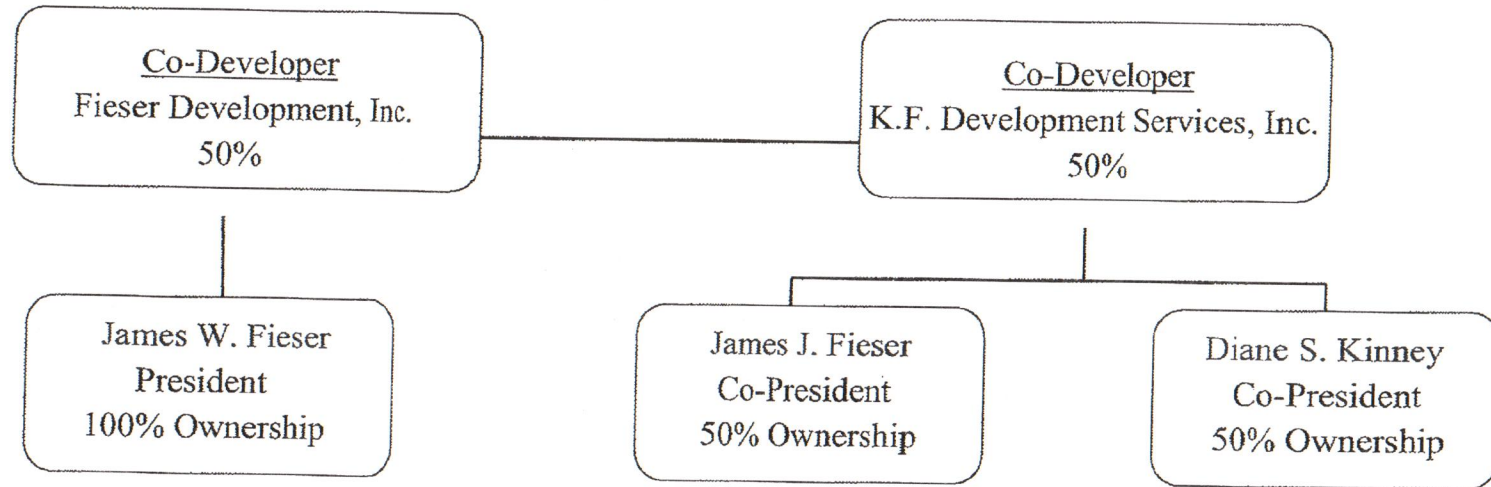
Exhibit "A"



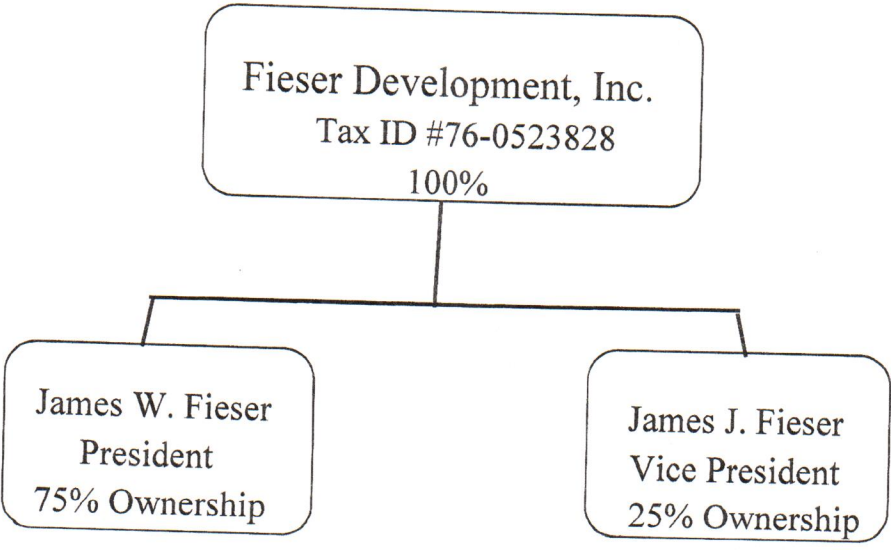
OWNER ORGANIZATIONAL CHART



DEVELOPER



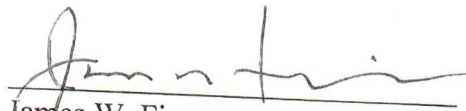
DEVELOPER



Financial Impact Statement

The withdrawal and termination of K.F. Development Services, Inc. as the Co-Developer of the Project, Creekside Village Apartments, has no financial impact.

Signed this 9th day of March, 2017.



James W. Fieser
President
Fieser Development, Inc., Developer

March 21, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. Creekside, LTD. – TDHCA #14024

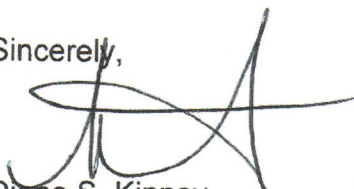
Mr. Bedell,

Please accept this letter as my statement for withdrawing as a principal of the ownership of K.F. Creekside, LTD., TDHCA #14024 and request to be removed as Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

On December 31, 2014, I requested to be withdrawn and terminate membership in the Company effective January 1, 2015. I made this decision of my own free will and with the purpose of removing myself from all ownership responsibilities and eliminating personal liability.

If you have any additional questions or would like to discuss further, please contact me at 713-598-3266.

Sincerely,



Diane S. Kinney

BOARD ACTION REQUEST

ASSET MANAGEMENT

April 27, 2017

Presentation, discussion, and possible action regarding an ownership transfer prior to IRS Form 8609 issuance or construction completion for Heritage Place Apartments (File No. 14025)

RECOMMENDED ACTION

WHEREAS, Heritage Place Apartments (the “Development”) received an award of 9% Housing Tax Credits (“HTC”) in 2014 for the acquisition and rehabilitation of 40 multifamily units in Jacksonville, Cherokee County;

WHEREAS, the General Partner, K.F. Group, L.L.C. is solely owned by James W. Fieser, James J. Fieser, and Diane S. Kinney each holding a 33.3% interest in the entity;

WHEREAS, there are two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser and Diane S. Kinney, each holding a 50% interest in the entity.

WHEREAS, Diane S. Kinney, 33.3% principal of the General Partner, K.F. Group, L.L.C., and 50% owner of K.F. Development Services, Inc., has requested to be removed from the Ownership structures of both the Development Owner and Developer;

WHEREAS, no new entities or principals will be added to the ownership structure and James W. Fieser and James J. Fieser will each remain as 50% owners in the General Partner, K.F. Group, L.L.C.;

WHEREAS, James W. Fieser, who was used to meet the Experience Requirement in the Application, and Fieser Development, Inc. will still serve as the sole Developer for the Development; and

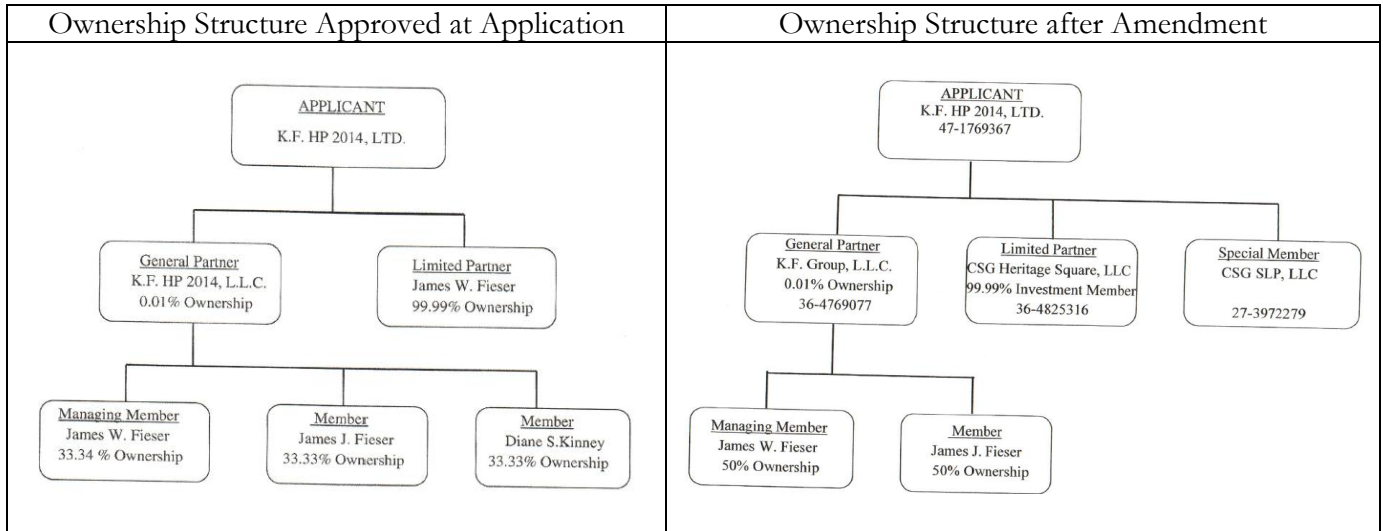
WHEREAS, the transfer of ownership is being requested prior to the issuance of IRS Form(s) 8609 and the completion of construction and 10 TAC §10.406(e) requires that parties reflected in the Application that have control must remain in the ownership structure and retain such control, unless approved otherwise by the Board;

NOW, therefore, it is hereby

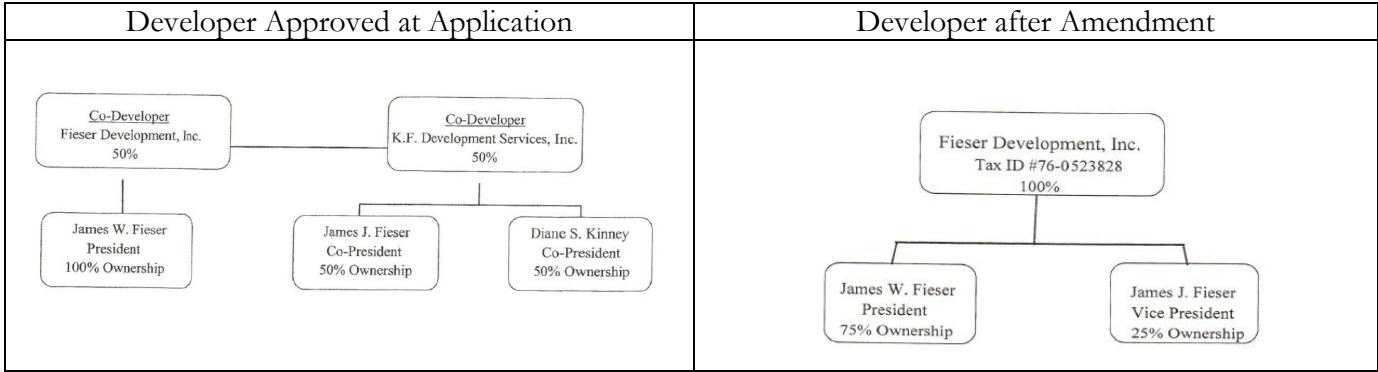
RESOLVED, that the ownership transfer for Heritage Place Apartments is approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Heritage Place Apartments was approved in 2014 for the acquisition and rehabilitation of 40 multifamily units located in Jacksonville, Cherokee County. The owner is requesting to remove Diane S. Kinney as a 33.3% principal of the General Partner, K.F. Group, L.L.C. At Application, K.F. Group, L.L.C. had three principals: James W. Fieser, James J. Fieser, and Diane S. Kinney each having a 33.3% ownership interest in the entity. With this change, K.F. Group, L.L.C. will remain as the sole General Partner entity and James W. Fieser and James J. Fieser will split the ownership 50/50 while Diane S. Kinney will be departing the ownership structure. The reason for this request as provided by the Applicant is that Diane S. Kinney made the decision to withdraw and terminate her membership from the ownership because she did not want any liability for the project. There are no new entities or principals coming into the ownership structure.



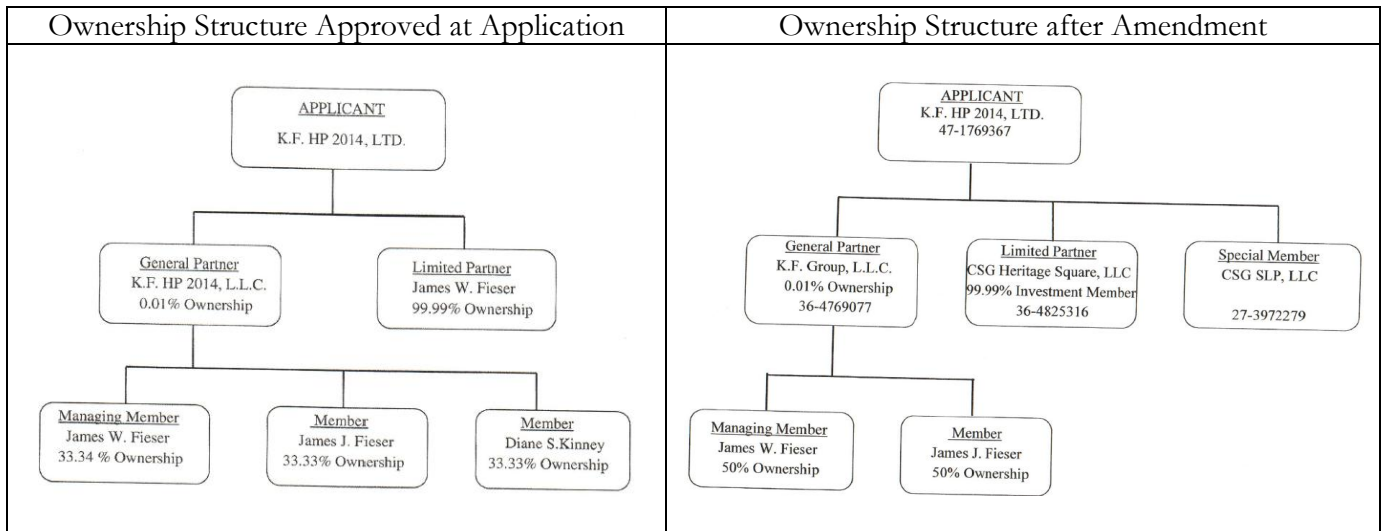
In addition to the ownership change, the owner has requested an amendment to the Application by removing the 50% Co-Developer, K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%) from the Developer structure. At Application, the Developer was comprised of two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%). The reason for this request was that Diane S. Kinney wants to remove herself from all developer responsibilities because she does not want any liability for the project. Furthermore, Diane S. Kinney, James J. Fieser, and James W. Fieser executed a Termination Agreement on July 20, 2015, which removed K.F. Development Services, Inc. as Co-Developer and confirmed Fieser Development Inc., solely owned by James W. Fieser (75%) and James K. Fieser (25%) as the sole Developer for the project. James W. Fieser was used to meet the Experience requirement in the 2014 Application, pursuant to 10 TAC §10.204(6) of the 2014 Uniform Multifamily Rules. The change to the Developer does not require approval by the board, but is being disclosed in this board action as it was a part of the Applicant’s request.



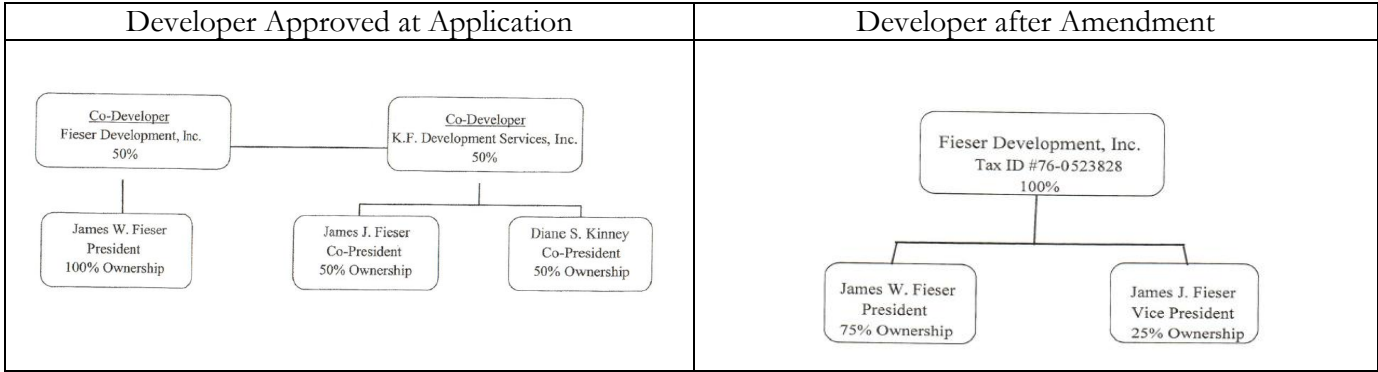
Staff recommends approval of the requested change in ownership for Heritage Place Apartments.

BACKGROUND

Heritage Place Apartments was approved in 2014 for the acquisition and rehabilitation of 40 multifamily units located in Jacksonville, Cherokee County. The owner is requesting to remove Diane S. Kinney as a 33.3% principal of the General Partner, K.F. Group, L.L.C. At Application, K.F. Group, L.L.C. had three principals: James W. Fieser, James J. Fieser, and Diane S. Kinney each having a 33.3% ownership interest in the entity. With this change, K.F. Group, L.L.C. will remain as the sole General Partner entity and James W. Fieser and James J. Fieser will split the ownership 50/50 while Diane S. Kinney will be departing the ownership structure. The reason for this request as provided by the Applicant is that Diane S. Kinney made the decision to withdraw and terminate her membership from the ownership because she did not want any liability for the project. There are no new entities or principals coming into the ownership structure.



In addition to the ownership change, the owner has requested an amendment to the Application by removing the 50% Co-Developer, K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%) from the Developer structure. At Application, the Developer was comprised of two 50% Co-Developers, Fieser Development, Inc., solely owned by James W. Fieser and K.F. Development Services, Inc., solely owned by James J. Fieser (50%) and Diane S. Kinney (50%). The reason for this request was that Diane S. Kinney wants to remove herself from all developer responsibilities because she does not want any liability for the project. Furthermore, Diane S. Kinney, James J. Fieser, and James W. Fieser executed a Termination Agreement on July 20, 2015, which removed K.F. Development Services, Inc. as Co-Developer and confirmed Fieser Development Inc., solely owned by James W. Fieser (75%) and James K. Fieser (25%) as the sole Developer for the project. James W. Fieser was used to meet the Experience requirement in the 2014 Application, pursuant to 10 TAC §10.204(6) of the 2014 Uniform Multifamily Rules. The change to the Developer does not require approval by the board, but is being disclosed in this board action as it was a part of the Applicant's request.



Staff recommends approval of the requested change in ownership for Heritage Place Apartments.

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 10, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Dee Patience
221 East 11th Street
Austin, Texas 78701

RE: Amendment Requests

Dee,

I understand that Kent Bedell is out of the office this week. He had instructed us to submit our Amendment Requests to you, since they needed to be received no later than March 13, 2017.

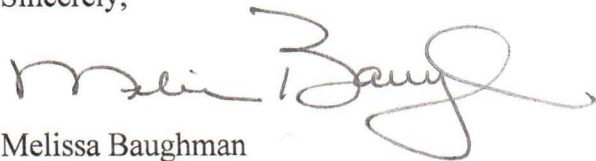
I have enclosed Amendment Requests for the following:

- K.F. Creekside, LTD. – Creekside Village Apartments, TDHCA #14024, CMTS #4998
- K.F. HP 2014, LTD. – Heritage Place Apartments, TDHCA #14025, CMTS #1011
- K.F. HS 2014, LTD. – Heritage Square Apartments, TDHCA #14023, CMTS #862

Also included is an Amendment Fee of \$2,500 with each request.

If you have questions or require additional information, please give me a call at 281-419-6114.

Sincerely,



Melissa Baughman
Sr. Project Coordinator

Sent via Fed Ex

FIESER DEVELOPMENT, INC.

990 Village Square Drive
Suite G200
Tomball, Texas 77375
281-419-6114

March 9, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. HP 2014, LTD. – TDHCA #14025

Mr. Bedell,

Please accept this letter as my formal request to remove Diane S. Kinney as a principal of the ownership of K.F. HP 2014, LTD., TDHCA #14025 and to request an amendment to remove the Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

Request to Remove a Principal from the Ownership

The reason for the removal of Diane S. Kinney as a principal of the general partner is that Ms. Kinney, at a Special Meeting of all the Members of K.F. Group, L.L.C., a Texas Limited Liability Company, (the "Company") on December 31, 2014, requested withdrawal and termination of her membership in the Company and requested that it be effective January 1, 2015. Ms. Kinney unconditionally waived all claims to any and all present and future assets of the Company. It was agreed upon by all Members. Attached is a copy of the Amendment to the Operating Agreement of K.F. Group, L.L.C. that was executed on December 31, 2014 as well as a copy of the original Operating Agreement of K.F. Group, L.L.C. that was adopted on April 6th, 2013.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to withdraw or terminate herself as a principal of the general partner for the application listed above. We did not note the change at 10% Test because the Ownership Structure of the Applicant did not change. K.F. Group, L.L.C. was and still is the general partner. It was our understanding that Members can change without any issue, but any change in the Manager would have to be approved. James W. Fieser is the Member and Manger of K.F. Group, L.L.C. James W. Fieser was used as the experience for the Application.

The decision to withdraw and terminate Diane S. Kinney's membership in the Company was a decision that Ms. Kinney made independently and of her own free will. Diane S. Kinney was not used as the experience in the Application for K.F. HP 2014, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. I have attached a No Financial Impact Statement for your review. A copy of the original and revised Organizational Chart of the Applicant is attached.

Amendment to Application - Removal of Co-Developer from Development Structure

On September 24, 2014, a Co-Development Agreement was executed by James W. Fieser, Diane S. Kinney and James J. Fieser agreeing to Co-Develop the acquisition and rehab of the multi-family apartment community located at 1220 Heritage Drive, Jacksonville, Cherokee County, Texas.

The reason for removal of K.F. Development Services, Inc. as the Co-Developer of the Application for K.F. HP 2014, LTD. was due to Diane S. Kinney requesting to remove herself from all ownership responsibilities in the project. Ms. Kinney indicated that she did not want the liability.

When Ms. Kinney requested to remove herself from all areas of the ownership structure, James W. Fieser and James J. Fieser agreed to terminate the Co-Development Agreement. On July 20, 2015, a Termination Agreement was executed terminating the Co-Development Agreement dated September 24, 2014 (the "Contract") between Fieser Development, Inc. and K.F. Development Services, Inc.

There was no indication at the time of Application or at Carryover that Diane S. Kinney had any intention to remove herself from any ownership role in the project. This was a decision that Ms. Kinney made independently.

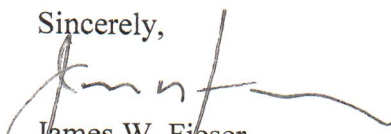
Diane S. Kinney was not used as the experience in the Application for K.F. HP 2014, LTD.

Diane S. Kinney's withdrawal and termination had no financial impact to the project. Please see attached No Financial Impact Statement for your review.

Enclosed is our check in the amount of \$2,500 for the Amendment to the Application for the removal of the Co-Developer, K.F. Development Services, Inc.

If you have questions or need additional information, please give us a call at 281-419-6114.

Sincerely,



James W. Fieser
President

ATTACHMENTS

- Operating Agreement of K.F. Group, L.L.C.
- Amendment to the Operating Agreement of K.F. Group, L.L.C.
- Financial Impact Statement – Withdrawal and Termination of Diane S. Kinney as Member of K.F. Group, L.L.C.
- Co-Development Agreement – K.F. HP 2014, LTD.
- Termination Agreement – K.F. HP 2014, LTD.
- Organizational Charts for Applicant/Owner
- Organizational Charts for Developer
- Financial Impact Statement – Removal of Co-Developer from Development Structure

**OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

This Company Agreement of this MANAGER MANAGED LIMITED LIABILITY COMPANY organized pursuant to the Texas Business Organizations code, is entered into and shall become effective as of the Effective Date by and among the Company and the persons executing this Agreement as Members. It is the Members express intention to create a limited liability company in accordance with the Act, as currently written or subsequently amended or redrafted. Therefore, all provisions of this document shall be construed consistent with the afore described intent of the Members. Accordingly, in consideration of the conditions contained herein, he/she/they agree as follows:

ARTICLE I

Company Formation

- 1.1 **FORMATION.** The Members hereby form a Limited Liability Company ("Company") subject to the provisions of state law as currently in effect as of this date. Articles of Organization shall be filed with the Texas Secretary of State.
- 1.2 **REGISTERED OFFICE AND AGENT.** The name and address of the initial Texas registered agent for service of process shall be James W. Fieser, 26303 Oakridge Drive, Spring, Texas
- 1.3 **TERM.** The Company shall continue for a perpetual period.
- (a) Members whose capital interest as defined in Article 2.2 exceeds 50 percent vote for dissolution; or
- (b) Any event which makes it unlawful for the business of the Company to be carried on by the Members; or
- (c) Any other event causing dissolution of this Limited Liability Company under applicable state laws.
- 1.4 **CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.3, in the event of an occurrence described in ARTICLE 1.3(c), if there are at least one remaining

Member(s), said remaining Member(s) shall have the right to continue the business of the Company.

- 1.5 **BUSINESS PURPOSE.** The Company shall conduct any and all lawful business deemed appropriate to execute the company's objectives.
- 1.6 **PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be 26303 Oakridge Drive, Spring, Texas.
- 1.7 **THE MEMBERS.** The name and address of each member are listed below at Certification of Members. Members are the owners of this company.
- 1.8 **ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, no additional members may be admitted to the Company through issuance by the company of a new interest in the Company without the prior unanimous written consent of the Members.

ARTICLE II

Capital Contributions

- 2.1 **INITIAL CONTRIBUTIONS.** The Members initially shall contribute to the Company capital and the company shall keep record of the amount each contributed.
- 2.2 **ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

ARTICLE III

Profits, Losses and Distributions

- 3.1 **PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company, and as amended from time to time in accordance with Treasury Regulations.

- 3.2 **DISTRIBUTIONS.** The Members shall determine and distribute available funds annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Managers.

ARTICLE IV

Management

- 4.1 **MANAGEMENT OF THE BUSINESS.** This company shall be managed by an elected Manager. The initial elected manager shall be James W. Fieser. Members holding a majority of the capital interests in the Company may elect a Manager as the Members determine. The Manager will serve as the Manager of this company until a meeting of members is held and new Manager elected.
- 4.2 **MEMBERS.** Members shall not take part in the operation of the Company's affairs, unless they are elected Manager.
- 4.3 **POWERS OF MANAGER.** The Managers as authorized by Members, will make decisions as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the pre-payment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of their management powers, the Manager is authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all checks, drafts and other orders for the payment of the Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and, (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing.
- 4.4 **COMPANY INFORMATION.** Upon request, the Manager shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Manager's possession regarding the Company or its activities.
- 4.5 **INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an

action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.

4.6 **RECORDS.** The Manager shall cause the Company to keep at its principal place of business or at another location agreeable by the Members, the following:

(a) A current list in alphabetical order of the full name and the last known street address of each Member;

(b) A copy of the Certificate of Formation and the Company Operating Agreement and all amendments;

(c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;

(d) Copies of any financial statements of the limited liability company for the three most recent years.

ARTICLE V

Bookkeeping

5.1 **BOOKS.** The Manager shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or at another location agreeable by the Members. Such books shall be kept on such method of accounting as the Manager shall select. The company's accounting period shall be the calendar year.

5.2 **MEMBER'S ACCOUNTS.** The Managers shall maintain separate capital and distribution accounts for each member. Each member's capital account shall consist of his initial capital contribution increased by:

(a) Any additional capital contribution made by him/her;
(b) Credit balances transferred from his distribution account to his capital account;
and decreased by:

(a) Distributions to him/her in reduction of Company capital;


(b) The Member's share of Company losses if charged to his/her capital account.

5.3 **REPORTS.** The Managers shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.

CERTIFICATION OF MANAGING MEMBER

The undersigned hereby agrees to serve as manager for this LLC.

Signed this 6th day of April, 2013.



Signature
Managing Member ("Manager")

James W. Fieser

26303 Oakridge Drive

Spring, Texas

CERTIFICATION OF MEMBERS

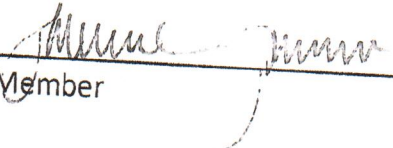
The undersigned hereby agree, acknowledge and certify to adopt this Operating Agreement.

Signed this 6th day of April, 2013.




Member Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas

**AMENDMENT
to the
OPERATING AGREEMENT
OF
K. F. GROUP, L.L.C.**

We, the Members of K. F. Group, L.L.C., a Texas Limited Liability Company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, at a Special Meeting of all the Members held on December 31, 2014, do hereby resolve and confirm the following:

1. WHEREAS Diane S. Kinney, an initial Member of the Company, has requested withdrawal and termination of her membership in the Company, to become effective on January 1, 2015;

AND WHEREAS Diane S. Kinney unconditionally waives all claim to any and all present and future assets of the Company;

AND WHEREAS the Company and its Members hereby agrees to indemnify and hold Diane S. Kinney harmless from any liability arising from its activities during her membership in the Company;

NOW THEREFORE the Members of the Company unanimously agree to terminate and end her membership effective January 1, 2015.

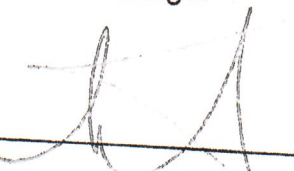
2. All other provisions of the Operating Agreement dated April 6, 2013 remain in full force and effect.

Agreed to this 31st day of December 2014.



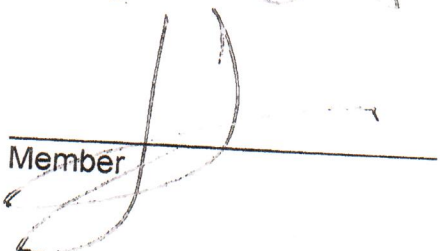
Member and Manager Signature

James W. Fieser
26303 Oakridge Drive
Spring, Texas 77380



Member Signature

Diane S. Kinney
26303 Oakridge Drive
Spring, Texas 77380



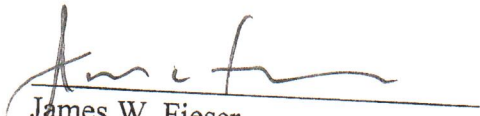
Member Signature

James J. Fieser
26303 Oakridge Drive
Spring, Texas 77380

Financial Impact Statement

The withdrawal and termination of Diane S. Kinney as a Member of K.F. Group, L.L.C., a Texas limited liability company, formed on August 6, 2013, and governed by that Operating Agreement entered into by the initial members on April 6, 2013, does not have any financial impact on the Company.

Signed this 9th day of March, 2017.


James W. Fieser
Member and Manager
K.F. Group, L.L.C.

CO-DEVELOPMENT AGREEMENT - K.F. HP 2014, LTD.

THIS CO-DEVELOPER AGREEMENT ("Agreement") is made and entered into this 24 day of September, 2014 by and among Fieser Development, Inc., a Texas corporation (the "Developer"), and K.F. Development Services, Inc., a Texas corporation (the "Co-Developer").

RECITALS

1. The Developer has special abilities and experience in developing affordable housing projects eligible for low-income housing tax credits offered under the Internal Revenue Code of 1986.
2. The Partnership, K.F. HP 2014, LTD., desires to redevelop and rehabilitate a 40 unit multi-family apartment community with a street address of 1220 Heritage Drive, Jacksonville, Cherokee County, Texas (the "Project").
3. Prior to the formation of the Partnership, Developer performed substantial services in connection with the development of the Project.
4. The Developer desires to engage Co-Developer to complete the development and to coordinate the construction of the Project.
5. As consideration for the compensation payable to the Co-Developer hereunder, the Co-Developer is willing to perform the services described herein and to guarantee completion of the Project, as more particularly set forth herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purpose of Agreement This Agreement specifies the services to be performed by the Co-Developer for the Developer as an independent contractor. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Partnership Agreement. The Co-Developer shall be responsible for ensuring the Project is constructed in a good and workmanlike manner in accordance with the Plans.
2. Development Services The Co-Developer has performed the following development services for the benefit of the Partnership:
 - (a) Obtaining local approvals for the construction of the Project;
 - (b) Negotiating the acquisition of the property on which the Project is to be acquired and rehabilitated;

- (c) Causing the Partnership to engage an architect to rehabilitate the Project; and
- (d) Assisting the Partnership in developing financial pro formas for the Project reflecting the reasonably anticipated cash distributions and tax benefits to be recognized by the Partnership.

3. Compensation The total compensation payable by the Partnership to the Developer as consideration for the services described in Section 2 of this Agreement shall be a Developer Fee paid by the Partnership, approved and funded through Churchill Stateside Group, LLC, its affiliates, and/or assigns., (the "Developer Fee"). The estimated Developer Fee is \$481,264.00, subject to final adjustments by the Partnership, Churchill Stateside Group, LLC. 5% of the Developer Fee actually received, less any un-reimbursable monies paid out by the Developer in the pursuit of said property, shall be paid by the Developer to the Co-Developer.

The Developer Fee shall be *paid* as set forth in the Partnership agreement.

4. Term of Agreement The term of this Agreement shall begin on the date set forth below and end when the Developer Fee has been paid in full.

5. Miscellaneous

A. Notices: Notices required under the Agreement shall be given in the manner set forth in the Partnership Agreement.

B. Interpretation: This Agreement shall be interpreted and construed in a manner that is consistent with the terms and provisions of the Partnership Agreement.

C. Amendment: This Agreement shall not be amended except in writing executed by all parties.

D. Waiver: No waiver of any right under this Agreement shall be deemed effective unless contained in a writing signed by all parties charged with such waiver, and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future such right or of any other right arising under this Agreement.

E. Severability: If any provision of this Agreement is or becomes invalid, illegal, or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken and the remainder of this Agreement shall remain in full force and effect.

F. Successors: This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their respective heirs, successors, and assigns, as the case may be.

G. Governing Law and Venue: This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.

H. Attorney Fees: Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

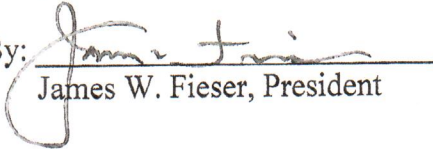
[Signatures on the following pages]

**Signature Page to the
Co-Development Agreement
(Heritage Place Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Corporation"

Fieser Development, Inc.,
a Texas Corporation

By: 
James W. Fieser, President

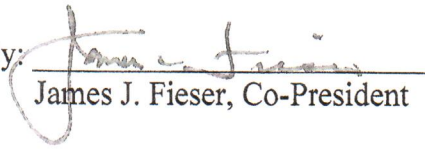
**Signature Page to the
Co-Development Agreement
(Heritage Place Apartments, Cherokee County, Texas)**

Executed, delivered and effective as of the date set forth above in this Agreement.

"Co-Developer"

K.F. Development Services, Inc.,
a Texas Corporation

By: 
Diane S. Kinney, Co-President

By: 
James J. Fieser, Co-President

TERMINATION AGREEMENT – K.F. HP 2014, LTD.

THIS TERMINATION AGREEMENT (the “Agreement”) is made and entered into this 20 day of July, 2015 (the “Effective Date”) between Fieser Development, Inc. (the “Developer”) and K.F. Development Services, Inc. (the “Co-Developer”).

RECITALS

A. Developer and Co-Developer are parties to that certain Co-Development Agreement dated September 24, 2014 (the “Contract”) concerning the re-development of the multi-family apartment community with street address of 1220 Heritage Drive, Jacksonville, Cherokee County, Texas (the “Project”). A copy of the Contract is attached to this Agreement as Exhibit “A” and made a part hereof for all purposes.

B. Co-Developer has requested that the Contract be terminated, and Developer has agreed to such termination.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties hereto agree as follows:

1. Termination. Developer hereby releases Co-Developer from any and all claims, suits, or demands, which Developer may have by virtue of the execution of the Contract. Co-Developer also hereby releases Developer from any and all rights, claims, suits, or demands which Co-Developer may have by virtue of the execution of the Contract. Developer and Co-Developer now declare the Contract **NULL AND VOID** and of no further force and effect.
2. Binding Effect. This Agreement shall bind and inure to the benefit of all the respective heirs, personal representatives, successors, and assigns of the parties hereto.
3. Governing Law and Venue. This Agreement will be governed by the laws of the State of Texas, and venue shall be, in all cases, in the court of appropriate jurisdiction located in Montgomery County, Texas.
4. Attorney’s Fees. Each party shall be responsible for paying any costs, including attorney fees, incurred in connection with any dispute arising out of or related to the subject matter of this Agreement.

[Signatures on the following pages]

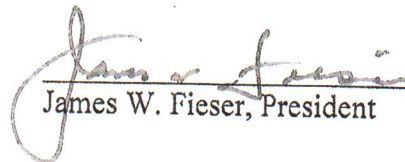
Signature Page
to
Termination Agreement
(Heritage Drive South Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Developer”

Fieser Development, Inc.,
a Texas Corporation

By:


James W. Fieser, President

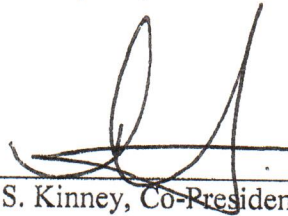
Signature Page
to
Termination Agreement
(Heritage Drive South Apartments, Cherokee County, Texas)

Executed, delivered and effective as of the date set forth above in this Agreement.

“Co-Developer”

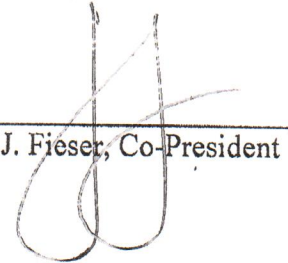
K.F. Development Services, Inc.,
a Texas Corporation

By:



Diane S. Kinney, Co-President

By:



James J. Fieser, Co-President

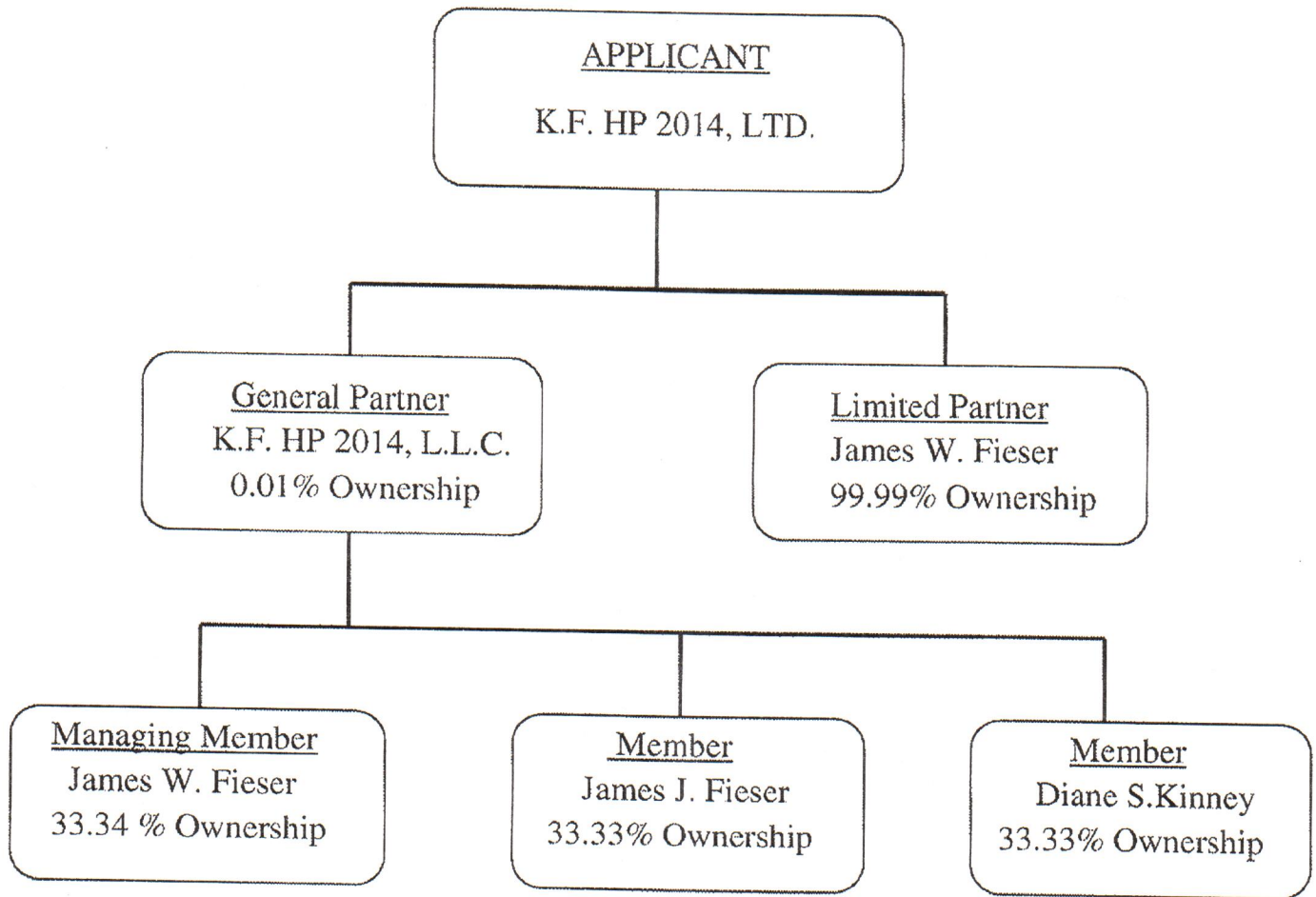
Exhibit "A"

Co-Development Agreement – K.F. HP 2014, LTD.

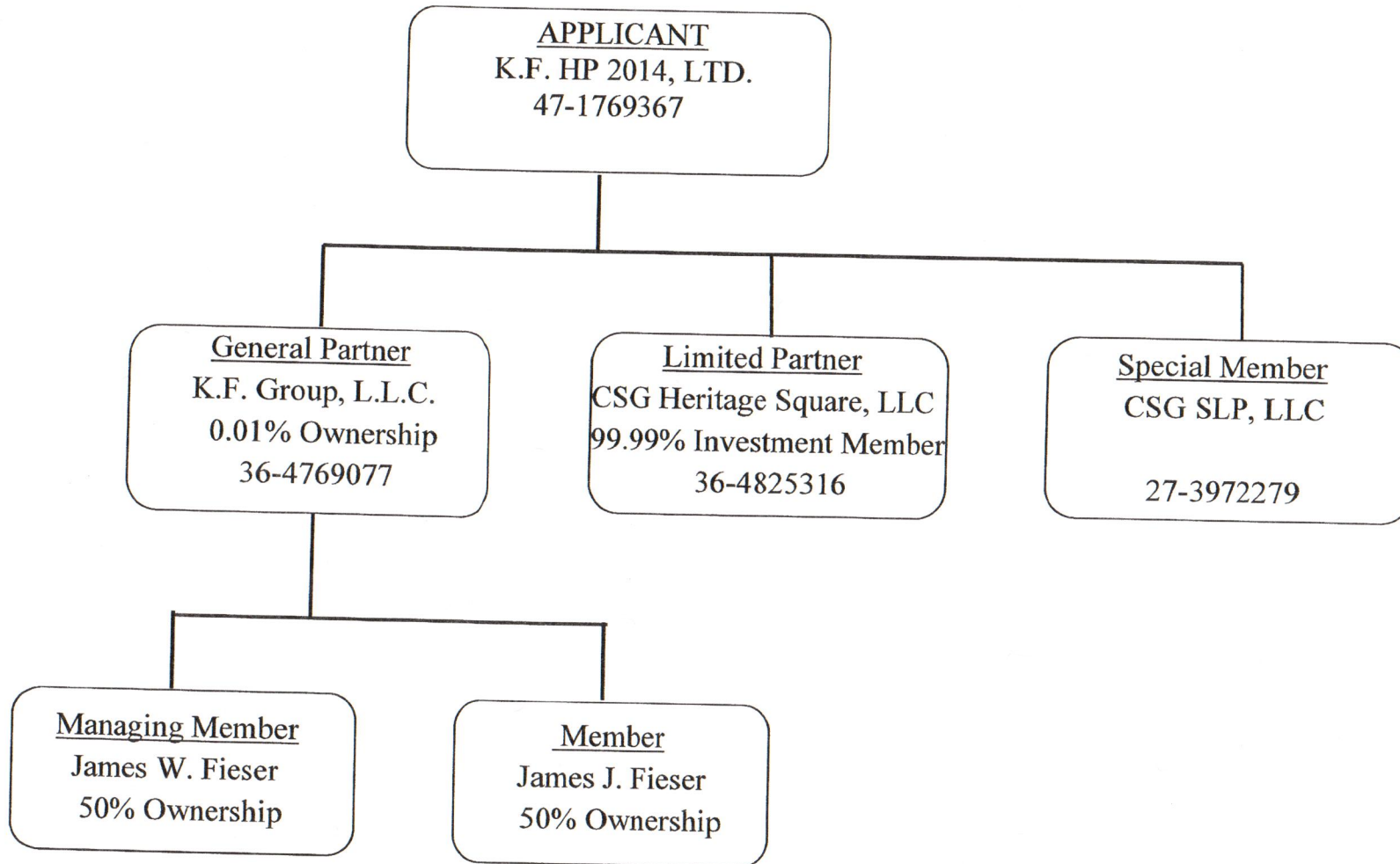
[see attached]

Exhibit "A"

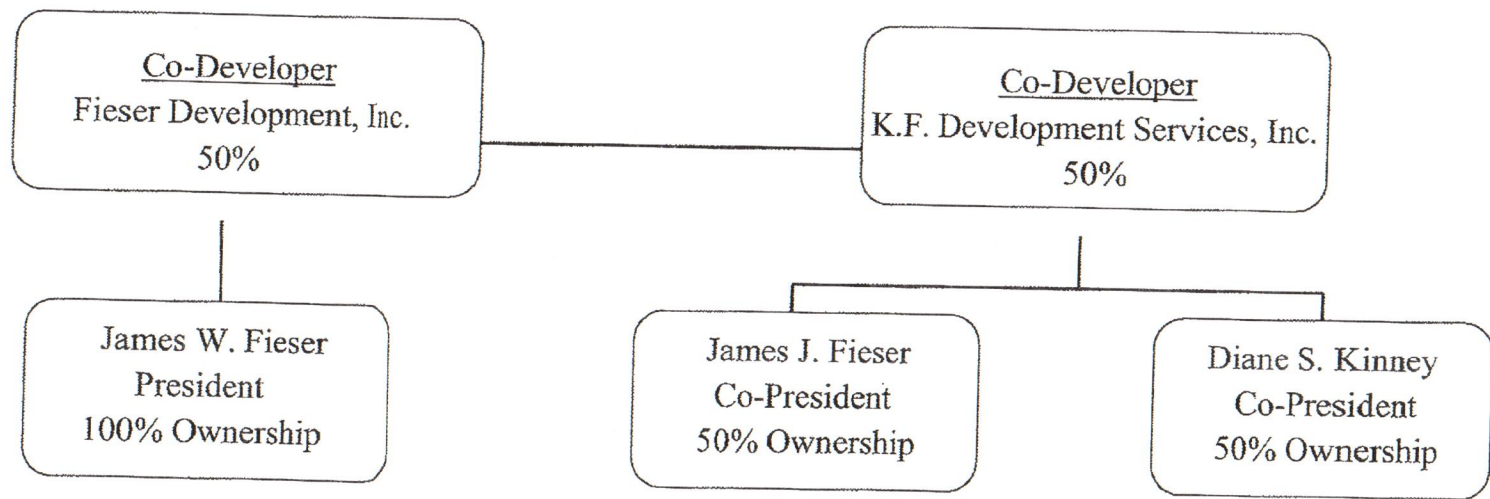
From Application



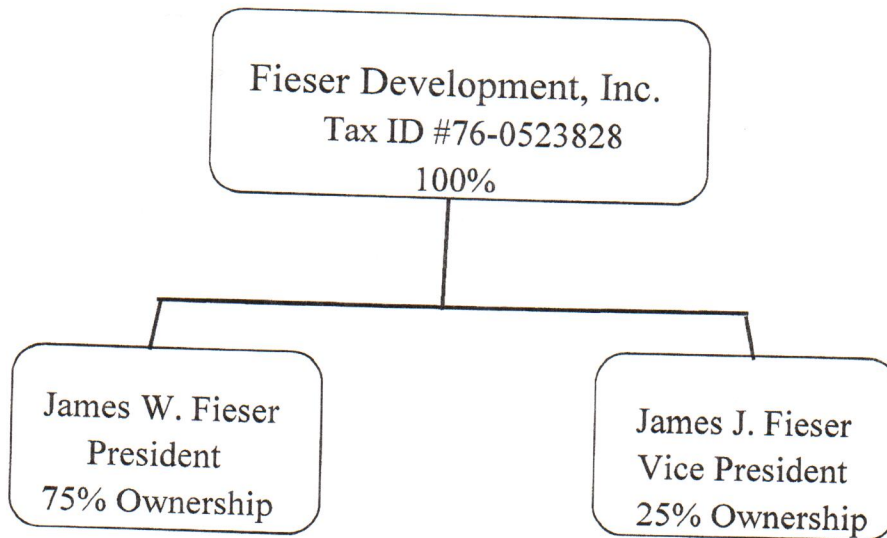
OWNER ORGANIZATIONAL CHART



DEVELOPER



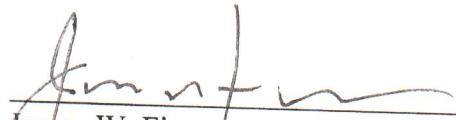
DEVELOPER



Financial Impact Statement

The withdrawal and termination of K.F. Development Services, Inc. as the Co-Developer of the Project, Heritage Place Apartments, has no financial impact.

Signed this 9th day of March, 2017.



James W. Fieser

President

Fieser Development, Inc., Developer

March 21, 2017

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Kent Bedell
221 East 11th Street
Austin, Texas 78701

RE: K.F. HP 2014, LTD. – TDHCA #14025

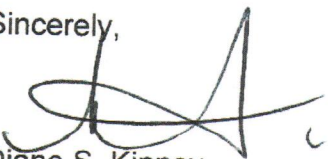
Mr. Bedell,

Please accept this letter as my statement for withdrawing as a principal of the ownership of K.F. HP 2014, LTD., TDHCA #14025 and request to be removed as Co-Developer, K.F. Development Services, Inc. from the Developer Structure.

On December 31, 2014, I requested to be withdrawn and terminate membership in the Company effective January 1, 2015. I made this decision of my own free will and with the purpose of removing myself from all ownership responsibilities and eliminating personal liability.

If you have any additional question or would like to discuss further, please contact me at 713-598-3266

Sincerely,


Diane S. Kinney

1h

BOARD ACTION REQUEST

ASSET MANAGEMENT

APRIL 27, 2017

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit (“HTC”) Application of Silverleaf at Mason in Mason (HTC #16057)

RECOMMENDED ACTION

WHEREAS, in 2016 Silverleaf at Mason (the “Development”) received an award of 9% Housing Tax Credits for the construction of 49 units of multifamily housing for the elderly population in Mason, Mason County;

WHEREAS, recent changes in the market pricing for Housing Tax Credits have resulted in a reduced credit price for the subject Development falling from \$0.99 to \$0.86, impacting the feasibility of the Development as originally proposed;

WHEREAS, as a result of the reduced credit pricing and in an effort to keep the Development viable the Applicant has requested approval to amend its application by reducing the total number of units from 49 to 45 and reducing the number of residential buildings from 12 to 11;

WHEREAS, as a result of the reduced credit pricing and a delay in construction startup the Applicant has also requested a 60-day extension to the 10% Test submission deadline until August 29, 2017;

WHEREAS, the changes proposed represent material alterations requiring Board approval, including a modification of the number of units or bedroom mix of units and a modification of the residential density of at least 5 percent as described in Tex. Gov’t Code §2306.6712 and 10 TAC §10.405(a)(3)(B) and (F), and the Applicant has complied with the amendment requirements in 10 TAC §10.405(a); and

WHEREAS, the changes to the application do not negatively affect the Development aside from providing fewer units, nor do the changes negatively impact the viability of the transaction, or affect the amount of tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested material application amendment and 60-day extension to the 10% Test submission deadline for Silverleaf at Mason are approved as presented to this meeting and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Silverleaf at Mason was submitted and approved for a 9% HTC allocation during the 2016 cycle to construct 49 new multifamily units for the elderly population in Mason. The Department received a material amendment request from the Applicant's representative, Ben Dempsey of StoneLeaf Companies, dated March 13, 2017, requesting approval to change the Application in efforts to keep the transaction viable after a downturn in equity pricing for the Development.

The Application for Silverleaf at Mason was underwritten and approved at a credit price of \$0.99 offered by National Equity Fund ("NEF"). The Applicant signed the LOI from NEF and proceeded to provide the requested due diligence. However, the Applicant's letter explains that, due to unforeseen and negative trends in tax credit equity markets, NEF informed the Applicant that they could no longer honor the agreed LOI. The Applicant further states that while they have continued to engage with other equity providers the drastic reduction in pricing has resulted in the need to make changes to the Application in order to keep it financial feasible. Among the changes being proposed is a reduction in the number of market rate units from five to one, and a reduction in the number of residential buildings from 12 to 11.

Finally, the Applicant's letter requests a 60-day extension to the 10% Test submission deadline, citing reasons for the need for the extension including a delay in construction startup, which has yet to begin, as well as the reduced equity pricing for the Development.

Staff discussed the progress of this Development to date with the Mike Sugrue of StoneLeaf Companies and learned that discussions continue with potential equity investors for this transaction. In fact, Mr. Sugrue informed staff that the letter provided by Michel Associates, LTD. for a proposed credit price of \$0.86, has been pulled from the transaction. Mr. Sugrue indicated that they continue to receive other offers from other investors, with offers ranging between \$0.82 and \$0.86. On April 5, 2017, an offer from RBC Capital Markets was received by the Applicant offering a credit price of \$0.85, and the Applicant confirmed to staff that they are proceeding with this latest offer from RBC. Mr. Sugrue also discussed with the staff the need for the extension to meeting the 10% Test requirements, citing that while taking down the land will certainly assist them in meeting this requirement, additional time is needed for the Applicant to spend 10% of the costs needed. Mr. Sugrue informed staff that they have until June 15, 2017, to close on the land and he wants to be sure not only that he has an equity investor in order to proceed, but that the offer presented by any investor makes the best business sense for all parties to move forward with.

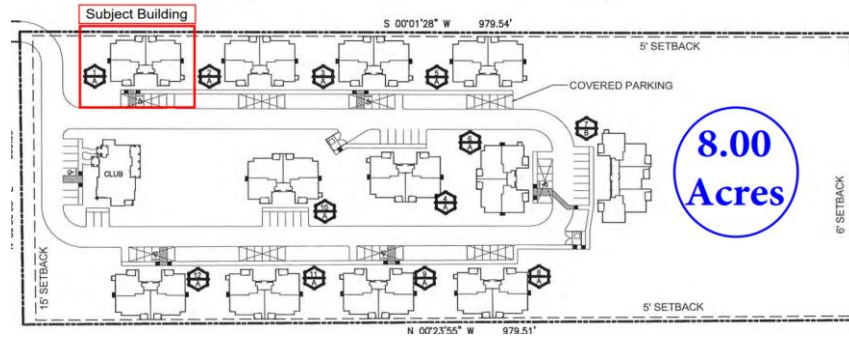
A comparison of all changes identified in the Applicant's amendment request is summarized below:

16057- Silverleaf at Mason
Material Amendment as defined in Tex. Gov't Code §2306.6712 and 10 TAC §10.405(a)(4)(B),(D) & (F)

Original

Site acreage = 8.00 acres
 Density = 6.12 units/acre
 12 residential buildings
 49 units
 42,250 Net Rentable Square Feet

Total Parking = 85 spaces
 Covered = 49 spaces
 Uncovered = 25 spaces
 Clubhouse = 11 spaces



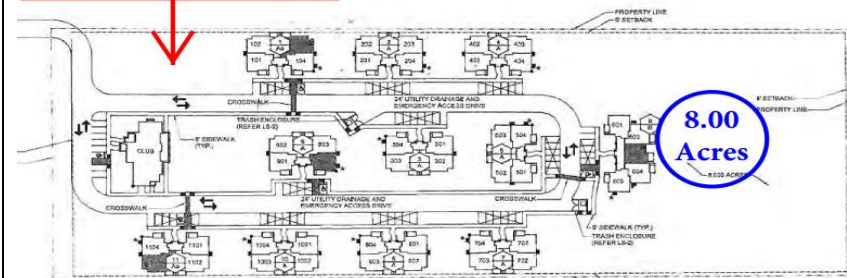
UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	4	8.2%
1	27	55.1%	0	40%	-	0.0%
2	22	44.9%	0	50%	9	18.4%
3	-	0.0%	0	60%	31	63.3%
4	-	0.0%	0	MR	5	10.2%
TOTAL	49	100.0%	-	TOTAL	49	100.0%

Amended

Site acreage = 8.00 acres
 Density = 5.62 units/acre (-8%)
 11 residential buildings
 45 units
 38,750 Net Rentable Square Feet (-8.0% decrease)

Total Parking = 76 spaces
 Covered = 45 spaces
 Uncovered = 23 spaces
 Clubhouse = 8 spaces

Four (4) unit building was eliminated here.



UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	4	8.9%
1	25	55.6%	0	40%	-	0.0%
2	20	44.4%	0	50%	9	20.0%
3	-	0.0%	0	60%	31	68.9%
4	-	0.0%	0	MR	1	2.2%
TOTAL	45	100.0%	-	TOTAL	45	100.0%

Staff has reviewed the original application, underwriting report and concluded that the changes would not have adversely affected the selection of the Application or its score. Real Estate Analysis (“REA”) has re-evaluated the transaction pursuant to Tex. Gov’t Code 2306.6712(b) and an analysis of this Application with the changes proposed is included after this Board Action Request. REA has concluded that the Development remains feasible and continues to support the credit allocation previously awarded to this Development.

Staff recommends approval of the material application amendment as presented herein, and approval of a 60-day extension to the 10% Test submission deadline. The new 10% Test deadline for Silverleaf at Mason will be August 29, 2017.



Addendum to Underwriting Report

TDHCA Application #: **16057** Program(s): **9% HTC**

SilverLeaf at Mason Apartments

Address/Location: South of Austin Street and East of Ranck Avenue

City: Mason County: Mason Zip: 76856

APPLICATION HISTORY	
Report Date	PURPOSE
04/11/17	Amendment Memo-April 2017
11/30/16	Carryover Memo
09/22/16	Credit Recommendation Amendment
07/06/16	Original Underwriting Report

ALLOCATION

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
LIHTC (Annual)	\$500,000				\$500,000				

CONDITIONS STATUS

- Receipt and acceptance by Carryover:
 - Provide written statements from the lender and equity provider that must indicate that they each have performed an independent market analysis (market study and/or appraisal) and that based on that analysis they intend to move forward with processing their applications. Documentation sufficient to understand their analysis must be provided including a demand and rent analysis. The statements must include a description of the other due diligence that they each have performed in general including review of plans or other typical due diligence items. They must include a statement describing their approval process and timelines as well as their anticipated closing timeline if approved. The market reviews must be independent of the Applicant's market study and the reviews must also include an independent review of the Applicant's report specifically the market area definition and rental rate projections. Copies of the market analysis and/or appraisals should be attached. Updates to the financing terms must be included.

Comments:

Applicant provided letters and corresponding documentation from Bank of Oklahoma, National Equity Fund and Bonneville Mortgage that complied with the terms of the condition.

Status: Condition cleared.

Comments:

Parking has also been reduced from 85 to 76 spaces (1.7/unit), still exceeding Code requirement of 1.5/unit. Parking includes 45 carport spaces and 31 uncovered. All spaces will be provided to tenants at no additional fee.

ANALYSIS

Sources of Funds

Applicant's originally contemplated permanent financing was a \$1,868,150 conventional loan from Bank of Oklahoma underwritten at 5.50% with payments based on a 30 year amortization and a 15 year maturity.

At Carryover, the financing proposal changed to a \$1,778,454 USDA 538 permanent loan from Bonneville Mortgage underwritten at 3.65% plus a 50 basis point USDA Guarantee Fee, with payments based on a full 40 year amortization corresponding to the loan's 40 year term.

Current financing contemplates a \$1,866,295 USDA 538 permanent loan from Bonneville Mortgage underwritten at 4.00% plus a 50 basis point USDA Guarantee Fee, with payments based on a full 40 year amortization and 40 year maturity. Equity of \$4,249,575 priced at \$0.85, is to be provided by RBC Capital Markets with deferred developer fee covering the remainder of project cost.

Development Cost

The elimination of one of the originally planned four (4) unit buildings reduces total development cost by approximately \$500K. However, the reduced cost does not have a negative impact on the original \$500,000 credit allocation.

Operating Pro Forma

Original underwriting assumed full program rents on all restricted units and 60% rents on market rate units. Applicant has now assumed that max program rents are achieved on 30% and 50% units, while rents on 60% units as well as the one market rate unit are projected around \$60 less than maximum 60% rents. Offsetting the lower rent assumptions is the utility allowance structure now being proposed. Prior underwriting inadvertently assumed that tenants would be paying for trash collection. However, it is now being reflected that the landlord pays for trash, as is typical. The utility allowances being used here are those derived from the TDHCA approved HUD model used in original underwriting.

As underwritten, feasibility is achieved with a 1.16 DCR and 61% expense ratio, thereby exhibiting leeway to use the projected lower rents if needed to bolster demand.

Assuming even lower rents with one month's concession on 60% and market rate units would result in average rents dropping \$5 below breakeven. However, the need for concessions is diminished by underwritten rents already being 21% below market.

Breakeven occupancy occurs with 6 units vacant (underwritten at 3).

At \$4,075/unit, operating expenses are somewhat lower than typical, so the low rent assumptions are what result in the 61% expense ratio. However, as underwritten, the DCR is projected to exceed 1.15 for 30 years.

Recommendation

Applicant's revisions to the building configuration, unit mix and capital structure do not affect the feasibility conclusion. As a result, no change in the credit allocation is being recommended at this time.

Underwriter: Gregg Kazak

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

UNIT MIX/RENT SCHEDULE
SilverLeaf at Mason Apartments, Mason, 9% HTC #16057

LOCATION DATA	
CITY:	Mason
COUNTY:	Mason
PROGRAM REGION:	12

UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	4	8.9%
1	25	55.6%	0	40%	-	0.0%
2	20	44.4%	0	50%	9	20.0%
3	-	0.0%	0	60%	31	68.9%
4	-	0.0%	0	MR	1	2.2%
TOTAL	45	100.0%	-	TOTAL	45	100.0%

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	97.42%
APP % Acquisition	3.37%
APP % Construction	9.00%
Average Unit Size	861 sf

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$343	2	1	1	750	\$343	\$46	\$297	\$0	\$0.40	\$297	\$594	\$594	\$297	\$0.40	\$0	\$929	\$1.24	\$705
TC 50%	\$573	5	1	1	750	\$573	\$46	\$527	\$0	\$0.70	\$527	\$2,635	\$2,635	\$527	\$0.70	\$0	\$629	\$0.84	\$705
TC 60%	\$687	13	1	1	750	\$687	\$46	\$641	(\$58)	\$0.78	\$583	\$7,579	\$7,579	\$583	\$0.78	(\$58)	\$629	\$0.84	\$705
TC 60%	\$687	5	1	1	750	\$687	\$40	\$647	(\$58)	\$0.79	\$589	\$2,945	\$2,945	\$589	\$0.79	(\$58)	\$629	\$0.84	\$705
TC 30%	\$412	2	2	1	1,000	\$412	\$57	\$355	(\$0)	\$0.36	\$355	\$710	\$710	\$355	\$0.36	(\$0)	\$759	\$0.76	\$825
TC 50%	\$687	4	2	1	1,000	\$687	\$57	\$630	(\$0)	\$0.63	\$630	\$2,520	\$2,520	\$630	\$0.63	(\$0)	\$759	\$0.76	\$825
TC 60%	\$825	13	2	1	1,000	\$825	\$57	\$768	(\$66)	\$0.70	\$702	\$9,126	\$9,126	\$702	\$0.70	(\$66)	\$759	\$0.76	\$825
MR		1	2	1	1,000	\$0	\$57		NA	\$0.76	\$759	\$759	\$759	\$759	\$0.76	NA	\$759	\$0.76	\$825
TOTALS/AVERAGES:		45			38,750				(\$42)	\$0.69	\$597	\$26,868	\$26,868	\$597	\$0.69	(\$42)	\$700	\$0.81	\$758

ANNUAL POTENTIAL GROSS RENT:	\$322,416	\$322,416
-------------------------------------	------------------	------------------

STABILIZED PRO FORMA

SilverLeaf at Mason Apartments, Mason, 9% HTC #16057

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT						TDHCA						VARIANCE			
	Database	Selected Comps	% EGI	Per SF	Per Unit	Amount	Carryover 11/30/2016	Original Underwriting 7/06/2016	Carryover 11/30/2016	Amount	Per Unit	Per SF	% EGI	%	\$			
POTENTIAL GROSS RENT			\$0.69	\$597	\$322,416	\$322,008	\$371,928	\$371,928	\$322,008	\$322,416	\$597	\$0.69		0.0%	\$0			
laundry/vending				\$7.22	\$3,900	\$5,880	\$5,880											
nsf & late				\$1.67	\$900	\$1,200	\$1,200											
				\$0.00	\$0	\$0	\$0											
Total Secondary Income				\$8.89				\$7,080	\$7,080	\$4,800	\$8.89			0.0%	\$0			
POTENTIAL GROSS INCOME					\$327,216	\$329,088	\$379,008	\$379,008	\$329,088	\$327,216				0.0%	\$0			
Vacancy & Collection Loss				7.5% PGI	(24,541)	(24,682)	(28,426)	(28,426)	(24,682)	(24,541)	7.5% PGI			0.0%	-			
Rental Concessions					-	-	-	-	-	-				0.0%	-			
EFFECTIVE GROSS INCOME					\$302,675	\$304,406	\$350,582	\$350,582	\$304,406	\$302,675				0.0%	\$0			
General & Administrative	\$23,109	\$514/Unit	\$15,033	\$334	5.42%	\$0.42	\$364	\$16,400	\$15,800	\$15,800	\$15,033	\$15,033	\$15,033	\$334	\$0.39	4.97%	9.1%	1,367
Management	\$26,503	7.9% EGI	\$16,902	\$376	4.01%	\$0.31	\$270	\$12,150	\$12,250	\$17,500	\$17,529	\$15,220	\$15,134	\$336	\$0.39	5.00%	-19.7%	(2,984)
Payroll & Payroll Tax	\$37,591	\$835/Unit	\$50,768	\$1,128	18.34%	\$1.43	\$1,233	\$55,500	\$58,500	\$61,000	\$59,883	\$59,883	\$50,768	\$1,128	\$1.31	16.77%	9.3%	4,732
Repairs & Maintenance	\$25,728	\$572/Unit	\$30,122	\$669	8.19%	\$0.64	\$551	\$24,800	\$28,200	\$28,200	\$29,400	\$29,400	\$27,000	\$600	\$0.70	8.92%	-8.1%	(2,200)
Electric/Gas	\$12,098	\$269/Unit	\$4,839	\$108	1.98%	\$0.15	\$133	\$6,000	\$6,000	\$6,000	\$4,839	\$4,839	\$4,839	\$108	\$0.12	1.60%	24.0%	1,161
Water, Sewer, & Trash	\$19,860	\$441/Unit	\$23,998	\$533	7.93%	\$0.62	\$533	\$24,000	\$23,000	\$23,000	\$23,313	\$23,313	\$23,998	\$533	\$0.62	7.93%	0.0%	2
Property Insurance	\$15,215	\$0.39/sf	\$13,255	\$295	3.80%	\$0.30	\$256	\$11,500	\$12,500	\$12,500	\$13,255	\$13,255	\$13,255	\$295	\$0.34	4.38%	-13.2%	(1,755)
Property Tax (@ 100%) 1.7645	\$21,866	\$486/Unit	\$9,836	\$219	6.61%	\$0.52	\$444	\$20,000	\$25,000	\$20,000	\$25,995	\$19,416	\$20,944	\$465	\$0.54	6.92%	-4.5%	(944)
Reserve for Replacements	\$12,227	\$272/Unit	\$14,992	\$333	3.72%	\$0.29	\$250	\$11,250	\$12,250	\$12,250	\$12,250	\$12,250	\$11,250	\$250	\$0.29	3.72%	0.0%	-
Supportive Services			\$6,146	\$137	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	\$0.00	0.00%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			\$926	\$21	0.58%	\$0.05	\$39	\$1,760	\$1,800	\$1,800	\$1,760	\$1,760	\$1,760	\$39	\$0.05	0.58%	0.0%	-
TOTAL EXPENSES		\$202,676			60.58%	\$4.73	\$4,075	\$ 183,360	\$ 195,300	\$198,050	\$203,258	\$ 194,369	\$ 183,980	\$4,088	\$4.75	60.78%	-0.3%	\$ (620)
NET OPERATING INCOME ("NOI")					39.42%	\$3.08	\$2,651	\$119,315	\$109,106	\$152,532	\$147,325	\$110,037	\$118,694	\$2,638	\$3.06	39.22%	0.5%	\$620
CONTROLLABLE EXPENSES							\$2,816/Unit		\$2,684/Unit	\$2,735/Unit	\$2,703/Unit	\$2,703/Unit		\$2,703/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

SilverLeaf at Mason Apartments, Mason, 9% HTC #16057

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE								
		Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Carryover	Original Underwriting		Carryover	Principal	Term	Amort	Rate	Pmt	Cumulative		
DEBT (Must Pay)	Fee	UW	App						Principal	Principal	Principal	Principal						Principal	Principal	LTC
Bonneville Mortgage	0.50%	1.15	1.19	100,682	4.50%	40	40	\$1,866,295	\$1,778,454	\$1,868,150	\$1,868,150	\$1,778,454	\$1,866,295	40	40	4.00%	\$102,931	1.16	29.9%	
CASH FLOW DEBT / GRANTS																				
City of Mason In-Kind Contribution		1.18	1.19	\$0	0.00%	0	0	\$10,000					\$10,000	0	0	0.00%		1.16	0.2%	
				\$100,682	TOTAL DEBT / GRANT SOURCES			\$1,876,295	\$1,778,454	\$1,868,150	\$1,868,150	\$1,778,454	\$1,876,295	TOTAL DEBT SERVICE		\$102,931	1.16	30.1%		
NET CASH FLOW		\$18,012	\$18,633											APPLICANT NET OPERATING INCOME	\$119,315	\$16,384	NET CASH FLOW			

EQUITY SOURCES

		APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE								
		DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Carryover	Original Underwriting		Carryover	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
EQUITY / DEFERRED FEES							Applicant	Applicant	TDHCA	TDHCA						
RBC Capital Markets		LIHTC Equity	68.1%	\$500,000	0.85	\$4,249,575	\$4,949,505	\$4,599,540	\$4,599,540	\$4,949,505	\$4,249,575	\$0.85	\$500,000	68.1%	\$11,111	Previous Allocation
StoneLeaf Development Partners		Deferred Developer Fees	2.2%	(14% Deferred)		\$139,302	\$40,180	\$168,449	\$139,979	\$11,710	\$114,034	(12% Deferred)		1.8%	Total Developer Fee:	\$970,000
Additional (Excess) Funds Req'd			-0.4%			(\$25,268)	(\$28,470)	(\$28,470)	\$0	\$0	\$0			0.0%		
TOTAL EQUITY SOURCES			69.9%			\$4,363,609	\$4,961,215	\$4,739,519	\$4,739,519	\$4,961,215	\$4,363,609			69.9%	15-Year Cash Flow:	\$308,041
TOTAL CAPITALIZATION						\$6,239,904	\$6,739,669	\$6,607,669	\$6,607,669	\$6,739,669	\$6,239,904			15-Yr Cash Flow after Deferred Fee:	\$194,007	

DEVELOPMENT COST / ITEMIZED BASIS

		APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
		Eligible Basis		Total Costs	Carryover	Original Underwriting		Carryover	Total Costs	Eligible Basis		%	\$		
		Acquisition	New Const. Rehab		Applicant	Applicant	TDHCA	TDHCA		New Const. Rehab	Acquisition				
Land Acquisition				\$1,778 / Unit	\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$1,778 / Unit		0.0%	\$0		
Off-Sites				\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit			0.0%	\$0		
Site Work				\$591,200	\$13,138 / Unit	\$591,200	\$591,200	\$591,200	\$591,200	\$13,138 / Unit	\$591,200	0.0%	\$0		
Site Amenities				\$50,000	\$1,111 / Unit	\$50,000	\$50,000	\$50,000	\$50,000	\$1,111 / Unit	\$50,000	0.0%	\$0		
Building Cost				\$2,712,110	\$69.99 /sf	\$60,269/Unit	\$2,712,110	\$2,957,080	\$2,988,031	\$2,988,031	\$2,823,459	\$62,744/Unit	\$72.86 /sf	\$2,823,459	
Contingency				\$260,000	7.75%	7.75%	\$260,000	\$280,350	\$280,350	\$254,046	\$254,046	\$242,526	7.00%	7.00%	\$242,526
Contractor Fees				\$505,862	14.00%	14.00%	\$505,862	\$543,009	\$543,009	\$543,009	\$543,009	\$505,862	13.65%	13.65%	\$505,862
Soft Costs				\$373,000	\$8,733 / Unit	\$393,000	\$383,000	\$383,000	\$383,000	\$393,000	\$8,733 / Unit	\$373,000		\$373,000	
Financing				\$361,000	\$11,844 / Unit	\$533,000	\$665,000	\$533,000	\$665,000	\$533,000	\$11,844 / Unit	\$321,000		\$321,000	
Developer Fee				\$970,000	19.99%	19.99%	\$970,000	\$1,028,500	\$1,028,500	\$1,026,120	\$970,000	19.77%	19.50%	\$956,874	
Reserves				\$3,778 / Unit	\$170,000	\$190,000	\$190,000	\$165,272	\$143,934	\$143,934	\$3,188 / Unit		18.5%	\$26,544	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED)		\$0	\$5,823,172	\$139,226 / Unit	\$6,265,172	\$6,768,139	\$6,636,139	\$6,608,015	\$6,724,339	\$6,332,503	\$140,722 / Unit	\$5,863,920	\$0	-1.1%	(\$67,331)
Acquisition Cost		\$0			\$0	\$0									
Contingency			(\$25,268)		(\$25,268)	(\$28,470)									
Contractor's Fee			(\$3,536)												
Interim Interest			(\$40,000)												
Developer Fee		\$0	(\$13,126)		\$0	\$0									
Reserves					\$0	\$0									
ADJUSTED BASIS / COST		\$0	\$5,741,241	\$138,665/unit	\$6,239,904	\$6,739,669	\$6,636,139	\$6,608,015	\$6,724,339	\$6,332,503	\$140,722/unit	\$5,863,920	\$0	-1.5%	(\$92,599)
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):															

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

SilverLeaf at Mason Apartments, Mason, 9% HTC #16057

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	ADJUSTED BASIS	\$0	\$5,741,241	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$5,741,241	\$0	\$5,863,920
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	\$0	\$7,463,613	\$0	\$7,623,097
Applicable Fraction	97.42%	97.42%	97.42%	97.42%
TOTAL QUALIFIED BASIS	\$0	\$7,271,004	\$0	\$7,426,371
Applicable Percentage	3.37%	9.00%	3.37%	9.00%
ANNUAL CREDIT ON BASIS	\$0	\$654,390	\$0	\$668,373
CREDITS ON QUALIFIED BA	\$654,390		\$668,373	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8499	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$654,390	\$5,561,762	----	----	----
Needed to Fill Gap	\$513,417	\$4,363,609	----	----	----
Previous Allocati	\$500,000	\$4,249,575	\$500,000	\$0	\$0

Development Cost/SF

	Application	TDHCA
Acquisition & Hard Costs	\$104.65	\$108.72
Hard Costs	\$104.65	\$108.72
Building Costs	\$69.99	\$72.86
Total Points Claimed:	12	

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Fourplex	38,750 SF	\$67.08	2,599,325
Adjustments				
Exterior Wall Finish	0.80%		0.54	\$20,795
Elderly	3.00%		2.01	77,980
9-Ft. Ceilings	3.10%		2.08	80,579
Roof Adjustment(s)			4.90	189,731
Subfloor			(2.98)	(115,475)
Floor Cover			2.84	110,050
Breezeways	\$0.00	0	0.00	0
Balconies	\$25.24	6,961	4.53	175,696
Plumbing Fixtures	\$990	20	0.51	19,800
Rough-ins	\$485	90	1.13	43,650
Built-In Appliances	\$1,725	45	2.00	77,625
Exterior Stairs	\$2,250	0	0.00	0
Heating/Cooling			2.14	82,925
Enclosed Corridors	\$50.27	0	0.00	0
Carports	\$11.94	7,290	2.25	87,043
Garages		0	0.00	0
Comm &/or Aux Bldgs	\$91.84	2,729	6.47	250,642
Elevators		0	0.00	0
Other: Mail Room	\$50.27	125	0.16	6,284
Fire Sprinklers	\$2.47	41,479	2.64	102,453
SUBTOTAL			98.30	3,809,102
Current Cost Multiplier	0.99		(0.98)	(38,091)
Local Multiplier	0.88		(11.80)	(457,092)
TOTAL BUILDING COSTS			85.52	\$3,313,919
Plans, specs, survey, bldg permits	3.30%		(2.82)	(\$109,359)
Contractor's OH & Profit	11.50%		(9.83)	(381,101)
NET BUILDING COSTS		\$62,744/unit	\$72.86/sf	\$2,823,459

Long-Term Pro Forma

SilverLeaf at Mason Apartments, Mason, 9% HTC #16057

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$302,675	\$308,728	\$314,903	\$321,201	\$327,625	\$361,724	\$399,373	\$440,940	\$486,833	\$537,503	\$593,447	\$655,214
TOTAL EXPENSES	3.00%	\$183,360	\$188,739	\$194,278	\$199,979	\$205,850	\$237,911	\$275,002	\$317,918	\$367,577	\$425,044	\$492,500	\$570,942
NET OPERATING INCOME ("NOI")		\$119,315	\$119,989	\$120,625	\$121,221	\$121,775	\$123,814	\$124,371	\$123,022	\$119,256	\$112,459	\$100,947	\$84,271
MUST -PAY DEBT SERVICE													
Bonneville Mortgage		\$102,931	\$102,835	\$102,734	\$102,630	\$102,521	\$101,907	\$101,157	\$100,241	\$99,124	\$97,759	\$96,092	\$94,058
TOTAL DEBT SERVICE		\$102,931	\$102,835	\$102,734	\$102,630	\$102,521	\$101,907	\$101,157	\$100,241	\$99,124	\$97,759	\$96,092	\$94,058
ANNUAL CASH FLOW		\$16,384	\$17,154	\$17,891	\$18,592	\$19,254	\$21,907	\$23,214	\$22,781	\$20,133	\$14,701	\$4,855	(\$9,786)
CUMULATIVE NET CASH FLOW		\$16,384	\$33,538	\$51,429	\$70,021	\$89,275	\$193,974	\$308,041	\$423,595	\$530,546	\$616,154	\$662,189	\$644,569
DEBT COVERAGE RATIO		1.16	1.17	1.17	1.18	1.19	1.21	1.23	1.23	1.20	1.15	1.05	0.90
EXPENSE/INCOME RATIO		60.6%	61.1%	61.7%	62.3%	62.8%	65.8%	68.9%	72.1%	75.5%	79.1%	83.0%	87.1%
Deferred Developer Fee Balance		\$97,650	\$80,496	\$62,604	\$44,012	\$24,758	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Residual Cash Flow		\$0	\$0	\$0	\$0	\$0	\$21,907	\$23,214	\$22,781	\$20,133	\$14,701	\$4,855	(\$9,786)

From: MIKE@stoneleafcompanies.com
To: [Raquel Morales](#)
Cc: [Robbye Meyer](#); [Victoria Sugrue](#); [Ben Dempsey](#)
Subject: RE: Silverleaf at Mason Amendment
Date: Friday, April 07, 2017 9:33:35 AM
Attachments: [SilverLeaf at Mason LOI Issued 4-5-17.pdf](#)

Raquel,

Yes, we want to move forward and the letter from RBC is attached. We have a little negotiation to do with them, but we are generally in agreement and they have committed to close on their line, if need be.

Thanks for your assistance with this Raquel,

Mike Sugrue
StoneLeaf Companies
1920 S 3rd St.
Mabank, TX 75147
O-903-887-4344
M-903-340-1766

----- Original Message -----

Subject: Silverleaf at Mason Amendment
From: "Raquel Morales" <raquel.morales@tdhca.state.tx.us>
Date: 4/7/17 9:19 am
To: "MIKE@stoneleafcompanies.com" <MIKE@stoneleafcompanies.com>
Cc: "Robbye Meyer" <robbyemeyer@gmail.com>

Hi Mike,

Thanks for leaving me the voicemail yesterday. As soon as you have that letter from RBC available can you send to us so that we can include in your amendment request? Just to confirm, you will likely proceed with the offer from RBC versus the one from Michel & Associates that you provided with the amendment, and you still want to proceed with the amendment request. I think we can work with that and finalize but need the letter from RBC.

Let me know if you have any questions. Thanks!

Raquel Morales

Director of Asset Management

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.2109

Fax: 512.475.4420

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

About TDHCA

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



April 5, 2017

StoneLeaf Development Partners, LLC
1920 South 3rd Street
Mabank, TX 75147
Attn: Mike Sugrue

**Re: *SilverLeaf at Mason
Mason, TX***

Dear Mike:

Thank you for providing us the opportunity to submit a proposal on SilverLeaf at Mason (the "Project"). This letter serves as our mutual understanding of the business terms regarding the acquisition of an ownership interests in SilverLeaf at Mason, LLC, a Texas limited liability company (the "Company"). RBC Tax Credit Equity, LLC, its successors and assigns ("RBC") will acquire a 99.99% interest, and RBC Tax Credit Manager II, Inc. ("RBC Manager") will acquire a .001% interest (collectively, the "Interest") in the Company.

1. **Project and Parties Involved.**

- (a) The Project, located in the City of Mason, County of Mason, State of Texas will consist of 12 new garden style buildings having 45 apartment units for rent to Seniors 55+. In addition, there will be one community building. Within the Project 44 units will be occupied in compliance with the low-income housing tax credit ("LIHTC") requirements of Section 42 of the Internal Revenue Code and one unit will be market rate.
- (b) The parties involved with the Project are as follows:
 - (i) **Managing Member.** The Managing Member is SilverLeaf at Mason GP, LLC, a single purpose, taxable entity which is owned 100% by StoneLeaf Homes of Distinction, LLC.
 - (ii) **Developer.** The developers are 80% StoneLeaf Development Partners, LLC and 20% Stoneleaf Homes of Distinction, LLC, collectively referred to herein as "Developer."
 - (iii) **Guarantors.** Subject to RBC's review and approval of financial statements, the Guarantors are the Developer, StoneLeaf Development Partners, LLC, StoneLeaf Homes of Distinction, LLC, Mike Sugrue, Victoria Sugrue, Ben Dempsey, and other entities deemed necessary by RBC, on a joint and several basis.

2. **Investment Amount.** The Interest in the Company will be acquired for a total capital contribution of \$4,249,575. This capital contribution is based on the Project receiving the tax credits described in Paragraph 3 and represents \$0.85 per tax credit dollar. This pricing assumes both the Developer and the Managing Member use cash basis accounting for tax purposes. Further, the pricing assumes depreciable basis of \$5,649,094 consisting of 100% of residential depreciation of \$4,715,394 being taken over 27.5 years, 100% of depreciation on site improvements of \$641,200 being taken over 15 years, and 100% of depreciation on personal property of \$292,500 being taken over 5 years with the Project being placed in service between December, 2017 and June, 2018. The capital contribution, subject to adjustments set forth in Paragraph 5 below, will be payable to the Company in installments as set forth on **Exhibit A.**

3. **LIHTC**. The Project has received a reservation of 2016 LIHTC in the amount of \$500,000 annually. The total LIHTC anticipated to be delivered to the Company is \$5,000,000. The LIHTC will be available to the Company beginning in January, 2018. It is expected that RBC will be allocated a total LIHTC amount of \$4,999,500 (the "Projected LIHTC") during the credit period in the following amounts: \$361,708 in 2018, \$499,950 annually in each of the years 2019 through 2027 and \$138,242 in 2028. Any decision to delay the commencement date of the LIHTC period beyond 2018 is subject to RBC's consent.
4. **Funding Sources**. We assume the Project will receive funding on the terms and conditions listed on **Exhibit B**. Any change in those funding sources or their terms and conditions are subject to RBC's consent.
5. **Adjustments**.
 - (a) **Downward Capital Adjustment**. The amount of LIHTC to be allocated to RBC during the credit period ("Certified LIHTC") will be determined promptly following receipt of cost certification from the accountant and Form 8609. If the Certified LIHTC is less than Projected LIHTC, RBC's capital contributions will be reduced by an amount (the "Downward Capital Adjustment") equal to the product of (i) \$.87 multiplied by (ii) the difference between Projected LIHTC and Certified LIHTC.
 - (b) **Late Delivery Adjustment**. The amount of LIHTC allocated to RBC for 2018 will be determined at the time the Project is fully leased. If the amount of the LIHTC allocated to RBC for calendar year 2018 is less than the amounts shown in Paragraph 3, RBC's capital contribution shall be reduced by an amount (the "Late Delivery Adjustment") equal to the difference between the amount shown in Paragraph 3 (adjusted for any Downward Capital Adjustment) and the amount of the LIHTC allocated to RBC for calendar year 2018 less the present value (using a 10% discount rate) of the additional LIHTC projected to be received in 2028.
 - (c) **Payment by Managing Member**. If the Downward Capital Adjustment and the Late Delivery Adjustment exceed the total of all unfunded capital contributions, then the Managing Member will make a payment to the Company equal to the amount of such excess, and the Company will immediately distribute such amount to RBC as a return of its capital contribution. Except to the extent otherwise stated herein, this payment will not give rise to any right as a loan or capital contribution or result in any increase in the Managing Member's capital account.
 - (d) **Early Delivery Adjustment**. The amount of LIHTC allocated to RBC for 2018 will be determined at the time the Project is fully leased. If the amount of the LIHTC allocated to RBC for calendar year 2018 is more than the amounts shown in Paragraph 3, RBC's capital contribution shall be increased by an amount (the "Early Delivery Adjustment") equal to the difference between the amount shown in Paragraph 3 (adjusted for any Downward Capital Adjustment) and the amount of the LIHTC allocated to RBC for calendar year 2018, multiplied by 40%. This additional capital contribution will be paid by RBC at the time of its final capital contribution and will be applied first to any deferred developer fee, with any remaining amounts released to Net Cash Flow. The Early Delivery Adjustment will not exceed 5% of the total capital contribution
 - (e) **Upward Capital Adjustment**. If the Certified LIHTC is more than the Projected LIHTC, RBC will pay an additional capital contribution (the "Upward Capital Adjustment") equal to the product of (i) \$0.83 multiplied by (ii) the difference between the Certified LIHTC and the Projected LIHTC. This additional capital contribution will be paid by RBC at the time of its final capital contribution and will be applied first to any deferred developer fee, with any remaining amounts released to Net Cash Flow. The aggregate of the Early Delivery Adjustment and Upward Capital Adjustment will not exceed 5% of the total capital contribution.

6. **Managing Member Obligations.** Any amounts advanced by the Managing Member for the obligations set forth below will not be considered as loans or capital contributions reimbursable or repayable by the Company unless otherwise stated herein.

- (a) **Construction Completion.** The Managing Member is responsible for construction completion in accordance with approved plans and specifications and will pay for any construction costs, costs to achieve permanent loan closing, repayment of all construction financing and costs necessary to fund reserves required to be funded at or before permanent loan closing.
- (b) **Operating Deficits.**
 - (i) **Pre-Stabilization.** The Managing Member will fund operating deficits until the date (the “Stabilization Date”) which is the first day of the month following a 3-month period (such 3-month period to commence after the permanent loan closing) in which the Project has maintained an average 1.15 debt service coverage ratio; and
 - (ii) **Post-Stabilization.** Commencing with the Stabilization Date and continuing until the Release Date (defined below), the Managing Member will fund operating deficits of up to \$150,000. Any funds paid by the Managing Member under this Paragraph 6(b)(ii) shall be treated as an unsecured loan to the Company with interest at the rate of 0% per annum, to be repaid out of cash flow, refinancing, sale and liquidation proceeds as provided in Paragraph 9 hereof.

The “Release Date” is the later of:

- (A) the fifth anniversary of the Stabilization Date,
- (B) the date the Project has achieved an average debt service coverage ratio of 1.15 for the 12-month period immediately prior to the Release Date, and
- (C) the date the Project has achieved a 1.15 debt service coverage ratio for each of the 3 months immediately prior to the Release Date.

Notwithstanding the foregoing, if, as of the Release Date, the aggregate balance of the Operating Reserve and O&M Reserve described in Section 7(a) and 7(d) is less than \$145,270, this obligation shall continue until the aggregate balance in the Operating Reserve and O&M Reserve is equal to or greater than \$145,270.

- (c) **LIHTC Shortfall or Recapture Event.** To the extent not already addressed by the Downward Capital Adjustment or the Late Delivery Adjustment, if the actual amount of LIHTC for any year is less than Projected LIHTC (unless due to a change of law), the Managing Member will make payments to RBC of an amount equal to the shortfall or recapture amount, plus related costs and expenses incurred by RBC.
- (d) **Repurchase.** The Managing Member will repurchase RBC’s interest upon the occurrence of certain events described in the Project Entity Agreement.
- (e) **Environmental Indemnity.** The Managing Member will indemnify RBC against any losses due to environmental condition at the Project.
- (f) **Developer Fee.** The Managing Member will guarantee payment of any developer fee remaining unpaid at the end of the LIHTC compliance period.

- (g) Guarantors. The Guarantors will guarantee all of the Managing Member's obligations set forth in the Project Entity Agreement. The Guarantors will maintain a net worth and liquidity level as determined by RBC after review of the Guarantors' financial statements but in no event a net worth of less than \$5,00,000, of which \$1,000,000 will be liquid.

7. **Reserves.**

- (a) Operating Reserves. An operating reserve in the amount of \$107,944 will be established and maintained by the Managing Member concurrent with RBC's third capital contribution. Withdrawals from the operating reserve will be subject to RBC's consent. Prior to the Release Date, the balance of the Operating Reserve shall not be reduced to less than \$72,635. Expenditures from operating reserves will be replenished from available cash flow as described in Paragraph 9(b) below.
- (b) Replacement Reserves. The Company will maintain a replacement reserve, and make contributions on an annual basis equal to the greater of (i) \$250 per unit and (ii) the amount required by the USDA permanent lender which is anticipated to be \$275 per unit. The amount of the contribution will increase annually by 3%. An initial deposit to the replacement reserve of \$7,875 will be made no later than substantial completion. Annual contributions will commence upon substantial completion.
- (c) Rent-up Reserves. The Managing Member will establish a rent-up reserve in an amount not less than \$25,000 prior to RBC's second capital contribution. The rent-up reserve will be used to cover operating deficits during initial lease-up, and any unused balance will be released to cash flow upon funding of RBC's final capital contribution. The rent-up reserve is not an RBC requirement but has been included per the Developer's projections.
- (d) O&M Reserve. The Managing Member will establish an O&M reserve in an amount not less than \$37,326 (2% of the balance of the USDA 538 loan) on or prior to funding of the USDA permanent loan, per the requirements of the USDA lender. Withdrawals from the O&M reserve will be subject to RBC's consent.
- (e) Conversion Reserve. The Managing Member will establish a conversion reserve in an amount not less than \$125,390 (2% of development costs) concurrent with RBC's first capital contribution. The conversion reserve will be used to ensure the USDA guarantee will be in effect throughout conversion from construction financing to permanent financing and will be released back to the Managing Member once the USDA permanent loan is funded, subject to the requirements of the USDA lender. Withdrawals from the conversion reserve will be subject to RBC's consent.

8. **Fees and Compensation.** The following fees will be paid by the Company for services rendered in organizing, developing and managing the Company and the Project.

- (a) Developer Fee. The Developer will earn a developer fee of \$970,000 projected to be paid as follows:
 - (i) \$150,000 (15.46%) concurrent with RBC's first capital contribution;
 - (ii) \$200,000 (20.62%) concurrent with RBC's second capital contribution;
 - (iii) \$331,862 (34.21%) concurrent with RBC's third capital contribution;
 - (iv) \$125,000 (12.89%) concurrent with RBC's final capital contribution; and

- (v) \$163,138 (16.82%) is deferred and paid from net cash flow.

The deferred portion of the developer fee shall accrue interest at 8% per annum commencing as of the date of RBC's final capital contribution. If the deferred portion of the developer fee as of the closing is higher than currently projected, the scheduled payments of developer fee at RBC's third capital contribution and final capital contribution will, in the aggregate, not be less than \$456,862. Payment of the deferred fee will be subordinate to all other Company debt as well as operating expense and reserve requirements

- (b) Incentive Management Fee. An incentive management fee will be payable to the Managing Member on an annual basis in an amount equal to 90% of net cash flow as set forth on Paragraph 9(b) below.
- (c) Property Management Fee. The property management fee is underwritten at 5.00% of gross rental revenues. The management agent and the terms of the property management agreement are subject to the prior approval of RBC. If the management agent is an affiliate of any Guarantor, its fee will be subordinated to payment of operating costs and required debt service and reserve payments. Subject to a due diligence review, it is anticipated that Alpha Barnes will serve as the initial management agent.
- (d) Asset Management Fee. The Company will pay RBC Manager an annual asset management fee of \$5,000 which will increase by 3% annually. The asset management fee will be paid quarterly in advance commencing with the first anniversary of the closing date.

9. **Tax Benefits and Distributions.**

- (a) Tax Benefits. Tax profits, tax losses, and tax credits will be allocated 99.99% to RBC, .001% to RBC Manager and .009% to the Managing Member.
- (b) Net Cash Flow Distributions. Distributions of net cash flow (cash receipts less cash expenditures, payment of debt service, property management fee and asset management fee), will be made as follows:
 - (i) to RBC in satisfaction of any unpaid amounts due under Paragraphs 5 and 6 above and for any other amounts due and owing to RBC;
 - (ii) to RBC Manager for any unpaid asset management fees;
 - (iii) to the operating reserve such that the operating reserve and O&M reserve maintain a combined balance of \$145,270;
 - (iv) to the payment of any unpaid developer fee;
 - (v) to the payment of any debts owed to the Managing Member or its affiliates;
 - (vi) 90% of the remaining cash flow to the Managing Member as an incentive management fee; and
 - (vii) the balance to the Managing Member, RBC and RBC Manager in accordance with their percentage interests described in Paragraph 9(a).
- (c) Distributions upon Sale, Liquidation or Refinance. Net proceeds resulting from any sale, liquidation or refinance will be distributed as follows:

- (i) to payment in full of any Company debts except those due to RBC, RBC Manager or the Managing Member and/or their affiliates;
- (ii) to the setting up of any required reserves for contingent liabilities or obligations of the Company;
- (iii) to RBC, in satisfaction of any unpaid amounts due under Paragraphs 5 and 6 above and for any other amounts due and owing to RBC;
- (iv) to RBC Manager for any unpaid asset management fees;
- (v) to RBC for any excess or additional capital contributions made by it;
- (vi) to the payment of any debts owed to the Managing Member or its affiliates including any unpaid developer fee;
- (vii) to RBC Manager, 1% of such proceeds as a capital transaction administrative fee;
- (viii) to RBC in an amount equal to any projected federal income tax incurred as a result of the transaction giving rise to such proceeds; and
- (ix) the balance, 90% to the Managing Member, 9.99% to RBC and .01% to RBC Manager.

10. **Construction.** The Managing Member will arrange for a fixed or guaranteed maximum price construction contract in the anticipated amount of \$3,863,759. The Contractor's obligations will be secured by a letter of credit in an amount not less than 15% of the amount of the construction contract or a payment and performance bonds in an amount not less than the amount of the construction contract. The Project will establish an owner's construction contingency held outside of the construction contract in the amount of \$193,188 (5.00% of the construction costs), or such other amount as RBC may reasonably require following its review of construction documents, but in no event less than 5.00% of the construction contract. RBC, may, in its sole discretion, engage a construction consultant (i) to review plans and specifications and (ii) evaluate the construction progress by providing monthly reports to the Company. The cost of the construction consultant will be paid by the Company.

11. **Due Diligence, Opinions and Projections.**

- (a) **Due Diligence:** The Managing Member will provide RBC with all due diligence items set forth on its due diligence checklist, including but not limited to, financial statements for the Guarantors, schedule of real estate owned and contingent liabilities, plans and specifications, a current appraisal, a current (less than 6 months old) market study commissioned by RBC which demonstrates that proforma rent levels on the 60% AMI LIHTC and market rate units are supported by the comps and have a minimum 10% advantage to the achievable market rent levels concluded by the market analyst, a current (less than 6 months old) Phase I environmental report, rent and expense data from comparable properties, site/market visit and title and survey. The Managing Member agrees to reasonably cooperate with RBC (including signing such consents as may be necessary) in obtaining background reports on the Developer, Guarantors and other Project entities as determined by RBC.
- (b) **Legal Opinions.** The Managing Member's counsel will deliver to RBC a local law opinion satisfactory to RBC. RBC's counsel will prepare a tax opinion and the Managing Member agrees to cooperate to provide all necessary documentation requested by RBC's counsel.

- (c) Diligence Reimbursement. The Company will reimburse RBC \$75,000 toward the costs incurred by RBC in conducting its due diligence review and for the costs and expenses of RBC's counsel in connection with the preparation of the tax opinion. RBC may deduct this amount from its first capital contribution.
- (d) Projections. The projections to be attached to the Project Entity Agreement and that support the Tax Opinion will be prepared by RBC based on projections provided by the Managing Member. RBC's projections will include development sources and uses, calculation of eligible basis, operating and construction period cash flow analysis, 15-year operating projection, 30-year debt analysis and 15-year capital account analysis.

12. **Closing Contingencies**. RBC's obligation to close on the purchase of the Interest will be contingent upon RBC's receipt, review and approval of all due diligence including the items set forth on its due diligence checklist as well as the following:

- (a) Project Entity Documents. Preparation and execution of RBC's standard Project Entity Agreement and other fee agreements containing representations and warranties, covenants, consent rights, and indemnities, each on terms and conditions satisfactory to RBC.
- (b) Information and Laws. No adverse change in the information you have provided to us, no adverse change in market conditions and no adverse change in existing law.
- (c) Closing Date. The closing occurring on or before June 30, 2017.

13. **Termination and Confidentiality**.

- (a) Termination Date. Once executed by both the Managing Member and the Guarantors and countersigned by RBC, this letter shall be a binding agreement and will remain in effect until the 120th day (the "Termination Date") after the date it is signed by the Managing Member. In recognition of the time which will be expended and the expenses which will be incurred by RBC in connection with the transaction contemplated hereby, the Managing Member agrees that, until the Termination Date, neither it nor any of its officers, employees, agents, or affiliates will solicit, entertain or negotiate with respect to any inquiries or proposals relating to the acquisition of an interest in the Company or the equity syndication of the Company or the Project without the prior written approval of RBC. In the event the Managing Member enters into an arrangement with a party other than RBC prior to the Termination Date, RBC will be entitled to pursue all remedies available to it. If RBC elects not to acquire the Interest based on the failure of any of the closing contingencies, the Managing Member and RBC will be mutually released from the terms and conditions contained in this letter.
- (b) Confidentiality. The Managing Member agrees to keep the terms and conditions contained in this letter confidential and not to disclose the terms to any third party (other than attorneys and accountants of the Company) without the express prior written approval of RBC.

14. **Withdrawal of Letter of Intent**. Unless executed by the Managing Member and Guarantors prior to April 17, 2017 ("Withdrawal Date"), this Letter of Intent shall be considered withdrawn by RBC and void. Each party shall be responsible for their own costs and expenses incurred to that date. RBC may extend the Withdrawal Date in writing delivered to the Managing Member.

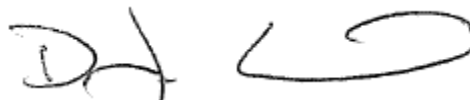
15. **Additional Items.**

- (a) **Reporting Obligations.** The Managing Member will cause to be furnished to RBC on a prompt basis customary monthly, quarterly and annual financial statements and rent rolls for the Company, together with audited financial statements and tax returns and monthly construction reports.
- (b) **Countersigning Requirements.** Before this letter will be countersigned, the items set forth in **Exhibit C** must be delivered to RBC.

(Remainder of page intentionally left blank)

If the foregoing is in accordance with your understanding of the terms and conditions, please indicate your acceptance on the enclosed copy and return it to the undersigned. This Letter of Intent will not be binding on RBC until countersigned by an authorized signatory on behalf of RBC following your execution of this letter.

Very truly yours,



By: _____
Name: Dan Kierce
Title: Director

The undersigned approves and accepts the terms of this Letter of Intent.

MANAGING MEMBER:

By: _____
Its: _____
Date: _____

GUARANTORS:

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

RBC acknowledges and accepts the above signature of the Managing Member and the Guarantors. This binding Letter of Intent was accepted by RBC on _____, 2017.

By: _____
Name: _____
Title: _____

**EXHIBIT A
 CAPITAL CONTRIBUTIONS**

<u>Conditions</u>	<u>Amount</u>	<u>Anticipated Funding Date</u>
i) 15.00% upon the later of: (a) the execution of the Operating Agreement, (b) closing of the financing sources described in Exhibit B, and (c) receipt and approval of all due diligence items on RBC's due diligence checklist.	\$637,436	June 1, 2017
ii) 35.00% upon the later of: (a) receipt of final Certificates of Occupancy for all of the units, (b) receipt of an architect's certificate of substantial completion, (c) receipt of a preliminary cost certification accompanied by a Managing Member certification, and (d) July 1, 2018.	\$1,487,351	July 1, 2018
iii) 47.06% upon the later of: (a) receipt of a final cost certification from an independent certified public accountant, (b) achievement of 100% qualified occupancy, (c) construction loan repayment, (d) funding of the USDA permanent loan, (e) 90 days at 90% occupancy & 90 days of a 1.15 Debt Service Coverage Ratio, and (f) January 1, 2019.	\$1,999,788	January 1, 2019
iv) 2.94% upon the later of: (a) achievement of the Stabilization Date, (b) receipt of the IRS Form 8609, and (c) April 1, 2019.	\$125,000	April 1, 2019
Total:	\$4,249,575	

**EXHIBIT B
 SOURCES**

CONSTRUCTION LOAN	
Lender (Not Related):	Bank of Oklahoma (or another lender acceptable to RBC)
Source:	Conventional
Amount:	\$4,299,031
Interest Rate:	3.98% Variable (LIBOR+250 bps + 50bps underwriting cushion)
Payments:	Interest only payments due monthly, balance due at maturity
Maturity Date:	24 months from Initial Close
Collateral:	First Mortgage on Project during construction
Other loan terms:	TBD
PERMANENT LOAN	
Lender (Not Related):	Bonneville (or another lender acceptable to RBC)
Source:	USDA 538
Amount:	\$1,866,295
Interest Rate:	4.5% all in rate per developer projections (assuming 4% Fixed + 0.5% annual USDA Guarantee Fee); also, assuming a 24 month forward rate lock
Amortization:	40 years
Payments anticipated to commence:	June 1, 2019
Hard Payment Amount:	\$93,600 annually based on Projections plus a 0.50% annual USDA Guarantee Fee
Maturity Date:	40 years from funding
Non-recourse to:	All Partners
Requirements for Funding:	A. DSC ratio of 1.15 to 1.00 for 3 months B. 3 months of 90% occupancy C. Resizing of up to 5% is permitted to achieve DSC D. TBD
Collateral:	First Mortgage on Project
Other loan terms:	TBD

**EXHIBIT C
COUNTERSIGNING REQUIREMENTS**

MANAGING MEMBER, DEVELOPER AND GUARANTORS
1. Financial Statements (3 full years plus current year interim)
2. Federal Tax Returns (3 years)
3. Schedule of Real Estate Owned
4. Schedule of Contingent Liabilities
5. Background Questionnaire for Developer
6. FEIN for entities; credit release form for individuals
7. Verification of Liquid Assets (Bank or Brokerage Statement)
8. Organization Chart
DEVELOPMENT DOCUMENTS
1. Market Study (w/in 6 months)
2. Operating Expense Comparables (3x)
TAX CREDIT DOCUMENTATION
1. Tax Credit Application and Exhibits



Asset Management Division

Amendment Request Form

Completed forms and supporting materials can be emailed to asset.management@tdhca.state.tx.us

TYPE OF AMENDMENT REQUESTED

Date Submitted: 3/13/2017

Amendment Requested: *Application Amendment,*

Has the change been implemented? *No*

Award Stage: *Commitment (Prior to Carryover)*

NOTE: *Material Application or LURA Amendment requests must be received 45 days before the Board Meeting.*

Contact your Asset Manager if you are unsure what type of Amendment to request: <https://www.tdhca.state.tx.us/asset-management/contacts.htm>

DEVELOPMENT INFORMATION

Dev. Name: SilverLeaf at Mason

File No. / CMTS No.: 16057 /

CONTACT INFORMATION

Request Submitted By: Mike Sugrue

Phone #/Email: (903) 887-4344 /

SECTION 1: COVER LETTER

A cover letter **MUST** be submitted with your request. Review your cover letter to ensure it includes:

- The change(s) requested
- The reason the change is necessary
- The good cause for the change
- An explanation of whether the amendment was reasonably foreseeable or preventable at the time of Application

SECTION 2: REQUIRED DOCUMENTATION

Entering an Amendment conveys to the Department that representations in the Application have changed. You **MUST** provide information about any and all changes made from the time of Application (or as last approved by the Department) in your request, including any items that will be impacted by the requested change. Failure to represent or properly document all changes may result in delays, denials, or a request for re-submission. The following is attached:

- Revised Development Financing Exhibits – if sources, terms, conditions, or amounts of financing will be impacted or changed by your amendment request, revised Application exhibits and term sheets (or executed Loan documents and LPA, if the loan has closed) must be submitted
- Signed Statement of No Financial Impact – if no sources, terms, conditions, or amount of financing will be impacted or changed by your amendment request, the Owner must sign and submit a statement to this effect
- Revised Application Exhibits/Documents Reflecting or Supporting All Requested Changes – revised site plans, surveys, Building and Unit Configuration exhibit, etc.
- Material Amendment fee of \$2,500 for first amendments, \$3,000 for second amendments, \$3,500 for third or more. (Applicable to Non-Material Amendments only if changes have been implemented prior to Amendment approval) – *N/A for Developments only funded by a Direct Loan program (HOME, NSP, HTF)*

SECTION 3A: MATERIAL APPLICATION AMENDMENT ITEMS

Check all items that have been modified from the original application (see *Subchapter E, §10.405(a)(3)*):

- Site plan Scope of tenant services Exclusion of reqs in Subchapters B & C
 Number of units* Reduction of 3%+ in unit sq ft Other
 Bedroom mix Reduction of 3%+ common area
 Architectural design Residential density (5%+ change)

If “Number of units” is selected above and the total LI units or LI units at any rent or income level will be reduced, also:

- Written confirmation from the lender *and* syndicator that the development is infeasible without the adjustment in units
 Evidence supporting the need for the adjustment in units

*NOTE: *The approved amendment may carry a penalty in accordance with §10.405(a)(6)(b).*

SECTION 3B: MATERIAL LURA AMENDMENT ITEMS

Check all items that require a material LURA amendment (see Subchapter E, *§10.405(b)(2)*):

- Reductions in the number of LI units Change in Target Population
 Changes to income or rent restrictions Removal of Non-profit Other
 Change in ROFR period or other ROFR provisions

The following additional items are attached for consideration or will be forthcoming:

- Draft Notice of Public Hearing* Evidence of public hearing*

*NOTE: *Draft Notices of Public Hearing must be provided with the Amendment materials 45 days prior to the Board meeting. *The Public Hearing must be held at least 15 business days prior to the Board meeting and evidence in the form of attendance sheets and a summary of comments made must be submitted to TDHCA within 3 days of the hearing.*

SECTION 4A: NON-MATERIAL APPLICATION AMENDMENT SUMMARY

Identify all non-material changes that have been or will be made (Contact your Asset Manager if you are unsure of whether your request is non-material):

Short Summary Regarding Application Changes

- Amendment is requesting a change in Developer(s) or Guarantor(s) and Previous Participation forms are attached.

SECTION 4B: NON-MATERIAL LURA AMENDMENT SUMMARY

Identify non-material amendments requested to the LURA:

Short Summary Regarding LURA Changes

SECTION 4C: NOTIFICATION ITEM SUMMARY

Identify any notification items from the time of application:

Short Summary Regarding LURA Changes



StoneLeaf Companies

03/13/2017

Texas Department of Housing and Community Affairs
Attn: Asset Management Division
P.O. Box 13941
Austin, Texas 78711-3941

To Whom It May Concern,

This letter serves as our request for an amendment to application 16057 (SilverLeaf at Mason):

Due to unforeseen dramatic changes in market pricing for Low Income Housing Tax Credits (LIHTC), StoneLeaf Companies is requesting a material application amendment for SilverLeaf at Mason (16057).

At the time of 2016 application submittal, we received a letter of intent (LOI) for \$0.920 per dollar of LIHTC. After being awarded the tax credits for Region 12 Rural, National Equity Fund (NEF) offered us a price of \$0.990 per dollar of LIHTC acquired. We signed the LOI and provided the requested due diligence. However, after the 2016 presidential election, NEF informed us that they could no longer honor the agreed LOI. We continued to engage with additional equity providers and have received a current offer (enclosed) from Michel Associates for \$0.860 per dollar of LIHTC acquired. This drastic reduction in pricing alters the financial feasibility of the development. After TAAHP met with TDHCA staff, they suggested that we reduce or eliminate the number of market rate (non-low income) units from the application in order to lower the debt for the development.

We propose to reduce our number of market rate units from 5 units to 1 unit. This will reduce our overall units from 49 units to 45 units, lower our overall construction costs and still maintain a debt coverage ratio of 1.20. This will allow the project to remain feasible without having to alter the number of low income units, thus still allowing us to meet the demand for affordable senior housing in the region. We have discussed this change with our construction lender, perm lender, and equity provider. All are in agreement that it would be a viable solution to counteract the substantially lower LIHTC pricing.

Additionally, due to the delay in construction startup, caused directly from the reduction in LIHTC pricing, we are also requesting the consideration of allowing a 60 day extension for the 10% test due date.



StoneLeaf Companies

We appreciate your consideration of our amendment request. We hope for a positive response and are available to answer any questions or provide any additional information. Thank you for your commitment to Texans in need of affordable housing.

A handwritten signature in blue ink, appearing to read "Ben Dempsey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ben Dempsey
Vice President
StoneLeaf Companies

Rent Schedule (Continued)

		% of LI	% of Total	
HOUSING TAX CREDITS	TC30%	9.1%	9%	4
	TC40%			0
	TC50%	20.5%	20%	9
	TC60%	70%	69%	31
	HTC LI Total			44
	EO			0
	MR			1
	MR Total			1
Total Units				45
MORTGAGE REVENUE BOND	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB LI Total			0
	MRBMR			0
	MRBMR Total			0
	MRB Total			0

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

BEDROOMS	0			0
	1			25
	2			20
	3			0
	4			0
	5			0

ACQUISITION + HARD			
Cost Per Sq Ft	\$ 106.30		
HARD			
Cost Per Sq Ft	\$ 106.30		
BUILDING			
Cost Per Sq Ft	\$ 69.99		
Total Points claimed:			12

Applicants are advised to ensure that figure is not rounding down to the maximum dollar figure to support the elected points.

Utility Allowances [§10.614]

Applicant must attach to this form documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application Packet. Where the Applicant uses any method that requires Department review, such review must have been requested prior to submission of the Application. This exhibit must clearly indicate which utility costs are included in the estimate.

Note: If more than one entity (Sec. 8 administrator, public housing authority) is responsible for setting the utility allowance(s) in the area of the development location, then the selected utility allowance must be the one which most closely reflects the actual expenses.

If an independent utility cost evaluation is conducted it must include confirming documentation from all the relevant utility providers.

If other reductions to the tenant rent is required such as the cost of flood insurance for the tenant's contents, documentation for these reductions to gross rent should also be attached.

Utility	Who Pays	Energy Source	0BR	1BR	2BR	3BR	4BR	Source of Utility Allowance & Effective Date
Heating	Tenant	Electric		\$ 20	\$ 21			HUD Worksheet
Cooking	Tenant	Electric		\$ 2	\$ 3			HUD Worksheet
Other Electric	Tenant			\$ 10	\$ 14			HUD Worksheet
Air Conditioning	Tenant	Electric		\$ 4	\$ 8			HUD Worksheet
Water Heater	Tenant	Electric		\$ 6	\$ 8			HUD Worksheet
Water								
Sewer								
Trash								
Flat Fee								
Other								
Total Paid by Tenant			\$ -	\$ 42	\$ 54	\$ -	\$ -	

Other (Describe)



**Allowances for
Tenant-Furnished Utilities
and Other Services**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Locality		Green Discount	Unit Type					Date (mm/dd/yyyy)
SilverLeaf at Mason (16057)		None	Single Family Attached (4PLEX)					5/24/2016
Utility or Service		Monthly Dollar Allowances						
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Space Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric Resistance	\$6	\$7	\$9	\$11	\$12	\$14	
	Electric Heat Pump	\$19	\$20	\$21	\$22	\$23	\$23	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Cooking	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$2	\$2	\$3	\$4	\$5	\$6	
	Other	\$0	\$0	\$0	\$0	\$0	\$0	
Other Electric	\$8	\$10	\$14	\$18	\$22	\$26		
Air Conditioning	\$4	\$4	\$8	\$11	\$14	\$17		
Water Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$5	\$6	\$8	\$10	\$12	\$13	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Water	\$0	\$0	\$0	\$0	\$0	\$0		
Sewer	\$0	\$0	\$0	\$0	\$0	\$0		
Trash Collection	\$0	\$19	\$19	\$0	\$0	\$0		
Range/Microwave	\$0	\$0	\$0	\$0	\$0	\$0		
Refrigerator	\$0	\$0	\$0	\$0	\$0	\$0		
Other - specify	\$0	\$0	\$0	\$0	\$0	\$0		

Projected Family Allowances To be used to compute specific family allowances.

Unit size: 1 BR

Utility or Service	Fuel Source	Monthly Allowance
Space Heating	Electric Heat Pump	\$20
Cooking	Electric	\$2
Other Electric	Electric	\$10
Air Conditioning	Electric	\$4
Water Heating	Electric	\$6
Water	Not Applicable	\$0
Sewer	Not Applicable	\$0
Trash Collection	Not Applicable	\$0
Range/Microwave	Not Applicable	\$0
Refrigerator	Not Applicable	\$0
Other	Not Applicable	\$0
Total		\$43

Spreadsheet (ver13) based on form HUD-52867 (12/97).

ref. Handbook 7420.8

Previous editions are obsolete

**Allowances for
Tenant-Furnished Utilities
and Other Services**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Locality		Green Discount	Unit Type					Date (mm/dd/yyyy)
SilverLeaf at Mason (16057)		None	Larger Apartment Bldgs. (5+ (4PLEX))					5/24/2016
Utility or Service		Monthly Dollar Allowances						
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Space Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric Resistance	\$4	\$5	\$6	\$8	\$9	\$10	
	Electric Heat Pump	\$19	\$19	\$20	\$21	\$21	\$22	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Cooking	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$2	\$2	\$3	\$4	\$5	\$6	
	Other	\$0	\$0	\$0	\$0	\$0	\$0	
Other Electric	\$6	\$8	\$11	\$14	\$17	\$21		
Air Conditioning	\$4	\$4	\$6	\$8	\$10	\$11		
Water Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$4	\$5	\$7	\$8	\$9	\$11	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Water	\$0	\$0	\$0	\$0	\$0	\$0		
Sewer	\$0	\$0	\$0	\$0	\$0	\$0		
Trash Collection	\$0	\$19	\$19	\$0	\$0	\$0		
Range/Microwave	\$0	\$0	\$0	\$0	\$0	\$0		
Refrigerator	\$0	\$0	\$0	\$0	\$0	\$0		
Other - specify	\$0	\$0	\$0	\$0	\$0	\$0		

Projected Family Allowances To be used to compute specific family allowances.

Unit size: 1 BR

Utility or Service	Fuel Source	Monthly Allowance
Space Heating	Electric Heat Pump	\$19
Cooking	Electric	\$2
Other Electric	Electric	\$8
Air Conditioning	Electric	\$4
Water Heating	Electric	\$5
Water	Not Applicable	\$0
Sewer	Not Applicable	\$0
Trash Collection	Not Applicable	\$0
Range/Microwave	Not Applicable	\$0
Refrigerator	Not Applicable	\$0
Other	Not Applicable	\$0
Total		\$39

Spreadsheet (ver13) based on form HUD-52667 (12/97).

ref. Handbook 7420.8

Previous editions are obsolete

**Allowances for
Tenant-Furnished Utilities
and Other Services**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Locality		Green Discount	Unit Type					Date (mm/dd/yyyy)
SilverLeaf at Mason (16057)		None	Single Family Attached (4PLEX)					5/24/2016
Utility or Service		Monthly Dollar Allowances						
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Space Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric Resistance	\$6	\$7	\$9	\$11	\$12	\$14	
	Electric Heat Pump	\$19	\$20	\$21	\$22	\$23	\$23	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Cooking	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$2	\$2	\$3	\$4	\$5	\$6	
	Other	\$0	\$0	\$0	\$0	\$0	\$0	
Other Electric	\$8	\$10	\$14	\$18	\$22	\$26		
Air Conditioning	\$4	\$4	\$8	\$11	\$14	\$17		
Water Heating	Natural Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Bottled Gas	\$0	\$0	\$0	\$0	\$0	\$0	
	Electric	\$5	\$6	\$8	\$10	\$12	\$13	
	Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	
Water	\$0	\$0	\$0	\$0	\$0	\$0		
Sewer	\$0	\$0	\$0	\$0	\$0	\$0		
Trash Collection	\$0	\$19	\$19	\$0	\$0	\$0		
Range/Microwave	\$0	\$0	\$0	\$0	\$0	\$0		
Refrigerator	\$0	\$0	\$0	\$0	\$0	\$0		
Other - specify	\$0	\$0	\$0	\$0	\$0	\$0		

Projected Family Allowances To be used to compute specific family allowances.

Unit size: 2 BR

Utility or Service	Fuel Source	Monthly Allowance
Space Heating	Electric Heat Pump	\$21
Cooking	Electric	\$3
Other Electric	Electric	\$14
Air Conditioning	Electric	\$8
Water Heating	Electric	\$8
Water	Not Applicable	\$0
Sewer	Not Applicable	\$0
Trash Collection	Not Applicable	\$0
Range/Microwave	Not Applicable	\$0
Refrigerator	Not Applicable	\$0
Other	Not Applicable	\$0
Total		\$54

Spreadsheet (ver13) based on form HUD-52667 (12/97).

ref. Handbook 7420.8

Previous editions are obsolete

ANNUAL OPERATING EXPENSES

General & Administrative Expenses			
Accounting	\$	6,000	
Advertising	\$	2,000	
Legal fees	\$	3,600	
Leased equipment	\$		
Postage & office supplies	\$	1,800	
Telephone	\$	1,800	
Other	\$	1,200	
Other	\$	<i>describe</i>	
Total General & Administrative Expenses:			\$ 16,400
Management Fee:	Percent of Effective Gross Income:	4.00%	\$ 12,150
Payroll, Payroll Tax & Employee Benefits			
Management	\$	28,000	
Maintenance	\$	20,000	
Other	\$	7,500	
Other	\$	<i>tax & benefits</i>	
Other	\$	<i>describe</i>	
Total Payroll, Payroll Tax & Employee Benefits:			\$ 55,500
Repairs & Maintenance			
Elevator	\$		
Exterminating	\$	2,400	
Grounds	\$	6,000	
Make-ready	\$	6,000	
Repairs	\$	8,000	
Pool	\$		
Other	\$	2,400	
Other	\$	<i>supplies</i>	
Other	\$	<i>describe</i>	
Total Repairs & Maintenance:			\$ 24,800
Utilities (Enter Only Property Paid Expense)			
Electric	\$	6,000	
Natural gas	\$		
Trash	\$	6,500	
Water/Sewer	\$	17,500	
Other	\$	<i>Alpha Barnes</i>	
Other	\$	<i>City of Mason</i>	
Other	\$	<i>City of Mason</i>	
Other	\$	<i>describe</i>	
Other	\$	<i>describe</i>	
Total Utilities:			\$ 30,000
Annual Property Insurance:	Rate per net rentable square foot:	\$ 0.30	\$ 11,500
Property Taxes:			
Published Capitalization Rate:		Source:	Carson County CAD
Annual Property Taxes	\$	20,000	
Payments in Lieu of Taxes	\$		
Total Property Taxes:			\$ 20,000
Reserve for Replacements:	Annual reserves per unit:	\$ 250	\$ 11,250
Other Expenses			
Cable TV	\$		
Supportive Services (Staffing/Contracted Services)	\$	inc	
TDHCA Compliance fees	\$	1,760	
TDHCA Bond Administration Fees (TDHCA as Bond Issuer <u>Only</u>)	\$		
Security	\$		
Other	\$	<i>describe</i>	
Other	\$	<i>describe</i>	
Total Other Expenses:			\$ 1,760
TOTAL ANNUAL EXPENSES			
		Expense per unit: \$	4075
		Expense to Income Ratio:	60.31%
NET OPERATING INCOME (before debt service)			\$ 120,669
Annual Debt Service			
	\$	100,682	
	\$		
	\$		
	\$		
	\$		
TOTAL ANNUAL DEBT SERVICE			\$ 100,682
		Debt Coverage Ratio:	1.20
NET CASH FLOW			\$ 19,987

15 Year Rental Housing Operating Pro Forma

All Programs Must Complete the following:

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$323,880	\$330,358	\$336,965	\$343,704	\$350,578	\$387,067	\$427,353
Secondary Income	\$ 4,800	\$ 4,896	\$ 4,994	\$ 5,094	\$ 5,196	\$ 5,736	\$ 6,333
POTENTIAL GROSS ANNUAL INCOME	\$328,680	\$335,254	\$341,959	\$348,798	\$355,774	\$392,803	\$433,686
Provision for Vacancy & Collection Loss	(\$24,651)	(\$25,144)	(\$25,647)	(\$26,160)	(\$26,683)	(\$29,460)	(\$32,526)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$304,029	\$310,110	\$316,312	\$322,638	\$329,091	\$363,343	\$401,160
EXPENSES							
General & Administrative Expenses	\$16,400	\$16,892	\$17,399	\$17,921	\$18,458	\$21,398	\$24,806
Management Fee	\$ 12,150	\$ 12,393	\$ 12,641	\$ 12,894	\$ 13,152	\$ 14,520	\$ 16,032
Payroll, Payroll Tax & Employee Benefits	\$ 55,500	\$ 57,165	\$ 58,880	\$ 60,646	\$ 62,466	\$ 72,415	\$ 83,949
Repairs & Maintenance	\$ 24,800	\$ 25,544	\$ 26,310	\$ 27,100	\$ 27,913	\$ 32,358	\$ 37,512
Electric & Gas Utilities	\$ 6,000	\$ 6,180	\$ 6,365	\$ 6,556	\$ 6,753	\$ 7,829	\$ 9,076
Water, Sewer & Trash Utilities	\$ 24,000	\$ 24,720	\$ 25,462	\$ 26,225	\$ 27,012	\$ 31,315	\$ 36,302
Annual Property Insurance Premiums	\$ 11,500	\$ 11,845	\$ 12,200	\$ 12,566	\$ 12,943	\$ 15,005	\$ 17,395
Property Tax	\$ 20,000	\$ 20,600	\$ 21,218	\$ 21,855	\$ 22,510	\$ 26,095	\$ 30,252
Reserve for Replacements	\$ 11,250	\$ 11,588	\$ 11,935	\$ 12,293	\$ 12,662	\$ 14,679	\$ 17,017
Other Expenses	\$ 1,760	\$ 1,813	\$ 1,867	\$ 1,923	\$ 1,981	\$ 2,296	\$ 2,662
TOTAL ANNUAL EXPENSES	\$183,360	\$188,739	\$194,278	\$199,979	\$205,850	\$237,911	\$275,002
NET OPERATING INCOME	\$120,669	\$121,370	\$122,034	\$122,659	\$123,241	\$125,432	\$126,158
DEBT SERVICE							
First Deed of Trust Annual Loan Payment	\$100,682	\$100,682	\$100,682	\$100,682	\$100,682	\$100,682	\$100,682
Second Deed of Trust Annual Loan Payment							
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
ANNUAL NET CASH FLOW	\$19,987	\$20,688	\$21,352	\$21,977	\$22,559	\$24,750	\$25,476
CUMULATIVE NET CASH FLOW	\$19,987	\$40,675	\$62,028	\$84,004	\$106,563	\$224,836	\$350,400
Debt Coverage Ratio	1.20	1.21	1.21	1.22	1.22	1.25	1.25
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

Phone: _____

Email: _____

Signature, Authorized Representative, Construction or
Permanent Lender

Printed Name

Date



LISA E. ALBERS
Senior Vice President
Community Development Banking Group
Phone: 918-588-6420
Fax: 918-895-8102

March 13, 2017

Mr. Michael Sugrue
StoneLeaf Companies
1920 S. 3rd St.
Mabank, Texas, 75147

Mr. Sugrue,

On behalf of BOKF, N.A. dba Bank of Texas, N.A. (the Bank) it is our pleasure to offer the following financing terms for the new construction of the 45-unit multi-family development in Mason, Texas named SilverLeaf at Mason. The terms presented below are indicative of a loan structure we would like to pursue and are based on the information provided by you and our underwriting assumptions.

Borrower: SilverLeaf at Mason, LLC

Loan Amount:

Construction Loan: \$3,500,000 converting non-revolving advancing line of credit. This is based on the following factors occurring prior to funding: a project budget of \$6,265,172 and receipt of an allocation of 9% LIHTC from TDHCA.

Maturity:

Construction Loan: Twenty-four (24) months from closing. Monthly interest payments will be due during construction.

Collateral:

First mortgage on the project which consists of 45-units; the assignment of all leases and rents, contracts, plans and specifications of the project.

Interest Rate:

Will float at LIBOR plus 300 basis points. This tranche will be interest only and will be completely paid off when the loan converts to the permanent loan.

Origination Fee:

Construction Loan: A non-refundable fee of 1% of the Construction loan will be payable at closing.

Payment Terms:

Construction Loan: Monthly interest payments will be due during construction.

Prepayment Penalty:

Construction Loan: None

Services provided Bank of Albuquerque, Bank of Arizona, Bank of Arkansas, Bank of Kansas City, Bank of Oklahoma, Bank of Texas, Colorado State Bank and Trust, doing business as BOKF, NA

Guaranty:

Construction Loan: SilverLeaf at Mason, GP, LLC, StoneLeaf Development Partners, Michael and Victoria Sugrue and Ben Dempsey will provide an unlimited guaranty of the loan amount during construction.

Sources of Funds:

Proceeds from the sale of an allocation of 9% LIHTC from the Syndicator of which a minimum of fifteen percent (15%) must be payable at closing. The identity of the equity investor and pay-in schedule must be disclosed and acceptable to the Bank.

Use of Loan**Proceeds:**

The Loan proceeds will be used exclusively to construct the 45 units at the project in Mason, Texas.

**Disbursement
Of Loan Funds:**

Disbursement of Loan proceeds will occur no more than monthly, following the Bank's receipt and acceptance of written advance requests. Requests should be based on the final approved project budget and the progress of the construction of the Project, and subject to a third party inspecting review. Advance requests shall be accompanied by support documentation, lien waivers, and date down endorsements.

Appraisal:

Funding is contingent on the Bank's receipt of an acceptable self-contained appraisal report stating the Market Value of the Project, prepared by a Bank-approved MAI. The loan amount is subject to a maximum 75% loan-to-value.

**Environmental
Report(s):**

Prior to closing, Borrower will provide the Bank with a Phase I environmental audit, prepared by a licensed environmental engineer, approved by the Bank, reflecting the Project's real property to be free and clear of any environmental hazard on, under, or around the subject.

**Mortgage Title
Insurance:**

Prior to closing, the Bank requires receipt of a commitment for mortgage title insurance in an amount equal to the maximum loan amount, issued by a Bank-approved title insurance company, listing no liens other than those which are to be paid off prior to or at closing. There are to be no exceptions other than routine utility easements and restrictions, and the current year's taxes not yet due. The Bank shall be named as the insured mortgagee.

Survey:

Prior to closing, the Bank requires receipt of a minimum ALTA survey of the Project, in form and content acceptable to the Bank, showing all easements, encroachments or any other item which may affect the Bank's lien position. The survey must be satisfactory to delete the survey exception in the mortgage title insurance commitment.

A foundation survey must be received prior to the commencement of any vertical improvements. All surveys are to be performed by a Texas registered land surveyor acceptable to the Bank. All surveys must be certified as true and correct to the Bank, title insurance company and the Borrower.

Flood Insurance: If any improvements (existing and/or proposed) on the Project are or will be located in an area identified by the U. S. Department of Housing and Urban Development (H.U.D.) as an area having "special flood hazards", flood insurance must be purchased and maintained in the amount of the Loan.

Insurance: At or before closing, the Borrower will provide evidence of Property, Casualty and General Liability insurance coverage and in some cases may require other property specific coverage. Construction loan must, also, be covered by Builder's Risk coverage including Worker's Compensation. Insurance policies must be provided by companies meeting a criterion of being, at minimum, A.M. Best rated A, size category VII or being Lloyd's of London or be covered under a FAIR plan, if it is the only coverage available at a reasonable cost. The named insured is to be the Borrower and in all cases the Bank (Mortgagee) shall be named as an additional insured and Loss Payee.

Governmental Approvals: Borrower shall provide the Bank with evidence of all necessary governmental approvals for the Project, including but not limited to, zoning and building permits.

Utilities: Borrower shall provide evidence to the Bank of the availability, at the Project, of all utilities service necessary for the construction and operation of the Project including, but not limited to water, electric, natural gas, telephone and sanitary sewer.

Plans & Specifications: Prior to Closing, the Bank requires copies of all Borrower's final building plans and specifications with architect's certification. The Borrower agrees that no changes will be made in the plans and specifications without the prior written consent of the Bank.

General Contractor: The general contractor to be used to construct the Project shall be subject to the approval of the Bank, prior to Loan closing.

Construction Contract: A certified copy of the final fixed price bonded construction contract will be provided to the Bank prior to closing. The Bond must be from an insurer rated A-/VIII by A.M. Best Company or AA or higher by Standard and Poor.

Assignment of Project Documents: As additional collateral the Borrower will assign to the Project Funding Sources, which will include the Bank, the Borrower's interest in the architect's drawings, other plans and specifications and the construction contract.

Inspecting Architect:

The Bank will engage an independent project architect approved by the Bank, to perform a pre-construction review and cost analysis in addition to monthly construction progress and draw request reviews during the construction of the Project. All costs for services rendered by the inspecting architect are to be paid for by the Borrower.

Other Encumbrances: No other encumbrances will be placed on the collateral without the prior written approval of the Bank.

Assignment: This commitment can not be assigned without the prior written consent of the Bank.

Guarantor Financial Statements:

Guarantors will provide the Bank with annual financial statements, including balance sheet including contingent liabilities, income and expense statement, tax returns and any additional supporting information reasonably requested by the Bank.

Pending Litigation:

Borrower shall certify to the Bank that no litigation or proceedings are pending or threatened which might adversely affect the Borrower's or the Guarantor's ability to perform under the terms of this agreement or the loan documents.

Ownership Change:

Ownership of the Borrower shall not change during the term of the Loan without the prior written consent of the bank.

Representation of Fact:

This commitment is subject to the accuracy of all information and representations submitted with or in support of the application for the Loan.

Opinion of Counsel:

Prior to or at closing, the Bank requires a legal opinion of Borrower's counsel which will provide a legal opinion confirming that all matters pertaining to the Project and Loan are valid, enforceable and in accordance with the intended terms and do not violate any laws.

Preparation of Loan Documents:

The Bank's legal counsel will prepare the loan documents at the expense of the Borrower.

Take-Out Assurances:

Prior to closing of the Construction Loan, written assurances, which obligate a funding source to pay-down the Construction Loan, must be in place. The assurances will obligate the funding source to restrict proceeds in the amount of the required pay-down and set forth a date no later than the maturity date of the Construction Loan in which the proceeds will be funded to the Bank.

Developer Fee: A portion of the Developer Fee may be paid at closing. The remaining will be funded once the equity installment is paid.

Debt Service Coverage: Beginning with the first calendar year following the year in which the Construction Loan is converted to the Permanent Loan, the Borrower will maintain a minimum 1.20 to 1.00 annual debt service coverage ratio (DSCR) on the Collateral during each calendar year.

Related Deposit Accounts: The related deposit accounts for this project will be maintained at the Bank, this will include:

- Construction Account
- Operating Account
- Lease Up Reserve
- Replacement Reserve
- Operating Reserve
- Tax and Insurance Escrow

Expenses: Borrower will pay all expenses associated with the Loan. The expenses shall include but not be limited to; attorney's fees, lender's title insurance policy, appraisal, environmental report, survey and mortgage tax (where allowed by law), and engineer or inspector fees. Any costs incurred for this financing will be the responsibility of the Borrower to pay. Please be advised that it is the Borrower's sole responsibility to pay these costs irrespective of whether the loan closes or not.

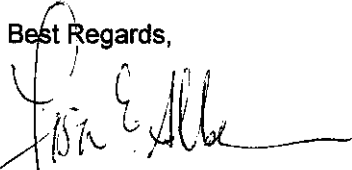
Other Requirements: The subject requirements are intended to set out the primary terms and conditions of the Loan, but are not all-inclusive. This commitment is subject to review by the Bank's legal counsel, and the Bank reserves the right to reasonable require other mutually agreeable conditions and documents necessary to establish, perfect, and maintain the contemplated Loan, including but not limited to loan agreement, note, mortgage, assignment of leases and security agreement.

According to the Bank Secrecy Act, the Bank is required to obtain, verify and record certain identifying information as part of our due diligence process. To comply with this we must ask for specific identifying information including Name, Address and other information that will allow us to verify your identity. Additionally, we may request other identifying documents in order to meet the verification requirements.

The terms and conditions of this letter will expire August 1, 2017.

Thank you for the opportunity to consider financing this project. Please let me know if I can answer any additional questions.

Best Regards,



Lisa E. Albers

Lisa E. Albers



Bonneville

Multifamily Capital

March 13, 2017

Mr. Mike Sugrue
StoneLeaf Companies
1920 S 3rd Street
Mabank, TX 75147

RE: Silverleaf at Mason Apartments

Dear Mike,

Bonneville Mortgage Company (Lender), or its assigns, hereby advises that it is prepared to provide a USDA 538 permanent loan for the above-referenced project to Silverleaf at Mason, LLC (Borrower). The terms and conditions of this commitment are as follows:

Borrower:	Silverleaf at Mason, LLC
Recourse:	Non-recourse during permanent phase; except guarantor signs industry standard carve-outs
Loan Amount:	\$1,866,295
Note Rate:	Note Rate plus 50 bps per the USDA annual guarantee fee. Negotiated rate based on market. Current underwriting rate: 4.00% + 50 bps = 4.50%
Payment Terms:	Permanent loan principal and interest monthly based on an annually declining balance payment schedule with an amortization term that is 40 years and a term of 40 years
Security:	First mortgage lien on the property and all improvements
Financing Fees:	See attached exhibit
Loan-to-Value:	90% maximum
Debt Service Coverage:	1.15 minimum



111 E. Broadway, STE 200
Salt Lake City, UT 84111

Phone: (801)323-1000



Bonneville

Multifamily Capital

This loan commitment is explicitly conditioned by the following:

- An appraisal that supports the pro forma value of the property upon completion and stabilization
- An investor to purchase an acceptable "Participation" in the loan and a Lender Funding Agreement executed by borrower
- Issuance of a Loan Note Guarantee by USDA
- Approval of finals plans and specifications

Attached hereto is an exhibit listing the fees and escrows associated with the USDA program. This commitment will expire 180 days from the date of the letter if not closed or extended by mutual consent. We wish to thank you for the opportunity to provide financing for this project and we look forward to the closing of this transaction.

Sincerely,

Brent H. Peterson
President, Multifamily Division
Bonneville Multifamily Capital





Bonneville

Multifamily Capital

FEES & ESCROWS

Good Faith Deposit/Rate Lock:	1-2% of Loan Amount (Returned after closed & securitized)
USDA upfront Guarantee Fee:	1% of 90% loan amount paid at closing
Lender's Fee	1% of the Loan Amount paid at closing
Lender Legal Fee	Estimated \$13,000
Annual Guarantee Fee:	0.5% of Outstanding Principal Balance Treated as an expense. Set aside monthly on a pro rata basis. Paid each January 1 on the outstanding principal and interest balance of the guaranteed portion of the loan.
Application Fee:	WAIVED \$2,500 (paid at application not at NOFA)
As-Built Review:	Estimated at \$3,000
Appraisal Fee:	Estimated at \$3,000-\$5,000
Title Insurance and Recording fee:	TBD
Operating Deficit Reserve:	2.0% of Loan Amount
Replacement Reserve:	This is the standard replacement reserve. The USDA wants \$1,000 per/unit to have accumulated by the end of the third year. If the annual reserve per unit is \$250, then \$750 would accumulate over the three-year period and an additional \$250 per unit would have to be funded into a replacement reserve escrow when the permanent loan is closed.
Taxes & Insurance Fee:	1/12 of the estimated Taxes and Insurance are deposited monthly with Lender.





M I C H E L
ASSOCIATES LTD

WWW.MICHELLTD.COM

SEAPORT CENTER
70 FARGO STREET
SUITE 907
BOSTON, MA 02210-2122

T 617.261.4646
F 617.345.4293

March 13, 2017

Mr. J. Michael Sugrue
StoneLeaf Companies
1920 S. 3rd Street
Mabank, TX 75147

Re: SilverLeaf at Mason, Mason, Texas (the "Property")

Dear Mr. Sugrue:

This letter sets forth the agreement between StoneLeaf Companies and/or your designee (the "General Partner") and Michel Associates, Ltd. ("Michel"). The General Partner retains Michel to exclusively provide equity capital for the Property, and Michel accepts such retention under the following terms and conditions.

Michel will provide the equity capital through an affiliated private placement limited partnership or, at its sole option, transfer its commitment to a direct corporate investor or correspondent fund (the "Fund"). The equity capital provided by the Fund will be used to acquire an interest as the investor limited partner in SilverLeaf at Mason, LLC, a Texas limited partnership (the "Partnership") that owns or will own the Property. The Fund may also invest as a limited partner in other similar properties. An LLC may be used as the ownership entity instead of a limited partnership, with the meaning of the terms in this agreement adjusted accordingly; for example, the Managing Member will take on the duties of the General Partner. Capitalized terms not otherwise defined herein are defined in Section I, below.

A. Tax Credits

The Property is a 45 unit apartment complex for seniors located on Austin Street, Mason, Mason County, Texas 76856. 44 of the units (98%) will qualify for federal low-income housing tax credits ("LIHTC"). The Property has received an annual allocation of 2016 LIHTC from Texas Department of Housing and Community Affairs in the amount of \$500,000. In evaluating this investment, we have made the following assumptions:

Construction Start Date	May 15, 2017
Construction Completion Date	April 1, 2018
Initial Occupancy	December 1, 2017
Qualified Occupancy Date (100%)	June 1, 2018

2017 LIHTC ¹	\$5,681
2018 LIHTC	405,263
Annual LIHTC	499,950
2027 LIHTC	494,269
2028 LIHTC	94,687

¹ Amounts allocable to the Fund's 99.99% limited partner interest.

The unit mix and set-asides for the Property are summarized in Exhibit B. The tax credit basis calculations are summarized in Exhibit C.

B. Capital Contributions and Development Fee

Subject to the terms of this agreement and of the Amended and Restated Limited Partnership Agreement (the "Partnership Agreement") to be entered into, the Fund will make capital contributions of \$4,299,570 (the "Capital Contributions"), or \$0.860 per dollar of LIHTC, to the Partnership in installments, as follows:

Installment	Conditions	Capital Contributions	
1	Admission Date.	\$644,936	15%
2	(a) October 15, 2017 and (b) the date when the Property is 50% complete.	429,957	10%
3	(a) January 15, 2018 and (b) the date when the Property is 75% complete.	644,936	15%
4	(a) April 15, 2018 and (b) the Substantial Completion Date.	644,936	15%
5	(a) July 15, 2018, (b) the Permanent Closing Date and (c) the Qualified Occupancy Date.	1,504,847	35%
6	(a) October 15, 2018 (b) the issuance of IRS Form 8609 for every building in the Property and (c) the Rental Achievement Date.	214,979	5%
7	a) October 15, 2019 – Tax Reform Installment	214,979	5%
	Total	\$4,299,570	100%

Notes:

1. Capitalized terms are defined below or in Section I.
2. An installment is due on the date that all of the conditions have been met. Payment of each installment of the Capital Contributions is also contingent on the conditions for the prior installments having been met.
3. The amount of the Capital Contributions may be adjusted as described in Section C below.
4. All completion percentages shall be certified to the Fund by the licensed Property architect.
5. The payment of the installment due at the Permanent Closing Date may occur simultaneously with the closing of the permanent loans, if all other conditions to the installment have been met.

The “Admission Date” means the date an amendment to the Partnership Agreement is fully executed admitting the Fund into the Partnership as its limited partner, all requested due diligence materials have been submitted and approved, commitments for all loans have been received and, if applicable, the tax exempt bonds have been issued.

The “Qualified Occupancy Date” means the date on which all of the LIHTC units in the Property have been leased to qualified tenants; and the General Partner has delivered to the Asset Manager copies of all initial tenant files and required supporting documentation to show that the tenants are income qualified and that the occupied units will generate LIHTC.

The “Rental Achievement Date” is defined as the first day following a period of three consecutive calendar months of operations commencing on or after the Permanent Closing Date that the Property generates a 1.15 debt service coverage ratio (the “DSC Ratio”) using income from the normal operation of the Property (received on a cash basis) compared with accrued operating expenses (equal to the greater of such accrued expenses or \$14,343 per month plus all mandatory debt service payments and the funding of any required reserves for replacement), as determined by the Accountants. The Property is expected to attain the Rental Achievement Date by October 1, 2018.

The payment of the 6th installment will require that the Property has met the DSC Ratio test for the three months immediately preceding the date that payment of the installment is requested.

The timing of the payments of Capital Contributions is based on current estimates for the construction and occupancy of the Property, and is a significant factor in determining the investment yield to the Fund. Should the construction or occupancy be delayed, the specific dates shown above for the payment of Capital Contributions will be revised in the Partnership Agreement to reflect the estimated development schedule as of the Admission Date.

Development Fee. For services provided in developing the Property, the Developer will receive a fee (the “Development Fee”) expected to be in the amount of \$970,000. The entire fee is earned no later than the date the construction of the Property is complete and placed in service.

- Currently, \$877,298 of the Development Fee is expected to be paid from capital sources, such as Capital Contributions, Permanent Loans, or Grants (as defined in Section H), [or other third party capital]. If there are sufficient funds to complete the Property and fund all other development costs, the Development Fee may be paid in the amounts shown below, at the time of the payment of the respective installments of Capital Contributions.

Admission Installment:	\$220,000	25%
100% Completion Installment:	227,340	27%
RA/8609 Installment:	214,979	24%
Tax Reform Installment	<u>214,979</u>	<u>24%</u>
Total Paid from Capital Sources	<u>\$877,298</u>	<u>100%</u>

- \$92,702 of the Development Fee is expected to be deferred. To the extent that a portion of the Development Fee is not paid from capital sources, the Developer will receive a note (the “Development Fee Note”). This note will be at the applicable federal rate and will be payable as described in Section F from available cash flow from the Property and from the proceeds of a sale or refinancing of the Property.

C. Adjustments to the Capital Contributions

The amount and timing of the payments of the Capital Contributions are tied to the amount and timing of tax credit delivery as outlined in Section A.

Downward LIHTC Adjusters. Any reduction of or delay in the receipt of LIHTC will require adjustments to the amount of the Capital Contributions, as follows:

1. If the amount of LIHTC allocable to the Fund in 2017 or in 2018 is less than the LIHTC amount represented in Section A, then the Capital Contributions shall be reduced by 75% of the shortfall;
2. If there is a reduction or recapture of the annual amount of LIHTC shown in Section A, then the Capital Contributions shall be adjusted:
 - a) if the reduction or recapture occurs prior to the payment of the 6th installment of Capital Contributions, then the reduction in capital is calculated as \$0.860 for each \$1.00 of LIHTC not available to the Fund; or
 - b) if the reduction or recapture occurs after the payment of the 6th installment of Capital Contributions, then the reduction in capital (and/or the amount of capital to be repaid to the Fund) is calculated as \$0.948 for each \$1.00 of LIHTC not available to the Fund.

If the amount of the remaining installments is not at least equal to the amount of the adjustment, then any additional adjustment amount shall be paid by the General Partner within 30 days of the determination of the amount due to the Fund.

Upward Adjusters.

1. General LIHTC Upward Adjuster: If, prior to October 1, 2018, the Accountants certify and the Form 8609s confirm that the amount of LIHTC allocable to the Fund is greater than the amounts shown in Section A, then the Fund agrees to increase its Capital Contributions by \$0.860 (the net price) for each additional dollar of LIHTC to be realized by the Fund. This General LIHTC Upward Adjuster applies to an increase in LIHTC resulting from any supplemental reservation of LIHTC that the Partnership might receive from the state agency.
2. Upward LIHTC Timing Adjuster: The Fund agrees that it will increase its Capital Contribution by \$0.40 for each additional dollar of LIHTC allocable to the Fund in 2017 above \$17,044.

However, if the Fund in its sole discretion does not have sufficient available funds to be able to pay the additional capital required under these upward adjuster formulas, then the Fund's partnership interest shall be reduced to a percentage which maintains the ratio of Capital Contributions paid to LIHTC received as otherwise contemplated herein. Notwithstanding the foregoing, in no event shall the ownership interest of the Fund be reduced below 90% because of this provision.

Downward Adjuster – Change to Federal Laws or Regulations

If, prior to October 1, 2019, legislation is enacted which would amend federal laws or regulations such that the benefits to the investor would be reduced, then the amount of the seventh installment shall be reduced by an amount sufficient to maintain the yield to the investor anticipated at the Admission Date. Such changes to federal law or regulation may include, without limitation, changes to maximum federal tax rates; changes which affect the amount or timing of credits or of depreciation or other deductions or expenses; or changes which limit or eliminate the deductibility of losses or which limit or eliminate the ability of the Fund's investors to use LIHTC generated by the Property to reduce their federal tax liabilities. If enacted by such time and the tax treatment is available to the Partnership, the calculation of yield shall also reflect

changes which benefit yield such as an acceleration of the amount or timing of credits or depreciation deductions. The total amount of any such downward price adjustment would be limited to the amount of the seventh installment of Capital Contributions.

D. Development Team

General Partner. The General Partner of the Partnership will be SilverLeaf at Mason GP, LLC, a Texas for-profit Limited Liability Company and a wholly owned affiliate of the Developer.

Developer. The Property will be developed by StoneLeaf Development Partners, LLC, a Texas for-profit Limited Liability Company (the “Developer”).

Guarantors. The obligations of the General Partner and the Developer will be guaranteed by StoneLeaf Developer Partners, LLC and other individuals or entities acceptable to Michel (the “Guarantors”), based on a review of the Guarantors’ financial statements.

General Contractor. The General Contractor will be StoneLeaf Construction, LLC or another entity (the “General Contractor”), subject to review by Michel.

Management Agent. The Property will be managed by Alpha Barnes (the “Management Agent”), subject to review by Michel.

E. Obligations of the General Partner and Guarantor

1. Completion Guarantee. The General Partner will guarantee to provide all funds necessary to complete construction of the Property in a good and workmanlike condition, substantially in accordance with the plans and specifications, based on fixed development costs subject to review and approval by the Fund. The General Partner will guarantee delivery of a completed, lien-free Property, including all final certificates of occupancy. The General Partner will be responsible to pay all of the costs and expenses incurred with respect to the construction and completion of the Property and its operation until the Property reaches the Rental Achievement Date as defined above. To the extent that these costs and expenses exceed the funds available to the Property from Capital Contributions, approved Permanent Loans and Grants, and Deferred Development Fee, these costs will be considered a cost overrun and will not be reimbursable.

2. Operating Deficit Guarantee. The General Partner will guarantee to fund all operating deficits of the Property commencing on the Rental Achievement Date through the end of the 15-year “Compliance Period” described in Section 42 of the Internal Revenue Code (“IRC”) (the “Operating Deficit Guarantee”). The Guarantors’ guaranty of the Operating Deficit Guarantee shall be limited to \$145,000. The Guarantors’ guaranty of the Operating Deficit Guarantee will expire on the later to occur of: (a) the fifth anniversary of the Rental Achievement Date, or (b) following two consecutive calendar years in which a DSC Ratio of 1.15 was achieved, as confirmed by audited financial statements.

To the extent that the General Partner must fund operating deficits with its own funds (that is, apart from the Operating Deficit Escrow defined below), such advances will be treated as “Operating Deficit Loans”. These loans will be non-interest bearing and repayable from available cash from operations or the proceeds of a sale or refinancing of the Property, as described in Section F.

Operating Deficit Escrow. In addition to the Operating Deficit Guarantee, the Partnership shall deposit \$145,000 in an “Operating Deficit Escrow” account at the time of the 4th and 5th installments of Capital

Contributions, which shall be used solely for the purposes of funding payment of operating deficits during the guarantee period.

- Funds in the Operating Deficit Escrow may be used to fund operating deficits with the consent of the Fund, as long as the remaining balance in the escrow account is greater than \$55,000 (the “Minimum Balance”). (However, up to \$10,000 per year can be used to fund operating deficits without the Fund’s consent, but with prompt notice to the Fund.)
- If the balance of the Operating Deficit Escrow is equal to or less than the Minimum Balance, the General Partner shall advance funds to pay all operating deficits, until it has satisfied its obligation to advance an amount equal to \$145,000. Thereafter, the General Partner may request the consent of the Fund for additional advances from the Operating Deficit Escrow.
- Beginning on the eleventh anniversary of the Substantial Completion Date, the Partnership may release the sum of \$28,000 to the General Partner following each calendar year in which a DSC Ratio of 1.15 is maintained for the year, so long as the remaining balance exceeds the Minimum Balance.
- Any amount remaining in the Operating Deficit Escrow at the end of the Compliance Period will be applied to satisfy any obligations of the General Partner under the Partnership Agreement; to pay any notes to or repay advances or capital contributions from the General Partners or affiliates; or paid to the General Partner as an Operating Deficit Guaranty fee.

If the full amount of the Operating Deficit Escrow is not initially funded as described above, the amount of the Guarantors’ guaranty of the Operating Deficit Guarantee will be increased by the amount of any shortfall.

Rent Up Reserve. The Partnership shall also fund a “Rent-Up Reserve” of \$25,000 from the 3rd installment of Capital Contributions. To the extent that the Rent-Up Reserve is not fully utilized prior to the Rental Achievement Date, the remainder shall be deposited in the Operating Deficit Escrow account.

3. Repurchase Obligation. The General Partner will guarantee to purchase the limited partnership interest of the Fund for the Repurchase Price if a Repurchase Event (all as defined in Section D) occurs prior to the third anniversary of the Rental Achievement Date (the “Repurchase Obligation”).

4. Tax Credit Delivery. The General Partner will guarantee that all LIHTC dwelling units in the Property will remain in LIHTC compliance for the Compliance Period in order to avoid the recapture of previously taken LIHTC. If at any time there is a recapture or reduction of LIHTC benefits to the Fund, such recapture cost or benefit reduction will be repaid by reducing the Capital Contributions or by the General Partner (with interest at a rate five percent over the prime lending rate of the Bank of America), within 30 days of the determination of the amount due to the Fund.

Should the General Partner default on this obligation, then in addition to other remedies the Fund may pursue, any amount including interest not so paid (“Unrecovered Adjustments”) will then be paid from first available cash flow, and, if cash flow is insufficient, then will be payable from the proceeds of a sale or refinancing of the Property before any General Partner participation.

However, the General Partner shall not have any liability for any loss of tax benefits as a result of a disposition of any portion of the Fund’s limited partner interest.

5. Development Fee Note. If, as of the thirteenth anniversary of the date the Property is placed in service, the Development Fee Note has not been fully paid, the General Partner must make a capital contribution to pay any amount outstanding at that time.

F. Allocations and Distributions

Ownership and Tax Allocations. The Fund will acquire a 99.99% limited partner interest in the Partnership and the General Partner will retain a 0.01% interest. An affiliate of the Fund will also be admitted as a Special Limited Partner. Tax profits, tax losses and tax credits will be allocated 99.99% to the Limited Partner and 0.01% to the General Partner.

Cash Flow. Cash flow is available cash of the Partnership (generally, gross collected revenues less operating expenses, debt service, required deposits to any replacement reserve, the Asset Management Fee, and Unrecovered Adjustments as defined in Section E above) less certain priority payments (the "Priority Payments"), including (if applicable):

1. The amount needed to maintain the Minimum Balance in the Operating Deficit Escrow.
2. Payments on the Development Fee Note, then any Operating Deficit Loans or other advances.
3. To the General Partner, a non-cumulative Partnership Administration Fee up to \$20,000 per year.
4. To the General Partner, 80% of the remaining cash from operations (payable first as a non-cumulative Incentive Management Fee of up to 12.5% of gross revenue collected, and thereafter as a distribution of cash flow); and 20% to the Fund.

Notwithstanding the foregoing, the payments and distributions above shall in all events be adjusted as necessary to ensure that the Fund at all times receives no less than ten percent (10%) of cash flow remaining after the payments made pursuant to clause (2), above.

Net Proceeds from a Capital Transaction. Upon sale or refinancing of the Property, proceeds will be allocated in the following priority:

1. To pay the expenses of the sale or refinancing and satisfaction of underlying financing plus any other third-party obligations and debts (excluding those to Partners or affiliates) and the establishment of any required reserves.
2. To repay the Fund or the Asset Manager any amounts due from the General Partner under its guarantees under the Partnership Agreement.
3. To repay the Development Fee Note, if any, and to repay any amounts due for Operating Deficit Loans or other advances.
4. To pay \$20,000 to the Special Limited Partner.
5. The remaining proceeds to be distributed 80% to the General Partner and 20% to the Fund.

G. Partnership Terms

The following sets forth certain additional terms and conditions of the Partnership Agreement:

Construction Completion Assurance. The General Contractor for the Project shall provide payment and performance bonds in form and substance satisfactory to the Fund, in the full amount of the general contract, naming the Partnership, the Fund and Special Limited Partner as obligees and issued by a bonding company acceptable to the Fund. Alternatively, the General Contractor may provide a letter of credit in the amount of not less than 15% of the general contract, issued by a bank acceptable to the Fund, naming the Partnership

as beneficiary, and providing for a term (or renewals) that exceeds the expected time frame for construction of the project.

Hazard and Liability Insurance. As a condition of the Admission Date, the Partnership shall deliver evidence that its insurance is in full force and effect in accordance with the requirements set forth in the "Due Diligence List" of the Fund, which will be provided separately. In summary, the Partnership shall deliver evidence of hazard insurance from carriers acceptable to the Fund, in an amount equal to the replacement cost of the apartment improvements. The hazard insurance must include endorsements for inflation adjustment and code upgrade coverage. Liability insurance shall be in the amount of not less than \$5 million, of which up to \$3 million may be provided by an umbrella liability policy.

Reserve for Replacements. The Partnership shall fund a "Replacement Reserve" of \$250 per unit per year, commencing on the Permanent Closing Date and increasing annually by 3.0%. The Replacement Reserve shall be maintained in a separate account of the Partnership and/or the lender.

Escrow Accounts. To the extent not required by any mortgage lender, the Partnership shall maintain funds in a segregated escrow account, in an amount sufficient to pay all real estate taxes and insurance premiums when due.

When possible, invested reserves and accounts of the Partnership will be placed in accounts which earn interest which is exempt from federal income tax. Any taxable interest income earned by the Partnership will be specially allocated for tax purposes to the General Partner.

Assuming that breakeven operations have occurred in a calendar year and that the balance in the Operating Deficit Escrow is at least the Minimum Balance, then any interest earned on the Operating Deficit Escrow will be paid to Unrecovered Adjustments; to pay the Development Fee Note and interest thereon; and then to the General Partner as an Incentive Management Fee. Otherwise, interest earned will be considered cash from operations.

Asset Manager. Michel or an affiliate or designee (the "Asset Manager") will serve as an intermediary between the Partnership and the Fund on all matters. By March 1 of each year, the Asset Manager will receive a guaranteed annual payment (the "Asset Management Fee") of \$3,500 for its services during the prior calendar year, which will be paid by the Partnership. The Asset Management Fee begins to accrue at Admission, and will be pro-rated for the initial partial year. The fee will pay the costs of the Fund relating to investor communications, site visits and annual accounting and tax reporting. To the extent that the Partnership's funds from operations are insufficient to pay this fee, the General Partner agrees to pay the fee annually throughout the Compliance Period.

Compliance Review. Delivery of the tenant files for the Qualified Occupancy Date shall occur in a timely manner in advance of the respective installment of Capital Contributions. If the Asset Manager determines that the tenant files are in unsatisfactory condition, the Asset Manager shall have the right to hire third-party professionals to review the tenant files and to specify all problems that need to be corrected. The cost of this third-party review will be a Partnership expense.

Accountant. The Fund and the Asset Manager will have the right to approve the accountant for the Partnership.

Reporting. The General Partner will be required to provide the Fund with monthly reports on construction and initial leasing; quarterly reports on operations and tax credit compliance; and with the Partnership tax returns by February 15th and the audited financial statements by March 5th of each year.

Tax Matters. The General Partner will elect to have the Partnership be taxed as a partnership, and to have the Partnership use the accrual method of accounting for income tax purposes. The General Partner will make an election under Section 168(h)(6)(F)(ii) of the IRC, so that no portion of the Property is considered tax-exempt use property.

Management Agent. Michel and/or the Fund shall approve the Management Agent and the management agreement. The General Partner or its designee (which may be an affiliate of the General Partner) may manage the Property.

- Should an affiliate of the General Partner act as Management Agent, the management agreement will require the Management Agent to subordinate its management fee to all other operating expenses and the payment of mandatory debt service and replacement reserves.
- The Partnership Agreement will require the Management Agent to make certain certifications as to property management matters.
- The Partnership Agreement will also require the General Partner to remove the Management Agent upon certain conditions, including: (1) an event of material default under the management agreement; (2) its causing the General Partner to be in material default under the Partnership Agreement; (3) the Management Agent's actions or failure to act causing delays in receipt or recapture of LIHTC; and (4) if the General Partner and the Management Agent are affiliated, failure of the Management Agent to subordinate its fee to all other operating expenses and the payment of mandatory debt service. The management agreement shall contain similar provisions.
- The management fee is expected to be \$12,150 per year.

General Partners, Net Worth, Liquidity and Guarantors. The General Partner and the Guarantors will be obligated to maintain sufficient liquidity and net worth to meet their obligations to the Partnership and the Fund.

If the General Partner or Guarantor is an entity other than an individual(s), the obligations of the General Partner or Guarantor set forth in this Agreement shall be jointly and severally guaranteed by the shareholders, partners or members of such entity (including spouses if assets are jointly held) or by affiliates of the General Partner or by such other parties as Michel or its counsel deem necessary.

Removal Rights. The Fund shall have the right to remove the General Partner for cause as will be set forth in the Partnership Agreement, enabling the Special Limited Partner to assume the position of general partner in those defined circumstances. No removal right without cause shall exist.

Representations and Warranties. The Partnership Agreement and related documents will contain, among other items, standard representations and warranties of the General Partner with respect to the Property, the LIHTC, the Construction and Permanent Loans and the Partnership, including, but not limited to, the status of the Partnership, the General Partner, title to the Property, real estate development and construction, construction and permanent financing, land use and environmental issues and the tax credit allocation from the state allocating authority. Further, the General Partner, the Developer and the Guarantors will make representations and warranties as to their right and authority to enter into these transactions with the Partnership and the Fund.

Closing Requirements. On or before the Admission Date, and at the General Partner's expense, the General Partner will be required to provide all due diligence documents that Michel and its legal counsel deem relevant to the Partnership, the Property, construction, interim and/or permanent financing and the General Partner including:

1. An opinion of the Partnership's legal counsel satisfactory to the Fund's counsel that includes, but is not limited to, the following matters: the legal formation of the Partnership and any general partner(s), due execution and delivery of all Property documents, the Partnership's classification as a partnership for income tax purposes, the non-recourse nature of the permanent financing, all LIHTC matters (including the LIHTC reservation, carryover allocations and final allocation, and issuance of the tax exempt bonds) and local real estate, title, environmental and land use issues.
2. An Owner's Title Insurance Policy satisfactory to the Fund's legal counsel (including comprehensive, zoning, Fairway and non-imputation endorsements and other endorsements reasonably requested by the Fund) in the amount of the Permanent Loans and Grants, plus the Capital Contributions.
3. Satisfaction of the requirements shown in the generic Due Diligence List, which will be tailored to this transaction by Michel and the Fund's counsel once the General Partner has delivered sufficient information to do so.
4. All transactions, whether completed or contemplated, between the Partnership and affiliates or related parties of the General Partner(s) or the Developer shall be disclosed to the Fund.

The Fund, at its own expense, shall obtain a tax opinion with respect to the tax benefits from an investment in the Partnership.

H. Assumptions

In evaluating an investment in the Partnership, we have made the following assumptions:

Rental Subsidies. Of the rental units, none will receive project-based rental subsidies.

Leasing and Occupancy. The Property will achieve rent-up by income-qualified tenants of 6 units each month from December 2017 – May 2018 and 8 units in June 2018. Initial rent-up will be complete by June 30, 2018.

Real Estate Taxes: Any abatement or agreement regarding payment in lieu of real estate taxes shall be in place through the end of the Compliance Period.

Loans and Grants. Development of the Property is being financed by the loans and grants shown in Exhibit A (the "Construction Loan", "Permanent Loans" and "Grants"). All loans shall be non-recourse.

I. Other Defined Terms

Breakeven Date. The "Breakeven Date" is defined as the first date following a period of three consecutive full calendar months of operations commencing on or after the Substantial Completion Date that the Property generates income from the normal operation of the Property (received on a cash basis) in excess of accrued operating expenses (equal to the greater of such accrued expenses or \$14,343 per month, plus all mandatory debt service payments and the funding of any reserves for replacement, using the amount of such debt service and reserve payments as expected to be in effect following the Permanent Closing Date), as determined by the Accountants.

Cost Certification. "Cost Certification" means receipt of the Accountant's cost certification and the Accountant's estimate of the amount of LIHTC to be received, together with all materials supporting the General Partner's submission to the LIHTC granting authority for issuance of IRS Forms 8609, as accepted by the Fund and, to the extent required, the lenders or any governmental agency.

Gross Capital Contributions. The "Gross Capital Contributions" are defined as the Capital Contributions plus an amount equal to the Fund's organizational and offering costs associated with its investment in the Partnership. Gross Capital Contributions are projected to be approximately \$4,737,793. The exact amount of the Gross Capital Contributions will be determined prior to the Admission Date.

Substantial Completion Date. The Substantial Completion Date is defined as the date on which the last of the following events occurs:

1. Completion of construction as certified by the Architect, together with the final schedule of values (AIA Form G702/703 or material equivalent) and the final change order log for the Property.
2. Receipt of certificates of occupancy (or the local equivalent) for all of the dwelling units in the Property.
3. If required, receipt of satisfactory evidence of the Property's compliance with EPA, state and/or HUD regulations concerning the mitigation of any radon, lead paint, or asbestos that might be present at the Property.
4. If required, receipt of each Lender's and the Agency's final inspection approval.
5. Execution of any applicable subsidy or rental assistance agreements.
6. Receipt of payoff letters or lien waivers from contractors.
7. Receipt of an endorsement to the Owner's Policy of Title Insurance bringing the effective date forward to the Substantial Completion Date.
8. Receipt of an As-Built Survey of the Property certified to the Fund. (Waived on rehabilitations with no change in the building or site layout from the As-Built Survey delivered at Admission.)
9. Funding by the General Partner of all construction cost overruns.
10. The General Partner and/or Partnership are not in default with respect to any financial obligations or any project documents, as evidenced by a current estoppel letter from each permanent lender.

Permanent Closing Date. The Permanent Closing Date is expected to occur on or about July 1, 2018 and is defined as the date on which the last of the following events occurs:

1. The Substantial Completion Date.
2. The Breakeven Date.
3. Cost Certification.
4. The Construction Loan has been paid off and the lien discharged.
5. Each of the permanent loans and grants shown in Exhibit A shall have been closed and funded, and the benchmarks to achieve permanent loan status shall have been met.
6. The General Partner and/or the Partnership is not in default with respect to any financial obligations or any Project Documents, as evidenced by a current estoppel letter from each permanent lender.
7. Delivery of an opinion by Partnership counsel, which is expected to be an update of the opinion delivered at the Admission Date, relating to the Partnership, the General Partner, the Property, the Loans, and the LIHTC.

Repurchase Event. A “Repurchase Event” shall have occurred if any of the following occur prior to the expiration of the Repurchase Guarantee:

1. Construction of the Property is not completed by December 1, 2018.
2. Permanent loan closings have not occurred with respect to all Permanent Loans by April 15, 2019 or any Permanent Loan is not non-recourse.
3. Any Construction or Permanent Loan commitment is withdrawn and not replaced within 60 days by a loan satisfactory to the Fund in its sole discretion, or any Construction or Permanent Loan is foreclosed.
4. An LIHTC Allocation is not received or is later revoked by the LIHTC granting authority.
5. Any mortgage lender or, if required by law, the LIHTC granting authority has not approved the Fund as a limited partner to the Partnership within 180 days of the Admission Date.
6. If required, the Partnership has not received a valid Carryover Allocation of LIHTC for 2016 LIHTC by December 31, 2016 and maintained such allocation at all times thereafter.
7. The Partnership has not received from the Agency on or before December 1, 2018, or as issues by THCA, an allocation of 2016 LIHTC with respect to the Property (as evidenced by the issuance of a Form 8609 with respect to each building in the Property) in the annual amount of at least \$450,000 (90% of the estimated credits).
8. Any representation or warranty made by the General Partner proves to be false at the time it was made and such false representation or warranty has a material adverse effect on the Partnership, the Fund, or the Property.
9. An event of bankruptcy occurs with respect to the Partnership, the General Partner or any Guarantor, and a replacement guarantor (acceptable to the Fund in its sole discretion) is not obtained within 30 days of the event of bankruptcy.
10. Any action is commenced to foreclose any mechanics’ or equivalent lien against the Property unless, within 30 days of the commencement of such action, it is dismissed or bonded against to the satisfaction the Fund and all Lenders.
11. At any time, construction or operation of the Project is enjoined by a final order (from which no further appeals are possible) of a court having jurisdiction and such injunction continues for a period of thirty days.
12. A casualty occurs resulting in substantial destruction of more than 50% of the Property, or there is substantial destruction of less than 50% of the Property and the insurance proceeds are insufficient to restore the Project or the Project is not restored within twenty-four (24) months following such casualty.

Repurchase Price. If the General Partner must make payments under the Repurchase Obligation, the amount due to the Fund will equal the Gross Capital Contributions plus the Fund’s share of any interest and penalties imposed by the IRS for any recapture of LIHTC less: (1) any cash distributions paid to the Fund; (2) an amount equal to 86.0% of any LIHTC received by the Fund and which is not subject to recapture under the IRC; and (3) any Capital Contributions under this Agreement which have not yet been paid to the Partnership.

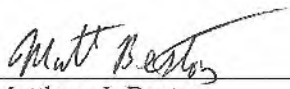
J. The Agreement

By returning an executed copy of this letter (the "Agreement"), the undersigned give Michel the exclusive right to proceed with all activities contemplated in the Agreement. Michel will use its best efforts to complete this transaction. Michel's obligations under this Agreement are subject to a satisfactory due diligence review of the Property, the Partnership, the General Partner, the Guarantors, the Management Agent, the financing documentation, the LIHTC allocation documentation, the assumptions contained herein, and all other relevant documentation in the Fund's Due Diligence List; approval by Michel's Investment Committee; and execution of the Partnership Agreement and related documentation.

In executing this Agreement, the undersigned agree that they will use their best efforts to meet the conditions set forth herein; that they will suspend discussions with other parties with respect to this equity investment; and that they and their affiliates and agents will treat the terms of this Agreement as confidential. This agreement may only be terminated if the conditions set forth are not met and such termination will be effective only by provision of written notice by Michel.

We look forward to working with you.

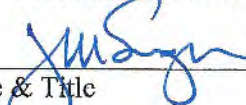
Very truly yours,
MICHEL ASSOCIATES, LTD.



Matthew J. Beston
Vice President - Origination

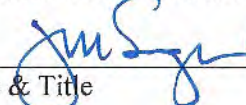
Accepted and Agreed To:

GENERAL PARTNER: SilverLeaf at Mason GP, LLC

 MANAGING MEMBER 3/13/17

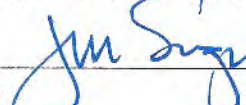
Name & Title Date

DEVELOPER: StoneLeaf Development Partners, LLC

 MANAGING MEMBER 3/13/17

Name & Title Date

GUARANTORS: StoneLeaf Development Partners, LLC

 MANAGING MEMBER 3/13/17

Name Date

UNIT TABULATION

UNIT TYPE	# UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM, ONE BATH	24	750 S.F.	18,000 S.F.
A2 - ONE BEDROOM, ONE BATH	1	750 S.F.	750 S.F.
A3 - ONE BEDROOM, ONE BATH	2	750 S.F.	1,500 S.F.
B1 - TWO BEDROOM, ONE BATH	22	1,000 S.F.	22,000 S.F.
TOTAL	49		42,250 S.F.

BUILDING TABULATION

TYPE	# BLDGS	UNITS/BLDG.	UNIT TYPES	BLDG. S.F.	TOTAL S.F.
A	11	4	A1-2, B1-2	3,500 S.F.	38,500 S.F.
B	1	5	A1-2, A2-1, A3-2	3,750 S.F.	3,750 S.F.
TOTAL	12				42,250 S.F.

SITE DATA

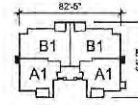
- 8.00 ACRES
- 6.13 UNITS PER ACRE
- NO KNOWN DETENTION REQUIREMEN
- NO KNOWN FLOOD PLAIN

PARKING TABULATION

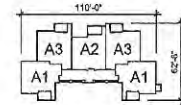
49 UNITS X 1.5 PER UNIT = 74 SPACES	
COVERED	49
UNCOVERED	25
CLUBHOUSE	11
TOTAL PROVIDED	85

BUILDING KEY

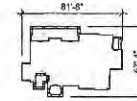
- BUILDING NUMBER
- BUILDING TYPE



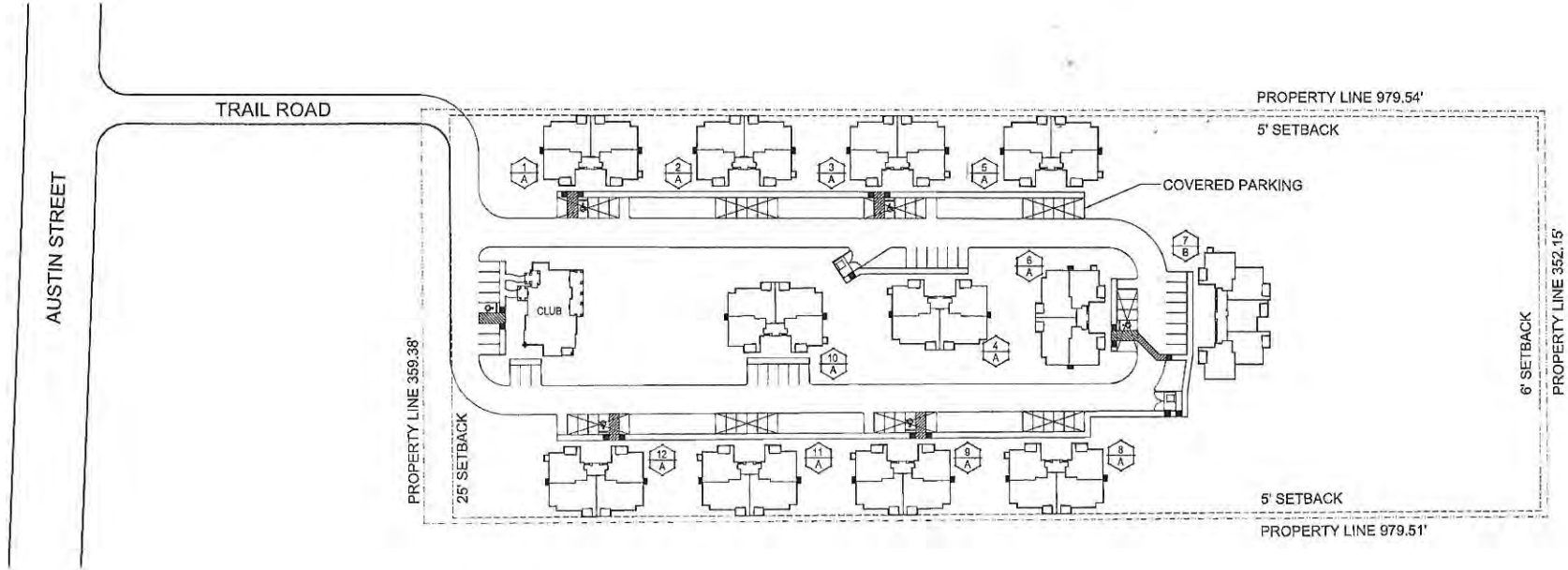
BUILDING "A" 1 STORY



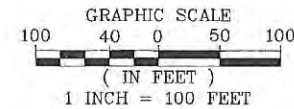
BUILDING "B" 1 STORY



CLUBHOUSE - 2,729 SQ.FT. 1 STORY



Original Site Plan



SITE PLAN

SCALE 1" = 100' - 0"



- SITE NOTES**
- CONTRACTOR TO INSTALL ALL EXTERIOR LIGHTING TO MEET THE CITY OF PANHANDLE ZONING REQUIREMENTS. ALL OUTDOOR LIGHTING TO BE DIRECTED AWAY FROM ADJACENT RESIDENCES. (REF. TO MEP PLANS FOR DESIGN)
 - NOTE: LOCATION OF PERIMETER FENCE TO BE FIELD VERIFIED.
 - SEE CIVIL ENGINEERING AND LANDSCAPE PLANS FOR UTILITIES, EXISTING CONTROL, DRAINAGE, PAVEMENT, PARKING SPACES, HO RAMP AND ALL SIDEWALKS.
 - CONTRACTOR TO INSTALL ALL SIGNAGE TO MEET CITY OF PANHANDLE ZONING REQUIREMENTS.
 - REFER TO MEP PLANS FOR LIGHTING SPECIFICATIONS, HVAC, GAS, TELEPHONE AND ELECTRICAL SERVICES LOCATIONS.
 - * ASTERISK DENOTES FIRE SPRINKLER RISER ROOM

SITE DATA

SITE AREA	8.00 ACRES
UNIT COUNT	45
TOTAL	8.00 UNITS PER ACRE

PARKING COUNT

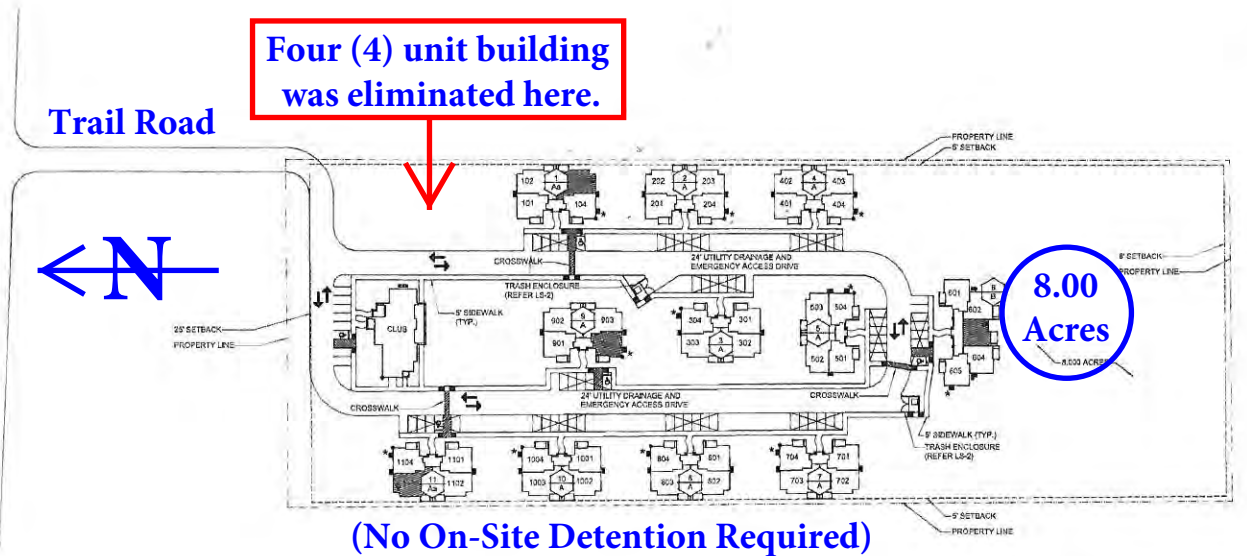
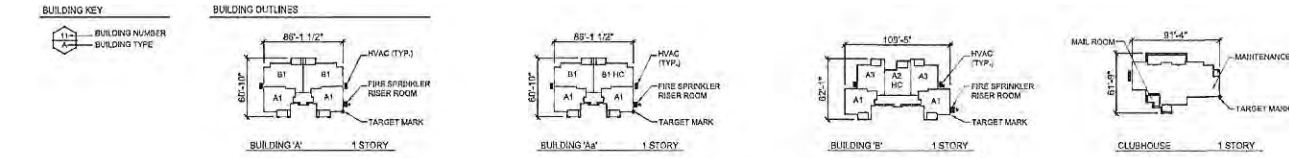
ALL UNITS	1,500/UNIT
TOTAL SPACES REQUIRED	68
UNCOVERED	5
CARPORITS (74)(H-4)	82
H/O STALLS (4)	8
CLUBHOUSE	8
H/O STALL (1)	79
TOTAL SPACES PROVIDED	79

H.O. (H/O) UNIT INFORMATION

* ALL H.O. UNITS MUST MEET THE REQUIREMENTS FOR THE HEARING AND VISUAL UNITS AS WELL

1. A1 H.C. @ UNIT #103	1. A1 H.V. @ UNIT #104
2. B1 H.C. @ UNIT #103	
3. B1 H.C. @ UNIT #103	

Austin Street (State Hwy 29E)

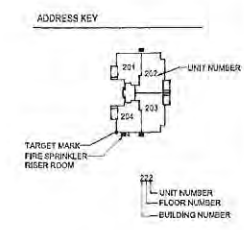


(No On-Site Detention Required)

Revised Site Plan



01 SITE/ADDRESS PLAN
SCALE: 1" = 60'



XX/XX/XXXX



ARCHITECT:
Cross Architects, PLLC
 1255 W. 15TH STREET, SUITE 125
 PLANO, TEXAS 75075
 P: 972.398.6644
 F: 972.312.8666
 WWW.CROSSARCHITECTS.COM

STONELEAF APARTMENTS
 MASON, TEXAS

DATE: XX/XX/XXXX

PROJECT NUMBER: XXXXX

REVISIONS

NO. DATE

DRAWING ISSUED FOR: XXXXX

SHEET NUMBER

A1.0
 SITE/ADDRESS PLAN

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BOARD ACTION REQUEST

ASSET MANAGEMENT

APRIL 27, 2017

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit (“HTC”) Application for Tuscany Park at Arcola (HTC #16105)

RECOMMENDED ACTION

WHEREAS, Tuscany Park at Arcola (the “Development”) received an award of 9% Housing Tax Credits in 2016 to construct 96 new units in the City of Arcola in Fort Bend County;

WHEREAS, the Applicant has requested approval for changes to the Application including a modification to the plat map due to shifts in the site boundary and a significant modification to the site plan that includes the relocation of the main access to the Development, the addition of a detention pond, adjustments to the location of the buildings, clubhouse, and amenities, and a reduction of the total number of parking spaces;

WHEREAS, Board approval is required for a significant modification of the site plan under 10 TAC §10.405(a)(4)(A), and the Applicant has complied with the amendment requirements in 10 TAC §10.405(a); and

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

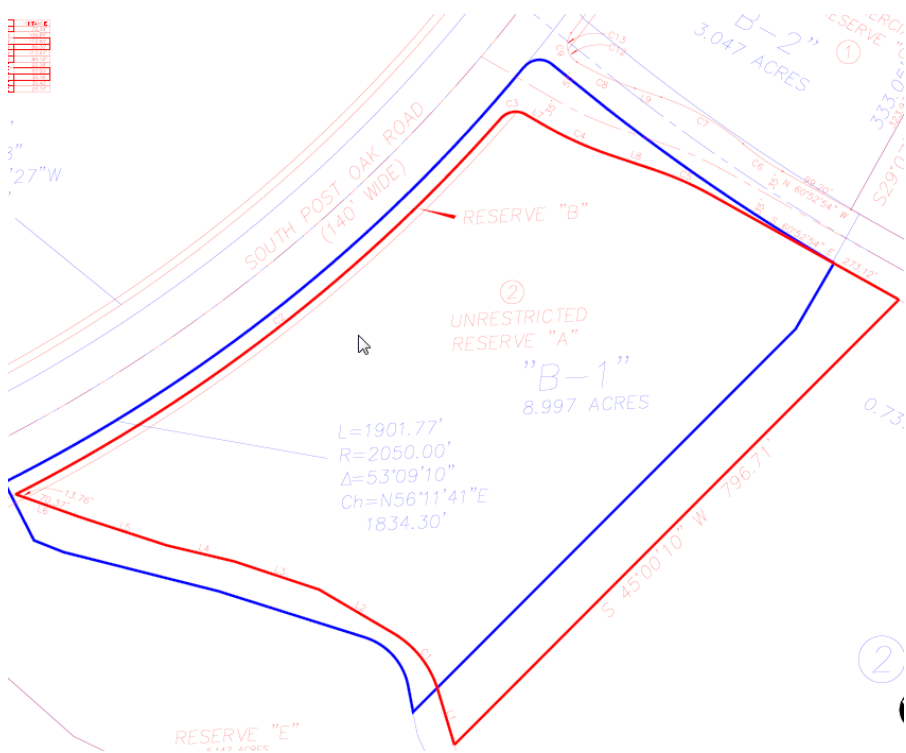
NOW, therefore, it is hereby

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

BACKGROUND

Tuscany Park at Arcola was approved for a 9% HTC allocation during the 2016 competitive cycle to construct 96 new multifamily units in the City of Arcola (“the City”) in Fort Bend County (“the County”). The representative for the Applicant, Sarah Andre, submitted a request seeking approval to modify the site boundary and the site plan.

Ms. Andre explains that the design team encountered some City and site-specific requirements that were not anticipated at the time of application. These requirements led to changes to the site boundary and the site plan. Specifically, during the plat approval process, the City required the minimum offset distance for the new street intersection on South Post Oak Road to be 400' from Highway 6. This changed the alignment of the north property line that was assumed during the application phase. The City also required the land sellers to widen the dedicated Right-of-Way on South Post Oak Road, which impacted the alignment of the property line along the road. In order to keep the original nine acres (as committed in the application), the other two sides of the boundary were adjusted accordingly. The revised plat remains at nine acres. A comparison of the original and revised site boundary lines is included below.



Site Boundary Lines

Blue line-original site boundary.

Red line-revised site boundary.

Also, in order to take advantage of the median cross from South Post Oak Road, and to facilitate the access of vehicles coming from Highway 6, the main access to the Development was changed to come from the new proposed road. The original main access is now considered a secondary access.

In addition, per City and County requirements, an on-site detention pond was added to manage surface drainage. The site design then had to be reconfigured to accommodate the on-site detention facilities. Changes were made to the positioning of the buildings, driveways, and sidewalks. The clubhouse and amenities were centralized to permit easier access for all the residents. The number of total parking spaces was reduced from 229 to 196 spaces, including 18 detached garages. The

acreage, the density, the number of buildings, the number of detached garages, the number of units, and the unit mix and sizes remain the same.

Ms. Andre states that the changes do not affect the development costs or impact the financing amounts, sources, terms, or conditions. Additionally, the Owner's explains that the need for the proposed modifications was not reasonably foreseeable or preventable because they did not anticipate the City and County requirements.

Staff has reviewed the original application, underwriting report and the information provided with the amendment request and has concluded that the changes would not have adversely affected the selection of the Application or its score. Further, staff has confirmed that and the changes have no impact to the tax credit allocation at this time.

