

**BOARD BOOK  
OF  
October 14, 2021**



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

**Texas Department of Housing and Community Affairs**

**PROGRAMMATIC IMPACT\*\***

Fiscal Year 2021 (September 1, 2020, through August 31, 2021)

<b>Owner Financing and Down Payment</b>	
<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>	
<i>Programs:</i>	
<ul style="list-style-type: none"> <li>Single Family Homeownership</li> </ul>	
Expended Funds:	\$2,441,964,228
Total Households Served:	12,253

<b>Energy Related Assistance</b>	
<ul style="list-style-type: none"> <li>Utility bill payment assistance</li> <li>Energy consumption education</li> <li>Weatherization for energy efficiency</li> </ul>	
<i>Programs:</i>	
<ul style="list-style-type: none"> <li>Comprehensive Energy Assistance Program (CEAP)                             <ul style="list-style-type: none"> <li>Weatherization Assistance Program (WAP)</li> </ul> </li> </ul>	
Expended Funds:	\$169,004,773
Total Households Served:	189,728

<b>Multifamily New Construction</b>	
<ul style="list-style-type: none"> <li>Affordable rental units financed and developed</li> </ul>	
<i>Programs:</i>	
<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:	\$146,034,415
Total Households Served:	7,950

<b>Homelessness Services</b>	
<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>	
<i>Programs:</i>	
<ul style="list-style-type: none"> <li>Emergency Solutions Grant Program (ESG)</li> <li>Homeless Housing and Services Program (HHSP)</li> </ul>	
Expended Funds:	\$38,053,940
Total Individuals Served:	58,165

<b>Multifamily Rehab Construction</b>	
<ul style="list-style-type: none"> <li>Affordable rental units financed and rehabilitated</li> </ul>	
<i>Programs:</i>	
<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:	\$145,469,775
Total Households Served:	5,014

<b>Supportive Services</b>	
Provides administrative support for essential services for low income individuals through Community Action Agencies	
<i>Program:</i>	
<ul style="list-style-type: none"> <li>Community Services Block Grant Program (CSBG)</li> </ul>	
Expended Funds:	\$68,214,082
Total Individuals Served:	460,743

<b>Owner Rehabilitation Assistance</b>	
<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>	
<i>Programs:</i>	
<ul style="list-style-type: none"> <li>Homeowner Reconstruction Assistance Program (HRA)*</li> <li>Amy Young Barrier Removal Program</li> </ul>	
Expended Funds:	\$12,626,844
Total Households Served:	211

<b>Rental Assistance</b>	
<ul style="list-style-type: none"> <li>Short, long term rent payment help</li> <li>Assistance linked with services, Transitional assistance</li> <li>Security, utility deposits</li> </ul>	
<i>Programs:</i>	
<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:	\$26,014,486
Total Households Served:	4,821

<b>Single Family Development</b>	
<ul style="list-style-type: none"> <li>Single family development, reconstruction, rehabilitation</li> <li>NSP, Do-it-yourself, "sweat equity" construction (bootstrap), rehabilitation, Contract for Deed refinance</li> </ul>	
<i>Programs:</i>	
<ul style="list-style-type: none"> <li>Single Family Development Program (SFD)*</li> <li>Contract for Deed (CFD)</li> </ul>	
Expended Funds:	\$2,234,286
Total Households Served:	49

<p><b>Total Expended Funds: 3,070,372,721</b></p> <p><b>Total Households Served: 741,982</b></p> <p>All FY2021 data as reported in TDHCA's 2021 performance measures.</p> <p><i>Note: Some households may have been served by more than one TDHCA program. For some programs, allocation is used as a proxy for expenditures. Because of timing of funds request, the funds expended for the quarter may be readjusted substantially by year end.</i></p>
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\* Administered through the federally funded HOME Investment Partnerships Program

\*\* Does not include federal pandemic response funds

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

**A G E N D A  
9:00 AM  
October 14, 2021**

**John H. Regan Building, JHR 140  
1400 Congress Ave  
Austin, Texas 78701**

**CALL TO ORDER**

**ROLL CALL**

**Leo Vasquez, Chair**

**CERTIFICATION OF QUORUM**

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

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

**CONSENT AGENDA**

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

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

**EXECUTIVE**

- a) Presentation, discussion, and possible action on Board meeting minutes summary for September 2, 2021

**Beau Eccles**  
Board  
Secretary

**ASSET MANAGEMENT**

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

**Rosalio Banuelos**  
Director of Asset  
Management

01144	Autumn Oaks of Corinth	Corinth
02008	Prairie Commons	Dallas
03066	Anson Park	Abilene
03190	Westview Ranch	Pearsall
04241	Anson Park II	Abilene
98174	Lodge at Merrilltown	Austin
99005	Homes of Parker Commons	Fort Worth
99059	The Retreat at Texas City	Texas City

This will be an open, public meeting conducted under Tex. Gov't Code, chapter 551, without COVID-19 emergency waivers. There will not be a remote online or telephone option for public participation. The meeting, however, will be streamed online for public viewing. Masks will be available for members of the public who wish to attend this public meeting.

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

534339 Southwest Village Apartments Marble Falls

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

20192 Arbor Park Austin  
20205 Ella Grand Houston  
20451 Crossroad Commons Austin

- e) Presentation, discussion, and possible action regarding a waiver of §10.101(b)(4)(M) of the 2016 Uniform Multifamily Rules

16373 Avondale Farms Seniors Haslet

**BOND FINANCE**

- f) Presentation, discussion, and possible action on Resolution No. 22-003 authorizing request to the Texas Bond Review Board for annual waiver of Single Family Mortgage Revenue Bond set-aside requirements, authorizing the execution of documents and instruments relating thereto, making certain findings and determinations in connection therewith, and containing other provisions relating to the subject
- g) Presentation, discussion, and possible action on Inducement Resolution No. 22-004 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

21628 The Preserve at Cottonwood Creek Wilmer  
21629 Union Acres Center  
21630 Palladium Glenn Heights Town Center Glenn Heights  
22600 Harvest Ridge at Brushy Creek Hutto  
22601 Torrington Arcadia Trails Balch Springs  
22603 Marine Park Fort Worth  
22604 Socorro Village Socorro

- h) Presentation, discussion, and possible action on Inducement Resolution No. 22-005 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

21608 Fiji Lofts Dallas  
21609 Throckmorton Villas McKinney

- i) Presentation, discussion, and possible action on Inducement Resolution No. 22-006 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority for Delafield Villas (#21610)

**SINGLE FAMILY & HOMELESS PROGRAMS**

- j) Presentation, discussion, and possible action authorizing the submission of requests to remove property from the Neighborhood Stabilization Program land bank
- k) Presentation, discussion, and possible action regarding a waiver of 10 TAC §23.31(a)(2)(c) relating to submission of a Reservation to assist owners of unoccupied housing under the Homeowner Reconstruction Assistance Program

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

**RULES**

- l) Presentation, discussion, and possible action on an order proposing the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool; and an order directing its publication for public comment in the Texas Register
- m) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; proposing new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; and directing their publication for public comment in the Texas Register

**Brooke Boston**  
Deputy Director of  
Programs

**MULTIFAMILY FINANCE**

- n) Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for K Avenue Lofts (#21454) in Plano

**Teresa Morales**  
Director of  
Multifamily Bonds

**COMMUNITY AFFAIRS**

- o) Presentation, discussion, and possible action on the selection of Community Council of South Central Texas, Inc. to administer the Weatherization Assistance Program in Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties

**Michael De Young**  
Director of  
Community Affairs

**FINANCIAL ADMINISTRATION**

- p) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

**Joe Guevara**  
Director of  
Financial Administration

**CONSENT AGENDA REPORT ITEMS**

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

- a) Media Analysis and Outreach Report (August 2021)
- b) Report on Activities Related to the Department’s Response to COVID-19 Pandemic
- c) Housing Finance Activity Report
- d) Report on the closing of the Department’s Single Family Mortgage Revenue Bonds, Series 2021A and Single Family Mortgage Revenue Refunding Bonds, Series 2021B (Taxable)

**Michael Lyttle**  
Director of  
External Affairs  
**Brooke Boston**  
Deputy Director  
of Programs  
**Cathy Gutierrez**  
Director of Texas  
Homeownership  
**Michelle Straley**  
Senior Financial Analyst

**ACTION ITEMS**

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions

**Leo Vasquez**  
Chair

**ITEM 3: EXECUTIVE**

Executive Director’s Report

**Bobby Wilkinson**  
Executive Director, TDHCA

**ITEM 4: BOND FINANCE**

Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (The Park at Kirkstall) Series 2021 Resolution No. 22-007, and a Determination Notice of Housing Tax Credits

**Teresa Morales**  
Director of  
Multifamily Bonds

**ITEM 5: SINGLE FAMILY & HOMELESS PROGRAMS**

- a) Presentation, discussion, and possible action regarding a waiver of 10 TAC §23.32(a)(19) relating to submission of Reservations to assist owners of housing under the disaster relief set-aside
- b) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family General Set-Aside Notice of Funding Availability and publication of the NOFA in the Texas Register

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

**Chad Landry**  
Manager of  
HOME Program

- c) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Persons with Disabilities Set-Aside Notice of Funding Availability and publication of the NOFA in the Texas Register
- d) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Contract for Deed Set-Aside Notice of Funding Availability and publication of the NOFA in the Texas Register

**ITEM 6: RULES**

- a) Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, the proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing their publication for public comment in the Texas Register
- b) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order proposing new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing their publication for public comment in the Texas Register

**Charlotte Flickinger**  
Multifamily Direct  
Loan Manager

**Rosalio Banuelos**  
Director of Asset  
Management

**ITEM 7: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action to amend the 2021-3 Multifamily Direct Loan Notice of Funding Availability
- b) Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended
- c) Presentation, discussion and possible action on requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications Awarded Competitive (9%) Housing Tax Credits in Prior Application Rounds

**Charlotte Flickinger**  
Multifamily Direct  
Loan Manager

**Cody Campbell**  
Director of Multifamily  
Programs

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

**EXECUTIVE SESSION**

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 Kathleen Vale Castillo, 512-475-4144, 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 Kathleen Vale Castillo, al siguiente número 512-475-4144 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

# CONSENT AGENDA



1a

**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on the Board meeting minutes summary for September 2, 2021

**RECOMMENDED ACTION**

Approve the Board meeting minutes summary for September 2, 2021

**RESOLVED**, that the Board meeting minutes summary for September 2, 2021, is hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
September 2, 2021**

On Thursday, the second day of September 2021, at 9:04 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held online via telephone and web link.

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

- Leo Vasquez, Chair
- Paul Braden, Vice Chair
- Brandon Batch
- Kenny Marchant
- Ajay Thomas

Leo Vasquez served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as Secretary.

1) The Board unanimously adopted a resolution recognizing October 2021 as Energy Awareness Month in Texas.

2) The Consent Agenda was unanimously approved as presented except for the following item which was moved to the Action Item Agenda: Item 1(x) – Presentation, discussion and possible action on requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications Awarded Competitive (9%) Housing Tax Credits in Prior Application Rounds

20018	The Park Tower	Fort Worth
20042	Commons at St. Anthony	Amarillo
20075	New Hope Housing Savoy	Houston
20083	Lakeview Preserve	Irving
20114	3300 Caroline Street	Houston
20192	Arbor Park	Austin
20204	Heritage Senior Residences	Houston
20205	Ella Grand	Houston
20212	Vernon Pioneer Crossing	Vernon
20272	Westwind of Dumas	Dumas
20344	Merritt Sunset	Midland

3) The Board went into Executive Session at 9:11 a.m. and reconvened in open session at 10:01 a.m. During the executive session, the Board did not adopt any policy, position, resolution, rule, regulation, take any formal action, or vote on any item.

4) Action Item 3 -- Executive Director's Report -- was presented by Bobby Wilkinson, TDHCA Executive Director. The Board heard the report and took no action.

5) Action Item 4(a) -- Report regarding the 2021 Competitive Housing Tax Credit awards -- was presented by Brooke Boston, TDHCA Deputy Executive Director for Programs, with additional information from Mr. Wilkinson and Mr. Eccles. The Board heard public comment (listed below) and took no further action.

- Michelle Snedden, Shackelford Law Firm, provided comments on the report contents
- Tracey Fine, National Church Residences, provided comments on the item

6) Action Item 4(b) -- Quarterly report relating to staff-issued Determination Notices for 2021 Noncompetitive 4% Housing Tax Credit applications -- was presented by Teresa Morales, TDHCA Director for Multifamily Bonds. The Board heard the report and took no further action.

7) Action Item 5 -- Presentation, discussion, and possible action on Resolution No. 22-002 authorizing modifications to single family homeownership programs and approving amending program documents and program guidelines, authorizing the execution of documents and instruments relating to the foregoing, making certain findings and determinations in connection therewith, and containing other provisions relating to the subject; and possible waiver of 10 TAC §27.4(a) and 10 TAC §28.4(a) -- was presented by Monica Galuski, TDHCA Director of Bond Finance. Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the resolution as well as the referenced waivers.

- Jean Latsha, Pedcor Investments, provided comments on the item

8) Action Item 6 -- Presentation, discussion, and possible action on Program Year 2021 Emergency Solutions Grants Program Awards -- was presented by Naomi Cantu, TDHCA Homeless Programs Manager. The Board unanimously approved staff recommendation to make the ESG Program awards as outlined in the item.

9) Action Item 7 -- Presentation, discussion, and possible action on the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act Texas Emergency Mortgage Assistance Program awards and any timely filed appeals -- was presented by Rudy Bentancourt, TDHCA Director of CDBG CARES. The Board unanimously approved staff recommendation to make the CDBG CARES Act TEMAP awards as outlined in the item.

10) Action Item 8(a) -- Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and an order proposing new 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and directing their publication for public comment in the Texas Register -- was presented by Ms. Morales. The Board unanimously approved staff recommendation for the proposed repeal of the existing rules and publish the draft rules for public comment.

11) Chairman Vasquez took up agenda items not in order as presented and Ms. Boston, with additional information from Mr. Eccles, presented Action Item 10(d) – Presentation, Discussion and Possible Action Relating to the Use of 2022 Credit Ceiling to Provide Allocations of Credits to 2021 Competitive Housing Tax Credit Applicants Negatively Impacted by Department Ministerial Error. Following public comment (listed below), the Board unanimously approved staff recommendation to grant the proposed limited waiver regarding forward commitments and the conditions in 2022 commitments expressed in the item.

- Michael Lyttle, TDHCA Director of External Affairs, read a letter into the record from the Honorable Eddie Rodriguez, State Representative, House District 51, in support of staff recommendation
- Brooks Schuelke, Capital District of the United Methodist Church, testified in support of staff recommendation
- Alicia Wong, Austin resident, testified in support of staff recommendation
- Walter Moreau, Foundation Communities, testified in support of staff recommendation
- Casey Bump, Bonner Carrington, testified in support of staff recommendation
- Robbye Meyer, Arx Advantage, testified in opposition to staff recommendation
- Donna Rickenbacker, Marque Real Estate Consultants, provided comments on the item
- Sarah Anderson, Anderson Consulting, testified in support of staff recommendation
- Audrey Martin, Purple Martin Real Estate, provided comments on the item
- Lora Myrick, BETCO Consulting, testified in support of staff recommendation
- Zachary Krochtengel, Marque Real Estate Consultants, provided comments on the item

12) Chairman Vasquez took up agenda items not in order as presented and Sharon Gamble, TDHCA Multifamily Finance staff, with additional information from Mr. Wilkinson, Mr. Eccles, and Ms. Boston, presented Action Item 1(x) – Presentation, discussion and possible action on requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications Awarded Competitive (9%) Housing Tax Credits in Prior Application Rounds

20018	The Park Tower	Fort Worth
20042	Commons at St. Anthony	Amarillo
20075	New Hope Housing Savoy	Houston
20083	Lakeview Preserve	Irving
20114	3300 Caroline Street	Houston
20192	Arbor Park	Austin
20204	Heritage Senior Residences	Houston
20205	Ella Grand	Houston
20212	Vernon Pioneer Crossing	Vernon
20272	Westwind of Dumas	Dumas
20344	Merritt Sunset	Midland

Following public comment (listed below), the Board unanimously approved staff's recommendation with respect to the treatment of the developments listed under an application of force majeure and that the Department may issue to each development owner a 2021 carryover agreement with the extended 10 percent deadline of July 1, 2022, and extended placement in service deadline of December 31, 2023, as set forth in the resolution.

- Cynthia Bast, Locke Lord, testified in support of staff recommendation
- Jennifer Hicks, True Casa Consulting, testified in support of staff recommendation
- Robbye Meyer, Arx Advantage, testified in opposition to staff recommendation
- Lora Myrick, BETCO Consulting, testified in opposition to staff recommendation
- Donna Rickenbacker, Marque Real Estate Consultants, provided comments on the item
- JoEllen Smith, DMA Development, testified in support of staff recommendation
- Terri Anderson, Anderson Development and Construction, provided comments on the item
- Sarah Anderson, Anderson Consulting, provided comments on the item
- Joy Horak-Brown, New Hope Housing, testified in support of staff recommendation
- Avis Chaisson, Palladium USA, provided comments on the item

13) Action Item 8(b) – Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, proposed new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing their publication for public comment in the Texas Register – was presented by Ms. Boston with additional information from Mr. Wilkinson and Mr. Eccles. Following public comment (listed below), the Board unanimously approved staff recommendation for the proposed repeal and proposed new 10 TAC Chapter 11 rules concerning the Housing Tax Credit Program Qualified Allocation Plan for publication in the Texas Register for public comment, as expressed in the Board action request on this item and as modified by the few changes that Ms. Boston specifically presented in the meeting.

- Nathan Kelly, Blazer Residential, testified in support of staff recommendation
- Bobby Bowling, Tropicana Properties, testified in support of staff recommendation
- Elizabeth Roehm, Texas Housers, testified in opposition to staff recommendation
- Audrey Martin, Purple Martin Real Estate, testified in support of staff recommendation
- Michelle Snedden, Shackelford Law Firm and representing RealTex Development, provided comments on the item
- Michael Beard, BETCO Consulting, provided comments on the item
- Donna Rickenbacker, Marque Real Estate Consultants, testified in opposition to staff recommendation
- Zachary Krochtengel, Marque Real Estate Consultants, testified in opposition to staff recommendation
- Avis Chaisson, Palladium USA, provided comments on the item
- Sarah Anderson, Anderson Consulting, provided comments on the item

14) Action Item 8(c) – Presentation, discussion, and possible action on an order adopting new 10 TAC §1.8, Plan Requirements, Process, and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Homeless Individuals, and directing its publication for adoption in the Texas Register – was presented by Ms. Boston. Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the new 10 TAC 1.8 rule regarding the political subdivision plan requirements, process and approval criteria for properties designated for homeless individuals camping, as modified in response to public comment and expressed in the Board action request.

- Steve Bresnen, Austin resident, testified in support of staff recommendation

15) Action Item 9(a) – Presentation, Discussion, and Possible Action regarding a workout for La Esperanza Del Rio (HOME #1002040) – was presented by Rosalio Banuelos, TDHCA Director of Asset Management. Following public comment (listed below), the Board unanimously approved staff recommendation authorizing the executive director and his designees to effectuate the workout solution, as expressed in the Board action request.

- Sara Reidy, Casa Linda Development Corporation, provided comments on the item

16) Action Item 9(b) – Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount for 18614 Springs Apartments, Balch Springs; and 16429 Pointe at Crestmont, Houston – was presented by Mr. Banuelos. The Board unanimously approved staff recommendation authorizing the executive director and his designees to effectuate the 4 percent tax credit increases, as expressed in the Board action request.

17) Action Item 10(a) – Presentation, Discussion, and Possible Action on a waiver relating to 10 TAC §11.101(b)(2), related to Development Size Limitations for Bluff View Apartments in Boerne – was presented by Ms. Morales. The Board unanimously approved staff recommendation to grant the limited waiver concerning development size limitations for the proposed development, as expressed in the Board action request.

18) Action Item 10(b) – Presentation, discussion and possible action regarding eligibility under 10 TAC §11.101(b)(1)(C) related to Ineligibility of Developments within Certain School Attendance Zones for Marine Park Apartments in Fort Worth – was presented by Ms. Morales with additional information from Mr. Wilkinson. The Board unanimously adopted staff recommendation to grant the waiver sought by the applicant regarding the ineligibility of the application due to school accountability ratings, with the understanding that the LURA would require supportive services, including an after-school program and an onsite community learning center, as otherwise expressed in the Board action request.

19) Action Item 10(c) – Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications for 21451 Horizon Pointe, San Antonio; and 21450 W. Leo Daniels, Houston – was presented by Ms. Morales. The Board unanimously approved staff recommendation which included the previous finding of eligibility

relating to the crime rate associated with the W. Leo Daniels application, and that determination notices in the respective amounts be issued to these two applications on this item be approved, and that the compliance conditions for W. Leo Daniels apply to ITEX as an applicant for administrative approval of other ITEX applications, all as expressed in the Board action request.

20) During the general public comment portion of the meeting where persons may make comments on matters other than items for which there were posted agenda items, the following persons and comments were made:

- Amy Ledbetter Parham, Texas Habitat for Humanity, provided positive comments on the working relationship between her organization and TDHCA

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

There being no further business to come before the Board, the meeting adjourned at 1:50 p.m. The next meeting is set for Thursday, October 14, 2021.

\_\_\_\_\_  
Secretary

Approved:

\_\_\_\_\_  
Chair



1b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Autumn Oaks of Corinth Apartments (HTC #01144)

**RECOMMENDED ACTION**

**WHEREAS**, Autumn Oaks of Corinth Apartments (the Development) received a 9% Housing Tax Credit (HTC) award in 2001 to construct 128 multifamily units in Corinth, Denton 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**, Corinth Autumn Oaks, 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 Autumn Oaks of Corinth 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**

Autumn Oaks of Corinth Apartments received a 9% HTC award in 2001 to construct 128 multifamily units, with 76 set aside for residents at or below 60% of AMI, in Corinth, Denton County. In a letter dated August 26, 2021, Paul Lee, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2001, 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 for Low-Income Housing Credits recorded in Denton County on September 8, 2005. A LURA amendment was recorded in Denton County on March 19, 2014.

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 18<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 public hearing on the matter on September 20, 2021. There were 31 attendees. Those in attendance asked about the amendment, and concerns about a potential future sale of the Development were raised. However, residents were informed that this amendment would not impact their leases and that any buyer would have to comply with the LURA.

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

**Corinth Autumn Oaks, L.P.**  
545 E. John Carpenter Frwy, Suite 500  
Irving (Las Colinas), TX 75062

August 26, 2021

**VIA EMAIL DELIVERY**

Mark Fugina  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street, Austin, Texas 78701-2410

Re: TDHCA File No. 01144 – Corinth Autumn Oaks Apartments (the “**Property**”)

Dear Mark:

The undersigned, Corinth Autumn Oaks, L.P., a Texas limited partnership (the “**Partnership**”), the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

**Background Information and Request**

In 2015, Texas Government Code Section 2306.6725 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)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore 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, and lenders. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, 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 October 14, 2021 TDHCA Board Meeting.


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

*[signature on following page]*

Corinth Autumn Oaks, L.P.,  
a Texas limited partnership

By: LaSalle of Corinth, LLC, its General Partner

By: MWW Partners Consulting, LLC, its Sole Member

By:   
Its: President  
Date: 8/26/2001

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Prairie Commons (HTC #02008)

**RECOMMENDED ACTION**

**WHEREAS**, Prairie Commons (the Development) received a 9% Housing Tax Credit (HTC) award in 2002 to construct 72 multifamily units in Dallas, Dallas 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**, Dallas DMA Housing, 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 Prairie Commons 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

Prairie Commons received a 9% HTC award in 2002 to construct 72, with 54 units set aside for residents at or below 60% of AMI, in Dallas, Dallas County. In a letter dated August 30, 2021, Janine Sisak, 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 for Low-Income Housing Credits recorded in Dallas County on October 26, 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 18<sup>th</sup> year of the 30-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 public hearing on the matter on September 15, 2021. There were seven attendees on the call, and while questions were asked about the amendment, no public comment was received regarding the requested amendment.

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

The amendment request letter also requests approval to remove the requirement for a Historically Underutilized Business (HUB) to hold an ownership interest in the project and maintain regular, continuous, and substantial participation in the operation of the Development. However, this requirement was only throughout the 15-year Compliance Period, which ran through the end of 2018, and therefore, no further action is required for this additional request.



August 30, 2021

Mark Fugina  
Texas Department of Housing and Community Affairs  
Asset Management  
P.O. Box 13941  
Austin, Texas 78711

Re: Prairie Commons  
LIHTC #02008/ CMTS #3209

Mr. Fugina:

Attached is documentation requesting a LURA amendment regarding language contained in the Right of First Refusal and language requiring material participation of a Historically Underutilized Business ("HUB") for the above-mentioned development. Please note that this development is past the initial compliance period of 15 years but is still within its 40-year extended use period.

We are requesting the amendment to allow the right of first refusal to benefit a "Qualified Entity" and provide for different time periods than the ones stated in the original LURA. I have attached a revised Exhibit C, which is the same exhibit that was approved in conjunction with another DMA transaction that TDHCA approved in April 2019. This requested change is required for the right of first refusal to be consistent with the current State of Texas Government Code Section 2306.6726.

We are also requesting the removal of the required HUB participation because the HUB involved in this transaction from the onset, DMA Community Partners II, Inc., is the General Partner of Dallas DMA Housing, L.P., and now intends to sell the development to a third-party organization, Elizabeth Property Group. Please see the attached letter from DMA Community Partners II, Inc. regarding its participation and removal as the HUB of this development.

These requested changes have no financial impact on the development, except to the extent they are required to effectuate the pending sale of the development. A check in the amount of \$2,500.00 for the amendment fee required by TDHCA is being overnighted to your office.

We respectfully request that this request be considered for approval at the October 14<sup>th</sup> TDHCA board meeting. Should you have any questions or concerns, please do not hesitate to contact me directly at (512) 328-3232 ext. 4505, or at [janines@dmacompanies.com](mailto:janines@dmacompanies.com).

Sincerely,

A handwritten signature in blue ink that reads "Janine Sisak".

Janine Sisak  
Senior Vice President/General Counsel



**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Anson Park (HTC #03066)

**RECOMMENDED ACTION**

**WHEREAS**, Anson Park (the Development) received a 9% Housing Tax Credit (HTC) award in 2003 to construct 64 multifamily units in Abilene, Taylor 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**, Anson Park Limited Partnership (the Development Owner or Owner) requests to amend the Land Use Restriction Agreement 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 Anson Park is approved as presented to this meeting, and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

Anson Park received a 9% HTC award in 2003 to construct 64 multifamily units, 60 of which are restricted as affordable, in Abilene, Taylor County. In a letter dated September 16, 2021, R. J. Collins, a 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 Taylor County on February 22, 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 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 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 public hearing on the matter on September 17, 2021. Six residents attended the public hearing, and while questions were asked, no public comment was received regarding the requested amendment.

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



Karen Treadwell  
Texas Department of Housing and Community Affairs  
Asset Management  
P.O. Box 13941  
Austin, Texas 78711

September 16, 2021

Re: Anson Park TDHCA# 03066

Ms. Treadwell,

Anson Park LP respectfully asks the Texas Department of Housing and Community Affairs Governing Board to approve an amendment to its Land Use Restriction Agreement (LURA) that will change the Right of First Refusal Period as described in amended §2306.6725 of the Texas Government Code from two (2) years to 180 days.

TDHCA rules require that this request be provided to all residents of the property and a copy of that letter is attached as "Exhibit A". TDHCA rules further require that the notification be provided to both the Lender(s) and Investor(s). The Lender for this property is Greystone Servicing Corporation, Inc. and the Investor Limited Partner is Wentwood ORC Funds, LLC. A copy of the notification to each of these entities is attached as Exhibits "B" and "C".

The foregoing written notice and attached notifications satisfy the 45-day requirement specified in the TDHCA Post Award Activities Manual necessary to make this request eligible to be presented to the Governing Board at the November 10, 2021 TDHCA Board meeting.

The final requirement would be payment of the \$2,500 amendment fee which will be sent to the Department upon approval of this notice and the notifications attached hereto.

Thank you for your attention to this matter and please let us know if anything further is required from us.

Sincerely,

A handwritten signature in blue ink, appearing to be "R. J. Collins", is written over a blue horizontal line.

R. J. Collins  
Managing General Partner

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Westview Ranch (HTC #03190)

**RECOMMENDED ACTION**

**WHEREAS**, Westview Ranch (the Development) received a 9% Housing Tax Credit (HTC) award in 2003 for the new construction of 72 multifamily units in the City of Pearsall, Frio 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**, Pearsall DMA Housing, 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 Westview Ranch 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

Westview Ranch received a 9% HTC award in 2003 for the new construction of 72 multifamily units, 68 of which are set aside for residents at or below 60% of the area median income, in Pearsall, Frio County. In a letter dated August 17, 2021, Janine Sisak, 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 Frio County on December 27, 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 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 public hearing on the matter on September 8, 2021. An attendee list and meeting minutes were provided. The attendee list indicates no residents participated. The meeting minutes indicate no questions 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.

The amendment request letter also requests approval to remove the requirement for a Historically Underutilized Business (HUB) to hold an ownership interest in the project and maintain regular, continuous, and substantial participation in the operation of the development. However, this requirement was only throughout the 15-year Compliance Period, which ran through the end of 2020, and therefore, no further action is required for this additional request.



August 17, 2021

Dee Patience  
Texas Department of Housing and Community Affairs  
Asset Management  
P.O. Box 13941  
Austin, Texas 78711

Re: Westview Ranch  
LIHTC #03190/ CMTS #3367

Ms. Patience:

Attached is documentation requesting a LURA amendment regarding language contained in the Right of First Refusal and language requiring material participation of a Historically Underutilized Business ("HUB") for the above-mentioned development. Please note that this development is past the initial compliance period of 15 years but is still within its 40-year extended use period.

We are requesting the amendment to allow the right of first refusal to benefit a "Qualified Entity" and provide for different time periods than the ones stated in the original LURA. I have attached a revised Exhibit C, which is the same exhibit that was approved in conjunction with another DMA transaction that TDHCA approved in April 2019. This requested change is required for the right of first refusal to be consistent with the current State of Texas Government Code Section 2306.6726.

We are also requesting the removal of the required HUB participation because the HUB involved in this transaction from the onset, DMA Community Partners II, Inc., the Managing Member of Westview Ranch, LLC, the General Partner of Pearsall DMA Housing, L.P., now intends to sell the development to a third-party nonprofit organization, Harmony Housing Advisors, Inc. Please see the attached letter from DMA Community Partners II, Inc. regarding its participation and removal as the HUB of this development.

These requested changes have no financial impact on the development, except to the extent they are required to effectuate the pending sale of the development. Attached is a check in the amount of \$2,500.00 for the amendment fee required by TDHCA.

We respectfully request that this request be considered for approval at the October 14<sup>th</sup> TDHCA board meeting. Should you have any questions or concerns, please do not hesitate to contact me directly at (512) 328-3232 ext. 4505, or at [janines@dmacompanies.com](mailto:janines@dmacompanies.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Janine Sisak', written in a cursive style.

Janine Sisak  
Senior Vice President/General Counsel

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Anson Park II (HTC #04241)

**RECOMMENDED ACTION**

**WHEREAS**, Anson Park II (the Development) received a 9% Housing Tax Credit (HTC) award in 2004 to construct 80 multifamily units in Abilene, Taylor 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**, Anson Park II L.P. (the Development Owner or Owner) requests to amend the Land Use Restriction Agreement 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 Anson Park II 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**

Anson Park II received a 9% HTC award in 2004 to construct 80 multifamily units, 64 of which are restricted as affordable, in Abilene, Taylor County. In a letter dated September 16, 2021, R. J. Collins, 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 Taylor County on July 21, 2006.

The additional use restrictions in the current 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 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 public hearing on the matter on September 17, 2021. Six residents attended the public hearing, and while questions were asked, no public comment was received regarding the requested amendment.

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





Karen Treadwell  
Texas Department of Housing and Community Affairs  
Asset Management  
P.O. Box 13941  
Austin, Texas 78711

September 16, 2021

Re: Anson Park II TDHCA# 04241

Ms. Treadwell,

Anson Park II LP respectfully asks the Texas Department of Housing and Community Affairs Governing Board to approve an amendment to its Land Use Restriction Agreement (LURA) that will change the Right of First Refusal Period as described in amended §2306.6725 of the Texas Government Code from two (2) years to 180 days.

TDHCA rules require that this request be provided to all residents of the property and a copy of that letter is attached as "Exhibit A". TDHCA rules further require that the notification be provided to both the Lender(s) and Investor(s). The Lender for this property is Greystone Servicing Corporation, Inc. and the Investor Limited Partner is Wentwood ORC Funds, LLC. A copy of the notification to each of these entities is attached as Exhibits "B" and "C".

The foregoing written notice and attached notifications satisfy the 45-day requirement specified in the TDHCA Post Award Activities Manual necessary to make this request eligible to be presented to the Governing Board at the November 10, 2021 TDHCA Board meeting.

The final requirement would be payment of the \$2,500 amendment fee which will be sent to the Department upon approval of this notice and the notifications attached hereto.

Thank you for your attention to this matter and please let us know if anything further is required from us.

Sincerely,

A handwritten signature in blue ink, appearing to be "R. J. Collins", is written over a blue horizontal line.

R. J. Collins  
Managing General Partner

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Lodge at Merriltown (HTC #98174)

**RECOMMENDED ACTION**

**WHEREAS**, Lodge at Merriltown (the Development) received a 9% Housing Tax Credit (HTC) award in 1998 for the new construction of 204 multifamily units in the City of Austin, Travis 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**, Merriltown Equities, Ltd. (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 Lodge at Merriltown 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

Lodge at Merriltown received a 9% HTC award in 1998 for the new construction of 204 multifamily units, all of which are set aside for residents at or below 60% of the area median income, in Austin, Travis County. In a letter dated August 19, 2021, Peter Stoughton, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 1998, 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 Travis County on January 30, 2001.

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 22<sup>nd</sup> year of the 30-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 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 public hearing on the matter on September 21, 2021. An attendee list and meeting minutes with resident comments were provided. The attendee list indicates eight residents participated. The meeting minutes indicate few questions specific to the amendment were asked, such as why it is changing and what effects it will have. Other questions did not pertain specifically to the amendment, and no negative public comment was received regarding the requested amendment.

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

**MERRILLTOWN EQUITIES, LTD.**  
777 S. Figueroa Street, 16th Floor  
Los Angeles, California 90017-5800

August 19, 2021

**VIA HAND DELIVERY**

Ms. Lee Ann Chance  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 98174; Lodge at Merriltown (the "**Property**")

Dear Ms. Chance:

The undersigned, being the General Partner (herein so called) of Merriltown Equities, Ltd., 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,

**MERRILLTOWN EQUITIES, LTD.,**  
a Texas limited partnership

By: AH SUBGP 516 Merriltown, LLC,  
a Delaware limited liability company,  
its general partner

By: SAFG Retirement Services, Inc.,  
a Delaware limited liability company,  
its sole member

By: **Peter Stoughton**  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Digitally signed by Peter Stoughton  
Date: 2021.08.19 12:39:15 -07'00'

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Homes of Parker Commons (HTC #99005)

**RECOMMENDED ACTION**

**WHEREAS**, Homes of Parker Commons (the Development) received a 9% Housing Tax Credit (HTC) award in 1999 for the new construction of 192 multifamily units in the City of Fort Worth, Tarrant 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**, Parker Commons, Ltd. (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 Homes of Parker Commons 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**

Homes of Parker Commons received a 9% HTC award in 1999 for the new construction of 192 multifamily units, 126 of which are set aside for residents at or below 60% of the area median income, in Fort Worth, Tarrant County. In a letter dated September 1, 2021, Peter Stoughton, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 1999, 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 Tarrant County on December 26, 2001.

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 20<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 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 public hearing on the matter on September 21, 2021. An attendee list and meeting minutes with resident comments were provided. The attendee list indicates one resident participated. The meeting minutes indicate no questions were asked, and no public comment was received regarding the requested amendment.

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

**PARKER COMMONS LTD.**  
777 S. Figueroa Street, 16th Floor  
Los Angeles, California 90017-5800

September 1, 2021

**VIA HAND DELIVERY**

Ms. Lee Ann Chance  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: TDHCA File No. 99005; The Homes of Parker Commons (the "**Property**")

Dear Ms. Chance:

The undersigned, being the General Partner (herein so called) of Parker Commons, Ltd., 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,

**PARKER COMMONS, LTD.,**  
an Texas limited partnership

By: AH SUBGP 759 Parker Commons, LLC,  
a Delaware limited liability company,  
its general partner

By: SAFG Retirement Services, Inc.,  
a Delaware limited liability company,  
its sole member

By: **Peter Stoughton** Digitally signed by Peter Stoughton  
Date: 2021.09.01 14:45:51 -07'00'  

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Peter Stoughton, Senior Vice-President

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for The Retreat at Texas City (HTC #99059)

**RECOMMENDED ACTION**

**WHEREAS**, The Retreat at Texas City (the Development) received a 9% Housing Tax Credit (HTC) award in 1999 for the new construction of 250 multifamily units in Texas City, Galveston 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**, Mainland Crossing Townhomes Limited Partnership (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 The Retreat at Texas City is approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

## BACKGROUND

The Retreat at Texas City received a 9% HTC award in 1999 for the new construction of 250 multifamily units, 150 of which are set aside for residents at or below 60% of the area median income, in Texas City, Galveston County. In a letter dated August 19, 2021, Peter Stoughton, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 1999, 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 Galveston County on January 2, 2002.

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 20<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 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 public hearing on the matter on September 21, 2021. An attendee list and meeting minutes with resident comments were provided. The attendee list indicates one resident participated. The meeting minutes indicate the resident asked if this amendment would affect their tenancy and was informed that there would be no impact to the current lease agreements. No public comment was received regarding the requested amendment.

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

**MAINLAND CROSSING TOWNHOMES LIMITED PARTNERSHIP**

777 S. Figueroa Street, 16th Floor  
Los Angeles, California 90017-5800

August 19, 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. 99059; The Retreat at Texas City (the "**Property**")

Dear Ms. Trevino:

The undersigned, being the General Partner (herein so called) of Mainland Crossing Townhomes Limited Partnership, 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,

**MAINLAND CROSSING TOWNHOMES LIMITED PARTNERSHIP,**  
an Ohio limited partnership

By: AH SUBGP 911 Mainland, LLC,  
a Delaware limited liability company,  
its general partner

By: SAFG Retirement Services, Inc.,  
a Delaware limited liability company,  
its sole member

By: **Peter**  
Name: **Stoughton**  
Title: \_\_\_\_\_  
Digitally signed by Peter Stoughton  
Date: 2021.08.19 12:35:07 -07'00'

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**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Land Use Restriction Agreement for Southwest Village Apartments (HOME #534339)

**RECOMMENDED ACTION**

**WHEREAS**, Southwest Village Apartments (Development) received a HOME award in 1995 for the rehabilitation of 24 units of multifamily housing in Marble Falls, Burnet County;

**WHEREAS**, the Land Use Restriction Agreement (LURA) for the Development specifies that that all 24 units must be made available for occupancy by a Special Needs Individual or Special Needs Family, and THF Housing Development Corporation (Development Owner or Owner) is seeking approval to amend this requirement to specify that upon turnover, the units will have a priority for Transitional Housing Populations that are “Homeless” or “At risk of homelessness” as defined by 24 CFR §576.2;

**WHEREAS**, the Owner requests to suspend monitoring under the LURA for a period of one year to allow time to rehabilitate the Development, and in exchange for the time units will be unavailable, extend the term of the LURA for a period of one year, from December 21, 2025, to December 21, 2026, with an option to further extend the term if additional time is needed to complete the rehabilitation;

**WHEREAS**, the LURA also specifies that the Development Owner must be a Community Housing Development Organization (CHDO), and the Owner is seeking an amendment to remove the CHDO requirement in order to facilitate a transfer of ownership to an Affiliate that does not meet HUD’s requirements to be certified as a CHDO;

**WHEREAS**, Board approval is required for changes to the Target Population as directed in 10 TAC §10.405(b)(2)(C) and for a LURA amendment deemed material by the Executive Director as specified in 10 TAC §10.405(b)(2)(G), and the Owner has complied with the amendment requirements therein;

**WHEREAS**, staff is recommending that monitoring under the LURA for vacant units be suspended for a period of one year; and

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

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested amendments to the LURA for Southwest Village Apartments are 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 foregoing;

**FURTHER RESOLVED**, that the Executive Director or designee is authorized and empowered to provide an additional extension for the rehabilitation, if necessary and justified.

### **BACKGROUND**

Southwest Village Apartments received a HOME award in 1995 to rehabilitate 24 units of multifamily housing in Marble Falls, Burney County. The LURA for the Development specifies that the Development Owner must be a CHDO that meets the requirements under the HOME regulations. The LURA also specifies that all 24 units must be made available for a Special Needs Individual or Special Needs Family as defined in an amendment to the LURA recorded September 17, 2017. The LURA has a 30-year term that began on December 21, 1995, and expires December 21, 2025.

In a letter dated August 9, 2021, Mark Mayfield, the representative for the Owner, requested amendments to the LURA for the Development. The Owner requests a material amendment to revise the Target Population definition in the LURA from Special Needs Individual or Special Needs Family to Transitional Housing Population defined by 24 CFR §576.2 as “At risk of homelessness” or “Homeless.” The Owner proposes a one-year period for the transitional housing with an option for an additional two-year renewal based on a recommendation from Mission Center Living, Inc., the non-profit that will be participating in the homelessness initiative with the Owner. The Owner states that the transition in the Target Population would occur upon turnover of the units and the exhaustion of the waitlist. The current tenants would also be offered incentives to relocate to a comparable or better unit at another property. The Owner would also pay all of the tenant’s moving costs and security deposits. Additionally, if the tenant relocates to one of Texas Housing Foundation’s other properties, then their rent for the first two months would be \$1. No current household will have their lease terminated or non-renewed. Additionally, if the rehabilitation requires vacating the unit, the household will have a right to return at the end of the rehabilitation period<sup>1</sup>.

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<sup>1</sup> The Owner has not represented to the Department a contemplation to use federal funds for the transfer to the Affiliate entity or for the rehabilitation. If such a fund source is contemplated and ultimately utilized, relocation requirements of that source of funding would need to be followed.



The Owner also plans to rehabilitate the Development over a period not to exceed 12 months. Therefore, the Owner requests to suspend monitoring of the Development during this time, and in exchange, amend the LURA to extend the term for one year, from December 21, 2025, to December 21, 2026, with an option to extend the term further in the event the rehabilitation work exceeds 12 months. The current scope of work, as described to the Department, may not require vacating of all of the units in the Development. Thus, staff is only recommending a suspension of monitoring under the LURA for vacant units.

Additionally, the Owner requests a material amendment to the LURA to remove requirement that specifies the Development Owner must be a Community Housing Development Organization (CHDO). The LURA is beyond the 20-year federal affordability period, and the removal of the CHDO requirement is needed in order to facilitate a transfer of ownership to an Affiliate of the Owner that does not meet HUD's requirements to be certified as a CHDO. The Owner, which is an Affiliate of Texas Housing Foundation (THF), plans to restructure the Development with THF becoming the holder of the title to the land and entering into a ground lease agreement with THF. The proposed owner, THF Southwest Village Holdings, LLC, will be solely managed by THF Sole Holding Corporation, a Texas nonprofit corporation and wholly-owned instrumentality of THF.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter of the change to the Target Population on July 27, 2021. Public comments were received at the hearing, and those that commented expressed concerns about safety and relocation. The Owner and their representatives explained how the current tenants would not be required to permanently move, and how those that do choose to relocate will be assisted with all moving costs and no rent for the first two months, if moving to a THF property. A representative from Highland Lake Crisis Network was also present and provided additional information regarding their work with the homeless initiative program, their study of the program provided by other organizations, and an explanation of the types of people that would be assisted through the program.

A second public hearing was held September 17, 2021, regarding the matter of the removal of the CHDO requirement. The meeting minutes indicate that no comments were received regarding the amendment to remove the CHDO requirement.

The Owner states that the proposed amendments could not be foreseen at the time of Application because the homelessness situation has intensified over the last few years. Therefore, their proposed amendment furthers the objective of providing affordable housing for those in the dire situation of homelessness or risk of homelessness. Additionally, with the proposed change to the ownership structure and the participation of the nonprofit, they do not anticipate a financial impact to the Development.

Staff recommends approval of the material amendments to the LURA as presented herein, and a suspension of monitoring for vacant units. Staff further recommends that the Executive Director or designee be granted the authority to approve a further suspension of monitoring and equivalent extension of the LURA, if it is needed and justified for a period not to extend one additional year.

# Southwest Village LURA Amendment Proposal

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DATE: August 9, 2021  
TO: TDHCA  
FROM: THF Housing Development Corporation, an instrumentality of the Texas Housing Foundation, a regional housing authority  
RE: Southwest Village LURA Amendment Proposal

We respectfully request a LURA Amendment for the following:

- 1) To serve a transitional housing population upon turnover of the units and exhaustion of the waitlist so the units may have a preference for a transitional housing population.
  - a. Transitional Housing Population defined by 24 CFR 576.2 as "At risk of homelessness" and "Homeless"
  - b. The proposed time period for the transitional housing will be one year with a renewal for two additional years based on a recommendation from the participating non-profit
- 2) Regarding the requirement that once units are turned over to the non-profit organization, the units must not be vacant for more than 60 days, please note the following:
  - a. Current plans are to rehabilitate the property over a period of 6-9 months. We would request some leeway on the 60-day vacant rule and possibly have that provision begin once the rehabilitation of the property is complete
- 3) Incentives for current SWV tenants to relocate will include:
  - a. All moving costs paid for including security deposits
  - b. Tenants will be moved to a comparable or a better unit
  - c. If moving to a THF property, the tenant will be charged \$1 per month for the first two months of occupancy in the new unit
- 4) The current plan would be to execute a 5-year ground lease between THF (landlord) and the non-profit (tenant) for the property. Then, a separate rental lease agreement executed between the non-profit and the tenant would ensure the tenant has exclusive use and possession of the unit during the tenancy.
- 5) We plan on reorganizing the ownership of SWV to an affiliate of the current owner. The proposed new organization structure will not meet the CHDO requirement in the LURA. Therefore, we are seeking approval to remove the requirement in the LURA to allow the transfer to occur.

## Additional Information

The proposed LURA amendment is necessary to prioritize the intended target population of the homeless and at-risk. We feel the proposed changes furthers the objective of providing affordable housing to those in extreme dire situations. With the intended structure in place and the non-profit organizations involved, there should not be a financial impact to the property. The property has a forgivable loan without hard debt service and the physical aspects of the property will be maintained. The proposed changes could not be foreseen at the time of the application due to homelessness becoming a growing problem over the last few years.

Thank you,



Mark Mayfield  
CEO / President

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**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Arbor Park (HTC #20192)

**RECOMMENDED ACTION**

**WHEREAS**, Arbor Park (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2020 for the new construction of 147 units, of which 120 units are designated as low-income, of multifamily housing with an Elderly Limitation in Austin, Travis County;

**WHEREAS**, Austin McNeil DMA Housing, LLC (Applicant) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election);

**WHEREAS**, the revised election proposed by the Applicant does not affect the 27 market rate units, but does change the set-asides for the 120 affordable units to 12 units at 30% Area Median Income (AMI), 48 units at 50% AMI, and 60 units at 60% AMI;

**WHEREAS**, the Applicant also seeks approval for changes to the unit sizes that results in an overall reduction of 2,689 square feet (2.27%) in the Net Rentable Area, from 118,271 to 115,582 square feet, which is considered a notification item under 10 TAC §10.405(a)(2)(C);

**WHEREAS**, Board approval is required for a request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Owner has complied with the amendment requirements under 10 TAC §10.405(a); and

**WHEREAS**, the requested changes do not negatively affect the Development, impact the viability of the transaction, or impact the selection of the application for an award;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment for Arbor Park 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 foregoing.

### **BACKGROUND**

Arbor Park was approved for a 9% HTC award in 2020 for the construction of 147 units, of which 120 are designated as low-income units, of multifamily housing with an Elderly Limitation in Austin, Travis County. The Applicant originally elected Average Income as the Qualified Low Income Housing Development Election for the Development. The Development was underwritten based on the Rent Schedule provided by the Applicant that originally identified the set-asides for the 120 affordable units as 12 units at 30% AMI, 12 units at 40% AMI, 43 units at 50% AMI, 40 units at 60% AMI, 13 units at 80% AMI. The remaining 27 units for the Development were designated at market rate.

In a letter dated July 9, 2021, Janine Sisak, the representative for the Applicant, requested approval for a material amendment to the Application and identified other non-material changes to the Development. The first request is to revise the Qualified Low Income Housing Development Election from Average Income to maintaining at least 40% or more of the residential units as both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set aside election). The Applicant states that the IRS issued draft of the income averaging rules are problematic for many industry investors because of the compliance risk it creates for developments that have made the Average Income election. Therefore, their investor prefers that the Applicant switch to the traditional 40% at 60% minimum set-aside election because it is an election that the industry is accustomed to implementing without the level of risk associated with income averaging. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Applicant has provided a letter from National Equity Fund, the limited partner, and JPMorgan Chase Bank, N.A., the construction lender, stating that they will remain committed to the project, provided that the election is changed from Average Income to the 40% at 60% minimum set aside election. With the revised election, the Applicant proposes to change the original set-asides for the 120 affordable units to designate 12 units at 30% AMI, 48 units at 50% AMI, and 60 units at 60% AMI. Staff has confirmed that there would be no change to Application's score based on this revision.

The second request is for a reduction to Net Rentable Area for 88 of the 111 one-bedroom units and for 32 of the 36 two-bedroom-units. The overall changes result in a 2,689 square feet reduction, or a 2.27% reduction in the Net Rentable Area, from 118,271 to 115,582 that is below the 3% threshold to be considered a material alteration under Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D). However, the design changes results in converting 11 units from two-bedroom/two bathroom to two-bedroom/one bathroom units because the revised design plans could not accommodate the second bathroom. The reduced

sizes of the units will continue to meet the thresholds specified in 10 TAC 11.(b)(A) of the 2020 QAP.

The Development was re-underwritten based on the proposed set-asides and revised financials submitted with an Application for a Multifamily Direct Loan (MFDL). The results of the analysis indicate that there was a 23.84% increase, or \$2,863,064, in the building costs, from \$12,007,335 to \$14,870,399. Additionally, there was a 23.84% increase, or \$4,762,492, in the total development costs, from \$27,887,813 to \$32,650,305, with no change to the original Developer Fee. To address these increases, the Applicant has increased their first lien debt 11.11%, or \$1,250,000, from \$11,250,000 to \$12,500,000, and the interest rate will increase 0.33%, from 4.67% to 5.00%. There is no change to the original second lien debt (which if the MFDL is awarded would become the third lien debt). The Development will be considered for a \$2,222,900 MFDL that is expected to be in a second lien position, and has requested a 0% interest rate, deferred repayment loan with an 18-year term. The request for the MFDL will be considered separate from this amendment request. With these changes, the analysis supports no change to the original tax credit allocation and demonstrates the Development is feasible with the changes to the costs and financing structure.

Staff recommends approval of the requested amendment.





**Addendum to Underwriting Report**

TDHCA Application #: 21508 20192 Program(s): 9% HTC/MDL

Arbor Park

Address/Location: 6306 McNeil Drive

City: Austin County: Travis Zip: 78729

APPLICATION HISTORY	
Report Date	PURPOSE
09/20/21	MDL Application / Amendment
07/10/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$2,222,900	0.00%	N/A	18	2
LIHTC (9% Credit)	\$1,500,000				\$1,500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: 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: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.
- 2 Receipt and acceptance by Commitment:
  - a: Formal approval for \$2M loan from Austin Housing Finance Corporation (AHFC) clearly stating all terms and conditions, and source of funds.

**Status:** Cleared. AHFC approved \$2M on May 7, 2020 from General Obligation Bonds at terms underwritten.

3 Receipt and acceptance by Cost Certification:

- a: Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.
- b: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	12
50% of AMI	50% of AMI	48
60% of AMI	60% of AMI	60

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	12

**ANALYSIS**

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA

The Applicant is also requesting amendments to the application related to a) replace the income averaging election with the more standard 40% of the units at 60% AMI election, and b) a reduction in size of several unit types and elimination of a second bathroom in two 2-bedroom units. Net Rentable Area has been reduced by 2.27%.

The original unit mix included units at 30%, 40%, 50%, 60%, and 80%, with an overall average of 54% AMI. With the elimination of Income Averaging, restricted units are now limited to 30%, 50%, and 60%, with the overall average reduced to 53% AMI.

**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

**Development Cost**

Building Cost increased \$2,863,064.

Total Development Cost increased \$4,762,492

**Sources of Funds**

The Applicant has applied for a Multifamily Direct Loan consistent with requirements of NOFA.

The Underwriter recommends approval of an MFDL in the amount of \$2,222,900 at 0% interest, structured as Deferred Repayable as a second lien with a 18 year term (to match the senior debt).

The first request to replace income averaging to 40% of the units at 60% AMI does not change the feasibility of the Project. The second request for an amendment that decreases square footage of several units also does not effect the financial feasibility.

Underwriter: Eric Weiner  
Manager of Real Estate Analysis: Jeanna Adams  
Director of Real Estate Analysis: Tom Cavanagh

**UNIT MIX/RENT SCHEDULE**  
**Arbor Park, Austin, 9% HTC #20192**

LOCATION DATA	
CITY:	Austin
COUNTY:	Travis
Area Median Income	\$95,900
PROGRAM REGION:	7
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	111	75.5%	0	9
2	36	24.5%	0	3
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>147</b>	<b>100.0%</b>	<b>-</b>	<b>12</b>

53% Average Income		
Income	# Units	% Total
20%	-	0.0%
30%	12	8.2%
40%	-	0.0%
50%	48	32.7%
60%	60	40.8%
70%	-	0.0%
80%	-	0.0%
MR	27	18.4%
<b>TOTAL</b>	<b>147</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	79.33%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	786 sf

UNIT MIX / MONTHLY RENT SCHEDULE																						
HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst		
TC 30%	\$556	30%/30%	\$556	4	1	1	678	\$556	\$55	\$501	\$0	\$0.74	\$501	\$2,004	\$2,004	\$501	\$0.74	\$0	\$1,350	\$1.99	\$1,350	
TC 30%	\$556	30%/30%	\$556	5	1	1	678	\$556	\$55	\$501	\$0	\$0.74	\$501	\$2,505	\$2,505	\$501	\$0.74	\$0	\$1,350	\$1.99	\$1,350	
TC 50%	\$928			4	1	1	678	\$928	\$55	\$873	\$0	\$1.29	\$873	\$3,492	\$3,492	\$873	\$1.29	\$0	\$1,350	\$1.99	\$1,350	
TC 50%	\$928			33	1	1	678	\$928	\$55	\$873	\$0	\$1.29	\$873	\$28,809	\$28,809	\$873	\$1.29	\$0	\$1,350	\$1.99	\$1,350	
TC 60%	\$1,113			34	1	1	678	\$1,113	\$55	\$1,058	\$0	\$1.56	\$1,058	\$35,972	\$35,972	\$1,058	\$1.56	\$0	\$1,350	\$1.99	\$1,350	
TC 60%	\$1,113			4	1	1	683	\$1,113	\$55	\$1,058	\$0	\$1.55	\$1,058	\$4,232	\$4,232	\$1,058	\$1.55	\$0	\$1,350	\$1.98	\$1,350	
MR				4	1	1	683	\$0	\$55		NA	\$1.98	\$1,350	\$5,400	\$5,400	\$1,350	\$1.98	NA	\$1,350	\$1.98	\$1,350	
MR				4	1	1	742	\$0	\$55		NA	\$1.82	\$1,350	\$5,400	\$5,400	\$1,350	\$1.82	NA	\$1,350	\$1.82	\$1,350	
TC 60%	\$1,113			9	1	1	750	\$1,113	\$55	\$1,058	\$0	\$1.41	\$1,058	\$9,522	\$9,522	\$1,058	\$1.41	\$0	\$1,350	\$1.80	\$1,350	
MR				4	1	1	784	\$0	\$55		NA	\$1.72	\$1,350	\$5,400	\$5,400	\$1,350	\$1.72	NA	\$1,350	\$1.72	\$1,350	
MR				1	1	1	791	\$0	\$55		NA	\$1.71	\$1,350	\$1,350	\$1,350	\$1,350	\$1.71	NA	\$1,350	\$1.71	\$1,350	
TC 50%	\$928			1	1	1	820	\$928	\$55	\$873	\$0	\$1.06	\$873	\$873	\$873	\$873	\$1.06	\$0	\$1,350	\$1.65	\$1,420	
MR				3	1	1	864	\$0	\$55		NA	\$1.56	\$1,350	\$4,050	\$4,050	\$1,350	\$1.56	NA	\$1,350	\$1.56	\$1,420	
MR				1	1	1	864	\$0	\$55		NA	\$1.56	\$1,350	\$1,350	\$1,350	\$1,350	\$1.56	NA	\$1,350	\$1.56	\$1,420	
TC 30%	\$668	30%/30%	\$667	1	2	1	866	\$667	\$76	\$591	\$1	\$0.68	\$592	\$592	\$591	\$591	\$0.68	\$0	\$1,700	\$1.96	\$1,800	
TC 30%	\$668	30%/30%	\$667	1	2	1	866	\$667	\$76	\$591	\$1	\$0.68	\$592	\$592	\$591	\$591	\$0.68	\$0	\$1,700	\$1.96	\$1,800	
TC 50%	\$1,113			2	2	1	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$2,074	\$2,074	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 50%	\$1,113			7	2	2	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$7,259	\$7,259	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 30%	\$668	30%/30%	\$667	1	2	2	1,059	\$667	\$76	\$591	\$1	\$0.56	\$592	\$592	\$591	\$591	\$0.56	\$0	\$1,700	\$1.61	\$1,800	
TC 50%	\$1,113			1	2	2	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$1,037	\$1,037	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 60%	\$1,336			13	2	2	1,059	\$1,336	\$76	\$1,260	\$0	\$1.19	\$1,260	\$16,380	\$16,380	\$1,260	\$1.19	\$0	\$1,700	\$1.61	\$1,800	
MR				3	2	2	1,059	\$0	\$76		NA	\$1.61	\$1,700	\$5,100	\$5,100	\$1,700	\$1.61	NA	\$1,700	\$1.61	\$1,800	
MR				3	2	2	1,080	\$0	\$76		NA	\$1.57	\$1,700	\$5,100	\$5,100	\$1,700	\$1.57	NA	\$1,700	\$1.57	\$1,800	
MR				4	2	2	1,098	\$0	\$76		NA	\$1.55	\$1,700	\$6,800	\$6,800	\$1,700	\$1.55	NA	\$1,700	\$1.55	\$1,800	
<b>TOTALS/AVERAGES:</b>				<b>147</b>				<b>115,582</b>				<b>\$0</b>	<b>\$1.35</b>	<b>\$1,060</b>	<b>\$155,885</b>	<b>\$155,882</b>	<b>\$1,060</b>	<b>\$1.35</b>	<b>\$0</b>	<b>\$1,436</b>	<b>\$1.83</b>	<b>\$1,463</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,870,620</b>	<b>\$1,870,584</b>
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**STABILIZED PRO FORMA**

**Arbor Park, Austin, 9% HTC #20192**

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	3 Local Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.35	\$1,060	\$1,870,620	\$1,804,056	\$1,804,056	\$1,870,584	\$1,060	\$1.35		0.0%	\$36
Laundry						\$5.03	8,880							
Total Secondary Income						\$5.03		8,880	\$8,880	\$5.03			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$1,879,500	\$1,812,936	\$1,812,936	\$1,879,464				0.0%	\$36
Vacancy & Collection Loss				7.5% PGI		(140,963)	(135,970)	(135,970)	(140,960)	7.5% PGI			0.0%	(3)
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$1,738,538	\$1,676,966	\$1,676,966	\$1,738,504				0.0%	\$33

General & Administrative	\$62,142	\$423/Unit	\$71,506	\$486	3.31%	\$0.50	\$391	\$57,500	\$57,500	\$62,854	\$62,142	\$423	\$0.54	3.57%	-7.5%	(4,642)
Management	\$62,756	4.0% EGI	\$67,225	\$457	5.00%	\$0.75	\$591	\$86,847	\$86,847	\$83,848	\$86,925	\$591	\$0.75	5.00%	-0.1%	(78)
Payroll & Payroll Tax	\$195,755	\$1,332/Unit	\$219,766	\$1,495	11.22%	\$1.69	\$1,327	\$195,000	\$195,000	\$195,755	\$195,755	\$1,332	\$1.69	11.26%	-0.4%	(755)
Repairs & Maintenance	\$100,167	\$681/Unit	\$90,057	\$613	4.72%	\$0.71	\$558	\$82,000	\$82,000	\$88,200	\$88,200	\$600	\$0.76	5.07%	-7.0%	(6,200)
Electric/Gas	\$40,080	\$273/Unit	\$36,798	\$250	2.24%	\$0.34	\$265	\$39,000	\$39,000	\$36,798	\$36,798	\$250	\$0.32	2.12%	6.0%	2,202
Water, Sewer, & Trash	\$106,485	\$724/Unit	\$84,500	\$575	3.91%	\$0.59	\$463	\$68,000	\$68,000	\$84,500	\$84,500	\$575	\$0.73	4.86%	-19.5%	(16,500)
Property Insurance	\$43,980	\$0.38 /sf	\$56,114	\$382	2.30%	\$0.35	\$272	\$40,000	\$40,000	\$43,980	\$43,980	\$299	\$0.38	2.53%	-9.0%	(3,980)
Property Tax (@ 100%) 2.2577	\$94,659	\$644/Unit	\$160,596	\$1,092	8.51%	\$1.28	\$1,007	\$148,000	\$148,000	\$160,596	\$160,596	\$1,092	\$1.39	9.24%	-7.8%	(12,596)
Reserve for Replacements			\$0	\$0	2.11%	\$0.32	\$250	\$36,750	\$36,750	\$36,750	\$36,750	\$250	\$0.32	2.11%	0.0%	-
Supportive Services			\$0	\$0	0.29%	\$0.04	\$34	\$5,000	\$5,000	\$5,000	\$5,000	\$34	\$0.04	0.29%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0	\$0	0.34%	\$0.05	\$40	\$5,920	\$5,920	\$4,800	\$4,800	\$33	\$0.04	0.28%	23.3%	1,120
<b>TOTAL EXPENSES</b>					<b>43.95%</b>	<b>\$6.61</b>	<b>\$5,197</b>	<b>\$ 764,017</b>	<b>\$764,017</b>	<b>\$803,081</b>	<b>\$805,853</b>	<b>\$5,482</b>	<b>\$6.97</b>	<b>46.35%</b>	<b>-5.2%</b>	<b>\$ (41,836)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>56.05%</b>	<b>\$8.43</b>	<b>\$6,629</b>	<b>\$974,521</b>	<b>\$912,949</b>	<b>\$873,885</b>	<b>\$932,651</b>	<b>\$6,345</b>	<b>\$8.07</b>	<b>53.65%</b>	<b>4.5%</b>	<b>\$ 41,870</b>

CONTROLLABLE EXPENSES							\$3,003/Unit						\$3,180/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
**Arbor Park, Austin, 9% HTC #20192**

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App													DCR	LTC
JPMorgan Chase Bank, N.A		1.23	1.29	757,032	5.00%	35	18	\$12,500,000	\$11,250,000	\$11,250,000	\$12,500,000	18	35	5.00%	\$757,032	1.23	38.3%
TDHCA MDL Soft Repayable		1.23	1.29		0.00%	35	18	\$2,222,900			\$2,222,900	18		0.00%		1.23	6.8%
<b>CASH FLOW DEBT / GRANTS</b>																	
City of Austin Fee Waivers		1.23	1.29		0.00%	0	0	\$700,000	\$700,000	\$700,000	\$700,000	0	0	0.00%		1.23	2.1%
AHFC		1.23	1.29		0.00%	0	40	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	40	0	0.00%		1.23	6.1%
Nelsen Partners- MDL Match		1.23	1.29		0.00%	0	0	\$193,115	\$0	\$0	\$193,115	0	0	0.00%		1.23	0.6%
				<b>\$757,032</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$17,616,015</b>	<b>\$13,950,000</b>	<b>\$13,950,000</b>	<b>\$17,616,015</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$757,032</b>	<b>1.23</b>	<b>54.0%</b>
<b>NET CASH FLOW</b>		\$175,619	\$217,489											<b>TDHCA NET OPERATING INCOME</b>	\$932,651	\$175,619	<b>NET CASH FLOW</b>

EQUITY SOURCES																
APPLICANT'S PROPOSED EQUITY STRUCTURE						Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE								
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method			
													LIHTC Equity	Deferred Developer Fees	Additional (Excess) Funds Req'd	Previous Allocation
RBC Community Investments	LIHTC Equity	43.2%	\$1,500,000	0.94	\$14,098,590	\$13,648,635	\$13,648,635	\$14,098,590	\$0.94	\$1,500,000	43.2%	\$10,204		Previous Allocation		
DMA Development Co/JSA Development Co	Deferred Developer Fees	2.9%	(32% Deferred)		\$941,708	\$789,178	\$289,178	\$935,700	(32% Deferred)		2.9%		<b>Total Developer Fee:</b>	<b>\$2,908,000</b>		
Additional (Excess) Funds Req'd		0.0%				\$0	\$0	\$0			0.0%					
<b>TOTAL EQUITY SOURCES</b>		<b>46.1%</b>			<b>\$15,040,298</b>	<b>\$14,437,813</b>	<b>\$13,937,813</b>	<b>\$15,034,290</b>			<b>46.0%</b>					
<b>TOTAL CAPITALIZATION</b>						<b>\$32,656,313</b>	<b>\$28,387,813</b>	<b>\$27,887,813</b>	<b>\$32,650,305</b>						<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$2,898,991</b>

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS				Prior Underwriting		TDHCA COST / BASIS ITEMS				COST VARIANCE				
Eligible Basis	Acquisition	New Const. Rehab	Total Costs	Applicant	TDHCA	Total Costs	New Const. Rehab	Acquisition	%	\$	Eligible Basis			
											Acquisition	New Const. Rehab	Total Costs	
Land Acquisition			\$27,891 / Unit	\$4,100,000	\$4,100,000	\$4,100,000	\$4,100,000	\$27,891 / Unit					0.0%	\$0
Closing costs & acq. legal fees				\$25,000	\$25,000	\$25,000	\$25,000							\$0
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$ / Unit						0.0%	\$0
Site Work			\$2,296,135	\$15,620 / Unit	\$2,296,135	\$1,152,325	\$1,152,325	\$2,078,935	\$14,142 / Unit	\$2,078,935			10.4%	\$217,200
Site Amenities			\$205,500	\$1,398 / Unit	\$205,500	\$525,625	\$525,625	\$270,000	\$1,837 / Unit	\$270,000			-23.9%	(\$64,500)
Demolition			\$0	\$578 / Unit	\$85,000	\$150,000	\$150,000	\$85,000	\$578 / Unit	\$0			0.0%	\$0
Building Cost			\$9,640,000	\$128.66 /sf	\$101,159/Unit	\$14,870,399	\$12,007,335	\$12,489,259	\$14,989,500	\$101,969/Unit	\$129.69 /sf	\$9,640,000	-0.8%	(\$119,101)
Contingency			\$1,228,000	10.11%	7.03%	\$1,228,000	\$878,080	\$878,080	\$1,219,640	7.00%	7.00%	\$839,225	0.7%	\$8,360
Contractor Fees			\$2,488,246	18.61%	13.46%	\$2,514,966	\$1,800,000	\$1,800,000	\$2,514,966	13.49%	14.00%	\$1,795,942	0.0%	\$0
Soft Costs	0	\$2,267,115	\$15,593 / Unit	\$2,292,115	\$2,099,000	\$2,099,000	\$2,292,115	\$15,593 / Unit	\$2,267,115			\$0	0.0%	\$0
Financing	0	\$893,750	\$9,132 / Unit	\$1,342,465	\$1,453,715	\$1,453,715	\$1,342,465	\$9,132 / Unit	\$893,750			\$0	0.0%	\$0
Developer Fee	\$0	\$2,530,000	13.30%	11.95%	\$2,908,000	\$2,908,000	\$2,908,000	\$2,908,000	12.32%	14.23%	\$2,530,000	\$0	0.0%	\$0
Reserves			6 Months	\$788,733	\$788,733	\$750,405	\$781,442	6 Months					0.9%	\$7,291
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$0</b>	<b>\$21,548,746</b>		\$222,152 / Unit	<b>\$32,656,313</b>	<b>\$27,887,813</b>	<b>\$28,331,408</b>	<b>\$32,607,064</b>	\$221,817 / Unit		<b>\$20,314,968</b>	<b>\$0</b>	<b>0.2%</b>	<b>\$49,249</b>
Acquisition Cost	\$0				\$0	\$0								
Contingency		(\$378,086)			(\$6,008)	\$0								
Contractor's Fee		(\$669,429)			\$0	\$0								
Financing Cost		\$0												
Developer Fee	\$0	\$0			\$0	\$0								
Reserves					\$0	\$0								
<b>ADJUSTED BASIS / COST</b>	<b>\$0</b>	<b>\$20,501,231</b>		\$222,111/unit	<b>\$32,650,305</b>	<b>\$27,887,813</b>	<b>\$28,331,408</b>	<b>\$32,607,064</b>	\$221,817/unit		<b>\$20,314,968</b>	<b>\$0</b>	<b>0.1%</b>	<b>\$43,242</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$32,650,305</b>								

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

*Arbor Park, Austin, 9% HTC #20192*

	<b>CREDIT CALCULATION ON QUALIFIED BASIS</b>			
	<b>Applicant</b>		<b>TDHCA</b>	
	<b>Acquisition</b>	<b>Construction Rehabilitation</b>	<b>Acquisition</b>	<b>Construction Rehabilitation</b>
<b>ADJUSTED BASIS</b>	\$0	\$20,501,231	\$0	\$20,314,968
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$20,501,231	\$0	\$20,314,968
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$26,651,601	\$0	\$26,409,458
Applicable Fraction	79.33%	79.33%	79.33%	79.33%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$21,142,438	\$0	\$20,950,349
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,902,819	\$0	\$1,885,531
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,902,819		\$1,885,531	

Method	<b>ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS</b>		<b>FINAL ANNUAL LIHTC ALLOCATION</b>		
	<b>Annual Credits</b>	<b>Proceeds</b>	<b>Credit Price \$0.9399</b>	<b>Variance to Request</b>	
			<b>Credit Allocation</b>	<b>Credits</b>	<b>Proceeds</b>
<b>Eligible Basis</b>	\$1,902,819	\$17,884,714	----	----	----
<b>Needed to Fill Gap</b>	\$1,599,553	\$15,034,290	----	----	----
<b>Previous Allocation</b>	\$1,500,000	\$14,098,590	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Arbor Park, Austin, 9% HTC #20192*

	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%	\$1,738,504	\$1,773,274	\$1,808,740	\$1,844,915	\$1,881,813	\$2,077,673	\$2,293,919	\$2,532,672	\$2,796,275	\$3,087,313	\$3,408,644
TOTAL EXPENSES	3.00%	\$805,853	\$829,160	\$853,148	\$877,838	\$903,250	\$1,041,922	\$1,202,139	\$1,387,278	\$1,601,246	\$1,848,567	\$2,134,475
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$932,651</b>	<b>\$944,115</b>	<b>\$955,592</b>	<b>\$967,077</b>	<b>\$978,562</b>	<b>\$1,035,752</b>	<b>\$1,091,780</b>	<b>\$1,145,394</b>	<b>\$1,195,029</b>	<b>\$1,238,747</b>	<b>\$1,274,168</b>
EXPENSE/INCOME RATIO		46.4%	46.8%	47.2%	47.6%	48.0%	50.1%	52.4%	54.8%	57.3%	59.9%	62.6%
<b>MUST -PAY DEBT SERVICE</b>												
TOTAL DEBT SERVICE		<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>
DEBT COVERAGE RATIO		1.23	1.25	1.26	1.28	1.29	1.37	1.44	1.51	1.58	1.64	1.68
<b>ANNUAL CASH FLOW</b>												
ANNUAL CASH FLOW		<b>\$175,619</b>	<b>\$187,083</b>	<b>\$198,561</b>	<b>\$210,045</b>	<b>\$221,531</b>	<b>\$278,720</b>	<b>\$334,749</b>	<b>\$388,363</b>	<b>\$437,997</b>	<b>\$481,715</b>	<b>\$517,137</b>
Deferred Developer Fee Balance		\$760,081	\$572,998	\$374,437	\$164,392	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$57,139</b>	<b>\$1,336,610</b>	<b>\$2,898,991</b>	<b>\$4,734,830</b>	<b>\$6,827,496</b>	<b>\$9,151,443</b>	<b>\$11,670,141</b>



July 9, 2021

VIA EMAIL: [leeann.chance@tdhca.state.tx.us](mailto:leeann.chance@tdhca.state.tx.us)

Ms. Lee Ann Chance  
Asset Management, TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: Request for Amendment for Arbor Park, #20192

Dear Ms. Chance,

Please accept this letter and attachments as a formal request for a post award amendment. The amendment request is two-part. First, we are seeking to replace the income averaging election with the more standard 40% of the units at 60% AMI election. Second, several our units have decreased in size by only very slightly more than the 3% threshold, in several cases.

The original application was submitted electing income averaging and the full number of points allowed under Sections 11.9(c)(1) and (2) for Income Levels of Resident and Rent Levels of Residents. Around that time, the IRS issued a draft of the income averaging rules and many industry investors consider them problematic because of the great compliance risk that they create for development that have made this election. For that reason, our investor prefers that we seek an amendment to allow us to switch to the traditional 40% at 60% AMI election, because that is a tried-and-true election that the industry is accustomed to implementing, without the same level of risk that comes with income average.

Thus, we are requesting that this election be removed and replaced by the traditional 40% at 60% AMI election. We have structured the proposed rent schedule in a way that it still qualifies for the same number of points as we did receive with the income averaging election pursuant to Section 11.9(c)(1) and (2). Further, we have structured the new rent schedule in a way that it is NOI neutral, meaning a re-underwriting of the deal is not necessary.

This return to the standard rent restriction program for tenants will benefit the project by easing the investor's concerns regarding compliance risk. All other terms and conditions of our proposed financing remains unchanged. By signature of this letter, I certify that this change has no financial impact on the development.

In updating our rent schedule for the change in income election, we noticed that during the extensive design process for this development, the unit sizes changed slightly, as they tend to do. Our most typical one-bedroom/one bath unit decreased from 702 and 705 sf respectively, to 678 sf. This represents a 3.8% decrease in size in the case of the 705 sf units, and 3.4% decrease in size in the case of the 703 sf unit. On the two-bedroom units, we also now have 2 two-bedroom/one bath units that are 866 sf instead of the 1086 sf



represented in the application. It should be noted that we did not plan on any two-bedroom/one-bathroom units, since all two-bedroom units included two bathrooms on the application. However, based on the final construction drawings, we could not accommodate two bathrooms in these smaller two-bedroom units. The decrease in this square footage is more significant at a 20% decrease, but please note that it only affects two units.

The size and design changes were not foreseeable early in the process when the original application was submitted, as additional due diligence post-application identified several final design challenges related to tree preservation on the site. The site is extremely tight and given the City of Austin's stringent standards regarding requiring extensive water quality features and maintaining all heritage trees, the design has gone through several different iterations for this development. The result is a building that zig zags in a way that causes some awkward sized units. This result was completely unavoidable given the site constraints and our commitment to TDHCA to deliver 147 units. Please see attached site plan.

Allowing these changes will avoid the need to reduce the total number of income-restricted units to serve seniors in this high opportunity area of northwest Austin.

An amendment fee in the amount of \$2,500 is attached. If you have any questions or need any additional information, please contact me at [JanineS@dmacompanies.com](mailto:JanineS@dmacompanies.com) or 512-328-3232 extension 4505.

Sincerely,

DMA DEVELOPMENT COMPANY, LLC

A handwritten signature in blue ink that reads "Janine Sisak". The signature is stylized and includes a long horizontal stroke at the end.

Janine Sisak

Senior Vice President/General Counsel

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Ella Grand (HTC #20205)

**RECOMMENDED ACTION**

**WHEREAS**, Ella Grand (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2020 for the new construction of 145 units, of which 115 units are designated as low-income, of multifamily housing with an Elderly Limitation in Houston, Harris County;

**WHEREAS**, Houston DMA Housing II, LLC (Applicant) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election);

**WHEREAS**, the revised election proposed by the Applicant does not affect the 30 market rate units, but does change the set-asides for the 115 affordable units to 16 units at 30% Area Median Income (AMI), 46 units at 50% AMI, and 53 units at 60% AMI;

**WHEREAS**, Board approval is required for a request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Applicant has complied with the amendment requirements under 10 TAC §10.405(a); and

**WHEREAS**, the requested change does not negatively affect the Development, impact the viability of the transaction, or impact the selection of the application for an award;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment for Ella Grand 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 foregoing.

## **BACKGROUND**

Ella Grand was approved for a 9% HTC award in 2020 for the construction of 145 units, of which 115 are designated as low-income units, of multifamily housing with an Elderly Limitation in Houston, Harris County. The Applicant originally elected Average Income as the Qualified Low Income Housing Development Election for the Development. The Development was underwritten based on the Rent Schedule provided by the Applicant that originally identified the set-asides for the 115 affordable units as 12 units at 30% AMI, four units at 40% AMI, 43 units at 50% AMI, 43 units at 60% AMI, and 13 units at 70% AMI. The remaining 30 units for the Development were designated at market rate.

In a letter dated July 15, 2021, Janine Sisak, the representative for the Applicant, requested approval for a material amendment to the Application. The request is to revise the Qualified Low Income Housing Development Election from Average Income to maintaining at least 40% or more of the residential units as both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election). The Applicant states that the IRS issued draft of the income averaging rules are problematic for many industry investors because of the compliance risk it creates for developments that have made the Average Income election. Therefore, their investor prefers that the Applicant switch to the traditional 40% at 60% minimum set-aside election because it is an election that the industry is accustomed to implementing without the level of risk associated with income averaging. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Applicant has provided a letter from Capital One Bank, N.A, the lender and the upper tier investor for the Development, stating that they will remain committed to the project, provided that the election is changed from Average Income to 40% at 60% minimum set-aside election. With the revised election, the proposed to changes the original set-asides for the 115 affordable units is to designate 16 units at 30% AMI, 46 units at 50% AMI, and 53 units at 60% AMI. Staff has confirmed that there would be no change to Application's score based on this revision.

Additionally, the revised Rent Schedule provided by the Applicant indicates there was a 1,251 square foot (1.06%) increase to the Net Rentable Area, going from 118,061 to 119,312 square feet. This change is considered a Notification Item under 10 TAC §10.405(a)(2)(C) and does not require Board approval but is mentioned as a change to the Development.

The Development was re-underwritten based on the proposed set-asides and revised financials submitted with an Application for a Multifamily Direct Loan (MFDL). The results of the analysis indicate that there was 32.34% increase, or \$3,640,441, in the building costs, from \$11,257,406 to \$14,897,847. Additionally, there was a 15.93% increase, or \$4,483,661, in the total development costs, from \$28,152,008 to \$32,635,669, with no change to the original Developer Fee. To address these increases, the Applicant has changed lenders, and their first lien debt will increase 28.79%, or \$1,900,000, from \$6,600,000 to \$8,500,000. The interest rate will decrease 0.75%, from 5.50% to 4.75%. There is no change to the second lien debt. The Development will be considered for a \$2,180,000 MFDL that is proposed by the applicant to be in a third lien

position, with a 0% interest rate, and a deferred repayment 15-year term. The request for the MFDL will be considered separate from this amendment request. With these changes, the analysis supports no change to the original tax credit allocation and demonstrates the Development is feasible with the changes to the costs and financing structure.

Staff recommends approval of the requested material amendment.



**Addendum to Underwriting Report**

TDHCA Application #: 20205 Program(s): 9% HTC/MDL

Ella Grand

Address/Location: 2077 S. Gessner Road

City: Houston County: Harris Zip: 77063

APPLICATION HISTORY	
Report Date	PURPOSE
10/13/21	MDL Application and Amendment
08/07/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$2,180,000	0.00%	N/A	15	TBD
LIHTC (9% Credit)	\$1,500,000				\$1,500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

## CONDITIONS STATUS

1 Receipt and acceptance before Direct Loan Closing

- a: 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.  
Documentation identifying any required matching funds, and confirming that the source is eligible
- e: to be counted as matching funds under HUD and TDHCA requirements.
- f: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.

2 Receipt and acceptance by 10% test:

- Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.

**Status: Condition will be satisfied at direct loan closing; condition removed from 10% test.**

3 Documentation at Cost Certification clearing environmental issues identified in the ESA report,

- 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.

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	16
50% of AMI	50% of AMI	46
60% of AMI	60% of AMI	53

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	16

## ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

The requested Direct Loan funding requires the restriction of 16 units at 30% AMI.

There is an amendment request to replace the income averaging election with the more standard 40% of the units at 60% AMI election because of the great compliance risk.

The original unit mix included units at 30%, 40%, 50%, 60%, and 70%, with an overall average of 54% AMI. With the elimination of Income Averaging, restricted units are now limited to 30%, 50%, and 60%, with the overall average reduced to 52% AMI.

### **Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

### **Development Cost**

Building Cost increased \$3.6M.

Total development costs increased \$4.48M.

The NOFA requires that Total Developer Fee cannot increase.

### **Sources of Funds**

The Applicant has applied for a MultiFamily Direct Loan consistent with the requirements of NOFA 2021-3.

The Underwriter recommends approval of an MFDL in the amount of \$2,180,000 at 0% interest, structured as Deferred Repayable with a 15-year term (to match the senior debt).

Underwriter:	<u>Deborah Willson</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**

*Ella Grand, Houston, 9% HTC #20205*

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	\$79,200
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	109	75.2%	0	12
2	36	24.8%	0	4
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>145</b>	<b>100.0%</b>	<b>-</b>	<b>16</b>

52%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	16	11.0%
40%	-	0.0%
50%	46	31.7%
60%	53	36.6%
70%	-	0.0%
80%	-	0.0%
MR	30	20.7%
<b>TOTAL</b>		
	<b>145</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	76.67%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	823 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst		
TC 30%	\$445	30%/30%	\$594	12	1	1	716	\$445	\$76	\$369	\$0	\$0.52	\$369	\$4,428	\$4,428	\$369	\$0.52	\$0	\$1,135	\$1.59	\$1,135	
TC 50%	\$743			35	1	1	716	\$743	\$76	\$667	\$0	\$0.93	\$667	\$23,345	\$23,345	\$667	\$0.93	\$0	\$1,135	\$1.59	\$1,135	
TC 60%	\$891			27	1	1	716	\$891	\$76	\$815	\$0	\$1.14	\$815	\$22,005	\$22,005	\$815	\$1.14	\$0	\$1,135	\$1.59	\$1,135	
TC 60%	\$891			4	1	1	776	\$891	\$76	\$815	\$0	\$1.05	\$815	\$3,260	\$3,260	\$815	\$1.05	\$0	\$1,170	\$1.51	\$1,170	
TC 60%	\$891			10	1	1	791	\$891	\$76	\$815	\$0	\$1.03	\$815	\$8,150	\$8,150	\$815	\$1.03	\$0	\$1,185	\$1.50	\$1,185	
MR				10	1	1	791	\$0	\$76		NA	\$1.39	\$1,100	\$11,000	\$11,000	\$1,100	\$1.39	NA	\$1,185	\$1.50	\$1,185	
MR				3	1	1	877	\$0	\$76		NA	\$1.25	\$1,100	\$3,300	\$3,300	\$1,100	\$1.25	NA	\$1,185	\$1.35	\$1,185	
TC 50%	\$743			1	1	1	935	\$743	\$76	\$667	\$0	\$0.71	\$667	\$667	\$667	\$667	\$0.71	\$0	\$1,300	\$1.39	\$1,300	
MR				3	1	1	935	\$0	\$76		NA	\$1.18	\$1,100	\$3,300	\$3,300	\$1,100	\$1.18	NA	\$1,300	\$1.39	\$1,300	
TC 60%	\$891			2	1	1	950	\$891	\$76	\$815	\$0	\$0.86	\$815	\$1,630	\$1,630	\$815	\$0.86	\$0	\$1,300	\$1.37	\$1,300	
MR				2	1	1	950	\$0	\$76		NA	\$1.16	\$1,100	\$2,200	\$2,200	\$1,100	\$1.16	NA	\$1,300	\$1.37	\$1,300	
TC 30%	\$534	30%/30%	\$713	4	2	2	1,027	\$534	\$100	\$434	\$0	\$0.42	\$434	\$1,736	\$1,736	\$434	\$0.42	\$0	\$1,500	\$1.46	\$1,500	
TC 50%	\$891			10	2	2	1,027	\$891	\$100	\$791	\$0	\$0.77	\$791	\$7,910	\$7,910	\$791	\$0.77	\$0	\$1,500	\$1.46	\$1,500	
TC 60%	\$1,069			8	2	2	1,027	\$1,069	\$100	\$969	\$0	\$0.94	\$969	\$7,752	\$7,752	\$969	\$0.94	\$0	\$1,500	\$1.46	\$1,500	
TC 60%	\$1,069			2	2	2	1,027	\$1,069	\$100	\$969	\$0	\$0.94	\$969	\$1,938	\$1,938	\$969	\$0.94	\$0	\$1,500	\$1.46	\$1,500	
MR				3	2	2	1,027	\$0	\$100		NA	\$1.46	\$1,500	\$4,500	\$4,500	\$1,500	\$1.46	NA	\$1,500	\$1.46	\$1,500	
MR				9	2	2	1,056	\$0	\$100		NA	\$1.42	\$1,500	\$13,500	\$13,500	\$1,500	\$1.42	NA	\$1,500	\$1.42	\$1,500	
<b>TOTALS/AVERAGES:</b>				<b>145</b>				<b>119,312</b>				<b>\$0</b>	<b>\$1.01</b>	<b>\$832</b>	<b>\$120,621</b>	<b>\$120,621</b>	<b>\$832</b>	<b>\$1.01</b>	<b>\$0</b>	<b>\$1,244</b>	<b>\$1.51</b>	<b>\$1,244</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,447,452</b>	<b>\$1,447,452</b>
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**STABILIZED PRO FORMA**

*Ella Grand, Houston, 9% HTC #20205*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	Local Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.01	\$832	\$1,447,452	\$1,436,544	\$1,426,056	\$1,447,452	\$832	\$1.01		0.0%	\$0
Laundry						\$6.02	\$10,476	10,476						
Total Secondary Income						\$6.02		10,476	\$10,476	\$6.02			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$1,457,928	\$1,447,020	\$1,436,532	\$1,457,928				0.0%	\$0
Vacancy & Collection Loss				7.5% PGI		(109,345)	(108,527)	(107,740)	(109,345)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$1,348,583	\$1,338,494	\$1,328,792	\$1,348,583				0.0%	\$0

General & Administrative	\$59,757	\$412/Unit	\$67,197	\$463	3.28%	\$0.37	\$305	\$44,272	\$44,272	\$51,330	\$51,330	\$354	\$0.43	3.81%	-13.8%	(7,058)
Management	\$59,494	4.5% EGI	\$56,890	\$392	5.02%	\$0.57	\$467	\$67,700	\$67,700	\$66,440	\$67,429	\$465	\$0.57	5.00%	0.4%	271
Payroll & Payroll Tax	\$196,325	\$1,354/Unit	\$217,431	\$1,500	14.09%	\$1.59	\$1,310	\$190,000	\$190,000	\$190,000	\$190,000	\$1,310	\$1.59	14.09%	0.0%	-
Repairs & Maintenance	\$107,018	\$738/Unit	\$88,783	\$612	4.46%	\$0.50	\$415	\$60,200	\$60,200	\$87,000	\$87,000	\$600	\$0.73	6.45%	-30.8%	(26,800)
Electric/Gas	\$31,031	\$214/Unit	\$28,841	\$199	1.85%	\$0.21	\$172	\$25,000	\$25,000	\$28,841	\$28,841	\$199	\$0.24	2.14%	-13.3%	(3,841)
Water, Sewer, & Trash	\$91,018	\$628/Unit	\$58,596	\$404	5.71%	\$0.65	\$531	\$77,000	\$77,000	\$58,596	\$58,596	\$404	\$0.49	4.35%	31.4%	18,404
Property Insurance	\$57,837	\$0.48 /sf	\$57,499	\$397	6.67%	\$0.75	\$621	\$90,000	\$90,000	\$90,000	\$90,000	\$621	\$0.75	6.67%	0.0%	-
Property Tax (@ 100%) 2.4216	\$111,003	\$766/Unit	\$98,927	\$682	10.75%	\$1.22	\$1,000	\$145,000	\$145,000	\$136,277	\$139,942	\$965	\$1.17	10.38%	3.6%	5,058
Reserve for Replacements			\$0	\$0	3.23%	\$0.36	\$300	\$43,500	\$43,500	\$43,500	\$43,500	\$300	\$0.36	3.23%	0.0%	-
Supportive Services			\$0	\$0	0.44%	\$0.05	\$41	\$6,000	\$6,000	\$6,000	\$6,000	\$41	\$0.05	0.44%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0	\$0	0.34%	\$0.04	\$32	\$4,600	\$4,600	\$4,600	\$4,600	\$32	\$0.04	0.34%	0.0%	-
TDHCA MDL Compliance (\$34/MDL unit)			\$0	\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
City of Houston Compliance Fee for Gap Funds			\$0	\$0	0.26%	\$0.03	\$24	\$3,450	\$3,450	\$3,450	\$3,450	\$24	\$0.03	0.26%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>56.11%</b>	<b>\$6.34</b>	<b>\$5,219</b>	<b>\$ 756,722</b>	<b>\$756,722</b>	<b>\$766,033</b>	<b>\$770,688</b>	<b>\$5,315</b>	<b>\$6.46</b>	<b>57.15%</b>	<b>-1.8%</b>	<b>\$ (13,966)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>43.89%</b>	<b>\$4.96</b>	<b>\$4,082</b>	<b>\$591,861</b>	<b>\$581,772</b>	<b>\$562,759</b>	<b>\$577,896</b>	<b>\$3,985</b>	<b>\$4.84</b>	<b>42.85%</b>	<b>2.4%</b>	<b>\$ 13,966</b>

CONTROLLABLE EXPENSES								\$2,734/Unit									\$2,867/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Ella Grand, Houston, 9% HTC #20205*

<b>DEBT / GRANT SOURCES</b>																		
<b>APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE</b>										<b>AS UNDERWRITTEN DEBT/GRANT STRUCTURE</b>								
<b>DEBT (Must Pay)</b>	<b>Fee</b>	<b>Cumulative DCR</b>		<b>Pmt</b>	<b>Rate</b>	<b>Amort</b>	<b>Term</b>	<b>Principal</b>	<b>Prior Underwriting</b>		<b>Principal</b>	<b>Term</b>	<b>Amort</b>	<b>Rate</b>	<b>Pmt</b>	<b>Cumulative</b>		
		<b>UW</b>	<b>App</b>						<b>Applicant</b>	<b>TDHCA</b>						<b>DCR</b>	<b>LTC</b>	
Capital One Bank		1.16	1.19	498,634	4.75%	35	18	\$8,500,000	\$6,600,000	\$6,600,000	\$8,500,000	18	35	4.75%	\$498,634	1.19	26.0%	
TDHCA-Direct Loan (Soft Repayable)		1.16	1.19		0.00%	35	15	\$2,180,000			\$2,180,000	15		0.00%		1.19	6.7%	
<b>CASH FLOW DEBT / GRANTS</b>																		
City of Houston		1.16	1.19		0.00%	0	0	\$500	\$500	\$500	\$500	0	0	0.00%		1.19	0.0%	
City of Houston-CDBG		1.16	1.19		1.00%	40	18	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	18		1.00%		1.19	19.9%	
HEDK: MDL Match		1.16	1.19		0.00%	0	0	\$165,000	\$0	\$0	\$165,000	0	0	0.00%		1.19	0.5%	
				<b>\$498,634</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$17,345,500</b>	<b>\$13,100,500</b>	<b>\$13,100,500</b>	<b>\$17,345,500</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$498,634</b>	<b>1.19</b>	<b>53.1%</b>	
<b>NET CASH FLOW</b>		\$79,262	\$93,227											<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$591,861	\$93,228	<b>NET CASH FLOW</b>

<b>EQUITY SOURCES</b>																
<b>APPLICANT'S PROPOSED EQUITY STRUCTURE</b>								<b>AS UNDERWRITTEN EQUITY STRUCTURE</b>								
<b>EQUITY / DEFERRED FEES</b>	<b>DESCRIPTION</b>	<b>% Cost</b>	<b>Annual Credit</b>	<b>Credit Price</b>	<b>Amount</b>	<b>Prior Underwriting</b>		<b>Amount</b>	<b>Credit Price</b>	<b>Annual Credit</b>	<b>% Cost</b>	<b>Annual Credits per Unit</b>	<b>Allocation Method</b>			
						<b>Applicant</b>	<b>TDHCA</b>									
RBC Capital	LIHTC Equity	43.7%	\$1,500,000	0.95	\$14,248,575	\$14,248,575	\$14,248,575	\$14,248,575	\$0.9499	\$1,500,000	43.7%	\$10,345	Previous Allocation			
DMA Development Company, LLC/JSA Develop	Deferred Developer Fees	3.2%		(40% Deferred)	\$1,041,686	\$803,025	\$802,933	\$1,041,594		(40% Deferred)	3.2%		<b>Total Developer Fee:</b>			
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0	\$0			0.0%		<b>\$2,573,908</b>			
<b>TOTAL EQUITY SOURCES</b>		<b>46.9%</b>			<b>\$15,290,261</b>	<b>\$15,051,600</b>	<b>\$15,051,508</b>	<b>\$15,290,169</b>			<b>46.9%</b>					
<b>TOTAL CAPITALIZATION</b>					<b>\$32,635,761</b>	<b>\$28,152,100</b>	<b>\$28,152,008</b>	<b>\$32,635,669</b>				<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$814,688</b>			

<b>DEVELOPMENT COST / ITEMIZED BASIS</b>																	
<b>APPLICANT COST / BASIS ITEMS</b>								<b>TDHCA COST / BASIS ITEMS</b>						<b>COST VARIANCE</b>			
	<b>Eligible Basis</b>		<b>Total Costs</b>					<b>Prior Underwriting</b>		<b>Total Costs</b>				<b>Eligible Basis</b>		<b>%</b>	<b>\$</b>
	<b>Acquisition</b>	<b>New Const. Rehab</b>						<b>Applicant</b>	<b>TDHCA</b>					<b>New Const. Rehab</b>	<b>Acquisition</b>		
Land Acquisition			\$48,276 / Unit	\$7,000,000	\$7,000,000	\$7,000,000	\$7,000,000	\$48,276 / Unit							0.0%	\$0	
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit							0.0%	\$0	
Site Work		\$1,320,667	\$9,108 / Unit	\$1,320,667	\$1,276,635	\$1,276,635	\$1,451,867	\$10,013 / Unit	\$1,320,667						-9.0%	(\$131,200)	
Site Amenities		\$388,010	\$2,676 / Unit	\$388,010	\$309,299	\$309,299	\$288,250	\$1,988 / Unit	\$388,010						34.6%	\$99,760	
Building Cost		\$9,621,971	\$124.86 /sf	\$102,744/Unit	\$14,897,847	\$11,257,406	\$12,003,095	\$14,996,181	\$103,422/Unit	\$125.69 /sf	\$9,621,971				-0.7%	(\$98,334)	
Contingency		\$1,066,101	9.41%	6.42%	\$1,066,101	\$800,217	\$800,217	\$1,066,101	6.37%	7.00%	\$793,145				0.0%	\$0	
Contractor Fees		\$2,075,815	16.74%	11.75%	\$2,075,815	\$1,839,000	\$1,839,000	\$2,075,815	11.66%	14.00%	\$1,697,331				0.0%	\$0	
Soft Costs	0	\$1,418,900	\$10,094 / Unit	\$1,463,650	\$1,329,680	\$1,329,680	\$1,463,650	\$10,094 / Unit			\$1,418,900	\$0			0.0%	\$0	
Financing	0	\$841,643	\$8,428 / Unit	\$1,221,993	\$1,150,350	\$1,150,350	\$1,221,993	\$8,428 / Unit			\$841,643	\$0			0.0%	\$0	
Developer Fee	\$0	\$2,574,000	15.38%	11.70%	\$2,574,000	\$2,574,000	\$2,573,908	\$2,573,908	11.83%	15.00%	\$2,412,250	\$0			0.0%	\$92	
Reserves			6 Months	\$627,678	\$615,513	\$615,513	\$627,678	6 Months							0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$19,307,107</b>		\$225,074 / Unit	<b>\$32,635,761</b>	<b>\$28,152,100</b>	<b>\$28,897,697</b>	<b>\$32,765,443</b>	\$225,969 / Unit	<b>\$18,493,918</b>	<b>\$0</b>			<b>-0.4%</b>	<b>(\$129,682)</b>	
Acquisition Cost	\$0				\$0	\$0											
Contingency						\$0	\$0										
Contractor's Fee						\$0	\$0										
Financing Cost						\$0											
Developer Fee	\$0					(\$92)	(\$92)										
Reserves						\$0	\$0										
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$18,655,575</b>		\$225,074/unit	<b>\$32,635,669</b>	<b>\$28,152,008</b>	<b>\$28,897,697</b>	<b>\$32,765,443</b>	\$225,969/unit	<b>\$18,493,918</b>	<b>\$0</b>			<b>-0.4%</b>	<b>(\$129,774)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>							<b>\$32,635,669</b>										

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

*Ella Grand, Houston, 9% HTC #20205*

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$18,655,575	\$0	\$18,493,918
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$18,655,575	\$0	\$18,493,918
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$24,252,248	\$0	\$24,042,093
Applicable Fraction	76.67%	76.67%	76.67%	76.67%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$18,595,111	\$0	\$18,433,977
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,673,560	\$0	\$1,659,058
<b>CREDITS ON QUALIFIED BASIS</b>		\$1,673,560		\$1,659,058

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$1,673,560	\$15,897,230	----	----	----
<b>Needed to Fill Gap</b>	\$1,609,652	\$15,290,169	----	----	----
<b>Previous Allocation</b>	\$1,500,000	\$14,248,575	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Ella Grand, Houston, 9% HTC #20205*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,348,583	\$1,375,555	\$1,403,066	\$1,431,127	\$1,459,750	\$1,611,682	\$1,779,427	\$1,964,631	\$2,169,112	\$2,394,875	\$2,644,135	\$2,919,339
TOTAL EXPENSES	3.00%	\$756,722	\$778,747	\$801,419	\$824,757	\$848,781	\$979,925	\$1,131,536	\$1,306,830	\$1,509,531	\$1,743,950	\$2,015,081	\$2,328,704
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$591,861</b>	<b>\$596,808</b>	<b>\$601,648</b>	<b>\$606,371</b>	<b>\$610,969</b>	<b>\$631,757</b>	<b>\$647,891</b>	<b>\$657,801</b>	<b>\$659,581</b>	<b>\$650,925</b>	<b>\$629,055</b>	<b>\$590,634</b>
EXPENSE/INCOME RATIO		56.1%	56.6%	57.1%	57.6%	58.1%	60.8%	63.6%	66.5%	69.6%	72.8%	76.2%	79.8%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634
DEBT COVERAGE RATIO		1.19	1.20	1.21	1.22	1.23	1.27	1.30	1.32	1.32	1.31	1.26	1.18
<b>ANNUAL CASH FLOW</b>													
ANNUAL CASH FLOW		\$93,228	\$98,175	\$103,014	\$107,737	\$112,335	\$133,123	\$149,257	\$159,167	\$160,947	\$152,291	\$130,421	\$92,000
Deferred Developer Fee Balance		\$948,367	\$850,192	\$747,178	\$639,441	\$527,106	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		\$0	\$0	\$0	\$0	\$0	\$98,518	\$814,688	\$1,593,547	\$2,398,403	\$3,181,861	\$3,883,612	\$4,427,822



DMA Development Company, LLC  
4101 Parkstone Heights Drive, Suite 310 | Austin, TX 78746  
P: 512.328.3232 | F: 512.328.4584  
[www.dmacompanies.com](http://www.dmacompanies.com)

July 15, 2021

VIA EMAIL: [lucy.trevino@tdhca.state.tx.us](mailto:lucy.trevino@tdhca.state.tx.us)

Ms. Lucy Trevino  
Asset Management, TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: Request for Amendment for Ella Grand, #20205

Dear Ms. Trevino,

Please accept this letter and attachments as a formal request for a post award amendment. The amendment request seeks to replace the income averaging election with the more standard 40% of the units at 60% AMI election.

