

**BOARD BOOK OF  
March 11, 2021**



**Leo Vasquez III, Chair**  
**Leslie Bingham, Vice-Chair**  
**Paul Braden, Member**  
**Sharon Thomason, Member**  
**Ajay Thomas, Member**  
**Brandon Batch, Member**

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT

Fiscal Year 2020 (September 1, 2019, through August 31, 2020)

Owner Financing and Down Payment	
<ul style="list-style-type: none"> <li>30-year, fixed interest rate mortgage loans</li> <li>Mortgage credit certificates</li> <li>Down payment, closing cost assistance</li> <li>Homebuyer education</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Single Family Homeownership</li> </ul>	
Expended Funds:	\$2,355,288,592
Total Households Served:	12,248

Energy Related Assistance	
<ul style="list-style-type: none"> <li>Utility bill payment assistance</li> <li>Energy consumption education</li> <li>Weatherization for energy efficiency</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Comprehensive Energy Assistance Program (CEAP)</li> <li>Weatherization Assistance Program (WAP)</li> </ul>	
Expended Funds:	\$167,521,193
Total Households Served:	169,228

Multifamily New Construction	
<ul style="list-style-type: none"> <li>Affordable rental units financed and developed</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>9% Housing Tax Credits (HTC)</li> <li>4% Housing Tax Credits (HTC)</li> <li>Multifamily Bonds</li> <li>Multifamily Direct Loan Program*</li> </ul>	
Expended Funds:	\$121,701,677
Total Households Served:	8,051

Homelessness Services	
<ul style="list-style-type: none"> <li>Shelter building rehabilitation, conversion, operations</li> <li>Essential services e.g., health services, transportation, job training, employment services</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Emergency Solutions Grant Program (ESG)</li> <li>Homeless Housing and Services Program (HHSP)</li> </ul>	
Expended Funds:	\$13,487,806
Total Individuals Served:	43,731

Multifamily Rehab Construction	
<ul style="list-style-type: none"> <li>Affordable rental units financed and rehabilitated</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>9% Housing Tax Credits (HTC)</li> <li>4% Housing Tax Credits (HTC)</li> <li>Multifamily Bonds</li> </ul>	
Expended Funds:	\$76,517,729
Total Households Served:	2,757

Supportive Services	
Provides administrative support for essential services for low income individuals through Community Action Agencies	
Program:	
<ul style="list-style-type: none"> <li>Community Services Block Grant Program (CSBG)</li> </ul>	
Expended Funds:	\$38,799,675
Total Individuals Served:	396,783

Owner Rehabilitation Assistance	
<ul style="list-style-type: none"> <li>Home rehabilitation, reconstruction</li> <li>Manufactured housing unit replacement</li> <li>Accessibility modifications e.g., ramp, grab bar installation</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Homeowner Reconstruction Assistance Program (HRA)*</li> <li>Amy Young Barrier Removal Program</li> </ul>	
Expended Funds:	\$14,950,041
Total Households Served:	293

Rental Assistance	
<ul style="list-style-type: none"> <li>Short, long term rent payment help</li> <li>Assistance linked with services</li> <li>Transitional assistance</li> <li>Security, utility deposits</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Tenant-Based Rental Assistance (TBRA)*</li> <li>Section 8 Housing Choice Vouchers</li> <li>Section 811</li> </ul>	
Expended Funds:	\$16,933,085
Total Households Served:	2,371

Single Family Development	
<ul style="list-style-type: none"> <li>Single family development, reconstruction, rehabilitation</li> <li>Do-it-yourself, "sweat equity" construction, rehabilitation</li> <li>Contract for Deed refinance</li> </ul>	
Programs:	
<ul style="list-style-type: none"> <li>Single Family Development Program (SFD)*</li> <li>Contract for Deed (CFD)</li> </ul>	
Expended Funds:	\$3,914,257
Total Households Served:	66

Total Expended Funds:	\$2,809,114,055
Total Households Served:	635,528
All FY2020 data as reported in TDHCA's 2021 State Low Income Housing Plan and Annual Report (SLIHP).	
Note: Some households may have been served by more than one TDHCA program.	

\* Administered through the federally funded HOME Investment Partnerships Program

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
GOVERNING BOARD MEETING

A G E N D A  
9:00 AM  
March 11, 2021

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

**Governing Board Webinar registration:**

<https://attendee.gotowebinar.com/register/6928266171630811404>

Dial-in number: +1 (631) 992-3221, access code 362-515-779 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

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

CALL TO ORDER

ROLL CALL

CERTIFICATION OF QUORUM

Leo Vasquez, Chair

*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 April as Fair Housing Month

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

## CONSENT AGENDA

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

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

#### ASSET MANAGEMENT

- a) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement

**Rosalio Banelos**  
Director of Asset  
Management

02004	Williams Trace Apartments	Cameron
03070	Bay Ranch Apartments	Bay City
04018	Terrace Pines	College Station
05164	Ridge Pointe Apartments	Killeen

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

19410	Eisenhower II	El Paso
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- c) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(4)(I) for Lago de Plata (HTC #19600)
- d) Presentation, discussion, and possible action on loan modification for Mission Village of Pecos (HOME #1002030)

#### MULTIFAMILY FINANCE

- e) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credits

**Teresa Morales**  
Director of  
Multifamily Bonds

21406	Midpark Towers	Dallas
21401	Cowan Place	Fort Worth
20708	Copernicus Apartments	San Antonio
20709	Watson Road	San Antonio

#### RULES

- f) Presentation, discussion, and possible action on an order adopting the repeal, and new 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties, and Subchapter D Debarment

**Wendy Quackenbush**  
Director  
of Compliance Monitoring

## CONSENT AGENDA REPORT ITEMS

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

Report on Activities Related to the Department's Response to COVID-19 Pandemic

**Brooke Boston**  
Deputy Director  
of Programs

## ACTION ITEMS

### ITEM 3: EXECUTIVE

Executive Director's Report

**Bobby Wilkinson**  
Executive Director, TDHCA

### ITEM 4: INTERNAL AUDIT

- a) Review and possible acceptance of the State Auditor's Office audit of the TDHCA Financial Statement

**State Auditor's Office**



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

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

**ITEM 5: DEPARTMENT OF POLICY & PUBLIC AFFAIRS**

Media Analysis and Outreach Report January 2021

**Michael Lyttle**  
Director of  
External Affairs

**ITEM 6: SINGLE FAMILY & HOMELESS PROGRAMS**

- a) Presentation, discussion, and possible action on proposed amendments to 10 TAC Chapter 7 Subchapter C, Section 7.33, Apportionment of ESG Funds, concerning the Emergency Solutions Grants, and directing their publication for public comment in the Texas Register
- b) Presentation, discussion, and possible action on a transfer and change of final eligible use for property purchased under the Neighborhood Stabilization Program to the City of Dallas for creation and expansion of municipal parkland

**Abigail Versyp**  
Director of Single Family &  
Homeless Programs

**Abigail Versyp**  
Director of Single Family &  
Homeless Programs

**ITEM 7: TEXAS HOMEOWNERSHIP**

Housing Finance Activity Report

**Cathy Gutierrez**  
Director of Texas  
Homeownership  
**Monica Galuski**  
Director  
of Bond Finance

**ITEM 8: BOND FINANCE**

- a) Presentation, discussion, and possible action on Resolution No. 21-017 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject
- b) Presentation, discussion, and possible action on Resolution No. 21-018 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Residential Mortgage Revenue Bonds, Series 2021A and Residential Mortgage Revenue Refunding Bonds, Series 2021B (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
- c) Presentation, discussion, and possible action on Inducement Resolution No. 21-019 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**Monica Galuski**  
Director  
of Bond Finance

**Teresa Morales**  
Director of  
Multifamily Bonds

21610 Delafield Villas Dallas

- d) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Pineview at Grogan’s Mill Apartments) Series 2021, Resolution No. 21-020, and a Determination Notice of Housing Tax Credits
- e) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Ridgewood at Panther Creek Apartments) Series 2021, Resolution No. 21-021, and a Determination Notice of Housing Tax Credits

**ITEM 9: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#21407 Espero Austin at Rutland, Austin)

**Marni Holloway**  
Director of  
Multifamily Finance

- b) Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for Sandpiper Cove (#20705) in Galveston

**Teresa Morales**  
Director of  
Multifamily Bonds

**ITEM 10: COMMUNITY AFFAIRS**

- a) Presentation, discussion, and possible action approving actions taken by the Executive Director, and authorizing the Executive Director to take further special actions to meet the emergency needs of low-income Texans economically impacted by Winter Storm Uri using federal funds administered by the Community Affairs Division
- b) Presentation, discussion, and possible action on approval of the draft 2021 Department of Energy Weatherization Assistance Program state plan for public comment
- c) Presentation, discussion and possible action on the amendment of Community Services Block Grant CARES Act discretionary contracts from the Texas Eviction Diversion Pilot program to Community Services Block Grant CARES Act direct service activities
- d) Presentation, discussion, and possible action regarding termination of Galveston County Community Action Council, Inc.'s Low Income Home Energy Assistance Program Comprehensive Energy Assistance Program contracts and future funding; award of 24.99% of the 2020 and CARES Act Comprehensive Energy Assistance Program awards for the service area covered by Galveston County Community Action Council, Inc., to temporary provider(s); and the authorization of staff to identify a permanent provider(s), through release and subsequent award of a Request for Application or through a direct designation, to administer the Comprehensive Energy Assistance Program in Brazoria, Fort Bend, Galveston, and Wharton counties (the areas served by Galveston County Community Action Council, Inc.)
- e) Presentation, discussion, and possible action on initiation of proceedings to remove the eligible entity status of Galveston County Community Action Council, Inc. and terminate Community Services Block Grant contracts and future funding

**Michael De Young**  
Director of  
Community Affairs

**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):

**Leo Vasquez**  
Chair

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

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

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

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

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

**OPEN SESSION**

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

**ADJOURN**

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

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

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

## Texas Department of Housing and Community Affairs

### RESOLUTION

**WHEREAS**, April 2021 is Fair Housing Month, and marks 53 years since the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968), signed by U.S. President Lyndon Baines Johnson on April 11, 1968;

**WHEREAS**, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the sale, rental, financing, or advertising of housing and charges the Secretary of the U.S. Department of Housing and Urban Development (HUD) with administering HUD programs in a manner that meets the requirements of the law and purposes of the Fair Housing Act;

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) administers HUD and other housing programs that promote the development and supply of safe, decent, affordable housing for qualifying Texans;

**WHEREAS**, it is the policy of the Department to support equal housing opportunity in the administration of all of its programs and services, including encouraging equitable lending practices for its homebuyer programs and ensuring compliance with Fair Housing rules and guidelines for its multifamily developments;

**WHEREAS**, the Department, through its programs, workshops, trainings, and materials seeks to educate property managers, consultants, program administrators, architects, contractors, developers, engineers, lenders, real estate professionals, and others about the importance of their adherence to the requirements of the Fair Housing Act;

**WHEREAS**, the Department encourages the development of educational fair housing programs in local communities throughout the State and is seeking to build new opportunities for fair housing education and training; and

**WHEREAS**, the Department and the State of Texas support equal housing opportunity and housing choice in accordance with the Fair Housing Act not only during Fair Housing Month in April, but throughout the entire year;

**NOW, THEREFORE**, it is hereby

**RESOLVED**, that the Texas Department of Housing and Community Affairs —

- (1) recognizes the significance of Fair Housing Month as an important time to acknowledge, better understand, and support equal housing opportunity, and encourages the continued commitment to fair housing in the State of Texas; and
- (2) recognizes that in the pursuit of the goal and responsibility of providing affordable housing and equal housing opportunities for all, the Governing Board of the Texas Department of

Housing and Community Affairs does hereby celebrate April 2021 as Fair Housing Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the impact and importance of affordable housing and equal housing opportunity to the success of all Texans.

Signed this eleventh day of March 2021.



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Leo Vasquez , Chair

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Leslie Bingham, Vice Chair

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Brandon Batch, Member

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Paul A. Braden, Member

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Ajay Thomas, Member

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Sharon Thomason, Member

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Bobby Wilkinson, Executive Director

# CONSENT AGENDA

1a

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Williams Trace Apartments (HTC #02004)

**RECOMMENDED ACTION**

**WHEREAS**, Williams Trace Apartments (the Development) received a 9% Housing Tax Credit (HTC) award in 2002 to construct 68 multifamily units in Cameron, Milam County;

**WHEREAS**, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

**WHEREAS**, in 2015, the 84<sup>th</sup> Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

**WHEREAS**, Cameron Williams Trace Apartments, L.P. (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

**WHEREAS**, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Williams Trace 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**

Williams Trace Apartments received a 9% HTC award in 2002 to construct 68 multifamily units in Cameron, Milam County. In a letter dated January 25, 2021, Claudia Lankford, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2002, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits recorded in Milam County on November 1, 2004.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization or to the Department, if at any time after the 15<sup>th</sup> year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 19<sup>th</sup> year of the 40-year Extended Use Period. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on February 15, 2021. There were no residents in attendance, and therefore, no public comment was received regarding the requested amendment.

Staff recommends approval of the material LURA amendment as presented herein.

**CAMERON WILLIAMS TRACE APARTMENTS, L.P.**

100 East 22nd Street  
Cameron, Texas 76520

January 25, 2021

**VIA HAND DELIVERY**

Mr. Jonathan Chilson  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 02004; Williams Trace Apartments (the "**Property**")

Dear Mr. Chilson:

The undersigned, being the General Partner (herein so called) of Cameron Williams Trace Apartments, L.P., a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

**Request to Amend ROFR Period**

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

**LURA Amendment**

In accordance with Section 10.405(b) of the Rules, the Partnership, is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

**CAMERON WILLIAMS TRACE APARTMENTS, L.P.**,  
a Texas limited partnership

By: Cameron Williams Trace Apartments I, LLC,  
a Texas limited liability company,  
its general partner

By:   
Claudia Lankford, Manager

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Bay Ranch Apartments (HTC #03070)

**RECOMMENDED ACTION**

**WHEREAS**, Bay Ranch Apartments (the Development) received a 9% Housing Tax Credit (HTC) award in 2003 to construct 64 multifamily units in Bay City, Matagorda County;

**WHEREAS**, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

**WHEREAS**, in 2015, the 84<sup>th</sup> Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

**WHEREAS**, Bay City Bay Ranch Apartments, L.P. (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

**WHEREAS**, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Bay Ranch 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**

Bay Ranch Apartments received a 9% HTC award in 2003 to construct 64 multifamily units in Bay City, Matagorda County. In a letter dated January 25, 2021, Claudia Lankford, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2003, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits recorded in Matagorda County on January 5, 2006.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization or to the Department, if at any time after the 15<sup>th</sup> year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 17<sup>th</sup> year of the 40-year Extended Use Period. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on February 12, 2021. An attendee list and meeting minutes with resident comments were provided. The attendee list indicates two residents participated. The meeting minutes indicate questions not specific to the amendment were asked, and no public comment was received regarding the requested amendment.

Staff recommends approval of the material LURA amendment as presented herein.

**BAY CITY BAY RANCH APARTMENTS, L.P.**

1401 Thompson Road  
Bay City, Texas 77414

January 25, 2021

**VIA HAND DELIVERY**

Ms. Lucy Trevino  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 03070; Bay Ranch Apartments (the "**Property**")

Dear Ms. Trevino:

The undersigned, being the General Partner (herein so called) of Bay City Bay Ranch Apartments, L.P., a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

**Request to Amend ROFR Period**

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

**LURA Amendment**

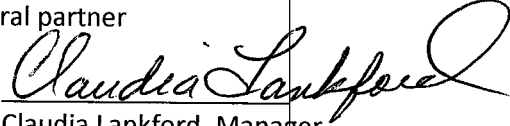
In accordance with Section 10.405(b) of the Rules, the Partnership, is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

**BAY CITY BAY RANCH APARTMENTS, L.P.,**  
a Texas limited partnership

By: Bay City Bay Ranch Apartments, LLC,  
a Texas limited liability company,  
its general partner

By:   
Claudia Lankford, Manager

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Terrace Pines (HTC #04018)

**RECOMMENDED ACTION**

**WHEREAS**, Terrace Pines (the Development) received a 9% Housing Tax Credit (HTC) award in 2004 to construct 100 multifamily units in College Station, Brazos County;

**WHEREAS**, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

**WHEREAS**, in 2015, the 84<sup>th</sup> Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

**WHEREAS**, College Station Terrace Pines Apartment Homes, LP (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

**WHEREAS**, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Terrace Pines 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**

Terrace Pines received a 9% HTC award in 2004 to construct 100 multifamily units in College Station, Brazos County. In a letter dated January 25, 2021, Claudia Lankford, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2004, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits recorded in Brazos County on December 30, 2005.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization or to the Department, if at any time after the 15<sup>th</sup> year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 16<sup>th</sup> year of the 40-year Extended Use Period. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on February 12, 2021. An attendee list and meeting minutes with resident comments were provided. The attendee list indicates 11 residents participated. The meeting minutes indicate no negative public comment was received regarding the requested amendment.

Staff recommends approval of the material LURA amendment as presented herein.

**COLLEGE STATION TERRACE PINES APARTMENT HOMES, LP**

819 Krenek Tap  
College Station, Texas 77840

January 25, 2021

**VIA HAND DELIVERY**

Mr. Jonathan Chilson  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 04018; Terrace Pines Apartment Homes (the "**Property**")

Dear Mr. Chilson:

The undersigned, being the General Partner (herein so called) of College Station Terrace Pines Apartment Homes, LP, a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

**Request to Amend ROFR Period**

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

**LURA Amendment**

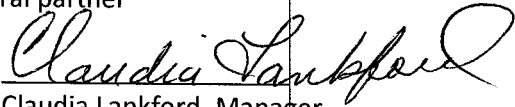
In accordance with Section 10.405(b) of the Rules, the Partnership, is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

**COLLEGE STATION TERRACE PINES APARTMENT HOMES, LP,**  
a Texas limited partnership

By: College Station Terrace Pines Apartment Homes I, L.L.C.,  
a Texas limited liability company,  
its general partner

By:   
Claudia Lankford, Manager

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Ridge Pointe Apartments (HTC #05164)

**RECOMMENDED ACTION**

**WHEREAS**, Ridge Pointe Apartments (the Development) received a 9% Housing Tax Credit (HTC) award in 2005 to construct 172 multifamily units in Killeen, Bell County;

**WHEREAS**, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

**WHEREAS**, in 2015, the 84<sup>th</sup> Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

**WHEREAS**, Killeen Ridge Pointe Apartments, LP (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

**WHEREAS**, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Ridge Pointe 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

Ridge Pointe Apartments received a 9% HTC award in 2005 to construct 172 multifamily units in Killeen, Bell County. In a letter dated January 25, 2021, Claudia Lankford, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2005, the Housing Tax Credit application allotted one point to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits recorded in Bell County on April 17, 2007.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization or to the Department, if at any time after the 15<sup>th</sup> year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 15<sup>th</sup> year of the 40-year Extended Use Period. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on February 15, 2021. There were no residents in attendance, and therefore, no public comment was received regarding the requested amendment.

Staff recommends approval of the material LURA amendment as presented herein.

**KILLEEN RIDGE POINTE APARTMENTS, LP**  
1900 Bacon Ranch Road  
Killeen, Texas 76542

January 25, 2021

**VIA HAND DELIVERY**

Mr. Jonathan Chilson  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 05164 & 08050; Ridge Pointe Apartments (the "**Property**")

Dear Mr. Chilson:

The undersigned, being the General Partner (herein so called) of Killeen Ridge Pointe Apartments, LP, a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

**Request to Amend ROFR Period**

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

**LURA Amendment**


In accordance with Section 10.405(b) of the Rules, the Partnership, is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

**KILLEEN RIDGE POINTE APARTMENTS, LP,**  
a Texas limited partnership

By: Killeen Ridge Pointe Apartments I, LLC,  
a Texas limited liability company,  
its general partner

By:   
Claudia Lankford, Manager

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**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application for Eisenhower II (HTC #19410)

**RECOMMENDED ACTION**

**WHEREAS**, Eisenhower II (the Development) received an award of 4% Housing Tax Credits (HTCs) in 2019 for the acquisition and rehabilitation of 66 units of general population, multifamily housing in the City of El Paso in El Paso County;

**WHEREAS**, EP Eisenhower P3, LP (the Development Owner or Owner) is now requesting approval for a change in acreage from 9.5071 to 7.169, due to the exclusion of right-of-ways, which results in a 32.61% change (increase) in residential density from 6.942 units per acre to 9.206 units per acre;

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

**WHEREAS**, the requested change does not materially alter the Development in a negative manner, was not reasonably foreseeable or preventable by the Owner at the time of Application, and would not have adversely affected the selection of the Application in the Application Round;

**NOW, therefore, it is hereby**

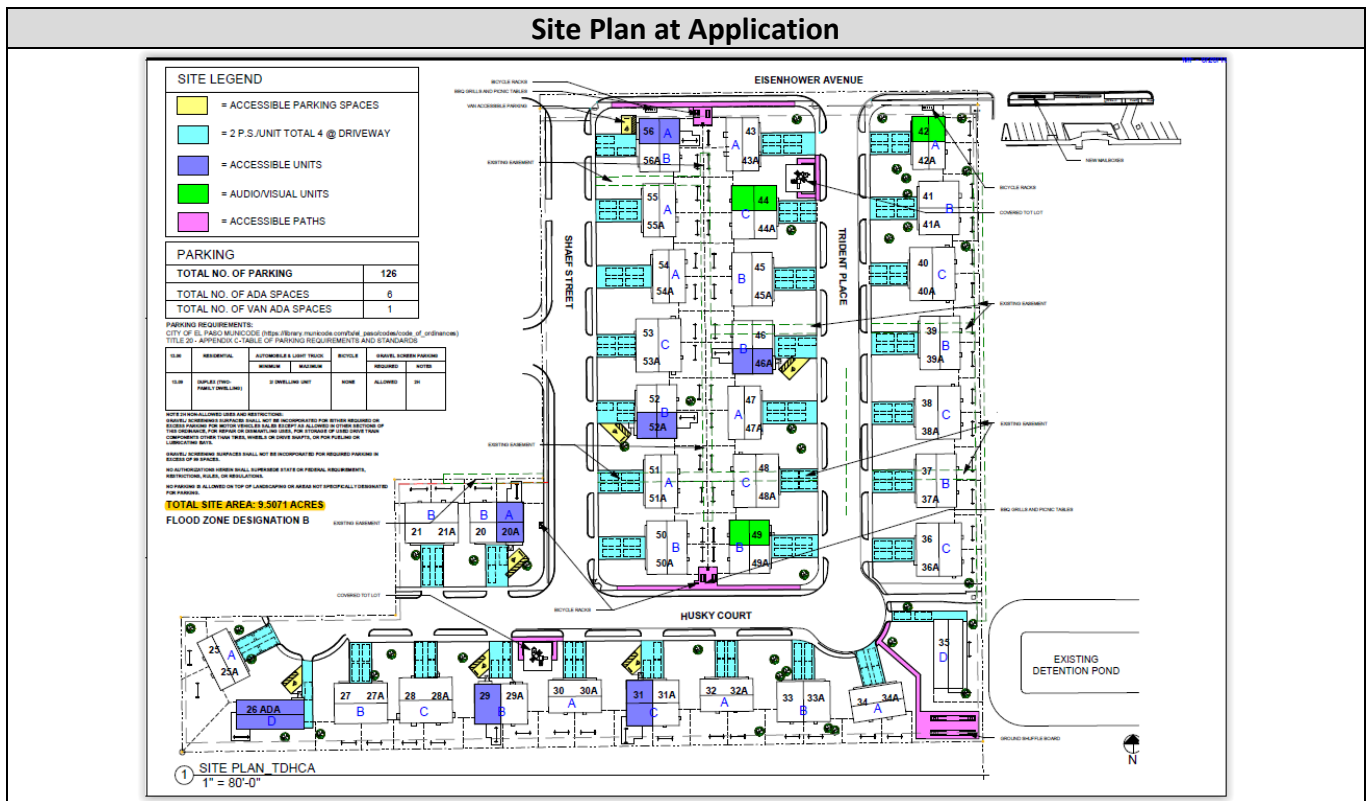
**RESOLVED**, that the requested material amendment to the Application for Eisenhower II is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

**BACKGROUND**

Eisenhower II received an award of 4% Housing Tax Credits in 2019 for the acquisition/rehabilitation of 66 units of general population multifamily housing in El Paso, El Paso County. The Development is owned by EP Eisenhower P3, LP, with EPR3 Eisenhower P3 GP, LLC as its 0.005% General Partner owned EP RAD-3-PFC, a nonprofit instrumentality of the Housing Authority of El Paso (HACEP).

In a letter dated November 16, 2020, the Owner's representative (Satish Bhaskar of HACEP) requested a material amendment to the Application for the Development. The amendment request letter states that the survey submitted at the time of application indicated 9.5071 acres. However, the title policy shows right-of-ways that reduce the net area to 7.169 acres. It was further stated that the error was an oversight made during the application process, and does not have a financial impact on the development as it does not change any of the financial sources, terms, conditions, or amounts of financing.

Based on a review of the documentation submitted to support the filing of the Land Use Restriction Agreement (LURA), it was determined that a greater than 5% change in acreage, and therefore in residential density, resulted from an error in the site plan and title commitment issued prior to, and submitted with, the initial Application. The site plan and title commitment reported the acreage for the entire plot of land and did not remove the existing right of ways. The final title policy that was submitted to support the legal description to be included in the LURA excluded the right of ways for existing roads running through the property.



According to the Owner's representative, nothing on the actual site was changed. The acreage was simply updated from 9.5071 acres to an acreage of 7.169 (a reduction of 24.59%), and as a result, the residential density changed from 6.942 to 9.206 units per acre (a related increase of 32.61%), requiring approval by the Board under Tex. Gov't Code §2306.6712 and 10 TAC §10.405(a)(4)(F).

Due to the errors in the initial documentation used to determine the acreage, the change was not foreseeable or preventable by the Applicant.

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



# Housing Authority of the City of El Paso

November 16, 2020

Karen Treadwell  
Asset Manager  
Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, Texas 78711-3941

**RE: Request For Material Amendment To Application – Eisenhower II Community (LITHC# 19410)**

Dear Ms. Treadwell,

The purpose of this correspondence is to request a Material Amendment to the Eisenhower II Community's (Eisenhower) Low Income Housing Tax Credit Application (Application) in order to correct a survey-related deficiency that was identified during Eisenhower's LURA filing. Specifically, the survey submitted at the time of Application indicated 9.5071 acres. However, the Title Policy shows a Right of Way that reduces the acreage to 7.169. This 2.3381 acreage differential represents a 32.61% change in density. Pursuant to 10 TAC 10.405(a)(4)(F), a modification of the residential density of at least 5% requires a Material Amendment to the Application.

### **Application Amendment Requested**

In order to correct the abovementioned deficiency, HACEP is requesting that the acreage in the Application be changed from 9.5071 acres to 7.169 acres.

The error was an oversight made during the application process. However, this Material Amendment will not have a financial impact on the development as it does not change any financial sources, terms, conditions, or amounts of financing.

The corresponding \$3,000 amendment fee will be sent to TDHCA via Electronic Funds Transfer.

Respectfully,

DocuSigned by:  
*Satish Bhaskar*

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Satish Bhaskar  
CFO & Executive Vice President



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**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(4)(I) for Lago de Plata (HTC #19600)

**RECOMMENDED ACTION**

**WHEREAS**, Lago de Plata (the Development) received an award of 4% Housing Tax Credits (HTCs) in 2019 for the acquisition and rehabilitation of 150 units of general population, multifamily housing in Corsicana, Navarro County;

**WHEREAS**, rehabilitation of the Development is complete, and LIH Lago de Plata, LP (the Development Owner or Owner) seeks a waiver, as allowed under 10 TAC §11.207, to remove the mandatory amenity requirement in 10 TAC §11.101(b)(4)(I), which specifies that each unit must have at least one Energy-Star rated ceiling fan;

**WHEREAS**, due to the cement ceilings in the units, meeting the ceiling fan requirement is challenging, and instead, the Owner has made other improvements to help with energy efficiency in the units, such as replacing HVAC units, replacing all windows, and installing low flow faucets and showerheads in all units and also proposes adding wall-mounted fans in each of the units; and

**WHEREAS**, the requested change does not materially alter the Development in a negative manner and was not reasonably foreseeable or preventable by the Owner at the time of Application;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested waiver of 10 TAC §11.101(b)(4)(I) for Lago de Plata is approved as presented at this meeting, conditioned on the installation of wall-mounted fans in each unit, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

## BACKGROUND

Lago de Plata received an award of 4% Housing Tax Credits and bonds in 2019 for the acquisition and rehabilitation of 150 units of general population, multifamily housing in Corsicana, Navarro County. Rehabilitation of the Development has been completed, and the cost certification documentation for the Development is currently under review by the Department. In a letter dated February 12, 2021, Sarah Andre, the representative for the Development Owner, LIH Lago de Plata, LP, submitted a request for a waiver to the mandatory amenity requirement in 10 TAC §11.101(b)(4)(I), which specifies that each unit must have at least one Energy-Star rated ceiling fan.

The Owner states that due to the cementitious nature of the Development's ceilings, the mechanical and electrical difficulties of placing ceiling fans in the units were not readily apparent and were not foreseeable. The installation of a ceiling fan would require a metal conduit to run across the ceilings and down the wall. Also, the ceiling height of the units is eight feet; therefore, the addition of exterior electrical boxes combined with the fan depth will place the blades very close to the minimum seven feet ceiling height required by the City of Corsicana's building code.

In order to mitigate the elimination of the Energy-Star rated ceiling fans, the Owner has elected to add improvements to increase energy efficiency. The improvements include adding HVAC units with SEER ratings of 14.0 and 14.5, replacing all of the windows with energy efficient windows, and installing low flow faucets and showerheads for all the units. Additionally, the Owner proposes to add wall-mounted fans to each unit. The wall-mounted fans would not require conduit to be routed across the ceilings and walls and can be placed so that they are not hazardous to taller residents.

The Owner states that, by granting this waiver, the policies and purposes identified in Tex. Gov't Code §§2306.001, 2306.002, 2306.359, and 2306.6701 will be served because the request promotes the efficient use of government funds as well as the efficient use of staff time by saving the need for additional reviews for this amenity, while still achieving the Department's priorities. Additionally, the Development achieves the purpose of providing affordable housing to very-low income families who qualify for Housing Assistance Payment (HAP) subsidies. The Owner also states that granting the waiver to substitute the proposed wall mount fans is less disruptive for the tenants than the additional construction that would be required to retro-fit ceiling fans in their units. In addition, retro-fitting ceiling fans would increase the funding required for the Development.

Staff recommends approval of the requested waiver with the condition that the Owner installs at least one wall-mounted fan in each unit.



February 12, 2021

Lee Ann Chance  
Asset Manager Region 3  
Texas Department of Housing and Community Affairs  
221 E 11<sup>th</sup> Street  
Austin, Texas 78701

*Re: 19600 Lago de Plata Waiver Request*

Dear Ms. Chance,

I am writing on behalf of the Applicant for Lago de Plata to request a waiver pertaining to ceiling fans in units as required by 11.101(b)(4)(I) Mandatory Development Amenities.

**Good Cause**

Lago de Plata is a rehabilitation of an existing development. The development has cement ceilings in the units. We are requesting a waiver that allows us to not place ceiling fans in the units. All other required unit amenities are present at Lago de Plata.

**Reason the Waiver is Necessary**

Due to the cementitious nature of the ceiling, it is very difficult to place ceiling fans in the units. The wiring required for the ceiling fans cannot be installed inside the cement ceilings and would require metal conduit to run across the ceilings and down the wall. Moreover, the ceilings are only 8' high and the addition of an exterior electrical box plus the fan depth puts the fan blades very close to the 7' ceiling minimum for residential buildings per the 2018 International Building Code, which is what the City of Corsicana currently follows.

To help with energy efficiency in the units, we have made the following improvements. Please note we chose to make these improvements to increase energy efficiency, none of these improvements were required.

- Replaced HVAC with SEER ratings of 14.0 and 14.5 in all units at Lago de Plata.
- Replaced all windows with energy efficient windows.
- Installed low flow faucets and showerheads in all units.

We would also like to propose adding wall mounted fans to each unit. These would not require conduit running across the ceilings and walls and could be placed so that they were not hazardous for taller residents. We believe the energy savings from these improvements will outweigh not having ceiling fans installed in each unit.

Should you have any questions or concerns, please do not hesitate to contact me by phone at (512) 698-3369 or via email at [sarah@structuretexas.com](mailto:sarah@structuretexas.com). Thank you so much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Andre", with a long horizontal flourish extending to the right.

Sarah Andre, Consultant to the project



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**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action on loan modification for Mission Village of Pecos (HOME #1002030)

**RECOMMENDED ACTION**

**WHEREAS**, Mission Village of Pecos (the Development) received a 9% Housing Tax Credit (HTC) award and a Multifamily Direct Loan (MFDL) under the HOME program in 2013 to construct 60 multifamily units in Pecos, Reeves County;

**WHEREAS**, the MFDL, in the original amount of \$750,000, is in second lien position and was originally approved to have a 0% interest rate, a 40-year term, and a 40-year amortization period, with annual payments subject to available Surplus Cash;

**WHEREAS**, Mission Village of Pecos, LLC (the Development Owner or Owner) is now requesting approval to modify the MFDL term from 40 years to 45 years, re-amortize the current loan balance using a 35-year amortization, and make the annual payments subject to 75% of available Surplus Cash to allow the Owner to refinance into a HUD-insured first lien debt;

**WHEREAS**, the requested extension to the loan term exceeds the scope of changes that may be approved administratively under 10 TAC §13.13(c)(1), as the proposed overall term of the MFDL exceeds the maximum 40 years and six months specified in 10 TAC §13.8(c)(3); and

**WHEREAS**, the proposed refinance complies with all other requirements for re-subordination under 10 TAC §13.13(c)(2);

**NOW, therefore, it is hereby**

**RESOLVED**, that the loan modification for Mission Village of Pecos 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**

Mission Village of Pecos received a 9% HTC award and a Multifamily Direct Loan under the HOME program in 2013 to construct 60 multifamily units in Pecos, Reeves County. Construction of the Development was completed in 2015. The MFDL, in the original amount of \$750,000, is in second lien position and was originally approved with a 0% interest rate, a 40-year term, and a 40-year amortization, with payments subject to available Surplus Cash. Annual payments of \$18,750 on the MFDL began on April 1, 2017 and are currently scheduled to continue until April 30, 2056.

In a letter dated February 12, 2021, the Owner representative, David Ritchay, requested to amend the HOME loan terms by extending the loan term by five years, for a total of 45 years, re-amortize the current loan balance of \$719,281 for a 35-year amortization, instead of the original 40 year amortization, with payments subject to 75% of available Surplus Cash in order to accommodate a permanent loan from ORIX Real Estate Capital, LLC insured through the 221(d)(4) FHA program. Such modification to the amortization period of the MFDL would increase the annual loan payment from \$18,750 to \$20,551 and would result in the MFDL being paid off one year earlier than originally approved.

The current first lien debt is also a HUD-insured loan, originally in the amount of \$2,466,000, with a 4.32% interest rate, a 40-year amortization, and a 40-year loan term. The Owner proposes to refinance this loan with a new HUD-insured loan in the amount \$2,466,000, with a 2.75% interest rate, a 40-year amortization, and a 40-year loan term. This refinance will result in a change to the annual payment of principal and interest for the first lien debt from \$129,630 to \$101,716. Additionally, all loan proceeds from this refinance will stay in the project and be attributable to closing costs. No proceeds from this refinance will be used as payment to the Development Owner or Developer parties.

The requested five-year extension to the loan term is required to maintain parity of term with the proposed first lien. However, this modification exceeds the scope of changes that may be approved administratively under 10 TAC §13.13(c)(1), as the proposed overall term of the MFDL exceeds the maximum 40 years and six months specified in 10 TAC §13.8(c)(3). Other than that, the proposed refinance complies with all other requirements for re-subordination of the MFDL under 10 TAC §13.13(c)(2).

Staff recommends approval of the requested loan modification as presented herein.

February 12, 2021



Multifamily Asset Management  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701

Attn: Dee Patience / Rosalio Banuelos

RE: Mission Village of Pecos  
TDHCA Federal Award Number: M-13-SG 48-0100  
HOME Loan Modification Request

The Borrower respectfully requests a modification to TDHCA's HOME Subordinate Loan and TDCHA Land Use Restrictive Agreements. The request is being made because the Borrower is refinancing the first loan (a HUD 221d4) with a HUD 223 A-7 loan. HUD is requiring several changes that affect the Borrower's Operating Agreement, Land Use Restrictive Agreements and Subordinate Loan. Please note that the 223 A-7 program prohibits the Borrower taking cash-out, and thus all loan proceeds will stay in the project and be attributable to closing costs.

Loan Modification Requests:

1. Extend the maturity date by five years
2. Amortization, set to 35 to align with original expected principal repayment
3. Use current principal balance and 35 year amortization to establish new Scheduled Payment

The below charts represent the original and modified terms for the TDHCA HOME Subordinate Loan and the First Loan.

TDHCA HOME – Subordinate Loan

	Original	Modification Request
Principal	\$750,000	\$719,281 (12/31/2020)
Maturity	4/30/2056	4/30/2061
Interest	0%	0%
Amortization	40	35
Scheduled Payment	\$18,750	\$20,511

Original First Loan

	Original - HUD 221d4	Refinanced HUD 223 A-7
Principal	\$2,466,000	\$2,466,000
Term	40 years	40 years
Maturity	4/1/2056	4/1/2061
Rate	4.32%	2.75%
Payment (annual)	\$129,630.24	\$101,715.98

President  
Commonwealth Development

1e

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 11, 2021**

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

**RECOMMENDED ACTION**

**WHEREAS**, four applications as further detailed below were submitted to the Department for consideration of a Determination Notice of 4% Housing Tax Credits;

**WHEREAS**, the Executive Award and Review Advisory Committee (EARAC) considered the program requirements, underwriting requirements and compliance history associated with each application listed herein; and

**WHEREAS**, EARAC recommends each of the four applications for an award of 4% Housing Tax Credits, in the specific amounts noted herein, and subject to any underwriting conditions as noted in the Real Estate Analysis Report and any compliance conditions as reflected in Exhibit A, as applicable;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of Determination Notices in the respective amounts for each of the applications listed herein, subject to underwriting conditions as found in the Real Estate Analysis report posted to the Department's website, and subject to any EARAC conditions as reflected in Exhibit A, is hereby approved in the form presented at this meeting.

**BACKGROUND**

The 4% Housing Tax Credit (HTC) program is considered a non-competitive program in that there is not a specific ceiling amount of HTCs that can be issued each year. Rather, the ceiling amount of HTCs that can possibly be issued is limited by the amount of Private Activity Bond volume cap available. The Texas Bond Review Board (BRB) administers the Private Activity Bond program for the State of Texas, and for the 2021 calendar year, the state received approximately \$3.2 billion in Private Activity Bond authority, of which approximately \$847 million is reserved for multifamily housing until August 15<sup>th</sup> of each year. After such date, there may be more Private Activity Bond volume cap that goes towards multifamily housing.

Individual projects receive a Certification of Reservation (Reservation) from the BRB that allows for a statutory 180-day closing timeline. For those projects seeking 4% HTCs (as the majority of them do),

they must complete the Department's review process, the bond issuer's process, and the Attorney General's process in order to close within the prescribed timeframe. The Department accepts applications on a monthly basis throughout the year. The year from which the Reservation is issued is what determines the Qualified Allocation Plan (QAP) to which the application must adhere. Included in this Board presentation as Exhibit B is a list of the 4% HTC applications staff processed for 2020 and two of the five applications noted herein are remaining 2020 applications. The list reflects all applications received and includes a column that denotes the applications' status, specifically, those that have already closed, have been approved by the Board, are active and currently under review, as well as those that were received but ultimately withdrawn.

Moreover, Exhibit C is a list of 4% HTC applications that have been submitted thus far for 2021, and reflect Reservations received from the 2021 Private Activity Bond ceiling. Also included on this list are pre-applications that will utilize the Department as the bond issuer and an HTC application will be forthcoming.

The Reservations from the BRB for the developments described herein were issued under the Priority 3 designation unless noted otherwise, which does not have a prescribed restriction on the percentage of Area Median Family Income (AMFI) that must be served (beyond the federal requirement). The AMFI levels proposed to be served for each of the projects are indicated below in their respective summaries.

#### 21401 Cowan Place

The development proposes the new construction of 174 units to be located at 5400 East Rosedale Street in Fort Worth, Tarrant County. All units will serve the elderly population (62+ Head or Co-Head of Household including otherwise qualified households with children) and the income averaging minimum set-aside has been elected. The application reflects that 12 units will be rent and income restricted at 30% of AMFI, 84 units will be rent and income restricted at 50% of AMFI, 60 units will be rent and income restricted at 60% of AMFI, and 18 units will be rent and income restricted at 80% of AMFI. Additionally, Fort Worth Housing Solutions will provide 57 Project Based Vouchers, of which nine will be dedicated to providing permanent supportive housing for elderly households that are chronically homeless as defined by HUD. 48 units will have a preference for otherwise qualified households at 50% or below that are former Cavile Place residents or that are on the Fort Worth Housing Solutions public housing waiting list. The Trinity River Public Facility Corporation will serve as the bond issuer.

There are three Neighborhood Risk Factors (NRF) associated with Cowan Place relating to poverty rate, crime, and blight. The development site is also located within 500 feet of an active railroad track, which is an Undesirable Site Feature. However, a pre-determination was issued by staff when the application was under consideration during the 2020 competitive Housing Tax Credit cycle regarding the proximity to the railroad track, and also regarding blight, poverty, and crime. Staff believes these prior determinations are still acceptable, but ran an updated Neighborhood Scout report to verify whether updated crime mitigation would be needed. The crime rate was below the threshold in the rule so nothing further is needed.

Pursuant to the rule, if staff has determined that sufficient mitigation under the rule was provided such that staff can find the site eligible despite the presence of such factors, then a separate finding by the Board of eligibility is not required. Based on the information provided by the applicant, staff determined the site is eligible.

Recommended HTC Amount: \$1,650,621

21406 Midpark Towers

Acquisition and rehabilitation is proposed for Midpark Towers, which was originally built in 1978. The development includes 202 one-bedroom units and is located at 8550 Midpark Road in Dallas, Dallas County. The general population will be served and all of the units will be rent and income restricted at 60% of AMFI, which adheres to the requirement of the Priority 2 designation of the Reservation from the BRB. The Reservation was issued as part of the BRB Private Activity Bond 2021 Lottery and the City of Dallas Housing Finance Corporation will serve as the bond issuer.

There are two NRF associated with Midpark Towers relating to poverty rate and the underperformance of the elementary school. Pursuant to the rule, if staff has determined that sufficient mitigation under the rule was provided such that staff can find the site eligible despite the presence of such factors, then a separate finding by the Board of eligibility is not required. However, staff still believes the Board should be aware of these factors as it considers an award and a description of each is included herein.

*Poverty:* The development is located in a census tract (192.13) that has a poverty rate of 47%, according to the 2021 Site Demographic Characteristics Report, which exceeds the threshold of 40% allowed under 10 TAC §11.101(a)(3). The 2021 QAP allows the mitigation for a poverty rate that exceeds threshold to include a resolution from the Governing Body of the appropriate municipality or county that acknowledges the high poverty rate and authorizes the development to move forward. A resolution from the City of Dallas has been provided that meets the requirements of 10 TAC §11.101(a)(3)(D)(i).

*School:* The site is within the attendance zone of Carolyn G. Bukhair Elementary. The most recent TEA Accountability Ratings available for the school includes a rating of “D” for 2019 and an “Improvement Required” for 2018. The NRF report would typically be required pursuant to 10 TAC §11.101(a)(3)(D) of the QAP; however, in response to the COVID-19 pandemic and subsequent school closures, mitigation for underperforming schools for applications submitted in 2021 will not be required.

Recommended HTC Amount: \$1,243,088

20708 Copernicus Apartments

Copernicus Apartments is a proposed new construction development of 318 units to be located at 707 southeast Loop 410 in San Antonio, Bexar County. The general population will be served and the income averaging minimum set-aside has been elected. The application reflects that 84% of the units (267) will



be rent and income restricted at 60% of AMFI, and 17 units each will be rent and income restricted at 40%, 50%, and 70% of AMFI. The Las Varas Public Facility Corporation is serving as the bond issuer.

*Neighborhood Risk Factor - Schools:* The site is within the attendance zones of Hirsch Elementary and Davis Middle School. Both schools received a rating of “D” for 2019 and “Improvement Required” for 2018, and thus would typically require the NRF report, pursuant to 10 TAC §11.101(a)(3)(D) of the QAP. However, in response to the COVID-19 pandemic, the requirement for mitigation for underperforming schools for 4% Housing Tax Credit applications was waived by the Board on April 23, 2020, for the remainder of the 2020 program year.

Recommended HTC Amount: \$2,375,902

20709 Watson Road Apartments

Watson Road Apartments involves the new construction of 348 units proposed to be located at the northeast corner of Watson Road and Somerset Road in San Antonio, Bexar County. The general population will be served and the income averaging minimum set-aside has been elected. The application reflects that 84% of the units (294) will be rent and income restricted at 60% of AMFI, and 18 units each will be rent and income restricted at 40%, 50%, and 70% of AMFI. The Las Varas Public Facility Corporation is serving as the bond issuer.

Recommended HTC Amount: \$2,613,696

**EXHIBIT A**  
**Previous Participation Results**

<b>Application Number</b>	<b>Development Name</b>	<b>Category</b>	<b>PPR Conditions</b>
21401	Cowan Place	2	N/A
21406	Midpark Towers	2	N/A
20708	Copernicus Apartments	2	N/A
20709	Watson Road Apartments	2	N/A

Exhibit B



**4% (Non-Competitive) Housing Tax Credit Program  
2020 Application Status Log**

TDHCA #	Previous TDHCA #	Development Name	Development City	Board Meeting Date (MM/DD/YYYY)	Application Status	Total Units	Total Low-Income Units	Bond Reservation Amount	Requested HTC Amount	Recommend HTC Amount
20451	19440	Ventura at Parmer Lane	Austin ETJ	10/10/2019	Closed	216	216	\$ 34,000,000	\$ 2,189,841	\$ 2,189,841
20600		Oaks on Clark	San Antonio	4/23/2020	Closed	80	80	\$ 12,000,000	\$ 607,290	\$ 597,284
20605	19608	Reserve at San Marcos	San Marcos	3/26/2020	Closed	376	320	\$ 41,000,000	\$ 1,857,733	\$ 1,857,733
20448	18458; 19431	Scharbauer Flats	Midland	2/20/2020	Closed	300	300	\$ 40,000,000	\$ 2,895,615	\$ 2,895,615
20410		Traders Flats	San Antonio	5/21/2020	Closed	324	324	\$ 38,000,000	\$ 1,863,629	\$ 1,863,629
20465	19428	Riverstone	San Marcos	11/7/2019	Closed	336	336	\$ 50,000,000	\$ 2,349,942	\$ 2,349,942
20414		The Arbor at Wayforest	Houston	3/26/2020	Closed	192	192	\$ 20,000,000	\$ 1,262,807	\$ 1,262,807
20420		Pan American	San Antonio	4/23/2020	Closed	100	100	\$ 15,000,000	\$ 674,355	\$ 674,355
20429	19452	Las Palmas	La Feria	1/16/2020	Closed	36	35	\$39,120,000 (portfolio)	\$ 87,983	\$ 87,983
20422	19445	Brush Country Cottages	Dilley	1/16/2020	Closed	28	28	-	\$ 89,069	\$ 89,069
20423	19446	Chula Vista	San Diego	1/16/2020	Closed	44	44	-	\$ 149,982	\$ 149,982
20424	19447	Cielo Lindo	Edcouch	1/16/2020	Closed	34	34	-	\$ 101,022	\$ 101,022
20425	19448	La Estancia	Sebastian	1/16/2020	Closed	32	32	-	\$ 101,210	\$ 101,210
20426	19449	La Posada I & II	Ela	1/16/2020	Closed	74	74	-	\$ 208,076	\$ 208,076
20427	19450	La Reina	La Villa	1/16/2020	Closed	30	30	-	\$ 65,586	\$ 65,586
20428	19451	La Sombra	Donna	1/16/2020	Closed	50	50	-	\$ 118,354	\$ 118,354
20430	19453	Leuty Avenue	Justin	1/16/2020	Closed	24	24	-	\$ 80,261	\$ 80,261
20432	19455	Los Naranjos	Alton	1/16/2020	Closed	30	30	-	\$ 67,810	\$ 67,810
20433	19456	Oak Haven	Donna	1/16/2020	Closed	24	24	-	\$ 63,090	\$ 63,090
20434	19457	Raintree	Alamo	1/16/2020	Closed	32	32	-	\$ 82,925	\$ 82,925
20435	19458	Seagraves Gardens	Seagraves	1/16/2020	Closed	32	32	-	\$ 91,709	\$ 91,709
20436	19459	Silver Trail	Menard	1/16/2020	Closed	24	24	-	\$ 67,091	\$ 67,091
20437	19460	The Village	Tomball	1/16/2020	Closed	64	64	-	\$ 172,768	\$ 172,768
20438	19461	Valley View	Valley View	1/16/2020	Closed	24	24	-	\$ 78,834	\$ 78,834
20439	19462	Villa Vallarta	Rio Grande City	1/16/2020	Closed	40	40	-	\$ 122,529	\$ 122,529
20440	19463	Vista Verde	Cotulla	1/16/2020	Closed	24	24	-	\$ 82,514	\$ 82,514
20441	19464	Willowick	Gainesville	1/16/2020	Closed	60	60	-	\$ 171,018	\$ 171,018
20442	19465	Windmill	Giddings	1/16/2020	Closed	28	28	-	\$ 77,926	\$ 77,926
20443	19466	Windwood I & II	Kingsland	1/16/2020	Closed	68	68	-	\$ 151,618	\$ 151,618
20407		New Hope Housing Avenue J	Houston	2/20/2020	Closed	100	100	\$ 23,000,000	\$ 1,290,647	\$ 1,290,467
20401		Palladium Port Aransas	Port Aransas	4/23/2020	Closed	183	165	\$ 19,000,000	\$ 1,155,074	\$ 1,155,074
20408		Vi Collina	Austin	4/23/2020	Closed	170	170	\$ 24,000,000	\$ 1,340,220	\$ 1,340,220
20611	20402	333 Holly	The Woodlands	5/21/2020	Closed	332	332	\$ 36,800,000	\$ 2,484,301	\$ 2,484,301
20612	20403	The Pines	The Woodlands	5/21/2020	Closed	152	152	\$ 22,000,000	\$ 1,469,273	\$ 1,469,273
20604	19468	The Walzem	San Antonio	5/21/2020	Closed	200	200	\$ 20,000,000	\$ 1,326,147	\$ 1,280,892
20603	19612	Scott Street Lofts	Houston	5/21/2020	Closed	123	98	\$ 18,000,000	\$ 741,693	\$ 711,964
20416		The Estates at Owen Tech	Austin	5/21/2020	Closed	174	174	\$ 20,000,000	\$ 1,213,610	\$ 1,213,610
20409		McKinney Flats	McKinney	3/26/2020	Closed	205	205	\$ 32,000,000	\$ 1,393,849	\$ 1,393,849
20404		Tampico Apartments	San Antonio	3/26/2020	Closed	200	136	\$ 23,000,000	\$ 739,670	\$ 739,670
20418		Park at 38 Thirty	San Antonio	3/26/2020	Closed	196	196	\$ 25,000,000	\$ 1,027,837	\$ 1,027,837
20412		1604 Lofts Apartments	San Antonio	5/21/2020	Closed	324	324	\$ 38,000,000	\$ 1,895,702	\$ 1,895,702
20452		Enclave at Lake Pointe	Houston	6/25/2020	Closed	132	132	\$ 14,200,000	\$ 723,725	\$ 723,725
20458		Kinwood Apartments	McKinney	6/25/2020	Closed	200	200	\$ 30,000,000	\$ 1,245,289	\$ 1,240,383
20405		Gala at Fate	Fate	5/21/2020	Closed	185	185	\$ 25,000,000	\$ 1,166,285	\$ 1,166,285
20421	19442	Richcrest Apartments	Houston	3/26/2020	Closed	288	286	\$ 30,000,000	\$ 1,974,441	\$ 1,974,441
20456		The Hollows	Channelview CDP	7/23/2020	Closed	192	192	\$ 20,000,000	\$ 1,043,287	\$ 1,043,287
20461		Cascade at Onion Creek	Austin	6/25/2020	Closed	264	264	\$ 35,000,000	\$ 1,431,091	\$ 1,422,168
20609		Pecan Grove	Seguin	7/23/2020	Closed	198	198	\$ 26,000,000	\$ 1,353,160	\$ 1,353,160
20447	19472	Franklin Park	Austin	5/21/2020	Closed	163	163	\$ 15,000,000	\$ 737,361	\$ 737,361
20450		Mira Vista	San Antonio	5/21/2020	Closed	312	312	\$ 28,000,000	\$ 1,783,385	\$ 1,783,385
20419		Woodway Village	Austin	6/25/2020	Closed	160	160	\$ 30,000,000	\$ 1,196,513	\$ 1,168,103
20457		Pinewood Apartments	Houston	6/25/2020	Closed	240	240	\$ 30,000,000	\$ 1,174,359	\$ 1,106,302
20459		Spring Villas	Austin	6/25/2020	Closed	304	302	\$ 45,000,000	\$ 2,295,642	\$ 2,295,524
20602	03438	The Vermillion	Houston	7/23/2020	Closed	260	260	\$ 29,000,000	\$ 1,372,549	\$ 1,375,437
20467		Greenline North	San Antonio	7/23/2020	Closed	292	292	\$ 50,000,000	\$ 1,930,015	\$ 1,930,015
20466		Blue Water Gardens	Hereford	9/3/2020	Closed	132	132	\$ 16,750,000	\$ 738,553	\$ 738,553
TBD	19438	Legacy Senior	Round Rock	11/7/2019	Closed	157	157	\$ 20,000,000	\$ 732,029	\$ 732,029
TBD	18456; 19470	Jackie Robinson Apartments	El Paso	12/12/2019	Closed	186	186	\$ 30,000,000	\$ 1,290,195	\$ 1,290,195
20601	19611	Granada Terrace Apartments	Houston	4/23/2020	Closed	156	156	\$ 12,000,000	\$ 882,061	\$ 882,061
20415		Avenue on 34th Apartments	Houston	9/3/2020	Closed	70	56	\$ 12,000,000	\$ 333,845	\$ 333,845
20478		Vera at Odessa	Odessa	9/3/2020	Closed	288	288	\$ 35,000,000	\$ 1,389,149	\$ 1,389,149
20606	19610	Fish Pond at Corpus Christi	Corpus Christi	9/3/2020	Closed	112	111	\$ 10,000,000	\$ 682,849	\$ 682,849
20471		Northwood	Houston ETJ	7/23/2020	Closed	288	288	\$ 40,000,000	\$ 2,378,498	\$ 2,378,498
20411		Kitty Hawk Flats Apartments	San Antonio	9/3/2020	Closed	239	239	\$ 28,000,000	\$ 1,359,994	\$ 1,359,994
20454		South Terrace	Waco	9/3/2020	Closed	250	250	\$ 25,000,000	\$ 1,452,219	\$ 1,445,826
20475		Northview Apartments	San Antonio	9/3/2020	Closed	156	156	\$ 25,000,000	\$ 1,270,215	\$ 1,270,215
20483	02412	Shady Oaks	Fort Worth	9/3/2020	Closed	138	138	\$ 15,000,000	\$ 654,862	\$ 654,862
20480		Bridge at Turtle Creek	Austin	10/8/2020	Closed	307	307	\$ 44,000,000	\$ 2,332,344	\$ 2,332,344
20449	19469	EMLI at Pecan Creek	Aubrey	4/23/2020	Closed	254	254	\$ 30,000,000	\$ 1,484,333	\$ 1,413,138
20613		Riverside Senior	Fort Worth	12/10/2020	Closed	264	264	\$ 40,000,000	\$ 1,913,049	\$ 1,913,049
20400		Palladium West Francis	Midland	5/21/2020	Closed	240	188	\$ 25,000,000	\$ 1,596,885	\$ 1,596,885
20406		Gala at Central Park Apartments	Hurst	6/25/2020	Closed	94	94	\$ 15,000,000	\$ 486,783	\$ 486,783
20474		Canyon Pass	San Antonio	10/8/2020	Closed	264	264	\$ 35,000,000	\$ 2,003,601	\$ 2,003,601

20491		Ridgecrest Terrace	Dallas	12/10/2020	Closed	250	250	\$	40,000,000	\$	1,790,582	\$	1,790,582
20615		The Montage	San Antonio ETJ	1/14/2021	Closed	216	216	\$	35,000,000	\$	1,916,191	\$	1,914,402
20455		Redwood	San Marcos	10/8/2020	Closed	296	296	\$	50,000,000	\$	2,145,888	\$	2,145,888
20476		Grand Station Apartments	Austin	10/8/2020	Closed	216	216	\$	35,000,000	\$	1,380,252	\$	1,347,471
20486		Old Manor Senior	Austin	11/5/2020	Closed	207	207	\$	30,000,000	\$	1,632,397	\$	1,632,397
20488		Wildhorse Flats	Austin	12/10/2020	Closed	310	310	\$	50,000,000	\$	2,786,158	\$	2,781,346
20498		Gala at Waxahachie	Waxahachie	12/10/2020	Closed	185	185	\$	25,000,000	\$	1,098,763	\$	1,098,763
20463		Trinity Oaks	Sulpher Springs	11/5/2020	Approved	48	48	\$	2,129,000	\$	159,653	\$	155,956
20464		Pine Terrace	Mount Pleasant	12/10/2020	Approved	76	76	\$	3,371,000	\$	193,440	\$	192,962
20495		Fawn Ridge Apartments	The Woodlands	12/10/2020	Approved	119	118	\$	16,500,000	\$	733,463	\$	733,463
20494		La Cima	Austin	12/10/2020	Approved	260	260	\$	39,000,000	\$	1,772,256	\$	1,772,256
20496		Marshall Apartments	Austin	12/10/2020	Approved	100	100	\$	16,500,000	\$	556,883	\$	556,883
20620		Oso Bay Apartments	Corpus Christi	1/14/2021	Approved	104	104	\$	14,000,000	\$	869,817	\$	869,817
20703		Cove in Odessa	Odessa	1/14/2021	Approved	200	200	\$	30,000,000	\$	1,605,578	\$	1,598,402
20623	04101	Bella Vista fka Pleasant Hill	Austin	2/11/2021	Approved	100	100	\$	20,000,000	\$	1,095,248	\$	1,092,201
20624	534284	Crystal Falls fka Cedar Ridge	Leander	2/11/2021	Approved	152	152	\$	18,000,000	\$	702,435	\$	702,435
20625	04147	Shiloh Village	Dallas	2/11/2021	Approved	168	168	\$	25,000,000	\$	1,485,284	\$	1,485,284
20701		City Heights	Austin	2/11/2021	Approved	179	179	\$	22,000,000	\$	1,748,807	\$	1,748,807
20707		Kallison Ranch	San Antonio	2/11/2021	Approved	384	384	\$	50,000,000	\$	2,935,991	\$	2,932,004
20499		Legacy Senior Residences	Round Rock	2/11/2021	Approved	199	199	\$	30,000,000	\$	1,240,000	\$	1,225,538
20704		Applewood Apartments	San Antonio	2/11/2021	Approved	317	317	\$	35,000,000	\$	2,463,768	\$	2,463,768
20705		Sandpiper Cove	Galveston	3/11/2021	Approved	192	192	\$	37,500,000	\$	1,721,660	\$	1,721,660
20709		Watson Road	San Antonio	3/11/2021	Approved	348	348	\$	38,000,000	\$	2,613,696	\$	2,613,696
20708		Copernicus	San Antonio	3/11/2021	Approved	318	318	\$	38,000,000	\$	2,375,902	\$	2,375,902
						<b>16,814</b>	<b>16,578</b>		<b>2,115,750,000</b>		<b>111,443,288</b>		<b>111,100,775</b>
20481		Echo East	San Antonio	4/8/2021	Active	192	192	\$	20,000,000	\$	1,306,258	\$	-
						<b>192</b>	<b>192</b>		<b>20,000,000</b>		<b>1,306,258</b>		<b>-</b>
20417		St. Joe Apartments	Houston	3/19/2020	Withdrawn	307	307	\$	51,757,648	\$	4,596,000	\$	-
20468		Preserve at the Port	San Antonio	7/23/2020	Withdrawn	384	384	\$	37,000,000	\$	1,654,968	\$	-
20431	19454	Los Laureles	Edcouch	1/16/2020	Withdrawn	23	23	\$	-	\$	88,153	\$	88,153
20413		Residences at Merritt Hill	Rowlett	5/21/2020	Withdrawn	260	260	\$	33,000,000	\$	1,888,671	\$	1,888,671
20473		Agave East	Austin ETJ	9/3/2020	Withdrawn	240	240	\$	35,000,000	\$	1,355,697	\$	1,355,697
20477		Sphinx at Throckmorton Villas	McKinney	10/8/2020	Withdrawn	220	216	\$	28,000,000	\$	1,670,582	\$	-
20444		Plano Kathryn Senior Living	Plano	6/25/2020	Withdrawn	252	252	\$	30,000,000	\$	1,774,750	\$	1,774,750
20479		The Oaks	Dallas	11/5/2020	Withdrawn	260	243	\$	35,000,000	\$	1,488,978	\$	-
20484		The Lantana	San Marcos	11/5/2020	Withdrawn	216	216	\$	26,000,000	\$	1,750,669	\$	-
20628		Mayhill Road	Denton	9/3/2020	Withdrawn	360	360	\$	30,000,000	\$	2,247,493	\$	-
20629		Residences at Merritt Hill	Rowlett	9/3/2020	Withdrawn	260	260	\$	50,000,000	\$	2,206,067	\$	-
20446	19432	St. Johns Square	San Antonio	3/26/2020	Withdrawn	252	54	\$	50,000,000	\$	473,449	\$	449,524
20482		W. Leo Daniels Towers	Houston	11/5/2020	Withdrawn	100	100	\$	15,000,000	\$	833,142	\$	-
20487		Springdale Manor Apartments	Austin	12/10/2020	Withdrawn	186	186	\$	20,000,000	\$	1,182,803	\$	-
20462		Sunland County Apartments	Harlingen	11/5/2020	Withdrawn	166	166	\$	20,000,000	\$	941,981	\$	941,981
20489		Horizon Pointe	San Antonio	11/5/2020	Withdrawn	312	312	\$	35,000,000	\$	2,045,672	\$	2,045,672
20702		Cypress Creek Apartment Homes	Rowlett	1/14/2021	Withdrawn	234	187	\$	35,000,000	\$	1,224,185	\$	-
						<b>4,032</b>	<b>3,766</b>	\$	<b>530,757,648</b>	\$	<b>27,423,260</b>	\$	<b>8,544,448</b>
<b>TOTAL*</b>						<b>17,006</b>	<b>16,770</b>		<b>2,135,750,000</b>		<b>112,749,546</b>		<b>111,100,775</b>

\*Totals include Closed, Approved, and Active Status

Exhibit C



**4% (Non-Competitive) Housing Tax Credit Program  
2021 Application Status Log**

TDHCA #	Previous TDHCA #	Development Name	Development City	Board Meeting Date (MM/DD/YYYY)	Application Status	Total Units	Total Low-Income Units	Bond Reservation Amount	Requested HTC Amount	Recommend HTC Amount
20493	20493	The Ridge at Lancaster	Dallas	1/14/2021	Approved	300	300	\$ 50,000,000	\$ 2,707,319	\$ 2,707,319
21420	423;19400;204	Villas del San Xavier	San Marcos	2/11/2021	Approved	156	156	\$ 30,000,000	\$ 1,059,750	\$ 1,606,175
21418	20497	The Oleanders at Broadway	Galveston	2/11/2021	Approved	348	261	\$ 51,757,648	\$ 2,085,677	\$ 2,074,543
21419	96038/21419	2100 Memorial Drive	Houston	2/11/2021	Approved	197	160	\$ 35,000,000	\$ 2,091,385	\$ 2,074,355
21601	05044	Ridgewood at Panther Creek fka	The Woodlands	3/11/2021	Approved	300	300	\$ 40,000,000	\$ 3,269,484	\$ 3,269,484
21602	04108	Pineview at Grogan's Mill fka	The Woodlands	3/11/2021	Approved	300	300	\$ 34,000,000	\$ 2,761,636	\$ 2,761,636
21406		Midpark Towers	Dallas	3/11/2021	Approved	202	202	\$ 20,000,000	\$ 2,148,645	\$ 1,243,088
21407		Espero Austin	Austin	3/11/2021	Approved	171	171	\$ 20,000,000	\$ 1,350,600	\$ 1,350,588
21401	20492	Cowan Place	Fort Worth	3/11/2021	Approved	174	174	\$ 20,000,000	\$ 1,650,621	\$ 1,650,621
						<b>2,148</b>	<b>2,024</b>	<b>300,757,648</b>	<b>19,125,117</b>	<b>18,737,809</b>
21402		Belmont	Austin	4/8/2021	Active	146	146	\$ 30,000,000	\$ 977,084	\$ -
21614	20617	Murdeaux Villas	Dallas	4/8/2021	Active	280	280	\$ 35,000,000	\$ 17,294,118	\$ -
21615	20610	Terrace at Southern Oaks	Dallas	4/8/2021	Active	300	300	\$ 45,000,000	\$ 2,000,114	\$ -
21606		Palladium Sorcey Park	Dallas	4/8/2021	Active	152	152	\$ 14,750,000	\$ 1,044,403	\$ -
21605		Palladium Simpson Stuart	Dallas	4/8/2021	Active	270	270	\$ 25,750,000	\$ 1,864,956	\$ -
21607		Caroline Lofts	Houston	4/8/2021	Active	119	80	\$ 20,000,000	\$ 570,279	\$ -
21600	94063	Corona Del Valle	El Paso	4/8/2021	Active	101	101	\$ 8,500,000	\$ 524,995	\$ -
21400	20479	The Oaks	Dallas	4/8/2021	Active	260	243	\$ 35,000,000	\$ 1,609,354	\$ -
21411		Gateway Oak Cliff	Dallas	4/8/2021	Active	230	184	\$ 33,000,000	\$ 1,634,367	\$ -
21613		The Citadel	Houston	4/8/2021	Active	74	67	\$ 15,000,000	\$ 914,051	\$ -
21414		Waterview Apartments	Anna	4/8/2021	Active	300	300	\$ 38,000,000	\$ 3,123,540	\$ -
21410		Life at De Soto	Houston	4/8/2021	Active	556	556	\$ 50,000,000	\$ 3,228,893	\$ -
21412		Celebration Arlington	Arlington	4/8/2021	Active	275	275	\$ 48,000,000	\$ 2,330,099	\$ -
21403		Bluebonnet Ridge	Ennis	4/8/2021	Active	264	263	\$ 23,000,000	\$ 2,015,477	\$ -
21404		Agave	San Antonio	4/8/2021	Active	288	288	\$ 50,000,000	\$ 2,563,694	\$ -
21408		The Residences at Arbor Oaks	Houston	4/8/2021	Active	192	192	\$ 20,000,000	\$ 1,931,603	\$ -
21409		Cypress Creek at Howard Lane	Austin	5/13/2021	Active	362	289	\$ 50,000,000	\$ 1,538,141	\$ -
21405		The Conrad	Austin	5/13/2021	Active	280	280	\$ 45,000,000	\$ 2,291,055	\$ -
21416		Virginia Flats	Beaumont	5/13/2021	Active	110	110	\$ 15,000,000	\$ 833,030	\$ -
21422		Enchanted Gardens	Victoria	5/13/2021	Active	168	168	\$ 20,830,247	\$ 1,093,233	\$ -
21415		Temenos	Houston	6/17/2021	Active	95	95	\$ 15,500,000	\$ 942,087	\$ -
21428		Grand Avenue Flats	Austin	6/17/2021	Active	275	275	\$ 50,000,000	\$ 2,419,820	\$ -
21423		El Rosario	Mission	6/17/2021	Active	100	100	\$ 20,000,000	\$ 801,528	\$ -
21424		La Merced	Mercedes	6/17/2021	Active	100	100	(portfolio with #21423) \$ 551,565	\$ 551,565	\$ -
21436		Capitol View Flats	Austin	6/17/2021	Active	324	324	\$ 50,000,000	\$ 2,656,332	\$ -
21437		Enclave on Ross	Del Valle	6/17/2021	Active	288	288	\$ 40,000,000	\$ 1,917,732	\$ -
						<b>5,909</b>	<b>5,726</b>	<b>797,330,247</b>	<b>58,671,550</b>	<b>-</b>
<b>TOTAL*</b>						<b>8,057</b>	<b>7,750</b>	<b>\$ 1,098,087,895</b>		

# 21401 Cowan Place - Application Summary

REAL ESTATE ANALYSIS DIVISION

March 3, 2021

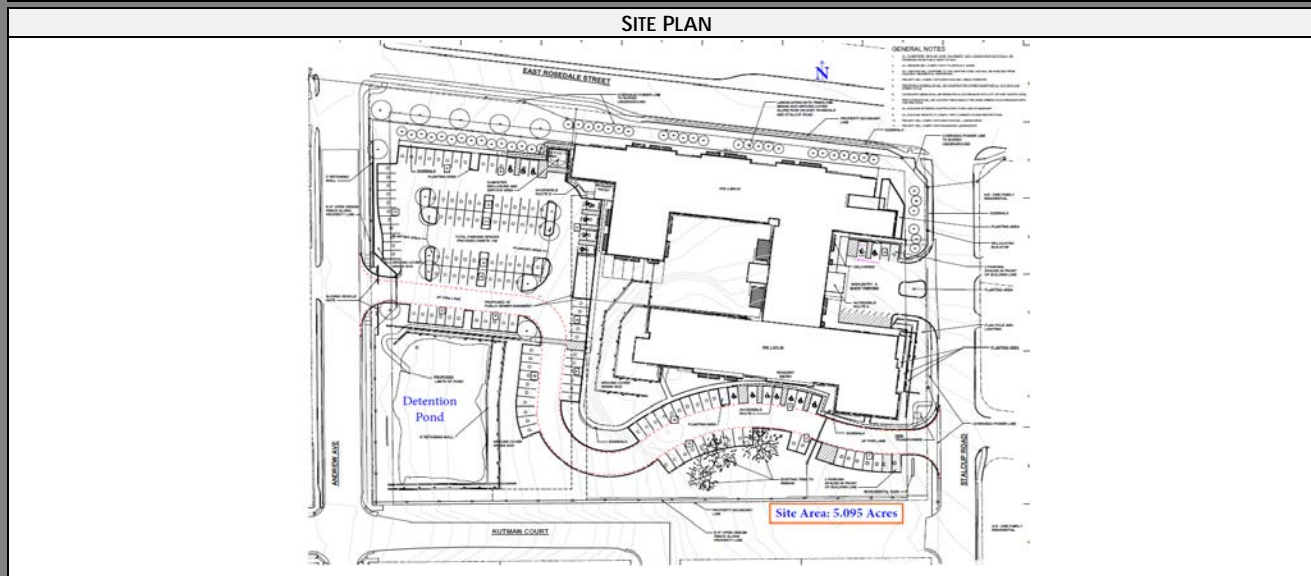
PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	21401	TDHCA Program LIHTC (4% Credit)	Request \$1,650,621	Recommended	
Development	Cowan Place			\$1,650,621	\$0.92
City / County	Fort Worth / Tarrant				
Region/Area	3 / Urban				
Population	Elderly Preference				
Set-Aside	Income Averaging				
Activity	New Construction				

KEY PRINCIPALS / SPONSOR
<ul style="list-style-type: none"> <li>Kevin J. McCormack / McCormack Baron Salazar, Inc. (68% of Developer Fee)</li> <li>Mary-Margaret Lemons / Fort Worth Affordability, Inc. (32% of Developer Fee)</li> </ul>
Related Parties    Contractor - No    Seller - Yes



UNIT DISTRIBUTION			INCOME AVERAGING		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	163	94%	30%	12	7%
2	11	6%	40%	-	0%
3	-	0%	50%	84	48%
4	-	0%	60%	60	34%
			70%	-	0%
			80%	18	10%
			MR	-	0%
<b>TOTAL</b>	<b>174</b>	<b>100%</b>	<b>TOTAL</b>	<b>174</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten	Applicant's Pro Forma		
Debt Coverage	1.17	Expense Ratio	54.0%
Breakeven Occ.	86.3%	Breakeven Rent	\$925
Average Rent	\$992	B/E Rent Margin	\$67
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,981/unit	Controllable	\$4,052/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (0% Maximum)	3.8%		
Highest Unit Capture Rate	15%	1 BR/50%	39
Dominant Unit Cap. Rate	7%	1 BR/60%	60
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	57	33% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten	Applicant's Costs		
Avg. Unit Size	662 SF	Density	34.1/acre
Acquisition	\$02K/unit	\$274K	
Building Cost	\$157.10/SF	\$104K/unit	\$18,102K
Hard Cost	\$125K/unit		\$21,788K
Total Cost	\$210K/unit		\$36,625K
Developer Fee	\$4,240K	(0.1% Deferred)	Paid Year: 1
Contractor Fee	\$2,786K	30% Boost	Yes



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Mason Joseph FHA 221(d)(4)	40/40	3.50%	\$15,438,000	1.17	City of Fort Worth CDBG	40/0	0.00%	\$750,000	1.17	Hudson Housing Capital	\$15,184,197
					City of Fort Worth HOME	40/0	0.00%	\$500,000	1.17	GP Equity	\$100
					City of Fort Worth UDAG	40/0	0.00%	\$360,000	1.17	MBS and FWAI	\$3,577
					FWHFC	40/0	0.00%	\$1,250,000	1.17		
					Cavile Public Facility Corp	40/0	1.31%	\$274,000	1.17		
					FWHFC PSH	40/0	0.00%	\$225,000	1.17	<b>TOTAL EQUITY SOURCES</b>	<b>\$15,187,874</b>
					FWHS Choice Neighborhoods	40/0	0.00%	\$2,640,000	1.17	<b>TOTAL DEBT SOURCES</b>	<b>\$21,437,000</b>
<b>TOTAL DEBT (Must Pay)</b>			<b>\$15,438,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$5,999,000</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$36,624,874</b>

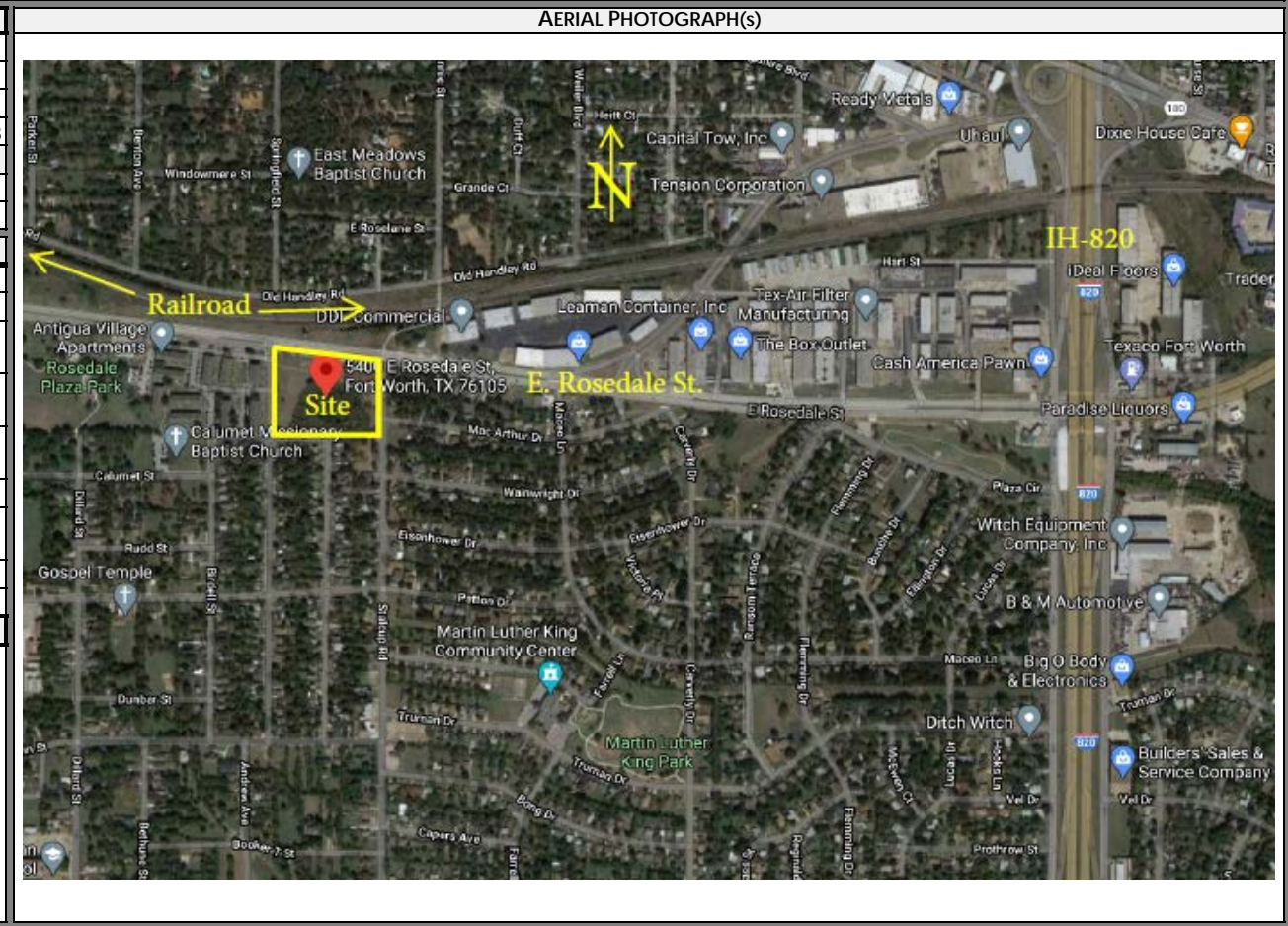
**CONDITIONS**

1 Receipt and acceptance by Cost Certification:

- a: Attorney opinion validating that all of the local cash flow loan sources can be considered bona fide debt with a reasonable expectation that they will be repaid in full and further stating that the funds should not be deducted from eligible basis.
- b: Architect certification that a noise assessment was completed, and that all recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