A comparison of the changes identified in the Applicant's amendment request is summarized on the following page:

16105- Tuscany Park at Arcola
Material Amendment as defined in Tex. Gov't Code §2306.6712 and 10 TAC §10.405(a)(4)

Original

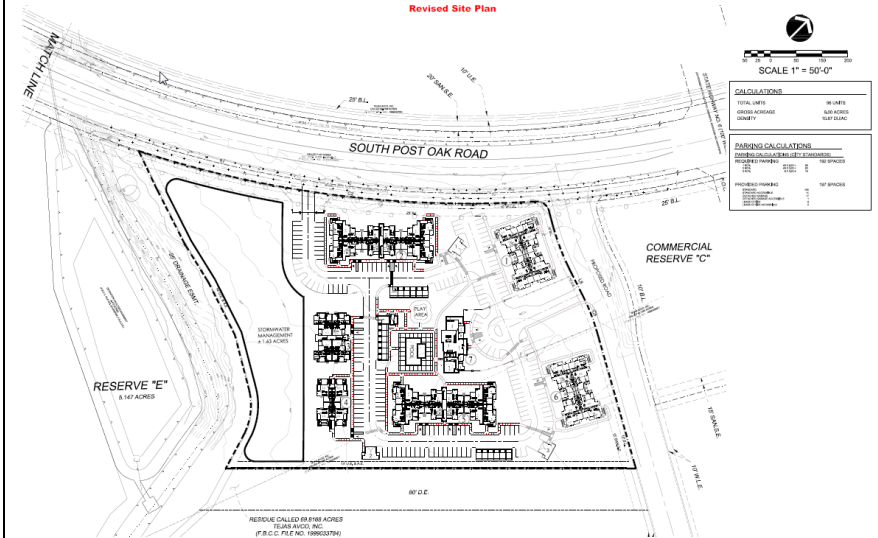
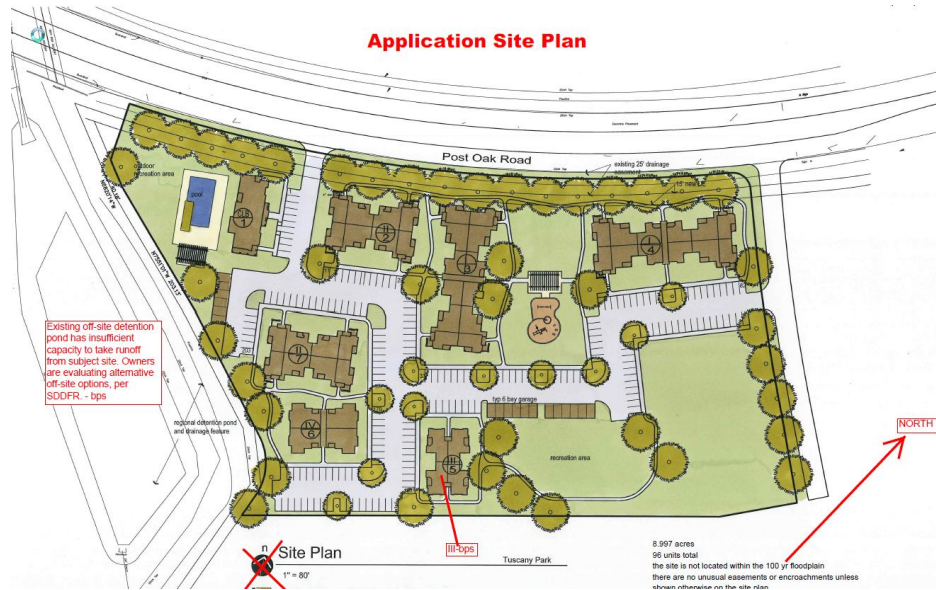
Amended

Site acreage = 9.00 acres
 Density = 10.7 units/acre
 6 residential buildings
 96 units
 80,800 Net Rentable Square Feet

Total Parking = 229 spaces
 Covered = 18 spaces
 Uncovered = 201 spaces
 Clubhouse = 10 spaces

Site acreage = 9.00 acres
 Density = 10.7 units/acre
 6 residential buildings
 96 units
 80,800 Net Rentable Square Feet

Total Parking = 197 spaces
 Covered = 18 spaces
 Uncovered = 169 spaces
 Clubhouse = 10 spaces



Staff recommends approval of the changes presented herein.

Arcola TP Partners, Ltd.

*c/o the NRP Group LLC · 200 Concord Plaza, Suite 900 · San Antonio, TX 78216
Office 210-487-7878 · Fax 210-487-7880*

February 3, 2017

Lucy Trevino

Asset Manager

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, TX 78701

Re: TDHCA # 16105 - Tuscan Park at Arcola

Dear Ms. Trevino,

During the design development of the Tuscan Park at Arcola, the design team encountered some City and site-specific requirements that we did not anticipate at the time of application, which has necessitated changes to the site boundary and the site plan.

It is important to mention that none of the proposed changes affects the number of points received by the application. The acreage, the number of units and the unit mix and sizes remain the same.

Boundary changes:

- The City of Arcola during the plat approval process required the minimum offset distance for the new street intersection on South Post Oak Road to be 400' from Highway 6. This changed the alignment of the north property line that was assumed during the application phase
- The City of Arcola also required the land sellers to widen the dedicated ROW on South Post Oak Road. This impacted the alignment of the property line along the road.
- In order to keep the original 9 acres, the other boundaries were adjusted as a result of the required plat approval conditions. Please refer to attached boundary survey and Exhibit A which overlays the original site boundary and the revised site boundary.

Arcola TP Partners, Ltd.

*c/o the NRP Group LLC · 200 Concord Plaza, Suite 900 · San Antonio, TX 78216
Office 210-487-7878 · Fax 210-487-7880*

Site plan changes:

- In order to take advantage of the median cross from South Post Oak Rd, and to facilitate the access of vehicles coming from Highway 6, the main access to the development was changed to come from the new proposed road. The original main access is now considered a secondary access. Please refer to the attached site plan submitted at application and the revised site plan.
- An on-site detention pond was added to manage surface drainage per City and County requirements. The original proposal from the land seller and purchase agreement was to provide detention off site in a master pond, controlled by the land seller. That was no longer an option once the seller began his platting process thus we had to reconfigure our site design to provide our own on site detention facilities.
- Adjustments to the building's positions were made to provide space for the detention pond.
- The clubhouse and amenities were centralized to permit easier access for all the residents.
- The number of total parking spaces was reduced from 229 spaces to 173 to allow room for the detention pond. This still meets all local code requirements as well as TDHCA guidelines regarding parking. The new parking ratio is now 1.8 spaces per unit.

Additionally, minor changes were made to the positioning of buildings, driveways, sidewalks, etc. and should be considered part of normal design adjustments and this amendment request.

It should be noted that none of the design changes were made in an effort to reduce costs or the functionality of the property.

Although we believe that the changes are not substantial, if you consider it necessary for the notification to be approved by the Board we would like the amendment to be considered on the March 23rd board meeting.

Arcola TP Partners, Ltd.

*c/o the NRP Group LLC · 200 Concord Plaza, Suite 900 · San Antonio, TX 78216
Office 210-487-7878 · Fax 210-487-7880*

Respectfully,

Arcola TP Partners, Ltd., a Texas limited partnership

By: Arcola General 96, LLC, a Texas limited liability company

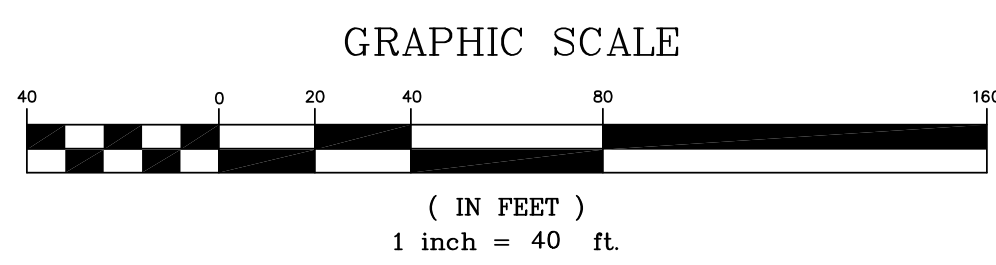
**By: East 43rd St. LLC, a Texas limited liability company, its
Sole Member**

By: 

Sarah André, Sole Member

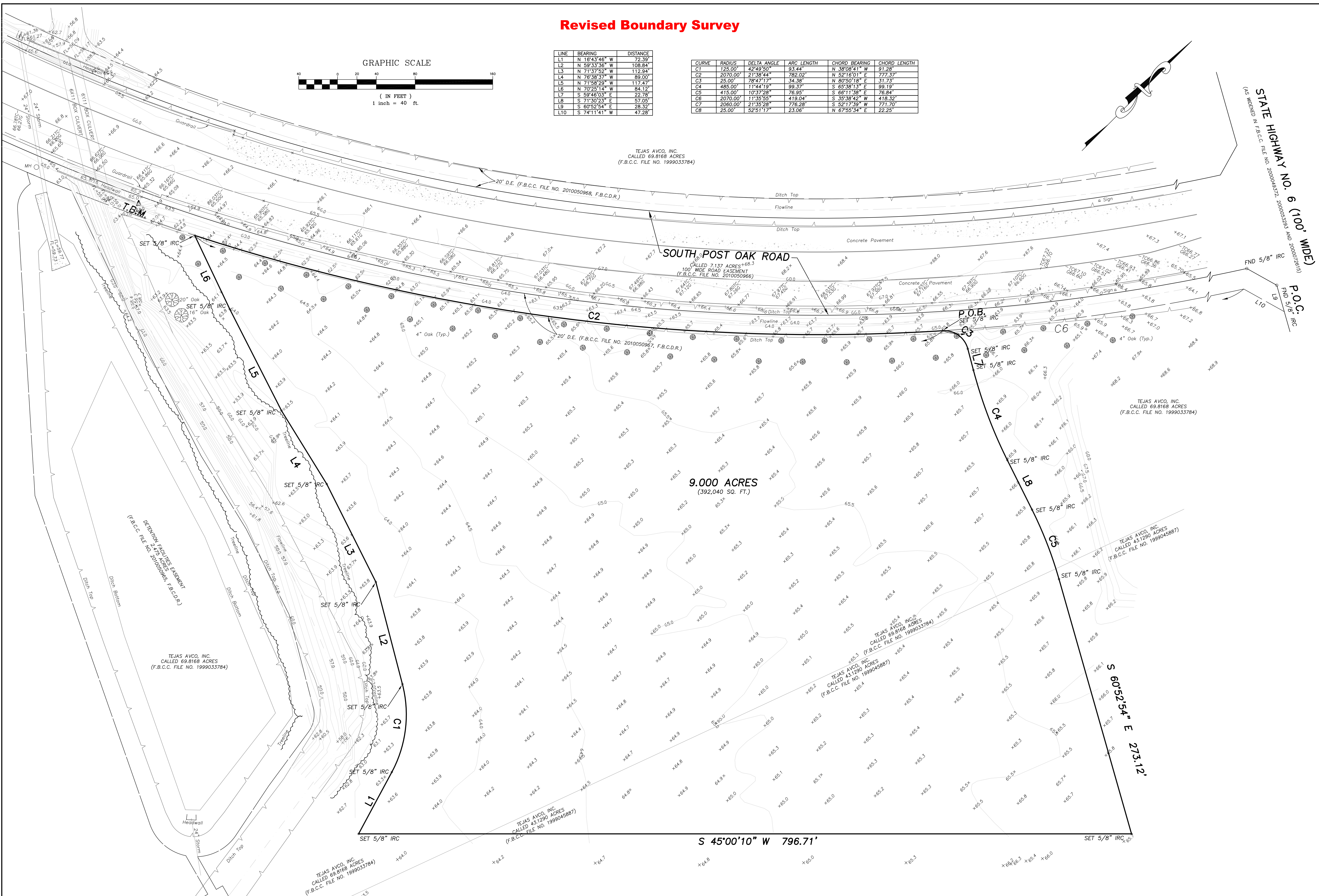
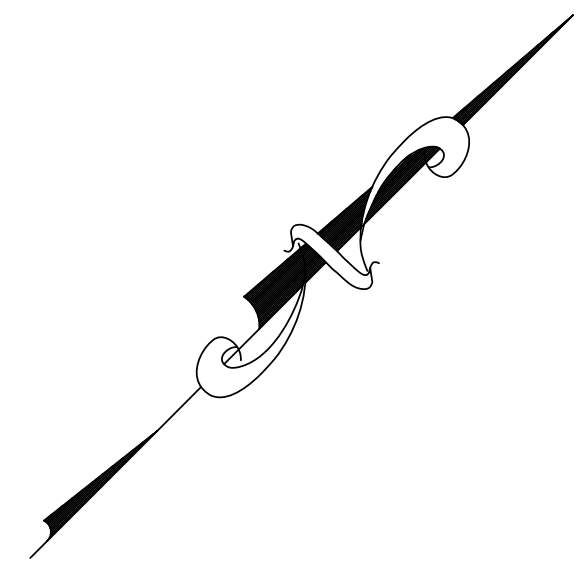
cc. Raquel Morales.

Revised Boundary Survey



LINE	BEARING	DISTANCE
L1	N 16°43'46" W	72.39
L2	N 59°33'58" W	108.84
L3	N 71°37'42" W	112.84
L4	N 76°38'37" W	89.00
L5	N 71°58'29" W	117.47
L6	N 70°25'14" W	84.12
L7	S 59°46'03" E	22.78
L8	S 71°30'23" E	57.05
L9	S 60°52'54" E	28.32
L10	S 74°11'41" W	47.28

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	125.00'	42°49'50"	93.44'	N 38°08'41" W	91.28'
C2	2070.00'	21°38'44"	782.02'	N 52°16'01" E	777.37'
C3	25.00'	78°47'17"	34.38'	N 80°50'19" E	31.72'
C4	485.00'	11°44'19"	99.37'	S 65°38'13" E	99.19'
C5	415.00'	10°37'28"	76.95'	S 66°11'58" E	76.84'
C6	2070.00'	11°35'55"	419.64'	S 35°38'42" W	418.32'
C7	2080.00'	21°35'28"	776.28'	S 52°17'01" W	771.07'
C8	25.00'	52°51'12"	23.06'	N 67°55'54" E	22.25'



- NOTES:
- THE BEARINGS SHOWN HEREON ARE BASED ON STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83.
 - THIS PROPERTY LIES IN UNSHADED ZONE "X" AS PER THE FLOOD INSURANCE RATE MAPS, COMMUNITY PANEL NO. 481619 0315 L AND 480228 0315 L, EFFECTIVE DATE APRIL 2, 2014.
 - THIS SURVEY WAS PREPARED WITH A TITLE REPORT PREPARED BY STEWART TITLE GUARANTY COMPANY, G.F. NO. 1515722070, EFFECTIVE DATE JANUARY 1, 2015.
 - THIS PLAT IS ACCOMPANIED BY A SEPARATE SIGNED AND SEALED METES AND BOUNDS DESCRIPTION FOR THIS PARCEL WHICH IS A PART OF THIS SURVEY, ISSUED ON EVEN DATE HERewith.
 - THIS PROPERTY IS SUBJECT TO THE RESTRICTIONS SET FORTH IN VOL. 557, PGS. 34, 38 & 41, AND IN VOL. 559, PG. 38, F.B.C.D.R.
 - THIS PROPERTY IS SUBJECT TO ZONING REGULATIONS IN THE CITY OF ARCOLA.
 - BENCHMARK: AW 5461 STAINLESS STEEL ROD IN SLEEVE STAMPED SOUTHPARK AZ MK 1986, LOCATED EAST OF DUNE ROAD APPROX. 2000 FEET, AND NORTH FROM THE CENTERLINE OF THE AIRPORT RUNWAY APPROX. 140 FEET, AW5461 NAVD 88, 1991 ADJ. DATUM, ELEV = 64.35
 - TM: BOX CUT SET IN CENTER OF HEADWALL ON EAST SIDE OF S. POST OAK, APPROX. 1400 FEET SOUTH OF SH 6. ELEV = 65.17 FEET NAVD 88, 2001 ADJ.
 - THE LOCATION OF UNDERGROUND SANITARY AND STORM LINES IS BASED ON VISIBLE AND APPARENT EVIDENCE. THE LOCATION AND SIZE OF UNDERGROUND WATER LINES IS BASED ON COMPILED DRAWINGS. UNDERGROUND GAS, COMMUNICATIONS, AND ELECTRICAL LINES CANNOT ALWAYS BE LOCATED AND MAY NOT ALL BE SHOWN ON THIS SURVEY. LOCATIONS SHOWN ARE BASED ON UTILITY MARKINGS AT THE TIME OF THIS SURVEY AND ANY COMPILED MAPS PROVIDED.

TO MGROUP HOLDINGS, INC. AND STEWART TITLE GUARANTY COMPANY:
The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way of which I have knowledge or have been advised, except as shown hereon, and that said property has access to and from a dedicated roadway.
This survey conforms to the minimum standard requirement for a Category I or Condition II survey, in accordance with the Manual of Practices for Surveying as published by the Texas Society of Professional Surveyors, dated July, 1999.
Updated to show topography 10-20-2016.
Revised boundary location 1-11-2017.

Randy S. McClendon
Registered Professional Land Surveyor
Texas Registration No. 4079

PLAT OF SURVEY
W/TOPOGRAPHY
BEING 9.000 ACRES OUT OF
A CALLED 69.8168 ACRE TRACT
(F.B.C.C. FILE NO. 1999033784)
AND A CALLED 43.1290 ACRE TRACT
(F.B.C.C. FILE NO. 1999045887)
THOMAS BARNETT SURVEY, A-7
FORT BEND COUNTY, TEXAS

LEGEND

○	PROPERTY CORNER		WOOD FENCE
○	FOC (Fiber Optic Cable)		BARBED WIRE FENCE
○	GAS METER		CHAIN LINK FENCE
○	POWER POLE		WROUGHT IRON FENCE
○	MANHOLE		OVERHEAD ELECTRIC
○	CLEANOUT		SANITARY SEWER LINE
○	WATER VALVE		STORM SEWER LINE
○	FIRE HYDRANT		WATERLINE
○	WATER METER		GAS LINE
○	PHONE EQUIPMENT		EASEMENT
○	CABLE EQUIPMENT		AERIAL EASEMENT
○	LIGHT STANDARD		BUILDING LINE
○	TRAFFIC SIGN		PARKING SETBACK
○	PIRE BOLLARD		CENTER OF SWALE
○	CURB LINE		TOP OF BANK
○	EDGE ASPHALT		EXIST. NATURAL GROUND ELEVATION
○	CURB INLET		EXIST. ASPHALT OR CONCRETE ELEVATION
○	AREA INLET		
○	EDGE OF BUILDING		
○	TOP OF CURB ELEVATION		
○	OUTTER ELEVATION		

TEJAS SURVEYING, INC.
FIRM NO. 10031300
12621 W. AIRPORT BLVD., SUITE 100
SUGAR LAND, TEXAS 77478
Website: mrsurveyor.com

SCALE: 1"=40'
SF NO. 1515722070
PHONE: (281) 240-9099

FIELD BOOK: 13-01, 16-07
SOUTH POST OAK ROAD, ARCOLA TX
CAD FILE: RSM\4414481402TRSM

DATE: 02-11-2014
REV: 1-17-2017
JOB NO. 44-1402T

SURVEY RECEIVED 1-17-2017

RESERVE	ACRES	SQ. FT.	USE
A	8.818	384,109	UNRESTRICTED
B	0.1821	7,931	LANDSCAPE/OPEN SPACE/ACCESS
C	2.904	126,495	COMMERCIAL
D	0.1607	7,000	LANDSCAPE/OPEN SPACE/ACCESS
E	5.147	224,208	DETENTION/DRAINAGE PURPOSES
F			LANDSCAPE/OPEN SPACE/ACCESS
G			LANDSCAPE/OPEN SPACE/ACCESS
PUBLIC ROAD			RIGHT-OF-WAY
ADDITIONAL ROW			RIGHT-OF-WAY
S. POST OAK RD			RIGHT-OF-WAY
TOTAL	30.69	1,336,956	

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	125.00'	42°49'50"	93.44'	S 38°08'41" E	91.28'
C2	2070.00'	21°38'44"	782.02'	N 52°16'01" E	777.37'
C3	25.00'	78°47'17"	34.38'	N 80°50'18" E	31.73'
C4	485.00'	1°44'19"	99.37'	N 65°38'13" W	99.19'
C5	415.00'	10°37'28"	76.95'	S 66°11'38" E	76.84'
C6	300.00'	11°40'40"	61.14'	N 55°02'34" W	61.04'
C7	308.40'	22°18'08"	120.04'	S 60°21'18" E	119.29'
C8	395.00'	11°43'38"	80.85'	N 65°38'34" W	80.71'
C9	25.00'	97°20'55"	42.47'	N 11°06'27" W	37.55'
C10	2070.00'	0°75'02"	287.24'	S 33°35'19" W	287.01'
C11	2080.00'	08°23'11"	304.45'	S 33°55'11" W	304.18'
C12	25.00'	44°29'13"	19.41'	N 37°32'08" W	18.93'
C13	25.00'	52°51'22"	23.06'	N 11°08'09" E	22.25'

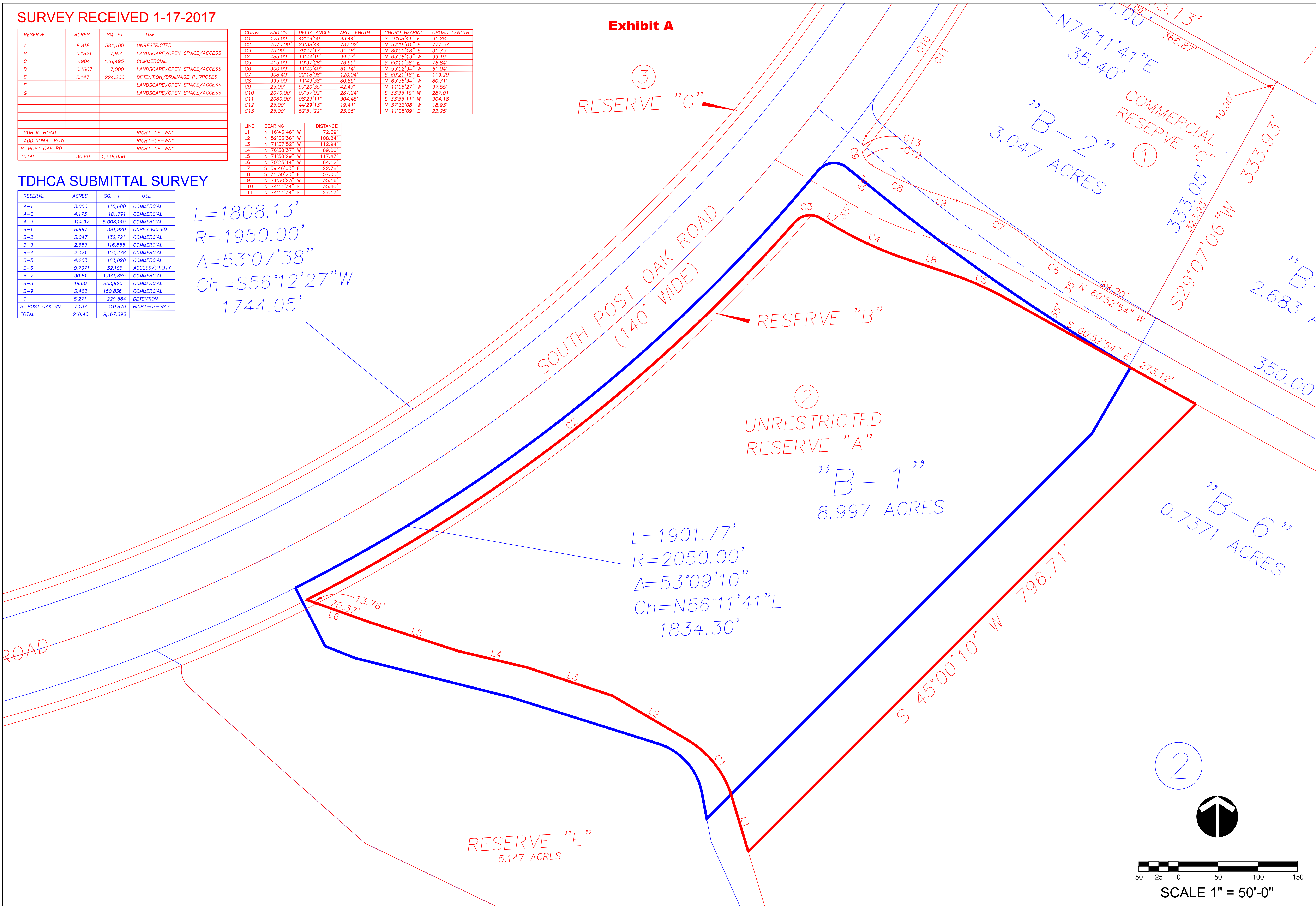
LINE	BEARING	DISTANCE
L1	N 16°43'46" W	72.39'
L2	N 59°33'36" W	108.84'
L3	N 21°37'52" W	112.94'
L4	N 76°38'37" W	89.00'
L5	N 71°58'29" W	117.47'
L6	N 70°25'14" W	84.12'
L7	S 59°46'03" E	22.78'
L8	S 71°30'23" E	67.05'
L9	N 71°30'23" W	35.16'
L10	N 74°11'34" E	35.40'
L11	N 74°11'34" E	27.17'

TDHCA SUBMITTAL SURVEY

RESERVE	ACRES	SQ. FT.	USE
A-1	3.000	130,680	COMMERCIAL
A-2	4.173	181,791	COMMERCIAL
A-3	114.97	5,008,140	COMMERCIAL
B-1	8.997	391,920	UNRESTRICTED
B-2	3.047	132,721	COMMERCIAL
B-3	2.683	116,855	COMMERCIAL
B-4	2.371	103,278	COMMERCIAL
B-5	4.203	183,098	COMMERCIAL
B-6	0.7371	32,106	ACCESS/UTILITY
B-7	30.81	1,341,885	COMMERCIAL
B-8	19.60	853,920	COMMERCIAL
B-9	3.463	150,836	COMMERCIAL
C	5.271	229,584	DETENTION
S. POST OAK RD	7.137	310,876	RIGHT-OF-WAY
TOTAL	210.46	9,167,690	

$L=1808.13'$
 $R=1950.00'$
 $\Delta=53^{\circ}07'38"$
 $Ch=S56^{\circ}12'27" W$
 $1744.05'$

Exhibit A



LEE AND ASSOCIATES

8601 RANCH ROAD 2222
BUILDING I, SUITE 290
AUSTIN, TX 78730
(512) 345-8477
www.leeandassociates.net

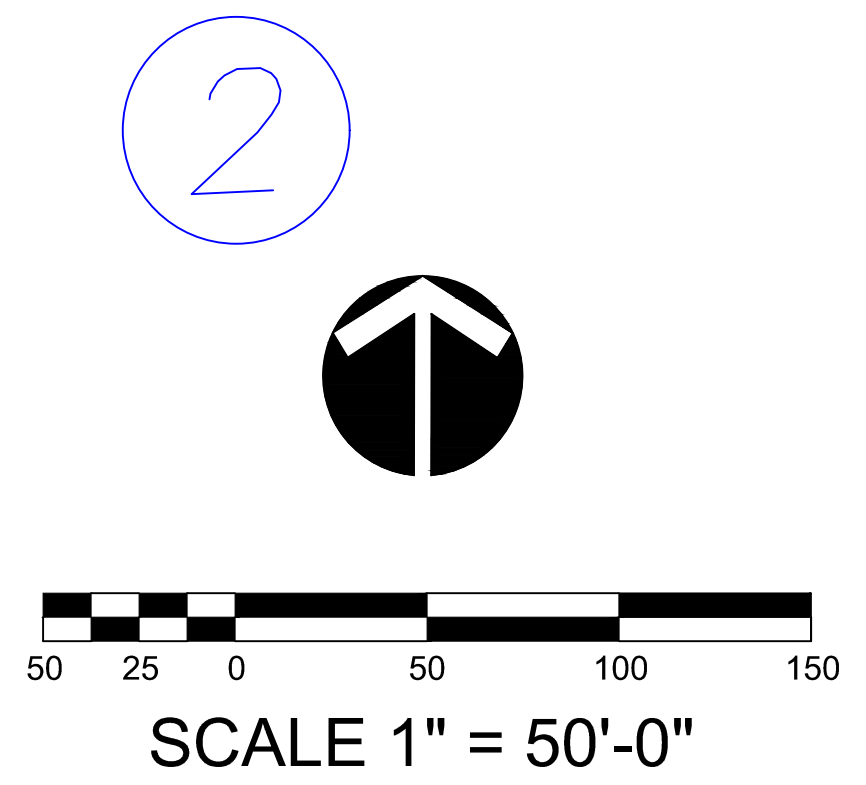
the NRP group LLC

Revision Block	No.	By	Date	Comments

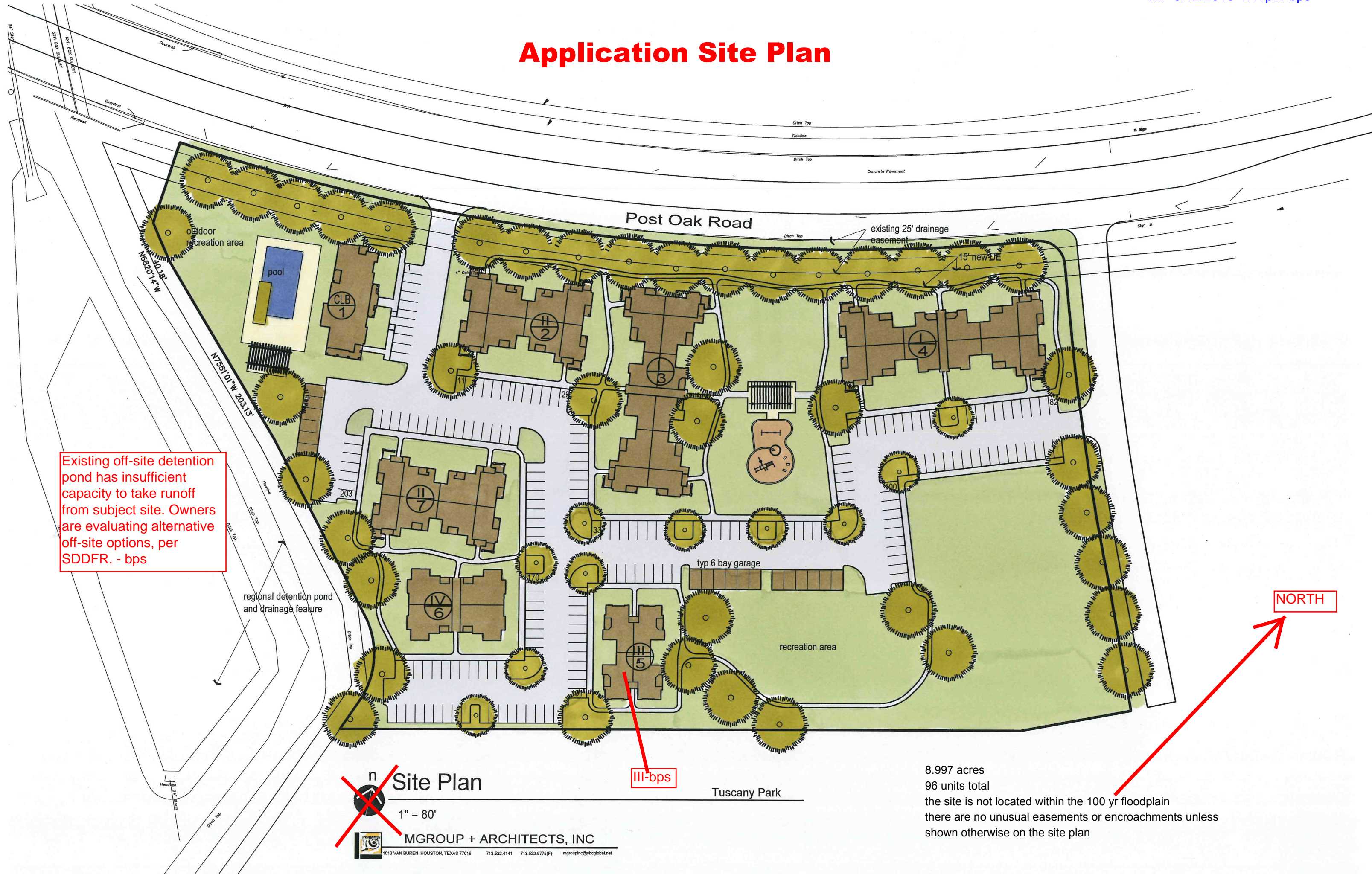
DATE	PROJ. NO.	FILE NAME	XREF
1-25-2017	1785	1785 BOUNDARY EXHIBIT	

TUSCANY PARK
ARCOLA, TEXAS
BOUNDARY EXHIBIT

THIS DRAWING IS NOT FOR REGULATORY APPROVAL, OR CONSTRUCTION



Application Site Plan



Existing off-site detention pond has insufficient capacity to take runoff from subject site. Owners are evaluating alternative off-site options, per SDDFR. - bps

NORTH


Site Plan
 1" = 80'

MGROUP + ARCHITECTS, INC
1013 VAN BUREN HOUSTON, TEXAS 77019 713.522.4141 713.522.9775(F) mgrupinc@ebcglobal.net

III-bps

Tuscany Park

8.997 acres
 96 units total
 the site is not located within the 100 yr floodplain
 there are no unusual easements or encroachments unless
 shown otherwise on the site plan

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on material amendment to the Housing Tax Credit (“HTC”) Application for Palladium Anna (HTC #16178)

RECOMMENDED ACTION

WHEREAS, in 2016, Palladium Anna (the “Development”) received an award of 9% Housing Tax Credits for the new construction of 180 units of general multifamily housing in Anna, Collin County;

WHEREAS, a representative for Palladium Anna, Ltd. (the “Applicant”) has requested approval to make material amendments to the Application due to unforeseen and negative trends in tax credit equity markets in recent months, which have resulted in a reduced credit price for the subject Development (falling from \$1.01 to \$0.92) and impacting the feasibility of the Development as originally proposed;

WHEREAS, as a result of the reduced credit pricing, increased construction costs and in an effort to keep the Development viable the Applicant has requested approval to decrease the number of residential units from 180 to 120, which modifies the residential density by more than five percent and also results in a significant modification to the site plan;

WHEREAS, the changes proposed represent material alterations requiring Board approval, including a significant modification of the site plan, modification of the number of units or bedroom mix of units and a modification of the residential density of at least 5 percent as described in Tex. Gov’t Code §2306.6712 and 10 TAC §10.405(a)(4)(A), (B) and (F);

WHEREAS, the Applicant proposes to reduce the number of low income units from 108 to 86, and amendments that involve a reduction in the total number of Low-Income Units, or a reduction in the number of Low-Income Units at any rent or income level must include evidence supporting the need for the change, including written confirmation from the lender and syndicator that the Development is infeasible without the adjustment in Units, and staff’s evaluation of the change that concludes and concurs that the unit adjustment is necessary for the continued financial feasibility of the Development as required by 10 TAC §10.405(a)(7);

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

WHEREAS, the reduction in the total number of units and the change in residential density are necessary for the financial feasibility given the reduction in equity pricing; and the changes do not negatively impact the viability of the transaction or reduce the amount of tax credits awarded;

NOW, therefore, it is hereby

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

BACKGROUND

Palladium Anna was submitted and approved for a 9% HTC allocation during the 2016 cycle to construct 180 new multifamily units in Anna, Collin County. A representative for the Applicant, Thomas E. Huth, has submitted a request for approval to materially amend the Application in efforts to keep the transaction viable given the decrease in equity pricing for the Development.

The Application for Palladium Anna was underwritten and approved at a credit price of \$1.01 offered by Regions Bank. The amendment request letter explains that in recent months there has been an unforeseen negative impact on the tax credit equity markets. According to the amendment request letter, the construction drawings for the 180-unit development were completed in October 2016, and the HUD 221(d)(4) Firm Application was submitted shortly thereafter. The Applicant was then left waiting for the HUD commitment in order to close this transaction. However, during the time when HUD was reviewing the Firm Application, equity pricing started to decline. The Applicant was informed in early December that Regions Bank could not honor the originally committed equity pricing due to the recalculated yields a possible 15% corporate tax rate would have on their investment. The Applicant pointed out that the equity pricing decrease is not a Regions Bank only issue. During late November, RBC and Compass Bank, the financing partners in a separate transaction, informed the Applicant that many equity providers were walking away from letters of intent due to the corporate income taxes possibly being reduced to 15%. This unforeseen and negative impact on tax credit equity markets since November was neither reasonably foreseeable nor preventable at the time of Application. The Applicant has a new equity commitment with Hudson Housing Capital for \$0.92 per tax credit. This decrease in the amount of equity available to Palladium Anna and increased construction costs forced the Applicant to downsize the Development to a size that makes the Development feasible.

The Applicant explained that, in order to make the Development feasible with equity pricing at \$0.92, a reduction in the unit count was necessary to get the capital sources to align with the capital uses. This amendment would reduce the total unit count from 180 units to 120 units, which changes the site plan but lessens the unit density. The size of the site remains the same (9.482 Acres), which has increased the green space and improved the park-like site layout as a result in the deletion of two buildings and the associated parking. The Applicant indicated that the size of the clubhouse or percentage of required amenities has not been reduced. Unit sizes have increased marginally. The table on the next page summarizes the proposed changes to the Development.

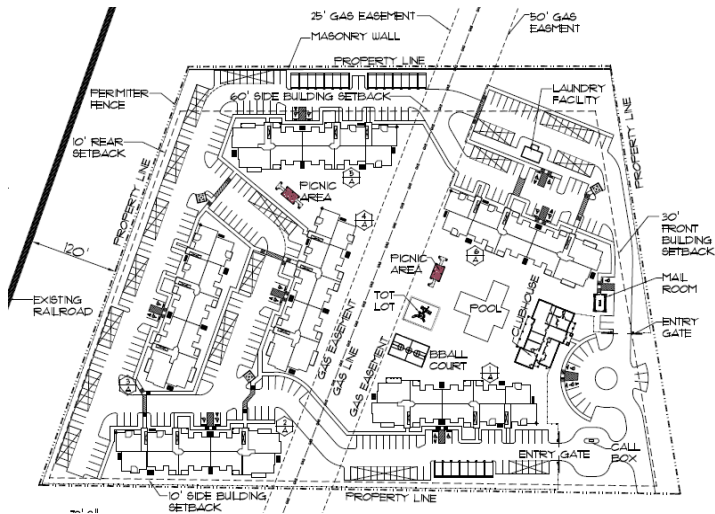
16178- Palladium Anna
Material Amendment as defined in Tex. Gov't Code §2306.6712 and 10 TAC §10.405(a)(4)

Original

Site acreage = 9.482 acres
 Density = 18.983 units/acre

6 residential buildings
 180 units
 170,100 Net Rentable Square Feet

Total Parking = 345 spaces
 Covered = 135 spaces
 Uncovered = 210 spaces



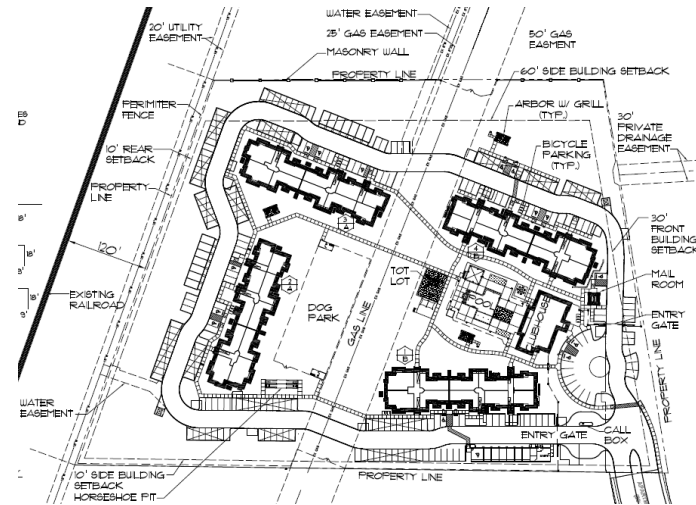
UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	11	6.1%
1	54	30.0%	0	40%	-	0.0%
2	90	50.0%	0	50%	44	24.4%
3	36	20.0%	0	60%	53	29.4%
4	-	0.0%	0	MR	72	40.0%
TOTAL	180	100.0%	-	TOTAL	180	100.0%

Amended

Site acreage = 9.482 acres
 Density = 12.656 units/acre (-33.33%)

4 residential buildings
 120 units
 114,240 Net Rentable Square Feet (-32.84%)

Total Parking = 230 spaces
 Covered = 135 spaces
 Uncovered = 95 spaces



UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	9	7.5%
1	36	30.0%	0	40%	-	0.0%
2	60	50.0%	0	50%	35	29.2%
3	24	20.0%	0	60%	42	35.0%
4	-	0.0%	0	MR	34	28.3%
TOTAL	120	100.0%	-	TOTAL	120	100.0%

The Applicant's amendment request included a financial analysis of the current pro-forma based on the original Application with 180 units and with the identical unit mix and affordability component set asides as in the original Application. According to the Applicant, at the now current \$0.92 equity pricing, 100% of the developer fee would have to be deferred and the general partner would have to contribute approximately \$300K in equity above the equity invested by the tax credit limited partner. Furthermore, the deferred developer fee would not be repaid during the 15-year Compliance Period. Therefore, without the granting of the amendment request, Palladium Anna would not be financially feasible. The Applicant also submitted a letter from Regions Bank dated March 2, 2017, stating that the Development is not feasible in today's market without the reduction to 120 units. The Department's original underwriting analysis indicated that, all else held equal, the Development would be characterized as infeasible at a credit price below \$0.979.

The Applicant also provided a revised pro forma, Development Cost Schedule, Financing Narrative and Summary of Sources of Funds, and current term sheets for the debt and equity, which has been reviewed by the Department's Real Estate Analysis ("REA") division. REA staff has re-evaluated the transaction pursuant to Tex. Gov't Code 2306.6712(b) and an analysis of this Application with the changes proposed is included after this Board Action Request. REA has concluded that the Development remains feasible and continues to support the credit allocation previously awarded to this Development.

According to the Applicant, due to the fact that Palladium Anna had to contain a material level of market rate units to gain support from both the land owner (Palladium Anna is part of a 600 acre master planned community) and the City of Anna, the original Application contained 40% market rate units, but the proposed mix now contains 28% market rate units. The reduction in the total number of units is necessary to reduce the deferred developer fee from an infeasible level to a feasible level, eliminate the need for the general partner to contribute equity above the equity invested by the tax credit limited partner, and would result in a financially feasible development at the current equity pricing. As a percentage of total units as amended, the percentage of affordable units has increased from 60% to 72% and the proposed rent targeting maintains the same percentage of 30%, 50%, and 60% affordability set asides as in the original Application, compared to the proposed number of low-income units.

Staff has reviewed the original application, underwriting report, and the information provided with the amendment request and has concluded that the changes identified would have resulted in a two-point reduction to the score of the application due to the increased building cost. The Application originally qualified for 12 points as a result of having the Building Cost under \$75 per square foot, but the Building Cost is now \$86.83, which would have qualified the Development for 10 points. As pointed out by the Applicant, the Development scored four points above the first application on the waiting list for this sub-region, and a two-point reduction would not have adversely affected the selection of this Development for funding. In addition, cost increases as a result of market conditions are typically not re-scored after the award is made. It must be mentioned that, due to the reduction in the number of units, 14 points of common amenities are necessary instead of 18 points. Based on staff's review of the amendment request and supporting documentation, no change to the recommended credit amount is recommended at this time.

Staff recommends approval of the material amendments as presented herein.



Addendum to Underwriting Report

TDHCA Application #: **16178** Program(s): **9% HTC**

Palladium Ana

Address/Location: the north east quadrant of Highway 5 and 422

City: Anna County: Collin Zip: 75409

APPLICATION HISTORY	
Report Date	PURPOSE
04/11/17	Amendment
10/24/16	Commitment & Carryover Condition Clearance
07/27/16	New Application - Initial Underwriting

ALLOCATION

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

CONDITIONS STATUS

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

Status: Pending

SET-ASIDES

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

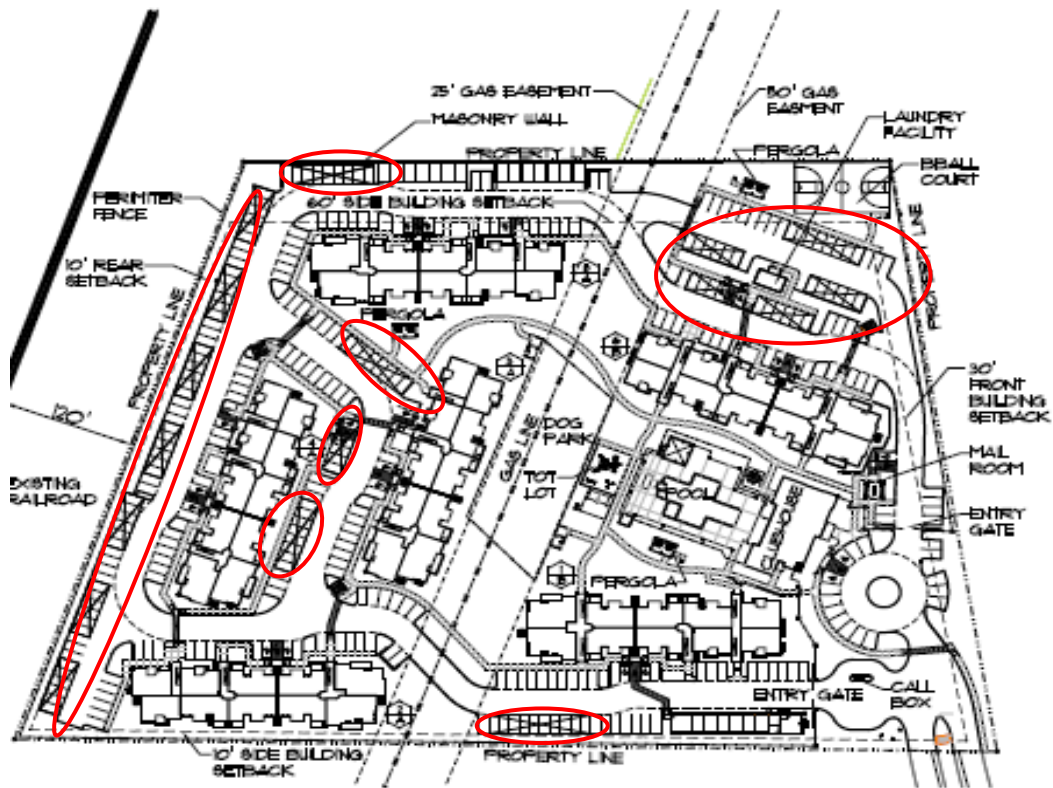
ANALYSIS

Applicant received a \$1.5M annual tax credit award during the 2016 9% HTC competitive cycle. On March 7, 2017, Applicant submitted a request to amend the total number of units, and as a result, modify the site plan, unit and building configuration, development costs and financing structure.

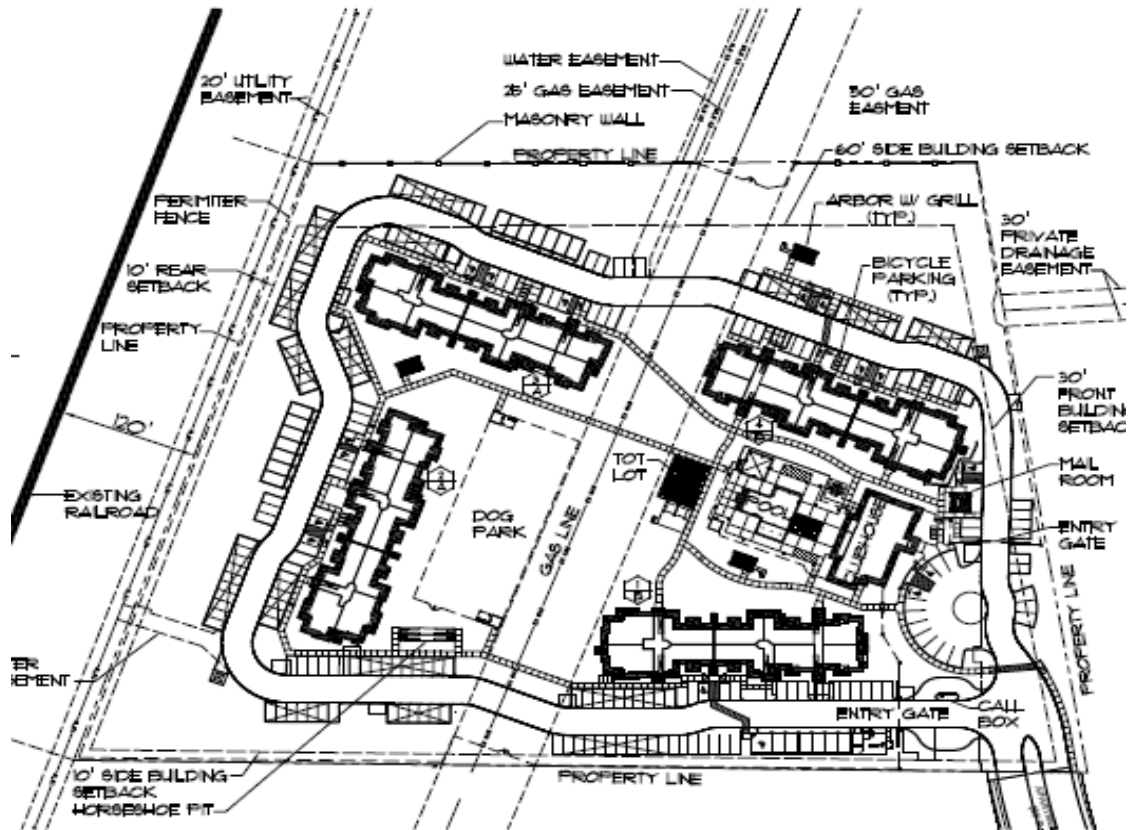
The most notable changes to the site and building plans are decreases in:

- Total units from 180 to 120
- Number of residential buildings from 6 to 4
- NRSF from 170,100 s.f. to 114,240 s.f.
- Site density from 18.983 units/acre to 12.656 units/acre
- Number of restricted units from 108 to 86 and the number of Market units from 72 to 34

REVISED SITE PLAN @ COMMITMENT



REVISED SITE PLAN @ AMENDMENT



Comments:

Applicant indicates that the size of the clubhouse or percentage of required amenities has not been reduced. The amended site plan includes a total of 231 parking spaces (114 carports and 21 garages), all free to tenants. This exceeds minimum City code requirements of only 222 required spaces.

Operating Pro Forma

Applicant's revised pro forma is within 5% of Underwriter's; therefore the Applicant's pro forma will be used for analysis. Applicant's income & expenses decreased \$689K (38%) & \$271K (31%) respectively as a direct result of the reduction of units. Underwriter made no other adjustments to the pro forma.

DCR increased from 1.18 at original underwriting to 1.26.

Development Cost

Applicant's estimate for building cost decreased by 20%. Total sitework also decreased by \$524K; however, with the reduction of total units, the per unit cost increased \$3,734/unit. Additionally, hard cost decreased by a total of 20%, soft costs increased 6% (~\$91K), while financing costs decreased by 50% (~\$461K). Total Development Cost decreased 17%. Applicant's cost per unit increased from \$68K/unit to \$83K/unit. Had the current costs been scored at the time of original application, a two-point reduction would have resulted. However, as the Subject scored 4 points above the next application in line, it would still have been recommended for funding. The Underwriter's revised analysis is based on the schedule of values in the draft construction contract.

Sources of Funds

Dougherty Mortgage has replaced Regions Bank and will provide a FHA 221d4 loan up to \$8.33M with more favorable terms; lower interest rate of 4.10% (with a 0.35% MIP), amortized over 40 years, with a 40 year term. Applicant has only included \$7.38M in order to fill the gap in financing. Up to \$7.9M could be utilized before a reduction in credits would be warranted.

Hudson Housing Capital has also replaced Regions as equity provider and the equity rate has decreased from \$1.01 to \$0.92, resulting in decreased equity proceeds of ~\$1.3MK (\$13.8M total).

Conclusion:

The current analysis continues to support the original \$1.5M credit allocation.

No change in the approved credit allocation is being recommended at this time.

Underwriter:	<u>Diamond Unique Thompson</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

UNIT MIX/RENT SCHEDULE
Palladium Ana, Anna, 9% HTC #16178

LOCATION DATA	
CITY:	Anna
COUNTY:	Collin
PROGRAM REGION:	3

UNIT DISTRIBUTION						
# Beds	# Units	% Total	Assisted	Income	# Units	% Total
Eff	-	0.0%	0	30%	9	7.5%
1	36	30.0%	0	40%	-	0.0%
2	60	50.0%	0	50%	35	29.2%
3	24	20.0%	0	60%	42	35.0%
4	-	0.0%	0	MR	34	28.3%
TOTAL	120	100.0%	-	TOTAL	120	100.0%

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	69.91%
APP % Acquisition	3.37%
APP % Construction	9.00%
Average Unit Size	952 sf

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 30%	\$396	6	1	1	804	\$396	\$64	\$332	\$6	\$0.42	\$338	\$2,028	\$1,991	\$332	\$0.41	\$0		\$892	
TC 50%	\$660	18	1	1	804	\$660	\$64	\$596	\$11	\$0.75	\$607	\$10,926	\$10,726	\$596	\$0.74	\$0		\$892	
MR		10	1	1	804	\$0	\$64		NA	\$1.04	\$840	\$8,400	\$8,400	\$840	\$1.04	NA	\$840	\$1.04	\$892
TC 30%	\$475	3	2	2	960	\$475	\$85	\$390	\$9	\$0.42	\$399	\$1,197	\$1,171	\$390	\$0.41	\$0		\$1,051	
TC 50%	\$792	14	2	2	960	\$792	\$85	\$707	\$15	\$0.75	\$722	\$10,108	\$9,902	\$707	\$0.74	\$0		\$1,051	
TC 60%	\$951	36	2	2	960	\$951	\$85	\$866	\$18	\$0.92	\$884	\$31,824	\$31,186	\$866	\$0.90	\$0		\$1,051	
MR		7	2	2	960	\$0	\$85		NA	\$1.02	\$980	\$6,860	\$6,860	\$980	\$1.02	NA	\$980	\$1.02	\$1,051
TC 50%	\$915	3	3	2	1,154	\$915	\$105	\$810	\$16	\$0.72	\$826	\$2,478	\$2,429	\$810	\$0.70	\$0		\$1,198	
TC 60%	\$1,098	4	3	2	1,154	\$1,098	\$105	\$993	\$20	\$0.88	\$1,013	\$4,052	\$3,971	\$993	\$0.86	\$0		\$1,198	
MR		17	3	2	1,154	\$0	\$105		NA	\$0.96	\$1,110	\$18,870	\$18,870	\$1,110	\$0.96	NA	\$1,110	\$0.96	\$1,198
TOTALS/AVERAG		120			114,240				\$11	\$0.86	\$819	\$98,227	\$96,962	\$808	\$0.85	\$0	\$299	\$0.31	\$1,033

ANNUAL POTENTIAL GROSS RENT:	\$1,178,724	\$1,163,544
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STABILIZED PRO FORMA

Palladium Ana, Anna, 9% HTC #16178

STABILIZED FIRST YEAR PRO FORMA																
COMPARABLES			APPLICANT				PRIOR REPORT				TDHCA				VARIANCE	
Database	Mckinney Comps		% EGI	Per SF	Per Unit	Amount	10.24.16 CN	Applicant Orig	TDHCA Orig	10.24.16 CN	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$0.86	\$819	\$1,178,724	\$1,862,028	\$1,836,648	\$1,776,444	\$1,801,920	\$1,163,544	\$808	\$0.85		1.3%	\$15,180
Garage Rentals					\$0.00	\$0	\$44,376	\$44,376								
Application, Pet, Late and NSF Fees					\$12.27	\$17,664	\$33,228	\$33,228								
Laundry, Vending, Cable					\$7.73	\$11,136	\$13,104	\$13,104								
Total Secondary Income					\$20.00				\$43,200	43,200	\$28,800	\$20.00			0.0%	\$0
POTENTIAL GROSS INCOME						\$1,207,524	\$1,952,736	\$1,927,356	\$1,819,644	\$1,845,120	\$1,192,344				1.3%	\$15,180
Vacancy & Collection Loss				7.5% PGI		(90,564)	(146,455)	(144,552)	(136,473)	(138,384)	(89,426)	7.5% PGI			1.3%	(1,139)
Rental Concessions						-	0	0	0	0	-				0.0%	-
EFFECTIVE GROSS INCOME						\$1,116,960	\$1,806,281	\$1,782,804	\$1,683,171	\$1,706,736	\$1,102,918				1.3%	\$14,042

\$1,404.22

General & Administrative	\$46,950	\$391/Unit	47,751	\$398	3.34%	\$0.33	\$311	\$37,292	\$44,827	\$44,827	\$70,154	\$70,154	\$46,950	\$391	\$0.41	4.26%	-20.6%	(9,658)
Management	\$47,515	4.5% EGI	39,624	\$330	5.00%	\$0.49	\$465	\$55,848	\$89,140	\$89,140	\$84,159	\$85,337	\$55,146	\$460	\$0.48	5.00%	1.3%	702
Payroll & Payroll Tax	\$139,164	\$1,160/Unit	154,893	\$1,291	15.37%	\$1.50	\$1,430	\$171,635	\$252,759	\$252,759	\$208,746	\$208,746	\$139,164	\$1,160	\$1.22	12.62%	23.3%	32,471
Repairs & Maintenance	\$79,610	\$663/Unit	86,728	\$723	6.45%	\$0.63	\$600	\$72,019	\$114,366	\$114,366	\$108,000	\$108,000	\$72,000	\$600	\$0.63	6.53%	0.0%	19
Electric/Gas	\$36,761	\$306/Unit	23,073	\$192	2.16%	\$0.21	\$201	\$24,171	\$32,160	\$32,160	\$34,610	\$34,610	\$23,073	\$192	\$0.20	2.09%	4.8%	1,098
Water, Sewer, & Trash	\$78,421	\$654/Unit	60,036	\$500	4.65%	\$0.45	\$433	\$51,943	\$79,200	\$79,200	\$90,055	\$90,055	\$60,036	\$500	\$0.53	5.44%	-13.5%	(8,093)
Property Insurance	\$35,048	\$0.31 /sf	26,616	\$222	2.95%	\$0.29	\$275	\$33,000	\$49,500	\$49,500	\$52,571	\$52,571	\$35,048	\$292	\$0.31	3.18%	-5.8%	(2,048)
Property Tax (@ 100%) 2.6160	\$83,153	\$693/Unit	92,719	\$773	10.74%	\$1.05	\$1,000	\$120,000	\$171,000	\$171,000	\$204,358	\$209,000	\$131,030	\$1,092	\$1.15	11.88%	-8.4%	(11,030)
Reserve for Replacements	\$42,025	\$350/Unit	24,680	\$206	3.22%	\$0.32	\$300	\$36,000	\$45,000	\$45,000	\$45,000	\$45,000	\$30,000	\$250	\$0.26	2.72%	20.0%	6,000
Supportive Services			-	\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.31%	\$0.03	\$29	\$3,440	\$4,320	\$4,320	\$4,320	\$4,320	\$3,440	\$29	\$0.03	0.31%	0.0%	-
TOTAL EXPENSES					54.75%	\$5.35	\$5,096	\$ 611,491	\$882,272	\$882,272	\$901,973	\$907,793	\$602,030	\$5,017	\$5.27	54.59%	1.6%	\$ 9,461
NET OPERATING INCOME ("NOI")					45.25%	\$4.42	\$4,212	\$505,469	\$924,009	\$900,532	\$781,198	\$798,943	\$500,888	\$4,174	\$4.38	45.41%	0.9%	\$ 4,581

CONTROLLABLE EXPENSES							\$2,976/Unit							\$2,844/Unit				
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Palladium Ana, Anna, 9% HTC #16178

DEBT / GRANT SOURCES																			
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									AS UNDERWRITTEN DEBT/GRANT STRUCTURE										
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative			
		UW	App						Applicant	TDHCA						DCR	LTC		
Dougherty Mortgage	0.35%	1.24	1.25	404,374	4.50%	40	40	\$7,382,069	\$10,360,000	\$9,435,000	\$7,382,069	40	40	4.10%	\$401,596	1.26	33.6%		
CASH FLOW DEBT / GRANTS																			
City of Anna		1.24	1.25		0.00%	0	0	\$175,000	\$175,000	\$175,000	\$175,000	0	0	0.00%		1.26	0.8%		
				\$404,374	TOTAL DEBT / GRANT SOURCES				\$7,557,069	\$10,535,000	\$9,610,000	\$7,557,069	TOTAL DEBT SERVICE				\$401,596	1.26	34.4%
NET CASH FLOW		\$96,514	\$101,095					APPLICANT NET OPERATING INCOME				\$505,469	\$103,873	NET CASH FLOW					

EQUITY SOURCES														
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE								
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
						Applicant	TDHCA							Applicant
Hudson Housing Capital	LIHTC Equity	62.8%	\$1,500,000	0.92	\$13,798,620	\$15,148,485	\$15,148,485	\$13,798,620	\$0.9199	\$1,500,000	62.8%	\$12,500	Applicant Request	
Palladium USA	Deferred Developer Fees	2.8%	(25% Deferred)		\$612,128	\$876,951	\$1,801,951	\$612,128	(25% Deferred)		2.8%	Total Developer Fee:	\$2,452,127	
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0	\$0			0.0%			
TOTAL EQUITY SOURCES					65.6%	\$14,410,748	\$16,025,436	\$16,950,436	\$14,410,748			65.6%	15-Year Cash Flow:	\$2,024,965
TOTAL CAPITALIZATION						\$21,967,817	\$26,560,436	\$26,560,436	\$21,967,817	15-Yr Cash Flow after Deferred Fee:				\$1,412,837

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS				COST VARIANCE					
	Eligible Basis		Total Costs	Amount	Prior Underwriting		Total Costs	Eligible Basis		%	\$			
	Acquisition	New Const. Rehab			Applicant	TDHCA		New Const. Rehab	Acquisition					
Land Acquisition			\$13,256 / Unit	\$1,590,700	\$1,590,700	\$1,590,700	\$1,590,700	\$13,256 / Unit		0.0%	\$0			
Building Acquisition	\$0		\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit		0.0%	\$0			
Broker Fees			\$45,729	\$25,000	\$25,000	\$45,729					\$0			
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$ / Unit			0.0%	\$0			
Site Work	\$1,800,000		\$15,000 / Unit	\$1,800,000	\$2,160,000	\$2,160,000	\$1,371,396	\$11,428 / Unit	\$1,371,396	31.3%	\$428,604			
Site Amenities	\$591,600		\$4,930 / Unit	\$591,600	\$755,244	\$755,244	\$687,600	\$5,730 / Unit	\$687,600	-14.0%	(\$96,000)			
Building Cost	\$9,745,901	\$86.83 /sf	\$82,658/Unit	\$9,918,901	\$12,359,257	\$11,548,056	\$10,047,128	\$83,726/Unit	\$87.95 /sf	\$9,741,969	-1.3%	(\$128,227)		
Contingency	\$606,875	5.00%	5.00%	\$615,525	\$799,536	\$799,536	\$615,525	5.08%	5.14%	\$606,875	0.0%	\$0		
Contractor Fees	\$1,702,710	13.36%	13.33%	\$1,723,470	\$2,138,430	\$2,136,797	\$1,723,470	13.55%	13.72%	\$1,702,710	0.0%	\$0		
Soft Costs	0	\$1,389,115	\$12,076 / Unit	\$1,449,115	\$1,358,051	\$1,358,051	\$1,449,115	\$12,076 / Unit	\$1,389,115	\$0	0.0%	\$0		
Financing	0	\$511,316	\$7,645 / Unit	\$917,434	\$1,378,720	\$1,378,720	\$917,434	\$7,645 / Unit	\$511,316	\$0	0.0%	\$0		
Developer Fee	\$0	\$2,452,127	15.00%	14.84%	\$2,452,127	\$2,978,732	\$2,902,255	\$2,448,719	15.00%	15.00%	\$2,401,647	\$0	0.1%	\$3,409
Reserves			\$7,193 / Unit	\$863,216	\$1,016,766	\$793,302	\$501,813	\$4,182 / Unit		72.0%	\$361,403			
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BA)	\$0	\$18,799,644	\$183,065 / Unit	\$21,967,817	\$26,560,436	\$25,447,661	\$21,398,628	\$178,322 / Unit	\$18,412,628	\$0	2.7%	\$569,189		
Acquisition Cost	\$0			\$0										
Contingency		\$0		\$0										
Contractor's Fee		\$0		\$0										
Interim Interest		\$0		\$0										
Developer Fee	\$0	\$0		\$0										
Reserves		\$0		\$0										
ADJUSTED BASIS / COST	\$0	\$18,799,644	\$183,065/unit	\$21,967,817	\$26,560,436	\$25,447,661	\$21,398,628	\$178,322/unit	\$18,412,628	\$0	2.7%	\$569,189		
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					\$21,967,817									

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Palladium Ana, Anna, 9% HTC #16178

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$0	\$18,799,644	\$0	\$18,412,628
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$18,799,644	\$0	\$18,412,628
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	\$0	\$24,439,537	\$0	\$23,936,416
Applicable Fraction	69.91%	69.91%	69.91%	69.91%
TOTAL QUALIFIED BASIS	\$0	\$17,084,999	\$0	\$16,733,281
Applicable Percentage	3.37%	9.00%	3.37%	9.00%
ANNUAL CREDIT ON BASIS	\$0	\$1,537,650	\$0	\$1,505,995
CREDITS ON QUALIFIED BASIS	\$1,537,650		\$1,505,995	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price	Variance to Request	
			\$0.9199	Credit Allocation	Credits
Eligible Basis	\$1,537,650	\$14,144,965	----	----	----
Needed to Fill Gap	\$1,566,542	\$14,410,748	----	----	----
Applicant Request	\$1,500,000	\$13,798,620	\$1,500,000	\$0	\$0

	Development Cost/SF	
	Application	TDHCA
Acquisition & Hard Costs	\$106.86	\$126.45
Hard Costs	\$106.86	\$126.45
Building Costs	\$72.66	\$87.95
Total Points Claimed:	12	

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)	114,240 SF	\$64.23	7,338,098
Adjustments				
Exterior Wall Finish	6.40%		4.11	\$469,638
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.80%		2.44	278,848
Roof Adjustment(s)			1.05	120,000
Subfloor			(0.15)	(17,517)
Floor Cover			2.56	292,454
Breezeways	\$27.77	18,808	4.57	522,235
Balconies	\$27.58	9,397	2.27	259,208
Plumbing Fixtures	\$990	360	3.12	356,400
Rough-ins	\$485	240	1.02	116,400
Built-In Appliances	\$1,725	120	1.81	207,000
Exterior Stairs	\$2,280	32	0.64	72,960
Heating/Cooling			2.14	244,474
Enclosed Corridors	\$47.42	0	0.00	0
Carports	\$11.94	22,800	2.38	272,232
Garages	\$24.57	4,939	1.06	121,359
Comm &/or Aux Bldgs	\$85.86	4,074	3.06	349,783
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	\$2.47	137,122	2.96	338,691
SUBTOTAL			99.28	11,342,264
Current Cost Multiplier	1.01		0.99	113,423
Local Multiplier	0.90		(9.93)	(1,134,226)
TOTAL BUILDING COSTS			90.35	\$10,321,460
Plans, specs, survey, bldg permits	3.30%		(2.98)	(\$340,608)
Contractor's OH & Profit	11.50%		(10.39)	(1,186,968)
NET BUILDING COSTS		\$73,282/unit	\$76.98/sf	\$8,793,884

Long-Term Pro Forma

Palladium Ana, Anna, 9% HTC #16178

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,116,960	\$1,139,299	\$1,162,085	\$1,185,327	\$1,209,033	\$1,334,870	\$1,473,805	\$1,627,199	\$1,983,547	\$2,189,996	\$2,417,933
TOTAL EXPENSES	3.00%	\$611,491	\$629,277	\$647,586	\$666,432	\$685,833	\$791,732	\$914,150	\$1,055,683	\$1,408,587	\$1,631,822	\$1,891,728
NET OPERATING INCOME ("NOI")		\$505,469	\$510,022	\$514,499	\$518,894	\$523,200	\$543,139	\$559,654	\$571,516	\$574,960	\$558,175	\$526,204
MUST -PAY DEBT SERVICE												
Dougherty Mortgage		\$401,596	\$401,335	\$401,063	\$400,781	\$400,486	\$398,817	\$396,769	\$394,255	\$387,387	\$382,743	\$377,045
TOTAL DEBT SERVICE		\$401,596	\$401,335	\$401,063	\$400,781	\$400,486	\$398,817	\$396,769	\$394,255	\$387,387	\$382,743	\$377,045
ANNUAL CASH FLOW		\$103,873	\$108,687	\$113,435	\$118,114	\$122,715	\$144,322	\$162,886	\$177,261	\$187,573	\$175,431	\$149,159
CUMULATIVE NET CASH FLOW		\$103,873	\$212,560	\$325,995	\$444,109	\$566,823	\$1,246,234	\$2,024,965	\$2,884,453	\$4,737,792	\$5,645,852	\$6,450,060
DEBT COVERAGE RATIO		1.26	1.27	1.28	1.29	1.31	1.36	1.41	1.45	1.48	1.46	1.40
EXPENSE/INCOME RATIO		54.7%	55.2%	55.7%	56.2%	56.7%	59.3%	62.0%	64.9%	71.0%	74.5%	78.2%
Deferred Developer Fee Balance		\$508,255	\$399,568	\$286,133	\$168,019	\$45,305	\$0	\$0	\$0	\$0	\$0	\$0

March 6, 2017



Marni Holloway
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Palladium Anna (Application #16178) Application Amendment Request

Ms. Holloway,

We are requesting an application amendment to Application #16178. According to Section 10.405 of the 2016 Uniform Multifamily Rules concerning Amendments and Extensions, an amendment request may be denied if the Board determines that the modification proposed in the amendment: (A) would materially alter the Development in a negative manner; or (B) would have adversely affected the selection of the Application in the Application Round. As will be further discussed below, our amendment request does not affect the development in a negative manner, nor would it have adversely affected the selection of the Application in the Application Round.

The Reason the change is necessary

The Good Cause for the change

Explanation of whether the amendment was reasonably foreseeable or preventable at the time of Application

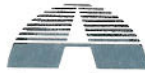
As everyone in our industry is keenly aware, there has been an unforeseen and decidedly negative impact on tax credit equity markets since the November Presidential Election. Palladium Anna was submitted, and awarded by TDHCA in July 2016, as a 180 unit healthy deal with a realistic \$1.01 equity credit pricing committed to by Regions Bank in an LOI with our original Application. Our construction drawings for the 180 unit development were completed in October 2016, we submitted our HUD 221(d)(4) Firm Application shortly thereafter and were waiting for the HUD commitment in order to close this transaction. However, during this time HUD was reviewing the Firm Application equity pricing started to tumble. We were informed in early December that Regions Bank could not honor the equity pricing we were set to close under due to the recalculated yields a possible 15% corporate tax rate would have on their investment. It should be mentioned that the equity pricing decrease is not a Regions Bank only issue. During late November, RBC and Compass Bank (the equity investor and debt provider, respectively, for our Palladium Garland development Application #16159) told us that many equity providers were walking LOIs due to the corporate income taxes possibly being reduced to 15% with many now sitting on the sidelines, but they would honor their LOI with us provided we closed by the end of 2016 – which we did. ***The unforeseen and decidedly negative impact on tax credit equity markets since the November Presidential Election was neither reasonably foreseeable nor preventable at the time of Application.*** We have a new equity commitment with Hudson Housing Capital for \$0.92. This dramatic decrease in the amount of equity available to Palladium Anna and increased construction costs has forced us to downsize our Palladium Anna development to a size which now makes the development feasible and provides comfort to our equity investor during this uncertain and unclear income tax climate. Our collective goal in this amendment is to be able to deliver quality units to serve the constantly increasing affordable housing needs of north Texas with as few as changes as possible to our original Application.

The Requested Change

In order to make Palladium Anna feasible, we simply have to reduce unit count in order to get the capital sources to align with the capital uses with equity pricing at \$0.92. This amendment would reduce the total unit count from 180 units to 120 units. Changing the unit count does change our site plan, but lessens the unit density (positive). However, we are not proposing any changes to the land being acquired, purchase price for the land (we tried), survey, area covered under the ESA or any of the third party reports.

PALLADIUM USA INTERNATIONAL, INC.
Two Galleria Tower, Suite 400
13455 Noel Road
Dallas, Texas 75240
Tel: (972) 774-4455 Fax: (972) 774-4495

PALLADIUM
G R O U P

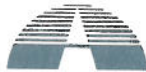


A comparison of the unit mix at Application and this Amendment shows a reduction in the total number of units from 180 to 120 (decrease of 60 units or 33.33% reduction in total units), reduced the number of market rate units from 72 to 34 (decrease of 38 units or 53% reduction in market rate units), and reduced the total number of affordable units from 108 to 86 (decrease of 22 units or 20% reduction in affordable units). Please see Tab labeled "180 Unit Example" for the financial analysis of the current pro-forma at the original Application 180 units, 108 affordable units, and with the identical unit mix and affordability component set aside as in the original Application. This 180 Unit Example at the now current \$0.92 equity pricing (which many equity investors say is still above their comfort level) shows the development would have to defer 100% of the developer fee, the general partner would have to contribute approximately \$300,000 in equity above the equity invested by the tax credit limited partner, and the deferred developer fee would not be repaid during the 15 year compliance period. As such, without the granting of the amendment request, Palladium Anna as awarded would not be financially feasible and would not be built. **Thus, the Reason the change is necessary and the Good Cause for the change.**

For Palladium Anna to gain support from both the land owner (Palladium Anna is part of a 600 acre master planned community) and the City of Anna, the development had to contain a material level of market rate units. Our original Application contained 40% market rate units. Our proposed mix now contains 28% market rate units (still a material level of market rate units) and 72% affordable units. The reduction in the number of units is paramount to reducing the deferred developer fee from an infeasible level to a feasible level, would eliminate the need for the general partner to contribute equity above the equity invested by the tax credit limited partner, and would result in a financially healthy development even with the current level of equity pricing.

The below chart shows the unit mix at original Application, our proposed unit mix, and the net change in affordability levels between our 1 bedroom, 2 bedroom and 3 bedroom units:

Unit Mix Compare							
		Unit Mix As Underwritten		Unit Mix As Proposed 2-16-2017		Net Change	
Unit Type	HTC Units	# of Units	% of Units	# of Units	% of Units	# of Units	% of Units
1 Bedroom Units							
1bd/1ba	30%	7	13%	6	17%	-1	-14%
1bd/1ba	50%	25	46%	18	50%	-7	-28%
1bd/1ba	60%	0	0%	2	6%	2	-
1bd/1ba	Market	22	41%	10	28%	-12	-55%
Total 1 Bedroom Units		54	100%	36	100%	-18	-33%
		30%		30%		30%	
2 Bedroom Units							
2bd/2ba	30%	4	4%	3	5%	-1	-25%
2bd/2ba	50%	16	18%	14	23%	-2	-13%
2bd/2ba	60%	39	43%	36	60%	-3	-8%
2bd/2ba	Market	31	34%	7	12%	-24	-77%
Total 2 Bedroom Units		90	100%	60	100%	-30	-33%
		50%		50%		50%	
3 Bedroom Units							
3bd/2ba	30%	0	0%	0	0%	0	-
3bd/2ba	50%	3	8%	3	13%	0	0%
3bd/2ba	60%	14	39%	4	17%	-10	-71%
3bd/2ba	Market	19	53%	17	71%	-2	-11%
Total 3 Bedroom Units		36	100%	24	100%	-12	-33%
		20%		20%		20%	



It is important to note that as a % of total units, the % of affordable units has increased significantly in each of the 30% and 50% affordability set asides within each of the 1 bedroom, 2 bedroom and 3 bedroom classifications and in all of the 60% affordability set asides within each of the 1 bedroom and 2 bedroom classifications.

These changes would not have adversely affected the selection of the Application in the Application Round. We have kept the appropriate ratios of affordability set asides in order to maintain all of our original Application point commitments such as Income Levels of Tenants as well as Rent levels of Tenants as shown on the attached documentation. This amendment would not change any of the income targeting points as identified in the Application and therefore would not be subject to any penalties under 10.405(a)(6)(b). Only cost per square foot would have been affected if these changes were re-scored today. Typically cost increases as a result of market conditions are not re-scored after award. In this case the current cost per square foot would have had a one point reduction had it been used at the time of award. Palladium Anna scored four points above the first application on the waiting list for this sub-region and a one point reduction would not have adversely affected the selection of Palladium Anna for funding.

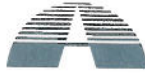
These changes would not materially alter the development in a negative manner. The quality of Palladium Anna is not at risk with this amendment. This amendment maintains the same percentage of units at each of the affordability set asides that were submitted in the original Application as illustrated below. Therefore, we are still serving each population with the same percentage of units as submitted originally.

	UNIT MIX AS UNDERWRITTEN		UNIT MIX AS AMMENDED		NET CHANGE	
Total	180		120		-60	-33%
Affordable	108	60%	86	72%	-22	-20%
Market Rate	72	40%	34	28%	-38	-53%
Total 30%	11	10%	9	10%	-2	-18%
Total 50%	44	41%	35	41%	-9	-20%
Total 60%	53	49%	42	49%	-11	-21%
Total Affordable %	108		86		-22	-20%

It is important to note that as a % of total units as amended, the % of affordable units has increased from 60% to 72% and we maintain the same % of 30%, 50%, and 60% affordability set asides as in the original Application.

In addition, the size of the site has remained the same (9.482 Acres) which has increased the greenspace and improved the park-like site layout as a result in the deletion of two buildings and the associated parking. We have not reduced the size of our clubhouse or percentage of our required amenities, including the pool size, as we intend to deliver the same quality development with this amendment as was originally underwritten. Unit sizes have not decreased and in fact have increased marginally as we continue to refine and tailor our units for maximum functionality for our residents.

Palladium Anna is a story of how affordable housing development should work. We have spent the past two and a half years, and two application cycles, working with the City of Anna. At one point early in the process, we attended a town hall meeting where two hundred people showed up to oppose "low income housing". After a year and a lot of public meetings to educate and work with the community, we finally earned full support from the City. After that time, not one person was left who opposed our development publically and we received full City Council support. North Texas has a real need for affordable, quality housing. We made a commitment to the City of Anna that we would provide that housing for them. We are dedicated to affordable housing and this



amendment makes necessary changes in the wake of an unforeseen market shift to now bring to reality quality affordable housing to Anna.

Please see the attached revised pages from the Application that reflect the changes to the application that we are requesting approval of. We appreciate your attention to these materials and please let us know if we can answer questions or if you need anything else in order to work through the approval process of this amendment in a timely manner.

We thank you and TDHCA for your steadfast efforts in bringing to reality quality affordable housing to our residents of the State of Texas and for ***“Changing lives - one apartment home at a time”***.

Sincerely,

Thomas E. Huth
President and CEO



Asset Management Division

Amendment Request Form

Completed forms and supporting materials can be emailed to asset.management@tdhca.state.tx.us

TYPE OF AMENDMENT REQUESTED

Date Submitted: 3/6/17

Amendment Requested: *Application Amendment,*

Has the change been implemented? *Yes*

Award Stage: *Carryover (Prior to Construction/10% Test)*

NOTE: Material Application or LURA Amendment requests must be received 45 days before the Board Meeting.

Contact your Asset Manager if you are unsure what type of Amendment to request: <https://www.tdhca.state.tx.us/asset-management/contacts.htm>

DEVELOPMENT INFORMATION

Dev. Name: Palladium Anna

File No. / CMTS No.: 16178 /

CONTACT INFORMATION

Request Submitted By: Thomas E. Huth

Phone #/Email: (972) 774-4400 /

SECTION 1: COVER LETTER

A cover letter ***MUST*** be submitted with your request. Review your cover letter to ensure it includes:

- The change(s) requested
- The reason the change is necessary
- The good cause for the change
- An explanation of whether the amendment was reasonably foreseeable or preventable at the time of Application

SECTION 2: REQUIRED DOCUMENTATION

Entering an Amendment conveys to the Department that representations in the Application have changed. You ***MUST*** provide information about any and all changes made from the time of Application (or as last approved by the Department) in your request, including any items that will be impacted by the requested change. Failure to represent or properly document all changes may result in delays, denials, or a request for re-submission. The following is attached:

- Revised Development Financing Exhibits – if sources, terms, conditions, or amounts of financing will be impacted or changed by your amendment request, revised Application exhibits and term sheets (or executed Loan documents and LPA, if the loan has closed) must be submitted
- Signed Statement of No Financial Impact – if no sources, terms, conditions, or amount of financing will be impacted or changed by your amendment request, the Owner must sign and submit a statement to this effect
- Revised Application Exhibits/Documents Reflecting or Supporting All Requested Changes – revised site plans, surveys, Building and Unit Configuration exhibit, etc.
- Material Amendment fee of \$2,500 for first amendments, \$3,000 for second amendments, \$3,500 for third or more. (Applicable to Non-Material Amendments only if changes have been implemented prior to Amendment approval) – *N/A for Developments only funded by a Direct Loan program (HOME, NSP, HTF)*

SECTION 3A: MATERIAL APPLICATION AMENDMENT ITEMS

Check all items that have been modified from the original application (see *Subchapter E, §10.405(a)(3)*):

- Site plan Scope of tenant services Exclusion of reqs in Subchapters B & C
 Number of units* Reduction of 3%+ in unit sq ft Other
 Bedroom mix Reduction of 3%+ common area
 Architectural design Residential density (5%+ change)

If “Number of units” is selected above and the total LI units or LI units at any rent or income level will be reduced, also:

- Written confirmation from the lender *and* syndicator that the development is infeasible without the adjustment in units
 Evidence supporting the need for the adjustment in units

NOTE: **The approved amendment may carry a penalty in accordance with §10.405(a)(6)(b).*

SECTION 3B: MATERIAL LURA AMENDMENT ITEMS

Check all items that require a material LURA amendment (see Subchapter E, *§10.405(b)(2)*):

- Reductions in the number of LI units Change in Target Population
 Changes to income or rent restrictions Removal of Non-profit Other
 Change in ROFR period or other ROFR provisions

The following additional items are attached for consideration or will be forthcoming:

- Draft Notice of Public Hearing* Evidence of public hearing*

NOTE: **Draft Notices of Public Hearing must be provided with the Amendment materials 45 days prior to the Board meeting. *The Public Hearing must be held at least 15 business days prior to the Board meeting and evidence in the form of attendance sheets and a summary of comments made must be submitted to TDHCA within 3 days of the hearing.*

SECTION 4A: NON-MATERIAL APPLICATION AMENDMENT SUMMARY

Identify all non-material changes that have been or will be made (Contact your Asset Manager if you are unsure of whether your request is non-material):

Short Summary Regarding Application Changes

- Amendment is requesting a change in Developer(s) or Guarantor(s) and Previous Participation forms are attached.

SECTION 4B: NON-MATERIAL LURA AMENDMENT SUMMARY

Identify non-material amendments requested to the LURA:

Short Summary Regarding LURA Changes

SECTION 4C: NOTIFICATION ITEM SUMMARY

Identify any notification items from the time of application:

Short Summary Regarding LURA Changes

Written confirmation from the lender and syndicator that the development is infeasible without the adjustment in units.



March 2, 2017

Marni Holloway
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Palladium Anna (16178)

Ms. Holloway,

In February of 2016, Regions Bank issued a Letters of Intent for the debt and equity related to the Palladium Anna 180-unit multi-family development to be located in Anna, TX. At this time, these Letters of Intent have expired. Between the 9% award date last July and today, the tax credit industry has faced pressures on equity pricing due to the likelihood of tax reform and increases in the cost of capital. The increases in the cost of capital has also increased permanent loan interest rates, too, which has reduced permanent loan sizing across the board. As it relates to Palladium Anna, as a result of these market changes, the equity pricing Regions Bank is able to offer on a tax credit dollar basis has fallen to \$0.92. Furthermore, this adjusted equity pricing assumes the scope of the Palladium Anna development will be reduced to 120 units. Given the current market conditions and the fact the market rate units do not generate any tax credits and thus no tax credit equity, reducing the number of units is essential to make the development feasible. Without the reduction in project scope, the development is not feasible in today's market. If I can be of assistance, feel free to call me at (601) 605-5594 or email me at davidn.payne@regions.com.

Regards,

A handwritten signature in blue ink that reads "David N. Payne".

David N. Payne
Vice President

CC: Tom Huth, Palladium USA
Ryan Combs, Palladium USA

Tab 22 – Architectural Drawings

PALLADIUM - ANNA

ANNA, TEXAS

120 UNITS



SHEET INDEX

A0.0	COVER SHEET
A1.0	SITE PLAN
A2.0	A1 UNIT PLAN
A2.1	B1 UNIT PLAN
A2.2	C1 UNIT PLAN
A3.0	BUILDING 'A' - FIRST FLOOR PLAN
A3.1	BUILDING 'A' - SECOND/THIRD FLOOR PLAN
A3.2	BUILDING 'A' - FRONT ELEVATION
A3.3	BUILDING 'B' - FIRST FLOOR PLAN
A3.4	BUILDING 'B' - SECOND/THIRD FLOOR PLAN
A3.5	BUILDING 'B' - FRONT ELEVATION
A4.0	CLUBHOUSE FLOOR PLAN
A4.1	CLUBHOUSE ELEVATION

VICINITY MAP



PALLADIUM ANNA
ANNA, TEXAS

UNIT TABULATION

UNIT TYPE	#UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM, ONE BATH	36	804 S.F.	28,944 S.F.
B1 - TWO BEDROOM, TWO BATH	60	960 S.F.	57,600 S.F.
C1 - THREE BEDROOM, TWO BATH	24	1,154 S.F.	27,696 S.F.
TOTAL	120		114,240 S.F.

BUILDING TABULATION

TYPE	#BLDGs	UNITS/BLDG.	UNIT TYPES	BLDG. S.F.	TOTAL S.F.
A	2	30	A1-9, B1-15, C1-6	28,560 S.F.	57,120 S.F.
B	2	30	A1-9, B1-15, C1-6	28,560 S.F.	57,120 S.F.
TOTAL	4				114,240 S.F.




SITE DATA

- 9.482 ACRES
- NO DETENTION
- SITE IS IN ZONE X
- 12.66 UNITS PER ACRE
- NO FLOOD PLAN
- THE PLAN MATERIALLY ADHERES TO ALL APPLICABLE ZONING, AND BUILDING CODE ORDINANCES

SITE AMENITIES

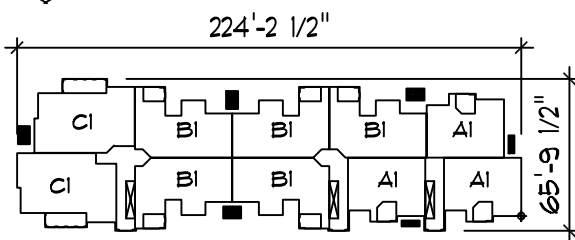
- 4,074 S.F. CLUBHOUSE
- FURNISHED FITNESS CENTER
- EQUIPPED BUSINESS CENTER
- FURNISHED COMMUNITY ROOM
- FULL PERIMETER FENCING
- CONTROLLED GATE ACCESS
- GAZEBO WITH SITTING AREA
- BBQ GRILL AND PICNIC TABLES
- SWIMMING POOL
- HORSESHOE PIT
- CHILDREN'S PLAYSCAPE
- BICYCLE PARKING (15)

PARKING TABULATION

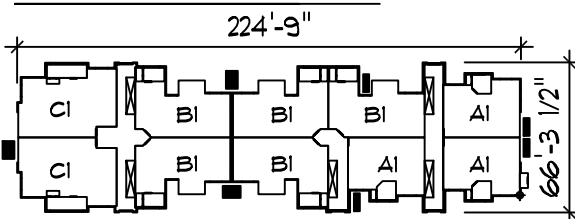
PARKING REQUIRED:			PARKING SPACES		
A1 UNITS	1.5/UNIT	54	PARKING SPACE	9'-0" X 18'-0"	
B1 UNITS	2.0/UNIT	120			
C1 UNITS	2.0/UNIT	48			
TOTAL SPACES		222	HANDICAP SPACE AISLE	9'-0" X 18'-0" 5'-0" X 18'-0"	
PARKING PROVIDED:			VAN HANDICAP SPACE AISLE		
UNCOVERED		98		9'-0" X 18'-0" 8'-0" X 18'-0"	
CARPORT		114			
GARAGE		21			
TOTAL SPACES		230			

BUILDING KEY

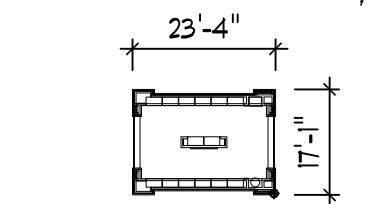
- BUILDING NUMBER
- BUILDING TYPE



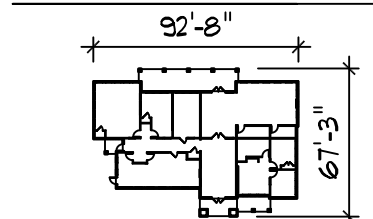
BUILDING 'A' 3 STORY



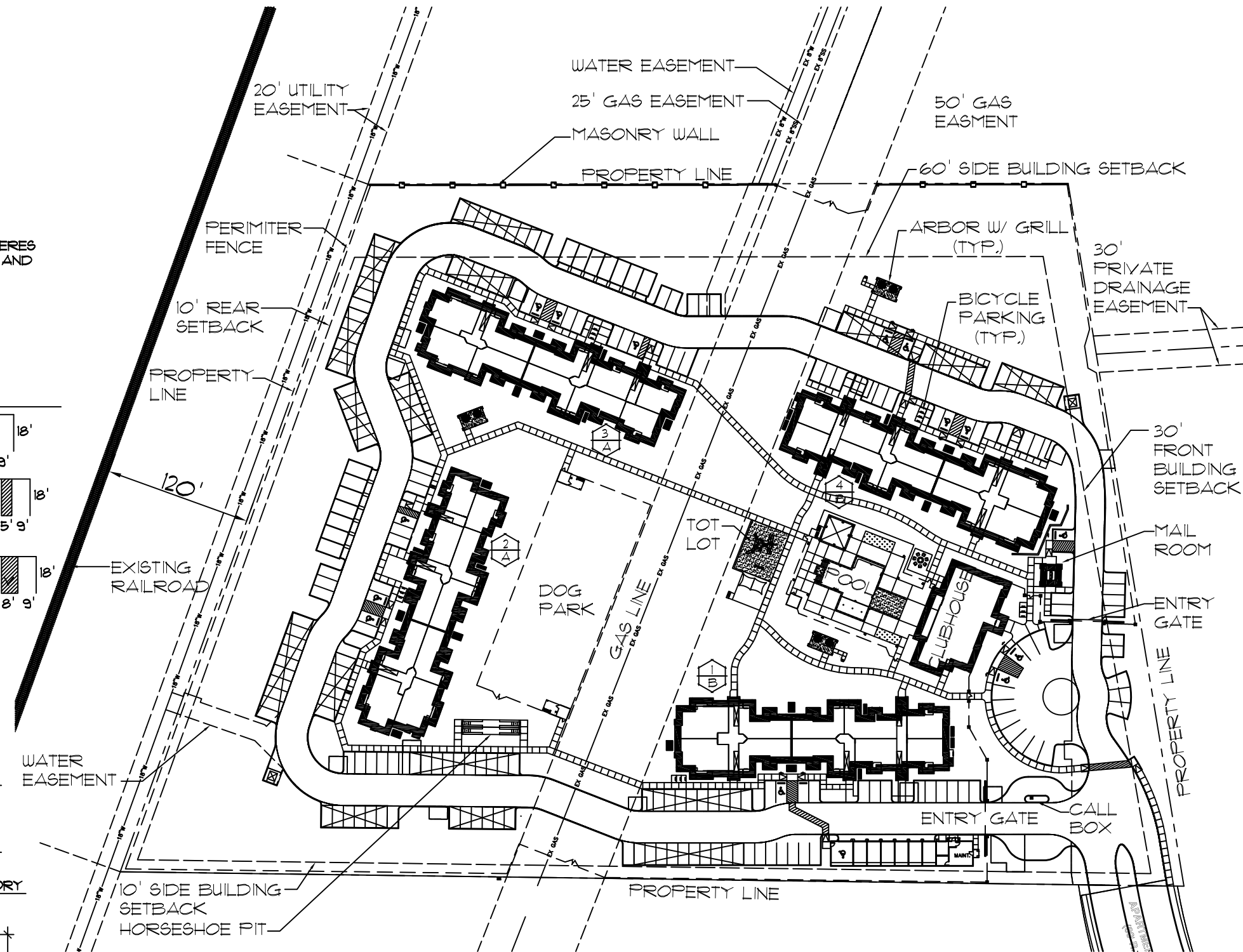
BUILDING 'B' 3 STORY



MAIL KIOSK 1 STORY

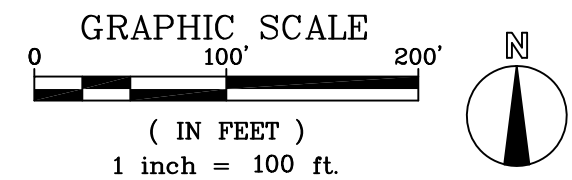


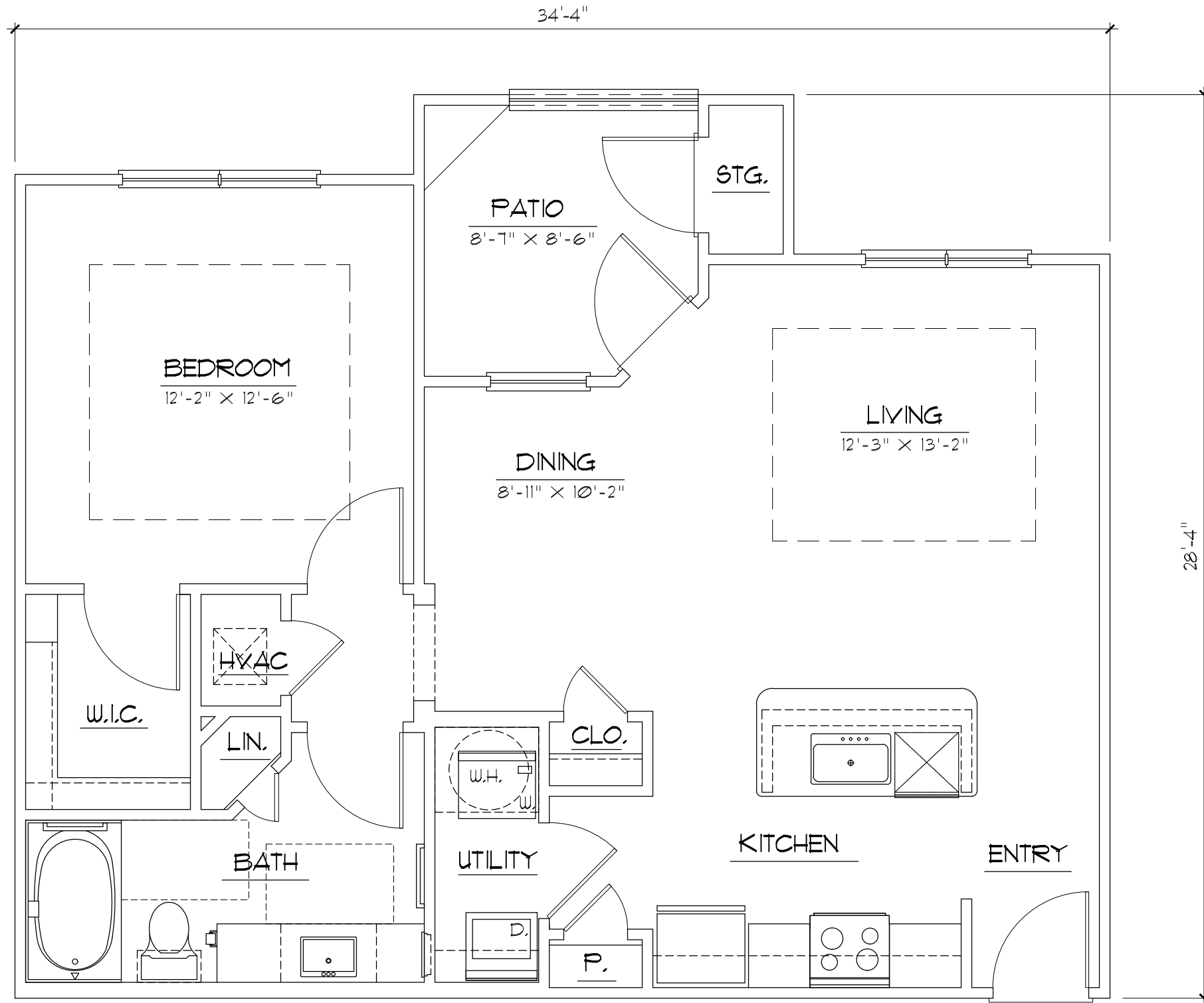
CLUBHOUSE 1 STORY



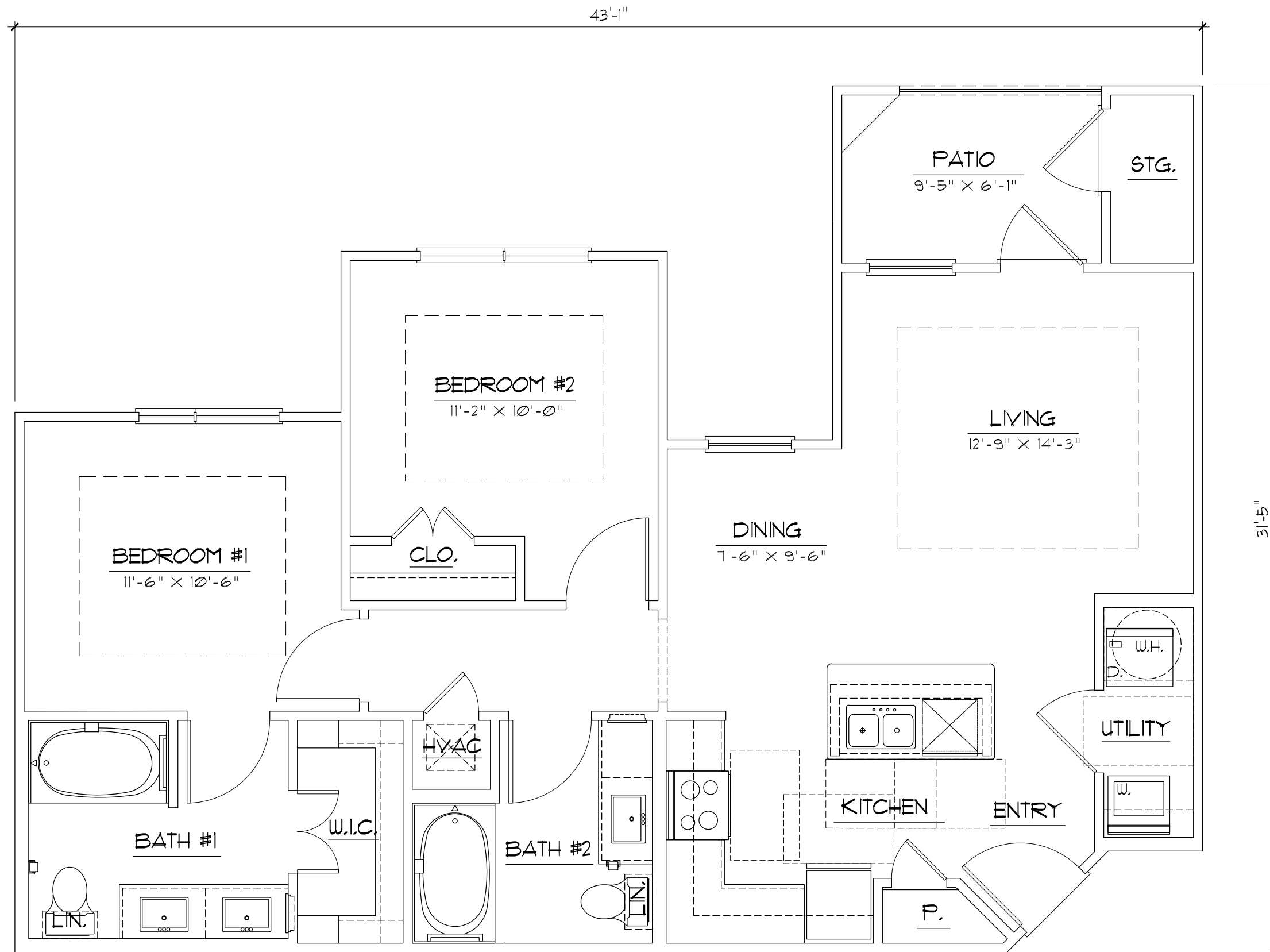
NOTES:
THIS SITE PLAN, AS SHOWN, WAS PREPARED TO ADHERE TO ALL APPLICABLE ZONING, SITE DEVELOPMENT AND BUILDING CODE ORDINANCES

FLOOD ZONE:
ZONE "X"
AREA OF MINIMAL FLOOD HAZARD
MAP #48085C0160J
EFFECTIVE JUNE 2, 2009





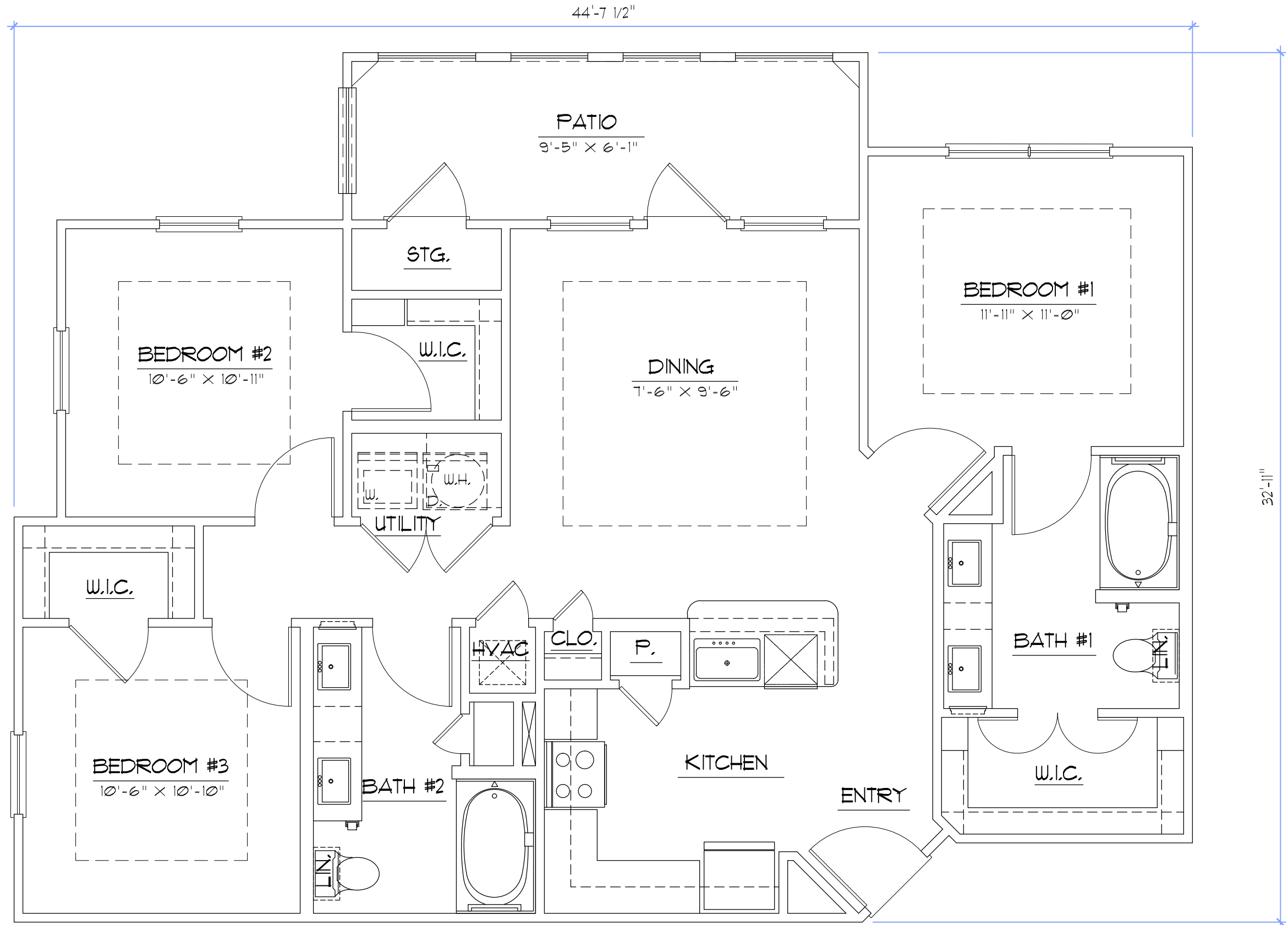
A1 ONE BEDROOM, ONE BATH 804 S.F.
SCALE 1/4" = 1' - 0"



PALLADIUM ANNA
ANNA, TEXAS

B1 TWO BEDROOM, TWO BATH 960 S.F.

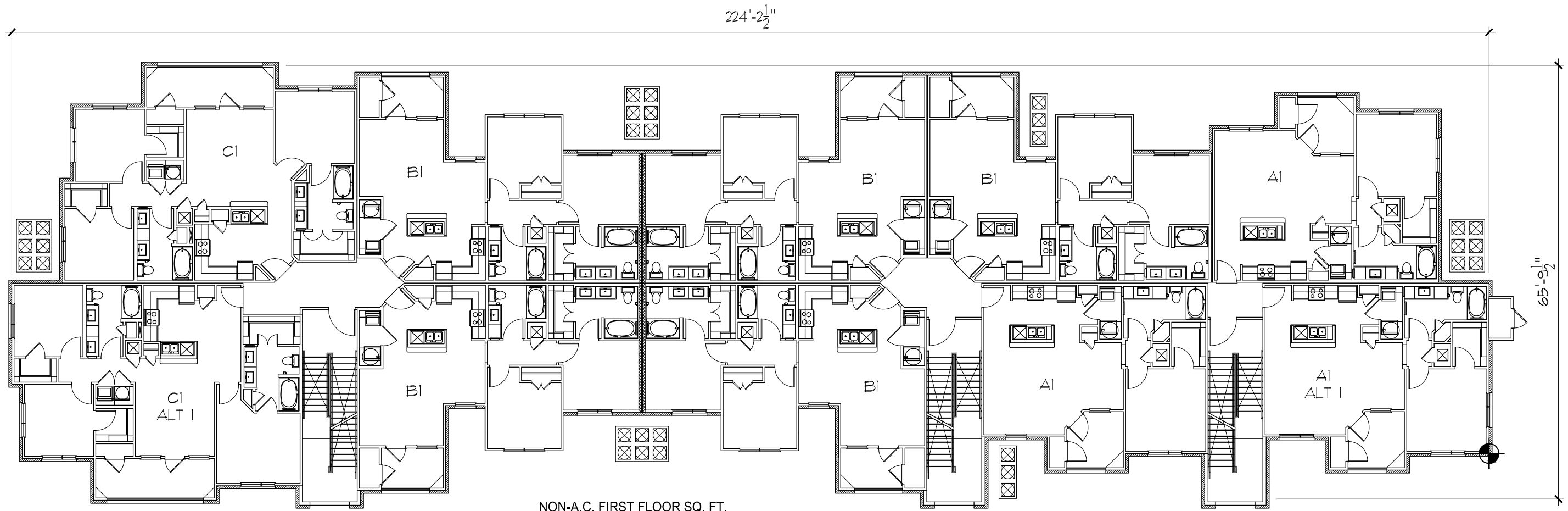
SCALE 1/4" = 1' - 0"



PALLADIUM ANNA
ANNA, TEXAS

C1 THREE BEDROOM, TWO BATH 1,154 S.F.

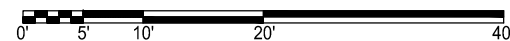
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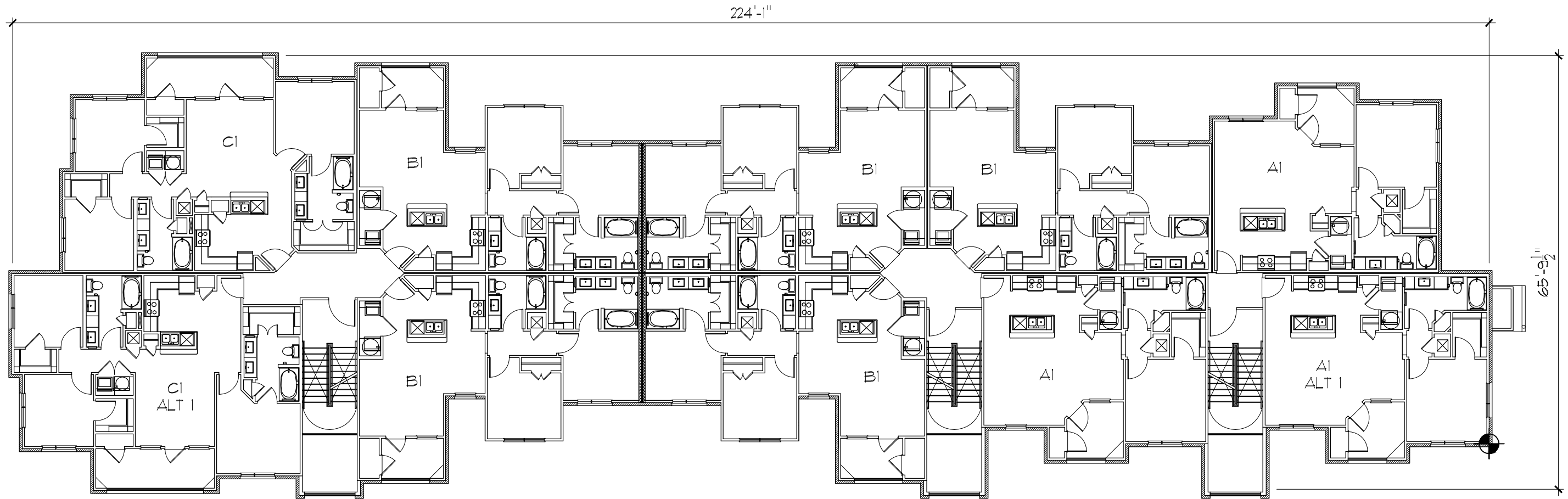


<u>NON-A.C. FIRST FLOOR SQ. FT.</u>	
BREEZEWAYS	510 SQ. FT.
PATIOS	394 SQ. FT.
STORAGE	99 SQ. FT.
<u>NON-A.C. SECOND FLOOR SQ. FT.</u>	
BREEZEWAYS	299 SQ. FT.
BALCONIES	394 SQ. FT.
STORAGE	99 SQ. FT.
<u>NON-A.C. THIRD FLOOR SQ. FT.</u>	
BREEZEWAYS	299 SQ. FT.
BALCONIES	394 SQ. FT.
STORAGE	99 SQ. FT.
 <u>TOTAL NON-A.C. SQ. FT.</u>	
	2,587 SQ. FT.

BUILDING TYPE 'A' FIRST FLOOR PLAN

SCALE 1/16" = 1' - 0"



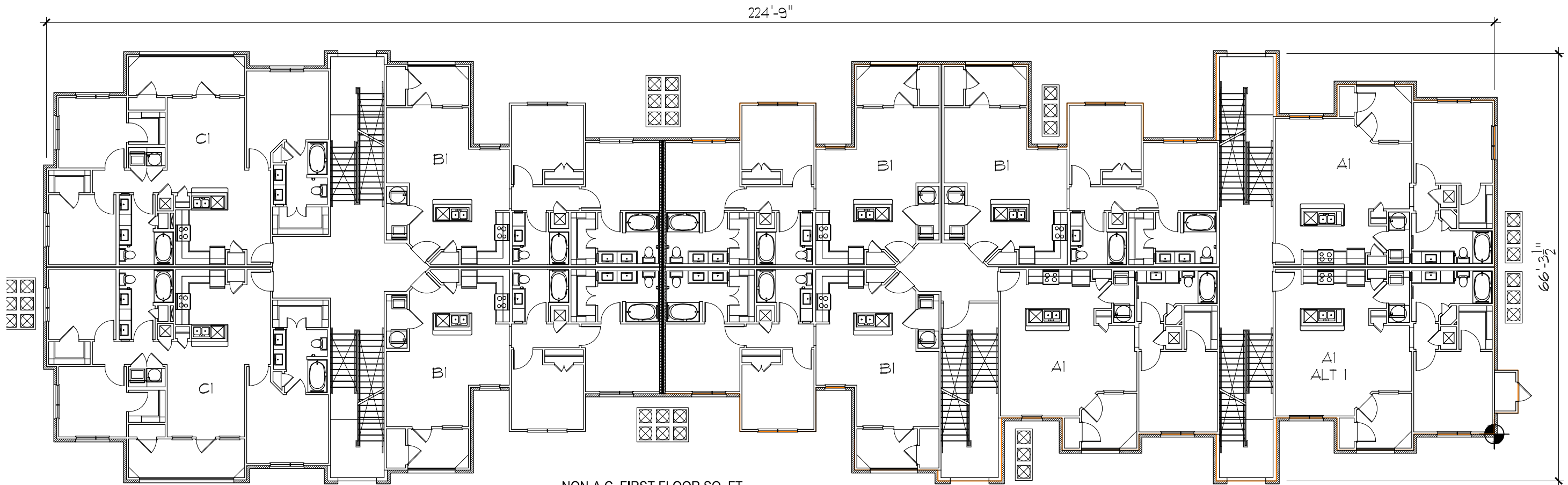


PALLADIUM ANNA
ANNA, TEXAS

BUILDING TYPE 'A' SECOND & THIRD FLOOR PLAN

SCALE 1/16" = 1' - 0"

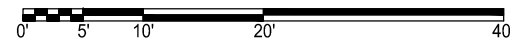


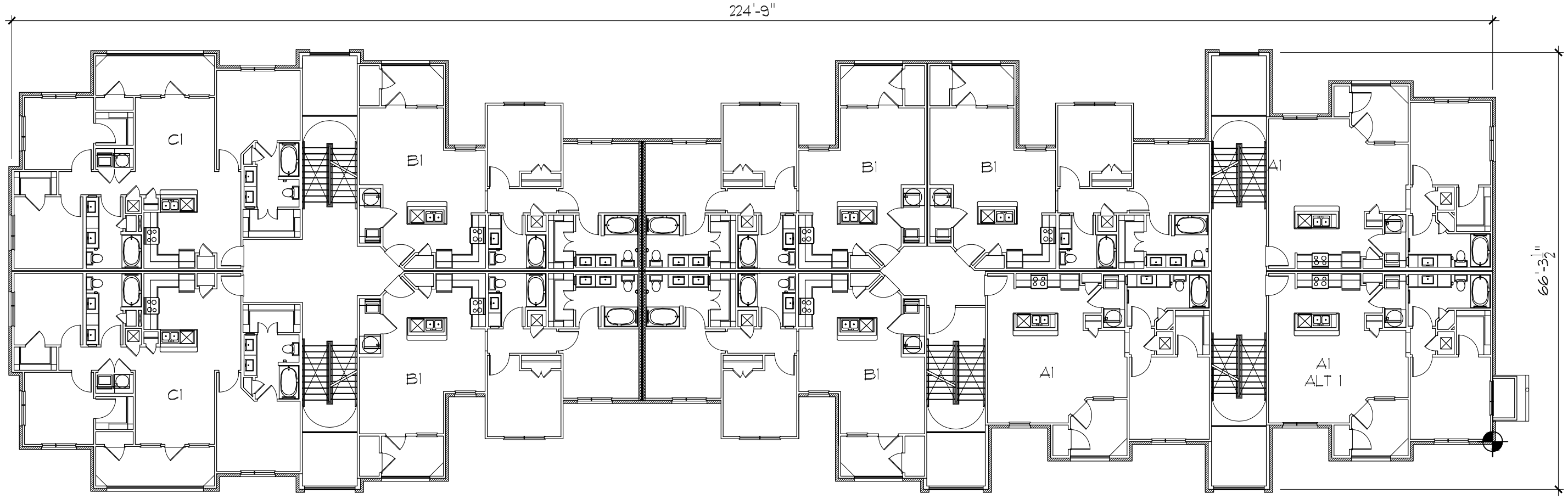


<u>NON-A.C. FIRST FLOOR SQ. FT.</u>	
BREEZEWAYS	1,564 SQ. FT.
PATIOS	768 SQ. FT.
STORAGE	195 SQ. FT.
<u>NON-A.C. SECOND FLOOR SQ. FT.</u>	
BREEZEWAYS	1,182 SQ. FT.
BALCONIES	768 SQ. FT.
STORAGE	195 SQ. FT.
<u>NON-A.C. THIRD FLOOR SQ. FT.</u>	
BREEZEWAYS	1,182 SQ. FT.
BALCONIES	768 SQ. FT.
STORAGE	195 SQ. FT.
<u>TOTAL NON-A.C. SQ. FT.</u>	
	6,817 SQ. FT.

BUILDING TYPE 'B' FIRST FLOOR PLAN

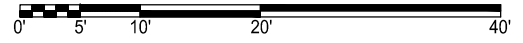
SCALE 1/16" = 1' - 0"

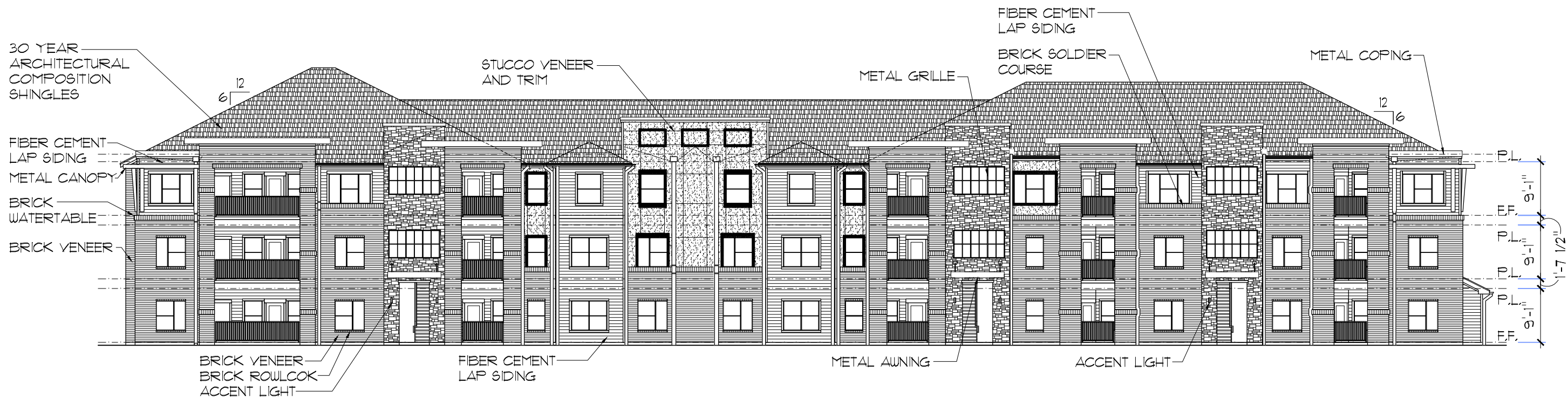




PALLADIUM ANNA
ANNA, TEXAS

BUILDING TYPE 'B' SECOND & THIRD FLOOR PLAN
SCALE 1/16" = 1' - 0"





BUILDING MATERIALS

MASONRY	80%
STUCCO	03%
SIDING	17%
TOTAL	100%

BUILDING TYPE 'B' ELEVATION
SCALE = N.T.S.



CLUBHOUSE AMENITIES:

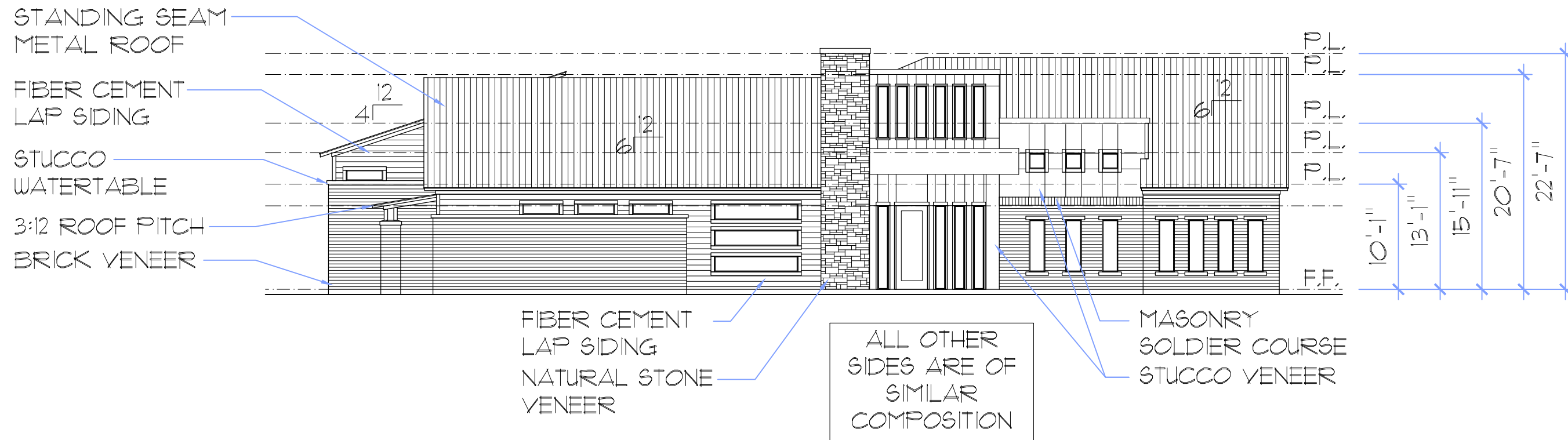
- FURNISHED FITNESS CENTER
- EQUIPPED AND FUNCTIONING BUSINESS CENTER
- FURNISHED MULTI-PURPOSE ROOM
- CONFERENCE ROOM
- CHILDREN'S PLAYROOM

NON-A.C. SQ. FT.

PATIOS 680 SQ. FT.

CLUBHOUSE FLOOR PLAN 4,074 S.F. A.C.

SCALE 3/32" = 1' - 0"



BUILDING MATERIALS

MASONRY	48%
STUCCO	24%
SIDING	28%
TOTAL	100%

CLUBHOUSE ELEVATION

SCALE = N.T.S.

Tab 23 – Specifications and
Building/Unit Configuration

Tab 24 – Rent Schedule

Rent Schedule (Continued)

		% of LI	% of Total	
HOUSING TAX CREDITS	TC30%	10%	8%	9
	TC40%			0
	TC50%	41%	29%	35
	TC60%	49%	35%	42
	HTC LI Total			86
	EO			0
	MR			34
	MR Total			34
	Total Units			120
	MORTGAGE REVENUE BOND	MRB30%		
MRB40%				0
MRB50%				0
MRB60%				0
MRB LI Total				0
MRBMR				0
MRBMR Total				0
MRB Total				0

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

BEDROOMS	0			0
	1			36
	2			60
	3			24
	4			0
	5			0

ACQUISITION + HARD			
Cost Per Sq Ft	\$ 128.23		
HARD			
Cost Per Sq Ft	\$ 128.23		
BUILDING			
Cost Per Sq Ft	\$ 86.83		
		Total Points claimed:	12

Applicants are advised to ensure that figure is not rounding down to the maximum dollar figure to support the elected points.

Tab 25 – Utility Allowances

Utility Allowances [§10.614]

Applicant must attach to this form documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application Packet. Where the Applicant uses any method that requires Department review, such review must have been requested prior to submission of the Application. This exhibit must clearly indicate which utility costs are included in the estimate.

Note: If more than one entity (Sec. 8 administrator, public housing authority) is responsible for setting the utility allowance(s) in the area of the development location, then the selected utility allowance must be the one which most closely reflects the actual expenses.

If an independent utility cost evaluation is conducted it must include confirming documentation from all the relevant utility providers.

If other reductions to the tenant rent is required such as the cost of flood insurance for the tenant's contents, documentation for these reductions to gross rent should also be attached.

Utility	Who Pays	Energy Source	0BR	1BR	2BR	3BR	4BR	Source of Utility Allowance & Effective Date
Heating	Tenant	Electric		\$ 19	\$ 22	\$ 26		HUD Utility Model 8/25/16
Cooking	Tenant	Electric		\$ 5	\$ 7	\$ 10		HUD Utility Model 8/25/16
Other Electric	Tenant			\$ 19	\$ 27	\$ 34		HUD Utility Model 8/25/16
Air Conditioning	Tenant	Electric		\$ 10	\$ 13	\$ 17		HUD Utility Model 8/25/16
Water Heater	Tenant	Electric		\$ 12	\$ 15	\$ 19		HUD Utility Model 8/25/16
Water								
Sewer								
Trash								
Flat Fee								
Other								
Total Paid by Tenant			\$ -	\$ 65	\$ 85	\$ 106	\$ -	

Other (Describe)





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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GOVERNOR

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J.B. Goodwin

August 25, 2016

Writer's direct phone # (512) 475-4603
Email: cody.campbell@tdhca.state.tx.us

Ryan Combs
Palladium USA
Dallas, TX
rcombs@palladiumusa.com

RE: 2016 9% HTC Application – Palladium Anna (16178)

Dear Mr. Combs:

The Texas Department of Housing and Community Affairs has received a request submitted for Palladium Anna, a 2016 Housing Tax Credit (“HTC”), located in Anna, to calculate the utility allowance using the HUD Utility Schedule Model in accordance with the 10TAC§10.614. This allowance is calculated based on the following representations:

1. That the residents are financially responsible for electricity and that the utility is not paid to or through the owner of the building based on an allocation formula or RUBS;
2. That the buildings type(s) are Apartments 5+
3. The unit types are one bedroom, two bedroom, and three bedroom
4. The space heating type is “electric resistance”

Please note that, in accordance with Treasury Regulation §1.42-10, the utility allowance for those units occupied by Section 8 voucher holders remains the applicable Public Housing Authority utility allowance established from where the resident receives the assistance.

This allowance can be used for underwriting purposes. If you are successful in obtaining an allocation, to utilize the HUD Utility Schedule Model to establish the initial utility allowance for the Development, prior to the commencement of leasing activities, the Owner must submit utility allowance documentation for Department approval. The Department is currently revising rules related to utility allowances, please remain abreast of ongoing changes to 10TAC§10.614 to ensure ongoing compliance with Department rules.

If you have any further questions, please contact Cody Campbell toll free in Texas at (800) 643-8204, directly at (512) 475-4603, or email: cody.campbell@tdhca.state.tx.us.

Sincerely

Digitally signed by Cody
Campbell
DN: c=US, cn=Cody Campbell,
email=cody.campbell@tdhca.sta
te.tx.us
Date: 2016.08.25 13:32:49 -05'00'

Cody Campbell
Compliance Administrator



**Allowances for
Tenant-Furnished Utilities
and Other Services**

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

Locality		Green Discount	Unit Type					Date (mm/dd/yyyy)
Anna		None	Larger Apartment Bldgs. (5+ units)					7/6/2016
Utility or Service		Monthly Dollar Allowances						
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Space Heating	Natural Gas							
	Bottled Gas							
	Electric Resistance		\$18.53	\$22.41	\$26.29			
	Electric Heat Pump							
	Fuel Oil							
Cooking	Natural Gas							
	Bottled Gas							
	Electric		\$5.05	\$7.30	\$9.56			
	Other							
Other Electric		\$19.05	\$26.51	\$33.96				
Air Conditioning		\$9.51	\$13.19	\$16.86				
Water Heating	Natural Gas							
	Bottled Gas							
	Electric		\$11.99	\$15.30	\$18.62			
	Fuel Oil							
Water								
Sewer								
Trash Collection								
Range/Microwave								
Refrigerator								
Other - specify			\$64.14	\$84.71	\$105.29			
Allowance (Rounded up to Next Whole Dollar)			\$ 65.00	\$ 85.00	\$ 106.00			

Spreadsheet (ver13) based on form HUD-52667 (12/97).

Previous editions are obsolete

ref. Handbook 7420.8

Tab 26 – Annual Operating
Expenses

ANNUAL OPERATING EXPENSES

General & Administrative Expenses			
Accounting	\$	6,429	
Advertising	\$	10,030	
Legal fees	\$	3,857	
Leased equipment	\$	2,571	
Postage & office supplies	\$	4,479	
Telephone	\$	3,086	
Other	\$	4,783	
Other	\$	2,057	
Total General & Administrative Expenses:			\$ 37,292
Management Fee:	Percent of Effective Gross Income:	5.00%	\$ 55,848
Payroll, Payroll Tax & Employee Benefits			
Management	\$	78,016	
Maintenance	\$	93,619	
Other	\$	describe	
Other	\$	describe	
Total Payroll, Payroll Tax & Employee Benefits:			\$ 171,635
Repairs & Maintenance			
Elevator	\$		
Exterminating	\$	1,246	
Grounds	\$	7,684	
Make-ready	\$	36,007	
Repairs	\$	25,005	
Pool	\$	2,077	
Other	\$	describe	
Other	\$	describe	
Total Repairs & Maintenance:			\$ 72,019
Utilities (Enter Only Property Paid Expense)			
Electric	\$	24,171	
Natural gas	\$		
Trash	\$	9,257	
Water/Sewer	\$	42,686	
Other	\$	describe	
Other	\$	describe	
Total Utilities:			\$ 76,114
Annual Property Insurance:	Rate per net rentable square foot:	\$ 0.29	\$ 33,000
Property Taxes:			
Published Capitalization Rate:	Source:		
Annual Property Taxes	\$	120,000	
Payments in Lieu of Taxes	\$		
Total Property Taxes:			\$ 120,000
Reserve for Replacements:	Annual reserves per unit:	\$ 300	\$ 36,000
Other Expenses			
Cable TV	\$		
Supportive Services (Staffing/Contracted Services)	\$		
TDHCA Compliance fees	\$	3,440	
TDHCA Bond Administration Fees (TDHCA as Bond Issuer Only)	\$		
Security	\$		
Other	\$	6,143	
Other	\$	describe	
Total Other Expenses:			\$ 9,583
TOTAL ANNUAL EXPENSES			
		Expense per unit:	\$ 5096
		Expense to Income Ratio:	54.75%
NET OPERATING INCOME (before debt service)			\$ 505,469
Annual Debt Service			
	\$	404,374	
	\$		
	\$		
	\$		
TOTAL ANNUAL DEBT SERVICE			\$ 404,374
		Debt Coverage Ratio:	1.25
NET CASH FLOW			\$ 101,095

Tab 27 – 15 Year Pro Forma

15 Year Rental Housing Operating Pro Forma

All Programs Must Complete the following:

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$1,178,724	\$1,202,298	\$1,226,344	\$1,250,871	\$1,275,889	\$1,408,684	\$1,555,301
Secondary Income	\$ 28,800	\$ 29,376	\$ 29,964	\$ 30,563	\$ 31,174	\$ 34,419	\$ 38,001
POTENTIAL GROSS ANNUAL INCOME	\$1,207,524	\$1,231,674	\$1,256,308	\$1,281,434	\$1,307,063	\$1,443,103	\$1,593,302
Provision for Vacancy & Collection Loss	(\$90,564)	(\$92,376)	(\$94,223)	(\$96,108)	(\$98,030)	(\$108,233)	(\$119,498)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$1,116,960	\$1,139,299	\$1,162,085	\$1,185,327	\$1,209,033	\$1,334,870	\$1,473,805
EXPENSES							
General & Administrative Expenses	\$37,292	\$38,411	\$39,563	\$40,750	\$41,972	\$48,658	\$56,407
Management Fee	\$ 55,848	\$ 56,965	\$ 58,104	\$ 59,266	\$ 60,452	\$ 66,744	\$ 73,690
Payroll, Payroll Tax & Employee Benefits	\$ 171,635	\$ 176,784	\$ 182,088	\$ 187,550	\$ 193,177	\$ 223,945	\$ 259,613
Repairs & Maintenance	\$ 72,019	\$ 74,180	\$ 76,405	\$ 78,697	\$ 81,058	\$ 93,968	\$ 108,935
Electric & Gas Utilities	\$ 24,171	\$ 24,896	\$ 25,643	\$ 26,412	\$ 27,205	\$ 31,538	\$ 36,561
Water, Sewer & Trash Utilities	\$ 51,943	\$ 53,501	\$ 55,106	\$ 56,760	\$ 58,462	\$ 67,774	\$ 78,568
Annual Property Insurance Premiums	\$ 33,000	\$ 33,990	\$ 35,010	\$ 36,060	\$ 37,142	\$ 43,058	\$ 49,915
Property Tax	\$ 120,000	\$ 123,600	\$ 127,308	\$ 131,127	\$ 135,061	\$ 156,573	\$ 181,511
Reserve for Replacements	\$ 36,000	\$ 37,080	\$ 38,192	\$ 39,338	\$ 40,518	\$ 46,972	\$ 54,453
Other Expenses	\$ 9,583	\$ 9,870	\$ 10,167	\$ 10,472	\$ 10,786	\$ 12,504	\$ 14,495
TOTAL ANNUAL EXPENSES	\$611,491	\$629,277	\$647,586	\$666,432	\$685,833	\$791,732	\$914,150
NET OPERATING INCOME	\$505,469	\$510,022	\$514,499	\$518,894	\$523,200	\$543,139	\$559,654
DEBT SERVICE							
First Deed of Trust Annual Loan Payment	\$404,374	\$404,117	\$403,848	\$403,569	\$403,277	\$401,623	\$399,589
Second Deed of Trust Annual Loan Payment							
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
ANNUAL NET CASH FLOW	\$101,095	\$105,905	\$110,651	\$115,325	\$119,923	\$141,516	\$160,065
CUMULATIVE NET CASH FLOW	\$101,095	\$206,999	\$317,650	\$432,975	\$552,899	\$1,206,496	\$1,960,449
Debt Coverage Ratio	1.25	1.26	1.27	1.29	1.30	1.35	1.40
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

972-735-2800

Phone:

Email:

jrogers@doughertymarkets.com

3-3-17

Date


 Signature, Authorized Representative, Construction or

Jeffrey L. Rogers

Printed Name

Tab 29 – Site Work Costs
Breakdown

Site Work Cost Breakdown

This form must be submitted with the Development Cost Schedule as justification of Site Work costs.

Column A: The Site Work activity reflected here must match the Site Work activity reflected in the Development Cost Schedule.

Columns B and C: In determining actual construction cost, two different methods may be used:

The construction costs may be broken into labor (Column B) and materials (Column C) for the activity; **OR**

The use of unit price (Column B) and the number of units (Column C) data for the activity.

Column D: To arrive at total construction costs in Column D:

If based on labor and materials, add Column B and Column C together to arrive at total construction costs.

If based on unit price measures, Column B is multiplied by Column C to arrive at total construction costs.

Column E: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity.

Column F: Engineering/architectural costs must be broken out by the Site Work activity.

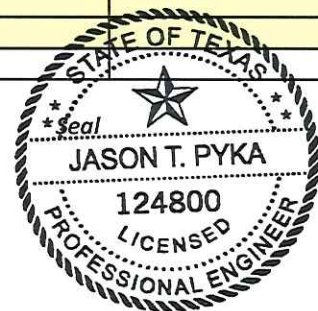
Column G: Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

****This form must be completed by a Third-Party engineer licensed to practice in the State of Texas. His or her signature and registration seal must be on the form.****
For Site Work costs that exceed \$15,000 per Unit and are included in Eligible Basis, a CPA letter allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible must be submitted behind this tab.

A. Activity	B. Labor or Unit Price	C. Materials or # of Units	D. Total Construction Costs	E. Acquisition Costs	F. Engineering / Architectural Costs	G. Total Activity Costs
Rough Grading			\$ 459,917.00			\$ 459,917.00
Fine Grading			\$ 91,736.00			\$ 91,736.00
On-site concrete			\$ 575,207.00			\$ 575,207.00
On-site electrical			\$ 138,223.00			\$ 138,223.00
On-site utilities			\$ 517,562.00			\$ 517,562.00
Bumper Stops, Striping & signs			\$ 17,355.00			\$ 17,355.00
Total						\$ 1,800,000


 Signature of Registered Engineer

Jason Pyka
 Printed Name
 3/2/17
 Date



Tab 30 – Development Cost
Schedule

BUILDING COSTS*:			
Concrete	1,615,782		1,615,782
Masonry	399,628		399,628
Metals	221,660		221,660
Woods and Plastics	2,342,245		2,342,245
Thermal and Moisture Protection	138,531		138,531
Roof Covering	258,602		258,602
Doors and Windows	585,026		585,026
BUILDING COSTS (Continued):			
Finishes	197,400		197,400
Specialties	83,122		83,122
Equipment	371,080		371,080
Furnishings	327,613		327,613
Special Construction			
Conveying Systems (Elevators)			
Mechanical (HVAC; Plumbing)	1,549,035		1,549,035
Electrical	1,178,677		1,178,677
Individually itemize costs below:			
Detached Community Facilities/Building	477,500		477,500
Carports and/or Garages	173,000		0
Lead-Based Paint Abatement			
Asbestos Abatement (Rehabilitation Only)			
Structured Parking			
Commercial Space Costs			
Other (specify) - see footnote 1			
Subtotal Building Costs	\$9,918,901	\$0	\$9,745,901
TOTAL BUILDING COSTS & SITE WORK (including site amenities)			
	\$12,310,501	\$0	\$12,137,501
Contingency	5.00%	\$615,525	606,875
TOTAL HARD COSTS		\$12,926,026	\$12,744,376
OTHER CONSTRUCTION COSTS			
General requirements (<6%)	5.71%	738,630	728,250
Field supervision (within GR limit)			
Contractor overhead (<2%)	1.90%	246,210	242,750
G & A Field (within overhead limit)			
Contractor profit (<6%)	5.71%	738,630	731,710
TOTAL CONTRACTOR FEES		\$1,723,470	\$1,702,710
TOTAL CONSTRUCTION CONTRACT			
		\$14,649,496	\$14,447,086

Tab 31 – Financing Narrative and
Summary of Sources and Uses

Financing Narrative and Summary of Sources and Uses

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
Debt										
TDHCA	Multifamily Direct Loan (Repayable)	\$0	0.00%		\$ -	0.00%	30	0		
TDHCA	Multifamily Direct Loan (Deferred Forgivable)	\$0	0.00%		\$ -	0.00%	0	0		
TDHCA	Mortgage Revenue Bond	\$0	0.00%		\$ -	0.00%	0	0		
Dougherty Mortgage	Conventional/FHA	\$7,382,069	4.15%	1	\$ 7,382,069	4.50%	40	40		1
Third Party Equity										
Hudson Housing Capital	HTC	\$ 1,500,000	\$ 12,694,159		\$ 13,798,620				0.92	
Grant										
City of Anna	Local Government Grant	\$ 175,000			\$ 175,000					
Deferred Developer Fee										
Palladium USA		\$ 1,716,489			\$ 612,028					
Other										
Total Sources of Funds		\$ 21,967,717			\$ 21,967,717					
Total Uses of Funds					\$ 21,967,717					

Briefly describe the complete financing plan for the Development, including a discussion of the sources of funds. The information must be consistent with all other documentation in this section. Provide sufficient detail so that the reader can understand all terms related to each source that are not readily apparent above or in the term sheets.

Hudson Housing Capital has offered to provide the equity for the development. They will provide the development with \$13,798,620 in equity paid in 85.7% at closing, 9.5% at construction completion and the balance upon stabilization and receipt of 8609. This equity amount is based on a credit price of \$0.92 per credit. Dougherty Mortgage will also provide an FHA 221D4 construction/permanent loan to the development in the amount of \$7,382,069 at an anticipated interest rate (including MIP) of 4.50%, 40 year term and 40 year amortization period. The developer will defer approximately \$612,028 (25%) of developer fee. The City of Anna is contributing \$175,000 of a government grant in the form of Impact fee waivers. Palladium Anna has been pursuing all local permitting and expect to have all permits in hand before the end of April 2017 with an anticipated loan/equity closing date in May 2017.

Tab 35 – Supporting Documentation

Supporting Documents Should be Included Behind this Tab

- Executed Pro Forma from Permanent or Construction Lender
- Letter from lender regarding approval of Principals
- Evidence of Permanent and Construction Financing (term sheets, loan agreements)
- Evidence of any Gap Financing
- Evidence of any Owner Contributions
- Evidence of Equity Financing (HTC applications only)
- Letter from Texas Historical Commission (THC) indicating preliminary eligibility for historic (rehabilitation) tax credits and documentation of Certified Historic Structure status as detailed in QAP §11.9(e)(6) was submitted behind TAB 19.
- Letter from Local Political Subdivision evidencing a loan, grant, reduced fees or contribution of other value to benefit the Development. [QAP §11.9(d)(2)]
- Evidence of Rental Assistance/Subsidy



Tab 35 – Equity Letter

HUDSON

HOUSING CAPITAL

February 24, 2017

Thomas Huth
Palladium Anna, Ltd.
13455 Noel Road, Suite 400
Dallas, TX 75240

Re: **Palladium Anna – Anna, TX**

Dear Tom:

Thank you for providing Hudson Housing Capital LLC (“Hudson”) with the opportunity to extend a purchase offer for the limited partnership interest in the limited partnership that will own Palladium Anna (the “Partnership”).

Hudson is a Delaware limited liability company formed to directly acquire limited partnership interests in partnerships which own apartment complexes qualifying for low-income housing tax credits (“Tax Credits”) under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”).

Set forth is our proposal as to the basic business terms under which Hudson or its designee (“Investor”) will acquire a 99.99% limited partnership interest in the Partnership which will own a 120-unit complex in Anna, Texas (the “Property”). You have advised us that Palladium Affordable Housing Development Anna, LLC (the “Developer”) will be the developer of the Property and Palladium Anna GP, LLC (the “General Partner”), a single purpose entity, will be the general partner of the Partnership. Subject to review of financials, Palladium USA, Inc. and Palladium USA International, Inc. (collectively, the “Guarantor”) shall guarantee the obligations of the General Partner under the partnership agreement to be entered into between the parties (the “Partnership Agreement”). The Guarantor will be required to maintain a minimum liquidity of \$2 million and a minimum net worth of \$10 million (the “Net Worth and Liquidity Covenant”). An affiliate of the Investor will be admitted to the Partnership as a special limited partner (the “Special Limited Partner” or “SLP”) with limited supervisory rights.

You have further advised us that the Property received an allocation of 9% Tax Credits in the annual amount of \$1,500,000 and that 86 of the 120 units will qualify for Tax Credits.

I. Equity Investment

Assuming a closing no later than June 30, 2017, the Investor will contribute to the Partnership a total of \$13,798,620 (the “Total Equity”) or approximately \$0.92 (the “Tax Credit Ratio”) per total Tax Credit available to the Investor, payable in the following installments:

Contribution	Contribution %	Timing
First	85.7%	At Closing and Through Construction
Second	9.5%	100% Completion
Third	4.51%	Permanent Loan Closing & Breakeven Date
Fourth	0.29%	Issuance of 8609s

A. *First Capital Contribution.* The Investor will fund the First Capital Contribution as follows:

Contribution	Contribution %	Timing
Initial I	35.1%	At Closing
Initial II	18.5%	Later of October 1, 2017 and 25% Construction Completion
Initial III	16%	Later of February 1, 2018 and 50% Construction Completion
Initial IV	16.10%	Later of May 1, 2018 and 75% Construction Completion

B. *Second Capital Contribution.* The Second Capital Contribution will be paid upon the satisfaction of the conditions set forth in the Partnership Agreement, which are principally as follows: (i) lien-free construction completion of the Property substantially in accordance with the Plans and Specifications in a workmanlike manner approved by Hudson; (ii) issuance of Certificates of Occupancy for 100% of the units in the Property; (iii) receipt of an unaudited Tax Credit cost certification from independent accountants to the Partnership (the “Accountants”) setting forth the eligible basis and the total available Tax Credits; (iv) receipt of a pay-off letter from the general contractor or sub-contractors, less retainage, as applicable; (v) satisfactory financial condition of the Guarantors (i.e. compliance with the Net Worth and Liquidity Covenant); and (vi) if not received at the Initial Closing, receipt of a carry-over allocation.

C. *Third Capital Contribution.* The Third Capital Contribution will be paid upon the satisfaction of the conditions set forth in the Partnership Agreement, which are principally as follows: (i) closing of the permanent first mortgage loan (“Permanent Loan Closing”); (ii) achievement of Breakeven Operations for 3 months (“Breakeven Date”); (iii) receipt of prior year’s income tax returns in the event such returns are then due; (iv) receipt of a final Tax Credit cost certification from the Accountants as to the amount of Tax Credits the Partnership will claim for 2018/2019/2020 and the amount allocable to

each partner (the “Final Certification”); (v) receipt and approval of initial tenant files; and (vi) satisfactory financial condition of the Guarantors (i.e. compliance with the Net Worth and Liquidity Covenant); and (vii) receipt of HUD Final Endorsement.

“**Breakeven**” shall mean that, for each such month, occupancy is at least 92.5% and that Property income (with rents not to exceed maximum allowed tax credit rents net of the applicable utility allowances for the rent-restricted units), exceeds the greater of underwritten expenses or actual expenses, including replacement reserves, reassessed taxes, and permanent loan debt service (calculated on a stabilized and accrual basis) and generates debt service coverage of not less than 1.25X on all mandatory debt assuming the greater of actual or a 7.5% vacancy rate on the residential income.

D. *Fourth Capital Contribution.* The Fourth Capital Contribution will be paid upon the satisfaction of the conditions set forth in the Partnership Agreement, which are principally as follows: (i) satisfactory financial condition of the Guarantors (i.e., compliance with the Net Worth and Liquidity Covenant); (ii) receipt of Form 8609 with respect to all buildings constituting the Property; and (iii) receipt of a tax return and an audited financial statement for the year in which the Breakeven Date occurred to the extent due at such time.

If the conditions for payment of the Fourth Capital Contribution have been met except for the receipt of (iii) above, \$15,000 of the Fourth Capital Contribution will be held back and promptly released upon receipt of the same.

Our offer is also contingent on the following financing sources and assumptions:

- a.** A 221d4 construction to permanent loan in the approximate amount of \$7,382,100 with a rate of 4.15%, MIP of 0.35%, and a term and amortization of 40 years;
- b.** A city of Anna, TX contribution in the amount of \$175,000 structured in a manner acceptable to Hudson.
- c.** Our pricing assumes that the Partnership will depreciate real property over 27.5 years.

II. *Developer Fee*

The Developer shall receive a Developer Fee of approximately \$2,452,127, of which \$1,840,100 is expected to be available from capital sources (the “Cash Developer Fee”) which shall be paid as follows: (i) 15% of the Cash Developer Fee (i.e., the non-deferred portion of the Developer Fee) shall be paid at closing; (ii) 15% of the Cash Developer Fee (as recalculated at such time) shall be paid at the time of the Second Capital Contribution; and (iii) the balance of the Cash Developer Fee shall be paid at the time of the Third and Fourth Capital Contributions to the extent the funds are available.

You have represented that the amount of the Developer Fee does not exceed the amount permitted to be paid by the tax credit issuing agency. Deferred developer fees shall be paid from available cash flow as detailed in Section IV and shall not bear interest. Principal payments on the

deferred developer fees shall commence with the funding of the Third Capital Contribution. The General Partner agrees to make a special capital contribution to the Partnership equal to any unpaid balance of the deferred portion of the Developer Fee if such portion has not been fully paid within 14 years from the date of the payment of the Second Capital Contribution.

III. Property Management Fee

The General Partner may retain an affiliated entity to be the managing agent for the Property on commercially reasonable terms. The management agreement, to be approved by the Investor, shall have an initial term of 1 year and shall be renewable annually thereafter, shall provide for an annual management fee not to exceed 5% of gross effective income, and shall otherwise be on commercially reasonable terms (including a termination right by the General Partner in the event of fraud/gross negligence or material default by the Manager). If the managing agent is affiliated with the General Partner, the management agreement shall provide for a deferral of 100% of the management fee in the event that the property does not generate positive Cash Flow for the respective month(s) in question.

IV. Cash Flow Distributions

Cash flow from the Property, after payment of operating expenses, which shall include the Administrative Expense Reimbursement, current and any deferred property management fees from prior years, debt service, replenishment of required reserves (including any reserve payments which were not made due to insufficient cash flow) and payment of any tax liability incurred by the Limited Partner (“Cash Flow”), shall be distributed annually (subsequent to the Third Capital Contribution) as follows:

- A. to the payment of any Operating Deficit Loans, if any;
- B. to the replenishment of the Operating Reserve;
- C. to the payment of any amounts required to be paid with respect to any soft loans;
- D. 90% of remaining Cash Flow to payment of Developer Fees, then the balance, if any, to the General Partner as a preferred return with an equivalent allocation of income; and
- E. the remainder to be split in accordance with Partnership interests.

V. Sale or Refinancing Proceeds

Net sale or refinancing proceeds (i.e., after payment of outstanding debts, liabilities (other than to the General Partner and its affiliates) and expenses of the Partnership, and establishment of necessary reserves) shall be distributed as follows:

- A. Repayment of outstanding loans by the limited partners, if any;
- B. Payment of amounts due to the limited partners;
- C. Repayment of outstanding loans by the General Partner, including the Developer Fee (if not paid) and Operating Deficit loans; and
- D. 10% to the Investor and 90% to the General Partner.

VI. Right of First Refusal / Option

- A. *ROFR:*** A qualified non-profit corporation designated by the General Partner shall have a right of first refusal as allowed under Section 42 of the Code, commencing upon the expiration of the tax credit compliance period and ending one year thereafter, to purchase the Property for the outstanding debt (including any amounts owed to the Investor) plus all exit taxes of the limited partners (the “Right of First Refusal Price”).
- B. *Option:*** The General Partner or its designated affiliate shall have a non-assignable option, for a period of one year subsequent to the expiration of the tax credit compliance period, to purchase the Property for the greater of (a) the fair market value of the Property (based on a bona-fide third party offer), and (b) Right of First Refusal Price.

VII. General Partner Commitments

- A. *Low Income Housing Tax Credit Adjustment.*** Our offer is based upon the assumption that the Partnership will qualify for and claim \$162,037 of Tax Credits in 2018, \$1,416,667 of Tax Credits in 2019, the full amount of the Partnership’s Tax Credit allocation, \$1,500,000, for each year from 2020 through 2027, \$1,337,963 of Tax Credits in 2028, and \$83,333 of Tax Credits in 2029.

1. *Adjustments during equity payment (construction and lease-up) period*

a. Volume Adjuster

In the event that either the Form 8609’s or the Final Certification indicates that the Property will not generate the projected aggregate amount of Tax Credits (other than as specified below), the Partnership Agreement will provide for a return of such capital, an adjustment in the amount of any unpaid Capital Contributions and/or a payment by the General Partner to the Investor sufficient to restore the Tax Credit Ratio as defined in Section I above.

b. Timing Adjuster

Notwithstanding the preceding paragraph, in the event that the Final Certification specifies that, while the aggregate amount of Tax Credits allocable to the Partnership is unchanged, the amount of Tax Credits allocable to the Partnership in 2018/2019/2020 is less than the amounts specified above for the corresponding year(s), the Second/Third/Fourth Capital Contributions will be reduced by \$0.65 for each dollar by which such amount exceeds the actual amount of Tax Credits allocable to the Partnership for such period.

2. **Adjustments during compliance period**

A. ***Compliance Adjuster***

After the Form 8609's have been issued, in the event that the actual amount of Tax Credits which may be claimed by the Partnership is less than the amount specified in such Forms, the General Partner shall reimburse the Investor on a dollar-for-dollar basis for each lost dollar of Tax Credits plus any resulting penalties or taxes due. Similarly, if there is a recapture of Tax Credits (except from the sale or transfer of the Investor's interest in the Partnership, or due to a change of applicable tax law), the General Partner shall upon demand indemnify the Investor and its partners against any Tax Credit recapture liability (including interest, penalties and any reasonable related legal or accounting costs) which they may incur during the Compliance Period. Any fees or Cash Flow payable to the General Partner, or its affiliates, will be subordinated to any required payment pursuant to this paragraph.

B. ***Development Deficit Guarantee.*** The General Partner shall be responsible for completion of the Property in a workmanlike manner, in accordance with approved plans and specifications, free and clear of all liens. To the extent that the costs of construction and operations until the funding of the Third Capital Contribution, including the use of any budgeted construction contingency, exceed the amount of any funding by approved permanent third party lenders, any unpaid Developer Fees and the amount of the Investor's capital commitment (adjusted as set forth above), the General Partner shall pay all such costs and expenses connected with development and construction of the Property, including all operating deficits of the Property until the funding of the Third Capital Contribution. The contractor will be required to post a P&P Bond or a letter of credit with terms acceptable to Hudson. An "owner's" construction contingency in an amount equal to 5% of the construction costs will be required.

C. ***Operating Deficit Guarantee.*** The General Partner shall make interest free loans to the Partnership (repayable from cash flow and/or sale and refinancing proceeds as described above) equal to any Operating Deficits (including the administration fee described in Section VIII below) incurred during the period beginning on the funding of the Third Capital Contribution and ending on the completion of 3 consecutive years of Breakeven operations, in an amount not to exceed 12 months of underwritten operating expenses in the aggregate.

The General Partner will also be obligated to fund an Operating Reserve in an amount equal to 6 months of underwritten operating expenses and debt service at the time of the Third Capital Contribution. Any draws from the Operating Reserve shall be replenished from cash flow and no withdrawals will be allowed prior to the expiration of the Operating Deficit Guaranty.

D. ***Obligations of General Partner.*** Immediately following the occurrence of any of the following events, the General Partner shall, at the option of the Investor, (x) admit the Special Limited Partner or its designee as the managing general partner of the Partnership and, at the option of the Investor, withdraw from the Partnership; or (y) repurchase the

Investor's interest in the Partnership: (i) an IRS Form 8609 is not issued with respect to each of the buildings in the Property in a timely manner after each such building has been placed in service; (ii) the Property is not fully placed in service by December 31, 2018; (iii) the permanent loan commitment is cancelled or substantially modified, and a suitable replacement loan (to be approved by the Investor) is not obtained or if the Property qualifies for a permanent loan not sufficient to balance the sources and uses of funds; (iv) permanent loan closing has not occurred by January 31, 2020; (v) the Partnership fails to meet the minimum set aside test (as defined in Section 42 of the Code) or fails to execute and record a Tax Credit Extended Use Commitment by the close of the first year of the Credit Period; (vi) the Partnership shall have been declared in default by any mortgage lender or under the tax credit allocation, or foreclosure proceedings have been commenced against the Property, and such default is not cured or such proceeding is not dismissed within 30 days; or (vii) there is an uncured violation of the Partnership Agreement by the General Partner or, if the property manager is an affiliate of the General Partner, a material violation of the management agreement by the manager which causes material adverse harm to the Investor, the Partnership or the Property.

If the Investor elects to have its interest repurchased by the General Partner, the repurchase price shall be equal to the sum of (i) 105% of the Total Equity, (ii) interest at Prime + 1% on capital contributions made to date, and (iii) any tax liability incurred by the Investor as a result of such repurchase, less the amount of Total Equity which has not been contributed by the Investor at such time.

- E. *Replacement Reserve.*** Commencing with the month following Completion, the Partnership will make a minimum monthly replacement reserve deposit (the "Minimum Deposit") equal to (on an annualized basis) the greater of (i) the amount required by the permanent lender and (ii) \$300/unit. The amount of the Minimum Deposit shall be increased annually by a percentage (the "CPI Percentage"). If the sum of all lender-imposed monthly replacement reserve deposits is less than the Minimum Deposit, Investor will establish a separate account into which the General Partner will deposit the difference. Any interest earned on such account shall become a part thereof.
- F. *Reporting.*** The Partnership will be required to furnish Investor with (a) quarterly unaudited financial statements within 45 days after the end of each quarter of the fiscal year; (b) annual audited financial statements within 75 days after the end of each fiscal year; (c) an annual budget for each fiscal year of the Partnership, not later than November 1 of the preceding year; and (d) the Partnership's tax returns and K-1 forms within 60 days after the end of each fiscal year. The penalty for any failure to deliver Partnership tax returns or K-1 forms prior to the specified deadline shall be (i) \$50 per day for the first seven days after such deadline; (ii) \$100 per day for the next seven days; and (iii) \$150 per day thereafter, provided that the amount of such penalty shall not exceed \$5,000 in any year.

VIII. Fees to Affiliates of Hudson

Administrative Expense Reimbursement. An affiliate of Hudson shall receive an annual administrative expense reimbursement from the Partnership in the amount of \$7,500, which amount shall be increased annually by the CPI Percentage. Such fee shall commence in the year of funding of the Fourth Capital Contribution.

IX. Representations, Warranties and Covenants

The General Partner shall make certain representations and warranties as to the Partnership, the General Partner and the Property to be set forth in the Partnership Agreement. The payment of each Capital Contribution shall be conditioned upon certification by the General Partner as to the continued accuracy of these representations and warranties.

X. Accountants

The Accountants for the Partnership shall be Novogradac & Co, Reznick Group or another firm approved by the Investor. The Accountants shall prepare tax and financial reports as set forth in the Partnership Agreement, and the Final Certification referred to in Section I.c. above.

XI. Investment Partnership Rights

The Partnership Agreement will provide certain approval rights as to major actions proposed to be taken by the General Partner. The Investor shall have the right to remove the General Partner and the Manager for cause.

XII. Insurance

At the closing, the General Partner shall provide for title insurance satisfactory to counsel to the Investor in an amount equal to the sum of all Capital Contributions, all mortgage loans and the amount of any Development Fee Note. Prior to the payment of any additional installment of the Capital Contribution, a “date down” of such policy shall be provided.

The General Partner shall provide for (i) liability (general and excess) insurance in an aggregate amount of at least \$6,000,000 per occurrence increased biennially by the CPI Percentage; (ii) hazard insurance (including boiler and machinery coverage) and flood insurance (to the extent that the property is in a FEMA-designated flood hazard zone) in an amount of not less than the full replacement value of the Property; (iii) rental loss insurance for a period of 12 months after the date of loss; and (iv) law and ordinance coverage with no sublimit, including changes in law and ordinances enacted during the course of reconstruction. Builder's risk insurance shall be provided during construction. Architects shall submit evidence of errors and omissions coverage, in amounts reasonably satisfactory to the Investor. Workers compensation insurance shall be provided as to any entity with employees working at the Apartment Complex. All policies shall name the Investor as an additional insured and/or lender's loss payee (where applicable) and shall otherwise be subject to Investor approval.

XIII. Indemnity Agreement

The General Partner shall indemnify the Investor, Hudson and its affiliates, and their respective officers and directors for any untrue statement of a material fact or omission to state a material fact necessary to make any such statement, in light of the circumstances under which they were made, not misleading, by the General Partner or its agents set forth in any document delivered by the General Partner or its agents in connection with the acquisition of the Property, the investment by the Investor in the Partnership and the execution of the Partnership Agreement.

XIV. General Conditions

Payment of the Second/Third/Fourth Capital Contributions shall be conditioned upon completion of an appropriate due diligence review by the Investor to confirm that there have been no changes in material circumstances affecting the Property, including (i) receipt of estoppel letter(s) from all lenders; (ii) review of title (including a “date-down” endorsement), survey, environmental and other legal and regulatory matters; (iii) receipt of a “No Change” legal opinion from counsel to the Partnership; and (iv) certification by the General Partner as to the continued accuracy of representations and warranties made in the Partnership Agreement.

XV. Conditions to Closing

Hudson will perform, and will request the full cooperation of you and your professionals in, customary due diligence in connection with the acquisition of the Property and the Investor interest in the Partnership.

To facilitate the due diligence process, you agree to deliver to Hudson in a timely manner: (i) an appraisal; (ii) a Phase I environmental study of the Property site, prepared in accordance with ASTM standards, and any subsequent additional testing deemed necessary by Investor in its sole discretion; (iii) evidence that none of the buildings are located in the 100 year flood plain; (iv) evidence of the allocation/reservation of Tax Credits; (v) evidence of payment by the General Partner of any taxes imposed on the transfer of the limited Partnership interest in the Partnership; (vi) representation from a certified public accountant with regard to the tax credit basis being sufficient to support the allocated Tax Credits and the validity of depreciating real property over 27.5 years; (vii) evidence of the financial status of the Guarantor by way of current financial statements prepared in accordance with A.I.C.P.A. standards; (viii) evidence that the proforma rents are at least at a 10% discount to market rents; and (ix) such other materials as are reasonably required by Investor as part of its customary financial and legal due diligence review. Such items shall be prepared and furnished at your own expense. Your execution of this Letter of Intent will also be deemed consent to perform background checks on the principal(s) of the General Partner and Developer, as well as any individual Guarantor. At closing, Hudson shall be reimbursed up to \$50,000 for its legal and due diligence related expenses. The General Partner understands that any consultant, engineering, environmental or other, selected for the project shall be acceptable to the lender and to the equity investor and that the Partnership shall bear the cost of fees associated with pre-construction feasibility studies, structural analysis, and monthly inspections. In the event this Letter of Intent is terminated or the transaction does not close, Hudson shall be reimbursed for its legal and due diligence expenses incurred to date.

Additionally, approval of this transaction is subject to Investor's satisfactory completion of due diligence and Investment Committee approval in its sole and absolute discretion. By executing this Letter of Intent and in consideration of the substantial expenses to be incurred by Hudson and its affiliates in legal and accounting fees and for due diligence, you agree that you and your affiliates will not offer any interest in the Property to any other party unless this Letter of Intent is terminated by mutual consent or unless you are notified that, pursuant to its due diligence, the Investor will not complete its investment in the Partnership, which notification shall be given not later than 45 days from our receipt of this letter executed by you, subject to extension in the event of any delay on your part in furnishing the requested due diligence materials. All parties shall endeavor to close this transaction no later than June 30, 2017

Specifically, the Price Per Credit and Total Capital Contribution identified in Section I is based on current market conditions. Any change in such market conditions, including but not limited to, change related to expectations of higher interest rates or tax reform, shall cause the Investor, in its sole discretion, to modify the Price Per Credit, Total Capital Contribution, and terms included herein.

This Letter of Intent shall terminate if not accepted within 7 days of the date hereof. Closing shall also be required to occur no later than June 30, 2017.

Mr. Tom Huth
Letter of Intent – Palladium Anna
February 22, 2017, Page 11

If the above proposal is acceptable, please indicate your acceptance by executing two copies of this Letter of Intent and returning one to Hudson at the above address. We look forward to working with you.

Sincerely,

Hudson Housing Capital LLC



By: _____
Joshua Lappen
Vice President

Cc: Sam Ganeshan, Hudson Housing Capital, LLC

ACCEPTED AND AGREED TO
THIS 24th DAY OF February, 2017

PALLADIUM ANNA, LTD.

By: Palladium Anna GP, LLC, a Texas limited liability company, Its General Partner

By: Palladium Anna GP Mgr, Inc., a Texas corporation, Its Co-Manager



By: _____
Name: Thomas E. Huth
Its: President

Tab 35 – Lender Commitment

DOUGHERTY MORTGAGE LLC

March 29, 2017

Palladium Anna, Ltd.
13455 Noel Road
Suite 400
Dallas, Texas 75240

Re: Palladium Anna
120 Units under 221(d)(4) New Construction
NEQ of FM 422 and SH 5
Anna, TX 75409

Dear Palladium Anna, Ltd.:

The undersigned has made application to Dougherty Mortgage LLC for a loan to develop the captioned proposed rental apartment project, that would be inclusive of the construction stage for such project, and the permanent financing aspect on a long-term amortizing basis based upon the following terms and conditions.

1. LENDER: Dougherty Mortgage LLC
2. PROPOSED BORROWER: Palladium Anna, Ltd.
3. GUARANTOR OF LOAN: Secretary of Housing and Urban Development
4. PROPERTY: Palladium Anna
Anna, TX
5. TERM/AMORTIZATION OF LOAN: 40 years, plus construction period
6. LOAN AMOUNT: \$8,331,900 (First Lien-FHA 221d4)
(Includes Construction and Permanent Loan)

7.	ANTICIPATED INTEREST RATE:	<table border="0"> <tr> <td style="padding-right: 10px;">Note Rate</td> <td>4.10% (Taxable)</td> </tr> <tr> <td>MIP</td> <td><u>0.35%</u></td> </tr> <tr> <td>Total</td> <td>4.45%</td> </tr> </table>	Note Rate	4.10% (Taxable)	MIP	<u>0.35%</u>	Total	4.45%		
Note Rate	4.10% (Taxable)									
MIP	<u>0.35%</u>									
Total	4.45%									
		Final Note Rate to be determined at the time of HUD Commitment Issuance based on market conditions of GNMA Securities at the time of Rate Lock								
8.	ANTICIPATED LOAN CONSTANT:	5.47778% (Including Non Amortizing MIP)								
9.	DEBT COVERAGE RATIO:	Minimum of 1.15x on all non cash flow loans								
10.	MAXIMUM LOAN TO COST:	87%								
11.	OPERATING EXPENSES:	\$611,627								
12.	NET OPERATING INCOME:	\$554,462								
13.	DEBT SERVICE:	\$456,404 (First Lien including MIP)								
14.	RESERVES REQUIRED Include:	<table border="0"> <tr> <td style="padding-right: 10px;">ON-GOING ANNUAL</td> <td>\$34,800 (\$250/Unit Minimum)</td> </tr> <tr> <td>WORKING CAPITAL</td> <td>\$333,276 (4% OF Loan Amount)</td> </tr> <tr> <td>OPERATING DEFICIT</td> <td>\$342,303</td> </tr> <tr> <td>SOCIAL SERVICES ESCROW</td> <td>\$60,000</td> </tr> </table>	ON-GOING ANNUAL	\$34,800 (\$250/Unit Minimum)	WORKING CAPITAL	\$333,276 (4% OF Loan Amount)	OPERATING DEFICIT	\$342,303	SOCIAL SERVICES ESCROW	\$60,000
ON-GOING ANNUAL	\$34,800 (\$250/Unit Minimum)									
WORKING CAPITAL	\$333,276 (4% OF Loan Amount)									
OPERATING DEFICIT	\$342,303									
SOCIAL SERVICES ESCROW	\$60,000									
15.	INITIAL 1-15 YEAR DEBT COVERAGE RATIO:	Project maintains a minimum 1.15x ratio throughout Years 1-15 shown on the attached pro forma estimates.								
16.	ASSESSMENT OF FEASIBILITY:	I have received and reviewed the 15 year pro forma for Palladium Anna located in Anna, TX. The attached pro forma, which has been prepared and executed by an authorized representative of Dougherty Mortgage LLC projects total operating expenses, net operating income, and debt service for the first year of stabilized operation based on preliminary information provided by the borrower.								

The attached pro forma indicates that the development would maintain no less than a 1.15 debt coverage ratio throughout the initial fifteen years. These projections, which indicate that the Development is expected to be feasible for fifteen years, are made based upon the preliminary information provided by the borrower to this point, and are subject to Dougherty Mortgage LLC due diligence review.

17. CREDIT WORTHINESS

Additionally, Dougherty Mortgage LLC has performed a preliminary review of the credit worthiness of Palladium Anna, Ltd., Palladium Anna GP, LLC, Palladium Anna GP Mgr, Inc, The Land Experts LLC, Hudson Palladium Anna LLC and Hudson SLP LLC. At this time, Dougherty Mortgage LLC has reviewed the development and principals and has no reservations with the development or any principals of the borrower.

18. OTHER SOURCES OF FUNDS

It is acknowledged by the undersigned that other current sources of funds currently consist of \$13,798,620 in tax credit equity.

19. FEASIBILITY AT 180 UNITS

Due to the significant loss in tax credit equity proceeds the deal was not feasible for the developer at 180 units.

20. STATUS WITH HUD

The HUD Commitment for 180 units is currently valid until June 11, 2017. HUD has been made aware of the change in number of units from 180 to 120 and is currently awaiting a HUD Commitment Amendment request from Dougherty Mortgage LLC with the changes including a reduction from 180 to 120 units and a reduction in HUD Commitment Loan amount of \$14,809,200 to \$8,331,900 as shown in this terms letter.

Since the final loan amount and borrower approval is to be determined by HUD as the maximum principal amount HUD will insure, the foregoing indications of loan amount and borrower approval are subject to change.

Subject to Lender's obtaining from HUD a firm Commitment for Insurance of a Mortgage Loan, in an amount and reflecting such terms and conditions as are acceptable to Lender and to Proposed Borrower, and further subject to all terms, conditions and provisions stated herein, as executed below by Lender, this document evidences the agreement of the Lender to make a loan (the "Loan") to the Proposed Borrower, to be secured by a credit instrument and security instrument (the "Mortgage") covering real property with existing improvements thereon.

Although this document is subject to final underwriting of Dougherty Mortgage LLC and HUD, third party report verification of underwriting as well as receipt of an award of tax credits, it does represent the understanding of the parties as to the contemplated loan, and it is on the basis of this Term Letter as Proposed Lender, will proceed toward applying for a HUD commitment.

Unless otherwise agreed, there will be no personal liability for defaults in payment of interest and/or principal on the Loan.

Additional Provisions:

Documents are to be executed on such forms and are to contain such terms and provisions as Lender deems necessary or appropriate and as required by FHA.

This Term Letter and any related application or commitment issued by FHA are subject to current Regulations, policies and procedures of FHA and any changes thereto.

The Lender serves in no fiduciary capacity or relationship to Borrower and/or Mortgagor.

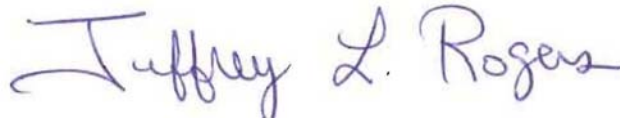
Palladium Anna, Ltd.
3/29/2017
Page 5

This term letter will expire on June 11, 2017.

APPROVED AND ACCEPTED THIS 29 DAY OF March, 2017.

DOUGHERTY MORTGAGE LLC

Signature:



Printed Name: Jeffrey L. Rogers, MAI, CCIM

Title: Senior Vice President

Date: March 29, 2017

Palladium Anna, Ltd.
Palladium Anna GP, LLC, its general partner

Signature:



Printed Name: Thomas E. Huth

Title: Authorized Representative

Date: 3/29/2017



U.S. Department of Housing and Urban Development
Southwest Multifamily Regional Center
801 Cherry Street, Unit # 45, Suite 2500
Fort Worth, TX 76102-6882

Multifamily Customer Service Telephone Line 1-800-568-2893
www.hud.gov

DEC 13 2016

Mr. Terry Skartsiaris
Dougherty Mortgage, LLC
16775 Addison Road, Suite 470
Addison, TX 75001

SUBJECT: **Palladium Anna**
113-35694
221(d)4 New Construction
Anna, Texas

Dear Mr. Skartsiaris:

Enclosed is an executed, scanned copy of the Commitment for Insurance of Advances, Form HUD-92432, for the subject project in the amount of \$14,809,200, a hard copy will not be issued. Also enclosed are forms HUD-92264, Multifamily Summary Appraisal Report; HUD-92264-A, Supplement to Project Income Analysis; HUD-2283, Financial Requirements for Closing, HUD-2328, Contractor's and/or Mortgagor's Cost Breakdown; HUD-92329, Property Insurance Schedule; and form HUD- 92447, Property Insurance Requirements.

Please acknowledge receipt and acceptance of this Commitment by having both the mortgagor and mortgagee sign on page 16. Within three-five business days, you will be contacted by your assigned Closing Coordinator to discuss the next steps and logistics of the closing process. The fully executed copy must be returned to the assigned Closing Coordinator within ten business days, along with the lender's attorney contact information. Amendment and extension requests, if any, must also be forwarded to the assigned Closing Coordinator prior to submitting your closing documents.

We look forward to the Initial Endorsement of this project. If you have any questions, you may contact Charlotte Mitchell at 817-978-5797.

Sincerely,

A handwritten signature in black ink that reads "Kenneth Cooper".

Kenneth Cooper
Acting Director Multifamily Production
Fort Worth

Enclosures

**COMMITMENT for Insurance of Advances
(Sections 207, 220, 221, 241(a) and 231)**

**OFFICE OF HOUSING
Multifamily Production**

**U.S. Department of Housing
and Urban Development**

WARNING: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to: 18 U.S.C. 1001, 1010, 1012; 13 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

FHA Project No.: **113-35694**

Project Name: **Palladium Anna**

Project Address: **NEQ FM 422 and State Highway
5**

Anna, Collin County, Texas

Dougherty Mortgage, LLC

("Lender")

16775 Addison Road, Suite 470

Addison, TX 75001

("Lender Address")

Palladium Anna, Ltd.

("Borrower")

13455 Noel Rd., Suite 400

Dallas, TX 75240

("Borrower Address")

We understand that you, as Lender, have agreed to make a loan to Borrower (the "**Loan**") in an amount not exceeding the Maximum Loan Amount (defined below), evidenced by a note (the "**Note**") to be secured by a security instrument (the "**Security Instrument**") covering real property as shown on the legal description of the property attached hereto as **Exhibit A** ("**Project**").

It is your intention to present the said Note and Security Instrument to the U.S. Department of Housing and Urban Development (“HUD”) for mortgage insurance under the provisions set forth in Section(s) 221(d)4 of the National Housing Act (“NHA”) (collectively, the “Section of the Act”) and the Regulations thereunder now in effect (the “Regulations”).

HUD hereby agrees to insure said Note and Security Instrument under the provisions of the NHA and Regulations upon the following conditions, all of which must be satisfied before this commitment letter (hereinafter referred to as the “Commitment”) is enforceable against HUD.

Lender and Borrower expressly acknowledge and agree that each numbered item contained in this Commitment, including those in **Exhibit B**, is an independent condition that must be satisfied before HUD is legally obligated to accept the Note and Security Instrument for mortgage insurance. The HUD act that signifies its acceptance of said Note and Security Instrument for mortgage insurance is the “Initial Endorsement” (initial Loan closing for insured advances) or “Final Endorsement” (final Loan closing for insured advances).

The conditions contained herein may include various references to the *Multifamily Accelerated Processing Guide* (the “MAP Guide”), the *Federal Housing Administration Multifamily Program Closing Guide* (the “FHA Closing Guide”), and HUD “Program Obligations” (as defined in the Security Instrument). All applicable requirements of the MAP Guide, FHA Closing Guide, and Program Obligations are hereby incorporated by reference.

The definition of each capitalized term used in this Commitment is indicated with quotation marks, and preceded or followed by data, information, narrative, or reference to another document.

FHA Project No.	113-35694	
“Firm Commitment Effective Date”	DEC 13 2016	
“Firm Commitment Term”	Sixty (60)	Days.
“Maximum Loan Amount”	\$14,809,200 Fourteen Million, Eight Hundred Nine Thousand, Two Hundred	
“Initial MIP Payment Amount”	\$103,664	
“MIP Percentage Rate”	.35%	% Per Annum
“Section 50 Signatories”	Palladium USA, Inc. Palladium Anna GP, LLC	

"Permanent Financing"		
"Permanent Interest Rate"	4.00%	<i>% Per Annum</i>
"Amortization Period"	480	<i>Months</i>
"Initial Principal Payment Month"	23rd	<i>Months after Date of Note Endorsement</i>
"Principal and Interest Payment Amount"	\$61,893.34	<i>Per Month</i>

"Secondary Financing"		
"Secondary Financing Source(s)"	LIHTC - \$16,498,350 Deferred Developer Fee - \$77	[NUMERIC DOLLAR AMOUNT OR N/A]
"Bridge Loan"	\$9,800,00	[NUMERIC DOLLAR AMOUNT OR N/A]

"Construction Terms"		
"Construction Contract Amount"	\$19,988,000	
"Construction Term"	20	<i>Months</i>
"Surety Bond Amounts"	[DOLLAR AMOUNT or N/A, due to use of Construction Completion Assurance Escrow equal to 15%, 25%, Other %]	
"Construction Period Interest Rate"	N/A	<i>% Per Annum</i>
"Cost Certification"	EXEMPT	

"Drawing and Specifications"	Palladium Anna Apartments
	August 25, 2016
"Deferred Drawing & Specifications"	
"Survey"	September 15, 2016/ Revised September 23, 2016
	John Glas/Glas Land Surveying

“Current Davis-Bacon Wage Decision”	
Collin	County
Texas	State
TX24	General Decision No.
(#)	Modification No.

“Reserves, Insurance and Escrows”		
“Initial Reserve for Replacement Deposit Amount”	\$0	<i>Prior to Closing</i>
“Annual Reserve for Replacement Amount”	\$54,000	<i>Per Year</i>
“Monthly Reserve for Replacement Payment Rate”	\$4,500	<i>Per Month</i>

“Inspection Fee Amount”	\$74,046
“Exam Fee Amount”	\$44,428
“Flood Insurance”	NOT REQUIRED
“Property Insurance Coverage Amount”	\$21,904,735
“Estimated Replacement Cost Value”	\$24,338,595
“Required Property Insurance Deductible”	\$25,000

“Working Capital Deposit Escrow Amount”	\$592,368	
“Additional Project Capital”	\$3,512,993	
“Maximum Contractor’s Fee”	\$19,988,000	
“Off-site Improvement Cost”	\$0	
“Assurance of Completion for Off-Site Improvements”	N/A	
“Demolition Cost”	N/A	
“Initial Operating Deficit Deposit”	\$595,914	
“Operating Deficit Period”	9 months	<i>Months after the date of Final Endorsement</i>

“ADDITIONAL & DEAL-SPECIFIC CONDITIONS”	
Additional & Deal-Specific Conditions are identified in Exhibit B	SEE EXHIBIT B

I. UNIFORM CONDITIONS - FIRM COMMITMENT

1. **Firm Commitment Acceptance.** The Borrower's and Lender's acceptance of the Commitment must be evidenced by the return of a fully executed copy to HUD on or before ten (10) business days from the "Firm Commitment Effective Date."
2. **Firm Commitment Term.** This Commitment shall expire after the "Firm Commitment Term" unless extended by HUD, excepting any conditions that must be satisfied prior to Final Endorsement, as discussed below. Upon such expiration, all rights and obligations of the respective parties shall cease, and pursuant to 24 C.F.R. § 200.47, HUD shall not insure the Note and Security Instrument. Prior to any extension of this Commitment, HUD may, at its option, reexamine this Commitment to determine whether it shall be extended in the same amount, or shall be amended to include a lesser amount. The Firm Commitment Term shall commence as of the date HUD executed this Commitment.
 - (a) **Reopening of Expired Firm Commitment.** A request for the reopening of this Commitment received within ninety (90) days of its expiration must be accompanied by the reopening fee of \$.50 per \$1,000 of the amount of the expired commitment.
3. **No Material Adverse Change.** Prior to Initial Endorsement the Lender must certify that there has been no material adverse change to the: (a) underwriting assumptions stated on the attachments to this Commitment; (b) financial condition or creditworthiness of the Borrower, or principals thereof; (c) Borrower's ability to perform its obligations or responsibilities under the loan documents; or (d) Project; and no event has occurred or circumstances exist that may result in such material adverse effect.
4. **Third Party Updates.** HUD may require submission of updated third-party reports and underwriting, which will be subject to HUD review and approval, to extend this Commitment beyond its original expiration. HUD may elect to not insure the Note and Security Instrument as a consequence of any material adverse change to such reports or underwriting.
5. **Compliance with Laws and HUD Requirements.** The Borrower, Lender, and Project comply with all applicable federal housing statutes and regulations. All certificates, documents and agreements required by this Commitment and required for closing are on HUD forms or, if no HUD form is available, must be approved by HUD. The closing procedures and requirements in the FHA Closing Guide are followed, including procedures for changes to closing documents when requested. To the extent any condition references a specific form number, HUD may require the use of any renumbered, successor, or otherwise formally updated version.
6. **HUD Review.** HUD reserves the right to examine the Lender's file materials related to the underwriting of the Note and Security Instrument at any time during the ten (10) -year period following Initial or Initial/Final (as applicable) Endorsement. If there is evidence of fraud or misrepresentation by the Lender, HUD reserves its legal rights under the contract of mortgage insurance and Mortgagee Review Board requirements. The Lender agrees to retain, in accessible files, all materials related to the underwriting of the Note and Security

Instrument for a period of ten (10) years, even though the Note and Security Instrument itself may be sold to another entity.

7. **Draft Closing Documents.** Draft closing documents, conforming to the terms of this Commitment, must be submitted not less than fifteen (15) business days prior to Initial Endorsement. After review, the place and date of the closing will be designated, at which time the documents and exhibits in final form shall be delivered to HUD for approval. This Commitment and exhibits referred to herein, and the statute and applicable regulations constitute the entire agreement among the parties, and the signature of the Borrower and Lender below hereof evidences acceptance of the terms.

8. **Closing Statement Certification.** Upon closing, the Lender must submit a certified loan closing statement signed by the Lender and Borrower that itemizes the disbursement of Loan proceeds and Borrower's cash contribution, if any. The statement regarding the disbursements must be specific and list the amounts to be paid to satisfy the Borrower's obligations for: (1) existing or other indebtedness in a refinancing transaction, (2) repairs, (3) discounts, (4) financing fees, (5) legal expenses, (6) organizational expenses, (7) title and recording costs, and (8) any Lender required escrows for GNMA, taxes, or insurance. The certified closing statement signed by the Borrower and Lender must include the following certification:

WARNING: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to: 18 U.S.C. 1001, 1010, 1012; 13 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

9. **Assurance of Permanent Financing.** Prior to endorsement, the Lender must provide HUD with a commitment for a permanent loan or other firm written assurance demonstrating that permanent financing will be available at the rate shown in the firm commitment application. The form of assurance must address, but is not limited to the: (1) source of financing; (2) term; (3) interest rate; (4) extension provisions; (5) dates for delivery of the permanent mortgage; and (6) any conditions that are, will be part of, or will impact on the permanent financing arrangements.

10. **Electronic Documents.** Acceptance of this Commitment includes the Lender's agreement to provide, within five (5) business days after closing, a CD or USB flash drive containing electronic copies of the fully executed and otherwise collected closing documents. The CD or USB flash drive should be submitted to the assigned HUD closing coordinator and the HUD closing attorney.

UNIFORM CONDITIONS - SECURITY

11. **Form of the Note and Security Instrument.** The Note and Security Instrument to be insured shall be in the form prescribed by HUD for use in connection with loans insured under the NHA in the locality in which the property is situated.
12. **First Lien Security Interest.** The Borrower and Lender, as applicable, shall provide a security agreement, UCC financing statements, and such other documents as required under State law, granting Lender and HUD a perfected first lien security interest in the UCC Collateral (as that term is defined in the Security Instrument, form HUD-94000M) (OMB Control number 2502-0598) for the duration of the insured Note and Security Instrument (subject only to liens for taxes and assessments that are not delinquent).
13. **Title Policy.** Prior to Initial Endorsement, the Borrower shall present to HUD an ALTA Loan title policy and title policy endorsements in conformity with the FHA Closing Guide in effect on the date of this Commitment which shows title to the property (or, if approved by HUD, a leasehold estate therein) vested in the Borrower free of all exceptions to title (either junior or prior to said Security Instrument except said Security Instrument and such other exceptions to title as are specifically determined to be acceptable by HUD) on the date of Initial or Initial/Final Endorsement (as applicable). Said title policy shall (i) by its terms inure to the benefit of the Lender and/or the U.S. Department of Housing and Urban Development, as their interests may appear.
14. **Survey.** If required by HUD prior to Initial Endorsement, and again prior to Final Endorsement, the Borrower shall present to HUD an ALTA/NSPS Survey of the Project and Surveyor's Report dated within 120 days of the closing, in form and substance satisfactory to HUD.
15. **Principal & Interest Payments.** Upon Initial Endorsement, the Lender shall pay to HUD, in advance, the "Mortgage Insurance Premium Initial Payment," which is calculated by multiplying the "Mortgage Insurance Premium Percentage Rate (MIP Rate)" by the principal amount of the Loan. The effective MIP rate is published annually in the Federal Register. The Lender shall continue to make mortgage insurance premium payments thereafter as required by the aforesaid Regulations.
16. **Secondary Financing.** All financing arrangements (other than the Note and Security Instrument and any other note and security instrument insured by HUD), including repayment obligations and other secondary financing, and occupancy restrictions, must be fully disclosed to and approved in writing by HUD prior to the date of this Commitment, and must comply with HUD's legal and administrative secondary financing requirements applicable to loans insured under the Section of the NHA applicable to the Note and Security Instrument, and must also comply with all HUD closing forms for subordinate financing and use restrictions, as applicable.
17. **Changes in Tax Credit Allocation or Other Governmental Assistance.** Pursuant to Form HUD-2880 (OMB control number 2510-0011), this Commitment is based on Borrower certifications regarding the absence or use of Tax Credits or Other Government Assistance.

Any change to the Borrower's financial position relating to Tax Credits or Other Government Assistance must be reflected in an updated Form HUD-2880. HUD reserves the right to unilaterally alter any and all of its underwriting determinations, and/or revise the terms of this Commitment or Regulatory Agreement in accordance with the change in Tax Credit Allocation or Other Governmental Assistance.