The original application was submitted electing income averaging and the full number of points allowed under Sections 11.9(c)(1) and (2) for Income Levels of Resident and Rent Levels of Residents. Around that time, the IRS issued a draft of the income averaging rules and many industry investors consider them problematic because of the great compliance risk that they create for development that have made this election. For that reason, our investor prefers that we seek an amendment to allow us to switch to the traditional 40% at 60% AMI election, because that is a tried-and-true election that the industry is accustomed to implementing, without the same level of risk that comes with income averaging.

Thus, we are requesting that this election be removed and replaced by the traditional 40% at 60% AMI election. We have structured the proposed rent schedule in a way that it still qualifies for the same number of points as we did receive with the income averaging election pursuant to Section 11.9(c)(1) and (2). Further, we have structured the new rent schedule in a way that it is NOI neutral, meaning a re-underwriting of the deal is not necessary. However, if TDHCA determines that a full re-underwriting is necessary to effectuate this change, please see our Multifamily Direct Loan Application that will be submitted this week in response to NOFA 2021-3.



DMA Development Company, LLC

4101 Parkstone Heights Drive, Suite 310 | Austin, TX 78746

P: 512.328.3232 | F: 512.328.4584

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This return to the standard rent restriction program for tenants will benefit the project by easing the investor's concerns regarding compliance risk. All other terms and conditions of our proposed financing remains unchanged. By signature of this letter, I certify that no sources, terms, conditions, or amounts of financing will be impacted or changed by the amendment requested.

An amendment fee in the amount of \$2,500 is attached. If you have any questions or need any additional information, please contact me at [JanineS@dmacompanies.com](mailto:JanineS@dmacompanies.com) or 512-328-3232 extension 4505.

Sincerely,  
DMA DEVELOPMENT COMPANY, LLC

A handwritten signature in blue ink that reads "Janine Sisak".

Janine Sisak  
Senior Vice President/General Counsel

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Crossroad Commons (HTC #20451)

**RECOMMENDED ACTION**

**WHEREAS**, Crossroad Commons (Development) received an award of 4% Housing Tax Credits (HTCs) in 2020 for the new construction of 216 units of multifamily housing in Austin, Travis County;

**WHEREAS**, Austin Leased Housing Associates II, LP (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income;

**WHEREAS**, the revised election does not affect how the Development was underwritten because the Owner will continue to designate all 216 units at 60% Area Median Income (AMI);

**WHEREAS**, Board approval is required for a request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Owner has complied with the amendment requirements under 10 TAC §10.405(a); and

**WHEREAS**, the requested changes do not negatively affect the Development, impact the viability of the transaction, or impact the tax credit award;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment for Crossroad Commons 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 foregoing.

## **BACKGROUND**

Crossroad Commons formerly known as Ventura at Parmer Lane (originally HTC #19440) was approved for a 4% HTC award in 2020, for the construction of 216 units of multifamily housing in Austin, Travis County. The Owner originally elected Average Income as the Qualified Low Income Housing Development Election, but identified all 216 units as designated at 60% AMI.

In a letter dated September 9, 2021, Ron Kowal, the representative for the Owner, submitted a request for a material amendment to their Application. The Owner requests to revise the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election).

The Owner states that the reason for their request is that the additional guidance issued by the Internal Revenue Service (IRS) has made income averaging less desirable for compliance and ongoing monitoring. In accordance with 10 TAC §10.405(a)(7)(A)(i), the Owner provided an email from Citi Community Capital, the lender, confirming their consent to the change and that the property is to maintain a maximum 60% AMI threshold for all of the units, and a letter from Alliance Properties, LLC, the investment limited partner, stating that they are aware of the change requested and that there will be no changes in the terms as a result of the new election. The Owner also states that the additional guidance was issued by the IRS after the date of the Application. Therefore, the proposed amendment was not reasonably foreseeable or preventable by the Owner at the time of Application.

This change does not affect the designation of the 216 units represented at Application or how the Development was underwritten. The Owner's requested amendment is prior to the recording of the Land Use Restriction Agreement (LURA) and the issuance of the IRS Forms 8609.

Staff recommends approval of the material amendment request.



September 9, 2021

Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, TX 78701  
Attention: Lee Ann Chance

RE: Crossroad Commons – Request Regarding Income Set Aside Requirement

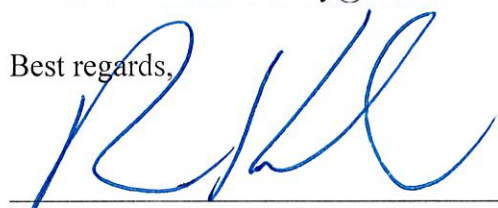
Dear Ms. Chance:

On behalf of Austin Leased Housing Associates II, Limited Partnership (the “Owner”), the owner of the affordable multifamily housing project known as Crossroad Commons located at 8407 East Parmer Lane, Austin, Texas 78653 (the “Project”), please accept this request to amend the income restrictions to be placed on the Project from the average income election to the election of 40% of the units restricted to 60% of average median income.

The reason for this request is due to additional guidance that has been issued by the Internal Revenue Service which has made income averaging less desirable for compliance and ongoing monitoring. The additional guidance was issued after the date of the application and was therefore not reasonably foreseeable or preventable by the Owner at the time the application was submitted. This change will not require any changes to the Rent Schedule or financial information provided in the application to TDHCA.

If you have any questions in connection with this request, please reach out to Jaime Avery at (763) 354-5510 or [Jaime.Avery@Dominiuminc.com](mailto:Jaime.Avery@Dominiuminc.com).

Best regards,



---

Ron Kowal, Vice President of Austin Affordable Housing Corporation,  
the sole member of Ventura at Parmer Lane GP, LLC,  
the general partner of Austin Leased Housing Associates II, Limited Partnership

1e

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a waiver of §10.101(b)(4)(M) of the 2016 Uniform Multifamily Rules for Avondale Farms Seniors (HTC #16373)

**RECOMMENDED ACTION**

**WHEREAS**, Avondale Farms Seniors (Development) received a 9% Housing Tax Credit (HTC) award in 2016 to construct 121 multifamily units with an elderly preference in Haslet, Tarrant County;

**WHEREAS**, construction is complete and Avondale Farms Seniors, LP (Development Owner or Owner) seeks a waiver, as allowed under 10 TAC §11.207, for the mandatory amenity requirement in 10 TAC §10.101(b)(4)(M) of the 2016 Uniform Multifamily Rules, which specifies a development must provide adequate parking spaces consistent with local code, unless there is no local code, in which case the requirement would be one space per Unit for Elderly Developments, and that the minimum number of required spaces must be available to the tenants at no cost;

**WHEREAS**, based on the City of Fort Worth's (City) parking requirement for the Development, 191 spaces must be provided, and the Development currently has 196 parking spaces composed of 182 open spaces and 14 attached garage spaces;

**WHEREAS**, in order to comply with 10 TAC §10.101(b)(4)(M) and provide the required 191 spaces without cost to the tenants, the Development can only charge the tenants for five of the 14 garages, which does not allow equitable distribution of this amenity among the tenants as required in §42(d)(4)(B) of the Code, or the Owner must build nine additional open surface parking spaces;

**WHEREAS**, due to the limited space on the site, adding nine additional spaces is problematic, and the Owner attempted to obtain a parking variance from the City but was denied because the City does not recognize a lower parking requirement for senior developments and states that a variance is not possible because there is no process for seeking a reduction in the required parking spaces for a site that is developed and currently providing the minimum amount of required spaces;

**WHEREAS**, the Owner proposes to add carports to a portion of the existing parking spaces, as determined through the building permitting process with the City, and make the carports available at no additional cost to the tenants; 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 §10.101(b)(4)(M) for Avondale Farms Seniors is approved as presented to this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Avondale Farms Seniors received a 9% HTC award in 2016 for the new construction of 121 multifamily units with an elderly preference, of which 109 are HTC units, in Haslet, Tarrant County. Construction of the Development is complete, and the cost certification documentation is under review by the Department. In a letter dated August 25, 2021, Samuel R. Hagerty, the Owner's representative, requested a waiver of the mandatory amenity requirement in 10 TAC §10.101(b)(4)(M) of the 2016 Uniform Multifamily Rules, which specifies a development must provide adequate parking spaces consistent with local code, unless there is no local code, in which case the requirement would be one space per unit for Elderly Developments and that the minimum number of required spaces must be available to the tenants at no cost. The City of Fort Worth's parking requirement for the Development is 191 spaces, and the City does not differentiate between open and enclosed spaces when determining the number of spaces provided. The Development currently contains 196 parking spaces composed of 182 open spaces and 14 attached garages. As a result, in order to comply with 10 TAC §10.101(b)(4)(M) and provide the required 191 spaces without cost to the tenants, the Development can only charge the tenants for five of the 14 garages, which does not allow equitable distribution of this amenity among the tenants as required in §42 of the IRS Code, or the Owner must build nine additional open surface parking spaces. Therefore, the Owner attempted to obtain a parking variance from the City but was denied because the City does not recognize a lower parking requirement for senior developments. Additionally, the City stated that a variance is not possible because there is no process for seeking a reduction in the required parking spaces for a site that is developed and currently providing the minimum amount of required spaces. As a result, the Owner employed an engineer to perform an analysis to determine where an additional nine spaces could be built and the estimated cost. The engineer determined that the only practical area on the Development site to fit the additional nine spaces would be to construct them in tandem where there is currently a recreational area, and this would have an estimated cost of approximately \$35,000. However, the tandem spaces would be problematic because a tenant's car could be blocked in, and therefore, not available when needed.

The Owner notes that the tenants currently use less than half of the available open parking spaces, and their management company reports that there are only 81 vehicles registered for the tenants. It should also be noted that if there had not been a local parking requirement, as an elderly development, the

Department's parking requirement would be one space per unit, or 121 spaces for the Development. Therefore, to avoid adding nine tandem spaces and in order to avoid distribution issues for the attached garages, the Owner requests a waiver of 10 TAC §10.101(b)(4)(M) in order to be able to charge tenants for all 14 garages. To mitigate the lack of the nine spaces needed in order to charge for all 14 garages and provide 191 spaces without cost to the tenants, the Owner proposes installing 14 gabled-roof or 17 flat-roof carports to the existing open spaces at an estimated cost of \$37,390. The type of carport would be determined through the City's building permit process.

The Owner states that circumstances leading to request for the waiver were beyond their control. The limited partner removed and replaced the General Partner due to defaults under the agreement documents by its managing member, sponsor, and Developer. This ownership transfer was approved by the Department on December 16, 2020. Because the Certificates of Occupancy were issued for the buildings in October 2018, the limited partner was forced to step in with the Development in an as-built state. As a result, the issue regarding the parking was not known until it was brought to the Owner's attention at cost certification. Therefore, the need for the waiver due to the Developer's default was not foreseeable or preventable. Additionally, the Owner states that granting this waiver better serves the policies and purposes identified in Tex. Gov't Code §§2306.001, 2306.002, 2306.359, and 2306.6701 because it promotes the efficient use of government funds. The Owner states that the construction of additional parking spaces that might go unused is not practical and the tenants would be better served with the proposed alternative to install 14 gabled-roof or 17 flat-roof carports to the existing open spaces.

Staff recommends approval of the requested waiver with the condition that the Owner install on the open parking spaces either 14 gabled-roof or 17 flat-roof carports, based on the building plan that is approved by the City, and at least one of the carports will have to be for an accessible parking space.



600 Congress, Suite 2200  
Austin, TX 78701  
Telephone: 512-305-4700  
Fax: 512-305-4800  
www.lockelord.com

Samuel R. Hagerty  
Direct Telephone: 512-305-4739  
Direct Fax: 512-391-4830  
samuel.hagerty@lockelord.com

August 25, 2021

**VIA E-MAIL TRANSMISSION**

Ms. Lee Ann Chance  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78711-3941

Re: Request for Waiver / Application Amendment  
Avondale Farms Seniors (the "**Development**")  
TDHCA No. 16373

Dear Lee Ann:

We represent the Applicant<sup>1</sup>. This letter constitutes a request for waiver of Section 10.101(b)(4)(M) of the Department's Uniform Multifamily Rules applicable to the Development and corresponding an amendment to the Application for the Development.

The Development contains the required number of parking spaces under the original City of Fort Worth site plan approval but does not provide an adequate number of such parking spaces at no charge under the Department's Multifamily Rules. Since the original site plan application did not request a senior- or low-income-related parking reduction, none was granted. The parking spaces that are for charge are garage spaces and are not readily removable or fairly distributable across the tenant population. Further, the Development is an Elderly Development and the tenants use less than half of the parking spaces currently provided. Therefore, the Applicant hereby requests a waiver to the parking space requirements and a corresponding amendment to the Application, and requests to provide an alternative amenity instead.

**Background Information**

The Development was initially sponsored and developed by Brandon Bolin in 2016 (the "**Initial Developer**"). After significant delays and cost overruns resulting in defaults under the applicable governing and financing documents, the Initial Developer was removed from the ownership

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<sup>1</sup> Capitalized terms used but not defined in this letter shall have the meanings given them in the 2016 QAP.

structure. Hunt Capital Partners, LLC was the Initial Developer's equity partner and was forced to step in the place of the Initial Developer with the Development as-is. The Development received its Certificates of Occupancy in December 2018.

In the process of cost certification with the Department, it has come to the Applicant's attention that the Development does not comply with the Department's rules regarding parking spaces. The Development currently contains 196 parking spaces, 182 of which are open ground parking spaces and 14 of which are enclosed garage spaces. Rent is charged for the 14 enclosed garage spaces. Section 10.101(b)(4)(m) of the Department's Uniform Multifamily Rules requires that the Development provide adequate parking spaces consistent with the local code, without charge to the tenants. Section 6.201 of the City of Fort Worth, Texas Code of Ordinances, requires multifamily properties to contain 1 parking space per bedroom plus 1 parking space per 250 square feet of common facilities. The Development consists of 175 bedrooms and 3,839 square feet of common facilities. Therefore, the City of Fort Worth requires the Development to contain 191 parking spaces. The Department's rules, in turn, require the Development to contain at least that many spaces at no charge to the tenants. So, while the Development contains sufficient parking under local ordinance, it has 9 too few available at no charge under the Department's rules.

Applicant has requested a variance under local ordinance. Because the Department's rules look to the local ordinance to determine parking space requirements, a variance would effectively lower the parking space requirement under the Department's rules. However, unlike many municipalities, the City of Fort Worth does not recognize a lower parking requirement for senior housing developments and has taken the position that a variance is not possible. For your reference, attached as Exhibit A is an email correspondence from the City of Fort Worth regarding the same.

Applicant has also considered making the garage parking spaces available at no charge to tenants, because the Development contains a sufficient number of overall parking spaces but not a sufficient number of free parking spaces. However, due to the requirements of IRC Section 42 to make common amenities available equally and fairly to all tenants, it is not clear how the Development should disburse the garages among the tenants.

Applicant employed an engineer to perform an analysis of the Development to determine where the additional required 9 parking spaces could be built and at what cost. The engineer found the only practical area to fit the additional parking spaces would be to construct tandem spaces on top of existing recreational area, at a cost of about \$35,000. For your reference, attached as Exhibit B is the construct quote and a depiction of the proposed placement for the new spaces. However, while tandem parking spaces are permitted under the local ordinance and the Department's rules, they pose practical concerns. For example, a tenant's car could be blocked in and, while towing is an option, the car would not be available when it's needed.

Notably, however, the Development's tenant population use less than half of the currently available parking spaces. According to a report from the property manager, there are only 81

vehicles registered for tenants. For reference, attached as Exhibit C is an email correspondence containing such report and pictures of regular use of the current parking spaces.

Rather than potentially running afoul of Section 42 requirements or expending significant funds to construct impractical additional spaces that would go unused, Applicant proposes an alternative amenity that would better serve the Development. Specifically, Applicant believes installing covered parking/carports over existing parking spaces would better serve the Development's tenants and would be a better use of the Development's funds. The covered parking would provide an additional benefit to the Development's tenants and would increase the Development's long-term value. To avoid any Section 42 common amenity distribution concerns, the Applicant proposes that the covered parking would be open, at no cost to tenants and available on a first-come-first-serve basis. Applicant has obtained bids for installation and can add 14 gabled-roof or 17 flat-roof covered parking/carports, at a cost of \$37,390. Such bid is attached as Exhibit D, for reference. The type of covered parking/carport would be determined through the building permitting process with the City of Fort Worth.

### **Waiver Request**

10 TAC § 11.207 sets forth the requirements for a rule waiver. In particular, the requesting party must show the following:

- The need for the waiver was not foreseeable or preventable by the Development Owner.

The Initial Developer's default in constructing the Development was not foreseeable or preventable by the Applicant. The Applicant intended that the Initial Developer oversee the development, construction and operation of the Development, in compliance with all plans, specifications, and regulations. By the time the Applicant removed the Initial Developer and took over control of the Development, the Development was already out of compliance with the Department's rules.

- Granting the waiver better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701.

The waiver will better serve the Department's statutory purposes of serving low-income tenants of the Development. The Development complies with local parking regulations and the tenants use less than half of the existing parking spaces. It would be an unfortunate waste of Development funds to construct additional parking spaces that will go unused and that will be impractical. Instead, the Applicant proposes an alternative amenity, which will augment the existing parking and will be beneficial to the tenants and the Development as a whole. Therefore, by allowing this waiver, the Department is assisting the Development in serving low-income individuals.

### **Amendment Request**

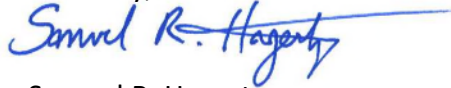
Applicant represented in its Application that the Development would contain 201 total parking spaces. If the waiver request above is granted, Applicant hereby requests a corresponding



amendment to the Application in line with the Department's determination regarding parking and alternative amenity requirements.

We appreciate your consideration of this request and are happy to provide additional information as needed.

Sincerely,

A handwritten signature in blue ink that reads "Samuel R. Hagerty". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Samuel R. Hagerty

cc: Aiza Galdo  
Simon Fraser  
Cynthia Bast

**EXHIBIT A**

**CITY EMAIL RE PARKING VARIANCE**

## Hagerty, Samuel

---

**From:** Simon Fraser <simon.fraser@huntcompanies.com>  
**Sent:** Tuesday, April 27, 2021 3:14 PM  
**To:** Hagerty, Samuel  
**Cc:** William Teschke  
**Subject:** FW: Avondale Farms Seniors [PD828] - Parking  
**Attachments:** PD828.PDF  
  
**Categories:** Yellow Category

**\*\* External email \*\***

Sam,  
See the below from Beth Knight at the City of Fort Worth.  
-Simon

---

**From:** Knight, Beth <Beth.Knight@fortworthtexas.gov>  
**Sent:** Tuesday, April 27, 2021 12:23 PM  
**To:** Simon Fraser <simon.fraser@huntcompanies.com>  
**Subject:** RE: Avondale Farms Seniors [PD828] - Parking

**\*\*\*EXTERNAL EMAIL\*\*\*** This email originated from outside of Hunt. Please use CAUTION. Do NOT click on links or open attachments unless you recognize the sender and KNOW the content is safe.

Simon,

Yes, both of those statements are correct.

1. The original zoning case ZC-08-121 did not mention senior housing with reduced parking, nor did a subsequent zoning case ZC-14-181 that re-aligned the internal boundaries.
2. The Board of Adjustment process to reduce the number of parking spaces is used for undeveloped sites that are outside of a Planned Development, instead of developed sites within PD zoning.

Let us know if you have any other questions or need additional information.

Sincerely,

*Beth Knight*, AICP

Senior Planner  
City of Fort Worth  
817-392-8190

How am I doing? Please feel free to contact my manager <mailto:Rochelle.Joseph@fortworthtexas.gov>

---

**From:** Simon Fraser <[simon.fraser@huntcompanies.com](mailto:simon.fraser@huntcompanies.com)>  
**Sent:** Friday, April 23, 2021 8:06 PM  
**To:** Knight, Beth <[Beth.Knight@fortworthtexas.gov](mailto:Beth.Knight@fortworthtexas.gov)>  
**Subject:** Avondale Farms Seniors [PD828] - Parking

Beth,

With regard to the parking at Avondale Farms Seniors, please confirm the following:

1. When the developer originally applied for site plan approval, no low-income senior parking reduction was requested at that time. Had one been requested, there is a good chance a reduction of some kind would have been approved based on the population served.
2. At this time, there is no process available to seek a reduction in the amount of required parking spaces for a site that is providing the minimum amount.

Simon Fraser | Director, Project Management  
Phone: 818-380-6168 | Cell: 323-400-8859  
15910 Ventura Blvd, Suite 1100 | Encino, CA | 91436  
Hunt Capital Partners | [simon.fraser@huntcompanies.com](mailto:simon.fraser@huntcompanies.com)  
[www.huntcapitalpartners.com](http://www.huntcapitalpartners.com)

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**EXHIBIT B**

**NEW PARKING QUOTE AND DEPICTION**

(attached)

EFT Enterprises, LLC  
R-Cabello

Hunt Capital Partners  
Avondale Farms Senior-Apts  
Ft Worth, TX

4-Mar-2021

Additional Surface Parking:					
	QTY	UOM	\$/UNIT	\$-TOTAL	REMARK
1					
1	1	LS	\$2,000	\$2,000	
2	100	LF	\$3.00	\$300	
3	2,400	SF	\$1.50	\$3,600	
4	2,400	SF	\$2.25	\$5,400	
5	1,600	SF	\$6.75	\$10,800	
6	800	SF	\$5.00	\$4,000	
7	150	LF	\$1.50	\$230	
8	9	Stalls	\$30	\$270	
9	1	LS	\$400	\$400	
10	1	LS	\$2,500	\$2,500	Includes Cut-&-Patch
11	1	LS	\$400	\$400	
12	1	LS	\$1,000	\$1,000	
13				\$0	
14				\$0	
15				\$0	
<b>Subtotal</b>				<b>\$30,900</b>	
	Contractor O/H	10.0%		\$3,090	
	Contractor Mark-Up	10.0%		\$3,400	
	Texas Renovation Tax	0.0%		\$0	Assume Non-Applicable
<b>Total</b>				<b>\$37,390</b>	

Say \$35-to-\$38,500

Scope Recap

1	Mobilization & Demo		16%	\$5,900
2	New Work		55%	\$20,700
3	Rework, Patch, Clean-Up		12%	\$4,300
4	Contractor Mark-Ups		17%	\$6,490
<b>Total</b>				<b>\$37,390</b>

\$0

14 garages  
 182 parking spaces  
 196 Total

*St. Michaels*  
 9/22/20



**EXHIBIT C**

**PARKING USE REPORT AND PICTURES**

(attached)



## Hagerty, Samuel

---

**From:** William Teschke <william.teschke@huntcompanies.com>  
**Sent:** Wednesday, March 24, 2021 1:15 PM  
**To:** Hagerty, Samuel; Simon Fraser  
**Subject:** FW: Parking Lot - Avondale  
**Attachments:** Parking Evening 1.jpg; Parking Evening 2.jpg; Parking Evening 3.jpg; Parking Evening 4.jpg; AFS Parking Lot AM Photos

**\*\* External email \*\***

---

**From:** Eileen Poole <eileen.poole@assetliving.com>  
**Sent:** Monday, February 15, 2021 8:56 AM  
**To:** William Teschke <william.teschke@huntcompanies.com>; Beth Thompson <beth.thompson@huntcompanies.com>; Simon Fraser <simon.fraser@huntcompanies.com>  
**Subject:** Parking Lot - Avondale

**\*\*\*EXTERNAL EMAIL\*\*\*** This email originated from outside of Hunt. Please use CAUTION. Do NOT click on links or open attachments unless you recognize the sender and KNOW the content is safe.

Good Morning team,

Please find the attached photos for our call tomorrow. Avondale has 81 cars registered for residents at this time. I am looking forward to speaking with you all tomorrow.

Stay warm!

Thank you,



**Eileen Poole**  
Regional Supervisor

**P 972.581.0865 | F 972.581.0965**  
12720 Hillcrest Rd | Suite 400 | Dallas, TX 75230

[AssetLiving.com](http://AssetLiving.com)

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Morning Typical Parking Space Use:





Evening Typical Parking Space Use:





**EXHIBIT D**

**NEW COVERED PARKING QUOTE**

(attached)

EFT Enterprises, LLC  
R-Cabello

Hunt Capital Partners  
Avondale Farms Senior-Apts  
Ft Worth, TX

28-Jul-2021

Carpports						
	Gabled Deck	QTY	UOM	\$/UNIT	\$-TOTAL	REMARK
1	Mobilization & Demo AC-Paving	1	LS	\$500	\$500	
2	Gabled Deck w/26-Ga Gavalume	14	Ea	\$2,000	\$28,000	
3	Light Fixture 1-Ea per 2-Carpports	7	Ea	\$250	\$1,750	
4	Patch AC-Paving	14	Ea	\$200	\$2,800	
5					\$0	
6					\$0	
7					\$0	
8					\$0	
9					\$0	
10					\$0	
<b>Subtotal</b>					<b>\$33,050</b>	
	Contractor O/H	5.0%			\$1,650	
	Contractor Mark-Up	10.0%			\$3,470	
	Texas Renovation Tax	0.0%			\$0	Assume Non-Applicable
<b>Total</b>		<b>14</b>	<b>Ea</b>	<b>\$2,726</b>	<b>\$38,170</b>	

Budget >>> \$37,390

Carpports						
	Single-Slope Deck	QTY	UOM	\$/UNIT	\$-TOTAL	REMARK
1	Mobilization & Demo AC-Paving	1	LS	\$500	\$500	
2	Sgl-Slope Deck: 26-Ga Gavalume	17	Ea	\$1,600	\$27,200	
3	Light Fixture 1-Ea per 2-Carpports	9	Ea	\$250	\$2,130	
4	Patch AC-Paving	17	Ea	\$200	\$3,400	
5					\$0	
6					\$0	
7					\$0	
8					\$0	
9					\$0	
10					\$0	
<b>Subtotal</b>					<b>\$33,230</b>	
	Contractor O/H	5.0%			\$1,660	
	Contractor Mark-Up	10.0%			\$3,490	
	Texas Renovation Tax	0.0%			\$0	Assume Non-Applicable
<b>Total</b>		<b>17</b>	<b>Ea</b>	<b>\$2,258</b>	<b>\$38,380</b>	

Budget >>> \$37,390

1f



**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on Resolution No. 22-003 authorizing request to the Texas Bond Review Board for annual waiver of Single Family Mortgage Revenue Bond set-aside requirements; authorizing the execution of documents and instruments relating thereto; making certain findings and determinations in connection therewith; and containing other provisions relating to the subject

**RECOMMENDED ACTION**

Adopt attached resolution.

**BACKGROUND**

Tex. Gov't Code §2306.142(l) requires that, beginning on September 1, 2002, and in each subsequent State fiscal year, the Department allocate, through set-aside or reservation of funds, not less than 40% of the total single-family mortgage revenue bond loan volume for mortgage loans, including subprime mortgage loans, to be originated in underserved economic and geographic submarkets in the state. Pursuant to Tex. Gov't Code §2306.142(m), the Department has requested and the Texas Bond Review Board (BRB) has granted, a waiver of the requirements of Tex. Gov't Code §2306.142(l) (the Waiver) for all single family mortgage revenue bonds issued by the Department since 2002. While previously requested and received on an issue-by-issue basis, since July 20, 2017, BRB has granted Waivers to the Department on a calendar year basis. With each Waiver request, the Department includes a report (the Report) prepared by the Department's Financial Advisor, Stifel, Nicolaus and Company (Stifel).

Exhibit A to the attached resolution is the Report prepared by Stifel, dated September 27, 2021, which concludes that compliance with the requirements of Tex. Gov't Code §2306.142(l) remains unfeasible and could damage the financial condition of the Department. Staff requests that the Board accept this Report and authorize the submission of a request to BRB for a Waiver for all single family mortgage revenue bonds issued by the Department in calendar year 2022.

The annual Waiver also allows single family mortgage revenue bonds issued by the Department to qualify as exempt from formal approval by BRB, as these bonds are self-supporting revenue security issues that have no general revenue impact to the state. Exemption from formal approval may result in faster approval, but pursuant to 34 TAC §181.9(d), one or more members of the BRB can, within six business days of receipt of an issue for approval, provide a written request that the proposed issuance adhere to the formal approval process.

## RESOLUTION NO. 22-003

RESOLUTION AUTHORIZING REQUEST TO TEXAS BOND REVIEW BOARD FOR ANNUAL WAIVER OF SINGLE-FAMILY MORTGAGE REVENUE BOND SET-ASIDE REQUIREMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING THERETO; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; 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 a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

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

WHEREAS, Section 2306.142 of the Act requires the Department to evaluate the feasibility of a single-family mortgage revenue bond program designed to meet the credit needs of the underserved economic and geographic submarkets of the State, including those submarkets served disproportionately by subprime lenders; and

WHEREAS, Section 2306.142(l) of the Act requires that, beginning on September 1, 2002, and in each subsequent State fiscal year, the Department allocate, through set-aside or reservation of funds, not less than 40 percent of the total single-family mortgage revenue bond loan volume for mortgage loans, including subprime mortgage loans, to be originated in underserved economic and geographic submarkets in the State (the "Section 2306.142(l) Requirements"); and

WHEREAS, Section 2306.142(m) of the Act provides that if the Board determines in any year that bonds intended to be issued to achieve the purposes of Section 2306.142 of the Act are unfeasible or would damage the financial condition of the Department, the Board may formally appeal to and request a waiver from the Texas Bond Review Board (the "Bond Review Board") of

the Section 2306.142(l) Requirements; and

WHEREAS, at the February 28, 2017 meeting, the Board was presented with a report of its financial advisor, George K. Baum & Company (“GKB”) that addresses the feasibility and potential economic impact to the Department of fulfilling the Section 2306.142(l) Requirements (the “Initial Report”), which Report has been submitted to the Bond Review Board; and

WHEREAS, in reliance upon the Initial Report and by resolution No. 17-019 approved on May 25, 2017, the Board authorized submission of a request to the Bond Review Board for a waiver of the Section 2306.142(l) Requirements for all single-family revenue bonds issued by the Department in calendar year 2017, and the Bond Review Board granted such request on July 20, 2017 (the “2017 Waiver”); and

WHEREAS, for each succeeding calendar year following the 2017 Waiver, in reliance on an updated report of its financial advisor, the Board has authorized submission of a request to the Bond Review Board for a waiver of the Section 2306.142(l) Requirements for all single-family revenue bonds issued by the Department in such calendar year, and the Bond Review Board has granted each such request, including most recently on November 19, 2020, for the 2021 calendar year; and

WHEREAS, the Board desires to accept and rely on the updated report of Stifel Nicolaus & Company, as successor to GKB as financial advisor to the Department, dated September 27, 2021 (the “Updated Report”), regarding the Section 2306.142(l) Requirements attached hereto as Exhibit A; and

WHEREAS, in reliance on the Updated Report, the Board now desires to authorize submission to the Bond Review Board of a request for a waiver of the Section 2306.142(l) Requirements for all single-family revenue bonds issued by the Department in calendar year 2022;

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

#### ARTICLE 1

##### APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Acceptance of Updated Report. The Board hereby accepts the Updated Report.

Section 1.2 Request for Waiver of Section 2306.142(l) Requirements. The submission of a request for a waiver of the Section 2306.142(l) Requirements for all single-family revenue bonds issued by the Department in calendar year 2022 is hereby authorized and approved.

Section 1.3 Execution and Delivery of Documents. The Authorized Representatives are each hereby authorized to execute and deliver all agreements, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, 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 1.4 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 Multifamily Bonds 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 1.5 Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection in carrying out the purposes of this Resolution are hereby ratified and confirmed.

## 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, 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 14th day of October, 2021.

Exhibit A

*[continues next page]*

September 27, 2021

Executive Director and Board of Directors  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

At the request of Department staff, Stifel, Nicolaus & Company (“Stifel”) prepared this report to address certain provisions of the Texas Government Code, Title 10, Subtitle G, Chapter 2306, specifically the feasibility and potential economic impact to the Department of complying with Section 2306.142(l). As noted below, we are not providing the Department with any legal advice. We are retained by the Department in an expert financial capacity only. For legal analysis of Texas Government Code, Title 10, Subtitle G, Chapter 2306, or any other applicable law or regulation, please contact your legal counsel.

This report updates and reiterates our reports to the Board dated February 28, 2017, December 14, 2017, October 11, 2018, September 24, 2019, and September 25, 2020 (the “Prior Reports”) and provides our analysis of feasibility and economic impact, as well as a summary of how the Department serves the credit needs of borrowers in underserved economic and geographic submarkets. We understand that the Department completed the market study required under Section 2306.142(c) in 2002. This report reconfirms the findings of our Prior Reports and concludes that compliance with the requirements of Section 2306.142(l) remains unfeasible and could damage the financial condition of the Department. This is consistent with the conclusion reached by the Bond Review Board (“BRB”) in granting waivers to the Department since 2002.

## Background

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Section 2306.142(l) of the Texas Government Code requires that single family mortgage revenue bonds issued by the Department contain specific set-asides or reservations of funds for mortgage loans, including subprime mortgage loans<sup>(1)</sup>, to be originated in underserved economic and geographic submarkets in the state. Specifically, Section 2306.142(l) states:

*In the state fiscal year beginning on September 1, 2002, and in each subsequent state fiscal year, the department shall allocate not less than 40 percent of the total single-family mortgage revenue bond loan volume to meet the credit needs of borrowers in underserved economic and geographic submarkets in the state, subject to the identification of a satisfactory market volume demand through the market study.*

As permitted under Section 2306.142(m) and prior to the first annual waiver granted by the BRB on July 20, 2017, the Department requested and received from the BRB a waiver of this provision for every new origination single family mortgage revenue bond issue closed by the Department since 2002. The BRB began issuing annual waivers based, in part, on the Board’s acceptance, approval and submission to the BRB of Stifel/George K. Baum’s report. These waivers were granted on the basis that compliance with Section 2306.142(l) is unfeasible and could damage the financial condition of the Department.

## Feasibility and Economic Impact

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Under current market conditions, fulfilling the requirements of Section 2306.142(l) (specifically allocating or reserving any portion of the bond proceeds) is not feasible, not economically viable, would not be “consistent with the reasonable financial operation of the Department”, and could damage the financial condition of the

<sup>(1)</sup> Section 2306.142 contains multiple references to the inclusion of subprime borrowers as part of underserved economic and geographic submarkets. The complete text of Section 2306.142 is attached.

Department. Further, it is anticipated and assumed that, due to the financing structures implemented by the Department, the Department will continue to request an annual waiver from BRB of the requirements of Section 2306.142(l).

Compliance with the 40% set aside requirement of Section 2306.142(l), which includes the subprime requirement of Section 2306.142(f), is not feasible and could damage the financial condition of the Department for the following reasons:

- 1) Single family indentures require “MBS eligible” loans. The Department has not used “whole loan” collateral to support its indentures since 1988. Since then, the Department pools its mortgage loans into mortgage-backed securities (“MBS”) that are backed by Ginnie Mae, Fannie Mae, or Freddie Mac, which effectively guarantee the timely receipt of underlying mortgage loan payments to meet the debt service requirements of the Department’s indentures. This financing structure results in a higher rating on the bonds and a lower cost of debt, while the Department pledges fewer assets to the bond indenture than otherwise would be required. In addition, the MBS structure eliminates (i) the cost of overcollateralization, (ii) the need to fund debt service reserves, and (iii) the costs, expenses, and losses typically associated with whole loans.

Each agency (Ginnie Mae, Fannie Mae, and Freddie Mac) has specific mortgagor eligibility requirements for mortgage loans that are securitized into an MBS. While the definition of subprime has changed over time (particularly since the events of 2008), subprime loans generally are not eligible for securitization. As such, the Department would have to maintain those loans as whole loans. As detailed in the previous paragraph, there are significant economic reasons for the Department to maintain its MBS financing structure as it allows the Department to assist the maximum amount of low and moderate income homebuyers in the most efficient manner without incurring unnecessary credit risk. The cost of foregoing these efficiencies to accommodate the introduction of a significant number of low rated whole loans would be impractical and could damage the financial condition of the Department.

- 2) Master Servicers have minimum credit requirements. The Department uses a Master Servicer to purchase, pool, and service mortgage loans originated through its single family mortgage programs. The Master Servicer typically has minimum credit requirements for eligible borrowers. The Department’s Master Servicer, Idaho Housing and Finance Authority (“IHFA”), has a minimum FICO score requirement of 620. Therefore, the Department cannot originate loans for credits below 620 FICO due to the Master Servicer’s credit requirements.
- 3) The 40% set-aside requirement creates significant interest rate risk in the form of rate buy-down and/or unexpended proceeds call risk. Because the bond rate is set at closing, the Department is subject to interest rate risk on set-aside amounts. If the market interest rate for mortgage loans drops, the Department’s mortgage rate may be unattractive. For short periods of time or for relatively small amounts, this is manageable; however, a 40% set-aside could be quite costly. The Department would be faced with a choice: a) contribute its own funds to “buy down” the mortgage rate, or b) invoke a non-origination call on the bonds, potentially damaging the Department’s reputation among bond purchasers and possibly increasing its borrowing cost in the future. Once again, compliance with Section 2306.142(l) is not feasible and could damage the financial condition of the Department.

- 4) Excessive cost of negative arbitrage to meet the 40% set aside requirement. Negative arbitrage is the cost that results when the interest rate paid on the bonds exceeds the interest rate earned on bond proceeds. When bond proceeds are required to be set aside, the required amount is deposited and invested until used; concurrently, the bonds accrue and pay interest at a higher rate than that earned on the set-aside amounts. For the last ten years or so, interest rates on 30-year housing bonds have greatly exceeded the short-term investment rates at which bond proceeds can be invested.

However, a financing structure with no set-aside requirements can, and has been, implemented by the Department resulting in significant savings related to negative arbitrage. When the requirements of Section 2306.142(I) are waived, the Department is able to originate and pool mortgage loans in advance of the bond issuance and can purchase the resulting MBS using bond proceeds at the closing of the bond issue. This eliminates negative arbitrage associated with that portion of loans purchased when the bonds are issued.

While a small amount of negative arbitrage might be absorbed by a financing structure, the amount of negative arbitrage associated with setting aside 40% of the bond proceeds would be cost prohibitive. The Department could be forced to make an outright donation to the structure (as opposed to a contribution that could be recouped). For example, the Department would need to set-aside more than \$180 million in loans annually to fulfill a 40% set aside requirement on \$450 million total loan volume. The cost of “negative arbitrage” associated with reserving \$180 million of loans annually (40% of \$450 million) could exceed \$4.5 million per year in the current market. The negative arbitrage cost would be significantly higher if the Department issued taxable bonds. Historically, the vast majority of funds set aside for targeted areas (required by the IRS to meet tax law) and similar requirements are not used, remain idle, and incur negative arbitrage for the entire one-year set-aside period.

If the Department chose to fund the negative arbitrage by increasing the rate charged to the homebuyers, the resulting rate would be (i) too high to be attractive, making origination unlikely and exacerbating the cost of the negative arbitrage, and (ii) too high to comply with Internal Revenue Service requirements related to the permissible spread between bond yield and mortgage yield for tax exempt bond issues.

### **Serving the Needs of Borrowers in Underserved Economic and Geographic Submarkets**

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The Department regularly serves borrowers in underserved economic and geographic submarkets. Through its “to-be-announced” (or TBA) program, also known as the Taxable Mortgage Program (“TMP-79”), the Department offers daily financing options to homebuyers throughout the State. TMP-79, which began in October 2012, is a continuous funding program that currently serves as the Department’s primary mortgage loan origination mechanism for single family programs. Summary highlights of TMP-79 include the following:

- TMP-79 is currently the only statewide down payment assistance program that offers financing to borrowers with FICO scores as low as 620 without charging a penalty at loan closing.
- Since October 2012, the Department has financed and purchased over \$8 billion in first lien mortgage loans and provided over \$318.9 million in associated down payment and closing cost assistance (in the form of a 30 year term, 0% interest, due on sale or refinance, second mortgage loans).
- Approximately 71% of program borrowers earn less than 80% of Area Median Income (“AMI”).



- The Department offers free online Homebuyer Education training. Since the launch in March 2016 there have been 77,716 individuals that have completed the online training and 20,742 of those individuals fulfilled the training in 2021. This tool educates first-time homebuyers regarding the complex process of purchasing a home and is one of the requirements for participation in one of the Department’s single family loan programs.
- The Department is responsible for the Texas Statewide Homebuyer Education Program, which is offered through third party providers. This program provides training to housing counselors with respect to the content and techniques for providing comprehensive pre- and post-purchase homebuyer education that is used to provide quality homebuyer education throughout the state.

## **Conclusion**

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Based on the costs and risks described above, and consistent with the conclusion reached by the Bond Review Board (“BRB”) in granting waivers to the Department since 2002, we believe that meeting the requirements of Section 2306.142(l) remains unfeasible.


The Department, however, continues to achieve its objectives by adapting and innovatively structuring its programs to serve an ever-expanding borrower base of Texas homebuyers in underserved markets – economic, credit, geographic, or otherwise. The Department’s use of MBS to secure its bonds programs significantly reduces the Department’s risk and borrowing cost. Therefore, the Department expects to continue to request an annual waiver of Section 2306.142(l) from BRB each calendar year. The Department will continue to monitor its ability to meet these requirements as it looks for ways to better serve its borrower base, which is composed primarily of low, very low, and moderate income first-time homebuyers. The Department also will maintain the integrity of its bond indentures and operate in a manner that is “consistent with the reasonable financial operation of the Department”.

## **Use of the Report**

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It is expressly understood and agreed that (a) this report is provided solely for the information of and assistance to the Texas Department of Housing and Community Affairs and the Texas Bond Review Board and is not to be used, circulated, quoted or otherwise referred to without our written consent, and (b) this report is not intended, and is not under any circumstances to be construed, as legal advice or as requiring us to perform services which may constitute the practice of law. We are retained and engaged by the Department in an expert financial capacity only. Our statements and conclusions are based in part on information provided to us by Department staff, and we assume that information to be materially complete, accurate and true. We have not undertaken any responsibility or duty to independently verify that information, and this report is not intended to and does not attest that such information is materially complete, accurate or true.

Sincerely,



Barton Withrow  
Director  
Stifel Public Finance

## GOVERNMENT CODE

### CHAPTER 2306. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Sec. 2306.142. AUTHORIZATION OF BONDS. (a) Subject to the requirements of this section, the board shall authorize all bonds issued by the department.

(b) If the issuance is authorized by the board, the department shall issue single-family mortgage revenue bonds to make home mortgage credit available for the purchase of newly constructed or previously owned single-family homes to economic and geographic submarkets of borrowers who are not served or who are substantially underserved by the conventional, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Federal Housing Administration home mortgage lending industry or by housing finance corporations organized under Chapter 394, Local Government Code.

(c) The board by rule shall adopt a methodology for determining through a market study the home mortgage credit needs in underserved economic and geographic submarkets in the state. In conducting the market study required by this subsection, the department or its designee shall analyze for the underserved economic and geographic submarkets, at a minimum, the following factors:

- (1) home ownership rates;
- (2) loan volume;
- (3) loan approval ratios;
- (4) loan interest rates;
- (5) loan terms;
- (6) loan availability;
- (7) type and number of dwelling units; and

(8) use of subprime mortgage loan products, comparing the volume amount of subprime loans and interest rates to "A" paper mortgage loans as defined by Standard and Poor's credit underwriting criteria.

(d) The department or its designee shall analyze the potential market demand, loan availability, and private sector home mortgage lending rates available to extremely low, very low, low, and moderate income borrowers in the rural counties of the state, in census tracts in which the median family income is less than 80 percent of the median family income for the county in which the census tract is located, and in the region of the state adjacent to the international border of the state. The department or its designee shall establish a process for serving those counties, census tracts, and regions through the single-family mortgage revenue bond program in a manner proportionate to the credit needs of those areas as determined through the department's market study.

(e) Using the market study and the analysis required by this section, the board shall evaluate the feasibility of a single-family mortgage revenue bond program with loan marketing, eligibility, underwriting, structuring, collection, and foreclosure criteria and with loan services practices that are designed to meet the

credit needs of the underserved economic and geographic submarkets of the state, including those submarkets served disproportionately by subprime lenders.

(f) In evaluating a proposed bond program under this section, the board shall consider, consistent with the reasonable financial operation of the department, specific set-asides or reservations of mortgage loans for underserved economic and geographic submarkets in the state, including the reservation of funds to serve borrowers who have "A-" to "B-" credit according to Standard and Poor's credit underwriting criteria.

(g) The department may use any source of funds or subsidy available to the department to provide credit enhancement, down payment assistance, pre-homebuyer and post-homebuyer counseling, interest rate reduction, and payment of incentive lender points to accomplish the purposes of this section in a manner considered by the board to be consistent with the reasonable financial operation of the department.

(h) In allocating funds under Subsection (g), the department's highest priority is to provide assistance to borrowers in underserved economic and geographic submarkets in the state. If the board determines that sufficient funds are available after fully meeting the credit needs of borrowers in those submarkets, the department may provide assistance to other borrowers.

(i) The board shall certify that each single-family mortgage revenue bond issued by the department under this section is structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the state.

(j) After any board approval and certification of a single-family mortgage revenue bond issuance, the department shall submit the proposed bond issuance to the Bond Review Board for review.

(k) In the state fiscal year beginning on September 1, 2001, the department shall:

(1) adopt by rule a market study methodology as required by Subsection (c);

(2) conduct the market study;

(3) propose for board review a single-family mortgage revenue bond program, including loan feature details, a program for borrower subsidies as provided by Subsections (g) and (h), and origination and servicing infrastructure;

(4) identify reasonable capital markets financing;

(5) conduct a public hearing on the market study results and the proposed bond program;

and

(6) submit for review by the Bond Review Board the market study results and, if approved and certified by the board, the proposed bond program.

(l) In the state fiscal year beginning on September 1, 2002, and in each subsequent state fiscal year, the department shall allocate not less than 40 percent of the total single-family mortgage revenue bond loan volume to meet the credit needs of borrowers in underserved economic and geographic submarkets in the state, subject to the identification of a satisfactory market volume demand through the market study.

(m) On completion of the market study, if the board determines in any year that bonds intended to be issued to achieve the purposes of this section are unfeasible or would damage the financial condition of the department, the board may formally appeal to the Bond Review Board the requirements of Subsection (k)

or (l), as applicable. The Bond Review Board has sole authority to modify or waive the required allocation levels.

(n) In addition to any other loan originators selected by the department, the department shall authorize colonia self-help centers and any other community-based, nonprofit institutions considered appropriate by the board to originate loans on behalf of the department. All non-financial institutions acting as loan originators under this subsection must undergo adequate training, as prescribed by the department, to participate in the bond program. The department may require lenders to participate in ongoing training and underwriting compliance audits to maintain good standing to participate in the bond program. The department may require that lenders meet appropriate eligibility standards as prescribed by the department.

(o) The department shall structure all single-family mortgage revenue bond issuances in a manner designed to recover the full costs associated with conducting the activities required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 24, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.02, eff. Sept. 1, 2001.

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**BOARD ACTION REQUEST**  
**BOND FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action on Inducement Resolution No. 22-004 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

**WHEREAS**, seven bond pre-applications, as further detailed below, were 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. 22-004 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 \$163.4M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year is \$169,558,383 and was reserved with applications submitted as part of the 2021 Lottery or applications subsequently added to the Department's waiting list. The pre-applications listed below will be included as part of the Department's participation in the 2022 Lottery. The Department's set-aside for 2022 has not been announced, but is anticipated to be approximately \$175M. Previously induced applications, in addition to those being induced today, will bring the 2022 Lottery total to approximately \$623M.

### **21628 – The Preserve at Cottonwood Creek**

New construction of 226 units is proposed for this multifamily development to be located at 1501 E Belt Line Road in Wilmer, Dallas County. This transaction is proposed to be Priority 2, and will serve the general population. Applicant has disclosed a Neighborhood Risk Factor (NRF) related to the underperformance of Kennedy-Curry Middle School. Pursuant to §11.101(a)(3)(C) of the 2021 QAP, mitigation is not required for the underperforming school NRF. All 226 units will be rent and income restricted at 60% of Area Median Family Income (AMFI). The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: \$30,000,000

### **21629 – Union Acres**

The acquisition and rehabilitation of 100 units is proposed for this multifamily development to be located at 818 Cotton Ford Road in Center, Shelby County. This transaction is proposed to be Priority 1a, and will continue to serve the general population. Applicant has disclosed an Undesirable Site Feature related to the development's proximity to active railroad tracks. In order to mitigate the Undesirable Site Feature, per §11.101(a)(2)(E) of the 2021 QAP, applicant has engaged a qualified Third Party to perform a noise assessment and commits to perform sound mitigation in accordance with HUD standards, as if they were directly applicable to the development. Fifty of the units will be rent and income restricted at 50% of Area Median Family Income (AMFI), and another fifty units will be rent and income restricted at 60% of AMFI. The Department has received letters of support from the Mayor of Center, Texas, David Chadwick, and State Representative for District 9, Chris Paddie.

Bond Inducement Amount: \$10,100,000

### **21630 – Palladium Glenn Heights Town Center**

New construction of 240 units is proposed for this multifamily development to be located on Hampton Road in Glenn Heights, Ellis County. This transaction is proposed to be Priority 2, and will serve the general population. The applicant has indicated they plan to pursue income averaging for the development. Seven of the units will be rent and income restricted at 40% of AMFI, seven units will be rent and income restricted at 50% of AMFI, 211 units will be rent and income restricted at 60% of AMFI, nine units will be rent and income restricted at 70% of AMFI, and the remaining six units will be rent and

income restricted at 80% of AMFI. The Department has received two letters of support for the proposed development from Mayor Pro-Tem of Glenn Heights, Sonja A. Brown, and City Councilmember Emma Ipaye.

Bond Inducement Amount: \$26,000,000

**22600 – Harvest Ridge at Brushy Creek**

New construction of 276 units is proposed for this multifamily development to be located at the southeast corner of County Road 137 and County Road 1660 in Hutto, Williamson County. This transaction is proposed to be Priority 2, and will serve the general population. Fourteen of the units will rent and income restricted at 50% of AMFI, and the remaining 262 units will be rent and income restricted at 60% of AMFI. The Department has received four letters of support for the proposed development from Hutto City Councilmembers Tanner Rose, Daniel Thornton, Mandi Villarreal Salvo, and Peter Gordon.

Bond Inducement Amount: \$40,000,000

**22601 – Torrington Arcadia Trails**

New construction of 250 units is proposed for this multifamily development located at the northeast corner of Mercury Road and S. Beltline Road in Balch Springs, Dallas County. This transaction is proposed to be Priority 1a, and will serve the general population. One hundred twenty-five of the units will be rent and income restricted at 50% of AMFI, and the remaining 125 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: \$35,000,000

**22603 – Marine Park**

The acquisition and rehabilitation of 124 units is proposed for this multifamily development located at 3144 NW. 33<sup>rd</sup> Street in Fort Worth, Tarrant County. This transaction is proposed to be Priority 1a, and will continue to serve the general population. Sixty-two of the units will be rent and income restricted at 50% of AMFI, and the remaining 62 units will be rent and income restricted at 60% of AMFI. At the TDHCA Board meeting on September 9, 2021, a waiver was granted to the proposed development regarding its eligibility under 10 TAC §11.101(b)(1)(C) related to Ineligibility of Developments with Certain School Attendance Zones. Additionally, applicant has disclosed a Neighborhood Risk Factor (NRF) related to the underperformance of Effie Morris Elementary School. Pursuant to §11.101(a)(3)(C) of the 2021 QAP, mitigation is not required for the underperforming school NRF. The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: \$15,800,000

**22604 – Socorro Village**

The acquisition and rehabilitation of 53 units is proposed for this multifamily development located at 148 Buford Road in Socorro, El Paso County. This transaction is proposed to be Priority 1a, and will



continue to serve the general population. Twenty-seven of the units will be rent and income restricted at 50% of AMFI, and the remaining 26 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: \$6,500,000

## RESOLUTION NO. 22-004

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 Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14<sup>th</sup> day of October, 2021.



**EXHIBIT "A"**

Descriptions of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
Union Acres	Center 818 Cotton Ford Road, LP, a Texas limited partnership	General Partner: Center 818 Cotton Ford Road GP, LLC, a Texas limited liability company	\$10,100,000
Costs: Acquisition/rehabilitation of a 100-unit affordable, multifamily housing development to be known as Union Acres, located at 818 Cotton Ford Road, Center, Shelby County, Texas 75935			

Project Name	Owner	Principals	Amount Not to Exceed
Palladium Glenn Heights Town Center	Palladium Glenn Heights II, LTD., a Texas limited partnership	General Partner: Glenn Heights II GP, LLC, a Texas limited liability company;	\$26,000,000
Costs – Acquisition/construction of an approximately 240 unit affordable, multifamily housing development to be known as Palladium Glenn Heights Town Center, located East of South Hampton Road between Craddock Drive and just north of Palladium Glenn Heights (Lot 1, Block 1 of Palladium Addition), Glenn Heights, Ellis County, Texas 75154			

Project Name	Owner	Principals	Amount Not to Exceed
Harvest Ridge at Brushy Creek	Harvest Ridge at Brushy Creek, LP, a Texas limited partnership	General Partner: Frameworks Community Development Corporation, Inc., or other affiliate thereof	\$40,000,000
Costs – Acquisition/construction of a 276 unit affordable, multifamily housing development to be known as Harvest Ridge at Brushy Creek, located at SEQ County Road 137 and FM 1660, Hutto, Williamson County, Texas 78634			

Project Name	Owner	Principals	Amount Not to Exceed
Torrington Arcadia Trails	Torrington Arcadia Trails, LP, a Texas limited partnership	General Partner: Balch Springs Affordable GP, LLC, a Texas limited liability company	\$35,000,000
Costs – Acquisition/construction of a 250 unit affordable, multifamily housing development to be known as Torrington Arcadia Trails, located at NEQ of Mercury Road and S. Beltline Road, Balch Springs, Dallas County, Texas 75181			

Project Name	Owner	Principals	Amount Not to Exceed
Marine Park	Marine Park 34, LLC, a Texas limited liability company	Managing Member: FWHS Marine Park 34 MM, LLC, a Texas limited liability company	\$15,800,000
Costs – Acquisition/rehabilitation of a 124 unit affordable, multifamily housing development to be known as Marine Park, located at 3144 NW. 33rd Street, Fort Worth, Tarrant County, Texas 76106			

Project Name	Owner	Principals	Amount Not to Exceed
Socorro Village	Socorro Village 34, LLC, a Texas limited liability company	Managing Member: CLJR Socorro Village 34 MM, LLC, a Texas limited liability company	\$6,500,000
Costs – Acquisition/rehabilitation of a 53 unit affordable, multifamily housing development to be known as Socorro Village, located at 148 Buford Road, Socorro, El Paso County, Texas 79927			

Project Name	Owner	Principals	Amount Not to Exceed
The Preserve at Cottonwood Creek	LSBD Wilmer Belt Line, LLC, a Minnesota limited liability company	Managing Member: LSBD Wilmer Belt Line MM, LLC, a Minnesota limited liability company	\$30,000,000
Costs – Acquisition/construction of a 226 unit affordable, multifamily housing development to be known as The Preserve at Cottonwood Creek, located at 1501 East Belt Line Road, Wilmer, Dallas County, Texas 75172			



617 Tenaha Street • P.O. Box 1744  
Center, Texas 75935-1744

(936) 598-2941 • Fax (936) 598-2615  
[www.center-texas.org](http://www.center-texas.org)

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August 25, 2021

Teresa Morales, Director of Multifamily Bonds  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Dear Ms. Morales,

I write to express my support for a bond allocation from the Texas Department of Housing and Community Affairs for the rehabilitation of Union Acres Apartments. Union Acres, located at 818 Cotton Ford Road, Center, Shelby County, TX, is a 100-unit, Project-Based Voucher Section 8 development for a low-income family population. The multi-family development was built in 1970 and is comprised of 1, 2, 3, 4 and 5 bedroom configurations.

Leading the redevelopment plans of Union Acres is a joint effort between The ITEX Group, Nautical Affordable Housing Solutions, Jeshurun Development and J. Allen Management Company. The development, which is entering its fiftieth year in operation, is in need of rehabilitation. The proposed request for financing by the partnership will be utilized to provide upgraded amenities for the residents to enjoy.

The ITEX Group, Nautical Affordable Housing Solutions, Jeshurun Development and J. Allen Management Company have partnered on a number of multifamily housing complexes in an effort to preserve and maintain affordable housing options across Texas, and will do the same for Union Acres.

The proposed rehabilitation has garnered the support of the community and serves some of the most vulnerable populations in the town of Center and in Shelby County more broadly. For these reasons, I am in full support of the application for funding.

Thank you for your consideration, and if I can be of any further assistance, please do not hesitate to call me at (936) 598-2941 or email at [Davidchadwick70@yahoo.com](mailto:Davidchadwick70@yahoo.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "David Chadwick", written in a cursive style.

David Chadwick  
Mayor



**CHRIS D. PADDIE**  
TEXAS HOUSE OF REPRESENTATIVES  
DISTRICT 9

May 5, 2020

Mr. David Long  
President  
Texas State Affordable Housing Corporation  
2200 E. MLK Jr. Blvd.  
Austin, TX 78702

Dear Mr. Long,

I have received the Public Notification for Union Acres Apartments in Center, Texas located in House District 9, which I represent.

I am pleased to lend my support to this development, which will serve the constituents in my District. Please do not hesitate to contact my office if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Chris Paddie".

Chris Paddie

September 22, 2021

Texas Department of Housing and Community Affairs  
Theresa Morales, Bond Finance Director  
221 E. 11th Street  
Austin, Texas 78701

Attn: Theresa Morales

Re: Harvest Ridge Apartments, LP - TDHCA #22600

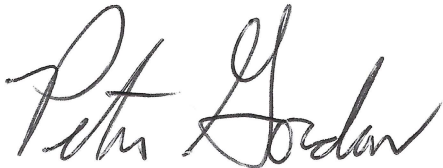
Dear Ms. Morales,

As an elected official for the city of Hutto (City Council, Place 4), I am writing to you to express my support for the Texas Department of Housing and Community Affairs Bond Application #22600, Harvest Ridge Apartments, LP, proposed to be located at the southeast quadrant of County Road 137 and FM 1660 that is seeking financing from TDHCA in the form of 4% tax credits and Private Activity Bonds.

The unprecedented, and well documented growth in Williamson County, specifically Hutto, is indicative of the growing need for affordable housing in the community of Hutto. I have been in support of affordable housing opportunities within our City and think this project would help fill that need.

If I can answer any questions, or be of further assistance, please contact me at 512-269-1271.

Sincerely,

A handwritten signature in black ink that reads "Peter Gordon". The signature is written in a cursive, flowing style.

Peter Gordon  
Hutto City Council, Place 4

September 22, 2021

Texas Department of Housing and Community Affairs  
Theresa Morales, Bond Finance Director  
221 E. 11th Street  
Austin, Texas 78701

Attn: Theresa Morales

Re: Harvest Ridge Apartments, LP - TDHCA #22600

Dear Ms. Morales,

As an elected official for the city of Hutto, I am writing to you to express my support for the Texas Department of Housing and Community Affairs Bond Application #22600, Harvest Ridge Apartments, LP, proposed to be located at the southeast quadrant of County Road 137 and FM 1660 that is seeking financing from TDHCA in the form of 4% tax credits and Private Activity Bonds.

The unprecedented, and well documented growth in Williamson County, specifically Hutto, is indicative of the growing need for affordable housing in the community of Hutto. If I can answer any questions, or be of further assistance, please contact me at XXX-XXX-XXXX.

Sincerely,



Tanner Rose  
Hutto City Council Mayor Pro Tem

September 29, 2021

Texas Department of Housing and Community Affairs  
Theresa Morales, Bond Finance Director  
221 E. 11th Street  
Austin, Texas 78701

Attn: Theresa Morales

Re: Harvest Ridge Apartments, LP - TDHCA #22600

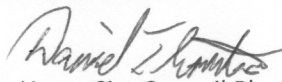
Dear Ms. Morales,

As an elected official for the city of Hutto, I am writing to you to express my support for the Texas Department of Housing and Community Affairs Bond Application #22600, Harvest Ridge Apartments, LP, proposed to be located at the southeast quadrant of County Road 137 and FM 1660 that is seeking financing from TDHCA in the form of 4% tax credits and Private Activity Bonds.

The unprecedented, and well documented growth in Williamson County, specifically Hutto, is indicative of the growing need for affordable housing in the community of Hutto. If I can answer any questions, or be of further assistance, please contact me at 512-567-9298.

Sincerely,

Daniel Thornton



Hutto City Council Place 2



September 28, 2021

Texas Department of Housing and Community Affairs  
Theresa Morales, Bond Finance Director  
221 E. 11th Street  
Austin, Texas 78701

Attn: Theresa Morales

Re: Harvest Ridge Apartments, LP - TDHCA #22600

Dear Ms. Morales,

As an elected official for the city of Hutto, I am writing to you to express my support for the Texas Department of Housing and Community Affairs Bond Application #22600, Harvest Ridge Apartments, LP, proposed to be located at the southeast quadrant of County Road 137 and FM 1660 that is seeking financing from TDHCA in the form of 4% tax credits and Private Activity Bonds.

The unprecedented, and well documented growth in Williamson County, specifically Hutto, is indicative of the growing need for affordable housing in the community of Hutto. If I can answer any questions, or be of further assistance, please contact me at 361-215-1578 or schedule a time via email at [Mandi.Villarreal.Salvo@huttotx.gov](mailto:Mandi.Villarreal.Salvo@huttotx.gov).

Sincerely,

A handwritten signature in black ink that reads "Mandi Villarreal Salvo". The signature is written in a cursive, flowing style.

Mandi Villarreal Salvo  
Councilwoman, Place 3  
City of Hutto



Monday, September 13, 2021

Ms. Teresa Morales  
Director of Multifamily Bonds and Administrator of 4% Housing Tax Credits  
Texas Department of Housing and Community Affairs (TDHCA)  
P.O. Box 13941  
Austin, Texas 78711-3941

RE: Palladium Glenn Heights Town Center

Director Morales,

Please accept this letter expressing my support for the Palladium Glenn Heights Town Center development to be located east of South Hampton Road and north of Lot 1, Block 1 of Palladium Addition, Glenn Heights, Texas 75154, to enable the Development to receive 3 points under Section §12.6(9) of the Multifamily Housing Revenue Bond Rules 2021. Official action by the Glenn Heights City Council on any necessary required City approvals such as zoning for the Development will be determined by a vote of the majority of the City Council after a public hearing, if necessary, and this letter does not constitute any assurance of a specific outcome by City Council.

Sincerely,

A handwritten signature in cursive script that reads "Sonja A. Brown".

Sonja A. Brown, Mayor Pro-Tem, Place 1  
City of Glenn Heights

Cc: Avis Chaisson, Director of Real Estate Development,  
Palladium USA - [Achaisson@Palladiumusa.com](mailto:Achaisson@Palladiumusa.com)



Tuesday, October 5, 2021

Ms. Teresa Morales  
Director of Multifamily Bonds and Administrator of 4% Housing Tax Credits  
Texas Department of Housing and Community Affairs (TDHCA)  
P.O. Box 13941  
Austin, Texas 78711-3941

RE: Palladium Glenn Heights Town Center

Director Morales,

Please accept this letter expressing my support for the Palladium Glenn Heights Town Center development to be located east of South Hampton Road and north of Lot 1, Block 1 of Palladium Addition, Glenn Heights, Texas 75154, to enable the Development to receive 3 points under Section §12.6(9) of the Multifamily Housing Revenue Bond Rules 2021. Official action by the Glenn Heights City Council on any necessary required City approvals such as zoning for the Development will be determined by a vote of the majority of the City Council after a public hearing, if necessary, and this letter does not constitute any assurance of a specific outcome by City Council.

Sincerely,

Emma Ipaye, Councilmember Place 2  
City of Glenn Heights

Cc: Avis Chaisson, Director of Real Estate Development, Palladium USA –  
Achaisson@Palladiumusa.com

1h

**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on Inducement Resolution No. 22-005 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

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

**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;

**WHEREAS**, this resolution includes two previously induced applications where the applicant is requesting an increase to the tax-exempt bond amount previously approved by the Board;

**WHEREAS**, the Board approved Resolution No. 21-014 (Original Resolution) on February 11, 2021, declaring its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Developments described on the exhibit to the Original Resolution on the terms and conditions set forth therein; and

**WHEREAS**, the Board has determined to amend the Original Resolution in order to modify the not to exceed principal amount and project description for the respective Developments listed below;

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 22-005 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 \$80M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year is \$169,558,383 and was reserved with applications submitted as part of the 2021 Lottery or applications subsequently added to the Department's waiting list. The pre-applications listed below will be included as part of the Department's participation in the 2022 Lottery. The Department's set-aside for 2022 has not been announced, but is anticipated to be approximately \$175M. Previously induced applications, in addition to those being induced today, will bring the 2022 Lottery total to approximately \$623M.

### **21608 – Fiji Lofts**

New construction of 174 units is proposed for this multifamily development to be located at 301 South Corinth St. Road in Dallas, Dallas County. This transaction is proposed to be Priority 2, and will serve the general population. Applicant has disclosed Neighborhood Risk Factors (NRF) related to the poverty rate associated with the census tract containing the proposed development site, as well as the underperformance of Cedar Crest Elementary. Applicant has indicated that they intend to submit a resolution at the time of full application from the appropriate governing body acknowledging the poverty rate, and allowing the development to move forward. Pursuant to §11.101(a)(3)(C) of the 2021 QAP, mitigation is not required for the underperforming school NRF. Of the total units, 139 units will be rent and income restricted at 60% of AMFI, six units will be rent and income restricted at 80% of AMFI, and the remaining 29 units will be market rate. The Department has received one letter of support for the proposed development from Dallas City Council Member for District 4, Carolyn King Arnold. A copy of the letter is included herein. The application was previously induced by the Board on February 11, 2021 with a requested bond amount of \$25,000,000. Given the length of time that has passed since the original inducement and uncertainty with construction costs and the financing structure that will ultimately be used, the applicant has requested the resolution amount be increased to allow flexibility should it be necessary by the time a Certificate of Reservation is ultimately issued. With the competitive environment of the Private Activity Bond Program and uncertainty with when a Reservation will be issued, a higher not-to-exceed amount will avoid timing delays with getting a new inducement resolution adopted and ensure tax-exempt bond authority is available should it be necessary. While the inducement amount provides a parameter, the actual application for volume cap, when filed, can be for a lesser amount.

Bond Inducement Amount: \$40,000,000

**21609 – Throckmorton Villas**

New construction of 220 units is proposed for this multifamily development to be located at 1003 Throckmorton Street in McKinney, Collin County. This transaction is proposed to be Priority 2, and will serve the general population. Of the total units, 216 units will be rent and income restricted at 60% of Area Median Family Income (AMFI), and the remaining four units will be market rate. The Department has received no letters of support or opposition for the proposed development. The application was previously induced by the Board on February 11, 2021, with a requested bond amount of \$29,000,000. Given the length of time that has passed since the original inducement and uncertainty with construction costs and the financing structure that will ultimately be used, the applicant has requested the resolution amount be increased to allow flexibility should it be necessary by the time a Certificate of Reservation is ultimately issued. With the competitive environment of the Private Activity Bond Program and uncertainty with when a Reservation will be issued, a higher not-to-exceed amount will avoid timing delays with getting a new inducement resolution adopted and ensure tax-exempt bond authority is available should it be necessary. While the inducement amount provides a parameter, the actual application for volume cap, when filed, can be for a lesser amount.

Bond Inducement Amount: \$40,000,000

## RESOLUTION NO. 22-005

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 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") approved Resolution No. 21-014 on February 11, 2021 (the "Original Resolution") declaring its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Developments described on the exhibit to the Original Resolution on the terms and conditions set forth therein, and the Board has determined to amend the Original Resolution only with respect to the Owners and Developments described on Exhibit A attached hereto in order to amend the not to exceed principal amount and project description for the respective Developments listed on Exhibit A hereto; 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 of the Original Resolution 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 of the Original Resolution 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. The Original Resolution and this Resolution constitute 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 Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14<sup>th</sup> day of October, 2021.

**EXHIBIT "A"**

Descriptions of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
Fiji Lofts	SDC Corinth III, LP, a Texas limited partnership	General Partner/Member: Fiji Mixed Development, LLC, a Texas limited liability company	\$40,000,000
Costs – Acquisition/construction of a 174-unit affordable, multifamily housing development to be known as Fiji Lofts, located on 301 S Corinth Street. Rd., Dallas, Dallas County, Texas 75203			

Project Name	Owner	Principals	Amount Not to Exceed
Throckmorton Villas	SDC Throckmorton Villas, LP, a Texas limited partnership	General Partner/Member: Throckmorton Villas Development, GP, LLC, a Texas limited liability company	\$40,000,000
Costs – Acquisition/construction of a 220-unit affordable, multifamily housing development to be known as Throckmorton Villas, located on 1003 Throckmorton Street, McKinney, Collin County, Texas 75069			



**CAROLYN KING ARNOLD**  
COUNCILMEMBER  
DISTRICT 4

February 2, 2021

Texas Department of Housing & Community Affairs  
221 East 11th Street  
Austin, Texas 78701  
Attention: Teresa Morales

**Re: MF #21608 – Fiji Lofts**

Dear Ms. Morales:

I am writing this letter to indicate my support for the private activity/tax exempt bond application submitted to the Texas Department of Community Affairs with Application #21608 for Fiji Lofts to be located at 301 South Corinth Street, Dallas TX 75203.

I am of the opinion that Fiji Lofts, a mixed-income multifamily project is much needed in the City of Dallas and the metroplex. The development will assist in meeting the housing needs of residents of modest means by providing affordable housing for these residents.

Sincerely,

Carolyn King Arnold



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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on Inducement Resolution No. 22-006 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority for Delafield Villas (#21610)

**RECOMMENDED ACTION**

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

**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;

**WHEREAS**, this resolution includes a previously induced application where the applicant is requesting an increase to the tax-exempt bond amount previously approved by the Board;

**WHEREAS**, the Board approved Resolution No. 21-019 on March 11, 2021 (Original Resolution) declaring its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Development described on the exhibit to the Original Resolution on the terms and conditions set forth therein; and

**WHEREAS**, the Board has determined to amend the Original Resolution in order to modify the not to exceed principal amount and project description for the respective Development listed below;

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 22-006 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 \$40M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year is \$169,558,383 and was reserved with applications submitted as part of the 2021 Lottery or applications subsequently added to the Department's waiting list. The pre-application listed below will be included as part of the Department's participation in the 2022 Lottery. The Department's set-aside for 2022 has not been announced, but is anticipated to be approximately \$175M. Previously induced applications, in addition to those being induced today, will bring the 2022 Lottery total to approximately \$623M.

**21610 – Delafield Villas**

The acquisition and rehabilitation of 204 units is proposed for this multifamily development 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. The application was previously induced by the Board on March 11, 2021, with a requested bond amount of \$26,000,000. Given the length of time that has passed since the original inducement and uncertainty with construction costs and the financing structure that will ultimately be used, the applicant has requested the resolution amount be increased to allow flexibility should it be necessary by the time a Certificate of Reservation is ultimately issued. With the competitive environment of the Private Activity Bond Program and uncertainty with when a Reservation will be issued, a higher not-to-exceed amount will avoid timing delays with getting a new inducement resolution adopted and ensure tax-exempt bond authority is available should it be necessary. While the inducement amount provides a parameter, the actual application for volume cap, when filed, can be for a lesser amount.

Bond Inducement Amount: \$40,000,000

## RESOLUTION NO. 22-006

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 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") approved Resolution No. 21-019 on March 11, 2021 (the "Original Resolution") declaring its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Developments described on the exhibit to the Original Resolution on the terms and conditions set forth therein, and the Board has determined to amend the Original Resolution only with respect to the Owners and Developments described on Exhibit A attached hereto in order to amend the not to exceed principal amount for the respective Developments listed on Exhibit A hereto; 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 of the Original Resolution 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 of the Original Resolution 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. The Original Resolution and this Resolution constitute 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 Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14<sup>th</sup> day of October, 2021.

**EXHIBIT "A"**

Description of the Owner and the Development

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	\$40,000,000
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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**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

1k

**BOARD ACTION REQUEST**

**SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §23.31(a)(2)(c) relating to submission of a Reservation to assist owners of unoccupied housing under the Homeowner Reconstruction Assistance Program

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) entered in a Reservation System Participation Agreement with the City of Muleshoe to provide Homeowner Reconstruction Assistance (HRA);

**WHEREAS**, as of on November 26, 2020, new HOME Single Family Rules require that Reservations for projects proposing to assist households where the unit is unoccupied due to an imminent threat to life, health, and safety of the occupants be submitted not more than four years from the date that occupancy ended;

**WHEREAS**, the City of Muleshoe submitted a project for review for the Dolores Marquez household on November 9, 2020, for new construction of the unit which was unoccupied due to an imminent threat to life, health, and safety of the occupants;

**WHEREAS**, new HOME Single Family Rules were made effective on November 26, 2020 that increased the expenditure limitation for HRA activities;

**WHEREAS**; the City of Muleshoe requested that the Reservation submitted prior to the effective date of the new rule be released so that the Reservation could be submitted subject to the new rule, and staff released the Reservation;

**WHEREAS**, the Reservation was not resubmitted until February 8, 2021, more than four years from the date that the household last occupied the unit;

**WHEREAS**, the City of Muleshoe has requested a waiver to 10 TAC §23.31(a)(2)(C); and

**WHEREAS**, staff believes there is good cause under 10 TAC §23.1(a) to grant this waiver as the City of Muleshoe had previously submitted the Reservation, and adequate funding remains available in the Reservation System to assist this household;

**NOW, therefore, it is hereby**

**RESOLVED**, the Board grants to the City of Muleshoe the requested waiver of 10 TAC §23.31(a)(2)(C), as detailed further in this Board Action Request.

### **BACKGROUND**

The City of Muleshoe became an Administrator of the HOME Program in 1996, and has since rehabilitated or reconstructed 25 homes in their community, with an additional two homes underway under their current HOME Reservation System Participation (RSP) Agreement.

In 2016, under a prior Reservation Agreement, the City of Muleshoe submitted a HOME Homeowner Reconstruction Assistance (HRA) activity for a home located at 501 E. 5<sup>th</sup> Street. The activity was reviewed, and certain information necessary to determine the eligibility of the activity was not submitted. A notice of administrative deficiency was issued, and no response was received. The activity was disapproved and that Reservation Agreement expired.

Subsequent to this disapproval, the City of Muleshoe determined that the house at 501 E. 5<sup>th</sup> Street was substandard in accordance with its city code, and the household was notified that the home was hazardous and could no longer be occupied. The occupants vacated the unit, and final utility service was disconnected on January 9, 2017. From the records submitted, this appears to be the final date of occupancy of the house at 501 E. 5<sup>th</sup> Street.

On June 4, 2018, the Department and the City of Muleshoe entered into another HOME RSP Agreement, to be effective on that date. On November 9, 2020, the City of Muleshoe submitted a new Reservation for a new construction activity for the home at 501 E. 5<sup>th</sup> Street for the same household. During the staff review process for the activity, the City of Muleshoe requested that the Reservation for the activity be disapproved, in a letter included as Attachment A to this item. The reason that the disapproval was requested by the City was so that the City could take advantage of revisions to 10 TAC Chapter 23, Single Family HOME Program Rules (HOME Rules) adopted to be effective on November 26, 2020, which allowed for an increase in the amount of HOME funds that may be utilized for project costs. Staff reviewed the request, and released the Reservation by disapproving the activity on December 21, 2020.

The Reservation was resubmitted by the City on February 8, 2021, and is subject to the HOME Rules as effective on November 26, 2020. Since the household vacated the unit on or before January 9, 2017, the provisions of 10 TAC §23.31(2)(c) prohibit submission of a Reservation for a unit that has been unoccupied from more than four years from the date of submission of the Reservation. Additionally, the prior disapproved request that was submitted within the four-year deadline is not considered a Reservation of Funds in accordance with 10 TAC §23.28(a)(12).

On September 2, 2021, the City of Muleshoe submitted a request for a waiver of 10 TAC §23.31(a)(2)(C), included as Attachment B to this item. This request was accompanied by a letter from the impacted household, which is available as Attachment C to this item. In accordance with 10 TAC §23.1(a), the Board



may waive state rules for good cause to meet the purpose of the HOME Program, provided that the waiver does not conflict with federal regulations, state statute, or impact federally imposed obligation or expenditure deadlines governing the HOME Program. Staff has reviewed this request, and granting this waiver would not conflict with federal requirements, the state statute, nor would it impact obligation or expenditure deadlines. Additionally, granting the waiver would promote the purposes of the program by providing funds for New Construction, and providing a low income family with decent, safe, and sanitary housing.

# City of Muleshoe

December 18, 2020

**Cliff Black**  
Mayor

**Colt Ellis**  
District 1

**Lupe Mendoza**  
District 2

**Earl Behrends**  
Mayor Pro-Tem  
District 3

**Gary Parker**  
District 4

**Ramon Sanchez**  
City Manager

**Zanea Carpenter**  
City Secretary

Mr. Stephen Kuhns, Single Family Program  
HOME Division  
Texas Department of Housing and Community Affairs  
211 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Re: New TAC 23 Rules – Increase Direct Activity Cost  
Muleshoe HOME #1002804 - RSP#2018-0022

Dear Mr. Kuhns,

The City of Muleshoe is requesting disapproval of the following project activities:

Norma Alvarado – 305 W. 11<sup>th</sup> Street  
Dolores Marquez – 501 E. 5<sup>th</sup> Street  
Charlene Reyes – 212 E. 5<sup>th</sup> Street  
Yesenia Salas – 518 E. Ave. G

We request that the disapproval be done so that each project activity may be submitted under the new TAC 23 rule to be able to increase the direct activity cost and update the budget and attachments. The four (4) projects were submitted on November 10, 2020, which was prior to the effective date of the new TAC 23 Rule.

A positive response to this request will be greatly appreciated.

Respectfully,



Ramon Sanchez  
City Manager

# City of Muleshoe

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**Colt Ellis**  
Mayor

**Crystal Alarcon**  
District 1

**Lupe Mendoza**  
District 2

**Earl Behrends**  
Mayor Pro-Tem  
District 3

**Gary Parker**  
District 4

**Ramon Sanchez**  
City Manager

**Zanea Carpenter**  
City Secretary

September 2, 2021

Mr. Leo Vasquez, Chairman of the Board  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Dear Chairman Vasquez,

The City respectfully requests that the Board consider a request for an exemption to TAC Title 10 Chapter 23, Subchapter C, Rule 23.31(2)(C). The rule states:

“Replacement of a unit to be uninhabitable within four years of submission of a Reservation for funds on the same site or another site when:

- (i) the unit has been rendered uninhabitable as a direct result of a natural or man-made disaster, a condemnation order from the unit of local government, or a determination from the unit of local government that the unit presents an imminent threat to life, health, and safety of occupants

The home at 501 E. 5<sup>th</sup> Street has been listed as a substandard dwelling unit according to our City Code, Sec. 3.04.161. Due to its substandard state, it had become a hazard to the occupants in 2017.

Mr. and Mrs. Marquez had applied in 2016 to the city for help from our HOME/HRA RSP program available at the time. There was some information needed on taxes and marital status that was submitted too late for the city to move forward on their application.

In January 2017, the family moved from their home at 501 E. 5<sup>th</sup> due to its substandard state and the health of Mr. Marquez. When the City received another Reservation Agreement in 2018, they applied again during our Intake Application process. Their loan project setup was uploaded to the Housing Tracking System on November 9, 2020, for consideration.

However, material and labor costs were increasing at that time due to material shortages and labor being ill from corona virus (COVID19). TDHCA revised their rule on November 26, 2020, where funding was increased for Direct Activity Costs and available to our 2018 Reservation Agreement. If the Marquez application as well as three others were submitted under the department’s new rules, there was more likelihood that builders would bid on the project activities with the increased funding. On December

18, 2020, the City requested the department to not approve the four project activities and allow them to resubmit under the new rule. Unfortunately, the Marquez project activity was submitted four years and one month from the date the Marquez vacated their home.

The City hopes that the Board will consider an exemption to the rule, TAC 10 23.31 (2)(C). That is that a request for Reservation funds be submitted within four years of housing unit being deemed as uninhabitable. Your assistance will be greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ramon Sanchez", with a large, stylized initial "R" and a long, sweeping underline.

Ramon Sanchez  
City Manager  
City of Muleshoe

September 2, 2021

Mr. Leo Vasquez, Chairman of the Board  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Dear Chairman Vasquez,

Our names are Delores H. Marquez and Demetria Terrazar De-Marquez. We live in Muleshoe Texas. Our home at 501 E. 5<sup>th</sup> Street cannot be lived in now due its bad shape. We are asking for help to tear down the old house and build another home for us.

My wife and I applied some years ago to the city for help from the HOME program but had difficulty in having all our documents together before the deadline to submit.

We lived in this home from 2007 to 2017 with homestead and disable exemption since 2011. Then in January 2017, we moved from our house at 501 E. 5<sup>th</sup> because it was not in good shape and needed to be torn down. We filled out an application for help from the city after it received financial assistance from your department. At first, our application was submitted to the department in November 2020. With material and labor costs going up, there was more monies available to us if the application was submitted with the department new rules. But when all the paperwork was submitted, it was after four years and one month since we left our home. Your rule says a person who leaves their home due to unlivable conditions must ask for help within four years.

We now ask that your Board consider an exemption to your rule to submit within the four-year period. My health has deteriorated so I can no longer work but must be on Social Security. My wife stays with me so that she can take care of me. Off and on we have lived with daughter when the medical bills became too high.

Although it was one month after the deadline, we hope you will consider the exemption request.

Thank you,



Delores H. Marquez



Demetria Terrazar De-Marquez

septiembre 2, 2021

Sr. Leo Vasquez, Presidente de la Junta Directiva  
Departamento de Vivienda y Asuntos Comunitarios de Texas  
221 East 11th Street  
78701, Austin, Texas

Estimado Presidente Vásquez,

Nuestros nombres son Delores H. Márquez y Demetria Terrazar De-Márquez. Vivimos en MuleshoeTexas. Nuestra casa en 501 E. 5<sup>th</sup> Street no se puede vivir ahora debido a su mal estado. Estamos pidiendo ayuda para derribar la vieja casa y construir otra casa para nosotros.

Mi esposa y yo solicitamos hace algunos años a la ciudad ayuda del programa HOME, pero tuvimos dificultades para tener todos nuestros documentos juntos antes de la fecha límite para presentar.

Vivimos en esta casa de 2007 a 2017 con exención de vivienda y discapacidad desde 2011. Luego, en enero de 2017, nos mudamos de nuestra casa en 501 E. 5th porque no estaba en buen estado y necesitaba ser derribada. Llenamos una solicitud de ayuda de la ciudad después de que recibió asistencia financiera de su departamento. Al principio, nuestra solicitud se presentó al departamento en noviembre de 2020. Con los costos de materiales y mano de obra aumentando, había más dinero disponible para nosotros si la solicitud se presentó con las nuevas reglas del departamento. Pero cuando se presentó toda la documentación, fue después de cuatro años y un mes desde que salimos de nuestra casa. Su regla dice que una persona que abandona su hogar debido a condiciones inhabitables debe pedir ayuda dentro de los cuatro años.

Ahora le pedimos a su Junta que considere una exención a su regla para presentar dentro del período de cuatro años. Mi salud se ha deteriorado, por lo que ya no puedo trabajar, pero debo estar en el Seguro Social. Mi esposa se queda conmigo para que pueda cuidarme. De vez en cuando hemos vivido con nuestra hija cuando las facturas médicas se volvieron demasiado altas.

Aunque fue un mes después de la fecha límite, esperamos que considere la solicitud de exención.

Gracias

Delores H. Márquez

Demetria Terrazar De-Marquez

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on an order proposing the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool; and an order directing its publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, Texas Gov't Code §661.002(c) requires that state agencies adopt rules relating to the operation of their agency sick leave pool which the Department does in 10 TAC §1.3, Sick Leave Pool;

**WHEREAS**, HB 2063 enacted during the 87<sup>th</sup> Regular Legislative Session requires state agencies to also establish a state employee family leave pool via rule, and staff recommends doing so through an amendment to 10 TAC §1.3; 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 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 action herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

**BACKGROUND**

10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool, requires revision to incorporate the requirements enacted by HB 2063, which requires state agencies to establish, by rule, a state employee family leave pool. The proposed rule amendment will be released for public comment as reflected in the preamble below and returned to the Board for final adoption.



**Preamble, including required analysis, for proposed amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool**

The Texas Department of Housing and Community Affairs (the Department) proposes the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool. The purpose of the proposed amendment is to incorporate the requirements enacted by HB 2063 (87<sup>th</sup> Regular Legislative Session) which requires state agencies establish a state employee family leave pool via rule.

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 proposed amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to the Department's sick leave pool policy.
2. The amendment 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 amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation.
6. The amendment does not repeal a rule.
7. The amendment will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amendment 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 has evaluated the amendment and determined that the amendment 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 amendment 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 amendment as to its possible effects on local economies and has determined that for the first five years the amendment 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 amendment is in effect, the public benefit anticipated as a result of the changed sections would be implementation of HB 2063 and the provision of a clear policy relating to the Department's family leave pool. There will not be economic costs to individuals required to comply with the amendment 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 proposed amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 29, 2021, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, November 29, 2021.

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

### §1.3 Sick Leave Pool and Family Leave Pool

(a) A sick leave pool is established to help alleviate hardship caused to an employee and employee's immediate family if a catastrophic illness or injury forces the employee to exhaust all accrued paid leave time earned by that employee and to lose compensation from the state.

(b) A family leave pool is established to help alleviate hardship caused to an employee and employee's immediate family if they are caring for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic or are bonding with and caring for children during a child's first year following birth, adoption, or foster placement which forces the employee to exhaust all accrued paid leave time earned by that employee and to lose compensation from the state.

(c) ~~(1)~~ The Department's Human Resources Director is designated as the pool administrator to both pools.

(d) ~~(2)~~ The pool administrator will recommend a policy, operating procedures, and forms for the administration of this section to the Executive Director for inclusion in the Department's Personnel Policies and Procedures Manual.

(e) ~~(3)~~ Operation of both ~~the~~ pools shall be consistent with Tex. Gov't Code, Chapter 661, as amended.

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**BOARD ACTION REQUEST**

**EXECUTIVE DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; proposing new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; 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 (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, the Department uses its Section 8 Housing Choice Voucher Program to offer the Project Access program in collaboration with the Texas Health and Human Services Commission, which assists low-income persons with disabilities in transitioning from institutions into the community by providing vouchers for them to access affordable housing;

**WHEREAS**, staff is seeking to make revisions to the rule to expand the pool of households that would be eligible to utilize a Project Access voucher and has presented the proposed revision to the Department's Disability Advisory Workgroup to garner initial input; and

**WHEREAS**, upon Board approval, the proposed rule will be submitted to the *Texas Register* to be released for public comment, which will be accepted from October 29, 2021, through November 29, 2021;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative, and the new proposed 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, and make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested revisions to the preambles.

**BACKGROUND**

The Project Access rule is being proposed for revision, specifically relating to which households are eligible to participate in the program. Because the program often has a waiting period before a voucher becomes available, TDHCA has sought to identify interim solutions to allow a household to exit an institution; those interim solutions often only offer temporary rental assistance to ‘tide them over’ until a Project Access voucher becomes available. Currently the only interim solution that would still enable the household to access a Project Access voucher is using the TDHCA HOME TBRA program. The rule changes proposed:

1. Make minor administrative corrections;
2. Clarify the existing language relating to the HOME TBRA program participants being eligible for a Project Access voucher; and
3. Add two other interim programs that if used to help a household exit an institution would still allow that household to access a Project Access voucher when one becomes available. Those two programs proposed are:
  - HHSC funded programs that assist households with short-term rental assistance, whose assistance from HHSC is within six months of expiration and the household is not eligible for extension or renewal; and
  - HHSC funded group home housing.

The suggested revisions to the rule were presented to the Department’s Disability Advisory Workgroup to garner feedback and suggested edits on September 15, 2021. No concerns were raised nor were alternative suggestions proposed.

After approval, the rule will be released for public comment, which will be accepted from October 29, 2021, through November 29, 2021. Staff will return to the Board for final adoption of the rule.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative. The purpose of the proposed repeal is to expand the pool of households that may be eligible for a Project Access voucher and facilitating a more rapid exit from an institution into the community.

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 has determined that, for the first five years the proposed repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to minimally expand the pool of households eligible to participate in the Project Access program.
2. The repeal 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 repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand, limit, or repeal an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal 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 has evaluated the proposed repeal and determined that the proposed 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 proposed 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 proposed 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 proposed repeal is in effect, the public benefit anticipated as a result of the changed sections would be the expanded pool of households that may be eligible for a Project Access voucher and the acceleration of a household's possible exit from an institution into the community. 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 proposed 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 29, 2021, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, November 29, 2021.

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

§5.801, Project Access Initiative

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC §5.801, Project Access Initiative.

The purpose of the proposed rule is to expand the pool of households that may be eligible for a Project Access voucher and facilitating a more rapid exit from an institution into the community.

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 has determined that, for the first five years the proposed new section would be in effect:

1. The new section does not create or eliminate a government program but relate to changes to existing regulations applicable to household eligibility for the Project Access program.
2. The new section 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 new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.
6. The new section will not expand, limit, or repeal an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section 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 has evaluated the proposed new section and determined that the proposed actions 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 proposed new sections 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 new section as to its possible effects on local economies and has determined that for the first five years the proposed new section 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 proposed new section is in effect, the public benefit anticipated as a result of the new section would be expanding the pool of households that may be eligible for a Project Access voucher and facilitating a household's more rapid exit from an institution into the community. There will not be economic costs to individuals required to comply with the new sections.

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 proposed new section is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 29, 2021, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, November 29, 2021.

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

## §5.801, Project Access Initiative

(a) Purpose. The Project Access Program (PA Program) is a program that utilizes federal Section 8 Housing Choice Vouchers, Non Elderly Disabled Vouchers, and Mainstream Vouchers administered by the Texas Department of Housing and Community Affairs (the Department) to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. This rule provides the parameters and eligibility standards for this program.

(b) Definitions.

(1) At-Risk Applicant--A household that has applieds to the Department's Section 8 Project Access program, and exited an Institution prior to issuance of a Department Section 8 Housing Choice Voucher using an alternate short term rental assistance solution and is at risk of that short term rental assistance ending. that was a prior resident of an Institution.

(2) HHSC--Texas Health and Human Services Commission.

~~(3)~~ HUD--The U.S. Department of Housing and Urban Development.

~~(4)~~ Institution--Congregate settings populated exclusively or primarily with individuals with disabilities; congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or settings that provide for daytime activities primarily with other individuals with disabilities. This definition includes but is not limited to a nursing facility, state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD. The definition for Institution is further limited for vouchers funded with NED as further provided for in subsection (e)(2)(C) of this section. This definition does not include a prison, jail, halfway house, or other setting that persons reside in as part of a criminal proceeding.

~~(5)~~ Mainstream Vouchers (MVP) --HUD's Mainstream Voucher Program.

~~(6)~~ Non-ElderlyNon-Elderly Disabled (NED)--HUD's Non-ElderlyNon-Elderly Disabled Program.

~~(7)~~ Section 8--HUD's Section 8 Housing Choice Voucher Program administered by the Department.

(c) Regulations Governing Program. All Section 8 Program rules and regulations, including but not limited to, criterion at 24 CFR Part 982 apply to the program.

(d) Project Access in the Department's PHA Plan. Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan. The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan.

(e) Eligibility for the Project Access Program.

(1) A household that participates in the Project Access Program must meet all Section 8 eligibility criteria, and one member of the household must meet ~~all of~~ the eligibility criteria in subparagraphs (A) and (B) of this paragraph:-

(A) Must have a disability as defined in 24 CFR §5.403; and

(B) Must meet one of the criteria in clauses (i) or (ii) of this subparagraph:

(i) be a resident of an Institution at the time of voucher issuance; or

~~\_\_\_ (ii) be an At-Risk Applicant that meets the one of the criteria of subclauses (I) ~~or through (IV)~~ of this clause:~~

(I) A current recipient of Tenant-Based Rental Assistance (TBRA) from a HOME Investment Partnership Program, whose assistance from that HOME source is and within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution prior to receiving the TBRA assistance;~~prior to expiration of that TBRA assistance; or~~

(II) A household with a household member who meets the criteria of an At-Risk Applicant and has lost their TBRA from a HOME Investment Partnership Program due to lack of available funding;

(III) A household that is a current recipient of rental assistance funded by HHSC, whose assistance from HHSC is within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution immediately prior to receiving the assistance; or

(IV) A household that is a current recipient of HHSC funded group home housing that was a previous resident of a state hospital immediately prior to receiving the group home assistance.

~~\_\_\_ (ii) be a resident of an Institution at the time of voucher issuance.~~

(2) NED and Mainstream Vouchers have ~~these~~ additional eligibility criteria which are:

(A) The household member with the disability as defined in 24 CFR §5.403, must be 18 but under 62 years of age at the time of voucher issuance;

(B) For NED only, the head of household, spouse, co-head, or sole member, must be a person with a disability; and

(C) For NED only, the qualifying household member must not be an At-Risk Applicant as described in this subsection, must be residing in a nursing facility, Texas state psychiatric hospital, or intermediate care facility immediately prior to voucher issuance, and must also be referred by the applicable ~~Health and Human Services Commission (HHSC)~~ funded agency.

(f) Waiting List and Allocation of Vouchers.

(1) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of the vouchers used in the Project Access Program will be reserved for households with a household member eligible for a pilot program in partnership with the HHSC for Texas state psychiatric hospitals who otherwise meets the criteria of the Project Access Program at the time of voucher issuance.

(2) The Department's Waiting List for PA vouchers will be kept "open" and the Department will accept an application for the PA Program at any time. An applicant for the PA Program is placed on a Waiting List until a voucher becomes available. An applicant who qualifies for the Project Access HHSC Pilot Program in subsection (f)(1) of this section is placed on a Waiting List for Project Access HHSC Pilot Program, and also for the general PA Program Waiting List.

(3) The Department will select applicants off the Waiting List for the Project Access HHSC Pilot Program, and for the general PA Program waitlist to ensure that the Department is utilizing all NED and Mainstream Vouchers before issuing other Section 8 Vouchers.

(4) Maintaining Status on the Project Access Waiting List. A household on the Project Access waiting list may maintain their order and eligibility for a Project Access voucher if the household:

(A) Applied for the PA Program and was placed on the waiting list prior to transition out of ~~the~~ institution an Institution; and

(B) Received continuous ~~Tenant-Based Rental Assistance~~ from one of the eligible sources identified under (e)(1)(B)(ii) a HOME Investment Partnership Program or other Department funding for rental assistance from the time of exit from ~~the~~ institution an Institution until the issuance of the Project Access voucher.

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for K Avenue Lofts (#21454) in Plano

**RECOMMENDED ACTION**

**WHEREAS**, an application for K Avenue Lofts was submitted to the Department for consideration of a Determination Notice of 4% Housing Tax Credits;

**WHEREAS**, although the application would normally follow the streamline policy adopted by the Board earlier this year, the compliance review of the proposed organizational entities resulted in previous participation conditions that require Board consideration and approval; and

**WHEREAS**, the Executive Award and Review Advisory Committee (EARAC) considered the compliance history associated with K Avenue Lofts (#21454) and recommended the application for an award of 4% Housing Tax Credits, subject to the compliance conditions as reflected in Exhibit A;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice in the amount of \$1,203,444 for K Avenue Lofts (#21454), subject to underwriting conditions as found in the Real Estate Analysis report posted to the Department's website, and subject to the 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. The collapse occurred on August 16, 2021 (given that the 15<sup>th</sup> was a weekend), and there was approximately \$1.76 billion in applications requesting volume cap, with the majority of those requests

being for multifamily. There was approximately \$241 million in unreserved volume cap that collapsed, but was not enough to reserve all of the requests. Applications remain in line and the last day to issue a reservation for the 2021 program year is November 15<sup>th</sup>.

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.

### 21454 K Avenue Lofts

K Avenue Lofts involves the new construction of 226 units, serving the general population, proposed to be located at 2501 K Avenue in Plano, Collin County. Of the 226 units, 179 units will be rent and income restricted at 60% of AMFI and the remaining 47 units will be at market rate with no rent or income restrictions which complies with the Priority 3 designation under which the Certificate of Reservation was issued by the BRB. The Plano Public Facilities Corporation is serving as the bond issuer. The Department has not received any letters of support or opposition for the proposed development.

*Previous Participation:* The Previous Participation review for the applicant is considered a Category 3 with conditions noted in Exhibit A, as recommended by EARAC.

**EXHIBIT A**  
**Previous Participation Conditions**

- The Applicant or the management company contracted by the Applicant is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department no later than December 31, 2021.
  
- Owner is required to designate a person or persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Development subject to TDHCA LURAs over which the Owner has the power to exercise Control.