BOND RESERVATION / ISSUER	
Issuer	Trinity River Public Facility Corporation
Expiration Date	7/27/2021
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Bond Structure	HUD 221(d)(4) - Cash Collateralized
% Financed with Tax-Exempt Bonds	65.3%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>Overall feasibility indicators</li> <li>Gross capture rate of 3.8% for HTC units and 5.1% for PBV assisted units</li> <li>HTC properties in PMA average 99% occupancy with overall market averaging 98%</li> <li>Attractive design, high visibility in-fill location should enhance marketability</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>Feasibility depends on full property tax exemption and 3.5% management fee</li> <li>Interest rate sensitivity</li> <li>Parking ratio is less than 1 space/unit</li> </ul>	



# 21406 Midpark Towers - Application Summary

REAL ESTATE ANALYSIS DIVISION

March 3, 2021

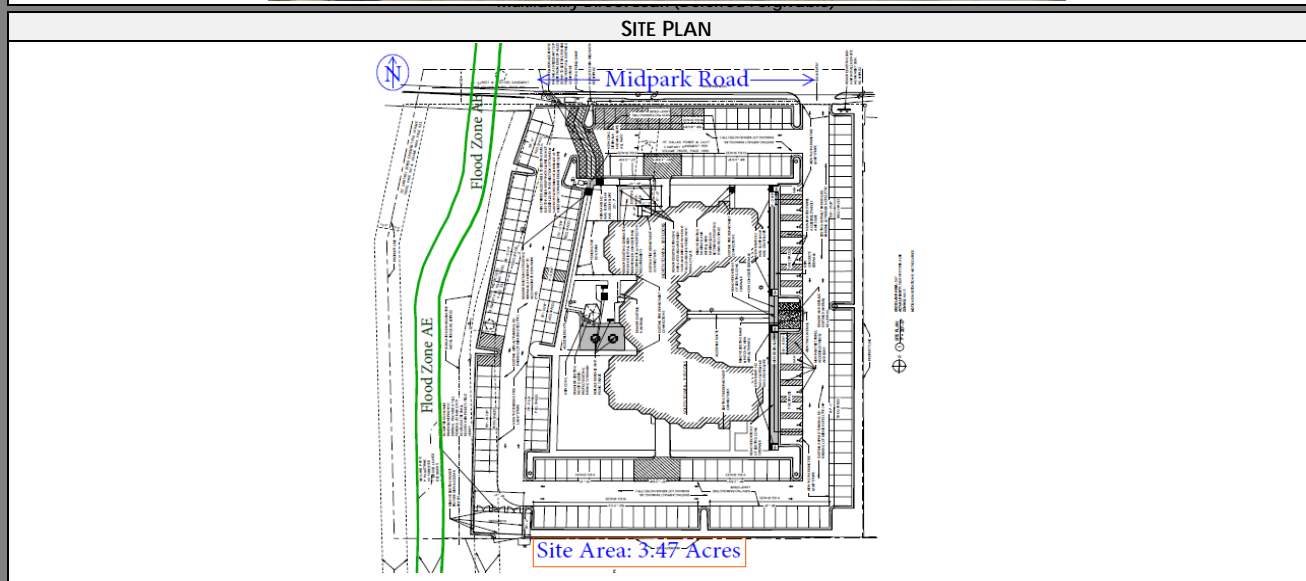
PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	21406	TDHCA Program	Request	Recommended	
Development	Midpark Towers	LIHTC (4% Credit)	\$1,248,645	\$1,243,088	\$6,154/Unit \$0.90
City / County	Dallas / Dallas				
Region/Area	3 / Urban				
Population	General				
Set-Aside	General				
Activity	Acquisition/Rehab (Built in 1978)				

KEY PRINCIPALS / SPONSOR		
<ul style="list-style-type: none"> <li>Elizabeth Property Group Texas, LLC / Tisha Vaidya (80% of Developer Fee)</li> <li>Dallas Housing Finance Corporation (20% of Developer Fee)</li> </ul>		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	202	100%	30%	-	0%
2	-	0%	40%	-	0%
3	-	0%	50%	-	0%
4	-	0%	60%	202	100%
			70%	-	0%
			80%	-	0%
			MR	-	✓
<b>TOTAL</b>	<b>202</b>	<b>100%</b>	<b>TOTAL</b>	<b>202</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.20	Expense Ratio	51.2%
Breakeven Occ.	85.0%	Breakeven Rent	\$825
Average Rent	\$900	B/E Rent Margin	\$75
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,232/unit	Controllable	\$3,786/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			7.6%
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	N/A	N/A
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	525 SF	Density	58.2/acre
Acquisition		\$64K/unit	\$12,900K
Building Cost	\$72.50/SF	\$38K/unit	\$7,695K
Hard Cost		\$43K/unit	\$8,615K
Total Cost		\$151K/unit	\$30,527K
Developer Fee	\$3,458K	(14% Deferred)	Paid Year: 3
Contractor Fee	\$1,089K	30% Boost	Yes

REHABILITATION COSTS / UNIT				
Site Work	\$2K	0.4%	Finishes/Fixture	\$16K 40%
Building Shell	\$18K	48%	Amenities	\$1K 1%
HVAC	\$2K	5%	Total Exterior	\$19K 49%
Appliances	\$2K	5%	Total Interior	\$20K 51%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Mason Joseph FHA 221(d)(4)	40/40	2.85%	\$18,868,050	1.20						Raymond James	\$11,185,559
										Elizabeth Property Group / DHFC	\$473,470
<b>TOTAL DEBT (Must Pay)</b>			<b>\$18,868,050</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$11,659,029</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$18,868,050</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$30,527,079</b>

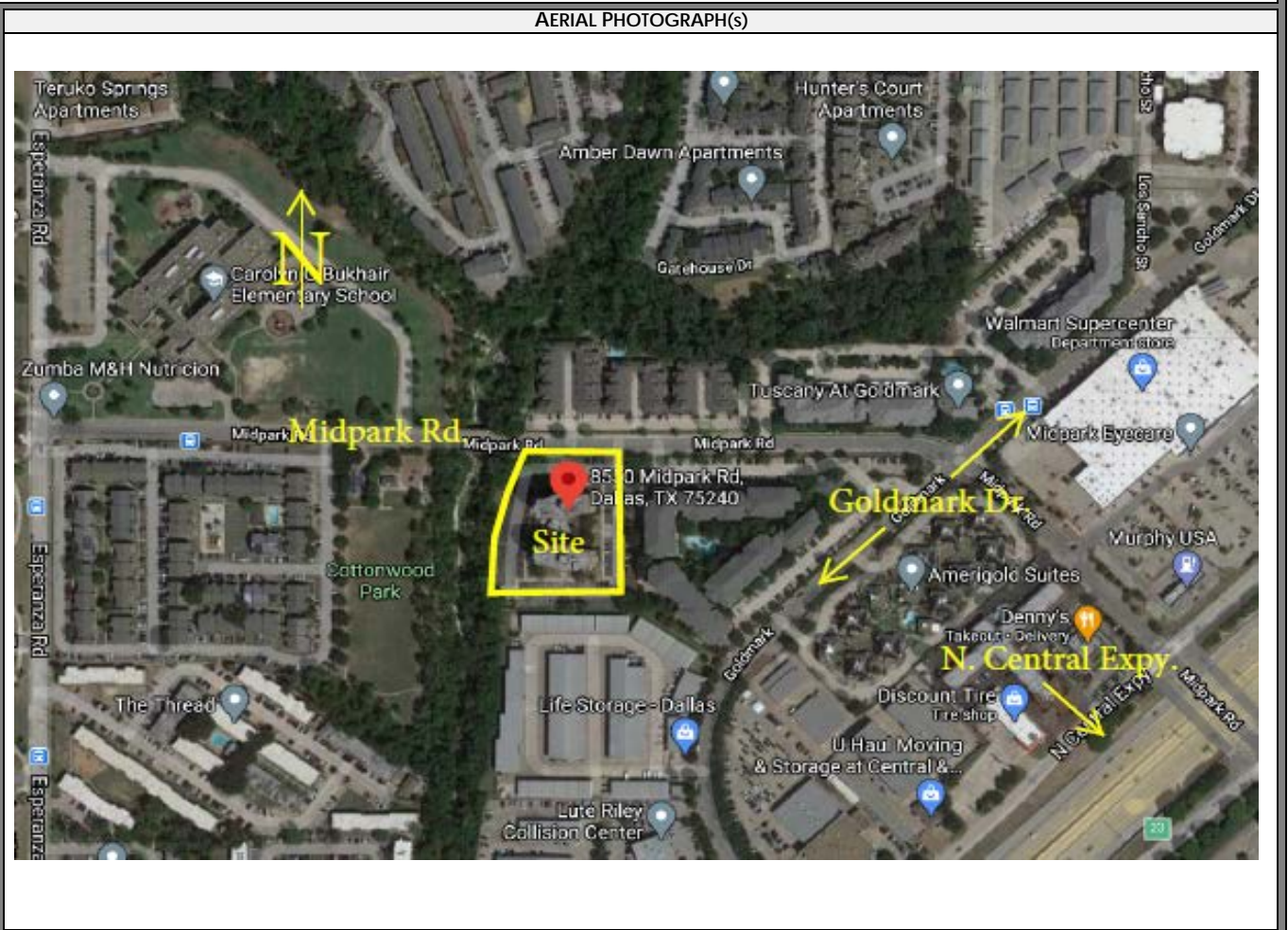
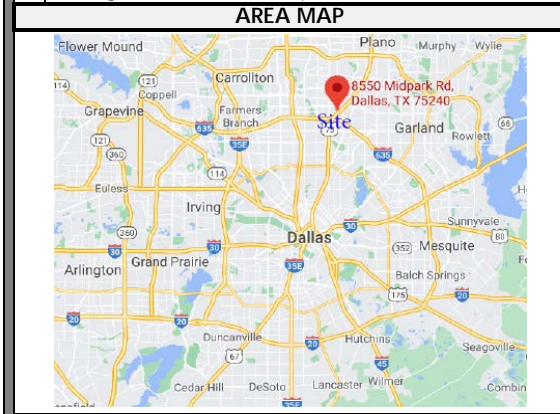
**CONDITIONS**

1 Receipt and acceptance by Cost Certification:

- a: Certification of comprehensive testing for asbestos; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
- b: Certification of comprehensive testing for lead-based paint; that any appropriate abatement procedures were implemented; and that any remaining lead-based paint is being managed in accordance with an acceptable Operations and Maintenance (O&M) program.

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	Dallas Housing Finance Corporation
Expiration Date	7/21/2021
Bond Amount	\$20,000,000
BRB Priority	2
Bond Structure	HUD 221(d)(4) - Cash Collateralized
% Financed with Tax-Exempt Bonds	63.7%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
Existing occupancy at 94% poses no lease-up risk	
New renovations should help maintain occupancy and enhance leasing as turnover occurs	
Significant contingency	
WEAKNESSES/RISKS	
Feasibility depends on full property tax exemption and 4% management fee	
Mix only contains 1BR/1BA units that average 525 square feet	
Parking ratio is less than 1 space/unit	



# 20708 Copernicus Apartments - Application Summary

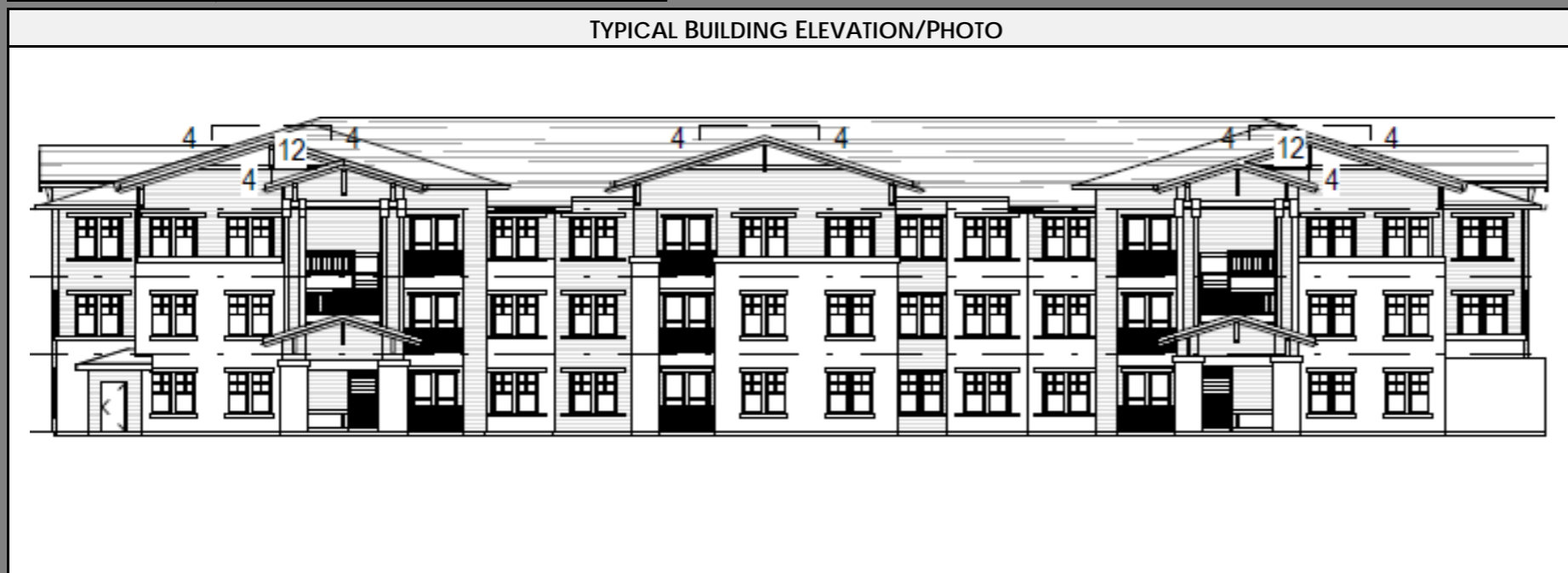
REAL ESTATE ANALYSIS DIVISION

March 4, 2021

PROPERTY IDENTIFICATION	
Application #	20708
Development	Copernicus Apartments
City / County	San Antonio / Bexar
Region/Area	9 / Urban
Population	General
Set-Aside	General
Activity	New Construction

RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$2,375,902	\$2,375,902	\$7,471/Unit	\$0.90

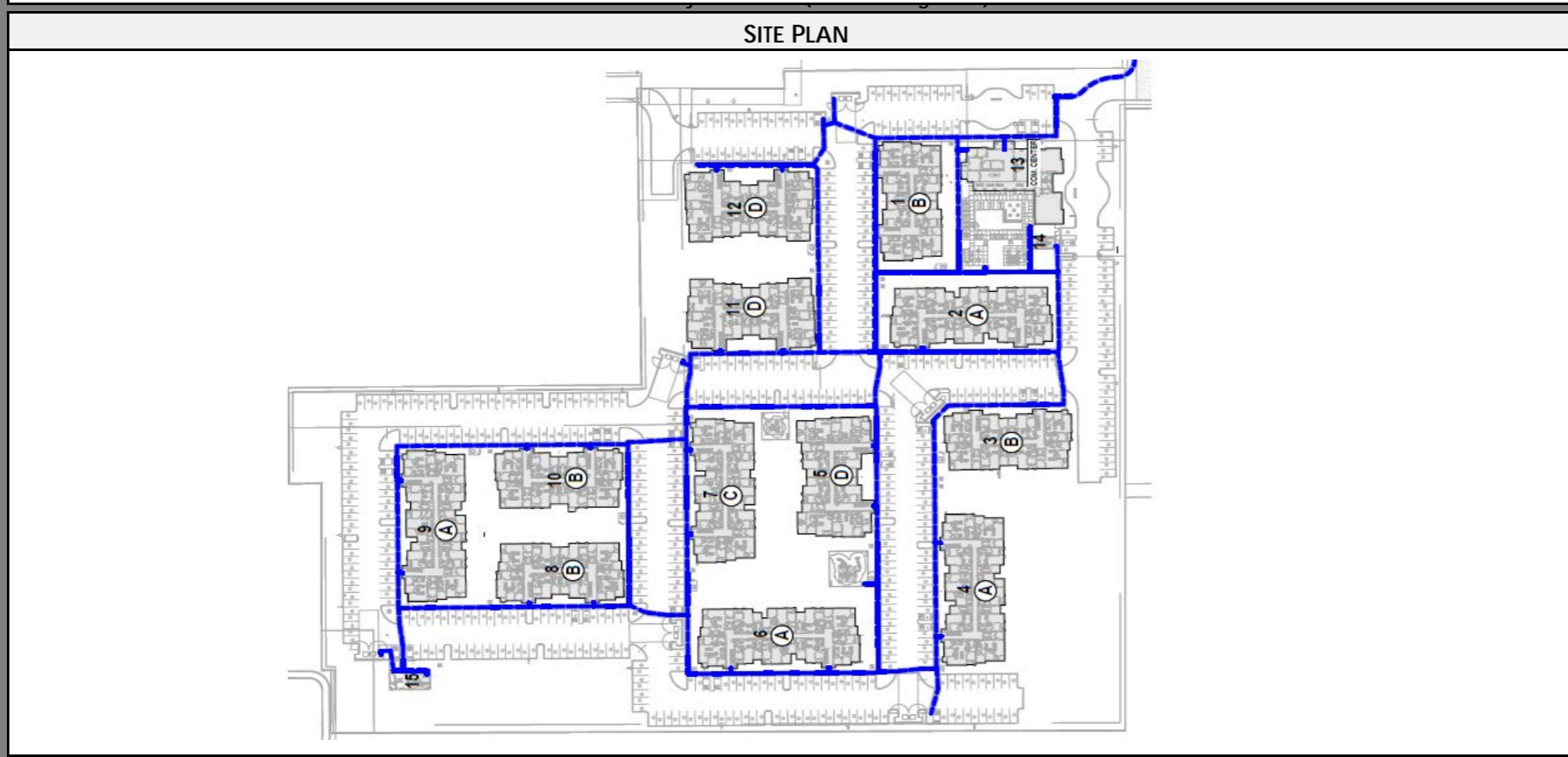
KEY PRINCIPALS / SPONSOR		
San Antonio Housing Facility Corporation David Nisivoccia		
The NRP Group Anne Tyler - Project Manager		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	6	2%	40%	17	5%
2	138	43%	50%	17	5%
3	138	43%	60%	267	84%
4	36	11%	MR	-	✓
<b>TOTAL</b>	<b>318</b>	<b>100%</b>	<b>TOTAL</b>	<b>301</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	39.0%
Breakeven Occ.	84.9%	Breakeven Rent	\$864
Average Rent	\$943	B/E Rent Margin	\$79
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,166/unit	Controllable	\$3,000/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (0% Maximum)			8.7%
Highest Unit Capture Rate	55%	3 BR/60%	117
Dominant Unit Cap. Rate	38%	2 BR/60%	117
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	1,028 SF	Density	21.1/acre
Acquisition		\$09K/unit	\$2,956K
Building Cost	\$72.93/SF	\$75K/unit	\$23,851K
Hard Cost		\$98K/unit	\$31,021K
Total Cost		\$174K/unit	\$55,407K
Developer Fee	\$5,959K	(32% Deferred)	Paid Year: 6
Contractor Fee	\$4,009K	30% Boost	Yes



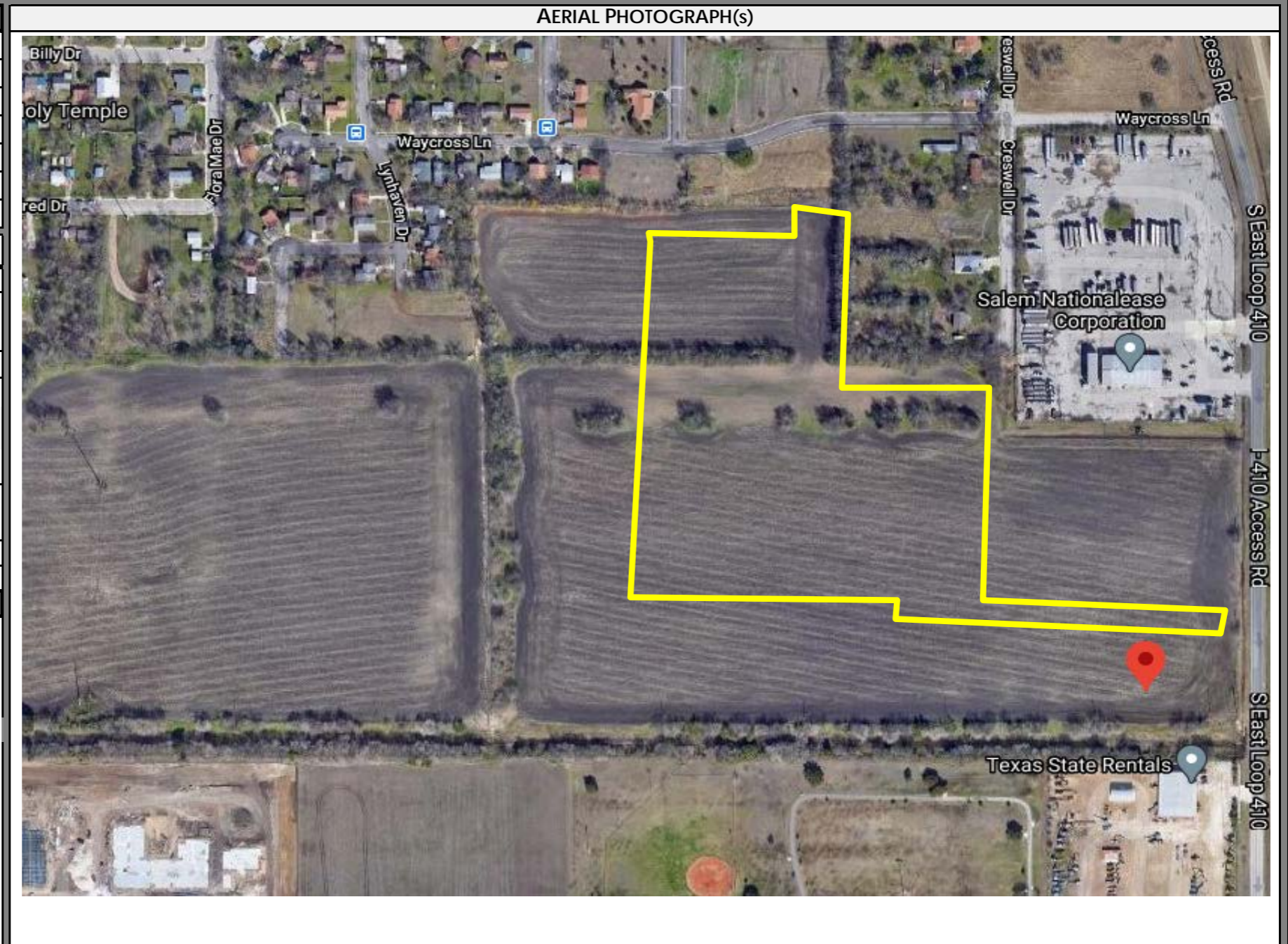
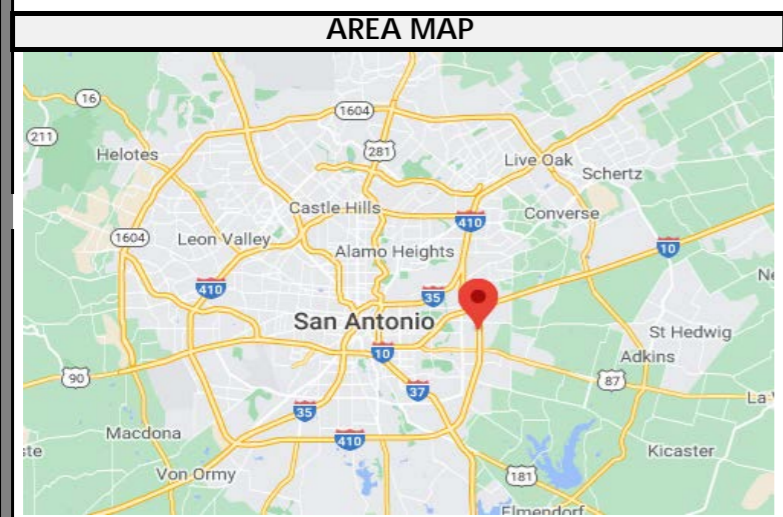
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Citi Bank	18/35	4.25%	\$32,100,000	1.16						Raymond James	\$21,380,983	
										Deferred Developer Fee	\$1,926,273	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$23,307,256</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$32,100,000</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$32,100,000</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$55,407,256</b>

**CONDITIONS**

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	Las Varas Public Facility Corporation
Expiration Date	5/2/2021
Bond Amount	\$38,000,000
BRB Priority	Priority 3
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	72.3%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer/Owner's construction and management of LIHTC properties in Texas.
▫	Overall Feasibility Indicators
▫	Market Occupancy
WEAKNESSES/RISKS	
▫	Feasibility reliant on property tax exemption
▫	55% of units are 3 and 4 Bedroom





# 20709 Watson Road Apartments - Application Summary

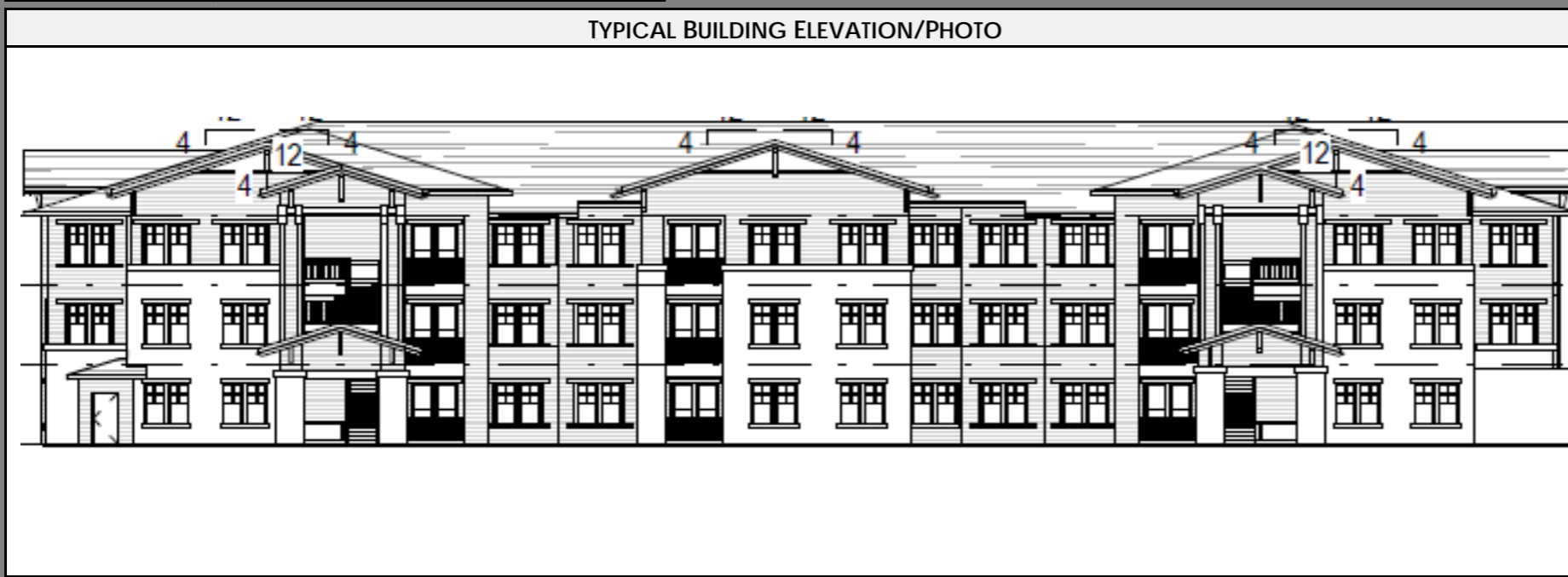
REAL ESTATE ANALYSIS DIVISION

March 4, 2021

PROPERTY IDENTIFICATION	
Application #	20709
Development	Watson Road Apartments
City / County	San Antonio / Bexar
Region/Area	9 / Urban
Population	General
Set-Aside	General
Activity	New Construction

RECOMMENDATION			
TDHCA Program	Request	Recommended	
LIHTC (4% Credit)	\$2,613,696	\$2,613,696	\$7,511/Unit \$0.90

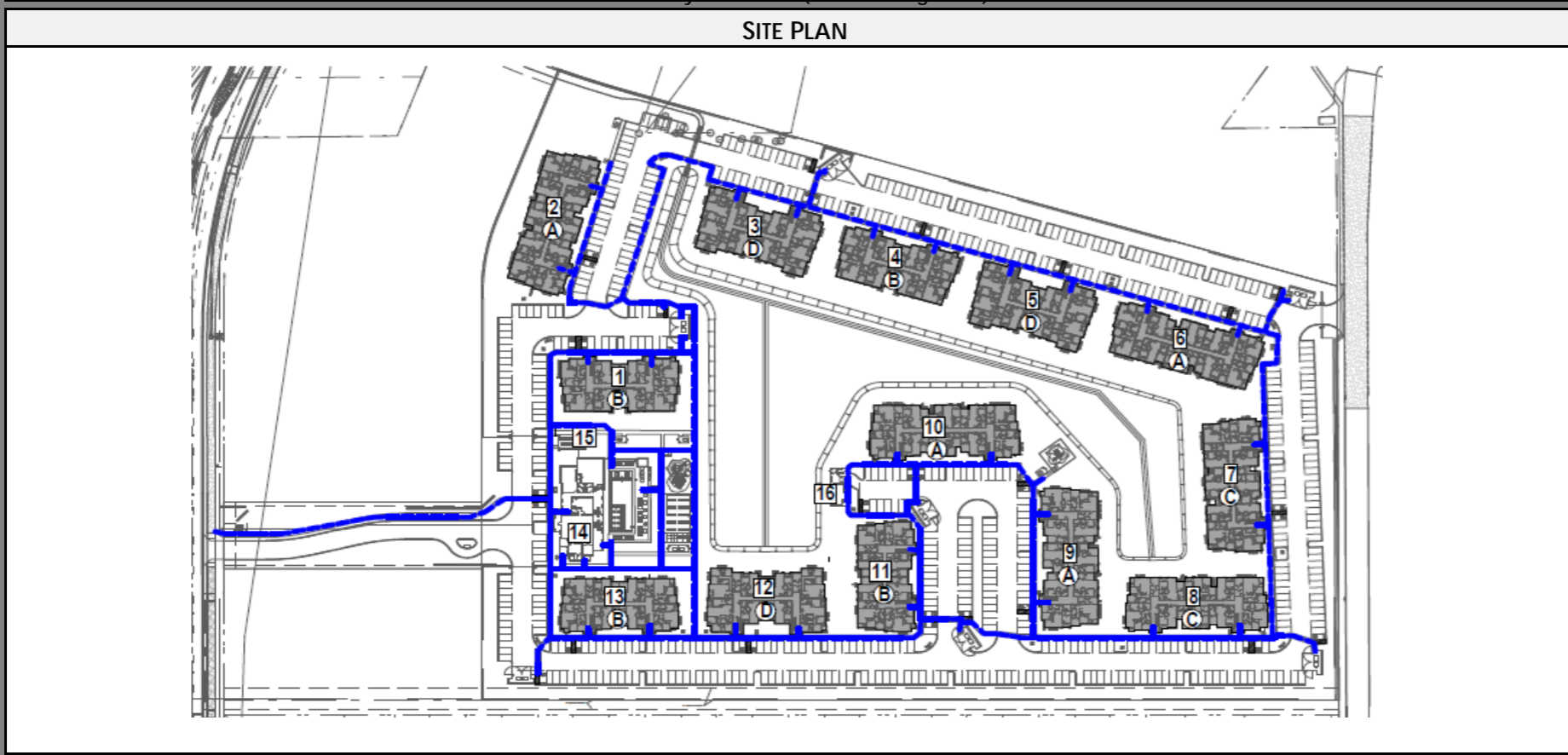
KEY PRINCIPALS / SPONSOR		
San Antonio Housing Facility Corporation David Nisivoccia		
The NRP Group Anne Tyler - Project Manager		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	12	3%	40%	18	5%
2	144	41%	50%	18	5%
3	156	45%	60%	294	84%
4	36	10%	MR	-	✓
<b>TOTAL</b>	<b>348</b>	<b>100%</b>	<b>TOTAL</b>	<b>330</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.15	Expense Ratio	39.2%
Breakeven Occ.	85.1%	Breakeven Rent	\$864
Average Rent	\$941	B/E Rent Margin	\$77
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,180/unit	Controllable	\$3,000/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (0% Maximum)			4.4%
Highest Unit Capture Rate	20%	3 BR/60%	132
Dominant Unit Cap. Rate	20%	3 BR/60%	132
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	1,023 SF	Density	19.2/acre
Acquisition		\$05K/unit	\$1,813K
Building Cost	\$72.60/SF	\$74K/unit	\$25,847K
Hard Cost		\$99K/unit	\$34,595K
Total Cost		\$173K/unit	\$60,284K
Developer Fee	\$6,556K	(27% Deferred)	Paid Year: 5
Contractor Fee	\$4,586K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
CitiBank	18/35	4.25%	\$35,025,000	1.15						Raymond James	\$23,520,915
										Deferred Developer Fee	\$1,738,160
<b>TOTAL DEBT (Must Pay)</b>			<b>\$35,025,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$25,259,075</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$35,025,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$60,284,075</b>

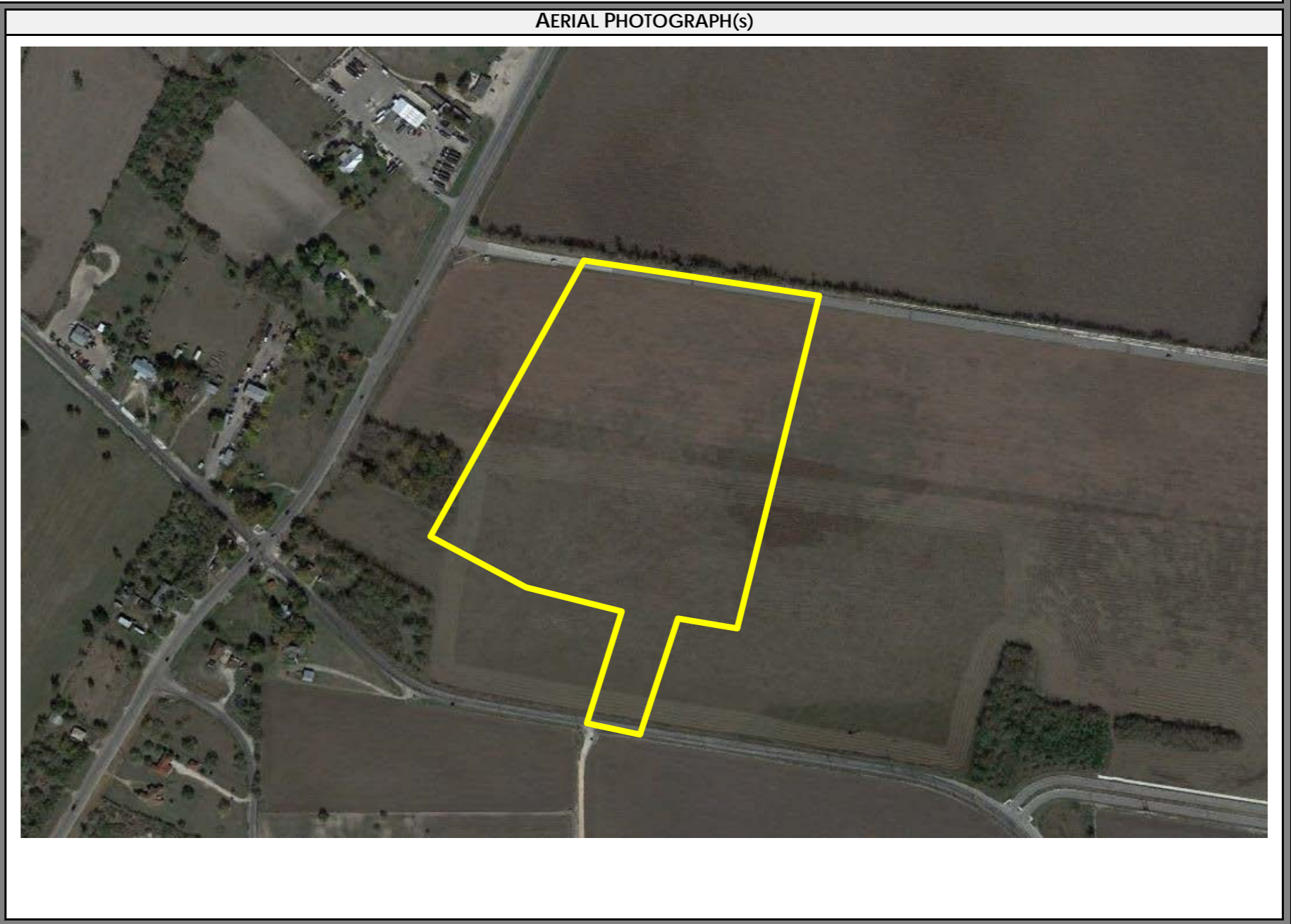
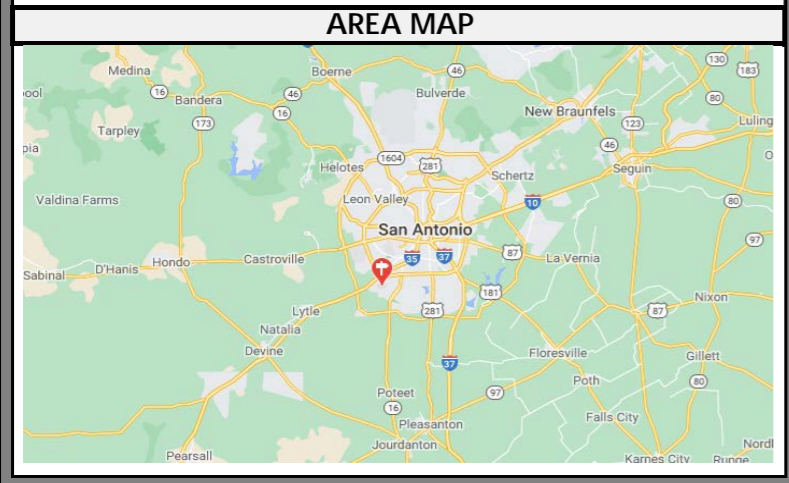
**CONDITIONS**

- Receipt and acceptance by Cost Certification:
  - Certification of toxicity characteristic leaching procedure (TCLP) testing of building materials for waste classification purposes prior to off-site disposal, and if necessary, a certification that any appropriate abatement procedures were implemented.

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

BOND RESERVATION / ISSUER	
Issuer	Las Varas Public Facility Corporation
Expiration Date	4/28/2021
Bond Amount	\$38,000,000
BRB Priority	Priority 3
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	72.5%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer/Owner's construction and management of
▫	Overall Feasibility Indicators
▫	Market Occupancy
WEAKNESSES/RISKS	
▫	Feasibility reliant on property tax exemption
▫	55% of units are 3 and 4 Bedroom



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**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**March 11, 2021**

Presentation, discussion, and possible action on an order adopting the repeal, and new 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties, and Subchapter D Debarment to be adopted in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, Tex. Gov't Code §2306.041 provides that the Board may impose an administrative penalty on a person who violates Department rules;

**WHEREAS**, Tex. Gov't Code §2306.0504 requires the Board to adopt a rule providing for the debarment of a person from participation in programs administered by the Department;

**WHEREAS**, at the meeting of November 5, 2020, the Board approved a repeal and proposed new 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties, and Subchapter D Debarment for publication and public comment in the *Texas Register*; and

**WHEREAS**, public comment was accepted from November 20, 2020, to December 21, 2020, and staff received comment from one (1) entity and has prepared a reasoned response, and the rule will be published for adoption in the *Texas Register*;

**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 actions herein in the form presented to this meeting, to be published in the *Texas Register* for adoption in 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties, and Subchapter D Debarment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

**BACKGROUND**

In November 2014, the Department adopted Chapter 2 Enforcement to consolidate the Department's enforcement authority and procedures for assessing administrative penalties, and the handling of debarments and contract terminations for noncompliant Subrecipient, Administrator, Contractor, Development Owner, or other Persons under a Program Agreement or activities performed by a third party under a Program Agreement, including but not limited to a Subgrantee or Subcontractor.

Department staff has recognized the need to revise certain sections of this rule.

The Compliance and Legal Division held a virtual roundtable discussion on September 11, 2020, regarding the staff draft of the Enforcement rule. The roundtable discussion included detailed proposed changes to Subchapters A, C, and D. The recording of the virtual roundtable was posted to the Department's YouTube channel, and stakeholders were requested to provide feedback by September 21, 2020.

At the meeting of November 5, 2020, the Board approved the publication to repeal and replace 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties, and Subchapter D Debarment. The proposed rule was published in the *Texas Register* on November 20, 2020, and the public comment period was open from November 20, 2020, to December 21, 2020. Comment was received from one entity. Staff has reviewed all comments and provided a reasoned response to this comment. The rule is shown in black line to make changes from the proposed rule based upon public comment readily apparent. Staff recommends approval of the adopted repeal and replacement of this rule for publication in the *Texas Register*.



**Attachment 1: Preamble for adopting the new 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties and Subchapter D Debarment**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties and Subchapter D Debarment, with changes to the proposed text as published in the November 20, 2020, issue of the *Texas Register* (45 Tex Reg 8224). The purpose of the adopted new sections is to provide compliance with Tex. Gov't Code §2306.041 and §2306.0504 and to update the rule to: include a definition of "Actively Monitored Development," clarify membership of the Enforcement Committee ensuring that there are no conflicts of interest, align the rule with the Department's current administrative penalties process, update the administrative penalty table to include new Department programs (e.g., Section 811 PRA), clarify standards for increased penalty amounts for responsible parties that have previously paid a penalty for the same finding type, propose changes redefining material and repeated violations for multifamily developments, require that a party undergoing debarment may not participate in new Department financing and assistance opportunities until such debarment is fully resolved, and reclassify some events of noncompliance from "shall debar" to "may debar."

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action. Several revisions do have potential financial costs to a party undergoing enforcement proceedings, however Subrecipient, Administrator, Contractor, Development Owner, or other Persons under a Program Agreement or activities performed by a third party under a Program Agreement, including but not limited to a Subgrantee or Subcontractor remaining in good standing do not incur these costs and the rule is only selectively applicable to those performing poorly. Such changes include adding findings for new Department programs (e.g., Section 811 PRA), aligning penalty amounts as incentives for resolution, subdividing certain penalty types, and increasing penalty amounts for responsible parties that have previously paid a penalty for the same finding type. Because it is determined that compliance with the rule does not require additional costs and the adjustment of potential penalty amounts is expected to incentivize compliance rather than increase the amount of fines collected, no costs to the rule warrant being offset.

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

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

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

1. The adopted rule does not create or eliminate a government program. This rule updates definitions, Enforcement Committee membership, the Department's administrative penalties process, and the administrative penalty table. This rule also clarifies standards for increased penalty amounts, stipulates that debarment does not relieve existing Department obligations, and reclassifies some events of noncompliance from "shall debar" to "may debar."
2. The adopted new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The adopted rule changes do not require additional future legislative appropriations.
4. The adopted rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The adopted rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The adopted rule will not expand, limit, or repeal an existing regulation.
7. The adopted rule will not increase or decrease the number of individuals subject to the rule's applicability; and
8. The adopted rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this adopted rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.041 and §2306.0504.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures in place for owners and managers of developments participating in Department programs. Other than in the case of a small or micro-business that participates in the Department's programs covered by this rule, no small or microbusinesses are subject to the rule. If a small or micro-business does participate in the program, the rule provides a clear set of regulations for doing so.

3. The Department has determined that because all potential penalties can be avoided by adhering to program rules, there will be no economic effect on small or micro-businesses or rural communities.

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

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

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the adopted rule has no economic effect on local employment. Therefore, no local employment impact statement is required to be prepared for this rule. Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the adopted rule has not economic impact on local employment there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be an updated and more germane rule. There will not be any economic cost, other than that described above, to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments based on the Department's history and past experience with penalty collections.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between November 20, 2020 to December 21, 2020. Comment(s) regarding the proposed repeal and new rules were accepted in writing and e-mail with comment(s) received from:

1. Elizabeth Roehm, Staff Attorney, Texas Housers

## **Subchapter A: General Rule Section**

### **§2.102 Definitions**

**COMMENT SUMMARY:** Commenter 1 supported the added clarity of the new and improved definitions of this section.

**STAFF RESPONSE:** Commenter 1 was not requesting any changes from the proposed rule, merely expressing support. No changes are made based on this comment.

### **§2.103(e) General**

**COMMENT:** Commenter 1 suggested specifying a shorter time period in circumstances where findings in question have an effect on tenant safety or unit habitability. It was recommended the following language be added, *“and such plan requires any relevant Events of Noncompliance relating to keeping housing sanitary, safe, and decent are resolved within 60 days of ownership transfer or tenant subject to such conditions are provided with a nearby and high quality relocation option until such findings can be resolved.”*

**STAFF RESPONSE:** Such a change could subject buyers to significant penalties and unreasonable timelines for all Uniform Physical Condition Standards (UPCS) violations, thereby discouraging sale and improvement, causing distressed housing stock to deteriorate further. This would have a negative impact on owners and properties, removing TDHCA’s discretion to allow reasonable workouts and avoid moving forward with the penalty process when new owners are demonstrating improvement. The Enforcement Committee tracks plans through completion, ensuring that corrections are completed within given timeframes. No changes are made in response to Commenter 1.

## **Subchapter C: Administrative Penalties**

### **§2.301 General**

**COMMENT:** Commenter 1 suggested a change to allow any Division within TDHCA to initiate a referral for administrative penalties.

**STAFF RESPONSE:** Staff agrees any Division within TDHCA should be able to initiate a proceeding to assess administrative penalties. Staff has updated the language in §2.301 to allow for any Department Division to recommend to the Committee the initiation of proceedings to assess administrative penalties where the Responsible Party or Parties has an established pattern of repeated substantive and material violations, even if corrected within the applicable corrective action periods.

### **§2.302 Administrative Penalty Process**

**COMMENT –** Commenter 1 supports changes to this section.

**STAFF RESPONSE:** Staff thanks the commenter for their support. No changes are made based on this comment.

**§2.302(b):**

**COMMENT:** Commenter 1 indicated that discretionary Debarment as well as mandatory Debarment should be included in this phase for evaluation by the Secretary of TDHCA's Enforcement Committee.

**STAFF RESPONSE:** The Secretary is not able to evaluate all Debarment categories under 10 TAC §2.401 and is not the appropriate originator for debarment referrals. The intent of this section is for the Secretary to initiate Debarment only if there is a history of penalty referrals because that information is best known by the Secretary. Other debarments are appropriately originated from TDHCA Divisions. No changes were made to this section.

**§2.302(c):**

**COMMENT:** Commenter 1 made two suggestions regarding this section of the rule. First, the section does not allow an exception for situations where the Enforcement Committee wishes to pursue the matter further due to repeated noncompliance. Commenter 1 suggested the following additional language be added to the following paragraph, *"If fully acceptable corrective action documentation is submitted to the referring division before the Secretary sends an informal conference notice, the referral shall be closed with no further action, provided that the Responsible Party is not subject to consideration for Debarment and provided that the referral was not based a pattern of repeated violations, then the referral shall not be automatically closed based on submitting corrective action documentation."*

Additionally, Commenter 1 stated:

Further, in §2.302(c), acceptable plans for correction that bypass administrative penalties should *not* include these listed options: "a rehabilitation plan with a scope of work and contracts already in place, plans approved by EARAC as part of the ownership transfer or funding application." Despite a plan for future compliance, administrative penalties should still be assessed as a deterrent. These examples allow the Secretary and EARAC to accept plans as part of the ownership transfer or funding application to substitute for assessment of administrative penalties for past bad action. We see TDHCA HTC properties in Galveston and Houston where ownership transfer and applications for further HTC are used to put off needed repairs that affect the health and safety of tenants currently in those units. These examples let the current owner off the hook for conditions that are affecting tenants; the Responsible Party *should* be held accountable, by way of administrative penalties, for letting things remain uncorrected in the past or having a pattern of repeated violations; big future plans for improvement should be *in addition to* administrative penalties for existing failures. If the Secretary and EARAC allow future plans for improvement to excuse existing violations, then really there is no penalty for the existing violations! The Department has acknowledged that the administrative penalties in the Enforcement Rule are meant to work as a preventive mechanism, so

penalties need to apply *for the noncompliance*, not just for those who still after getting this far in the process again refuse to comply immediately, often to the detriment of tenants.

**STAFF RESPONSE:** Staff agrees in part and thus the section has been modified to: *"If fully acceptable corrective action documentation is submitted to the referring division before the Secretary sends an informal conference notice, the referral shall be closed with no further action, provided that the Responsible Party is not subject to consideration for Debarment and provided that the referring division does not wish to move forward with the referral based upon a pattern of repeated violations."* However, the goal of this rule is compliance, not punishment, and this rule is drafted with that goal in mind. If a violation is corrected before a conference notice is sent, then the goal is met in most cases. However, there may be some violations that warrant moving forward, those have been added to the Debarment rule, which we believe is more appropriate remedy in such instances. There may be situations where a penalty may also be appropriate and the recommended edit in italics above was made so that the referring Division can decide whether they agree with closure. This alternate edit is consistent with the current processes and adequately addresses the commenter's concern.

Staff does not agree with Commenter 1's suggestions to remove exceptions for rehabilitation plans approved by EARAC. The Commenter suggests that there is a problem with ownership transfers intended to avoid the enforcement process and to avoid making improvements to troubled developments. Staff does not agree that this is the case; we have seen good results and improvements at distressed properties via sales of the property. While we understand the sentiment of wanting to hold an owner responsible for their actions to prove a point, a mandatory penalty is not always the most practical approach. For example, if a property is already distressed and underfunded, pursuing a penalty against an owner who is already in advanced stages of working to sell their property sometimes achieves little aside from making a point and diverting money from the property to the detriment of the tenants. That is appropriate in some circumstances and in those cases, or if an insufficient rehabilitation plan with scope of work and contracts is not presented, EARAC would not approve the plan and the penalty process would proceed. However, TDHCA also seeks to be practical and work with existing and new owners to efficiently and expediently improve conditions for tenants. To disrupt a sale could cause delays to improvement for tenants since an owner responsible for poor conditions is unlikely to make meaningful corrections if there is a sale in progress, or at worst it could cause the property to go into foreclosure or bankruptcy. For a Housing Tax Credit property, foreclosure or a deed in lieu means the removal of our LURA and existing low-income units from the housing stock.

#### **§2.302(e)(1)**

**COMMENT:** Commenter 1 supports the changes to allow the Enforcement Committee to proceed with informal conference even if the party or their representative does not attend.

**STAFF RESPONSE:** Commenter 1 is not requesting any changes from the rule, merely expressing support. Staff agrees with the commenter, no changes are made based on this comment.

#### **§2.302(e)(4)**

**COMMENT:** Commenter 1 supports the addition that assessment of administrative penalties and Debarment may be considered at the same informal conference.

**STAFF RESPONSE:** Commenter 1 is not requesting any changes from the rule, merely expressing support. No changes are made based on this comment.

### **§2.302(I)**

**COMMENT:** Commenter 1 overall supports the updates for this section and suggested that TDHCA may expand the language to include receiving notice *from another party* besides HUD, DOJ or TWC.

**STAFF RESPONSE:** Staff accepts the suggested edit with modifications. Staff has updated the language in Figure 2 to read, “TDHCA has received notice from HUD, the DOJ, the TWC, *or another party, of a judgment from a court of competent jurisdiction regarding a Fair Housing Violation and/or reported general public use violation (unless such violation has already been disclosed in the Annual Owner’s Compliance Report).*” In addition to adding “or another party” as requested by Commenter 1, Staff also added “unless such violation has already been disclosed in the Annual Owner’s Compliance Report” to clarify that previously disclosed self-reporting is instead considered during a previous participation review and allows the Department to provide targeted training and resources for management agents and owners outside the penalty process.

## **SUBCHAPTER D Debarment from Participation in Programs Administered by the Department**

### **§2.401 General**

**COMMENT:** Commenter 1 supports clarifications in language and changes throughout this section.

**STAFF RESPONSE:** Commenter 1 is not requesting any changes, merely expressing support. No changes are made based on this comment.

### **§2.401(a)**

**COMMENT:** Commenter 1 supports the additions in §2.401(a) to the list of situations in which the Department may debar, in particular they strongly support: §2.401(a)(6), (7), (8) and (14) of the rule. The commenter also suggested moving §2.401(a)(9), (11), (13), and (18) from the “may” to “shall” debar sections. For §2.401(a)(9), Commenter 1 indicates that, “Disregarding a ROFR requirement is a material violation of the LURA that should result in mandatory Debarment. Developments get special treatment in the complete process for promising to comply with ROFR. The penalty for transferring property in violation of a ROFR should be even stronger. Preservation of affordable housing through the HTC is essential... and the ROFR is one tool that pushes toward preservation.” Accordingly, Commenter 1 recommends moving this item to the “shall” debar list. For §2.401(a)(11), Commenter 1 suggests that refusing to comply with conditions from the Board and EARAC should also result in mandatory debarment, along with §2.401(a)(13) for submitting a written certification that non-compliance has been corrected when it is determined that the Event of Noncompliance *was not corrected* due to the egregious nature of these violations. Lastly, Commenter 1 suggests mandatory debarment for §2.301(a)(18),

substandard construction and repeated failure to conduct required inspection, arguing that these are a flagrant and intolerable misuse of public funds.

**STAFF COMMENT:** Staff has carefully reviewed these suggestions about moving items from “may” to “shall” debar, but does not agree with making the changes. TDHCA continues to strive to work with its partners to find equitable solutions and desires to maintain discretion to allow for workouts on a case-by-case basis when reasonable to do so. The Debarment Rule is substantially expanded and the rule formalized an idea of progressive discipline that has been implemented to address properties and owners who are making little improvement, or who refuse or are incapable of complying. Maintaining reasonable discretion in these instances is appropriate. No changes were made to this section based on the comments received.

#### **§2.401(c)**

**COMMENT:** Commenter 1 strongly supports the change to language in §2.401(c) which makes Debarment mandatory rather than optional for material or repeated violations of conditions imposed by the Department.

**STAFF COMMENT:** Commenter 1 is not requesting any changes from the rule, merely expressing support. Staff agrees with the commenter, no changes are made based on this comment.

#### **§2.401(d)**

**COMMENT:** Commenter 1 supports the changes that make Debarment mandatory for scoring multiple UPCS inspections of 50 or less. In addition, Commenter 1 suggests adding that a property be considered for mandatory Debarment for the material violation of *one* occurrence of a UPCS inspection of 40 or less. Commenter 1 also supports the increased specificity about compliance with the inspection and monitoring process. They also support the addition in the rule for refusal to lease to Section 8 households on the list of material violations.

**STAFF COMMENT:** Commenter 1 is expressing support for the changes outlined in this section of the rule but is also requesting to an addition to §2.401(d)(1) regarding UPCS inspections that score a 40 or below for one occurrence. Staff does not agree with this suggestion. The circumstances which could result in a development scoring abnormally low on a UPCS inspection are too varied for the Department to support immediate debarment in this circumstance. As an example, a large casualty loss might render a very low UPCS score during the restoration period if buildings are not actively undergoing construction at the time of inspection. Again, the intention of this rule is compliance, not punishment – staff does not find it prudent to require debarment of owners who appropriately rectify deficiencies discovered during a single monitoring event, then continue meeting acceptable standards going forward. Owners who refuse or are incapable of complying would be eligible for debarment under other sections of this rule – for example, if the development scored below a 50 on any future UPCS inspection, the responsible party would be referred for Debarment under §2.401(d)(1).

#### **§2.401(e)**

**COMMENT:** Commenter 1 supports the content in the section but made a suggestion for more clear language, and that the language in §2.401(e) match the clearer language in §2.401(d) to make it clear these are all grounds for referral to the Committee for mandatory Debarment.

**STAFF COMMENT:** Staff agrees with the Commenter 1 suggestion to edit the sentence to state, “shall be referred to the Committee for Debarment” in lieu of “shall be considered grounds for Debarment.” The updates are shown in blackline in the Board Action request.

#### **§2.401(e)(1)(B)**

**COMMENT:** Commenter 1 strongly supports this additional clause defining repeated violation of the LURA to include UPCS violations resulting in a score of 70 or below. However, they are seeking more clarity regarding the UPCS violation if it is for the exact same violation or the same type of violations. Commenter requested the language in §2.401(e)(1) and §2.401(e)(1)(B) be clarified.

**STAFF COMMENT:** Staff agrees with Commenter 1’s suggested edits and updated the rule to make clear that it will be considered a Repeated Violation of a LURA if a Development, during two Monitoring Events in a row, is found to be out of compliance for any UPCS violation that results in a score of 70 or below after the effective date of the rule. The updates to the language are also shown in blackline in the Board Action request, along with additional minor wording clarifications to prevent confusion.

#### **§2.401(e)(1)(D)**

**COMMENT:** Commenter 1 expresses support of the inclusion of mandatory Debarment when on two consecutive monitoring events the owner refuses to reduce rents to less than the highest allowed under the LURA.

**STAFF COMMENT:** Commenter 1 is not requesting any changes from the rule, merely expressing support. No changes are made based on this comment.

#### **§2.401(e)(3)**

**COMMENT:** Commenter 1 opposes the removal of a *“Development failed to provide supportive services required by the LURA”* from this list as a considered grounds of Debarment. They recommend keeping this in the rule because supportive services are an integral part of the offerings in many affordable housing communities, and repeated failure to provide services in violation of a LURA should lead to mandatory Debarment.

**STAFF COMMENT:** Although staff agrees that supportive services are important to the tenants living at affordable properties, this was removed because staff does not believe the violation rises to the level of qualifying for Debarment. However, through the Enforcement process, TDHCA may purse penalties for such a violation.

#### **§2.401(e)(6)**



**COMMENT:** Commenter 1 opposes the removal of *“Owner failed to execute required lease provisions, including language required by §10.613 of this title (relating to Lease Requirements) or exclude prohibited language.”* They recommended keeping this in the rule so that owners are held accountable for lease terms, and repeated failure should be considered a repeated violation of the LURA resulting in mandatory Debarment.

**STAFF COMMENT:** The lease language provision was removed because staff did not believe that this violation rises to the level of qualifying for Debarment. For example, failure to provide a Tenant Rights and Resources Guide to tenant is serious, but should not be grounds for mandatory Debarment. However, through the Enforcement process, TDHCA may pursue penalties for such a violation.

#### **§2.401(e)(2)**

**COMMENT:** Commenter 1 supports the additions specifying mandatory Debarment for repeated violations in a portfolio.

**STAFF COMMENT:** Commenter 1 is not requesting any changes from the rule, merely expressing support. No changes are made based on this comment.

#### **§2.401(g)-(1)**

**COMMENT:** Commenter 1 supports the TDHCA efforts for streamlining enforcement procedures as laid out in these proposed changes.

**STAFF COMMENT:** Commenter 1 is not requesting any changes from the rule, merely expressing support. Staff agrees with the commenter, no changes are made based on this comment. STATUTORY AUTHORITY. The new sections are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

## **Subchapter A            General**

### **§2.101            Policy and Purpose**

This chapter sets forth the enforcement mechanisms that the Department may use to bring about compliant administration of Department funded programs, state or federal, and exclude or remove from Department programs, Persons who have established, through certain noncompliant behavior that they are either unwilling to act in a compliant manner, or are unable to do so. These enforcement mechanisms are in addition to any available contractual remedies under program agreements.

### **§2.102            Definitions**

The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific chapters of this title that govern the program associated with the request, in Chapter 1 of this title (relating to Administration), or assigned by federal or state law.

(1) **Actively Monitored Development**--A Development that within the last three years has been monitored by the Department, either through a Uniform Physical Condition Standards (UPCS) inspection, an onsite or desk file monitoring review, an Affirmative Marketing Plan review, or a Written Policies and Procedures Review. UPCS inspections include inspections completed by Department staff, Department contractors and inspectors from the Real Estate Assessment Center through federal alignment efforts.

(2) **Consultant**--A Person who provides services or advice for a fee in a capacity other than as an employee and does not have Control.

(3) **Control (including the terms Controlled and Controlling)**--"Control" is defined in §11.1 of this title (relating to General) or as identified in the specific Program rule.

(4) **Debarment**--A prohibition from future participation in some or all Programs administered by the Department. Except as otherwise stated in the Order, Debarment does not impact existing or ongoing participation in Department Programs, prior to the date of the Debarment, nor does it affect any continuing responsibilities or duties thereunder.

(5) **Enforcement Committee ("Committee")**--A Committee of employees of the Department appointed by the Executive Director. The voting members of that Committee shall be no fewer than five and no more than nine. Additionally, each voting member shall have an alternate member, also appointed by the Executive Director, in the event that the primary voting member is unavailable. The Committee may be composed of any member of any Department division, but members from the referring division may not be present during deliberations. Alternate members may serve on behalf of any voting member for purposes of assuring a quorum. The Legal Division will designate person(s) to attend meetings and advise the Committee. A Legal Division designee will serve as Secretary to the Committee.

(6) Event of Noncompliance (including the alternate term "Finding of Noncompliance")--Any event for which a Person may be found to be in noncompliance with Texas Government Code Chapters 2105 or 2306, any rule adopted thereunder, any Program Agreement requirement, or federal program requirements.

(7) Legal Requirements--All requirements, as it relates to the particular Department Program, of state, federal, or local statutes, rules, regulations, ordinances, orders, court opinions, official interpretations, policy issuances, OMB Circulars, representations to secure awards, or any similar memorialization of requirement, including contract requirements.

(8) Monitoring Event--An onsite or desk monitoring review, a Uniform Physical Condition Standards inspection, the submission of the Annual Owner's Compliance Report, Final Construction Inspection, a Written Policies and Procedures Review, or any other instance when the Department's Compliance Division or other reviewing area provides written notice to an Owner or Contact Person requesting a response by a certain date. This would include, but not be limited to, responding to a tenant complaint.

(9) Person--A legal entity including, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability corporation, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever, and shall include any group of Persons acting in concert toward a common goal, including individual members of the group.

(10) Program--Includes any activity performed by a Subrecipient, Administrator, Contractor, Development Owner, or other Person under a Program Agreement or activities performed by a third party under a Program Agreement, including but not limited to a Subgrantee or Subcontractor.

(11) Program Agreements include:

(A) agreements between the Department and a Person setting forth Legal Requirements; and

(B) agreements between a Person subject to a Program Agreement and a third party to carry out one or more Legal Requirements.

(12) Responsible Party--Any Person subject to a Program Agreement.

(13) Vendor--A person who is procured by a subrecipient to provide goods or services in any way relating to a Department program or activity.

## §2.103 General

(a) A Responsible Party must comply with all applicable Legal Requirements.

(b) A failure by the Department to identify, address, or take action with respect to any one or more Events of Noncompliance does not constitute a waiver, ratification, or approval of, consent to, or agreement with such noncompliance. It is the responsibility of a Responsible Party to be familiar with the applicable Legal Requirements.

(c) Recordkeeping. Each referring division will keep records in accordance with the Department's record retention schedule and any other state or Federal requirements of all Events of Noncompliance.

(d) As provided for in Texas Government Code, §2306.6719, parties subject to certain compliance requirements must be afforded written notice and a reasonable period to correct identified Events of Noncompliance that are susceptible to being corrected. It is the responsibility of each division to provide any required cure, Corrective Action, or notice period(s) prior to referral of any matter to the Committee under this chapter. Matters should not be referred to the Committee until such cure, Corrective Action, or notice periods have been completed or expired.

(e) For each Event of Noncompliance, the Department will evaluate which Person or Persons had Control of the Development, Program, or activity at the time the Event of Noncompliance occurred. A Person will not be referred for Debarment or assessed a Administrative Penalty because they have newly acquired a Development that has existing Events of Noncompliance, provided that the findings are resolved by transferee within a reasonable timeframe after purchase, in accordance with a plan that is approved by the Department in an ownership transfer request under §10.406 of this title (relating to Ownership Transfers (§2306.6713)).

#### §2.104 Enforcement Mechanisms

(a) The enforcement mechanisms referenced in this chapter are not the exclusive mechanisms whereby compliance may be obtained in any particular circumstance. Enforcement mechanisms related to Department programs may include, where applicable, those required or employed by other entities or agencies. With regard to the low-income housing tax credit program, if an identified Event of Noncompliance is required to be reported to the Internal Revenue Service, (IRS) it will be reported by the Compliance Division on form 8823. For federally funded Programs or activities the Department may recommend that a federal funding agency initiate a debarment proceeding under 2 CFR Part 180 or 2 CFR 2424, as applicable. Program Agreements may also include additional enforcement mechanisms, federal reporting, or penalties.

(b) Enforcement mechanisms available to the Department include but are not limited to:

(1) Enforcement of contractual provisions in the Program Agreements including, but not limited to, options to place a Development into receivership, and rights of suspension or termination, and placement on a cost reimbursement status as described in Subchapter B of this chapter (relating to Enforcement for Noncompliance with Program Requirements of Chapters 6 and 7);

(2) Consideration of a reasonable plan for correction, warning letter, informal conference, and assessment of administrative penalties, as further described in Subchapter C of this chapter (relating to Administrative Penalties); or

(3) Debarment, as described in Subchapter D of this chapter (relating to Debarment from Participation in Programs Administered by the Department).

## Subchapter C Administrative Penalties

### §2.301 General

Department divisions will recommend to the Committee the initiation of proceedings to assess administrative penalties where the Responsible Party or Parties have violated Chapters 2105 or 2306 of the Texas Government Code or a rule or order adopted under Chapters 2105 or 2306 of the Texas Government Code and failed, despite written notice, to take appropriate and timely corrective action or seek and obtain for good cause an extension of the time to take corrective action. In addition, staff from ~~the Compliance or Fair Housing any Department~~ Divisions may recommend to the Committee the initiation of proceedings to assess administrative penalties where the Responsible Party or Parties has an established pattern of repeated substantive and material violations, even if corrected within the applicable corrective action periods.

### §2.302 Administrative Penalty Process

(a) The Executive Director will appoint an Enforcement Committee, as defined in §2.102 of this chapter (relating to Definitions).

(b) This referring division will recommend the initiation of administrative penalty proceedings to the Committee by referral to the secretary of the Committee ("Secretary"). At the time of referral for a multifamily rental Development, the referral letter from the referring Division will require the Responsible Party who Controls the Development to provide a listing of the Actively Monitored Developments in their portfolio. The Secretary will use this information to help determine whether mandatory Debarment should be simultaneously considered by the Enforcement Committee in accordance with §2.401(e)(2) of this section, related to repeated violations.

(c) The Secretary shall promptly contact the Responsible Party. If fully acceptable corrective action documentation is submitted to the referring division before the ("Secretary") sends an informal conference notice, the referral shall be closed with no further action provided that the Responsible Party is not subject to consideration for Debarment and provided that the referring division does not wish to move forward with the referral based upon a pattern of repeated violations. If the Secretary is not able to facilitate resolution, but receives a reasonable plan for correction, such plan shall be reported to the Committee to determine whether to schedule an informal conference, modify the plan, or accept the plan. If accepted, plan progress shall be regularly reported to the Committee, but an informal conference will not be held unless the approved plan is substantively violated, or an informal conference is later requested by the Committee or the Responsible Party. Plan examples include but are not limited to: a rehabilitation plan with a scope of work or contracts already in place, plans approved by EARAC as part of an ownership transfer or funding application, plans approved by the Executive Director, plans approved by the Asset Management Division, and/or plans relating to newly transferred Developments with unresolved Events of Noncompliance originating under prior ownership. Should the Secretary and Responsible Party fail to come to, an agreement or closer of the referral, or if the Responsible Party or ownership group's prior history of administrative penalty

referrals does not support closure, or if consideration of Debarment is appropriate, the Secretary will schedule an informal conference with the Responsible Party to attempt to reach an agreed resolution.

(d) When an informal conference is scheduled, a deadline for submitting Corrective Action documentation will be included, providing a final opportunity for resolution. If compliance is achieved at this stage, the referral will be closed with a warning letter provided that factors, as discussed below, do not preclude such closure. Closure with a warning letter shall be reported to the Committee. Factors that will determine whether it is appropriate to close with a warning letter include, but are not limited to:

(1) Prior Enforcement Committee history relating to the Development or other properties in the ownership group;

(2) Prior Enforcement Committee history regarding similar federal or state Programs;

(3) Whether the deadline set by the Secretary in the informal conference notice has been met;

(4) Whether the Committee has set any exceptions for certain finding types; and

(5) Any other factor that may be relevant to the situation.

(e) If an informal conference is held:

(1) Notwithstanding the Responsible Party's attendance or presence of an authorized representative, the Enforcement Committee may proceed with the informal conference;

(2) The Responsible Party may, but is not required to be, represented by legal counsel of their choosing at their own cost and expense;

(3) The Responsible Party may bring to the meeting third parties, employees, and agents with knowledge of the issues;

(4) Assessment of an administrative penalty and Debarment may be considered at the same informal conference; and

(5) In order to facilitate candid dialogue, informal conference will not be open to the public; however, the Committee may include such other persons or witnesses as the Committee deems necessary for a complete and full development of relevant information and evidence.

(f) An informal conference may result in the following, which shall be reported to the Executive Director:

(1) An agreement to dismiss the matter with no further action;

(2) A compliance assistance notice issued by the Committee, available for Responsible Parties appearing for the first time before the Committee for matters which the Committee determines do

not necessitate the assessment of an administrative penalty, but for which the Committee wishes to place the Responsible Party on notice with regard to possible future penalty assessment;

(3) An agreement to resolve the matter through corrective action without penalty. If the agreement is to be included in an order, a proposed agreed order will be prepared and presented to the Board for approval;

(4) An agreement to resolve the matter through corrective action with the assessment of an administrative penalty which may be probated in whole or in part, and may, where appropriate, include additional action to promote compliance such as requirements to obtain training. In this circumstance, a proposed agreed order will be prepared and presented to Department's Governing Board for approval;

(5) A recommendation by the Committee to the Executive Director to determine that a violation occurred, and to issue a report to the Board and a Notice of Violation to the Responsible Party, seeking the assessment of administrative penalties through a contested case hearing with the State Office of Administrative Hearings ("SOAH"); or

(6) Other action as the Committee deems appropriate.

(g) Upon receipt of a recommendation from the Committee regarding the issuance of a report and assessment of an administrative penalty under subsection (f)(5), the Executive Director shall determine whether a violation has occurred. If needed, the Executive Director may request additional information and/or return the recommendation to the Committee for further development. If the Executive Director determines that a violation has occurred, the Executive Director will issue a report to the Board in accordance with §2306.043 of the Texas Government Code.

(h) Not later than fourteen (14) days after issuance of the report to the Board, the Executive Director will issue a Notice of Violation to the Responsible Party. The Notice of Violation issued by the Executive Director will include:

(1) A summary of the alleged violation(s) together with reference to the particular sections of the statutes and rules alleged to have been violated;

(2) A statement informing the Responsible Party of the right to a hearing before the SOAH, if applicable, on the occurrence of the violation(s), the amount of penalty, or both;

(3) Any other matters deemed relevant; and

(4) The amount of the recommended penalty. In determining the amount of a recommended administrative penalty, the Executive Director shall take into consideration the statutory factors at Tex. Gov't Code §2306.042 the penalty schedule shown in the tables in subsection (k) of this section and in the instance of a proceeding to assess administrative penalties against a Responsible Party administering CDBG, CSBG, or LIHEAP, whether the assessment of such penalty will interfere with the uninterrupted delivery of services under such program(s). The Executive Director shall further take into account whether the Department's purposes may be achieved or enhanced by the use of full or

partial probation of penalties subject to adherence to specific requirements and whether the violation(s) in question involve disallowed costs.

(i) Not later than 20 days after the Responsible Party receives the Notice of Violation, the Responsible Party may accept the requirements of the Notice of Violation or request a SOAH hearing.

(j) If the Responsible Party requests a hearing or does not respond to the Notice of Violation, the Executive Director, with the approval of the Board, shall cause the hearing to be docketed before a SOAH administrative law judge in accordance with §1.13 of this title (relating to Contested Case Hearing Procedures), which outlines the remainder of the process.

(k) Penalty schedules.