UNIFORM CONDITIONS - AUTHORITY & OWNERSHIP

- 18. Borrower Authority.** The Borrower must possess the powers necessary for meeting all the requirements of HUD for insurance of the Note and Security Instrument. Prior to Initial or Initial/Final Endorsement (as applicable), there shall be delivered to HUD and the Lender (a) copies of ownership entity documentation that complies with applicable requirements of HUD, including a copy of the instrument under which the Borrower entity is created, together with copies of all instruments or agreements necessary under the laws of the applicable jurisdiction to authorize execution of the other closing documents, and (b) a Regulatory Agreement in the form prescribed by HUD for use in connection with loans insured under the NHA (the "Regulatory Agreement").
- 19. Section 50 Signatory.** Section 50 of the Regulatory Agreement shall apply to the individuals or entities identified above as "Section 50 Signatories." It is a condition of this Commitment that none of the Section 50 Signatories may withdraw or be substituted without HUD's prior written approval. The continued involvement of the Section 50 Signatories shall be clearly documented as appropriate in the relevant organizational documents.
- 20. Changes in Ownership/Financial Support.** HUD has materially relied on the representations made in the firm commitment application as to the identity of all ownership entities and Project Principals, and individuals related to the transaction. It is a condition of this Commitment that any change to such ownership entities, including principals thereof, requires a written request to HUD for written approval of the change. All changes to the ownership entity, and principals thereof, shall be subject to HUD's credit review and previous participation clearance prior to Initial or Initial/Final Endorsement, as applicable. Additionally, the withdrawal of any individual/firm relied on for financial capacity prior to Initial or Initial/Final Endorsement (as applicable) requires prior approval by HUD.
- 21. Previous Participation (2530) Review.** Any individuals and entities in control of the Project are subject to a previous participation review as set forth in 24 C.F.R. part 200, as may be amended from time to time ("Previous Participation").

Any individual or entity who is subject to the Previous Participation regulations but who has not already received Previous Participation approval or who may later become involved with the Project, is subject to said Previous Participation review, mortgage credit review, and Office of Foreign Assets Control (OFAC)/Terrorism checks and verifications as required by the U.S. Patriot Act, prior to Initial or Initial/Final Endorsement (as applicable).

A closing date shall not be set until appropriate clearance and HUD approval is obtained for all participants. Previous Participation Certifications may be submitted to HUD

electronically via the Active Partners Performance System (APPS) or via paper form HUD-2530, or as directed by HUD. For those principals who opt to file a paper form HUD-2530, (OMB control number 2502-0118) these participants must register at Business Partner Registration HUD Multifamily and create a baseline in APPS prior to closing. To register, and for more information, please visit:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/appsmfhm.

22. **Assignment & Transfer.** Attention is directed to the Regulations covering the assignment or the transfer of the insured Note and Security Instrument, in whole or in part, and the transfer of the rights, privileges, and obligations under the contract of mortgage insurance.

UNIFORM CONDITIONS - PROJECT

23. **Property Insurance Coverage.** Prior to issuance of the Permission to Occupy or prior to Endorsement as applicable, the Borrower must provide evidence of all required insurance in conformance with Program Obligations. Property insurance, including fire and other property insurance as required by the Security Instrument, shall be in full force and effect and coverage must equal the minimum “**Property Insurance Coverage Amount,**” which is the lesser of 80% of “**Estimated Replacement Cost Value**” or the balance of the insured mortgage with a deductible that equals the “**Required Property Insurance Deductible Amount.**” Upon Endorsement, the Borrower must be current with respect to all payments required by the Note and Security Instrument, including all deposits required to be made with the Lender for mortgage insurance premiums, fire and other property insurance premiums, ground rents, water rates, taxes and other assessments.
24. **Flood Insurance.** If the property is located in an area of special flood hazards in which flood insurance is available under the National Flood Insurance Act, evidence of flood insurance is required prior to Initial Endorsement.
25. **Reserve for Replacement.** The Regulatory Agreement shall provide, among other things, for the establishment of a reserve fund for replacements (the “**Reserve Fund for Replacements**”) under the control of the Lender by payment of the “**Annual Reserve Fund for Replacement Amount,**” to be accumulated monthly at the “**Monthly Reserve Fund for Replacement Payment Rate,**” commencing on the date of the first payment to principal as established in the Note and Security Instrument, unless a later date is agreed upon by HUD. In addition to the Annual Reserve Fund for Replacement Amount, there shall be an initial deposit in the amount of not less than the “**Initial Reserve for Replacement Deposit Amount**” made to the Reserve Fund for Replacements by the Borrower at the time of Initial or Initial/Final Endorsement, as applicable. If applicable, attached hereto as **Exhibit D**, is the Reserve for Replacement Funding Schedule which supports the per annum and initial deposits to the Reserve for Replacements. The Annual Reserve Fund for Replacement Amount shall be subject to change in accordance with Program Obligations.
26. **Capital Needs Assessment.** In connection with the Reserve Fund for Replacements, the Lender shall obtain a new Capital Needs Assessment (“**CNA**”) for HUD to evaluate on or before the ten (10) year anniversary date of the latest CNA. A new CNA will be provided

every ten (10) years thereafter. The cost of each such CNA report may be paid from the Reserve Fund for Replacements.

II. PROGRAM CONDITIONS (New Construction/Substantial Rehabilitation)

1. Note Terms.

(a) The Note shall bear interest at the “**Construction Period Interest Rate**” during the “**Construction Period.**” As used herein, the Construction Period shall begin on the date of Initial Endorsement and end on the cost cut-off date approved by HUD (or such other date as may be approved by HUD). The Construction Period is scheduled to last for the number of months identified above as the “**Construction Term.**” After the Construction Period ends, the Note shall bear interest at the “**Permanent Interest Rate**” and shall be payable in the manner set forth below. (If the Note does not specify a Construction Period Interest Rate, the Note shall bear interest at the Permanent Interest Rate and shall be payable in the manner set forth below.)

Note: Any change in the interest rate may require reprocessing of the mortgage insurance application and amendment of this Commitment prior to Initial Endorsement.

(b) Payments of interest only on the outstanding principal balance shall be due and payable on the first day of each month, commencing not later than the first day of the month following initial endorsement of the Note for insurance (“**Initial Endorsement**”) and continuing through the first day of the month immediately prior to the date on which the first monthly payment of principal is due.

(c) The first payment to principal (commencement of amortization) shall be due on the first day of the “**Initial Principal Payment Month.**” The Note and Security Instrument shall be payable on a level annuity basis in the amount identified above as the “**Principal and Interest Payment Amount.**” Monthly principal and interest payments due prior to, or on the first day of the month after, final endorsement of the Note and Security Instrument (“**Final Endorsement**”) shall be adjusted to the extent that the full principal amount of the Note and Security Instrument has not yet been advanced in order for such payments to equal the sum of (i) interest on the outstanding principal balance plus (ii) the regularly scheduled principal amortization payments due on the Note and Security Instrument assuming that the full amount thereof has been advanced. The “**Amortization Period**” shall begin on the due date of the first repayment of the principal. The last payment shall be due on the “**Maturity Date,**” which shall be the first day of the final month in the Amortization Period.

2. **Project Construction.** The Project shall be constructed (“constructed” shall be deemed to include substantially rehabilitated, if applicable) on the property shown on Exhibit A in accordance with a “**Construction Contract**” (HUD-92442M) (OMB control number 2502-0598), approved by HUD, and with the project’s “**Drawings and Specifications**” filed with HUD and identified in the Index attached hereto as Exhibit B. The Drawings and Specifications, which include “**General Conditions of the Contract for Construction**” (AIA Document A201) and “**Supplementary Conditions of the Contract for**

Construction" (HUD-92554M) (OMB control number 2502-0598), shall be identified in a manner acceptable to HUD by the following parties or their authorized agents: Borrower, design architect, architect administering the Construction Contract, contractor, and if applicable, the contractor's surety. HUD encourages Borrowers to utilize energy saving devices and methods.

3. **Supplementary Conditions of the Contract for Construction**. The Borrower(s) and its contractors and subcontractors shall comply with all applicable federal labor standards provisions as expressed in the Supplementary Conditions of the Contract for Construction (HUD-92554M) (OMB control number 2502-0598), in connection with the construction of said Project.

4. **Drawings and Specifications**.

(a) **Deferred Drawing and Specifications**. If this Commitment has been issued and based upon schematic drawings instead of final drawings and specifications, at least thirty (30) days prior to closing, HUD must receive the final drawings and specifications for review and approval. In the event that there is a net cumulative construction cost increase or change in the design concept, or a net cumulative construction cost decrease in the amount of more than five percent (5%), this Commitment shall be subject to and conditioned upon further approval of HUD, to be evidenced in writing, and may be terminated and voided by HUD, or additional conditions may be imposed, at HUD's sole option.

(b) **Changes to Drawings and Specifications**. Any change in the Drawings and Specifications or in the related conditions upon which this Commitment is based, that may occur after the date hereof, shall be explained in writing, or in a supplementary application if required by HUD, and must be approved by HUD prior to Initial Endorsement. Any such change occurring subsequent to Initial Endorsement that requires HUD's approval under this paragraph must be brought to the attention of HUD immediately upon occurrence, and must be documented as a project change order and approved by both HUD and the Lender. HUD's approval of any change described above is subject to the procedures set forth in Chapter 12 of the MAP Guide.

5. **Building Agreements**. Approval of advances of insured loan proceeds in accordance with the Building Loan Agreement (Form HUD-92441M) (OMB control number 2502-0598) must be obtained on a form prescribed by HUD prior to the date of each advance to be insured. A Contractor's Prevailing Wage Certificate is included with the Contractor's Requisition Form (HUD-92448) (OMB control number 2502-0598) and shall be filed with the request for approval of each advance that includes a payment for construction costs. HUD's execution of Applications for Insurance of Advances of Mortgage Proceeds (Form HUD-92403) (OMB control number 2502-0097) shall be required only for advances made at Initial Endorsement or Final Endorsement and for advances of all or part of the contractor's retainage, and the Lender shall have the authority to approve all other advances of Loan proceeds on behalf of HUD. The "**Current Davis-Bacon Wage Decision**," as identified above, applies and must be verified prior to closing.

6. **Davis Bacon Wage Requirements.** The HUD Closing Coordinator will contact the HUD Office of Labor Standards and Enforcement (“OLSE”) at least two (2) weeks prior to the start of construction to determine whether a wage conference is necessary. If determined necessary, authorized representatives from the Borrower, general contractor, and any subcontractors specified by OLSE must attend (all subcontractors are encouraged to attend). Initial endorsement is contingent on the borrower having obtained a wage decision from OLSE effective for the date of closing.
7. **Pre-Construction Conference.** A pre-construction conference must be held the day of closing or, if requested and HUD scheduling permits, at an earlier date. Required attendees include authorized representatives from the Lender, Borrower, general contractor, architect, and sureties.
8. **Estimated Progress Schedule of Work.** No fewer than ten (10) calendar days prior to Initial Endorsement, an Estimated Progress Schedule of Work must be submitted by the general contractor for review and approval by HUD. The progress schedule is required by Article 3.10.1 of the AIA General Conditions, which is an integral part of the FHA Construction Contract, Form HUD-92442M (OMB control number 2502-0598).
9. **E&O Insurance.** Prior to Initial Endorsement, both the design architect and supervising architect shall provide evidence of errors and omissions (liability) insurance and shall agree to maintain errors and omissions insurance through acceptance of the 12-month warranty inspection.
10. **Flood Insurance.** If applicable, prior to Initial Endorsement, evidence of flood insurance is required whenever the property is located in an area of special flood hazards in which flood insurance is available under the National Flood Insurance Act.
11. **Asbestos O&M Plan/Lead Based Paint Survey.** Should any asbestos-containing materials (“ACMs”), lead paint or other environmental contaminants be encountered in the course of demolition or construction, such contaminants are to be handled in accordance with all applicable federal, state, and local requirements.
12. **Section 106 Consultation.** If an archaeological site, human remains, or cultural resources of tribal interest are revealed during the project's construction, HUD must be notified. HUD will contact responders to the Section 106 consultation, as applicable.
13. **HUD Inspection Fee.** During the course of construction, HUD shall at all times have access to the property and the right to inspect the progress of construction, and the “**Inspection Fee Amount**” shall be paid at or before Initial Endorsement. The inspection of construction by a representative of HUD shall be only for the benefit and protection of HUD. The inspection fee is subject to change based on the resizing of the Note and Security Instrument prior to Initial Endorsement.

- 14. HUD Application Fee (“Exam Fee”).** Prior to Initial Endorsement, the Lender shall also pay to HUD an application fee (also known as an “Exam Fee”) equal to the “**Exam Fee Amount**” set forth above, in accordance with Chapter 3 of the MAP Guide.
- 15. Completion Assurance.** At or prior to Initial Endorsement, there shall be submitted to HUD assurance of completion of the Project in the form of (i) Payment and Performance Bonds (“Surety Bonds”), each in the amount of 100% of the construction contract amount, in form and substance satisfactory to HUD and issued by a surety acceptable to HUD, or (ii) a completion assurance agreement reflecting a deposit of the “Construction Contract Completion Assurance Amount,” in form and substance satisfactory to HUD.
- 16. Escrows.** At or before Initial Endorsement, the Lender or its nominee shall collect escrowed funds (in the form of cash and/or, except with respect to clause (c) below, one or more unconditional and irrevocable letters of credit) to be applied to the following items:
- (a) **Working Capital Deposit Escrow Amount.** Funds for application to taxes, mortgage insurance premiums, property insurance premiums and assessments required by the terms of the Security Instrument accruing subsequent to Initial Endorsement, and not from Loan proceeds, in the amount identified above as the “**Working Capital Deposit Escrow Amount.**”
- (b) **Additional Project Capital Amount.** Funds required over and above Note and Security Instrument proceeds for completion of the Project in the amount identified above as the “**Additional Project Capital Amount.**” This sum represents the difference between HUD’s estimate of the total cash required for carrying charges, financing, and for construction of the Project, including contractor’s fees and overhead, architect’s fees, and other fees, and the maximum amount of the Note and Security Instrument to be insured. These funds may be reduced by (i) so much of the contractor’s fees up to “**Maximum Contractor’s Fee Amount,**” as the closing documents show, are not to be paid in cash, and (ii) amounts that have been prepaid by or on behalf of the Borrower, as evidenced by a certification of the Borrower.

- (c) **Off-site Improvement & Demolition Costs.** Funds for application to the costs of off-site improvements in the amount identified above as the “**Off-site Improvement Cost,**” and the amount identified above as the “**Demolition Cost.**”
- (d) **Initial Operating Deficit Deposit.** Funds in the amount identified above as the “**Initial Operating Deficit Deposit**” held in escrow either by cash, a letter of credit, or excess mortgage proceeds, or excess land equity, if any, for application to the Project expenses beginning on the later of (1) the date on which all or part of the Project receives a certificate of occupancy, or (2) the date on which the residents first occupy the Project, and ending on the later of (1) the “**Operating Deficit Period**” or (2) the date by which the Project has demonstrated to HUD’s satisfaction that the Project has achieved a debt service coverage ratio (including Mortgage Insurance Premium) of at least 1.0 for six consecutive months (break-even occupancy).
- (e) At Initial Endorsement, the Lender shall deliver to HUD a Lender’s Certificate (form HUD-92434M) (OMB control number 2502-0598) evidencing the escrow of funds corresponding to the accounts described above. All funds deposited with the Lender or its nominee under this paragraph shall be held and disbursed by the Lender or its nominee in accordance with the applicable HUD requirements.

17. Insurance Coverage. Prior to issuance of the Permission to Occupy, the Borrower must provide evidence of all required insurance in conformance with current program requirements. Property insurance coverage must equal the minimum “**Property Insurance Coverage Amount**”, which is at least 90% of “**Estimated Replacement Cost Value,**” with a deductible that equals the “**Required Property Insurance Deductible Amount.**”

17. Occupancy Approval. To the extent that the Borrower has not done so prior to Initial Endorsement, the Borrower must provide to HUD evidence/documentation from the appropriate local/state local authorities showing approval or conditional approval for the occupancy of the Project prior to any actual occupancy of the Project (or applicable portion thereof).

18. Tenant Security Deposits. If the property is currently occupied, prior to Initial Endorsement the Borrower must provide proof of a tenant security deposit account. The Borrower must fully fund the tenant security deposit account prior to closing and must certify in writing that all tenant security deposits are kept separate and apart from all other funds of the Project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account. Any security deposit collected after the date of closing is limited in the amount to no more than one month’s rent.

19. Cost Certification. Borrower must provide a Cost Certification (under Forms HUD-92330 and 92330-A)(OMB control number 2502-0112) unless HUD has determined that the Project is exempt from this requirement in accordance with the terms below.

- a. **Cost Savings.** Any interest savings resulting purely from a differential between the processed interest rate and the actual final interest rate may not be construed as excess funds offsetting costs in other categories at the time of cost certification. To the

extent that the amount of the Note and Security Instrument set forth in this Commitment has been determined based upon Replacement Cost, any such savings must be applied as a reduction in the amount of the Note and Security Instrument, or placed in the Reserve for Replacement account or other use as deemed appropriate as project betterment by HUD.


- b. **Cost Certification Exemption.** A Project may be exempt from providing a Cost Certification if the transaction involves LIHTC equity as a source of funds and the ratio of Loan proceeds to the actual cost of the Project is less than or equal to eighty percent (80%) as determined by HUD as of the date of this Commitment. If HUD has determined that the Project qualifies for the Cost Certification Exemption, then at least thirty (30) days prior to Final Endorsement, the Borrower must submit an Income and Expense Statement covering the period beginning at the later of (i) first occupancy (*i.e.* projects occupied during construction) or (ii) substantial completion (as determined by HUD) and ending three (3) months prior to the first payment of principal as originally scheduled. With respect to any income for this period, the Borrower must either (i) deposit such funds into the Project's Reserve for Replacement account or (ii) demonstrate to HUD's satisfaction that such funds were used to cover non-mortgageable costs or improvements.

20. **Continuing Obligations & Final Endorsement.** Once HUD endorses the Note and Security Instrument for mortgage insurance upon satisfaction of all conditions required prior to Initial Endorsement, pursuant to 24 C.F.R. §200.100(b), Borrower and Lender shall continue to be obligated to satisfy all remaining conditions contained herein that must be satisfied before Final Endorsement. Upon completion of the Project in accordance with the Drawings and Specifications, the Note will be finally endorsed for insurance to the extent of the advances of Note and Security Instrument proceeds approved by HUD, subject to reduction as provided in the Regulations.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

acting by and through the **Secretary:**

By: 
Kenneth L. Cooper, Acting Director
____ Southwest Multifamily Production

Date: 12/13/2016


This Commitment, including Exhibit B conditions (if applicable), is hereby accepted by the undersigned, and we hereby agree to be bound by the terms hereof.

Each signatory below hereby certifies such signatory's statements and representations contained in this Commitment and all supporting documentation provided by such signatory are true, accurate, and complete. This Commitment has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

BORROWER:

Palladium Anna, Ltd.

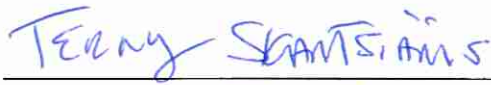
Date: 12-20-2016

By: 
Name: Thomas E. Huth
Title: Authorized Representative

LENDER:

Dougherty Mortgage LLC

Date: 12-20-16

By: 
Name: TERRY SKATSIARIS
Title: VP

Attachments:

Exhibit A – Legal Description

Exhibit B – Additional Conditions

Exhibit C – Listing of Drawings and Specifications

Exhibit D – Reserve for Replacement Funding Schedule (if applicable)

Exhibit E - Form HUD-92264A (OMB control number 2502-0029)

SCHEDULE A
(continued)

4. Legal description of land:

SITUATED in the State of Texas, County of Collin, and City of Anna, being part of the Grandison Stark Survey, Abstract No. 798, and being part of a called 40.00 acre tract as recorded in Volume 5622, Page 1863 of the Collin County Land Records with said premises being more particularly described as follows:

COMMENCING at a wood fence corner post in the east right-of-way line of the Dallas Area Rapid Transit rail line marking the southwest corner of said 40.00 acre tract and the most westerly northwest corner of an 80.00 acre tract as recorded under Document No. 20150317000291340 of the Collin County Land Records;

THENCE with the south line of said 40.00 acre tract and the north line of said 80.00 acre tract, South 87°54'05" East, 52.17 feet to a Glas capped iron rod found and South 89°13'04" East, 21.47 feet to a Glas capped iron rod found marking the POINT OF BEGINNING for the herein described premises;

THENCE with the west line of said premises, being 120 feet east of and parallel to the centerline track of the Dallas Area Rapid Transit rail line, North 19°48'29" East, 599.66 feet to a Glas capped iron rod found marking the northwest corner of said premises;

THENCE with the north line of said premises, North 89°55'58" East, 574.41 feet to a Glas capped iron rod found marking the northeast corner of said premises;

THENCE with the east line of said premises, South 09°21'00" East, passing a Glas capped iron rod found at 53.08 feet marking the most northerly northwest corner of the aforementioned 80.00 acre tract and continuing along a west line of said 80.00 acre tract for a total distance of 584.54 feet to a Glas capped iron rod found marking the southeast corner of said premises, an interior ell-corner of said 80.00 acre tract, and being in the south line of said 40.00 acre tract;

THENCE with the south line of said 40.00 acre tract, the south line of said premises, and a north line of said 80.00 acre tract, North 89°13'04" West, 872.67 feet to the point of beginning and containing 9.482 acres of land.

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

END OF SCHEDULE A

180 Unit Example

Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example

**Investment Summary
Anna, Collin County, TX
2016 - 9% HTC; TDHCA #16178**

PROJECT SUMMARY

						Annual			
						Total	Per Unit		
Number of Low Income Units	108	60.0%							
Number of Market Rate Units	72	40.0%							
Total Number of Units	180	100.0%							
		Number	%	Avg SF					
1 Bed Units	54	30.0%	804						
2 Bed Units	90	50.0%	960						
3 Bed Units	36	20.0%	1,154						
	180	100.0%	952						
% of Total Units	% of Tax Credit								
6.1%	10.19%	11	Units at	30%	Area Median Income				
24.4%	40.74%	44	Units at	50%	Area Median Income				
29.4%	49.07%	53	Units at	60%	Area Median Income				
40.0%	-	72	Units at	Market					
100.0%	100.00%	180							
Total Net Rentable Square Footage:				171,360					
Acreage:				9.4820					
						Projected Loan/Equity Closing date:	Jun-17		
						Total Rental Income	\$1,821,300	\$10,118	
						Other Income	\$42,864	\$238	
						Total Gross Potential Income	\$1,864,164	\$10,356	
						Vacancy	7.50%	-\$139,812	-\$777
						Total Net Revenue	\$1,724,352	\$9,580	
						Expenses			
						Operating	\$598,894	\$3,327	
						Management Fee	5.00%	\$86,218	\$479
						Property Taxes	\$180,000	\$1,000	
						Reserves	\$54,000	\$300	
						Total Expenses	\$919,112	\$5,106	
						Net Operating Income	\$805,240	\$4,474	DSC
						Total Debt Service	\$671,033	\$3,728	1.200
						Net Income	\$134,207	\$746	

Sources of Funds

Debt	Permanent Phase	Capital Stack	% of Total Capital		Per Unit	Construction Phase	Capital Stack	% of Total Capital Stack
			Rate (incl. MIP)					
Taxable Loan/Tax Exempt Bonds	4.50%	\$12,250,072	41%		\$68,056	4.15%	\$12,250,072	41%
Equity		Actual	Limited To					
Tax Credit Equity	\$1,818,179	\$1,500,000	\$0.92	\$13,798,620	46%	\$76,659	\$13,798,620	46%
Deferred Developer Fee		100.00%	\$3,405,752	\$3,405,752	11%	\$18,921	\$3,405,752	11%
GP Equity			\$298,159	\$298,159	1%	\$1,656	\$298,159	1%
City LPS Funding			\$175,000	\$175,000	1%	\$972	\$175,000	1%
Total Sources of Funds			\$29,927,603	\$29,927,603	100%	\$166,264	\$29,927,603	100%

Uses of Funds

	Total Costs	Per Unit	Per Sq. Ft.	% of Total Dev. Cost
Land and Related	\$1,636,429	\$9,091	\$9.55	5.47%
Construction Hard Cost and Related	\$20,512,313	\$113,957	\$119.70	68.54%
Architecture & Engineering	\$806,411	\$4,480	\$4.71	2.69%
Permits and Fees	\$522,567	\$2,903	\$3.05	1.75%
Financing	\$603,675	\$3,354	\$3.52	2.02%
Construction Period Interest	\$430,948	\$2,394	\$2.51	1.44%
Bond Costs	\$0	\$0	\$0.00	0.00%
Tax Credit Costs	\$66,150	\$368	\$0.39	0.22%
Soft Costs	\$57,450	\$319	\$0.34	0.19%
Legal	\$150,000	\$833	\$0.88	0.50%
FF&E	\$200,000	\$1,111	\$1.17	0.67%
Pre Stabilization Costs	\$190,831	\$1,060	\$1.11	0.64%
Reserves	\$1,345,075	\$7,473	\$7.85	4.49%
Developer Fee	\$3,405,752	\$18,921	\$19.87	11.38%
Total Uses of Funds	\$29,927,603	\$166,264	\$174.65	100.00%

Developer Fee

	Payment Dates	Total	Per Unit	Per Sq. Ft.	% of Total Dev. Fee	% of Cash Fee	% of Total		
							Palladium	HUB	Total
Closing	6/1/2017	\$0	\$0	\$0.00	0.00%	#DIV/0!	90%	10.0%	100%
Construction Completion	12/1/2018	\$0	\$0	\$0.00	0.00%	#DIV/0!	\$0	\$0	\$0
Permanent Loan Conversion	4/1/2019	\$0	\$0	\$0.00	0.00%	#DIV/0!	\$0	\$0	\$0
Receipt of 8609s	7/1/2019	\$0	\$0	\$0.00	0.00%	#DIV/0!	\$0	\$0	\$0
Total Cash Developer Fee		\$0	\$0	\$0.00	0.00%	#DIV/0!	\$0	\$0	\$0
Deferred Developer Fee-paid from Cash Flow		\$3,405,752	\$18,921	\$19.87	100.00%		\$3,065,177	\$340,575	\$3,405,752
Total Developer Fee		\$3,405,752	\$18,921	\$19.87	100.00%		\$3,065,177	\$340,575	\$3,405,752

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Rent Schedule													
Unit Type	HTC Units	HOME Units (Rent/Inc)	# of Units	% of Units	# of Bed-rooms	# of Baths	Unit Size (NRSF)	Total NRSF	Program Rent Limit	Tenant Paid Utility Allowance	Net Rent Per Unit	Total Monthly Rent	Total Annual Rent
1bd/1ba	30%		7	13%	1	1	804	5,628	\$403	\$65	\$338	\$2,366	\$28,392
1bd/1ba	50%		25	46%	1	1	804	20,100	\$672	\$65	\$607	\$15,175	\$182,100
1bd/1ba	60%		0	0%	1	1	804	-	\$807	\$65	\$742	\$0	\$0
1bd/1ba	Market		22	41%	1	1	804	17,688	\$840	\$0	\$840	\$18,480	\$221,760
Total		30%	54	100%									

2bd/2ba	30%		4	4%	2	2	960	3,840	\$484	\$85	\$399	\$1,596	\$19,152
2bd/2ba	50%		16	18%	2	2	960	15,360	\$807	\$85	\$722	\$11,552	\$138,624
2bd/2ba	60%		39	43%	2	2	960	37,440	\$969	\$85	\$884	\$34,476	\$413,712
2bd/2ba	Market		31	34%	2	2	960	29,760	\$980	\$0	\$980	\$30,380	\$364,560
Total		50%	90	100%									

3bd/2ba	30%		0	0%	3	2	1154	-	\$0	\$106	-\$106	\$0	\$0
3bd/2ba	50%		3	8%	3	2	1154	3,462	\$932	\$106	\$826	\$2,478	\$29,736
3bd/2ba	60%		14	39%	3	2	1154	16,156	\$1,119	\$106	\$1,013	\$14,182	\$170,184
3bd/2ba	Market		19	53%	3	2	1154	21,926	\$1,110	\$0	\$1,110	\$21,090	\$253,080
Total		20%	36	100%									

Total Rental Income	100%	180	952	171,360	\$843	\$151,775	\$1,821,300
Affordable		108	60.0%				
Market rate		72	40.0%				

Non Rental Income	\$0.00	per unit/month for:	Garage and Carport Rentals	\$0	\$0
Non Rental Income	\$12.11	per unit/month for:	Application, Pet, Late and NSF Fees	\$2,180	\$26,160
Non Rental Income	\$7.73	per unit/month for:	Laundry, Vending, Cable	\$1,392	\$16,704
Total Non Rental Income	\$19.84			\$3,572	\$42,864

Total Gross Potential Revenue	\$155,347	\$1,864,164
Vacancy %	7.50%	\$11,651
Net Revenue	\$143,696	\$1,724,352

Schedule of Utility Allowances						
Category	Type	Bedrooms				
		Eff	1	2	3	4
Heating		0.00	\$18.53	\$22.41	\$26.29	0.00
Cooking		0.00	\$5.05	\$7.30	\$9.56	0.00
Other Electric		0.00	\$19.05	\$26.51	\$33.96	0.00
Air Conditioning		0.00	\$9.51	\$13.19	\$16.86	0.00
Water Heating		0.00	\$11.99	\$15.30	\$18.62	0.00
Electric Service Fee		0.00	\$0.00	\$0.00	\$0.00	0.00
Water		0.00	\$0.00	\$0.00	\$0.00	0.00
Sewer/Trash		0.00	\$0.00	\$0.00	\$0.00	0.00
Gas Service Fee		0.00	\$0.00	\$0.00	\$0.00	0.00
Adjuster to Current UA from DPC		0.00	\$0.00	\$0.00	\$0.00	0.00
Total		0.00	65.00	85.00	106.00	0.00
Source	HUD					
Effective	6-Jul-16					

Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example

2016 - 9% HTC; TDHCA #16178

ANNUAL OPERATING EXPENSES

	Total	Per Unit	Per NRSF
General & Administrative Expenses			
Accounting	9,643	54	0.06
Advertising	15,044	84	0.09
Legal fees	5,786	32	0.03
Leased equipment	3,857	21	0.02
Postage & office supplies	6,720	37	0.04
Telephone	4,629	26	0.03
Other - Computer and Related	7,174	40	0.04
Other - Compliance Consultant	3,086	17	0.02
Total General & Administrative Expenses:	55,939	311	0.33
Management Fee: 5.0%	86,218	479	0.50
Payroll, Payroll Tax & Employee Benefits			
Management	117,024	650	0.68
Maintenance	140,429	780	0.82
Total Payroll, Payroll Tax & Employee Benefits:	257,453	1,430	1.50
Repairs & Maintenance			
Elevator	-	-	-
Exterminating	1,869	10	0.01
Grounds	11,524	64	0.07
Make-ready	54,009	300	0.32
Repairs	37,510	208	0.22
Pool	3,115	17	0.02
Contract Maintenance	-	-	-
Other	-	-	-
Total Repairs & Maintenance:	108,027	600	0.63
Utilities			
Electric	36,257	201	0.21
Natural gas	-	-	-
Trash	13,886	77	0.08
Water & sewer	64,029	356	0.37
Other	-	-	-
Other	-	-	-
Total Utilities:	114,171	634	0.67
Property Insurance:	49,500	275	0.29
Property Taxes			
Annual Property Taxes:	180,000	1,000	1.05
Payments in Lieu of Taxes:	-	-	-
Other Taxes: Franchise Tax	9,484	53	0.06
Total Property Taxes:	189,484	1,053	1.11
Reserve for Replacements:	54,000	300	0.32
Other Expenses			
Cable TV	-	-	-
Supportive service contract fees	-	-	-
TDHCA Compliance fees	4,320	24	0.03
Bond Administration Fees	-	-	-
Security	-	-	-
Other - TSAHC Bond Compliance Fees	-	-	-
Other - Bond Administration	-	-	-
Total Other Expenses:	4,320	24	0.03
TOTAL ANNUAL EXPENSES	919,112	5,106	5.36
Expense to Income Ratio:	53.30%		
NET OPERATING INCOME	805,240	4,474	4.70
Annual Debt Service			
1st Mortgage	671,033	3,728	3.92
HOME Funds	-	-	-
LPS Funding	-	-	-
Other	-	-	-
Total Annual Debt Service/Debt Coverage Ratio 1.20	671,033	3,728	3.92
NET CASH FLOW	134,207	746	0.78

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Development Cost Schedule

	Total Cost	Eligible Basis
ACQUISITION		
Site acquisition cost	1,590,700	0
Existing building acquisition cost	0	0
Rollback Taxes	20,729	0
Other - Broker Fees	25,000	0
Subtotal Acquisition Cost	\$1,636,429	\$0
OFF-SITES		
Off-site concrete	0	0
Storm drains & devices	0	0
Water & fire hydrants	0	0
Off-site utilities	0	0
Sewer lateral(s)	0	0
Off-site paving	0	0
Off-site electrical	0	0
Other -	0	0
Subtotal Off-Sites Cost	\$0	\$0
SITE WORK		
Demolition	0	0
Rough grading	689,876	689,876
Fine grading	137,603	137,603
On-site concrete	862,810	862,810
On-site electrical	207,335	207,335
On-site paving	0	0
On-site utilities	776,343	776,343
Decorative masonry	0	0
Bumper stops, striping & signs	26,033	26,033
Other -	0	0
Subtotal Site Work Cost	\$2,700,000	\$2,700,000
SITE AMENITIES		
Landscaping	221,726	221,726
Pool and decking	339,290	339,290
Athletic court(s), playground(s)	75,159	75,159
Fencing	212,050	212,050
Other -	0	0
Subtotal Site Amenities Cost	\$848,224	\$848,224
BUILDING COSTS:		
Concrete	2,316,672	2,316,672
Masonry	572,978	572,978
Metals	317,811	317,811
Woods and Plastics	3,358,263	3,358,263
Thermal and Moisture Protection	198,624	198,624
Roof Covering	370,779	370,779
Doors and Windows	838,798	838,798

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Development Cost Schedule

		Total Cost	Eligible Basis
BUILDING COSTS (Continued)			
Finishes		283,028	283,028
Specialties		119,179	119,179
Equipment		532,047	532,047
Furnishings		469,725	469,725
Special Construction		0	0
Conveying Systems (Elevators)		0	0
Mechanical (HVAC; Plumbing)		2,220,974	2,220,974
Electrical		1,689,962	1,689,962
Individually itemize costs below:			
Detached Community Facilities/Building		477,500	477,500
Carports and/or Garages		173,000	0
Lead-Based Paint Abatement		0	0
Asbestos Abatement		0	0
Structured Parking		0	0
Commercial Space Costs		0	0
Other -		0	0
Subtotal Building Costs		\$13,939,340	\$13,766,340
TOTAL BUILDING COSTS & SITE WORK (including site amenities)		\$17,487,564	\$17,314,564
Contingency	5.00%	\$874,378	\$865,728
TOTAL HARD COSTS		\$18,361,943	\$18,180,293
OTHER CONSTRUCTION COSTS			
General requirements (6%)	6.00%	1,049,254	1,038,874
Field supervision (within GR limit)		0	0
Contractor overhead (2%)	2.00%	349,751	346,291
G & A Field (within overhead limit)		0	0
Contractor profit (6%)	6.00%	1,049,254	1,042,334
TOTAL CONTRACTOR FEES		\$2,448,259	\$2,427,499
TOTAL CONSTRUCTION CONTRACT		\$20,810,202	\$20,607,792
SOFT COSTS			
Architectural - Design fees		261,600	261,600
Architectural - Supervision fees		56,020	56,020
Engineering fees		77,760	77,760
Real estate attorney/other legal fees		90,000	45,000
Accounting fees		45,000	45,000
Impact Fees		284,428	284,428
Building permits & related costs		132,882	132,882
Appraisal		8,000	8,000
Market analysis		11,000	11,000
Environmental assessment		6,950	6,950
Soils report		5,280	5,280
Survey		12,500	12,500
Marketing		0	0
Hazard & liability insurance		167,695	167,695
Real property taxes		75,000	75,000
Personal property taxes		0	0
Tenant relocation expenses		0	0
Contingency		0	0
Reimbursables		15,000	0
FF&E		200,000	200,000
Subtotal Soft Cost		\$1,449,115	\$1,389,115

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Development Cost Schedule

	Total Cost	Eligible Basis
FINANCING:		
CONSTRUCTION LOAN(S)		
Interest	430,948	344,759
Loan origination fees	36,750	36,750
Title & recording fees	87,089	87,089
Closing costs & legal fees	0	0
Inspection fees	76,750	76,750
Credit Report	0	0
Discount Points	0	0
Letters of Credit	0	0
Materials Testing	40,000	40,000
Letter of Credit/MIP	0	0
PERMANENT LOAN(S)		
Loan origination fees	245,001	0
Title & recording fees	0	0
Closing costs & legal	39,000	0
Bond premium	0	0
Credit report	0	0
Discount points	0	0
Credit enhancement fees	0	0
Prepaid MIP	0	0
Mortgage Broker	0	0
Application Fee	0	0
BRIDGE LOAN(S)		
Interest	0	0
Loan origination fees	0	0
Title & recording fees	0	0
Closing costs & legal fees	0	0
Other -	0	0
Other -	0	0
OTHER FINANCING COSTS		
Tax credit fees	66,150	0
Tax and/or bond counsel	0	0
Payment bonds	0	0
Performance bonds	105,257	105,257
Credit enhancement fees	0	0
Mortgage insurance premiums	85,751	0
Cost of bond underwriting & issuance	0	0
Syndication organizational cost	0	0
Tax opinion	0	0
Contractor Guarantee Fee	0	0
Developer Guarantee Fee	0	0
Other - Equity Investor Legal	35,000	17,500
Other - Equity Title	33,333	0
Subtotal Financing Cost	\$1,281,031	\$708,106
DEVELOPER FEES		
Housing consultant fees	0	0
General & administrative	0	0
Profit or fee	3,405,752	3,405,752
Subtotal Developer Fees	\$3,405,752	\$3,405,752
	12.84%	15.00%

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Development Cost Schedule

	Total Cost	Eligible Basis
RESERVES		
Rent-up	490,003	0
Operating	795,073	0
Replacement	0	0
Escrows	60,000	0
Subtotal Reserves	\$1,345,075	\$0
TOTAL HOUSING DEVELOPMENT COSTS	\$29,927,603	\$26,110,764
Total Eligible Basis		\$26,110,764
High Cost Area Adjustment (100% or 130%)		130%
Total Adjusted Basis		\$33,943,993
Applicable Fraction		59.51563959%
Total Qualified Basis		\$20,201,984
Applicable Percentage		9.000%
Credits Supported By Eligible Basis (May be greater than actual request)		\$1,818,179
Credits Approved by TDHCA		\$1,500,000

Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example

Anna, Collin County, TX
2016 - 9% HTC; TDHCA #16178

15 YEAR OPERATING PROFORMA	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	
Income																
Gross Potential Revenue	1,821,300	1,857,726	1,894,881	1,932,778	1,971,434	2,010,862	2,051,080	2,092,101	2,133,943	2,176,622	2,220,155	2,264,558	2,309,849	2,356,046	2,403,167	
Other Income	42,864	43,721	44,596	45,488	46,397	47,325	48,272	49,237	50,222	51,226	52,251	53,296	54,362	55,449	56,558	
Interest Earnings on DSRF	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Gross Potential Revenue	1,864,164	1,901,447	1,939,476	1,978,266	2,017,831	2,058,188	2,099,351	2,141,338	2,184,165	2,227,849	2,272,406	2,317,854	2,364,211	2,411,495	2,459,725	
Less: Vacancy 7.50%	139,812	142,609	145,461	148,370	151,337	154,364	157,451	160,600	163,812	167,089	170,430	173,839	177,316	180,862	184,479	
TOTAL REVENUE	1,724,352	1,758,839	1,794,016	1,829,896	1,866,494	1,903,824	1,941,900	1,980,738	2,020,353	2,060,760	2,101,975	2,144,015	2,186,895	2,230,633	2,275,245	
Expenses																
General and Administrative Expenses	55,939	57,617	59,346	61,126	62,960	64,849	66,794	68,798	70,862	72,988	75,177	77,433	79,756	82,148	84,613	
Management Fee	86,218	87,942	89,701	91,495	93,325	95,191	97,095	99,037	101,018	103,038	105,099	107,201	109,345	111,532	113,762	
Payroll, Payroll Taxes, Employee Benefits	257,453	265,177	273,132	281,326	289,766	298,459	307,412	316,635	326,134	335,918	345,995	356,375	367,066	378,078	389,421	
Repairs and Maintenance	108,027	111,268	114,606	118,044	121,585	125,233	128,990	132,860	136,845	140,951	145,179	149,535	154,021	158,641	163,401	
Electric and Gas Utilities	36,257	37,345	38,465	39,619	40,808	42,032	43,293	44,592	45,929	47,307	48,727	50,188	51,694	53,245	54,842	
Water, Sewer and Trash Utilities	77,914	80,252	82,659	85,139	87,693	90,324	93,034	95,825	98,699	101,660	104,710	107,852	111,087	114,420	117,852	
Annual Property Insurance Premiums	49,500	50,985	52,515	54,090	55,713	57,384	59,106	60,879	62,705	64,586	66,524	68,520	70,575	72,692	74,873	
Property Taxes	189,484	195,168	201,024	207,054	213,266	219,664	226,254	233,041	240,033	247,234	254,651	262,290	270,159	278,264	286,611	
Reserves	54,000	55,620	57,289	59,007	60,777	62,601	64,479	66,413	68,406	70,458	72,571	74,749	76,991	79,301	81,680	
Other Expenses	4,320	4,450	4,583	4,721	4,862	5,008	5,158	5,313	5,472	5,637	5,806	5,980	6,159	6,344	6,534	
TOTAL EXPENSES	919,112	945,823	973,318	1,001,621	1,030,755	1,060,744	1,091,614	1,123,392	1,156,103	1,189,776	1,224,439	1,260,121	1,296,853	1,334,665	1,373,590	
NET OPERATING INCOME	805,240	813,016	820,697	828,275	835,739	843,080	850,286	857,346	864,250	870,984	877,536	883,893	890,042	895,968	901,656	
Debt Service																
Tax-Exempt Bonds	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Coverage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Taxable debt	671,033	670,606	670,160	669,696	669,212	668,708	668,182	667,635	667,063	666,468	665,848	665,201	664,527	663,825	663,093	
Coverage	1.20	1.21	1.22	1.24	1.25	1.26	1.27	1.28	1.30	1.31	1.32	1.33	1.34	1.35	1.36	
Other Debt - HOME Funds	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Other Debt Coverage - HOME Funds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TOTAL DEBT SERVICE	671,033	670,606	670,160	669,696	669,212	668,708	668,182	667,635	667,063	666,468	665,848	665,201	664,527	663,825	663,093	
All In Debt Service Coverage Ratio	1.200	1.21	1.22	1.24	1.25	1.26	1.27	1.28	1.30	1.31	1.32	1.33	1.34	1.35	1.36	
															Total	
CASH FLOW	134,207	142,410	150,537	158,579	166,527	174,372	182,103	189,712	197,186	204,515	211,688	218,692	225,515	232,143	238,563	2,826,747

**Palladium Anna - TDHCA Resubmission - 180 Units - 108 HTC Example
2016 - 9% HTC; TDHCA #16178**

Financing Narrative and Summary of Sources and Uses of Funds

Financing Participants	Funding Description	Construction Period			Permanent Period					
		Loan/Equity Amount	Interest Rate	Lien Position	Loan/Equity Amount	Interest Rate	Amortization Yrs	Term (Yrs)	Syndication Rate	Lien Position
Debt										
TDHCA	HOME	\$0	0%		\$0	0%	30	40		0
TDHCA	NSP	\$0	0%		\$0	0%	0	0		
TDHCA	Mortgage Revenue Bond	\$0	0%		\$0	0%	0	0		
Dougherty Mortgage	HUD 221(d)(4)	\$12,250,072	4.15%	1	\$12,250,072	4.50%	40	40		1
						(including MIP)				
Third Party Equity										
Hudson	HTC	\$1,500,000			\$13,798,620				\$0.92	
Grant										
Anna, Collin County, TX		\$175,000			\$175,000					
		\$0			\$0					
Deferred Developer Fee										
Palladium USA	100%	\$3,405,752			\$3,405,752					
General Partner Equity		\$298,159			298,159					
Other										
	Deferred Operating Deficit Reserve	\$0			\$0					
	Deferred Tax and Insurance Reserve	\$0			\$0					
	Total Sources of Funds	\$29,927,603			\$29,927,603					
	Total Uses of Funds				\$29,927,603					
		\$0	OK		\$0	OK				

Briefly describe the financing plan for the Development, including the sources and uses of funds, matching funds (if applicable), and any other financing. The information must be consistent with all other documentation in this section.

CONSTRUCTION CONTRACT

U.S. Department of Housing and Urban Development Office of Housing

OMB Approval No. 2502-0598 (Exp. 06/30/2017)

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

HUD Project No.: 113-35694
Project Name: Palladium Anna

Cost Plus Contract
Lump Sum Contract X

THIS CONSTRUCTION CONTRACT is made this [redacted] day of [redacted], 2017, between Treymore Construction, LLC ("Contractor") and Palladium Anna, Ltd. ("Owner") ("CONTRACT").

The definition of any capitalized term or word used herein can be found in this Contract and the General Conditions, except the term "Project" shall have the same definition as in the Regulatory Agreement between Borrower (Owner) and HUD, except that the term "Program Obligations" means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Contract rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on HUD's official website: (http://www.hud.gov/offices/adm/hudclips/index.cfm or a successor location to that site). Any HUD form referenced herein shall be the current version of that form, and shall include any successor form adopted by HUD.

The Contractor and the Owner agree as follows:

Article 1: Scope of Contract

A. The Contract between the parties is set forth in the "Contract Documents," which consist of this Agreement and the other documents identified in Article 2 below. Together, these form the entire Contract between Owner and Contractor, and by this reference these Contract Documents are fully incorporated herein. Any previously existing contract or understanding concerning the Work contemplated by the Contract Documents is hereby revoked. Any side agreements between Owner and Contractor shall be disclosed to HUD.

B. Except to the extent specifically indicated in the Contract Documents to be the

responsibility of others, Contractor shall furnish all of the materials and perform all of the Work shown on, and in accordance with, the Drawings and Specifications.

Article 2: Identification of Contract Documents

A. The Contract Documents are identified as follows:

(1) This Construction Contract (HUD-92442M) (**Agreement**).

(2) The General Conditions of the Contract for Construction, AIA Document A201 – 2007 (“**General Conditions**”), expressly excepting those provisions mandating binding arbitration. If any of the provisions of this Agreement conflict with the terms contained in the General Conditions, the provisions in this Agreement shall control. Exhibit “A”.

(3) The Supplementary Conditions of the Contract for Construction (HUD-92554M). Exhibit “B”.

(4) The HUD Special Conditions, attached hereto as Exhibit N/A.

(5) The Drawings, an index of which is attached hereto as Exhibit “C”.

Number _____ Title _____ Pages _____

(6) The Specifications, an index of which is attached hereto as Exhibit “C”.

Number _____ Title _____ Pages _____

(7) The Contractor's and/or Mortgagor's Cost Breakdown (HUD-2328), approved by HUD on the date of _____, 2017, attached hereto as Exhibit “D”.

(8) **[Applicable for Lump Sum Contracts when an Incentive Payment Addendum is agreed to by the parties]** If this is designated a Lump Sum Contract and there is no Identity of Interest between Contractor and Owner, the Construction Contract Incentive Payment (HUD-92443) form is attached hereto as Exhibit N/A (Incentive Payment Addendum).

(9) The Prevailing Wage Determination TX170024 Modification Number 0, last published/modified on (date) January 6, 2017, and attached hereto as Exhibit “E”.

(10) Completed and fully-executed document identifying Identities of Interest among Owner, Contractor, Subcontractors, and Architect (see Appendix 8 of Handbook 4430.1 and the MAP Guide Appendices). Exhibit N/A.

(11) Any change orders approved by HUD after the execution of this Contract.

(12) If applicable, the Retainage Reduction Rider attached hereto as Exhibit N/A.

B. The Drawings and Specifications were prepared by Cross Architects (Design Architect). The architect administering the Construction Contract is Cross Architects (“Architect”).

C. A master set of the Drawings and Specifications, identified by the signatures of Owner, Contractor, Design Architect, Architect, Lender (if applicable), and Contractor’s surety or guarantor (if applicable), have been placed on file with HUD, and shall govern in all matters that arise with respect to the Contract Documents.

D. Changes in the Drawings and Specifications, or any terms of the Contract Documents, including orders for extra work, changes by altering or adding to the Work, orders that shall change the design concept, or orders extending the Project Substantial Completion Deadline (identified in Article 3) may be effected only with the prior written approval of Owner’s Lender (as defined in Article 11) and HUD, and under such conditions as either Lender or HUD may establish.

Article 3: Time

A. Contractor shall commence the Work to be performed under this Contract within 10 days of this Agreement and shall bring the Work to Project Substantial Completion by , 2018 (“**Project Substantial Completion Deadline**”).

B. “**Project Substantial Completion**” shall be the date that the HUD Representative signs the final FHA Inspection Report contained in form HUD-92485 (Permission to Occupy Project Mortgages) for the Project required by the Contract Documents and Program Obligations, provided the Permission to Occupy in the same HUD-92485 is subsequently signed by the Authorized Agent of FHA. For purposes of determining any Liquidated Damages in Article 3.E below, “**Substantial Completion**” shall be the stage in the progress of the Work when a designated portion of the Work is sufficiently complete in accordance with the Contract Documents and Program Obligations so that the Owner can occupy or utilize that designated portion of the Work for its intended use, the HUD Representative signs the FHA Inspection Report in form HUD-92485, and the Permission to Occupy in the same HUD-92485 is subsequently signed by the Authorized Agent of FHA. Notwithstanding any other provision in the Contract Documents, Contractor remains liable to complete items of incomplete construction as approved in HUD’s sole discretion.

C. The Project Substantial Completion Deadline may be extended in accordance with the terms of the General Conditions only with the prior written approval of HUD through a HUD-approved change order.

D. Contractor shall correct any defects due to faulty materials or workmanship which appear within twelve (12) months from Project Substantial Completion. Warranty for Work first performed after Project Substantial Completion or portions of the Work not

specifically included in a Certificate of Substantial Completion (defined as any executed Permission to Occupy in HUD-92485) shall extend twelve (12) months from the Date of Final Completion. The “**Date of Final Completion**” shall be the date the HUD representative signs the final HUD Representative’s Trip Report (form HUD-95379) provided that the trip report is subsequently endorsed by the Construction Manager. Warranty for all Work performed after the Date of Final Completion shall extend twelve (12) months from the date all such Work is completed.

E. If Contractor does not meet the Project Substantial Completion Deadline or such date to which the Project Substantial Completion Deadline may be mutually extended by approved change order, in accordance with the Drawings and Specifications, including any authorized changes, the maximum sum stated in Article 4 (either Option 1 or Option 2) below shall be reduced by \$ [REDACTED] per unit for each day of delay until Project Substantial Completion (“**Liquidated Damages**”). Liquidated Damages, however, shall not be assessed against any of the Work that has reached Substantial Completion (if applicable) in accordance with Program Obligations. When Owner submits to HUD its Cost Certification, Actual Damages shall be calculated. The term “**Actual Damages**” is defined as the actual cost of interest, taxes, insurance and mortgage insurance premiums, less the Project’s net operating income, for the period from the Project Substantial Completion Deadline through Project Substantial Completion, the calculation of which shall be approved by HUD. The lesser of the Liquidated Damages or Actual Damages shall be applied.

F. **[Applicable when an Incentive Payment Addendum is agreed to by the parties]** The parties have completed the appropriate blank spaces in Article 4 (Option 1 or Option 2) below with respect to “**Incentive Payment**,” providing for the payment of an additional sum to Contractor as an incentive for completing the Project earlier than the Project Substantial Completion Deadline, or by such date to which the Project Substantial Completion Deadline may be extended by approved change order. If the Work is brought to Project Substantial Completion before the Project Substantial Completion Deadline, the contract sum stated in Article 4 (Option 1 or Option 2) below shall be increased, as indicated, by an Incentive Payment calculated in accordance with the Incentive Payment Addendum, consistent with Program Obligations. In cases requiring cost certification by Contractor, Contractor shall not be entitled to any Incentive Payment resulting from early completion if HUD determines that Contractor’s cost certification is fraudulent or materially misrepresents Contractor’s Actual Cost of Construction, as defined herein.

Article 4: Contract Sum -- Lump Sum Contract

A. Owner shall pay Contractor for the performance of this Contract, hereinafter provided, the sum of \$13,662,993.00 (thirteen million six hundred sixty-two thousand nine hundred ninety-three and zero/100 dollars).

B. **[Applicable when an Incentive Payment Addendum is agreed to by the parties]** Incentive Payment: If the Work is completed prior to the Project Substantial Completion Deadline, Owner shall pay to Contractor, in addition to the contract sum stated in paragraph A, an amount equal to ____% (not to exceed 50%) of the amount by which the sum of Owner’s certified cost of interest, real estate taxes, insurance premiums

and mortgage insurance premium during construction, as approved by HUD through Project Substantial Completion, is exceeded by HUD's estimates of these same items, which estimate is \$_____. *(Insert that portion of the sum of interest, taxes, insurance, and mortgage insurance premium that appears in Section G of HUD-92264 attributable to the construction period. If there has been a change in the interest rate charged for the construction period (See footnote designated "***" on page 1 of HUD-92443), the dollar amount included in Section G of HUD-92264 must be adjusted. The adjusted amount must be reflected in the savings computation.)* No incentive payment shall be allowed on savings in costs disallowed by HUD or if Contractor's cost certification is found by HUD to be either fraudulent or to materially misrepresent the Actual Cost of Construction.

Article 5: Requisition and Payment Procedures

A. Each month after the commencement of Work hereunder, Contractor shall make a monthly request on HUD-92448 for payment by Owner for Work done during the preceding month. Each request for payment shall be filed at least 15 days before the date payment is desired. Subject to the approval of Lender and HUD, Contractor shall be entitled to payment thereon in an amount equal to (1) the total value of classes of the Work acceptably completed; plus (2) the value of materials and equipment not incorporated in the Work, but delivered to and suitably stored at the site; plus (3) the value of components stored off-site in compliance with Program Obligations; less (4) ten (10) percent holdback [as this percentage may be reduced in accordance with the provisions of the Retainage Reduction Rider attached hereto, if applicable](or as reduced by HUD in writing) and less (5) prior payments. The "values" of (1), (2) and (3) shall be computed in accordance with the amounts assigned to classes of Work in HUD-92328.

B. With its final application for payment by Owner, Contractor shall disclose, on a form prescribed by HUD, all unpaid obligations contracted in connection with the Work performed under this Contract. Contractor agrees that within 15 days following receipt of final payment, it shall pay such obligations in cash and furnish satisfactory evidence of such payment to Owner.

C. The balance due to Contractor hereunder shall be payable upon the expiration of thirty (30) days after the Work hereunder is fully completed, provided the following have occurred: (1) all Work hereunder requiring inspection by Governmental Authorities having jurisdiction has been inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction; (2) all certificates of occupancy, or other approvals, with respect to the Project have been issued by Governmental Authorities; (3) Permission(s) to Occupy (HUD-92485) for all units of the Project have been issued by HUD; (4) where applicable, HUD shall have approved Contractor's Certificate of Actual Cost; (5) as-built Drawings and Specifications, the as-built survey and all warranties shall have been delivered to Owner; and (6) all executed final advance documents required by HUD have been submitted.

Article 6: Receipts, Releases of Liens & Payments for Materials & Equipment

A. Contractor agrees that within fifteen (15) days following receipt of each monthly payment, it shall pay in full and in cash all obligations for Work done and materials, equipment and fixtures furnished through the date covered by such monthly payment. Contractor may withhold retainage from the payment due each subcontractor, corresponding to, but not exceeding, the ten (10) percent holdback specified in item (4) of Article 5, paragraph A.

B. Owner may require Contractor to attach to each request for payment its acknowledgment of payment and all subcontractors' and material suppliers' acknowledgments of payment for Work done and materials, equipment and fixtures furnished through the date covered by the previous payment.

C. Contractor agrees that no materials or equipment required by the Specifications shall be purchased under a conditional sale contract or with the use of any security agreement or other vendor's title or lien retention instrument.

D. Concurrently with the final payment, Contractor shall execute a waiver or release of lien for all the Work performed and materials furnished hereunder, and Owner shall require Contractor to obtain similar waivers or releases from all subcontractors and material suppliers, if permitted by state law.

Article 7: Obligations of Contractor

A. Contractor shall furnish, at its own expense, all building and other permits, licenses, tools, equipment and temporary structures necessary for the construction of the Project. Contractor shall give all required notices and shall comply with all applicable codes, laws, ordinances, rules and regulations, and protective covenants, wherever applicable. Contractor shall comply with the provisions of the Occupational Safety and Health Act of 1970. Contractor shall immediately notify Owner, Lender and HUD of the delivery of all permits, licenses, certificates of inspection, certificates of occupancy, and any other such certificates and instruments required by law, regardless of to whom issued, and shall cause them to be displayed to Owner, Lender and HUD upon request.

B. If Contractor observes that the Drawings and Specifications are at variance with any applicable codes, laws, ordinances, rules or regulations, or protective covenants, it shall promptly notify Architect in writing, and any necessary changes shall be made as provided in this Contract for changes in the Drawings and Specifications. If Contractor performs any Work knowing it to be contrary to such codes, laws, ordinances, rules or regulations, or protective covenants, without giving such notice to Architect, it shall bear all costs arising therefrom.

C. Upon completion of construction, Contractor shall furnish to Owner a land survey map prepared in accordance with Program Obligations, ALTA-ACSM standards and the HUD Surveyor's Report showing the location on the site of all improvements constructed thereon, and showing the location of all water, sewer, gas and electric lines and mains, and of all existing utility easements. Such survey map shall be prepared by a licensed surveyor who shall certify that the Work is installed and erected entirely upon the land covered by the Security Instrument and within any building restriction lines on said land, and does not overhang or otherwise encroach upon any easement or right-of-way of others. To the extent such data shows that the Contractor has deviated from the Plans and Specifications, Contractor shall be responsible, at its own expense, for correcting any

such deviations. In addition, Contractor shall furnish additional surveys when Owner so requires, for any improvements, including structures and utilities not theretofore located on a survey.

D. Contractor shall assume full responsibility for the maintenance of all landscaping that may be required by the Drawings and Specifications until such time as both parties to this Contract shall receive written notice from HUD that such landscaping has been finally completed. Owner hereby agrees to make available to the Contractor, for such purpose, without cost to the latter, such facilities as water, hose and sprinkler.

E. There shall be withheld from the final payment an amount satisfactory to Lender and HUD for any Work items that are incomplete at the time of such final payment.

Article 8: Assurance of Completion

Contractor shall furnish to Owner assurance of completion of the Work in the form of (specify) 100% Payment Bond (HUD-92452A-M) and 100% Performance Bond (HUD-92452M) in the amount of \$13,662,993.00. Such assurance of completion shall run to Owner and Lender as obligees and shall contain a provision whereby the surety agrees that any claim or right of action that either Owner or Lender might have thereunder may be assigned to HUD.

Article 9: Waiver of Lien or Claim

A. In jurisdictions where permitted by law, Contractor shall not file a mechanic's or materialman's lien or maintain any claim against Owner's Land or Improvements for or on account of any Work done, labor performed or materials furnished under this Contract, and shall include in each subcontract a clause which shall impose this requirement on the subcontractor.

B. In jurisdictions where permitted by law, Owner may require Contractor to execute a waiver of liens that shall be recorded prior to the commencement of construction. Contractor for itself, subcontractors, suppliers, materialmen, and all persons acting through or under it, agrees not to file or maintain mechanics' liens or claims against the property described herein, on account of Work done, labor performed or materials provided by them.

Article 10: Right of Entry

A. At all times during construction, HUD, Lender, and their agents or assigns shall have the right of entry and free access to the Project and the right to inspect all Work done and materials, equipment and fixtures furnished, installed or stored in and about the Project. For such purpose, Contractor shall furnish such enclosed working space as Lender or HUD may require and find acceptable as to location, size, accommodations and furnishings.

Article 11: Assignments, Subcontracts and Termination

A. This Contract shall not be assigned by either party without the prior written consent of the other party, Lender and HUD, except that Owner may assign this Contract, or any rights hereunder, to Lender or HUD.

B. Contractor shall not subcontract all of the Work to be performed hereunder without the prior written consent of Owner, Lender and HUD.

C. Upon request by Owner, Lender or HUD, Contractor shall disclose the names of all persons with whom it has contracted or will contract with respect to Work to be done and materials and equipment to be furnished hereunder.

D. Contractor understands that the Work under this Contract is to be financed by a building loan to be secured by a Security Instrument and insured by HUD, and that the terms of said Loan are set forth in a Building Loan Agreement between Owner as Borrower and Dougherty Mortgage LLC as Lender.

E. Contractor further understands that said Building Loan Agreement provides that, in the event of the failure of Owner to perform its obligations to Lender thereunder, Lender may, as attorney-in-fact for Owner, undertake the completion of the Project in accordance with this Contract. In the event Lender elects not to undertake such completion, this Contract shall terminate pursuant to AIA Document A201 § 14.2 in the case of termination for cause, or AIA Document A201 § 14.4 in the case of termination for convenience.

Article 12: Roles of HUD and Lender

HUD is the insurer of Lender's Loan made to finance the construction identified herein, pursuant to the Building Loan Agreement. Nothing provided herein, no action or inaction of the parties to this Contract, or actions or inaction by any third parties, shall impute to HUD or Lender status as a party to this Agreement; HUD and Lender have no liability to Contractor or Owner under the Contract Documents.

Article 13: Cost Certification -- Lump Sum Contract

In the event HUD determines that there is an Identity of Interest between Contractor and Owner, Contractor shall certify, on a form prescribed by HUD, its cost incurred in the performance of the Work under this Contract.

Article 14: Designation of Representatives

A. Owner hereby designates Scott Johnson as its representative for all communications involving Work performed pursuant to this Contract.

B. Contractor hereby designates Neal Hildebrandt as its representative for all communications involving Work to be performed pursuant to this Contract.

Article 15: Mediation and Non-binding Arbitration

Any mediated settlement agreement or non-binding arbitration agreement made pursuant to the General Conditions must be approved by HUD in writing before it will be effective.

Article 16: Headings and Titles

Any heading, section title, paragraph or part of this Agreement is intended for convenience only, and is not intended, and shall not be construed, to enlarge, restrict, limit or affect in any way the construction, meaning, or application of the provisions thereunder, or under any other heading or title.

Article 17: Severability

The invalidity of any provision of this Contract shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in counterparts, each of which shall be deemed an original.

CONTRACTOR _____

By (authorized agent): _____

Printed Name, Title: _____

Name of Entity: _____

OWNER _____

By (authorized agent): _____

Printed Name, Title: _____

Name of Entity: _____

**Contractor's and/or Mortgagor's Cost
Breakdown**
Schedules of Values

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

OMB No. 2502-0044 (exp. 06/30/2016)

DRAFT

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Section 227 of the National Housing Act (Section 126 of the Housing Act of 1954, Public Law 560, 12 U.S.C., 1715r), authorizes the collection of this information. The information is required for a general contractor when an identity of interest exists between the general contractor and the mortgagor or when the mortgagor is a non-profit entity and a cost plus contract has been used. The information is used by HUD to facilitate the advances of mortgage proceeds and their monitoring.

Privacy Act Notice. The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

Date	03/10/17	Sponsor	Palladium Anna, Ltd.
Project No.	113-35694	Building Identification	Master
Name of Project	Palladium Anna	Location	Anna, Texas

This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included on the reverse side.

Line	Div	Trade Item	Cost	Trade Description
1	3	Concrete	931,637	Slab & beam; lightweight; termite; testing
2	4	Masonry	1,079,748	Cultured stone
3	5	Metals	174,305	Stairs; rails; ornamental
4	6	Rough Carpentry	2,610,606	Framing labor & material; trusses; incidentals
5	6	Finish Carpentry	100,350	Interior trim & labor
6	7	Waterproofing	45,696	Flashing
7	7	Insulation	92,912	Ceiling, wall, floor insulation
8	7	Roofing	84,050	Roofing materials & labor
9	7	Sheet Metal	32,308	Gutters & downspouts
10	8	Doors	214,312	exterior, roof access, common, interior & hardware
11	8	Windows	101,523	Windows & screens
12	8	Glass	21,465	Glass, Mirrors
13	9	Lath & Plaster	0	Stucco
14	9	Drywall	672,086	Drywall, tape, bed & texture
15	9	Tile Work	46,200	Tub surrounds
16	9	Acoustical	0	None
17	9	Wood Flooring	0	None
18	9	Resilient Flooring	199,920	Vinyl
19	9	Painting & Decorating	214,915	Paint (interior & exterior), surface prep, final unit prep.
20	10	Specialties	146,351	Fire extinguishers, signage, wire shelving, garage doors & openers
21	11	Special Equipment	0	None
22	11	Cabinets	435,458	Cabinets, kitchen & vanity tops
23	11	Appliances	188,544	Refrigerators, microwaves, ranges, disposals, dishwashers
24	12	Blinds & Shades, Artwork	22,625	Blinds
25	12	Carpets	0	Carpeting
26	13	Special Construction	245,176	Fire sprinklers, fire alarms
27	14	Elevators	0	None
28	15	Plumbing & Hot Water	617,400	Plumbing labor & material, unit meters
29	15	Heat & Ventilation	251,392	Heat
30	15	Air Conditioning	251,392	AC
31	16	Electrical	708,328	Electrical M&L; fixtures; phone & cable
32		Subtotal (Structures)	9,488,698	
33		Accessory Structures	558,430	Club, mail kiosk, carports, garages
34		Total (Lines 32 and 33)	10,047,128	

Line	Div	Trade Item	Cost	Trade Description			
35	2	Earth Work	430,500	Clearing, grading, staking, site work			
36	2	Site Utilities	313,000	Water, storm, downspout collection, sanitary, dry utilities			
37	2	Roads & Walks	627,896	Paving, pavers, flatwork, sidewalks, parking stripes			
38	2	Site Improvements	519,600	Fencing, trash enclosure, columns, gates, pool, retaining walls, site lighting, site rails			
39	2	Lawns & Planting	168,000	Landscape, sprinkler, fine grading			
40	2	Unusual Site Condition		Nonresidential and Special Exterior Land Improvement (costs included in trade item breakdown)		Offsite Costs (costs not included in trade item breakdown)	
41		Total Land Improvements	2,058,996				
42		Tot. Struct. & Land Imprvts.	12,106,124	Description	Est. Cost	Description	Est. Cost
43	1	General Requirements	726,367			0	0.00
44		Subtotal (Lines 42 and 43)	12,832,491				
45		Builder's Overhead	242,122				
46		Builder's Profit	363,184	Total \$	0		
47		Subtotal (Lines 44 thru 46)	13,437,797	Other Fees		Total \$	0.00
48				Permits & Fees	0	Demolition	
49		Other Fees	117,960	As-Built Allowance	0	(costs not included in trade item breakdown)	
50		Bond Premium	107,236	Cost Cert. Fee	0	Description	Est. Cost
51		Total For All Improvements	13,662,993	Builder's Risk	40,000		
52		Builder's Profit Paid By Means Other Than Cash		Insurance	77,960		
53		Total For All Improvements					
		Less Line 52	13,662,993	Total \$	117,960	Total \$	0.00

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Mortgagor	By	Date
Palladium Anna, Ltd.		
Contractor	By	Date
Treymore Construction, LLC		
Architectural/Cost Reviewer	Date	Mortgagee
Signature:		Signature:
FHA (Chief Underwriter)		Date

Instructions for Completing Form HUD-2328

This form is prepared by the contractor and/or mortgagor as a requirement for the issuance of a firm commitment. The firm replacement cost of the project also serves as a basis for the disbursement of dollar amounts when insured advances are requested. A detailed breakdown of trade items is provided along with spaces to enter dollar amounts and trade descriptions.

A separate form is prepared through line 32 for each **structure type**. A summation of these structure costs are entered on line 32 of a master form. Land improvements, General Requirements and Fees are completed through line 53 on the master 2328 **only**.

Date—Date form was prepared.

Sponsor—Name of sponsor or sponsoring organization.

Project No.—Eight-digit assigned project number.

Building Identification—Number(s) or Letter(s) of each building as designated on plans.

Name of Project—Sponsors designated name of project.

Location—Street address, city and state.

Division—Division numbers and trade items have been developed from the cost accounting section of the uniform system.

Accessory Structures—This item reflects structures, such as: community, storage, maintenance, mechanical, laundry and project office buildings. Also included are garages and carports or other buildings. When the amount shown on line 33 is \$20,000.00 or 2% of line 32 whichever is the lesser, a separate form HUD-2328 will be prepared through line 32 for Accessory Structures.

Unusual Site Conditions—This trade item reflects rock excavation, high water table, excessive cut and fill, retaining walls, erosion, poor drainage and other on-site conditions considered unusual.

Cost - Enter the cost being submitted by the Contractor or bids submitted by a qualified subcontractor for each trade item. These costs will include, as a minimum, prevailing wage rates as determined by the Secretary of Labor.

Trade Description—Enter a brief description of the work included in each trade item.

Other Fees—Includable are fees to be paid by the Contractor, such as sewer tap fees not included in the plumbing contract. Fees paid or to be paid by the Mortgagor are not to be included on this form.

Total For All Improvements—This is the sum of lines 1 through 50 and is to include the total builder's profit (line 46).

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on Resolution 17-015 regarding the annual approval of the Department's Investment Policy

RECOMMENDED ACTION

See attached Resolution.

BACKGROUND

The provisions of Chapter 2256, Texas Government Code, (the "Public Funds Investment Act"), require state agency boards that have investments to develop, adopt annually, and maintain an Investment Policy that outlines the purpose of investments and the types of permissible investments, designates an Investment Officer, selects a reporting format and frequency, and requires training for Investment Officers and Board Members. The Investment Policy also details ethics and conflict of interest rules to which the Department must adhere. It requires that investment professionals acknowledge receipt of the policy in order to do business with the Department. David Cervantes, Chief Financial Officer, and Monica Galuski, Director of Bond Finance, are the Department's Investment Officers.

The Investment Officers, in conjunction with Department staff, have reviewed the investment policy that was approved on April 28, 2016, and recommend approval of the proposed policy with minor edits.

Clean and black-line versions of the proposed Investment Policy are attached for your reference.

RESOLUTION NO. 17-015

**RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INVESTMENT POLICY**

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

WHEREAS, the Governing Board of the Department (the "Governing Board") desires to approve the Department's Investment Policy in the form presented to the Governing Board;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department's Investment Policy. The Investment Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 Authorized Representatives. The following persons and each of them are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Deputy Executive Directors of the Department, the Chief Financial Officer of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED this 27th day of April, 2017.

Vice Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

INVESTMENT POLICY

As presented to the Board for adoption on April 27, 2017

2017

April 27, 2017

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

INVESTMENT POLICY

I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the “Department”) to invest public funds in a manner that will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department’s enabling legislation, Texas Government Code, Section 2306, Texas Government Code, Section 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and specifically Texas Government Code, Section 2256, the Public Funds Investment Act (the “Act”).

It is further the intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department’s presentation of its financial statements.

II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department’s Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a “qualified hedge” as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department’s investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

V. STRATEGIES

The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.
2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
 - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
 - limiting investments to the safest types of securities;
 - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
 - diversifying the investment portfolio so that potential losses on individual securities will be minimized.
 - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:

- structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and
 - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department’s investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all possible cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
 4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment if the need arises to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.
 5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
 6. Yield. The Department’s investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
 - A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
 - B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
 - C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board’s intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department’s investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Director of the Department, (“Executive Director”). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance and the Chief Financial Officer acting in those capacities (collectively the “Investment Officer”) who shall carry out established written procedures and

internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:
 - A. Texas Government Code, Section 825.211, *Certain Interests in Loans, Investments or Contracts Prohibited*;
 - B. Texas Government Code, Section 572.051, *Standards of Conduct for Public Servants*;
 - C. Texas Government Code, Sections 553.001-003, *Disclosure by Public Servants of Interest in Property Being Acquired by Government*;
 - D. Texas Government Code, Section 552.352, *Distribution of Confidential Information*;
 - E. Texas Government Code, Section 572.054, *Representation by Former Officer or Employee of Regulatory Agency Restricted*;
 - F. Texas Penal Code, Chapter 36, *Bribery, Corrupt Influence and Gifts to Public Servants*; and
 - G. Texas Penal Code, Chapter 39, *Abuse of Office, Official Misconduct*.

The omission of any applicable statute from this list does not excuse violation of its provisions.

2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
 - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
 - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.
 - C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.

- D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of the fact that a relationship with the Department exists, provided that no misrepresentation is involved.
- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
- the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
 - funds received by the Investment Officer from the business organization exceed 10 percent of the individual's gross income from the previous year; or
 - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department (in conjunction with the State Comptroller) will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds, the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, which will not be providing an investment instrument shall not be subject to the above requirements, and may only be engaged if approved by the Board.

IX. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78th Legislature, Regular Session, the Texas Legislature passed *Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers* ("Chapter 2263"). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state

governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
 - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
 - B. an institution of higher education as defined by Section 61.003, Education Code; or
 - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is excepted from required public disclosure.

X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable Indenture of Trust and any applicable supplemental indenture(s).

General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas

Government Code, Section 404.024 and Article 5221(f), Subsection 13A(d) as amended relating to Manufactured Housing.

Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including “Investment Securities” as listed in such Indenture and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:

A. Obligations of, or guaranteed by governmental entities:

- Obligations of the United States or its agencies and instrumentalities.
- Direct obligations of this state or its agencies and instrumentalities.
- Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, that have a market value of not less than the principal amount of the certificates and which has a maturity that does not exceed 10 years.
- Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
- Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.

B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:

- guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
- secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy; and
- secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the

deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

- the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and
- at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.

C. A “repurchase agreement” is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:

- has a defined termination date;
- is secured by collateral described in Section XV of this policy;
- requires the securities being purchased by the Department to be pledged to the Department, held in the Department’s name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
- is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
- in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

D. Commercial Paper is an authorized investment under this policy if the commercial paper:

- has a stated maturity of 270 days or fewer from the date of its issuance; and
- is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

3. The following are not authorized investments pursuant to the Act:

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
- D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.

Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and

2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

XVIII. REPORTING

1. **Methods**. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period

have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:

- A. describe in detail the investment position of the Department on the date of the report;
- B. be prepared jointly by each Investment Officer of the Department;
- C. be signed by each Investment Officer of the Department;
- D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
 - book value and market value of each separately invested asset at the beginning and end of the reporting period; and
 - fully accrued interest for the reporting period;
- E. state the maturity date of each separately invested asset that has a maturity date;
- F. state the fund in the Department for which each individual investment was acquired; and
- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department's investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

2. **Performance Standards.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
3. **Marking to Market.** A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

XX. INVESTMENT POLICY ADOPTION

The Department's investment policy shall be adopted by resolution of the Board.

1. **Exemptions.** Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

XXII. TRAINING

Each member of the Department's Board and the Investment Officer who are in office on September 1, 1996 or who assume such duties after September 1, 1996, shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment A

STRATEGY

SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

- General Fund
- Trust Funds
- Agency Funds
- Proprietary Funds (excluding Revenue Bond Funds)

SECTION 2

The Department's Revenue Bond Funds, including proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment B

POLICY STATEMENTS AND RECOMMENDED PRACTICE

Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

- 1. I am a qualified representative of _____ (the “Business Organization”).
- 2. The Business Organization proposes to engage in an investment transaction (the “Investments”) with the Texas Department of Housing and Community Affairs (the “Department”).
- 3. I acknowledge that I have received and reviewed the Department’s investment policy.
- 4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department’s investment policy.
- 5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department’s entire portfolio and which requires an interpretation of subjective investment standards.

Dated this _____ day of _____, _____.

Name: _____

Title: _____

Business Organization: _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers

2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes _____ No _____

If yes, please explain in detail. (Attach additional sheets as needed.)

PART 3: SIGNATURE AND DATE

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature _____ Date _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E



COMPTROLLER OF PUBLIC ACCOUNTS
Broker Dealer List
August, 2016

Amherst Pierpoint Securities LLC	Mesirow Financial Inc.
Barclay's Capital Inc.	MFR Securities, Inc.
Blaylock Beal Van LLC	Mischler Financial Group, Inc.
BMO Capital Markets Corp.	Mitsubishi UFJ Securities (USA)
BNP Paribas Securities Corp.	Mizuho Securities USA Inc.
BNY Mellon Capital Markets, LLC	Morgan Stanley Smith Barney LLC
BOSC, Inc.	Multi-Bank Securities, Inc.*
Cantor Fitzgerald & Co.	National Alliance Capital Markets
Capital Institutional Services, Inc.	Nomura Securities International Inc.
Citigroup Global Markets Inc.	Piper Jaffray & Co.
Coastal Securities Inc.	Raymond James & Associates Inc.
Credit Suisse (USA), LLC	RBC Capital Markets, LLC
D.A. Davidson & Co.	RBS Securities Inc.
Daiwa Capital Markets America, Inc.	Rice Securities, LLC
Deutsche Bank Securities, Inc.	Robert W. Baird & Co., Inc.
Drexel Hamilton LLC	Samuel A. Ramirez & Company (H)
The Fig Group, LLC (H)	Scotia Capital (USA) Inc.
Frost Bank Capital Markets	S.G. Americas Securities LLC
FTN Financial Securities Corp.	Signature Securities Group Corp.
Goldman Sachs & Co.	Stifel, Nicholas & Company Inc.
Hilltop Securities Inc.*	SunTrust Robinson Humphrey Inc.
HSBC Securities (USA), Inc.	T.D. Securities (USA) LLC
Incapital LLC*	UBS Securities LLC
Jefferies, LLC	UMBFSI (United Missouri Bank)
J.P. Morgan Securities LLC	Vining Sparks IGB, LP
KCG Americas LLC	Wells Fargo Securities, LLC
Ladenburg Thalmann & Co, Inc.*	Williams Capital Group, LP
Lloyd's Securities Inc.	ZB, NA, Investment Division
Loop Capital Markets, Inc.	
Merrill Lynch Pierce Fenner & Smith	

(H)--Historically Underutilized Business

***Added 2016**

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

INVESTMENT POLICY

As presented to the Board for adoption on April [2827, 20162017](#)

[20162017](#)

April [2827, 20162017](#)

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

INVESTMENT POLICY

I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the “Department”) to invest public funds in a manner ~~which that~~ will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department’s enabling legislation, Texas Government Code, Section 2306, Texas Government Code, Section 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and specifically Texas Government Code, Section 2256, the Public Funds Investment Act (the “Act”).

It is further the policy intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department’s presentation of its financial statements.

II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department’s Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a “qualified hedge” as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department’s investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

V. STRATEGIES

The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.
2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
 - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
 - limiting investments to the safest types of securities;
 - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
 - diversifying the investment portfolio so that potential losses on individual securities will be minimized.
 - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:

- structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and
 - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department’s investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all possible cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
 4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment if the need arises to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.
 5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
 6. Yield. The Department’s investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
 - A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
 - B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
 - C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board’s intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department’s investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Director of the Department, (“Executive Director”). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance and the Chief Financial Officer acting in those capacities (collectively the “Investment Officer”) who shall carry out established written procedures and

internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:
 - A. Texas Government Code, Section 825.211, *Certain Interests in Loans, Investments or Contracts Prohibited*;
 - B. Texas Government Code, Section 572.051, *Standards of Conduct for Public Servants*;
 - C. Texas Government Code, Sections 553.001-003, *Disclosure by Public Servants of Interest in Property Being Acquired by Government*;
 - D. Texas Government Code, Section 552.352, *Distribution of Confidential Information*;
 - E. Texas Government Code, Section 572.054, *Representation by Former Officer or Employee of Regulatory Agency Restricted*;
 - F. Texas Penal Code, Chapter 36, *Bribery, Corrupt Influence and Gifts to Public Servants*; [and](#)
 - G. Texas Penal Code, Chapter 39, *Abuse of Office, Official Misconduct*.

The omission of any applicable statute from this list does not excuse violation of its provisions.

2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
 - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
 - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.
 - C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.

- D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of the fact that a relationship with the Department exists, provided that no misrepresentation is involved.
- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
- the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
 - funds received by the Investment Officer from the business organization exceed 10 percent of the individual's gross income from the previous year; or
 - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department (in conjunction with the State Comptroller) will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds, the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, which will not be providing an investment instrument shall not be subject to the above requirements, and may only be engaged if approved by the Board.

IX. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78th Legislature, Regular Session, the Texas Legislature passed *Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers* ("Chapter 2263"). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside

financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
 - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
 - B. an institution of higher education as defined by Section 61.003, Education Code; or
 - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of

Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is excepted from required public disclosure.

X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable Indenture of Trust and any applicable supplemental indenture(s).

General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas Government Code, Section 404.024 and Article 5221(f), Subsection 13A(d) as amended relating to Manufactured Housing.

Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including “Investment Securities” as listed in such Indenture and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:

A. Obligations of, or guaranteed by governmental entities:

- Obligations of the United States or its agencies and instrumentalities.
- Direct obligations of this state or its agencies and instrumentalities.
- Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, that have a market value of not less than the principal amount of the certificates and which has a maturity that does not exceed 10 years.
- Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
- Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.

B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:

- guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
- secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy; and
- secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
 - the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
 - the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and
 - at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.
- C. A “repurchase agreement” is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:
- has a defined termination date;
 - is secured by collateral described in Section XV of this policy;
 - requires the securities being purchased by the Department to be pledged to the Department, held in the Department’s name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
 - is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
 - in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.
- D. Commercial Paper is an authorized investment under this policy if the commercial paper:
- has a stated maturity of 270 days or fewer from the date of its issuance; and
 - is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

3. The following are not authorized investments pursuant to the Act:
 - A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
 - B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
 - C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
 - D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.

Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and
2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

XVIII. REPORTING

1. **Methods**. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made

over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:

- A. describe in detail the investment position of the Department on the date of the report;
- B. be prepared jointly by each Investment Officer of the Department;
- C. be signed by each Investment Officer of the Department;
- D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
 - book value and market value of each separately invested asset at the beginning and end of the reporting period; and
 - fully accrued interest for the reporting period;
- E. state the maturity date of each separately invested asset that has a maturity date;
- F. state the fund in the Department for which each individual investment was acquired; and
- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department's investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

2. Performance Standards. The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
3. Marking to Market. A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

XX. INVESTMENT POLICY ADOPTION

The Department's investment policy shall be adopted by resolution of the Board.

1. Exemptions. Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.
2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

XXII. TRAINING

Each member of the Department's Board and the Investment Officer who are in office on September 1, 1996 or who assume such duties after September 1, 1996, shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment A

STRATEGY

SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

- General Fund
- Trust Funds
- Agency Funds
- Proprietary Funds (excluding Revenue Bond Funds)

SECTION 2

The Department's Revenue Bond Funds, including proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment B

POLICY STATEMENTS AND RECOMMENDED PRACTICE

Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

- 1. I am a qualified representative of _____ (the “Business Organization”).
- 2. The Business Organization proposes to engage in an investment transaction (the “Investments”) with the Texas Department of Housing and Community Affairs (the “Department”).
- 3. I acknowledge that I have received and reviewed the Department’s investment policy.
- 4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department’s investment policy.
- 5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department’s entire portfolio and which requires an interpretation of subjective investment standards.

Dated this _____ day of _____, _____.

Name: _____

Title: _____

Business Organization: _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers

2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes _____ No _____

If yes, please explain in detail. (Attach additional sheets as needed.)

PART 3: SIGNATURE AND DATE

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature _____ Date _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E



COMPTROLLER OF PUBLIC ACCOUNTS
Broker Dealer List
August, 2016

Amherst Pierpoint Securities LLC	Mesirow Financial Inc.
Barclay's Capital Inc.	MFR Securities, Inc.
Blaylock Beal Van LLC	Mischler Financial Group, Inc.
BMO Capital Markets Corp.	Mitsubishi UFJ Securities (USA)
BNP Paribas Securities Corp.	Mizuho Securities USA Inc.
BNY Mellon Capital Markets, LLC	Morgan Stanley Smith Barney LLC
BOSC, Inc.	Multi-Bank Securities, Inc.*
Cantor Fitzgerald & Co.	National Alliance Capital Markets
Capital Institutional Services, Inc.	Nomura Securities International Inc.
Citigroup Global Markets Inc.	Piper Jaffray & Co.
Coastal Securities Inc.	Raymond James & Associates Inc.
Credit Suisse (USA), LLC	RBC Capital Markets, LLC
D.A. Davidson & Co.	RBS Securities Inc.
Daiwa Capital Markets America, Inc.	Rice Securities, LLC
Deutsche Bank Securities, Inc.	Robert W. Baird & Co., Inc.
Drexel Hamilton LLC	Samuel A. Ramirez & Company (H)
The Fig Group, LLC (H)	Scotia Capital (USA) Inc.
Frost Bank Capital Markets	S.G. Americas Securities LLC
FTN Financial Securities Corp.	Signature Securities Group Corp.
Goldman Sachs & Co.	Stifel, Nicholas & Company Inc.
Hilltop Securities Inc.*	SunTrust Robinson Humphrey Inc.
HSBC Securities (USA), Inc.	T.D. Securities (USA) LLC
Incapital LLC*	UBS Securities LLC
Jefferies, LLC	UMBFSI (United Missouri Bank)
J.P. Morgan Securities LLC	Vining Sparks IGB, LP
KCG Americas LLC	Wells Fargo Securities, LLC
Ladenburg Thalmann & Co, Inc.*	Williams Capital Group, LP
Lloyd's Securities Inc.	ZB, NA, Investment Division
Loop Capital Markets, Inc.	
Merrill Lynch Pierce Fenner & Smith	

(H)--Historically Underutilized Business

***Added 2016**

Thomas Jefferson Rusk State Office Building 208 East 10th Street Austin, Texas 78701
 Phone (512) 463-4300 Fax (512) 463-4368

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on Resolution 17-016 regarding the annual approval of the Department's Interest Rate Swap Policy

RECOMMENDED ACTION

See attached Resolution.

BACKGROUND

The Department initially adopted an Interest Rate Swap Policy (the "Swap Policy") on September 9, 2004, to establish guidelines for the use and management of interest rate management agreements, including but not limited to, interest rate swaps, caps, collars, and floors incurred in connection with the issuance of debt obligations. The Swap Policy underwent substantial changes in 2009 and has had minor edits since. The attached revised policy incorporates minor changes from the previous Swap Policy. The Department's Swap Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

The Investment Officers, in consultation with the Department's Swap Advisor, George K. Baum & Company, have performed the required annual review based on the swap policy that was approved on April 28, 2016, and recommend approval of the proposed policy with minor edits.

Clean and black-line versions of the proposed Swap Policy are attached for your reference.

RESOLUTION NO. 17-016

RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY

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

WHEREAS, the Governing Board of the Department (the "Governing Board") desires to approve the Department's Interest Rate Swap Policy in the form presented to the Governing Board;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department's Interest Rate Swap Policy. The Interest Rate Swap Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 ISDA Dodd-Frank Protocols. Each Authorized Representative is hereby severally authorized to take such actions as are necessary or desirable to enable the Board to adhere to any protocols promulgated by the International Swaps and Derivatives Association, Inc. ("ISDA") in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act, which adherence may (i) include the use of documents intended to address the subject matter of any such protocol but not using forms promulgated by ISDA, and (ii) be with respect to such counterparties as an Authorized Representative determines in his judgment are appropriate.

Section 1.3 Authorized Representatives. The following persons and each of them are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Deputy Executive Directors of the Department, the Chief Financial Officer of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED this 27th day of April, 2017.

Vice Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

INTEREST RATE SWAP POLICY

As presented to the Board on April 27, 2017

2017

April 27, 2017

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY

The Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the “Act”), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the “Governing Board”) from time to time) at prices they can afford.

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the “State”); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

I. Introduction

The purpose of this Interest Rate Swap Policy (“Policy”) of the Texas Department of Housing and Community Affairs (the “Department”) is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively “Swaps” or “Agreements”) incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department’s use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

The Chief Financial Officer and the Director of Bond Finance are the designated administrators of the Department’s Policy. The Bond Finance Division shall have the day-to-day responsibility for structuring, implementing, and managing Swaps, which includes, with the approval of the Executive Director, the execution of the Department’s right to optional par termination of Swaps to avoid being overswapped (having a higher notional amount of swap outstanding than par amount of related bonds), for economic benefit to the Department, or to achieve other goals of the Department.

The Department shall be authorized to enter into Swaps only with qualified Swap counterparties as defined herein. The Director of Bond Finance, in consultation with the Chief Financial Officer, or a Department designee, shall have the authority to recommend counterparties, so long as the criteria set forth in this Policy are met.

The Chief Financial Officer and the Director of Bond Finance shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
- Lack adequate liquidity to terminate without incurring a significant bid/ask spread;
- Are characterized by insufficient pricing transparency and therefore make reasonable valuation difficult.

IV. Evaluation of Risks Associated with Swaps

Before entering into a Swap, the Department shall evaluate the risks inherent in the transaction. The risks to be evaluated will include basis risk, tax risk, counterparty risk, credit risk, termination risk, rollover risk, liquidity risk, remarketing risk, amortization mismatch risk, mortgage yield risk, non-origination risk, and PAC band risk. The following table outlines these various risks and the Department's evaluation methodology for those risks.

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Risk	Description	Evaluation Methodology
Basis Risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The Department will review historical trading differentials between the variable rate bonds and the index.
Tax Risk	The risk created by potential tax events that could affect Swap payments or their relationship to future bond payments.	The Department will review the tax events in proposed Swap agreements. The Department will evaluate the impact of potential changes in tax law on LIBOR indexed Swaps.
Counterparty Risk	The failure of the counterparty to make required payments or the occurrence of an event modifying the credit rating of the counterparty.	The Department will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination Risk	The need to terminate the transaction in a market that dictates a termination payment by the Department.	The Department will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Rollover Risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The Department will determine its capacity to service variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.
Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.

PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department’s exposure (“Maximum Net Termination Exposure”). For purposes of these limits, “Maximum Net Termination Exposure” shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

The Department will review the use of forward-starting swaps and determine the duration based on market condition and the risk associated with using a forward-starting swap. The Department does not have any swaps with a knock-out option which could expose the Department to higher interest rates. The Department will advise the Board prior to entering into either a forward-starting swap or knock-out option.

The Department will inform the Board if the swap is a fixed notional value swap or a declining notional value swap. The Director of Bond Finance will review proposed swaps to ensure that the use of fixed notional value swaps does not place the Department at risk of incurring an incrementally higher expense if the related bond principal is paid off early.

The total “net notional amount” of all Swaps related to a bond issue should not exceed the amount of outstanding bonds, or bonds anticipated to be issued. For purposes of calculating the net notional amount, credit shall be given to any Swaps that offset another Swap for a specific bond transaction.

V. Long Term Financial Implications

In evaluating a particular transaction involving the use of derivatives, the Department shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, liquidity capacity, opportunities to refund related debt obligations and other similar considerations.

Impact of Use of Liquidity

The Department shall consider the impact of any variable rate demand bonds issued in combination with a Swap on the availability and cost of liquidity support for other Department variable rate programs.

Call Option Value considerations

When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

VI. Form of Swap Agreements

Each Swap executed by the Department shall contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including any schedules and confirmations. The Swaps between the Department and each qualified Swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Bond Finance deems necessary, desirable or consistent with industry best practices.

VII. Qualified Swap Counterparties

The Department will make its best efforts to work with qualified Swap counterparties that (i) have, or has a credit support counterparty that has, a general credit rating of at least “A2” with respect to ratings by Moody’s Investors Service or “A” with respect to ratings by Standard and Poor’s Rating Services or Fitch Ratings.

In addition to the rating criteria specified herein, the Department may seek additional credit enhancement and safeguards in the form of:

- i. Contingent credit support or enhancement;
- ii. Collateral consistent with the policies contained herein; and/or
- iii. Ratings downgrade triggers.

In addition, the Department will take into consideration a Swap counterparty’s track record of successfully executing Swap transactions. The Department will only execute Swap transactions with qualified Swap counterparties.

VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Chief Financial Officer and Director of Bond Finance shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department’s Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody’s; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Chief Financial Officer and Director of Bond Finance shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements).

IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.

X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the Chief Financial Officer and Director of Bond Finance may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.
- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.

- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.
- The Chief Financial Officer and Director of Bond Finance shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.

Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers

and Major Swap Participants as published and enacted by the Commodity Futures Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.

XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.
- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.
- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, Foreign Currency Risk .

With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.

The Chief Financial Officer and the Director of Bond Finance will review this Policy on an annual basis.

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

INTEREST RATE SWAP POLICY

As presented to the Board on April ~~2827, 2016~~2017

~~2016~~2017

April ~~2827, 2016~~2017

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY

The Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the “Act”), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the “Governing Board”) from time to time) at prices they can afford.

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the “State”); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

I. Introduction

The purpose of this Interest Rate Swap Policy (“Policy”) of the Texas Department of Housing and Community Affairs (the “Department”) is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively “Swaps” or “Agreements”) incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department’s use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

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The Chief Financial Officer and the Director of Bond Finance shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
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Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.
Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.

PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department’s exposure (“Maximum Net Termination Exposure”). For purposes of these limits, “Maximum Net Termination Exposure” shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

The Department will review the use of forward-starting swaps and determine the duration based on market condition and the risk associated with using a forward-starting swap. The Department does not have any swaps with a knock-out option which could expose the Department to higher interest rates. The Department will advise the Board prior to entering into either a forward-starting swap or knock-out option.

The Department will inform the Board if the swap is a fixed notional value swap or a declining notional value swap. The Director of Bond Finance will review proposed swaps to ensure that the use of fixed notional value swaps does not place the Department at risk of incurring an incrementally higher expense if the related bond principal is paid off early.

The total “net notional amount” of all Swaps related to a bond issue should not exceed the amount of outstanding bonds, or bonds anticipated to be issued. For purposes of calculating the net notional amount, credit shall be given to any Swaps that offset another Swap for a specific bond transaction.

V. Long Term Financial Implications

In evaluating a particular transaction involving the use of derivatives, the Department shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, liquidity capacity, opportunities to refund related debt obligations and other similar considerations.

Impact of Use of Liquidity

The Department shall consider the impact of any variable rate demand bonds issued in combination with a Swap on the availability and cost of liquidity support for other Department variable rate programs.

Call Option Value considerations

When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

VI. Form of Swap Agreements

Each Swap executed by the Department shall contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including any schedules and confirmations. The Swaps between the Department and each qualified Swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Bond Finance deems necessary, desirable or consistent with industry best practices.

VII. Qualified Swap Counterparties

The Department will make its best efforts to work with qualified Swap counterparties that (i) have, or has a credit support counterparty that has, a general credit rating of at least “A2” with respect to ratings by Moody’s Investors Service or “A” with respect to ratings by Standard and Poor’s Rating Services or Fitch Ratings.

In addition to the rating criteria specified herein, the Department may seek additional credit enhancement and safeguards in the form of:

- i. Contingent credit support or enhancement;
- ii. Collateral consistent with the policies contained herein; and/or
- iii. Ratings downgrade triggers.

In addition, the Department will take into consideration a Swap counterparty’s track record of successfully executing Swap transactions. The Department will only execute Swap transactions with qualified Swap counterparties.

VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Chief Financial Officer and Director of Bond Finance shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department’s Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody’s; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Chief Financial Officer and Director of Bond Finance shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements).

IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.

X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the Chief Financial Officer and Director of Bond Finance may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.
- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.

- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.
- The Chief Financial Officer and Director of Bond Finance shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.

Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers

and Major Swap Participants as published and enacted by the Commodity Futures Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.

XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.
- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.
- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, Foreign Currency Risk .

[With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.](#)

The Chief Financial Officer and the Director of Bond Finance will review this Policy on an annual basis.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on release of the draft Federal Fiscal Years 2018-2019 Community Services Block Grant (“CSBG”) State Plan for public comment, with a link to be published in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Health and Human Services (“USHHS”) requires that the Department submit an Application and State Plan every two years in order to receive its allotment of Community Services Block Grant (“CSBG”) funds;

WHEREAS, the Department has prepared a Draft Federal Fiscal Years (“FFY”) 2018-2019 CSBG Application and State Plan; and

WHEREAS, USHHS requires that a draft CSBG Application and State Plan be released for public comment and the state requires a public hearing prior to the submission of the Plan to USHHS;

NOW, therefore, it is hereby

RESOLVED, that the Draft FFY 2018-2019 CSBG Application and State Plan, in the form presented to this meeting, is hereby approved to be released for public comment and public hearing and published on the Department’s website, a link to be published in the *Texas Register*; and

FURTHER RESOLVED, that the final FFY 2018-2019 CSBG Application and State Plan with consideration for final grant guidance, public comment and technical corrections made by staff, along with award recommendations for Subgrantees as indicated in Section 7 of the Application and State Plan, will be presented to the Board no later than the meeting of June 29, 2017.

BACKGROUND

USHHS requires that the State of Texas submit a CSBG Application and State Plan every two years in order to receive its allotment of CSBG funds. In response to this requirement, the Department has prepared the Draft FFY 2018-2019 CSBG Application and State Plan. Staff recommends approval of Draft FFY 2018-2019 CSBG Application and State Plan for publication of a link in the *Texas Register* and posting on TDHCA’s website for public comment.

In response to feedback from CSBG Subrecipients, the Department hosted a Work Group specifically for the purpose of garnering feedback on the development of this Plan prior to its being released in draft form.

Additionally, a survey was made available to all Subrecipients to get input on specific training needs and on the use of CSBG Discretionary funds. To the extent that there was general concurrence on issues from the Workgroup and survey, the Plan is reflective of the feedback received.

Tex. Gov't Code, Chapter 2105, Subchapter B requires that, in conjunction with the development of the State Plan, the Department hold public hearings in different areas of the state to solicit public comment on the intended use of CSBG funds. The statute further requires that the Department provide notice of the public hearings regarding the State Plan not later than the 15th day before the date of the hearing.

The Department will conduct the following public hearings to receive comment on the Draft FFY 2018-2019 CSBG Application and State Plan:

- Austin - Tuesday, May 23, 2017, 6:00 p.m.-7:00 p.m. in room 116, TDHCA headquarters 221 East 11th Street, Austin, TX
- Fort Worth – Tuesday, May 23, 2017, 6:00 p.m.-7:00 p.m. at Southside Community Center, 959 E. Rosedale, Fort Worth, TX 76104
- Houston – Wednesday, May 24, 2017, 1:30 p.m.-2:30 p.m. at Gulf Coast Community Services Association, 9320 Kirby Drive, Houston, TX
- Midland - Thursday, May 25, 2017, 2:00 p.m.- 3:00 p.m. at 1101 E. Garden Lane, Midland, TX 79701

Staff will post a link to Draft FFY 2018-2019 CSBG Application and State Plan on the Department's website and in the *Texas Register* consistent with the 15-day posting requirements for public comment.

The final FFY 2018-2019 CSBG Application and State Plan, with consideration for final grant guidance, public comment and technical corrections made by staff, along with award recommendations for CSBG non-discretionary subrecipients as indicated in Section 7 of the Application and State Plan will be presented to the Board no later than the meeting of June 29, 2017.

In review of the Plan, attached, it should be noted that the Plan follows a template and series of required responses pre-determined by USHHS with character limitations and specific instructions. While the Plan provides for general descriptions of how CSBG Discretionary funds will be used, separate action items will be presented to the Board for approval with greater specificity on the use and allocation of those funds.



STATE OF TEXAS FFY 2018 and FFY 2019

DRAFT

**COMMUNITY SERVICES BLOCK GRANT APPLICATION
AND STATE PLAN**

To be Submitted to

U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

August 2017

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Street Address: 221 East 11th Street, Austin, TX 78701 Mailing Address: PO Box 13941, Austin, TX 78711

Main Number: 512-475-3800 Toll Free: 1-800-525-0657

Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

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SECTION 1

CSBG Lead Agency, CSBG Authorized Official, CSBG Point of Contact, and Official State Designation Letter

1.1. Provide the following information in relation to the lead agency designated to administer CSBG in the State, as required by Section 676(a) of the CSBG Act. The following information should mirror the information provided on the Application for Federal Assistance, SF-424M.

1.1a. Lead agency [**Texas Department of Housing and Community Affairs**]

1.1b. Cabinet or administrative department of this lead agency [**Check One and narrative where applicable**]

- Community Services Department
- Human Services Department
- Social Services Department
- Governor's Office
- Community Affairs Department
- Other, describe:

1.1c. Division, bureau, or office of the CSBG authorized official [**Planning, Training, and Technical Assistance Division**]

1.1d. Authorized official of the lead agency [**Mr. Tim Irvine, Executive Director**]

Instructional note: The authorized official could be the director, secretary, commissioner etc. as assigned in the designation letter (attached under item 1.3). The authorized official is the person indicated as authorized representative on the SF-424M.

1.1e. Street address [**221 East 11th Street**]

1.1f. City [**Austin**]

1.1g. State [**Texas**]

1.1h. Zip [**78701**]

1.1i. Telephone number and extension [**512-475-3296**]

1.1j. Fax number [**512-475-3935**]

1.1k. Email address [**tim.irvine@tdhca.state.tx.us**]

1.1. Lead agency website [www.tdhca.state.tx.us]

1.2. Provide the following information in relation to the designated State CSBG point of contact.

Instructional Note: The State CSBG point of contact should be the person that will be the main point of contact for CSBG within the State.

1.2a. Agency name [**Texas Department of Housing and Community Affairs**]

1.2b. Name of the point of contact [**Michael DeYoung**]

1.2c. Street address [**221 East 11th Street**]

1.2d. City [**Austin**]

1.2e. State [**Texas**]

1.2f. Zip [**78701**]

1.2g. Point of contact telephone number [**512-475-2125**]

1.2h. Fax number [**512-475-3935**]

1.2i. Point of contact email address [**michael.deyoung@tdhca.state.tx.us**]

1.2j. Point of contact agency website [www.tdhca.state.tx.us]

1.3. **Designation Letter:** Attach the State's official CSBG designation letter. If either the governor or designated agency has changed, update the letter accordingly. [**Attach a document**]

Instructional Note: The letter should be from the chief executive officer of the State and include, at minimum, the designated State CSBG lead agency and title of the authorized official of the lead agency who is to administer the CSBG grant award.

Per state law, programmatic designations to a State Agency from the Governor remain in effect unless rescinded.

SECTION 2

State Legislation and Regulation

2.1. **CSBG State Legislation:** Does the State have a statute authorizing CSBG? Yes No

2.2. **CSBG State Regulation:** Does the State have regulations for CSBG? Yes No

2.3. If yes was selected in item 2.1 or 2.2, attach a copy (or copies) of legislation and/or regulations or provide a hyperlink(s), as appropriate. **[Attach a document and/or provide a link]** Link:

Texas Government Code, Section 2105:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2105.htm>

Texas Government Code, Section 2306.097:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

Texas Administrative Code, 10 TAC, Chapter 1, Subchapter A:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=1&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=1&sch=A&rl=Y)

Texas Administrative Code, 10 TAC, Chapter 2:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=2](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=2)

Texas Administrative Code, 10 TAC, Chapter 6, Subchapter A:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y)

Texas Administrative Code, 10 TAC, Chapter 6, Subchapter B:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=B&rl=Y)

2.4. State Authority: Select a response for each question about the State statute and/or regulations authorizing CSBG:

2.4a. Did the State legislature enact authorizing legislation, or amendments to an existing authorizing statute, last year? Yes No

2.4b. Did the State establish or amend regulations for CSBG last year? Yes No

2.4c. Does the State statutory or regulatory authority designate the bureau, division, or office in the State government that is to be the State administering agency?
 Yes No

SECTION 3

State Plan Development and Statewide Goals

3.1. CSBG Lead Agency Mission and Responsibilities: Briefly describe the mission and responsibilities of the State agency that serves as the CSBG lead agency. **[Narrative:**

The mission of the Texas Department of Housing and Community Affairs is to administer its assigned programs effectively, transparently, and lawfully and to invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive.

The Department accomplishes this mission by acting as a conduit for federal grant funds for housing and community services. However, because several major housing programs require the participation of private investors and private lenders, TDHCA also operates as a housing finance agency.

Ensuring program compliance with the many state and federal laws that govern housing programs is another important part of the Department's mission. This ensures the health and safety of TDHCA's housing portfolio and guarantees state and federal resources are expended in an efficient and effective manner.

TDHCA also serves as a financial and administrative resource that helps provide essential services and affordable housing opportunities to Texans who qualify for this assistance based on their income level. Additionally, the Department is a resource for educational materials and technical assistance for housing, housing related, and community services matters.]

3.2. State Plan Goals: Describe the State’s CSBG-specific goals for State administration of CSBG under this State Plan. **[Narrative:** The Agency’s Strategic Plan for Fiscal Years 2015-19 includes the following measures related to CSBG:

Objective: To ease hardship of poverty for 16 percent of the homeless and very low income persons each year.

Strategy 1: Administer poverty-related funds through a Network of Agencies.

Output Measures:

1. Number of persons assisted through Homeless and Poverty-related funds (Note: this includes CSBG and other grants)
2. Number of persons that achieve incomes above poverty level
3. Number of persons assisted by the Community Services Block Grant]

Instructional Note: For examples of “goals,” see State Accountability Measure 1Sa(i).

Note: This information is associated with State Accountability Measure 1Sa(i) and may pre-populate the State’s annual report form.

3.3. State Plan Development: Indicate the information and input the State accessed to develop this State Plan.

3.3a. Analysis of [Check all that applies and narrative where applicable]

- State Performance Indicators and/or National Performance Indicators (NPIs)
- U.S. Census data
- State performance management data (e.g., accountability measures, ACSI survey information, and/or other information from annual reports)
- Other data (describe) **[Narrative, 2500 characters]**
- Eligible entity community needs assessments
- Eligible entity plans
- Other information from eligible entities, e.g., State required reports (describe)
[Narrative, 2500 characters]

3.3b. Consultation with [Check all that applies and narrative where applicable]

- Eligible entities (e.g., meetings, conferences, webinars; not including the public hearing)
- State community action association and regional CSBG T & TA providers
- State partners and/or stakeholders (describe) **[Narrative:** The Department invites consultation with partners and stakeholders through our Executive Board Meeting, intra-agency councils, workgroups, and public hearings. State employees also attend state association conferences and Board meetings.]

- National organizations (describe) [Narrative, 2500 characters]
- Other (describe) [Narrative, 2500 characters]

3.4. Eligible Entity Involvement

3.4a. Describe the specific steps the State took in developing the State Plan to involve the eligible entities. **[Narrative:** The State involved CSBG eligible entities and the State Association through workgroup meetings established specifically for this purpose, a survey, and phone conferences to discuss the Plan and the use of CSBG funds. In the fall of 2016 the State formed a CSBG Workgroup which included CSBG interested eligible entities and the State Association. The workgroup provided the Department feedback on the CSBG State Plan, the CSBG formula and other areas of interest to the Network. The State also developed an electronic survey for CSBG eligible entities to provide the Department input on the use of CSBG discretionary funds and on training and technical assistance needs. The survey was administered March 2017.]

Note: This information is associated with State Accountability Measures 1Sa(ii) and may pre-populate the State’s annual report form.

If this is the first year filling out the automated State Plan, skip the following question.

3.4b. Performance Management Adjustment: How has the State adjusted State Plan development procedures under this State Plan, as compared to past plans, in order 1) to encourage eligible entity participation and 2) to ensure the State Plan reflects input from eligible entities? Any adjustment should be based on the State’s analysis of past performance in these areas, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail.

[The State thoroughly reviewed the results of the ACSI 2015 Survey in developing the Plan; one of the areas of feedback was that eligible entities asked to be able to provide input on the CSBG State Plan prior to the draft being released. In response to that suggestion, the State changed the Plan development process by collaborating with the State Association to form a CSBG Workgroup to receive input on the 2018 and 2019 draft CSBG State Plan. At the first meeting of the workgroup, the State received feedback on key areas that would be included in the 2018 and 2019 CSBG State Plan. Such areas included the allocation formula to distribute CSBG funds and on possible outcome measures. After meeting twice and discussing the topics requested of the workgroup, the group determined that no further meetings were needed to give input for development of the Plan.]

Note: This information is associated with State Accountability Measures 1Sb(i) and (ii) and may pre-populate the State’s annual report form.

- 3.5. Eligible Entity Overall Satisfaction:** Provide the State’s target for eligible entity Overall Satisfaction during the performance period: [__50__]

Instructional Note: The State’s target score will indicate improvement or maintenance of the States’ Overall Satisfaction score from the most recent American Customer Survey Index (ACSI) survey of the State’s eligible entities. (See information about the ACSI in the CSBG State Accountability Measures document.)

Note: Item 3.5 is associated with State Accountability Measure 8S and may pre-populate the State’s annual report form.

SECTION 4

CSBG Hearing Requirements

- 4.1. Public Inspection:** Describe how the State made this State Plan, or revision(s) to the State Plan, available for public inspection, as required under Section 676(e)(2) of the Act. **[Narrative:** The Draft Application and State Plan will be made available for review at the April 27, 2017, meeting of the TDHCA Executive Board. The State will hold public hearings in four locations at which the Plan will be available for review, and will post the Draft Application and State Plan on the Department’s website. A link to the website posting will be published in the *Texas Register* on May 12, 2017.
- 4.2. Public Notice/Hearing:** Describe how the State ensured there was sufficient time and statewide distribution of notice of the public hearing(s) to allow the public to comment on the State Plan, as required under 676(a)(2)(B) of the CSBG Act. **[Narrative:** The State will post notice of public hearings on the Department’s website the week of April 28, 2017. CSBG eligible entities and other interested partners will be notified by e-mail on April 28, 2017. Notice of Public Hearings will be published in the *Texas Register* on May 12, 2017]
- 4.3. Public and Legislative Hearings:** Specify the date(s) and location(s) of the public and legislative hearing(s) held by the designated lead agency for this State Plan, as required under Section 676(a)(2)(B) and Section 676(a)(3) of the Act. (If the State has not held a public hearing in the prior fiscal year and/or a legislative hearing in the last three years, provide further detail).

Instructional Note: The date(s) for the public hearing(s) must have occurred in the year prior to the first Federal fiscal year covered by this plan. Legislative hearings are held at least every three years, and must have occurred within the last three years prior to the first Federal fiscal year covered by this plan.

- Austin - Tuesday, May 23, 2017, 6:00 p.m.-7:00 p.m. in room 116, TDHCA headquarters, 221 East 11th Street, Austin, TX

- Fort Worth – Tuesday, May 23, 2017, 6:00 p.m.-7:00 p.m. at Southside Community Center, 959 E. Rosedale, Fort Worth, TX 76104
- Houston – Wednesday, May 24, 2017, 1:30 p.m.-2:30 p.m. at Gulf Coast Community Services Association, 9320 Kirby Drive, Houston, TX
- Midland - Thursday, May 25, 2017, 2:00 p.m.- 3:00 p.m. at 1101 E. Garden Lane, Midland, TX 79701

Date	Location	Type of Hearing [Select an option]
Legislative Hearings: House Committee on Appropriations on February 20, 2017 Senate Committee on Finance on February 13, 2017	Texas State Capitol, Austin, Texas	<ul style="list-style-type: none"> • <input type="checkbox"/> Public • <input checked="" type="checkbox"/> Legislative • <input type="checkbox"/> Combined
Public Hearings: Tuesday, May 23, 2017, from 6:00 -7:00 p.m. Tuesday, May 23, 2017, from 6:00 -7:00 p.m. Wednesday, May 24, 2017 from 1:30 -2:30 p.m. Thursday, May 25, 2017 from 2:00-3:00 p.m.	TDHCA headquarters 221 East 11 th Street, # 116, Austin, TX] 959 E. Rosedale, Fort Worth, TX 9320 Kirby Drive, Houston, TX 1101 E. Garden Lane, Midland, TX 79701	<ul style="list-style-type: none"> • <input checked="" type="checkbox"/> Public • <input type="checkbox"/> Legislative • <input type="checkbox"/> Combined
ADD a ROW function Note: rows will be able to be added for each additional hearing		

4.4. Attach supporting documentation or a hyperlink for the public and legislative hearings. **[Attach a document or provide a hyperlink.]** Note: Texas Register Notice is to be added to Plan once notice is published.

SECTION 5

CSBG Eligible Entities

5.1. CSBG Eligible Entities: In the table below, list each eligible entity in the State, and indicate public or private, the type(s) of entity, and the geographical area served by the entity. (This table should include every CSBG Eligible Entity to which the State plans to allocate 90 percent funds, as indicated in the table in item 7.2. Do not include entities that only receive remainder/discretionary funds from the State or tribes/tribal organizations that receive direct funding from OCS under Section 677 of the CSBG Act.)

	CSBG Eligible Entity	Public or Nonprofit	Type of Agency	CSBG Counties Served
1	Aspermont Small Business Development Center, Inc.	Nonprofit	CAA	Haskell, Jones, Kent, Knox, Stonewall, Throckmorton
2	Austin, City of, Health and Human Services Department	Public	Local Government	Travis
3	Big Bend Community Action Committee, Inc.	Nonprofit	CAA	Brewster, Culberson, Hudspeth, Jeff Davis, Presidio
4	Brazos Valley Community Action Agency	Nonprofit	CAA	Brazos, Burleson, Chambers, Grimes, Leon, Liberty, Madison, Montgomery, Robertson, Walker, Waller, Washington
5	Cameron and Willacy Counties Community Projects, Inc.	Nonprofit	CAA	Cameron, Willacy
6	Central Texas Opportunities, Inc.	Nonprofit	CAA	Brown, Callahan, Coleman, Comanche, Eastland, McCulloch, Runnels
7	Combined Community Action, Inc.	Nonprofit	CAA	Austin, Bastrop, Colorado, Fayette, Lee
8	Community Action Committee of Victoria Texas	Nonprofit	CAA	Aransas, Calhoun, De Witt, Goliad, Gonzales, Jackson, Lavaca, Refugio, Victoria
9	Community Action Corporation of South Texas	Nonprofit	CAA	Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, San Patricio
10	Community Action Inc. of Central Texas	Nonprofit	CAA	Blanco, Caldwell, Hays
11	Community Action Social Services & Education	Nonprofit	CAA	Maverick

12	Community Council of South Central Texas, Inc.	Nonprofit	CAA	Atascosa, Bandera, Comal, Edwards, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Kinney, Live Oak, McMullen, Medina, Real, Uvalde, Val Verde, Wilson, Zavala
13	- Unserved Area – RFA released January 2017; estimate replacement in May 2017			Dimmit, La Salle
14	Community Services of Northeast Texas, Inc.	Nonprofit	CAA	Bowie, Camp .Cass, Delta, Franklin, Hopkins, Lamar, Marion, Morris, Rains, Red River, Titus
15	Community Services, Inc.	Nonprofit	CAA	Anderson, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall, Van Zandt
16	Concho Valley Community Action Agency	Nonprofit	CAA	Coke, Concho, Crockett, Irion, Kimble, Menard, Reagan, Schleicher, Sterling, Sutton, Tom Green
17	Unserved Area – RFA released January 2017; estimate replacement in June 2017			Dallas
18	Economic Action Committee of The Gulf Coast	Nonprofit	CAA	Matagorda
19	Economic Opportunities Advancement Corporation of Planning Region XI	Nonprofit	CAA	Bosque, Falls, Freestone, Hill, Limestone, McLennan
20	El Paso Community Action Program, Project BRAVO, Inc.	Nonprofit	CAA	El Paso
21	Fort Worth, City of, Parks & Community Services Department	Public	Local Government	Tarrant
22	Galveston County Community Action Council, Inc.	Nonprofit	CAA	Brazoria, Fort Bend, Galveston, Wharton
23	Greater East Texas Community Action Program (GETCAP)	Nonprofit	CAA	Angelina, Cherokee, Gregg, Houston, Nacogdoches, Polk, Rusk, San Jacinto, Smith, Trinity, Wood
24	Gulf Coast Community Services Association	Nonprofit	CAA	Harris
25	Hidalgo County Community Services Agency	Public	Local Government	Hidalgo
26	Hill Country Community Action Association, Inc.	Nonprofit	CAA	Bell, Coryell, Hamilton, Lampasas, Llano, Mason, Milam, Mills, San Saba
27	Lubbock, City of, Community Development Department	Public	Local Government	Lubbock

28	Nueces County Community Action Agency	Nonprofit	CAA	Nueces
29	Panhandle Community Services	Nonprofit	CAA	Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler
30	Pecos County Community Action Agency	Nonprofit	CAA	Crane, Pecos, Terrell
31	Rolling Plains Management Corporation	Nonprofit	CAA	Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Mitchell, Montague, Taylor, Shackelford, Stephens, Wichita, Wilbarger, Young
32	San Antonio, City of, Department of Human Services	Public	Local Government	Bexar
33	South Plains Community Action Association, Inc.	Nonprofit	CAA	Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lynn, Motley, Terry, Yoakum
34	South Texas Development Council	Public	Local Government	Jim Hogg, Starr, Zapata
35	Southeast Texas Regional Planning Commission	Public	Local Government	Hardin, Jefferson, Orange
36	Texas Neighborhood Services	Nonprofit	CAA	Erath, Hood, Johnson, Palo Pinto, Parker, Somervell, Wise
37	Texoma Council of Governments	Public	Local Government	Cooke, Fannin, Grayson
38	Tri-County Community Action, Inc.	Nonprofit	CAA	Harrison, Jasper, Newton, Panola, Sabine, San Augustine, Shelby, Tyler, Upshur
39	Webb County Community Action Agency	Public	Local Government	Webb
40	West Texas Opportunities, Inc.	Nonprofit	CAA	Andrews, Borden, Dawson, Ector, Fisher, Gaines, Glasscock, Howard, Loving, Martin, Midland, Nolan, Reeves, Scurry, Upton, Ward, Winkler
41	Williamson-Burnet County Opportunities, Inc.	Nonprofit	CAA	Burnet, Williamson

5.2. Total number of CSBG eligible entities: 39 [This will automatically update based on chart in 5.1]

5.3. **Changes to Eligible Entities List:** Has the list of eligible entities under item 5.1 changed since the State’s last State Plan submission? If yes, briefly describe the changes.

Yes No [If yes is selected – Narrative: **Community Services Agency of South Texas and Northeast Texas Opportunities, Inc. voluntarily relinquished CSBG eligible entity status. Dallas Urban League’s eligible entity status was terminated. The Department issued a request for application for a provider for the counties previously served by Northeast Texas Opportunities and an existing eligible entity was awarded those counties. A request for application was issued for the counties previously covered by Community Services Agency of South Texas and Dallas Urban League in January 2017 and the Department is in the process of accepting applications. It is expected that by June 2017 eligible entities for those counties will be in place.]**

Instructional Note: Limited Purpose Agency refers to an eligible entity that was designated as a limited purpose agency under title II of the Economic Opportunity Act of 1964 for fiscal year 1981, that served the general purposes of a community action agency under title II of the Economic Opportunity Act, that did not lose its designation as a limited purpose agency under title II of the Economic Opportunity Act as a result of failure to comply with that Act and that has not lost its designation as an eligible entity under the CSBG Act.

Instructional Note: 90 percent funds are the funds a State provides to eligible entities to carry out the purposes of the CSBG Act, as described under Section 675C of the CSBG Act. A State must provide “no less than 90 percent” of their CSBG allocation, under Section 675B, to the eligible entities.

SECTION 6

Organizational Standards for Eligible Entities

Note: Reference IM 138, *State Establishment of Organizational Standards for CSBG Eligible Entities*, for more information on Organizational Standards. Click [HERE](#) for IM 138.

- 6.1. Choice of Standards:** Check the box that applies. If using alternative standards, a) attach the complete list of alternative organizational standards, b) describe the reasons for using alternative standards, and c) describe how the standards are at least as rigorous as the COE-developed standards.

The State will use the CSBG Organizational Standards Center of Excellence (COE) organizational standards (as described in IM 138)

The State will use an alternative set of organizational standards **[Attach supporting documentation if this option is selected]**

- 6.2.** If the State is using the COE-developed organizational standards, does the State propose making a minor modification to the standards, as described in IM 138? Yes

No

- 6.2a.** If yes was selected in item 6.2, describe the State's proposed minor modification to the COE-developed organizational standards, and provide a rationale.

[The state has administrative rules, the Texas Administrative Code (TAC), to address state requirements and implemented the organizational standards under the TAC. The rule was put into place in January 2016. Minor modifications to the TAC included the state law requirement that eligible entities follow the Texas Uniform Grant Management Standards and the State of Texas Single Audit Circular unless there has been a federal preemption. Additionally, where the word bylaws is used the Department has modified the standards to read Certificate of Formation/Articles of Incorporation and bylaws, as needed to comply with state law.]

- 6.3.** How will/has the State officially adopt(ed) organizational standards for eligible entities in the State in a manner consistent with the State's administrative procedures act? If "Other" is selected, provide a timeline and additional information, as necessary. **[Check all that applies and narrative where applicable]**

Regulation

Policy

Contracts with eligible entities

Other, describe: **[Narrative, 2500 characters]**

6.4. How will the State assess eligible entities against organizational standards, as described in IM 138? **[Check all that applies]**

- Peer-to-peer review (with validation by the State or State-authorized third party)
- Self-assessment (with validation by the State or State-authorized third party)
- Self-assessment/peer review with State risk analysis
- State-authorized third party validation
- Regular, on-site CSBG monitoring
- Other (desk and monitoring reviews)

6.4a. Describe the assessment process.

[Narrative: The Texas Department of Housing and Community Affairs is planning on assessing eligible entities' compliance with organizational standards through a desk review of documents submitted by the subrecipients.

Prior to the start of a new program year, subrecipients must submit documents for each organizational standard and a certification attesting to their self-assessment. The Department will perform a desk review of the documents to verify the self-assessment and will issue a report reflecting the results of the review of the Organizational Standards documentation and indicating if the standards are met or not met. Follow up engagement will occur, when the desk review identifies Organizational Standards that were not met in the Desk review.

The desk reviews will occur in three phases, the initial review of documentation, a second review of additional documentation, and a final report. After the initial review, the Department will complete a desk review of the documentation and the subrecipient will be provided with a report identifying the unmet Organizational Standards as well as those that are met. The report will include information related to the deficiency and the requirements of the organizational standard and as well as technical assistance tools, if applicable. The subrecipient will be given a deadline by when to provide additional documentation.

After the Department receives the additional documentation from the subrecipient, the Department will review the documentation and provide another report indicating if the organizational standards are met or not met. The subrecipient will be provided with one last opportunity to provide additional documentation within the prescribed deadline. The subrecipient's response must address each unmet standard and contain support documentation that clearly demonstrated the standard was met. The Department will review the response and determine if the subrecipient's response indicates the standard was met and provide one final report to the subrecipient indicating which organizational standards were met and not met. In the event that a

subrecipient does not meet a standard, the Department will review whether the subrecipient requires technical assistance to meet the standard(s) and what other steps are necessary. The Department will continue to provide technical assistance and develop a Technical Assistance Plan with the subrecipient until the standards have been met.

Additionally, the Department sent out a Request for Offer (RFO) in the winter of 2017 to potential software manufacturers and is currently undergoing creation of a software package that will help to streamline the organizational standard submission, collection, and review process. The new software will greatly enhance the process described above in this section.]

- 6.5.** Will the State make exceptions in applying the organizational standards for any eligible entities due to special circumstances or organizational characteristics, as described in IM 138? Yes No

6.5a. If yes was selected in item 6.5, list the specific eligible entities the State will exempt from meeting organizational standards, and provide a description and a justification for each exemption. **[Narrative, 2500 characters or attach document]**

If this is the first year filling out the automated State Plan, skip the following question.

- 6.6. Performance Target:** What percentage of eligible entities in the State does the State expect will meet all the State-adopted organizational standards in the next year? **[Insert a percentage. 33%]**

Note: This information is associated with State Accountability Measures 6Sa and may pre-populate the State's annual report form.

SECTION 7

State Use of Funds

Eligible Entity Allocation (90 Percent Funds) [Section 675C(a) of the CSBG Act]

7.1 Formula: Select the method (formula) that best describes the current practice for allocating CSBG funds to eligible entities. **[Check one and narrative where applicable]**

- Historic
- Base + Formula
- Formula Alone
- Formula with Variables
- Hold Harmless + Formula
- Other **[Narrative:** The Department distributes CSBG funds to CSBG eligible entities based on a distribution formula which incorporates the U.S. Census Bureau Decennial 2010 Census and data from the American Community Survey (ACS) for information on persons at 125% of poverty; a \$50,000 base; a \$150,000 floor; 98% weighted factor for poverty population; and, a 2% weighted factor for the inverse ratio of population density. The formula is applied as follows: each eligible entity receives a base award; then, the weighted factors of poverty population and population density are applied to the state's balance of the 90% funds. If the base and application of the weighted factors do not yield sufficient funds for the minimum floor per entity, then the minimum floor amount is reserved for each of those CSBG eligible entities under the floor figure. Then, the formula is re-applied to the balance of the 90% funds for distributing the remaining funds to the remaining CSBG eligible entities.]

Following the use of the decennial Census data, then on a biennial basis, the Department will use the most recent ACS 5 year estimate data that is available. To the extent that there are significant reductions in CSBG funds received by the Department, the Department may revise the CSBG distribution formula through a rulemaking process.

7.1a. Does the State statutory or regulatory authority specify the terms or formula for allocating the 90 percent funds among eligible entities? Yes No

7.2. Planned Allocation: Specify the planned allocation of 90 percent funds to eligible entities, as described under Section 675C(a) of the CSBG Act. The estimated allocations may be in dollars or percentages. For each eligible entity receiving funds, provide the Funding Amount in either dollars (columns 2 and 4) or percentage (columns 3 and 5) for the fiscal years covered by this plan.

The estimated allocations are based on FY 2018 and FY 2019 CSBG funding levels and are based on projected level funding.

	CSBG Eligible Entity	Estimated 2018 Allocation	Estimated 2019 Allocation
1	Aspermont Small Business Development Center, Inc.	\$150,000	\$150,000
2	Big Bend Community Action Committee, Inc.	\$150,000	\$150,000
3	Brazos Valley Community Action Agency	\$1,119,840	\$991,880
4	Cameron and Willacy Counties Community Projects, Inc.	\$ 1,018,619	\$897,019
5	Central Texas Opportunities, Inc.	\$211,351	\$186,868
6	City of Austin, Health and Human Services Department	\$1,230,347	\$1,092,540
7	City of Fort Worth, Parks and Community Services Department	\$,1,891,568	\$1,660,378
8	City of Lubbock, Community Development Department	\$416,695	\$369,785
9	City of San Antonio, Department of Human Services	\$2,142,032	\$1,879,398
10	Combined Community Action, Inc.	\$220,145	\$194,548
11	Community Action Committee of Victoria Texas	\$348,908	\$308,395
12	Community Action Corporation of South Texas	\$319,789	\$282,649
13	Community Action Inc. of Central Texas	\$278,240	\$248,712
14	Community Action Social Services & Education	\$171,668	\$151,688
15	Community Council of South Central Texas, Inc.	\$731,356	\$645,818
16	Funds are reserved for organization that will be awarded the Dimmit and LaSalle county service area in May 2017.	\$150,000	\$150,000
17	Community Services of Northeast Texas, Inc.	\$460,033	\$230,121
18	Community Services, Inc.	\$1,522,719	\$1,337,834
19	Concho Valley Community Action Agency	\$255,891	\$226,154
20	Economic Action Committee of the Gulf Coast	\$150,000	\$150,000
21	Economic Opportunities Advancement Corporation of Planning Region XI	\$514,512	\$456,197
22	El Paso Community Action Program, Project Bravo, Inc.	\$1,390,685	\$1,222,376
23	Galveston County Community Action Council, Inc.	\$955,814	\$842,098
24	Greater East Texas Community Action Program (GETCAP)	\$960,490	\$846,188
25	Gulf Coast Community Services Association	\$5,116,826	\$4,508,898
26	Hidalgo County, Texas-County of Hidalgo Community Service Agency	\$1,810,597	\$1,589,572
27	Hill Country Community Action Association, Inc.	\$545,037	\$482,891
28	Nueces County Community Action Agency	\$489,649	\$434,456
29	Panhandle Community Services	\$600,170	\$531,102
30	Pecos County Community Action Agency	\$150,000	\$150,000
31	Rolling Plains Management Corporation	\$-472,318	\$419,300
32	South East Texas Regional Planning Commission	\$496,323	\$440,292
33	South Plains Community Action Association, Inc.	\$298,498	\$263,864
34	South Texas Development Council	\$253,738	\$223,848
35	Texas Neighborhood Services	\$447,298	\$397,421

36	Texoma Council of Governments	\$263,038	\$231,981
37	Tri-County Community Action, Inc.	\$350,457	\$309,299
38	Funds are reserved for organization that will be awarded the Dallas county service area in June 2017	\$3,236,718	\$2,836,657
39	Webb County Community Action Agency	\$551,383	\$488,439
40	West Texas Opportunities, Inc.	\$616,722	\$545,576
41	Williamson-Burnet County Opportunities, Inc.	\$326,973	\$287,889
	Total	\$32,786,447	\$29,040,567

7.3. Distribution Process: Describe the specific steps in the State’s process for distributing 90 percent funds to the eligible entities and include the number of days each step is expected to take; include information about State legislative approval or other types of administrative approval (such as approval by a board or commission). **[Narrative:** The Department distributes funding utilizing an electronic contract and reporting system. Upon receipt of Notice of Grant Award from USHHS, the Department generates contracts to allocate the 90% pass-through funding to the CSBG eligible entities. The Texas State Legislature meets biennially during which time the budget of all state agencies are considered. The CSBG budget is included in the review of the Department’s overall budget.

The Department is required to obtain approval from its Governing Board prior to releasing funding contracts. The process to obtain Board approval takes approximately 45 days. The Department posts an agenda 7 days prior to a monthly Board meeting to include an item seeking approval of the CSBG State Plan and approval to release funding to the eligible entities. Upon Board approval, a merging and internal approval process of the individual funding contracts for the eligible entities will occur.]

7.4. Distribution Timeframe: Does the State plan to make funds available to eligible entities no later than 30 calendar days after OCS distributes the Federal award?

Yes No

7.4a. If no, describe State procedures to ensure funds are made available to eligible entities consistently and without interruption. **[Narrative:** The Department will make the funds available within 30 calendar days after Federal and State authority was provided, with the exception of the 1st quarter because of the State’s CSBG contract year beginning January 1st.]

Note: Item 7.4 is associated with State Accountability Measure 2Sa and may pre-populate the State’s annual report form.

If this is the first year filling out the automated State Plan, skip the following question.

- 7.5. Performance Management Adjustment:** How is the State improving grant and/or contract administration procedures under this State Plan as compared to past plans? Any improvements should be based on analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any improvements, provide further detail. **[Narrative: The State has made improvements to ensure that the CSBG contracts are executed prior to the start date. The State also formed a CSBG Workgroup to receive feedback from the network on how to improve coordination with the Network and the State association and receive their feedback on the CSBG State Plan. The State also has assigned a technical assistance staff person to each eligible entity.]**

Note: This information is associated with State Accountability Measure 2Sb and may pre-populate the State’s annual report form.

Administrative Funds [Section 675C(b)(2) of the CSBG Act]

- 7.6.** What amount of State CSBG funds does the State plan to allocate for administrative activities, under this State Plan? The estimate may be in dollars or a percentage. **[5%]**
- 7.7.** How many State staff positions will be funded in whole or in part with CSBG funds under this State Plan? **[41]**
- 7.8.** How many State Full Time Equivalentents (FTEs) will be funded with CSBG funds under this State Plan? **[12]**

Remainder/Discretionary Funds [Section 675C(b) of the CSBG Act]

- 7.9.** Does the State have remainder/discretionary funds? Yes No

If yes was selected, describe how the State plans to use remainder/discretionary funds in the table below.

Note: This response will link to the corresponding assurance, item 14.2.

Instructional Note: The assurance under 676(b)(2) of the Act (item 14.2 of this State Plan) specifically requires a description of how the State intends to use remainder/discretionary funds to “support innovative community and neighborhood-based initiatives related to the purposes of [the CSBG Act].” Include this description in row “f” of the table below and/or attach the information.

If a funded activity fits under more than one category in the table, allocate the funds among the categories. For example, if the State provides funds under a contract with the State Community Action association to provide training and technical assistance to eligible entities and to create a statewide data system, the funds for that contract should be allocated appropriately between row a and row c. If allocation is not possible, the State may allocate the funds to the main category with which the activity is associated.

Note: This information is associated with State Accountability Measures 3Sa; the responses may pre-populate the State’s annual report form.

Remainder of Discretionary Fund Uses (See 675C(b)(1) of the CSBG Act)	Year One Planned \$	Year One Planned %	Year Two Planned \$	Year Two Planned %	Brief description of services/activities
a. Training and Technical Assistance	\$100,000	6.25%	\$100,000	6.25%	T&TA provided by staff or an outsourced provider in areas such as ROMA, Org Standards, Case Management, Board, Reporting, community action plans, needs assessments, strategic planning, and other areas requested.
b. Coordination of State-operated programs and/or local programs	\$0		\$0		
c. Statewide coordination and communication among eligible entities	\$0		\$0		
d. Analysis of distribution of CSBG funds to determine if targeting greatest need	\$0		\$0		.
e. Asset building programs	\$0		\$0		
f. Innovative programs/activities by eligible entities or other neighborhood groups	\$0		\$0		
g. State charity tax credits	\$0		\$0		
h. Other activities specify (see below for details)	\$1,500,000	93.75%	\$1,500,000	93.75%	See note below.
Totals	\$1,600,000	100%	\$1,600,000	100%	

i. Other Activities. Specify: The State notes that these are proposed activities that must still be approved by the board once the State is awarded funds. The planned use may change as directed by the Governing Board. Expected uses: 1) Direct Client Assistance and/or Network Operational Investments (which assists eligible entities in meeting requirements of Organizational Standards primarily through tangible deliverables) \$650,000; 2) Intensive CAA Assessments (which provides intensive third-party assessments to assess operations and procedures of approximately four CSBG eligible entities with critical needs) \$100,000; 3) Network Transition Fund \$150,000 (which help CSBG eligible entities absorb transitional expenses when they absorb other CSBG services areas); 4) Migrant Seasonal Farm Worker and Native American Populations Initiatives \$300,000; 5) Housing Voucher Program Support Fund \$150,000; and 5) Disaster Recovery Fund \$150,000. When determining which eligible entities receive CSBG discretionary funds, CSBG Organizational Standards may be a criterion.

7.10. What types of organizations, if any, does the State plan to work with (by grant or contract using remainder/discretionary funds) to carry out some or all of the activities in table 7.9. **[Check all that apply and narrative where applicable]**

- CSBG eligible entities (15 to 30) (if checked, provide the expected number of CSBG eligible entities to receive funds) **[Discretionary funds will be utilized to provide Direct Client Assistance, Intensive Assessments, Network Transition Funds, Training & Technical Assistance, and Disaster Recovery.]**
- Other community-based organizations
- State Community Action association
- Regional CSBG technical assistance provider(s)
- National technical assistance provider(s)
- Individual consultant(s)
- Tribes and Tribal Organizations
- Other **[Migrant Seasonal Farm Worker Organization and Housing Voucher Program Support]**
- None (the State will carry out activities directly)

Note: This response will link to the corresponding CSBG assurance, item 14.2.

If this is the first year filling out the automated State Plan, skip the following question.

7.11. Performance Management Adjustment: How is the State adjusting the use of remainder/discretionary funds under this State Plan as compared to past plans? Any adjustment should be based on the State’s analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail. **[Narrative:** In 2018 and 2019, the Department plans to reduce the use of CSBG Discretionary funds for training and technical assistance from \$200,000 to \$100,000 and to reduce the Intensive Community Action Agency Support Assessments fund from \$150,000 to \$100,000. With the reduction of \$150,000 in those areas, the State will increase the amount of funds available for Other Activities from \$1,350,000 to \$1,500,000 in order to increase the amount of funds available to CSBG eligible entities from \$500,000

budgeted in the 2016 & 2017 Plan to \$650,000 for 2018 and 2019. These changes are reflective of feedback from the eligible entity network.]

Note: This information is associated with State Accountability Measures 3Sb, and will pre-populate the State’s annual report form.

SECTION 8 State Training and Technical Assistance

8.1. Describe the State’s plan for delivering CSBG-funded training and technical assistance to eligible entities under this State Plan by completing the table below. Add a row for each activity: indicate the timeframe; whether it is training, technical assistance or both; and the topic. (CSBG funding used for this activity is referenced under item 7.9(a), Use of Remainder/Discretionary Funds.)

Note: 8.1 is associated with State Accountability Measure 3Sc and may pre-populate the State’s annual report form.

Fiscal Year (Y) Quarter (Q) / Timeframe	Training (T), Technical Assistance (TA), or Both (B)	Topic	Brief Description of Other
FY1 - Q1	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, CA, SP, M, CM, NPI	Department staff provides technical assistance as identified by our T&TA Plan that was developed by the state office, state association, and RPIC. The T&TA plan was developed from subrecipient requests, monitoring reports, workgroups, surveys, and performance analysis. The State has an on-line system to request T&TA or to submit questions for TA. T&TA is conducted by the following means: on-site training, conferences, regional training series, webinars, teleconferences, workshops, videos, Best Practices, FAQs, and online tools/resources. Training is customized to the needs of the eligible entity. ROMA is embedded into all trainings, guidance, and materials. Initial CM training is provided through an online video training series. Subsequent CM training is provided

			<p>on-site and/or in regionals. NPI training will be a focus in 2018 and 2019, as new federal NPIs are being implemented. GTB are provided most quarters. TA on reporting is provided monthly by Department reporting staff and performance analysis is provided by trainers each quarter. F, OS-G, OS-US, T&A will be provided as requested and as needed; although aspects of each are incorporated into regular trainings as appropriate. CA, SP, CSD, M, TA will be provided as needed. CA and SP primarily FY1Q1.</p> <p>Also, intensive assessment and associated T&TA will be provided to entities identified as “at-risk.”</p>
FY1 - Q2	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY1 – Q3	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY1 – Q4	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q1	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q2	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q3	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q4	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1

Topic:

- Fiscal (F)
- Governance/Tripartite Boards (GTB)
- Organizational Standards-General (OS-G)
- Organizational Standards (OS-US)– for eligible entities with unmet standards on Technical Assistance Plans or Quality Improvement Plans
- Correcting Significant Deficiencies Among Eligible Entities (CSD)
- Reporting (R)
- ROMA
- Community Assessment (CA)
- Strategic Planning (SP)
- Monitoring (M)
- Communications (C)
- Technology (T)
- National Performance Indicators (NPI)
- Other – 1. Case Management (CM)

8.1a. The planned budget for the training and technical assistance plan (as indicated in the Remainder/Discretionary Funds table in item 7.9): _____ **[Prepopulated with the budget allocation for years one and two under 7.9a]**

If this is the implementation year for organizational standards, skip question 8.2.

8.2. Does the State have in place Technical Assistance Plans (TAPs) or Quality Improvement Plans (QIPs) for all eligible entities with unmet organizational standards, if appropriate?

Yes No (The fall of 2017 was the first time that CSBG eligible entities had to provide documentation related to compliance with CSBG Organizational Standards. The review of the information provided was reported in the CSBG Annual Report on April 7, 2017. After CSBG eligible entities submitted their original submission in the fall of 2017, they were provided with two other opportunities to submit additional information and during that time period the Department provided them technical assistance and detailed guidance on why the documentation submitted did not meet the standard. The Department is developing TAPs for providers with unmet organizational standards, and will provide them technical assistance and/or training.

Note: 8.2 is associated with State Accountability Measure 6Sb. QIPs are described in Section 678C(a)(4) of the CSBG Act. If the State, according to their corrective action procedures, does not plan to put a QIP in place for an eligible entity with one or more unmet organizational standards, the State should put a TAP in place to support the entity in meeting the standard(s).

8.3. Indicate the types of organizations through which the State plans to provide training and/or technical assistance as described in item 8.1, and briefly describe their

involvement? (Check all that apply.) **[Check all that applies and narrative where applicable]**

- CSBG eligible entities (if checked, provide the expected number of CSBG eligible entities to receive funds) **[Narrative]**
- Other community-based organizations
- State Community Action association
- Regional CSBG technical assistance provider(s)
- National technical assistance provider(s)
- Individual consultant(s)
- Tribes and Tribal Organizations
- Other []

If this is the first year filling out the automated State Plan, skip the following question.

8.4. Performance Management Adjustment: How is the State adjusting the training and technical assistance plan under this State Plan as compared to past plans? Any adjustment should be based on the State’s analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail. **[Narrative: Texas has developed its T/TA Plan in partnerships with the state association and RPIC (as laid out in the T/TA Template). Texas has increased network input through workgroups, and online T&TA surveys/evaluations. Each Eligible Entity (EE) is assigned a personal trainer as their point-of-contact. Each personal trainer tracks all performance/expenditures, T&TA needs, and who provides EEs with data analysis, TAPs, and other needs.]**

Note: This information is associated with State Accountability Measures 3Sd and may pre-populate the State’s annual report form.

SECTION 9

State Linkages and Communication

Note: This section describes activities that the State may support with CSBG remainder/discretionary funds, described under Section 675C(b)(1) of the CSBG Act. The State may indicate planned use of remainder/discretionary funds for linkage/communication activities in Section 7, State Use of Funds, items 7.9(b) and (c).

9.1. State Linkages and Coordination at the State Level: Describe the linkages and coordination at the State level that the State plans to create or maintain to ensure increased access to CSBG services to low-income people and communities under this State Plan and avoid duplication of services (as required by the assurance under Section 676(b)(5)). Describe or attach additional information as needed. **[Check all that apply]**

from the list below and provide a Narrative. The Department administers the CSBG grant along with LIHEAP and Weatherization and all are administered by the Community Affairs Division. The Department also administers the State’s housing programs. The Department is in contact with regional Head Start Offices, and when we monitor any CSBG eligible entity that administers Head Start and we identify any serious findings or concerns we provide them with a copy of the monitoring report. The Department is the administrative agency for the Texas Inter-Agency Council for the Homeless and is a member of the State’s Housing and Health Services Coordination Council, both of which are composed of several State agencies including the State’s WIOA agency, the child welfare office, and the state health services agency. The Department works closely with the State’s budget office and every biennium the State presents the Department budget for approval. In 2017, the State conducted a series of meetings via conference calls with CSBG eligible entities serving East and Northeast Texas and the entities administering the WIOA funds in the CSBG service areas. The calls focused on improving coordination between CSBG and WIOA programs to provide better services to the eligible populations.]

Note: This response will link to the corresponding CSBG assurance, item 14.5. In addition, this item is associated with State Accountability Measure 7Sa and may pre-populate the State’s annual report form.

- State Low Income Home Energy Assistance Program (LIHEAP) office
- State Weatherization office
- State Temporary Assistance for Needy Families (TANF) office
- State Head Start office
- State public health office
- State education department
- State Workforce Innovation and Opportunity Act (WIOA) agency
- State budget office
- Supplemental Nutrition Assistance Program (SNAP)
- State child welfare office
- State housing office
- Other

9.2. State Linkages and Coordination at the Local Level: Describe the linkages and coordination at the local level that the State plans to create or maintain with governmental and other social services, especially antipoverty programs, to assure the effective delivery of and coordination of CSBG services to low-income people and communities and avoid duplication of services (as required by assurances under Sections 676(b)(5) and (b)(6)). Attach additional information as needed. **[Narrative:** The Department administers the CSBG in a state whose territory is as vast as it is varied. As such, the Department’s strategy centers on ensuring local coordination through the local service providers. The Department requires CSBG eligible entities to coordinate funds and services at the local level. The annual community action plan from each entity has to describe the eligible entities’ coordination efforts with city, county,

schools, non-profits, and other local or regional organizations. CSBG eligible entities coordinate services and work to avoid duplication of services with other providers. CSBG eligible entities are encouraged to participate in local social service and homeless coalitions whose goal is to coordinate services. The Department has stressed the importance of CSBG eligible entities coordinating with WIOA agencies to assist persons to obtain employment and other benefits through WIOA.]

Note: This response will link to the corresponding CSBG assurances, items 14.5 and 14.6.

9.3. Eligible Entity Linkages and Coordination

9.3a State Assurance of Eligible Entity Linkages and Coordination: Describe how the State will assure that the eligible entities will coordinate and establish linkages to assure the effective delivery of and coordination of CSBG services to low-income people and communities and avoid duplication of services (as required by the assurance under Section 676(b)(5)). Attach additional information as needed. **[Narrative:** The State requires CSBG eligible entities to coordinate funds at the local level. Their annual community action plan has to describe their coordination efforts with city, county, schools, non-profits, and other organizations. CSBG eligible entities coordinate services and work to avoid duplication of services with other providers. Most CSBG eligible entities participate in local social service and homeless coalitions whose goal is to coordinate services.]

Note: This response will link to the corresponding CSBG assurance, item 14.5.

9.3b State Assurance of Eligible Entity Linkages to Fill Service Gaps: Describe how the eligible entities will develop linkages to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations, according to the assurance under Section 676(b)(3)(B) of the CSBG Act. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. The document includes a section wherein eligible entities describe any gaps in services and their strategy to address those gaps. If a gap is not currently being addressed or not being sufficiently addressed, eligible entities are to develop and implement a strategy to work with other organizations in their local communities to address the gaps in services.]

Note: This response will link to the corresponding CSBG assurance, item 14.3b.

9.4. Workforce Innovation and Opportunity Act (WIOA) Employment and Training Activities: Does the State intend to include CSBG employment and training activities as part of a WIOA Combined State Plan, as allowed under the Workforce Innovation and Opportunity Act (as required by the assurance under Section 676(b)(5) of the CSBG Act)?

Yes No

Note: This response will link to the corresponding CSBG assurance, item 14.5.

9.4a If the State selected “yes” under item 9.4, provide the CSBG-specific information included in the State’s WIOA Combined Plan. This information includes a description of how the State and the eligible entities will coordinate the provision of employment and training activities through statewide and local WIOA workforce development systems. This information may also include examples of innovative employment and training programs and activities conducted by community action agencies or other neighborhood-based organizations as part of a community antipoverty strategy. **[Narrative, 2500 Characters]**

9.4b. If the State selected “no” under item 9.4, describe the coordination of employment and training activities, as defined in Section 3 of WIOA, by the State and by eligible entities providing activities through the WIOA system. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of the plan, if entities are providing employment and training activities, CSBG eligible entities must describe their coordination with WIOA offices in their service area. In 2017, the State conducted a series of meetings via conference calls with CSBG eligible entities serving East and Northeast Texas and the entities administering the WIOA funds in the CSBG service areas. The calls focused on improving coordination between CSBG and WIOA programs to provide better services to the eligible populations.]

9.5. Emergency Energy Crisis Intervention: Describe how the State will assure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to Low-Income Home Energy Assistance) are conducted in each community in the State, as required by the assurance under Section 676(b)(6) of the CSBG Act. **[Narrative:** The Department administers the LIHEAP grant, which funds the Comprehensive Energy Assistance Program (CEAP). The CEAP provides utility assistance to low-income persons and includes an energy crisis component. LIHEAP also supports the Department’s weatherization program. The majority of the CSBG eligible entities administer both the CEAP and weatherization programs. The Department programs a portion of CSBG discretionary funds for assistance in the case of declared natural disasters. The funds may be used to provide emergency energy crisis intervention.]

Note: This response will link to the corresponding CSBG assurance, item 14.6.

9.6. State Assurance: Faith-based Organizations, Charitable Groups, Community Organizations: Describe how the State will assure local eligible entities will coordinate and form partnerships with other organizations, including faith-based organizations, charitable groups, and community organizations, according to the State’s assurance under Section 676(b)(9) of the CSBG Act. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of their plan, CSBG eligible entities describe the organizations with which they coordinate services including

faith-based organizations, charitable groups, and community organizations. Close coordination and referral takes place with these organizations. Training further reinforces this coordination.]

Note: this response will link to the corresponding assurance, item 14.9

9.7 Coordination of Eligible Entity 90 Percent Funds with Public/Private Resources:

Describe how the eligible entities will coordinate CSBG 90 percent funds with other public and private resources, according to the assurance under Section 676(b)(3)(C) of the CSBG Act. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of their plan, CSBG eligible entities describe the organizations with which they coordinate services, including private and public organizations. Many of the CSBG eligible entities obtain either in-kind assistance or funds from local governments to support the programs that they administer, including donations of space in local government facilities to be utilized by eligible entities to provide CSBG supported services.]

Note: this response will link to the corresponding assurance, item 14.3c.

9.8. Coordination among Eligible Entities and State Community Action Association:

Describe State activities for supporting coordination among the eligible entities and the State Community Action Association. **[Narrative:** The Department works closely with the state eligible entity association, the Texas Community Action Association (TACAA). The Department meets with the association and their board on a regular basis to discuss ways that the Department can better meet the needs of the eligible entities. The Department receives their input on training and technical assistance needs, rule revisions, use of CSBG discretionary funds, and other issues. The state association holds an annual conference for CSBG eligible entities and the Department provides staff to present training to CSBG eligible entities. The Department also works with TACAA to form CSBG working groups to help the Department develop strategies on key issues such as implementation of CSBG organizational standards.]

9.9 Communication with Eligible Entities and the State Community Action Association:

In the table below, describe the State’s plan for communicating with eligible entities, the State Community Action Association, and other partners under this State Plan. Include communication about annual hearings and legislative hearings, as described under Section 4, CSBG Hearing Requirements.

Communication Plan			
Topic	Expected Frequency	Format (drop down)	Brief Description of “Other”
[Narrative: The Department plans to hold quarterly conference calls that will be open to the entire CSBG network. During these calls, the Department will discuss	Dropdown Options: <ul style="list-style-type: none"> • <input type="checkbox"/> Daily • <input type="checkbox"/> Weekly • <input type="checkbox"/> Twice-Monthly • <input type="checkbox"/> Monthly • <input checked="" type="checkbox"/> Quarterly 	Dropdown Options: <ul style="list-style-type: none"> • <input type="checkbox"/> Newsletter • <input type="checkbox"/> Mailing • <input checked="" type="checkbox"/> Meetings/Presentation • <input type="checkbox"/> Blog 	[Narrative, 2500 characters] If “Other” is selected in columns 2 and/or 3, describe in this column. Other: The meetings may be in person meetings, may be held

Communication Plan

Topic	Expected Frequency	Format (drop down)	Brief Description of "Other"
<p>and obtain feedback on training and technical assistance needs, implementation of CSBG organizational standards, anticipated CSBG funding, CSBG RFAs/NOFAs, , case management, community action planning, strategic planning, community needs assessments, self-sufficiency projects, issues related to the LIHEAP funded utility assistance program, the weatherization program, and other topics of interest. The Department plans to hold periodic workgroups for Network input to state plans, rules, and T&TA needs.]</p>	<ul style="list-style-type: none"> • <input type="checkbox"/> Semi-Annually • <input type="checkbox"/> Annually • <input checked="" type="checkbox"/> Other (Periodically) 	<ul style="list-style-type: none"> • <input type="checkbox"/> Email • <input type="checkbox"/> Website • <input type="checkbox"/> Social Media • <input checked="" type="checkbox"/> Other 	<p>by teleconference, or may be presented as webinars.</p>
Topic	Expected Frequency	Format (drop down)	Brief Description of "Other"
<p>[Narrative: The Department informs CSBG eligible entities of notices received from USHHS, the National Association for State Community Services Programs, and the Community Action Partnership. This occurs as notices and guidance arises.]</p>	<p>Dropdown Options:</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Daily • <input type="checkbox"/> Weekly • <input type="checkbox"/> Twice-Monthly • <input type="checkbox"/> Monthly • <input type="checkbox"/> Quarterly • <input type="checkbox"/> Semi-Annually • <input type="checkbox"/> Annually • <input checked="" type="checkbox"/> Other 	<p>Dropdown Options:</p> <ul style="list-style-type: none"> • <input checked="" type="checkbox"/> Newsletter • <input type="checkbox"/> Mailing • <input type="checkbox"/> Meetings/Presentation • <input type="checkbox"/> Blog • <input checked="" type="checkbox"/> Email • <input checked="" type="checkbox"/> Website • <input type="checkbox"/> Social Media • <input type="checkbox"/> Other 	<p>[Narrative, 2500 characters]</p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column The Department and State Association compile Announcements which are sent to the Network via the State Associations' monthly e-Newsletter as often as guidance is received. After being sent, the announcements are posted to the Department's website.</p>
<p>[Narrative: The Department develops guidance for the annual Community Action Plan and for the annual budget. Every 3 years, the Department issues guidance for the Community Assessment</p>	<p>Dropdown Options:</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Daily • <input type="checkbox"/> Weekly • <input type="checkbox"/> Twice-Monthly • <input type="checkbox"/> Monthly • <input type="checkbox"/> Quarterly • <input type="checkbox"/> Semi-Annually • <input checked="" type="checkbox"/> Annually 	<p>Dropdown Options:</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Newsletter • <input type="checkbox"/> Mailing • <input checked="" type="checkbox"/> Meetings/Presentation • <input type="checkbox"/> Blog • <input type="checkbox"/> Email 	<p>[Narrative, 2500 characters]</p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column Other: The guidance that is developed is posted on the Department's website. The Department may also</p>

Communication Plan			
Topic	Expected Frequency	Format (drop down)	Brief Description of "Other"
and for the Strategic Plan every 5 years. The Department also issues other program guidance on areas such as case management, self-sufficiency, program reporting, and administration.]	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Other 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Website <input type="checkbox"/> Social Media <input checked="" type="checkbox"/> Other 	conduct a workshop, webinar or a teleconference. Information may also be presented at State Association Conferences.
[Narrative: The Department will conduct public hearings to obtain comment on the biennial CSBG State Plan and institution of rules. The Department will also accept public comment via e-mail or letters.]	Dropdown Options: <ul style="list-style-type: none"> <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Twice-Monthly <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Annually <input checked="" type="checkbox"/> Other 	Dropdown Options: <ul style="list-style-type: none"> <input type="checkbox"/> Newsletter <input type="checkbox"/> Mailing <input checked="" type="checkbox"/> Meetings/Presentation <input type="checkbox"/> Blog <input type="checkbox"/> Email <input checked="" type="checkbox"/> Website <input type="checkbox"/> Social Media <input checked="" type="checkbox"/> Other 	[Narrative, 2500 characters] If "Other" is selected in columns 2 and/or 3, describe in this column. Other: Information regarding the public hearings will be posted in the <i>Texas Register</i> . The hearings will be open to interested persons. Comments can be submitted in person at a hearing or in writing by e-mail or letter to the Department.

9.10. Feedback to Eligible Entities and State Community Action Association: Describe how the State will provide feedback to local entities and State Community Action Associations regarding performance on State Accountability Measures. **[Narrative:** The Department will, within 60 calendar days of receiving feedback from OCS, provide eligible entities and the State Association, via an e-mail communication, the results of the ACSI Survey. The Department will also provide a synopsis of key concerns identified by eligible entities. The Department will also meet with the State Association to discuss survey results and develop a plan to address concerns.]

Note: This information is associated with State Accountability Measure 5S(iii). The measure indicates feedback should be provided within 60 calendar days of the State getting feedback from OCS.

If this is the first year filling out the automated State Plan, skip the following question.

9.11. Performance Management Adjustment: How is the State adjusting the Communication plan in this State Plan as compared to past plans? Any adjustment should be based on the State’s analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making

any adjustments, provide further detail. **[Narrative:** The Department is working in partnership with the State Association regarding communications sent out to the Network. The State Association sends out a monthly (or more frequently, if needed) e-Newsletter compiling guidance from OCS, the Department, up-coming T&TA opportunities, and other information. The Department has added workgroups where eligible entities may provide input to rules, plans, guidance, or T&TA needs.]

Note: This information is associated with State Accountability Measures 7Sb; this response may pre-populate the State’s annual report form.

SECTION 10

Monitoring, Corrective Action, and Fiscal Controls

Monitoring of Eligible Entities (Section 678B(a) of the CSBG Act)

10.1. Specify the proposed schedule for planned monitoring visits including: full on-site reviews; on-site reviews of newly designated entities; follow-up reviews – including return visits to entities that failed to meet State goals, standards, and requirements; and other reviews as appropriate.

This is an estimated schedule to assist States in planning. States may indicate “no review” for entities the State does not plan to monitor in the performance period.

For States that have a monitoring approach that does not fit within the table parameters, attach the State’s proposed monitoring schedule.

Note: This information is associated with State Accountability Measure 4Sa(i); this response may pre-populate the State’s annual report form.

CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of “Other”
El Paso Community Action program, Project BRAVO, Inc.	Full on-site	FY18 – Q1	July 2014	
Panhandle Community Services	Full on-site	FY18 – Q1	July 2014	
Brazos Valley Community Programs	Full on-site	FY18 – Q1	February 2015	
Rolling Plains Management Corp.	Full on-site	FY18 – Q1	March 2015	
Combined Community Action, Inc.	Full on-site	FY18 – Q2	August 2015	

CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of "Other"
Hidalgo County Community Services Agency	Full on-site	FY18 – Q2	September 2015	
Community Action Social Services & Education	Full on-site	FY18 – Q2	September 2015	
South Texas Development Council	Full on-site	FY18 – Q2	October 2015	
Gulf Coast Community Services Assoc.	Full on-site	FY18 – Q3	October 2015	
Austin, City of	Full on-site	FY18 – Q3	November 2015	
Dallas County (Entity to be designated in June 2017)	Initial on-site	FY18 – Q4	November 2015	
Community Action Committee of Victoria Texas	Full on-site	FY18 – Q3	December 2015	
Cameron and Willacy Counties Community Projects, Inc.	Full on-site	FY18 – Q4	June 2016	
Tri-County Community Action, Inc.	Full on-site	FY18 – Q4	June 2016	
Community Services, Inc.	Full on-site	FY18 – Q4	June 2016	
Pecos County Community Action Agency	Full on-site	FY18 – Q4	July 2016	
Economic Opportunities Advancement Corp of PR XI	Full on-site	FY19 – Q2	November 2015	
Texas Neighborhood Services	No review		September 2015	
Aspermont Small Business Development Center, Inc.	No review		December 2015	
West Texas Opportunities, Inc.	Full on-site	FY19 – Q2	December 2015	
Greater East Texas Community Action Program	Full on-site	FY19 – Q3	February 2016	
Southeast Texas Regional Planning Commission	No review		February 2016	
City of San Antonio	Full on-site	FY19 – Q3	March 2016	
Central Texas Opportunities	Full on-site	FY19 – Q3	May 2016	
Concho Valley Community Action Agency	Full On-site	FY19 – Q3	May 2016	
Community Action Inc. of Central Texas	Full On-site	FY19 – Q3	August 2016	
Community Services of Northeast Texas, Inc.	Full On-site	FY19 – Q4	June 2016	
South Plains Community Action Association	Full on-site	FY19 – Q4	June 2016	
City of Fort Worth	Full On-site	FY19 – Q4	June 2016	

CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of "Other"
City of Lubbock	Full On-Site		October 2016	
Economic Action Committee of the Gulf Coast	No Review		February 2017	
Galveston County Community Action Council, Inc.	Full On-site	FY19 – Q4	March 2017	
Webb County Community Action Agency	No Review		March 2015	
Williamson-Burnet County Opportunities	Other	FY19 – Q1	January 2017	Risk Based
Big Bend Community Action Committee, Inc.	No Review		May 2017	
Community Action Corporation Of South Texas	No Review		March 2017	
Community Council of South Central Texas	No Review		October 2016	
Hill Country Community Action Association, Inc.	No Review		November 2016	
Nueces County Community Action Agency	No Review		March 2016	
Texoma Council of Governments	No Review		April 2017	

10.2. Monitoring Policies: Provide a copy of State monitoring policies and procedures by attaching and/or providing a hyperlink. **[Refer to Attachment A]**

10.3. Initial Monitoring Reports: According to the State’s procedures, by how many calendar days must the State disseminate initial monitoring reports to local entities? [It is the Department’s goal to submit CSBG monitoring reports within 30 calendar days from the last day of the monitoring visit. However, if extenuating circumstances are present, the CSBG monitoring report will be submitted within 60 days of the completion of the monitoring review with the exception of those few reports requiring executive and legal review due to deficiencies.]

Note: This item is associated with State Accountability Measure 4Sa(ii) and may pre-populate the State’s annual report form.

Corrective Action, Termination and Reduction of Funding and Assurance Requirements
(Section 678C of the Act)

10.4. Closing Findings: Are State procedures for addressing eligible entity findings/deficiencies, and the documenting of closure of findings included in the State monitoring protocols attached above? Yes No

10.4a. If no, describe State procedures for addressing eligible entity findings/deficiencies, and the documenting of closure of findings. **[Narrative, 2500 characters]**

10.5. Quality Improvement Plans (QIPs): How many eligible entities are currently on Quality Improvement Plans? **[There are currently no CSBG entities under a QIP.]**

Note: The QIP information is associated with State Accountability Measures 4Sc.

10.6. Reporting of QIPs: Describe the State’s process for reporting eligible entities on QIPs to the Office of Community Services within 30 calendar days of the State approving a QIP? **[Narrative: The Department will contact the Office of Community Services either by phone or through e-mail to inform them of eligible entities on a Quality Improvement Plan.]**

Note: This item is associated with State Accountability Measure 4Sa(iii)).

10.7. Assurance on Funding Reduction or Termination: Does the State assure, according to Section 676(b)(8), that “any eligible entity that received CSBG funding the previous fiscal year will not have its funding terminated or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in Section 678C(b).” Yes No

Note: This response will link with the corresponding assurance under item 14.8.

Policies on Eligible Entity Designation, De-designation, and Re-designation

10.8. Does the State CSBG statute and/or regulations provide for the designation of new eligible entities? Yes No

10.8a. If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for the designation of new eligible entities. **[Narrative: Texas Administrative Code**

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208)]

10.9. Does the State CSBG statute and/or regulations provide for de-designation of eligible entities? Yes No

10.9a. If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for de-designation of new eligible entities. **[Narrative:** Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208)

10.10. Does the State CSBG statute and/or regulations specify a process the State CSBG agency must follow to re-designate an existing eligible entity? Yes No

10.10a. If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for re-designation of existing eligible entities. **[Narrative:** Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208)

]

Fiscal Controls and Audits and Cooperation Assurance

10.11. Fiscal Controls and Accounting: Describe how the State's fiscal controls and accounting procedures will a) permit preparation of the SF-425 Federal fiscal reports (FFR) and b) permit the tracing of expenditures adequate to ensure funds have been used appropriately under the block grant, as required by Block Grant regulations applicable to CSBG at 45 CFR 96.30(a). **[Narrative:** All expenditures are recorded in the Department's PeopleSoft accounting system. Indexes, grant numbers and fund numbers allow for identification of charges to a specific grant and cost categories. Policies and Procedures are in place to ensure compliance with statues and regulations. Independent annual financial audit and single audit are performed for the Department.

Every draw is reviewed by program staff upon submittal by contractor localities. All draw downs must be consistent within the most current approved budget. Draws are then processed by accountants and approved by senior accountant or team leader. Back up to support draws are reviewed during on site monitoring.

The general ledger is the source for the SF-425 Federal fiscal reports. They are prepared by the grant accountant, reviewed by the financial team leader and approved by management prior to submittal. Reports are prepared according to program rules and regulations.

]

10.12. Single Audit Management Decisions: Describe State procedures for issuing management decisions for eligible entity single audits, as required by Block Grant regulations applicable to CSBG at 45 CFR 75.521. If these procedures are described in the State monitoring protocols attached under item 10.2, indicate the page number. **[Narrative:** The Department requires each subrecipient to complete an Audit Certification form within 60 days from the end of the Entity's fiscal year. This is used to determine if a Single Audit is required. Upon receipt of the Single Audit, a review is completed to determine if the packet submitted is complete and all

opinions are provided. If the audit contains findings, it is reviewed and discussed by the director of Internal Audit, the Chief of Compliance, the Director of subrecipient Monitoring and staff to determine the appropriate steps to ensure the entity corrects the issues identified in the audit report or management letter. The Department will issue correspondence to the entity, identifying that corrective action measures must be performed and requiring support documentation to be provided. The entity will be provided a time frame to respond to complete the corrective action and to respond to the correspondence. At a maximum, the entity must correct all identified issues within six (6) months of the Single Audit being submitted to the Federal Clearing House.

The Department's Compliance Monitor(s) will keep abreast of the required timeframe for the entity to complete the corrective action and to provide the response. If the response is received the Department will review the documentation to determine if the corrective action requirements have been met. If the issues have not been corrected, the Compliance Monitor and/or Director of Subrecipient Monitoring will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and SOPs.

The Department will not execute new contracts with the entity until issues with the single audit are resolved, unless the issue is a late audit submittal and the entity has provided documentation of an extension received from the federal cognizant agency.]

Note: This information is associated with State Accountability Measure 4Sd.

10.13. Assurance on Federal Investigations: Will the State "permit and cooperate with Federal investigations undertaken in accordance with Section 678D" of the CSBG Act, as required by the assurance under Section 676(b)(7) of the CSBG Act? Yes No

Note: This response will link with the corresponding assurance, item 14.7

If this is the first year filling out the automated State Plan, skip the following question.

10.14. Performance Management Adjustment: How is the State adjusting monitoring procedures in this State Plan as compared to past plans? Any adjustment should be based on the State's analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If this State is not making any adjustments, provide further detail. **[Narrative:** The Department closely reviewed the responses to the last ACSI Survey related to monitoring and had discussion with the Network and with the State Association. The Department has a new Director of subrecipient Monitoring and he has made concerted efforts to establish a good working relationship with CSBG eligible entities. Monitoring staff have received directives and audit training from the new management.]

Note: This item is associated with State Accountability Measure 4Sb and may pre-populate the State's annual report form.

SECTION 11

Eligible Entity Tripartite Board

11.1. Which of the following measures are taken to ensure that the State verifies CSBG Eligible Entities are meeting Tripartite Board requirements under Section 676B of the CSBG Act? **[Check all that applies and narrative where applicable]**

- Attend Board meetings
- Review copies of Board meeting minutes
- Keep a register of Board vacancies/composition
- Other: [The Department reviews board rosters and Board member election/selection material. We also get information on board vacancies on their CSBG Monthly Performance Report. Lastly, with CSBG organizational standards reviews, we get information on board vacancies/composition also.]

11.2. How often does the State require eligible entities (which are not on TAPs or QIPs) to provide updates (e.g., copies of meeting minutes, vacancy alerts, changes to bylaws, low-income member selection process, etc.) regarding their Tripartite Boards? **[Check all that applies and narrative where applicable]**

- Annually
- Biannually
- Quarterly
- Monthly
- Other [We also get information on board vacancies on their CSBG Monthly Performance Report. Lastly, with CSBG organizational standards reviews, we get information on board vacancies/composition.]

11.3. Assurance on Eligible Entity Tripartite Board Representation: Describe how the State will carry out the assurance under Section 676(b)(10) of the CSBG Act that the State will require eligible entities to have policies and procedures by which individuals or organizations can petition for adequate representation on an eligible entities' Tripartite Board. **[Narrative:** The Department has instituted a rule, in the Texas Administrative Code, that requires a subrecipient to have written procedures under which a low-income individual, community organization, religious organization, or representative of such may petition for adequate representation on the board of the eligible entity.]

Note: This response will link with the corresponding assurance, item 14.10.

11.4. Does the State permit public eligible entities to use, as an alternative to a Tripartite Board, "another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs" as allowed under Section 676B(b)(2) of the CSBG Act.
 Yes No

11.4a. If yes, describe the mechanism used by public eligible entities as an alternative to a Tripartite Board. **[Narrative:** Public agencies have advisory boards and develop bylaws for the advisory board. The State requirements can be found at: [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=210](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=210)]

SECTION 12

Individual and Community Income Eligibility Requirements

12.1. Required Income Eligibility: What is the income eligibility threshold for services in the State? **[Check one item below.]**

- 125% of the HHS poverty line
- X % of the HHS poverty line (fill in the threshold): _____% **[insert up to a 3 digit percentage]**
- Varies by eligible entity

12.1a. Describe any State policy and/or procedures for income eligibility, such as treatment of income and family/household composition. **[Narrative:** Refer to State requirements at

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=4](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=4)

12.2. Income Eligibility for General/Short Term Services: For services with limited in-take procedures (where individual income verification is not possible or practical), how does the State ensure eligible entities generally verify income eligibility for services? An example of these services is emergency food assistance. **[Narrative:** Refer to State requirements at

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=4](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=4)

12.3. Community-targeted Services: For services that provide a community-wide benefit (e.g., development of community assets/facilities, building partnerships with other organizations), how does the State ensure eligible entities' services target and benefit low-income communities? **[Narrative:** Refer to State requirements at [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=206](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=206)

SECTION 13

Results Oriented Management and Accountability (ROMA) System

- 13.1. ROMA Participation:** In which performance measurement system will the State and all eligible entities participate, as required by Section 678E(a) of the CSBG Act and the assurance under Section 676(b)(12) of the CSBG Act? **[Check one]**

Note: This response will also link to the corresponding assurance, item 14.12.

- The Results Oriented Management and Accountability (ROMA) System
- Another performance management system that meets the requirements of section 678E(b) of the CSBG Act
- An alternative system for measuring performance and results

- 13.1a.** If ROMA was selected in item 13.1, attach and/or describe the State’s written policies, procedures, or guidance documents on ROMA. **[Attachment and Narrative:**

The Department has incorporated ROMA principles in the areas of reporting, community action plans, strategic planning, community needs assessments, goal/target setting, case management, and Board trainings. subrecipients report monthly on outcomes for family, agency and community goals identified in their community action plan. These reports are then used to evaluate subrecipient performance. An outcome matrix, tracking incremental change, is used as part of case management services; along with tools for capturing outcomes. TDHCA has 3 certified ROMA trainers on staff, with 3 more about to complete their NCRI certification, 15 eligible entities now have NCRTs on staff of which 2 are Master NCRTs, and there are 28 NCRIs nearing completion. All subrecipients have been provided “Intro to ROMA” training and have access to a ROMA trainer. In addition, ROMA is addressed in the Organizational Standards that are drafted into the state’s 2016 subrecipient contracts. Refer to State requirements at [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207)

- 13.1b.** If ROMA was not selected in item 13.1, describe the system the State will use for performance measurement. **[Narrative:** The Department will employ the ROMA System as described above.

- 13.2.** Indicate and describe the outcome measures the State will use to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization, as required under Section 676(b)(12) of the CSBG Act? **[Narrative:** The State assigns eligible entities a goal for the number of persons to transition out of

poverty (TOP) each year. TOP is defined as the household achieving an income above 125% FPIG. The State has issued requirements related to the systems that must be in place to assist households to TOP, refer to

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207) The CSBG monthly performance report includes a section where CSBG subrecipients report the number of persons working to TOP and the number of persons that successfully TOP. Subrecipients are to target their CSBG resources to assist persons to transition out of poverty and move towards self-sufficiency consistent with identified gaps in need. The subrecipients' efforts in self-sufficiency, family stability, and community revitalization are reported using the NPIs in their CSBG monthly performance report. In FY 2018 and 2019, the Department will begin to work with eligible entities to determine if the new National Performance Indicator related to the number of persons who achieve and maintain capacity to meet basic needs for 90 days is a good way to measure self-sufficiency.]

Note: This response will also link to the corresponding assurance, item 14.12.

- CSBG National Performance Indicators (NPIs)
- NPIs and others
- Others

13.3. How does the State support the eligible entities in using the ROMA system (or alternative performance measurement system)? **[Narrative:** The Department has designed the CSBG training curriculum with a focus on ROMA principals. The Department has 3 certified ROMA trainers and 3 staff persons who are obtaining NCRI certifications. The state association has also assisted CSBG eligible entities in helping some of their staff to become Certified ROMA trainers. All trainings provided to subrecipients are ROMA-focused and the Department's ROMA Certified staff members are available to provide training and technical assistance. Subrecipients can request training and technical assistance at any time and can submit questions on-line or can contact staff by phone or e-mail. The Department has developed a comprehensive video training module and accompanying materials on case management with the goal of assisting persons to transition out of poverty. This module is available on our website. The Department has set aside CSBG Discretionary funds to be used for network operational investments.]

Note: The activities described under item 13.3 may include activities listed in "Section 8: Training and Technical Assistance." If so, mention briefly, and/or cross-reference as needed. This response will also link to the corresponding assurance, item 14.12.

13.4. Eligible Entity Use of Data: How is the State validating that the eligible entities are using data to improve service delivery? **[Narrative:** The Department assigns each CSBG eligible entity a goal for the number of persons to transition out of poverty each program year. At the end of the program year, the Department reviews their

performance and subrecipients that did not meet their assigned goal are asked to provide a plan of action to improve performance. The Department also reviews the eligible entities' CSBG Performance Report each month and their end of the year final report. The Department does acknowledge that quite a few subrecipients find it challenging to design and carry out community revitalization activities. The Department will continue to provide technical assistance to subrecipients to improve their performance. To assist with data use the Department provides the network with links to data sources that may be useful to them, such as the American Community Survey and the Community Action Partnership's Community Needs Assessment Online Tool.]

Note: This response will also link to the corresponding assurance, item 14.12.

Community Action Plans and Needs Assessments

- 13.5.** Describe how the State will secure a Community Action Plan from each eligible entity, as a condition of receipt of CSBG funding by each entity, as required by Section 676(b)(11) of the CSBG Act. **[Narrative:** The Department develops Community Action Plan Requirements and guidance and posts this information to our website at <http://www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm>. Annually, CSBG eligible entities must submit a Community Action Plan to the Department. Staff reviews the CAP Plans and provides technical assistance to eligible entities on improvements.]

Note: this response will link to the corresponding assurance, item 14.11.

- 13.6. State Assurance:** Describe how the State will assure that each eligible entity includes a community needs assessment for the community served (which may be coordinated with community needs assessments conducted by other programs) in each entity's Community Action Plan, as required by Section 676(b)(11) of the CSBG Act. **[Narrative:** The Department develops Community Needs Assessment guidance and posts this information to the Department's website at <http://www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm> Subrecipients are required to submit a community needs assessment every 3 years. During annual CAP development, the Department works with eligible entities in analyzing data from www.communitycommons.org, their performance reports, and tying that to the most current Needs Assessment.]

Note: this response will link to the corresponding assurance, item 14.11.

SECTION 14
CSBG Programmatic Assurances and Information Narrative
(Section 676(b) of the CSBG Act)

14.1 Use of Funds Supporting Local Activities

CSBG Services

14.1a. 676(b)(1)(A): Describe how the State will assure “that funds made available through grant or allotment will be used –

- (A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under title IV of the Social Security Act, homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals--
 - (i) to remove obstacles and solve problems that block the achievement of self-sufficiency (particularly for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);
 - (ii) to secure and retain meaningful employment;
 - (iii) to attain an adequate education with particular attention toward improving literacy skills of the low-income families in the community, which may include family literacy initiatives;
 - (iv) to make better use of available income;
 - (v) to obtain and maintain adequate housing and a suitable living environment;
 - (vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent individual and family needs;
 - (vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners to –
 - (I) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and
 - (II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP includes a Performance Statement which outlines their proposed activities. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds and meet the noted assurances.]

Needs of Youth

14.1b. 676(b)(1)(B) Describe how the State will assure “that funds made available through grant or allotment will be used –

- (B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as--
 - (i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and
 - (ii) after-school child care programs;

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP includes a Performance Statement which outlines their proposed activities. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds. Particularly, the Department requires a referral to the Texas Attorney General’s Office for families for whom child support might be a needed resource.]

Coordination of Other Programs

14.1c. 676(b)(1)(C) Describe how the State will assure “that funds made available through grant or allotment will be used –

- (C) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts)

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP includes a Performance Statement which outlines their proposed activities. The CAP also includes several forms that address funding coordination, coordination with WIOA Programs, referrals to Child Support Office, and participation in social

service coalitions. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds.]

State Use of Discretionary Funds

- 14.2 676(b)(2)** Describe “how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle.”

Note: the Department describes this assurance under “State Use of Funds: Remainder/Discretionary,” items 7.9 and 7.10

[No response; links to items 7.9 and 7.10.]

Eligible Entity Service Delivery, Coordination, and Innovation

- 14.3. 676(b)(3)** “Based on information provided by eligible entities in the State, a description of...”

Eligible Entity Service Delivery System

- 14.3a. 676(b)(3)(A)** Describe “the service delivery system, for services provided or coordinated with funds made available through grants made under 675C(a), targeted to low-income individuals and families in communities within the State;

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP includes a description of the service delivery system, the counties served, the facilities where services are available, and information regarding how the eligible entity conducts outreach and delivers services in counties where service centers are not available. The CAP also describes how the eligible entity coordinates funds with other organizations.]

Eligible Entity Linkages – Approach to Filling Service Gaps

- 14.3b. 676(b)(3)(B)** Describe “how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations.”

Note: the Department describes this assurance in the State Linkages and Communication section, item 9.3b.

[No response; links to 9.3b.]

Coordination of Eligible Entity Allocation 90 Percent Funds with Public/Private Resources

14.3c. 676(b)(3)(C) Describe how funds made available through grants made under 675C(a) will be coordinated with other public and private resources.”

Note: the Department describes this assurance in the State Linkages and Communication section, item 9.7.

[No response; links to 9.7]

Eligible Entity Innovative Community and Neighborhood Initiatives, Including Fatherhood/Parental Responsibility

14.3d. 676(b)(3)(D) Describe “how the local entity will use the funds [made available under 675C(a)] to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging parenting.”

Note: The description above is about eligible entity use of 90 percent funds to support these initiatives. States may also support these types of activities at the local level using state remainder/discretionary funds, allowable under Section 675C(b)(1)(F). In this State Plan, the Department indicates funds allocated for these activities under item 7.9(f).

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). As part of the CAP, subrecipients must complete a document which provides information regarding any innovative community and neighborhood-based initiatives related to the purpose of CSBG, which may include fatherhood initiatives and other initiatives which strengthen families and encourage effective parenting. A limited number of CSBG eligible entities have reported these types of initiatives. The Department will continue to work with CSBG eligible entities to promote these initiatives if such gaps are identified in their CAP. As the Department identifies information on webinars or funding opportunities related to this area, the Department shares this information with CSBG eligible entities.]

Eligible Entity Emergency Food and Nutrition Services

14.4. 676(b)(4) Describe how the State will assure “that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals.”

[Narrative: The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). As part of the CAP, subrecipients must complete a

document which provides information related to how the CSBG eligible entity will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals. Most CSBG eligible entities work with either a local food pantry or the food bank to provide food in these circumstances. If there are no other resources available, then CSBG funds are utilized to provide nutritional support.]

State and Eligible Entity Coordination/linkages and Workforce Innovation and Opportunity Act Employment and Training Activities

- 14.5. 676(b)(5)** Describe how the State will assure “that the State and eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services, and [describe] how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 3 of the Workforce Innovation and Opportunity Act, in the State and in communities with entities providing activities through statewide and local workforce development systems under such Act.”

Note: The Department describes this assurance in the State Linkages and Communication section, items 9.1, 9.2, 9.3a, 9.4, 9.4a, and 9.4b.

[No response; links to items 9.1, 9.2, 9.3a, 9.4, 9.4a, and 9.4b]

State Coordination/Linkages and Low-income Home Energy Assistance

- 14.6. 676(b)(6)** Provide “an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community.”

Note: The Department describes this assurance in the State Linkages and Communication section, items 9.2 and 9.5.

[No response; links to 9.2 and 9.5]

Federal Investigations

- 14.7. 676(b)(7)** Provide “an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D.”

Note: the Department addresses this assurance in the Fiscal Controls and Monitoring section, item 10.13.

[No response; links to 10.13]

Funding Reduction or Termination

- 14.8. 676(b)(8)** Provide “an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b).”

Note: the Department addresses this assurance in the Fiscal Controls and Monitoring section, item 10.7.

[No response; links to 10.7]

Coordination with Faith-based Organizations, Charitable Groups, Community Organizations

- 14.9. 676(b)(9)** Describe how the State will assure “that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations.”

Note: the Department describes this assurance in the State Linkages and Communication section, item 9.6.

[No response; links to 9.6]

Eligible Entity Tripartite Board Representation

- 14.10. 676(b)(10)** Describe how “the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation.”

Note: the Department describes this assurance in the Eligible Entity Tripartite Board section, 11.3

[No response; links to item 11.3]

Eligible Entity Community Action Plans and Community Needs Assessments

14.11. 676(b)(11) Provide “an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs.”

[No response; links to items 13.5 and 13.6]

State and Eligible Entity Performance Measurement: ROMA or Alternate system

14.12. 676(b)(12) Provide “an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and [describe] outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization.”

Note: The Department describes this assurance in the ROMA section, items 13.1, 13.2, 13.3, and 13.4.

[No response; links to 13.1, 13.2, 13.3, and 13.4]

Validation for CSBG Eligible Entity Programmatic Narrative Sections

14.13. 676(b)(13) Provide “information describing how the State will carry out the assurances described in this section.”

Note: The Department provides information for each of the assurances directly in section 14 or in corresponding items throughout the State Plan, which are included as hyperlinks in section 14.

[No response for this item]

By checking this box, the State CSBG authorized official is certifying the assurances set out above.

SECTION 15

Federal Certifications

The box after each certification must be checked by the State CSBG authorized official.

15.1 Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this

commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the State CSBG authorized official is providing the certification set out above.

15.2 Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

- (1) By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
- (2) The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
- (3) For grantees other than individuals, Alternate I applies.
- (4) For grantees who are individuals, Alternate II applies.
- (5) Workplaces under grants, for grantees other than individuals, need to be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
- (6) Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

- (7) If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
- (8) Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about - -
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and

- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will - -
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within 10 calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted - -
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code) **[Narrative:**

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, Travis County, Texas 78701-2410]

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the State CSBG authorized official is providing the certification set out above.

15.3 Debarment

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - -

Primary Covered Transactions

Instructions for Certification

- (1) By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal

Government, the department or agency may terminate this transaction for cause or default.

- (4) The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- (7) The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusive-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart

9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - -

Primary Covered Transactions

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - - Lower Tier Covered Transactions

Instructions for Certification

- (1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- (2) The certification in this clause is a material representation of fact upon which reliance was
- (3) placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or

agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- (4) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- (5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- (7) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph five of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this

transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - - Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the State CSBG authorized official is providing the certification set out above.

15.4 Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity by signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

By checking this box, the State CSBG authorized official is providing the certification set out above.

ATTACHMENTS

Attachment A
Response to Question 10.2 Monitoring Policies

Compliance Division
Community Affairs Monitoring Section
Standard Operating Procedures

1.0 Risks and Control Objectives

- 1.1 The risks associated with not having an SOP for Assignments and Risk Assessments and the control objectives to ensure that those risks are minimized, are illustrated in the following table:

Risks	Control Objectives
The risks associated with not having an SOP for monitoring procedures are that that monitoring reviews may not be conducted or be conducted in a consistent manner and within the requirements of the Department and/or Federal requirements.	This SOP will minimize the risks described by providing a comprehensive process for a monitoring risk assessment, monitoring assignment and for the completion of monitoring reports and responses.

2.0 Policy

- 2.1 It is the requirement of the Texas Department of Housing and Community Affairs and its Compliance Division to perform monitoring functions of federal and state funds, in a consistent manner that is compliant with Department and Funding source requirements. The Chief of Compliance oversees three (3) monitoring sections within the Compliance Division, one (1) of which is the Compliance Subrecipient Monitoring section. The Compliance Subrecipient Monitoring director oversees the section of employees that monitor the four (4) programs that are administered by the Community Affairs Division of the Department.

3.0 General

- 3.1 Abbreviations

- A. Texas Department of Housing and Community Affairs – Department
- B. Community Affairs Division – CAD
- C. Compliance Division - Compliance
- D. Compliance Division Subrecipient Monitoring Section - CMSM
- E. Compliance Subrecipient Monitoring Director – CMSM Director
- F. Subrecipient Monitor – Compliance Monitor or Monitor
- G. Community Affairs Division program awardees (Non-profit corporations, Counties, Cities, Council of Government's) – Subrecipient
- H. Weatherization Assistance Program – WAP
- I. Comprehensive Energy Assistance Program – CEAP
- J. Community Services Block Grant - CSBG
- K. Department of Energy – DOE
- L. Low Income Housing and Energy Assistance Program – LIHEAP
- M. LIHEAP Weatherization Assistance Program – LI-WAP
- N. Quality Control Inspector - QCI

3.2 Purpose

- A. This SOP describes the Department's methodology for monitoring Subrecipients.
- B. To comply with Department rules on the administration on program funds.
- C. To comply with Federal Funding source requirements for administering program funds.
- D. It establishes consistent processes and procedures when monitoring CAD programs.
- E. Monitoring activities are planned to focus on areas of highest risk and to help ensure the most effective use of monitoring resources.
- F. To ensure the CMSM Compliance Monitors completed monitoring reports and responses within a designated time frame to ensure Subrecipients address any corrective actions in a timely manner.
- G. To ensure monitoring responses are reviewed to ensure corrective actions were completed.

4.0 Responsibilities

- 4.1 The CMSM section is responsible for ensuring the CSBG, CEAP and WAP programs are administered and funds are expended in accordance with contract provisions and applicable State and Federal rules, regulations, policies, and related statutes.
- 4.2 The CMSM Director will ensure a monitoring schedule is developed that identifies the Subrecipients that are to be monitored.