# 21454 K Avenue Lofts - Application Summary

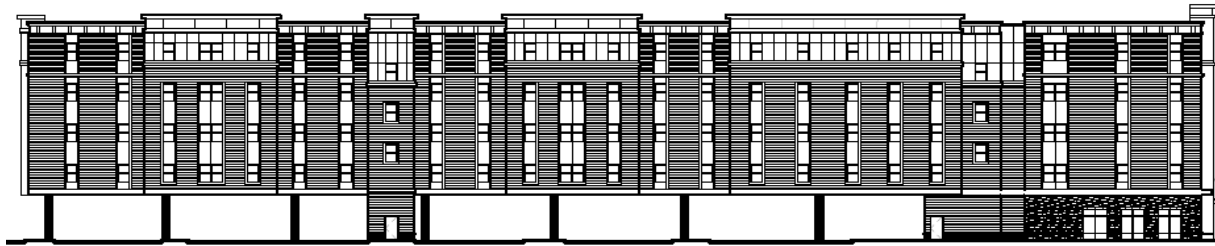
REAL ESTATE ANALYSIS DIVISION

September 10, 2021

PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	21454	TDHCA Program	Request	Recommended	
Development	K Avenue Lofts	LIHTC (4% Credit)	\$1,203,498	\$1,203,444	\$5,325/Unit \$0.88
City / County	Plano / Collin				
Region/Area	3 / Urban				
Population	General				
Set-Aside	General				
Activity	New Construction				

KEY PRINCIPALS / SPONSOR			
Bluebonnet Public Facility Corporation Auxano Development LLC MVAH Holding LLC Darren Smith Brian McGeady, Michael Riechman			
Related Parties	Contractor - TBD	Seller -	No

TYPICAL BUILDING ELEVATION/PHOTO

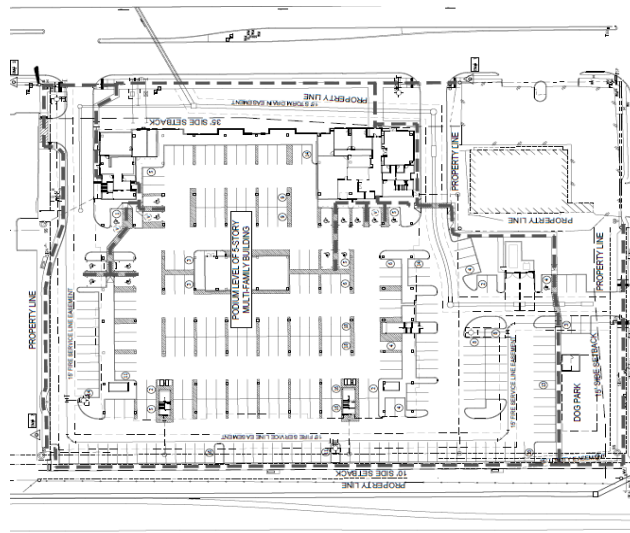


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	128	57%	30%	-	0%
2	92	41%	40%	-	0%
3	6	3%	50%	-	0%
4	-	0%	60%	179	79%
			70%	-	0%
			80%	-	0%
			MR	47	21%
<b>TOTAL</b>	<b>226</b>	<b>100%</b>	<b>TOTAL</b>	<b>226</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.23	Expense Ratio	32.5%
Breakeven Occ.	80.8%	Breakeven Rent	\$940
Average Rent	\$1,077	B/E Rent Margin	\$137
Property Taxes	Exempt	Exemption/PILOT	0%
Total Expense	\$3,480/unit	Controllable	\$2,681/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)			4.8%
Highest Unit Capture Rate	22%	1 BR/60%	102
Dominant Unit Cap. Rate	22%	1 BR/60%	102
Premiums (↑60% Rents)	Yes		\$347/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	775 SF	Density	51.4/acre
Acquisition		\$09K/unit	\$2,045K
Building Cost	\$124.30/SF	\$96K/unit	\$21,758K
Hard Cost		\$111K/unit	\$25,126K
Total Cost		\$186K/unit	\$41,967K
Developer Fee	\$4,959K	(38% Deferred)	Paid Year: 5
Contractor Fee	\$3,518K	30% Boost	No



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Key Bank - Tax Exempt	17/40	3.90%	\$19,000,000	1.96						Affordable Housing Partners	\$10,589,249
Key Bank - Taxable	17/40	4.40%	\$10,500,000	1.23						MVAH Development LLC	\$1,878,144
<b>TOTAL DEBT (Must Pay)</b>			<b>\$29,500,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$12,467,393</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$29,500,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$41,967,393</b>

**CONDITIONS**

1 Receipt and acceptance by Cost Certification:

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

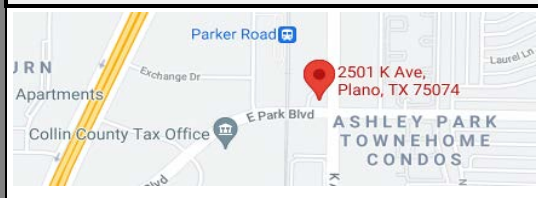
Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	Plano Public Facility Corporation
Expiration Date	12/6/2021
Bond Amount	\$19,000,000
BRB Priority	Priority 3
% Financed with Tax-Exempt Bonds	54.0%

**AERIAL PHOTOGRAPH(S)**



**AREA MAP**



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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action on the selection of Community Council of South Central Texas, Inc. to administer the Weatherization Assistance Program in Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties

**RECOMMENDED ACTION**

**WHEREAS**, the Department administers the Weatherization Assistance Program (WAP) using Low Income Home Energy Assistance Program (LIHEAP) funds from the U.S. Department of Health and Human Services (USHHS) and Department of Energy (DOE) funds;

**WHEREAS**, on June 28, 2021, Big Bend Community Action Committee, Inc.'s (BBCAC) Board of Directors voted to relinquish its WAP and terminate its WAP contracts with the Department;

**WHEREAS**, upon notification of BBCAC's decision to relinquish, the Department released a Request for Applications (RFA) on August 6, 2021, to administer the WAP in BBCAC's WAP service area of Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties and received two responses by the August 31, 2021, deadline;

**WHEREAS**, because the RFA stated that organizations currently receiving weatherization funds from LIHEAP and DOE would be evaluated first, Community Council of South Central Texas, Inc.'s (CCSCT) application was the only one reviewed as the other applicant, Hudson County Latino Foundation, is not currently receiving LIHEAP and DOE weatherization funds;

**WHEREAS**, CCSCT has satisfied the threshold requirements and Previous Participation Review, and this award was recommended by the Executive Award Review and Advisory Committee (EARAC) in accordance with 10 TAC Chapter 1, Subchapter C on October 4, 2021; and

**WHEREAS**, the applicants have been issued their right to appeal, and no appeals were filed;

**NOW, therefore, it is hereby**

**RESOLVED**, that CCSCT is designated the WAP service provider for Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties and to be awarded

the remaining portion of the 2021 LIHEAP and DOE WAP funds and contracts for the region, in the amounts shown in the table below, and to be the administering agency in this service area thereafter as long as there is not good cause to terminate or nonrenew the LIHEAP contract.

### **BACKGROUND**

The Department administers the WAP in Texas, funded with both DOE and LIHEAP funds, and operated by a network of 22 private nonprofits and local government entities. Weatherization funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking, weather-stripping, adding ceiling, wall, and floor insulation, patching holes in the building envelope, duct work, and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow for subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration.

At BBCAC's Board Meeting of June 28, 2021, the Board of Directors voted to approve the relinquishment of their WAP program and terminate its LIHEAP and DOE WAP contracts with the Department due to its inability to adequately staff their WAP during the COVID-19 pandemic, numerous monitoring findings with the potential for severe disallowed costs, inability to stay within the required cost per unit and expend weatherization funds within the required timeframes. As a result, on August 6, 2021, the Department released an RFA to administer the WAP in BBCAC's service area which includes Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties. The application deadline was August 31, 2021.

Staff received two applications – one from CCST and the other from Hudson County Latino Foundation. As stated in the RFA instructions, applications from organizations which do not receive LIHEAP and DOE weatherization funding would only be reviewed if no organizations apply that currently receive such funding. In this case, Hudson County Latino Foundation's application was not reviewed because they do not receive DOE and LIHEAP weatherization funding while CCST receives such funding. Hudson County Latino Foundation was notified of this occurrence and offered a chance to appeal. They chose not to appeal.

CCST's application was reviewed and found to satisfy the required threshold requirements and recommended to EARAC for award. On October 4, 2021, EARAC reviewed and recommended the award in accordance with 10 TAC Chapter 1, Subchapter C.

Staff recommends that CCST be designated the WAP service provider for BBCAC's service area and awarded the WAP contracts for the remaining portion of the 2021 WAP annual allocation funds (see table below) allocated for the region and for each year thereafter, as long as they remain in good standing.

CCST is the most qualified organization to administer WAP in such a large, rural area and if the Board approves, actions will be taken by the Department in collaboration with BBCAC and CCST to immediately provide weatherization services to eligible applicants in the eight county service area.

The table below shows the estimated 2021 LIHEAP and DOE WAP allocations for each county within the service area. The estimated available funds are to be utilized to cover costs related to administration, direct program staff costs, and for the provision of direct client services and assistance. The 2021 funding will be in a separate contract just for the eight county service area. Starting in the 2022 allocation, CCSCT will receive one contract for its entire service area.

<b>County</b>	<b>Estimated 2021 LIHEAP WAP Allocation</b>	<b>Estimated 2021 DOE WAP Allocation</b>
Brewster	\$ 26,122.74	\$9,699.40
Crane	\$ 6,937.70	\$2,575.98
Culberson	\$ 30,562.54	\$11,347.90
Hudspeth	\$ 31,785.01	\$11,801.80
Jeff Davis	\$ 20,148.59	\$ 7,481.19
Pecos	\$ 24,733.87	\$ 9,183.71
Presidio	\$ 31,849.04	\$11,825.58
Terrell	\$ 60,467.27	\$22,451.55
<b>TOTAL</b>	<b>\$232,606.75</b>	<b>\$ 86,367.10</b>

1p

BOARD ACTION REQUEST

FINANCIAL ADMINISTRATION DIVISION

OCTOBER 14, 2021

Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department), a public and official governmental agency of the State of Texas, was created and organized pursuant to and in accordance with the provisions of Tex. Gov't Code, Chapter 2306 (the Code), as amended;

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

WHEREAS, on April 8, 2021, the Governing Board adopted a resolution designating signature authority to reflect the structure of the Department; and

WHEREAS, organizational and working title changes have occurred such that the Governing Board has now determined that its resolution adopted April 8, 2021, designating signature authority, should be superseded by a new resolution designating signature authority in order to conform to the Department's current organizational structure, working titles, and operations;

NOW, THEREFORE, it is hereby

RESOLVED that the Governing Board makes changes to its resolution adopted April 8, 2021, as shown below.

SECTION 1 – Supersession of the Prior Signature Authority. The Governing Board hereby supersedes its prior resolution, adopted April 8, 2021, designating signature authority by adopting this new resolution.

SECTION 2 – Designation of Signature Authority for Bond and Indenture-Related Transactions. The Governing Board hereby authorizes and designates the Board Secretary, the Assistant Board Secretary, the Executive Director, the Director of Administration, the Director of Financial Administration, the Director of Bond Finance and Chief Investment Officer, Director of Multifamily Bonds, the Director of Texas Homeownership Program, and each of them as signatories for single family and multifamily bond and indenture-related transactions as well as transactions under the Department's "to be announced" or TBA program including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such transactions. In addition, the Governing Board authorizes and designates the Manager of Single Family Finance and Senior Bond Financial Analysts within the Bond Finance division as signatories for day-to-day operations activities related to advances taken through the Federal Home Loan Bank of Dallas (FHLB) for the purchase of loan participations from the Idaho Housing and Finance Association (IHFA), the Department's Master Servicer, including directing the wiring of such advances from FHLB to IHFA.

SECTION 3 – Designation of Signatory Authority for Real Estate Transactions. The Governing Board hereby authorizes and designates the following persons holding the positions described and each of them to execute and deliver, as specified, earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions. Every reference to a signatory office or title herein includes any person serving in an acting or interim capacity:

- (a) Executive Director, Deputy Executive Director of Programs, Deputy Executive Director of Program Controls and Oversight, Director of Administration, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions;
- (b) Director of Financial Administration: All real estate or real estate-related transactions administered by the Financial Administration Division;
- (c) Director of Multifamily Programs: All real estate or real estate-related transactions administered by the Multifamily Programs Division;
- (d) Director of Multifamily Asset Management: All real estate or real estate-related transactions administered by the Multifamily Asset Management Division;
- (e) Director of Bond Finance and Chief Investment Officer: All real estate or real estate-related transactions administered by the Bond Finance and Texas Homeownership Divisions;
- (f) Director of Multifamily Bonds: All real estate or real estate-related transactions administered by the Multifamily Bonds, Bond Finance and Texas Homeownership Divisions, and 4% Housing Tax Credit transactions;
- (g) Director of Texas Homeownership Program: All real estate or real estate-related transactions administered by the Texas Home Ownership Division;



- (h) Director of Single Family and Homeless Programs: All real estate or real estate-related transactions administered by the Single Family and Homeless Programs, which includes HOME, Housing Trust Fund (HTF); Office of Colonia Initiatives (OCI); and Neighborhood Specialization Program (NSP);
- (i) Director of Section 811 Program: All transactions administered by the Section 811 Program;
- (j) CDBG CARES Director: All transactions administered by the Community Development Block Grant CARES Program;
- (k) Director of Texas Rent Relief Program: All transactions administered by the Texas Rent Relief Program;
- (l) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Executive Director; provided however, that no person may be so designated other than the Executive Director, Director of Administration, or a Director.

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

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

- (a) Director of Administration, or Director of Financial Administration; and
- (b) Executive Director, Deputy Executive Director of Program Controls and Oversight, or Deputy Executive Director of Programs.

SECTION 5 – Execution of Documents. The Governing Board hereby authorized the Executive Director, or in his absence the Director of Administration, the Deputy Executive Director of Programs, or the Deputy Executive Director of Program Controls and Oversight, to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this resolution.

SECTION 6 – Effective Date. This Resolution shall be in full force and effect from and upon its adoption until and unless it is revoked or superseded.

#### BACKGROUND

This Resolution updates and designates signature authority to reflect the current organizational structure of the Department and the current working titles for the positions designated.

Incumbency Certificate

I, James "Beau" Eccles, the duly appointed and serving Secretary of the Governing Board of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that Robert "Bobby" Wilkinson is the duly appointed Executive Director of the Department, appointed by its governing board and approved by the Governor effective August 15, 2019, and set forth below opposite his name is his true and correct signature:

Bobby Wilkinson \_\_\_\_\_

Executed and seal of the Department affixed this \_\_\_\_ day of \_\_\_\_\_, 2021 at Austin, Texas.

\_\_\_\_\_  
James "Beau" Eccles

(SEAL)

Certificate

I, Robert "Bobby" Wilkinson, the duly appointed Executive Director of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that set forth below is a true and correct listing setting forth specific positions within the Department, the name of the person currently designated by me to hold each such position, and, opposite their name, their true and correct signature. Each person listed currently holds the position indicated:

Board Secretary	_____
	James "Beau" Eccles
Assistant Board Secretary	_____
	Michael Lyttle
Director of Administration	_____
	David Cervantes
Director of Financial Administration	_____
	Jose Guevara
Director of Bond Finance/Chief Investment Officer	_____
	Monica Galuski
Director of Multifamily Bonds	_____
	Teresa W. Morales
Director of Multifamily Programs	_____
	Cody Campbell
Director of Texas Homeownership Program	_____
	Cathy Gutierrez
Deputy Executive Director of Programs	_____
	Brooke Boston
Director of Multifamily Asset Management	_____
	Rosalio Banuelos
Director of Single Family and Homeless Programs	_____
	Abigail Versyp
Director of Section 811 Program	_____
	Spencer Duran
CDBG CARES Director	_____
	Rudy Bentancourt
Director of Texas Rent Relief Program	_____
	Mariana Salazar
Deputy Executive Director of Program Controls and Oversight	_____
	Homero V. Cabello, Jr.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2021 at Austin, Texas.

\_\_\_\_\_  
Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs

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## TDHCA Outreach and Media Analysis, August 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 August 1 through August 31, 2021 (news articles specifically mentioned the Department and/or Texas Rent Relief Program).

Total number of articles referencing TDHCA: 268

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

- Print: 6 (Editorials/Columnists = 1)
- Broadcast: 146
- Trade, Government or Internet-Based Publications: 116

Figure 1 News Tone

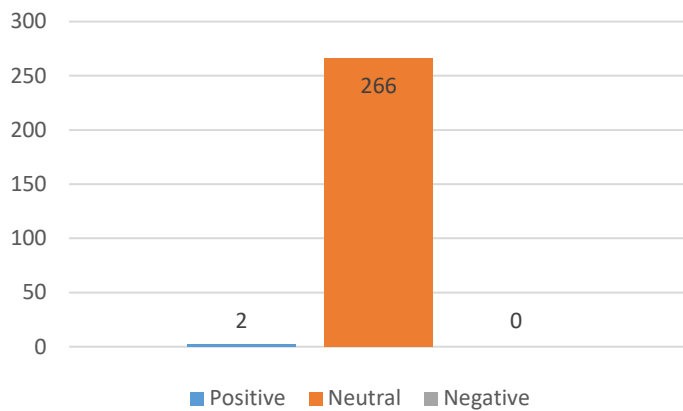
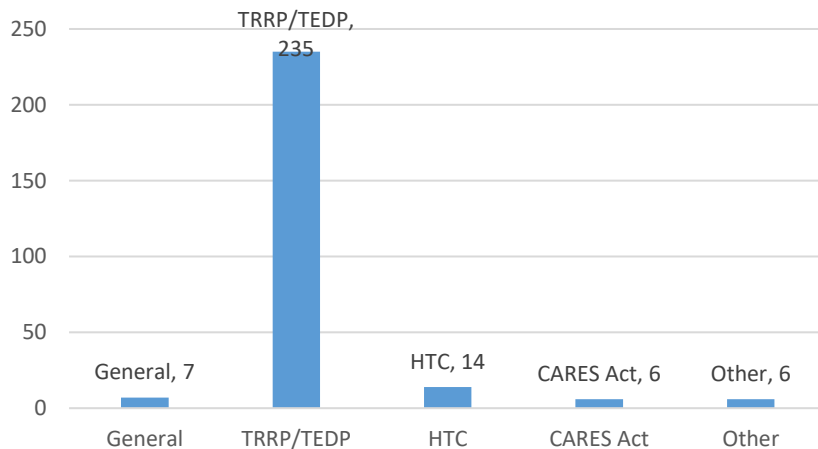
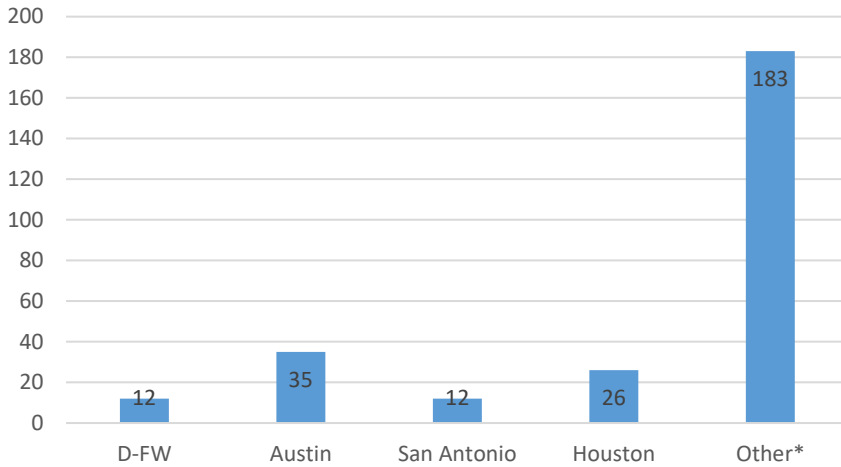


Figure 2 News Topic



<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

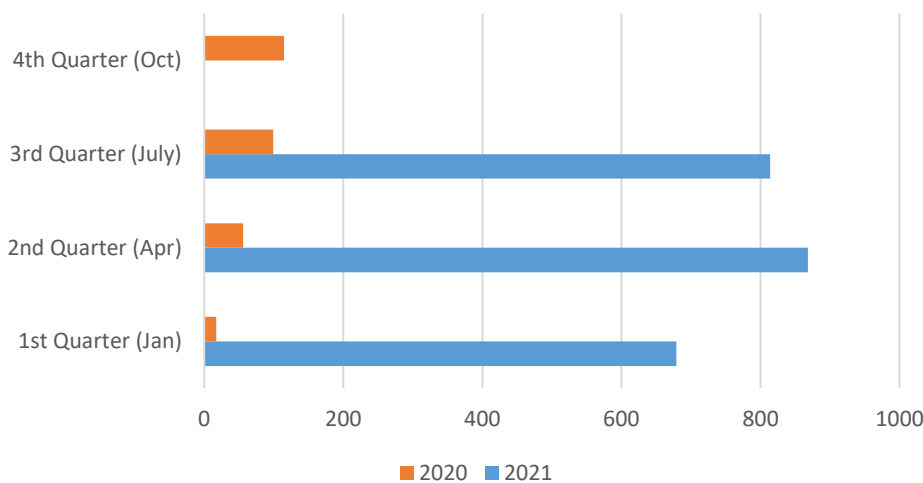


**Summary:**

Reporting on Department activities by the news media totaled 268 references in August 2021. News mentions continued to reflect TDHCA’s Texas Rent Relief Program efforts, including US Treasury data report on increased TRR disbursements compared to other similar state programs. Additionally, TDHCA’s press announcement regarding the 2021 9% HTC awards press announcement garnered numerous mentions into August.


The following table illustrates the number of news mentions during each quarter of 2021 compared to 2020. There were 814 news articles mentioning TDHCA and/or the Texas Rent Relief Program in the first two months (July, August) of the third quarter of 2021.

TDHCA News Trends




**Social media:**

Currently, TDHCA’s Twitter account has nearly 3,000 followers and its Facebook account has more than 5,500 followers. TDHCA’s YouTube views totaled nearly 38,000 views. The following is a summary analysis of TDHCA’s efforts to engage stakeholders and the public on federal and state resources, initiatives and programs.

					
Month/Yr	Posts	Clicks	Engagements	Shared posts	Liked posts
January 2021	50	20	56	20	18
February 2021	52	193	2,609	1,163	18
March 2021	71	322	355	144	55
April 2021	57	70	4,155	1,152	30
May 2021	60	211	2,861	766	39
June 2021	80	224	10,688	3,303	45
July 2021	101	649	8,443	2,440	62
August 2021	54	650	9,292	2,345	707

\* 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
February 2021	61	186	92	38	39
March 2021	80	313	77	20	37
April 2021	95	144	418	159	218
May 2021	64	282	72	24	30
June 2021	97	352	79	33	34
July 2021	102	520	46	15	24
August 2021	53	818	44	12	27


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

 **YouTube**

Month	Views	Watch time (hrs)	Avg. view duration	Impressions	Click-through rate
January 2021	684	105.8	9:16	7,760	2.2%
Feb. 2021	11,479	1,174	6:08	91,326	1.8%
March 2021	34,663	990.5	1:42	53,853	5.6%
April 2021	29,652	623.6	1:15	41,923	6.3%
May 2021	25,522	617.7	2:14	44,358	6.1%
June 2021	32,719	833.2	1:31	47,805	5.5%
July 2021	37,996	864.4	1:21	54,038	5.9%

August 2021	45,140	1,044.4	1:23	71,161	5.6%
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## August 2021

Video	 Average view duration	Views ↓	Watch time (hours)	Impressions	Impressions click-through rate
<input type="checkbox"/> <b>Total</b>	<b>1:23</b>	<b>45,140</b>	<b>1,044.4</b>	<b>71,161</b>	<b>5.6%</b>
<input type="checkbox"/> Texas Rent Relief Program Completing Application Tutorial	0:32	22,719 50.3%	206.4 19.8%	4,659	7.6%
<input type="checkbox"/> Texas Rent Relief Program Registration Tutorial	0:28	10,732 23.8%	84.9 8.1%	2,215	2.8%
<input type="checkbox"/> Texas Rent Relief Program Tenant Application Tutorial	3:24	5,012 11.1%	284.9 27.3%	16,058	10.5%
<input type="checkbox"/> Tutorial - Additional Funding Requests	3:09	2,056 4.6%	108.4 10.4%	2,802	5.9%
<input type="checkbox"/> Texas Rent Relief Program Landlord Tips	1:20	1,193 2.6%	26.8 2.6%	5,213	6.8%
<input type="checkbox"/> Texas Rent Relief Program Landlord Application Tutorial	2:36	935 2.1%	40.7 3.9%	4,772	5.5%
<input type="checkbox"/> Texas Rent Relief Program Landlord Assistance with a Tenant Appli...	2:16	626 1.4%	23.8 2.3%	3,648	5.5%
<input type="checkbox"/> Texas Emergency Mortgage Assistance Program TEMAP Webinar - ...	7:08	186 0.4%	22.1 2.1%	2,922	3.1%
<input type="checkbox"/> TERAP Webinar on Monthly Reporting and Duplication of Benefits	10:54	175 0.4%	31.8 3.1%	3,243	2.8%
<input type="checkbox"/> Utility Allowance Training - May 5, 2021	11:30	146 0.3%	28.0 2.7%	1,736	5.4%
<input type="checkbox"/> Fair Housing Special Topics: Reasonable Accommodations, Modifi...	17:55	99 0.2%	29.6 2.8%	1,720	3.1%
<input type="checkbox"/> Fair Housing Special Topics: Assistance Animals, Service Animals, ...	16:34	97 0.2%	26.8 2.6%	1,480	3.5%
<input type="checkbox"/> TEMAP Implementation Workshop - June 8, 2021	11:31	89 0.2%	17.1 1.6%	981	3.5%
<input type="checkbox"/> Fair Housing 101: The Basics of Fair Housing in Texas	11:31	88 0.2%	16.9 1.6%	473	10.2%
<input type="checkbox"/> Fair Housing Special Topics: How to Create an Affirmative Marketin...	10:34	75 0.2%	13.2 1.3%	1,393	2.7%
<input type="checkbox"/> TEMAP Reporting Webinar	6:46	73 0.2%	8.2 0.8%	1,585	1.9%
<input type="checkbox"/> 20 IncomeDeterminationTraining	7:07	71 0.2%	8.4 0.8%	212	5.2%
<input type="checkbox"/> Como Completar Su Aplicación para el Programa de Asistencia de ...	0:40	67 0.2%	0.7 0.1%	262	3.1%
<input type="checkbox"/> TDHCA Governing Board meeting - July 22, 2021	5:03	64 0.1%	5.4 0.5%	2,308	2.0%
<input type="checkbox"/> Como Registrarse Para el Programa de Asistencia de Pago de Rent...	0:58	62 0.1%	1.0 0.1%	377	7.2%
<input type="checkbox"/> TERAP Application Workshop	6:32	58 0.1%	6.3 0.6%	1,139	2.8%
<input type="checkbox"/> Texas Rent Relief Program Mobile Tenant Application Tutorial	1:34	53 0.1%	1.4 0.1%	271	7.0%
<input type="checkbox"/> TEMAP Reporting Webinar Program Part C	2:46	50 0.1%	2.3 0.2%	1,382	1.8%
<input type="checkbox"/> Consejos para la solicitud de inquilinos	1:37	45 0.1%	1.2 0.1%	613	1.8%
<input type="checkbox"/> Virtual Roundtable - TDHCA's Enforcement Rule	5:03	43 0.1%	3.6 0.4%	1,265	1.8%
<input type="checkbox"/> Fair Housing Special Topics: The Violence Against Women Act in F...	9:48	33 0.1%	5.4 0.5%	715	3.4%
<input type="checkbox"/> Accessing Texas Department of Aging and Disability Services	2:34	26 0.1%	1.1 0.1%	517	4.5%
<input type="checkbox"/> TERAP Implementation Workshop	14:37	26 0.1%	6.3 0.6%	416	1.9%
<input type="checkbox"/> Fair Housing Special Topics: Limited English Proficiency and Langu...	22:24	23 0.1%	8.6 0.8%	334	2.7%
<input type="checkbox"/> Overview of Updates to Compliance, Affirmative Marketing and Writ...	12:55	23 0.1%	5.0 0.5%	286	2.1%
<input type="checkbox"/> Digital Outreach Webinar	7:06	23 0.1%	2.7 0.3%	167	3.0%
<input type="checkbox"/> TERAP Demographics Reporting Update Workshop	7:59	22 0.1%	2.9 0.3%	915	1.3%
<input type="checkbox"/> TDHCA Utility Allowance Roundtable - Oct. 13, 2020	3:58	20 0.0%	1.3 0.1%	470	3.4%
<input type="checkbox"/> Average Income Webinar - Sept. 2, 2020	13:13	18 0.0%	4.0 0.4%	223	1.8%
<input type="checkbox"/> For Sec. 811 Referral Agents - PRA Barrier Busting Funds	2:40	16 0.0%	0.7 0.1%	99	2.0%
<input type="checkbox"/> TDHCA Governing Board meeting - July 8, 2021	0:43	16 0.0%	0.2 0.0%	1,126	1.0%
<input type="checkbox"/> TDHCA's Multifamily Direct Loan Training - Sept. 24, 2020	13:47	16 0.0%	3.7 0.4%	264	2.3%



<input type="checkbox"/> Consejos para la solicitud del propietario	0:46	11	0.0%	0.1	0.0%	452	1.1%
<input type="checkbox"/> TERAP Monthly Reporting Workshop - March 1, 2021	2:18	10	0.0%	0.4	0.0%	226	1.8%
<input type="checkbox"/> Section 811 PRA Updates for Referral Agents	4:55	9	0.0%	0.7	0.1%	237	3.4%
<input type="checkbox"/> Energy Assistance	0:59	6	0.0%	0.1	0.0%	36	13.9%
<input type="checkbox"/> TDHCA Board Audit & Finance Committee - June 17, 2021	1:15	5	0.0%	0.1	0.0%	540	0.9%
<input type="checkbox"/> Cost Certification Roundtable - November 18, 2020	1:48	5	0.0%	0.2	0.0%	121	2.5%
<input type="checkbox"/> Accessing Texas Department of State Health Services	2:25	5	0.0%	0.2	0.0%	123	3.3%
<input type="checkbox"/> TDHCA Governing Board meeting - June 17, 2021	0:42	4	0.0%	0.0	0.0%	760	0.3%
<input type="checkbox"/> Rental Assistance	4:22	3	0.0%	0.2	0.0%	138	0.7%
<input type="checkbox"/> Compliance Round Table - April 21, 2021	5:37	2	0.0%	0.2	0.0%	145	1.4%
<input type="checkbox"/> Texas Rent Relief Program Webinar - Feb. 26, 2021	0:31	2	0.0%	0.0	0.0%	0	–
<input type="checkbox"/> Previous Participation Review 2016	0:19	2	0.0%	0.0	0.0%	45	2.2%
<input type="checkbox"/> 2020 04 14 10 00 Fair Housing Month 2020 Assistance Animals	–	–	–	–	–	76	0%

### TDHCA Outreach August 2021

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

Department Name	Meeting Date	Meeting Title	Attendees (includes organizer)
Home Ownership	Aug 05, 2021	Lender Discussion with Josh Allyn - Gateway Mortgage	14
TDHCA Rules Committee	Aug 06, 2021	Qualified Allocation Plan Rules Committee Meeting	136
Compliance	Aug 10, 2021	Texas Results Oriented Management and Accountability (ROMA) Cohort (National Association for State Community Services Programs)	35
Community Affairs	Aug 10, 2021	Texas ROMA Cohort (National Association for State Community Services Programs)	39
Section 811	Aug 17, 2021	Introducing Section 811 PRA	17
Home Ownership	Aug 19, 2021	Lender Discussion - Academy Mortgage - John Holmes and Team	14
Community Affairs	Aug 30, 2021	Service Delivery Plan Guidance	Recorded for all Subs to use
Compliance	Aug 31, 2021	MF Direct Loan Training with TAA	47

2b



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

**Update on TDHCA Programs Addressing COVID-19 Pandemic Response  
Report for October 14, 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, Coronavirus Relief Bill funds, and the American Rescue Plan Act.

*Shaded rows reflect completed programs for which assistance is no longer available.*

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>								
<b>HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR</b>	NA: Reservation Agreements	3-6 months of rental assistance made available through existing or new HOME subrecipients.  <i>Geography:</i> Available where subrecipients apply. 23 administrators covering 120 counties. <i>Income Eligibility:</i> 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.	Amount obligated exceeds original program funding because other previously deobligated available HOME funds are being used to allow eligible households to access a full 6 months of assistance.	No added TDHCA staffing.  No added admin funds.	2,697  Includes active, pending PCR, and closed activities	Up to \$11,290,076  \$11,375,029* 100.75%  \$10,858,209 96.17%	All originally programmed funds are obligated.  2,749 (households) activities submitted, including total served.  * Amount Reserved
<b>Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds</b>	<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.  <i>Geography:</i> Available statewide (excluding CWCCP and CSI <sup>1</sup> ) <i>Income Eligibility:</i> 200% poverty (normally is 125%)	None	<b>COMPLETED</b>  100% expended.	No added TDHCA staffing.  No added admin funds.	9,468 persons	\$1,434,352  1,434,352 <b>100%</b>  \$1,434,352 <b>100%</b>	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
<b>Recaptured 2018/2019 HHSP</b>	<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><i>Geography:</i> Available 9 largest metro areas. <i>Income Eligibility:</i> Generally 30% AMFI if applicable</p>	Approval from Comptroller granted.	<b>COMPLETED</b> 100% expended.	No added TDHCA staffing.  No added admin funds.	462 persons	\$191,939.53 \$191,939.53 <b>100%</b> \$191,939.53 <b>100%</b>	9 subs
<b>CARES ACT FUNDS</b>								
<b>CSBG CARES</b>	<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 CSBG 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><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 200% of poverty (normally is 125%)</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	All contracts executed. THN awarded \$489,970 of their barrier funds to 11 entities covering all six regions of the Balance of State. Eviction Diversion program has been completed.	1 Art. IX FTE for CSBG reporting  1% admin (\$474,560)	123,855 persons	\$48,102,282 \$48,102,282 <b>100%</b> \$39,697,855 83%	40 CAA subs  CSBG-CV Discretionary has various deadlines.
<b>LIHEAP CARES</b>	<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 9/30/21</li> <li>45 day closeout</li> </ul>	<p>90% to CEAP subs using regular CEAP formula for households affected by COVID-19; 9% was held in reserve for future emergency use or for subs (subsequently allocated among subrecipients); and 1% for state admin. No weatherization.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	Funds not expended by the September 30, 2021 deadline will be lost to the state. While staff has moved funds among subrecipients to try to ensure all funds are spent, some portion of funds will revert to HHS. Staff will not know the amount of funds to be returned until after the close out period ends on 10/30/21.	1 Art. IX FTE for CEAP TA/capacity (1 Filled)  1% admin (\$892,670)	163,158 persons	\$94,023,896 \$93,483,658 99% \$58,974,180 63%	37 subs with all contracts executed. 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
<b>CDBG CARES – Phases I, II and III</b>	<p>Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendments in October 2020 and January 2021. A third amendment was approved by the Board at the July 8 Board meeting.</p> <p>80% of funds must be expended by 11/3/23; remaining 20% by 11/3/26.</p> <p>90-day closeout</p>	<p>Planned Usage: rental assistance in 40 cities/counties; mortgage payment assistance in 40 counties; legal services; assistance for providers of persons with disabilities; food expenses; community resiliency activities; and possible HMIS data warehouse funds.</p> <p><i>See Also Attached Report.</i></p> <p><i>Geography:</i> Varies by activity type.</p>	<p>Three Plan Amendments have been approved by HUD (October 2020; January 2021; and August 2021). HUD agreement executed November 3, 2020.</p>	<p><i>See Attached Report.</i></p>	<p>CDBG Director position filled. 8 other positions filled. May still hire other positions.</p> <p>All FTES are Art. IX</p> <p>Up to 7% admin and TA budget (\$9,929,238)</p>	<p>4,576 households</p>	<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>\$71,525,571* 50%</p> <p>\$18,330,136* 12.92%</p>	<p><i>Income Eligibility:</i> For households at or below 80% of AMI. * Figure includes staff administrative funds.</p>
<b>ESG CARES – Phase I</b>	<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><i>Geography:</i> Locations of all funded grantees <i>Income Eligibility:</i> 50% AMI for homeless prevention.</p>	<p>HUD mega-waivers accepted.</p> <p>One-Year Plan/Con Plan amendment to HUD on 5/8/21. HUD provided guidance that the CDC moratorium is no longer a blanket cause for ineligibility. Additional OYAP/Con Plan amendment to HUD on 9/16/21 to accept additional flexibilities offered by HUD in CPD notice 21-08.</p>	<p>Signed grant agreement sent to HUD 5/15/20.</p> <p>Funds live in HUD system 5/22/20. 101 contracts executed.</p> <p>3 legal service providers.</p> <p>Some unexpended funds reallocated to higher expended subrecipients, and may result in small fluctuations in the admin funds percentage.</p>	<p>4 Art. IX FTE (for all phases of ESG)</p> <p>5 % admin (\$1,682,448)</p>	<p>44,865 persons</p>	<p>\$33,254,679</p> <p>\$32,126,923 96.61%</p> <p>\$22,888,359.69 68.82%*</p> <p>*Does not include TDHCA admin drawn as this is not separated from ESG CARES II admin in HUD systems</p>	<p>This is the first \$1B of national ESG.</p> <p>HMIS/Coordination funds totaling \$417,949 was awarded 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
<b>ESG CARES – Phase II</b>	<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>Amendment processed allowing greater flexibility upon request on eligible uses.</p>	<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>	All contracts are in effect.	<p>FTEs noted under ESG CARES Phase I will be utilized for both phases.</p> <p>5% admin (\$3,232,247 )</p>	7,411 persons	<p>\$64,537,937</p> <p>\$64,537,937 <b>100%</b></p> <p>\$9,133,130.29 14.15%*</p> <p>*Does not include TDHCA admin drawn as this is not separated from ESG CARES II admin in HUD systems</p>	This is the state's share of the second (final) allocation of \$2.96 billion.
<b>Housing Choice Voucher Program Admin</b>	<p>HUD has clarified that expenditure must occur by June 30, 2022 (awaiting in writing, is an update from previous noted deadline of 12/31/21).</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. \$11,620 was paid for the system purchase.</p>	Only active use of funds currently is the landlord incentives reported in the following columns.	No added TDHCA staffing.	37 Landlords; 27 new landlords added	<p>\$258,139</p> <p>\$56,932 22.05%</p> <p>\$37,012 (Landlord Payments) 14.3%</p>	\$380M nationally. Purchases of Housing Pro upgrades complete. Training underway. Materials for landlord incentives completed.
<b>Housing Choice Voucher Program MVP</b>	<p>12 months of assistance, start date begins whenever we designate with HUD.</p> <p>Orig. Alloc: \$105,034*</p>	<p>15 additional MVP vouchers consistent with our award of MVP, which for TDHCA is for Project Access households.</p> <p>* A supplemental allocation from HUD is provided each quarter to support the 15 vouchers (amounts vary by quarter).</p>	None needed.	Received award from HUD. Issued the 15 vouchers on 5/22/20.	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	7 families in current leases.	<p>\$110,302</p> <p>\$17,538 15.9%</p> <p>\$17,538 15.9%</p>	8 vouchers outstanding; all are searching for units.

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>								
<b>Texas Rent Relief Program (funded by Emergency Rental Assistance 1 (ERA1))</b>	<p>The program dedicates funds through Treasury specifically for rental and utility assistance. Called ERA1.</p> <p>Required to obligate 65% of funds by 9/30/21 or risk reallocation to other states</p> <p>Expend funds by 9/30/22 (extended by American Rescue Bill)</p>	<p>Program provides up to 15 months of rental and utility assistance including arrears. Households must reapply every 3 months. Program run by the state directly with no subrecipients. 10% of funds may be used for Housing Stability services (see following row). 10% admin expenses allowed. A 10% set-aside of funds for eviction diversion has been established; applications and households facing utility disconnections are processed first.</p> <p><i>Geography:</i> Available statewide. <i>Income Eligibility:</i> For households at or below 80% AMI.</p>	Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021. As they are released, TRR policies are adjusted.	<p>QA/QC vendor, Deloitte, has been contracted.</p> <p>Staff is working on vendor contract amendments to transition the program into ERA2 funds.</p> <p>Program successfully obligated more than 65% of its funds before 9/30/21 making the state eligible to receive additional funds recaptured from other ERA grantees. Treasury has not yet released its reallocation decisions.</p>	<p>Positions filled include Director and 18 positions filled. Two position posted for 3-4 FTEs. Staffing now includes a team for the Stability Services activity.</p> <p>All FTEs are Art. IX</p> <p>Up to 10% budget for admin (\$130,811,062)</p>	164,169	<p><u>Total Allocation</u> \$1,308,110,629</p> <p><u>Available for Rent/Utility Payments*</u> \$1,111,841,711</p> <p><u>Expended**</u> \$951,317,422 85.6%</p> <p><u>Admin. Expended***</u> \$24,872,547 19.01%</p>	* Amount is total allocation less funds for HSS (next row) and Admin. **Expended and Served to Date are per Internal Report October 7, 2021 and reflects all payments made, plus payments in process (review and approval is complete). *** Figure is per Internal Report as of 8/31/21.
<b>Housing Stability Services (HSS) Program (funded by ERA1 and 2)</b>	<p>These funds are a subset of the ERA funds in the row above. Up to 10% of the funds from ERA1 and ERA2 are authorized for housing stability.</p> <p>ERA1: Expend funds by 9/30/22</p> <p>ERA2: Must expend funds by 9/30/25</p>	<p>Program provides funds to local communities or nonprofits for them to provide eligible Texans with a variety of services that help household maintain or obtain stable housing including legal services, outreach services, shelter services, community services, and services offered at permanent supportive housing properties</p> <p><i>Geography:</i> Available where Subrecipients are located. <i>Income Eligibility:</i> For households at or below 80% AMI.</p>	Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021. As they are released, HSS policies are adjusted.	<p>Contract with Texas Access to Justice Foundation has been executed. Awards made by Board in July 2021 pending execution with approximately 27 providers of services. MOU with TVC to support two Homeless Veterans Coordinator positions pending execution.</p> <p>NOFA for ERA2 HSS expected to be released in late October 2021.</p>	See above	872 households	<p>Total (est) \$162,314,702</p> <p><u>HSS ERA1</u> Avail: \$71,314,702</p> <p>Obligated: \$71,025,622 99.6%</p> <p>Expended: \$412,774 0.6%</p> <p><u>HSS ERA2</u> Avail: \$91,000,000</p> <p>Obligated: \$0 0%</p> <p>Expended: \$0 0</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>Low-Income Household Water Assistance Program (LIHWAP1)</b>	<p>Part of the appropriation bill; provides dedicated funds through HHS for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program</p> <p>Must obligate funds by: 9/30/23</p> <p>Must expend funds by: 9/30/23</p>	<p>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. HHS has encouraged that grantees model the LIHEAP program and utilize their LIHEAP networks of subrecipients.</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> TBD</p>	<p>The governor designated TDHCA as the recipient state agency on March 5, 2021. TDHCA submitted signed Terms &amp; Conditions, 424 and required survey responses on April 22.</p>	<p>TDHCA submitted its state LIHWAP plan on August 9, 2021. Staff is responding to questions from HHS. Upon approval, staff will initiate contracts with providers approved by the Board in June 2021. Outreach is occurring with water utility providers.</p>	<p>3 Art. IX FTEs</p> <p>Admin 15% Any FTEs will be Art. IX</p>	0	<p>\$51,801,876</p> <p>\$0 0%</p> <p>\$0 0%</p>	\$638M Nationally
<b>AMERICAN RESCUE PLAN (ARPA) – Public Law 117-2</b>								
<b>HOME ARP Program</b>	<p>Passed as Section 3205 of the American Rescue Plan, the program dedicates funds through HUD allowing flexible uses that can include typical HOME activities as well as homeless services and non-congregate shelter.</p> <p>Must expend funds by 9/30/30</p>	<p>Funds can be used for tenant based rental assistance, development of affordable housing, supportive services, non-congregate emergency shelter, permanent supportive housing, and operating costs for eligible nonprofit organizations.</p> <p><i>Geography:</i> TBD <i>Households Eligibility:</i> For homeless, at risk of homelessness, those fleeing Domestic Violence, or others with housing instability.</p>	<p>No waivers beyond those provided will be requested. The existing waiver from the Governor relating to limits on using the funds in rural areas will be utilized to allow the funds to assist homeless persons outside of rural areas.</p>	<p>HUD released guidance on September 13, 2021. TDHCA signed its grant agreement on September 23, 2021 and now has access to an initial 5% of funds for administration and planning. As required by HUD, staff is preparing for initial consultations, to be followed by preparation of a draft plan for the Board.</p>	<p>Establishing a separate HOME-ARP Division. Director position is posted. Other positions to be filled, not yet determined.</p> <p>All FTEs are Art. IX</p> <p>Up to 15% budget for admin and planning (\$19,945,372)</p>	0	<p>\$132,969,147</p> <p>\$0 0%</p> <p>\$0 0%</p>	\$5B nationally.



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>Homeowner Assistance Fund (HAF)</b>	<p>Passed as section 3206 of the American Rescue Plan, dedicates funds through Treasury specifically for preventing mortgage delinquencies, defaults, foreclosures, loss of utilities and displacement.</p> <p>Must expend funds by 9/30/26</p>	<p>The HAF Plan to be submitted to Treasury includes 1) a Reinstatement Program to reinstate delinquent mortgage loans, including principal and interest, as well as amounts advanced by the servicer for property charges (taxes, insurance, condo and homeowner association fees, and other related expenses advanced to protect lien position, and 2) a Property Charge Default Resolution Program, to bring current delinquent property charges, including past due property taxes, insurance premiums, condo and homeowner association fees, and cooperative maintenance or common charges, including up to 90 days of upcoming property charges. 100% of the funds will be made available to households with incomes equal to or less than the greater of (i) 100% of AMI or (ii) 100% of national median income. <i>(Cont. under Waivers)</i></p>	<p>TDHCA submitted a grant agreement to Treasury by the April 23 deadline.</p> <p>TDHCA submitted its HAF plan to Treasury September 30, 2021.</p> <p><i>(Continued from Planned Activities)</i></p> <p>Additional programs may be submitted to Treasury in the future.</p> <p><i>Geography: Statewide</i> <i>Income Eligibility: Household income at or below greater of 100% AMI or 100% of national median income.</i></p>	<p>To receive funds beyond the initial 10%, the state must submit the HAF Plan. Staff obtained public comment on a draft plan. The Plan includes needs assessment, evidence of public engagement, program design, method for targeting, goals, readiness, and a budget.</p>	<p>TBD relating to positions that will need to be filled.</p> <p>All FTES are Art. IX</p> <p>Up to 15% (\$126,332,101) for admin, planning, community engagement and needs assessment</p>	0	<p>\$842,214,006</p> <p>\$0 0%</p> <p>\$0 0%</p>	<p>\$9.9B nationally. Treasury encourages states to use initial disbursement of 10% of funds for creating or funding pilot programs to serve targeted populations, and focus on rapid assistance options such as mortgage reinstatement programs.</p>
<b>LIHEAP</b>	<p>Passed as Section 2911 of the American Rescue Plan, dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: 9/30/22</p>	<p>99% of funds were programmed in April 2021 to CEAP subs using a modified formula; 1% for state admin.</p> <p><i>Geography: Available statewide</i> <i>Income Eligibility: 150% of poverty</i></p>	Not yet known.	<p>Contracts have not yet been executed. Program flexibilities to improve assistance to households impacted by Winter Storm Uri will be included in these funds.</p>	<p>FTEs noted under CARES LIHEAP will be utilized for both allocations.</p> <p>1% admin (TBD)</p>	0	<p>\$134,407,308</p> <p>\$0 0%</p> <p>\$0 0%</p>	<p>\$4.5B nationally.</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>LIHWAP2</b>	<p>Passed as Section 2912 of the American Rescue Plan, dedicates funds through HHS for home water costs.</p> <p>Must obligate funds by: 9/30/23</p> <p>Must expend funds by: 9/30/23</p>	<p>See LIHWAP1 above. HHS has suggested that it will administer LIHWAP1 and 2 under one LIHWAP Plan. Because of the different funding sources, separate contracts will be required.</p> <p><i>Geography:</i> Statewide</p> <p><i>Income Eligibility:</i> TBD</p>	<p>The governor designated TDHCA as the recipient state agency for these funds on March 5, 2021.</p>	<p>See LIHWAP1 above.</p>	<p>FTEs noted under Appropriation Act LIHWAP will be utilized for both allocations.</p> <p>Admin % not yet known</p>	<p>0</p>	<p>\$40,597,082</p> <p>\$0 0%</p> <p>\$0 0%</p>	<p>\$500M Nationally</p>
<b>Emergency Housing Vouchers (EHV)</b>	<p>Passed as Section 3202 of the American Rescue Plan, dedicates vouchers through HUD for emergency rental assistance.</p> <p>HUD Authority to Recapture May Occur as Early As: 1 Year from Funding (if vouchers are unissued)</p> <p>Initial Funding Term Expires: Dec. 31, 2022</p> <p>Can Reissue EHV until: Sept. 30, 2023</p> <p>Renewal Funds Available for 'Occupied Units' through: Sept. 30, 2030</p>	<p>TDHCA is receiving 798 vouchers. The award includes funds for the vouchers (\$7,933,560) plus funds to provide services (\$2,793,000) and funds for admin (\$763,788). Vouchers are for households who are: (1) homeless, (2) at risk of homelessness, (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or (4) recently homeless.</p> <p><i>Geography:</i> TENTATIVE/ SUBJECT TO CHANGE: 34 county PHA Jurisdiction plus some counties in the Balance of State Continuum of Care (excluding the areas covered by PHAs that accepted EHV for their jurisdiction).</p> <p><i>Income Eligibility:</i> Not to exceed 50% of AMI</p>	<p>Significant waivers have been authorized by HUD. TDHCA will seek to maximize its use of these waivers, however the waivers are time-limited so TDHCA will be cautious not to authorize households based on waivers that, when expired, would make the household ineligible at renewal.</p> <p>TDHCA is required to update its PHA Admin Plan to reflect our plan for the service fee (see last column) and other program elements.</p>	<p>HUD requires that PHAs enter into MOUs with Homeless Continua of Cares (CoC) to receive referrals for these vouchers. Because service funds are also being provided to these organizations, contracts may be executed. Awards of those contracts were approved at the July 8 Board meeting; the contract with the Waco CoC has been executed. Collaboration with other CoCs is underway.</p>	<p>Program is being administered jointly by the Section 8 and Section 811 areas due to the unique nature of the program.</p> <p>2 Positions to be filled. To be paid for by EHV Admin and CSBG Admin.</p> <p>FTEs are Art. IX</p> <p>Admin fee structure is complex, variable and tied to timing of household having found a unit, hence the use of CSBG Admin to support the positions.</p>	<p>0</p>	<p>Total \$11,490,348</p> <p><u>Rent Payments</u> Avail: \$7,933,560</p> <p>Obligated: \$0 0%</p> <p>Expended: \$0 0%</p> <p><u>Service Contracts</u> Avail: \$2,793,000</p> <p>Obligated: \$175,000 6.3%</p> <p>Expended: \$0 0%</p>	<p>\$5 billion Nationally</p> <p>A service fee of \$3,500 per unit is authorized separate from the rental assistance payment. The fee total is not tied to each voucher, but is a combined total of funds for services. Services may include: housing search assistance; deposits, holding fees, and application fees; owner-related uses; and other eligible uses.</p>

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**BOARD REPORT ITEM**  
**TEXAS HOMEOWNERSHIP DIVISION**  
**OCTOBER 14, 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	\$ 98,900.00	\$ 113,735.00	\$ 364,452.00

*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 October 4, 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 10/4/2021	Loans with Down Payment Assistance						Unassisted Loans
	Government Loans (FHA, USDA, VA)				Fannie Mae Preferred Available only with My Choice Texas Home Taxable Loans At or Below 80% AMFI		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	3.250%	3.250%	3.000%	3.250%	N/A		Unassisted Funds available with Bond Program only
My FIRST Texas Home Combo Loans with MCC	3.250%	3.250%	3.375%	3.750%	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	3.250%	3.250%	3.375%	3.750%	3.500%	3.875%	N/A
<b>TARGETED AREA RESERVATION</b>	N/A	N/A	3.000%	3.250%	No First-Time Homebuyer requirement; Targeted Area Loans ONLY		
<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	55%						
Origination Points	0%						
SRP to Lender	2.75%						
Program Compliance Fee	\$275						
Tax Service Fee	\$85						
MCC Issuance Fee	\$400						
Loan Review and Acquisition Fee	\$150			All MCCs, Combo and Stand-Alone			
<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 2021– Quarter 2 (April 1, 2021 – June 30, 2021), aggregate loan activity over a 12-month period, and a map that reflects Texas counties served.

# TDHCA Housing Finance Activity Quarter 2-2021



**Borrowers Served**  
**2,628**

(Financed and/or MCC Issued)  
Decrease of 26% from Quarter 2-2020

**Homes Financed**  
**2,410**

Decrease of 17% from  
Quarter 2-2020

**First Mortgages**  
**\$484**  
**Million**

Decrease of 10% from  
Quarter 2-2020

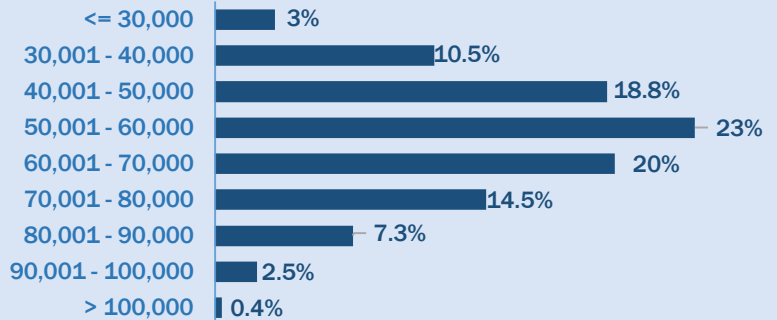
**MCCs Issued**  
**540**

Decrease of 33% from  
Quarter 2-2020

322 MCC and First Mortgage  
218 Stand-alone MCC

## Income Distribution

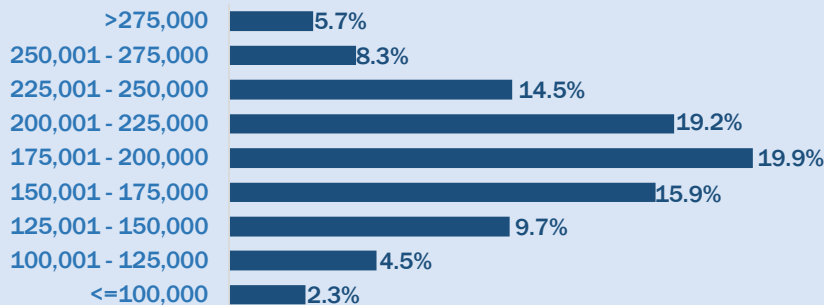
July 1, 2020 to June 30, 2021



Average Income \$58,372  
75% of Borrowers at or Below 80% AMFI

## Loan Amount Distribution

July 1, 2020 to June 30, 2021



Average Loan Amount \$197,448

## Year to Date

January 1, 2021 to June 30, 2021 - Quarter 1, 2

**Borrowers Served - 5,416**

**Homes Financed - 4,958**

**First Mortgages - \$990 Million**

**MCCs Issued - 1,144**

## TDHCA Aggregate Loan Originations

July 1, 2020 to June 30, 2021

Loan Volume by COUNTY (Top 20)			
Top Originating Counties	Total Originated	# of Loans	% of Loans
Harris	\$ 434,986,148	2203	16.5%
Bexar	\$ 353,001,673	1802	13.4%
Tarrant	\$ 216,384,026	1002	8.2%
Dallas	\$ 192,472,205	940	7.3%
El Paso	\$ 141,226,784	937	5.4%
Williamson	\$ 104,963,300	430	4.0%
Travis	\$ 88,993,546	368	3.4%
Fort Bend	\$ 82,586,346	377	3.1%
Montgomery	\$ 73,025,536	357	2.8%
Denton	\$ 68,951,095	275	2.6%
Kaufman	\$ 65,380,940	293	2.5%
Collin	\$ 59,225,484	243	2.3%
Hays	\$ 48,395,849	202	1.8%
Ellis	\$ 42,929,137	176	1.6%
Nueces	\$ 38,910,074	225	1.5%
Webb	\$ 38,131,527	212	1.4%
Lubbock	\$ 32,264,980	200	1.2%
Guadalupe	\$ 29,744,283	137	1.1%
Bell	\$ 29,640,702	188	1.1%
Johnson	\$ 29,268,675	146	1.1%

New Construction vs Existing Dwelling			
New Construction / Existing	Orig Loan Amount	# of Loans	% of Loans
New	\$ 977,838,854	4428	33.2%
Existing	\$ 1,652,971,560	8896	66.8%

Property Type			
Property Type	Orig Loan Amount	# of Loans	% of Loans
1 Unit Single Family Detached	\$ 2,549,440,056	12852	96.5%
Condominium	\$ 20,188,709	107	0.8%
Manufactured	\$ 37,104,687	234	1.8%
Townhouse	\$ 18,458,210	102	0.8%
Fourplex	\$ -	0	0.0%
Rowhouse	\$ 3,932,702	19	0.1%
Duplex	\$ 1,686,050	10	0.1%

Borrower Gender			
Gender	Orig Loan Amount	# of Loans	% of Loans
Male	\$ 1,401,164,291	7072	53.3%
Female	\$ 1,227,468,629	6242	46.7%
Declined to Answer	\$ 2,177,494	10	0.1%

First Time Home Buyer			
FTHB Status	Orig Loan Amount	# of Loans	% of Loans
Yes	\$ 2,594,458,914	13151	98.7%
No	\$ 36,351,500	173	1.3%

Household Size			
Household Size	Orig Loan Amount	# of Loans	% of Loans
1	\$ 755,392,557	3970	29.8%
2	\$ 655,222,623	3374	25.3%
3	\$ 527,873,613	2613	19.6%
4	\$ 409,894,200	1997	15.0%
5	\$ 197,610,931	966	7.3%
6	\$ 59,881,178	286	2.1%
7	\$ 17,803,597	86	0.6%
8+	\$ 7,131,715	32	0.2%

Max: 8 \ Min: 1 \ WAvg: 2.6

FICO Score Distribution			
FICO Score	Orig Loan Amount	# of Loans	% of Loans
<= 640	\$ 624,685,728	3143	23.6%
641 to 660	\$ 642,223,815	3264	24.5%
661 to 680	\$ 462,482,573	2360	17.7%
681 to 700	\$ 322,497,308	1620	12.2%
701 to 720	\$ 169,494,833	870	6.5%
721 to 740	\$ 159,244,869	809	6.1%
741 to 760	\$ 115,527,493	588	4.4%
761 to 780	\$ 76,439,977	379	2.8%
780 to 800	\$ 41,132,347	206	1.5%
> 800	\$ 17,081,470	85	0.6%

Max: 817 \ Min: 581 \ WAvg: 673

Household Income Distribution			
Household Income (\$)	Orig Loan Amount	# of Loans	% of Loans
<= 20,000	\$ 6,206,187	45	0.34%
20,001 - 30,000	\$ 44,206,542	358	2.69%
30,001 - 40,000	\$ 211,508,082	1398	10.49%
40,001 - 50,000	\$ 443,234,483	2501	18.77%
50,001 - 60,000	\$ 607,846,669	3071	23.05%
60,001 - 70,000	\$ 560,191,210	2666	20.01%
70,001 - 80,000	\$ 429,937,379	1937	14.54%
80,001 - 90,000	\$ 229,797,580	969	7.27%
90,001 - 100,000	\$ 85,169,072	333	2.50%
> 100,000	\$ 12,713,209	46	0.35%

Max: \$112,762 \ Min: \$4,464 \ WAvg: \$58,372

AMFI Distribution			
AMFI	Orig Loan Amount	# of Loans	% of Loans
<= 30%	\$ 22,798,231	171	1.3%
30.1% to 60%	\$ 833,351,749	4776	35.8%
60.1% to 80%	\$ 1,037,271,529	5042	37.8%
80.1% to 100%	\$ 737,125,677	3334	25.0%
100.1% to 115%	\$ 263,227	1	
> 115.1%	\$ -	0	0.0%

Max: 101% \ Min: 4% \ WAvg: 66%

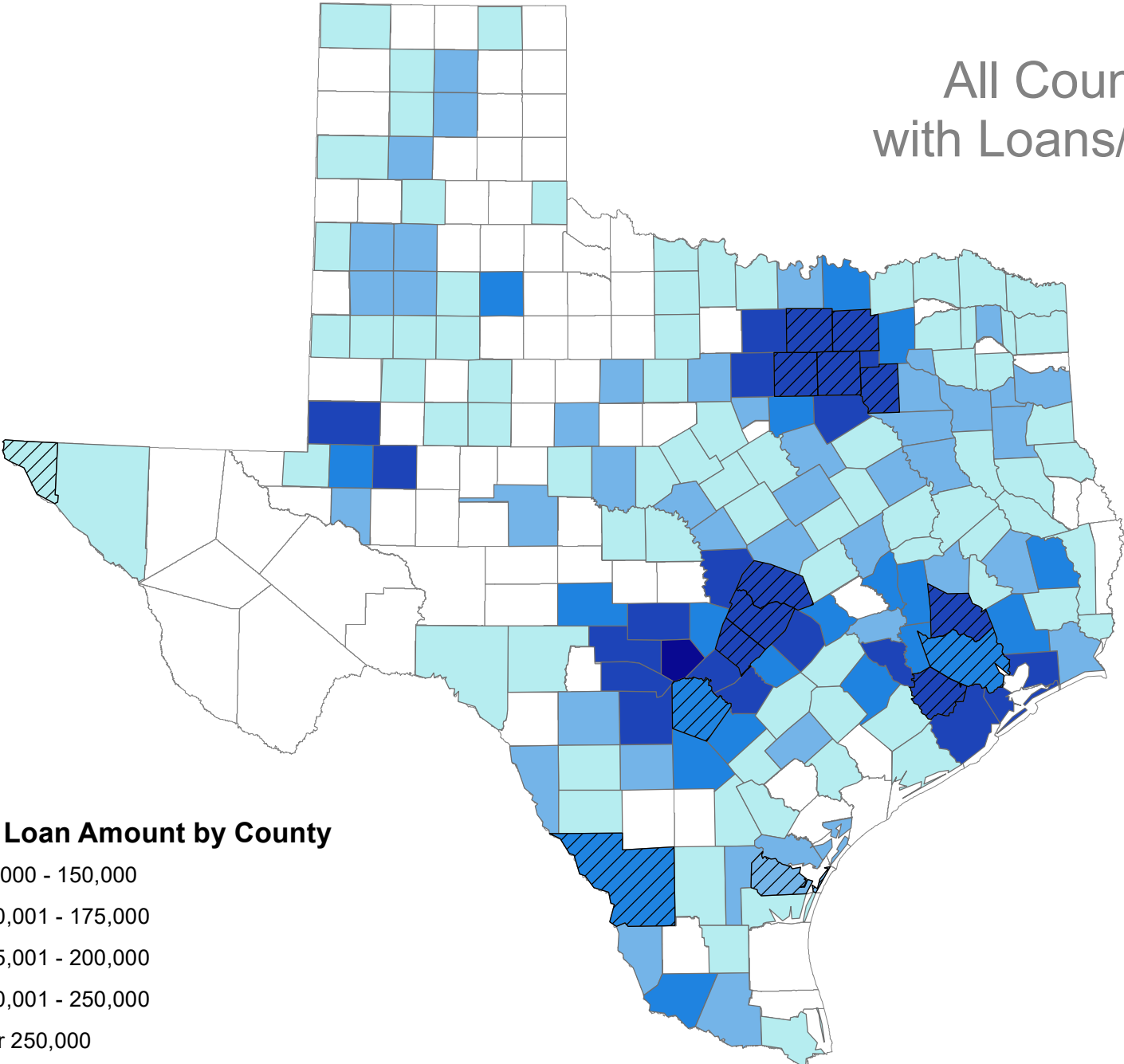
Age Distribution			
Age	Orig Loan Amount	# of Loans	% of Loans
<= 20	\$ 97,971,091	551	4.1%
21 to 25	\$ 271,030,951	1427	10.7%
26 to 30	\$ 616,889,950	3155	23.7%
31 to 35	\$ 529,687,343	2636	19.8%
36 to 40	\$ 383,089,615	1860	14.0%
41 to 45	\$ 268,043,044	1325	9.9%
46 to 50	\$ 200,230,684	984	7.4%
51 to 55	\$ 121,444,426	611	4.6%
56 to 60	\$ 72,809,892	393	2.9%
>61	\$ 69,613,417	382	2.9%

Max: 89 \ Min: 18 \ WAvg: 36

Loan Type			
Loan Type	Orig Loan Amount	# of Loans	% of Loans
FHA	\$ 2,408,960,588	12276	92.1%
HFA Preferred	\$ 108,673,776	530	4.0%
USDA-RHS	\$ 51,896,408	240	1.8%
VA	\$ 61,279,642	278	2.1%



# All Counties with Loans/MCCs



## Average Loan Amount by County

- \$40,000 - 150,000
- \$150,001 - 175,000
- \$175,001 - 200,000
- \$200,001 - 250,000
- Over 250,000
- Top 15 Counties

Date: 9/21/2021

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

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

2d

**BOARD REPORT ITEM**  
**BOND FINANCE DIVISION**  
**OCTOBER 14, 2021**

Report on the closing of the Department's 2021 Series A Single Family Mortgage Revenue Bonds and 2021 Series B Single Family Mortgage Revenue Refunding Bonds (Taxable)

**BACKGROUND**

On July 8, 2021, the Board approved the issuance of 2021 Series A Single Family Mortgage Revenue Bonds (2021A Bonds) and 2021 Series B Single Family Mortgage Revenue Refunding Bonds (Taxable) (2021B Bonds and, together with the 2021A Bonds, the Bonds). The Preliminary Official Statement (POS) was published July 19, 2021. The Retail Order Period was July 26, 2021, and the Institutional Order Period was July 27, 2021. The Bonds closed September 1, 2021.

The 2021A Bonds were designated as Social Bonds, which is the Department's second issuance of social bonds for single family. Per the International Capital Market Association, Social Bonds are any type of bond instrument where the proceeds will be exclusively applied to finance or refinance, in part or in full, new and/or existing eligible Social Projects and which are aligned with the four core components of the Social Bonds Principles. The four core components are: 1. Use of Proceeds; 2. Process for Project Evaluation and Selection; 3. Management of Proceeds; and 4. Reporting.

The financing team included Bracewell LLP, Bond Counsel; McCall, Parkhurst & Horton L.L.P., Disclosure Counsel; Stifel, Nicolaus & Co., Inc., Financial Advisor; and an underwriting team led by Barclays as Book Running Senior Manager, Jefferies, and RBC Capital Markets as co-senior managers, and Morgan Stanley, Piper Sandler & Co., and Ramirez & Co., Inc. as co-managers.

The 2021A Bonds, issued to provide funds for new loan origination, were structured to maximize premium received while keeping mortgage rates as low as possible. Fixed rate and tax-exempt, the bond structure included par and premium serial bonds, par and premium term bonds, and a premium PAC (Planned Amortization Class) bond. The par amount of 2021A Bonds sold was \$150,000,000, and the premium received was \$9,146,446, for total 2021A Bond proceeds of \$159,146,446. The premium funded down payment and closing cost assistance (DPA) for loans originated through this bond issue, as well as a portion of the lender compensation. This series made \$150,000,000 available for assisted loans, providing 4 and 5 points of DPA, with mortgage rates of 3.125% and 3.25%, respectively. Eligible loan types are FHA, VA, and USDA-RD loans. DPA is provided through 30-year, non-amortizing, 0% interest second loans that are due on sale or refinance of the first mortgage. Staff

expects to add 3-year forgivable loans for DPA as additional loan options for this bond issue later this month. Funds made available through this issue have been over 50% committed.

The 2021B Bonds, issued to refund the Department's 2004 Series B Single Family Variable Rate Mortgage Revenue Refunding Bonds (Commercial Paper Refunding), and 2004 Series D Single Family Variable Rate Mortgage Revenue Bonds, were structured to achieve maximum debt service savings. The 2021B Bonds were sold as a single maturity, pass through, fixed rate, taxable term bond, with a par amount of \$24,829,558. The refunding generated approximately \$2.5 million in present value savings.

Attached is a Pricing Book prepared by Barclays that details the bond sale.

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\$174,829,558

Texas Department of Housing and Community Affairs

Single Family Mortgage Revenue Bonds

\$150,000,000 2021 Series A (Non-AMT) and  
\$24,829,558 2021 Series B (Taxable) (MBS Pass-Through Bonds)



Final Pricing Book

Retail Pricing: July 26, 2021  
Institutional Pricing: July 27, 2021  
Closing: September 1, 2021

Prepared By



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**\$174, 829,558**  
**Texas Department of Housing and Community Affairs**  
**Single Family Mortgage Revenue Bonds**  
**2021 Series A and B**

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**1. Overview of Financing**

**1.a. Executive Summary**



## EXECUTIVE SUMMARY

<b>Timing and Underwriting</b>	<u>Retail Order Period:</u> <u>Institutional Pricing:</u> <u>Closing Date:</u> <u>Method of Sale:</u>	July 26, 2021 July 27, 2021 September 1, 2021 Negotiated
<b>Underwriters</b>	<u>Senior Manager:</u> <u>Co-Senior Managers:</u>  <u>Co-Managers:</u>	Barclays Jefferies RBC Capital Markets  Morgan Stanley Piper Sandler Ramirez & Co
<b>Use of Proceeds</b>	<p>The Series 2021A Bonds are being issued for the primary purpose of providing funds for the purchase of mortgage-backed, pass-through certificates. The Mortgage Certificates purchased with the proceeds of the Series 2021A Bonds will be guaranteed as to timely payment of principal and interest by Government National Mortgage Association. The Series 2021B Bonds are being issued for the primary purpose of refunding the Department's outstanding Single Family Variable Rate Mortgage Revenue ("SFMRB") Refunding Bonds, 2004 Series B and Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D (collectively, the "Refunded Bonds").</p>	
<b>Bond Structure</b>	<p>The Series 2021A bond structure included \$6.65 million premium serial bonds, \$42.21 million par serial and term bonds, \$37.39 million premium term bonds, and \$63.75 million premium PAC bonds. The Series 2021B bond structure included a single \$24.83 million par pass-through term bond.</p>	
<b>Ratings</b>	Moody's: Aaa	Standard & Poor's: AA+
<b>Bondholder Security</b>	<p>The Bonds, including the Series 2021 Bonds, are equally and ratably secured by the Trust Indenture for the equal benefit, protection and security of the owners of the Bonds, each of which, regardless of time of issuance or maturity, is to be of equal rank without preference, priority or distinction, except as otherwise provided in the Trust Indenture. Principal or Redemption Price of and interest on all Bonds are payable solely from and are secured by a pledge of and lien on the Trust Estate, which consists generally of the Revenues, Mortgages, Mortgage Loans (including Mortgage Certificates), money, and Investment Securities held in the Funds (excluding the Rebate Account, the Swap Agreement Termination Payment Subaccount and the Swap Agreement Termination Receipt Subaccount of the Surplus Revenues Account of the Revenue Fund and the Policy Payments Account), and other property pledged under the Trust Indenture and any Supplemental Indenture. Revenues include all payments with respect to the Mortgage Loans (net of servicing, accounting and collection fees) which include Mortgage Certificates (net of servicing and guaranty fees) and the earnings on investments of amounts held under the Trust Indenture and any supplemental indenture. Revenues do not include Swap Agreement Periodic Receipts or Swap Agreement Termination Receipts, payments made in order to obtain or maintain mortgage insurance and fire and other hazard insurance with respect to Mortgage Loans (including Mortgage Certificates), and any payments required to be made with respect to Mortgage Loans (including Mortgage Certificates) for taxes, other governmental charges, and other similar charges customarily required to be</p>	

escrowed on mortgage loans or commitment fees or other financing charges paid by a Mortgage Lender or the Master Servicer to the Department in connection with a commitment to sell and deliver Mortgage Loans (including Mortgage Certificates) to the Department.

**Investment of Proceeds**

Moneys in all Funds will be invested pursuant to the Depository Agreement with the Texas Treasury Safekeeping Trust Company in Investment Securities. Moneys held or invested in all Funds and Accounts under the Trust Indenture (other than the Rebate Account, the Swap Agreement Termination Payment Subaccount and the Swap Agreement Termination Receipt Subaccount of the Surplus Revenues Account of the Revenue Fund and the Policy Payments Account) are for the equal and ratable benefit of all owners of the Bonds.

**Results of Sale**

<b>Series 2021A</b>	
<b>Bond Issue Component</b>	<b>Buyer Profile</b>
\$18,795,000 2022-2026, 2030-2033 Serial Bonds	Retail: 65% Institutional: 21% Member 14%
\$6,650,000 2027-2029 Premium Serial Bonds	Retail: 99% Member: 1%
\$8,225,000 2036 Term Bonds	Retail: 18% Institutional: 82%
\$15,195,000 2041 Term Bonds	Retail: 10% Institutional: 90%
\$17,390,000 2046 Premium Term Bonds	Retail: 100%
\$19,995,000 2051 Premium Term Bonds	Retail: 7% Institutional: 93%
\$63,750,000 2051 Premium PAC	Institutional: 100%
<b>Series 2021B</b>	
<b>Bond Issue Component</b>	<b>Buyer Profile</b>
\$24,829,558 2039 Term Bonds	Institutional: 100%

**Market Conditions**

- US Treasury yields were largely unchanged amid mixed economic data and the Fed inching closer to a tapering decision
- MMD rallied 3 basis points on the long end while it sold off 1 to 3 basis points on the short end of the curve
- Municipal mutual funds that report weekly recorded inflows of about \$1.4bn compared with \$1.7bn in the previous week. Net year-to-date inflows for funds reporting weekly and monthly totaled about \$69.5bn
- Secondary trading volume was \$22bn, lower than \$23bn from the prior week. Average weekly volume for the year stood at \$25bn

## Commentary

- This transaction marked TDHCA's second issuance of Social Bonds and inaugural issuance of Social Bonds in the SFMRB Indenture. Kestrel Verifiers designated the Bonds as Social Bonds, based on the use of proceeds, consistent with the International Capital Markets Association's Social Bond Principles and certain United Nations Sustainable Development goals. The Department released an Investor Roadshow Presentation highlighting the strengths and attributes of the Indenture.
- The Series 2021A Bonds consisted of premium structures including a 5.5-year average life PAC bond, serial bonds with 5% coupons and term bonds that generated \$9.1 million of total premium proceeds for the Department's down payment and closing cost assistance programs
- The Series 2021B was structured as monthly pass-through bonds to refund the Department's outstanding SFMRB variable rate 2004 Series B and D bonds and allow the Department to exercise par termination options on the associated interest rate swaps thereby reducing the bond resolution's exposure to variable rate bonds and derivatives.
- A strong marketing campaign, which included the Department's roadshow (with 20 unique investor views), led to a robust order book across both series
- The one-day retail order period produced \$48.6 million in retail orders with oversubscription of 1x to 4.4x through various maturities, excluding the 2051 PAC Bond
- The institutional order period was well received across the transaction, with 12 institutional investors participating for both series and multiple investors submitting orders for entire maturities for the Series 2021A Bonds
- Overall, the Series 2021A Bonds were 2.3x oversubscribed and the Series 2021B Mortgage-Backed Securities Pass-Through Bonds were 1.5x oversubscribed, with three distinct investors participating in the Series 2021B
- Barclays was able to tighten the PAC bond and the term bonds by 3-5 basis points
- There were \$2.79 million of unsold balances that were underwritten by Barclays at yields marketed to investors

## PARTICIPANTS

<b>Issuer</b>	Texas Department of Housing and Community Affairs
<b>Bond Counsel</b>	Bracewell LLP
<b>Disclosure Counsel</b>	McCall, Parkhurst & Horton, LLP
<b>Financial Advisor</b>	Stifel, Nicolaus & Company
<b>Senior Manager</b>	Barclays
<b>Co-Senior Managers</b>	Jefferies RBC Capital Markets
<b>Co-Manager</b>	Morgan Stanley Piper Sandler Ramirez & Co
<b>Underwriters'</b>	Chapman and Cutler, LLP
<b>Counsel Trustee</b>	Bank of New York Mellon
<b>Trustee's Counsel</b>	McGuire, Craddlock & Strother, P.C.
<b>Rating Agencies</b>	Moody's Investor Services Standard & Poor's Rating Services
<b>Printer</b>	ImageMaster, Inc.

### UNDERWRITERS' FEE

Total Underwriters' Fee				
	2021A	2021B	Total	(\$)/Bond
Takedown:	\$835,212.50	\$124,147.79	\$959,360.29	\$5.48740
Management Fee:	150,000.00	24,829.56	174,829.56	1.00000
Underwriting Expenses:	65,616.00	10,861.46	76,477.46	0.43744
<b>Underwriters' Fee:</b>	<b>\$1,050,828.50</b>	<b>\$159,838.81</b>	<b>\$1,210,667.31</b>	<b>\$6.92484</b>

### Underwriting Expenses

	2021A	2021B	Total	(\$)/Bond
Ipreo Syndicate/SG Wires:	\$180.18	\$29.82	\$210.00	\$0.00120
Ipreo News Services Wires:	38.61	6.39	45.00	0.00026
Ipreo Bookrunning System:	9,270.00	1,534.47	10,804.47	0.06180
Ipreo Sales Tax:	1,241.50	205.51	1,447.01	0.00828
Interest on Day Loan:	5,042.35	834.66	5,877.01	0.03362
DTC Eligibility Fees:	686.38	113.62	800.00	0.00458
CUSIP Fees:	1,178.86	195.14	1,374.00	0.00786
CUSIP Disclosure Fees:	30.03	4.97	35.00	0.00020
Out-of-Pocket Expenses:	549.17	90.91	640.08	0.00366
Underwriters' Counsel:	42,898.92	7,101.08	50,000.00	0.28599
Ipreo Issuer Order Monitor:	4,500.00	744.89	5,244.89	0.03000
<b>Total Underwriting Expenses:</b>	<b>\$65,616.00</b>	<b>\$10,861.46</b>	<b>\$76,477.46</b>	<b>\$0.43744</b>

**SOURCES AND USES OF FUNDS****Sources**

	<b>2021A</b>	<b>2021B</b>	<b>Total</b>
Bond Proceeds (including 2021A Original Issue Premium)	\$159,146,446.00	\$24,829,558.00	\$183,976,004.00
Revenue Funds related to the Refunded Bonds	-	703,940.40	703,940.40
Issuer Contribution	3,916,667.51	-	3,916,667.51
<b>Total Sources</b>	<b>\$163,063,113.51</b>	<b>\$25,533,498.40</b>	<b>\$188,596,611.91</b>

**Uses**

	<b>2021A</b>	<b>2021B</b>	<b>Total</b>
Redemption of the Refunded Bonds	-	\$25,222,264.84	\$25,222,264.84
2021 A Mortgage Loan Account	161,089,072.32	-	161,089,072.32
Underwriter Compensation	1,050,828.50	159,838.81	1,210,667.31
Costs of Issuance	923,212.69	151,394.75	1,074,607.44
<b>Total Uses</b>	<b>\$163,063,113.51</b>	<b>\$25,533,498.40</b>	<b>\$188,596,611.91</b>

**1.b. Official Statement Cover**



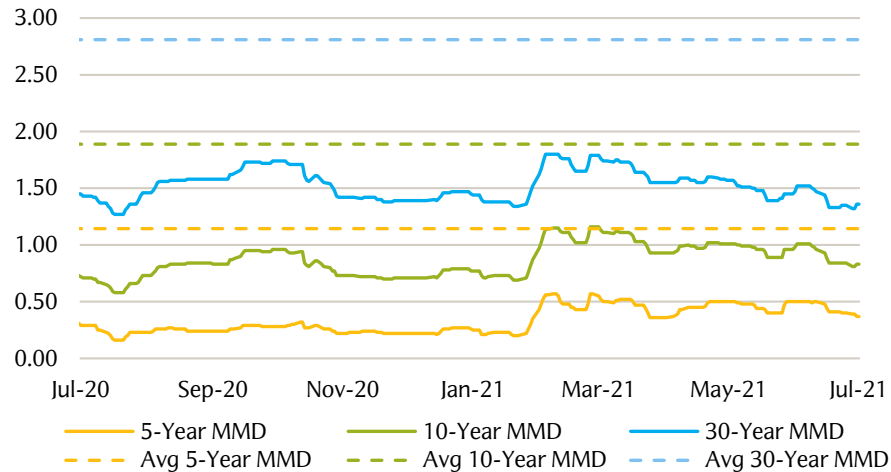
**2. Pricing Information**



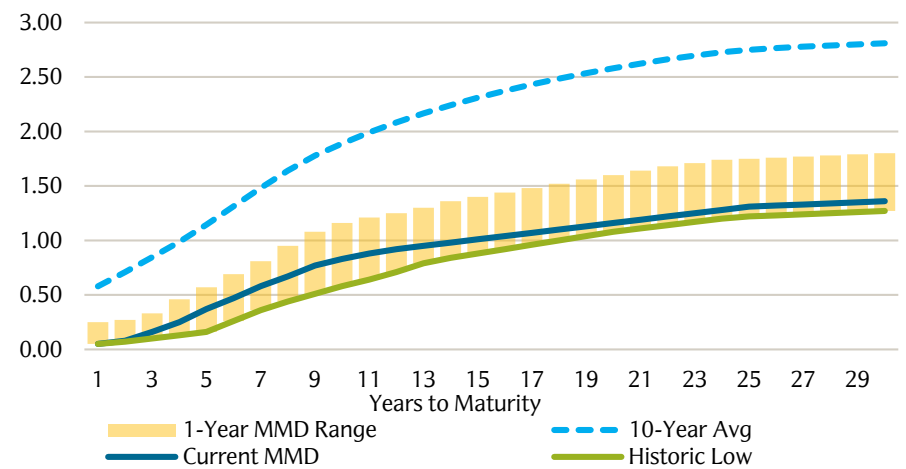
**2.a. Pre-Pricing: Market Data**

# Interest Rate Environment

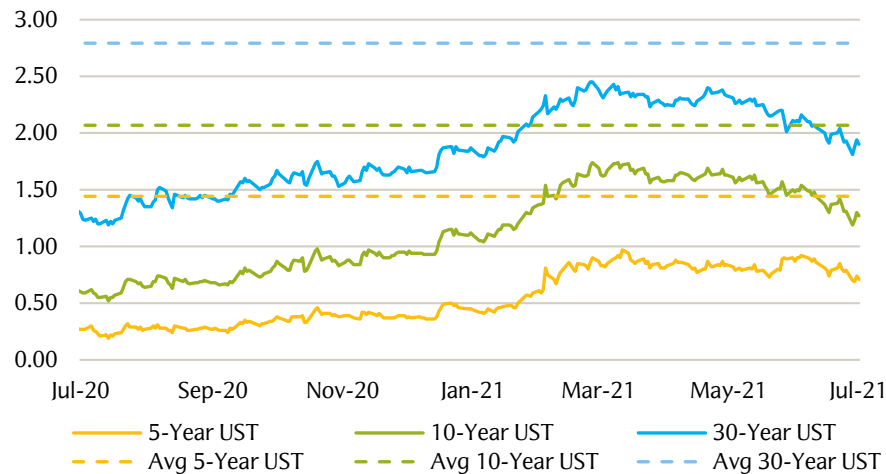
## MMD Yields Are Below 10 Year Averages<sup>1</sup>



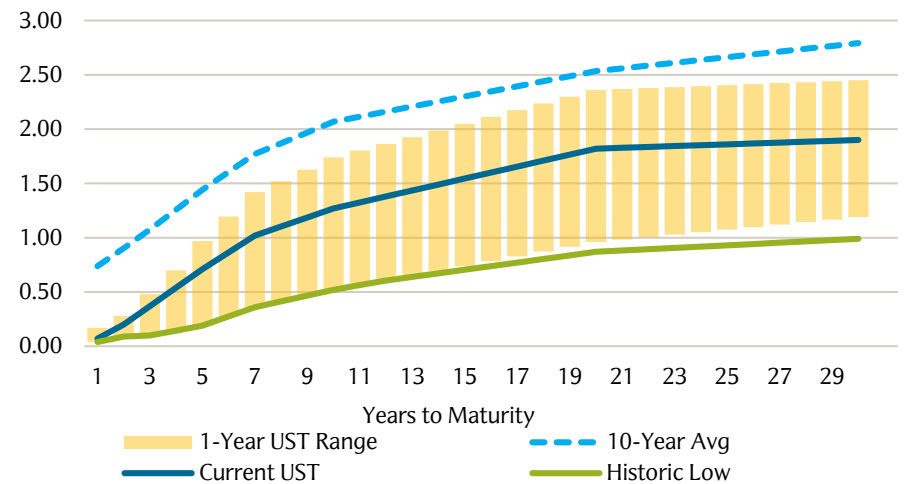
## Front End of Muni Curve Near All-Time Lows<sup>1</sup>



## UST Rates Are Rising but Below 10 Year Averages<sup>2</sup>



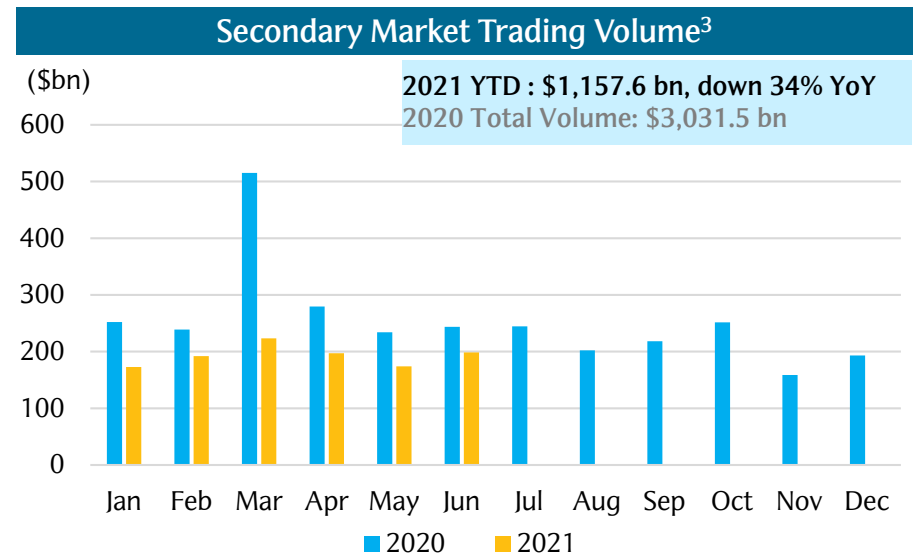
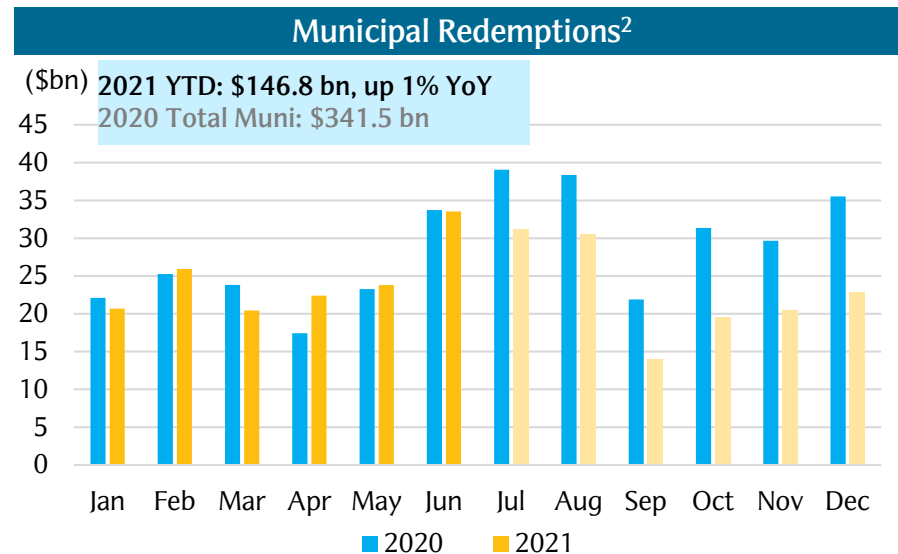
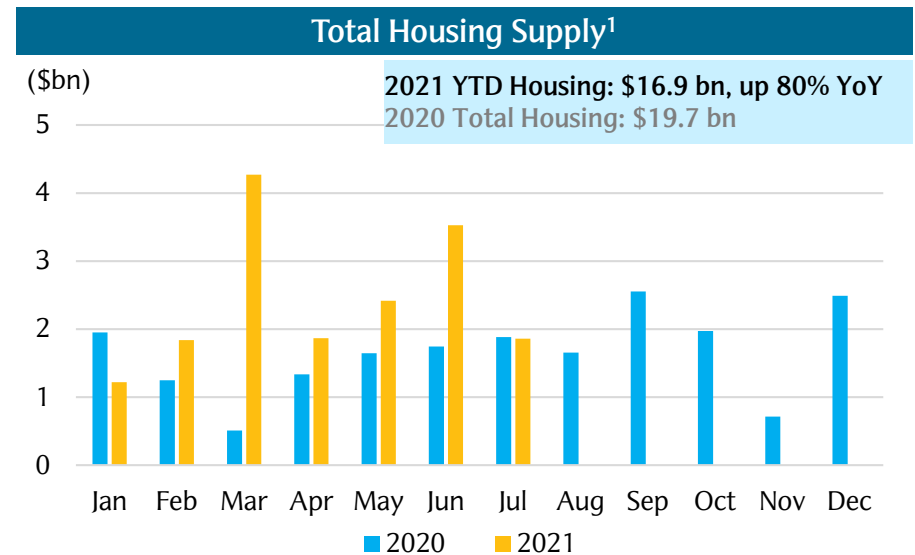
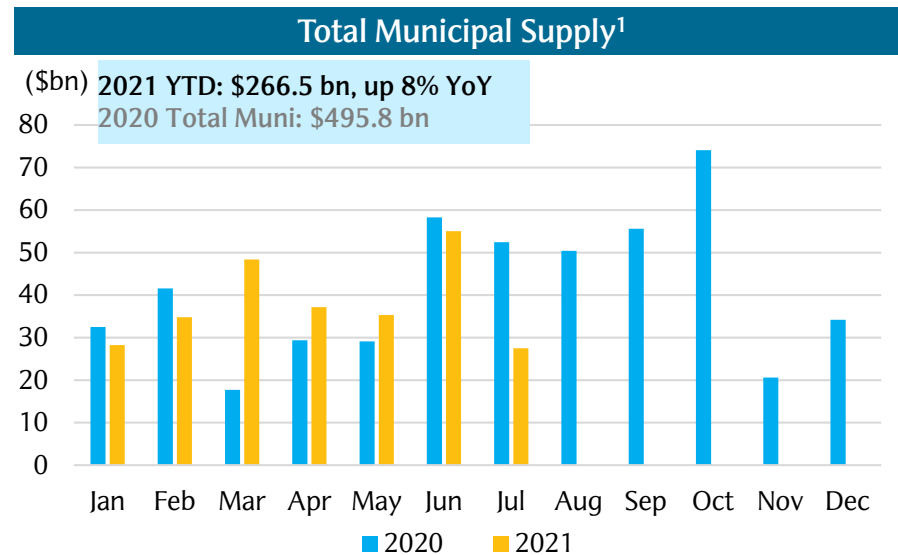
## Treasury Yields off 1-Year Highs<sup>2</sup>



1. Source: Thomson Reuters. As of July 22, 2021.

2. Source: U.S. Department of Treasury. As of July 22, 2021.

# Municipal Market Themes-Supply Picture and Activity

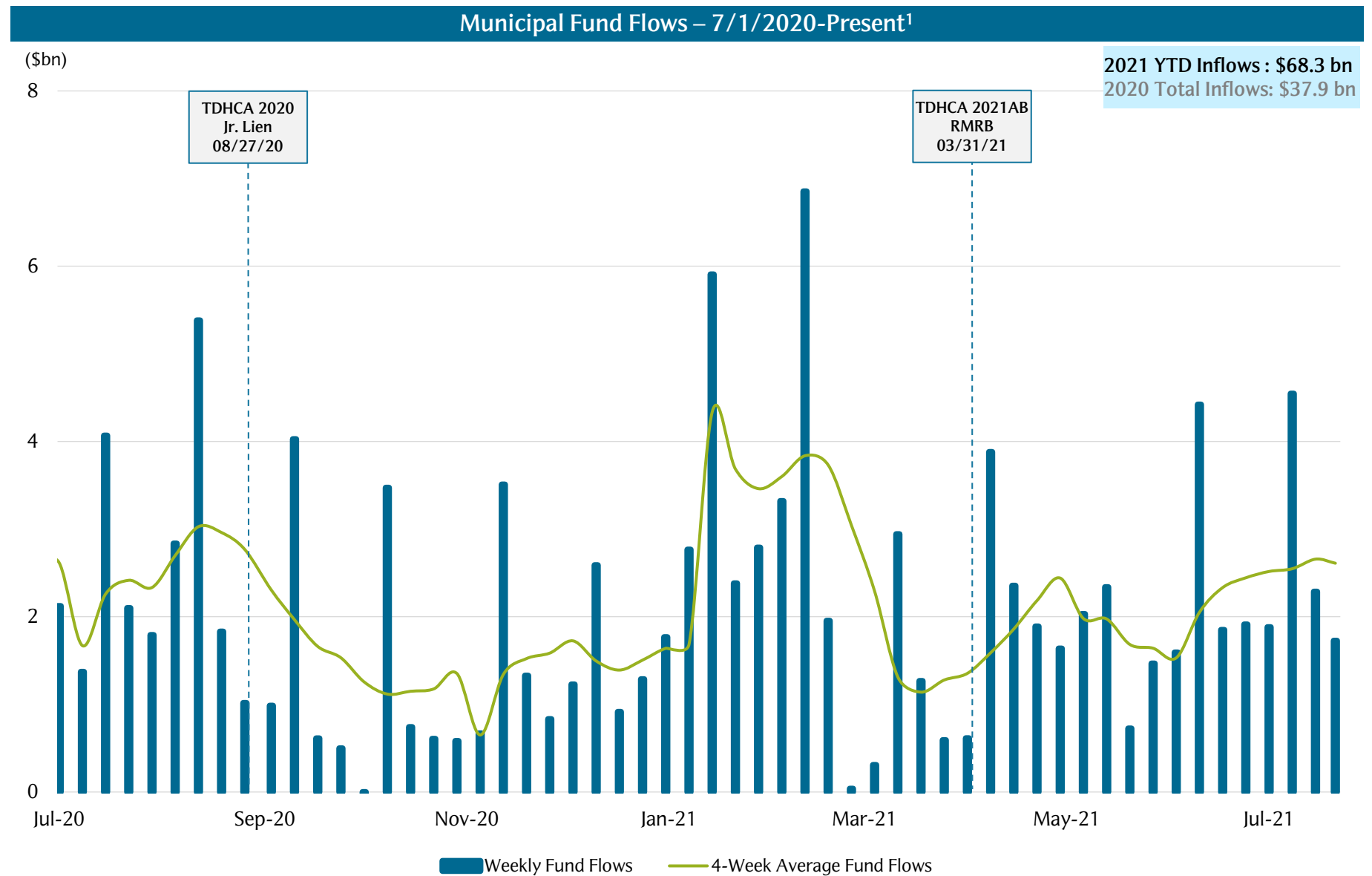


1. Source: Bloomberg. As of July 22, 2021.

2. Source: Barclays Research. Includes 2021 data for current refundings as known, excludes projections for current refundings. Jul.-Dec.. 2021 redemptions are projected.

3. Source: SIFMA. As of July 22, 2021.

# Municipal Fund Flows



<sup>1</sup> Source: Lipper US Fund Flows. As of July 22, 2021.

**2.b. Pricing Wires**

## Preliminary Pricing Wire 2021A

RE: \$ 150,000,000\*

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Single Family Mortgage Revenue Bonds 2021 Series A (Non-AMT)

(Social Bonds)

POS URL: <https://www.munios.com/munios-notice.aspx?i=8RUXSEG3RXW3>

Roadshow URL: <https://www.munios.com/munios-notice.aspx?i=8RUXSEG3RXW3>

MOODY'S: Aaa (Stable)

S&P: AA+ (Stable)

FITCH: NR

KROLL: NR

DATED: 09/01/2021 FIRST COUPON: 03/01/2022

DUE: 03/01 & 09/01

MATURITY	BALANCE / NMO	AMOUNT*	COUPON	PRICE	ADD'L TAKEDOWN ( Pts )
09/01/2022	640M	640M	0.125%	100.00	1/4
03/01/2023	NMO	995M	0.15%	100.00	1/4
09/01/2023	NMO	995M	0.20%	100.00	1/4
03/01/2024	NMO	1,005M	0.30%	100.00	3/8
09/01/2024	NMO	1,005M	0.35%	100.00	3/8
03/01/2025	NMO	1,005M	0.50%	100.00	1/2
09/01/2025	NMO	1,015M	0.55%	100.00	1/2
03/01/2026	NMO	1,020M	0.60%	100.00	1/2
09/01/2026	NMO	1,030M	0.70%	100.00	1/2
03/01/2027	NMO	1,035M	5.00%	0.75	1/2
			(Approx. \$ Price 122.857)		
09/01/2027	NMO	1,065M	5.00%	0.82	1/2
			(Approx. \$ Price 124.424)		
03/01/2028	NMO	1,090M	5.00%	0.90	5/8
			(Approx. \$ Price 125.829)		
09/01/2028	NMO	1,120M	5.00%	0.97	5/8
			(Approx. \$ Price 127.209)		
03/01/2029	NMO	1,155M	5.00%	1.15	5/8
			(Approx. \$ Price 127.588)		
09/01/2029	NMO	1,185M	5.00%	1.21	5/8
			(Approx. \$ Price 128.815)		
03/01/2030	1,180M	1,215M	1.55%	100.00	5/8
09/01/2030	NMO	1,225M	1.60%	100.00	5/8
03/01/2031	1,235M	1,235M	1.65%	100.00	5/8
09/01/2031	NMO	1,255M	1.70%	100.00	5/8
03/01/2032	NMO	1,265M	1.75%	100.00	5/8
09/01/2032	1,285M	1,285M	1.75%	100.00	5/8
03/01/2033	1,295M	1,295M	1.80%	100.00	5/8
09/01/2033	1,310M	1,310M	1.80%	100.00	5/8
09/01/2036	6,705M	8,225M	1.875%	100.00	5/8
09/01/2041	13,395M	15,195M	2.10%	100.00	5/8

09/01/2046	17,390M	17,390M	2.25%	100.00	5/8
09/01/2051	18,675M	19,995M	2.35%	100.00	5/8
03/01/2052	63,750M	63,750M	3.00%	0.88	1/2

(Approx. \$ Price 111.306)

(PAC)

(Avg. Life: 5.50 years over a range of 100.00 to 400.00% of PSA experience)

(Avg. Life Date 3/3/2027)

-----

CALL FEATURES: Optional call in 03/01/2030 @ 100.00

-----

EXCEPT: The PAC Term bonds are subject to redemption prior to maturity, in whole or in part at anytime and from time to time, on and after March 1, 2030, at the option of the Department, at the redemption prices set forth below (expressed as a percentage of the principal amount to be redeemed):

Redemption Date	PAC Redemption Price
March 1, 2030	102.129%
September 1, 2030	101.636%
March 1, 2031	101.134%
September 1, 2031	100.621%
March 1, 2032	100.126%
April, 1, 2032 and thereafter	100.000%

The Series 2021A bonds are subject to special redemption from mortgage loan principal payments, unexpended proceeds, excess revenues and mandatory sinking fund redemption as more fully described in the Preliminary Official Statement beginning on page 6.

The Series 2021A premium serial bonds are not subject to special redemption from mortgage loan principal payments, excess revenues or mandatory sinking fund redemption as described in the Preliminary Official Statement on pages 6 to 14.

Projected Weighted Average Life (in Years)

Series 2021A Bonds

SIFMA Prepayment Model	Term Bonds due 9/1/2036	Term Bonds due 9/1/2041	Term Bonds due 9/1/2046	Term Bonds due 9/1/2051	PAC Term Bonds Due (Optional Call not Exercised)	3/1/2052 (Optional Call Exercised)
0%	13.8	17.8	22.8	27.8	17.6	7.8
50%	13.8	17.8	22.4	25.3	8.6	6.5
75%	13.7	17.3	20.5	22.1	6.6	5.9
100%	13.4	16.2	18.4	19.2	5.5	5.4
125%	12.3	14.4	16.0	16.4	5.5	5.3
150%	11.2	12.9	14.0	14.2	5.5	5.3
175%	10.3	11.6	12.3	12.4	5.5	5.3
200%	9.4	10.4	10.9	10.9	5.5	5.3
300%	6.7	7.0	7.1	7.1	5.5	5.3
400%	4.8	4.8	4.9	4.8	5.5	5.3
500%	4.5	4.5	4.5	4.5	4.2	4.1

Sinking Fund Schedule

2036 Term Bond

03/01/2034	1,335M
09/01/2034	1,345M
03/01/2035	1,365M
09/01/2035	1,380M
03/01/2036	1,390M
09/01/2036	1,410M

Sinking Fund Schedule

2041 Term Bond

03/01/2037	1,430M
09/01/2037	1,450M
03/01/2038	1,470M
09/01/2038	1,485M
03/01/2039	1,510M
09/01/2039	1,530M
03/01/2040	1,545M
09/01/2040	1,570M
03/01/2041	1,590M
09/01/2041	1,615M

Sinking Fund Schedule

2046 Term Bond

03/01/2042	1,635M
09/01/2042	1,655M
03/01/2043	1,680M
09/01/2043	1,700M
03/01/2044	1,725M
09/01/2044	1,750M
03/01/2045	1,775M
09/01/2045	1,800M
03/01/2046	1,825M
09/01/2046	1,845M

Sinking Fund Schedule

2051 Term Bond

03/01/2047	1,875M
09/01/2047	1,905M
03/01/2048	1,930M
09/01/2048	1,960M
03/01/2049	1,980M
09/01/2049	2,010M
03/01/2050	2,040M
09/01/2050	2,070M
03/01/2051	2,095M
09/01/2051	2,130M

Sinking Fund Schedule



2052 Term Bond

09/01/2022	330M
03/01/2023	620M
09/01/2023	635M
03/01/2024	645M
09/01/2024	655M
03/01/2025	670M
09/01/2025	675M
03/01/2026	690M
09/01/2026	705M
03/01/2027	715M
09/01/2027	730M
03/01/2028	740M
09/01/2028	755M
03/01/2029	765M
09/01/2029	780M
03/01/2030	795M
09/01/2030	810M
03/01/2031	825M
09/01/2031	835M
03/01/2032	855M
09/01/2032	865M
03/01/2033	885M
09/01/2033	900M
03/01/2034	915M
09/01/2034	930M
03/01/2035	945M
09/01/2035	965M
03/01/2036	980M
09/01/2036	1,000M
03/01/2037	1,015M
09/01/2037	1,035M
03/01/2038	1,050M
09/01/2038	1,070M
03/01/2039	1,090M
09/01/2039	1,105M
03/01/2040	1,125M
09/01/2040	1,150M
03/01/2041	1,165M
09/01/2041	1,185M
03/01/2042	1,210M
09/01/2042	1,230M
03/01/2043	1,250M
09/01/2043	1,275M
03/01/2044	1,295M
09/01/2044	1,320M
03/01/2045	1,340M
09/01/2045	1,365M
03/01/2046	1,390M
09/01/2046	1,415M
03/01/2047	1,435M
09/01/2047	1,460M
03/01/2048	1,485M
09/01/2048	1,515M
03/01/2049	1,545M
09/01/2049	1,570M
03/01/2050	1,595M

09/01/2050 1,620M  
03/01/2051 1,650M  
09/01/2051 1,680M  
03/01/2052 1,500M

\* - APPROXIMATE SUBJECT TO CHANGE

Order period until today 11:30 AM, Eastern, Tuesday, 07/27/21.  
Please use Electronic Order Entry to enter orders or call (212) 528-1061.