[Attached Graphic](#)  
[Attached Graphic](#)  
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Figure 1: 10 TAC §2.302(k)

<b>Penalty table for Chapters 6 and 7 Findings of Noncompliance</b> These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, the matrix below must be considered in conjunction with the statutory factors at Tex. Gov't Code §2306.042.		
<b>Finding of Noncompliance</b>	<b>Maximum first time administrative penalty assessment</b>	<b>Maximum Administrative penalty assessment for a Responsible Party that has previously paid a penalty for the same finding type</b>
Lack of financial duties or material inventory segregation of duties	Up to \$500	Up to \$1,000
No Cost Allocation/Not allocating costs properly	Up to \$500 for each instance	Up to \$1,000 for each instance
Violation of Conflict of Interest policies	Up to \$500	Up to \$1,000
Lack of Insurance or Fidelity Bond coverage	Up to \$1,000 + up to \$100 a day for each day not in compliance	Up to \$1,000 + up to \$200 a day for each day not in compliance
Failure to submit Inventory Report within 45 days (end Contract Term)	Up to \$500	Up to \$1,000



Unallowable/Unreasonable expenditure	Up to \$1,000 for each instance	Up to \$1,000 for each instance
Violation of Procurement Requirements	Up to \$1,000 for each service or product not properly procured	Up to \$1,000 for each service or product not properly procured
Lack of Subcontractor contract	Up to \$250 for each instance	Up to \$500 for each instance
Lack of prior approval for purchase(s)	Up to \$500 for each instance	Up to \$1,000 for each instance
Instance of Fraud, Waste and/or Abuse	Up to \$1,000	Up to \$1,000
Commingling of funds, Misapplication of funds	Up to \$1,000	Up to \$1,000
Failure to timely submit Audit Certification Form	Up to \$250	Up to \$1,000 per violation
Failure to timely submit Single Audit	Up to \$1,000	Up to \$1,000 + up to \$100 for each day not in compliance
Lack of providing requested documentation/item(s) for monitoring	Up to \$500 per day for each item or documentation not provided	Up to \$150 per day for each item or documentation not provided
Failure to timely respond to Report/provide required correspondence	Up to \$100 for first violation	Up to \$1,000 per day per violation
Failure to report/record program income	Up to \$500 for each instance	Up to \$1,000 for each instance
Noncompliance with record retention requirements	Up to \$100 for each instance	Up to \$1,000 for each instance
Providing assistance to income or SAVE ineligible applicants	Up to \$500 for each instance	Up to \$1,000 for each instance

Service provided to clients not according to poverty population makeup	Up to \$500	Up to \$1,000
Failure to meet Tri-Partite Board Requirements	Up to \$1,000 + up to \$100 for each the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to comply
Failure to comply with Department minimum applicant/client denials and appeals	Up to \$250 for each instance	Up to \$500 for each instance
Failure to Prioritize applicants	Up to \$250 for each instance	Up to \$500 for each instance
Failure to complete or to properly complete required program documents	Up to \$250 for each instance	Up to \$750 for each instance
Payment to Vendor without a Vendor Agreement	Up to \$500 for each instance	Up to \$1,000 for each instance
Failure to perform Outreach activities	Up to \$500	Up to \$1,000
Weatherized unit expenditure over maximum cost per unit w/o prior approval	Up to \$500 for each instance	Up to \$1,000 for each instance
Failure to input Ending Homelessness, HHSP, or ESG client data into the Homeless Management Information System	Up to \$500 for each instance	Up to \$1,000 for each instance
Other noncompliance with a contract requirement	Up to \$1,000	Up to \$1,000
Failure to comply with case management requirements	Up to \$500	Up to \$750
Noncompliance with applicable OMB or state financial management requirements	Up to \$500	Up to \$1,000

Noncompliance with Texas Prompt Payment Act	Up to \$500	Up to \$750
Noncompliance with Historical Commission requirements	Up to \$500	Up to \$750
Failure to comply with Limited English Proficiency (“LEP”) policies in accordance with program rule, policy or agreement	Up to \$500	Up to \$1000
Failure to meet accessibility requirements	Up to \$1,000 per violation	Up to \$1,000 per violation
Failure to submit Inventory Report within 45 days (end of contract term)	Up to \$500	Up to \$1,000
Failure to timely enter into an ISPA (Information Privacy and Security Agreement)	Up to \$1,000 per violation	Up to \$1,000 per violation
Failure to attend required training as required by program rule, policy or agreement	Up to \$100 per violation	Up to \$200 per violation
Failure to comply with Section 3 requirements in accordance with program rule, policy, or agreement (ESG only)	Up to \$500	Up to \$1,000

Figure 2: 10 TAC §2.302(k)

Penalty table for Multifamily Rental Findings of Noncompliance. These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, the matrix below must be considered in conjunction with the statutory factors at Tex. Gov’t Code §2306.042:

<b>Finding of Noncompliance</b>	<b>Maximum First Time Administrative Penalty assessment</b>	<b>Maximum Administrative Penalty Assessment for a Responsible Party that has previously paid a penalty for the same finding type</b>
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Violations of the Uniform Physical Condition Standards	Up to \$500 for level 3 deficiencies, up to \$250 for level 2 deficiencies, up to \$125 for level 1 deficiencies, plus an optional \$100 per day if level 2 or level 3 deficiencies remain uncorrected 6 months from the corrective action deadline	Up to \$1,000 for level 3 deficiencies, up to \$500 for level 2 deficiencies, up to \$250 for level 1 deficiencies, plus an optional \$200 per day if level 2 or level 3 deficiencies remain uncorrected 6 months from the corrective action deadline
Noncompliance related to Affirmative Marketing requirements described in §10.801 of this title	Up to \$250	Up to \$500,
TDHCA has received notice from HUD, the DOJ, <del>or</del> the TWC, <i>or another party, of a judgement from a court of competent jurisdiction regarding a Fair Housing violation and/or reported general public use violations (unless such violation has already been disclosed in the Annual Owner's Compliance Report).</i> <del>of a judgement from a court of competent jurisdiction regarding a Fair Housing Act Violation and/or reported general public use violation</del>	Up to \$1,000	Up to \$1,000
TDHCA has referred unresolved Fair Housing design and construction issues to the Texas workforce Commission Civil Rights division	Up to \$1,000	Up to \$1,000
Development is not available to the general public because of leasing issues	Up to \$1,000 per day per violation	Up to \$1,000 per day per violation

Development is never expected to comply due to failure to report or allow monitoring	Up to \$1,000 per day	Up to \$1,000 per day
Owner did not allow on-site monitoring or failed to notify residents resulting in inspection cancellation (including failure to appear for review)	Up to \$1,000 per day	Up to \$1,000 per day
LURA not in effect	Up to \$1,000 per day	Up to \$1,000 per day
Project failed to meet minimum set aside	Up to \$1,000 per day	Up to \$1,000 per day
No evidence of, or failure to certify to material participation and/or ownership by a non-profit or HUB, if required by LURA	Up to \$750	Up to \$1,000
Development failed to meet additional state required rent and occupancy restrictions	Up to \$250 per day per violation	Up to \$500 per day per violation
Noncompliance with social service requirements (provision of services)	Up to \$250 per violation, with each required service considered a separate violation	Up to \$500 per violation, with each required service considered a separate violation
Noncompliance with social service requirements (expenditure amounts)	Double the monthly expenditure deficiency, up to a maximum of \$1,000 per day	Triple the monthly expenditure deficiency, up to a maximum of \$1,000 per day.
Development failed to provide housing to the elderly as promised at application	Up to \$5 per day per violation	Up to \$10 per day per violation

Failure to provide special needs housing as required by LURA	Up to \$1,000	Up to \$1,000
Changes in Eligible Basis or Applicable percentage in violation of the IRS 8823 Audit Guide or other IRS guidance	Up to \$1,000 per day per violation	Up to \$1,000 per day per violation
Failure to submit all or parts of the Annual Owner's Compliance Report	Up to \$500	Up to \$1,000
Failure to respond to Compliance Division requests for clarification regarding answers on the Annual Owner's Compliance Report	Up to \$250	Up to \$750
Failure to submit quarterly reports as required by §10.607 of this title	Up to \$100, then and additional \$250 for each subsequent quarter that the report is not received	Up to \$250, then an additional \$500 for each subsequent quarter that the report is not submitted
Noncompliance with utility allowance requirements described in §10.614 of this title and/or Treasury Regulation 26 CFR §1.42-10	Up to \$50 per unit	Up to \$100 per unit
Noncompliance with lease requirements described in §10.613 of this title (relating to failure to execute required lease provisions)	Up to \$500	Up to \$1,000
Noncompliance with lease requirements described in §10.613 of this title (relating to failure to provide lease brochures, guides or notices)	Up to \$250	Up to \$500

described in §10.613 currently including but not limited to the Tenant Rights and Resources Guide)		
Asset Management has reported that Development has failed to establish and maintain a reserve account in accordance with §10.404 of this title	Up to \$1,000	Up to \$1,000
Failure to provide a notary public as promised at application	Up to \$500	Up to \$750
Violation of the Unit Vacancy Rule	Up to \$250 per violation	Up to \$500 per violation
Failure to provide pre-onsite documentation	Up to \$250 per pre-onsite documentation item	Up to \$500 per pre-onsite documentation item
Failure to provide amenity as required by LURA	Up to \$1,000 per violation	Up to \$1,000 per violation, plus \$100 for each subsequent day the violation continues
Failure to pay asset management, compliance monitoring or other required fee	Up to \$250 for the first day plus \$10 per day for each subsequent day the violation continues	Up to \$500 for the first day plus \$50 per day for each subsequent day the violation continues
Change in ownership without department approval (other than removal of a general partner in accordance with §10.406 of this title)	Up to \$1,000 for the first day plus \$100 per day for each subsequent day the violation continues	Up to \$1,000 for the first day plus \$200 per day for each subsequent day the violation continues
Noncompliance with written policy and procedure requirements described in §10.802 of this title (written policy violations)	Up to \$500 per violation	Up to \$1,000 per violation

Noncompliance with written policy and procedure requirements described in §10.802 of this title (notice of termination language requirements)	Up to \$250 per violation	Up to \$500 per violation
Noncompliance with Reasonable Accommodation Policy requirements as described in §10.802 of this title	Up to \$500 per violation	Up to \$1,000 per violation
Program Unit not leased to Low-Income household (either because the household's income exceeds the allowable limit or because the owner did not gather adequate documentation to establish household eligibility)	Up to \$1,000 per violation	Up to \$1,000 per violation
Program unit occupied by nonqualified full-time students	Up to \$1,000 per violation	Up to \$1,000 per violation
Low-Income units used on a transient basis	Up to \$500 per violation	Up to \$1,000 per violation
Violation of the Available Unit Rule	Up to \$500 per violation	Up to \$1,000 per violation
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	Up to \$50 per unit per day	Up to \$150 per unit per day
Failure to provide Tenant Income Certification and documentation	Up to \$100 per violation	Up to \$250 per violation
Unit not available for rent	Up to \$50 per unit per day	Up to \$100per unit per day



Failure to collect data required by §10.612(b)(1) and/or (2) of this title (Annual Eligibility Certifications)	Up to \$50 per violation	Up to \$100 per violation
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to \$1,000 per violation	Up to \$1,000 per violation
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to \$500 per violation	Up to \$1,000 per violation
Violation of the Integrated Housing Rule in 10 TAC 1.15	Up to \$500	Up to \$500
Failure to resolve final construction deficiencies within corrective action period	Up to \$1,000 per violation	Up to \$1,000 per violation
Noncompliance with the required accessibility requirements such as §504 of the Rehabilitation Act of 1973, the 2010 ADA standards or other accessibility related requirements of a Department Rule, including but not limited to those described in Chapter 1, Subchapter B (except those only under the Fair Housing Act for which there is a separate category)	Up to \$1,000 per violation	Up to \$1,000 per violation
Noncompliance with the notice to the Department requirements described in §10.609 of this title	Up to \$500	Up to \$500

Failure to provide a reasonable accommodation under 10 TAC, Chapter 1, Subchapter B	Up to \$1,000 per violation	Up to \$1,000 per violation
Violation of the Fair Housing Act and §1.205 of this Title	Up to \$1,000	Up to \$1,000
Failure to reserve units for Section 811 participants (Section 811 PRA only)	Up to \$750	Up to \$1,000
Failure to notify the Department of the availability of Section 811 units (Section 811 PRA only)	Up to \$750	Up to \$1,000
Owner failed to check criminal history and drug use of household (as required by Department Rule)	Up to \$250	Up to \$500
Failure to use Enterprise Income Verification System (section 811 PRA only)	Up to \$250	Up to \$500
Failure to properly document and calculate adjusted income (section 811 PRA only)	Up to \$500 per violation	Up to \$1,000 per violation
Failure to use required HUD forms (Section 811 PRA only)	Up to \$250	Up to \$500
Accepted funding that limits 811 PRA participation	Up to \$1,000	Up to \$1,000
Failure to properly calculate resident portion of rent (Section 811 PRA only)	Up to \$50 per unit per day	Up to \$150 per unit per day
Failure to use HUD model Lease (Section 811 PRA only)	Up to \$500	Up to \$1,000

Failure to disperse 811 PRA Units according to program requirements (relates to disbursement throughout the Development. Section 811 PRA only)	Up to \$500	Up to \$1,000
Failure to conduct interim certifications (Section 811 PRA only)	Up to \$100 per violation	Up to \$250 per violation
Failure to conduct annual income recertification (Section 811 PRA only)	Up to \$100 per violation	Up to \$250 per violation
Asset Management Division has reported that Development has failed to submit rents for review on an annual basis in accordance with §10.403 of this Title	Up to \$750	Up to \$1,000
Failure to maintain status as a qualified Community Housing Development Organization (CHDO)	Up to \$1,000 + up to \$100 for each day the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to comply
Failure to submit Audit Certification Form, a Single Audit, or other programmatic audit	Up to \$1,000	Up to \$1,000 plus up to \$100 for each day not in compliance
Failure to timely enter into an Information Privacy and Security Agreement	Up to \$1,000 per violation	Up to \$1,000 per violation
Failure to comply with Labor Standards requirements in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000
Failure to comply with displacement policies as required by program rule, policy or agreement	Up to \$500	Up to \$1,000
Casualty loss not corrected during restoration period	Up to \$100 per unit per day	Up to \$500 per unit per day

Unit leased to Household that is not qualified for the Section 811 PRA program	Up to \$500	Up to \$1,000
Failure to submit documentation for mail in review	Up to \$1,000 per day	Up to \$1,000 per day
Noncompliance with CHDO requirements	Up to \$500	Up to \$1,000
Failure to properly calculate security deposit (Section 811 PRA only)	Up to \$250	Up to \$500
Failure to prominently display required Fair Housing Posters (Section 811 PRA only)	Up to \$250	Up to \$500
Failure to comply with Section 3 requirements in 24 CFR 135.34 and 24 CFR 135.5 in accordance with program rule, policy, or agreement	Up to \$500	Up to \$1,000

Figure 3: 10 TAC §2.302(k)

<p><b>Penalty table for Single Family Program Findings of Noncompliance.</b> These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, this matrix must be considered in conjunction with the statutory factors at Tex. Gov't Code §2306.042.</p>		
<b>Finding of Noncompliance</b>	<b>Maximum first time administrative penalty assessment</b>	<b>Maximum administrative penalty assessment for a Responsible Party that has previously paid a penalty for the same finding type</b>
Noncompliance related to Affirmative Marketing requirements	Up to \$500	Up to \$1,000

Program Accessibility violations	Up to \$100 per violation	Up to \$200 per violation
Failure to meet CHDO Board requirements	Up to \$1,000 + up to \$100 for each day the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to comply
Repeated violations of interim loan terms or timeline	Up to \$500	Up to \$1,000
Records retention violations	Up to \$100 per violation	Up to \$200 per violation
Failure to attend required training as required by program rule, policy or agreement	Up to \$100 per violation	Up to \$200 per violation
Providing assistance to households that are not income eligible	Up to \$500	Up to \$1,000
Violations of construction standards	Up to \$500	Up to \$1,000
Violations of property condition standards	Up to \$500	Up to \$1,000
Violation of Conflict of Interest Policies	Up to \$500	Up to \$1,000
Violation of program policies regarding use of funds for sectarian or religious activity	Up to \$500	Up to \$1,000
Failure to comply with Limited English Proficiency ("LEP") policies in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000
Failure to comply with labor standards requirements in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000

Violation of Procurement Requirements	Up to \$1,000 for each service or product not properly procured	Up to \$1,000 for each service or product not properly procured
Failure to comply with Section 3 requirements in accordance with program rule, policy, or agreement	Up to \$500	Up to \$1,000
Failure to comply with displacement policies as required by program rule, policy, or agreement	Up to \$500	Up to \$1,000
Failure to provide Tenant Income Certification and documentation	Up to \$250 per violation	Up to \$250 violation
Failure to collect data required by program rules, policies or agreements	Up to \$50 per violation	Up to \$100 per violation
Failure to provide required documentation or corrections to documentation	Up to \$50 per day	Up to \$150 per day
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to \$500 per violation	Up to \$1,000 per violation
For tenant-based rental programs, Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to \$500 per violation	Up to \$1,000 per violation
For tenant-based rental programs, gross rent exceeds the highest rent by program rule, policy or agreement	Up to \$50 per unit per day	Up to \$150 per unit per day
Failure to return or repay funds to the Department	Up to \$50 per day	Up to \$150 per day

as required by rule, policy or agreements (such as contract termination, assessed penalties, disallowed costs, overpayment, Deobligation, or recapture)		
Failure to meet accessibility requirements	Up to \$1,000 per violation	Up to \$1,000 per violation
Noncompliance with applicable OMB or state financial management requirements	Up to \$500	Up to \$1,000
Failure to timely submit Audit Certification Form	Up to \$250	Up to \$1,000 per violation
Failure to timely submit Single Audit	Up to \$1,000	Up to \$1,000 + up to \$100 for each day not in compliance
Failure to timely enter into an ISPA (Information Privacy and Security Agreement)	Up to \$1,000 per violation	Up to \$1,000 per Violation
Lack of insurance of fidelity bond coverage	Up to \$1,000 + up to \$100 a day for each day not in compliance	Up to \$1,000 + up to \$200 a day for each day not in compliance

SUBCHAPTER D            DEBARMENT FROM PARTICIPATION IN PROGRAMS ADMINISTERED BY THE DEPARTMENT  
RULE §2.401            General

(a) The Department may debar a Responsible Party, a Consultant and/or a Vendor who has exhibited past failure to comply with any condition imposed by the Department in the administration of its programs. A Responsible Party, Consultant or Vendor may be referred to the Committee for Debarment for any of the following:

- (1) Refusing to provide an acceptable plan to implement and adhere to procedures to ensure compliant operation of the program after being placed on Modified Cost Reimbursement;
- (2) Refusing to repay disallowed costs;

- (3) Refusing to enter into a plan to repay disallowed costs or egregious violations of an agreed repayment plan;
- (4) Meeting any of the ineligibility criteria referenced in §11.202 of this title (relating to Ineligible Applicants and Applications) or other ineligibility criteria outlined in a Program Rule, with the exception of: ineligibility related to conflicts of interest disclosed to the Department for review, and ineligibility identified in a previous participation review in conjunction with an application for funds or resources (unless otherwise eligible for Debarment under this Subchapter D);
- (5) Providing fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission with regard to any documentation, certification or other representation made to the Department;
- (6) Failing to correct Events of Noncompliance as required by an order that became effective after the effective date of this rule, and/or failing to pay an administrative penalty as required by such order, within six months of a demand being issued by the Department. In this circumstance, if the Debarment process is initiated but the Responsible Party fully corrects the findings of noncompliance to the satisfaction of the referring division and pays the administrative penalty as required by the order before the Debarment is finalized by the Board, the Debarment recommendation may be cancelled or withdrawn by Committee recommendation and Executive Director concurrence. This type of referral would be initiated by the Secretary;
- (7) Controlling a multifamily Development that was foreclosed after the effective date of this rule, where the foreclosure or deed in lieu of foreclosure terminates a subordinate TDHCA LURA;
- (8) Controlling a multifamily Development and allowing a change in ownership after the effective date of this rule, without Department approval;
- (9) Transferring a Development, after the effective date of this rule, without regard for a Right of First Refusal requirement;
- (10) Being involuntary removed, or replaced due to a default by the General Partner under the Limited Partnership Agreement, after the effective date of this rule;
- (11) Refusing to comply with conditions approved by the Board that were recommended by the Executive Award Review Advisory Committee after the effective date of this rule;
- (12) Having any Event of Noncompliance that occur after the effective date of this rule that causes the Department to be required to repay federal funds to any federal agency including, but not limited to the U.S. Department of Housing and Urban Development; and/or
- (13) Submitting a written certification that non-compliance has been corrected when it is determined that the Event of Noncompliance was not corrected. For certain Events of Noncompliance, in lieu of documentation, the Compliance Division accepts a written certification that noncompliance has been corrected. If it is determined that the Event of Noncompliance was not corrected, a Person who signed the certification may be recommended for debarment;



- (14) Refusing to provide an amenity required by the LURA after the effective date of this rule;
  - (15) Failing to reserve units for Section 811 PRA participants after the effective date of this rule;
  - (16) Failing to notify the Department of the availability of 811 PRA units after the effective date of this rule;
  - (17) Taking "choice limiting" actions prior to receiving HUD environmental clearance (24 CFR §58.22);
  - (18) Substandard construction, as defined by the Program, and repeated failure to conduct required inspections;
  - (19) Repeated failure to provide eligible match. 24 CFR §92.220, 24 CFR §576.201, and as required by NOFA;
  - (20) Repeated failure to report program income. 24 CFR §570.500, 24 CFR §576.407(c), 2 CFR Part 215 (if applicable), and 10 TAC §20.9, or as defined by Program Rule;
  - (21) Participating in activities leading to or giving the appearance of "Conflict of Interest". 2 CFR Part 215 (if applicable), 24 CFR §84.42, §92.356 (if applicable), §570.489, §576.404, 10 TAC §20.9, or as defined by Program Rule;
  - (22) Repeated material financial system deficiencies. 24 CFR §§84.21, 84.43, 85.20, 85.22, 85.36, 92.205, 92.206, 92.350, 92.505, and 92.508 (if applicable), OMB A-110 Relocated to 2 CFR Part 215 (if applicable), OMB A-87 Relocated to 2 CFR Part 225 (if applicable), OMB A-122 Relocated to 2 CFR Part 230 (if applicable), 10 TAC §20.9 and Uniform Grant Management Standards (if applicable) and as defined by Program Rule.
  - (23) Repeated violations of Single Audit or other programmatic audit requirements;
  - (24) Failure to remain a CHDO for Department committed HOME funds;
  - (25) Commingling of funds, Misapplication of funds;
  - (26) Refusing to submit a required Audit Certification Form, Single Audit, or other programmatic audit;
  - (27) Refusing to timely respond to reports/provide required correspondence;
  - (28) Failure to timely expend funds; and
  - (29) A Monitoring Event determines that 50% or more of the client or household files reviewed do not contain required documentation to support income eligibility or indicate that the client or household is not income eligible.
- (b) The Department shall debar any Responsible Party, Consultant, or Vendor who is debarred from participation in any program administered by the United States Government.

(c) Debarment for violations of the Department's Multifamily Programs. The Department shall 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 but not limited to a material or repeated violation of a land use restriction agreement (LURA). Subsection (d) of this section provides the criteria the Department will use to determine if there has been a material violation of a LURA. Subsections (e)(1) and (e)(2) of this section provide the criteria the Department shall use to determine if there have been repeated violations of a LURA.

(d) Material violations of a LURA. A Responsible Party will be considered to have materially violated a LURA, Program Agreement, or condition imposed by the Department and shall be referred to the committee for mandatory Debarment if they;

(1) Control a Development that has, on more than one occasion scored 50 or less on a UPCS inspection;

(2) Refuse to allow a monitoring visit when proper notice was provided or failed to notify residents resulting in inspection cancellation, or otherwise fails to make units and records available;

(3) Refuse to reduce rents to less than the highest allowed under the LURA;

(4) Fail to meet minimum set aside by the end of the first year of the credit period (HTC Developments only) after the effective date of this rule; or

(5) Excluding 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 after the effective date of this rule.

(e) Repeated Violations of a LURA that shall be ~~considered grounds-~~ referred to the Committee for Debarment.

(1) A Responsible Party shall be referred to the Committee for mandatory Debarment if they Control a Development that, during two ~~consecutive~~-Monitoring Events in a row -is found to be out of compliance with the following Events of Noncompliance:

(A) No evidence of, or failure to certify to, material participation of a non-profit or HUB, if required by the Land Use Restriction Agreement;

(B) Any Uniform Physical Condition Standards Violations that result in a score of 70 or below in sequential UPCS inspections after the effective date of this rule;

(C) Refuse to submit all or parts of the Annual Owner's Compliance Report for two consecutive years after the effective date of this rule; or

(D) Gross rents exceed the highest rent allowed under the LURA or other deed restriction.

(2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person

shall be referred to be committee for mandatory will be referred for Debarment if an inspection or referral, after the effective date of this rule, indicates the following:

(A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee; or,

(B) 50% or more of the Actively Monitored Developments in the portfolio score a 70 or less during a Uniform Physical Conditions Standards inspection.

(f) Debarment for violations of all other Department Programs, with the exception of the Non-Discretionary funds in the Community Services Block Grant program. Material or repeated violations of conditions imposed in connection with the administration of Programs administered by the Department. Administrators, Subrecipients, Responsible Parties, contractors, multifamily owners, and related parties shall be referred to the Committee for consideration for Debarment for violations including but not limited to:

(1) 50% or more loan defaults in the first 12 months of the loan agreement after the effective date of this rule;

(4) The following Davis Bacon Act Violations:

(A) Refusing to pay restitution (underpayment of wages). 29 CFR §5.31.

(B) Refusing to pay liquidated damages (overtime violations). 29 CFR §5.8.

(C) Repeated failure to pay full prevailing wage, including fringe benefits, for all hours worked. 29 CFR §5.31.

(2) The following violations of the Uniform Relocation Act and requirements of §104(d):

(A) Repeated failure to provide the General Information Notice to tenants prior to application. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352 and HUD Handbook 1378.

(B) Repeated failure to provide all required information in the General Information Notice. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352 and HUD Handbook 1378.

(C) Repeated failure to provide the Notice of Eligibility and/or Notice of Non-displacement on or before the Initiation of Negotiations date. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, and 24 CFR §570.606.

(D) Repeated failure to provide all required information in the Notice of Eligibility and/or Notice of Non-displacement. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, and 24 CFR §570.606.

(E) Repeated failure to provide 90 Day Notices to all "displaced" tenants and/or repeated failure to provide 30 Day Notices to all "non-displaced" tenants. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, and 24 CFR §570.606.

(F) Repeated failure to perform and document "decent, safe and sanitary" inspections of replacement housing. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, and 24 CFR §570.606.

(G) Refusing to properly provide Uniform Relocation Act or §104(d) assistance. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §570.606 and §104(d) of the Housing & Community Development Act of 1974 - 24 CFR Part 42.

(3) Refusing to reimburse excess cash on hand;

(4) Using Department funds to demolish a homeowner's dwelling and then refusing to rebuild;

(5) Drawing down Department funds for an eligible use and then refusing to pay a properly submitted request for payment to a subgrantee or vendor with the drawn down funds.

(g) The referring division shall provide the Responsible Party with written notice of the referral to the Committee, setting forth the facts and circumstances that justify the referral for Debarment consideration.

(h) The Secretary shall then offer the Responsible Party the opportunity to attend an Informal Conference with the Committee to discuss resolution of the. In the event that the Debarment referral was the result of a violated agreed order or a determination that 50% or more of the Actively Monitored Developments in their portfolio have been referred to the Enforcement Committee, the above written notice of the referral to the Committee and the informal conference notice shall be combined into a single notice issued by the Secretary.

(i) A Debarment Informal Conference may result in the following, which shall be reported to the Executive Director:

(1) A determination that the Department did not have sufficient information and/or that the Responsible Party does not meet any of the criteria for Debarment;

(2) An agreed Debarment, with a proposed agreed order to be prepared and presented to the Board for approval;

(3) A recommendation by the Committee to the Executive Director for Debarment;

(4) A request for further information, to be considered during a future meeting; or,

(5) If Debarment is not mandatory, an agreement to dismiss the matter with no further action, an agreement to dismiss the matter with corrective action being taken, or any other action as the Committee deems appropriate, which will then be reported to the Executive Director.

(j) The Committee's recommendation to the Executive Director regarding Debarment shall include a recommended period of Debarment. Recommended periods of Debarment will be based on material factors such as repeated occurrences, seriousness of underlying issues, presence or absence of corrective action taken or planned, including corrective action to install new responsible persons and ensure they are qualified and properly trained. Recommended periods of Debarment if based upon

HUD Debarment, shall be for the period of the remaining HUD Debarment; or, if based upon criminal conviction, shall be up to ten (10) years or until fulfillment of all conditions of incarceration and/or probation, whichever is greater.

(k) The Executive Director shall accept, reject, or modify the Debarment recommendation by the Committee and shall provide written notice to the Responsible Party of the determination, and an explanation of the determination if different than the Committee's recommendation, including the period of Debarment, if any. The Responsible Party may appeal the Debarment determination in writing to the Board as described in §1.7 of this title (relating to Appeals Process).

(l) The Debarment recommendation will be brought to the next Board meeting for which the matter can be properly posted. The Board reserves discretion to impose longer or shorter Debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause. An action on a proposed Debarment of an Eligible Entity under the CSBG Act will not become final until and unless proceedings to terminate Eligible Entity status have occurred, resulting in such termination and all rights of appeal or review have run or Eligible Entity status has been voluntarily relinquished.

(m) Until the Responsible Party's Debarment referral is fully resolved, the Responsible Party may not participate in new Department financing and assistance opportunities.

(n) Any person who has been debarred is prohibited from participation as set forth in the final order of Debarment for the term of their Debarment. Unless specifically stated in the order of Debarment, Debarment does not relieve a Responsible Party from its current obligations, or prohibit it from continuing its participation in any existing engagements funded through the Department, nor limit its responsibilities and duties thereunder. The Board will not consider modifying the terms of the Debarment after the issuance of a final order of Debarment.

(o) If an Eligible Entity under the CSBG Act meets any of the criteria for Debarment in this rule, the Department may recommend the Eligible Entity for Debarment. However, that referral or recommendation shall not proceed until the termination of the Eligible Entity's status under the CSBG Act has concluded, and no right of appeal or review remains.

**Attachment 2: Preamble, including required analysis, for the adoption of repeal of 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties and Subchapter D Debarment**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 2 Enforcement, Subchapter A General, Subchapter C Administrative Penalties and Subchapter D Debarment, without changes to the proposed text as published in the November 20, 2020, issue of the *Texas Register* (45 Tex Reg 8223). The purpose of the adopted repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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

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

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the adopted repeal would be in effect, the adopted repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption, making changes to the Department's Enforcement activities.

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

3. The adopted repeal does not require additional future legislative appropriations.

4. The adopted repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

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

6. The adopted action will repeal an existing regulation, but is associated with a simultaneous readoption of the rule making changes to an existing activity, the Department's Enforcement activities.

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

8. The adopted repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

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

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the adopted repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

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

PUBLIC COMMENT SUMMARY. The public comment period was held from November 20, 2020, to December 21, 2020, to receive input on the proposed action. No comments on the repeal were received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended sections affect no other code, article, or statute.

**10 TAC Ch 2 Enforcement, Subchapter A, General**

**10 TAC Ch 2 Enforcement, Subchapter C, Administrative Penalties**

**10 TAC Ch 2 Enforcement, Subchapter D, Debarment**

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Update on TDHCA Programs Addressing COVID-19 Pandemic Response  
As of March 4, 2021

This report provides an update on the programs TDHCA has targeted to assist with Texas' response to COVID-19 through reprogramming of existing funds, and through the administration of CARES Act and Coronavirus Relief Bill funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)	Other Notes
<b>EARLY REPROGRAMMING OF EXISTING TDHCA PROGRAM FUNDS</b>								
HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR	NA: Reservation Agreements	3-6 months of rental assistance made available through existing or new HOME subrecipients.  Geography: Available where subrecipients apply. Income Eligibility: Households at or below 80% AMFI based on current circumstances.	All necessary waivers for this activity were authorized by the OOG and HUD via HUD's mega-waiver of April 10, 2020. The HUD waivers were extended by HUD in December 2020 to expire September 30, 2021.	23 contracted administrators representing 120 counties. Recently notified by HUD that arrears is also allowable, administrators were notified, and we are now getting a handful of arrears requests.	No added TDHCA staffing.  No added admin funds.	1,661*  Includes active, pending PCR, and closed activities	Up to \$11,290,076 \$7,917,575* 70.12% \$4,093,352 51.70%	2,209 (households) activities submitted. Includes total served.  * Amount Reserved
Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds	<ul style="list-style-type: none"> <li>Board approval March 2020.</li> <li>Recipients contracts effective: 3/26/20</li> <li>Expenditure Deadline: 8/31/20</li> </ul>	Uses the existing network of Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19.  Geography: Available statewide (excluding CWCCP and CSI <sup>1</sup> ) Income Eligibility: 200% poverty (normally is 125%)	None	Program completed 8/31/20. Final close out reports from 2 subrecipients are still outstanding.	No added TDHCA staffing.  No added admin funds.	9,468 persons	\$1,447,993 1,447,993 100% \$1,430,827 98.9%	38 CAA subs

<sup>1</sup> CWCCP and CSI were omitted from this specific type of award because they have outstanding balances owed to the Department. The counties these two entities cover include: Anderson, Cameron, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall, Van Zandt, and Willacy. It should be noted those counties will receive CSBG services under the CSBG CARES funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Recaptured 2018/2019 HHSP	<ul style="list-style-type: none"> <li>Board approval March 2020.</li> <li>Spend by 8/31/20 for 2018 HHSP funds, and extensions on some 2019 HHSP funds through 12/31/20.</li> </ul>	<p>To allow subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness.</p> <p>Geography: Available 9 largest metro areas. Income Eligibility: Generally 30% AMFI if applicable</p>	Approval from Comptroller granted.	<p>9 of the 9 contracts have been executed by subs.</p> <p>100% of \$88,547 in 2018 funds expended. Remaining funds are 2019 HHSP funds.</p>	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	462 persons	<p>\$239,886</p> <p>\$239,886 100%</p> <p>\$188,608.08 79%</p>	9 subs
<b>CARES ACT FUNDS</b>								
CSBG CARES	<ul style="list-style-type: none"> <li>Board approved April 2020.</li> <li>On 9/3/20 Board programmed 7% in reserve for eviction diversion pilot.</li> <li>Expend 90% by 8/31/22*</li> <li>45 day closeout</li> </ul>	<p>90% to CAAs using regular formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network<sup>2</sup>; 7% for an eviction diversion pilot program; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 200% of poverty (normally is 125%)</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted. 40 out of 40 contracts have been executed. THN and 8 Eviction Diversion contracts have been executed.	THN awarded \$489,970 of their barrier funds to 11 entities covering all six regions of the Balance of State.	<p>1 Art. IX FTE for CSBG reporting</p> <p>1% admin (\$474,560)</p>	63,317 persons	<p>\$48,102,282</p> <p>\$48,102,282 100%</p> <p>\$25,747,574 54%</p>	<p>40 CAA subs</p> <p>* CSBG-CV Discretionary has various deadlines.</p>
LIHEAP CARES	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>By 4/30/21 need to decide on the 9% reserve</li> <li>Expend by 8/30/21</li> <li>45 day closeout</li> </ul>	<p>90% to CEAP subs using regular formula for households affected by COVID-19; 9% to be held in reserve for future emergency use or for subs; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 150% of poverty</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted. Told HHS no WAP w/ CARES. Sent waiver request 5/13/20 to HHS about performance measures for billing history. As of 1/6/21, no response. No 10% Carry Forward applies.	37 out of 37 contracts have been executed.	<p>1 Art. IX FTE for CEAP TA/capacity (Filled)</p> <p>1% admin (\$892,670)</p>	53,884 persons	<p>\$94,023,896</p> <p>\$85,561,744 91%</p> <p>\$20,875,701 24%</p>	37 subs. No subs declined funds. Added program flexibilities to improve assistance to households impacted by Winter Storm Uri.

<sup>2</sup> The award to THN is to address homelessness and those at risk of homelessness as a result of COVID-19.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
CDBG CARES – Phases I, II and III	<p>Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendment in October 2020. A second Plan Amendment was approved by the Board in January 2021.</p> <p>80% of funds must be expended within 3 years of the grant agreement date; remaining 20% by 6 years from the grant agreement date.</p> <p>90-day closeout</p>	<p>Planned Usage: rental assistance in 44 cities/counties; mortgage payment assistance statewide; reimbursement of food expenses; broadband planning; legal services; assistance for providers of persons with disabilities; and possible HMIS data warehouse funds.</p> <p>Geography: \$36.3 million for rental assistance in entitlement areas. \$40,000,886 to be allocated in non-entitlement areas for mortgage assistance. \$29.7 million in mortgage assistance funds also to be regionally allocated to cover the state.</p>	<p>Office of the Governor designated TDHCA as the state agency recipient for all CDBG CARES on June 15, 2020.</p> <p>Plan Amendment reflecting use of these funds was approved by HUD on October 27, 2020. HUD agreement executed. A second Plan Amendment was accepted by HUD on January 15, 2021.</p>	<p>Rental assistance contracts w/ 41 of 44 cities/counties now executed. NOFA for mortgage assistance published on January 29, 2021; applications are due in April. TDHCA is drafting contracts and program documents to implement food distribution, legal services, and assistance for disability provider activities.</p>	<p>CDBG Director position filled. 6 positions filled. May still hire several posted positions.</p> <p>All FTES are Art. IX</p> <p>Up to 7% admin and TA budget (\$9,929,238)</p>	0	<p>1<sup>st</sup> allocation: \$40,000,886 2<sup>nd</sup> Allocation: \$63,546,200 3<sup>rd</sup> Allocation: \$38,299,172</p> <p>Total: \$141,846,258</p> <p>33,793,940.88* 23.8%</p> <p>\$65,377.93 .05%</p>	<p>Income Eligibility: For households at or below 80% of AMI for rental assistance.</p> <p>* Figure represents 41 of the 45 rental assistance contracts.</p>
ESG CARES – Phase I	<ul style="list-style-type: none"> <li>Board approved programming plan on April 2020, and conditional awards on July 23, 2020.</li> <li>Expend by 9/30/22</li> <li>90 day closeout</li> </ul>	<p>Four streams:</p> <ul style="list-style-type: none"> <li>Existing subs were offered 100% to 200% of current contract amount (~\$12.5M)</li> <li>ESG Coordinators decided via local process for their CoC, and awards made in three areas without ESG Coordinators by offering funds to CoC awardees (~\$17.2M)</li> <li>Legal/HMIS (\$1.9M)</li> </ul> <p>Geography: Locations of all funded grantees Income Eligibility: 50% AMI for homeless prevention.</p>	<ul style="list-style-type: none"> <li>HUD mega-waivers accepted.</li> <li>An updated waiver request to HUD was submitted on August 31, 2020. One-Year Plan/ Con Plan amendment to HUD on May 8.</li> <li>Signed HUD grant agreement sent to HUD 5/15/20.</li> <li>Funds live in HUD system 5/22/20.</li> </ul>	<ul style="list-style-type: none"> <li>101 contracts executed</li> <li>3 legal service providers</li> </ul>	<p>3 Art. IX FTE (for all phases of ESG as well)</p> <p>5.4% admin (\$1,818,620)</p>	18,721 persons	<p>\$33,254,679</p> <p>\$32,996,579 99%</p> <p>\$7,835,245.57 24%</p>	<p>This is the first \$1B of national ESG.</p> <p>HMIS/Coordination funds totaling \$417,949 will go to the 8 ESG Coordinators.</p>

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
ESG CARES – Phase II	<ul style="list-style-type: none"> <li>Board approved awards January 14, 2021.</li> <li>Expend by 9/30/22</li> <li>90 Day closeout</li> </ul>	<p>Two streams:</p> <ul style="list-style-type: none"> <li>\$61,031,041 for Homelessness Prevention and Rapid Rehousing.</li> <li>\$274,649 for ESG CARES and HMIS Coordination through each Continuum of Care.</li> </ul>	<p>ESG Guidance issued by HUD on 9/1/20.</p> <p>Plan Amendment submitted to HUD 10/21/20. HUD signed grant agreement on 10/27/2020.</p>	<ul style="list-style-type: none"> <li>50 out of 51 contracts generated for ESG CARES 2 Subrecipients and HMIS lead agencies. Subs are in process of signing.</li> </ul>	<p>FTEs noted under ESG CARES Phase I will be utilized for both phases.</p> <p>5% admin (\$3,232,247)</p>	2	<p>\$64,537,937</p> <p>\$51,766,017 80%</p> <p>\$23,665.50 3.7%</p>	<p>This is the state's share of the second (final) allocation of \$2.96 billion.</p>
Housing Choice Voucher Program Admin	<p>HUD has clarified that expenditure must occur by 6/30/21 (this is an update from a previous noted deadline of 12/31/20). (PIH 2020-08)</p> <p>1<sup>st</sup> Award: \$117,268 2<sup>nd</sup> Award: \$140,871 (8/10/2020)</p>	<ul style="list-style-type: none"> <li>Software upgrades with Housing Pro to allow more efficient remote interface.</li> <li>Landlord incentive payments.</li> <li>Possible damage assistance, PPE expenses, tablets</li> <li>October 2020 Board approved use of funds for retention payments to existing owners to ensure their ongoing participation in the program.</li> </ul>	<p>Received HUD interpretation that using funds for software upgrades are acceptable.</p> <p>\$11,620 was paid for the system purchase. \$68,827 was offered to 87 households for landlord incentives. \$18,000 offered to 53 households for landlord retention payments.</p>	<p>Purchases of Housing Pro upgrades complete. Training underway. Materials for landlord incentives completed.</p>	<p>No added TDHCA staffing.</p>	17 Landlords; 10 new landlord added	<p>\$258,139</p> <p>\$50,216 19.4%</p> <p>\$11,827 (Landlord Payment) 4.6%</p>	<p>\$380M nationally</p>
Housing Choice Voucher Program MVP	<p>12 months of assistance, start date begins whenever we designate with HUD.</p> <p>Orig. Alloc: \$105,034 Supp. Alloc.: \$5,268</p>	<p>15 additional MVP vouchers consistent with our award of MVP, which for us is for the Project Access List.</p> <p>A quarterly supplemental allocation from HUD in the amount of \$5,268 was received on 8/10/2020 to support the 15 vouchers.</p>	<p>None needed.</p>	<p>Received award from HUD. Issued the 15 vouchers on 5/22/20.</p>	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	3 families leased	<p>\$110,302</p> <p>\$1,275 1.2%</p> <p>\$0 0%</p>	<p>Of the 12 households still searching for units, 3 were newly issued the voucher.</p>

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>CORONAVIRUS RELIEF BILL – PART OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2021</b>								
Emergency Rental Assistance (Texas Rent Relief Program)	Signed by the President on December 27, 2020, the bill, tied to the appropriation bill, dedicated funds through Treasury specifically for rental assistance.  Must obligate funds by 9/30/21  Must expend funds by 12/31/21	Program provides up to 15 months of rental and utility assistance including arrears. Households must reapply every 3 months. Is being run by the state directly with no subrecipients. 10% of funds may be used for administrative expenses and Housing Stability services. A 10% set-aside of funds for eviction diversion has been established.  Geography: Available statewide. Income Eligibility: For households at or below 80% of AMI.	Treasury revised previously issued informal guidance on February 22, 2021. Program policies are being adjusted to take advantage of several changes including categorical eligibility.	A vendor to provide the system and staffing of the program was selected in late January. Application acceptance went live on February 15, 2021. A third party vendor to perform quality control and quality assurance services is also being identified.	The filled Director position jointly oversees TRR and CDBG. 7.5 positions filled.  All FTES are Art. IX  Up to 10% budget for admin and housing stabilization services (\$130,811,062)	0	\$1,308,110,629  \$0 0%  \$0 0%	Not noted as obligated (applications are still pending review): requests have been received for payments totaling \$198.3 million representing 56,552 request.
Low-Income Household Water Assistance Program (LIHWAP)	Part of the appropriation bill; provides dedicated funds through HHS for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program  Must obligate funds by: TBD  Must expend funds by: TBD	Program provides funds to assist low-income households that pay a high proportion of household income for drinking water and wastewater services, by providing funds to owners/operators of public water and treatment systems to reduce arrearages charged. No guidance from HHS on the program has been issued. Geography: TBD.  Income Eligibility: TBD.	HHS requires that the governor identify a designated agency. That agency has not yet been identified to be TDHCA but HHS has indicated the program will be similar to LIHEAP and does require that the program coordinate with LIHEAP.	Over the next several weeks, HHS to issue guidance on allocation amounts, procedures for state plans, assurances & certifications, and expectations for reporting.	Temporary positions may be needed – it will depend on HHS program design which has not been released yet  Any FTES will be Art. IX  Admin % not yet known	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$638M Nationally

Note that Section 811 was initially reflected on this report. However, the funds in CARES have been clarified by HUD to be for traditional 811 Project Rental Assistance Contracts, not 811 PRA programs (which is the 811 Program TDHCA operates).

# ACTION ITEMS

3

# ORAL PRESENTATION



4a

BOARD ACTION REQUEST  
FINANCIAL ADMINISTRATION DIVISION  
March 11, 2021

Presentation, discussion, and possible action regarding the Texas State Auditor's Office audit report #21-005 "A Report of the Audit of the Texas Department of Housing and Community Affairs' Fiscal year 2020 Financial Statements".

RECOMMENDED ACTION

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

NOW, therefore, it is hereby

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

BACKGROUND

Audit requirements:

- 1) The Department's governing statute, Tex. Gov't Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Tex. Gov't Code §2306.204 requires an annual audit of the State Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures required audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

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

SAO Report on the "The Audit of the Department of Housing and Community Affairs Fiscal Year 2020 Financial Statements" Report # 21-005 available at:

<https://sao.texas.gov/Reports/Main/21-005.pdf>

- a) FY 2020 Basic Financial Statements (SAO Report # 21-307)
- b) FY 2020 Revenue Bond Program Audit (SAO Report # 21-308)
- c) FY 2020 Computation of Unencumbered Fund Balances (SAO Report # 21-309)
- d) FY 2020 Report on Compliance with the Public Funds Investment Act (SAO Report # 20-311)
- e) FY 2020 Report on Internal Control Over Financial Reporting and on Compliance and Other Matters (SAO Report # 21-310)

The Basic Financial Statements will be available in their entirety at:

<https://www.tdhca.state.tx.us/pdf/fa/20-BasicFinancials.pdf>

The Revenue Bond Program – Basic Financial Statements will be available in their entirety at:

<https://www.tdhca.state.tx.us/pdf/fa/20-Rev-Bond.pdf>

The Computation of Unencumbered Fund Balances will be available in their entirety at:

<https://www.tdhca.state.tx.us/pdf/fa/20-UnencumberedComp.pdf>

4b

**BOARD REPORT ITEM**  
**INTERNAL AUDIT DIVISION**  
**March 11, 2021**

Report on the Meeting of the Internal Audit and Finance Committee

**REPORT ITEM**

Verbal report

5



## TDHCA Outreach and Media Analysis, January 2021

A compilation of TDHCA media analysis designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public, and outreach activities, such as trainings and webinars. The following is an analysis of print and broadcast news, and social media reporting for the time period of January 1 through January 31, 2021 (news articles specifically mentioned the Department).

Total number of articles referencing TDHCA: 23

Breakdown by Medium:<sup>1</sup>

- Print: 7 (Editorials/Columnists = 0)
- Broadcast: 8
- Trade, Government or Internet-Based Publications: 8

Figure 1 News Tone

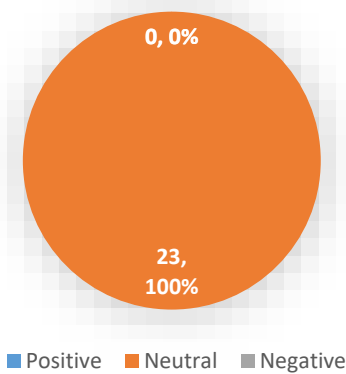
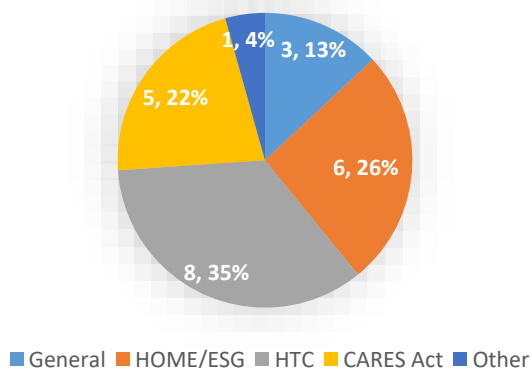
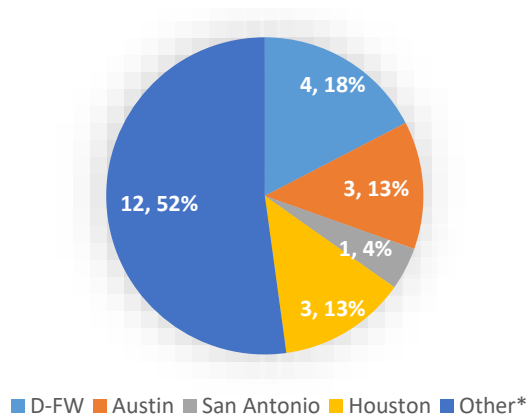


Figure 2 News Topic



<sup>1</sup> Broadcast numbers may represent instances in which TDHCA was referenced on a television or radio station's website, rather than in a specific broadcast news segment

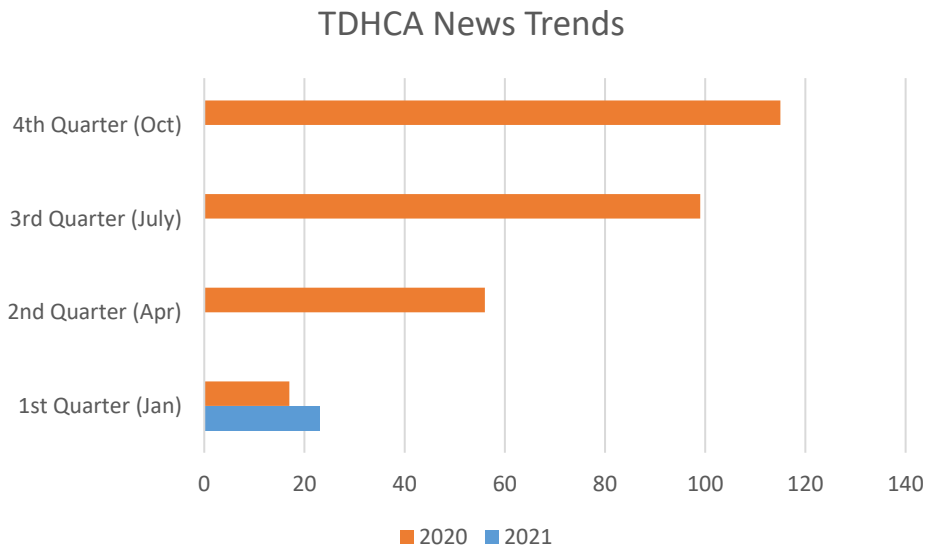
Figure 3 Media Market



**Summary:**

Reporting on Department activities by the news media totaled 23 references in January 2021. News mentions were mixed on topics, but reflected city councils' actions on the 2021 9% HTC cycle; indicative of normal media mentions during the month of January.


There were 0 perceived negative articles related to TDHCA in January. The following table illustrates the number of news mentions during each quarter of 2021 compared to 2020, starting January comparisons first.






**Social media:**

TDHCA outreach through its social media channels, Facebook and Twitter, continues to grow. TDHCA’s Twitter account had more than 1,800 followers and its Facebook account had approximately 2,500 fans. The following is a summary analysis of TDHCA’s efforts to engage stakeholders and the public on federal and state resources, initiatives and programs. In Fall 2020, TDHCA also began posting video recordings to its YouTube channel, with more than 684 views in January.

					
Month/Yr	Posts	Clicks	Engagements	Shared posts	Liked posts
January 2021	50	20	56	20	18

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post

					
Month/Yr	Tweets	Clicks	Engagements	Retweets	Liked posts
January 2021	52	224	13	4	7

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post



Video	Views ↓	Watch time (hours)	Subscribers	Impressions	Impressions click-through rate
<input type="checkbox"/> <b>Total</b>	<b>684</b>	<b>105.8</b>	<b>24</b>	<b>7,760</b>	<b>2.2%</b>
<input type="checkbox"/> TERAP Application Workshop	273 39.9%	29.1 27.5%	12 50.0%	738	7.4%
<input type="checkbox"/> TERAP Implementation Workshop	137 20.0%	27.0 25.5%	2 8.3%	4,124	0.3%
<input type="checkbox"/> 20 IncomeDeterminationTraining	51 7.5%	8.8 8.4%	2 8.3%	182	6.6%
<input type="checkbox"/> Overview of Updates to Compliance, Affirmative Marketing and Writ...	36 5.3%	9.3 8.8%	0 0.0%	184	2.2%
<input type="checkbox"/> TDHCA's Multifamily Direct Loan Training - Sept. 24, 2020	33 4.8%	9.8 9.3%	1 4.2%	248	4.0%
<input type="checkbox"/> Accessing Texas Department of Aging and Disability Services	26 3.8%	1.3 1.2%	0 0.0%	292	4.8%
<input type="checkbox"/> Section 811 PRA Updates for Referral Agents	23 3.4%	2.7 2.6%	0 0.0%	265	4.5%
<input type="checkbox"/> Cost Certification Roundtable - November 18, 2020	17 2.5%	4.1 3.9%	0 0.0%	196	2.0%
<input type="checkbox"/> TDHCA Utility Allowance Roundtable - Oct. 13, 2020	16 2.3%	3.1 2.9%	0 0.0%	223	3.1%
<input type="checkbox"/> Average Income Webinar - Sept. 2, 2020	14 2.1%	5.6 5.3%	1 4.2%	339	1.2%
<input type="checkbox"/> Accessing Texas Department of State Health Services	12 1.8%	0.7 0.6%	1 4.2%	137	7.3%
<input type="checkbox"/> Digital Outreach Webinar	11 1.6%	1.1 1.1%	0 0.0%	181	2.8%
<input type="checkbox"/> Rental Assistance	10 1.5%	0.6 0.6%	0 0.0%	275	1.8%
<input type="checkbox"/> For Sec. 811 Referral Agents - PRA Barrier Busting Funds	8 1.2%	0.7 0.7%	0 0.0%	80	2.5%
<input type="checkbox"/> Virtual Roundtable - TDHCA's Enforcement Rule	8 1.2%	1.6 1.5%	0 0.0%	128	3.1%
<input type="checkbox"/> 2020 04 14 10 00 Fair Housing Month 2020 Assistance Animals	1 0.2%	0.0 0.0%	0 0.0%	50	2.0%
<input type="checkbox"/> Energy Assistance	1 0.2%	0.0 0.0%	0 0.0%	40	2.5%
<input type="checkbox"/> Previous Participation Review 2016	1 0.2%	0.0 0.0%	0 0.0%	32	3.1%

### TDHCA Outreach January 2021

A compilation of outreach activities such as meetings, trainings and webinars.

Department	Meeting Date	Meeting Title	Attendance (including organizer)
Internal Audit	Jan 04, 2021	Review of Loan Doc	2
Internal Audit	Jan 04, 2021	Review of Loan Doc	4
Multifamily	Jan 04, 2021	90 Day Review	4
Program Services	Jan 04, 2021	MF Closing Meeting 1/4	3
Single Family - Homeless	Jan 04, 2021	Statewide HMIS and a Statewide Plan to Address Homelessness	34
Community Affairs	Jan 05, 2021	CCGD Monthly Call	9
Community Development Block Grant	Jan 05, 2021	Second CDBG-CV Amendment to 2019 State of Texas One-Year Action Plan	6
Section 811	Jan 05, 2021	Section 811 PRA Training Seminar	10
Community Affairs	Jan 06, 2021	Conversation with Rebecca Fortin at BVCAP on MPRs	3
Multifamily	Jan 06, 2021	State Low Income Housing Plan Public Hearing	9
Program Services	Jan 06, 2021	MF/PS Loan Closing	8
Community Affairs	Jan 07, 2021	Field Guide Discussion	3
Fair Housing	Jan 08, 2021	Fiscal Note Training Session Option 2 of 2	25
Community Affairs	Jan 11, 2021	CACOST WH Discussion	2
Community Development Block Grant	Jan 11, 2021	Texas Emergency Rental Assistance Program (TERAP) Implementation Workshop	134
Bond Finance	Jan 12, 2021	Cancelled Loans (Recorded Seconds)	5
Community Affairs	Jan 12, 2021	HCV Sec	5

Single Family - Homeless	Jan 12, 2021	ESG CARES 1 application details	6
Community Affairs	Jan 13, 2021	TACAA Meet and Greet with Victoria	3
Program Services	Jan 13, 2021	MF/PS Loan Closing	9
Single Family - Homeless	Jan 13, 2021	Meet Now	4
Executive	Jan 14, 2021	Texas Department of Housing and Community Affairs Governing Board Meeting	139
Home Ownership	Jan 14, 2021	Monthly Lender Lunch & Learn Series	98
Bond Finance	Jan 15, 2021	LIBOR Settlement	4
Community Development Block Grant	Jan 15, 2021	CDBG-CV Funds for Disability Services Providers	9
Community Development Block Grant	Jan 19, 2021	TDHCA CDBG-CV Meeting	8
Single Family - Homeless	Jan 19, 2021	Homeless Updates3	15
Community Development Block Grant	Jan 20, 2021	TDHCA CDBG-CV Meeting	3
Housing Resource	Jan 20, 2021	TDHCA 101	12
Community Affairs	Jan 21, 2021	GETCAP T&TA Degradation Calc. input for Packaged HVAC system & Forms	2
Community Development Block Grant	Jan 21, 2021	TDHCA CDBG-CV Meeting	2
Community Development Block Grant	Jan 21, 2021	TDHCA CDBG-CV Meeting	2
SF and Homeless Programs	Jan 21, 2021	Texas Interagency Council for the Homeless (TICH) Meeting	21
Section 811	Jan 21, 2021	Section 811 PRA Housing Meeting	13
Program Services	Jan 22, 2021	MF/PS Loan Closing 1/22	7

Community Affairs	Jan 25, 2021	West Texas Opportunities Fiscal Consultation Kickoff	4
Program Services	Jan 26, 2021	HTC training for Rural Housing Services	52
Community Development Block Grant	Jan 26, 2021	ESG CARES 2 Implementation - Returning Subs	105
Internal Audit	Jan 26, 2021	Entrance Conference	5
Community Affairs	Jan 27, 2021	EPCAP DOE Monitoring Review	7
Community Affairs	Jan 27, 2021	EPCAP DOE Monitoring Review	2
Community Development Block Grant	Jan 27, 2021	TDHCA CDBG-CV Meeting	7
Community Development Block Grant	Jan 27, 2021	ESG CARES 2 Implementation - New Subs	121
Housing Resource Center	Jan 27, 2021	Housing & Health Services Coordination Council (HHSCC) Quarterly Meeting	26
Program Services	Jan 27, 2021	MF/PS Loan Closing	8
Bond Finance	Jan 28, 2021	Bond Finance Update	5
Fair Housing	Jan 28, 2021	Queries, Access and whatnot	18
CAPL	Jan 29, 2021	TDHCA-CSBG and TWC-WIOA Coordination Meeting - TDHCA Presentation	13
Community Development Block Grant	Jan 29, 2021	TDHCA CDBG-CV Meeting	7
Multifamily	Jan 29, 2021	Filling in IRS 8610	5

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**BOARD ACTION REQUEST**

**SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action on the proposed amendments to 10 TAC Chapter 7 Subchapter C, Section 7.33, Apportionment of ESG Funds, concerning the Emergency Solutions Grants, and directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

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

**WHEREAS**, staff proposes amendments to 10 TAC Chapter 7, Subchapter C, Section 7.33, Apportionment of ESG Funds;

**WHEREAS**, the proposed amendments would allow funding from the 2021 Emergency Solutions Grants (ESG) allocation to be awarded to existing Subrecipients awarded from the 2020 ESG allocation, to potentially be awarded to some existing Subrecipients of ESG CARES funding, and to clarify minimum requirements for an award of 2021 ESG funds;

**WHEREAS**, staff recommends to the Board that there is a need for these rule sections to be codified to assist Applicants for ESG funding in planning and preparation of requests for funds, and to assist subrecipients of ESG funds in administration of their grant; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the proposed amendment to 10 TAC Chapter 7 Subchapter C, Section 7.33 Apportionment of ESG Funds, together with the preamble presented to this meeting, are hereby approved for publication in the *Texas Register* for public comment; and

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal and proposed new 10 TAC Chapter 7, Subchapter C, Section 7.33, Apportionment of ESG Funds; and directing that it be published for public comment in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

## **BACKGROUND**

The ESG Program is a HUD-funded program designed to assist people experiencing homelessness or at-risk of homelessness to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness.

The proposed amendments to 10 TAC Chapter 7, Subchapter C, Section 7.33, Apportionment of ESG Funds, is proposed to establish that the 2021 allocation ESG funds to the Department will not be subject to a competitive application cycle. Contracts committing funds would instead be offered to eligible subrecipients who competed for and received an award of funds under the 2020 ESG allocation. The amendment outlines minimum requirements for recipients of 2020 ESG funds to receive an award of 2021 funds, and clarifies that ESG CARES Subrecipients are eligible for ESG annual funds if additional funds remain after the 2021 ESG annual funds have been offered to 2020 ESG annual Subrecipients.

On March 27, 2020, the CARES Act was signed into law. The CARES Act provided for \$4 billion to be distributed through the ESG Program nationally and includes waivers of certain provisions of the ESG regulations. Of this amount, approximately \$97 million was allocated to Texas. For context, the 2020 ESG annual allocation was approximately \$9.6 million. It is anticipated that the 2021 allocation of ESG will be approximately level with the 2020 allocation.

In 2020, the Department administered one competitive application cycle for funding for ESG annual funds, in addition to three application cycles for funding for ESG CARES. For the 2021 allocation of ESG, staff recommends these proposed amendments to ensure that the network of existing ESG Subrecipients is maintained. Funding awarded under ESG CARES is not subject to the same requirements as the regular ESG program, including Match requirements and caps on the percentage of funding that may be utilized for Street Outreach and Emergency Shelter. Staff recommends offering an award to existing Subrecipients from the 2021 allocation of ESG in order to ensure that this more restrictive source of funds is fully utilized, and to offer potential Subrecipients adequate time to plan for the use of these funds.

Staff recommends establishing minimum threshold requirements for ESG Subrecipients prior to offering an award of 2021 ESG funds. An ESG Subrecipient would be ineligible for funding if it:

- (1) does not submit an Application for funding within 21 days of the request from TDHCA;
- (2) does not resolve administrative deficiencies per §7.37 of this Subchapter within the timeframe and in the manner outlined in that section;
- (3) has four or more months of delinquent monthly reports for its existing contract from 2020 ESG funds;
- (4) does not satisfy the requirements of the Previous Participation Review;
- (5) has unresolved monitoring findings after the corrective action period; or
- (6) is not approved by the Department's Governing Board.

If funds remain after offering 2021 ESG awards to existing Subrecipients, and increasing awards to 2020 ESG Subrecipients that were awarded a portion of their original request, the amendment allows for awards to ESG CARES Subrecipients with the highest expenditure rates in regions where the 2021 allocation was not fully awarded, so long as they are able to provide

the required matching contribution of 100% of the award. Funds may also be retained by the Department for subgrants for specific ESG eligible activities, such as legal services.

This award process will also be reflected in the 2021 Consolidated Plan One Year Action Plan. Attached are the proposed preambles and the proposed amendments to 10 TAC §7.33.



## **Attachment A: Preamble for proposed amendments to 10 TAC §7.33, Apportionment of ESG Funds**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC §7.33, Apportionment of ESG Funds. The purpose of the proposed amendments is to provide compliance with Tex. Gov't Code §2306.053 and to update the rule to allow the Department to offer an award of funds to existing ESG Subrecipients from the Department's 2021 allocation of Emergency Solutions Grants program funds from the US Department of Housing and Urban Development.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset. The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

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

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

1. The proposed amendments do not create or eliminate a government program. These amendments provide the framework for selection of ESG subrecipients for a year in which allocated funds are to be awarded to existing subrecipients rather than through a new competition for funds.
2. The proposed amendments do not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed amendments do not require additional future legislative appropriations.
4. The proposed amendments will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed amendments are not creating a new regulation, except that it is amending a rule.
6. The proposed amendments will not limit or repeal an existing regulation, but can be considered to "expand" the existing regulations on this activity because criteria are added to determine eligibility for new funding for existing subrecipients. However, this addition to the rule is necessary to ensure compliance with federal regulations governing the ESG Program.
7. The proposed amendments will neither increase nor decrease the number of individuals subject to the rule's applicability as all persons covered by the rule are existing subrecipients already subject to the rule.
8. The proposed amendments will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.** The Department, in drafting these proposed amendments, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory powers and duties of the Department outlined in Tex. Gov't Code §2306.053.

1. The Department has evaluated these proposed amendments and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that because the proposed amendments are only applicable to nonprofits and local governments that are eligible subrecipients of ESG funds; there will be no economic effect on small or micro-businesses or rural communities.

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

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

The Department has evaluated the proposed amendments as to their possible effects on local economies and has determined that for the first five years the amendments will be in effect, the proposed amendments have no economic effect on local employment because the proposed amendments only apply to an established grant; therefore, no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the amount of funding is neither increased nor decreased, and these amendments only provide clarification for administration of an existing grant program, there are no probable effects of the proposed amendments on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of the proposed amendments will be an updated and more germane rule. There will not be any economic cost to any individuals required to comply with the amended rule because the processes described by the rule may streamline the existing award process, and this amendment provides clarity on application of an existing rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the proposed amendments does not have any foreseeable implications related to costs or revenues of the state or local governments this rule only provides clarification for administration of an existing grant program.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held from March 19, 2021, to April 22, 2021, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 77113-3941, by fax to (512) 475-0220, or email [abigail.versyp@tdhca.state.tx.us](mailto:abigail.versyp@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, April 22, 2021.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amendments affect no other code, article, or statute.

**RULE §7.33 Apportionment of ESG Funds**

(a) The Department will retain funds for Administrative activities. A portion of these Administrative funds in an amount not to exceed .25% of the Department's total allocation of ESG funds may be retained by TDHCA to procure entities to administer a Local Competition for funding within a CoC region. Funds for Administrative or Program Participant services may be retained by TDHCA to subgrant specific ESG activities, such as legal services. Additionally, if

(b) If the Department receives ESG funding from HUD that has additional activity or geographic restrictions, the Department may elect not to use the Allocation Formula. Retained funds are not subject to the Allocation Formula.

~~(b)~~ ESG funds not retained for the purposes outlined above will be made available by CoC region based on an Allocation Formula. Allocation Formula factors noted in paragraphs (1) - (4) of this subsection will be used to calculate distribution percentages for each CoC region as follows:

(1) Fifty percent weight will be apportioned to renter cost burden for Households with incomes less than 30% Area Median Family Income (AMFI), as calculated in the U.S. Department of Housing and Urban Development's (HUD) Comprehensive Housing Affordability Strategy;

(2) Fifty percent weight will be apportioned for the number of persons in poverty from the most recent five-year estimate of the American Community Survey released by the U.S. Census Bureau;

(3) Fifty percent weight will be apportioned to point-in-time counts, which are annual counts of sheltered and unsheltered persons experiencing homelessness on one day during the last two weeks of January as required by HUD for CoCs. If a CoC did not conduct a point-in-time count or only completed a partial point-in-time count, the results of the most recent point-in-time count conducted that covered both the sheltered and unsheltered persons experiencing homelessness will be utilized for the purposes of the Allocation Formula; and

(4) Negative 50% weight will be apportioned based on a total of all ESG funding allocated by HUD to local jurisdictions within the CoC region, and ESG funding awarded by the Department within the region from the previous fiscal year.

~~(d)~~ Each CoC region is allocated a minimum amount of \$100,000. This is accomplished by taking the amounts of all regions with over \$100,000 during the initial allocation and redistributing a proportional share to the regions with less than \$100,000. If the Department

distributes by Allocation Formula less than the amount required to provide all regions with \$100,000, than the funds will be split evenly among the CoC regions.

~~(d)~~ Those ESG funds allocated based on the formula in subsection (b) of this section will be made available for the provision of Program Participant services, and will be made available through a NOFA which may be released on an annual or biennial basis.

(1) Not more than 60% of allocated funds may be awarded for the provision of street outreach and emergency shelter activities.

(2) Contract funding limits include the funding request for all Program Participant services proposed in the Application, HMIS, and Administrative funds.

(A) Applicant must apply for an award amount of at least \$50,000 and not more than \$300,000 for all Program Participant services proposed in the Application.

(B) Funds awarded for HMIS are limited to 12% of the amount of funds awarded for Program Participant services.

(C) Administrative activities are limited to three percent of the amount of funds awarded for Program Participant services.

~~(e)~~ ESG funds that have been deobligated by the Department or that have been voluntarily returned from an ESG Contract may be reprogrammed at the discretion of the Department, and are not included in the Allocation Formula or award process detailed in subsections ~~(b)~~-~~(c)~~-~~(e)~~ or ~~(g)~~-~~(m)~~ of this ~~section~~Section.

(g) ESG funds received by the Department from HUD for its 2021 annual allocation of funds will be allocated in accordance with the Allocation Formula (less the amount retained for the Department's Administrative activities), but are not subject to the award process and requirements outlined in §7.38 of this Subchapter related to Award and Funding Process for Allocated Funds.

(h) The 2021 allocation of ESG funds received by the Department will be offered to eligible Subrecipients of ESG funds that were awarded funds under the 2020 ESG NOFA. A 2021 ESG Applicant is ineligible for funding if it:

(1) does not submit an Application for funding within 21 days of the request from TDHCA;

(2) does not resolve administrative deficiencies within the timeframe and in the manner outlined in §7.37 of this Subchapter related to the Application Review and Administrative Deficiency Process for Department NOFAs;

(3) has four or more months of delinquent monthly reports for the Contract for under the 2020 ESG NOFA or if the Applicant has no contract issued under that NOFA, than the existing

Contract(s) for ESG Coronavirus Aid Relief and Economic Security (CARES) funds per §7.5(b) of this Chapter;

(4) does not satisfy the requirements of the Previous Participation Review as provided for in §1.302 of this Title, regarding Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter;

(5) has unresolved monitoring findings in any TDHCA funded program after the corrective action period; or

(6) is not approved by the Department's Governing Board.

(i) Any offer of 2021 ESG funds made under this Section is contingent on retaining similar terms and conditions or agreeing to adjustments reflective of funding amount, including but not limited to performance and match requirements, in the Contract issued under the 2020 ESG NOFA.

(j) If the total amount of the 2021 ESG funding allocated to TDHCA (less the amount available for TDHCA's Administrative activities) is less than 100% of the award amounts of the Contracts issued under the 2020 ESG NOFA, offers of funding will be proportionally reduced based on the total reduction in the amount of the 2021 allocation.

(k) If the total amount of the 2021 ESG funding allocated to TDHCA is equal to or greater than the 2020 ESG allocation, or if there are funds available from reduced awards (e.g. an Applicant is ineligible or accepts less than the full offer of 2021 ESG funding), this subparagraph will apply. If the federal cap of no more than 60% of funds being used for emergency shelter/street outreach (or other federal limitation) for the 2021 ESG funds would be exceeded based on all awardees from the 2020 ESG NOFA accepting a potential offer of 2021 funds, a reduced award may be offered to ensure the cap is not exceeded. All other offers of funds would then be limited to ESG Applicants providing rapid re-housing and homelessness prevention program components, or other activities which are not subject to a federal cap.

(A) ESG Subrecipients that received an award under the 2020 ESG NOFA will be offered an award amount up to 100% of their 2020 ESG Contract award amount, prior to amendments.

(B) Excess amounts will be offered to ESG Subrecipients awarded under the 2020 ESG NOFA that received a partial award of funds, up to their original request. The funds will be divided among all ESG Subrecipients with partial awards under the 2020 ESG NOFA. This proportional share, or the amount needed to increase the partial awards up to the original Application request, whichever is less, will be offered to these Subrecipients. If this process results in one or more Subrecipients receiving funds adequate to fulfill the original Application request, the funds in excess of the full award amount will be offered again to the remaining Subrecipients with a partial award. This process will continue until all partial awards of these Subrecipients are funded up to the original Application request, or until excess amounts are exhausted.

(C) Any remaining 2021 ESG funds may be offered to ESG CARES Subrecipients in regions where the full allocation of 2021 ESG funds were not fully utilized, or may be retained by TDHCA to subgrant to specific ESG activities, such as legal services. All Applicants must be able to satisfy the eligibility requirements of Subsection (h) of this Section (except that instead of late reports of ESG funding late reports of ESG-CV will be used), and must agree to provide Match in the amount of 100% of the award of 2021 ESG funds.

(l) An ESG Applicant may have the right to appeal funding decisions per 10 TAC §1.7 of this chapter (relating to the Appeals Process).

(m) The Department reserves the right to negotiate the final Contract amount and local Match requirement with an Applicant.

6b

**BOARD ACTION REQUEST**  
**SINGLE FAMILY AND HOMELESS PROGRAMS**  
**MARCH 11, 2021**

Presentation, discussion, and possible action on a transfer and change of final eligible use for property purchased under the Neighborhood Stabilization Program to the City of Dallas for creation and expansion of municipal parkland

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department or TDHCA) entered into a Neighborhood Stabilization Program 1 (NSP1) Reservation System Agreement with Urban Progress Community Development Corporation Texas, Inc. (UPCDC) on March 1, 2013, for the acquisition of 23.5 acres of Land Bank property in Dallas County to be developed into 30 multifamily units as its final eligible use;

**WHEREAS**, on September 10, 2019, UPCDC assigned its duties and responsibilities under the Agreement to City Wide Community Development Corporation (CWCDC) and CWCDC assumed the obligations under the associated loan documents with consent from the Department;

**WHEREAS**, on January 16, 2020, the Board authorized a modification of the project to change the scope of the project and the final eligible use from multifamily development to redevelopment of homebuyer housing, and a donation of a portion of the site which was not eligible for housing development to the City of Dallas for municipal parkland and a community center;

**WHEREAS**, the Board's approval of the redevelopment plan included a six-month deadline by which CWCDC was required to secure additional financing for non-NSP eligible costs and documentation necessary for finalization of the underwriting for the development and this deadline was not met;

**WHEREAS**, the Department has not identified another eligible entity to develop housing to be sold to homebuyers and that has the capacity to secure additional financing for non-NSP eligible costs and expansion of the planned municipal parkland will provide an overall benefit to the existing neighborhood; and

**WHEREAS**, staff has consulted with CWCDC and the City of Dallas and reached agreement that the entire tract, rather than just the portion not suitable for housing development, would be well-suited as municipal parkland, which is an eligible final use under the NSP Program;



**NOW, therefore, it is hereby**

**RESOLVED**, that the Department grants permission to assist CWCDC with the transfer of the property to TDHCA, and the termination of any loan associated with the property;

**FURTHER RESOLVED**, that the Department may engage with the City of Dallas to effectuate the transfer of the property to the City of Dallas for the purposes of designation as municipal parkland as a public benefit; and

**FURTHER RESOLVED**, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to amend agreements, and associated loan documents to enable full, timely, and compliant contract completion and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing.

#### **BACKGROUND**

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by H.R. 3221, the Housing and Economic Recovery Act (HERA) of 2008, as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop, or acquire and hold, abandoned and foreclosed properties in areas with declining property values resulting from excessive foreclosures.

On March 1, 2013, the Department awarded UPCDC \$1,871,100 from the TDHCA NSP1 allocation for construction of up to 30 multifamily rental units (part of a total of 927 units) in Kleberg Village, Dallas County. \$1,485,000 of the \$1,871,100 award was used to acquire 23.581 acres of land. Unfortunately, UPCDC was not able to complete the project and worked proactively with local developer, CWCDC, to transfer ownership of the Land Bank property with TDHCA's guidance. On September 10, 2018, CWCDC formally assumed the responsibility under the contract and the loan documents for the NSP project.

On January 16, 2020, the Board authorized a modification of the project to change the scope of the project and the final eligible use from multifamily development to redevelopment of homebuyer housing, and a donation of a portion of the site which was not eligible for housing development to the City of Dallas for municipal parkland and a community center because a large portion, approximately 11 acres, of the property fell into the floodplain. Additionally, the Board authorized forgiveness of approximately \$758,297 of the original loan amount, and an award of up to \$700,000 to CWCDC for interim construction funding. The loan forgiveness was expected to assist with the financial feasibility considering the reduced scope of the development. The award for interim construction funds was contingent on submission of an approved development plan, including an updated environmental review, an underwriting review, and completion of financing arrangements with other lenders or funders for the development. The Board authorized a six-month period for completion of the development plan, with an extension of an additional six months available to CWCDC available for good cause.

When the board action was approved, it was also conditioned on CWCDC clearing an existing suit for unpaid property tax in the amount of \$4,697.19. Ultimately, these taxes were paid and the suit was cleared; however, the remaining items needed to move forward were not submitted timely. Staff held discussions with CWCDC throughout this period, and CWCDC and staff agree that the best course of action for this property would be donation of the entire tract to the City of Dallas for designation as municipal parkland rather than the original proposed 11 acres. The homebuyer activity was not considered as effective of a solution because the Department has not identified another eligible interested party to develop homebuyer units that is also able to secure the necessary financing for non-NSP eligible costs. Additionally, expansion of the planned use of portions of the site will provide an overall benefit to the existing residents of the neighborhood.

This property is uniquely situated between two existing parks, and each park has an existing trail system in place. The addition of this property to the park system would allow for a cohesive trail system. The City of Dallas has indicated that they are interested in accepting the property from TDHCA. The property would then be designated as municipal parkland, which will meet a National Objective as Public Facilities use under the NSP. The Department would file a land use agreement for the parkland, which will be done prior to transferring to the City of Dallas. Additionally, the deed for the property would include a reversionary clause which would transfer the property back to the Department in the event the property was not properly designated by the City of Dallas and maintained as parkland during the use period.

7

**BOARD REPORT ITEM**  
**TEXAS HOMEOWNERSHIP DIVISION**  
**MARCH 11, 2021**

Housing Finance Activity Report

**BACKGROUND**

The Texas Homeownership Division is primarily responsible for the creation, oversight, and administration of the Department's homeownership programs, which are designed to provide affordable financing options for low-to-moderate income homebuyers. This is accomplished through the issuance of tax-exempt and taxable single family mortgage revenue bonds, and through the Department's Taxable Mortgage Program (TMP).

Currently, the Department offers the following statewide options to homebuyers. Please note that conventional loans had been temporarily suspended (reinstated on December 1, 2020) due to potential fees imposed by Fannie Mae with respect to loans that enter forbearance as a result of COVID-19.