- 4.3 According to individual program requirements and/or standards, the CMSM section will develop a list of specific compliance requirements to be reviewed. The section will also develop a methodology to review each compliance requirement consistently.
- 4.4 The CMSM section will perform the respective monitoring to determine Subrecipient compliance.
- 4.5 The CMSM monitors will notify the CMSM Director and/or Chief of Compliance if a finding or concern of fraud, waste and/or abuse were noted during a Subrecipient's monitoring.
- 4.6 Within 30 days of the completion of the monitoring, the CMSM section will develop a report or correspondence, for the Subrecipient, reflecting the results of the monitoring.
- 4.7 The CMSM section will address the Subrecipient's response to the report and/or close out the monitoring process.
- 4.8 The CMSM section will notify and work with the CAD Training section to address any findings consistent within the Subrecipient network.

5.0 Subrecipient Monitoring Selection

- 5.1 The CMSM section will complete a Subrecipient monitoring review schedule, at least quarterly each year. The schedule will identify the quarter in which the Subrecipient will be monitored.
- 5.2 The CMSM section utilizes the most efficient use of its travel and monitoring budget, as its methodology in developing the Subrecipient monitoring review schedule. The schedule takes into account the program contract periods and may require Compliance Monitors to review multiple programs during the review.
- 5.3 The Department's schedule is used as a planning tool and is subject to change. The CMSM Section may encounter situations that arise and cause Subrecipients to be monitored in a different month or more frequently than what is identified in the schedule. These situations may include:
 - 1. Subrecipient and who may not or have not met the minimum on-site monitoring threshold.
 - 2. Monitor(s) attempt to schedule a monitoring and provides proposed monitoring dates. However, the Subrecipient is unable to accommodate the monitoring during the proposed dates.
 - 4. The Department receives fraud, waste and/or abuse concerns against a Subrecipient.
 - 5. The Department receives a credible complaint against a Subrecipient.
- 5.4 As needed, the Compliance Division will also factor in the results of a Subrecipient's prior monitoring review and/or Single Audit findings when determining the monitoring

schedule. Subrecipient's with prior and/or repetitive monitoring and/or Single Audit findings are a priority to be monitored.

5.5 At a minimum:

- A. DOE Subrecipients will be monitored at least once each year (July-June);
- B. LIHEAP Subrecipients will be monitored at least once every three (3) years (Triennial).
- C. CSBG Subrecipients will be monitored at least once every three (3) years (Triennial).

6.0 Determining Compliance Requirements

6.1 The CMSM section will review Subrecipient's compliance with program requirements, contract provisions and Federal, State, local government rules and regulations.

- A. The CMSM section will determine compliance on specific contract provisions, rules, regulations and/or program requirements are most applicable to be reviewed or required to be reviewed by the funding source. The CMSM section will verify if the Subrecipients have complied with the requirements. The CMSM section will utilize a monitoring tool (instrument) that identifies the areas of compliance that will be reviewed. The monitoring tool will have a methodology to reflect the process used to determine compliance of each selected contract provision, rule, regulation and/or requirement.
- B. The monitoring tool will be in electronic format and the CMSM section will enter the selected compliance requirements into the document.
- C. The monitoring tool will be maintained in the Department's monitoring software (Teammate).

6.2 The monitoring tool and the list of compliance requirements that are to be reviewed may be revised, updated, or changed from period to period due to program, legislative and/or budget changes.

- A. The listed monitoring tool is reviewed on a continual basis, during the federal fiscal year or Subrecipient program year (as applicable), to account for changes in rules and/or program requirements.

7.0 Monitoring Announcement

7.1 After it has been determined which Subrecipients will be monitored, the CMSM Director will assign monitors, to the Subrecipients who will be monitored. The CMSM Director will determine the method of distributing the Subrecipients to the Monitors.

- 7.2 The Monitor will contact each of the assigned Subrecipients and schedule future on-site monitoring. The Monitor will make every attempt to provide the Subrecipient with a minimum of 30 days notice prior to the visit.
- A. On occasions, the monitoring may occur with fewer than 30 days notice. Situations that may warrant a monitoring occurring with fewer than 30 days notice include:
1. The Subrecipient notifies the Department that it is not able to be monitored the proposed week and chooses the monitoring date.
 2. The Department receives credible fraud, waste and/or abuse concerns against a Subrecipient requiring little to no notice of the monitoring.
 3. The Department receives a credible complaint against a Subrecipient requiring little to no notice of the monitoring.
- 7.3 After the monitoring date has been confirmed, the Monitor will complete a Monitoring Announcement letter.
- 7.4 When the announcement letter has been completed, the document will be scanned and saved to the Subrecipient's respective Monitoring file within the computerized Monitoring Software.
- 7.5 If a Subrecipient has an email address, the scanned version will be emailed and the original document will be mailed to the Subrecipient. If applicable, a copy of the announcement letter will be sent to appropriate individuals.
- 7.6 The Monitoring Announcement letter should be sent to the Subrecipient as soon as the monitoring dates have been set, but no less than two (2) weeks prior to the monitoring.
- 7.7 In some instances a Monitoring Announcement letter may be submitted less than two (2) weeks from the scheduled monitoring. This may occur when 7.2 A (1) is met.
- 7.8 In some instances a Monitoring Announcement letter may not be submitted to the Subrecipient prior to the monitoring. This may occur when 7.2 A (2) and (3) are met.

8.0 Performing the On-site Monitoring

- 8.1 The CMSM section will utilize electronic monitoring tool to review the selected compliance requirements and to document the Subrecipients compliance with the specific requirement.
- 8.2 If the appropriate Subrecipient staff is available, the Monitor will have an Entrance Conference prior to the start of the monitoring. In the Entrance Conference the Monitor will provide a brief summary of the on-site monitoring process and/or the on-site

monitoring plan. The Monitor will also utilize this time to answer Subrecipient questions that are specific to the monitoring and/or the programs.

8.4 After the Entrance conference, the Monitor will review the compliance requirements and perform the methodology to determine compliance with the selected requirements. The monitor will complete each question and section of the selected compliance requirements on electronic testing documents. The CMSM section will document the reason for the inability to verify any of the selected compliance requirements.

A. Weatherization Assistance Program (“WAP”) Monitorings- may be performed as a Full Monitoring or as a Unit Inspection.

1. A Full WAP Monitoring will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements, client eligibility requirements and performing an inspection of weatherized units.
 - a. The monitoring tool
2. Unit Inspection monitoring consists of the Compliance Monitor reviewing weatherization client files for compliance and eligibility requirements and performing an inspection of the weatherized unit.
3. Client file reviews and Unit Inspections will vary according to the funding source used to weatherize the unit. When units are weatherized with LIHEAP funding only, the Compliance Monitor will review the weatherized work based on an established Priority Rating sheet. When units are weatherized with DOE funding only, or with DOE and LIHEAP funds only, the Compliance Monitor will review the weatherized work based of an approved Energy Audit. Compliance Monitors will be required to have all applicable field tests performed during the Unit Inspection. The Compliance Monitor may choose to perform the field test themselves or supervise a Subrecipient’s performance of the field test. The Compliance Monitor must document the results of the field tests.
4. The Compliance Monitor will utilize the following as a guide when determining the number of units to inspect. The actual number of units inspected will vary according to the various programs being monitored during the same visit.
 - a. When a Compliance Monitor is conducting a full monitoring during a single visit, the Compliance Monitor will perform a minimum of:
 - i. five (5) unit inspections when there is more than one (1) program being monitored;
 - ii. eight (8) unit inspections when there are no other programs being monitored.
 - b. When a Compliance Monitor is conducting a Unit Inspection Monitoring during a single visit, the Compliance Monitor will perform a minimum of:
 - i. eight (8) unit inspections when there is more than one (1) program being monitored;
 - ii. twelve (12) unit inspections when there are no other programs being monitored.

- c. A Compliance Monitor may not be able to monitor the minimum number of weatherized units if:
 - i. the Subrecipient does not have enough completed weatherized units;
 - ii. the geographical location of the weatherized homes prohibits the ability to inspect units;
 - iii. inclement weather persists.
- 5. The CMSM Section will be required to monitor a minimum of 5% of all completed weatherized units (at the time of the monitoring) that are funded by DOE and inspected by a QCI who was not involved in the assessment of the weatherized unit. The CMSM Section will monitor a minimum of 10% of all completed weatherized units (at the time of the monitoring) that were inspected by a QCI that was involved in the assessment of the weatherized unit. The CMSM section will utilize the monitoring tracking database to track the number of units that have been inspected. The Department will also review Monthly Expenditure Reports to track the number of total completed units and will adjust the monitoring schedule to ensure that it meets the minimum number of units inspected.

B. Community Services Block Grant

- 1. A CSBG Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
- 1. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.

C. Comprehensive Energy Assistance Program

- 2. A CEAP Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
- 3. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.

8.5 When the respective methodology is not enough to determine compliance, the Monitor will make every effort to determine if the requirement is compliant. This may require the Monitor to perform additional testing, request additional information or clarification from Subrecipient staff and/or request assistance from peer Monitors, CA Division staff, the CMSM Director or the Chief of Compliance.

8.6 The Monitor will obtain and maintain the appropriate documentation to justify any finding, disallowed and/or questioned cost.

8.7 Prior to the Exit Conference and time permitting, the Monitor will make every effort to inform Subrecipient staff of any issues and findings at the discretion of the Subrecipient.

8.8 The Monitor will notify the CA Trainers of the Subrecipient's need for Training and/or Technical Assistance if necessary.

- 8.9. If the Monitor is unable to complete the monitoring during the specified period, the Monitor must notify the CMSM Director of the circumstance(s) that resulted in the inability to complete the monitoring. The CMSM Director will determine the appropriate course of action to complete the monitoring. The Monitor must notify the Subrecipient that additional time is required to complete the monitoring and of the course of action that was determined by the CMSM Director. The inability to complete the monitoring and the course of action must be documented in the computerized Monitoring Software or the Monitoring Instrument.
- 8.10 Time permitting and if the appropriate Subrecipient staff are available, the Monitor will make every attempt to provide the Subrecipient with an on-site Exit Conference. The Exit Conference is intended to explain, to the Subrecipient, the preliminary results of the monitoring. In some situations the Subrecipient may be provided a few days to submit documentation, if the documentation was not readily available during the onsite visit. In this situation, an Exit conference may not be conducted on-site.
- 8.11 If an on-site exit conference cannot be completed, the Monitor will schedule an Exit conference via conference call. The call will typically occur within 5 business days from the last day the monitoring.
- 8.12 The Monitor(s) will create electronic copies of all applicable monitoring documents and/or Finding support documentation obtained during the review. The Monitor will save the electronic copies to the electronic testing documents and/or to the Subrecipient's respective monitoring folder.

9.0 Monitoring Report

- 9.1 The Monitor(s) will be required to develop a report, detailing the results of the monitoring. Each Monitoring Report will contain general program information and/or a brief description of the monitoring process that was performed. If applicable, the monitoring report will contain:
- A. Finding
 - 1 A brief and concise description of the lack of compliance of a specific program requirement;
 - 2. A brief description of the program requirement;
 - 3. A description of any disallowed or questioned cost; and
 - 4. The respective reference for program compliance.
 - B. Action Required

1. A brief requirement for the Subrecipient to meet;
 2. A requirement for the Subrecipient to complete a specific action to resolve the finding;
 3. A requirement for the Subrecipient to provide a reimbursement, documents, an assurance and/or a response to the monitoring report.
- C. If there were findings of noncompliance, a 30 calendar day corrective action deadline. If there were no Findings or Required Action, the Monitoring Report will reflect that no response is required and that the Monitoring Review is considered closed.
- 9.2 Monitors are expected to, on average, complete monitoring letters within 30 calendar days from the last day of the onsite visit. However, DOE-WAP monitoring letters must be completed within 30 calendar days.
- 9.3 The Monitor(s) will make an electronic copy of the Monitoring Report and save the copy to the Subrecipient's respective monitoring file within the computerized Monitoring Software. If a Subrecipient has an email address, the scanned version will be emailed. A hard copy report will be mailed to the Subrecipient if email is not an option.
- 9.4 At a minimum, the Monitor will send the original copy of the Monitoring Report to the Subrecipient and a copy of the report to the Subrecipient's Board Chair or the assigned Board representative.
- 9.5 The date the monitoring report is considered complete and submitted to the Subrecipient, is when the report is emailed or mailed to the Subrecipient.

10.0 Response to the Monitoring Report

- 10.1 The Subrecipient will be provided a 30 day corrective action period which can be extended for good cause by the Chief of Compliance.
- 10.2 The Monitor(s) is responsible for tracking corrective action due dates. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the "Notes" area of the Monitoring Tracking System.
- 10.3 If the Subrecipient's response is submitted as a paper document, the Monitor will make an electronic copy of the response. The Monitor will then save the copy to the Subrecipient's respective Monitoring File within the electronic software.
- 10.4 The Monitor(s) will review the Subrecipient's response to the report for compliance with the specific Finding's required action and program rules, regulations and requirements.

- 10.5 Within 45 business days of the receipt of the response, the Monitor(s) will provide correspondence to the Subrecipient addressing each Finding and/or required action. For each Finding, the monitor(s) will:
- A. Briefly state the Finding that occurred;
 - B. The Subrecipient's response and/or documentation;
 - C. Any concern or question posed in the Subrecipient's response;
 - D. The results of the Department's review of the response and/or documentation;
 - E. Necessary information to address the Subrecipient's concern or question;
 - F. If the response and/or documentation is acceptable to resolve the Finding;
 - G. If the Finding is resolved;
 - H. If applicable, the Finding is closed;
 - i. A Finding will not be considered resolved, but closed when the Department believes the Subrecipient's required action is not obtainable. The Subrecipient will no longer be required to complete the required action.
 - ii. The Department should consider the efforts the Subrecipient made to resolve the Finding.
 - iii. A "Closed" Finding will not be used on the Required Action of a Subrecipient to reimburse the Department for disallowed expenditures.
 - I. If applicable, the required action to resolve the Finding.
 - J. Provide the Subrecipient 30 calendar days from the date of the letter, to respond to any unresolved Findings and/or required actions.
- 10.6 The Monitor(s) will make an electronic copy of the document addressing the Subrecipient's response to the report. The Monitor will save the copy to the Subrecipient's respective monitoring file and to the computerized Monitoring Software. If a Subrecipient has an email address, the scanned version will be emailed and the original document will be mailed to the Subrecipient. If applicable, a copy of the document will be sent to appropriate individuals.
- 10.7 If the Subrecipient's response did not resolve the Findings and/or required actions of the monitoring report, the Monitor(s) will keep abreast of the Subrecipient's 30 day response period. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the "Notes" area of the Monitoring Tracking System.

- 10.8 When the Subrecipient submits the response from 10.7, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines the Subrecipient's response to Finding(s) and/or required action(s) to remain unresolved, the Monitor will continue with 10.6 and 10.7 of the SOP. However, the Monitor will utilize a 10 calendar day response period for the Subrecipient to resolve the Finding(s) and/or required action(s). If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the "Notes" area of the Monitoring Tracking System.
- 10.9 Similarly, when the Subrecipient submits the response from 10.8, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines the Subrecipient's response to Finding(s) and/or required action(s) to remain unresolved, the CMSM Director will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and SOPs.
- 10.10 If a Subrecipient has submitted its second response and is still not able to comply with the required action(s), the Monitor(s) will note in its subsequent correspondence that the Subrecipient is able to request a meeting with the Department's Compliance committee. The Subrecipient may request the committee to review the validity of the Finding or to appeal the required action.
- A. The Subrecipient must include in its subsequent response that it request a meeting with the Compliance committee.
 - B. Once the request has been received, the Department will follow the rules and the SOP's pertaining to the Compliance committee.

APPROVAL:

11

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on the Program Year (“PY”) 2017 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan and Awards

RECOMMENDED ACTION

WHEREAS, the Department develops and submits a State Plan to DOE each year to administer the WAP;

WHEREAS, the Draft PY 2017 DOE WAP State Plan was approved for release for public comment at the Board meeting of February 28, 2017;

WHEREAS, the public comment period was open from March 10, 2017, to March 24, 2017, and public comment was received and is summarized in Attachment A of this action;

WHEREAS, consistent with DOE requirements (10 CFR §440.17) and as permitted by Tex. Gov’t Code §2110.005 and 10 TAC §5.602, the Weatherization Assistance Program Policy Advisory Council met on Friday, March 24, 2017, by conference call, and upon review and discussion, recommended in favor of the Plan;

WHEREAS, the Department has prepared the Final PY 2017 DOE WAP State Plan, including a list of the entities to be awarded funds and the proposed award amounts based on the states formula, for submission to the DOE;

WHEREAS, the Department expects to receive Federal Fiscal Year (“FFY”) 2017 DOE WAP funds in the amount of \$5,165,132; and

WHEREAS, the DOE WAP funds are allocated based on the formula detailed in 10 TAC §6.404, Distribution of WAP Funds;

NOW, therefore, it is hereby

RESOLVED, that the PY 2017 DOE WAP State Plan, including associated awards, in the form presented to this meeting, is hereby approved with authority to make non-substantive technical and grammatical edits and corrections including the clarification that where “staff” is indicated the clause be noted as “Executive Director, or its designee;”

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to submit such plan, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to DOE;

FURTHER RESOLVED, that the awards of PY 2017 DOE WAP funds in the amount of \$4,585,940 as indicated in plan Section IV.1 Subgrantees and included as Attachment A of this item, be and are hereby approved as described therein; and

FURTHER RESOLVED, that subsequent 2017 DOE WAP funds received and 2016 unutilized funds will be similarly awarded in accordance with the approved method and formula or as needed to accommodate full utilization of funds among only those providers with ability to expend additional funds.

BACKGROUND

A draft of the 2017 DOE WAP State Plan was approved at the Board meeting of February 28, 2017, for release for public comment. The Draft Plan and announcement of a public hearing was made available on the Department's website and by listserv email distribution, on Tuesday, February 28, 2017. The Department conducted a public hearing on Wednesday, March 22, 2017, at 3:00 p.m. Austin local time at Department headquarters in Austin. The public comment period closed at 12:00 p.m. Austin local time on Friday, March 24, 2017. Public comment was received and is attached as Attachment A of this Action.

DOE regulations also require a Weatherization Assistance Program Policy Advisory Council ("WAP PAC") be designated in the Plan in order to provide guidance and comment on the plan. The WAP PAC members are appointed by the Department and broadly represent organizations and agencies throughout the State that represent low-income persons, particularly low-income elderly persons, low-income persons with disabilities, and low-income Native Americans.

The WAP PAC meeting occurred on Friday March 24, 2017, by conference call. After receiving an overview of the Weatherization Assistance Program and the Draft PY 2017 DOE WAP State Plan from Department staff as well as public comment received, members reviewed and discussed the Plan and public comment, and all present members expressed support for the Plan.

DOE Weatherization funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking, weather-stripping, adding ceiling, wall, and floor insulation, patching holes in the building envelope, duct work, and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow for Subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Further, funding provides for State administration and State training and technical assistance activities.

The Plan includes awards of funds to entities.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) includes a review of DOE WAP awards prior to contract execution. The review has been performed and awards are recommended by the Executive Award Review and Advisory Committee ("EARAC") with a condition for the following entity:

Agency	EARAC Recommendation Status
Greater East Texas Community Action Program	Approved conditioned upon receiving a response to the satisfaction of the Department for the single audit. This condition must be met prior to the contract execution, but not to exceed 90 days from Board approval.

PY 2017 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) Awards

	SUBRECIPIENT	Award
1	Alamo Area Council of Governments	363,051
2	BakerRipley (formerly known as Neighborhood Centers, Inc.)	544,053
3	Big Bend Community Action Committee	77,788
4	Brazos Valley Community Action Program	156,917
5	City of Fort Worth	222,181
6	Combined Community Action, Inc.	109,521
7	Community Action Committee of Victoria Texas	143,789
8	Community Action Corporation of South Texas	487,365
9	Community Council of South Central Texas, Inc.	101,927
10	Concho Valley Community Action Agency	94,467
11	Dallas County Health and Human Services	350,500
12	Economic Opportunities Advancement Corporation	136,587
13	El Paso Community Action Program, Project Bravo	208,041
14	Greater East Texas Community Action Program*	404,667
15	Hill Country Community Action Association, Inc.	130,960
16	Nueces County Community Action Agency	86,730
17	Panhandle Community Services	133,038
18	Rolling Plains Management Corporation	196,618
19	South Plains Community Action Association, Inc.	122,435
20	Texoma Council of Governments	238,848
21	Travis County Health and Human Services and Veterans Services	144,630
22	West Texas Opportunities	131,827
	Total	4,585,940

* - See Condition to Award Noted in Table Above

Attachment A: Summary of Public Comments and Staff Recommendations Related to FFY 2017 Department of Energy (DOE) Application and State Plan

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

Comments were accepted at public hearings held in Austin March 22, 2017, and comments were also accepted in writing. Public comments were accepted beginning March 10 through March 24, 2017. The Department's response to all comments received is set out below. The comments and responses include both administrative clarifications and corrections and the corresponding Department responses. Comments and responses are presented in order as they appear in the DOE State Plan, with comments received from:

- (1) Stella Rodriguez, Executive Director, Texas Association of Community Action Agencies

Section V.1.1 Approach to Determining Client Eligibility

COMMENT SUMMARY (1): Commenter recommends that the description of the definition of income used to determine eligibility be provided with a reference to the TAC rules, Title 10, Part 1, Chapter 6, Subchapter A, §6.2(b)(3)(A), §6.2(b)(3)(B) and §6.2(b)(4).

STAFF RESPONSE: Staff concurs and will add the TAC rule reference.

V.2 – Selection of Areas to be Served

COMMENT SUMMARY (1): Commenter recommends the reference to PY 2016 awards be removed if not pertinent to the PY 2017 DOE State Plan.

STAFF RESPONSE: Staff concurs and has removed the reference to PY 2016 awards because it is not pertinent to the PY 2017 DOE State Plan.

V.8.3 – Monitoring Activities

COMMENT SUMMARY (1): Commenter recommends the reference to the PY16 DOE Tentative Monitoring Schedule to SF424 be replaced with a statement referring to the PY17 schedule, and to attach the PY17 schedule. If the PY17 schedule is not available, commenter recommends the statement be removed completely.

STAFF RESPONSE: Staff concurs and has changed the PY16 reference to the PY17 reference and attached the PY17 DOE Tentative Monitoring Schedule to the SF424.

APPLICATION FOR FEDERAL ASSISTANCE SF-424

Version 02

9. Type of Applicant:

A State Government

10. Name of Federal Agency:

U. S. Department of Energy

11. Catalog of Federal Domestic Assistance Number:

81.042

CFDA Title:

Weatherization Assistance Program

12. Funding Opportunity Number:

DE-WAP-0002017

Title:

2017 Weatherization Assistance Program Funding

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Statewide

15. Descriptive Title of Applicant's Project:

Provide Statewide Weatherization Assistance

BUDGET INFORMATION - Non-Construction Programs

1. Program/Project Identification No. EE0007952		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941		4. Program/Project Start Date 07/01/2017	5. Completion Date 06/30/2018

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. 2017 WAP Formula Funds	81.042	\$ 0.00		\$ 5,165,132.00		\$ 5,165,132.00
2. STATE			\$ 0.00		\$ 0.00	\$ 0.00
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) GRANTEE ADMINISTR ATION	(2) SUBGRANTE E ADMINISTR	(3) GRANTEE T&TA	(4) SUBGRANT EE T&TA	
a. Personnel	\$ 148,906.00	\$ 0.00	\$ 158,343.00	\$ 0.00	\$ 307,249.00
b. Benefits	\$ 37,227.00	\$ 0.00	\$ 39,586.00	\$ 0.00	\$ 76,813.00
c. Travel	\$ 0.00	\$ 0.00	\$ 27,720.00	\$ 0.00	\$ 27,720.00
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
e. Supplies	\$ 2,000.00	\$ 0.00	\$ 2,004.00	\$ 0.00	\$ 4,004.00
f. Contract	\$ 0.00	\$ 351,112.00	\$ 22,030.00	\$ 506,546.00	\$ 4,607,970.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other	\$ 4,008.00	\$ 0.00	\$ 950.00	\$ 0.00	\$ 4,958.00
i. Total Direct Charges	\$ 192,141.00	\$ 351,112.00	\$ 250,633.00	\$ 506,546.00	\$ 5,028,714.00
j. Indirect	\$ 66,114.00	\$ 0.00	\$ 70,304.00	\$ 0.00	\$ 136,418.00
k. Totals	\$ 258,255.00	\$ 351,112.00	\$ 320,937.00	\$ 506,546.00	\$ 5,165,132.00
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

BUDGET INFORMATION - Non-Construction Programs

1. Program/Project Identification No. EE0007952		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941	4. Program/Project Start Date 07/01/2017		
	5. Completion Date 06/30/2018		

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.						
2.						
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

SECTION B - BUDGET CATEGORIES						
6. Object Class Categories	Grant Program, Function or Activity				Total (5)	
	(1) PROGRAM OPERATION S	(2) HEALTH AND SAFETY	(3) LIABILITY INSURANCE	(4) FINANCIAL AUDITS		
a. Personnel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 307,249.00	
b. Benefits	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 76,813.00	
c. Travel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 27,720.00	
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
e. Supplies	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,004.00	
f. Contract	\$ 2,872,066.00	\$ 718,015.00	\$ 120,601.00	\$ 17,600.00	\$ 4,607,970.00	
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
h. Other	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,958.00	
i. Total Direct Charges	\$ 2,872,066.00	\$ 718,015.00	\$ 120,601.00	\$ 17,600.00	\$ 5,028,714.00	
j. Indirect	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 136,418.00	
k. Totals	\$ 2,872,066.00	\$ 718,015.00	\$ 120,601.00	\$ 17,600.00	\$ 5,165,132.00	
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0007952, State: TX, Program Year: 2017)

IV.1 Subgrantees

Subgrantee (City)	Planned Funds/Units
Alamo Area Council of Governments (San Antonio)	\$363,051.00 35
BakerRipley (Houston)	\$544,053.00 54
Big Bend Community Action Committee (Marfa)	\$77,788.00 5
Brazos Valley Community Action Program (College Station)	\$156,917.00 13
Combined Community Action, Inc. (Giddings)	\$109,521.00 8
Community Action Committee of Victoria Texas (Victoria)	\$143,789.00 12
Community Action Corporation of South Texas (Alice)	\$487,365.00 48
Community Council of South Central Texas, Inc (Seguin)	\$101,927.00 8
Concho Valley Community Action Agency (San Angelo)	\$94,467.00 7
Dallas County Health & Human Services (Dallas)	\$350,500.00 34
Economic Opportunities Advancement Corporation (Waco)	\$136,587.00 11
El Paso Community Action Program, Project Bravo (El Paso)	\$208,041.00 18
Fort Worth, City of (Fort Worth)	\$222,181.00 19
Greater East Texas Community Action Program (Nacogdoches)	\$404,667.00 39
Hill Country Community Action Association, Inc. (San Saba)	\$130,960.00 10
Nueces County Community Action Agency (Corpus Christi)	\$86,730.00 6
Panhandle Community Services (Amarillo)	\$133,038.00 11
Rolling Plains Management Corporation (Crowell)	\$196,618.00 17
South Plains Community Action Association, Inc. (Levelland)	\$122,435.00 10
Texoma Council of Governments (Sherman)	\$238,848.00 21
Travis County Health and Human Services and Veterans Services (Austin)	\$144,630.00 12
West Texas Opportunities (Lamesa)	\$131,827.00 10
Total:	\$4,585,940.00 408

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0007952, State: TX, Program Year: 2017)

IV.2 WAP Production Schedule

Weatherization Plans	Units
Total Units (excluding reweatherized)	408
Reweatherized Units	0

Note: Planned units by quarter or category are no longer required, no information required for persons.

Average Unit Costs, Units subject to DOE Project Rules		
VEHICLE & EQUIPMENT AVERAGE COST PER DWELLING UNIT (DOE RULES)		
A	Total Vehicles & Equipment (\$5,000 or more) Budget	\$0.00
B	Total Units Weatherized	408
C	Total Units Reweatherized	00
D	Total Dwelling Units to be Weatherized and Reweatherized (B + C)	408
E	Average Vehicles & Equipment Acquisition Cost per Unit (A divided by D)	\$0.00
AVERAGE COST PER DWELLING UNIT (DOE RULES)		
F	Total Funds for Program Operations	\$2,872,066.00
G	Total Dwelling Units to be Weatherized and Reweatherized (from line D)	408
H	Average Program Operations Costs per Unit (F divided by G)	\$7,039.38
I	Average Vehicles & Equipment Acquisition Cost per Unit (from line E)	\$0.00
J	Total Average Cost per Dwelling (H plus I)	\$7,039.38

IV.3 Energy Savings

Method used to calculate savings: <input checked="" type="checkbox"/> WAP algorithm <input type="checkbox"/> Other (describe below)			
	Units	Savings Calculator (MBtus)	Energy Savings
This Year Estimate	408	29.3	11954
Prior Year Estimate	0	29.3	0
Prior Year Actual	0	29.3	0

Method used to calculate savings description:

IV.4 DOE-Funded Leveraging Activities

N/A

IV.5 Policy Advisory Council Members

Check if an existing state council or commission serves in this category and add name below

Combined Community Action Inc.	Type of organization: Non-profit (not a financial institution) Contact Name: Kelly Franke Phone: (979)540-2985 Email: KJFranke@craction.com
Greater East Texas Community Action Program	Type of organization: Non-profit (not a financial institution) Contact Name: Karen Swenson, Executive Director Phone: (936)564-2491 Email: kswenson@sbcglobal.net
Health and Human Services Commission	Type of organization: Unit of State Government Contact Name: Toni Packard Phone: 5124384290 Email: toni.packard@hhsc.state.tx.us
	Type of organization: Indian Tribe

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0007952, State: TX, Program Year: 2017)

Ysleta del Sur Pueblo Housing Department	Contact Name: Al Joseph Phone: 9158599196 Email: ajoseph@ydsp-nsn.gov
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IV.6 State Plan Hearings (Note: attach notes and transcripts to the SF-424)

Date Held	Newspapers that publicized the hearings and the dates the notice ran
03/22/2017	Public Hearing for the 2017 DOE Plan will began at 3:00 pm. Public comment period will end 03/24/2017.
03/01/2017	Announcement of Public Hearing sent for publication 3/10/2017 in the Texas Register.
03/24/2017	WAPAC meeting will be held.
03/01/2017	Draft plan and Notice of Public Hearing posted on the Department's website; public listserv announcement sent announcing availability of plan and public hearing details.
02/28/2017	The TDHCA Board of Directors authorized release of the draft plan for public comment.

IV.7 Miscellaneous

Recipient Business Officer

Michael De Young
Michael.deyoung@tdhca.state.tx.us
221 East 11th Street
Austin, Texas 78701
(512) 475--2125

Recipient Principal Investigator

Michael De Young
Michael.deyoung@tdhca.state.tx.us
221 East 11th Street
Austin, Texas 78701
(512) 475--2125

Policy Advisory Council

The Policy Advisory Council ("PAC") is broadly representative of organizations and agencies and provides balance, background, and sensitivity with respect to solving the problems of low-income persons, including weatherization and energy conservation problems. Historically, the PAC has met annually after the public hearing for the DOE plan.

The low-income elderly population is represented by the PAC members from Combined Community Action and the Greater East Texas Community Action Association. The low-income persons with disabilities population is represented by the PAC member from the Health and Human Services Commission. The low-income Native American population is represented by the PAC member from the Ysleta del Sur Pueblo Housing Department.

Liability Insurance

The liability insurance separate line item includes pollution occurrence insurance in addition to the general liability insurance. Most regular liability insurance policies do not provide coverage for pollution occurrence. The Department strongly recommends the Subgrantees require their contractors to carry pollution occurrence insurance to avoid liability for any mistakes the contractors may make. Each Subgrantee should get a legal opinion regarding the best course to take for implementing the pollution occurrence insurance coverage.

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This worksheet should be completed as specified in Section III of the Weatherization Assistance Program Application Package.

V.1 Eligibility

V.1.1 Approach to Determining Client Eligibility

Provide a description of the definition of income used to determine eligibility

Categorical Eligible/Eligibility: Households determined to be income eligible because at least one member receives: (A) SSI payments from the Social Security Administration; or (B) Means Tested Veterans Program payments. (4) Child--Household member not exceeding eighteen (18) years of age. Reference: TAC rules, Title 10, Part 1, Chapter 6, Subchapter A Sections 6.2 (b)(3)(A), 6.2 (b)(3)(B) and 6.2(b)(4)

Describe what household Eligibility basis will be used in the Program

Subgrantees shall follow the Department's Texas Administrative Code rules, Title 10, Part 1, Chapters 1, 2 and 6 when considering eligibility and income determination criteria. The Department will ensure that its Subgrantees have determined eligibility criteria based upon:

Defined terms as detailed in 10 TAC Section 6.403; and

Income eligibility guidelines as detailed in 10 TAC Section 6.4, as amended to comply with WPN 16-3 other further guidance.

Describe the process for ensuring qualified aliens are eligible for weatherization benefits

The Welfare Reform Act, officially referred to as the Personal Responsibility and Work Opportunity Act of 1996, H.R. 3734, placed specific restrictions on the eligibility of aliens for "Federal means-tested public benefits" for a period of five years. As defined in a Federal Register notice dated August 26, 1997 (62 FR 45256) the Department of Health and Human Services (HHS) is interpreting "Federal means-tested public benefits" to include only those benefits provided under Federal means-tested, mandatory spending programs. HHS Information Memorandum LIHEAP-IM-25 dated August 28, 1997, states that all qualified aliens, regardless of when they entered the U.S., continue to be eligible to receive assistance and services under the Low-Income Home Energy Assistance Program (LIHEAP) if they meet other program requirements.

To ensure program continuity between LIHEAP and DOE Weatherization for the many Subgrantees operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. A possible area of confusion resides in the types of local agencies that are exempt/nonexempt from "status verification requirements." Local agencies that are both charitable and nonprofit would be exempt, which comprise about three-quarters of the local agency network. However, those agencies which are designated as local government agencies operating the Weatherization Assistance Program and do not subgrant eligibility determination to a qualified nonprofit organization would not be exempt and, therefore, must conduct "status verification." WAP Subgrantees that are not exempt shall use the Systematic Alien Verification for Entitlements (SAVE) system to verify the status of qualified aliens that apply for weatherization services. The Department has provided training to those entities required to use the SAVE system.

The DOE and LIHEAP WAP are in compliance with **LIHEAP-IM-99-10 issued June 15, 1999 states that weatherization in multifamily building is nota cover activity for status verification.**

V.1.2 Approach to Determining Building Eligibility

Procedures to determine that units weatherized have eligibility documentation

Subgrantees maintain a client file for each unit weatherized, including documented proof that the dwelling unit is an eligible dwelling unit as defined in 10 CFR §440.22. The Department determines that weatherized units have eligibility documentation during monitoring reviews.

Describe Reweatherization compliance

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Texas limits reweatherization to 5% of all units weatherized. To ensure the cap is not exceeded, Subgrantees may not reweatherize a unit without prior approval from the Department.

Units weatherized prior to September 1, 1994 are considered non-weatherized units. A new energy audit must be conducted on each unit reweatherized.

Describe what structures are eligible for weatherization

10 TAC §6.403 includes the following definitions which describe structures eligible for weatherization:

Dwelling Unit--A structure containing no more than one Dwelling Unit.

Multifamily Dwelling Unit--A structure containing more than one Dwelling Unit.

Rental Unit--A Dwelling Unit occupied by a person who pays rent for the use of the Dwelling Unit.

Shelter--A Dwelling Unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

Describe how Rental Units/Multifamily Buildings will be addressed

In accordance with 10 CFR §440.22(b)(3), the Department requires that Subgrantees keep on file procedures that address protection of renters' rights, to ensure:

- Written permission of the building owner or his agent before commencing work.
- Cash/in-kind contribution from building owner when feasible.
- Benefits of the services accrue primarily to the low-income tenants residing in such units.
- For a reasonable period of time after completion, the household will not be subjected to rent increases (unless those increases are demonstrably related to other matters other than the weatherization work performed).
 - There are adequate procedures whereby the Grantee can receive tenant complaints and owners can appeal, should rental increases occur.
- No undue or excessive enhancement shall occur to the value of the dwelling unit.
- To secure the federal investment and to address issues of eviction from and sale of property, per 10 CFR §440.22(c), Grantees may seek landlord agreement to placement of a lien (or other contractual restrictions) upon the property being weatherized.

The Department will abide by 10 CFR §440.22, ensuring that not less than 66% of the eligible building units (50% for duplexes and four-unit buildings, and certain eligible types of large multifamily buildings) are eligible units or will become eligible dwelling units within 180 days under a Federal, State or local government program for rehabilitating the building or making similar improvements. WPN 10-15 provides guidance on Department of Housing and Urban Development ("HUD") and Department of Agriculture ("USDA") multifamily buildings that have been pre-determined to meet income eligibility guidelines. WPN 11-09 provides guidance on the review and verification required for those buildings. Assessments and client file documentation for rental units and multifamily units are also detailed in the Multifamily Weatherization Best Practice posted on the Department's website at <http://www.tdhca.state.tx.us/community-affairs/wap/docs/WAP-BP-MFWeatherization.pdf>.

Because large multifamily buildings have different audit requirements, Subgrantees must obtain prior written approval through the Department to use the 50% eligibility, and DOE must approve the proposed activity. The Department will seek DOE approval.

Describe the deferral Process

A Dwelling Unit shall not be weatherized when there is a potentially harmful situation that may adversely affect the occupants or the Subgrantee's weatherization crew and staff, or when a Dwelling Unit is found to have structural concerns that render the Dwelling Unit unable to benefit from weatherization. The Subgrantee must declare their intent to defer weatherization on an eligible unit on the assessment form. The assessment form should include the client's name and address, dates of the assessment, and the date on which the client was informed of the issue in writing. The written notice to the client must include a clear description of the problem, conditions under which weatherization could continue, the responsibility of all parties involved, and any rights or options the client has. A copy of the notice must be given to the client, and a signed copy placed in the client application file. Only after the issue has been corrected to the satisfaction of the Subgrantee shall weatherization work begin.

If structural concerns or health and safety issues identified (which would be exacerbated by any weatherization work performed) on an individual unit cannot be

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abated within program rules or within the allowable WAP limits, the unit exceeds the scope of this program.

Should a client request a second opinion on a deferral or walk-away, the Subgrantee is encouraged to contact the appropriate local government inspector to request an inspection of the site. Should the client refuse to have a local government inspector inspect the unit, the crew will note the refusal in the client file, and no work shall be performed on the unit. If the inspector deems that work pending deferral can or should be performed, crews/contractors and contractors are encouraged to work with the inspector's suggestions to make the improvements. However, the inspector does not make the final determination on the amount of work, cost of work, or measures applied to the unit. Should the Subgrantee deem the suggested measures to be financially or programmatically out of the scope of weatherization, the Subgrantee may defer the weatherization work on the unit. Documentation of this determination, whether the weatherization is completed or not, must be included in the client file.

Crewmembers or contractors who work on a unit that could or should be a deferral or walk-away do so at their own risk.

V.1.3 Definition of Children

Definition of children (below age): **18**

V.1.4 Approach to Tribal Organizations

Recommend tribal organization(s) be treated as local applicant?

If YES, Recommendation. If NO, Statement that assistance to low-income tribe members and other low-income persons is equal.

The 70th Texas Legislature created the Native American Restitutionary Program (Oil Overcharge Restitutionary Act, Texas Government Code, Chapter 2305) for the purposes of providing oil overcharge restitution to the Texas Native Americans. In the Texas WAP, the Native-American Indian population is treated and served in the same manner as other applicants.

V.2 Selection of Areas to Be Served

The Texas WAP is available to eligible low-income households in all 254 counties of the state. Subgrantees are held responsible for all intake, eligibility, and weatherization activities. If the Subgrantees' performance record is satisfactory according to both state and federal regulations, then the Department may offer to renew the contract if the Subgrantee so desires. The Department's award committee may decline to recommend an award or place additional conditions on an award based upon its previous participation review as outlined in 10 TAC §1.302.

New or additional DOE subgrantees for counties that become unserved by the DOE WAP will be selected according to DOE regulations found in 10 CFR §440.15 and 10 TAC §1.302. A new or additional subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a Department-funded Weatherization Assistance Program. All counties are served by 22 existing entities.

Formula Distribution

The Department updates the budget allocation proportion by county and Subgrantee based on poverty income, elderly poverty, median household income (from the 2010 U.S. Census data), and climate data (from the National Climatic Data Center, Climate Normals, 2010), as outlined in 10 TAC §6.404.

The Department allocates funds to Subgrantees by applying a formula based upon the DOE allocation for program year; or if the allocation amount is not known, based on an assumption of level funding from the previous program year. Once the allocation amount is known, the formula is re-run. The allocation formulas reflect the 2010 Census data. If any carryover funds are available, they will be distributed by allocation formula and used to increase the number of units to be weatherized. The Department will adjust guidance to reflect the adjusted average expenditure limit per unit for the program year.

If the Department determines it is necessary to permanently reassign a service area to a new subgrantee, the subgrantee will be chosen in accordance with 10 CFR §440.15. The fund allocations for individual service areas are determined by a 5-factor distribution formula as outlined in 10 TAC §6.404:

- (1) Number of non-elderly poverty households per county;
- (2) Number of elderly poverty households (601+) per county;
- (3) Median income variance per county;
- (4) Inverse poverty household density ratio per county; and
- (5) Heating/Cooling Degree days per county.

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The Department may deobligate all or part of the funds provided under this contract as outlined in 10 TAC §6.405 . A Subgrantee's failure to expend the funds provided under this contract in a timely manner may also result in the Subgrantee's ineligibility to receive additional funding during the program year.

V.3 Priorities for Service Delivery

The Department will ensure by contract that its Subgrantees give priority to weatherizing dwellings owned or occupied by low-income persons who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Applicants from these groups must be placed at the top of a Subgrantee's waiting list. The Department ensures that Subgrantees give proper attention to these requirements through monitoring/evaluation of the Subgrantee.

V.4 Climatic Conditions

The climatic conditions for the State of Texas are imbedded in the algorithms of the Weatherization Assistant (WA 8.9) energy audit software toll engineered by the Oak Ridge National Laboratory for the Department of Energy. As part of the energy audit modeling, the Department requires the Subgrantee Network to select the nearest weather station to the dwelling units. The Weather files imbedded in the WA 8.9 contains 30 year data of Heating and Cooling degree days for each weather station.

As described in the report prepared by the Pacific Northwest National Laboratory & Oak Ridge National Laboratory for the Department of Energy, the state of Texas has several IECC climate zones. http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/ba_climateguide_7_1.pdf. These climate zones are used as an aid in helping Subgrantees to identify the appropriate climate designation for the counties in which they are providing WAP services. In addition to prescribing appropriate mechanical equipment (example of climate specific measures would be evaporative cooling which may be prescribed in the Hot Dry climate of Texas and not in the Mixed Humid part of Texas) the IRC prescriptive thermal envelope of measures are different. The climate zones found in Texas are as follows:

1. Hot-Humid

A hot-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation and where one or both of the following occur:

- A 67°F (19.5°C) or higher wet bulb temperature for 3,000 or more hours during the warmest six consecutive months of the year; or
- A 73°F (23°C) or higher wet bulb temperature for 1,500 or more hours during the warmest six consecutive months of the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 2A and 2B		Zone 3A
Ceiling	R 30	R30
Windows	U 0.65	U 0.50
Walls	R-13	R-13
Floors	R – 13	R 13
SHGC	0.30	0.30

2. Hot-Dry

A hot-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation and where the monthly average outdoor temperature remains above 45°F (7°C) throughout the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A and 3B	
Ceiling	R30
Windows	U0.50
Walls	R13
Floors	R 13
SHGC	.030

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3. Mixed-Humid

A mixed-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (65°F basis) or fewer, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A	
Ceiling	R30
Windows	U 0.50
Walls	R13
Floors	R 13
SHGC	.030

4. Mixed-Dry

A mixed-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (50°F basis) or less, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 4	
Ceiling	R38
Windows	U 0.35
Walls	R13
Floors	R 19

In addition to the 2015 IRC adopted by the State of Texas, several individual cities have adopted amendments to the code. The adoption and amendments to the 2015 IRC impact the WA 8.9 energy audits in that cities are required to evaluate user defined measures to meet the codes adopted by each individual City.

V.5 Type of Weatherization Work to Be Done

V.5.1 Technical Guides and Materials

Technical Guides and Materials

<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Weatherization Tools and Guides

- [WAP Production Schedule/Tool \(XLS\)](#) – Revised 12.30.16
- [Weatherization Assistance \(NEAT\) – Student Guide \(PDF\)](#) - Revised 11.9.15
- [Single-Family Homes: Standard Work Specifications Field Guide \(PDF\)](#)
- [Manufactured Housing: Standard Work Specifications Field Guide \(PDF\)](#)
- [Weatherization FAQs Answered by TDHCA \(PDF\)](#) – Revised 12.21.15
- [DOE-WAP Timeline \(PDF\)](#) Revised 10.30.15
- [LIHEAP-WAP Timeline \(PDF\)](#) Revised 10.30.15
- [Material Installation Standards Manual \(2012\) \(PDF\)](#)
- [Weatherization Field Guide \(2010\)](#)
- [Mechanical Systems Field Guide \(2010\)](#)
- [Exhaust Fan Flow Meter Quick Guide \(PDF\)](#)
- [International Energy Conservation Code \(IECC\) Requirements \(energycode.pnl.gov\)](#)
- [Weatherization Reporting Instructions](#)
- [Weatherization Monthly Performance Report](#)
- [LIHEAP Performance Measures Module User Guide \(PDF\)](#)

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- [Checking WAP Reports](#)

Program Administration Forms

- [DOE Budget Amendment Form \(XLS\)](#)
- [LIHEAP Budget Amendment Form \(XLS\)](#)
- [WAP Inventory List: Tools and Equipment \(DOC fillable\)](#)
- [Quality Control Inspection \(QCI\) Form](#)

Assessment Calculators

- [AC Replacement Calculator \(XLS\)](#)
- [Degradation Calculator \(XLS\)](#)
- [Refrigerator Replacement Calculator \(XLS\)](#)
- [Sidewall Density Calculation Sheet \(XLS\)](#)
- [ASHRAE 62.2 Calculator](#) (www.residentialenergydynamics.com)

Client and Field Assessment Forms

- [OCI Final Inspection Certification Form \(PDF\)](#)
- [Health & Safety Client Questionnaire & Inspection Checklist \(PDF\)](#)
- [LIHEAP Priority List \(PDF\)](#) – Revised January 2017
- [Blower Door and Duct Blower Data Sheet \(XLS\)](#)
- [Unified Notification Form \(PDF\)](#) – Revised July 2011
- [Mold-Like Substance Notification and Release Form \(PDF\)](#)
- [Consumer Mold Information Sheet \(PDF\)](#)
- [Whole House Assessment Sheet \(XLSX\)](#)
- [Refrigerator Replacement Form \(DOC fillable\)](#)
- [Landlord Permission to Perform Assessment \(PDF\)](#)
- [Multi-Family Project Preparation/Completion Checklist \(PDF\)](#)
- [Wall/Attic Inspection Form \(XLS\)](#)
- [Building Weatherization Report \(BWR\) \(XLS\)](#) – Revised January 2017

Further, the Department has several Weatherization Best Practices posted at: <http://www.tdhca.state.tx.us/communityaffairs/wap/wapbestpractices.htm>.

Best Practices are developed based upon repeat questions that require more clarity than simply an FAQ. These have proved highly effective in multiple ways: increased compliance, better understanding on how to assess and proceed, increased consistency across the Network, and reduction in calls for same issues. They often have multiple references and are based upon sound building science principles.

All Subrecipient agreements and vendor contracts active in PY 2015 and beyond contain language which clearly documents the SWS specifications for work quality outlined in WPN 154, Section 2. A signed contract shall confirm that the organization understands and agrees to these expectations. Each contract will include the following clause or exhibit:

Materials and Work Standards

A. Subrecipient shall weatherize eligible dwelling units using only weatherization materials which meet or exceed the standards prescribed by DOE in Appendix A of 10 CFR Part 440.

B. All weatherization measures installed shall meet or exceed the standards prescribed by DOE in Weatherization Program Notice (WPN) 154 regarding Standard Work Specifications, as detailed in the Department's Materials Installation Standards Manual.

C. All weatherization work must be performed in accordance to the DOE approved energy audit procedures, 10 CFR Part 440 Appendix A, State of Texas adopted International Residential Code (or that of jurisdictions authorized by State law to adopt later editions).

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Subrecipient will include the substance of this section in all subcontracts

V.5.2 Energy Audit Procedures

Audit Procedures and Dates Most Recently Approved by DOE

Single-Family : NEAT: DOE Approved 2016

Manufactured Housing : MHEA: DOE Approved 2016

Multi-Family : NEAT: 5-24 individually heated and cooled units - DOE Approved 2016

Comments

During PY 2016, TDHCA requested DOE approval of Texas WAP energy audit procedures for site built and manufactured homes and for small multifamily buildings using Weatherization Assistant (NEAT for single-family and certain small multifamily buildings, and MHEA for manufactured homes). TDHCA also requested approval of LED lighting, which is not listed in 10 CFR 440 Appendix A.

TDHCA's submittal was reviewed in accordance with Weatherization Program Notice (WPN) 13-5 and was found to comply with §440.21 of the final rule, and also specifically with §440.21(b) of the final rule, which allows unlisted (non-Appendix A) materials upon application from any State and approval by DOE.

Based on review of the submitted material, Texas's single-family, manufactured home and small multifamily building energy audit procedures are conditionally approved by DOE as follows:

- The Weatherization Assistant (NEAT for site built homes and Small Multifamily [5-24 individually heated and cooled units] Buildings and MHEA for Manufactured Homes) is the conditionally approved energy audit. Full DOE approval will be granted upon TDHCA providing further training and technical assistance to its WAP Subgrantee agencies in the following areas, as detailed in the email dated 5/20/16 from Glen Salas, Simonson Management Services, to Marco Cruz, TDHCA.
 - HVAC auditing and sizing of replacement units.
 - Air infiltration reduction should be performed without consideration of building tightness limits (BTL) and minimum ventilation rates (MVRs), which are no longer applicable with ASHRAE 62.2 compliance.
 - Correctly modeling small multifamily buildings in NEAT.
 - Correctly evaluating and adding insulation as appropriate in manufactured homes.
- TX is approved to implement LEDs as energy conservation measures.

V.5.3 Final Inspection

V.5.3 Final Inspections

The Department has provided the Subgrantee with sufficient T&TA funding to obtain and/or maintain required QCI and MF-QCI certifications by an IREC certified training provider. The Department tracks Subgrantee compliance with unit inspection requirements of WPN 15-4.

The Department has four certified QCI staff, who maintain their certifications. The Department annually requires all Subgrantee's to report the following for determining the number of units that the Department will inspect for compliance at each agency:

- Option 1 (at minimum 5% compliance final inspection required)= With multiple QCI staff, this Subrecipient will NOT allow the QCI staff member who conducts the Final Inspection on any/every DOE-funded/reported unit to perform any other aspect(s) associated with that same unit.
Example: Initial Assessment; NEAT Audit; Work Order; etc
- Option 2 (10% compliance final inspection required)= With limited QCI staff, this Subrecipient will have a QCI staff member conduct the Final

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Inspection on any/every DOE-funded/reported unit AND will also perform other aspect(s) associated with that same unit.

Example: Initial Assessment; NEAT Audit; Work Order; etc

- Option 3 (5% compliance final inspection required) = Other, so please explain (typically an independent third-party QCI contractor)
- **NOTE:** As scheduling permits, compliance will conduct 10% final inspections on completed units for Options 1 and 3, as well.

Five Subgrantee's have multiple QCI Staff with separation of duties, fifteen have limited QCI, and two are using third-party QCIs. All units are inspected by a certified QCI. In addition to final inspections, a completed QCI Final Inspection Certification Form is required. [QCI Final Inspection Certification Form \(PDF\)](#).

The Network is required to follow work standards as per the SWS guidelines. This requirement is within Subgrantee contracts, and the SWS guide is posted on the Department [Program Guidance](#) Webpage.

All units must meet DOE requirements and pass a QCI inspection. Any unit that fails to be brought into compliance results in disallowed costs and a finding for the reason(s) of the disallowed cost is issued in the monitoring report. The initial T&TA response to any findings is email guidance providing resources to resolve the findings by the training team. This is then followed by individualized T&TA, or a referral to the appropriate Tier 1 training provider, as deemed appropriate.

V.6 Weatherization Analysis of Effectiveness

Pursuant to 10 TAC, Chapter 1, Subchapter C, §1.302, a review of a Subgrantee's compliance history in Department programs must be approved by the Department's Executive Award and Review Advisory Committee ("EARAC") and provided to the Department's Board of Directors in order that the Board may consider the compliance history and make and document its award decisions with full knowledge of these matters. Prior to the award of DOE funds to any Subgrantee, EARAC reviews:

1. Summary information regarding findings identified during the last three years; and
2. If the Subgrantee is subject to the requirement of an annual single audit:
 - A. A report of any required single audit or single audit certification form that is currently past due; and
 - B. If such single audit has been submitted and the most recent single audit report contained findings, a copy of that single audit.

The Subgrantee Monitoring section, the section of the Compliance Division that monitors the WAP, submits information regarding its monitoring activity to the EARAC for review. If EARAC finds that a Subgrantee has outstanding issues related to any of the criterion listed above that the Subgrantee's review may not be approved by EARAC, or may be approved with conditions that will be written into the Subgrantee's WAP contract.

Issues identified during this review point to areas in a Subgrantee that require attention, both from a monitoring standpoint and a T&TA standpoint. The reviews not only hold the Subgrantee accountable, they also give the monitoring and T&TA sections guidance in planning future activities.

On a more direct level, the T&TA staff meets with monitoring staff every other week in order to keep an updated evaluation of each Subgrantee. In those meetings, monitoring staff relay issues they find related to individual Subgrantee's as well as overall trends they identify. The T&TA staff applies this information when determining the needs for agency-specific T&TA (for instance, if a Subgrantee has failed inspections) and to plan the curriculum for the regional trainings.

Further, Subgrantee performance is reviewed periodically and at the end of the program year. The Department tracks Subgrantee performance over time by reviewing their monthly production and expenditure reports. Each T&TA staff member reviews the reports submitted by a certain number of Subgrantees and plans activities and the provision of T&TA when necessary. Analysis of reports includes the following:

- Number of homes completed;
- Number of applications pending;
- Number of homes in progress;
- Contract amount;
- Total funds expended;
- Balance of funds; and
- Special comments

V.7 Health and Safety

Attached to SF-424

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V.8 Program Management

V.8.1 Overview and Organization

The Department is the state's lead agency responsible for affordable housing and community assistance programs. The Department annually administers funds derived from mortgage revenue bond financing and refinancing, federal grants, and federal tax credits.

In 1991, the 72nd Texas Legislature created the Department. The Department's enabling legislation combined programs from the Texas Housing Agency, the Community Development Block Grant Program from the Texas Department of Commerce, and the Texas Department of Community Affairs.

On September 1, 1992, two programs were transferred to the Department from the Texas Department of Human Services: the Low Income Home Energy Assistance Program and the Emergency Nutrition and Temporary Emergency Relief Program. Effective September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department. In accordance with House Bill 7, effective September 1, 2002, the Community Development Block Grant and Local Government Services Programs were transferred to the newly created Office of Rural Community Affairs. Effective September 1, 2002, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA. As a state agency, the Department is under the authority of the Governor of the State of Texas.

The Department's services are offered through four program divisions: HOME and Homeless Program, Single Family Operations, Multifamily Finance Production, Single Family Finance Production, and Community Affairs, which administers the WAP.

The Department subcontracts with a network of Subgrantees that provide the WAP services. The network is comprised of community action agencies (CAAs), regional Councils of Government (COGs), and organizations in the other public or private nonprofit entity category (PPNPs). All network Subgrantees are provided a draft copy of the yearly weatherization state plan, a notice of the state public hearing, and invited to participate in the public comment process.

Historically, the regular weatherization program year ran from April through March. Starting PY 2015, the weatherization program year has run from July through June.

The Department will continue to administer the program through Subgrantees in accordance with 10 CFR §440.15 provisions and State regulations. If existing Subgrantees are successfully administering the Program, the Department will offer to renew the contract if the Subgrantee so desires and if grant funds are available. When the Department determines that an organization is not administering the program satisfactorily, it may take the following action:

- Correction of the problem(s) with training or technical assistance;
- Re-assignment of the service area (or service area portion) to another Department existing Subgrantee; or,
- Solicitation or selection of a new or additional Subgrantee in accordance with 10 CFR §440.15 provisions.

A new or additional Subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a DOE Weatherization Assistance Program.

Consolidation/downsizing: Any downsizing will occur through normal attrition, through a Subgrantee's determination that it can no longer administer the program efficiently/effectively, or through the Department's determination that a Subgrantee can no longer administer the program efficiently/effectively.

Reassignment of service areas for just cause: In the event that a service area can no longer be served by a Subgrantee, the Department reserves the right to reassign services areas. If it appears necessary to permanently reassign the service area, a new Subgrantee may be chosen in an open, competitive solicitation process in accordance with 10 CFR §440.15 or the reassignment may become permanent.

Client Education

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantees will be required to provide (at a minimum) educational materials in verbal and written format.

V.8.2 Administrative Expenditure Limits

The Department will use 5% of its grant funds for state administration. An additional 5% will be distributed for local WAP field operations under contract. Contract funds are intended for local administration, liability insurance coverage, local fiscal audit, materials, labor, program support and health and safety measures. To help ensure that Subgrantees comply with the full and proper use of all the contract funds, written definitions are to be provided to Subgrantees on

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STATE PLAN/MASTER FILE WORKSHEET

(Grant Number: EE0007952, State: TX, Program Year: 2017)

budget categories as deemed necessary. The Department has elected to provide the maximum allowable funds for Subgrantee administration to Subgrantees receiving less than \$350,000, so it has not included procedures for deciding which Subgrantees will receive additional funds. This decision is based on the following factors:

- Subgrantees often have to rely on other programs for WAP outreach and other administrative support;
- Subgrantees have had to adjust budgeting to keep pace with cost-of-living increases -- staff salaries, fringe benefits, rent, postage, travel, etc.;
- The State of Texas is 877 miles from Northern to Southern tips, 834 miles from Eastern to Western tips, and is comprised of a total of 266,807 square miles. The extra geography that Subgrantees have to cover to serve all the area's clients equitably requires additional staff, staff time, postage and phone costs, and vehicle wear and maintenance. (Source of Mileage Data: Texas Department of Transportation);
- Salaries, space, utilities, telephone, and similar costs associated with program support personnel should be charged to program support; and
- The increasing cost of maintaining appropriate qualified staff is challenging.

For Subgrantees receiving over \$350,000, the administrative allowance will be 5% of each subgrant. For Subgrantees receiving less than \$350,000, the administrative allowance will be 10% of each subgrant.

V.8.3 Monitoring Activities

The Department will monitor the Weatherization Assistance Program ("WAP") with the Monitoring staff included in the budget. Subgrantee is defined as an organization with whom the Department contracts and provides WAP funds.

Names and credentials of Department staff dedicated to monitoring DOE activities follow. Monitoring staff are paid out of Grantee Administration and the Grantee T&TA (see the Budget Explanation, Personnel line item, for detailed information on the percentages allocated from each budget category).

- Rosy Falcon – over 6 years of weatherization monitoring; BPI certified; has attended DOE sponsored conferences.
- Chad Turner; over 11 years of weatherization experience as a Texas WAP Subgrantee. QCI certified, RSNET certification, BPI Certified and Lead Certification
- Kevin Glienke – over 6 years of weatherization monitoring experience; BPI Certified; has attended DOE sponsored conferences; QCI certified.

(All staff listed above conduct fiscal/administrative and technical assistance monitoring activities)

There is also staff in the T&TA section of the Department that are QCI certified. It is not anticipated, but possible, that some of those staff members could assist with the unit inspections of homes weatherized through funds provided through this State Plan.

The Department will monitor each of the DOE Subgrantees during the contract period which will be July 1, 2017 through June 30, 2018. Many of the DOE Subgrantees also receive funds through the Department of Health and Human Services Community Service Block Grant and Low Income Home Energy Assistance Program. Whenever possible, all three programs will be monitored during one visit to the Subgrantee.

(See attached PY2017 Tentative Monitoring Schedule)

The Department understands DOE's expectation and will conduct at least one on-site visit annually to each Subrecipient for technical and fiscal/administrative monitoring.

Financial and Administrative monitoring will include, at minimum, a review of the Subgrantee's General Ledgers and policies and procedures (including procurement) as well as support documentation for reported expenditures. These documents will be reviewed to ensure compliance with DOE, Department and other applicable rules and regulations. Through sampled client file monitoring, the Department will ensure that program beneficiaries are eligible low-income families. Through sampled unit inspections, Department staff will ensure that installed measures are allowable and meet or exceed DOE requirements. The Department will review whether charged measures were installed properly and determine compliance with health and safety procedures, client eligibility, energy audit procedures, client education procedures and compliance with the SWS.

The Department will inspect 5% of all completed weatherized units. In order to achieve the 5% inspection rate, and comply with the requirements of WPN 15-4, the Department is requesting that Subgrantees with a QCI on staff do not have that staff member involved with the weatherized unit prior to final inspection. The Department defines prior involvement as performing the audit, creating the work order or performing any weatherization work on the weatherized unit. The

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Department has created a QCI Final Inspection Form, for Subgrantees which will allow TDHCA to determine if a QCI employed by the Subgrantee had prior involvement with that unit. The Department will review each QCI final inspection document to ensure compliance with the requirement to inspect 5% and will increase the required inspections if necessary.

The Department recognizes that there may be a need to perform additional unit inspections towards the end of the contract period to comply with the requirements of WPN 15-4 if there were not enough units available to sample during the full monitoring review.

(More frequent monitoring visits (Fiscal/Administrative and/or Technical) may be conducted at subgrantees with significant identified risk)

Monitors will complete evaluation instruments to determine a Subgrantee's compliance. The instruments cover Financial and Administrative requirements, health and safety procedures, client eligibility, energy audit procedures, client education procedures, and compliance with the SWS. Compliance Monitors also review the hard copy of the NEAT or MHEA audit which is required to be in the client file to assure that the scope of the work was directed by the audit.

Monitors typically scan documents as support if there will be findings noted.

The following list provides additional monitoring details that may occur during the monitoring review.

- Monitors may request copies of fiscal records/support documentation and perform a desk review to gauge the fiscal condition of the Subgrantee prior to onsite monitoring.
- In addition, as needed, monitors may perform a desk review of records requested but not provided during the onsite review and records requested to clarify issues identified during the onsite monitoring visit. The Department recognizes the requirement to issue monitoring letter within 30 days of the review. The Department does not consider the review complete until receipt of information needed to ascertain compliance. Monitoring letters will be issued within 30 days of receipt of all necessary information.
- On occasion, while onsite monitors overlook findings that are identified through a management or peer review of the report and working papers. In these instances, Department staff will strive to call the Subgrantee to discuss the matter prior to the report being issued.

The Department will issue monitoring reports within 30 days of completion of the review. Subgrantees are provided a 30 day corrective action period to respond and provide evidence of correction. On a case by case basis, the Department may grant an extension to respond to the report if there is good cause and the request is made during the corrective action period. The Department will review each response and determine if the Subgrantee has resolved the compliance issue. If the Department determines that the issue is not resolved, the Subgrantee will be notified and required to submit an additional response(s) until the compliance issue is resolved. In certain circumstances, the Department may "close" a compliance issue when there remain no additional actions that can be taken to resolve the issue. At the conclusion of this process, any unresolved compliance issues will be reported to DOE (instances of suspected fraud or serious program abuse will be reported immediately to DOE and the Texas State Auditors Office).

The Department will review the annual financial audits of each Subgrantee agency. The Department requires each Subgrantee to complete an Audit Certification form within 60 days of the end of the entity's fiscal year. This is used to determine if a Single Audit is required. All single audits and management letters must be uploaded to the Federal Clearing House with copies submitted to the Department within nine (9) months of the Subgrantee's fiscal year end. Upon receipt of the Single Audit, a review is completed to determine if the packet submitted is complete and all opinions are provided. If the audit contains findings, they are reviewed and discussed by the Director of Internal Audit, the Chief of Compliance and staff to determine the appropriate steps to ensure the entity corrects the issues identified in the audit report or management letter. The Department issues correspondence to the entity, identifying that corrective action measures must be performed and requiring that support documentation to be provided. The entity is provided a time frame to complete the corrective action and to respond to the correspondence. At a maximum, the entity must correct all identified issues within six (6) months of the Single Audit being submitted to the Federal Clearing House.

The Department's Compliance Monitor(s) keep abreast of the required timeframe for the entity to complete the corrective action and to provide the response. When the response is received, the Department reviews the documentation to determine if the corrective action requirements have been met. If the issues have not been corrected, the Compliance Monitor and/or Community Affairs Monitoring Manager will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and standard operating procedures. During the next monitoring visit to the entity, the Department will determine if the selection of expenditures or materials reviewed reflect compliance with the respective requirement.

The Texas WAP has a successful and compliant history. However, in the event that TDHCA identifies a Subgrantee with significant and unresolved noncompliance will be referred by the Compliance Division to the Training and Technical Assistance Team. Those Subgrantees will be required to meet assigned milestones. Failure to meet milestones may result in contract sanctions, up to and including administrative penalties, debarment, placement on a modified cost reimbursement method of payment, contract suspension, or contract termination.

1. Program Oriented Management Training – Prior to continuing any weatherization-related program activity, all Subgrantee staff that performs any action

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related to the WAP will be required to complete Program Oriented Management Training ("POM"). POM will include:

- A. Review of WAP statutes and rules
- B. Review of state program requirements
- C. Review of financial and administrative best practices
- D. Review of program best practices

2. Intensive Training and Technical Assistance – Once POM is completed, Subgrantee staff will receive training on critical program components. At each stage of Intensive T&TA, TDHCA team members will provide one-on-one guidance to Subgrantee staff to ensure the correct completion of each component. At the end of Intensive T&TA, Subgrantee staff will have completed another step toward completion a weatherized unit.

- A. Client file documentation
- B. Payment and reimbursement documentation
- C. Accompanied unit assessment
- D. Accompanied Audit completion
- E. Accompanied Interim construction walk-through
- F. Accompanied Final inspection

3. Staged Program Operation – When Subgrantee staff has completed Intensive T&TA, the Subgrantee will complete a pre-determined number of client intakes. Once the client intakes are completed, TDHCA team members will review the ensuing steps of the weatherization process in the following steps:

- A. Review of the client file documentation
- B. Review of unit assessments
- C. Review of audit input and completion to work order
- D. Accompanied final inspection

Once the Subgrantee has completed the determined number of units and the units have passed TDHCA monitoring, the Subgrantee will resume normal operations for the remainder of the program year. The Subgrantee will be reviewed at the end of the program year for determination of continued funding.

If it is determined that the Subgrantee is not able to administer the weatherization program, the Department will follow the requirements in 10 TAC §2.202 Contract Closeout.

V.8.4 Training and Technical Assistance Approach and Activities

V.8.4 Training and Technical Assistance

The Department provides Subgrantee's with sufficient T&TA funding to obtain and/or maintain required certifications; such as: QCI, MF-QCI, Building Analyst/Energy Auditor, Lead Safe Renovator, Lead Safe Worker, and OSHA 10 or 30. All training provided will include requirements for compliance with QWP specifications. The Department will conduct trainings based upon the following:

- Grant Requirements or as directed by DOE monitor or audit reports.
- Subgrantee Request. The Department has an online request system, with a T&TA menu list, or section for the Subgrantee to make a specific request or ask specific questions. The Department will contact the requestor and customize training to meet the need. <https://tdhca.wufoo.com/forms/request-for-ca-program-assistance>
 - In addition, submitted questions or requests are reviewed for creating FAQs or to identify topics for regional trainings, workshops, or

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individualized training.

- Monitor Reports. The Department's compliance team shares monitoring issues with the training team. The training team will initially provide resources and guides to address any findings, and follow up with T&TA as required.
 - Trends across the Network will be addressed in regional trainings or workshops.
- Management Request. Management may make a specific request and dictate the type of training needed.

Tier 1 Training:

Tier 1 training will be provided by accredited IREC training providers. Tier 1 Training will continue along with ongoing training to maintain skills and certifications. When federal requirements dictate Energy Auditor (EA) certifications they will be required. The Department will be requiring all Subgrantee's to ensure their contractors receive other Tier 1 trainings, as needed. Each subcontractor for whom DOE funds are used to provide training for the certification, will be required to enter into a retention agreement with the Subgrantee.

The Department has four certified QCI staff who monitor and/or train weatherization Subgrantee on quality weatherization work, proper diagnostics, documentation, and compliance. The Department has a certified BPI Proctor who administers exams for QCI and MF-QCI. The Department continues to provide T&TA to assist Subgrantees is preparing for and obtaining required certifications. The Department created an online Web-page dedicated to Quality Work Plan requirements that contains guidance and resources. <http://www.tdhca.state.tx.us/community-affairs/wap/quality-work-plan.htm>

In 2016, the Department provided a Network ASHRAE and HVAC sizing workshop. Following this workshop, a regional series was conducted to provide additional hands-on training covering: final inspections and assessments; with specific detail to diagnostics; CAZ testing, Duct testing, and ASHRAE ventilation requirements. The Department began procurement for a Mobile Home insulation series, and expects this to be completed prior to the 2017 contract start date. In PY2017, the Department continues to focus on JTA aligned training for agency staff and subcontractors, and maintenance or attainment of required certifications.

NOTE: New Mexico Energy Smart Academy recently partnered with a local Subrecipient to provide IREC certified courses in Texas. The first course (MF-QCI) was held the first week of February 2017, in Austin.

Tier 2 Training:

Tier 2 training will be provided by Department training and technical assistance staff or its designee. With experience as Program Officers and Trainers, the staff has experience in Subgrantee monitoring, unit assessments, audits, materials installation, inspections, and the training and technical assistance that support each. The staff consists of:

- Marco Cruz – 20+ years experience in the WAP. Certified QCI and MF-QCI, LeadSafe Renovator, OSHA30, and attended DOE sponsored conferences.
- Laura Saintey – 10+ years experience in the construction industry and 6+ years experience in the WAP. Certified QCI, LeadSafe Renovator, OSHA 10, BPI Building Analyst Professional, BPI Certified Proctor, and attended DOE sponsored conferences.
- Jason Gagne- 1+ year experience in the WAP and attended DOE sponsored conferences. Scheduled to obtain BPI Building Analyst in April 2017, to be followed by QCI later this year.
- In 2016, compliance certified QCI staff provided one-on-one training to weatherization staff across the Network on proper diagnostics and determinations during final inspections.
 - Chad Turner – 20+ years experience in the construction industry and 12+ years experience as a Texas WAP Subrecipient. Certified QCI, MF-QCI, RESNET certified, BPI Certified and Lead Certification, and attended DOE sponsored conferences.
 - Kevin Glienke- 7+ years in weatherization monitoring and training. BPI certified, QCI, MF-QCI, and attended DOE sponsored conferences.

Training Schedule 2017:

Quarterly Phone Calls. Agendas will be evaluated for topics based upon need and identified areas of concern. Topics may include:

- Program Ramp-Up
- Production Schedules
- Upcoming training dates
- Relevant topics for the quarter
- Topics identified by compliance
- FAQs needing clarification

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- Closeout and Reporting

Dates for Network Calls:

- August 24, 2017
- November 16, 2017
- February 22, 2018
- May 24, 2018

Online trainings opportunities are passed onto the Network via the state association e-newsletter, along with other notifications regarding outside conferences or workshops.

The Department has established an annual Energy Audit Workshop, scheduled for March of each year. In addition, individualized T&TA will be provided upon Subgrantee request or compliance reports.

The Department proposes a Regional Series, hosted across the state, which will address the top three identified topics. For 2017, the Department has chosen to focus on the following:

- Zonal Pressure Diagnostics (ZPD): maximizing air sealing efforts
- ASHRAE 2016
- Quality Work: In-process inspections and final-inspections
- In addition--Reinforcement of Mobile Home insulation: attic insulation, duct testing/pressure pan diagnostics.

Regional Training locations:

- Austin
- Dallas
- Houston
- San Antonio
- El Paso

Subgrantees are required to submit a Production report on the 15th of each month. Individualized TA is provided, as indicated each month, to ensure full expenditure. The Department reinstated the DeObligation/ReObligation of Awarded Funds rule, in 2016, as laid out in TAC §6.405. Letters are issued for any missed benchmarks, and the Subgrantee is required to submit a written Mitigation Action Plan. The Department reports increased performance and expenditures in 2016, and continues to project improvement for 2017. Based upon monthly submitted performance and expenditures, the Department will identify Subgrantee's for who financial management control training or technical assistance is needed. Such T&TA may include: a course on production oriented management, proper reporting, procurement, and/or other appropriate topics.

Evaluation of Training Activities

In order to evaluate compliance with the quality work specifications and the efficacy of its training activities, the training staff or its designee will review its training activities semiannually and compare those to the Subgrantee monitoring reports. Additionally, Subgrantee's will be given the opportunity to provide feedback through online [Training Evaluation](#). These evaluations are reviewed to make improvements to future provided T&TA. Training staff or its designee will conduct periodic surveys to solicit input from Subgrantee's as to their training needs.

More specific training will be designed for each Agency based on the information prompting the request. TA will be documented by using the online training and technical assistance database. Additionally, for onsite T&TA visits, a report will be produced indicating Subgrantee staff present, materials and documents presented to the Subgrantee, and expected outcomes.

Should a Subgrantee hire a new weatherization coordinator, the Subgrantee will be required to notify the Department in writing within 30 days of the date of hiring the coordinator and request training. The Department will contact Subgrantee's within 30 days of the date of notification to arrange for training. The Department hosts a quarterly "New Manager/Executive Director" course for all new staff who oversees WAP staff/crews

Program Evaluation

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The Department utilizes an online contract system to collect expenditure and performance data from Subgrantee's. Each Subgrantee is assigned to a trainer that monitors Subgrantee performance and expenditure on a quarterly basis utilizing dashboards. The Department developed a production tool to monitor expenditure and completed units on a monthly basis. Each month Subgrantee's submit a monthly production report that is reviewed by a trainer. Trainer contacts Subgrantees regarding expenditure and performance each month.

Another method of evaluation is provided by the compliance division. The Department's compliance staff provides the Subgrantee's assigned trainer with a copy of the agency's most recent monitor report, which is used to assess performance/expenditures and individualized training needs.

Client Education

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantee's will be required to provide (at a minimum) educational materials in verbal and written format. Client education may include temperature strips that indicate the temperature in the room and energy savings materials, instructions for equipment operation and/or maintenance.

V.9 Energy Crisis and Disaster Plan

n/a



WEATHERIZATION HEALTH AND SAFETY PLAN

TEXAS WEATHERIZATION CONTACT INFORMATION

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Health and Safety

Allowable Department of Energy (DOE) related health and safety (H&S) actions and expenditures are those necessary to maintain the physical well-being of both the occupants and/or weatherization workers where:

- Costs are reasonable as determined by The Department of Energy (DOE) in accordance with this approved Master Plan;
- The actions must be taken to effectively perform weatherization; or
- The actions are necessary as a result of weatherization work.

This plan will provide guidance to the Texas Weatherization Network. Health and Safety issues will be identified by Program Assessors during the initial assessment. Weatherization Crews (either subcontracted or in house) will perform the task(s) identified in the initial assessment and listed in the work order(s).

Weatherization agencies and their representatives, including subcontractors, are required to take all reasonable precautions against performing work on homes that will subject the occupants or themselves to health and/or safety risks. In cases where an occupant's health is fragile, or an occupant has been identified to have a health condition, including allergies, and/or the crew work activities would themselves constitute a health and/or safety hazard, the occupant(s) at risk shall be required to leave during the performance of the work activities. In cases where an occupant is identified as having an allergy to a specific weatherization material, that material will not be installed. If comparable alternative materials are available and the occupant has no known allergies to the alternative materials and they meet DOE regulations, crews/contractors may substitute the alternative material(s). If no safe alternative material meeting DOE standards is available, the measure shall not be installed. This must be well documented in the client file.

Texas exercises the option to budget health and safety costs separately. NOTE: DOE calculates Health and Safety for the State of Texas as 25% of the program operations budget. Texas calculates Health and Safety as a percentage of house dollars (materials + labor + program support + health and safety). The calculation (house dollars x 20%) yields a Health and Safety amount that meets the maximum of 20% for Texas Subgrantees.

For Subgrantees, Health and Safety expenditures may not exceed 20% of total expenditures (materials, labor, program support, and health and safety) at the end of the contract period. H&S expenditures exceeding this percentage will require justification by the Subgrantee.

The Department feels that the 20% H&S amount is justified based on several factors:

1. ASHRAE 62.2 2016 has been adopted and implemented; accounting for an average of \$750/unit, or 15% of the H&S budget.
2. The Department has included Air Conditioning Units as a Health and Safety Measure.

Best Practice:

- [Health & Safety Expenditures](#)

Referrals and Deferrals

Deferral may be necessary if health and safety issues cannot be adequately addressed according to WPN 11-6 guidance. The decision to defer work in a dwelling is difficult but necessary in some cases. This does not mean that assistance will never be available, but that work must be postponed until the problems can be resolved and/or alternative sources of help are found. Referrals to other resources that may assist in remediation of the cause for deferral are to be provided to the client, and documented in the client file.

A dwelling unit should not be weatherized where there is a major code violation or where there is a potentially harmful situation that may adversely affect the occupants or agency's weatherization crew and/or other staff. When such issues are found to be present, the owner/occupant is notified verbally and in writing; and, only after the owner corrects the identified issues satisfactorily and to code, shall any weatherization work begin. The crew must declare their intent to defer weatherization work on an eligible unit on the energy audit worksheet. The audit form shall include the client's name and address, dates of the audit/assessment, date the client was informed, a clear description of the issue(s), a clear description of the condition(s) under which weatherization work could begin/continue, a clear description of the responsibilities of all parties involved, client's signature(s) indicating that they have been informed of their rights and options and that they understand the issues and their responsibilities. A copy shall be given to the client and a copy shall be placed in the client file.

Texas Administrative Code

- [RULE §6.415](#)

Best Practice:

- [Client Denials & Referrals](#)

Home Assessment & Client Evaluation

Texas has developed a Health & Safety Questionnaire that will be used as part of the application process that will then be further verified by the assessor at the time of the initial assessment.

Forms:

- [Health & Safety Client Questionnaire and Inspection Checklist](#)

Due to Texas' high humidity levels in much of the state, moisture and mold-like substances are an integral part of assessments.

Forms:

[Mold-Like Substance Notification and Release Form for Texas Weatherization Programs](#)
[Identification of a Mold-Like Substance](#)

[Unified Notification Form](#)

Best Practice:

[Mold Safe Process](#)

Client Education

Subgrantees must take every opportunity to educate clients regarding the use and maintenance of systems in their home as well as inform them (through discussion and written materials) of the presence of any hazards including but not limited to: asbestos; biologicals; unsanitary conditions; combustion gases; building structure; roofing; code compliance; electrical; fire hazards; Volatile Organic Compounds (VOCs) and other air pollutants; mold, lead paint; pests; radon; smoke and carbon monoxide detectors; Spray Polyurethane Foam (if applicable); space heaters; and ventilation. Documentation of client education must be present in the client file, via the following documents:

- Client Health and Safety Evaluation Form
- Initial Assessment documentation of health and safety issue(s), instructions for remediation or referral made,
- Weatherization Assistance Program Denial/Deferral Letter and Right to Appeal, or
- Operating instructions, maintenance, and/or warranty for any installed H&S measure

Occupant Pre-existing or Potential Health Conditions

An important aspect of any inspection is client education, where the occupant(s) health problems are addressed. Once a clear understanding has been reached between the auditor and the client(s), work that will not aggravate any client pre-existing health condition shall begin. In some rare instances, a deferral may be required.

When a person's health may be at risk and/or the work activities could create an H&S hazard, the at risk occupant will be required to take appropriate action based on the severity of the risk. Temporary relocation of at-risk occupants may be allowed. Failure or inability to take appropriate actions will result in a deferral.

Forms:

- [H&S Client Questionnaire](#)

Education Material:

- [Consumer Mold Information Sheet](#)

Health & Safety Issues

As potential hazards are identified by the initial inspector and auditor, they are analyzed in terms of their severity and how they will be dealt with, up to and including deferral. Wherever possible, measures should be considered through the cost justification method of the saving to investment ratio (SIR) at 1 or

greater as an Energy Conservation Measure (ECM) first, before using funds from the H&S allocation. Clients must always be informed of any Health or Safety risk discovered during the evaluation process in writing and written confirmation of receipt of that information by the client must be obtained and kept in the client file. A listing of H&S issues is compiled, any of which that can't be corrected can result in a deferral on any given project. They are as follows:

Air Conditioning and Heating Safety

“Red tagged”, inoperable, or nonexistent HVAC system replacement, repair, or installation is allowed due to extreme climate conditions in Texas.

If the HVAC system issue is determined to be beyond the scope of DOE WAP, weatherization agencies will defer the work and refer the client to other resource agencies who may be able to address the problem. Texas's deferral policy and protocols shall always be strictly adhered to when deferring weatherization work. If client is completely without cooling or heating, the weatherization agencies shall make a referral to an agency with funding that can provide at-risk clients with a portable air conditioner or temporary means of heat, such as a portable heat pump or blankets.

Texas is a diverse state with a myriad of climatic conditions. In many areas, heating is needed on a limited basis. However, throughout Texas, cooling is often a necessity.

Texas requires HVAC system installation to follow local and state code and it must be performed by a licensed HVAC professional. Weatherization agencies may subcontract licensed HVAC companies/individuals to perform heating/cooling systems installations and repairs if they follow proper state procurement procedures.

Appliances and Water Heaters

Replacement or repair of water heaters is allowed on a case by case basis. Replacement and installation of other appliances are not allowable health and safety costs. Repair and cleaning are allowed. The Subgrantees must initially attempt to qualify existing Water Heater as an ECM. If the Water Heater does not rank, Subgrantees may repair or replace the existing unit as a Health and Safety Measure.

Replacement of cook stoves may be done with unrestricted funds from a funding source other than DOE. Repair and cleaning are allowed. Clients shall be given all manufacturers information on the appropriate use and maintenance of water heating units.

Cook Stoves with high CO:

- Clean or repair
- If still has high CO levels, then see if another funding source is able to pay for the stove replacement.
- If no other source, the house must be deferred until the occupant can address the stove.
- Document all steps.
- CO deferral levels for Stoves (200 ppm for oven) that cannot be remedied.

Asbestos

Removal of siding is allowed to perform energy conservation measures. All precautions must be taken not to damage siding. Asbestos siding should never be cut or drilled. Recommended, where possible, to insulate through home interior.

It is difficult to tell whether a material contains asbestos simply by looking at it, unless it is labeled. If in doubt, treat the material as if it contains asbestos. Testing is allowed by a certified AHERA tester. Inspect exterior wall surfaces and sub-surfaces for asbestos siding prior to drilling or cutting. Typically, asbestos appears as a whitish, fibrous material which may release fibers that range in texture from coarse to silky.

It is recommended that insulation be installed through interior wall surfaces if possible to completely avoid disturbing or removing the asbestos siding on the exterior of the home.

Inspect pipe and other coverings for asbestos. Encapsulation is allowed by an AHERA asbestos control professional and should be conducted prior to any blower door testing. Removal may also be allowed by an AHERA asbestos control professional based on the situation as determined by the inspector or Agency Representative.

When vermiculite is present, unless testing determines otherwise, take precautionary measures as if it contains asbestos, such as not using blower door tests and utilizing personal air monitoring while in attics. Where blower door tests are performed, it is a best practice to perform pressurization instead of depressurization. Encapsulation by an appropriately trained asbestos control professional shall be allowed. Removal shall not be allowed.

Temporary removal of asbestos siding, so that insulation materials may be installed, may be performed if:

- Technicians wear personal protective equipment;
- The ground in the work area is covered with plastic sheeting to capture broken fragments;
- The pieces of siding to be removed are first sprayed with water;
- Breakage is kept to an absolute minimum;
- The siding is replaced; and
- The cost to benefit ratio is justified.

Do not dust, sweep, or vacuum debris that may contain asbestos. Never saw, sand, scrape, or drill holes in asbestos materials. Do not track material that could contain asbestos through the house. Be sure to follow local codes and OSHA standards on asbestos.

OSHA:

- [Asbestos](#)

Biologicals and Unsanitary Conditions – odors, mustiness, bacteria, viruses, raw sewage, rotting wood, etc.

Remediation of conditions that may lead to or promote biological concerns and unsanitary conditions is allowed. Addressing bacteria and viruses is not an allowable cost. Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization workers.

A sensory inspection is required. The use of personal protective equipment shall be strictly enforced. Respirators, protective eyewear, and protective clothing will be worn when there is suspicion or knowledge that biological agents may be present in order to eliminate or minimize crew exposure. In the past, remediation of conditions listed under this health and safety category was not allowed. It is allowable under WPN 11-6, except for the removal of known bacteria and viruses. Texas will assess the cost effectiveness and necessity of remediation of these conditions on a case by case basis.

Client must be informed of observed conditions. Clients must be provided information and explanation on how to maintain a sanitary home and steps to correct deferral conditions, if applicable.

Building Structure and Roofing

Building rehabilitation is beyond the scope of the WAP. Homes with conditions that require more than incidental repair should be deferred.

While conducting the initial audit, the building structure shall be inspected for structural integrity. Minor repairs to protect the DOE materials installed may be performed to protect the energy saving investment. Dwellings whose structural integrity is in question should be referred to agencies that deliver HUD funds or other appropriate local and state agencies. Weatherization services may need to be delayed or deferred until the dwelling can be made safe for crews/contractors and occupants. Incidental (minor) repairs necessary to effectively perform or preserve weatherization materials/measures are allowed. Examples of these include sealing minor roof leaks to preserve new attic insulation and repairing water-damaged flooring as part of replacing a water heater. Incidental structural repairs shall not include cosmetic applications, such as replacing a floor covering such as a carpet or linoleum. Only the structural part shall be replaced/repared.

Code Compliance

Correction of pre-existing code compliance issues is not an allowable cost other than where weatherization measures are being conducted. State and local (or jurisdiction having authority) codes **must** be followed while installing weatherization measures. Condemned properties and properties where “red tagged” health and safety conditions exist that cannot be corrected under this guidance should be deferred.

WAP funds may be used when weatherization measures are being conducted. They may not be used

simply to correct pre-existing code compliance issues.

Acquire all required permits and licenses pertinent to installing weatherization measures. These vary by jurisdiction and it is the responsibility of each Subgrantee agency to know what the codes are in each of the areas they work, as well as what permits and licenses are required in each of the areas they work.

Combustion Gases

Proper venting to the outside for combustion appliances, including gas dryers, is required. Correction of venting is allowed when testing indicates a problem.

A complete mechanical systems assessment is required to be completed on every home. The procedure includes collecting general information; collecting and recording mechanical systems information; visual and diagnostic inspection of the venting and distribution system; and, combustion analysis and diagnostic testing of gas/propane fired equipment, and post-installation safety tests for CO. Combustion safety testing is required when combustion appliances are present. Pre and post combustion appliance safety inspection includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, and worst case depressurization of the combustion appliance zone (CAZ).

As applicable, every combustion appliance will be checked for a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage. DOE will not permit any DOE-funded weatherization work where the dwelling unit is heated with an unvented gas- and/or liquid-fueled space heater as the primary heat source. In such cases the primary space heater must be removed and a vented, code compliant heat source must be installed prior to the installation of weatherization measures. DOE will allow unvented gas- or liquid-fueled space heaters to remain as secondary heat sources provided they comply with ANSI Z21.11.2, the IRC, and the IFGC. LIHEAP-WAP may replace non-compliant secondary unvented gas- or liquid-fueled space heaters.

Per ASHRAE 62.2, at least one CO alarm must be present in every home. CO alarms must be installed in all homes with combustion appliances; combustion appliances included: cook stoves, furnaces, water heaters, wood and coal burning stoves. Combustion appliances must be installed to the IRC or local code regulations.

Texas Administrative Code:

- [RULE §6.415](#) CO Action Levels

Client shall be provided with combustion safety and hazards information, including the importance of using exhaust ventilation when cooking and keeping burners clean to limit the production of CO.

Best Practice:

- [Combustion Appliance Zone \(CAZ\) Testing](#)
- [Isolating the Combustion Appliance Zone \(CAZ\)](#)

Drainage – gutters, down spouts, extensions, flashing, sump pumps, landscapes, etc.

Major drainage issues are beyond the scope of the WAP. Homes with conditions that may create a serious health concern that requires more than incidental repairs should be deferred. See Mold and Moisture guidance below.

Visual inspection and observation shall be the primary mechanism for detecting drainage issues. Client education shall include, but not be limited to, the importance of cleaning and maintaining drainage.

Electrical (Other than Knob-and Tube Wiring)

Minor electrical repairs are allowed where health or safety of the occupant(s) may be at risk. Upgrades and repairs are allowed when necessary to perform specific weatherization measures.

Aluminum wiring should be thoroughly inspected before any insulation work is done. If aluminum wiring is found to be active and in the areas to be insulated, no insulation should be added. When electrical repairs within the scope of the DOE WAP are required, the typical standard of remedy shall be to sub-contract the repair work to a licensed electrician. All appropriate procurement procedures shall be followed when sub-contracting. Testing shall include visual inspection, as well as voltage drop and voltage detection testing. Provide client information on overloading circuits and electrical safety and risks.

Electrical (Knob-and Tube Wiring)

Minor upgrades and repairs necessary for weatherization measures and where the health or safety of the occupant(s) is at risk may be allowed. However, TDHCA prohibits installing insulation over knob-and-tube wiring.

Prior to insulating around Knob and Tube wiring, cost effectiveness must be evaluated and barriers must be installed to keep insulation at least three inches from the K&T.

Best Practice:

- [Knob & Tube Wiring](#)

Fire Hazards

Correction of fire hazards is allowed when necessary to safely perform weatherization.

At all times, crews/contractors are to look for potential fire hazards.

Crews/contractors and auditors shall check for potential fire hazards in the home during the audit and while performing the weatherization work. Fire hazards must be remedied if they fall within the scope of the DOE WAP; otherwise weatherization work may have to be deferred until the fire hazard has been eliminated.

Clients must be notified of any identified fire hazards and noted in client file.

Health and Safety Guidance:

- [Potential Fire Hazards in a Home \(PDF\)](#)

Formaldehyde, Volatile Organic Compounds (VOCs) and other Air Pollutants

WAP workers may not remove pollutants. Removal of pollutants must be done by the client or a contracted professional prior to weatherization work being performed. If pollutants pose a risk to workers and removal cannot be performed by a professional or the client refuses to remove the pollutants, the unit must be deferred.

Sensory inspection shall be the primary detection method. All reasonable steps shall be taken to limit worker exposure to VOCs. When using products known to emit VOCs, increase ventilation. Meet or exceed any label precautions. Identify, and if possible, remove the source. If not possible to remove, reduce exposure by using a sealant on all exposed surfaces of paneling and other furnishing. State and local codes and regulations regarding disposal of toxic household wastes must be followed. TEXAS WAP crews/contractors shall take every precaution necessary to minimize exposure to air pollutants. When using chemicals and products that may contain any of the pollutants within this category, strict adherence to label instructions and precautions shall be required. Known pollutants must be removed by the client or a contracted professional prior to performance of weatherization work.

Clients must be informed of any conditions and/or associated risks observed. Client must be given written information on safety and proper disposal of household pollutants, if applicable.

Health and Safety Guidance

- [EPA Guidance on Common Household Wastes & Materials](#)
- [Indoor Air Quality](#)

Injury Prevention of Occupants and Weatherization Workers – Measures such as repairing stairs and replacing handrails

Workers must take all reasonable precautions against performing work on homes that will subject workers or occupants to health and safety risks. Porch or stair repairs that would be required to make a home safe for weatherization workers are not an allowable measure in the program. Such situations are considered to be beyond the scope of Texas WAP.

As part of the safety for crew and assessors will identify health and safety hazards according to the OSHA method "Focus Four" which includes, electrical, fall protection, caught in and between, and stuck-by hazards. The client will be informed in writing of any hazards and the associated risks that may have been observed.

Health and Safety Guidance

- [OSHA Focus Four](#)

Lead Based Paint

Weatherization requires all weatherization crews/contractors working in pre-1978 housing to be trained in Lead Safe Weatherization (LSW) and follow EPA's Lead; Renovation, Repair and Painting Program (RRP) rule. Deferral is required when the extent and condition of lead-based paint in the house would potentially create further health and safety hazards.

In all pre-1978 homes, crews/contractors must assess the physical condition of the home prior to conducting an audit. Texas recommends assuming that lead paint may be present in any house built prior to 1978 and to follow the proper DOE LSW protocols, OSHA regulations and EPA regulations in all pre-1978 homes. Mobile homes are exempt because lead was not used in the original manufacture of mobile homes. However, crews/contractors must be alert to any mobile home remodels/add-ons that could have contained lead-based paint or varnish.

Testing is allowed per RRP requirements. Job site set up and cleaning verification is required by a Certified Renovator. Texas WAP crews/contractors will use LSW work practices that decrease the amount of dust generated.

Texas will follow the approach that has been defined by the Environmental Protection Agency (EPA) under their Lead Renovation, Repair, and Painting Rule.

All Subgrantees are required to provide a copy of "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" to an adult occupant prior to work starting on the home. Texas WAP crews/contractors will follow all EPA RRP requirements for disposal as well as state and local code requirements. This procedure is documented by a written acknowledgement that the adult occupant has received the brochure and that the information was not only distributed, but also explained, or certify in writing that a brochure had been delivered to an adult occupant and the provider has been unsuccessful in obtaining a written acknowledgement, as directed in the publication. Confirmation of receipt of this brochure by the client will be maintained in the client file.

Digital photo documentation must also be included. Even when a home tests negative for lead, the test form must be completed and placed in the client file.

State policy mandates all workers on site on any weatherization project, whether they be a crew based employee of one of the sub-contractors or a private sector contractor, must complete an eight (8) hour Lead Safe Worker Practices Workshop.

Each Subgrantee must be an EPA Certified Firm and have a Certified Lead Renovator on staff. The Subgrantee is responsible to obtain and maintain the required certifications.

Best Practice:

- [Lead-safe Process and RRP Requirement](#)

WX Videos

- [12 Steps to Lead Safety](#)
- [Health & Safety Series: Respirators & Personal Protective Equipment](#)

Health and Safety Guidance

- [Lead; Renovation, Repair, and Painting Program; Lead Hazard Information;](#)
- [Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools](#)

Mold and Moisture

Limited water damage repairs can be addressed by weatherization workers and correction of moisture and mold creating conditions are allowed when necessary in order to weatherize the home and to ensure the long term stability and durability of the measures. Where severe mold-like substance and moisture issues cannot be addressed, deferral is required.

Visual assessment is required and diagnostics such as moisture meters are recommended pre and prior to final inspection. The assessment shall assure existing mold-like conditions are noted, documented and disclosed to the client; and, shall assure existing building envelope conditions do not contribute to mold-like growth when weatherization measures are applied. Mold-like substance assessment means a visual assessment combined with certain allowable diagnostics. It does not mean testing for mold. **DOE funds may not be used to test for mold-like substances.**

Texas WAP crews/contractors shall follow the Mold/Moisture Assessment Checklist when conducting the mold-like substances assessment at the time of the audit. Assessment shall include a general examination of the building, to include:

- Examine structure, maintenance activities, occupancy patterns
- Visually look for mold-like substances and water staining
- Look for evidence of standing water
- Look for evidence of condensation
- Check basement or crawl space and attic for proper venting and exhaust

Outdoors:

- Soil grade or drainage toward foundation
- Standing water adjacent to foundation
- Wall and roof damage allowing water intrusion
- Missing or blocked rain gutters
- No downspout extensions
- Firewood stacked adjacent to house
- Excessive shrubbery around foundation

Heating/cooling systems:

- Air intakes: debris (organic) vs. clean air
- Filters: dirty, damp, poor type
- Heat exchangers: dirty & damp coils, condensate pans, drainage, stagnant water
- Ducts: contamination, moisture

Occupied Space:

- Plumbing leaks
- Water stains on walls, ceilings and around windows
- Musty odor
- Surface Condensation (especially during mild weather)
- Mold-like substances on carpeting
- Humidifiers
- Window air conditioners
- Lack of bathroom, kitchen exhaust
- Clothes dryer not vented to outside
- Firewood stored indoors
- Wet clothes drying indoors

The DOE Training Resource:

- [Mold and Moisture](#) given by Michael Vogel of MSU Weatherization Training Center is available to all Subgrantees through TDHCA's website
- [Energy Related Mold and Moisture...awareness and impacts for weatherization](#)

Best Practice:

- [Mold-safe Process](#)

Occupational Safety and Health Administration (OSHA) and Crew Safety

Workers must follow OSHA standards and Safety Data Sheets (SDS) and take precautions to ensure the health and safety of themselves and other workers. SDS must be posted wherever workers may be exposed to hazardous materials.

- OSHA 10-hour training for all crew level WAP employees
- OSHA 30-hour training for all crew leaders
 - All OSHA training shall be updated as required and kept current.
 - SDS must be present at the work sites.

On-going Health & Safety training will be the responsibility of each Subgrantee.

FAQs:

- [Weatherization FAQs Answered by TDHCA \(PDF\)](#)

For other Information on obtaining OSHA classes:

- [OSHA Outreach Trainer](#) to find outreach trainers and/or their schedules
- [OSHA Education Center](#)
- [The OSHA Consultation office](#)

Pests

Pest removal is allowed only where infestation would prevent weatherization or poses a health and safety concern for workers. Infestation of pests may be cause for deferral where it cannot be reasonably removed.

Determine whether the pest infestation would prevent or hamper the weatherization work. If removal is a viable and cost-effective option, take the necessary steps to remove the pest infestation problem so that the weatherization work can proceed. If removal is not a viable and cost-effective option or significant health and safety risks exist, defer the weatherization work and provide client with appropriate referral information.

Inform client of observed pest condition and associated risks and document in client file.

Best Practice:

- [Pests](#)

Radon

Whenever site conditions permit, exposed dirt must be covered with a vapor barrier except for mobile homes. In homes where radon may be present, precautions should be taken to reduce the likeliness of making radon issues worse.

Texas has no areas of "Highest Potential," according to the United States Environmental Protection Agency standards.

Texas Department of State Health Services

- [Radon](#)

Refrigerant

Reclaim refrigerant per Clean Air Act of 1990, section 608, as amended by 40 CFR 82, 5/14/93

Texas WAP Subgrantees shall ensure that sub-contractors who would be charged with refrigerant reclamation (e.g. removal of old refrigerators or air conditioning units) follow all EPA testing protocols; in accordance with the Clean Air Act of 1990, section 608, as amended by 10 CFR 21. Refrigerants shall be pumped into a recovery tank and disposed at an EPA approved site. Clients should not disturb refrigerant.

Non-certified technicians may not attach or disconnect hoses or gauges to measure pressure within the appliances; top-off or remove refrigerant from appliances; or otherwise damage the integrity of the appliance.

EPA

- [Refrigerant Disposal Brochure](#)

Smoke, Carbon Monoxide Alarms, and Fire Extinguishers

Installation of smoke/CO detectors is allowed where detectors are not present or are inoperable. Replacement of operable smoke/CO detectors is not an allowable cost. Providing fire extinguishers is allowed only when solid fuel (such as wood) is present.

At minimum, all homes should have at least one smoke alarm on each level, including one near the combustion zone and at least one near the bedrooms. Ceiling-mounted smoke alarms must be mounted at least 6 inches from any wall. Wall-mounted smoke alarms must be installed at least 6 but less than 18 inches from the ceilings. They should always be installed according to applicable local codes or ordinances.

Don't install smoke alarms in these cases:

- In a home that already has a functioning smoke alarm
- Within 12 inches of exterior doors and windows
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A CO alarm should also be installed in accordance with SWS. CO alarms should be installed in all homes with unvented space heaters (all unvented space heaters must comply with ANSI Z21.11.2) and in all homes where backdrafting could occur in a furnace, space heater, wood stove, fireplace, or water heater. Always install CO alarms according to the manufacturer's instructions.

Don't install CO alarms in these cases:

- In a room that may get too hot or cold for alarm to function properly
- Within 5 feet of a combustion appliance, vent, or chimney
- Within 5 feet of a storage area for vapor-producing chemicals
- Within 12 inches of exterior doors and windows
- Within a furnace closet or room
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A fire extinguisher may be provided in homes whose primary heat source is wood. The fire extinguisher must be installed according to manufactures standards and local code in vicinity of the primary heating source.

Solid Fuel Heating (Wood Stoves, etc.)

Maintenance, repair, and replacement of primary indoor heating units is allowed where occupant health and safety is a concern. Maintenance and repair of secondary heating units is allowed.

Crews/contractors may conduct minor maintenance activities where warranted. Chimney inspection, repair and/or replacement work shall be sub-contracted to a qualified solid fuel heating system vendor. This would be a health and safety issue requiring photo documentation and receipt of services by the professional with a description of what services were performed.

If there is a traditional open masonry fireplace, assess that it is operating safely. Unless a wood burning stove/pellet stove has been maintained on a regular basis, along with annual chimney cleanings, it is unlikely that it is efficient and safety must be evaluated. Determine if cleaning is needed to increase efficiency. If it is not operating safely (as evidenced by backdrafting of smoke or complaints of itchy eyes or respiratory issues by the client) determine if repair or replacement with a vented code-compliant heating system is required.

An unsafe, unrepairable open masonry fireplace would be treated similarly to that of an unvented space heater if it is the primary source of heat. The fireplace must be rendered inoperable and replaced with a vented heating unit. The type of existing fuel will dictate the replacement. If the client has a combustion fuel source (i.e. - gas, propane, etc) than seal up the fireplace and add a vented gas heater.

When replacing a wood stove in a mobile/manufactured home the new unit must be listed for use with manufactured homes and must be installed in accordance with their listings. Units that are not manufacturer approved, discovered during an initial assessment, should be replaced with an approved manufactured home appliance, under H&S. All state and local codes must be followed.

Best Practice:

- [Combustion Appliance Zone \(CAZ\) Testing](#)

Space Heaters, Stand Alone Electric

Stand-alone electric heaters are defined as heaters that do not have a permanent connection to electric power and/or stand-alone heaters that have been connected to the power supply against code. Repair, replacement or installation is not allowed. Removal is recommended.

Testing will be required to assure adequate supply of electricity is available for existing stand alone electric space heaters. This will be accomplished through the use of 3 wire circuit testers, GFI electrical outlet testers, and line voltage testers.

Inform client of hazards if removal is not allowed.

Space Heaters, Unvented Combustion

Removal is required, except as secondary heat where the unit conforms to ANSI Z21.11.2. Units that do

not meet ANSI Z21.11.2 must be removed prior to weatherization but may remain until a replacement heating system is in place.

Testing for air-free carbon monoxide (CO) is to be performed. All units must have an ANSI Z21.11.1 label, and meet IRC and IFGC codes. The client must be informed of the dangers of unvented space heaters – CO, Moisture, and NO₂. CO can be dangerous even if CO alarm does not sound.

Assessors must calibrate the CO tester outside the home and test the ambient air in the home; following the standards in the Standard Works Specifications:

- Perform an inspection of the heater. Any of the following conditions are grounds for repair or replacement.
- Carbon monoxide (CO) test indicates ambient CO levels above 35 PPM
- Bad burners (missing, broken, or otherwise un-repair-able)
- Cross-fueled (between NG and LPG) and the orifices and/or pressure regulator have not been changed
- Missing radiants
- Open flame burners
- Rubber supply lines
- Charring or scorching

If cause cannot be determined, calibrate equipment and re-test. If still indeterminable, refer to local gas company. Any time replacement is deemed necessary, first consider performing the replacement as an EMC (energy saving measure) before replacing as a Health & Safety measure.

On-going Health & Safety training will be secured by the Subgrantee.

The Department will provided guidance via Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Space Heaters, Vented Combustion

Vented space heaters shall be treated as furnaces. Combustion safety testing is required when combustion appliances are present. Weatherization Assessors and Final Inspectors must conduct the combustion appliance safety inspection. This includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, worst case depressurization of the combustion appliance zone (CAZ), a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage as applicable. Combustion safety test results must be acted upon appropriately according to the Standard Work Specifications and BPI protocols.

The Department has defined maximum acceptable CO readings as 200 parts per million for vented combustion appliances. Vented space heaters tested at >200 ppm must be repaired or replaced. CO detectors should be installed in all homes when fuel-fired (combustion) appliances exist.

Spray Polyurethane Foam (SPF)

Use EPA recommendations (available online at: <https://www.epa.gov/saferchoice/quick-safety-tips-spray-polyurethane-foam-users>) when working within the conditioned space or when SPF fumes become evident within the conditioned space. When working outside the building envelope, isolate the area where foam will be applied, take precautions so that fumes will not transfer to inside conditioned space, and exhaust fumes outside the home. Testing will include checking for penetrations in the building envelope. Sensory inspection inside the home for fumes during foam application must also occur.

The client must be informed of plans to use two-part foam and precautions that may be necessary. Workers using foam products must receive training on the proper use of these various products and understand the specification for each application type. MSDS are mandatory for any foam product used and a thorough understanding of the temperature sensitivity of the product in use is required.

Ventilation

Ventilation is only required if ASHRAE 62.2 calculations indicate added ventilation. In addition, ASHRAE 62.2 addresses dryer venting, CO alarm, and air sealing to isolate attached garages requirements. Existing fans and blower systems should be updated if not adequate.

Subgrantees are required to use the Alternative Compliance Path for Existing homes and perform an ASHRAE calculation through certified software such as RedCalc. Both the output of the software and a copy of the blower door data sheet must be placed in the client file.

In addition, the ASHRAE standards are incorporated into the Standard Work Specifications

Subgrantees who install ventilation must educate the clients on effective use of the exhaust ventilation equipment by:

1. Leaving owner's manual with client
2. Demonstrating how to use the exhaust fans.
3. Providing client education information on ventilation systems installed.
4. Providing client education on proper operation and maintenance.

Tools and Guides:

- [Exhaust Fan Flow Meter Quick Guide \(PDF\)](#)
- [Single-Family Homes: Standard Work Specifications Field Guide \(PDF\)](#)

Assessment Calculators:

- [ASHRAE 62.2 Calculator \(www.residentialenergydynamics.com\)](http://www.residentialenergydynamics.com)

Client and Assessment Forms:

- [Blower Door and Duct Blower Data Sheet \(XLS\)](#)

Window and Door Replacement, Window Guards

Replacement, repair, or installation is not an allowable health and safety cost but may be allowed as an efficiency measure if cost justified.

Window replacements may only be performed as an ECM. When working on windows follow LSW requirements for pre-1978 homes.

Best Practice:

- [Window Repair or Replacement](#)
- [Window Repair – LIHEAP](#)
- [Door Repair or Replacement](#)

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on release of the draft FFY 2018 Low Income Home Energy Assistance Program (“LIHEAP”) State Plan to be made available for Public Comment and to be announced in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“Department”) develops and submits a State Plan to the U.S. Department of Health and Human Services (“USHHS”) each year to administer the LIHEAP; and

WHEREAS, the Department has not yet received final grant guidance from USHHS for preparation of the Draft FFY 2018 LIHEAP State Plan (“Plan”), but has prepared the plan for public comment based on existing USHHS guidance;

NOW, therefore, it is hereby

RESOLVED, that the Draft FFY 2018 LIHEAP State Plan, in the form presented to this meeting, is hereby approved to be released for public comment and public hearing, and to be announced in the *Texas Register*;

RESOLVED, that if USHHS releases different guidance after Board approval, the Board authorizes staff to make needed conforming changes and non-substantive changes to the State Plan, and to change the public hearing dates and the comment period;

RESOLVED, that the Department is currently accepting public comment on 10 TAC Chapter 6 Community Affairs Programs, including the 1) proposed amendments in Subchapter A, General Provisions, of §6.2 Definitions, §6.4 Income Determination, and §6.5 Documentation and Frequency of Determining Customer Eligibility; and 2) proposed amendments in Subchapter C, Comprehensive Energy Assistance Program (“CEAP”), of §6.308 Allowable Subrecipient Administrative, Program Services Costs, and Assurance 16, and §6.310 Household Crisis Component through May 8, 2017, and if this rulemaking results in changes, the LIHEAP State Plan will be revised to reflect those changes; and

FURTHER RESOLVED, that the final plan with consideration for final grant guidance, public comment and technical corrections made by staff, along with award recommendations to subrecipients is anticipated to be presented to the Board at the meeting on June 29, 2017.

BACKGROUND

The Department develops and submits to USHHS a LIHEAP Plan each year on or before September 1st. USHHS provides a model plan to guide the format and content. The draft, upon approval by the Board, will

be released for public comment and four public hearings will be held around the state. Public hearings provide the opportunity for comment from the public and the subrecipient network. Upon completion of the public hearings and public comment period, staff will modify the Plan, if appropriate, based on public comment. Staff will also include any changes required by federal guidance, although staff anticipates they will be minimal, if any. Staff anticipates presenting the revised Plan, along with recommendations for subrecipient awards, to the Board for review and final approval on June 29, 2017.

LIHEAP funds, as reflected in the Plan, are utilized in the following three ways:

- The Department allocates at least 75% of the LIHEAP funds to the Comprehensive Energy Assistance Program (“CEAP”) which provides utility assistance to eligible households, including crisis assistance and services to reduce home energy needs.
- The Department allocates up to 15% of the LIHEAP funds to the Weatherization Assistance Program (“WAP”). It should be noted that there is generally greater flexibility with LIHEAP weatherization funds than U.S. Department of Energy (“DOE”) weatherization funds, so continuing to allocate some portion of these funds for this activity allows households to receive more comprehensive assistance than were they to be served solely by DOE WAP. Also, these funds allow ongoing weatherization in the state despite historically low DOE WAP funding.
- The Department allocates 10% of LIHEAP funds for Department and subrecipient administration.

In review of the Plan, attached, it should be noted that the Plan follows a template and series of required responses pre-determined by USHHS with character limitations and specific instructions.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

MODEL PLAN

PUBLIC LAW 97-35, AS AMENDED

FEDERAL FISCAL YEAR 2018

GRANTEE: Texas Department of Housing and Community Affairs

EIN: 17426105429

ADDRESS: P.O. Box 13941

Austin, Texas 78711-3941

LIHEAP COORDINATOR: Michael DeYoung

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CHECK ONE: TRIBE / TRIBAL ORGANIZATION _____ STATE X _____ INSULAR AREA _____

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

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

OMB Approval No. 0970-0075

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

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

Assurances

The Texas Department of Housing and Community Affairs agrees to:

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

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

(B) intervene in energy crisis situations;

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

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

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

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

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

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

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

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

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

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

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

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community

services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

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

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

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

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

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

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

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

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated

adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

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

(8) provide assurances that--

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

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

(9) provide that--

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

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

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

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

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

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

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

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

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

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

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

Signature: _____

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

Date: June, 2017

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

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

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

Section 1¹

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

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

Dates of Operation²

<input checked="" type="checkbox"/>	Heating assistance	Start date: 10/01/2017	End date: 09/30/2019
<input checked="" type="checkbox"/>	Cooling assistance	Start date: 10/01/2017	End date: 09/30/2019
<input checked="" type="checkbox"/>	Crisis assistance	Start date: 10/01/2017	End date: 09/30/2019
<input checked="" type="checkbox"/>	Weatherization assistance	Start date: 10/01/2017	End date: 09/30/2019

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

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

10% heating assistance

40% cooling assistance

25% crisis assistance

Up to 15% weatherization assistance³

0% carryover to the following Federal fiscal year

10% administrative and planning costs

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

0% used to develop and implement leveraging activities

100% TOTAL

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

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

² Dates of operation signify periods in which we most expect seasonal usage. Identification of these periods does not limit the payment of assistance on any “seasonal” basis.

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

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

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

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

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

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

1.5 Do you automatically enroll households without a direct annual application?

- Yes No

1.6 How do you ensure there is no difference in the treatment of categorically eligible households from those not receiving other public assistance when determining eligibility and benefit amounts?

FY 2018 is the third year that Texas implemented categorical eligibility for SSI and means-tested Veteran’s Programs into its program. State rules were amended to include a provision that there is to be no difference in the treatment of categorically eligible households. The Department has a system for persons to submit complaints and the monitoring reviews would also note any differences in treatment of persons that are or are not categorically eligible.

SNAP Nominal Payments

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

- a. Yes No

b. Amount of Nominal Assistance: \$ ___ NA _____

c. Frequency of Assistance:

- Once per year
- Once every five years
- Other (describe): _____ NA _____

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

Determination of Eligibility – Countable Income

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

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

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

- Wages (except as prohibited by the Workforce Investment Act of 1998)
- Self-employment income
- Contract income
- Payments from mortgage or sales contracts
- Unemployment Insurance
- Strike pay
- Social Security Administration (SSA) benefits
 - Including MediCare deduction
 - Excluding MediCare deduction
- Supplemental Security Income (SSI)
- Retirement / pension benefits
- General Assistance benefits (except as excluded by federal law or 10 TAC §5.19)
- Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)
- Supplemental Nutrition Assistance Program (SNAP) benefits
- Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits
- Loans that need to be repaid
- Cash gifts
- Savings account balance
- One-time lump-sum payments, such as rebates/credits, refund deposits, etc.
- Jury duty compensation
- Rental income
- Income from employment through Workforce Investment Act (WIA)
- Income from work study programs
- Alimony
- Child support
- Interest, dividends, or royalties
- Commissions
- Legal settlements
- Insurance payments made directly to the insured
- Insurance payments made specifically for the repayment of a bill, debt, or estimate
- Veterans Administration (VA) benefits (Some types are excluded by other Federal law)
- Earned income of a child under the age of 18
- Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.
- Income tax refunds
- Stipends from senior companion programs, such as VISTA
- Funds received by household for the care of a foster child
- AmeriCorps Program payments for living allowances, earnings, and in-kind aid.
- Reimbursements (for mileage, gas, lodging, meals, etc.)
- Other Any item not excluded in 10 Texas Administration Code §6.4 or by other federal law

Section 2 - HEATING ASSISTANCE

Eligibility, 2605(b)(2) – Assurance 2

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

2018 or most current HHS poverty income level:

FY 2017 state's median income 60%⁴

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

Yes No ⁵

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

- | | <u>Yes</u> | <u>No</u> |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: | | |
| ● Renters? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? ⁶ | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to: | | |
| ● Elderly? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Disabled? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Young children? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Households with high energy burdens? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Other? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Households with high energy consumption | | |

⁴ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State's median income ("SMI"). The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

⁵ Currently, §6.307(e) of 10 Texas Administrative Code states: "A household unit cannot be served if the meter is utilized by another household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient may provide services if: (1) the members of the separate structures that share a meter meet the definition of a household per §6.2 of this Chapter; (2) the members of the separate structures that share a meter submit one application as one household; and (3) all persons and applicable income from each structure are counted when determining eligibility."

⁶ Per 10 TAC §6.309(g)(9), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent.

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

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

Subrecipients use a rating system which determines priority based on persons in households who are particularly vulnerable such as the elderly, persons with disabilities, households with young children, households with high energy burden, and households with high energy consumption. Benefit amounts are determined on a sliding scale based on the household's income. The number of benefit payments is based on the presence of a vulnerable member such as the elderly, persons with disabilities, and households with young children. The maximum benefit amount is determined per program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

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

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

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

2.6 Describe estimated benefit levels for FY 2018:

\$0 Minimum benefit \$5,400 Maximum benefit

Note: Households are eligible for up to \$1,200 under utility assistance component and up to \$1,200 under household crisis component and they may be eligible for an additional \$3,000 for heating and cooling repair under the household crisis component

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

Yes No -- If yes, describe.

Under energy crisis, a non-vulnerable household may receive service and repair of existing heating and cooling units not to exceed \$3,000 when Subrecipient has met local weather crisis criteria. Vulnerable households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$3,000 or a portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort) regardless of local weather criteria.

Eligible households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances that supply of power to the dwelling is disrupted--causing temporary evacuation. Eligible households may receive emergency deliveries of fuel up to 250 gallons per crisis per household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in §6.310 (e) of 10 Texas Administrative Code.

Section 3: COOLING ASSISTANCE

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

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

2018 HHS poverty income level

OR

FY 2017 median income 60%⁷

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

Yes No

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

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
● Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters with utilities included in the rent? ⁸	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁷ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State’s median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

⁸ Per 10 TAC §6.309(g)(9), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent.

- Young children?
 - Households with high energy burdens?
 - Other?
- Households with high energy consumption

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application periods, etc.

Subrecipients use a rating system which determines priority based on persons in households who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, households with high energy burden, and households with high energy consumption. Benefit amounts are determined on a sliding scale based on the household's income. The number of benefit payments is based on the presence of a vulnerable member such as the elderly, persons with disabilities, and households with young children. The maximum benefit amount is determined per-program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

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

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

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

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

3.6 Describe benefit levels:

\$0 Minimum benefit \$5,400 Maximum benefit

Note: Households are eligible for \$1,200 under utility assistance component and \$1,200 under household crisis component and they may be eligible for an additional \$3,000 for heating and cooling repair under the household crisis component

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

- Yes No -- If yes, describe.

Under energy crisis, a household may receive repair of existing heating and cooling units not to exceed \$3,000. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed \$3,000.

Section 4: CRISIS ASSISTANCE,

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

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

2018 HHS poverty income level

OR

FY 2017 state median income 60%

4.2 Provide your LIHEAP program's definition for determining a crisis.

A bona fide household crisis exists when extraordinary events or situations resulting from extreme weather conditions and/or fuel supply shortages have depleted or will deplete household financial resources and/or have created problems in meeting basic household expenses, particularly bills for energy so as to constitute a threat to the well-being of the household, particularly vulnerable population households (the elderly, persons with disabilities, or children age 5 and younger). A utility disconnection notice may constitute a household energy crisis.

4.3 What constitutes a life-threatening crisis?

State rules define a life threatening crisis as: "A life threatening crisis exists when at least one person in the applicant household would be adversely affected without the Subrecipient's utility assistance, because there is a shut-off notice or a delivered fuel source is below a ten (10) day supply (by customer report) to the degree that, in the opinion of a reasonable person, the effect could cause loss of life. Examples of life-sustaining equipment include but are not limited to kidney dialysis machines, oxygen concentrators, cardiac monitors, and in some cases heating and air conditioning when ambient temperature control is prescribed by a medical professional. Documentation must not be requested about the medical condition of the applicant/customer but must state that such a device is required in the Dwelling Unit to sustain life."

Crisis Requirements, 2604(c)

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

4.5 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours⁹

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

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

Yes No

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

⁹ Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides "some form of assistance that will resolve the energy crisis" not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Other?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Households with high energy consumption		
● In order to receive crisis assistance: ¹⁰		
● Must the household have received a shut-off notice or have a near empty tank?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Must the household have been shut off or have an empty tank?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Must the household have exhausted their regular heating benefit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Must renters with heating costs included in their rent have received an eviction notice?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Must heating/cooling be medically necessary?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Must the household have non-working heating or cooling equipment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Other?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
● Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters with utilities included in the rent?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Determination of Benefits

4.8 How do you handle crisis situations?

- Separate component
- Fast Track
- Other

¹⁰ The program has different requirements depending on whether the household contains a member of a priority group.

¹¹ Per 10 TAC §6.309(g)(9), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent.

4.9 If you have a separate component, how do you determine crisis assistance benefits?

Amount to resolve crisis, up to a maximum of \$1200

Other

Heating and cooling equipment repair or replace up to \$3,000

Crisis Requirements, 2604(c)

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

Yes No

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

4.11 Do you provide individuals who have physical disabilities the means to:

■ Submit applications for crisis benefits without leaving their homes?

Yes No If no, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant's home to take the application.

■ Travel to the sites at which applications for crisis assistance are accepted?

Yes No If yes, explain.

If you answered "No" to both questions 4.11, please explain alternative means of intake to those who are homebound or physically disabled.

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

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

Winter Crisis \$_____ maximum benefit

Summer Crisis \$_____ maximum benefit

Year-round Crisis \$1200 maximum benefit

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

Yes No If yes, describe.

Repair of existing heating and cooling units, purchase of portable heating/cooling units, temporary shelter, blankets, fans, generators, under conditions specified in Texas Administrative Code 10 TAC §6.309.

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

	Winter Crisis	Summer Crisis	Year- round Crisis
Heating system repair			X
Heating system replacement (only if a component of a central HVAC system)			X
Cooling system repair			X
Cooling system replacement (only if a component of a central HVAC system)			X
Wood stove purchase			
Pellet stove purchase			
Solar panel(s)			
Utility poles / Gas line hook-ups			
Other (Specify): Heating and Cooling systems can be provided if a system is non-existent. _____			X

4.16 Do any of the utility vendors you work with enforce a winter moratorium on shut offs? If you respond "Yes" to question 4.16, you must respond to question 4.17.

Yes No

4.17 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Pursuant to §25.483 Disconnection of Service of the Texas Public Utilities Commission rules:

"An electric utility cannot disconnect a customer anywhere in its service territory on a day when:

(1) the previous day's highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports; or

(2) the NWS issues a heat advisory for any county in the electric utility's service territory, or when such advisory has been issued on any one of the preceding two calendar days in a county."

Section 5: WEATHERIZATION ASSISTANCE

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

5.1 Designate the income eligibility threshold used for the weatherization component:

2018 HHS poverty income level

OR

FY 2017 state median income 60%¹²

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

5.3 If yes, name the agency. _NA_

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

WEATHERIZATION - Types of Rules

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

Entirely under LIHEAP (not DOE) rules

Entirely under DOE WAP (not LIHEAP) rules

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

Income Threshold

Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.

Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities) is permitted.

Other (describe): TDHCA uses a priority list for LIHEAP households at 150% or below HHS poverty income level. Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization. If LIHEAP funds are included in a DOE unit, the SIR/audit must be used to justify all measures.

¹² In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

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

- Income Threshold.
- Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.
- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)

Eligibility, 2605(b)(5) – Assurance 5

- | | <u>Yes</u> | <u>No</u> |
|--|-------------------------------------|-------------------------------------|
| 5.6 Do you require an assets test? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5.7 Do you have additional/differing eligibility policies for: | | |
| • Renters? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| • Renters living in subsidized housing? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5.8 Do you give priority in eligibility to: | | |
| • Elderly? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Disabled? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Young children? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Households with high energy burdens? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Other?
Households with high energy consumption | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Benefit Levels

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?

Yes No

5.10 If yes, what is the maximum amount? \$6,500, unless additional expenditure is authorized in writing by the Department.

Types of Assistance, 2605(c)(1), (B) & (D)

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

- Weatherization
needs/assessments/audits
- Caulking and insulation
- storm windows
- Furnace/heating system modifications/
Repairs
- Furnace replacement
- Cooling system modifications/repairs
- Water conservation measures
- Compact fluorescent light bulbs
- Energy related roof repair
- Major appliance repairs
- Major appliance replacement
- Windows/sliding glass doors
- Doors
- Water Heater
- Cooling system replacement
- Other (describe)
Solar screens or window film. Smart
thermostats, miscellaneous repairs up
to \$500 for structural and ancillary only
if required to enable effective
weatherization.

If any of the questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.

Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

- Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- Publish articles in local newspapers or broadcast media announcements.
- Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.
- Mass mailing(s) to prior-year LIHEAP recipients.
- Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.
- Execute interagency agreements with other low-income program offices to perform outreach to target groups.
- Other (specify):

Section 7: Coordination, 2605(b)(4) – Assurance 4

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

- Joint application for multiple programs
- Intake referrals to/from other programs
- One-stop intake centers
- Other – describe:

Section 8: Agency Designation, 2605(b)(6) – Assurance 6

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency

- Welfare Agency
 Other – describe:

Alternate Outreach and Intake, 2605(b)(15) – Assurance 15

8.2 How do you provide alternate outreach and intake for HEATING ASSISTANCE?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers.

8.3 How do you provide alternate outreach and intake for COOLING ASSISTANCE?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers.

8.4 How do you provide alternate outreach and intake for CRISIS ASSISTANCE?

In instances of natural disaster, Subrecipient coordinates with other assistance organizations (shelters, Red Cross, etc.). Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by or at the direction or request of elected officials and other service providers.

8.5 LIHEAP Component Administration	<u>Heating</u>	<u>Cooling</u>	<u>Crisis</u>	<u>Weatherization</u>
8.5a. Who determines client eligibility?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits
	<u>Heating</u>	<u>Cooling</u>	<u>Crisis</u>	<u>Weatherization</u>
8.5b. Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	N/A
8.5c. Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	N/A
8.5d. Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Nonprofits most subcontracted with local contractors

8.6 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

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

Currently, the Department administers all aspects of program delivery through the existing Subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If Subrecipients are successfully administering the program, the Department may offer to renew the contract.

Under this model, the Department determines that an organization is not administering the program satisfactorily; corrective actions are taken to remedy the problem. Thereafter, if Subrecipient fails to administer the program correctly, the Department will proceed with the process of removing funds and reassign the service area or a portion to another existing Subrecipient or conduct solicitation or selection of a new Subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected Subrecipient may request a hearing in accordance with §2105.204 of the Texas Government Code.

However, the Department retains the right to go through a procurement process for some or all aspects of the LIHEAP program.

8.7 How many local administering agencies do you use?

37

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

Yes No

8.9 If so, why?

- Agency was in noncompliance with grantee requirements for LIHEAP
- Agency is under criminal investigation
- Added agency
- Agency closed
- Other – describe – voluntary relinquishment

Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7

9.1 Do you make payments directly to home energy suppliers?

Heating Yes No

Cooling Yes No

Crisis Yes No

Are there exceptions? Yes No

If yes, describe.

9.2 How do you notify the client of the amount of assistance paid?

The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. The Department provides Subrecipients with a Department approved vendor agreements to utilize. The document can be found at the Department’s website at <http://www.tdhca.state.tx.us/community-affairs/ceap/docs/17-CEAP-Vendor-Agreement.pdf>

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor agreements are used in all components. The Department provides Subrecipients with a Department approved vendor agreements to utilize. The document can be found at the Department’s website at <http://www.tdhca.state.tx.us/community-affairs/ceap/docs/17-CEAP-Vendor-Agreement.pdf>

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households? Yes No. If so, describe the measures unregulated vendors may take.

Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10

- 10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?
1. Review annual audits
 2. Monitor fiscal records
 3. Review current and prior year monthly expenditure and performance reports

Audit Process

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133? Yes No

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding ¹³	Type	Brief Summary	Resolved?	Action Taken
Did not retain documentation for key line items in the 2015 LIHEAP Annual Report	Non-compliance	Did not maintain documentation for line items 5, 6, 3d, and 5.	Yes	Department created a database specifically for capturing and maintaining all performance reporting documentation

¹³ The Department has a single audit annually, but LIHEAP is not audited as a major program every year. LIHEAP was last audited as a major program in FY 2016.

10.4. Audits of Local Administering Agencies

What types of annual audit requirements do you have in place for local administering agencies/district offices?

Local agencies/district offices are required to have an annual audit in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).¹⁴

Local agencies/district offices are required to have an annual audit (other than 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)).

Local agencies/district offices 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) or other independent audits are reviewed by Grantee as part of compliance process.

Grantee conducts fiscal and program monitoring of local agencies/district offices.

Compliance Monitoring

10.5. Describe the Grantee’s strategies for monitoring compliance with the Grantee’s and Federal LIHEAP policies and procedures by:

Grantee employees:

Internal program review

Departmental oversight

Secondary review of invoices and payments

Other program review mechanisms are in place. Describe: Cross Division peer review of documents

Local Administering Agencies/District Offices:

On-site evaluation

Annual program review

Monitoring through Central Database

Desk reviews

Client File Testing/Sampling

Other program review mechanisms are in place. Describe: Desk review of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); A review of the Subrecipient’s resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.
See attached monitoring schedule and monitoring instruments.

Describe how you select local agencies for monitoring reviews?

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance and failure to achieve performance outcomes. Subrecipient monitors review necessary program documents and financial records through

¹⁴ For 2018, Subrecipients will follow the audit requirements in 45 CFR 75 Subpart F, as applicable, and the requirements in the Texas Single Audit Act.

desk reviews and on-site reviews to ascertain compliance with program requirements. Selection of contracts for monitoring is primarily based on risk assessment. LIHEAP Subrecipients are monitored at least once every three years. This is a component of the risk assessment score. If a Subrecipient also has Community Service Block Grant funds, the LIHEAP monitoring may be done at the same time. Subrecipients that leverage LIHEAP funds with DOE funds for weatherization are subject to an inspection review according to the DOE monitoring schedule (once a year). Contracts may also be selected for monitoring based on other factors, such as prior findings, complaints, or special requests.

10.7. Site Visits: Onsite monitoring visits are conducted at least once every three years. The Department will inspect a minimum of 5% of all LIHEAP weatherized units reported as complete.

Desk Reviews: Some materials are requested and reviewed at the Department's office prior to the onsite visit.

10.8. How often is each local agency monitored? At least once, every three years.

10.9. What is the combined error rate for eligibility determinations? (Optional question)
Optional

10.10. What is the combined error rate for benefit determinations? (Optional question)
Optional

10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) 0

10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) 0

Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)

11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other, describe: Comments are solicited via on-line forums.

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

Pending input to be received at public hearings.

Public Hearings, 2605(a)(2)

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
Tuesday, May 23, 2017 from 6:00 -7:00 p.m.	LIHEAP Plan Public Hearing – 221 East 11 th Street, #116, Austin, Texas
Tuesday, May 23, 2017 from 6:00 -7:00 p.m.	LIHEAP Plan Public Hearing – 959 E. Rosedale, Fort Worth, TX
Wednesday, May 24, 2017 from 1:30 -2:30 p.m.	LIHEAP Plan Public Hearing – 9320 Kirby Drive, Houston, TX
Thursday, May 25, 2017 from 2:00-3:00 p.m.	LIHEAP Plan Public Hearing – 1101 E. Garden Lane, Midland, TX 79701

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

Pending input to be received at public hearings.

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

Pending input to be received at public hearings. **General Comments:** Pending input to be received at public hearings.

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

Pending input to be received at public hearings.

General Comments: Pending input to be received at public hearings.

Section 12: Fair Hearings, 2605(b)(13) – Assurance 13

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?

One is scheduled for June 15, 2017.

12.2 How many of those fair hearings resulted in the initial decision being reversed?

None at this time.

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings?

None

12.4 Describe your fair hearing procedures for **households whose applications are denied.**

Subgrantee contracts include the following section:

SECTION 39. APPEALS PROCESS

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a

timely manner. Subrecipient must establish a denial of service complaint procedure in accordance with Title 10, Part 1, Ch 6, Subch A, §6.8 of the State Rules. The rule states:

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

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) A Subrecipient must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.

(3) Subrecipients shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within ten (10) business days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven (7) calendar days before the appeal hearing.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing.

(b) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(c) Applicants/customers who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001.

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

(e) If the applicant/customer appeals to the Department, the funds should remain encumbered until the Department completes its decision.

12.5 When and how are applicants informed of these rights?

Within ten days of the determination the Subrecipient must provide written notification; can be made in person or by mail.

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

Applicants are required to submit an application each program year. During the review of applications, applicants are assigned a priority rating based on indicators such as poverty level, energy burden and

use, and the presence of vulnerable household members. The applicant is informed of their rating and informed whether their application will be acted on immediately or if higher priority applicants will be served first. If due to a low priority rating an applicant does not receive services during a program year, the applicant must re-apply the following year. This is a program requirement and is not subject to applicant appeal.

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

12.7 When and how are applicants informed of these rights?

Applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient.

Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?

N/A- The State does not use funds under Assurance 16.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?

NA-The State does not use funds under Assurance 16.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

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

NA-The State does not use funds under Assurance 16.

13.5 How many households applied for these services?

NA-The State does not use funds under Assurance 16.

13.6 How many households received these services?

NA-The State does not use funds under Assurance 16.

Section 14: Leveraging Incentive Program, 2607A

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

Yes No

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

N/A

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

Resource	What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with LIHEAP?
NA			

Section 15: Training

15.1. Describe the training you provide for each of the following groups:

a. Grantee Staff:

Formal training on grantee policies and procedures

How often?

Annually

Biannually

As needed

Other – Describe:

Employees are provided with policy manual

Other – Describe:

The Department offers a manager training for newly hired managers or Executive Directors, on a quarterly basis, which is then followed up with individualized training for managers as needed. Employees are provided with a policy manual.

b. Local Agencies:

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe: The conference is sponsored by the Texas Association of Community Action Agencies; the Department provides training at this conference. The Department provides annual Energy Audit training for the Network.

On-site training

How often?

Annually

Biannually

As needed

Other –

As needed as determined either by the Department or by request of the agency. "The Department identifies key areas for training needs based upon monitor reports and Sub-grantee requests that are addressed in a Regional Training Series each year."

- Employees are provided with policy manual
- Other – Describe: the Department schedules a teleconference each quarter to provide information, training, and technical assistance to the local agencies. The Department hosts an additional WAP quarterly teleconference to provide updates on rules, regulations, and technical issues that are identified.

c. Vendors

- Formal training conference
 - How often?
 - Annually
 - Biannually
 - As needed
 - Other – Describe:
- Policies communicated through vendor agreements
- Policies are outlined in a vendor manual
- Other – Describe:

15.2. Does your training program address fraud reporting and prevention?

- Yes
- No

Section 16: Performance Goals and Measures, 2605(b)

16.1 Describe your progress toward meeting the data collection and reporting requirements of the four required LIHEAP performance measures. Include timeframes and plans for meeting these requirements and what you believe will be accomplished in the coming federal fiscal year.

The Department was able to report on the required performance measures however the report did not include a full 12 month reporting cycle. The Department continues to make improvements to the performance measure database to help ensure accurate reporting.

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

The Department is focused on making improvements to the data collection process so that a true analysis can be done.

Section 17: Program Integrity, 2605(b)(10)

17.1. Fraud Reporting Mechanisms

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse. Select all that apply.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office

- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

b. Describe strategies in place for advertising the above-referenced resources. Select all that apply.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

17.2. Identification Documentation Requirements

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Government-issued identification card (i.e.,: driver’s license, state ID, Tribal ID, passport, etc.)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Other: clients provide their identification to the Subrecipients at the time of application	Required <input checked="" type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>

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

b. Describe any exceptions to the above policies.

NA

17.3. Identification Verification

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

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff
- Match SSN/Tribal ID number with tribal database or enrollment records (for tribal grantees only)
- Other – describe:

Public organization Subrecipients verify the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (“SAVE”) system.

17.4. Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients’ submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status
- Citizens must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe: The SAVE requirement only applies to the public organizations whose benefit determinations are not completed by a private non-profit organization.

17.5. Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members
 - Pay stubs
 - Social Security award letters
 - Bank statements
 - Tax statements
 - Zero-income statements
 - Unemployment Insurance letters
 - Other – describe: Court Documents or government benefit statements as applicable.
- Computer data matches:
 - Income information matched against state computer system (e.g., SNAP, TANF)
 - Proof of unemployment benefits verified with state Department of Labor
 - Social Security income verified with SSA

- Utilize state directory of new hires
- Other – describe:

17.6. Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
 - Grantee employees
 - local agencies/district offices
- Employees must sign confidentiality agreement
 - Grantee employees
 - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe:

Grantee contracts include the following section:

SECTION 9. RECORD KEEPING REQUIREMENTS

Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.409 requires that:

- (a) Client Records. The Department requires Subrecipient organizations that administer Community Affairs Programs and serve clients to document client services. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.
- (b) Records of client eligibility must be retained for five (5) years starting from the date the household activity is completed, unless otherwise provided in federal regulations governing the program.
- (c) Other records must be maintained as described in the Contract or the LURA, and in accordance with federal or state law for the programs described in the Chapters of this Part.

Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.401

- (a) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Affiliate--Shall have the meaning assigned by the specific program or programs described in this title.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Protected Health Information--As defined in 45 CFR §160.103.

(4) Subrecipient--Includes any entity receiving funds or awards from the Department.

(b) If Subrecipients or Affiliates collect or receive Protected Health Information in the course of administering Department programs, they are required to follow the procedures in Texas Health and Safety Code, Subtitle I, Chapter 181.

(c) A nonprofit agency is exempt from this subchapter; unless the nonprofit's primary business is the provision of health care or reimbursement for health care services.

17.7. Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State/Tribe
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

17.8. Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
 - Account ownership
 - Consumption
 - Balances
 - Payment history
 - Account is properly credited with benefit
 - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.9. Benefits Policy — Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors? Select all that apply.

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

- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor
- Direct payment to households are made in limited cases only
- Vendors are only paid once they provide a delivery receipt signed by the client.
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.10. Investigations and Prosecutions

Describe the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated (limited to state law requirements)
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient may be referred to the Department's Enforcement Committee or proposed for debarment.

Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. BrBr.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that

its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity

(Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the prospective primary participant is providing the certification set out above.

Section 19: Certification Regarding Drug-Free Workforce Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free

workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of Subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and

- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -
- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

221 East 11th Street

Austin, Travis County, Texas, 78701

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

REQUIRED ATTACHMENTS

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix. (Attachment 3)
- Cooling component benefit matrix. (Attachment 3)
- Local Agency Monitoring Schedule (Attachment 4)

Attachment 3

Benefit Matrix

Program rules found at 10 Texas Administrative Code, §6.309(d). All benefits are determined based on a sliding scale:

(d) Benefit determinations for the Utility Payment Assistance Component and the household Crisis Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this paragraph:

(1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed \$1,200 per Component;

(2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed \$1,100 per Component; and

(3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$1,000 per Component.

Attachment 4

Monitoring Schedule for FY 2018

LIHEAP Subrecipient	Review Type	Date of Last Full On-site Review
Alamo Area Council of Governments	Full on-site	Apr-16
Aspermont Small Business Development Center, Inc.	Full on-site	Dec-15
Baker Ripley	Full on-site	Jan-16
Bexar County Community Resources	Full on-site	Jan-16
Big Bend Community Action Committee, Inc.	Full on-site	Mar-16
Brazos Valley Community Action Programs	Full on-site	Dec-15
Central Texas Opportunities, Inc.	Full desk	Apr-16
City of Fort Worth Neighborhood Services Department	Full on-site	Jun-16
City of Lubbock Community Development Department	Full on-site	Oct-16
Combined Community Action Inc.	Full on-site	Dec-15
Community Action Committee of Victoria, Texas	Full on-site	Dec-15
Community Action Corporation of South Texas	Full on-site	Feb-16
Community Action Inc, of Central Texas	Full desk	Aug-16
Community Council of South Central Texas, Inc.	Full on-site	Nov-15
Community Services of Northeast Texas, Inc.	Full on-site	Jun-16
Concho Valley Community Action Agency	Full on-site	May-16
Dallas County Department of Health and Human Services	Full on-site	Nov-15
Economic Action Committee of the Gulf Coast	Full on-site	Feb-17
Economic Opportunities Advancement Corp. of PR XI	Full on-site	Nov-15
El Paso Community Action Program, Project BRAVO, Inc.	Full on-site	Apr-15
Galveston County Community Action Council, Inc.	Full on-site	Aug-15
Greater East Texas Community Action Program	Full on-site	Jan-16
Hidalgo County Community Services Agency	Full on-site	Sep-15
Hill Country Community Action Association, Inc.	Full on-site	Oct-15
Kleberg County Human Services	Full on-site	Aug-16
Nueces County Community Action Agency	Full on-site	Feb-16
Panhandle Community Services	Full on-site	Mar-15
Pecos County Community Action Agency	Full on-site	Jul-16
Rolling Plains Management Corporation	Full on-site	Oct-15
South Plains Community Action Association, Inc.	Full on-site	May-16
South Texas Development Council	Full on-site	Oct-15
Texas Neighborhood Services	Full desk	Aug-16
Texoma Council of Governments	Full on-site	Apr-15
Travis County Health and Human Services Department	Full on-site	Apr-16
Tri-County Community Action, Inc.	Full on-site	Jun-16
Webb County Community Action Agency	Full on-site	May-15
West Texas Opportunities, Inc.	Full on-site	Dec-15
Williamson-Burnet County Opportunities, Inc.	Full on-site	Oct-16

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on Determination Notices for Housing Tax Credits with another Issuer (#17412 Pathways at Gaston Place, Austin)

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Pathways at Gaston Place, sponsored by the Housing Authority of the City of Austin, was submitted to the Department on December 9, 2016;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board was issued on March 9, 2017, and will expire on August 6, 2017;

WHEREAS, the proposed issuer of the bonds is the Austin Affordable Public Facility Corporation, Inc.; and

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an extra large portfolio Category 3 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$637,283 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Pathways at Gaston Place is hereby approved as presented to this meeting.

BACKGROUND

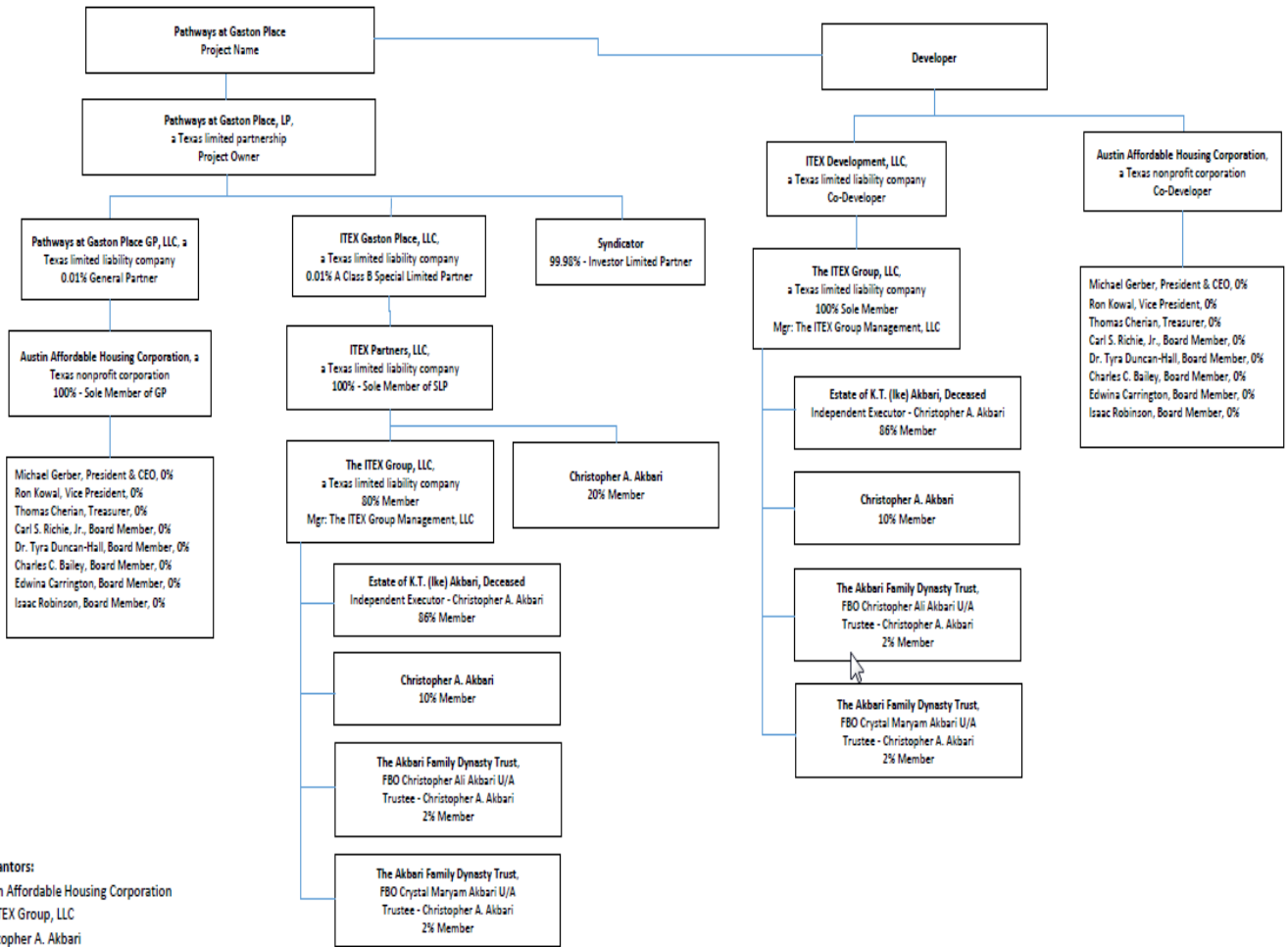
General Information: Pathways at Gaston Place is located at 1941 Gaston Place, Austin, Travis County, and consists of 100 units, all of which will be rent and income restricted at 60% of Area Median Family Income. The development will serve an elderly preference population, is 96% occupied, and was originally constructed in 1978. The development is currently operating as public housing owned and managed by the Housing Authority of the City of Austin and will be converted from public housing to Section 8 rental assistance through HUD’s Rental Assistance Demonstration (“RAD”) program. The zoning is currently a legal non-conforming use based on the density allowed under the original zoning ordinance. The census tract (0021.06) has a median household income of \$57,800, is in the third quartile, and has a poverty rate of 17.80%.

Organizational Structure: The Borrower is Pathways at Gaston Place, LP and includes the entities and principals as indicated in the organization chart on Exhibit A. The applicant’s portfolio is considered an Extra Large Category 3 and the previous participation was deemed acceptable by the EARAC, after review

and discussion. EARAC also reviewed the proposed financing and the underwriting report, and recommends issuance of a Determination Notice.

Public Comment: There have been no letters of support or opposition received by the Department.

EXHIBIT A

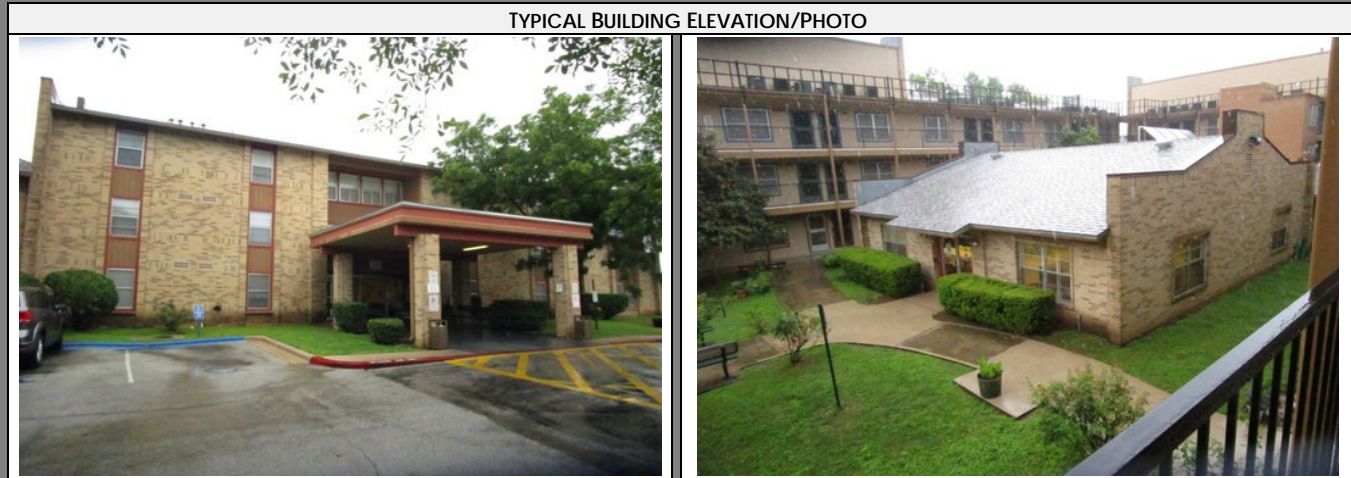


Guarantors:
 Austin Affordable Housing Corporation
 The ITEX Group, LLC
 Christopher A. Akbari

APPLICATION SUMMARY

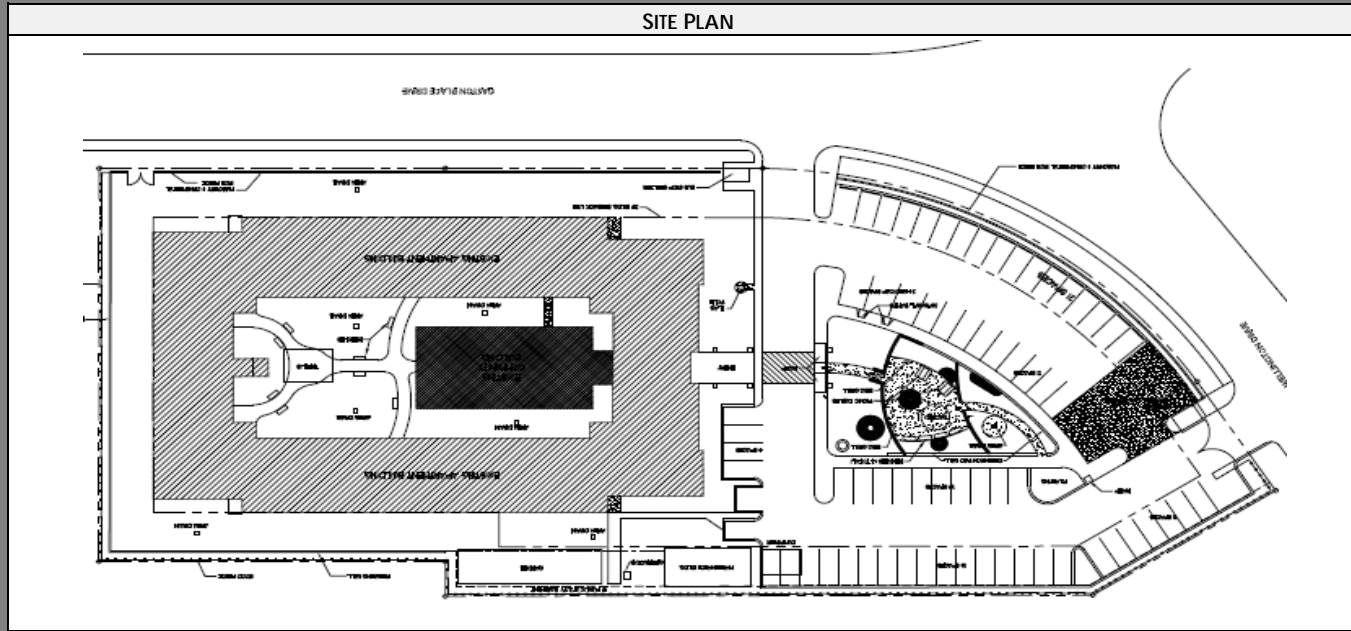
PROPERTY IDENTIFICATION		RECOMMENDATION					
Application #	17412	TDHCA Program	Request	Approved			Lien
Development	Pathways at Gaston Place			LIHTC (4% Credit)	\$637,283	\$637,283	
City / County	Austin / Travis		Amount	Rate	Amort	Term	
Region/Area	7 / Urban	Private Activity Bonds					
Population	Elderly Preference	MDLP (Repayable)					
Set-Aside	General	MDLP (Non-Repayable)					
Activity	Acquisition/Rehab (Built in 1978)	CHDO Expenses					

KEY PRINCIPAL / SPONSOR			
General Partner(s)			
AAHC (GP)			
ITEX Partners, LLC (Class B SLP) (Akbari Family)			
Developer(s)			
AAHC			
ITEX Development (Akbari Family)			
Related-Parties	Contractor -	Yes	Seller -
		Yes	Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	96	96%	40%	-	0%
2	4	4%	50%	-	0%
3	-	0%	60%	100	100%
4	-	0%	MR	-	✓
TOTAL	100	100%	TOTAL	100	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	✓ 1.35	Expense Ratio	✗ 67.1%
Breakeven Occ.	✓ 87.0%	Breakeven Rent	\$539
Average Rent	\$590	B/E Rent Margin	✓ \$51
Property Taxes	Exempt	Exemption/PILOT	0%
Total Expense	\$4,573/unit	Controllable	\$3,531/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			✓ 0.8%
Highest Unit Capture Rate	✓ 1%	1 BR/60%	96
Dominant Unit Cap. Rate	✓ 1%	1 BR/60%	96
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	100	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	588 SF	Density	42.7/acre
Acquisition		\$63K/unit	\$6,300K
Building Cost	\$103.42/SF	\$61K/unit	\$6,081K
Hard Cost		\$73K/unit	\$7,272K
Total Cost		\$204K/unit	\$20,420K
Developer Fee	\$2,083K	(8% Deferred)	Paid Year: 3
Contractor Fee	\$921K	30% Boost	No

REHABILITATION COSTS / UNIT			
Site Work	\$4K	6%	Finishes/Fixtures \$30K 41%
Building Shell	\$22K	30%	Amenities \$3K 4%
HVAC/ Utilities	\$5K	7%	Total Exterior \$28K 39%
Appliances	\$3K	4%	Total Interior \$37K 51%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Bellwether Enterprise/FNMA	15/35	4.72%	\$2,111,000	1.82	AAHC Loan (Cash Flow)	50/0	0.00%	\$5,403,164	1.35	Bank Of America	\$6,435,271
HACA Seller Note (Amortized)	0/35	2.26%	\$1,050,000	1.35	HACA Seller Note (Cash Flow)	50/0	2.26%	\$5,250,000	1.35	Austin Affordable Housing Corp. and	\$170,467
TOTAL DEBT (Must Pay)			\$3,161,000		CASH FLOW DEBT / GRANTS			\$10,653,164		TOTAL EQUITY SOURCES	\$6,605,738
TOTAL DEBT SOURCES											\$13,814,164
TOTAL CAPITALIZATION											\$20,419,902

CONDITIONS

1 Receipt and acceptance by Cost Certification:

- a: Architect certification that noise study recommendations were successfully implemented in the completion of the Development.
- b: Architect certification that Lead Based Paint abatement was completed and done so in observance of all State and Federal laws.
- c: Architect certification that Asbestos abatement was completed and done so in observance of all State and Federal laws.
- d: Final CHAP approval with HUD-approved rents and operating budget.

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

BOND RESERVATION / ISSUER

Issuer	Austin Affordable PFC, Inc.
Expiration Date	8/5/2017
Bond Amount	\$20,000,000
BRB Priority	n/a
Expected Close	6/1/2017
Bond Structure	Short-Term Cash-Collateralized

RISK PROFILE

STRENGTHS/MITIGATING FACTORS

- High DCR
- HUD CHAP Contract
- Low Gross and Unit Capture Rate

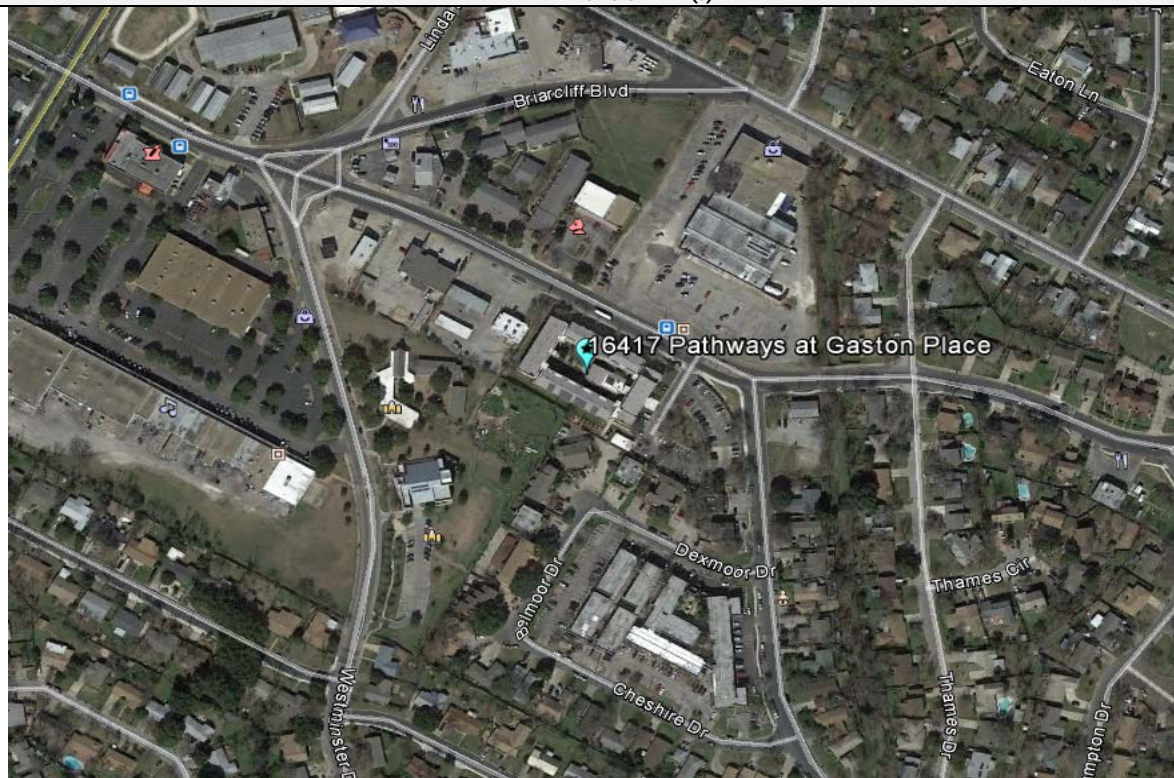
WEAKNESSES/RISKS

- Expense ratio above 65%

AREA MAP



AERIAL PHOTOGRAPH(S)



BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#17417 Fenix Estates, Houston)

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Fenix Estates, sponsored by the Harris County Housing Authority Public Facility Corporation, was submitted to the Department on October 6, 2016;

WHEREAS, the Certificate of Reservation from the Texas Bond Review Board was issued on March 29, 2017, and will expire on August 26, 2017;

WHEREAS, the proposed issuer of the bonds is the Harris County Housing Authority Public Facility Corporation (“HCHA Public Facility Corporation”);

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the applicant’s portfolio is considered a Medium Category 2 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”); and

WHEREAS, pursuant to 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain characteristics of a proposed development site;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,110,268 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Fenix Estates is hereby approved as presented to this meeting.

BACKGROUND

General Information: Fenix Estates is proposed to be located on the east side of Hussion Street between Tharp Street and Interstate Highway 45 in Houston, Harris County. It is proposed in a census tract (3103.00) that has a median household income of \$41,250, is in the third quartile and has a poverty rate of 15.00%. Fenix Estates involves the new construction of 200 units; of which 180 units will be rent and income restricted at 60% of Area Median Family Income and the remaining 20 units will be at market rate.

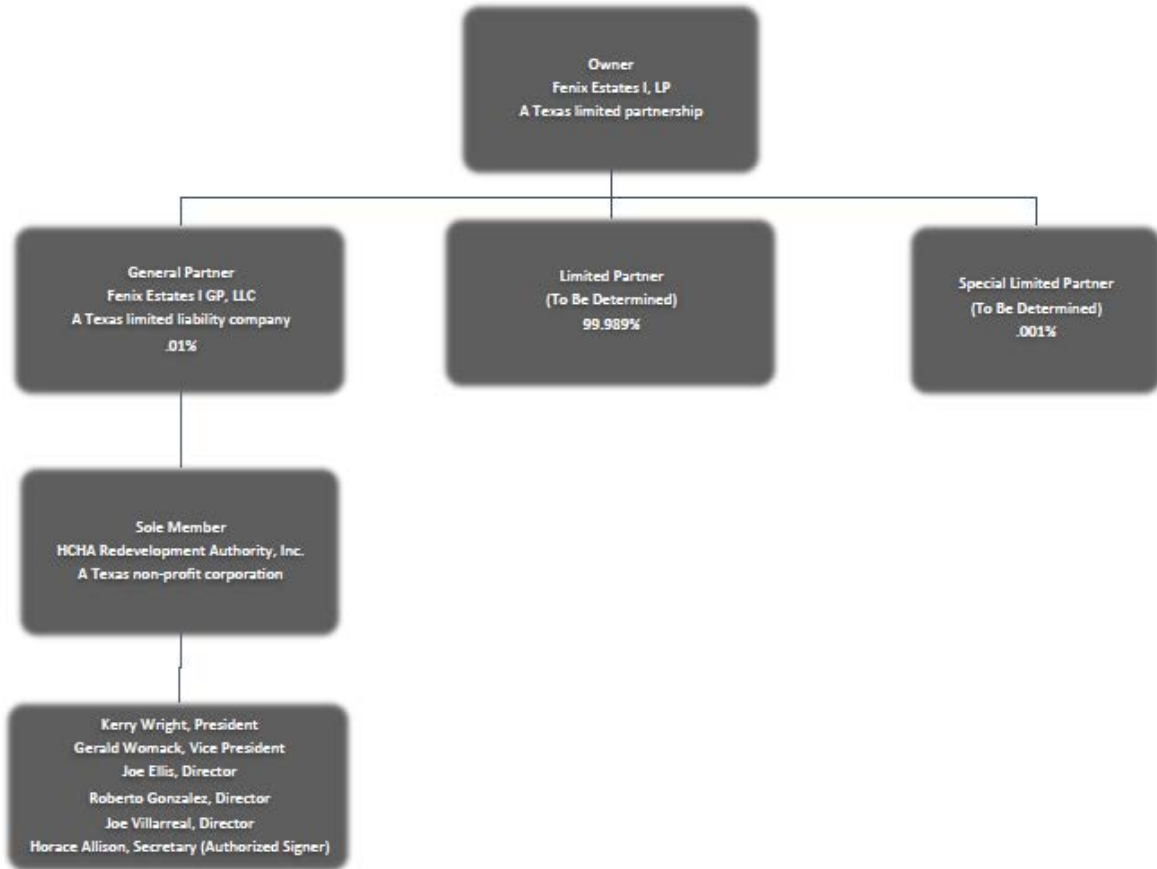
The development will provide supportive housing units and will include extensive supportive services space for case managers, health providers, and other social services providers, as well as new offices for the Harris County Housing Authority. The Development is part of an initiative of the City of Houston, Harris

County, and the Houston Housing Authority to provide approximately 2,500 permanent supportive housing units. A letter from the Harris County Community Services Department was included in the application that confirmed their intent to transfer rental assistance under their existing HUD Continuum of Care (“CoC”) grant to Fenix Estates. The letter stated that the targeted population for the CoC rental assistance will be homeless single adults, including chronically homeless and veterans and further stated that along with being homeless, the targeted population must also have a disabling condition. Staff has had conversations with the applicant attempting to clarify what funding source allows the development to only serve single individuals with disabilities. Although they identified Permanent Supportive Housing as the funding source, it is staff’s understanding that it requires serving individuals and families, not just individuals. The applicant provided a letter confirming that the development will not be limited to nor target individuals only and that the units will be open to individuals and families who meet the criteria for the development. For Department monitoring purposes relating to marketing and tenant selection criteria, the development will be considered supportive housing serving a general population, with no preference or limitation for single adults or single adults with a disability.

Organizational Structure and Previous Participation: The Borrower is Fenix Estates I, L.P., and includes the entities and principals as illustrated in Exhibit A. The applicant’s portfolio is considered a Medium Category 2 and the previous participation was deemed acceptable by EARAC.

Public Comment: No letters of support or opposition for this Development have been received by the Department.

EXHIBIT A



10

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion and possible action on the 2016 State of Texas National Housing Trust Fund Allocation Plan

RECOMMENDED ACTION

WHEREAS, on January 30, 2015, the U.S. Department of Housing and Urban Development (“HUD”) published an interim rule for the National Housing Trust Fund (“NHTF”) for states to implement the program;

WHEREAS, the Department is designated as the state agency responsible for the administration of funds provided through NHTF;

WHEREAS, on May 5, 2016, HUD published the formula allocation amounts for NHTF, followed by guidance on how to submit the Allocation Plan;

WHEREAS, in addition to the Allocation Plan, HUD requires that Substantial Amendments be made to both the State of Texas 2015-2019 Consolidated Plan and the 2016 One Year Action Plan (“OYAP”), to include NHTF activities;

WHEREAS, in July 2016, the Department developed the draft 2016 State of Texas NHTF Allocation Plan, draft Substantially Amended 2015-2019 Consolidated Plan, and Draft Substantially Amended 2016 OYAP, which reported on the intended use of NHTF funds received by the State of Texas from HUD for Program Year (“PY”) 2016, beginning on February 1, 2016, and ending on January 31, 2017;

WHEREAS, on September 8, 2016, the Governing Board of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) approved for release to HUD the 2016 State of Texas NHTF Allocation Plan, Substantially Amended 2015-2019 Consolidated Plan, and Substantially Amended 2016 OYAP;

WHEREAS, on October 27, 2016, HUD disapproved the Department’s Allocation Plan, and staff has been working since that time to draft a plan that will be acceptable;

WHEREAS, on February 23, 2017, the Governing Board of the TDHCA approved revisions to the 2016 NHTF Allocation Plan, as well as corrective edits to the Substantially Amended 2015-2019 Consolidated Plan and Substantially Amended 2016 OYAP, for release for public comment; and

WHEREAS, public comment on the revised 2016 State of Texas NHTF Allocation plan, Substantially Amended 2015-2019 Consolidated Plan, and Substantially

Amended 2016 OYAP was received through March 30, 2017, in accordance with the Department's HUD approved Citizen Participation Plan;

NOW, therefore, it is hereby

RESOLVED, that the 2016 State of Texas NHTF Allocation Plan, Substantially Amended 2015-2019 Consolidated Plan, and Substantially Amended 2016 OYAP, in the form presented to this meeting, is hereby approved for submission to HUD for their approval.

BACKGROUND

The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") prepared the draft 2016 State of Texas NHTF Allocation Plan ("Plan") in July 2016, in accordance with 24 CFR §91.320, which included a draft Substantially Amended 2015-2019 Consolidated Plan and a draft Substantially Amended 2016 OYAP. The draft Plan was published in the *Texas Register* and public comment was received through August 15, 2016. The Department received comments from several nonprofit organizations that may be impacted by the Plan. No changes were made to the Plan as a result of comments received.

The Plan reflected the intended uses of NHTF funds received by the State of Texas from HUD in Program Year 2016. The Program Year began on February 1, 2016, and ended on January 31, 2017. The Plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2015-2019 State of Texas Consolidated Plan and 2016 OYAP.

Upon approval by the Board, the Plan and all other required amendments and attachments were submitted to HUD electronically on September 14, 2016, and subsequently disapproved by HUD on October 27, 2016. The Department submitted corrective documentation on December 9, 2016, and had a conference call with HUD on December 22, 2016, in which HUD indicated that all of the corrective documentation would have to be incorporated into the 2016 One Year Action Plan and the Consolidated Plan. Conforming changes would also have to be incorporated into the 2017 One Year Action Plan, which has not yet been submitted to HUD. HUD requested that the Department be more explicit in its Maximum Per-Unit Development Subsidy Limits, Refinancing of Existing Debt Requirements, and Rehabilitation Standards Requirements, while also requesting that the Department's inspection checklist be submitted to verify Uniform Physical Condition Standards protocol is being met. HUD requested that these further corrections be made within 30 days of the initial December 9, 2016, corrective action deadline as required in 24 CFR §91.500(d). Department staff requested an extension on January 4, 2017, to which HUD responded with a letter on January 5, 2017, allowing the Department 60 days to submit corrective documentation.

The revised Plan was published in the *Texas Register* on March 10, 2017, and available for public comment on the TDHCA Public Comment Center at <http://www.tdhca.state.tx.us/public-comment.htm> and on TDHCA's Multifamily Direct Loan website at: <http://www.tdhca.state.tx.us/multifamily/home/index.htm>. The public comment period was open from March 1, 2017, through March 30, 2017. The Department received two comments from three nonprofit and consulting organizations that may be impacted by the Plan. All of the comments touched on two key points: extending the minimum term of affordability required and relaxing the experience requirement in the Department's Uniform Multifamily Rules to allow for smaller, mission-driven nonprofit applicants. While the Department believes a minimum affordability term

greater than the minimum federally required 30 years exposes both the Department and the development owner to greater risk, the comments regarding experience have been addressed in the Multifamily Direct Loan Rule that went into effect earlier this year and should therefore be incorporated into the Plan. Reasoned responses to these comments, and the comments themselves, are located behind this Board item. The aforementioned change regarding the experience requirements was made to the Plan as a result of comments received.

The Plan reflected the intended uses of NHTF funds allocated to the State of Texas from HUD for Program Year 2016. The Program Year began on February 1, 2016, and ended on January 31, 2017. The Plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2015-2019 State of Texas Consolidated Plan and 2016 OYAP.

The Plan to be approved by the Board for submission to HUD can be found online on the Board Meeting Information Center webpage at <http://www.tdhca.state.tx.us/board/meetings.htm> or on TDHCA's Multifamily Direct Loan website at: <http://www.tdhca.state.tx.us/multifamily/home/index.htm>.

Upon approval by the Board, the Plan and all other required amendments and attachments will be submitted to HUD electronically. Once HUD approves the Plan, they will send the Department the Grant Agreement for \$4,789,476 in NHTF funding.

Attachment A:

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Kate Moore Consulting 6

Texas Low Income Housing Information Service..... 8

Revised 2016 NHTF Allocation Plan Public Comment Summary and Reasoned Responses

On February 28, 2017, the Governing Board of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) approved for release for public comment a revised 2016 State of Texas NHTF Allocation Plan, Substantially Amended 2015-2019 Consolidated Plan, and Substantially Amended 2016 One Year Action Plan (“OYAP”) and a public comment period was open from Wednesday, March 1, 2017, through Thursday, March 30, 2017. Written comments were accepted by mail, fax, and email. The Department received two comments from the following three organizations: Coastal Bend Center for Independent Living, Kate Moore Consulting, and Texas Low Income Housing Information Service.

1. All three commenters recommended that the State require units created with NHTF dollars be affordable for extremely low income households for 50 years, which is longer than the 30 years required by the NHTF statute. Further, commenters stated that the affordability period for the NHTF should at least match the Low-Income Housing Tax Credit program’s duration.

Staff response: No changes were made to the Plan as a result of this comment. In order to keep a property with 30% AMI units producing cash flow through 30 years, there must be higher rent (50% AMI, 60% AMI, market rate) units subsidizing those units and/or ongoing operating subsidy to continue to fill the gap between the income those 30% AMI units are generating and the actual income needed to keep the property afloat. Extending the affordability period another 20 years beyond the minimum required 30 years would expose the Department and development owners of NHTF-funded properties to undue risk. Furthermore, additional NHTF funds cannot be invested in an NHTF property during the period of affordability established by the grantee (TDHCA). Imposing a 50 year affordability period would preclude TDHCA from investing additional NHTF for 50 years.

2. All three commenters recommended that the State open NHTF allocations to the small, mission-driven developers and that the Experience Requirement for awards should be tied to the scale of a proposed project.

Staff Response: A change was made to the Plan as a result of this comment. Staff inadvertently omitted the relevant section of the Multifamily Direct Loan Rule (10 TAC Chapter 13) that addresses the alternative experience requirement available to smaller, mission-driven nonprofit developers. Specifically, 10 TAC §13.5(d)(1) allows for applicants who cannot meet the requirements of 10 TAC §10.204(6) to meet an alternative experience requirement by providing evidence of the successful development, and operation for at least 5 years, of at least twice as many affordability restricted units as requested in the Application. This section of the Multifamily Direct Loan Rule is now incorporated in the Plan.

Public Comments Submitted

Coastal Bend Center for Independent Living

Kate Moore Consulting

Texas Low Income Housing Information Service

March 29, 2017

Tim Irvine, Executive Director
Marni Holloway, Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street, Austin, TX 78701

Mr. Irvine and Ms. Holloway:

Last year, I participated in a coalition of advocates and housing providers making recommendations for how TDHCA could use the rare opportunity presented by the National Housing Trust Fund (NHTF) to best serve the low income Texans most in need of affordable housing. This year, I am among those with concerns that, after a months-long process of drafting, public comments and input from the U.S. Department of Housing and Urban Development (HUD), TDHCA's amended version of the NHTF allocation plan still does not allow for the kind of flexibility and affordability needed to address our state's severe shortage of housing for those who earn less than 30 percent of median income – the very people that the National Housing Trust Fund is required to serve.

I am submitting my disappointment that HUD's disapproval of the State's initial draft allocation plan last October seems to have weakened the plan. The reasons for HUD's disapproval are unclear, but instead of improving the strategy to serve more extremely low income Texans, the State has rolled back two key provisions that had the potential to expand housing opportunity to more of the ELI population:

1. Length of affordability: We recommended that the State require units created with NHTF dollars be affordable to extremely low income households for 50 years, longer than the 30 years required by Trust Fund statute. Given the severity of Texas' affordability crisis, it would be a small but important step to use this new, dedicated funding source to go beyond the usual length of affordability for housing programs, to create at least some units that would be guaranteed to house extremely low income people for decades.

We were heartened that the allocation plan drafted last fall stated that “applications that propose a longer affordability period could have a scoring advantage,” even though it did not specify what that advantage would be nor what requirements or incentives would be provided to lengthen affordability.

Unfortunately, the amended plan eliminates the longer affordability altogether, flatly stating that the agency “will not prioritize applicants that propose affordability requirements in excess of 30 years.” Again, no explanation for this.

The fact that developers who also plan to apply for Low Income Housing Tax Credits may receive additional points via that separate allocation process if they propose affordability periods of 35 years does little to ease our concerns. The tax credit program should not be the only method for creating affordability. The NHTF is intended as a unique program that can serve populations often not reached with other programs. The affordability period for the NHTF should

at least match the tax credit program's duration.

2. Diversify development: On the same note, we strongly recommended that the State open NHTF allocations to the small, mission-driven developers who are too often left out of the onerous tax credit process, which tends to favor the same large developers every year. By doing so, NHTF funds would be available to organizations which are dedicated to serve the lowest-income Texans – the exact target population for the program.

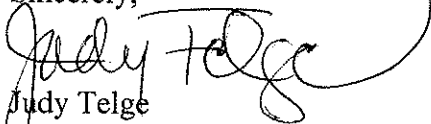
Last year's draft promised that the "NHTF Program awards loans to for-profit and nonprofit multifamily developers." Yet the amended version maintains the TDHCA Experience Requirement for all applicants, which will inappropriately award significant points to large developers by inflating what should simply be a threshold requirement, greatly disadvantaging small mission-driven organizations. The current developer experience requirement of 150 units prohibits participation by many CHDOs and small, mission-driven non-profits, which are also shut out of the tax credit program due to costs. These developers are those most able to achieve integration through the scale of their projects, and an arbitrary number like 150 units has little correlation with a small organization's capacity to develop a few integrated, necessary units serving those with fixed incomes, living with disabilities or other extremely low income households unable to afford housing at the tax credit level. Experience should be tied to the scale of project proposed.

Small scale development - often referred to as Incremental Development - is a realistic tool for small developers wanting to improve neighborhoods through infill initiatives and a non-traditional business model. This type of development has the potential to meet the un- and inadequately- served housing needs of extremely low income households as well as providing integrated revitalization of communities. Requiring 150-unit experience for developers to participate in the Texas allocation plan is not only irrelevant to the purpose of the NHTF program but will discourage innovation at a time when it is sorely needed.

Furthermore, the 150-unit requirement disadvantages rural and smaller metro areas. A review of this year's initial tax credit proposals reveals that most developments, especially those in smaller metro and rural areas, have fewer units: of 380 proposed developments, 86 percent have fewer than 150 units, 24 percent have fewer than 75 units, and only the six largest metro areas in the state saw proposals of 150 or more units.

TDHCA still has the chance to expand affordability and opportunity through the NHTF to serve the lowest-income Texans. Doing so will require another revision to the allocation plan. As a member of the Coalition, I strongly urge the Agency to reconsider its priorities for this critical program before implementation begins.

Sincerely,



Judy Telge

ADRC Housing Navigator, Coastal Bend Center for Independent Living
President, AHRI

March 30, 2017

Tim Irvine, Executive Director
Marni Holloway, Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street, Austin, TX 78701

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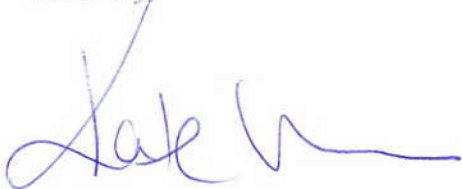
Diversify development: On the same note, we strongly recommended that the State open NHTF allocations to the small, mission-driven developers who are too often left out of the onerous tax credit process, which tends to favor the same large developers every year. By doing so, NHTF funds would be available to organizations which are dedicated to serve the lowest-income Texans – the exact target population for the program.

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TDHCA still has the chance to expand affordability and opportunity through the NHTF to serve the lowest-income Texans. But so will require another revision to the allocation plan. We strongly urge the agency to reconsider its priorities for this critical program before implementation begins.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kate Moore", with a long horizontal flourish extending to the right.

March 30, 2017

Tim Irvine, Executive Director
Marni Holloway, Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street, Austin, TX 78701

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TDHCA still has the chance to expand affordability and opportunity through the NHTF to serve the lowest-income Texans. But so will require another revision to the allocation plan. We strongly urge the agency to reconsider its priorities for this critical program before implementation begins.

Sincerely,

Karen Paup
Co-director
Texas Low Income Housing Information Service

**National Housing Trust Fund
2016 Allocation Plan**

II. GRANTEE INFORMATION

State:

Texas

FY 2016 HTF Allocation Amount:

\$4,789,477

III. CONSOLIDATED PLAN REQUIREMENTS

Citizen Participation Plan

The consolidated plan regulation at § 91.115 requires the State to include HTF in its citizen participation plan. Essentially, before adopting a consolidated plan, the State is required to adopt a citizen participation plan that describes the process for providing and encouraging citizens to participate in the development of the consolidated plan, the amendments to the consolidated plan and the performance report (CAPERS). For the purposes of HTF, the State is required to make the following information available to the public:

- the amount of HTF assistance the State expects to receive,
- the range of activities the State may undertake, including the estimated amount that will benefit extremely low-income households, and
- the State's plans to minimize displacement of persons and to assist any persons displaced.

If the State already conducted its citizen participation and included HTF in any citizen participation it performed for the other HUD formula grant programs, then the State does not need to conduct additional citizen participation for HTF. If the State has not yet conducted citizen participation or did not include HTF in the citizen participation it performed for other HUD formula grant programs, then it must conduct citizen participation to include HTF as part of its consolidated plan.

Consolidated Plan Screen(s) To Revise

The following screen in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

- ES-05 / AP-05 Executive Summary:** § 91.320(b)- The Executive Summary includes seven narratives: (1) Introduction; (2) Summary of Objectives and Outcomes; (3) Evaluation of Past Performance; (4) Summary of the Citizen Participation and Consultation Process; (5) Summary of Public Comments; (6) Summary of Comments Not Accepted; (7) Summary.

- PR-15 Citizen Participation:** § 91.115 and § 91.300(c)- revise this screen to provide a summary of the citizen participation efforts made for HTF, including efforts to broaden public participation, a summary of citizen comments or views on the plan, and a written explanation of comments not accepted and the reasons why these comments were not accepted.

IV. STRATEGIC PLAN REQUIREMENTS

The State must amend the affordable housing section of the strategic plan to include specific objectives that describe proposed accomplishments the State hopes to achieve and must specify the number of extremely low-income families to which the State will provide affordable housing to (homeownership- § 93.302; rental- § 93.304) over a specific period of time. The State can complete this requirement by including HTF on the **SP-45 Goals screen**.

Note: Directions on how to amend a plan are included at the end of this document.

Reminder: 100 percent of FY 2016 HTF funds must benefit extremely low-income households; a minimum of 80 percent must be used for rental housing; up to 10 percent may be used for homeownership housing; up to 10 percent may be used for administrative costs.

Strategic Plan Screen(s) To Revise

In addition to updating the affordable housing section of the strategic plan, the following screens in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

- SP-10 Geographic Priorities:** § 91.315(a)(1)- revise this screen to discuss how investments are allocated geographically.
- SP-25 Priority Needs:** § 91.315(a)(2)- revise this screen to indicate the general priorities for allocating investment of available resources among different needs.
- SP-30 Influence of Market Conditions:** § 93.315(b)- revise this screen to describe how the characteristics of the housing market influenced the State's decisions regarding allocation priorities among the types of housing assistance.
- SP-35 Anticipated Resources:** § 91.315(a)(4); § 91.320(c)(1) and (2)- revise this screen to identify the federal, state, local, and private resources expected to be available to the State to address priority needs and specific objectives identified in the strategic plan. Specifically, the State should add a program to this screen by

selecting “Add” in the *Action* column. This will open the **SP-36 Add Anticipated Resource** screen. The State should select “Other” in the *Anticipated Resource* field and enter “Housing Trust Fund” in the *Other Funding Source* field. The State should also select the “public - federal” radio button in the “Source” field and complete the rest of the fields on this screen for its HTF program.

- SP-45 Goals:** § 91.315(a)(4) and § 91.315 (b)(2)- revise this screen to summarize the State’s priorities and the specific goals it intends to initiate and/or complete within the term of the strategic plan. The State must also ensure its five year goals include any accomplishments due to HTF funds and must also enter the number of extremely low-income families to which the State will provide assistance with its HTF funds.

V. ANNUAL ACTION PLAN REQUIREMENTS

The State must include HTF in its annual action plan or amend the plan to include HTF information as required in § 93.320(k)(5). The action plan must include an HTF allocation plan that describes the distribution of HTF funds, and establishes the application requirements and selection criteria of applications submitted by eligible recipients that meet the State’s priority housing needs.

Annual Action Plan Screen(s) To Revise

The following screens in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

- AP-15 Expected Resources:** § 91.320(c)(1) and (2)- revise this screen to provide a concise summary of the federal resources expected to be available. The HTF resources added to the **SP-35 Anticipated Resources** screen will carry over to this screen.
- AP-20 Annual Goals and Objectives:** § 91.320(c)(3) and (e)- revise this screen to summarize the specific goals the State intends to initiate and/or complete within the term of the program year. Any HTF related goals and objectives entered on the **SP-45 Goals** screen will carry over to this screen.
- AP-25 Allocation Priorities:** § 91.320(d)- revise this screen to describe the reasons for the State’s allocation priorities and how the proposed distribution of funds will address the priority needs and goals of the strategic plan.

- AP-30 Method of Distribution:** § 91.320(d) and (k5)- revise this screen to include a description of its method(s) for distribution for the “Other – Housing Trust Fund” selection based on the entry made on the **SP-35 Anticipated Resources** screen.
- AP-50 Geographic Distribution:** § 91.320(f)- revise this screen to describe the geographic areas of the state in which it will direct assistance during the ensuing program year and provide rationale for its priorities in allocating investment geographically.
- AP-55 Affordable Housing:** § 91.320(g)- revise this screen to specify goals for the number of homeless, non-homeless, and special needs households to be provided affordable housing within the program year.
- AP-65 Homeless and Other Special Needs Activities:** § 91.320(h)- revise this screen to describe how HTF will help to address the State’s one-year goals and actions for reducing and ending homelessness, if applicable.
- AP-75 Barriers to Affordable Housing:** § 91.320(i)- revise this screen to describe how HTF will help with any actions the State’s will take during the next year to reduce barriers to affordable housing, if applicable.
- AP-85 Other Actions:** § 91.320(j)- revise this screen to describe how HTF will help with any actions the State will take during the next year to carry out the following strategies outlined in the consolidated plan:
 - Foster and maintain affordable housing;
 - Evaluate and reduce lead-based paint hazards;
 - Reduce the number of poverty-level families;
 - Develop institutional structure; and
 - Enhance coordination.

In addition, the State must identify obstacles to meeting underserved needs and propose actions to overcome those obstacles using HTF funds, if applicable.

HTF Funding Priorities-§ 91.320(k)(5)(i)

The State is responsible for distributing HTF funds throughout the State according to its housing priority needs. In addition to revising the **AP- 30 Method of Distribution** screen in IDIS, the State must respond to the following questions.

1. Will the State distribute HTF funds through grants to subgrantees? If yes, describe the method for distributing HTF funds through grants to subgrantees and how the State will make those funds available to units of general local governments. If no, state N/A. Please attach response if you need additional space.

N/A

2. Will the State distribute HTF funds by selecting applications submitted by eligible recipients? If yes, describe the eligibility requirements for applicants as defined in § 93.2- definition of recipient. If no, state N/A. Please attach response if you need additional space.

The state will distribute NHTF funds to eligible recipients as described in applicable sections of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") rules at Chapter 10 of the Texas Administrative Code, Subchapter C, Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applicants (10 TAC §10.201 through 207), which sets for the minimum requirements for applicant eligibility to participate in TDHCA Multifamily programs.

The Department will require evidence of experience and capacity through the Experience Requirement at 10 TAC §10.204(6) or 10 TAC §13.5(d)(1), as applicable.

Changed as a result
of comment received
3/29-3/30/17.

HTF Funding Priorities Question 2: Eligible Applicants: §93.2; Page 4 of Notice-CPD-16-07
Guidance for HTF Grantees on FY 2016 HTF Allocation Plans

The State of Texas will distribute FY 2016 Housing Trust Fund (“HTF”) Program funds by selecting applications submitted by eligible recipients as defined in §93.2 (definition of recipient) through the Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications provisions found in Chapter 10 of the Texas Administrative Code (“TAC”), Subchapter C (10 TAC §§10.201 through 10.207). The State of Texas will not limit recipients to a specific category such as nonprofits. Please see the table below for the requirements in §93.2 and the corresponding requirements found in state rules at 10 TAC Chapter 10.