The managers reserve the right to terminate or extend the order period prior to or later than the above-mentioned time and date and to confirm bonds at their discretion.

PRIORITY OF ORDERS AS FOLLOWS:

1. Net Designated

(Exception: If an investor is affiliated with a syndicate member and that syndicate member

may not be compensated for the investor's order, the investor will not be required to designate that syndicate member.)

2. Member

PRIORITY POLICY

At least 3 firm(s) must be designated.

No firm may receive more than 55.00% of any designation.

Each designee must receive a minimum of 5.00% for each priority order.

The Senior Manager requests the identification of all priority orders at the time the orders are entered. The Senior Manager will pay out all designations.

Pursuant to MSRB Rule G-11, syndicate members and other brokers, dealers, and municipal securities dealers ("Dealers"), when submitting an order for the syndicate member or Dealer's own account or for a "related account" as defined in Rule G-11 (which includes, without limitation, proprietary orders for affiliates of the syndicate member or Dealer), must so inform Barclays Capital at the time any such order is submitted.

The compliance addendum MSRB Rule G-11 will apply.

Delivery is expected on Wednesday, September 1, 2021.

This issue is book entry only. This issue is clearing through DTC.

Barclays Capital Inc.  
Jefferies LLC  
RBC Capital Markets  
Morgan Stanley & Co. LLC  
Piper Sandler & Co  
Ramirez & Co., Inc.

By: Barclays Capital Inc. New York, NY



SIFMA Prepayment Model	Avg. Life Estimate
0%	7.5
50%	6.5
75%	6.1
100%	5.7
125%	5.3
150%	5.0
175%	4.6
200%	4.4
300%	3.4
400%	2.8
500%	2.3

DATA REGARDING THE 2021B TRANSFERRED MORTGAGE CERTIFICATES:  
 UNDERLYING MORTGAGE RATES (WAC): 5.096%  
 UNDERLYING PASS-THROUGH RATES (WEIGHTED AVERAGE): 4.596%  
 WEIGHTED AVERAGE REMAINING TERM (WAM): 163 MONTHS  
 HISTORICAL PREPAYMENT SPEEDS:  
 LIFETIME PSA: 152%  
 12 MONTH PSA: 112%  
 6 MONTH PSA: 111%

Please see Appendix I of the POS for more details on the 2021B Transferred Mortgage Certificates

\* - APPROXIMATE SUBJECT TO CHANGE

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RBC Capital Markets  
Morgan Stanley & Co. LLC  
Piper Sandler & Co  
Ramirez & Co., Inc.

By: Barclays Capital Inc. New York, NY



(Approx. \$ Price PTC 03/01/2030 100.230)

03/01/2052 63,750M 3.00% 0.85 1/2 88275FTP4  
(Approx. \$ Price 111.478)

(PAC)

(Avg. Life: 5.50 years over a range of 100.00 to 400.00% of PSA experience)

(Avg. Life Date 3/3/2027)

-----

CALL FEATURES: Optional call in 03/01/2030 @ 100.00

-----

EXCEPT: The PAC Term bonds are subject to redemption prior to maturity, in whole or in part at anytime and from time to time, on and after March 1, 2030, at the option of the Department, at the redemption prices set forth below (expressed as a percentage of the principal amount to be redeemed):

Redemption Date	PAC Redemption Price
March 1, 2030	102.159%
September 1, 2030	101.659%
March 1, 2031	101.149%
September 1, 2031	100.626%
March 1, 2032	100.081%
April, 1, 2032 and thereafter	100.000%

The Series 2021A bonds are subject to special redemption from mortgage loan principal payments, unexpended proceeds, excess revenues and mandatory sinking fund redemption as more fully described in the Preliminary Official Statement beginning on page 6.

The Series 2021A premium serial bonds are not subject to special redemption from mortgage loan principal payments, excess revenues or mandatory sinking fund redemption as described in the Preliminary Official Statement on pages 6 to 14.

Projected Weighted Average Life (in Years)

Series 2021A Bonds

SIFMA Prepayment Model	Term Bonds due 9/1/2036	Term Bonds due 9/1/2041	Term Bonds due 9/1/2046	Term Bonds due 9/1/2051	PAC Term Bonds Due (Optional Call not Exercised)	3/1/2052 (Optional Call Exercised)
0%	13.8	17.8	22.8	27.8	17.2	7.7
50%	13.8	17.8	22.2	24.7	8.3	6.4
75%	13.7	17.1	20.2	21.3	6.4	5.8
100%	13.3	15.9	17.9	18.4	5.5	5.3
125%	12.2	14.1	15.5	15.7	5.5	5.3
150%	11.1	12.6	13.5	13.5	5.5	5.3
175%	10.1	11.3	11.8	11.8	5.5	5.3
200%	9.3	10.1	10.5	10.4	5.5	5.3
300%	6.5	6.8	6.8	6.8	5.5	5.3
400%	4.6	4.7	4.7	4.6	5.5	5.3
500%	4.5	4.4	4.4	4.4	4.1	4.0

Sinking Fund Schedule

2036 Term Bond

03/01/2034	1,335M
09/01/2034	1,345M
03/01/2035	1,365M
09/01/2035	1,380M
03/01/2036	1,390M
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Sinking Fund Schedule

2041 Term Bond

03/01/2037	1,430M
09/01/2037	1,450M
03/01/2038	1,470M
09/01/2038	1,485M
03/01/2039	1,510M
09/01/2039	1,530M
03/01/2040	1,545M
09/01/2040	1,570M
03/01/2041	1,590M
09/01/2041	1,615M

Sinking Fund Schedule

2046 Term Bond

03/01/2042	1,635M
09/01/2042	1,655M
03/01/2043	1,680M
09/01/2043	1,700M
03/01/2044	1,725M
09/01/2044	1,750M
03/01/2045	1,775M
09/01/2045	1,800M
03/01/2046	1,825M
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Sinking Fund Schedule

2051 Term Bond

03/01/2047	1,875M
09/01/2047	1,905M
03/01/2048	1,930M
09/01/2048	1,960M
03/01/2049	1,980M
09/01/2049	2,010M
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09/01/2050	2,070M
03/01/2051	2,095M
09/01/2051	2,130M

Sinking Fund Schedule

2052 Term Bond



09/01/2022	330M
03/01/2023	620M
09/01/2023	635M
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09/01/2024	655M
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09/01/2030	810M
03/01/2031	825M
09/01/2031	835M
03/01/2032	855M
09/01/2032	865M
03/01/2033	885M
09/01/2033	900M
03/01/2034	915M
09/01/2034	930M
03/01/2035	945M
09/01/2035	965M
03/01/2036	980M
09/01/2036	1,000M
03/01/2037	1,015M
09/01/2037	1,035M
03/01/2038	1,050M
09/01/2038	1,070M
03/01/2039	1,090M
09/01/2039	1,105M
03/01/2040	1,125M
09/01/2040	1,150M
03/01/2041	1,165M
09/01/2041	1,185M
03/01/2042	1,210M
09/01/2042	1,230M
03/01/2043	1,250M
09/01/2043	1,275M
03/01/2044	1,295M
09/01/2044	1,320M
03/01/2045	1,340M
09/01/2045	1,365M
03/01/2046	1,390M
09/01/2046	1,415M
03/01/2047	1,435M
09/01/2047	1,460M
03/01/2048	1,485M
09/01/2048	1,515M
03/01/2049	1,545M
09/01/2049	1,570M
03/01/2050	1,595M
09/01/2050	1,620M
03/01/2051	1,650M

09/01/2051 1,680M  
03/01/2052 1,500M

PRIORITY OF ORDERS AS FOLLOWS:

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(Exception: If an investor is affiliated with a syndicate member and that syndicate member may not be compensated for the investor's order, the investor will not be required to designate that syndicate member.)

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The compliance addendum MSRB Rule G-11 will apply.

The Award is final for Tuesday, July 27, 2021 at 6:06PM Eastern.

Delivery is firm for Wednesday, September 1, 2021.

This issue is book entry only. This issue is clearing through DTC.

Award: 07/27/2021  
Award Time: 6:06PM Eastern  
Delivery: 09/01/2021 (Firm)  
Initial trade: 07/28/2021  
Date of Execution: 07/28/2021  
Time of Execution: 11:30AM Eastern

Barclays Capital Inc.  
Jefferies LLC  
RBC Capital Markets  
Morgan Stanley & Co. LLC  
Piper Sandler & Co  
Ramirez & Co., Inc.

By: Barclays Capital Inc. New York, NY



Average Life Information:

SIFMA Prepayment Model	Avg. Life Estimate
0%	7.3
50%	6.3
75%	5.9
100%	5.5
125%	5.2
150%	4.9
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HISTORICAL PREPAYMENT SPEEDS:

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12 MONTH PSA: 112%

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Award Time: 6:06PM Eastern  
Delivery: 09/01/2021 (Firm)  
Initial trade: 07/28/2021  
Date of Execution: 07/28/2021  
Time of Execution: 11:30AM Eastern

Barclays Capital Inc.  
Jefferies LLC  
RBC Capital Markets  
Morgan Stanley & Co. LLC  
Piper Sandler & Co  
Ramirez & Co., Inc.

By: Barclays Capital Inc. New York, NY

**3. Financing Results**

**3.a. Summary of Results**

**Texas Department of Housing and Community Affairs**  
**Single Family Mortgage Revenue Bonds, 2021 Series A**  
**Summary of Results**

<b>Market Bonds</b>	150,000,000
<b>Bond Retail Pricing</b>	7/26/2021
<b>Bond Pricing Date</b>	7/27/2021
<b>Sign BPA</b>	7/27/2021
<b>Delivery Date</b>	9/1/2021
<b>Ratings</b>	Aaa (Moody's)/AA+ (S&P)

Serial Bonds					
Maturity	Principal	Coupon	Price	Premium	Yield
9/1/2022	640,000	0.125%	100.000%	-	0.125%
3/1/2023	995,000	0.150%	100.000%	-	0.150%
9/1/2023	995,000	0.200%	100.000%	-	0.200%
3/1/2024	1,005,000	0.300%	100.000%	-	0.300%
9/1/2024	1,005,000	0.350%	100.000%	-	0.350%
3/1/2025	1,005,000	0.500%	100.000%	-	0.500%
9/1/2025	1,015,000	0.550%	100.000%	-	0.550%
3/1/2026	1,020,000	0.600%	100.000%	-	0.600%
9/1/2026	1,030,000	0.700%	100.000%	-	0.700%
3/1/2030	1,215,000	1.550%	100.000%	-	1.550%
9/1/2030	1,225,000	1.600%	100.000%	-	1.600%
3/1/2031	1,235,000	1.650%	100.000%	-	1.650%
9/1/2031	1,255,000	1.700%	100.000%	-	1.700%
3/1/2032	1,265,000	1.750%	100.000%	-	1.750%
9/1/2032	1,285,000	1.750%	100.000%	-	1.750%
3/1/2033	1,295,000	1.800%	100.000%	-	1.800%
9/1/2033	1,310,000	1.800%	100.000%	-	1.800%

Premium Serial Bonds					
Maturity	Principal	Coupon	Price	Premium	Yield
3/1/2027	1,035,000	5.000%	122.857%	236,569.95	0.750%
9/1/2027	1,065,000	5.000%	124.424%	260,115.60	0.820%
3/1/2028	1,090,000	5.000%	125.829%	281,536.10	0.900%
9/1/2028	1,120,000	5.000%	127.209%	304,740.80	0.970%
3/1/2029	1,155,000	5.000%	127.588%	318,641.40	1.150%
9/1/2029	1,185,000	5.000%	128.815%	341,457.75	1.210%

Term Bonds					
Maturity	Principal	Coupon	Price	Premium	Yield
9/1/2036	8,225,000	1.850%	100.000%	-	1.850%
9/1/2041	15,195,000	2.050%	100.000%	-	2.050%
9/1/2046	17,390,000	2.250%	100.231%	40,170.90	2.220%
9/1/2051	19,995,000	2.350%	100.230%	45,988.50	2.320%
3/1/2052	63,750,000	3.000%	111.478%	7,317,225.00	0.850%

<b>Total</b>	<b>150,000,000</b>			<b>9,146,446.00</b>	
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**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series B**

**Summary of Results**

<b>Market Bonds</b>	24,829,558
<b>Bond Pricing Date</b>	7/27/2021
<b>Sign BPA</b>	7/27/2021
<b>Delivery Date</b>	9/1/2021
<b>Ratings</b>	Aaa (Moody's)/AA+ (S&P)

**Term Bonds**

<b>Maturity</b>	<b>Principal</b>	<b>Coupon</b>	<b>Price</b>	<b>Premium</b>	<b>Yield</b>
3/1/2039	24,829,558	1.550%	100.000%	-	1.550%

<b>Total</b>	<b>24,829,558</b>			<b>-</b>	
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**3.b. Pricing Progression**

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series A  
Pricing Progression**

Serial Bonds							
<b>Maturity</b>	<b>Principal</b>	<b>Coupon</b>	<b>Yield</b>	<b>7/23 MMD</b>	<b>Pre-Marketing</b>	<b>7/27 MMD</b>	<b>Final Pricing</b>
9/1/2022	640,000	0.125%	0.125%	0.05%	10	0.05%	8
3/1/2023	995,000	0.150%	0.150%	0.06%	14	0.05%	10
9/1/2023	995,000	0.200%	0.200%	0.08%	17	0.06%	14
3/1/2024	1,005,000	0.300%	0.300%	0.11%	24	0.09%	21
9/1/2024	1,005,000	0.350%	0.350%	0.16%	24	0.14%	21
3/1/2025	1,005,000	0.500%	0.500%	0.20%	30	0.17%	33
9/1/2025	1,015,000	0.550%	0.550%	0.27%	33	0.24%	31
3/1/2026	1,020,000	0.600%	0.600%	0.33%	32	0.31%	29
9/1/2026	1,030,000	0.700%	0.700%	0.38%	37	0.37%	33
3/1/2030	1,215,000	1.550%	1.550%	0.75%	80	0.74%	81
9/1/2030	1,225,000	1.600%	1.600%	0.78%	82	0.77%	83
3/1/2031	1,235,000	1.650%	1.650%	0.81%	84	0.80%	85
9/1/2031	1,255,000	1.700%	1.700%	0.84%	86	0.83%	87
3/1/2032	1,265,000	1.750%	1.750%	0.87%	88	0.86%	89
9/1/2032	1,285,000	1.750%	1.750%	0.89%	86	0.88%	87
3/1/2033	1,295,000	1.800%	1.800%	0.91%	89	0.90%	90
9/1/2033	1,310,000	1.800%	1.800%	0.93%	87	0.92%	88

Premium Serial Bonds							
<b>Maturity</b>	<b>Principal</b>	<b>Coupon</b>	<b>Yield</b>	<b>7/23 MMD</b>	<b>Pre-Marketing</b>	<b>7/27 MMD</b>	<b>Final Pricing</b>
3/1/2027	1,035,000	5.000%	0.750%	0.42%	33	0.41%	34
9/1/2027	1,065,000	5.000%	0.820%	0.49%	36	0.48%	34
3/1/2028	1,090,000	5.000%	0.900%	0.55%	38	0.54%	36
9/1/2028	1,120,000	5.000%	0.970%	0.60%	42	0.59%	38
3/1/2029	1,155,000	5.000%	1.150%	0.64%	55	0.63%	52
9/1/2029	1,185,000	5.000%	1.210%	0.69%	56	0.68%	53

Term Bonds							
<b>Maturity</b>	<b>Principal</b>	<b>Coupon</b>	<b>Yield</b>	<b>7/23 MMD</b>	<b>Pre-Marketing</b>	<b>7/27 MMD</b>	<b>Final Pricing</b>
9/1/2036	8,225,000	1.850%	1.850%	1.01%	87	1.00%	85
9/1/2041	15,195,000	2.050%	2.050%	1.16%	94	1.15%	90
9/1/2046	17,390,000	2.250%	2.220%	1.31%	94	1.30%	92
9/1/2051	19,995,000	2.350%	2.320%	1.36%	99	1.35%	97
3/1/2052	63,750,000	3.000%	0.850%	0.42%	46	0.41%	44

**Total 150,000,000**

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series B  
Pricing Progression**

Term Bonds							
<b>Maturity</b>	<b>Principal</b>	<b>Coupon</b>	<b>Yield</b>	<b>7/23 UST</b>	<b>Pre-Marketing</b>	<b>7/27 UST</b>	<b>Final Pricing</b>
3/1/2039	24,829,558	1.550%	100.000%	0.72%	83	0.71%	84

**Total 24,829,558**

**3.c. Pricing Comparisons**



## Recent Taxable Mortgage-Backed Securities Pass-Through Transactions

Issuer	Texas Dept. of Housing & Community Affairs	Ohio Housing Finance Agency	New Mexico Mortgage Finance Authority	Texas Dept. of Housing & Community Affairs	Louisiana Housing Corp.
Series	SFMRB 2021 Series B	2021 Series B	2021 Series B	RMRB Series 2021 B	2021 Series A
Type	Refunding	Refunding	Refunding	Refunding	Refunding
Par		\$71,627,607	\$16,286,857	\$61,369,927	\$7,539,906
Ratings	Aaa/AA+	Aaa	Aaa	Aaa/AA+	Aaa
Pricing Date	7/27/2-21	5/18/2021	4/13/2021	3/31/2021	3/9/2021
Coupon	1.55%	1.65%	1.62%	1.70%	1.55%
Yield	1.55%	1.65%	1.62%	1.70%	1.55%
Price	100	100	100	100	100
Spread <sup>1</sup>	84	82	77	78	72
Benchmark	5-year	5-year	5-year	5-year	5-year
PSA		Avg. Life	Avg. Life	Avg. Life	Avg. Life
0%	7.3	11.2	11.5	11.4	8.7
50%	6.3	9.1	9.4	9.3	7.3
100%	5.5	7.6	7.7	7.7	6.2
150%	4.9	-	-	6.4	-
200%	4.3	5.4	5.5	5.4	4.7
300%	3.4	4.1	4.1	4	3.6
400%	2.8	3.2	3.2	3.1	2.9
500%	2.3	2.6	2.6	2.5	2.4
<b>Historical Prepayment Speeds</b>					
Lifetime PSA	152%	214%	205%	222%	248%
12M PSA	112%	282%	371%	250%	318%
6M PSA	111%	205%	382%	221%	401%
3M PSA	-	163%	360%	-	278%

**4. Order Book**

**4.a. Allotments per Syndicate Member**





**4.b. Orders and Allotments by Maturity**

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series A  
Orders and Allotments by Maturity (\$000s)**

Maturity	Par Amount	Retail		Institutional		Member		Total	
		Orders	Allotments	Orders	Allotments	Orders	Allotments	Orders	Allotments
9/1/2022	640	-	-	-	-	-	640	-	640
3/1/2023	995	2,065	995	-	-	-	-	2,065	995
9/1/2023	995	3,530	995	-	-	-	-	3,530	995
3/1/2024	1,005	2,010	1,005	-	-	-	-	2,010	1,005
9/1/2024	1,005	3,820	1,005	-	-	-	-	3,820	1,005
3/1/2025	1,005	1,015	1,005	-	-	-	-	1,015	1,005
9/1/2025	1,015	2,045	1,015	-	-	-	-	2,045	1,015
3/1/2026	1,020	3,270	1,020	-	-	-	-	3,270	1,020
9/1/2026	1,030	4,175	1,030	-	-	-	-	4,175	1,030
3/1/2027	1,035	1,535	1,035	-	-	-	-	1,535	1,035
9/1/2027	1,065	2,630	1,065	-	-	-	-	2,630	1,065
3/1/2028	1,090	2,680	1,090	-	-	-	-	2,680	1,090
9/1/2028	1,120	2,740	1,120	-	-	-	-	2,740	1,120
3/1/2029	1,155	3,965	1,115	-	-	-	40	3,965	1,155
9/1/2029	1,185	4,055	1,185	-	-	-	-	4,055	1,185
3/1/2030	1,215	335	335	1,215	880	-	-	1,550	1,215
9/1/2030	1,225	1,225	1,225	-	-	-	-	1,225	1,225
3/1/2031	1,235	-	-	-	-	-	1,235	-	1,235
9/1/2031	1,255	1,255	1,255	-	-	-	-	1,255	1,255
3/1/2032	1,265	1,265	1,265	-	-	-	-	1,265	1,265
9/1/2032	1,285	-	-	410	410	-	875	410	1,285
3/1/2033	1,295	-	-	1,725	1,295	-	-	1,725	1,295
9/1/2033	1,310	-	-	1,310	1,310	-	-	1,310	1,310
9/1/2036	8,225	1,520	1,520	18,280	6,705	4,500	-	24,300	8,225
9/1/2041	15,195	1,500	1,500	48,685	13,695	6,000	-	56,185	15,195
9/1/2046	17,390	-	-	42,280	17,390	5,500	-	47,780	17,390
9/1/2051	19,995	1,320	1,320	51,990	18,675	5,500	-	58,810	19,995
3/1/2052	63,750	-	-	138,255	63,750	28,000	-	166,255	63,750
<b>Total</b>	<b>150,000</b>	<b>47,955</b>	<b>23,100</b>	<b>304,150</b>	<b>124,110</b>	<b>49,500</b>	<b>2,790</b>	<b>401,605</b>	<b>150,000</b>

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series B  
Orders and Allotments by Maturity (\$000s)**

Maturity	Par Amount	Retail		Institutional		Member		Total	
		Orders	Allotments	Orders	Allotments	Orders	Allotments	Orders	Allotments
3/1/2039	24,830	-	-	29,830	24,830	7,500	-	37,330	24,830
<b>Total</b>	<b>24,830</b>	<b>-</b>	<b>-</b>	<b>29,830</b>	<b>24,830</b>	<b>7,500</b>	<b>-</b>	<b>37,330</b>	<b>24,830</b>

**4.c. Designations Summary**

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series A  
Orders and Allotments by Manager (\$000s)**

Syndicate Member	Texas Retail		National Retail		Institutional		Member		Total	
	Orders	Allotments	Orders	Allotments	Orders	Allotments	Orders	Allotments	Orders	Allotments
Barclays	10,585	7,780	31,645	11,645	304,150	124,110	-	2,790	346,380	146,325
Jefferies	-	-	-	-	-	-	21,000	-	21,000	-
RBC Capital Markets	1,645	1,520	1,900	2,025	-	-	4,000	-	7,545	3,545
Morgan Stanley	-	-	2,050	-	-	-	-	-	2,050	-
Piper Sandler	-	-	-	-	-	-	5,000	-	5,000	-
Ramirez & Co	130	130	-	-	-	-	19,500	-	19,630	130
<b>Total</b>	<b>12,360</b>	<b>9,430</b>	<b>35,595</b>	<b>13,670</b>	<b>304,150</b>	<b>124,110</b>	<b>49,500</b>	<b>2,790</b>	<b>401,605</b>	<b>150,000</b>

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series A  
Designations by Syndicate Member (\$000s)**

Syndicate Member	Member Order Revenue	Net Designations	Total Revenue
Barclays	116,243.64	382,757.45	499,001.09
Jefferies	-	70,383.76	70,383.76
RBC Capital Markets	812.50	74,001.91	74,814.41
Morgan Stanley	22,156.25	53,191.20	75,347.45
Piper Sandler	-	72,446.39	72,446.39
Ramirez & Co	-	43,219.40	43,219.40
<b>Total</b>	<b>139,212.39</b>	<b>696,000.11</b>	<b>835,212.50</b>

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series B  
Orders and Allotments by Manager (\$000s)**

Syndicate Member	Institutional		Member		Total	
	Orders	Allotments	Orders	Allotments	Orders	Allotments
Barclays	29,830	24,830	-	-	29,830	24,830
Jefferies	-	-	-	-	-	-
RBC Capital Markets	-	-	7,500	-	7,500	-
Morgan Stanley	-	-	-	-	-	-
Piper Sandler	-	-	-	-	-	-
Ramirez & Co	-	-	-	-	-	-
<b>Total</b>	<b>29,830</b>	<b>24,830</b>	<b>7,500</b>	<b>-</b>	<b>37,330</b>	<b>24,830</b>

**Texas Department of Housing and Community Affairs  
Single Family Mortgage Revenue Bonds, 2021 Series B  
Designations by Syndicate Member (\$000s)**

Syndicate Member	Member Order Revenue	Net Designations	Total Revenue
Barclays	-	68,281.28	68,281.28
Jefferies	-	7,307.39	7,307.39
RBC Capital Markets	-	17,722.17	17,722.17
Morgan Stanley	-	12,264.78	12,264.78
Piper Sandler	-	12,264.78	12,264.78
Ramirez & Co	-	6,307.39	6,307.39
<b>Total</b>	<b>-</b>	<b>124,147.79</b>	<b>124,147.79</b>

**4.d. Investor Roadshow**





# Texas Department of Housing and Community Affairs

**\$174,829,558\***

**Single Family Mortgage Revenue Bonds**

*Consisting of:*

**\$150,000,000\* 2021 Series A (Non-AMT) (Social Bonds)**

**\$24,829,558\* 2021 Series B Refunding Bonds  
(Mortgage-Backed Securities Pass-Through Bonds) (Taxable)**

**Monica Galuski**

*Director of Bond Finance and Chief Investment Officer*

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**Investor Presentation**

July 19, 2021

# Disclaimer

This document and any other materials accompanying this document (collectively, the “Materials”) are provided for your information. By accepting any Materials, the recipient acknowledges and agrees to the matters set forth below.

This electronic Investor Presentation you are about to view is provided as of July 19, 2021 for a proposed offering by the Texas Department of Housing and Community Affairs of its proposed Single Family Mortgage Revenue Bonds, Series 2021 (the “2021 Bonds”). If you are viewing this presentation after July 19, there may have been events that occurred subsequent to such date that would have a material adverse effect on the financial information that is presented herein, and the Texas Department of Housing and Community Affairs has not undertaken any obligation to update this electronic presentation. All market prices, financial data and other information provided herein are not warranted as to completeness or accuracy and are subject to change without notice.

The Materials are not part of the preliminary official statement or the final official statement as those terms are defined in SEC rule 15c2-12, and are qualified in all respects by reference to the Preliminary Official Statement (the “POS”). Prospective purchasers of the Bonds should rely only on the Preliminary Official Statement, and not the Materials, in making an investment decision. The Materials and statements contained in this presentation do not constitute an offer to sell or a solicitation of any offer to buy any securities of the Texas Department of Housing and Community Affairs to any person in any jurisdiction; nor shall there be any sale of securities, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction. To the extent there are conflicts between statements made in the Preliminary Official Statement and this presentation, the information contained in the Preliminary Official Statement should be deemed more reliable.

Any opinions or estimates contained in the Materials represent the judgment of Texas Department of Housing and Community Affairs at this time, and are subject to change without notice.

This presentation may contain statements that, to the extent they are not recitations of historical fact, may constitute “forward-looking statements.” In this respect, the words “estimate,” “project,” “anticipate,” “expect,” “intend,” “believe,” and similar expressions are intended to identify forward-looking statements. Any forward-looking statements made herein are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those that have been projected. Such forward-looking statements speak only as of the date of the Preliminary Official Statement of July 19. The Texas Department of Housing and Community Affairs disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any changes in the Texas Department of Housing and Community Affairs expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based. Given these uncertainties, readers are cautioned not to rely on forward-looking statements.

## Definitions

<b>TDHCA or the Department</b>	Texas Department of Housing and Community Affairs
<b>The State</b>	State of Texas
<b>SFMRB</b>	Single Family Mortgage Revenue Bonds
<b>Series 2021 or the Bonds</b>	SFMRB 2021 Series A and 2021 Series B
<b>Refunded Bonds</b>	SFMRB 2004 Series B and 2004 Series D
<b>ICMA</b>	International Capital Market Association
<b>UNSDG</b>	United Nations 17 Sustainable Development Goals

# Transaction Overview\*

Issuer	Texas Department of Housing and Community Affairs ("TDHCA" or the "Department")	
Bond Program	Single Family Mortgage Revenue Bonds ("SFMRB")	
Designation	The Series 2021A Bonds are designated as "Social Bonds"	
	Series 2021A	Series 2021B (Mortgage-Backed Securities Pass-Through Bonds)
Bond Series	\$150,000,000*	\$24,829,558*
Use of Proceeds	Proceeds will be used to provide funds for the purchase of mortgage-backed, pass-through certificates, fund down payment and closing cost assistance	Proceeds will be used to refund the Refunded Bonds
Tax Status	Non-AMT	Taxable
Interest Payment Dates	Payable on March 1 and September 1 of each year, commencing March 1, 2022	Payable on the first day of each month, commencing October 1, 2021
Security	The Series 2021 Bonds are limited obligations of the Department and are payable solely from the revenues and funds pledged for the payment thereof as more fully described in the POS	
Ratings	Aaa/Stable (Moody's) and AA+/Stable (S&P)	
Redemption Features	Series 2021 Bonds are subject to optional redemption on or after March 1, 2030. Series 2021A Bonds are subject to unexpended proceeds, excess revenues and mandatory sinking fund redemption as more fully described in the POS. The Series 2021A premium serial bonds are not subject to special redemption from mortgage prepayments, excess revenues or mandatory sinking fund redemption.	
Retail Order Period	July 26, 2021	
Institutional Pricing	July 27, 2021	
Closing Date	September 1, 2021	

Source: Preliminary Official Statement

\*Preliminary subject to change

# Preliminary Bond Structure\*

Maturity	Series 2021A (Non-AMT)	
9/1/2022	\$640,000	Par Serials
3/1/2023	995,000	
9/1/2023	995,000	
3/1/2024	1,005,000	
9/1/2024	1,005,000	
3/1/2025	1,005,000	
9/1/2025	1,015,000	
3/1/2026	1,020,000	
9/1/2026	1,030,000	
3/1/2027	1,035,000	
9/1/2027	1,065,000	
3/1/2028	1,090,000	
9/1/2028	1,120,000	
3/1/2029	1,155,000	
9/1/2029	1,185,000	
3/1/2030	1,215,000	Par Serials
9/1/2030	1,225,000	
3/1/2031	1,235,000	
9/1/2031	1,255,000	
3/1/2032	1,265,000	
9/1/2032	1,285,000	
3/1/2033	1,295,000	Terms
9/1/2033	1,310,000	
9/1/2036	8,225,000	
9/1/2041	15,195,000	
9/1/2046	17,390,000	PAC
9/1/2051	19,995,000	
3/1/2052	63,750,000	
<b>2021A Total</b>	<b>\$150,000,000</b>	
Maturity	Series 2021B (Taxable)	
1/1/2043	\$24,829,558	Term
<b>2021B Total</b>	<b>\$24,829,558</b>	
<b>2021AB Total</b>	<b>\$174,829,558</b>	

- Optional redemption at par on or after 03/01/2030
- Redemption provisions of the Series 2021A and Series 2021B bonds as described in the POS beginning on pages 6 and 15, respectively
- The premium serial bonds will not be subject to Special Redemption from mortgage prepayments or excess revenues
- 5.5-year average life PAC (100%-400% PSA)

Projected Weighted Average Life (in years)			
	Series 2021A PAC		Series 2021B
SIFMA Prepayment Model	Average Life (Optional Call not Exercised)	Average Life (Optional Call Exercised)	Average Life
0%	17.6	7.8	7.5
50%	8.6	6.5	6.5
75%	6.6	5.9	6.1
100%	5.5	5.4	5.7
125%	5.5	5.3	5.3
150%	5.5	5.3	5.0
175%	5.5	5.3	4.6
200%	5.5	5.3	4.4
300%	5.5	5.3	3.4
400%	5.5	5.3	2.8
500%	4.2	4.1	2.3

Source: Preliminary Official Statement

\*Preliminary subject to change

# Refunding Plan\*

- The Series 2021B Bonds are being issued for the primary purpose of refunding approximately \$24.83 million of the Department's outstanding SFMRB 2004 Series B and 2004 Series D Bonds (collectively, the "Refunded Bonds").
- The swap and liquidity agreements associated with the Refunded Bonds are expected to be terminated on September 1, 2021, the date of refunding and redemption of the Refunded Bonds, at no cost to the Department.

## Refunded Bonds as of April 30, 2021

Series	Refunded Par	Swap Notional Amount	Swap Counterparty	Liquidity Provider	Liquidity Expiration <sup>1</sup>
SFMRB 2004 B	\$14,705,000	\$13,775,000	Bank of NY Mellon	Texas Comptroller	8/31/2021
SFMRB 2004 D	10,125,000	10,010,000	Goldman Sachs	Texas Comptroller	8/31/2021
<b>Total</b>	<b>\$24,830,000</b>	<b>\$23,785,000</b>			

- Mortgage Certificates originally funded with proceeds of the Refunded Bonds, and additional Mortgage Certificates from the Surplus Revenues Account will become 2021 B Transferred Mortgage Certificates. The 2021 B Transferred Mortgage Certificates are Ginnie Mae Certificates and Fannie Mae Certificates.
- As of July 1, 2021, the outstanding principal amount of the 2021 B Transferred Mortgage Certificates, is \$24.83 million. The Mortgage Loans underlying the 2021 B Transferred Mortgage Certificates had original terms of thirty years. The following table reflects summary information with respect to the 2021 B Transferred Mortgage Certificates:

## 2021 B Transferred Mortgage Certificates<sup>2</sup>

Type	Outstanding Principal	Weighted Average Pass-Through Rate	Weighted Average Mortgage Rate	Weighted Average Remaining Term (in months)	Lifetime PSA	12-Month PSA	6-Month PSA
FNMA	\$3,130,535	4.83%	5.33%	155	111	59	74
GNMA I	1,790,558	3.23%	3.73%	250	198	331	169
GNMA II	19,908,465	4.68%	5.18%	157	155	101	112
<b>Total/Average</b>	<b>\$24,829,558</b>	<b>4.60%</b>	<b>5.10%</b>	<b>163</b>	<b>152</b>	<b>112</b>	<b>111</b>

- For more detailed data regarding the 2021 B Transferred Mortgage Certificates, see Appendix I of the POS.

Source: Preliminary Official Statement

\*Preliminary subject to change

<sup>1</sup>Effective September 1, 2021, the termination dates under the Prior Liquidity Facilities will be extended to August 31, 2023

<sup>2</sup>Based upon July 2021 factors

# Issuer Overview

## Overview and Mission

- Public and official agency of the State of Texas created on September 1, 1991; the Department is the successor agency to the Texas Housing Agency and the Texas Department of Community Affairs
- Mission of the TDHCA is to administer its assigned programs efficiently, transparently, and lawfully and to invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive
- Single family program loans are financed through the Department's Single Family Mortgage Revenue Bond ("SFMRB"), Residential Mortgage Revenue Bond ("RMRB"), and Mortgage Credit Certificate ("MCC") programs and the sale of MBS
- TDHCA offers homebuyers down payment and closing cost assistance in the form of 0%, non-amortizing, 30-year second loans that are due on sale or refinance through various programs such as the My First Texas Home and My Choice Texas Home

### TDHCA Single Family Activity and Borrower Profile

#### Program Loan Statistics (1/1/2021-3/31/2021)

Borrowers Served	2,788
Homes Financed	2,548
First Mortgages	\$506 million
MCCs Issued	604
Prospective Buyers that Used Homebuyer U <sup>1</sup>	4,070

#### TDHCA Housing Finance Activity (4/1/2020-3/31/2021)

Average FICO Score of 674

Average Household Income of \$58,220

Average AMFI of 67%

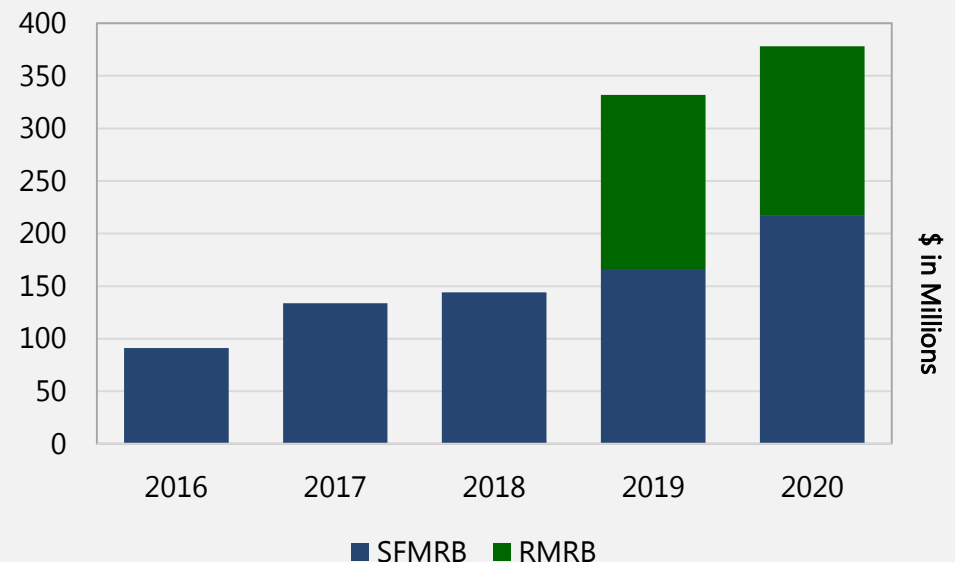
Average Household Size of 2.6

Average Age of Borrower is 36

Average Loan Amount of \$194,313

### Single Family Bond Issuance by Year

Since 2016, the Department has issued \$1.1 billion of single family bonds, including \$750.9 million of SFMRB Bonds



Source: Preliminary Official Statement, TDHCA Audited Financials, Certain data provided by TDHCA (June 2021 Board Book), [tdhca.state.tx.us](http://tdhca.state.tx.us)

<sup>1</sup>Homebuyer U is a statewide, free online pre- and post-purchase tutorial, providing mortgage certificate introduction courses for TDHCA's first time homebuyer education requirement

# Social Bonds Designation

## Use of Proceeds

- The Series 2021A Bonds are the Department’s second issuance of **Social Bonds** and inaugural issuance of **Social Bonds** in the SFMRB Indenture
- Kestrel Verifiers has designated the Series 2021A Bonds as **Social Bonds** based on the determination
  - The Series 2021A Bonds are in conformance with the four pillars of the ICMA Social Bond Principles, as described in Kestrel Verifiers’ Second Party Opinion in the POS
- Proceeds of the Series 2021A Bonds will be used to purchase Mortgage Certificates, fund down payment and closing cost assistance and to pay lender compensation related to the 2021A Mortgage Loans

### UNSDG

### Mapping to Social Bond Principle

Goal 1: No Poverty

Affordable Housing, Access to Essential Services, Socioeconomic Advancement and Empowerment

Goal 8: Decent Work and Economic Growth

Access to Essential Services

Goal 10: Reduced Inequalities

Socioeconomic Advancement and Empowerment, Access to Essential Services

Goal 11: Sustainable Cities and Communities

Affordable Housing

## Process for Evaluation and Selection

- Mortgage loans funded through SFMRB bonds, including the Series 2021A Bonds, must meet origination standards, eligibility requirements and underwriting standards consistent with the Program

## Management of Proceeds

- Net of certain transaction costs, the proceeds of the Series 2021A Bonds shall be deposited into the Mortgage Loan Fund and invested according to the Single Family Mortgage Revenue Bond Trust Indenture prior to purchasing Mortgage Certificates backed by Mortgage Loans

## Tracking/ Reporting/ Investments

- Upon the final expenditure of the proceeds of the Series 2021A Bonds to acquire Mortgage Certificates, the Department expects to prepare a report regarding the 2021A Mortgage Loans consisting of the information set forth in Appendix K of the POS

# The Single Family Mortgage Revenue Bond Program (the “Program”)

The Department has established a single family mortgage revenue bond program for the purpose of assisting in financing the costs of acquisition of residences within the State of Texas by Eligible Borrowers

## Program Guidelines

- The guidelines adopted by the Department from time to time in connection with the Program establish:
  - Eligibility of lenders to participate in the Program
  - Eligibility of mortgagors
  - Time limits for commitments and originations of Mortgage Loans
  - Requirements for dwellings which secure Mortgage Loans
  - Types of Mortgage Loans eligible for purchase by the Servicer
  - Mortgage Lender origination fees & servicing fees
- The Department anticipates that it may revise its procedures from time to time to conform with changes in the procedures followed by Fannie Mae, RHS, Ginnie Mae, VA, or other major secondary mortgage market institutions.

## Down Payment Assistance

- Series 2021A proceeds will be used to originate and pool Mortgage Loans accompanied by a DPA Loan (“Assisted Option”)
- Assisted Option Mortgage Loans are expected to receive up to five points of down payment and closing cost assistance
- Down payment and closing cost assistance in form of 0%, non-amortizing, 30-year second loan that is due on sale or refinance

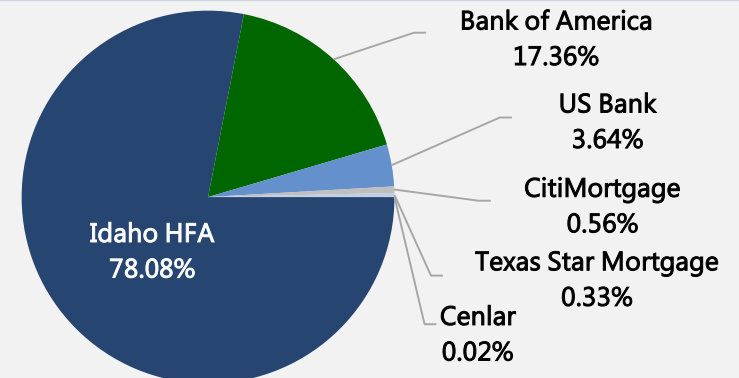
## Low- and Moderate-Income Reservations

- For the first one-year period, 30% of the funds from the Series 2021A Bonds will be reserved for Mortgage Loans for individuals and families of low income (not exceeding 80% of AMFI)
- The remaining lendable funds will be made available for Mortgage Loans to low and moderate incomes whose family income does not exceed:
  - ✓ 115% AMFI for 3+ person households, 140% in targeted areas
  - ✓ 100% AMFI for 1-2 person households, 120% in targeted areas

## Servicing and Master Servicers

- Idaho Housing and Finance Association (“Idaho HFA”) will serve as Master Servicer of Mortgage Loans related to Series 2021A Bonds
- Idaho HFA, Bank of America, CitiMortgage, Texas Star Mortgage and US Bank are the five Master Servicers for loans under the Program
  - CitiMortgage recently sold servicing rights to Cenlar FSB for 12 Mortgage Loans

## Outstanding Principal Balance Serviced by Master Servicers





# TDHCA Borrower Profile

## My First Texas Home

- The Series 2021A Mortgage Loans will primarily include loans under the “My First Texas Home” program offering financing to low- and moderate-income households—including 1<sup>st</sup> time home buyers, qualified veterans or borrowers purchasing residences in targeted areas. Benefits include:
  - Low interest rate loans
  - Down payment assistance
  - Homebuyer education

## Target Population

- Federal Tax Requirements set limitations on Mortgage Loans, including, the following:
  - 95% of net bond proceeds for 1<sup>st</sup> time homebuyers (Targeted Area Residences, qualified veterans and certain residences on possessed land are exempt)
  - Purchase price limits
  - Family income limits
    - ✓ Non-Targeted Areas: capped at 115% AMFI (or 100%, for 1-2 person households) of the greater of area or state median income
    - ✓ Targeted Areas: No income limit for 1/3<sup>rd</sup> of Mortgage Loans financed; balance of loans capped at 140% AMFI (or 120% for 1-2 person households) of median family income, subject to increase due to “high housing cost areas”

## Homebuyer Education

- Homebuyer education classes required for all My First Texas Home borrowers
- Classes provide critical education about interest rates, borrowers’ rights, role of a lender, and tools to make informed home buying decisions

## Targeted Areas

- Census tracts with high concentrations of low-income persons and
- Areas of chronic distress identified by the State and approved by HUD

## Income Bands of Loans Financed by the Department’s Single Family Mortgage Programs (1/1/2019 – 5/31/2021)

AMI Band	\$ Amount of 1 <sup>st</sup> Liens		\$ Amount of 2 <sup>nd</sup> Liens		Number of Loans	
	\$ of Loans	% of Proceeds	\$ of Loans	% of Proceeds	# of Loans	% of Loans
<50.0%	\$79,958,408	14%	\$3,094,636	15%	580	18%
50.00%-59.9%	95,065,192	17%	3,523,528	17%	584	18%
60.0%-69.9%	104,160,421	19%	3,959,799	19%	595	19%
70.0%-79.9%	110,028,788	20%	4,160,364	20%	590	19%
80.0%-89.9%	92,477,251	17%	3,400,903	16%	475	15%
90.00%-100%	71,439,736	13%	2,600,495	13%	361	11%
>100.01%	172,812	0%	6,912	0%	1	0%
<b>Total</b>	<b>\$553,302,608</b>	<b>100%</b>	<b>\$20,746,636</b>	<b>100%</b>	<b>3,186</b>	<b>100%</b>

Source: Preliminary Official Statement, Kestrel Second Party Opinion  
 Note: Totals may not add due to rounding

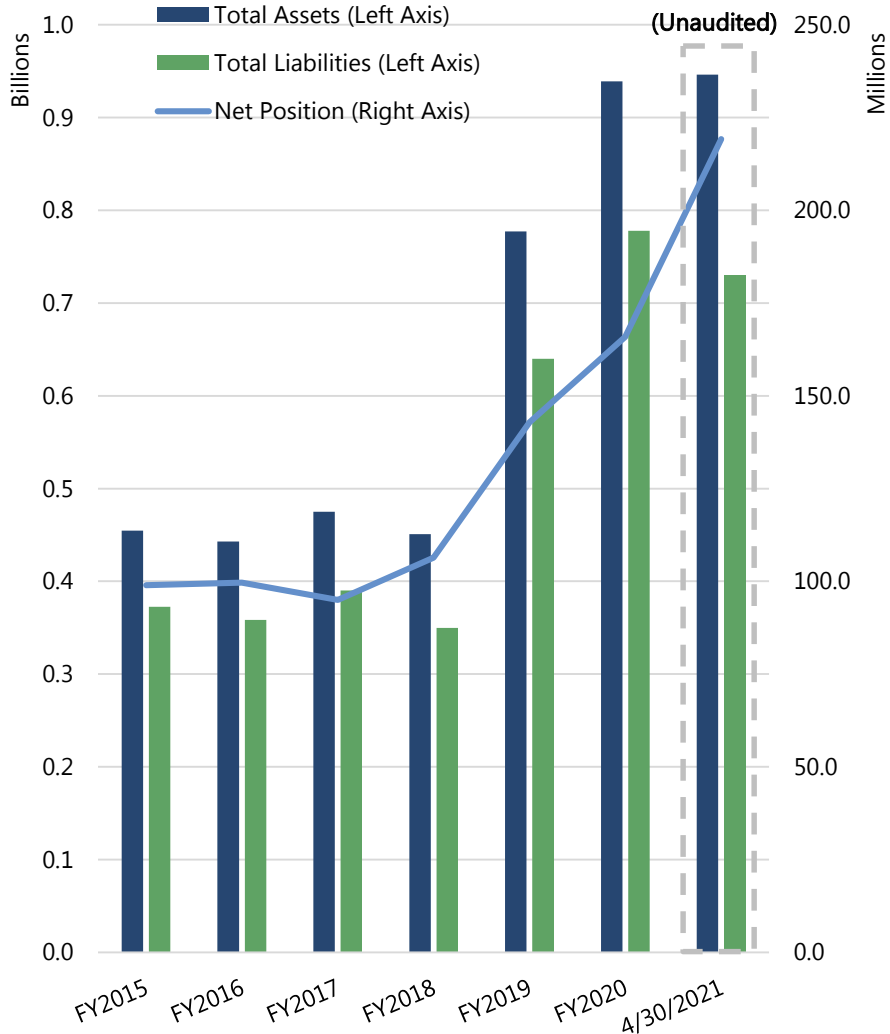
# SFMRB Indenture Overview

SFMRB History	The SFMRB Indenture was established in 1980 and amended and restated in 2017
Ratings	Aaa/Stable by Moody's and AA+/Stable by S&P
Bonds Outstanding	\$669.8 million as of April 30, 2021
Security	<p>The Bonds, including the Series 2021 Bonds, are equally and ratably secured by the Trust Indenture for the equal benefit, protection and security of the owners of the Bonds, each of which, regardless of time of issuance or maturity, is to be of equal rank without preference, priority or distinction, except as otherwise provided in the Trust Indenture.</p> <p>The Series 2021 Bonds are limited obligations of the Department and are payable solely from the revenues and funds pledged for the payment thereof. Neither the State of Texas (the "State") nor any agency of the State, other than the Department, nor the United States of America or any agency, department or other instrumentality thereof, including Ginnie Mae, Freddie Mac, and Fannie Mae, is obligated to pay the principal or redemption price of or interest on the Series 2021 Bonds. Neither the faith and credit nor the taxing power of the state or the United States of America is pledged, given or loaned to such payment. The Department has no taxing power. Ginnie Mae, Freddie Mac, and Fannie Mae guarantee only the payment of the principal of and interest on the Ginnie Mae Certificates, Freddie Mac Certificates, and Fannie Mae certificates, respectively, when due and do not guarantee the payment of the Series 2021 Bonds or any other obligations issued by the Department.</p> <p>For further detail, please refer to the POS "SECURITY FOR THE BONDS" and "APPENDIX E – SUMMARY OF INFORMATION REGARDING THE TRUST INDENTURE."</p>
MBS Guarantee	A substantial amount of the mortgage loans in the SFMRB Indenture have been pooled into Mortgage Certificates guaranteed by Ginnie Mae, Fannie Mae or Freddie Mac

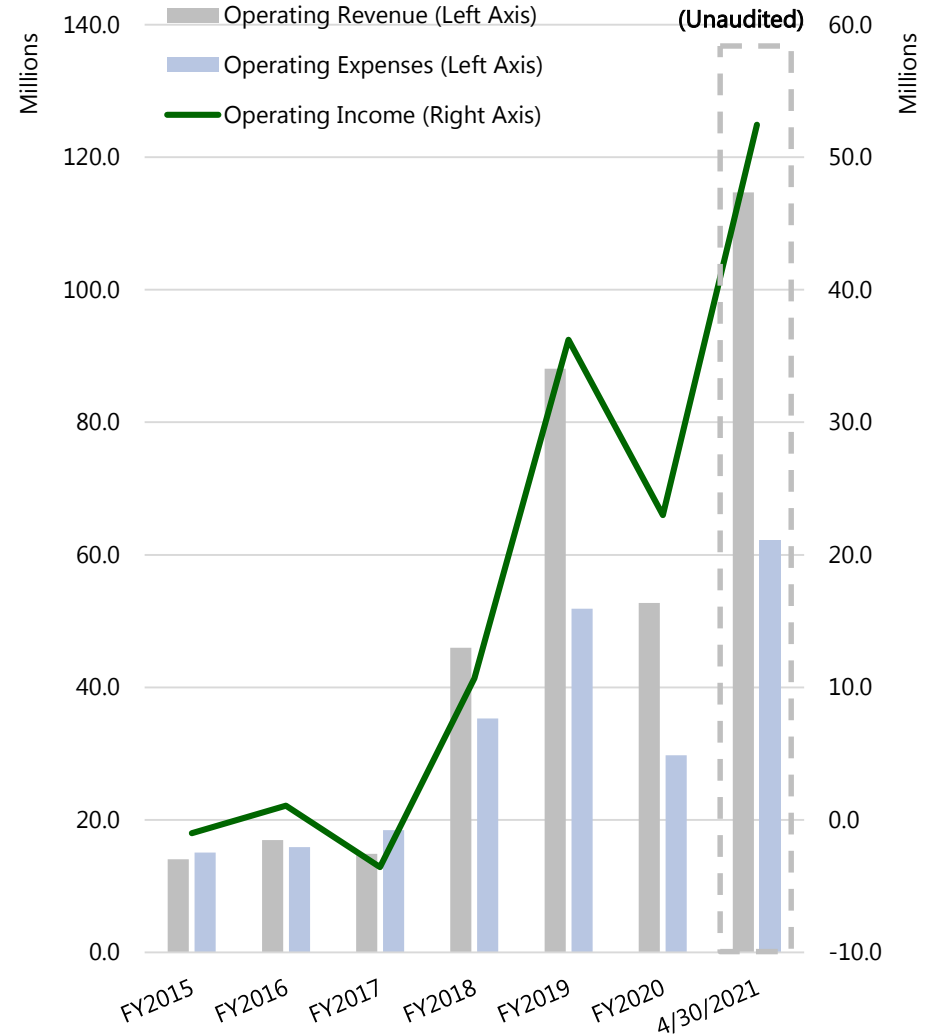
# SFMRB Financial History

Select Single Family Mortgage Revenue Bond financial data from unaudited interim 2021 financial statement and prior years' financials. Please refer to TDHCA's Financial Statements at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

### Total Assets, Liabilities and Net Position



### Operating Revenue, Expenses and Income



# SFMRB Bonds Outstanding

As of April 30, 2021, \$669.8 million of SFMRB Bonds were outstanding

SFMRB Bonds Outstanding	
Bond Series	Amount Outstanding
2004AB <sup>1</sup>	\$14,705,000
2004CDEF <sup>1</sup>	10,125,000
2005A	12,930,000
2007A	11,945,000
2015AB	23,510,000
2016AB	35,740,000
2017ABC	94,543,867
2018A	123,055,000
2019A	159,100,000
2020AB	184,148,780
<b>Total</b>	<b>\$669,802,647</b>

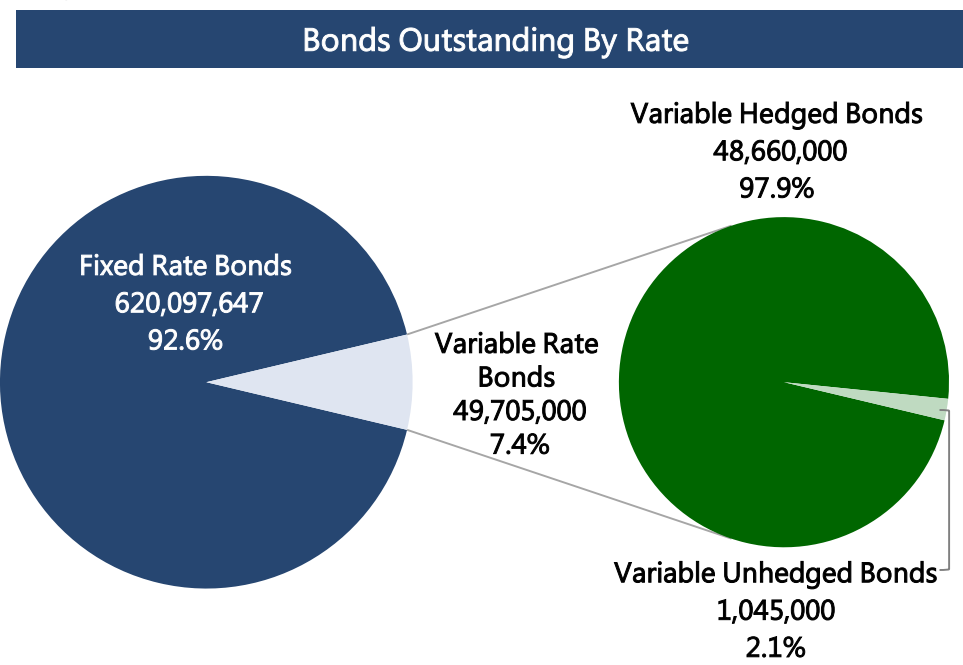
Liquidity Facilities as of April 30, 2021			
Bond Series	Amount Outstanding	Liquidity Provider	Expiration <sup>2</sup>
2004B <sup>1</sup>	\$14,705,000	Texas Comptroller	8/31/2021
2004D <sup>1</sup>	10,125,000	Texas Comptroller	8/31/2021
2005A	12,930,000	Texas Comptroller	8/31/2021
2007A	11,945,000	Texas Comptroller	8/31/2021
<b>Total</b>	<b>\$49,705,000</b>		

1. The 2004 Series B and 2004 Series D Bonds, will be refunded and the associated swap and liquidity facilities will be terminated on September 1, 2021
2. Effective September 1, 2021, the termination dates under the Prior Liquidity Facilities will be extended to August 31, 2023

As of April 30, 2021, in addition to the SFMRB Bonds, \$30 million of the Department's 2020 Series A Junior Lien Bonds were outstanding.

- Junior Lien Bonds are secured on an equal and ratable basis with each other and on a subordinated basis to SFMRB Bonds held under the SFMRB Indenture, as more fully described in the POS under "Appendix E – Summary Of Information Regarding The Trust Indenture."

Source: Preliminary Official Statement



Swap Agreements as of April 30, 2021			
Related Series	Notional Amount	Swap Provider	Fixed Rate
2004B <sup>1</sup>	\$13,775,000	Bank of NY Mellon	3.67%
2004D <sup>1</sup>	10,010,000	Goldman Sachs	3.08%
2005A	12,930,000	JPMorgan Chase	4.01%
2007A	11,945,000	JPMorgan Chase	4.01%
<b>Total</b>	<b>\$48,660,000</b>		

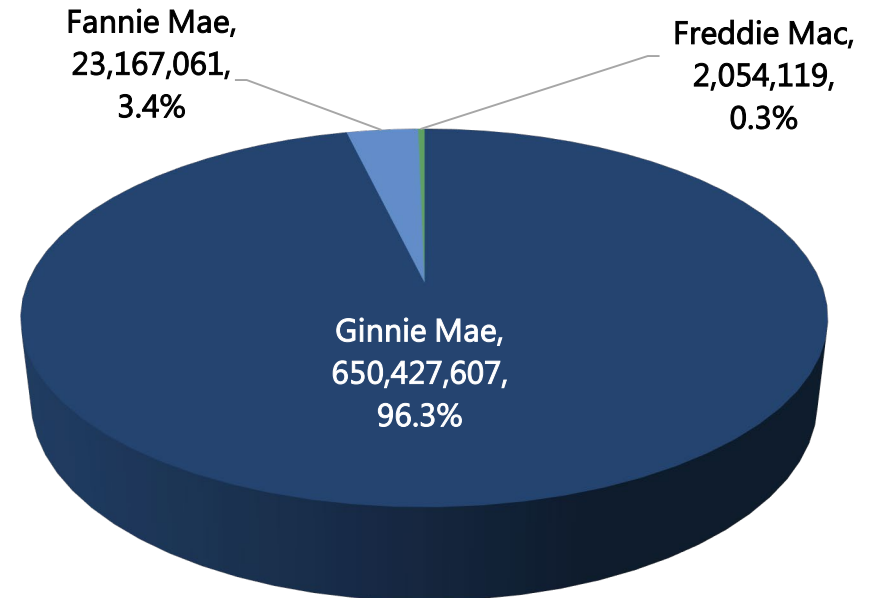
# SFMRB Assets

- As of April 30, 2021, the SFMRB Program had \$675.6 million of Mortgage Loans and Mortgage Certificates outstanding

SFMRB Prior Mortgage Certificates as of April 30, 2021

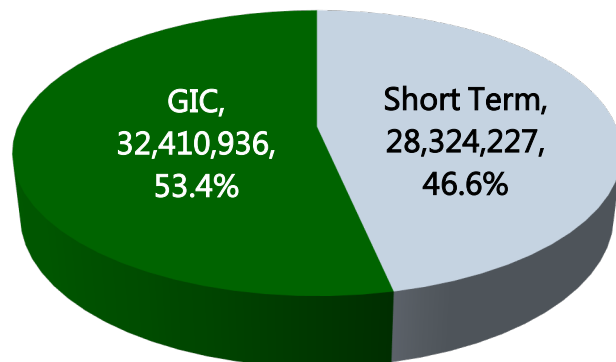
Bond Series	Mortgage Certificates Outstanding	Avg. Weighted Mortgage Rates	DPA and Special Loans <sup>1</sup>
Surplus	\$9,816,233	4.60%	\$150,737,525
2004AB	13,830,728	5.28%	-
2004CDEF	9,908,781	5.05%	-
2005A	13,468,600	4.99%	-
2007A	17,198,609	5.87%	-
2015AB	22,408,824	5.43%	-
2016AB	34,100,123	5.46%	-
2017ABC	94,986,655	4.60%	-
2018A	118,719,386	5.11%	-
2019A	158,328,228	4.31%	-
2020AB	182,882,619	3.80%	-
<b>Total</b>	<b>\$675,648,787</b>		<b>\$150,737,525</b>

Mortgage Certificates as of April 30, 2021



- Additionally, there were \$150.7 million of DPA and Special Loans, and \$60.7 million of existing investments

Investment of Funds as of April 30, 2021



Provider	Par Value	Rate	Maturity Date
FGIC	\$28,456,989.12	6.08%	9/30/2029
Transamerica Life	1,753,262.19	3.96%	3/1/2036
Transamerica Life	1,087,916.22	3.80%	3/1/2036
Transamerica Life	507,886.04	3.37%	9/1/2036
Transamerica Life	604,881.97	4.32%	9/1/2038
NATWEST	28,324,227.46	0.01%	Short Term
<b>Total</b>	<b>\$60,735,163.00</b>		

Source: Preliminary Official Statement

<sup>1</sup> Not included for cash flow purposes

# COVID-19

## Department Activities

- As part of the State's response to the COVID-19 pandemic, the Department has allocated approximately \$105.9 million of the State's CARES Act funds for use in rent and mortgage payments assistance including eviction diversion. These funds are designed to provide short term relief to income eligible renters and homeowners who are behind in their rent or mortgage payments and may be at risk of eviction or foreclosure.
- The Department will administer, on behalf of the State of Texas, \$842,214,006 of Homeowner Assistance Funds made available through the American Rescue Plan Act, and expects those funds to be used for a Reinstatement Program to reduce or eliminate mortgage loan delinquencies and prevent foreclosure and homeowner displacement for homeowners at or below the greater of 100% AMFI or 100% of the U.S. Median Income.

## Loan Forbearance Requests

- On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was signed into law to address the crisis created by the COVID-19 pandemic. Among other things, the CARES Act provides that:
  - a) lenders are prohibited from foreclosing all mortgage loans which are FHA insured, VA, HUD or Rural Housing guaranteed, or purchased or securitized by Fannie Mae or Freddie Mac (collectively, "Federal Single Family Loans") for a period of 60-days commencing March 18, 2020, and;
  - b) until the sooner of the termination of the pandemic or December 31, 2020, Federal Single Family Loan borrowers directly or indirectly facing economic difficulties as a result of the coronavirus can seek up to 360 days of payment forbearance
- The CARES Act does not allow fees, penalties or additional interest to be charged due to delayed payments
- Separately, Ginnie Mae has announced a program to assist Ginnie Mae seller/servicers which experience financial hardships in meeting their obligations to advance funds and/or repurchase loans due to the forbearance provisions of the CARES Act. Ginnie Mae stated it will implement a "pass-through assistance program" through which Ginnie Mae seller/servicers with payment shortfalls may request that Ginnie Mae advance (subject to Ginnie Mae approval) the difference between available funds and the scheduled payments to investors. Ginnie Mae stated that the program would apply initially to seller/services of single family loans and that it anticipated the program subsequently applying to multifamily loans, as well

## Additional Disclosures

- Additional COVID-19 disclosures regarding the CARES Act, American Rescue Plan Act, FHFA Orders, HUD/FHA, USDA, VA, Ginnie Mae Orders, and Gubernatorial Orders are discussed in further detail in the POS

# Conclusion and Financing Schedule

<b>Program Highlights</b>	<ul style="list-style-type: none"> <li>Series 2021A Bonds are the Department's second issuance of <b>Social Bonds</b> and inaugural issuance of <b>Social Bonds</b> in the SFMRB Indenture</li> <li>The Bonds have ratings of Aaa/Stable and AA+/Stable by Moody's and S&amp;P, respectively</li> <li>A substantial amount of the mortgage loans in the SFMRB Indenture have been pooled into Mortgage Certificates guaranteed by Ginnie Mae, Fannie Mae or Freddie Mac</li> </ul>		
<b>Anticipated Financing Schedule*</b>	<ul style="list-style-type: none"> <li><b>POS Posting:</b> Monday, July 19<sup>th</sup></li> <li><b>Retail Order Period:</b> Monday, July 26<sup>th</sup></li> <li><b>Institutional Pricing:</b> Tuesday, July 27<sup>th</sup></li> <li><b>Closing Date:</b> Wednesday, September 1<sup>st</sup></li> </ul>		
<b>Contact Information</b>			
<b>TDHCA</b>	<b>Monica Galuski</b> <i>Director of Bond Finance and Chief Investment Officer</i> (512) 936-9268 <a href="mailto:monica.galuski@tdhca.state.tx.us">monica.galuski@tdhca.state.tx.us</a>		
<b>Financial Advisor</b>	<b>Gary Machak</b> <i>Managing Director</i> (469) 676-5348 <a href="mailto:machakg@stifel.com">machakg@stifel.com</a>		<b>Barton Withrow</b> <i>Director</i> (469) 676-5345 <a href="mailto:withrowb@stifel.com">withrowb@stifel.com</a>
<b>Senior Manager (Barclays)</b>	<b>Vikram Shah</b> <i>Director</i> (212) 526-6146 <a href="mailto:vikram.shah@barclays.com">vikram.shah@barclays.com</a>	<b>Albert Luong</b> <i>Director</i> (212) 526-1393 <a href="mailto:albert.luong@barclays.com">albert.luong@barclays.com</a>	<b>Damian Busch</b> <i>Director</i> (212) 526-7612 <a href="mailto:damian.busch@barclays.com">damian.busch@barclays.com</a>

\*Preliminary subject to change

**4.e. Investor Roadshow Log**



**Texas Department of Housing and Community Affairs**  
**Single Family Mortgage Revenue Bonds**  
**2021 Series A (Non-AMT)(Social Bonds) and 2021 Series B (MBS Pass-Through Bonds) (Taxable)**  
**Final Investor Roadshow Log - ImageMaster**

<b>Name</b>	<b>Primary Role</b>	<b>Company</b>	<b>Email</b>	<b>Last Viewed</b>
Andy Rosemore	Investor - Individual	Rosemore Investments	andy@rosemore.net	7/27/2021 2:15:49 PM
Andre Zeromski	Investor - Institutional	Kemper	azeromski@kemper.com	7/27/2021 10:35:57 AM
Nexbank llc	Investor - Institutional	Nexbank llc	richard.litton@nexbank.com	7/27/2021 10:20:03 AM
Vikas Malhotra	Analyst / Research	The Capital Group Companies, Inc.	vikas.malhotra@capgroup.com	7/26/2021 4:34:47 PM
Gabriel Diederich	Investor - Institutional	Robert W. Baird & Co. Incorporated.	gdiederich@rwbaird.com	7/26/2021 3:39:15 PM
Elly Clary	Analyst / Research	Nuveen Investments, Inc.	eligija.clary@nuveen.com	7/26/2021 12:17:13 PM
John Goetz	Investor - Institutional	Fort Washington Investmetn Advisors	john.goetz@fortwashington.com	7/26/2021 11:26:52 AM
Jeffrey Sayman	Analyst / Research	Mellon	jsayman@mellon.com	7/26/2021 11:13:33 AM
Justin Ferrera	Analyst / Research	The Vanguard Group, Inc.	justin_ferrera@vanguard.com	7/26/2021 11:07:29 AM
Leah Black	Analyst / Research	Fidelity Investments	leah.black@fmr.com	7/26/2021 10:22:45 AM
Vicki Meyer	Sales - Institutional	InspereX	vmeyer@insperex.com	7/23/2021 3:42:24 PM
Lily Colon	Analyst / Research	Wells Fargo	lily.colon@wellsfargo.com	7/23/2021 2:16:02 PM
Jeffrey Sayman	Analyst / Research	Mellon	jsayman@mellon.com	7/23/2021 10:49:35 AM
Roy Edwards	Analyst / Research	Brown Brothers Harriman	leroy.edwards@bbh.com	7/23/2021 10:35:42 AM
John McCray-Goldsmith	Investor - Institutional	Wells Fargo	john.mccray-goldsmith@wellsfargo.com	7/23/2021 10:05:04 AM
Joyce W. Rubin	Other - Assistant	Deutsche Asset Management	joyce.rubin@db.com	7/21/2021 6:59:32 PM
John McCray-Goldsmith	Investor - Institutional	Wells Fargo	john.mccray-goldsmith@wellsfargo.com	7/21/2021 10:47:51 AM
Kevin O'Brien	Trading	Sit Investment Associates, Inc.	kpo@sitinvest.com	7/20/2021 4:53:03 PM
Jennifer Loh	Analyst / Research	Whitehaven	jloh@whitehavenlp.com	7/20/2021 2:58:23 PM
Garet Pierce	Analyst / Research	Royal Bank of Canada	garet.pierce@rbccm.com	7/20/2021 2:40:17 PM
Garet Pierce	Analyst / Research	Royal Bank of Canada	garet.pierce@rbccm.com	7/20/2021 2:10:25 PM
John McCray-Goldsmith	Investor - Institutional	Wells Fargo	john.mccray-goldsmith@wellsfargo.com	7/20/2021 12:52:12 PM
Warner Mason	Analyst / Research	Wells Fargo	warner.mason@wellsfargo.com	7/20/2021 12:06:25 PM
Jae Chung	Analyst / Research	Fidelity	jae.chung@fmr.com	7/20/2021 10:48:59 AM
Gail Gallagher	Sales - Institutional	Loop Capital	gail.gallagher@loopcapital.com	7/20/2021 9:37:44 AM
Chue Vang	Analyst / Research	Sit Investment Associates, Inc.	cyv@sitinvest.com	7/20/2021 9:25:14 AM
Kurt van Kuller	Investor - Institutional	Sit Investment Associates, Inc.	kvk@sitinvest.com	7/20/2021 9:17:33 AM
Cesar Toledo	Analyst / Research	Thomson Reuters	raul.toledo@thomsonreuters.com	7/20/2021 8:33:42 AM
KayDee Hoard	Dealer / Underwriter	Truist Securities	kaydee.hoard@truist.com	7/20/2021 8:04:51 AM
Joseph Gotelli	Investor - Individual	American Century Investments	jtg@americancentury.com	7/20/2021 7:44:49 AM
James Nacos	Investor - Individual	HBK Capital Management	jnacos@hbk.com	7/20/2021 7:34:25 AM
Alexa Gordon	Investor - Institutional	Goldman Sachs	alexa.gordon@gs.com	7/20/2021 6:50:50 AM
Ponnelle Etienne	Analyst / Research	Rivage	etienne.ponnelle@rivageinvestment.com	7/20/2021 4:53:55 AM
Joe Mysak	Other - Journalist	Bloomberg L.P.	jmysakjr@bloomberg.net	7/20/2021 3:49:48 AM

**Texas Department of Housing and Community Affairs**  
**Single Family Mortgage Revenue Bonds**  
**2021 Series A (Non-AMT)(Social Bonds) and 2021 Series B (MBS Pass-Through Bonds) (Taxable)**  
**Final Investor Roadshow Log - BondLink**

<b>Name</b>	<b>Primary Role</b>	<b>Company</b>	<b>Last Activity</b>
Tanaaz Jasani	Investor	N/A	7/23/2021
Barbara VanScoy	Investor	Heron Foundation	7/20/2021

**5. Rating Reports**

**5.a. Moody's**

# MOODY'S

## INVESTORS SERVICE

### **Rating Action: Moody's assigns Aaa to Texas Dept. of Housing and Community Affairs' Single Family Mortgage Revenue Bonds, 2021 Series A and Single Family Mortgage Revenue Refunding Bonds 2021 Series B; outlook stable**

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23 Jun 2021

New York, June 23, 2021 -- Moody's Investors Service, ("Moody's") has assigned a rating of Aaa to the proposed Texas Department of Housing and Community Affairs' ("TDHCA") approximately \$175.0 million Single Family Mortgage Revenue Bonds, 2021 Series A (Non-AMT) and approximately \$24.8 million Single Family Mortgage Revenue Refunding Bonds 2021 Series B (Taxable) (Mortgage-Backed Securities Pass-Through Bonds) (collectively, the "Bonds"). Moody's maintains existing Aaa ratings on all outstanding Single Family Mortgage Revenue Senior Lien Bonds. The outlook is stable.

#### RATINGS RATIONALE

The Aaa rating on the Bonds reflects the strong program portfolio which consists of 100% GNMA, Freddie Mac and FNMA mortgage-backed securities ("MBS") and a program asset-to-debt ratio (PADR) of 1.20x (1.07x excluding all second lien loans) as of August 31, 2020. The rating also reflects that variable rate bonds comprise 8% of program debt as of December 31, 2020 and that 100% of the liquidity on the variable rate bonds is provided by the Texas Comptroller of Public Accounts (State of Texas general obligation rating of Aaa with a stable outlook).

#### RATING OUTLOOK

The stable outlook is based on the solid financial position, strong mortgage portfolio, and variable rate debt position.

#### FACTORS THAT COULD LEAD TO AN UPGRADE OF THE RATINGS

- Not applicable.

#### FACTORS THAT COULD LEAD TO A DOWNGRADE OF THE RATINGS

- Replacement of the State Comptroller-provided liquidity with agreements containing terms that are too onerous to withstand Moody's cash flow tests.
- A severe decline in the financial performance of the program that causes the PADR to decrease.
- A significant increase in program variable rate debt.

#### LEGAL SECURITY

The Bonds are special obligations of TDHCA and are secured by GNMA, FNMA, and Freddie Mac MBS, mortgage loans, and all reserves and other assets under the indenture. Payment of senior lien debt is on parity with approximately \$697 million (as of 12/31/2020) in Single Family Mortgage Revenue Bonds. There is also \$30 million (as of 12/31/2020) of junior lien Single Family Mortgage Revenue Bonds. The junior lien bonds are payable solely from surplus revenues of the indenture subordinate to the payment of senior lien bonds and departmental expenses.

#### USE OF PROCEEDS

Proceeds of the Series A bonds will be primarily used to finance the purchase of new GNMA mortgage-backed pass-through certificates. Proceeds of the Series B bonds will be primarily used to refund and redeem the TDHCA's outstanding Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B and Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D.

#### PROFILE

The Single Family Mortgage Revenue Bond Program was established in 1980. This indenture was TDHCA's

initial single family financing program. The proceeds of bonds issued under this indenture are used to finance affordable residential housing to low and moderate income persons in the State of Texas. All bonds under the indenture are secured equally by all of the mortgages.

#### METHODOLOGY

The principal methodology used in these ratings was US Housing Finance Agency Single-Family Housing Methodology published in October 2019 and available at [https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC\\_1154478](https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1154478) . Alternatively, please see the Rating Methodologies page on [www.moodys.com](http://www.moodys.com) for a copy of this methodology.

#### REGULATORY DISCLOSURES

For further specification of Moody's key rating assumptions and sensitivity analysis, see the sections Methodology Assumptions and Sensitivity to Assumptions in the disclosure form. Moody's Rating Symbols and Definitions can be found at: [https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC\\_79004](https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_79004).

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Moody's general principles for assessing environmental, social and governance (ESG) risks in our credit analysis can be found at [http://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC\\_1263068](http://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1263068) .

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**5.b. Standard & Poor's**

# RatingsDirect®

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## Summary:

# Texas Department of Housing & Community Affairs; Multifamily Multiple MBS; Single Family Multiple MBS; Single Family Whole Loan

### Primary Credit Analyst:

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## Summary:

# Texas Department of Housing & Community Affairs; Multifamily Multiple MBS; Single Family Multiple MBS; Single Family Whole Loan

### Credit Profile

US\$175.0 mil single fam mtg rev bnds ser 2021A due 03/01/2052		
<i>Long Term Rating</i>	AA+/Stable	New
US\$24.83 mil single fam mtg rev rfdg bnds ser 2021B due 03/01/2038		
<i>Long Term Rating</i>	AA+/Stable	New
Texas Dept of Hsg & Comnty Affairs sin fam mtg rev bnds (1980 Trust Indenture)		
<i>Long Term Rating</i>	AA+/Stable	Affirmed

## Rating Action

S&P Global Ratings assigned its 'AA+' long-term rating to the Texas Department of Housing & Community Affairs' (TDHCA) series 2021A and 2021B single-family mortgage revenue bonds (SFMRBs). At the same time, we affirmed our 'AA+' and 'AA+/A-1+' ratings on all outstanding bonds under the SFMRB indenture. Finally, we affirmed our 'AA+' rating on the department's series 2020A taxable, junior-lien, single-family bonds. The outlook on the long-term ratings is stable.

The \$175 million 2021A bonds will be issued to purchase Ginnie Mae mortgage-backed securities (MBS). The approximately \$24.83 million series 2021B monthly pass-through bonds will be issued to refund the existing \$24.83 million series 2004B/D variable-rate bonds. The series 2021A and 2021B bonds are limited obligations of the department and are payable solely from and secured by all funds pledged under the indenture. The bonds will be held on parity with approximately \$670 million senior-lien bonds outstanding (as of April 30, 2021). Approximately \$30 million of junior-lien bonds are outstanding as of April 30, 2021, under the junior-lien trust indenture, and are secured on a subordinated basis to the SFMRB indenture. The bonds are currently rated on par with the senior-lien bonds, as cash flows show that revenues exceed the required amount to fund the bonds' repayment.

### Credit overview

The rating reflects our opinion of:

- The indenture's verystrong resolution cash flows showing consolidated opening asset-liability (A/L) parity of 106.621%, and projected stressed low parity of 102.509%;
- The bond program's cash flow sufficiency and overcollateralization;
- High-quality MBS assets, virtually all of which are secured through either Ginnie Mae or Fannie Mae; and
- The very high quality of investments of the indenture.

The stable outlook reflects our opinion that the indenture will perform at the current rating level--specifically in regard to A/L parity, asset quality, and risk profile--during the two-year outlook period.

### **Environmental, social, and governance (ESG) factors**

We have analyzed the transaction's ESG risks relative to its legal framework, operational risk framework, cash flow, and enhancement. Improvements in the supply and coordination of the vaccine rollout have lowered the health and safety risk associated with the pandemic. However, the still-elevated unemployment and eviction moratorium and resulting greater likelihood of nonpayment of rent could lead to a decrease in rental revenue and could create a liquidity crunch for some issuers and elevate near-term social risk. In addition to increased federal funding support to individuals and emergency rental and homeowner relief, we believe the transaction's A/L parity and federal enhancement on the MBS insulate it from near-term financial pressures related to COVID-19. We believe governance and environmental risks for the transaction are both in line with the sector standard.

## **Stable Outlook**

### **Upside scenario**

Should, through overcollateralization, the indenture's A/L parity increase to levels that are able to satisfy our stressed loss coverage requirements for a 'AAA' rating, we could take a positive rating action. Additionally, a positive rating action on the U.S. government could result in a positive rating action on the bonds.

### **Downside scenario**

While we find it unlikely, should the indenture's A/L parity deteriorate to near or below 100%, where full and timely payment on the bonds becomes uncertain, we could lower the rating. Additionally, a negative rating action on the U.S. government could result in a lower rating on the bonds.

## **Credit Opinion**

### **The indenture**

The SFMRB trust indenture was created in 1980 as a whole loan indenture. Beginning in 1994, new mortgage loans were credit enhanced by Ginnie Mae, Fannie Mae, and Freddie Mac MBS. As of April 30, 2021, the indenture was essentially entirely MBS, consisting of \$676 million. The indenture's consolidated opening A/L parity was very strong, at 106.621% as of Sept. 1, 2020, and stressed low parity of 102.509% at Sept. 1, 2021. . Stand-alone cash flows for the 2021A and 2021B bonds also show sufficient funds to support debt service, with a projected opening A/L parity ratio of 107.350% and 100.390%, respectively on Sept. 30, 2021.

### **Legal framework and operational risk framework requirements**

The transaction meets the legal framework as set forth in our criteria, "Global Framework For Assessing Operational Risk In Structured Finance Transactions," published Oct. 9, 2014, which focuses on the underlying security and collateral, bankruptcy risk, eligible investments, flow of funds, additional bonds, redemptions, events of default, reserves, and trustee responsibilities. The transaction also meets the eligibility conditions for key transaction participants (KTP) as set forth under our criteria for assessing operational risk. The maximum potential rating for the

bonds is 'AAA' based on our view of moderate severity risk of the potential impact of a disruption in KTP services on the issuer's cash flows and low portability risk (or the likelihood that the KTP could be replaced if needed).

### Federal enhancement

All of the underlying mortgage collateral supporting the bonds outstanding in the resolution is in the form of MBS, of which all are 'AA+' eligible under our criteria, based on full credit enhancement via a guarantee from a U.S. federal agency (Ginnie Mae), and from a U.S. government-sponsored enterprise (Fannie Mae and Freddie Mac).

### Cash flow analysis

We have analyzed consolidated indenture cash flows, which assumed S&P Global Ratings' stressed reinvestment earnings commensurate with the rating on the bonds (0.05% for the 'AA' rating category) and include a variety of stress scenarios including nonorigination, several different prepayment speeds, and stressed variable rates. The cash flows have a basis date of Aug. 31, 2021, and include subsequent events such as the 2020 series A and series B bonds, and junior-lien series 2020 bonds. In our view, the cash flows demonstrate the issuer's ability to pay full and timely debt service on the bonds through their maturity or earlier redemption. The lowest A/L parity ratio calculated in any of the consolidated cash flow scenarios is approximately 102.509%, which is above the 100.25% threshold as stated in our "U.S. Federally Enhanced Housing Bonds" criteria, published Nov. 12, 2019. The low parity for the series 2021A is 100.070%. The low parity for the series 2021B is 100%, which is sufficient due to the monthly-pass-through structure of the 2021B bonds. The bonds accrue interest at a fixed rate.

## Related Research

Through The ESG Lens 2.0: A Deeper Dive Into U.S. Public Finance Credit Factors, April 28, 2020

Ratings Detail (As Of July 1, 2021)		
Texas Dept of Hsg & Comnty Affairs jr lien single fam rev & rfdg bnds (taxable) ser 2020 due 09/01/2045		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs residential mtg rev bnds		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs residential mtg rev bnds ser 2021A due 01/01/2052		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs residential mtg rev bnds ser 2021B due 07/01/2042		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs rmkt'd and conversion date 04/10/2013 (Taxable)		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single fam mtg rev bnds ser 2017A (non-AMT) dtd 06/22/2017 due 09/01/2047		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single fam mtg rev bnds ser 2017B taxable dtd 06/22/2017 due 09/01/2037		
Long Term Rating	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single fam mtg rev bnds ser 2017C taxable dtd 06/22/2017 due 09/01/2047		
Long Term Rating	AA+/Stable	Affirmed

**Ratings Detail (As Of July 1, 2021) (cont.)**

Texas Dept of Hsg & Comnty Affairs single fam mtg rev bnds ser 2020A due 09/01/2050		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single fam mtg rev rfdg bnds ser 2020B due 09/01/2050		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single-fam mtg rev rfdg bnds ser 2015 A		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs single-fam mtg rev bnds ser 2015 B		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs sin fam mtg		
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs sin fam (MBIA) (National)		
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS		
<i>Long Term Rating</i>	AA+/A-1+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS		
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS (AGM)		
<i>Long Term Rating</i>	AA+/A-1+/Stable	Affirmed
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS (AGM)		
<i>Long Term Rating</i>	AA+/A-1+/Stable	Affirmed
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs SFMULTMBS (AGM)		
<i>Long Term Rating</i>	AA+/A-1+/Stable	Affirmed
<i>Unenhanced Rating</i>	AA+(SPUR)/Stable	Affirmed
Texas Dept of Hsg & Comnty Affairs (Resid Mtg Rev Bnd Trust Indenture)		
<i>Long Term Rating</i>	AA+/Stable	Affirmed

Many issues are enhanced by bond insurance.

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at [www.standardandpoors.com](http://www.standardandpoors.com) for further information. Complete ratings information is available to subscribers of RatingsDirect at [www.capitaliq.com](http://www.capitaliq.com). All ratings affected by this rating action can be found on S&P Global Ratings' public website at [www.standardandpoors.com](http://www.standardandpoors.com). Use the Ratings search box located in the left column.

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# ACTION ITEMS



# EXECUTIVE SESSION

The Chair may call an Executive Session at this point in the agenda in accordance with the provisions cited at the end of the official posted agenda.

3

# ORAL PRESENTATION

4

**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding a waiver for accessibility requirements, the Issuance of Multifamily Housing Revenue Bonds (The Park at Kirkstall) Series 2021 Resolution No. 22-007, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for the Park at Kirkstall Apartments (the Development) at the Board meeting of February 11, 2021;

**WHEREAS**, an application for the Park a Kirkstall Apartments requesting 4% Housing Tax Credits (HTCs), sponsored by BRAD Kirkstall SLP, LLC, and THF Housing Development Corporation, was submitted to the Department on June 11, 2021;

**WHEREAS**, a Certificate of Reservation was issued in the amount of \$28,000,000 on June 14, 2021, with a bond delivery deadline of December 11, 2021;

**WHEREAS**, the Development originally received a Housing Tax Credit award in 2002, but the Development does not comply with the requirement in the original application and HTC Land Use Restriction Agreement (LURA) specifying that, for developments where some units are two-story dwelling units, a minimum of 20% of each unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and include a minimum of one bedroom and one bathroom or powder room at the entry level;

**WHEREAS**, the sponsor is requesting a waiver of this requirement in 10 TAC §49.7(e)(3)(E) of the 2002 Qualified Allocation Plan (QAP) for the one-bedroom units, as there were no one-bedroom units constructed as accessible;

**WHEREAS**, in accordance with 10 TAC §1.301(f), the compliance history is designated as a Category 2 and was deemed acceptable without further review or discussion by the Executive Award and Review Advisory Committee (EARAC) as stated herein; and

**WHEREAS**, EARAC recommends approval of the issuance of Multifamily Housing Revenue Bonds (Series 2021) for the Park at Kirkstall Apartments and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of tax-exempt Multifamily Housing Revenue Bonds (The Park at Kirkstall) Series 2021 in an amount not to exceed \$28,000,000, Resolution No. 22-007, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$2,052,394 in 4% Housing Tax Credits for the Park at Kirkstall Apartments, 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;

**FURTHER RESOLVED**, the waiver of 10 TAC §49.7(e)(3)(E) regarding accessibility requirements for one-bedroom units 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, including an amendment to the LURA reflecting the waiver of the accessibility requirements for the one-bedroom units.

### **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:* The Park at Kirkstall Apartments are located at 300 Kirkstall Drive in Houston, Harris County, and proposes the acquisition and rehabilitation of 240 units that will continue to serve the general population. The property was issued Private Activity Bonds and 4% Housing Tax Credits in 2002, and was originally constructed in 2003. The Certificate of Reservation from the Bond Review Board was issued under the Priority 2 designation, which requires that 80% of the units within the development have rents restricted to 60% of Area Median Family Income (AMFI). The application submitted to the Department indicates that all 240 units will be rent and income restricted at 60% of AMFI. Rehabilitation cost, which includes building costs and site work, is approximately \$46k per unit. Any household currently residing at the Development will not be considered over-income, and will be allowed to renew their tenancy, as long as the household met the 60% AMFI income requirements at initial occupancy.

*Waiver Request:* The original application and HTC LURA require that, for developments where some units are two-story dwelling units, a minimum of 20% of each unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and include a minimum of one bedroom and one bathroom or powder room at the entry level. However, there were no one-bedroom units constructed as accessible, and due to the proximity of all the buildings and the unit configurations within the

buildings, adding one-bedroom units or converting units is not an option because it would require moving load bearing walls. Therefore, the sponsor is requesting a waiver of this requirement, which stems from 10 TAC §49.7(e)(3)(E) of the 2002 QAP, to move forward with the rehabilitation of the Development. This change was not foreseeable or preventable by the sponsor, as they were not the original owner of the Development.

As mitigation for this waiver, the sponsor has agreed to a work out arrangement to convert in the rehabilitation two more two-bedroom ground floor units to accessible units (for a total of 14) and will prioritize two of the two-bedroom units to mobility impaired tenants (or tenants that need a visitable unit) that need a one-bedroom unit and charge a one-bedroom rent. This will be stated in the leasing criteria and waitlist criteria (which the Applicant has agreed to forward to the Department for review within fourteen days of this Board Action). The HTC LURA will be amended to reflect the waiver of the accessibility requirements for the one-bedroom units resulting from this work out arrangement. Moreover, the Bond Regulatory Agreement associated with the new financing will reflect 14 accessible units and will reflect the prioritization requirement.

*Organizational Structure and Previous Participation:* The Borrower is THF Park at Kirkstall Apartments, LP, and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and was deemed acceptable, without further review or 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 September 9, 2021. Representatives from the Department and the Developer were present, 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 involves a Fannie Mae Tax Exempt loan originated by Lument Capital and underwritten by Wells Fargo Corporate and Investment Bank, which mirrors the financing structure used by several bond transactions previously approved by the Board. Under the proposed structure, the Department will issue a single series of short-term, tax-exempt fixed rate bonds in an amount not to exceed \$28,000,000 that will be collateralized with the proceeds of a tax exempt Fannie Mae mortgage loan. As bond proceeds are drawn down, the proceeds from the Fannie Mae loan are simultaneously drawn and placed in the Collateral Fund such that the bonds will be fully cash-collateralized throughout the construction period. Given the cash collateralization, the transaction minimizes risk to the Department.

The bond mortgage will be subordinate in lien position to the Fannie Mae mortgage, but as previously indicated, the bond proceeds will also be cash collateralized as long as the bonds are outstanding. The bonds will remain outstanding through the construction period, and upon completion, will then be redeemed in full using the funds on deposit in the Collateral Fund. The bonds will have a maximum interest rate of 5% and a final maturity date of December 1, 2027. Upon redemption of the bonds, the

Fannie Mae mortgage loan will remain and carry an interest rate of approximately 3.70% with an 18-year term and 40-year amortization.

In addition, Lument Capital will make a \$1,000,000 loan (Non-Bond Mortgage Loan) to the Borrower with the same interest rate, term, and maturity date as the tax exempt portion of the Fannie Mae mortgage loan.

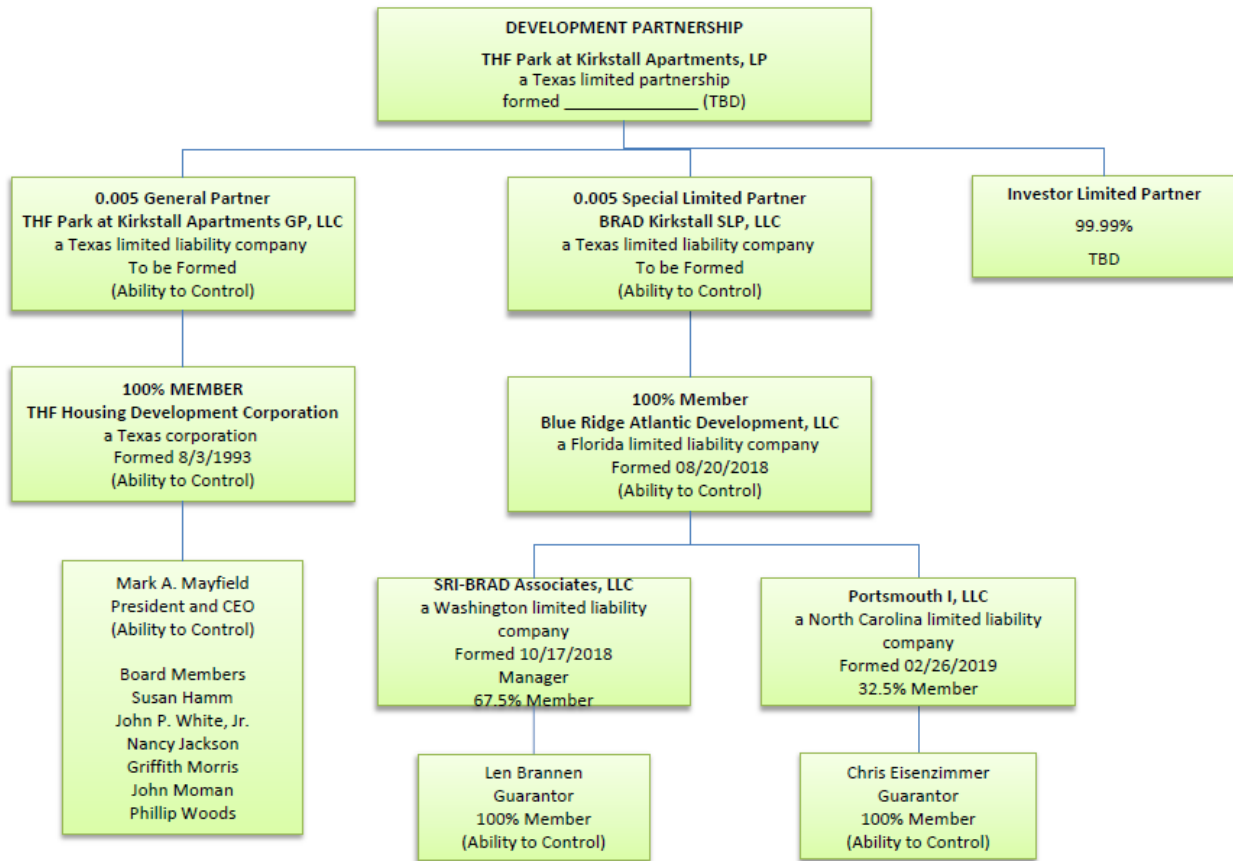
A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 22-007 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.



**EXHIBIT A**

# Park at Kirkstall Apartments

Owner Structure



## RESOLUTION NO. 22-007

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (THE PARK AT KIRKSTALL), 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 Multifamily Housing Revenue Bonds (The Park at Kirkstall), Series 2021 (the "Bonds") pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of providing funds in connection with the financing of 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 THF Park at Kirkstall Apartments, LP, a Texas limited partnership (the "Borrower"), in connection with the acquisition of a leasehold interest in, rehabilitation and equipping of a qualified residential rental development 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 February 11, 2021, 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 and the Borrower will execute and deliver a Loan Agreement (the "Loan Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Bonds (the "Loan") to the Borrower to enable the Borrower to finance the acquisition of a leasehold interest in, rehabilitation and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a promissory note (the "Borrower 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 equal to the interest on the Bonds and to pay other costs described in the Loan Agreement; and

WHEREAS, the Borrower will obtain a first lien mortgage loan from ORIX Real Estate Capital, LLC, a Delaware limited liability company doing business as Lument Capital, 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, it is anticipated that the obligations of the Borrower under the Loan Agreement will be secured by a Subordinate Multifamily Leasehold Deed of Trust, Security Agreement and Fixture Filing (the "Bond Mortgage") from the Borrower and the Texas Housing Foundation ("THF"), as ground lessor, for the benefit of the Department and the Trustee; and

WHEREAS, the Department's rights (except for certain unassigned rights) under the Indenture, the Borrower Note and the Bond Mortgage will be assigned to the Trustee pursuant to an Assignment of Leasehold Deed of Trust Documents (the "Assignment") from the Department to the Trustee; and

WHEREAS, with respect to the Bonds, the Board has determined that the Department, the Trustee, THF, as fee owner, 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 Harris County, Texas; and

WHEREAS, in order to assure compliance with Sections 103 and 141 through 150 of the Code, the Board has determined that the Department, the Trustee and the Borrower will execute a Tax Exemption Certificate and Agreement (the "Tax Exemption Agreement"), in connection with the Bonds, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Bonds as exempt from gross income for federal income tax purposes; 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) 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 "Purchase Agreement") with Wells Fargo Bank, National Association (the "Underwriter") and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriter; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Loan Agreement, the Regulatory Agreement, the Assignment, the Tax Exemption Agreement, the Official Statement and the Purchase Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Bond Mortgage and the Borrower 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 Bond Mortgage and the Borrower 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 Underwriter.

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 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 Purchase Agreement; provided, however, that (i) the Bonds shall bear interest at the initial interest rate set forth in the 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 5.00%; (ii) the aggregate principal amount of the Bonds shall not exceed \$28,000,000; (iii) the final maturity of the Bonds shall occur not later than December 1, 2027; and (iv) the price at which the Bonds are sold to the initial purchaser thereof under the 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 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 Loan Agreement. That the form and substance of the Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Borrower.

Section 1.5 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 each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower, THF and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.6 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Tax Exemption Agreement, and to deliver the Tax Exemption Agreement to the Borrower and the Trustee.

Section 1.7 Approval, Execution and Delivery of the Purchase Agreement. That the sale of the Bonds to the Underwriter and/or any other parties pursuant to the Purchase Agreement is hereby approved, that the form and substance of the Purchase Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Purchase Agreement and to deliver the Purchase Agreement to the Borrower, the Underwriter, and/or any other parties to the Purchase Agreement, as appropriate.

Section 1.8 Intentionally omitted.

Section 1.9 Acceptance of the Borrower Note and the Bond Mortgage. That the form and substance of the Borrower Note and the Bond Mortgage are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Borrower Note without recourse.

Section 1.10 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Trustee.

Section 1.11 Intentionally omitted.

Section 1.12 Approval, 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 Authorized Representatives 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 each are 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 each are 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 Purchase Agreement and as may be approved by the Executive Director of the Department and the Department’s counsel.

Section 1.13 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 1.14 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 1.15 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 - Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Borrower Note
- Exhibit F - Bond Mortgage
- Exhibit G - Assignment
- Exhibit H - Purchase Agreement
- Exhibit I - Official Statement
- Exhibit J - Tax Exemption Agreement

Section 1.16 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 Services, 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 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 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, 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 Loan Agreement, the Regulatory Agreement and the Tax Exemption 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 Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, which require, among other things, that the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds in connection with the financing of 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 and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing 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 and very 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 established pursuant to the Loan Agreement 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 the Bonds 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, regarding meetings of the Governing Board.

PASSED AND APPROVED this 14th day of October, 2021.

**EXHIBIT A**

**Description of Development**

**Borrower:** THF Park at Kirkstall Apartments, LP, a Texas limited partnership

**Development:** The Development is a 240-unit affordable, multifamily housing development known as The Park at Kirkstall, located at 300 Kirkstall Drive, Houston, Harris County, TX 77090. It consists of thirty (30) residential apartment buildings with approximately 257,184 net rentable square feet. The unit mix will consist of:

36	one-bedroom/one-bath units
120	two-bedroom/two-bath units
84	three-bedroom/two-bath units
<hr/>	
240	Total Units

Unit sizes will range from approximately 718 square feet to approximately 1,257 square feet.