- **My First Texas Home Program.** Offers expanded mortgage loan opportunities to qualifying first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. All loans originated through the program are tax-exempt eligible, meeting Internal Revenue Service (IRS) requirements for inclusion in a tax-exempt bond issue or for receipt of a Mortgage Credit Certificate (MCC). As such, borrowers using this option must be first-time homebuyers (cannot have had an ownership interest in a primary residence within the last three years or must qualify for a veteran or targeted area exception), and borrower income and the purchase price of the home must be within IRS designated limits. Continuous funding for this program is provided through the issuance of tax-exempt single family mortgage revenue bonds (SFMRBs) and through TMP. The Department's SFMRBs typically offer borrowers multiple options, with at least one option providing down payment and closing cost assistance provided by the Department. Down payment and closing cost assistance is secured by a 30-year, non-amortizing, 0% interest second loan that is due upon sale of the property or refinance of the first loan. Loans funded with TMP include loans accompanied by an MCC (the IRS does not permit these loans to be included in SFMRBs) and tax-exempt eligible loans that are not used as collateral for SFMRBs.
- **My Choice Texas Home Program.** Offers mortgage loan opportunities to qualifying first-time and non-first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. Down payment and closing cost assistance is provided with each loan. While the same income and purchase price limits applicable to the My First Texas Home Program apply, income eligibility is based on the standard credit

qualifying (1003) income instead of IRS methodology. Because all loans are funded through TMP, no IRS recapture provisions apply.

- Texas Mortgage Credit Certificate (MCC) Program.** Makes homeownership more affordable by providing first-time homebuyers a federal income tax credit, reducing the homebuyer’s potential federal income tax liability. By having an MCC, the homebuyer has the ability to convert a portion of their annual mortgage interest into a direct income tax credit on their U.S. individual income tax return. The credit may be applied for the life of the loan, as long as the home remains the borrower’s primary residence. The Texas MCC option is offered in combination with a My First Texas Home mortgage loan (TBA funding only), referred to as Combo loans for discussion and reporting purposes; or as a stand-alone option combined with any FHA, VA, USDA, or conventional fixed rate mortgage loan. The Department’s MCC Program offers MCC Credit Rates of 30% (for loan amounts up to \$175,000 and subject to the \$2,000 annual maximum credit) and 20% (for loan amounts greater than \$175,000, which has no annual maximum credit amount).

**Income and Purchase Price Limits for All Loan Options.** The Maximum income for all loan options is 100% of Area Median Family Income (AMFI) for households of one or two persons, and 115% of AMFI for households of three persons or more. The maximum purchase price is 90% of the average area purchase price. The Income and Purchase Price Limits Table is available on the Department’s website at <https://thetexashomebuyerprogram.com/uploads/limits.pdf>, and an example, reflecting the limits with respect to loans originated in the Austin, Round Rock MSA is provided below.

Example	Income Limits		Maximum Purchase Price
	Households of 1-2 persons (100% AMFI)	Households of 3 persons or more (115% AMFI)	90% of Average Area Purchase Price
Location			
Austin, Round Rock MSA	\$ 97,600	\$ 112,240	\$ 359,460

*Higher income and purchase price limits apply with respect to homes purchased in targeted areas, which are areas of severe economic distress.*

**IRS Recapture.** Loans that are financed through SFMRBs and loans that receive an MCC are subject to IRS recapture provisions. Under certain circumstances, a borrower may owe a recapture tax to the IRS. To owe any recapture tax at all, the borrower must (1) sell the MCC- or MRB-financed home **at a gain** within nine years of purchase, **AND** (2) earn significantly more income than when the home was purchased (generally more than 5% increase in income per year). Both of these criteria must be met before a borrower has a recapture liability. In addition, the recapture liability cannot exceed the amount of the borrower’s gain on the sale of the home.

**Current Mortgage Rates and Terms.** The following table details the Department’s loan options and mortgage rates as of March 1, 2021. Down payment and closing cost assistance (DPA) is provided as a 30-year, non-amortizing, 0% interest second mortgage loan that is due on sale or refinance.



Rate Notice and Available Options 3/01/2021	Loans with Down Payment Assistance						Unassisted Loans
	Government Loans (FHA, USDA, VA)				Fannie Mae Preferred Available only with My Choice Texas Home Taxable Loans <i>At or Below 80% AMFI</i>		Government Loans (FHA, USDA, VA)
Amount of DPA Provided	2 Points DPA	3 Points DPA	4 Points DPA	5 Points DPA	3 Points DPA	5 Points DPA	No DPA
<b>My First Texas Home Program</b>	First-Time Homebuyer requirement; considers the income of all person(s) who will sign the Deed of Trust (including Non-Purchasing Spouse).						
My FIRST Texas Home Bond Eligible Loans, No MCC	2.875%	3.000%	3.125%	3.375%	N/A		Unassisted Funds available with Bond Program only
My FIRST Texas Home Combo Loans with MCC	3.125%	3.250%	3.250%	3.625%	N/A		
<b>My Choice Texas Home Program</b>	No First-Time Homebuyer requirement; considers the standard lender income calculation (1003/credit qualifying income).						
My CHOICE Texas Home Taxable Loans, No MCC	3.125%	3.250%	3.250%	3.625%	3.375%	3.750%	N/A
<b>Mortgage Credit Certificate (MCC) Program</b>							
My FIRST Texas Home Combo Loans and Stand-Alone MCCs	<b>MCC Credit Rate is Based on Loan Amount</b> Loans at or below \$175,000 - 30% MCC Credit Rate with a \$2,000 annual maximum tax credit Loans above \$175,000 - 20% MCC Credit Rate with no annual maximum tax credit						
<b>APPLICABLE TO ALL LOANS ORIGINATED THROUGH THE ABOVE TBA AND BOND OPTIONS</b>							
Minimum FICO Score	620			Loans must be purchased within 60 days of the date reserved. Extensions are available at the following cost:			
Max DTI	50%						
Origination Points	0%						
SRP to Lender	2.75%						
Program Compliance Fee	\$275						
Tax Service Fee	\$85						
MCC Issuance Fee	\$400	All MCCs, Combo and Stand-Alone					
Loan Review and Acquisition Fee	\$150						
<b>APPLICABLE TO FNMA LOANS</b>							
Reservations will not be accepted for FNMA loans greater than 80% of AMFI. See Program Income Table for guidelines. All FNMA loans at or below 80% of AMFI must be registered as MY CHOICE Texas Home Taxable Loans, No MCC.							
<a href="https://thetexashomebuyerprogram.com/uploads/limits.pdf">https://thetexashomebuyerprogram.com/uploads/limits.pdf</a>							

The attached Housing Finance Activity Report reflects activity for each available homeownership option for calendar year 2020 – Quarter 4 (October 1, 2020 – December 31, 2020), entire calendar year 2020, aggregate loan activity over a 12-month period, and a map that reflects Texas counties served.

# TDHCA Housing Finance Activity Quarter 4-2020



## Borrowers Served

# 4,168

(Financed and/or MCC Issued)  
Increase of 57% from  
Quarter 4-2019

## Homes Financed

# 3,727

Increase of 63% from  
Quarter 4-2019

## First Mortgages

# \$725.5 Million

Increase of 77% from  
Quarter 4-2019

## MCCs Issued

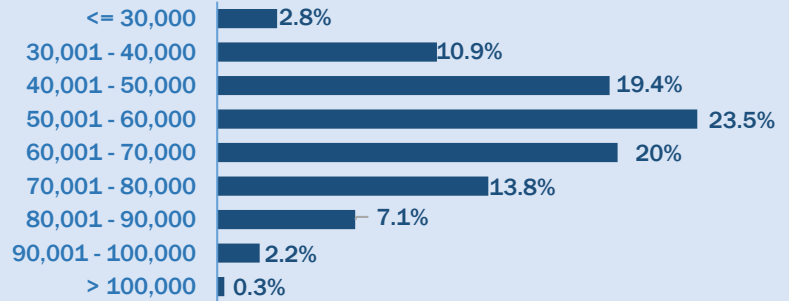
# 1,061

Increase of 43% from  
Quarter 4-2019

620 MCC and First Mortgage  
441 Stand-alone MCC

## Income Distribution

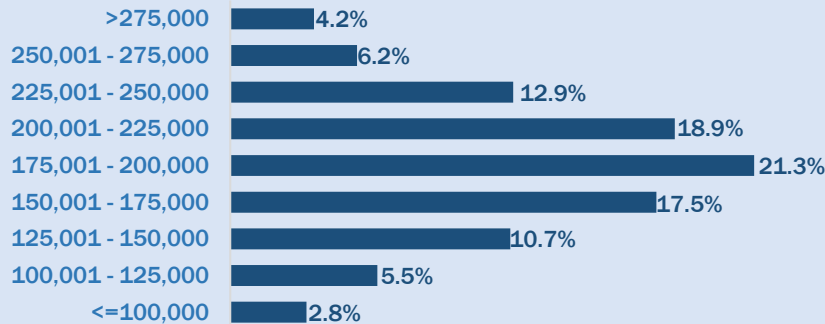
January 1, 2020 to December 31, 2020



Average Income \$57,890  
74.1% of Borrowers at or Below 80% AMFI

## Loan Amount Distribution

January 1, 2020 to December 31, 2020



Average Loan Amount \$191,055

## 2019 Statewide Economic Impact

*Based on 38% New Construction Loans*

**\$1 Billion** Wages Generated

**\$144.5 Million** Tax Revenue

**12,422** Jobs Created

Estimates based on formulas published by the National Home Builders Association- [The Economic Impact of Home Building in Typical Local Area](#). Provided by National Council of State Housing Agencies (NCSHA)

# TDHCA Housing Finance Activity 2020



## Borrowers Served

# 14,308

(Financed and/or MCC Issued)  
Increase of 40%  
*10,201 in 2019*

## Homes Financed

# 12,657

Increase of 36% from  
*9,291 in 2019*

## First Mortgages

# \$2.4 Billion

Increase of 47% from  
*1.6 Billion in 2019*

## MCCs Issued

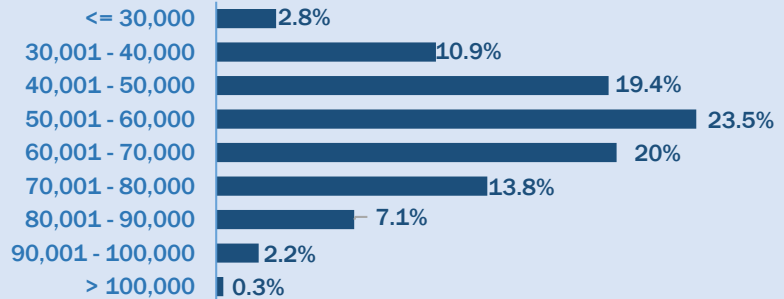
# 3,666

Increase of 23% from  
*2,980 in 2019*

2,015 MCC and First Mortgage  
1,651 Stand-alone MCC

## Income Distribution

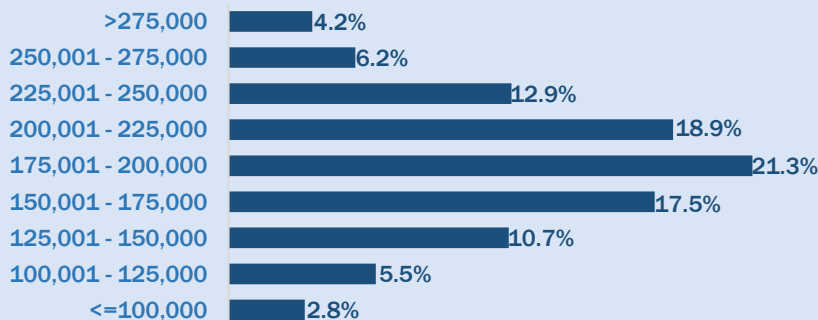
January 1, 2020 to December 31, 2020



Average Income \$57,890  
74.1% of Borrowers at or Below 80% AMFI

## Loan Amount Distribution

January 1, 2020 to December 31, 2020



Average Loan Amount \$191,055

## 2020 Statewide Economic Impact

*Based on 34% New Construction Loans*

**\$1.2 Billion** Wages Generated

**\$154.9 Million** Tax Revenue

**16,953** Jobs Created

Estimates based on formulas published by the National Home Builders Association- [The Economic Impact of Home Building in Typical Local Area](#). Provided by National Council of State Housing Agencies (NCSHA)



TDHCA Aggregate Loan Originations

January 1, 2020 to December 31, 2020

Loan Volume by COUNTY (Top 20)			
Top Originating Counties	Total Originated	# of Loans	% of Loans
Harris	\$ 448,004,743	2358	16.4%
Bexar	\$ 328,153,180	1744	12.0%
Tarrant	\$ 252,163,418	1214	9.2%
Dallas	\$ 210,156,214	1070	7.7%
El Paso	\$ 143,180,159	993	5.2%
Williamson	\$ 130,170,161	568	4.8%
Travis	\$ 114,469,582	493	4.2%
Fort Bend	\$ 82,125,120	391	3.0%
Denton	\$ 78,610,584	323	2.9%
Collin	\$ 68,982,737	292	2.5%
Montgomery	\$ 66,268,358	341	2.4%
Kaufman	\$ 57,870,950	266	2.1%
Hays	\$ 55,764,367	239	2.0%
Brazoria	\$ 42,152,479	204	1.5%
Ellis	\$ 41,577,429	180	1.5%
Johnson	\$ 39,288,702	201	1.4%
Webb	\$ 38,912,820	226	1.4%
Nueces	\$ 36,596,604	226	1.3%
Bell	\$ 28,056,681	195	1.0%
Galveston	\$ 26,681,546	133	1.0%

New Construction vs Existing Dwelling			
New Construction / Existing	Orig Loan Amount	# of Loans	% of Loans
New	\$ 1,036,335,536	4846	33.9%
Existing	\$ 1,697,286,254	9462	66.1%

Property Type			
Property Type	Orig Loan Amount	# of Loans	% of Loans
1 Unit Single Family Detached	\$ 2,644,721,027	13782	96.3%
Condominium	\$ 30,323,234	163	1.1%
Manufactured	\$ 35,359,229	231	1.6%
Townhouse	\$ 17,861,061	103	0.7%
Rowhouse	\$ 2,558,224	13	0.1%
Duplex	\$ 2,799,015	16	0.1%

Borrower Gender			
Gender	Orig Loan Amount	# of Loans	% of Loans
Male	\$ 1,519,338,608	7907	55.6%
Female	\$ 1,212,993,143	6395	44.4%
Declined to Answer	\$ 1,290,039	6	0.0%

First Time Home Buyer			
FTHB Status	Orig Loan Amount	# of Loans	% of Loans
Yes	\$ 2,692,662,066	14102	98.6%
No	\$ 40,959,724	206	1.4%

Household Size			
Household Size	Orig Loan Amount	# of Loans	% of Loans
1	\$ 798,811,812	4313	30.1%
2	\$ 663,263,810	3502	24.5%
3	\$ 546,329,992	2821	19.7%
4	\$ 427,944,177	2179	15.2%
5	\$ 206,791,810	1047	7.3%
6	\$ 67,448,877	333	2.3%
7	\$ 16,036,273	79	0.6%
8+	\$ 6,995,039	34	0.2%

Max: 8 \ Min: 1 \ WAvg: 2.55

FICO Score Distribution			
FICO Score	Orig Loan Amount	# of Loans	% of Loans
<= 640	\$ 685,106,604	3567	24.9%
641 to 660	\$ 626,871,418	3289	23.0%
661 to 680	\$ 464,656,124	2445	17.1%
681 to 700	\$ 312,715,652	1626	11.4%
701 to 720	\$ 199,001,984	1061	7.4%
721 to 740	\$ 166,047,150	878	6.1%
741 to 760	\$ 127,533,009	667	4.7%
761 to 780	\$ 83,033,724	421	2.9%
780 to 800	\$ 49,617,389	256	1.8%
> 800	\$ 19,038,736	98	0.7%

Max: 816 \ Min: 555 \ WAvg: 674

Household Income Distribution			
Household Income (\$)	Orig Loan Amount	# of Loans	% of Loans
<= 20,000	\$ 6,952,852	48	0.3%
20,001 - 30,000	\$ 44,200,590	359	2.5%
30,001 - 40,000	\$ 228,531,607	1557	10.9%
40,001 - 50,000	\$ 477,798,927	2772	19.4%
50,001 - 60,000	\$ 645,296,274	3360	23.5%
60,001 - 70,000	\$ 581,540,828	2863	20.0%
70,001 - 80,000	\$ 422,597,262	1970	13.8%
80,001 - 90,000	\$ 235,595,470	1013	7.1%
90,001 - 100,000	\$ 78,241,923	316	2.2%
> 100,000	\$ 12,866,057	50	0.3%

Max: \$152,604 \ Min: \$4,080 \ WAvg: \$57,890

AMFI Distribution			
AMFI	Orig Loan Amount	# of Loans	% of Loans
<= 30%	\$ 21,369,869	160	1.1%
30.1% to 60%	\$ 845,882,905	5002	35.0%
60.1% to 80%	\$ 1,075,726,519	5434	38.0%
80.1% to 100%	\$ 789,212,226	3705	25.9%
100.1% to 115%	\$ 1,101,581	5	0.0%
> 115.1%	\$ 328,690	2	0.0%

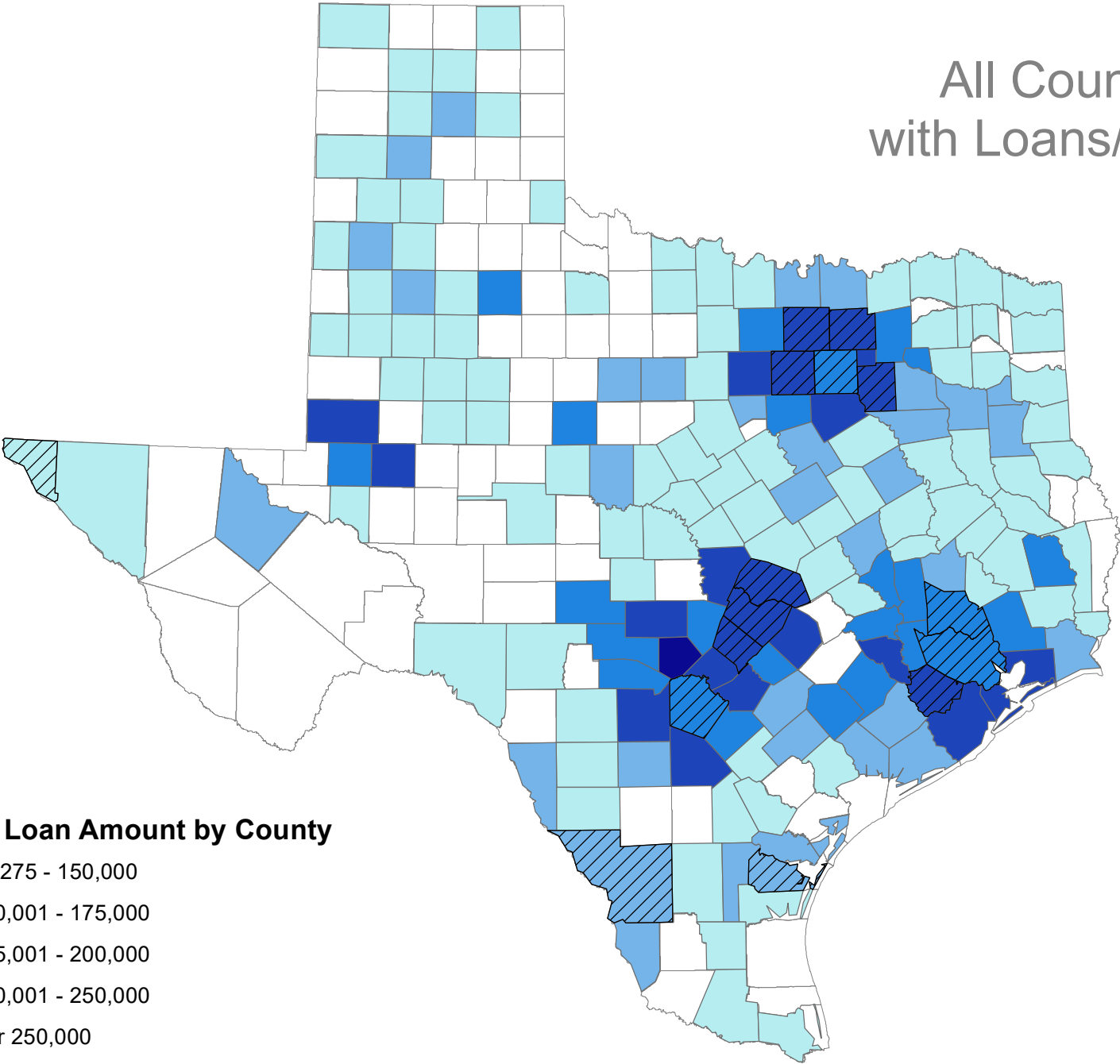
Max: 2383% \ Min: 7% \ WAvg: 67%

Age Distribution			
Age	Orig Loan Amount	# of Loans	% of Loans
<= 20	\$ 102,248,597	591	4.1%
21 to 25	\$ 286,493,822	1559	10.9%
26 to 30	\$ 638,744,813	3383	23.6%
31 to 35	\$ 535,278,917	2748	19.2%
36 to 40	\$ 402,844,329	2030	14.2%
41 to 45	\$ 273,587,348	1394	9.7%
46 to 50	\$ 210,517,261	1068	7.5%
51 to 55	\$ 125,583,256	656	4.6%
56 to 60	\$ 81,621,891	448	3.1%
>61	\$ 76,701,556	431	3.0%

Max: 96 \ Min: 18 \ WAvg: 36

Loan Type			
Loan Type	Orig Loan Amount	# of Loans	% of Loans
FHA	\$ 2,507,028,674	12960	92.3%
HFA Preferred	\$ 108,714,340	796	3.9%
USDA-RHS	\$ 59,205,229	282	2.0%
VA	\$ 58,673,547	270	1.9%

# All Counties with Loans/MCCs



## Average Loan Amount by County

- \$39,275 - 150,000
- \$150,001 - 175,000
- \$175,001 - 200,000
- \$200,001 - 250,000
- Over 250,000
- Top 15 Counties

Date: 2/23/2021

Document Path: Q:\Maps\Homeownership\homeownership3.mxd

Disclaimer: This map is not a survey product; boundaries, distances and scale are approximate only.

8a

**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action on Resolution No. 21-017 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject

**RECOMMENDED ACTION**

Adopt the attached resolution.

**BACKGROUND**

To begin the issuance of tax exempt single family mortgage revenue bonds, the Department must submit an application to the Texas Bond Review Board to draw down private activity bond authority, also known as volume cap. Staff is requesting authorization to submit one or more applications for a maximum reservation of \$108 million of volume cap to be used for the issuance of Residential Mortgage Revenue Bonds, Series 2021A. Staff expects that the Series 2021A Bonds will use bond authority that has been carried forward for this purpose.

Final approval of the issuance of Residential Mortgage Revenue Bonds, Series 2021A, is being considered by the Board under item 8b.

## RESOLUTION NO. 21-017

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AUTHORIZING STATE DEBT APPLICATION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and (d) to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e)

of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a certified copy of the resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation in the maximum aggregate amount of \$108,000,000 with respect to qualified mortgage bonds; and

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

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

## ARTICLE 1

### APPROVAL OF CERTAIN ACTIONS

Section 1.1 Applications for Reservation. The Board hereby authorizes Bracewell LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation in the maximum aggregate amount of \$108,000,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

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

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

Section 1.4 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the

Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership of the Department, and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 11th day of March, 2021.

8b



**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action on Resolution No. 21-018 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Residential Mortgage Revenue Bonds, Series 2021A and Residential Mortgage Revenue Refunding Bonds, Series 2021B (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**

Adopt attached resolution.

**BACKGROUND**

Staff works closely with the Department's Municipal Advisor and underwriting team to evaluate financing and refunding opportunities related to the Department's two single family indentures, the Single Family Mortgage Revenue Bond Indenture, and the Residential Mortgage Revenue Bond (RMRB) Indenture. Currently, market conditions are conducive to the issuance of tax-exempt, single family mortgage revenue bonds (SFMRBs) to finance the origination of mortgage loans to low, very low, and moderate income homebuyers. In addition, the Department's RMRB Indenture has four series of bonds eligible to be refunded, and for which a refunding makes economic sense. Combining the issuance of the new money bonds and the refunding bonds achieves certain economies of scale, and is economically compelling.

With this item, staff is seeking approval for the issuance of Texas Department of Housing and Community Affairs, Residential Mortgage Revenue Bonds, Series 2021A (the 2021A Bonds), and Residential Mortgage Revenue Refunding Bonds, Series 2021B (the 2021B Bonds).

**2021A Bonds**

The 2021A Bonds will be issued in a maximum par amount of \$100 million, and total bond proceeds (par amount of bonds plus bond premium) will not exceed \$108 million. Proceeds of the bonds will be used to purchase Ginnie Mae mortgage-backed securities (MBS) backed by tax-exempt eligible mortgage loans, to pay all or a portion of the costs of issuance related to the Bonds, and to finance a portion of the down payment assistance, lender compensation, and second loan servicing fees related to the underlying mortgage loans. The 2021A Bonds are expected to be offered as traditional SFMRBs, with serial bonds, term bonds, and premium Planned Amortization Class (PAC) bonds. Depending on market conditions, proceeds of the 2021A Bonds may be invested in a Guaranteed Investment Contract (GIC) until expended; otherwise, proceeds will be invested in overnight obligations that meet indenture requirements.

The 2021A Bonds are anticipated to be designated as “Social Bonds” and are expected to receive an Independent Second Party Opinion related thereto provided by Kestrel Verifiers. The Social Bond designation has been used by many single family issuers, with the main benefit being a potential increase in investors for the Department’s bonds which, ultimately, may result in better pricing. This designation is primarily the result of an alignment between the Department’s single family bond program and the International Capital Markets Association (ICMA) Social Bond Principles. ICMA defines Social Bonds as issues for which the proceeds of the bonds will be exclusively applied to finance or refinance Social Projects, and includes affordable housing as a defined Social Project. They have published Social Bond Principles to promote integrity in the social bond market, providing guidelines for transparency, disclosure, and reporting.

### **2021A Mortgage Loans**

Mortgage loans will be 30-year, fixed rate loans guaranteed by FHA, VA, or USDA and pooled into Ginnie Mae MBS. Initially, borrowers will have the choice of four or five points of down payment assistance (DPA); those options may be modified in response to borrower demand or market conditions. DPA is provided through a 0% interest, non-amortizing, 30-year second mortgage loan that is due on sale or refinance of the first loan. The issuance of \$100 million of par amount of 2021A Bonds will provide for \$100 million in par amount of mortgage loans to be originated. The associated down payment assistance, lender compensation, and servicing fees for the second loans are expected to total approximately \$7 million.

### **2021B Bonds**

The 2021B Bonds will be fixed rate, taxable bonds, pass through bonds. Total proceeds (par amount of bonds plus bond premium) will not exceed \$65,000,000, and will be used to refund the following RMRB bonds: Series 2009C-1 (Taxable), Series 2011A, Series 2009C-2, and Series 2011B (the Refunded Bonds). As of March 1, 2021, these series have approximately \$64 million of outstanding bonds, with coupons ranging between 2.48% and 5.05%. Security for the 2021B Bonds will be Ginnie Mae MBS transferred from the Refunded Bonds to the 2021B trust estate. The par amount of MBS transferred will equal the par amount of 2021B Bonds; excess MBS will be transferred to the Residual Revenues Fund of the RMRB indenture.

The Refunded Bonds were issued through the New Issue Bond Program (NIBP), which placed certain restrictions on the RMRB Indenture; those restrictions will be eliminated upon the redemption of the Refunded Bonds, providing the Department with additional flexibility with respect to the RMRB Indenture.

### **Underwriting Team**

Jefferies will serve as senior manager, Barclays, JP Morgan, and RBC Capital Markets are co-senior managers, and Morgan Stanley, Piper Sandler, and Ramirez & Co. are co-managers for this transaction.

### **Timing**

Preliminarily, the key events are as follows:

03/24/2021	Preliminary Official Statement is Released
04/01/2021	Conditional Notice of Redemption Published for Refunded Bonds
04/07/2021	Bonds Priced and Bond Purchase Agreement is Executed
04/16/2021	Official Statement is Released
04/21/2021	Bond Closing
05/03/2021	Redemption of Refunded Bonds Completed

### **Department Contribution**

The contribution by the Department will not exceed \$6 million, which will be used to fund a portion of the down payment and closing cost assistance and costs related to the acquisition of qualifying mortgage loans (including the payment of lender compensation and servicing fees for second mortgage loans) and to pay all or a portion of the costs of issuance of the Bonds. The contribution will be funded from amounts on deposit in the RMRB indenture. Capitalized interest of up to \$2.25 million may be paid from the RMRB indenture as necessary. As with prior transactions, these amounts are maximums; the actual contribution and capitalized interest expense are expected to be less than that approved by the Board.

### **Summary**

Staff will continue to work with the Department's financing team to ensure the economic viability of the 2021A and 2021B Bonds. Depending on market conditions and other factors, the amount of bonds issued may be reduced, and it is possible that one series of the Bonds may be viable and the other not, in which case, we would move forward with the series that makes economic sense.

### **Exhibits**

The Exhibits for Resolution 21-018 will be posted no later than Monday, March 8, 2021, and can be found online at the Department's Board Meeting Information Center website: <http://www.tdhca.state.tx.us/board/meetings.htm>.

## RESOLUTION NO. 21-018

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2021A AND RESIDENTIAL MORTGAGE REVENUE REFUNDING BONDS, SERIES 2021B (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 further authorizes 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 and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have executed and delivered that certain Amended and Restated Residential Mortgage Revenue Bond Trust Indenture dated as of July 1, 2019 (as amended and supplemented from time to time, the "RMRB Indenture"), providing for the issuance from time to time by the Department of one or more series of its Residential Mortgage Revenue Bonds; and

WHEREAS, the Department has, pursuant to and in accordance with the provisions of the Act and the RMRB Indenture, issued, sold and delivered its Residential Mortgage Revenue Bonds, Series 2009C-1 (Taxable), Series 2009C-2, Series 2011A and Series 2011B (collectively, the "Refunded Bonds"); and

WHEREAS, the Department has a single family mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, pursuant to Resolution No. 17-003, the Board approved Program Guidelines setting forth the general terms of the mortgage loans to be originated under the Program (the “Mortgage Loans”) and authorized execution and delivery of (i) a Mortgage Acquisition, Pooling and Servicing Agreement setting forth the terms under which Idaho Housing and Finance Association (the “Servicer”), will review, acquire, package and service the Mortgage Loans, and (ii) a Master Mortgage Origination Agreement in connection with the acceptance of new lenders in the Program; and

WHEREAS, the RMRB Indenture authorizes the issuance of additional Residential Mortgage Revenue Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Residential Mortgage Revenue Bonds, to be known as its Residential Mortgage Revenue Bonds, Series 2021A (the “Series 2021A Bonds”) pursuant to the RMRB Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans through the purchase of mortgage backed securities (“Mortgage Certificates”), to provide down payment and closing cost assistance and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Thirty-Fourth Supplemental Residential Mortgage Revenue Bond Trust Indenture (the “Thirty-Fourth Supplemental Indenture”) in substantially the form attached hereto relating to the Series 2021A Bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Residential Mortgage Revenue Bonds, to be known as its Residential Mortgage Revenue Refunding Bonds, Series 2021B (Taxable) (the “Series 2021B Bonds,” and together with the Series 2021A Bonds, the “Bonds”) pursuant to the RMRB Indenture for the purpose of providing funds to refund the Refunded Bonds and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Thirty-Fifth Supplemental Residential Mortgage Revenue Bond Trust Indenture (the “Thirty-Fifth Supplemental Indenture,” and together with the Thirty-Fourth Supplemental Indenture, the “Supplemental Indentures”) in substantially the form attached hereto relating to the Series 2021B Bonds; and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the “Bond Purchase Agreement”) with Jefferies LLC, as representative of the group of underwriters listed in the Bond Purchase Agreement (the “Underwriters”), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a Twelfth Supplement to Depository Agreement relating to the Bonds (the "Depository Agreement"), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company (the "Trust Company"), in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the "Official Statement") and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") relating to the Bonds in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of a portion of the proceeds of the Series 2021A Bonds and any other amounts held under the RMRB Indenture with respect to the Series 2021A Bonds in one or more guaranteed investment contracts (the "GICs") on or after the closing date or in such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$6,000,000 of Department funds for any purpose authorized under the Act and the RMRB Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the use of an amount not to exceed \$2,250,000 of funds on deposit under the RMRB Indenture to fund capitalized interest on the Series 2021A Bonds; and

WHEREAS, Chapter 1371, Texas Government Code, as amended ("Chapter 1371") and Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorize the Department to take certain actions described in this Resolution related to the issuance of the Bonds; and

WHEREAS, the Board desires to approve the forms of the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement, the Official Statement and the Continuing Disclosure Agreement and find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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

**ARTICLE 1**  
**ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS**

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of any or all of the Bonds is hereby authorized, all under and in accordance with the RMRB Indenture, and that, upon execution and delivery of the Supplemental 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 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, in the case of the Series 2021A Bonds, and in accordance with Chapter 1207, in the case of the Series 2021B Bonds, to fix and determine the interest rates, principal amounts and maturities of the Bonds, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on each series of the Bonds shall not exceed 6.00% per annum; (b) the aggregate principal amount of the Series 2021A Bonds shall not exceed \$100,000,000; (c) the aggregate principal amount of the Series 2021B Bonds shall not exceed \$65,000,000; (d) the final maturity of the Series 2021A Bonds shall occur not later than January 1, 2053; (e) the final maturity of the Series 2021B Bonds shall occur not later than July 1, 2043; (f) the price at which the Bonds are sold to the Underwriters shall not exceed 108% of the aggregate principal amount thereof; (g) the Series 2021A 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, and (h) the aggregate amount of payments to be made under the Series 2021B Bonds shall be less than the aggregate amount of payments that would have been made under the terms of the Refunded Bonds. In no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Approval, Execution and Delivery of the Supplemental Indentures. That the form and substance of the Supplemental Indentures are hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Supplemental Indentures and to deliver the Supplemental Indentures to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.5 Official Statement. That the Official Statement, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as an Authorized Representative may approve in order to permit such Authorized Representative, for and on behalf of the Board, to deem the Official Statement final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission (“Rule 15c2-12”), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative’s execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department’s seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Trust Company.

Section 1.7 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department’s seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.8 Redemption of Refunded Bonds. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department 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 Series 2021B Bonds, and (ii) to take all other actions necessary to cause such redemption and refunding to occur.

Section 1.9 Approval of GIC Broker; Approval of Investment in GICs. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to select a GIC broker, if any, and that the investment of funds held under the RMRB Indenture in connection with the Series 2021A Bonds in GICs is hereby approved and that the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to complete arrangements for such investment in GICs or such other investments as the Authorized Representatives may approve.

Section 1.10 Authority to Designate Series 2021A Bonds as Social Bonds. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to designate the Series 2021A Bonds as “social bonds,” and if



such designation occurs, “(Social Bonds)” shall be added at the end of the name of the Series 2021A Bonds.

Section 1.11 Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to execute, attest, affix the Department’s seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, and to take such other acts, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the RMRB Indenture, the Bonds, the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement and the Continuing Disclosure Agreement.

Section 1.12 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, or in the opinion of Bracewell LLP, Bond Counsel to the Department (“Bond Counsel”), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.13 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A – Supplemental Indentures
- Exhibit B – Bond Purchase Agreement
- Exhibit C – Official Statement
- Exhibit D – Depository Agreement
- Exhibit E – Continuing Disclosure Agreement

Section 1.14 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership of the Department and the Secretary or Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.15 Department Contribution. That the contribution of Department funds in an amount not to exceed \$6,000,000 to be used for any purpose authorized under the Act and the RMRB Indenture, including to provide funds for the refunding of the Refunded Bonds, to

provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay all or a portion of the costs of issuance of the Bonds is hereby authorized.

Section 1.16 Use of RMRB Indenture Funds. That the use of an amount not to exceed \$2,250,000 of funds on deposit under the RMRB Indenture to fund capitalized interest on the Series 2021A Bonds is hereby authorized.

## **ARTICLE 2**

### **APPROVAL AND RATIFICATION OF CERTAIN ACTIONS**

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.2 Engagement of Other Professionals. That the Executive Director or the Director of Bond Finance and Chief Investment Officer is authorized to engage an accounting firm or firms to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Director of Bond Finance and Chief Investment Officer and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director, the Acting Director and the Department's staff in connection with the issuance of the Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102 and the Act, the Executive Director, the Acting Director or the Director of Bond Finance and Chief Investment Officer is hereby authorized to undertake all appropriate actions required under the RMRB Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the RMRB Indenture in accordance with the RMRB Indenture.

**ARTICLE 3  
CERTAIN FINDINGS AND DETERMINATIONS**

Section 3.1 Purpose of Series 2021A Bonds. That the Board hereby determines that the purpose for which the Department may issue the Series 2021A Bonds constitutes “public works” as contemplated by Chapter 1371.

**ARTICLE 4  
GENERAL PROVISIONS**

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the RMRB Indenture to secure payment of the bonds issued under the RMRB Indenture and payment of the Department’s costs and expenses for its single family mortgage revenue bond program thereunder and under the RMRB Indenture, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 4.4 Notice of Meeting. That this Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 11th day of March, 2021.

## **EXHIBITS**

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.

8c

**BOARD ACTION REQUEST**  
**BOND FINANCE DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action on Inducement Resolution No. 21-019 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

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

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

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

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 21-019 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-applications listed herein, is hereby approved in the form presented to this meeting.

**BACKGROUND**

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

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

presented to the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development. This inducement resolution would reserve approximately \$26M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year is \$169,558,383. Reservations for those applications that participated in the 2021 Private Activity Bond Lottery total \$158,000,000, reducing the Department's available set-aside to \$11,558,383. The pre-application listed below will be placed on the Department's waiting list to receive a Reservation, bringing the total of pre-applications on the waiting list to approximately \$169M.

**21610 – Delafield Villas**

The acquisition and rehabilitation of 204 units is proposed for this multifamily development to be located at 4101 Delafield Lane in Dallas, Dallas County. This transaction is proposed to be Priority 1A, and will serve the general population. Half of the units (102) will be rent and income restricted at 50% of Area Median Family Income (AMFI), and the remaining 102 units will be rent and income restricted at 60% of AMFI. The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: \$26,000,000

## RESOLUTION NO. 21-019

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

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

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

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

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



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

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

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

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

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

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

## ARTICLE 1

### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect

to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

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

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

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

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment

payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

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

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

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

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with

or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

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

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

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

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

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications,

certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

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

## ARTICLE 2

### CERTAIN FINDINGS AND DETERMINATIONS

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

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit; and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or

governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

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

### ARTICLE 3

#### GENERAL PROVISIONS

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

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act regarding meetings of the Governing Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 11<sup>th</sup> day of March, 2021.

## EXHIBIT "A"

### Descriptions of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
Delafield Villas	Delafield Villas Investments, LP, a Texas limited partnership	General Partner/Member: Delafield Villas GP, LLC, a Texas limited liability company	\$26,000,000
Costs: Acquisition/rehabilitation of a 204-unit affordable, multifamily housing development to be known as Delafield Villas, located at 4101 Delafield Lane, Dallas, Dallas County, Texas 75227			

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**BOARD ACTION REQUEST**  
**BOND FINANCE DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Pineview at Grogan’s Mill) Series 2021, Resolution No. 21-020, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for Pineview at Grogan’s Mill, formerly known as Tamarac Pines, at the Board meeting of July 23, 2020;

**WHEREAS**, an application for Pineview at Grogan’s Mill requesting 4% Housing Tax Credits, sponsored by Rainbow Housing and The Related Companies, was submitted to the Department on November 9, 2020;

**WHEREAS**, a Certification of Reservation was issued in the amount of \$34,000,000 on January 8, 2021, with a bond delivery deadline of July 7, 2021;

**WHEREAS**, the applicant has requested a waiver, in accordance with 10 TAC §11.207 of the Qualified Allocation Plan (QAP) of certain provisions contained in 10 TAC §11.304(a)(2) of the QAP related to the Third-Party Appraisal Review Policy;

**WHEREAS**, staff recommends that such waiver be granted as this is a new process that has not fully been implemented at the staff level and staff reviewed the application appraisal to ensure compliance with the QAP;

**WHEREAS**, granting the waiver better serves the purposes articulated in Tex. Gov’t Code §§2306.001 and 2306.002 as the appraisal is still reviewed by staff demonstrating compliance with the QAP despite the review process of third-party appraisal reviewers; and

**WHEREAS**, EARAC recommends approval of the issuance of Multifamily Green Tax-Exempt Bonds (Series 2021) for Pineview at Grogan’s Mill and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, the waiver of 10 TAC §11.304(a)(2) of the Underwriting and Loan Policy Rules is hereby granted;

**RESOLVED**, that the issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Pineview at Grogan’s Mill) Series 2021, in an amount not to exceed \$34,000,000, Resolution No. 21-020, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$2,761,636 in 4% Housing Tax Credits for Pineview at Grogan’s Mill, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website, is hereby approved in the form presented to this meeting; and

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

### **BACKGROUND**

*General Information:* The Bonds will be issued in accordance with Tex. Gov’t Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds for its public purposes, as defined therein. Tex. Gov’t Code §2306.472 provides that the Department’s revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas.

*Development Information:* Pineview at Grogan’s Mill is located at 10510 Six Pines Drive in The Woodlands, Montgomery County, and proposes the acquisition and rehabilitation of 300 units that will continue to serve the elderly population. The property was originally built in 1979, and received an award of 4% Housing Tax Credits in 2004. There is an existing Section 8 HAP contract covering all 300 units that is expected to be renewed at closing for an additional 20-year term. The Certificate of Reservation from the Bond Review Board was issued under the Priority 1A designation, which requires 50% of the units within the development have rents restricted to 50% of Area Median Family Income (AMFI), and the remaining 50% of units have rents restricted to 60% of AMFI. As a result, 150 of the units will be rent and income restricted at 50% of AMFI, and the remaining 150 units will be rent and income restricted at 60% of AMFI. Rehabilitation cost, which includes building costs and site work, is approximately \$43k per unit.

*Waiver Request:* The 2021 Underwriting and Loan Policy Rules were revised to allow for developer fee on the acquisition value of the building. As part of this rule change, also required under 10 TAC §11.304(a)(2), is that the appraisal submitted with the application be reviewed by a third party appraiser on an approved list by the Department. The application requires a waiver of 10 TAC §11.304(a)(2) as the process for the third party appraisal review has not yet been established, and underwriting staff has continued to review application appraisals. Staff believes that granting the waiver better serves the purposes articulated in Tex. Gov’t Code, §§2306.001 and 2306.002 through the preservation of the existing housing and review of the appraisal was performed by staff to ensure compliance with the QAP.

*Organizational Structure and Previous Participation:* The Borrower is Pineview Senior Housing, L.P. and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 without further review and discussion by EARAC.

*Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing/Public Comment:* In light of COVID-19 and the inability for an in-person TEFRA hearing to be held, staff conducted a telephonic hearing, in accordance with IRS guidance, for the proposed development on February 12, 2021, and no public comment was made. A copy of the hearing transcript is included herein. The Department has received no letters of support or opposition for the proposed development.

### **Summary of Financial Structure**

This transaction utilizes a Fannie Mae Multifamily Pass-Through Mortgage-Backed Security (MBS). Bond proceeds will fund a mortgage loan made by the Department to the Borrower. Simultaneously with the closing, the loan will be assigned to the Fannie Mae lender (Wells Fargo Multifamily Capital) and the funds used by the lender to acquire the loan will be deposited into the collateral account to secure the bonds. The Bonds will be cash collateralized until the MBS Delivery Date, after which the MBS will be the security for the bonds until maturity or earlier redemption. The MBS Delivery Date is expected to occur approximately 10-15 days following the closing date, at which time Wells Fargo Multifamily Capital will assign the loan to Fannie Mae and in exchange, Fannie will deliver the MBS to the trustee. The trustee will use the funds (loan proceeds from Wells Fargo) in the collateral account to purchase the MBS. Payments on the MBS will be guaranteed by Fannie Mae.

Under the proposed structure, the Department will issue tax-exempt, fixed rate bonds in an amount not to exceed \$34,000,000. The Bonds will be pass-through bonds, with principal received on the MBS "passing through" monthly to the holders of the Bonds. The interest rate on the bonds is currently estimated to be 3.75%, but will depend on market conditions at the time of pricing. The attached resolution authorizes a maximum interest rate of 6.0%. The bonds will be structured with a term of 17 years using a 35-year amortization, and will have a maximum maturity date of April 1, 2041, but are expected to reach maturity on May 1, 2038. Simultaneous with the issuance of the Bonds, Wells Fargo Multifamily Capital will make an \$8,000,000 loan (Non-Bond Mortgage Loan) to the Borrower with the same interest rate, term, and maturity date as the Bonds. The Bonds and the Non-Bond Mortgage Loan are co-equal and cross-defaulted.

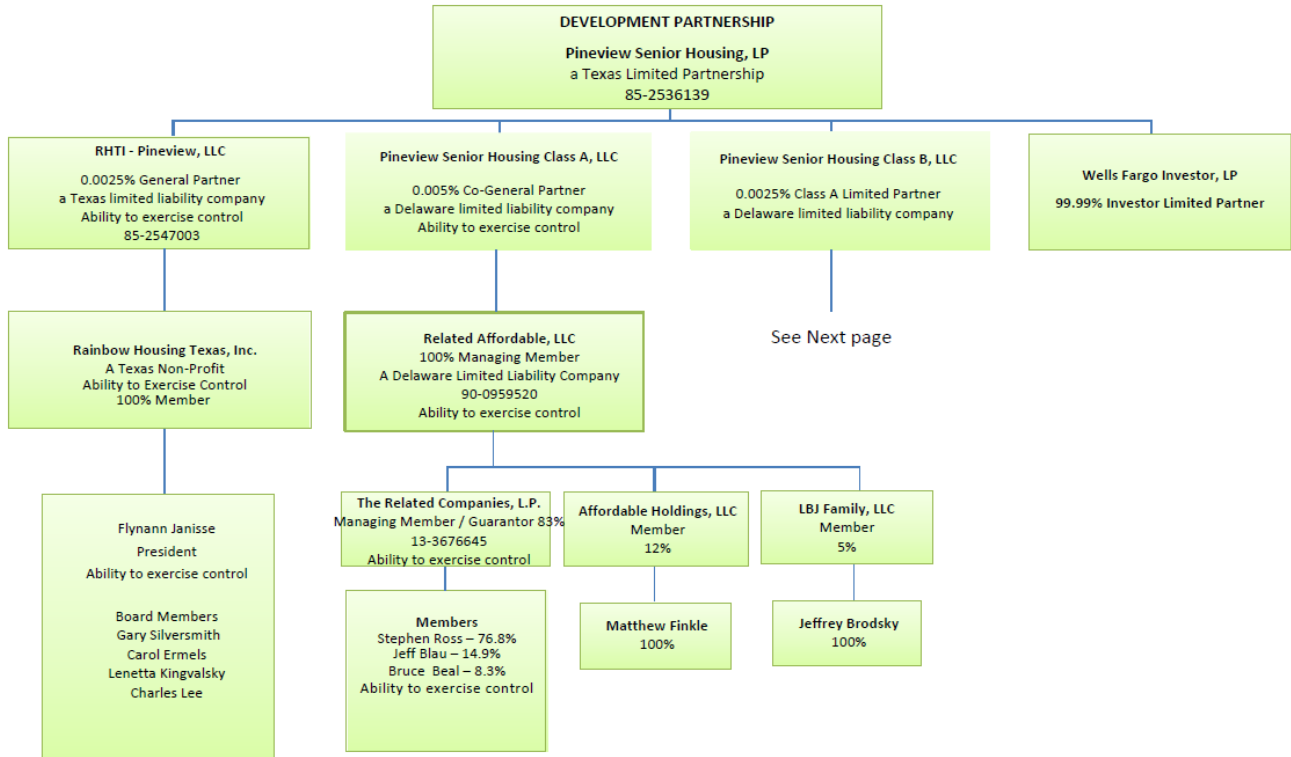
Additionally, unique to this transaction is that it is utilizing a product from Fannie under their Green Building Program. The name of the issuance reflects that they are Multifamily Green Tax-Exempt Bonds. Fannie Mae offers incentives (preferential pricing and a free energy and water audit paid by Fannie) for owners who commit to property improvements that are projected to reduce the property's annual energy and/or water consumption by at least 30%. As a result of these features it will disclose the Green Loan as a Green MBS and will presumably be able to access a broader MBS investor market.

A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 21-020 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

EXHIBIT A

Pineview Senior Housing

Ownership Structure



## RESOLUTION NO. 21-020

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY GREEN TAX-EXEMPT BONDS (GREEN M-TEBS – PINEVIEW AT GROGAN’S MILL) SERIES 2021; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Green Tax-Exempt Bonds (GREEN M-TEBS – PINEVIEW AT GROGAN’S MILL) Series 2021 (the “Bonds”) pursuant to and in accordance with the terms of an Indenture of Trust (the “Indenture”) between the Department and BOKF, NA, as trustee (the “Trustee”), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Pineview Senior Housing, LP, a Texas limited partnership (the “Borrower”) in order to finance the cost of acquisition, equipping and rehabilitation of a qualified residential rental development for seniors described in Exhibit A attached hereto (the “Development”) located

within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by a resolution adopted on July 23, 2020, declared its intent to issue its revenue bonds to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas; and

WHEREAS, it is anticipated that the Department, the Trustee, the Lender (defined below) and the Borrower will execute and deliver a Financing Agreement (the "Financing Agreement") pursuant to which (i) the Department will agree to make a mortgage loan (the "Loan") to the Borrower to enable the Borrower to finance the cost of acquisition, equipping and rehabilitation of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a promissory note (the "Note") in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount sufficient to pay the interest on the Bonds in accordance with the terms of a Multifamily Loan and Security Agreement (Non-Recourse) (the "Loan Agreement") by and between the Borrower and the Department and to pay other costs described in the Financing Agreement; and

WHEREAS, it is anticipated that the Note will be secured by a Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage") from the Borrower for the benefit of the Department; and

WHEREAS, it is anticipated that the obligations of the Borrower under the Financing Agreement (other than for the repayment of principal and interest) will be secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (the "Subordinate Mortgage") from the Borrower for the benefit of the Department and the Trustee; and

WHEREAS, the Borrower will obtain a loan from, Wells Fargo Bank, National Association, as lender (the "Lender"), and the Lender will deposit the proceeds of such loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, in connection with the loan from the Lender, it is anticipated that the Department will assign to the Lender all of its rights (except for certain reserved rights) under the Loan Agreement, the Mortgage and certain other collateral loan documents pursuant to those certain (i) Assignment of Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Assignment of Deed of Trust"), and (ii) Assignment of Collateral Agreements and Other Loan Documents (the "Assignment of Collateral Documents," and together with the Assignment of Deed of Trust, the "Assignments"); and

WHEREAS, in connection with the financing of the Development, the Borrower will also obtain a taxable mortgage loan (the "Taxable Mortgage Loan") from the Lender; and

WHEREAS, the Board has determined that the Department, the Trustee, and the Borrower will execute a Tax Exemption Certificate and Agreement (the "Tax Exemption Agreement") to set forth various facts, certifications, covenants, representations, and warranties regarding the Bonds and the Development and to establish the expectations of the Department, the Trustee, and the Borrower as to future events regarding the Bonds, the Development, and the use and investment of proceeds of the Bonds; and

WHEREAS, the Board has determined that the Department, the Trustee and the Borrower, will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Montgomery County, Texas; and

WHEREAS, the Lender has agreed to permit the Loan and the Taxable Mortgage Loan and to allow the lien of the Subordinate Mortgage in accordance with the terms of a Subordination Agreement (Affordable) (the "Subordination Agreement") among the Lender, the Department, the Trustee and the Borrower; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of an Official Statement (the "Official Statement") and to authorize the Authorized Representatives (as defined herein) of the Department to deem the Official Statement "final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final Official Statement for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the "Bond Purchase Agreement") with Wells Fargo Bank, National Association (the "Underwriter"), Ridgewood Senior Housing, LP, a Texas limited partnership ("Ridgewood"), and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase all of the Bonds from the Department and the Department will sell the Bonds to the Underwriter; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Financing Agreement, the Tax Exemption Agreement, the Regulatory Agreement, the Loan Agreement, the Assignment of Deed of Trust, the Assignment of Collateral Documents, the Subordination Agreement, the Official Statement and the Bond Purchase Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Mortgage, the Subordinate Mortgage and the Note; has found 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, subject to the conditions set forth in Article 1, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Mortgage, the Subordinate Mortgage and the Note and the taking of such other actions as may be necessary or convenient in connection therewith;



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 the Bonds is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to or upon the order of the initial purchaser thereof pursuant to the Bond Purchase Agreement.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Bond Purchase Agreement, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative (as defined below) of the Department of the Indenture and the Bond Purchase Agreement; provided, however, that (i) the Bonds shall bear interest at the interest rate set forth in the Bond Purchase Agreement in accordance with the provisions of the Indenture; provided that in no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Bonds shall not exceed 6.00% (ii) the aggregate principal amount of the Bonds shall not exceed \$34,000,000; (iii) the final maturity of the Bonds shall occur not later than April 1, 2041; and (iv) the price at which the Bonds are sold to the initial purchaser thereof under the Bond Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives (as defined below) are each hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Financing Agreement and the Loan Agreement. That the form and substance of the Financing Agreement and the Loan Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Financing Agreement and the Loan Agreement, and to deliver the Financing Agreement and the Loan Agreement to the Borrower.

Section 1.5 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement relating to the Bonds are hereby approved and the Authorized Representatives are each hereby authorized to execute the Tax Exemption Agreement and to deliver the Tax Exemption Agreement to the Borrower and the Trustee.

Section 1.6 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Montgomery County, Texas.

Section 1.7 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter and/or any other parties pursuant to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrower, Ridgewood, the Underwriter, and/or any other parties to the Bond Purchase Agreement, as appropriate.

Section 1.8 Acceptance of the Note, the Mortgage and the Subordinate Mortgage. That the form and substance of the Note, the Mortgage and the Subordinate Mortgage are hereby accepted by the Department and that the Authorized Representatives are each hereby authorized to endorse and deliver the Note without recourse.

Section 1.9 Approval, Execution and Delivery of the Assignments. That the form and substance of the Assignment of Deed of Trust and the Assignment of Collateral Documents, are hereby approved, and that the Authorized Representatives each are hereby authorized to execute each Assignment, and to deliver each Assignment to the Lender.

Section 1.10 Approval, Execution and Delivery of the Subordination Agreement. That the form and substance of the Subordination Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Subordination Agreement, and to deliver the Subordination Agreement to the Lender, the Trustee and the Borrower and to cause the Subordination Agreement to be filed of record in the real property records of Montgomery County, Texas.

Section 1.11 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chair and Vice Chair of the Board and the Executive Director of the Department are hereby severally authorized to deem the Official Statement "final" for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution are each authorized hereby

to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Bonds; that the Authorized Representatives named in this Resolution are each authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director of the Department and the Department's counsel.

Section 1.12 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, 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 they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.13 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, and in the opinion of Bracewell LLP, Bond Counsel to the Department ("Bond Counsel"), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.14 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 B - Indenture
- Exhibit C - Financing Agreement
- Exhibit D - Loan Agreement
- Exhibit E - Tax Exemption Agreement
- Exhibit F - Regulatory Agreement
- Exhibit G - Bond Purchase Agreement
- Exhibit H - Note
- Exhibit I - Mortgage
- Exhibit J - Subordinate Mortgage
- Exhibit K - Assignment of Deed of Trust
- Exhibit L - Assignment of Collateral Documents
- Exhibit M - Subordination Agreement
- Exhibit N - Official Statement

Section 1.15 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 Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Service, Inc., and its successors and assigns, is approved, ratified and confirmed hereby.

Section 2.5 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and the Tax Exemption Agreement and to enter into any agreements relating thereto only to the extent permitted by the Indenture and the Tax Exemption Agreement.

Section 2.6 Underwriter. That the underwriter with respect to the issuance of the Bonds will be Wells Fargo Bank, National Association, or any other party identified in the Bond Purchase Agreement.

Section 2.7 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.8 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

### ARTICLE 3

#### CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

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

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Financing Agreement, the Tax Exemption Agreement and the Regulatory Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a

public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Financing Agreement, the Tax Exemption Agreement and the Regulatory Agreement, which require, among other things, that the Development be occupied by individuals and families of low, very low and extremely low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low, very low and extremely low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low, very low and extremely low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Tax Exemption Agreement and the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Loan will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

## ARTICLE 4

### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, 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. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 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, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Governing Board.

PASSED AND APPROVED this 11th day of March, 2021.

**EXHIBIT A**

**Description of Development**

Borrower: Pineview Senior Housing, LP, a Texas limited partnership

Development: The Development is a 300-unit affordable, multifamily housing development for seniors to be known as Pineview at Grogan’s Mill, located at 10510 Six Pines Drive, The Woodlands, Montgomery County, TX 77380. It consists of eight (8) residential apartment buildings and one (1) office/community building with approximately 171,801 net rentable square feet. The unit mix will consist of:

42	efficiency units
228	one-bedroom/one-bath units
30	two-bedroom/one-bath units
<hr/>	
300	Total Units

Unit sizes will range from approximately 468 square feet to approximately 727 square feet.



# 21602 Pineview at Grogan's Mill - Application Summary

REAL ESTATE ANALYSIS DIVISION  
March 4, 2021

PROPERTY IDENTIFICATION			RECOMMENDATION					
Application #	21602		TDHCA Program		Request		Recommended	
Development	Pineview at Grogan's Mill		LIHTC (4% Credit)		\$2,761,636	\$2,761,636	\$9,205/Unit	\$0.96
City / County	The Woodlands / Montgomery							
Region/Area	6 / Urban							
Population	Elderly Limitation							
Set-Aside	General							
Activity	Acquisition/Rehab	(Built in 1979)	Private Activity Bonds	\$34,000,000	3.75%	35	17	1

KEY PRINCIPALS / SPONSOR		
Related Affordable, LLC: LP; Developer		
Rainbow Housing Texas, Inc.: GP		
Related Parties	Contractor - TBD	Seller - Yes

TYPICAL BUILDING ELEVATION/PHOTO

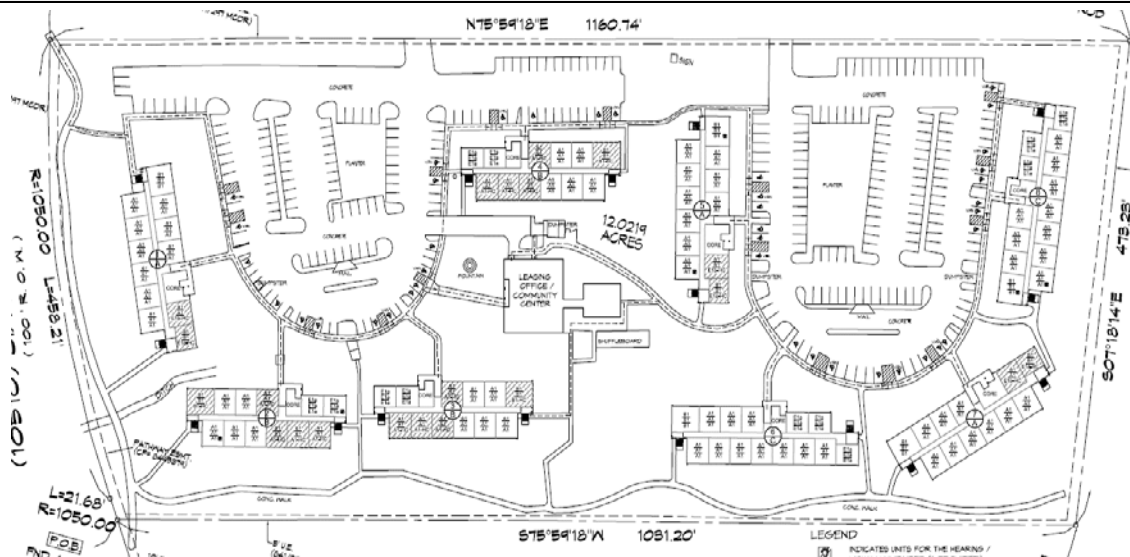


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	42	14%	20%	-	0%
1	228	76%	30%	-	0%
2	30	10%	40%	45	15%
3	-	0%	50%	105	35%
4	-	0%	60%	150	50%
			MR	-	✓
<b>TOTAL</b>	<b>300</b>	<b>100%</b>	<b>TOTAL</b>	<b>300</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.28	Expense Ratio	✓ 36.5%
Breakeven Occ.	✓ 82.0%	Breakeven Rent	\$1,069
Average Rent	\$1,243	B/E Rent Margin	✓ \$174
Property Taxes	\$953/unit	Exemption/PILOT	50%
Total Expense	\$5,284/unit	Controllable	\$2,751/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)		#DIV/0!
Highest Unit Capture Rate	✓ 0%	#N/A
Dominant Unit Cap. Rate		0 BR/20%
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!
Rent Assisted Units	300	100% Total Units

DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	573 SF	Density	25.0/acre
Acquisition	\$133K/unit		\$40,000K
Building Cost	\$75.61/SF		\$43K/unit
Hard Cost			\$51K/unit
Total Cost			\$242K/unit
Developer Fee	\$8,139K	(50% Deferred)	Paid Year: 6
Contractor Fee	\$2,076K	30% Boost	Yes

REHABILITATION COSTS / UNIT

Site Work	\$2K	4%	Finishes/Fixtures	\$17K	34%
Building Shell	\$24K	47%	Amenities	\$1K	1%
HVAC			Total Exterior	\$27K	57%
Appliances	\$3K	5%	Total Interior	\$20K	43%

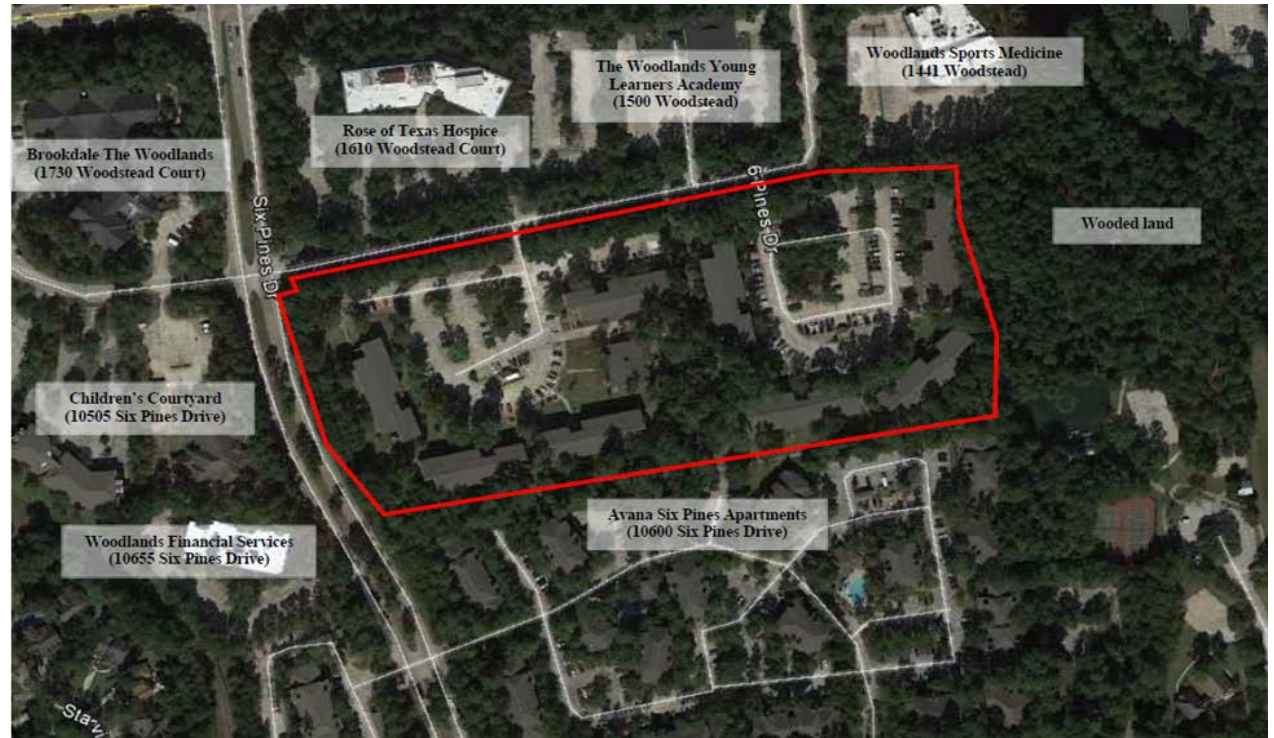
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Wells Fargo	17/35	3.65%	\$34,000,000	1.57						Wells Fargo Investor	\$26,499,454	
Wells Fargo	17/35	3.65%	\$8,000,000	1.28						Deferred Developer Fee	\$4,061,633	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$42,000,000</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$30,561,087</b>
											<b>TOTAL DEBT SOURCES</b>	<b>\$42,000,000</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$72,561,087</b>

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
    - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waivers as recommended.
    - b: Documentation of approval of the proposed HAP Rents.
  - 2 Receipt and acceptance by Cost Certification:
    - Certification of comprehensive testing for asbestos; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials are being managed in
- 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	TDHCA
Expiration Date	7/7/2021
Bond Amount	\$34,000,000
BRB Priority	Priority 1a
Bond Structure	Fannie M. TEB
% Financed with Tax-Exempt Bonds	56.9%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>▫ 100% Section 8 HAP Assisted</li> <li>▫ Developer's Experience with TDHCA Programs</li> <li>▫ Strong Cash-Flow Potential</li> <li>▫ Developer/Owner's construction and management of LIHTC properties in Texas.</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>▫ Parking Ratio</li> </ul>	
AREA MAP	

**AERIAL PHOTOGRAPH(S)**





**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 21602 Program(s): TDHCA Bonds/4% HTC

Pineview at Grogan's Mill

Address/Location: 10510 Six Pines Drive

City: The Woodlands County: Montgomery Zip: 77380

Population: Elderly Limitation Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Elevator Served Region: 6

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
Private Activity Bonds	\$34,000,000	3.75%	35	17	\$34,000,000	3.75%	35	17	1
LIHTC (4% Credit)	\$2,761,636				\$2,761,636				

Based on the unique circumstances of the acquisition as described in the Report, Staff recommends Board approval of a waiver of the following rule:

- a) 11.304(a)(2) - requiring Appraisals to be reviewed in accordance with USPAP Standard 3 and Standard 4, as selected by the Department from an approved list of review appraisers.

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
  - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waivers as recommended.
  - b: Documentation of approval of the proposed HAP Rents.
- 2 Receipt and acceptance by Cost Certification:
  - Certification of comprehensive testing for asbestos; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.

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

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
40% of AMI	40% of AMI	45
50% of AMI	50% of AMI	105
60% of AMI	60% of AMI	150

**DEVELOPMENT SUMMARY**

Pineview at Grogan's Mill is an existing Project-Based Section 8 community located in The Woodlands, TX. This application is for the acquisition and rehab of the property. Rehab will include \$46K/unit of improvements.

The community will serve the elderly population at 40%, 50% and 60% Area Median Income (AMI) levels. 100% of the units are covered by a HAP contract. Applicant anticipates a Mark-up-to-Market renewal of the HAP Contract.

**RISK PROFILE**

STRENGTHS/MITIGATING FACTORS	
▫	100% Section 8 HAP Assisted
▫	Developer's Experience with TDHCA Programs
▫	Strong Cash-Flow Potential
▫	Low Expense-Ratio

WEAKNESSES/RISKS	
▫	Parking Ratio
▫	
▫	
▫	

**DEVELOPMENT TEAM**

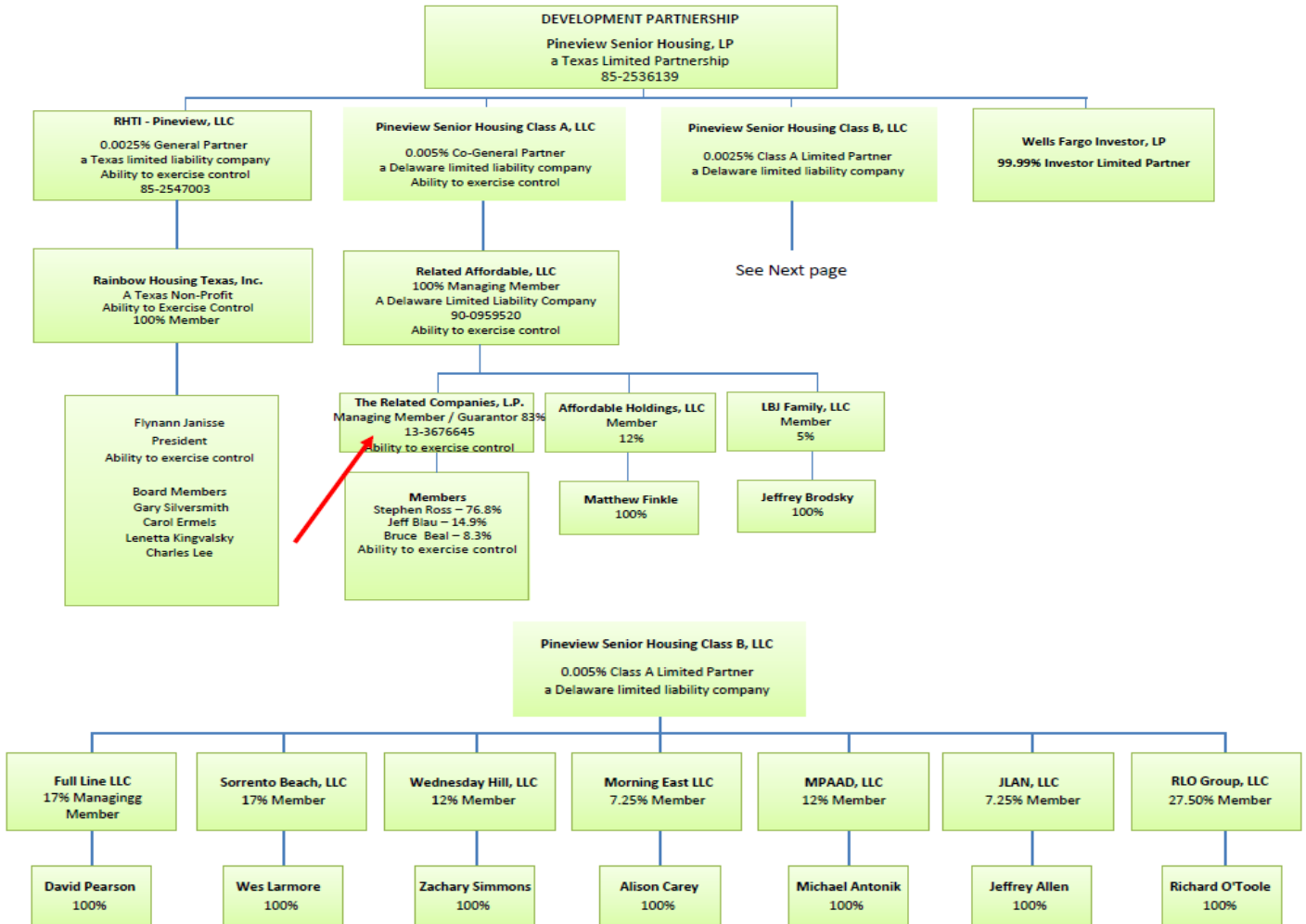
**PRIMARY CONTACTS**

Name: Wes Larmore  
Phone: (213) 634-1566  
Relationship: Developer

Name: Ean Dubrowsky  
Phone: (213) 254-2021  
Relationship: Developer

# Pineview Senior Housing

## Ownership Structure



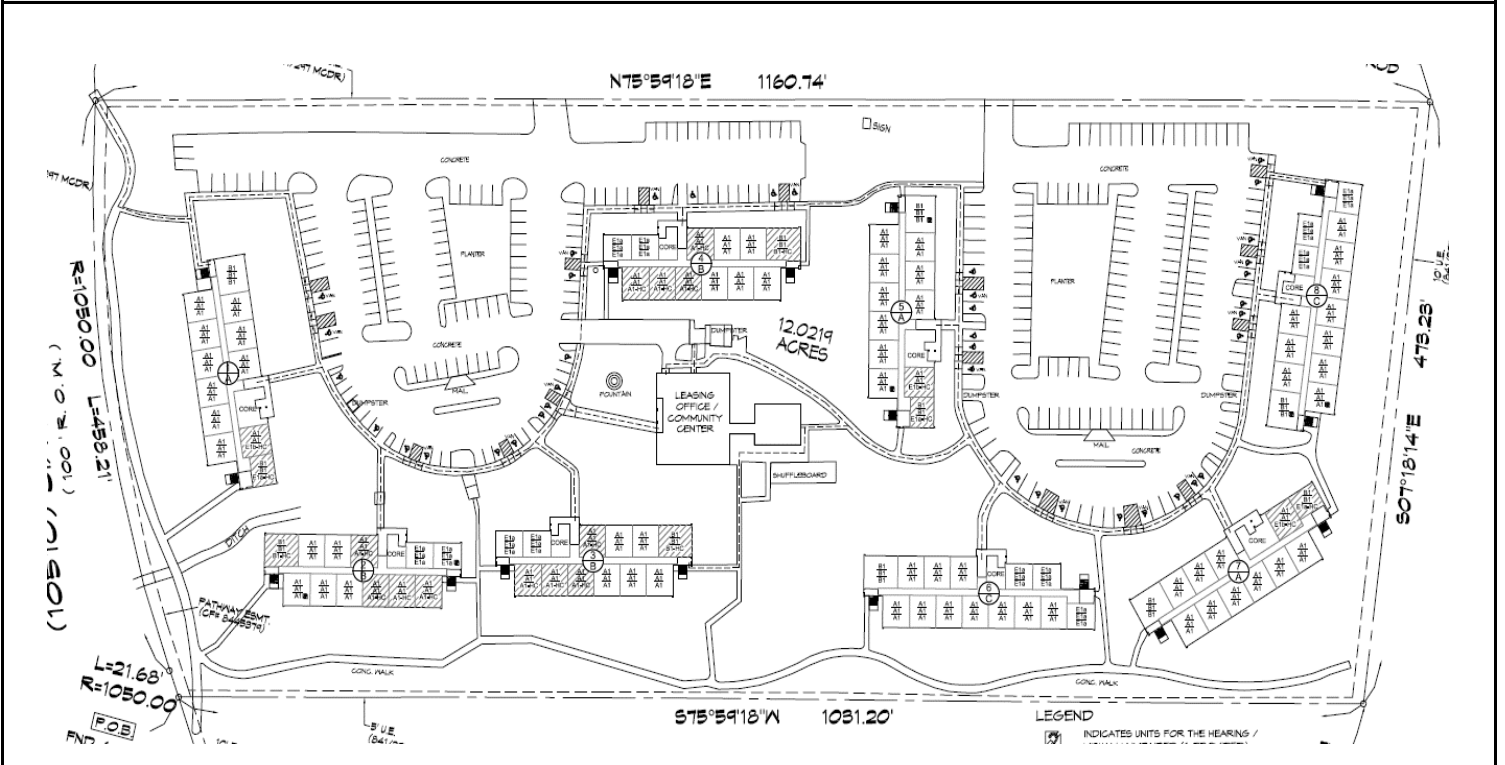
The Related Companies organization owns and operates a portfolio of assets valued at over \$60 billion, which includes luxury, affordable and workforce apartments, commercial, retail and mixed-use developments. Related Affordable, LLC is a subsidiary of The Related Companies, L.P. They have built, renovated and managed over 60,000 affordable and workforce housing units, including the development of over 30 HTC properties in Texas. For more information go to [www.related.com](http://www.related.com).