<i>Recipient requirements in §93.2</i>	State Rules
<p>(1) Make acceptable assurances to the grantee that it will comply with the requirements of the HTF program during the entire period that begins upon selection of the recipient to receive HTF funds, and ending upon the conclusion of all HTF-funded activities</p> <p>(3) Demonstrate its familiarity with the requirements of other Federal, State, or local housing programs that may be used in conjunction with HTF funds to ensure compliance with all applicable requirements and regulations of such programs;</p>	<p>10 TAC §10.204. Required Documentation for Application Submission. The purpose of this section is to identify the documentation that is required at the time of Application submission, unless specifically indicated or otherwise required by Department rule. If any of the documentation indicated in this section is not resolved, clarified or corrected to the satisfaction of the Department through either original Application submission or the Administrative Deficiency process, the Application will be terminated. Unless stated otherwise, all documentation identified in this section must not be dated more than six (6) months prior to the close of the Application Acceptance Period or the date of Application submission as applicable to the program. The Application may include, or Department staff may request, documentation or verification of compliance with any requirements related to the eligibility of an Applicant, Application, Development Site, or Development.</p> <p>(1) Certification, Acknowledgement and Consent of Development Owner. A certification of the information in this subchapter as well as Subchapter B of this chapter must be executed by the Development Owner and address the specific requirements associated with the Development. The Person executing the certification is responsible for ensuring all individuals referenced therein are in compliance with the certification, that they have given it with all required authority and with actual knowledge of the matters certified.</p> <p>(A) The Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or, if no local building codes are in place, then to the most recent version of the International Building Code.</p> <p>(B) This Application and all materials submitted to the Department constitute records of the Department subject to Tex. Gov’t Code, Chapter 552, and the Texas Public</p>

Information Act.

(C) All representations, undertakings and commitments made by Applicant in the Application process for Development assistance expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment by the Department. If any such representations, undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all shall be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.

(D) The Development Owner has read and understands the Department's fair housing educational materials posted on the Department's website as of the beginning of the Application Acceptance Period.

(E) The Development Owner agrees to implement a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Development Owner will be required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609 or, if the Development does not have Housing Tax Credits, release of retainage.

(F) The Applicant will attempt to ensure that at least 30 percent of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in Tex. Gov't Code, §2306.6734.

(G) The Development Owner will affirmatively market to veterans through direct marketing or contracts with veteran's organizations. The Development Owner will be required to identify how they will affirmatively market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.

(H) The Development Owner will comply with any and all notices required by the Department.

(I) If the Development has an existing LURA with the

Department, the Development Owner will comply with the existing restrictions.

(2) Applicant Eligibility Certification. A certification of the information in this subchapter as well as Subchapter B of this chapter must be executed by any individuals required to be listed on the organizational chart and also identified in subparagraphs (A) – (D) below. The certification must identify the various criteria relating to eligibility requirements associated with multifamily funding from the Department, including but not limited to the criteria identified under §10.202 of this chapter (relating to Ineligible Applicants and Applications).

(A) for for-profit corporations, any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation, and any individual who has Control with respect to such stock holder; (B) for non-profit corporations or governmental instrumentalities (such as housing authorities), any officer authorized by the board, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, the Audit committee chair, the Board chair, and anyone identified as the Executive Director or equivalent;

(C) for trusts, all beneficiaries that have the legal ability to Control the trust who are not just financial beneficiaries; and (D) for limited liability companies, all managers, managing members, members having a 10 percent or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company.

(3) Architect Certification Form. The certification, addressing all of the accessibility requirements, must be executed by the Development engineer, an accredited architect or Third Party accessibility specialist. (§2306.6722; §2306.6730)

10 TAC §13.1

13.1 Purpose

(a) Authority. The rules in this Chapter apply to the funds provided to Multifamily Developments through the Multifamily Direct Loan Program ("MFDL" or "Direct Loan Program") by the Texas Department of Housing and Community Affairs ("Department"). Notwithstanding anything in this Chapter to the contrary, loans and grants

	<p>issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex Gov't Code, Chapter 2306, and federal law pursuant to the requirements of Title II of the Cranston-Gonzalez National Affordable Housing Act and the implementing regulations 24 CFR Part 91, Part 92, and Part 93 as they may be applicable to a specific fund source. The Department is authorized to administer HOME funds pursuant to Tex Gov't Code §2306.111. Tex Gov't Code Chapter 2306, Subchapter I, Housing Finance Division: This Chapter is not applicable to the State Housing Trust Fund or Section 811.</p> <p>(b) General. This Chapter applies to an award of MFDL funds by the Department and establishes the general requirements associated with the application and award process for such funds. Applicants pursuing MFDL assistance from the Department are required to certify, among other things, that they have familiarized themselves with all applicable rules that govern that specific program including, but not limited to this Chapter, Chapter 1 (relating to Administration), Chapter 2 (relating to Enforcement), and Chapter 10 of this Title (relating to Uniform Multifamily Rules). Chapter 11 of this Title (relating to Housing Tax Credit Program Qualified Allocation Plan ("QAP")) and Chapter 12 of this Title (relating to Multifamily Housing Revenue Bond Rules) will apply if MFDL funds are layered with those other Department programs. Any conflict with rule of other programs or with federal regulations will be resolved on a case by case basis, that allows for compliance with all requirements. Conflicts that cannot be resolved may result in Application ineligibility.</p> <p>(c) Waivers. Requests for waivers of any program rules or requirements must be made in accordance with §10.207 of this title (relating to Waiver of Rules for Applications). In no instance will the Department consider waiver request that would violate federal program requirements or state or federal statute.</p>
<p>(2) Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity;</p> <p>(4) Have demonstrated experience and capacity to conduct an eligible HTF activity as evidenced by its ability to:</p> <p>(i) Own, construct, or rehabilitate, and manage and operate an</p>	<p>10 TAC §13.5(d)(1) Applicants requesting MFDL as the only source of Department funds may meet the Experience Requirement under §10.204(6) of this Chapter or by providing evidence of the successful development, and operation for at least 5 years, of at least twice as many affordability restricted units as requested in the Application.</p> <p>10 TAC §10.204. Required Documentation for Application Submission.</p> <p>(6) Experience Requirement. Evidence that meets the</p>

<p>affordable multifamily rental housing development; or</p> <p>(ii) Design, construct, or rehabilitate, and market affordable housing for homeownership.</p> <p>(iii) Provide forms of assistance, such as down payments, closing costs, or interest rate buydowns for purchasers.</p>	<p>criteria as stated in subparagraph (A) of this paragraph must be provided in the Application, unless an experience certificate was issued by the Department in 2014, 2015 or 2016 which may be submitted as acceptable evidence of this requirement. Experience of multiple parties may not be aggregated to meet this requirement.</p> <p>(A) A natural Person, with control of the Development through placement in service, who is also a Principal of the Developer, Development Owner, or General Partner must establish that they have experience in the development and placement in service of 150 units or more. Acceptable documentation to meet this requirement shall include any of the items in clauses (i) - (ix) of this subparagraph:</p> <p>(i) American Institute of Architects (AIA) Document (A102) or (A103) 2007 - Standard Form of Agreement between Owner and Contractor;</p> <p>(ii) AIA Document G704--Certificate of Substantial Completion;</p> <p>(iii) AIA Document G702--Application and Certificate for Payment;</p> <p>(iv) Certificate of Occupancy;</p> <p>(v) IRS Form 8609 (only one per development is required);</p> <p>(vi) HUD Form 9822;</p> <p>(vii) Development agreements;</p> <p>(viii) Partnership agreements; or</p> <p>(ix) other documentation satisfactory to the Department verifying that a Principal of the Development Owner, General Partner, or Developer has the required experience.</p> <p>(B) The names on the forms and agreements in subparagraph (A)(i) - (ix) of this paragraph must reflect that the individual seeking to provide experience is a Principal of the Development Owner, General Partner, or Developer as listed in the Application. For purposes of this requirement any individual attempting to use the experience of another individual or entity must demonstrate they had the authority to act on their behalf that substantiates the minimum 150 unit requirement.</p> <p>(C) Experience may not be established for a Person who at any time within the preceding three years has been involved with affordable housing in another state in which the Person or Affiliate has been the subject of issued IRS Form 8823 citing noncompliance that has not been or is not being corrected with reasonable due diligence.</p> <p>(D) If a Principal is determined by the Department to not have the required experience, an acceptable replacement for that Principal must be identified prior to the date the award is made by the Board.</p>
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(E) Notwithstanding the foregoing, no person may be used to establish such required experience if that Person or an Affiliate of that Person would not be eligible to be an Applicant themselves.

(7) Financing Requirements.

(A) Non-Department Debt Financing. Interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department must be included in the Application. For any Development that is a part of a larger development plan on the same site, the Department may request and evaluate information related to the other components of the development plan in instances in which the financial viability of the Development is in whole or in part dependent upon the other portions of the development plan. Any local, state or federal financing identified in this section which restricts household incomes at any level that is lower than restrictions required pursuant to this chapter or elected in accordance with Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) must be identified in the rent schedule and the local, state or federal income restrictions must include corresponding rent levels in accordance with §42(g) of the Code. The income and corresponding rent restrictions will be memorialized in a recorded LURA and monitored for compliance. Financing amounts must be consistent throughout the Application and acceptable documentation shall include those described in clauses (i) and (ii) of this subparagraph.

(i) Financing is in place as evidenced by:

(I) a valid and binding loan agreement; and

(II) a valid recorded deed(s) of trust lien on the Development in the name of the Development Owner as grantor in favor of the party providing such financing and covered by a lender's policy of title insurance in their name;

(ii) Term sheets for interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money must:

(I) have been signed by the lender;

(II) be addressed to the Development Owner or Affiliate;

(III) for a permanent loan, include a minimum loan term of fifteen (15) years with at least a thirty (30) year amortization;

(IV) include either a committed and locked interest rate, or the currently projected interest rate and the mechanism for determining the interest rate;

(V) include all required Guarantors, if known;

(VI) include the principal amount of the loan;

(VII) include an acknowledgement of the amounts and terms of all other anticipated sources of funds; and

(VIII) include and address any other material terms and conditions applicable to the financing. The term sheet may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits, if applicable; or

(iii) For Developments proposing to refinance an existing USDA Section 515 loan, a letter from the USDA confirming that it has been provided with the Preliminary Assessment Tool.

(B) Gap Financing. Any anticipated federal, state, local or private gap financing, whether soft or hard debt, must be identified and described in the Application. Applicants must provide evidence that an application for such gap financing has been made. Acceptable documentation may include a letter from the funding entity confirming receipt of an application or a term sheet from the lending agency which clearly describes the amount and terms of the financing. Other Department funding requested with Housing Tax Credit Applications must be on a concurrent funding period with the Housing Tax Credit Application, and no term sheet is required for such a request. Permanent loans must include a minimum loan term of fifteen (15) years with at least a thirty (30) year amortization or for non-amortizing loan structures a term of not less than thirty (30) years. A term loan request must also comply with the applicable terms of the NOFA under which an Applicant is applying.

(C) Owner Contributions. If the Development will be financed in part by a capital contribution by the General Partner, Managing General Partner, any other partner or investor that is not a partner providing the syndication equity, a guarantor or a Principal in an amount that exceeds 5 percent of the Total Housing Development Cost, a letter from a Third Party CPA must be submitted that verifies the capacity of the contributor to provide the capital from funds that are not otherwise committed or pledged. Additionally, a letter from the contributor's bank(s) or depository(ies) must be submitted confirming sufficient funds are readily available to the contributor. The contributor must certify that the funds are and will remain readily available at Commitment and until the required investment is completed. Regardless of the amount, all capital contributions other than syndication equity will be deemed to be a part of and therefore will be added to the Deferred Developer Fee for feasibility purposes under §10.302(i)(2) of this chapter (relating to Underwriting Rules and Guidelines) or where scoring is concerned, unless

the Development is a Supportive Housing Development, the Development is not supported with Housing Tax Credits, or the ownership structure includes a nonprofit organization with a documented history of fundraising sufficient to support the development of affordable housing.

(D) Equity Financing. (§2306.6705(2) and (3)) If applicable to the program, the Application must include a term sheet from a syndicator that, at a minimum, includes:

- (i) an estimate of the amount of equity dollars expected to be raised for the Development;
- (ii) the amount of Housing Tax Credits requested for allocation to the Development Owner;
- (iii) pay-in schedules;
- (iv) anticipated developer fees paid during construction; (v) syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis; and
- (vi) include an acknowledgement of the amounts and terms of all other anticipated sources of funds.

(E) Financing Narrative. (§2306.6705(1)) A narrative must be submitted that describes all aspects of the complete financing plan for the Development, including but not limited to, the sources and uses of funds; construction, permanent and bridge loans, rents, operating subsidies, project-based assistance, and replacement reserves; and the status (dates and deadlines) for applications, approvals and closings, etc. associated with the commitments for all funding sources. For applicants requesting HOME funds, Match in the amount of at least 5 percent of the HOME funds requested must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of HOME funds. The information provided must be consistent with all other documentation in the Application.

(8) Operating and Development Cost Documentation.

(A) 15-year Pro forma. All Applications must include a 15-year pro forma estimate of operating expenses, in the form provided by the Department. Any "other" debt service included in the pro forma must include a description.

(B) Utility Allowances. This exhibit, as provided in the Application, must be submitted along with documentation from the source of the utility allowance estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate and must comply with the requirements of §10.614 of this chapter (relating to Utility Allowances), including deadlines for submission. Where the

Applicant uses any method that requires Department review, documentation indicating that the requested method has been granted by the Department must be included in the Application.

(C) Operating Expenses. This exhibit, as provided in the Application, must be submitted indicating the anticipated operating expenses associated with the Development. Any expenses noted as "other" in any of the categories must be identified. "Miscellaneous" or other nondescript designations are not acceptable.

(D) Rent Schedule. This exhibit, as provided in the Application, must indicate the type of Unit designation based on the Unit's rent and income restrictions. The rent and utility limits available at the time the Application is submitted should be used to complete this exhibit. Gross rents cannot exceed the maximum rent limits unless documentation of project-based rental assistance is provided and rents are consistent with such assistance and applicable legal requirements. The unit mix and net rentable square footages must be consistent with the site plan and architectural drawings. For Units restricted in connection with Direct Loans, the restricted Units will generally be designated "floating" unless specifically disallowed under the program specific rules. For Applications that propose utilizing Direct Loan funds, at least 90 percent of the Units restricted in connection with the Direct Loan program must be available to households or families whose incomes do not exceed 60 percent of the Area Median Income.

(E) Development Costs. This exhibit, as provided in the Application, must include the contact information for the person providing the cost estimate and must meet the requirements of clauses (i) and (ii) of this subparagraph.

(i) Applicants must provide a detailed cost breakdown of projected Site Work costs (excluding site amenities), if any, prepared by a Third Party engineer or cost estimator. If Site Work costs (excluding site amenities) exceed \$15,000 per Unit and are included in Eligible Basis, a letter must be provided from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis.

(ii) If costs for Off-Site Construction are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the Off-Site Cost Breakdown prepared by a Third Party engineer must be provided. The certification from a Third Party engineer must describe the necessity of the off-site improvements, including the relevant requirements of the local jurisdiction with authority over building codes. If any

Off-Site Construction costs are included in Eligible Basis, a letter must be provided from a certified public accountant allocating which portions of those costs should be included in Eligible Basis. If off-site costs are included in Eligible Basis based on PLR 200916007, a statement of findings from a CPA must be provided which describes the facts relevant to the Development and affirmatively certifies that the fact pattern of the Development matches the fact pattern in PLR 200916007.

(F) Rental Assistance/Subsidy. (§2306.6705(4)) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds or proof of application for such funds must be provided. Such documentation shall, at a minimum, identify the source and annual amount of the funds, the number of units receiving the funds, and the term and expiration date of the contract or other agreement.

(G) Occupied Developments. The items identified in clauses (i) - (vi) of this subparagraph must be submitted with any Application where any structure on the Development Site is occupied at any time after the Application Acceptance Period begins or if the Application proposes the demolition of any housing occupied at any time after the Application Acceptance Period begins. If the current property owner is unwilling to provide the required documentation then a signed statement from the Applicant attesting to that fact must be submitted. If one or more of the items described in clauses (i) - (vi) of this subparagraph is not applicable based upon the type of occupied structures on the Development Site, the Applicant must provide an explanation of such non-applicability. Applicant must submit:

(i) at least one of the items identified in subclauses (I) - (IV) of this clause:

(I) historical monthly operating statements of the Existing Residential Development for twelve (12) consecutive months ending not more than three (3) months from the first day of the Application Acceptance Period;

(II) the two (2) most recent consecutive annual operating statement summaries;

(III) the most recent consecutive six (6) months of operating statements and the most recent available annual operating summary; or

(IV) all monthly or annual operating summaries available; and

(ii) a rent roll not more than six (6) months old as of the first day the Application Acceptance Period that discloses the terms and rate of the lease, rental rates offered at the date of

	<p>the rent roll, Unit mix, and tenant names or vacancy;</p> <p>(iii) a written explanation of the process used to notify and consult with the tenants in preparing the Application; (§2306.6705(6))</p> <p>(iv) a relocation plan outlining relocation requirements and a budget with an identified funding source; (§2306.6705(6))</p> <p>(v) any documentation necessary for the Department to facilitate, or advise an Applicant with respect to or to ensure compliance with the Uniform Relocation Act and any other relocation laws or regulations as may be applicable; and</p> <p>(vi) if applicable, evidence that the relocation plan has been submitted to all appropriate legal or governmental agencies or bodies. (§2306.6705(6))</p>
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3. Will the State distribute HTF funds by selecting application submitted by eligible recipients? If yes, describe all the criteria that will be used to select applications and the relative importance of these criteria. At a minimum, as required in § 91.320(k)(5)(i), the selection criteria must include:

- Priority based upon geographic diversity
- Applicant's ability to obligate HTF funds
- Applicant's ability to undertake eligible activities in a timely manner
- For rental housing, the extent to which the project has Federal, State or local project-based rental assistance so rents are affordable to extremely low-income families
- For rental housing, the duration of the units' affordability period
- The merits of the application in meeting the State's priority housing needs (please describe)
- The extent to which application makes use of non-federal funding sources
- Other (please describe). Please attach response if you need additional space.

Priority based upon geographic diversity

As described in SP-10 Geographic Priorities The Texas NHTF will distribute NHTF funds through a competitive NOFA process. The funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition.

Applicant's ability to obligate HTF funds

The applicant's experience in completion of similar projects, as evidence by TDHCA's Experience Requirement, along with the ability to present a complete application package are threshold requirements that indicate the ability to timely obligate NHTF funds.

Applicant's ability to undertake eligible activities in a timely manner

Application criteria including readiness to proceed as evidenced by site control, appropriate zoning, architectural plans, and evidence of financing will be considered.

For rental housing, the extent to which the project has Federal, State or local project-based rental assistance so rents are affordable to extremely low-income families

Of highest priority in the evaluation of applications will be the creation of new units serving ELI households that would not otherwise exist. While the availability of project-based rental assistance will be considered, only applications that demonstrate the ability to meet Underwriting requirements will be funded.

For rental housing, the duration of the units' affordability period

The minimum 30-year affordability period will be secured with a Land Use Restriction Agreement ("LURA") as a threshold requirement. While Applications that propose a longer affordability period could have a scoring advantage, they still must provide evidence of feasibility for the entire affordability period.

(continued on page 13)

The merits of the application in meeting the State's priority housing needs

The TX NHTF will prioritize housing needs of Extremely Low Income Households in accordance with the Analysis of Impediments and the high opportunity measures of the Texas Qualified Allocation Plan.

The extent to which application makes use of non-federal funding sources

The proportion of leveraged of non-federal fund sources in relation to the NHTF funds requested will be part of the scoring criteria for competitive applications. Applications with the highest proportionate leverage will have an advantage in scoring.

HTF Funding Priorities Question 3: Relative Importance of Selection Criteria:

§91.320(k)(5)(i); Pages 4-5 of Notice-CPD-16-07 *Guidance for HTF Grantees on FY 2016 HTF Allocation Plans*

The first priority, geographic distribution, will utilize a regional allocation formula (“RAF”), ensuring that within each of thirteen designated service regions there will be an allocable portion of such funds prioritized to eligible applicants in each such region.

The State of Texas will consider Geographic Diversity, Ability to Enter into a Commitment for HTF Funds/Timeliness, Project Based Rental Assistance (PBRA), Affordability Period, Leveraging, and Merits of the application in meeting the State’s priority housing needs equally as threshold criteria. No scoring will be used in any of these factors in evaluating an application.

Geographic Diversity: The State of Texas will rely on 10 TAC §13.4(b) in making funds available geographically based on the proportion of ELI renter households to the total population of renter households in each of the thirteen State Service Regions for at least the first 30 days after the Notice of Funding Availability (“NOFA”) is published in the Texas Register. Thereafter, consideration of geographic diversity will not be a factor in evaluating applications. Please see attached Regional Allocation amounts as well as a map of the Uniform State Service Regions.

10 TAC §13.4(b) Regional Allocation. All funds in the annual NOFA will be initially allocated to regions and potentially subregions based on a Regional Allocation Formula (“RAF”) within the set-asides. The RAF methodology may differ by fund source. HOME funds will be allocated in accordance with Tex. Gov't Code Chapter 2306. The end date for the RAF will be identified in the NOFA, but in no instance shall it be less than 30 days from the date the NOFA is published in the Texas Register.

(1) After expiration of the period during which funds are reserved in regions under the RAF, funds collapse but may still be available within set-asides as identified in the NOFA but for an additional period not less than 15 days. All Applications received prior to these first two collapse period deadlines will continue to hold their priority unless they are withdrawn, terminated, or funded.

(2) Funds remaining after expiration of set-asides, which have not been requested in the form of a complete application, will be available statewide on a first-come first-served basis to Applications submitted after the collapse dates.

(3) In instances where the RAF would result in regional allocations insufficient to fund an application, the Department may use an alternative method of distribution, including an early collapse, revised formula or other methods as approved by the Board.

Ability to Enter into a Commitment for HTF funds/Timeliness: The State of Texas will assess an applicant’s experience in completion of similar projects, as evidenced by TDHCA’s Experience Requirement in 10 TAC §10.204(6) or 10 TAC §13.5(d)(1) as applicable, which is mentioned in the table HTF Funding Priorities Question 2 above, along with the ability to present a complete

application package as threshold requirements. Additionally, readiness to proceed as evidenced by site control, appropriate zoning, architectural plans, and evidence of financing will be evaluated as threshold criteria as well. Since all of these items are threshold criteria, they will not be subject to point distribution/weighting; rather, these items are binary in that either the applicant submits these items with the application or they do not.

Project-Based Rental Assistance (PBRA): The State of Texas will consider PBRA to the extent that the existence of it allows or the lack of it does not allow an application to meet TDHCA's underwriting requirements. There will be no point distribution/weighting of this item. 1011 TAC §13.8 from the Multifamily Direct Loan Rule and 10 TAC §§10.301 through .306 of the Uniform Multifamily Rule will comprise TDHCA's underwriting requirements. Please see attached [attach documents]

Affordability Period: The State of Texas will not prioritize applicants that propose affordability requirements in excess of 30 years. However, applicants also requesting 9% Housing Tax Credits are incentivized to commit to a longer affordability period in accordance with 10 TAC §11.9(e)(5) of the Qualified Allocation Plan, which states: In accordance with the Code, each Development is required to maintain its affordability for a 15-year Compliance Period and, subject to certain exceptions, an additional 15-year Extended Use Period. Development Owners that agree to extend the Affordability Period for a Development to thirty-five (35) years total may receive two (2) points.

Leveraging: Generally, the State of Texas prefers applications proposing developments utilizing the highest proportion of non-federal contributions, but will not evaluate HTF applications based on this preference if HTF is the only source of funds that the application is requesting. Applications layered with 9% Housing Tax Credits will be subject to scoring in 10 TAC §11.9(e)(4), which states:

(A) An Application may qualify to receive up to three (3) points if at least five (5) percent of the total Units are restricted to serve households at or below 30 percent of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) - (iv) of this subparagraph: (i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9 percent of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or (ii) If the Housing Tax Credit funding request is less than seven (7) eight (8) percent of the Total Housing Development Cost (3 points); or (iii) If the Housing Tax Credit funding request is less than eight (8) nine (9) percent of the Total Housing Development Cost (2 points); or (iv) If the Housing Tax Credit funding request is less than nine (9) ten (10) percent of the Total Housing Development Cost (1 point).

(B) The calculation of the percentages stated in subparagraph (A) of this paragraph will be based strictly on the figures listed in the Funding Request and Development Cost Schedule. Should staff issue an Administrative Deficiency that requires a change in either form, then the calculation will be performed again and the score adjusted, as necessary. However, points may not increase based on changes to the Application. In order to be eligible for points, no more than 50 percent of the developer fee can be deferred. Where costs or financing change after completion of underwriting or

award (whichever occurs later), the points attributed to an Application under this scoring item will not be reassessed unless there is clear evidence that the information in the Application was intentionally misleading or incorrect.

(5) Extended Affordability. (§§2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); and 42(m)(1)(B)(ii)(II)) In accordance with the Code, each Development is required to maintain its affordability for a 15-year Compliance Period and, subject to certain exceptions, an additional 15-year Extended Use Period. Development Owners that agree to extend the Affordability Period for a Development to thirty-five (35) years total may receive two (2) points.

(6) Historic Preservation. (§2306.6725(a)(5)) At least seventy-five percent of the residential units shall reside within the Certified Historic Structure and the Development must reasonably be expected to qualify to receive and document receipt of historic tax credits by issuance of Forms 8609. The Application must include either documentation from the Texas Historical Commission that the property is currently a Certified Historic Structure, or documentation determining preliminary eligibility for Certified Historic Structure status (5 points).

(7) Right of First Refusal. (§2306.6725(b)(1); §42(m)(1)(C)(viii)) An Application may qualify to receive (1 point) for Development Owners that will agree to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period in accordance with Tex Gov't Code, §2306.6726 and the Department's rules including §10.407 of this title (relating to Right of First Refusal) and §10.408 of this title (relating to Qualified Contract Requirements).

(8) Funding Request Amount. An Application may qualify to receive one (1) point if the Application reflects a Funding Request of Housing Tax Credits, as identified in the original Application submission, of no more than 100% of the amount available within the sub-region or set-aside as determined by the application of the regional allocation formula on or before December 1, 2015.

Additionally, §13.6(d) of the Multifamily Direct Loan Rule prioritizes applications that meet a lower per-unit subsidy limit, thereby requiring less HTF funding:

(d) Subsidy per Unit. An application that caps the per unit subsidy limit (inclusive of match) for all Direct Loan units regardless of unit size at:

(1) \$100,000 per MFDL unit (4 points).

(2) \$80,000 per MFDL unit (8 points).

(3) \$60,000 per MFDL unit (10 points).

Merits of the application in meeting the State's priority housing needs: The State of Texas will prioritize HTF funding for the needs of ELI households in accordance with its Analysis of Impediments (AI) and high opportunity measures of the QAP. Goal No. 1 of the AI states: "Create greater mobility and improve housing opportunities for low income households and members of protected classes. §13.6(a) of the Multifamily Direct Loan Rule allows for HTF applicants to claim points as follows: "(a) Applicants eligible for points under 10 TAC §11.9(c)(4) related to the Opportunity Index (7 points)." 10 TAC §11.9(c)(4) states:

(4) Opportunity Index. The Department may refer to locations qualifying for points under this scoring item as high opportunity areas in some materials.

(A) A Proposed Development is eligible for a maximum of seven (7) up to two (2) opportunity index points if it is located in a census tract with a poverty rate of less than the greater of 20% or the median poverty rate for the region and meets the requirements in (i) or (ii) below.

(i) The Development Site is located in a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region and an income rate in the two highest quartiles within the uniform service region. (2 points)

(ii) The Development Site is located in a census tract that has a poverty rate of less than the greater of 20% or the median poverty rate for the region, with income in the third quartile within the region, and is contiguous to a census tract in the first or second quartile, without physical barriers such as highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more; and, (1 points)

(B) An application that meets the foregoing criteria may qualify for five (5) additional points up to (for a maximum of seven (7) points) for any one or more of the following factors. Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:

(i) For Developments located in an Urban Area, an Application may qualify to receive points through a combination of requirements in clauses (1I) through (15XIII) of this subparagraph.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards (1 point)

(II) The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service (1 point)

(III) The Development site is located within 1 mile of a full-service grocery store or pharmacy. A full service grocery store is a store of sufficient size and volume to provide for the needs of the surrounding neighborhood including the proposed development; and the space of the store is dedicated primarily to offering a wide variety of fresh, frozen canned and prepared foods, including but not limited to a variety of fresh meats, poultry, and seafood; a wide selection of fresh produce including a selection of different fruits and vegetables; a selection of baked goods and a wide array of dairy products including cheeses, and a wide variety of household goods, paper goods and toiletry items (1 point)

(IV) The Development is located within 3 miles of either an emergency room or an urgent care facility The Development is located within 3 miles of a health-related facility, such a full service hospital, community health center, minor emergency center, emergency room or urgent care facility. Physician specialty offices are not considered in this category (1 point)

(V) The Development Site is within 2 miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program or to provide a child care program for infants, toddlers, and/or prekindergarten (1 point)

(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources (1 point)

(VII) The development site is located within 1 mile of a public library (1 point)

(VIII) The Development Site is located within 5 miles of a University or Community College campus. To be considered a university for these purposes, the provider of higher education must have the authority to confer bachelor's degrees. Two-year colleges are considered Community Colleges. Universities and Community Colleges must have a physical location within the required distance; online-only institutions do not qualify under this item (1 point)

(IX) Development Site is located in a census tract where the percentage of adults age 25 and older with an Associate's Degree or higher is 27% or higher as tabulated by the 2010-2014 American Community Survey 5-year Estimate (1 point)

(X) Development site is within 2 miles of a government-sponsored museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an

organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value (1 point)

(XI) Development site is within 1 mile of an indoor recreation facility available to the public (1 point)

(XII) Development site is within 1 mile of an outdoor recreation facility available to the public (1 point)

(XIII) Development site is within 1 mile of community, civic or service organizations that provide regular and recurring services available to the entire community (this could include religious organizations or organizations like the Kiwanis or Rotary Club) (1 point)

(ii) For Developments located in a Rural Area, an Application may qualify to receive points through a combination of requirements in clauses (1I) through (13XII) of this subparagraph.

(I) The Development site is located within 2 miles 4 miles of a full-service grocery store or pharmacy. A full service grocery store is a store of sufficient size and volume to provide for the needs of the surrounding neighborhood including the proposed development; and the space of the store is dedicated primarily to offering a wide variety of fresh, frozen canned and prepared foods, including but not limited to a variety of fresh meats, poultry, and seafood; a wide selection of fresh produce including a selection of different fruits and vegetables; a selection of baked goods and a wide array of dairy products including cheeses, and a wide variety of household goods, paper goods and toiletry items (1 point)

(II) The Development is located within 4 miles of health-related facility, such a full service hospital, community health center, or minor emergency center. Physician specialty offices are not considered in this category (1 point)

(III) The Development Site is within 3 miles 4 miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program or to provide a child care program for infants, toddlers, and/or prekindergarten (1 point)

(IV) The Development Site is located in a census tract with a property crime rate 26 per 1,000 or less, as defined by neighborhoodscout.com, or local data sources (1 point)

(V) The development site is located within 3 miles 4 miles of a public library (1 point)

(VI) The development site is located within 3 miles 4 miles of a public park (1 point)

(VII) The Development Site is located within 7 miles 15 miles of a University or Community College campus (1 point)

(VIII) The Development Site is located within 5 miles of a retail shopping center with XX square feet of stores (1point)

(IXVIII) Development Site is located in a census tract where the percentage of adults age 25 and older with an Associate's Degree or higher is 27% or higher as tabulated by the 2010-2014 American Community Survey 5-year Estimate (1 point)

(XIX) Development site is within 2 miles 4 miles of a government-sponsored museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value (1 point)

(XIX) Development site is within 1 mile 3 miles of an indoor recreation facility available to the public (1 point)

(XIIIXI) Development site is within 1 mile 3 miles of an outdoor recreation facility available to the public (1 point)

(XIIIXII) Development site is within 1 mile 3 miles of community, civic or service organizations that provide regular and recurring services available to the entire community (this could include religious organizations or organizations like the Kiwanis or Rotary Club) (1 point)

Other Criteria Evaluated in Applicant Selection: All threshold and scoring criteria listed in the 2017 Multifamily Direct Loan Rule (10 TAC Chapter 13) will be applicable to Housing Trust Fund applicants.

Recipient Application Requirements- § 91.320(k)(5)(ii)

1. Will the State require that all recipient applications contain a description of the eligible activities to be conducted with HTF funds as required in § 93.200- Eligible activities?

Yes

No

2. Will the State require that each eligible recipient certify that housing assisted with HTF funds will comply with HTF requirements?

Yes

No

Performance Goals and Benchmarks- § 91.320(k)(5)(iii)

The plan must include performance goals and benchmarks against which the State will measure its progress, consistent with the State’s goals established at § 91.315(b)(2). To comply with this requirement, the State will include HTF housing goals in the housing table on the **SP-45 Goals** and **AP-20 Annual Goals and Objectives** screens in the eCon Planning Suite consolidated plan template in IDIS.

VI. OTHER REQUIREMENTS

Maximum Per-unit Development Subsidy Amount- § 91.320(k)(5) and § 93.300(a)

The State must establish its own maximum limitations on the total amount of HTF funds that can be invested per-unit for development of non-luxury housing. The limits must be reasonable, based on actual costs, and adjusted for the number of bedrooms and geographic location of the project. The State may choose to develop its own limits or adopt limits used in other federal programs such as HOME or Low-Income Housing Tax Credit and must submit them with its HTF allocation plan. The State must submit a description of how the HTF maximum per-unit development subsidy amounts were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements.

Indicate below what maximum per-unit development subsidy limits the State will use for its FY 2016 HTF program.

- State developed its own maximum per-unit development subsidy limits and the limits are attached.

- State adopted limits used in other federal programs and the limits are attached.

Maximum Per-Unit Development Subsidy Limits: The State of Texas adopted the Basic Statutory Mortgage Limits for Calendar Year 2015 and the Annual Base City High Cost Percentage and High Cost Area Revisions for 2015 memo dated November 15, 2015, as the limits that will be used for HTF. The attached limits do not vary based on geographic location in Texas since the limits were approved by HUD for use throughout the state. They will be used statewide for ease of use both for applicants and TDHCA staff.

After reviewing the costs per unit on 39 projects that have received HOME funds – as both the only source of Department funding and as a gap financing source on 9% and 4% Housing Tax Credit-layered projects – over the past several years, the Department has found the following:

	Total Cost Per Unit (total development costs divided by total number of units)	HOME Cost Per HOME Unit (HOME funds invested divided by number of HOME units)
Urban New Construction Average	\$155,381	\$83,680
Rural New Construction Average	\$148,907	\$94,195

These projects were subject to Section 234 Condominium Housing Limits (formerly 221d3 Maximum Per Unit Subsidy Limits) with the applicable base city high cost percentages applied.

Given this fact, Texas will **not** establish its own maximum limitations on the total amount of NHTF funds that can be invested on a per-unit basis for the development of nonluxury housing. Texas will use the Section 234 Condominium Housing Limits with the applicable base high cost percentage applied for NHTF – as illustrated in the tables below – in the same way that these limits are used for HOME funds. Utilizing the same per-unit subsidy limits across all of the Department’s Multifamily Direct Loan funding sources (HOME, NHTF, and TCAP Repayment Funds) will allow for an easier application and review process that will preserve the Department’s ability to award funds based on what is available rather than prescribe a funding source at the time of application. Additionally, these per-unit subsidy limits accurately reflect what the Department has observed in the market regarding construction costs; no area of the state seems immune from the increasing construction costs.

Bedrooms	Elevator served? N		Elevator served? Y	
0	\$	118,563	\$	124,770
1	\$	136,703	\$	143,031
2	\$	164,869	\$	173,924
3	\$	211,037	\$	225,002
4	\$	235,104	\$	246,983

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* January 19, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT:

Thann Young, Office of Rural Housing and Economic Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7240, Washington, DC 20410; email Thann Young at Thann.Young@hud.gov or telephone 202–708–2290. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Indian Community Capital Initiative.

OMB Approval Number: 2506—New.

Type of Request: New Collection.

Form Numbers: SF 424; HUD 424CB; HUD 424–CBW; SF–LLL; HUD 2880; HUD 2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The Indian Community Capital Initiative

(ICCI) is a collaborative effort among three federal agencies—the Department of Housing and Urban Development (HUD), the Department of the Treasury—Community Development Financial Institutions Fund (CDFI Fund), and the Department of Agriculture—Rural Development (USDA–RD). The ICCI’s goal is to increase access to capital for business lending and economic development and entrepreneurship for Federally recognized Indian tribes.

Federally recognized Indian tribe means any tribal entity eligible to apply for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe. The list of Federally recognized Indian tribes can be found in the notice published by the Department of the Interior on January 14, 2015 (Federal Register/Vol. 80, No. 9/Wednesday, January 14, 2015/ Notices).

Respondents (i.e. affected public): Public.

Estimated Number of Respondents: 566.

Estimated Number of Responses: 566.

Frequency of Response: 1.

Average Hours per Response: 7211.

Total Estimated Burdens:

	Respondents	Annual responses	Total responses	Burden per response	Total annual hours	Burden cost per instrument
HUD–424CB	566	1	566	3.12	1,766	44,150
HUD–424CBW	566	1	566	3.12	1,766	44,150
HUD–2880	566	1	566	2.0	1,132	28,300
HUD–2990	566	1	566	0	0	0
HUD–2991	566	1	566	0	0	0
HUD–2993	566	1	566	0	0	0
HUD–2994A	566	1	566	.5	283	7,075
HUD–27061	566	1	566	1.0	566	14,150
HUD–27300	566	1	566	3.0	1,698	42,450
Total	5,094	5,094	7,211	180,275

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency’s estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through

the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 4, 2015.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2015–29461 Filed 11–17–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5886–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with Section 206A of the National Housing Act, HUD has adjusted the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2015.

DATES: Effective date: January 1, 2015.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Sullivan, Deputy Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone (202) 402-6130 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The FHA Down Payment Simplification Act of 2002 (Pub. L. 107-326, approved December 4, 2002) amended the National Housing Act by adding a new Section 206A (12 U.S.C. 1712a). Under Section 206A, the following are affected:

- I. Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
- II. Section 213(b)(2)(A) (12 U.S.C. 1715e (b)(2)(A));
- III. Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k (d)(3)(B)(iii)(I));
- IV. Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
- V. Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
- VI. Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The Dollar Amounts in these sections are the base per unit statutory limits for FHA's multifamily mortgage programs collectively referred to as the 'Dollar Amounts,' they are adjusted annually (commencing in 2004) on the effective date of the Consumer Financial Protection Bureau's adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103-325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Bureau of Consumer Financial Protection for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI-U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI-U is 2.0% and the effective date of the HOEPA adjustment is January 1, 2014. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2015.

The adjusted Dollar Amounts for Calendar Year 2015 are shown below:

BASIC STATUTORY MORTGAGE LIMITS FOR CALENDAR YEAR 2015*Multifamily Loan Program*

- Section 207—Multifamily Housing
- Section 207 pursuant to Section 223(f)—Purchase or Refinance Housing
- Section 220—Housing in Urban Renewal Areas

Bedrooms	Non-Elevator	Elevator
0	\$50,164	\$57,886
1	\$55,569	\$64,832
2	\$66,376	\$79,497
3	\$81,813	\$99,566
4+	\$92,622	\$112,581

- Section 213—Cooperatives

Bedrooms	Non-Elevator	Elevator
0	\$54,364	\$57,886
1	\$62,683	\$65,583
2	\$75,598	\$79,749
3	\$96,766	\$103,170
4+	\$107,803	\$113,251

- Section 234—Condominium Housing

Bedrooms	Non-Elevator	Elevator
0	\$55,474	\$58,378
1	\$63,962	\$66,923
2	\$77,140	\$81,377
3	\$98,742	\$105,276
4+	\$110,002	\$115,560

- Section 221(d)(4)—Moderate Income Housing

Bedrooms	Non-Elevator	Elevator
0	\$49,924	\$53,928
1	\$56,671	\$61,822
2	\$68,501	\$75,176
3	\$85,980	\$97,251
4+	\$97,156	\$106,754

- Section 231—Housing for the Elderly

Bedrooms	Non-Elevator	Elevator
0	\$47,465	\$53,928
1	\$53,062	\$61,822
2	\$63,364	\$75,176
3	\$76,255	\$97,251
4+	\$89,650	\$106,754

- Section 207—Manufactured Home Parks per Space—\$23,030

Dated: November 9, 2015.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2015-29469 Filed 11-17-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[FWS-R8-FHC-2015-N217:
FXFR1334088TWG0W4-123-FF08EACT00]

Trinity River Adaptive Management Working Group; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Trinity River Adaptive Management Working Group (TAMWG). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: *Public meeting:* TAMWG will meet from 9:30 a.m. to 4:30 p.m. Pacific Time on Thursday, December 10, 2015. *Deadlines:* For deadlines on submitting written material, please see "Public Input" under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Trinity River Restoration Program Office, 1313 South Main Street, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polos, by mail at U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; by telephone at 707-822-7201 or by email at joe_polos@fws.gov or Elizabeth W. Hadley, Redding Electric Utility, by mail at 777 Cypress Avenue, Redding, CA 96001; by telephone at 530-339-7308 or by email at ehadley@reupower.com. Individuals with a disability may request an accommodation by sending an email to either point of contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity River Adaptive Management Working Group will hold a meeting.

Background

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the TMC. The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

November 18, 2015

MORTGAGEE LETTER 2015-28

TO: ALL FHA APPROVED MULTIFAMILY MORTGAGEES

SUBJECT: Annual Base City High Cost Percentage and High Cost Area Revisions
for 2015

Maximum mortgage amounts were revised by the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007) (FY 2008 Appropriations Act). Section 221 of the General Provisions of Title II of Division K of the FY 2008 Appropriations Act revises the statutory exceptions to maximum mortgage amounts for the FHA Multifamily Housing Programs, listed in Section 221 of the FY 2008 Appropriations Act, by (1) substituting 170 percent for the 140 percent exception of any geographical area, and (2) substituting 215 percent for 170 percent as the maximum exception allowed for a specific project. Accordingly, the statutory revision allows the Secretary to grant exceptions to maximum mortgage limits for certain Multifamily Housing Programs by (1) up to 170 percent, (equivalent to a 270 percent multiplier) in geographical areas where cost levels so require or (2) up to 170 percent, or 215 percent in High Cost Areas, (equivalent to a 315 percent multiplier) where necessary on a project-by-project basis.

The law does not determine which areas are to be considered "High Cost Areas." Accordingly, the Office of Multifamily Production has developed a list of High Cost Areas for 2015. The threshold for a High Cost Area has been set for all areas (Special Limit Areas excepted) with a "calculated" High Cost Percentage (HCP) of 281.70 or greater, but because of the statutory cap of 170% or 270 multiplier, some localities have a higher HCP but still have the 270 multiplier.

The attached designated Annual Base City High Cost Percentages and High Cost Areas are effective January 1, 2015.

SPECIAL LIMIT AREAS

Guam, the U.S. Virgin Islands, and the states of Alaska and Hawaii are Special Limit areas. Care should be taken to ensure that the appropriate limits are used for corresponding programs. The HCP for Special Limit Areas is 405%.

Paperwork Reduction Act

There are no information collection requirements in this Notice and therefore the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) does not apply. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Edward L. Golding
Principal Deputy Assistant Secretary

Attachment

FHA MULTIFAMILY STATUTORY MORTGAGE PROGRAMS
BASE CITY HIGH COST PERCENTAGES

Effective January 1, 2015

<u>Boston MA Hub</u>	270%	<u>Detroit MI Hub</u>	270%
Hartford CT	270%	Grand Rapids MI	246%
Bangor ME	270%		
Manchester NH	270%	<u>Minneapolis MN Hub</u>	270%
Providence RI	270%	Milwaukee WI	270%
Burlington VT	270%		
		<u>Fort Worth TX Hub</u>	217%
<u>New York NY Hub</u>	270%	Little Rock AR	217%
Buffalo NY	270%	New Orleans LA	221%
Albany NY	270%	Shreveport LA	216%
		Albuquerque NM	247%
<u>Philadelphia PA Hub</u>	270%	Dallas TX	217%
Charlestown WV	270%	Houston TX	213%
Camden NJ	270%	Lubbock TX	209%
Newark NJ	270%	San Antonio TX	193%
Pittsburg PA	270%		
Wilmington DE	270%	<u>Kansas City MO Hub</u>	270%
		Des Moines IA	217%
<u>Baltimore MD Hub</u>	270%	Topeka KS	238%
Washington DC	270%	St. Louis MO	270%
Richmond VA	265%	Omaha NE	228%
		Oklahoma City OK	230%
<u>Greensboro NC Hub</u>	239%	Tulsa OK	226%
Columbia SC	244%		
		<u>Denver CO Hub</u>	270%
<u>Atlanta GA Hub</u>	258%	Helena MT	251%
Louisville KY	245%	Fargo ND	248%
Knoxville TN	227%	Sioux Falls SD	234%
Memphis TN	219%	Salt Lake City UT	266%
Nashville TN	223%	Casper WY	261%
San Juan PR	270%		
US Virgin Isl. (spec limit)	405%	<u>Los Angeles CA Hub</u>	270%
		Santa Ana CA (LA)	270%
<u>Jacksonville FL Hub</u>	250%	San Diego CA	270%
Birmingham AL	221%		
Jackson MS	217%	<u>San Francisco CA Hub</u>	270%
Miami FL	256%	Phoenix AZ	254%
Tampa FL	268%	Sacramento CA	270%
		Honolulu HI (spec limit)	405%
<u>Chicago IL Hub</u>	270%	Las Vegas NV	270%
Springfield IL	270%		
Indianapolis IN	251%	<u>Seattle WA Hub</u>	270%
		Anchorage AK (spec limit)	405%
<u>Columbus OH Hub</u>	256%	Boise ID	270%
Cleveland OH	270%	Portland OR	270%
Cincinnati OH	245%	Spokane WA	270%

Note: Offices with a “calculated” HCP of 281.70 (before the statutory cap of 270) or higher are designated “High Cost Areas” and are shaded. The Multifamily for Tomorrow (MFT) Transformation will be effective for all Hubs after Wave 5 is complete for the Western Region in approximately Summer of 2016. The next Mortgagee Letter on this topic will reflect the MFT changes with respect to the new organizational structure.

Andrew Sinnott

From: Jennifer Molinari
Sent: Tuesday, December 15, 2015 11:31 AM
To: Megan Sylvester; Abigail Versyp; Andrew Sinnott
Cc: Marni Holloway
Subject: FW: HUD Publishes New 2015 Limits for HOME Maximum Per-Unit Subsidies

This may be the only approval response we get. I don't think we need to press this since Ellen approved in May, and we acknowledged that we knew the percentage went down to 217% (below). Let's run with this.

Jennifer Molinari

HOME Single Family Division Director
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2224
Fax: 512.475.1671

About TDHCA

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

From: Eberlein, Stephen L [<mailto:stephen.l.eberlein@hud.gov>]
Sent: Monday, December 14, 2015 2:41 PM
To: Jennifer Molinari
Cc: Melendez, Ellen M
Subject: RE: HUD Publishes New 2015 Limits for HOME Maximum Per-Unit Subsidies

That is what the HOME Fire says.

Stephen Eberlein
Program Manager, Team 1
817.978.5956 - office
817.978.5573 - fax
stephen.l.eberlein@hud.gov

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning

"Note: This message is intended solely for the use of addressee. The information contained herein is purely advisory in nature and does not constitute an official position on the subject matter. In order to obtain an official opinion on a subject a signed written request should be submitted to this office."

From: Jennifer Molinari [<mailto:jennifer.molinari@tdhca.state.tx.us>]
Sent: Monday, December 14, 2015 2:16 PM
To: Melendez, Ellen M; Eberlein, Stephen L
Cc: Brooke Boston; Marni Holloway; Abigail Versyp; Andrew Sinnott; Megan Sylvester
Subject: HUD Publishes New 2015 Limits for HOME Maximum Per-Unit Subsidies

Good afternoon Ellen & Steve.

Pursuant to HOME Fire Vol. 12 Number 1, we are requesting confirmation that we can use the 217% high cost adjustment to the 234 limits effective November 18, 2015 for the State of Texas.

<https://www.hudexchange.info/news/hud-publishes-new-2015-limits-for-home-maximum-per-unit-subsidies/>

<https://www.hudexchange.info/resources/documents/HOMEfires-Vol12-No1-Use-of-Base-City-High-Cost-Percentage-to-Determine-the-HOME-Maximum-Per-Unity-Subsidy.pdf>

Please let me know if you have any questions.

Thanks,

Jennifer Molinari

HOME Single Family Division Director
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2224
Fax: 512.475.1671

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Andrew Sinnott

From: Melendez, Ellen M [Ellen.M.Melendez@hud.gov]
Sent: Monday, July 13, 2015 8:51 AM
To: Andrew Sinnott
Subject: RE: HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

Andrew,

We've received confirmation from OAHF that the state may use the HCP of 218% for units throughout the state.

Ellen

From: Melendez, Ellen M
Sent: Friday, July 10, 2015 3:17 PM
To: Andrew Sinnott
Subject: RE: HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

We're double checking with HQs, will let you know as soon as we hear back.

Ellen

From: Andrew Sinnott [<mailto:andrew.sinnott@tdhca.state.tx.us>]
Sent: Thursday, July 09, 2015 4:31 PM
To: Melendez, Ellen M
Subject: RE: HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

Thanks, Ellen. So just to confirm our conversation earlier today, it would be permissible for TDHCA to use the 218% high cost adjustment to the 234 Condominium Housing limits for HOME developments throughout Texas, correct?

Andrew Sinnott
Multifamily Loan Program Specialist
512.475.0538

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

From: Melendez, Ellen M [<mailto:Ellen.M.Melendez@hud.gov>]
Sent: Thursday, July 09, 2015 8:39 AM
To: andrew.sinnott@tdhca.state.tx.us
Subject: FW: HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

From: HUD Exchange Mailing List [<mailto:news@mail.hudexchange.info>]
Sent: Monday, June 08, 2015 10:54 AM
To: Melendez, Ellen M
Subject: HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

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HUD Publishes HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME

HUD has published [HOMEfires Vol. 12 No. 1: Guidance on Using the Base City High Cost Percentages to Determine the Maximum Per-Unit Subsidy Limits for HOME](#).

This issue of HOMEfires explains whether the Office of Community Planning and Development (CPD) within a HUD Field Office can allow a HOME participating jurisdiction (PJ) that is not listed on the published list of “Base City High Cost Percentages” to use the high-cost percentage of its HUD Multifamily Hub to determine the maximum per-unit subsidy limits for HOME.



Visit the HUD Exchange at <https://www.hudexchange.info>

Rehabilitation Standards - § 91.320(k)(5)(iv) and § 93.301(b)

If the State intends to use its HTF funds for housing being rehabilitated, it must establish rehabilitation standards that all HTF-assisted housing undergoing rehabilitation must meet at the time of project completion in accordance with § 93.301(b). The standards must provide enough details on what work is required, how that work should be performed and what materials should be used. The State's standards may refer to applicable codes or may establish requirements that exceed the minimum requirements of the codes. At a minimum, the rehabilitation standards must address:

- Health and safety;
- Major systems;
- Lead-Based Paint;
- Accessibility;
- Disaster Mitigation;
- State and local Codes, Ordinances, and Zoning Requirements; and
- Inspectable Areas and Observable Deficiencies from HUD's Uniform Physical Condition Standards identified by HUD as applicable to HTF-assisted housing.

Indicate below if the State will use HTF funds for rehabilitation of housing.

The State plans to use HTF funds for the rehabilitation of housing and has attached its rehabilitation standards.

The State will not use HTF funds for rehabilitation of housing.

Change as of
February 2017

Resale and/or Recapture Provisions- § 91.320(k)(5)(v) and § 93.304(f)

If the State intends to use HTF funds to assist first-time homebuyers, it must set forth the guidelines for resale or recapture and obtain HUD specific, written approval, as required in § 93.304(f). Approval of the consolidated plan or annual action plan under § 91.500 or the failure to disapprove the consolidated plan or annual action plan does not satisfy the requirement for specific HUD approval for resale or recapture guidelines.

Indicate below if the State intends to use HTF funds for first-time homebuyers.

The State will use HTF funds to assist first-time homebuyers and has attached the applicable resale/recapture provisions.

The State will not use HTF funds to assist first-time homebuyers.

TDHCA may develop a first-time homebuyer program for NHTF in future, but that use is not contemplated immediately. If there is sufficient funding and demand in the future to implement an NHTF Homebuyer program, the State will develop the required specific provisions at that time and submit them for approval.

HTF Affordable Homeownership Limits- § 91.320(k)(5)(vi) and § 93.305

HTF funds may only be invested for the provision of modest housing for homeownership. This means the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area for newly constructed or standard housing. If the State plans to use HTF funds for homebuyer assistance, and does not use the HTF affordable homeownership limits established by HUD, it must determine 95 percent of the median purchase price for single family housing for designated areas across the State. If the State will determine its own affordable homeownership limits, it must determine the limits using the methodology described in § 93.305(a)(2).

Indicate below if the State will use HTF funds for homeownership housing and what affordable homeownership limits it will use.

- The State will use HTF funds for homeownership housing and will use the HUD issued limits.
- The State will use HTF funds for homeownership housing and has determined its own affordable homeownership limits and the limits are attached.

The State will not use HTF funds for homeownership housing.

State Limited Beneficiaries or Preferences- § 91.320(k)(5)(vii)

The State may limit the beneficiaries or give preferences to a particular segment of the extremely low-income population only if described in the action plan. Any limitation or preference must not violate non-discrimination requirements at § 93.350 and the State must not limit or give preferences to students. The State may also allow rental housing owners to limit tenants or give a preference in accordance with § 93.303(d)(3), only if such limitation or preference is described in the action plan.

Indicate below if the State will limit beneficiaries or give preferences to a particular segment of the extremely low-income population.

- The State will limit beneficiaries and/or give preferences to the following segments of the extremely low-income population. The groups listed have also been identified in the action plan.
- The State will not limit beneficiaries and/or give preferences to any segments of the extremely low-income population.

In accordance with
AP-25 of 2016 One
Year Action Plan

Refinancing of Existing Debt- § 91.320(k)(5)(viii) and § 93.201(b)

If the State will use HTF funds for refinancing of existing debt, it must establish refinancing guidelines and include them in its consolidated plan. The State's refinancing guidelines must describe the conditions under which it will refinance existing debt. At a minimum, the guidelines must demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing. Refinancing of existing debt is only eligible if it is necessary to reduce the overall housing costs and to make the housing more affordable.

Indicate below if the State will permit the refinancing of existing debt.

- The State will permit the refinancing of existing debt and the conditions under which the State will refinance existing debt are attached.

The State will not permit the refinancing of existing debt.

← Change as of February 2017

VII. GRANTEE CERTIFICATIONS

In addition to submitting an HTF allocation plan, the State must submit all the required certifications identified at § 91.225 (for new action plans). If the State is amending the action plan to include HTF, it must resubmit the following certification to include HTF:

- Consistency with plan** The jurisdiction must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan. Where the HOPWA funds are to be received by a city that is the most populous unit of general local government in an EMSA, it must obtain and keep on file certifications of consistency from the authorized public officials for each other locality in the EMSA in which housing assistance is provided. HTF must be included in this certification.

VIII. REQUIRED FORMS

In addition to submitting an HTF allocation plan, the State must submit and/or complete the following standard forms for its HTF program.

- Standard form- 424: [Application for Federal Assistance](#) (§ 91.320(a))
- Standard form- 1199 A : [Direct Deposit Sign up Form](#)

Other Documents Provided to HUD in Response to Disapproval Letter

10 TAC Chapter 10 - <http://www.tdhca.state.tx.us/multifamily/docs/17-UniformMFRules-10TAC10SubA-CG.pdf> and <http://www.tdhca.state.tx.us/readocs/17-10TAC-Ch10-SubD.pdf>

10 TAC Chapter 11 - <http://www.tdhca.state.tx.us/multifamily/docs/17-QAP.pdf>

10 TAC Chapter 13 - <http://www.tdhca.state.tx.us/multifamily/docs/17-MF-DirectLoanRule10TAC13.pdf>

Uniform State Service Region Map - <http://www.tdhca.state.tx.us/multifamily/docs/09-RefMan-UniformStateSvcRegions.pdf>

NHTF Allocation Formula (on the following page)

Region	ELI Households	Renter Households	NHTF Allocation factor	Allocation percentage	Regional Allocation
1	37,634	112,270	0.335209762	7%	\$ 313,467.38
2	22,745	65,051	0.349648737	8%	\$ 326,969.81
3	294,445	997,313	0.295238305	6%	\$ 276,088.55
4	47,315	121,225	0.39030728	8%	\$ 364,991.16
5	38,480	84,870	0.453399317	10%	\$ 423,990.92
6	274,230	873,781	0.313842942	7%	\$ 293,486.45
7	83,445	300,955	0.277267366	6%	\$ 259,283.24
8	52,515	163,380	0.321428571	7%	\$ 300,580.06
9	98,375	304,465	0.323107746	7%	\$ 302,150.32
10	32,510	101,091	0.321591437	7%	\$ 300,732.37
11	89,360	159,810	0.559164007	12%	\$ 522,895.50
12	21,096	68,077	0.309884396	7%	\$ 289,784.67
13	37,070	103,138	0.359421358	8%	\$ 336,108.56
Total	1,129,220	3,455,426	4.609511225	100%	\$ 4,310,529.00

Texas Allocation: \$ 4,310,529.00

ELI Households source: 2009-2013 CHAS, Table 7

Renter households source: 2015 ACS 5-yr, Table B25009

National Housing Trust Fund
One Year Action Plan Amendment

2016 State of Texas Consolidated Plan

One Year Action Plan (“OYAP”) Substantially Amended Sections

Adding the National Housing Trust Fund (“NHTF”)

Reason for Substantial Amendment: Adding National Housing Trust Fund ("NHTF") program information to Annual Action Plan sections as required in the "Housing Trust Fund Allocation Plan Guide 2016," available at <https://www.hudexchange.info/resources/documents/HTF-Grantee-Allocation-Plan-Sample-Form.pdf>.

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The 2016 One-Year Action Plan ("OYAP") applies to the combined actions of the Texas Department of Housing and Community Affairs ("TDHCA"), the Texas Department of Agriculture ("TDA"), and the Texas Department of State Health Services ("DSHS"), being the three state agencies that administer ongoing HUD programs and referred to collectively herein as the "State." The OYAP reports on the intended use of funds received by the State of Texas from the U.S. Department of Housing and Urban Development ("HUD") for Program Year ("PY") 2016. This OYAP is for the HOME Investment Partnerships ("HOME") Program, the Emergency Solutions Grant ("ESG") Program, the Community Development Block Grant ("CDBG") Program, the Housing Opportunities for Persons with AIDS ("HOPWA") Program, and the National Housing Trust Fund ("NHTF"). It does not apply to CDBG Disaster Recovery funding, administered by the Texas General Land Office. The 2016 PY begins on February 1, 2016, and ends on January 31, 2017. The performance report on PY 2014 funds was made available July 2015.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The 2016 OYAP:

1. Reports on the intended use of funds received by the State from HUD for PY 2016;
 2. Explains the State's method for distributing CDBG, ESG, HOME, HOPWA, and NHTF program funds;
- and

3. Provides opportunity for public input on the development of the annual plan. The State’s progress in achieving the goals put forth in the OYAP will be measured according to HUD guidelines (24 CFR §91.520) and outlined in the Annual Performance Report released yearly in May. In accordance with the guidelines from HUD, the State complies with the Community Planning and Development (“CPD”) Outcome Performance Measurement System. Program activities are categorized into the objectives and outcomes listed in the CPD Outcome Performance Measurement System table below.

The objectives and outcomes as they apply to each of the four programs are listed below. The estimated performance figures are based on planned performance during the PY (February 1st through January 31st) of contracts committed and projected households to be served based on estimated availability of funds. In contrast, the performance measures reported to the Texas Legislative Budget Board for the State Fiscal Year (“SFY” - September 1st through August 31st) are based on anticipated units and households at time of award.

OBJECTIVES	OUTCOME 1 Accessibility	OUTCOME 2 Affordability	OUTCOME 3 Sustainability
OBJECTIVE #1 Suitable Living Environment	Enhance Suitable Living Environment Through Improved/New Accessibility (SL-1)	Enhance Suitable Living Environment Through Improved/New Affordability (SL-2)	Enhance Suitable Living Environment Through Improved/New Sustainability (SL-3)
OBJECTIVE #2 Decent Housing	Create Decent Housing with Improved/New Availability (DH-1)	Create Decent Housing with Improved/New Affordability (DH-2)	Create Decent Housing with Improved/New Sustainability (DH-3)
OBJECTIVE #3 Economic Opportunity	Provide Economic Opportunity Through Improved/New Accessibility (EO-1)	Provide Economic Opportunity Through Improved/New Affordability (EO-2)	Provide Economic Opportunity Through Improved/New Sustainability (EO-3)

Table 1 - CPD Outcome Performance Measurement System

Outcomes and Objectives	HOME Performance Indicators	Expected Number
DH-2	No. of rental units assisted through new construction and rehabilitation	172
DH-2	No. of tenant-based rental assistance	363
DH-2	No. of existing homeowners assisted through owner-occupied assistance	58
DH-2	No. of homeowners assisted through homebuyer assistance	54

Table 2 - HOME Program Performance Measures, PY 2016

Outcomes and Objectives	ESG Performance Indicators	Expected Number
SL-1	Provide funding to support the provision of emergency and/or transitional shelter to homeless persons.	11,500
DH-2	Provide non-residential services including homelessness prevention assistance.	4,740

Table 3 - ESG Performance Measures, PY 2016

Objectives and Outcomes	CDBG Performance Indicators	Expected Number
SL-1	Infrastructure Improvements	220
SL-2	Infrastructure Improvements	10
SL-3	Infrastructure Improvements	65
SL-1	Residential Rehabilitation	50
DH-3	Residential Rehabilitation	2
DH-2	Homeownership Assistance	0
SL-1	Community Facilities	8
SL-1	Public Service	0
SL-1	Clearance Demolition Activities	5
EO-1	Direct Financial Assistance	32
EO-2	Direct Financial Assistance	5
EO-3	Infrastructure Improvements to Assist Businesses	30

Table 4 - CDBG Performance Measures, PY 2016

Outcomes and Objectives	HOPWA Performance Indicators	Expected Number
DH-2	TBRA housing assistance	468
DH-2	Short-term rent, mortgage, and utility	426
DH-2	Supportive Services (restricted to housing case mgt., smoke detectors, and phone service)	823
DH-1	Permanent Housing Placement (security deposits, application fees, and credit checks)	16

Table 5 - HOPWA Performance Measures, PY 2016

Outcomes and Objectives	NHTF Performance Indicators	Expected Number
DH-2	No. of rental units assisted through new construction	0
DH-2	No. of homeowners assisted through homebuyer assistance	0

Table 6 - NHTF Performance Measures, PY 2016

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The information below is for HOME, ESG, CDBG, and HOPWA for PY 2014 (February 1, 2014 to January 31, 2015). Because NHTF is a new program for PY 2016, past performance data is not available.

HOME Evaluation of Past Performance

TDHCA's HOME program committed \$30,437,477.99 in program funds through seven different types of HOME Program activities in PY 2014, representing assistance to 1,008 households. Details on the amount committed in each activity type are included in the chart below.

ESG Evaluation of Past Performance

ESG is expended by Federal Fiscal Year (10/1-9/30). TDHCA evaluated ESG funds committed versus funds expended by activity for PY 2014, a time period that consists of half of Federal Fiscal Year 2013 (2/1/2013-9/30/2014) and Federal Fiscal Year 2014 (10/1/2014-1/31/2015). Based on TDHCA's ESG analysis, expenditures had limited disparities and were well within the expected range of state funding for activities, based on goals in the 2014 OYAP. Disparities were found in Homelessness Prevention, where the State committed 23% of the overall budget and the activity accounted for 26% of expenditures, and in Rapid Re-Housing, where the State committed 32% of the total budget and the activity accounted for 30% of expenditures. This indicates that the State effectively programmed and expended funds consistent with its desired goals.

CDBG Evaluation of Past Performance

During PY 2014, the Texas CDBG Program committed a total of \$73,970,187 through 255 awarded contracts. For contracts that were awarded in PY 2014, 394,390 persons were anticipated to receive service. The Colonia Self Help Centers awarded \$1,564,167 in contracts outside the PY2014 reported below. Distribution of the funds by activity is described in the table below.

HOPWA Evaluation of Past Performance

In PY 2014, the DSHS HOPWA program served 455 households with TBRA (113% of the OYAP goal), 369 households with STRMU assistance (86% of the OYAP goal), and 12 households with Permanent Housing Placement ("PHP") assistance (80% of the OYAP goal) for a total of 818 unduplicated households. Of the total households served, 755 also received HOPWA-funded Supportive Services (91% of the OYAP goal). All HOPWA clients receive housing supportive services at some level, but some costs were leveraged with other funding sources. Client outcome goals for housing stability, reducing homelessness risk, and improving access to care were also achieved. (Subtotaled and/or totaled dollar amounts may not be exact due to all expenses are reported to two decimal points but are rounded to nearest whole dollar for the HOPWA chart.)

HOME Activity	Total Committed
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Homebuyer Assistance	\$1,598,283.94
Homeowner Rehabilitation	\$17,715,798.05
Tenant-Based Rental Assistance	\$3,147,580
CHDO Rental Development	\$0
CHDO Single Family Development	\$875,816
CHDO Operating Expenses	\$50,000
Rental Housing Development	\$7,050,000

Table 7 - HOME Commitments by Activity, PY 2014

ESG Activity	Total Funds Expended
Street Outreach	\$574,172
Emergency Shelter	\$2,942,981
Homelessness Prevention	\$1,733,495
Rapid Re-Housing	\$3,008,287
Homeless Management Information Systems	\$505,803
Administration	\$321,800
Total	\$9,086,538.09

Table 8 - ESG Fund Expenditures by Activity, PY 2014

CDBG Fund	Total Obligation
Community Development Fund	\$36,923,015
Texas Capital Fund	\$8,861,714
Colonia Planning and Construction Fund	\$3,948,986
Colonia Economically Distressed Areas Program Fund	\$2,034,326
Colonia Self-Help Centers ("SHC")*	\$1,495,828
Planning / Capacity Building	\$540,640
Disaster Relief/ Urgent Need	\$2,446,820
STEP Fund	\$1,866,793
Administration (including TA) 3%	\$1,794,993
Admin - \$100k (in addition to the 3%)	\$100,000
Total	\$59,833,115
*The Colonia Self Help Centers allocated \$1,495,828 in PY2014	

Table 9 - CDBG Funds Committed, PY 2014

HOPWA Activity	Amount
Expenditures for Housing Information Services	\$0

Expenditures for Resource Identification	\$0
Expenditures for Housing Assistance (equals the sum of all sites and scattered-site Housing Assistance)	\$2,060,888
Expenditures for Supportive Services	\$375,629
Grantee Administrative Costs expended	\$70,639
Project Sponsor(s) Administrative Costs expended	\$161,006

Table 10 - HOPWA Program Expenditures, PY 2014

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The State is committed to collaboration with a diverse cross-section of the public in order to meet the various affordable housing needs of Texans. The State also collaborates with governmental bodies, nonprofits, and community and faith-based groups. Following the release of the Draft 2016 One Year Action Plan, a 30-day public comment period was open from October 19, 2015, through November 19, 2015. During this time, a public hearing was held in Austin. Public comment solicited in person at the public hearing, in writing by email, fax, or mail. More information on the citizen participation, consultation, and public comment are included in the Consultation and Participation sections of the Plan.

A separate 30-day public comment period was open from July 15, 2016 through August 15, 2016 for the NHTF, as information regarding this program was not available during the earlier comment period for the OYAP. A public hearing regarding the NHTF was held in Austin on August 4, 2016, and public comment was solicited in person at the public hearing, in writing by email, fax, or mail.

The 2015-2019 Consolidated Plan, as adopted, substantial amendments, the OYAP, and the Consolidated Plan Annual Performance and Evaluation Report (“CAPER”) will be available to the public online at <http://www.tdhca.state.tx.us> and will have materials accessible to persons with disabilities, upon request.

The State recognizes that citizen participation and consultation are ongoing processes. During the development of the 2015-2019 Consolidated Plan, comprehensive outreach was conducted to gather input. This outreach continues through the development of each Annual Action Plan, within the 5-year consolidated planning process. Following the release of HUD's Final Rule to Affirmatively Further Fair Housing, the State is making efforts to update the Citizen Participation Plan and Language Access Plan, as the State works towards the development of the Assessment of Fair Housing, anticipated to be due to HUD in approximately May 2019.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

During the development of the 2016 OYAP, two public comment periods were held. Following the release of the Draft 2016 OYAP, the Public Comment period was open from October 19, 2015, through November 19, 2015 and a public hearing was held on November 16, 2015 in Austin, TX. The State received 18 total comments from the following 4 organizations: Amazing Grants, Inc., MET, Inc., SafePlace, and Lifeworks. A summary of the comments received and reasoned responses during the first public comment period are provided in Attachment A: Public Comment on the 2016 One Year Action Plan and Staff's Reasoned Responses.

Following HUD's release of FY 2016 formula allocations on February 16, 2016, an Amended 2016 OYAP was available for 30 days of public comment between March 7, 2016, and April 5, 2016. No comments were received during the second public comment period. Following HUD's release of NHTF formula allocations on May 5, 2016, an Amended 2016 OYAP was available for 30 days of public comment between July 15, 2016, and August 15, 2016. Public comments were received from three organizations. A summary of public comments and reasoned responses is provided as an attachment to section AP-05.

6. Summary of comments or views not accepted and the reasons for not accepting them

The comments or views not accepted have been included in Attachment A: Public Comment on the 2016 One Year Action Plan and Staff's Reasoned Responses. Because of the flexible nature of the Plan development, all comments are considered for revisions.

7. Summary

The consolidated planning process occurs once every five years, so creating a comprehensive 2015-2019 Consolidated Plan was vital for CDBG, HOME, ESG, HOPWA and NHTF. Because of the Consolidated Plan's authority to govern these programs, research from multiple sources, including other government plans, peer-reviewed journals, news sources, and fact sheets were used; valuable public input was gathered through roundtable meetings, council/workgroup meetings, public hearings, online surveys, and an online forum; and an expansive public input process was included in the development of the Consolidated Plan.

Similarly, roundtables and meetings were held to discuss the NHTF, and written input was considered prior to Amendment of the Consolidated Plan for this new fund source. Topics at the roundtables included the geographic distribution of NHTF, threshold requirements for NHTF-funded developments, cross cutting requirements applicable to NHTF, and the forms of NHTF assistance. TDHCA also received several emails and letters from disability advocates, nonprofit developers, supportive housing advocates, and fair housing advocates.

The 2015-2019 Consolidated Plan is now carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

AP-12 Participation - 91.115, 91.300(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Encouragement of Public Participation

To reach minorities and non-English speaking residents, the Plan outreach follows TDHCA's Language Access Plan. Also, the notices are available in Spanish and English, per Texas Government Code Chapter 2105. Translators will be made available at public meetings, if requested.

The State encourages the involvement of individuals of low incomes and persons with disabilities in the allocation of funds and planning process through regular meetings, including community-based institutions, consumer workgroups, and councils (many of these meetings are listed in the Strategic Plan Section 35 of the 2015-2019 Consolidated Plan). All public hearing locations are accessible to all who choose to attend. Comments can be submitted either at a public hearing or in writing via mail, fax, or email.

The State notifies residents in areas where CDBG funds are proposed for use by distributing information on public hearings through the CDBG email list from TDA. Information related to the Plan and opportunities for feedback were provided through webinars and web discussions that allowed participation by residents of rural areas without requiring travel to a central location. Regional public hearings held as part of the Regional Review Committee process also encouraged participation by CDBG stakeholders.

Public hearings

The Draft 2016 OYAP was released for a 30-day public comment period from October 19, 2015, to November 19, 2015. A public hearing was held in Austin on November 16, 2015. Constituents were encouraged to provide input regarding all programs in writing or at the public hearing. The public hearing schedule is published in the Texas Register and on TDHCA's website at <http://www.tdhca.state.tx.us>, and is advertised during various workgroups and committee meetings. During the public comment period, printed copies of the draft Plan were be available from TDHCA, and electronic copies may be available for download from TDHCA's website.

The draft NHTF Amendment to the 2016 OYAP was released for a 30-day public comment period from July 15, 2016, to August 15, 2016. A public hearing was held in Austin on August 4, 2016 during the public comment period.

Criteria for Amendment to the Consolidated Plan

Substantial amendments will be considered if a new activity is developed for any of the funding sources or there is a change in method of distribution. If a substantial amendment is needed, reasonable notice by publication on TDHCA's website at <http://www.tdhca.state.tx.us> will be given, and comments will be

received for no less than 30 days after notice is given. A public hearing will be optional.

Performance Report

The 2017 CAPER will analyze the results of the 2016 OYAP. Due to the short 90-day turnaround time of the CAPER between the end of HUD's Program Year (1/31) and the due date, the public will be given reasonable notice by publication on TDHCA's website at <http://www.tdhca.state.tx.us>. Comment will be accepted for a minimum of 15 days. A public hearing will be optional.

One Year Action Plan

If a draft One Year Action Plan ("OYAP") is released for public comment prior to HUD's release of actual annual allocation amounts, the draft OYAP will reflect estimated allocation amounts. Once HUD releases actual annual allocation amounts, proposed activities' budgets will be increased or decreased from the estimated funding levels to match actual allocation amounts, prior to submission to HUD. If actual allocation amounts increase or decrease more than 20% from the estimated allocation amounts, the State will release a revised OYAP public comment. Reasonable notice by publication on TDHCA's website at <http://www.tdhca.state.tx.us> will be given, and comments will be received for no less than 30 days after notice is given. A public hearing will be optional.

2. Summary citizen participation process and efforts made to broaden citizen participation in Colonias

There are two main methods in which TDHCA coordinates its work with other colonia-serving entities. One relates to the Colonia Self Help Center Program which funds specific Texas-border county governments with four-year contracts. Awards and funding associated with this program are reviewed and recommended by a Colonia Resident Advisory Group ("C-RAC"), which is a group of colonia residents who live in the specific colonias served by the centers. The other coordination effort relates to a cross-agency effort organized by the Texas Secretary of State that generates structured communications and data collection in conjunction with other state agencies serving colonias with their respective programs.

On a very frequent basis—weekly or more often—TDHCA provides guidance and oversight to the county governments with which TDHCA has executed SHC contracts. Somewhat less often, TDHCA provides guidance and technical assistance to the housing subgrantees with whom the respective counties have contracted to achieve specific deliverables per their individualized SHC subcontracts. Every one to two years, TDHCA organizes and implements a workshop for all eligible counties and their subgrantees to review rules, best practices, and exchange other program updates. Periodically, TDHCA convenes a meeting with C-RAC. This grass-roots-style committee approves contracts, evaluates county recommendations, and provides TDHCA and the counties guidance on programming and activities in the colonias. Lastly, approximately every two years, TDHCA updates its SHC Program rules, and initiates this process by first soliciting comment from the public at large for critiques of the current rules and suggestions for changes.

As a part of the process discussed above, TDA met with elected officials from counties serving colonia areas. The local leaders discussed funding priorities for the Community Development Fund, including projects that could serve colonia areas.

On a quarterly basis, TDHCA and TDA convene with several other state agencies that directly serve colonia residents in the areas of utilities infrastructure, transportation infrastructure, water/water water, health services, housing, and consumer issues. This group is called the Colonia Interagency Infrastructure Coordination Work Group and is organized by the Texas Office of the Secretary of State's Colonia Initiatives Program. This group has been meeting regularly since approximately 2007 when Texas passed legislation requiring the systematic identification and classification of Texas colonias, and the tracking of colonia-serving state-funded projects. The overarching goal of the workgroup is to stop the proliferation of colonias and improve the health, safety, and quality of life for colonia residents in the Texas-Mexico border region. By classifying colonias based on their level of infrastructure and access to public health services, various state agencies, and the Texas Legislature are able to prioritize funding and target colonias with critical needs (Texas Office of the Secretary of State, 2010). Besides TDHCA and TDA, other agency members of this work group include the Texas Water Development Board ("TWDB"), the Texas Commission on Environmental Quality, the Texas Department of Transportation, HHSC, and DSHS.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (if applicable)
1	Public Hearing	Non-targeted/broad community	The State held a public hearing on November 12, 2015 to receive comments on the 2016 OYAP. Three individuals attended and no public comment was provided.	No public comments were received at the public hearing.		

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
2	Internet Outreach	Non-targeted/broad community	TDHCA has a centralized webpage for public comment on all plans, reports, and program rules.	All public comments and reasoned responses are provided in the Public Comment Attachment.		http://www.tdhca.state.tx.us/public-comment.htm
3	Public Meeting	Non-targeted/broad community	Rural Health and Economic Development Advisory Council met Sept. 16, 2015 and discussed draft Method of Distribution for CDBG	Public and Advisory Council discussed proposed changes.		

Table 11 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.320(c)(1,2)

Introduction

CPD funding is governed by this Consolidated Plan, but the State also works to collaborate, coordinate, and layer non-CPD funding sources in order to reach more Texans and more efficiently use available funds. Programs listed in the anticipated resources narrative sections below could be used to leverage CPD funds. These include:

- 4% Housing Tax Credit ("HTC")/Private Activity Bond ("PAB") Program;
- 9% HTC Program;
- Homeless and Housing Services Program ("HHSP");
- Housing Trust Fund Program;
- Mortgage Credit Certificate ("MCC") Program;
- First time homebuyer loan programs, including the My First Texas Home Program;
- Neighborhood Stabilization Program - Program Income ("NSP PI");
- Section 8 Housing Choice Voucher ("HCV") Program;
- Section 811 Project Rental Assistance ("PRA") Program; and
- Tax Credit Assistance Program ("TCAP") Loan Repayments.

For the programs above, the expected future funding amounts, to the extent known, are in the planning documents governing those programs. These documents can be found online at <http://www.tdhca.state.tx.us/>. The anticipated resources below are focused on CPD Programs.

TDHCA participates in numerous committees, workgroups, and councils which help TDHCA stay apprised of other potential resources to address affordable housing needs. Relationships with other federal and state agencies and local governments are extremely valuable, helping Texas agencies to coordinate housing and services and serve all Texans efficiently and effectively. TDHCA's involvement in these committees promotes identifying opportunities to proactively pursue federal funding opportunities. TDHCA actively seeks engagement and input from community advocates, funding recipients, potential applicants for funding, and others to obtain input regarding the development of effective policies, programs and rules. Changes to funding plans are made periodically based on feedback received through these avenues.

TDHCA is the lead agency for the following workgroups:

C-RAC:

C-RAC is a committee of colonia residents appointed by the TDHCA Governing Board. It advises TDHCA regarding the needs of colonia residents and the types of programs and activities which should be undertaken by the Colonia SHCs. The Colonia SHCs funds are provided to seven specific pre-determined counties which, in turn, procure organizations to operate their SHCs.

Disability Advisory Workgroup (“DAW”):

The DAW augments TDHCA's formal public comment process, affording staff the opportunity to interact more informally and in greater detail with various stakeholders and to get feedback on designing more successful programs, with a specific focus on gaining insight on issues impacting persons with disabilities.

Housing and Health Services Coordination Council (“HHSCC”):

HHSCC is established by Texas Government Code §2306.1091. Its duties include promoting coordination of efforts to offer Service-Enriched Housing and focusing on other cross-agency efforts.

Texas Interagency Council for the Homeless (“TICH”): The TICH was statutorily created in 1989 to coordinate the State’s homeless resources and services. The TICH consists of representatives from eleven state agencies. TDHCA, as the primary source for state homelessness funding, provides administrative and planning support to the TICH.

Weatherization Assistance Program Planning Advisory Committee (“WAP PAC”):

The WAP PAC is comprised of a broad representation of organizations and agencies and provides balance and background related to the weatherization and energy conservation programs at TDHCA. The descriptions of the collaborations for DSHS and TDA are in the Discussion question of this section below.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition and Planning Economic Development Housing Public Improvements Public Services	53,357,295	5,675,933	10,283,931	69,317,159	199,931,856	TDA's CDBG Program funds community and economic development, including program income collected by the state, and program income retained by local subgrantees, excluding the colonia set-aside. Communities may also coordinate CDBG funding with U.S. Department of Agriculture's ("USDA") Rural Development funds or Texas Water Development Board's ("TWDB") State Revolving Fund.
CDBG Colonias Set-aside	public - federal	Acquisition and Planning Homebuyer assistance Homeowner rehab Public Improvements Public Services	7,662,471	0	0	7,662,471	22,294,089	The Colonia Set-Aside is used both by TDA and TDHCA for goals described in the Strategic Plan Section 45. The Colonia Economically Distressed Areas Program ("CEDAP") Legislative Set - Aside leverages funding from the TWDB's Economically Distressed Areas Program. TDHCA's Office of Colonia Initiatives ("OCI") administers a portion of the CDBG Colonia Set-Aside through its Colonia SHCs.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	23,248,302	10,000,000	0	33,248,302	99,744,906	TDHCA's HOME Program goals are described in the Strategic Plan Section 45 for multifamily and single family activities. Single family HOME homebuyer activity may be coordinated with TDHCA's My First Texas Home Program, which can supplement down payment assistance, and the MCC Program, which provides a yearly tax credit of up to \$2,000 annually that reduced the homebuyers' federal income tax liability. HOME Multifamily Development funds can be layered with 4% HTC's and 9% HTC's. In addition, TDHCA's Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA's Section 8 HCV may be used within HOME developments. Starting in 2015, TDHCA's TCAP loan repayments and NSP PI may be used to supplement or support.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOPWA	public - federal	Permanent housing in facilities Permanent housing placement Short term or transitional housing facilities STRMU Supportive services TBRA	3,032,825	0	2,947,262	5,980,087	8,756,223	DSHS' HOPWA state formula funds the following activities: TBRA; STRMU; PHP; and Supportive Services. Project Sponsors leverage available funds from Ryan White and State Services grants to assist clients with housing needs, medical and non-medical case management, emergency utility assistance, mental health, transportation, and nutritional services to address the needs of eligible clients.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
ESG	public - federal	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid re-housing (rental assistance) Rental Assistance Services Transitional housing	8,817,205	0	0	8,817,205	35,268,820	TDHCA's ESG funds are awarded via contract to Subrecipient agencies that provide emergency shelter, homelessness prevention, rapid rehousing, and Homeless Management Information Systems ("HMIS") activities. HHSP is Texas state general revenue funding for the largest cities to provide flexibility to undertake activities that complement ESG activities. Note that not all ESG direct recipients in Texas are HHSP grantees. Use of funds also includes Administration.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
Housing Trust Fund	public - federal	Acquisition Multifamily rental new construction	4,789,477	0	0	4,789,477	19,113,456	TDHCA's NHTF Program goals are described in the Strategic Plan Section 45 for multifamily and single family activities. NHTF Multifamily Development Funds can be layered with 4% HTCs and 9% HTCs, and TDHCA Multifamily Direct Loan funds, including HOME, HOME-CHDO, and TCAP Loan Repayment. In addition, TDHCA's Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA's Section 8 HCV may be used within NHTF developments. In addition, TDHCA also develops rules that govern all multifamily programs, including the HOME Multifamily Direct Loan Program, known as the Uniform Multifamily Rules. NHTF Single family development would be governed by requirements in TDHCAs Single Family Umbrella Rule.

Table 12 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

HOME

HOME multifamily development is often used to leverage with the HTC Program, which authorizes 9% low-income housing tax credits of \$2.30 per capita for each state, and 4% HTC in amounts linked to the usage of the state's cap for issuance of tax exempt PABs to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded annually. These credits may be claimed each year for ten years and represents potential tax credit value on the magnitude of \$610,000,000. The credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA's Qualified Allocation Plan ("QAP") identifies the criteria used for selection of eligible developments to provide housing for low-income tenants. HOME provides increased leverage, allowing property owners to utilize fewer tax credits and less private debt and local funding, thus providing more efficient use of resources. Other leveraging sources may include United States Department of Agriculture ("USDA") operating subsidies and loans, and conventional and FHA-insured loans. Match requirements for the HOME Multifamily Direct Loan Program will in part be met through Rules that establish awardees' minimum amount of match as 5% of the award amount. TDHCA increased match requirements for single family activities to more effectively use limited funding. TDHCA has also requested for HUD to approve a waiver that its state-funded Bootstrap program be eligible as match and is responding to HUD requests for additional detail.

ESG

In 2011, the Texas Legislature created the HHSP statute and funded it with General Revenue funds. Through HHSP, the State allocates funds to cities in Texas with a population of 285,500 or greater to support services to homeless individuals and families. These funds are sometimes used as match for either State or local ESG funding. To meet the ESG match requirement, TDHCA includes the provision of evidence of proposed match as part of the application process. Subrecipients are required to provide 100% limited to budget categories for which the Subrecipient was funded. A Subrecipient that is unable to match the award is eligible to apply to TDHCA for a match waiver up to \$100,000. However, these requests have been quite rare. In the FFY 2015 application process, TDHCA received no requests and will continue to actively determine which organization(s) will benefit from the match waiver.

HOPWA

Texas HOPWA does not have program income but leverages funds whenever possible. Project Sponsors leverage available funds from Ryan White and State Services grants, private funding sources, foundations, and local assistance to help clients. AAs do not receive administrative funds from DSHS, so those costs are leveraged from other funding sources. Texas is not required to match the HOPWA formula award.

CDBG

Nearly 80% of TX CDBG grants include local match fund commitments. Matching funds are required for certain grants, while other grants award points to encourage local match; a sliding scale allows smaller communities to contribute less match funding than larger communities. Match funds may be provided by the applicant, or by a water or sewer utility benefiting from the project. Economic development (ED) projects benefiting private business require 1-for-1 match commitment, with the business most often providing this substantial match. Recent updates to the Colonia SHC Program rules have capped program assistance at \$50,000 per household for reconstruction and new construction, and \$40,000 per household for rehabilitation. These limits encourage administrators to leverage funds with other resources as well as assist more households than in prior years.

NHTF Program Leveraging is described in the question below.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

NHTF Program Leverages

NHTF multifamily development may be used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.35 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state's cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan ("QAP") for the selection of eligible developments to provide housing for the low-income tenants. NHTF provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

The Texas General Land Office manages state owned lands and mineral rights totaling approximately 13 million acres. Much of this is leased for the benefit of the Permanent School Fund, an endowment fund established in 1876 for the benefit of Texas public school education. There is currently no plan to use state owned land for affordable housing or community development goals; however, local jurisdictions occasionally donate land or property in support of activities designed to address the needs identified in the plan as part of their contribution to locally administered programs.

Discussion

HOPWA: Continuing with the discussion of collaboration begun in the Introduction of this section, DSHS is the lead for several HIV-related councils and workgroups which provide opportunities for collaboration and resource sharing across agencies, providers, and other pertinent stakeholders to assist

PLWH in Texas. Some of the initiatives are Inter-Agency Council on HIV & Hepatitis, the Texas Black Women's Initiative, the Test Texas Coalition, and the Texas HIV Syndicate. The Texas HIV Syndicate is an integrated HIV prevention and care planning body made up of roughly 100 organizational leaders representing the full continuum of HIV engagement. The Texas HIV Syndicate uses the Texas HIV Plan as a framework to develop strategies that enhance and expand on prevention and care activities across the State. Texas HIV Syndicate members develop policy recommendations, best practice models, coordination strategies, and promote innovation in HIV prevention and treatment. DSHS also holds a biennial HIV/Sexually Transmitted Disease ("STD") conference, attended by all DSHS contractors and subrecipients in addition to community leaders, health and HIV professionals, and many other essential stakeholders. Many of the DSHS contractors are also HOPWA providers. The next conference will be held in 2016. The goal of the Texas HIV/STD Conference is to enhance the responsiveness of people and systems supporting the spectrum of HIV/STD prevention and treatment services in Texas, including: Awareness; Targeted Prevention; Diagnosis; Linkage to Care; Maintenance in Care; and Suppression of Disease.

DSHS' Epidemiology and Surveillance Branch is responsible for reporting HIV/AIDS, STD, and tuberculosis ("TB") surveillance and epidemiologic data for the State of Texas, which includes data submission to the Centers for Disease Control and Prevention ("CDC"). This data is subsequently used by HUD to determine HOPWA formula allocations. This data is also leveraged to provide support to planning, development, implementation, and evaluation of HIV/AIDS, STD, and TB prevention and services programs, including HOPWA.

Finally, TDA participates in the following workgroups:

Texas Water Infrastructure Coordination Committee ("TWICC"): TWICC is a voluntary organization of federal and state funding agencies and technical assistance providers that address water and wastewater needs throughout the State. TDA participates in TWICC to coordinate efforts to leverage funds.

Secretary of State's Colonia Workgroup: The Colonia Workgroup consists of federal and state funding agencies and the Texas Secretary of State's colonia ombudsmen. The group addresses current and future infrastructure improvements in colonias, focusing on coordination of resources and information. TDHCA is also a member of this workgroup.

Drought Preparedness Council: The Council was authorized and established by the 76th Texas Legislature in 1999, and is responsible for assessment and public reporting of drought monitoring and water supply conditions, along with other duties.

These workgroups, committees, and councils help to strengthen communication between state agencies as well as provide opportunities to layer or combine funding sources.

With the block grants and the layering resources listed above, there are also CDBG Disaster Recovery ("DR") funds for Hurricanes Rita, Dolly, and Ike, and Wildfires. Hurricane Rita Disaster Recovery for

housing and non-housing recovery is in 29 counties. Ike Disaster Recovery for housing and non-housing recovery is in 62 counties. Wildfire Recovery non-housing recovery is in 65 counties. More details can be found at <http://www.glo.texas.gov/GLO/disaster-recovery/actionplans>

Annual Goals and Objectives

AP-20 Annual Goals and Objectives – 91.320(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Homeless Goals	2015	2019	Homeless	State of Texas	Emergency shelter and transitional housing Homelessness Prevention Rapid Re-housing	ESG: \$8,817,205	Tenant-based rental assistance / Rapid Rehousing: 1108 Households Assisted Overnight/Emergency Shelter/Transitional Housing Beds added: 3800 Beds
2	Construction of single family housing	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Production of new units	HOME: \$0	Homeowner Housing Added: 0 Household Housing Unit
3	Rehabilitation of single family housing	2015	2019	Affordable Housing Non-Homeless Special Needs		Rehabilitation of housing	HOME: \$5,916,734	Homeowner Housing Rehabilitated: 70 Household Housing Unit
4	Homebuyer assistance with possible rehabilitation	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Acquisition of existing units Rehabilitation of housing	HOME: \$3,476,783	Direct Financial Assistance to Homebuyers: 58 Households Assisted
5	Tenant-Based Rental Assistance with HOME funding	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rental Assistance	HOME: \$4,812,569	Tenant-based rental assistance / Rapid Rehousing: 438 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
6	HOME Households in new/rehabed multifamily units	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Production of new units Rehabilitation of housing	HOME: \$15,713,359	Rental units constructed: 110 Household Housing Unit Rental units rehabilitated: 47 Household Housing Unit
7	HOPWA Tenant-Based Rental Assistance	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Supportive Services for Persons with HIV/AIDS	HOPWA: \$1,939,097	Tenant-based rental assistance / Rapid Rehousing: 468 Households Assisted
8	HOPWA Short-Term Rent, Mortgage, & Utilities Asst	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Supportive Services for Persons with HIV/AIDS	HOPWA: \$366,034	Homelessness Prevention: 426 Persons Assisted
9	HOPWA Permanent Housing Placement Assistance	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Supportive Services for Persons with HIV/AIDS	HOPWA: \$7,055	Public service activities other than Low/Moderate Income Housing Benefit: 16 Persons Assisted
10	HOPWA-Funded Supportive Services	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Supportive Services for Persons with HIV/AIDS	HOPWA: \$463,493	Public service activities other than Low/Moderate Income Housing Benefit: 823 Persons Assisted
11	CDBG Other Construction	2015	2019	Non-Housing Community Development	State of Texas	Public Improvements and Infrastructure Public facilities Public services	CDBG: \$39,533,182	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 227843 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
12	CDBG Economic Development	2015	2019	Non-Housing Community Development Economic Development	State of Texas	Economic development Public Improvements and Infrastructure Public facilities Public services	CDBG: \$8,848,164	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 14122 Persons Assisted
13	CDBG Planning / Capacity Building	2015	2019	Non-Housing Community Development	State of Texas	Public Improvements and Infrastructure Public facilities Public services	CDBG: \$548,818	Other: 37412 Other
14	CDBG Disaster Relief / Urgent Need	2015	2019	Non-Housing Community Development	State of Texas	Public Improvements and Infrastructure Public facilities	CDBG: \$2,497,738	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 0 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
15	CDBG Colonia Set-Aside	2015	2019	Affordable Housing Non-Housing Community Development	State of Texas	Acquisition of existing units Production of new units Public Improvements and Infrastructure Public facilities Public services Rehabilitation of housing	CDBG Colonias Set-aside: \$6,097,977	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 3348 Persons Assisted
16	CDBG Colonia Self-Help Centers	2015	2019	Self-Help Centers		Public services	CDBG: \$1,524,494	Other: 14491 Other
17	CDBG Administration	2015	2015	Administration/Technical Assistance		Economic development Public Improvements and Infrastructure Public facilities Public services Rehabilitation of housing	CDBG: \$1,929,393	Other: 0 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
18	HOME Administration	2015	2019	HOME Administration	State of Texas	Acquisition of existing units Production of new units Rehabilitation of housing Rental Assistance	HOME: \$3,328,857	Other: 0 Other
19	NHTF households in new multifamily units	2016	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Production of new units	Housing Trust Fund: \$ 4,310,529	Rental units constructed: 0 Household Housing Unit Household Housing Unit
20	NHTF Administration	2016	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Acquisition of existing units Production of new units	Housing Trust Fund: \$ 478,948	Other: 0 Other

Table 13 – Goals Summary

Goal Descriptions

1	Goal Name	Homeless Goals
	Goal Description	<p>Goals for the 2016 ESG program are to provide 22,798 homeless persons with emergency shelter, 1,108 households with emergency housing assistance through rapid re-housing, and 3,800 persons with housing assistance, including homelessness prevention assistance. After reducing the award amount by 7.5% for administrative funds (which will be divided between TDHCA and its Subrecipients), the remaining funding for program activities is approximately allocated among the following categories: 32% for rapid re-housing; 21% for homelessness prevention; 34% for emergency shelters, 7% for street outreach and 6% for the Homeless Management Information System (HMIS) activities. The percentages of funding for each activity have been adjusted from the 2015 One Year Action Plan partly because of the addition of street outreach and HMIS. With the new percentages estimates, TDHCA is still under the federal requirement to spend equal or less than 60% of its funding on emergency shelter and street outreach activities.</p> <p>The persons/households expected to be served by each activity have been adjusted from the 2015 One Year Action Plan because of a change in projection methodology. The 2015 projections were based on funding planned to be spent on each activity. The 2016 projections are based on funding spent per person per activity from previous ESG awards. Rapid Re-housing has historically cost almost double the amount per person than Homelessness Prevention, and almost ten times the amount per person than emergency shelter or street outreach. To account for the amount of funding per person for rapid re-housing, the total projected number of households served by rapid re-housing decreased.</p> <p>Finally, the amount of administration is estimated at 7.5%, which is the amount allowed by HUD. The administrative funds will be divided between TDHCA and its subrecipients. TDHCA plans to use a portion of the administrative funds for Continuum of Care (CoC) lead agencies that will be running a local competition in their respective CoC regions for TDHCA's ESG funding.</p> <p>The funding targets and numbers served may fluctuate depending on the amount in the HUD award letter. The amounts targeted for each ESG activity will be dependent on the final HUD allocation and the percentages (as limited by federal rules) will depend on local CoC or Subrecipient decisions.</p>
2	Goal Name	Construction of single family housing
	Goal Description	<p>TDHCA does not plan to have a 2016 HOME Program goal for single family development activities performed by a Community Housing Development Organization ("CHDO") for the construction of new single family housing. The original 2015 goal of providing assistance to a minimum of 7 eligible households was reduced based on HUD's final allocation amounts. PY 2016 CHDO set aside funding is initially targeted for multifamily development activities as reflected under the Households in new/rehabilitated multifamily units strategic plan goal, but may be revised to program some funding for Single Family Development activities if TDHCA identifies future interest in the program. Single family development activities will remain an eligible activity that may be funded in the event future CHDO funding becomes available.</p>

3	Goal Name	Rehabilitation of single family housing
	Goal Description	The 2016 goal for HOME Program rehabilitation and reconstruction activities is to provide assistance to a minimum of 70 households through a statewide network of units of general local governments, and non-profit organizations. These entities qualify applicants to receive assistance for the repairs and reconstruction necessary to make their homes decent, safe, sanitary, and accessible.
4	Goal Name	Homebuyer assistance with possible rehabilitation
	Goal Description	The 2016 goals for HOME Program acquisition activities is to provide assistance to a minimum of 58 households with downpayment and closing costs assistance, contract for deed conversion assistance to promote the conversion of contract for deed arrangements to traditional mortgages, as well as downpayment with possible rehabilitation assistance for households with a member with a disability.
5	Goal Name	Tenant-Based Rental Assistance with HOME funding
	Goal Description	The 2016 goal for HOME Program TBRA activity is to provide rental assistance to approximately 438 households through a statewide network of units of general local governments, public housing agencies, Local Mental Health Authorities ("LMHAs"), and other non-profit organizations. These entities qualify applicants to receive assistance and may extend assistance if the household continues to meet eligibility requirements.
6	Goal Name	HOME Households in new/rehabed multifamily units
	Goal Description	The 2016 goal for HOME Multifamily Program is creating/rehabilitating over 157 multifamily rental units. TDHCA's HOME Multifamily Development Programs awards HOME funds as low-interest loans to CHDOs, for-profit, and nonprofit developers. These loans leverage other public and private financing including housing tax credits, United States Department of Agriculture ("USDA") operating subsidies and loans, and conventional and Federal Housing Administration-insured loans. The end result is safe, decent, and affordable multifamily rental housing.
7	Goal Name	HOPWA Tenant-Based Rental Assistance
	Goal Description	HOPWA TBRA provides tenant-based rental assistance to eligible households until they are able to secure other affordable and stable housing. The annual goal includes 468 households assisted. The estimated funding and number of individuals served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
8	Goal Name	HOPWA Short-Term Rent, Mortgage, & Utilities Asst
	Goal Description	STRMU provides short-term rent, mortgage, and utility assistance to eligible households for a maximum of 21 weeks of assistance in a 52-week period. The annual goal is to assist 426 persons. The estimated funding and number of individuals served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.

9	Goal Name	HOPWA Permanent Housing Placement Assistance
	Goal Description	PHP provides assistance for housing placement costs which may include application fees, related credit checks, and reasonable security deposits necessary to move persons into permanent housing. The annual goal is to assist 16 persons. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
10	Goal Name	HOPWA-Funded Supportive Services
	Goal Description	Supportive Services include case management, basic telephone service and assistance to purchase smoke detectors to eligible households. The annual goal is to assist 823 persons. The estimated funding and number of households served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
11	Goal Name	CDBG Other Construction
	Goal Description	The Texas CDBG encourages the use of funds not only to improve existing locations but to provide facilities in other areas to accommodate residential opportunities that will benefit low and moderate income persons. Applicants are encouraged to provide for infrastructure and housing activities that will improve opportunities for low and moderate income persons. When considering projects and designing projects, applicants must continue to consider affirmatively furthering fair housing, which includes providing basic infrastructure, such as water, sewer, and roads that benefit residential housing and other housing activities. Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal includes 227,843 persons assisted. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
12	Goal Name	CDBG Economic Development
	Goal Description	This economic development funding is used for projects that will create or retain permanent employment opportunities, primarily for low to moderate income persons and for county economic and management development activities. Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal is to assist 14,122 persons. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.

13	Goal Name	CDBG Planning / Capacity Building
	Goal Description	This fund is available to assist eligible cities and counties in conducting planning activities that assess local needs, develop strategies to address local needs, build or improve local capacity, or that include other needed planning elements (including telecommunications and broadband needs). Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal is 37,412 persons benefiting from community planning projects (this may show as "other" in the chart above"). The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
14	Goal Name	CDBG Disaster Relief / Urgent Need
	Goal Description	Disaster Relief ("DR") assistance is available through this fund as needed for eligible activities in relief of disaster situations where either the governor has proclaimed a state disaster declaration, drought disaster declaration, or the president has issued a federal disaster declaration. CDBG may prioritize throughout the program year the use of DR assistance funds based on the type of assistance or activity under consideration and may allocate funding throughout the program year based on assistance categories. Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal is to assist 132,248 persons. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
15	Goal Name	CDBG Colonia Set-Aside
	Goal Description	This fund is available to eligible county applicants for projects in severely distressed unincorporated areas which meet the definition of a "colonia" under this fund. Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal is to assist 3,348 benefiting from public facility or infrastructure activities (other than low/moderate income housing benefit) and 14,491 "other", which equates to the number of colonia residents receiving direct assistance. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.
16	Goal Name	CDBG Colonia Self-Help Centers
	Goal Description	Colonia residents receiving direct assistance through Self-Help centers.
17	Goal Name	CDBG Administration
	Goal Description	CDBG Administrative costs including Technical Assistance

18	Goal Name	HOME Administration
	Goal Description	HOME Administrative expenses based on HOME allocation and projected program income.
19	Goal Name	NHTF households in new/rehabed multifamily units
	Goal Description	The 2016 goal for Housing Trust Fund is creating 0 multifamily rental units based on the performance period of February 1, 2016 through January 31, 2017. Funds are anticipated to be awarded after May 31, 2017.
20	Goal Name	NHTF Administration
	Goal Description	NHTF Administrative funds for PY 2016.

Table 14 – Goal Descriptions

AP-25 Allocation Priorities – 91.320(d)

Introduction

The CPD Programs serve special needs populations and meet the 13 Priority Needs found in Strategic Plan 25 of the 2015-2019 Consolidated Plan. These Needs in Strategic Plan 25 are correlated with Goals in Action Plan 20 to show which activities will serve which priority needs. The goals from Action Plan 20 are listed below with allocation percentages. Percentages in the chart below are estimated and may change depending on funding received from HUD, legislative priorities, and funding requests from administrators or subrecipients. Due to software restrictions, allocations are rounded to the nearest whole number and do not reflect precise percentages.

Also, for the other programs listed in the anticipated resources (Action Plan 15) that could be used to leverage funds, including 4% HTC, 9% HTC, HHSP, Housing Trust Fund, MCC, and My First Texas Home Program, NSP PI, Section 8 HCV programs, Section 811 PRA, and TCAP Loan Repayments, goals are tailored to each program in the planning documents governing those programs. These documents can be found at <http://www.tdhca.state.tx.us>. In addition to meeting the priority needs, the CPD Program works to serve special needs populations as described in this section. HOME and ESG's special needs populations are discussed in the introduction, and HOPWA and CDBG are included in the discussion below.

HOME Serves Special Needs

TDHCA has determined that programs may target assistance to the following special needs populations: persons with disabilities, persons with alcohol or other drug addiction, persons living with HIV/AIDS ("PLWH"), persons with Violence Against Woman Act ("VAWA") protections, colonia residents, farmworkers, homeless populations, veterans, wounded warriors (as defined by the Caring for Wounded Warriors Act of 2008), and public housing residents. Preferences may also include programs designed to assist single parents, persons transitioning out of incarceration, and persons transitioning out of foster homes and nursing facilities.

For Administrators who have programs that are designed to limit assistance to certain populations, TDHCA will only approve program designs that limit assistance to households that include a member within the following populations if necessary to provide as effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR §8.4(b)(1)(iv): PLWH, mental illness, alcohol or other drug addiction, or households that would qualify under the TDHCA's Project Access program as defined in 10 TAC §5.801. Otherwise, Administrators may only give preference to populations described in the special needs section.

For HOME or NHTF rental housing, TDHCA will allow development of housing that meets requirements under the Housing for Older Persons Act. TDHCA may also consider permitting rental housing owners to give a preference or limitation as indicated in this section and may allow a preference or limitation that is not described in this section to encourage leveraging of federal or state funding, provided that another federal or state funding source for the rental housing requires a limitation or preference. TDHCA may put further guidelines on development of specific types of rental housing by rule or NOFA.

ESG Serves Special Needs

ESG does not have funding allocation priorities for special needs populations. However, the 2016 ESG NOFA includes points for applicants that propose to serve persons with higher barriers to housing, including persons with serious mental illness, persons recently released from institutions, persons with substance abuse disorders, veterans, survivors of domestic violence, or youth aging out of foster care. The 2016 ESG NOFA also includes points for applicants that use the Housing First approach to ending homelessness, which is often used for people with substance use/abuse and mental illness.

Funding Allocation Priorities

	Homeless Goals (%)	Construction of single family housing (%)	Rehabilitation of single family housing (%)	Homebuyer assistance with possible rehabilitation (%)	Tenant-Based Rental Assistance with HOME funding (%)	HOME Households in new/rehabed multifamily units (%)	HOPWA Tenant-Based Rental Assistance (%)	HOPWA Short-Term Rent, Mortgage, & Utilities Asst (%)	HOPWA Permanent Housing Placement Assistance (%)	HOPWA-Funded Supportive Services (%)	CDBG Other Construction (%)	CDBG Economic Development (%)	CDBG Planning / Capacity Building (%)	CDBG Disaster Relief / Urgent Need (%)	CDBG Colonias Set-Aside (%)	CDBG Colonias Self-Help Centers (%)	CDBG Administration (%)	HOME Administration (%)	NHTF households in new/ multifamily units (%)	NHTF Administration (%)	Colonias Set-Aside (%)	Total (%)
CDBG	0	0	0	0	0	0	0	0	0	0	65	15	1	4	10	2	3	0	0	0	0	100
CDBG Colonias Set-aside	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100	100
HOME	0	0	20	12	16	52	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100
HOPWA	0	0	0	0	0	0	70	13	1	16	0	0	0	0	0	0	0	0	0	0	0	100
ESG	100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100
Housing Trust Fund	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100	0	0	100

Table 15 – Funding Allocation Priorities

Reason for Allocation Priorities

How will the proposed distribution of funds will address the priority needs and specific objectives described in the Consolidated Plan?

HOME Allocation Priorities

TDHCA prioritizes HOME funding for multifamily, single-family, and Set-Aside activities. Multifamily activities were historically allocated a higher percent of funds to address the priority needs of Rental Assistance and Production of New Units, promote tax credit leveraging, and because they account for a large portion of HOME's program income. However, TDHCA now has access to TCAP Loan Repayments, so these priorities will continue to have funds directed toward them, while likely reducing the allocation of HOME funds directed towards multifamily activities.

Although the 2015 HOME allocation to TDHCA was reduced from 2014 funding levels, funding for single family activities actually increased overall as TDHCA begins to access TCAP loan repayments for multifamily activities and by directing deobligated funding and program income resources to single family activities. Funding for single family activities from the 2016 annual allocation is anticipated to be awarded based on TDHCA's Regional Allocation Formula, with residual funding available through the Reservation System, allowing local administrators to prioritize single family activities on a household-by-household basis for:

- Homebuyer Assistance, (including contract-for-deed conversions) which addresses Acquisition of Existing Units and Rehabilitation of Existing Units priority needs;
- Homeowner Rehabilitation Assistance, which addresses Rehabilitation of Existing Units priority need; and
- TBRA, which addresses Rental Assistance priority need.

These priorities are a result of the consolidated planning process and significant public input.

ESG Allocation Priorities

ESG does not have allocation priorities for priority needs. ESG funds can be utilized for all eligible purposes within limitations set by ESG regulations and guided by local Continuum of Care ("CoC") direction, including:

- Homeless outreach;
- Emergency shelter;
- Rapid re-housing; and
- Homelessness prevention.

Persons experiencing homelessness and resources for persons experiencing homelessness are often concentrated in urban areas. While the need in urban areas for resources is great, there are large areas of Texas without direct access to ESG funds. The 2016 ESG NOFA established a system of scoring in which applicants receive more points for clients they serve in rural areas.

HOPWA Allocation Priorities

HOPWA provides the following activities in line with priority needs:

- TBRA, which addresses Rental Assistance priority needs;
- STRMU, which addresses Homelessness Prevention priority needs;
- Supportive Services Program, which addresses Supportive Services for PLWH priority needs; and
- PHP, which addresses Homelessness Prevention priority needs.

CDBG Allocation Priorities

The CDBG Program offers the following activities, which relate to the corresponding priority needs. The majority of CDBG funds are used to meet basic human needs. These projects, in addition to being among the most critical needs in the state, are prioritized locally by regional review committees and local communities. Colonia funding allocation is reflected in "Colonias Set-Aside" column.

- The majority of funds are awarded to address basic human needs, including improvements to water and sewer systems and roads for low and moderate income ("LMI") communities.
- Economic development activities are funded to create and retain jobs primarily for LMI persons.
- Public facilities such as community centers and public safety facilities are less common activities, but are very valuable to LMI communities.
- Colonias SHC activities provide public services and housing funds for colonia residents living along the Texas-Mexico border.

NHTF Allocation Priorities

The NHTF Program activities for PY 2016 will be limited to new construction of multifamily housing to address the priority needs of Rental Assistance and Production of New Units, promote leveraging of other fund sources. Particularly as this is a new fund source and a new program, the administrative burden of implementation is reduced by using the funds within the well established multifamily finance structure.

How will the proposed distribution of funds will address the priority needs and specific objectives described in the Consolidated Plan?

The special needs populations for HOME and ESG are described in the Introduction. HOPWA and CDBG discuss special needs populations below.

HOPWA Serves Special Needs

Texas HOPWA serves PLWH and their family members, all of whom are at or below 80% of the AMI, and most of whom fall into the extremely-low-income category. As previously noted, allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. After allocations to each HIV Service Delivery Area (HSDA) are determined, it is then up to the Project Sponsor to allocate between activities of TBRA, STRMU, PHP, Supportive Services, and administrative expenses (not to exceed 7% of their allocation) and submit those to their Administrative Agents

("AAs") and the Department of State Health Services ("DSHS") for approval. Project Sponsors base allocations on many factors, including but not limited to, number of clients projected to continue into the next year, area unmet need, rental costs, prior number of clients served, average expenditures per client, and changes in HIV population living in poverty, etc. Funds are also reallocated during the year within HSDAs under each AA as needed.

CDBG Serves Special Needs

CDBG provides over 90% of available funds for projects that primarily benefit low-to moderate-income persons through basic infrastructure, housing, job creation and other activities as identified at the local level. Among those projects, CDBG sets aside 12.5% of funds to specifically benefit colonia residents through planning activities, infrastructure and housing construction, self-help center services, construction activities, and public services. Funding for community development projects in colonias and other LMI communities is a critical element in the well-being of these communities.

In 1996, in an effort to place more emphasis on addressing the needs of colonias, the OCI at TDCHA was created and charged with the responsibility of coordinating all TDHCA's and legislative initiatives involving border and colonia issues and managing a portion of TDHCA's existing programs targeted at colonias. The fundamental goal of the OCI is to improve the living conditions and lives of border and colonia residents and to educate the public regarding the services that the Department has to offer. As part of its plan to improve the living conditions in colonias, the OCI offers Border Field Offices. The three OCI Border Field Offices are located in Pharr, Laredo, and El Paso to provide technical assistance to border counties, Colonia SHCs, and Bootstrap Program participants.

AP-30 Methods of Distribution – 91.320(d)&(k)

Introduction

Given that Texas is the second largest state in the nation by total area, the method of distribution of its funds has to take into account a very large area. To serve this large area it is necessary for the State to use subrecipients to administer the programs funded under CPD. The selection processes for these entities are generally described below.

Distribution Methods

Table 16 - Distribution Methods by State Program

1	State Program Name:	Colonia Economically Distressed Areas Program (CEDAP)
	Funding Sources:	CDBG CDBG Colonias Set-aside
	Describe the state program addressed by the Method of Distribution.	Colonia Economically Distressed Areas Program (CEDAP) Legislative Set-Aside fund provides funding to eligible cities and counties to assist colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with being connected to a TWDB Economically Distressed Area Program or similar water or sewer system improvement project.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The TDA will evaluate the following factors prior to awarding CEDAP funds: The proposed use of the CDBG funds including the eligibility of the proposed activities and the effective use of the funds to provide water or sewer connections/yard lines to water/sewer systems funded through Economically Distressed Area Program or similar program; The ability of the applicant to utilize the grant funds in a timely manner; The availability of funds to the applicant for project financing from other sources; The applicant's past performance on previously awarded CDBG contracts; Cost per beneficiary; and Proximity of project site to entitlement cities or metropolitan statistical areas (MSAs).
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .

	Describe how resources will be allocated among funding categories.	The allocation is distributed on an as-needed basis.
	Describe threshold factors and grant size limits.	Maximum \$1,000,000/Minimum \$75,000
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
2	State Program Name:	Colonia Planning and Construction Funds
	Funding Sources:	CDBG CDBG Colonias Set-aside
	Describe the state program addressed by the Method of Distribution.	<p>The Colonia Planning Fund ("CPF") funds planning activities that either targets a specific colonia(s) (Colonia Area Planning) or that provides a countywide comprehensive plan (Colonia Comprehensive Planning). In order to qualify for the Colonia Area Planning activities, the county applicant must have completed a Colonia Comprehensive Plan that prioritizes problems and colonias for future action. The targeted colonia must be included in the Colonia Comprehensive Plan.</p> <p>The goal of the Colonia Fund Construction ("CFC") fund is to develop viable communities by providing decent housing, viable public infrastructure, and a suitable living environment, principally for persons residing within a community or area that meets the definition of a colonia. An eligible county applicant may submit an application for the following eligible construction activities:</p> <p>Assessments for Public Improvements - The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.</p> <p>Other Improvements - Other activities eligible under 42 USC Section 5305 designed to meet the needs of colonia residents.</p>

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>Colonia Fund: Construction. The selection criteria for the Colonia Fund: Construction will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; benefit to LMI persons; project priorities; project design; matching funds; and past performance.</p> <p>Colonia Fund: Planning (Area). The selection criteria for the Colonia Fund: Planning will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; project design; the severity of need within the colonia area(s) and how clearly the proposed planning effort will remove barriers to the provision of public facilities to the colonia area(s) and result in the development of an implementable strategy to resolve the identified needs; the planning activities proposed in the application; whether each proposed planning activity will be conducted on a colonia-wide basis; the extent to which any previous planning efforts for colonia area(s) have been accomplished; the CDBG cost per LMI beneficiary; the availability of funds to the applicant for project financing from other sources; the applicant's past performance on previously awarded CDBG contracts; benefit to LMI persons; and matching funds.</p> <p>Colonia Fund: Planning (Comprehensive). The selection criteria for the Colonia Fund: Planning will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; project design; the severity of need for the comprehensive colonia planning effort and how effectively the proposed comprehensive planning effort will result in a useful assessment of colonia populations, locations, infrastructure conditions, housing conditions, and the development of short-term and long term strategies to resolve the identified needs; the extent to which any previous planning efforts for colonia area(s) have been accomplished; whether the applicant has provided any local matching funds for the planning or preliminary engineering activities; the applicant's past performance on previously awarded CDBG contracts; and award history (an applicant that has previously received a CDBG comprehensive planning award would receive lower priority for funding).</p>
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<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>The State CDBG allocation 6.75% (approximately) is allocated to the Colonia Fund. Of the yearly CDBG allocation to the Colonia Construction and Planning Fund, 97.5% (approximately) of those funds are to award grants through the CFC and 2.5% (approximately) are to award grants through the CFP. Subsequent to awarding funds, any portion of the CFC allocation that is unable to be awarded (i.e., fund an application in the minimum amount of \$75,000, etc.) may be used to fund additional eligible CFP applications, and conversely, any portion of the CFP allocation that is unable to be awarded may be used to fund additional eligible CFC applications.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>CFP Maximum \$100,000/Minimum \$0 CFC Maximum \$500,000/Minimum \$75,000</p>
<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Activities Benefiting LMI Persons</p>
<p>3 State Program Name:</p>	<p>Colonia SHC Legislative Set-Aside (administered by TDHCA)</p>
<p>Funding Sources:</p>	<p>CDBG CDBG Colonias Set-aside</p>
<p>Describe the state program addressed by the Method of Distribution.</p>	<p>Administered by TDHCA and funded through CDBG, the Colonia SHC Program serves colonias along the Texas-Mexico border. Colonia SHCs provide concentrated on-site technical assistance to low- and very low-income individuals and families in a variety of ways including housing, community development activities, infrastructure improvements, outreach and education. Key services include: housing rehabilitation; new construction; surveying and platting; construction skills training; tool library access for self-help construction; housing finance; credit and debt counseling; grant writing; infrastructure construction and access; contract-for-deed conversions; and capital access for mortgages.</p>

	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	Approximately 42,000 residents live in the targeted colonias served by the colonia SHC Program. The SHCs process applications from income eligible households on a first come, first served basis. Eligible households must reside in one of the targeted colonias, which have been preselected by each recipient and county and confirmed by C-RAC. Households must earn less than 80% of AMI.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Colonia SHCs are limited statutorily and serve seven targeted colonias within their associated participating county. The SHCs and TDHCA's Border Field Offices both conduct outreach activities throughout the contract period to inform colonia residents of program benefits and eligibility criteria and to provide application assistance.
	Describe how resources will be allocated among funding categories.	Of the State CDBG allocation, 2.5% (approximately) is allocated to this fund. Counties that are statutorily designated to participate in the Colonia SHC Program propose which target colonias should receive concentrated attention and through what scope of program activities and funding. Each SHC designs a proposal unique to the needs of a specific community and based on a needs assessment. After a C-RAC, composed of residents from previously participating colonias, reviews and approves the proposals from the counties, the proposals are then reviewed and approved by the TDHCA's Board of Directors for implementation. Resources are allocated based on analysis and input from each community.
	Describe threshold factors and grant size limits.	Maximum \$1,000,000/Minimum \$500,000 For the colonia SHC, program rules limit the assistance to up to \$1,000,000 per colonia SHC per contract period. Each program activity, such as new construction, rehabilitation, and small repairs for housing, for example, are limited to specific dollar amounts.
	What are the outcome measures expected as a result of the method of distribution?	For the Colonia SHC Program, outcomes include: colonia residents assisted, housing units assisted or created, instances of technical assistance provided, and instances of information delivered. In general, this is Activities Benefiting LMI Persons.
4	State Program Name:	Colonias to Cities Initiative Program
	Funding Sources:	CDBG CDBG Colonias Set-aside

<p>Describe the state program addressed by the Method of Distribution.</p>	<p>The Colonia to Cities Initiative ("CCIP") provides funding for basic infrastructure considered necessary for a colonia area to be annexed by an adjoining city. Priority is given to colonias that have received prior CDBG funding. Both the county and city must submit a multi-jurisdictional pre-application for the project that includes a resolution from each jurisdiction. The city's resolution must include a firm commitment to annex the colonia upon completion of the project. Failure to annex the colonia may result in a requirement to repay the CDBG funding to TDA.</p>
<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>The TDA will evaluate the following factors prior to awarding CCIP funds:</p> <ul style="list-style-type: none"> - the proposed use of the TxCDBG funds including the eligibility of the proposed activities; - the ability of the community to utilize the grant funds in a timely manner; - the availability of funds to the community for project financing from other sources; - the community's past performance on previously awarded TxCDBG contracts, if applicable; - cost per beneficiary; and - commitment by the city to annex the colonia area within one year of project completion. <p>If applications exceed the available funding, the Department may use the scoring factors established for the Colonia Fund-Construction component.</p>
<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Eligible applicants will be notified if funds become available.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>If there are an insufficient number of projects ready for CEDAP funding, the CEDAP funds may be transferred to the Colonias to Cities Initiative.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>Minimum \$100,000/Maximum \$1,000,000</p>

	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting Low and Moderate Income ("LMI") Persons
5	State Program Name:	Community Development Fund
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	<p>The Community Development ("CD") Fund is available on a biennial basis through a competition in each of the State's 24 planning regions. The goal of the CD Fund is to develop viable communities by providing decent housing, viable public infrastructure, and a suitable living environment, principally for persons of low to moderate income.</p> <p>Applicants are encouraged to provide for infrastructure and housing activities that will improve opportunities for LMI persons. When considering and designing projects, applicants must continue to consider project activities that will affirmatively further fair housing, which includes project activities that provide basic infrastructure (such as water, sewer, and roads) that will benefit residential housing and other housing activities.</p>

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>CD applicants are scored using a shared system with 90% of the scoring criteria established by Regional Review Committees ("RRC") and 10% established by the state's scoring criteria. There is a Regional Review Committee in each of the 24 State planning regions. Each RRC will be comprised of 12 members appointed at the pleasure of the Texas Commissioner of Agriculture. A quorum of seven members is required for all public hearings. Each RRC is responsible for determining local project priorities and objective scoring criteria for its region for the CD Fund in accordance with the requirements in this Action Plan. Additionally, the RRC shall establish the numerical value of the points assigned to each scoring factor and determine the total combined points for all RRC scoring criteria. The Regional Review Committees are responsible for convening public hearings to discuss and select the objective scoring criteria that will be used to score and rank applications at the regional level. The public must be given an opportunity to comment on the priorities and the scoring criteria considered. The final selection of the scoring criteria is the responsibility of each RRC and must be consistent with the requirements in this Action Plan. The RRC may not adopt scoring factors that directly negate or offset the State's scoring factors. Each RRC shall develop a RRC Guidebook, in the format provided by TDA, to notify eligible applicants of the objective scoring criteria and other RRC procedures for the region. The Guidebook must be submitted to TDA and approved at least ninety days prior to the application deadline.</p> <p>The state scoring will be based on the following:</p> <ol style="list-style-type: none"> 1. Past selection - 4% of Maximum Possible RRC Score for each region. 2. Past Performance- 4% of Maximum Possible RRC Score for each region. 3. All project activities within the application would provide basic infrastructure or housing activities - 2% of Maximum Possible RRC Score for each region. (Basic infrastructure - the basic physical shared facilities serving a community's population consisting of water, sewage, roads and flood drainage. Housing activities - as defined in 24 Code of Federal Regulations ("CFR") Part 570.)
<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.</p>

	Describe how resources will be allocated among funding categories.	64.83% (approximately) of the State CDBG allocation is allocated to this fund.
	Describe threshold factors and grant size limits.	Minimum \$75,000/Maximum \$800,000, regions may establish additional grant amount limits.
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
6	State Program Name:	Community Enhancement Fund
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	The Community Enhancement ("CEF") Fund provides a source of funds (when available) not available through other CDBG programs to stimulate a community's economic development efforts and improve self-sufficiency. The project must have the potential to benefit all citizens within a jurisdiction. The community project must provide a benefit that will enhance the overall quality of life in the rural community.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The selection criteria for the Community Enhancement Fund will focus on the following factors: a. LMI percentage of the applicant; b. Partnerships; c. Multi-Purpose Facility or Public Safety Equipment; d. Sustainability; and e. Match.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .

	Describe how resources will be allocated among funding categories.	Deobligated funds up to \$3,000,000 are made available for the CE Fund on the first day of a program year.
	Describe threshold factors and grant size limits.	Minimum \$50,000/Maximum \$500,000
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
7	State Program Name:	Disaster Relief Funds
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	<p>Disaster Relief ("DR") Fund assistance is available as needed for eligible activities in relief of disaster situations where either a state or federal disaster declaration has been issued.</p> <p>Declaration other than Drought: Priority for the use of these funds is for repair and restoration activities that meet basic human needs (such as water and sewer facilities, housing, and roads), and may not include funding to construct public facilities that did not exist prior to the occurrence of the disaster.</p> <p>Declaration for Drought: Funding in response to a Governor's drought disaster declaration covering the area that would benefit from project activities must include new facilities to improve water supply, subject to the conditions set forth in Title 4, Part 1, Chapter 30, Subchapter A of the Texas Administrative Code.</p>

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>To qualify for the DR Fund:</p> <ul style="list-style-type: none"> a. The situation addressed by the applicant must be both unanticipated and beyond the control of the local government. b. The problem being addressed must be of recent origin. For DR Fund assistance, this means that the application for assistance must be submitted no later than 12 months from the date of the state or federal disaster declaration. c. Funds will not be provided under Federal Emergency Management Agency's ("FEMA's") Hazard Mitigation Grant Program for buyout projects unless TDA receives satisfactory evidence that the property to be purchased was not constructed or purchased by the current owner after the property site location was officially mapped and included in a designated flood plain area. d. Each applicant must demonstrate that adequate local funds are not available, i.e., the entity has less than six months of unencumbered general operations funds available in its balance as evidenced by the last available audit required by state statute, or funds from other state or federal sources are not available to completely address the problem. e. TDA may consider whether funds under an existing CDBG contract are available to be reallocated to address the situation. f. The distribution of these funds will be coordinated with other state agencies.
<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>4.10% (approximately) of the State CDBG allocation is allocated to the DR Fund. Deobligated funds up to \$1,000,000 are made available for the DR Fund on the first day of a program year, and additional deobligated funds may be allocated to the DR Fund according to the procedures described in the Additional Detail on Method of Distribution section following this table. The amount for this fund category may be adjusted during the program year as needed.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>Maximum \$350,000/Minimum \$50,000</p>

	What are the outcome measures expected as a result of the method of distribution?	Meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents of the community.
8	State Program Name:	General HOME Funds for Single-Family Activities
	Funding Sources:	HOME
	Describe the state program addressed by the Method of Distribution.	TDHCA awards single-family activity funds as grants and loans through a network of local administrators for Homeowner Rehabilitation, Homebuyer Assistance, and TBRA. Assistance length and term depends on the type of activity. The funds are initially being made available competitively on a regional basis, then later remaining funds are made available statewide on a first-come, first-served Reservation System, a contract-based system or some combination of these two methods. The method will be described in NOFAs and is informed by needs analysis, oversubscription for the activities, and public input.

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>Applicants must comply with requirements stated in NOFAs, the Single-Family Programs Umbrella Rule, and State HOME Program Rules in effect at the time they receive their award.</p> <p>Review of Applications</p> <p>All programs will be operated through direct administration by TDHCA, reallocation of deobligated funding and program income, or through the release of Notices of Funding Availability (NOFAs) with an emphasis on geographic dispersion of funds, particularly in rural areas of the state, using a Regional Allocation Formula (RAF) which uses objective measures to determine rural housing needs such as poverty and substandard housing. For NOFAs, applicants must submit a complete application to be considered for funding, along with an application fee determined by TDHCA. Applications received by TDHCA will be reviewed for applicable threshold, eligibility and/or scoring criteria in accordance with the Department’s rules and application review procedures published in the NOFA and/or application materials. Information related to NOFAs, application requirements and fees, and application review procedures and materials is available at http://www.tdhca.state.tx.us/home-division/index.htm.</p> <p>Selection Process</p> <p>Qualifying applications are recommended for funding based on the Department’s rules and any additional requirements established in the NOFA. Applications submitted for development activities will also receive a review for financial feasibility, underwriting and compliance under the HOME Final Rule as well as the Department’s existing previous participation review process.</p> <p>The state may select subrecipients or state recipients as described in program rules and NOFAs, or may conduct a portion of HOME activities directly in accordance with §92.201.</p> <p>Deobligated HOME Program Funds</p> <p>When administrators have not successfully expended the HOME funds within their contract period, TDHCA de-obligates the funds and pools the dollars for redistribution according to TDHCA’s Deobligated Funds Policy at 10 TAC §1.5, and consistent with the reservation system and any open NOFAs. TDHCA may also reallocate these funds through a competitive NOFA process resulting in an award of funds.</p>
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	Describe how resources will be allocated among funding categories.	TDHCA announces the annual allocation of HOME Single-Family funds through a NOFA and specifies that the funds will initially be made available using a Regional Allocation Formula ("RAF") which divides funds among 26 sub-regions as required by state statute. The allocation method is developed based on a formula which considers need and funding availability. After a period of several months, regional allocations collapse. Following the release of the annual allocation through the RAF, TDHCA periodically adds HOME program income and deobligated funds to the funds available via the Reservation System and either allocates a specific amount of funds per activity based on funding priorities or may allow HOME administrator's requests for funding through the system to determine how the funds are finally allocated among fund categories. TDHCA may specify the maximum amount of funds that will be released for each activity type and may allocate funds via a first come, first served Reservation System or alternate method based on public comment.
	Describe threshold factors and grant size limits.	Applicants must comply with requirements stated in the HOME NOFA and State HOME Program Rules in effect the year they receive their award. These sources provide threshold limits and grant size limits per activity type.
	What are the outcome measures expected as a result of the method of distribution?	Assistance to LMI households.
9	State Program Name:	HOME Multifamily Development
	Funding Sources:	HOME
	Describe the state program addressed by the Method of Distribution.	The Multifamily Direct Loan Program awards loans to for-profit and nonprofit multifamily developers to construct and rehabilitate affordable rental housing. These loans typically carry a 0% to 5% interest rate and have terms ranging from 15 years to 40 years. The vast majority of the loans are made in conjunction with awards of 4% or 9% HTC's.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, appropriate zoning for the site, and a market and environmental study. Additionally, the development must be near certain community assets. HOME Multifamily Direct Loan Program funds are typically awarded on a first-come, first-served basis, as long as the criteria above are met. For HOME Multifamily Direct Loan Program applications layered with 9% HTC's, the highest scoring applications in the 9% cycle that also request HOME funds take priority over lower scoring HOME Multifamily Development applications that may have been received earlier.

	Describe how resources will be allocated among funding categories.	Typically, of the HOME Multifamily Funds, 85% is available for general activities and 15% for Community Housing Development Organizations (CHDOs). However, the HOME Multifamily Direct Loan Program may make funds available annually under the General, Persons With Disabilities, and CHDO Set-Asides.
	Describe threshold factors and grant size limits.	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, experience of the developer, appropriate zoning for the site, and a market and environmental study. Additionally, the development must be near certain community assets such as a bank, pharmacy, or medical office and have certain unit amenities and common amenities. Awards of HOME Multifamily Direct Loan Program funds range from approximately \$300,000 to \$3 million per application in the form of a loan.
	What are the outcome measures expected as a result of the method of distribution?	Assistance to LMI households.
10	State Program Name:	Local Revolving Loan Funds
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	TxCDBG allows communities that received Texas Capital Fund awards to support job creation or retention, and that created a local revolving loan fund, prior to implementation of the interim rule published November 12, 2015, to retain the program income generated by the economic development activities and to reinvest the funds to support job creation/retention activities.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	Criteria are established by local subrecipients, with guidance from the TxCDBG Revolving Loan Fund Information Guide provided by TDA.

	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	The TxCDBG Revolving Loan Fund Information Guide is provided directly to subrecipients that have established revolving loan funds.
	Describe how resources will be allocated among funding categories.	Program Income generated by a local RLF is retained by that community or returned to TDA for distribution according to the Action Plan. See "Grantee Unique Appendices" for table of local revolving loan funds.
	Describe threshold factors and grant size limits.	Minimum loan amount: \$25,000. Additional parameters for minimum or maximum loan amounts may be established by the subrecipient.
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefitting LMI Persons through Job Creation/Retention
11	State Program Name:	National Housing Trust Fund
	Funding Sources:	Housing Trust Fund
	Describe the state program addressed by the Method of Distribution.	The NHTF Program awards loans to for-profit and nonprofit multifamily developers to construct multifamily affordable housing. Because the NHTF is required to benefit ELI households at 30% of AMI or less, the units will likely not be able to service a debt payment. The constraints on NHTF dictate that the funds be available as 0% interest, deferred payment loan, or as a 0% interest cash flow loans, if required, to leverage with tax credits or other financing mechanisms.

	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	<p>TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, appropriate zoning for the site, and a market and environmental study.</p> <p>Additionally, the development must be near certain community assets. TDHCA Multifamily Direct Loan Program funds are typically awarded on a first-come, first-served basis, as long as the criteria above are met. For NHTF Multifamily Development applications layered with 9% HTCs, the highest scoring applications in the 9% cycle that also request NHTF funds take priority over lower scoring HOME NHTF Multifamily Development applications. Applications that will create new ELI units without preexisting vouchers or other rental subsidy will be prioritized, and additional criteria may be imposed for applications not layered with tax credits.</p>
	Describe how resources will be allocated among funding categories.	<p>Multifamily Direct Loan Program</p> <p>NHTF will not be allocated among funding categories. The requirement to serve ELI households already meets a setaside category in TDHCA Multifamily programs.</p>
	Describe threshold factors and grant size limits.	<p>TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, experience of the developer, appropriate zoning for the site, and a market and environmental study. Additionally, the development must be near certain community assets such as a bank, pharmacy, or medical office and have certain unit amenities and common amenities. NHTF will be integrated into the TDHCA Multifamily Direct Loan Program. Awards may range from approximately \$300,000 to \$3 million per application in the form of a loan for this program.</p>
	What are the outcome measures expected as a result of the method of distribution?	<p>Assistance to ELI households.</p>
12	State Program Name:	<p>Planning/Capacity Building Fund</p>
	Funding Sources:	<p>CDBG</p>
	Describe the state program addressed by the Method of Distribution.	<p>The Planning/Capacity Building ("PCB") Fund is available to assist eligible cities and counties in conducting planning activities that assess local needs, develop strategies to address local needs, build or improve local capacity, or that include other needed planning elements (including telecommunications and broadband needs).</p>

	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The selection criteria for the PCB Fund will focus upon the following factors: a. Community Distress; a. Percentage of persons living in poverty; b. Per capita income; c. Unemployment rate; b. Benefit to LMI Persons; c. Project Design; d. Program Priority; e. Base Match; f. Area-wide Proposals; and g. Planning Strategy and Products.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .
	Describe how resources will be allocated among funding categories.	1.0% (approximately) of the State CDBG allocation is allocated to this fund.
	Describe threshold factors and grant size limits.	Minimum \$0/Maximum \$55,000
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
13	State Program Name:	State Mandated Contract for Deed Conversion Set-Aside
	Funding Sources:	HOME

<p>Describe the state program addressed by the Method of Distribution.</p>	<p>The 81st Texas Legislature passed Appropriations Rider 6 to TDHCA's appropriation pattern, which requires TDHCA to spend no less than \$4 million for the biennium on contract for deed conversions for families that reside in a colonia and earn 60% or less of the applicable Area Median Income ("AMI"). Furthermore, TDHCA is targeted to convert no less than 200 contracts for deed into traditional notes and deeds of trust by August 31, 2016. The intent of this program is to help colonia residents become property owners by converting their contracts for deed into traditional mortgages. Households served under this initiative must not earn more than 60% of the Area Median Family Income ("AMFI") and the home converted must be their primary residence.</p>						
<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>Administrators must meet HOME Program threshold requirements to access funding. Funding is made available to contract for deed administrators on a first-come, first-served basis, in addition to threshold requirements outlined in the State HOME Program Rule, through the Reservation System.</p>						
<p>Describe how resources will be allocated among funding categories.</p>	<p>TDHCA sets aside \$2,000,000 for contract for deed conversion activities annually and releases the funds through the reservation system as a method of distribution.</p>						
<p>Describe threshold factors and grant size limits.</p>	<p>Applicants must meet the thresholds provided in the NOFA and State HOME Program Rules in effect the year in which they receive their award. Administrators are not awarded a grant following a successful application. Rather funds are awarded on a household by household basis.</p>						
<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Assistance to households with incomes at or below 60% AMFI.</p>						
<p>14</p>	<table border="1"> <tr> <td data-bbox="142 1398 483 1440"> <p>State Program Name:</p> </td> <td data-bbox="483 1398 1502 1440"> <p>TCF Main Street Program</p> </td> </tr> <tr> <td data-bbox="142 1440 483 1482"> <p>Funding Sources:</p> </td> <td data-bbox="483 1440 1502 1482"> <p>CDBG</p> </td> </tr> <tr> <td data-bbox="142 1482 483 1663"> <p>Describe the state program addressed by the Method of Distribution.</p> </td> <td data-bbox="483 1482 1502 1663"> <p>The Texas Capital Fund ("TCF") Main Street Program provides eligible Texas Main Street communities with grants to expand or enhance public infrastructure in historic main street areas.</p> </td> </tr> </table>	<p>State Program Name:</p>	<p>TCF Main Street Program</p>	<p>Funding Sources:</p>	<p>CDBG</p>	<p>Describe the state program addressed by the Method of Distribution.</p>	<p>The Texas Capital Fund ("TCF") Main Street Program provides eligible Texas Main Street communities with grants to expand or enhance public infrastructure in historic main street areas.</p>
<p>State Program Name:</p>	<p>TCF Main Street Program</p>						
<p>Funding Sources:</p>	<p>CDBG</p>						
<p>Describe the state program addressed by the Method of Distribution.</p>	<p>The Texas Capital Fund ("TCF") Main Street Program provides eligible Texas Main Street communities with grants to expand or enhance public infrastructure in historic main street areas.</p>						

	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The selection criteria for the TCF Main Street Program will focus upon the following factors: a. Applicant Need criteria, including poverty rate, median income, unemployment rate, and community need; b. Project criteria, including leverage, economic development consideration, sidewalks projects and Americans with Disabilities Act ("ADA") compliance, broad-based public support, emphasis on benefit to LMI persons, and grant application training; and c. Main Street program criteria, including National Main Street program recognition, Main Street program participation, historic preservation ethic impact.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .
	Describe how resources will be allocated among funding categories.	6% of the total TCF allocation up to a maximum amount of \$600,000, and program income up to \$150,000 (if available).
	Describe threshold factors and grant size limits.	Maximum \$250,000/Minimum \$50,000
	What are the outcome measures expected as a result of the method of distribution?	Eliminate or prevent slum and blight conditions.
15	State Program Name:	TCF Real Estate and Infrastructure Development Programs
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	The Texas Capital Fund ("TCF") Real Estate and Infrastructure Development Programs provides grants and/or loans for Real Estate and Infrastructure Development to create or retain permanent jobs in primarily rural communities and counties.

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>The selection criteria for the TCF Real Estate and Infrastructure Development will focus upon the following factors:</p> <ul style="list-style-type: none"> a. Job creation criteria: <ul style="list-style-type: none"> i. Cost-per-job, ii. Job impact, iii. Wage impact, and iv. Primary jobs created/retained; b. Unemployment rate; and c. Return on Investment. <p>Once applications are evaluated and determined to be in the funding range the projects will be reviewed upon the following additional factors:</p> <ul style="list-style-type: none"> a. History of the applicant community in the program; b. Strength of the business or marketing plan; c. Evaluation of the business and the business’ principal owners credit; d. Evaluation of community and business need; and e. Justification of minimum necessary improvements to serve the project.
<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>14.51% of the State CDBG allocation is allocated to the Real Estate and Infrastructure Development Programs minus the lesser of 18% or \$1,800,000 of the total TCF allocation. In addition, program income funds generated by TCF projects and not otherwise allocated are made available for the Real Estate and Infrastructure Development Programs on the first day of a program year. In accordance with 24 CFR 570.479(e)(ii), the State has determined that program income generated by TCF during PY 2016 must be returned to the State for redistribution to new economic development activities. TCF awards are made for a specific project, based on the minimum necessary work to support the creation or retention of specific jobs, which must be completed prior to close out of the TCF contract. Therefore the community is unlikely to continue funding the same activity in the near future as described in the new regulation.</p>

	Describe threshold factors and grant size limits.	Maximum \$1,500,000/Minimum \$150,000
	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
16	State Program Name:	TCF Small and Micro Enterprise Revolving Fund
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	The Texas Capital Fund ("TCF") Small and Micro Enterprise Revolving Fund provides grants to local partnerships of communities and non-profit organizations to establish a local revolving loan fund, providing loans to local small businesses that commit to create or retain permanent jobs.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The selection criteria for the Small and Micro Enterprise Revolving Fund will focus on the following factors: a. Community Need; b. Non-Profit Loan Capacity; and c. Multi-jurisdictional applications.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .
	Describe how resources will be allocated among funding categories.	Program Income funds up to \$1,500,000 are made available for the Small and Micro Enterprise Revolving Fund on the first day of a program year.
	Describe threshold factors and grant size limits.	\$100,000 per award

	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
17	State Program Name:	Texas Capital Fund Downtown Revitalization Program
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	The Texas Capital Fund ("TCF") Downtown Revitalization Program awards grant funds for public infrastructure to foster and stimulate economic development in rural downtown areas.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	The selection criteria for the TCF Downtown Revitalization Program will focus upon the following factors: a. Applicant Need criteria, including poverty rate, median income, unemployment rate, and community need; b. Project criteria, including leverage, economic development consideration, sidewalks projects, and ADA compliance, broad-based public support, emphasis on benefit to LMI persons, and grant application training; and c. Past Performance.
	If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)	Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov .
	Describe how resources will be allocated among funding categories.	12% of the total TCF allocation up to a maximum of amount \$1,200,000, and program income up to \$350,000 (if available).
	Describe threshold factors and grant size limits.	Maximum \$250,000/Minimum \$50,000

	What are the outcome measures expected as a result of the method of distribution?	Eliminate or prevent slum and blight conditions.
18	State Program Name:	Texas ESG Program
	Funding Sources:	ESG
	Describe the state program addressed by the Method of Distribution.	The ESG Program is currently a competitive grant that awards funds to private nonprofit organizations, cities, and counties in the State of Texas to provide the services necessary to help persons that are at-risk of homelessness or homeless quickly regain stability in permanent housing. TDHCA ran a pilot program in 2014 and 2015 with two local Continuum of Care (‘CoC’) lead agencies to run a local competition of state ESG funding in their respective CoC regions. TDHCA expanded that pilot in 2016 to five CoC lead agencies, giving them more local control of the use of funds in their service areas. Applicants in the CoC regions in which the lead agency is running a local competition will apply directly to the CoC lead agency for TDHCA ESG funding. Applicants in the CoC regions in which the lead agency is not running a local competition will apply directly to the TDHCA for ESG funding. Ultimate award authority for all ESG funds remains with TDHCA’s Board.
Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	In the competitive process with TDHCA, applications are selected based on: - Program Description and Capacity (11%); Proposed Performance (74%); Proposed Budget and Match (8%); CoC Participation and Coordination (6%); Language Access Plan (1%); and Past Performance of Subrecipients in ESG Expenditure and Reporting (negative scores only) The allocation amounts are established by formula by CoC region. Any funds returned to the Department from prior ESG awards before 2016 ESG awards are made, will be redistributed in accordance with the 2015 NOFA.	

<p>Describe the process for awarding funds to state recipients and how the state will make its allocation available to units of general local government, and non-profit organizations, including community and faith-based organizations. (ESG only)</p>	<p>For the competitive process, Texas releases a NOFA each spring in anticipation of the State's receipt of ESG funding. For 2016, Applications will be accepted for a 50-day period. Applications are scored and ranked within their CoC regions.</p> <p>Eligible applicant organizations are Units of General Purpose Local Government, including cities, counties and metropolitan cities; urban counties that receive ESG funds directly from HUD; and organizations as described in a NOFA or other funding mechanism. Other instrumentalities of a city or county, like an LMHA, may be eligible and should seek guidance from TDHCA to determine if they can apply. Governmental organizations such as Public Housing Authorities ("PHAs") are not eligible and cannot apply directly for ESG funds; however PHAs may serve as a partner in a collaborative Application, but may not be the lead entity. These same criteria will apply to those entities awarded directly by the CoCs as well.</p> <p>Eligible applicant organizations also include private nonprofit organizations that are secular or religious organizations described in section 501(c) of the Internal Revenue Code of 1986, are exempt from taxation under subtitle A of the Code, have an acceptable accounting system and a voluntary board, and practice non-discrimination in the provision of assistance. Faith-based organizations receiving ESG funds, like all organizations receiving HUD funds, must serve all eligible beneficiaries without regard to religion.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>ESG funds may be used for six program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, HMIS, and administrative activities. Per 24 CFR §576.100(b), the total amount of an Applicant's budget for street outreach and emergency shelter cannot exceed 60% of their total requested amount. Within a Collaborative Application, the 60% limit applies to the entire Application and not to each partner within the Collaborative Application. This requirement will also apply in the CoC local competition method.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>Within each CoC region, applicants may request no less than \$125,000 unless the initial amount available in the region is less than \$125,000. In those cases, applicants may request an amount no less than the available allocation for that region. Single applicants may request a maximum of \$150,000. For a collaborative application, the maximum request amount is \$150,000 times the number of partners in the application, with a maximum request of \$600,000. The minimum request for a collaborative application is \$125,000, unless the initial amount available in the region is less than \$125,000. In those cases the collaborative applicant may request an amount no less than the available allocation for that region. In a collaborative application, each partner is not limited to budgeting \$150,000 each; the total grant amount may be budgeted among all partners as agreed upon. These numbers may be adjusted depending on the final allocation from HUD. If funds are being awarded by CoCs, they will establish these factors and limits with TDHCA approval. They will not necessarily reflect these factors, but will reflect a local decision-making process.</p>

	What are the outcome measures expected as a result of the method of distribution?	The expected outcome is that funds will be awarded to organizations that have the administrative and performance capacity to provide the services needed in their communities. The expected outcome of TDHCA's plan to fund the CoCs directly is that the same will be accomplished, but with CoC-wide planning rather than with only State planning.
19	State Program Name:	Texas HOPWA Program
	Funding Sources:	HOPWA
	Describe the state program addressed by the Method of Distribution.	DSHS selects seven AAs across the state through a combination of competitive Requests for Proposal ("RFP") and intergovernmental agency contracts. The AAs act as an administrative arm for DSHS by administering the HOPWA program locally. The AAs do not receive any HOPWA administrative funds from DSHS; all AA administrative costs are leveraged from other funding sources. The AAs, in turn, select HOPWA Project Sponsors to cover all 26 HSDAs through local competitive processes
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	Information on grant applications, available funding opportunities, application criteria, etc. can be found on the DSHS website: http://www.dshs.state.tx.us/fic/default.shtm . Contracting information and resources (i.e., General Provisions, contract requirements, etc.) are located on the DSHS website: http://www.dshs.state.tx.us/contracts/default.shtm . Contracting services for DSHS and other Health agencies are consolidated under the Health and Human Services Commission's Procurement and Contracting Services (PCS) Division. This division handles the solicitation, contract development, contract execution, and office of record for DSHS's contracting needs. Evaluation Criteria as noted in the most recent RFP process for AAs for Ryan White/State Services and HOPWA programs were: Respondent Background = 30%; Assessment Narrative = 15%; Performance Measures = 10%; Work Plan = 35%; and Budget = 10%.
	Identify the method of selecting project sponsors (including providing full access to grassroots faith-based and other community-based organizations). (HOPWA only)	The AAs select HOPWA Project Sponsors to cover all 26 HSDAs through local competitive processes. Community-based organizations, minority organizations, minority providers, grassroots and faith-based organizations are encouraged to apply. Historically, many of the agencies that have provided services to TDHCA's client population are grassroots, community-based, and minority organizations.

<p>Describe how resources will be allocated among funding categories.</p>	<p>Texas HOPWA funding allocations are geographically distributed across the state to the 26 HSDAs based on factors such as population of PLWH and unmet need. Texas HOPWA serves PLWH and their family members, all of whom are at or below 80% of AMI, and most fall into the extremely low-income category. Allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid, and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. After allocations to each HSDA are determined, it is then up to the Project Sponsor to allocate between activities of TBRA, STRMU, PHP, Supportive Services, and administrative expenses (not to exceed 7% of their allocation) and submit those to their AA and DSHS for approval. Project Sponsors base allocations on many factors, including but not limited to, number of clients projected to continue into the next year, area unmet need, rental costs, prior number of clients served, average expenditures per client, and changes in HIV population living in poverty, etc. Funds are also reallocated during the year within HSDAs under each AA as needed when needs change.</p>	
<p>Describe threshold factors and grant size limits.</p>	<p>Texas HOPWA serves PLWH and their family members, all of whom are at or below 80% of AMI. The majority of HOPWA clients are classified as extremely low income, which is between 0% and 30% of AMI.</p>	
<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Outcome measures are number of unduplicated income-eligible clients and families living with HIV (households) assisted with each HOPWA service category (TBRA, STRMU, PHP if applicable, and Supportive Services).</p>	
<p>20</p>	<p>State Program Name:</p>	<p>Texas Small Towns Environment Program Fund</p>
<p>Funding Sources:</p>	<p>CDBG</p>	

<p>Describe the state program addressed by the Method of Distribution.</p>	<p>The Texas Small Towns Environment Program ("STEP") Fund provides funds to cities and counties that recognize the need and potential to solve water and sewer problems through self-help techniques via local volunteers. By utilizing the resources of the community (human, material, and financial), the necessary construction, engineering, and administration costs can be reduced significantly from the cost for the installation of the same improvements through conventional construction methods.</p> <p>The self-help response to water and sewer needs may not be appropriate in every community. In most cases, the decision by a community to utilize self-help to obtain needed water and sewer facilities is based on the realization of the community that it cannot afford even a basic water or sewer system based on the initial construction costs and the operations/maintenance costs (including debt service costs) for water or sewer facilities installed through conventional financing and construction methods.</p>
<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>The following are the selection criteria to be used by CDBG staff for the scoring of assessments and applications under the Texas STEP Fund:</p> <ul style="list-style-type: none"> a. Project Impact b. STEP Characteristics, Merits of the Project, and Local Effort c. Past Participation and Performance d. Percentage of Savings off of the retail price e. Benefit to Low/Moderate-Income Persons
<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>Deobligated funds up to \$1,000,000 are made available for the STEP Fund on the first day of the program year.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>Maximum \$350,000/Minimum \$0</p>

	What are the outcome measures expected as a result of the method of distribution?	Activities Benefiting LMI Persons
21	State Program Name:	Urgent Need Fund
	Funding Sources:	CDBG
	Describe the state program addressed by the Method of Distribution.	Urgent Need ("UN") Fund assistance is available for activities that will restore water and/or sewer infrastructure whose sudden failure has resulted in death, illness, injury, or poses an imminent threat to life or health within the affected applicant's jurisdiction. The infrastructure failure must not be the result of a lack of maintenance and must be unforeseeable. An application for UN Fund assistance will not be accepted until discussions between the potential applicant and representatives of TDA, TWDB, and the Texas Commission on Environmental Quality ("TCEQ") have taken place. Through these discussions, a determination shall be made whether the situation meets eligibility requirements and if a potential applicant should be invited to submit an application for the UN Fund. Construction on an UN Fund project must begin within ninety (90) days from the start date of the CDBG contract. TDA may de-obligate the funds under an UN Fund contract if the grantee fails to meet this requirement.

<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>To qualify for the UN Fund:</p> <ol style="list-style-type: none"> 1. The situation addressed by the applicant must not be related to a proclaimed state or federal disaster declaration. 2. The situation addressed by the applicant must be both unanticipated and beyond the control of the local government (e.g., not for facilities or equipment beyond their normal, useful life span). 3. The problem being addressed must be of recent origin. For UN assistance, this means that the situation first occurred or was first discovered no more than 30 days prior to the date that the potential applicant provides a written request to the TDA for UN assistance. UN funds cannot fund projects to address a situation that has been known for more than 30 days or should have been known would occur based on the applicant’s existing system facilities. 4. Each applicant for these funds must demonstrate that local funds or funds from other state or federal sources are not available to completely address the problem. 5. The applicant must provide documentation from an engineer or other qualified professional that the infrastructure failure cannot have resulted from a lack of maintenance or been caused by operator error. 6. UN funds cannot be used to restore infrastructure that has been cited previously for failure to meet minimum state standards. 7. The infrastructure requested by the applicant cannot include back-up or redundant systems. 8. The UN Fund will not finance temporary solutions to the problem or circumstance. 9. TDA may consider whether funds under an existing CDBG contract are available to be reallocated to address the situation, if eligible. 10. The distribution of these funds will be coordinated with other state agencies. Each applicant for UN Funds must provide matching funds. If the applicant’s most recent Census population is equal to or fewer than 1,500 persons, the applicant must provide matching funds equal to 10 percent of the CDBG funds requested. If the applicant’s most recent Census population is over 1,500 persons, the applicant must provide matching funds equal to 20 percent of the CDBG funds requested. For county applications where the beneficiaries of the water or sewer improvements are located in unincorporated areas, the population category for matching funds is based on the number of project beneficiaries.
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<p>If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)</p>	<p>Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.</p>
<p>Describe how resources will be allocated among funding categories.</p>	<p>No funds will be allocated on the first day of the Program Year; however, the amount for this funding category may be adjusted during the 2015 PY as needed.</p>
<p>Describe threshold factors and grant size limits.</p>	<p>Maximum \$250,000/Minimum \$25,000</p>
<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents of the community</p>

AP-50 Geographic Distribution – 91.320(f)

Description of the geographic areas of the state (including areas of low-income and minority concentration) where assistance will be directed

HOME Addresses Geographic Areas for Assistance

TDHCA does not provide priorities for allocation of investment geographically to areas of minority concentration; however, the geographic distribution of HOME funds to minority populations is analyzed annually. TDHCA is statutorily required by the Texas Government Code to provide a comprehensive statement of its activities through the State of Texas Low Income Housing Plan and Annual Report. Part of this document describes the ethnic and racial composition of families and individuals receiving assistance from each housing program.

HOME funds used for multifamily development are typically paired with tax-exempt bond and/or HTC. TDHCA rules that govern the HTC Program include incentives for developments utilizing the competitive 9% HTC in high opportunity areas which are defined as high-income, low-poverty areas and are not typically minority-concentrated, but it also provides incentive to develop in colonias or economically distressed areas. Developments using tax-exempt bond financing and 4% HTCs are more frequently located in qualified census tracts due to federal guidelines that cause these to be more financially viable.

ESG Addresses Geographic Areas for Assistance

Assistance provided by ESG funds will be directed statewide, according to the 11 HUD-designated CoC areas. TDHCA does not provide priorities for allocating investment geographically to areas of minority concentration as described in Section 91.320(d).

HOPWA Addresses Geographic Areas for Assistance

The Texas HOPWA funding allocations are geographically distributed according to the 26 HIV HSDAs. Allocations are based on several factors, including past performance of Project Sponsors and unmet need, with the majority of Texas HOPWA clients (90% in 2014) classified as extremely low and low income. Allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid, and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. Many of these individuals reside in areas of minority concentration and most PLWH are racial and ethnic minorities, so the program allocates funding to meet the needs of PLWH in Texas.

CDBG Addresses Geographic Areas for Assistance

TDA does not provide priorities for allocation of funds geographically to areas of minority concentration as described in Section 91.320(f). CDBG funds are allocated across the state in three ways. 1. The CD Fund assigns a percentage of the annual allocation to each of the 24 Regional COGs, ensuring that each region of the state receives a portion of the funds.

2. The Colonia Fund directs funding to communities within 150 miles of the Texas-Mexico border. All remaining funds are distributed through state-wide competitions without geographic priorities.
3. For the Colonia SHCs, centers are established along the Texas-Mexico border in Cameron/Willacy, Hidalgo, Starr, Webb, Maverick, Val Verde, and El Paso counties as well as in any other county designated as an economically distressed area. The SHC Program serves approximately 28 colonias in seven border counties, which are comprised of primarily Hispanic households and have concentrations of very low-income households.

NHTF Geographic Priorities description is added to Discussion section text below.

Geographic Distribution

Target Area	Percentage of Funds
State of Texas	100

Table 17 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

HOME Addresses Geographic Investments

HOME funds are allocated geographically using a RAF, as described in Strategic Plan Section 10. This process directs funds to areas of the State that demonstrate high need. In addition, HOME funds administered by TDHCA are primarily used in areas that are not Participating Jurisdictions ("PJs") per statute. This results in more HOME funds in smaller communities than in the larger Metropolitan Statistical Areas ("MSAs") that receive HOME funds directly from HUD. The most updated RAF is online at <http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm>.

ESG Addresses Geographic Investments

CoC regions have funding made available for competition according to the combination of the region's proportionate share of the state's total homeless population, based on the most recent Point-in-Time count submitted to HUD by the CoCs and the region's proportionate share of people living in poverty, based on the most recent 5-year American Community Survey poverty data published by the Census Bureau. For the purposes of distributing funds, the percentage of statewide homeless population is weighted at 75% while the percentage of statewide population in poverty is weighted at 25%.

HOPWA Addresses Geographic Investments

At the end of 2012, nearly 73,000 people in Texas were known to have HIV and it is estimated that an additional 17,000 people in Texas are living with HIV but are currently unaware of their status. The number of Texans living with HIV increases each year and in order to meet the needs of low-income PLWH in Texas, many of whom live in areas of minority concentration, the HOPWA funding allocations are geographically distributed across the State and are allocated based on several factors, including unmet need.

Six cities in Texas have a population of over 500,000 (Austin, Dallas, Fort Worth, El Paso, Houston, and

San Antonio), which are in MSAs funded directly from HUD for HOPWA. Although the Texas HOPWA program can operate in any area of the State, the State program serves all counties not covered under the MSAs' jurisdictions, with some overlap of counties between the State and the MSAs. As a result, Texas HOPWA covers all of the rural areas of the State, where many low-income HOPWA clients reside, and funding prioritization is based on areas with greater unmet need for PLWH.

CDBG Addresses Geographic Investments

Texas CDBG Funds for projects under the CD Fund are allocated by formula to 24 regions based on the methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs (21.71% of annual allocation), along with a state formula based on poverty and unemployment (40% of annual allocation). In addition, 12.5% of the annual allocation is allocated to projects under the Colonia Fund categories, which must be expended within 150 miles of the Texas-Mexico border. For the Colonia SHCs, state legislative mandate designates five centers along the Texas-Mexico border in specific border counties to address the long history of poverty and lack of institutional resources. Two additional counties have been designated as economically distressed areas and also operate centers through the program. These counties collectively have approximately 42,000 colonia residents who may qualify to access center services.

NHTF Addresses Geographic Investments

NHTF funds are allocated geographically using a Regional Allocation Formula, as described in Strategic Plan Section 10. Acknowledging that all regions of the State have a need to create housing for ELI households, the formula provides opportunity for access to NHTF. This process directs funds to areas of the State that demonstrate high need, but the very small amount of the PY 2016 allocation makes it difficult to fully differentiate.

Discussion

Many of the Target Areas available in the Integrated Disbursement and Information System ("IDIS"), HUD's electronic system in which this Plan has been entered, were too detailed for use at the macro-level; therefore, the State entered the "State of Texas" as a Target Area in Strategic Plan Section 10. Within Texas, each program relies on a formula to distribute funds geographically.

NHTF Geographic Priorities

The Texas NHTF will distribute NHTF funds through a competitive NOFA process. The funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition.

Affordable Housing

AP-55 Affordable Housing – 24 CFR 91.320(g)

Introduction

Affordable Housing goals for PY 2016 are indicated in the table below for the number of homeless, non-homeless, and special needs households, and for the number of affordable housing units that will be provided by program type, including rental assistance, production of new units, rehabilitation of existing units, utility connections for existing units, or acquisition of existing units. Note that goals entered for ESG are only for Homeless Prevention and Rapid Re-housing. The HOME goals include multifamily and single family activities.

One Year Goals for the Number of Households to be Supported	
Homeless	4,740
Non-Homeless	363
Special-Needs	1,713
Total	6,816

Table 18 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	6,475
The Production of New Units	172
Rehab of Existing Units	58
Acquisition of Existing Units	54
Total	6,759

Table 19 - One Year Goals for Affordable Housing by Support Type

Discussion

The one year goals for TDHCA's HOME Program include homebuyer assistance with possible rehabilitation for accessibility, TBRA, homeowner rehabilitation assistance, rehabilitation of multifamily units, and construction of single-family and multifamily units.

The one year goal for TDHCA's NHTF Program includes construction of new multifamily units.

TDHCA's ESG Program provides Rapid Re-housing assistance to help homeless individuals and households quickly regain stability in housing. Homelessness Prevention and Emergency Shelter outcome indicators are counted as persons, not households, so is not added into the chart above. ESG also provides street outreach, but as this does not directly equate to affordable housing, it is not counted above.

DSHS' HOPWA Program provides TBRA, STRMU, PHP, and Supportive Services to assist low-income HIV-positive clients and their households to establish or maintain affordable, stable housing, reduce the risk

of homelessness, and improve access to health care and other services. HOPWA serves households with 80% or less of area median income, but a majority of Texas HOPWA households are under 30% AMI and lack of affordable housing is an ongoing issue. DSHS estimates that the HOPWA program will assist 890 unduplicated, income-eligible households with housing subsidy assistance.

Currently, Texas CDBG funds primarily support affordable housing through water and sewer infrastructure for housing. The CDBG funding provides a cost savings for housing when used to install water and sewer yard lines and pay impact and connection fees for qualifying residents. Housing rehabilitation projects are prioritized in several fund categories. CDBG funds also help communities study affordable housing conditions, providing data on affordable housing stock and planning tools for expanding affordable housing. CDBG provides approximately 250 utility connections per year, which are not reflected in the chart above, but could prove essential to obtaining or maintaining housing. Colonia residents are considered "Special Needs" households who are supported through the production, rehab or acquisition of units (no rental assistance). The Colonia SHCs continue to address affordable housing needs in border counties by assisting qualifying colonia residents to improve or maintain a safe, suitable home in suitable areas, with the contribution of the residents' sweat-equity which is required in all housing activities at the SHC. In addition, the Colonia SHCs provide other development opportunities that support the creation of affordable housing for beneficiaries, such as tool lending, and training in home construction and repair, financial literacy, and homeownership skills.

AP-65 Homeless and Other Special Needs Activities – 91.320(h)

Introduction

TDHCA will address requirements in 24 CFR §91.320 by using funds to reduce and end homelessness. Each ESG applicant is required to coordinate with the lead agency of the CoC, which provides services and follows a centralized or coordinated assessment process; has written policies and procedures in place as described by §578.7(a)(8) and (9); and follows a written standard to provide street outreach, emergency shelter, rapid re-housing, and homelessness prevention assistance. To assist low-income individuals and families to avoid becoming homeless, especially those discharged from publicly-funded institutions and systems of care, or those receiving assistance from public and private agencies that address housing, health, social services, employment, education, or youth needs, TDHCA requires each Subrecipient to set performance targets that are part of their contract and extended to each of the local organizations that the Subrecipient funds. A Subrecipient must address the housing and supportive service needs of individuals assisted with ESG funds in a plan to move the client toward housing stability. In addition, ESG works in tandem with other programs that help to transition persons out of institutions, such as the HOPWA Program, Section 811 PRA Program, Project Access Program, Money Follows the Person Program, and the Home and Community-Based Services - Adult Mental Health Program. The HHSCC also works to enhance coordination between housing and service agencies to assist persons transitioning from institutions into community-based settings.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Texas ESG Program provides funds to service providers for outreach to unsheltered homeless persons in order to connect them to emergency shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or other appropriate facilities. Of critical importance is assisting the unsheltered homeless with emergency shelter or other placement. One of the possible performance measures that Subrecipients will be measured against is their ability to help homeless persons move into permanent housing, achieve higher incomes and gain more non-cash benefits. To ensure long-term housing stability, clients will be required to meet with a case manager not less than once per month (with exceptions pursuant to the VAWA and the Family Violence Prevention and Services Act ("FVPSA")). Subrecipients will also be required to develop a plan to assist program participants to retain permanent housing after the ESG assistance ends.

Addressing the emergency shelter and transitional housing needs of homeless persons

The ESG Program helps the unsheltered homeless and homeless individuals and families residing in emergency shelter and those fleeing domestic violence to return to stable housing conditions by

providing support to organizations that provide emergency services and shelter to homeless persons and households. One of the possible performance measures that Subrecipients will be measured against is their ability to help individuals and families move out of emergency shelter and transitional housing and into permanent housing, achieve higher incomes and gain more non-cash benefits. To ensure long-term housing stability, clients will be required to meet with a case manager not less than once per month (with exceptions pursuant to the VAWA and the FVPSA). Subrecipients will also be required to develop a plan to assist program participants to retain permanent housing after the ESG assistance ends. In addition, the State will consider transitional housing as having characteristics associated with instability and an increased risk of homelessness, which may allow clients moving out of transitional housing to access Homelessness Prevention services.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The ESG Program has broadened the activities that can be used to help low-income families and individuals avoid becoming homeless and to rapidly re-house persons or families that experience homelessness. ESG funds can be used for short-term and medium-term rental assistance, rental application fees, security deposits, utility deposits, utility payments, and moving costs for homeless individuals or persons at risk of homelessness. Funds can also be used for housing service costs related to housing search and placement, housing stability case management, mediation, legal services, and credit repair. ESG funds can also be used to pay for essential service costs including case management, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, transportation, and costs related to serving special populations.

TDHCA acknowledges the change in the definition of chronically homeless, which was published in the Federal Register on December 4, 2015, and effective January 15, 2016. The new definition applies to clients of TDHCA's 2015 ESG Subrecipients assisted on or after the effective date, and TDHCA's ESG Subrecipients for future awards, per the revision to 24 CFR §91.5.

The definition of chronically homeless had been from the McKinney-Vento Homeless Act. The definition of chronically homeless under McKinney-Vento had included an individual or family who met certain criteria for homelessness and had "a diagnosable substance use disorder, serious mental illness, developmental disability, post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability." The revised definition of chronically homeless has more general term of "homeless individual with a disability", per below:

(9) Homeless individual with a disability

(A) In general, the term “homeless individual with a disability” means an individual who is homeless, as defined in section 11302 of this title, and has a disability that—

(i) (I) is expected to be long-continuing or of indefinite duration;

(II) substantially impedes the individual’s ability to live independently;

(III) could be improved by the provision of more suitable housing conditions; and

(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

(ii) is a developmental disability, as defined in section 15002 of this title; or

(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.”

The definition of chronically homelessness now includes a different time requirement of homelessness. The McKinney-Vento Homeless Assistance Act defined the time period of chronically homeless as homeless for at least one year, or on at least four separate occasions in the last three years. The new definition of chronically homeless requires the following time period: (1) continuously homeless for at least 12 months, or (2) on at least four separate occasions in the last three years, where the combined occasions must total at least 12 months. An “occasion” is considered a separate episode of homelessness if it is separated by at least seven days. Stays in institutions of fewer than 90 days do not constitute a break.

Finally, the new definition clarifies that a family can qualify as chronically homeless if the head of the household (whether adult head or minor head, if the family has no adult) meets the criteria of chronically homeless. In addition, the family could have a composition that has fluctuated while the head of household has been homeless.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

In addition to homelessness prevention, ESG funds actively promote coordination with community providers and integration with mainstream services to marshal available resources. One performance measure for Subrecipients may be their ability to help increase non-cash benefits for program participants; the Subrecipients would help program participants obtain non-ESG resources, such as veterans benefits or food stamps.

Individuals eligible for the State's HOPWA Program who are exiting from an institution receive a comprehensive housing plan and linkage and referrals to health professionals from a case manager. The State HOPWA Program provides TBRA, which can be used to transition persons from institutions into stable housing. Some project sponsors also provide rental deposits and application fees. Other programs included in this Plan also address persons transitioning from institutions. For example, TDHCA has received awards totaling more than \$24 million for the Section 811 PRA Program. The program will help extremely low-income individuals with disabilities and their families by providing more than 600 new integrated supportive housing units in seven areas of the state. Members of the target population include individuals transitioning out of institutions; people with severe mental illness; and youth with disabilities transitioning out of the state's foster care system. Individuals in the Section 811 PRA Target Population are eligible for assistance from public agencies, are Medicaid-eligible, and could be at-risk of housing instability and/or homelessness.

Coordination between housing and the Health and Human Services ("HHS") agencies is exemplified by the Project Access and Money Follows the Person programs. Project Access uses Section 8 Housing Choice Vouchers administered by TDHCA to assist low-income persons with disabilities transition from nursing homes and Intermediate Care Facilities ("ICFs") to the community, while using the Money Follows the Person Program to provide services by HHS agencies. Since it began in 2002, the TDHCA Governing Board approved changes to Project Access based on input from advocates and the HHS agencies, such as incremental increases to vouchers from 35 to 140 and creation of a pilot program with DSHS for persons with disabilities transitioning out of State Psychiatric Hospitals.

In addition, TDHCA offers the use of TBRA to individuals on the Project Access Wait List, allowing him/her to live in the community until she/he can use Project Access. TDHCA conducted outreach and technical assistance to Department of Aging and Disability Services ("DADS") Relocation Specialists and HOME TBRA Administrators to help them serve individuals on the wait list. To further address the needs of individuals transitioning from institutions, HHSC, codified in Texas Government Code, Chapter 2306, Subchapter NN, seeks to increase coordination of housing and health services, by supporting agencies to pursue funding, such as Relocation Contractor services for people with behavioral health challenges and Intellectual and Developmental Disabilities; Medicaid waiver programs; vouchers from PHAs for people with disabilities and aging Texans; housing resources from the Texas Department of Criminal Justice for people with criminal histories transitioning to the community; and DSHS' rental assistance program.

HHSC also encourages the coordination of TDHCA with DSHS for DSHS' new Home and Community-Based Services: Adult Mental Health Program. This program will serve individuals with Serious Mental Illness who have long-term or multiple stays in the State's Mental Health Facilities.

Discussion

The Texas ESG Program is designed to assist, assess and, where possible, shelter the unsheltered homeless; to quickly re-house persons who have become homeless and provide support to help them

maintain housing; and to provide support that helps persons at risk of becoming homeless maintain their current housing. Other special needs populations are described in Action Plan Section 25.

AP-75 Barriers to affordable housing – 91.320(i)

Introduction

The Phase 2 AI identifies impediments to fair housing choice in the State of Texas and action steps that the State intends to take to address identified impediments. This document describes state and local regulatory and land use barriers in detail. It may be accessed at <https://www.tdhca.state.tx.us/fair-housing/policy-guidance.htm>.

TDHCA staff developed a database to track fair housing action steps, link action steps to impediments, and document benchmarks and progress in implementing such action steps. This database assists the State in the development of well informed steps to directly address impediments reflected in the Phase 2 AI. Staff also developed a database to consolidate the demographic and geographic data of recipients of the Department's Housing Tax Credit programs and provide for in-depth analyses of patterns in the allocation of funding and comparison to census data. Staff believes these databases will assist in identifying new impediments to fair housing choice as the consolidated data is analyzed and the efficacy of implemented action steps is reviewed.

The State is currently developing best practices guidance related to zoning and land use regulations, policies, and practices that will further fair housing choice. The State plans to release best practices to the public through its Fair Housing website; the website will include areas specific to Real Estate Professionals, Developers and Administrators, as well as Local Governments and Elected Officials. The AI included several suggestions on countering negative effects of public policy as it concerned two areas – land use and zoning and Not-In-My-Backyard Syndrome ("NIMBYism"). In order to avoid the difficulty, expense, and uncertainty that NIMBYism can engender, developers often focus on areas where their proposed developments are well supported. Changes in the scoring of the State's HTC Program provide incentives to develop in high opportunity areas. High opportunity areas include places with low poverty rates and quality schools, with above average state ratings.

Cases of NIMBYism can be difficult to track, it is hard to measure where NIMBYism occurs most often. The cases of NIMBYism most often associated with proposed multifamily developments, although not exclusive to these areas, NIMBYism appear anecdotally to be more likely to occur in areas with socioeconomic and housing homogeneity. To assist the State in gathering data on how elected officials, communities, and local governments are impacted by NIMBYism sentiments and to help the State in countering NIMBY messaging, TDHCA periodically outsources with universities and private consulting firms for studies, market analyses, and special projects. Guidance and resources to support affordable housing will be provided through TDHCA's Fair Housing website, along with the Fair Housing listserv and community events calendar, and a Speaker's Bureau that will be able to discuss this and other Fair Housing topics.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the

return on residential investment

TDHCA reviews all guiding documents, rules, and practices internally to determine if known barriers or impediments to furthering fair housing choice can be addressed through changes within TDHCA's power. The Department's Fair Housing, Data Management, and Reporting group continues ongoing interviews with Division Directors originally held in spring 2014. Initial recommendations and actions were noted for each program as well as a list of 15 cross-Divisional recommendations that included items such as improved Affirmative Marketing Rules, improved Language Assistance Plan guidance, a better internal mechanism for Fair Housing training, Fair Housing Team reviews of rule changes and NOFA documents, etc. TDHCA has been making and will continue to make a concerted effort to review and move forward on key recommendations and to increase staff and subrecipient education to ensure that all programs are providing best practices guidance to recipients and the general public.

TDHCA acts as an information resource for affordable housing studies and information. A project between TDHCA (including HHSC) and the University of Texas has resulted in a Fair Housing public service message campaign with videos in support of affordable housing, fair housing rights, and Service-Enriched Housing.

The Texas Workforce Commission Civil Rights Division ("CRD") received a two-year grant of HUD Partnership Funds for an outreach campaign. CRD launched a public service announcement initiative targeting Midland, Odessa, Laredo, and Victoria, as well as small cities and towns surrounding these "oil and gas boom" areas. The campaign educates people in these areas on their Fair Housing rights and responsibilities. This includes in-person and webinar training as well as outreach presentations. CRD's fair housing training was in such demand that the outreach campaign was expanded to include all of Texas and will run through 2016.

On August 17, 2015, the United States Department of Housing and Urban Development ("HUD") adopted the Final Affirmatively Furthering Fair Housing Rule ("AFFH" or "the rule"), detailing what recipients of block grant CPD funds and Public Housing funds must do to affirmatively further fair housing and the tool by which they can identify those steps. The rule requires that Units of Government take "meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics." The rule replaces the Analysis of Impediments ("AI") to Fair Housing Choice with a new Assessment of Fair Housing ("AFH") tool. The AFH Tool uses HUD-generated data, and a significant community participation process, to identify areas of disparity, patterns of integration and segregation, and disproportionate housing needs. With the information generated through the AFH tool and AFFH, Units of Government are responsible for identifying fair housing issues and contributing factors, assigning priorities to contributing factors, setting goals for overcoming prioritized contributing factors, and maintaining records of progress in achieving goals.

The new process directly links the AFH tool and its identified goals with the Unit of Government's HUD-required program planning document (its Consolidated Plan or for a PHA, its 5-Year PHA Plan). Fair

housing goals and priorities from the AFH are expected to be incorporated into the actual programming and proposed use of the HUD funds. Fair Housing staff are reviewing the AFFH rule and beginning to implement changes into the citizen participation plan. The first AFH tool is anticipated to be due to HUD from the State of Texas in May 2019. Staff will meet with legislators and local administrators to discuss the AFH tool and final rule.

Discussion

A current collaboration between federal funding recipients known as the Texas State Fair Housing Workgroup began in May, 2014 and continues to meet. This workgroup is assisting State agencies in adopting a uniform stance on Fair Housing issues and provide streamlined direction to essential Fair Housing information and best practices. To date, the workgroup has looked at sharing language assistance contracts, has generated ideas on streamlining Fair Housing discrimination complaint information and resources, and has served as a vehicle for comparing internal Fair Housing tracking and record keeping measures.

The Fair Housing Team at TDHCA has taken a leadership role in these meetings as directed under the 2013 Analysis of Impediments; the Fair Housing Team has shared both its Fair Housing Tracking Database and its Fair Housing website section, which TDHCA believes will become one of the leading Fair Housing website resources for the state. The Fair Housing Team has shared its demographic database, which is being created with the long-range goal of standardizing demographics collected in each TDHCA program area and analyzing these demographics to identify trends; make policy recommendations; and map service areas. As its initial test, this database will auto-generate an Excel spreadsheet that analyzes TDHCA multifamily property demographics against census data demographics by census tract, county, and MSA to determine which populations are under-represented or over-represented based on the definition of minority concentration from HUD. The spreadsheet debuted with the revised Multifamily and new Single Family Affirmative Marketing Rules. The spreadsheet assists Multifamily Owners in determining which populations are considered least likely to apply and should be included in an Affirmative Marketing Plan. The short-term effect should be an increase in understanding and compliance with the Affirmative Marketing Rule of TDHCA. The long-term effect should be an improved ability to determine which areas are under or over served and an ability to present such information objectively to stakeholders and local governments.

The Fair Housing Team has 36 action steps on which it is moving forward, and is able to produce metrics on its momentum under the AI through its Fair Housing Tracking Database. In addition to logged action steps, the database also includes outreach and daily task logs. The database collects action steps based on the four phases of project management planning (e.g., Plan, Review, Implement, and Evaluate) which lead staff to consider even at the planning stage how the step will be evaluated. This has resulted in a metrics-focused planning effort that will continue to guide future initiatives.

Finally, the State, through its Fair Housing Team, has created a new Fair Housing website section, including fair housing information for a variety of audiences (renters and homebuyers, owners and

administrators, real estate agents, and local governments and elected officials) and will include fair housing toolkits and resources, links to a new Fair Housing email list and community events calendar, and a consumer survey. A portion of the available toolkits will be tailored to elected officials and local governments in an effort to encourage best practices in zoning and land use and addressing community concerns. Through this education and outreach, the State is hoping to make its best practices guidance widely known and to integrate such guidance with other state resource information.

AP-85 Other Actions – 91.320(j)

Introduction

The actions listed below are Other Actions taken by TDHCA, TDA, and DSHS to meet the requirements of §91.320(j). Other Actions include Meeting Underserved Needs, Fostering and Maintaining Affordable Housing, Lead-Based Paint Hazard Mitigation, Reducing Poverty-Level Households, Developing Institutional Structure, and Coordination of Housing and Services. The HOME, ESG, HOPWA, and CDBG programs address the other actions in concert with other federal, state, and local sources.

NHTF Addresses Affordable Housing

The NHTF Program provides to developments assisted by or through entities including, public organizations, nonprofit and for-profit organizations, and PHAs. These funds are primarily used to foster and maintain affordable housing by providing funding for preservation of existing affordable developments, or construction of new affordable developments. In addition, credits awarded through the HTC program can be layered with awarded funds from the NHTF program. When more than one source of funds is used in an affordable housing project, the State is able to provide more units of affordable housing than with one funding source alone.

Actions planned to address obstacles to meeting underserved needs

HOME Addresses Underserved Needs

Obstacles to meeting underserved needs with HOME funds, particularly multifamily activities, include NIMBYism, a lack of understanding of federal requirements surrounding the use of HOME funds, and staff observation that program administrators may have more strict tenant or household selection criteria than other locally-run programs. TDHCA works to overcome these obstacles by educating developers and the communities where affordable housing is being proposed, as well as by offering HOME funds as grants or low-interest loans, with rates as low as 0%.

ESG Addresses Underserved Needs

Lack of facilities and services for persons experiencing homelessness in rural areas is ESG's greatest underserved need. To help meet this need, TDHCA has used Community Services Block Grant discretionary funds to provide training and technical support to organizations in the Balance of State CoC. Shelters in the Balance of State CoC have limited funds for operations and maintenance, with little access to federal funds which often require substantial organizational capacity less common in smaller organizations. ESG and TDHCA's HHSP, which is state-funded only in some urban areas, may supplement federal funds in operational support.

HOPWA Addresses Underserved Needs

Some significant obstacles to addressing underserved needs are PLWH inability to obtain or maintain medical insurance, maintain income, and especially obtain employment, are partially due to a difficult economy in conjunction with rising costs of living (rent, deposits, utilities, food, transportation, etc.), high unemployment, no access to health insurance and/or decreased access to other affordable housing

such as the HCV program. The inability to access HCVs is due to long or closed waiting lists, and in some cases, client non-compliance and ineligibility due to undocumented immigrant status. DSHS' HOPWA program helps meet the needs of this underserved population throughout the State by providing essential housing and utilities assistance as part of a comprehensive medical and supportive services system. As a result, PLWH and their families are able to maintain safe and affordable housing, reduce their risk of homelessness, and access medical care and supportive services. DSHS will reallocate funding to address changing needs to maximize and target HOPWA funding to HSDAs that are in greatest need.

CDBG Addresses Underserved Needs

TDA encourages projects addressing underserved community development needs. In PY 2014 CDBG funds will be available through five different grant categories to provide water or sewer services on private property for low- and moderate-income households by installing yard lines and paying impact and connection fees. Regional competition for funding allows each area of the state to determine its highest priority needs, which may vary from first-time water service to drought relief to drainage projects.

Since the first legislative reforms in the 1990s, service providers in colonias have made gains in their capacity to address colonia issues, but unmet needs still exist and the Texas-Mexico border population growth is still increasing. OCI's main obstacle in addressing colonia housing needs is the varying capacities of subrecipients to administer assistance. TDHCA has established Border Field Offices along the Texas-Mexico border to readily provide technical assistance and on-going training to organizations and local governments that use TDHCA's CDBG funding.

Actions planned to foster and maintain affordable housing

HOME Addresses Affordable Housing

The HOME Program provides grant funds, deferred forgivable loans, and repayable loans to households or developments assisted by or through entities including units of local government, public organizations, nonprofit and for-profit organizations, CHDOs and PHAs. These funds are primarily used to foster and maintain affordable housing by providing rental assistance, rehabilitation or reconstruction of owner-occupied housing units with or without refinancing, down payment and closing cost assistance with optional rehabilitation for the acquisition of affordable single family housing, single family development and funding for rental housing preservation of existing affordable or subsidized developments. HOME funds may also be used in conjunction with the HTC Program or Bond Program to construct or rehabilitate affordable rental housing.

In addition, credits awarded through the HTC program can be layered with awarded funds from the HOME Multifamily Direct Loan program. When more than one source of funds is used in an affordable housing project, the State is able to provide more units of affordable housing than with one funding source alone.

ESG Addresses Affordable Housing

While TDHCA encourages the use of ESG funds to provide affordable transitional housing, the majority of funds are utilized to provide emergency shelter. Fostering affordable housing is not an initiative for which TDHCA provides funding or that TDHCA monitors in relation to the ESG Program.

HOPWA Addresses Affordable Housing

The cost of living continues to rise (increases in rent, utilities, application fees, and security deposits) while clients' income does not change, may decrease, or clients have no income. HOPWA makes housing more affordable for low-income clients so they can maintain housing, adhere to medical treatment, and work towards a healthier outcome. Project Sponsors will address long-term goals with the clients to help them establish a financial plan that can assist them in maintaining their housing. Affordable housing needs are high among PLWH. DSHS will continue to update funding allocations to address the changing needs of local communities and to maximize and target HOPWA funding to HSDAs in greatest need. DSHS will consider a variety of factors including but not exclusive to HIV/AIDS morbidity, poverty level, housing costs and needs, and program waitlists and expenditures. Furthermore, funds are reallocated between HOPWA activities within HSDAs to meet changing needs during the project year.

CDBG Addresses Affordable Housing

Currently, CDBG funds primarily support affordable housing through water and sewer infrastructure for housing. The CDBG funding provides a cost savings for housing when used to install water and sewer yard lines and pay impact and connection fees for qualifying residents. Housing rehabilitation projects are prioritized in several fund categories, and TDA encourages each region to set aside a percentage of the regional allocation for housing rehabilitation projects. CDBG helps communities study affordable housing conditions, providing data on affordable housing stock and planning tools for expanding affordable housing. The Colonia SHCs continue to address affordable housing needs in border counties by assisting qualifying colonia residents to improve or maintain a safe, suitable home in suitable areas.

The OCI serves as a liaison to the Colonia SHCs to assist with securing funding and carrying out activities, such as low-interest mortgages, grants for self-help programs, revolving loan funds for septic tanks, and tool lending.

Actions planned to reduce lead-based paint hazards

HOME Addresses Lead-based Paint

The HOME Program requires lead screening in housing built before 1978 for all HOME eligible activities in accordance with 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. Furthermore, single-family and multifamily development activities in HOME increase the access to lead-based-paint-free housing through the construction of new housing or reconstruction of an existing housing unit. There is significant training, technical assistance, and oversight of this requirement on each activity

funded under the HOME Program.

ESG Addresses Lead-based Paint

For ESG, TDHCA requires Subrecipients to evaluate and reduce lead-based paint hazards as part of its habitability review. During the annual contract implementation training, TDHCA will provide ESG Subrecipients with information related to lead-based paint regulations and TDHCA's requirements related to such. TDHCA will require ESG-funded Subrecipients to determine if a housing unit was built prior to 1978, for households seeking ESG funded rent or rent deposit assistance whose household has a family member(s) six year of age or younger. If the housing unit is built prior to 1978, the ESG Subrecipient will notify the household of the hazards of lead-based paint. ESG Subrecipients utilizing ESG funds for renovation, rehabilitation or conversion must comply with the Lead-Based Paint Poisoning and Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992. Through renovation, rehabilitation or conversion, ESG increases access to shelter without lead-based paint hazards. TDHCA evaluates, tracks, and reduces lead-based hazards for conversion, renovation, leasing or rehabilitation projects.

HOPWA Addresses Lead-Based Paint

HUD requires that Project Sponsors give all HOPWA clients utilizing homes built before 1978 the pamphlet entitled, "Protect Your Family from Lead in Your Home" during the intake process. The client's case record must include documentation that a copy of the pamphlet was given to the client and the case manager must make a certification regarding lead-based paint that includes actions and remedies if a child under age six will reside at the property.

CDBG Addresses Lead-Based Paint

Lead-based paint mitigation is an activity eligible under housing rehabilitation that is funded under the CPF, CFC, and Community Development Funds. Each contract awarded requires the sub-grantee to conform to Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and procedures established by TDA's CDBG in response to the Act.

NHTF Addresses Lead-based Paint

The NHTF Program requires lead screening in housing built before 1978 for all NHTF eligible activities in accordance with 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. Furthermore multifamily development activities in NHTF increase the access to lead-based-paint-free housing through the construction of new housing or reconstruction of an existing housing unit.

Actions planned to reduce the number of poverty-level families

HOME Addresses Poverty-Level Households

Through the HOME TBRA Program, TDHCA assists households with rental subsidy and security and utility deposit assistance for an initial term not to exceed 24 months. As a condition to receiving rental assistance, households must participate in a self-sufficiency program, which can include job training,

General Education Development ("GED") classes, or drug dependency classes. The HOME Program enables households to receive rental assistance while participating in programs that will enable them to improve employment options and increase their economic independence and self-sufficiency. Additionally, TDHCA allocates funding toward the rehabilitation and construction of affordable housing, incentivizing units to assist very low-income households, and assists very low-income households along the international border of Texas and Mexico by promoting the conversion of contract for deed arrangements to traditional mortgages.