# 21603 Park at Kirkstall Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION

September 27, 2021

PROPERTY IDENTIFICATION			RECOMMENDATION				KEY PRINCIPALS / SPONSOR		
Application #	21603		TDHCA Program	Request	Recommended		Chris Eisenzimmer, Principal and Lee Brannen, Guarantor of Blue Ridge Atlantic Development, LLC		
Development	Park at Kirkstall Apartments		LIHTC (4% Credit)	\$2,052,396	\$2,052,394	\$8,552/Unit			\$0.89
City / County	Houston / Harris								
Region/Area	6 / Urban								
Population	General								
Set-Aside	General								
Activity	Acquisition/Rehab	(Built in 2003)					Private Activity Bonds	\$28,000,000	
			Related Parties	Contractor -	No	Seller -	Yes		

TYPICAL BUILDING ELEVATION/PHOTO

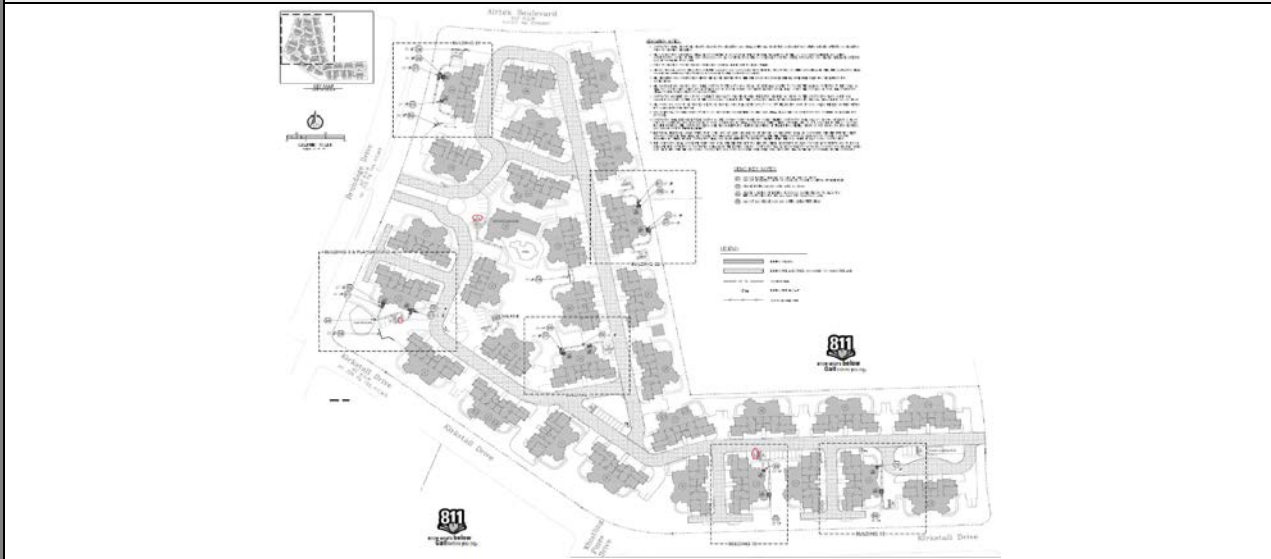


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	36	15%	30%	-	0%
2	120	50%	40%	-	0%
3	84	35%	50%	-	0%
4	-	0%	60%	240	100%
			70%	-	0%
			80%	-	0%
			MR	-	0%
<b>TOTAL</b>	<b>240</b>	<b>100%</b>	<b>TOTAL</b>	<b>240</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.15	Expense Ratio	38.6%
Breakeven Occ.	85.0%	Breakeven Rent	\$918
Average Rent	\$999	B/E Rent Margin	\$81
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,290/unit	Controllable	\$2,903/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)	3.3%
Highest Unit Capture Rate	34% (3 BR/60%)
Dominant Unit Cap. Rate	28% (2 BR/60%)
Premiums (↑60% Rents)	#DIV/0!
Rent Assisted Units	N/A

DEVELOPMENT COST SUMMARY

Costs Underwritten	TDHCA's Costs - Based on PCA	
Avg. Unit Size	1,072 SF	Density 13.6/acre
Acquisition	\$106K/unit	\$25,500K
Building Cost	\$40.57/SF	\$43K/unit
Hard Cost	\$51K/unit	\$12,144K
Total Cost	\$209K/unit	\$50,216K
Developer Fee	\$5,969K (28% Deferred)	Paid Year: 7
Contractor Fee	\$1,546K	30% Boost Yes

REHABILITATION COSTS / UNIT

Site Work	\$2K 4%	Finishes/Fixtures	\$13K 25%
Building Shell	\$25K 49%	Amenities	\$1K 1%
HVAC	\$5K 9%	Total Exterior	\$27K 60%
Appliances	\$2K 3%	Total Interior	\$19K 40%

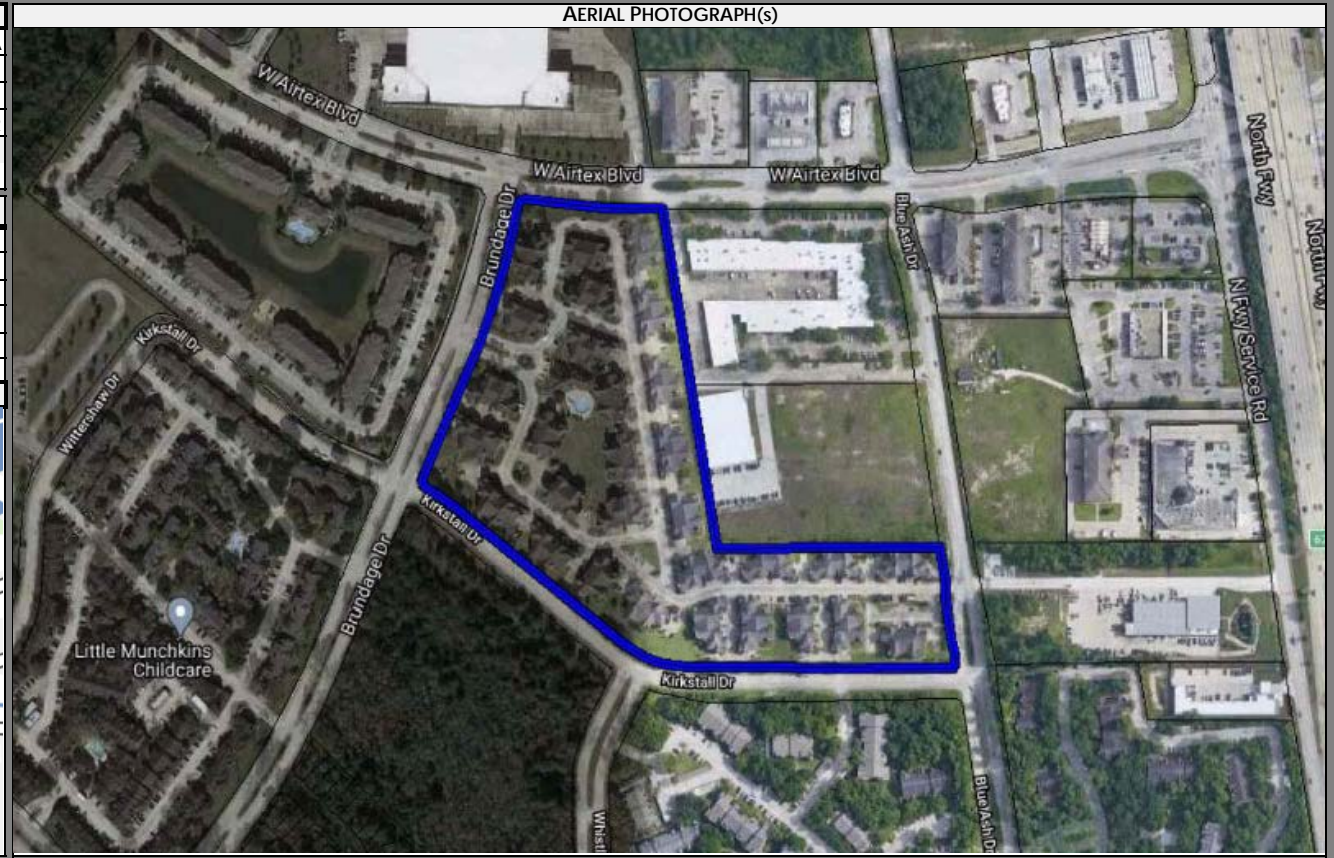
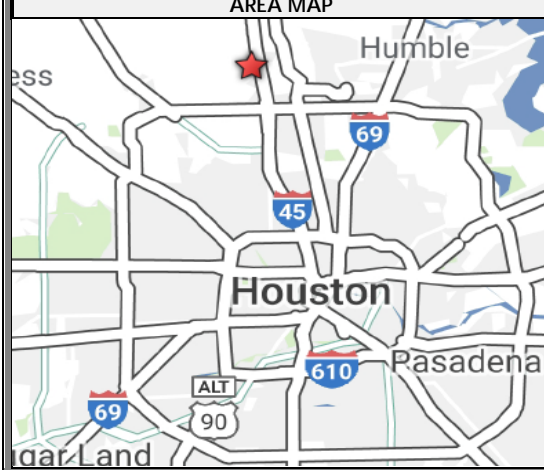
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lument	17/40	3.70%	\$29,000,000	1.15	Project Operations	0/0	0.00%	\$1,197,638	1.15	Hudson Housing Capital	\$18,264,476
					Bond Inv Proceeds	0/0	0.00%	\$56,865	1.15	Kirkstall Development, LLC	\$1,697,250
<b>TOTAL DEBT (Must Pay)</b>			<b>\$29,000,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$1,254,503</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$19,961,726</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$30,254,503</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$50,216,229</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	TDHCA
Expiration Date	12/11/2021
Bond Amount	\$28,000,000
BRB Priority	Priority 2
Bond Structure	
% Financed with Tax-Exempt Bonds	66.9%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫ High occupancy expected throughout rehab.	
▫ Developer Experience	
▫ Attached garages	
WEAKNESSES/RISKS	
▫ Debt coverage at 1.15	





**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 21603 Program(s): TDHCA Bonds/4% HTC

Park at Kirkstall Apartments

Address/Location: 300 Kirkstall Drive

City: Houston County: Harris Zip: 77090

Population: General Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Garden/Townhome Region: 6

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION			
	Amount				Amount			
Private Activity Bonds	\$29,000,000				\$28,000,000			
LIHTC (4% Credit)	\$2,052,396				\$2,052,394			

**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.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
60% of AMI	60% of AMI	240

The LURA will reflect that 2 of the two-bedroom mobility accessible units must be offered for lease at the one-bedroom rent.

**DEVELOPMENT SUMMARY**

Park at Kirkstall Apartments consists of 240 general population units originally awarded in 2002, income restricted at 60% of AMI or less. The resyndication is planned to close in Q4 of 2021 using 4% LIHTC and tax exempt bonds from TDHCA. For marketability purposes, safety, and habitability of the project, there will be a complete renovation of all unit interiors and updates to the site and community facilities.

Although this will be the first Texas tax credit development for Blue Ridge Atlantic Development, LLC, their non-profit partner THF Development Company, LLC has significant rehab and development experience throughout the state. All Property Management, architects, consultants, and engineers are 3rd party contracts.

**RISK PROFILE**

STRENGTHS/MITIGATING FACTORS	
▫	High occupancy expected throughout rehab.
▫	Developer Experience
▫	Attached garages

WEAKNESSES/RISKS	
▫	Debt coverage at 1.15
▫	
▫	

**DEVELOPMENT TEAM**

**PRIMARY CONTACTS**

Name: Chris Eisenzimmer  
Phone: (910) 338-3349  
Relationship: Developer Principal

Name: Len Brannen  
Phone: (425) 454-8205  
Relationship: Guarantor

**OWNERSHIP STRUCTURE**

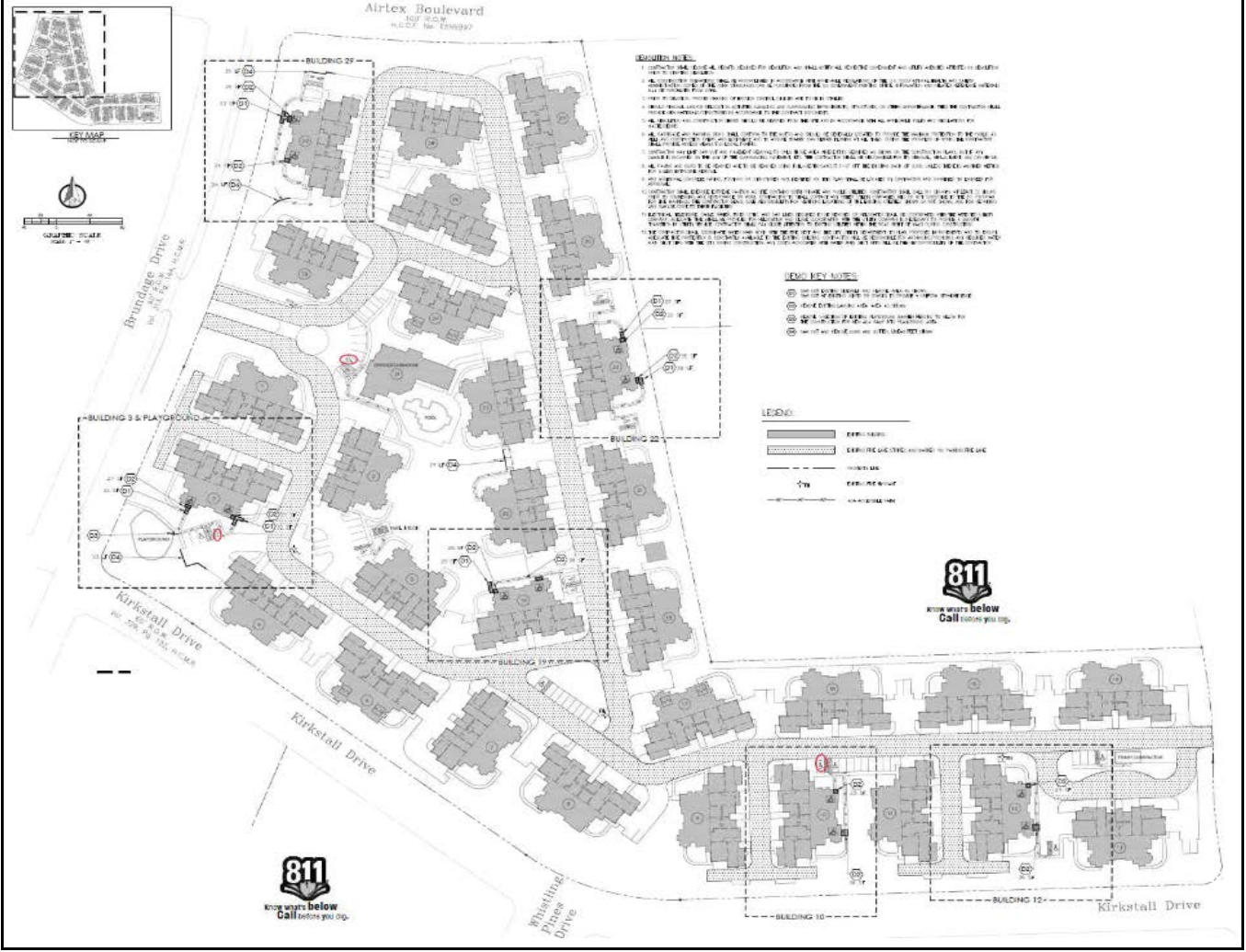


- THF Housing Development Corp still controls 46 HTC developments in Texas, beggingging as far back as 1995. Blue Ridge Atlantic is a vertically integrated real estate development firm that specializes in new construction, acquisition/substantial rehabilitation, master planning, asset management, and construction throughout the southeast. This Acq/Rehb will be their first HTC deal in Texas.



# DEVELOPMENT SUMMARY

## SITE PLAN

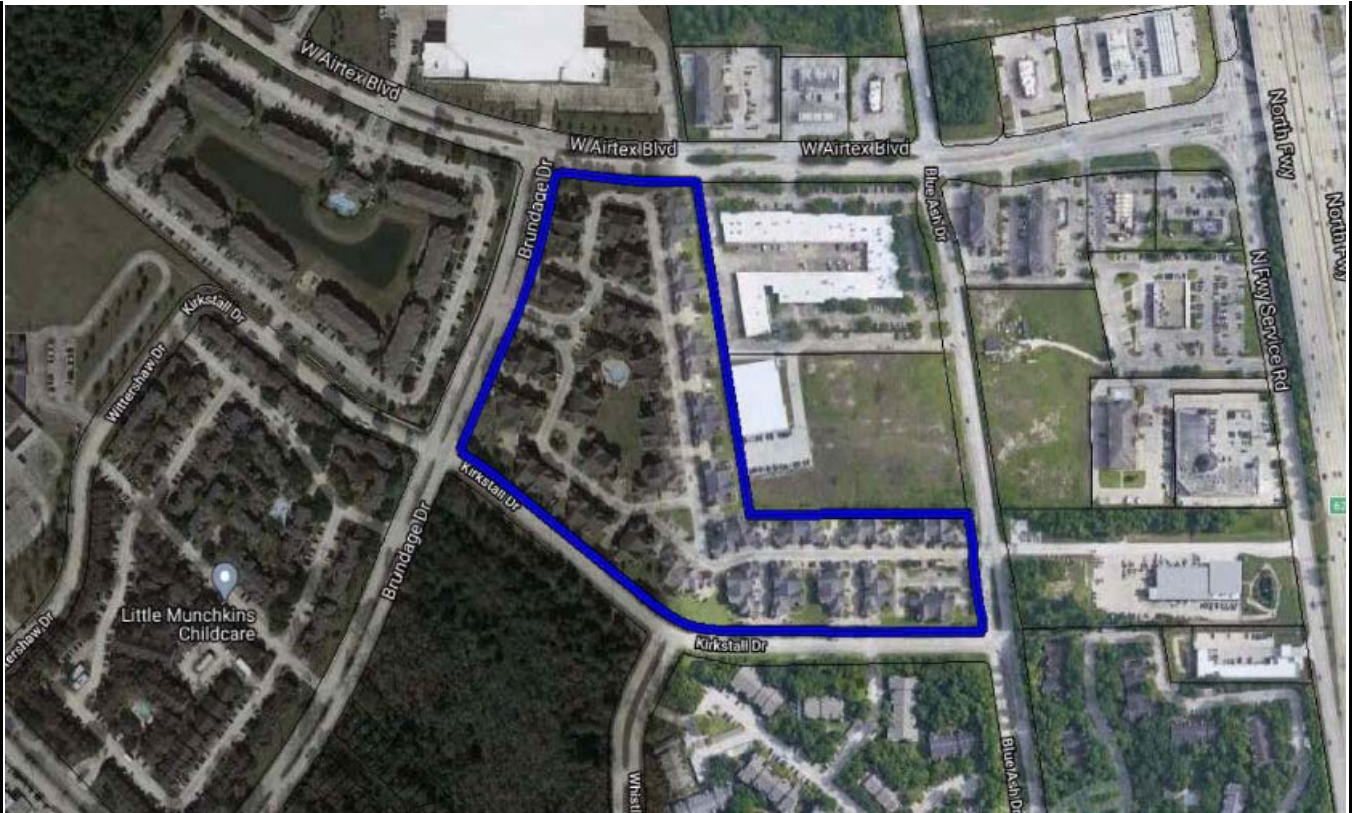


**NOTES:**

1. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
2. ALL UTILITIES SHALL BE DEPTH MARKED AND LOCATED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
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9. ALL UTILITIES SHALL BE DEPTH MARKED AND LOCATED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
10. ALL UTILITIES SHALL BE DEPTH MARKED AND LOCATED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.

**PERMITS:**

- PERMITS TO BE OBTAINED FROM THE CITY OF DENVER.
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- PERMITS TO BE OBTAINED FROM THE CITY OF DENVER.



Comments:

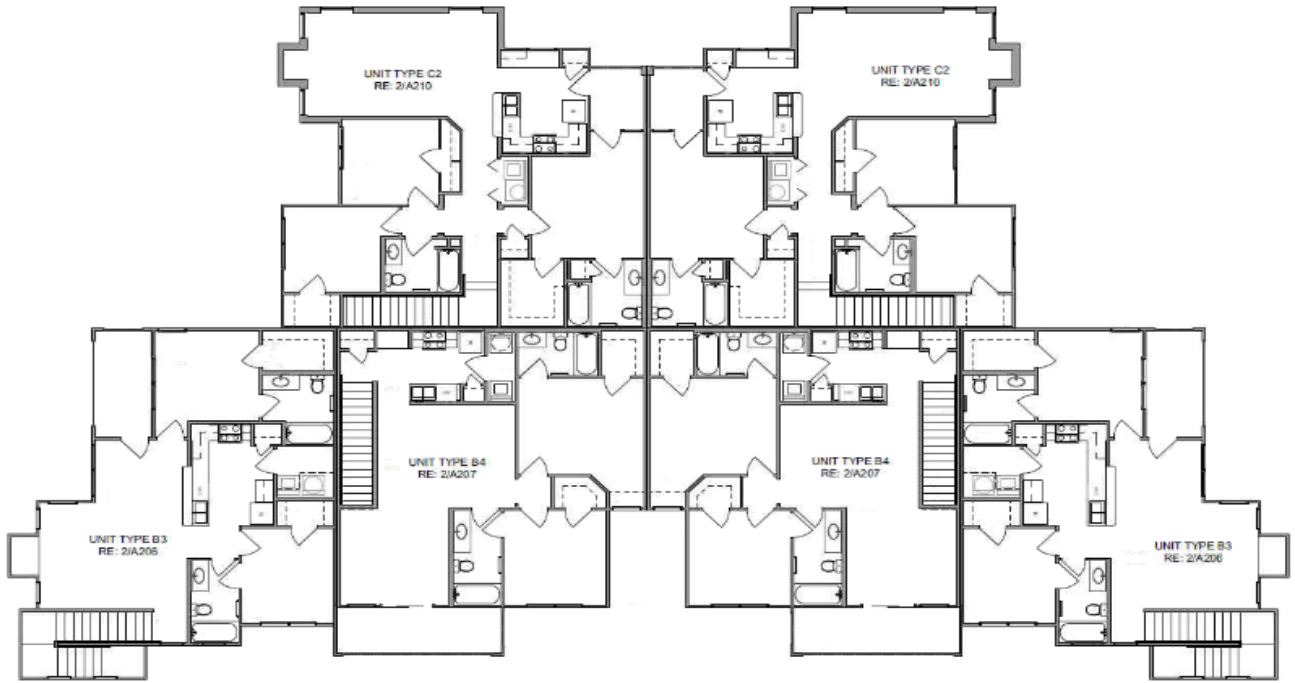
The 17.6 acre site does not appear to have any significant updates to the existing site plan, and the site work budget only totals a little over 1% of the total rehab costs. The existing site has no significant topography, and is efficiently parked with 1.78 spaces/unit.

Parking	No Fee		Tenant-Paid		Total	
	Count	Per Unit	Count	Per Unit	Count	Per Unit
Open Surface	75	0.3/unit	0	--	75	0.3/unit
Garage	360	1.5/unit	0	--	360	1.5/unit
<b>Total Parking</b>	<b>435</b>	<b>1.8/unit</b>	<b>0</b>	<b>--</b>	<b>435</b>	<b>1.8/unit</b>

Comments:

Each building includes attached garages for every unit (120 single-car and 120 two-car). Rehabilitation will create nine additional accessible parking spaces.

BUILDING PLAN (Typical)



1 BUILDING TYPE III SECOND FLOOR PLAN  
SCALE: 1/8" = 1'-0"

Comments:

Above is the second story building plan for 6 units, all single story with 2 additional units on the bottom level alongside all 8 private garages. Building Plans are efficient with no necessary common breezeways / corridors.

**BUILDING ELEVATION**



**Comments:**

The existing façade has significant articulation and ornamentation, and consists of mostly Fiber Cement Siding along with the Doors, Windows, and minimal brick. This rehabilitation will only update siding / trim as is necessary.

**BUILDING CONFIGURATION**

Building Type	1	2	2 ANSI	3												<b>Total Buildings</b>
Floors/Stories	2	2	2	2												<b>30</b>
Number of Bldgs	9	12	6	3												
Units per Bldg	8	8	8	8												
<b>Total Units</b>	<b>72</b>	<b>96</b>	<b>48</b>	<b>24</b>												<b>240</b>
<b>Avg. Unit Size (SF)</b>		<b>1,072 sf</b>		<b>Total NRA (SF)</b>		<b>257,184</b>		<b>Common Area (SF)*</b>			<b>5,167</b>					

\*Common Area Square Footage as specified on Architect Certification

**SITE CONTROL INFO**

**Site Acreage:** Development Site: 17.62 acres Density: 13.6 units/acre  
**Site Control:** 17.61 **Site Plan:** 17.62 **Appraisal:** 17.61 **ESA:** 0  
**Feasibility Report Survey:** 0 **Feasibility Report Engineer's Plan:** 0

Control Type: Purchase and Sale Agreement

Development Site: 17.62 acres Cost: \$25,500,000 \$106,250 per unit

Seller: Harris Park Partners, LP

Buyer: Blue Ridge Atlantic Development, LLC

Related-Party Seller/Identity of Interest: Yes

**Comments:**

The Seller is an affiliate of the applicant, so eligible acquisition cost is limited to the as-is as-restricted appraised value.

**APPRAISED VALUE**

Appraiser: CBRE Valuation & Advisory Services Date: 5/7/2021

Land as Vacant: 17.61 acres	<u>\$1,800,000</u>	Per Unit:	<u>\$7,500</u>
Existing Buildings: (as-is)	<u>\$23,700,000</u>	Per Unit:	<u>\$98,750</u>
Land + Buildings: (as-is)	<u>\$25,500,000</u>	Per Unit:	<u>\$106,250</u>
<b>Total Development: (as-is)</b>	<b><u>\$25,500,000</u></b>	Per Unit:	<b><u>\$106,250</u></b>

**SITE INFORMATION**

Flood Zone:	<u>X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>N/A in Harris County</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>2003</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:  
Existing development of 240 LIHTC units.

Surrounding Uses:  
Surrounding uses include single-family homes, multifamily developments along with various commercial and retail establishments along commercial corridors.

Other Observations:  
The Appraisal reports that "Single-family homes in the area are generally in average condition and range from \$100,000 to \$225,000 with the majority in the \$150,000 range. Commercial and retail uses in the subject's neighborhood are 95 percent occupied and in fair to good condition. Overall, the subject site is located in a mixed-use neighborhood, in close proximity to retail and commercial uses, with good access to public transportation.

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: GIBCO Environmental, LLC Date: 7/14/2021

Recognized Environmental Conditions (RECs) and Other Concerns:  

- None

## MARKET ANALYSIS

Provider: Apartment MarketData, LLC

Date: 7/30/2021

Contact: Darrell G. Jack

Phone: (210) 530-0040

Primary Market Area (PMA):                      22 sq. miles                      3 mile equivalent radius

ELIGIBLE HOUSEHOLDS BY INCOME								
Harris County Income Limits								
HH Size		1	2	3	4	5	6	7+
60% AMGI	Min	\$26,730	\$26,730	\$26,730	\$26,730	\$37,080	\$37,080	---
	Max	\$33,300	\$38,040	\$42,780	\$47,520	\$51,360	\$55,140	---

**Market Analyst Comments:**

Market Analyst calculates a Gross Capture Rate of 3.3%, 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.

Subject is currently 99.2% occupied.

## OPERATING PRO FORMA

### SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)

NOI:	\$1,634,920	Avg. Rent:	\$999	Expense Ratio:	38.6%
Debt Service:	\$1,419,178	B/E Rent:	\$918	Controllable Expenses:	\$2,903
Net Cash Flow:	\$215,742	UW Occupancy:	92.5%	Property Taxes/Unit:	\$0
Aggregate DCR:	1.15	B/E Occupancy:	85.0%	Program Rent Year:	2021

All 240 units restricted at HTC Program Rent at 60% AMI.

Two 2-bedroom units are underwritten at 1-bedroom rents in order to meet accessibility requirements.

Underwriter's operating expense assumptions are primarily based on actual expenses of the property.

Full property tax exemption anticipated as a result of ground lease from Texas Housing Foundation, the GP of the Applicant. Without the tax exemption, debt coverage would fall to 0.88 times and the development would be infeasible.

Applicant projects a 34% improvement in electric expense due to higher-efficiency fixtures. The Underwriter assumes a 10% improvement.

Applicant projects an 8.5% improvement in water/sewer/trash expense due to higher-efficiency fixtures. The Underwriter's pro forma uses the same assumption.

## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)

Acquisition	\$102,157/ac	\$106,250/unit	\$25,500,000	Contractor Fee	\$1,545,600
Off-site + Site Work		\$2,521/unit	\$605,000	Soft Cost + Financing	\$4,053,278
Building Cost	\$40.57/sf	\$43,479/unit	\$10,435,000	Developer Fee	\$5,968,536
Contingency	10.00%	\$4,600/unit	\$1,104,000	Reserves	\$1,004,815
<b>Total Development Cost</b>	\$209,234/unit		<b>\$50,216,229</b>	<b>Rehabilitation Cost</b>	<b>\$46,000/unit</b>
<b>Qualified for 30% Basis Boost?</b>	Located in OCT with < 20% HTC units/HH				

Acquisition:

Acquisition totals more than 53% of Total Development Costs

Site Work:

Site work limited to pavement restriing and repair of minor drainage issues, along with \$125K of landscaping.

Building Cost:

Roofing is currenly in fair condition and will be replaced.

Although exterior windows are dual glazed and have not reached the end of their useful life, the provider recommends replacement with new energy-efficient windows.

Heating and Air Conditioning are nearing the end of their useful life and will be replaced for \$1.08M.

Interiors of all units will receive significant updates to flooring, applicances, cabinetry, dryall, and paint.

REHABILITATION COSTS / UNIT / % HARD COST							
Site Work	\$429,000	\$1,788/unit	4%	Finishes/Fixtures	\$3,013,000	\$12,554/unit	25%
Building Shell	\$5,982,000	\$24,925/unit	49%	HVAC	\$1,080,000	\$4,500/unit	9%
Amenities	\$176,000	\$733/unit	1%	Appliances	\$360,000	\$1,500/unit	3%
<b>Total Exterior</b>	<b>\$6,587,000</b>	<b>\$27,446/unit</b>	<b>60%</b>	<b>Total Interior</b>	<b>\$4,453,000</b>	<b>\$18,554/unit</b>	<b>40%</b>

**SCOPE & COST REVIEW**

Provider: GIBCO Environmental, LLC

Date: 7/16/2021

Scope of Work:

For marketability purposes, safety, and habitability of the project, there will be a complete renovation of all interiors including but not limited to: Painting, new tubs, vanities, mirrors, tile, carpet, lighting, ceiling fans, counter tops, cabinets, and appliances. The property will also receive new hot water heaters, roofs, and any necessary siding / trim replacement. The site will have restriped parking lots, updated LED lighting, replacement of any damaged sidewalks, and new playground equipment. The community facility will also receive paint, updated kitchen, new furniture, new computer equipment, updates around the pool area, as well as a new camera monitoring system.

Contingency:

Development cost includes maximum 10% Contingency. An additional \$4.1M of Developer Fee can be deferred to address unforeseen costs.

Soft Costs:

Applicant has budgeted \$625 per unit for reloaction, with no off-site displacement of tenants anticipated.

Financing Cost:

\$721K Other Financing Costs due to issuance & fees.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$50,216,229	\$45,758,723	\$2,052,394



## UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
Texas Dept of Housing and Community Affairs	\$28,000,000	6/14/2021	Priority 2
Closing Deadline			
12/11/2021			

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>66.9%</b>
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Comments:

Lument will payoff TDHCA issued bonds of \$28,000,000 at conversion from interim financing, and replace it with a long term Fannie Mae MLS loan with an amortization of 40 years at 3.70%.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
Lument	FNMA MBS - Short Term Cash Collateralized	\$29,000,000	3.70%	60%
Hudson Housing Capital	HTC	\$15,524,823	\$0.89	32%
Kirkstall Development, LLC	DDF	\$3,000,000		6%
Project Operations	Proj Inc during Constr	\$1,197,638		2%
		<b>\$48,722,461</b>	<b>Total Sources</b>	

Comments:

This will be an in-place rehab and units will remain occupied during construction. Applicant has included approximately 9 months of operating income as a source of funds.

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Lument	\$29,000,000	3.70%	40	17	\$29,000,000	3.70%	40	17	58%
Project Operations	\$1,197,638				\$1,197,638				2%
Bond Inv Proceeds	\$56,865				\$56,865				0%
<b>Total</b>	<b>\$30,254,503</b>				<b>\$30,254,503</b>				

Comments:

\$28M tax-exempt loan and \$1M taxable conventional loan from Lument.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Hudson Housing Capital	\$18,264,498	\$0.89		\$18,264,476	\$0.89	36%	
Kirkstall Development, LLC	\$1,697,228		28%	\$1,697,250		3%	28%
<b>Total</b>	<b>\$19,961,726</b>			<b>\$19,961,726</b>			
				<b>\$50,216,229</b>	<b>Total Sources</b>		

Credit Price Sensitivity based on current capital structure	
<b>\$0.973</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.689</b>	Minimum Credit Price below which the Development would be characterized as infeasible

Comments:

36% of Total Development Costs provided by tax credit equity.

## CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$50,216,229
Permanent Sources (debt + non-HTC equity)	\$30,254,503
<b>Gap in Permanent Financing</b>	<b>\$19,961,726</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$18,264,476	\$2,052,394
Needed to Balance Sources & Uses	\$19,961,726	\$2,243,115
Requested by Applicant	\$18,264,497	\$2,052,396

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$18,264,476	\$2,052,394

	Amount
TDHCA-Issued Bonds	\$28,000,000

Deferred Developer Fee	\$1,697,250	( 28% deferred)
Repayable in	7 years	

Comments:

Recommended tax credit allocation is \$2,052,394 as determined by eligible basis.

Underwriter:	<i>Greg Stoll</i>
Manager of Real Estate Analysis:	<i>Jeanna Adams</i>
Director of Real Estate Analysis:	<i>Thomas Cavanagh</i>

**UNIT MIX/RENT SCHEDULE**  
**Park at Kirkstall Apartments, Houston, TDHCA Bonds/4% HTC #21603**

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	\$79,200
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	36	15.0%	0	0
2	120	50.0%	0	0
3	84	35.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>240</b>	<b>100.0%</b>	<b>-</b>	<b>-</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	1,072 sf

60%	Income	20%	30%	40%	50%	60%	70%	80%	MR	TOTAL
Average	# Units	-	-	-	-	240	-	-	-	240
Income	% Total	0.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	100.0%

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS			MARKET RENTS			
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 60%	\$891	18	1	1	718	\$891	\$65	\$826	\$0	\$1.15	\$826	\$14,868	\$14,868	\$826	\$1	\$0	\$963	\$1.34	\$963
TC 60%	\$891	18	1	1	779	\$891	\$65	\$826	\$0	\$1.06	\$826	\$14,868	\$14,868	\$826	\$1	\$0	\$1,011	\$1.30	\$1,011
TC 60%	\$891	2	2	2	1,021	\$891	\$65	\$826	\$0	\$0.81	\$826	\$1,652	\$1,652	\$826	\$1	\$0	\$1,011	\$0.99	\$1,011
TC 60%	\$1,069	10	2	2	1,021	\$1,069	\$96	\$973	\$0	\$0.95	\$973	\$9,730	\$9,730	\$973	\$1	\$0	\$1,253	\$1.23	\$1,253
TC 60%	\$1,069	6	2	2	1,029	\$1,069	\$96	\$973	\$0	\$0.95	\$973	\$5,838	\$5,838	\$973	\$1	\$0	\$1,263	\$1.23	\$1,263
TC 60%	\$1,069	18	2	2	1,132	\$1,069	\$96	\$973	\$0	\$0.86	\$973	\$17,514	\$17,514	\$973	\$1	\$0	\$1,355	\$1.20	\$1,355
TC 60%	\$1,069	42	2	2	1,013	\$1,069	\$96	\$973	\$0	\$0.96	\$973	\$40,866	\$40,866	\$973	\$1	\$0	\$1,243	\$1.23	\$1,243
TC 60%	\$1,069	42	2	2	1,083	\$1,069	\$96	\$973	\$0	\$0.90	\$973	\$40,866	\$40,866	\$973	\$1	\$0	\$1,296	\$1.20	\$1,296
TC 60%	\$1,236	36	3	2	1,202	\$1,236	\$123	\$1,113	\$0	\$0.93	\$1,113	\$40,068	\$40,068	\$1,113	\$1	\$0	\$1,395	\$1.16	\$1,395
TC 60%	\$1,236	6	3	2	1,223	\$1,236	\$123	\$1,113	\$0	\$0.91	\$1,113	\$6,678	\$6,678	\$1,113	\$1	\$0	\$1,419	\$1.16	\$1,419
TC 60%	\$1,236	42	3	2	1,257	\$1,236	\$123	\$1,113	\$0	\$0.89	\$1,113	\$46,746	\$46,746	\$1,113	\$1	\$0	\$1,444	\$1.15	\$1,444
<b>TOTALS/AVERAGES:</b>		<b>240</b>			<b>257,184</b>				<b>\$0</b>	<b>\$0.93</b>	<b>\$999</b>	<b>\$239,694</b>	<b>\$239,694</b>	<b>\$999</b>	<b>\$0.93</b>	<b>\$0</b>	<b>\$1,284</b>	<b>\$1.20</b>	<b>\$1,284</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$2,876,328</b>	<b>\$2,876,328</b>
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**STABILIZED PRO FORMA**

*Park at Kirkstall Apartments, Houston, TDHCA Bonds/4% HTC #21603*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Subject May '20 - Apr '21	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>			\$0.93	\$999	\$2,876,328	\$2,876,328	\$999	\$0.93		0.0%	\$0	
Utility income				\$1.34	\$3,864							
Late fees, Security deposits, Lease term fees				\$0.15	\$435							
Total Secondary Income				\$1.49		\$14,400	\$5.00			-70.1%	(\$10,101)	
<b>POTENTIAL GROSS INCOME</b>					\$2,880,627	\$2,890,728				-0.3%	(\$10,101)	
Vacancy & Collection Loss				7.5% PGI	(216,047)	(216,805)	7.5% PGI			-0.3%	758	
<b>EFFECTIVE GROSS INCOME</b>					\$2,664,580	\$2,673,923				-0.3%	(\$9,343)	

General & Administrative	\$117,879	\$491/Unit	79,043	\$329	2.78%	\$0.29	\$309	\$74,102	\$79,043	\$329	\$0.31	2.96%	-6.3%	(4,941)
Management	\$120,492	5.2% EGI	105,961	\$442	3.93%	\$0.41	\$436	\$104,730	\$105,620	\$440	\$0.41	3.95%	-0.8%	(890)
Payroll & Payroll Tax	\$332,746	\$1,386/Unit	325,062	\$1,354	11.71%	\$1.21	\$1,300	\$312,007	\$312,007	\$1,300	\$1.21	11.67%	0.0%	-
Repairs & Maintenance	\$183,414	\$764/Unit	128,614	\$536	5.29%	\$0.55	\$587	\$140,953	\$168,000	\$700	\$0.65	6.28%	-16.1%	(27,047)
Electric/Gas	\$63,144	\$263/Unit	28,213	\$118	0.70%	\$0.07	\$77	\$18,576	\$25,392	\$106	\$0.10	0.95%	-26.8%	(6,816)
Water, Sewer, & Trash	\$167,475	\$698/Unit	165,161	\$688	5.67%	\$0.59	\$630	\$151,192	\$151,192	\$630	\$0.59	5.65%	0.0%	-
Property Insurance	\$107,645	\$0.42 /sf	121,721	\$507	4.69%	\$0.49	\$521	\$125,000	\$121,721	\$507	\$0.47	4.55%	2.7%	3,279
Property Tax (@ 0%) 2.8117	\$226,093	\$942/Unit	248,039	\$1,033	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements					2.70%	\$0.28	\$300	\$72,000	\$72,000	\$300	\$0.28	2.69%	0.0%	-
Supportive Services					0.53%	\$0.05	\$58	\$14,000	\$14,000	\$58	\$0.05	0.52%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)					0.36%	\$0.04	\$40	\$9,600	\$9,600	\$40	\$0.04	0.36%	0.0%	-
TDHCA Bond Compliance Fee					0.23%	\$0.02	\$25	\$6,000	\$6,000	\$25	\$0.02	0.22%	0.0%	-
Bond Trustee Fees					0.06%	\$0.01	\$6	\$1,500	\$1,500	\$6	\$0.01	0.06%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>38.64%</b>	<b>\$4.00</b>	<b>\$4,290</b>	<b>\$1,029,660</b>	<b>\$1,066,075</b>	<b>\$4,442</b>	<b>\$4.15</b>	<b>39.87%</b>	<b>-3.4%</b>	<b>\$ (36,415)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>61.36%</b>	<b>\$6.36</b>	<b>\$6,812</b>	<b>\$1,634,920</b>	<b>\$1,607,849</b>	<b>\$6,699</b>	<b>\$6.25</b>	<b>60.13%</b>	<b>1.7%</b>	<b>\$ 27,071</b>

CONTROLLABLE EXPENSES							\$2,903/Unit			\$3,065/Unit				
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Park at Kirkstall Apartments, Houston, TDHCA Bonds/4% HTC #21603*

DEBT / GRANT SOURCES															
		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative	
DEBT (Must Pay)	Fee	UW	App											DCR	LTC
Lument	0.10%	1.13	1.15	1,418,178	3.70%	40	17	\$29,000,000	\$29,000,000	17	40	3.70%	\$1,419,178	1.15	57.8%
<b>CASH FLOW DEBT / GRANTS</b>															
Project Operations		1.13	1.15		0.00%	0	0	\$1,197,638	\$1,197,638	0	0	0.00%		1.15	2.4%
Bond Inv Proceeds		1.13	1.15		0.00%	0	0	\$56,865	\$56,865	0	0	0.00%		1.15	0.1%
				<b>\$1,418,178</b>	<b>TOTAL DEBT / GRANT SOURCES</b>		<b>\$30,254,503</b>	<b>\$30,254,503</b>	<b>TOTAL DEBT SERVICE</b>		<b>\$1,419,178</b>	<b>1.15</b>	<b>60.2%</b>		
<b>NET CASH FLOW</b>		\$189,671	\$216,742					<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$1,634,920	\$215,742	<b>NET CASH FLOW</b>			

EQUITY SOURCES												
		APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE					
		DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
EQUITY / DEFERRED FEES												
Hudson Housing Capital		LIHTC Equity	36.4%	\$2,052,396	\$0.89	\$18,264,498	\$18,264,476	\$0.89	\$2,052,394	36.4%	\$8,552	Eligible Basis
Kirkstall Development, LLC		Deferred Developer Fees	3.4%	(28% Deferred)		\$1,697,228	\$1,697,250	(28% Deferred)		3.4%	Total Developer Fee:	\$5,968,536
Additional (Excess) Funds Req'd			0.0%			\$0				0.0%		
<b>TOTAL EQUITY SOURCES</b>			<b>39.8%</b>			<b>\$19,961,726</b>	<b>\$19,961,726</b>			<b>39.8%</b>		
<b>TOTAL CAPITALIZATION</b>						<b>\$50,216,229</b>	<b>\$50,216,229</b>			15-Yr Cash Flow after Deferred Fee:		<b>\$4,121,011</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				\$7,500 / Unit	\$1,800,000	\$1,800,000	\$7,500 / Unit				0.0%	\$0	
Building Acquisition		\$23,700,000		\$98,750 / Unit	\$23,700,000	\$23,700,000	\$98,750 / Unit			\$23,700,000	0.0%	\$0	
Site Work			\$429,960	\$1,792 / Unit	\$429,960	\$429,000	\$1,788 / Unit		\$429,960		0.2%	\$960	
Site Amenities			\$175,000	\$729 / Unit	\$175,000	\$176,000	\$733 / Unit		\$175,000		-0.6%	(\$1,000)	
Building Cost			\$10,435,040	\$40.57 /sf	\$43,479/Unit	\$10,435,040	\$10,435,000	\$43,479/Unit	\$40.57 /sf	\$10,435,000	0.0%	\$40	
Contingency			\$1,104,000	10.00%	10.00%	\$1,104,000	\$1,104,000	10.00%	10.00%	\$1,103,996	0.0%	\$0	
Contractor Fees			\$1,545,600	12.73%	12.73%	\$1,545,600	\$1,545,600	12.73%	12.73%	\$1,545,600	0.0%	\$0	
Soft Costs		\$0	\$1,031,000	\$5,442 / Unit	\$1,306,000	\$1,306,000	\$5,442 / Unit		\$1,031,000	\$0	0.0%	\$0	
Financing		\$0	\$1,369,638	\$11,447 / Unit	\$2,747,278	\$2,747,278	\$11,447 / Unit		\$1,369,638	\$0	0.0%	\$0	
Developer Fee	15.00%	\$3,555,000	\$2,413,536	15.00%	15.00%	\$5,968,536	\$5,968,536	15.00%	15.00%	\$2,413,529	\$3,555,000	0.0%	\$0
Reserves				5 Months	\$1,004,815	\$1,004,815	5 Months				0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$27,255,000</b>	<b>\$18,503,774</b>		\$209,234 / Unit	<b>\$50,216,229</b>	<b>\$50,216,229</b>	\$209,234 / Unit		<b>\$18,503,723</b>	<b>\$27,255,000</b>	<b>0.0%</b>	<b>\$0</b>
Acquisition Cost		\$0				\$0							
Contingency			\$0			\$0							
Contractor's Fee			\$0			\$0							
Financing Cost			\$0			\$0							
Developer Fee	0.00%	\$0	(\$0)	15.00%	15.00%	(\$0)							
Reserves						\$0							
<b>ADJUSTED BASIS / COST</b>		<b>\$27,255,000</b>	<b>\$18,503,774</b>		\$209,234/unit	<b>\$50,216,229</b>	<b>\$50,216,229</b>	\$209,234/unit		<b>\$18,503,723</b>	<b>\$27,255,000</b>	<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>						<b>\$50,216,229</b>							

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Park at Kirkstall Apartments, Houston, TDHCA Bonds/4% HTC #21603*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction
	<b>ADJUSTED BASIS</b>	\$27,255,000	\$18,503,774	\$27,255,000
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$27,255,000	\$18,503,774	\$27,255,000	\$18,503,723
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$27,255,000	\$24,054,906	\$27,255,000	\$24,054,840
Applicable Fraction	100.00%	100.00%	100%	100%
<b>TOTAL QUALIFIED BASIS</b>	\$27,255,000	\$24,054,906	\$27,255,000	\$24,054,840
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	1090200	\$962,196	\$1,090,200	\$962,194
<b>CREDITS ON QUALIFIED BASIS</b>	\$2,052,396		\$2,052,394	

**ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS**

**FINAL ANNUAL LIHTC ALLOCATION**

Method	Annual Credits	Proceeds	Credit Price \$0.8899	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,052,394	\$18,264,476	<b>\$2,052,394</b>	<b>(\$2)</b>	<b>(\$21)</b>
<b>Needed to Fill Gap</b>	\$2,243,115	\$19,961,726	----	----	----
<b>Applicant Request</b>	\$2,052,396	\$18,264,497	----	----	----

**50% Test for Bond Financing for 4% Tax Credits**

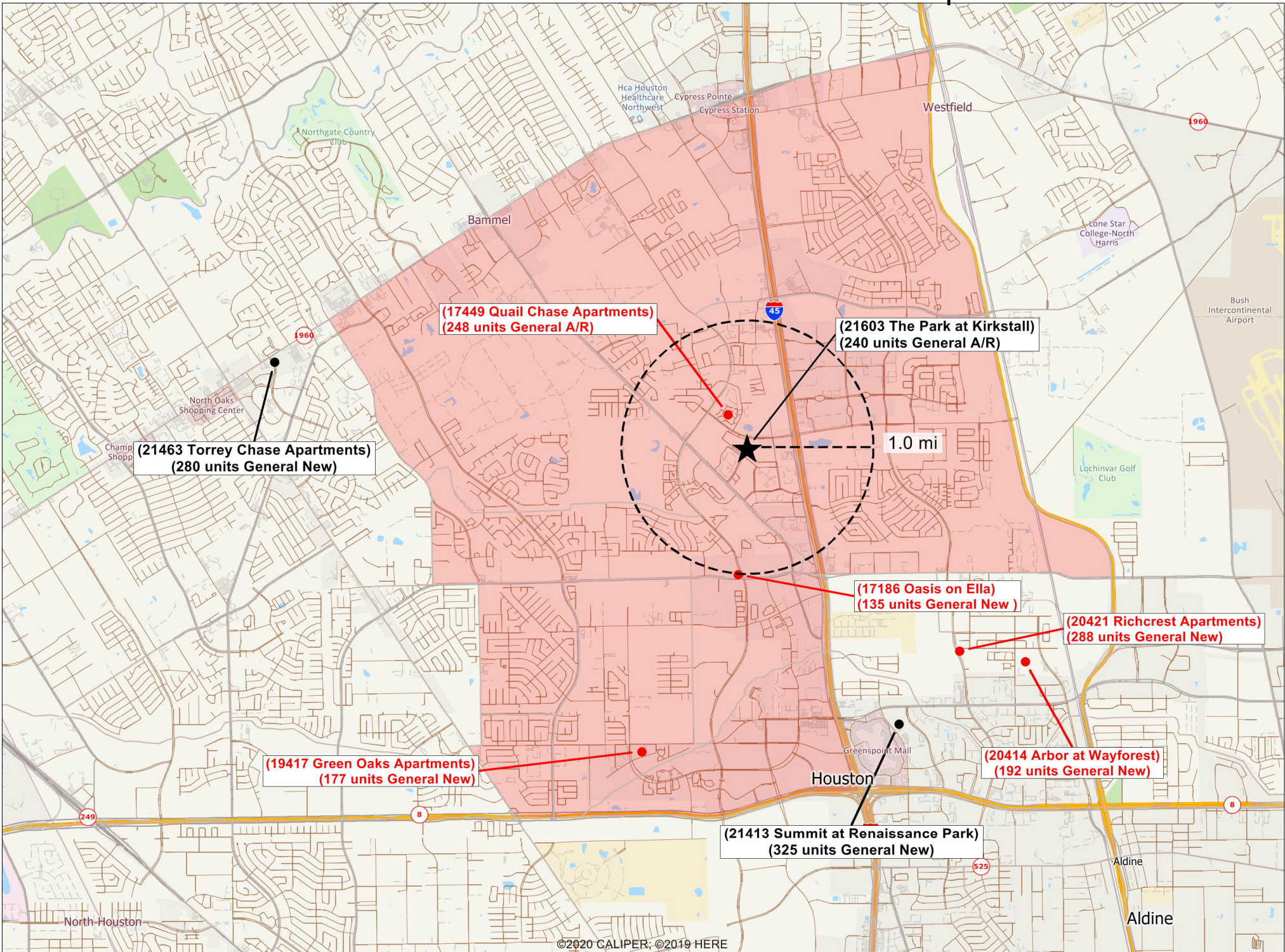
Tax-Exempt Bond Amount	\$28,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		66.9%	66.9%
Land Cost	\$1,800,000	\$1,800,000			
Depreciable Bldg Cost	\$40,065,238	\$40,065,238			
<b>Aggregate Basis for 50% Test</b>	<b>\$41,865,238</b>	<b>\$41,865,238</b>			
			amount aggregate basis can increase before 50% test fails	\$14,134,762 33.8%	\$14,134,762 33.8%

## Long-Term Pro Forma

*Park at Kirkstall Apartments, Houston, TDHCA Bonds/4% HTC #21603*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$2,664,580	\$2,717,872	\$2,772,229	\$2,827,674	\$2,884,227	\$3,184,420	\$3,515,857	\$3,881,790	\$4,285,810	\$4,731,880	\$5,224,378	\$5,768,136
TOTAL EXPENSES	3.00%	\$1,029,660	\$1,059,503	\$1,090,219	\$1,121,836	\$1,154,380	\$1,331,986	\$1,537,229	\$1,774,442	\$2,048,644	\$2,365,642	\$2,732,163	\$3,155,992
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$1,634,920</b>	<b>\$1,658,369</b>	<b>\$1,682,010</b>	<b>\$1,705,837</b>	<b>\$1,729,847</b>	<b>\$1,852,434</b>	<b>\$1,978,628</b>	<b>\$2,107,348</b>	<b>\$2,237,166</b>	<b>\$2,366,238</b>	<b>\$2,492,215</b>	<b>\$2,612,144</b>
EXPENSE/INCOME RATIO		38.6%	39.0%	39.3%	39.7%	40.0%	41.8%	43.7%	45.7%	47.8%	50.0%	52.3%	54.7%
<b>MUST -PAY DEBT SERVICE</b>													
Lument		\$1,419,178	\$1,418,856	\$1,418,521	\$1,418,174	\$1,417,813	\$1,415,797	\$1,413,372	\$1,410,455	\$1,406,946	\$1,402,725	\$1,397,648	\$1,391,541
<b>TOTAL DEBT SERVICE</b>		<b>\$1,419,178</b>	<b>\$1,418,856</b>	<b>\$1,418,521</b>	<b>\$1,418,174</b>	<b>\$1,417,813</b>	<b>\$1,415,797</b>	<b>\$1,413,372</b>	<b>\$1,410,455</b>	<b>\$1,406,946</b>	<b>\$1,402,725</b>	<b>\$1,397,648</b>	<b>\$1,391,541</b>
<b>DEBT COVERAGE RATIO</b>		<b>1.15</b>	<b>1.17</b>	<b>1.19</b>	<b>1.20</b>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.49</b>	<b>1.59</b>	<b>1.69</b>	<b>1.78</b>	<b>1.88</b>
<b>ANNUAL CASH FLOW</b>													
		<b>\$215,742</b>	<b>\$239,513</b>	<b>\$263,489</b>	<b>\$287,664</b>	<b>\$312,034</b>	<b>\$436,637</b>	<b>\$565,256</b>	<b>\$696,893</b>	<b>\$830,220</b>	<b>\$963,513</b>	<b>\$1,094,567</b>	<b>\$1,220,602</b>
Deferred Developer Fee Balance		\$1,481,508	\$1,241,995	\$978,506	\$690,842	\$378,809	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,553,399</b>	<b>\$4,121,011</b>	<b>\$7,341,234</b>	<b>\$11,225,315</b>	<b>\$15,776,708</b>	<b>\$20,988,840</b>	<b>\$26,842,428</b>

# 21603 Park at Kirkstall - PMA Map



©2020 CALIPER; ©2019 HERE

Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.





## Final Transcript

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS:  
Multifamily Bond Hearing**

September 9, 2021/2:00 p.m. CDT

### **SPEAKERS**

Teresa Morales – Director of Multifamily Bonds

### **PRESENTATION**

Teresa                      Good afternoon. This is Teresa Morales with the Texas Department of Housing and Community Affairs. The purpose of this call is to conduct a TEFRA Public Hearing for the proposed Park at Kirkstall Apartments. To give folks a little bit more time to dial in, we'll get started in about another minute or so.

[Audio silence to 11:45]

Moderator                All participants are now in listen-only mode.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**September 9, 2021/2:00 p.m. CDT**

**Page 2**

Teresa

Good afternoon, this is Teresa Morales with the Texas Department of Housing and Community Affairs. The purpose of this call is to conduct a TEFRA Public Hearing for the proposed Park at Kirkstall Apartments. To give folks an idea as to how this hearing is going to proceed, there is a brief speech that I need to read for purposes of meeting the requirements of the Internal Revenue Code. Then at the conclusion of that speech, if there are any individuals on the line who wish to express public comment on the Park at Kirkstall Apartments I will unmute the lines, and that will be your opportunity to speak and express your comments if you wish to do so. With that being said, I will go ahead and start the public hearing with the speech.

Good afternoon. My name is Teresa Morales. I would like to proceed with the public hearing. Let the record show that it is 2:03 p.m., Thursday, September 9, 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

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**September 9, 2021/2:00 p.m. CDT**

**Page 3**

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 October 14, 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 in the aggregate principal amount not to exceed \$28 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 THF Park at Kirkstall Apartments, 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 240-unit multifamily residential rental development to be located on approximately 17.61 acres of land located at 300 Kirkstall Drive, Houston, Harris County, Texas, 77090. The proposed multifamily rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof.

I am now going to open up the line.

Moderator

All participants are now in interactive talk mode.

Teresa

If there are any individuals on the line who wish to make public comment with respect to Park at Kirkstall, this would be your opportunity to do so.

Again, all of the lines have been unmuted. If there are any individuals who would like to express any comments with respect to Park at Kirkstall Apartments, this would be your opportunity to do so.

All right, let the record show that there are no individuals on the line who wish to make public comment with respect to Park at Kirkstall Apartments. The meeting is now adjourned, and the time is 2:06 p.m.  
Thank you.

5a

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

5b

**BOARD ACTION REQUEST**

**SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family General Set-Aside Notice of Funding Availability and publication of the NOFA in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, the Board of the Texas Department of Housing and Community Affairs (TDHCA or the Department) has previously authorized the submission of 2021 Consolidated Plan One-Year Action Plan (OYAP) which identified funding percentages and amounts for each of its HOME Investment Partnerships Program (HOME) single family activities;

**WHEREAS**, the U.S. Department of Housing and Urban Development's (HUD) has approved the OYAP and is releasing the State of Texas 2021 allocation of funds to TDHCA for the HOME Program; and

**WHEREAS**, in compliance with the OYAP the Department now wishes to release a Notice of Funding Availability (NOFA) for HOME Program single family general set-aside activities in the amount of \$19,951,258;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department's website and to publish a notification in the *Texas Register*, a 2022 HOME Single Family General Set-Aside NOFA for funding in the amount of approximately \$19,951,258, to be released into the Reservation System, and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.



## BACKGROUND

TDHCA Program Year 2022 runs from September 1, 2021, through August 31, 2022. HUD's State of Texas 2021 allocation to TDHCA for the HOME Program is approximately \$35,858,940, and the grant agreement was received on July 30, 2021. TDHCA has programmed these funds for various uses in accordance with the HUD-approved 2021 Consolidated Plan One-Year Action Plan (OYAP). Staff is proposing to release a HOME Single Family General Set-Aside NOFA that includes \$11,970,755 in funds for Homeowner Reconstruction Assistance (HRA), \$6,980,503 in funds for Tenant-Based Rental Assistance (TBRA), and \$1,00,000 in funds for Homebuyer Assistance with New Construction (HANC). A total of \$19,951,258 of the 2021 HOME allocation will be made available to single family HOME Program Reservation System Administrators for these general set-aside activities. The remaining \$15.9 million will be made available through other NOFAs separately presented to the Board.

<b>2022 HOME SF NOFA Compared to 2021 HOME SF NOFA</b>		
<b>HOME Single Family Activities (General)</b>	<b>2022 HOME Single Family General NOFA</b>	<b>2021 HOME Single Family General NOFA</b>
Homebuyer Assistance with New Construction (HANC)	\$ 1,000,000	\$ 1,910,835
Homeowner Rehabilitation Assistance (HRA)	\$ 11,970,755	\$ 11,465,009
Tenant-Based Rental Assistance (TBRA)	\$ 6,980,503	\$ 5,732,504
<b>Total</b>	<b>\$ 19,951,258</b>	<b>\$ 19,108,348</b>

These set-aside funds are subject to the Regional Allocation Formula, and will be set-aside by region, subregion, and activity for a period of time as detailed in the NOFA. Any funds not reserved by June 21, 2022, at or before 5:00 p.m. Austin local time, may be reprogrammed in a manner that is consistent with the OYAP.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 1 Administration, Chapter 2, Enforcement, Chapter 20, Single Family Umbrella Rule, Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and Chapter 23, the Single Family HOME Program, as amended (HOME Program Rule), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (HOME Final Rule).

The 2022 HOME Single Family Programs General Set-Aside Reservation System NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules, and the HOME Final Rule. Administrators will access the funds available under this NOFA either through existing reservation agreements or by applying for a reservation system participation agreement. Applications for reservation system participation agreements are accepted on an ongoing basis. Approval for participation in the Reservation System is not a guarantee of funding availability.



**HOME Investment Partnerships Program (“HOME”)  
CFDA# 14.239**

**2022 HOME Investment Partnerships Program Single Family General Set-Aside Notice of Funding  
Availability**

**1) Summary.**

- a) The Texas Department of Housing and Community Affairs (TDHCA or the Department) announces a NOFA of approximately \$19,951,258 in HOME funds for single family housing programs under the general set-aside utilizing a reservation system. These funds will be made available to HOME Reservation System Participants after a Reservation System Participation (“RSP”) Agreement has been ratified.
- b) The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (TAC) rules in effect at the time of application review or contract execution (as applicable): Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, (State HOME Rules); and Tex. Gov’t Code §2306. Other federal and state regulations include but are not limited to: 24 CFR Part 58 for environmental requirements, 2 CFR Part 200 for Uniform Administrative Requirements (including the amendments effective August 13, 2020), 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (Federal HOME Rules), and for units of government, the Uniform Grant and Contract Management requirements as outlined in Chapter 783 in the Texas Local Government (UGMS or TxGMS, as applicable). Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- c) Capitalized terms in this NOFA have the meanings defined herein, or as defined in State HOME Rules or the Federal HOME Rules.
- d) If changes to the RSP are required during the RSP term due to required changes in Federal or State law, the Department may initiate an amendment process to ensure compliance.

- 2) Source of Funds.** Funds totaling \$19,951,258 are made available for single family activities through the Department’s 2020 annual HOME allocation from the U.S. Department of Housing and Urban

Development (HUD). The Department, in its sole discretion, may also release unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

**3) Eligible Activity Types.** The following activity types are eligible uses of Set-Aside HOME funds under this NOFA:

- a) **Homeowner Reconstruction Assistance (HRA).** HRA provides funds for the reconstruction or new construction of a single family residence owned and occupied by eligible low-income Households. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter C, Homeowner Reconstruction Assistance Program, §§23.30 - 23.32.
- b) **Tenant-Based Rental Assistance (TBRA).** TBRA provides rental subsidies to eligible low-income Households. Assistance may include rental, security, and utility deposits. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, Tenant-Based Rental Assistance Program, §§23.50 - 23.52.
- c) **Homebuyer Assistance with New Construction (HANC).** HANC provides funds for mortgage financing to low-income homebuyers for acquisition and/or new construction of site-built housing, as well as acquisition and/or placement of a new Manufactured Housing Unit (MHU) to be occupied by the homebuyer. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter H, Homebuyer Assistance with New Construction Program, §§23.70 - 23.72.

**4) Limitation on Funds.**

- a) Funds may not be used in a Participating Jurisdiction (PJ).
- b) Funding under this NOFA may be made available through the Reservation System to HOME Administrators with active RSP Agreements. Applications to request an RSP Agreement are accepted on an on-going basis. Applicants requesting an RSP Agreement must submit a completed application, required documentation, and associated application materials as detailed in the Application Submission Procedures Manual (ASPM).
- c) Each applicant that is granted HOME funds may also be eligible to receive funding for Administrative costs. Funds for Administrative costs cannot exceed 4% of the total project funds committed under the Reservation System, except for TBRA, which may allow up to 8% for administrative costs.

**5) Regional Allocation Formula.** In accordance with Tex. Gov't Code §2306.111(d), these funds are subject to the Regional Allocation Formula (RAF). Refer to Table 1: Regional Allocation for Homeowner Reconstruction Assistance (HRA); Table 2: Regional Allocation for Tenant-Based Rental Assistance (TBRA); and Table 3: Regional Allocation for Homebuyer Assistance with New Construction (HANC), which will also be published on the Department's website at

<b>Table 1: Regional Allocation for Homeowner Reconstruction Assistance (HRA)</b>			
<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>1</b>	\$122,478	\$540,153	\$ 662,631
<b>2</b>	\$110,723	\$449,348	\$ 560,071
<b>3</b>	\$1,787,630	\$294,335	\$ 2,081,965
<b>4</b>	\$355,233	\$786,492	\$ 1,141,725
<b>5</b>	\$198,650	\$522,217	\$ 720,867
<b>6</b>	\$391,836	\$253,624	\$ 645,460
<b>7</b>	\$927,514	\$177,035	\$ 1,104,549
<b>8</b>	\$398,026	\$393,477	\$ 791,503
<b>9</b>	\$321,188	\$280,872	\$ 602,060
<b>10</b>	\$280,070	\$406,597	\$ 686,667
<b>11</b>	\$309,401	\$510,078	\$ 819,479
<b>12</b>	\$230,835	\$465,327	\$ 696,162
<b>13</b>	\$256,925	\$1,200,691	\$ 1,457,616
<b>Total</b>	<b>\$5,690,509</b>	<b>\$6,280,246</b>	<b>\$ 11,970,755</b>

<b>Table 2: Regional Allocation for Tenant-Based Rental Assistance (TBRA)</b>			
<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>1</b>	\$71,420	\$314,979	\$386,399
<b>2</b>	\$64,566	\$262,028	\$326,594
<b>3</b>	\$1,042,420	\$171,636	\$1,214,056
<b>4</b>	\$207,147	\$458,627	\$665,774
<b>5</b>	\$115,839	\$304,520	\$420,359
<b>6</b>	\$228,491	\$147,896	\$376,387
<b>7</b>	\$540,861	\$103,235	\$644,096
<b>8</b>	\$232,101	\$229,448	\$461,549
<b>9</b>	\$187,294	\$163,785	\$351,079
<b>10</b>	\$163,317	\$237,099	\$400,416
<b>11</b>	\$180,421	\$297,442	\$477,863
<b>12</b>	\$134,607	\$271,346	\$405,953
<b>13</b>	\$149,820	\$700,158	\$849,978
<b>Total</b>	<b>\$3,318,304</b>	<b>\$3,662,198</b>	<b>\$6,980,503</b>

<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>1</b>	\$10,231	\$45,123	\$55,354
<b>2</b>	\$9,249	\$37,537	\$46,786
<b>3</b>	\$149,333	\$24,588	\$173,921
<b>4</b>	\$29,675	\$65,701	\$95,376
<b>5</b>	\$16,595	\$43,624	\$60,219
<b>6</b>	\$32,733	\$21,187	\$53,920
<b>7</b>	\$77,482	\$14,789	\$92,271
<b>8</b>	\$33,250	\$32,870	\$66,120
<b>9</b>	\$26,831	\$23,463	\$50,294
<b>10</b>	\$23,396	\$33,966	\$57,362
<b>11</b>	\$25,846	\$42,611	\$68,457
<b>12</b>	\$19,283	\$38,872	\$58,155
<b>13</b>	\$21,463	\$100,302	\$121,765
<b>Total</b>	<b>\$475,367</b>	<b>\$524,633</b>	<b>\$1,000,000</b>

**6) Allocation of Funds.**

- a) Approximately \$19,951,258 in funds are reserved for general set-aside activities through the HOME Reservation System in accordance with section 4 of this NOFA and subject to the RAF.
- b) Funds will be available under each activity by Uniform State Service Region by sub-region (Rural and Urban) beginning on **Tuesday, December 7, 2021, at 10:00 a.m. Austin local time** until **Monday, January 10, 2022 at 5:00 p.m. Austin local time.**
- c) Remaining funds available within each subregion will be combined and made available by region and activity beginning on **Tuesday, January 11, 2022, at 10:00 a.m. Austin local time,** until **Monday, February 28, 2022, at 5:00 p.m. Austin local time.**
- d) Remaining funds available within each region will be combined and made available by activity, in any Uniform State Service Region, beginning on **Tuesday, March 1, 2022, at 10:00 a.m. Austin local time,** until **Monday, April 4, 2022, at 5:00 p.m. Austin local time.**
- e) On **Tuesday, April 5, 2022, at 10:00 a.m. Austin local time,** any funds which have not been requested under 6(d) of this NOFA will be made available in the Reservation System for any General Set-Aside Activity in any Uniform State Service Region. Funds not reserved on or before **Tuesday, June 21, 2022, at 5:00 p.m. Austin local time** may be reprogrammed for use to other HOME activities.
- f) Except as limited in this NOFA or by statute, the Department may reprogram funds at any time to the Reservation System, or to administer directly.

- g) An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion. Subsequent changes to the timeline or method of release will be published on the Department's website. However, failure to do so will not invalidate reservations that are otherwise made in accordance with this NOFA.
- h) Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm). Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.

#### **7) Eligible and Ineligible Applicants.**

- a) Eligible Applicants include Units of General Local Government, Nonprofit Organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.
- b) Applicants are required to familiarize themselves with the Department's certification and debarment policies prior to application submission.

#### **8) Application Submission.**

- a) The Department will accept applications for the Reservation System on an ongoing basis. **Applications for the Reservation System are to be submitted as an upload to the Department's FTP server in the format requirements detailed in the RSP ASPM.**
- b) Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA and as detailed in the RSP ASPM. All scanned copies must be scanned in accordance with the guidance provided in the RSP ASPM.
- c) All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on Application forms published online at the above reference site provided by the Department which cannot be altered or modified, and must be in final form before they are submitted to the Department.
- d) This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME and Homelessness Programs Division for guidance and assistance.

#### **9) Application Selection Process**

- a) Administrative deficiencies noted during the review of an Application shall be subject to the administrative deficiency process outlined in 10 TAC §23.24(c).

- b) All Applicants will be subject to a Previous Participation Review by the Department as outlined in 10 TAC Chapter 1, Subchapter C.
- c) Audit Requirements. All Applicants are subject to the requirements of 10 TAC §1.403, concerning Single Audits.
- d) Pursuant to Tex. Gov't Code §2306.1112, the Executive Award and Review Advisory Committee will make recommendations to the Board regarding funding and allocation decisions.

**10) Dispute Resolution/Appeal.**

- a) The Department encourages the use of alternative dispute resolution in accordance with Tex. Gov't Code §2306.082, and as described more fully in 10 TAC §1.17.
- b) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

For questions regarding this NOFA, please contact Charles "T.C." Day, HOME Production Coordinator for the Single Family and Homeless Programs Division, at (512) 475-2975 or via email at [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us).

5c



**BOARD ACTION REQUEST**

**SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Persons with Disabilities Set-Aside Notice of Funding Availability and publication of the NOFA in the *Texas Register*.

**RECOMMENDED ACTION**

**WHEREAS**, the Board of the Texas Department of Housing and Community Affairs (the Department) has previously authorized the Department's submission of the 2021 Consolidated Plan One-Year Action Plan (OYAP) to the U.S. Department of Housing and Urban Development (HUD) which identified funding percentages and amounts for each of its HOME Investment Partnerships Program (HOME) Single Family activities;

**WHEREAS**, HUD has approved the OYAP and is releasing the State of Texas 2021 allocation of funds to TDHCA for the HOME Program;

**WHEREAS**, the OYAP identified and set-aside a percentage that equates to approximately \$1,792,947 for HOME Program single family activities for Persons with Disabilities (PWD);

**WHEREAS**, TDHCA is experiencing continued demand for funding for HOME Program single family activities under the Reservation System; and

**WHEREAS**, the Department now wishes to release a Notice of Funding Availability (NOFA) for HOME Program single family activities in the full amount of the PWD to be set-aside into the Reservation System, and out of the \$1,792,947, \$448,237 will be for Homeowner Reconstruction Assistance (HRA), and \$1,344,710 for Tenant-Based Rental Assistance (TBRA);

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department's website and to publish a notification in the *Texas Register*, a 2022 HOME Single Family Persons with Disabilities Set-Aside NOFA for funding in the amount of approximately \$1,792,947, to be released into the Reservation System, and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.

## **BACKGROUND**

The U. S. Department of Housing and Urban Development's HUD State of Texas 2021 allocation to TDHCA for the HOME Program is approximately \$38,585,940, and the grant agreement was received on July 30, 2021. TDHCA has programmed the funds for various uses in accordance with the HUD-approved 2021 Consolidated Plan One-Year Action Plan (OYAP). Staff is proposing to release a HOME Single Family Programs Reservation System NOFA that includes \$1,792,947 of the 2021 HOME allocation for the PWD set-aside. The PWD funds will be made available to single family HOME Program Reservation System Administrators for Homeowner Reconstruction Assistance and Tenant-Based Rental Assistance activities. Approval for participation in the Reservation System is not a guarantee of funding availability.

Of \$1,792,947, \$448,237 will be for Homeowner Reconstruction Assistance (HRA), and \$1,344,710 for Tenant-Based Rental Assistance (TBRA). These PWD set-aside funds are not subject to the Regional Allocation Formula, but are available statewide on a first come first served basis.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 20, Single Family Umbrella Rule, and Chapter 23, the Single Family HOME Program, as amended (HOME Program Rule), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (HOME Final Rule).

The 2022 HOME Single Family Persons with Disabilities Set-Aside NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules. Administrators will access the funds available under this NOFA either through existing agreements or by for a Reservation System Participation Agreement. Applications to participate in the Reservation System are accepted on an on-going basis.



**HOME Investment Partnerships Program (HOME)  
CFDA# 14.239**

**2022 HOME Investment Partnerships Program Single Family Persons with Disabilities  
Set-Aside Notice of Funding Availability**

**1. Summary.**

- a. The Texas Department of Housing and Community Affairs (the Department) announces a NOFA of approximately \$1,792,947 in HOME funds for single-family housing programs under the Persons with Disabilities (PWD) set-aside under a Reservation System. These funds will be made available to HOME Reservation System Participants with a current Reservation System Participation (RSP) Agreement.
  - b. The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (TAC) rules in effect at the time of contract execution: Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program (State HOME Rules), and Tex. Gov't Code Chapter 2306. Other federal and state regulations include but are not limited to: 24 CFR Part 58 for environmental requirements, 2 CFR Part 200 for Uniform Administrative Requirements (including the amendments effective July 30, 2021), 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (Federal HOME Rules), and for units of government, the Uniform Grant and Contract Management requirements as outlined in Chapter 783 in the Texas Local Government (UGMS or TxGMS, as applicable). Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
  - c. Capitalized terms in this NOFA have the meanings defined herein or as defined in State HOME Rules and the Federal HOME Rules.
  - d. If changes to the RSP are required during the RSP term due to required changes in Federal or State law, the Department may initiate an amendment process to ensure compliance.
- 2. Source of Funds.** Funds totaling \$1,792,947 are made available for single-family activities through the Department's 2021 annual HOME allocation from the U.S. Department of Housing and Urban Development (HUD). In accordance with Tex. Gov't Code §2306.111(d), these set-asides satisfy a legislatively mandated set-aside, and therefore are not subject to the Regional Allocation Formula. The Department, in its sole discretion, may also release unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

**3. Eligible Activities.** The following activity types are eligible uses of HOME funds awarded under this NOFA:

- a. **Homeowner Reconstruction Assistance (HRA).** HRA provides funds for the rehabilitation, reconstruction, or new construction of a single-family residence owned and occupied by eligible low-income Households. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter C, Homeowner Reconstruction Assistance Program, §§23.30 - 23.32.
- b. **Tenant-Based Rental Assistance (TBRA).** TBRA provides rental subsidies to eligible low-income Households. Assistance may include rental, security, and utility deposits. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, Tenant-Based Rental Assistance Program, §§23.50 - 23.52.

**4. Prohibited Activities.** Prohibited activities include those prohibited in 24 CFR §92.214 and in the State HOME Rules.

**5. Allocation of Funds**

- a. Approximately \$1,792,947 in funds is available through the Reservation System for single-family HRA and TBRA activities under the Persons with Disabilities (PWD) set-aside beginning **Tuesday, November 2, 2021**. The funds will be set aside in the manner described until **January 10, 2022**, after which any remaining funds in any of the set asides described below may be reprogrammed in a manner that is consistent with the 2021 One-Year Action Plan (OYAP) approved by HUD.
- b. The balances that are available in the Reservation System from any prior year funds for PWD set-aside activities will be incorporated into the PWD Set-Aside for TBRA under this NOFA and combined with the funds specified in this NOFA to assist eligible Households. Funds may be reserved for individual households for the following activities:
  - i. **HRA.** Approximately \$448,237 in set-aside funding will be available **beginning Tuesday, November 2, 2021, at 10:00 a.m. Austin local time** for HRA activities until **Monday, January 10, 2022, at 5:00 p.m. Austin local time**.
  - ii. **TBRA.** Approximately \$1,344,710 in set-aside funding will be available **beginning Tuesday, November 2, 2021, at 10:00 a.m. Austin local time** for HRA activities until **Monday, January 10, 2022, at 5:00 p.m. Austin local time**.
- c. On **Tuesday, January 11, 2022, at 10:00 a.m. Austin local time**, any funds which have not been requested under 5(b) of this NOFA will be made available in the Reservation System for any PWD Set-Aside Activity in any Uniform State Service Region. Funds not reserved at or before 5:00 p.m. on **Monday, April 4, 2021**, may be reprogrammed for use to other HOME activities.
- d. Except as limited in this NOFA or by statute, the Department may reprogram funds at any time to the Reservation System, or to administer directly.
- e. An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion. Subsequent changes to the timeline or method of release will

be published on the Department's website. However, failure to do so will not invalidate reservations that are otherwise made in accordance with this NOFA.

- f. Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm). Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.

## **6. Application Selection Process.**

- a. Funding under this NOFA will be made available through the Reservation System to HOME Administrators with active RSP Agreements. Applications to request a RSP Agreement are accepted on an on-going basis. Applicants requesting a RSP Agreement must submit a completed application, required documentation, and associated application materials as detailed in the Application Submission Procedures Manual (ASPM).
- b. All Application materials including manuals, program guidelines, and applicable HOME rules, are available on the Department's website at [www.tdhca.state.tx.us/home-division/applications.htm](http://www.tdhca.state.tx.us/home-division/applications.htm).
- c. Applications for an RSP Agreement will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.
- d. Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm).
- e. Administrative deficiencies noted during the review of an RSP Application shall be subject to the administrative deficiency process outlined in 10 TAC §23.24(c).
- f. All Applicants will be subject to a Previous Participation Review by the Department as outlined in 10 TAC Chapter 1, Subchapter C

**7. Audit Requirements.** All Applicants are subject to the requirements of 10 TAC §1.403 concerning Single Audits.

## **8. Eligible and Ineligible Applicants**

- a. Eligible Applicants include Units of General Local Government, nonprofit organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.
- b. Applicants are required to familiarize themselves with the Department's certification and debarment policies prior to application submission.

## **9. Application Submission.**

- a. The Department will accept applications for the Reservation System on an on-going basis. Applications for the Reservation System are to be submitted as an upload to the Department's FTP server in the format requirements detailed in the RSP ASPM.

- b. Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA and as detailed in the RSP ASPM. All scanned copies must be scanned in accordance with the guidance provided in the RSP ASPM.
- c. All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on Application forms published online at the above reference site provided by the Department which cannot be altered or modified, and must be in final form before they are submitted to the Department.
- d. This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME and Homelessness Programs Division for guidance and assistance.

**10. Dispute Resolution/Appeal.**

- a. The Department encourages the use of alternative dispute resolution in accordance with Tex. Gov't Code §2306.082, and as described more fully in 10 TAC §1.17.
- b. An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

For questions regarding this NOFA, please contact Charles "T.C." Day, HOME Production Coordinator for the Single Family and Homeless Programs Division, at (512) 475-2975 or via email at [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us).

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**BOARD ACTION REQUEST**

**HOME AND HOMELESSNESS PROGRAMS DIVISION**

**OCTOBER 14, 2021**

Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Contract for Deed Set-Aside Notice of Funding Availability and publication of the NOFA in the *Texas Register*.

**RECOMMENDED ACTION**

**WHEREAS**, the Board of the Texas Department of Housing and Community Affairs (TDHCA or the Department) has previously authorized the submission of 2021 Consolidated Plan One-Year Action Plan (OYAP) which identified funding percentages and amounts for each of its HOME Investment Partnerships Program (HOME) Single Family activities;

**WHEREAS**, the U.S. Department of Housing and Urban Development's (HUD) has approved the OYAP and is releasing the State of Texas 2021 allocation of funds to TDHCA for the HOME Program;

**WHEREAS**, the OYAP identified and set-aside an amount that equates to \$1,000,000 of HOME Single Family Contract for Deed activities;

**WHEREAS**, TDHCA is experiencing continued demand for funding for HOME Program single family activities under the Reservation System, and

**WHEREAS**, the Department now wishes to release a Notice of Funding Availability (NOFA) for HOME Program single family activities in the full amount of \$1,000,000 for the Contract for Deed (CFD) set-aside;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department's website and to publish a notification in the *Texas Register*, a 2022 HOME Single Family Contract for Deed Set-Aside Notice of Funding Availability for funding in the amount of approximately \$1,000,000, to be released into the Reservation System, and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.



## **BACKGROUND**

The U. S. Department of Housing and Urban Development's (HUD) State of Texas 2021 allocation to TDHCA for the HOME Program is approximately \$35,858,940 and the grant agreement was received on July 30, 2021. TDHCA has programmed the funds for various uses in accordance with the HUD-approved 2021 Consolidated Plan One-Year Action Plan (OYAP). Staff is proposing to release a HOME Single Family Programs Reservation System NOFA that includes \$1,000,000 of the 2020 HOME allocation for the CFD set-aside. The CFD funds will be made available to single family HOME Program Reservation System Administrators. Approval for participation in the Reservation System is not a guarantee of funding availability.

Rider 6 of the TDHCA bill pattern within the General Appropriations Act for Fiscal Years 2022-2023 requires TDHCA to identify funding sources and estimated funding levels for contract for deed conversions and other activities for families that reside in a colonia and earn 60 percent or less of the applicable area median family income (AMFI) and the home converted must be their primary residence. Funds are set-aside for households at or below 60% AMFI and who reside in a colonia for a period of not less than 60 days before being made available statewide, excluding Participating Jurisdictions, to those at or below 80% AMFI.

Traditionally, a Contract for Deed (CFD) is a contract for the sale of land which provides that the buyer will acquire possession of the land immediately and pay the purchase price in installments over a period of time, but the seller retains legal title until all payments are made. As a result of 84(R) HB 311, CFDs were given the same weight as a traditional mortgage, and buyers were ensured an ownership percentage of the property.

These CFD set-aside funds are not subject to the Regional Allocation Formula, and are available in designated colonia areas of the state on a first come first served basis. The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 20, Single Family Umbrella Rule, and Chapter 23, the Single Family HOME Program, as amended (HOME Program Rule), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (HOME Final Rule).

The 2022 HOME Single Family Single Family Contract for Deed Set-Aside Notice of Funding Availability was developed in accordance with the Single Family Umbrella and HOME Program Rules. Administrators will access the funds available under this NOFA either through existing agreements, or by applying under an open application cycle.



**HOME Investment Partnerships Program (HOME)  
CFDA# 14.239**

**2022 HOME Investment Partnerships Program Single Family Contract for Deed Set-Aside  
Notice of Funding Availability**

**1. Summary.**

- a. The Texas Department of Housing and Community Affairs (the Department) announces a NOFA of approximately \$1,000,000 in HOME funds for single family housing programs under the Contract for Deed (CFD) set-aside under a Reservation System. These funds will be made available to HOME Reservation System Participants with a current Reservation System Participation (RSP) Agreement.
- b. The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (TAC) rules in effect at the time of contract execution, Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, (State HOME Rules); and Tex. Gov't Code Chapter 2306. Other federal and state regulations include but are not limited to, 24 CFR Part 58 for environmental requirements, 2 CFR Part 200 for Uniform Administrative Requirements (including the amendments effective July 30, 2021), 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (Federal HOME Rules), the Uniform Grant and Contract Management requirements as outlined in Chapter 783 in the Texas Local Government (UGMS or TxGMS, as applicable). Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- c. Capitalized terms in this NOFA have the meanings defined herein or as defined in State HOME Rules and the Federal HOME Rules.
- d. If changes to the RSP are required during the RSP term due to required changes in Federal or State law, the Department may initiate an amendment process to ensure compliance.

- 2. Source of Funds.** Funds totaling \$1,000,000 are made available for single-family activities through the Department's 2021 annual HOME allocation from the U.S. Department of Housing and Urban Development (HUD). In accordance with Tex. Gov't Code §2306.111(d), these set-asides satisfy a legislatively mandated set-aside and therefore are not subject to the Regional

Allocation Formula. The Department, in its sole discretion, may also release unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

- 3. Contract for Deed (CFD) Activity.** CFD provides funds for the acquisition or refinance, in combination New Construction, of single family housing occupied by the purchaser as shown on an executory contract for conveyance. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter D, Contract for Deed Program, §§23.40 - 23.42.
- 4. Prohibited Activities.** Prohibited activities include those at 24 CFR §92.214 and in the State HOME Rules. Funds will not be eligible for use in a Participating Jurisdiction.
- 5. Allocation of Funds.** Approximately \$1,000,000 in funds is available through the Reservation System beginning **Tuesday, November 2, 2021, at 10:00 a.m. Austin local time.** The funds will be set-aside in the manner described below until **Tuesday, April 5, 2022, at 10:00 a.m. Austin local time,** after which any remaining funds in any of the set asides described below may be reprogrammed in a manner that is consistent with the 2021 One-Year Action Plan (OYAP) approved by HUD.
  - a. Beginning **Tuesday, November 2, 2021, at 10:00 a.m. Austin local time,** funds may be reserved for eligible activities where the activity is located in a colonia as defined by Tex. Gov't Code, Chapter 2306, and where the household income does not exceed 60% of the Area Median Family Income (AMFI) as defined by HUD.
  - b. Beginning **Tuesday, January 11, 2022, at 10:00 a.m. Austin local time,** funds may be reserved for eligible activities in any area of the state, excluding Participating Jurisdictions, where the household income does not exceed 80% of the AMFI as defined by HUD.
  - c. Except as limited in this NOFA or by statute, the Department may reprogram funds at any time to the Reservation System, or to administer directly.
  - d. An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion. Subsequent changes to the timeline or method of release will be published on the Department's website. However, failure to do so will not invalidate reservations that are otherwise made in accordance with this NOFA.
  - e. Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm). Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.
- 6. Application Selection Process.**
  - a. Funding under this NOFA will be made available through the Reservation System to HOME Administrators with active RSP Agreements. Applications to request a RSP Agreement are accepted on an on-going basis. Applicants requesting a RSP Agreement must submit a

completed application, required documentation, and associated application materials as detailed in the Application Submission Procedures Manual (ASPM).

- b. All Application materials including manuals, program guidelines, and applicable HOME rules, are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications for an RSP Agreement will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.
  - c. Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm).
  - d. Administrative deficiencies noted during the review of an RSP Application shall be subject to the administrative deficiency process outlined in 10 TAC §23.24(c).
  - e. All Applicants will be subject to a Previous Participation Review by the Department as outlined in 10 TAC Chapter 1, Subchapter C.
- 7. Audit Requirements.** All Applicants are subject to the requirements of 10 TAC §1.403, concerning Single Audits.
- 8. Eligible and Ineligible Applicants.**
- a. Eligible Applicants include Units of General Local Government, nonprofit organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.
  - b. Applicants are required to familiarize themselves with the Department's certification and debarment policies prior to application submission.
- 9. Application Submission.**
- a. The Department will accept applications for the Reservation System on an on-going basis. **Applications for the Reservation System are to be submitted as an upload to the Department's FTP server in the format requirements detailed in the RSP ASPM.**
  - b. Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA and as detailed in the RSP ASPM. All scanned copies must be scanned in accordance with the guidance provided in the RSP ASPM.
  - c. All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at [www.tdhca.state.tx.us/home-division/applications.htm](http://www.tdhca.state.tx.us/home-division/applications.htm). Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on Application forms published online at the above reference site provided by the Department which cannot be altered or modified, and must be in final form before they are submitted to the Department.

- d. This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME and Homelessness Programs Division for guidance and assistance.

**10. Dispute Resolution/Appeal.**

- a. The Department encourages the use of alternative dispute resolution in accordance with Tex. Gov't Code §2306.082, and as described more fully in 10 TAC §1.17.
- b. An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

For questions regarding this NOFA, please contact Charles "T.C." Day, HOME Production Coordinator for the Single Family and Homeless Programs Division, at (512) 475-2975 or via email at [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us).

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 13, the Multifamily Direct Loan Rule, proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing their publication for public comment in the Texas Register

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) is authorized to administer Direct Loan Program Funds pursuant to Tex. Gov't Code Ch. 2306, Subchapter I, Housing Finance Division: General Provisions;

**WHEREAS**, the Department plans to administer the fund sources used in making these awards of loans and grants in a specific manner that necessitates this Multifamily Direct Loan Rule;

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

**WHEREAS**, such proposed rulemaking will be published for public comment in compliance with the State Administrative Procedures Act in the *Texas Register* from October 29, 2021, through November 18, 2021, and subsequently returned to the Board for final adoption; and

**WHEREAS** public comment, in accordance with the Citizen Participation Plan requirements in 24 CFR §91.105, will be accepted between October 18, 2021, and November 18, 2021;

**NOW, therefore, it is hereby**

**RESOLVED**, that the proposed repeal of 10 TAC Chapter 13, and proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule, together with the preambles presented to this meeting, are hereby approved for publication in the *Texas Register* for public comment; and

**FURTHER RESOLVED**, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal and replacement Multifamily Direct Loan Rules, together with the changes, if any, made at this meeting and the preambles, in the form presented to this meeting,

to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections, including any required revisions to the preambles, as they may deem necessary to effectuate the foregoing.

### **BACKGROUND**

Attached to this Board Action Request is the staff draft of the 2022 Multifamily Direct Loan Rule (MFDL Rule), which reflects staff's recommendations for the Board's consideration. The attached MFDL Rule identifies the differences between the existing MFDL Rule in Texas Administrative Code and the proposed 2022 MFDL Rule in blackline format. The MFDL Rule submitted to the *Texas Register* will be a proposed new version of the 2022 MFDL Rule, and will not identify the changes between 2021 and 2022. The Department's Public Comment page will also include a blackline version of the proposed 2022 MFDL Rule as approved by the Board to facilitate stakeholders' engagement with the changes.

This rule considers staff and stakeholder input in establishing more effective means of requesting, prioritizing, vetting, and potentially awarding MFDL funding; specifically, it provides additional guidance on complying with federal requirements, such as Site and Neighborhood reviews, relocation, and prevailing wage. The draft rule also makes limited allowance for previously ineligible adaptive reuse proposals, further describes federally-ineligible costs, and provides greater parity of loan structures across MFDL programs. The rule reduces the timeframe for submitting environmental reports required for commitment, as well as for disbursements to improve overall processing time.

Proposed 10 TAC Chapter 13 potentially will require a Minor Amendment to the state's requirements described in its 2021 Action Plan and 2020-2024 Consolidated Plan. The Multifamily Direct Loan Rule final adoption, and the Minor Amendment (if required) will be brought before the Board in December for approval, and subsequently be published in the *Texas Register* for adoption and sent to HUD, as applicable.

Upon Board approval, the proposed 2022 MFDL Rule will be posted to the Department's website and published in the *Texas Register*. Public comment, in accordance with the Citizen Participation Plan requirements in 24 CFR §91.105, will be accepted between October 18, 2021, and November 18, 2021. In compliance with the State Administrative Procedures Act, public comment will be accepted upon the rule's publication in the *Texas Register* from October 29, 2021, through November 18, 2021.

Staff will consider and prepare reasoned responses to public comment as part of the final action on the MFDL Rule that will be brought before the Board on December 9, 2021, for approval, adoption, and subsequent publication in the *Texas Register*.



**Attachment A: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 13, the Multifamily Direct Loan Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, §§ 13.1, 13.2, 13.3, 13.4, 13.5, 13.6, 13.7, 13.8, 13.9, 13.10, 13.11, 13.12, and 13.13. The purpose of the proposed repeal is to provide for clarification of the existing rule through new rulemaking 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 proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.

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

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

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

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.

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

8. The 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 proposed repeal and determined that the proposed 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 proposed repeal does not contemplate nor 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 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 proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be increased clarity and improved access to the Multifamily Direct Loan funds. 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 proposed 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29 to November 18, 2021, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Charlotte Flickinger, Multifamily Direct Loan Manager, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [charlotte.flickinger@tdhca.state.tx.us](mailto:charlotte.flickinger@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time November 18, 2021.

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

## **10 TAC Chapter 13, Multifamily Direct Loan Rule**

§13.1 Purpose

§13.2 Definitions

§13.3 General Loan Requirements

§13.4 Set-Asides, Regional Allocation, and NOFA Priorities

§13.5 Application and Award Process

§13.6 Scoring Criteria

§13.7 Maximum Funding Requests and Minimum Number of MFDL Units

§13.8 Loan Structure and Underwriting Requirements

§13.9 Construction Standards

§13.10 Development and Unit Requirements

§13.11 Post-Award Requirements

§13.12 Pre-Closing Amendments to Direct Loan Terms

§13.13 Post-Closing Amendments to Direct Loan Terms

## **Attachment B: Preamble, including required analysis, for proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 13, Multifamily Direct Loan Rule, §§ 13.1, 13.2, 13.3, 13.4, 13.5, 13.6, 13.7, 13.8, 13.9, 13.10, 13.11, 13.12, and 13.13. The purpose of the proposed new sections is to provide compliance with Tex. Gov't Code §2306.111 and to update the rule to: clarify program requirements in multiple sections, codify in rule practices of the division, and change citations to align with changes to other multifamily rules. In general, most changes proposed are corrective in nature, intended to gain consistency with state or federal rules, delete duplicative language or provisions, correct or update rule references, and clarify language or processes to more adequately communicate the language or process.

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 proposed new rule would be in effect:

1. The proposed rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, administration of the Multifamily Direct Loan Program.
2. The proposed 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 proposed rule changes do not require additional future legislative appropriations.
4. The proposed 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 proposed rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed rule will not expand, limit, or repeal an existing regulation.
7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability; and
8. The proposed 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 proposed 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 §2306.111.

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 for multifamily direct loan applications and award through various Department fund sources. Other than in the case of a small or micro-business that is an applicant for such a loan product, no small or micro-businesses are subject to the rule. It is estimated that approximately 200 small or micro-businesses are such applicants; for those entities the new rule provides for a more clear, transparent process for applying for funds and does not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the proposed rule because this rule is applicable only to direct loan applicants for development of properties, which are not generally municipalities. The fee for applying for a Multifamily Direct Loan product is \$1,000, unless the Applicant is a nonprofit that provides supportive services or the Applicant is applying for Housing Tax Credits in conjunction with Multifamily Direct Loan funds, in which case the application fee may be waived. These fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing.

There are 1,296 rural communities potentially subject to the proposed rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 13 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for MFDL resources that are located in rural areas is approximately fifteen. In those cases, a rural community securing a loan will experience an economic benefit, including, potentially, increased property tax revenue from a multifamily Development.

3. The Department has determined that because there are rural MFDL awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive MFDL awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed 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 proposed rule may provide a possible positive economic effect on local employment in association with this rule since MFDL Developments, layered with housing tax credits, often involve a typical minimum investment of \$10 million in capital, and more commonly an investment from \$20 million to \$30 million. Such a capital investment has direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to predict during rulemaking where these positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to

be quantified for any given community until MFDL awards and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas 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 significant construction activity is associated with any MFDL Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive MFDL awards.

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 improved clarity of program requirements in multiple sections, codification in rule practices of the division, and change citations to align with changes to other multifamily rules. There will not be any economic cost to any individuals required to comply with the new sections because this rule does not have any new requirements that would cause additional costs to applicants.

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 sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because it does not have any new requirements that would cause additional costs to applicants.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 18, 2021, to receive input on the proposed new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Charlotte Flickinger, Multifamily Direct Loan Manager, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [htc.public-comment@tdhca.state.tx.us](mailto:htc.public-comment@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time November 18, 2021.

STATUTORY AUTHORITY. The new sections are proposed 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.

## TITLE 10 COMMUNITY DEVELOPMENT

### PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 13 MULTIFAMILY DIRECT LOAN RULE

##### §13.1. Purpose.

(a) Authority. The rules in this chapter apply to the funds provided to Multifamily Developments through the Multifamily Direct Loan Program (MFDL or Direct Loan Program) by the Texas Department of Housing and Community Affairs (the Department). Notwithstanding anything in this chapter to the contrary, loans and grants issued to finance the development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapter 2306, ~~(sometimes referred to as the State Act)~~; and federal law pursuant to the requirements of Title II of the Cranston-Gonzalez National Affordable Housing Act, Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 - Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization Programs, Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289), and the implementing regulations 24 CFR Parts 91, ~~Part 92, Part 93, and Part 570~~ as they may be applicable to a specific fund source. The Department is authorized to administer Direct Loan Program funds pursuant to Tex. Gov't Code, Chapter 2306, ~~Subchapter I, Housing Finance Division.~~

(b) General. This chapter applies to ~~an Applications submitted for, and~~ award of, MFDL funds by the Department and establishes the general requirements associated with the application and award process for such funds. Applicants pursuing MFDL assistance from the Department are required to certify, among other things, that they have familiarized themselves with all applicable rules that govern that specific program including, but not limited to this chapter, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 10 of this title (relating to Uniform Multifamily Rules), Chapter 11 of this title (relating to ~~Housing Tax Credit Program~~-Qualified Allocation Plan (QAP)), and Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules) ~~will apply if MFDL funds are layered with those other Department programs as applicable.~~ The Applicant is also required to certify that it is familiar with the requirements of any other federal, state, or local financing sources that it identifies in its Application. Any conflict with rules, regulations, or statutes will be resolved on a case by case basis that allows for compliance with all requirements. Conflicts that cannot be resolved may result in Application ineligibility, with the right to an Appeal as provided in 10 TAC §1.7 of this title (relating to Appeals Process) or 10 TAC §11.902 of this title (relating to Appeals Process for the Housing Tax Credit program), as applicable.

(c) Waivers. Requests for waivers of any program rules or requirements must be made in accordance with 10 TAC §11.207 of this title (relating to Waiver of Rules), as limited by the rules in this chapter. In no instance will the Department consider a waiver request that would violate federal program requirements or state or federal statute. Waiver requirements are, as provided in paragraphs (1) through (3) of this subsection:-

(1) Waivers for Layered Developments. For Direct Loan Developments layered with Competitive Housing Tax Credits, an Applicant may request, at the latest at Application submission, that the Department amend its NOFA, amend its Consolidated Plan or One Year Action Plan, or ask HUD to grant a waiver of its regulations, if the Board may not waive any provision of the Notice of Funding Availability (NOFA) such request will not impact the timing of the Application's review, nor alter the scoring or satisfaction of threshold requirements for the Competitive Housing Tax Credits. Such requests will be presented to the

Department's Board. The Board may not waive rules that are federally required, or that have been incorporated as a required part of the Department's Consolidated Plan or One Year Action Plan (OYAP) to the U.S. Department of Housing and Urban Development (HUD), unless those Plans are so amended the earlier of a date the NOFA stops accepting Applications or by an earlier date that is identified by the Board;

(2) Waivers for Non-Layered Developments. For Direct Loan Developments not layered with Competitive Housing Tax Credits, an Applicant may request that the Department amend its NOFA, amend its Consolidated Plan or OYAP, or ask HUD to grant a waiver of its regulations. Such requests will be presented to the Department's Board; If the Applicant's request is approved by the Department's Governing Board (Board), the Application Acceptance Date will then be the date the Department completes the amendment process or receives a waiver from HUD. If this date occurs after the NOFA closes, the Applicant will be required to submit a new Application, and the Direct Loan awardee (pre-closing) may be required to reapply, under a new or otherwise open NOFA; and

(3) Waivers under Closed NOFAs. The Board may not waive any portion of a closed NOFA prior to Construction Completion. Thereafter, the Board may only waive any portion of a closed NOFA as part of an approved Asset Management Division work out. Allowable Post-Closing Amendments are described in 10 TAC §13.13 of this chapter (relating to Post-Closing Amendments to Direct Loan Terms).

(d) Eligibility and Threshold Requirements. Applications for Multifamily Direct Loan funds must meet all applicable eligibility and threshold requirements of Chapter 11 of this title (relating to the Qualified Allocation Plan (QAP)), unless otherwise excepted in this rule or NOFA.

### **§13.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Tex. Gov't Code, Chapter 2306; §§141, 142, and 145 of the Internal Revenue Code; 24 CFR Parts 91, ~~Part 92, and Part 93;~~ and 2 CFR Part 200; and 10 TAC Chapters 1 of this title regarding Administration, 2 of this title regarding Enforcement, 10 of this title regarding Uniform Multifamily Rules, and 11 of this title regarding the Qualified Allocation Plan.

(1) Application Acceptance Date--The date the MFDL Application is considered received by the Department as described in this chapter, chapter 11 of this title, or in the NOFA.