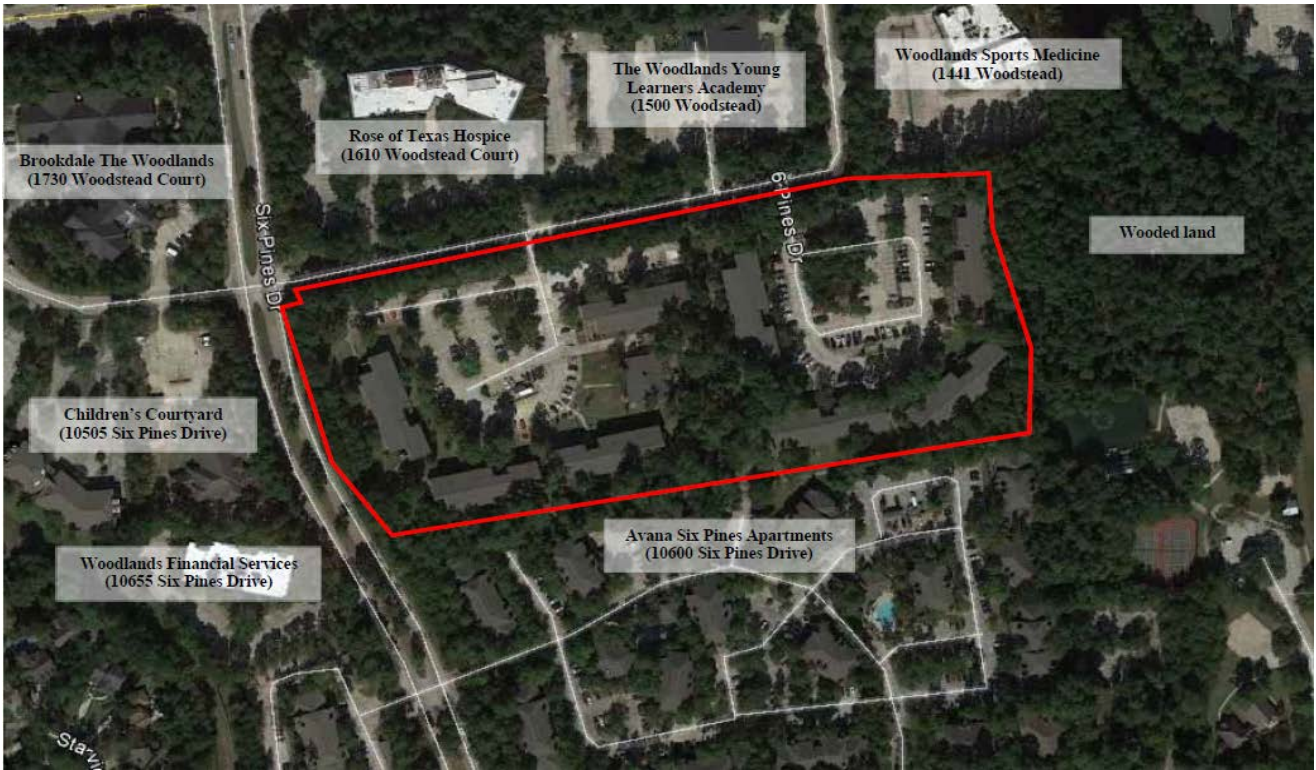
- Rainbow Housing Texas, Inc. is sole member of the GP. The non-profit organization has participated in a number TDHCA programs.



# DEVELOPMENT SUMMARY

## SITE PLAN





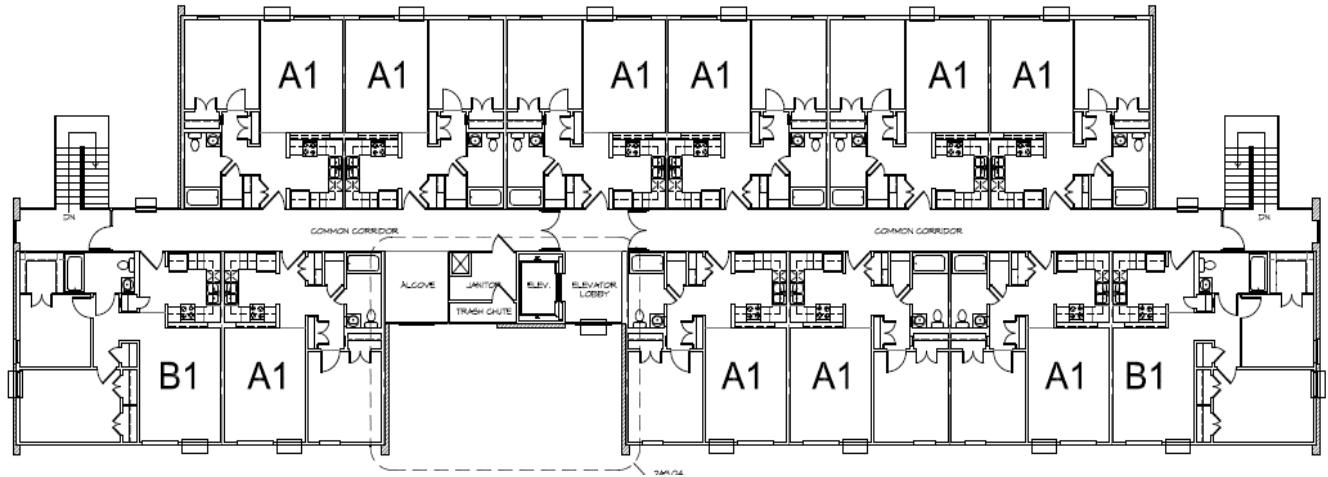
Comments:

The site has gentle sloping. Ground water flows toward the southeast of the property. Access to the site is provided from Woodstead Court located on the northern perimeter of the subject property.

The project will provide 299 total parking spaces, which represents 0.99 spaces/ unit. The County of Montgomery does not have zoning ordinances and does not regulate the number of parking spaces. Therefore, the site has a parking status of conforming.

Site amenities include a gazebo and an outside seating area.

### BUILDING PLAN (Typical)



Comments:

Building plan consists of 8, three-story elevator-served residential buildings. Units feature 8-foot ceilings. The property is comprised of efficiency, one-bedroom, and two-bedroom units, each featuring one full bathroom.

### BUILDING ELEVATION



Comments:

Building exteriors are wood-framed with reinforced concrete foundations. Elevation is finished with masonry brick veneer and painted wood siding. Flat TPO roof with asphalt shingle tile.



## Tenant Relocation Plan

Applicant provided a tenant relocation plan, which will require residents to be out of their units 10 days. Units being converted to full accessibility may have an extended timeline beyond 10 days. The plan calls for work on two units to start every Monday and Tuesday with allowable breaks for catch up.

Residents will move out on the week day prior to work starting on their unit. Temporary on-site vacant units will be used to house tenants while their units is being renovated. Off-site housing also may be required for one or more households with possible lodging at nearby hotels listed on the relocation plan. Assistance to residents may include moving assistance, relocation coordination, and potential per diem to cover any out of pocket expenses.

\$450k of relocation costs are included in the development cost budget.

## BUILDING CONFIGURATION

Building Type	1A	2B	3B	4B	5A	6C	7A	8C					<b>Total Buildings</b>
Floors/Stories	3	3	3	3	3	3	3	3					<b>8</b>
Number of Bldgs	1	1	1	1	1	1	1	1					<b>8</b>
Units per Bldg	36	36	36	36	36	42	36	42					<b>300</b>
<b>Total Units</b>	<b>36</b>	<b>36</b>	<b>36</b>	<b>36</b>	<b>36</b>	<b>42</b>	<b>36</b>	<b>42</b>					<b>300</b>
<b>Avg. Unit Size (SF)</b>	<b>573 sf</b>			<b>Total NRA (SF)</b>			<b>171,801</b>			<b>Common Area (SF)*</b>			<b>5,691</b>

\*Common Area Square Footage as specified on Architect Certification

## SITE CONTROL INFO

**Site Acreage:** Development Site: 12.02 acres Density: 25.0 units/acre  
**Site Control:** 12.02 **Site Plan:** 12.01 **Appraisal:** 12.02 **ESA:** 12.02

Control Type: Commercial Contract Contract Expiration: April 2021

Total Acquisition: 12.02 acres Cost: \$40,000,000

Seller: Tamarac Pines Preservation, LP

Buyer: Related Affordable, LLC.

Assignee: Pineview Senior Housing, LP

**Comments:**

In July 2018 affiliates of the Related Companies ("Related") acquired all of the ownership interests held by AIMCO in 52 affordable housing properties across the country; six are located in Texas of which Pineview at Grogan's Mill is one. Related subsequently acquired the remaining tax credit investor held interests in these properties. The intent of acquisition was to renovate and preserve the affordability for the entire portfolio using a combination of tax exempt bonds and 4% tax credits. This requires Related to hold the various interest positions until the properties come off of their initial compliance periods which range from 2019 to 2026. Financing for the transaction was provided by a combination of Deutsche Bank and affiliates of Related.

The 2021 QAP requires the appraisal to be reviewed in accordance with USPAP Standards. Staff is recommending a waiver of this rule. At the time of this underwriting, the process to implement this requirement is not yet in place. Until a process is established and a list of approved review appraisers has been identified, REA Staff will continue to review application appraisals to insure compliance with the QAP.

**APPRAISED VALUE**

Appraiser: Starmark Appraisals, LLC Date: 11/1/2020

Land as Vacant: 12.02 acres	<u>\$4,500,000</u>	Per Unit:	<u>\$15,000</u>
Existing Buildings: (as-is)	<u>\$43,100,000</u>	Per Unit:	<u>\$143,667</u>
<b>Total Development: (as-is)</b>	<b><u>\$47,600,000</u></b>	Per Unit:	<b><u>\$158,667</u></b>

Comments:

The Appraisal indicates the value of the land as if vacant at \$4,500,000.

The Appraisal indicates the value of the total development as-is, as-restricted at \$47,600,000. Valuation is based on capitalization of income using the existing HAP Contract Rents.

**SITE INFORMATION**

Flood Zone:	<u>Zone X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>Unzoned</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1979</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:

300 unit apartment complex built in 1979

Surrounding Uses:

North: Sports Medicine Center; Learning Academy; Hospice Center

South: Milti-family Apartment Complex

East: Wooded Land

West: Multi-family Apartment Complex; Daycare Center; Financial Services

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: Partner Engineering and Science, Inc. Date: 7/9/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

ESA Provider noted the presence of suspected Asbestos-Containing Materials (ACM) in drywall systems, floor tiles, and floor tile mastic during a limited visual survey. Per ESA, a comprehensive ACM survey is recommended. Provider also notes that suspected ACM is in good physical condition and, in general, can be managed safely under an Operations and Maintenance Program until removal is dictated by renovation, demolition, or deteriorating conditions.

Hazardous substances were identified by ESA Provider, which include various aerosols and small containers, paint cans, and hydraulic oil. ESA does points out that these materials were properly stored and labeled during the assessment and are not expected to represent a significant environmental concern.

Per ESA, a lead paint evaluation was not required due to the property being constructed after 1977. ESA also mentions that it is unlikely that lead-based paint is present due to the property's age. Provider found that interior and exterior painted surfaces were in good condition with no signs of peeling, flaking or chipping.

ESA Provider notes that Radon is not considered to be a significant environmental concern since the property is located in Radon Zone 3, according to the US EPA Map, which has low potential for the presence of the element.

**MARKET ANALYSIS**

Provider: Gill Group Date: 1/21/2021

Primary Market Area (PMA): 30.95 sq. miles 3 mile equivalent radius

Market Analyst calculates a Gross Capture Rate of 8.7%, which is below the 10% maximum. Underwriter reviewed the market study for compliance.

Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. The Subject property is covered by a Housing Assistance Program contract, meaning that all households below the maximum income level are eligible.

Subject is currently 99% occupied.

ELIGIBLE HOUSEHOLDS BY INCOME								
Montgomery County Income Limits								
HH Size		1	2	3	4	5	6	7+
40% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$22,080	\$25,240	\$28,400	\$31,520	---	---	---
50% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$27,600	\$31,550	\$35,500	\$39,400	---	---	---
60% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$33,120	\$37,860	\$42,600	\$47,280	---	---	---

Revisions to Market Study: 2

## OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	\$2,757,291	Avg. Rent:	\$1,243	Expense Ratio:	36.5%
Debt Service:	\$2,161,023	B/E Rent:	\$1,069	Controllable Expenses:	\$2,751
Net Cash Flow:	\$596,268	UW Occupancy:	95.0%	Property Taxes/Unit:	\$953
Aggregate DCR:	1.28	B/E Occupancy:	82.0%	Program Rent Year:	2020

100% of the units are supported by Section 8 HAP Rental Assistance. Applicant has requested HUD approval for the early termination of the existing HAP contract in order to replace it with a 20-year Mark-up-to-Market form of contract with post-rehabilitation rent increases. Underwritten Contract Rents represent ~16% increase over current contract rents.

Unit Type	Current Net HAP Rent	Anticipated Net HAP Rent	Increase	Variance
Eff. Small	900	1,100	\$200	22%
Eff. Large	950	1,150	\$200	21%
1BR	\$1,125	\$1,300	\$175	16%
2BR	\$1,275	\$1,350	\$75	6%

Average rent is \$174 above break-even rent. Project is underwritten at 15 units vacant; Break-even vacancy is 54 units. Vacancy is assumed at 5% instead of the standard 7.5% due to the HAP contract.

Per Applicant, management fee is restricted by HUD due to Mark-up-to-Market submission. Applicant is assuming 3.73% management fee. If we assume standard 5% management fee, DCR would fall to 1.25, remaining within the required limit.

Applicant's pro forma includes \$400 per unit per year property insurance, which is more than double the actual current expense of \$187/unit. Per Applicant, this estimate is based on preliminary discussions with insurance providers and consistent with other properties in their portfolio. Applicant plans to provide documentation shortly before closing. Underwriter assumes an expense consistent with actual current expense.

Underwriting assumes 50% property tax exemption due to the participation of Rainbow Housing Texas, Inc. Applicant plans to provide an attorney letter identifying the statutory bases for the exemption and indicating that the exemption is reasonably achievable as part of their closing package. If we assume property was taxed at 100% of value, DCR would fall to 1.17, remaining within the required limit.

Supportive services show an expense of \$65K and will be underwritten at cost certification regardless if incurred. Per Applicant, these services will include programs tailored to the senior and disabled residents such as health checks, cooking and finance classes, and transportation services.

Controllable expenses are relatively low at \$2,751/unit. Applicant provided a detailed staffing plan to support their payroll expense.

Applicant's operating expenses of \$5,284/unit are within 5% of Underwriter's estimate of \$5,247/unit. Expense ratio is low at 36.5% due to the high HAP Rents (\$1,243 per unit / \$2.17 psf) and property tax exemption.

Deferred fee pays off in year 6; 15-year cash flow is \$9.4M.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule: 0

Revisions to Annual Operating Expenses: 1

## DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)					
Acquisition	\$374,317/ac	\$133,333/unit	\$40,000,000	Contractor Fee	\$2,076,338
Off-site + Site Work		\$2,862/unit	\$858,594	Soft Cost + Financing	\$6,214,064
Building Cost	\$75.61/sf	\$43,297/unit	\$12,989,184	Developer Fee	\$8,139,150
Contingency	9.74%	\$4,494/unit	\$1,348,271	Reserves	\$935,485
<b>Total Development Cost</b>		\$241,870/unit	<b>\$72,561,087</b>	<b>Rehabilitation Cost</b>	<b>\$46,159/unit</b>
<b>Qualified for 30% Basis Boost?</b>		Located in a Small Area Difficult Development Area (SADDA)			

**Acquisition:**

The Contract Purchase Price is \$40M. The Applicant allocated the \$4.5M appraised value of the land as ineligible, and the remaining \$35.5M as eligible building acquisition basis.

**Site Work:**

Site work of \$2,862/unit includes on-site concrete (\$304K) and installation of a mail kiosk (\$30K), along with bumper stops, stripping, and signage (\$4K). Site work will also involve landscaping (\$185K) and fencing.

**Building Cost:**

Planned capital improvements include: •General Interior: painting, flooring, energy efficient lighting, new energy efficient heating and cooling systems, electrical panel upgrades, new doors as needed and new window treatments, washer and dryer hookups; • Bathrooms: new vanities, sinks, and faucets, medicine cabinets, tub surrounds as needed, toilets, and painting; • Kitchens: new cabinets, counters, sinks, faucets, appliances, new dishwashers, microwaves; •Community Building: completely refurbished with a community room, computer room, and a fitness room; • Exterior: new windows and roofs and siding repairs as needed; •Site: new landscaping, site lighting, and fencing

Heating and cooling for the residential tenant spaces is provided by packaged, terminal air conditioner (PTAC) units set in through-wall sleeves. The PTAC units throughout the subject property appeared to be in generally good overall condition. As such, replacement is not included in the rehab budget. Replacement cost for the PTAC units is included in the long-term capital needs budget.

REHABILITATION COSTS / UNIT / % HARD COST							
Site Work	\$642,107	\$2,140/unit	4%	Finishes/Fixtures	\$5,104,039	\$17,013/unit	34%
Building Shell	\$7,091,537	\$23,638/unit	47%	HVAC	\$0	\$/unit	0%
Amenities	\$216,487	\$722/unit	1%	Appliances	\$793,608	\$2,645/unit	5%
<b>Total Exterior</b>	<b>\$7,950,131</b>	<b>\$26,500/unit</b>	<b>57%</b>	<b>Total Interior</b>	<b>\$5,897,647</b>	<b>\$19,659/unit</b>	<b>43%</b>

**SCOPE & COST REVIEW**

Provider: Partner Engineering and Science, Inc. Date: 10/27/2020

**Ineligible Costs:**

\$450K Tenant Relocation is excluded from eligible basis.

**Developer Fee:**

Applicant's Total Developer Fee was overstated and adjusted by \$21,938.

**Reserves:**

Reserves equal 3 months of operating expenses and debt service.

**Comments:**

Total estimated costs for tenant relocation is \$450K, which includes a relocation coordinator, movers/ storage, supplies, off-site accommodations and per diem.

**Credit Allocation Supported by Costs:**

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$72,561,087	\$62,947,824	\$2,781,196

Related-Party Contractor: TBD

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	1
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## UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
TDHCA	\$34,000,000	1/8/2021	Priority 1a
Closing Deadline		Bond Structure	
7/7/2021		Fannie M. TEB	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>56.9%</b>
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**Comments:**

The project will be financed with \$34M in tax-exempt bonds, backed by a \$42M permanent loan from Wells Fargo Bank. TDHCA will issue the bonds and receive an on-going issuer fee of 10bps throughout loan term.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
Wells Fargo	Tax Exempt Loan	\$34,000,000	3.65%	47%
Wells Fargo	Taxable MBS Loan	\$8,000,000	3.65%	11%
Wells Fargo Investor	HTC	\$22,532,692	\$0.96	31%
Developer	Deferred Developer Fee	\$7,685,263		11%
		<b>\$72,217,955</b>	<b>Total Sources</b>	

**PERMANENT SOURCES**

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Wells Fargo	\$34,000,000	3.65%	35	17	\$34,000,000	3.65%	35	17	47%
Wells Fargo	\$8,000,000	3.65%	35	17	\$8,000,000	3.65%	35	17	11%
<b>Total</b>	<b>\$42,000,000</b>				<b>\$42,000,000</b>				

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Wells Fargo Investor	\$26,509,050	\$0.96		\$26,499,454	\$0.96	37%	
Deferred Developer Fee	\$3,708,905		46%	\$4,061,633		6%	50%
<b>Total</b>	<b>\$30,217,955</b>			<b>\$30,561,087</b>			
				<b>\$72,561,087</b>		<b>Total Sources</b>	

Credit Price Sensitivity based on current capital structure	
<b>\$1.107</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.812</b>	Minimum Credit Price below which the Development would be characterized as infeasible

Comments:

Wells Fargo will provide a \$42M permanent loan with a 17-year term and 35-year amortization schedule beginning at closing. Per support documentation received from lender, \$34M will be a tax exempt loan and \$8M will be a taxable MBS loan. Debt term sheet indicates an estimated interest rate of 3.75%, which is 1.80% over the estimated Pass-Through Bond Rate and inclusive of an ongoing 10bps Issuer Fee. Underwritten debt service assumes 3.65% interest rate for the permanent loan and a TDHCA Bond Issuer Fee of 10bps. The loan will be provided by Fannie Mae under their MBS Tax-Exempt Bond Collateral (M.TEB) Program.

Total Capital Contribution of \$26,509,050 from Wells Fargo is being provided at a \$0.96 credit price. 50% of Developer Fee will be deferred.

Revisions to Sources Schedule:	1
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## CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$72,561,087
Permanent Sources (debt + non-HTC equity)	\$42,000,000
<b>Gap in Permanent Financing</b>	<b>\$30,561,087</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$26,687,140	\$2,781,196
Needed to Balance Sources & Uses	\$30,561,087	\$3,184,918
Requested by Applicant	\$26,499,454	\$2,761,636

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
<b>Tax Credit Allocation</b>	<b>\$26,499,454</b>	<b>\$2,761,636</b>

	Amount	Interest Rate	Amort	Term	Lien
TDHCA-Issued Bonds	\$34,000,000	3.75%	35	17	1

Deferred Developer Fee	\$4,061,633	( 50% deferred)
Repayable in	6 years	

Comments:

Underwriter recommends \$2,761,636 in annual tax credits as requested by Applicant.

The Applicant's request for credits was revised to reflect the 4.00% applicable percentage set by federal legislation passed at the end of 2020.

Underwriter:	<i>Curtis Wilkins</i>
Manager of Real Estate Analysis:	<i>Thomas Cavanagh</i>
Director of Real Estate Analysis:	<i>Brent Stewart</i>



**STABILIZED PRO FORMA**

*Pineview at Grogan's Mill, The Woodlands, TDHCA Bonds/4% HTC #21602*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				TDHCA				VARIANCE		
	Database	T-12	COMPS	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>					\$2.17	\$1,243	\$4,474,800	\$4,474,800	\$1,243	\$2.17		0.0%	\$0
Laundry						\$4.00	\$14,400						
Tenant Charges						\$3.45	\$12,420						
HUD Grant Service Coordinator						\$19.31	\$69,528						
Total Secondary Income						\$26.76		\$72,000	\$20.00			33.8%	\$24,348
<b>POTENTIAL GROSS INCOME</b>							\$4,571,148	\$4,546,800				0.5%	\$24,348
Vacancy & Collection Loss						5.0% PGI	(228,557)	(227,340)	5.0% PGI			0.5%	(1,217)
Rental Concessions							-	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>							\$4,342,591	\$4,319,460				0.5%	\$23,131

General & Administrative	\$91,396	\$305/Unit	\$105,518	\$352	\$177,325	\$591	1.85%	\$0.47	\$268	\$80,300	\$105,518	\$352	\$0.61	2.44%	-23.9%	(25,218)
Management	\$84,662	3.9% EGI	\$151,739	\$506	\$143,203	\$477	3.73%	\$0.94	\$540	\$162,000	\$161,137	\$537	\$0.94	3.73%	0.5%	863
Payroll & Payroll Tax	\$347,740	\$1,159/Unit	\$368,459	\$1,228	\$330,188	\$1,101	8.88%	\$2.24	\$1,285	\$385,500	\$385,500	\$1,285	\$2.24	8.92%	0.0%	-
Repairs & Maintenance	\$163,327	\$544/Unit	\$169,526	\$565	\$199,590	\$665	3.95%	\$1.00	\$572	\$171,500	\$210,000	\$700	\$1.22	4.86%	-18.3%	(38,500)
Electric/Gas	\$65,999	\$220/Unit	\$86,432	\$288	\$44,776	\$149	1.57%	\$0.40	\$227	\$68,000	\$86,432	\$288	\$0.50	2.00%	-21.3%	(18,432)
Water, Sewer, & Trash	\$188,044	\$627/Unit	\$91,607	\$305	\$77,800	\$259	2.76%	\$0.70	\$400	\$120,000	\$120,000	\$400	\$0.70	2.78%	0.0%	-
Property Insurance	\$95,567	\$0.56 /sf	\$56,123	\$187	\$92,716	\$309	2.76%	\$0.70	\$400	\$120,000	\$56,123	\$187	\$0.33	1.30%	113.8%	63,877
Property Tax (@ 50%) 2.0700	\$160,760	\$536/Unit	\$190,565	\$635	\$226,561	\$755	6.59%	\$1.66	\$953	\$286,000	\$257,485	\$858	\$1.50	5.96%	11.1%	28,515
Reserve for Replacements				\$0			2.07%	\$0.52	\$300	\$90,000	\$90,000	\$300	\$0.52	2.08%	0.0%	-
Supportive Services				\$0			1.50%	\$0.38	\$217	\$65,000	\$65,000	\$217	\$0.38	1.50%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0			0.28%	\$0.07	\$40	\$12,000	\$12,000	\$40	\$0.07	0.28%	0.0%	-
TDHCA Bond Compliance Fee				\$0			0.17%	\$0.04	\$25	\$7,500	\$7,500	\$25	\$0.04	0.17%	0.0%	-
Bond Trustee Fees				\$0			0.06%	\$0.01	\$8	\$2,500	\$2,500	\$8	\$0.01	0.06%	0.0%	-
Security				\$0			0.35%	\$0.09	\$50	\$15,000	\$15,000	\$50	\$0.09	0.35%	0.0%	-
<b>TOTAL EXPENSES</b>							<b>36.51%</b>	<b>\$9.23</b>	<b>\$5,284</b>	<b>\$ 1,585,300</b>	<b>\$1,574,195</b>	<b>\$5,247</b>	<b>\$9.16</b>	<b>36.44%</b>	<b>0.7%</b>	<b>\$ 11,105</b>
<b>NET OPERATING INCOME ("NOI")</b>							<b>63.49%</b>	<b>\$16.05</b>	<b>\$9,191</b>	<b>\$2,757,291</b>	<b>\$2,745,265</b>	<b>\$9,151</b>	<b>\$15.98</b>	<b>63.56%</b>	<b>0.4%</b>	<b>\$ 12,025</b>

CONTROLLABLE EXPENSES									\$2,751/Unit								\$3,025/Unit
-----------------------	--	--	--	--	--	--	--	--	--------------	--	--	--	--	--	--	--	--------------

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
*Pineview at Grogan's Mill, The Woodlands, TDHCA Bonds/4% HTC #21602*

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	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App											DCR	LTC
Wells Fargo	0.10%	1.56	1.57	\$1,755,875	3.65%	35	17	\$34,000,000	\$34,000,000	17	35	3.65%	\$1,755,875	1.57	46.9%
Wells Fargo		1.27	1.28	\$405,147	3.65%	35	17	\$8,000,000	\$8,000,000	17	35	3.65%	\$405,147	1.28	11.0%
<b>CASH FLOW DEBT / GRANTS</b>															
				<b>\$2,161,023</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$42,000,000</b>	<b>\$42,000,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$2,161,023</b>	<b>1.28</b>	<b>57.9%</b>
<b>NET CASH FLOW</b>		\$584,243	\$596,268					<b>APPLICANT NET OPERATING INCOME</b>		\$2,757,291	\$596,268	<b>NET CASH FLOW</b>			

EQUITY SOURCES												
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
												Wells Fargo Investor
Deferred Developer Fee	Deferred Developer Fees	5.1%	(45% Deferred)		\$3,708,905	\$4,061,633	(50% Deferred)		5.6%		Total Developer Fee: \$8,139,150	
Additional (Excess) Funds Req'd		0.0%			\$0				0.0%			
<b>TOTAL EQUITY SOURCES</b>		<b>41.6%</b>			<b>\$30,217,955</b>	<b>\$30,561,087</b>			<b>42.1%</b>			
<b>TOTAL CAPITALIZATION</b>						<b>\$72,217,955</b>	<b>\$72,561,087</b>					15-Yr Cash Flow after Deferred Fee: <b>\$9,408,493</b>

DEVELOPMENT COST / ITEMIZED BASIS												
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		%	\$				
	Acquisition	New Const. Rehab.			New Const. Rehab.	Acquisition						
Land Acquisition			\$15,000 / Unit	\$4,500,000	\$4,500,000	\$15,000 / Unit		0.0%	\$0			
Building Acquisition	\$35,500,000		\$118,333 / Unit	\$35,500,000	\$35,500,000	\$118,333 / Unit	\$35,500,000	0.0%	\$0			
Off-Sites			\$ / Unit	\$0	\$0	\$ / Unit		0.0%	\$0			
Site Work		\$374,188	\$1,247 / Unit	\$374,188	\$642,107	\$2,140 / Unit	\$642,107	-41.7%	(\$267,919)			
Site Amenities		\$211,487	\$705 / Unit	\$211,487	\$216,487	\$722 / Unit	\$216,487	-2.3%	(\$5,000)			
Building Cost	\$12,897,034		\$75.07 /sf	\$42,990,000	\$12,897,034	\$43,297/Unit	\$75.61 /sf	\$12,989,184	-0.7%	(\$92,150)		
Contingency	\$1,348,271		10.00%	10.00%	\$1,348,271	\$1,348,271	9.74%	9.74%	\$1,348,271	0.0%	\$0	
Contractor Fees	\$2,076,338		14.00%	14.00%	\$2,076,338	\$2,076,338	13.66%	13.66%	\$2,076,338	0.0%	\$0	
Soft Costs	0	\$1,309,000	\$6.013 / Unit	\$1,804,000	\$1,804,000	\$6.013 / Unit	\$1,309,000	\$0	0.0%	\$0		
Financing	146,251	\$544,686	\$14,700 / Unit	\$4,410,064	\$4,410,064	\$14,700 / Unit	\$544,686	\$146,251	0.0%	\$0		
Developer Fee	\$5,346,938	\$2,814,150	15.00%	15.04%	\$8,161,088	\$8,139,150	14.90%	14.93%	\$2,814,150	0.3%	\$21,938	
Reserves			3 Months	\$935,485	\$935,485	3 Months			0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$40,993,189</b>	<b>\$21,575,154</b>		\$240,727 / Unit	<b>\$72,217,956</b>	<b>\$72,561,087</b>	\$241,870 / Unit	<b>\$21,940,223</b>	<b>\$41,007,601</b>	<b>-0.5%</b>	<b>(\$343,132)</b>	
Acquisition Cost	\$0				\$0							
Contingency		(\$0)			(\$0)							
Contractor's Fee		(\$1)			(\$1)							
Financing Cost		\$0										
Developer Fee	\$14,411	\$0			(\$21,938)							
Reserves					\$0							
<b>ADJUSTED BASIS / COST</b>	<b>\$41,007,601</b>	<b>\$21,575,153</b>		\$240,653/unit	<b>\$72,196,017</b>	<b>\$72,561,087</b>	\$241,870/unit	<b>\$21,940,223</b>	<b>\$41,007,601</b>	<b>-0.5%</b>	<b>(\$365,070)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>						<b>\$72,561,087</b>						

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**  
**Pineview at Grogan's Mill, The Woodlands, TDHCA Bonds/4% HTC #21602**

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$41,007,601	\$21,575,153	\$41,007,601	\$21,940,223
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$41,007,601	\$21,575,153	\$41,007,601	\$21,940,223
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$41,007,601	\$28,047,699	\$41,007,601	\$28,522,290
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$41,007,601	\$28,047,699	\$41,007,601	\$28,522,290
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$1,640,304	\$1,121,908	\$1,640,304	\$1,140,892
<b>CREDITS ON QUALIFIED BASIS</b>	\$2,762,212		\$2,781,196	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9596	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,781,196	\$26,687,140	----	----	----
<b>Needed to Fill Gap</b>	\$3,184,918	\$30,561,087	----	----	----
<b>Applicant Request</b>	\$2,761,636	\$26,499,454	<b>\$2,761,636</b>	<b>\$0</b>	<b>\$0</b>

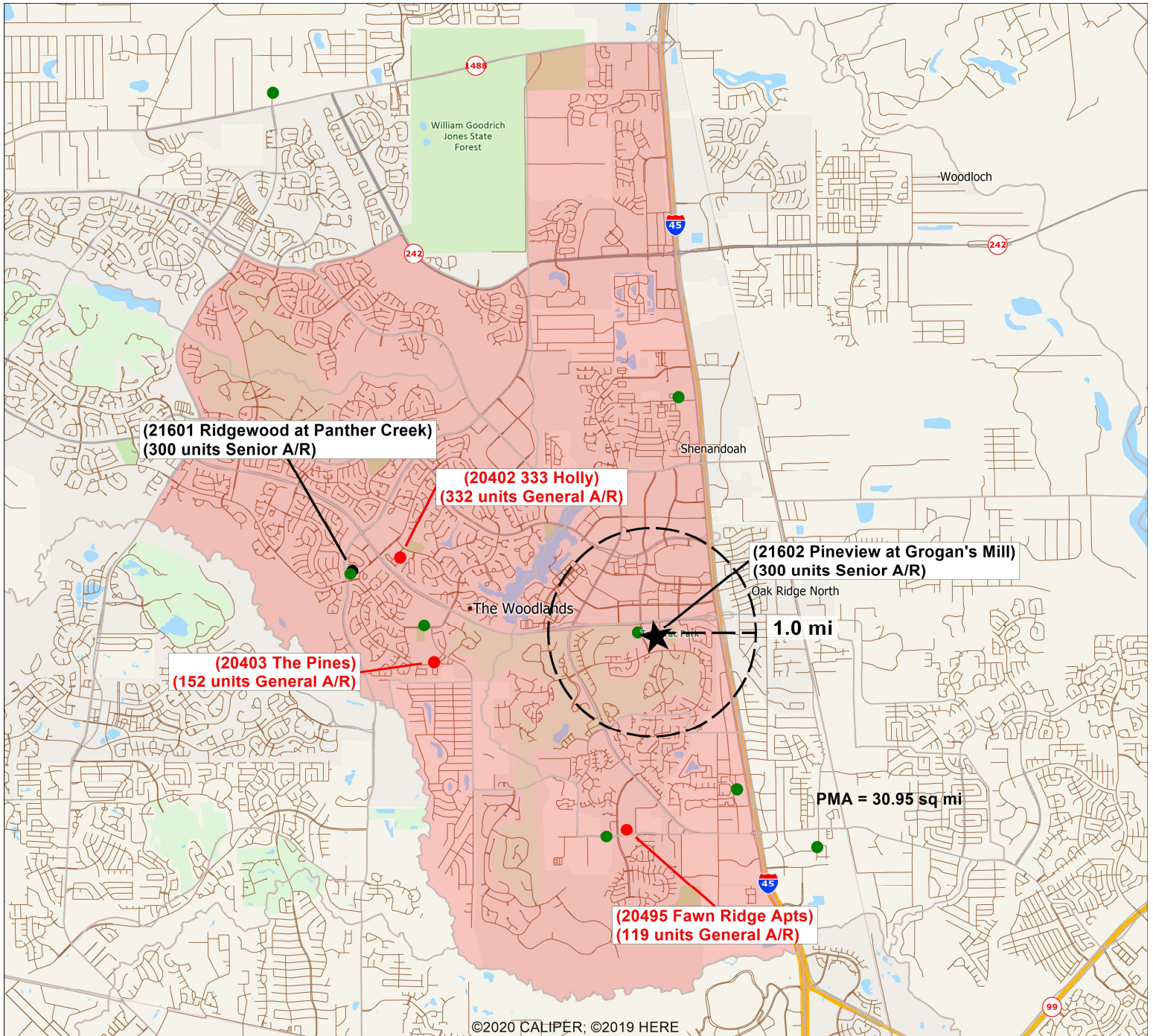
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$34,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		57.2%	56.9%
Land Cost	\$4,500,000	\$4,500,000	amount aggregate basis can increase before 50% test fails	\$8,597,745	\$8,232,676
Depreciable Bldg Cost	\$54,902,255	\$55,267,324			
<b>Aggregate Basis for 50% Test</b>	\$59,402,255	\$59,767,324			

## Long-Term Pro Forma

*Pineview at Grogan's Mill, The Woodlands, TDHCA Bonds/4% HTC #21602*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$4,342,591	\$4,429,442	\$4,518,031	\$4,608,392	\$4,700,560	\$5,189,798	\$5,729,956	\$6,326,335	\$6,984,784	\$7,711,766	\$8,514,413
TOTAL EXPENSES	3.00%	\$1,585,300	\$1,631,239	\$1,678,524	\$1,727,194	\$1,777,291	\$2,050,689	\$2,366,625	\$2,731,769	\$3,153,843	\$3,641,787	\$4,205,950
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$2,757,291</b>	<b>\$2,798,203</b>	<b>\$2,839,507</b>	<b>\$2,881,198</b>	<b>\$2,923,269</b>	<b>\$3,139,109</b>	<b>\$3,363,332</b>	<b>\$3,594,566</b>	<b>\$3,830,942</b>	<b>\$4,069,980</b>	<b>\$4,308,463</b>
EXPENSE/INCOME RATIO		36.5%	36.8%	37.2%	37.5%	37.8%	39.5%	41.3%	43.2%	45.2%	47.2%	49.4%
<b>MUST -PAY DEBT SERVICE</b>												
TOTAL DEBT SERVICE		\$2,161,023	\$2,160,534	\$2,160,026	\$2,159,500	\$2,158,955	\$2,155,908	\$2,152,253	\$2,147,866	\$2,142,603	\$2,136,288	\$2,128,711
DEBT COVERAGE RATIO		1.28	1.30	1.31	1.33	1.35	1.46	1.56	1.67	1.79	1.91	2.02
<b>ANNUAL CASH FLOW</b>												
		<b>\$596,268</b>	<b>\$637,670</b>	<b>\$679,481</b>	<b>\$721,697</b>	<b>\$764,314</b>	<b>\$983,201</b>	<b>\$1,211,079</b>	<b>\$1,446,700</b>	<b>\$1,688,338</b>	<b>\$1,933,692</b>	<b>\$2,179,752</b>
Deferred Developer Fee Balance		\$3,465,365	\$2,827,695	\$2,148,214	\$1,426,517	\$662,203	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,812,233</b>	<b>\$9,408,493</b>	<b>\$16,167,959</b>	<b>\$24,124,380</b>	<b>\$33,301,191</b>	<b>\$43,708,251</b>

# 21602 Pineview at Grogan's Mill PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.



## Final Transcript

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS:  
Public Hearing**

February 12, 2021/2:00 p.m. CST

### **SPEAKERS**

Teresa Morales – Director of Multifamily Bonds

### **PRESENTATION**

Teresa                      Good afternoon. This is Teresa Morales. I'm with the Texas Department of Housing and Community Affairs. The purpose of this call is to conduct a public hearing with respect to the proposed Pineview at Grogan's Mill Multifamily Development.

To give folks an idea as to how we're going to proceed, there is a brief speech that I need to read for purposes of meeting the Internal Revenue Code requirements. It'll be at the conclusion of that speech where I will unmute the lines. If there are any individuals who would like to make public comment, then that would be an opportunity for you to do so. With



**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2012/2:00 p.m. CST**

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that being said, we'll go ahead and get started.

Good afternoon. My name is Teresa Morales, and I would like to proceed with the public hearing. Let the record show that it is 2:03 p.m. on Friday, February 12, 2021. We are conducting a public hearing on behalf of the Texas Department of Housing and Community Affairs with respect to an issue of Tax-Exempt Multifamily Revenue Bonds for a Residential Rental Community.

This hearing is required by the Internal Revenue Code. The sole purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue. No decisions regarding the development will be made at this hearing. The department's board is scheduled to meet to consider the transaction on March 11, 2021. In addition to providing your comments at this hearing, the public is also invited to provide comment directly to the board at any of their meetings.

The bonds will be issued as tax-exempt multifamily revenue bonds and the aggregate principal amount not to exceed \$34 million, and taxable bonds, if necessary, in an amount to be determined and issued in one or more

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2012/2:00 p.m. CST**

**Page 3**

series by the Texas Department of Housing and Community Affairs, the issuer. The proceeds of the bonds will be loaned to Pineview Senior Housing, LP or a related person or affiliate entity thereof to finance a portion of the costs of acquiring, rehabbing, and equipping a multifamily rental housing community described as follows: a 300-unit multifamily residential redevelopment to be located on approximately 12 acres of land located at 10510 Six Pines Drive, The Woodlands, Montgomery County, Texas, 77381. The proposed multifamily rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof.

I would now like to unmute all of the lines.

Moderator All participants are now in interactive talk mode.

Teresa All of the lines have been unmuted. If there are any individuals on the line who would like to make public comment or express any comments with respect to the proposed multifamily development, now would be an opportunity for you to do so.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2012/2:00 p.m. CST**

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Again, if there are any individuals who would like to make public comment with respect to this proposed development, all of the lines have been unmuted and this would be an opportunity to make that comment.

Okay. Let the record show that there are no individuals on the line who have indicated that they would like to make public comment with respect to this property. Therefore, the meeting is now adjourned. The time is 2:06 p.m. Thank you.

8e

**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Ridgewood at Panther Creek) Series 2021, Resolution No. 21-021, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for Ridgewood at Panther Creek, formerly known as Copperwood, at the Board meeting of July 23, 2020;

**WHEREAS**, an application for Ridgewood at Panther Creek requesting 4% Housing Tax Credits, sponsored by Rainbow Housing and The Related Companies, was submitted to the Department on November 9, 2020;

**WHEREAS**, a Certification of Reservation was issued in the amount of \$40,000,000 on January 8, 2021, with a bond delivery deadline of July 7, 2021;

**WHEREAS**, the applicant has requested a waiver, in accordance with 10 TAC §11.207 of the Qualified Allocation Plan (QAP) of certain provisions contained in 10 TAC §11.304(a)(2) of the QAP related to the Third-Party Appraisal Review Policy;

**WHEREAS**, staff recommends that such waiver be granted as this is a new process that has not fully been implemented at the staff level and staff reviewed the application appraisal to ensure compliance with the QAP;

**WHEREAS**, granting the waiver better serves the purposes articulated in Tex. Gov't Code §§2306.001 and 2306.002 as the appraisal is still reviewed by staff demonstrating compliance with the QAP despite the review process of third-party appraisal reviewers; and

**WHEREAS**, EARAC recommends approval of the issuance of Multifamily Green Tax-Exempt Bonds (Series 2021) for Ridgewood at Panther Creek and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, the waiver of 10 TAC §11.304(a)(2) of the Underwriting and Loan Policy Rules is hereby granted;

**RESOLVED**, that the issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Ridgewood at Panther Creek) Series 2021, in an amount not to exceed \$40,000,000, Resolution No. 21-021, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$3,269,484 in 4% Housing Tax Credits for Ridgewood at Panther Creek, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website, is hereby approved in the form presented to this meeting; and

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

### **BACKGROUND**

*General Information:* The Bonds will be issued in accordance with Tex. Gov’t Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds for its public purposes, as defined therein. Tex. Gov’t Code §2306.472 provides that the Department’s revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas.

*Development Information:* Ridgewood at Panther Creek is located at 4407 South Panther Creek Drive in The Woodlands, Montgomery County, and proposes the acquisition and rehabilitation of 300 units that will continue to serve the elderly population. The property was originally built in 1981, and received an award of 4% Housing Tax Credits in 2005. There is an existing Section 8 HAP contract covering all 300 units that is expected to be renewed at closing for an additional 20-year term. The Certificate of Reservation from the Bond Review Board was issued under the Priority 1A designation, which requires 50% of the units within the development have rents restricted to 50% of Area Median Family Income (AMFI), and the remaining 50% of units have rents restricted to 60% of AMFI. As a result, 150 of the units will be rent and income restricted at 50% of AMFI, and the remaining 150 units will be rent and income restricted at 60% of AMFI. Rehabilitation cost, which includes building costs and site work, is approximately \$45k per unit.

*Waiver Request:* The 2021 Underwriting and Loan Policy Rules were revised to allow for developer fee on the acquisition value of the building. As part of this rule change, also required under 10 TAC §11.304(a)(2), is that the appraisal submitted with the application be reviewed by a third party appraiser on an approved list by the Department. The application requires a waiver of 10 TAC §11.304(a)(2) as the process for the third party appraisal review has not yet been established, and underwriting staff has continued to review application appraisals. Staff believes that granting the waiver better serves the purposes articulated in Tex. Gov’t Code, §§2306.001 and 2306.002 through the preservation of the existing housing and review of the appraisal was performed by staff to ensure compliance with the QAP.

*Organizational Structure and Previous Participation:* The Borrower is Ridgewood Senior Housing, L.P. and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 without further review and discussion by EARAC.

*Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing/Public Comment:* In light of COVID-19 and the inability for an in-person TEFRA hearing to be held, staff conducted a telephonic hearing, in accordance with IRS guidance, for the proposed development on February 12, 2021, and no public comment was made. A copy of the hearing transcript is included herein. The Department has received no letters of support or opposition for the proposed development.

### **Summary of Financial Structure**

This transaction utilizes a Fannie Mae Multifamily Pass-Through Mortgage-Backed Security (MBS). Bond proceeds will fund a mortgage loan made by the Department to the Borrower. Simultaneously with the closing, the loan will be assigned to the Fannie Mae lender (Wells Fargo Multifamily Capital) and the funds used by the lender to acquire the loan will be deposited into the collateral account to secure the bonds. The Bonds will be cash collateralized until the MBS Delivery Date, after which the MBS will be the security for the bonds until maturity or earlier redemption. The MBS Delivery Date is expected to occur approximately 10-15 days following the closing date, at which time Wells Fargo Multifamily Capital will assign the loan to Fannie Mae and in exchange, Fannie will deliver the MBS to the trustee. The trustee will use the funds (loan proceeds from Wells Fargo) in the collateral account to purchase the MBS. Payments on the MBS will be guaranteed by Fannie Mae.

Under the proposed structure, the Department will issue tax-exempt fixed rate bonds in an amount not to exceed \$40,000,000. The Bonds will be pass-through bonds, with principal received on the MBS "passing through" monthly to the holders of the Bonds. The interest rate on the bonds is currently estimated to be 3.75%, but will depend on market conditions at the time of pricing. The attached resolution authorizes a maximum interest rate of 6.0%. The bonds will be structured with a term of 17 years using a 35-year amortization, and will have a maximum maturity date of April 1, 2041, but are expected to reach maturity on May 1, 2038. Simultaneous with the issuance of the Bonds, Wells Fargo Multifamily Capital will make a \$6,000,000 loan (Non-Bond Mortgage Loan) to the Borrower with the same interest rate, term, and maturity date as the Bonds. The Bonds and the Non-Bond Mortgage Loan are co-equal and cross-defaulted.

Additionally, unique to this transaction is that it is utilizing a product from Fannie under their Green Building Program. The name of the issuance reflects that they are Multifamily Green Tax-Exempt Bonds. Fannie Mae offers incentives (preferential pricing and a free energy and water audit paid by Fannie) for owners who commit to property improvements that are projected to reduce the property's annual energy and/or water consumption by at least 30%. As a result of these features it will disclose the Green Loan as a Green MBS and will presumably be able to access a broader MBS investor market.

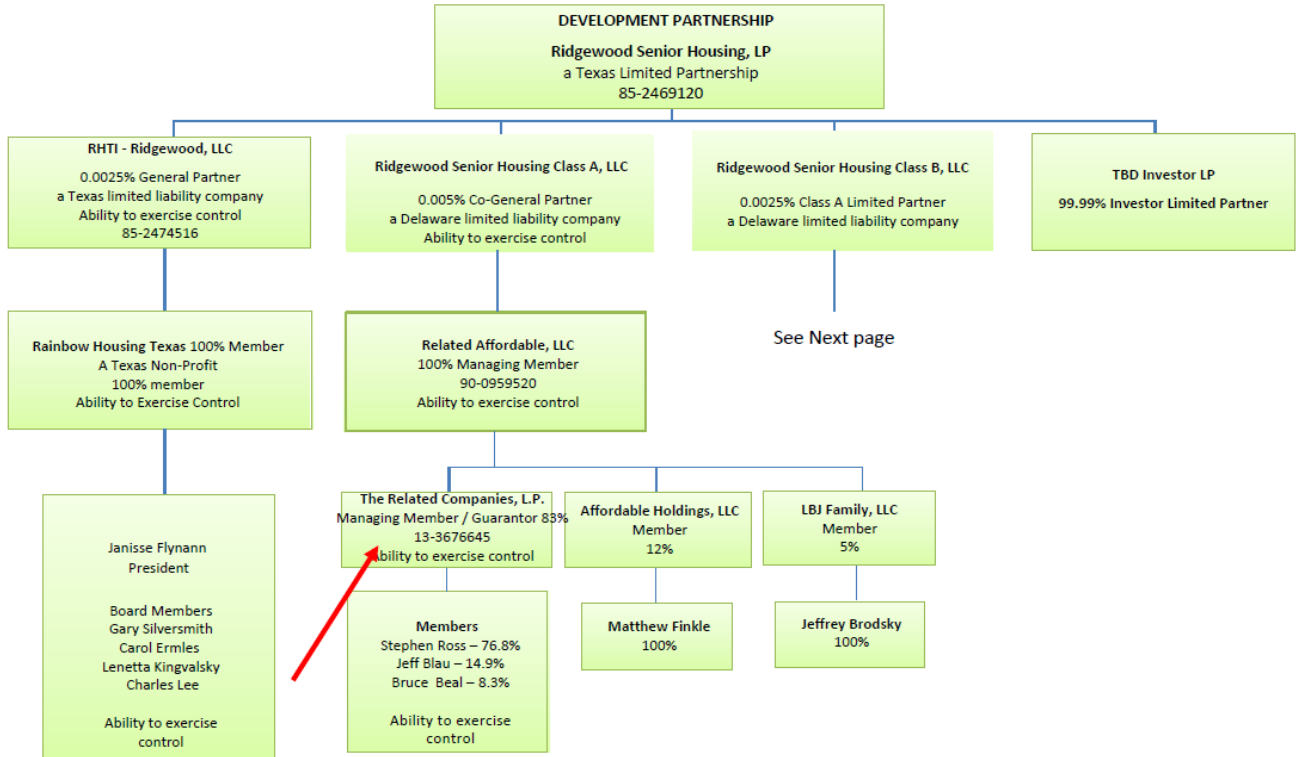
A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 21-021 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.



EXHIBIT A

# Ridgewood Senior Housing

## Ownership Structure



## RESOLUTION NO. 21-021

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY GREEN TAX-EXEMPT BONDS (GREEN M-TEBS – RIDGEWOOD AT PANTHER CREEK) SERIES 2021; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Green Tax-Exempt Bonds (GREEN M-TEBS – RIDGEWOOD AT PANTHER CREEK) Series 2021 (the “Bonds”) pursuant to and in accordance with the terms of an Indenture of Trust (the “Indenture”) between the Department and BOKF, NA, as trustee (the “Trustee”), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Ridgewood Senior Housing, LP, a Texas limited partnership (the “Borrower”) in order to finance the cost of acquisition, equipping and rehabilitation of a qualified residential rental development for seniors described in Exhibit A attached hereto (the “Development”) located

within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by a resolution adopted on July 23, 2020, declared its intent to issue its revenue bonds to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas; and

WHEREAS, it is anticipated that the Department, the Trustee, the Lender (defined below) and the Borrower will execute and deliver a Financing Agreement (the "Financing Agreement") pursuant to which (i) the Department will agree to make a mortgage loan (the "Loan") to the Borrower to enable the Borrower to finance the cost of acquisition, equipping and rehabilitation of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a promissory note (the "Note") in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount sufficient to pay the interest on the Bonds in accordance with the terms of a Multifamily Loan and Security Agreement (Non-Recourse) (the "Loan Agreement") by and between the Borrower and the Department and to pay other costs described in the Financing Agreement; and

WHEREAS, it is anticipated that the Note will be secured by a Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage") from the Borrower for the benefit of the Department; and

WHEREAS, it is anticipated that the obligations of the Borrower under the Financing Agreement (other than for the repayment of principal and interest) will be secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (the "Subordinate Mortgage") from the Borrower for the benefit of the Department and the Trustee; and

WHEREAS, the Borrower will obtain a loan from, Wells Fargo Bank, National Association, as lender (the "Lender"), and the Lender will deposit the proceeds of such loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, in connection with the loan from the Lender, it is anticipated that the Department will assign to the Lender all of its rights (except for certain reserved rights) under the Loan Agreement, the Mortgage and certain other collateral loan documents pursuant to those certain (i) Assignment of Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Assignment of Deed of Trust"), and (ii) Assignment of Collateral Agreements and Other Loan Documents (the "Assignment of Collateral Documents," and together with the Assignment of Deed of Trust, the "Assignments"); and

WHEREAS, in connection with the financing of the Development, the Borrower will also obtain a taxable mortgage loan (the "Taxable Mortgage Loan") from the Lender; and

WHEREAS, the Board has determined that the Department, the Trustee, and the Borrower will execute a Tax Exemption Certificate and Agreement (the "Tax Exemption Agreement") to set forth various facts, certifications, covenants, representations, and warranties regarding the Bonds and the Development and to establish the expectations of the Department, the Trustee, and the Borrower as to future events regarding the Bonds, the Development, and the use and investment of proceeds of the Bonds; and

WHEREAS, the Board has determined that the Department, the Trustee and the Borrower, will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Montgomery County, Texas; and

WHEREAS, the Lender has agreed to permit the Loan and the Taxable Mortgage Loan and to allow the lien of the Subordinate Mortgage in accordance with the terms of a Subordination Agreement (Affordable) (the "Subordination Agreement") among the Lender, the Department, the Trustee and the Borrower; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of an Official Statement (the "Official Statement") and to authorize the Authorized Representatives (as defined herein) of the Department to deem the Official Statement "final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final Official Statement for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the "Bond Purchase Agreement") with Wells Fargo Bank, National Association (the "Underwriter"), Pineview Senior Housing, LP, a Texas limited partnership ("Pineview"), and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase all of the Bonds from the Department and the Department will sell the Bonds to the Underwriter; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Financing Agreement, the Tax Exemption Agreement, the Regulatory Agreement, the Loan Agreement, the Assignment of Deed of Trust, the Assignment of Collateral Documents, the Subordination Agreement, the Official Statement and the Bond Purchase Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Mortgage, the Subordinate Mortgage and the Note; has found 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, subject to the conditions set forth in Article 1, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Mortgage, the Subordinate Mortgage and the Note and the taking of such other actions as may be necessary or convenient in connection therewith;

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 the Bonds is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to or upon the order of the initial purchaser thereof pursuant to the Bond Purchase Agreement.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Bond Purchase Agreement, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative (as defined below) of the Department of the Indenture and the Bond Purchase Agreement; provided, however, that (i) the Bonds shall bear interest at the interest rate set forth in the Bond Purchase Agreement in accordance with the provisions of the Indenture; provided that in no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Bonds shall not exceed 6.00% (ii) the aggregate principal amount of the Bonds shall not exceed \$40,000,000; (iii) the final maturity of the Bonds shall occur not later than April 1, 2041; and (iv) the price at which the Bonds are sold to the initial purchaser thereof under the Bond Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives (as defined below) are each hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Financing Agreement and the Loan Agreement. That the form and substance of the Financing Agreement and the Loan Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Financing Agreement and the Loan Agreement, and to deliver the Financing Agreement and the Loan Agreement to the Borrower.

Section 1.5 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement relating to the Bonds are hereby approved and the Authorized Representatives are each hereby authorized to execute the Tax Exemption Agreement and to deliver the Tax Exemption Agreement to the Borrower and the Trustee.

Section 1.6 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Montgomery County, Texas.

Section 1.7 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter and/or any other parties pursuant to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrower, Pineview, the Underwriter, and/or any other parties to the Bond Purchase Agreement, as appropriate.

Section 1.8 Acceptance of the Note, the Mortgage and the Subordinate Mortgage. That the form and substance of the Note, the Mortgage and the Subordinate Mortgage are hereby accepted by the Department and that the Authorized Representatives are each hereby authorized to endorse and deliver the Note without recourse.

Section 1.9 Approval, Execution and Delivery of the Assignments. That the form and substance of the Assignment of Deed of Trust and the Assignment of Collateral Documents, are hereby approved, and that the Authorized Representatives each are hereby authorized to execute each Assignment, and to deliver each Assignment to the Lender.

Section 1.10 Approval, Execution and Delivery of the Subordination Agreement. That the form and substance of the Subordination Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Subordination Agreement, and to deliver the Subordination Agreement to the Lender, the Trustee and the Borrower and to cause the Subordination Agreement to be filed of record in the real property records of Montgomery County, Texas.

Section 1.11 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chair and Vice Chair of the Board and the Executive Director of the Department are hereby severally authorized to deem the Official Statement "final" for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution are each authorized hereby

to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Bonds; that the Authorized Representatives named in this Resolution are each authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director of the Department and the Department's counsel.

Section 1.12 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, 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 they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.13 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, and in the opinion of Bracewell LLP, Bond Counsel to the Department ("Bond Counsel"), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.14 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 B - Indenture
- Exhibit C - Financing Agreement
- Exhibit D - Loan Agreement
- Exhibit E - Tax Exemption Agreement
- Exhibit F - Regulatory Agreement
- Exhibit G - Bond Purchase Agreement
- Exhibit H - Note
- Exhibit I - Mortgage
- Exhibit J - Subordinate Mortgage
- Exhibit K - Assignment of Deed of Trust
- Exhibit L - Assignment of Collateral Documents
- Exhibit M - Subordination Agreement
- Exhibit N - Official Statement

Section 1.15 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 Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Service, Inc., and its successors and assigns, is approved, ratified and confirmed hereby.

Section 2.5 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and the Tax Exemption Agreement and to enter into any agreements relating thereto only to the extent permitted by the Indenture and the Tax Exemption Agreement.

Section 2.6 Underwriter. That the underwriter with respect to the issuance of the Bonds will be Wells Fargo Bank, National Association, or any other party identified in the Bond Purchase Agreement.



Section 2.7 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.8 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

### ARTICLE 3

#### CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

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

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Financing Agreement, the Tax Exemption Agreement and the Regulatory Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a

public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Financing Agreement, the Tax Exemption Agreement and the Regulatory Agreement, which require, among other things, that the Development be occupied by individuals and families of low, very low and extremely low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low, very low and extremely low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low, very low and extremely low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Tax Exemption Agreement and the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Loan will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

## ARTICLE 4

### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, 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. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 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, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Governing Board.

PASSED AND APPROVED this 11th day of March, 2021.

**EXHIBIT A**

**Description of Development**

Borrower: Ridgewood Senior Housing, LP, a Texas limited partnership

Development: The Development is a 300-unit affordable, multifamily housing development for seniors to be known as Ridgewood at Panther Creek, located at 4407 South Panther Creek Drive, The Woodlands, Montgomery County, TX 77381. It consists of two (2) residential apartment buildings and one (1) community building with approximately 176,268 net rentable square feet. The unit mix will consist of:

264	one-bedroom/one-bath units
36	two-bedroom/one-bath units
<hr/>	
300	Total Units

Unit sizes will range from approximately 568 square feet to approximately 731 square feet.

# 21601 Ridgewood at Panther Creek - Application Summary

REAL ESTATE ANALYSIS DIVISION

March 4, 2021

PROPERTY IDENTIFICATION			RECOMMENDATION					KEY PRINCIPALS / SPONSOR			
Application #	21601		TDHCA Program	Request	Recommended		Related Affordable, LLC: LP; Developer				
Development	Ridgewood at Panther Creek		LIHTC (4% Credit)	\$3,269,484	\$3,269,484	\$10,898/Unit	\$0.96	Rainbow Housing Texas, Inc.: GP			
City / County	The Woodlands / Montgomery										
Region/Area	6 / Urban										
Population	Elderly Limitation										
Set-Aside	General										
Activity	Acquisition/Rehab	(Built in 1981)	Private Activity Bonds	\$40,000,000	3.75%	35	17	1	Related Parties	Contractor - TBD	Seller - 0

### TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	31	10%
1	264	88%	40%	-	0%
2	36	12%	50%	119	40%
3	-	0%	60%	150	50%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>300</b>	<b>100%</b>	<b>TOTAL</b>	<b>300</b>	<b>100%</b>

### PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.25	Expense Ratio	34.2%
Breakeven Occ.	82.5%	Breakeven Rent	\$1,133
Average Rent	\$1,306	B/E Rent Margin	\$173
Property Taxes	\$1,083/unit	Exemption/PILOT	50%
Total Expense	\$5,129/unit	Controllable	\$2,516/unit

### SITE PLAN



### MARKET FEASIBILITY INDICATORS

Gross Capture Rate (0% Maximum)	#DIV/0!
Highest Unit Capture Rate	0% #N/A ###
Dominant Unit Cap. Rate	0 BR/20% 0
Premiums (↑60% Rents)	#DIV/0! #DIV/0!
Rent Assisted Units	300 100% Total Units

### DEVELOPMENT COST SUMMARY

Costs Underwritten	TDHCA's Costs - Based on PCA	
Avg. Unit Size	588 SF	Density 26.6/acre
Acquisition	\$158K/unit	\$47,250K
Building Cost	\$73.33/SF	\$43K/unit \$12,926K
Hard Cost	\$49K/unit	\$14,847K
Total Cost	\$272K/unit	\$81,553K
Developer Fee	\$9,681K (43% Deferred)	Paid Year: 6
Contractor Fee	\$2,077K	30% Boost Yes

### REHABILITATION COSTS / UNIT

Site Work	\$1K	2%	Finishes/Fixtures	\$15K	30%
Building Shell	\$28K	57%	Amenities	\$1K	2%
HVAC			Total Exterior	\$30K	67%
Appliances			Total Interior	\$15K	33%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Wells Fargo	17/35	3.65%	\$40,000,000	1.43						Wells Fargo Investor	\$31,383,909	
Wells Fargo	17/35	3.65%	\$6,000,000	1.25						Developer	\$4,169,324	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$46,000,000</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$35,553,233</b>
											<b>TOTAL DEBT SOURCES</b>	<b>\$46,000,000</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$81,553,233</b>

**CONDITIONS**

- Receipt and acceptance before Determination Notice:
  - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as recommended.
  - b: Documentation of approval of the proposed HAP Rents.

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	TDHCA
Expiration Date	7/7/2021
Bond Amount	\$40,000,000
BRB Priority	Priority 1a
Bond Structure	Fannie M.TEB
% Financed with Tax-Exempt Bonds	57.5%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>▫ 100% Section 8 HAP Assisted</li> <li>▫ Developer's Experience with TDHCA Programs</li> <li>▫ Strong Cash-Flow Potential</li> <li>▫ Developer/Owner's construction and management of LIHTC properties in Texas.</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>▫ Parking Ratio</li> </ul>	
AREA MAP	







**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 21601 Program(s): TDHCA Bonds/4% HTC

**Ridgewood at Panther Creek**

Address/Location: 4407 South Panther Creek Drive

City: The Woodlands County: Montgomery Zip: 77381

Population: Elderly Limitation Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Garden (Up to 4-story) Region: 6

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
Private Activity Bonds	\$40,000,000	3.75%	35	17	\$40,000,000	3.75%	35	17	1
LIHTC (4% Credit)	\$3,269,484				\$3,269,484				

Based on the unique circumstances of the acquisition as described in the Report, Staff recommends Board approval of a waiver of the following rule:

- a) 11.304(a)(2) - requiring Appraisals to be reviewed in accordance with USPAP Standard 3 and Standard 4, as selected by the Department from an approved list of review appraisers.

**CONDITIONS**

- Receipt and acceptance before Determination Notice:
    - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as recommended.
    - b: Documentation of approval of the proposed HAP Rents.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	31
50% of AMI	50% of AMI	119
60% of AMI	60% of AMI	150

**DEVELOPMENT SUMMARY**

Ridgewood at Panther Creek is an existing Project-Based Section 8 community located in The Woodlands, TX. This application is for the acquisition and rehab of the property. Rehab will include \$50K/unit of improvements.

The community will serve the elderly population at 30%, 50% and 60% Area Median Income (AMI) levels. 100% of the units are covered by a HAP contract. Applicant anticipates a Mark-Up-To-Market (MUTM) renewal of the HAP contract.

**RISK PROFILE**

STRENGTHS/MITIGATING FACTORS	
▫	100% Section 8 HAP Assisted
▫	Developer's Experience with TDHCA Programs
▫	Strong Cash-Flow Potential
▫	Low Expense-Ratio

WEAKNESSES/RISKS	
▫	Parking Ratio
▫	
▫	
▫	

**DEVELOPMENT TEAM**

**PRIMARY CONTACTS**

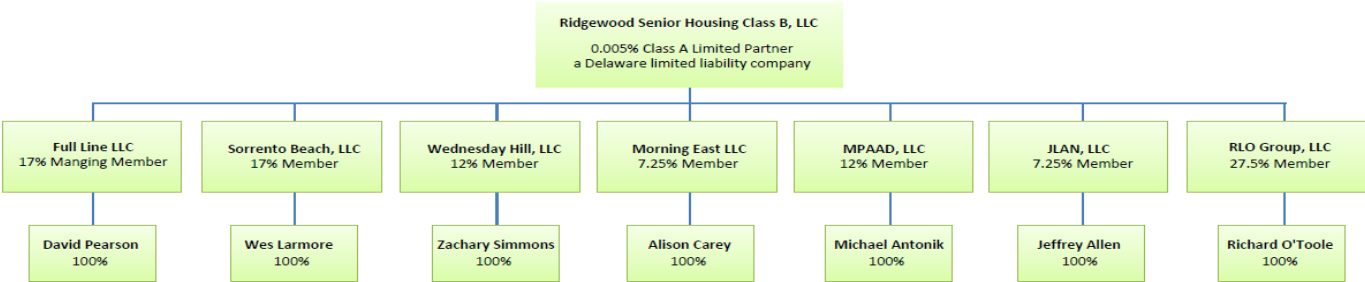
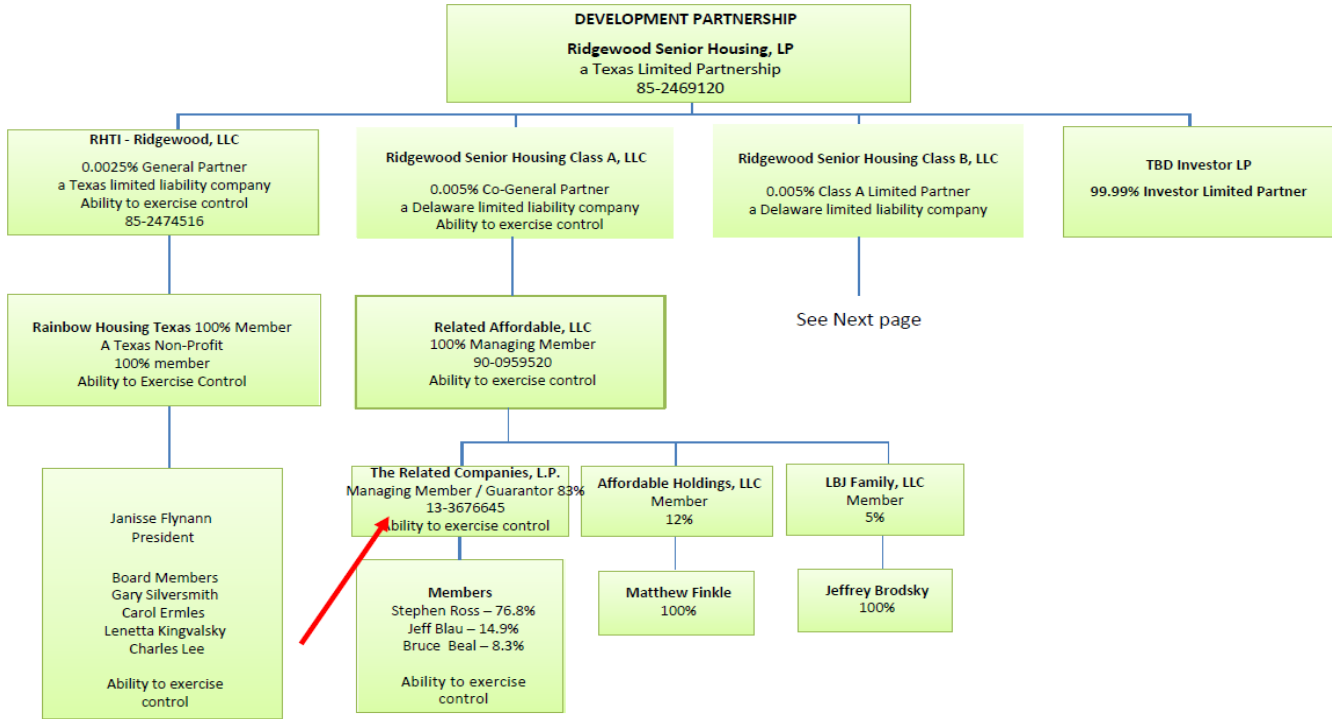
Name: Wes Larmore  
Phone: (213) 634-1566  
Relationship: Developer

Name: Ean Dubrowsky  
Phone: (213) 254-2021  
Relationship: Developer



# Ridgewood Senior Housing

## Ownership Structure



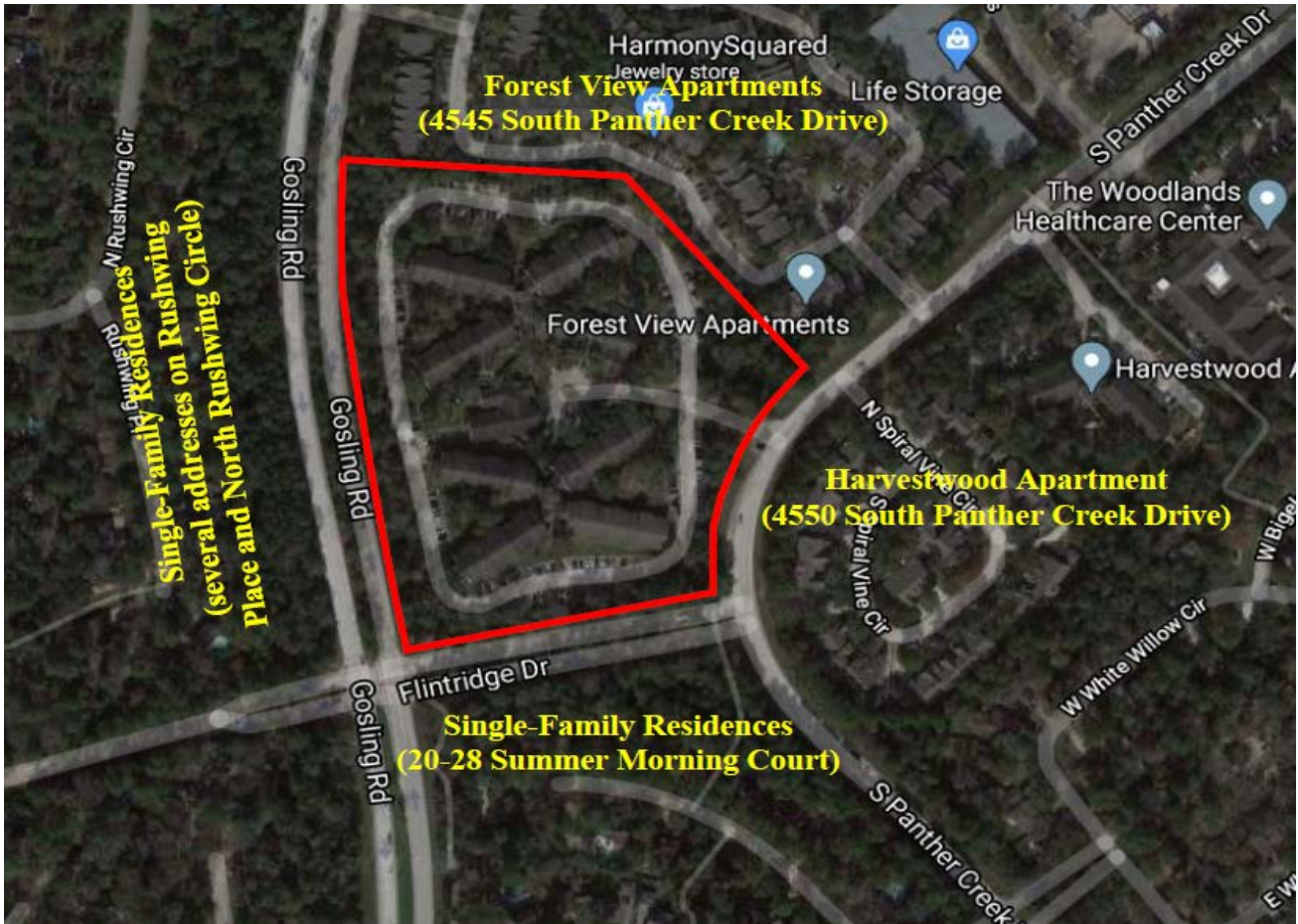
The Related Companies organization owns and operates a portfolio of assets valued at over \$60 billion, which includes luxury, affordable and workforce apartments, commercial, retail and mixed-use developments. Related Affordable, LLC is a subsidiary of The Related Companies, L.P. They have built, renovated and managed over 60,000 affordable and workforce housing units, including the development of over 30 HTC properties in Texas. For more information go to [www.related.com](http://www.related.com).

- Rainbow Housing Texas, Inc. is sole member of the GP. The non-profit organization has participated in a number TDHCA programs.

# DEVELOPMENT SUMMARY

## SITE PLAN





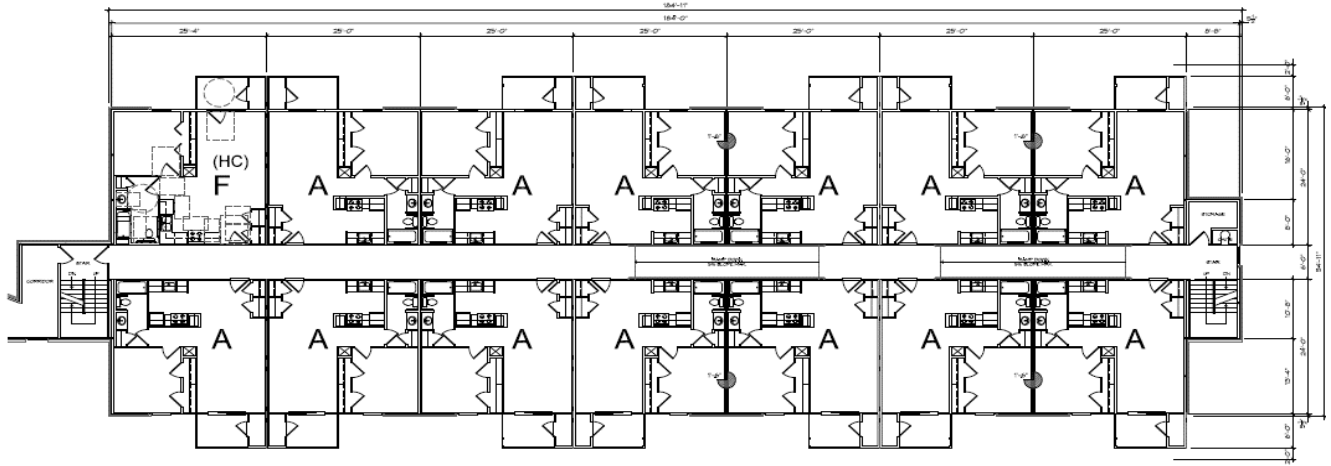
Comments:

The site has gentle sloping. Storm water drains are located throughout the subject property, and ground water flows toward the southwest. Access to the site is located along South Panther Creek Drive on the eastern perimeter of the subject property.

The project will provide 227 total parking spaces, which represents 0.76 spaces/ unit. The County of Montgomery does not have zoning ordinances and does not regulate the number of parking spaces. Therefore, the site has a parking status of conforming.

Site amenities include two gazebos and an outside seating area.

BUILDING PLAN (Typical)



Comments:

Building plan consists of 8, three-story residential buildings. Units feature 8-foot ceilings, patios/ balconies, and an outside storage closet. The property is comprised of one-bedroom and two-bedroom units, each featuring one bathroom.

BUILDING ELEVATION



Comments:

Building exteriors are wood-framed with reinforced concrete foundations. Elevation is finished with masonry brick veneer and painted siding. 4/12 pitched roof with gutters and downspouts.

Tenant Relocation Plan

Applicant provided a tenant relocation plan, which will require residents to be out of their units 10 days. Units being converted to full accessibility may have an extended timeline beyond 10 days. The plan calls for work on two units to start every Monday and Tuesday with allowable breaks for catch up.

Residents will move out on the week day prior to work starting on their unit. Temporary on-site vacant units will be used to house tenants while their units is being renovated. Off-site housing also may be required for one or more households with possible lodging at nearby hotels listed on the relocation plan. Assistance to residents may include moving assistance, relocation coordination, and potential per diem to cover any out of pocket expenses.

\$450k of relocation costs are included in the development cost budget (\$1,500 per unit)

BUILDING CONFIGURATION

Building Type	1B	1C	1D	1E	3B	3C	3D	3E					Total Buildings
Floors/Stories	3	3	3	3	3	3	3	3					
Number of Bldgs	1	1	1	1	1	1	1	1					8
Units per Bldg	42	36	36	36	42	36	36	36					
<b>Total Units</b>	42	36	36	36	42	36	36	36					300
<b>Avg. Unit Size (SF)</b>		588 sf		<b>Total NRA (SF)</b>		176,268		<b>Common Area (SF)*</b>		8,366			

\*Common Area Square Footage as specified on Architect Certification

SITE CONTROL INFO

**Site Acreage:**      Development Site: 11.27 acres      Density: 26.6 units/acre  
**Site Control:** 11.27      **Site Plan:** 11.27      **Appraisal:** 11.26      **ESA:** 11.26

Control Type: Commercial Contract      Contract Expiration: April 2021

Total Acquisition: 11.27 acres      Cost: \$42,750,000

Seller: Copperwood Preservation, L.P.  
 Buyer: Related Affordable, LLC.  
 Assignee: Ridgewood Senior Housing, LP

Comments:

In July 2018 affiliates of the Related Companies ("Related") acquired all of the ownership interests held by AIMCO in 52 affordable housing properties across the country; six are located in Texas of which Ridgewood at Panther\_Creek is one. Related subsequently acquired the remaining tax credit investor held interests in these properties. The intent of acquisition was to renovate and preserve the affordability for the entire portfolio using a combination of tax exempt bonds and 4% tax credits. This requires Related to hold the various interest positions until the properties come off of their initial compliance periods which range from 2019 to 2026. Financing for the transaction was provided by a combination of Deutsche Bank and affiliates of Related.