ESG Addresses Poverty-Level Households

The ESG Program funds activities that provide shelter and essential services for homeless persons, as well as intervention services for persons threatened with homelessness. Essential services for homeless persons include medical and psychological counseling, employment counseling, substance abuse treatment, transportation, and other services. While TDHCA supports the use of ESG funds to help ESG clients lift themselves above the poverty line, it is not a specific initiative for which TDHCA earmarks ESG funding or that TDHCA monitors for the ESG Program.

For individuals threatened with homelessness, homelessness prevention funds can be used for short-term subsidies to defray rent and utility arrearages for households receiving late notices, and security deposits.

HOPWA Addresses Poverty-Level Households

The DSHS HOPWA Program serves households in which at least one person is living with HIV based on income eligibility criteria of no more than 80% of AMI with adjustments for family and household size, as determined by HUD income limits. With varying poverty levels and housing needs in each HSDA across the State, funds are allocated and reallocated throughout the program year to maximize and target HOPWA resources to those with the most need. While many HOPWA households assisted may be at poverty-level, this is not a requirement under 24 CFR §574.3.

CDBG Addresses Poverty-Level Households

A substantial majority of TDA's CDBG funds, over 95% in 2013, are awarded to ¿principally benefit low and moderate income persons. In addition, the formula used to distribute CD funds among regions includes a variable for poverty to target funding to the greatest need. CDBG economic development funds create and retain jobs through assistance to businesses. LMI persons access these jobs, which may include training, fringe benefits, opportunities for promotion, and services such as child care.

NHTF Addresses Poverty-Level Households

NHTF allocates funding toward the construction of affordable housing restricted to serve ELI households with affordable rents. These affordable units will allow households to have greater housing security and stability, and will ameliorate some of the negative impacts of living in poverty through provision of decent, safe and affordable housing.

Actions planned to develop institutional structure

HOME Addresses Institutional Structure

The HOME Program encourages partnerships in order to improve the provision of affordable housing. Organizations receiving Homebuyer Assistance funds are required to provide homebuyer education classes to households directly, or coordinate with a local organization that will provide the education. In addition, organizations receiving TBRA funds must provide self-sufficiency services directly, or coordinate with a local organization that will provide the services. Finally, partnerships with CHDOs and nonprofit and private-sector organizations facilitate the development of quality rental housing developments and assist in the rehabilitation or reconstruction of owner-occupied housing.

ESG Addresses Institutional Structure

TDHCA encourages ESG Subrecipients to coordinate services with housing and other service agencies. Likewise, the CoCs funded with ESG funds are required to coordinate services and their local funded organizations to provide services as part of the local CoC. While TDHCA believes its system of funding applications that apply to a statewide NOFA is an effective system, TDHCA also believes that its move to work locally with CoCs on ESG funding decisions advances program goals of local coordination and cooperation within CoCs. TDHCA reviews ESG Subrecipients' coordination efforts during on-site and desk monitoring. A map of local CoCs can be found online at: <http://www.thn.org/continuum/>.

HOPWA Addresses Institutional Structure

DSHS contracts with seven AAs, which contract directly with Project Sponsors serving all 26 HSDAs in the State to administer the HOPWA program under DSHS oversight. AAs also administer the delivery of other HIV health and social services, including the Ryan White and State Services HIV funds. This structure ensures the coordination of all agencies serving PLWH, avoids duplication, saves dollars, and provides the comprehensive supportive services for PLWH in each local community.

CDBG Addresses Institutional Structure

Each CDBG applicant must invite local housing organizations to provide input into the project selection process. TDA coordinates with state and federal agencies, regional Councils of Governments, and other partners to further its mission in community and economic development. TDA also uses conference calls and webinars to provide training and technical assistance throughout the state. On-site project reviews may be conducted based on risk and other factors.

NHTF Addresses Institutional Structure

The NHTF Program encourages partnerships in order to improve the provision of affordable housing. Partnerships with nonprofit and private-sector organizations facilitate the development of quality rental housing developments. Development owners are required to provide tenant services to address the needs of ELI households living in the development.

Actions planned to enhance coordination between public and private housing and social service agencies

TDHCA has staff members that participate in several State advisory workgroups and committees. The workgroups and committees which TDHCA leads are listed in Action Plan Section 15. The groups in which TDHCA participates include, but are not limited to the Community Resource Coordination Groups, led by the Health and Human Services Commission ("HHSC"); the Council for Advising and Planning for the Prevention and Treatment of Mental and Substance Use Disorders, led by DSHS; Reentry Task Force, led by Texas Department of Criminal Justice; Interagency Workgroup on Border Issues, led by Secretary of State; Texas Foreclosure Prevention Task force, led by Texas State Affordable Housing Corporation; Money Follows the Person Demonstration Project, led by DADS; Promoting Independence Advisory Committee, led by HHSC; and Texas State Independent Living Council, lead by the Texas Department of Assistive and Rehabilitative Services ("DARS").

TDHCA's participation in HUD's Section 811 PRA Program requires linkages between housing and services through a partnership with TDHCA, and the State Medicaid Agency (i.e., HHSC). Because the program is designed so that an individual can access both affordable housing and services in the community, TDHCA staff and HHSC staff meet regularly to ensure both housing and services are coordinated for the program. TDHCA and HHSC have responsibilities to execute the program. TDHCA will use units for the program in multifamily housing financed by TDHCA and the services will be provided by a network of local service providers coordinated by the HHSC enterprise agencies.

HHSCC, established by Texas Government Code §2306.1091, seeks to improve interagency understanding and increase the number of staff in state housing and health services agencies that are conversant in both housing and services. HHSCC supports agencies in their efforts to secure funding for: expansion of Housing Navigators to all Aging and Disability Resource Centers ("ADRCs") with TDHCA assisting in training; expansion of the Program for All-Inclusive Care for the Elderly ("PACE"); implementation of the Delivery System Redesign Incentive Payment (DSRIP) behavioral health projects; implementation of the Balancing Incentives Payment ("BIP") initiative; and DSHS' expansion of Oxford Houses for people with Substance Use Disorders. (Other coordination efforts for HHSCC involving people leaving institutions are in Action Plan Section 65.)

Further cooperation was directed by Senate Bill 7 passed during the 83rd Legislative session. Texas Government Code §533.03551 directs the commissioner of HHSC to work in cooperation with TDHCA, TDA, Texas State Affordable Housing Corporation ("TSAHC"), and other federal, state, and local housing entities to develop housing supports for people with disabilities, including individuals with intellectual and developmental disabilities.

Finally, DADS provides Money Follows the Person Demonstration funds to TDHCA for the equivalent of two full-time employees to increase affordable housing options for individuals with disabilities who currently reside in institutions and choose to relocate into the community; and to increase the amount of affordable housing for persons with disabilities, along with other TDHCA programs that will assist in

preventing institutionalization. These enhanced coordination efforts further the implementation of many programs included in the Consolidated Plan, including the Section 811 PRA Program, Section 8 Project Access, and HOME Single Family activities.

Discussion

In addition to the program actions mentioned above, TDHCA strives to meet underserved needs by closely monitoring affordable housing trends and issues as well as conducting its own research. TDHCA also makes adjustments to address community input gathered through roundtable discussions, web-based discussion forums and public hearings held throughout the State. To foster and maintain affordable housing, TDHCA, TDA, and DSHS provide funds for nonprofit and for-profit organizations and public organizations to develop and maintain affordable housing. Funding sources include grants, low-interest loans, housing tax credits, and mortgage loans. For lead-based paint hazard mitigation, DSHS has been charged with oversight of the Texas Environmental Lead Reduction Rules ("TELRR"). TELRR cover areas of lead-based paint activities in target housing (housing constructed prior to 1978) and child-occupied facilities, including the training and certification of persons conducting lead inspections, risk assessments, abatements, and project design. For all projects receiving over \$25,000 in federal assistance, contractors need to follow inspections and abatements standards overseen by DSHS. By following these standards, the State is increasing the access to housing without lead-based paint hazards. The adherence to inspection and abatement standards is related to the extent of lead-based paint in that a majority of the housing in need of rehabilitation is likely housing built before 1978.

Furthermore, TDHCA, DSHS, and TDA's programs are aimed at reducing the number of Texans living in poverty, thereby providing a better quality of life for all Texans. The departments provide long-term solutions to the problems facing people in poverty and focus resources to those with the greatest need. Regarding institutional structure, TDHCA, DSHS, and TDA are primarily pass-through funding agencies and distribute federal funds to local entities that in turn provide assistance to households. Because of this, the agencies work with many partners, including consumer groups, community based organizations, neighborhood associations, community development corporations, councils of governments, community housing development organizations, community action agencies, real estate developers, social service providers, local lenders, investor-owned electric utilities, local government, nonprofits, faith-based organizations, property managers, state and local elected officials, and other state and federal agencies. Because the agencies do not fund individuals directly, coordination with outside entities is essential to the success of their programs. By structuring its operations this way, the State shares its risk and commits funds in correlation with local needs, local partners are able to concentrate specifically on their area of expertise and gradually expand to offering a further array of programs.

Finally, to enhance coordination between public and private housing and social service agencies, State agencies chief function is to distribute program funds to local providers that include units of local government, nonprofit and for-profit organizations, community-based organizations, private sector

organizations, real estate developers and local lenders. The private housing and social service funds available for priority needs may include loans or grant programs through private banks, for-profit or nonprofit organizations; this source of funding varies from year to year.

**National Housing Trust Fund
Consolidated Plan Amendment**

2015-2019 State of Texas Consolidated Plan

Substantially Amended Sections

Adding the National Housing Trust Fund (“NHTF”)

Reason for Substantial Amendment: Adding National Housing Trust Fund ("NHTF") program information to Executive Summary, Process and Strategic Plan sections as required in the "Housing Trust Fund Allocation Plan Guide 2016," available at <https://www.hudexchange.info/resources/documents/HTF-Grantee-Allocation-Plan-Sample-Form.pdf>.

ES-05 Executive Summary - 91.300(c), 91.320(b)

1. Introduction

The 2015–2019 State of Texas Consolidated Plan (“Plan”) governs four programs funded by the U.S. Department of Housing and Urban Development (“HUD”): the Community Development Block Grant Program (“CDBG”), the HOME Investment Partnerships (“HOME”) Program, the Emergency Solutions Grants (“ESG”) Program, the Housing Opportunities for Persons with AIDS (“HOPWA”) Program, and the National Housing Trust Fund (“NHTF”). If 2014 HUD funding levels remain consistent, the Plan will govern approximately \$97,000,000 annually. NHTF will add approximately \$ 4,789,477 for 2016, with subsequent allocations assumed to be consistent. This Plan determines which of HUD’s eligible activities have been identified to best serve the needs of Texas.

HUD allows a broad range of activities for CDBG, HOME, ESG, HOPWA, and NHTF. CDBG provides resources for community development, which may include acquisition of real property; relocation and demolition; rehabilitation of residential and non-residential structures; construction of public facilities and improvements; public services; activities relating to energy conservation and renewable energy resources; and provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities. HOME is used for single-family and multifamily housing activities, which may include providing home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; building or rehabilitating housing for rent or ownership for eligible households; and tenant-based rental assistance to subsidize rent for low-income persons. ESG funds projects which may include supportive services to homeless individuals and households, emergency shelter/transitional housing, homelessness prevention assistance, and permanent housing for the homeless population. HOPWA is dedicated to the housing and supportive service needs of people living with HIV/AIDS and their families, which may include the acquisition, rehabilitation, or new construction of housing units; facility operations; rental assistance; short-term payments to prevent homelessness; case management; substance abuse treatment; mental health treatment; nutritional services; job training and placement assistance; and assistance with daily living. NHTF provides resources for activities housing extremely low income households, including acquisition, construction and rehabilitation for rental or ownership. A portion of the funds may be used to provide operating support for rental housing.

The Texas Department of Housing and Community Affairs (“TDHCA”) administers the HOME ESG, and NHTF Programs; the Texas Department of Agriculture (“TDA”) administers the CDBG Program; and the Texas Department of State Health Services (“DSHS”) administers the HOPWA Program. All three State agencies collaborated to complete the Plan, along with extensive input from other state agencies, stakeholders, advocates, and community members. TDHCA is the lead agency for the Plan’s development.

The Plan consists of five main chapters. The first main chapter is the Process Chapter, which describes the public input process. The second chapter is the Needs Assessment, which outlines levels of relative need in the areas of affordable housing, homelessness, special needs populations, and community development. Information was gathered through consultation with local agencies, public outreach, and demographic and economic datasets. The third chapter, Market Analysis, focuses on economic forces, as well as the current condition and availability of housing and community development resources. The research-heavy Needs Assessment and Market Analysis chapters form the basis of the fourth chapter, the Strategic Plan, which details how the State will address its priority needs over a five-year period. The strategies reflect the condition of the market, expected availability of funds, and local capacity to administer the Plan. The Strategic Plan is used as a basis for the final chapter: the One Year Action Plan, which will be updated annually.

2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The Needs Assessment Chapter shapes the policies throughout the Plan. The most common housing problem was moderate to severe cost burden, especially for households with incomes between 0-30% of the area median income (“AMI”). In most cases renters experienced a higher rate of housing problems than homeowners. When comparing the Needs Assessment Chapter to the Market Analysis Chapter, the shortage of affordable housing becomes apparent. However, the State recognizes that housing costs are impacted by local economies, and common housing problems may vary by neighborhood. The Strategic Plan identifies Priority Needs for housing, such as rental assistance; production of new units; acquisition of existing units; and rehabilitation of housing.

The Needs Assessment finds that people with special needs have specific barriers to housing. For example, people with disabilities typically have lower incomes than other household types and require housing with certain specifications, such as physical accessibility features. Special needs populations include elderly and frail elderly; homeless populations and persons at risk of homelessness; persons living with HIV/AIDS and their families; persons with alcohol and substance use disorders; persons with disabilities (mental, physical, intellectual, developmental); public housing residents; residents of colonias; and victims of domestic violence. While not specifically designated as "special needs," the State is directed statutorily to gather data on farmworkers, youth aging out of foster care, and veterans. Each of these special needs populations are specifically focused on through incentives within at least one of the HUD programs covered by this Plan.

ESG focuses on persons who are homeless or at risk of homelessness. Therefore the Needs Assessment has one section dedicated to this population, including numbers of households experiencing sheltered and unsheltered homelessness, and a discussion on the greater likelihood that minorities are homeless. The Market Analysis lists the available resources for homeless populations, and the Strategic Plan identifies Priority Needs as homeless outreach; emergency shelter and transitional housing; rapid re-housing; and homelessness prevention.

HOPWA focuses on persons living with HIV/AIDS and their families, so the Needs Assessment includes an in-depth discussion about this population. Racial and ethnic minorities are disproportionately affected by HIV. Also, persons with HIV are more vulnerable to becoming homeless. The Strategic Plan identifies priority needs to serve persons with HIV/AIDS, such as rental assistance; supportive services for persons with HIV/AIDS; rapid re-housing; and homelessness prevention.

Needs Assessment Section 15 shows disproportionate housing problems based on race, which is defined as a 10% difference compared to the State as a whole. Colonias, which are residential areas along the Texas-Mexico border that lack basic living necessities, such as potable water, electricity, paved roads, and safe and sanitary housing, showed very high rates of housing problems. The 2013 Analysis of Impediments to Fair Housing Choice identified local best practices that mitigate barriers and promote choice for housing. The Strategic Plan and Action Plan lay out steps, such as research on affordable housing expansion, which mitigate the negative effects of public policies on affordable housing.

Finally, non-housing community needs focus on economic and community development. The Needs Assessment finds a large demand for community infrastructure, including water and wastewater systems, roads/ streets, and utilities. Also, there is great emphasis to serve colonias with these types of services. The Strategic Plan identifies priority community development needs as public improvements and infrastructure; economic development; public facilities; and public services.

3. Evaluation of past performance

The information below is for HOME, ESG, CDBG, and HOPWA for Program Year ("PY") 2013 (February 1, 2013 to January 31, 2014). Because NHTF is a new program for 2016, past performance information is not available.

During PY 2013, the Texas CDBG Program committed a total of \$75,871,400 through 254 awarded contracts. For contracts that were awarded in PY 2013, 414,973 persons were anticipated to receive service. The Colonia Self Help Centers awarded \$1,564,167 in contracts outside the PY2013 reported below. Distribution of the funds by activity is described in the table below.

In PY 2013, DSHS' HOPWA served 441 households with TBRA (109% of the One Year Action Plan, or "OYAP" goal), 470 households with Short-Term Rent and Mortgage and Utility ("STRMU") assistance (86% of the OYAP goal), and 12 households with Permanent Housing Placement ("PHP") assistance (80% of the OYAP goal) for a total of 923 unduplicated households. Of the total households served, 907 also received HOPWA-funded Supportive Services (95% of the OYAP goal). All HOPWA clients receive housing supportive services at some level, but some costs were leveraged with other funding sources. Client

outcome goals for housing stability, reducing homelessness risk, and improving access to care were also achieved. (Subtotaled and/or totaled dollar amounts may not be exact due to all expenses are reported to two decimal points but are rounded to nearest whole dollar for the HOPWA chart.)

ESG is expended by Federal Fiscal Year (10/1-9/30). TDHCA evaluated ESG funds committed versus funds expended by activity for PY 2013, a time period that consists of half of Federal Fiscal Year 2012 (2/1/2013-9/30/2013) and Federal Fiscal Year 2013 (10/1/2013-1/31/2014). Based on TDHCA’s ESG analysis, expenditures were well within range of state funding for activities. The largest disparities were found in Homelessness Prevention, where the State committed 23% of the overall budget and the activity accounted for 26% of expenditures, and in Rapid Re-Housing, where the State committed 32% of the total budget and the activity accounted for 30% of expenditures. The evaluation indicated that the State needed to minimally change its goals or projects.

TDHCA’s HOME program committed \$45,747,623 through seven HOME Program activities in PY 2013, representing assistance to 1,133 households. Details on the amount committed in each activity type are included in the chart below.

Fund	2013 Total Obligation
Community Development Fund	\$42,879,742
Texas Capital Fund	\$14,873,609
Colonia Construction Fund	\$5,500,000
Colonia Economically Distressed Areas Program Fund	\$619,665
Colonia Planning Fund	\$24,250
Colonia Self-Help Centers	\$0*
Planning / Capacity Building	\$560,495
Disaster Relief/ Urgent Need	\$9,407,233
STEP Fund	\$2,006,406
Total	\$75,871,400
	*The Colonia Self Help Centers awarded \$1,564,167 in PY2012.

Table 1 - Table 1 - CDBG Funds Committed, PY 2013

Activity	Amount
Expenditures for Housing Information Services	\$0
Expenditures for Resource Identification	\$0
Expenditures for Housing Assistance (equals the sum of all sites and scattered-site Housing Assistance)	\$2,285,384
Expenditures for Supportive Services	\$469,448
Grantee Administrative Costs expended	\$25,375
Project Sponsor(s) Administrative Costs expended	\$176,971
Total of HOPWA funds expended during period	\$2,957,179

Table 2 - Table 2 - HOPWA Program Expenditures, PY 2013

Activity	Total Funds Expended*	Percentage
Street Outreach	\$502,953.00	6%
Emergency Shelter	\$2,875,237.00	30%
Homelessness Prevention	\$2,505,265.00	26%
Rapid Re-Housing	\$2,877,496.00	30%
Homeless Management Information Systems	\$486,570.00	5%
Administration	\$308,974.00	3%
Total	\$9,556,495.00	100%
	*Expenditures include funds from PY 2011 Second Allocation and PY 2012.	

Table 3 - Table 3 - ESG Fund Expenditures by Activity (02/01/2013-01/31/2014)

Activity	Total Committed
Homebuyer Assistance (all activities)	\$4,144,295.52
Homeowner Rehabilitation	\$19,299,152.13
Tenant-Based Rental Assistance	\$5,072,945
CHDO Rental Development	\$3,000,000
CHDO Single Family Development	\$434,477
CHDO Operating Expenses	\$50,000
Rental Housing Development	\$13,746,754
Total	\$45,747,623.65

Table 4 - Table 4 - HOME Commitments by Activity, PY 2013

4. Summary of citizen participation process and consultation process

The State is committed to collaboration with a diverse cross-section of the public in order to meet the various affordable housing needs of Texans. The State also collaborates with governmental bodies, nonprofits, and community and faith-based groups.

Prior to the release of the Draft Plan, several consultations were completed statewide, between April, 2014, and September, 2014, by TDHCA, DSHS, and TDA. The State conducted consultations in person, workshops, roundtables, planning meetings, and a public hearing. The State also conducted consultations electronically, using an online discussion forum, an online survey, listserv announcements, and emails.

During the consultation process, the State consulted with a wide variety of public, private, and nonprofit agencies that provide services including assisted housing, health services, and social and fair housing services, including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, homeless persons, and colonia residents.

Following the release of the Draft 2015-2019 Plan, a 32-day public comment period was open from September 12, 2014, through October 13, 2014. Four public hearings were held across the State at the following dates and times:

- September 30, 2014, San Antonio, 6:00pm
- October 2, 2014, Harlingen, 11:00am
- October 6, 2014, Austin, 5:00pm
- October 8, 2014, Fort Worth, 12:30pm

Two of the hearings were held after business hours. Six people commented at the hearings. Staff members received 28 email comments and 12 letter comments. Some of these commenters submitted oral and written comments and several of the letters represented comments of more than one person. TDHCA held two roundtables in 2016 specific to NHTF, and accepted input at Board meetings and in writing prior to drafting the Application Plan. A hearing will be held during the public comment period, and the results along with any comment received during the Public Comment period will be reported in the final Plan

5. Summary of public comments

The initial public comment on the development of the draft Plan focused on the HOME and CDBG programs. Summary of those comments and staff's reasoned responses are in AD-25. For the comments that occurred during the consultation, the descriptions are in Process Chapter Section 10. Because HUD's online template for grantees, Integrated Disbursement & Information System ("IDIS") had technical difficulties and provided data limitations in saving and responding to all of the consultations, a list of consultations is also attached in the Attachments Chapter.

The public comment on the draft Plan resulted in several clarifications and additional information included in the Plan. Every program received public comment. Public comments about the programs centered on funding goal percentages for each activity, scoring criteria for award-making, and distribution process of awards. Several commenters spoke or gave written testimony on behalf of special needs groups, such as homeless populations, victims of domestic violence, people with disabilities, and farmworkers. Additionally, a few of the comments asked for clarification on the data provided or the addition of national or local statistics or information in the Plan's Needs Assessment and Market Analysis Chapters. The summary of the 67 total comments and the staff responses is attached in the Attachments Chapter.

A summary of public comment and staff's reasoned response on the NHTF Allocation Plan will be provided in the final Plan.

6. Summary of comments or views not accepted and the reasons for not accepting them

Because of the flexible nature of a draft Plan, all comments were considered for revisions. Comments or views that were not accepted were typically comments or views that requested that one activity be eliminated in favor of another activity, or that a specific activity or staff member be dedicated to one special need population. Within the confines of the existing budget and program regulations, the

funding goals for the activities selected in the Plan reflect the needs identified in the Needs Assessment. In addition, eliminating any activity would potentially hamper the ability of the State to have the flexibility to meet the varied needs of Texans and adhere to program regulations. Therefore, no activity was entirely defunded.

In addition, while the State supports initiatives to serve special needs populations, holding funds in specific programs developed for one special need population might place the State in a position of having to deny an equally qualified person from access to assistance. Except for the set asides for special needs provided by statute, no other specific program for a special needs population has been developed. In addition, staff members are available to provide assistance to conveying program requirements as they relate to special needs populations.

A summary of public comment and staff's reasoned response on the NHTF Allocation Plan will be provided in the final Plan.

7. Summary

The consolidated planning process occurs once every five years, so creating a comprehensive Plan is vital for CDBG, HOME, ESG, HOPWA, and NHTF. Because of the Plan's authority to govern these programs, research from multiple sources, including other government plans, peer-reviewed journals, news sources, and fact sheets were used; valuable public input was gathered through roundtable meetings, council/workgroup meetings, public hearings, online surveys, and an online forum; and an expansive public input process is scheduled for the draft Plan.

The format of the Plan is mandated by an online form developed by HUD. HUD has provided an online template for grantees, through its planning and reporting system called IDIS. The questions in bold and many of the tables are created automatically by IDIS. After the Plan is received by HUD, the goals in the Plan are reported each year in another document called the Consolidated Annual Performance Evaluation Report ("CAPER"), which is also produced in IDIS.

PR-15 Citizen Participation - 91.115, 91.300(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Comprehensive outreach was conducted to gather input on the Plan. The public hearing and consultations conducted before the creation of the draft Plan, as well as discussion of the participation of local, regional, and statewide institutions, CoCs, and other organizations affected by the Plan are listed in Process Section 10. The Plan, as adopted, substantial amendments, and the Consolidated Plan Annual Performance and Evaluation Report (“CAPER”) will be available to the public online at <http://www.tdhca.state.tx.us> and will have materials accessible to persons with disabilities, upon request.

Encouragement of Public Participation

To reach minorities and non-English speaking residents, the draft Plan outreach will follow TDHCA’s Language Access Plan. Also, the notices will be printed in Spanish and English, per Texas Government Code §2105. Spanish speaking staff will attend meetings in areas likely to have Spanish speakers, such as San Antonio and the Rio Grande Valley. Translators for other languages will be made available at public meetings, if requested.

The State encourages the involvement of individuals of low incomes and persons with disabilities in the allocation of funds and planning process through regular meetings, including community-based institutions, consumer workgroups, and councils listed in Strategic Plan Section 35. All hearing locations are accessible to all who choose to attend, and public hearings will be held at times for both working and non-working persons. Comments can be submitted either at a public hearing or in writing via mail, fax, or email.

The State notifies residents in areas where CDBG funds are proposed for use by distributing information on public hearings through the CDBG email list from TDA. Information related to the Plan and opportunities for feedback were provided through webinars and web discussions that allow participation by residents of rural areas without requiring travel to a central location. Regional public hearings held as part of the Regional Review Committee process also encourage participation by CDBG stakeholders.

Public hearings

The Draft Plan was released for a 32-day public comment period from September 12, 2014, to October 13, 2014. TDHCA held at least four hearings across the state. Constituents were encouraged to provide input regarding all programs in writing or at one of the public hearings.

The public hearing schedule WAS published in the Texas Register and on TDHCA’s website at <http://www.tdhca.state.tx.us>, and was advertised during various workgroups and committee meetings. During the public comment period, printed copies of the draft Plan was available from TDHCA, and electronic copies will be available for download from TDHCA’s website.

The affect of consultations on goal-setting was discussed in Process Section 10. Public comment received on the draft Plan is included in the Attachment Chapter.

Criteria for Amendment to the Consolidated Plan

Substantial amendments will be considered if a new activity is developed for any of the funding sources or there is a change in method of distribution. If a substantial amendment is needed, reasonable notice by publication on TDHCA's website at <http://www.tdhca.state.tx.us> will be given, and comments will be received for no less than 30 days after notice is given. A public hearing will be optional.

Performance Report

The 2016 CAPER will analyze the results of the Plan. Due to the short 90-day turnaround time of the CAPER between the end of HUD's Program Year (1/31) and the due date, the public will be given reasonable notice by publication on TDHCA's website at <http://www.tdhca.state.tx.us>. Comment will be accepted for a minimum of 15 days. A public hearing will be optional.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Electronic survey	CoCs, service providers	On January 9, 2014, TDHCA released a survey to receive input from CoCs and services providers in the State of Texas on the allocation of funding, performance standards, and HMIS policies and procedures for its 2014 ESG funds. Comments were received from fourteen agencies representing six CoCs. The comments received will be considered in program planning for 2014. Such surveys will continue to be used for future program planning.	Commenters generally supported the TDHCA method of allocation and did not support the idea of limiting funding to applicants that do not receive direct funding from HUD. Emergency shelter, homelessness prevention, and rapid re-housing remain the highest needs among the commenters. Commenters generally support the idea of direct ESG funding to the CoCs but clearly require more information.	On the 2014 ESG survey, commenters requested that TDHCA align its reporting to mirror the HMIS. TDHCA reporting is based on HUD's requirements for the CAPER. As HUD moves to revise the CAPER to more closely reflect HMIS, TDHCA will follow.	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
2	Public Hearing	Non-targeted/broad community	On July 23, 2014, TDHCA led a public hearing at 2:00pm at the William B. Travis Building, 1701 N. Congress, Room 1-100, Austin, TX, 78701. Twelve people were in attendance and six provided spoken and/or written comments.	Three speakers gave comment related only to the CDBG program, two speakers gave comment related only to the HOME program, and one speaker gave comment related to both the CDBG and HOME programs. Additionally, six letters and one email were received as written public comment. All written comments were made on the HOME program. A summary of public comment received is provided in the Attachments Chapter.	A summary of public comment received and reasoned responses are provided in the Attachment Chapter.	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
3	Public Hearing	Non-targeted/broad community	On Tuesday, September 30, 2014, TDHCA led a public hearing at 6:00pm at the Omni San Antonio Hotel, Grand Ballroom C, 9821 Colonnade Boulevard, San Antonio, TX 78230. Eight people were in attendance and three provided spoken and/or written comments.	A summary of public comment received and reasoned responses are provided in the Attachment Chapter.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter.	http://www.tdhca.state.tx.us/events/index.jsp
4	Public Hearing	Minorities Non-English Speaking - Specify other language: Spanish	On Thursday, October 2, 2014, TDHCA led a public hearing at 11:00am at the Harlingen Public Library, Boggus Conference Room, 410 76 Drive, Harlingen, TX 78550. No one was in attendance and no spoken and/or written comments were provided.	A summary of public comment received and reasoned responses are provided in the Attachment Chapter.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter.	http://www.tdhca.state.tx.us/events/index.jsp
5	Public Hearing	Non-targeted/broad community	On Monday, October 6, 2014, TDHCA led a public hearing at 6:00pm at the Stephen F. Austin Building, Room 170, 1700 N. Congress Avenue, Austin, TX 78701. Four people were in attendance and two provided spoken and/or written comments.	A summary of public comment received and reasoned responses are provided in the Attachment Chapter.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter.	http://www.tdhca.state.tx.us/events/index.jsp

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
6	Public Hearing	Non-targeted/broad community	On Wednesday, October 8, 2014, TDHCA led a public hearing at 12:30pm at the Fort Worth Central Library, Chappell Meeting Room, 500 West Third Street, Fort Worth, TX 76102. Two people were in attendance and one provided spoken and/or written comments.	A summary of public comment received and reasoned responses are provided in the Attachment Chapter.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter.	http://www.tdhca.state.tx.us/events/index.jsp

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
7	Electronic survey	Non-targeted/broad community	<p>TDHCA filed a notice in the Texas Register announcing the Public Comment Period and four Public Hearings on the Draft 2015-2019 State of Texas Consolidated Plan. The notice was filed on September 8, 2014 and was published in the September 19, 2014 Edition of the Texas Register. The notice announced that the State of Texas was holding a 32-day public comment period from Friday, September 12, 2014 through 6:00 p.m. Central on Monday, October 13, 2014, to obtain public comment on of the Draft 2015-2019 State of Texas Consolidated Plan. Comments were encouraged on the Plan in written form or oral testimony at the public hearings. Written comments concerning the Plan could be submitted by mail to the Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box 13941, Austin, TX 78711-3941, by email to info@tdhca.state.tx.us, or by fax to (512) 475-0070. The deadline to accept comments was Monday, October 13, 2014, 6:00 p.m. Central Time.</p>	<p>A summary of public comment received and reasoned responses are provided in the Attachment Chapter. Additionally, a copy of the Texas Register posting is provided as an attachment to Section AD-25.</p>	<p>A summary of public comment received and reasoned responses are provided in the Attachments Chapter.</p>	<p>http://www.sos.state.tx.us/texreg/archive/September192014/In%20Addition/In%20Addition.html#189</p>

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
8	Internet Outreach	Non-targeted/broad community	To broaden citizen participation, TDHCA created a webpage to post information on the 2015-2019 State of Texas Consolidated Plan, including the Draft Plan, public hearing information, and submitting public comment. The unique URL of the webpage was shared widely by listserv emails and through TDHCA's Twitter and Facebook accounts. During the public comment period (September 12, 2014 through October 13, 2014). Twenty-eight emails were received during the public comment period.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter. Additionally, screenshots of the webpage and social media outreach are provided as an attachment to Section AD-25.	A summary of public comment received and reasoned responses are provided in the Attachments Chapter.	http://www.tdhca.state.tx.us/housing-center/consolidated-plan-2015-2019.htm

Table 5 – Citizen Participation Outreach

SP-10 Geographic Priorities – 91.315(a)(1)

Geographic Area

Table 6 - Geographic Priority Areas

1	Area Name:	State of Texas
	Area Type:	State Service Area
	Other Target Area Description:	State Service Area
	HUD Approval Date:	
	% of Low/ Mod:	
	Revital Type:	
	Other Revital Description:	
	Identify the neighborhood boundaries for this target area.	State of Texas.
	Include specific housing and commercial characteristics of this target area.	Described in the Needs Assessment of the 2015-2019 State of Texas Consolidated Plan.
	How did your consultation and citizen participation process help you to identify this neighborhood as a target area?	Described in the Process Chapter of the 2015-2019 State of Texas Consolidated Plan.
	Identify the needs in this target area.	Described in the Needs Assessment of the 2015-2019 State of Texas Consolidated Plan.
	What are the opportunities for improvement in this target area?	Described in the Needs Assessment and Market Analysis of the 2015-2019 State of Texas Consolidated Plan.
Are there barriers to improvement in this target area?	Described in the Needs Assessment and Market Analysis of the 2015-2019 State of Texas Consolidated Plan.	

General Allocation Priorities

Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA)

TDHCA and TDA do not provide priorities for allocating investment geographically to areas of minority concentration as described in 24 CFR §91.320(d).

HOME Program Geographic Priorities

Texas Government Code §2306.111 requires that TDHCA use a Regional Allocation Formula ("RAF") to allocate its HOME funding. The RAF uses the data from the Census Bureau to prioritize funding, such as: number of persons who live at or under 200% of the poverty line; number of households with rent or mortgage payment that exceeds 30% of income; number of units with more than one person per room;

and vacant units for rent or for sale. Both homeowner data and renter data are used in the RAF. This formula captures data on all Texas counties and accordingly reflects geographic priorities.

Additionally, Texas Government Code §2306.111 specifies that TDHCA shall expend at least 95% of its HOME funds for the benefit of areas not in Participating Jurisdictions ("PJs"). Therefore, need and availability in the areas that are PJs are not prioritized in the RAF. The RAF distributes all HOME funds from the annual allocation except for federal- and state-mandated activities, such as CHDO Operating Expenses, housing programs for persons with disabilities, and the Contract for Deed Conversion Program. The RAF assessed, revised as appropriate, and published annually, after the public comment process, at <https://www.tdhca.state.tx.us/housing-center/pubs-plans.htm>.

ESG Geographic Priorities

Beginning with Federal Fiscal Year 2013, ESG funds have been prioritized for each of the HUD-designated Continuum of Care ("CoC") Regions. This is according to a combination of the CoC region's proportionate share of the total homeless population (based on the Point-in-Time count submitted to HUD by the CoCs) and the proportionate share of people living in poverty (based on the American Community Survey). For the purposes of distributing funds, the percentage of statewide homeless population is weighted at 75% while the percentage of statewide population in poverty is weighted at 25%.

CDBG Geographic Priorities

Texas CDBG Funds for projects under the Community Development ("CD") Fund are allocated by formula to 24 regions based on the methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs (21.71% of annual allocation), along with a state formula based on poverty and unemployment (40% of annual allocation). In addition, 12.5% of the annual allocation is allocated to projects under the Colonia Fund categories, which must be expended within 150 miles of the Texas-Mexico border. Colonia SHC funds are allocated by statute among five Texas-Mexico border counties, as well as in other border counties that are determined to be economically distressed. Allocations for each SHC correspond to contract activities that are proposed by the SHCs and the Colonia Resident Advisory Committee ("C-RAC").

HOPWA Geographic Priorities

Texas HOPWA funding allocations are geographically distributed across the state to the 26 HIV-Service Delivery Areas ("HSDA") based on factors such as population with HIV and unmet need. Texas has 254 counties and can carry out activities anywhere in the state. Texas serves all the rural counties and is a wrap-around for the federally-designated six Metropolitan Statistical Areas ("MSAs") that receive direct HOPWA funding from HUD, which means there is some overlap of counties served by both the MSA and the state. The six directly-funded MSAs are Austin, Dallas, Fort Worth, Houston, San Antonio, and El Paso, and counties under each MSA are subject to change. DSHS allocates funding to meet the needs of PLWH in Texas, many of whom reside in areas of minority concentration; most PLWH are racial and ethnic minorities.

NHTF Geographic Priorities

The Texas NHTF will distribute NHTF funds through a competitive NOFA process. For any year that the NHTF allocation is less than \$10 million, the funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition. If the allocation received by the State exceeds \$10 million, the Regional Allocation Formula used for the State's allocation of HOME funds will be used to distribute NHTF funds, although statutory requirements regarding benefit of areas not in Participating Jurisdictions or any HOME-specific setasides will not apply. If the State implements a homeownership program component using NHTF, the homeownership program only may use a different allocation method, based on proportionate need.

SP-25 Priority Needs – 91.315(a)(2)

Priority Needs

Table 7 – Priority Needs Summary

1	Priority Need Name	Rental Assistance
	Priority Level	High
	Population	Extremely Low Low Moderate Large Families Families with Children Elderly Public Housing Residents Rural Chronic Homelessness Individuals Families with Children Mentally Ill Chronic Substance Abuse veterans Persons with HIV/AIDS Victims of Domestic Violence Unaccompanied Youth Elderly Frail Elderly Persons with Mental Disabilities Persons with Physical Disabilities Persons with Developmental Disabilities Persons with Alcohol or Other Addictions Persons with HIV/AIDS and their Families Victims of Domestic Violence
	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Colonia Self-Help Centers HOME Administration HOPWA Permanent Housing Placement Assistance HOPWA Tenant-Based Rental Assistance Tenant-Based Rental Assistance with HOME funding
	Description	Rental Assistance includes security and utility deposits, and rental subsidies, usually while the household engages in a self-sufficiency program.

	Basis for Relative Priority	<p>The Needs Assessment in Section 10 and Section 30 established that cost burden was a housing problem that by far affected the most households with housing problems and were within 0-100% Area Median Income ("AMI"). Needs Assessment Section 10, Table 3, "Housing Problems", shows that 83% of renters with housing problems and income between 0-100% AMI had cost burden (i.e., spending more than 30% of income on rent) or severe cost burden (i.e., spending 50% or more of income on rent). In the answer to the question in that section "What are the most common housing problems", it was found that renters with housing problems in the 0-30% AMI category experienced a severe cost burden 5% higher than homeowners with housing problems, and renters with housing problems in the >30-50% and >50-80% AMI categories experienced non-severe cost burden 9-17% higher than homeowners with housing problems.</p> <p>The Market Analysis Section 15 shows that renters do not have access to enough affordable rental units. First, in the answer to the question in that section "Is there sufficient housing for households at all income levels?", there is a discussion of housing mismatch which demonstrates that higher income households often reside in market-rate units that could be affordable to the lowest-income households. Low-income households (e.g., 0-80% AMI) make up only 56% of all households occupying housing affordable to them. Even though there appears to be a large number of affordable units, this mismatch is one issue that creates cost burden. Also, in the answer to the question in that section "How is affordability of housing likely to change considering changes to home values and/or rents?", even with the increase in median incomes, the rates of cost burden for all renters remained steady over 5 years at 44%. Rental assistance would help to lower this rate of cost burden.</p>
2	Priority Need Name	Production of new units
	Priority Level	High

	Population	Extremely Low Low Moderate Large Families Families with Children Elderly Public Housing Residents Rural Chronic Homelessness Individuals Families with Children Mentally Ill Chronic Substance Abuse veterans Persons with HIV/AIDS Victims of Domestic Violence Unaccompanied Youth Elderly Frail Elderly Persons with Mental Disabilities Persons with Physical Disabilities Persons with Developmental Disabilities Persons with Alcohol or Other Addictions Persons with HIV/AIDS and their Families Victims of Domestic Violence Other
	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Colonia Set-Aside Construction of single family housing HOME Administration HOME Households in new/rehabed multifamily units NHTF households in new multifamily units NHTF Administration

<p>Description</p>	<p>Multifamily development of new units for the construction of a rental development, which will have units to be offered at below-market-rate rents. CHDOs could be eligible to receive funding for the new construction of affordable single-family homes. New single-family homes must follow certain design and quality requirements and must be sold to low-income homebuyers after completion of construction. The production of new units may be paired with permanent financing to qualified households if needed.</p> <p>Production also includes Self-Help Housing. The Bootstrap Loan Program (“Bootstrap”) allows for self-help housing construction to provide very low-income families—including persons with special needs, such as colonia residents—an opportunity to purchase or refinance real property on which to build new housing or repair their existing homes through "sweat equity." Household income may not exceed 60% of AMI. All Bootstrap households provide at least 65% of the labor necessary to build or rehabilitate their housing under the supervision and guidance of a state-certified administrator or Colonia Self-Help Center. The maximum Bootstrap loan may not exceed \$45,000 per household.</p> <p>The Colonia SHCs provides targeted colonias in border counties with opportunities to improve housing and increase personal capacity for homeownership. The SHCs provide housing services in the form of new construction, reconstruction, rehabilitation, small repairs, tool lending, construction skills training, and utility connections. Colonia residents are able to repair and construct their own and others’ housing under the guidance of qualified nonprofit housing developers who provide training in construction methods and homeownership. SHC community development activities include homeownership education, access to and training in computers/technology, consumer rights education, financial literacy, and solid waste disposal assistance.</p>
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	<p>Basis for Relative Priority</p>	<p>As previously established in the "Basis for Relative Priority" for the Rental Assistance Priority Need, the most common housing problem for renters is distinctly cost burden. Creation of new multifamily units that offer reduced rents works hand-in-hand with rental assistance, since both types of assistance alleviate cost burden.</p> <p>Regarding the need for more affordable single-family units, the Needs Assessment Section 10 established that cost burden was a housing problem that by far affected the most homeowners that had housing problems and were within 0-100% AMI. Needs Assessment Section 10, Table 3, "Housing Problems", shows that 87% of homeowners with housing problems and incomes between 0-100% AMI had cost burden (i.e., spending more than 30% of income on mortgage) or severe cost burden (i.e., spending 50% or more of income on mortgage). In the answer to the question in that section "What are the most common housing problems", it was found that homeowners with housing problems in the 0-30% and >80-100% AMI categories experienced a cost burden 7-10% higher than renters with housing problems.</p> <p>Also, Needs Assessment Section 30 discussed the needs of colonia residents, who live in colonias with reduced infrastructure and poor housing. New affordable units would provide options for persons who live in substandard housing.</p> <p>Finally, the Market Analysis Section 15 showed how the affordability of homes for households with median family income compared to the income required to qualify for an 80%, fixed-rate mortgage to purchase a median priced home in most Multiple Listing Services ("MLS") has gone down from 2011 to 2013. When affordability is going down, the need for affordable units increases.</p> <p>Because of these factors, TDHCA will continue to evaluate annually whether a portion of NHTF should be directed to ownership activities to address housing problems within the context of availability of other fund sources.</p>
3	<p>Priority Need Name</p>	<p>Acquisition of existing units</p>
	<p>Priority Level</p>	<p>High</p>

Population	Extremely Low Low Moderate Large Families Families with Children Elderly Public Housing Residents Elderly Frail Elderly Persons with Mental Disabilities Persons with Physical Disabilities Persons with Developmental Disabilities Persons with HIV/AIDS and their Families Victims of Domestic Violence Other
Geographic Areas Affected	State Service Area
Associated Goals	CDBG Colonia Set-Aside HOME Administration Homebuyer assistance with possible rehabilitation NHTF households in new multifamily units NHTF Administration
Description	For HOME, acquisition of existing units would provide funds for downpayment and closing costs. Homebuyer assistance could be paired with rehabilitation, if the home has architectural barriers for persons with disabilities. Homebuyer assistance can also include contract for deed conversions. Finally, TDHCA's Colonia SHCs provides targeted colonias in border counties with opportunities to improve housing and increase personal capacity for homeownership and employment. The SHCs provide housing services in the form of new construction, reconstruction, rehabilitation, small repairs, contract for deed conversions, tool lending, construction skills training, and utility connections. Colonia residents are able to repair and construct their own and others' housing under the guidance of qualified nonprofit housing developers who provide training in construction methods and homeownership. SHC community development activities include homeownership education, access to and training in computers/technology, consumer rights education, financial literacy, and solid waste disposal assistance.

	Basis for Relative Priority	<p>As was already established in the "Basis for Relative Priority" for the Production of new units, the most common housing problem for owners is cost burden. Assisting homebuyers with the affordable acquisition of units will help address cost burden for potential homebuyers.</p> <p>As established by Needs Assessment Section 30, unscrupulous practices regarding the use of contracts for deed are often detrimental to the buyers of properties. By converting those contracts for deed to traditional mortgages, the units that were unaffordable through the high interest rates in the contracts for deed become affordable through mortgages, while also providing the homeowner with the full rights of homeownership.</p> <p>Also, as established by Needs Assessments Section 45, persons with disabilities may need assistance with barrier removal. The pairing of homebuyer assistance, which helps make the home affordable, and barrier removal, which allows the person with a disability to function in the home, addresses a housing and special need.</p>
4	Priority Need Name	Rehabilitation of housing
	Priority Level	High

	Population	Extremely Low Low Moderate Large Families Families with Children Elderly Public Housing Residents Rural Chronic Homelessness Individuals Families with Children Mentally Ill Chronic Substance Abuse veterans Persons with HIV/AIDS Victims of Domestic Violence Unaccompanied Youth Elderly Frail Elderly Persons with Mental Disabilities Persons with Physical Disabilities Persons with Developmental Disabilities Persons with Alcohol or Other Addictions Persons with HIV/AIDS and their Families Victims of Domestic Violence Other
	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Administration CDBG Colonia Self-Help Centers CDBG Colonia Set-Aside HOME Administration Homeless Goals HOME Households in new/rehabed multifamily units Rehabilitation of single family housing NHTF households in new multifamily units NHTF Administration

	Description	<p>Rehabilitation is the act of making repairs designed to address health and safety concerns, as well as local code requirements, and reconstruction is rebuilding either because it is not cost feasible to repair the home because of the extent of needed repairs, or because a home has been damaged or destroyed beyond repair.</p> <p>Rehabilitation or reconstruction of single-family units involves construction activities on owner-occupied housing on the same site. Activities intended to address rehabilitation needs can also result in new construction of housing units when they replace a previous, existing housing unit. Also permitted are (1) instances where an existing owner-occupied manufactured housing unit is replaced with a site-built house or another manufactured housing unit on the same site; (2) an existing housing unit is demolished and rebuilt on a lot located outside a floodplain or away from other environmental hazards; or (3) when a housing unit is replaced because it has become uninhabitable as a result of disaster or condemnation by local government.</p> <p>Rehabilitation of multifamily units varies from property to property depending on specific needs, and could include exterior and/or interior work. A definition of rehabilitation can be found in the Uniform Multifamily Rules 10 Texas Administrative Code, §10.3.</p> <p>Rehabilitation and reconstruction includes self-help housing, which involves on-site technical assistance to low- and very low-income individuals for outreach and education; housing rehabilitation; construction skills training; tool library access for self-help construction; housing finance; credit and debt counseling; grant writing; contract-for-deed conversions; and capital access for mortgages.</p> <p>Finally, rehabilitation may include renovation or major rehabilitation of an emergency shelter or conversion of a building into an emergency shelter.</p>
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<p>Basis for Relative Priority</p>	<p>As was already established in the "Basis for Relative Priority" for the Production of new units, the most common housing problem for renters and owners is cost burden. The Needs Assessment Section 10 shows that substandard housing is the least commonly identified housing problem, experienced by only 2% of the population under 100% AMI. However, the Market Assessment Section 15 notes the importance of local economies on the housing markets. While substandard housing is not as common of a problem for Texas as a whole compared to other housing problems, in some communities substandard housing may be a substantial problem. This is true in rural areas and especially true in colonias, as noted in Needs Assessment Section 30. Colonias are unique in that they have large amounts of substandard housing but, unlike much of the rest of Texas, have more affordable housing, as described in Market Analysis Section 50.</p> <p>Rehabilitation of multifamily units will help ensure affordability for renters and, as new units are added to the State's affordable housing stock, provide more affordable rental choices. Rehabilitation for single-family housing in colonias is strongly supported by the Needs Assessment and Market Analysis. Rehabilitation outside the colonias may be supported by local markets, as illustrated by comments during the consultation of the 2015-2019 State of Texas Consolidated Plan from TICH and TDCJ (Market Analysis Section 20).</p> <p>Although homeowner cost burden is measured in the Needs Assessment Chapter by comparing the mortgage and utility payments to the income of the homeowner, an analysis of home rehabilitation or reconstruction compared to income of the homeowner may show a substantial hardship for homeowners. Assistance of up to \$85,000, which is the highest amount allowable in the HOME Single Family rehabilitation/reconstruction activity in 2014, would result in a loan of similar size as some mortgages as generated through a private financial institution. If the homeowner already has a mortgage or has income between 0-80% AMI, this large loan payment could create a burden. In this way, rehabilitation could affect affordability for the homeowner. HOME's Single-Family rehabilitation/reconstruction program helps sustain affordability, because it repairs or replaces older housing stock through deferred, forgivable loans or grants with new, more energy-efficient housing stock, thus reducing potential cost burden. Though the focus in the Needs Assessment and Market Analysis is on affordability and availability, it should be noted that rehabilitation would also improve the safety of the homeowner.</p> <p>Because of these factors and particularly the needs inside colonias, HOME funds are made available annually for single family rehabilitation activities. TDHCA will continue to evaluate annually whether HOME funds should be directed to other activities that could more directly address common housing problems, such as cost burden, while ensuring that the rural parts of the state have access address the most common housing problems they may be experiencing based on geography or population.</p> <p>Regarding the rehabilitation of emergency shelters, Needs Assessment 40 shows that there are 16,336 unsheltered homeless on a given night. Maintaining the safety and quality of shelters will continue to warrant the rehabilitation of emergency shelters when possible.</p>
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5	Priority Need Name	Supportive Services for Persons with HIV/AIDS
	Priority Level	High
	Population	Extremely Low Low Moderate Large Families Families with Children Elderly Public Housing Residents Persons with HIV/AIDS Persons with HIV/AIDS and their Families
	Geographic Areas Affected	State Service Area
	Associated Goals	HOPWA-Funded Supportive Services
	Description	The Supportive Services program provides case management, basic telephone service, and assistance to purchase smoke detectors to eligible individuals living with HIV and their families. Case managers also assist HOPWA clients with comprehensive housing plans and make referrals such as medical care, mental health and/or substance abuse treatment, and other services based on the client's individual needs.
	Basis for Relative Priority	The Market Analysis states that the State HOPWA program provides tenant-based rental assistance; short-term rent, mortgage, and utilities assistance, and some project sponsors provide financial assistance with security deposits and credit checks. HOPWA-eligible individuals who have exited from an institution into the State's HOPWA program receive supportive services from a case manager which include a comprehensive housing plan and linkage and referrals to health professionals as needed to assist in keeping the client stable and housed. HOPWA eligibility requires an HIV diagnosis and income at 80% or below AMI. HIV disproportionately affects racial/ethnic minorities and males. At the end of 2012, 72,932 persons were living with HIV in Texas, many at incomes below the poverty level, and the number continues to rise every year. According to the DSHS 2012 Texas STD and HIV Integrated Epidemiologic Profile, Texas had the 8th highest rate (19.7/100,000 population) of new HIV diagnoses in the nation in 2011. Housing is a critical need for PLHW and their families.
6	Priority Need Name	Homeless Outreach
	Priority Level	High

Population	<p>Extremely Low Low Moderate Large Families Families with Children Elderly Rural Chronic Homelessness Individuals Families with Children Mentally Ill Chronic Substance Abuse veterans Persons with HIV/AIDS Victims of Domestic Violence Unaccompanied Youth Other</p>
Geographic Areas Affected	State Service Area
Associated Goals	Homeless Goals
Description	<p>Offering essential services helps unsheltered homeless persons connect with emergency shelter, housing, or critical services, and provides urgent, non-facility-based care to those who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility.</p> <p>Outreach includes engagement, case management, emergency health and mental health services, transportation, and services for special needs populations.</p> <p>Case Management includes using a centralized assessment system, conducting evaluations, counseling, coordinating services, obtaining local benefits, monitoring program participant progress, providing information and referrals, and developing an individualized housing.</p> <p>Emergency health services include assessing a program participant's health problems and developing a treatment plan while helping to understand their health needs. Mental health services are also provided.</p> <p>Transportation assistance is allowed for the homeless population and outreach providers.</p> <p>Outreach to special needs population will vary based on the special need and will be specified in Strategic Plan Section 45.</p>

	Basis for Relative Priority	Needs of individuals and families at risk of homelessness are established in Needs Assessment Section 10. Along with having low-incomes, many individuals and families at risk of homelessness have co-occurring issues, such as needs for essential services like child care or education. Because of these co-occurring issues, outreach to prevent homelessness for these populations is essential. Special needs populations described in Needs Assessment Section 45 have difficulty retaining housing in unique ways and are often vulnerable to homelessness. These populations need outreach tailored to them.
7	Priority Need Name	Emergency shelter and transitional housing
	Priority Level	High
	Population	Extremely Low Low Moderate Large Families Families with Children Elderly Rural Chronic Homelessness Individuals Families with Children Mentally Ill Chronic Substance Abuse veterans Persons with HIV/AIDS Victims of Domestic Violence Unaccompanied Youth Other
	Geographic Areas Affected	State Service Area
	Associated Goals	Homeless Goals

	Description	Emergency shelter means the provision of a temporary shelter for homeless persons which does not require occupants to sign leases or occupancy agreements. Emergency shelters include shelters that provide overnight accommodation services as well as shelters that provide a space to stay during day time hours. Emergency shelters can offer essential services, such as case management, child care, education services, employment assistance, job training, outpatient health services, legal services, life training skills, mental health services, substance abuse treatment services, transportation, and services for special populations.
	Basis for Relative Priority	As was already established in the "Basis for Relative Priority" for Rental Assistance, the most common housing problem is cost burden. As discussed in Needs Assessment Section 10, certain characteristics, such as cost burden, can lead to instability of housing and risk of homelessness. With the 16,336 estimated number of homeless persons unsheltered on a given night listed in the Needs Assessment Section 40, the need for emergency shelter becomes apparent.
8	Priority Need Name	Rapid Re-housing
	Priority Level	High
	Population	Extremely Low Low Large Families Families with Children Elderly Public Housing Residents Elderly Frail Elderly Persons with Mental Disabilities Persons with Physical Disabilities Persons with Developmental Disabilities Persons with Alcohol or Other Addictions Persons with HIV/AIDS and their Families Victims of Domestic Violence Other
	Geographic Areas Affected	State Service Area
	Associated Goals	Homeless Goals

	Description	Rapid re-housing includes housing relocation, stabilization services, and short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. Rapid re-housing may involve providing last month's rent, rental application fees, security deposits, utility deposits, utility payments, and moving costs. Services provided for homelessness prevention may involve housing search and placement, housing stability case management, mediation, legal services for subject matters such as landlord/tenant disputes, and credit repair.
	Basis for Relative Priority	As established in Needs Assessment Section 40, a continuum of care approach for homeless populations necessitates more options than only providing emergency shelter. In addition, Market Analysis Section 30 discusses the cost savings of rapid re-housing.
9	Priority Need Name	Homelessness Prevention
	Priority Level	High
	Population	Extremely Low Low Large Families Families with Children Elderly Public Housing Residents Persons with HIV/AIDS and their Families Other
	Geographic Areas Affected	State Service Area
	Associated Goals	HOPWA Permanent Housing Placement Assistance HOPWA Short-Term Rent, Mortgage, & Utilities Asst HOPWA Tenant-Based Rental Assistance Homeless Goals

	Description	<p>Homelessness prevention includes using relocation and stabilization services and short- and/or medium-term rental assistance to prevent an individual or family from moving into an emergency shelter or another place. Homelessness prevention may involve providing last month’s rent, rental application fees, security deposits, utility deposits, utility payments, and moving costs. Services provided for homelessness prevention may involve housing search and placement, housing stability case management, mediation, legal services for subject matters such as landlord/tenant disputes, and credit repair.</p> <p>The Texas HOPWA program prevents homelessness and stabilizes housing for PLWH in Texas with housing subsidy assistance activities and supportive services. TBRA provides tenant-based rental assistance to eligible individuals until they are able to secure other affordable and stable housing. STRMU provides emergency short-term rent, mortgage, and utility payments to eligible individuals for a maximum of 21 weeks of assistance in a 52-week period. PHP provides assistance for housing placement costs which may include application fees, related credit checks, and reasonable security deposits necessary to move persons into permanent housing. All of these activities, along with supportive services, helps clients maintain affordable and stable housing, reduces risk of homelessness, and improves access to health care and supportive services.</p>
	Basis for Relative Priority	<p>As established in Needs Assessment Section 40, a continuum of care approach for homeless populations necessitates more options than providing emergency shelter. Market Analysis Section 30 discusses the cost savings of homelessness prevention.</p> <p>PLWH and their families have a critical need for housing in Texas. Stable housing significantly increases rates of improved health outcomes for this population. HOPWA eligibility requires an HIV diagnosis and income at 80% or below AMI. HIV disproportionately affects racial/ethnic minorities and males. At the end of 2012, 72,932 persons were living with HIV in Texas, many at incomes below the poverty level, and the number continues to rise every year. “In 2011...Texas had the 8th highest rate (19.7/100,000 population) of new HIV diagnoses in the nation” (Texas Department of State Health Services, 2014).</p>
10	Priority Need Name	Public Improvements and Infrastructure
	Priority Level	High
	Population	<p>Extremely Low</p> <p>Low</p> <p>Moderate</p> <p>Non-housing Community Development</p> <p>Other</p>

	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Administration CDBG Colonia Set-Aside CDBG Disaster Relief / Urgent Need CDBG Economic Development CDBG Other Construction CDBG Planning / Capacity Building
	Description	Public improvements and infrastructure include water and wastewater systems, roads/streets, and other utilities. SHCs in colonias include on-site technical assistance to low- and very low-income individuals and families for community development activities; infrastructure improvements; outreach and education; construction skills training; and infrastructure construction and access.
	Basis for Relative Priority	Although the Non-Homeless Special Need category "other" does not indicate which "other" is specified in the printed version of this document, "other" in this context means colonia residents. The Needs Assessment shows the need for public improvements and infrastructure as a majority of the applications received for CDBG funds include improvements and/or installation of public infrastructure. This predominance demonstrates a priority need for these types of projects.
11	Priority Need Name	Economic development
	Priority Level	High
	Population	Extremely Low Low Moderate Non-housing Community Development Other
	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Administration CDBG Economic Development CDBG Other Construction
	Description	Economic development includes projects in support of job creation activity primarily benefiting individuals of low-to-moderate income and downtown revitalization activities to eliminate/prevent slum and blight conditions.

	Basis for Relative Priority	Although the Non-Homeless Special Need category "other" does not indicate which "other" is specified in the printed version of this document, "other" in this context means colonia residents. The Market Analysis shows that economic development is needed as growing urbanization and an increasingly competitive global environment present challenges for the economic conditions of rural, non-entitlement communities.
12	Priority Need Name	Public facilities
	Priority Level	High
	Population	Extremely Low Low Moderate Non-housing Community Development Other
	Geographic Areas Affected	State Service Area
	Associated Goals	CDBG Administration CDBG Colonia Set-Aside CDBG Disaster Relief / Urgent Need CDBG Economic Development CDBG Other Construction CDBG Planning / Capacity Building
	Description	Public facilities include, but are not limited to neighborhood facilities such as libraries, public schools or community centers, and facilities for persons with special needs such as the homeless and senior citizens.
	Basis for Relative Priority	The Needs Assessment explains how rural, non-entitlement communities frequently face choosing to utilize CDBG funds for public facilities over their public infrastructure needs. Given the importance of public facilities, CDBG is developing the Community Enhancement fund to use deobligated funds to support public facility projects in rural communities.
13	Priority Need Name	Public services
	Priority Level	High
	Population	Extremely Low Low Moderate Non-housing Community Development Other

Geographic Areas Affected	State Service Area
Associated Goals	CDBG Administration CDBG Colonia Self-Help Centers CDBG Disaster Relief / Urgent Need CDBG Economic Development CDBG Other Construction CDBG Planning / Capacity Building
Description	Public service activities include, but are not limited to, employment services, health services, and services for senior citizens.
Basis for Relative Priority	The Needs Assessment shows the need for public services in rural communities is frequently foregone in order to employ CDBG for fundamental public infrastructure improvements. Additionally, many rural communities lack the service providers needed to deliver such services in their communities.

Narrative (Optional)

Low-income persons with special needs include colonia residents; elderly and frail elderly populations; homeless populations and persons at risk of homelessness; persons with alcohol and substance use disorders; persons with mental, physical, intellectual, or developmental disabilities; persons with HIV/AIDS and their families; public housing residents and persons on wait lists for public housing; veterans and wounded warriors; victims of domestic violence, including persons with protections under the Violence Against Woman Act ("VAWA") (domestic violence, dating violence, sexual assault, or stalking); youth aging out of foster care; and farmworkers are considered special needs groups for housing-related priority goals. Please refer to the Needs Assessment Chapter of this document for more detailed descriptions of the need associated with special needs groups. Note that when the population is listed as "other," this could be one of three populations: colonia residents, youth aging out of foster care, and farmworkers.

SP-30 Influence of Market Conditions – 91.315(b)

Influence of Market Conditions

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
<p>Tenant Based Rental Assistance (TBRA)</p>	<p>Market Analysis Section 15 shows a possible housing mismatch in which lower-income Texans frequently are only able to access higher income units. In this case, TBRA can assist with that problem. TBRA allows eligible households the choice of rental units.</p> <p>HOME Use of TBRA</p> <p>The HOME Program takes into account the needs of households that have a cost burden as market conditions lead to the need for TBRA. Rental subsidy and security and utility deposit assistance is provided to tenants, in accordance with written tenant selection policies, for an initial period not to exceed 24 months. If available, additional funds may be set-aside to provide assistance beyond 24 months.</p>

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
<p>TBRA for Non-Homeless Special Needs</p>	<p>Established in the Market Analysis Section 10, some special needs populations receive priority in many programs.</p> <p>HOME Use of TBRA for People with Special Needs</p> <p>The HOME Program considers income, availability of housing, and condition of housing for persons with special needs as market conditions that lead to the need for TBRA for this population. The Needs Assessment chapter also highlights the need in Texas for special needs populations to have access to rental housing. For example, the numbers of persons with disabilities transitioning from institutional living into community-based living is increasing, creating a priority for the State of Texas. TDHCA's TBRA is critical in helping households transition back into the community. In addition, of the HOME funding that TDHCA specifically sets aside for persons with disabilities, approximately 80% of the assisted households requested TBRA in 2014; the remainder of the requests were for home repair or to purchase homes.</p> <p>HOPWA use of TBRA for People with Special Needs</p> <p>For low-income PLWH, a lack of affordable housing is an ongoing issue. Housing placement requires two and one half times the rent in income, but the cost of living is rising (i.e. increases in rent, utilities, application fees, and security deposits) while incomes remain the same or decrease.</p> <p>Housing options are further decreased by a shortage of available assistance. The Housing Choice Voucher (“HCV”) program is not offered in some cities or counties with small populations; has long or closed wait lists for potential applicants; or will not qualify clients based on undocumented immigrant status, which results in cost-shifting to the HOPWA program.</p> <p>A common issue is housing that does not meet Housing Quality Standards (“HQS”) and lack of landlords' willingness to improve these properties. Case managers try to place clients in housing that meets HQS, but those units are not always available or affordable.</p> <p>Also, clients are unable to afford utilities when utility rates in rural areas not established at reasonable levels, making it difficult to calculate appropriate allowances, and/or high utility costs are paid separately from the rent. TBRA has not historically paid for utilities separately from rental payments, but has the ability to do so.</p> <p>With the lack of subsidized housing, clients often stay on the city/local housing authority wait lists pending availability. Often local rents are much higher than the Fair Market Rent (“FMR”), which eliminates those geographical locations as options for affordable housing. A shortage of housing has landlords increasing prices to what the market will bear, which invariably are much higher than FMR.</p> <p>As a result, the Texas HOPWA Program offers TBRA, which provides tenant-based rental assistance to eligible individuals until they are able to secure other affordable and stable housing.</p>

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
New Unit Production	<p>Market Analysis Section 15 reflects that there are not enough affordable housing units available for renters. Market Analysis Section 15 also shows that there is a lack of supply of housing, at only 3.3 month supply of inventory for sale.</p> <p>HOME use of New Unit Production</p> <p>Because HOME Multifamily funds used for the production of multifamily housing are typically paired with other resources such as housing tax credits and/or conventional financing, the availability of those other resources influences the use of funds for new construction. As with any development, the cost of land, materials, and labor are also factors. Finally, the demand for the housing from not only income-eligible tenants but those who exhibit an ability to pay rent is a primary market characteristic.</p> <p>For single-family HOME funds for new unit production, the CHDOs identify the needs for new housing in their communities before they apply.</p> <p>CDBG Program use of New Unit Production</p> <p>Office of Colonia Initiatives (“OCI”) anticipates that the rise of overall construction costs stems from the increase in prices for materials, labor, and land which may cause TDHCA to increase the average amount of assistance per household. With the increased assistance per household and lower amounts of funding per household, TDHCA may decrease the number of single family households serves with new construction.</p> <p>NHTF Program use of New Unit Production</p> <p>The Texas NHTF will provide funding for new construction of multifamily developments that meet TDHCA underwriting requirements. NHTF funds will be used for the production of multifamily rental housing for extremely low income households, which units will generally not generate sufficient income to pay operating costs, therefore NHTF will typically be leveraged by other resources such as HOME funds, housing tax credits and/or conventional financing, the availability of those other resources will impact the use of NHTF for new construction. As with any development, the cost of land, materials, and labor are also factors. Finally, the demand for the housing from not only income-eligible tenants but those who exhibit an ability to pay rent is a primary market characteristic.</p> <p>If NHTF is used for production of units for ownership, increasing costs for material, labor and land will factor into the assistance available for each unit, as will the availability of other fund sources to leverage NHTF. Because NHTF is required to serve extremely low income households, the availability of mortgage financing with an affordable payment will impact the amount of assistance required by households to reach sustainable ownership. Because of these factors, NHTF funds used for ownership may result on fewer households served than typical for other fund sources.</p>

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
Rehabilitation	<p>While only approximately 2% of the Texas housing stock is considered substandard per Needs Assessment Section 10, almost half of the housing stock is over 30 years old per Market Analysis Section 20. Older housing stock can be associated with necessary housing repairs. In addition, Market Analysis Section 10 discusses the need for barrier removal for persons with disabilities. Finally, Needs Assessment Section 30 establishes the need for rehabilitation in colonias.</p> <p>HOME use of Rehabilitation</p> <p>When a single-family housing unit or multifamily unit is determined to be in disrepair, the unit's suitability for rehabilitation varies by program. HOME takes each housing unit on a case-by-case basis, accounting for factors such as property value, construction costs, and type of rehabilitation to determine if the unit is suitable for rehabilitation or whether the household should be offered the option to rebuild.</p> <p>ESG use of Rehabilitation</p> <p>ESG has three eligible types of rehabilitation with subtly different definitions of what is considered a suitable property. ESG considers a shelter suitable for conversion rehabilitation where the cost of rehabilitation would exceed 75% of the value of the building after conversion. A unit is suitable for major rehabilitation if the costs of rehabilitation exceed 75% of the value of the building prior to rehabilitation or conversion. Finally, ESG considers a housing unit suitable for renovation rehabilitation where the costs of rehabilitation are 75% or less of the value of the building.</p> <p>CDBG use of Rehabilitation</p> <p>To address the condition of the housing stock, the CDBG Program has established a limit of \$25,000 dollars per home and a process to select homes for rehabilitation. The CDBG Program will consider adjustments based on a specific request from the subrecipient and that household's circumstances. Vacant and abandoned housing units are not precluded from consideration. The grant recipient is responsible for establishing priority based on local housing needs.</p> <p>For the OCI, the assistance limit is \$50,000 per household for reconstruction and new construction and \$40,000 per household for rehabilitation. The OCI encourages rehabilitation assistance if the activity requires less than \$40,000 to be brought up to minimum construction standards so that the maximum number of households may be served. .</p>

Affordable Housing Type	Market Characteristics that will influence the use of funds available for housing type
Rehabilitation	<p>NHTF funds will be used for the production of multifamily rental housing for extremely low income households, which units will generally not generate sufficient income to pay operating costs, therefore NHTF will typically be leveraged by other resources such as HOME funds, housing tax credits and/or conventional financing, the availability of those other resources will impact the use of NHTF for acquisition and rehabilitation. As with any development, the cost of land, materials, and labor are also factors. Finally, the demand for the housing from not only income-eligible tenants but those who exhibit an ability to pay rent is a primary market characteristic.</p>
Acquisition, including preservation	<p>Market Analysis Section 15 establishes that there are not enough affordable housing units available for owners. Homebuyer assistance helps ensure that homeowners purchase units that are within their means and help to make the units more affordable. In addition, Needs Assessment Section 30 discusses the abuses of contracts for deed, which may be improved by converting the contracts to traditional mortgages, resulting in acquisition of the unit.</p> <p>HOME use of Acquisition HOME offers homebuyer assistance and homebuyer assistance with rehabilitation for barrier removal and to bring units up to livability standards.</p> <p>CDBG use of Acquisition, Including Preservation OCI program assistance for acquisition comes as either a grant or a low- or 0%-interest forgivable loan. The OCI assists a market that is less likely to qualify for mortgage products at market interest rates and that use traditional underwriting criteria. This will maintain a high level of demand for affordable acquisition assistance from TDHCA.</p>

Table 8 – Influence of Market Conditions

SP-35 Anticipated Resources - 91.315(a)(4), 91.320(c)(1,2)

Introduction

CPD funding is governed by this Consolidated Plan, but the State also works to collaborate, coordinate, and layer non-CPD funding sources in order to reach more Texans and more efficiently use available funds. Programs listed in the anticipated resources narrative sections below could be used to leverage CPD funds. These include:

- 4% HTC Program;
- 9% HTC Program;
- Homeless and Housing Services Program (“HHSP”);
- Housing Trust Fund Program;
- Mortgage Credit Certificate (“MCC”) Program;
- First time homebuyer loan programs, including the My First Texas Home Program;
- Neighborhood Stabilization Program - Program Income (“NSP PI”);
- Section 8 Housing Choice Voucher (“HCV”) Program;
- Section 811 Project Rental Assistance (“PRA”) Program; and
- Tax Credit Assistance Program (“TCAP”) Loan Repayments.

For the programs above, the expected future funding amounts, to the extent known, are in the planning documents governing those programs. These documents can be found online at <http://www.tdhca.state.tx.us/>. The anticipated resources below are focused on CPD Programs.

TDHCA participates in numerous committees, workgroups, and councils which help TDHCA stay apprised of other potential resources to address affordable housing needs. Relationships with other federal and state agencies and local governments are extremely valuable, helping Texas agencies to coordinate housing and services and serve all Texans efficiently and effectively. TDHCA’s involvement in these committees promotes identifying opportunities to proactively pursue federal funding opportunities. TDHCA actively seeks engagement and input from community advocates, funding recipients, potential applicants for funding, and others to obtain input regarding the development of effective policies, programs and rules. Changes to funding plans are made periodically based on feedback received through these avenues.

TDHCA is the lead agency for the following workgroups:

C-RAC: C-RAC is a committee of colonia residents appointed by the TDHCA Governing Board. It advises TDHCA regarding the needs of colonia residents and the types of programs and activities which should be undertaken by the Colonia SHCs. The Colonia SHCs funds are provided to seven specific pre-determined counties which, in turn, procure organizations to operate their SHCs.

Disability Advisory Workgroup (“DAW”): The DAW augments TDHCA's formal public comment process, affording staff the opportunity to interact more informally and in greater detail with various stakeholders and to get feedback on designing more successful programs, with a specific focus on gaining insight on issues impacting persons with disabilities.

Housing and Health Services Coordination Council ("HHSCC"): HHSCC is established by Texas Government Code §2306.1091. Its duties include promoting coordination of efforts to offer Service-Enriched Housing and focusing on other cross-agency efforts.

Texas Interagency Council for the Homeless (“TICH”): The TICH was statutorily created in 1989 to coordinate the State’s homeless resources and services. The TICH consists of representatives from eleven state agencies. TDHCA, as the primary source for state homelessness funding, provides administrative and planning support to the TICH.

Weatherization Assistance Program Planning Advisory Committee (“WAP PAC”): The WAP PAC is comprised of a broad representation of organizations and agencies and provides balance and background related to the weatherization and energy conservation programs at TDHCA.

The descriptions of the collaborations for DSHS and TDA are in the Discussion question of this section below.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	53,849,803	2,500,000	13,000,000	69,349,803	269,249,015	TDA's CDBG Program funds community and economic development, excluding the colonia set-aside. Communities may also coordinate CDBG funding with U.S. Department of Agriculture's ("USDA") Rural Development funds or Texas Water Development Board's ("TWDB") State Revolving Fund.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG Colonias Set-aside	public - federal	<p>Acquisition Admin and Planning Homebuyer assistance Homeowner rehab Public Improvements</p> <p>Consolidated Plan</p> <p>Public Services</p>	5,983,312	0	0	5,983,312	29,916,560	<p>The Colonia Set-Aside is used both by TDA and TDHCA for goals described in the Strategic Plan Section 45. The Colonia Economically Distressed Areas Program ("CEDAP") Legislative Set-Aside leverages funding from the TWDB's Economically Distressed Areas Program. TDHCA's Office of Colonia Initiatives ("OCI") administers a portion of the CDBG Colonia Set-Aside through its Colonia SHCs. Also, the Housing Trust Fund, which is funded through Texas General Revenue, administers the Texas Bootstrap Loan Program, which is also available to SHCs. Finally, the Housing Trust Fund also provides the Contract for Deed Conversion Program Assistance Grants are two types of grants that support eligible nonprofits and units of local government in assisting eligible colonia households with incomes 60% or less of the AMI to convert their contracts for deeds to warranty deeds.</p>

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOME	public - federal	<p>Acquisition</p> <p>Homebuyer assistance</p> <p>Homeowner rehab</p> <p>Multifamily rental new construction</p> <p>Multifamily rehab</p> <p>New construction for</p>			TEXAS		<p>TDHCA's HOME Program goals are described in the Strategic Plan Section 45 for multifamily and single family activities. Single family HOME homebuyer activity may be coordinated with TDHCA's My First Texas Home Program, which can supplement down payment assistance, and the MCC Program, which provides a yearly tax credit of up to \$2,000 annually that reduced the homebuyers' federal income tax liability. HOME Multifamily Development Funds can be layered with 4% HTC's and 9% HTC's. In addition, TDHCA's Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA's Section 8 HCV may be used within HOME developments. Starting in 2015, TDHCA's TCAP loan repayments and NSP PI may be used to supplement or support multifamily and single-family HOME activities starting in 2015. In addition, TDHCA also develops rules that govern all multifamily programs, including the HOME Multifamily Development Program,</p>	

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOPWA	public - federal	Permanent housing in facilities Permanent housing placement Short term or transitional housing facilities STRMU Supportive services TBRA	2,947,262	0	0	2,947,262	11,789,048	DSHS' HOPWA state formula funds the following activities: TBRA; STRMU; PHP; and Supportive Services. Project Sponsors leverage available funds from Ryan White and State Services grants to assist clients with housing needs, medical and non-medical case management, emergency utility assistance, mental health, transportation, and nutritional services to address the needs of eligible clients.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
ESG	public - federal	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid re-housing (rental assistance) Rental Assistance Services Transitional housing	8,891,395	0	0	8,891,395	41,195,380	TDHCA's ESG funds are awarded via contract to Subrecipient agencies that provide emergency shelter, homelessness prevention, rapid rehousing, and Homeless Management Information Systems ("HMIS") activities. HHSP is Texas state general revenue funding for the eight largest cities to provide flexibility to undertake activities that complement ESG activities. Note that not all ESG direct recipients in Texas are HHSP grantees.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
Housing Trust Fund	public - federal							<p>TDHCA's NHTF Program goals are described in the Strategic Plan Section 45 for multifamily and single family activities. NHTF Multifamily Development Funds can be layered with 4% HTC's and 9% HTC's, and TDHCA Multifamily Direct Loan funds, including HOME, HOME-CHDO, and TCAP Loan Repayment. In addition, TDHCA's Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA's Section 8 HCV may be used within NHTF developments. In addition, TDHCA also develops rules that govern all multifamily programs, including the HOME Multifamily Development Program, known as the Uniform Multifamily Rules. If implemented, Single family NHTF homebuyer activity may be coordinated with TDHCA's My First Texas Home Program, which can supplement down payment assistance, and the MCC Program, which provides a yearly tax credit of up to \$2,000 annually that reduced the homebuyers' federal income tax liability. NHTF Single</p>

Consolidated Plan

TEXAS

Acquisition Multifamily

Table 9 - Anticipated Resources

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

HOME Program Leverages and Provides Match

HOME multifamily development is most often used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.30 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state’s cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan (“QAP”) for the selection of eligible developments to provide housing for the low-income tenants. HOME provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

Matching requirements for the HOME Multifamily Development Program will be met through the Rules that establish the awardee's minimum amount of match as 5% of the award amount. Match comes in the form of donated labor and materials, donated professional services from an architect or engineer, grants from cities or nonprofits, and waived fees by municipalities. Also, TDHCA is planning to increase match requirements for single family activities to more effectively use limited funding.

ESG Program Leverages and Provides Match

In 2011, the Texas Legislature statutorily created the HHSP statute and funded it with General Revenue. Through HHSP, the State allocates funds into the eight largest cities in Texas to support services to homeless individuals and families. These funds are sometimes used as match for either State or local ESG funding.

To meet the ESG match requirement, TDHCA includes match as part of the application process used with its Subrecipients. Subrecipient agencies are required to match 100% of their ESG award. A Subrecipient that is unable to match the award is eligible to apply to TDHCA for a match waiver of up to \$100,000. However, these requests have been quite rare. In coming ESG program years, TDHCA will actively determine which organization(s) will benefit from the match waiver.

HOPWA Leverages and Provides Match

Texas HOPWA does not have program income but leverages funds whenever possible. Project Sponsors leverage available funds from Ryan White and State Services grants, private funding sources, foundations, and local assistance to help clients. AAs do not receive administrative funds from DSHS, so those costs are leveraged from other funding sources.

CDBG Leverages and Provides Match

Nearly 80% of Texas CDBG grants include local matching fund commitments. Matching funds are required for certain grants, while other grants award points to encourage local match; a sliding scale allows smaller communities to contribute less match funding than larger communities.

Match funds may be provided by the applicant, or by a water or sewer utility benefiting from the project. Economic development projects benefiting private business require 1-for-1 match commitment, with the business most often providing this substantial match.

Recent updates to the Colonia SHC Program rules have capped program assistance at \$50,000 per household for reconstruction and new construction, and \$40,000 per household for rehabilitation. These limits encourage administrators to leverage their funds with other resources as well as assist more households than in prior years.

If appropriate, describe publically owned land or property located within the state that may be used to address the needs identified in the plan

Due to character limitations in the previous question, NHTF leveraging activities are provided at the beginning of this response. See the last paragraph below for state owned land information.

NHTF Program Leverages

NHTF multifamily development may be used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.30 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state's cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan ("QAP") for the selection of eligible developments to provide housing for the low-income tenants. NHTF provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

The Texas General Land Office manages state owned lands and mineral rights totaling approximately 13 million acres. Much of this is leased for the benefit of the Permanent School Fund, an endowment fund established in 1876 for the benefit of Texas public school education. There is currently no plan to use state owned land for affordable housing or community development goals; however, local jurisdictions occasionally

donate land or property in support of activities designed to address the needs identified in the plan as part of their contribution to locally administered programs.

Discussion

Continuing with the discussion of collaboration begun in the Introduction of this section, DSHS is the lead for several HIV-related councils and workgroups which provide opportunities for collaboration and resource sharing across agencies, providers, and other pertinent stakeholders to assist PLWH in Texas. Some of the initiatives are Inter-Agency Council on HIV & Hepatitis, the Texas Black Women's Initiative, the Test Texas Coalition, and the Texas HIV Syndicate. The Texas HIV Syndicate is an integrated HIV prevention and care planning body made up of roughly 100 organizational leaders representing the full continuum of HIV engagement. The Texas HIV Syndicate uses the Texas HIV Plan as a framework to develop strategies that enhance and expand on prevention and care activities across the State. Texas HIV Syndicate members develop policy recommendations, best practice models, coordination strategies, and promote innovation in HIV prevention and treatment. DSHS also holds a biennial HIV/Sexually Transmitted Disease ("STD") conference, attended by all DSHS contractors and subrecipients in addition to community leaders, health and HIV professionals, and many other essential stakeholders. Many of the DSHS contractors are also HOPWA providers. This year, the conference is August 19-21, 2014 in Austin, and invitations for two waived registrations have been extended to HUD. The goal of the Texas HIV/STD Conference is to enhance the responsiveness of people and systems supporting the spectrum of HIV/STD prevention and treatment services in Texas, including: Awareness; Targeted Prevention; Diagnosis; Linkage to Care; Maintenance in Care; and Suppression of Disease.

DSHS' Epidemiology and Surveillance Branch is responsible for reporting HIV/AIDS, STD, and tuberculosis ("TB") surveillance and epidemiologic data for the State of Texas, which includes data submission to the Centers for Disease Control and Prevention ("CDC"). This data is subsequently used by HUD to determine HOPWA formula allocations. This data is also leveraged to provide support to planning, development, implementation, and evaluation of HIV/AIDS, STD, and TB prevention and services programs, including HOPWA.

Finally, TDA participates in the following workgroups:

Texas Water Infrastructure Coordination Committee ("TWICC"): TWICC is a voluntary organization of federal and state funding agencies and technical assistance providers that address water and wastewater needs throughout the State. TDA participates in TWICC to coordinate efforts to leverage funds.

Secretary of State's Colonia Workgroup: The Colonia Workgroup consists of federal and state funding agencies and the Texas Secretary of State's colonia ombudsmen. The group addresses current and future infrastructure improvements in colonias, focusing on coordination of resources and information. TDHCA is also a member of this workgroup.

Drought Preparedness Council: The Council was authorized and established by the 76th Texas Legislature in 1999, and is responsible for assessment and public reporting of drought monitoring and water supply conditions, along with other duties.

These workgroups, committees, and councils help to strengthen communication between state agencies as well as provide opportunities to layer or combine funding sources.

With the block grants and the layering resources listed above, there are also CDBG Disaster Recovery ("DR") funds for Hurricanes Rita, Dolly, and Ike, and Wildfires. Hurricane Rita Disaster Recovery for housing and non-housing recovery is in 29 counties. Ike Disaster Recovery for housing and non-housing recovery is in 62 counties. Wildfire Recovery non-housing recovery is in 65 counties. More details can be found at <http://www.glo.texas.gov/GLO/disaster-recovery/actionplans>

SP-45 Goals Summary – 91.315(a)(4)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Homeless Goals	2015	2019	Homeless	State of Texas	Emergency shelter and transitional housing Homeless Outreach Homelessness Prevention Rapid Re-housing Rehabilitation of housing	ESG: \$41,195,380	Tenant-based rental assistance / Rapid Rehousing: 22850 Households Assisted Homeless Person Overnight Shelter: 53555 Persons Assisted Homelessness Prevention: 31240 Persons Assisted
2	Construction of single family housing	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Production of new units	HOME: \$3,362,570	Homeowner Housing Added: 35 Household Housing Unit
3	Rehabilitation of single family housing	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rehabilitation of housing	HOME: \$5,611,175	Homeowner Housing Rehabilitated: 330 Household Housing Unit
4	Homebuyer assistance with possible rehabilitation	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Acquisition of existing units	HOME: \$2,408,057	Direct Financial Assistance to Homebuyers: 200 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
5	Tenant-Based Rental Assistance with HOME funding	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rental Assistance	HOME: \$28,055,875	Tenant-based rental assistance / Rapid Rehousing: 2550 Households Assisted
6	HOME Households in new/rehabed multifamily units	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Production of new units Rehabilitation of housing	HOME: \$37,742,675	Rental units constructed: 300 Household Housing Unit Rental units rehabilitated: 75 Household Housing Unit
7	HOPWA Tenant-Based Rental Assistance	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Homelessness Prevention Rental Assistance	HOPWA: \$8,646,610	Tenant-based rental assistance / Rapid Rehousing: 2200 Households Assisted
8	HOPWA Short-Term Rent, Mortgage, & Utilities Asst	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Homelessness Prevention	HOPWA: \$2,267,963	Homelessness Prevention: 2350 Persons Assisted
9	HOPWA Permanent Housing Placement Assistance	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Homelessness Prevention Rental Assistance	HOPWA: \$42,524	Public service activities other than Low/Moderate Income Housing Benefit: 65 Persons Assisted
10	HOPWA-Funded Supportive Services	2015	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Supportive Services for Persons with HIV/AIDS	HOPWA: \$2,267,963	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 4450 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
11	CDBG Other Construction	2015	2019	Non-Housing Community Development	State of Texas	Economic development Public Improvements and Infrastructure Public facilities Public services	CDBG: \$224,430,740	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 1139215 Persons Assisted
12	CDBG Economic Development	2015	2019	Non-Housing Community Development Economic Development	State of Texas	Economic development Public Improvements and Infrastructure Public facilities Public services	CDBG: \$74,368,045	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 66610 Persons Assisted Jobs created/retained: 4000 Jobs
13	CDBG Planning / Capacity Building	2015	2019	Non-Housing Community Development	State of Texas	Public Improvements and Infrastructure Public facilities Public services	CDBG: \$2,802,475 CDBG Colonias Set-aside: \$121,250	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 187695 Persons Assisted
14	CDBG Disaster Relief / Urgent Need	2015	2019	Non-Housing Community Development	State of Texas	Public Improvements and Infrastructure Public facilities Public services	CDBG: \$47,036,165	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 661240 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
15	CDBG Colonia Set-Aside	2015	2019	Affordable Housing Non-Housing Community Development	State of Texas	Acquisition of existing units Production of new units Public Improvements and Infrastructure Public facilities Rehabilitation of housing	CDBG Colonias Set-aside: \$29,916,560	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 16740 Persons Assisted
16	CDBG Colonia Self-Help Centers	2015	2019	Self-Help Centers	State of Texas	Public services Rehabilitation of housing Rental Assistance	CDBG: \$7,479,140	Other: 72455 Other
17	CDBG Administration	2015	2015	Administration/Technical Assistance		Economic development Public Improvements and Infrastructure Public facilities Public services Rehabilitation of housing	CDBG: \$9,474,965	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
18	HOME Administration	2015	2019	HOME Administration	State of Texas	Acquisition of existing units Production of new units Rehabilitation of housing Rental Assistance	HOME: \$12,287,815	
19	NHTF households in new/rehabed multifamily units	2016	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Acquisition of existing units Production of new units Rehabilitation of housing	Housing Trust Fund: \$ 4,310,529	Rental units constructed: 75 Household Housing Unit
20	NHTF Administration	2016	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Acquisition of existing units Production of new units Rehabilitation of housing	Housing Trust Fund: \$ 478,948	Other: 0 Other

Table 10 – Goals Summary

Goal Descriptions

1	Goal Name	Homeless Goals
	Goal Description	Goals for 5-year period based on Program Year ("PY") 2012 performance.
2	Goal Name	Construction of single family housing
	Goal Description	The number will be an estimation of households to be assisted through Single-Family HOME funds for new construction based on PY 2014 allocation and a planned shift in resources from multifamily to single-family activities.
3	Goal Name	Rehabilitation of single family housing
	Goal Description	The number will be an estimation of households to be assisted through Single-Family HOME funds for rehabilitation and new construction based on the PY 2014 allocation for general single family and persons with disabilities set-asides, and a planned shift in resources from multifamily to single-family activities.
4	Goal Name	Homebuyer assistance with possible rehabilitation
	Goal Description	The number will be an estimation of households to be assisted through Single-Family HOME funds for homebuyer assistance and homebuyer assistance with rehabilitation or modification based on the PY 2014 allocation for contract-for-deed conversion and persons with disabilities set-asides, and a shift in resources from multifamily to single-family activities.
5	Goal Name	Tenant-Based Rental Assistance with HOME funding
	Goal Description	The number will be an estimation of households to be assisted through Single-Family HOME funds for TBRA based on the PY 2014 allocation for general single family and persons with disabilities set-asides, and a planned shift in resources from multifamily to single family activities.
6	Goal Name	HOME Households in new/rehabed multifamily units
	Goal Description	The number will be an estimation of units rehabilitated or newly constructed based on the PY 2014 allocation and a planned shift in resources from multifamily to single-family activities. Multifamily Development Funds are available in the form of low interest rate repayable loans to for-profit and nonprofit developers to construct and/or rehabilitate affordable multifamily rental housing. HOME Multifamily Development Funds typically represent 5% to 20% of the total development costs on projects that are layered with 9% HTC's. For non-layered projects, HOME Multifamily Development Funds can represent over 50% of a project's total development cost. If the construction is paired with other sources of TDHCA funding, performance is measured at the time that cost certification is measured. If construction is only HOME funding, then performance is measured at the time of final draw.

7	Goal Name	HOPWA Tenant-Based Rental Assistance
	Goal Description	The TBRA program provides tenant-based rental assistance to eligible individuals until they are able to secure other affordable and stable housing. TBRA helps clients maintain affordable and stable housing, reduces risk of homelessness, and improves access to health care and supportive services.
8	Goal Name	HOPWA Short-Term Rent, Mortgage, & Utilities Asst
	Goal Description	STRMU assistance program: The STRMU program provides emergency short-term rent, mortgage, and utility payments to eligible individuals for a maximum of 21 weeks of assistance in a 52-week period. STRMU helps low-income HIV-positive clients maintain affordable housing, reduce risk of homelessness, and improve access to health care and supportive services.
9	Goal Name	HOPWA Permanent Housing Placement Assistance
	Goal Description	The PHP program provides assistance for housing placement costs which may include application fees, related credit checks, and reasonable security deposits necessary to move persons into permanent housing. PHP helps low-income HIV-positive clients establish affordable and stable housing, reduce risk of homelessness, and improve access to health care and supportive services.
10	Goal Name	HOPWA-Funded Supportive Services
	Goal Description	HOPWA Supportive Services provides financial assistance for HOPWA case management, basic telephone service, and provision of smoke detectors. Supportive Services may be provided in conjunction with HOPWA housing assistance or as a stand-alone service. HOPWA housing assistance and Supportive Services are integrated with the larger Ryan White Program both in administration and service delivery, which in turn is integrated into the larger, multi-sectoral system for delivering treatment and care to these clients. The goals of the HOPWA program are to help low-income HIV-positive clients establish or maintain affordable and stable housing; to reduce the risk of homelessness; and to improve access to health care and supportive services.
11	Goal Name	CDBG Other Construction
	Goal Description	Total number of beneficiaries for CDBG other construction grants, including basic infrastructure. Funding allocated includes annual allocation in addition to previously deobligated funds.
12	Goal Name	CDBG Economic Development
	Goal Description	Number of jobs created/retained and beneficiaries served by the Texas Capital Fund programs. Funding allocated includes annual allocation in addition to previously deobligated funds.

13	Goal Name	CDBG Planning / Capacity Building
	Goal Description	Total number of beneficiaries served by the CDBG Planning/Capacity Building programs (may include public services). Funding allocated includes annual allocation in addition to previously deobligated funds.
14	Goal Name	CDBG Disaster Relief / Urgent Need
	Goal Description	Total number of beneficiaries served by the CDBG Disaster Relief / Urgent Need programs. Funding allocated includes annual allocation in addition to previously deobligated funds.
15	Goal Name	CDBG Colonia Set-Aside
	Goal Description	Total number of beneficiaries served by the CDBG colonia programs. Funding allocated includes annual allocation in addition to previously deobligated funds.
16	Goal Name	CDBG Colonia Self-Help Centers
	Goal Description	Colonia residents receiving direct assistance through Self-Help Centers..
17	Goal Name	CDBG Administration
	Goal Description	CDBG Administrative costs including Technical Assistance.
18	Goal Name	HOME Administration
	Goal Description	HOME Administrative funds from PY 2015 HOME allocation and projected PI.
19	Goal Name	NHTF households in new multifamily units
	Goal Description	The number will be an estimation of units newly constructed based on average per unit maximum investment. Multifamily Development Funds are available in the form of low interest rate repayable loans to for-profit and nonprofit developers to construct and/or rehabilitate affordable multifamily rental housing. If the construction is paired Tax Credit financing, performance is measured at the time that cost certification is measured. If construction is only Multifamily Direct Loan funds, then performance is measured at the time of final draw.
20	Goal Name	NHTF Administration
	Goal Description	NHTF Administrative funds.

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.315(b)(2)

Based on anticipated program activities, TDHCA estimates that the number of PY 2015 beneficiaries for HOME Single Family assisted will be approximately 625 low-, very low-, or extremely low-income households. On the basis of historical performance, TDHCA estimates that approximately 50 percent of those households will be minority households. The HOME Multifamily Program estimates that approximately 30 households with income in the 0-50% AMI category, 30 households in the <80% AMI category, and 15 households with moderate income will be served per year from 2015 to 2019.

The ESG Program estimates that 39,000 households will be assisted through homelessness prevention and rapid re-housing activities per year. The goals of the HOPWA Program are to help low-income HIV-positive clients establish or maintain affordable and stable housing; to reduce the risk of homelessness; and to improve access to health care and supportive services. DSHS estimates that the Texas HOPWA program will assist 923 unduplicated, income-eligible clients each year with housing subsidy assistance.

The CDBG Program encourages regional priority set-asides for housing projects such as housing rehabilitation, and housing rehabilitation in colonia areas. Based on prior application, the TDA estimates rehabilitating homes for 20 families per year and providing utility connections and similar housing assistance for an additional 250 families per year.

OCI, funded with a set-aside of CDBG funds, estimates that 4,200 persons living in colonias will be assisted by the Colonia SHCs' affordable housing activities yearly.

The Texas NHTF is anticipated to serve 75 extremely low income renter households, if the allocation amount remains relatively constant. TDHCA estimates that similar to the HOME program, approximately 50 percent of those households will be minority households.

Disaster Recovery: As outlined in great detail in each of the Action Plans for the supplemental disaster assistance, the State of Texas had huge recovery efforts from each of the events it received funding for. While all of the programs are well under way, there remains unmet need that will still exceed the funds available to the State. This can be evidenced by the over subscription of most of the programs. Please refer to each program's Action Plan or the disaster recovery divisions most current Quarterly Progress Report for specific details: <http://www.glo.texas.gov/GLO/disaster-recovery/actionplans/index.html> and <http://www.glo.texas.gov/GLO/disaster-recovery/reports/index.html>.

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BOARD ACTION REQUEST

LEGAL SERVICES

APRIL 27, 2017

Presentation, discussion, and possible action on proposed amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.13 concerning adjudicative hearing procedures, and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code Chapter 2001 ("APA"), requires state agencies to adopt practices and procedures for formal and informal hearings, including contested case hearings under the APA;

WHEREAS, The Department adopted such rules for contested case hearings in 2014;

WHEREAS, The State Office of Administrative Hearings ("SOAH") amended its general rules of procedure in 2017, affecting the operation of the Department rules; and

WHEREAS, The Department needs to amend its existing contested case hearing procedures to better conform with the current services and processes now offered at SOAH

NOW, therefore, it is hereby

RESOLVED, the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendments to 10 TAC §1.13, in the form presented to this meeting to be published in the *Texas Register* for review and public comment, and in connection therewith, to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

SOAH recently amended its rules of procedure in contested cases in response to comments during its last Sunset review. SOAH is being encouraged to reduce the number of unnecessary proposals for decision it writes. This includes writing proposals for decision in cases where a party or parties fail to appear and the case can be dismissed and remanded back to the agency. In such instances, SOAH is encouraging state agencies to use authority given them under the APA to promulgate rules providing for the disposition of such default cases.

In such instances where a respondent in a TDHCA enforcement case, a recipient of certain block grant funds, or other person entitled to a contested case at the Department, fails to appear for their SOAH hearing, the SOAH administrative law judge will dismiss the case and remand it back to the Department without writing a proposal for decision.

This proposed rule provides the process for the Board to issue a final order in a default matter. It requires the Executive Director to prepare a final order for the Board's discussion and possible action including findings of fact as alleged in the notice of hearing, conclusions of law and granting the relief request by Department Staff. The Board may accept the order as proposed, modify it as permitted by the APA, or remand the matter back to SOAH for additional fact finding.

Minor clarifying changes were made to the sections concerning service of notice of hearing and service of pleadings and other documents.

Texas Administrative Code

TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1 ADMINISTRATION
SUBCHAPTER A GENERAL POLICIES AND PROCEDURES
RULE §1.13 Contested Case Hearing Procedures

The Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 TAC §1.13, concerning Contested Case Hearing Procedures. The purpose of this proposed new section is to (1) clarify the methods that may be used to effect service of the notice of hearing and other documents and pleadings, (2) clarify the process that the State Office of Administrative Hearings ("SOAH") and the Department will use when SOAH issues a proposal for decision in a contested case, and (3) provide for a process for the Department to dispose of a contested case in which the party not bearing the burden of proof has failed to appear.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section will be in effect, the public benefit anticipated as a result of the new section will be a greater efficiency in resolving its contested cases.

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

REQUEST FOR PUBLIC COMMENT. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Jeffrey T. Pender, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to: jeff.pender@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00P.M. on June 12, 2017.

STATUTORY AUTHORITY. The new section is proposed pursuant to Tex. Gov't Code §2306.053 which generally authorizes the Department to promulgate rules, and more specifically, Tex. Gov't Code §2001.004, which requires state agencies to adopt rules of practice regarding contested case proceedings. The proposed new section affects no other code, article, or statute.

§1.13. ~~Contested Adjudicative Case~~ Contested Case Hearing Procedures

(a) Purpose. The purpose of this section is to provide procedures for contested case hearings and ~~other evidentiary hearings (adjudicative hearings)~~. This section does not apply to matters such as appeals from staff or Board decisions or waivers, and this section does not in itself create any right to an ~~contested case adjudicative~~ hearing, but merely provides a process for hearings that are otherwise expressly granted by law or rule.

(b) SOAH Designation. The Governing Board (the "Board") of the Texas Department of Housing and Community Affairs (the "Department") designates the State Office of Administrative Hearings (SOAH) to hold all contested case ~~adjudicative~~ hearings on the Board's behalf.

(c) Initiation of Hearing.

(1) Upon receipt of a pleading or other document that is intended to initiate a contested case or

~~evidentiary~~ proceeding before the Department, the Department shall determine if an contested case ~~adjudicative~~ hearing is provided under the relevant statutory provisions and rules and, if so, will docket the same as a pending proceeding, number it in accordance with any established docket numbering system of the Department, and refer the matter to SOAH for hearing.

(2) SOAH shall acquire jurisdiction over a case when the Department completes and files a Request to Docket Case form, or other form acceptable to SOAH, together with the notice of report to the board required under Texas Government Code, §2306.043 or other pertinent documents giving rise to the case. Once SOAH acquires jurisdiction, all subsequent documents are to be filed with SOAH, with appropriate service upon the opposing party in accordance with this chapter and the rules of SOAH.

(3) Except upon a showing of good cause, all contested case ~~adjudicative~~ hearings in which the Department is a party shall be held at the offices of SOAH located in Austin, Texas.

(4) Nothing in this subchapter shall in any way limit, alter, or abridge the ability of the Department to enter into mediation or alternative dispute resolution at any time prior to or after the holding of the administrative hearing but prior to the adoption of a final order.

(d) Service of Notice of Hearing, Pleadings and Other Documents on Parties.

(1) Service of a notice of hearing shall be made by hand delivery, regular, first class ~~mail~~, registered or certified mail to the party's last known address as shown on the Department's records, in accordance with §1.22 of this chapter (relating to providing contact information to the Department), ~~courier service, or by any other means that is in accordance with the Administrative Procedures Act (APA) and the SOAH rules. The notice of hearing shall be delivered to the Responsible Party at the address of record on file with the Department in accordance with §1.22 of this chapter (relating to Providing Contact Information to the Department).~~

(2) Service of pleadings and other documents shall be made in any the manner provided for in SOAH rules. ~~subparagraphs (A) — (C) of this paragraph shall be prima facie evidence of proper service of a notice of hearing.~~

~~—(A) Service by hand delivery shall be complete upon hand delivery to the Responsible Party or the Responsible Party's agent at the Responsible Party's address of record.~~

~~—(B) Service by mail shall be complete upon deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.~~

~~—(C) Service by courier service shall be complete upon deposit of the paper, enclosed in a properly addressed wrapper, in a depository under the care and custody of a courier service.~~

~~—(3) Service of other documents in adjudicative cases pending before SOAH shall be governed by the rules of SOAH.~~

(e) Proposal for Decision.

(1) ~~Within the time line set out in SOAH rules, a~~ After the conclusion of the hearing, the Administrative Law Judge (ALJ) shall prepare and serve on the parties a proposal for decision that includes the ALJ's findings of fact and conclusions of law, as modified by: ~~Any exceptions and replies to exceptions to the proposal for decision may be timely filed with the ALJ~~ in accordance with §2001.062 of the Texas Government Code and SOAH rules. ~~Once the proposal for decision is provided to the Executive Director, and the time has expired for filing of any exceptions and replies, the matter shall be placed~~ the proposal for decision and a proposed final order on the Board's agenda for discussion and possible action to be considered at a subsequent meeting of the Board.

(2) At a meeting of the Board where the proposed order may be adopted, parties may argue based on the record only, for changes to the proposal for decision or the proposed final order. No new

evidence shall be taken at the meeting. The Board may, on its own motion, remand to SOAH for additional fact finding. The Board may change a finding of fact or conclusion of law made by the ALJ, but only for reasons stated in §2001.058(e) of the Texas Government Code. The Board may adopt a final order if it finds that the findings of fact and conclusions of law are supported by the evidence. Motions for rehearing may be filed and served in accordance with the APA.

(2) The Board reserves the right to remand the matter back to SOAH, when warranted in the Board's sole discretion.

(f) Disposition of Contested Cases on a Default Basis

(1) In contested cases where the party not bearing the burden of proof at the hearing fails to appear, the ALJ may issue an order finding adequate notice, deeming factual allegations in the notice of hearing admitted, if appropriate, conditionally dismissing the case from the SOAH docket, and conditionally remanding the case to TDHCA for disposition on a default basis. Pursuant to SOAH rules, a party has 15 days after the issuance of a conditional order of dismissal and remand to file with SOAH a motion to set aside the order of dismissal and remand. On the sixteenth day after issuance, if no motion to set aside is timely filed, or the motion to set aside is not granted, the conditional order of dismissal and remand becomes final.

(2) When the order of dismissal and remand is final, the Executive Director shall prepare a proposed order for the Board's action containing findings of fact, as set forth in the notice of hearing, conclusions of law, and granting the relief requested by staff. The matter shall be placed on the Board's agenda for discussion and possible action at a subsequent meeting. Argument and evidence on the merits will not be considered at the meeting. Motions for rehearing shall be filed and served in accordance with the APA.



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BOARD ACTION REQUEST

SINGLE FAMILY OPERATIONS & SERVICES

APRIL 27, 2017

Presentation, discussion, and possible action on an Order proposing the repeal of 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and an Order proposing new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and directing its publication for public comment in the *Texas Register*.

RECOMMENDED ACTION

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

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

WHEREAS, the Department's Governing Board last adopted amendments to 10 TAC Chapter 20 on June 30, 2016, to be effective on July 21, 2016; and

WHEREAS, the proposed repeal of 10 TAC Chapter 20 and the proposed new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, clarifies applicability of the Rule, updates definitions; further clarifies parameters of Household Eligibility requirements; states Affirmative Fair Housing Marketing Plan submission requirements; clarifies inspection requirements with respect to condemned and extremely substandard properties and addresses instances for waivers of final inspection/pending corrections; expands Loan, Lien and Mortgage Requirements; and simplifies limits for increases in award amounts.

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered and directed, for and on behalf of the Department to cause the proposed repeal of the current 10 TAC Chapter 20 and the proposed new 10 TAC Chapter 20, regarding Single Family Programs Umbrella Rule, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

BACKGROUND

The purpose of repealing and replacing the Single Family Programs Umbrella Rule is to clarify applicability of the Rule; to update definitions; to further clarify parameters of Household Eligibility requirements; to state Affirmative Fair Housing Marketing Plan submission requirements; to clarify inspection requirements with respect to condemned and extremely substandard properties and instances for waivers of final inspection/pending corrections; to expand Loan, Lien and Mortgage Requirements; and to simplify limits for increases in award amounts.

The attached proposed rule is shown as a blackline so the Board and public can see what is being changed. The significant updates to 10 TAC Chapter 20 are:

- §20.1 Purpose. This section clarifies that loans that are excluded from this chapter are those facilitated by the Department's pass through first-time homebuyer Programs utilizing bond financing or mortgage credit certificates.
- §20.3 Definitions. This section corrects capitalization and abbreviations on existing definitions, eliminates superfluous or unused terms, and further clarifies some existing terms. The section now includes the terms "Debt," "Life-of-Loan Flood Certification," "Mortgage Loan" and "Qualifying Income".
- §20.6 Applicant Eligibility. This section has been edited to improve readability, and now states that Applicants originating or servicing a Mortgage Loan must possess all pertinent licenses for such activity unless exempted.
- §20.7 Household Eligibility Requirements. This section now states that Households cannot be assisted if any Household member owes a tax or debt further described in this section.
- §20.8 Single Family Housing Unit Eligibility Requirements. This section now clarifies the length of time (6 consecutive months) that a Household must be current with an approved property tax payment plan prior to applying for Department programs.
- §20.9 Fair Housing, Affirmative Marketing and Reasonable Accommodations. This section has been renamed from "General Administration and Program Requirements" and clarifies the required frequency for submitting an Affirmative Fair Housing Marketing Plan (for every new contract or activity application, and every two years during continued activity), and further explains limited English proficiency requirements.
- §20.12 Inspection Requirements for Construction Activities. This section clarifies under "Reconstruction requirements" that condemned units are ineligible for rehabilitation and that initial inspection requirements may be waived for properties certified as substandard beyond repair or condemned. This section clarifies under "Rehabilitation requirements" that Certificates of Occupancy may be acceptable in certain circumstances in lieu of a final inspection and that pending cosmetic corrections may be waived in certain circumstances.

- §20.13 Loan, Lien and Mortgage Requirements for Activities. This section expands the credit qualification requirements for applicants seeking a mortgage loan from the Department. This section also clarifies mitigation for unacceptable credit regarding medical accounts, outstanding delinquent accounts, outstanding judgments and bankruptcy.

Lastly, this section adds the requirement that the Department and the Administrator must comply with the Equal Credit Opportunity Act and further defines citations to applicable state and federal requirements, such as chapters of the Texas Finance Code, the Real Estate Settlement Procedures Act, the Dodd Frank Wall Street Reform and Consumer Protections Act, and the Truth-in-Lending Act.

- §20.14 Amendments and Modifications to Written Agreements and Contracts. This section has been edited under "Changes in Household" to state that if an amendment request has not been approved, the Applicant has the right to appeal. This section has been edited under "Increases in Award and Contract Amounts" to eliminate the simultaneous 25%-of-original-award limit and \$50,000 limit on increase requests. The maximum increase has been simplified to 50%-of-original-award.

Attachment A: Preamble of 10 TAC Chapter 20 Single Family Programs Umbrella Rule; proposed new

The Texas Department of Housing and Community Affairs (the “Department”) proposes new TAC Chapter 20, §§20.1 - 20.16, concerning the Single Family Programs Umbrella Rule. The purpose of the proposed new rule is to clarify applicability of the Rule; to update definitions; to further clarify parameters of Household Eligibility requirements; to state Affirmative Fair Housing Marketing Plan submission requirements; to clarify inspection requirements with respect to condemned and extremely substandard properties and address instances for waivers of final inspection/pending corrections; to expand Loan, Lien and Mortgage Requirements; and to simplify limits for increases in award amounts. The proposed repeal of existing Chapter 25 is published concurrently with this rulemaking.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the new sections will be clarity of eligibility, Fair Housing, lending and construction/inspection requirements. There will be minimal economic cost to entities complying with the amendments.

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

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed amendments will be from May 12, 2017, to June 12, 2017. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Homero Cabello, Director of Single Family Operations & Services, Single Family Programs Umbrella Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; or emailed to homero.cabello@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M Austin local time, June 12, 2017.

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

The proposed amendments affect no other code, article, or statute.

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 20 SINGLE FAMILY PROGRAMS UMBRELLA RULE

§20.1 Purpose

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), ~~State~~Texas Housing Trust Fund (SHTF or HTF), ~~Bond/First Time Homebuyer (FTHB), Taxable Mortgage Program (TMP),~~ Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Chapter 2306 of the Texas Government Code, Chapter 2306 and any applicable statutes and federal regulations. Excluded from this Chapter are loans facilitated by the Department's pass through first-time homebuyer Programs utilizing bond financing structures or mortgage credit certificates.

§20.2 Applicability

~~This~~Unless otherwise noted, this Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this Chapter. Where Program Rule is less restrictive ~~than~~ and the item is not preempted by federal law ~~of this Chapter~~, the provisions of this Chapter will govern control Program decisions. ~~The Amy Young Barrier Removal Program is excluded from the Inspection and Construction Requirements identified in §20.10 and Survey Requirements in §20.11.~~

§20.3 Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context ~~or the NOFA~~ indicates otherwise. Any capitalized terms not specifically mentioned in this Section or any Section referenced in this Chapter shall have the meaning as defined ~~Other definitions may be found in Chapter 2306 of the Texas Government Code, Chapter 2306 the Program Rules, the Texas Administrative Code, or and Chapter 1 of this Title (relating to Administration), and the~~ applicable federal regulations.

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

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

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

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

(A) interlocking management or ownership;

(B) identity of interests among family members;

(C) shared facilities and equipment;

(D) common use of employees; or

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

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

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

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

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

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

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

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

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

~~(12)(13)~~ Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

~~(13)(14)~~ Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

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

~~(14)(16)~~ Contract--The executed written Agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

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

~~(15)(18)~~ Control--The possession, directly or indirectly, of the power to direct or cause the direction of

the management, ~~operations or~~ and policies of any person or entity, whether through the ownership ~~of~~ voting securities, ownership interests, or by contract or otherwise, ~~including ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing member of a limited liability company or managing general partner of a limited partnership or any similar member.~~

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

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

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

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

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

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

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

(22) Enforcement Committee--The Committee as defined in Chapter 2 of this Title.

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

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

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

(26)(27) Housing Trust Fund or State Housing Trust Fund (SHTF)--State-funded Programs authorized under Chapter 2306 of Texas Government Code.

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

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

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

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

(31)(32) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit

that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires Department approval.

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

~~(32)(34) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code, ~~Chapter 1201~~ or FHA guidelines as required by the Department.~~

~~(33)(35) Mortgage--Has the same meaning as defined in Section§ 2306.004 of the Texas Government Code.~~

~~(34)(36) Mortgage Loan--Has the same meaning as defined in Section§ 2306.004 of the Texas Government Code.~~

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

~~(35)(38) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and Section§ 1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.~~

~~(36)(39) NOFA--Notice of Funding Availability or announcement of funding published by the Department notifying the public of available funds for a particular Program with certain requirements.~~

~~(37)(40) Nonprofit Organization--An organization in which no part of its income is distributable to its members, directors or officers of the organization and haswith a current tax exemption classification status ruling from the Internal Revenue Service in accordance withunder the Internal Revenue Code, ~~or classification as a subordinate of a nonprofit under the Internal Revenue Code.~~~~

~~(38)(41) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Texas Government Code which acts as a liaison to the colonias and manages some Programs in the colonias.~~

~~(39)(42) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.~~

~~(40)(43) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.~~

~~(41)(44) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."~~

~~(42)(45) Program--The specific fund source from which single family funds are applied for and used.~~

~~(43)(46) Program Income--Gross income received by the Administrator or Affiliate directly generated from the use of single familySingle Family funds, including, but limited to gross income received from matching contributions under the HOME Program.~~

~~(44)(47) Program Manual--A set of guidelines designed to be an implementation tool for the single family Programs which allows the Administrator to search for terms, statutes, regulations, forms and attachments. The Program Manual is developed by the Department and amended or supplemented from time-to-time.~~

~~(45)(48) Program Rule~~--Chapters of this Title which pertain to specific single family Program requirements.

~~(46) Qualifying Income~~---The income used to calculate the Applicant and co-Applicant's debt-to-income ratio and excludes the total of any income not received consistently for the past 12 months from the date of Application including, but is not limited to, income from a full or part time job that lacks a stable job history, potential bonuses, commissions, and child support. Income less than 12 months such as retirement annuity or court ordered payments will be considered if expected to continue at least 24 months in the foreseeable future.

~~(49) Reconstruction~~---The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application.

~~(50) Rehabilitation~~---The improvement or modification of an existing residential unit through an alteration, addition, or enhancement.

~~(47)(51) Reservation~~---Funds set-aside for a Household Applicant or single family Activity registered in submitted through the Department's Reservation System registration system.

~~(48)(52) Reservation System~~---The Department's online tracking system~~computer registration system(s)~~ that allows Administrators to reserve funds for a specific Household.

~~(49)(53) Resolution~~---Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws of the issuing organization.

~~(50)(54) Self-Help~~---Housing Programs that allow low, very low, and extremely low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers.

~~(55) Set-up~~---The creation of a new Activity in the Department database by an Administrator, which requires review and approval by the Department.

~~(51)(56) Single Family Housing Unit~~---A residential dwelling home designed and built for ~~one person or one~~ a Household to occupy as its primary residence where single family Program funds are used for rental or owner-occupied. This includes the acquisition, construction, reconstruction~~Reconstruction~~ or rehabilitation~~Rehabilitation~~ Activities of an attached or detached housing unit, including Manufactured Housing Units after installation. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

~~(57) Soft Costs~~---Costs related to and identified with a specific Single Family Housing Unit other than construction costs. May also be referred to as "direct delivery" costs.

~~(58) Subgrantee~~---Same as "Administrator."

~~(52)(59) Subrecipient~~---Same as "Administrator."

~~(60) TAC~~---Texas Administrative Code.

~~(53)(61) TMCS~~---Texas Minimum Construction Standards located at <http://www.tdhca.state.tx.us/single-family/training/index.htm>~~as amended and described in the Miscellaneous Section of the Texas Register.~~

~~(62) TREC~~---Texas Real Estate Commission.

§20.4 Eligible Single Family Activities

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

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

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

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

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

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

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

(6) tenant-based rental assistance; and

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

§20.5 Funding Notices

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

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

(c) Funds may be subject to regional allocation in accordance with Chapter 2306 of the Texas Government Code.

~~(d) The Department will develop and publish Application materials for participation in the HCS and/or Reservation Systems.~~

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

§20.6 Applicant Eligibility

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

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

(c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in 10 TAC 1~~Chapter 1 of this Title~~.

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

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

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

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

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

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

(5) Applicant is currently noncompliant or has a history of current or previous noncompliance with any Department Program. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in noncompliance or otherwise violating the rules ~~Rules~~ of the Department may be terminated, recommended with conditions, and/or not recommended for funding.

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

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

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

§20.7 Household Eligibility Requirements

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

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

§20.8 Single Family Housing Unit Eligibility Requirements

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

(b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, ~~or~~ the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least 6 consecutive months prior to the date of Application, or, must have qualified ~~qualify~~ for an approved tax deferral plan, ~~or has~~ received a valid exemption from real property taxes.

(c) An owner-occupied Single Family Housing Unit must not be encumbered with any liens which impair

the good and marketable title. The Department will require the owner to be current on any existing Mortgage Loans or home equity loans prior to assistance.

§20.9 Fair Housing, Affirmative Marketing and Reasonable Accommodations General-Administration and Program Requirements

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

(b) Affirmative Marketing and Procedures. An Administrator receiving Federal or state funds must have an Affirmative Marketing Plan. The AFHMP must be submitted to the Department each time the Administrator applies for a new contract or a new type of activity. The plan must be submitted at a minimum of every two years if the Administrator continues to accept new applications.

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

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

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

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

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

(E) A description for the provision of applicable counseling programs and educational materials that will be offered to Applicants. Administrators offering acquisition programs must require that potential home purchasers receive homeownership counseling and education at the time assistance is approved.

(2) Applicability.

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

(B) Administrators that currently have an existing list of Applicants and are not accepting new Applicants or establishing a waiting list are not required to affirmatively market that portion of their program, but must develop a plan as described above.

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

(3) After the required outreach efforts have been made, all Administrators must accept applications from possible eligible Applicants for a minimum of a 30 day period rather than a first-come, first-served basis when selecting among eligible Applicants. At the close of the 30 day period Administrators will select Applicants through a neutral random selection process developed by the Administrator. After Administrators have allowed for a 30 day period to accept applications and used a neutral random selection process to assist Households, they may accept applications on a first-come, first-served basis.

(4) Administrators must include as an attachment to HUD Form 935.2B or equivalent AFHMP, a waitlist policy including any Department approved preferences used in selecting Applicants from the list. Administrators who have defined preferences in their written waitlist procedures or tenant selection plans, as applicable, will employ preferences first and select Applicants from the list of Applicants meeting the defined preference still using the random selection process. Administrators of federally funded programs may only request to establish preferences or priorities included in Department planning documents, including the One Year Action Plan or Consolidated Plan, or as otherwise allowed for CDBG funded Activities.

(5) Administrators offering homeownership or rental assistance that allow the Household to relocate from their current residence must provide the Household access to mobility counseling. For homeownership, mobility counseling may be included in homeownership counseling and education trainings.

(A) Mobility counseling must, at a minimum, include easily understandable information that the Household can use in determining areas of opportunity within a service area, it must at minimum provide the following: poverty rates, average income information, school ratings, crime statistics, available area services, public transit, and other items the Administrator deems appropriate to fair housing. Administrators may use resources offered by “Community Commons” as a tool in identifying areas of opportunity in their community. This data resource can be located at <https://www.communitycommons.org/>.

(B) Information provided for mobility counseling may be offered via the Administrator’s website or in paper form.

(C) Administrators must collect signed certifications from Applicants acknowledging the receipt of information. Certifications may be collected as a standalone form or may be integrated into existing program forms.

(6) An analysis of the AFHMP must be conducted at the close out of the contract or Activity and attached to any subsequent AFHMP submitted for the same program.

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

(8) Administrators must provide Applicants with eligibility criteria, which shall include the procedures for requesting a reasonable accommodation to the Administrator’s rules, policies, practices, and services, particularly as it relates to the application process.

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

(10) Copies of all outreach and media ads must be kept in a separate record and made available to the Department upon request.

(c) A copy of all reasonable accommodation requests and the Administrator's responses to such requests must be kept in addition to responses sent by the Administrator.

(d) Provisions Related to Limited English Proficiency.

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

(2) Materials that are critical for ensuring meaningful access to an Administrator's major activities and programs, including but not limited to Applications, mortgage loan applications, consent forms and notices of rights, should be translated for any population considered least likely to apply that meets the threshold requirements of Safe Harbor LEP provisions as provided by HUD and published on the Department's website. Materials considered critical for ensuring meaningful access should be outlined in the Administrator's Language Assistance Plan.

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

(4) The plan must be submitted to the Department upon request and be available for review during monitoring visits.

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

(e) The plans noted in sections (b)(1) and (d)(1) of this section, any documentation supporting the plans, and any changes made to the plans, must be kept in accordance with recordkeeping requirements for the specific Program.

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

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

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

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

§20.10 Inspection Requirements for Construction Activities

(a) Applicable to all construction activities. The Amy Young Barrier Removal Program is excluded from Section 20.10, Inspection Requirements for Construction Activities, of this Chapter to the extent funded with SHTF.

(1) Interim inspections of construction progress may be required to document a Draw request.

(2) Final inspections are required for all single family construction Activities. The inspection must document that the Activity is complete; meets all applicable codes, requirements, zoning ordinances; and has no known deficiencies related to health and safety standards.

(A) A copy of the final inspection report must be provided to the Department and to the Household.

(B) Third party certification of compliance with the Minimum Energy Efficiency Requirements for Single Family Construction Activities under 10 TAC 21 is required, as applicable.

(b)(a) New construction requirements.

(1) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit has passed all required building codes in accordance to (a)(2) of this subchapter.

(2) Applicant must demonstrate compliance with Section 2306.514 of the Texas Government Code-§2306.514, "Construction Requirements for Single Family Affordable Housing," and applicable other Program Rules.

(c)(b) Reconstruction requirements.

(1) The initial inspection must identify all substandard conditions listed in TMCS along with any other health or safety concerns unless the unit has been condemned or in the case of a HOME Activity, the unit to be reconstructed is an MHU. A housing unit condemned by a governmental entity will not be rehabilitated.

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

~~(B) A copy of the initial inspection report must be provided to the Department and to the Household.~~

~~(B)(C)~~ All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate in adequate detail to document the need for reconstruction~~Reconstruction~~.

~~(2) A Certificate of Occupancy shall be issued prior to final payment for Reconstruction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must obtain and provide to the Department documentation evidencing that the Single Family Housing Unit has passed all required building codes.~~

~~(2)(3)~~ Applicant must demonstrate compliance with Section 2306.514 of the Texas Government Code-§2306.514, "Construction Requirements for Single Family Affordable Housing," and other Program Rules.

(d)(e) Rehabilitation requirements.

(1) The initial inspection must identify all substandard conditions listed in TMCS along with any other health and safety concerns.

(A) A copy of the initial inspection report must be provided to the Department and to the Household.

(B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost estimate, scope of work or specifications in adequate detail to ensure that all substandard conditions are properly corrected.

(2) Final inspections must document that all substandard and health and safety issues identified in the initial inspection have been corrected.

(3) Administrators shall meet the applicable requirements of the TMCS. TMCS requirements may be waived only through the process provided in Section§ 20.16, Waivers and Appeals, of this Chapter.

(4) The Certificate of Occupancy may serve as the final inspection if available and acceptable in the Program Rule.

(5) All deficiencies noted on the inspector's report must be corrected prior to the final draw of funds.

(6) Correction of cosmetic issues, such as paint, wall texture, etc., will not be required if acceptable to the Program as outlined in the Program Rule or if utilizing a Self-Help construction Program.

~~(d) Requirements for all construction activities.~~

~~(1) Interim inspections of construction progress may be required to document a draw request, in the Program Rule, Program Manual, or NOFA.~~

~~(2) Final inspections are required for all single family new construction, Reconstruction and Rehabilitation Activities. The inspection must document that Activity is complete; meets all applicable codes, requirements, zoning ordinances; and has no observed deficiencies related to health and safety standards.~~

~~(A) Third party certification of compliance with Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, of this Title is required as applicable.~~

~~(B) A copy of the final inspection report must be provided to the Department and to the Household.~~

~~(C) The Certificate of Occupancy may serve as the final inspection if available and acceptable in the Program Rule, Program Manual, or NOFA.~~

~~(D) All deficiencies noted on the inspector's report must be corrected prior to the final draw.~~

~~(3) Correction of cosmetic issues, such as paint, wall texture, etc., will not be required to be corrected if acceptable to the Program as outlined in the Program Rule, Program Manual, or NOFA; or if utilizing a Self-Help construction Program.~~

(e) Inspector Requirements.

(1) Inspectors hired to verify compliance with this Chapter must meet Program requirements as outlined in the Program Rule, Program Manual, or NOFA, as applicable.

(2) Within city limits and extraterritorial jurisdictions, municipal code inspectors shall conduct all inspections for local code requirements as applicable.

(3) All non-municipal code inspectors shall conduct inspections using applicable construction standards

prescribed by the Department, and Department-approved inspection forms and checklists as applicable.

~~(4) All non-municipal code inspectors shall conduct inspections using approved and prescribed inspections forms and checklists, as applicable.~~

(f) The Department reserves the right to reject any inspection report if, in its sole determination, the report does not accurately represent the property conditions or if the inspector does not meet Program requirements. All related construction costs in a rejected inspection report may be disallowed until the deficiencies are adequately cured.

(g) Single Family Housing Units participating in the Colonia Self-Help Center Program and receiving utility connections only are exempt from compliance with this Chapter.

§20.11 Survey Requirements ~~for Acquisition Activities~~

(a) The Amy Young Barrier Removal Program is excluded from Section 20.11, Survey Requirements, of this Chapter to the extent funded with SHTF. A survey sufficient to induce a title company~~Title Company~~ to issue a title insurance~~Title Insurance~~ policy without the standard survey exception is required ~~wherefor single family acquisition where the Department is a lien holder and the~~ Program funds are used for construction or acquisition~~purchase~~ because:

(1) the rehabilitation~~Rehabilitation~~ project is enlarging the footprint; or

(2) the Activity~~project~~ is reconstruction~~Reconstruction~~ or new construction or acquisition~~purchase~~ of an existing home.

(b) If allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the owner~~Owner~~ certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit, and the title company~~Title Company~~ accepts the certification and survey.

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

§20.12 Insurance Requirements ~~for Acquisition Activities~~

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

(b) Title Reports.

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

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

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

(c) Builder's Risk. Builder's Risk (non-reporting form only) is required where construction funds in

excess of \$20,000.00 for a Single Family Housing Unit is being financed and/or advanced by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

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

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

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

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

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

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

(e) Flood Insurance. Flood insurance must be maintained for all structures located in special flood hazard areas as determined by the U.S. Federal Emergency Management Agency (FEMA).

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

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

§20.13 Loan, Lien and Mortgage Requirements for Activities ~~with Acquisition~~

(a) The term "borrower" in this section means the individual or Household who is borrowing funds from or through the Department for the acquisition, new construction and/or rehabilitation of a Principal Residence.

(b) The fees to be paid by the Department or borrower upfront or through the closing must be reasonable for the service rendered, in accordance with the typical fees paid in the market place for such activities and:

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

(2) Fees paid to other parties that are supported by an invoice and/or reflected on the Closing Disclosure will not be included in the limit in (1).

(c) Mortgage Loan Underwriting Requirements. The requirements in this paragraph shall apply to all non-forgivable amortizing Mortgage Loans.

(1) Total Debt-to-Income Ratio. The applicant's total Debt-to-Income Ratio shall not exceed 45 percent of Qualifying Income (unless otherwise allowed or dictated by a participating lender providing a fixed

rate Mortgage Loan that is insured or guaranteed by the federal government or a conventional or Mortgage Loan that adheres to the guidelines set by Fannie Mae and Freddie Mac.) A potential borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form(s) and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of the primary potential borrower(s) and the "non-purchasing" spouse will be considered in the potential borrower's total Debt-to-Income Ratio.

(2) Credit Qualifications.

(A) Potential borrowers must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make a reasonable determination, all borrowers must provide a credit release form. The Department may utilize credit reports if less than 90 days old as part of the loan application or obtain a tri-merge credit reports on all potential borrowers submitted to the Department for approval at the time of loan application. In addition to the initial credit report, the Department may at its discretion obtain one or more additional credit reports before loan closing to ensure the potential borrower still meets Program requirements. Acceptable outstanding debt means that all accounts have paid as agreed and are current.

(B) Unacceptable Credit. Applicant's meeting one or more of the following criteria will not be qualified to receive a single family Program loan from the Department.

(i) A credit history reflecting payments on any open consumer, retail and/or installment account (e.g., auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan, with the exception of a medical account) which have been delinquent for more than 30 days on two or more occasions within the last 12 months and must be current for the six months immediately preceding the loan application date.

(ii) A foreclosure or deed-in-lieu of foreclosure or a potential borrower in default on a mortgage at the time of the short sale any of which had occurred or been completed within the last 24 months prior to the date of loan application.

(iii) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens where the potential borrower has not entered into a satisfactory re-payment arrangement and been current for at least 12 months prior to the date of loan application.

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is outstanding at the date of loan application or any time prior to closing of the Mortgage Loan.

(v) Any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last 24 months prior to the date of loan application.

(vi) Any reported delinquency on any government debt at the date of loan application.

(vii) A bankruptcy that has been filed within the past 24 months prior to the date of loan.

(viii) Any reported child support payments in arrears unless the potential borrower has satisfactory payment arrangements for at least 12 months prior to the date of loan.

(C) Mitigation for Unacceptable Credit. The following exceptions will be considered as mitigation to the unacceptable credit criteria in Subsection (c)(2)(B) of this Section:

(i) The potential borrower is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products, and has demonstrated the ability and willingness to meet debt obligations as determined by the Department.

(ii) The potential borrower has medical accounts that are delinquent or that have been placed for collection.

(iii) The potential borrower provides documentation to evidence that the outstanding delinquency or unpaid account has been paid or settled or the potential borrower has entered into a satisfactory repayment arrangement or debt management plan and been current for at least 12 consecutive months prior to the date of loan.

(iv) The potential borrower submits to the Department a written explanation of the cause for the previous delinquency, which is acceptable to the Executive Director or his or her designee.

(v) Any and all outstanding judgments must be released prior to closing of Mortgaged Loan.

(vi) If a potential borrower an applicant is currently participating in a debt management plan, the trustee or assignee provides a letter to the Department stating they are aware and agree with the potential borrower applying for a Mortgage Loan. If a potential borrower filed a bankruptcy, the bankruptcy must have been discharged or dismissed more than 12 months prior to the date of loan application and the potential borrower has re-established good credit with at least one existing or new active consumer account or credit account that is in good standing with no delinquencies for at least 12 months prior to the date of loan application.

(vii) If a Chapter 13 Bankruptcy was filed, a potential borrower must have satisfactorily made 12 consecutive payments and obtain court trustee's written approval to enter into Mortgage Loan.

(D) Liabilities.

(i) The potential borrower's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than ten (10) monthly payments remaining. Debts for which the potential borrower is a co-signer will be included in the total monthly obligations. For payments with ten or fewer monthly payments remaining, there shall be no late payments within the past 12 months or the debt will be included into the debt ratio calculation. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (e.g., credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in the Debt-to-Income Ratio calculation, even if the potential borrower intends to pay off the accounts, since the potential borrower can reuse those credit sources, unless the account is paid off and closed. If the credit report shows a revolving account with an outstanding balance but no specific minimum payment, the payment must be calculated as the greater of 5% of the outstanding balance or \$10. If the potential borrower provides a copy of the current statement reflecting the monthly payment that amount may be used for the debt ratio calculation.

(ii) Payments on any type of loan that have been deferred or have not yet commenced, including accounts in forbearance will be calculated using one percent (1%) of the outstanding balance or monthly payment reported on the potential borrower's credit report for student loans, whichever is less. Other types of loans with deferred payment will be calculated using the monthly payment shown on the potential borrower's credit report. If the credit report does not include a monthly payment for the loan, the monthly payment shown in the loan agreement or payment statement will be utilized. If a potential borrower provides written evidence that debt will be deferred at least 12 months from the date of closing, the debt will not to be included in the debt ratio calculation.

(E) Non-Traditional Credit and Insufficient Credit. Applicants must provide three lines of nontraditional

credit such as utility payments, auto insurance, cell phone payments, child care or other credit, as approved by the Department, listed in their name and reflecting no more than one 30 day delinquency on payments due to nontraditional creditors within the last 12 months and meet the requirements of section (c)(2)(B) of this section.

(F) Equal Credit Opportunity Act. The Department and/or the Administrator on behalf of the Department will comply with all federal and state laws and regulations relating to the extension of credit, including the Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691 et seq.) and its implementing regulation at 12 CFR Part 1002 (Regulation B) when qualifying potential borrower to receive a single family Program loan from the Department.

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

(e) Lien Position Requirements.

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

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

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least fifty-five percent (55%) of the combined loans; however liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loan, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(f) Loan Terms. All loan terms must meet all of the following criteria:

(1) May not exceed a term of 30 years;

(2) May not be for a term of less than five years; and

(3) Interest rate may be as low as zero percent as provided in the [Program Rules](#).

(g) Loan Assumption. A Mortgage Loan may be assumable if the Department determines the potential borrower assuming the Mortgage Loan is eligible according to the underwriting criteria of this section and complies with all Program requirements in effect at the time of the assumption.

(h) Cash Assets. Applicant with unrestricted cash assets in exceeds of \$25,000 must use such excess funds towards the acquisition of the property in lieu of loan proceeds. Unrestricted cash assets for this purpose are Net Family Assets defined in 24 CFR 5.603.

(i) Appraisals.

(1) An appraisal is required by the Department on each property that is part of an acquisition Activity, except for down payment assistance only, prior to closing to determine the current market value.

(2) The appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation.

(3) The Appraiser must have an active and current license by the Texas Appraisal Licensing and Certification Board.

(j) Combined Loan to Value. The Combined Loan to Value ratio of the property may not exceed 100 percent of the cost to acquire the property. The lien amounts of Forgivable Loans shall be included when determining the Combined Loan to Value ratio. The cost to acquire the property may exceed the appraised value only to the extent of closing costs but in no case may result in cash back to the borrower or exceed the limits under (b)(1) of this section.

(k) Escrow Accounts.

(1) An escrow account must be established if:

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

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

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

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

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

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

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

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

(F) These funds are included in the borrower's monthly payment to the Department or to the servicer; and

(G) The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) under 12 U.S.C. §2601 and its implementing regulations at 12 CFR §1024 (Regulation X), as applicable.

(l) Requirements for Originating Mortgage Loans for the Department.

(1) Any Administrator or staff member of an Administrator originating Mortgage Loans for the Department must be properly licensed and registered as a residential mortgage loan originator in accordance with Chapters 157 and 180 of the Texas Finance Code and its implementing regulations at Chapter 81, Part 4 of Title 7 of the Texas Administrative Code, unless exempt from licensure or registration pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(A) The Department reserves the right to reject any Mortgage Loan application originated by an Administrator or individual that is not properly licensed or registered.

(B) The Department will not reimburse any expenses related to a rejected Mortgage Loan application received from an Administrator or individual that is not properly licensed or registered.

(2) Only Administrators approved by the Department may issue initial mortgage disclosures, including the Loan Estimate and other integrated disclosures for Mortgage Loans made by the Department as required under RESPA, Regulation X, the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank) at 124 Stat.1375, the Truth in Lending Act (TILA) at 15 U.S.C. §1601 and its implementing regulations at 12 CFR §1026 (Regulation Z), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any application for Mortgage Loan and Loan Estimate submitted by an Administrator that has not received Department approval because the loan product as disclosed is not offered or the borrower does not qualify for that loan product.

(B) The Department will not reimburse any expenses related to a Loan Estimate or Application received from an Administrator that does not have Department approval.

(3) Only Administrators approved by the Department may issue final mortgage disclosures, including the Closing Disclosures and other integrated disclosures, for Mortgage Loans made by the Department as required under RESPA, Regulation X, Dodd Frank, TILA, Regulation), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any Closing Disclosure issued by an Administrator or title company without Department approval.

(B) The Department reserves the right to refuse to fund a Mortgage Loan with a Closing Disclosure that does not have Department approval.

(4) The Department will not allow disbursement of any portion of the Department's Mortgage Loan for acquisition until seller delivers to the borrower a fully executed deed to the property. After execution of the deed, the deed must be recorded in the records of the county where the property is located.

(5) The first monthly mortgage payment upon closing of the Mortgage Loan with monthly scheduled payments will be due one full month after the last day of the month in which the Mortgage Loan closed. For example, if the Mortgage Loan closed on May 10th or May 30th, the first Mortgage payment will be due July 1st.

(m) Principal Residence. Loans are only permitted for potential borrowers who will occupy the property as their Principal Residence. The property must be occupied by the potential borrower within the later of 60 days after closing or completion of the final Draw of Department funds for rehabilitation or reconstruction and remain their Principal Residence as defined in the Mortgage Loan documents or in the case of Forgivable Loans, until the forgiveness period has concluded in accordance to the Mortgage documents.

(n) Life-of-Loan Flood Certifications will be required to monitor for FEMA flood map revisions and community participation status changes for the term of the Mortgage Loan.

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

~~(b) The fee requirements described in paragraphs (1)–(3) of this subsection apply to Nonconforming Mortgage Loans:~~

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

~~(2) Fees charged by third party Mortgage lenders are limited to the greater of 2 percent of the Mortgage~~

~~Loan amount or \$3,500, including but not limited to origination, Application, and/or underwriting fees.~~

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

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

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

~~(e) Lien position requirements.~~

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

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

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

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

~~(f) Escrow Accounts.~~

~~(1) An escrow account must be established if:~~

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

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

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

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

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

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

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

~~(E) The borrower will be required to deposit monthly funds to an escrow account with the Mortgage Loan~~

~~servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due; and~~

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

~~(g) Requirements for Administrators and individuals originating Nonconforming loans for the Department.~~

~~(1) Any Administrator or staff member of an Administrator that is not exempt must be properly licensed as a Residential Mortgage Loan Originator.~~

~~(A) The Department reserves the right to reject any loan application originated by an Administrator or individual that is not properly licensed.~~

~~(B) The Department will not reimburse any expenses related to a rejected loan application received from an Administrator or individual that is not properly licensed.~~

~~(2) Only Administrators approved by the Department may issue Loan Estimates for loans made by the Department.~~

~~(A) The Department reserves the right to reject any Loan Application and Loan Estimate submitted by an Administrator that has not received Department approval because the loan product as disclosed is not offered or the borrower does not qualify for that loan product.~~

~~(B) The Department will not reimburse any expenses related to a Loan Estimate or Application received from an Administrator that does not have Department approval.~~

~~(3) Only Administrators approved by the Department may issue Closing Disclosures for loans made by the Department.~~

~~(A) The Department reserves the right to reject any Closing Disclosure issued by an Administrator or Title Company without Department approval.~~

~~(B) The Department reserves the right to refuse to fund a loan with a Closing Disclosure that does not have Department approval.~~

§20.14 Amendments and Modifications to Written Agreements and Contracts

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract that is not a Household ~~commitment contract~~~~Commitment Contract~~, provided that the requirements of this section are met unless otherwise indicated in the [Program Rules](#).

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

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

(3) Changes in Household. Reductions in Contractual deliverables and Households shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10 percent of total award or Contract funds, shall be completed through an amendment to the Contract and be approved administratively at the discretion of the Department. If such amendment is not approved, the Applicant will have the right to appeal in accordance with this Title.

(4) Increases in Award and Contract Amounts.

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

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

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

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

(E) Qualifying requests will be recommended to the Executive Director or his/her designee for approval.

(F) The Board must approve requests for increase in Program funds in excess of the cumulative increase threshold established in this subsection ~~25 percent or \$50,000 threshold.~~

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

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

(B) the budget change(s) are less than 10 percent of the total Contract's budget;

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

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

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

(6) The Division Director may approve other amendments to a Contract of an Agreement, including amendments to the Administrator's service area, benchmarks, or selection of Activities administered under a Contract of an Agreement, provided that the amendment would not have negatively impacted the priority of Board approved Applications.

(b) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Program Rule and/or Contract ~~or NOFA~~, or for any other reason in the Department's reasonable discretion.

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

§20.15 Compliance and Monitoring

(a) The Department will perform monitoring of single family Program Contracts and Activities in order to

ensure that applicable requirements of federal laws and regulations, and state laws and rules have been met, and to provide Administrators with clear communication regarding the condition and operation of their Contracts and Activities so they understand clearly, with a documented record, how they are performing in meeting their obligations.

(1) The physical condition of assisted properties and Administrator's documented compliance with contractual and ~~Program~~ program requirements may be subject to monitoring.

(2) The Department may contract with an independent third party to monitor an Activity for compliance with any conditions imposed by the Department in connection with the award of any Department funds, and appropriate state and federal laws.

(b) If an Administrator has Contracts for more than one single family Program, or other programs through the Department or the State, the Department may, at its discretion, coordinate monitoring of those programs with monitoring of single family Contracts under this ~~Chapter~~ chapter.

(c) In general, Administrators will be scheduled for monitoring based on federal or state monitoring requirements, or a risk assessment process including but not limited to: the number of Contracts administered by the Administrator, the amount of funds awarded and expended, the length of time since the last monitoring, findings identified during previous monitoring, issues identified through the submission or lack of submission of a single audit, complaints, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Administrators will have an onsite review and which may have a desk review.

(d) The Department will provide an Administrator with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Administrator by email to the Administrator's chief executive officer at the email address most recently provided to the Department by the Administrator. In general, a thirty (30) day notice will be provided. However, if a credible complaint of fraud or other egregious noncompliance is received the Department reserves the right to conduct unannounced monitoring visits, or provide a shorter notice period. It is the responsibility of the Administrator to maintain current contact information with the Department for the organization, key staff members, and governing body.

(e) Upon request, Administrators must make available to the Department all books and records that the Department determines are reasonably relevant to the scope of the Department's review, along with access to assisted properties.

(f) Post Monitoring Procedures. After the review, a written monitoring report will be prepared for the Administrator describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Administrator. Issues of concern over which there is uncertainty or ambiguity may be discussed by the Department with the staff of cognizant agencies overseeing federal funding.

(g) Administrator Response. If there are any findings of noncompliance requiring corrective action, the Administrator will be provided a thirty (30) day corrective action period, which may be extended for good cause. In order to receive an extension, the Administrator must submit a written request to the Chief of Compliance within the corrective action period, stating the basis for good cause that the Administrator believes justifies the extension. In general, the Department will approve or deny the extension request within three (3) business days. Failure to timely respond to a corrective action notice and/or failure to correct all findings will be taken into consideration if the Administrator applies for additional funding and may result in suspension of the Contract, referral to the Enforcement Committee ~~for administrative penalties~~, or other action under this Title.

(h) Monitoring Close Out. After completion of the monitoring review ~~the end of the corrective action period~~, a close out letter will be issued to the Administrator. If the Administrator supplies evidence establishing continual compliance that negates the finding of noncompliance, the issue of noncompliance

will be rescinded. If the Administrator's response satisfies all findings and concerns noted in the monitoring letter, the issue of noncompliance will be noted as resolved. In some circumstances, the Administrator may be unable to secure documentation to resolve a finding. In those instances, if there are mitigating circumstances, the Department may note the finding is not resolved but may close the issue with no further action required. If the Administrator's response does not correct all findings noted, the close out letter will identify the documentation that must be submitted to correct the issue. Results of monitoring findings may be reported to the Executive Awards and Review Advisory Committee for consideration relating to previous participation.

(i) Options for Review. If, following the submission of corrective action documentation, Compliance staff continues to find the Administrator in noncompliance, and the Administrator disagrees, the Administrator may request or initiate review of the matter using the following options, where applicable:

(1) If the issue is related to a program requirement or prohibition Administrators may contact an applicable federal program officer for guidance or request that the Department contact applicable federal program officer for guidance without identifying the Administrator.

(2) If the issue is related to ~~application of~~ a provision of the Contract or a requirement of the Texas Administrative Code, or ~~the application of~~ a provision of an OMB Circular, the Administrator may submit an appeal to the Executive Director consistent with [Section §1.7](#), Staff Appeals Process, in Chapter 1 of this Title.

(3) Administrators may request Alternative Dispute Resolution (ADR). An Administrator may send a proposal to the Department's Dispute Resolution Coordinator to initiate ADR pursuant to [Section §1.17](#) of this ~~Title~~.

(j) If Administrators do not respond to a monitoring letter or fail to provide acceptable evidence of timely compliance after notification of an issue, the matter will be reported to the Department's Enforcement Committee for consideration of administrative penalties, full or partial cost reimbursement, or suspension.

(k) Administrators must provide timely response to corrective action requirements imposed by other agencies. Administrator records may be reviewed during the course of monitoring or audit of the Department by HUD, the Office of the Inspector General, the State Auditor's Office or others. If a finding or concern is identified during the course of a monitoring or audit by another agency, the Administrator is required to provide timely action and response within the conditions imposed by that agency's notice.

[\(l\) If the Department receives a complaint under Section 1.2 of this Title, it may elect or may be required to follow the procedures outlined therein instead of this Section.](#)

§20.16 Waivers and Appeals

(a) Appeal of Department staff decisions or actions will follow requirements in [Program Rules](#), ~~NOFA~~, and Chapter 1 or Chapter 2 of this Title, as applicable.

~~(b) Waiver of Texas Minimum Construction Standards.~~

~~(1) Waiver may be requested if a legal or factual reason makes compliance with provisions of TMCS impossible.~~

~~(2) Waivers must be approved prior to the commencement of Rehabilitation work.~~

~~(3) Lack of adequate initial inspection is not a valid basis for a waiver.~~

~~(4) Waiver requests must be made in writing, specifically identify the grounds for a waiver, and include all necessary documentation to support the request.~~

~~(5) Each request will be reviewed by Department staff with sufficient knowledge of the construction process to render an opinion on the validity of the request. The staff opinion will be provided to the Executive Director or his/her designee, along with the original request and the supporting documents.~~

~~(6) On or before the fourteenth business day after receipt of the request by the Department, the Executive Director or his/her designee will approve or disapprove the request, and provide written notice to the Administrator.~~

~~(7) Appeal of the Executive Director's decision will follow the Staff Appeal process provided in Chapter 1 of this Title.~~

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BOARD ACTION REQUEST

SINGLE FAMILY OPERATIONS & SERVICES

APRIL 27, 2017

Presentation, discussion, and possible action on an Order proposing the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and an Order proposing new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and directing its publication for public comment in the *Texas Register*.

RECOMMENDED ACTION

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

WHEREAS, pursuant to Tex. Gov't Code, §2306.582, the Department is required to establish, operate, monitor and fund Colonia Self-Help Centers ("Colonia SHCs") in El Paso, Hidalgo, Starr, and Webb counties, and in Cameron County to serve Cameron and Willacy counties;

WHEREAS, in 2001 the Department opened two additional Colonia SHCs in Maverick and Val Verde counties, as authorized by Tex. Gov't Code §2306.582, to address the needs of colonias in those counties;

WHEREAS, the Department's Governing Board last adopted amendments to 10 TAC Chapter 25 on June 26, 2014, to be effective on August 3, 2014; and

WHEREAS, the proposed repeal of 10 TAC Chapter 25 and the proposed new 10 TAC Chapter 25, regarding Colonia Self-Help Center Program Rule, updates and clarifies definitions, incorporates applicability of 10 TAC 21 regarding Minimum Energy Efficiency requirements, eliminates the "Small Repair" activity, simplifies and clarifies funding limits for all activities, adds funding for properties in need of on-site sewage facilities or connection to potable water and waste water disposal, incorporates the requirements for an Affirmative Fair Housing Marketing Plan, revises lien requirements for income eligible households, and updates Administrative Thresholds;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered and directed, for and on behalf of the Department to cause the proposed repeal of the current 10 TAC Chapter 25 and the proposed new 10 TAC Chapter 25, regarding Colonia Self-Help Center Program Rule, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

BACKGROUND

The purpose of repealing and replacing the Colonia Self-Help Center Program Rule is to clarify definitions; incorporate applicability of 10 TAC 21 regarding Minimum Energy Efficiency requirements; to eliminate the "Small Repair" activity; to simplify and clarify funding limits for all activities; to add funding for properties in need of on-site sewage facilities or connection to potable water and waste water disposal; to incorporate the requirements for an Affirmative Fair Housing Marketing Plan; to revise lien requirements for income eligible households; and to update Administrative Thresholds.

The attached proposed rule is shown as a blackline so the Board and public can see what is being changed. The significant updates to 10 TAC Chapter 25 are:

- §25.1 Purpose and Services. This section now includes applicability of Chapter 21, relating to Minimum Energy Efficiency Requirements.
- §25.2 Definitions. This section now includes the terms "M Number", "Reconstruction", "Rehabilitation" and "Housing Assistance Guidelines". The term "Small Repairs" has been eliminated from this section because the activity is no longer available.
- §25.3 Eligible and Ineligible Activities. This section has been edited to improve readability, and now includes title-related services as an eligible activity.
- §25.5 Allocation and the Colonia Self-Help Center Application Requirements. This section has been edited to remove redundant and unnecessary wording. This section also clarifies that the Public Services Activities budget may not exceed 10 percent of the total contract budget. This section eliminates different funding caps for each activity and now states that funds cannot exceed \$45,000 per unit per eligible household, including up to an additional \$5,000 for properties in need of on-site sewage facilities or connection to potable water and waste water disposal. This update increases program flexibility and services to colonia households with the greatest need.

This section also incorporates the requirements for: an Affirmative Fair Housing Marketing Plan in the Colonia SHC's Housing Assistance Guidelines; an inspection of all properties' on-site sewage facility prior to Department approval of construction activity; elimination of unpermitted cesspools; and adherence to 10 TAC 21, regarding Minimum Energy Efficiency requirements.

- §25.7 Colonia Self-Help Center Contract Operation and Implementation. This section eliminates reference to "Small Repair" activities, which are no longer applicable. This section also revises lien requirements for income eligible households.

Attachment A: Preamble of 10 TAC Chapter 25 Colonia Self-Help Center Program Rule; proposed new

The Texas Department of Housing and Community Affairs (the "Department") proposes new TAC Chapter 25, §§25.1 - 25.9, concerning the Colonia Self-Help Center Program Rule. The purpose of the proposed new rule is to clarify definitions; incorporate applicability of 10 TAC 21 regarding Minimum Energy Efficiency requirements; to eliminate the "Small Repair" activity; to simplify and clarify funding limits for all activities; to add funding for properties in need of on-site sewage facilities or connection to potable water and waste water disposal; to incorporate the requirements for an Affirmative Fair Housing Marketing Plan; to revise lien requirements for income eligible households; and to update Administrative Thresholds. The proposed repeal of existing Chapter 25 is published concurrently with this rulemaking.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the new sections will be clarity of program and construction requirements, adherence to state governing statute, and increased program flexibility and services to colonia households with the greatest need. There will be minimal economic cost to entities complying with the amendments.

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

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed amendments will be from May 12, 2017, to June 12, 2017. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Glynis L. Vitanza, HTF/OCI Program Manager, Colonia Self-Help Center Program Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; or emailed to htf@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M Austin local time, June 12, 2017.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules; §2306.582, which requires the Department to establish, operate, monitor and fund Colonia SHCs in El Paso, Hidalgo, Staff and Webb counties, and in Cameron County to serve Cameron and Willacy counties; and §2306.582, which authorizes the Department to open two additional Colonia SHCs in Maverick and Val Verde counties.

The proposed amendments affect no other code, article, or statute.

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 25 COLONIA SELF-HELP CENTER PROGRAM RULE

§25.1 Purpose and Services

The purpose of this Chapter is to establish the requirements governing the Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Texas Government Code, ~~Chapter 2306, Subchapter Z, and~~ Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), ~~and~~ Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements), Chapter 1 of this Title (relating to Administration), and Chapter 2 of this Title (relating to Enforcement) and its funding including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (the "Department") by the legislature of the annual Texas Community Development Block Grant ("CDBG") allocation from the U.S. Department of Housing and Urban Development ("HUD"). Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the designated Colonia service areas or in another area the Department has determined is suitable.

§25.2 Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Chapter 2306 of the Texas Government Code, ~~Chapter 2306,~~ Chapter 1 of this Title (relating to Administration), Chapter 2 of this Title (relating to Enforcement), and Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), ~~and~~ Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements). Common definitions used under the Community Development Block Grant (CDBG) Program are incorporated herein by reference.

- (1) Beneficiary--A person or family benefiting from the Activities of a Colonia Self-Help Center Contract.
- (2) Colonia Resident Advisory Committee ("C-RAC")--Advises the Department's Governing Board and evaluates the needs of Colonia residents, reviews programs and Activities that are proposed or operated through the Colonia Self-Help Centers to better serve the needs of Colonia residents.
- (3) Colonia Self-Help Center Provider--An organization with which the Administrator has an executed Contract to administer Colonia Self-Help Center Activities.
- (4) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.
- (5) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the Draw processes. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.
- (6) Direct Delivery Costs--Soft costs related to and identified with a specific housing unit. Eligible Direct Delivery Costs include:
 - (A) Preparation of work write-ups, work specifications, and cost estimates;
 - (B) Legal fees, recording fees, architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit;

(C) Home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and

(D) Other costs as approved in writing by the Department.

(7) Housing Assistance Guidelines ("HAG")--The guidelines provided by the Unit of Local Government that outline the process and procedures used to administer the implementation of the Colonia Self-Help Center Program. These guidelines cannot conflict with state statute, program rules, regulations and/or contract requirements.

~~(8)(7)~~ Implementation Manual--A set of guidelines designed to be an implementation tool for the Administrator and Colonia Self-Help Center Providers that have been awarded Community Development Block Grant Funds and allows the Administrator to search for terms, regulations, procedures, forms and attachments.

~~(9)(8)~~ Income Eligible Families--

(A) Low-income families--families whose annual incomes do not exceed 80 percent of the median income of the area as determined by HUD Section 8 income limits adjusted for family size;

(B) Very low-income families--families whose annual incomes do not exceed 60 percent of the median family income for the area, as determined by HUD Section 8 income limits adjusted for family size; and

(C) Extremely low-income families--families whose annual incomes do not exceed 30 percent of the median family income for the area, as determined by HUD Section 8 income limits adjusted for family size.

(10) M Number--a several digit identification number, preceded by the letter "M" and assigned to colonias that have been identified by the Office of the Attorney General of Texas.

~~(11)(9)~~ New Construction--A housing unit that is built only by certified Community Housing Development Organizations ("CHDOs") or Community Based Development Organizations ("CBDOs") on a previously vacant lot that will be occupied by Income Eligible Families.

~~(12)(10)~~ Performance Statement--An exhibit in the Contract which specifies in detail the scope of work to be performed.

~~(13)(11)~~ Public Service Activities--Activities other than New Construction, Reconstruction, and Rehabilitation ~~and Small Repair~~ activities that are provided by a Colonia Self Help Center to benefit Colonia residents. These include, but are not limited to, construction skills classes, solid waste removal, tool lending library, technology classes, home ownership classes and technology access.

(14) Reconstruction-- The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard unit of manufactured housing with a new or standard unit of housing, ENERGY STAR certified manufactured housing or otherwise.

~~(12) Small Repairs--Minor repairs such as, but not limited to, addressing deficiencies, roof repairs, removal of threats to health and safety, including lead-based paint hazards and removal of barriers for Persons with Disabilities.~~

(15) Rehabilitation--The improvement or modification of an existing single family housing residential unit through an alteration, addition, or enhancement on the same lot.

~~(16)(13)~~ Unit of General Local Government (UGLG)--A city, town, county, or other general purpose political subdivision of the state; ~~a consortium of such subdivisions recognized by HUD in accordance with 24 CFR §92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. A county is considered a unit of general local government under the Colonia Self Help Center Program.~~

§25.3 Eligible and Ineligible Activities

(a) A Colonia Self-Help Center may only serve Income Eligible Families in the targeted Colonias by:

- (1) Providing assistance in obtaining Loans or ~~grants~~ Grants to build a home; ~~Rehabilitate, repair or Reconstruct a home~~;
- (2) Teaching construction skills necessary to repair or build a home;
- (3) Providing model home plans;
- (4) Operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in Colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) Assisting to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a Colonia, including potable water, wastewater disposal, drainage, streets, and utilities;
- (6) Surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) Providing credit and debt counseling related to home purchase and finance;
- (8) Applying for Grants and Loans to provide housing and other needed community improvements;
- (9) Providing other services that the Colonia Self-Help Center, with the approval of the Department, determines are necessary to assist Colonia residents in improving their physical living conditions such as Rehabilitation, Reconstruction, and New Construction, including help in obtaining suitable alternative housing outside of a Colonia's area;
- (10) Providing assistance in obtaining Loans or ~~grants~~ Grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a Contract for Deed, contract for sale, or other executory contract;
- (11) Provide title-related services for unrecorded Contracts for Deed, clouded titles, property transfers, intestate estates, and other title ownership matters;
- ~~(12)(11)~~ Providing access to computers, the internet and computer training. ~~pursuant to the General Appropriations Act~~; and
- ~~(13)(12)~~ Providing monthly programs to educate individuals and families on their rights and responsibilities as property owners.

~~(b)(e)~~ Ineligible Activities. Any type of Activity not allowed by the Housing and Community Development Act of 1974 (42 U.S.C. §§5301, et seq.) is ineligible for funding.

~~(c)(d)~~ A Colonia Self-Help Center ~~will only may not~~ provide ~~grants~~ Grants, financing, or Mortgage Loan services ~~for New Construction, Reconstruction, and Rehabilitation of to purchase, build, Rehabilitate, or finance construction or improvements to~~ a home in a Colonia ~~that is connected to a Department-approved source of potable water and wastewater disposal water service and suitable wastewater disposal are not available.~~

§25.4 Colonia Self-Help Centers Establishment

(a) Pursuant to ~~Texas Government Code, §Section~~ 2306.582 ~~of the Texas Government Code~~, the Department has established Colonia Self-Help Centers in El Paso, Hidalgo, Starr, Webb, Cameron (also serves Willacy), Maverick, and Val Verde Counties.

(b) The Department has designated:

- (1) Appropriate staff in the Department to act as liaison to the Colonia Self-Help Centers to assist the centers in obtaining funding to enable the centers to carry out the center's Programs;
- (2) Five (5) Colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers in consultation with the C-RAC and the appropriate unit of local government; and
- (3) A geographic area for the services provided by each Colonia Self-Help Center.

(c) The Department shall make a reasonable effort to secure:

- (1) Contributions, services, facilities, or operating support from the county commissioner's court of the county in which a Colonia Self-Help Centers is located which it serves to support the operation of that Colonia Self-Help Center; and
- (2) An adequate level of funding to provide each Colonia Self-Help Center with funds for low interest Mortgage financing, Grants for Self-Help Programs, revolving loan fund for septic tanks, a tool lending program, and other Activities the Department determines are necessary.

(d) The El Paso Colonia Self-Help Center shall establish a technology center to provide internet access to Colonia residents pursuant to the General Appropriations Act for the appropriate biennium. Any other Colonia Self-Help Center may also establish a technology center to provide internet access to Colonia residents.

§25.5 Allocation and the Colonia Self-Help Center Application Requirements

(a) The Department distributes Colonia Self-Help Center funds to ~~Unit of General Local Governments (UGLGs)~~ from the 2.5 percent set-aside of the annual ~~Community Development Block Grant (CDBG)~~ allocation to the state of Texas.

(b) The Department shall allocate no more than \$1 million per Colonia Self-Help Center award except as provided by this ~~Chapter~~chapter. If there are insufficient funds available from any specific program year to fully fund an Application, the awarded Administrator may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.

(c) With a baseline award beginning at \$500,000 (or a lesser amount as provided for in (b) of this Section), the Department will add an additional \$100,000 for each expenditure threshold, as defined in §25.9 of this ~~Chapter~~chapter (relating to Expenditure Thresholds and Closeout Requirements), met on the current Colonia Self-Help Center Contract, and an additional \$100,000 for an accepted Application submitted by the deadline. If an Administrator can demonstrate that any violation of an Expenditure Threshold was beyond the control of the Administrator, it may request of the Board that an individual violation be waived for the purpose of future funding. The Governing Board, in its discretion and within

the limits of federal and state law, may waive any one or more of the expenditure threshold requirements if ~~the Board~~ finds the waiver is appropriate to fulfill the purposes or policies of the Texas Government Code, or for other good cause as determined by the Board.

(d) The Administrator shall submit its Application no later than three (3) months before the expiration of its current Contract, or when ninety (90) percent of the funds under the current Contract have been expended, whichever comes first. ~~If this requirement is not met, the Department will apply the options outlined in subsection (c) of this section which will result in lost and delayed funding.~~

(e) Application reviews are conducted on a first-come first-served basis until all Colonia Self-Help Center funds for the current program year and deobligated Colonia Self-Help Center funds are committed. ~~Each complete Application will be assigned a "received date" based on the date and time it is received by the Department.~~

(f) In order to be accepted, each Application must include:

(1) Evidence of the submission of the Contract Administrator's current annual single audit;

(2) A Colonia identification form and the M number, as assigned by the Office of the Attorney General of Texas, for each Colonia to be served, including all required back-up documentation as identified on the form;

(3) A boundary map for each of the five Colonias;

(4) A description of the method of implementation. For each Colonia to be served by the Colonia Self-Help Center, the Administrator shall describe the services and Activities to be delivered. Participating households must provide at least 15% of the labor necessary to build or rehabilitate the proposed housing by contributing the labor personally and/or through non-contract labor assistance from family, friends, or volunteers. Volunteer hours at the Colonia Self-Help Center may also fulfill the 15% labor requirement.

(5) The proposed Performance Statement must include the number of Colonia residents to be assisted from each Activity, the Activities to be performed (including all Sub-Activities under each budget line item), and the corresponding budget;

(6) The proposed Contract Budget must adhere to the following limitations:

(A) The Administration line item may not exceed fifteen (15) percent;

(B) At least eight (8) percent, but no more than ten (10) percent, must be used for the Public Service Activities;

(C) Colonia Self-Help Center Program funds cannot exceed \$45,000 in Program funds per unit per Income Eligible Household. Program funds can be used for Rehabilitation, Reconstruction or New Construction. An additional \$5,000 in Program funds are available for properties with non-functioning and/or unpermitted cesspools or septic tanks that need replacement with an appropriately sized on-site sewage facility or connection to a Department-approved source of potable water and wastewater disposal. Additional funds from other sources may be leveraged with Program funds, the following amounts per unit (however, additional funds from other sources can be leveraged with Program funds):

~~(i) \$10,000 Small Repairs;~~

~~(ii) \$40,000 Rehabilitation;~~

~~(iii) \$50,000 Reconstruction or New Construction.~~

(D) Direct Delivery Costs for all New Construction and Reconstruction Activities cannot exceed ten (10)

percent per unit provided by the Colonia Self-Help Center Program. Direct Delivery Costs for Rehabilitation, ~~including Small Repair~~, are limited to fifteen (15) percent per unit provided by the Colonia Self-Help Center Program. All Direct Delivery Costs must be eligible and based on actual expenses for the specific housing unit;

(7) Proposed ~~Housing Assistance Guidelines (HAG)~~ must include an Affirmative Fair Housing Marketing Plan as described under Chapter 20 of this Title and program parameters for housing assistance guidelines (includes Small Repair, Rehabilitation, Reconstruction, or New Construction);

(A) Prior to Department approval of Colonia Self-Help Center construction activity, the Colonia Self-Help Center must document that existing on-site sewage facilities (septic systems) have been inspected by a Texas Commission on Environmental Quality-licensed installer to determine if systems function as intended or need repair. Cesspools that have not been previously permitted are unacceptable and must be replaced by an appropriately sized on-site sewage facility or the home must be connected to a Department-approved source of potable water and wastewater disposal.

(B) New Construction, Reconstruction, and Rehabilitation activities under the Colonia Self-Help Center Program must adhere to TDHCA's Minimum Energy Efficiency Requirements for Single Family Construction Activities under Chapter 21 of this Title.

(8) Evidence of model subdivision rules adopted by the County;

(9) Written policies and procedures, as applicable, for:

(A) Solid waste removal;

(B) Construction skill classes;

(C) Homeownership classes;

(D) Technology access, including any technology hardware inventory purchased with Colonia Self-Help Center funds;

(E) Homeownership assistance; and/or

(F) Tool lending library, including any library inventory purchased with Colonia Self-Help Center funds. All Colonia Self-Help Centers are required to operate a tool lending library;

(10) Authorized signatory form and direct deposit authorization;

(11) UGLG resolution authorizing the submission of the Application and appointing the primary signatory for all Contract documents;

(12) Acquisition report (even if there is no acquisition activity);

(13) Certification of exemption for HUD funded projects; and

(14) Initial disclosure report for the Texas Department of Agriculture.

(g) Upon receipt of the Application, the Department will perform an initial review to determine whether the Application is complete and that each Activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)).

(h) The Department may reduce the funding amount requested in the Application in accordance to subsection (c) of this ~~Section~~. Should this occur, the Department shall notify the appropriate Administrator before the Application is submitted to C-RAC for review, comments and approval. The

Department and the Administrator will work together to jointly agree on the performance measures and proposed funding amounts for each Activity.

(i) The Department shall execute a four (4) year Contract with the Administrator. No Contract extensions will be allowed. If the Administrator requirements are completed prior to the end of the four (4) year Contract period, the Administrator may submit a new Application.

(j) The Department may decline to fund any Application if the Activities do not, in the Department's sole determination, represent a prudent use of Colonia Self-Help Center funds. The Department is not obligated to proceed with any action pertaining to any Application which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

§25.6 Colonia Residents Advisory Committee Duties and Award of Contracts

(a) The Board shall appoint not fewer than five (5) persons who are residents of Colonias to serve on the C-RAC. The members of the C-RAC shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the commissioner's court of a county in which a Colonia Self-Help Center is located.

(b) The C-RAC members' terms will expire every four (4) years. C-RAC members may be reappointed by the Board; however, the Board shall review and approve all members at least every four (4) years.

(c) The Board shall appoint one committee member to represent each of the counties in which a Colonia Self-Help Center is located. Each committee member:

(1) Must be a resident of a Colonia in the county the member represents; and

(2) May not be a board member, contractor, or employee of the Administrator or have any ownership interest in an entity that is awarded a Contract under this ~~Chapter~~[chapter](#) and cannot be in default on any Department obligation.

(3) The Department will conduct a previous participation review on all members.

(d) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.

(e) The C-RAC shall advise the Board regarding:

(1) The housing needs of Colonia residents;

(2) Appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and

(3) Activities that might be undertaken through the Colonia Self-Help Centers to serve the needs of Colonia residents.

(f) The C-RAC shall advise the Colonia initiatives coordinator as provided by [Section 775.005 of the Texas Government Code](#), ~~§775.005~~.

(g) Award of Contracts.

(1) Upon reaching an Agreement with the Administrator, the Department will set the date for the C-RAC meeting. The C-RAC shall meet before the 30th calendar day preceding the date on which a Contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.

(2) The Administrator shall be present at the C-RAC if its Application is being considered to answer questions that C-RAC may have.

(3) After the C-RAC makes a recommendation on an Application, the recommendation will undergo the Department's award process.

(h) Reimbursement of C-RAC members for their reasonable travel expenses in the manner provided by §25.8(1) of this ~~Chapter~~chapter (relating to Administrative Thresholds) is allowable and shall be paid by the Administrator.

§25.7 Colonia Self-Help Center Contract Operation and Implementation

(a) The Department shall contract with a UGLG for the operation of a Colonia Self-Help Center. The UGLG shall subcontract with a local nonprofit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out all or part of the functions of a Colonia Self-Help Center.

(b) Upon award of Colonia Self-Help Center funds by the Board, the Department shall deliver a Contract based on the scope of work to be performed within thirty (30) days of the award date, unless extenuating circumstances do not allow for delivery. Any Activity funded under the Colonia Self-Help Center Program will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract.

(c) Administrators are required to complete their environmental reviews in accordance with 24 CFR Part 58 and receive the Authority to Use Grant Funds from the Department before:

(1) Any commitment of Community Development Block Grant (CDBG) funds (i.e., execution of a legally binding Agreement and expenditure of CDBG funds) for Activities other than those that are specifically exempt from environmental review.

(2) Any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e., demolition, excavating, etc.) or limit the choice of alternatives (i.e., acquisition of real property, Rehabilitation of buildings or structures, etc.).

(d) Request for Payments. The Administrator shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis; however, the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the Administrator's full and satisfactory performance of its obligations under the Contract.

(1) \$2,500 is the minimum amount for a Draw to be processed, unless it is the final Draw request. If an Administrator fails to submit a draw within twelve (12) consecutive months the Contract will be subject to termination for failure to meet the Contract obligations.

(2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Administrator is responsible for maintaining a complete record of all costs incurred in carrying out the Activities of the Contract.

(3) Draw requests for all housing Activities will only be reimbursed upon satisfactory completion of types of Activities (*e.g.i.e.*, all plumbing completed, entire roof is completed, etc.), consistent with the construction contract.

(4) The Administrator will be the principal contact responsible for reporting to the Department and submitting Draw requests.

(e) Reporting. The Administrator shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the tenth (10th) calendar day of the month after the end of each calendar quarter. The Administrator shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, Activities completed and total number of Beneficiaries. Processing of draws may be suspended until the Administrator's quarterly reports are submitted and approved by the Department. If an Administrator fails to submit Activity data within twenty-four (24) consecutive months, the Contract will be subject to termination for failure to meet the Contract obligations.

~~(f) The Department will only reimburse one (1) initial inspection report per unit for Small Repair.~~

~~(f)(g)~~ Amendments. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract.

(1) Contract Time Extensions beyond the four (4) year Contract period will not be allowed for Colonia Self-Help Center Contracts.

(2) Changes in beneficiaries. Reductions in contractual deliverables and beneficiaries shall require a Contract amendment. Increases in contractual deliverables and beneficiaries that do not shift funds, or cumulatively shift less than ten (10) percent of total Contract funds, shall be completed through a Contract modification.

(3) The Department, at its discretion and in coordination with an Administrator, may increase a Contract Budget amount and the number of Activities and beneficiaries based on the availability of Colonia Self-Help Center funds, the exemplary performance in the implementation of an Administrator's current Contract, and the time available in the four (4) year Contract period. Upon Board approval, the cap on the maximum Contract amount may be exceeded if the terms of this paragraph are met by the Administrator.

~~(g)(h)~~ New Construction, Reconstruction, or Rehabilitation Activity ~~exceeding \$20,000 per unit~~ that is provided by the Colonia Self-Help Center Program to Households with annual incomes that are equal or exceed 50% of the area median family income shall have a recorded and enforceable lien placed on the property secured by a deferred Forgivable Loan not shorter than five (5) years or a repayable mortgage loan not to exceed thirty (30) years. The Department will be a lien holder.

(h) New Construction, Reconstruction, or Rehabilitation Activity that is provided by the Colonia Self-Help Center Program to Households with annual incomes that do not exceed 50% of the area median family income shall be a grant.

(i) The Administrator's initial and any revised ~~HAG housing Activity guidelines~~ shall be approved by commissioners' court and the Department prior to implementation.

(j) Access to all Public Service Activities identified in the Contract shall be provided at least two (2) Saturdays a month during hours preferable to Colonia residents. In addition, access shall be provided at least one day during the workweek after hours for a period long enough to allow Colonia residents to utilize the services.

(k) The purchase of new tools, new computers and computer equipment, if included in the approved budget, shall only occur within the first twenty-four (24) months of the Contract ~~term period~~. Any purchases of these items after twenty-four (24) months ~~must~~ shall be approved by the Department in writing prior to purchase.

§25.8 Administrative Thresholds

Administrative Draw request. Administrative Draw requests are funded out of the portion of the Contract budget specified for administrative cost (administration line item of the Contract budget). These costs are

not directly associated with an Activity. The administration line item will be disbursed as described in paragraphs (1) - (8) of this [Section](#):

(1) Threshold 1. The initial administrative Draw request allows up to 10 percent of the administration line item to be drawn down prior to the start of any project Activity included in the Performance Statement of the Contract (provided that all Pre-Draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified in paragraphs (2) - (8) of this [Section](#).

(2) Threshold 2. Allows up to an additional fifteen (15) percent (twenty-five (25) percent of the total) of the administration line item to be drawn down after a start of project Activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given Program Activity, the "start of project Activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project Activity that has commenced (and for which reimbursement is being sought), the submission of a Draw request that includes sufficient back-up documentation for expenses of non-administrative project Activities evidences a start of project Activity. Direct Delivery Costs charges will not constitute a start of project Activity.

(3) Threshold 3. Allows up to an additional twenty-five (25) percent (fifty (50) percent of the total) of the administration line item to be drawn down after compliance with the ~~twenty (20)-eighteen (18)~~ month threshold requirement has been demonstrated as described in §25.9 of this ~~Chapter~~ (relating to Expenditure Thresholds and Closeout Requirements).

(4) Threshold 4. Allows up to an additional twenty-five (25) percent (seventy-five (75) percent of the total) of the administration line item to be drawn down after compliance with the ~~thirty-two (32)-thirty (30)~~ month threshold requirement has been demonstrated as described in this ~~Chapter~~.

(5) Threshold 5. Allows up to an additional fifteen (15) percent (ninety (90) percent of the total) of the administration line item to be drawn down after compliance with the ~~forty-four (44)-forty-two (42)~~ month threshold requirement has been demonstrated as described in this ~~Chapter~~.

(6) Threshold 6. Allows an additional five (5) percent (ninety-five (95) percent of the total) of the administration line item to be drawn down upon receipt of all required close-out documentation.

(7) Threshold 7. Allows the final five (5) percent (one-hundred (100) percent of the total), less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item to be drawn down following receipt of the programmatic close-out letter issued by Department.

(8) Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract is eligible.

§25.9 Expenditure Thresholds and Closeout Requirements

(a) Administrators must meet the expenditure threshold requirements described in paragraphs (1) - (4) of this subsection. If an Administrator fails to expend and submit expenditure documentation by the due date, the Contract may be subject to termination for failure to meet the Contract obligations.

(1) Six-Month Threshold. An Environmental Assessment that meets the requirements outlined in the environmental clearance requirements of the Contract must be submitted to the Department within six (6) months from the start date of the Contract;

(2) Twenty-Month Threshold. To meet this requirement the Administrator must have expended and submitted for reimbursement to the Department at least thirty (30) percent of the total Colonia Self-Help Center funds awarded within twenty (20) months from the start date of the Contract;

(3) Thirty-two-Month Threshold. To meet this requirement the Administrator must have expended and submitted for reimbursement to the Department at least sixty (60) percent of the total Colonia Self-Help Center funds awarded within thirty-two (32) months from the start date of the Contract; and

(4) Forty-four-Month Threshold. To meet this requirement the Administrator must have expended and submitted for reimbursement to the Department at least ninety (90) percent of the total Colonia Self-Help Center funds awarded within forty-four (44) months from the start date of the Contract.

(b) For purposes of meeting a threshold, "expended and submitted" means that a Draw request was received by the Department, is complete, and all costs needed to meet a threshold are adequately supported. The Department will not be liable for a threshold violation if a Draw request is not received by the threshold date.

(c) The final Draw request and complete closeout documents must be submitted no later than sixty (60) days after the Contract end date. If closeout documents are late, the remaining Contract balance may be subject to Deobligation as the Department's liability for such costs will have expired. If an Administrator has reserved funds in the project completion report for a final Draw request, the Administrator has ninety (90) days after the Contract end date to submit the final Draw request, with the exception of audit costs which may be reimbursed upon submission of the final single audit.

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BOARD ACTION REQUEST
HOME AND HOMELESS PROGRAMS DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on orders repealing all sections of 10 TAC Chapter 23, Single Family HOME Program, and orders adopting new 10 TAC Chapter 23, Single Family HOME Program (“HOME Rule”), concerning HOME single family activities, and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov’t Code §2306.053, the Department is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, the Department’s Governing Board adopted amendments to 10 Texas Administrative Code (“TAC”) Chapter 23, concerning HOME Investment Partnerships Program (“HOME”) Single Family rules on May 7, 2015, and those rules became effective on August 30, 2015; and

WHEREAS, the Department is proposing to repeal all sections of 10 TAC Chapter 23, Single Family HOME Program and proposing all new 10 TAC Chapter 23, Single Family HOME Program, to improve compliance with federal and state requirements, conform with the federal HOME Program regulations at 24 CFR Part 92, as amended, and provide for consistency with other provisions of the rule;

NOW, therefore, it is hereby

RESOLVED, that the proposed repeal of 10 TAC Chapter 23, Single Family HOME Program, and new 10 TAC Chapter 23 regarding the Single Family HOME Program are approved for publication in the *Texas Register* for public comment; and

FURTHER 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 proposed repeal of 10 TAC Chapter 23, Single Family HOME Program, and new 10 TAC Chapter 23, Single Family HOME Program in the form presented to this meeting to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Department held four roundtable discussions in February 2017, regarding the Single Family HOME Program. Roundtable discussions included TDHCA initiatives and activities, HOME Single Family NOFAs open in February 2017, 2017 HOME allocation updates, and proposed HOME Single Family Rule Changes for the 2017 annual HOME allocation. Comments and suggestions

received from the roundtable discussions were taken into consideration during the preparation of the proposed HOME Rule as presented at this meeting.

The purpose of repealing 10 TAC Chapter 23, Single Family HOME Program rule (“HOME Rule”) and proposing a new 10 TAC Chapter 23, HOME Rule is to codify new procedures, update and clarify current rules, and streamline processes. Changes were made to every Subchapter; therefore, the Department is repealing and proposing a new Chapter instead of amending the existing Chapter. Staff has summarized the significant changes proposed to be made to the State HOME Rule at 10 TAC Chapter 23 below. A black line version with all changes will be available on the Department’s website during the public comment period.

Attached are the proposed preambles, the proposed repeal and proposed new 10 TAC Chapter 23, Single Family HOME Program rules.

Attachment 1: Preamble for repeal of 10 TAC Chapter 23

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 23, concerning Single Family HOME Program

The purpose of the proposed repeal is to restructure the program rules to codify requirements previously included in Notices of Funding Availability ("NOFA"), improve compliance with federally mandated commitment and expenditure requirements as well as and state requirements, conform to the federal HOME Program regulations at 24 CFR Part 92, and provide for consistency with other provisions of the Department's rules.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal will be in effect, the public benefit anticipated as a result of the repeal will be to avoid redundancy in and clarify Department rules. There will not be any economic cost to any individuals required to comply with the repeal.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 12, 2017, to June 12, 2017, to receive input on the proposed repeal of this Chapter. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to HOME@tdhca.state.tx.us; or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time on June 12, 2017.

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

The proposed repeal affects no other code, article, or statute.

Subchapter A General Guidance

§23.1 Purpose

§23.2 Definitions

Subchapter B Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds

§23.20 Availability of Funds and Regional Allocation Formula

§23.21 Application Forms and Materials and Deadlines

§23.22 Contract Award Application Review Process

§23.23 Reservation System Participant Review Process

§23.24 General Threshold and Selection Criteria

§23.25 Contract Limitations

- §23.26 Reservation System Participant (RSP) Agreement
- §23.27 Procurement of Contractor
- §23.28 General Administrative Requirements
- §23.29 Resale and Recapture Provisions

Subchapter C Homeowner Rehabilitation Assistance Program

- §23.30 Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria,
- §23.31 Homeowner Rehabilitation Assistance (HRA) Program Requirements
- §23.32 Homeowner Rehabilitation Assistance (HRA) Administrative Requirements

Subchapter D Homebuyer Assistance Program

- §23.40 Homebuyer Assistance (HBA) Threshold and Selection Criteria
- §23.41 Homebuyer Assistance (HBA) Program Requirements
- §23.42 Homebuyer Assistance (HBA) Administrative Requirements

Subchapter E Contract for Deed Conversion Program

- §23.50 Contract for Deed Conversion (CFDC) Threshold and Selection Criteria
- §23.51 Contract for Deed Conversion (CFDC) Program Requirements
- §23.52 Contract for Deed Conversion (CFDC) Administrative Requirements

Subchapter F Tenant-Based Rental Assistance Program

- §23.60 Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria
- §23.61 Tenant-Based Rental Assistance (TBRA) Program Requirements
- §23.62 Tenant-Based Rental Assistance (TBRA) Administrative Requirements

Subchapter G Single Family Development Program

- §23.70 Single Family Development (SFD) Threshold and Selection Criteria
- §23.71 Single Family Development (SFD) Program Requirements
- §23.72 Single Family Development (SFD) Administrative Requirements

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 23 Single Family HOME Program, concerning Single Family HOME Program. is to restructure the program rules to codify requirements previously included in Notices of Funding Availability ("NOFA"), improve compliance with federally mandated commitment and expenditure requirements as well as and state requirements, conform to the federal HOME Program regulations at 24 CFR Part 92, and provide for consistency with other provisions of the Department's rules.

Subchapter A General Guidance

§23.1 Applicability and Purpose

Removes recertification of RSP to align with current processes. Expressly authorizes Governing Board to waive rules and makes other technical corrections, including removing reference to the recertification process for RFPs; process for recertification removed in previous rule change.

§23.2 Definitions

Defines several terms to assist with clarity and implementation of the HOME Program.

Subchapter B Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds

§23.20 Availability of Funds and Regional Allocation Formula

Removes reference to partial funding recommendations and clarifies that tied Applicants will be randomly selected for award in a Competitive Application Cycle.

§23.23 Reservation System Participant Review Process

Updates citation to TDHCA's general administrative rules.

§23.24 Administrative Deficiency Process

Specifies that RSP Applications are subject to open cycle Application requirements.

§23.25 General Threshold and Selection Criteria

Codifies through the rule making process several elements previously included in Notices of funding Availability ("NOFA") including the Application fee of \$30 per Application and selection criteria to be utilized to rank Applications received under a competitive application cycle. Also combined separate signatory requirements into the same section of the rule.

§23.26 Contract Benchmarks and Limitations

Removes reference to previously defined term. Establishes that funding limits will be in the NOFA. Updates Contract Award Terms to 21 and 36 months, as applicable. Updates contract performance benchmark requirements. Adds a section to distinguish pre-award costs for CHDO and non-CHDO administrators. Refers to the Umbrella Rule for Contract Amendment requirements.

§23.27 Reservation System Participant (RSP) Agreement

Increases term of Reservation System Participation Agreement from 24 to 36 months and requires Activities to be subject to 10 TAC Chapter 23 as of the date the Activity is submitted. Increases the number of Reservations that may be submitted by and RSP Administrator at any given time. Specifies the term for HCCs, which was not explicit in rule for HBA. Sets forth limitations for amendments to Household Commitment Contracts. Allows for payment of pre-agreement costs for RSP Agreements as is practiced for Contract awards. Replaces terms with newly defined terms.

§23.28 General Administrative Requirements

Specifies that the disaster relief set-aside may only be utilized in the event of a declared disaster. Requires submission of evidence of builder warranty period. Requires provision of warranty documents to homeowner.

§23.29 Resale and Recapture Provisions

Updates language to align the HOME rules with the One Year Action Plan Resale and Recapture Provisions.

Subchapter C Homeowner Rehabilitation Assistance Program

§23.30 Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria

Sets a date at which population will be captured to determine Match requirements.

§23.31 Homeowner Rehabilitation Assistance (HRA) Program Requirements

Updates Direct Project Cost limitation to \$100,000 for Reconstruction/New construction, \$110,000 for families of 5 or more that need a 4-bedroom unit, and \$60,000 for Rehabilitation. Specifically excludes federally assisted mortgages from participation in refinance to align with updated CPD monitoring guidebook. Increases amount made available for mitigation of environmental hazards and accessibility features from \$5,000 to \$10,000. Allows provision of additional \$10,000 for installation of an aerobic septic system. Expressly allows funds to be utilized for the first year of hazard or flood insurance.

§23.32 Homeowner Rehabilitation Assistance (HRA) Administrative Requirements

Specifies that the effective date of the title commitment must be no more than 30 days from project submission. Clarifies the effective date title commitments. Updates language to match proposed definition in 23.2. Clarification that the section applies to contracts and RSP Agreements.

Subchapter D Homebuyer Assistance Program

§23.41 Homebuyer Assistance (HBA) Program Requirements

Strikes first-lien requirements which have been added to the Umbrella Rule. Removes “good faith estimate” to align with TRID. Adds clarifying language.

§23.42 Homebuyer Assistance (HBA) Administrative Requirements

Clarifies the effective date title commitments. Removes “good faith estimate” to align with TILA/RESPA. Updates language to match proposed definition in 23.2.

Subchapter E Contract for Deed Program

§23.51 Contract for Deed (CFD) Program Requirements

Updates Direct Project Cost limitation to \$100,000 for Reconstruction/New construction, \$110,000 for families of 5 or more that need a 4-bedroom unit, and \$60,000 for Rehabilitation. Increases amount made available for mitigation of environmental hazards and accessibility features from \$5,000 to \$10,000. Allows provision of additional \$10,000 for installation of an aerobic septic system.

§23.52 Contract for Deed (CFD) Administrative Requirements

Specifies that the effective date of the title commitment must be no more than 30 days from project submission. Updates language to match proposed definition in 23.2.

Subchapter F Tenant-Based Rental Assistance Program

§23.60 Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria

Requires that Service Areas be a minimum of county wide to promote housing choice.

§23.61 Tenant-Based Rental Assistance (TBRA) Program Requirements

Updates section to require use of Small Area Fair Market rent where available to promote tenancy in high opportunity areas. Additionally, a provision to allow an increased standard as a Reasonable Accommodation was included. Strikes provision allowing the RCC and lease to begin of different dates to conform to federal requirements. Incorporates VAWA requirements.

Subchapter G Single Family Development

§23.70 Single Family Development (SFD) Threshold and Selection Criteria

Ties in additional CHDO certification requirements from multifamily direct loan rule. Sets a limitation for price of lot included in homebuyer contract if there is an IOI.

§23.71 Single Family Development (SFD) Program Requirements

Sets a limitation on CHDO operating funds awards. Requires plans submitted with the Application to comply with SF Umbrella Rule requirements. Updates Direct Project Cost limitation to \$100,000 for Reconstruction/New construction, \$110,000 for families of 5 or more that need a 4-bedroom unit, and \$60,000 for Rehabilitation. Increases amount made available for mitigation of environmental hazards and accessibility features from \$5,000 to \$10,000. Allows provision of additional \$10,000 for installation of an aerobic septic system. Strengthens construction completion requirements by imposing a penalty for late completion Aligns construction financing timelines. Updates loan criteria to incorporate the requirements in the Umbrella Rule.