(2) Community Housing Development Organization (CHDO)--A private nonprofit organization with experience developing or owning affordable rental housing that meets the requirements in 24 CFR Part 92 for purposes of receiving HOME Investment Partnerships Program (HOME) funds under the CHDO Set-Aside. In addition, a member of a CHDO's board cannot be a Principal of the Development beyond their role as a board member of the CHDO or be an employee of the development team, and may not receive financial benefit other than reimbursement of expenses from the CHDO (e.g., a voting board member cannot also be a paid executive).

(3) Construction Completion or Development Period--The Development Period is the time allowed to complete construction, which includes, without limitation, that ~~That~~ necessary title transfer requirements and construction work ~~have been~~ has been fully performed, ~~and~~ the certificate(s) of occupancy (if New Construction or ~~r~~Reconstruction), ~~and~~ Certificate of Substantial Completion (AIA Form G704), Form HUD-92485 (for instances in which a federally insured HUD loan is ~~being~~ utilized), or equivalent notice has been issued.-

(4) Deobligated Funds--The funds released by the Development Owner or recovered by the Department canceling a Contract or award involving some or all of a contractual financial obligation between the Department, and a Development Owner or Applicant.

(5) Federal Affordability Period--The period commencing on the later of the date after Construction Completion and after all Direct Loan funds have been disbursed for the project, or the date of Project Completion as defined in 24 CFR §92.2 or §93.3, as applicable, and ending on the date which is the required number of years as defined by the federal program.

(6) HOME--the HOME Investment Partnership Program, authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act.

(6) HOME Match-Eligible Unit--A Unit in the Development that is not assisted with HOME Program funds, but would qualify as eligible for Match under 24 CFR Part 92. Unless otherwise identified by the provisions in the ~~Notice of Funding Availability (NOFA)~~, ~~TCAP Repayment Funds (TCAP RF)~~ and matching contribution on NSP and NHTF Developments must meet all criteria to be classified as HOME-Match Eligible Units.

(7) Housing Contract System (HCS)--The electronic information system established by the Department for tracking, funding, and reporting Department Contracts and Developments. The HCS is primarily used by the Department for Direct Loan Programs administered by the Department.

(8) Land Use Restriction Agreement (LURA) Term--The period commencing on the effective date of the LURA and ending on the date which, at a minimum, is the greater of the loan term or 30 years. The LURA may include the Federal Affordability Period, in addition to the State Affordability Period requirements and State restrictive criteria.

(9) Matching Contribution (Match)--A contribution to a Development from nonfederal sources that may be in one or more of the forms provided in subparagraphs (A) through (E) of this paragraph:

(A) Cash contribution (grant), except for cash contributions made by investors in a limited partnership or other business entity subject to pass through tax benefits in a tax credit transaction or owner equity (including Deferred Developer Fee and General Partner advances);

(B) Reduced fees or donated labor from certain eligible contractors, subcontractors, architects, attorneys, engineers, excluding any contributions from a party related to the Developer or Owner;

(C) Net present value of yield foregone from a below market interest rate loan as described in HUD Community Planning and Development (CPD) Notice 97-03;

(D) Waived or reduced fees or taxes from cities or counties not related to the Applicant in connection with the proposed Development; or

(E) Donated land or land sold by an unrelated third party at a price below market value, as evidenced by a third party appraisal.

(10) NHTF--National Housing Trust Fund.



(11) NOFA--Notice of Funding Availability.

(12) NSP--Neighborhood Stabilization Program.

(13) Qualifying Unit--means a Unit designated for Multifamily Direct Loan use and occupancy in compliance with State and federal regulations, as set forth in the Contract. Qualifying Units may not also have a Project-Based Voucher issued under 24 CFR Part 983.

~~(14)~~ Relocation Plan--A residential anti-displacement and relocation assistance plan and budget in an Application that addresses residential and non-residential displacement and complies with the Uniform Relocation Assistance and Real Property Act as implemented at 49 CFR Part 24, HUD Handbook 1378, and the TDHCA Relocation Handbook. Additionally, some HOME and NSP funded Developments must comply with Section 104(d) of the Housing and Community Development Act of 1974 (as amended), and 24 CFR Part 42 (as modified for NSP and HOME American Rescue Plan (ARP) funds);, which requires a one-for-one replacement of occupied and vacant, occupiable low- and moderate-income dwelling units demolished or converted. Guidance may be found on the Department's website at <https://www.tdhca.state.tx.us/multifamily/home/index.htm>. The Relocation Plan must be ~~(B) Is~~ in form and substance consistent with requirements of the Department.

~~(15)~~ Section 234 Condominium Housing Basic Mortgage Limits (Section 234 Condo Limits)--The per-unit subsidy limits for all MFDL funding. These limits take into account whether or not a Development is elevator served and any local conditions that may make development of multifamily housing more or less expensive in a given metropolitan statistical area. If the high cost percentage adjustment applicable to the Section 234 Condo Limits for HUD's Fort Worth Multifamily Hub is applicable for all Developments that TDHCA finances through the MFDL Program, then confirmation of that applicability will be included in the applicable NOFA.

~~(16)~~ Site and Neighborhood Standards--HUD requirements for ~~N~~ew ~~C~~onstruction or reconstruction Developments funded by NHTF (24 CFR §93.150) or ~~N~~ew ~~C~~onstruction Developments funded by HOME (24 CFR §92.202). Proposed Developments must provide evidence that the Development will comply with these federal regulations in the Application. Guidance for successful submissions is provided on the Department website at <https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>. Applications that are unable to comply with requirements in 24 CFR §983.57(e)(2) and (3) will not be eligible for HOME or NHTF.

~~(17)~~ State Affordability Period--The LURA Term as described in the MFDL contract and loan documents and as required by the Department in accordance with the Chapter 2306, Texas Gov't Code~~State Act~~ which may be an additional period after the Federal Affordability Period.

~~(18)~~ Surplus Cash--Except when the first lien mortgage is a federally insured HUD mortgage that is which shall be subject to HUD's surplus cash definition, Surplus Cash is any cash remaining:

(A) After the payment of:

(i) All sums due or currently required to be paid under the terms of any superior lien;

(ii) All amounts required to be deposited in the reserve funds for replacement;

(iii) Operating expenses actually incurred by the borrower for the Development during the period with an

appropriate adjustment for an allocable share of property taxes and insurance premiums;

(iv) Recurring maintenance expenses actually incurred by the borrower for the Development during the period; and

(v) All other obligations of the Development approved by the Department; and

(B) After the segregation of an amount equal to the aggregate of all special funds required to be maintained for the Development; and

(C) Excluding payment of:

(i) All sums due or currently required to be paid under the terms of any subordinate liens against the property;

(ii) Any development fees that are deferred including those in eligible basis; and

(iii) Any payments or obligations to the borrower, ownership entities of the borrower, related party entities; any payment to the management company exceeding 5% of the effective gross income; incentive management fee; asset management fees; or any other expenses or payments that shall be negotiated between the Department and borrower.

(19) TCAP Repayment Funds--(TCAP RF) the Tax Credit Assistance Payment program funds.

### **§13.3. General Loan Requirements.**

(a) Funding Availability. Direct Loan funds may be made available through a NOFA or other similar governing document that includes the method for applying for funds basic Application and funding requirements.

(b) Oversourced Developments. A Direct Loan request may be reduced or not recommended if ~~an~~ the Department's Underwriting Report issued by the Department's Real Estate Analysis Division concludes the Development does not need all or part of the MFDL funds requested in the Application because it is oversourced, and for which a timely appeal has been completed, as provided in 10 TAC §1.7 of this title (relating to Appeals Process) or 10 TAC §11.902 of this title (relating to Appeals Process for Competitive HTC Applications), as applicable.

(c) Funding Sources. Direct Loan funds are composed of annual HOME and National Housing Trust Fund (NHTF) allocations from HUD, repayment of TCAP or TCAP RF loans, HOME Program Income, NSP Program Income (NSP PI or NSP), and any other similarly encumbered funding that may become available by Board action, except as otherwise noted in this chapter. Similar funds include any funds that are identified by the Board to be loaned or granted for the development of multifamily property and are not governed by another chapter in this title, with the exception of State funds appropriated for a specific purpose.

(d) Eligible and Ineligible Activities.

(1) Eligible Activities. Direct Loan funds may be used for the predevelopment, acquisition, New Construction, reconstruction, Adaptive Reuse, rehabilitation, or preservation of affordable housing with

suitable amenities, including real property acquisition, site improvements, conversion, demolition, or operating cost reserves, subject to applicable HUD guidance. Other expenses, such as financing costs, relocation expenses of any displaced persons, families, businesses, or organizations may be included. MFDL funds may be used to assist Developments previously awarded by the Department when approved by specific action of the Board. Eligible Activities may have fund source restrictions or may be restricted by a NOFA.

(2) Ineligible Activities. Direct Loan funds may not be used for:

(A) Adaptive Reuse Developments subject to the requirements of 36 CFR 67, implementing Section 47 of the Internal Revenue Code; ~~or~~

(B) Developments layered with Housing Tax Credits that have elected the income averaging election under Section 42(g)(1)(C) of the Internal Revenue Code that have more than 15% of the Units designated as Market Rate Units; or ~~—~~

(C) Except as specifically described in the NOFA, Developments in which the Applicant will not be directly leasing Units to residents.

(e) Ineligible Costs. All costs associated with the Development and known by the Applicant must be disclosed as part of the Application. Other federal funds will be included in the subsidy limit calculation. Costs ineligible for reimbursement with Direct Loan funds in accordance with 24 CFR Parts 91, ~~Part~~ 92, ~~Part~~ 93, and Part 570, and 2 CFR Part 200, as federally required or identified in the NOFA, include but are not limited to:

(1) Offsite costs;

(2) Stored Materials;

(3) Site Amenities, such as swimming pools and decking, landscaping, playgrounds, and athletic courts;

(4) Equipment required for construction;

(5) Furnishings and Furniture, Fixtures and Equipment (FF&E) required for the Development;

(6) Detached Community Buildings;

~~(7)~~ Carports and/or parking garages, unless attached as a feature of the Unit;

~~(6) Swimming pools~~;

~~(8)~~ Commercial Space costs;

~~(9)~~ Personal Property Taxes;

~~Reserve accounts except Operating Deficit Reserve accounts~~;

~~(10)~~ TDHCA fees;

(110) Syndication and organizational costs;

~~(11)~~(12) Reserve Accounts, except Initial Operating Deficit Reserve Accounts;

(13) Delinquent fees, taxes, or charges;

(142) Costs incurred more than 24 months prior to the effective date of the Direct Loan Contract, unless the Application is awarded TCAP RF, and if specifically allowed by the Board;

(153) Costs that have been allocated to or paid by another fund source, including but not limited to: ~~Deferred Developer Fee~~, contingency, including soft cost contingency, and general partner loans and advances;

(164) Deferred Developer Fee;

(175) Texas Bond Review Board (BRB) fees;

(186) Community Facility spaces that are not for the exclusive use of tenants and their guests;

(197) The portion of soft costs that are allocated to support ineligible hard costs; and

(2018) Other costs limited by Award or NOFA, or as established by the Board.

#### **§13.4. Set-Asides, Regional Allocation, and NOFA Priorities.**

(a) Set-Asides. Specific types of Activities or Developments for which a portion of MFDL funds may be reserved in a NOFA will be grouped in ~~Set-Asides~~categories called Set-Asides. The Soft Repayment Set-Aside, CHDO Set-Aside, and General Set-Aside, as described below, are fixed Set-Asides that will be included in the annual NOFA (except when~~if~~ CHDO requirements are waived or reduced by HUD). The remaining Set-Asides described below are flexible Set-Asides and are applicable only if identified in a NOFA; flexible Set-Asides are not required to be programmed on an annual basis. The Board may approve Set-Asides not described in this section. The amount of a single award may be credited to multiple Set-Asides, in which case the credited portion of funds may be repositioned into an oversubscribed Set-Aside prior to a defined collapse deadline. Applications under any and all Set-Asides may or may not be layered with other Department Multifamily programs except as provided in this section or as determined by the Board to address unique circumstances not addressed by these rules.

(1) Fixed Set-Asides:

(A) Soft Repayment Set-Aside. The Soft Repayment Set-Aside will be funded primarily with NHTF allocations received by the Department. The Soft Repayment Set-Aside is reserved for ~~d~~Developments providing Supportive Housing and/or extremely low-income and rent restrictions that would not exist otherwise. Applicants seeking to qualify under this set-aside must propose Developments in which all Units assisted with MFDL funds are available for households earning the greater of the poverty rate and 30% AMI, and have rents no higher than the rent limits for extremely low-income tenants in 24 CFR §93.302(b), and ~~that~~ meet either the requirements of clause (i) or (ii) of this subparagraph:

(i) The Supportive Housing requirements in 10 TAC §11.1(d)(1242); or

(ii) The requirements in subclauses (I) - (III) of this clause, for which all Units assisted with MFDL funds:

(I) May not also be receiving any project-based subsidy;

(II) May not be receiving tenant-based voucher or tenant-based rental assistance, to the extent that there are other available Units within the Development that the voucher-holder may occupy; and

(III) May not be restricted to 30% AMI or less by Housing Tax Credits, Bonds, or any other fund source.

(B) CHDO Set-Aside. Unless waived or reduced by HUD, a portion of the Department's annual HOME allocation, will be set aside for eligible CHDOs meeting the requirements of the definition of Community Housing Development Organization in 24 CFR §92.2 and 10 TAC §13.2(42) of this chapter. Applicants under the CHDO Set-Aside must be proposing to develop housing on Development Sites located outside Participating Jurisdictions (PJ), unless the award is made within a Persons with Disabilities (PWD) Set-Aside, or the requirement under Tex. Gov't Code §2306.111(c)(1) has been waived by the Governor. ~~CHDO funds are typically available as fully repayable amortizing debt consistent with 10 TAC §13.8 of this chapter (relating to Loan Structure and Underwriting Requirements). In instances where an application submitted under the CHDO Set-Aside also would qualify under the Soft Repayment Set-Aside, funds under this Set-Aside may be structured in accordance with the Soft Repayment Set-Aside requirements.~~ A grant for CHDO operating expenses may be awarded in conjunction with an award of MFDL funds under this Set-Aside, if no other CHDO operating grants have been awarded to the Applicant in the same Calendar year, in accordance with 24 CFR §92.208. Applications under the CHDO Set-Aside may not have a for profit special limited partner within the ownership organization chart.

(C) General Set-Aside. The General Set-Aside is for all other applications that do not meet the requirements of the Soft Repayment, CHDO, or Flexible Set-Asides, if any. A portion of the General Set-Aside may be reallocated into the CHDO Set-Aside in order to fully fund a CHDO award that exceeds the remaining amount in the CHDO Set-Aside.

(2) Flexible Set-Asides:

(A) 4% HTC and Bond Layered Set-Aside. The 4% and Bond Layered Set-Aside is reserved for Applications layered with 4% Housing Tax Credits and ~~Tax-Exempt Private~~ Bond funds where the Development Owner does not meet the definition of a CHDO, but that the Application does meet all other MFDL requirements.

(B) Persons with Disabilities (PWD) Set-Aside. The PWD Set-Aside is reserved for Developments restricting Units for residents who meet the requirements of Tex. Gov't Code §2306.111(c)(2) while not exceeding the number of Units limited by 10 TAC §1.15 of this title (relating to the Integrated Housing Rule). MFDL funds will be awarded in a NOFA for the PWD Set-Aside only if sufficient funds are available to award at least one Application within a Participating Jurisdiction under Tex. Gov't Code §2306.111(c)(1).

(C) ~~9%-Competitive~~ HTC Layered Set-Aside. The ~~9%-Competitive~~ HTC Layered Set-Aside is reserved for Applications that are layered with Competitive 9%-Housing Tax Credits that do not meet the definition of CHDO, but that do meet all other MFDL requirements. Awards under this Set-aside are dependent on the concurrent award of a Competitive 9%-HTC allocation; however, an allocation of Competitive 9% HTC does not ensure that a sufficient amount of MFDL funds will be available for award.

(D) Additional Set-Asides may be developed, subject to Board approval, to meet the requirements of specific funds sources, or address Department priorities. To the extent such Set-Asides are developed, they will be

reflected in a NOFA or other similar governing document.

(b) Regional Allocation and Collapse. All funds subject to Tex. Gov't Code §2306.111 or as described to HUD in planning documents received directly from HUD will be allocated to regions and potentially subregions based on a Regional Allocation Formula (RAF) within the applicable Set-Asides (unless the funds have already been through a RAF of the annual NOFA and/or Special Purpose NOFA). The RAF methodology may differ by fund source. HOME funds will be allocated in accordance with Tex. Gov't Code Chapter 2306. The end date and Application Acceptance Date for the regionally allocated fundsRAF will be identified in the NOFA, but in no instance shall it be less than 30 days from the date a link to the Board approved NOFA or NOFA Amendment is published on the Department's website.

(1) After funds have been made available regionally and the period for regional allocation has expiredexpiration of the RAF, remaining funds within each respective Set-Aside may collapse and be pooled together on an end-date identified in the NOFA. All Applications received prior to these collapse period-deadlines-dates will continue to hold their priority unless they are withdrawn, terminated, suspended, or funded.

(2) Funds remaining after expiration of the Set-Asides on the end date identified in the NOFA, which have not been requested in the form of a complete Application, may be collapsed and pooled together to be made available statewide on a first-come first-served basis to Applications submitted after the collapse dates, as further described in the NOFA.

(3) In instances where the RAF would result in regional or subregional allocations insufficient to fund an Application, the Department may use an alternative method of distribution, including an early collapse, revised formula or other methods as approved by the Board, and reflected in the NOFA.

(c) Notice of Funding Availability (NOFA). MFDL funds will be distributed pursuant to the terms of a published NOFA that provides the specific collapse dates and deadlines as well as Set-Aside and RAF amounts applicable to each NOFA, along with scoring criteria, priorities, award limits, and other Application information. Set-asides, RAFs, and total funding amounts may increase or decrease in accordance with the provisions herein without further Board action as authorized by the Board.

(d) Priorities for the Annual NOFA. Complete Applications received during the period that funds are regionally made availableof the RAF (if a RAF one is used in the Annual NOFA) will be prioritized for review and recommendation to the Board, if funds are available in the region or subregion (as applicable) and in the Set-Aside under which the Application is received. If insufficient funds are available in a region or subregion to fund all Applications then the scoring criteria in §13.6 of this Chapter will be applied if necessary and the oversubscribed Applications whose requests are in excess of the available funds will be evaluated only after the regionalRAF and/or Set-Aside collapse and in accordance with the additional priority levels in this subsectionbelow, unless an Application received earlier is withdrawn or terminated. If insufficient funds are available within a region, subregion, or Set-Aside, the Applicant may request to be considered under another Set-Aside if they qualify, prior to the collapse. Applications will be reviewed and recommended to the Board if funds are available in accordance with the order of prioritization described in paragraphs (1) - (3) of this subsection.

(1) Priority 1. Applications not layered with current year Competitive9% Housing Tax Credits (HTC) that are received prior to the Market Analysis Delivery Date as described in 10 TAC §11.2 of this title (relating to Program Calendar for Housing Tax Credits). Priority 1 Applications may be prioritized based on score within their respective Set-Aside for a certain time period, for certain populations, or for certain geographical areas,

as further described in the NOFA.

(2) Priority 2. Applications layered with current year Competitive 9% HTC will be prioritized based on their recommendation status and score for ~~an~~their HTC allocation under the provisions of Chapter 11 of this title, the Qualified Allocation Plan (QAP). All Priority 2 applications will be deemed received on the Market Analysis Delivery Date identified in Chapter 11 of this title, relating to the QAP. Priority 2 applications, if recommended, will be recommended for approval of the MFDL award at the same meeting when the Board approves the 9% Competitive HTC allocations. Applications for ~~9% Competitive~~ HTC allocations are not guaranteed the availability of MFDL funds, as further provided in §13.5(e) of this chapter.

(3) Priority 3. Applications that are received after the Market Analysis Delivery Date identified in the QAP will be evaluated on a first come first served basis for any remaining funds, until the final deadline identified in the annual NOFA. However, the NOFA may describe additional prioritization periods for certain populations, or for certain geographical areas. Applications layered with ~~9% Competitive~~ HTC that are on the Competitive HTC waitlist after the Department's Board meeting at which final Competitive HTC awards are made late July Board meeting will be considered Priority 3 Applications; if the Applicant receives an allocation of Competitive HTC later in the year, the MFDL Application Acceptance date will be the date the HTC Commitment Notice is issued, and MFDL funds are not guaranteed to be available.

(e) Other Priorities. The Board may set additional priorities for the annual NOFA, and for one time or special purpose NOFAs.

### **§13.5. Application and Award Process.**

(a) Applications. MFDL Applicants must follow the applicable requirements in 10 TAC Chapter 11, Subchapter C (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules).

(b) Application Acceptance Date. Applications will be considered received on the business day of receipt, unless a different time period is described in the Department's rules or NOFA. If an Application is received after 5:00 p.m., Austin local time, it will be determined to have been received on the following business day. Applications received on a non-business day will be considered received on the next day the Department is open. Applications will be considered complete at the time all Application materials, required third party reports and application fee(s) are received by the Department. Within certain Set-Asides or priorities, the date of receipt may be fixed, regardless of the earlier actual date a complete Application is received, if so specified in the Department's rules or NOFA. If multiple Applications have the same Application Acceptance Date, in the same region or subregion (as applicable), and within the same Set-Aside, then score and tiebreaker factors, as described in §13.6 of this chapter (relating to ~~Scoring~~Selection Criteria) for MFDL or 10 TAC §11.7 and §11.9 of this title (relating to Tie Breaker Factors and Competitive HTC Selection Criteria, respectively) for Applications layered with ~~9% Competitive~~ HTC, will be used to determine the Application's rank.

(c) Market Analysis. Applications proposing Rehabilitation that request MFDL as the only source of Department funding may be exempted from the Market Analysis requirement in 10 TAC §11.205(2) (relating to Required Third Party Reports) if the Development's rent rolls for the most recent six months reflect occupancy of at least 80% of all habitable Units.

(d) Required Site Control Agreement Provisions. All Applicants for MFDL funds must include the following provisions in the purchase contract or site control agreement ~~if~~ the subject property is not already owned by

the Applicant:

(1) "Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until the Department has provided Purchaser and/or Seller with a written notification that: (A) It has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, (i) the purchase may proceed, or (ii) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or (B) It has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required."; and

(2) "The Buyer does not have the power of eminent domain relating to the purchase and acquisition of the Property. The Buyer may use federal funds from the U.S. Department of Housing and Urban Development (HUD) to complete this purchase. HUD will not use eminent domain authority to condemn the Property. All parties entered this transaction voluntarily and the Buyer has notified the Seller of what it believes the value of the Property to be in accordance with 49 CFR Part 24 Appendix A. If negotiations between both parties fail, Buyer will not take further action to acquire the Property."

(e) Oversubscribed Funds for ~~9%-Competitive~~ HTC-Layered Applications. Should MFDL funds be oversubscribed in a Set-Aside or for a fund source that has geographic limitations within a Set-Aside, Applications concurrently requesting ~~9%-Competitive~~ HTC will be notified and may amend their Application to accommodate another fund source and make changes that still meet threshold requirements in 10 TAC Chapters 11 and 13 of this ~~title~~, ~~and if such changes~~ do not impact scoring under 10 TAC ~~§11.9~~ ~~Chapter 11 of this title (relating to Competitive HTC Selection Criteria)~~. The Department will provide notice to all impacted Applicants in the case of over-subscription, which will include a deadline by which the Applicant must respond to the Department for response. Multiple Applications from a single or affiliated Applicants ~~does~~ not constitute oversubscription, and the Applicant(s) will not be able to amend their Applications as described in this subsection. If MFDL funds become available between the Market Analysis Delivery Date, and the date of the Department's Board meeting at which final Competitive HTC awards are made ~~last Board meeting in July~~, the MFDL funds will not be reserved for ~~9%-Competitive~~ HTC-layered Applications, unless the reservation is described in the NOFA.

(f) Availability of funds for ~~4%-Non-Competitive~~ HTC-layered Applications. If an Application requesting layered ~~4%-Non-Competitive~~ HTC and Direct Loan funds is terminated under 10 TAC §11.201(2)(E) (relating to Withdrawal of Certificate of Reservation), ~~the Application~~ will receive a new Application Acceptance Date for purposes of Direct Loan funds up upon submission to the Department of the new Certificate of Reservation. Direct Loan funds will not be reserved for terminated Applications, and may not be available for the Application with a new Reservation.

(g) Source of Direct Loan Funds. To the extent that an Application is submitted under a Set-Aside where multiple sources of Direct Loan funds are available, the Department will select sources of funds for recommended Applications, as provided in paragraphs (1) - (4) of this subsection:-

(1) The Department will generally select the recommended source of MFDL funds to award to an Application in the order described in subparagraphs (A) - (C) of this paragraph, which may be limited by the type of activity an Application is proposing or the proposed Development Site of an Application:

(A) Federal funds with commitment and expenditure deadlines will be selected first;



- (B) Federal funds that do not have commitment and expenditure deadlines will be selected next; and
- (C) Nonfederal funds that do not have commitment and expenditure deadlines will be selected last; however,
  - (2) The Department may also consider repayment risk or ease of compliance with other fund sources when assigning the source of funds to be recommended for award to an Application;
  - (3) The Department may move to the next fund source prior to exhausting another selection; and
  - (4) The Department will make the final decision regarding the fund source to be recommended for an award (within a Set-Aside that has multiple fund sources), and this recommendation may be not be appealed.

(h) Eligibility Criteria and Determinations. The Department will evaluate Applications received under a NOFA for eligibility and threshold pursuant to the requirements of this chapter and Chapter 11 of this title (relating to the Qualified Allocation Plan). The Department may terminate the Application if there are changes at any point prior to MFDL loan closing that would have had an adverse effect on the score and ranking order of the Application that would have resulted in the Application not being recommended for an award or being ranked below another Application received prior to the subject Application.

(1) Applicants requesting MFDL as the only source of Department funds must meet the Experience Requirement as provided in either subparagraph (A) or (B) of this paragraph:

(A) The Experience Requirement as provided in 10 TAC §11.204(6) of this title (relating to ~~Required-Documentation for Application Submission~~Experience Requirement); or

(B) Alternatively by providing the acceptable documentation listed in §11.204(6)(i) - (ix) of this title evidencing the successful development, and at least five years of the successful operation, of a project or projects with at least twice as many affordability restricted Units as requested in the Application.

(2) The Executive Director or authorized designee must make eligibility determinations for Applications for Developments that meet the criteria in subparagraph (A) or (B) of this paragraph regardless of available fund sources:

(A) Received an award of funds or resources ~~for from~~ the Development from the Department within 15 years preceding the Application Acceptance Date; or

(B) Started or completed construction, and are not proposing acquisition or rehabilitation.

(3) An Application that requires an eligibility determination in accordance with paragraph (2) of this subsection must identify that fact prior to, or in their Application so that an eligibility determination may be made subject to the Applicant's appeal rights under 10 TAC §11.902 or 10 TAC §1.7 of this title (both relating to Appeals), as applicable. A finding of eligibility under this ~~paragraph~~subsection does not guarantee an award. Applications requiring eligibility determinations generally will not be funded with HOME or NSP funds.

(A) Requests under this ~~subsection~~paragraph will not be considered more than 60 calendar days prior to the first Application Acceptance Date published in the NOFA, for the Set-Aside in which the Applicant plans to apply.

(B) Criteria for consideration include clauses (i) - (iii) of this subparagraph:

(i) Evidence of circumstances beyond the Applicant's control that could not have been prevented with appropriate due diligence; or

(ii) Force Majeure events (not including weather events); and

(iii) Evidence that no further exceptional conditions exist that will delay or cause further cost increases.

(C) Criteria for consideration shall not include typical weather events, typical construction, or financing delays.

(D) Applications for Developments that previously received an award from the Department within 15 years preceding the Application Acceptance Date will be evaluated at no more than the amount of Developer Fee proposed-underwritten the last time that the Department published an Underwriting Report. MFDL funds may not be used to fund increased Developer Fee, regardless of whether the allowability-of-the-increase is allowed under other Department rules.

(4) Proposed Developments must provide evidence that the Development will comply with Site and Neighborhood Standards, which can be in the form of narrative with supporting documentation, accompanied by required census data found in American Community Survey Table DP-05.

(i) Request for Preliminary Determination. Applicants considering a request for Direct Loan layered with a 9%-Competitive HTC Application may submit a Request for Preliminary Determination with the HTC Pre-Application. The results of evaluation of the Rrequest may be used as evidence of review of the Development and the Principals for purposes of scoring under 10 TAC §11.9(e)(1)(E). Submission of a Request for Preliminary Determination does not obligate the Applicant to request Multifamily Direct Loan funds with their full Application. The Preliminary Determination is based solely on the information provided in the request, and does not indicate that the full Application will be accepted. It is not a guarantee that Direct Loan funds will be available or awarded to the full Application.

(j) Effective rules and contractual terms. The contractual terms of an award will be governed by and reflect the rules in effect at the time of Application; however, any changes in federal requirements will be reflected in the contractual terms. Further provided, that if after award, but prior to execution of such Contract, there are new rules in effect, the Direct Loan awardee may elect to be governed by the new rules, provided the Application would continue to have been eligible for award under the rules and NOFA in effect at the time of Application.

### **§13.6. Scoring Criteria.**

The criteria identified in paragraphs (1) - (6) of this section will be used in the evaluation and ranking of Applications if other Applications have the same Application Acceptance Date, within the same Set-Aside, and having the same prioritization. There is no rounding of numbers in this section, unless rounding is explicitly indicated for that particular calculation or criteria. Changes to Applications where scoring is utilized under Chapter 13 will not be allowed between submission and award. The scoring items used to calculate the score for a 9%-Competitive HTC-Layered Application will be utilized for scoring for an MFDL Application, and evaluated in the same manner, except as specified below. Scoring criteria in Chapter 11 of this title (relating to the Qualified Allocation Plan) will always be superior to Scoring Criteria in this chapter if an MFDL Application is also concurrently requesting 9%-Competitive HTC.∴

(1) Opportunity Index. Applicants eligible for points under 10 TAC §11.9(c)(4) (relating to the Opportunity Index) (up to 7 points).

(2) Resident Services. Applicants eligible for points under 10 TAC §11.9(c)(3)(A) (relating to Resident Supportive Services) (10 points) and Applicants eligible for points under 10 TAC §11.9(c)(3)(B) (relating to community space and outreach for Resident Supportive Services) (1 point).

(3) Underserved Area. Applicants eligible for points under 10 TAC §11.9(c)(5) (relating to Underserved Area) (up to 5 points).

(4) Subsidy per Unit. An Application that caps the ~~per~~ MFDL eligible cost per Unit subsidy limit below Section 234 Condo Limits or HUD 221(d)(4) statutory limits (as applicable) for all Direct Loan Units regardless of Unit size at:

(A) \$100,000 per MFDL eligible cost per Unit (4 points).

(B) \$80,000 per MFDL eligible cost per Unit (8 points).

(C) \$60,000 per MFDL eligible cost per Unit (10 points).

(5) Rent Levels of Residents. Except for Applications submitted under the Soft Repayment Set-Aside, an Application may qualify to receive up to 13 points for placing the following rent and income restrictions on the proposed Development for the Federal and State Affordability Periods. These Units must not be restricted to 30% or less of AMI by another fund source; however, layering on other HTC Units may be considered for scoring purposes. Scoring options include:

(A) At least 20% of all low-income Units at 30% or less of AMI (13 points);

(B) At least 10% of all low-income Units at 30% or less of AMI or, for a Development located in a Rural Area, 7.5% of all low-income Units at 30% or less of AMI (12 points); or

(C) At least 5% of all low-income Units at 30% or less of AMI (7 points).

(6) Tiebreaker. In the event that two or more Applications receive the same number of points based on the scoring criteria above, staff will recommend for award the Application that proposes the greatest percentage of 30% AMI MFDL Units within the Development that would convert to households at 15% AMI in the event of a tie as represented in the Tiebreaker Certification submitted at the time of Application.

### **§13.7. Maximum Funding Requests and Minimum Number of MFDL Units.**

(a) Maximum Funding Request. The maximum funding request for an Application will be identified in the NOFA, and may vary by development type, set-aside, or fund source.

(b) Maximum New Construction or Reconstruction Per-Unit Subsidy Limits. While more restrictive per-Unit subsidy caps are allowable and ~~encouraged~~incentivized as point scoring items in 10 TAC §13.6 of this chapter (relating to Scoring Criteria) ~~or~~, the per-Unit subsidy limit for a Development will be determined by the Department as the Section 234 Condo limits with the applicable high cost percentage adjustment in effect at the start date of the NOFA, which are the maximum MFDL eligible cost per-Unit subsidy limits that an

Applicant may use to determine the amount of MFDL funds combined with other federal funds that may subsidize a Unit.

(c) Maximum Rehabilitation Per-Unit Subsidy Limits. The MFDL eligible cost per-Unit to rehabilitate a Development may not exceed the HUD 221(d)(4) statutory limits, subject to high cost factors as published in the NOFA.

(d) Minimum Number of MFDL Units. The minimum required number of MFDL Units will be determined by the MFDL per-Unit subsidy limits and the cost allocation analysis, which will ensure that the amount of MFDL Units as a percentage of total Units is equal to or greater than the percentage of MFDL funds requested as a percentage of total eligible MFDL Development costs. Applicants may be able to estimate the minimum number of MFDL Units by entering Application information into the Direct Loan Unit Calculator Tool available on the Department's website, but this tool may/might not cover the specific requirements of every Application. A larger number of MFDL Units may also be required if scoring is utilized.

### §13.8 Loan Structure and Underwriting Requirements

(a) Loan Structures. Loan structures ~~will must meet the criteria described in this section and as generally be governed by the Direct Loan fund source as described below but may be further differentiated within a Set Aside, as further~~ described in a NOFA. The interest rate, amortization period, and term for the loan will be fixed by the Board at the time of award, and can only be amended prior to loan closing by the process in 10 TAC §13.12 (relating to Pre-Closing Amendments to Direct Loan Terms).

~~(1) Loans of NHTF may be structured as a deferred payable, deferred forgivable, or amortizing loan at an interest rate as low as 0%. The amortization period for an NHTF amortizing loan will not exceed 40 years. Terms for these loans will be published in the NOFA. It is the responsibility of the Applicant to account for any Basis, taxable event implications, and other federal superior lender requirements when requesting the deferred forgivable or deferred payable loan structure available in this Set Aside.~~

~~(2) Loans of HOME, NSP PI, and TCAP RF will be structured as fully repayable (must pay) at an interest rate specified in the NOFA and approved by the Board, with an amortization period not to exceed 40 years and loan term that matches the term of any superior loans (within six months) at the time of Application, within the requirements of §13.8(c)(3) of this chapter.~~

~~To the extent the Direct Loan has first lien position during the permanent term, the amortization period and loan term must meet the requirements of §13.8(c)(3) of this Chapter. Terms for these loans will be published in the NOFA. The interest rate, amortization period, and term for the loan will be fixed by the Board at the time of award, and can only be amended prior to loan closing by the process in 10 TAC §13.12 (relating to Pre-Closing Amendments to Direct Loan Terms).~~

~~(3) Requirements of any other fund source will be determined in the NOFA.~~

~~(b) Closing Memo to Underwriting Report. Any changes to the total development cost, expenses, income, and/or other sources of funds from time of the publication of the initial Underwriting Report at the time of award to the time of loan closing, must be reevaluated by Real Estate Analysis staff, who will typically publish a Closing Memo to the Underwriting Report. The Report may recommend changes to the principal amount and/or the repayment structure for the Multifamily Direct Loan pursuant to §11.302 of this title (relating to Underwriting Rules and Guidelines), except that the change must have been an available option in the rule or NOFA (as applicable), and may not be made to awards that were competitively scored to the~~

~~extent that change would have caused the Development to lose points. This will allow the Department to uphold the competitive process, mitigate any increased risk, and to ensure that the Development is not oversubsidized. Where the Department determines such risk is not adequately mitigated, the award may be terminated or reconsidered by the Board. Increases in the principal amount or scheduled payment amounts of any superior loans that cause the total Debt Coverage Ratio (DCR) to decrease by more than .05 require approval by the Board. If the changes cause the total DCR to no longer comply with 10 TAC §11.302 of this title (relating to Underwriting Rules and Guidelines), the award may be subject to termination.~~

(eb) Criteria for Construction-to-Permanent Loans. Direct Loans awarded through the Department must adhere to the ~~following~~ criteria as identified in paragraphs (1) - (744) of this subsection if being requested as construction-to-permanent loans, for which the interest rate will be specified in the NOFA and approved by the Board:

(1) The construction term for MFDL loans shall be coterminous with any superior construction loan(s), but no greater than 36 months. In the event the MFDL loan is the only loan with a construction term or is the superior construction loan, the construction term shall be 24 months with one available six-month extension that may be approved for good cause by the Executive Director or his designee;

(2) No interest will accrue during the construction term;

(3) The loan term shall be no less than 15 years and no greater than 40 years and six months, and the amortization period shall be between 30 to 40 years and six months. The Department's loan must mature at the same time or within six months of the shortest term of any senior debt, so long as neither exceeds 40 years and six months. The loan term commences following the end of the construction term;

~~(4) For Direct Loans structured as deferred payable loans, the loan shall be structured with either one balloon payment due at the end of the loan or with several payments due at a point in time during the loan term. For Direct Loans structured as deferred forgivable, the loan shall be structured with one balloon payment due at the end of the loan term;~~

~~(5) For amortized Direct Loans that are not subordinate to a HUD-insured loan, the loan shall be structured with regular monthly payments beginning on the first of the month following the end of the construction term and continuing for the loan term~~

~~(6) For amortized Direct Loans that are subordinate to a HUD-insured loan, the loan shall be structured with an annual payment beginning on the first of the month following one year after the end of the construction term and continuing until the end of the loan term;~~

~~(7) If an amortized Direct Loan is subordinate to a HUD-insured loan that requires the Direct Loan to be subject to surplus cash flow as defined by HUD, staff will require the debt service coverage ratio on both the HUD-insured loan, and the Department's loan — as restricted to surplus cash flow — to continue to meet the minimum 1.15 DCR in accordance with 10 TAC §11.302(d)(4)(D) (relating to Acceptable Debt Coverage Ratio Range), and may require payment of any remaining amount from other sources;~~

(48) Loans shall be secured with a deed of trust with a permanent lien position that is superior to any other sources for financing including hard repayment debt that is in an amount less than or equal to the Direct Loan amount and superior to any other sources that have soft repayment structures, non-amortizing notes, have deferred forgivable provisions, or in which the lender has an identity of interest with any member of the Development Team. Parity liens may only be considered with federal loan funds s from USDA Rural

Development;

(59) If the Direct Loan amounts are more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application must include documents identified in either subparagraphs (A) or (B) of this paragraph:

(A) A letter from a Third Party Certified Public Accountant verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10% of the Total Housing Development Cost as a short term loan for the Development; or

(B) Evidence of a line of credit or equivalent tool in the sole determination of the Department equal to at least 10% of the Total Housing Development Cost from a financial institution that is available for use during the proposed Development activities;

(406) If the Direct Loan is the only source of permanent Department funding for the Development, the Development Owner must provide all items required in subparagraphs (A) and (B) of this paragraph:

(A) Equity in an amount not less than 10% of Total Housing Development Costs; however,

(i) An Applicant for Direct Loan funds may request Board approval to have an equity requirement of less than 10% that would not have to meet the waiver requirements in 10 TAC §11.207 of this title (relating to Waiver of Rules). The request must specify the proposed equity that will be provided and provide support for why that reduced level of equity will be sufficient to provide reasonable assurance that such owner will be able to complete construction and stabilization timely; and

(ii) "Sweat equity" or other forms of equity that cannot be readily accessed will not be allowed to count toward the equity requirement; and

(B) Evidence submitted ~~withthrough~~ the Application ~~Submission Process that must~~ shows the Direct Loan amount is not greater than 80% of the Total Housing Development Costs; and

(417) Up to 50% of the MFDL loan may be advanced at loan closing, should there be sufficient eligible costs to reimburse that amount.

(cd) Criteria for Construction Only Loans. ~~MFDL Direct~~ Loans through the Department must adhere to the following criteria as identified in paragraphs (1) - (3) of this subsection if being requested as construction only loans:

(1) The term of the construction loan must be coterminous with any superior construction loan(s), but no greater than 36 months. In the event that the ~~MFDL Direct L~~ loan is the only construction loan or is the superior construction loan, the term may not exceed 24 months with available six-month extension that may be approved for good cause by the Executive Director or his designee;

(2) The interest rate may be as low as 0%; and

(3) Up to 50% of the loan may be advanced at loan closing, should there be sufficient costs to reimburse that amount.

(~~de~~) Criteria for Permanent Refinance Loans. If 90% of the Department's loan will repay existing debt, the first payment will be due the month after the month of loan closing, ~~in which~~; 90% of the loan may be advanced at loan closing, unless the Board approves another date.

(~~ef~~) Evaluations. All Direct Loan Applicants in which third-party financing entities are part of the sources of funding must include a pro forma and lender approval letter evidencing review of the Development and the Principals, as described in 10 TAC §11.9(e)(1) of this title (relating to Competitive HTC Selection Criteria). Where no third-party financing exists, the Department reserves the right to procure a third-party evaluation which will be required to be prepaid by the Applicant.

(~~fg~~) Pass-Through Loans. Department funds may not be used as pass-through financing. The Department's Borrower must be the Development Owner.

### **§13.9. Construction Standards.**

All Developments financed with Direct Loans will be required to meet at a minimum the applicable requirements in Chapter 11 of this title (relating to the Qualified Allocation Plan). In addition, Developments must meet all applicable state and local codes, ordinances, and standards; the ~~2021~~2015 International Existing Building Code (IEBC) or International Building Code (IBC), as applicable. Should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC or IBC, as applicable. Developments must also meet the requirements in paragraphs (1) - (5) of this section:

(1) Third-Party Recommendations. Recommendations made in the Environmental Site Assessment (§11.305 of this title) and any Scope of Work and Cost Review (§11.306 of this title) with respect to health and safety issues, life expectancy of major systems (structural support; roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented;

(2) Lead and Asbestos Testing. For properties originally constructed prior to 1978, the Scope of Work and Cost Review ~~and scope of work~~ must be provided to the party conducting the lead-based paint and/or asbestos testing, and the Development Owner must implement the mitigation recommendations of the testing report;

(3) Broadband Infrastructure. The broadband infrastructure requirements described in 24 CFR §92.251(a)(2)(vi) or (b)(1)(x) for HOME, NSP, or TCAP RF; or 24 CFR §93.301(a)(2)(vi) or 24 CFR §93.301(b)(2)(vi) for NHTF, as applicable;

(4) Properties in Catastrophe Areas. Developments located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4011 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008); and

(5) Minimum Construction Standards. Rehabilitation Developments funded with federal sources may also be required to meet Minimum Rehabilitation Standards, as required by HUD. Rehabilitation Developments funded by the national Housing Trust Fund are required to meet the Multifamily Minimum Rehabilitation Standards approved by HUD, as posted on the Department's website at <https://www.tdhca.state.tx.us/multifamily/home/index.htm>, in addition to the Department's rules and NOFA requirements.

### **§13.10. Development and Unit Requirements.**

(a) Proportionality. The bedroom/bathroom/amenities and square footages for Direct Loan Units must be comparable to the bedroom/bathroom/amenities and square footages for the total number of Units in the Development based on the amount of Direct Loan funds requested as a percentage of total MFDL eligible costs. As a result of this requirement, the Department will use the Proration Method as the Cost Allocation Method in accordance with [HUD](#) CPD Notice 16-15, except as described in subsection (b) of this section. Additionally, the amount of Direct Loan funds requested cannot exceed the per-unit subsidy limit described in this chapter or in the applicable NOFA. Direct Loan Units must be provided as a percentage of each Unit Type, in proportion to the percentage of total costs included in the Direct Loan.

(b) Floating Units. Floating Direct Loan Units may only float among the Units as described in the Direct Loan Contract and Direct Loan LURA.

(1) For HOME, NSP, and TCAP RF, Direct Loan Units must float throughout the Development unless the Development also contains public housing Units that will receive Operating Fund or Capital Fund assistance under Section 9 of the 1937 Act as defined in 24 CFR §5.100.

(2) For NHTF, Direct Loan Units must float throughout the Development, except as prohibited by 24 CFR §93.203, [concerning public housing units](#).

(c) Unit Match Requirements.

(1) For a Development funded with NSP and/or NHTF, a required matching contribution will result in at least one HOME Match-Eligible Unit, in addition to the NSP and/or NHTF Units.

(2) For a Development funded with HOME, a required matching contribution may or may not result in a HOME Match-Eligible Unit, beyond the Department's HOME assisted Units.

(3) For a Development funded with TCAP RF in the annual NOFA, a matching contribution in addition to the Match that the Department counts from the TCAP RF investment will result in some amount of TCAP RF assisted Units being considered HOME Match-Eligible Units.

(d) Minimum Affordability Period. The minimum affordability period for all Direct Loan Units awarded under a NOFA will match the greater of the term of the loan, or 30 years unless a lesser period is approved by the Board. The Department reserves the right to extend the Affordability Period for Developments that fail to meet Program requirements.

(e) Restricted Units. If the Department is the only source of permanent funding for the Development by virtue of equity from HTC and MFDL funding, all Units must be income and rent restricted under a combination of HTC and Direct Loan LURAs, regardless of the amount of deferred Developer Fee as a permanent source. If the MFDL funding is the only source of permanent funding for the Development, all Units must be income and rent restricted by the Direct Loan LURA, and all costs must be MFDL eligible, regardless of the amount of deferred Developer Fee as a permanent source.

(f) Income Levels Committed at Time of Application. If the Direct Loan funds are used in a [Competitive or](#)



~~non-Competitive 9% or 4%~~ HTC-Layered Development that is electing Income Averaging to qualify under IRC §42, the Direct Loan Units required by the LURA must continue to be provided at the income levels committed at the time of Application. Direct Loan Unit designations may not change to meet Income Averaging requirements.

(g) Mandatory Development Features. Development features described under 10 TAC §11.101(b)(4) (relating to Mandatory Development Amenities) may be selected to meet federal or state requirements, without a change to the number or description of features (e.g. selection of Broadband).

### **§13.11. Post-Award Requirements.**

(a) Direct Loan awardees must satisfactorily complete the ~~following~~ Post-Award Requirements identified in this section after the Board approval date.

(b) If a Direct Loan award is declined by the Direct Loan awardee and returned after Board approval, or if the Direct Loan awardee or Affiliates fail to timely enter into the Contract, close the loan, begin and complete construction, or leave a portion of the Direct Loan award unexpended, penalties may apply under 10 TAC §11.9(f) (relating to Competitive HTC Selection Criteria), and/or the Department may prohibit the Applicant and all Affiliates from applying for MFDL funds for a period of two years.

(c) Benchmarks. Extensions to the benchmarks in paragraphs (1) - ~~(4) and (7)~~ - (8) of this subsection may only be approved by the Executive Director or authorized designee in accordance with ~~10 TAC~~ §13.12 or ~~10 TAC~~ §13.13 of this chapter (relating to Pre-Closing and Post-Closing Amendments), as applicable.

(1) Award Letter. If provided, Direct Loan awardees must execute and return to the Department an Award Letter, provided by the Department, within 15 calendar days after receipt. The Award Letter will be conditional in nature, and provide a basic outline of the terms and conditions approved by the Board.

(2) Environmental Clearance. In order to obtain environmental clearance required by the National Environmental Policy Act (NEPA) and other related Federal and state environmental laws (if applicable), Direct Loan ~~only awardees Applicants, including those previously awarded HTC,~~ must submit a fully completed environmental review, including any applicable reports to the Department, within ~~3090~~ calendar days of ~~the Board approval date~~ the Board approval date. If the awardee was contemporaneously awarded 9% HTC and selected Readiness to Proceed points under 10 TAC §11.9(c)(8), this period is within 14 calendar days of the Board approval date. If the awardee receives an allocation of 9% HTC from the waitlist after the July Board meeting, the fully completed environmental review must be submitted within ~~90-30~~ calendar days of receipt of the Carryover Allocation Agreement. Applicants or Direct Loan awardees that commit any choice limiting activities as defined by HUD in 24 CFR Part 58 prior to obtaining environmental clearance may be subject to termination of the Direct Loan award.

(3) Contract Execution. After a Development receives environmental clearance (if applicable), the Department will draft a Contract to be emailed to the Direct Loan awardee. Direct Loan awardees must execute and return a Contract to the Department within 30 calendar days after receipt of the Contract.

(4) Loan Closing and Construction Commencement. Loan closing must occur and construction must begin on or before the dates described in the Contract. If construction has not commenced within 12 months of the Contract Effective Date, the award may be terminated.

~~(5) Quarterly Construction Status Reports. The Development Owner is required to submit quarterly~~

~~Construction Status Reports to the Asset Management Division as described and by the deadlines specified in 10 TAC §10.402(h) of this title (relating to Construction Status Report).~~

~~(6) Mid-Construction Development Inspection Letter. In addition to any other obligations required as the result of any other Department funding sources, the Development Owner must submit a Mid-Construction Development Inspection Request once the Development has met at least 25% construction completion as indicated on the G703 Continuation Sheet or HUD equivalent form. Department inspection staff will issue a Mid-Construction Development Inspection Letter that confirms work is being done in accordance with the applicable codes, the construction contract, and construction documents. Regardless of how Direct Loan funds are allocated among acquisition, Hard, and Soft costs, up to 50% of the Direct Loan award may be released prior to issuance of the Mid-Construction Development Inspection Letter, with the remaining 50% available for disbursement in accordance with the percentage of Construction Completion.~~

~~(7) Construction Completion. Construction must be completed, as reflected by the Development's certificate(s) of occupancy (if new construction and/or reconstruction) and Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 for instances in which a federally insured HUD loan is being utilized, within the construction term of any superior construction loan(s) or 24 months of the actual loan closing date if no superior construction loan(s) exists.~~

~~(8) Closed Final Development Inspection Letter. The Closed Final Development Inspection Letter must be issued by the Department within 36 months of loan closing. This letter will verify committed amenities have been provided and confirm compliance with all applicable accessibility requirements; this letter may include deficiencies that require resolution. The Final Development Inspection may be conducted concurrently with a Uniform Physical Condition Standards (UPCS) inspection. However, any letters associated with a UPCS inspection will not satisfy the Closed Final Development Inspection Letter required by this subsection.~~

~~(9) Initial Occupancy. Initial occupancy of all MFDL assisted Units by eligible households shall occur within six months of the final Direct Loan draw. Requests to extend the initial occupancy period must be accompanied by documentation of marketing efforts and a marketing plan. The marketing plan may be submitted to HUD for final approval, if required by the MFDL fund source.~~

~~(10) Per Unit Repayment. Repayment may be required on a per Unit basis for Units that have not been rented to eligible households within 18 months of the final Direct Loan draw.~~

~~(11) Termination and Repayment for Failure to Complete. Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four years of the effective date of a Direct Loan Contract.~~

~~(12) Loan Closing. In preparation for closing any Direct Loan, the Development Owner must submit the items described in subparagraphs (A) - (F) of this paragraph. Providing incomplete documents, or not responding timely to subsequent Department requests for materials needed to facilitate closing, may significantly inhibit the Department's ability to meet closing timelines. Any request to change the financing structure of the Development, or the ownership structure, will in most cases extend the amount of time it will take for the Department to meet closing timelines, and may move prioritization of the closing below that of other Developments.~~

~~(A) Documentation of the prior closing or concurrent closing with all sources of funds necessary for the long-term financial feasibility of the Development.~~

- (B) Due diligence items determined by the Department to be prudent and necessary to meet the Department's rules and to secure the interests of the Department, as requested by Staff.
- (C) When Department funds have a first lien position during the construction term, or if the Development is a public work under state law assurance of completion of the Development in the form of payment and performance bonds in the full amount of the construction contract or equivalent guarantee as allowable under state law in the sole determination of the Department is required. Development Owners utilizing the USDA §515 program for a Development that is not a public work are exempt from this requirement, but must meet the alternative requirements set forth by USDA.
- (D) Documentation required for preparation of closing loan documents includes, but is not limited to:
- (i) Substantially final information necessary for REA staff to reevaluate the transaction prior to loan closing, including but not limited to a substantially final development cost schedule, sources and uses, operating pro forma, annual operating expenses, rent schedule, updated written financial commitments or term sheets, and any additional financing exhibits that have changed since the time of Application;
  - (ii) Substantially final Draft Owner/General Contractor agreement and draft Owner/Architect agreement prior to closing with final executed copies required by the day of closing;
  - (iii) Survey of the Property that includes a certification to the Department, Development Owner, Title Company, and other lenders;
  - (iv) Plans and specifications for review by the Department's inspection staff. Inspection staff will issue a plan review letter that is intended to assist in identifying early concerns associated with the Department's final construction requirements; and
  - (v) If layered with Housing Tax Credits, a substantially final draft limited partnership agreement between the General Partner and the tax credit investor entity.
- (E) If required by the fund source, prior to Contract Execution unless an earlier period is described in Chapters 10, 11, or 12 of this title, the Development Owner must provide verification of:
- (i) Environmental clearance from the Department or HUD, as applicable;
  - (ii) Site and Neighborhood clearance from the Department;
  - (iii) Documentation necessary to show compliance with the Uniform Relocation Assistance and Property Act and any other relocation requirements that may apply;
  - (iv) Title Insurance Commitment or Policy showing the Department as Lender, with copies of all Schedule B documents; and
  - (v) Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.
- (F) The Direct Loan Contract as executed, which will be drafted by the Department's counsel or its designee for the Department. No changes proposed by the Developer or Developer's counsel will be accepted unless

approved by the Department's Legal Division or its designee.

(613) Loan Documents. The Development Owner is required to execute all loan closing documents required by and in the form and substance acceptable to the Department's Legal Division.

(A) Loan closing documents include but are not limited to a promissory note, deed of trust, construction loan agreement (if the proceeds of the loan are to be used for construction), LURA, Architect and/or licensed engineer certification of understanding to complete environmental mitigation if such mitigation is identified in HUD's environmental clearance or ~~the Real Estate Analysis Division (REA) the~~ Underwriting Report and assignment and security instruments whereby the Developer, the Development Owner, and/or any Affiliates (if applicable) grants the Department their respective right, title, and interest in and to other collateral, including without limitation the Owner/Architect agreement and the Owner/General Contractor agreement, to secure the payment and performance of the Development Owner's obligations under the loan documents. Additional loan terms and conditions may be imposed by the loan closing documents.

(B) Loan terms and conditions may vary based on the type of Development, Real Estate Analysis Underwriting Report, and the Set-Aside under which the award was made.

(7) Quarterly Construction Status Reports. The Development Owner is required to submit quarterly Construction Status Reports to the Asset Management Division as described and by the deadlines specified in 10 TAC §10.402(h) of this title (relating to Construction Status Report).

(8) Mid-Construction Development Inspection Letter. In addition to any other obligations required as the result of any other Department funding sources, the Development Owner must submit a Mid-Construction Development Inspection Request once the Development has met at least 25% construction completion as indicated on the G703 Continuation Sheet or HUD equivalent form. Department inspection staff will issue a Mid-Construction Development Inspection Letter that confirms work is being done in accordance with the applicable codes, the construction contract, and construction documents. Regardless of how Direct Loan funds are allocated among acquisition, Hard, and Soft costs, up to 50% of the Direct Loan award may be released prior to issuance of the Mid-Construction Development Inspection Letter, with the remaining 50% available for disbursement in accordance with the percentage of Construction Completion.

(9) Construction Completion. Construction must be completed, as reflected by the Development's certificate(s) of occupancy (if new construction and/or reconstruction) and Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 for instances in which a federally insured HUD loan is being utilized, within the construction term of any superior construction loan(s) or 24 months of the actual loan closing date if no superior construction loan(s) exists.

(10) Closed Final Development Inspection Letter. The Closed Final Development Inspection Letter must be issued by the Department within 36 months of loan closing. This letter will verify committed amenities have been provided and confirm compliance with all applicable accessibility requirements; this letter may include deficiencies that require resolution. The Closed Final Development Inspection may be conducted concurrently with a Uniform Physical Condition Standards (UPCS) inspection. However, any letters associated with a UPCS inspection will not satisfy the Closed Final Development Inspection Letter required by this subsection.

(11) Initial Occupancy. Initial occupancy of all MFDL assisted Units by eligible households shall occur within six months of the final Direct Loan draw. Requests to extend the initial occupancy period must be accompanied by documentation of marketing efforts and a marketing plan. The marketing plan may be

submitted to HUD for final approval, if required by the MFDL fund source.

(12) Per Unit Repayment. Repayment may be required on a per Unit basis for Units that have not been rented to eligible households within 18 months of the final Direct Loan draw.

(13) Termination and Repayment for Failure to Complete. Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four years of the effective date of a Direct Loan Contract.

(14) Disbursement of Funds. The Borrower must comply with the requirements in subparagraphs (A) - (K) of this paragraph in order to receive a disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Borrower's compliance with these requirements is required with a request for disbursement:

(A) All requests for disbursement must be submitted through the Department's Housing Contract System, using the MFDL draw workbook or such other format as the Department may require;

(B) Documentation of the total construction costs incurred and costs incurred since the last disbursement of funds must be submitted. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702/ G703 or HUD equivalent form;

(C) Disbursement requests must include a down-date endorsement to the Direct Loan (mortgagee) title policy or Nothing Further Certificate that includes a title search through the date of the Architect's signature on AIA form G702 or HUD equivalent form. For release of retainage, the down-date endorsement to the Direct Loan title policy or Nothing Further Certificate must be dated at least 30 calendar days after the date of the completion as certified on the Certificate of Substantial Completion (AIA Form G704) with \$0 as the work remaining to be completed. If AIA Form G704 or HUD equivalent form indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed. Disbursement requests for acquisition and closing costs are exempt from this requirement;

(D) Table Funding (the wiring of Direct Loan funds to the title company at loan closing) may be permitted at the time of closing, for disbursement of funds related to eligible acquisition costs and eligible softs costs incurred, and in an amount not to exceed 50% of the total funds. Table Funding must be requested in writing at least 30 calendar days prior to the anticipated closing date, and will not be considered unless the Direct Loan Contract has been executed and all necessary documentation has been submitted to and accepted by the Department at least 10 calendar days prior to the anticipated closing date;

~~(E)~~ At least 50% of Direct Loan funds (except as otherwise allowed for Permanent Refinance Loans described in 10 TAC §13.8(e)) will be withheld from the initial disbursement of loan funds to allow for periodic disbursements;

~~(F)~~ The initial draw request for the Development (excluding Table Funding) must be entered into the Department's Housing Contract System no later than ~~15 calendar days prior to the one year anniversary of the effective date of the Direct Loan Contract~~ 180 days after loan closing, and may not be submitted prior to submission of all architectural drawings;

~~(G)~~ Up to 75% of Direct Loan funds may be drawn before providing evidence of Match. Thereafter, the Borrower must provide evidence of Match being credited to the Development prior to release of the final 25% of funds;

(HG) Developer Fee disbursement shall be limited by subparagraph (HI) of this paragraph and is further conditioned upon clauses (i) - (iii), as applicable:

(i) For Developments in which the loan is secured by a first lien deed of trust against the Property, 75% shall be disbursed in accordance with percent of construction completed. 75% of the total allowable fee will be multiplied by the percent completion, as documented by the construction contract and as may be verified by an inspection by the Department. The remaining 25% shall be disbursed at the time of release of retainage; or

(ii) For Developments in which the loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits, Developer Fees will not be reimbursed by the Department, except as follows. If all other lenders and syndicator in a Housing Tax Credit Development (if applicable) provide written confirmation that they do not have an existing or planned agreement to govern the disbursement of Developer Fees and expect that Department funds shall be used to fund Developer Fees, they shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(iii) The Department may reasonably withhold any disbursement in accordance with the Loan Documents and if it is determined that the Development is not progressing as reasonably necessary to meet the benchmarks for the timely completion of construction of the Development as set forth in the loan documents, or that cost overruns have put the Development Owner's ability to repay its Direct Loan or complete the construction at risk in accordance with the terms of the loan documents and within budget. If disbursement has been withheld under this subsection, the Development Owner must provide evidence to the satisfaction of the Department that the Development will be timely completed and occupied in order to continue receiving funds. If disbursement is withheld for any reason, disbursement of any remaining Developer Fee will be made only after construction of the Development has been completed, and all requirements for expenditure and occupancy have been met; ~~and~~

(H) Expenditures must be allowable and reasonable in accordance with federal and state rules and regulations. The Department shall review each expenditure requested for reasonableness. The Department may request the Development Owner make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of Department funds to Development Owner as may be necessary or advisable for compliance with all program requirements;

~~(I) Table Funding (the wiring of Direct Loan funds to the title company at loan closing) may be permitted at the time of closing, for disbursement of funds related to eligible acquisition costs and eligible softs costs incurred, and in an amount not to exceed 50% of the total funds. Table Funding must be requested in writing and will not be considered unless the Direct Loan Contract has been executed, and all necessary documentation has been submitted to and accepted by the Department at least 10 calendar days prior to the anticipated closing date;~~

(J) Following 50% construction completion, any funds will be released in accordance with the percentage of construction completion as documented on AIA Form G702/703 or HUD equivalent form. 10% of requested Hard Costs will be retained and will not be released until the final draw request. If the Development is receiving funds from more than one MFDL source, the retainage requirement will apply to each fund source individually. All of the items described in clauses (i) - (viii) of this subparagraph are required in order to approve the final draw request:

(i) Fully executed Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485 (for instances in which a federally insured HUD loan is being utilized) with \$0 as the cost estimate of work that is

incomplete. If AIA Form G704 or Form HUD-92485 indicates an amount of work remaining to be completed, the Architect must provide confirmation that all work has been completed;

(ii) A down date endorsement to the Direct Loan title policy or Nothing Further Certificate dated at least 30 calendar days after the date of completion as certified on the Certificate of Substantial Completion (AIA Form G704) or Form HUD-92485;

(iii) For Developments not layered with Housing Tax Credits, a Closed Final Development Inspection Letter from the Department;

(iv) For NHTF Developments layered with HTCs, a separate, additional cost certification form completed by an independent, licensed, certified public accountant of all Development costs (including project costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract, commonly known as a cost certification;

(iv) For Developments subject to the Davis-Bacon Act, evidence from the Department's Senior Labor Standards Specialist that the Department's Notice to Proceed that serves to lock in the Department of Labor's worker prevailing wage mandates at the development and authorizes start of construction was sent and final wage compliance report was received and approved or confirmation that HUD or other entity maintains Davis-Bacon oversight;

(v) Certificate(s) of Occupancy (for New Construction or Reconstruction Units);

(vi) Development completion reports, which includes, but is not limited to, documentation of full compliance with the Uniform Relocation Act/104(d), Match Documentation requirements, and Section 3 of the Housing and Urban Development Act of 1968, as applicable to the Development, and any other applicable requirement; and

(vii) If applicable to the Development, certification from Architect or a licensed engineer that all HUD environmental mitigation conditions have been met;

(K) No disbursement of funds will be approved without receipt of all closing documents in the form and substance required by the Department's Legal Division; ~~and~~

(L) The final draw request must be submitted within the construction term as determined in accordance with 10 TAC §13.8(c)(1) or (d)(1) as applicable, unless the construction term has been extended in accordance with 10 TAC §13.12 or 10 TAC §13.13 of this chapter, as applicable; ~~and~~.

(M) Annually, Borrowers must submit at least one draw, and may not submit more than 4four draws, unless previously approved by the Executive Director or designee.

(15) Annual Audits and Cost Certifications under 24 CFR §93.406(b).

(A) Annual Audits under 24 CFR §93.406(b). Unless otherwise directed by the Department, the Development Owner shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under the Direct Loan Contract, subject to the conditions and limitations set forth in the executed Direct Loan Contract. All approved audit reports will be made available for public

inspection within 30 days after completion of the audit.

(B) Cost Certifications under 24 CFR §93.406(b).

(i) Non-HTC-Layered Developments. Within 180 calendar days of the later of all title transfer requirements and construction work having been performed, as reflected by the Development's Certificate(s) of Occupancy (if New Construction) or Certificate of Substantial Completion (AIA Form G704 or HUD equivalent form), or when all modifications required as a result of the Department's Final Construction Inspection are cleared as evidenced by receipt of the Closed Final Development Inspection Letter, the Development Owner will submit to the Department a cost certification done by an independent licensed certified public accountant of all Development costs (including project NHTF eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

(ii) HTC-Layered Developments. With the Cost Certification required by the Low Income Housing Tax Credit Program, the Development Owner must submit to the Department a cost certification completed by an independent licensed certified public accountant of all Development costs (including NHTF project eligible costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract.

**§13.12. Pre-Closing Amendments to Direct Loan Terms.**

(a) Closing Memo to Underwriting Report. Any changes to the total development cost, expenses, income, and/or other sources of funds from time of the publication of the initial Underwriting Report at the time of award to the time of loan closing, must be reevaluated by Real Estate Analysis staff, who will typically publish a Closing Memo to the Underwriting Report. The Report may recommend changes to the principal amount and/or the repayment structure for the Multifamily Direct Loan pursuant to §11.302 of this title (relating to Underwriting Rules and Guidelines), except that the change must have been an available option in the rule or NOFA (as applicable), and may not be made to awards that were competitively scored to the extent that change would have caused the Development to lose points. This will allow the Department to uphold the competitive process, mitigate any increased risk, and to ensure that the Development is not oversubsidized. Where the Department determines such risk is not adequately mitigated, the award may be terminated or reconsidered by the Board. Increases in the principal amount or scheduled payment amounts of any superior loans that cause the total Debt Coverage Ratio (DCR) to decrease by more than .05 require approval by the Board. If the changes cause the total DCR to no longer comply with 10 TAC §11.302 of this title (relating to Underwriting Rules and Guidelines), the award may be subject to termination. The Department may require the Closing Memo to be completed before providing a Contract to the Development Owner.

(b) Executive Approval Required Pre-Closing. The Executive Director or authorized designee may approve amendments to loan terms prior to closing as described in paragraphs (1) - (6) of this subsection.

(1) Extensions of up to six months to the loan closing date required in 10 TAC §13.11(c)(4) of this chapter (relating to Post-Award Requirements) may be approved prior to closing. An Applicant must submit sufficient evidence documenting good cause, including but not limited to, documented delays caused by circumstances outside the control of the applicant or constraints in arranging a multiple fund source closing. An extension will not be available if an Applicant has:

(A) Failed to timely begin or complete a process required to close; including, but not limited to:

(i) The process of finalizing all equity and debt financing;



(ii) The environmental clearance process; or

(iii) The due diligence processing requirements; or

(B) Made changes to the Development that require significant additional underwriting by the Department without at least 45 days to complete the review.

(2) Changes to the construction term and/or loan maturity date to accommodate the requirements of other lenders or to maintain parity of term may be approved prior to closing.

(3) Extensions of up to 12 months to the Construction Completion date or date of receipt of a Closed Final Development Inspection Letter required in 10 TAC §13.11(c)(8) of this chapter may be requested but generally are not approved prior to initial loan closing. Extensions under this paragraph are determined based on documentation that the extension is necessary to complete construction and that there is good cause for the extension.

(4) Only to the extent determined necessary by Real Estate Analysis to maintain financial feasibility, changes to the amortization period (not to exceed 40 years) or interest rate (to not less than the minimum specified in rule or NOFA) that cause the annual repayment amount to decrease less than 20%, or any changes to the amortization or interest rate that increase the annual repayment amount up to 20%.

(5) Decreases in the Direct Loan amount, provided the decrease does not jeopardize the financial viability of the Development in the determination of Real Estate Analysis may be approved prior to closing, though the Development Owner may be subject to penalties as further described in 10 TAC §13.11 of this chapter (relating to Post-Award Requirements). Increases will not be approved unless the Applicant applies for the additional funding under an open NOFA.

(6) Changes to other loan terms or requirements that would not require a ~~w~~Waiver or change in scoring items, as necessary to facilitate the loan closing without exposing the Department to undue financial risk.

(b) Board Approval Required Pre-Closing. Board approval is necessary for any other changes prior to closing.

### **§13.13. Post-Closing Amendments to Direct Loan Terms.**

(a) Good Cause Extensions. The Executive Director or authorized designee may approve extensions of up to 12 months under 10 TAC §13.11(c)(7) - (8) or (14)(L) of this chapter (relating to Post-Award Requirements) based on documentation that there is good cause for the extension.

(b) Amendments to MFDL Awards. Except in cases of Force Majeure, changes to terms of awards subject to mandatory HUD reporting requirements will only be processed after the Construction Completion is reported to the federal oversight entity as completed, and the last of the MFDL funds have been drawn.

(c) Executive Amendments. The Executive Director or authorized designee may approve amendments to loan terms post-closing as described in paragraphs (1) - (3) of this subsection. Board approval is necessary for any other changes post-closing.

(1) Changes in Terms. Changes to the amortization or maturity date to accommodate the requirements of

other lenders or maintain parity of term may be approved post-closing, provided the changes result in the Direct Loan continuing to meet the requirements of 10 TAC §13.8(c)(1) and (3) of this chapter (relating to Loan Structure and Underwriting Requirements), and NOFA requirements.

(2) Post-Closing Subordinations or Re-subordinations of MFDL Liens. Re-subordination of the Direct Loan in conjunction with refinancing may be approved post-closing, provided the conditions in subparagraphs (A) - (E) of this paragraph are met:

(A) The Borrower is current with loan payments to the Department, and no notice has been given of any Event of Default on any MFDL loan. Histories of late or non-payment on any other MFDL loan may result in denial of the request;

(B) The refinance does not propose payment to any of the Development Owner or Developer parties (including the Limited Partners);

(C) A proposal for partial repayment of the MFDL lien is made with the request;

(D) The new superior lien is in an amount that is equal to or less than the original senior lien and does not negatively affect the financial feasibility of the Development.

(i) For purposes of this section, a negative effect on the financial feasibility of the Development shall mean a reduction in the total Debt Coverage Ratio (DCR) of more than 0.05, or if the DCR no longer meets the requirements of 10 TAC §11.302 of this title; and

(ii) Changes to accommodate refinancing with a new superior lien that is in an amount that exceeds the original senior lien and which will be directly applied to property improvements, as evidenced by the loan or security agreements (exclusive of fees associated with the refinance and any required reserves), will be considered on a case by case basis; and

(E) The subordination or re-subordination request does not include a request to subordinate or resubordinate any MFDL LURA, with the exception of partial subordination or re-subordination of receivership rights (subject to the proposed receiver entity or Affiliate not having been Debarred by the Department or on the Federal Suspended or Debarred Listing).

(3) Workout Arrangements. Changes required to the Department's loan terms or amounts that are part of an approved Asset Management Division work out arrangement may be approved after Construction Completion.

(d) Contract Assignments and Assumptions of MFDL Liens. The Executive Director or authorized designee may approve the Contract Assignment and Assumption of MFDL Liens following approval of an Ownership Transfer request if the conditions in paragraphs (1) - (3) of this subsection are met:

(1) The assignment or assumption is not prohibited by the Contract, Loan Documents, or regulations;

(2) The assignment or assumption request is based on either subparagraph (A) or (B) of this paragraph:

(A) There are insufficient funds available in the transaction to fully repay the Direct Loan at the time of acquisition, for which Deferred Developer Fee, Development Owner or Affiliate Contributions, or other

similar liabilities will not be considered in determining whether the Direct Loan could be repaid at the time of acquisition; or

(B) The new superior lien will be directly applied to property improvements as evidenced by the loan or security agreements, exclusive of fees association with the new financing and any required reserves; and

(3) The corresponding Ownership Transfer has been approved in accordance with all requirements in 10 TAC §10.406 of this title (relating to Ownership Transfers), and no prospective Owner including person, or affiliate, as those terms are defined in 2 CFR Part 180 and 2 CFR Part 2424, Subpart I, has been subject to state Debarment or are on the Federal Suspended or Debarred Listing. This includes Board Members and Limited Partners.

6b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order proposing new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, 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 (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, staff has identified changes to 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, that are needed to: clarify language or processes; remove what is currently §10.401 General Commitment or Determination Notice Requirements and Documentation and sections of §10.402 that have been relocated to the Qualified Allocation Plan; relocate what is currently §10.402 to be the new §10.401; allow for tax credit increases for Non-Competitive HTC Developments that do not exceed 120% of the credits reflected in the Determination Notice to be approved administratively by the Executive Director or designee; remove requirement for NHTF cost certification as part of the HTC cost certification; replace §10.402 Housing Tax Credit and Tax Exempt Bond Developments with a new section named Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants or HUD Riders to Restrictive Covenants that will identify requirements to process such requests and specify that HTC Developments seeking to refinance within two years from the issuance of the IRS Forms 8609 must be re-evaluated to determine if the transaction would have been over sourced with the new financing structure, and specify that the Development Owner may be required to fund a Special Reserve account; reference §11.302(e)(12) to specify the maximum amount that can be funded to the Special Reserve at cost certification; change amendments to the Right of First Refusal period in the LURA from material to non-material to allow for administrative approval; clarify that amendments to remove the HUB prior to filing the IRS Form(s) 8609 are material; include deed-in-lieu of foreclosure as an exception to the ownership transfer process; change "qualified buyers" to "prospective buyers" under the list of persons and entities required to receive a notice of intent to sell under a Right of First Refusal; and incorporate revisions to the definition of a qualified entity in §10.407 Right of First Refusal in accordance with revision to Tex. Gov't Code §2306.6726(b), as a result of S.B. No. 403 passed by the House on May 25, 2021; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from October 29, 2021, through November 19, 2021, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset

Management Requirements, and proposed new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, together with the preambles in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections, or preamble-related corrections, as they may deem necessary to effectuate the foregoing, including the preparation and requested revisions to the subchapter specific preambles.

## **BACKGROUND**

Tex. Gov't Code §2306.053 provides for the Department to administer federal housing, community affairs, or community development programs, including the low income housing tax credit program. The Asset Management Division and its Rules, as a whole, are an integral part of administering the Department's federal housing programs, assisting in reviewing and ensuring the long-term affordability and safety of multifamily rental housing Developments in the Department's portfolio as required under Tex. Gov't Code §§2306.185 and 2306.186, performing the functions of processing amendments and ownership transfers as required under §§2306.6712 and 2306.6713, and performing essential functions required under various federal program (HOME, NSP, NHTF, Exchange, TCAP) rules and under Section 42 of the Internal Revenue Code.

Staff recommends that these rules be revised by repealing the existing rules and proposing new rules. The new proposed rules further clarify language and requirements on which questions are often received; correct references to processes, other rules and forms that have been updated; remove sections that have been relocated to the Qualified Allocation Plan; remove the reference to the cost certification required for NHTF Developments layered with HTC's since it is received and processed by the Multifamily Finance Division; provide guidance for requesting Subordination Agreements, HUD Amendments to Restrictive Covenants, and HUD Riders to Restrictive Covenants; increase the Non-Competitive HTC credit increase threshold that can be approved administratively at cost certification; and update the Right of First Refusal requirements in accordance with the change to Tex. Gov't Code §2306.6726(b).

The proposed draft of the 2022 Post Award and Asset Management Requirements reflects staff's recommendations for the Board's consideration. Behind the proposed preamble for the proposed new action a draft of the rule is shown in its blackline form reflecting changes to the rule that is proposed for repeal.

The more significant changes to specific sections are summarized below. Changes made only for purposes of correcting previous grammatical errors or spacing, re-numbering, re-aligning requirements with updated references to sections elsewhere in rule, removing redundancies, or updating rules to reflect current Department processes that do not signal a change in policy or practice are not specifically discussed.

Upon Board approval, the proposed 2022 Asset Management Rules will be posted to the Department's website and published in the *Texas Register*. Public comment will be accepted between October 29, 2021, and November 19, 2021. The Asset Management Rules, after consideration of public comment, will be brought before the Board on December 9, 2021, for final approval and subsequently published in the *Texas Register* for adoption.

*Summary of Proposed Changes:* Most of the changes proposed by staff are clarifying in nature; however, this section outlines the more significant recommendations made by staff.

1. §10.401 General Commitment or Determination Notice Requirement and Documentation and §10.402 Housing Tax Credit and Tax Exempt Bond Developments. What is currently §10.401 and §10.402(a), (b), (d), (e), and (f) have been relocated to the draft Qualified Allocation Plan, found at 10 TAC Chapter 11 at §§11.905 – 11.907. The relocation of these sections is proposed because they relate to processes currently handled by the Multifamily Finance Division. As a result of the removal of these sections, §10.402(d) and (g)-(j) are reorganized under §10.401, which is retitled to Housing Tax Credit and Tax Exempt Bond Developments.

Under new §10.401(a) staff proposes adding “current title policy” to the list of required 10% Test documentation in order to agree with the current process and instructions currently identified in the Post Award Activities Manual.

Under the current §10.402(c), staff proposes relocating the language regarding credit increases for Non-Competitive HTC Developments to new §10.401(d) (currently §10.402(j)), and increasing the threshold that can be approved administratively by the Executive Director or designee from 110% to 120% due to the increased costs Developments have experienced during the COVID-19 pandemic. Staff also proposes removing from the rules what is currently §10.402(j)(3)(B)(xxxiv), regarding the cost certification requirement for NHTF Developments layered with HTCs, because the NHTF cost certification process is handled by the Multifamily Finance Division.

2. §10.402 Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants, or HUD Riders to Restrictive Covenants. Staff proposes to replace the current §10.402 with a new section that will provide guidance and clarification of the information staff needs to process requests for Subordination Agreements, HUD Amendments to Restrictive Covenants, or HUD Riders to Restrictive Covenants. Staff also proposes adding a requirement to this section that specifies that HTC Developments seeking to refinance within two years of the issuance of the IRS Form(s) 8609 must be re-evaluated to confirm if the proposed new financing structure would have resulted in over sourcing the development at cost certification, and if it is determined that it would have been over sourced, the rule provides that the Development Owner may be required to fund a Special Reserve Account in accordance with §10.404(d).
3. §10.404 Reserve Accounts. Staff proposes a minor correction to §10.404(a)(3) to identify \$250 per Unit as the replacement reserve requirement for Reconstruction Developments in order to bring this requirement into consistency with §11.302(d)(2)(l) of the QAP. Staff also recommends to provide additional clarification under §10.404(d)(1) by including a reference to §11.302(e)(12) of the QAP, which identifies the Special Reserve maximum deposit at cost certification.
4. §10.405 Amendment and Extensions. Staff proposes adding clarification under §10.405(b)(2) that a request to amend the LURA to remove the material participation by a HUB prior to filing of the IRS Form(s) 8609 is considered a material amendment. Staff also suggests changing LURA amendments under §10.405(b)(2)(E) regarding revisions to the Right of First Refusal period from being material to non-material amendments under §10.405(b)(1).
5. §10.407 Right of First Refusal. Under §10.407(c)(3)(A)(vi), the term “qualified buyers” was replaced with “prospective buyers”, and under §10.407(c)(6), “current zoning requirements” was removed as a requirement of the description of the Property.

Under §10.407(d)(3)(A), the definition of a Qualified Entity during the first 60 days of the posting period was updated to include a public housing authority or public facility corporation that owns the fee title to the Development Owner’s leasehold estate, in accordance with the amendment

to Tex. Gov't Code §2306.6726(b) enacted by SB 403 passed by the House on May 25, 2021, and effective September 1, 2021.



**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 10, Subchapter E, §§10.400-10.408, Post Award and Asset Management Requirements**

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Subchapter E, §§10.400 – 10.408, Post Award and Asset Management Requirements. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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.**

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making changes to an existing activity, concerning the post award activities of Low Income Housing Tax Credit (LIHTC) and other Department-funded multifamily Developments.

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

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

4. The proposed repeal does not result in an increase in fees paid to the Department or in a substantial decrease in fees paid to the Department.

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

6. The proposed action will repeal an existing regulation but is associated with the simultaneous re-adoption making changes to an existing activity, Post Award and Asset Management Requirements.

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

8. The proposed 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.**

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 for the handling of post award and asset management activities of multifamily developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the rule. If a small or micro-business is such an owner or participant, the new rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the proposed rule because this rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, 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 repeal does not contemplate nor 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment, as the repealed rule will be replaced with a similar rule; therefore no local employment impact statement is required to be prepared for the rule.

Texas 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 no impact is expected on a statewide basis, there are also 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 proposed repeal of this rule is in effect, the public benefit anticipated as a result of the repealed sections will be unaffected as the repealed rule will be replaced with a similar 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 proposed 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, as the repealed rule will be replaced with a similar rule.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 19, 2021, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Lee Ann Chance, Asset Management Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email to [leeann.chance@tdhca.state.tx.us](mailto:leeann.chance@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time November 19, 2021.

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

§10.400 Purpose

§10.401 General Commitment or Determination Notice Requirements and Documentation

§10.402 Housing Tax Credit and Tax Exempt Bond Developments

§10.403 Review of Annual HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents

§10.404 Reserve Accounts

§10.405 Amendments and Extensions

§10.406 Ownership Transfers (§2306.6713)

§10.407 Right of First Refusal

§10.408 Qualified Contract Requirements

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 10, Subchapter E, §§10.400-10.408, Post Award and Asset Management Requirements**

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter E, §§10.400 – 10.408, Post Award and Asset Management Requirements. The purpose of the proposed new sections is to assist in reviewing and ensuring the long-term affordability and safety of multifamily rental housing Developments in the Department's portfolio as required under Tex. Gov't Code §§2306.185 and 2306.186, perform the functions of processing amendments and ownership transfers as required under §§2306.6712 and 2306.6713, and perform essential functions required under various federal program (HOME, NSP, NHTF, Exchange, TCAP) rules and under Section 42 of the Internal Revenue Code.

The updating of the rule through the proposed new sections will further clarify language and requirements on which questions are often received, remove §10.401 General Commitment or Determination Notice Requirements and Documentation and subsections of §10.402 that have been relocated the Qualified Allocation Plan; relocate the remaining portion of what is currently §10.402 Housing Tax Credit and Tax Exempt Bond Developments to §10.401; allow for tax credit increases for Non-Competitive HTC Developments that do not exceed 120% of the credits reflected in the Determination Notice to be approved administratively by the Executive Director or designee; remove reference to NHTF cost certification requirement; replace §10.402 Housing Tax Credit and Tax Exempt Bond Developments with a new section named Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants, or HUD Riders to Restrictive Covenants that will identify requirements to process such requests and specify that HTC Developments seeking to refinance within two years from the issuance of the IRS Form(s) 8609 must be re-evaluated to determine if the development would have been over sourced with the new financial structure, and if so, specify that the Development Owner may be required to fund a Special Reserve account; add a reference to §11.302(e)(12), which specifies the maximum amount that can be funded to the Special Reserve at cost certification; change amendments to the Right of First Refusal period in the LURA from material to non-material; clarify that amendments to remove the HUB prior to filing the IRS Form(s) 8609 are material; include deed-in-lieu of foreclosure as an exception to the ownership transfer process; change "qualified buyers" to "prospective buyers" under the list of persons and entities required to receive a notice of intent to sell under a Right of First Refusal; and incorporate revisions to the definition of a qualified entity in §10.407 Right of First Refusal in accordance with revision to Tex. Gov't Code §2306.6726(b), as a result of S.B. No. 403 passed by the House on May 25, 2021.

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.**

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed rulemaking would be in effect, the proposed rule does not create or eliminate a government program, but relates to the re-adoption making changes to an existing activity, concerning the post award activities of Low Income Housing Tax Credit (LIHTC) and other Department-funded multifamily Developments.

2. The proposed new rule does not require a change in work that would require the creation of new employee positions. Although a new section was added to the rules for Subordination Agreements, HUD Amendments to Restrictive Covenants, and HUD Riders to Restrictive Covenants, it does not add to

the work currently done by staff. The rule changes do not reduce work load such that any existing employee positions could be eliminated.

3. The proposed rule changes do not require additional future legislative appropriations.

4. The proposed rule changes do not result in an increase in fees paid to the Department. However, the Department does anticipate a nominal decrease in fees paid to the Department by changing amendments to the LURA to reduce the Right of First Refusal period from material to non-material. The addition in the rule that identifies LURA amendment requests to remove the HUB material participation prior to filing of IRS Form(s) 8609 as material does not affect the fees paid to the Department because it only provides clarification and is not a change from how this type of amendment has currently been processed.

5. The proposed rule is not creating a new regulation, but is replacing a rule being repealed simultaneously to provide for revisions. The proposed rule is an update to address sections relocated to the QAP, correct minor errors, provide additional clarification, reduce the number of material amendments, and updates the §10.407(d)(3) of the Right of First Refusal section in accordance to the revision to Tex. Gov't Code §2306.6726(b) by S.B. No. 403 passed by the House on May 25, 2021.

6. The proposed rule is not repealing an existing regulation but will reduce the number of items requiring board approval by increasing the Non-Competitive HTC Developments credit increase threshold that can be approved administratively by the Executive Director or designee from 110% to 120% in §10.401(d). This increase is to help address concerns from Development Owners over increased construction costs during the COVID-19 pandemic. The proposed rule will also reduce the number of material amendments by changing amendments to the Right of First Refusal period in the LURA from material to non-material under §10.405(b).

7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability. Though the proposed rule §10.402 Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants, or HUD Riders to Restrictive Covenants has been added, it clarifies the documentation currently requested to process the requests for these documents. It also addresses situations where the financing structure has changed significantly within two years from the issuance of the IRS Form(s) 8609 in order to ensure that the Department complies with the requirement in §42(m)(2)(a) of the Code that specifies the credit amount allocated to the project cannot exceed the amount the Department determines as necessary for the financial feasibility of the project.

8. The proposed rule 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.

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 for the handling of post award and asset management activities of multifamily Developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the rule. If a small or micro-business is such an owner or participant, the new rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the proposed rule because this rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, 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 rule does not contemplate nor 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 rule as to its possible effects on local economies and has determined that for the first five years the proposed rule will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule. Additionally, because this rule only provides for administrative processes required of properties in the Department's portfolio, no activities under this rule would support additional local employment opportunities. Alternatively, the rule would also not cause any negative impact on employment.

Texas 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 no impact is expected on a statewide basis, there are also 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 proposed rule sections will be increased efficiency and clarity in post award requirements. The possible economic benefit to individuals required to comply with the proposed section will be a reduction to the amount of fees required to process amendments to reduce the Right of First Refusal period in the LURA.

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 sections are in effect, enforcing or administering the proposed rule does not have any foreseeable implications related to costs or revenues of the state or local government, as the costs to administer any additional proposed requirements will potentially be offset by efficiency gains in other revised processes and will otherwise be absorbed by current Department resources.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 29, 2021, to November 19, 2021, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Lee Ann Chance, Asset Management Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email to [leeann.chance@tdhca.state.tx.us](mailto:leeann.chance@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time November 19, 2021.

STATUTORY AUTHORITY. The new sections are proposed 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.

## Post Award and Asset Management Requirements

### §10.400 Purpose

(a) The purpose of this subchapter is to establish the requirements governing the post award and asset management activities associated with awards of multifamily Development assistance pursuant to Tex. Gov't Code, Chapter 2306 and its regulation of multifamily funding provided through the Texas Department of Housing and Community Affairs (the "Department") as authorized by the legislature. This subchapter is designed to ensure that Developers and Development Owners of low-income Developments that are financed or otherwise funded through the Department maintain safe, decent and affordable housing for the term of the affordability period. Therefore, unless otherwise indicated in the specific section of this subchapter, any uncorrected issues of noncompliance outside of the corrective action period or outstanding fees (related to the Development subject to the request) owed to the Department, must be resolved to the satisfaction of the Department before a request for any post award activity described in this subchapter will be acted upon.

(b) The capitalized terms in this subchapter shall have the meaning as defined in this title in Chapter 1 relating to Administration, Chapter 2 relating to Enforcement, Chapter 10 relating to Uniform Multifamily Rules, Chapter 11 relating to the Qualified Action Plan (QAP), Chapter 12 relating to the Multifamily Housing Revenue Bond Rules, Chapter 13 relating to the Multifamily Direct Loan Rule, Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the HOME Final Rule, the NHTF Interim Rule, and other federal or Department rules, as applicable.

### ~~§10.401 General Commitment or Determination Notice Requirements and Documentation~~

~~(a) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount in accordance with §42(m)(2)(A) or where the cost for the total development, acquisition, construction or rehabilitation exceeds the limitations established by the Department and the Board.~~

~~(b) All Commitments or Determination Notices, whether reflected in the Commitment or Determination Notice or not, are made subject to full compliance with all applicable provisions of law and the Department's rules, all provisions of Commitment and Contract, satisfactory completion of underwriting, and satisfactory resolution of any conditions of underwriting, award, and administrative deficiencies.~~

~~(c) The Department shall notify, in writing, the mayor, county judge, or other appropriate official of the municipality or county, as applicable, in which the Development is located informing him/her of the Board's issuance of a Commitment Notice, as applicable.~~

~~(d) The Department may cancel a Commitment, Determination Notice or Carryover Allocation prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or completion of construction with respect to a Development and/or apply administrative penalties if:~~

~~(1) The Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to meet any of the conditions of such Commitment, Determination Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Application process for the Development;~~

~~(2) Any material statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;~~

~~(3) An event occurs with respect to the Applicant or the Development Owner which would have made the Application ineligible for funding pursuant to Subchapter C of Chapter 11 of this title (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules) if such event had occurred prior to issuance of the Commitment, Determination Notice or Carryover Allocation; or~~

~~(4) The Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to comply with this chapter or other applicable Department rules, procedures, or requirements of the Department.~~

### **§10.402-401 Housing Tax Credit and Tax Exempt Bond Developments**

~~(a) Commitment. For Competitive HTC Developments, the Department shall issue a Commitment to the Development Owner which shall confirm that the Board has approved the Application and state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described in Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) and the determination that the Development satisfies the requirements of this chapter and other applicable Department rules. The Commitment shall expire on the date specified therein, which shall be 30 calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Commitment, pays the required fee specified in §11.901 of this title (relating to Fee Schedule, Appeals, and other Provisions), and satisfies any conditions set forth therein by the Department. The Commitment expiration date may not be extended.~~

~~(b) Determination Notices. For Tax Exempt Bond Developments, the Department shall issue a Determination Notice which shall confirm the Board's determination that the Development satisfies the requirements of this chapter as applicable and other applicable Department rules in accordance with the §42(m)(1)(D) of the Internal Revenue Code (the Code). The Determination Notice shall also state the Department's determination of a specific amount of housing tax credits that the Development may be eligible for, subject to the requirements set forth in the Department's rules, as applicable. The Determination Notice shall expire on the date specified therein, which shall be 30 calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Determination Notice, pays the required fee specified in Chapter 11, Subchapter E of this title, and satisfies any conditions set forth therein by the Department. The Determination Notice expiration date may not be extended. The Determination Notice will be rescinded if the Tax Exempt Bonds are not closed within the timeframe provided for by the Board on its approval of the Determination Notice, by the expiration of the Certificate of Reservation associated with the Determination Notice, or if there are material changes to the financing or Development as determined by the Department pursuant to its rules and any conditions of approval included in the Board approval or underwriting report.~~

~~(c) Tax Credit Amount. The amount of tax credits reflected in the IRS Form(s) 8609 may be greater or less than the amount set forth in the Determination Notice based upon the Department's determination as of each building's placement in service. Any increase of tax credits will only be permitted if it is determined necessary by the Department, as required by §42(m)(2)(D) of the Code through the submission of the Cost Certification package. Increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice must be approved by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director or designee and are subject to the Credit Increase Fee as described in Chapter 11, Subchapter E of this~~

~~title (relating to Fee Schedule, Appeals, and other Provisions).~~

~~(d) Documentation Submission Requirements at Commitment of Funds. No later than the expiration date of the Commitment (or no later than December 31 for Competitive HTC Applications, whichever is earlier) or Determination Notice, the documentation described in paragraphs (1)–(6) of this subsection must be provided. Failure to provide these documents may cause the Commitment or Determination Notice to be rescinded:~~

~~(1) For entities formed outside the state of Texas, evidence that the entity filed a Certificate of Application for foreign qualification in Texas, a Franchise Tax Account Status from the Texas Comptroller of Public Accounts, and a Certificate of Fact from the Office of the Secretary of State. If the entity is newly registered in Texas and the Franchise Tax Account Status or Certificate of Fact are not available, a statement can be provided to that effect;~~

~~(2) For Texas entities, a copy of the Certificate of Filing for the Certificate of Formation from the Office of the Secretary of State; a Certificate of Fact from the Secretary of State, and a Franchise Tax Account Status from the Texas Comptroller of Public Accounts. If the entity is newly registered and the Certificate of Fact and the Franchise Tax Account Status are not available, a statement can be provided to that effect;~~

~~(3) Evidence that the signer(s) of the Commitment or Determination Notice have sufficient authority to sign on behalf of the Applicant in the form of a corporate resolution which indicates the sub-entity in Control consistent with the entity contemplated and described in the Application;~~

~~(4) Evidence of final zoning that was proposed or needed to be changed pursuant to the Development plan;~~

~~(5) Evidence of satisfaction of any conditions identified in the Credit Underwriting Analysis Report, any conditions from the Executive Award Review and Advisory Committee as provided for in 10 TAC Chapter 1, Subchapter C (relating to Previous Participation and Executive Award Review and Advisory Committee), or any other conditions of the award required to be met at Commitment or Determination Notice; and~~

~~(6) Documentation of any changes to representations made in the Application subject to §10.405 of this subchapter (relating to Amendments and Extensions).~~

~~(7) For Applications underwritten with a property tax exemption, documentation must be submitted in the form of a letter from an attorney identifying the statutory basis for the exemption and indicating that the exemption is reasonably achievable, subject to appraisal district review. Additionally, any Development with a proposed Payment in Lieu of Taxes (PILOT) agreement must provide evidence regarding the statutory basis for the PILOT and its terms.~~

~~(e) Post Bond Closing Documentation Requirements. Regardless of the issuer of the bonds, no later than 60 calendar days following closing on the bonds, the Development Owner must submit the documentation in paragraphs (1)–(5) of this subsection.~~

~~(1) Training certificate(s) from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager has attended and passed at least five hours of Fair Housing training. The certificate(s) must not be older than two years from the date of submission and must verify that all parts or phases of the offered training have~~



~~been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five-hour required minimum, even if they were attended on different dates;~~

~~(2) A training certificate from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineer responsible for certifying compliance with the Department's accessibility and construction standards has attended and passed at least five hours of Fair Housing training. The certificate must not be older than two years from the date of submission and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five-hour required minimum, even if they were attended on different dates;~~

~~(3) Evidence that the financing has closed, such as an executed settlement statement;~~

~~(4) A confirmation from the Compliance Division evidencing receipt of the CMTS Filing Agreement form pursuant to §10.607(a) of this chapter; and~~

~~(5) An initial construction status report consisting of items (1)–(5) of §10.402(h) of this subchapter (relating to Construction Status Reports).~~

~~(f) Carryover (Competitive HTC Only). All Developments which received a Commitment, and will not be placed in service and receive IRS Form(s) 8609 in the year the Commitment was issued, must submit the Carryover documentation, in the form prescribed by the Department in the Carryover Manual, no later than the Carryover Documentation Delivery Date as identified in §11.2 of this title (relating to Program Calendar for Competitive Housing Tax Credits) of the year in which the Commitment is issued pursuant to §42(h)(1)(C) of the Code.~~

~~(1) Commitments for credits will be terminated if the Carryover documentation has not been received by this deadline, unless an extension has been approved. This termination is subject to right of appeal directly to the Board, and if so determined by the Board, immediately upon final termination by the Board, staff is directed to award the credits to other qualified Applicants on the approved waiting list.~~

~~(2) If the interim or permanent financing structure, syndication rate, amount of debt or syndication proceeds are finalized but different at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be re-evaluated by the Department for a reduction of credit or change in conditions.~~

~~(3) All Carryover Allocations will be contingent upon the Development Owner providing evidence that they have and will maintain Site Control through the 10% Test or through the anticipated closing date, whichever is earlier. For purposes of this paragraph, any changes to the Development Site acreage between Application and Carryover must be addressed by written explanation or, as appropriate, in accordance with §10.405 of this subchapter (relating to Amendments and Extensions).~~

~~(4) Confirmation of the right to transact business in Texas, as evidenced by the Franchise Tax Account Status (the equivalent of the prior Certificate of Account Status) from the Texas Comptroller of Public Accounts and a Certificate of Fact from the Office of the Secretary of State must be submitted with the Carryover Allocation.~~

~~(ga) 10% Test (Competitive HTC Only). No later than July 1 of the year following the submission of~~

the Carryover Allocation Agreement or as otherwise specified in the applicable year's Qualified Allocation Plan, documentation must be submitted to the Department verifying that the Development Owner has expended more than 10% of the Development Owner's reasonably expected basis, pursuant to §42(h)(1)(E)(i) and (ii) of the Code and Treasury Regulations, 26 CFR §1.42-6. The Development Owner must submit, in the form prescribed by the Department, documentation evidencing paragraphs (1) - (7) of this subsection, along with all information outlined in the Post Award Activities Manual. Satisfaction of the 10% Test will be contingent upon the submission of the items described in paragraphs (1) - (7) of this subsection as well as all other conditions placed upon the Application in the Commitment. Requests for an extension will be reviewed on a case by case basis as addressed in §10.405(c) of this subchapter and §11.2 of this title, as applicable, and a point deduction evaluation will be completed in accordance with Tex. Gov't Code §2306.6710(b)(2) and §11.9(f) of this title. Documentation to be submitted for the 10% Test includes:

(1) An Independent Accountant's Report and Taxpayer's Basis Schedule form. The report must be prepared on the accounting firm's letterhead and addressed to the Development Owner or an Affiliate of the Development Owner. The Independent Accountant's Report and Taxpayers Basis Schedule form must be signed by the Development Owner. If, at the time the accountant is reviewing and preparing their report, the accountant has concluded that the taxpayer's reasonably expected basis is different from the amount reflected in the Carryover Allocation agreement, then the accountant's report should reflect the taxpayer's reasonably expected basis as of the time the report is being prepared;

(2) Any conditions of the Commitment or Real Estate Analysis underwriting report due at the time of 10% Test submission;

(3) Evidence that the Development Owner has purchased, transferred, leased, or otherwise has ownership of the Development Site [and a current title policy](#). The Development Site must be identical to the Development Site that was submitted at the time of Application submission. For purposes of this paragraph, any changes to the Development Site acreage between Application and 10% Test must be addressed by written explanation or, as appropriate, in accordance with §10.405 of this subchapter (relating to Amendments and Extensions);

(4) A current survey or plat of the Development Site, prepared and certified by a duly licensed Texas Registered Professional Land Surveyor. The survey or plat must clearly delineate the flood plain boundary lines and show all easements and encroachments;

(5) For New Construction, Reconstruction, and Adaptive Reuse Developments, a certification from a Third Party civil engineer or architect stating that all necessary utilities will be available at the Development Site and that there are no easements, licenses, royalties, or other conditions on or affecting the Development that would materially or adversely impact the ability to acquire, develop, and operate as set forth in the Application. Copies of supporting documents may be required by the Department;

(6) For the Development Owner and on-site or regional property manager, training certificate(s) from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager attended and passed at least five hours of Fair Housing training. For architects and engineers, training certificate(s) from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineers responsible for certifying compliance with the Department's accessibility and construction standards has attended and passed at least five hours of Fair Housing training. Certifications required

under this paragraph must not be older than two years from the date of submission of the 10% Test Documentation, and must verify that all parts or phases of the offered training have been completed; two certificates supplied for the same part or phase of an offered training will not be counted towards the five hour required minimum, even if they were attended on different dates; and

(7) A Certification from the lender and syndicator identifying all known Guarantors. If identified Guarantors have changed from the Guarantors or Principals identified at the time of Application, a non-material amendment may be required in accordance with §10.405 of this subchapter (relating to Amendments and Extensions), and the new Guarantors or Principals must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(h) Construction Status Report (All Multifamily Developments). All multifamily developments must submit a construction status report. Construction status reports shall be due by the tenth day of the month following each reporting quarter's end (January, April, July, and October) and continue on a quarterly basis until the entire Development is complete as evidenced by one of the following: Certificates of occupancy for each building, the Architect's Certificate(s) of Substantial Completion (AIA Document G704 or equivalent form) for the entire Development, the final Application and Certificate for Payment (AIA Document G702 and G703), or an equivalent form approved for submission by the construction lender and/or investor. For Competitive Housing Tax Credit Developments, the initial report must be submitted no later than October 10th following the year of award (this includes Developments funded with HTC and TDHCA Multifamily Direct Loans), and for Developments awarded under the Department's Multifamily Direct Loan programs only, the initial report must be submitted 90 calendar days after loan closing. For Tax Exempt Bond Developments, the initial construction status report must be submitted as part of the Post Bond Closing Documentation due no later than 60 calendar days following closing on the bonds ~~as described in §10.402(e) of this section (relating to Post Bond Closing Documentation Requirements)~~. The initial report for all multifamily Developments shall consist of the items identified in paragraphs (1) - (6) of this subsection, unless stated otherwise. All subsequent reports shall contain items identified in paragraphs (4) - (6) of this paragraph and must include any changes or amendments to items in paragraphs (1) - (3) if applicable:

(1) The executed partnership agreement with the investor or, for Developments receiving an award only from the Department's Direct Loan Programs, other documents setting forth the legal structure and ownership. If identified Guarantors or Principals of a Guarantor entity were not already identified as a Principal of the Owner, Developer, or Guarantor at the time of Application, a non-material amendment must be requested in accordance with §10.405 of this subchapter, and the new Guarantors and all of its Principals, as applicable, must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee);

(2) The executed construction contract for the General Contractor, prime subcontractor(s) and Affiliates or Related Party subcontractor(s);

(3) The construction loan agreement. If the loan has not closed, the anticipated closing date must be provided and, upon closing, the agreement must be provided to the Department;

(4) The most recent Application and Certificate for Payment (AIA Document G702 and G703) certified by the Architect of Record (or equivalent form approved for submission by the construction lender and/or investor) for the General Contractor, prime subcontractor(s) and Affiliates or Related

Party subcontractor(s); ~~and~~

(5) All Third Party construction inspection reports not previously submitted. If the lender and/or investor does not require third party construction inspection reports, the Development Owner must hire a third party inspector to perform these inspections on a quarterly basis and submit the reports to the Department. Third Party construction inspection reports must include, at a minimum, a discussion of site conditions as of the date of the site visit, current photographs of the construction site and exterior and interior of buildings, an estimated percentage of construction completion as of the date of the site visit, identification of construction delays and other relevant progress issues, if any, and the anticipated construction completion date; and

(6) Minority Owned Business Report (HTC only) showing the attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as required and further described in Tex. Gov't Code §2306.6734.