The 2021 QAP requires the appraisal to be reviewed in accordance with USPAP Standards. Staff is recommending a waiver of this rule. At the time of this underwriting, the process to implement this requirement is not yet in place. Until a process is established and a list of approved review appraisers has been identified, REA Staff will continue to review application appraisals to insure compliance with the QAP.

APPRAISED VALUE

Appraiser: Starmark Appraisals LLC      Date: 12/3/2020

Land as Vacant:    11.26 acres	<u>\$4,500,000</u>	Per Unit:	<u>\$15,000</u>
Existing Buildings: (as-is)	<u>\$42,800,000</u>	Per Unit:	<u>\$142,667</u>
<b>Total Development: (as-is)</b>	<b><u>\$47,300,000</u></b>	Per Unit:	<b><u>\$157,667</u></b>

Comments:

The Appraisal indicates the value of the land as if vacant at \$4,500,000.  
 The Appraisal indicates the value of the total development as-is, as-restricted at \$47,300,000. Valuation is based on capitalization of income using the existing HAP Contract Rents.

SITE INFORMATION

Flood Zone:	<u>Zone X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>Unzoned</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1981</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:

300 unit apartment complex built in 1981

Surrounding Uses:

- North: Multi-family Apartment Complex
- South: Single-Family Residences
- East: Multi-family Apartment Complex
- West: Single - Family Residences

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Partner Engineering and Science, Inc. Date: 7/8/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

Per ESA, an asbestos evaluation was not required due to the property being constructed in 1981. ESA also mentions that it is unlikely that lead-based paint is present due to the property's age.

ESA Provider notes that Radon is not considered to be a significant environmental concern since the property is located in Radon Zone 3, according to the US EPA Map, which has low potential for the presence of the element.

Minor water damage was observed on drywall systems and ceiling tiles. ESA Provider states that in-house personnel can address these small areas of water damage as part of routine maintenance.



## MARKET ANALYSIS

Provider: Gill Group

Date: 1/21/2021

Primary Market Area (PMA): 31 sq. miles 3 mile equivalent radius

Market Analyst calculates a Gross Capture Rate of 8.7%, which is below the 10% maximum. Underwriter reviewed the market study for compliance.

Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. The Subject property is covered by a Housing Assistance Program contract, meaning that all households below the maximum income level are eligible.

Subject is currently 97% occupied.

ELIGIBLE HOUSEHOLDS BY INCOME								
Montgomery County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$16,560	\$18,930	\$21,300	\$23,640	---	---	---
50% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$27,600	\$31,550	\$35,500	\$39,400	---	---	---
60% AMGI	Min	\$1	\$1	\$1	\$1	---	---	---
	Max	\$33,120	\$37,860	\$42,600	\$47,280	---	---	---

Revisions to Market Study:	2
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## OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	\$2,959,576	Avg. Rent:	\$1,306	Expense Ratio:	34.2%
Debt Service:	\$2,369,596	B/E Rent:	\$1,133	Controllable Expenses:	\$2,516
Net Cash Flow:	\$589,980	UW Occupancy:	95.0%	Property Taxes/Unit:	\$1,083
Aggregate DCR:	1.25	B/E Occupancy:	82.5%	Program Rent Year:	2020

100% of the units are supported by Section 8 HAP Rental Assistance. Applicant has requested HUD approval for the early termination of the existing HAP contract in order to replace it with a 20-year Mark-up-to-Market form of contract with post-rehabilitation rent increases. Underwritten Contract Rents represent an approximate 18% increase over current contract rents.

Unit Type	Current Net HAP Rent	Anticipated Net HAP Rent	Increase	Variance
1BR	\$1,066	\$1,300	<b>\$234</b>	22%
2BR	\$1,174	\$1,350	<b>\$176</b>	15%

Average rent is \$173 above break-even rent. Project is underwritten at 15 units vacant; Break-even vacancy is 52 units. Vacancy is assumed at 5% instead of the standard 7.5% due to the HAP contract.

Per Applicant, management fee is restricted by HUD due to Mark-up-to-Market submission. Applicant is assuming 3.60% management fee. If we assume standard 5% management fee, DCR would fall to 1.22, remaining within the required limit.

Applicant's pro forma includes \$400 per unit per year property insurance, which is more than double the actual current expense of \$184/unit. Per Applicant, this estimate is based on preliminary discussions with insurance providers and consistent with other properties in their portfolio. Applicant plans to provide documentation shortly before closing. Underwriter assumes an expense consistent with actual current expense.

Underwriting assumes 50% property tax exemption due to the participation of Rainbow Housing Texas, Inc. Applicant plans to provide an attorney letter identifying the statutory basis for the exemption and indicating that the exemption is reasonably achievable as part of their closing package. If we assume property was taxed at 100% of value, DCR would fall to 1.15, remaining within the required limit.

Supportive services show an expense of \$65K and will be underwritten at cost certification regardless if incurred. Per Applicant, these services will include programs tailored to the senior and disabled residents such as health checks, cooking and finance classes, and transportation services.

Controllable expenses are relatively low at \$2,516/unit. Applicant provided a detailed staffing plan to support their payroll expense.

Applicant's operating expenses of \$5,129/unit are within 5% of Underwriter's estimate of \$5,064/unit. Expense ratio is low at 34.2% due to the high HAP Rents (\$1,306 per unit / \$2.22 psf) and property tax exemption.

Deferred fee pays off in year 6; 15-year cash flow is \$9.7M.

Related-Party Property Management Company:                     Yes                    

Revisions to Rent Schedule:	1
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Revisions to Annual Operating Expenses:	1
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## DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)					
Acquisition	\$399,428/ac	\$157,500/unit	\$47,250,000	Contractor Fee	\$2,076,529
Off-site + Site Work		\$1,907/unit	\$572,110	Soft Cost + Financing	\$6,724,047
Building Cost	\$73.33/sf	\$43,087/unit	\$12,926,101	Developer Fee	\$9,680,855
Contingency	9.99%	\$4,495/unit	\$1,348,396	Reserves	\$975,196
<b>Total Development Cost</b>		\$271,844/unit	<b>\$81,553,233</b>	<b>Rehabilitation Cost</b>	<b>\$44,994/unit</b>
<b>Qualified for 30% Basis Boost?</b>		Located in a Small Area Difficult Development Area (SADDA)			

### Acquisition:

The Contract Purchase Price is \$47.25M. The Applicant allocated the \$4.5M appraised value of the land as ineligible, and the remaining \$42.75M as eligible building acquisition basis.

### Site Work:

Site work of \$1,907/unit includes on-site concrete (\$234K) and on-site paving (\$42K), along with on-site decorative masonry(\$50K). Site work will also involve landscaping, fencing, athletic courts and playgrounds, and bumper stops, stripping, and signage.

### Building Cost:

Planned capital improvements include: Unit Capital Expenditure:

- Replace apartment front entry door units including door hardware, viewer with knocker(6-panel metal door w/wood jamb)
- Replace refrigerators w/ Energy Star 18 CF refrigerator
- Replace Electric ranges
- Replace Vented Range Hood (connect to existing vent)
- Install range queens
- Provide 1.6 cu ft. countertop microwave
- Install new Air Handlers
- Remove and Replace all kitchen & bathroom cabinets including 2 CM granite counter tops in kitchens and bathrooms
- Replace double bowl stainless steel kitchen sink with strainer, faucet, new P-trap, angle stops, hot and cold water supply lines & garbage 1/3 HP disposal
- Install new energy star dishwasher
- Install new steel tub and tile enclosure. Includes tub valve and trim
- Replace all commodes with water efficient .8 gpf with seats
- Replace bath lavatory sink, faucet with new P-traps, supply lines and angle stops in bathrooms
- Flooring Replacement: •Install new Vinyl Plank. Install 1/4" round at all vinyl floor locations
- Paint units complete
- Replace all existing light fixtures with new ceiling fans. Install new bathroom exhaust fan to existing venting. Install new standard plugs (tamper resistant) and switches at existing locations. Includes GFI's in kitchens and bathrooms and range plugs. Install new 10 yr. Lithium battery smoke detectors
- Replace electrical breaker panel in units (arc fault breakers)
- General sheetrock repairs and repairs for new a/c copper linesets. Firestop repairs and caulking at party walls
- Replace apartment unit mini-blinds with new horizontal 1" pvc mini-blinds. Replace vertical blinds at all sliding glass door units
- Convert unit to ADA unit. Reconfigure walls, plumbing and electrical necessary for conversion
- Convert unit to visual and hearing impaired unit Building Systems
- Replace balcony and Landing Fascia
- Replace metal private balcony railing
- Replace all windows
- Exterior painting
- Roof replacement
- New gutters and downspouts; Property Amenities: • Replace concrete sidewalks
- Demo curb and sidewalk and install double ADA ramp
- Replace Dumpster enclosure fencing and posts
- Replace retaining walls
- Landscaping
- Refurbish monument property sign
- Install shade over recreation area;
- Common Areas: • Leasing/community building upgrades
- Laundry room upgrades
- Exterior lighting upgrades
- New mailboxes
- Elevator modifications
- Replace (4) boilers
- Repipe boiler rooms and laundry room
- Add a Fitness Center

The SCR reports that an extensive renovation occurred in 2006 that mainly included replacement of windows and roofing membranes, replacement of domestic hot water boilers and split-system HVAC components, and residential unit interior renovations that included replacement of finishes and appliances.

REHABILITATION COSTS / UNIT / % HARD COST							
Site Work	\$317,824	\$1,059/unit	2%	Finishes/Fixtures	\$4,494,282	\$14,981/unit	30%
Building Shell	\$8,431,819	\$28,106/unit	57%	HVAC	\$0	\$/unit	0%
Amenities	\$254,286	\$848/unit	2%	Appliances	\$0	\$/unit	0%
<b>Total Exterior</b>	<b>\$9,003,928</b>	<b>\$30,013/unit</b>	<b>67%</b>	<b>Total Interior</b>	<b>\$4,494,282</b>	<b>\$14,981/unit</b>	<b>33%</b>

**SCOPE & COST REVIEW**

Provider: Partner Engineering and Science, Inc. Date: 6/29/2020

Ineligible Costs:

\$450K Tenant Relocation is excluded from eligible basis.

Reserves:

Reserves equal 3 months of operating expenses and debt service.

Comments:

Total estimated costs for tenant relocation is \$450K, which includes a relocation coordinator, movers/ storage, supplies, off-site accommodations and per diem.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$81,553,233	\$74,234,136	\$3,270,225

Related-Party Contractor: TBD

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	1
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## UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
TDHCA	\$40,000,000	1/8/2021	Priority 1a
Closing Deadline		Bond Structure	
7/7/2021		Fannie M.TEB	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>57.5%</b>
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Comments:

The project will be financed with \$40M in tax-exempt bonds, backed by a \$46M permanent loan from Wells Fargo Bank. TDHCA will issue the bonds and receive an on-going issuer fee of 10bps throughout loan term.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
Wells Fargo	Tax Exempt Loan	\$40,000,000	3.65%	49%
Wells Fargo	Taxable MBS Loan	\$6,000,000	3.65%	7%
Wells Fargo Investor	HTC	\$26,676,323	\$0.96	33%
Developer	Deferred Developer Fee	\$8,862,663		11%
		<b>\$81,538,986</b>	<b>Total Sources</b>	

**PERMANENT SOURCES**

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Wells Fargo	\$40,000,000	3.65%	35	17	\$40,000,000	3.65%	35	17	49%
Wells Fargo	\$6,000,000	3.65%	35	17	\$6,000,000	3.65%	35	17	7%
<b>Total</b>	<b>\$46,000,000</b>				<b>\$46,000,000</b>				

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Wells Fargo Investor	\$31,383,909	\$0.96		\$31,383,909	\$0.96	38%	
Developer	\$4,155,076		43%	\$4,169,324		5%	43%
<b>Total</b>	<b>\$35,538,985</b>			<b>\$35,553,233</b>			
				<b>\$81,553,233</b>		<b>Total Sources</b>	

Credit Price Sensitivity based on current capital structure	
<b>\$1.087</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.791</b>	Minimum Credit Price below which the Development would be characterized as infeasible

Comments:

Wells Fargo will provide a \$46M permanent loan with a 17-year term and 35-year amortization schedule beginning at closing. Per support documentation received from lender, \$40M will be a tax exempt loan and \$6M will be a taxable MBS loan. Debt term sheet indicates an estimated interest rate of 3.75%, which is 1.80% over the estimated Pass-Through Bond Rate and inclusive of an ongoing 10bps Issuer Fee. Underwritten debt service assumes 3.65% interest rate for the permanent loan and a TDHCA Bond Issuer Fee of 10bps. The loan will be provided by Fannie Mae under their MBS Tax-Exempt Bond Collateral (M.TEB) Program.

Total Capital Contribution of \$31,383,909 from Wells Fargo is being provided at a \$0.96 credit price. 43% of Developer Fee will be deferred.

Revisions to Sources Schedule:	1
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## CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$81,553,233
Permanent Sources (debt + non-HTC equity)	\$46,000,000
<b>Gap in Permanent Financing</b>	<b>\$35,553,233</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$31,391,023	\$3,270,225
Needed to Balance Sources & Uses	\$35,553,233	\$3,703,832
Requested by Applicant	\$31,383,909	\$3,269,484

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
<b>Tax Credit Allocation</b>	<b>\$31,383,909</b>	<b>\$3,269,484</b>

	Amount	Interest Rate	Amort	Term	Lien
<b>TDHCA-Issued Bonds</b>	<b>\$40,000,000</b>	3.75%	35	17	1

<b>Deferred Developer Fee</b>	<b>\$4,169,324</b>	( 43% deferred)
<b>Repayable in</b>	<b>6 years</b>	

Comments:

Underwriter recommends \$3,269,484 in annual tax credits as requested by Applicant.

The Applicant's request for credits was revised to reflect the 4.00% applicable percentage set by federal legislation passed at the end of 2020.

Underwriter:	<i>Curtis Wilkins</i>
Manager of Real Estate Analysis:	<i>Thomas Cavanagh</i>
Director of Real Estate Analysis:	<i>Brent Stewart</i>

**UNIT MIX/RENT SCHEDULE**

*Ridgewood at Panther Creek, The Woodlands, TDHCA Bonds/4% HTC #21601*

LOCATION DATA	
CITY:	The Woodlands
COUNTY:	Montgomery
Area Median Income	\$78,800
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	264	88.0%	264	0
2	36	12.0%	36	0
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>300</b>	<b>100.0%</b>	<b>300</b>	<b>-</b>

53% Average Income		
Income	# Units	% Total
20%	-	0.0%
30%	31	10.3%
40%	-	0.0%
50%	119	39.7%
60%	150	50.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>300</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100.00%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	588 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		MRB		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst		
TC 30%	\$443	MRB 50%	\$443	S8 HAP	\$1,346	27	1	1	568	\$1,346	\$46	\$1,300	\$0	\$2.29	\$1,300	\$35,100	\$35,100	\$1,300	\$2.29	\$0	\$1,195	\$2.10	\$1,195	
TC 50%	\$739	MRB 50%	\$739	S8 HAP	\$1,346	105	1	1	568	\$1,346	\$46	\$1,300	\$0	\$2.29	\$1,300	\$136,500	\$136,500	\$1,300	\$2.29	\$0	\$1,195	\$2.10	\$1,195	
TC 60%	\$887	MRB 60%	\$887	S8 HAP	\$1,346	132	1	1	568	\$1,346	\$46	\$1,300	\$0	\$2.29	\$1,300	\$171,600	\$171,600	\$1,300	\$2.29	\$0	\$1,195	\$2.10	\$1,195	
TC 30%	\$532	MRB 50%	\$532	S8 HAP	\$1,405	4	2	1	731	\$1,405	\$55	\$1,350	\$0	\$1.85	\$1,350	\$5,400	\$5,400	\$1,350	\$1.85	\$0	\$1,365	\$1.87	\$1,365	
TC 50%	\$887	MRB 50%	\$887	S8 HAP	\$1,405	14	2	1	731	\$1,405	\$55	\$1,350	\$0	\$1.85	\$1,350	\$18,900	\$18,900	\$1,350	\$1.85	\$0	\$1,365	\$1.87	\$1,365	
TC 60%	\$1,065	MRB 60%	\$1,065	S8 HAP	\$1,405	18	2	1	731	\$1,405	\$55	\$1,350	\$0	\$1.85	\$1,350	\$24,300	\$24,300	\$1,350	\$1.85	\$0	\$1,365	\$1.87	\$1,365	
<b>TOTALS/AVERAGES:</b>						<b>300</b>				<b>176,268</b>				<b>\$0</b>	<b>\$2.22</b>	<b>\$1,306</b>	<b>\$391,800</b>	<b>\$391,800</b>	<b>\$1,306</b>	<b>\$2.22</b>	<b>\$0</b>	<b>\$1,215</b>	<b>\$2.07</b>	<b>\$1,215</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$4,701,600</b>	<b>\$4,701,600</b>
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**STABILIZED PRO FORMA**

*Ridgewood at Panther Creek, The Woodlands, TDHCA Bonds/4% HTC #21601*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				TDHCA				VARIANCE		
	Database	T-12	COMPS	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>					\$2.22	\$1,306	\$4,701,600	\$4,701,600	\$1,306	\$2.22		0.0%	\$0
Laundry						\$5.50	\$19,800						
Tenant Charges						\$3.80	\$13,680						
0						\$0.00	\$0						
Total Secondary Income						\$9.30		\$33,480	\$9.30			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>							\$4,735,080	\$4,735,080				0.0%	\$0
Vacancy & Collection Loss						5.0% PGI	(236,754)	(236,754)	5.0% PGI			0.0%	-
Rental Concessions							-	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>							\$4,498,326	\$4,498,326				0.0%	\$0

General & Administrative	\$92,355	\$308/Unit	\$93,423	\$311	\$177,325	\$591	1.65%	\$0.42	\$248	\$74,250	\$93,423	\$311	\$0.53	2.08%	-20.5%	(19,173)
Management	\$85,572	3.9% EGI	\$151,740	\$506	\$143,203	\$477	3.60%	\$0.92	\$540	\$162,000	\$162,000	\$540	\$0.92	3.60%	0.0%	-
Payroll & Payroll Tax	\$347,740	\$1,159/Unit	\$394,977	\$1,317	\$330,188	\$1,101	8.39%	\$2.14	\$1,258	\$377,500	\$377,500	\$1,258	\$2.14	8.39%	0.0%	-
Repairs & Maintenance	\$163,327	\$544/Unit	\$159,172	\$531	\$199,590	\$665	3.66%	\$0.93	\$548	\$164,500	\$210,000	\$700	\$1.19	4.67%	-21.7%	(45,500)
Electric/Gas	\$66,692	\$222/Unit	\$66,277	\$221	\$44,776	\$149	1.04%	\$0.27	\$157	\$47,000	\$66,277	\$221	\$0.38	1.47%	-29.1%	(19,277)
Water, Sewer, & Trash	\$188,044	\$627/Unit	\$102,810	\$343	\$77,800	\$259	2.03%	\$0.52	\$305	\$91,500	\$102,810	\$343	\$0.58	2.29%	-11.0%	(11,310)
Property Insurance	\$95,567	\$0.54 /sf	\$55,202	\$184	\$92,716	\$309	2.67%	\$0.68	\$400	\$120,000	\$55,202	\$184	\$0.31	1.23%	117.4%	64,799
Property Tax (@ 50%) 2.0334	\$162,570	\$542/Unit	\$212,449	\$708	\$226,561	\$755	7.22%	\$1.84	\$1,083	\$325,000	\$274,940	\$916	\$1.56	6.11%	18.2%	50,060
Reserve for Replacements				\$0			2.00%	\$0.51	\$300	\$90,000	\$90,000	\$300	\$0.51	2.00%	0.0%	-
Supportive Services				\$0			1.44%	\$0.37	\$217	\$65,000	\$65,000	\$217	\$0.37	1.44%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0			0.27%	\$0.07	\$40	\$12,000	\$12,000	\$40	\$0.07	0.27%	0.0%	-
TDHCA Bond Compliance Fee				\$0			0.17%	\$0.04	\$25	\$7,500	\$7,500	\$25	\$0.04	0.17%	0.0%	-
Bond Trustee Fees				\$0			0.06%	\$0.01	\$8	\$2,500	\$2,500	\$8	\$0.01	0.06%	0.0%	-
<b>TOTAL EXPENSES</b>							<b>34.21%</b>	<b>\$8.73</b>	<b>\$5,129</b>	<b>\$1,538,750</b>	<b>\$1,519,151</b>	<b>\$5,064</b>	<b>\$8.62</b>	<b>33.77%</b>	<b>1.3%</b>	<b>\$ 19,599</b>
<b>NET OPERATING INCOME ("NOI")</b>							<b>65.79%</b>	<b>\$16.79</b>	<b>\$9,865</b>	<b>\$2,959,576</b>	<b>\$2,979,175</b>	<b>\$9,931</b>	<b>\$16.90</b>	<b>66.23%</b>	<b>-0.7%</b>	<b>\$ (19,599)</b>

<b>CONTROLLABLE EXPENSES</b>									\$2,516/Unit				\$2,833/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
**Ridgewood at Panther Creek, The Woodlands, TDHCA Bonds/4% HTC #21601**

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	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App											DCR	LTC
Wells Fargo	0.10%	1.44	1.43	2,065,736	3.65%	35	17	\$40,000,000	\$40,000,000	17	35	3.65%	\$2,065,736	1.43	49.0%
Wells Fargo		1.26	1.25	\$303,860	3.65%	35	17	\$6,000,000	\$6,000,000	17	35	3.65%	\$303,860	1.25	7.4%
<b>CASH FLOW DEBT / GRANTS</b>															
				<b>\$2,369,596</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$46,000,000</b>	<b>\$46,000,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$2,369,596</b>	<b>1.25</b>	<b>56.4%</b>
<b>NET CASH FLOW</b>		\$609,579	\$589,980					<b>APPLICANT NET OPERATING INCOME</b>		\$2,959,576	\$589,980	<b>NET CASH FLOW</b>			

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credit per Unit	Allocation Method
Developer	Deferred Developer Fees	5.1%	(43% Deferred)		\$4,155,076	\$4,169,324	(43% Deferred)		5.1%		Total Developer Fee: \$9,680,855
Additional (Excess) Funds Req'd		0.0%				\$0			0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>43.6%</b>			<b>\$35,538,985</b>	<b>\$35,553,233</b>			<b>43.6%</b>		
<b>TOTAL CAPITALIZATION</b>						<b>\$81,538,985</b>	<b>\$81,553,233</b>			15-Yr Cash Flow after Deferred Fee:	<b>\$9,741,870</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		Total Costs	Total Costs	%	\$			
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition							
Land Acquisition			\$15,000 / Unit \$4,500,000	\$4,500,000	\$15,000 / Unit				0.0%	\$0			
Building Acquisition	\$42,750,000		\$142,500 / Unit \$42,750,000	\$42,750,000	\$142,500 / Unit	\$42,750,000	\$42,750,000		0.0%	\$0			
Off-Sites			\$ / Unit \$0	\$0	\$ / Unit				0.0%	\$0			
Site Work		\$310,074	\$1,034 / Unit \$310,074	\$317,824	\$1,059 / Unit	\$317,824	\$317,824		-2.4%	(\$7,750)			
Site Amenities		\$254,286	\$848 / Unit \$254,286	\$254,286	\$848 / Unit	\$254,286	\$254,286		0.0%	\$0			
Building Cost	\$12,919,601	\$73.30 /sf	\$43,065/Unit \$12,919,601	\$12,926,101	\$43,087/Unit \$73.33 /sf	\$12,926,101	\$12,926,101		-0.1%	(\$6,500)			
Contingency	\$1,348,396	10.00%	10.00% \$1,348,396	\$1,348,396	9.99%	9.99%	\$1,348,396		0.0%	\$0			
Contractor Fees	\$2,076,529	14.00%	14.00% \$2,076,529	\$2,076,529	13.99%	13.99%	\$2,076,529		0.0%	\$0			
Soft Costs	0	\$1,344,000	\$6,130 / Unit \$1,839,000	\$1,839,000	\$6,130 / Unit	\$1,344,000	\$0		0.0%	\$0			
Financing	0	\$3,536,146	\$16,283 / Unit \$4,885,047	\$4,885,047	\$16,283 / Unit	\$3,536,146	\$0		0.0%	\$0			
Developer Fee	\$6,412,500	\$3,268,355	15.00% 15.00% \$9,680,855	\$9,680,855	15.00%	15.00%	\$3,268,355	\$6,412,500	0.0%	\$0			
Reserves			3 Months \$975,196	\$975,196	3 Months				0.0%	\$0			
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>			<b>\$49,162,500</b>	<b>\$25,057,387</b>	\$271,797 / Unit	<b>\$81,538,984</b>	<b>\$81,553,233</b>	\$271,844 / Unit	<b>\$25,071,636</b>	<b>\$49,162,500</b>	<b>0.0%</b>	<b>(\$14,249)</b>	
Acquisition Cost	\$0			\$0									
Contingency		\$0		\$0									
Contractor's Fee		\$0		\$0									
Financing Cost		\$0		\$0									
Developer Fee	\$0	(\$0)		(\$0)									
Reserves				\$0									
<b>ADJUSTED BASIS / COST</b>			<b>\$49,162,500</b>	<b>\$25,057,387</b>	\$271,797/unit	<b>\$81,538,984</b>	<b>\$81,553,233</b>	\$271,844/unit	<b>\$25,071,636</b>	<b>\$49,162,500</b>	<b>0.0%</b>	<b>(\$14,249)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>						<b>\$81,553,233</b>							

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**  
**Ridgewood at Panther Creek, The Woodlands, TDHCA Bonds/4% HTC #21601**

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$49,162,500	\$25,057,387	\$49,162,500	\$25,071,636
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$49,162,500	\$25,057,387	\$49,162,500	\$25,071,636
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$49,162,500	\$32,574,603	\$49,162,500	\$32,593,127
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$49,162,500	\$32,574,603	\$49,162,500	\$32,593,127
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$1,966,500	\$1,302,984	\$1,966,500	\$1,303,725
<b>CREDITS ON QUALIFIED BASIS</b>	\$3,269,484		\$3,270,225	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9599	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$3,270,225	\$31,391,023	----	----	----
<b>Needed to Fill Gap</b>	\$3,703,832	\$35,553,233	----	----	----
<b>Applicant Request</b>	\$3,269,484	\$31,383,909	<b>\$3,269,484</b>	<b>\$0</b>	<b>\$0</b>

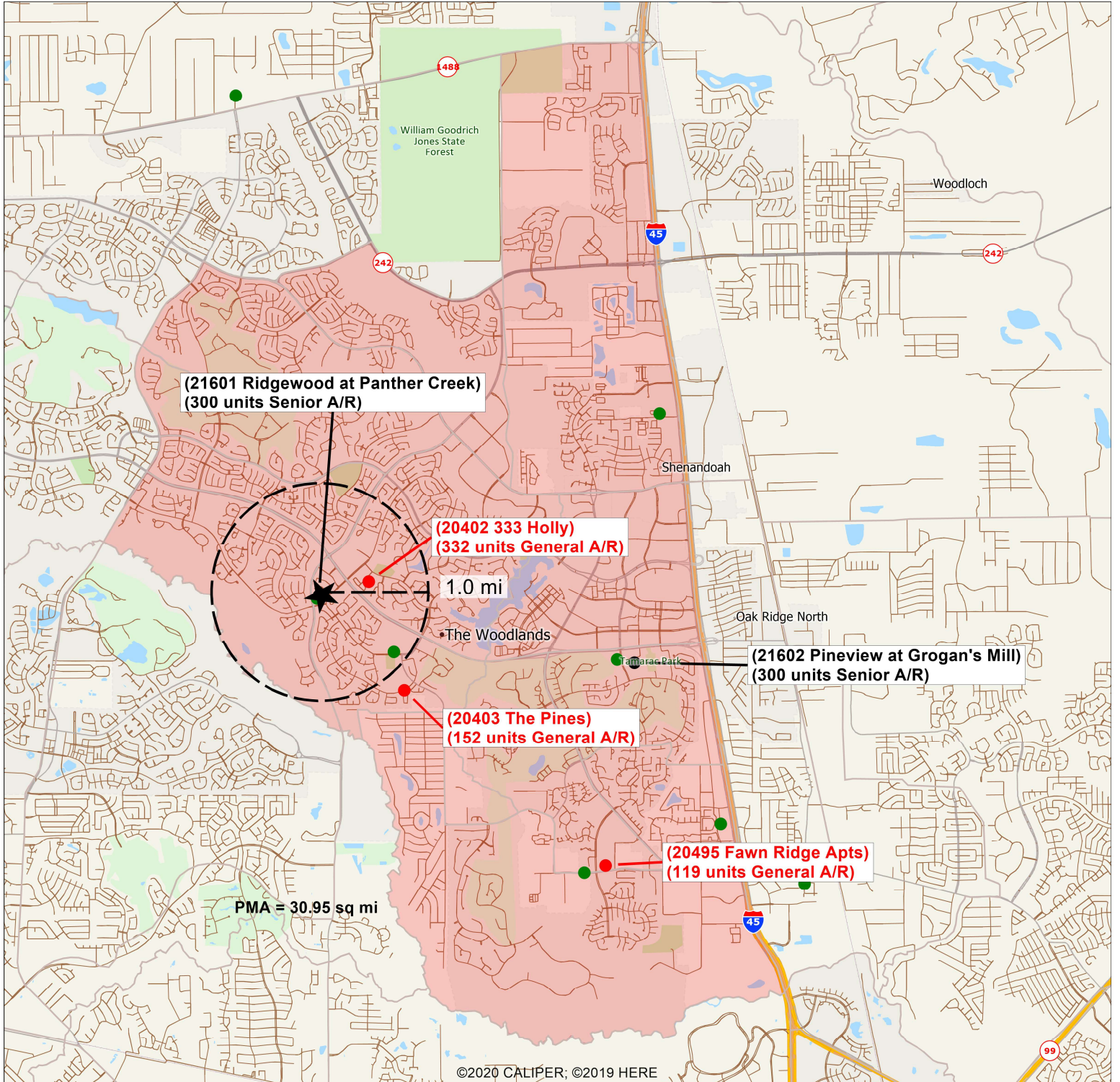
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$40,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA			
Land Cost	\$4,500,000	\$4,500,000		57.5%	57.5%
Depreciable Bldg Cost	\$65,034,032	\$65,048,281			
<b>Aggregate Basis for 50% Test</b>	\$69,534,032	\$69,548,281	amount aggregate basis can increase before 50% test fails	15.1%	15.0%

## Long-Term Pro Forma

*Ridgewood at Panther Creek, The Woodlands, TDHCA Bonds/4% HTC #21601*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$4,498,326	\$4,588,293	\$4,680,058	\$4,773,660	\$4,869,133	\$5,375,916	\$5,935,446	\$6,553,212	\$7,235,275	\$7,988,328	\$8,819,760
TOTAL EXPENSES	3.00%	\$1,538,750	\$1,583,293	\$1,629,139	\$1,676,328	\$1,724,898	\$1,989,951	\$2,296,213	\$2,650,143	\$3,059,216	\$3,532,088	\$4,078,780
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$2,959,576</b>	<b>\$3,005,000</b>	<b>\$3,050,919</b>	<b>\$3,097,332</b>	<b>\$3,144,234</b>	<b>\$3,385,964</b>	<b>\$3,639,232</b>	<b>\$3,903,069</b>	<b>\$4,176,059</b>	<b>\$4,456,240</b>	<b>\$4,740,980</b>
EXPENSE/INCOME RATIO		34.2%	34.5%	34.8%	35.1%	35.4%	37.0%	38.7%	40.4%	42.3%	44.2%	46.2%
<b>MUST -PAY DEBT SERVICE</b>												
TOTAL DEBT SERVICE		\$2,369,596	\$2,369,021	\$2,368,424	\$2,367,805	\$2,367,164	\$2,363,579	\$2,359,279	\$2,354,118	\$2,347,926	\$2,340,497	\$2,331,582
DEBT COVERAGE RATIO		1.25	1.27	1.29	1.31	1.33	1.43	1.54	1.66	1.78	1.90	2.03
<b>ANNUAL CASH FLOW</b>												
		<b>\$589,980</b>	<b>\$635,979</b>	<b>\$682,495</b>	<b>\$729,526</b>	<b>\$777,071</b>	<b>\$1,022,385</b>	<b>\$1,279,954</b>	<b>\$1,548,950</b>	<b>\$1,828,133</b>	<b>\$2,115,743</b>	<b>\$2,409,397</b>
Deferred Developer Fee Balance		\$3,579,344	\$2,943,365	\$2,260,870	\$1,531,343	\$754,273	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,862,003</b>	<b>\$9,741,870</b>	<b>\$16,944,271</b>	<b>\$25,522,805</b>	<b>\$35,523,354</b>	<b>\$46,981,183</b>

# 21601 Ridgewood at Panther Creek PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.



## Final Transcript

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS:  
Public Hearing**

February 12, 2021/1:00 p.m. CST

### **SPEAKERS**

Teresa Morales – Director of Multifamily Bonds

### **PRESENTATION**

Teresa                   All right, this is Teresa Morales with the Texas Department of Housing and Community Affairs. We're going to go ahead and get started. To give folks an idea as to how the hearing will proceed, there is a brief speech that I have to read for purposes of meeting the requirements of the Internal Revenue Code. Then it will be at the conclusion of that speech where I will open up the lines, they will be unmuted. So if there are any individuals who would like to make a public comment, that will be your opportunity to do so. We'll go ahead and get started.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2021/1:00 p.m. CST**

**Page 2**

Good afternoon. My name is Teresa Morales, and I would like to proceed with the public hearing. Let the record show that it is 1:03 p.m. on Friday, February 12, 2021. We are conducting a public hearing on behalf of the Texas Department of Housing and Community Affairs with respect to an issue of Tax-Exempt Multifamily Revenue Bonds for a Residential Rental Community.

This hearing is required by the Internal Revenue Code. The sole purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue. No decisions regarding the development will be made at this hearing. The department's board is scheduled to meet to consider the transaction on March 11, 2021. In addition to providing your comments at this hearing, the public is also invited to provide public comment directly to the board at any of their meetings.

The bonds will be issued as tax-exempt multifamily revenue bonds in the aggregate principal amount not to exceed \$40 million, and taxable bonds, if necessary, in an amount to be determined and issued in one or more series by the Texas Department of Housing and Community Affairs, the issuer. The proceeds of the bonds will be loaned to Ridgewood Senior

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2021/1:00 p.m. CST**

**Page 3**

Housing, LP or a related person or affiliate entity thereof to finance a portion of the cost of acquiring, rehabbing, and equipping a multifamily rental housing community described as follows: a 300-unit multifamily residential rental development to be located on approximately 11 acres of land located at 4407 South Panther Creek Drive, The Woodlands, Montgomery County, Texas, 77381. The proposed multifamily rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof.

I would now like to open the floor up for public comment. I will be unmuting all of the phone lines.

Moderator All participants are now in interactive talk mode.

Teresa The lines have been [audio drops] who would like to express public comment with respect to this proposed development, this would be your opportunity to do so.

Again, if there are any individuals who would like to express public comment with respect to this proposed multifamily development, all of the lines are unmuted. This would be your opportunity to make comment.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**February 12, 2021/1:00 p.m. CST**

**Page 4**

Let the record show that there are no individuals on the line who have indicated that they would like to make public comment. Therefore, the meeting is now adjourned. The time is 1:06 p.m. Thank you.



9a

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#21407 Espero Austin at Rutland, Austin)

**RECOMMENDED ACTION**

**WHEREAS**, an application for Espero Austin at Rutland, sponsored by the Austin Housing Finance Corporation and Caritas, requesting 4% Housing Tax Credits (HTC) was submitted to the Department on December 7, 2020;

**WHEREAS**, with regard to the Direct Loan funds, the application was submitted under the 2021-1 Multifamily Direct Loan Notice of Funding Availability (2021-1 NOFA) concurrent with the request for 4% HTC under the Soft Repayment set-aside;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on January 25, 2021, and will expire on July 24, 2021;

**WHEREAS**, the proposed issuer of the bonds is the Austin Housing Finance Corporation; and

**WHEREAS**, EARAC recommends \$3,000,000 in NHTF for Espero Austin at Rutland and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$1,350,588 in 4% HTC, and the award of \$3,000,000 in NHTF, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Espero Austin at Rutland is hereby approved as presented to this meeting;

**FURTHER RESOLVED**, that because the Department has not yet met its 2019 NHTF commitment deadline, in accordance with the 2021-1 NOFA, the deadline to sign a contract with the Department is July 2, 2021, despite any other deadline in the rules.

**BACKGROUND**

*General Information:* The project proposes the new construction of 171 Supportive Housing efficiency units to be located at 1934 Rutland Drive in Austin, Travis County. The Certificate of Reservation was issued as part of the BRB Private Activity Bond 2021 Lottery under the Priority 1A designation, which

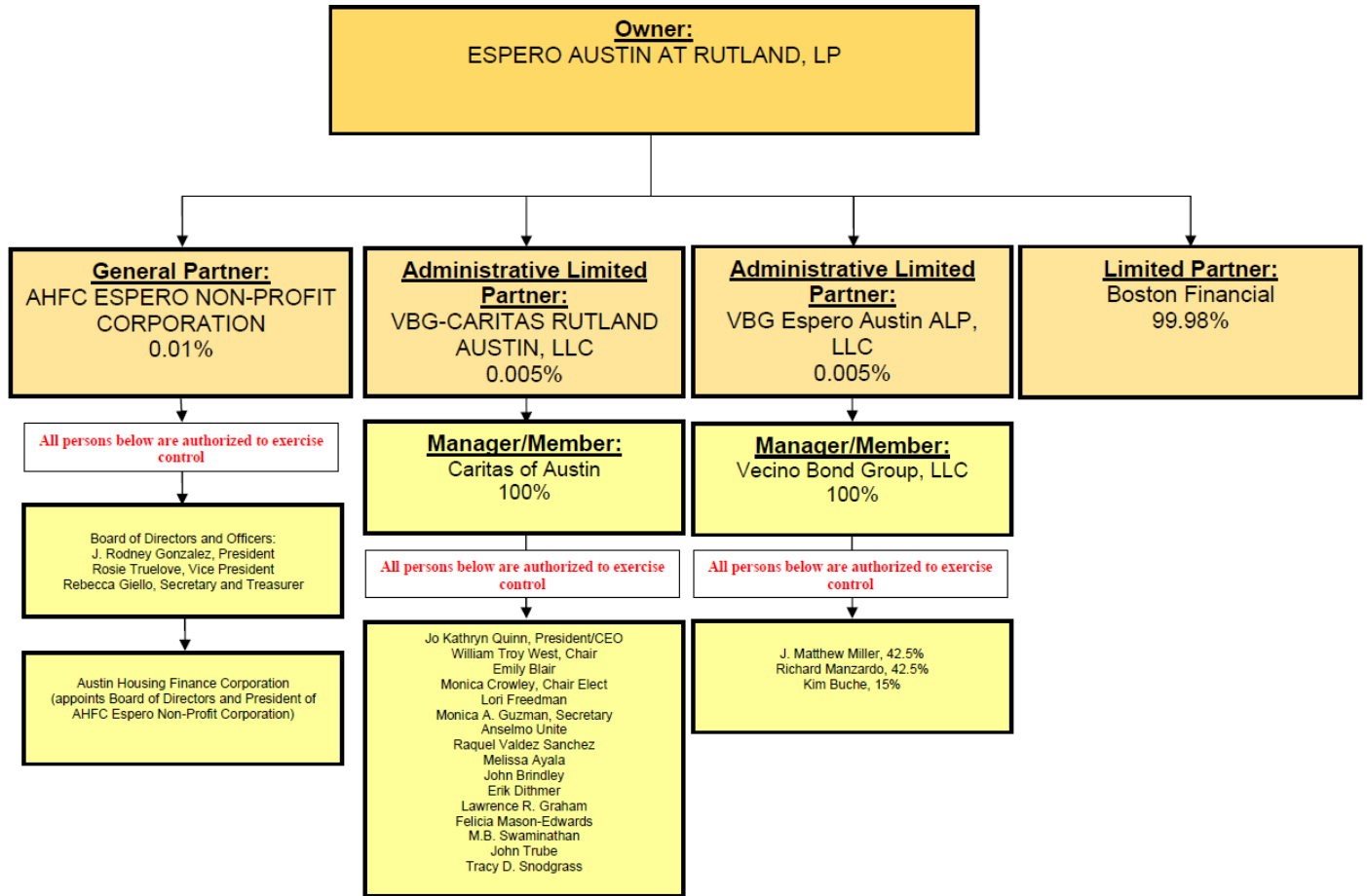
requires 50% of the units to be rent and income restricted at 50% of AMFI and 50% of the units to be rent and income restricted at 60% of AMFI. All units will have a preference for households that are homeless or at-risk of homelessness, as defined at 24 CFR §576.2. The application reflects that 27 of the units will be rent and income restricted at 30% of AMFI, 117 units will be rent and income restricted at 50% of AMFI, and 27 units will be rent and income restricted at 60% of AMFI. Two HOME Match Units will be required at rent and income restricted at 80% of AMFI. The development will receive Project Based rental assistance for 51 of the units from the City of Austin from non-federal funding. This commitment of project-based rental subsidy for more than 25% of the Units from a governmental third party, along with meeting other requirements, allows the Development to meet the requirements of 10 TAC §11.1(d)(122)(E)(ii) regarding the definition of Supportive Housing that will carry debt. Although the Borrower/applicant has not yet received the final notification letter, it is anticipated that in addition to the 51 PBRA units from the City, the development will receive Project Based Vouchers for 72 of the units from the Housing Authority of the City of Austin, 25 of which will be limited to veterans through the Veterans Administration Supportive Housing program.

Moreover, the 21 NHTF units will be further restricted to households earning the greater of the federal poverty limit or 30% AMFI or less and have rents no higher than the rents for extremely low income households in accordance with 24 CFR §93.302(b) as a result of the NHTF investment. These 21 NHTF units will float throughout the property by Unit Type (except that no NHTF unit may be a HOME Match Unit or layered with Project-Based Vouchers from the Housing Authority of the City of Austin) but are anticipated to be layered among the 27 50% HTC units for underwriting purposes. The two HOME Match Units may not be a NHTF Unit or layered with Project-Based Vouchers from the Housing Authority of the City of Austin. This \$3,000,000 NHTF award is anticipated to help the Department meet its federal commitment deadline for Program Year 2019 NHTF. If the Applicant and the Department have not executed a contract for the NHTF funds by July 2, 2021, the Department may reduce the NHTF funds in whole or in part, notwithstanding any other deadline in the Texas Administrative Code. The NHTF loan will be structured as a 0% interest deferred payable loan in accordance with 10 TAC §13.2(14), non-amortized with a 35 year term. The award is contingent on U.S. Department of Housing and Urban Development (HUD) acceptance of a pending minor 2020 Action Plan amendment.

*Organizational and Site Control Structure:* The Borrower/applicant is Espero Austin at Rutland, LP, and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC. Espero Austin at Rutland, LP, will enter into a long-term ground lease with Austin Housing Finance Corporation, the sole general partner, upon closing on the financing.

*Public Comment:* The Department received a copy of a complaint addressed to the City of Austin from an individual that opposes the development. A copy of the complaint is attached hereto.

**EXHIBIT A**



# 21407 Espero Austin at Rutland - Application Summary

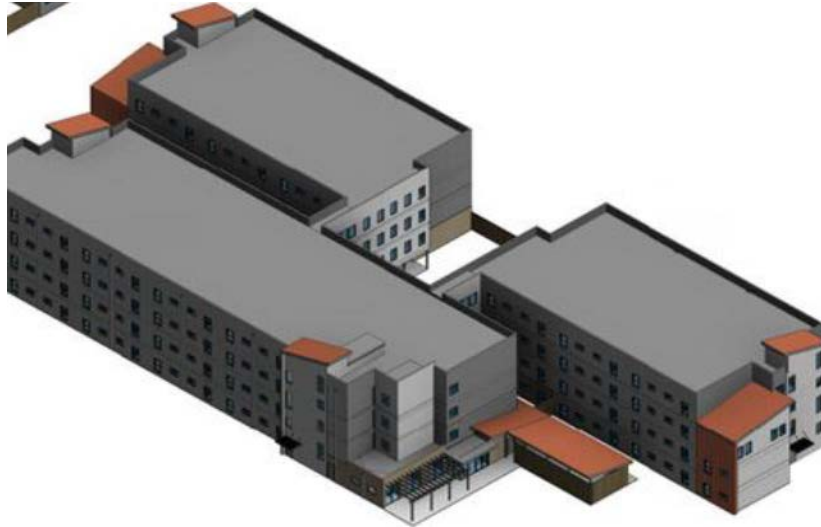
REAL ESTATE ANALYSIS DIVISION

March 4, 2021

PROPERTY IDENTIFICATION		RECOMMENDATION					
Application #	21407	TDHCA Program		Request		Recommended	
Development	Espero Austin at Rutland	LIHTC (4% Credit)		\$1,350,600	\$1,350,588	\$7,898/Unit	\$0.86
City / County	Austin / Travis			Amount	Rate	Amort	Term
Region/Area	7 / Urban	Multifamily Direct Loan (Soft Repayable)		\$3,000,000	0.00%	0	35
Population	Supportive Housing						Lien
Set-Aside	General						
Activity	New Construction						

KEY PRINCIPALS / SPONSOR			
AUSTIN HOUSING FINANCE CORPORATION. GP, Co-Developer, Bond Issuer, Ground Lessor, GC			
CARITAS OF AUSTIN LP, Co-Developer, Supportive Service Provider			
THE VECINO GROUP LP, Co-Developer, Guarantor, Architect, Prime Subcontractor			
True Casa Consulting- Jennifer Hicks			
Related Parties	Contractor -	Yes	Seller -
		No	

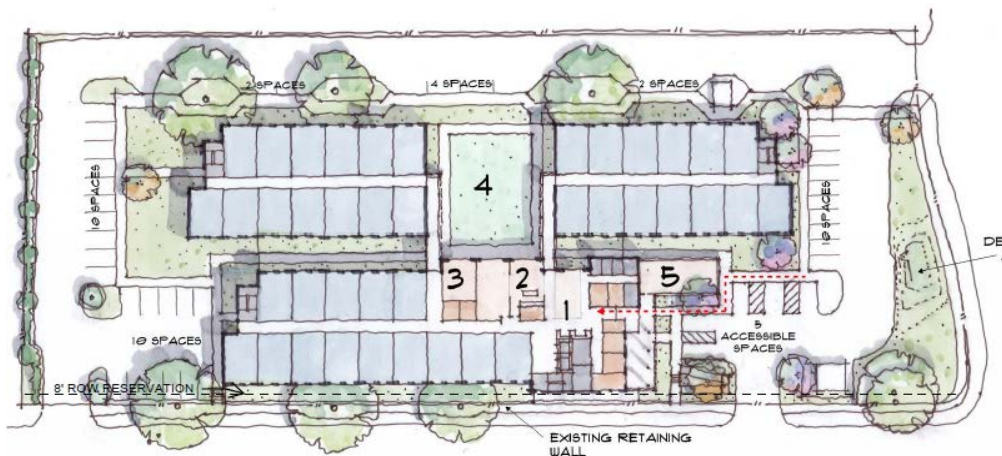
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	171	100%	20%	-	0%
1	-	0%	30%	-	0%
2	-	0%	40%	-	0%
3	-	0%	50%	86	50%
4	-	0%	60%	85	50%
			70%	-	0%
			80%	-	0%
			MR	-	✓
<b>TOTAL</b>	<b>171</b>	<b>100%</b>	<b>TOTAL</b>	<b>171</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.25	Expense Ratio	✓ 56.2%
Breakeven Occ.	✓ 84.5%	Breakeven Rent	\$748
Average Rent	\$820	B/E Rent Margin	✓ \$72
Property Taxes	Exempt	Exemption/PILOT	0%
Total Expense	\$5,204/unit	Controllable	\$3,874/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (30% Maximum)	✓	4.2%	
Highest Unit Capture Rate	✓ 4%	0 BR/50%	72
Dominant Unit Cap. Rate	✓ 4%	0 BR/50%	72
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	51	30% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	474 SF	Density	81.4/acre
Acquisition		\$34K/unit	\$5,768K
Building Cost	\$171.28/SF	\$81K/unit	\$13,883K
Hard Cost		\$95K/unit	\$16,209K
Total Cost		\$198K/unit	\$33,937K
Developer Fee	\$3,403K	(13% Deferred)	Paid Year: 3
Contractor Fee	\$2,285K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Citibank	15/35	3.62%	#####	1.25	City of Austin Fee Waivers/MDL Match	0/0	0.00%	\$374,381	1.25	Boston Financial	\$11,612,739	
0	0	x	\$0	0.00	Austin Housing Finance Corporati	40/0	2.00%	\$7,500,000	1.25	0	\$0	
										AHFC/Caritas/Vecino	\$432,755	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$12,045,494</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$18,891,810</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$11,017,429</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$7,874,381</b>		<b>TOTAL CAPITALIZATION</b>		<b>\$30,937,304</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.
  - b: Substantially final construction contract with Schedule of Values.
  - c: Updated term sheets with substantially final terms from all lenders.
  - d: Substantially final draft of limited partnership agreement.
  - e: Certification from the Architect that all recommendations from the noise study are incorporated into the development plans.
  - f: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
  - g: Guaranty Agreement to the Department that satisfies Department requirements to fund any operating deficits throughout the term of the affordability period and MFDL loan term.

2 Receipt and acceptance by Cost Certification:

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

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

BOND RESERVATION / ISSUER		AERIAL PHOTOGRAPH(S)	
Issuer	AHFC		
Expiration Date	7/24/2021		
Bond Amount	\$20,000,000		
BRB Priority	Priority 1a		
Bond Structure	Private Placement		
% Financed with Tax-Exempt Bonds	59.3%		
RISK PROFILE			
STRENGTHS/MITIGATING FACTORS			
▫	Developers' supportive housing experience		
▫	Transit corridor		
▫	30% PBV's		
WEAKNESSES/RISKS			
▫	0.25 parking spaces/unit		
AREA MAP			
			

**From:** [zcjsph@aol.com](mailto:zcjsph@aol.com)  
**To:** [Alena Morgan](#)  
**Cc:** [Elizabeth Henderson](#)  
**Subject:** Disparate Impact Complaint: 4Mar2021 Espero-Austin Update\_Fwd: 9% LIHTC Complaint\_Fwd: 2/4: AHFC 003 [Against Espero-Rutland]\_Fwd: 142-Metric Flyer Maps\_Fwd: Reject 1934 Espero\_4% LIHTC 1.9-mile bus walk\_Fwd: 9/17; Item 68\_Fwd: Item 25/AHFC002: Espero...  
**Date:** Tuesday, March 2, 2021 10:31:03 PM

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March 2, 2021

Memorandum for Alena Morgan, Administrator, 9% Competitive Housing Tax Credit Program (alena.morgan@tdhca.state.tx.us)

Subject: Fair Housing Act of 1968 Disparate Impact Complaint against the City of Austin—Mayor Steve Adler and Austin City Council  
Re: March 4, 2021 Austin Housing Finance Corporation File#: 21-1188, Agenda Item #2. Espero Austin at Rutland [4% LIHTC Update]

1. **Precedent:** “Inclusive Communities Project (ICP) sued the Texas Department of Housing and Community Development over the siting of most Low Income Housing Tax Credit [“LIHTC”] properties in predominately black communities in Texas.” In *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), Justice Anthony Kennedy delivered the Court’s 5-4 decision, which “held that disparate impact claims are cognizable under the Fair Housing Act.”<sup>1</sup>

At issue was whether the Fair Housing Act of 1968 bars both intentional discrimination and policies and practices that have a disparate impact, i.e., that do not have a stated intent to discriminate but that have the effect of discriminating against the Fair Housing Act’s protected classes of race, color, national origin, religion, sex, familial status, or disability.<sup>2</sup>

2. **March 4, 2021 Austin Housing Finance Corporation Item 2:** I request, once again, that TDHCA reject Espero development (1934 Rutland Dr, Austin TX 78758) due to disparate impacts—racial discrimination and lack of transit. The July 31, 2020 resubmitted Espero Application falsely includes a “High Frequency Bus Routes” Map with no route numbers (p. 143/193).

3. **Fair Housing Act Violation:** Coupled with high-density LIHTC developments north of US 183, Mayor Steve Adler and Austin City Council knowingly engage in racial discrimination. Adler and District 4 Council Member Gregorio Casar incentivized creation of a homeless encampment, placing a handwashing station and portable toilet in Little Walnut Creek Library parking lot 1.9 miles from Espero-Rutland. Now, 10-11 tents exist near a litter-lined bus stop fence. Prior to coronavirus disease-2019 (“COVID-19”) pandemic, no tents existed there. Instead, 1-2 homeless Black adults slept on the library’s entrance platform. March 27, 2020 Then-Assistant City Manager Chris Shorter identified Gus Garcia Recreation Center (1201 E Rundberg Ln, Austin, TX 78753) as a handwashing station/portable toilet site. Few LIHTC homeless developments exist in white neighborhoods west of Loop 1.

4. **Background:** “February 6, 2020 - Council approved a resolution of support for Espero Austin at Rutland to the Texas Department of Housing and Community Affairs’ 2020 9% Low Income Housing Tax Credit (LIHTC) round. Having not secured a 9% LIHTC award, Espero Austin at Rutland will now pursue a 4% LIHTC award.”

a. Falsified Espero-Rutland Application: Date and Time Stamp of Receipt (Received 5-1-2020; Resubmitted: 7-31-20 EM). June 3, 2018 Capital Metropolitan Transportation Authority (“Capital Metro”) Short-Range Planning Manager Roberto Gonzalez unilaterally eliminated Route 240-Rutland which served St. David’s-North Hospital and HEB-Loop 1/Parmer. Caritas President and CEO Jo Kathryn Quinn, however, failed to acknowledge there is no Rutland bus which will cause a hardship—setting homeless tenants up for failure. <https://austintexas.gov/sites/default/files/files/Housing/Espero%20at%20Rutland.pdf>

b. Housing Authority of the City of Austin: Discriminatory affordable housing pattern requires 80% area median family income (teacher’s salary) on the west side and high-opportunity areas near frequent transit and “good schools” (e.g., Vega Multifamily, Highland Village, SOCO II)—further concentrating poverty by denying Blacks equitable access to public accommodations.

5. **State Law:** *Texas Local Govt. Code, Ch. 244, Location of Certain Facilities and Shelters.* “Sec. 244.023. RESTRICTION. Unless municipal consent is granted under Section [244.025](#), a person may not construct or operate a shelter for homeless individuals within 1,000 feet of another shelter for homeless individuals or a primary or secondary school.”

6. **Disparate Impacts:** August 27, 2020 Austin City Council (“Council”) approved two 215-unit homeless developments for Council Member Gregorio Casar north of US 183 on 2 acres and 1.98 acres, respectively—framed as permanent supportive housing (“PSH”) adjacent to McBee Elementary 2 miles from Casar’s proposed 4% LIHTC Espero development at 1934 Rutland Drive (0.8 miles from Cook Elementary)—with no discussion about sex offenders or student safety. February 4, 2021 Within 0.8 miles of McBee and Walnut Creek Elementary Schools and 2 miles from Espero (1934 Rutland Dr), Council Member Leslie Pool proposed (and Council approved) Foundation Communities-Juniper 137 more PSH units near Braker/North Lamar. FC Juniper will be located next to “Foundation Village 9% LIHTC 88 PSH units for the homeless at 11630-11706 N. Lamar Blvd., Austin.”

<sup>1</sup> See Footnote 10. SCOTUSBlog.com, June 26, 2015. [https://en.wikipedia.org/wiki/Texas\\_Department\\_of\\_Housing\\_and\\_Community\\_Affairs\\_v.\\_Inclusive\\_Communities\\_Project,\\_Inc.](https://en.wikipedia.org/wiki/Texas_Department_of_Housing_and_Community_Affairs_v._Inclusive_Communities_Project,_Inc.)

<sup>2</sup> NLHC (2015, June 29). US Supreme Court upholds fair housing disparate impact principle. <https://nlhc.org/resource/us-supreme-court-upholds-fair-housing-disparate-impact-principle>



Subject: March 4, 2021 Austin Housing Finance Corporation (“AHFC”)
Against File #: 21-1188, Agenda Item #: 2. Espero (1934 Rutland Drive, Austin TX 78758)

a. Density - Creating Pockets of Poverty: The level of density in Northeast Austin within a 2-mile radius of elementary schools exceeds PSH in West Austin and mirrors Austin Resource Center for the Homeless. South/West and Central bus routes operate 6-15 minute headway. Northeast Austin has no Espero-Rutland bus. Low-income developments adjacent to McBee Elementary and Foundation Communities North Lamar rely, in part, on Route 392-Braker which contradicts the notion of High-Opportunity Areas. The five PSH developments will create pockets of poverty—two on North Lamar, two beside McBee, and Espero-Rutland. The lack of discourse disregards the need to protect students from sexual predators and drug addicts while providing safe routes to schools including, but not limited to, three elementary schools—Cook, McBee, and Walnut Creek.

b. Essential Jobs - Burden: Route 392-Braker runs 45 minutes and requires a 30-minute transfer to The Arboretum essential jobs (e.g., HEB, Randalls, Target) with no access to The Domain due to Capital Metro Short-Range Planning Manager Gonzalez’s unilateral elimination of northeast-west connectivity.

7. Racial Discrimination: “Although the Black population makes up 8% of the total Travis County population, 35% of the homeless population identify as Black, which indicates a high level of disproportionality (i.e., the rate of homelessness for Blacks is 4.4 times greater than what one would expect given racial/ethnic composition of Austin/Travis County)” (CAN, 2019, p. 7). North of US 183: Austin City Council consistently approves two to three times more LIHTC units in Northeast Austin high-crime areas with minimal infrastructure on 45-minute bus routes (30-minute Braker/Burnet transfer) and no transit on or near FM 734/ Parmer Ln between Samsung and Apple. Members then use hyperbole to mislead the public into believing “affordable housing” exists in all parts of the City—albeit inequitable. Mayor Adler and Austin City Council’s methodology fails to affirmatively further fair housing. Espero at Rutland 4% LIHTC Application low-census tract proposes 171 Permanent Supportive Housing efficiency units—nearly twice the total proposed for Espero Austin’s 9% LIHTC “Emerging High-Opportunity” Application at W. 24th - #20041 - 911—915W. 24th Street [100 units]. http://www.austintexas.gov/sites/default/files/files/2004\_Espero\_W\_24th.pdf

8. Transit: There are no “High Frequency Bus Routes: ¼-Mile Buffer” on Rutland Dr as falsely shown on “Transit\_Espero Austin at Rutland” Map dated 4/28/2020 in purple-light blue (p. 143/193). “Vecino Group as a dedicated partner, Caritas of Austin,” and AHFC staff (“Rosie Truelove, Treasurer, Austin Housing Finance Corporation, 512-974-3064; Mandy DeMayo, Community Development Manager, Neighborhood Housing and Community Development, 512-974-1091”) failed to update the 4% LIHTC Espero-Rutland application to show the lack of transit. Capital Metro Trip Planner shows 0.7 miles from 1934 Rutland Drive to Route 324-Ohlen, previously 15 minutes—now 30 minutes as of June 3, 2018. As previous Espero-Rutland complaints noted, Gonzalez unilaterally eliminated Route 240-Rutland—terminus North Lamar Transit Center (“NLTC”). For homeless to get to NLTC from 1934 Rutland would require walking approximately 0.7 miles to Route 324 then transferring near HEB and Little Walnut Creek Library to 801S-MetroRapid or fixed-route 1 on Loop 275/North Lamar Blvd. Espero Austin at Rutland will be newly constructed efficiency apartments, approximately 171 units. The development is being designed for persons experiencing homelessness. 101 of 171 units will be reserved for persons experiencing homelessness through Austin’s Continuum of Care with one elevator-served building. Unit-income mix: “(i) 27 units will be reserved for individuals with incomes at or below 30% area median family income (“AMFI”), (ii) 117 units will be reserved for individuals with incomes at or below 50% AMFI and (iii) 27 units will be reserved for individuals with incomes at or below 60% AMFI.”

9. Relief: Request Texas Department of Housing and Community Affairs reject the 9% LIHTC Application for FC Juniper “at or near 11630 and 11616 N Lamar Blvd, Austin TX 78753,” about 0.5 to 0.8 miles from two elementary schools (Mc Bee 1001 Braker and Walnut Creek 401 West Braker Ln)—approved February 4, 2021 by Council. The 137 units include: 14: 30% (“AMI”); 69: 50% AMI; 54: 60% AMI. August 27, 2020 Council also approved homeless units with no discourse regarding student safety (e.g., sexual predators) adjacent to Mc Bee: 1114 Kramer Ln, “Estimated development yield up to 215 multifamily units” (1.17 acres) and 1108 Kramer, “Estimated development yield up to 215 multifamily units” (1.98 acres).<sup>3</sup> Council Member Greg Casar’s District 4 Kramer units should also be rejected, falsely stating: “Within ½-mi. of proposed Orange Line Extension Station (Braker).” November 3, 2020 voters approved \$7.1B Project Connect permanent tax increase to fund rail based on false ballot language stating improved job access for essential workers but improves commuter transit. March 9, 2020 Council/Capital Metro Project Connect slide shows the Orange Line/rail is 24-30 years away, essentially, never. Like Espero 1934 Rutland, Casar falsely used transit to justify low-income housing. FC Juniper is in Council Member Leslie Poof’s District 7. February 4, 2021 I requested she consider LIHTC 2-mile distance “for homeless individuals within 1,000 feet of another shelter for homeless individuals or a primary or secondary school” to no avail. Creating poverty through affordable housing directly contravenes the Fair Housing Act of 1968. See previous email, “Sent: Wed, Feb 3, 2021 8:41 pm.” Thanks.

Very respectfully,

Zenobia C. Joseph

Zenobia C. Joseph

Copy Furnished: Multifamily Finance Division elizabeth.henderson@tdhca.state.tx.us

<sup>3</sup> Austin Housing Finance Corporation (2020, August 27). Items 001-002: 1108 and 1114 Kramer, 005: Espero. https://www.austintexas.gov/department/city-council/2020/20200827-ahfc.htm

To: alena.morgan@tdhca.state.tx.us <alena.morgan@tdhca.state.tx.us>  
Cc: elizabeth.henderson@tdhca.state.tx.us <elizabeth.henderson@tdhca.state.tx.us>  
Sent: Wed, Feb 3, 2021 8:41 pm  
Subject: 9% LIHTC Complaint\_Fwd: 2/4: AHFC 003 [Against Espero-Rutland]\_Fwd: 142-Metric Flyer Maps\_Fwd: Reject 1934 Espero\_4% LIHTC 1.9-mile bus walk\_Fwd: 9/17: Item 68\_Fwd: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSITI)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

To: Alena Morgan (alena.morgan@tdhca.state.tx.us)  
Administrator, 9% Competitive Housing Tax Credit Program  
Cc: Multifamily Finance Division elizabeth.henderson@tdhca.state.tx.us

Re: February 4, 2021 Austin Housing Finance Corporation Meeting (Item 003).  
[https://www.austintexas.gov/department/city-council/council/council\\_meeting\\_info\\_center.htm](https://www.austintexas.gov/department/city-council/council/council_meeting_info_center.htm)

1. **LIHTC Complaint Follow-up:** Please reject Espero development - 1934 Rutland, Austin TX (9% Low-Income Housing Tax Credit Application): Hearing will be set for February 18, 2021. Include "Wed, Feb 3, 2021 11:26 am" thread in complaint against developer and Austin City Council.

2. **Public Hearing Enforcement Request:** "Existing precedent makes clear the distinction between a public hearing and public comment at a meeting" (Texas Municipal League, 2019, p. 1). In part, "*Eudaly v. City of Colleyville*, 642 S.W.2d 75, 77 (Tex. App.—Fort Worth 1982, writ ref'd n.r.e.) (distinguishing between 'public meeting,' where public was not entitled to comment, and 'public hearing,' where public was entitled to comment)" (p. 2). See Texas Municipal League's House Bill 2840 Question/Answers (below).

a. Problem: Throughout 2020-2021 COVID-19 pandemic virtual meetings, Austin Mayor Steve Adler commingles public testimony with public hearings which denies input on Austin Housing Finance Corporation 4% and 9% Low-Income Housing Tax Credit proposed developments, a point I made during public testimony but the practice continues to date. Speakers address Council at the start of the meeting. Adler then passes the Regular Consent Agenda before opening and closing AHFC. This illustrates his awareness that Austin City Council differs from AHFC. Otherwise, one motion would suffice for both entities. In comparison, Adler distinctly sets aside time for Zoning cases but not AHFC.

b. Adverse Pattern: Per email "Sent: Thu, Sep 3, 2020 11:14 am" (below), I chronicled my opposition to Espero (1934 Rutland) permanent supportive housing development due to unilaterally eliminated Route 240-Rutland by Short-Range Planning Manager Roberto Gonzalez since June 3, 2018 when Cap Remap (10-year plan) changed 52 bus routes. However, my written testimony did not appear in Austin City Council's Backup Material. Depending on total registered speakers, Adler limits time to 1, 2, or 3 minutes for all agenda items, including AHFC public hearings. This forces the speaker to choose which item(s) to speak on which runs counter to House Bill 2840 (effective September 1, 2019).

c. Requested Action: Please compel Mayor Adler to permit members of the public to testify separately on LIHTC public hearings, just like the distinction made for Zoning cases -- normally held at 2:00PM.

3. **House Bill 2840:** Public Comment on Agenda Items. See Public Hearing precedent (below).

**House Bill 2840: Public Comment on Agenda Items**  
Texas Municipal League Legal Staff  
Updated October 2019  
512-231-7400  
[legalinfo@tml.org](mailto:legalinfo@tml.org)

### 1. What is House Bill 2840?

House Bill 2840 by Representative Terry Canales (D – Edinburg) passed during the Eighty-Sixth Regular Legislative Session. It became effective on September 1, 2019. The bill, codified at Texas Government Code Section 551.007, amends the Texas Open Meetings Act (Act) to address public testimony at open meetings. Before the passage of the bill, the public had a legal right only to observe, rather than speak at, an open meeting of a governmental body. See Tex. Att'y Gen. Op. No. JC-0169 (2000).

House Bill 2840 gives the public the right to speak on an item on the agenda at an open meeting of the following municipal governmental bodies:

- a city council;
- a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a city (e.g., probably a city's board of adjustment); and
- the governing body of a special district created by law (Each city should consult local legal counsel as to the applicability of this provision. See, e.g., *Sierra Club v. Austin Transp. Study Policy Advisory Committee*, 746 S.W.2d 298 (Tex. App. —Austin 1988, writ denied (concluding that Austin transportation advisory committee was a "special district"))).

TEX. GOV'T CODE §§ 551.001(3)(C), (D), (H), 551.007(a). The bill also applies to a handful of other non-municipal governmental bodies. See *id.* §§ 551.001(3), 551.007(a).

Existing precedent makes clear the distinction between a public hearing and public comment at a meeting. See Tex. Att'y Gen. Op. Nos. M-220 (1968) at 5 (A meeting that is "open to the public" under the Act is one that the public is entitled to attend.); JM-584 (1986) at 3; H-188 (1973) at 2; LO-96-111 at 1; see also *Eudaly v. City of Colleyville*, 642 S.W.2d 75, 77 (Tex. App.—Fort Worth 1982, writ ref'd n.r.e.) (distinguishing between "public meeting," where public was not entitled to comment, and "public hearing," where public was entitled to comment).

- Weblink: <https://www.tml.org/DocumentCenter/View/1371/HB-2840-post-session-article-for-adding-additional-questions-10-24-19-FINAL#:~:text=House%20Bill%202840%20doesn%27t,agenda%20of%20an%20open%20meeting%3F>

4. **Title VI:** Capital Metro eliminated minority Route 240-Rutland (\$945K: 20.3 riders/hour) which exceeded Service Standards (minimum 15 riders/hour) then created 3 of 5 southeast-west routes below Service Standards. #238 was twice the cost for half the riders of eliminated 240-Rutland. FTA Circular 4702.1B (2012) requires Capital Metro to "implement the least discriminatory alternative" (Ch. IV-16). The Espero Application shows "frequent transit" on Rutland which is false. See Capital Metro Financial Plan 2017, p. 7 (connections2025.org).

Route 238-Westgate					
Compare	Hours	Ridership	Passengers per Hour	Cost	Cost/Pax
Current	6,566	102,240	15.6	\$ 492,463	\$ 4.82
Proposed	23,545	243,635	10.3	\$ 1,765,875	\$ 7.25
Variance	16,979	141,395	(5.2)	\$1,273,413	\$2.43

Route 240-Rutland					
Compare	Hours	Ridership	Passengers per Hour	Cost	Cost/Pax
Current	12,605	255,690	20.3	\$ 945,363	\$ 3.70
Proposed	-	-	-	\$ -	-
Variance	(12,605)	(255,690)	(20.3)	(\$945,363)	(\$3.70)

### Transit\_Espero Austin at Rutland



Source: Espero 9% LIHTC Application (p. 143): <https://austintexas.gov/sites/default/files/files/Housing/Espero%20at%20Rutland.pdf>

Thanks for your time and consideration.

Very respectfully,

*Zenobia C. Joseph*

Zenobia C. Joseph

-----Original Message-----

From: zcjsp@aol.com

To: city.clerk@austintexas.gov <city.clerk@austintexas.gov>; jannette.goodall@austintexas.gov <jannette.goodall@austintexas.gov>

Cc: steve.adler@austintexas.gov <steve.adler@austintexas.gov>; gregorio.casar@austintexas.gov <gregorio.casar@austintexas.gov>; leslie.pool@austintexas.gov <leslie.pool@austintexas.gov>; alison.alter@austintexas.gov <alison.alter@austintexas.gov>; kathie.tovo@austintexas.gov <kathie.tovo@austintexas.gov>

Sent: Wed, Feb 3, 2021 11:26 am

Subject: 2/4: AHFC 003 [Against Espero-Rutland]\_Fwd: 142-Metric Flyer Maps\_Fwd: Reject 1934 Espero\_4% LIHTC 1.9-mile bus walk!\_Fwd: 9/17: Item 68\_Fwd: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

**To: Jannette Goodall, Austin City Clerk**

Please forward Council my written testimony (Fri, Dec 4, 2020 12:19 am email text below).

Against setting Espero (1934 Rutland Hearing) for February 18, 2021: Item AHFC003

Fri, Dec 4, 2020 12:19 am: I filed a complaint with Texas Department of Housing and Community Affairs against Espero development (1934 Rutland) 4% Low-Income Housing Tax Credit due to false reliance on Flyer Route 142 which only operates two AM trips from North Austin to Downtown and two PM trips back North during Peak times. I also notified Mandy DeMayo of the false transit map in Espero's packet. Now, Austin Housing Finance Corporation Item 3 falsely shows "high-frequency" transit on Rutland for Espero's 9% LIHTC Application, highlighted in purple (p. 143) and "Emerging Opportunity" (p. 141). See Application: <https://austintexas.gov/sites/default/files/files/Housing/Espero%20at%20Rutland.pdf>

Fact: June 3, 2018 Capital Metro Short-Range Planning Manager Roberto Gonzalez eliminated Route 240-Rutland which exceeded Service Standards (20.3 riders/hour: \$945K) and also served **St. David's-North**. There is nothing "emerging" about Rutland except the proliferation of drugs. Despite installation of a pedestrian hybrid beacon next to HEB-Rutland, Capital Metro still eliminated Route 240-Rutland. Restore Route 240 in its entirety or withdraw the application for Espero (\*171 permanent supportive housing) due to falsity. Placing formerly homeless in a crime-ridden area sets them up for failure!

- Note: Also see details on Speaker Registration Form.



Thanks.~zcj

-----Original Message-----

From: zcjsph@aol.com

To: elizabeth.henderson@tdhca.state.tx.us <elizabeth.henderson@tdhca.state.tx.us>; marni.holloway@tdhca.state.tx.us <marni.holloway@tdhca.state.tx.us>

Sent: Fri, Dec 4, 2020 12:19 am

Subject: 142-Metric Flyer Maps\_Fwd: Reject 1934 Espero\_4% LIHTC 1.9-mile bus walk!\_Fwd: 9/17: Item 68\_Fwd: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2] Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

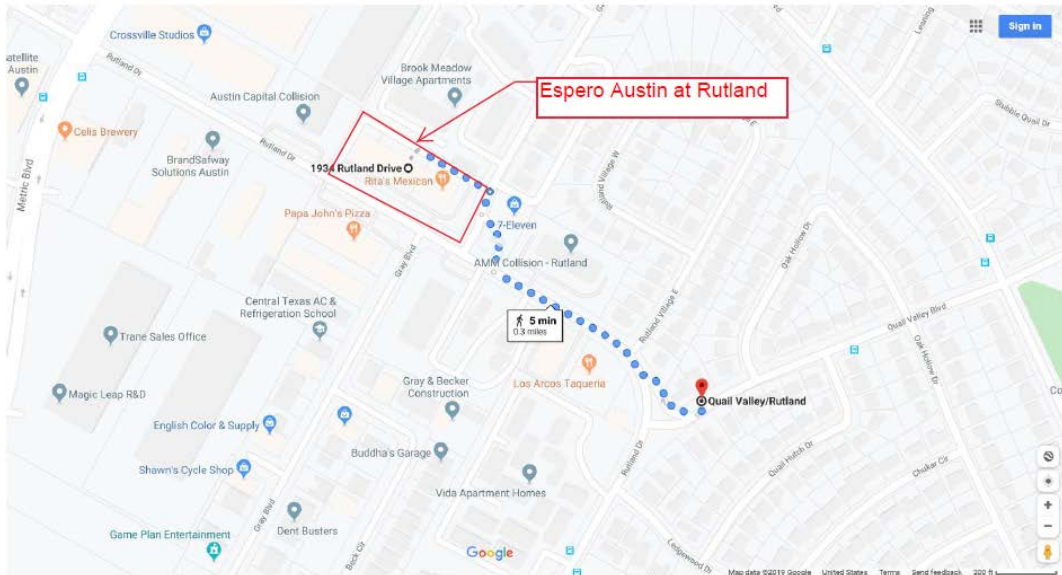
Follow-up: Transit Route 142-Metric Flyer details: <https://www.capmetro.org/schedmap/> ~zcj

**REQUEST FOR CITY OF AUSTIN RESOLUTIONS & OTHER REQUIREMENTS  
for  
2020 4% Low Income Housing Tax Credits**

This is the Application for developers requesting resolutions (Requestors) required by the Texas Department of Housing and Community Affairs for 4% Low Income Housing Tax Credit applications in 2020. This form and all attachments will be considered on a rolling basis on the first business day of each month. All resolutions being requested are subject to approval by the Austin City Council.