§23.72 Single Family Development (SFD) Administrative Requirements

Clarifies the effective date title commitments. Updates language to match proposed definition in 23.2 and other conforming changes.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed new Chapter will be in effect, enforcing or administering the proposed new Chapter does not have any foreseeable additional costs or revenues for the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new Chapter is in effect, the public benefit anticipated as a result of the new Chapter will be assurance of Subrecipient compliance with federal rules. There are minimal additional economic costs to individuals required to comply with the Chapter as a result of this action.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 12, 2017, to June 12, 2017, to receive input on the proposed repeal of this Chapter. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to HOME@tdhca.state.tx.us; or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time on June 12, 2017.

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

The proposed new Chapter affects no other code, article, or statute.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM
SUBCHAPTER A. GENERAL GUIDANCE

§23.1 Applicability and Purpose.

§23.2 Definitions.

§23.1 Applicability and Purpose

(a) Applicability. This Chapter governs the use and administration of all HOME single family Activities funds provided to the Texas Department of Housing and Community Affairs (the "Department") by the U.S. Department of Housing and Urban Development (HUD) pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended (42 U.S.C. §§12701 - 12839) and HUD regulations at 24 CFR, Part 92 as amended. Chapter 20 of this Title relating to Single Family Programs Umbrella Rule and other Chapters 1 and 2 of this Title will apply to all single family activities, including Single Family Development. Unless otherwise noted herein or required by law, all provisions of this Chapter apply to any Application received on or after the date of adoption of this Chapter. Existing Agreements executed within the preceding twelve (12) months from the date of adoption of this Chapter or current pending Applications may be amended in writing at the request of the Administrator or Applicant, and with Department approval, so that all provisions of this Chapter apply to the Agreement or Application. Amendments proposing only partial adoption of this Chapter are prohibited. No amendment adopting this Chapter shall be granted if, in the discretion of the Department, any of the provisions of this Chapter conflict with the Notice of Funding Availability (NOFA) under which the existing Agreement was awarded or Application was submitted. The Governing Board may waive rules subject to this Chapter for good cause to meet the purpose of the HOME Program as described further in (b) below, provided the action does not conflict with the federal regulations governing the use of these funds, or impact federally imposed obligation or expenditure deadlines governing the HOME Program.

(b) Purpose. The State's HOME Program is designed to:

- (1) focus on the areas with the greatest housing need described in the State Consolidated Plan;
- (2) provide funds for home ownership and rental housing through acquisition, New Construction, Rehabilitation, and Tenant-Based Rental Assistance;
- (3) promote partnerships among all levels of government and the private sector, including nonprofit and for-profit organizations; and
- (4) provide low, very low, and extremely low income families with affordable, decent, safe, and sanitary housing.

§23.2 Definitions

These words when used in this Chapter shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions may be found in Tex. Gov't Code §2306 or Chapter 20 of this Title relating to Single Family Programs Umbrella Rule.

- (1) Area Median Family Income--The income limits published annually by the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher Program that is used by

the Department to determine the eligibility of Applicants for the HOME Program, also referred to as AMFI.

(2) CFR--Code of Federal Regulations.

(3) Commitment of Funds--Occurs when the funds are awarded to an Administrator for a specific Activity approved by the Department and set up in the Integrated Disbursement and Information System (IDIS) established by HUD.

(4) Construction Completion Date – The Construction Completion Date shall be the date of completion of all improvements as stated on the affidavit of completion provided the affidavit filed within 10 days of the stated date, or the date of filing as outlined in §53.106 of the Texas Property Code.

(5) Development Site--The area, or if scattered site, areas on which the development is proposed to be located.

(6) Direct Activity Costs--The total costs of hard construction costs, demolition costs, aerobic septic systems, refinancing costs (as applicable), acquisition and closing costs, rental and utility subsidy and deposits, and Match Funds.

(7) HOME Final Rule--The regulations with amendments promulgated at 24 CFR, Part 92 as published by HUD for the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(8) Homeownership--Ownership in fee simple title in a 1 to 4 unit dwelling or in a condominium unit, or equivalent form of ownership approved by the Department. Homeownership is not right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made).

(9) Identity of Interest--An acquisition will be considered to be an Identity of Interest transaction when the purchaser has any financial interest whatsoever in the seller or lender or is subject to common control, or any family relationship by virtue of blood, marriage or adoption exists between the purchaser and the seller or lender.

(10) Match--Funds contributed to an Activity that meet the requirements of 24 CFR §§92.218 - 92.220. Match contributed to an Activity does not include mortgage revenue bonds, non HOME-assisted projects, and cannot include any other sources of Department funding unless otherwise approved in writing by the Department.

(11) New Construction—Construction of a new Single Family Housing Unit which involves:

(A) construction on a lot that was not the site of a Single Family Housing Unit on the date HOME assistance was requested;

(B) construction of a new Single Family Housing Unit following acquisition; or

(C) construction of a site-built Single Family Housing Unit which replaces a unit of manufactured housing.

(12) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(13) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs as provided in the Consolidated Plan and the State's One Year Action Plan.

(14) Predevelopment Costs--Costs consistent with 24 CFR 92. 212 related to a specific eligible Activity including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, and site control;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(15) Principal--A Person, or Persons, that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) Partnerships: Principals include all General Partners, special limited partners, and Principals with ownership interest;

(B) Corporations: Principals include any officer authorized by the board of directors to act on behalf of the corporation, including the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation; and

(C) Limited liability companies: Principals include all managing members, members having a 10 percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(16) Reconstruction--Defined term in 24 CFR Part 92.

(17) Rehabilitation--Improvements and repairs made to an existing Single Family Housing Unit which do not require demolition of the entire existing Single Family Housing Unit. Additionally, replacement of a unit of manufactured housing with a new unit of manufactured housing is Rehabilitation.

(18) Reservation System Participant (RSP)--Administrator who has executed a written Agreement with the Department that allows for participation in the Reservation System.

(19) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Agreement that the Administrator will serve.

(20) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of Rehabilitation.

(21) Third Party--A Person who is not:

(A) an Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) an Affiliate, Affiliated Party to the Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(C) a Person receiving any portion of the administration, contractor fee, or developer fee.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM
SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS,
REVIEW AND AWARD PROCEDURES, GENERAL
ADMINISTRATIVE REQUIREMENTS, AND RESALE AND
RECAPTURE OF FUNDS

§23.20. Availability of Funds and Regional Allocation Formula.

§23.21. Application Forms and Materials and Deadlines.

§23.22. Contract Award Application Review Process for Open and Competitive Application Cycles.

§23.23. Reservation System Participant Review Process.

§23.24. Administrative Deficiency Process under Open and Competitive Application Cycles.

§23.25. General Threshold and Selection Criteria.

§23.26. Contract Benchmarks and Limitations.

§23.27. Reservation System Participant (RSP) Agreement.

§23.28. General Administrative Requirements.

§23.29. Resale and Recapture Provisions.

§23.20 Availability of Funds and Regional Allocation Formula

Funds subject to regional allocation formula shall be made available as described in paragraphs (1) - (3) of this rule:

(1) Applicants applying in response to a Competitive Application Cycle NOFA will be ranked highest to lowest by region and subregion. Funds remaining after awarding all eligible Applications in a subregion shall collapse and be directed to the next Application across all regions and subregion regardless of the type of assistance being proposed, based on descending scoring order;

(2) Funds made available through an open Application cycle and subject to regional allocation formula shall be made available to each region and subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide; and

(3) In the event of a tie between rankings of two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may be awarded through a random selection process.

§23.21 Application Forms and Materials and Deadlines

(a) The Department will produce an Application, which if properly completed in accordance herein by an eligible Applicant and approved by the Department, can satisfy the Department's requirements to be qualified to administer HOME activities.

(b) The Department must receive all Applications by the deadline specified in the NOFA.

§23.22 Contract Award Application Review Process for Open and Competitive Application Cycles

(a) An Application received by the Department in response to an open Application cycle NOFA will be assigned a "Received Date." An Application will be prioritized for review based on its "Received Date." Application acceptance dates may be staggered under an open Application cycle to prioritize Applications which propose to serve areas identified in Tex. Gov't Code §2306.127 as priority for certain communities. An Application with outstanding administrative deficiencies may be suspended from further review until all administrative deficiencies have been cured or addressed to the Department's satisfaction. Applications that have completed the review process may be presented to the Board for approval with priority over Applications that continue to have administrative deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed.

(b) For Applications received by the Department in response to a Competitive Application Cycle NOFA, the Department will accept Applications on an ongoing basis during the Application acceptance period as specified in the NOFA. Applications will be reviewed and scored then ranked based on the score of the Application.

§23.23 Reservation System Participant Review Process

An Application for a Reservation System Participant (RSP) Agreement shall be reviewed and if approved under §1.303 of this Title as amended or superseded and not denied under §23.24 of this Chapter, will be drafted and processed in the order in which it was accepted by to be executed and made effective.

§23.24 Administrative Deficiency Process

(a) The administrative deficiency process allows staff to request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via an email or if an email address is not provided in the Application, by facsimile to the Applicant. Responses are required to be submitted electronically to the Department. A review of the Applicant's response may reveal that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are in fact matters of a material nature not susceptible to being resolved. Department staff may in good faith provide an Applicant confirmation that an administrative deficiency response has been received or that such response is satisfactory. Communication from staff that the response was satisfactory does not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determination regarding the sufficiency of documentation submitted to cure an administrative deficiency as well as the distinction between material and non-material missing information are reserved for the Director of the HOME Program, Executive Director, and Board, as applicable.

(b) An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, except in response to a direct

request from the Department to remedy an administrative deficiency or by amendment of an Application after the Board approval of a HOME award. An administrative deficiency may not be cured if it would, in the Department's determination, substantially change an Application, or if the Applicant provides any new unrequested information to cure the deficiency.

(c) Administrative deficiencies for HOME Applications under an open application cycle NOFA, including an Application for an RSP Agreement. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 pm Austin local time on the fifth business day following the date of the deficiency notice, the application shall be terminated. Applicants that have been terminated may reapply.

(d) Administrative deficiencies for HOME Applications under a Competitive Application Cycle NOFA. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 pm on the fifth business day following the date of the deficiency notice, then one (1) point shall be deducted from the selection criteria score for each additional business day the deficiency remains unresolved. If administrative deficiencies are not resolved by 5:00 pm Austin local time on the seventh business day following the date of the deficiency notice, then the Application shall be terminated.

§23.25 General Threshold and Selection Criteria

(a) General Threshold. All Applicants and Applications to administer a HOME Program award from the Department must submit or comply with the following:

(1) an Applicant certification of compliance with state rules promulgated by the Department, and federal laws, rules and guidance governing the HOME Program as provided in the Application;

(2) a Resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:

(A) authorization of the submission of the Application;

(B) commitment and amount of cash reserves, if applicable, for use during the Contract or RSP Agreement term;

(C) source of funds for Match obligation and Match dollar amount, if applicable;

(D) name and title of the person authorized to represent the organization and who also has signature authority to execute a Contract and grant agreement or loan documents, as applicable, unless otherwise stated.

(3) any Applicant requesting \$25,000 or more must be registered in the System for Award Management (SAM) and have a current Data Universal Numbering System (DUNS) number;

(4) an Application fee of thirty dollars per Application;

(5) an Application must be substantially complete when received by the Department. An Application will be terminated if an entire tab of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such Application will be terminated without being processed as an administrative deficiency. To the extent that a review was able to be performed, specific reasons for the Department's termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all inclusive list of deficiencies in the Application.

(b) Selection Criteria. Applications for competitive awards consistent with a NOFA will be scored and ranked based on the following criteria. Selection criteria for which points are awarded will become a contractual requirement if the Applicant is awarded a Contract.

(1) Applicants will be required to submit a self-score within the Application. In no event will the points awarded to the Applicant exceed the point value of the self-score in any one selection criterion. Applicants must achieve a minimum staff determined score of fifteen (15) points to be awarded a Contract.

(2) Applicants may be awarded points under the following selection criteria:

(A) Homes Built to \geq IRC 2012 Standard. This selection criterion is applicable to Homeowner Rehabilitation Assistance ("HRA") Applications only. Applications may be awarded five (5) points if all reconstructed or newly constructed homes under the Contract will be built to a code that meets or exceeds IRC 2012 standards.

(B) Purchased Home Will Meet TMCS. This selection criterion is applicable to Homebuyer Assistance ("HBA") Applications only. Applications may be awarded five (5) points if all homes for which HBA is provided under the Contract pass an inspection prior to purchase that meets or exceeds TMCS.

(C) Previous HOME Award. All Applications may receive a maximum of five (5) points for past experience in the HOME Program as follows:

(i) Applications may be awarded five (5) points if the Applicant administered a HOME Contract awarded within five (5) years of the date that Applications are first accepted under the NOFA. The previous HOME Contract for which points are requested must be of the same assistance type as that proposed in the Application and the Applicant must have met the 100% commitment benchmark of the Contract without requiring an amendment.

(ii) Applications may be awarded one (1) point for each reservation of the same assistance type which resulted in Commitment of Funds within twelve (12) months of the date that Applications are first accepted under the NOFA, but may not, in any event, receive more than four (4) points under this criteria.

(iii) Applications may be awarded two (2) points if the Applicant administered a HOME Contract awarded within five (5) years of the date that Applications are first accepted under the NOFA. The

previous HOME Contract for which points are requested must be of the same assistance type as that proposed in the Application and all contractually required units must have been completed by the end of the Contract term in accordance with the original Contract, or as amended.

(D) Administrator Provides Expanded Services. This selection criterion is applicable to Tenant-Based Rental Assistance (TBRA) Applications only. Applicants may receive a maximum of five (5) points for the provision of services available to existing clients within twelve (12) months of the date that Applications are first accepted under the NOFA. Applicant must specify the types of services offered in the Application, and must provide documentation verifying the provision of each service within the specified timeframe. A maximum of one (1) point for each separate service may be awarded. Any service for which points are requested must be identified as provided under one of the following categories: Child Care, Nutrition, Job Training, Health, and Human Services. The services must be uniquely different as determined by the Department. The Department must be able to make a determination that the service stated in the Application was provided by the Applicant and qualifies for the corresponding point(s) when determining the points awarded under this criterion.

(E) Previous Monitoring History. All Applications may receive a maximum of five (5) points for the Applicant's previous monitoring history. The Department will consider the monitoring history for three (3) years preceding the date that Applications are first accepted under the NOFA when determining the points awarded under this criterion. Findings that were subsequently rescinded will not be considered findings for the purpose of this point criterion.

(i) Applications will be limited to a maximum of two (2) points if the Applicant has a monitoring close-out letter that included findings related to violations of procurement requirements.

(ii) Applications will be limited to a maximum of three (3) points if the Applicant has a monitoring close-out letter that included findings on miscalculation of Household income.

(iii) Applications may be awarded a maximum of four (4) points if the Applicant has a monitoring close-out letter that included findings but the findings were not related to miscalculation of Household income or violations of procurement requirements.

(iv) Applications may be awarded a maximum of five (5) points if the Applicant has not received any monitoring findings, including Applicants with no previous monitoring history.

(F) Applicant Staff with Income Eligibility Training. All Applications may receive a maximum of five (5) points if a member of the Applicant's staff that will be involved in administration of the program if awarded, has attended TDHCA's 1st Thursday Income Eligibility training no earlier than one (1) year from the date that Applications are first accepted under the NOFA, or certifies that the staff member will attend TDHCA's 1st Thursday Income Eligibility training prior to submission of a Activity for TDHCA approval. Activities may not be approved under a Contract until the staff member has attended 1st Thursday Income Eligibility training if points are awarded under this criterion.

(G) Section 8 Housing Choice Voucher Availability. This selection criterion is applicable to TBRA Applications only. Applications may be awarded a maximum of five (5) points if the waiting list(s) for the Section 8 Housing Choice Voucher ("HCV") program maintained by the Public Housing

Authority (“PHA”) with jurisdiction over the Service Area outlined in the Application exceeds a twelve (12) month wait time as of the date that Applications are first accepted under the NOFA, or if the PHA does not offer rental assistance under the HCV program. The Department must be able to make a determination that PHA’s wait time exceeds twelve (12) months through documentation provided in the Application by the Applicant for requested points when determining the points awarded under this criterion.

(H) Lack of Single Family Activities within the Service Area within the Previous Two (2) Years. This selection criterion is applicable to HRA and HBA Applications only.

(i) Applications may be awarded a maximum of five (5) points if TDHCA HOME funds have not been awarded through a competitive award or been provided to an Activity of the same type as the assistance proposed in the Application, and within the Service Area designated in the Application within two years of the date that Applications are first accepted under the NOFA.

(ii) Applications may be awarded a maximum of four (4) points if TDHCA HOME funds have been committed to Activities of the same type of assistance as that proposed in the Application, and within the Service Area designated in the Application, if the Applicant was not awarded funds to administer a Contract of the same type of assistance and was not the service provider for Activities submitted under an RSP agreement, within two (2) years of the date that Applications are first accepted under the NOFA.

(I) Program Restricted to First-Time Homebuyers. This selection criterion is applicable to HBA Applications only. Applications may be awarded a maximum of five (5) points if 100% of Households served are first-time homebuyers defined on the Department’s Certification of First-Time Homebuyer Status Form.

(J) Program Restricted to Households at or below 60% AMFI. This selection criterion is applicable to HRA and TBRA Applications only. Applications may be awarded a maximum of five (5) points if 100% of Households served will have incomes at or below 60% AMFI for the county in which the Activity will be located.

(K) Priority for Certain Communities. All Applications may receive a maximum of two (2) points if at least one Colonia is included in the Service Area identified in the Application. Applicants awarded points under this criterion will be contractually required to maintain a Service Area that includes at least one Colonia as identified on the Secretary of State’s website.

§23.26 Contract Benchmarks and Limitations

(a) Contract Award Funding Limits. Limits on the total amount of a Contract award will be established in the NOFA.

(b) Contract Award Terms. Homeowner Rehabilitation Assistance and Homebuyer Assistance awards will have a Contract term of not more than twenty-one (21) months exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance awards will have a Contract term of not more than thirty-six (36) months.

(c) Contract Award Benchmarks. Except for acquisition only Activities, Administrators must have attained environmental clearance for the contractually required number of Households served within six (6) months of the effective date of the Contract. Contract Administrators must submit to the Department complete Activity setup information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within nine (9) months from the effective date of the Contract. All remaining funds will be deobligated and reallocated in accordance with Chapter 1 of this Title relating to Reallocation of Financial Assistance.

(d) Voluntary deobligation. The Administrator may fully deobligate funds in the form of a written request signed by the signatory, or successor thereto, of the Contract. The Administrator may partially deobligate funds under a Contract in the form of a written request from the signatory if the letter also deobligates the associated number of targeted Households, funds for administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract. Voluntary deobligation of a Contract does not limit an Administrator's ability to participate in an open application cycle.

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Administrator must respond within the time limit stated in the request. Prolonged or repeated failure to respond may result in suspension of funds and ultimately in termination of the Contract by the Department.

(f) Pre-Contract Costs.

(1) The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the Contract in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

(2) A Community Housing Development Organization may be reimbursed for Predevelopment Costs as defined in this Chapter for an Activity funded under Single Family Development.

(3) In no event will the Department reimburse expenses incurred more than six (6) months prior to Governing Board approval of the Administrator's award.

(g) Amendments to Contract Awards will be processed in accordance with Chapter 20 of this Title relating to Single Family Programs Umbrella Rule.

§23.27 Reservation System Participant (RSP) Agreement

(a) Terms of Agreement. The term of an RSP Agreement will not exceed thirty-six (36) months. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this Chapter in effect as of the date of submission by the Administrator.

(b) Limits on Number of Reservations. RSP Administrators may have no more than five (5) Reservations per county within the RSP's Service Area submitted to the Department for approval at any given time except that Tenant-Based Rental Assistance Reservations submitted for approval under an RSP Agreement is limited to thirty (30) at any given time. All required documentation for

the Reservation must be submitted to the Department twenty (20) business days prior to the end of RSP Agreement term.

(c) Extremely Low-Income Households. Except for Households served with disaster relief, Homebuyer Assistance or Single Family Development assistance, each RSP will be required to serve at least one extremely low-income Household out of every four Households submitted and approved for assistance. For purposes of this subsection, extremely low-income is defined as families that are either at or below 30% area median family income for the county in which they will reside without the increase for poverty guidelines or have an income that is lower than the statewide 30% income limit without adjustments to HUD limits.

(d) Match. Administrators must meet the Match requirement per Activity approved for assistance.

(e) Completion of Construction. For Activities involving construction, construction must be complete within twelve (12) months from the Commitment of Funds for the Activity.

(f) Household commitment contract term. The term of a Household commitment contract may not exceed 12 months, except that the term for Tenant-Based Rental Assistance may not exceed 24 months.

(g) Amendments to Household Commitment contracts may be considered by the Department provided the approval does not conflict with the federal regulations governing use of these funds, or impact federally imposed obligation or expenditure deadlines.

(1) The Division Director may approve amendments that extend the terms of Household commitment contracts by not more than three (3) months, except that the term of a Household Commitment contract for Tenant-Based Rental Assistance may not be extended.

(2) The Division Director may approve amendments to a Household Commitment contract to increase Activity funds within the limitations set forth in this Chapter.

(3) The Executive Director may approve amendments to Household Commitment contracts except amendments to extend the terms of Household Commitment contracts by more than twelve (12) months.

(h) Pre-agreement costs. The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the RSP Agreement in accordance with 24 CFR §92.212 and at the sole discretion of the Department. In no event will the Department reimburse expenses incurred more than six (6) months prior to the effective date of the RSP Agreement.

(i) Administrators must remain in good standing with the Department, the state of Texas, and HUD. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

§23.28 General Administrative Requirements

Unless otherwise provided in this Chapter, the Administrator or Developer must comply with the requirements described in paragraphs (1) - (20) of this section, for the administration and use of HOME funds:

(1) complete training, as applicable;

(2) provide all applicable Department Housing Contract System access request information and documentation requirements;

(3) establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the U.S. General Accounting Office, the U.S. Comptroller, the State Auditor of Texas, the Comptroller of Public Accounts of the State of Texas, or any of their duly authorized representatives, throughout the applicable record retention period;

(4) for non-development Contracts, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including:

(A) develop and comply with written procurement selection criteria and committees, including appointment of a procurement officer to manage any bid process;

(B) develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds;

(C) ensure consultant or any procured service provider does not participate in or direct the process of procurement for services. A consultant cannot assist in their own procurement before or after an award is made;

(D) ensure that procedures established for procurement of building construction contractors do not include requirements for the provision of general liability insurance coverage in an amount to exceed the value of the contract and do not give preference for contractors in specific geographic locations;

(E) ensure that building construction contractors are procured in accordance with State and Federal regulations for single family HOME Activities;

(F) ensure that professional service providers (consultants) are procured using an open competitive procedure and are not procured based solely on the lowest priced bid; and

(G) ensure that any Request for Proposals or Invitation for Bid include:

(i) an equal opportunity disclosure and a notice that bidders are subject to search for listing on the Excluded Parties List;

(ii) bidders' protest rights and an outline of the procedures bidders must take to address procurement related disputes;

(iii) a conflict of interest disclosure;

(iv) a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;

(v) for sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract;

(vi) must not have a term of services greater than five years; and

(vii) for competitive proposals, disclose the specific election/evaluation criteria;

(5) in instances where a potential conflict of interest exists, follow procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict by newspaper publication, a description of how the public disclosure was made, and an attorney's opinion that the conflict does not violate state or local law. No HOME funds will be committed to or reserved to assist a Household until HUD has granted an exception to the conflict of interest provisions;

(6) perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or before the occurrence of the loan closing, if applicable;

(7) develop and comply with written Applicant intake and selection criteria for program eligibility that promote and comply with Fair Housing requirements and the State's One Year Action Plan;

(8) complete Applicant intake and Applicant selection. Notify each Applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake application. For Homeowner Rehabilitation Assistance and Contract for Deed Conversion the Administrator must:

(A) provide Rehabilitation as an available option to Households, provide Households with a general cost estimate, and to the extent that Rehabilitation would not meet the program requirements, explain these program requirements;

(B) unless not allowed by local code, provide replacement of an existing housing unit with a new MHU as an available option; and

(C) explain relocation as an available option under applicable Activities;

(9) determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609, by using the list of income included in HUD Handbook 4350, and excluding from income those items listed in HUD's Updated List of Federally Mandated Exclusions from Income;

(10) except for Single Family Development, complete an updated income eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the HOME assistance is provided to the Household. For Single Family Development, complete income

eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the contract to purchase the housing unit is executed with the Household;

(11) for disaster relief set-aside Activities, provide evidence that the housing unit occupied by the eligible Household was damaged as a direct result of a federal, state, or locally declared disaster that occurred less than three years prior to Administrator's Application for a RSP Agreement or Contract under which the Household applied for assistance;

(12) for single family Activities involving construction, perform initial inspection in accordance with Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule). Property inspections must include photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms. The inspection must be signed and dated by the inspector and the Administrator;

(13) submit a substantially complete request for the Commitment or Reservation of Funds, loan closing preparation, and for disbursements. Administrators must upload all required information and verification documentation in the Housing Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. Expenses for which reimbursement is requested must be documented as incurred. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of ten (10) business days beginning at the start of the first business day following the date the Administrator or Developer is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds;

(14) submit signed program documents timely as may be required for the completion of a Commitment or Reservation of Funds, and for closing preparation of the loan or grant documents. Department reserves the right to cancel or terminate Activities when program documents are not executed timely, in the Department's sole and reasonable discretion;

(15) not proceed or allow a contractor to proceed with construction, including demolition, on any Activity or development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable;

(16) submit any Program Income received by the Administrator or Developer to the Department within ten (10) business days of receipt; any fund remittance to the Department, including refunds, must include a written explanation of the return of funds, the Contract number, name of Administrator or Developer, Activity address and Activity number, and must be sent to the Department's accounting division;

(17) submit required documentation for project completion reports no later than sixty (60) days after the completion of the Activity;

(18) for Contract awards, submit certificate of Contract Completion within ten (10) business days of the Department's request;

(19) submit to the Department reports or information regarding the operations related to HOME funds provided by the Department;

(20) submit evidence with the final draw for construction related activities that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents;

(21) provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price; and

(22) if required by state or federal law, place the appropriate bonding requirement in any contract or subcontract entered into by the Administrator or Developer in connection with a HOME award.

§23.29 Resale and Recapture Provisions

(a) Recapture is the primary method the Department will use to recoup HOME funds under 24 CFR §92.254(a)(5)(ii).

(b) The Department has established the recapture provisions described in paragraphs (1) - (4) of this subsection to ensure affordability as defined in 24 CFR §92.254(a)(5)(ii).

(1) In the event that a federal affordability period is required and the assisted property is rented or leased, or no member of the Household has it as the Principal Residence, the entire HOME investment is subject to recapture. The Department will include any loan payments previously made when calculating the amount subject to recapture. Loan forgiveness is not the same thing as loan payments for purposes of this subsection.

(2) In the event that a federal affordability period is required and the unit is sold, including through a short sale or foreclosure, prior to the end of the affordability period, the Department will recapture the available amount of net proceeds based on the requirements of 24 CFR §92.254 and as outlined in the State's One Year Action Plan.

(3) The Household can sell the unit to any willing buyer at any price. In the event of sale to a qualified low-income purchaser of a HOME-assisted unit, the qualified low-income purchaser may assume the existing HOME loan and recapture obligation entered into by the original buyer if no additional HOME assistance is provided to the subsequent homebuyer. In cases in which the subsequent homebuyer needs HOME assistance in excess of the balance of the original HOME loan, the HOME subsidy (the direct subsidy as described in 24 CFR §92.254) to the original homebuyer must be recaptured. A separate HOME subsidy must be provided to the new homebuyer, and a new affordability period must be established based on that assistance to the buyer.

(4) If there are no net proceeds from the sale, no repayment will be required of the Household and the balance of the loan shall be forgiven as outlined in the State's applicable One Year Action Plan.

(c) The Department has established the resale provisions described in paragraphs (1) - (7) of this subsection, in the event that the Department must impose the resale provisions of 24 CFR §92.254(a)(i).

(1) Resale is defined as the continuation of the affordability period upon the sale or transfer, rental or lease, refinancing, and no member of the Household is occupying the property as their Principal Residence.

(2) In the event that a federal affordability period is required and the assisted property is rented or leased, or no member of the Household has it as the Principal Residence, the HOME investment must be repaid.

(3) In the event that a federal affordability period is required and the assisted property is sold or transferred in lieu of foreclosure to a qualified low income buyer at an affordable price, the HOME loan balance shall be transferred to the subsequent qualified buyer and the affordability period shall remain in force to the extent allowed by law.

(4) The resale provisions shall remain in force from the date of loan closing until the expiration of the required affordability period.

(5) The Household is required to sell the home at an affordable price to a reasonable range of low income homebuyers that will occupy the home as their Principal Residence. Affordable to a reasonable range of low-income buyers is defined as targeting Households that have income between 70 and 80 percent of the area median family income and meet all program requirements.

(A) The seller will be afforded a fair return on investment defined as the sum of down payment and closing costs paid from the initial seller's cash at purchase, closing costs paid by the seller at sale, the principal payments only made by the initial homebuyer in excess of the amount required by the loan, and any documented capital improvements in excess of \$500.

(B) Fair return on investment is paid to the seller at sale once first mortgage debt is paid and all other conditions of the initial written agreement are met. In the event there are no funds for fair return, then fair return does not exist. In the event there are partial funds for fair return, then the appropriate partial fair return shall remain in force.

(6) The appreciated value is the affordable sales price less first mortgage debt less fair return.

(A) If appreciated value is zero, or less than zero, then no appreciated value exists.

(B) The initial homebuyer's investment of down payment and closing costs divided by the Department's HOME investment equals the percentage of appreciated value that shall be paid to the initial homebuyer or persons as otherwise directed by law. The balance of appreciated value shall be paid to the Department.

(7) The property qualified by the initial Household will be encumbered with a lien for the full affordability period.

(d) In the event that a federal affordability period is not required and the housing unit transfers by devise, descent, or operation of law upon the death of the assisted homeowner, forgiveness of installment payments under the loan may continue until maturity or the grant amount under the conditional grant agreement may be forgiven, if the new Household qualifies for assistance in accordance with this Subchapter.

(e) Forgiveness of installment payments under the loan may continue until maturity or the grant amount under conditional grant agreement may be forgiven if the housing unit is sold by the decedent's estate to a purchasing Household that qualifies for assistance in accordance with this Chapter.

(f) Grants subject to conditional grant agreements may be forgiven annually during the Department's affordability period and are not subject to recapture of the entire grant amount in the event the property is no longer the Principal Residence of any Household member. The outstanding amount owed will be based on the remaining affordability term.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM
SUBCHAPTER C. HOMEOWNER REHABILITATION ASSISTANCE PROGRAM.

§23.30. Homeowner Rehabilitation Assistance (HRA) Threshold and Selection Criteria.

§23.31. Homeowner Rehabilitation Assistance (HRA) General Requirements.

§23.32. Homeowner Rehabilitation Assistance (HRA) Administrative Requirements.

§23.30 Homeowner Rehabilitation Assistance (HRA) Threshold and Selection Criteria

(a) Match requirement. Excluding Applications under the disaster relief and persons with disabilities set asides, Match shall be required based on the tiers described in paragraphs (1) and (2) of this subsection:

(1) Zero percent of Direct Activity Costs, exclusive of Match, is required as Match:

(A) when the Service Area includes the entire unincorporated area of a county and where the population of Administrator's Service Area is less than or equal to 20,000 persons; or

(B) when the Service Area does not include the entire unincorporated area of a county and the population of the Administrator's Service Area is less than or equal to 3,000 persons.

(2) One percent of Direct Activity Costs, exclusive of Match, is required as Match for every 1,000 in population to a maximum of 15 percent.

(b) The Department shall use population figures from the most recently available U.S. census bureau's American Community Survey (ACS) at the date that Applications are first accepted under the NOFA to determine the applicable Match. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established as selection criteria in the NOFA.

(c) Documentation is required of a commitment of at least \$40,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this subsection.

(d) Selection criteria for this activity will be outlined in the NOFA.

§23.31 Homeowner Rehabilitation Assistance (HRA) General Requirements

(a) Program funds may be used for the following under this Subchapter:

(1) the Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of a Manufactured Housing Unit (MHU) is not an eligible use of funds;

(2) the New Construction of site-built housing on the same site to replace an existing owner-occupied MHU;

(3) the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site contingent upon written approval of the Department;

(4) if a housing unit is uninhabitable, within the previous five (5) years from requested assistance, as a result of a natural or man-made disaster or a condemnation order from the unit of local government, or presents an imminent threat to the life, health, or safety of occupants as determined by the local government with jurisdiction over the property, the Household may be eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification. If a housing unit is destroyed due to a disaster (housing unit may no longer be standing on the site), that unit is eligible for Reconstruction provided that the HOME funds are committed within twelve (12) months of the date of destruction; or

(5) if allowable under the NOFA, the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the NOFA.

(b) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien position if the existing mortgage loan has an outstanding balance that is less than the investment of HOME funds and any of the statements described in paragraphs (1) - (3) of this subsection are true:

(1) a federal affordability period is required; or

(2) any existing mortgage has been in place for less than three (3) years from the date the Household applies for assistance; or

(3) the HOME loan is structured as a repayable loan.

(c) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(d) Direct Activity Costs, exclusive of Match funds, and are limited to:

(1) Reconstruction and New Construction of site-built housing: the lesser of \$90 per square foot of conditioned space or \$100,000 or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit;

(2) replacement with energy efficient MHU: \$75,000;

(3) Rehabilitation that is not Reconstruction: \$60,000; and

(4) refinancing of existing mortgages: in addition to the costs limited under paragraphs (1) - (3) of this subsection, the cost to refinance an existing mortgage is limited to \$35,000. To qualify, a Household's current total housing payment must be greater than 30 percent of their monthly gross income or their total monthly recurring debt payments must be greater than 45 percent of their gross monthly income. HOME funds may not be utilized to refinance loans made or insured by any federal program.

(e) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 maybe requested and if approved, used to pay for any of the following as applicable:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(f) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(2) replacement with an MHU: no more than \$3,500 per housing unit;

(3) Rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Activity soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977; and

(4) third-party Activity soft costs related to costs incurred in connection with an Activity under this section, such as appraisals, title reports or insurance, tax certificates, recording fees, surveys, and first year hazard and flood insurance are not subject to a maximum per Activity.

(g) Funds for administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(h) In the instances described in paragraphs (1) - (4) of this subsection, the assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual

pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(1) An MHU being replaced with newly constructed housing (site-built) on the same site;

(2) Any housing unit being replaced on another site;

(3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (a)(4) of this section; and

(4) Any Activity that requires a federal affordability period.

(i) For any Activity involving refinancing described in subsection (d)(4) of this section, the HOME funds used for refinancing shall be structured as a fully amortizing, repayable loan at zero percent interest. The loan term shall be calculated by setting the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance), equal to 20 percent of the Household's gross monthly income. The term shall not exceed thirty (30) years. Total debt service (back-end ratio) may not exceed 45 percent. Any Direct Activity Costs, exclusive of refinancing costs and Match funds, shall be structured as a deferred, forgivable loan with a 15-year term.

(j) In all other instances not described in subsections (h) and (i) of this section, the assistance to an eligible Household will be in the form of a grant agreement with a 5-year affordability period.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this Chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet §92.251(a)(2) as applicable. Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. MHUs must be installed according to the manufacturer's instructions and in accordance with Federal and State laws and regulations.

(m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:

(1) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;

(2) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(3) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(4) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this Subchapter must meet the requirements of Chapters 20 and 21 of this Title and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

§23.32 Homeowner Rehabilitation Assistance (HRA) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit the true and complete information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (17) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Direct Activity Cost and Soft Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;

(7) when assistance is provided in the form of a loan, provide written consent from all Persons who have a valid lien or ownership interest in the Property for the Rehabilitation or Reconstruction Activities;

(8) in the instance of relocation and in accordance with §23.31(a)(3) of this Chapter relating to HRA General Requirements, the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Activity funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for a Activity under this paragraph, the Administrator Match obligation may be reduced by the cost of such demolition without any Contract amendment;

(9) identification of any Lead-Based Paint (LBP);

(10) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(11) consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's loan, if applicable;

(12) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(13) a title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or ninety-nine (99) year leasehold. For loan projects, the effective date title commitment must be no more than 30 days prior to of the date of project submission. Title commitments for loan projects that expire prior to the loan closing date must be updated and must not have any adverse changes. For assistance provided in the form of a grant agreement, a title report may be submitted in lieu of a title commitment or policy. In instances of an MHU, a Statement of Ownership and Location (SOL) must be submitted. Together, these documents must evidence the definition of Homeownership is met;

(14) tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(15) in the instances of replacement with an MHU, information necessary to draft loan documents or grant agreements to issue SOL;

(16) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and

(17) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing or grant agreement. In addition to the documents required under subsection (a) of this section, the Administrator must submit the appraisal or other valuation method approved by the Department which establishes the post Rehabilitation or Reconstruction value of improvements for

Activities involving construction prior to the issuance of grant or loan documents by the Department.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (12) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (12) of this subsection, may be required with a request for disbursement:

(1) for construction costs associated with a loan, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the Construction Completion Date;

(2) for construction costs associated with a grant agreement, an interim lien waiver or final lien waiver. For release of retainage the release on final payment must be dated at least forty (40) days after the Construction Completion Date;

(3) if applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(4) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(5) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) the executed grant agreement or original, executed, legally enforceable loan documents and statement of location, if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(7) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all Program Rules;

(8) the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(10) for final disbursement requests, submission of documentation required for Activity completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation;

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract; and

(12) for costs associated with title policies charged as Activity costs, the title policy must be submitted with the retainage request.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM
SUBCHAPTER D. HOMEBUYER ASSISTANCE PROGRAM

§23.40. Homebuyer Assistance (HBA) Threshold and Selection Criteria.

§23.41. Homebuyer Assistance (HBA) General Requirements.

§23.42. Homebuyer Assistance (HBA) Administrative Requirements.

§23.40 Homebuyer Assistance (HBA) Threshold and Selection Criteria

(a) Except for Applications under the disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5 percent of Direct Activity Costs, exclusive of Match, requested.

(b) Documentation of a commitment of at least \$20,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this subsection.

§23.41 Homebuyer Assistance (HBA) General Requirements

(a) Program funds under this Subchapter are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) The Household must complete a homebuyer counseling program/class.

(c) Direct Activity Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: the lesser of \$20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 20 percent of the Household's gross monthly income based on a thirty (30) year amortization schedule. If the estimated housing payment will be less than 20 percent, the Department shall reduce the amount of downpayment assistance to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income; or

(2) closing costs and downpayment: the lesser of \$6,000 or the total estimated settlement charges shown on the closing disclosure that are paid by the buyer at closing which are not paid by the buyer's contribution. Households assisted under this paragraph who, at the time of application, have

assets which may be liquidated without a federal income tax penalty and which exceed three months of estimated principal, interest, property tax, and property insurance payments for the unit to be purchased as shown in the truth-in-lending statement must contribute the excess funds to the total estimated settlement charges as shown on the good faith estimate; and

(3) Rehabilitation for accessibility modifications: \$20,000.

(4) No funds shall be disbursed to the assisted Household at closing. The HOME assistance shall be reduced in the amount necessary to prevent the Household's direct receipt of funds if the closing disclosure shows funds to be provided to the buyer at closing.

(5) Total assistance to the Household must be in an amount of no less than \$1,000. Households who are not eligible for at least \$1,000 in total homebuyer assistance are ineligible for assistance under this Subchapter.

(d) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit; and

(2) Rehabilitation for accessibility modifications: \$5,000 per housing unit.

(e) Funds for Administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(f) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs, excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(g) Any forgiveness of the loan must follow §23.30 of this Chapter.

(h) To ensure affordability, the Department will impose the recapture provisions established in this Chapter.

(i) Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule, and Chapter 21 of this Title. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§23.42 Homebuyer Assistance (HBA) Administrative Requirements

(a) Reservation of Funds. The Administrator must submit true and complete information, certified as such, with a request for the Reservation of Funds, as described in paragraphs (1) - (7) of this subsection:

(1) head of Household name;

(2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) a copy of the Household's intake application on a form prescribed by the Department;

(4) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(5) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, or duplication of benefit;

(6) if applicable, construction cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion; and

(7) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Commitment of Funds. In addition to the documents required under subsection (a) of this section, the Administrator must submit the documents described in paragraphs (1) - (8) of this subsection, with a request for the Commitment of Funds within ninety (90) days of approval of the Reservation:

(1) address of housing unit for which assistance is being requested;

(2) verification of environmental clearance;

(3) identification of Lead-Based Paint (LBP);

(4) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(5) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanics or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than 30 days prior to the date of project submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(6) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(7) appraisal which includes post Rehabilitation or Reconstruction improvements for Activities involving construction; and

(8) a loan estimate or letter from the lender confirming that the loan terms and closing costs will be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this Chapter.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (10) of this subsection, may be required with a request for disbursement:

(1) For construction costs that are a part of a loan subject to the requirements of this subsection, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date Construction Completion Date;

(2) If applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) The property inspection must be signed and dated by the inspector and the Administrator or Developer;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) The request for funds for Administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(8) Table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing;

(9) For Activities involving Rehabilitation, include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date and until submission of documentation required for Activity completion reports; and

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM.
SUBCHAPTER E. CONTRACT FOR DEED CONVERSION PROGRAM.

§23. 50. Contract for Deed Conversion (CFDC) Threshold and Selection Criteria.

§23. 51. Contract for Deed Conversion (CFDC) General Requirements.

§23. 52. Contract for Deed Conversion (CFDC) Administrative Requirements.

§23.50 Contract for Deed (CFD) Threshold and Selection Criteria

Documentation of a commitment of at least \$40,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this section.

§23.51 Contract for Deed (CFD) General Requirements

(a) Program funds may be used for the following under this Subchapter:

(1) acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance; or

(2) refinance with Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance provided construction costs exceed the amount of debt that is to be refinanced;

(b) An MHU is not an eligible property type for Rehabilitation. MHUs must be installed according to the manufacturer's installation instructions and in accordance with Federal and State laws and regulations.

(c) The Household's income must not exceed 60 percent (AMFI) and the Household must complete a homebuyer counseling program/class.

(d) The property assisted must be located in a Colonia as defined in Texas Government Code, Chapter 2306. The Colonia must have a Colonia Classification Number, as assigned by the Office of the Texas Secretary of the State.

(e) The Department will require a first lien position.

(f) Direct Activity Costs, exclusive of Match funds, are limited to:

(1) refinance, acquisition and closing costs: \$35,000. In the case of a contract for deed housing unit that involves the refinance or acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed \$40,000 of assistance;

(2) Reconstruction and New Construction of site-built housing: the lesser of \$90 per square foot of conditioned space or \$100,000, or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit;

(3) replacement with an energy efficient MHU: \$75,000; and

(4) Rehabilitation that is not Reconstruction: \$60,000.

(g) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be used to pay for any of the following:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(h) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit;

(2) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(3) replacement with an MHU: no more than \$3,500 per housing unit; and

(4) Rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Activity soft costs for housing units that are reconstructed or if the existing housing unit was built after December 31, 1977.

(i) Funds for administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(j) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254. For refinancing activities, the minimum loan term and affordability period is 15 years, regardless of the amount of HOME assistance.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this Chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet §92.25 1(a)(2) as applicable. Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

(m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:

(1) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;

(2) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(3) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(4) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this Subchapter must meet the requirements of Chapters 20 and 21 of this Title and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

§23.52 Contract for Deed (CFD) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (15) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity and soft costs limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;

(7) identification of Lead-Based Paint (LBP);

(8) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(9) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(10) appraisal which includes post Rehabilitation or Reconstruction improvements for Activities involving construction;

(11) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than 30 days prior to the date of Activity submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(12) in the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);

(13) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship;

(14) A copy of the recorded contract for deed and a current payoff statement; and

(15) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Disbursement of funds. The Administrator must comply all of the requirements described in paragraphs (1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (11) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the Construction Completion Date;

(2) if applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents, and statement of location, as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(8) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for costs being paid at closing;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(10) for final disbursement requests, submission of documentation required for Activity completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan, and evidence of floodplain mitigation; and

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23 SINGLE FAMILY HOME PROGRAM
SUBCHAPTER F TENANT-BASED RENTAL ASSISTANCE PROGRAM

§23.60. Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria.

§23.61. Tenant-Based Rental Assistance (TBRA) General Requirements.

§23.62. Tenant-Based Rental Assistance (TBRA) Administrative Requirements.

§23.60 Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria

All Applicants and Applications must submit Documentation of a commitment of at least \$15,000 for cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this section; and

(3) evidence that the Service Area for a Contract or RSP Agreement includes the entire rural or urban area of a county as identified in the Application, excluding Participating Jurisdictions. However, Service Areas must include Participating Jurisdictions as applicable if the Agreement includes access to the Persons with Disabilities set-aside.

§23.61 Tenant-Based Rental Assistance (TBRA) General Requirements

(a) The Household must participate in a self-sufficiency program.

(b) The amount of assistance will be determined using the Housing Choice Voucher method.

(c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.

(d) The minimum Household contribution toward gross monthly rent must be ten percent of the Household's gross monthly income.

(e) Activity funds are limited to:

(1) rental subsidy: Each rental subsidy term is limited to no more than twenty-four (24) months. Total lifetime assistance to a Household may not exceed thirty-six (36) month cumulatively, except that a maximum of twenty-four (24) additional months of assistance, for a total of sixty (60) months cumulatively may be approved if:

(A) the Household has applied for a Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program, and is placed on a waiting list during their TBRA participation tenure; and

(B) the Household has not been removed from the waiting list for the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program due to failure to respond to required notices or other ineligibility factors; and

(C) the Household has not been denied participation in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program while they were being assisted with HOME TBRA; and

(D) the Household did not refuse to participate in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program when a voucher was made available.

(2) security deposit: no more than the amount equal to two (2) month's rent for the unit.

(3) utility deposit in conjunction with a TBRA rental subsidy.

(f) The payment standard is determined at the date of assistance. The payment standard utilized by the Administrator must be:

(1) for metropolitan counties and towns, the current U.S. Department of Housing and Urban Development (HUD) Small Area Fair Market Rent for the Housing Choice Voucher Program;

(2) for nonmetropolitan counties and towns, the current HUD Fair Market Rent for the Housing Choice Voucher Program;

(3) for a HOME assisted unit, the current applicable HOME rent; or

(4). The Administrator may submit a written request to the Department for approval of a different payment standard. The request must be evidenced by a market study or documentation that the PHA serving the market area has adopted a different payment standard. An Administrator may request a Reasonable Accommodation as defined in Section 1.204 of this Title for a specific household if the household, because of a disability, requires the features of a specific unit, and units with such features are not available in the Service Area at the payment standard.

(g) The lease agreement start date must correspond to the date of the TBRA rental coupon contract.

(h) Activity soft costs are limited to \$1,200 per Household assisted for determining Household income eligibility, including recertification, and conducting Housing Quality Standards (HQS) inspections. All costs must be reasonable and customary for the Administrator's Service Area.

(i) Funds for administrative costs are limited to 4 percent of Direct Activity Costs, excluding Match funds. Funds for administrative costs may be increased an additional 1 percent of Direct Activity Costs if Match is provided in an amount equal to 5 percent or more of Direct Activity Costs.

(j) Rental units must be inspected prior to occupancy, annually upon Household recertification, and must comply with HQS established by HUD.

(k) Administrators must have a written agreement with Owner that the Owner will notify the Administrator within one (1) month if a tenant moves out of an assisted unit prior to the lease end date.

(l) Administrators must maintain Written Policies and Procedures established for the HOME Program in accordance with Section 10.610 of this Title, except that where the terms Owner, Property, or Development are used Administrator or Program will be substituted, as applicable. Additionally, the procedures in (n) of this Section regarding the Violence Against Women Act (if in conflict with the provisions in Section 10.610 of this Title) will govern.

(m) Administrators serving a Household under a Reservation Agreement may not issue a Certificate of Eligibility to the Household prior to reserving funds for the project.

(n) Administrators are required to comply with regulations and procedures outlined in the Violence Against Women Act (VAWA), and provide tenant protections as established in the Act.

(1) An Administrator of Tenant-Based Rental Assistance must provide all Applicants (at the time of admittance or denial) and Households (before termination from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance Coupon Contract) the Department's "Notice of Occupancy Rights under the Violence Against Women Act", (based on HUD form 5380) and also provide to Households "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (HUD form 5382) prior to execution of a Rental Coupon Contract and before termination of assistance from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance coupon contract.

(2) Administrator must notify the Department within three (3) calendar days when tenant submits a Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and/or alternate documentation to Administrator and must submit a plan to Department for continuation or termination of assistance to affected Household members.

(3) Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, Administrator may "bifurcate" a rental coupon contract, or otherwise remove a Household member from a rental coupon contract, without regard to whether a Household member is a signatory, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a recipient of TBRA and who engages in criminal acts of physical violence against family members or others. This action may be taken without terminating assistance to, or otherwise penalizing the person subject to the violence.

§23.62 Tenant-Based Rental Assistance (TBRA) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit the documents described in paragraphs (1) - (9) of this subsection, with a request for the Commitment or Reservation of Funds:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Direct Activity Costs, Activity soft costs, administrative costs requested, Match to be provided, evidence that Direct Activity Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator, and all Household members age 18 or over, and including the date of the income eligibility determination. Administrator must submit documentation used to determine the income and rental subsidy of the Household;

(6) identification of Lead-Based Paint (LBP);

(7) if applicable, documentation to address or resolve any potential conflict of interest or duplication of benefit;

(8) project address within ninety (90) days of preliminary set up approval, if applicable; and

(9) any other documentation necessary to evidence that the Activity meets the Program Rules.

(b) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (8) of this subsection for a request for disbursement of funds. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (8) of this subsection may be required with a request for disbursement:

(1) If required or applicable, a maximum of 50 percent of Direct Activity Costs for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Direct Activity Costs disbursed;

(2) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(3) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to the Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;

(4) With the exception of a maximum of 25 percent of the total funds available for administrative costs, the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(5) Requests may come in not more than ten (10) days in advance of the first day of the following month;

(6) For final disbursement requests, submission of documentation required for Activity completion reports;

(7) Household commitment contracts may be signed after the end date of an RSP only in cases where the Department has approved a project set-up with a project address to be determined at a later time; and

(8) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 23. SINGLE FAMILY HOME PROGRAM
SUBCHAPTER G. SINGLE FAMILY DEVELOPMENT PROGRAM

§23.70. Single Family Development (SFD) Threshold and Selection Criteria.

§23.71. Single Family Development (SFD) General Requirements.

§23.72. Single Family Development (SFD) Administrative Requirements.

§23.70 Single Family Development (SFD) Threshold and Selection Criteria

All Applicants and Applications must submit or comply with this section.

(1) An Application for Community Housing Development Organization (CHDO) certification. Applicants must meet the requirement for CHDO certification as defined in 10 TAC, Chapter 13, §13.2 of this Title relating to the Multifamily Direct Loan Rule.

(2) If the total of the Department's loan equals more than 50 percent of the total development cost, except for developments also financed with U.S. Department of Agriculture (USDA) funds, the Applicant must provide:

(A) evidence of a line of credit or equivalent tool of at least \$80,000 from a financial institution that will be available for use during the proposed development activities; or

(B) a letter from a third party Certified Public Accountant (CPA) verifying the capacity of the owner or developer to provide at least \$80,000 as a short term loan for development; and

(C) a letter from the developer's or owner's bank(s) confirming funds amounting to at least \$80,000 is available.

(3) A proposed development plan that is consistent with the requirements of this Chapter, all other federal and state rules, and includes:

(A) a floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition;

(B) a FEMA Issued Flood Map that identifies the location of the proposed site(s);

(C) letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable;

(D) documentation of site control of each proposed lot: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least one hundred-twenty (120) days from the date of application submission; and

(E) an "as vacant" appraisal of at least one of the proposed lots if: The Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an Identity of Interest must not exceed the appraised value of the vacant lot at the time of Activity submission. The appraised value of the lot may be included in the sales price for the homebuyer transaction;

(4) The Department may prioritize Applications or otherwise incentivize Applications that partner with other lenders to provide permanent purchase money financing for the purchase of units developed with funds provided under this Subchapter.

§23.71 Single Family Development (SFD) General Requirements

(a) Program funds under this Subchapter may be used for the acquisition and New Construction or acquisition and Rehabilitation of single family housing that complies with affordability requirements as defined at 24 CFR §92.254.

(b) Program funds under this Subchapter are only eligible to be administered by a CHDO certified as such by the Department. A separate grant for CHDO operating expenses may be awarded to CHDOs that receive a Contract award if funds are provided for this purpose in the NOFA. A CHDO may not receive more than one grant of CHDO operating funds in an amount not to exceed \$50,000 within any one year period, and may not draw more than \$25,000 in CHDO operating funds in any 12 month period from any source, including CHDO operating funds from other HOME Participating Jurisdictions.

(c) The Household's income must not exceed 80 percent area median family income (AMFI) and the Household must complete a homebuyer counseling program/class. The Household must be income qualified as of the date of signature of the homebuyer's purchase contract.

(d) Each unit must meet the design and quality requirements described in paragraphs (1) - (5) of this subsection:

(1) for New Construction and Reconstruction, current applicable International Residential Code, local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR§92.251(a);

(2) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans; and Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car;

(3) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(4) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(5) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(c) Housing proposed to be constructed under this Subchapter must meet the requirements in Chapters 20 and 21 of this Title and plans submitted with the Application must be certified by a licensed architect or engineer.

(f) The total hard construction costs are limited as described in paragraphs (1) and (2) of this subsection:

(1) Reconstruction and New Construction of site-built housing: The hard construction costs are limited to \$90 per square foot of conditioned space and \$100,000 or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit; and

(2) Rehabilitation that is not Reconstruction: \$60,000.

(g) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be used to pay for any of the following:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(h) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs. The developer fee will be reduced by 1% per month or partial month that the construction period exceeds the original term of the construction period financing.

(i) General Contractor Fees are limited to 15 percent of the total hard construction costs. The General Contractor is defined as one who contracts for the construction or Rehabilitation of an entire development Activity, rather than a portion of the work. The General contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. A prime subcontractor will also be treated as a General Contractor, and any fees payable to the prime subcontractor will be treated as fees to the General Contractor, in the scenarios described in paragraphs (1) and (2) of this subsection:

(1) any subcontractor, material supplier, or equipment lessor receiving more than 50 percent of the contract sum in the construction contract will be deemed a prime subcontractor; or

(2) if more than 75 percent of the contract sum in the construction contract is subcontracted to three or fewer subcontractors, material suppliers, and equipment lessors, such parties will be deemed prime subcontractors.

(j) Construction period financing for each unit shall be structured as a zero percent interest loan with a twelve (12) month term, or with a term that coincides with the end date of the Household commitment contract under a Reservation System Participation Agreement. The maximum construction loan amount may not exceed the total development cost less developer fees/profit, homebuyer closing costs, and ineligible Activity costs. Prior to construction loan closing, a sales contract must be executed with a qualified homebuyer.

(k) In the instance that the Combined Loan to Value equals more than 100 percent of the appraised value, the portion of the sales price that exceeds 100 percent of the appraised value will be granted to the developer to buy down the purchase price if the homebuyer is receiving downpayment assistance or a first lien mortgage from the Department. The cost to the Developer to close the homebuyer loan may be provided as a grant to the Developer.

(l) The HOME assistance to the homebuyer shall be structured as a first and/or second lien loan(s):

(1) the downpayment assistance is limited to ten (10) percent of the total development costs and shall be structured as a ten (10) year deferred, forgivable loan with a subordinate lien; and

(2) a first lien conventional mortgage not provided by the Department must meet the mortgage financing requirements outlined in Chapter 20 of this Title. If the Department is providing the first lien mortgage with HOME financing, the loan will be fully amortizing with a thirty (30) year term. The Department will require a debt to income ratio (back-end ratio) not to exceed 45 percent. The total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 20 percent and no greater than 30 percent of the Household's gross monthly income. Should the estimated housing payment be less than 20 percent of the Household's gross income, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income. In no instance shall the interest rate charged to the homebuyer exceed 5 percent.

(m) Earnest money is limited to no more than \$1,000, which may be credited to the homebuyer at closing, but may not be reimbursed as cash. HOME funds may be used to pay other reasonable and customary closing costs that are HOME eligible costs.

(n) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within ninety (90) days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(o) The Division Director may approve the use of alternative floor plans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

(p) To ensure affordability, the Department will impose resale or recapture provisions established in this Chapter.

§23.72 Single Family Development (SFD) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (11) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Activity funds specifying the acquisition cost, construction costs, contractor fees, and developer fees, as applicable. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary, in the Department's sole determination, to ensure applicable property standard requirements will be met at completion;

(7) identification of Lead-Based Paint (LBP);

(8) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(9) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(10) appraisal, which includes post Rehabilitation or Reconstruction improvements for Activities involving construction; and

(11) any other documentation necessary to evidence that the Activity meets the Program Rules.

(b) Loan closing. The Administrator or Developer must submit the documents described in paragraphs (1) - (2) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than 30 days prior to the date of project submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and

(2) within ninety (90) days after the loan closing date, the Administrator or Developer must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the loan closing date will result in the Department withholding payment for disbursement requests.

(c) Disbursement of funds. The Administrator must comply with the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (10) of this subsection may be required with a request for disbursement:

(1) for construction costs, an interim construction binder advance endorsement not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage a down date endorsement to the mortgagee policy issued to the homebuyer dated at least forty (40) days after the Construction Completion Date;

(2) if required or applicable, a maximum of 50 percent of Direct Activity Costs for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator or Developer;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located

and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;

(7) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for costs being paid at closing;

(8) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(9) for final disbursement requests, submission of documentation required for Activity completion reports; and

(10) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

2a

TDHCA Outreach Activities, April 2017 - May 2017

A compilation of outreach and educational activities designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public.

Activity	Event	Date	Location	Division
Deadline	Public Comment Opens: Draft 2017 State of Texas Consolidated Plan Annual Performance Report - Reporting On Program Year 2016	4/3/17		Housing Resource Center
Fair Housing Listing	Fair Housing Webinar Series I: Fair Housing Overview	4/4/17		Fair Housing, Data Management, and Reporting
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/4/17	Houston	Multifamily
Training/Workshop	Emergency Solutions Grants Learning Opportunity on Non-Emergency Housing Options	4/5/17		HOME & Homeless Programs
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/5/17	Lubbock	Multifamily
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/6/17	Longview	Multifamily
Deadline	Public Comment Period Opens for Community Affairs Division Proposed Rule Changes	4/7/17		Community Affairs
Deadline	Request for Applications to Administer the CSBG in Dimmit and La Salle counties	4/10/17		Community Affairs
TICH Listing	Texas Interagency Council for the Homeless (TICH) Quarterly Meeting	4/11/17	Austin	Housing Resource Center
Fair Housing Listing	Fair Housing Webinar Series II: Reasonable Accommodations and Accessibility	4/11/17		Fair Housing, Data Management, and Reporting
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/11/17	Austin	Multifamily
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/11/17	Dallas	Multifamily
HHSCC Listing	Housing and Health Services Coordination Council Meeting	4/12/17	Austin	Housing Resource Center
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/12/17	El Paso	Multifamily
Other	MET-MAFO (Motivation Education & Training, Inc.-Midwest Association of	4/13/17	San Antonio	Multifamily

Activity	Event	Date	Location	Division
	Farmworker Organizations) Farmworker Housing Summit 2017			
Deadline	Public Comment Closes: Draft 2017 State of Texas Consolidated Plan Annual Performance Report - Reporting On Program Year 2016	4/17/17		Housing Resource Center
Public Hearing	Public Hearing for Comment on the 2017 Competitive Housing Tax Credit Applications	4/18/17	Harlingen	Multifamily
Roundtable	2018 QAP Project Plan Meeting	4/26/17	Austin	Multifamily
Deadline	Public Comment Period Closes for Community Affairs Division Proposed Rule Changes	5/8/17		Community Affairs
Deadline	Request for Applications to Administer the CSBG in Dallas County	5/10/17		Community Affairs

See also TDHCA's online Calendar at www.tdhca.state.tx.us/events/index.jsp

Internet Postings of Note

A list of new or noteworthy postings to the Department's website.

Asset Management

- Added new "Rules" topic to the left navigation bar at www.tdhca.state.tx.us/asset-management/announcements.htm
- Added new Asset Management Rules page at www.tdhca.state.tx.us/asset-management/rules.htm
- Updates to www.tdhca.state.tx.us/asset-management/pca-manual.htm
 - Added Post Award Activities Manual - March 2017
 - Replaced Ownership Transfer Forms packet

Community Affairs ("CA")

Community Services Block Grant Program ("CSBG")

- Added Board Meeting Guidance and Board Meeting Minutes Sample Form to the Best Practices section at www.tdhca.state.tx.us/community-affairs/csbg/best-practices.htm
- Updates to www.tdhca.state.tx.us/community-affairs/csbg/additional-requirements.htm
 - Added Private CAAs Toolkit
 - Added Public CAAs Toolkit
 - Removed Audit Essentials: What Every Board Needs To Know
- Added How ROMA Next Generation fits into ROMA to www.tdhca.state.tx.us/community-affairs/csbg/ROMA-index.htm
- Updates to www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm
 - Removed Monthly Performance Reporting Forms and Instructions
 - Added CSBG Monthly Performance Reporting Forms and Instructions
 - Added NCRT Requirements and NCRI Requirements
 - Removed National ROMA Peer-to-Peer Training Program Requirements

Weatherization Assistance Program ("WAP")

- Added 2017 Rider 14 Report to Texas Legislature to www.tdhca.state.tx.us/community-affairs/wap/index.htm

- Updated the Building Weatherization Report to www.tdhca.state.tx.us/community-affairs/wap/guidance.htm

Compliance

- Updates to www.tdhca.state.tx.us/comp_reporting.htm:
 - Added CMTS data uploading instructions
 - Updated Set Up to Report Online instructions
 - Replaced the CMTS Unit Upload Instructions and the CMTS Unit Upload Specification with updated versions
 - Added Instructions for Adding Buildings and Units in CMTS

HOME and Homeless Programs

Emergency Solutions Grants (“ESG”)

- Updates to www.tdhca.state.tx.us/home-division/esgp/guidance-solutions.htm
 - Added link to 10 Texas Administrative Code
 - Added links to Compliance forms and HOME TA
- Added ESG Application Deadline information to www.tdhca.state.tx.us/home-division/esgp/applications.htm

Homeless Housing and Services Program (“HHSP”)

- Added links to Texas Government Code and 10 Texas Administrative Code to www.tdhca.state.tx.us/home-division/hhsp/guidance.htm

HOME Program

- Updates to www.tdhca.state.tx.us/home-division/forms/home_forms_hra.htm:
 - Removed links under “Inspection” menu to the following documents:
 - Inspector Qualification Certification
 - Rehabilitation Feasibility Determination
 - Replaced documents below with updated versions:
 - HRA Project Setup Checklist
 - HRA Project File Documentation Checklist
- Updates to www.tdhca.state.tx.us/home-division/forms/home_forms_hba.htm;
 - Removed links under “Inspection” menu to the following documents:
 - Inspector Qualification Certification
 - Rehabilitation Feasibility Determination
 - Replaced documents below with updated versions:
 - CFD Project Documentation Checklist
 - Contract for Deed Project Setup Checklist
 - HBA and HBA/R Project File Documentation Checklist
 - HBA/R Project Setup Checklist
 - HBA/R Reservation Preapproval Setup Checklist

Homeownership

- Updated Income and Purchase Price Limits to www.tdhca.state.tx.us/homeownership/fthb/downloads.htm
- Updated links to the updated Purchase Price and Income Limits to www.tdhca.state.tx.us/homeownership/fthb/buyer_faq.htm
- Updated Top Regional Lenders at www.tdhca.state.tx.us/homeownership/fthb/fthb-lenders.htm

Housing Resource Center (“HRC”)

- Added 2017 State of Texas Low Income Housing Plan and Annual Report to www.tdhca.state.tx.us/housing-center/pubs-plans.htm; shifted the 2016 SLIHP link to the Archived Versions section of the page
- Updated TICH agenda, handouts and meeting minutes items at www.tdhca.state.tx.us/tich/meetings.htm

Multifamily

Four Percent Housing Tax Credits

- Updated HTC Consultants List to www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm

Nine Percent Housing Tax Credits

- Updates to www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm
 - Updated 2017 Full Application logs
 - Added 2017 Community Support from State Representative and 2017 Quantifiable Community Participation (“QCP”) Letters Received spreadsheets
 - Updated HTC Consultants List
 - Moved 2016 Multifamily Uniform Application items to archive

Miscellaneous Multifamily Items

- Updates to www.tdhca.state.tx.us/multifamily/apply-for-funds.htm
 - Moved 2016 Multifamily Direct Loan Application items to archive
 - Moved 2016 Multifamily Uniform Application items to archive
- Updates to www.tdhca.state.tx.us/multifamily/home/index.htm
 - 2017-1 Multifamily Direct Loan NOFA Application Log (XLS)
 - Moved 2016 Multifamily Direct Loan Application items to archive

Notices of Funding Availability (“NOFA”)

- Updates to www.tdhca.state.tx.us/nofa.htm
 - Revised deadline for 2017/2018 Emergency Solutions Grants NOFA
 - Removed “Units of Local Governments” from Dimmit and La Salle Counties Request for Application entry
 - Added updated Application for Neighborhood Stabilization Program 1-Program Income NOFA for Homebuyer Assistance at www.tdhca.state.tx.us/nsp/index.htm

Public Comment Center

- Updates to www.tdhca.state.tx.us/public-comment.htm www.tdhca.state.tx.us/public-comment-es.htm
 - Added Community Affairs Division Proposed Rule Changes to the Items Open for Public Comment section
 - Added Draft 2017 State of Texas Consolidated Annual Performance and Evaluation Report – Reporting on Program Year 2016
 - Moved the 2016 National Housing Trust Fund Allocation Plan, Substantially Amended 2015-2019 State of Texas Consolidated Plan, and Substantially Amended 2016 One-Year Action Plan item from the Items Open for Public Comment section to the Items Closed to Public Comment section

Purchasing

- Added Report of All No-Bid Contracts to www.tdhca.state.tx.us/purchasing/vendors.htm

Section 811

- Replaced the following documents with new versions www.tdhca.state.tx.us/section-811-pra/referral-agents.htm

- Application Packet
- Application
- Application Packet – Spanish version
- Application – Spanish version
- HUD 92006 Supplement to Application for Federally Assisted Housing – Spanish version

Single Family

- Updated urban/rural places list www.tdhca.state.tx.us/hf/single-family/amy-young.htm
- Added Texas Bootstrap Loan Program Nonprofit Owner-Builder Housing Providers to www.tdhca.state.tx.us/oci/bootstrap.htm

Other

- Added link to RFP #332-RFP17-1003 Program Administrator for Single Family Residential Mortgage Loan & Mortgage Credit Certificate Programs to the “What’s New” section of TDHCA’s Homepage at www.tdhca.state.tx.us/
- Added IFB #332-IFB17-1001 Weatherization Trainer Service to the “What’s New” section of TDHCA’s Homepage at www.tdhca.state.tx.us/

Frequently Used Acronyms

AMFI	Area Median Family Income	IFB	Invitation for Bid
AYBR	Amy Young Barrier Removal Program	LURA	Land Use Restriction Agreement
CEAP	Comprehensive Energy Assistance Program	MF	Multifamily
CFD	Contract for Deed Program	MFTH	My First Texas Home Program
CFDC	Contract for Deed Conversion Assistance Grants	MRB	Mortgage Revenue Bond Program
CHDO	Community Housing Development Organization	NHTF	National Housing Trust Fund
CMTS	Compliance Monitoring and Tracking System	NOFA	Notice of Funding Availability
CSBG	Community Services Block Grant Program	NSP	Neighborhood Stabilization Program
ESG	Emergency Solutions Grants Program	OIG	Office of Inspector General
FAQ	Frequently Asked Questions	QAP	Qualified Allocation Plan
HBA	Homebuyer Assistance Program	QCP	Quantifiable Community Participation
HHSCC	Housing and Health Services Coordination Council	REA	Real Estate Analysis
HHSP	Homeless Housing and Services Program	RFA	Request for Applications
HRA	Homeowner Rehabilitation Assistance Program	RFP	Request for Proposals
HTC	Housing Tax Credit	RFQ	Request for Qualifications
HTF	Housing Trust Fund	ROFR	Right of First Refusal
HUD	US Department of Housing and Urban Development	SLIHP	State of Texas Low Income Housing Plan
		TA	Technical Assistance
		TBRA	Tenant Based Rental Assistance Program
		TICH	Texas Interagency Council for the Homeless
		TXMCC	Texas Mortgage Credit Certificate
		WAP	Weatherization Assistance Program

2b

BOARD REPORT ITEM
HOME AND HOMELESS PROGRAMS DIVISION
APRIL 27, 2017

Report on the reallocation of recaptured Program Year 2015 Emergency Solutions Grants Program funding

BACKGROUND

The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) receives Emergency Solutions Grants Program (“ESG”) funding from the U.S. Department of Housing and Urban Development (“HUD”) to assist people to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness. ESG funds can be used 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.

For Program Year (“PY”) 2015, the Department awarded \$8,563,103 to 26 contracts. The contract year for 2015 ESG Subrecipients was October 1, 2015, to September 30, 2016. However, the Department extended 15 of the 2015 ESG contracts to allow for an end date of December 31, 2016, in order to maximize the ESG Subrecipients’ ability to meet their contract goals and expend the funding. The 2015 ESG funds will expire if they are not expended by July 22, 2017.

Approximately \$414,440 in 2015 ESG funds remained as of March 21, 2017, after all but one of the 2015 contracts expired. Of this, \$3,485 is anticipated to be expended on the one 2015 contract that has not expired, so that \$410,955 has been de-obligated by the Department.

At the Board meeting of July 21, 2016, the Board approved the 2016 ESG awards with the condition that if subsequent to the award of funds from the PY 2016 ESG Notice of Funding Availability (“NOFA”), additional ESG funds became available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding would be used:

- (1) to fully fund any application partially funded in the PY 2016 NOFA;
- (2) to fund the next highest scoring application that received no funding in 2016 ESG; and
- (3) to increase current 2016 contracts for entities with a current Single Audit that met or exceeded expenditure targets, but in no case by more than 15% of the original contract amount.

The 2015 ESG expenditure limits (*e.g.*, no more than 60% on emergency shelter or street outreach and limit of 3% or 3.5% administrative funds), match requirement (*e.g.*, 100% match), and all applicable regulations apply to the additional funding. The agencies are able to provide 100% matching funding for these new awards. The time period for the 2015 ESG re-allocated funding is April 3, 2017, to June 30, 2017.

After applying this methodology, Department staff reached out to one ESG Subrecipient with a partial 2016 ESG award (Friendship of Women, Inc.), and one ESG applicant with the next highest scoring application (City of Denton). Both entities indicated that they were willing and able to expend \$222,873 and \$133,832 respectively of the recaptured 2015 ESG funds. Friendship of Women, Inc., and City of Denton and their partners were reviewed for their previous participation and were subsequently approved for award by the Executive Award Review and Advisory Committee (“EARAC”). After Friendship of Women, Inc., and City of Denton were approved for funding, approximately \$53,250 was remaining.

While awaiting final budgets from Friendship of Women, Inc. and City of Denton, the Department reached out the 2016 ESG Subrecipients asking for a willingness to spend deobligated ESG funds, depending on availability and ability to meet the requirements of the funding. The Department received \$673,850 in requests for funding from thirteen 2016 ESG Subrecipients. The Department considered the total amount of the requests and allocated funds based on current expenditure rates of the ESG Subrecipients that requested funds. As authorized by the Board on July 21, 2016, the 2015 ESG recaptured funding was reallocated in amounts up to 15% of the existing 2016 ESG contracts until the funding was exhausted.

As of March 21, 2017, three 2016 ESG Subrecipients listed below were identified with the highest expenditure rates on their 2016 ESG contracts and a willingness to accept 2015 ESG reallocated funds. The 2016 ESG Subrecipients that received reallocated funding had an expenditure rate of 58% or above.

1. SafeHaven of Tarrant County in the amount of \$18,750;
2. Shelter Agencies for Families in East Texas, Inc in the amount of \$22,500; and
3. Mid-Coast Family Services in the amount of \$13,000.

SafeHaven of Tarrant County, Shelter Agencies for Families, and Mid-Coast Family Services all have a current single audit and no outstanding monitoring findings.

2c

BOARD REPORT ITEM
BOND FINANCE DIVISION
APRIL 27, 2017

Report on increase to the escrow account related to an Advances and Security Agreement (the "Advances Agreement") with the Federal Home Loan Bank of Dallas ("FHLB")

BACKGROUND

At the Board meeting of September 8, 2016, the Board approved an Advances Agreement with FHLB and a related escrow fund that provides collateral for short-term borrowings under the Advances Agreement. The maximum aggregate principal amount available for advances under the Advances Agreement was originally \$75 million, and the maximum related escrow account was \$5 million. At the Board meeting of December 15, 2016, the Board approved an increase to the maximum aggregate principal amount available for advances under the Advances Agreement to \$125 million, and an increase in the maximum related escrow account to \$15 million. With that approval, the Board requested that staff increase the escrow account to \$10 million to meet the Department's immediate need for additional collateral, and inform the Board when the additional \$5 million deposit to increase the escrow account to its approved level of \$15 million became necessary.

Since October 2016, when the Department implemented major changes to its single family program including a new Master Servicer, an Advances Agreement with FHLB, and an additional funding source for down payment and closing cost assistance, the Department's volume of loan reservations has continued to increase dramatically. Prior to these changes, the volume of loan reservations for the Department's Taxable Mortgage Program ("TMP-79") was approximately \$22 million per month. The program's volume has steadily increased, with TMP-79 reaching a historical high in March 2017, with over \$100 million in reservations for the month. This increase in volume necessitates additional collateral in the form of an increase to the escrow account that supports the Advances Agreement.

At this time, staff is informing the Board of the need to increase the FHLB escrow to \$15 million. The source of funds for this increase will be amounts available for such purpose in the Single Family Mortgage Revenue Bond Indenture or the Residential Mortgage Revenue Bond Indenture, or other amounts legally available for this purpose.

Because the Board approved this increase by passing resolution 17-012 at the Board meeting of December 15, 2016, no further action is required at this time.

3a

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Staff will present a summary of Determinations under 10 TAC §11.10 of the 2017 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency:

17165	Merritt Headwaters	Dripping Springs
17204	Vista Bella	Lago Vista
17736	Providence at Ted Trout Drive	Hudson

BACKGROUND

Pursuant to 10 TAC §11.10 of the 2017 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency (“RFAD”), an unrelated person or entity may bring new, material information about an Application to staff’s attention. Third parties may request that staff consider whether an Application should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. Requestors must provide, at the time of filing the request, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

The following table describes the staff determinations for 2017 Competitive Housing Tax Credit (“HTC”) RFADs received and all determinations made as of April 17, 2017. All requests referenced herein were received and reviewed in accordance with §11.10. Where staff determined that the request substantiated the release of a Notice of Administrative Deficiency for the Application, the Applicant was provided the opportunity to respond to the submitted request. Staff has reviewed both the request and response in making its determination.

Each entry identifies the HTC development/application identification number (“TDHCA ID#”), the name of the development, city, region, and the name and organization of the requestor. A brief summary of each request has been included, followed by Department staff’s analysis of the request, and finally the staff resolution of the request. The Department has posted each request received, deficiency notice released, supporting documentation received from the Applicant, and staff determination to the applicable applications, which are posted on the Department’s website. Any subsequent RFADs will be reported to the Board at a subsequent meeting.

The Department’s Governing Board has final decision-making authority on any of the issues reflected herein, and thus these determinations are subject to change. However, a requester may not formally appeal any staff determination if precluded by 10 TAC §10.902(b) related to the Appeal Process.

Where staff is recommending that a request result in loss of points or other action, the Applicants have already been notified and given the opportunity to appeal the staff determination. Staff has also provided notice of the result of the request to the requestor.

TDHCA ID#	17165	Development Name:	Merritt Headwaters
City:	Dripping Springs	Region:	7 Rural
Requester:	Claire Palmer, on behalf of Application #17247 Western Springs Apartments		

Nature and Basis of Request: The request asked the Department to review whether the Applicant met the requirements of §11.9(e)(3) of the 2017 Qualified Allocation Plan (“QAP”) regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: A notice of administrative deficiency requesting evidence that the Applicant properly notified the Superintendent of the Dripping Springs Independent School District was sent to the Applicant on March 9, 2017, with response due by 5:00 p.m. Austin local time on March 16, 2017. The Applicant failed to respond to the administrative deficiency within the timeframe specified in 10 TAC §11.2 regarding Program Calendar for Competitive Housing Tax Credits.

Analysis and Resolution: The Application was terminated due to the lack of response to the administrative deficiency. A notice of termination was sent to the Applicant on April 3, 2017, with an appeal due by 5:00 p.m. Austin local time on April 10, 2017. The Applicant did not appeal the termination.

TDHCA ID#	17204	Development Name:	Vista Bella
City:	Lago Vista	Region:	7 Rural
Requester:	Tom Monahan, Lago Vista Resident		

Nature and Basis of Request: The request asked the Department to review whether the Applicant met the requirements of §11.9(e)(3) of the 2017 Qualified Allocation Plan (“QAP”) regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: A notice of administrative deficiency requesting evidence that the Applicant properly notified the Lago Vista Property Owner’s Association was sent to the Applicant on March 29, 2017, with response due by 5:00 p.m. Austin local time on April 5, 2017. A subsequent notice requesting evidence that all required persons were properly notified was sent on April 4, 2017, with response due by 5:00 p.m. Austin local time on April 11, 2017.

Analysis and Resolution: The Applicant responded timely to each notice. The Applicant provided evidence that the Development Site is not within the boundaries of the Lago Vista Property Owner’s Association, and thus notification of that body was not required; and that all other required notifications were properly made.

Based on these findings, staff determined that no further action was required.

TDHCA ID#	17736	Development Name:	Providence at Ted Trout Drive
City:	Hudson	Region:	5 Rural
Requester:	Lora Myrick, BETCO Consulting, LLC		

Nature and Basis of Request: The request asked the Department to review whether the Application meets the requirements for points under §11.9(c)(6) of the 2017 Qualified Allocation Plan (“QAP”) regarding Underserved Area, which requires:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points. If an Application qualifies for points under paragraph §11.9(c)(4) of this subsection then the Application is not eligible for points under subparagraphs (A) and (B) of this paragraph.

(A) The Development Site is located wholly or partially within the boundaries of a colonia as such boundaries are determined by the Office of the Attorney General and within 150 miles of the Rio Grande River border. For purposes of this scoring item, the colonia must lack water, wastewater, or electricity provided to all residents of the colonia at a level commensurate with the quality and quantity expected of a municipality and the proposed Development must make available any such missing water, wastewater, and electricity supply infrastructure physically within the borders of the colonia in a manner that would enable the current dwellings within the colonia to connect to such infrastructure (2 points);

(B) An Economically Distressed Area (1 point);

(C) A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development within the past 15 years and continues to appear on the Department's inventory (3 points);

(D) For areas not scoring points for (C) above, a census tract that does not have a Development subject to an active tax credit LURA (or has received a tax credit award but not yet reached the point where its LURA must be recorded); (2 points);

(E) A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract in which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the past 15 years and continues to appear on the Department's inventory. This item will apply in cities with a population of 300,000 or more, and will not apply in the At-Risk Set-Aside (5 points).

Particularly, the request asks staff to review whether the Application qualifies for points under subparagraph (C) as portions of the census tract lie outside of the incorporated area. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: In response to the Administrative Deficiency, the Applicant stated: “The Applicant mistakenly thought the development qualified for points under both §11.9(c)(6)(C) and §11.9(c)(6)(D) because the development is within the boundaries of an incorporated area and the census tract has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation. The Applicant now understands that TDHCA staff’s position is that

the entire census tract and not only the development itself must be contained within the boundaries of the incorporated area in order to qualify for points under §11.9(c)(6)(C). As such it appears that the Application only qualifies for points under §11.9(c)(6)(D).”

Analysis and Resolution: Staff reviewed the response provided and determined that the Application is not eligible for three points under §11.9(c)(6)(C). Because the Application did not request points under §11.9(c)(6)(D), the Application cannot score points under that item. The Applicant will receive a scoring notice indicating a change in the score and will have the ability to appeal that determination.

Documentation of each of the requests is attached.

17165

Merritt Headwaters



February 24, 2017

By Email to tim.irvine@tdhca.state.tx.us
Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: 2017 Housing Tax Credit (“HTC”) Application Merritt Headwaters, Dripping Springs, TX; TDHCA #17165

Dear Mr. Irvine:

In accordance with **Section 11.10, Third Party Request for Administrative Deficiency for Competitive HTC Applications**, of the 2017 Qualified Allocation Plan (“QAP”), I am writing this letter to request that TDHCA staff review certain portions of the scoring awarded to Application Number 17165 known as Merritt Headwaters to be located in Dripping Springs, Texas (the Project”). The contest involves scoring on the Pre-Application under the following:

Section 11.8. Pre-Application Requirements, specifically, **(b) Pre-Application Threshold Criteria**,
(2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made. (§2306.6704)
(ii) Superintendent of the school district in which the Development Site is located; and
(iii) Presiding officer of the board of trustees of the school district in which the Development Site is located.

There were two (2) Pre-Applications filed in Dripping Springs, including one by my client and the other being #17165. The Superintendent of the applicable school district received the notice letter from my client, and then received a notice letter from Marni Holloway from TDHCA notifying the school district of another Pre-Application in Dripping Springs. At that point, they contacted my client because they had not received a letter from Ms. Holloway on my client’s project and they also noted that they had not received a notice from the other applicant for either the Superintendent or the Presiding Officer of the Board of Trustees. My client suggested they carefully review their files, which they did, but they can find no notice from applicant #17165.

Dripping Springs Letter

It is possible that the school district office simply misplaced or misdirected the letters, but it appears that they did not get notice as required by Section 11.8 of the 2017 QAP. This may not rise to the level of a formal challenge, but I believe that, given the circumstances, TDHCA has a duty to request that the applicant provide proof that notices were, in fact, sent to all required officials.

Please let me know if, given the nature of this challenge and my hope that it can be handled informally, whether this challenge requires the \$500.00 fee. If so, it will be provided immediately.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

The Law Offices of Claire G. Palmer, PLLC

A handwritten signature in cursive script that reads "Claire Palmer". The signature is written in dark ink and is positioned above the printed name.

Claire Palmer

From: Sharon Gamble
To: [Colby Denison: "Colton Sanders"](#)
Cc: [Marni Holloway](#)
Subject: 17165 - 9% HTC Application Deficiency Notice
Date: Thursday, March 09, 2017 2:34:00 PM
Attachments: [17165 Merritt Headwaters.pdf](#)
Importance: High

9% HTC Pre-Application Deficiency

Please respond to this email as confirmation of receipt

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application #16165 Merritt Headwaters. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. The requester questions whether the Applicant notified the Superintendent of the school district. Please review the attached.

1. Provide evidence that the superintendent of the school district was properly notified as required by §10.203 of the 2017 Uniform Multifamily Rules.

The above list may not include all Administrative Deficiencies such as those that may be identified in any requests for Waivers, Pre-Clearance, and/or Staff Determinations. Notice of additional Administrative Deficiencies may be issued under separate cover.

All deficiencies must be corrected or clarified by 5:00 p.m. Central Time Zone on the fifth business day following the date of this notice. Deficiencies resolved after 5:00 p.m. on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day, should any deficiencies remain unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2017 Uniform Multifamily Rules.

All deficiency responses should be submitted via email to the staff member that issued the deficiency email. For files over 2MB, the responses may be submitted in several smaller email attachments or via third-party cloud site (e.g. Google docs, or DropBox). It is the applicant's responsibility to ensure delivery, and regardless of the method of delivery, applicants are encouraged to request confirmation of receipt. Applicants are encouraged to review the rules specifically related to Administrative Deficiencies, particularly those in 10 TAC §§10.3(a)(2) & 10.201(7), and rules related to Due Diligence and Applicant Accountability in 10 TAC §§10.2(b) & 11.1(b).

****All deficiencies must be corrected or clarified by 5 p.m. on March 16 , 2017. Please respond to this email as confirmation of receipt****

Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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

From: [Colby Denison](#)
To: [Sharon Gamble](#); [Colton Sanders](#)
Cc: [Marni Holloway](#)
Subject: RE: 17165 - 9% HTC Application Deficiency Notice
Date: Wednesday, March 22, 2017 8:50:47 AM

Sharon,

We apologize, but we did not take Pre-Application points for this Application as a result of failure to notify for Pre-App. We notified all these folks for full Application. Apologies, but we believed this deficiency was associated with the Pre-Application, and not the Application since we didn't take the Pre-Application points.

Colby W. Denison

Denison Development & Construction, Inc.

1904 W. 35th Street

Austin, Texas 78703

(512) 732-1226

www.denisondevelopment.com

www.skyeliving.com

www.merrittcommunities.com

www.veriteesolutions.com

From: Sharon Gamble [mailto:sharon.gamble@tdhca.state.tx.us]
Sent: Thursday, March 09, 2017 2:34 PM
To: Colby Denison <colby@denisondevelopment.com>; Colton Sanders <csanders@denisondevelopment.com>
Cc: Marni Holloway <marni.holloway@tdhca.state.tx.us>
Subject: 17165 - 9% HTC Application Deficiency Notice
Importance: High

9% HTC Pre-Application Deficiency

Please respond to this email as confirmation of receipt

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application #16165 Merritt Headwaters. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. The requester questions whether the Applicant notified the Superintendent of the school district. Please review the attached.

1. Provide evidence that the superintendent of the school district was properly notified as required by §10.203 of the 2017 Uniform Multifamily Rules.

The above list may not include all Administrative Deficiencies such as those that may be identified in any requests for Waivers, Pre-Clearance, and/or Staff Determinations. Notice of additional Administrative Deficiencies may be issued under separate cover.

All deficiencies must be corrected or clarified by 5:00 p.m. Central Time Zone on the fifth business day following the date of this notice. Deficiencies resolved after 5:00 p.m. on the fifth business day

will have 5 points deducted from the final score. For each additional day beyond the fifth day, should any deficiencies remain unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2017 Uniform Multifamily Rules.

All deficiency responses should be submitted via email to the staff member that issued the deficiency email. For files over 2MB, the responses may be submitted in several smaller email attachments or via third-party cloud site (e.g. Google docs, or DropBox). It is the applicant's responsibility to ensure delivery, and regardless of the method of delivery, applicants are encouraged to request confirmation of receipt. Applicants are encouraged to review the rules specifically related to Administrative Deficiencies, particularly those in 10 TAC §§10.3(a)(2) & 10.201(7), and rules related to Due Diligence and Applicant Accountability in 10 TAC §§10.2(b) & 11.1(b).

****All deficiencies must be corrected or clarified by 5 p.m. on March 16 , 2017. Please respond to this email as confirmation of receipt****

Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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

About TDHCA

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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J.B. Goodwin

April 3, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Colby Denison
Merritt Communities
1904 W 35th Street
Austin, TX 78703

RE: TERMINATION OF HTC APPLICATION #17165, MERRITT HEADWATERS, DRIPPING SPRINGS, TEXAS

Dear Mr. Denison:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the above-referenced application. On February 24, 2017, the Department received a Third Party Request for Administrative Deficiency regarding the application requesting that the Department review whether the applicant notified all required parties. On March 9, 2017, staff sent a Notice of Administrative Deficiency requesting that you provide evidence that the appropriate officials were notified. Staff's communication indicated that a response to the notification was due by 5:00 p.m. on March 16, 2017.

Pursuant to 10 TAC §10.201(7)(B) of the 2017 Uniform Multifamily Rules regarding the Administrative Deficiency Process:

"... Unless an extension has been timely requested and granted, if an Administrative Deficiency is not fully resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then (5 points) shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not resolved by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated, subject to appeal. ..."

On the fifth business day following the date of the deficiency notice (March 16), staff had not received a response to the notice; nor had staff received a response on the seventh business day (March 20). When staff contacted you on March 22 regarding the response, you responded via email that you believed the deficiency was associated with the Pre-Application, and not the Application, since you did not take points for the Pre-Application. Your response provided no clarification about whether the appropriate officials were notified. The fact that you did not take points for the Pre-application in the full Application does not satisfy the requirement that if a pre-application is submitted, appropriate notifications must be made. Staff reviewed the application to determine if information regarding the notifications was provided and found that the Certification of Notifications form was incomplete.



Because you did not timely respond to the notification of administrative deficiency prior to the rule-based deadlines, the application is terminated. An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal stroke extending to the right.

Marni Holloway

Director of Multifamily Finance

17204

Vista Bella

From: tom.monahan@yahoo.com
To: [Open Records](#)
Subject: Public Information Records Request for 2017 Competitive Housing Tax Credit Application No. 17204
Date: Monday, March 13, 2017 11:32:26 PM

My name is Thomas Monahan, and I can be contacted at tom.monahan@yahoo.com or at my home phone which is 281-454-5525.

KCG Vista Bella, LP has applied for a 2017 9% Competitive Housing Tax Credit to construct a new apartment complex in Lago Vista, Tx located in Region 7-rural. The name of the proposed apartment complex is Vista Bella, and the tax credit application number is 17204.

Specifically, the records I am requesting are copies of all pre-application notification letters, emails, or faxes the applicant has sent to each neighborhood organization or public official as required to comply with the 2017 **Housing Tax Credit Program Qualified Allocation Plan, section 11.8(b)(2)**. I am also requesting copies of proof for each required notification.

I am also requesting copies of all full application notification letters, emails, or faxes the applicant has sent to each neighborhood organization or public official not previously notified in the pre-application as required to comply with the **2017 Uniform Multi-family Rules, section 10.203**. I am also requesting copies of proof for each required notification.

Please send documents to my email address at tom.monahan@yahoo.com . If you have any questions please email or call me anytime.

Thank you for your assistance.

Thomas Monahan
Home phone: 281-454-5525

From: [Nicole Fisher](#)

Sent: Tuesday, March 14, 2017 3:32 PM

To: tom.monahan@yahoo.com

Cc: [Marni Holloway](#); [Jeff Pender](#); [Kathleen Castillo](#); [Sharon Gamble](#)

Subject: RE: TDHCA Public Information Records Request (PIR): 2017Competitive Housing Tax Credit Application #17204

Mr. Monahan,

Per our earlier conversation, you are a member of a Property Owner's Association whose boundaries include the development site and was not notified by the applicant of the proposed development. If this is the case, a Public Information Request is not required. Instead, if you can please send me a copy of the POA's boundaries and proof of registration with the Secretary of State or County, we can review the provided documentation and determine if a deficiency notice should be sent to the applicant.

Please do not hesitate to contact me if you have any questions.

Nicole Fisher

Housing Specialist

Texas Department of Housing and Community Affairs

Office: 512.475.2201

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

From: Kathleen Castillo

Sent: Tuesday, March 14, 2017 2:02 PM

To: tom.monahan@yahoo.com

Cc: Nicole Fisher; Marni Holloway; Jeff Pender

Subject: TDHCA Public Information Records Request (PIR): 2017 Competitive Housing Tax Credit Application #17204

Importance: High

Good afternoon, Mr. Monahan. We officially received your Public Information Request (PIR) below, submitted last night by email to the TDHCA. We will proceed accordingly to begin identifying responsive public document(s) in advance of the 10-business-day deadline for your PIR response, **Tuesday, March 28th.**

If we have additional questions, require clarification or perhaps need additional time to fully respond, we may contact you within the next several business days.

Meantime, you may email me as needed throughout the PIR process if I can provide additional information.

THANK YOU.

From: Sharon Gamble
To: [Ina Spokas](mailto:Ina.Spokas)
Cc: ["rj.pasquesi@kcgdevelopment.com"](mailto:rj.pasquesi@kcgdevelopment.com)
Subject: 17204 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Wednesday, March 29, 2017 2:44:00 PM
Importance: High

****All deficiencies must be corrected or clarified by 5 pm Austin local time on April 5, 2017. Please respond to this email as confirmation of receipt.****

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2017 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

We have been advised that the Lago Vista Property Owner's Association, whose boundaries include your development site, were not notified at Pre-application as required by 10 TAC §11.8(b)(2), or at full Application as required by §10.203(1). The Pre-application indicated that there was no neighborhood organization whose boundaries included that site, and the application certification indicated the same.

Please provide evidence of appropriate notification of the Lago Vista Property Owners Association, or if applicable, provide an explanation of why you believe notification of this organization is not required.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may

be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on , April 2017. Please respond to this email as confirmation of receipt.****

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Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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March 30, 2017

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
Sharon.gamble@tdhca.state.tx.us
(512) 936-7834

RE: 17204 Response to 9% Application Deficiency Notice 3/29/2017

Sharon:

The parcel of land which is our proposed development site is not part of or within the boundaries of the Lago Vista Property Owner's Association ("LVPOA") and therefore was not sent a Public Notification and why we certified the same.

The LVPOA has over 11,200 parcels and, as you can see from the Declarations of Covenants and Restrictions, it encompasses many different neighborhoods throughout the entire city. It's membership is comprised of both occupied and unimproved lots.

Please find attached the following supporting documentation:

1. Copy of Deficiency Notice
2. Letter from LVPOA and copy of parcel map for proposed development site
3. Document from current owner's land purchase file stating no participation in an HOA (from when *he* purchased the property)
4. Copy of email correspondence from general manager of LVPOA
5. Copy of LVPOA Declaration of Covenants and Restrictions – all lots are listed (see page 21 of this file)
6. Revised Title Commitment removing requirement of HOA dues on Schedule C (item #6)

Thank you.

A handwritten signature in black ink that reads "Ina Spokas". The signature is written in a cursive, flowing style.

Ina Spokas
VP Development
Texas office: 13106 Overton Pass, Austin, TX 78729
Cell: 512/689-3343

1. Copy of Deficiency Notice

From: [Sharon Gamble](#)
To: [Ina Spokas](#)
Cc: [RJ Pasquesi](#)
Subject: 17204 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Wednesday, March 29, 2017 2:44:46 PM
Importance: High

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We have been advised that the Lago Vista Property Owner's Association, whose boundaries include your development site, were not notified at Pre-application as required by 10 TAC §11.8(b)(2), or at full Application as required by §10.203(1). The Pre-application indicated that there was no neighborhood organization whose boundaries included that site, and the application certification indicated the same.

Please provide evidence of appropriate notification of the Lago Vista Property Owners Association, or if applicable, provide an explanation of why you believe notification of this organization is not required.

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be terminated.

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All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

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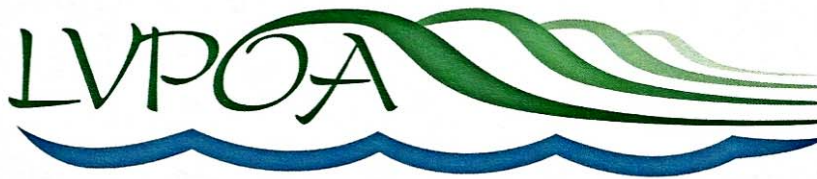
Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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Lago Vista Property Owners' Association
A Family Friendly Lakeside Association

March 29, 2017

Mr. Doug Casey
22007 Mockingbird Street
Lago Vista, Texas 78645

Re: Travis County Appraisal District Property ID: 170092
ABS 439 SUR 535 Johnson G Acr 10.210

Dear Mr. Casey,

Per your request we are confirming that the above described property is not part of the Lago Vista Property Owners' Association, Inc. (the "LVPOA") and does not carry membership rights in the LVPOA.

Please let me know if you have additional questions.

Sincerely,

Lago Vista Property Owners' Association, Inc.

A handwritten signature in black ink that reads 'Vicki B. Wood'. The signature is written in a cursive style and is positioned above a horizontal line.

Vicki B. Wood, General Manager

3. HOA Certificate from current owners land purchase closing file

**HOA CERTIFICATE
DATA TRACE**

11500 METRIC BLVD., SUITE 290
AUSTIN, TX 78758
(512)458-4240 FAX(512)458-5244

CUST: FIRST AMERICAN TITLE - FA6 BRANCH: 540 AUSTIN LAGO VISTA BRANCH
GF#: 1024081 CLOSER: 00 ORDER TYPE: A SUBTYPE: R DATE: 04/30/07

SELLER LAP PAUL
BUYER CASEY DOUG
COUNTY TRAVIS

SUBD NAME / BLK A A ACREAGE ACCOUNT
NO MAINTENANCE ASSESSED

*** THIS SUBDIVISION IS NOT ASSESSED BY AN HOA ***

SUMMARY OF ACCOUNT 01-6686-1510-0000

DESC ABS 439 SUR 535 JOHNSON G ACR 10.214 ABST/SUB ID A0439
SITUS BOGGY FORD RD 49

4. Email correspondence with LVPOA

From: [Vicki Wood](#)
To: [Ina Spokas](#)
Subject: RE: Question regarding LV POA
Date: Thursday, March 30, 2017 12:40:35 PM
Attachments: [image002.png](#)

There are approximately 11,200 lots. That changes as people replat properties from two or more lots into 1. We do not have records on how many are improved. I do not have a map I can send you.

When the developer laid out the lots and set up the POA, they did not include anything that was left as acreage in the POA. That is why the property you have under contract is surrounded by LVPOA lots but is not itself under the LVPOA.

Vicki Wood, General Manager

Lago Vista Property Owners' Association
P.O. Box 4766
20503 Dawn Drive
Lago Vista, Texas 78645
512 267-2895 FAX 512 267-9580
www.lvpoa.org

From: Ina Spokas [mailto:Ina.Spokas@kcgdevelopment.com]
Sent: Thursday, March 30, 2017 12:32 PM
To: Vicki Wood <gm@lvpoa.org>
Subject: RE: Question regarding LV POA

Hi Vicki – My apologies.....as soon as I hit the send button realized I should've given some context. No, I am not a member. I am the developer that has Doug Casey's property under contract. I know you graciously wrote him a letter stating that his parcel was not in the POA..... the title company had incorrectly stated that it was in the POA on our title commitment. I was just trying to educate myself more about the POA since I did not realize how large it was! Its mostly curiosity and I was trying to figure out its boundaries as additional backup information to provide the title company.

Thank you for your help.
Ina

From: Vicki Wood [mailto:gm@lvpoa.org]
Sent: Thursday, March 30, 2017 12:26 PM
To: Ina Spokas
Subject: RE: Question regarding LV POA

What is the purpose of your questions? Are you a member?

Vicki Wood, General Manager

Lago Vista Property Owners' Association

P.O. Box 4766

20503 Dawn Drive

Lago Vista, Texas 78645

512 267-2895 FAX 512 267-9580

www.lvpoa.org

From: Ina Spokas [<mailto:Ina.Spokas@kcgdevelopment.com>]

Sent: Thursday, March 30, 2017 12:22 PM

To: gm@lvpoa.org

Subject: Question regarding LV POA

Hi Vicki –

Do you know if a map exists that shows an outline of all the land parcels that are part of the LV POA? I was curious as to how many lots are part of the LV POA. I have looked through your website and found the Declaration of Covenants and Restrictions that list big chunks of neighborhoods and groups of lots but wasn't exactly sure how to add them all up!

And, do you know offhand, of all the lots in the POA, how many are unimproved vs. occupied homes?

Thank you very much!

Ina



Ina Spokas | Vice President - Development

[KCG Development](#)

[13106 Overton Pass, | Austin, TX 78729](#)

C (512) 689-3343

ina.spokas@kcgdevelopment.com

This e-mail message is intended for the sole use of the addressee and may contain confidential information. If you are not the intended recipient or otherwise authorized to view such information, you are hereby notified that viewing such information, as well as any disclosure, copying, distribution or use of any of the information contained in or attached therein is **STRICTLY PROHIBITED**. If you received this e-mail in error, please reply to the sender and delete the original message, any attachments, and any copies thereof from your system.

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From: [Nicole Fisher](#)
To: [Ina Spokas](#); rj.pasquesi@kcgdevelopment.com
Cc: [Sharon Gamble](#)
Subject: 17204 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Tuesday, April 04, 2017 8:55:49 AM

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2017 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

We have been advised that there is a question regarding the date notifications were sent to elected officials. Per 10 TAC §11.8(b)(2), please provide evidence of appropriate notification of all elected officials.

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All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

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Nicole Fisher

Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2201
Fax: 512.475.1895

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



April 4, 2017

Nicole Fisher
Housing Specialist
Texas Department of Housing and Community Affairs
Nicole.Fisher@tdhca.state.tx.us
(512) 475-2201

RE: 17204 Response to 9% Application Deficiency Notice #2 dated 4/4/2017

Nicole:

Per the QAP, 10 TAC §11.8(b)(2), notifications must be sent to the required recipients no later than the date the pre-application is submitted. The pre-application was submitted to TDHCA on January 9, 2017. The Notifications were sent on January 9th, which satisfies this requirement.

The contents of the notifications met all of the criteria specified 10 TAC §11.8(b)(2)(C) and re-notification at full application was not required since no elected officials changed within that time period. There were no changes to the Development from pre-application to application that necessitated re-notification either, and the application certifies as such.

I have attached the following support documentation:

1. Copy of Deficiency Notice #2
2. Copy of stamped TDHCA Pre-application receipt
3. Copy of the sales receipt from the Balcones USPS office on Jolleyville Road, dated January 9th; The receipt also shows each of the Return Receipt #'s;
4. Copy of the individual Certified Mail / Registered Return Receipts, stamped by USPS.

Thank you.

A handwritten signature in black ink that reads "Ina Spokas". The signature is written in a cursive style.

Ina Spokas
VP Development
Texas office: 13106 Overton Pass, Austin, TX 78729
Cell: 512/689-3343

From: [Nicole Fisher](#)
To: [Ina Spokas](#); [RJ Pasquesi](#)
Cc: [Sharon Gamble](#)
Subject: 17204 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Tuesday, April 04, 2017 8:56:01 AM

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2017 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

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All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on Tuesday, April 11, 2017. Please respond to this email as confirmation of receipt.****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Nicole Fisher

Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2201
Fax: 512.475.1895

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

MULTIFAMILY DOCUMENT & PAYMENT RECEIPT

TDHCA | Deliver to: 221 E. 11th St., Austin, TX 78701 | Mail to: PO Box 13941, Austin, TX 78711-3941

(This receipt does not attest to the sufficiency of documentation to fulfill Program requirements.)

Development: Vista Bella Owner: KCG Vista Bella, LP (to be formed)

Contact: Ina Spokas Email: na.spokas@kcgdevelopment.com Tel: 512-689-3343

TDHCA Application Number 17204

TDHCA Date/Time Stamp JAN 09 2017 TDHCA Multifamily Finance Dept.

Select Program of Documents/Payments Submitted (note: HTC = Housing Tax Credits)

9% HTC (Competitive) 4% HTC - Tax Exempt Bond Issuer: Direct Loan

Indicate All Documents Submitted

Pre-Application Market Study Phase I ESA Site Design & Dev. Feasibility Report Application Appraisal PCA/CNA Primary Market Area Map Waiver Request Community Revitalization Plan Community Input UNCR Packet

Describe Payment

Check Amount: \$ 720.00 HTC Application Fee: X = \$ - Check Number: 200 (full app only) # of Units Per unit fee App. Fee

Check Amount: Non-Profit or CHDO NP Discounted Fee

Describe any special circumstances:

NOTE: Housing Tax Credit Program Applicants that are CHDOs or Qualified Nonprofit Organizations and requesting a fee reduction, must attach a copy of their CHDO certificate or evidence of 501(c)(3) or (4) status to this receipt.

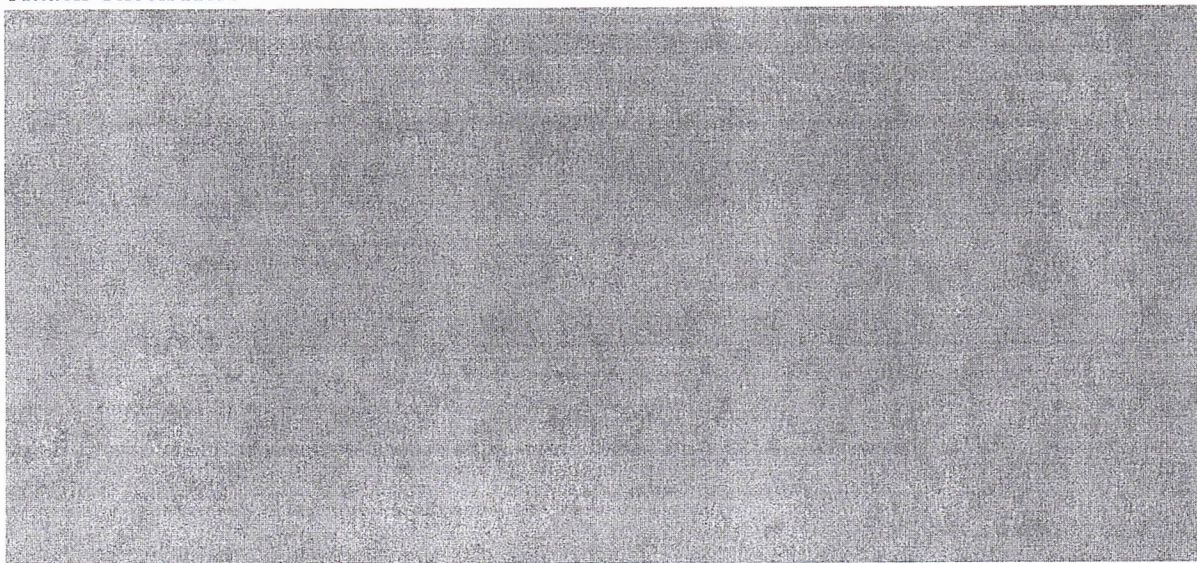
1/9/2017 Date

Ina Spokas Applicant Signature

Staff Initials

Check this box to request a copy of the staff-initialed receipt.

Attach Check Here



BALCONES
11900 JOLLYVILLE RD
AUSTIN
TX

78759-9998

4804040128

01/09/2017

(800)275-8777

10:59 AM

Product Description	Sale Qty	Final Price
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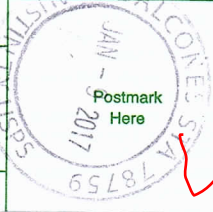
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total	\$



6.47
The Honorable Kirk Watson
PO Box 12068, Capitol Station
Austin, TX 78711
2017 Notification – Lago Vista #17204

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

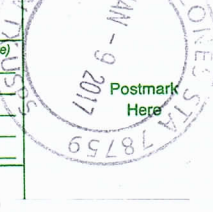
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total	\$



6.47
Representative Paul Workman
PO Box 2910
Austin, TX 78768
2017 Notification – Lago Vista #17204

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

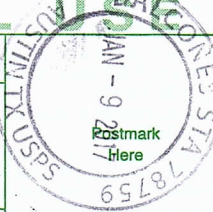
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total	\$



6.47
Honorable Judge Sarah Eckhardt
PO Box 1748
Austin, TX 78767
2017 Notification – Lago Vista #17204

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Total	\$



6.47
Commissioner Jeff Travillion, Pct 1
PO Box 1748
Austin, TX 78767
2017 Notification – Lago Vista #17204

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Total	\$



6.47
Commissioner Brigid Shea, Pct 2
PO Box 1748
Austin, TX 78767
2017 Notification – Lago Vista #17204

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

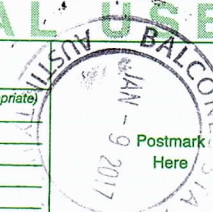
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Total	\$



6.47
Commissioner Gerald Daugherty, Pct 3
PO Box 1748
Austin, TX 78767
2017 Notification – Lago Vista #17204

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Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
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Total F
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Sent
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Street
City, State ZIP+4®

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Commissioner Margaret Gomez, Pct 4
 PO Box 1748
 Austin, TX 78767
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892E 6544 1000 010E 5102

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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
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Total F
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Street
City, State ZIP+4®

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6.47

Mayor Dale Mitchell
 5803 Thunderbird
 Lago Vista, TX 78645
 2017 Notification – Lago Vista #17204

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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
\$

Total
\$

Sent
\$

Street
City, State ZIP+4®

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Mark Tippett, Place 1
 5803 Thunderbird
 Lago Vista, TX 78645
 2017 Notification – Lago Vista #17204

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02EE 6544 1000 010E 5102

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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
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Total
\$

Sent
\$

Street
City, State ZIP+4®

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6.47

Kevin Sullivan, Place 2
 5803 Thunderbird
 Lago Vista, TX 78645
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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
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Total
\$

Sent
\$

Street
City, State ZIP+4®

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Ed Tidwell, Place 3
 5803 Thunderbird
 Lago Vista, TX 78645
 2017 Notification – Lago Vista #17204

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062E 6544 1000 010E 5102

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Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
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Total
\$

Sent
\$

Street
City, State ZIP+4®

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6.47

Ron Smith, Mayor Pro Tem
 5803 Thunderbird
 Lago Vista, TX 78645
 2017 Notification – Lago Vista #17204

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Postage

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Total
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Stephanie Smith, Place 5
5803 Thunderbird
Lago Vista, TX 78645
2017 Notification – Lago Vista #17204

7015 3010 0000 4459 3351

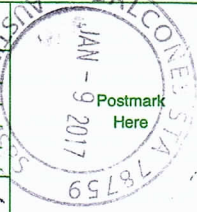
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Postage

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Total
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Suzanne Bland, Place 6
5803 Thunderbird
Lago Vista, TX 78645
2017 Notification – Lago Vista #17204

7015 3010 0000 4459 3429

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Extra Services & Fees (check box, add fee as appropriate)	
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Postage

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Total
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Superintendent Darren Webb
8039 Bar-K Ranch Road
Lago Vista, TX 78645
2017 Notification – Lago Vista #17204

7015 3010 0000 4459 3412

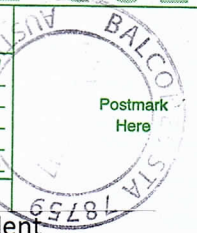
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Postage

\$ 0.47

Total
\$ Sent
Scott Berentsen, President
Lago Vista ISD Board of Trustees
8039 Bar-K Ranch Road
Lago Vista, TX 78645
2017 Notification – Lago Vista #17204



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
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Tom H. Gann
J.B. Goodwin

April 3, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Ms. Ina Spokas
Vice President - Development
KCG Development
13106 Overton Pass
Austin, TX 78729

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17204 VISTA BELLA

Dear Ms. Spokas:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of your response to the Administrative Deficiency issued by the Department on March 29, 2017 requesting that you provide evidence that you properly notified the Lago Vista Property Owners Association, or evidence that such notification was not required. The evidence submitted included a letter and email communication from the Lago Vista POA confirming that the property that is the subject of the above-mentioned application is not within the boundaries of the POA; therefore, notification of the POA was not required.

Based on this evidence, the Department has determined that the matter is resolved. If you have questions or require further information, please contact me at marni.holloway@tdhca.state.tx.us or 512/475-1676.

Sincerely,

A handwritten signature in black ink, appearing to read "Marni Holloway", written over a horizontal line.

Marni Holloway
Multifamily Division Director



17736

Providence at
Ted Trout Drive



March 14, 2017

Mr. Tim Irvine
Texas Department of Housing and Community Affairs
21 E 11th Street
Austin, Texas 78701

Re: TDHCA Application #17736 - Providence at Ted Trout Dr. in Hudson, TX

Dear Mr. Irvine,

We are formally challenging the Applicant's score under §11.9(c)(6) – Underserved Area for the above-referenced application in accordance with §11.10, Third Party Request for Administrative Deficiency ("RFAD"). We have enclosed a fee of Five Hundred Dollars (\$500.00) for the filing of the Third Party Deficiency Request as required by the rules.

The Applicant has requested three (3) points in the *Underserved* category. After careful review of this section of the Application, the applicable census tract map of the Development Site, and the rule, it is clear the Development Site does not qualify for three (3) points, as prescribed by §11.9(c)(6)(C) of the Qualified Allocation Plan ("QAP"). This section of the QAP states:

census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development within the past 15 years and continues to appear on the Department's inventory (3 points)

Large portions of census tract #48005000301 lie outside of the incorporated boundaries of Hudson, TX and Lufkin, TX. A map with boundary outlines of the census tract and incorporated areas is attached. Clarification on this scoring item was requested by multiple developers and consultants with the result that the following was published in the "2017 Competitive HTC Application Cycle FAQ (PDF) (February 1)"

Q: The rule states that the census tract should fall within the boundaries of an incorporated area. That seems to say that at least a part of that census tract should be in the boundaries of the incorporated area. Is that correct?

A: No. The entire census tract would have to be within the boundaries of the incorporated area in order to get these points.

Not only does the Application not qualify for three (3) points in the scoring category, the Application should not be awarded any points in the scoring category. The completed Application (Application page attached) clearly shows that the Applicant declined all other options for points under this section. There is a "No" next to all possible point options other than §11.9(c)(6)(C), including the point option that matches the Application's site characteristics.



Historically, TDHCA staff and the board have taken the position that points cannot be awarded if they are not requested. In addition, because this is a scoring item associated with points rather than an administrative item, it should be considered material and not curable through the §10.201(7) Administrative Deficiency Process.

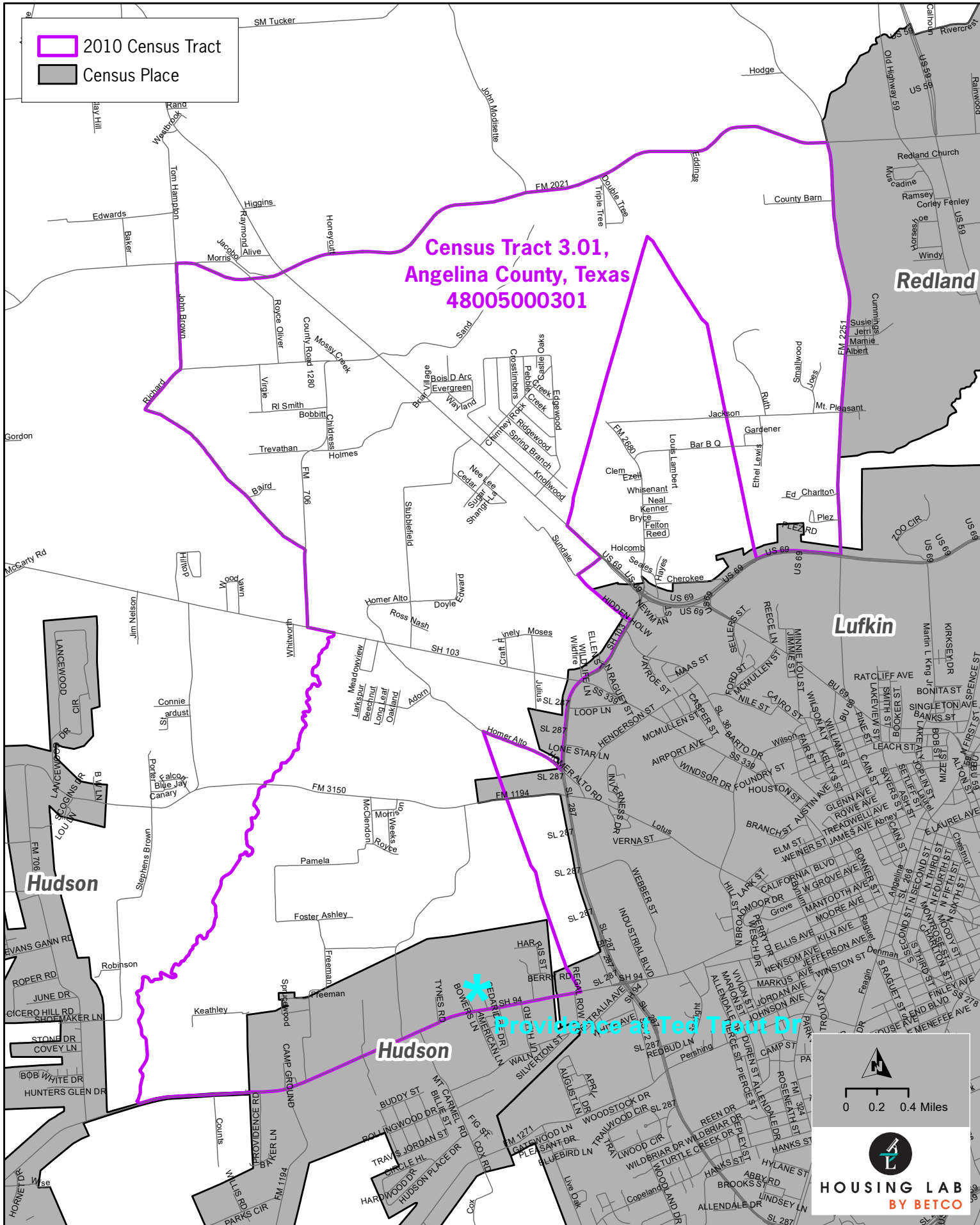
Therefore, we respectfully request that the score for application #17736 - Providence at Ted Trout Dr. be reduced by 3 points for not meeting required criteria outlined in §11.9(c)(6)(C) and not being eligible for remedy under §10.201(7) of the Uniform Multifamily Rules. We further respectfully request that no alternative points under the section be awarded to the Applicant as points that match the Development Site's characteristics were not requested in the Application.

If you have any questions or would like to discuss the matter further, please do not hesitate to contact me directly at (512) 785-3710 or via email at lora@betcohousinglab.com any time.

Sincerely,


Lora Myrick, Principal
BETCO Consulting, LLC.

Census Tract #48005000301



Development is Rural and Development Site is within the required distance of eligible amenities and/or services pursuant to §11.9(c)(4)(B)(ii) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and other evidence as applicable is included behind this tab.


full service grocery store or pharmacy (4 miles)	university or community college (15 miles)
health-related facility (4 miles)	museum (4 miles)
licensed center serving children (4 miles)	indoor recreation facility available to public (3 miles)
census tract with crime rate of ≤26 per 1k persons	outdoor recreation facility available to public (3 miles)
public library (4 miles)	community, civic or service organization (3 miles)
public park (4 miles)	

Application is seeking points for Opportunity Index. Total Points Claimed:  7

If necessary, provide a brief summary of how the Development Site is justifying the points selected:
 Site is in a first quartile census tract (2 points), and development qualifies for 5 points based on amenities and census tract characteristics. Additionally, the site qualifies for 6 additional points that will apply in a tie breaker.

3. §11.9(c)(8) - Proximity to the Urban Core (Competitive HTC Applications Only)


- N/A Development Site is located in a City with a population over 300,000 and is *not* in At-Risk Set-Aside.
- AND
- N/A Population of City is 300,000-500,000 and Development is located w/in 2 miles of City Hall facility.
- OR
- N/A Population of City is more than 500,000 and Development is located w/in 4 miles of City Hall facility.

Application is seeking points for Proximity to the Urban Core. Total Points Claimed:  0

4. §11.9(c)(6) - Underserved Area (Competitive HTC and Direct Loan Applications Only)

- Application may qualify for up to five (5) points for proposed Developments located in one of the following areas:
- No Colonia (Note: Not eligible if application qualifies for Opportunity Index points);
 - No Economically Distressed Area (Note: Not eligible if application qualifies for Opportunity Index points);
 - Yes A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4% non-competitive tax credit allocation for a Development within the last 15 years; and continues to appear on Department's inventory
 - No If not the previous item, a census tract that does not have a Development subject to an active tax credit LURA, (or has received a tax credit award but not yet reached the point where its LURA must be recorded);
 - No A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract within which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the last 15 years and continues to appear on the Department's inventory (**only applies in cities with a population of ≥300,000 and will not apply in At-Risk**).

Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>
Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>
Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>

Application is seeking points for Underserved Area. Total Points Claimed:  3

From: Sharon Gamble
To: ["Audrey Martin"](#)
Cc: [Marni Holloway](#)
Subject: 17736 - Request for Administrative Deficiency
Date: Wednesday, March 22, 2017 9:10:00 AM
Attachments: [Hudson Challenge - Full App - BETCO FINAL.pdf](#)
[48005000301-staff_map.pdf](#)
Importance: High

9% HTC Application Deficiency

Please respond to this email as confirmation of receipt

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application #17736 Provide at Ted Trout Drive. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. The requester questions whether the Application qualifies for three (3) points under 10 TAC §11.9(c)(6) Underserved Area. Please review the attached.

1. Please explain how the application is eligible for the points selected under §11.9(c)(6) (C) as submitted. Per the rule:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas

described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points. If an Application qualifies for points under

paragraph §11.9(c)(4) of this subsection then the Application is not eligible for points under subparagraphs (A) and (B) of this paragraph.

(A) ...

(B) ...

(C) A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a

Development within the past 15 years and continues to appear on the Department's inventory (3 points);

The Development is located in a census tract that appears not to be within the boundaries of an incorporated area.

The above list may not include all Administrative Deficiencies such as those that may be identified in any requests for Waivers, Pre-Clearance, and/or Staff Determinations. Notice of additional Administrative Deficiencies may be issued under separate cover.

All deficiencies must be corrected or clarified by 5:00 p.m. Central Time Zone on the fifth

business day following the date of this notice. Deficiencies resolved after 5:00 p.m. on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day, should any deficiencies remain unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules.

All deficiency responses should be submitted via email to the staff member that issued the deficiency email. For files over 2MB, the responses may be submitted in several smaller email attachments or via third-party cloud site (*e.g.* Google docs, or DropBox). It is the applicant's responsibility to ensure delivery, and regardless of the method of delivery, applicants are encouraged to request confirmation of receipt. Applicants are encouraged to review the rules specifically related to Administrative Deficiencies, particularly those in 10 TAC §§10.3(a)(2) & 10.201(7), and rules related to Due Diligence and Applicant Accountability in 10 TAC §§10.2(b) & 11.1(b).

****All deficiencies must be corrected or clarified by 5 p.m. on March 29 , 2017. Please respond to this email as confirmation of receipt****

Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

Providence Ted Trout Drive, LP
3735 Honeywood Court
Port Arthur, Texas 77642

March 23, 2017

Texas Department of Housing and Community Affairs
Attn: Sharon Gamble
Competitive Housing Tax Credit Program Administrator
221 E. 11th Street
Austin, Texas 78701

Re: TDHCA Application #17736 Providence at Ted Trout Drive – Applicant Response to Administrative Deficiency

Dear Ms. Gamble,

Please accept this letter as a formal response to your Administrative Deficiency dated March 22, 2017 and Housing Lab by BETCO's March 14, 2017 Third Party Request for Administrative Deficiency ("RFAD") pursuant to §11.10 of the 2017 Qualified Allocation Plan ("QAP"). This response is submitted on behalf of Providence Ted Trout Drive, LP, Applicant for TDHCA #17736 Providence at Ted Trout Drive.

The Administrative Deficiency is related to the Application's eligibility for points pursuant to §11.9(c)(6) of the 2017 QAP, Underserved Area. The Applicant mistakenly thought the development qualified for points under both §11.9(c)(6)(C) and §11.9(c)(6)(D) because the development is within the boundaries of an incorporated area and the census tract has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation. The Applicant now understands that TDHCA staff's position is that the entire census tract and not only the development itself must be contained within the boundaries of the incorporated area in order to qualify for points under §11.9(c)(6)(C). As such it appears that the Application only qualifies for points under §11.9(c)(6)(D).

Because the census tract has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation, the development qualifies for points under §11.9(c)(6)(D), which allows two (2) points if the following condition is met: "**for areas not scoring points for (C) above**, a census tract that does not have a Development subject to an active tax credit LURA (or has received a tax credit award but not yet reached the point where its LURA must be recorded)" [emphasis added]. Also, §11.9(c)(6) states that "An Application may qualify to receive up to five (5) points if the Development Site is located in **one of the areas** described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points" [emphasis added]. Therefore, the Applicant selected points only under §11.9(c)(6)(C) rather than also select points under §11.9(c)(6)(D) since the QAP states that points may only be claimed under one of the available options. Additionally, Tab 9 of the 2017 Uniform Application, Site Information Form Part II Exhibit, Section 4 states "Applications may qualify for up to five (5) points for proposed Developments located in **one** of the following areas" [emphasis added] and

the fourth item corresponding to §11.9(c)(6)(D) states “**If not the previous item...**” which refers to §11.9(c)(6)(C). Therefore, the Applicant could only provide a “Yes” response to one item in this section, and given that the Applicant believed the application qualified for both §11.9(c)(6)(C) and (D) and since §11.9(c)(6)(C) allowed for higher points than §11.9(c)(6)(D), item §11.9(c)(6)(C) was selected.

As explained above, Providence at Ted Trout Drive does qualify for two (2) points under §11.9(c)(6)(D). Further, §11.9(c)(6)(D) provides points “for areas not scoring points for (C) above,” which is the applicable fact pattern for Providence at Ted Trout Drive. Documentation proving that there are no competitive tax credit allocations or a 4 percent non-competitive tax credit allocations in the census tract was provided behind Tab 10 in the Application, which showed the TDHCA Property Inventory list and a completed search of Providence at Ted Trout Drive’s census tract showing no other developments in this census tract.

Because Providence at Ted Trout Drive meets the requirement of §11.9(c)(6)(D) “for areas not scoring points for (C) above” and because “the Application contains evidence substantiating qualification for the points” as required by §11.9(c)(6), we request that two (2) points be awarded under §11.9(c)(6) Underserved Area.

If you have any questions, please feel free to reach me directly at (409) 988-1851 or via email at dball1@gt.rr.com.

Sincerely,



Donald R. Ball
Executive Director of Nautical Affordable Housing, Inc., the Sole Member of the General Partner

Underserved Area Support

Not requested; not accepted.

The screenshot shows a Microsoft Excel spreadsheet titled "17-MF-SizeDemo_Downloaded 2-6-17 - Excel". The spreadsheet contains data for various development projects. A "Find and Replace" dialog box is open, with the search criteria set to "48005000301". An error message from Microsoft Excel is displayed, stating "We couldn't find what you were looking for. Click Options for more ways to search." The spreadsheet columns include: TDHCA#, Program Type, Original TDHCA#, Year, Board Approval, Development Name, Project Address, Project City, Project County, Zip Code, LIHTC Amt Awarded, Total Units, LIHTC Units, Population Served, Apt# Phone #, and Censu. The data rows show details for projects such as El Campo Retirement, Mill Run Apartments, Devco Arroyo Estates, Coppertree Village, Quail Park Village AKA French Embassy, Cottonwood and Westway, Fitzhugh Place Apartments, White Rock Creek Apartments, Santa Fe Trails, 3002 N.E. 11th, Spring Hill Apartments, Junction Apartments, Market Apartments, Northside Senior Citizens, Hughes Springs Seniors, Winnie Square, Ozona Seniors, Retirement Acres, Bush Country Cottages (aka Dilley Ret.), Fredericksburg Seniors, Brackettville Seniors Apartments, Live Oak Manor Apartments, Silver Trail Apartments, Colorado City Seniors, and Timponson Apartments. The status bar at the bottom indicates "Ready" and the system tray shows the time as 10:20 AM on 2/19/2017.

Competitive Housing Tax Credit Selection Self-Score

This form will self-populate based on scoring selections made throughout the Application. Applicant should refer to this form to ensure that scoring selections are accurate prior to submitting the Application. Corrections must be made in the applicable section(s) of the Application. Highlighted rows indicate scoring items for both 9% HTC and Direct Loan applications. Additional scoring for Direct Loan applications can be found at 10 TAC §13.6.

Criteria Promoting Development of High Quality Housing

Point Item Description	QAP Reference	Points Selected
Unit Sizes	§11.9(b)(1)(A)	8
Unit and Development Features	§11.9(b)(1)(B)	7
Sponsor Characteristics	§11.9(b)(2)	1
High Quality Housing Total		16

Criteria to Serve and Support Texans Most In Need

Point Item Description	QAP Reference	Points Selected
Income Levels of Tenants	§11.9(c)(1)	16
Rent Levels of Tenants	§11.9(c)(2)	11
Tenant Services	§11.9(c)(3)	10
Opportunity Index	§11.9(c)(4)	7
Educational Quality	§11.9(c)(5)	3
Underserved Area	§11.9(c)(6)	2
Tenant Populations with Special Needs	§11.9(c)(7)	2
Proximity to the Urban Core	§11.9(c)(8)	0
Serve and Support Texans Most in Need Total		51

Criteria Promoting Community Support and Engagement

Point Item Description	QAP Reference	Points Selected
Local Government Support	§11.9(d)(1)	
Commitment of Development Funding by Local Political Subdivision	§11.9(d)(2)	1
Declared Disaster Area	§11.9(d)(3)	10
Quantifiable Community Participation	§11.9(d)(4)	
Community Support from State Representative	§11.9(d)(5)	
Input from Community Organizations	§11.9(d)(6)	
Concerted Revitalization Plan	§11.9(d)(7)	
Community Support and Engagement Total		11

Criteria Promoting the Efficient Use of Limited Resources and Applicant Accountability

Point Item Description	QAP Reference	Points Selected
Financial Feasibility	§11.9(e)(1)	18
Cost of Development per Square Foot	§11.9(e)(2)	12
Pre-application Participation	§11.9(e)(3)	6
Leveraging of Private, State, and Federal Resources	§11.9(e)(4)	3
Extended Affordability	§11.9(e)(5)	2
Historic Preservation	§11.9(e)(6)	0
Right of First Refusal	§11.9(e)(7)	1
Funding Request Amount	§11.9(e)(8)	1
Efficient Use of Limited Resources and Applicant Accountability Total		43
Point Deductions	§11.9(f)	
Total Application Self Score		121

Development is Rural and Development Site is within the required distance of eligible amenities and/or services pursuant to §11.9(c)(4)(B)(ii) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and other evidence as applicable is included behind this tab.

full service grocery store or pharmacy (4 miles)

university or community college (15 miles)

health-related facility (4 miles)

museum (4 miles)

licensed center serving children (4 miles)

indoor recreation facility available to public (3 miles)

census tract with crime rate of ≤26 per 1k persons

outdoor recreation facility available to public (3 miles)

public library (4 miles)

community, civic or service organization (3 miles)

public park (4 miles)

Application is seeking points for Opportunity Index. Total Points Claimed: 7

If necessary, provide a brief summary of how the Development Site is justifying the points selected:
Site is in a first quartile census tract (2 points), and development qualifies for 5 points based on amenities and census tract characteristics. Additionally, the site qualifies for 6 additional points that will apply in a tie breaker.

3. §11.9(c)(8) - Proximity to the Urban Core (Competitive HTC Applications Only)

N/A Development Site is located in a City with a population over 300,000 and is not in At-Risk Set-Aside.

AND

N/A Population of City is 300,000-500,000 and Development is located w/in 2 miles of City Hall facility.

OR

N/A Population of City is more than 500,000 and Development is located w/in 4 miles of City Hall facility.

Application is seeking points for Proximity to the Urban Core. Total Points Claimed: 0

4. §11.9(c)(6) - Underserved Area (Competitive HTC and Direct Loan Applications Only)

Applications may qualify for up to five (5) points for proposed Developments located in one of the following areas:

No Colonia (Note: Not eligible if application qualifies for Opportunity Index points);

No Economically Distressed Area (Note: Not eligible if application qualifies for Opportunity Index points);

No A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4% non-competitive tax credit allocation for a Development within the last 15 years; and continues to appear on Department's inventory

Yes If not the previous item, a census tract that does not have a Development subject to an active tax credit LURA, (or has received a tax credit award but not yet reached the point where its LURA must be recorded);

No A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract within which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the last 15 years and continues to appear on the Department's inventory (only applies in cities with a population of ≥300,000 and will not apply in At-Risk).

Contiguous Census Tract #

Contiguous Census Tract #

Contiguous Census Tract #

Contiguous Census Tract #

Contiguous Census Tract #

Contiguous Census Tract #

Application is seeking points for Underserved Area. Total Points Claimed: 2



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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

April 19, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Donald R. Ball
Executive Director
Nautical Affordable Housing, Inc.
1885 E Farragut
Orange, TX 77630

Via email: dball1@gt.rr.com

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17736 PROVIDENCE AT TED TROUT DRIVE

Dear Mr. Ball:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of your response to the Administrative Deficiency issued by the Department on March 22, 2017 requesting that the Applicant provide evidence that the Application qualifies for three points under 10 TAC §11.9(c)(6) Underserved Area. The response confirms that the Application does not qualify for three points under this point item, and requests that the Applicant be allowed to revise the Application to request two points instead of three. Pursuant to 10 TAC §10.201(7) Administrative Deficiency Process:

An Applicant may not change or supplement any part of an Application in any manner after the filing deadline or while the Application is under consideration for an award, and may not add any set-asides, increase the requested credit amount, revise the Unit mix (both income levels and Bedroom mixes), or adjust their self-score except in response to a direct request from the Department to do so as a result of an Administrative Deficiency.

The Department has determined at this time that no such request will be made. As such, three points will be deducted from the Application score, and a scoring notice will be released. While the Applicant may not appeal the decision reached regarding this request, the Applicant will have the ability to appeal the Scoring Notice. As directed in 10 TAC §11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications, staff will provide to the Board a written report summarizing this request and the manner in which it was addressed. You may provide testimony on this report before the Board's takes any formal action to accept the report. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Marni Holloway".

Marni Holloway
Multifamily Division Director



3b

BOARD REPORT
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

March 2017 QAP Roundtable

On March 22, 2017, the Texas Department of Housing and Community Affairs (“TDHCA” or “The Department”) met for its third 2018 Qualified Allocation Plan (“QAP”) Roundtable. The theme of this discussion was Market Issues for Housing Tax Credits (“HTCs”). While formal presentations have occurred about syndication issues for 2016 HTCs at recent board meetings, and the Department’s staff have occasionally had informal conversations with individual representatives from the affordable housing development community this roundtable was the first opportunity for affordable housing stakeholders to discuss market issues together.

Staff began the discussion by noting that while there are rumors regarding syndication issues, it has been difficult to gauge the true impact on 2016 allocations. TDHCA will be unable to look closely at the financing of 2016 allocations until the 10% test, which is not until July. Until then, the Department is unable to determine the extent of issues unless developers speak openly to staff. Staff pointed out that in order for TDHCA to find pragmatic solutions for the community, the Department must have clear signals from the entire development community and not just a few individuals.

Responses to the request were mixed. One developer shared that of two deals on the table, one was able to close and another was unable to. For the deal that was able to close, the equity pricing for the HTC had only dropped 4.5 cents. Another developer shared that the allocation awarded to them would probably not work, given that their equity pricing had dropped nearly 20%. Even deferring the Developer Fee 100% does not compensate for this equity loss. Another developer later commented that his team was still able to close on the development for which they had received an allocation. This developer noted that, while it was difficult, and they did have to accept a drop in equity financing, they ultimately made it work. This developer thanked the Department for making available the tools it has offered thus far, and encouraged the Department to look at distressed deals on a case-by-case basis. A third developer also shared that his team was able to close one deal, and that another allocation will seek a material amendment.

The number of developers who did not comment on their equity situation outnumbered the few developers who were willing to speak openly about what they are experiencing.

One participant commented that the HTC community is waiting for the results of proposals for comprehensive tax reform. This uncertainty has pushed 2016 HTC recipients to bide their time. Staff was encouraged to explore the option of soft financing for distressed awardees, with some arguing that this tool would help the most, especially for those developments that are over-leveraged with tax credits. She also sought to remind staff that, if given a fixed amount of financial relief for 2016 HTC allocations, soft financing would go much farther in helping more deals than hard financing.

Staff noted that if the Department were to earmark some of its funding streams, such as the Tax Credit Assistance Program Repayment funds, for soft financing, then we would collectively weaken the value of this revolving loan fund, depriving future potential applicants of funds.

Participants discussed the allocation of returned HTC's to 2016 9% awardees who have equity issues. Staff discussed TDHCA's statutory requirements for awarding credits in the current round so that returned HTC's from 2016 cannot be automatically earmarked again for Applications from the previous year. Under the current rules and IRS Code, housing finance agencies are required to expend all annual tax credit allocations by the end of year. Therefore, if 2016 HTC's are returned, they will actually be included in the 2017 HTC allocation.

Participants discussed the limitations on available tools, including an inability to suspend existing rules in order to aid 2016 9% HTC allocations. The only immediate means of relief is requesting a waiver from the Board on a case-by-case basis. Given that staff is currently working with the affordable housing community on the 2018 Qualified Allocation Plan, staff encourages interested parties to propose new rules that may assist distressed 9% deals from 2016.

4a

BOARD ACTION REQUEST

COMPLIANCE DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on an order proposing actions to 10 TAC Chapter 10, Uniform Multifamily Rules including the: 1) proposed amendment in Subchapter F, Compliance Monitoring, of §10.610, Written Policies and Procedures 2) proposed amendment in Subchapter F, Compliance Monitoring, of §10.613 Lease Requirements; and directing that they be published for public comment in the *Texas Register* and 3) adoption of the Department's Emergency Transfer Plan required by 24 CFR §92.359 and 24 CFR §93.356

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development has released regulations regarding implementation of the Violence Against Women Act ("VAWA") that requires the Department to amend certain sections of the Compliance Rule;

WHEREAS, because these sections must be amended to address VAWA requirements, other clarifying amendments are being proposed simultaneously; and

WHEREAS, upon authorization of this item, these proposed actions will be published in the *Texas Register* for public comment from May 12, 2017, through June 12, 2017;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, of and on behalf of the Department, to cause the proposed order taking actions to 10 TAC Chapter 10, Uniform Multifamily Rules, including the: 1) proposed amendment in Subchapter F, Compliance Monitoring, of §10.610, Written Policies and Procedures; 2) proposed amendment in Subchapter F, Compliance Monitoring, of §10.613 Lease Requirements, 3) adoption of the Department's Emergency Transfer Plan required by 24 CFR §92.359 and 24 CFR §93.356 in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Violence Against Women Act ("VAWA") was reauthorized in 2013 and provided basic protections for applicants and residents at many affordable housing properties, including all HOME and Housing Tax Credit Developments who have experienced domestic violence, dating violence, or sexual assault. The Department's rules were updated in November 2013 to incorporate those provisions. VAWA required the "appropriate agency" meaning the federal agency with oversight for the program, to adopt a model emergency transfer plan for residents affected by domestic violence. In addition, VAWA required HUD to develop a notice of occupancy rights and self certification for use as documentation if a person requests consideration under VAWA and the owner requests documentation.

In March 2017, HUD, the “appropriate agency” for the HOME and National Housing Trust Fund (“NHTF”) programs (as well as Multifamily Direct Loan Funds if it is used by Department as a source of HOME match funds and NSP because the Department has adopted certain provisions of the HOME rule regarding tenant protections), released their implementing regulations regarding VAWA. The regulation included the Notice of Occupancy Rights, Self Certification, and model emergency transfer plan all of which is prompting these proposed amendments. The Treasury Department, as the “appropriate agency” for the Housing Tax Credit program, has not released guidance on the emergency transfer plan at this time. If and when they do, these rules may need to be amended again to address those requirements.

The Notice of Occupancy Rights and the Certification must be provided when a household applies for assistance, if a household is denied occupancy and/or if an existing household is notified that they are being evicted or their lease will not be renewed. That requirement is reflected in the amendments at proposed 10 TAC §10.610(e)(2)(B), 10 TAC §10.610(f)(2)(B), and 10 TAC §10.610(h).

HUD’s regulations require owners of developments with HOME, NHTF, NSP, and any state (Multifamily Direct Loan) funds used as HOME match, that receive a contract on or after December 16, 2016, to permit a tenant to break a lease without penalty if the Department determines that the tenant meets the criteria for an emergency transfer under 24 CFR §5.2005. Department staff has created a lease addendum for use by owners to address this requirement and mandates its use by the amendments reflected in 10 TAC §10.613(h).

HUD’s regulations also requires owners of developments with HOME, NHTF, NSP, and any state (Multifamily Direct Loan) funds used as HOME match, that receive a contract on or after December 16, 2016, to adopt an emergency transfer plan for tenants who qualify for a transfer under VAWA. That requirement is reflected in proposed 10 TAC §10.610(i).

In addition, HUD’s implementing regulations require the Department to adopt an emergency transfer plan which may include establishing a preference at developments funded with HOME, NHTF, NSP, and any state (Multifamily Direct Loan) funds used as HOME match, for tenants who qualify for an emergency transfer. Staff is recommending that owners of HOME developments be allowed but not required to establish such a preference. That is reflected in proposed §10.610(b)(3).

The remainder of the Department’s Emergency Transfer plan does not require rulemaking, but is attached to this Board Action request for adoption.

Other nonrelated amendments are proposed to provide consistency between §10.610 and §1.204, further explain NHTF requirements, and to address the requirement for a HOME development sponsored by a CHDO or a development that contains 811 units to provide a grievance policy. Also, the proposed amendment clarify that certain properties that have been found “lead free” are not required to provide certain notices to residents.

Attachment 1: Preamble and proposed amendment of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610 Written Policies and Procedures and §10.613 Lease Requirements

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610, concerning Written Policies and Procedures and §10.613 concerning Lease Requirements.

The majority of these amendments are related to HUD’s implementing guidance regarding the requirements of the Violence Against Women Act.

10 TAC §10.610(e)(2)(B), 10 TAC §10.610(f)(2)(B) and 10 TAC §10.610(h) are being amended to reflect requirements to provide people with a Notice of Occupancy Rights and Self Certification. These forms must be provided at the time of application, if the application is denied, if the household is being notified of an eviction and/or if the household’s lease will not be renewed.

10 TAC §10.613(h) is being amended to reflect that tenant at certain Developments can break a lease without penalty if the Department determines that the tenant meets the criteria for an emergency transfer under 24 CFR §5.2005. The amendment requires use of a Department created a lease addendum to reflect this right.

§10.610(b)(3) reflects that certain developments can but are not required to provide a preference for tenants who qualify for an emergency transfer under 24 CFR §5.2005(e).

Other amendments not related to VAWA are proposed to provide consistency between §10.610 and §1.204, provide further clarification of NHTF requirements, and to address the requirement for a HOME development sponsored by a CHDO or a development that contains 811 units to provide a grievance policy. Also, the proposed amendment clarifies that certain properties that have been found “lead free” are not required to provide certain notices to residents.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, there will be no change in the public benefit anticipated as a result of the repeal. There will be no economic impact to any individuals required to comply with the repeal.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 12, 2017, through June 12, 2017, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3359. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time June 12, 2017.

STATUTORY AUTHORITY. These amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affects no other code, article, or statute.

§10.610. Written Policies and Procedures

§10.610. Written Policies and Procedures.

(a) The purpose of this section is to outline policies and/or procedures that are required to have written documentation.

(1) Owners must inform applicants/tenants in writing, at the time of application or other action described in this section, that such policies/procedures are available, and that the Owner will provide copies upon request to applicants/tenants or their representatives.

(2) The Owner must have all policies and related documentation required by this section available in the leasing office or wherever applications are taken.

(3) All policies must have an effective date. Any changes require a new effective date.

(4) In general, policies cannot be applied retroactively. Tenants who already reside in the development or applicants on the wait list at the time new or revised tenant selection criteria are applied and who are otherwise in good standing under the lease or wait list, must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria or be passed over on the wait list. However, criteria related to program eligibility may be applied retroactively when a market development receives a new award of tax credits, federal or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.

(b) Tenant Selection Criteria. Owners must maintain written Tenant Selection Criteria. The criteria under which an applicant was screened must be included in the household's file.

(1) The criteria must include:

(A) Requirements that determine an applicant's basic eligibility for the property, including any preferences, restrictions, and any other tenancy requirements. The tenant selection criteria must specifically list:

(i) The income and rent limits;

(ii) When applicable, restrictions on student occupancy and any exceptions to those restrictions; and,

(iii) Fees and/or deposits required as part of the application process.

(B) Applicant screening criteria, including what is screened and what scores or findings would result in ineligibility.

(i) The screening criteria must avoid the use of vague terms such as "elderly," "bad credit," "negative rental history," "poor housekeeping," or "criminal history" unless terms are clearly defined within the criteria made available to applicants.

(ii) Applicants must be provided the names of any third party screening companies upon request.

(C) Occupancy Standards. If fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided.

(D) The following statements:

(i) The Development will comply with state and federal fair housing and antidiscrimination laws; including, but not limited to, consideration of reasonable accommodations requested to complete the application process. Chapter 1, Subchapter B of this title provides more detail about reasonable accommodations.

(ii) Screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and the Department's rules.

(iii) Specific animal, breed, number, weight restrictions, pet rules, and pet deposits will not apply to households having a qualified service/assistance animal(s).

(E) Notice to applicants and current residents about Violence Against Women Reauthorization Act of 2013 ("VAWA") protections.

(F) Specific age requirements if the Development is operating as Housing for Older Persons under the Housing for Older Persons Act of 1995 as amended (HOPA), or as required by federal funds to have an Elderly Preference, and in accordance with a LURA.

(2) The criteria must not:

(A) Include preferences for admission, unless such preference is:

(i) Allowed for under program rules; or,

(ii) The property receives Federal assistance and has received written approval from HUD, USDA, or VA for such preference.

(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. If an Owner adopts a minimum income standard for households participating in a voucher program, it is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount or \$2,500 annually; or,

(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(3) If the Development is funded with HOME, Multifamily Direct Loan funds used as HOME match, NHTF, or NSP funds, in accordance with 24 CFR §93.356 and 24 CFR §92.359, the criteria may have a preference for persons who have experienced domestic violence, dating violence, sexual assault, or stalking.

(c) Reasonable Accommodations Policy. Owners must maintain a written Reasonable Accommodations policy. The policy must be maintained at the Development. Owners are responsible for ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.

(1) The policy must provide:

(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation; and,

(B) A timeframe (not to exceed 14 calendar days) in which the Owner will respond to a request.

(2) The policy must not:

(A) Require a household to make a reasonable accommodation request in writing;

(B) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation or special needs set aside program;

(C) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or,

(D) Require a household to rent a unit that has already been made accessible.

(d) Wait List Policy. Owners must maintain a written wait list policy, regardless of current unit availability. The policy must be maintained at the Development.

(1) The policy must include procedures the Development uses in:

(A) Opening, closing, and selecting applicants from the wait list;

(B) How preferences are applied; and,

(C) Procedures for prioritizing applicants needing accessible units in accordance with 24 CFR §8.27 and Chapter 1, Subchapter B of this title.

(2) Developments with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted units. Unless otherwise approved at application, underwriting and cost certification, all unit sizes must be available at the lower rent limits. The wait list policy for Developments with lower rent restricted units must address how the waiting list for their lower rent restricted units will be managed. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.

(e) Denied Application Policies. Owners must maintain a written policy regarding procedures for denying applications.

(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.

(2) Within seven (7) days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:

(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based; ~~and~~

(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the ~~property~~ Development. A grievance procedure is required for HOME Developments that are owned by Community Housing Development Organizations, and Developments that lease units under the Department's Section 811-PRA program; and

(C) The TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation".

(3) The Development must keep a log of all denied applicants that completed the application process to include:

(A) Basic household demographic and rental assistance information, if requested during any part of the application process;

(B) The specific reason for which an applicant was denied, the date the decision was made; and,

(C) The date the denial notice was mailed or hand-delivered to the applicant.

(4) A file of all rejected applications must be maintained the length of time specified in the applicable program's recordkeeping requirements and include:

(A) A copy of the written notice of denial; and,

(B) The Tenant Selection Criteria policy under which an applicant was screened.

(f) Non-renewal and/or Termination Notices. Owners must maintain a written policy regarding procedures for providing households non-renewal and termination notices.

(1) The owner must provide in any non-renewal or termination notice, a specific reason for the termination or non-renewal.

(2) The notification must:

(A) Be delivered as required under applicable program rules;

(B) ~~Include information on rights under VAWA~~ the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation";

(C) State how a person with a disability may request a reasonable accommodation in relation to such notice; and,

(D) Include information on the appeals process if one is used by the property.

(g) Unit Transfer Policies. Owners must maintain a written policy regarding procedures for households to request a unit transfer. The policy must address the following:

(1) How security deposits will be handled for both the current unit and the new unit;

(2) How transfers related to a reasonable accommodation will be addressed; and,

(3) For HTC Developments, how transfers will be handled with regard to the multiple building project election on IRS Form(s) 8609 line 8(b) and accompanying statements in accordance with §10.616 of this subchapter, concerning Household Unit Transfer Requirements for All Programs.

(h) At the time of application Owners must provide each adult in the household the TDHCA form based on HUD form 5380 “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD form 5382 “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation.”

(i) No later than June 14, 2017, HOME, NHTF, NSP, and state HOME match, Development Owners with contracts dated on or after December 16, 2016, must individualize for their Development and then adopt the TDHCA form based on HUD Form 5381 “Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking” or request from the Department to use another Federal program’s Emergency Transfer Plan.

§10.613. Lease Requirements

§10.613. Lease Requirements.

(a) Eviction and/or termination of a lease. For HTC Developments, IRS Revenue Ruling 2004-82 prohibits the eviction or termination of tenancy of low-income households for other than good cause throughout the entire Affordability Period, and for three (3) years after termination of an extended low-income housing commitment. Owners executing or renewing leases after November 1, 2007, shall specifically state in the lease or in an addendum attached to the lease that evictions or terminations of tenancy for other than good cause are prohibited.

(b) For HOME, state HOME match, and NSP Developments, the HOME Final Rule (and as adopted by Texas NSP) prohibits Owners from evicting low-income residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, for completion of the tenancy period for transitional housing, or for other good cause. To terminate tenancy, the Owner must serve written notice to the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy. Owners executing or renewing leases after November 1, 2007, shall specifically state in the lease or in an addendum attached to the lease that evictions or non-renewal of leases for other than good cause are prohibited (24 CFR §92.253). Owners must also comply with all other lease requirements and prohibitions stated in 24 CFR §92.253.

(c) For NHTF, the NHTF Interim Rule prohibits Owners from evicting low-income residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, or for other good cause. Owners must also comply with all other lease requirements and prohibitions stated in 24 CFR §93.303.

(d) Evictions and terminations of tenancy for other than good cause are prohibited. In accordance with the Violence Against Women Act, an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of a lease or good cause for termination of tenancy. If a challenge to an eviction or termination of tenancy is related to a reasonable accommodation as defined by §1.204 of this title (relating to Reasonable Accommodations), a violation of the provision found in subsection (g) of this section, or for Developments financed by Direct Loans where actions trigger Title 104(d) of the Housing and Community Development Act of 1974 or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Department upon the request of either party will determine if an Owner is in compliance with the referenced requirements using the methods outlined in 1.2 of this Title (regarding Department Compliant System), or as required by federal law. Otherwise, the Department does not determine if an Owner has good cause or if a resident has violated the lease terms for other reasons. Challenges for evictions or terminations of tenancy for other reasons must be made by a court of competent jurisdiction or an agreement of the parties in arbitration, and the Department will rely on that determination.

(~~de~~) HTC and Bond Developments must use a lease or lease addendum that requires households to report changes in student status.

(~~ef~~) Owners of HTC Developments are prohibited from locking out or threatening to lock out any Development resident, except by judicial process, unless the exclusion is necessary for the purpose of performing repairs or construction work, or in cases of emergency. Owners are further prohibited from seizing or threatening to seize the personal property of a resident except by judicial process unless the resident has abandoned the premises. These prohibitions must be included in the lease or lease addendum.

(~~fg~~) For HOME, TCAP, state HOME match, NHTF, and NSP Developments, properties that were initially built for occupancy prior to 1978 must include in their lease or lease addendum a Lead Warning Statement. To demonstrate compliance, the Department will monitor that, all households at HOME, TCAP, state HOME match, NHTF and NSP Developments have signed the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards. (24 CFR §92.355, 24 CFR §93.361 and §570.487(c)) The addendum and disclosure are not required if all lead has been certified to have been cleared from the Development in accordance with 24 CFR §35.130, and the Owner has the required certification in its on-site records.

(~~gh~~) All Owners ~~shall comply with the lease requirements found in Section 601 of the Violence Against Women Reauthorization Act of 2013 ("VAWA 2013"). In general, owners may not construe an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking as a serious or repeated violation of a lease term by the victim or threatened victim or as good cause for terminating tenancy. However, in accordance with VAWA 2013, owners may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the unit or other affiliated individual as defined in the VAWA 2013.~~

(~~i~~) All NHTF, state HOME match, NSP, and HOME Developments for which the contract is on or after December 16, 2016, must use the Department created VAWA lease addendum which provides the ability for the tenant to terminate the lease without penalty if the Department determines that the tenant qualifies for an emergency transfer under 24 CFR §5.2005(e).

(~~hj~~) Leasing of HOME and state HOME match units by organizations that, in turn, rent those units to individuals is not permissible for ~~HOME d Developments committed funding with contracts dated on or after August 23, 2013.~~

(~~ik~~) Housing Tax Credit units leased to an organization through a supportive housing program where the owner receives a rental payment for the unit regardless of physical occupancy will be found out of compliance if the unit remains vacant for over 60 days. The unit will be found out of compliance under the finding "Violation of the Unit Vacancy Rule."

(~~jl~~) It is a Development Owner's responsibility at all times to know what it has agreed to provide by way of common amenities, unit amenities, and services.

(~~km~~) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide, which includes:

- (1) Information about Fair Housing and tenant choice;
- (2) Information regarding common amenities, unit amenities, and services; and,
- (3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.
- (4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.

Texas Department of Housing and Community Affairs
Emergency Transfer Plan in accordance with
24 CFR §5.2005(e), 24 CFR §92.359(g), and 24 CFR §93.356(f)
Effective April 27, 2017

In an effort to ensure that residents are aware of their rights, the Department is adopting rules that will require owners to provide a Notice of Occupancy Rights (based on HUD form 5380) that will provide the Texas Department of Housing and Community Affairs (“Department”) phone number and instructions to call the Department if they have questions or are in need of assistance in locating available housing due to actual or threatened domestic violence, dating violence, sexual assault, or stalking (herein referred to as “VAWA”, the Violence Against Women Act).

Eligibility

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD’s regulations at 24 CFR Part 5, Subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

Certain Owners that enter into contracts on or after December 16, 2016, and Tenant Based Rental Assistance (“TBRA”) Administrators that execute Household Commitment Contracts on or after December 16, 2016 , must allow residents to break their lease without penalty if they qualify for an emergency transfer under 24 CFR §5.2005(e). Affected Owners/Administrators are required to notify residents of this right through the use of a lease addendum.

To request an emergency transfer, the tenant shall notify the housing provider’s management office, and submit a written request for a transfer to another unit or development. The tenant’s written request for an emergency transfer should include either:

1. The Self Certification HUD form 5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation; or
2. Alternative documentation

The Department’s rule requires Owners or Administrators to contact the Department within three calendar days of the request. The Department is responsible for determining if the household qualifies for an emergency transfer as soon as possible. If TDHCA staff receives a call from a tenant requesting to break their lease, or an Owner/Administrator who has received a request from a tenant, the call will be transferred to the Chief of Compliance, the Director of Multifamily Compliance, the Director of Subrecipient Monitoring, or the Manager of Compliance Monitoring. The compliance staff person will be responsible for determining if the property is required to allow qualified residents to break their lease without penalty.

If the tenant will not complete the self certification or provide alternative documentation, or if the documentation does not indicate that the tenant qualifies for an emergency transfer, the request will be denied. If the tenant qualifies for an emergency transfer, compliance staff will contact the owner in writing, and monitor to ensure that the tenant is permitted to break the lease without penalty.

Resources for VAWA Eligible Persons

If the caller has internet access, Department staff will explain to the caller how to access and use the Vacancy Clearinghouse. If the caller does not have internet access, staff will provide through other means (regular mail or email) a listing of the property address, contact information and unit sizes for all TDHCA Developments, which will include HOME, NSP TCAP-RF (where any funds in the Development are used as HOME match), and NHTF assisted developments as required by 24 CFR §92.359(g)(2), and §92.356.

Staff from the Housing Resource Center will maintain a list of known service providers and advocacy organizations that specialize in VAWA issues. Staff will provide the list of known service providers and advocacy organizations that specialize in VAWA issues to the caller.

Confidentiality and Record Keeping

The number of callers who self identify that they need assistance in locating available housing due to VAWA will be tracked and reported to HUD as required.

The Department will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program.

The new location of the dwelling unit of the tenant, if one is provided, will be kept confidential from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant.

Tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The Housing Provider may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If Housing Provider has no safe and available units for which a tenant who needs an emergency is eligible, the Department will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the Department will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking>

4b

BOARD ACTION REQUEST

HOME AND HOMELESS PROGRAMS DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on orders proposing adoption of a new section §5.2014, VAWA Requirements to 10 TAC Chapter 5, Community Affairs Programs, and orders proposing actions to 10 TAC Chapter 7, Homelessness Programs to add a new section §7.2007, VAWA Requirements, and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

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

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) has released regulations regarding implementation of the Violence Against Women Act (“VAWA”) that requires the Department to add new sections to its Emergency Solutions Grants (“ESG”) Program Rules;

WHEREAS, the Department is proposing new 10 Texas Administrative Code (“TAC”) Section 5.2014, VAWA Requirements, through an emergency rulemaking related to protections for victims of domestic violence, dating violence, sexual assault, or stalking to improve compliance with federal requirements for the Department’s existing ESG Subrecipients;

WHEREAS, the immediate applicability of these federal regulations relating to public health and safety requires adoption of 10 TAC §5.2014 on fewer than 30 days notice;

WHEREAS, the Department is also proposing new section 10 TAC §7.2007, VAWA Requirements, that will be effective starting in Program Year 2017; and

WHEREAS, upon authorization of this item, these proposed actions adding new §§5.2014 and 7.2007 will be published concurrently in the *Texas Register* for public comment and §5.2014 will be published as an emergency rulemaking for adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adoption of 10 TAC §5.2014, VAWA Requirements, through emergency rulemaking in the form presented to this meeting, to be published in the *Texas Register* for public comment and adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed new section 10 TAC §7.2007, VAWA Requirements, in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

VAWA was reauthorized in 2013, and provides basic protections for applicants and residents receiving rental assistances, with certain requirements due at dates specified after December 31, 2013. Pursuant to 24 Code of Federal Regulations (“CFR”) §576.409, certain VAWA provisions are now required by ESG Subrecipients. The “Notice of Occupancy Rights under the Violence Against Women Act” based on HUD form 5380, and the “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking,” HUD form 5382, must be provided by the ESG Subrecipient to:

1. All applicants for short- and medium-term rental assistance at the time of admittance or denial;
2. Program Participants of short- and medium-term rental assistance prior to execution of a Rental Assistance Agreement;
3. Program Participants of short- and medium-term rental assistance with any notification of eviction or notification of termination of assistance;
4. Program Participants of short- and medium-term rental assistance either during an annual recertification or lease renewal process, whichever is applicable.

In addition, ESG Subrecipients will be required to develop and follow an Emergency Transfer Plan pursuant to 24 CFR §5.2005(e). As a key component of said plan, ESG Subrecipients will inform Program Participants of the availability of the Emergency Transfer Plan. Within three calendar days after Program Participants request transfers, ESG Subrecipients will inform Program Participants of their eligibility under their Emergency Transfer Plans, and keep records of all outcomes.

The immediate applicability of these federal regulations relating to public health and safety requires adoption of 10 TAC §5.2014 on fewer than 30 days notice.

The rule relating to VAWA protections for current ESG Subrecipients will add new section 10 TAC Chapter 5, Subchapter K, Emergency Solutions Grants, Section 5.2014, VAWA Requirements, to be published in the *Texas Register* for public comment and simultaneously be adopted to comply with VAWA regulations. In addition, a proposed rule relating to VAWA protections is to add new 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants, Section 7.2007, VAWA Requirements, to be published in the *Texas Register* for public comment through the rulemaking process.

Preamble and Proposed New Section to 10 TAC Chapter 5, Community Affairs Program, Subchapter K, Emergency Solutions Grants, §5.2014

The Texas Department of Housing and Community Affairs (the “Department”) proposes and adopts a new section to 10 Texas Administrative Code (“TAC”), Chapter 5, Subchapter C, Emergency Solutions Grants (“ESG”), to include a new rule 10 TAC §5.2014, VAWA Requirements.

The ESG rules for 2016 ESG Subrecipients were adopted to be effective September 30, 2012. On December 16, 2016, HUD made effective through a Final Rule requirements related to the Violence Against Women Reauthorization Act (“VAWA”) of 2013. The purpose of the proposed new section in Chapter 5 is to effectuate compliance with the requirements under 24 Code of Federal Regulations (“CFR”) §576.409, “Protection for victims of domestic violence, dating violence, sexual assault, or stalking” for current ESG Subrecipients. The immediate applicability of these federal regulations relating to public health and safety requires adoption of this rule on fewer than 30 days notice.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed new section will be in effect, enforcing or administering the proposed new section does not have any foreseeable additional costs or revenues for the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be to provide clear guidance to Subrecipients through more organized and direct rules. There will be nominal cost to any individuals required to comply with the new section and such compliance is a requirement of the federal funds.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 12, 2017, to June 12, 2017, to receive input on the proposed new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Jennifer Molinari, Homelessness Programs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to the following address: jennifer.molinari@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time on June 12, 2017. A copy of the proposed new section will be available on the Department’s website at <http://www.tdhca.state.tx.us/public-comment.htm> under Items Open for Public Comment during the public comment period.

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

The proposed new section affects no other code, article, or statute.

<rule>

SUBCHAPTER C. EMERGENCY SOLUTIONS GRANTS (ESG)
§5.2014 VAWA Requirements

- (a) Subrecipient will comply with the requirements under 24 CFR §576.409, “Protection for victims of domestic violence, dating violence, sexual assault, or stalking.”
- (b) Compliance with 24 CFR §576.409 includes, but is not limited to, providing two Departmental forms called “Notice of Occupancy Rights under the Violence Against Women Act” based on HUD form 5380 and “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking,” HUD form 5382, to each of the following:
 - 1. All applicants for short- and medium-term rental assistance at the time of admittance or denial;
 - 2. Program Participants of short- and medium-term rental assistance prior to execution of a Rental Assistance Agreement;
 - 3. Program Participants of short- and medium-term rental assistance with any notification of eviction or notification of termination of assistance; and
 - 4. Program Participants of short- and medium-term rental assistance either during an annual recertification or lease renewal process, whichever is applicable.
- (c) Subrecipient will adopt and follow an Emergency Transfer Plan based on HUD's model Emergency Transfer Plan by no later than June 14, 2017, pursuant to 24 CFR §5.2005(e). Within three calendar days after Program Participants request transfers, Subrecipient will inform Program Participants of their eligibility under their Emergency Transfer Plan and keep records of all outcomes.

Preamble and Proposed New 10 TAC Chapter 7, Homelessness Programs, Subchapter C, Emergency Solutions Grants, §7.2007

The Texas Department of Housing and Community Affairs (the “Department”) proposes a new section to 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants (“ESG”), to include new rule 10 TAC §7.2007, VAWA Requirements.

On December 16, 2016, HUD made effective through a Final Rule requirements related to the Violence Against Women Reauthorization Act (“VAWA”) of 2013, the purpose of new section in Chapter 7 is to effectuate compliance with the requirements under 24 Code of Federal Regulations (“CFR”) §576.409, “Protection for victims of domestic violence, dating violence, sexual assault, or stalking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed new section will be in effect, enforcing or administering the proposed new section does not have any foreseeable additional costs or revenues for the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be to provide clear guidance to Subrecipients through more organized and direct rules. There will be nominal cost to any individuals required to comply with the new section and such compliance is a requirement of the federal funds.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held May 12, 2017, to June 12, 2017, to receive input on the proposed new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Jennifer Molinari, Homelessness Programs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to the following address: jennifer.molinari@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time on June 12, 2017. A copy of the proposed new chapter will be available on the Department’s website at <http://www.tdhca.state.tx.us/public-comment.htm> under Items Open for Public Comment during the public comment period.

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

The proposed new section affects no other code, article, or statute.

<rule>

SUBCHAPTER C. EMERGENCY SOLUTIONS GRANTS (ESG)

§7.2007 VAWA Requirements

- (a) Subrecipient will comply with the requirements under 24 CFR §576.409, “Protection for victims of domestic violence, dating violence, sexual assault, or stalking.”
- (b) Compliance with 24 CFR §576.409 includes, but is not limited to, providing two Departmental forms called “Notice of Occupancy Rights under the Violence Against Women Act” based on HUD form 5380 and “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking,” HUD form 5382, to each of the following:

1. All applicants for short- and medium-term rental assistance at the time of admittance or denial;
 2. Program Participants of short- and medium-term rental assistance prior to execution of a Rental Assistance Agreement;
 3. Program Participants of short- and medium-term rental assistance with any notification of eviction or notification of termination of assistance; and
 4. Program Participants of short- and medium-term rental assistance either during an annual recertification or lease renewal process, whichever is applicable.
- (c) Subrecipient will adopt and follow an Emergency Transfer Plan based on HUD's model Emergency Transfer Plan, pursuant to 24 CFR §5.2005(e). Within three calendar days after Program Participants request transfers, Subrecipient will inform Program Participants of their eligibility under the Emergency Transfer Plan and keep records of all outcomes.

4c

BOARD ACTION REQUEST

LEGAL DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on proposed new 10 TAC §1.25, concerning information security and privacy requirements for Contractors, the repeal of 10 TAC §1.24, concerning Protected Health Information, and the repeal of 10 TAC §5.18, concerning information technology security practices, and directing that they be published for public comment in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, various state and federal laws require TDHCA to provide for the security and privacy of information provided to us by individuals;

WHEREAS, the Department currently has two administrative rules regarding the security and privacy of protected information; 10 TAC §1.24, concerning Protected Health Information, and 10 TAC §5.18, concerning Information Technology Security Practices;

WHEREAS, both rules require a more detailed definition of the duties and responsibilities of contractors who handle protected information on behalf of the Department; and

WHEREAS, the proposed new 10 TAC §1.25, concerning Information Security and Privacy Requirements for Contractors, addresses all types of protected information that the Department encounters, and sets forth specific requirements of contractors for the protection of such information,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be, and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed new 10 TAC §1.25, concerning Information Security and Privacy Requirements for Contractors, the proposed repeal of 10 TAC §1.24, concerning Protected Health Information, and the proposed repeal of 10 TAC §5.18, concerning Information Technology Security Practices, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

Protecting the security and privacy of personal information is a priority for TDHCA. Staff recently completed an inventory of all the various types of personal information collected and generated by the Department and its contractors. Results of the inventory show that TDHCA collects or generates at least seven different types of personal information that are subject to the protections of almost a dozen state and federal statutes and regulations.

Currently, the Department has two administrative rules addressing information security and privacy; one addressing the security and privacy of protected health information (10 TAC §1.24 concerning Protected Health Information), and one addressing data security requirements, in general (10 TAC §5.18 concerning Information Technology Security Practices). Based on the inventory of data types it was decided that a more comprehensive approach to information security and privacy was needed.

Information Systems, Legal Services and many of the program directors and managers provided input for the development of the proposed new rule. The rule sets forth the technical and administrative requirements for information security and privacy that the Department requires of all its contractors dealing with protected information.

Staff is also proposing the repeal of the two existing rules as they are more general in nature and their subject matter is dealt with more specifically, and in a more integrated manner, in the proposed new rule.

Staff determined that there would be minimal impact on micro and small businesses. The only significant provisions disproportionately affecting micro and small businesses are the requirements for having written policies, retaining documentation of compliance with the new rule, and documenting compliance by affected subcontractors.

Staff recommends publishing the proposed new rule and repeals in the *Texas Register* to obtain public comment.

Texas Administrative Code

<u>TITLE 10</u>	COMMUNITY DEVELOPMENT
<u>PART 1</u>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<u>CHAPTER 1</u>	ADMINISTRATION
<u>SUBCHAPTER A</u>	GENERAL POLICIES AND PROCEDURES
<u>RULE §1.25</u>	Information Security and Privacy Requirements for Contractors

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC §1.25, concerning information security and privacy requirements for Contractors, and the repeal of 10 TAC §1.24, concerning Protected Health Information, and 10 TAC §5.18, concerning information technology security practices. The purpose of this proposed new section is to protect the privacy and security of protected information belonging to individual customers and beneficiaries of the department's programs by requiring contractors who deal with such information to meet certain requirements when communicating directly with the department's information systems, or when they store, create or otherwise possess such information on their own information systems. The purpose of the repeals is to remove largely redundant regulations that will no longer be needed because of the proposed new rule.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new rule and repeals will be in effect, enforcing or administering the new rule and repeals will reduce the likelihood of having to bear costs associated with the loss or theft of protected information.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section and repeals will be in effect, the public benefit anticipated as a result of the new section will be greater security of the personal information of our customers and beneficiaries in the hands of contractors who have access to the department's protected information.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department estimates that there are less than twenty small or micro-businesses that do business with the Department directly, or as a subcontractor, that would meet the definition of a small or micro-business found in Tex. Gov't code §2006.001 of the Texas government Code, and that would be subject to this new rule.

The economic impact of this rule is projected to be minimal. The Department has two rules in effect that already require certain financial and health information protections; 10 TAC §1.24 concerning protected health information, and 10 TAC §5.18 concerning information technology security practices. These two rules already require many of the information security and privacy protections proposed in the new rule. The new rule simply states more completely and clearly the requirements mandated in the underlying state and federal information security and privacy laws.

The most likely additional costs to be incurred by regulated parties who are small and micro-businesses include maintaining written policies, responding to requests for documentation of the regulated entity's compliance with the rule, and documentation of compliance by subcontractors who access the Department's protected information. Regulated small and micro-businesses should already be complying with the other relevant requirements in the new rule.

In preparing this rule, the Department considered alternative methods for achieving the purposes of the rule. As originally drafted all provisions applied to all regulated entities regardless of size or capacity. The rule was rewritten to make clear that only certain requirements applied to all regulated entities, while others applied only to organizations with more complicated computing

networks. The rule also includes a provision that would allow a contractor to work with the Department in minimizing the protected information the entity would need to access for the purpose of minimizing labor/professional costs associated with meeting the requirements under the new rule. In general, the Department believes it has minimized the rule requirements, and restricted their applicability to minimize impact to regulated entities, without jeopardizing the statutory goals of protecting the economic welfare of the Department's customers.

REQUEST FOR PUBLIC COMMENT. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Jeffrey T. Pender, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to: jeff.pender@tdhca.state.tx.us. **ALL COMMENTS MUST BE RECEIVED BY 5:00P.M. on June 12, 2017.**

STATUTORY AUTHORITY. The new section and repeals are proposed pursuant to Tex. Gov't Code §2306.053 which authorizes the Department to obtain, retain and disseminate records and other documents in electronic form and to adopt and enforce rules. More specifically, 10 TAC §202.24 requires state agencies to develop an information security program. The proposed repeals and new section affects no other code, article, or statute.

§1.25. Information Security and Privacy Requirements for Contractors

(a) Statement of Purpose

In order to assure the security and privacy of information submitted to the Department by persons seeking financial or other assistance, the Department must not only implement its own information security and privacy measures, but make sure those Contractors of the Department that may gain access to Protected Information under contracts, or otherwise, with the Department, adopt and implement appropriate strategies. The purpose of this rule is to identify measures that may be required by Department Contractors accessing Protected Information on behalf of the Department. Although all requirements in this rule generally apply to every Contractor possessing Protected Information on behalf of the Department, the scope and complexity of each Contractor's specific security and privacy measures will vary depending on the size of the organization and risks presented by Contractor's operations.

(b) Definitions

The following capitalized words and terms have the meaning given below unless the context clearly indicates otherwise.

(1) Computing Device means any personal computer, laptop, server, smart phone, or any other data processing device that is used to connect to the Department's network.

(2) Contractor means a third party, including but not limited to, auditors, outside counsel, funding agencies, Vendors or Subrecipients, including any and all of its Representatives, that may gain access to Protected Information on account of its relationship with the Department.

(3) Department means the Texas Department of Housing and Community Affairs.

(4) Financial Statements of a Tax Credit Applicant means a formal statement of the financial activities of a Low Income Housing Tax Credit Applicant, submitted to the Department as part of a Low Income Housing Tax Credit Application, including but not limited to, the balance sheet, income statement, cash flow statement or changes in equity. (Tex. Gov't. Code §2306.6717(d)(Public Information and Hearings)).

(5) Information Resources means the procedures, equipment, and software that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel including consultants and contractors.

(6) ISP Agreement means an agreement between the Department and Contractor implementing information security and privacy requirements.

(7) Non-Public Personal Information means personally identifiable financial information provided by an individual in connection with applying for or receiving a financial product or service, unless the information is otherwise publically available. (Graham-Leach-Bliley Act (15 USC §§6801-6809 and 6821-6827)).

(8) Personal Identifying Information means information that alone or in conjunction with other information identifies an individual, including an individual's name, Social Security number, date of birth, or government-issued identification number, mother's maiden name, unique biometric data including fingerprint, voice print, retina or iris image, unique electronic identification number, address, or routing code, and telecommunication access devices as defined by Tex. Penal Code §32.51. (Tex. Bus. & Com. Code Chapter 521 (Unauthorized Use of Identifying Information)).

(9) Personal or Business Financial Information means any personal or business financial information including, but not limited to, Social Security numbers, tax payer identification numbers, or bank account numbers submitted to the Department to receive a loan, grant, or other housing assistance by a housing sponsor, individual or family. (Tex. Gov't. Code §2306.039 (Open Meetings and Open Records)).

(10) Protected Health Information means any information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. (45 CFR §160.103).

(11) Protected Information means Protected Health Information, Personal Identifying Information, Sensitive Personal Information, Personal or Business Financial Information, Non-Public Personal Information, Financial Statement of a Tax Credit Applicant, or WAP Applications and Participation Information

(12) Representative means any officer, employee, contractor, subcontractor, member, director, advisor, partner, or agent of Contractor, or any person serving in such a role, however titled or designated.

(13) Sensitive Personal Information means an individual's first name or first initial and last name in combination with any one or more of the following items if the name and items are not encrypted: (1) social Security number, (2) driver's license or government-issued identification number, (3) account or credit/debit card number in combination with any required security code, access code, or password that would permit access, or (4) information that identifies or reveals an individual and the physical or mental health or condition of the individual, the provision of health care to the individual, or payment for the provision of health care to the individual. The term does not include publicly available information that is lawfully made publicly available. (TEX. BUS. & COM. CODE Chapter 521 (Unauthorized Use of Identifying Information)).

(14) Subrecipient means an organization with whom the Department contracts, and entrusts to administer federal or state program funds, including but not limited to, units of local government, nonprofit and for-profit corporations, administrators, community action agencies, collaborative applications, sub-grantees, developers, land banks, participating mortgage lenders and non-profit owner-builder housing providers.

(15) Vendor means a person or organization that supplies goods or services, properly procured under relevant laws, to the Department.

(16) WAP Applications and Participation Information means any specifically identifying information related to an individual's eligibility application for WAP or the individual's participation in WAP, such as name, address, or income information. (Weatherization Program Notice 10-08, U.S. Department of Energy, issued February 1, 2010).

(c) General Requirements

- (1) Contractors that have entered into agreements with the Department that may result in Contractor having access to Protected Information shall enter into an ISP Agreement with the Department. The ISP Agreement shall be in a form provided by the Department, and shall be effective with respect to all current and future contracts that Contractor has with the Department for as long as the Contractor has access to Protected Information under those contracts. No new contract with the Department that may result in access to Protected Information may be implemented until there is an ISP Agreement in effect with the Department.
- (2) Contractors that currently have access to Protected Information shall enter into an ISP Agreement with the Department as soon as is practical, but no later than 30 days after notification by the Department that an ISP Agreement is necessary.
- (3) Department staff may work with Contractor to identify and reduce the number of classes of Protected Information implicated under a contract, and the related security and privacy protections required.
- (4) The ISP Agreement shall include, among other requirements:
 - (A) security measures for devices that connect to the Department network, and
 - (B) security measures for maintenance of Department information external to the Department network, including, but not limited to:
 - (i) maintaining an inventory of all information technology ("IT") assets,
 - (ii) implementing and maintaining a risk management program,
 - (iii) ensuring information is recoverable in accordance with risk management decisions,
 - (iv) adhering to monitoring techniques for detecting, reporting, and investigating security incidents,
 - (v) providing IT security training to employees,
 - (vi) conducting criminal background checks on employees with access to department information,
 - (vii) separating development and production environments,
 - (viii) following a software change control process,
 - (ix) maintaining and following an IT security policy that has been approved by the department, and
 - (x) implementing other requirements reasonably necessary to ensure the security and privacy of Protected Information in the Contractor's possession or control
- (5) Contractor shall ensure that all Representatives execute a separate acknowledgement, to be supplied by the Department in an addendum to the ISP Agreement, wherein a Representative acknowledges the ISP Agreement between Contractor and the Department, and accepts its responsibility to safeguard Protected Information in accordance with applicable federal and state laws, and the terms and conditions set forth in the ISP Agreement. For new contracts, all such acknowledgements shall be executed before work may begin. For existing contracts, acknowledgements shall be executed at the time the ISP

Agreement is executed with the Department. All such acknowledgements shall be made available to the Department upon request.

- (6) Contractor shall permit Department to conduct periodic IT general controls audits, Internet security scans, and internal network vulnerability assessments, and contract monitoring audits at reasonable times, and upon reasonable notice. Such reviews may be conducted by the Department, the Texas State Auditor's Office, the Texas Department of Information Resources, or any third parties under contract with one of these agencies.
- (7) The Department may, in its sole discretion, amend any ISP Agreement in order to conform to state and federal law.

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on Resolution 17-017 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2017 Series A, Single Family Mortgage Revenue Refunding Bonds, 2017 Series B (Taxable) and Single Family Mortgage Revenue Bonds, 2017 Series C (Taxable); approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this Resolution, and containing other provisions relating to the subject

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

On September 20, 2007, the Texas Department of Housing and Community Affairs (the "Department") issued \$157,060,000 Single Family Mortgage Revenue Bonds, 2007 Series B (the "2007B Bonds") for the purpose of purchasing mortgage-backed securities ("MBS") backed by mortgage loans made to low, very low, and moderate income homebuyers. As of March 1, 2017, the par amount of 2007B Bonds outstanding was \$30,375,000, with interest rates ranging from 5.15% to 5.30%. Staff is seeking authority to refund the 2007B Bonds, in full or in part, through the issuance of Texas Department of Housing and Community Affairs, Single Family Mortgage Revenue Refunding Bonds, 2017 Series B (Taxable) (the "2017B Bonds"). Proceeds of the 2017B Bonds will be used to refund the 2007B Bonds and to pay a portion of the costs of issuance of the 2017B Bonds. The par amount of 2017B Bonds issued will not exceed \$30,375,000. Debt Service savings are expected to be no less than 5% of the principal amount of Series 2007B Bonds outstanding.

Staff is also seeking approval for the issuance of Texas Department of Housing and Community Affairs, Single Family Mortgage Revenue Bonds, 2017 Series A (the "2017A Bonds") and 2017 Series C (Taxable) (the "2017C Bonds"). The 2017A Bonds are expected to be fixed rate, tax-exempt bonds, the proceeds of which will be used to purchase Ginnie Mae MBS backed by tax-exempt eligible mortgage loans, to pay costs of issuance of the 2017A Bonds, and to pay other related costs. The 2017C Bonds are expected to be fixed rate, taxable bonds, the proceeds of which will be used to purchase Ginnie Mae and Fannie Mae MBS backed by mortgage loans that are ineligible for tax-exempt financing, to pay costs of issuance of the 2017C Bonds, and to pay other related costs. The par amount of 2017A Bonds issued will not exceed \$100 million, and the par amount of 2017C Bonds issued will not exceed \$60 million.

The underwriting team for the 2017 Bonds consists of Ramirez & Co., Inc., as senior manager, and Jefferies and RBC Capital Markets, as co-managers.

Staff is seeking final approval for the issuance of the 2017A Bonds, 2017B Bonds, and 2017C Bonds (together, the "2017 Bonds"). Depending on market conditions and other factors at the time of pricing, it is possible that not all series of the 2017 Bonds will be issued. The 2017 Bonds are expected to price early to mid June 2017, and to close by the end of June 2017.

Department Contribution

The contribution by the Department for the 2017 Bonds will not exceed \$16,000,000, which includes down payment and closing cost assistance and lender compensation provided in conjunction with the loans originated, as well as all or a portion of the costs of issuance of the 2017 Bonds. The contribution will be funded from amounts on deposit under the single family indenture and other single family-related funds.

Staff Recommendation

Staff recommends approval of Resolution 17-017.

RESOLUTION NO. 17-017

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS SINGLE FAMILY MORTGAGE REVENUE BONDS, 2017 SERIES A, SINGLE FAMILY MORTGAGE REVENUE REFUNDING BONDS, 2017 SERIES B (TAXABLE) AND SINGLE FAMILY MORTGAGE REVENUE BONDS, 2017 SERIES C (TAXABLE); APPROVING THE FORM AND SUBSTANCE OF RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the “Act”), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the “Board”) from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to issue revenue bonds, to provide money to (i) make and acquire mortgage loans or participations therein, (ii) fund or increase the Department’s reserves or funds (iii) pay the costs and expenses of issuing the bonds and (iv) pay interest on the bonds; and (b) to pledge all or part of the revenues, income or resources of the Department, including the revenues to be received by the Department from the mortgage loans or participations therein, to secure the payment of the principal, interest or redemption premium on the bonds; and

WHEREAS, the Act, and Chapters 1207 and 1371, Texas Government Code, as amended, further authorize the Department to issue its revenue bonds for the purpose of refunding any Department bonds or other general or special obligations; and

WHEREAS, the Department has, pursuant to and in accordance with the provisions of the Act, issued, sold and delivered its Single Family Mortgage Revenue Bonds, 2007 Series B (the “Refunded Bonds”) pursuant to the Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 1980 (as amended and supplemented from time to time, collectively, the “Single Family Indenture”) between the Department and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the “Trustee”); and

WHEREAS, the Department has previously amended the Single Family Indenture in accordance with the provisions thereof and the Board now desires to amend and restate the Single Family Indenture in its entirety in accordance with Section 1002 in order to consolidate amendments previously made to the Single Family Indenture; and

WHEREAS, the Board desires to authorize the execution and delivery of the Amended and Restated Single Family Mortgage Revenue Bond Trust Indenture (the “Amended and Restated Single Family Indenture”) in substantially the form attached hereto; and

WHEREAS, Section 302 of the Amended and Restated Single Family Indenture authorizes the issuance of additional Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Bonds, 2017 Series A (the “2017 Series A Bonds”) pursuant to the Amended and Restated Single Family Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans through the purchase of mortgage backed

securities (“Mortgage Certificates”), to fund capitalized interest and to pay a portion of the costs of issuance; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Refunding Bonds, 2017 Series B (Taxable) (the “2017 Series B Bonds”) pursuant to the Amended and Restated Single Family Indenture for the purpose of providing funds to refund the outstanding Refunded Bonds and to pay a portion of the costs of issuance; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Bonds, 2017 Series C (Taxable) (the “2017 Series C Bonds”) pursuant to the Amended and Restated Single Family Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans through the purchase of Mortgage Certificates, to fund capitalized interest, and to pay a portion of the costs of issuance (the 2017 Series A Bonds, the 2017 Series B Bonds and the 2017 Series C Bonds are referred to herein collectively as the “Bonds”); and

WHEREAS, the Board desires to authorize the execution and delivery of the Sixty-Third Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the “Sixty-Third Supplemental Indenture”) in substantially the form attached hereto relating to the 2017 Series A Bonds; and

WHEREAS, the Board desires to authorize the execution and delivery of the Sixty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the “Sixty-Fourth Supplemental Indenture”) in substantially the form attached hereto relating to the 2017 Series B Bonds; and

WHEREAS, the Board desires to authorize the execution and delivery of the Sixty-Fifth Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the “Sixty-Fifth Supplemental Indenture”) in substantially the form attached hereto relating to the 2017 Series C Bonds; and (the Sixty-Third Supplemental Indenture, the Sixty-Fourth Supplemental Indenture and the Sixty-Fifth Supplemental Indenture are referred to herein collectively as the “Supplemental Indentures”); and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the “Bond Purchase Agreement”) with Ramirez & Co., Inc., as representative of the group of underwriters listed in the Bond Purchase Agreement (the “Underwriters”), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a 2017 A/B/C Supplement to Depository Agreement relating to the Bonds (the “Depository Agreement”), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company, in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the “Official Statement”) and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of the proceeds of the Bonds and any other amounts held under the Amended and Restated Single Family Indenture with respect to the Bonds on

or after the closing date or such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$16,000,000 of Department funds for any purpose authorized under the Act and the Amended and Restated Single Family Indenture, including to provide funds for the refunding of the Refunded Bonds, to make and acquire qualifying mortgage loans through the purchase of Mortgage Certificates, to fund capitalized interest, and to pay a portion of the costs of issuance; and

WHEREAS, Chapter 1371, Texas Government Code and Chapter 1207, Texas Government Code, as amended, authorize the Department to take other actions described in this Resolution related to issuance of the Bonds; and

WHEREAS, the Board desires to approve the forms of the Amended and Restated Single Family Indenture, the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement, the Official Statement and the Continuing Disclosure Agreement in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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

ARTICLE 1 ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of any or all of the Bonds in one or more series or subseries and on a taxable or tax-exempt basis is hereby authorized, all under and in accordance with the Amended and Restated Single Family Indenture, and that, upon execution and delivery of the Supplemental Indentures, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of Texas (the "Attorney General") for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Bonds to or upon the order of the Underwriters.