(~~ic~~) LURA Origination.

(1) The Development Owner must request origination of the HTC LURA as directed in the Post Award Activities Manual. The Department will draft a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to specific commitments to provide tenant services, to lease to Persons with Disabilities, and/or to provide specific amenities. After origination, the Department executed LURA and all exhibits and addendums will be sent to the Development Owner to execute and record in the real property records for the county in which the Development is located. A copy of the fully executed, recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no Housing Tax Credits are allowed to be issued for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period. Nothing in this section negates a Development Owner's responsibility for full compliance with §42(h)(6) of the Code. The Department will not issue IRS Form(s) 8609 until it receives a copy of the fully executed, recorded LURA.

(2) LURAs for Direct Loan awardees will be prepared by the Department's Legal Division and executed at loan closing.

(~~jd~~) Cost Certification (Competitive and Non-Competitive HTC, and related activities only). The Department conducts a feasibility analysis in accordance with §42(m)(2)(C)(i)(III) of the Code and Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) to make a final determination on the allocation of Housing Tax Credits. For Non-Competitive HTC Developments, the amount of tax credits reflected in the IRS Form(s) 8609 may be greater or less than the amount set forth in the Determination Notice based upon the Department's determination as of each building's placement in service. Any increase of tax credits will only be permitted if it is determined necessary by the Department, as required by §42(m)(2)(D) of the Code through the submission of the Cost Certification package. Increases to the amount of tax credits that exceed 120% of the amount of credits reflected in the Determination Notice must be approved by the Board. Increases to the amount of tax credits that do not exceed 120% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director or designee. All credit increases are subject to the Tax-Exempt Bond Credit Increase Request Fee as described in Chapter 11, Subchapter E of this Part (relating to Fee Schedule, Appeals, and other Provisions). The

requirements for cost certification include those identified in paragraphs (1) - (3) of this subsection.

(1) Development Owners must file cost certification documentation no later than January 15 following the first year of the Credit Period, as defined in §42(f)(1) of the Code.

(2) The Department will evaluate the cost certification documentation and notify the Development Owner of any additional required documentation needed to complete the review. The Department reserves the right to request additional documents or certifications as it deems necessary or useful in the determination of the Development's eligibility for a final Housing Tax Credit allocation amount. Any communication issued to the Development Owner pertaining to the cost certification documentation may also be sent to the syndicator.

(3) IRS Form(s) 8609 will not be issued until the conditions as stated in subparagraphs (A) - (G) of this paragraph have been met. The Development Owner has:

(A) Provided evidence that all buildings in the Development have been placed in service by:

(i) December 31 of the year the Commitment was issued;

(ii) December 31 of the second year following the year the Carryover Allocation Agreement was executed; or

(iii) the approved Placed in Service deadline;

(B) Provided a complete final cost certification package in the format prescribed by the Department. As used herein, a complete final cost certification package means a package that meets all of the Department's criteria with all required information and exhibits listed in clauses (i) - (xxxiv) of this subparagraph, and pursuant to the Post Award Activities Manual. If any item on this list is determined to be unclear, deficient, or inconsistent with the cost certification review completed by the Department, a Request for Information (RFI) will be sent to the Development Owner.

Requirements include:

(i) Owner's signed and notarized Statement of Certification verifying the CPA firm's licenses and validity, including any restrictions;

(ii) Owner Summary & Organization Charts for the Owner, Developer, and Guarantors;

(iii) Evidence of Qualified Nonprofit or CHDO Participation;

(iv) Certification and evidence of Historically Underutilized Business (HUB) Participation;

(v) Development Team List;

(vi) Development Summary with Architect's Certification;

(vii) Development Change Documentation;

(viii) As Built Survey;

(ix) A copy of the fully executed Closing Statement for each parcel of land and/or buildings

purchased and included in the Development;

(x) Development Owner's Title Policy for the Development;

(xi) Title Policy Update;

(xii) Placement in Service;

(xiii) Evidence of Placement in Service;

(xiv) Architect's Certification of Completion Date and Date Ready for Occupancy (for Developments located in areas where Certificates of Occupancy (COs) are not issued by a local government or rehabilitation Developments that cannot provide COs);

(xv) Auditor's Certification of Acquisition/Rehabilitation Placement in Service Election;

(xvi) Independent Auditor's Report;

(xvii) Independent Auditor's Report of Bond Financing;

(xviii) Development Cost Schedule;

(xix) Contractor's Application for Final Payment (G702/G703) for the General Contractor, all prime subcontractors, Affiliated Contractors, and Related Party Contractors;

(xx) Additional Documentation of Offsite Costs;

(xxi) Rent Schedule;

(xxii) Utility Allowances;

(xxiii) Annual Operating Expenses;

(xxiv) 30 Year Rental Housing Operating Pro Forma;

(xxv) Current Operating Statement in the form of a trailing twelve month statement;

(xxvi) Current Rent Roll;

(xxvii) Summary of Sources and Uses of Funds;

(xxviii) Final Limited Partnership Agreement with all amendments and exhibits;

(xxix) All Loan Agreements and Promissory Notes (except for Agreements and Notes issued directly by the Department);

(xxx) Architect's Certification of Accessibility Requirements;

(xxxi) Development Owner Assignment of Individual to Compliance Training;

(xxxii) TDHCA Compliance Training Certificate (not older than two years from the date of cost certification submission);

(xxxiii) TDHCA Final Inspection Clearance Letter or evidence of submitted final inspection request to the Compliance Division (IRS Form(s) 8609 will not be issued without a TDHCA Final Inspection Clearance Letter); [and](#)

~~(xxxiv) As required by 24 CFR §93.406(b) and the Multifamily Direct Loan Rule §13.11 (relating to Post-Award Requirements), for NHTF Developments layered with HTCs, a separate, additional cost certification form completed by an independent, licensed, certified public accountant of all Development costs (including project costs), subject to the conditions and limitations set forth in the executed Direct Loan Contract; and~~

(xxxiv) Other Documentation as Required, including but not limited to conditions to be satisfied at cost certification as reflected in the Development's latest Underwriting Report;

(C) Informed the Department of and received written approval for all amendments, extensions, and changes in ownership relating to the Development in accordance with §10.405 of this subchapter (relating to Amendments and Extensions) and §10.406 of this subchapter (relating to Ownership Transfers (§2306.6713));

(D) Paid all applicable Department fees, including any past due fees;

(E) Met all conditions noted in the Department underwriting report, Determination Notice, and Commitment;

(F) Corrected all issues of noncompliance, including but not limited to noncompliance status with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for the subject Development, as described in this chapter. Developments in the corrective action period and/or with any uncorrected issues of noncompliance outside of the corrective action period will not be issued IRS Form(s) 8609s until all events of noncompliance are corrected or otherwise approved by the Executive Director or designee; [and](#)

(G) Completed an updated underwriting evaluation in accordance with Chapter 11, Subchapter D of this ~~title~~[Part](#) based on the most current information at the time of the review.

#### [§10.402 Housing Tax Credit and Tax Exempt Bond Developments Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants, or HUD Riders to Restrictive Covenants](#)

[\(a\) Requests for Subordination Agreements, HUD Amendments to Restrictive Covenants or HUD Riders to Restrictive Covenants from the Department must be reviewed and approved by the Department's Asset Management Division and Legal Division prior to execution. The Development Owner must demonstrate that the Development will remain feasible with the proposed new debt. For HTC Developments seeking to refinance within two years from the issuance of the IRS Form\(s\) 8609, a review of the Development's cost certification will be conducted to determine if the change in the financing structure would have affected the credit award. If it is determined that the change to the financing structure, net of additional costs associated with the refinance, would have resulted in over sourcing the Development, thereby resulting in an adjustment to the credit award, the Development Owner may be required to fund a Special Reserve Account in accordance with](#)

§10.404 of this subchapter and in an amount as allowed under §11.302(e)(12) of Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy). Approval from the Board will be required for loan amounts that would cause the Developments to be over-sourced after accounting for the additional costs associated with the refinance and the deposit into the Special Reserve Account. Subordinations or re-subordinations of Developments with Direct Loans from the Department are also subject to the requirements under §13.13(c)(2) of Chapter 13 of this title (relating to Multifamily Direct Loan Rule) and Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy), including but not limited to §11.302(g)(4).

(b) All requests must include:

(1) Requested document on Department approved template, if available, and completed with the Development specific information;

(2) Documentation such as a loan commitment or application that identifies the proposed loan amount and terms;

(3) If the proposed legal description is different from the legal description in the Department's regulatory agreement, a survey, title commitment, or recorded plat that agrees with the legal description in the requested document. Changes to the Development Site may be subject to further review and approval under §10.405 of this Subchapter (relating to Amendments and Extensions); and

(4) Development's most recent 12-month trailing operating statement. If the financial statement indicates that the proposed new debt cannot be supported by the Development, the Development Owner must submit an operating pro forma and a written explanation for the differences from the actual performance of the Development.

### **§10.403 Review of Annual HOME, NSP, TCAP-RF, and National Housing Trust Fund Rents**

(a) Applicability. For participants of the Department's Multifamily HOME and NSP Direct Loan program, where Commitment of Funds occurred on or after August 23, 2013, the Department is required by 24 CFR §92.252(f) and for all National Housing Trust Fund (NHTF) participants recipients by 24 CFR §93.302(c)(2), to review and approve or disapprove HOME/NSP/NHTF rents on an annual basis. The Department is also required by 24 CFR §92.219 and §92.252(d)(2) to approve rents where Multifamily Direct Loan funds (including TCAP-RF) are used as HOME match. Development Owners must submit documentation for the review of HOME/NSP/NHTF/TCAP-RF rents by no later than July 1st of each year as further described in the Post Award Activities Manual.

(b) Documentation for Review. The Department will furnish a rent approval request packet for this purpose that will include a request for Development information and an Owner's proposed rent schedule and will require submission of a current rent roll ~~or unit status report~~, the most recent 12-month operating statement for the Development, a copy of information used to determine gross Direct Loan rents, and utility allowance information. The Department may request additional documentation to perform a determination, as needed, including but not limited to annual operating statements, market surveys, or other information related to determining whether rents are sufficient to maintain the financial viability of a project or are in compliance with maximum rent limits.



(c) Review Process. Rents will be approved or disapproved within 30 days of receipt of all items required to be submitted by the Development Owner, and will be issued in the form of a signed letter from the Asset Management Division. Development Owners must keep copies of all approval letters on file at the Development site to be reviewed at the time of Compliance Monitoring reviews.

(d) Compliance. Development Owners for whom this section is applicable are subject to compliance under §10.622 of this chapter (relating to Special Rules Regarding Rents and Limit Violations) and may be subject to penalties under §10.625 of this chapter (relating to Events of Noncompliance). Approval of rents by the Asset Management Division will be limited to a review of the documentation submitted and will not guarantee compliance with the Department's rules or otherwise absolve an Owner of any past, current, or future non-compliance related to Department rules, guidance, Compliance Monitoring visits, or any other rules or guidance to which the Development or its Owner may be subject.

#### **§10.404 Reserve Accounts**

(a) Replacement Reserve Account (§2306.186). The Department will require Development Owners to provide regular maintenance to keep housing sanitary, safe and decent by establishing and maintaining a reserve for replacement account for the Development in accordance with Tex. Gov't Code, §2306.186. The reserve account must be established, in accordance with paragraphs (3) - (6) of this subsection, and maintained through annual or more frequent regularly scheduled deposits, for each Unit in a Development of 25 or more rental Units regardless of the amount of rent charged for the Unit. If the Department is processing a request for loan modification or other request under this subchapter and the Development does not have an existing replacement reserve account or sufficient funds in the reserve to meet future capital expenditure needs of the Development as determined by a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in this section, or as indicated by the number or cost of repairs included in a third party Physical Needs Assessment (PNA), the Development Owner will be required to establish and maintain a replacement reserve account or review whether the amount of regular deposits to the replacement reserve account can be increased, regardless of the number of Units at the Development. The Department shall, through cooperation of its divisions responsible for asset management and compliance, ensure compliance with this section. The duties of the Development Owner under this section cease on the date of a change in ownership of the Development; however, the subsequent Development Owner of the Development is subject to the requirements of this section and any additional or revised requirements the Department may impose after reviewing a Development's compliance history, a PNA submitted by the Owner, or the amount of reserves that will be transferred at the time of any property sale.

(1) The LURA requires the Development Owner to begin making annual deposits to the replacement reserve account on the later of the:

(A) Date that occupancy of the Development stabilizes as defined by the First Lien Lender or, in the absence of a First Lien Lender other than the Department, the date the Property is at least 90% occupied; or

(B) The date when the permanent loan is executed and funded.

(2) The Development Owner shall continue making deposits into the replacement reserve account until the earliest of the:

(A) Date on which the owner suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored;

(B) Date on which the Development is demolished;

(C) Date on which the Development ceases to be used as a multifamily rental property; or

(D) End of the Affordability Period specified by the LURA, or if an Affordability Period is not specified and the Department is the First Lien Lender, then when the Department's loan has been fully repaid or as otherwise agreed by the Owner and Department.

(3) If the Department is the First Lien Lender with respect to the Development or if the establishment of a Reserve Account for repairs has not been required by the First Lien Lender or Bank Trustee, each Development Owner receiving Department assistance for multifamily rental housing shall deposit annually into a separate, Development-specific Reserve Account through the date described in paragraph (2) of this subsection as follows:

(A) For New Construction and Reconstruction Developments, not less than \$250 per Unit. Withdrawals from such account will be restricted for up to five years following the date of award except in cases in which written approval from the Department is obtained relating to casualty loss, natural disaster, reasonable accommodations, or demonstrated financial hardship (but not for the construction standards required by the NOFA or program regulations); or

(B) For Adaptive Reuse; and Rehabilitation and Reconstruction Developments, the greater of the amount per Unit per year either established by the information presented in a Scope and Cost Review in conformance with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) or \$300 per Unit per year.

(4) For all Developments, a PNA must be conducted at intervals that are consistent with requirements of the First Lien Lender, other than the Department. If the Department is the First Lien Lender, or the First Lien Lender does not require a Third Party PNA, a PNA must be conducted at least once during each ~~five-year~~five-year period beginning with the 11th year after the awarding of any financial assistance from the Department. PNAs conducted by the Owner at any time or for any reason other than as required by the Department in the year beginning with the 11th year of award must be submitted to the Department for review within 30 days of receipt by the Owner.

(5) Where there is a First Lien Lender other than the Department or a Bank Trustee as a result of a bond trust indenture or tax credit syndication, the Development Owner shall comply with the lesser of the replacement reserve requirements of the First Lien Lender or the requirements in paragraph (3) of this subsection. In addition, the Department should be listed as a party to receive notice under any replacement reserve agreement entered into by the Development Owner. The Development Owner shall submit on an annual basis, within the Department's required Development Owner's Financial Certification packet, requested information regarding:

(A) The reserve for replacement requirements under the first lien loan agreement (if applicable) referencing where those requirements are contained within the loan documents;

(B) Compliance with the first lien lender requirements outlined in subparagraph (A) of this paragraph;

(C) If the Owner is not in compliance with the lender requirements, the Development Owner's plan of action to bring the Development in compliance with all established reserve for replacement requirements; and

(D) Whether a PNA has been ordered and the Owner's plans for any subsequent capital expenditures, renovations, repairs, or improvements.

(6) Where there is no First Lien Lender but the allocation of funds by the Department and Tex. Gov't Code, §2306.186 requires that the Department oversee a Reserve Account, the Development Owner shall provide at their sole expense an escrow agent acceptable to the Department to act as Bank Trustee as necessary under this section. The Department shall retain the right to replace the escrow agent with another Bank Trustee or act as escrow agent at a cost plus fee payable by the Development Owner due to breach of the escrow agent's responsibilities or otherwise with 30 days prior notice of all parties to the escrow agreement.

(7) Penalties and Non-Compliance. If the Development Owner fails to comply with the replacement reserve account requirements stated in this paragraph herein, and request for extension or waiver of these requirements is not approved by the Department, then a penalty of up to \$200 per dwelling Unit in the Development and/or characterization of the Development as being in default with this requirement, may be imposed. Causes include:

(A) A Reserve Account, as described in this section, has not been established for the Development;

(B) The Department is not a party to the escrow agreement for the Reserve Account, if required;

(C) Money in the Reserve Account:

(i) is used for expenses other than necessary repairs, including property taxes or insurance; or

(ii) falls below mandatory annual, monthly, or Department approved deposit levels;

(D) Development Owner fails to make any required deposits;

(E) Development Owner fails to obtain a Third-Party PNA as required under this section or submit a copy of a PNA to the Department within 30 days of receipt; or

(F) Development Owner fails to make necessary repairs in accordance with the Third Party PNA or §10.621 of this chapter (relating to Property Condition Standards).

(8) Department-Initiated Repairs. The Department or its agent may make repairs to the Development within 30 calendar days of written notice from the Department if the Development Owner fails to complete necessary repairs indicated in the submitted PNA or identified by Department physical inspection. Repairs may be deemed necessary if the Development Owner fails to comply with federal, state, and/or local health, safety, or building code requirements. Payment for necessary repairs must be made directly by the Development Owner or through a replacement Reserve Account established for the Development under this section. The Department or its agent will be allowed to produce a Request for Bids to hire a contractor to complete and oversee necessary repairs. In the event the circumstances identified in subparagraphs (A) or (B) of this paragraph occur, funds withdrawn must be replaced from Cash Flow after payment of Operating Expenses but before return to Development Owner or deferred Developer Fee until the mandatory deposit level is replenished.

The Department reserves the right to re-evaluate payments to the reserve, increase such payments or require a lump sum deposit to the reserve, or require the Owner to enter into a separate Reserve Agreement if necessary to protect the long term feasibility of the Development. On a case-by-case basis, the Department may determine that the money in the Reserve Account may be used for expenses other than necessary repairs, including property taxes or insurance, if:

(A) Development income before payment of return to Development Owner or deferred Developer Fee is insufficient to meet operating expense and debt service requirements; or

(B) Development income after payment of operating expenses, but before payment of return to Development Owner or deferred developer fee is insufficient to fund the mandatory deposit levels.

~~(C) In the event of subparagraph (A) or (B) of this paragraph, funds withdrawn must be replaced from Cash Flow after payment of Operating Expenses but before return to Development Owner or deferred Developer Fee until the mandatory deposit level is replenished. The Department reserves the right to re-evaluate payments to the reserve, increase such payments or require a lump sum deposit to the reserve, or require the Owner to enter into a separate Reserve Agreement if necessary to protect the long term feasibility of the Development.~~

(9) Exceptions to Replacement Reserve Account. This section does not apply to a Development for which the Development Owner is required to maintain a Reserve Account under any other provision of federal or state law.

(10) In the event of paragraph (7) or (8) of this subsection occurring, the Department reserves the right to require by separate Reserve Agreement a revised annual deposit amount and/or require Department concurrence for withdrawals from the Reserve Account to bring the Development back into compliance. Establishment of a new Bank Trustee or transfer of reserve funds to a new, separate and distinct account may be required if necessary to meet the requirements of such Agreement. The Agreement will be executed by the Department, Development Owner, and financial institution representative.

(b) Lease-up Reserve Account. A lease-up reserve funds start-up expenses in excess of the revenue produced by the Development prior to stabilization. The Department will consider a reasonable lease-up reserve account based on the documented requirements from a third-party lender, third-party syndicator, or the Department. During the underwriting at the point of the Cost Certification review, the lease-up reserve may be counted as a use of funds only to the extent that it represents operating shortfalls net of escrows for property taxes and property insurance. Funds from the lease-up reserve used to satisfy the funding requirements for other reserve accounts may not be included as a use of funds for the lease-up reserve. Funds from the lease-up reserve distributed or distributable as cash flow to the Development Owner will be considered and restricted as developer fee.

(c) Operating Reserve Account. At various stages during the application, award process, and during the operating life of a Development, the Department will conduct a financial analysis of the Development's total development costs and operating budgets, including the estimated operating reserve account deposit required. For example, this analysis typically occurs at application and cost certification review. The Department will consider a reasonable operating reserve account deposit in this analysis based on the needs of the Development and requirements of third-party lenders or investors. The amount used in the analysis will be the amount described in the project cost schedule or balance sheet, if it is within the range of two to six months of stabilized operating expenses plus debt service. The Department may consider a greater amount proposed or required by the

Department, any superior lien lender, or syndicator, if the detail for such greater amount is reasonable and well documented. Reasonable operating reserves in this chapter do not include capitalized asset management fees, guaranty reserves, or other similar costs. In no instance will operating reserves exceed 12 months of stabilized operating expenses plus debt service (exclusive of transferred replacement reserves for USDA or HUD financed rehabilitation transactions). Operating reserves are generally for the term of the permanent loan. In no instance will operating reserves released within five years be included as a cost.

(d) Special Reserve Account. If the funding program requires or allows for the establishment and maintenance of a Special Reserve Account for the purpose of assisting residents at the Development with expenses associated with their tenancy, this will be established in accordance with a written agreement with the Development Owner.

(1) The Special Reserve Account is funded through a one-time payment or annually through an agreed upon percentage of net cash flow generated by the Development, excess development funds at completion as determined by the Department, or as otherwise set forth in the written agreement. For the purpose of this account, net cash flow is defined as funds available from operations after all expenses and debt service required to be paid have been considered. This does not include a deduction for depreciation and amortization expense, deferred developer fee payment, or other payments made to Related Parties or Affiliates, except as allowed by the Department for property management. Proceeds from any refinancing or other fund raising from the Development will be considered net cash flow for purposes of funding the Special Reserve Account unless otherwise approved by the Department. [Deposits to a Special Reserve at cost certification will be limited in accordance with §11.302\(e\)\(12\) of this title \(relating to Underwriting Rules and Guidelines\)](#). The account will be structured to require Department concurrence for withdrawals.

(2) All disbursements from the account must be approved by the Department.

(3) The Development Owner will be responsible for setting up a separate and distinct account with a financial institution acceptable to the Department. A Special Reserve Account Agreement will be drafted by the Department and executed by the Department and the Development Owner.

(4) The Development Owner must make reasonable efforts to notify tenants of the existence of the Special Reserve Account and how to submit an application to access funds from the Special Reserve. Documentation of such efforts must be kept onsite and made available to the Department upon request.

(e) Other Reserve Accounts. Additional reserve accounts may be recognized by the Department as necessary and required by the Department, superior lien lender, or syndicator.

#### **§10.405 Amendments and Extensions**

(a) Amendments to Housing Tax Credit (HTC) Application or Award Prior to Land Use Restriction Agreement (LURA) recording or amendments that do not result in a change to the LURA (§2306.6712). The Department expects the Development Owner to construct or rehabilitate, operate, and own the Development consistent with the representations in the Application. The Department must receive notification of any amendments to the Application. Regardless of development stage, the Board shall re-evaluate a Development that undergoes a material change, as identified in paragraph (3) of this subsection at any time after the initial Board approval of the Development (§2306.6731(b)). The Board may deny an amendment request and subsequently may rescind any

Commitment or Determination Notice issued for an Application, and may reallocate the credits to other Applicants on the waiting list.

(1) Requesting an amendment. The Department shall require the Applicant to file a formal, written request for an amendment to the Application. Such request must include a detailed explanation of the amendment request and other information as determined to be necessary by the Department, and the applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule, [Appeals, and other Provisions](#)) in order to be received and processed by the Department. Department staff will evaluate the amendment request to determine if the change would affect an allocation of Housing Tax Credits by changing any item that received points, by significantly affecting the most recent underwriting analysis, or by materially altering the Development as further described in this subsection.

(2) Notification Items. The Department must be notified of the changes described in subparagraphs (A) - (F) of this paragraph. The changes identified are subject to staff agreement based on a review of the amendment request and any additional information or documentation requested. Notification items will be considered satisfied when an acknowledgment of the specific change(s) is received from the Department- [and include:](#)

(A) Changes to Development Site acreage required by the City or other local governmental authority, or changes resulting from survey discrepancies, as long as such change does not also result in a modification to the residential density of more than 5%;

(B) Minor modifications to the site plan that will not significantly impact development costs, including, but not limited to, relocation or rearrangement of buildings on the site (as long as the number of residential and non-residential buildings remains the same), and movement, addition, or deletion of ingress/egress to the site;

(C) Increases or decreases in net rentable square footage or common areas that do not result in a material amendment under paragraph (4) of this subsection;

(D) Changes in amenities that do not require a change to the recorded LURA and do not negatively impact scoring, including changes to outdated amenities that could be replaced by an amenity with equal benefit to the resident community;

(E) Changes in Developers or Guarantors (notifications for changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period are not required) with no new Principals (who were not previously checked by Previous Participation review that retain the natural person(s) used to meet the experience requirement in Chapter 11 of this title (relating to Qualified Allocation Plan)); and

(F) Any other amendment not identified in paragraphs (3) and (4) of this subsection.

(3) Non-material amendments. The Executive Director or designee may administratively approve all non-material amendments, including, but not limited to:

(A) Any amendment that is determined by staff to exceed the scope of notification acknowledgement, as identified in paragraph (2) of this subsection but not to rise to a material alteration, as identified in paragraph (4) of this subsection;

(B) Changes in the natural person(s) used to meet the experience requirement in Chapter 11, §11.204(6) of this title provided that an appropriate substitute has been approved by the Multifamily Division prior to receipt of the amendment request (relating to Required Documentation for Application Submission);

(C) Changes in Developers or Guarantors (excluding changes in Guarantors that are also the General Contractor or are only providing guaranties during the construction period) not addressed in §10.405(a)(2)(E). Changes in Developers or Guarantors will be subject to Previous Participation requirements as further described in Chapter 11 of this title and the credit limitation described in §11.4(a) of this title; and

(D) For Exchange Developments only, requests to change elections made on line 8(b) of the IRS Form(s) 8609 to group buildings together into one or more multiple building projects. The request must include an attached statement identifying the buildings in the project. The change to the election may only be made once during the Compliance Period.

(4) Material amendments. Amendments considered material pursuant to this paragraph ~~(4) of this subsection~~ must be approved by the Board. When an amendment request requires Board approval, the Development Owner must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting in which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting (§2306.6717(a)(4)). Material Amendment requests may be denied if the Board determines that the modification proposed in the amendment would materially alter the Development in a negative manner or would have adversely affected the selection of the Application in the Application Round. Material alteration of a Development includes, but is not limited to:

(A) A significant modification of the site plan;

(B) A modification of the number of Units or bedroom mix of Units;

(C) A substantive modification of the scope of tenant services;

(D) A reduction of 3% or more in the square footage of the Units or common areas;

(E) A significant modification of the architectural design of the Development;

(F) A modification of the residential density of at least 5%;

(G) A request to implement a revised election under §42(g) of the Code prior to filing of IRS Form(s) 8609;

(H) Exclusion of any requirements as identified in Chapter 11, Subchapter B of this title (relating to Site and Development Requirements and Restrictions) and Chapter 11, Subchapter C of this title (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules); or

(I) Any other modification considered material by the staff and therefore required to be presented to

the Board as such.

(5) Amendment requests will be denied if the Department finds that the request would have changed the scoring of an Application in the competitive process such that the Application would not have received a funding award or if the need for the proposed modification was reasonably foreseeable or preventable by the Applicant at the time the Application was submitted, unless good cause is found for the approval of the amendment.

(6) This section shall be administered in a manner that is consistent with §42 of the Code. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department before a request for amendment will be acted upon.

(7) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants identified in the Application and Credit Underwriting Analysis Report at the time of award and as approved by the Board, the procedure described in subparagraphs (A) and (B) of this paragraph will apply to the extent such request is not prohibited based on statutory and/or regulatory provisions:

(A) For amendments that involve a reduction in the total number of Low-Income Units, or a reduction in the number of Low-Income Units at any rent or income level, as approved by the Board, evidence noted in either clause (i) or (ii) of this subparagraph must be presented to the Department to support the amendment:

(i) In the event of a request to implement (rent to a household at an income or rent level that exceeds the approved AMI limits established by the minimum election within the Development's Application or LURA) a revised election under §42(g) of the Code prior to an Owner's submission of IRS Form(s) 8609 to the IRS, Owners must submit updated information and exhibits to the Application as required by the Department and all lenders and the syndicator must submit written acknowledgement that they are aware of the changes being requested and confirm any changes in terms as a result of the new election; or

(ii) For all other requests for reductions in the total number of Low-Income Units or reductions in the number of Low-Income Units at any rent or income level, prior to issuance of IRS Form(s) 8609 by the Department, the lender and syndicator must submit written confirmation that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request; however, any affirmative recommendation to the Board is contingent upon concurrence from Department staff that the Unit adjustment is necessary for the continued financial feasibility of the Development; and

(B) If it is determined by the Department that the loss of low-income targeting points would have resulted in the Application not receiving an award in the year of allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all Persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for 24 months from the time that the amendment is approved.

(b) Amendments to the LURA. Department approval shall be required for any amendment to a



LURA in accordance with this section. An amendment request shall be submitted in writing, containing a detailed explanation of the request, the reason the change is necessary, the good cause for the change, financial information related to any financial impact on the Development, information related to whether the necessity of the amendment was reasonably foreseeable at the time of application, and other information as determined to be necessary by the Department, along with any applicable fee as identified in Chapter 11, Subchapter E of this title (relating to Fee Schedule, Appeals, and other Provisions). The Department may order or require the Development Owner to order a Market Study or appraisal at the Development Owner's expense. If a Development has any uncorrected issues of noncompliance outside of the corrective action period (other than the provision being amended) or otherwise owes fees to the Department, such non-compliance or outstanding payment must be resolved to the satisfaction of the Department, before a request for amendment will be acted upon. The Department will not approve changes that would violate state or federal laws including the requirements of §42 of the Code, 24 CFR Part 92 (HOME Final Rule), 24 CFR Part 93 (NHTF Interim Rule), Chapter 1 of this title (relating to Administrative Requirements), Chapter 11 of this title (relating to Qualified Allocation Plan), Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules), Chapter 13 of this title (relating to Multifamily Direct Loan Rule), Tex. Gov't Code, Chapter 2306, and the Fair Housing Act. For Tax-Exempt Bond Developments, compliance with their Regulatory Agreement and corresponding bond financing documents. Prior to staff taking a recommendation to the Board for consideration, the procedures described in paragraph (3) of this subsection must be followed.

(1) Non-Material LURA Amendments. The Executive Director or designee may administratively approve all LURA amendments not defined as Material LURA Amendments pursuant to paragraph (2) of this subsection. A non-material LURA amendment may include but is not limited to:

(A) HUB participation removal. Removal of a HUB participation requirement will only be processed as a non-material LURA amendment after the issuance of IRS Form(s) 8609s and requires that the Department find that:

(i) the HUB is requesting removal of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

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

(iii) where the HUB will be replaced as a general partner or special limited partner that is not a HUB and will sell its ownership interest, an ownership transfer request must be submitted as described in §10.406 of this subchapter;

(B) A change resulting from a Department work out arrangement as recommended by the Department's Asset Management Division;

(C) A change in the Right of First Refusal period as described in amended §2306.6726 of the Tex. Gov't Code;

(D) Where the Board has approved a de minimis modification of the Unit Mix or bedroom mix of Units to increase the Development's accessibility; or

(~~E~~) A correction of error.

(2) Material LURA Amendments. Development Owners seeking LURA amendment requests that require Board approval must submit the request and all required documentation necessary for staff's review of the request to the Department at least 45 calendar days prior to the Board meeting at which the amendment is anticipated to be considered. Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting. (§2306.6717(a)(4)). The Board must consider the following material LURA amendments:

(A) Reductions to the number of Low-Income Units;

(B) Changes to the income or rent restrictions;

(C) Changes to the Target Population;

(D) The removal of material participation by a Nonprofit Organization as further described in §10.406 of this subchapter;

(E) The removal of material participation by a HUB prior to filing of IRS Form(s) 8609;

~~(E) A change in the Right of First Refusal period as described in amended §2306.6726 of the Tex. Gov't Code;~~

(F) Any amendment that affects a right enforceable by a tenant or other third party under the LURA; or

(G) Any LURA amendment deemed material by the Executive Director.

(3) Prior to staff taking a recommendation to the Board for consideration, the Development Owner must provide notice and hold a public hearing regarding the requested amendment(s) at least ~~15-20~~ business days prior to the scheduled Board meeting where the request will be considered. Development Owners will be required to submit a copy of the notification with the amendment request. If a LURA amendment is requested prior to issuance of IRS Form(s) 8609 by the Department, notification must be provided to the recipients described in subparagraphs (A) - (E) of this paragraph. If an amendment is requested after issuance of IRS Form(s) 8609 by the Department, notification must be provided to the recipients described in subparagraph (A) - (B) of this paragraph.

Notifications include:

(A) Each tenant of the Development;

(B) The current lender(s) and investor(s);

(C) The State Senator and State Representative of the districts whose boundaries include the Development Site;

(D) The chief elected official for the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction); and

(E) The county commissioners of the county in which the Development Site is located (if the Development Site is located outside of a municipality).

(4) Contents of Notification. The notification must include, at a minimum, all of the information described in subparagraphs (A) - (D) of this paragraph:-

(A) The Development Owner's name, address and an individual contact name and phone number;

(B) The Development's name, address, and city;

(C) The change(s) requested; and

(D) The date, time and location of the public hearing where the change(s) will be discussed.

(5) Verification of public hearing. Minutes of the public hearing and attendance sheet must be submitted to the Department within three business days after the date of the public hearing.

(6) Approval. Once the LURA Amendment has been approved administratively or by the Board, as applicable, Department staff will provide the Development Owner with a LURA amendment for execution and recording in the county where the Development is located.

(c) HTC Extensions. Extensions must be requested if the original deadline associated with Carryover, the 10% Test (including submission and expenditure deadlines), construction status reports, or cost certification requirements will not be met. Extension requests submitted at least 30 calendar days in advance of the applicable deadline will not be required to submit an extension fee as described in §11.901 of this title. Any extension request submitted fewer than 30 days in advance of the applicable deadline or after the applicable deadline will not be processed unless accompanied by the applicable fee. Extension requests will be approved by the Executive Director or designee, unless, at staff's discretion it warrants Board approval due to extenuating circumstances stated in the request. The extension request must specify a requested extension date and the reason why such an extension is required. If the Development Owner is requesting an extension to the Carryover submission or 10% Test deadline(s), a point deduction evaluation will be completed in accordance with Tex. Gov't Code, §2306.6710(b)(2), and §11.9(f) of this title (relating to Factors Affecting Scoring and Eligibility in current and future Application Rounds). Therefore, the Development Owner must clearly describe in their request for an extension how the need for the extension was beyond the reasonable control of the Applicant/Development Owner and could not have been reasonably anticipated. Carryover extension requests will not be granted an extended deadline later than December 1st of the year the Commitment was issued.

#### **§10.406 Ownership Transfers (§2306.6713)**

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

(b) Exceptions. The ~~following~~ exceptions to the ownership transfer process in this subsection are applicable. outlined herein apply:-

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

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

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

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

(c) General Requirements.

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

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

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

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

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

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

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

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

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package.

(3) Exceptions to paragraphs (1) and (2) of this subsection may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this subchapter. The Board must find that:

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

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

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

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

8609 is subject to the procedure described in §10.405(b)(2) of this Chapter (relating to Material LURA Amendments).

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

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

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

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)([AB](#)) of Subchapter C of this title (relating to Required Documentation for Application Submission);

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

(5) Previous Participation information for any new Principal as described in §11.204(13)([BC](#)) of this title (relating to Required Documentation for Application Submission);

(6) Agreements among parties associated with the transfer;

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

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

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

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

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

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

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

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

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing Requirements and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this section (relating to Reserve Accounts).

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

### **§10.407 Right of First Refusal**

(a) General. This section applies to Development Owners that agreed to offer a Right of First Refusal (ROFR) to a Qualified Entity or as applicable a Qualified Nonprofit Organization, as memorialized in the applicable LURA. For the purposes of this section, a Qualified Nonprofit Organization also includes an entity 100% owned by a Qualified Nonprofit Organization pursuant to §42(h)(5)(C) of the Code and operated in a similar manner. The purpose of this section is to provide administrative procedures and guidance on the process and valuation of properties under the LURA. All requests for ROFR submitted to the Department, regardless of existing regulations, must adhere to this process.

(1) The Development Owner may market the Property for sale and enter into an agreement to sell the Property to a Qualified Entity, or as applicable a Qualified Nonprofit Organization without going through the ROFR process outlined in this section, unless otherwise restricted or prohibited and only in the following circumstances:

(A) The LURA includes a 90-day ROFR and the Development Owner is selling to a Qualified Nonprofit Organization;

(B) The LURA includes a ~~two-year~~two-year ROFR and the Development Owner is selling to a Qualified Nonprofit Organization that meets the definition of a Community Housing Development Organization (CHDO) under 24 CFR Part 92, as approved by the Department; or

(C) The LURA includes a 180-day ROFR, and the Development Owner is selling to a Qualified Entity that meets the definition of a CHDO under 24 CFR Part 92, or that is controlled by a CHDO, as approved by the Department. ~~Where the Development Owner is not required to go through the ROFR process, it must go through the ownership transfer process in accordance with §10.406 of this subchapter.~~

(2) A ROFR request must be made in accordance with the LURA for the Development. If there is a conflict between the Development's LURA and this subchapter, every effort will be made to harmonize the provisions. If the conflict cannot be resolved, requirements in the LURA will supersede this subchapter. If there is a conflict between the Development's LURA and Tex. Gov't Code Chapter 2306, every effort will be made to harmonize the provisions. A Development Owner may request a LURA amendment to make the ROFR provisions in the LURA consistent with Tex. Gov't Code Chapter 2306 at any time.

(3) If a LURA includes the ROFR provision, the Development Owner may not request a Preliminary Qualified Contract (if such opportunity is available under the applicable LURA and §10.408 of this Subchapter) until the requirements outlined in this section have been satisfied.

(4) The Department reviews and approves all ownership transfers pursuant to §10.406 of this subchapter. Thus, if a proposed purchaser is identified by the Owner in accordance with paragraph (1) of this subsection or in the ROFR process, the Development Owner and proposed purchaser must complete the ownership transfer process. A Development Owner may not transfer a Development to a Qualified Nonprofit Organization or Qualified Entity that is considered an ineligible entity under the Department's rules. In addition, ownership transfers to a Qualified Entity or as applicable a Qualified Nonprofit Organization pursuant to the ROFR process are subject to Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(5) Satisfying the ROFR requirement does not terminate the LURA or the ongoing application of the ROFR requirement to any subsequent Development Owner.

(6) If there are multiple buildings in the Development, the end of the 15th year of the Compliance Period will be based upon the date the last building(s) began their credit period(s). For example, if five buildings in the Development began their credit periods in ~~2005-2007~~ and one in ~~2006~~2008, the 15th year would be ~~2020~~2022. The ROFR process is triggered upon:

(A) The Development Owner's determination to sell the Development to an entity other than as permitted in paragraph (1) of this subsection; or

(B) The simultaneous transfer or concurrent offering for sale of a General Partner's and limited partner's interest in the Development Owner's ownership structure.

(7) The ROFR process is not triggered if a Development Owner seeks to transfer the Development to a newly formed entity:

(A) That is under common control with the Development Owner; and

(B) The primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the Development using assistance administered through a state financing program.



(8) This section applies only to a Right of First Refusal memorialized in the Department's LURA. This section does not authorize a modification of any other agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity. The enforceability of a contractual agreement between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity may be impacted by the Development Owner's commitments at Application and recorded LURA.

(b) Right of First Refusal Offer Price. There are two general expectations of the ROFR offer price identified in the outstanding LURAs. The descriptions in paragraphs (1) and (2) of this subsection do not alter the requirements or definitions included in the LURA but provide further clarification as applicable:

(1) Fair Market Value is established using either a current appraisal (completed within three months prior to the ROFR request and in accordance with §11.304 of this title (relating to Appraisal Rules and Guidelines)) of the Property or an executed purchase offer that the Development Owner would like to accept. In either case the documentation used to establish Fair Market Value will be part of the ROFR property listing on the Department's website. The purchase offer must contain specific language that the offer is conditioned upon satisfaction of the ROFR requirement. If a subsequent ROFR request is made within six months of the previously approved ROFR posting, the lesser of the prior ROFR posted value or new appraisal/purchase contract amount must be used in establishing Fair Market Value;

(2) Minimum Purchase Price, pursuant to §42(i)(7)(B) of the Code, is the sum of the categories listed in subparagraphs (A) and (B) of this paragraph:

(A) The principal amount of outstanding indebtedness secured by the project (other than indebtedness incurred within the five year period immediately preceding the date of said notice); and

(B) All federal, state, and local taxes incurred or payable by the Development Owner as a consequence of such sale. If the Property has a minimum Applicable Fraction of less than one, the offer must take this into account by multiplying the purchase price by the applicable fraction and the fair market value of the non-Low-Income Units. Documentation submitted to verify the Minimum Purchase Price calculation will be part of the ROFR property listing on the Department's website.

(c) Required Documentation. Upon establishing the ROFR offer price, the ROFR process is the same for all types of LURAs. To proceed with the ROFR request, documentation must be submitted as directed in the Post Award Activities Manual, which includes:

(1) ROFR fee as identified in §11.901 of this title (relating to Fee Schedule, ~~Appeals, and other Provisions~~);

(2) A notice of intent to the Department;

(3) Certification that the Development Owner has provided, to the best of their knowledge and ability, a notice of intent to all additional required persons and entities in subparagraph (A) of this paragraph and that such notice includes, at a minimum the information in subparagraph (B) of this paragraph;

(A) Copies of the letters or emailed notices provided to all persons and entities listed in clauses (i) to (vi) of this subparagraph as required by this paragraph as described above and applicable to the

Development at the time of the submission of the ROFR documentation must be attached to the Certification:

- (i) All tenants and tenant organizations, if any, of the Development;
- (ii) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);
- (iii) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
- (iv) Presiding officer of the Governing Body of the county in which the Development is located;
- (v) The local housing authority, if any; and
- (vi) All ~~qualified buyers~~prospective buyers maintained on the Department's list of ~~qualified buyers~~prospective buyers.

(B) Letters must include, at a minimum, all of the information required in clauses (i) to (vii) of this subparagraph and must not contain any statement that violates Department rules, statute, Code, or federal requirements:

- (i) The Development's name, address, city, and county;
- (ii) The Development Owner's name, address, individual contact name, phone number, and email address;
- (iii) Information about tenants' rights to purchase the Development through the ROFR;
- (iv) The ~~date that the~~length of the ROFR ~~notice-posting~~ period~~-expires~~;
- (v) The ROFR offer price;
- (vi) A physical description of the Development, including the total number of Units and total number of Low-Income Units; and
- (vii) Contact information for the Department staff overseeing the Development's ROFR application.

(4) Documentation evidencing any contractual ROFR between the Development Owner and a Qualified Nonprofit Organization or Qualified Entity, along with evidence that such Qualified Nonprofit Organization or Qualified Entity is in good standing in the state of its organization;

(5) Documentation verifying the ROFR offer price of the Property:

(A) If the Development Owner receives an offer to purchase the Property from any buyer other than a Qualified Entity or Qualified Nonprofit Organization that the Development Owner would like to accept, the Development Owner may execute a sales contract, conditioned upon satisfaction of the ROFR requirement, and submit the executed sales contract to establish fair market value; or

(B) If the Development Owner ~~of the Property~~ chooses to establish fair market value using an

appraisal, the Development Owner must submit an appraisal of the Property completed during the last three months prior to the date of submission of the ROFR request, establishing a value for the Property in compliance with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) in effect at the time of the request. The appraisal should take into account the existing and continuing requirements to operate the Property under the LURA and any other restrictions that may exist. Department staff will review all materials within 30 calendar days of receipt. If, after the review, the Department does not agree with the fair market value proposed in the Development Owner's appraisal, the Department may order another appraisal at the Development Owner's expense; or

(C) If the LURA requires valuation through the Minimum Purchase Price calculation, submit documentation verifying the calculation of the Minimum Purchase Price as described in subsection (b)(2) of this section regardless of any existing offer or appraised value;

(6) Description of the Property, including all amenities ~~and current zoning requirements~~;

(7) Copies of all documents imposing income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Property;

(8) A current title commitment or policy not older than six months prior to the date of submission of the ROFR request or the most recent title policy along with a title endorsement or nothing further certificate not older than six months prior to the date of submission of the ROFR request;

(9) The most recent Physical Needs Assessment, pursuant to Tex. Gov't Code §2306.186(e) conducted by a Third-Party. If the PNA/SCR identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to proceed with a Right of First Refusal Request;

(10) Copy of the monthly operating statements, including income statements and balance sheets for the Property for the most recent 12 consecutive months (financial statements should identify amounts held in reserves);

(11) The three most recent consecutive annual operating statements (audited would be preferred);

(12) Detailed set of photographs of the Property, including interior and exterior of representative units and buildings, and the Property's grounds;

(13) Current and complete rent roll for the ~~entire~~ Property; and

(14) If any portion of the land or improvements is leased for other than residential purposes, copies of the commercial leases.

(d) Posting and offers. Within 30 business days of receipt of all required documentation, the Department will review the submitted documents and notify the Development Owner of any deficiencies. During that time, the Department will notify any Qualified Entity or as applicable any Qualified Nonprofit Organization identified by the Development Owner as having a contractual ROFR of the Development Owner's intent to sell. Once any deficiencies are resolved and the Development Owner and Department come to an agreement on the ROFR offer price of the Property, the Department will list the Property for sale on the Department's website and ~~contact~~

~~notify~~ entities ~~registered to~~ the ~~buyer-email~~ list maintained by the Department ~~to inform them~~ of the availability of the Property at a price as determined under this section. The Department will notify the Development Owner when the Property has been listed. The ROFR posting period commences on the date the Property is posted for sale on the Department's website. During the ROFR posting period, a Qualified Nonprofit Organization or Qualified Entity can submit an offer to purchase as follows:

(1) if the LURA requires a 90 day ROFR posting period with no priority for any particular kind of Qualified Nonprofit Organization or tenant organization, any Qualified Nonprofit Organization or tenant organization may submit an offer to purchase the property: ~~or~~:

(2) If the LURA requires a two year ROFR posting period, a Qualified Nonprofit Organization may submit an offer to purchase the Property as follows:

(A) During the first six months of the ROFR posting period, only a Qualified Nonprofit Organization that is a Community Housing Development Organization (CHDO) under 24 CFR Part 92, or that is 100% owned by a CHDO, as approved by the Department, may submit an offer;

(B) During the next six months of the ROFR posting period, only a Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or that is 100% owned by Qualified Nonprofit Organization as described by Tex. Gov't Code §2306.6706, or a tenant organization may submit an offer; and

(C) During the final 12 months of the ROFR posting period, any Qualified Nonprofit Organization may submit an offer: ~~or~~:

(3) If the LURA requires a 180-day ROFR posting period, a Qualified Entity may submit an offer to purchase the Property ~~consistent with the subparagraphs of this paragraph as follows~~:

(A) During the first 60 days of the ROFR posting period, only a Qualified Entity that is:

(i) a CHDO under 24 CFR Part 92, or that is controlled by CHDO, as approved by the Department, may submit an offer;

(ii) if the public housing authority or public facility corporation owns the fee title to the Development Owner's leasehold estate;

(I) a public housing authority; or

(II) a public facility corporation created by a public housing authority under Chapter 303, Local Government Code; or

(iii) controlled by an entity described by either clause (i) or (ii) of this subparagraph.

(B) During the second 60 days of the ROFR posting period, only a Qualified Entity as described by Tex. Gov't Code §2306.6706, or that is controlled by Qualified Entity as described by Tex. Gov't Code §2306.6706, or a tenant organization such may submit an offer:;

(C) During the final 60 days of the ROFR posting period, any Qualified Entity may submit an offer.

(4) If the LURA does not specify a required ROFR posting timeframe, or is unclear on the required ROFR posting timeframe, and the required ROFR value is determined by the Minimum Purchase Price method, any Development that received a tax credit allocation prior to September 1, 1997, is required to post for a 90-day ROFR period, and any Development that received a tax credit allocation on or after September 1, 1997, and until September 1, 2015, is required to post for a two year ROFR, unless the LURA is amended under §10.405(b), or after September 1, 2015, is required to post for a 180-day ROFR period as described in Tex. Gov't Code, §2306.6726.

(e) Acceptance of offers. A Development Owner may accept or reject any offer received during the ROFR posting period; provided however, that to the extent the LURA gives priority to certain classifications of Qualified Nonprofit Organizations or Qualified Entities to make offers during certain portions of the ROFR posting period, the Development Owner can only negotiate a purchase contract with such classifications of entities during their respective periods. For example, during the CHDO priority period, the Development Owner may only accept an offer from and enter into negotiations with a Qualified Nonprofit Organization or Qualified Entity in that classification. A property may not be transferred under the ROFR process for less than the Minimum Purchase Price, but if the sequential negotiation created by statute yields a higher price, the higher price is permitted.

(f) Satisfaction of ROFR.

(1) A Development Owner that has posted a Property under the ROFR process is deemed to have satisfied the ROFR requirements in the following circumstances:

(A) The Development Owner does not receive any bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(B) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period;

(C) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), and the Development Owner received no other bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting period; or

(D) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the required ROFR posting

period at or above the posted ROFR offer price; or

(2) A Development Owner with a LURA that identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR will satisfy the ROFR if:

(A) The identified beneficiary is in existence and conducting business;

(B) The Development Owner offers the Development to the identified beneficiary pursuant to the terms of the ROFR;

(C) If the ROFR includes a priority for a certain type of Qualified Entity (such as a CHDO) to have the first opportunity make an offer to acquire the Development, the identified beneficiary meets such classification; and

(D) The identified entity declines to purchase the Development in writing, and such evidence is submitted to and approved by the Department.

(g) Non-Satisfaction of ROFR. A Development Owner that has posted a Property under the ROFR process does not satisfy the ROFR requirements in the following circumstances:

(1) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), and the Development Owner does not accept the offer;

(2) The LURA identifies a specific Qualified Nonprofit Organization or Qualified Entity to be the beneficiary of the ROFR, and such entity no longer exists or is no longer conducting business and the Development Owner received other bona fide offers at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation) from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers;

(3) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, the failure is determined to not be the fault of the Development Owner, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and then fails to accept any of such other offers;

(4) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Development Owner accepts the offer, the Qualified Nonprofit Organization or Qualified Entity fails to close the purchase, and such failure is determined to be the fault of the Development Owner;

(5) A bona fide offer from a Qualified Nonprofit Organization or Qualified Entity is received at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation), the Qualified Nonprofit Organization or Qualified Entity is not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title (relating

to Previous Participation and Executive Award Review and Advisory Committee), the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period and fails to accept any of such other offers; or

(6) An offer from a Qualified Nonprofit Organization or Qualified Entity is received at a price below the posted ROFR offer price, the Development Owner received other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR posting period at or above the posted ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation~~ing~~), and the Development Owner fails to accept any of such offers.

(h) Activities Following ROFR.

(1) If a Development Owner satisfies the ROFR requirement pursuant to subsection (f)(1) - (2) of this section, it may request a Preliminary Qualified Contract (if such opportunity is available under §10.408 of this Subchapter) or proceed with the sale to an entity that is not a Qualified Nonprofit Organization or Qualified Entity at or above the ROFR offer price (or, in the case of a posted minimum purchase price, at the price yielded by the sequential negotiation).

(2) Following notice that the ROFR requirement has been met, if the Development Owner does not post the Property for Qualified Contract in accordance with §10.408 of this Subchapter or sell the Property to an entity that is not a Qualified Nonprofit Organization or Qualified Entity within 24 months of the Department's written indication that the ROFR has been satisfied, the Development Owner must follow the ROFR process for any subsequent transfer.

(3) If the Department determines that the ROFR requirement has not been met during the ROFR posting period, the Owner may not re-post under this provision at a ROFR offer price that is higher than the originally posted ROFR offer price until 24 months has expired from the Department's written indication that the ROFR has not been satisfied. The Development Owner may market the Property for sale and sell the Property to a Qualified Nonprofit Organization or Qualified Entity during this 24 month period in accordance with subsection (a)(1) of this section.

(i) Sale and closing.

(1) Prior to closing a sale of the Property, the Development Owner must obtain Department approval of the transfer through the ownership transfer process in accordance with §10.406 of this Subchapter (relating to Ownership Transfers (§2306.6713)). The request should include, among other required transfer documents outlined in the Post Award Activities Manual, the ~~final settlement statement and~~ final sales contract with all amendments.

(2) If the closing price is materially less than the ROFR offering price or the terms and conditions of the sale change materially from what was submitted in the ROFR posting, in the Department's sole determination, the Development Owner must go through the ROFR process again with a revised ROFR offering price equal to the reduced closing price or adjusted terms and conditions based upon the revised terms, before disposing of the Property.

(j) Appeals. A Development Owner may appeal a staff decision in accordance with §11.902 of this title (relating to Appeals Process).

### **§10.408 Qualified Contract Requirements**

(a) General. Pursuant to §42(h)(6) of the Code, after the end of the 14th year of the Compliance Period, the Development Owner of a Development utilizing Housing Tax Credits can request that the allocating agency find a buyer at the Qualified Contract Price. If a buyer cannot be located within one year, the Extended Use Period will expire. This section provides the procedures for the submittal and review of a Qualified Contract Request.

(b) Eligibility. Development Owners who received an award of credits on or after January 1, 2002, are not eligible to request a Qualified Contract prior to the 30 year anniversary of the date the property was placed in service (§2306.185); if the property's LURA indicates a commitment to an Extended Use Period beyond 30 years, the Development Owner is not eligible to request a Qualified Contract until the expiration of the Extended Use Period. Development Owners awarded credits prior to 2002 may submit a Qualified Contract Request at any time after the end of the year preceding the last year of the Initial Affordability Period, provided it is not precluded by the terms of the LURA, following the Department's determination that the Development Owner is eligible. The Initial Affordability Period starts concurrently with the credit period, which begins at placement-in-service or is deferred until the beginning of the next tax year, if there is an election. Unless the Development Owner has elected an Initial Affordability Period longer than the Compliance Period, as described in the LURA, this can commence at any time after the end of the 14th year of the Compliance Period. References in this section to actions which can occur after the 14th year of the Compliance Period shall refer, as applicable, to the year preceding the last year of the Initial Affordability Period, if the Development Owner elected an Initial Affordability Period longer than the Compliance Period.

(1) If there are multiple buildings placed in service in different years, the end of the Initial Affordability Period will be based upon the date the last building placed in service. For example, if five buildings in the Development began their credit periods in 2005 and one began in 2006, the 15th year would be 2020.

(2) If a Development received an allocation in multiple years, the end of the Initial Affordability Period will be based upon the last year of a multiple allocation. For example, if a Development received its first allocation in 2004 and a subsequent allocation and began the credit period in 2006, the 15th year would be 2020.

(c) Preliminary Qualified Contract Request. All eligible Development Owners must file a Preliminary Qualified Contract Request.

(1) In addition to determining the basic eligibility described in subsection (b) of this section, the pre-request will be used to determine that:

(A) The Development does not have any uncorrected issues of noncompliance outside the corrective action period;

(B) There is a Right of First Refusal (ROFR) connected to the Development that has been satisfied;  
and

(C) The Compliance Period under the LURA has expired; and

(2) In order to assess the validity of the pre-request, the Development Owner must submit:

(A) Preliminary Request Form;



(B) Qualified Contract Pre-Request fee as outlined in §11.901 of this title (relating to Fee Schedule);

(C) Copy of all regulatory agreements or LURAs associated with the Property (non-TDHCA); and

(D) Copy of a Physical Needs Assessment (PNA), conducted by a Third Party, that is no more than 12 months older than the request date. If the PNA identifies the need for critical repairs that significantly impact habitability and tenant safety, the identified repairs and replacements must be resolved to the satisfaction of the Department before the Development will be considered eligible to submit a Qualified Contract Request.

(3) The pre-request will not bind the Development Owner to submit a Qualified Contract Request and does not start the One Year Period (1YP). A review of the pre-request will be conducted by the Department within 90 days of receipt of all documents and fees described in paragraph (2) of this subsection. If the Department determines that this stage is satisfied, a letter will be sent to the Development Owner stating that they are eligible to submit a Qualified Contract (QC) Request.

(d) Qualified Contract Request. A Development Owner may file a QC Request any time after written approval is received from the Department verifying that the Development Owner is eligible to submit the Request.

(1) Documentation that must be submitted with a Request is outlined in subparagraphs (A) - (P) of this paragraph:

(A) A completed application and certification;

(B) The Qualified Contract price calculation worksheets completed by a licensed Third-Party certified public accountant (CPA). The CPA shall certify that they have reviewed annual partnership tax returns for all years of operation, loan documents for all secured debt, and partnership agreements. They shall also certify that they are not being compensated for the assignment based upon a predetermined outcome;

(C) A thorough description of the Development, including all amenities;

(D) A description of all income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Development;

(E) A current title report;

(F) A current appraisal with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy);

(G) A current Phase I Environmental Site Assessment (and Phase II, if necessary) with the effective date within six months of the date of the QC Request and consistent with Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy);

(H) A copy of the most recent Physical Needs Assessment of the property conducted by a Third Party, if different from the assessment submitted during the preliminary qualified contract request, consistent with Chapter 11, Subchapter D of this title;

(I) A copy of the monthly operating statements for the Development for the most recent 12

consecutive months;

(J) The three most recent consecutive annual operating statements (audited would be preferred) for the Development;

(K) A detailed set of photographs of the Development, including interior and exterior of representative units and buildings, and the property's grounds;

(L) A current and complete rent roll for the ~~entire~~ Development;

(M) A certification that all tenants in the Development have been notified in writing of the request for a Qualified Contract. A copy of the letter used for the notification must also be included;

(N) If any portion of the land or improvements is leased, copies of the leases;

(O) The Qualified Contract Fee as identified in §11.901 of this title (relating to Fee Schedule); and

(P) Additional information deemed necessary by the Department.

(2) Unless otherwise directed by the Department pursuant to subsection (g) of this section, the Development Owner shall contract with a broker to market and sell the Property. The Department may, at its sole discretion, notify the Owner that the selected Broker is not approved by the Department. The fee for this service will be paid by the seller, not to exceed 6% of the QC Price.

(3) Within 90 days of the submission of a complete Request, the Department will notify the Development Owner in writing of the acceptance or rejection of the Development Owner's QC Price calculation. The Department will have one year from the date of the acceptance letter to find a Qualified Purchaser and present a QC. The Department's rejection of the Development Owner's QC Price calculation will be processed in accordance with subsection (e) of this section and the 1YP will commence as provided therein.

(e) Determination of Qualified Contract Price. The QC Price calculation is not the same as the Minimum Purchase Price calculation for the ROFR. The CPA contracted by the Development Owner will determine the QC Price in accordance with §42(h)(6)(F) of the Code taking the following into account:

(1) Outstanding indebtedness secured by, or with respect to, the building;

(2) Distributions to the Development Owner of any and all cash flow, including incentive management fees, capital contributions not reflected in outstanding indebtedness or adjusted investor equity, and reserve balance distributions or future anticipated distributions, but excluding payments of any eligible deferred developer fee. These distributions can only be confirmed by a review of all prior year tax returns for the Development;

(3) All equity contributions will be adjusted based upon the lesser of the consumer price index or 5% for each year, from the end of the year of the contribution to the end of year fourteen or the end of the year of the request for a QC Price if requested at the end of the year or the year prior if the request is made earlier than the last ~~year-month~~ of the ~~monthyear~~; and

(4) These guidelines are subject to change based upon future IRS Rulings and/or guidance on the

determination of Development Owner distributions, equity contributions and/or any other element of the QC Price.

(f) Appeal of Qualified Contract Price. The Department reserves the right, at any time, to request additional information to document the QC Price calculation or other information submitted. If the documentation does not support the price indicated by the CPA hired by the Development Owner, the Department may engage its own CPA to perform a QC Price calculation and the cost of such service will be paid for by the Development Owner. If a Development Owner disagrees with the QC Price calculated by the Department, a Development Owner may appeal in writing in accordance with §11.902~~1(5)~~ of this title (relating to [Fee Schedule Appeals Process](#)). A meeting will be arranged with representatives of the Development Owner, the Department and the CPA contracted by the Department to attempt to resolve the discrepancy. The 1YP will not begin until the Department and Development Owner have agreed to the QC Price in writing. Further appeals can be submitted in accordance with §11.902 of this title (relating to Appeals Process) and Tex. Gov't Code §2306.0321 and §2306.6715.

(g) Marketing of Property. By submitting a Request, the Development Owner grants the Department the authority to market the Development and provide Development information to interested parties. Development information will consist of pictures of the Development, location, amenities, number of Units, age of building, etc. Development Owner or broker contact information will also be provided to interested parties. The Development Owner is responsible for providing staff any requested information to assist with site visits and inspections. Marketing of the Development will continue until such time that a Qualified Contract is presented or the 1YP has expired. Notwithstanding subsection (d)(2) of this section, the Department reserves the right to contract directly with a Third Party in marketing the Development. Cost of such service, including a broker's fee, will be paid for by the existing Development Owner. The Department must have continuous cooperation from the Development Owner. Lack of cooperation will cause the process to cease and the Development Owner will be required to comply with requirements of the LURA for the remainder of the Extended Use Period. Responsibilities of the Development Owner include but are not limited to the items described in paragraphs (1) - (3) of this subsection. The Development Owner must:

- (1) Allow access to the Property and tenant files;
- (2) Keep the Department informed of potential purchasers; and
- (3) Notify the Department of any offers to purchase.

(h) Presentation of a Qualified Contract. If the Department finds a Qualified Purchaser willing to present an offer to purchase the property for an amount at or above the QC Price, the Development Owner may accept the offer and enter into a commercially reasonable form of earnest money agreement or other contract of sale for the property and provide a reasonable time for necessary due diligence and closing of the purchase. If the Development Owner chooses not to accept the QC offer that the Department presents, the QC request will be closed and the possibility of terminating the Extended Use Period through the Qualified Contract process is eliminated; the Property remains bound by the provisions of the LURA for the remainder of the Extended Use Period. If the Development Owner decides to sell the development for the QC Price pursuant to a QC, the purchaser must complete all requirements of an ownership transfer request and be approved by the Department prior to closing on the purchase, but the consummation of such a sale is not required for the LURA to continue to bind the Development for the remainder of the Extended Use Period.

(1) The Department will attempt to procure a QC only once during the Extended Use Period. If the transaction closes under the contract, the new Development Owner will be required to fulfill the requirements of the LURA for the remainder of the Extended Use Period.

(2) If the Department fails to present a QC before the end of the 1YP, the Department will file a release of the LURA and the Development will no longer be restricted to low-income requirements and compliance. However, in accordance with §42(h)(6)(E)(ii) of the Code, for a three-year period commencing on the termination of the Extended Use Period, the Development Owner may not evict or displace tenants of Low-Income Units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credit rents. Additionally, the Development Owner should submit to the Department a request to terminate the LURA and evidence, in the form of a signed certification and a copy of the letter, to be approved by the Department, that the tenants in the Development have been notified in writing that the LURA will be terminated and have been informed of their protections during the three-year time frame.

(3) Prior to the Department filing a release of the LURA, the Development Owner must correct all instances of noncompliance at the Development.

(i) Compliance Monitoring during Extended Use Period. For Developments that continue to be bound by the LURA and remain affordable after the end of the Compliance Period, the Department will monitor in accordance with the applicable requirements in Subchapters F and G of this chapter (relating to Uniform Multifamily Rules).

7a

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action to amend the 2021-3 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Governing Board approved publication of the Multifamily Direct Loan (MFDL) 2021-3 NOFA on June 17, 2021, in response to need expressed by previously approved Low Income Housing Tax Credit (LIHTC) applicants for gap financing to cover increased costs of construction caused by the COVID-19 pandemic;

**WHEREAS**, the Governing Board approved the First Amendment to the 2021-3 NOFA on September 2, 2021 to increase the funding and sources available to include national Housing Trust Funds (NHTF) and HOME Investment Partnerships Program (HOME) funds, create Set-Asides, expand eligibility to similarly situated MFDL awardees not layered with LIHTC, and provide for circumstances under which Developments in Construction may apply for funding;

**WHEREAS**, extending the 2021-3 NOFA to November 11, 2021, will facilitate necessary adjustments to Applications that may arise during review and processing;

**WHEREAS**, providing for funds to be awarded and reserved for Applications proposing FHA-insured permanent debt through March 31, 2022 will allow these Applications to continue to be processed without undue delay; and

**WHEREAS**, staff recommends approval of the proposed Amendment to the 2021-3 NOFA.

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director is authorized to amend the 2021-3 NOFA, and if applicable to further amend the NOFA to reflect the requirements of these additional fund sources;

**FURTHER RESOLVED**, that the 2021-3 NOFA is extended to November 11, 2021, and funds awarded under this NOFA may be reserved as described in the NOFA for Applications proposing FHA-insured permanent debt; and

**FURTHER RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department's website and to publish a notification in the *Texas Register* these amendments and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.

## BACKGROUND

The Board approved the 2021-3 NOFA on June 17, 2021, and the First Amendment to the 2021-3 NOFA on September 2, 2021, to provide relief from severe construction cost overruns experienced by LIHTC awarded developments caused by the COVID-19 pandemic. This funding was made available for 2019 and 2020 applications for Low Income Housing Tax Credits and Multifamily Direct Loans, and 14 previously approved applications have requested assistance. The following complete Applications were received between July 16 and October 1, 2021:

MFDL #	Property Name	MFDL Request	City
21502	Lockwood South Apartments	\$ 1,300,000	Houston
21504	Palladium Fain Street Apartments*	\$ 528,735	Ft. Worth
21505	Vernon Pioneer Crossing*	\$ 1,050,000	Vernon
21506	The Commons at St. Anthony's*	\$ 2,000,000	Amarillo
21507	Westwind of Dumas*	\$ 1,100,000	Dumas
21508	Arbor Park*	\$ 2,222,900	Austin
21509	Ella Grand*	\$ 2,180,000	Houston
21510	Avanti Viking Hills	\$ 4,500,000	Waco
21511	Lofts at Temple Medical Center	\$ 1,740,490	Temple
21512	Dallas Stemmons	\$ 540,300	Dallas
21513	Balcones Terrace	\$ 6,000,000	Austin
21518	Brenham Trails	\$ 775,000	Brenham
21520	Residence at Ridge Hill	\$ 845,000	Kerrville
21521	Palladium at West Francis	\$ 2,472,726	Midland

Developments marked with an asterisk (\*) will be presented for Board consideration at the Board meeting on October 14, 2021. Three additional applications are pending full submission of application documents.

Approval of this NOFA extension would allow the Department flexibility in addressing challenges as they may arise during the normal course of review and underwriting, in the event such challenges relate to specific provisions of the NOFA.

Additionally, this requested Amendment provides that funds may be awarded and will be reserved for future commitment, which will allow the Department to continue processing Applications with Federal Housing Administration-insured (FHA) permanent debt. This is necessary because the Department's approved Subordination Agreement with FHA expired August 31, 2021. FHA has offered a new form Subordination Agreement, but the Department cannot agree to use it because it would violate portions of State law and process concerning treatment of assets in bankruptcy and/or foreclosure. The Department is currently in negotiation to create an acceptable Subordination Agreement; however, it is unknown at this time whether negotiations will be successful.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2021-3 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**2nd Amendment**  
**Effective October 15, 2021**

1) **Summary.** This Amendment extends the period for accepting Applications to November 11, 2021, and provides that the Department will reserve funds for Applications proposing FHA-insured financing in the permanent structure until March 31, 2022, by amending Sections 1, 2, 5 and 7. The Texas Department of Housing and Community Affairs (the Department) announces the availability of **\$48,875,662<sup>1</sup>** for the development of affordable multifamily rental housing for low-income Texans. Applicants in the General or HOME Set-Aside must have received a Low Income Housing Tax Credit allocation in 2019 or 2020, or have received an NHTF award under a 2019 or 2020 NOFA. The maximum Application request is \$5,000,000, unless the Application qualifies for the Supportive Housing Set-Aside, in which case the maximum request is \$6,000,000. Applications under the 2021-3 NOFA will be accepted from June 21, 2021, through ~~October 15, 2021~~ November 11, 2021 (if sufficient funds remain). Developments that receive funds under this NOFA will be considered 2021 Developments on the Department's Site Inventory, unless the Development also receives force majeure treatment under 10 TAC §11.6(5).

The capitalized words in this NOFA, and the availability and use of these funds are subject to the following rules, as applicable:

- a. Texas Administrative Code (with the exception of waivers in Section 3 of this NOFA)
  - 10 TAC Chapter 1 (Administration)
  - 10 TAC Chapter 2 (Enforcement)
  - 10 TAC Chapter 10 (Uniform Multifamily Rules)
  - 10 TAC Chapter 11 (Qualified Allocation Plan)

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<sup>1</sup> NHTF funds under this NOFA are subject to federal Commitment deadlines, and the Board may require a Contract Execution Deadline to enable the Department to meet these federal Commitments regardless of any other time period listed in the Texas Administrative Code. Currently, the next commitment deadline for funds awarded under this NOFA is anticipated to be July 29, 2022. Failure to meet that Contract Execution Deadline, could result in the Applicant having the award reduced in whole or in part.



10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)  
10 TAC Chapter 13 (Multifamily Direct Loan Rule)  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

**b. Texas Government Code**

Tex. Gov't. Code Chapter 2306  
<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

**c. U.S. Department of Housing and Urban Development (HUD) Program Regulations**

24 CFR Part 92 (HOME)  
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

**d. Fair Housing**

Federal Fair Housing Act, 42 U.S.C. 3601-19.  
<https://www.tdhca.state.tx.us/fair-housing/index.htm>

**e. Other Federal laws and regulations that apply: Environmental Compliance**

All federal sources must have some type of environmental review in accordance with

24 CFR Part 58 (HOME)  
24 CFR Part 93 (NHTF)  
<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

**Minimizing Resident Displacement**

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD Handbook 1378. HOME funds must follow Section 104d of the Housing and Community Development Act of 1974.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

**Employment Opportunities**

NHTF requires compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

**NOTE – the Section 3 requirements have changed, Applicants should review the changes to assure they can meet the new hiring and reporting requirements.**

**If Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.**

- f.** HUD approval of an amendment to the 2020 Action Plan and HUD approval of the 2021 Action Plan may be required prior to the Department awarding

funds. The amendments to the Consolidated Plan/Action Plan required by the original NOFA were accepted by HUD on August 24, 2021.

## 2) Priorities

- a. Applications submitted by July 20, 2021, that request less than RAF amount in Attachment A for the region in which the Development Site is located will have an Application Acceptance Date of July 20, 2021. Applications submitted by July 20, 2021, that request greater than RAF amount in Attachment A for the region in which the Development Site is located or if there were insufficient funds to award an application under Priority 2a, will have an Application Acceptance Date of July 21, 2021.
- b. Applications in the General Set-Aside received between July 21 and ~~October 15, 2021~~November 11, 2021, will have an Application Acceptance Date the later of July 22, 2021, or the business day the Application is received.
- c. Applications received under the Supportive Housing Set-Aside will have an Application Acceptance Date of the latter of September 17, 2021, or the business day the Application is received.
- d. Applications received under the HOME Set-Aside will have an Application Acceptance Date of the latter of September 17, 2021, or the business day the Application is received.
- e. All Application Acceptance Dates will be determined in accordance with 10 TAC §13.5(b).
- f. Per 10 TAC §13.1(c), Applications granted an administrative waiver by the Governing Board will have a new Application Acceptance Date of the date the rule waiver was granted (if an amendment to the Consolidated Plan/Action Plan is not required) or the date that the Consolidated Plan/Action Plan amendment is approved by HUD.

## 5) Loan Terms.

- a. **Construction-to-Permanent Loans in the General Set-Aside and the Supportive Housing Set-Aside.** Loans will be structured as deferred-forgivable, deferred-payable, Surplus Cash (sometimes referred to as cash-flow), or with must pay monthly provisions, as required to optimize assistance to the Development, as recommended by Real Estate Analysis (REA). For Federal Housing Administration layered transactions subject to the MAP Guide, only the Surplus Cash option is available. The term of the loan and the amortization period (not to exceed 40 years) will match any superior debt, with an interest rate as low as 0% interest.<sup>2</sup>

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~~<sup>2</sup>The Department does not currently have an agreement with FHA regarding its Subordination Agreement or Riders and thus at present cannot make awards to Applications layered with FHA funds that are subject to the MAP Guide in the permanent financing structure. The Department will reserve funds for these Developments through at least November 30, 2021~~March 31, 2021, (or other date approved by the Executive Director, but not later than February 28, 2022). While the Department does not have an approved agreement with FHA, the Applicant may replace its FHA funds without receiving a new Application Acceptance Date.

- b. **FHA Financing.** The Department does not currently have an agreement with FHA regarding its Subordination Agreement or Riders and thus at present cannot execute commitments for Applications layered with FHA funds that are subject to the MAP Guide in the permanent financing structure, except that HUD has agreed to consider use of the old form when the Development was in HUD's portfolio on or before August 31, 2021. The Department will reserve funds for these Developments through at least March 31, 2021, (or other date approved by the Executive Director, but for NHTF Developments not later than July 29, 2021). While the Department does not have an approved agreement with FHA, the Applicant may replace its FHA funds without receiving a new Application Acceptance Date.
- c. **Construction to Permanent Loans in the HOME Set-Aside.** Applicants may only apply for loans structures allowed under 10 TAC §13.8(a)(2) with an interest rate of up to 2.5% interest rate, even if sources and uses appear unbalanced. REA may recommend a lower interest rate, a deferred-forgivable, or a deferred payable option, as required to meet the federal rules or the Administrative Rules.
- d. **Construction-Only Loans.** Requests structured as construction-only loans will have an interest rate of 0% with the principal amount of the Direct Loan due upon the end of the construction loan term as established in 10 TAC §13.8(e)(1).

## 7) Application Submission Requirements.

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on June 21, 2021, through ~~October 15, 2021~~ **November 11, 2021**, at 5:00 p.m. Austin local time (if sufficient funds remain). Applications requesting rule waivers or amendment to the Consolidated Plan or Action Plan will be accepted through September 17, 2021, at 5:00 p.m. Austin local time. An Applicant may have only one active Application per Development at a time under this or any other Department NOFA.
- b. **Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department's website at <https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD. Waiver of specific rules is made through this NOFA and accompanying Board Action Item.
- c. The following Application materials are required for the HOME and General Set-Aside 2021-3 NOFA.
  - i. Fully executed 2021 Development Owner Certification, Applicant Eligibility Certification(s), and Multifamily Direct Loan Certification;
  - ii. Tab 6b – Multifamily Direct Loan Self-score;
  - iii. Tab 7, Sections 7 and 8 - Floodplain, Prime Farmland Designation, Site and Neighborhood Standards;
  - iv. Tabs 11 and 12, Section 3 Site Information Form Part III and Support

- Documentation to the extent that it might have changed from the original Application, and if the Applicant does not own the property the contract for sale with the required language in 10 TAC §13.5(e).
- v. Tab 17 - Development Narrative, including description of any value – engineering from the original Application, the loan type requested, and if requesting a deferred-forgivable loan, a description of how the loan is treated with respect to Eligible Basis;
  - vi. Tab 19, Section 2 – Rent Levels of Residents;
  - vii. Tab 21 – Occupied Developments, Uniform Relocation Act section, if applicable;
  - viii. Tab 22 – Architectural Drawings, only to the extent that they may have changed from the original Application;
  - ix. Tab 23 – Building/Unit Configuration, only to the extent that they may have changed from the original Application;
  - x. Tab 23 - Rent Schedule reflecting 2021 rent limits;
  - xi. Tab 26 – Annual Operating Expenses;
  - xii. Tab 27 – 15 Year Rental Housing Operating Pro Forma;
  - xiii. Tab 30 – Development Cost Schedule supported by a draft Construction Contract and Schedule of Values;
  - xiv. Tab 31 – Schedule of Sources reflecting current financing structure, including required Match Funds proposed to offset development cost, as applicable
  - xv. Tab 32 – MF Direct Loan Financial Capacity;
  - xvi. Tab 33 – Match Funds;
  - xvii. Tab 35 – Supporting Documents evidencing the current financing as shown by executed loan documents or current term sheets, as applicable;
  - xviii. Tab 41 – Applications involving one or more nonprofit organization, housing finance corporation, governmental entity, public housing, or public facility corporation in Control should submit the printout showing the that the most recent Single Audit or Audits required by 2 CFR §200.501 was submitted to the Federal Audit Clearinghouse; if not required to have a federal Single Audit, but required to have a State Single Audit, a copy of the State Single Audit, or a statement that the entity/entities are not required to have a Single Audit; Amendment request, if applicable per the [Post Award Activities Manual](#); and
  - xix. Additional information as requested by the Department in its sole discretion.

**d. — Applicants in the Supportive Housing Set-Aside must submit a full Application.**

7b

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended

Table 1 2021-3 NOFA Applications Recommended for Action				
App. ID	Application Name	Recommended Award	Fund Source*	City
21504	Palladium Fain Street Apartments	\$528,735	HOME	Ft. Worth
21505	Vernon Pioneer Crossing	\$1,050,000	NHTF	Vernon
21506	The Commons at St. Anthony's	\$2,000,000	NHTF	Amarillo
21507	Westwind at Dumas	\$1,100,000	NHTF	Dumas
21508	Arbor Park	\$2,222,900	NHTF	Austin
21509	Ella Grand	\$2,180,000	HOME	Houston
*All recommendations are sourced from the General Set-Aside.				

**RECOMMENDED ACTION**

**WHEREAS**, the Governing Board approved publication of the MFDL 2021-3 NOFA and its first amendment on June 17, 2021, and September 2, 2021, respectively, in response to previously approved Applicants’ demonstrated need for gap financing caused by increased construction costs resulting from the COVID-19 pandemic;

**WHEREAS**, the 2021-3 NOFA provides a streamlined review under the Department’s administrative rules for reviews approved under the prior application for eligibility and third-party reports, among others;

**WHEREAS**, as of October 1, 2021, the Department has received 14 Applications requesting \$27,255,151 in funding with three additional applications pending full submission;

**WHEREAS**, as noted above in Table 1, six 2021-3 NOFA Applications requesting \$9,081,635 are being recommended for an award;

**WHEREAS**, results of Previous Participation Reviews (PPR) performed under 10 TAC §1.301 for all recommended awards except Ella Grand (21509) were favorable and there were no additional items to be checked as a result of the federal funding, at this time, and will be adopted for these 2021-3 NOFA recommendations, while the

review of principals of Application 21509, Ella Grand, has not been completed as of publication, and the Department will not contract with the Applicant unless all persons and principals are eligible under federal requirements,

**WHEREAS**, the Applications have deemed acceptable by the Executive Award Review Advisory Committee (EARAC); and

**WHEREAS**, staff recommends approval of the 2021-3 Applications referenced in Table 1.

**NOW, therefore, it is hereby**

**RESOLVED**, that the 2021-3 NOFA Applications Recommended for Action reflected in Table 1 are approved, subject to conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website and as described within this Board Action Request;

**FURTHER RESOLVED**, prior Previous Participation Reviews are adopted, and a contract will not be executed for Application 21509, Ella Grand, until such time as all persons and principals have received a satisfactory review under federal requirements reflected in 2 CFR Part 180 and 2 CFR Part 2424;

**FURTHER RESOLVED**, that because the Department has not yet met its 2020 NHTF commitment deadline and in accordance with the 2021-3 NOFA, the latest deadline to sign a contract with the Department is July 29, 2022, despite any other deadline in 10 TAC Chapter 13; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of EARAC, underwriting, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

## **BACKGROUND**

All recommended awards are to be from the General Set-Aside in the 2021-3 NOFA, and would award \$6,372,900 in NHTF and \$2,708,735 in HOME funds, as follows.

21504 Palladium Fain Street Apartments (Palladium Fain): \$474,000 HOME

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20025), Palladium Fain is the new construction of 90 units that will serve a general population in a three-story, non-elevator, courtyard-style building in Fort Worth, located in Tarrant County. Unit sizes range from one to three bedrooms and rent/income levels from 30% to 60% of the area median income (AMI), with six unrestricted units.

The Application documents a lumber cost increase of \$1,568,981. Palladium Fain Street, Ltd. is requesting \$528,735 in gap financing, and is currently under construction.

*Financing and Regulatory Terms:* Subject to final underwriting as further set forth in the following Real Estate Analysis (REA) Report, the \$528,735 MFDL HOME loan will have a 40-year term and amortization, structured as a Surplus Cash loan in keeping with FHA requirements set forth in HUD's Multifamily Accelerated Processing (MAP) Guide and referenced at 10 TAC §13.8(c)(7). The MFDL HOME loan will leverage \$800,000 in local HOME funds awarded by the City of Fort Worth. The first priority loan is a HUD/FHA Section 221(d)(4) product.<sup>1</sup> The Federal Affordability Period will be 20 years and the State Affordability Period will be 45 years.

Of the nine MFDL units restricted to 30% AMI, there will be six one-bedroom, two two-bedroom, and one three-bedroom. One additional HOME Match-Eligible Unit serving households at or below 60% AMI is required. The Federal Affordability Period will be 20 years; the State Affordability Period will be 45 years.

The Department is facilitating HUD's update of the prior environmental clearance to decrease processing time without increasing risk to the Department, which requires sourcing this loan from HOME funds. Therefore, the Department has elected to fund Palladium Fain under the General Set-Aside with HOME funds that will be restricted to 30% area median rent and income levels for that program.

*Organizational Structure:* The proposed borrower is Palladium Fain Street, Ltd., and includes principals with the ability to exercise control as indicated in the organizational chart below.

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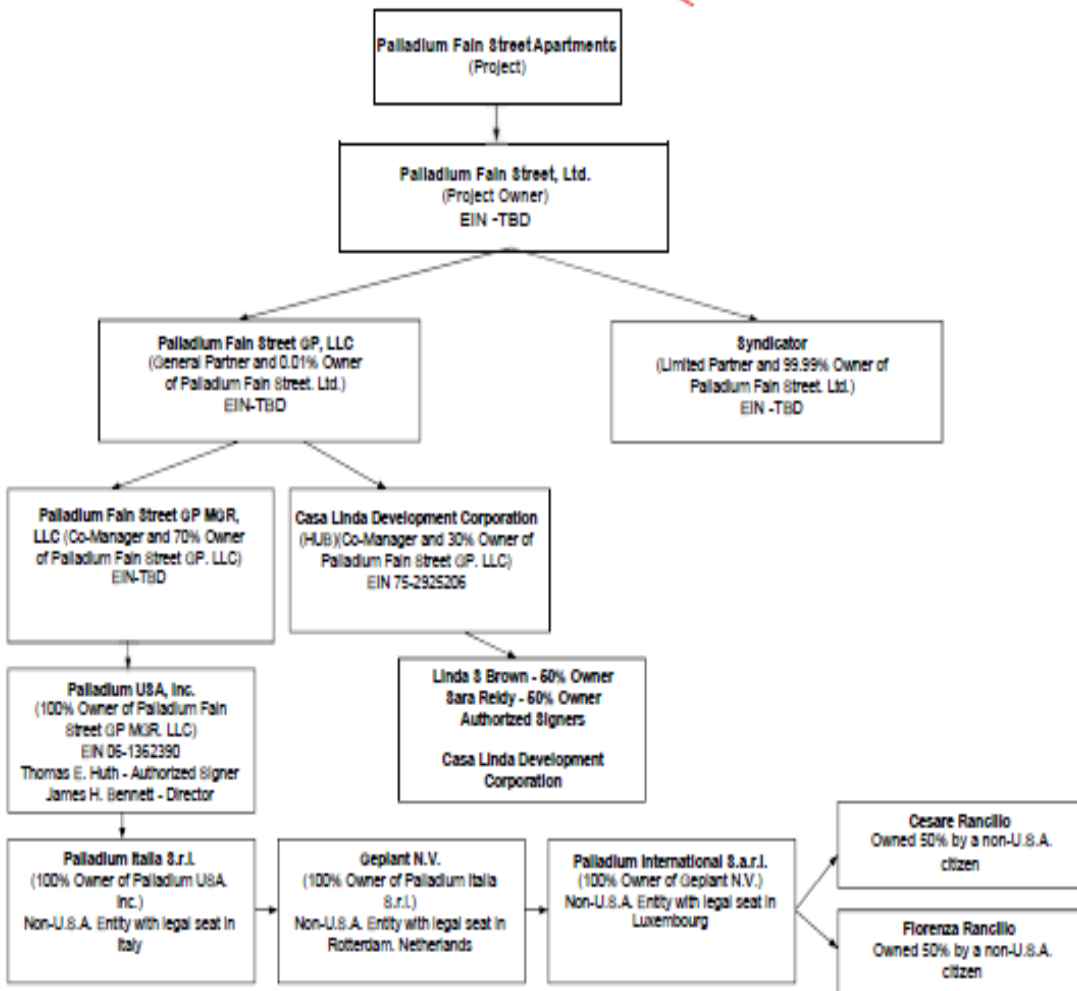
<sup>1</sup> The Department cannot presently commit new MFDL loans subordinate to FHA-insured products due to lack of agreement with HUD on the required form of subordination and associated riders. The prior agreed form in place since 2014 expired on August 31, 2021, and HUD's proffered replacement directly conflicts with Texas statutes. The Department continues to negotiate with HUD, and will reserve funds awarded to Palladium Fain in keeping with the requirements of the 2021-3 NOFA, as amended. Because this property is already in HUD's portfolio TDHCA will request to use the previously negotiated form.



Palladium Fain Street Apartments  
 9% Tax Credit Application - 2020  
 Applicant/ Owner Organizational Chart

MF-4/20/2020-7:21pm-er

Ability to Exercise Control - Thomas E. Huth





**Addendum to Underwriting Report**

TDHCA Application #: **21504** Program(s): **9% HTC/MDL**

**Palladium Fain Street, Ltd.**

Address/Location: 4001 Fain Street

City: Fort Worth County: Tarrant Zip: 76111

APPLICATION HISTORY	
Report Date	PURPOSE
10/07/21	MDL Memo
10/08/20	Condition Clearance at Commitment
06/23/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$474,052	0.00%	40	40	2
LIHTC (9% Credit)	\$1,377,102				\$1,377,102				

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing:
  - a: 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: For Rehabilitation Developments, most recent annual operating statement.
  - e: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

2 Receipt and acceptance by Cost Certification:

- a: Architect or engineer certification (including a Letter of Map Amendment "LOMA" or Letter of Map Revision "LOMR-F") indicating that the development is not within the 100 year floodplain; or that the finished ground floor elevation for each building is at least two (2) feet above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain.

For any buildings remaining in the floodplain, documentation that flood insurance is in place both for the buildings and for the residents' personal property at the property owner's expense; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force until such time that the buildings are officially designated as no longer in a floodplain.

- b: 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.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	9
50% of AMI	50% of AMI	33
60% of AMI	60% of AMI	39

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	9

**ANALYSIS**

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

The requested Direct Loan funding requires the restriction of nine (9 ) units at 30% AMI. As a result, the Applicant has layered 30% NHTF units on top of nine (9) 30% HTC units.

**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

**Development Cost**

Since the original credit allocation, Building Cost has increased by \$1.6M. Applicant provided a letter dated July 12, 2021 from their contractor, BBL Building Company, stating that lumber, hardware, trusses and manufactured beams have increased by a total of \$1,568,981 since they entered into their original construction contract.

Total Housing Development Costs have increased by \$2M.

The NOFA states that Developer Fee may not increase, and the Deferred Developer Fee may not decrease from the original Real Estate Analysis report. As presented, Developer Fee has decreased from \$2.18M to \$2.13M and Deferred Developer Fee has increased from \$697K to \$1M.

Underwriter's costs for Site Work, Site Amenities and Building Cost were derived from the HUD Contractor's and/or Mortgagor's Cost Breakdown provided by Applicant. The totals in each category deviate from Applicant's Development Cost Schedule due to varying line item classifications that were not broken out in the HUD schedule of values. However, the total Site Work, Site Amenities and Building Cost equal Applicant's total of \$12,344,178.

**Sources of Funds**

Applicant has applied for an MFDL under NOFA 2021-3 in the amount of \$528,735. However, under the QAP and the Direct Loan Rule and NOFA, when a Multifamily Direct Loan is subordinate to an FHA loan, only 75% of the cash remaining after the senior debt payment can be used to calculate the DCR for the MFDL, and the combined DCR must meet the minimum 1.15.

To meet this requirement, the recommended Direct Loan amount is \$474,052.

The MFDL will be in a third lien position since Applicant has already closed on an \$800K second lien HOME loan with the City of Fort Worth.

**Conclusion**

Underwriter recommends approval of a construction-to-permanent loan in the amount of \$474,052 structured as payable from surplus cash at 0% interest, in a third lien position with 40-year amortization and 40-year term (to match the senior debt).

Underwriter:	<u>Gregg Kazak</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Palladium Fain Street, Ltd., Fort Worth, 9% HTC #20025**

LOCATION DATA	
CITY:	Fort Worth
COUNTY:	Tarrant
Area Median Income	\$76,000
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	56	62.2%	0	6
2	24	26.7%	0	2
3	10	11.1%	0	1
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>90</b>	<b>100.0%</b>	<b>-</b>	<b>9</b>

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	9	10.0%
40%	-	0.0%
50%	33	36.7%
60%	39	43.3%
70%	-	0.0%
80%	-	0.0%
MR	9	10.0%
<b>TOTAL</b>		
	<b>90</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	89.88%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	882 sf

UNIT MIX / MONTHLY RENT SCHEDULE																					
HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$458	30%/30%	\$455	6	1	1	800	\$455	\$43	\$412	\$0	\$0.52	\$412	\$2,472	\$2,472	\$412	\$0.52	\$0	\$917	\$1.15	\$1,275
TC 50%	\$764			1	1	1	800	\$764	\$43	\$721	\$0	\$0.90	\$721	\$721	\$721	\$721	\$0.90	\$0	\$917	\$1.15	\$1,275
TC 50%	\$764			27	1	1	800	\$764	\$43	\$721	\$0	\$0.90	\$721	\$19,467	\$19,467	\$721	\$0.90	\$0	\$917	\$1.15	\$1,275
TC 60%	\$917			2	1	1	800	\$917	\$43	\$874	\$0	\$1.09	\$874	\$1,748	\$1,748	\$874	\$1.09	\$0	\$917	\$1.15	\$1,275
TC 60%	\$917			15	1	1	800	\$917	\$43	\$874	\$0	\$1.09	\$874	\$13,110	\$13,110	\$874	\$1.09	\$0	\$917	\$1.15	\$1,275
MR				5	1	1	800	\$0	\$43		NA	\$1.15	\$917	\$4,585	\$4,585	\$917	\$1.15	NA	\$917	\$1.15	\$1,275
TC 30%	\$550	30%/30%	\$546	2	2	2	960	\$546	\$56	\$490	\$3	\$0.51	\$493	\$986	\$980	\$490	\$0.51	\$0	\$1,101	\$1.15	\$1,350
TC 50%	\$917			1	2	2	960	\$917	\$56	\$861	\$0	\$0.90	\$861	\$861	\$861	\$861	\$0.90	\$0	\$1,101	\$1.15	\$1,350
TC 50%	\$917			4	2	2	960	\$917	\$56	\$861	\$0	\$0.90	\$861	\$3,444	\$3,444	\$861	\$0.90	\$0	\$1,101	\$1.15	\$1,350
TC 60%	\$1,101			1	2	2	960	\$1,101	\$56	\$1,045	\$0	\$1.09	\$1,045	\$1,045	\$1,045	\$1,045	\$1.09	\$0	\$1,101	\$1.15	\$1,350
TC 60%	\$1,101			13	2	2	960	\$1,101	\$56	\$1,045	\$0	\$1.09	\$1,045	\$13,585	\$13,585	\$1,045	\$1.09	\$0	\$1,101	\$1.15	\$1,350
MR				3	2	2	960	\$0	\$56		NA	\$1.15	\$1,101	\$3,303	\$3,303	\$1,101	\$1.15	NA	\$1,101	\$1.15	\$1,350
TC 30%	\$636	30%/30%	\$630	1	3	2	1,154	\$630	\$70	\$560	\$6	\$0.49	\$566	\$566	\$560	\$560	\$0.49	\$0	\$1,272	\$1.10	\$1,585
TC 60%	\$1,272			1	3	2	1,154	\$1,272	\$70	\$1,202	\$0	\$1.04	\$1,202	\$1,202	\$1,202	\$1,202	\$1.04	\$0	\$1,272	\$1.10	\$1,585
TC 60%	\$1,272			7	3	2	1,154	\$1,272	\$70	\$1,202	\$0	\$1.04	\$1,202	\$8,414	\$8,414	\$1,202	\$1.04	\$0	\$1,272	\$1.10	\$1,585
MR				1	3	2	1,154	\$0	\$70		NA	\$1.10	\$1,272	\$1,272	\$1,272	\$1,272	\$1.10	NA	\$1,272	\$1.10	\$1,585
<b>TOTALS/AVERAGES:</b>				<b>90</b>			<b>79,380</b>				<b>\$0</b>	<b>\$0.97</b>	<b>\$853</b>	<b>\$76,781</b>	<b>\$76,769</b>	<b>\$853</b>	<b>\$0.97</b>	<b>\$0</b>	<b>\$1,006</b>	<b>\$1.14</b>	<b>\$1,329</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$921,372</b>	<b>\$921,228</b>
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**STABILIZED PRO FORMA**

*Palladium Fain Street, Ltd., Fort Worth, 9% HTC #20025*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	Expense Comps.		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.97	\$853	\$921,372	\$856,668	\$856,668	\$921,228	\$853	\$0.97		0.0%	\$144
Application, Pet, Late and NSF Fees						\$20.00	\$21,600	19,668						
0						\$0.00	\$0	9,828						
Total Secondary Income						\$20.00		21,600	\$21,600	\$20.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>							\$942,972	\$886,164	\$878,268	\$942,828			0.0%	\$144
Vacancy & Collection Loss						7.5% PGI	(70,723)	(66,462)	(65,870)	(70,712)	7.5% PGI		0.0%	(11)
Rental Concessions							-			-			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>							\$872,249	\$819,702	\$812,398	\$872,116			0.0%	\$133

General & Administrative	\$38,668	\$430/Unit	\$53,967	\$600	6.15%	\$0.68	\$596	\$53,634	\$53,634	\$53,967	\$53,967	\$600	\$0.68	6.19%	-0.6%	(333)
Management	\$38,462	4.2% EGI	\$35,191	\$391	5.00%	\$0.55	\$485	\$43,612	\$40,985	\$40,620	\$43,606	\$485	\$0.55	5.00%	0.0%	7
Payroll & Payroll Tax	\$116,085	\$1,290/Unit	\$120,089	\$1,334	16.01%	\$1.76	\$1,552	\$139,686	\$139,686	\$120,089	\$139,686	\$1,552	\$1.76	16.02%	0.0%	-
Repairs & Maintenance	\$65,265	\$725/Unit	\$56,323	\$626	6.73%	\$0.74	\$652	\$58,690	\$58,690	\$54,000	\$54,000	\$600	\$0.68	6.19%	8.7%	4,690
Electric/Gas	\$21,540	\$239/Unit	\$9,470	\$105	1.97%	\$0.22	\$191	\$17,222	\$17,222	\$21,540	\$21,540	\$239	\$0.27	2.47%	-20.0%	(4,318)
Water, Sewer, & Trash	\$66,298	\$737/Unit	\$53,437	\$594	5.10%	\$0.56	\$495	\$44,520	\$44,520	\$53,437	\$53,437	\$594	\$0.67	6.13%	-16.7%	(8,917)
Property Insurance	\$27,956	\$0.35 /sf	\$26,360	\$293	4.13%	\$0.45	\$400	\$36,000	\$36,000	\$27,956	\$27,956	\$311	\$0.35	3.21%	28.8%	8,044
Property Tax (@ 100%) 2.646799	\$78,203	\$869/Unit	\$78,227	\$869	11.91%	\$1.31	\$1,154	\$103,847	\$87,750	\$86,864	\$94,572	\$1,051	\$1.19	10.84%	9.8%	9,275
Reserve for Replacements				\$0	2.58%	\$0.28	\$250	\$22,500	\$22,500	\$22,500	\$22,500	\$250	\$0.28	2.58%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.37%	\$0.04	\$36	\$3,240	\$3,240	\$3,240	\$3,240	\$36	\$0.04	0.37%	0.0%	-
Franchise Tax				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>59.95%</b>	<b>\$6.59</b>	<b>\$5,811</b>	<b>\$ 522,951</b>	\$504,227	\$484,212	<b>\$514,809</b>	<b>\$5,720</b>	<b>\$6.49</b>	<b>59.03%</b>	<b>1.6%</b>	<b>\$ 8,143</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>40.05%</b>	<b>\$4.40</b>	<b>\$3,881</b>	<b>\$349,298</b>	\$315,475	\$328,186	<b>\$357,307</b>	<b>\$3,970</b>	<b>\$4.50</b>	<b>40.97%</b>	<b>-2.2%</b>	<b>\$ (8,010)</b>

CONTROLLABLE EXPENSES							\$3,486/Unit					\$3,585/Unit				
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Palladium Fain Street, Ltd., Fort Worth, 9% HTC #20025*

<b>DEBT / GRANT SOURCES</b>																			
<b>APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE</b>										<b>AS UNDERWRITTEN DEBT/GRANT STRUCTURE</b>									
<b>DEBT (Must Pay)</b>	<b>Fee</b>	<b>Cumulative DCR</b>		<b>Pmt</b>	<b>Rate</b>	<b>Amort</b>	<b>Term</b>	<b>Principal</b>	<b>Prior Underwriting</b>		<b>Principal</b>	<b>Term</b>	<b>Amort</b>	<b>Rate</b>	<b>Pmt</b>	<b>Cumulative</b>			
		<b>UW</b>	<b>App</b>						<b>Applicant</b>	<b>TDHCA</b>						<b>DCR</b>	<b>LTC</b>		
Regions Bank - FHA 221(d)(4)	0.25%	1.29	1.27	275,938	3.05%	40	40	\$6,259,000	\$5,282,100	\$5,282,100	\$6,259,000	40	40	2.80%	\$275,938	1.27	29.6%		
TDHCA-MDL (Soft Repayable)		1.24	1.21	\$13,218	0.00%	40	40	\$528,735			\$474,052	40	40	0.00%	\$11,851	1.15	2.2%		
<b>CASH FLOW DEBT / GRANTS</b>																			
City of Fort Worth		1.24	1.21		0.00%	0	0	\$2,500	\$2,500	\$2,500	\$2,500	0	0	0.00%			0.0%		
City of Fort Worth - HOME		1.24	1.21		1.00%	40	40	\$800,000			\$800,000	40	40	1.00%			3.8%		
GP Equity		1.24	1.21		0.00%	0	0	\$110			\$110	0	0	0.00%			0.0%		
				<b>\$289,156</b>	<b>TOTAL DEBT / GRANT SOURCES</b>				<b>\$7,590,345</b>	<b>\$5,284,600</b>	<b>\$5,284,600</b>	<b>\$7,535,662</b>	<b>TOTAL DEBT SERVICE</b>				<b>\$287,789</b>	<b>1.15</b>	<b>35.7%</b>
<b>NET CASH FLOW</b>		\$68,151	\$60,142				<b>APPLICANT</b>			<b>NET OPERATING INCOME</b>			\$349,298	\$61,508	<b>NET CASH FLOW</b>				

<b>EQUITY SOURCES</b>															
<b>APPLICANT'S PROPOSED EQUITY STRUCTURE</b>								<b>AS UNDERWRITTEN EQUITY STRUCTURE</b>							
<b>EQUITY / DEFERRED FEES</b>	<b>DESCRIPTION</b>	<b>% Cost</b>	<b>Annual Credit</b>	<b>Credit Price</b>	<b>Amount</b>	<b>Prior Underwriting</b>		<b>Amount</b>	<b>Credit Price</b>	<b>Annual Credit</b>	<b>% Cost</b>	<b>Annual Credits per Unit</b>	<b>Allocation Method</b>		
						<b>Applicant</b>	<b>TDHCA</b>						<b>Previous Allocation</b>	<b>Total Developer Fee</b>	
Regions Bank	LIHTC Equity	59.3%	\$1,377,102	0.91	\$12,529,122	\$13,217,540	\$13,217,544	\$12,529,102	\$0.91	\$1,377,102	59.3%	\$15.301	Previous Allocation		
Palladium USA and HUB	Deferred Developer Fees	4.8%	(48% Deferred)		\$1,010,731	\$696,695	\$648,459	\$1,065,434	(50% Deferred)		5.0%	<b>Total Developer Fee: \$2,127,699</b>			
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%				
<b>TOTAL EQUITY SOURCES</b>		<b>64.1%</b>			<b>\$13,539,853</b>	<b>\$13,914,235</b>	<b>\$13,866,003</b>	<b>\$13,594,536</b>			<b>64.3%</b>				
<b>TOTAL CAPITALIZATION</b>								<b>\$21,130,198</b>	<b>\$19,198,835</b>	<b>\$19,150,603</b>	<b>\$21,130,198</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>			<b>\$58,145</b>

<b>DEVELOPMENT COST / ITEMIZED BASIS</b>														
<b>APPLICANT COST / BASIS ITEMS</b>						<b>TDHCA COST / BASIS ITEMS</b>					<b>COST VARIANCE</b>			
<b>Eligible Basis</b>		<b>Total Costs</b>	<b>Prior Underwriting</b>		<b>Total Costs</b>	<b>Eligible Basis</b>		<b>%</b>	<b>\$</b>					
<b>Acquisition</b>	<b>New Const. Rehab</b>		<b>Applicant</b>	<b>TDHCA</b>		<b>New Const. Rehab</b>	<b>Acquisition</b>							
Land Acquisition		\$15,556 / Unit	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$15,556 / Unit		0.0%	\$0				
Off-Sites	\$0	\$ / Unit	\$0	\$0	\$0	\$ / Unit	\$0		0.0%	\$0				
Site Work	\$1,345,500	\$14,950 / Unit	\$1,345,500	\$1,345,500	\$1,345,500	\$1,469,556	\$16,328 / Unit	\$1,345,500	-8.4%	(\$124,056)				
Site Amenities	\$631,270	\$7,014 / Unit	\$631,270	\$528,671	\$528,671	\$716,654	\$7,963 / Unit	\$631,270	-11.9%	(\$85,384)				
Building Cost	\$6,066,220	\$130.60 /sf	\$115,193/Unit	\$10,367,408	\$8,760,009	\$8,714,382	\$112,866/Unit	\$127.97 /sf	\$6,066,220	2.1%	\$209,440			
Contingency	\$489,006	6.08%	3.96%	\$489,006	\$500,506	\$500,506	\$489,006	3.96%	6.08%	\$489,006	0.0%	\$0		
Contractor Fees	\$1,508,528	17.68%	11.75%	\$1,508,528	\$1,488,786	\$1,488,786	\$1,508,528	11.75%	14.00%	\$1,194,479	0.0%	\$0		
Soft Costs	0	\$1,154,320	\$16,298 / Unit	\$1,466,820	\$1,365,025	\$1,365,025	\$1,466,820	\$16,298 / Unit	\$1,154,320	\$0	0.0%	\$0		
Financing	0	\$540,079	\$11,864 / Unit	\$1,067,731	\$1,033,543	\$1,033,543	\$1,067,731	\$11,864 / Unit	\$540,079	\$0	0.0%	\$0		
Developer Fee	\$0	\$2,127,699	18.13%	13.27%	\$2,127,699	\$2,175,931	\$2,120,855	\$2,127,699	13.53%	15.00%	\$1,713,131	\$0	0.0%	\$0
Reserves			10 Months	\$684,236	\$600,864	\$377,250	\$684,236	10 Months			0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$13,862,622</b>	<b>\$234,780 / Unit</b>	<b>\$21,130,198</b>	<b>\$19,198,835</b>	<b>\$18,874,517</b>	<b>\$21,130,198</b>	<b>\$234,780 / Unit</b>	<b>\$13,134,006</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>	
Acquisition Cost	\$0			\$0	\$0									
Contingency		\$0		\$0	\$0									
Contractor's Fee		(\$314,049)		\$0	\$0									
Financing Cost		\$0												
Developer Fee	\$0	(\$414,568)		\$0	(\$48,232)									
Reserves				\$0	\$0									
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$13,134,006</b>	<b>\$234,780/unit</b>	<b>\$21,130,198</b>	<b>\$19,150,603</b>	<b>\$18,874,517</b>	<b>\$21,130,198</b>	<b>\$234,780/unit</b>	<b>\$13,134,006</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$21,130,198</b>								

21505 Vernon Pioneer Crossing (Vernon Pioneer): \$1,050,000 NHTF

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20212), Vernon Pioneer is the new construction of 64 units that will serve an elderly population in compliance with the Housing for Older Persons Act under the Fair Housing Act, and will consist of eight one-story buildings in Vernon, located in Wilbarger County. It will include one and two-bedroom units with rent/income levels from 30% to 60% of the area median income (AMI), with six market rate units.