Espero Application Transit Map (p. 10/71)

**Distance to Nearest Transit Stop via Walking**



Quail Valley/Rutland

Route 142

Destinations | Effective August 16, 2020 - January 2, 2021 | [capmetro.org](http://capmetro.org) | GO Line 512-474-1200

P.M. TIMES ARE IN **BOLD** / LOS HORARIOS PM SE INDICAN EN **LETRAS OSCURAS**

142 WEEKDAYS/SOUTHBOUND					142 WEEKDAYS/NORTHBOUND						
1	2	3	4	5	To Route/Garage	5	4	3	2	1	To Route/Garage
Amherst at Duval	Metric at Braker	Rundberg at Lamar	8th at Congress	Riverside at Congress		Riverside at Congress	7th at Colorado	Rundberg at Lamar	Metric at Braker	Amherst at Duval	
6:11 7:42	6:30 8:04	6:44 8:16	7:20 8:50	7:33 9:01	G	4:10 5:40	4:21 5:52	4:59 6:24	5:16 6:36	5:34 6:50	135 G
MORNING					AFTERNOON						

Applicant (Entity Name) to TDHCA Espero Austin at Rutland, LP  
Authorized Representative Signature   
Authorized Representative Printed Name Jo Kathryn Quinn  
Authorized Representative Title Jo Kathryn Quinn  
Chief Executive Officer of Caritas of Austin, the managing member of the General Partner  
Chief Executive Officer of Caritas of Austin, the managing member of the General Partner  
Date 6.26.2020



## SUPPORTIVE HOUSING EXPANSION

### Project Summary

Caritas of Austin has partnered with The Vecino Group – a national developer of mission-driven housing -- to develop two apartment communities that will be deeply affordable and intensely supportive. About 200 people in two different neighborhoods will have **access to high-quality supportive living in high-opportunity, transit-connected, amenity rich neighborhoods.**

1. 911–915W. 24th Street
2. 1934 Rutland Drive

- **Espero 2020 checklist (p. 11):** <http://www.austintexas.gov/sites/default/files/files/Housing/Espero%20at%20Rutland.pdf>

-----Original Message-----

From: zcjsph@aol.com

To: elizabeth.henderson@tdhca.state.tx.us <elizabeth.henderson@tdhca.state.tx.us>; marni.holloway@tdhca.state.tx.us <marni.holloway@tdhca.state.tx.us>

Sent: Thu, Dec 3, 2020 11:42 pm

Subject: Reject 1934 Espero\_4% LIHTC 1.9-mile bus walk\_ Fwd: 9/17: Item 68\_Fwd: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

## Exceptions

### Housing Tax Credits or Bonds

For complaints or concerns about developments proposed in applications for Housing Tax Credits or Bonds, please submit directly to the Multifamily Finance Division by email to [elizabeth.henderson@tdhca.state.tx.us](mailto:elizabeth.henderson@tdhca.state.tx.us) or [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us) or phone (512) 463-9784. <https://www.tdhca.state.tx.us/complaint.htm>

###

Reject Espero 1934 Rutland: Route 325 is 1.9 miles

Complaint against Council Member Greg Casar—Austin Mayor Steve Adler, Austin City Council, Caritas CEO Jo Kathryn Quinn, and The Vecino Group

I. Action: Reject Espero Austin (1934 Rutland) 4% Low-Income Housing Tax Credit Application 20503 due to 1.9-mile transit walk to Route 325-Metric. Route 142 is misleadingly noted (p. 10/71) and excludes the word “Flyer,” only two south AM trips downtown (6:30AM, 8:04AM) from Metric/Braker before Quail Valley/Rutland and two north PM trips (4:10PM, 5:40PM) from Riverside/Congress terminus. Application remained unchanged despite three emails to Austin City Council and City Clerk (August 26, 2020; September 3, 2020; September 17, 2020). This is the third Caritas of Austin permanent supportive housing case where Casar/staff cooked the books. Withhold points for Transportation Supportive Services/quality of life (TDHCA, 2019 Qualified Allocation Plan). Source: capmetro.org

II. Jo Kathryn Quinn’s Falsity: “Caritas of Austin has partnered with The Vecino Group ... to develop two apartment communities that will be deeply affordable and intensely supportive. About 200 people in two different neighborhoods will have access to high-quality supportive living in transit-connected and amenity rich neighborhoods” (Espero 2020 Checklist, p. 11/193). Walking 1.9 miles to Route 325 is not transit-connected.

III. Statutory Authority: Title VI of the Civil Rights Act of 1964 “prohibits discrimination based on race, color, or national origin in federally-funded programs or activities.”<sup>[1]</sup> Casar’s other two Caritas cases approved during the COVID-19 pandemic are beside McBee Elementary on shortlined 45-minute #392-Braker, 30-minute Arboretum transfer 1.9 miles to essential jobs (e.g., HEB, Randall, Target). June 3, 2018 Capital Metropolitan Transportation Authority Short-Range Planning Manager Roberto Gonzalez unilaterally eliminated 240-Rutland/St. David’s-North. He reduced North Lamar Transit Center (“NLTC”) service when 52 routes changed, eliminating northeast-west connectivity (\$0) to expand South/West 15-minute routes (3 of 5 below Service Standards: \$9.9M though the 2017 Title VI Service Equity Analysis stated compliance). At the expense of Northeast Blacks waiting 60 minutes and minorities with no Orange Line rail 24-30 years north of US 183, white choice riders and Southeast Dove Springs Hispanics enjoy 6-15 minutes 7 days/week.

IV. Relief: Compel The Vecino Group to find another location—preferably west of MoPac—rather than creating Northeast segregated low-income housing given the pattern of three 2020 Caritas permanent supportive housing cases inflating transit access in Casar’s District 4.

V. History: September 24, 2010 Gonzalez (25+-year employee) reduced routes north of US 183 (NLTC, 392-Braker, 142 Flyer-Parmer/Loop 1) for January 2011 Service Changes (Clip: 1:14:30 -<http://capmetrotx.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1126&Format=None>). Since Council’s 2014 Parmer Place case, Capital Metro demonstrated unwillingness to provide equitable service. Then-Council Member Chris Riley accurately described the 1-mile unsafe walk—dire need for Northeast transit—but Casar promoted Proposition A/\$7.1B Project Connect instead though his constituents will not benefit from North Lamar/Orange Line rail in Texas Department of Transportation’s right-of-way 24-30 years (March 9, 2020 Joint packet, p. 29). November 3, 2020 Voters approved Project Connect, overlay for Cap Remap’s discriminatory frequent network. In 2018, Gonzalez renumbered Northeast routes—made worse but called “new” under guise of change. See April 10, 2014 Item 26 (Part 1 of 2; Parmer Place 1500 E. Parmer Lane, 25:40): <https://austintx.new.swagit.com/videos/04102014-595>

VI. HB 2840 (Public Testimony): Mayor Steve Adler requires speakers to address all items in 1-3 minutes, depending on total registered. Comingling items circumvents the letter and spirit of the law. For Espero public hearings, including December 3, 2020 vouchers, I addressed 2 of 4 items in three minutes: Item 44 (Rep. Gina Hinojosa’s HB 84, 87th Leg, inclusionary zoning) and noted speaker registration changes with no discussion disenfranchised military veterans on Veterans Day. By contrast, Planning Commission required Memorial Day registration. Inconsistent policy/lack of transparency chilled my speech. Request TDHCA investigate Adler’s disparate impact methodology. Texas Legislature requires addressing one bill at a time. Adler opens/closes Austin Housing Finance Corporation hearings separately which suggests speakers should address the Board during each hearing since AHFC is a separate entity. Model: Travis County Commissioners Court opens/closes each

housing case separately and permits the public to speak before taking action as HB 2840 requires, effective September 1, 2019.

VI. Past Emails (excerpt): August 26, 2020 (below) and Casar auto-reply "Thu, Sep 3, 2020 11:15 am."

-----Original Message-----

From: zcjsph@aol.com

To: city.clerk@austintexas.gov <city.clerk@austintexas.gov>

Cc: steve.adler@austintexas.gov <steve.adler@austintexas.gov>; alison.alter@austintexas.gov <alison.alter@austintexas.gov>; kathie.tovo@austintexas.gov <kathie.tovo@austintexas.gov>; ann.kitchen@austintexas.gov <ann.kitchen@austintexas.gov>

Sent: Wed, Aug 26, 2020 11:57 am

Subject: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

Against: Item 005. Please delay the vote and restore Route 240-Rutland with CARES Act Funding, sustain with reallocated Austin Police Department Funds. There is no weekend service to the hospital [10-block walk] during the COVID-19 pandemic and 0.7-mile walk to HEB essential jobs, which is unconscionable! Do not approve this development on 1934 Rutland Drive!

Agenda Language: Authorize negotiation and execution of a loan agreement and related documents with Austin Espero at Rutland, LP, or an affiliated entity, in an amount not to exceed \$2,507,214 for a multi-family rental development to be known as Espero at Rutland, to be located at or near 1934 Rutland Drive.

1. Justification: June 3, 2018 Capital Metro eliminated Route 240-Rutland which exceeded ridership with 20.3 riders/hr. Council Member Ann Kitchen failed to comply with Title VI of the Civil Rights Act of 1964 when she excluded Route 240 from her Connections 2025 Resolution November 15, 2017 [rebranded Cap Remap]. Capital Metro's Board failed to analyze alternatives and "then implement the least discriminatory alternative" (FTA C 4702.1B, Ch. IV-16, 2012). Cap Remap is the discriminatory foundation for Project Connect (\$7.1B Light Rail)—November 3, 2020 Election. There were 93 boardings eliminated [by] Cedar Bend, ACC-Northridge to Loop 1/Parmer-HEB Shopping Center (24 daily riders went to St. David's-North). The walk to Route 325-Metric is 1.9 miles from 1934 Rutland (site location). This is a burden for anyone with a disability—wheelchairs, walkers, canes. Carrying groceries in blazing 100-degree heat or walking with young children would be burdensome, too. The absence of a bus stop within ¼-mile to less than ½-mile would align with Austin's Strategic Housing Blueprint and Austin Strategic Mobility Plan (2019). The site location (1934 Rutland) also does not comply with the "T" in S.M.A.R.T. Housing which then-Council Member Chris Riley noted April 10, 2014 (Item 26). CM Kathie Tovo countered Riley's accurate assessment of the lack of commitment to "Transit-oriented" affordable housing, in part, in Northeast Austin. (e.g., Parmer Place).

2. Pending: Ordinance 20140410-026 needs to be amended to prohibit the Housing Director from authorizing a waiver for 4% and 9% Transit-oriented waiver, especially in Opportunity Zones. This site does not appear to be an Opportunity Zone, but LIHTC may result in a transit waiver to the detriment of the low-income tenants.

3. Concentrated Poverty: I also oppose creating concentrations of poverty in Northeast Austin. Find locations west of MoPac where land is plentiful. Stop segregating poor people and "essential workers" earning 30% (\$20,550) to 60% (\$41K) area median family income ("AMI"). South/West Austin Affordable Housing notoriously maintains 80% AMI, not "deeply affordable" units. Austin City Council and Capital Metro approved Project Connect by acclamation with total disregard for disparate impacts faced by minorities north of US 183 with substandard bus service or no service at all in the service area on Rutland. Even with a newly installed pedestrian hybrid beacon beside HEB-Rutland, Capital Metro eliminated the route which notoriously served as a drug hotspot. Put people in need of supportive services in communities where they can thrive. This location illustrates low-income tenants will struggle, even though housed at a low cost. Ask Council Members Greg Casar, Leslie Pool and Kitchen, along with Flannigan and/or Harper-Madison to rally around restoring Route 240-Rutland before approval or find another location. Their constituents relied on Route 240 and Kitchen provided no alternative for one year! Now, the walk to St. David's-North is 10 blocks with minimal weekday Pickup service (10AM-6PM) which is not "the least discriminatory service" (FTA C 4702.1B, IV-16, 2012). Thank you.~zcj  
11:04am/August 26, 2020

Thank you for your submission. The City Clerk's Office will follow-up...

From: Casar, Gregorio <Gregorio.Casar@austintexas.gov>

To: zcjsph@aol.com <zcjsph@aol.com>

Sent: Thu, Sep 3, 2020 11:15 am

Subject: Automatic reply: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-

Analysis of Impediments Complaint (To:Dir, Elva F. Garcia, HUD-SATX)\_15Aug2020-1157pm\_zcj (1).p

###

References:

December 3, 2020 Austin Housing Finance Corporation and Council Meetings (click link for videos, transcripts): <https://www.austintexas.gov/page/atxn-video-archive>

December 3, 2020 Austin City Council Meeting Agenda: [https://www.austintexas.gov/departments/city-council/council/council\\_meeting\\_info\\_center.htm](https://www.austintexas.gov/departments/city-council/council/council_meeting_info_center.htm)

Thanks for your time and consideration.

Very respectfully,



Zenobia C. Joseph

[1] DOJ (2017, January). Civil Rights Division highlights (2009-2017): Fulfilling America's promise [p. 49]. <https://www.justice.gov/crt/page/file/923096/download>

-----Original Message-----

From: zcjsph@aol.com

To: city.clerk@austintexas.gov <city.clerk@austintexas.gov>; jannette.goodall@austintexas.gov <jannette.goodall@austintexas.gov>

Sent: Wed, Sep 16, 2020 11:54 am

Subject: 9/17: Item 68\_Fwd: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

To: Austin City Clerk

| Sent: Wed, Aug 26, 2020 11:57 am

Item 68: See opposition below.~zcj

-----Original Message-----

From: zcjsph@aol.com

To: steve.adler@austintexas.gov <steve.adler@austintexas.gov>; jannette.goodall@austintexas.gov <jannette.goodall@austintexas.gov>; kathie.tovo@austintexas.gov <kathie.tovo@austintexas.gov>; alison.alter@austintexas.gov <alison.alter@austintexas.gov>; leslie.pool@austintexas.gov <leslie.pool@austintexas.gov>; gregorio.casar@austintexas.gov <gregorio.casar@austintexas.gov>; jimmy.flannigan@austintexas.gov <jimmy.flannigan@austintexas.gov>; city.clerk@austintexas.gov <city.clerk@austintexas.gov>

Cc: myrna.rios@austintexas.gov <myrna.rios@austintexas.gov>; mandy.demayo@austintexas.gov <mandy.demayo@austintexas.gov>; spencer.cronk@austintexas.gov <spencer.cronk@austintexas.gov>

Sent: Thu, Sep 3, 2020 11:14 am

Subject: Item 25/AHFC002: Espero Opposition, again (1934 Rutland: No TRANSIT!)\_Fwd: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

To: Mayor Steve Adler and Austin City Council

1. **Espero Affordable Housing Opposition:** Just passed on Consent (9/3). I expressed opposition to the Espero Project last week in writing in a timely manner for the City Clerk to disseminate to Council on AHFC005, renumbered AHFC002 today (9/3) and Item 25. I emailed the Clerk Wednesday, August 26, 2020/11:56AM (before the Noon deadline). Espero item (1934 Rutland) was postponed. Yet, I do not see my opposition (text below) in the record.

2. **Pending:** Please include my opposition (text below) into the official record, accordingly. I also followed-up with the Clerk's Office to clarify the attachments. Analysis of Impediments PDF is relevant and

clearly explains S.M.A.R.T. Housing, the need to prohibit "transit-oriented" waiver by the Neighborhood Housing Director (since 2007). There is no bus within walking distance of 1934 Rutland because Capital Metro unilaterally eliminated Route 240-Rutland which also served St. David's-North in Council Member Leslie Pool's District 7. The Crystal Bend attachment related to a different item but I left it attached to preserve the email as originally sent to Jannette Goodall, Austin City Clerk.

3. **Public Input Adverse Pattern:** Please recognize that your process is flawed. **This is the third time I submitted written testimony in a timely manner, only to have it never reach Council.** I'm so disappointed. Project Connect will not fix coverage problems (bus to work, grocery store, school, healthcare). Substandard fixed-route service north of US 183 operates 45-60 minutes with 30-minute transfer to the west side. **And Blacks still wait 60 minutes for the bus in Craigwood and Colony Park by design. It's still a 3-mile walk to Samsung and Project Connect won't address these Title VI disparate impacts.** Please comply with HB 2840 (public testimony) and fix the problem. Timely submitted written testimony needs to be forwarded to Council and taxpayers should have a process we can trust.

- **Double Standard:** Please recognize that you require the public to submit documents in advance Noon on Wednesday (usually, save for the Budget Hearing that unilaterally changed with no discussion). Council, however, habitually submits Late Backup after Speaker Registration closes, which denies the public an opportunity to speak on action items. **The process is unfair** and should permit the public to submit documents, at least, by 8AM on the day of the meeting. Advance registration for Boards/Commissions also denies robust participation. This, too, directly contravenes the spirit and letter of the law. HB 2840 aimed to provide more civic engagement, not less. Thank you!~zj

Consent

#### Item AHFC002

Authorize negotiation and execution of a loan agreement and related documents with Espero Austin at Rutland, LP, or an affiliated entity, in an amount not to exceed \$2,507,214 for a multi-family rental development to be known as Espero at Rutland, to be located at or near 1934 Rutland Drive.

#### Work Papers and Other Backup Documentatio

[20200903-AHFC002, Agenda Backup: Backup](#), PDF, 190kb, posted 8/28/2020

[20200903-AHFC002, Agenda Backup: Recommendation for Action](#), PDF, 131kb, posted 8/28/2020

#### Item 25

Set a public hearing related to an application by Espero Austin at Rutland, LP, or an affiliated entity, for housing tax credits for a multi-family development that will be financed through the private activity bond program to be known as Espero Austin at Rutland, located at or near 1934 Rutland Drive, Austin, Texas, 78758, within the City. (Suggested date: Thursday, September 17, 2020, Austin City Hall, 301 W. 2nd Street, Austin, Texas 78701).

District(s): District 4.

#### Work Papers and Other Backup Documentation

[20200903-025, Agenda Backup: Backup](#), PDF, 87kb, posted 8/21/2020

[20200903-025, Agenda Backup: Recommendation for Action](#), PDF, 169kb, posted 8/21/2020

-----Original Message-----

From: zcjsp@aol.com

To: jannette.goodall@austintexas.gov <jannette.goodall@austintexas.gov>

Cc: steve.adler@austintexas.gov <steve.adler@austintexas.gov>; kathie.tovo@austintexas.gov <kathie.tovo@austintexas.gov>

Sent: Thu, Aug 27, 2020 4:31 pm

Subject: [1 of 2]\_Include in Official Record\_Fwd: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

To: Jannette Goodall

Austin City Clerk

I emailed the attached PDFs (Analysis of Impediments; Opportunity Zones) in a timely manner but should have clarified the item number.

- **Item 87:** Please include my two attachments in the official record for **2315 & 2405 Crystal Bend Drive**, Pflugerville TX 78660
- **AHFC Item #5:** Text below relates to Austin Housing Finance Corporation Item 005 which was postponed today (August 27, 2020). Please print this email and include in the official record with AHFC for the packet when it goes before Council.

My apologies for any confusion. It would be helpful if the public could submit written testimony later in the day on Wednesdays or as long as Council submits Late Backup. Much appreciated.~zj

-----Original Message-----

From: zcjsp@aol.com

To: city.clerk@austintexas.gov <city.clerk@austintexas.gov>

Cc: steve.adler@austintexas.gov <steve.adler@austintexas.gov>; alison.alter@austintexas.gov <alison.alter@austintexas.gov>; kathie.tovo@austintexas.gov <kathie.tovo@austintexas.gov>; ann.kitchen@austintexas.gov <ann.kitchen@austintexas.gov>

Sent: Wed, Aug 26, 2020 11:57 am

Subject: 8/27 AHFC\_Against: Item 005. Fwd: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

Against: Item 005. Please delay the vote and restore Route 240-Rutland with CARES Act Funding, sustain with reallocated Austin Police Department Funds. There is no weekend service to the hospital during the COVID-19 pandemic and 0.7-mile walk to HEB essential jobs, which is unconscionable! Do not approve this development on 1934 Rutland Drive!

Agenda Language: Authorize negotiation and execution of a loan agreement and related documents with Austin Espero at Rutland, LP, or an affiliated entity, in an amount not to exceed \$2,507,214 for a multi-family rental development to be known as Espero at Rutland, to be located at or near 1934 Rutland Drive.

1. Justification: June 3, 2018 Capital Metro eliminated Route 240-Rutland which exceeded ridership with 20.3 riders/hr. Council Member Ann Kitchen failed to comply with Title VI of the Civil Rights Act of 1964 when she excluded Route 240 from her Connections 2025 Resolution November 15, 2017. Capital Metro's Board failed to analyze alternatives and "then implement the least discriminatory alternative" (FTA C 4702.1B, Ch. IV-16, 2012). Cap Remap is the discriminatory foundation for Project Connect (\$7.1B Light Rail)—November 3, 2020 Election. There were 93 boardings eliminated in from Cedar Bend, ACC-Northridge to Loop 1/Parmer-HEB Shopping Center (24 daily riders went to St. David's-North). The walk to Route 325-Metric is 1.9 miles from 1934 Rutland (site location). This is a burden for anyone with a disability—wheelchairs, walkers, canes. Carrying groceries in blazing 100-degree heat or walking with young children would be burdensome, too. The absence of a bus stop within ¼-mile to less than ½-mile would align with Austin's Strategic Housing Blueprint and Austin Strategic Mobility Plan (2019). The site location (1934 Rutland) also does not comply with the "T" in S.M.A.R.T. Housing which then-Council Member Chris Riley noted April 10, 2014 (Item 26). CM Kathie Tovo countered Riley's accurate assessment of the lack of commitment to "Transit-oriented" affordable housing, in part, in Northeast Austin. (e.g., Parmer Place).

2. Pending: Ordinance 20140410-026 needs to be amended to prohibit the Housing Director from authorizing a waiver for 4% and 9% Transit-oriented waiver, especially in Opportunity Zones. This site does not appear to be an Opportunity Zone but LIHTC may result in a transit waiver to the detriment of the low-income tenants.

3. Concentrated Poverty: I also oppose creating concentrations of poverty in Northeast Austin. Find locations west of MoPac where land is plenty. Stop segregating poor people and "essential workers" earning 30% (\$20,550) to 60% (\$41K) area median family income ("AMI"). South/West Austin Affordable Housing notoriously maintains 80% AMI, not "deeply affordable" units. Austin City Council and Capital Metro approved Project Connect by acclamation with total disregard for disparate impacts faced by minorities north of US 183 with substandard bus service or no service at all in the service area on Rutland. Even with a newly installed pedestrian hybrid beacon beside HEB-Rutland, Capital Metro eliminated the route which notoriously served as a drug hotspot. Put people in need of supportive services in communities where they can thrive. This location illustrates low-income tenants will struggle, even though housed at a low cost. Ask Council Members Greg Casar, Leslie Pool and Kitchen, along with Flannigan and/or Harper-Madison to rally around restoring Route 240-Rutland before approval or find another location. Their constituents relied on Route 240 and Kitchen provided no alternative for one year! Now, the walk to St. David's-North is 10 blocks with minimal weekday Pickup service (10AM-6PM) which is not "the least discriminatory service" (FTA C 4702.1B, IV-16, 2012). Thank you.~zj

11:04am/August 26, 2020

<https://cityofaustin.formstack.com/forms/index.php>

Thank you for your submission. The City Clerk's Office will follow-up with you about the next steps in the process.

-----Original Message-----

From: zcjsp@aol.com

To: ELVA.F.GARCIA@hud.gov <ELVA.F.GARCIA@hud.gov>

Sent: Sun, Aug 16, 2020 12:00 am

Subject: AI Complaint-Travis County Transit\_Fwd: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

Attachment: Subject: Analysis of Impediments Complaint against Travis County's Duplication of Benefits CDBG-CV Amendment for Mental Health (\$524K), Food (\$137K) & PY20 Action Plan (\$1M) Excluding Housing-Transit Project counter to PY19-23 "Top... Need"

-----Original Message-----

To: andrea.shields@traviscountytx.gov <andrea.shields@traviscountytx.gov>

Cc: brigid.shea@traviscountytx.gov <brigid.shea@traviscountytx.gov>; sam.biscoe@traviscountytx.gov <sam.biscoe@traviscountytx.gov>; gerald.daugherty@traviscountytx.gov <gerald.daugherty@traviscountytx.gov>; margaret.gomez@traviscountytx.gov <margaret.gomez@traviscountytx.gov>; jeff.travillion@traviscountytx.gov <jeff.travillion@traviscountytx.gov>

Sent: Tue, Jul 21, 2020 9:45 pm

Subject: Opportunity Zones Mixed-Use vs. 4% LIHTC Questions

Memorandum for Andrea Shields, Director, Travis County Housing Finance Corporation ([andrea.shields@traviscountytx.gov](mailto:andrea.shields@traviscountytx.gov))

Subject: Opportunity Zones vs. 4% Low-Income Housing Tax Credits Questions (Crystal Bend and Spring Villas Apartments)

**Precedent:** June 23, 2020 Travis County approved 2313 and 2405 Crystal Bend Dr, Pflugerville, Texas 78660 in a Precinct 2 Opportunity Zone, but the Applicant chose 4% Low-Income Housing Tax Credit ("LIHTC") instead of mixed-use development with community input.[1]

**Pattern:** July 21, 2020 Travis County approved Spring Villas Apartments (7430 Bluff Springs Rd, Austin TX) in a Precinct 4 Opportunity Zone, but the Applicant chose 4% LIHTC instead of mixed-use development with community input. I wonder why?

Please see attached PDF for text in its entirety. Thanks. ~zcyj

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[1] Travis County Commissioners Court (2020, June 23). Crystal Bend Apartments [pp. 741, 742]. <http://traviscountytx.igm2.com/Citizens/FileOpen.aspx?Type=1&ID=1889&inline=True>



9b

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

10a

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action approving actions taken by the Executive Director, and authorizing the Executive Director to take further special actions to meet the emergency needs of low-income Texans economically impacted by Winter Storm Uri using federal funds administered by the Community Affairs Division

**RECOMMENDED ACTION**

**WHEREAS**, on February 12, 2021, Governor Abbott issued a disaster declaration and certified that severe winter weather poses an imminent threat of widespread and severe property damage, injury, and loss of life due to prolonged freezing temperatures, heavy snow, and freezing rain statewide;

**WHEREAS**, responding to the needs of low-income Texans impacted by this weather disaster that has been referred to as Winter Storm Uri (Uri) has demanded that the Department take immediate measures to allow the Department to use its Low Income Home Energy Assistance Program (LIHEAP) resources to assist low-income Texans with immediate and short-term responsiveness;

**WHEREAS**, prompt action was required by the Executive Director under 10 TAC §1.5 that precluded the ability to go through the typical processes of obtaining Board authorization; and

**WHEREAS**, the Department felt it was necessary, and may continue to be necessary, to seek flexibilities to rules within 10 TAC Chapter 6, Community Affairs Programs, amend contractual requirements, or request federal or state waivers and approvals to any Community Affairs Program, and is seeking authority for the Executive Director to take such actions in order to more efficiently provide services to eligible low-income Texans economically impacted by Uri;

**NOW, therefore, it is hereby**

**RESOLVED**, that the actions taken by the Executive Director regarding this matter, as described herein, are ratified; and his designees and each of them be and they hereby are authorized, empowered and directed, for and on behalf of the Department, to meet the emergency needs of low-income Texans economically impacted by Winter Storm Uri, including but not limited to seek flexibilities to rules within 10 TAC Chapter 6, Community Affairs Programs described herein under the authority of 10 TAC §1.5, LIHEAP-DCL-2021-03 (February 25, 2021) and the LIHEAP Statute and regulations, amending contractual requirements between the Department and its subrecipients, requesting federal or state

waivers or approvals in Community Affairs Programs that may become necessary to address Uri’s economic impact on low-income Texans, and providing assistance to eligible households and individuals.

**BACKGROUND**

On February 12, 2021, Governor Abbott issued a statewide disaster declaration due to Winter Storm Uri, authorizing the use of all available resources of state government to cope with this disaster. The nature of this disaster is such that many persons in all areas of the state have been financially impacted because of loss of heating, damage to their residence (e.g. broken water pipes), and increased electricity bills. Low-income persons are particularly affected due to a lack of financial resources to assist in their own recovery.

The Department is committed to assisting economically impacted low-income Texans and the subrecipients who serve them primarily through its LIHEAP resources (\$164,514,775 in 2021 LIHEAP funds and \$94,023,896 in LIHEAP CARES Act funds). While it is possible to foresee some of the changes that will be necessary to alleviate the damage caused by Uri, it is not possible to predict and list all actions that may become necessary over the immediate, short, and long-term response period. For this reason, staff requests approval of this item granting the Department, through its Executive Director, the authority to execute certain necessary lawful actions to properly respond to Uri’s impact on low-income Texans without having to go through the normal Board authorization process, which could cause an unnecessary delay in disaster response.

The actions taken by the Executive Director to date relate to the issuance of disaster-related guidance to its subrecipients that reflected 10 TAC Chapter 6 rule changes as listed below under the authority of 10 TAC §1.5, LIHEAP-DCL-2021-03 (February 25, 2021), and the amendment of the State’s LIHEAP Plan to respond to the needs of low-income Texans impacted by the effects of this statewide disaster declaration due to Winter Storm Uri. Future actions may include, but are not limited to, amending contractual requirements between the Department and its subrecipients, or requesting federal or state waivers or approvals.

The Department will continue to closely monitor Uri’s impact on low-income Texans and identify how Community Affairs programs can be responsive. Approving this action will allow the Department the necessary flexibility and streamlined approach to appropriately serve eligible households and individuals in the wake of Winter Storm Uri. Any and all actions undertaken with the authority noted in this action item will be reported to the Board at the next occurring Board meeting.

**10 TAC Chapter 6, Subchapter C Flexibilities under the authority of 10 TAC §1.5\***

Rule #	Flexibility		
6.309(e)	Annual caps on benefits allowed per households have been doubled		
	<b>Federal Poverty Guidelines</b>	<b>Previous Annual Cap</b>	<b>New Annual Cap</b>
	0%-50%	\$1,600	\$3,200
	51%-75%	\$1,500	\$3,000
	76%-150%	\$1,400	\$2,800
6.309(f)	Annual cap on repairs or replacement of inoperable heating systems were increased from \$5,000 to \$7,500		

6.309(h)(1)(B) and (C)	The initial assistance payment that would include arrears will not count towards the annual benefit caps for a household The billing cycle(s) that include the increased utility costs associated with Winter Storm Uri will not count towards the annual benefit caps for a household
6.311(c)	Service and repair of heating units was expanded from only being an allowable activity for Vulnerable Households to also being allowable for Non-Vulnerable Households

\*Effective immediately and lasts until September 30, 2021. In the 2022 LIHEAP Plan, the Department intends to propose extending these flexibilities for 2021 funds obligated by September 30, 2021, through December 31, 2021.

10b

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 11, 2021**

Presentation, discussion, and possible action on approval of the draft 2021 Department of Energy Weatherization Assistance Program state plan for public comment

**RECOMMENDED ACTION**

**WHEREAS**, the Energy Conservation in Existing Buildings Act of 1976 (42 USC §6851), as amended in Title II, Part 2 of the National Energy Conservation Policy Act allows Department of Energy (DOE) Weatherization Assistance Program (WAP) funds to be utilized to carry out a program of weatherization assistance for low-income persons, as well as 10% for planning and administration;

**WHEREAS**, the Department develops and submits a State Plan to the DOE each year to administer the WAP;

**WHEREAS**, the Department received notice of Program Year (PY) 2021 DOE WAP funds in the amount of \$7,908,820;

**WHEREAS**, the State Plan also includes estimated carryover funding from PY 2020 for a total State Plan amount of \$10,483,820;

**WHEREAS**, the DOE WAP funds are allocated based on the formula detailed in 10 TAC §6.404, Distribution of WAP Funds; and

**WHEREAS**, the attached draft 2021 DOE WAP State Plan is proposed for public comment;

**NOW, therefore, it is hereby**

**RESOLVED**, that the draft 2021 DOE WAP State Plan, in the form presented to this meeting, is hereby approved for public comment; and

**FURTHER RESOLVED**, that the final plan with consideration for public comment, corrections required by DOE, and technical corrections made by staff, along with award recommendations for Subgrantees as indicated in Section IV.1 of the State Plan will be presented to the Board no later than the meeting of May 13, 2021, and will serve as a public hearing as required by 10 CFR §440.12(a).



## BACKGROUND

Along with \$2,575,000 in estimated carryover funding from PY20, the Department received notice of an award of \$7,908,820 for the 2021 DOE WAP for a total State Plan amount of \$10,483,820. The DOE WAP 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 Subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Also, the funding provides for state administration and state training and technical assistance activities. The list of Subgrantees and the proposed award amounts are included in the State Plan in section IV.1, Subgrantees. This list of Subgrantees has not been through the Department's Previous Participation Review and the Board is not approving a list of awardees at this time. To the extent that the 2021 funds are greater or less than the amount in the draft Plan, the proposed activities and Subgrantee awards will be adjusted according to the allocation formula.

Subgrantees had two previous opportunities to provide input into the drafting of this Plan. The first opportunity included a 15-day timeframe in November and December to provide comments on what they wanted changed from the 2020 DOE Plan and the second opportunity included a 17-day period of time in February to comment on the draft Plan before presenting it to the Board at this meeting.

An announcement of the availability of the draft Plan and details regarding the timeframe to accept comments from the public and the public hearing will be posted on the Department's website no later than March 12, 2021, and published in the *Texas Register* on March 26, 2021. The period to accept comments from the public regarding the Plan will be open from Friday, March 26, 2021, through Friday, April 16, 2021, at 5:00 p.m. Austin local time. Written comments concerning the Plan may be submitted to the Texas Department of Housing and Community Affairs, Community Affairs Division, P.O. Box 13941, Austin, TX 78711-3941, or by email to [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us), or by fax to (512) 475-3935. Comments are due no later than 5:00 p.m. Austin local time on Friday, April 16, 2021.

The Department will also conduct a virtual public hearing for the draft Plan at 2 p.m. Austin local time on April 13, 2021, through GoToMeeting. Meeting details are:

- Tuesday, April 13, 2021, from 2:00 p.m.-3:00 p.m.
  - Via GoToWebinar
  - To Register: <https://attendee.gotowebinar.com/register/4596074466209303821>

Upon completion of the public comment period and public hearing, staff will modify the Plan, if appropriate, based on public comment. Staff will also include any changes required by federal guidance. Staff anticipates presenting the revised Plan, along with recommendations for Subgrantee awards, to the Board for review and final approval in May.

DOE regulations require a Weatherization Policy Advisory Council be designated in the Plan in order to provide guidance and comment on the Plan. The Policy Advisory Council is composed of four individuals

appointed by the Department. The Policy Advisory Council meeting will be held virtually and is scheduled to occur on April 16, 2021, after the public hearing and at the end of the public comment period.

The full text of the draft 2021 DOE WAP State Plan may be viewed at the Department's website: <https://www.tdhca.state.tx.us/public-comment.htm>. The public may also receive a copy of the draft 2021 DOE WAP State Plan by contacting Gavin Reid at [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us).

**APPLICATION FOR FEDERAL ASSISTANCE SF-424**

Version 02

1. Type of Submission:

- Preapplication
- Application
- Changed/Corrected Application

2. Type of Application:

- New
- Continuation
- Revision

If Revision, select appropriate letter(s)

Other (specify):

3. Date Received

07/01/2021

4. Applicant Identifier:

5a. Fed Entity Identifier:

5b. Federal Award Identifier:

DE-EE0007952

**State Use Only:**

6. Date Received by State:

07/01/2021

7. State Application Identifier:

TX-W-200

**8. APPLICANT INFORMATION:**

a. Legal Name:

State of Texas

b. Employer/Taxpayer Identification Number (EIN/TIN):

742610542

c. Organizational DUNS:

806781902

**d. Address:**

Street 1: P.O. BOX 13941

Street 2:

City: Austin

County:

State: TX

Province:

Country: U.S.A.

Zip / Postal Code: 787113941

**e. Organizational Unit:**

Department Name:

Texas Department of Housing and Community Affairs

Division Name:

Community Affairs Division

**f. Name and contact information of person to be contacted on matters involving this application:**

Prefix: Mr First Name: Michael

Middle Name:

Last Name: DeYoung

Suffix:

Title: Community Affairs Division Director

Organizational Affiliation: Texas Dept. of Housing and Community Affairs

Telephone Number: 5124752125

Fax Number: 5124753935

Email: michael.deyoung@tdhca.state.tx.us

**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-0002021

Title:

2021 Weatherization Assistance Program

**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

**APPLICATION FOR FEDERAL ASSISTANCE SF-424**

Version 02

**16. Congressional District Of:**

a. Applicant: Texas Congressional District 01

b. Program/Project: TX-Statewide

Attach an additional list of Program/Project Congressional Districts if needed:

**17. Proposed Project:**

a. Start Date: 07/01/2021

b. End Date: 06/30/2022

**18. Estimated Funding (\$):**

a. Federal	7,908,820.00
b. Applicant	0.00
c. State	0.00
d. Local	0.00
e. Other	0.00
f. Program Income	0.00
g. TOTAL	7,908,820.00

**19. Is Application subject to Review By State Under Executive Order 12372 Process?:**

- a. This application was made available to the State under the Executive Order 12372 Process for review
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372

**20. Is the applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation)**

No

**21. By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to**

I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency

**Authorized Representative:**

Prefix: Mr First Name: Bobby

Middle Name:

Last Name: Wilkinson

Suffix:

Title: Executive Director

Telephone Number: 5124753296

Fax Number:

Email: bobby.wilkinson@tdhca.state.tx.us

Signature of Authorized Representative: Signed Electronically

Date Signed:

**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 07/01/2021		
	5. Completion Date 06/30/2022		

**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. DOE WAP Formula Funds	81.042	\$ 2,575,000.00		\$ 7,908,820.00		\$ 10,483,820.00
2.						
3.						
4.						
5. TOTAL		\$ 2,575,000.00	\$ 0.00	\$ 7,908,820.00	\$ 0.00	\$ 10,483,820.00

**SECTION B - BUDGET CATEGORIES**

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) GRANTEE ADMINISTR ATION	(2) SUBGRANTE E ADMINISTRA	(3) GRANTEE T&TA	(4) SUBGRANTE E T&TA	
a. Personnel	\$ 200,520.00	\$ 0.00	\$ 210,570.00	\$ 0.00	\$ 411,090.00
b. Fringe Benefits	\$ 69,781.00	\$ 0.00	\$ 73,278.00	\$ 0.00	\$ 143,059.00
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	\$ 3,000.00	\$ 0.00	\$ 2,000.00	\$ 0.00	\$ 5,000.00
f. Contract	\$ 0.00	\$ 706,274.00	\$ 134,000.00	\$ 550,000.00	\$ 9,692,655.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other Direct Costs	\$ 14,000.00	\$ 0.00	\$ 3,250.00	\$ 0.00	\$ 17,250.00
i. Total Direct Charges	\$ 287,301.00	\$ 706,274.00	\$ 450,818.00	\$ 550,000.00	\$ 10,296,774.00
j. Indirect Costs	\$ 91,237.00	\$ 0.00	\$ 95,809.00	\$ 0.00	\$ 187,046.00
k. Totals	\$ 378,538.00	\$ 706,274.00	\$ 546,627.00	\$ 550,000.00	\$ 10,483,820.00
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 07/01/2021		
	5. Completion Date 06/30/2022		

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		\$ 2,575,000.00	\$ 0.00	\$ 7,908,820.00	\$ 0.00	\$ 10,483,820.00

SECTION B - BUDGET CATEGORIES					
6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) PROGRAM OPERATIONS	(2) HEALTH AND SAFETY	(3) LIABILITY INSURANCE	(4) FINANCIAL AUDITS	
a. Personnel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 411,090.00
b. Fringe Benefits	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 143,059.00
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	\$ 5,000.00
f. Contract	\$ 6,932,017.00	\$ 1,223,297.00	\$ 125,067.00	\$ 22,000.00	\$ 9,692,655.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other Direct Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 17,250.00
i. Total Direct Charges	\$ 6,932,017.00	\$ 1,223,297.00	\$ 125,067.00	\$ 22,000.00	\$ 10,296,774.00
j. Indirect Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 187,046.00
k. Totals	\$ 6,932,017.00	\$ 1,223,297.00	\$ 125,067.00	\$ 22,000.00	\$ 10,483,820.00
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: 2021)**

**IV.1 Subgrantees**

<b>Subgrantee (City)</b>	<b>Planned Funds/Units</b>
Alamo Area Council of Governments (San Antonio)	\$775,891.00 108
BakerRipley (Houston)	\$1,175,603.00 168
Big Bend Community Action Committee (Marfa)	\$145,934.00 16
Brazos Valley Community Action Program (College Station)	\$320,679.00 40
Combined Community Action, Inc. (Giddings)	\$216,011.00 26
Community Action Committee of Victoria Texas (Victoria )	\$291,687.00 36
Community Action Corporation of South Texas (Alice)	\$1,050,419.00 149
Community Council of South Central Texas, Inc (Seguin)	\$199,242.00 24
Concho Valley Community Action Agency (San Angelo)	\$182,769.00 21
Dallas County Health & Human Services (Dallas)	\$748,175.00 105
Economic Opportunities Advancement Corporation (Waco)	\$275,782.00 34
El Paso Community Action Program, Project Bravo (El Paso)	\$433,577.00 56
Fort Worth, City of (Fort Worth)	\$464,804.00 61
Greater East Texas Community Action Program (Nacogdoches)	\$867,793.00 123
Hill Country Community Action Association, Inc. (San Saba)	\$263,357.00 31
Nueces County Community Action Agency (Corpus Christi)	\$165,682.00 19
Panhandle Community Services (Amarillo)	\$267,945.00 33
Rolling Plains Management Corporation (Crowell)	\$408,350.00 53
South Plains Community Action Association, Inc. (Levelland)	\$244,531.00 30
Texoma Council of Governments (Sherman)	\$501,609.00 66
Travis County Health and Human Services and Veterans Services (Austin)	\$293,543.00 37
West Texas Opportunities (Lamesa)	\$265,272.00 33
<b>Total:</b>	<b>\$9,558,655.00</b> <b>1,269</b>



**U.S. Department of Energy  
WEATHERIZATION ASSISTANCE PROGRAM (WAP)  
WEATHERIZATION ANNUAL FILE WORKSHEET**

**(Grant Number: EE0007952, State: TX, Program Year: 2021)**

**IV.2 WAP Production Schedule**

Planned units by quarter or category are no longer required, no information required for persons.

Weatherization Plans	Units
Total Units (excluding reweatherized)	1,269 1,269
Reweatherized Units	0 0

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	1,269
C Total Units Reweatherized	0
D Total Dwelling Units to be Weatherized and Reweatherized (B + C)	1,269
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	\$6,932,017.00
G Total Dwelling Units to be Weatherized and Reweatherized (from line D)	1,269
H Average Program Operations Costs per Unit (F divided by G)	\$5,462.58
I Average Vehicles & Equipment Acquisition Cost per Unit (from line E)	\$0.00
J Total Average Cost per Dwelling (H plus I)	\$5,462.58

**IV.3 Energy Savings**

Method used to calculate savings:  WAP algorithm  Other (describe below)

	Units	Savings Calculator (MBtus)	Energy Savings
This Year Estimate	1269	29.3	37182
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: <a href="mailto:KJFranke@ccaction.com">KJFranke@ccaction.com</a>
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: <a href="mailto:kswenson@sbcglobal.net">kswenson@sbcglobal.net</a>
Health and Human Services Commission	Type of organization: Unit of State Government Contact Name: Gina Carter Phone: 5124366627 Email: <a href="mailto:gina.carter@hhsc.state.tx.us">gina.carter@hhsc.state.tx.us</a>
	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: 2021)**

Ysleta Del Sur Pueblo-tigua Indian Reservation	Contact Name: Albert Alvidrez Phone: 9158344925 Email: <a href="mailto:albert.alvidrez@tdhca.state.tx.us">albert.alvidrez@tdhca.state.tx.us</a>
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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

03/11/2021 TDHCA Board of Directors authorizes release of draft State Plan for public comment.

03/12/2021 Draft State Plan and notice of public hearing posted on the TDHCA website; public listserv announcement sent announcing availability of draft State Plan and public hearing details.

03/26/2021 Announcement of public hearing for draft State Plan published in Texas Register. Public comment period for draft State Plan begins.

04/13/2021 Public Hearing Webinar for the DOE State Plan begins at 2:00 pm (CST). Conducted virtually in accordance with DOE guidance as a result of the COVID19 pandemic.

04/16/2021 Comment period for the DOE State Plan ends at 5:00 pm (CST).

04/16/2021 WAPAC meeting regarding DOE State Plan.

05/13/2021 Final DOE State Plan and list of awardees presented at TDHCA Board of Directors meeting for approval. The meeting also serves as a Public Hearing.

**IV.7 Miscellaneous**

**Recipient Business Officer**

Michael De Young  
[Michael.deyoung@tdhca.state.tx.us](mailto:Michael.deyoung@tdhca.state.tx.us)  
221 East 11th Street  
Austin, Texas 78701  
(512) 475-2125

**Recipient Principal Investigator**

Gavin Reid  
[gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us)  
221 East 11th Street  
Austin, Texas 78701  
(512) 936-7828

**Policy Advisory Council**

The Weatherization Assistance Program Policy Advisory Council (PAC) currently has four slots and is 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. The PAC meets annually at the end of the public hearing period to discuss the DOE plan and comments received.

Two of the slots, filled by the PAC members from Combined Community Action and the Greater East Texas Community Action Program, represent the low-income, elderly, and disabled population. The third slot, filled by the PAC member from the Health and Human Services Commission, represents the low-income, elderly and persons with disabilities. A fourth slot representing Native Americans is occupied by a member of the Ysleta Del Sur Pueblo-Tigua Indian Reservation.

**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 potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. 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.

**2019 ACSI Action Plan (based on 2019 Survey)**

After receiving the results of the 2019 ACSI Survey, TDHCA met with the Texas Association of Community Action Agencies (TACAA), representing the network of WAP Subgrantees, to analyze and discuss the results. With TACAA's input, TDHCA worked out a plan of action to address the concerns raised in the 2019 Survey. The action plan, updated in December 2020, includes the following:

1. Provide four separate opportunities to comment on the DOE State Plan to include 1) a two week period of time to provide comments on the Plan before the Department begins drafting the Plan, 2) an informal two week period to comment on the draft Plan before going to the more formal public comment period, 3) the formalized public comment process lasting 25 days, and 4) a public hearing.

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2. To enhance the network's familiarity with the Plan, before the formal public comment period closes the Department will explain the importance of the Plan, the reason for the Plan, and the different sections of the Plan to the network during one of the regular WAP network webcalls or via a stand-alone webinar.
3. After the DOE Plan has been approved and submitted to DOE, the Department will survey the network asking for their feedback on the Plan development process and asking for suggestions on how to improve the plan process.
4. To ensure contracts are received and executed in time, Department staff will modify internal mechanisms so that boiler contract templates will be routed earlier.
5. Increased training opportunities and individualized Training and Technical Assistance to be provided from a highly qualified WAP trainer (i.e., Chad Turner).
6. To improve communication, the Department will request feedback from monitored subgrantees by sending out a Post Monitoring Services survey after each monitoring visit.
7. To address cost allocation issues, the Department will seek out and fund training opportunities provided via third party consultants familiar with State of Texas and federal regulations.
8. Provide assistance to subgrantees on how to obtain individualized comprehensive/specific training and certifications from IREC accredited training facilities.
9. Develop and implement technical courses to increase performance and expenditures.
10. Continue to collaborate with the Compliance Division to develop guidance for subgrantees and to identify training needs amongst both individual subgrantees and the network as a whole.
11. To improve consistency, Program and Compliance staff will continue to discuss rising issues and trends within the WAP network.
12. To improve communication, disseminate to all levels a WAP E-Newsletter to provide important WAP announcements, program updates, and training opportunities as information becomes available.
13. Include all WAP staff at each Subgrantee on WAP emails to ensure information reaches all levels.
14. Continue to update and maintain the TDHCA website regarding WAP best practices and information received from the federal and state levels. TDHCA notifies the network of updates either through a network email and/or within the WAP E-Newsletter.
15. To assist with increasing certifications within the network, the Department will continue to make available a proctor for QCI testing.
16. Continue to host regularly scheduled network webcalls, provide training for new program managers and new Executive Directors, and individual agency trainings that are personalized to the specific needs of a subgrantee.

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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

Eligibility for program assistance is determined under the Federal Poverty Income Guidelines and calculated as described in 10 TAC §6.4.

Describe what household eligibility basis will be used in the Program

During the application process, households will be screened for DOE Weatherization benefits and determined eligible if their income is at or below 200% of the Federal Poverty Income Guidelines.

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 all Subgrantees operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. The Department has provided training and will continue to provide training to those Subgrantees who have elected to use the SAVE system to verify legal status.

The DOE and LIHEAP WAP are in compliance with LIHEAP-IM-99-10, issued June 15, 1999, which states that weatherization in a multifamily building is not a covered 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 verifies that weatherized units have eligibility documentation during monitoring reviews.

Describe Reweatherization compliance

Texas permits reweatherization of a unit if 15 years have passed from the unit's previous weatherization completion date in accordance with the Consolidated Appropriations Act of 2021 below. Otherwise, a unit may only be re-weatherized if such dwelling unit has been damaged by fire, flood, or an act of God and repair of the damage to weatherization materials is not paid for by insurance, per 10 CFR §440.18(f)(2)(ii).

Language from the Consolidated Appropriations Act of 2021 (Page 3269):

AMENDING RE-WEATHERIZATION DATE.—Paragraph (2) of section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) is amended to read as follows:

(2) Dwelling units weatherized (including dwelling units partially weatherized) under this part, or under other Federal programs (in this paragraph referred to as

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‘previous weatherization’), may not receive further financial assistance for weatherization under this part until the date that is 15 years after the date such previous weatherization was completed. This paragraph does not preclude dwelling units that have received previous weatherization from receiving assistance and services (including the provision of information and education to assist with energy management and evaluation of the effectiveness of installed weatherization materials) other than weatherization under this part or under other Federal programs, or from receiving non-Federal assistance for weatherization.’

Previously Weatherized Home Tracking Procedure

Previously weatherized homes and their completion dates are recorded and tracked in the TDHCA Community Affairs Contract System by subgrantees and verified by TDHCA through monitoring.

Describe what structures are eligible for weatherization

10 TAC §6.2 and §6.403 includes the following definitions which describe structures eligible for weatherization:

Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters. (This is the same as the definition for Dwelling Unit in 10 CFR §440.3 Definitions)

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.

Single Family Dwelling Unit--A structure containing no more than one Dwelling Unit.

Buildings with more than one Dwelling Unit under one roof must follow 10 TAC §6.414, Eligibility for Multifamily Dwelling Units and Shelters.

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 accrued 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 dwelling units occupied by low-income households, or will become occupied by low-income households, within 180 days under a Federal, State or local government program for rehabilitating the building or making similar improvements. WPN 16-5 provides guidance on the review and verification required for Department of Housing and Urban Development (HUD), Department of Agriculture (USDA), and Low Income Housing Tax Credit (LIHTC) 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:

<https://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>

In order to weatherize large multifamily buildings containing 25 or more dwelling units or those with shared central heating (e.g., boilers) and/or shared cooling plants (e.g., cooling tower that use water as the coolant) regardless of the number of dwelling units, Subgrantees must obtain prior written approval through the Department. When necessary, the Department will seek DOE approval.

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Subgrantees must submit to the Department a request for approval to weatherize large multifamily buildings. Request for permission must include evidence of significant energy savings because of upgrades to equipment, energy systems, common space, or the building shell. A significant energy savings is defined as having an SIR of 1.0 or greater in the energy audit.

**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 must 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 abated within program rules or within the allowable WAP limits, the unit exceeds the scope of this program.

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): **19**

**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 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 Subgrantee's 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 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. 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 and 10 TAC §1.411. 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 Subgrantees.

The Department may deobligate all or part of the funds provided under this contract as outlined in 10 TAC §6.405 and 10 TAC §1.411. A Subgrantee's failure to expend the funds provided under this State plan in a timely manner may also result in the Subgrantee's ineligibility to receive additional funding during the program year.

**Formula Distribution**

The Department updates the budget allocation proportion by county and Subgrantee based on poverty income, elderly poverty, median household income (from

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the most recent decennial 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 most recent decennial U.S. 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.

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 per county;
- (3) Median income variance per county;
- (4) Inverse poverty household density ratio per county; and
- (5) County Weather Factor (Heating/Cooling Degree days per county) as a portion of State County Weather.

**V.3 Priorities**

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 developed 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 for the Department of Energy, the state of Texas has several IECC climate zones. [https://www.energy.gov/sites/prod/files/2015/10/f27/ba\\_climate\\_region\\_guide\\_7.3.pdf](https://www.energy.gov/sites/prod/files/2015/10/f27/ba_climate_region_guide_7.3.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:

<b>Zone 2A</b>	<b>Zone 3A</b>
Ceiling R 38	R38

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Windows	U 0.40	U 0.35
Walls	R13	R13 + 5
Floors	R13	R19
SHGC	0.25	0.25

**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 3B**

Ceiling	R38
Windows	U 0.35
Walls	R13 + 5
Floors	R19
SHGC	0.25

**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	R38
Windows	U 0.35
Walls	R13 + 5
Floors	R19
SHGC	0.25

**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	R49
Windows	U 0.35
Walls	R13 + 5
Floors	R19
SHGC	0.40

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**



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**Technical Guides and Materials**

All technical guides (for all single family, mobile home, and multifamily buildings) and materials meet the specifications, objectives and desired outcomes outlined in the Standard Work Specifications (SWS). Provided below is an electronic link to all the current, DOE approved field guides and/or standards for single family, mobile homes, and multifamily buildings as well as all other relevant program guidance materials. These materials are available to all Subgrantees and contractors at any time.

<https://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Further, the Department has several Weatherization Best Practices posted at: <https://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>

Best practices are developed based upon repeat questions that require more clarity than 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.

**Materials and Work Standards**

Subgrantee will include the substance of this section in all subcontracts.

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 and added approved materials noted in WPN 19-4.

B. All weatherization measures installed shall meet or exceed the standards prescribed by DOE in WPN 15-4 regarding Standard Work Specifications, as detailed in the Department's Standard Work Specifications. All Subrecipient agreements and vendor contracts contain language which clearly documents the SWS specifications for work quality outlined in WPN 15-4, Section 2. A signed contract shall confirm that the organization understands and agrees to these expectations.

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).

Field guide types approval dates

Single-Family:
Manufactured Housing:
Multi-Family:

**V.5.2 Energy Audit Procedures**

Audit Procedures and Dates Most Recently Approved by DOE

Audit Procedure: Single-Family
Audit Name: Other (specify)
NEAT: DOE approved June 2, 2016 NEAT: On October 20, 2020, DOE approved June 2, 2021 to June 2, 2026.
Approval Date:

Audit Procedure: Manufactured Housing
Audit Name: Other (specify)
MHEA: DOE approved June 2, 2016 MHEA: On October 20, 2020, DOE approved June 2, 2021 to June 2, 2026.
Approval Date:

Audit Procedure: Multi-Family
Audit Name: Other (specify)
NEAT: 5-24 individually heated and cooled units - DOE approved June 2, 2016, and June 2, 2021, to June 2, 2026. For Multifamily buildings of 25 units or more the Department will seek DOE approval prior to the installation of any weatherization measures.
Approval Date:

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Comments

On October 20, 2020, TDHCA received DOE approval for the State of Texas Energy Audit Procedures (i.e., the National Energy Audit Tool (NEAT) and Manufactured Home Energy Audit (MHEA) for Site-Built Single Family, Manufactured, and Small Multifamily Housing for the WAP, effective June 2, 2021 and expiring June 2, 2026. Additionally, TDHCA received approval to utilize Refrigerators and General Heat Waste Measures (i.e., Low Faucet aerators (1.0 gpm or less) and Furnace/Air Conditioner Filters) which were not listed in 10 CFR 440 Appendix A. TDHCA had already received approval on July 1, 2016 to utilize LEDs which were not listed in 10 CFR 440 Appendix A.

To comply with the requirement outlined in WPN 19-4 (Section 2), once the updated version of the NEAT and MHEA audit tool (version 10) is migrated to the web and approved for use by DOE, TDHCA will transition fully to the online version (v10) in PY21. To aid in the transition and address energy audit modeling concerns noted from the recent DOE monitoring TDHCA is planning to coordinate with an IREC accredited training center to provide Comprehensive Training which will at minimum cover WA v10 setup/use. Projected transition/T&TA timeline targets are as follows:

- April 2021
  - Review Conversion Curriculum when released to aid in determining what will be required to convert to WA v10
- September 2021
  - Review Core Curriculum once released and start coordination with IREC training facility to develop the Comprehensive Training which will at minimum cover WA v10 setup/use
  - Review COVID status to determine best suited training delivery method, i.e. virtual, regional classroom, network-wide classroom, or combination and projected time frame to determine if adjustments are necessary
- October-November 2021
  - Development of the WA v10 Comprehensive Training and materials
- December 2021
  - Review Comprehensive Training & finalize implementation plan/schedule
- Jan-March 2022
  - Provide Comprehensive Trainings in joint coordination with IREC approved facility and implement the new WA v10 energy audit for all twenty two (22) subgrantees as outlined in the implementation plan/schedule determined in Dec.
- Feb-April 2022
  - Conduct a series of in-person/virtual meetings to clarify any questions and provide any needed additional T&TA.

**V.5.3 Final Inspection**

The Department has provided Subgrantees 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 six certified QCI staff who maintain their certifications. The Department annually requires all Subgrantees 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): The Subgrantee will NOT allow the QCI staff member (or third party QCI) who conducts the Final Inspection on any DOE funded/reported unit to perform any other aspect(s) associated with that same unit. E.g., Initial Assessment, NEAT Audit, Work Order, etc.

Option 2 (10% compliance final inspection required): The Subgrantee will have a QCI staff member conduct the Final Inspection on every DOE funded/reported unit AND will also perform other aspect(s) associated with that same unit. E.g., Initial Assessment, NEAT Audit, Work Order, etc.

NOTE: As scheduling permits, compliance will conduct 10% final inspections on completed units for Option 1 as well.

TDHCA survey's the WAP network annually to determine which option is appropriate for each Subgrantee while developing the monitoring schedule. Prior to conducting an onsite monitoring, the option will be verified to ensure an adequate number of units are inspected.

All units are inspected by a certified QCI. In addition to final inspections, a completed QCI Final Inspection Certification Form is required. The form can be found at: <https://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Subgrantees are 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's WAP Program Guidance Webpage at <https://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

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 is provided by training staff with email guidance providing resources to resolve

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the findings. This is then followed by individualized T&TA, or a referral to the appropriate Comprehensive 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. Deficiencies, Findings and Concerns identified during the last three years; and
2. If the Subgrantee is subject to the requirement of an annual single audit:
  - A. Single Audit status, any findings noted in the Single Audit, and the recommendation of the Single Audit Committee;
  - B. Any changes in debarment status;
  - C. Complaint History for the applicant

The Compliance Division submits the results of the information noted above to EARAC. If EARAC finds that a Subgrantee has outstanding monitoring or Single Audit issues, their WAP award may be subject to conditions intended to avoid future noncompliance, and limit disallowed costs.

Additionally and in a separate process, T&TA staff are copied on all monitoring reports and/or a staff meeting is held for monitors to debrief T&TA staff after each visit. In those meetings, monitoring staff relay issues found related to the Subgrantee as well as overall trends identified. Following the monitoring report, T&TA staff provide an initial email to the Subgrantee to provide resources for identified issues. T&TA staff applies this debrief information when determining the needs for agency wide specific T&TA and to plan the training curriculum.

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. Subgrantees are required to submit a Production Report on the 15th of each month. If staff determines that a benchmark is missed or a Subgrantee is falling behind on expenditure and/or production, a letter is issued from the Department and the subgrantee is required to submit a written Mitigation Action Plan according to 10 TAC §6.405.

Additionally, based upon monthly submitted performance and expenditure reports, individualized TA is provided to ensure full expenditure and an adequate rate of production. T&TA staff analyze the reports submitted by subgrantees and provide T&TA when necessary. Such T&TA may include a course on production oriented management, proper reporting, procurement, and/or other relevant topics.

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

The Department enforces the Deobligation/Reobligation of Awarded Funds rule as laid out in 10 TAC §6.405. While the Department's performance review process has not achieved full expenditure of funds each Program Year (e.g., PY 2017 due to Hurricane Harvey), the Department continuously assesses its processes and researches potential modifications in order to improve. For example, the Department has a Program Specialist who is tasked with the responsibility of overseeing the performance and expenditure report and production schedule process and to provide technical assistance to individual subrecipients who are on the pathway to nonexpenditure of the full amount of their allocation.

**V.7 Health and Safety**

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Attached to SF-424

**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 three program categories: Single Family Programs, Multifamily Finance Production, and Community Affairs, which administers the WAP.

The Department subcontracts with a network of Subgrantees that provide 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. All network Subgrantees are provided a draft copy of the yearly weatherization state plan and a notice of the state public hearing. The public and all Subgrantees are invited and encouraged 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;
- Reassignment of the service area (or service area portion) to another 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 service 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.

**V.8.2 Administrative Expenditure Limits**

The Department will use 5% of its grant funds for state administration. An additional 7.5% 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 budget categories as deemed necessary. The Department has elected to provide the maximum allowable funds for Subgrantee administration to Subgrantees

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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 12.5% 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 are:

- Kevin Glienke – 10+ years in WAP as a monitor/trainer, BPI Building Analyst Professional, BPI QCI, MF-QCI, BPI EA, and attended DOE sponsored conferences.
- Robert Moore – 11+ years of weatherization experience including as a Texas WAP Subgrantee, BPI QCI, BPI Building Analyst Professional, BPI EA, Lead certified, OSHA 30 and attended DOE sponsored conferences.
- Ben Rose – 7+ years of weatherization experience including as a Texas WAP Subgrantee, BPI QCI, BPI EA, BPI Building Analyst Professional, and Lead certified.

All staff listed above conduct fiscal/administrative and inspection monitoring activities and are paid for out of administration (10%) and T&TA (30%) budget categories.

Compliance Subrecipient Monitoring is staffed with nine additional monitors not dedicated to weatherization. All of these qualified monitors may be tasked with fiscal and programmatic activities through funds provided by this State plan.

The Department will attempt to monitor each of the DOE Subgrantees during the contract period which will be July 1, 2020 through June 30, 2021. 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; this may result in a monitoring outside of the regular DOE contract period.

(See attached PY2021 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. The Department will monitor for eligibility through sampled client file reviews. Through sampled unit inspections, Department staff will monitor for installed measures that 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 5-10% of all completed weatherized units. In order to achieve the 5-10% 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 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 sampled QCI final inspection document to ensure compliance with the

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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 for 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 scan documents as support if findings are 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.
- 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 the 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.
- Monitors may test that weatherization activities including but not limited to: energy audits, energy conservation measures, incidental repair measures and health and safety measures are only performed by properly trained Retrofit Installer/Technicians, Crew Leaders, and Energy Auditors that have received comprehensive training (not necessarily certification) that is aligned with DOE's Job Task Analysis for the position in which the weatherization worker is employed.

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 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 remains 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, as will any noncompliance that appears in two consecutive monitoring reports. Instances of suspected fraud, waste, or program abuse will be reported immediately to DOE and the Texas State Auditors Office.

The Department will review the annual Single 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 must be uploaded to the Federal Clearinghouse within nine months of the Subgrantee's fiscal year end or within 30 days of completion. 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 for Department issued funds, they are reviewed and discussed by the Director of Internal Audit, the Director of Subrecipient Monitoring, the Director for Community Affairs and staff to determine the appropriate steps to ensure the entity addresses the concerns identified in the audit report or management letter. The Department issues correspondence to the entity, identifying what the entity must address, what support documentation is needed and the corrective action measures that must be performed. The entity is provided a time frame to complete the corrective action and to respond to the correspondence.

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 and whether or not to refer the matter 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.

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.

#### Virtual Monitoring Overview

In light of the continued health concerns surrounding Coronavirus (COVID-19), the Texas Department of Housing and Community Affairs (Department) postponed Weatherization Assistance Program (WAP) on-site physical monitoring inspections in March of 2020. As of March 2021, restrictions remain in place as the virus has not subsided and Texas continues to experience a rise in active cases. Cities and municipalities throughout the state continue to struggle

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with active cases and hospitalizations.

In order to promote the safety of our citizens, the Department developed a virtual monitoring inspection plan and received approval from DOE to move forward with virtual inspections according to the virtual monitoring inspection plan. The Department will conduct inspections virtually until such time that restrictions are lifted and the safety of our citizens is assured.

Virtual (video) monitoring inspections, being similar to on-site inspections, will be performed to minimize contact and exposure. This type monitoring encompasses current comprehensive desk review procedures of all digitized client file documentation from intake to the final Subgrantee inspection as well as review of fiscal support documentation. During the desk review continued focus will include eligibility, complete whole house assessment leading to audit measures and needed health and safety measures. Any issue(s) identified will be noted on monitoring report for further follow-up and verification during the remote virtual (video) inspection.

Identified discrepancies, serious and/or questionable health and safety concerns will trigger intensified corrective action or possible onsite examination and confirmation.

Virtual Unit Inspection Technical Monitoring Procedures

Continue utilizing Texas State Plan Monitoring Process inserting virtual unit inspections in lieu of onsite physical inspections.

1. TDHCA issues Subgrantee Technical Monitoring Review Notification Letter.
2. TDHCA communicates with Subgrantee selecting specific weatherized unit to be reviewed.
3. Subgrantee submits selected specific weatherized units client file documentation, final inspection pictures and video recording through TDHCA secure file transfer system.
4. Comprehensive client file desk review completed.
  - a. Performed with evaluation instruments to determine a Subgrantee's compliance, with all questions or concerns noted.
5. Virtual Unit Inspection Technical Monitoring
  - a. Standard final Subgrantee QCI inspections to be completed and videoed
  - b. Schedule virtual instruction training with each Subgrantee to ensure understanding of required photographic and video records of final inspection.
  - c. Conducted by QCI certified TDHCA Staff for units completed and reported.
  - d. Requires Subgrantee's final inspection video recording, pictures and documentation.
  - e. TDHCA Monitor reviews video for completion and SWS and IRC compliance.
    1. If video contains required inspection support, no additional visit is necessary.
    2. If video doesn't adequately address all applicable QCI requirements, then TDHCA requests/schedules an additional Subgrantee visit as a final inspection, that would be interactive (smart phone face time, zoom, etc.) for measures testing missed in the original video.
  - f. Video begins at the street view and continue around entire unit allowing clear observation of all exterior surfaces.
  - g. Continued tour of the unit's interior allowing survey of general condition.
    1. Close-up (zoomed) view of specific areas of work performed and compared against work scope, SWS, and Texas Administrative Code (TAC) standards.
  - h. Subgrantee videos diagnostic testing set up, staff performing tests and final test results.
  - i. Required items to be provided by Subgrantee:

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- Blower Door
- CAZ Testing
- Zonals
- Exhaust Flow
- Pressure Pans
- Installed Measures

j. Compliance Monitor develops summary notes on testing processes and final test results based on Standard Work Specifications, DOE approved Field Guide, current Weatherization Program Notices, and Texas Administrative Code.

k. Subgrantee required to address any identified Health and Safety issues immediately with appropriate notice to the affected household and to the Department.

l. Subgrantee afforded the opportunity to address any additional non H&S identified issues prior to required monitoring review report release.

**6. DEPARTMENT ISSUED MONITORING REPORT**

- a. The Department will issue monitoring reports within 30 days of completion of the review.
- b. Subgrantees are provided a 30 day corrective action period to respond and provide evidence of correction.
- c. The Department will review each response and determine if the Subgrantee has resolved the compliance issue.
- d. If the Department determines the issue is not resolved, the Subgrantee will be notified and required to submit an additional response(s) within 30 days. Failure to resolve findings may result in disallowed costs.

**V.8.4 Training and Technical Assistance Approach and Activities**

The Department provides Subgrantees with sufficient T&TA funding to obtain and/or maintain required certifications such as: QCI, MFQCI, Energy Auditor, Lead Safe Renovator, Lead Safe Worker, and OSHA 10 or 30. All training provided includes requirements for compliance with Quality Work 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/requestfora-programassistance>
  - In addition, submitted questions or requests are reviewed for creating Best Practices/FAQs or to identify topics for regional trainings, workshops, webinars or 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 are addressed in regional trainings, workshops, webinars or quarterly webinar calls with the network.
- Management Request. Management may make a specific request and dictate the type of training needed.

The Department has six certified QCI staff who monitor and/or train weatherization Subgrantees on quality weatherization work, proper diagnostics, documentation, and compliance. The Department has at least one certified BPI Proctor on staff who administer exams for BPI written exams. The Department continues to provide T&TA to assist Subgrantees in 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/communityaffairs/wap/qualityworkplan.htm>

NOTE: New Mexico Energy Smart Academy sometimes partners with local Subgrantees to provide IREC certified courses in Texas including MFQCI and Energy Auditor.

**Comprehensive Training:**

The current focus for Comprehensive training will include the following:



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- Ensuring all 22 Subgrantees have staff (or subcontractors as applicable) certified or trained in the profession in which the worker is employed.
  - Employment categories include: Energy Auditor (EA), Quality Control Inspector (QCI), Retrofit Installer (RI) and Crew Leader (CL).
- Ensuring all 22 Subgrantees receive Energy Audit Modeling training to address identified monitoring concerns and aid in the transition to the new web based Weatherization Assistant (NEAT/MHEA).
  - To comply with the requirement outlined in WPN 19-4 (Section 2), once the updated version of the NEAT and MHEA audit tool (version 10) is migrated to the web and approved for use by DOE, TDHCA will transition fully to the online version (v10) in PY21. To aid in the transition and address energy audit modeling concerns noted from the recent DOE monitoring TDHCA is planning to coordinate with an IREC accredited training center to provide Comprehensive Training which will at minimum cover WA v10 setup/use. Projected transition/T&TA timeline targets are as follows:
    - April 2021
      - Review Conversion Curriculum when released to aid in determining what will be required to convert to WA v10
    - September 2021
      - Review Core Curriculum once released and start coordination with IREC training facility to develop the Comprehensive Training which will at minimum cover WA v10 setup/use
      - Review COVID status to determine best suited training delivery method, i.e. virtual, regional classroom, network-wide classroom, or combination and projected time frame to determine if adjustments are necessary
    - October-November 2021
      - Development of the WA v10 Comprehensive Training and materials
    - December 2021
      - Review Comprehensive Training & finalize implementation plan/schedule
    - Jan-March 2022
      - Provide Comprehensive Trainings in joint coordination with IREC approved facility and implement the new WA v10 energy audit for all twenty two (22) subgrantees as outlined in the implementation plan/schedule determined in Dec.
    - Feb-April 2022
      - Conduct a series of in-person/virtual meetings to clarify any questions and provide any needed additional T&TA.

Comprehensive training will be provided by accredited IREC training providers and required certification testing will be conducted by BPI certified proctors. TDHCA maintains the capacity to administer BPI written exams and is researching how to conduct BPI field exams as well.

In compliance with Section 4 of WPN 15-4, the Department will track that comprehensive training for each category listed above is obtained and that retraining occurs as applicable. Whereas it is the responsibility of the Department to provide funds for training through IREC training providers, it is the responsibility of the Subgrantee to ensure training is completed by staff and/or subcontractors. The Department will monitor Subgrantee progress and track credentials. Weatherization on staff may not function unsupervised until training and certification requirements are met.

To assist Subgrantees with identifying appropriate staff to challenge BPI advanced certifications, TDHCA recommends successful training and completion of an appropriate BPI core certification on such as Building Analyst or Envelope Professional.

**Specific Training:**

Specific training will be provided by Department training and technical assistance staff or a 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:

- Chad Turner – 19+ years of WAP experience including as a Texas WAP Subgrantee, BPI QCI, MF-QCI, BPI EA, BPI Building Analyst Professional, OSHA 30 and attended DOE sponsored conferences.
- Jason Gagne – 5+ years experience in WAP, BPI QCI, BPI Building Analyst Professional, Lead certified, Energy Audit certified, OSHA 10, and attended DOE sponsored conferences.
- Kevin Glienke – 10+ years in WAP as a monitor/trainer, BPI Building Analyst Professional, BPI QCI, MF-QCI, BPI EA, and attended DOE sponsored conferences.
- Robert Moore – 11+ years of weatherization experience including as a Texas WAP Subgrantee, BPI QCI, BPI Building Analyst Professional, BPI EA, Lead certified, OSHA 30 and attended DOE sponsored conferences.
- Ben Rose – 7+ years of weatherization experience including as a Texas WAP Subgrantee, BPI QCI, BPI EA, BPI Building Analyst Professional, and Lead certified

T&TA staff provide new manager training, monitoring report based training, and technical assistance for multiple WAP Subgrantees. New manager training is required within three months of being hired. Subgrantees may request new manager training through the online training request system (i.e., Wufoo). Another form of mandatory training are trainings that arise out of necessity due to monitoring issues. Subgrantees are monitored as described in V.8.3 Monitoring Activities of this Plan and results of those monitoring visits are shared with T&TA staff. Any issues as a result of a monitoring visit are analyzed by T&TA staff to

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determine how best to train the Subgrantee to resolve the issue(s).

For onsite T&TA visits, a report will be produced indicating Subgrantee staff present, materials and documents presented to the Subgrantee, and expected outcomes.

Training on the Health and Safety Plan occurs via quarterly webinar calls which typically include health and safety concerns. Additionally, training and technical assistance occur throughout the year at random intervals on a case by case basis originating as a result of monitoring trends and reports and request from Subgrantee assistance. Finally, the Department also hosts a webinar at the beginning of each Program Year to assist in the implementation of the new DOE State Plan and Health and Safety Plan.

The Quarterly Network Webinar Call will cover topics based upon need and identified areas of concern. Topics typically include:

- Program Requirements and Updates
- Monitoring Concerns
- Technical Issues
- Health & Safety Concerns
- Upcoming Training Dates
- Resources

A WAP newsletter will be emailed to the network on an as-needed basis (i.e., as information becomes available) to provide WAP related information to the network (e.g., program and technical requirements, updates, training opportunities).

The Department directs Subgrantees to the "Weatherization Assistant Online Training" on the Department's website for initial training of the state approved energy audit. <https://www.tdhca.state.tx.us/communityaffairs/wap/guidance.htm>

Training staff will provide further technical assistance on a one-on-one basis as necessary.

Department WAP Trainers will address five key topics for 2021. The Department has chosen to focus on the following:

- Quality work through initial assessments
- Air sealing and duct sealing techniques
- Importance of aligning thermal and pressure boundaries
- Energy Audit Modeling
- Cost Allocation (provided by a third-party)

TDHCA will further reserve flexibility to respond to any T&TA needs that may arise because of grant requirements or as directed by DOE monitor or audit reports.

Ramifications for noncompliance with Comprehensive training and/or Specific training can be awards that contain condition(s) which the noncompliant Subgrantee must comply with in order to receive funding. Conditions can be minor (e.g., submittal of a credential to the Department) or severe (e.g., closely supervised final QCIs by Department training staff to determine quality of weatherization measures installed).

**Evaluation of Training Activities**

Subgrantees will be given the opportunity to provide feedback through online training evaluations. These evaluations are reviewed to make improvements to future T&TA. Training staff will conduct periodic surveys to solicit input from Subgrantees as to their training needs and will evaluate pass rates for certification testing. In order to evaluate compliance with the Quality Work Specifications and the efficacy of its training activities, the training staff will review a Subgrantee's training activities semiannually and compare those to the Subgrantee's monitoring reports.

**Program Evaluation**

The Department utilizes an online contract system to collect expenditure and performance data from Subgrantees and compares that data to a production tool at minimum on the third, fifth, and seventh program reporting deadline as identified within 10 TAC §6.405. Training staff contact Subgrantees regarding various benchmarks throughout the program year.

Another method of evaluation is provided by the compliance division. The Department's compliance staff provides training staff with a copy of the Subgrantee's most recent monitor report, which is also used to assess individualized training needs. By viewing all Subgrantee monitor reports, training staff is also able to determine if there are any network trends which need to be addressed.

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**Client Education**

The Department requires Subgrantees to provide client education to each client. Subgrantees are 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, energy savings materials, and instructions for equipment operation and/or maintenance.

Percent of overall trainings

Comprehensive Trainings:

Specific Trainings:

Breakdown of T&TA training budget

Percent of budget allocated to Auditor/QCI trainings:

Percent of budget allocated to Crew/Installer trainings:

Percent of budget allocated to Management/Financial trainings:

**V.9 Energy Crisis and Disaster Plan**

n/a

## PY2021 Monitoring Schedule\*

June - August 2021	September - November 2021	December 2021 - February 2022	March - May 2022
South Plains CAA	City of Fort Worth	Community Council of South Central Texas	Brazos Valley CAP
Nueces County CAA	Community Action Corporation of South Texas	El Paso Community Action Program, Project BRAVO	Combined Community Action Corp
West Texas Opportunities, Inc.	Greater East Texas Community Action Program	Texoma Council of Governments	Economic Opportunities Advancement of Corporation Region XI
Big Bend CAA	Hill Country CAA	Alamo Area Council of Governments	Travis County HHS
Panhandle Community Services, Inc.	Rolling Plains Management Corp	Dallas County Dpt of HHS	Community Action Committee of Victoria, Texas
		Baker Ripley	Concho Valley CAA

\* Schedule is subject to change based on production, contract extensions and/or other unforeseen circumstances.

### Fiscal/Administrative (F/A)

These reviews will typically start as a desk review. The F/A reviews will happen in the same month as the technical visit and will be issued as one WAP monitoring report. F/A reviews will be done by any available qualified compliance staff.

### Technical/Inspections

These reviews will always be conducted onsite. Inspections will be conducted by state staff that are QCI certified. Full QCI inspections will be conducted on each unit reported as "inspected" by the state. Inspection percentages at each Subrecipient will be based off QCI staff and separation of assignments in accordance with WPN 15-4 (5 or 10%). TDHCA staff will also conduct LIHEAP inspections on the same trip to minimize visits to the Subrecipient, which is why trips begin so early in the DOE program year(LIHEAP program year ends December 31).



# **WEATHERIZATION HEALTH AND SAFETY PLAN 2021**

## **TEXAS WEATHERIZATION CONTACT INFORMATION**

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# Weatherization Grantee Health and Safety (H&S) Plan *Optional Template*

## 1.0 – General Information

**Additional information that does not fit neatly in one of the other sections of this document.**

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.