Section 1.2 Authority to Approve Form of Documents, Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Authorized Representatives of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, as amended, to fix and determine the interest rates, principal amounts and maturities of, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on each series of Bonds shall not exceed 5% per annum; (b) the aggregate principal amount of the 2017 Series A Bonds shall not exceed \$100,000,000; (c) the aggregate principal amount of the 2017 Series B Bonds shall not exceed \$30,375,000; (d) the aggregate principal amount of the 2017 Series C Bonds shall not exceed \$60,000,000; (e) the final maturity of the 2017 Series A Bonds shall occur not later than March 1, 2048; (f) the final maturity of the 2017 Series B Bonds shall occur not later than September 1, 2038; (g) the final maturity of the 2017 Series C Bonds shall occur not later than March 1, 2048; (h) the price at which the 2017 Series A Bonds are sold to the Underwriters shall not exceed 105% of the principal amount thereof; (i) the price at which the 2017 Series B Bonds are sold to the Underwriters shall not exceed 105% of the principal amount thereof; (j) the price at which the 2017 Series C Bonds are sold to the Underwriters shall not exceed 105% of the principal amount thereof; and (k) the Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term debt instrument. In

no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Authority to Select Refunded Bonds. That the Authorized Representatives are hereby authorized and empowered in accordance with Section 1207.007, Texas Government Code, as amended, to select any specific maturities of the Refunded Bonds to be refunded and establish the terms of the 2017 Series B Bonds as provided in Section 1207.007 Texas Government Code, provided that the aggregate amount of payments to be made under the 2017 Series B Bonds shall be less than the aggregate amount of payments that would have been made under the terms of the selected Refunded Bonds.

Section 1.4 Approval, Execution and Delivery of the Amended and Restated Single Family Indenture. That the form and substance of the Amended and Restated Single Family Indenture are hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to Amended and Restated Single Family Indenture, and to deliver the Amended and Restated Single Family Indenture to the Trustee.

Section 1.5 Approval, Execution and Delivery of the Supplemental Indentures. That the form and substance of the Supplemental Indentures are hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to Supplemental Indentures, and to deliver the Supplemental Indentures to the Trustee.

Section 1.6 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.7 Official Statement. That the Official Statement relating to the Bonds, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as the Authorized Representatives may approve in order to permit such an Authorized Representative, for and on behalf of the Board, to deem the Official Statement relating to the Bonds final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as such an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.8 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Texas Treasury Safekeeping Trust Company.

Section 1.9 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.10 Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases,

financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the Amended and Restated Single Family Indenture, the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement and the Continuing Disclosure Agreement.

Section 1.11 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, or in the opinion of Bracewell LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.12 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A – Amended and Restated Single Family Indenture
- Exhibit B – Sixty-Third Supplemental Indenture
- Exhibit C – Sixty-Fourth Supplemental Indenture
- Section D – Sixty-Fifth Supplemental Indenture
- Exhibit E – Bond Purchase Agreement
- Exhibit F – Official Statement
- Exhibit G – Depository Agreement
- Exhibit H – Continuing Disclosure Agreement

Section 1.13 Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Deputy Executive Directors of the Department, the Chief Financial Officer of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Finance of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.14 Department Contribution. That the contribution of Department funds in an amount not to exceed \$16,000,000 to be used for any purpose authorized under the Act and the Amended and Restated Single Family Indenture, including to provide funds for the refunding of the Refunded Bonds, to make and acquire qualifying mortgage loans through the purchase of Mortgage Certificates, to fund capitalized interest, and to pay a portion of the costs of issuance is hereby authorized.

ARTICLE 2 APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.2 Engagement of Other Professionals. That the Executive Director or the Director of Bond Finance is authorized to engage an accounting firm to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Director of Bond Finance and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a Standard & Poor's Financial Service LLC business.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the issuance of the Bonds and refunding of the Refunded Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102 and the Act, the Executive Director or the Director of Bond Finance is hereby authorized to undertake all appropriate actions required under the Amended and Restated Single Family Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the Amended and Restated Single Family Indenture in accordance with the Amended and Restated Single Family Indenture.

Section 2.7 Redemption of Refunded Bonds. That the Executive Director or the Director of Bond Finance is hereby authorized and directed: (i) to instruct the Trustee to give notice of redemption and to redeem the outstanding Refunded Bonds with the proceeds of the 2017 Series B Bonds, and (ii) to take all other actions necessary to cause such redemption and refunding to occur.

Section 2.8 Waiver from Texas Bond Review Board. That the Board of the Department authorizes the Authorized Representatives to seek a waiver from the Texas Bond Review Board of the requirements of Section 2306.142(1) of the Act in accordance with Section 2306.142(m) of the Act.

ARTICLE 3 CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Purpose of Bonds. That the Board hereby determines that the purpose for which the Department may issue the Bonds constitutes "public works" as contemplated by Chapter 1371, Texas Government Code, as amended.

ARTICLE 4 GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the Amended and Restated Single Family Indenture to secure payment of the bonds issued under the Amended and Restated Single Family Indenture and payment of the Department's costs and expenses for its single family mortgage revenue bond program thereunder and under the Amended and Restated Single Family Indenture, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution

accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 4.4 Notice of Meeting. That this Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 27th day of April, 2017.

Vice Chair, Governing Board

ATTEST:

Secretary to the Board

(SEAL)

EXHIBITS

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.

5b

BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 27, 2017

Presentation, discussion, and possible action on Resolution No. 17-018 authorizing the issuance and delivery of Texas Department of Housing and Community Affairs Series 2017 Issuer Note; approving the form and substance of related documents; authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this Resolution; and containing other provisions relating to the subject

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

The Texas Department of Housing and Community Affairs (the "Department") provides down payment and closing cost assistance ("DPA") for all mortgage loans originated through the Department's single family mortgage purchase program. DPA loans are 0% interest, non-amortizing second mortgages with a 30-year term and are due on sale or refinance. Since October 2012, the Department has provided almost \$50 million in DPA. Because DPA is repaid at sale or refinance, the ability to recycle funds used for DPA is, in the short run, limited.

On September 28, 2017, the Department entered into a loan agreement (the "2016 Issuer Note") with Woodforest National Bank (the "Bank") for funds to be used by the Department to make DPA loans. The 2016 Issuer Note was in the amount of \$10 million, had a term of ten years, had an interest rate of 1% per annum, and all principal and interest is due at maturity. The collateral for the note was a subordinate interest in the Residential Mortgage Revenue Bond ("RMRB") Indenture. The Department has the right to prepay the outstanding principal balance of the 2016 Issuer Note in full or in part without penalty at any time. Currently, approximately \$2 million remains available under the 2016 Issuer Note to be used for DPA loans.

With this item staff is requesting approval to enter into a new note with the Bank (the "2017 Issuer Note"). The 2017 Issuer Note will be in an amount not to exceed \$10 million to be used by the Department to make DPA loans, will have a term of ten years, will have an interest rate of no greater than 2% per annum, and all principal and interest will be due at maturity. The collateral for the note will be a subordinate interest in the Residential Mortgage Revenue Bond ("RMRB") Indenture. The Department will have the right to prepay the outstanding principal balance of the 2017 Issuer Note in full or in part without penalty at any time. The Department will repay the 2017 Issuer Note with funds available from the operation of its single family programs, including surplus revenues released from any of the Department's three single family indentures (RMRB, Single Family, and Collateralized Home Mortgage Revenue Bonds), and/or other available funds.

The costs associated with the issuance of the 2017 Issuer Note are not expected to exceed \$100,000 and will be paid from funds available in the TMP General Fund, the Bond Programs COI account, and other single-family related funds available for such purpose.

RESOLUTION NO. 17-018

RESOLUTION AUTHORIZING THE ISSUANCE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS SERIES 2017 ISSUER NOTE; APPROVING THE FORM AND SUBSTANCE OF RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department to issue revenue bonds, including notes, to provide money to make and acquire mortgage loans or participations therein; and

WHEREAS, the Board has determined to authorize the issuance of a series of the Department's revenue bonds to be known as its Series 2017 Issuer Note (the "Issuer Note") pursuant to a Loan Agreement (the "Loan Agreement") between the Department and Woodforest National Bank (the "Bank") for the purpose of providing funds to make and acquire second lien mortgage loans to qualifying borrowers in the Department's single family mortgage purchase program in order to provide down payment assistance to such borrowers; and

WHEREAS, the Board desires to authorize the execution and delivery of the Loan Agreement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Paying Agent/Registrar Agreement (the "Paying Agent/Registrar Agreement") with the Bank in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the use of up to \$100,000 of Department funds to pay costs of issuance of the Issuer Note; and

WHEREAS, the Board desires to approve the forms of the Loan Agreement and the Paying Agent/Registrar Agreement in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to further its programs in accordance with such documents by authorizing the issuance of the Issuer Note, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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

**ARTICLE 1
ISSUANCE OF ISSUER NOTE; APPROVAL OF DOCUMENTS**

Section 1.1 Issuance, Execution and Delivery of the Issuer Note. The issuance of the Issuer Note is hereby authorized, all under and in accordance with the Loan Agreement, and that, upon execution and delivery of the Loan Agreement, the Authorized Representatives are each hereby authorized to execute, attest and affix the Department's seal to the Issuer Note and to deliver the Issuer Note to the Attorney General of

Texas (the “Attorney General”) for approval and the Comptroller of Public Accounts of the State of Texas (the “Comptroller”) for registration, and thereafter to deliver the Issuer Note to the Bank.

Section 1.2 Approval, Execution and Delivery of the Loan Agreement. The form and substance of the Loan Agreement are hereby approved and the Authorized Representatives are each hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Bank.

Section 1.3 Approval, Execution and Delivery of the Paying Agent/Registrar Agreement. The form and substance of the Paying Agent/Registrar Agreement are hereby approved and the Authorized Representatives are each hereby authorized to execute the Paying Agent/Registrar Agreement, and to deliver the Paying Agent/Registrar Agreement to the Bank.

Section 1.4 Execution and Delivery of Other Documents. The Authorized Representatives are each hereby authorized to execute, attest, affix the Department’s seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution and the Loan Agreement.

Section 1.5 Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.6 Exhibit Incorporated Herein. All of the terms and provisions of the documents listed below as exhibits shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A – Loan Agreement
- Exhibit B – Paying Agent/Registrar Agreement

Section 1.7 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Deputy Executive Directors of the Department, the Chief Financial Officer of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Finance of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.8 Costs of Issuance. The use of Department funds in an amount not to exceed \$100,000 to pay costs of issuance of the Issuer Note is hereby authorized and approved.

ARTICLE 2 APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Submission to the Attorney General of Texas. The Board hereby approves the submission by the Department’s Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Issuer Note.

Section 2.2 Certification of the Minutes and Records. The Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for the issuance of the Issuer Note and all other Department activities.

Section 2.3 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the issuance of the Issuer Note are hereby ratified and confirmed.

ARTICLE 3 GENERAL PROVISIONS

Section 3.1 Limited Obligation. The Issuer Note and the interest thereon shall be a limited obligation of the Department payable solely from the amounts pledged under the Loan Agreement to secure payment of the Issuer Note, and under no circumstances shall the Issuer Note be payable from any other revenues, funds, assets or income of the Department.

Section 3.2 Non-Governmental Obligations. The Issuer Note shall not be and does not create or constitute in any way an obligation, a debt or a liability of the State of Texas or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State of Texas.

Section 3.3 Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the Issuer Note and the furtherance of the purposes contemplated by this Resolution accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State of Texas.

Section 3.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with § 2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 27th day of April, 2017.

Vice Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

6a

SUPPLEMENTAL POSTING

6a - 17069 Arlinda Gardens

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on timely filed appeal of application termination under the 2017 Uniform Multifamily Rules

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (“HTC”) application #17742 Las Villas del Rio Hondo that was submitted to the Department by the Full Application Delivery Date;

WHEREAS, notice of termination was provided to the Applicant for failure to meet the Electronic Filing Agreement deadline requirements of 10 TAC §11.2 of the 2017 Qualified Allocation Plan;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the appeal of termination for Las Villas del Rio Hondo Apartments (17742), is hereby denied.

BACKGROUND

Pursuant to 10 TAC §11.2 related to Program Calendar for Competitive Housing Tax Credits:

Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Department for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Department that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certifications in the Application.

Each year, the Department receives full applications for which a pre-application was not submitted. In order to manage receipt of those applications, staff requires the submission of the Electronic Filing Agreement (attached as “Exhibit A”), an agreement between the Department and the Applicant to facilitate the electronic submission of application documents for multifamily housing programs in accordance with Department policy. Per 10 TAC §11.2, the Electronic Filing Agreement was due to the Department by

February 17, 2017. On February 23, 2017, the Applicant submitted an Electronic Filing Agreement for the above mentioned application. Staff originally declined to accept the form, and, after discussion, determined that the Applicant would be allowed to submit the application in order to preserve any appeal rights the Applicant might have. Email communication with the Applicant is attached as “Exhibit B”.

The appeal asserts that “No intervening or conflicting rule alters [the March 1, 2017, Application Submission Deadline] under the QAP and statute, not related to scoring.” The deadline of February 17, 2017, for submitting the Electronic Filing Agreement does not conflict with the Application Submission Deadline. However, this deadline is a prerequisite that meets the requirements of allows staff the ability to devote time and resources needed to ensure a reliable application process.

The appeal indicates that the Applicant gained site control from the land seller on February 17, 2017, the day the request was due. The Applicant had an opportunity to request access to the electronic filing system, and did not request access. Three other applicants did request such access; those forms are attached as Exhibit C. It is notable that the Applicant stated in an email that “If there are other viable apps in that area that met the requirements and use the area funds, I don’t think Rise plans to appeal.” While there were no pre-applications filed for Subregion 11 Rural, the subregion remains oversubscribed without the inclusion of this application.

Staff recommends denial of the appeal.

2017 Electronic Filing Agreement

Texas Department of Housing & Community Affairs (TDHCA)
 Mailing Address: P.O. Box 13941, Austin, TX 78711-3941
 Physical Address: 221 East 11th Street, Austin, TX 78701

This form must be submitted prior to the applicable program deadlines described below. Information from this form will be used to create a Multifamily Serv-U HTTPS account for the submission of application information and documents.

For 9% Housing Tax Credit Applications, this completed form should be submitted on or before February 17, 2017, only if a pre-application was not submitted.

For Bond/4% Housing Tax Credit Applications, this completed form should be submitted 3-5 business days prior to the anticipated application submission date.

For Multifamily Direct Loans, if the application is submitted with a 9% HTC application, no additional form is required. Otherwise, the form should be submitted 3-5 business days prior to the anticipated application submission date. Questions about this form should be addressed to Liz Cline-Rew at liz.cline@tdhca.state.tx.us, or (512) 475-3227.

APPLICANT INFORMATION			
Name of Applicant:			
Name of Contact:			
Contact Address:			
City:		State:	
		Zip:	
Applicant or Contact Phone:		Fax:	
Email (Owner email address required):			
List of other email addresses of those who need to be emailed the FTP setup/login information:			
Consultant:		Email:	
2nd Contact:		Email:	
3rd Contact:		Email:	

DEVELOPMENT INFORMATION					
Development Name:					
Development Address:					
City:		State:		Zip:	
		Region:		County:	

Select Program(s) for Application:	
<input type="checkbox"/> Housing Tax Credits (HTC) - Competitive 9% <input type="checkbox"/> Housing Tax Credits (HTC) - 4% <input type="checkbox"/> Tax Exempt Bonds <input type="checkbox"/> Multifamily Direct Loans (HOME or TCAP)	<input type="checkbox"/> National Housing Trust Fund (NHTF) <input type="checkbox"/> Other:

2017 Electronic Filing Agreement

This is an agreement between the Texas Department of Housing and Community Affairs and the Multifamily Housing Program Applicant to facilitate the electronic submission of application documents for multifamily housing programs in accordance with the Department policy.

This agreement authorizes the Applicant to file application documents by means of electronic transmission for the duration of this Agreement and as specified by Department procedures.

This agreement must be signed by the Applicant. The term "application documents" is defined to include responses to Administrative Deficiencies issued by the Department, supplemental reports, and any documentation required to meet ongoing multifamily program review and Department reporting requirements.

The signature of the Applicant on this Agreement is deemed to appear on all electronically filed application documents as if actually so

appearing.

The Applicant's electronic submission of application documents must be in the manner prescribed by the Texas Department of Housing and Community Affairs multifamily housing programs.

This Agreement is effective as of the latest date specified below and remains effective until terminated by written notification from either party.

This Agreement may be amended at any time by the execution of a written addendum to this agreement by the Applicant and the Texas Department of Housing and Community Affairs.

SIGNED on the date indicated below.

APPLICANT:

_____	_____	_____
Signature	Printed Name	Date

Please include a completed and signed copy of this document with the pre-application or application submission.

From: [Bill Fisher](#)
To: [Marni Holloway](#); [Melissa R Fisher](#); [Liz Cline](#); [Jason Burr](#)
Cc: [Sharon Gamble](#); [John Shackelford](#); [Michelle Snedden](#)
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement
Date: Friday, February 24, 2017 3:02:11 PM

Thank you

We won't make this difficult for staff. If there are other viable apps in that area that met the requirements and use the area funds, I don't think Rise plans to appeal.

We value the relationship with the department and staff.

Bill

From: Marni Holloway [mailto:marni.holloway@tdhca.state.tx.us]
Sent: Friday, February 24, 2017 2:52 PM
To: Bill Fisher <Bill.Fisher@sonomaadvisors.com>; Melissa R Fisher <mfisher@rise-residential.com>; Liz Cline <liz.cline@tdhca.state.tx.us>; Jason Burr <jason.burr@tdhca.state.tx.us>
Cc: Sharon Gamble <sharon.gamble@tdhca.state.tx.us>; John Shackelford <JShackelford@shackelfordlaw.net>; Michelle Snedden <MSnedden@shackelfordlaw.net>
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

Hello Bill –

We have discussed internally and recognize that without an opportunity to submit an application, Rise may not have appeal rights in this situation. To that end, Liz will set up the .ftp access and provide that information to Melissa shortly.

If an application is submitted prior to the deadline, we will disqualify it for failure to meet the earlier deadline. This way, you will have the right to appeal to the Board, and we would plan on taking this item to the March meeting.

Please let me know if you have any questions or need further information.

Thanks,
Marni

Marni Holloway
Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
(512) 475-1676

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

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

From: Bill Fisher [<mailto:Bill.Fisher@sonomaadvisors.com>]
Sent: Friday, February 24, 2017 9:32 AM
To: Melissa R Fisher; Liz Cline; Jason Burr
Cc: Sharon Gamble; Marni Holloway; John Shackelford; Michelle Snedden
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

This position effectively makes the QAP submission deadline of 3/1 moot.

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Rise got site control after the 17th and has prepared a comprehensive application for submission including all threshold and scoring item. They got their resolution of support from Rio Hondo this week. Their zoning application was submitted yesterday.

So a request for access to submit an application due 3/1/17 on 2/23/2017 needs to be accommodated. If there are technical reasons why this cannot be done before 3/1/2017 Rise I know will consider that issue.

At this point we need to find a way for Rise to submit this application at a minimum, so they can appeal this issue to the ED and or the Board. As you know this makes the 3/1/2017 deadline in the QAP ambiguous which should be construed in the sponsors favor.

Due to the unique situation in Rural region 11, I respectfully request you provide access for the application even if it is done under protest so the Executive Director and or Board can consider the issue give the circumstance in this Rural Region 11. Rise will make application by CD as has been done in year past if that is a easier way to get the app in and have the appeal be relevant.

Your consideration is appreciated.

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Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

Importance: High

Is there another way to submit the application? I understand that the e-filing agreement submission deadline was the 17th, but the QAP deadline for the application is 3/1 – I did not understand that the effective deadline to apply without a pre-app is February 17th, and not March 1st.
Is there no way around this? Can I submit in another format?

Melissa R. Fisher
RISE RESIDENTIAL CONSTRUCTION, LP
972.701.5558

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Sent: Friday, February 24, 2017 9:03 AM
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Melissa,

I left a voice mail for you as well. I am unable to process the request because the deadline for submission to request ftp access as stated in §11.2 of the 2017 QAP has passed.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895

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From: Melissa R Fisher [<mailto:mfisher@rise-residential.com>]
Sent: Thursday, February 23, 2017 3:43 PM
To: Liz Cline; Jason Burr
Subject: 2017 App - Las Villas del Rio Hondo E-filing Agreement
Importance: High

Hi Liz and Jason,

I have one additional application (no pre-app) that I would sincerely like to submit for this round. I have attached an e-filing agreement. Might you be able to set us up for a TDHCA number for e-

filing the full app on the first?

I apologize for the late notice, please let me know?

Melissa

Melissa R. Fisher
{Formerly Adami}
RISE RESIDENTIAL CONSTRUCTION, LP
16812 Dallas Parkway | Dallas, Texas 75248
phone 972.701.5558
WWW.RISE-RESIDENTIAL.COM
MFISHER@RISE-RESIDENTIAL.COM

2017 Electronic Filing Agreement

Texas Department of Housing & Community Affairs (TDHCA)
 Mailing Address: P.O. Box 13941, Austin, TX 78711-3941
 Physical Address: 221 East 11th Street, Austin, TX 78701

This form must be submitted prior to the applicable program deadlines described below. Information from this form will be used to create a Multifamily Serv-U HTTPS account for the submission of application information and documents.

For 9% Housing Tax Credit Applications, this completed form should be submitted on or before February 17, 2017, only if a pre-application was not submitted.

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For Multifamily Direct Loans, if the application is submitted with a 9% HTC application, no additional form is required. Otherwise, the form should be submitted 3-5 business days prior to the anticipated application submission date. Questions about this form should be addressed to Liz Cline-Rew at liz.cline@tdhca.state.tx.us, or (512) 475-3227.

APPLICANT INFORMATION			
Name of Applicant:	<u>Charles N. Mitchell</u>		
Name of Contact:	<u>Mark Moseley</u>		
Contact Address:	<u>901 E. Levee</u>		
City:	<u>Brownsville</u>	State: <u>Texas</u>	Zip: <u>78520</u>
Applicant or Contact Phone:	<u>956-541-4955</u>	Fax:	_____
Email (Owner email address required):	<u>nmitchell@cdcb.org</u>		
List of other email addresses of those who need to be emailed the FTP setup/login information:			
Consultant:	_____	Email:	_____
2nd Contact:	<u>Mark Moseley</u>	Email:	<u>mmoseley@cdcb.org</u>
3rd Contact:	<u>Armando Ibarra</u>	Email:	<u>aibarra@cdcb.org</u>

DEVELOPMENT INFORMATION				
Development Name:	<u>Las Casitas de Azucar</u>			
Development Address:	<u>20209 FM 506</u>			
City:	<u>Santa Rosa</u>	State:	<u>Texas</u>	Zip: <u>78593</u> Region: <u>11</u> County: <u>Cameron</u>

Select Program(s) for Application:	
<input checked="" type="checkbox"/> Housing Tax Credits (HTC) - Competitive 9%	<input type="checkbox"/> National Housing Trust Fund (NHTF)
<input type="checkbox"/> Housing Tax Credits (HTC) - 4%	
<input type="checkbox"/> Tax Exempt Bonds	<input type="checkbox"/> Other: _____
<input checked="" type="checkbox"/> Multifamily Direct Loans (HOME or TCAP)	

2017 Electronic Filing Agreement

This is an agreement between the Texas Department of Housing and Community Affairs and the Multifamily Housing Program Applicant to facilitate the electronic submission of application documents for multifamily housing programs in accordance with the Department policy.

This agreement authorizes the Applicant to file application documents by means of electronic transmission for the duration of this Agreement and as specified by Department procedures.

This agreement must be signed by the Applicant. The term "application documents" is defined to include responses to Administrative Deficiencies issued by the Department, supplemental reports, and any documentation required to meet ongoing multifamily program review and Department reporting requirements.

The signature of the Applicant on this Agreement is deemed to appear on all electronically filed application documents as if actually so

appearing.

The Applicant's electronic submission of application documents must be in the manner prescribed by the Texas Department of Housing and Community Affairs multifamily housing programs.

This Agreement is effective as of the latest date specified below and remains effective until terminated by written notification from either party.

This Agreement may be amended at any time by the execution of a written addendum to this agreement by the Applicant and the Texas Department of Housing and Community Affairs.

SIGNED on the date indicated below.

APPLICANT:



Signature

Charles N. Mitchell

Printed Name

2/3/2017

Date

Please include a completed and signed copy of this document with the pre-application or application submission.

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APPLICANT INFORMATION			
Name of Applicant:	RST Monarch Estates, LP		
Name of Contact:	Clifton Phillips		
Contact Address:	1605 LBJ Freeway, Suite 610		
City:	Dallas	State:	TX
		Zip:	75234
Applicant or Contact Phone:	972-243-4205	Fax:	
Email (Owner email address required):	roundstone@rstdev.com		
List of other email addresses of those who need to be emailed the FTP setup/login information:			
Consultant:		Email:	
2nd Contact:		Email:	
3rd Contact:		Email:	

DEVELOPMENT INFORMATION					
Development Name:	Monarch Estates				
Development Address:	Sunshine Lane East of E. Main Street				
City:	Uvalde	State:	TX	Zip:	78801
		Region:	11	County:	Uvalde

Select Program(s) for Application:	
<input checked="" type="checkbox"/> Housing Tax Credits (HTC) - Competitive 9%	<input type="checkbox"/> National Housing Trust Fund (NHTF)
<input type="checkbox"/> Housing Tax Credits (HTC) - 4%	
<input type="checkbox"/> Tax Exempt Bonds	<input type="checkbox"/> Other: _____
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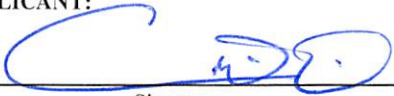
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SIGNED on the date indicated below.

APPLICANT:



Signature

Clifton E. Phillips

Printed Name

2/2/2017

Date

Please include a completed and signed copy of this document with the pre-application or application submission.

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APPLICANT INFORMATION			
Name of Applicant:	<u>Raymondville Gateway Residences, LP</u>		
Name of Contact:	<u>Mark Temple</u>		
Contact Address:	<u>PO Box 700115</u>		
City:	<u>San Antonio</u>	State: <u>TX</u>	Zip: <u>78270</u>
Applicant or Contact Phone:	<u>210-912-0070</u>	Fax:	
Email (Owner email address required):	<u>marktemple@satx.rr.com</u>		
List of other email addresses of those who need to be emailed the FTP setup/login information:			
Consultant:	<u>Tammi Creason</u>	Email:	<u>Tammi@creasondevelopment.com</u>
2nd Contact:	<u>Randy Aldridge</u>	Email:	<u>Randy@trustmarkcorp.com</u>
3rd Contact:		Email:	

DEVELOPMENT INFORMATION					
Development Name:	<u>Gateway Residences</u>				
Development Address:	<u>acreage north of 729 E Hildago Ave</u>				
City:	<u>Raymondvill</u>	State: <u>TX</u>	Zip: <u>78580</u>	Region: <u>11</u>	County: <u>Willacy</u>

Select Program(s) for Application:	
<input checked="" type="checkbox"/> Housing Tax Credits (HTC) - Competitive 9%	<input type="checkbox"/> National Housing Trust Fund (NHTF)
<input type="checkbox"/> Housing Tax Credits (HTC) - 4%	
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SIGNED on the date indicated below.

APPLICANT:

 _____ Signature	Mark Temple _____ Printed Name	2/15/2017 _____ Date
---	---	-----------------------------------

Please include a completed and signed copy of this document with the pre-application or application submission.

Termination Letter

17742 Las Villas del Rio Hondo Apartments



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

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

March 15, 2017

*Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us*

Ms. Melissa Fisher
Manager
Rio Hondo TX, LP
16812 Dallas Parkway
Dallas, Texas 75248

RE: TERMINATION OF 2017 COMPETITIVE HOUSING TAX CREDIT APPLICATION 17742 LAS VILLAS DEL RIO HONDO

Dear Ms. Fisher:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the application submission indicated above. As was discussed with the Applicant prior to submittal, the Application is being terminated because the Applicant failed to submit the Electronic Filing Agreement prior to the deadline required by 10 TAC §11.2, Program Calendar for Competitive Housing Tax Credits. The Department allowed the Applicant to submit the Application in order to preserve the right to appeal staff's decision.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. It is our understanding that you request this item to be addressed at the March Board meeting. **Please provide your appeal materials to Marni Holloway no later than noon Austin local time, on March 20, 2017,** so that they can be included in the Board materials.

If you have any questions or concerns, please contact me at 512-475-3296 or by email at tim.irvine@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director



Appeal Documents

17742 Las Villas del Rio Hondo Apartments

Rio Hondo TX, LP

TDHCA

Attn: Sharon Gamble, Competitive HTC Manager

221 East 11th Street

Austin, TX 78711-3941

March 19, 2017

RE: TERMINATION OF HTC APPLICATION #17-742, Las Villas del Rio Hondo Apartments, Rio Hondo, Cameron County, TX

Dear Sharon:

The sponsor respectfully appeals the termination to the Executive Director and the Governing Board if necessary.

Here is what occurred with this application:

1. The application was submitted timely and completely before the March 1, 2017 deadline for submission of final 9% competitive HTC applications per the QAP and Rules for 2017.
2. On February 23, 2017, 9 days prior to the March 1 application submission deadline, the sponsor requested an FTP agreement to allow this application to be uploaded timely before the deadline in the QAP of 3/1/2017. The request for access to submit was not the last minute of the application period but nine days prior to the full application cut-off date and time.
3. Staff advised the applicant that the due date to submit the full application had an earlier threshold deadline of 2/17/2017. Credentials\FTP access to file the application had to be requested for the Rio Hondo site specific application on or before 2/17/2017.
4. Sponsor was advised that credentials would not be issued at that time, 2/23/2017. The sponsor asked if the issuance of the credentials took some significant effort by Staff or the IT department before considering a submission and appeal.
5. When staff agreed to issue credentials for the FTP upload, solely to avoid cutting off the sponsor's right to appeal, it took less than 15 minutes for staff to issue the access on line.
6. Sponsor in turn filed a complete HTC application as of the March 1, 2017 deadline understanding the need for this appeal.
7. This is not a scoring issue. It is a rules decision on which controls. The QAP deadline of 3/1/2017 for the submission of a full application controls for all purposes not related to scoring in a clear reading of the QAP. The sponsor prepared a complete HTC application for rural region 11 which did not receive any pre-applications.
8. The sponsor prepared a complete 9% HTC application for Rural region 11. The one sub-region in the State without a pre-application.
9. The sponsor obtained site control from the land Seller on February 17, 2017, as documented in the application on file.

The sponsor contends the following:

The sponsor's application was submitted in good form prior to the 2017 QAP deadline of 3/1/2017. No intervening nor conflicting rule alters that deadline under the QAP and the Statute, not related to scoring. Rules should be meaningful and should not conflict with the other significant rules under the

Rio Hondo TX, LP

QAP. The applicant complied with the QAP deadline of 3/1/2017 for application submission and is therefor eligible. I don't think staff disagrees with this submission date for the application. So TDHCA staff is terminating the Rio Hondo application for not requesting an FTP agreement until 9 full days prior to the application submission deadline. That request, when it takes only 15 minutes to complete, is not required under the rules when the deadline for submission is clear and unambiguous on March 1, 2017.

The Sponsor had at least two other sets of access credentials it could have used to file the full application on line from pre- applications they completed without submission of a full application. Staff advised use of those existing credentials, although timely requested, could not be used for this Rio Hondo application.

We respectfully request the Executive Director direct staff to accept the application as timely filed. This application enjoys full community support with support letters from the State Representative. The development site is located in one of the poorest Counties in Texas and the US, Cameron County. Authority exists to accept the application as filed subject to full application reviews later in the process. In the event the ED chooses not to approve this appeal.

We request staff place us on the Board agenda for action at the first meeting in April.

Sincerely,


Manager of the General Partner

Bill Fisher

From: Liz Cline <liz.cline@tdhca.state.tx.us>
Sent: Friday, February 24, 2017 2:55 PM ✓
To: Melissa R Fisher
Cc: Bill Fisher; Sharon Gamble; Marni Holloway
Subject: TDHCA MF Serv-U login 17742 Las Villas del Rio Hondo

The MF Serve-U HTTPs instruction manual is located on the [Multifamily Finance Division Apply for Funds page](#) of the website or here:

[Electronic Document Upload User Guide \(MF Serv-U FTP\) \(DOC\)](#)

Login ID: mf17742

Please click on the link below to access your account:

<https://mf-files.tdhca.state.tx.us>

Enter your Login ID, click on the Recover Password link and your password will be emailed to you shortly (you may need to check your SPAM folder). Only the email address of the Owner (as submitted on the Electronic Filing Agreement, also in the To: field of this email) has the ability to reset the password; however, you will manage the account and update the email address at your discretion. It is your responsibility to disperse the login information to your associates.

The new password you create must have at least 8 characters that includes numbers and both upper and lower case letters. (No symbols)

If you have any questions, please contact [Liz Cline-Rew](#) or [Jason Burr](#) for FTP support.

Liz Cline-Rew

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895

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Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

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Thanks,
Marni

Marni Holloway

Multifamily Finance Director
Texas Department of Housing and Community Affairs
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972.701.5558

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Office: 512.475.3227
Fax: 512.475.1895

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

From: Melissa R Fisher [<mailto:mfisher@rise-residential.com>]
Sent: Thursday, February 23, 2017 3:43 PM
To: Liz Cline; Jason Burr
Subject: 2017 App - Las Villas del Rio Hondo E-filing Agreement
Importance: High

Hi Liz and Jason,

I have one additional application (no pre-app) that I would sincerely like to submit for this round.

I have attached an e-filing agreement. Might you be able to set us up for a TDHCA number for e-filing the full app on the first?

I apologize for the late notice, please let me know?

Melissa

Melissa R. Fisher
{Formerly Adami}
RISE RESIDENTIAL CONSTRUCTION, LP
16812 Dallas Parkway | Dallas, Texas 75248
phone 972.701.5558
WWW.RISE-RESIDENTIAL.COM
MFISHER@RISE-RESIDENTIAL.COM

Bill Fisher

Subject: FW: 2017 App - Las Villas del Rio Hondo E-filing Agreement

From: Marni Holloway [mailto:marni.holloway@tdhca.state.tx.us]
Sent: Friday, February 24, 2017 9:29 AM
To: Melissa R Fisher <mfisher@rise-residential.com>; Liz Cline <liz.cline@tdhca.state.tx.us>; Jason Burr <jason.burr@tdhca.state.tx.us>
Cc: Sharon Gamble <sharon.gamble@tdhca.state.tx.us>; Bill Fisher <Bill.Fisher@sonomaadvisors.com>
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

Hi Melissa –

§10.201(1)(C) requires that Applications be submitted through the Department's web transfer server, there is no alternative method for submission of an Application. Because we did not receive a pre-app or an application for .ftp access within the deadlines in §11.2, there isn't a path to submission of a full application for this Development for this round.

Thanks,
Marni

Marni Holloway

Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
(512) 475-1676

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

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

From: Melissa R Fisher [mailto:mfisher@rise-residential.com]
Sent: Friday, February 24, 2017 9:09 AM
To: Liz Cline; Jason Burr
Cc: Sharon Gamble; Marni Holloway; Bill Fisher (Sonoma Advisors)
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement
Importance: High

Is there another way to submit the application? I understand that the e-filing agreement submission deadline was the 17th, but the QAP deadline for the application is 3/1 – I did not understand that the effective deadline to apply without a pre-app is February 17th, and not March 1st.

Is there no way around this? Can I submit in another format?

Melissa R. Fisher

From: Liz Cline [<mailto:liz.cline@tdhca.state.tx.us>]
Sent: Friday, February 24, 2017 9:03 AM
To: Melissa R Fisher <mfisher@rise-residential.com>; Jason Burr <jason.burr@tdhca.state.tx.us>
Cc: Sharon Gamble <sharon.gamble@tdhca.state.tx.us>; Marni Holloway <marni.holloway@tdhca.state.tx.us>
Subject: RE: 2017 App - Las Villas del Rio Hondo E-filing Agreement

Melissa,

I left a voice mail for you as well. I am unable to process the request because the deadline for submission to request ftp access as stated in §11.2 of the 2017 QAP has passed.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895

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

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BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on a timely filed appeal of application termination under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, the appeal relates to non-Competitive Housing Tax Credit ("HTC") and Direct Loan Application Lord Road Apartments (#17403), which was submitted to the Department on January 9, 2017;

WHEREAS, the submitted Application did not include the required language in the purchase contract pursuant to 10 TAC §13.2(1) of the Multifamily Direct Loan Rule, a threshold item, and attempts to resolve the item during the Administrative Deficiency process were unsuccessful;

WHEREAS, the ability of the Applicant to compel title pursuant to 10 TAC §10.204(10)(A) of the 2017 Uniform Multifamily Rules could only be achieved upon closing under the underlying purchase contract which does not meet the requirements of 10 TAC §10.204(10)(A);

WHEREAS, a notice of termination was provided to the Applicant on April 3, 2017, for failure to meet the requirements of 10 TAC §13.2(1) and §10.204(10)(A) of the 2017 Uniform Multifamily Rules;

WHEREAS, the Applicant timely filed an appeal on April 10, 2017; and

WHEREAS, the Executive Director denied the appeal on April 19, 2017;

NOW, therefore, it is hereby

RESOLVED, that the appeal of termination for Lord Road Apartments (17403) is hereby denied.

BACKGROUND

Pursuant to 10 TAC §13.2(1) of the Multifamily Direct Loan Rule:

"(1) Choice Limiting Activity: ...All applicants for MFDL funds, regardless of whether or not the Development Site is in a Participating Jurisdiction, must include the following language in the purchase contract or site control agreement: Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until the Department has provided Purchaser and/or Seller with a written notification that: (1) it has completed a

federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, (a) the purchase may proceed, or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or (2) it has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. The Department shall use its best efforts to conclude the environmental review of the property expeditiously.”

On January 30, 2017, staff issued an Administrative Deficiency requesting the required language. A response on February 1, 2017, indicated “*An amendment has been written, but not executed. We have requested an extension for this item and it will be forthcoming.*” Staff sent another inquiry regarding this language on February 22 and the response stated “*The direct loan language is part of the closing extension language. We can’t sign until we meet with development services and that meeting won’t be for 2-3 weeks.*” On March 9, staff requested a purchase contract that contained the required language and on March 10 a response was received that indicated the following: “*The Developer has the contract with the required Direct Loan Language in it. This issue lies in the fact that in order to execute the contract, the seller wants \$75,000, which is non-refundable. The Developer does not want to execute this contract until they are sure the City of San Antonio is going to allow the project to go forward. Otherwise the Developer will be out \$75,000. Once the City of San Antonio gives approval, the contract will be executed and submitted.*” On March 14, staff requested additional clarification, specifically relating to what action the applicant was waiting on from the City of San Antonio in order to make a determination whether or not to proceed with the executed contract. Staff sent a follow-up email on March 28 and still did not receive a response. Over the course of two months subsequent to the initial Administrative Deficiency staff continued to inquire as to the status and various explanations were provided; however, the purchase contract with the required language was never submitted in response to those inquiries. The application was terminated on April 3, 2017. The appeal to the termination, dated April 10, 2017, included a First Amendment to the Purchase and Sale Agreement which included the required environmental language.

Moreover, staff raised questions relating to the ability of the applicant, NRP Properties, LLC, (and its assignee Lord Road Apartments, Ltd.) to compel title pursuant to 10 TAC §10.204(10)(A) considering the underlying purchase contract between Idea Public Schools and Coldwater Ventures, LLC. A response on March 10 stated the following “*We have the ability to compel Coldwater ventures without reservation or condition. They have the ability to compel IDEA public schools without reservation or condition. We trigger one and they trigger the other. This frequently happens in real estate and creates an immutable and irrevocable chain of title.*” However, paragraph 7 of the Coldwater Ventures/NRP Properties contract contains the following language “*Should the fee owner refuse or fail to convey fee title as required, this contract shall terminate and the earnest money shall be refunded to buyer.*” It is unclear to staff how the applicant had the ability to compel title absent a provision that allows NRP Properties, LLC to step into the contract with Idea Public Schools should Coldwater Ventures be unable to obtain title. The appeal to the termination included a Second Amendment to the Purchase and Sale Agreement, dated April 7, 2017, that could presumably require NRP Properties, LLC to enforce specific performance of Coldwater Ventures, LLC under such underlying purchase contract, thereby demonstrating the ability of NRP Properties, LLC to compel title. This amendment was clearly executed after the date of the termination, despite prior efforts by staff (both in writing via email and via phone conversations) to understand how the Purchase and Sale Agreement submitted with the original application satisfied the requirement of 10 TAC §10.204(10)(A).

Staff performed its initial review of this application in accordance with 10 TAC §10.201(7)(C) of the 2017 Uniform Multifamily Rules regarding the Administrative Deficiency Process which states, in part:

“...Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice will be terminated or suspended from further processing so long as the active Application does not impact the processing or underwriting of other Applications. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed...”

Staff attempted on several occasions, outside of the Administrative Deficiency process, through subsequent emails and phone conversations to resolve the aforementioned items, to further assist in understanding the issue and how it could be resolved, along with trying to discern when such issues could be anticipated to be resolved. Pursuant to 10 TAC §10.201(7)(C) staff elected to suspend the review and processing of the application, not prioritizing it for review until such time the issues were resolved or until such time the requests for Multifamily Direct Loan funds became oversubscribed. Once the Direct Loan application log reflected that funds in the General set-aside were abundantly oversubscribed it became evident that staff could not continue to process an application that had not satisfactorily addressed threshold items requested by staff, nor was there any indication as to when such items would be resolved. While the applicant’s appeal asserts that staff failed to provide notification of the imminent threat of termination, staff maintains that the initial Administrative Deficiency Notice required all items to be resolved within a required timeframe. Moreover, the application included signed certification stating that the applicant has read and understands the 2017 Uniform Multifamily Rules. Ultimately, a Purchase and Sale Agreement was submitted in the original application that failed to meet the requirements of 10 TAC §13.2(1) and §10.204(10)(A) and repeated attempts by staff to resolve were unsuccessful.

Staff recommends denial of the appeal. Should the Board grant the appeal, staff notes that pursuant to 10 TAC §13.5(c) the received date of the application will be re-established based on the date the Second Amendment to the Purchase and Sale Agreement was submitted which was in conjunction with the appeal to the termination submitted on April 10, 2017. 10 TAC §13.5(c) reads, in part:

(c) ...Failure to timely respond to any notice of Administrative Deficiency will result in a re-establishment of the date of receipt of the Application to the final date at which the cure to the notice was received by the Department. If the date of receipt of the Application is re-established, an Application could be de-prioritized in favor of another application received prior to the new application submission date.”

Termination Letter



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
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April 3, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. John Kenny
Lord Road Apartments, Ltd.
2515 Blanco Road
San Antonio, TX 78212

RE: TERMINATION OF HTC AND DIRECT LOAN APPLICATION #17403, LORD ROAD APARTMENTS,
SAN ANTONIO, TEXAS

Dear Mr. Kenny:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the above-referenced application. On January 30, 2017, the Department issued an Administrative Deficiency requesting the following:

"Tab 12, Direct Loan Language – The required language regarding the environmental review was not found in the purchase contract. Provide the required language in an amendment to the contract."

A response on February 1 indicated "*An amendment has been written, but not executed. We have requested an extension for this item and it will be forthcoming.*" Staff sent another inquiry regarding this language on February 22 and the response stated "*The direct loan language is part of the closing extension language. We can't sign until we meet with development services and that meeting won't be for 2-3 weeks.*" On March 9 staff requested a purchase contract that contained the required language and on March 10 a response was received that indicated the following: "*The Developer has the contract with the required Direct Loan Language in it. This issue lies in the fact that in order to execute the contract, the seller wants \$75,000, which is non-refundable. The Developer does not want to execute this contract until they are sure the City of San Antonio is going to allow the project to go forward. Otherwise the Developer will be out \$75,000. Once the City of San Antonio gives approval, the contract will be executed and submitted.*" On March 14 staff requested additional clarification, specifically relating to the approval you were seeking from the City of San Antonio. Staff sent a follow-up email on March 28 and has not received a response.

Staff has also raised questions relating to the ability of NRP Properties, LLC (and its assignee Lord Road Apartments, Ltd.) to compel title pursuant to §10.204(10)(A) considering the underlying purchase contract between Idea Public Schools and Coldwater Ventures, LLC. Your response on March 10 stated the following "*We have the ability to compel Coldwater ventures without reservation or condition. They have the ability to compel IDEA public schools without reservation or condition. We trigger one and they trigger the other. This frequently happens in real estate and creates an immutable and irrevocable chain of title.*" However, the paragraph 7 of the Coldwater Ventures/NRP Properties contract contains the following language "*Should the fee owner refuse or fail to convey fee*



title as required, this contract shall terminate and the earnest money shall be refunded to buyer.” Without a provision that allows NRP Properties, LLC to step into the contract with Idea Public Schools should Coldwater Ventures be unable to obtain title, NRP does not have effective site control.

Pursuant to 10 TAC §10.201(7)(C) of the 2017 Uniform Multifamily Rules regarding the Administrative Deficiency Process:

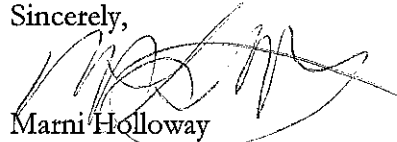
“...Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice will be terminated or suspended from further processing so long as the active Application does not impact the processing or underwriting of other Applications. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed...”

The inclusion of the environmental language in the purchase contract is a specific threshold requirement pursuant to 10 TAC §13.2(1). Despite repeated attempts by staff to identify when this deficiency will be resolved, it remains outstanding. Furthermore, effective site control and an ability to compel title is a specific threshold requirement pursuant to 10 TAC §10.204(10)(A). The information provided indicates that the Applicant does not have effective site control. . The 2017-1 Direct Loan NOFA is oversubscribed and the Department cannot continue to process an application that has not satisfactorily addressed threshold items.

Based on the aforementioned issues, the application is terminated. An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,



Marni Holloway
Director of Multifamily Finance

Applicant Appeal

COATS | ROSE

A PROFESSIONAL CORPORATION

BARRY J. PALMER

BPALMER@COATSROSE.COM
DIRECT DIAL
(713) 653-7395
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(713) 890-3944

April 10, 2017

Filed Electronically

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410
Attention: Tim Irvine, Executive Director

Re: #17403 – Lord Road Apartments, San Antonio, Texas
Appeal of Termination of 4% HTC and Direct Loan Application

Dear Mr. Irvine,

This firm represents Lord Road Apartments Ltd. (“Applicant”) in connection with Lord Road Apartments (the “Project”). We are appealing the decision of TDHCA’s Multifamily Finance Department to terminate the Project’s 2017 4% Tax Exempt Bond HTC and Direct Loan Application (the “Application”). The termination letter dated April 3, 2017 (the “Termination Letter”), stated it was issued based on two unresolved administrative deficiencies. Despite extensive and ongoing mutual correspondence between Applicant and TDHCA evidencing a common goal of seeking resolution, Applicant was in the midst of resolving one known item, but a new issue was raised in the termination letter (which Applicant believes is misplaced). The Termination Letter came as a complete surprise to Applicant, who had not been notified of any imminent threat of termination, or even been given the impression TDHCA was dissatisfied with the timeliness of the progress being made.

An initial read of the Termination Letter gives the impression that two outstanding threshold requirements remained outstanding after repeated attempts by TDHCA to resolve. However, the Termination Letter fails to impart a complete sense of the undertakings by Applicant to resolve the outstanding items, including the extensive back-and-forth communication with TDHCA. Additionally, the Termination Letter states there was no response to its last inquiry on March 28, 2017, but there actually was a response from Applicant on the following day. Attached as **Exhibit “A”** is a chronological list of correspondence between TDHCA and Applicant which helps put the extent of the communications in context. For a more in-depth review, the referenced emails are attached behind the list.

9 GREENWAY PLAZA, STE 1100, HOUSTON, TEXAS 77046
PHONE: (713) 651-0111 FAX: (713) 651-0220
WEB: www.coatsrose.com

April 10, 2017

Page 2

As set forth herein, the two deficiency items are fully resolved, one having been resolved prior to receiving the Termination Letter, and the other, though not having been relayed to Applicant until set forth in the Termination Letter, nonetheless has been resolved as well. This appeal letter will provide a full account of what has taken place. We believe once all the facts and circumstances are considered, it will become clear, based on the correspondence with TDHCA, that the granting of this appeal is warranted.

Background

The Applicant was first made aware of the existence of alleged administrative deficiencies in an email dated January 30, 2017. The notice listed fourteen items which needed to be resolved or clarified within five business days, or *potentially* face penalties, with the *potential* of being terminated if not resolved within ten days. The deadlines and penalties are set forth in Section 10.201 of the 2017 Uniform Multifamily Rule (the “Rules”), which provides generous leeway to TDHCA staff in determining how to proceed with deficiencies in funding applications that are not part of the 9% competitive HTC pool. Applicant immediately responded acknowledging receipt, and several emails between TDHCA staff and Applicant were exchanged over the next few days. One of the deficiency items required an amendment to the purchase contract to include certain language relevant to the Direct Loan program (the “Direct Loan Language Deficiency”). Applicant submitted a formal response to the initial deficiency notice within the required five-business-day deadline, and requested an extension with regard to the Direct Loan Language Deficiency, since that item was dependent upon a third party’s approval. The extension request was granted, but no deadline by TDHCA was ever provided outside of “as soon as possible.”

Additional correspondence continued to take place between TDHCA and Applicant confirming resolution of the remaining items. Toward the latter part of February, TDHCA indicated a secondary review was being initiated. A second Administrative Deficiency Notice was issued by TDHCA on March 2, 2017, which did not include reference to the Direct Loan Language Deficiency nor any of the previous listed deficiencies, but did list five new items, including the first mention of a site control issue regarding a discrepancy between the owner shown on the title commitment and the seller shown in the purchase agreement. Again, Applicant responded promptly, mutual correspondence ensued, and Applicant submitted its formal response within the five-business-day deadline. Extensive correspondence took place between TDHCA and Applicant March 9-March 29, 2017, regarding the site control concerns whereby new questions would arise from TDHCA and be answered by Applicant in back-and-forth emails and phone calls. During this time, updates regarding the Direct Loan Language Deficiency were periodically requested by TDHCA and responded to promptly by Applicant. TDHCA made clear that the Direct Loan Language Deficiency was not holding up the application, but rather the evolving questions about site control were the reason the Application had not yet been forwarded for underwriting review.

On Tuesday, March 28, 2017, TDHCA emailed the assistant of the Applicant’s consultant (“Consultant Assistant”), inquiring about the status of the amendment that would resolve the Direct Loan Language Deficiency and confirming that the Site Control issue was being handled

April 10, 2017

Page 3

directly with a different contact person of Applicant (“Site Control Contact”). The following day, the Site Control Contact provided TDHCA with the requested documentation on that issue and believed that issue to be resolved. The Site Control Contact also stated that the amendment needed to resolve the Direct Loan Language Deficiency was coming the next day. The Termination Letter failed to mention the response from the Applicant subsequent to March 28, 2017, and instead stated that no response had been received, which is not an accurate statement.

The amendment to the purchase contract needed to resolve the Direct Loan Language Deficiency was executed March 29, 2017, but the Consultant Assistant was out of the office March 29-31, 2017. Upon her return to the office on April 3, 2017, she forwarded the resolution to the Direct Loan Language Deficiency that day (such amendment is attached here as **Exhibit B**). However, earlier that morning, the Termination Letter had been sent (albeit to a different set of Applicant contacts, which did not include the Consultant Assistant). Prior to the Termination Letter, Applicant had been given no warning from TDHCA that termination was imminent or even being considered at that time. The Termination Notice referenced both the Direct Loan Language Deficiency and a site control concern, but the reasoning described in the site control issue related to a specific provision in the purchase agreement that had not previously been brought up to Applicant. Hence, Applicant had not been afforded any opportunity at all to resolve the site control issue noted in the Termination Letter. Further, the Direct Loan Language Deficiency had been resolved prior to the issuance of the Termination Letter, except that the Consultant Assistant was out of the office when it was received and unable to pass it on to TDHCA until her return three business days later.

There are several other elements described below, which, when reviewed in the aggregate, portray a pattern of facts that show Applicant had promptly and satisfactorily resolved the issues under its control, was diligently pursuing resolution of the third party item that was ultimately resolved. Furthermore, Applicant was engaged in ongoing extensive communication with TDHCA to ensure such resolution, and has again promptly resolved a newly presented issue. Applicant has continually been acting in good faith and with diligence to satisfy the TDHCA’s issues of concern since the initial deficiency letter was issued.

Site Control Deficiency. Applicant had not been previously notified there was a concern about the specific provision noted in the Termination Letter. Questions surrounding site control arose during the second review and were noted in the second deficiency letter received March 2, 2017. The initial question sought clarification as to why the seller shown on the purchase contract differed from the owner shown on the title commitment. Applicant requested clarification from TDHCA as to the question within two business days and provided a formal response by the fifth business day, per the Rules. TDHCA had additional questions and Applicant responded the following day, and more questions arose relating to the structure of the two-tier contract and the appearance of the redacted underlying contract. TDHCA was concerned the underlying contract lacked consideration because the redactions appeared as blank spaces rather than crossed out. Applicant timely submitted a separate copy of the redacted contract which better reflected the redactions so they appeared crossed out rather than blank. Questions also arose as to Applicant’s ability to compel title and Applicant provided a timely response. TDHCA never indicated to Applicant that its response was not sufficient nor indicated it needed anything further. It was not

until the Termination Letter was issued did TDHCA specifically state what provision it had a concern about and what language it needed to see. Although Applicant believed that Applicant was already in compliance with Site Control requirements, for the avoidance of doubt, an amendment to the purchase contract was then promptly executed to include the needed language, and is attached here as Exhibit C. Had TDHCA given Applicant the opportunity of notice and cure as to this item, it would have been resolved timely. Instead, TDHCA did not make Applicant aware of what it needed until the issuance of the Termination Letter.

Ambiguous Extension. In multiple correspondence, TDHCA confirmed that an extension of the Direct Loan Language Deficiency had been granted and was not delaying the Application from proceeding through review. However, no definitive deadline was provided by TDHCA. Given the extent of back-and-forth communication with TDHCA, which never once established a deadline nor expressed any indication of looming termination, it becomes clear that Applicant was within reason to believe it was cooperating sufficiently with THDCA in a manner that would lead to resolution, so the termination took Applicant by complete surprise. In fact, as shown in Exhibit A, every inquiry from TDHCA was responded to promptly by Applicant, within 1- 2 days, and typically within only hours. Applicant should have been notified that the extension was nearing an end and given a timeline within which to resolve the Direct Loan Language Deficiency. Further, given that the Rules grant a five-business-day response window (and a ten-day window prior to termination), in the absence of any hard deadline for the extension, Applicant should have been granted at least that much time from the March 28th inquiry from TDHCA to resolve the outstanding item. Instead, the Application was terminated four business days from the last inquiry from TDHCA, and only three business days from the last response received from Applicant. Had the traditional response window been applied, the Direct Loan Language Deficiency would have been resolved before the window expires, as the required amendment was submitted to TDHCA on April 3, 2017 (the fourth business day).

Single Contact. Section 10.201(7) of the Rules states that emailed deficiency notices would be sent to “the Applicant and one other contact party if identified by the Applicant in the Application.” While the vast majority of correspondence from TDHCA regarding the Application was sent to multiple contacts at the Applicant, it is important to note the last inquiry from TDHCA on March 28th was sent ONLY to the Consultant Assistant (and not the Applicant). The Consultant Assistant was listed in last order of priority in the Application as a point of contact, and the Applicant was not copied at all. In fact, this Consultant Assistant had been requested to be added to email chains, since she was not a point person in a leadership role. Had multiple Applicant contacts been sent the last inquiry, as had been done with virtually all other correspondence between TDHCA and Applicant in connection with the Application, it would have implied a more serious tone. Instead, a casual inquiry as to status was sent only to one non-primary contact who was out of the office the following three days, including during the time when the relevant document was received by Applicant that needed to be transmitted to TDHCA. An email so significant that it precipitated the issuance of a termination should have been sent to multiple contacts at the Applicant.

No Notice. The Termination Letter references Section 10.201(7)(C) of the Rules regarding the Administrative Deficiency Process, which provides TDHCA staff has the option to assess late

April 10, 2017

Page 5

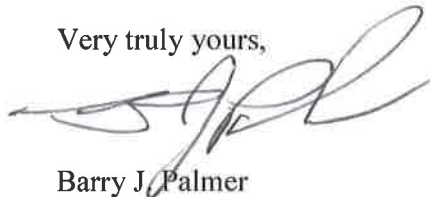
fees or terminate applications when the Direct Loan program is undersubscribed. However, the Termination Notice states the 2017-1 Direct Loan NOFA is oversubscribed. The language of the Rule implies that during such oversubscription, TDHCA staff loses its option to work with Applicants and instead must assess fees and terminate applications. Not once during the correspondence did TDHCA indicate that the Direct Loan program was oversubscribed to the extent that they must adhere to the rigid penalties permitted by the Rules. It stands to reason that the continual contact and progress being worked towards between Applicant and TDHCA reasonably leads Applicant to believe its Application was not in jeopardy of termination due to the noted oversubscription. Further, TDHCA should have at least assessed late fees against the Applicant to indicate the significant degree to which oversubscription was affecting deficiency reviews, but nothing of the sort occurred. Not only were penalties never even mentioned, neither was there ever issued a threat of imminent termination. Quite the opposite, the TDHCA continued to correspond with Applicant to work through outstanding issues and continued to process the Application in the meantime, leading Applicant to believe that its good faith efforts to comply were acceptable to TDHCA staff.

Summary:

When Applicant received the Termination Letter, it was taken aback for several reasons, mainly because it had been in constant communication with TDHCA regarding the progress of resolving the Direct Loan Language Deficiency and had been promptly responding to inquiries regarding the site control concerns. During that time, there had been no indication or notice given by TDHCA that the Application was at imminent risk of termination, nor had any specific deadline been given on the extension it had been granted. Further, Applicant had not been informed about the TDHCA's specific needs regarding the site control concerns until set forth in the Termination Letter. As described in this appeal, the substantial and ongoing communication between TDHCA and Applicant led Applicant to believe nothing other than it was making progress sufficient to satisfy TDHCA. The requested amendments to the purchase agreement to resolve the Direct Loan Language Deficiency and the site control concern have been obtained by Applicant and transmitted to TDHCA, resolving the last of all communicated deficiencies. Based on the unique facts and circumstances surrounding this Application's administrative deficiency process, when taken into account collectively, we believe the Termination Letter should be rescinded and are requesting that the Application be reinstated.

Thank you for your attention to this appeal. In the event that this appeal is not granted by the Executive Director, we request that this matter be heard before the TDHCA Board for further consideration at the April Board Meeting.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Barry J. Palmer', is written over a horizontal line.

Barry J. Palmer

EXHIBIT A

List of Correspondence between
TDHCA and Applicant with
Backup Emails Attached

Date	From	To	Topic/Notes
Mon 1/30/17 4:00pm	Liz Henderson		Deficiency Notice #1
Mon 1/30/17 5:05pm	Sarah	Liz H.; John; Debra; Rebecca	Acknowledged receipt of Deficiency Notice; requested Rebecca be cc'd on all correspondence
Wed 2/1/17 10:44am	Rebecca	UA Application	UA Application submitted
Wed 2/1/17 10:50am	UA Application	Rebecca	Receipt of UA Application confirmed
Thurs 2/2/17 4:16pm	UA Application/ Stephanie Naquin	Rebecca; Anne; Sarah	Calculation of UA explained
Fri 2/3/17 4:45pm	Rebecca	Liz Henderson	Questions to clarify Deficiency Notice requirements
Sat 2/4/17 8:35pm	Sarah	Liz H.; Jason; Rebecca	Requested extension on PSA Amendment item
Mon 2/6/17 6:51am	Liz H.	Rebecca	Response to Rebecca
Mon 2/6/17 9:01am	Liz H.	Sarah	Response to extension request (get it in ASAP)
Mon 2/6/17 10:08am	Sarah	Liz H.	Responded – we are meeting with Seller tomorrow
Mon 2/6/17 10:08am	Liz H.	Sarah	Generic response (“Okay good. Just let me know when you upload it.”)
Mon 2/6/17 1:03pm	Sarah	Liz H.	Requested extension for UA issue also
Mon 2/6/17 1:12pm	Liz H.	Sarah; Teresa M.	Clarify that extension does not apply to UA issue
Mon 2/6/17 1:27pm	Sarah	Liz H.; Teresa; Rebecca	Further inquiry re: UA extension request
Mon 2/6/17 1:41pm	Liz H.	Sarah; Teresa; Rebecca; Marni	Response re: UA extension request
Thurs 2/9/17 8:13am	Liz H.	Rebecca; Sarah; John; Debra;	Follow up inquiry about status of response (confirms again that extension was granted for DL PSA language issue)
Thurs 2/9/17 8:24am	Sarah	Liz H.; Rebecca; John; Debra; Noam	Response/questions re: outstanding items
Thurs 2/9/17 8:44am	Liz H.	Sarah; Rebecca; John; Debra; Noam	Response/answers re: outstanding items
Thurs 2/9/17 9:41am	Rebecca	Liz H.; John; Debra; Sarah	PP Forms submitted
Thurs 2/9/17 9:50am	Rebecca	Liz H.; Sarah; John; Debra;	Follow up resolving UA issue

		Anne	
Thurs 2/9/17 9:53am	Liz H.	Rebecca; Sarah; John; Debra; Anne	Confirmed receipt
Fri 2/17/17 11:37am	UA Application/ Stephanie Naquin	Rebecca; Anne; Sarah	Application Approval Letter MFDL
Wed 2/22/17 4:31pm	Liz Cline	John; Debra; Sarah;	Initiating 2 nd Review – questions re: status of amendment; indicated a deficiency notice would be forthcoming in a few days once review was completed
Wed 2/22/17 4:41pm	Sarah	Liz Cline; Jason; Noam; Jennifer; Ana; Anne; Rebecca; Debra	Response to questions; provided update on Amendment status/progress
Thurs 3/2/17 12:24pm	Liz C.	John; Debra; Sarah	Deficiency Notice #2
Mon 3/6/17 3:38pm	Rebeca	Liz C.	Requested clarification re: deficiency list received
Mon 3/6/17 4:14pm	Liz C.	Rebecca	Response to question
Wed 3/8/17 4:05pm	Rebecca	Liz C.; Sarah	Email sent confirming Deficiency 2 Response uploaded; requested acknowledgment of receipt
Wed 3/8/17 4:25pm	Liz C.	Rebecca	Receipt of Deficiency 2 Response acknowledged
Thur 3/9/17 8:50am	Liz C.	Rebecca; Sarah	Notified of outstanding issues: title commitment; rent schedule; amendment status
Thur 3/9/2017 8:59am	Liz C.	John; Debra; Sarah	Deficiency Notice #3 (rent schedule issue only)
Thur 3/9/17 ~10:30am	Rebecca (via phone)	Liz C.	Discussed Site Control issue and DL PSA amendment – Liz indicated that Amendment issue MAY delay application
Fri 3/10/17 8:59am	Rebecca	Liz C.; Sarah	Liz uploaded Deficiency 3 to Serve-U ftp site and sent email requesting confirmation of receipt
Fri 3/10/17 9:06am	Liz C.	Debra; Sarah; Rebecca; Teresa	Questions regarding Site Control
Fri 3/10/17 9:27am	Sarah	Liz C.; Debra; Rebecca; Teresa	Generic response indicating a write up will be coming shortly
Fri 3/10/17 9:29am	Liz C.	Rebecca; Sarah	Confirmed receipt; stated she had additional questions that were sent yesterday in separate email
Fri 3/10/17 ~9:30am	Jason (via phone)	Liz C.	Called to discuss – left message

Fri 3/10/17 9:40am	Sarah	Liz C.; Rebecca	Stated Jason will be calling to discuss
Fri 3/10/17 9:47am	Liz C.	Sarah; Rebecca	Stated she missed call but needs a written response for the file
Fri 3/10/17 2:51pm	Rebecca	Liz C.; Sarah	Update re: status of DL PSA amendment; inquired if the application could still move forward to underwriting despite outstanding item
Fri 3/10/17 3:25pm	Liz C.	Rebecca; Sarah	Forwarded question to Andrew and Teresa; told application is on hold from REA review due to site control issue
Tue 3/14/17 8:52am	Teresa	Rebecca; Liz C.; Andrew	Inquired as to timing; stated that the PSA amendment is NOT holding up REA review, but Site Control issue is; mentioned Liz inquired about this already
Tue 3/21/17 8:32am	Liz C.	Sarah; Rebecca; Teresa; Debra	Inquired about status of write-up re: Site Control since nothing had been received
Tue 3/21/17 8:38am	Sarah	Liz C.; Debra; Rebecca; Teresa; Jason	Responded: Yes – it was sent a while ago
Tue 3/21/17 8:42am	Liz C.	Sarah; Debra; Rebecca; Teresa; Jason	Requested Site Control info to be re-sent b/c not sure if received
Tue 3/21/17 9:25am	Sarah	Liz C.; Debra; Rebecca; Teresa	Re-sent Site Control response
Tue 3/21/17 9:27am	Liz C.	Sarah; Debra; Rebecca; Teresa; Jason	Confirmed receipt
Tue 3/21/17 10:04am	Rebecca	Sarah; Liz C.; Debra; Teresa; Jason	Re-sent formal response
Tue 3/21/17 11:48am	Sarah	Rebecca; Liz C.; Debra; Teresa; Jason	Stated Rebecca did send and she thinks even uploaded it
Wed 3/22/17 1:40pm	Teresa	Rebecca; Sarah; Liz; Debra; Jason	Follow up inquiry re: Site Control issue
Wed 3/22/17 1:44pm	Jason	Teresa; Rebecca; Sarah; Liz; Debra;	Clarifies price has been redacted; offers call to further discuss
Wed 3/22/17 1:45pm	Sarah	Teresa; Rebecca; Liz; Debra; Jason	Clarifies price has been redacted;
Wed 3/23/17 3:55pm	Teresa	Jason; Rebecca; Sarah; Liz; Debra	Further inquiry regarding pricing/redaction of underlying contract (Site Control issue)

Wed 3/23/17 4:02pm	Jason	Teresa; Rebecca; Sarah; Liz; Debra;	Responds that he can get different form of redacted contract so items at issue are crossed out rather than appear blank
Tue 3/28/17 9:03am	Teresa	Jason	Further comment/inquiry regarding Site Control
Tues 3/28/17 9:15am	Jason	Teresa	Clarified why redacted contract looked the way it did and informed her he has now requested crossed out items instead of blank spaces
Tue 3/28/17 1:42pm	Teresa	Rebecca; Liz C.; Andrew	Following up; states she has been in touch with Jason regarding Site Control issue but wanted to know status of amendment timing
Wed 3/29/17 11:24am	Jason	Teresa; Sarah; Debra	Attached redacted contract; stated DL PSA Amendment would be coming tomorrow
Mon 4/3/17 9:03am	Teresa	John; Sarah; Debra; Jason	Termination Notice
Mon 4/3/17 1:27pm	Rebecca	Teresa; Liz C.; Andrew; Sarah	PSA Amendment provided
Wed 4/5/2017 3pm	Debra; Andrea; Jay (via phone)	Teresa, Marni, Andrew	Discussed reasoning behind unexpected termination letter



Rebecca Broadbent <rebecca@structuretexas.com>

Re: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

14 messages

Sarah Andre <sarah@structuretexas.com>

Mon, Jan 30, 2017 at 5:05 PM

To: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Cc: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Thank you Elizabeth, we will get to work on this right away. Please CC Rebecca Broadbent in my office on all correspondence, she will be assisting me with the formal response.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

On Mon, Jan 30, 2017 at 4:00 PM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

In the course of the Department's **Eligibility and Threshold** review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(B) of the 2017 Uniform Multifamily Rules has been identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

1. Tab 12, Escrow Receipt – I didn't find a receipt for the earnest money in the Application. Please clarify.
2. Tab 12, Direct Loan Language – The required language regarding the environmental review was not found in the purchase contract. Provide the required language in an amendment to the contract.
3. Tab 18, Unit Requirements and Amenities – The blanks for Direct Loan were not checked for these two items. Please clarify.
4. Tab Rent Schedule – The priority was not entered on the form. Please clarify.
5. Tab 25, Utility Allowance – The utilities provided would have to be approved by the Compliance division before they can be used in the Application but I did not see any documentation from Compliance that these have been approved. Please clarify.
6. Tab 26, Annual Operating Expense – The Direct Loan payment was not provided on this form but you have indicated that it is to be a repayable loan. Please clarify.
7. Tab 27, Pro Forma – The Direct Loan payment was not provided on this form but you have indicated that it is to be a repayable loan. Please clarify.
8. Tab 31, Financing Narrative – The narrative doesn't provide much explanation. Provide a more full description of your financing.
9. Tab 31, Acknowledgement of Financing – None of your financing participants have acknowledged the other financing that is proposed for the development. This a new requirement this year. Provide acknowledgement from each of your financing partners.

10. Tab 35, Gap Financing – Provide a commitment or acknowledgement of application letter for the City of San Antonio funding.
11. Tab 33, Match Funds – Provide commitments for the match funds. They were not mentioned in the city's resolution.
12. Tab 37, AGT entity – Please explain the AGT NRP Investor, LLC entity and what its ownership is. The information was omitted.
13. Tab 37, Control – Provide a list of persons and entities that exercise control in the owner.
14. Tab 39, Previous Participation – There were forms missing. Please clarify.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear under separate cover.

All deficiencies must be corrected or clarified by 5 pm CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day may be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5 pm on the tenth day will be treated in accordance with §10.201(7)(B) of the 2016 Uniform Multifamily Rules.

All documentation should be submitted as a whole using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm on February 6, 2017. Please respond to this email as confirmation of receipt****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Elizabeth Henderson

Program Specialist III

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.463.9784 | Fax: 512.475.0764

4/6/2017

Structure Texas Mail - Re: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

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

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 5:05 PM

And here we go . . .

Let's discuss tomorrow after 11 am sometime - let me know when.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Jan 30, 2017 at 5:38 PM

I sent you a meeting invitation for 11:30am.

I will take a look at the application before then so as to be familiar with what is missing. Interesting that there was no mention of things we were expecting--like signature pages from City Council members.

Talk to you tomorrow.

[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Sarah Andre <sarah@structuretexas.com>
To: Kevin Loos <kloos@nrpgroup.com>, "Daniel T. Jones" <dtJones@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 8:33 PM

Hi there -

I know that Rebecca and I will need your help on items 6-10. Is there a good time tomorrow to discuss?

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

----- Forwarded message -----

From: **Debra Guerrero** <dguerrero@nrpgroup.com>

Date: Mon, Jan 30, 2017 at 5:06 PM

Subject: Fwd: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

To: Anne Tyler <at Tyler@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>, "Jay E. Johnson" <JEJohnson@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Beth Barker <BBarker@nrpgroup.com>

4/6/2017

Structure Texas Mail - Re: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

Cc: Sarah Andre <sarah@structuretexas.com>

Please excuse any typos.
Sent from my iPhone

Begin forwarded message:

From: Elizabeth Henderson <elizabeth.henderson@fdhca.state.tx.us>
Date: January 30, 2017 at 4:00:39 PM CST
To: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>
Subject: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Noam Magence <nMagence@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 8:35 PM

Hi there -

I feel certain that Rebecca and I will need your assistance answering items 12 and 13 below from TDHCA. Is there a good time tomorrow to discuss this?

[Quoted text hidden]

Noam Magence <nMagence@nrpgroup.com>
To: Sarah Andre <sarah@structuretexas.com>, Anne Tyler <at Tyler@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 9:01 PM

AGT is a provide equity fund, which has multiple owners, similar to many private equity funds and we do not have insight into all the owners. Happy to discuss this and number 13 tomorrow. My morning is pretty open until about 10:30 Central.

Noam Magence

General Counsel

The NRP Group

5309 Transportation Blvd.

Cleveland, Ohio 44125

Work: 216-475-8900 x1670

Direct: 216-584-0660

Cell: 646-303-8065

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, January 30, 2017 9:35 PM

To: Noam Magence <nMagence@nrpgroup.com>; Anne Tyler <at Tyler@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

[Quoted text hidden]

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Jason Arechiga <JArechiga@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 9:20 PM

Jason - see the 2nd item on this list. Are you able to get that?
[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Noam Magence <nMagence@nrpgroup.com>
Cc: Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 9:21 PM

I am booked until after 1030 central, but I will start with this explanation and see how they like it.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Noam Magence <nMagence@nrpgroup.com>
To: Sarah Andre <sarah@structuretexas.com>
Cc: Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Jan 30, 2017 at 9:25 PM

In terms of control, it is a complicated question. Control is shared between the non-profit GP and NRP. On the NRP side, ultimately, control rolls up to NRP Enterprises, which is an entity controlled by a board of directors, however, for decisions relating to tax credit properties such as these, control is delegated to NRP Direct Subsidiary, which is an entity owned almost entirely by David Heller and controlled entirely by David Heller.

Noam Magence

General Counsel

The NRP Group

5309 Transportation Blvd.

Cleveland, Ohio 44125

Work: 216-475-8900 x1670

Direct: 216-584-0660

Cell: 646-303-8065

4/6/2017

Structure Texas Mail - Re: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, January 30, 2017 10:21 PM
To: Noam Magence <nMagence@nrpgroup.com>
Cc: Anne Tyler <at Tyler@nrpgroup.com>; Rebecca Broadbent <rebecca@structuretexas.com>
Subject: Re: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE - Lord Road Apts

[Quoted text hidden]

Jason Arechiga <JArechiga@nrpgroup.com>
To: Sarah Andre <sarah@structuretexas.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Tue, Jan 31, 2017 at 4:49 AM

Yes. Where in the UFM does it state its required?

Sent from my iPhone

[Quoted text hidden]

sarah@structuretexas.com <sarah@structuretexas.com>
To: Jason Arechiga <JArechiga@nrpgroup.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Tue, Jan 31, 2017 at 10:50 AM

For TCAP money the application says it is required and I'd venture the tcap manual does too but I cannot pull it up right now

Sarah Andre
512 698 3369

Sent from my phone. Please excuse any typographical errors.

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Wed, Feb 1, 2017 at 10:35 AM

Sarah,

I have reconstructed the Lord Road Rent Schedule. Because the original Excel App is corrupted, I have to re enter the information for this tab. I copied exactly what was submitted in the application and made a PDF of the file. However, because some of the cells link to other pages, and those were not complete in this new Excel copy, I had to "cheat" a little and overwrite some calculated cells to match what was submitted.

I saved the new PDF in the Deficiencies folder.

[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Wed, Feb 1, 2017 at 10:43 AM

thank you

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Wed, Feb 1, 2017 at 11:31 AM

Sarah,

I have filled in Tabs 26 and 27 on the Lord Road Deficiency Excel App for you--they match the submitted PDF application. All you need to do is go in and add the Direct Loan Payment on these forms. If you can PDF them once you are done and put them in the Deficiency folder, that would be great. Please save the Excel file as an xlsx format when you are finished.

<https://drive.google.com/a/structuretexas.com/file/d/0ByJy4ECrr7UDd1VldVJyWHBuY3M/view?usp=sharing>

Thanks!

On Mon, Jan 30, 2017 at 5:05 PM, Sarah Andre <sarah@structuretexas.com> wrote:
[Quoted text hidden]

--
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development



Rebecca Broadbent <rebecca@structuretexas.com>

Fwd: 17403 Lord Road Apartments - 4% HTC Application Deficiency Notice - TIME SENSITIVE

5 messages

sarah@structuretexas.com <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Mar 6, 2017 at 8:04 AM

Sarah Andre
512 698 3369

Sent from my phone. Please excuse any typographical errors.

Begin forwarded message:

From: Liz Cline <liz.cline@tdhca.state.tx.us>
Date: March 2, 2017 at 12:24:29 PM CST
To: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>
Subject: 17403 Lord Road Apartments - 4% HTC Application Deficiency Notice - TIME SENSITIVE

In the course of the Department's **Eligibility and Threshold** review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(B) of the 2017 Uniform Multifamily Rules has been identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

1. Applicant Eligibility Certification: Submit the exhibit for Alan Warrick II, Shirley Gonzales, Rey Saldana or provide an explanation for the omission.
2. Title Commitment: The title commitment does not list the seller stated in the submitted site control contract as the current property owner. Submit a title commitment that conforms to the requirements of §10.204(12)(A) of the Uniform Multifamily Rules.
3. Development Narrative: The number of 3 and 4 bedroom units stated in the Development Narrative does not agree with the Rent Schedule and Building/Unit Type Configuration form. Please clarify and revise the appropriate exhibit(s) so that all documents are consistent.
4. Site Plan: Please clarify the possible placement of the detention pond.
5. Rent Schedule: Several of the LH/50% layered with 60% HTC units exceed the Direct Loan rent limits. The most restrictive of the program rent limits must be utilized. Please clarify and revise the appropriate exhibit(s). Refer to the Project Income and Rent Tool located here: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear under separate cover.

All deficiencies must be corrected or clarified by 5 pm CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day *may* be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5 pm on the tenth day will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules.

All documentation should be submitted as a whole using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm on March 9, 2017. Please respond to this email as confirmation of receipt****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

4/6/2017

Structure Texas Mail - Fwd: 17403 Lord Road Apartments - 4% HTC Application Deficiency Notice - TIME SENSITIVE

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Mar 6, 2017 at 8:21 AM

Sarah,
I'll look at this when I get in today. I'm heading to my GIS presentation in a few minutes, and then I'll be in after that.
[Quoted text hidden]

sarah@structuretexas.com <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Mar 6, 2017 at 9:01 AM

Yep we are all starting g late today just wanted to make sure you had it. Good luck!

Sarah Andre
[512 698 3369](tel:5126983369)

Sent from my phone. Please excuse any typographical errors.
[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Mar 6, 2017 at 12:23 PM

Sarah,

I have numbers 1-4 taken care of here--I need you to look at the rent schedule and the numbers to determine what changes need to be made.

Thanks.
[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Mar 6, 2017 at 2:04 PM

Great, remind me ruthlessly until I do it, please.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

Fwd: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE

2 messages

sarah@structuretexas.com <sarah@structuretexas.com>
 To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Mar 9, 2017 at 10:28 AM

You are already working on this. Please review the whole rent schedule carefully

Sarah Andre
 512 698 3369

Sent from my phone. Please excuse any typographical errors.

Begin forwarded message:

From: Liz Cline <liz.cline@tdhca.state.tx.us>
Date: March 9, 2017 at 8:59:30 AM CST
To: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>
Subject: 17403 - 4% HTC Application Deficiency Notice - TIME SENSITIVE

In the course of the Department's **Eligibility and Threshold** review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(B) of the 2017 Uniform Multifamily Rules has been identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

Rent Schedule: Upon further review of the Rent Schedule I found another TC 50% unit that exceeds the program rent limit. It is a 2 Bed/2Bath unit and there are 140 of them. Please revise the exhibit so that the correct program rent limits are stated for all the units listed.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear under separate cover.

All deficiencies must be corrected or clarified by 5 pm CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day may be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5 pm on the tenth day will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules.

All documentation should be submitted as a whole using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at

liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm on March 16, 2017. Please respond to this email as confirmation of receipt****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Thu, Mar 9, 2017 at 10:32 AM

Seriously!! This deficiency notice was issues 9 minutes after she sent the email to me this morning asking for clarification!
[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development



Rebecca Broadbent <rebecca@structuretexas.com>

Fwd: TDHCA 17403 Lord Road

1 message

Sarah Andre <sarah@structuretexas.com>

Tue, Apr 4, 2017 at 9:27 AM

To: Isabelle Atkinson <Isabelle@structuretexas.com>

Cc: Rebecca Broadbent <rebecca@structuretexas.com>, "Burchett, Sallie" <sallie@structuretexas.com>

Please add this one to the deficiency tracking sheet - it will be an APPEAL, not a deficiency, but same difference on deadline tracking.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

----- Forwarded message -----

From: **Teresa Morales** <teresa.morales@tdhca.state.tx.us>

Date: Mon, Apr 3, 2017 at 9:03 AM

Subject: TDHCA 17403 Lord Road

To: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>

Cc: Sarah Andre <sarah@structuretexas.com>, Debra Guerrero <dguerrero@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>

Mr. Kenny,

Attached please find correspondence from the Department regarding the status of Lord Road Apartments (#17403).

Please let me know if you have any questions.

Regards,

Teresa Morales

Manager, Multifamily Finance
Texas Department of Housing & Community Affairs
221 E. 11th Street | Austin, TX 78701

Office phone: [512.475.3344](tel:512.475.3344)

About TDHCA

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

4/6/2017

Structure Texas Mail - Fwd: TDHCA 17403 Lord Road

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



17403 Lord Road Termination.pdf

98K



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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

April 3, 2017

Writer's direct phone # (512) 475-1676
Email: marni.bolloway@tdhca.state.tx.us

Mr. John Kenny
Lord Road Apartments, Ltd.
2515 Blanco Road
San Antonio, TX 78212

RE: TERMINATION OF HTC AND DIRECT LOAN APPLICATION #17403, LORD ROAD APARTMENTS,
SAN ANTONIO, TEXAS

Dear Mr. Kenny:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the above-referenced application. On January 30, 2017, the Department issued an Administrative Deficiency requesting the following:

"Tab 12, Direct Loan Language – The required language regarding the environmental review was not found in the purchase contract. Provide the required language in an amendment to the contract."

A response on February 1 indicated "*An amendment has been written, but not executed. We have requested an extension for this item and it will be forthcoming.*" Staff sent another inquiry regarding this language on February 22 and the response stated "*The direct loan language is part of the closing extension language. We can't sign until we meet with development services and that meeting won't be for 2-3 weeks.*" On March 9 staff requested a purchase contract that contained the required language and on March 10 a response was received that indicated the following: "*The Developer has the contract with the required Direct Loan Language in it. This issue lies in the fact that in order to execute the contract, the seller wants \$75,000, which is non-refundable. The Developer does not want to execute this contract until they are sure the City of San Antonio is going to allow the project to go forward. Otherwise the Developer will be out \$75,000. Once the City of San Antonio gives approval, the contract will be executed and submitted.*" On March 14 staff requested additional clarification, specifically relating to the approval you were seeking from the City of San Antonio. Staff sent a follow-up email on March 28 and has not received a response.

Staff has also raised questions relating to the ability of NRP Properties, LLC (and its assignee Lord Road Apartments, Ltd.) to compel title pursuant to §10.204(10)(A) considering the underlying purchase contract between Idea Public Schools and Coldwater Ventures, LLC. Your response on March 10 stated the following "*We have the ability to compel Coldwater ventures without reservation or condition. They have the ability to compel IDEA public schools without reservation or condition. We trigger one and they trigger the other. This frequently happens in real estate and creates an immutable and irrevocable chain of title.*" However, the paragraph 7 of the Coldwater Ventures/NRP Properties contract contains the following language "*Should the fee owner refuse or fail to convey fee*



title as required, this contract shall terminate and the earnest money shall be refunded to buyer. Without a provision that allows NRP Properties, LLC to step into the contract with Idea Public Schools should Coldwater Ventures be unable to obtain title, NRP does not have effective site control.

Pursuant to 10 TAC §10.201(7)(C) of the 2017 Uniform Multifamily Rules regarding the Administrative Deficiency Process:


“...Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice will be terminated or suspended from further processing so long as the active Application does not impact the processing or underwriting of other Applications. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed...”

The inclusion of the environmental language in the purchase contract is a specific threshold requirement pursuant to 10 TAC §13.2(1). Despite repeated attempts by staff to identify when this deficiency will be resolved, it remains outstanding. Furthermore, effective site control and an ability to compel title is a specific threshold requirement pursuant to 10 TAC §10.204(10)(A). The information provided indicates that the Applicant does not have effective site control. The 2017-1 Direct Loan NOFA is oversubscribed and the Department cannot continue to process an application that has not satisfactorily addressed threshold items.

Based on the aforementioned issues, the application is terminated. An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,



Marni Holloway
Director of Multifamily Finance



Rebecca Broadbent <rebecca@structuretexas.com>

17403 Lord Road Deficiency Notice

5 messages

Rebecca Broadbent <rebecca@structuretexas.com>
To: Elizabeth <elizabeth.henderson@tdhca.state.tx.us>

Fri, Feb 3, 2017 at 4:45 PM

Elizabeth,

I have a question about the 17403 Lord Road Deficiency notice. On number 10, you ask for a commitment or acknowledgement of application letter for the City of San Antonio. Yet on Tab 35, we have indicated that the GAP financing is not applicable. Can you please clarify what we need to do for number 10?

Thank you.

--
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Feb 6, 2017 at 6:51 AM

Hi Rebecca,

What I need is a commitment for the City of San Antonio financing or something showing that this funding has been applied for and that confirms the terms. I don't have anything to back up the amount on the Sources and Uses. I called it gap financing because it isn't the main loan. You may call it something else but either way, I need backup supporting it. That's all.

Have a great day!

Elizabeth Henderson

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Friday, February 03, 2017 4:45 PM
To: Elizabeth Henderson
Subject: 17403 Lord Road Deficiency Notice

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Feb 6, 2017 at 8:22 AM

Sarah,
This is what Elizabeth said about the GAP financing.
[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Mon, Feb 6, 2017 at 10:04 AM

4/5/2017

Structure Texas Mail - 17403 Lord Road Deficiency Notice

To: Rebecca Broadbent <rebecca@structuretexas.com>

We have that letter - it came in this morning.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Feb 6, 2017 at 10:07 AM

Perfect. I'll start assembling the packet.

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

UA Application Lord Road 17403

11 messages

Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Jan 20, 2017 at 9:19 AM

To: UA-Application@tdhca.state.tx.us

Cc: Anne Tyler <at Tyler@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

Please find attached the Utility Allowance Application for 17403 Lord Road Apartments.

Please contact me if you have any questions. Thank you!

Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development



UA_Application_Lord_Road_17403.pdf
376K

Sarah Andre <sarah@structuretexas.com>

Fri, Jan 20, 2017 at 9:36 AM

To: Rebecca Broadbent <rebecca@structuretexas.com>

put it on base camp too please

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>

Wed, Feb 1, 2017 at 10:44 AM

To: UA-Application@tdhca.state.tx.us

Stephanie,

Can you please confirm receipt of this UA Application for Lord Road Apartments?

Thank you.

On Fri, Jan 20, 2017 at 9:19 AM, Rebecca Broadbent <rebecca@structuretexas.com> wrote:

[Quoted text hidden]

[Quoted text hidden]

UA Application <ua-application@tdhca.state.tx.us>

Wed, Feb 1, 2017 at 10:50 AM

To: Rebecca Broadbent <rebecca@structuretexas.com>

Confirmed.

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Friday, January 20, 2017 9:20 AM
To: UA Application
Cc: Anne Tyler; Sarah Andre
Subject: UA Application Lord Road 17403

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: UA Application <ua-application@tdhca.state.tx.us>

Wed, Feb 1, 2017 at 10:54 AM

Thank you.

[Quoted text hidden]

UA Application <ua-application@tdhca.state.tx.us>
To: Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Anne Tyler <atylers@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

Thu, Feb 2, 2017 at 4:16 PM

Good Afternoon,

I have received this request and, under §10.614(k)(3)...

If the application includes a MFDL where the Department is the Participating Jurisdiction, the Department will establish the initial Utility Allowance in accordance with subsection (d)(3) of this section. In the event that the application has a MFDL from the Department and another Participating Jurisdiction, the Department will require the use of the allowance calculated by the Department.

Where §10.614(d)(3) states...

(d) In accordance with 24 CFR §92.252, for a MFDL in which the Department is the funding source, the Utility Allowance will be established in the following manner:

(1) For Developments that, as a result of funding, must calculate the Utility Allowance under HUD Multifamily Notice H-2014-4, as revised from time to time, the applicable Utility Allowance for all rent restricted Units in the building is the applicable Utility Allowance calculated under that Notice. No other utility method described in this section can be used.

(2) Other Buildings. The Utility Allowance may be initiated by the Owner using the methodologies described in paragraph (3)(B), (C), (D), or (E) of subsection (c) related to Methods.

(3) If a request is not received by October 1st, the Department will calculate the Utility Allowance using the HUD Utility Schedule Model. For property specific data, the Department will use:

(A) The information submitted in the Annual Owner's Compliance Report;

(B) Entrance Interview Questionnaires submitted with prior onsite reviews; or,

(C) The owner may be contacted and required to complete the Utility Allowance Questionnaire. In such case, a five day period will be provided to return the completed questionnaire.

(D) Utilities will be evaluated in the following manner:

(i) For regulated utilities, the Department will contact the Utility Provider directly and apply the Component Charges in effect no later than 60 days before the allowance will be effective.

(ii) For deregulated utilities:

(1) The Department will use the Power to Choose website and search available Utility Providers by ZIP code;

(II) The plan chosen will be the median cost per kWh based on average price per kWh for the average monthly use of 1000 kWh of all available plans; and,

(III) The actual Component Charges from the plan chosen in effect no later than 60 days before the allowance will be effective will be entered into the Model.

(E) The Department will notify the Owner contact in CMTS of the new allowance and provide the backup for how the allowance was calculated. The owner will be provided a five day period to review the Department's calculation and note any errors. Only errors related to the physical characteristics of the building(s) and utilities paid by the residents will be reconsidered; the utility plan and Utility Provider selected by the Department and Component Charges used in calculating the allowance will not be changed. During this five day period, the owner also has the opportunity to submit documentation and request use of any of the available Green Discounts.

Which all means that, for application/underwriting where TDHCA is the awarding PJ, the utility allowance will be calculated by the Department using the HUSM with the inputs derived from (d)(3). As such, I am unable to approve the HUSM you submitted.

Attached please find the HUD Utility Schedule Model that the Department has calculated in accordance with the 10TAC §10.614(k) for your application of Multifamily Direct Loan ("MFDL"). Please review the attached and advise of any errors related to the physical characteristics of the building (e.g. building type, unit type) and utilities for which an allowance was (or was not) calculated.

The attached utility allowance does not account for any "Green Discounts". The HUD Model allowance can be calculated with a "Green Discount" if the buildings meet one of three criteria:

- 1) Leadership in Energy & Environmental Design ("LEED") Certification;
- 2) Energy Star Certification; or
- 3) For existing properties, if , in the last 5 years, there have been any energy savings rehabilitation to heating, cooling, lighting, DHW systems, appliances, building envelope, water measures and/or on-site generation systems.

Upon request, the Department will provide both the Green Discount and the non-Green Discount results for application purposes; however, to utilize the Green Discount allowance for leasing activities, the Owner must evidence that the Units and buildings have met the Green Discount elected when the request is submitted. Please note that although we will provide both utility allowances, the Department's Real Estate Analysis division will determine which one is the most appropriate to use for underwriting purposes.

If you believe there is an error in the calculation of this utility allowance or if you want to use the Green Discount allowance, please respond by close of business **Friday, February 10, 2017**. If we do not receive a response, underwriting will proceed with the attached utility allowance.

If you have any questions, please give me a call!

Stephanie Naquin

Director of Multifamily Compliance

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.2330







Fax: 512.475.3359

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Friday, January 20, 2017 9:20 AM
To: UA Application
Cc: Anne Tyler; Sarah Andre
Subject: UA Application Lord Road 17403

Please find attached the Utility Allowance Application for 17403 Lord Road Apartments.

[Quoted text hidden]

6 attachments

-  **17402- TDHCA HUSM.xlsx**
5285K
-  **Rate_ResidentialElectric.pdf**
16K
-  **fuelgasadjustment_current.pdf**
189K
-  **Electricity Taxes in Texas.pdf**
140K
-  **Electricity Taxes in Texas.pdf**
140K
-  **SAWS total rates.xlsx**
13K







Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 9:09 AM

Is this the email you need?

[Quoted text hidden]

6 attachments

-  **17402- TDHCA HUSM.xlsx**
5285K
-  **Rate_ResidentialElectric.pdf**
16K
-  **fuelgasadjustment_current.pdf**
189K
-  **Electricity Taxes in Texas.pdf**
140K
-  **Electricity Taxes in Texas.pdf**
140K
-  **SAWS total rates.xlsx**
13K

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Feb 9, 2017 at 9:45 AM

Yes, please send it to Elizabeth Henderson so she has proof that the UAs we used were generated by TDHCA.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com> Thu, Feb 9, 2017 at 9:50 AM
To: Elizabeth <elizabeth.henderson@tdhca.state.tx.us>
Cc: Sarah Andre <sarah@structuretexas.com>, johnk@sahousingtrust.org, Debra Guerrero <dguerrero@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>

Elizabeth,

This is the email we received from Stephanie Naquin regarding Utility Allowances for Lord Road Apartments.

Please contact us if you have further questions.

Thank you!







----- Forwarded message -----

From: **UA Application** <ua-application@tdhca.state.tx.us>
Date: Thu, Feb 2, 2017 at 4:16 PM
Subject: RE: UA Application Lord Road 17403
To: Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Anne Tyler <at Tyler@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

[Quoted text hidden]

[Quoted text hidden]

6 attachments

-  **17402- TDHCA HUSM.xlsx**
5285K
-  **Rate_ResidentialElectric.pdf**
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189K
-  **Electricity Taxes in Texas.pdf**
140K
-  **Electricity Taxes in Texas.pdf**
140K
-  **SAWS total rates.xlsx**
13K

Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> Thu, Feb 9, 2017 at 9:53 AM
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thank you!

EH

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Thursday, February 09, 2017 9:50 AM
To: Elizabeth Henderson
Cc: Sarah Andre; johnk@sahousingtrust.org; Debra Guerrero; Anne Tyler
Subject: Fwd: UA Application Lord Road 17403

[Quoted text hidden]

UA Application <ua-application@tdhca.state.tx.us> Fri, Feb 17, 2017 at 11:37 AM
To: UA Application <ua-application@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Anne Tyler <atyler@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

Please see attached; thanks.

Stephanie Naquin

Director of Multifamily Compliance

512.475.2330

From: UA Application
Sent: Thursday, February 02, 2017 4:17 PM
To: 'Rebecca Broadbent'
Cc: Anne Tyler; Sarah Andre
Subject: RE: UA Application Lord Road 17403

Good Afternoon,

[Quoted text hidden]

Please find attached the Utility Allowance Application for 17403 Lord Road Apartments.

[Quoted text hidden]



2017 Application Approval Letter MFDL 17403.pdf
255K



Rebecca Broadbent <rebecca@structuretexas.com>

Extension Request for Lord Road Deficiency - Project 17403

7 messages

Sarah Andre <sarah@structuretexas.com>

Sat, Feb 4, 2017 at 8:35 PM

To: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Dear Ms. Henderson -

We have been working diligently to provide you with a complete response to the deficiency notice dated January 30 for project #17403, Lord Road Apartments. However, a signed amendment to the contract to meet the requirements of TDHCA's direct loan program is proving elusive. (Item 2 on the deficiency).

We would like to turn in the remainder of the response on Monday, February 6 and respectfully request an extension for this item.

I await your response,

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

Sarah Andre <sarah@structuretexas.com>

Mon, Feb 6, 2017 at 10:08 AM

To: Jason Arechiga <JArechiga@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>, Debra Guerrero <dguerrero@nrpgroup.com>, "Jay E. Johnson" <JEJohnson@nrpgroup.com>, Beth Barker <BBarker@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Jason -

See below on the amendment to the contract and my extension request.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

----- Forwarded message -----

From: **Elizabeth Henderson** <elizabeth.henderson@tdhca.state.tx.us>

Date: Mon, Feb 6, 2017 at 9:01 AM

Subject: RE: Extension Request for Lord Road Deficiency - Project 17403

To: Sarah Andre <sarah@structuretexas.com>

Sarah,

I ran this past Teresa and she says get it in as soon as possible.

Have a great day!

Elizabeth Henderson

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Saturday, February 04, 2017 8:35 PM
To: Elizabeth Henderson
Cc: Jason Arechiga; Rebecca Broadbent
Subject: Extension Request for Lord Road Deficiency - Project 17403

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com> Mon, Feb 6, 2017 at 1:14 PM
To: Kevin Loos <kloos@nrpgroup.com>, Jennifer Baus <jbbaus@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, "Jay E. Johnson" <JEJohnson@nrpgroup.com>, "Daniel T. Jones" <dtJones@nrpgroup.com>, Beth Barker <BBarker@nrpgroup.com>, Debra Guerrero <dguerrero@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>

See below - no extension for UAs

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

——— Forwarded message ———

From: **Elizabeth Henderson** <elizabeth.henderson@tdhca.state.tx.us>
Date: Mon, Feb 6, 2017 at 1:12 PM
Subject: RE: Extension Request for Lord Road Deficiency - Project 17403
To: Sarah Andre <sarah@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>

The extension covers items in the notice that must come from third parties. I didn't expect that to cover your utility allowances. It doesn't sound like third parties are involved so I don't think the extension can apply to that item. Teresa can weigh in on this but it doesn't sound like the extension will apply to the UAs.

EH

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, February 06, 2017 1:03 PM
To: Elizabeth Henderson
Subject: Re: Extension Request for Lord Road Deficiency - Project 17403

May we also have an extension on the Utility Allowances? We got them from TDHCA but they make the project unviable so the team is working through how to handle that.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Mon, Feb 6, 2017 at 10:08 AM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

Okay good. Just let me know when you upload it.

EH

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, February 06, 2017 10:08 AM
To: Elizabeth Henderson
Subject: Re: Extension Request for Lord Road Deficiency - Project 17403

Ok - the meeting is with the seller tomorrow.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Mon, Feb 6, 2017 at 9:01 AM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

Sarah,

I ran this past Teresa and she says get it in as soon as possible.

Have a great day!

Elizabeth Henderson

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Saturday, February 04, 2017 8:35 PM
To: Elizabeth Henderson
Cc: Jason Arechiga; Rebecca Broadbent
Subject: Extension Request for Lord Road Deficiency - Project 17403

Dear Ms. Henderson -

[Quoted text hidden]

Anne Tyler <at Tyler@nrpgroup.com> Mon, Feb 6, 2017 at 1:22 PM
To: Sarah Andre <sarah@structuretexas.com>, Kevin Loos <kloos@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, "Jay E. Johnson" <JEJohnson@nrpgroup.com>, "Daniel T. Jones" <dtJones@nrpgroup.com>, Beth Barker <BBarker@nrpgroup.com>, Debra Guerrero <dguerrero@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>

But what about the fact that the TDHCA comment period for the HUSMs they issued on this deal runs until 2/10? We had a 3rd party run the HUSM for Harris and discovered that TDHCA was using incorrect water and gas rate calcs. We've asked the same 3rd party to run the HUSM for Lord Road and he's going to get them to us this week...perhaps there's an error in their calc for Lord?

Thank you,

Anne M. Tyler

Project Manager – Development

The NRP Group LLC

5309 Transportation Blvd.

Cleveland, OH 44125

(216) 584-0627 Direct Line

(216) 475-6102 Fax

www.nrpgroup.com



From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, February 6, 2017 2:14 PM
To: Kevin Loos <kloos@nrpgroup.com>; Jennifer Baus <jbaus@nrpgroup.com>; Anne Tyler <at Tyler@nrpgroup.com>; Jason Arechiga <JArechiga@nrpgroup.com>; Ana Padilla <APadilla@nrpgroup.com>; Rebecca Broadbent <rebecca@structuretexas.com>; Jay E. Johnson <JEJohnson@nrpgroup.com>; Daniel T. Jones <dtJones@nrpgroup.com>; Beth Barker <BBarker@nrpgroup.com>; Debra Guerrero <dguerrero@nrpgroup.com>; Noam Magence <nMagence@nrpgroup.com>
Subject: Fwd: Extension Request for Lord Road Deficiency - Project 17403

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com> Mon, Feb 6, 2017 at 1:27 PM
To: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>
Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>

Hi there,

Is TDHCA not considered a third party? The reason I ask is that the TDHCA comment period for the HUSMs issued on this deal runs until 2/10 (Friday).

Unfortunately, the HUSMs issued by TDHCA are very very high and endanger the deal's viability, so NRP engaged a 3rd party to run the HUSMs again. The last time NRP did that, we discovered that TDHCA was using using incorrect water and gas rate calcs, so it is important to NRP that we get this right before we "lock in" for underwriting.

The new ones from the 3rd party are due to us this week.

Let me know if that makes a difference on an extension request, please. Everything else is ready to submit.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Mon, Feb 6, 2017 at 1:12 PM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

The extension covers items in the notice that must come from third parties. I didn't expect that to cover your utility allowances. It doesn't sound like third parties are involved so I don't think the extension can apply to that item. Teresa can weigh in on this but it doesn't sound like the extension will apply to the UAs.

EH

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, February 06, 2017 1:03 PM
To: Elizabeth Henderson
Subject: Re: Extension Request for Lord Road Deficiency - Project 17403

May we also have an extension on the Utility Allowances? We got them from TDHCA but they make the project unviable so the team is working through how to handle that.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Mon, Feb 6, 2017 at 10:08 AM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

Okay good. Just let me know when you upload it.

EH

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Monday, February 06, 2017 10:08 AM
To: Elizabeth Henderson
Subject: Re: Extension Request for Lord Road Deficiency - Project 17403

Ok - the meeting is with the seller tomorrow.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Mon, Feb 6, 2017 at 9:01 AM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

Sarah,

I ran this past Teresa and she says get it in as soon as possible.

Have a great day!

Elizabeth Henderson

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Saturday, February 04, 2017 8:35 PM
To: Elizabeth Henderson
Cc: Jason Arechiga; Rebecca Broadbent
Subject: Extension Request for Lord Road Deficiency - Project 17403

Dear Ms. Henderson -

[Quoted text hidden]

Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Mon, Feb 6, 2017 at 1:41 PM

To: Sarah Andre <sarah@structuretexas.com>

Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>, Mami Holloway <mami.holloway@tdhca.state.tx.us>

Hi Sarah,

It sounds like you did get your response from TDHCA. The new problem, as I understand you, seems to be that the response is incompatible with your deal. You indicated that your team was in further conversations about what to do next, so even if TDHCA is a third party, we are not the ones you're waiting for. However you look at it, it sounds as though you are having internal discussion about what's next and the rule about deficiency extension is specific about having to wait for a third party to get you the item that is responsive, as a reason for extending the due date. The facts, as I understand them however, don't support any extra time for the utility allowances, since your response from here on that subject has been received.

Feel free to discuss with Teresa or Marni. I am by far not the last word in anything around here.

Have a great day!

Elizabeth Henderson

From: Sarah Andre [mailto:sarah@structuretexas.com]

Sent: Monday, February 06, 2017 1:28 PM

To: Elizabeth Henderson
Cc: Teresa Morales; Rebecca Broadbent

[Quoted text hidden]

[Quoted text hidden]

sarah@structuretexas.com <sarah@structuretexas.com> Mon, Feb 6, 2017 at 1:49 PM
To: kloos@nrpgroup.com, Anne Tyler <atyler@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>, rebecca@structuretexas.com, dguerrero@nrpgroup.com, BBarker@nrpgroup.com, JEJohnson@nrpgroup.com, dtJones@nrpgroup.com

No extension see below

Sarah Andre
[512 698 3369](tel:5126983369)

Sent from my phone. Please excuse any typographical errors.

Begin forwarded message:

From: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>
Date: February 6, 2017 at 1:41:37 PM CST
To: Sarah Andre <sarah@structuretexas.com>
Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>, Marni Holloway <marni.holloway@tdhca.state.tx.us>
Subject: RE: Extension Request for Lord Road Deficiency - Project 17403

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

17403 - Items Remaining

12 messages

Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Thu, Feb 9, 2017 at 8:13 AM

To: Rebecca Broadbent <rebecca@structuretexas.com>, "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

Good morning, Rebecca:

I'm sending this little follow up just to let you know which items I'm still waiting for. There is an extension that was given for the third party item but get everything in as soon as you can.

2. Direct Loan Language – You're waiting for a third party to give this to you.

5. Utility Allowance – There is still nothing that tells me that what was sent was approved by Compliance.

13. List of Persons and entities with control. This was not included with the response.

14. Previous Participation – I still don't have forms for the board members of the Public Facility Corp and there was no explanation offered for that.

These are the ones that remain outstanding. Be sure to let me know when you upload your response so that I can get it cleared as soon as possible.

Have a great day!

Elizabeth Henderson

Program Specialist III

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.463.9784 | Fax: 512.475.0764

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

Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 8:24 AM

To: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Cc: Rebecca Broadbent <rebecca@structuretexas.com>, "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>

Thanks Elizabeth,

I will check in on #1.

The utility allowance we sent was generated by Stephanie Naquin at TDHCA. How do we prove that? Screen shot of the email in which she sent it to us?

The persons and entities with control was implied, but not explicit. Sorry about that. The entities and people with control are the San Antonio Housing Trust Facility Corporation with John Kenny at the helm, as shown on the org chart and person with control is J. David Heller, who controls NRP Enterprise, LLC on the NRP side. The attorney for NRP is cc'ed here - Noam Magence. He can provide additional information if you need it.

The previous participation forms are done, I am not sure why you did not receive them. Rebecca will take care of that this morning.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 8:26 AM

To: Jason Arechiga <JArechiga@nrpgroup.com>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Jason - how are the signatures on the contract amendments coming along? I need Lord Road and Harris Ridge.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Jason Arechiga <JArechiga@nrpgroup.com>

Thu, Feb 9, 2017 at 8:43 AM

To: Sarah Andre <sarah@structuretexas.com>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Both sellers are reviewing. It'll be the beginning of next week most likely as neither one wished to sign them.

Sent from my iPhone

[Quoted text hidden]

Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>

Thu, Feb 9, 2017 at 8:44 AM

To: Sarah Andre <sarah@structuretexas.com>

Cc: Rebecca Broadbent <rebecca@structuretexas.com>, "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>

Hi Sarah,

Yes, a copy of Stephanie's email would be a good solution. I currently have nothing that tells me where those new allowances came from so I need something to connect it to Compliance and that email could be very helpful. I'll know for sure once I see it but it sounds good for now.

Now with the new definition of Control, and knowing that Control can be conferred regardless of ownership percentage or title, we need a list to tell us who has it so that we can make sure that we get the right people on the forms that matter. We can't assume anything and a list is easy to make so that's why we ask for that. That's going to be needed for all of the 9% too so if you don't have a list, along with your charts, add it and save a deficiency.

Thanks and have a great day!

Elizabeth Henderson

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Thursday, February 09, 2017 8:24 AM
To: Elizabeth Henderson
Cc: Rebecca Broadbent; johnk@sahousingtrust.org; Debra Guerrero; Noam Magence
Subject: Re: 17403 - Items Remaining

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Feb 9, 2017 at 9:05 AM

Hey - I trashed that email from Stephanie Naquin sending the Lord Road UAs. Do you have it?

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

—— Forwarded message ——

From: **Elizabeth Henderson** <elizabeth.henderson@tdhca.state.tx.us>
[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 9:20 AM

I've got Previous Participation for SAHT. I just copied the previous participation form for SAHT and used the same thing for the board members. I need email addresses for all the board members. Who do I contact to get that information?

[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Feb 9, 2017 at 9:27 AM

Use john kenny's email address for all of them

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 9:28 AM

Does anyone there need to approve this, or shall I just send it to Elizabeth?

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Feb 9, 2017 at 9:31 AM

Just send it to Elizabeth.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us>
Cc: "johnk@sahousingtrust.org" <johnk@sahousingtrust.org>, Debra Guerrero <dguerrero@nrpgroup.com>, Sarah Andre <sarah@structuretexas.com>

Thu, Feb 9, 2017 at 9:41 AM

Elizabeth,

Attached are the Previous Participation forms for the board members of the San Antonio Housing Trust.

On Thu, Feb 9, 2017 at 8:13 AM, Elizabeth Henderson <elizabeth.henderson@tdhca.state.tx.us> wrote:

[Quoted text hidden]

—
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

 **SAHT Previous Participation.pdf**
120K

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Feb 9, 2017 at 9:44 AM

Do you have the email from Stephnie Naquin about the Utility Allowances?

Sarah Andre

4/5/2017

Structure Texas Mail - 17403 - Items Remaining

Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

17403 Lord Road Apartments Deficiency

2 messages

Rebecca Broadbent <rebecca@structuretexas.com>

Mon, Mar 6, 2017 at 3:38 PM

To: Liz Cline <liz.cline@tdhca.state.tx.us>

Liz,

Can you please clarify the second item on the deficiency list we received for Lord Road Apartments?

2. Title Commitment: The title commitment does not list the seller stated in the submitted site control contract as the current property owner. Submit a title commitment that conforms to the requirements of §10.204(12)(A) of the Uniform Multifamily Rules.

The original purchase agreement was assigned to the Lord Road Apartments Ltd, which is also the name of the insured on the Title Commitment Policy.

Can you please clarify what you need so I can send the correct information to clear this deficiency?

Thank you!

—
 Rebecca Broadbent
 Development Assistant - GIS Specialist
 Structure Development

Liz Cline <liz.cline@tdhca.state.tx.us>

Mon, Mar 6, 2017 at 4:14 PM

To: Rebecca Broadbent <rebecca@structuretexas.com>

Hi Rebecca,

The name of the seller in the contract is Coldwater Ventures LLC but the title commitment lists the current owner as Idea Public Schools. This is the discrepancy I'm referencing.

Print screen of contract:

THIS PURCHASE AND SALE AGREEMENT ("**Contract**") is entered into between COLDWATER VENTURES LLC (hereinafter referred to as "**Seller**") and NRP Properties, LLC (hereinafter referred to as "**Buyer**"), as of the 13 day of June 2016, for the sale and purchase, upon the terms and provisions hereof, of the following described real property, together with any improvements constructed thereon by Seller, in accordance with the terms and provisions hereof, to-wit:

Print screen of title commitment:

Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:
IDEA PUBLIC SCHOOLS, a Texas nonprofit corporation
4. Legal description of land:

I hope this helps. Let me know if you have any additional questions or concerns.

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Monday, March 06, 2017 3:38 PM
To: Liz Cline
Subject: 17403 Lord Road Apartments Deficiency

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

Re: FW: Questions Regarding 17403 Lord Road Apartments

1 message

Sarah Andre <sarah@structuretexas.com>

Wed, Feb 22, 2017 at 4:41 PM

To: Liz Cline <liz.cline@tdhca.state.tx.us>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Ana Padilla <APadilla@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Debra Guerrero <dguerrero@nrpgroup.com>

Hello Liz -

NRP Master LP DOES have TDHCA experience - we will fix that when you send it.

Jason Arechiga is working on the Amendment to the contract, my understanding is it requires one more signature. Jason, can you please weigh in on that?

Also, I can appreciate your need to get this off your desk, but if there is any way the notice could come out *after March 1*, we would be forever grateful.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

On Wed, Feb 22, 2017 at 4:32 PM, Debra Guerrero <dguerrero@nrpgroup.com> wrote:

From: Liz Cline [mailto:liz.cline@tdhca.state.tx.us]**Sent:** Wednesday, February 22, 2017 4:31 PM**To:** johnk@sahousingtrust.org; Debra Guerrero <dguerrero@nrpgroup.com>; sarah@structuretexas.com**Subject:** Questions Regarding 17403 Lord Road Apartments**Importance:** High

Good afternoon,

I'm beginning a second review of the application and have a few quick questions. What is the status of the required Direct Loan language being added to the site control contract (or amendment to contract)?

Also, can you confirm whether the entity NRP Master LP has prior TDHCA experience? The Previous Participation form indicates prior experience but the List of Organizations & Principals has a blank for the question.

4/5/2017

Structure Texas Mail - Re: FW: Questions Regarding 17403 Lord Road Apartments

I'll be sending a deficiency notice once I have completed the review in a few days.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: [512.475.3227](tel:512.475.3227)

Fax: [512.475.1895](tel:512.475.1895)

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



Rebecca Broadbent <rebecca@structuretexas.com>

17403 Lord Road Deficiency 2 Response Uploaded

16 messages

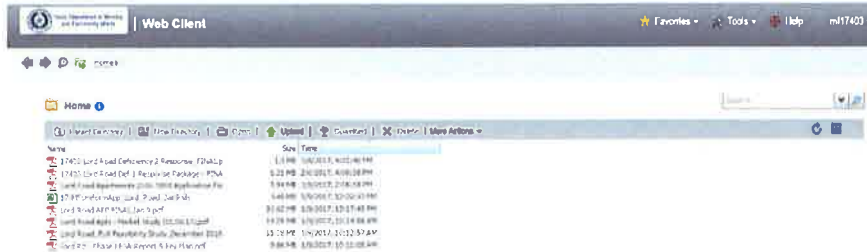
Rebecca Broadbent <rebecca@structuretexas.com>

Wed, Mar 8, 2017 at 4:05 PM

To: Liz Cline <liz.cline@tdhca.state.tx.us>, Sarah Andre <sarah@structuretexas.com>

Liz,

The Deficiency 2 Response for Lord Road Apartments has been uploaded to the Serve-U site. Please acknowledge receipt of this package at your convenience.



Thank you!

Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Liz Cline <liz.cline@tdhca.state.tx.us>

Wed, Mar 8, 2017 at 4:25 PM

To: Rebecca Broadbent <rebecca@structuretexas.com>

I received the package. I'll review the responses and update you.

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Wednesday, March 08, 2017 4:06 PM
To: Liz Cline; Sarah Andre
Subject: 17403 Lord Road Deficiency 2 Response Uploaded

[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us> Thu, Mar 9, 2017 at 8:50 AM
To: Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

I have received responses, however, there are several issues with the response for the deficiency regarding the title commitment. The submitted contract between the current seller Coldwater Ventures, LLC and Idea Public Schools has no price. Please explain. Additionally, Exhibit A is not legible.

Upon further review of the Rent Schedule I found another TC 50% unit that exceeds the program rent limit. It is a 2 Bed/2Bath unit and there are 140 of them. I can issue another deficiency notice for the item. If you can respond quickly it will be much appreciated.

Finally, what is the status of the required Direct Loan language in the purchase contract? This was a deficiency issued by the first reviewer on January 30, 2017 (as stated below). The application will not be able to move forward until the deficiencies are resolved.

2. Tab 12, Direct Loan Language – The required language regarding the environmental review was not found in the purchase contract. Provide the required language in an amendment to the contract.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Wednesday, March 08, 2017 4:06 PM
To: Liz Cline; Sarah Andre
Subject: 17403 Lord Road Deficiency 2 Response Uploaded

Liz,

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Thu, Mar 9, 2017 at 10:50 AM

Sarah,

This is Liz's response to my questions:

Site Control: TDHCA requires that all site control documents have the address, legal description, seller name, buyer name, acreage, and **purchase price** in them. If any of this is missing, then TDHCA does not consider it a valid contract, and in their eyes we do not have site control, because the current seller does not own the land. She said we can submit without the purchase price, but TDHCA may not accept it.

Direct Loan Language: We can submit an explanation of what is happening now, and then submit the document once it is executed. This MAY delay the application.

How do you want to proceed?

[Quoted text hidden]

 **05 Revised Rent Schedule.pdf**
91K

sarah@structuretexas.com <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Thu, Mar 9, 2017 at 11:27 AM

Let's call her

Sarah Andre
[512 698 3369](tel:5126983369)

Sent from my phone. Please excuse any typographical errors.

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

Liz,

[Quoted text hidden]

<image002.png>

Thank you!

--
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

--
Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

<05 Revised Rent Schedule.pdf>

Rebecca Broadbent <rebecca@structuretexas.com>
To: Liz Cline <liz.cline@tdhca.state.tx.us>, Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 2:51 PM

Liz,

Regarding the Direct Loan language in the purchase contract:

The Developer has the contract with the required Direct Loan Language in it. This issue lies in the fact that in order to execute the contract, the seller wants \$75,000, which is non-refundable. The Developer does not want to execute this contract until they are sure the City of San Antonio is going to allow the project to go forward. Otherwise the Developer will be out \$75,000. Once the City of San Antonio gives approval, the contract will be executed and submitted.

Can the application proceed to Underwriting, or will this item hold it up?

Thank you!

On Thu, Mar 9, 2017 at 8:50 AM, Liz Cline <liz.cline@tdhca.state.tx.us> wrote:

[Quoted text hidden]

[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us>
To: Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 3:25 PM

I forwarded your question to Andrew Sinnott and Teresa Morales. The application will first receive a Direct Loan review. Andrew is not in the office this afternoon so he may respond next week. The application is currently on hold from proceeding to REA due to the multiple contract issue, however.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Friday, March 10, 2017 2:52 PM
To: Liz Cline; Sarah Andre
Subject: Re: 17403 Lord Road Deficiency 2 Response Uploaded

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Liz Cline <liz.cline@tdhca.state.tx.us>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 3:54 PM

Thanks!

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Teresa Morales <teresa.morales@tdhca.state.tx.us>
To: Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Andrew Sinnott <andrew.sinnott@tdhca.state.tx.us>

Tue, Mar 14, 2017 at 8:52 AM

Hi Rebecca,

The fact that the contract does not have the required Direct Loan language will not in and of itself prevent the application from being transferred to underwriting. The question; however, is what is the timing with respect to the City being sure they will allow the project to go forward? What does this mean exactly? What are you waiting on in order to determine this?

What will hold up underwriting are the questions we asked with respect to the purchase contract, underlying purchase contract and what seems to be a donation of land. These are questions Liz had asked previously and the sooner that gets resolved the quicker we can get the file to underwriting.

Regards,



Rebecca Broadbent <rebecca@structuretexas.com>

17403 Lord Road Deficiency Response submitted

4 messages

Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 8:59 AM

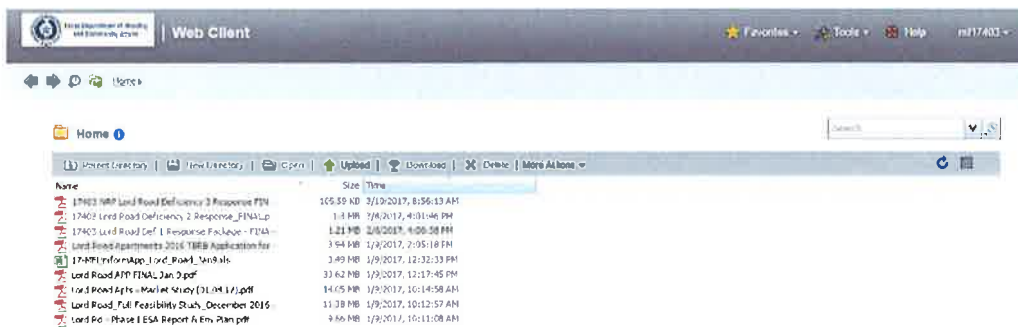
To: Liz Cline <liz.cline@tdhca.state.tx.us>, Sarah Andre <sarah@structuretexas.com>

Liz,

The response for the 17403 Lord Road Deficiency 3 has been uploaded to the Serve-U ftp site.

Please acknowledge that you have received it.

Thank you.



Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

Liz Cline <liz.cline@tdhca.state.tx.us>

Fri, Mar 10, 2017 at 9:29 AM

To: Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

I received the file. I have received responses to the deficiencies now but I have additional questions regarding the contract submitted in the deficiency response yesterday. I sent those questions in a separate email.

Thank you,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]
Sent: Friday, March 10, 2017 8:59 AM
To: Liz Cline; Sarah Andre
Subject: 17403 Lord Road Deficiency Response submitted

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Liz Cline <liz.cline@tdhca.state.tx.us>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 9:40 AM

Thanks. Jason Arechiga with NRP is calling you to walk you through the answers.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us>
To: Sarah Andre <sarah@structuretexas.com>
Cc: Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 9:47 AM

Sorry I missed the call, however, please send a written response. A written record is needed for the file. I'll be happy to call if I have any questions.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895

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

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Friday, March 10, 2017 9:41 AM
To: Liz Cline
Cc: Rebecca Broadbent
Subject: Re: 17403 Lord Road Deficiency Response submitted

[Quoted text hidden]



Rebecca Broadbent <rebecca@structuretexas.com>

Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

23 messages

Liz Cline <liz.cline@tdhca.state.tx.us>

Fri, Mar 10, 2017 at 9:06 AM

To: Debra Guerrero <dguerrero@nrpgroup.com>, "sarah@structuretexas.com" <sarah@structuretexas.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>

Good morning,

We have additional questions regarding the deficiency response related to the title commitment. Please see the list below.

- Why didn't Idea Public Schools sell directly to NRP Properties, LLC? What is the reason Idea Public Schools is first selling the subject property to Coldwater Ventures, LLC? What is the function of Coldwater Ventures, LLC in the transaction?
- It appears as though Idea Public Schools is donating the subject property to Coldwater Ventures, LLC. Please explain.
- It does not appear that the Development Owner has the ability to compel title considering that there is an underlying contract. Explain how the site control meets the requirements of §10.204(10)(A).

Additionally, Site Information Form Part III should be corrected to reflect the current property owner, Idea Public Schools.

Please contact me with any questions.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: [512.475.3227](tel:512.475.3227)

Fax: 512.475.1895

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

Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 9:27 AM

To: Liz Cline <liz.cline@tdhca.state.tx.us>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>

Liz -

We will write something up and send it back to you. This is a very common structure.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 9:40 AM

To: Jason Arechiga <JArechiga@nrpgroup.com>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Anne Tyler <atyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Great, thanks. Maybe that will take care of it.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

On Fri, Mar 10, 2017 at 9:29 AM, Jason Arechiga <JArechiga@nrpgroup.com> wrote:

I'm calling her.

From: Sarah Andre [mailto:sarah@structuretexas.com]

Sent: Friday, March 10, 2017 9:28 AM

To: Debra Guerrero <dguerrero@nrpgroup.com>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>; Jennifer Baus <jbaus@nrpgroup.com>; Anne Tyler <atyler@nrpgroup.com>

Subject: Re: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

4/5/2017

Structure Texas Mail - Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

Amen to that - I cant believe they've never seen this before? Maybe most people don't have a title issue like we did on this one?

Sarah Andre

Structure Development

702 San Antonio Street

Austin, TX 78701

512/698-3369

On Fri, Mar 10, 2017 at 9:13 AM, Debra Guerrero <dguerrero@nrpgroup.com> wrote:

Jason is best to answer questions s below...I would like to review prior to sending to TDHCA.

Thanks

Sent from my iPad

Begin forwarded message:

From: Liz Cline <liz.cline@tdhca.state.tx.us>

Date: March 10, 2017 at 8:06:49 AM MST

To: Debra Guerrero <dguerrero@nrpgroup.com>, "sarah@structuretexas.com" <sarah@structuretexas.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>

Subject: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 10:24 AM

To: Debra Guerrero <dguerrero@nrpgroup.com>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>, Noam Magence <nMagence@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Noam, please weigh in and we will get it into a pretty format for TDHCA.

Sarah Andre

Structure Development

702 San Antonio Street

Austin, TX 78701

512/698-3369

On Fri, Mar 10, 2017 at 10:06 AM, Debra Guerrero <dguerrero@nrpgroup.com> wrote:

Less is more...stay focused on us meeting the TDHCA requirements...

Sent from my iPad

On Mar 10, 2017, at 9:00 AM, Jason Arechiga <JArechiga@nrpgroup.com> wrote:

Those revisions make sense. The phone call with Liz can explain Michaels business model better if they ask. I left a message.

From: Debra Guerrero

Sent: Friday, March 10, 2017 9:58 AM

To: Jason Arechiga <JArechiga@nrpgroup.com>

Cc: Sarah Andre <sarah@structuretexas.com>; Noam Magence <nMagence@nrpgroup.com>;

Jennifer Baus <jbaus@nrpgroup.com>; Anne Tyler <at Tyler@nrpgroup.com>

Subject: Re: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

I made revisions...

Sent from my iPad

On Mar 10, 2017, at 8:44 AM, Jason Arechiga <JArechiga@nrpgroup.com> wrote:

Noam, please review and tell us what you think.

- Why didn't Idea Public Schools sell directly to NRP Properties, LLC? What is the reason Idea Public Schools is first selling the subject property to Coldwater Ventures, LLC? What is the function of Coldwater Ventures, LLC in the transaction?

Coldwater Ventures is run by a gentleman named Michael Westheimer. One of his business models is working with Idea public schools and finding them land knowing that they occasionally have excess. He will also find what he believes to be undervalued property, help entitle in some cases, and market it to end users like the NRP Group. In this case, it's a blend of scenarios. Brokers and land sellers do this in multiple transactions frequently. So, Coldwater Ventures is buying the excess IDEA land, leading the effort to ensure it is entitled for Multifamily Development

and then selling it to us.

- It appears as though Idea Public Schools is donating the subject property to Coldwater Ventures, LLC. Please explain. They are not donating. Coldwater ventures is paying a price and working on entitling. Our contract with Coldwater clearly compels title and we are paying a fair price for the area considering it is less than \$2 psf for Multifamily land.

- It does not appear that the Development Owner has the ability to compel title considering that there is an underlying contract. Explain how the site control meets the requirements of §10.204(10)(A).

We have the ability to compel Coldwater ventures without reservation or condition. They have the ability to compel IDEA public schools without reservation or condition. We trigger one and they trigger

4/5/2017

Structure Texas Mail - Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

the other. This frequently happens in real estate and creates an immutable and irrevocable chain of title.

Additionally, Site Information Form Part III should be corrected to reflect the current property owner, Idea Public Schools.

Please contact me with any questions.

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

Noam Magence <nMagence@nrpgroup.com>

Fri, Mar 10, 2017 at 10:31 AM

To: Sarah Andre <sarah@structuretexas.com>, Debra Guerrero <dguerrero@nrpgroup.com>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

I think this is fine.

Noam Magence

General Counsel

The NRP Group

5309 Transportation Blvd.

Cleveland, Ohio 44125

Work: 216-475-8900 x1670

Direct: 216-584-0660

Cell: 646-303-8065

From: Sarah Andre [mailto:sarah@structuretexas.com]

Sent: Friday, March 10, 2017 11:25 AM

To: Debra Guerrero <dguerrero@nrpgroup.com>

Cc: Jason Arechiga <JArechiga@nrpgroup.com>; Noam Magence <nMagence@nrpgroup.com>; Jennifer Baus <jbaus@nrpgroup.com>; Anne Tyler <at Tyler@nrpgroup.com>; Rebecca Broadbent <rebecca@structuretexas.com>

[Quoted text hidden]

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Fri, Mar 10, 2017 at 10:32 AM

To: Noam Magence <nMagence@nrpgroup.com>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>, Jennifer Baus <jbaus@nrpgroup.com>, Anne Tyler <at Tyler@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>

Thanks.

Rebecca, please put this on letterhead in our formal response format and get a copy to TDHCA and cc the NRP team. Credit NRP with the response (in other words, tell TDHCA that this came from Jason Arechiga, VP)

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 11:43 AM

To: Sarah Andre <sarah@structuretexas.com>

Sarah,

Attached is the response for Liz. Let me know when it is OK to send to her. Can I just email her, or do I need to upload through the Serve-U site. Either way is fine with me.

Thanks.

[Quoted text hidden]

Rebecca Broadbent
Development Assistant - GIS Specialist

Structure Development

 **17403 Lord Road Deficeincy 2-1 Response FINAL.pdf**
238K

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Fri, Mar 10, 2017 at 11:57 AM

This looks good, please upload and email her.

In the email please address the direct loan contract language issue and ask if it will prevent the deal from moving on to underwriting?

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us>
To: Sarah Andre <sarah@structuretexas.com>
Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>

Tue, Mar 21, 2017 at 8:32 AM

Good morning,

I have not seen a written response yet to the questions stated below regarding the underlying site control contract. I want to make sure I didn't miss an email on my end. Have you sent it?

Regards,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Sarah Andre [mailto:sarah@structuretexas.com]
Sent: Friday, March 10, 2017 9:27 AM
To: Liz Cline
Cc: Debra Guerrero; Rebecca Broadbent; Teresa Morales
Subject: Re: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

Liz -

[Quoted text hidden]

[Quoted text hidden]

sarah@structuretexas.com <sarah@structuretexas.com> Tue, Mar 21, 2017 at 8:38 AM
To: Liz Cline <liz.cline@tdhca.state.tx.us>
Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

Yes we sent something in a while ago perhaps it only went to Teresa? Jason Arechiga wrote it.

Sarah Andre
512 698 3369

Sent from my phone. Please excuse any typographical errors.
[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us> Tue, Mar 21, 2017 at 8:42 AM
To: "sarah@structuretexas.com" <sarah@structuretexas.com>
Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

I'm not sure she received it. Can you resend it?

Thank you,

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: sarah@structuretexas.com [mailto:sarah@structuretexas.com]
Sent: Tuesday, March 21, 2017 8:38 AM
To: Liz Cline
Cc: Debra Guerrero; Rebecca Broadbent; Teresa Morales; Jason Arechiga

[Quoted text hidden]

[Quoted text hidden]

sarah@structuretexas.com <sarah@structuretexas.com> Tue, Mar 21, 2017 at 8:47 AM
To: Liz Cline <liz.cline@tdhca.state.tx.us>
Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

Yes ma'am

Sarah Andre
512 698 3369

Sent from my phone. Please excuse any typographical errors.
[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com> Tue, Mar 21, 2017 at 9:25 AM
To: Liz Cline <liz.cline@tdhca.state.tx.us>
Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>

Why didn't Idea Public Schools sell directly to NRP Properties, LLC? What is the reason Idea Public Schools is first selling the subject property to Coldwater Ventures, LLC? What is the function of Coldwater Ventures, LLC in the transaction?

Coldwater Ventures is run by a gentleman named Michael Westheimer. One of his business models is working with Idea public schools and finding them land knowing that they occasionally have excess. He will also find what he believes to be undervalued property, help entitle in some cases, and market it to end users like the NRP Group. In this case, it's a blend of scenarios.

Brokers and land sellers do this in multiple transactions frequently. So, Coldwater Ventures is buying the excess IDEA land, leading the effort to ensure it is entitled for Multifamily Development and then selling it to us.

- It appears as though Idea Public Schools is donating the subject property to Coldwater

Ventures, LLC. Please explain. They are not donating. Coldwater ventures is paying a price and working on entitling. Our contract with Coldwater clearly compels title and we are paying a fair price for the area considering it is less than \$2 psf for Multifamily land.

- It does not appear that the Development Owner has the ability to compel title considering that there is an underlying contract. Explain how the site control meets the requirements of §10.204(10)(A).

We have the ability to compel Coldwater ventures without reservation or condition. They have the ability to compel IDEA public schools without reservation or condition. We trigger one and they trigger the other. This frequently happens in real estate and creates an immutable and irrevocable chain of title.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Tue, Mar 21, 2017 at 9:26 AM

To: Liz Cline <liz.cline@tdhca.state.tx.us>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

I just sent it in a very in-elegant email.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Liz Cline <liz.cline@tdhca.state.tx.us>

Tue, Mar 21, 2017 at 9:27 AM

To: Sarah Andre <sarah@structuretexas.com>

Cc: Debra Guerrero <dguerrero@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

I received it.

Thank you!

Liz Cline-Rew

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3227

Fax: 512.475.1895

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

From: Sarah Andre [mailto:sarah@structuretexas.com]

Sent: Tuesday, March 21, 2017 9:26 AM

[Quoted text hidden]

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>

Tue, Mar 21, 2017 at 10:04 AM

To: Sarah Andre <sarah@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

Attached is the response I prepared, and thought I had sent. This attachment also has the revised Site Info Form reflecting the current owner of the property.

[Quoted text hidden]

Rebecca Broadbent
Development Assistant - GIS Specialist
Structure Development

 **17403 Lord Road Deficeincy 2-1 Response FINAL.pdf**
238K

sarah@structuretexas.com <sarah@structuretexas.com>

Tue, Mar 21, 2017 at 11:48 AM

To: Rebecca Broadbent <rebecca@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>, Teresa Morales <teresa.morales@tdhca.state.tx.us>, Jason Arechiga <JArechiga@nrpgroup.com>

You did send it - must have gotten lost in the ether. Actually I think you may have uploaded it.

Sarah Andre
512 698 3369

Sent from my phone. Please excuse any typographical errors.

[Quoted text hidden]

<17403 Lord Road Deficeincy 2-1 Response FINAL.pdf>

Teresa Morales <teresa.morales@tdhca.state.tx.us>

Wed, Mar 22, 2017 at 1:40 PM

To: Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>

Hi Rebecca,

As a follow-up to what you submitted, you indicated that Coldwater Ventures is paying a price for the land; however, there is no price consideration in the contract. What then represents the consideration such that there is an ability to compel delivery of title? I'm not sure I understand how it can be a valid contract considering the price element is missing.

Thanks,

Teresa

From: Rebecca Broadbent [mailto:rebecca@structuretexas.com]

Sent: Tuesday, March 21, 2017 10:04 AM

To: Sarah Andre

Cc: Liz Cline; Debra Guerrero; Teresa Morales; Jason Arechiga

[Quoted text hidden]

[Quoted text hidden]

Jason Arechiga <JArechiga@nrpgroup.com>

Wed, Mar 22, 2017 at 1:44 PM

To: Teresa Morales <teresa.morales@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>

Teresa, you may want to call me at 210.216.4600. There is a price, but it has been redacted at the request of the underlying seller. I can get an email from him stating that there, is indeed, a price, if that helps.

From: Teresa Morales [mailto:teresa.morales@tdhca.state.tx.us]

Sent: Wednesday, March 22, 2017 1:41 PM

To: Rebecca Broadbent <rebecca@structuretexas.com>; Sarah Andre <sarah@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>; Debra Guerrero <dguerrero@nrpgroup.com>; Jason Arechiga <JArechiga@nrpgroup.com>

Subject: RE: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

[Quoted text hidden]

4/5/2017

Structure Texas Mail - Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

Sarah Andre <sarah@structuretexas.com>

Wed, Mar 22, 2017 at 1:45 PM

To: Teresa Morales <teresa.morales@tdhca.state.tx.us>

Cc: Rebecca Broadbent <rebecca@structuretexas.com>, Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>, Jason Arechiga <JArechiga@nrpgroup.com>

Coldwater Ventures is paying a price for the land, but it was redacted from the contract we received on purpose by Coldwater. Otherwise NRP would know what amount of profit Coldwater is making and could argue for a lower price. Its none of our business if he is making \$1 or \$1MM.

Does that make sense?

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

Teresa Morales <teresa.morales@tdhca.state.tx.us>

Thu, Mar 23, 2017 at 3:55 PM

To: Jason Arechiga <JArechiga@nrpgroup.com>, Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>

Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>

The contract does not reflect that the price was redacted. The price is simply blank. Absent a price I don't see how the contract is enforceable and I don't think an email from the seller would suffice since it's not within the four corners of the contract itself.

From: Jason Arechiga [mailto:JArechiga@nrpgroup.com]

Sent: Wednesday, March 22, 2017 1:44 PM

To: Teresa Morales; Rebecca Broadbent; Sarah Andre

Cc: Liz Cline; Debra Guerrero

[Quoted text hidden]

[Quoted text hidden]

Jason Arechiga <JArechiga@nrpgroup.com>

Thu, Mar 23, 2017 at 4:02 PM

To: Teresa Morales <teresa.morales@tdhca.state.tx.us>

Cc: Rebecca Broadbent <rebecca@structuretexas.com>, Sarah Andre <sarah@structuretexas.com>, Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>

I can get a contract where it is marked through if that's the case. I'll ask the seller tonight.

Sent from my iPhone

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>

Thu, Mar 23, 2017 at 4:02 PM

To: Jason Arechiga <JArechiga@nrpgroup.com>

Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>, Rebecca Broadbent <rebecca@structuretexas.com>, Liz Cline <liz.cline@tdhca.state.tx.us>, Debra Guerrero <dguerrero@nrpgroup.com>

Thanks

Sarah Andre
Structure Development

4/7/2017

Structure Texas Mail - Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

702 San Antonio Street
Austin, TX 78701
512/698-3369

[Quoted text hidden]

From: Jason Arechiga
Sent: Tuesday, March 28, 2017 9:15 AM
To: Teresa Morales <teresa.morales@tdhca.state.tx.us>
Subject: Re: Title Commitment/Site Control Questions Regarding 17403 Lord Road Apartments

Hi Teresa. I asked him to send one with a blank space because he didn't want to share the price. Now I've asked him for the redacted version.

Sent from my iPhone

On Mar 28, 2017, at 9:03 AM, Teresa Morales <teresa.morales@tdhca.state.tx.us> wrote:

I think that begs the question why that form of contract wasn't initially submitted with the application..instead of one with just a blank.

From: Jason Arechiga [<mailto:JArechiga@nrpgroup.com>]
Sent: Thursday, March 23, 2017 4:02 PM
To: Teresa Morales
Cc: Rebecca Broadbent; Sarah Andre; Liz Cline; Debra Guerrero

[Quoted text hidden]

[Quoted text hidden]

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Teresa

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Tue, Mar 14, 2017 at 8:59 AM

[Quoted text hidden]

Teresa Morales <teresa.morales@tdhca.state.tx.us>
To: Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Andrew Sinnott <andrew.sinnott@tdhca.state.tx.us>

Tue, Mar 28, 2017 at 1:42 PM

Hi Rebecca,

I wanted to follow-up with you regarding the email below. I'm working with Jason regarding the questions on the underlying purchase contract but wanted to reach out to you regarding the city and what you were waiting on in order to move forward.

Regards,

Teresa

From: Teresa Morales
Sent: Tuesday, March 14, 2017 8:52 AM
To: 'Rebecca Broadbent'
Cc: Liz Cline; Andrew Sinnott
Subject: RE: 17403 Lord Road Deficiency 2 Response Uploaded

Hi Rebecca,

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Tue, Mar 28, 2017 at 2:57 PM

Sarah,

Are we still waiting on something from the cit for Lord Road? See this email from Teresa at TDHCA.

Thanks!

—— Forwarded message ——

From: **Teresa Morales** <teresa.morales@tdhca.state.tx.us>
Date: Tue, Mar 28, 2017 at 1:42 PM
Subject: RE: 17403 Lord Road Deficiency 2 Response Uploaded
To: Rebecca Broadbent <rebecca@structuretexas.com>
Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Andrew Sinnott <andrew.sinnott@tdhca.state.tx.us>

[Quoted text hidden]

[Quoted text hidden]

Sarah Andre <sarah@structuretexas.com>
To: Rebecca Broadbent <rebecca@structuretexas.com>

Tue, Mar 28, 2017 at 3:04 PM

That is a question from Jason. Let me call him.

Sarah Andre
Structure Development
702 San Antonio Street
Austin, TX 78701
[512/698-3369](tel:5126983369)

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Sarah Andre <sarah@structuretexas.com>

Mon, Apr 3, 2017 at 12:53 PM

Sarah,

Here is the email about Lord Road that came March 28.

[Quoted text hidden]

Rebecca Broadbent <rebecca@structuretexas.com>
To: Teresa Morales <teresa.morales@tdhca.state.tx.us>
Cc: Liz Cline <liz.cline@tdhca.state.tx.us>, Andrew Sinnott <andrew.sinnott@tdhca.state.tx.us>, Sarah Andre <sarah@structuretexas.com>

Mon, Apr 3, 2017 at 1:27 PM

Teresa,

The client is no longer waiting for the City of San Antonio. They have decided to move forward with this project. I was out of town last week when this document come in from the client. The attached document has the required Direct Loan language and should fulfill that requirement for the Lord Road Deficiency.

Thank you!

[Quoted text hidden]



Lord_Road_Purch Agreement Amendment.pdf
699K



Rebecca Broadbent <rebecca@structuretexas.com>

FW: Redacted contract Lord

1 message

From: Jason Arechiga

Sent: Wednesday, March 29, 2017 11:24 AM

To: teresa.morales@tdhca.state.tx.us; Sarah Andre <sarah@structuretexas.com>; Debra Guerrero

<dguerrero@nrpgroup.com>

Subject: Fwd: Redacted contract Lord

Ladies,

Redacted contract attached. I'm getting the extension tomorrow.

Sent from my iPhone

Begin forwarded message:

From: "Michael Westheimer" <michaelwestheimer@gmail.com>

To: "Jason Arechiga" <JArechiga@nrpgroup.com>

Subject: Redacted contract ver. 2

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2 attachments



EMC - REDACTED 20160620 02.pdf
1625K

ATT00001.htm
1K

EXHIBIT B

1st Amendment to Purchase Contract
(resolves Direct Loan Language Deficiency)

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "First Amendment") is effective as of 3/29/2017, 2017, by and between Coldwater Ventures LLC (the "Seller") and Lord Road Apartments, Ltd. (hereafter called the "Buyer").

Recitals:

- A. Seller and NRP Properties LLC entered into the original Purchase and Sale Agreement dated as of June 13, 2016 (as amended, the "Agreement") for the purchase and sale of certain parcels in the City of San Antonio, Bexar County, State of Texas (the "Property") more particularly described in the Agreement.
- B. NRP Properties LLC assigned its interest in the Agreement to Buyer to Lord Road Apartments, Ltd. and such assignee assumed all of NRP Properties LLC's obligations of the Agreement.
- C. Seller and Buyer desire to amend the Agreement as set forth below.

Agreement:

NOW, THEREFORE, in consideration of the mutual covenants and promises made in this First Amendment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, accepted and agreed, Seller and Buyer agree as follows:

- 1. The foregoing Recitals are hereby ratified and confirmed as being true and correct and are hereby incorporated into the body of this First Amendment by this reference.
- 2. Capitalized terms used but not defined in this First Amendment will have the definitions set forth in the Agreement.
- 3. The Closing Date is hereby modified and the transaction shall close on or before October 15, 2017 and all references to the "Closing Date" shall now mean October 15, 2017.
- 4. Condition to Closing. The following is hereby added to the Agreement: "Notwithstanding any other provision of this Agreement, Buyer shall have no obligation to purchase the Property, unless and until Texas Department of Housing and Community Affairs ("TDHCA") has provided Buyer and/or Seller with a written notification that: (i) (a) it has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other contingencies in this Agreement, (b) the purchase may proceed, or (c) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the Property; or (i) it has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. TDHCA has informed Buyer that it

will use its best efforts to conclude the environmental review of the Property expeditiously. Notwithstanding the foregoing, in the event Buyer does not close on or before the Closing Date as a result of the foregoing, the Agreement shall terminate and there shall be no further obligation to be borne by any party (except for those obligations contained in Section 5.C. of the Agreement) to the Agreement and Seller shall be permitted to retain any and all funds deposited with the Escrow Agent/Title Company, whether those funds were previously released to Seller or still in the possession of the Escrow Agent/Title Company.

5. On or before three days from full execution of this First Amendment by Buyer and Seller, Buyer shall deposit the sum of \$75,000.00 (the "Closing Extension Fee") with the Escrow Agent/Title Company. The Closing Extension Fee shall be non-refundable upon payment/deposit and \$50,000.00 out of such Closing Extension Fee shall be credited against the Total Sales Price and the balance of \$25,000.00 shall NOT be credited against such Total Sales Price. Within three (3) business days after Escrow Agent/Title Company's receipt of the Closing Extension Fee, Escrow Agent/Title Company shall remit the Closing Extension Fee to Seller. Buyer hereby agrees that the Closing Extension Fee shall be released and/or paid to Seller as stated with no further agreement necessary from Buyer. If Buyer fails to deliver the Closing Extension Fee as specified in this Section 5, Buyer shall be in default of the Agreement.

6. This First Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall, together, constitute one and the same instrument. This First Amendment, signed and transmitted by facsimile or electronic mail, shall be deemed to be and shall be treated as an original document for all purposes, and shall be considered to have the same binding legal effect as an original signature on an original document. This First Amendment shall be effective as of the date set forth above. Except as amended hereby, the terms, provisions and agreements of the Agreement are hereby ratified and confirmed and shall remain in full force and effect.

[Signatures on following page(s)]

IN WITNESS WHEREOF, this First Amendment has been executed as of the date first above written.

SELLER:

Coldwater Ventures LLC

By:

Name

(print):


Michael J. Westheimer

Title:

Managing Member

BUYER:

Lord Road Apartments, Ltd.


By: SAHT Lord Road GP LLC, its sole member

By San Antonio Housing Trust Public Facility Corporation, its sole member

By:

Name

(print):


Daniel B. Markson

Title:

Authorized Representative

EXHIBIT C

2nd Amendment to Purchase Agreement
(resolved site control concern)

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

This SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Second Amendment") is effective as of the 7th day of April, 2017, by and between COLDWATER VENTURES LLC ("Seller") and LORD ROAD APARTMENTS, LTD. ("Buyer").

RECITALS

A. Seller and NRP Properties LLC entered into a Purchase and Sale Agreement dated as of June 13, 2016 as amended in that one certain First Amendment to Purchase and Sale Agreement dated March 29, 2017 (collectively called, the "Contract") for the purchase and sale of certain parcels of real property located in the City of San Antonio, Bexar County, Texas (the "Property") more particularly described in the Contract.

B. In Section 7 of the Contract, Seller disclosed and Buyer acknowledged that as of the date of the Contract, Seller did not own fee simple title to the Property and that Seller was currently under contract with the fee owner of the Property (the "Underlying Fee Owner") to purchase the Property (the "Underlying Purchase Contract").

C. Pursuant to that certain Assignment and Assumption of Purchase Agreement, dated January 4, 2017, NRP Properties LLC assigned its interest in the Contract to Buyer and Buyer assumed all of NRP Properties LLC's obligations under the Contract.

D. Buyer and Seller wish to clarify Buyer's rights to specific performance under the Contract.

E. Seller and Buyer desire to amend the Contract as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises made in this Second Amendment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, accepted and agreed, Seller and Buyer agree as follows:

1. The foregoing Recitals are ratified and confirmed as being true and correct and are incorporated herein by reference.

2. Capitalized terms not otherwise defined herein will have the definitions ascribed to them in the Contract.

3. Seller and Buyer mutually understand Buyer has the remedy of specific performance in the event of Seller's failure to comply with the Contract. Notwithstanding the foregoing, for the avoidance of doubt, the first sentence of Section 3 of the Contract shall be deleted and replaced in its entirety with the following:

"Upon failure of Seller to comply herewith, Buyer may, as its sole option, terminate this Contract and receive a refund of its Earnest Money or seek to enforce specific performance."

4. In further clarification of Buyer's option to seek enforcement of specific performance, Buyer and Seller agree that Buyer, at Buyer's option, shall have the right to enforce specific performance on behalf of Seller, as buyer, under the Underlying Purchase Contract should the Underlying Fee Owner fail or refuse to convey the property to be sold thereunder. In the event Buyer elects to terminate the Contract pursuant to Section 7 of the Contract, Seller shall be entitled to retain the Earnest Money.

5. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument. This Second Amendment, signed and transmitted by facsimile or electronic mail, shall be deemed to be and shall be treated as an original document for all purposes, and shall be considered to have the same binding legal effect as an original signature on an original document. Except as amended hereby, the terms and provisions of the Contract are hereby ratified and confirmed and shall remain in full force and effect.

[signatures appear on the following page]

IN WITNESS WHEREOF, this Second Amendment has been executed as of the date first written above.

SELLER:

Coldwater Ventures LLC

By: 

Name: Michael Westheimer

Title: 04/07/2017

BUYER:

Lord Road Apartments, Ltd.

By: 

Name: John Renny

Title: Executive Director

Executive Director Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

April 19, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. John Kenny
Lord Road Apartments, Ltd.
2515 Blanco Road
San Antonio, TX 78212

RE: APPEAL OF TERMINATION OF HTC AND DIRECT LOAN APPLICATION #17403, LORD ROAD APARTMENTS, SAN ANTONIO, TEXAS

Dear Mr. Kenny:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of your appeal of the termination of the above-referenced application. This application was terminated for failure to provide a purchase contract that included the environmental language required as part of the Multifamily Direct Loan threshold criteria pursuant to 10 TAC §10.13.2(1) as well as a failure to demonstrate the ability of the applicant to compel title pursuant to 10 TAC §10.204(10)(A).

On January 30, 2017, the Department issued an Administrative Deficiency requesting the environmental language item and it was not satisfactorily resolved during this process. Over the course of two months subsequent to the initial Administrative Deficiency, staff continued to inquire as to the status and various explanations were provided; however, the purchase contract with the required language was never submitted in response to those inquiries. Staff sent an email on March 28, 2017, once again inquiring as to the status, and did not receive a response. The application was terminated on April 3, 2017, and as part of your appeal dated April 10, 2017, you provided a First Amendment to the Purchase and Sale Agreement which included the required environmental language.

In its termination letter, staff also expressed concern over the ability of NRP Properties, LLC (and its assignee Lord Road Apartments, Ltd.) to compel title, a threshold requirement, considering the underlying purchase contract between Idea Public Schools and Coldwater Ventures, LLC. In your appeal you provided a Second Amendment to the Purchase and Sale Agreement that could presumably require NRP Properties, LLC, to enforce specific performance of Coldwater Ventures, LLC, under their underlying purchase contract, thereby demonstrating an ability of NRP Properties, LLC to compel title. This Second Amendment is dated April 7, 2017. This amendment was clearly executed after the date of the termination, despite prior efforts by staff (both in writing via email and via phone conversations) to understand how the Purchase and Sale Agreement submitted with the original application satisfied the requirement of 10 TAC §10.204(10)(A).

Staff performed its initial review of this application in accordance with 10 TAC §10.201(7)(C) of the 2017 Uniform Multifamily Rules regarding the Administrative Deficiency Process which states, in part:

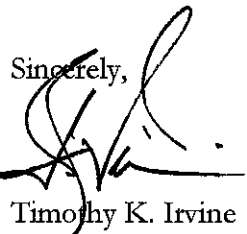


“...Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice will be terminated or suspended from further processing so long as the active Application does not impact the processing or underwriting of other Applications. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed...”

Despite attempts to resolve the aforementioned items through the Administrative Deficiency process, staff acknowledges, as indicated in your appeal response, that there were subsequent emails and phone conversations to further assist in understanding the issue and how it could be resolved, along with trying to discern when such issues could be anticipated to be resolved. Pursuant to 10 TAC §10.201(7)(C) staff elected to suspend the review and processing of the application, not prioritizing it for review until such time the issues were resolved or until such time the requests for Multifamily Direct Loan funds became oversubscribed. Once the Direct Loan application log reflected that funds in the General set-aside were abundantly oversubscribed it became evident that staff could not continue to process an application that had not satisfactorily addressed threshold items requested by staff, nor was there any indication as to when such items would be resolved. While your appeal asserts that staff failed to notify you of the imminent threat of termination, staff maintains that the initial Administrative Deficiency Notice required all items to be resolved within a required timeframe. Moreover, the application included signed certification stating that the applicant has read and understands the 2017 Uniform Multifamily Rules. Ultimately, a Purchase and Sale Agreement was submitted in the original application that failed to meet the requirements of 10 TAC §13.2(1) and §10.204(10)(A) and repeated attempts by staff to resolve were unsuccessful.

I do not find the points raised in your appeal clearly demonstrate that the application should not have been terminated, and accordingly I must deny the appeal. You have made an anticipatory appeal of my denial and requested that this be placed on the April board agenda, which we are doing.

If you have any questions or concerns, please contact Teresa Morales, Multifamily Finance Manager, at 512-475-3344 or by email at teresa.morales@tdhca.state.tx.us.

Sincerely,

Timothy K. Irvine
Executive Director

6b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action regarding a request for waiver of rules for Blue Flame, HTC #17330

RECOMMENDED ACTION

WHEREAS, EP Blue Flame, LP (the “Applicant”) submitted a 9% Housing Tax Credit Application for the redevelopment of the Blue Flame Building (the “Development”) prior to the Full Application Delivery Date;

WHEREAS, the Applicant submitted the application for consideration under the At-Risk Set-Aside, due to the relocation of Rental Assistance Demonstration Program (“RAD”) units despite the site not being eligible for Opportunity Index points;

WHEREAS, the Applicant has requested a waiver of the requirement under 10 TAC §11.5(3)(C)(iii) that in order for a Development that includes the demolition of existing units that have received financial benefit described in Tex. Gov’t Code §2306.6702(a)(5), the site must qualify for points on the Opportunity Index under 10 TAC §11.9(c)(4) of the Qualified Allocation Plan (“QAP”); and

WHEREAS, staff believes that in its request, the Applicant has not met the requirements of 10 TAC §10.207(a)(2) of the 2017 Uniform Multifamily Rules, Waiver of Rules for Applications;

NOW, therefore, it is hereby

RESOLVED, that the requested waiver for Blue Flame is denied; and

FURTHER RESOLVED, that because the Application is not eligible to participate in the At-Risk set-aside, it is not eligible to receive six points under 10 TAC §11.9(e)(3) Pre-Application Participation, because it fails to meet the requirement at (D) that the pre-application and Application are participating in the same set-aside.

BACKGROUND

The Application proposes the construction of 150 multifamily units (120 affordable housing), in the City of El Paso targeting the general population through the adaptive reuse of a historic building. The Application was submitted under the At-Risk Set-Aside through RAD. In order to qualify for the At-Risk Set-Aside under RAD, as described in Tex. Gov’t Code §2306.6702(a)(5), the site to

which existing units are relocated must qualify for points on the Opportunity Index under 10 TAC §11.9(c)(4) of the QAP.

In their request for a waiver, the Applicant asserts that the requirement that the site to which RAD units are relocated must be in a location that meets the criteria of the Opportunity Index scoring item, is “an inadvertent remnant of the 2016 Qualified Allocation Plan.” The Applicant further asserts that “there has been a redirection toward Urban Core, Historic Preservation and Concerted Community Revitalization, all of which are rarely found in High Opportunity Areas,” and that “[t]he fact that relocation of RAD units is still limited to High Opportunity Areas is inconsistent with the updated approach to evaluating appropriate and preferential locations for affordable housing.”

Staff believes that the requirement that the relocation of RAD units be limited to areas that meet the criteria of the Opportunity Index scoring item is entirely consistent with the Department’s statutory requirements as well as the Department’s mission to administer its assigned programs efficiently, transparently, and lawfully and to invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive.

Pursuant to 10 TAC §10.207(a)(2) of the 2017 Uniform Multifamily Rules, Waiver of Rules for Applications, the waiver request must establish how the waiver is necessary to address circumstances beyond the Applicant's control and how, if the waiver is not granted, the Department will not fulfill some specific requirement of law. The request asserts that the waiver is necessary as the location of the Development Site is beyond the control of the Applicant. The Applicant further asserts that locating the development at the Blue Flame building will enable the Department to meet housing goals established in Tex. Gov’t Code, including adaptive reuse of a certified historic building.

Staff does not find that the request has established that the waiver is necessary to address circumstances beyond the Applicant’s control, and that the Department will fail to fulfill some specific requirement of law by not granting the waiver. Accordingly, staff recommends the request for a waiver of 10 TAC §11.5(3)(C)(iii) be denied.



Housing Authority of the City of El Paso

February 23, 2017

By Email to: tim.irvine@tdhca.state.tx.us
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
Attention: Tim Irvine, Executive Director

By Email to: sharon.gamble@tdhca.state.tx.us
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
Attention: Sharon Gamble, Program Administrator

RE: #17330 - Blue Flame Apartments, El Paso, El Paso County, Texas;
Request for Waiver.

Dear Tim and Sharon:

This is a request for the waiver of §11.5(3)(C) of the 2017 Qualified Allocation Plan (the "QAP") which requires that to qualify for the At-Risk Set-Aside by moving units that have received the benefits described in §2306.6702(a)(5) of the Texas Government Code (aka "RAD units") to a new site, the new site must qualify for points on the Opportunity Index under §11.9(c)(4) of the QAP.

We believe that this requirement is an inadvertent remnant of the 2016 Qualified Allocation Plan which was crafted to deal with issues raised by the ICP litigation and therefore focused closely upon guiding applicants to High Opportunity Areas. The 2017 QAP shows that criteria originally adopted to deal with allegations in the ICP litigation have been generally deleted, and there has been a redirection toward Urban Core, Historic Preservation and Concerted Community Revitalization, all of which are rarely found in High Opportunity Areas. The fact that relocation of RAD units is still limited to High Opportunity Areas is inconsistent with the updated approach to evaluating appropriate and preferential locations for affordable housing, and we believe it was not intended.

The Blue Flame Apartments application in the At-Risk Set-Aside will redirect RAD units to 120 N. Stanton Street, a downtown El Paso location where the iconic 17-story Blue Flame building will be adapted and rehabilitated to accommodate 165 units of rental housing. The new location will be in an area where there has recently been an enormous amount of investment in commercial and retail businesses as listed in Attachment A, which will provide job opportunities for residents. The low population of the census tract (1,224 persons) is reflective of the chance to provide affordable housing in an area currently undergoing revitalization pursuant to the El Paso Downtown 2015 Plan (Phase Two).



Tim Irvine, Executive Director
Sharon Gamble, Program Administrator
February 23, 2017
Page 2

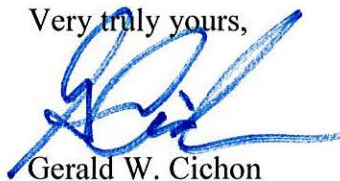
Moving RAD units from HACEP's Pooley Apartments to the proposed Blue Flame Apartments is an integral part of the restructuring and revitalization of HACEP's affordable housing stock.

We think that the Blue Flame Apartments qualifies for and should be included in the At-Risk Set-Aside on the basis of it being a transfer of RAD units from an existing site to a new location that will be appropriate for an affordable housing development. While the new development site is not what TDHCA considers a High Opportunity Area, it is in an area currently undergoing immense revitalization and has the additional benefit of involving the adaptive reuse and historic preservation of one of the most outstanding buildings in Downtown El Paso. Accordingly, we respectfully request that compliance with §11.5(3)(C) be waived to the extent that Blue Flame Apartments will not be located in a High Opportunity Area.

The location of a historic building suitable for adaptive reuse is beyond the control of an applicant. Granting this waiver request, however, will permit the TDHCA to meet the Department's housing goals established by Section 2306.6725(a)(6) of the Texas Government Code which include establishing the ability of the proposed project to rehabilitate or perform an adaptive reuse of a certified historic structure, as defined by Section 171.901(1) of the Texas Tax Code. Additionally, granting the waiver will potentially permit an award of tax credits for the General Population in Census Tract 48141001700, which TDHCA's inventory currently indicates has only a 34-unit development for the Elderly, which was awarded 9% tax credits in 1991 (#91204). This will facilitate the Department in fulfilling its purpose of contributing to the preservation and redevelopment of neighborhoods and communities, as stated in Section 2306.001(3) of the Texas Government Code.

Thank you for your consideration of this waiver request.

Very truly yours,



Gerald W. Cichon
Chief Executive Officer

Enclosure



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

March 27, 2017

Writer's direct phone # 512/475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Gerald W. Cichon
Chief Executive Officer
Housing Authority of the City of El Paso
Post Office Box 9895
El Paso, TX 79995-2895

RE: HOUSING TAX CREDITS APPLICATION #17730, BLUE FLAME APARTMENTS
REQUEST FOR WAIVER

Dear Mr. Cichon:

The Texas Department of Housing and Community Affairs is in receipt of your request for waiver of certain provisions of 10 TAC §11.5(3)(C). Specifically, you have requested waiver of the provision in the 2017 Qualified Allocation Plan that requires Developments proposed for relocation in the At-Risk Set-aside be moved to a site that is eligible for points under 10 TAC §11.9(c)(4), the Opportunity Index.

As described in 10 TAC §10.207, Waiver of Rules for Applications, the waiver you are seeking may only be granted by the TDHCA Governing Board. We will plan to take your request for waiver to the April 27, 2017, Board meeting. If you have non-material, demonstrative information beyond the request letter that you would like to present to the Board as they deliberate your waiver request, please forward it to Sharon Gamble on or before April 19, 2017, so that it may be included in the published Board Book. Please note that this is not a deficiency notice, and should not be interpreted as a request by TDHCA for you to supplement, clarify, or correct the above-referenced application. Moreover, you may not change or amend the grounds asserted in your initial request for waiver.

Please contact Sharon Gamble at 512/936-7834 or sharon.gamble@tdhca.state.tx.us if you have any questions regarding the Board approval process.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director



Housing Tax Credits Application #17730, Blue Flame Apartments
March 27, 2017
Page 2

cc: Barry Palmer, Coats Rose



JOSÉ RODRÍGUEZ

STATE SENATOR

SENATE DISTRICT 29

EL PASO, CULBERSON, HUDSPETH, PRESIDIO & JEFF DAVIS COUNTIES

March 3, 2017

Marni Holloway, Director of Multifamily Finance
Texas Dept. of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

Re: Development: EP Blue Flame LP, a public-private development partnership involving the Housing Authority of the City of El Paso (through its nonprofit, Paisano Housing Redevelopment Corporation)
Proposed Development Location: Blue Flame Building, 120 N. Stanton, El Paso, Texas
TDCHA Application Number: 17330 (9% At-Risk Set Aside HTC)

Dear Ms. Holloway:

I write in support of the At-Risk Set-Aside low income housing tax credits application by EP Blue Flame, LP. As background, the Blue Flame building is an historic 17-story office building in Downtown El Paso. The Blue Flame building has been vacant for the past 10 years with little prospect of renovation and use as an office building, creating a gap in Downtown El Paso, but also an opportunity.

There is great interest in residential development in Downtown El Paso, and the Housing Authority of the City of El Paso (HACEP) has partnered with the Blue Flame building's current owner on a plan to re-purpose the building by placing retail businesses on the first floor and a mix of market-rate and low income affordable housing on the upper 16 floors.

I understand that the award of tax credit is critical for the plan. I am also aware that, among other community stakeholders, both the City of El Paso (the City) and El Paso Downtown Management District (EPDMD) have voted to support the Blue Flame project's application to the Texas Department of Housing and Community Affairs (TDHCA). Like them, I see the great value in a newly-renovated, secure, and state-of-the-art tower that diversifies residential opportunities in Downtown El Paso for people moving from at-risk affordable housing elsewhere in the city.

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(915) 351-3500
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MISSION VALLEY OFFICE
206 S.E. 8TH ST., SUITE 201
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(915) 765-2000
(915) 764-1555 FAX

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300 W. COLUMBIA, ROOM 102
ELEMENTARY BLDG.
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MARFA, TEXAS 79843
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Further, I also support the Blue Flame request for a waiver from Section 11.5(3)(C) of the Qualified Application Plans (QAP). There are compelling justifications for a waiver to be granted. The proposed location of the Blue Flame tower in downtown El Paso offers a chance to be part of revitalizing an area in dire need of investment and improvement. The location of this site, if approved, will help both the Blue Flame's developers and TDHCA meet goals established by Section 2306.6725(a)(6) of the Texas Government Code to rehabilitate or perform an adaptive reuse of a certified historic building, as defined by Section 171.901(1) of the Texas Tax Code. The proposed location of this project is also in accord with the "Urban Core" redevelopment initiative adopted by TDHCA for Texas' large cities.

Additionally, granting the waiver of this QAP section will potentially permit an award of tax credits for a census tract that TDHCA's inventory currently indicates has only a 34-unit development for the Elderly, which was awarded 9% tax credits in 1991 (#91204). This will facilitate the Department in fulfilling its purpose of contributing to the preservation and redevelopment of neighborhoods and communities, as stated in Section 2306.001(3) of the Texas Government Code.

I therefore respectfully urge the Texas Department of Housing and Community Affairs to support the Blue Flame project with an award of At-Risk Set Aside Tax Credits this year.

Sincerely,

A handwritten signature in black ink that reads "José Rodríguez". The signature is written in a cursive style with a prominent flourish at the end.

José Rodríguez

COATS | ROSE

A Professional Corporation

BARRY J. PALMER

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April 17, 2017

TDHCA Board Members
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: #17330 - Blue Flame Apartments, El Paso, El Paso County, Texas;
Request for Waiver of §11.5(3)(C)(iii) of the 2017 Qualified Allocation Plan.

Dear Board Members:

This letter is in support of a request by the Housing Authority of the City of El Paso for a waiver of §11.5(3)(C)(iii) of the 2017 Qualified Allocation Plan (“QAP”). Section 11.5(3)(C) permits an application in the At-Risk Set-Aside to demolish affordable units and transfer affordability restrictions and subsidies for the same number of assisted units to a new location, provided that the new location qualifies for points on the Opportunity Index under §11.9(c)(4) of the QAP. This limitation is not mandated by statute, and it is within the discretion of the Board to waive the requirement, in order to facilitate this proposed development, which is currently the highest-scoring application on the At-Risk Set-Aside.

We note that as an aftermath of the *ICP vs. TDHCA* litigation, the TDHCA has expressed a preference to invest tax credits in high opportunity areas that demonstrate higher incomes and lower poverty rates than surrounding areas and also provide accessible community amenities which enhance the residents’ lives. In furtherance of this preference, §11.5(3)(C)(iii) makes it a requirement that in order to qualify for the At-Risk Set-Aside with a new location for demolished units, the new location must qualify for points on the Opportunity Index. However, it must be recognized that the alternative to relocating demolished units is to reconstruct those units on their original site, without regard for how the original site would score on the Opportunity Index, and that such an application would also be eligible for the At-Risk Set-Aside.

The Blue Flame application answers two conflicting obligations imposed upon the TDHCA in its consideration of tax credit applications. First, it promotes relocation of existing public housing units to a new location where they will be converted to RAD units, thus extending the subsidies provided to the tenants, thereby preserving existing affordability. Secondly, the Blue Flame application helps the TDHCA to meet the Legislature’s

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requirement that it facilitate projects in performing adaptive reuse of certified historic structures.

While the proposed relocation of public housing units to a downtown historical district location does not result in a substantial improvement in the median income or the poverty rate of the surrounding locale, what it does do is to bring those units closer to the central business district, so that employment opportunities for the residents are enhanced.

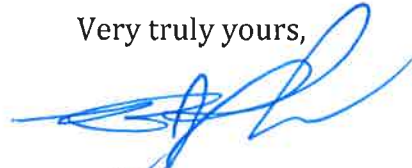
Additionally, we strongly believe that the new location's median income and poverty rate are not reflective of the current situation in downtown El Paso. Over \$234 million in public funds have been invested in downtown El Paso since 2012. That infusion of dollars has encouraged commercial, retail and residential private development in the area. As can be seen from the various new buildings underway or planned for the downtown (please see Attachment A), it becomes apparent that the tipping point has been reached for the revitalization of downtown El Paso.

The imminent redevelopment of downtown El Paso is similar to the redevelopment of Houston that took place in the late 1990s. In Houston, initial investments of public moneys in the form of the Ball Park, the Hobby Center, the Hilton Americas-Houston Hotel, and the Toyota Center, provided the spark that caused downtown to become a desirable residential location once again. Similarly, the flood of public investment in downtown El Paso presages the likelihood of increased residential development. The shared problem of Houston and El Paso is that if developers wait until the census data catches up to the reality of development on the ground, the land prices in the revitalized downtown areas will have increased to the point that affordable housing development is out-priced.

What Blue Flame brings to the table is a proposed mixed-income redevelopment (20% market rate, 80% affordable) of an iconic building that is expected to qualify for State and Federal historic restoration tax credits. The location of historic buildings appropriate for reuse as affordable housing is not within the control of the developer – otherwise I am sure the Blue Flame project would have been located in a High Opportunity Area. However, the availability of an appropriate historic building for adaptive reuse is a true boon to the proposed redevelopment of the 120 RAD conversion units that will be transferred to the Blue Flame Building. The sale of historic tax credits is estimated to provide approximately \$8.5 million in financing, or more than 28% of the Development's cost. Historic tax credit financing substitutes for the "soft gap funding" which is becoming increasingly difficult to locate.

In summary, we request the Board's favorable consideration of the waiver request that was timely submitted by the Housing Authority of the City of El Paso. Permitting the relocation of 120 RAD units to the Blue Flame Building will result in enhanced living conditions for the tenants involved, obtained by leveraging the historic elements of the building so as to provide a far more economic redevelopment than would otherwise be the case.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Barry J. Palmer', is written over the closing text.

Barry J. Palmer

Attachment A

cc: Gerald W. Cichon

ATTACHMENT A

1. **Public investment in downtown El Paso exceeds \$234 million since 2012 and has sparked private development, enhancing the area and providing amenities to spur residential development.**
2. **New downtown public and private development completed or underway includes:**
 - Southwest University Park baseball stadium
 - 51 affordable apartment units at Artspace Lofts
 - 100-room Aloft Hotel at historic Bassett Tower (opening September 2017)
 - Martin Lofts - 42 loft apartments and street level retail space in historic Martin Building
 - 43-room boutique hotel at 209 North Stanton, adjacent to Martin Lofts, to be part of a multi-building mixed use development proposed under the name “Electri©ity”
 - \$97 million Streetcar project
3. **Announced additional development not yet under construction includes:**
 - Children’s Museum to be located at 201 West Main Street
 - \$180 million Multi-Purpose Arena project approved by voters
 - Mexican American Cultural Center at Santa Fe Street and San Antonio Avenue
 - Historic Popular Building at Mesa Street and San Antonio Avenue to be converted to loft apartments
 - Mid-rise tower under development by Hunt Companies at 601 North Mesa Street (across from Artspace Lofts)
 - Courtyard by Marriott with four floors for rooms atop a five story parking garage across from Southwest University Park at Santa Fe Street and Wyoming Avenue
 - \$70 million redevelopment of historic Camino Real Hotel at Santa Fe Street and Wyoming Avenue as El Paso’s primary convention hotel
 - 14-unit apartment complex 800 feet from Southwest University Park at 617 West Franklin Avenue
 - Ballpark Lofts will include three 2,600 square foot townhouse units adjacent to the baseball stadium
 - Savoy Loft Apartments - 27 studio apartments in a historic building at 116 South Stanton Street
4. **Adaptive Reuse of the historic Blue Flame building to provide affordable and market rate housing would permit economic development of tax credit units before the downtown redevelopment surge makes sites too expensive to locate affordable housing there.**
5. **Characterization of the downtown historic district as not being a High Opportunity Area is based upon 2010 census data and does not reflect the huge investment in the area which is changing the face of downtown El Paso.**

6c

BOARD ACTION REQUEST

MULTIFAMILY FINANCE

APRIL 27, 2017

Presentation, discussion, and possible action on possible actions to assist 9% housing tax credit-layered Direct Loan awardees and applicants that have suffered adverse changes in syndication rates

RECOMMENDED ACTION

WHEREAS, a number of proposed developments that received awards of 9% competitive low income housing tax credits in 2016 have, since the time of award, experienced various adverse changes that make it no longer financially feasible to close on development financing and proceed, such changes most notably including adverse changes in the price at which investor capital will be contributed to ownership structures;

WHEREAS, the Board finds that it is in the best interest of the State of Texas to identify lawful measures that may be taken to assist these developments such that they can move forward, thereby minimizing disruption to the development of suitable affordable housing;

WHEREAS, the Board took action last month on a similar item as it related to 2016 housing tax credit (“HTC”) awardees without Direct Loan funds and this proposed action is a conforming waiver of the Direct Loan rule at 10 TAC §13.11(b) when combined with tax credits;

WHEREAS, in addition to this conforming waiver, staff is recommending that 2017 9% HTC applicants that have applied for gap financing from either the Department or local Participating Jurisdictions (“PJs”) be given an opportunity through the underwriting process, but no later than the date Commitment Notices are executed, to replace the fund source in their applications in order to maintain feasibility; and

WHEREAS, the Board has weighed the benefits of certain accommodations against the impact of delays or loss of production;

NOW, therefore, it is hereby

RESOLVED, that this Board hereby expresses its support for staff’s proceeding with the following measures to address these matters, subject to further more specific board action where required by law or rule:

1. Allowing 2016 9% competitive low income housing tax credit-layered Direct Loan awardees to return their Direct Loan award by June 30, 2017, if they also return their housing tax credits, without point or other penalty if they have experienced and can document a loss in prospective equity attributable to a decline in syndication rates of such a magnitude that the transactions are no longer financially feasible without other accommodations and funding or equity sources. The Board finds that the waiver of this penalty is necessary in order to effectuate the express statutory policy objective of development of suitable affordable

housing, and no further board action is required in this regard but this statement does not preclude bringing any appeals to the Board if staff concludes that support for meeting the claimed criteria for this waiver is insufficient in any given case.

2. Giving 2017 9% competitive low income housing tax credit-layered applicants the opportunity through the underwriting process, but no later than the date Commitment Notices are executed, to replace the gap financing fund source – whether it be the Department’s Direct Loan funds or funds from a local Participating Jurisdiction – in their applications in order to maintain feasibility.

BACKGROUND

At the Board meeting of March 23, 2017, the Board took action with respect to applications for 9% competitive low income housing tax credits awarded in the 2016 round. Specifically, the Board approved staff’s ability to allow 9% HTC awardees under the 2016 round to return credits by June 30, 2017, without point or other penalty if they have experienced and can document a loss in prospective equity attributable to a decline in syndication rates of such a magnitude that the transactions are no longer financially feasible without other accommodations and funding or equity sources. The action contemplated under this item is a conforming waiver of 10 TAC §13.11(b) in the Multifamily Direct Loan Rule. If an awardee can establish that their credit pricing, alone or coupled with increases in interest rates and/or increases in costs of construction, makes their deal no longer feasible, that 9% HTC/ Direct Loan awardee can return their Direct Loan Funds by June 30, 2017, as well as their credits without any point or other penalty contemplated in 10 TAC §13.11(b), specifically the prohibition on applying for Direct Loan funds for a period of two years.

In addition to the accommodation being made for 2016 9% HTC-layered Direct Loan awardees, staff is recommending that 2017 9% HTC applicants who have also applied for the Department’s Direct Loan funds or local PJ funds be given an opportunity through the underwriting process, but no later than the date Commitment Notices are executed, to replace those gap financing sources in the event those funds are oversubscribed. While not explicitly prohibited in the Uniform Multifamily Rules (10 TAC Chapter 10), Qualified Allocation Plan (10 TAC Chapter 11), or the Multifamily Direct Loan Rule (10 TAC Chapter 13), it is also not specifically allowed under the rules and staff believes that being transparent in giving applicants an opportunity to replace gap financing sources will benefit all applicants.

6d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 27, 2017

Presentation, discussion, and possible action on an Amendment to the 2017-1 Multifamily Direct Loan Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, the Board previously approved the 2017-1 Multifamily Direct Loan Notice of Funding Availability (“2017-1 NOFA”), which included \$12.5 million in Tax Credit Assistance Program loan repayments (“TCAP RF”), and \$20,049,905 in HOME funds;

WHEREAS, 95 percent of the Department’s HOME funds may not be used in Participating Jurisdictions (“PJs”) pursuant to Texas Government Code 2306.111(c)(1), leaving the vast majority of requests needing to be funded with TCAP RF;

WHEREAS, Applications received to date that are only eligible for TCAP-RF far exceed the funds available in the NOFA;

WHEREAS, additional repayments and returned funds to date have been identified and can be added to the current NOFA or held for future use; and

WHEREAS, adding the approximately \$2.3 million in TCAP repayments and returned funds to the 2017-1 NOFA will help alleviate the oversubscription in the current NOFA and expedite the reuse of this limited resource;

NOW, therefore, it is hereby

RESOLVED, that approximately \$2.3 million in TCAP Repayment Funds be added to the 2017-1 NOFA under the General Set-Aside; and

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

BACKGROUND

On December 30, 2016, the 2017-1 NOFA was published in the *Texas Register* announcing the availability of up to \$32,549,905 comprised of \$20,049,905 in HOME funds and \$12.5 million in TCAP RF – for the development of affordable multifamily rental housing. The \$12.5 million in TCAP RF was derived from principal (\$8.5 million) and interest (\$4 million) payments received on TCAP loans through November 2016. Thirty-seven applicants to date have requested \$21,772,957 in HOME funds and \$52,541,558 in TCAP RF.

Staff has identified TCAP RF totaling \$2,299,235 that can be added to the 2017-1 NOFA. The available funds are derived from the following sources:

- \$1,000,000 in returned TCAP RF from Cross Creek Apartments (16403)
- \$43,251 left out of 2017-1 NOFA as a result of rounding
- \$1,255,984 in Principal payments received from December 1, 2016, through March 31, 2017

With this additional TCAP RF, staff anticipates being able to make one more award of Direct Loan funds under the General Set-Aside. However, the shortfall in funding for 2017 9% HTC-layered Direct Loan applicants remains and no awards of Direct Loan funds to applicants with development sites in Participating Jurisdictions are currently anticipated. Applicants for TCAP-RF layered with 9% Housing Tax Credits have been notified of the over-subscription. The NOFA Amendment will not fund applications that have not already been received.

Staff will continue to monitor the oversubscription issue and may recommend further amendments to the NOFA if necessary.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2017-1 NOTICE OF FUNDING AVAILABILITY (NOFA)
FIRST AMENDMENT

THIS AMENDMENT INCREASES THE AVAILABLE TCAP-RF FUNDS IN THE GENERAL SETASIDE, ALL OTHER TERMS AND CONDITIONS OF THE 2017-1 NOFA REMAIN AS ORIGINALLY PUBLISHED

- 1) Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to **\$34,849,140** in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. The availability and use of these funds are subject to 10 TAC Chapters 1 (“Administration”), 2 (“Enforcement”), 10 (“Uniform Multifamily Rules”), 13 (“Multifamily Direct Loan Rule”), and Chapters 11 (“Qualified Allocation Plan”) and 12 (“Multifamily Housing Revenue Bonds”) as applicable, as well as Chapter 2306 of the Texas Government Code. Applications proposing development of affordable multifamily rental housing will be subject to the Department of Housing and Urban Development (“HUD”) HOME regulations governing the HOME program found at 24 CFR Part 92 (“HOME Final Rule”) Other Federal regulations that apply to HOME include, but are not limited to fair housing (42 U.S.C. 3601-3619), environmental requirements (42 U.S.C. 4321; and 24 CFR part 50 or part 58 depending on the type of activity), Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378, Section 104(d) of Housing and Community Development Act of 1974. HOME funds are further regulated by Davis-Bacon and Related Labor Acts for labor standards (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs). HOME-funded developments must comply with HUD Section 3 requirements (24 CFR Part 135). Section 3 requires HOME housing and community development activities to give, to the greatest extent feasible (and consistent with existing Federal, State and local laws and regulations) job training, employment, contracting and other economic opportunities to Section 3 residents and business concerns.

- 3) Set-Asides.** All funds will be subject to the Regional Allocation Formula (“RAF”, located in Attachment A) until February 9, 2017, and then available on a statewide basis within each set-aside. Applications under any and all set-asides may or may not be layered with 9% or 4% Housing Tax Credits (“HTC”). The funds made available under this NOFA are available under three set-asides:

Set-Aside	Amount Available	Maximum Request
CHDO (HOME only)	\$4,723,589	\$3,000,000
Supportive Housing/ Soft Repayment (TCAP RF only)	\$4,000,000	\$800,000
General	\$26,125,551	
	New Construction	\$3,000,000
	Rehabilitation	\$2,000,000

- a. **CHDO Set-Aside.** At least **\$4,723,589** in HOME funds are set aside for eligible Community Housing Development Organizations (“CHDO”).
- b. **Supportive Housing/ Soft Repayment Set-Aside.** Up to **\$4,000,000 of TCAP RF funds** is available in this set-aside.
- c. **General Set-Aside.** All remaining TCAP RF and HOME funds available (currently anticipated to be approximately \$26,125,551).



2017-1 Multifamily Direct Loan Program - Application Log - April 18, 2017
 Per 2017-1 Multifamily Direct Loan Notice of Funding Availability published in the Texas Register on 12/30/2016

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received within set-aside.

												Total Set Aside Funding Level:	\$4,000,000
TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments	
17501	Live Oak Trails	Austin	Travis	7	NC	\$ 760,000	Supportive Housing	58	10	9%	1/9/2017	Previously awarded as 9% HTC application 14069	
17502	Freedom's Path at Kerrville	Kerrville	Kerr	9	NC	\$ 800,000	Supportive Housing	49	13	9%	1/9/2017	Previously awarded as 9% HTC application 13167	
17500	Works at Pleasant Valley Phase II	Austin	Travis	7	NC	\$ 800,000	Supportive Housing	29	29		3/31/2017		
Total Amount Requested Under SH/SR Set Aside						\$ 2,360,000	Total Units	136	52				

												Total Set Aside Funding Level:	\$4,723,589
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments	
17505	Merritt Monument	Midland	Midland	12	NC	\$ 1,000,000	General	104	34	9%	3/30/2017	Previously awarded 9% HTC and \$2,000,000 in HOME under app. 16210	
17504	Merritt Heritage	Georgetown	Williamson	7	NC	\$ 1,000,000	Elderly Limitation	244	34	9%	3/30/2017	Previously awarded 9% HTC and \$2,000,000 in HOME under app. 16185	
17509	Poesta Creek Apartments	Beeville	Bee	10	R	\$ 2,000,000	General	50	50		3/31/2017		
17738	Las Casitas De Azucar	Santa Rosa	Cameron	11	NC	\$ 1,241,627	General	50	27	9%	4/3/2017		
17508	Casitas San Miguel	San Elizario	El Paso	13	NC	\$ 1,686,330	General	24	24		4/12/2017		
Total Amount Requested Under CHDO Set Aside						\$ 6,927,957	Total Units	472	169				

HOME	\$15,326,316
TCAP RF	\$8,500,000

												Total General Set Aside Funding Level:	\$23,826,316
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity ¹	Multifamily Direct Loan Request	Target Population	Total Units	MF Direct Loan Units	Layering ²	Date Received ³	Comments	
17503	The Reserve at Dry Creek	Hewitt	McLennan	8	NC	\$ 1,600,000	Elderly Limitation	113	48	9%	1/9/2017	Previously awarded 9% HTC and \$1,000,000 in HOME under app. 16115	
17402	Harris Ridge Apartments	Austin	Travis	7	NC	\$ 3,000,000	General	324	50	4%	1/9/2017		
17403	Lord Road Apartments	San Antonio	Bexar	9	NC	\$ 3,000,000	General	324	50	4%	1/9/2017		
17404	Commons at Goodnight	Austin	Travis	7	NC	\$ 3,000,000	General	304	23	4%	2/3/2017		
17405	Bridge at Cameron	Austin	Travis	7	NC	\$ 2,590,000	General	263	22	4%	2/3/2017	Previously submitted application for 4% HTC/Bonds under app. 16446	
17409	Bridge at Canyon View	Austin	Travis	7	NC	\$ 2,900,000	General	264	21	4%	3/7/2017	Previously submitted application for 4% HTC/Bonds under app. 16449	
17401	Primrose Village	Weslaco	Hidalgo	11	NC	\$ 2,691,558	General	242	21	4%	3/10/2017	Previously submitted application for 4% HTC/Bonds under app. 16441	
17507	Easterling Culeba Apartments	San Antonio	Bexar	9	NC	\$ 3,000,000	General	90	50	9%	3/23/2017	Previously awarded 9% HTC under app. 16061 - CHDO Set Aside request	
17506	Tuscany Park at Arcola	Arcola	Fort Bend	6	NC	\$ 3,000,000	General	96	50	9%	3/24/2017	Previously awarded 9% HTC under app. 16105	
17107	The Residence at Wolforth	Wolforth	Lubbock	1	NC	\$ 500,000	Elderly Limitation	49	6	9%	4/3/2017		
17273	The Residence at Lamar	Wichita Falls	Wichita	2	ADR	\$ 950,000	Elderly Limitation	30	9	9%	4/3/2017		
17281	The Residence at Arbor Grove	Arlington	Tarrant	3	NC	\$ 1,250,000	Elderly Limitation	126	11	9%	4/3/2017		
17012	Secretariat Apartments	Arlington	Tarrant	3	NC	\$ 3,000,000	Elderly Limitation	74	50	9%	4/3/2017		
17372	Sunset Trails	Bullard	Cherokee	4	NC	\$ 740,000	Elderly Limitation	48	7	9%	4/3/2017		
17208	Waverly Village	New Waverly	Walker	6	R	\$ 300,000	General	50	5	9%	4/3/2017		
17007	Magnolia Station	Winnie	Chambers	6	NC	\$ 1,220,000	General	44	11	9%	4/3/2017		
17204	Vista Bella	Lago Vista	Travis	7	NC	\$ 2,285,000	General	72	40	9%	4/3/2017		
17179	The Nightingale at Goodnight Ranch	Austin	Travis	7	NC	\$ 3,000,000	Elderly Limitation	174	54	9%	4/3/2017		
17205	Travis Flats	Austin	Travis	7	NC	\$ 3,000,000	General	146	53	9%	4/3/2017		
17290	Golden Trails	West	McLennan	8	NC	\$ 2,200,000	Elderly Limitation	45	17	9%	4/3/2017		
17013	Rio Lofts	San Antonio	Bexar	9	NC	\$ 3,000,000	General	81	50	9%	4/3/2017		
17026	10715 Bandera Apartments	San Antonio	Bexar	9	NC	\$ 3,000,000	General	84	50	9%	4/3/2017		
17042	Huntington at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	Elderly Limitation	132	42	9%	4/3/2017		
17094	Catalon at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	General	128	42	9%	4/3/2017		
17258	Village at Henderson	Corpus Christi	Nueces	10	NC	\$ 1,000,000	General	88	8	9%	4/3/2017	CHDO Set Aside requested	
17069	Arlinda Gardens Supportive Housing	Bryan	Brazos	8	NC	\$ 2,800,000	Supportive Housing	100	30	9%	4/3/2017	Terminated pending Appeal - CHDO Set Aside requested	
17416	Manchaca Commons	Austin	Travis	7	NC	\$ 3,000,000	General	240	20	4%	4/4/2017		
Total Amount Requested Under General Set Aside: Development Sites in non-PJs						\$ 8,845,000		421	134				
Total Amount Requested Under General Set Aside: Development Sites in PJs						\$ 52,181,558		3,310	706				
Total Amount Requested Under General Set Aside: TOTAL						\$ 61,026,558	Total Units	3,731	840				

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse
 2 = Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program
 3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.