This health and safety plan is taken from a DOE approved template. The text at the top of the template is boilerplate language and may not always apply to activities described in TDHCA’s DOE plan. Capitalized terms in the Plan have definitions in Chapters 1, 2, or 6 of Part 1, Title 10 of the Texas Administrative Code.

## 2.0 – Budgeting

*Grantees are encouraged to budget H&S costs as a separate category and, thereby, exclude such costs from the Average Cost Per Unit (ACPU) cost limitation. This separate category also allows these costs to be isolated from energy efficiency costs in program evaluations. H&S costs that are budgeted and reported under the Program Operations category rather than the H&S category, the related H&S costs must be included in the calculation of the ACPU and cost-justified through the Grantee’s Department of Energy (DOE)-approved energy audit tool.*

**Select which option used below.**

Separate H&S Budget

Contained in Program Operations

### 3.0 – H&S Expenditure Limits

Pursuant to [10 CFR 440.16\(h\)](#), Grantees must establish H&S expenditure limits for their Program and provide justification for those limits by explaining the basis and related historical H&S expenditures. DOE acknowledges that it may be necessary for Grantees to deviate from historical expenditures when certain circumstances arise (e.g. funding source changes).

[10 CFR 440.16\(h\)\(2\)](#) dictates that these limits must be expressed as a percentage of the ACPU. To calculate this percentage use the following formula:

$$\text{Total Average H\&S Cost per Unit} = \frac{\text{H\&S budget amount}}{\text{Program Operations budget amount}}$$

For example, if the ACPU is \$5,000 and a Grantee's Program expends an average of \$750 per dwelling on energy-related H&S measures, the Total Average H&S Cost per Unit would equal 15 percent. DOE acknowledges that this percentage may vary significantly between Grantees due to different geographical areas and depending upon the availability of other funding sources, resource availability, etc. Low percentages should include a statement of what other funding supports H&S costs, while larger percentages will require greater justification and relevant historical support.

15 percent is not a maximum limit on H&S expenditures. DOE will conduct a secondary level of review on H&S Plans with a Grantee request of more than 15 percent of Program Operations used for H&S purposes, . **DOE strongly encourages using the table below in developing justification for the requested H&S budget amount.** In accordance with [10 CFR 440.18\(d\)\(15\)](#), these funds are to be expended by the Program in direct weatherization activities, "of which is necessary before, or because of, installation of weatherization materials." This same section of the regulation excludes the H&S costs from the ACPU limitation if H&S costs are budgeted separately.

DOE recommends reviewing recent budget requests and compare those to actual H&S expenditures to see if previous budget estimates have been accurate. The resulting Total Average H&S Cost per Unit multiplied by the Grantee's production estimate in the Annual File should correlate to the H&S budget amount listed in the Grantee's annual plan..

#### H&S expenditure limits and justification explaining the basis for setting the limits.

A thorough review of historical H&S expenditure data along with network provided feedback to aid in the completion of the H&S Measure Matrix is analyzed annually to determine the H&S expenditure limit requested.

**Utilizing the spreadsheet embedded below, provide a full list of H&S measures using historical data from your program, including average cost, and frequency rate. If installing more than a single instance of one measure in a unit (e.g. multiple CO alarms), Grantees may aggregate costs so that frequency does not exceed 100%, or enter a justification into the measure column, which explains why that measure has a frequency rate of over 100%. The spreadsheet will auto calculate your expected Total Average H&S Cost per Unit.**

**Instructions: Double-click icon directly below to open, view and edit Measure Matrix Spreadsheet. Complete the spreadsheet by entering the required information. To save, close the spreadsheet and it will save to this document.**



Measure Matrix  
Final.xlsx



## 4.0 – Incidental Repair Measures

Any measures that could potentially be identified as H&S but the Grantee chooses to instead identify and treat those measures as incidental repair measures (IRMs), must be implemented consistently throughout the Grantee’s weatherization program. The measure must fit the regulatory definition of an IRM and be cost justified along with the associated energy conservation measure and/or package of measures. [10 CFR 440.3](#) defines Incidental Repairs as, “those repairs necessary for the effective performance or preservation of weatherization materials.”

### H&S measures identified and treated as IRMs within your Program.

N/A-TDHCA strives to limit IRMs and H&S measure when feasible in an effort to maintain program focus/intent of energy efficiency.

## 5.0 – Occupant Pre-Existing or Potential Health Conditions and Hazard Identification and Notification Form(s)

Grantees must include policies/procedures for informing clients of the aspects of weatherization that may put a client with pre-existing health conditions at risk during installation of measures. This screening may occur as part of the initial application for weatherization and/or during the energy audit. Procedures must include what steps will be taken and/or available to the client to ensure that weatherization work will not aggravate pre-existing health conditions. Additionally H&S assessments are required to identify hazards in the home. For those hazards identified, appropriate testing is required when applicable. The client/landlord/property manager must be informed in writing of all testing results, including identification of a hazards revealed by the testing that will lead to deferral/referral.

Grantees are required to develop documentation forms that include at a minimum:

- **Occupant Pre-existing or Potential Health Conditions;**
  - Screen occupant(s) to self-report known or suspected health concerns either as part of initial application for weatherization, during the energy audit, or other parts of the weatherization process as specified;
  - Inform client in writing of any known risks; and
  - Provide client with Subgrantee point of contact information in writing so client can inform of any issues.
- **Hazard Identification Notification Form**
  - The occupant(s) (and Landlord’s, if applicable) name and address;
  - Date(s) of the energy audit/assessment and when the occupant(s) (and Landlord, if applicable) was informed of a potential H&S issue;
  - A clear description of the problem;
  - A statement indicating if, or when weatherization could continue; and
  - The occupant(s) (and Landlord’s, if applicable) signature(s) indicating that they understand and have been informed of their rights and options.

### Procedure for soliciting occupants’ health and safety concerns related to components of their homes

A Health & Safety Questionnaire/ Checklist was developed by the Department to aid Subgrantees in soliciting important occupant H&S concerns related to components of their homes. Obtained information must be taken into consideration when determining the units work scope to ensure of occupant safety. The form must is located under Client and Field Assessment Forms on the Department Website:

- [Health & Safety Client Questionnaire & Inspection Checklist](#)

### Procedure for determining whether occupants suffer from health conditions which may be negatively impacted by the act of weatherizing their dwelling

Subgrantee must discuss information obtained from the questionnaire with clients and identify potential measures being considered for installation to determine if any measures could have an effect on the occupant’s health. Precautions taken to avoid client health and/or safety should be well documented in the client file.

**Procedure for addressing potential health concerns including pre-existing health conditions when they are identified**

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, 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 specific weatherization material(s) present an occupant health concern, crews/contractors may substitute a comparable alternative material that meets DOE specifications. If no safe alternative material meeting DOE standards is available, subgrantees should receive case by case guidance from Department training staff. Precautions taken to avoid client health and/or safety should be well documented in the client file.

**Documentation Form(s) have been included for review?**

Yes  No

**Location where forms have been uploaded/submitted**

Separate attachment to SF424  Separate attachment to H&S Plan  Hyperlink within guidance above

**6.0 – Health and Safety Categories**

*For each of the following H&S categories identified by DOE:*

- *Explain whether you concur with existing guidance from Weatherization Program Notice (WPN) 17-7 and how that guidance will be implemented in your Program, if you are proposing an alternative action/allowability, or if the identified category will not be addressed and will always result in deferral. Alternatives require comprehensive explanations as to how it meets the intent of DOE guidance.*
- *Where an action/allowability or testing is “required” or “not allowed” through WPN 17-7, Grantees must concur, or choose to defer all units where the specific category is encountered.*
- *Any activities that are marked as deferral/referrals must contain the H&S reasons specified within the Master File Section V.1.2 Box 5 Deferral/Referral.*
- *Unless an alternate funding source(s) is declared, utilize DOE funds to address the particular category.*
- *Describe the explicit methods to address the specific category.*
- *Describe in detail what testing protocols (if any) used to assess the particular category.*
- *Define and quantify minimum thresholds that determine minor, major, and limited definitions and the criteria used to make a determination on a case-by-case basis.*
- *Define “at-risk” occupant(s) and identify minimum documentation requirements for them.*
- *Client Education activities specific to H&S reasons is required within the Master File Section V.8.4 Training and Technical Assistance of the annual application.*
- *Training activities specific to H&S reasons is required within the Master File Section V.8.4 Training and Technical Assistance of the annual application.*

## 6.1 – Air Conditioning and Heating Systems

### Concurrence, Alternative or Deferral

Concurrence with DOE Guidance       Alternative Guidance       Results in Deferral/Referral   
Air Conditioning Unallowable with DOE Funds       Heating Unallowable with DOE Funds   
Other Funding Source Addresses H&S Issue

### Procedure for unsafe or non-functioning primary heating/cooling systems

“Red tagged”, inoperable, or nonexistent primary heating and/or cooling system replacement, repair, or installation is allowed due to extreme climate conditions in Texas for Vulnerable Populations.

Texas’ climate conditions include climate zones 2A, 2B, 3A, 3B, and 4B which can be described as Hot-Humid, Hot-Dry, and Mixed-Dry. This diversity in climate conditions requires Texas to have the flexibility to address all scenarios related to providing heating and cooling to Vulnerable Populations.

Subgrantee will use the ACCA approved Manual J to determine proper sizing of replacement heating and cooling appliances. All heating and cooling systems will be evaluated as an energy conservation measure before consideration as a health and safety measure.

If the heating/cooling 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’ deferral policy and protocols shall always be strictly adhered to when deferring weatherization work. If the client is completely without cooling or heating, the weatherization agencies shall make a referral to an agency with funding that can provide Vulnerable Population clients with a portable air conditioner or temporary means of heat, such as a portable heat pump or blankets.

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.

When replacing a primary 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.

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.

**Procedure for unsafe or non-functioning secondary heating systems, including unvented secondary space heaters**

Maintenance and repair of secondary heating units is allowed.

Minor maintenance activities can be performed for traditional open masonry fireplaces and wood burning stove/pellet stoves. 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. Inspection, repair and or cleaning shall be sub-contracted to a qualified solid fuel heating system vendor.

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 (e.g. - gas, propane, etc.) then seal up the fireplace, and add a vented gas heater.

Testing will be required to assure adequate supply of electricity is available for existing standalone electric space heaters. This will be accomplished through the use of three wire circuit testers, GFI electrical outlet testers, and line voltage testers. Repair, replacement or installation is not allowed. Removal is recommended.

Unvented space heater 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, however 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 BPI-1200 standards:

- 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 the cause cannot be determined, Subgrantee must 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 ECM (energy saving measure) before replacing as a Health & Safety measure.

**Definition of and documentation required for “at-risk” occupants**

The application will be used to determine if a household includes Vulnerable Populations (also known as at-risk occupants).

Vulnerable Populations are defined as Elderly (60 or older), Disabled, or Children 5 and younger.

### Testing protocols

Ensuring primary systems are present, operable, and performing correctly.

Model system in the current DOE-approved audit to determine if the system can be installed as an energy conservation measure (ECM) prior to replacement as an H&S measure.

Determine and document presence of Vulnerable Populations when installing air-conditioning as a Health and Safety (H&S) measure.

On combustion equipment, subgrantees are required to perform an appliance safety inspection. The inspections must include the following: carbon monoxide testing, draft measurement, spillage evaluation, worst case depressurization of the combustion appliance zone (CAZ), assurance of 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.

For solid fuel appliances look for visual evidence of soot on the walls, mantel or ceiling or creosote staining near the flue pipe.

## 6.2 – Asbestos (Confirmed and/or Presumed Asbestos Containing Material)

### Concurrence, Alternative or Deferral

Concurrence with DOE Guidance

Alternative Guidance

Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Asbestos on Heating, Ventilation and Air Conditioning (HVAC) systems, distribution, venting and other small surfaces that will be disturbed through the course of weatherization work policy

Inspect pipes, furnaces, 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

### Asbestos in attics, walls, floors roofs and foundations that will be disturbed through the course of weatherization work policy

Asbestos is the name given to a number of naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. Because of these properties, asbestos fibers have been used in a wide range of manufactured goods, including roofing shingles, ceiling and floor tiles, paper and cement products, textiles, coatings, etc. 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. Do not dust, sweep, or vacuum debris that may contain asbestos. Never saw, sand, scrape, or drill holes in asbestos materials.

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. It is recommended, where possible, to insulate through home interior to avoid disturbing or removing the asbestos siding on the exterior of the home.

### Vermiculite that will be disturbed through the course of weatherization work policy

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. Encapsulation by an AHERA certified asbestos control professional shall be allowed. Removal shall not be allowed.

### Blower door testing policy when asbestos/vermiculite is present

Subgrantees are not allowed to perform blower door testing if vermiculite is present. Prior to performing blower door testing, subgrantees are required to 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 if the materials are friable.

### Testing protocols

Testing is only allowed by a certified AHERA tester.

Visual inspection of exterior wall surface and subsurface, floors, walls, attics, and ceilings for suspected ACM.

### Documentation requirements

In every instance, clients shall be informed both verbally and in writing that suspected asbestos containing materials are present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos.

## 6.3 – Biologicals and Unsanitary Conditions

(e.g., odors, mustiness, bacteria, viruses, raw sewage, rotting wood)

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Biological and unsanitary conditions in dwellings policy

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.

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 17-7, except for the removal of known bacteria and viruses. Texas will assess the cost effectiveness and necessity of remediation of conditions that lead to or promote biological concerns and unsanitary conditions, on a case by case basis. Factors considered in regards to biological/unsanitary conditions remediation include, but are not limited to: allowability, safety of workers, safety of household members, size of area impacted, location of area impacted, cost for remediation, impact this area has on the ability to properly weatherize/improve energy efficiency of building structure for lifetime of measures installed, etc.

### Testing protocols

Assessment staff are required to perform a visual/sensory inspection utilizing a Grantee designed H&S Client Questionnaire & Inspection checklist available on the Grantee's website.

## 6.4 – Building Structure and Roofing (e.g., roofing, wall, foundation)

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Structural issues in dwellings policy

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. Refer to WPN 19-5 for further guidance on determining if incidental repairs are allowable.

**Define and quantify minor or allowable structure and roofing issues. At what point are these considered beyond the scope of weatherization?**

Minor repairs would be repairs that are necessary for weatherization work to proceed, and that can be allowed by WPN 19-5 if justified in the whole house SIR by the site-specific audit. Repairs would be beyond the scope of weatherization when causing the whole house SIR to drop below one. All repairs should be identified during the initial assessment. In the rare instance that necessary repairs are identified during the measure installation phase, a determination will be made if the repair is an Incidental or a Health & Safety cost. Incidental repair will necessitate that the site-specific audit be re-run, while H&S repairs do not.

**If priority lists are used and these repairs are designated as IRMs, at what point is a site-specific electronic energy audit required?**

N/A – Priority List is not used.

**6.5 – Code Compliance**

**Concurrence, Alternative or Deferral/Referral**

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

**Code compliance issues in dwellings policy**

Correction of pre-existing code compliance issues is not an allowable cost other than where weatherization measures are being conducted. When correction of preexisting code compliance issues is triggered and paid for with WAP funds, Subgrantee must cite specific code requirements with reference to the weatherization measure(s) that triggered the code compliance issue in the client file.

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.

**6.6 – Combustion Gases**

**Concurrence, Alternative or Deferral/Referral**

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue



### Combustion gas issues discovered during testing, including those that require an immediate response policy

Proper venting to the outside for combustion appliances, including gas dryers, is required. Correction of venting is allowed when testing indicates a problem.

Based on CGD and CO detector readings, the inspector should take the following actions:

- The CO detector indicates an ambient carbon monoxide level of 70 ppm or greater. The inspector should immediately notify the occupant of the need for themselves and any building occupant to evacuate; the inspector shall immediately evacuate and call 911.
- Where the CO detector indicates an ambient reading between 30 ppm and 70 ppm. The inspector should advise the occupant that high CO levels have been found and recommend that all possible sources of CO should be turned off immediately and windows and doors opened. Where it appears that the source of CO is a permanently installed appliance, advise the occupant to keep the appliance off and have the appliance serviced by a qualified servicing agent.
- Where CO detector indicates ambient CO below 30 ppm the inspection can continue.

### Testing protocols

IRC 2015

D.2 Occupant and Inspector Safety. Prior to entering a building, the inspector should have both a combustible gas detector (CGD) and CO detector turned on, calibrated, and operating. Immediately upon entering the building, a sample of the ambient atmosphere should be taken.

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 inspections include 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.

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 \(CAZ\)](#)



## 6.7 – Electrical

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance

Alternative Guidance

Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Electrical hazards, including knob & tube wiring, in dwellings policy

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.

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.

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.

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. If K&T is permanently disabled (cannot be energized again) then it may be insulated over.

Best Practice:

- [Knob & Tube Wiring](#)

When electrical repairs within the scope of the DOE WAP are required, the repair work must be performed by a licensed electrician.

### Define and quantify minor electrical issues. At what point are these considered beyond the scope of weatherization?

Minor upgrades and repairs necessary for installation of weatherization measures and where the health and/or safety of the occupant(s) is at risk may be allowed. Examples of minor repairs include exposed electrical connections, damaged or nonworking switches and receptacles, and damaged or unsafe electrical wire conditions.

In the event electrical hazards cannot be corrected or prevent major measure installation unit deferral is required.

### If priority lists are used and these repairs are designated as IRMs, at what point is a site-specific electronic energy audit required?

N/A – Priority List is not used.

## 6.8 – Formaldehyde, Volatile Organic Compounds (VOCs), Flammable Liquids, and other Air Pollutants

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance      
 Alternative Guidance      
 Results in Deferral/Referral   
 Unallowable Measure with DOE Funding    
 Other Funding Source Addresses H&S Issue

### Formaldehyde, VOCs, flammable liquids and other air pollutants in dwellings policy

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.

Visual, sensory, combustion appliances inspection/testing, and completion of Client Questionnaire and Inspection Checklist shall be the primary detection method. All reasonable steps shall be taken to limit worker exposure to VOCs, air pollutants and biological contaminants utilizing OSHA PPE guidelines. VOCs are emitted as gas from certain solids or liquids which may have short and long-term health effects. Common sources of VOCs include paints, paint strippers, solvents, aerosol sprays, cleaning supplies, petroleum fuels, sealants, refrigerants, etc. When using products known to emit VOCs, increase ventilation is required. Meet or exceed any label precautions. Identify, and if possible, have client or a contracted professional remove the source. Biological contaminants include bacteria, molds, mildew, viruses, animal dander, cat saliva, house dust, mites, cockroaches, and pollen. There are many sources of these pollutants. Identification of these contaminants often indicate elevated relative humidity level in a home and/or improper ventilation which would need to be addressed. 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.

Health and Safety Guidance

- [EPA Guidance on Common Household Wastes & Materials](#)
- [Indoor Air Quality](#)

### Testing protocols

Sensory inspection shall be the primary detection method.

## 6.9 – Fuel Leaks (please indicate specific fuel type if policy differs by type)

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance      
 Alternative Guidance      
 Results in Deferral/Referral   
 Unallowable Measure

### Fuel leak remediation protocols

Natural gas and LP gas piping system inspection and leakage testing will be conducted. An inspection of the accessible gas piping and connections, from the natural gas meter or LP gas tank to a point where the supply line connects to the gas valve of all appliances shall be completed.

When a minor gas leak is found on the utility side of service, the utility service must be contacted before work may proceed.

Where the auditor confirms gas leakage or identifies deficiencies in gas piping materials, connections, components, or supports, the deficiencies shall be marked and noted in project documentation. The homeowner/occupant shall be notified that repairs must be made. The auditor shall recommend that the homeowner/occupant immediately notify the gas company and/or a qualified professional to evaluate and perform all necessary repairs. Notify utilities and temporarily halt work when leaks are discovered that are the responsibility of the utility to address.

### At what point are fuel leaks considered beyond the scope of weatherization?

Minor repairs/replacement are allowed and includes but not limited to:

- Worn and/or leaking flexible gas lines and any flexible connectors manufactured prior to 1973
- Worn or damaged gas valves
- Appliance gas valve/regulator housing and connections

Unit deferral shall be required if major repairs are Identified that would be cost prohibitive to the subgrantee's H&S budget or leaks are found on the utility side of service.

### Testing protocols

Subgrantees must test exposed gas lines for fuel leaks from utility coupling into and throughout the home.

Conduct sensory inspection on bulk fuels to determine if leaks exist.

## 6.10 – Gas Range/Ovens

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral   
Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Unsafe gas range/ovens policy

Replacement of cook stoves is not allowed with DOE funding. Cook stove replacements must utilize funds from a funding source other than DOE. Repair and cleaning of cook stoves is allowed with DOE funding.

#### Cook Stoves with high CO:

- Clean or repair.
- If it 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.
- Units containing ovens with CO levels of 225 ppm (as measured) or higher which cannot be remedied must be deferred. The money spent trying to unsuccessfully clean/repair the oven would be charged to Program Support.

The Department has defined maximum acceptable CO readings of stoves as follows:

- Cook stove burners will only require a visual inspection of flame quality and proper operation.
- 225 ppm CO as measured maximum acceptable readings for cook stove ovens.

### Testing protocols

Test gas ovens and burners for CO

Inspect cooking burners and ovens for operability and flame quality

### 6.11 – Hazardous Materials Disposal [e.g., Lead, Refrigerant, Asbestos, Mercury (including CFLs/fluorescents), etc.] (please indicate where policy differs by material)

#### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral   
 Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

#### Hazardous materials disposal policy (existing material/appliance and hazardous material)

Hazardous Waste Materials generated in the course of weatherization work shall be disposed of according to all local laws, regulations and/or Federal guidelines, as applicable.

Refrigerants shall be pumped into a recovery tank and disposed at an EPA approved site.

Proper disposal procedures for Asbestos are available at Texas Commission on Environmental Quality (TCEQ):

Special Waste Disposal:

- [http://www.tceq.texas.gov/permitting/waste\\_permits/msw\\_permits/msw\\_specialwaste.html](http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_specialwaste.html)

Texas WAP crews/contractors will follow all EPA RRP requirements for disposal of lead as well as state and local code requirements.

Disposal procedures for mercury will follow TCEQ guidance available here:

- [https://www.tceq.texas.gov/assets/public/comm\\_exec/pubs/rg/rg-377.pdf](https://www.tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg-377.pdf)

#### Documentation requirements

Subgrantees are required to document disposal requirements in contract language with the responsible party and maintain disposal records are available upon request.

### 6.12 – Injury Prevention of Occupants and Weatherization Workers (e.g., repairing stairs and replacing handrails)

#### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral   
 Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

#### Injury prevention measure(s) policy

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. OSHA 10 for crew members and OSHA 30 for supervisors training will be scheduled by the Subgrantee for uncertified staff.

#### Define and quantify minor or allowable injury prevention measures. At what point are these considered beyond the scope of weatherization?

Minor injury prevention measures can include minor electrical repairs as described in section 6.7. Proper safety protocols should be followed to reduce risk of injury as described in sections 5.0 and 6.20. Other injury prevention measures would be considered beyond the scope of WAP and shall result in unit deferral.

### 6.13 – Lead Based Paint

#### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral   
 Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Lead safe work protocols

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 structure would potentially create further health and safety hazards.

In all pre-1978 homes, crews/contractors must assess the physical condition of the structure prior to conducting an audit. Texas recommends assuming that lead paint may be present in any structure built prior to 1978 and to follow the proper DOE LSW protocols, OSHA regulations and EPA regulations in all pre-1978 structures.

Texas WAP crews/contractors must follow all EPA RRP requirements for disposal as well as state and local code requirements.

Deferral is required when the extent and condition of lead-based paint in the house would potentially create further H&S hazards.

Only those costs directly associated with the testing and lead safe practices for surfaces directly disturbed during weatherization activities are allowable.

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.

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](#)

### Testing protocols

Testing to determine presence of lead in paint that will be disturbed by WAP measure installation is allowed with EPA-approved testing methods.

Testing methods must be economically feasible and justified

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 and follow all EPA RRP requirements.

Grantee compliance staff verify crews are using lead safe work practice during the annual Subgrantee monitoring.

## Documentation requirements

Documentation in the client file must include Certified Renovator certification; any training provided on-site; description of specific actions taken; lead testing and assessment documentation; and, photos of site and containment set up. Include the location of photos referenced if not in file.

## 6.14 – Mold and Moisture

(e.g., drainage, gutters, down spouts, extensions, flashing, sump pumps, dehumidifiers, landscape, vapor retarders, moisture barriers)

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure  Other Funding Source Addresses H&S Issue

### Moisture related issues in dwellings policy

Limited water damage repairs can be addressed by weatherization workers. 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-assessment 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.

Best Practice:

- [Mold-safe Process](#)

**Define and quantify minor or allowable moisture-related measures. At what point are these considered beyond the scope of weatherization?**

Defined in Mold-Safe process flow-chart:

- [Mold-Safe Process Flowchart](#)

## 6.15 – Pests

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Pests and pest intrusion prevention policy

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.

Best Practice:

- [Pests BP](#)

**Define and quantify pest infestation thresholds. At what point are these considered Beyond the scope of weatherization**

Costs beyond \$50 in labor and materials to mitigate pest infestations will be addressed by TDHCA to determine if deferral is necessary.

## 6.16 – Radon

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Procedure for radon in dwellings

TDHCA will provide Subgrantees with a Radon Informed Consent Form and the EPA's *A Citizen's Guide to Radon*.

State specific resources can be found at:

- [EPA Radon Resources](#)

The Texas Department of State Health Services website also contains useful information:

- [THHS Radon Resources](#)

### Testing protocols

Testing is not authorized in Texas WAP as Texas has no areas of "Highest Potential," according to the United States Environmental Protection Agency standards.

### Documentation requirements

Client signed informed consent form.

## 6.17 – Safety Devices: Smoke and Carbon Monoxide Alarms, Fire Extinguishers

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Installation or replacement policy for the following safety devices:

Smoke Alarms:

Smoke alarms may be installed where alarms are not present or are inoperable.

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.

Smoke Alarms shall be installed per IRC. R314.3 Location. Smoke alarms shall be installed in the following locations:

- In each sleeping room.
- Outside each separate sleeping area in the immediate vicinity of the sleeping room.
- On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In Dwelling Units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
- Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section R314.3.



**Carbon Monoxide Alarms:**

Per ASHRAE 62.2, at least one CO alarm must be present in every home. CO alarms must be installed to the IRC or local code regulations.

CO alarms must be installed where alarms are not present or are inoperable.

A CO alarm should also be installed in accordance with SWS. Always install CO alarms according to the manufacturer’s instructions.

R315.3 Location. Carbon monoxide alarms in Dwelling Units shall be installed outside, in the immediate vicinity, of each separate sleeping area. Where a fuel-burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

R315.6.1 General. Household carbon monoxide detection systems shall comply with NFPA 720. Carbon monoxide detectors shall be listed in accordance with UL 2075.

R315.6.4 Combination detectors. Combination carbon monoxide and smoke detectors shall be permitted to be installed in carbon monoxide detection systems in lieu of carbon monoxide detectors, provided that they are listed in accordance with UL 2075 and UL 268.

**Fire Extinguishers:**

A fire extinguisher may be provided in homes with solid fuel burning equipment. The fire extinguisher must be installed according to the manufacturer’s standards and local code in the vicinity of the primary heating source.

**Testing protocols**

Check existing alarms for operation.

Verify operation of installed alarms.

**6.18 – Ventilation and Indoor Air Quality**

**Concurrence, Alternative or Deferral/Referral**

Concurrence with DOE Guidance       Alternative Guidance       Results in Deferral/Referral

**Version of American Society of Heating Refrigeration and Air-conditioning Engineers (ASHRAE) 62.2 Implemented (optional: identify Addenda used)**

Texas WAP has adopted the ASHRAE 62.2 2016 standard.

**Procedures for complying with implemented ASHRAE standard**

Pre and post ventilation requirements are calculated using the current Grantee approved calculator to ensure of ASHRAE compliance in regards to required ventilation, run-time, etc.

- [ASHRAE 62.2-2016 Calculator](#)

Calculator required inputs will be captured on the TDHCA Blower Door and Duct Blower Sheet as support documentation.

- [Blower Door and Duct Blower Data Sheet \(XLS\)](#).

**Testing protocols**

ASHRAE 62.2 evaluation to determine required ventilation.

Obtain required ASHRAE calculator data to include floor area, number of occupants/bedrooms, dwelling height, BD leakage, and measure fan flow of existing installed to verify performance.

## 6.19 – Window Repair, Door Repair

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Window repair and door repair H&S policy

Replacement, repair, or installation is not an allowable health and safety cost but may be allowed as an efficiency measure if cost justified.

Crews/contractors must be trained in Lead Safe Weatherization (LSW) and follow EPA's Lead Renovation, Repair and Painting Program (RRP) rules for pre-1978 homes.

## 6.20 – Worker Safety (e.g., OSHA)

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Federal, state and local worker safety requirements policy

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.

Trained in either OSHA 10 (crew members) or OSHA 30 (supervisors).

As part of the safety for crew, assessors will identify health and safety hazards according the OSHA method "Focus Four" which includes, electrical, fall protection, caught in and between, and struck-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](#)

## 6.21 – Water Heaters

### Concurrence, Alternative or Deferral/Referral

Concurrence with DOE Guidance  Alternative Guidance  Results in Deferral/Referral

Unallowable Measure with DOE Funding  Other Funding Source Addresses H&S Issue

### Water Heater Remediation Protocols

Replacement or repair of water heaters is allowed on a case by case basis when the current appliance is creating moisture, combustion, and/or electrical related hazards that could impact occupant(s) Health and Safety. The Subgrantee must initially attempt to qualify existing Water Heater as an ECM. If the Water Heater does not rank, the Subgrantee may repair or replace the existing unit as a Health and Safety Measure with the caveat that there is a documented threat to the health and/or safety of the occupant(s). Further details are discussed in the Water Heater Replacement Best Practice on the TDHCA Website:

- [BP-Water Heater](#)

### Testing protocols

Visual/sensory inspection, appropriate combustion appliance testing for gas units, and water temperature testing.



10c

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 11, 2021**

Presentation, discussion and possible action on the amendment of Community Services Block Grant CARES Act discretionary contracts from the Texas Eviction Diversion Pilot program to Community Services Block Grant CARES Act direct service activities

**RECOMMENDED ACTION**

**WHEREAS**, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law which provides relief for individuals and businesses negatively impacted by COVID-19;

**WHEREAS**, Title VIII and Title IX of the CARES Act provide supplemental formula funding to states to carry out activities of the Community Services Block Grant (CSBG) to prevent, prepare for, and respond to COVID-19;

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) is designated the recipient of the CARES Act CSBG for the State of Texas and received \$48.1 million in CSBG CARES funding from the U.S. Department of Health and Human Services (USHHS) which must be expended by September 30, 2022;

**WHEREAS**, at the Board Meeting of April 23, 2020, the Board awarded the majority of these funds to subrecipients, but approved that 7% of the CSBG CARES Discretionary funding be held in reserve for any future allowable use or incentive awards;

**WHEREAS**, at the Board Meeting of September 3, 2020, 7% of the CSBG CARES Discretionary funds that were held in reserve was approved to be used to develop an eviction diversion pilot program in collaboration with the Supreme Court of Texas and the Texas Office of Court Administration;

**WHEREAS**, contracts for the pilot were executed with eight subrecipients covering 19 counties who implemented the program as contracted, and of which four of the eight organizations have expended or obligated all funds;

**WHEREAS**, eviction diversion activities in the state are now being provided statewide through the Texas Rent Relief Program (TRR) and eligible clients in the service areas of the four organizations with remaining funds are no longer being referred to the pilot subrecipients, but to TRR;

**WHEREAS**, the CSBG CARES eviction diversion program successfully achieved its purpose as a pilot by keeping hundreds of tenants in their homes who had fallen behind on their rent

due to the impact of COVID-19 as the Department worked to expand the program statewide; and

**WHEREAS**, staff recommends that any remaining balances as of March 1, 2021, in the CSBG CARES eviction diversion contracts, after all obligations and pledges have been honored, be amended to include direct service CSBG CARES activities, with the exception of Panhandle Regional Planning Commission who does not otherwise operate a CSBG CARES program and whose pilot program remaining balance will be returned to the Department for future uses;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of this Board, to amend any remaining balances as of March 1, 2021, in the CSBG CARES eviction diversion pilot program contracts to include direct service CSBG CARES activities, with the exception of Panhandle Regional Planning Commission whose remaining balance will be returned to the CSBG CARES discretionary fund balance for future use, and take all actions necessary to execute such documents that they or any of them may deem necessary to effectuate the foregoing.

#### **BACKGROUND**

The CARES Act became law on March 27, 2020, which ultimately provided Texas with \$48.1 million in CSBG CARES funding from USHHS for the relief of low-income individuals economically impacted by COVID-19. On April 23, 2020, the Board approved that 7% of the CSBG CARES discretionary funding be held in reserve for any future allowable emergency use (e.g., COVID-19 hot spots). On September 3, 2020, the Board approved the 7% reserve to be used to develop an eviction diversion pilot program for keeping Texans in their homes who have fallen behind on their rent because of the impact of COVID-19 and whose landlords have initiated eviction proceedings. This concept was to be used in Texas to assess whether it could be successfully operated before the implementation of other similar and larger rental assistance programs.

Since its inception in October 2020, the eight organizations listed in the table below were selected to administer the CSBG CARES eviction diversion pilot program in various parts of the state and as of January 31, 2021, successfully served more than 380 households in need of eviction diversion. Today, four of the eight organizations have fully expended or obligated their CSBG CARES eviction diversion pilot funding. Because the eviction diversion program is now available statewide through the TRR Program, courts in the service areas of the remaining four organizations are referring persons in need of eviction diversion to TRR. Therefore, the CSBG CARES eviction diversion pilot program is no longer operational and staff recommends that any remaining balances, after all obligations and pledges are paid, may be spent on direct service CSBG CARES activities. One pilot subrecipient, Panhandle Regional Planning Commission, does not run a regular CSBG Cares Program and was only able to receive funds for the eviction diversion pilot program because of the specific activity of the program.

Approving this action will authorize staff to take actions necessary to ensure that CSBG CARES funding is utilized in the most effective manner to assist COVID-19 impacted Texans.

**CSBG CARES Eviction Diversion Pilot Program**

<b>Subrecipients</b>	<b>Counties Served</b>
Brazos Valley Community Action Program	Brazos, Chambers, Montgomery
City of San Antonio Department of Human Services	Bexar
Community Action Corporation of South Texas	Bee, Jim Wells, Kleberg, San Patricio
El Paso Community Action, Project Bravo	El Paso
Gulf Coast Community Services Association	Harris
Panhandle Regional Planning Commission*	Deaf Smith, Potter, Randall
Texas Neighborhood Services	Erath, Palo Pinto, Parker, Wise
Texoma Council of Governments	Fannin, Grayson

\*Not an Eligible Entity

10d



**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action regarding termination of Galveston County Community Action Council, Inc.'s Low Income Home Energy Assistance Program Comprehensive Energy Assistance Program contracts and future funding; award of 24.99% of the 2020 and CARES Act Comprehensive Energy Assistance Program awards for the service area covered by Galveston County Community Action Council, Inc., to temporary provider(s); and the authorization of staff to identify a permanent provider(s), through release and subsequent award of a Request for Application or through a direct designation, to administer the Comprehensive Energy Assistance Program in Brazoria, Fort Bend, Galveston, and Wharton counties (the areas served by Galveston County Community Action Council, Inc.)

**RECOMMENDED ACTION**

**WHEREAS**, Galveston County Community Action Council, Inc. (GCCAC) is the designated utility assistance provider that administers the Low Income Home Energy Assistance Program (LIHEAP) Comprehensive Energy Assistance Program (CEAP) for Brazoria, Fort Bend, Galveston, and Wharton counties;

**WHEREAS**, in response to a long list of findings and concerns revealed in a May 2018 monitoring report, on July 26, 2018, the Board conditioned GCCAC's 2019 CEAP award, and indicated that a failure to comply with the condition may constitute grounds for the initiation of proceedings to debar GCCAC and/or be ineligible for future awards as permitted by applicable state and federal laws, rules, and regulations;

**WHEREAS**, Texas Department of Housing and Community Affairs (the Department) staff conducted an onsite visit in mid-December 2018, to verify whether the condition had been satisfied and determined that GCCAC failed to fully comply with the condition;

**WHEREAS**, at the Board meeting of January 17, 2019, after hearing a discussion on whether to terminate GCCAC's CEAP funding, the Board elected to table the agenda item and requested that staff return to provide an update to GCCAC's status at the Board meeting of April 25, 2019;

**WHEREAS**, Department staff conducted their second onsite visit in late March 2019, to further evaluate GCCAC's resolution of the condition and determined that GCCAC not only failed to resolve the findings and concerns, but also continued to incur potential disallowed costs demonstrating a recurring inability to resolve programmatic and compliance issues given reasonable time limits and a growing potential liability for the Department;

**WHEREAS**, after extensive discussion on the matter at the Board meeting of April 25, 2019, the Board approved staff's recommendation to proceed with the reduction of GCCAC's 2019 CEAP contract by 24.99%, provide GCCAC 30 days notice of the termination of the remainder of its CEAP award, authorization for Department staff to select a temporary provider(s), and authorization for staff to proceed with the release of a Request for Applications (RFA) for a permanent CEAP provider(s) for GCCAC's service area;

**WHEREAS**, in the ensuing months, Department staff received corrective action submitted by GCCAC related to the condition placed on their CEAP award in July 2018, and after careful review determined the evidence submitted satisfactorily resolved the bulk of the issues which led to the Department's request for approval to proceed with CEAP termination thereby closing the review;

**WHEREAS**, on July 25, 2019, April 23, 2020, and June 25, 2020, the Board approved estimated awards of \$3,281,375 in 2020 CEAP funds, \$2,018,176 in CEAP CARES Act funds, and \$3,236,479 in 2021 CEAP funds, respectively, to GCCAC;

**WHEREAS**, on August 10, 2020, due to continued inadequate performance in serving clients and expending funds, the Department provided GCCAC until September 8, 2020, to submit documentation to immediately address the lack of effective delivery of services to GCCAC's four-county service area;

**WHEREAS**, after Department review of GCCAC's response, it was determined that GCCAC failed to resolve the issues outlined in the August 10 notification and notified GCCAC on October 13, 2020, that the Department would immediately reduce its CEAP contracts by 24.99% and award it to a temporary provider(s); terminate the CEAP contracts in whole; withhold future CEAP funding; and release an RFA to identify a replacement provider(s) if GCCAC did not request a hearing by November 12, 2020;

**WHEREAS**, the Department received a letter from GCCAC on November 10, 2020, which was unclear as to whether GCCAC wished to request a hearing and in an effort to clarify the process, the Department sent an email on November 12, 2020, inquiring as to whether GCCAC intended to request a hearing to which there was no direct response;

**WHEREAS**, on November 24, 2020, GCCAC presented its own Quality Improvement Plan (QIP) to the Department asking that the Department delay a decision and any action until after June 30, 2021, to which the Department responded that GCCAC should proceed with its self-imposed QIP, but must meet specific performance benchmarks presented in the QIP by January 31, 2021, and that a decision would be made based on the achievement of those benchmarks at the Board meeting of March 11, 2021;

**WHEREAS**, GCCAC failed to meet all of their own proposed benchmarks and despite being given ample training and technical assistance, and the Department

providing this additional time period in which to exhibit performance, GCCAC has been unable to exhibit their ability to effectively serve its clients;

**WHEREAS**, the prompt distribution of CEAP funds is critical as these funds provide utility payment assistance to vulnerable households and Tex. Gov't Code §2105.201 authorizes the Department to redistribute up to 24.99% of the 2020 formula-designated CEAP amount for this area to a temporary provider(s) to perform such service until such time as a permanent provider(s) can be identified;

**WHEREAS**, in order to terminate the CEAP contracts (i.e., 2020 CEAP and CEAP CARES Act) and eligibility for a 2021 CEAP award and to identify one or more permanent providers to provide timely CEAP services in the counties covered by the area, Tex. Gov't Code Chapter 2105 requires that GCCAC be given 30 days notice, which occurred on October 13, 2020;

**WHEREAS**, the Department did not receive a request from GCCAC to schedule an administrative hearing within the statutory timeframe; and

**WHEREAS**, the Department is also requesting authorization to issue an RFA to identify one or more permanent providers to provide CEAP services in the four-county service area;

**NOW, therefore, it is hereby**

**RESOLVED**, that in order to minimize gaps in delivery of CEAP services to eligible low-income households in the service area, and to strive to fully expend funds, up to 24.99% of the 2020 CEAP (approximately \$853,110) and 2020 CEAP CARES Act (approximately \$531,217) contracts for the service area covered by GCCAC is hereby reduced and is recommended to be awarded as soon as possible after March 31, 2021, to an interim provider(s) (contingent upon a positive recommendation or a recommendation with conditions from EARAC) until July 31, 2021, but which may be extended in the Department's sole discretion until a permanent provider(s) contract term begins, or until the federal funding expires;

**FURTHER RESOLVED**, that the Board instructs Department staff to terminate for good cause the 2020 CEAP and CEAP CARES Act contracts with GCCAC on March 31, 2021;

**FURTHER RESOLVED**, that this Board Action immediately terminates for good cause GCCAC's eligibility to receive a 2021 CEAP Contract;

**FURTHER RESOLVED**, that the Department is authorized to release an RFA to identify permanent provider(s) to administer 2020 CEAP and CEAP CARES Act contracts (if funds remain) as well as the 2021 CEAP contract, and to be designated as the permanent CEAP network provider(s) for the benefit of eligible low-income households in the service area; and

**FURTHER RESOLVED**, that the Executive Director and his staff be and each of them are hereby authorized, empowered, and directed for and on behalf of the Department, to take all actions necessary to execute such documents that they or any of them may deem necessary to effectuate the foregoing.

### **BACKGROUND**

GCCAC is the designated utility assistance provider for Brazoria, Fort Bend, Galveston, and Wharton counties. The Department monitored GCCAC in May 2018, and identified a long list of findings and concerns; those concerns included many repeat findings from monitoring visits prior to that time that still had not been resolved within the corrective action period. An overview of the deficiencies and concerns included: inadequacies in their procurement policies and procedures which created a high likelihood for ongoing disallowed costs, incorrect expenditure reporting, erroneous cost allocation, salaries of personnel not properly allocated and supported, inaccurate income eligibility calculations, inaccurate timekeeping records, check processing concerns, incomplete client files, concerns over client tracking system access within GCCAC, and failure to document federal debarment verification. The monitoring reviews resulted in \$37,094.53 in disallowed costs that required repayment to the Department.

Additionally, the single audit required by 10 TAC §1.403 and 2 CFR Part 200, Subpart F, and the Uniform Grant Management Standards, identified Material Weaknesses relating to bank reconciliations which are a matter of serious concern to the Department. Furthermore, the audit identified significant issues surrounding CEAP eligibility in which more than 25% of the CEAP files reviewed did not have adequate supporting documentation for income eligibility. While not related to CEAP activities, the auditor also noted significant issues surrounding Community Services Block Grant (CSBG) eligibility in which more than 40% of the files reviewed did not have adequate supporting documentation for income eligibility. The auditor also cited the lack of sufficient documentation to support reports made to Grantors (such as the Department).

Because of this history of noncompliance and the Department's ongoing concerns, EARAC recommended and the Board approved that GCCAC's 2019 CEAP award be conditioned on the following:

*This award is conditioned upon having an onsite review of GCCAC's financial management system and processes and procurement processes to be performed by the Community Action Partnership ("Partnership"). The assessment must be performed prior to November 1, 2018; and GCCAC must satisfactorily address any of the issues noted by the Partnership within 90 days of receipt of the report.*

*If GCCAC does not satisfactorily implement the changes, if any, noted by the Partnership prior to the deadlines noted, it will serve as good cause to terminate the contract.*

As required by the condition, the Partnership performed the assessment and provided a report of their findings and recommendations to the Department and to GCCAC. Department staff performed an onsite monitoring visit to GCCAC in December 2018, shortly after the end of the 90-day period referenced in the condition to evaluate the status of the condition. Although staff noted some improvement, several of the changes recommended by the Partnership were not satisfactorily implemented. It should be noted that the recommendations made by the

Partnership were reflective of findings identified by the Department prior to the May 2018 visit; the length of time GCCAC has had to fix these issues pre-dates the Partnership report.

At the Board meeting of January 17, 2019, Department staff presented a recommendation to the Board to terminate GCCAC's CEAP contracts and any future funding; award of 24.99% of the 2019 CEAP award for the service area covered by GCCAC to a temporary provider; and the authorization of staff to identify a permanent provider(s) through the release and subsequent award of an RFA to administer the CEAP in Brazoria, Fort Bend, Galveston, and Wharton counties. In turn, GCCAC staff countered this recommendation arguing that more time was needed to satisfy the condition. Upon consideration of both sides, the Board postponed its decision to April instructing staff to re-evaluate GCCAC in the intervening months and to provide an update on GCCAC's status at the Board meeting of April 25, 2019.

Following the Board's instruction, Department staff conducted a review of GCCAC's CEAP contracts from March 25-28, 2019, to ascertain their progress in satisfying the condition. To achieve this goal, expenditures, cost allocation, procurement, CEAP program delivery, and an assessment of GCCAC's information security were reviewed. A summary of the review and GCCAC's progress in satisfying the condition was described in the Board Action Request as some improvement was made in certain areas; however, GCCAC remains in noncompliance with the condition despite being given sufficient time to achieve resolution. It was the opinion of Department staff that GCCAC had not achieved sufficient progress in satisfying the condition, and therefore recommended approval to proceed with the same recommendation submitted to the Board on January 17, 2019. This time, the recommendation was approved.

Subsequently, over the next several months, GCCAC submitted several emails with corrective action documentation showing satisfactory resolution of the bulk of the issues that led to the Department's request for approval to proceed with termination of GCCAC's CEAP contract. The Department closed the review September 27, 2019, ending the CEAP termination process.

From the beginning of the process described above and through 2020, the Department has provided GCCAC significant and ongoing guidance in development of tools to prevent reoccurrence of previous deficiencies. While GCCAC has made some progress in the resolution of previous issues, this progress is minimal and has not resulted in an increase in program assistance reaching clients or significant improvement in expenditures. GCCAC shows an inability to achieve a sufficient level of services to the community and an inability to provide a coordinated service plan that is achievable and serves the residents of the four-county service area. For this reason, the Department sent a "Notification of Deficiencies and Request for Corrective Action Plans for CSBG and LIHEAP" letter to GCCAC on August 10, 2020. In this letter, the Department listed a number of items showing GCCAC's inability to effectively serve its clients by its material failure to expend its funding resulting in a lack of assistance to households in need. In this letter, the Department also requested that GCCAC develop and provide a QIP to immediately address the lack of effective delivery of services.

The Department received GCCAC's response and QIP and after careful review determined that GCCAC failed to demonstrate it could address the lack of effective delivery of CEAP services. This continued lack of program delivery and inability to resolve those areas that could prompt such improvements serves as good cause to terminate and not renew GCCAC's CEAP contracts for the reasons outlined in 10 TAC §1.411(f)(1)(F). Consequently, on October 13, 2020, the Department

sent GCCAC a “Notice of Intent to Reduce CEAP Funds and Terminate Contracts 58200003161 and 58990003304” letting GCCAC know the following:

1) Under 10 TAC §2.202(b)(4), and Sections 4 B. and 7 A. of the 2020 CEAP and CEAP-CARES Act Contracts, the Department is immediately reducing both Contracts by 24.99%.

2) Under 10 TAC §2.202(b)(6), the Department is notifying you of its intention to terminate the 2020 CEAP and 2020 CEAP CARES contracts in whole based on good cause. Under Texas Government Code Chapter 2105 you are entitled to request a hearing within thirty days of the date of this letter. If you wish to request such a hearing, please notify the Department by 5:00 p.m. on November 12, 2020.

3) Under 10 TAC §2.202(b)(5), the Department is notifying you that it will be withholding the provision of future CEAP funds to GCCAC prospectively and will be releasing a Request for Applications to identify a replacement provider. As with item 2 above, under Texas Government Code Chapter 2105 you are entitled to request a hearing within thirty days of the date of this letter. If you wish to request such a hearing, please notify the Department by 5:00 p.m. on November 12, 2020.

In response to the October 13, 2020 Notice, GCCAC sent a letter, but did not clearly state their intention to request a hearing. To clarify the process, the Department sent an email to Robert Quintero, GCCAC Executive Director, on November 12, 2020, asking if GCCAC is requesting a hearing and on what grounds. A response as to whether GCCAC wished to schedule a hearing was not received.

On November 24, 2020, GCCAC presented its own QIP to Department staff and asked on December 3, 2020, that the Department delay a decision and any action until after June 30, 2021, so that GCCAC could implement its self-imposed QIP. The Department responded on December 3, 2020, via email that GCCAC is allowed to proceed with its self-imposed QIP but must meet the specific performance benchmarks indicated below (also indicated in GCCAC’s self-imposed QIP) by January 31, 2021, and that these benchmarks would be the basis for a decision by the Board at the Board meeting of March 11, 2021.

Fully achieving the monthly target amount of Total Pledges (in dollars) for CEAP and CEAP CARES of \$84,000 for November, \$42,000 for December, and most importantly \$1,008,000 in January 2021.

GCCAC and the Department agreed in writing to the performance benchmarks above and the Department followed up with a letter to GCCAC clarifying the agreement on December 31, 2020.

In February 2021, Department staff reviewed GCCAC’s total pledges against the established performance benchmarks for the months indicated and determined that GCCAC had only met two of the three benchmarks as shown in the table below. Of note is that the QIP to which GCCAC had committed itself specifically reflected that a level of production of approximately \$1 million for January 2021, would need to be continued at about that same level for the next several months to serve households timely. GCCAC’s inability to reach that level in January is a clear indicator that such levels will also be exceedingly unlikely to be achieved in the ensuing months.

<b>Fund</b>	<b>Month</b>	<b>Performance Benchmark (Pledges)</b>	<b>Actual Pledges</b>	<b>Benchmark Met?</b>
CEAP + CEAP CARES	November 2020	\$84,000	\$142,846	Yes
	December 2020	\$42,000	\$174,855	Yes
	January 2021	\$1,008,000	\$302,099	No

GCCAC is in noncompliance with agreed upon (and in this case self-imposed) performance benchmarks. Considering the length of time and the many opportunities that GCCAC has had to improve its utility assistance delivery to low-income persons in its service area and the amount of training and technical assistance provided by the Department (see Attachment 1) in the past three years (since May 2018), staff feels that no further assistance can be provided. Further delays in terminating GCCAC’s CEAP contracts create unacceptable risks to the Department as the likelihood of returned federal funds will be high not to mention that eligible households in need of utility assistance will go unassisted. The termination of the contract for 2020 CEAP and CEAP CARES Act funds under this Board Action Request would be effective March 31, 2021.

In an effort to reduce that risk and ameliorate concern over provision of utility assistance to the low income households in the service area of GCCAC, staff believes that steps should be taken to allow for the temporary award of 2020 CEAP and CEAP CARES Act funds to one or more temporary providers effective as early as April 1, 2021. Up to 24.99% of the 2020 CEAP (approximately \$853,110) and CEAP CARES Act (approximately \$531,217) award can be provided to temporary providers to serve Brazoria, Fort Bend, Galveston, and Wharton counties.

Additionally, in order to identify one or more providers to potentially accept any remaining funds under the 2020 CEAP and CEAP CARES Act allocation as well as the full 2021 CEAP allocation and become the permanent provider(s) of CEAP for this service area, staff is requesting the authorization to proceed with the release of an RFA to identify and select a potential permanent provider(s) for the CEAP program for Brazoria, Fort Bend, Galveston, and Wharton counties. Staff will present a subsequent agenda item to permanently award the funds to another provider(s).

In summary, staff recommends that the Board grant the Department authority to terminate GCCAC’s 2020 CEAP and CEAP CARES Act contracts effective March 31, 2021, award up to 24.99% of these funds to one or more temporary providers (contingent upon a positive recommendation or recommendation with conditions by EARAC), immediately terminate GCCAC’s ability to access the 2021 CEAP funding, and authorization to proceed with the release of an RFA for a permanent CEAP provider(s) for GCCAC’s service area.

**Attachment 1**

**List of Recent Training and Technical Assistance Provided to GCCAC**

<b>Date (s)</b>	<b>TTA: Topics Provided</b>	<b>GCCAC Tasks</b>	<b>Tools Provided</b>
<b>2018</b>			
4/25-6/5/18	Multiple TTA Procurement; including examples, toolkits, guides, manuals.		Examples, toolkits, guides and manuals.
6/14-15/2018	CAP workshop: FNPIs/SRVs		
8/2018	Partnership Intensive Assessment: Including financial management, procurement wide assessment of income and household eligibility processes.		
5/10-11/2018	Session at TACAA Conference: New NPIs		
6/12-13/18	TTA with manager: Income Eligibility, ROMA, Case Management	Increase production and expenditures	
6/14-15/18	CAP Workshop: Comm Needs Assessment and partnerships		
7/20-11/21/18	Ongoing phone and email TA. Income eligibility, use of DIS, income calculation, client file checklists. Implementation process for streamlining process, clear procedures for client tracking software and quality assurance of files		Sample PARs. Sample cost allocation plans. Procurement-attributes/preparing for monitoring. Procurement resources. Admin/PS Guide
8/31/18-ongoing	Comm Needs Assessment review and TA. Incomplete		
Oct-Nov 2018	CAP and Budget review provided. Incomplete CAP submitted	Make revisions and submit to trainer	
<b>2019</b>			
2/28/2019	TTA Procurement (to monitor finding: proper procurement, and unsupported salary costs)	Conduct proper procurement	
3/26/2019	Webinar by Department Analyzing CSBG performance and proper reporting because reports do not reflect CSBG services or outcomes	Expend and report CSBG correctly	
3/27/2019	Cost allocation for Fed grant webinar resource	Cost allocation plan to meet Fed requirements	Link to posted Webinar and Cost Allocation PPT



	provided (To monitor finding: Allocation of costs)		
3/26-4/16/19	Ongoing TA for completion of CAP	Make revisions and submit to trainer	
5/15/2019	TA for CSBG CAP/Budget and CEAP SDP	Complete and submit CAP and SDP	Service Delivery Plan and instructions
10/21-23/2019	Training CSBG and CEAP frontline staff: Process mapping, income eligibility, client files, rules, HH status verification. MPR review to client files	Train staff to be on same page with guidance and training.	Income Eligibility. Income Calculator. CEAP Production Schedule Tool. Revised April 2019 Income Guidelines FAQ. CEAP Frequently Asked Questions Household Status. Verification Preparation for monitoring handout. Training CEAP frontline staff handout. Training CSBG frontline staff handout.
10/23/2019	TA monthly performance reports, Development of CAP/SDP/CSBG budget	Capture SRVs/FNPIs, complete and submit CAP and SDP	Link to reporting instruction manuals and posted webinar of analyzing performance. Community Assessment Tool Instruction. Budget Form and Instructions.
10/22/2019	TA procurement, allocation, data analysis dashboard, production tools	Documentation of time for charges	Walkthrough of Procurement webpage resource
<b>2020</b>			
2/13/2020	Meeting regarding plan for expenditures, increase production	Increase production and expenditures	
5/14 & 19/20	Email of sample peer processing ideas	Increase production and expenditures	
5/5 & 12/20	Email analysis tools		Historic Exp/Perf Summary and Ramp-Up Analysis. Mitigation Plan Guide. Various Production Tool Samples
1/27/2020	Email regarding online trainings	Use of production/data tools for staffing and increasing services	

4/30/2020	Call and email guidance regarding procurement	Corrected procurement method, properly conducted and backup documentation of time for charges	CAPLAW Procurement Webinar and TACAA e-Newsletter of upcoming trainings and NCAP resources
5/15-21/2020	Mitigation Plan conference calls	Submit Mitigation Plan and budget	
7/15-8/10/20	Virtual TTA, calls, emails for CARES CAP and Budget: Cost/Price Analysis for services	Complete and submit CARES requirements (still lacking budget)	CAP Budget forms and RAMP UP analysis data, peer processes and data tools
11/10/2020	Emailed review of Organizational Standards and corrections needed to be cure "not met" standards	Provide corrective documentation curing the not met Org Standards	Organizational Standard review sheet with necessary corrections
11/25/2020	-CEAP Reset Webinar to the CEAP network of subrecipients	-Review CEAP rules and requirements and follow rules in delivery of CEAP services	-Webinar provided to the CEAP network covering CEAP rules and requirements
12/9/2020	-CSBG Requirements Webinar to the CSBG network of subrecipients	-Review CSBG rules and requirements	-Webinar provided to the CSBG network covering CSBG rules and requirements
12/9/2020	-Service Deliver Plan review	-Update staff changes, revise SDP	-Sent Wufoo link for change of staff, digital outreach resource links
<b>2021</b>			
2/2/2021	-MPR review (virtual)	-Changes required to MPR	-MPR corrections
2/8/2021	-Answered question on when to run clients through SAVE	-Implement guidance given	-Provided TTA
2/12/2021	-Answered use of CEAP and CSBG funding for Winter Storm Uri	-Implement guidance given	-Provided answer via email

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**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**MARCH 11, 2021**

Presentation, discussion, and possible action on initiation of proceedings to remove the eligible entity status of Galveston County Community Action Council, Inc. and terminate Community Services Block Grant contracts and future funding

**RECOMMENDED ACTION**

**WHEREAS**, Galveston County Community Action Council, Inc. (GCCAC), is the designated eligible entity that administers the Community Services Block Grant (CSBG) Program for Brazoria, Fort Bend, Galveston, and Wharton counties;

**WHEREAS**, in response to a long list of deficiencies and concerns revealed in a May 2018 monitoring report, the Texas Department of Housing and Community Affairs (the Department) had its procured providers perform a third party evaluation of GCCAC's CSBG program which outlined detailed corrective action and objectives for GCCAC to implement to correct the deficiencies and concerns;

**WHEREAS**, the Department required that GCCAC develop and implement a Quality Improvement Plan (QIP) and notified GCCAC that if they were not able to implement the QIP within a certain timeframe, the Department would proceed with termination proceedings;

**WHEREAS**, Department staff conducted an onsite visit in mid-December 2018 to evaluate GCCAC's implementation of the QIP and determined that GCCAC failed to fully implement the QIP;

**WHEREAS**, at the Board meeting of January 17, 2019, after hearing a discussion on whether to initiate termination proceedings, the Board elected to table the agenda item and requested that staff return to provide an update to GCCAC's status at the Board meeting of April 25, 2019;

**WHEREAS**, Department staff conducted their second onsite visit in late March 2019, to evaluate GCCAC's further implementation of the QIP and determined that GCCAC not only failed to fully implement the QIP but also continued to incur potential disallowed costs demonstrating a recurring inability to resolve programmatic and compliance issues given reasonable time limits and a growing potential liability for the Department;

**WHEREAS**, at the Board meeting of April 25, 2019, after extensive discussion on the matter, the Board approved staff's recommendation to proceed with the removal of GCCAC's eligible entity status in accordance with U.S. Department of Health and Human Services (USHHS) Information Memorandum 116 (IM 116) regarding corrective action, termination, or reduction of funding;

**WHEREAS**, in the ensuing months, Department staff received corrective action submitted by GCCAC in response to the QIP Implementation and after careful review determined the evidence submitted satisfactorily resolved the bulk of the issues which led to the Department's request for approval to proceed with termination thereby closing the review;

**WHEREAS**, on July 25, 2019, the Board approved an award of \$934,196 in 2020 CSBG funds and \$987,241 in 2021 CSBG funds and on April 23, 2020, the Board approved an award of \$1,329,308 in CSBG CARES Act funds to GCCAC;

**WHEREAS**, on August 10, 2020, due to continued inadequate performance in serving clients and expending funds, the Department provided GCCAC until September 8, 2020, to submit another QIP to immediately address the lack of effective delivery of services to GCCAC's four county service area;

**WHEREAS**, after Department review of the 2020 QIP, it was determined that GCCAC failed to resolve the deficiencies outlined in the August 10, 2020, notification and notified GCCAC on October 13, 2020, that the Department would seek the termination of GCCAC's CSBG Eligible Entity status in accordance with 10 TAC §2.203;

**WHEREAS**, on November 24, 2020, GCCAC presented its own QIP to the Department asking that the Department delay a decision and any action until after June 30, 2021, to which the Department responded that GCCAC should proceed with its self-imposed QIP, but must meet specific performance benchmarks presented in the QIP by January 31, 2021, and that a decision would be made based on the achievement of those benchmarks at the Board meeting of March 11, 2021;

**WHEREAS**, GCCAC failed to meet two of three of their own proposed benchmarks and despite being given ample training and technical assistance, and the Department providing this additional time period in which to exhibit performance, GCCAC has been unable to exhibit their ability to effectively serve its clients; and

**WHEREAS**, there is a pressing need for these funds to be correctly administered in GCCAC's four-county service area during these extraordinary times;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his staff be and each of them are hereby authorized, empowered, and directed for and on behalf of the Department, to take all actions necessary to initiate termination proceedings to remove the eligible entity status of GCCAC under the CSBG Act, and to authorize staff to pursue a hearing with the State Office of Administrative Hearings (SOAH).

## **BACKGROUND**

GCCAC is the eligible entity providing CSBG services to Brazoria, Fort Bend, Galveston, and Wharton counties. The Department monitored GCCAC in May 2018, and identified a long list of deficiencies and concerns; those concerns included many repeat findings from monitoring visits prior to that time that still had not been resolved within the corrective action period. An overview of the deficiencies and concerns included: inadequacies in their procurement policies and procedures, which creates a high likelihood for ongoing disallowed costs, vacancies in their Tripartite Board structure, missing income support documentation, monthly performance report inaccuracies, erroneous cost allocation, reported expenditures not utilized during the contract period, bylaw requirements and training for Board Members not met, salaries of personnel not properly allocated and supported, inaccurate income eligibility calculations, inaccurate timekeeping records, check processing concerns, incomplete client files, concerns over client tracking system access within GCCAC, and failure to document federal debarment verification. The monitoring reviews resulted in \$37,094.53 in disallowed costs that required repayment to the Department.

Additionally, the single audit required by 10 TAC §1.403, and 2 CFR Part 200, Subpart F, and the Uniform Grant Management Standards, identified Material Weaknesses relating to bank reconciliations which are a matter of serious concern to the Department. Furthermore, the audit identified significant issues surrounding CSBG files, in which more than 40% of files reviewed were noted as not having adequate supporting documentation for income eligibility and in CSBG-Disaster Relief files in which more than 33% of the files reviewed did not have adequate documentation of income eligibility. While not related to CSBG, the auditor also noted significant issues surrounding Low Income Home Energy Assistance Program (LIHEAP) eligibility in which more than 25% of the LIHEAP files reviewed did not have adequate supporting documentation for income eligibility. The auditor also cited the lack of sufficient documentation to support reports made to Grantors (such as the Department).

As shown in Attachment 1, prior to the May 2018 monitoring report, and on a frequent and on-demand basis since then, Department training staff spent significant time working with GCCAC in attempts to help them address their deficiencies. In an effort to bring in additional resources, the Department contracted with the Community Action Partnership (CAP) who provided consultants to conduct an organizational assessment of GCCAC in August 2018. The CAP consultants assessed GCCAC's financial management system, procurement processes, income and household eligibility determination and verification processes, and the ability of GCCAC's tripartite board to function within its scope. The consultants also reported to the GCCAC board any related weaknesses identified in the assessment with detailed corrective action and measurable objectives and provided information to assist GCCAC in identifying the root cause of previously identified organizational weaknesses from prior audits and monitoring. The Department also had CAP provide training and technical assistance and guidance to GCCAC to utilize in the development of processes and tools to address identified concerns and prevent reoccurrence. The report which the CAP consultants released clearly reflected significant areas of concern that GCCAC must address to become a compliant subrecipient. They also noted that in large part the issues they identified were matters that had been previously brought to the attention of the GCCAC board and management in previous Department monitoring and third party audits.

Based on previous monitorings by Department staff, significant concerns noted in the audit cited above, the CAP assessment, and consideration of the amount and extent of training and technical assistance already provided to GCCAC, the Department, in accordance with 10 TAC §2.203, determined that the development and implementation of a QIP was an appropriate requirement and issued a final determination letter on October 5, 2018.

In accordance with the CSBG Act, GCCAC was given 60 calendar days following the notification of the final determination letter to develop and implement the QIP. A follow-up letter to GCCAC dated November 12, 2018, notified them that their QIP was insufficient and reiterated this requirement by stating "If GCCAC is not able to develop a plan to come into compliance and implement the plan by December 5, 2018, the Department will proceed with termination proceedings. The Department will conduct an onsite visit to verify the successful implementation of the QIP." A subsequent QIP response from GCCAC was found to be sufficient; that QIP served as the basis of comparison during the monitoring visit described below to ascertain whether the QIP had been fully implemented.

In December 2018, shortly after the end of the 60-day QIP implementation period, Department staff performed an onsite monitoring visit at GCCAC to verify the implementation of the QIP. Although some improvement was noted by staff, several of the changes recommended by CAP were not satisfactorily implemented thereby triggering the commencement of formal legal proceedings to terminate eligible entity status. Further training and technical assistance was not needed. GCCAC had the opportunity and ability to come into compliance until the end of termination proceedings. It should be noted that the recommendations made by CAP, and the requirements for the QIP, were reflective of findings identified by the Department prior to the May 2018 visit; the length of time GCCAC had to fix these issues pre-dates the 2018 QIP.

At the Board meeting of January 17, 2019, Department staff presented a recommendation to the Board to initiate termination proceedings in accordance with 10 TAC §2.203. In turn, GCCAC staff countered this recommendation arguing that more time was needed to implement the QIP and resolve the deficiencies. Upon consideration of both sides, the Board postponed its decision to April instructing staff to re-evaluate GCCAC in the intervening months and to provide an update on GCCAC's status at the Board meeting of April 25, 2019.

Following the Board's instruction, Department staff conducted a review of GCCAC's 2018 CSBG contract from March 25-28, 2019, to ascertain their progress in implementation of the QIP. To achieve this goal, expenditures, cost allocation, procurement, CSBG Tripartite board requirements, CSBG program delivery, and an assessment of GCCAC's information security were reviewed. A summary of the review and GCCAC's progress in achieving the QIP's recommendations was described in the Board Action Request as some improvement was made in certain areas; however, GCCAC remains in noncompliance with QIP recommendations despite being given sufficient time to achieve those recommendations. It was the opinion of Department staff that GCCAC had not achieved sufficient progress in meeting the QIP, and therefore recommended approval to follow the Information Memorandum 116 (IM 116) process to remove GCCAC's eligible entity status, and to authorize staff to pursue a hearing with SOAH. This recommendation was made to the Board at the Board meeting of April 25, 2019, which the Board approved.

Subsequently, over the next several months, GCCAC submitted several emails with corrective action documentation showing satisfactory resolution of the bulk of the issues that led to the Department's request for approval to proceed with removal of GCCAC's eligible entity status. The Department closed the review September 27, 2019, concluding the 2018 QIP had been materially satisfied, and halting the IM 116 process.

From the beginning of the process described above and continuing through 2020, the Department has provided GCCAC significant and ongoing guidance in development of tools to prevent reoccurrence of previous deficiencies. While GCCAC has made some progress in the resolution of previous issues, this progress is minimal and has not resulted in an increase in program assistance reaching clients or significant improvement in expenditures. GCCAC shows an inability to achieve a sufficient level of services to the community and an inability to provide a coordinated service plan that is achievable and serves the residents of the four-county service area. For this reason, the Department sent a "Notification of Deficiencies and Request for Corrective Action Plans for CSBG and LIHEAP" letter to GCCAC on August 10, 2020. In this letter, the Department listed a number of items showing GCCAC's inability to effectively serve its clients by its material failure to expend its funding resulting in a lack of assistance to households in need. In this letter, the Department also requested that GCCAC develop and provide another QIP to immediately address the lack of effective delivery of services.

The Department received GCCAC's QIP and after careful review determined that GCCAC failed to demonstrate it had met the QIP requirements and address the lack of effective delivery of CSBG services. This continued lack of program delivery and inability to resolve those areas that could prompt such improvements serves as good cause to remove GCCAC's eligible entity status and to terminate and not renew the CSBG contracts for the reasons outlined in 10 TAC §1.411(f)(1)(F). Consequently, the Department sent GCCAC a "Notice of Intent to Terminate CSBG Eligible Entity Status and Contracts 61200003222, 61200003343, 61200003281" on October 13, 2020, and made a written report to the Secretary of USHHS on October 20, 2020, that the Department will begin the process of termination of GCCAC's eligible entity status and that no further training or technical assistance nor another QIP are appropriate.

On November 24, 2020, GCCAC presented the Department with a "self-imposed" QIP. They requested on December 3, 2020, that the Department delay a decision regarding their termination until after June 30, 2021, so that GCCAC could implement the QIP. The Department directed GCCAC that they proceed with the self-imposed QIP but identified several specific benchmarks from within the QIP that it would like to see achieved by dates also determined in the QIP by GCCAC. Those required benchmarks are indicated below. GCCAC was given until January 31, 2021, and was told that these benchmarks would be the basis for a decision by the Board at the Board meeting of March 11, 2021.

Fully achieving the CSBG and CSBG CARES monthly expenditure target amounts of:

- \$275,000 for November 2020,
- \$275,000 for December 2020, and
- \$275,000 for January 2021

The Department followed up with a letter to GCCAC clarifying the benchmarks to be achieved on December 31, 2020.



In February 2021, Department staff reviewed GCCAC’s reported expenditures against the established performance benchmarks for the months indicated and determined that GCCAC had only met one of three benchmarks as shown in the table below. It should be noted that not only were the benchmarks not met, but performance did not reflect a trend of consistently increasing improvement as the most recent month of performance reported was the poorest performance of the three months.

<b>Fund</b>	<b>Month</b>	<b>Performance Benchmark (Expenditures)</b>	<b>Actual Expenditures</b>	<b>Benchmark Met?</b>
CSBG + CSBG CARES	November 2020	\$275,000	\$229,519	No
	December 2020	\$275,000	\$316,020	Yes
	January 2021	\$275,000	\$132,484	No

GCCAC continues to be in noncompliance with agreed upon (and in this case self-imposed) QIP performance benchmarks. It is the opinion of Department staff that GCCAC has been given many opportunities over the course of the last three years (since May 2018) to satisfy Department requirements, yet has failed to achieve a sufficient level of CSBG services for the low-income residents of their four county service area. Therefore, staff recommends approval to initiate the Information Memorandum 116 (IM 116) process to remove GCCAC’s eligible entity status and terminate all CSBG contracts. If the Board concurs that termination proceedings should commence, the Department will follow the requirements of Tex. Gov’t Code Chapter 2105 and 10 TAC, Chapter 2, Subchapter B, §2.203 and set a hearing at SOAH, notifying all members of the GCCAC Board of such hearing. GCCAC will need to read and comply with SOAH’s requirements in the way they handle and respond to the matter.

After that hearing, SOAH will issue a proposal for decision to the TDHCA Governing Board recommending whether there is cause, as defined by the CSBG Act, 42 U.S.C. §9908(c), and Chapter 2105 of the Texas Government Code and the implementing regulations in 10 TAC §1.411 and §2.203 to terminate or reduce funding to the eligible entity. The TDHCA Governing Board will be provided the proposal for decision. If the TDHCA Governing Board determines that there is cause to terminate or reduce funding, the Department will notify GCCAC that it has the right under 42 U.S.C. §9915 to seek review of the decision by USHHS.

Staff recommends Board approval to follow the IM 116 process to terminate GCCAC’s eligible entity status, and to authorize staff to pursue a hearing with SOAH. As a reminder, GCCAC has the opportunity to come into compliance until the end of termination proceedings.

**Attachment 1**  
**List of Recent Training and Technical Assistance Provided to GCCAC**

<b>Date (s)</b>	<b>TTA: Topics Provided</b>	<b>GCCAC Tasks</b>	<b>Tools Provided</b>
<b>2018</b>			
4/25-6/5/18	Multiple TTA Procurement; including examples, toolkits, guides, manuals.		Examples, toolkits, guides and manuals.
6/14-15/2018	CAP workshop: FNPIs/SRVs		
8/2018	Partnership Intensive Assessment: Including financial management, procurement wide assessment of income and household eligibility processes.		
5/10-11/2018	Session at TACAA Conference: New NPIs		
6/12-13/18	TTA with manager: Income Eligibility, ROMA, Case Management	Increase production and expenditures	
6/14-15/18	CAP Workshop: Comm Needs Assessment and partnerships		
7/20-11/21/18	Ongoing phone and email TA. Income eligibility, use of DIS, income calculation, client file checklists. Implementation process for streamlining process, clear procedures for client tracking software and quality assurance of files		Sample PARs. Sample cost allocation plans. Procurement-attributes/preparing for monitoring. Procurement resources. Admin/PS Guide
8/31/18-ongoing	Comm Needs Assessment review and TA. Incomplete		
Oct-Nov 2018	CAP and Budget review provided. Incomplete CAP submitted	Make revisions and submit to trainer	
<b>2019</b>			
2/28/2019	TTA Procurement (to monitor finding: proper procurement, and unsupported salary costs)	Conduct proper procurement	
3/26/2019	Webinar by Department Analyzing CSBG performance and proper reporting because reports do not reflect CSBG services or outcomes	Expend and report CSBG correctly	
3/27/2019	Cost allocation for Fed grant webinar resource provided (To monitor finding:	Cost allocation plan to meet Fed requirements	Link to posted Webinar and Cost Allocation PPT

	Allocation of costs)		
3/26-4/16/19	Ongoing TA for completion of CAP	Make revisions and submit to trainer	
5/15/2019	TA for CSBG CAP/Budget and CEAP SDP	Complete and submit CAP and SDP	Service Delivery Plan and instructions
10/21-23/2019	Training CSBG and CEAP frontline staff: Process mapping, income eligibility, client files, rules, HH status verification. MPR review to client files	Train staff to be on same page with guidance and training.	Income Eligibility. Income Calculator. CEAP Production Schedule Tool. Revised April 2019 Income Guidelines FAQ. CEAP Frequently Asked Questions Household Status. Verification Preparation for monitoring handout. Training CEAP frontline staff handout. Training CSBG frontline staff handout.
10/23/2019	TA monthly performance reports, Development of CAP/SDP/CSBG budget	Capture SRVs/FNPIs, complete and submit CAP and SDP	Link to reporting instruction manuals and posted webinar of analyzing performance. Community Assessment Tool Instruction. Budget Form and Instructions.
10/22/2019	TA procurement, allocation, data analysis dashboard, production tools	Documentation of time for charges	Walkthrough of Procurement webpage resource
<b>2020</b>			
2/13/2020	Meeting regarding plan for expenditures, increase production	Increase production and expenditures	
5/14 & 19/20	Email of sample peer processing ideas	Increase production and expenditures	
5/5 & 12/20	Email analysis tools		Historic Exp/Perf Summary and Ramp-Up Analysis. Mitigation Plan Guide. Various Production Tool Samples
1/27/2020	Email regarding online trainings	Use of production/data tools for staffing and increasing services	

4/30/2020	Call and email guidance regarding procurement	Corrected procurement method, properly conducted and backup documentation of time for charges	CAPLAW Procurement Webinar and TACAA e-Newsletter of upcoming trainings and NCAP resources
5/15-21/2020	Mitigation Plan conference calls	Submit Mitigation Plan and budget	
7/15-8/10/20	Virtual TTA, calls, emails for CARES CAP and Budget: Cost/Price Analysis for services	Complete and submit CARES requirements (still lacking budget)	CAP Budget forms and RAMP UP analysis data, peer processes and data tools
11/10/2020	Emailed review of Organizational Standards and corrections needed to be cure "not met" standards	Provide corrective documentation curing the not met Org Standards	Organizational Standard review sheet with necessary corrections
11/25/2020	-CEAP Reset Webinar to the CEAP network of subrecipients	-Review CEAP rules and requirements and follow rules in delivery of CEAP services	-Webinar provided to the CEAP network covering CEAP rules and requirements
12/9/2020	-CSBG Requirements Webinar to the CSBG network of subrecipients	-Review CSBG rules and requirements	-Webinar provided to the CSBG network covering CSBG rules and requirements
12/9/2020	-Service Deliver Plan review	-Update staff changes, revise SDP	-Sent Wufoo link for change of staff, digital outreach resource links
<b>2021</b>			
2/2/2021	-MPR review (virtual)	-Changes required to MPR	-MPR corrections
2/8/2021	-Answered question on when to run clients through SAVE	-Implement guidance given	-Provided TTA
2/12/2021	-Answered use of CEAP and CSBG funding for Winter Storm Uri	-Implement guidance given	-Provided answer via email