The Application documents a building cost increase of \$1,652,866, and the Applicant is requesting \$1,050,000 in gap financing.

*Financing and Regulatory Terms:* The \$1,050,000 MFDL NHTF loan will be in second lien position after a U.S. Department of Agriculture (USDA) Section 538 guaranteed loan. Subject to final underwriting and as further set forth in the following REA Report, the MFDL NHTF loan will have a 40-year term and amortization period, payable from cash flow/surplus cash.

Of the eight floating MFDL NHTF units restricted to 30% AMI, there will be four one-bedroom and four two-bedroom units. One additional HOME Match-Eligible Unit serving households at or below 60% AMI is required. The Federal Affordability Period will be 30 years and the State Affordability Period will be 45 years.

The Department has elected to fund Vernon Pioneer under the General Set-Aside with National Housing Trust Fund (NHTF) funds that will be restricted to 30% area median rent and income levels for that program.

*Organizational Structure:* The proposed borrower is Vernon Pioneer Crossing, LLC, and identifies principals with the ability to exercise control as indicated in the organizational chart below.



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

*Palladium Fain Street, Ltd., Fort Worth, 9% HTC #20025*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$13,134,006	\$0	\$13,134,006
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$13,134,006	\$0	\$13,134,006
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$17,074,207	\$0	\$17,074,207
Applicable Fraction	89.88%	89.88%	89.88%	89.88%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$15,346,137	\$0	\$15,346,137
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,381,152	\$0	\$1,381,152
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,381,152		\$1,381,152	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9098	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$1,381,152	\$12,565,953	----	----	----
<b>Needed to Fill Gap</b>	\$1,494,206	\$13,594,536	----	----	----
<b>Previous Allocatior</b>	\$1,377,102	\$12,529,102	<b>\$1,377,102</b>	<b>\$0</b>	<b>\$0</b>

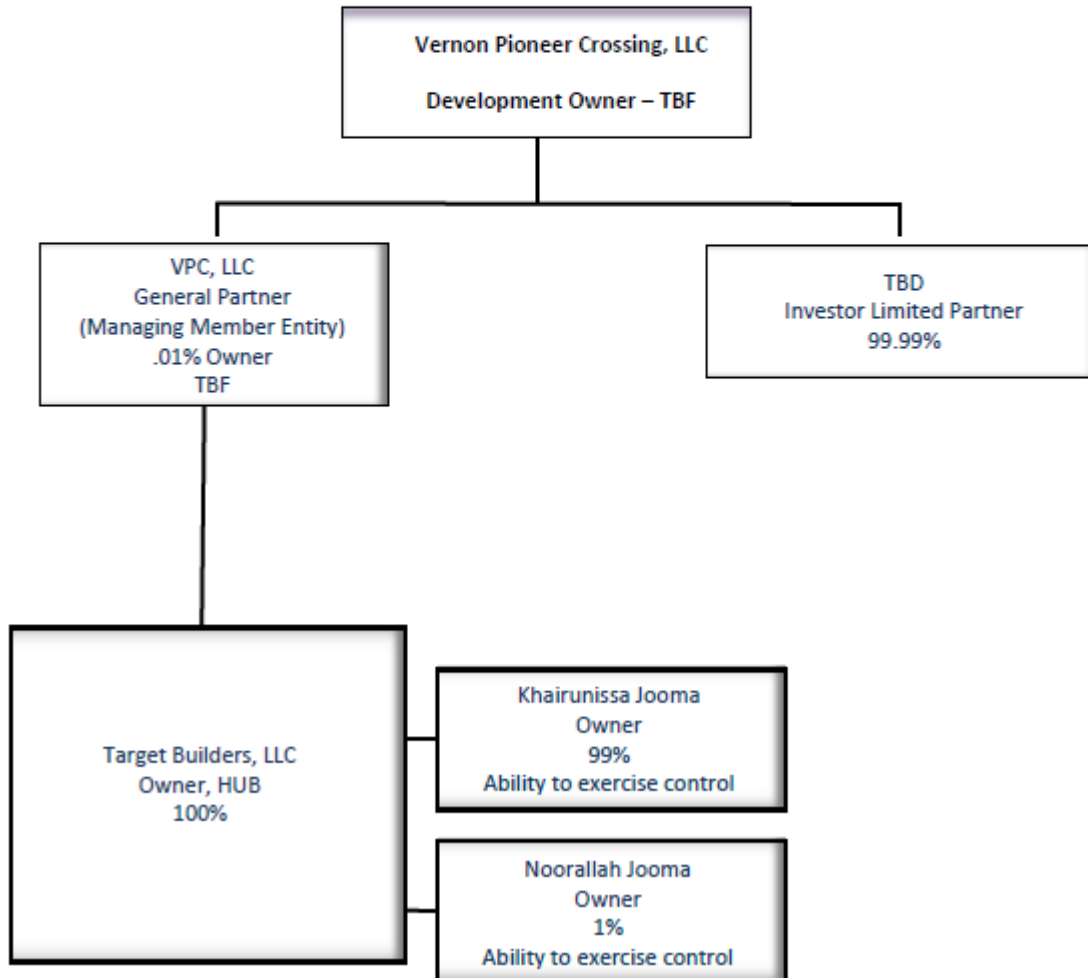
## Long-Term Pro Forma

### Palladium Fain Street, Ltd., Fort Worth, 9% HTC #20025

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$872,249	\$889,694	\$907,488	\$925,638	\$944,150	\$1,042,418	\$1,150,914	\$1,270,702	\$1,402,958	\$1,548,979	\$1,710,198	\$1,888,197
TOTAL EXPENSES	3.00%	\$522,951	\$538,204	\$553,905	\$570,069	\$586,708	\$677,550	\$782,589	\$904,059	\$1,044,545	\$1,207,043	\$1,395,019	\$1,612,489
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$349,298</b>	<b>\$351,490</b>	<b>\$353,583</b>	<b>\$355,569</b>	<b>\$357,443</b>	<b>\$364,869</b>	<b>\$368,325</b>	<b>\$366,643</b>	<b>\$358,413</b>	<b>\$341,936</b>	<b>\$315,179</b>	<b>\$275,707</b>
EXPENSE/INCOME RATIO		60.0%	60.5%	61.0%	61.6%	62.1%	65.0%	68.0%	71.1%	74.5%	77.9%	81.6%	85.4%
<b>MUST -PAY DEBT SERVICE</b>													
Regions Bank - FHA 221(d)(4)		\$275,938	\$275,723	\$275,501	\$275,273	\$275,039	\$273,765	\$272,299	\$270,613	\$268,675	\$266,445	\$263,881	\$260,931
TDHCA-MDL (Soft Repayable)		\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851	\$11,851
<b>TOTAL DEBT SERVICE</b>		<b>\$287,789</b>	<b>\$287,574</b>	<b>\$287,352</b>	<b>\$287,125</b>	<b>\$286,890</b>	<b>\$285,616</b>	<b>\$284,150</b>	<b>\$282,465</b>	<b>\$280,526</b>	<b>\$278,296</b>	<b>\$275,732</b>	<b>\$272,783</b>
DEBT COVERAGE RATIO		1.21	1.22	1.23	1.24	1.25	1.28	1.30	1.30	1.28	1.23	1.14	1.01
<b>ANNUAL CASH FLOW</b>		<b>\$61,508</b>	<b>\$63,916</b>	<b>\$66,230</b>	<b>\$68,445</b>	<b>\$70,552</b>	<b>\$79,253</b>	<b>\$84,175</b>	<b>\$84,179</b>	<b>\$77,887</b>	<b>\$63,640</b>	<b>\$39,447</b>	<b>\$2,925</b>
Deferred Developer Fee Balance		\$1,003,925	\$940,009	\$873,778	\$805,334	\$734,782	\$354,609	\$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>\$0</b>	<b>\$58,145</b>	<b>\$481,255</b>	<b>\$886,100</b>	<b>\$1,236,348</b>	<b>\$1,486,394</b>	<b>\$1,579,527</b>

# VERNON PIONEER CROSSING

## Applicant Organizational Structure





**Addendum to Underwriting Report**

TDHCA Application #: **21505** Program(s): **9% HTC/MDL**

**Vernon Pioneer Crossing**

Address/Location: 1916 Stadium Drive

City: Vernon County: Wilbarger Zip: 76384

APPLICATION HISTORY	
Report Date	PURPOSE
10/07/21	MDL Memo
10/28/20	Commitment Memo
07/02/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$1,050,000	0.00%	40	40	2
LIHTC (9% Credit)	\$824,345				\$824,345				

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**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: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.

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

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	5
50% of AMI	50% of AMI	6
60% of AMI	60% of AMI	47

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	8

## SITE PLAN

### Revised at Commitment

**PARKING CALCULATIONS:**

ONE BEDROOM - 32 UNITS @ 1.5 PER UNIT =	48
TWO BEDROOM - 32 UNITS @ 2.0 PER UNIT =	64
<b>TOTAL PARKING PROVIDED</b>	<b>112</b>
HC PARKING REQUIRED	4
HC PARKING PROVIDED	7
VAN ACCESSIBLE PROVIDED	2

**BUILDING MATRIX:**

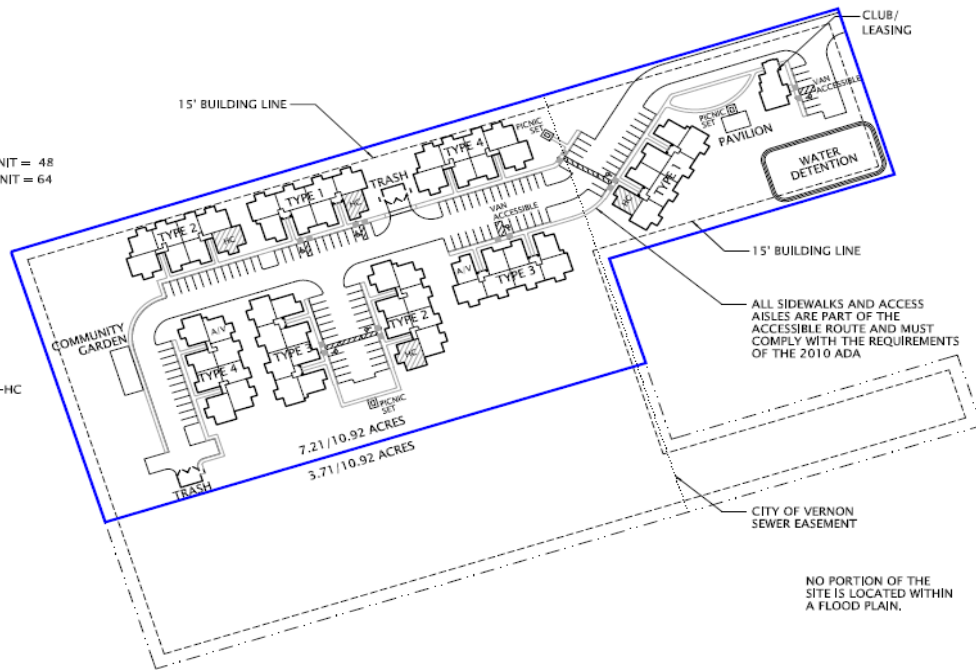
TYPE	#	STORIES	#/TYPE UNITS
1	1	8	3 A, 1 A-HC, 4 B
2	1	8	4 A-ALT, 3 B, 1 B-HC
3	1	8	4 A, 4 B
4	1	8	4 A-ALT, 4 B

**UNIT MATRIX:**

TYPE	BR/BA	#	NRA
A	1/1	14	650 SQ. FT.
A-ALT	1/1	16	650 SQ. FT.
A-HC	1/1	2	650 SQ. FT.
B	2/2	30	850 SQ. FT.
B-HC	2/2	2	888 SQ. FT.

**BUILDING COMMON AREAS:**

CLUBHOUSE	1,531 SQ. FT.
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**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

Market unit rents are limited to the maximum gross 60% rents since those units comprise less than 15% of the mix.

**Development Cost**

Since the original credit allocation, Building Cost has increased by \$1.7M as evidenced by Applicant's current construction contract.

Total development costs have increased by \$1.8M.

The NOFA requires that the total developer fee cannot increase over the amount approved at the original credit allocation. As presented in the MFDL Application, developer fee is overstated by \$2,225.

**Sources of Funds**

Applicant has applied for an MFDL consistent with the requirements of NOFA 2021-3.

**Conclusion**

Underwriter recommends approval of a construction-to-permanent loan in the amount of \$1,050,000 structured as payable from surplus cash at 0% interest, in a second lien position with 40-year amortization and 40-year term (to match the senior debt).

Underwriter:	<u>Gregg Kazak</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Vernon Pioneer Crossing, Vernon, 9% HTC #20212**

LOCATION DATA	
CITY:	Vernon
COUNTY:	Wilbarger
Area Median Income	\$58,400
PROGRAM REGION:	2
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	32	50.0%	0	4
2	32	50.0%	0	4
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>64</b>	<b>100.0%</b>	<b>-</b>	<b>8</b>

56%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	5	7.8%
40%	-	0.0%
50%	6	9.4%
60%	47	73.4%
70%	-	0.0%
80%	-	0.0%
MR	6	9.4%
<b>TOTAL</b>		
	<b>64</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	90.63%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	751 sf

UNIT MIX / MONTHLY RENT SCHEDULE																					
HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$356	30%/30%	\$378	3	1	1	650	\$356	\$55	\$301	\$0	\$0.46	\$301	\$903	\$903	\$301	\$0.46	\$0	\$713	\$1.10	\$759
TC 50%	\$594	30%/30%	\$378	1	1	1	650	\$378	\$55	\$323	\$0	\$0.50	\$323	\$323	\$323	\$323	\$0.50	\$0	\$713	\$1.10	\$759
TC 50%	\$594			2	1	1	650	\$594	\$55	\$539	\$0	\$0.83	\$539	\$1,078	\$1,078	\$539	\$0.83	\$0	\$713	\$1.10	\$759
TC 60%	\$713			23	1	1	650	\$713	\$55	\$658	\$0	\$1.01	\$658	\$15,134	\$15,134	\$658	\$1.01	\$0	\$713	\$1.10	\$759
MR				3	1	1	650	\$0	\$55		NA	\$1.10	\$713	\$2,139	\$2,139	\$713	\$1.10	NA	\$713	\$1.10	\$759
TC 30%	\$428	30%/30%	\$549	2	2	2	850	\$428	\$72	\$356	\$0	\$0.42	\$356	\$712	\$712	\$356	\$0.42	\$0	\$856	\$1.01	\$856
TC 50%	\$713	30%/30%	\$549	2	2	2	850	\$549	\$72	\$477	\$0	\$0.56	\$477	\$954	\$954	\$477	\$0.56	\$0	\$856	\$1.01	\$856
TC 50%	\$713			1	2	2	850	\$713	\$72	\$641	\$0	\$0.75	\$641	\$641	\$641	\$641	\$0.75	\$0	\$856	\$1.01	\$856
TC 60%	\$856			22	2	2	850	\$856	\$72	\$784	\$0	\$0.92	\$784	\$17,248	\$17,248	\$784	\$0.92	\$0	\$856	\$1.01	\$856
MR				3	2	2	850	\$0	\$72		NA	\$1.01	\$856	\$2,568	\$2,568	\$856	\$1.01	NA	\$856	\$1.01	\$856
TC 60%	\$856			2	2	2	888	\$856	\$72	\$784	\$0	\$0.88	\$784	\$1,568	\$1,568	\$784	\$0.88	\$0	\$856	\$0.96	\$856
<b>TOTALS/AVERAGES:</b>				<b>64</b>			<b>48,076</b>				<b>\$0</b>	<b>\$0.90</b>	<b>\$676</b>	<b>\$43,268</b>	<b>\$43,268</b>	<b>\$676</b>	<b>\$0.90</b>	<b>\$0</b>	<b>\$785</b>	<b>\$1.04</b>	<b>\$808</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$519,216</b>	<b>\$519,216</b>
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**STABILIZED PRO FORMA**

*Vernon Pioneer Crossing, Vernon, 9% HTC #20212*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				Commitment UW		TDHCA				VARIANCE	
	Database	Expense Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.90	\$676	\$519,216	\$456,132	\$456,132	\$519,216	\$676	\$0.90		0.0%	\$0
App Fees, NSF, Lost Deposits					\$20.00	\$15,360	15,360							
Total Secondary Income					\$20.00		15,360	\$15,360	\$20.00				0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$534,576	\$471,492	\$471,492	\$534,576				0.0%	\$0
Vacancy & Collection Loss				7.5% PGI		(40,093)	(35,362)	(35,362)	(40,093)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$494,483	\$436,130	\$436,130	\$494,483				0.0%	\$0

General & Administrative	\$29,650	\$463/Unit	\$23,549	\$368	4.06%	\$0.42	\$314	\$20,100	\$24,000	\$23,549	\$23,549	\$368	\$0.49	4.76%	-14.6%	(3,449)
Management	\$29,070	7.0% EGI	\$27,505	\$430	4.00%	\$0.41	\$309	\$19,779	\$21,807	\$21,807	\$24,724	\$386	\$0.51	5.00%	-20.0%	(4,945)
Payroll & Payroll Tax	\$73,409	\$1.147/Unit	\$70,209	\$1,097	14.47%	\$1.49	\$1,118	\$71,575	\$71,575	\$70,209	\$70,209	\$1,097	\$1.46	14.20%	1.9%	1,366
Repairs & Maintenance	\$46,111	\$720/Unit	\$34,658	\$542	9.95%	\$1.02	\$769	\$49,200	\$51,000	\$38,400	\$38,400	\$600	\$0.80	7.77%	28.1%	10,800
Electric/Gas	\$13,540	\$212/Unit	\$12,427	\$194	2.43%	\$0.25	\$188	\$12,000	\$11,000	\$12,427	\$12,427	\$194	\$0.26	2.51%	-3.4%	(427)
Water, Sewer, & Trash	\$36,309	\$567/Unit	\$27,200	\$425	11.32%	\$1.16	\$875	\$56,000	\$26,000	\$27,200	\$36,309	\$567	\$0.76	7.34%	54.2%	19,691
Property Insurance	\$18,737	\$0.39/sf	\$20,666	\$323	5.35%	\$0.55	\$413	\$26,448	\$26,448	\$20,666	\$20,666	\$323	\$0.43	4.18%	28.0%	5,782
Property Tax (@ 100%) 2.543725	\$28,765	\$449/Unit	\$22,064	\$345	3.64%	\$0.37	\$281	\$18,000	\$22,000	\$37,103	\$45,753	\$715	\$0.95	9.25%	-60.7%	(27,753)
Reserve for Replacements				\$0	3.24%	\$0.33	\$250	\$16,000	\$16,000	\$16,000	\$16,000	\$250	\$0.33	3.24%	0.0%	-
Supportive Services				\$0	1.21%	\$0.12	\$94	\$6,000	\$6,000	\$6,000	\$6,000	\$94	\$0.12	1.21%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.47%	\$0.05	\$36	\$2,320	\$2,320	\$2,320	\$2,320	\$36	\$0.05	0.47%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>60.15%</b>	<b>\$6.19</b>	<b>\$4,647</b>	<b>\$ 297,422</b>	<b>\$278,150</b>	<b>\$275,681</b>	<b>\$296,630</b>	<b>\$4,635</b>	<b>\$6.17</b>	<b>59.99%</b>	<b>0.3%</b>	<b>\$ 793</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>39.85%</b>	<b>\$4.10</b>	<b>\$3,079</b>	<b>\$197,060</b>	<b>\$157,981</b>	<b>\$160,449</b>	<b>\$197,853</b>	<b>\$3,091</b>	<b>\$4.12</b>	<b>40.01%</b>	<b>-0.4%</b>	<b>\$ (793)</b>

<b>CONTROLLABLE EXPENSES</b>								\$3,264/Unit									\$2,826/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Vernon Pioneer Crossing, Vernon, 9% HTC #20212*

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE									Commitment UW		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Commitment UW		Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App						Applicant	TDHCA						DCR	LTC
Churchill (USDA 538)	0.50%	1.39	1.38	142,549	3.85%	40	40	\$2,700,000	\$2,100,000	\$2,100,000	\$2,700,000	40	40	3.85%	\$145,905	1.35	24.4%
Multifamily Direct Loan (Soft Repayable)		1.17	1.17	\$26,250	0.00%	40	40	\$1,050,000	\$0	\$0	\$1,050,000	40	40	0.00%		1.35	9.5%
<b>CASH FLOW DEBT / GRANTS</b>																	
City of Vernon		1.17	1.17		0.00%	0	0	\$250	\$250	\$250	\$250	0	0	0.00%		1.35	0.0%
Watermark Construction		1.17	1.17		0.00%	0	0	\$78,750	\$0	\$0	\$78,750	0	0	0.00%		1.35	0.7%
				<b>\$168,799</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$3,829,000</b>	<b>\$2,100,250</b>	<b>\$2,100,250</b>	<b>\$3,829,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$145,905</b>	<b>1.35</b>	<b>34.6%</b>

<b>NET CASH FLOW</b>	\$29,054	\$28,261	<b>APPLICANT NET OPERATING INCOME</b>					\$197,060	\$51,155	<b>NET CASH FLOW</b>
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EQUITY SOURCES														
APPLICANT'S PROPOSED EQUITY STRUCTURE						Commitment UW		AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Commitment UW		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
						Applicant	TDHCA							
Raymond James	LIHTC Equity	64.0%	\$824,345	0.86	\$7,088,658	\$7,006,232	\$7,006,232	\$7,088,658	\$0.86	\$824,345	64.0%	\$12,880	Previous Allocation	
Target Builders, LLC	Deferred Developer Fees	1.5%	(14% Deferred)		\$165,004	\$132,048	\$129,823	\$162,779		(14% Deferred)	1.5%	Total Developer Fee:	\$1,137,576	
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%			
<b>TOTAL EQUITY SOURCES</b>		<b>65.5%</b>			<b>\$7,253,662</b>	<b>\$7,138,280</b>	<b>\$7,136,055</b>	<b>\$7,251,437</b>			<b>65.4%</b>			

<b>TOTAL CAPITALIZATION</b>	<b>\$11,082,662</b>	<b>\$9,238,530</b>	<b>\$9,236,305</b>	<b>\$11,080,437</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>					<b>\$712,148</b>
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DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS					Commitment UW		TDHCA COST / BASIS ITEMS					COST VARIANCE		
	Eligible Basis		Total Costs		Applicant	TDHCA	Total Costs		Eligible Basis		%	\$		
	Acquisition	New Const. Rehab							New Const. Rehab	Acquisition				
Land Acquisition			\$1,094 / Unit	\$70,000	\$46,218	\$46,218	\$70,000	\$1,094 / Unit			0.0%	\$0		
Off-Sites		\$0	\$ / Unit	\$0	\$20,000	\$20,000	\$0	\$ / Unit	\$0		0.0%	\$0		
Site Work		\$873,881	\$14,614 / Unit	\$935,273	\$957,000	\$957,000	\$935,273	\$14,614 / Unit	\$873,881		0.0%	\$0		
Site Amenities		\$295,476	\$4,617 / Unit	\$295,476	\$175,000	\$175,000	\$295,476	\$4,617 / Unit	\$295,476		0.0%	\$0		
Building Cost		\$3,674,449	\$119.66 /sf	\$89,889/Unit	\$5,752,866	\$4,100,000	\$4,409,838	\$5,752,866	\$89,889/Unit	\$119.66 /sf	\$3,674,449	0.0%	\$0	
Contingency		\$394,884	8.15%	5.65%	\$394,884	\$262,600	\$262,600	\$394,884	5.65%	7.00%	\$339,066	0.0%	\$0	
Contractor Fees		\$904,408	17.26%	12.39%	\$914,075	\$772,044	\$772,044	\$914,075	12.39%	14.00%	\$725,602	0.0%	\$0	
Soft Costs	0	\$642,380	\$10,037 / Unit	\$642,380	\$822,000	\$822,000	\$642,380	\$10,037 / Unit	\$642,380	\$0	0.0%	\$0		
Financing	0	\$473,000	\$10,108 / Unit	\$646,907	\$739,179	\$739,179	\$646,907	\$10,108 / Unit	\$473,000	\$0	0.0%	\$0		
Developer Fee	\$0	\$1,139,801	15.70%	12.13%	\$1,139,801	\$1,139,801	\$1,137,576	\$1,137,576	12.34%	15.00%	\$1,053,578	\$0	0.2%	\$2,225
Reserves			7 Months	\$291,000	\$204,688	\$203,454	\$213,928	6 Months			36.0%	\$77,072		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$8,398,279</b>	\$173,167 / Unit	<b>\$11,082,662</b>	<b>\$9,238,530</b>	<b>\$9,544,910</b>	<b>\$11,003,366</b>	\$171,928 / Unit	<b>\$8,077,432</b>	<b>\$0</b>	<b>0.7%</b>	<b>\$79,296</b>	
Acquisition Cost	\$0			\$0	\$0	\$0								
Contingency		(\$55,818)		\$0	\$0									
Contractor's Fee		(\$178,806)		\$0	\$0									
Financing Cost		\$0												
Developer Fee	\$0	(\$86,223)		(\$2,225)	(\$2,225)									
Reserves		\$0		\$0	\$0									
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$8,077,432</b>	\$173,132/unit	<b>\$11,080,437</b>	<b>\$9,236,305</b>	<b>\$9,544,910</b>	<b>\$11,003,366</b>	\$171,928/unit	<b>\$8,077,432</b>	<b>\$0</b>	<b>0.7%</b>	<b>\$77,072</b>	

**TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate): \$11,080,437**

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

*Vernon Pioneer Crossing, Vernon, 9% HTC #20212*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	<b>ADJUSTED BASIS</b>	\$0	\$8,077,432	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$8,077,432	\$0	\$8,077,432
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$10,500,662	\$0	\$10,500,662
Applicable Fraction	90.63%	90.63%	90.63%	90.63%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$9,516,225	\$0	\$9,516,225
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$856,460	\$0	\$856,460
<b>CREDITS ON QUALIFIED BASIS</b>	\$856,460		\$856,460	

**ANNUAL CREDIT CALCULATION  
BASED ON APPLICANT BASIS**

**FINAL ANNUAL LIHTC ALLOCATION**

Method	Annual Credits	Proceeds	Credit Price	Variance to Request	
			\$0.8599	Credits	Proceeds
			<b>Credit Allocation</b>		
<b>Eligible Basis</b>	\$856,460	\$7,364,821	----	----	----
<b>Needed to Fill Gap</b>	\$843,275	\$7,251,437	----	----	----
<b>Previous Allocation</b>	\$824,345	\$7,088,658	<b>\$824,345</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Vernon Pioneer Crossing, Vernon, 9% HTC #20212*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$494,483	\$504,372	\$514,460	\$524,749	\$535,244	\$590,953	\$652,460	\$720,368	\$795,345	\$878,125	\$969,521	\$1,070,429
TOTAL EXPENSES	3.00%	\$297,422	\$306,147	\$315,130	\$324,378	\$333,899	\$385,899	\$446,058	\$515,663	\$596,205	\$689,409	\$797,275	\$922,120
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$197,060</b>	<b>\$198,225</b>	<b>\$199,330</b>	<b>\$200,371</b>	<b>\$201,345</b>	<b>\$205,053</b>	<b>\$206,401</b>	<b>\$204,705</b>	<b>\$199,140</b>	<b>\$188,716</b>	<b>\$172,245</b>	<b>\$148,309</b>
EXPENSE/INCOME RATIO		60.1%	60.7%	61.3%	61.8%	62.4%	65.3%	68.4%	71.6%	75.0%	78.5%	82.2%	86.1%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$145,905	\$145,760	\$145,610	\$145,454	\$145,291	\$144,378	\$143,271	\$141,930	\$140,304	\$138,334	\$135,947	\$133,054
DEBT COVERAGE RATIO		<b>1.35</b>	<b>1.36</b>	<b>1.37</b>	<b>1.38</b>	<b>1.39</b>	<b>1.42</b>	<b>1.44</b>	<b>1.44</b>	<b>1.42</b>	<b>1.36</b>	<b>1.27</b>	<b>1.11</b>
<b>ANNUAL CASH FLOW</b>													
ANNUAL CASH FLOW		<b>\$51,155</b>	<b>\$52,465</b>	<b>\$53,720</b>	<b>\$54,918</b>	<b>\$56,054</b>	<b>\$60,676</b>	<b>\$63,130</b>	<b>\$62,775</b>	<b>\$58,835</b>	<b>\$50,381</b>	<b>\$36,298</b>	<b>\$15,255</b>
Deferred Developer Fee Balance		\$111,624	\$59,159	\$5,439	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$49,479</b>	<b>\$105,532</b>	<b>\$400,420</b>	<b>\$712,148</b>	<b>\$1,028,001</b>	<b>\$1,331,665</b>	<b>\$1,602,494</b>	<b>\$1,814,653</b>	<b>\$1,936,097</b>

21506 The Commons at St. Anthony's (St. Anthony's): \$2,000,000 NHTF

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20042), St. Anthony's will be the adaptive reuse<sup>2</sup> of a former healthcare facility into 124 units that will serve an elderly population in compliance with the Housing for Older Persons Act under the Fair Housing Act, and will consist of one elevator-serviced building varying in height from three to five stories in Amarillo, located in Potter County. It will include one and two bedroom units with rent/income levels from 30% to 60% of the area median income (AMI), with no market rate units.

The Application documents a building cost increase of \$3,752,889, and the Applicant is requesting \$2,000,000 in gap financing.

*Financing and Regulatory Terms:* The \$2,000,000 MFDL NHTF loan will be in second lien position after a conventional Freddie Mac loan. Subject to final underwriting and as further set forth in the following REA Report, the MFDL NHTF loan will have a 17-year term, and any loan balance remaining upon conclusion of the term will be forgiven upon completion of the Federal Affordability Period of 30 years.

Of the 13 floating MFDL NHTF units restricted to 30% AMI, there will be nine one-bedroom and four two-bedroom, units. Two additional HOME Match-Eligible Units serving households at or below 60% AMI may be required. The Federal Affordability Period will be 30 years and the State Affordability Period will be 45 years.

For purposes of this MFDL NHTF loan, St. Anthony's will be identified as rehabilitation under the NHTF Contract and must meet the NHTF Rehabilitation Standards. It will be considered New Construction for purposes of the LIHTC program.

The Department has elected to fund St. Anthony's under the General Set-Aside with National Housing Trust Fund (NHTF) funds that will be restricted to 30% area median rent and income levels for that program.

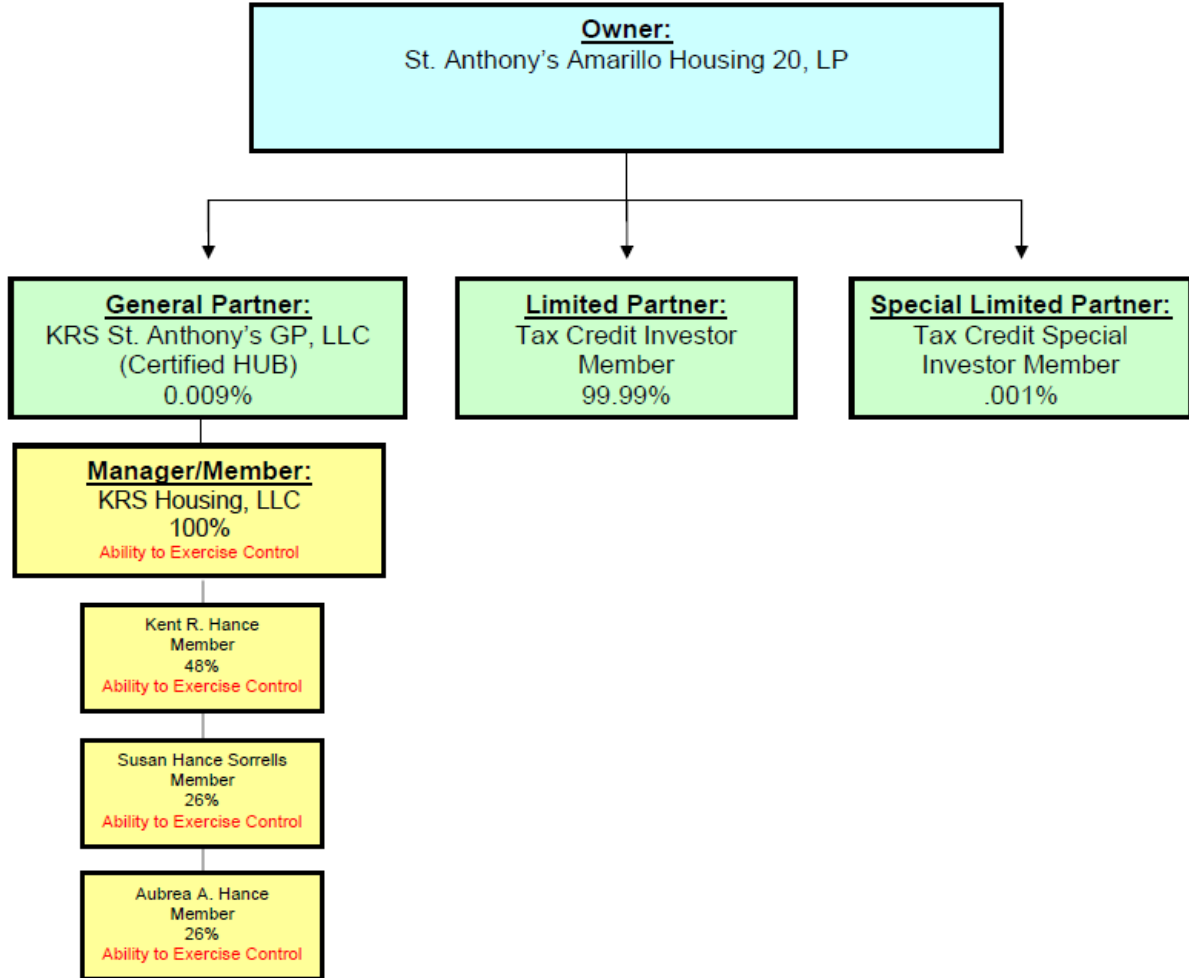
*Organizational Structure:* The proposed borrower is St. Anthony's Amarillo Housing 20, LP, and identifies principals with the ability to exercise control as indicated in the organizational chart below.

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<sup>2</sup> Activity is eligible per waiver of 10 TAC §13.3(d)(2)(A) granted September 2, 2021 under BAR Item 1(w), which also provides that the Application may be treated as rehabilitation in regards to requirements of the federal funding source.

**THE COMMONS AT ST. ANTHONY'S – AMARILLO, TEXAS**

**Ownership Chart**





**Addendum to Underwriting Report**

TDHCA Application #: **21506 20042** Program(s): **9% HTC/MDL**

**The Commons at St. Anthony's**

Address/Location: SWC Amarillo Blvd. and N. Polk Street

City: Amarillo County: Potter Zip: 79107

APPLICATION HISTORY	
Report Date	PURPOSE
10/06/21	MDL Application
06/30/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
TDHCA (Deferred Forgivable)					\$2,000,000	0.00%	N/A	30	2
LIHTC (9% Credit)	\$1,500,000				\$1,500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

## CONDITIONS STATUS

### 1 Receipt and acceptance before Direct Loan Closing

- a: 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: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.
- f: Compliance with the Department's NHTF Rehabilitation Standards, as approved by HUD.

### 2 Receipt and acceptance by Commitment:

- a: Documentation of the approved subdivision plat.

**Status:** Cleared. The City of Amarillo has approved the above Final Plat on 8/4/2020.

- b: Revision to the Scope and Cost Review addressing §11.306(d)(6).

**Status:** Cleared. SCR references Subchapter B along with accessible work included in the scope.

### 3 Receipt and acceptance by Carryover:

- a: Documentation of the status of the Historic Tax Credit application and approval.

**Status:** Cleared.

- b: Documentation of restrictive covenant with SALRC.

**Status:** Cleared.

### 4 Receipt and acceptance by Cost Certification:

- a: Architect certification that a noise assessment and vapor study were completed, and that all recommendations were implemented and the Development is compliant with HUD guidelines.
- b: Certification of comprehensive testing for asbestos and lead-based paint; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials and lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
- c: Certification that subsurface environmental investigation was performed as specified in the ESA, and that any recommended mitigation measures were fully implemented.
- d: Architect certification that buildings were tested for the presence of radon and any recommended mitigation measures were implemented.
- e: Evidence that the units and buildings have met the requirements for use of a Green Discount Utility Allowance.



**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	13
50% of AMI	50% of AMI	25
60% of AMI	60% of AMI	86

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	13

**ANALYSIS**

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA for NHTF funds.

**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

**Development Cost**

Net Rentable Area (NRA) has increased by 3.11% and the land area has increased from 3.9 acres to 4.22 acres from the Original Application. Land price increased from \$300k to \$324,615.

Building Cost increased \$3,752,889 (24.2%)

Total Development Cost increased \$4,061,903 (14.4%)

**Sources of Funds**

The Applicant has applied for a Multifamily Direct Loan consistent with requirements of NOFA, structured as Deferred Forgivable.

If the Direct Loan amount is forgiven, it is considered a federal grant, and the amount must be deducted from eligible basis for Housing Tax Credits. With the Direct Loan amount as well as the Federal Historic Credits deducted, eligible basis continues to support the original Housing Tax Credit allocation of \$1,500,000.

The Underwriter recommends approval of a Direct Loan as a second lien in the amount of \$2,000,000 at 0% interest structured as Deferred Forgivable with a 30-year term.

Underwriter:	<i>Eric Weiner</i>
Manager of Real Estate Analysis:	<i>Jeanna Adams</i>
Director of Real Estate Analysis:	<i>Thomas Cavanagh</i>

**UNIT MIX/RENT SCHEDULE**  
**The Commons at St. Anthony's, Amarillo, 9% HTC #20042**

LOCATION DATA	
CITY:	Amarillo
COUNTY:	Potter
Area Median Income	\$71,600
PROGRAM REGION:	1
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
1	45	36.3%	0	4
2	43	34.7%	0	4
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>124</b>	<b>100.0%</b>	<b>-</b>	<b>13</b>

55% Average Income		
Income	# Units	% Total
20%	-	0.0%
30%	13	10.5%
40%	-	0.0%
50%	25	20.2%
60%	86	69.4%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>		
	<b>124</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	766 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC	TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS				
	Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$376	30%/30%	\$376	1	0	1	554	\$376	\$42	\$334	\$0	\$0.60	\$334	\$334	\$334	\$334	\$0.60	\$0	\$753	\$1.36	\$753	
TC 50%	\$627			3	0	1	605	\$627	\$42	\$585	(\$1)	\$0.97	\$584	\$1,752	\$1,755	\$585	\$0.97	\$0	\$753	\$1.24	\$753	
TC 60%	\$753			5	0	1	605	\$753	\$42	\$711	(\$17)	\$1.15	\$694	\$3,470	\$3,555	\$711	\$1.18	\$0	\$753	\$1.24	\$753	
TC 50%	\$627			1	0	1	606	\$627	\$42	\$585	(\$1)	\$0.96	\$584	\$584	\$585	\$585	\$0.97	\$0	\$753	\$1.24	\$753	
TC 50%	\$627			1	0	1	613	\$627	\$42	\$585	(\$1)	\$0.95	\$584	\$584	\$585	\$585	\$0.95	\$0	\$753	\$1.23	\$753	
TC 50%	\$627			3	0	1	622	\$627	\$42	\$585	(\$1)	\$0.94	\$584	\$1,752	\$1,755	\$585	\$0.94	\$0	\$753	\$1.21	\$753	
TC 60%	\$753			7	0	1	622	\$753	\$42	\$711	(\$17)	\$1.12	\$694	\$4,858	\$4,977	\$711	\$1.14	\$0	\$753	\$1.21	\$753	
TC 30%	\$376	30%/30%	\$376	3	0	1	646	\$376	\$42	\$334	\$0	\$0.52	\$334	\$1,002	\$1,002	\$334	\$0.52	\$0	\$753	\$1.17	\$753	
TC 60%	\$753			6	0	1	646	\$753	\$42	\$711	(\$17)	\$1.07	\$694	\$4,164	\$4,266	\$711	\$1.10	\$0	\$753	\$1.17	\$753	
TC 60%	\$753			2	0	1	664	\$753	\$42	\$711	(\$17)	\$1.05	\$694	\$1,388	\$1,422	\$711	\$1.07	\$0	\$753	\$1.13	\$753	
TC 60%	\$753			4	0	1	667	\$753	\$42	\$711	(\$17)	\$1.04	\$694	\$2,776	\$2,844	\$711	\$1.07	\$0	\$753	\$1.13	\$753	
TC 60%	\$806			2	1	1	679	\$806	\$48	\$758	(\$18)	\$1.09	\$740	\$1,480	\$1,516	\$758	\$1.12	\$0	\$806	\$1.19	\$806	
TC 30%	\$403	30%/30%	\$403	2	1	1	682	\$403	\$48	\$355	\$0	\$0.52	\$355	\$710	\$710	\$355	\$0.52	\$0	\$806	\$1.18	\$806	
TC 60%	\$806			4	1	1	682	\$806	\$48	\$758	(\$18)	\$1.09	\$740	\$2,960	\$3,032	\$758	\$1.11	\$0	\$806	\$1.18	\$806	
TC 60%	\$806			3	1	1	694	\$806	\$48	\$758	(\$18)	\$1.07	\$740	\$2,220	\$2,274	\$758	\$1.09	\$0	\$806	\$1.16	\$832	
TC 50%	\$671			2	1	1	714	\$671	\$48	\$623	(\$1)	\$0.87	\$622	\$1,244	\$1,246	\$623	\$0.87	\$0	\$806	\$1.13	\$806	
TC 50%	\$671			2	1	1	720	\$671	\$48	\$623	(\$1)	\$0.86	\$622	\$1,244	\$1,246	\$623	\$0.87	\$0	\$806	\$1.12	\$806	
TC 60%	\$806			3	1	1	720	\$806	\$48	\$758	(\$18)	\$1.03	\$740	\$2,220	\$2,274	\$758	\$1.05	\$0	\$806	\$1.12	\$806	
TC 60%	\$806			2	1	1	736	\$806	\$48	\$758	(\$18)	\$1.01	\$740	\$1,480	\$1,516	\$758	\$1.03	\$0	\$806	\$1.10	\$806	
TC 60%	\$806			2	1	1	739	\$806	\$48	\$758	(\$18)	\$1.00	\$740	\$1,480	\$1,516	\$758	\$1.03	\$0	\$806	\$1.09	\$806	
TC 30%	\$403	30%/30%	\$403	3	1	1	755	\$403	\$48	\$355	\$0	\$0.47	\$355	\$1,065	\$1,065	\$355	\$0.47	\$0	\$806	\$1.07	\$806	
TC 50%	\$671			2	1	1	755	\$671	\$48	\$623	(\$1)	\$0.82	\$622	\$1,244	\$1,246	\$623	\$0.83	\$0	\$806	\$1.07	\$806	
TC 60%	\$806			11	1	1	755	\$806	\$48	\$758	(\$18)	\$0.98	\$740	\$8,140	\$8,338	\$758	\$1.00	\$0	\$806	\$1.07	\$806	
TC 60%	\$806			3	1	1	758	\$806	\$48	\$758	(\$18)	\$0.98	\$740	\$2,220	\$2,274	\$758	\$1.00	\$0	\$806	\$1.06	\$806	
TC 50%	\$671			3	1	1	778	\$671	\$48	\$623	(\$1)	\$0.80	\$622	\$1,866	\$1,869	\$623	\$0.80	\$0	\$806	\$1.04	\$806	
TC 60%	\$806			1	1	1	805	\$806	\$48	\$758	(\$18)	\$0.92	\$740	\$740	\$758	\$758	\$0.94	\$0	\$806	\$1.00	\$806	
TC 30%	\$483	30%/30%	\$549	2	2	1	859	\$483	\$61	\$422	\$0	\$0.49	\$422	\$844	\$844	\$422	\$0.49	\$0	\$967	\$1.13	\$967	
TC 60%	\$967			1	2	1	869	\$967	\$61	\$906	(\$20)	\$1.02	\$886	\$886	\$906	\$906	\$1.04	\$0	\$967	\$1.11	\$967	
TC 60%	\$967			6	2	1	871	\$967	\$61	\$906	(\$20)	\$1.02	\$886	\$5,316	\$5,436	\$906	\$1.04	\$0	\$967	\$1.11	\$967	
TC 50%	\$806			2	2	1	886	\$806	\$61	\$745	(\$1)	\$0.84	\$744	\$1,488	\$1,490	\$745	\$0.84	\$0	\$967	\$1.09	\$967	
TC 50%	\$806			2	2	1	903	\$806	\$61	\$745	(\$1)	\$0.82	\$744	\$1,488	\$1,490	\$745	\$0.83	\$0	\$967	\$1.07	\$967	
TC 60%	\$967			3	2	1	903	\$967	\$61	\$906	(\$20)	\$0.98	\$886	\$2,658	\$2,718	\$906	\$1.00	\$0	\$967	\$1.07	\$967	
TC 60%	\$967			1	2	1	906	\$967	\$61	\$906	(\$20)	\$0.98	\$886	\$886	\$906	\$906	\$1.00	\$0	\$967	\$1.07	\$967	
TC 50%	\$806			2	2	1	911	\$806	\$61	\$745	(\$1)	\$0.82	\$744	\$1,488	\$1,490	\$745	\$0.82	\$0	\$967	\$1.06	\$967	
TC 60%	\$967			4	2	1	911	\$967	\$61	\$906	(\$20)	\$0.97	\$886	\$3,544	\$3,624	\$906	\$0.99	\$0	\$967	\$1.06	\$967	
TC 30%	\$483	30%/30%	\$549	2	2	1	925	\$483	\$61	\$422	\$0	\$0.46	\$422	\$844	\$844	\$422	\$0.46	\$0	\$967	\$1.05	\$967	
TC 60%	\$967			9	2	1	925	\$967	\$61	\$906	(\$20)	\$0.96	\$886	\$7,974	\$8,154	\$906	\$0.98	\$0	\$967	\$1.05	\$967	
TC 50%	\$806			2	2	1	929	\$806	\$61	\$745	(\$1)	\$0.80	\$744	\$1,488	\$1,490	\$745	\$0.80	\$0	\$967	\$1.04	\$967	
TC 60%	\$967			4	2	1	929	\$967	\$61	\$906	(\$20)	\$0.95	\$886	\$3,544	\$3,624	\$906	\$0.98	\$0	\$967	\$1.04	\$967	
TC 60%	\$967			1	2	1	979	\$967	\$61	\$906	(\$20)	\$0.91	\$886	\$886	\$906	\$906	\$0.93	\$0	\$967	\$0.99	\$967	
TC 60%	\$967			1	2	1	1,040	\$967	\$61	\$906	(\$20)	\$0.85	\$886	\$886	\$906	\$906	\$0.87	\$0	\$967	\$0.93	\$967	
TC 60%	\$967			1	2	1	1,103	\$967	\$61	\$906	(\$20)	\$0.80	\$886	\$886	\$906	\$906	\$0.82	\$0	\$967	\$0.88	\$967	
<b>TOTALS/AVERAGES:</b>				<b>124</b>				<b>94,989</b>				<b>(\$13)</b>	<b>\$0.93</b>	<b>\$710</b>	<b>\$88,083</b>	<b>\$89,694</b>	<b>\$723</b>	<b>\$0.94</b>	<b>\$0</b>	<b>\$846</b>	<b>\$1.10</b>	<b>\$847</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,056,996</b>	<b>\$1,076,328</b>
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**STABILIZED PRO FORMA**

*The Commons at St. Anthony's, Amarillo, 9% HTC #20042*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	3 Local Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.93	\$710	\$1,056,996	\$1,076,640	\$1,077,037	\$1,076,328	\$723	\$0.94		-1.8%	(\$19,332)
late fees, app fees, retained deposits						\$10.00	\$14,880	16,368						
Total Secondary Income						\$10.00		16,368	\$14,880	\$10.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>							\$1,071,876	\$1,093,008	\$1,093,405	\$1,091,208			-1.8%	(\$19,332)
Vacancy & Collection Loss					7.5% PGI	(80,391)	(81,976)	(82,005)	(81,841)		7.5% PGI		-1.8%	1,450
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>							\$991,485	\$1,011,032	\$1,011,400	\$1,009,367			-1.8%	(\$17,882)

General & Administrative	\$41,623	\$336/Unit	\$39,166	\$316	2.45%	\$0.26	\$196	\$24,265	\$28,840	\$39,166	\$39,166	\$316	\$0.41	3.88%	-38.0%	(14,901)
Management	\$35,899	4.4% EGI	\$44,422	\$358	4.26%	\$0.44	\$341	\$42,268	\$42,969	\$42,984	\$42,898	\$346	\$0.45	4.25%	-1.5%	(630)
Payroll & Payroll Tax	\$151,697	\$1,223/Unit	\$164,829	\$1,329	14.23%	\$1.49	\$1,138	\$141,071	\$142,216	\$142,216	\$141,071	\$1,138	\$1.49	13.98%	0.0%	-
Repairs & Maintenance	\$79,071	\$638/Unit	\$84,156	\$679	8.52%	\$0.89	\$681	\$84,500	\$77,160	\$80,600	\$80,600	\$650	\$0.85	7.99%	4.8%	3,900
Electric/Gas	\$27,207	\$219/Unit	\$21,731	\$175	1.51%	\$0.16	\$121	\$15,000	\$15,000	\$21,731	\$21,731	\$175	\$0.23	2.15%	-31.0%	(6,731)
Water, Sewer, & Trash	\$65,043	\$525/Unit	\$69,950	\$564	5.99%	\$0.63	\$479	\$59,400	\$59,500	\$59,500	\$59,400	\$479	\$0.63	5.88%	0.0%	-
Property Insurance	\$38,927	\$0.41 /sf	\$40,947	\$330	8.74%	\$0.91	\$699	\$86,641	\$43,400	\$43,400	\$86,641	\$699	\$0.91	8.58%	0.0%	-
Property Tax (@ 100%) 2.508935	\$54,327	\$438/Unit	\$56,547	\$456	8.55%	\$0.89	\$684	\$84,803	\$113,444	\$108,237	\$85,064	\$686	\$0.90	8.43%	-0.3%	(261)
Reserve for Replacements				\$0	3.75%	\$0.39	\$300	\$37,200	\$37,200	\$37,200	\$37,200	\$300	\$0.39	3.69%	0.0%	-
Supportive Services				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0.00	\$0.00	0.00%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.50%	\$0.05	\$40	\$4,960	\$4,960	\$4,960	\$4,960	\$40	\$0.05	0.49%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>58.51%</b>	<b>\$6.11</b>	<b>\$4,678</b>	<b>\$ 580,108</b>	<b>\$564,689</b>	<b>\$579,994</b>	<b>\$599,173</b>	<b>\$4,832</b>	<b>\$6.31</b>	<b>59.36%</b>	<b>-3.2%</b>	<b>\$ (19,065)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>41.49%</b>	<b>\$4.33</b>	<b>\$3,318</b>	<b>\$411,377</b>	<b>\$446,343</b>	<b>\$431,406</b>	<b>\$410,194</b>	<b>\$3,308</b>	<b>\$4.32</b>	<b>40.64%</b>	<b>0.3%</b>	<b>\$ 1,183</b>

<b>CONTROLLABLE EXPENSES</b>							\$2,615/Unit					\$2,758/Unit				
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*The Commons at St. Anthony's, Amarillo, 9% HTC #20042*

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE					
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App													DCR	LTC
Walker and Dunlop		1.17	1.17	351,612	4.77%	35	17	\$5,978,403	\$6,700,000	\$6,700,000	\$5,978,403	17	35	4.77%	\$351,612	1.17	18.6%
<b>CASH FLOW DEBT / GRANTS</b>																	
TDHCA (Deferred Forgivable)		1.17	1.17		0.00%	35	17	\$2,000,000	\$500	\$500	\$2,000,000	30		0.00%		1.17	6.2%
City of Amarillo		1.17	1.17		0.00%	0	0	\$500	\$0	\$0	\$500	0	0	0.00%		1.17	0.0%
				<b>\$351,612</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$7,978,903</b>	<b>\$6,700,500</b>	<b>\$6,700,500</b>	<b>\$7,978,903</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$351,612</b>	<b>1.17</b>	<b>24.8%</b>
<b>NET CASH FLOW</b>		\$58,582	\$59,765											<b>APPLICANT NET OPERATING INCOME</b>	\$411,377	\$59,765	<b>NET CASH FLOW</b>

EQUITY SOURCES															
APPLICANT'S PROPOSED EQUITY STRUCTURE						Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
															LIHTC Equity
Boston Financial	LIHTC Equity	38.2%	\$1,500,000	0.82	\$12,298,770	\$13,498,650	\$13,498,650	\$12,298,770	\$0.82	\$1,500,000	38.2%	\$12,097	Previous Allocation		
Federal Historic Credits - BFIM		14.1%			\$4,529,970	\$3,806,305	\$3,806,305	\$4,529,970			14.1%				
State Historic Credits-Commerce		19.9%			\$6,388,172	\$3,171,921	\$3,171,921	\$6,388,172			19.9%				
Commonwealth/KRS Housing	Deferred Developer Fees	3.0%	(42% Deferred)		\$978,134	\$934,669	\$934,669	\$978,134	(42% Deferred)		3.0%	Total Developer Fee:	\$2,304,454		
Additional (Excess) Funds Req'd		0.0%					\$0				0.0%				
<b>TOTAL EQUITY SOURCES</b>		<b>75.2%</b>			<b>\$24,195,046</b>	<b>\$21,411,546</b>	<b>\$21,411,546</b>	<b>\$24,195,046</b>			<b>75.2%</b>				
<b>TOTAL CAPITALIZATION</b>					<b>\$32,173,949</b>	<b>\$28,112,046</b>	<b>\$28,112,045</b>	<b>\$32,173,949</b>						15-Yr Cash Flow after Deferred Fee:	<b>\$159,650</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
Acquisition	New Const. Rehab	Total Costs			Applicant	TDHCA	Total Costs			New Const. Rehab	Acquisition	%	\$
		Eligible Basis					Eligible Basis						
Land Acquisition			\$2,618 / Unit	\$324,615	\$300,000	\$300,000	\$324,615	\$2,618 / Unit				0.0%	\$0
Off-Sites			\$1,694 / Unit	\$210,000	\$210,000	\$114,745	\$210,000	\$1,694 / Unit				0.0%	\$0
Site Work		\$519,570	\$4,190 / Unit	\$519,570	\$1,056,147	\$1,523,188	\$519,570	\$4,190 / Unit	\$519,570			0.0%	\$0
Site Amenities		\$0	\$1,613 / Unit	\$200,000	\$375,000	\$384,400	\$270,560	\$2,182 / Unit		\$0		-26.1%	(\$70,560)
Building Cost		\$8,654,537	\$202.76 /sf	\$155,321/Unit	\$19,259,858	\$15,506,969	\$15,125,783	\$19,189,298	\$154,752/Unit	\$202.02 /sf	\$8,654,537	0.4%	\$70,560
Contingency		\$2,018,943	22.01%	10.00%	\$2,018,943	\$1,457,590	\$1,457,590	\$2,018,943	10.00%	10.00%	\$917,411	0.0%	\$0
Contractor Fees		\$3,080,229	27.52%	13.87%	\$3,080,229	\$2,599,217	\$2,599,217	\$3,080,229	13.87%	14.00%	\$1,412,812	0.0%	\$0
Soft Costs	0	\$1,527,692	\$14,942 / Unit	\$1,852,833	\$1,504,739	\$1,504,739	\$1,852,833	\$14,942 / Unit	\$1,527,692	\$0		0.0%	\$0
Financing	0	\$916,184	\$14,638 / Unit	\$1,815,069	\$2,217,562	\$2,217,562	\$1,815,069	\$14,638 / Unit	\$916,184	\$0		0.0%	\$0
Developer Fee	\$0	\$2,304,454	13.78%	8.31%	\$2,304,454	\$2,304,454	\$2,304,454	8.84%	15.00%	\$2,092,231	\$0	0.0%	\$0
Reserves			8 Months	\$588,378	\$580,368	\$580,368	\$588,378	7 Months				0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$19,021,609</b>	\$259,467 / Unit	<b>\$32,173,949</b>	<b>\$28,112,046</b>	<b>\$28,112,045</b>	<b>\$32,173,949</b>	\$259,467 / Unit	<b>\$16,040,437</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>
Acquisition Cost	\$0			\$0	\$0								
Contingency		(\$1,101,532)		(\$0)	\$0								
Contractor's Fee		(\$1,667,417)		\$0	\$0								
Financing Cost		\$0											
Developer Fee	\$0	(\$212,223)		\$0	\$0								
Reserves				\$0	\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$16,040,437</b>	\$259,467/unit	<b>\$32,173,949</b>	<b>\$28,112,046</b>	<b>\$28,112,045</b>	<b>\$32,173,949</b>	\$259,467/unit	<b>\$16,040,437</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS</b>					<b>\$32,173,949</b>								

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

*The Commons at St. Anthony's, Amarillo, 9% HTC #20042*

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$16,040,437	\$0	\$16,040,437
Deduction of Federal Historic Credits	\$0	(\$4,529,970)	\$0	(\$4,529,970)
Deduction of Forgivable NHTF		(\$2,000,000)		(\$2,000,000)
Credit back voluntary reduction		\$10,605,321		\$10,605,321
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$20,115,788	\$0	\$20,115,788
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$26,150,524	\$0	\$26,150,524
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$26,150,524	\$0	\$26,150,524
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$2,353,547	\$0	\$2,353,547
<b>CREDITS ON QUALIFIED BASIS</b>		\$2,353,547		\$2,353,547

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8199	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,353,547	\$19,297,157	----	----	----
<b>Needed to Fill Gap</b>	\$1,619,297	\$13,276,904	----	----	----
<b>Previous Allocation</b>	\$1,500,000	\$12,298,770	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*The Commons at St. Anthony's, Amarillo, 9% HTC #20042*

	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%	\$991,485	\$1,011,315	\$1,031,541	\$1,052,172	\$1,073,216	\$1,184,917	\$1,308,244	\$1,444,407	\$1,594,742	\$1,760,724	\$1,943,981
TOTAL EXPENSES	3.00%	\$580,108	\$597,089	\$614,570	\$632,567	\$651,096	\$752,273	\$869,303	\$1,004,682	\$1,161,303	\$1,342,517	\$1,552,202
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$411,377</b>	<b>\$414,226</b>	<b>\$416,971</b>	<b>\$419,605</b>	<b>\$422,120</b>	<b>\$432,643</b>	<b>\$438,941</b>	<b>\$439,725</b>	<b>\$433,438</b>	<b>\$418,207</b>	<b>\$391,780</b>
EXPENSE/INCOME RATIO		58.5%	59.0%	59.6%	60.1%	60.7%	63.5%	66.4%	69.6%	72.8%	76.2%	79.8%
<b>MUST -PAY DEBT SERVICE</b>												
TOTAL DEBT SERVICE		\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612	\$351,612
DEBT COVERAGE RATIO		1.17	1.18	1.19	1.19	1.20	1.23	1.25	1.25	1.23	1.19	1.11
<b>ANNUAL CASH FLOW</b>		<b>\$59,765</b>	<b>\$62,614</b>	<b>\$65,359</b>	<b>\$67,992</b>	<b>\$70,507</b>	<b>\$81,031</b>	<b>\$87,328</b>	<b>\$88,112</b>	<b>\$81,826</b>	<b>\$66,595</b>	<b>\$40,167</b>
Deferred Developer Fee Balance		\$918,369	\$855,755	\$790,396	\$722,404	\$651,897	\$266,327	\$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>\$0</b>	<b>\$159,650</b>	<b>\$601,139</b>	<b>\$1,026,019</b>	<b>\$1,393,453</b>	<b>\$1,652,127</b>

21507 Westwind at Dumas: \$1,100,000 NHTF

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20272), Westwind at Dumas is the new construction of 64 units that will serve a general population in four two-story, non-elevator, buildings in Dumas, located in Moore County. Unit sizes range from one to three bedrooms and rent/income levels from 30% to 60% of the area median income (AMI), with eight unrestricted units.

The Application documents a combined building and labor cost increase of \$1,219,753. Westwind at Dumas is requesting \$1,100,000 in gap financing.

*Financing and Regulatory Terms:* The \$1,100,000 MFDL NHTF loan will be in second lien position after a USDA-guaranteed loan. Subject to final underwriting and as further set forth in the following REA Report, the MFDL NHTF loan will be at 0% interest with a 40-year term and amortization.

Of the nine MFDL units restricted to 30% AMI, there will be three one-bedroom, five two-bedroom, and one three-bedroom. One additional HOME Match-Eligible Unit serving households at or below 60% AMI may be required. The Federal Affordability Period will be 30 years; the State Affordability Period will be 45 years.

Section 10 TAC §13.5(d), Required Site Control Agreement Provisions, is inapplicable as the borrower acquired the property on October 28, 2020, before contemplating application for MFDL funds.

The Department has elected to fund Westwind at Dumas under the General Set-Aside with NHTF funds that will be restricted to 30% area median rent and income levels for that program.

*Organizational Structure:* The proposed borrower is SCF Dumas 20, LP, and includes principals with the ability to exercise control as indicated in the organizational chart below.



**Addendum to Underwriting Report**

TDHCA Application #: **21507** Program(s): **9% HTC/MDL**

**Westwind of Dumas**

Address/Location: 331 W. 16th Street

City: Dumas County: Moore Zip: 79029

APPLICATION HISTORY	
Report Date	PURPOSE
10/07/21	MDL Memo
09/01/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
TDHCA (Soft Repayable)					\$1,100,000	0.00%	40	40	0
LIHTC (9% Credit)	\$703,287				\$703,287				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing:
  - a: 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: For Rehabilitation Developments, most recent annual operating statement.
  - e: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.
- 2 Receipt and acceptance by Cost Certification:
  - Architect certification that buildings were tested for the presence of radon and any recommended mitigation measures were implemented.



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

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	5
50% of AMI	50% of AMI	14
60% of AMI	60% of AMI	37

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	9

**ANALYSIS**

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

The requested Direct Loan funding requires the restriction of 9 units at 30% AMI. As a result, the Applicant has layered 30% NHTF units on top of five (5) 30% HTC and four (4) 50% HTC units.

**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

**Development Cost**

Since the original credit allocation, Building Cost has increased by \$927K as evidenced by Applicant's current construction contract.

Total Housing Development Costs have increased by \$1.2M.

The NOFA requires that the total Developer Fee cannot increase over the amount approved at the original credit allocation. As presented in the MFDL Application, Developer Fee is overstated by \$84K.

**Sources of Funds**

Applicant has applied for an MFDL consistent with the requirements of NOFA 2021-3.

**Conclusion**

Underwriter recommends approval of a construction-to-permanent loan in the amount of \$1,100,000 structured as payable from surplus cash at 0% interest, in a second lien position with 40-year amortization and 40-year term (to match the senior debt).

Underwriter: Gregg Kazak  
 Manager of Real Estate Analysis: Jeanna Adams  
 Director of Real Estate Analysis: Thomas Cavanagh

**UNIT MIX/RENT SCHEDULE**  
*Westwind of Dumas, Dumas, 9% HTC #20272*

LOCATION DATA	
CITY:	Dumas
COUNTY:	Moore
Area Median Income	\$57,200
PROGRAM REGION:	1
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	16	25.0%	0	3
2	40	62.5%	0	5
3	8	12.5%	0	1
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>64</b>	<b>100.0%</b>	<b>-</b>	<b>9</b>

55%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	5	7.8%
40%	-	0.0%
50%	14	21.9%
60%	37	57.8%
70%	-	0.0%
80%	-	0.0%
MR	8	12.5%
<b>TOTAL</b>		
	<b>64</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	<b>87.08%</b>
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	978 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$356	30%/30%	\$378	2	1	1	686	\$356	\$74	\$282	\$0	\$0.41	\$282	\$564	\$564	\$282	\$0.41	\$0	\$713	\$1.04	\$705
TC 50%	\$594	30%/30%	\$378	1	1	1	686	\$378	\$74	\$304	\$0	\$0.44	\$304	\$304	\$304	\$304	\$0.44	\$0	\$713	\$1.04	\$705
TC 50%	\$594			1	1	1	686	\$594	\$74	\$520	\$0	\$0.76	\$520	\$520	\$520	\$520	\$0.76	\$0	\$713	\$1.04	\$705
TC 60%	\$713			10	1	1	686	\$713	\$74	\$639	\$0	\$0.93	\$639	\$6,390	\$6,390	\$639	\$0.93	\$0	\$713	\$1.04	\$705
MR				2	1	1	686	\$0	\$74		NA	\$1.04	\$713	\$1,426	\$1,426	\$713	\$1.04	NA	\$713	\$1.04	\$867
TC 30%	\$428	30%/30%	\$549	1	2	2	1,027	\$428	\$96	\$332	\$0	\$0.32	\$332	\$332	\$332	\$332	\$0.32	\$0	\$856	\$0.83	\$867
TC 50%	\$713	30%/30%	\$549	2	2	2	1,027	\$549	\$96	\$453	\$0	\$0.44	\$453	\$906	\$906	\$453	\$0.44	\$0	\$856	\$0.83	\$867
TC 60%	\$856			11	2	2	1,027	\$856	\$96	\$760	\$0	\$0.74	\$760	\$8,360	\$8,360	\$760	\$0.74	\$0	\$856	\$0.83	\$867
MR				2	2	2	1,027	\$0	\$96		NA	\$0.83	\$856	\$1,712	\$1,712	\$856	\$0.83	NA	\$856	\$0.83	\$867
TC 30%	\$428	30%/30%	\$549	2	2	2	1,067	\$428	\$96	\$332	\$0	\$0.31	\$332	\$664	\$664	\$332	\$0.31	\$0	\$856	\$0.80	\$867
TC 50%	\$713			8	2	2	1,067	\$713	\$96	\$617	\$0	\$0.58	\$617	\$4,936	\$4,936	\$617	\$0.58	\$0	\$856	\$0.80	\$867
TC 60%	\$856			13	2	2	1,067	\$856	\$96	\$760	\$0	\$0.71	\$760	\$9,880	\$9,880	\$760	\$0.71	\$0	\$856	\$0.80	\$867
MR				1	2	2	1,067	\$0	\$96		NA	\$0.80	\$856	\$856	\$856	\$856	\$0.80	NA	\$856	\$0.80	\$867
TC 50%	\$824	30%/30%	\$719	1	3	2	1,198	\$719	\$116	\$603	\$0	\$0.50	\$603	\$603	\$603	\$603	\$0.50	\$0	\$989	\$0.83	\$867
TC 50%	\$824			1	3	2	1,198	\$824	\$116	\$708	\$0	\$0.59	\$708	\$708	\$708	\$708	\$0.59	\$0	\$989	\$0.83	\$867
TC 60%	\$989			3	3	2	1,198	\$989	\$116	\$873	\$0	\$0.73	\$873	\$2,619	\$2,619	\$873	\$0.73	\$0	\$989	\$0.83	\$867
MR				3	3	2	1,198	\$0	\$116		NA	\$0.83	\$989	\$2,967	\$2,967	\$989	\$0.83	NA	\$989	\$0.83	\$867
<b>TOTALS/AVERAGES:</b>				<b>64</b>			<b>62,600</b>				<b>\$0</b>	<b>\$0.70</b>	<b>\$684</b>	<b>\$43,747</b>	<b>\$43,747</b>	<b>\$684</b>	<b>\$0.70</b>	<b>\$0</b>	<b>\$837</b>	<b>\$0.86</b>	<b>\$832</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$524,964</b>	<b>\$524,964</b>
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**STABILIZED PRO FORMA**

*Westwind of Dumas, Dumas, 9% HTC #20272*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	Expense Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.70	\$684	\$524,964	<b>\$504,252</b>	<b>\$504,252</b>	\$524,964	\$684	\$0.70		0.0%	\$0
tenant charges and vending income					\$20.00	\$15,360	15,360							
Total Secondary Income					\$20.00			15,360	\$15,360	\$20.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$540,324	\$519,612	\$519,612	\$540,324				0.0%	\$0
Vacancy & Collection Loss					7.5% PGI	(40,524)	(38,971)	(38,971)	(40,524)	7.5% PGI			0.0%	-
Rental Concessions						-			-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$499,800	\$480,641	\$480,641	\$499,800				0.0%	\$0

General & Administrative	\$29,628	\$463/Unit	\$24,219	\$378	5.66%	\$0.45	\$442	\$28,300	\$26,000	\$24,219	\$24,219	\$378	\$0.39	4.85%	16.8%	4,081
Management	\$28,516	7.3% EGI	\$28,461	\$445	4.02%	\$0.32	\$314	\$20,100	\$19,226	\$24,032	\$24,990	\$390	\$0.40	5.00%	-19.6%	(4,890)
Payroll & Payroll Tax	\$69,026	\$1,079/Unit	\$68,387	\$1,069	13.51%	\$1.08	\$1,055	\$67,500	\$65,000	\$68,387	\$68,387	\$1,069	\$1.09	13.68%	-1.3%	(887)
Repairs & Maintenance	\$42,364	\$662/Unit	\$42,367	\$662	11.20%	\$0.89	\$875	\$56,000	\$49,000	\$38,400	\$41,600	\$650	\$0.66	8.32%	34.6%	14,400
Electric/Gas	\$11,109	\$174/Unit	\$8,565	\$134	2.20%	\$0.18	\$172	\$11,000	\$10,000	\$8,565	\$11,109	\$174	\$0.18	2.22%	-1.0%	(109)
Water, Sewer, & Trash	\$24,357	\$381/Unit	\$20,843	\$326	6.00%	\$0.48	\$469	\$30,000	\$28,500	\$20,843	\$24,357	\$381	\$0.39	4.87%	23.2%	5,643
Property Insurance	\$20,402	\$0.33 /sf	\$19,219	\$300	3.80%	\$0.30	\$297	\$19,000	\$18,500	\$19,219	\$19,219	\$300	\$0.31	3.85%	-1.1%	(219)
Property Tax (@ 100%) 2.297124	\$28,230	\$441/Unit	\$31,315	\$489	5.70%	\$0.46	\$445	\$28,500	\$27,000	\$42,578	\$44,016	\$688	\$0.70	8.81%	-35.3%	(15,516)
Reserve for Replacements				\$0	3.20%	\$0.26	\$250	\$16,000	\$16,000	\$16,000	\$16,000	\$250	\$0.26	3.20%	0.0%	-
Supportive Services				\$0	0.60%	\$0.05	\$47	\$3,000	\$3,000	\$3,000	\$3,000	\$47	\$0.05	0.60%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.45%	\$0.04	\$35	\$2,240	\$2,240	\$2,240	\$2,240	\$35	\$0.04	0.45%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>56.35%</b>	<b>\$4.50</b>	<b>\$4,401</b>	<b>\$ 281,640</b>	\$264,466	\$267,483	<b>\$279,443</b>	<b>\$4,366</b>	<b>\$4.46</b>	<b>55.91%</b>	<b>0.8%</b>	<b>\$ 2,197</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>43.65%</b>	<b>\$3.48</b>	<b>\$3,409</b>	<b>\$218,160</b>	\$216,175	\$213,158	<b>\$220,357</b>	<b>\$3,443</b>	<b>\$3.52</b>	<b>44.09%</b>	<b>-1.0%</b>	<b>\$ (2,197)</b>

CONTROLLABLE EXPENSES								\$3,013/Unit								\$2,651/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Westwind of Dumas, Dumas, 9% HTC #20272*

<b>DEBT / GRANT SOURCES</b>																		
<b>APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE</b>									<b>Prior Underwriting</b>			<b>AS UNDERWRITTEN DEBT/GRANT STRUCTURE</b>						
<b>DEBT (Must Pay)</b>	<b>Fee</b>	<b>Cumulative DCR</b>		<b>Pmt</b>	<b>Rate</b>	<b>Amort</b>	<b>Term</b>	<b>Principal</b>	<b>Prior Underwriting</b>		<b>Principal</b>	<b>Term</b>	<b>Amort</b>	<b>Rate</b>	<b>Pmt</b>	<b>Cumulative</b>		
		<b>UW</b>	<b>App</b>						<b>Applicant</b>	<b>TDHCA</b>						<b>DCR</b>	<b>LTC</b>	
Bellwether - USDA 538 Loan	0.50%	1.36	1.35	161,696	4.41%	40	40	\$3,036,253	\$3,000,000	\$3,000,000	\$3,036,253	40	40	3.91%	\$165,424	1.32	28.4%	
<b>TDHCA (Soft Repayable)</b>		1.36	1.35		0.00%	40	40	\$1,100,000			\$1,100,000	40	40	0.00%		1.32	10.3%	
<b>CASH FLOW DEBT / GRANTS</b>																		
City of Dumas		1.36	1.35		0.00%	0	0	\$250	\$250	\$250	\$250	0	0	0.00%		1.32	0.0%	
Cross Architects & Shackelford Match		1.36	1.35		0.00%	0	0	\$83,500			\$83,500	0	0	0.00%		1.32	0.8%	
				<b>\$161,696</b>				<b>TOTAL DEBT / GRANT SOURCES</b>	<b>\$4,220,003</b>	<b>\$3,000,250</b>	<b>\$3,000,250</b>	<b>\$4,220,003</b>			<b>TOTAL DEBT SERVICE</b>	<b>\$165,424</b>	<b>1.32</b>	<b>39.5%</b>

<b>NET CASH FLOW</b>	\$58,661	\$56,464									<b>APPLICANT NET OPERATING INCOME</b>	\$218,160	\$52,735	<b>NET CASH FLOW</b>
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<b>EQUITY SOURCES</b>													
<b>APPLICANT'S PROPOSED EQUITY STRUCTURE</b>						<b>Prior Underwriting</b>		<b>AS UNDERWRITTEN EQUITY STRUCTURE</b>					
<b>EQUITY / DEFERRED FEES</b>	<b>DESCRIPTION</b>	<b>% Cost</b>	<b>Annual Credit</b>	<b>Credit Price</b>	<b>Amount</b>	<b>Prior Underwriting</b>		<b>Amount</b>	<b>Credit Price</b>	<b>Annual Credit</b>	<b>% Cost</b>	<b>Annual Credits per Unit</b>	<b>Allocation Method</b>
						<b>Applicant</b>	<b>TDHCA</b>						
Affordable Housing Partners, Inc.	LIHTC Equity	56.5%	\$703,287	0.86	\$6,047,663	\$6,047,663	\$6,047,663	\$6,047,663	\$0.86	\$703,287	56.5%	\$10,989	Previous Allocation
Salem Clark Development, LLC	Deferred Developer Fees	4.8%	(42% Deferred)		\$511,567	\$511,567	\$427,867	\$427,867	(37% Deferred)		4.0%	<b>Total Developer Fee:</b>	<b>\$1,142,300</b>
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>61.3%</b>			<b>\$6,559,230</b>	<b>\$6,559,230</b>	<b>\$6,475,530</b>	<b>\$6,475,530</b>			<b>60.5%</b>		

<b>TOTAL CAPITALIZATION</b>					<b>\$10,779,233</b>	<b>\$9,559,480</b>	<b>\$9,475,780</b>	<b>\$10,695,533</b>				<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$542,194</b>
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<b>DEVELOPMENT COST / ITEMIZED BASIS</b>													
<b>APPLICANT COST / BASIS ITEMS</b>					<b>Prior Underwriting</b>		<b>TDHCA COST / BASIS ITEMS</b>					<b>COST VARIANCE</b>	
<b>Eligible Basis</b>		<b>Total Costs</b>	<b>Prior Underwriting</b>		<b>Total Costs</b>		<b>Eligible Basis</b>		<b>%</b>	<b>\$</b>			
<b>Acquisition</b>	<b>New Const. Rehab</b>		<b>Applicant</b>	<b>TDHCA</b>	<b>New Const. Rehab</b>	<b>Acquisition</b>							
Land Acquisition		\$7,031 / Unit	\$450,000	\$450,000	\$450,000	\$450,000	\$7,031 / Unit		0.0%	\$0			
Off-Sites	\$0	\$156 / Unit	\$10,000	\$10,000	\$10,000	\$10,000	\$156 / Unit	\$0	0.0%	\$0			
Site Work	\$1,116,026	\$17,438 / Unit	\$1,116,026	\$962,756	\$962,756	\$1,116,026	\$17,438 / Unit	\$1,116,026	0.0%	\$0			
Site Amenities	\$274,412	\$4,288 / Unit	\$274,412	\$274,412	\$274,412	\$274,412	\$4,288 / Unit	\$274,412	0.0%	\$0			
Building Cost	\$4,156,804	\$81.05 /sf	\$79,278/Unit	\$5,073,804	\$4,146,804	\$4,258,918	\$5,073,804	\$79,278/Unit	\$81.05 /sf	\$4,156,804			
Contingency	\$377,578	6.81%	5.83%	\$377,578	\$377,578	\$377,578	\$377,578	5.83%	6.81%	\$377,578			
Contractor Fees	\$806,631	13.61%	13.83%	\$947,500	\$808,017	\$808,017	\$947,500	13.83%	13.61%	\$806,631			
Soft Costs	0	\$521,350	\$8,146 / Unit	\$521,350	\$521,350	\$521,350	\$521,350	\$8,146 / Unit		\$521,350			
Financing	0	\$514,413	\$10,040 / Unit	\$642,563	\$642,563	\$642,563	\$642,563	\$10,040 / Unit		\$514,413			
Developer Fee	\$0	\$1,120,000	14.42%	14.10%	\$1,226,000	\$1,226,000	\$1,142,300	\$1,142,300	13.14%	14.42%	\$1,120,000		
Reserves			4 Months	\$140,000	\$140,000	\$140,000	\$140,000	4 Months		\$0			
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$0</b>	<b>\$8,887,214</b>		<b>\$168,426 / Unit</b>	<b>\$10,779,233</b>	<b>\$9,559,480</b>	<b>\$9,587,893</b>	<b>\$10,695,533</b>	<b>\$167,118 / Unit</b>	<b>\$8,887,214</b>	<b>\$0</b>	<b>0.8%</b>	<b>\$83,701</b>
Acquisition Cost	\$0			\$0	\$0	\$0							
Contingency		\$0		\$0	\$0	\$0							
Contractor's Fee		\$0		\$0	\$0	\$0							
Financing Cost		\$0											
Developer Fee	\$0	\$0			(\$83,701)	(\$83,701)							
Reserves				\$0	\$0	\$0							
<b>ADJUSTED BASIS / COST</b>	<b>\$0</b>	<b>\$8,887,214</b>		<b>\$167,118/unit</b>	<b>\$10,695,533</b>	<b>\$9,475,780</b>	<b>\$9,587,893</b>	<b>\$10,695,533</b>	<b>\$167,118/unit</b>	<b>\$8,887,214</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$10,695,533</b>								

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

*Westwind of Dumas, Dumas, 9% HTC #20272*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	<b>ADJUSTED BASIS</b>	\$0	\$8,887,214	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$8,887,214	\$0	\$8,887,214
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$11,553,378	\$0	\$11,553,378
Applicable Fraction	87.08%	87.08%	87.08%	87.08%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$10,060,852	\$0	\$10,060,852
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$905,477	\$0	\$905,477
<b>CREDITS ON QUALIFIED BASIS</b>	\$905,477		\$905,477	

**ANNUAL CREDIT CALCULATION  
BASED ON APPLICANT BASIS**

**FINAL ANNUAL LIHTC ALLOCATION**

Method	Annual Credits	Proceeds	Credit Price	Variance to Request	
			\$0.8599	Credits	Proceeds
<b>Eligible Basis</b>	\$905,477	\$7,786,320	----	----	----
<b>Needed to Fill Gap</b>	\$753,044	\$6,475,530	----	----	----
<b>Previous Allocation</b>	\$703,287	\$6,047,663	<b>\$703,287</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Westwind of Dumas, Dumas, 9% HTC #20272*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$499,800	\$509,796	\$519,992	\$530,391	\$540,999	\$597,307	\$659,475	\$728,114	\$803,896	\$887,567	\$979,945	\$1,081,939
TOTAL EXPENSES	3.00%	\$281,640	\$289,888	\$298,380	\$307,122	\$316,122	\$365,272	\$422,124	\$487,894	\$563,987	\$652,031	\$753,912	\$871,816
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$218,160</b>	<b>\$219,907</b>	<b>\$221,612</b>	<b>\$223,269</b>	<b>\$224,877</b>	<b>\$232,035</b>	<b>\$237,351</b>	<b>\$240,220</b>	<b>\$239,910</b>	<b>\$235,536</b>	<b>\$226,033</b>	<b>\$210,123</b>
EXPENSE/INCOME RATIO		56.4%	56.9%	57.4%	57.9%	58.4%	61.2%	64.0%	67.0%	70.2%	73.5%	76.9%	80.6%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$165,424	\$165,264	\$165,097	\$164,923	\$164,743	\$163,727	\$162,493	\$160,992	\$159,168	\$156,950	\$154,255	\$150,979
DEBT COVERAGE RATIO		1.32	1.33	1.34	1.35	1.37	1.42	1.46	1.49	1.51	1.50	1.47	1.39
<b>ANNUAL CASH FLOW</b>													
		\$52,735	\$54,644	\$56,515	\$58,346	\$60,134	\$68,308	\$74,858	\$79,228	\$80,742	\$78,586	\$71,778	\$59,145
Deferred Developer Fee Balance		\$375,131	\$320,487	\$263,972	\$205,626	\$145,493	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		\$0	\$0	\$0	\$0	\$0	\$180,250	\$542,194	\$930,593	\$1,332,570	\$1,731,464	\$2,106,050	\$2,429,634

21508 Arbor Park: \$2,222,900 NHTF

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20192), Arbor Park is the new construction of 147 units that will serve an elderly population in compliance with the Housing for Older Persons Act under the Fair Housing Act in a four-story, elevator building in Austin, located in Travis County. It will feature one and two-bedroom units with rent/income levels ranging from 30% to 60% of the area median income (AMI), with 27 unrestricted units.

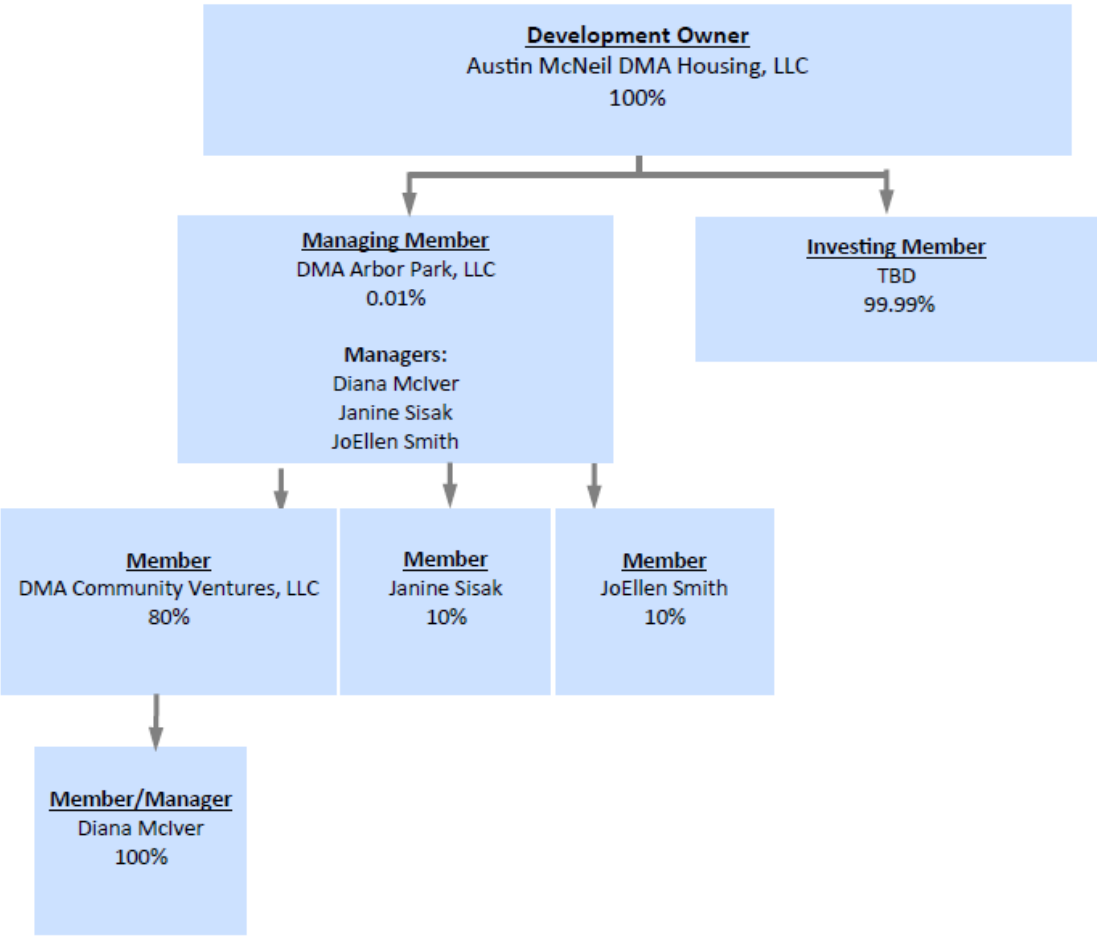
The Application documents a combined building and labor cost increase of \$2,863,064. Arbor Park is requesting \$2,222,900 in gap financing.

*Financing and Regulatory Terms:* The \$2,222,900 MFDL NHTF loan will be in second lien position after a conventional loan. Subject to final underwriting and as further set forth in the following REA Report, the MFDL NHTF loan will be at 0% interest with an 18-year term and deferred payable structure.

The MFDL HOME loan will leverage \$2,000,000 in local non-federally sourced funds awarded by the City of Austin. The Department has elected to fund Arbor Park under the General Set-Aside with NHTF funds that will be restricted to 30% area median rent and income levels for that program.

Of the 12 MFDL units restricted to 30% AMI, there will be nine one-bedroom and three two-bedroom. Two additional HOME Match-Eligible Unit serving households at or below 80% AMI are required. The Federal Affordability Period will be 30 years and the State Affordability Period will be 45 years.

*Organizational Structure:* The proposed borrower is Austin McNeil DMA Housing, LLC, and includes principals as indicated in the organizational chart below.







**Addendum to Underwriting Report**

TDHCA Application #: **21508 20192** Program(s): **9% HTC/MDL**

**Arbor Park**

Address/Location: 6306 McNeil Drive

City: Austin County: Travis Zip: 78729

APPLICATION HISTORY	
Report Date	PURPOSE
10/06/21	MDL Application / Amendment
07/10/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$2,222,900	0.00%	N/A	18	2
LIHTC (9% Credit)	\$1,500,000				\$1,500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

## CONDITIONS STATUS

1 Receipt and acceptance before Direct Loan Closing

- a: 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: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.

2 Receipt and acceptance by Commitment:

- a: Formal approval for \$2M loan from Austin Housing Finance Corporation (AHFC) clearly stating all terms and conditions, and source of funds.

**Status:** Cleared. AHFC approved \$2M on May 7, 2020 from General Obligation Bonds at terms underwritten.

3 Receipt and acceptance by Cost Certification:

- a: Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.
- b: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	12
50% of AMI	50% of AMI	48
60% of AMI	60% of AMI	60

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	12

## ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA

The Applicant is also requesting amendments to the application related to a) replace the income averaging election with the more standard 40% of the units at 60% AMI election, and b) a reduction in size of several unit types and elimination of a second bathroom in two 2-bedroom units. Net Rentable Area has been reduced by 2.27%.

The original unit mix included units at 30%, 40%, 50%, 60%, and 80%, with an overall average of 54% AMI. With the elimination of Income Averaging, restricted units are now limited to 30%, 50%, and 60%, with the overall average reduced to 53% AMI.

### **Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

### **Development Cost**

Building Cost increased \$2,863,064.

Total Development Cost increased \$4,762,492

### **Sources of Funds**

The Applicant has applied for a Multifamily Direct Loan consistent with requirements of NOFA.

The Underwriter recommends approval of an MFDL in the amount of \$2,222,900 at 0% interest, structured as Deferred Repayable as a second lien with a 18 year term (to match the senior debt).

The first request to replace income averaging to 40% of the units at 60% AMI does not change the feasibility of the Project. The second request for an amendment that decreases square footage of several units also does not effect the financial feasibility.

Underwriter:	<u>Eric Weiner</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Tom Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Arbor Park, Austin, 9% HTC #20192**

LOCATION DATA	
CITY:	Austin
COUNTY:	Travis
Area Median Income	\$95,900
PROGRAM REGION:	7
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	111	75.5%	0	9
2	36	24.5%	0	3
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>147</b>	<b>100.0%</b>	<b>-</b>	<b>12</b>

53% Average Income		
Income	# Units	% Total
20%	-	0.0%
30%	12	8.2%
40%	-	0.0%
50%	48	32.7%
60%	60	40.8%
70%	-	0.0%
80%	-	0.0%
MR	27	18.4%
<b>TOTAL</b>		
	<b>147</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	79.33%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	786 sf

UNIT MIX / MONTHLY RENT SCHEDULE																						
HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst		
TC 30%	\$556	30%/30%	\$556	4	1	1	678	\$556	\$55	\$501	\$0	\$0.74	\$501	\$2,004	\$2,004	\$501	\$0.74	\$0	\$1,350	\$1.99	\$1,350	
TC 30%	\$556	30%/30%	\$556	5	1	1	678	\$556	\$55	\$501	\$0	\$0.74	\$501	\$2,505	\$2,505	\$501	\$0.74	\$0	\$1,350	\$1.99	\$1,350	
TC 50%	\$928			4	1	1	678	\$928	\$55	\$873	\$0	\$1.29	\$873	\$3,492	\$3,492	\$873	\$1.29	\$0	\$1,350	\$1.99	\$1,350	
TC 50%	\$928			33	1	1	678	\$928	\$55	\$873	\$0	\$1.29	\$873	\$28,809	\$28,809	\$873	\$1.29	\$0	\$1,350	\$1.99	\$1,350	
TC 60%	\$1,113			34	1	1	678	\$1,113	\$55	\$1,058	\$0	\$1.56	\$1,058	\$35,972	\$35,972	\$1,058	\$1.56	\$0	\$1,350	\$1.99	\$1,350	
TC 60%	\$1,113			4	1	1	683	\$1,113	\$55	\$1,058	\$0	\$1.55	\$1,058	\$4,232	\$4,232	\$1,058	\$1.55	\$0	\$1,350	\$1.98	\$1,350	
MR				4	1	1	683	\$0	\$55		NA	\$1.98	\$1,350	\$5,400	\$5,400	\$1,350	\$1.98	NA	\$1,350	\$1.98	\$1,350	
MR				4	1	1	742	\$0	\$55		NA	\$1.82	\$1,350	\$5,400	\$5,400	\$1,350	\$1.82	NA	\$1,350	\$1.82	\$1,350	
TC 60%	\$1,113			9	1	1	750	\$1,113	\$55	\$1,058	\$0	\$1.41	\$1,058	\$9,522	\$9,522	\$1,058	\$1.41	\$0	\$1,350	\$1.80	\$1,350	
MR				4	1	1	784	\$0	\$55		NA	\$1.72	\$1,350	\$5,400	\$5,400	\$1,350	\$1.72	NA	\$1,350	\$1.72	\$1,350	
MR				1	1	1	791	\$0	\$55		NA	\$1.71	\$1,350	\$1,350	\$1,350	\$1,350	\$1.71	NA	\$1,350	\$1.71	\$1,350	
TC 50%	\$928			1	1	1	820	\$928	\$55	\$873	\$0	\$1.06	\$873	\$873	\$873	\$873	\$1.06	\$0	\$1,350	\$1.65	\$1,420	
MR				3	1	1	864	\$0	\$55		NA	\$1.56	\$1,350	\$4,050	\$4,050	\$1,350	\$1.56	NA	\$1,350	\$1.56	\$1,420	
MR				1	1	1	864	\$0	\$55		NA	\$1.56	\$1,350	\$1,350	\$1,350	\$1,350	\$1.56	NA	\$1,350	\$1.56	\$1,420	
TC 30%	\$668	30%/30%	\$667	1	2	1	866	\$667	\$76	\$591	\$1	\$0.68	\$592	\$592	\$591	\$591	\$0.68	\$0	\$1,700	\$1.96	\$1,800	
TC 30%	\$668	30%/30%	\$667	1	2	1	866	\$667	\$76	\$591	\$1	\$0.68	\$592	\$592	\$591	\$591	\$0.68	\$0	\$1,700	\$1.96	\$1,800	
TC 50%	\$1,113			2	2	1	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$2,074	\$2,074	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 50%	\$1,113			7	2	2	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$7,259	\$7,259	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 30%	\$668	30%/30%	\$667	1	2	2	1,059	\$667	\$76	\$591	\$1	\$0.56	\$592	\$592	\$591	\$591	\$0.56	\$0	\$1,700	\$1.61	\$1,800	
TC 50%	\$1,113			1	2	2	1,059	\$1,113	\$76	\$1,037	\$0	\$0.98	\$1,037	\$1,037	\$1,037	\$1,037	\$0.98	\$0	\$1,700	\$1.61	\$1,800	
TC 60%	\$1,336			13	2	2	1,059	\$1,336	\$76	\$1,260	\$0	\$1.19	\$1,260	\$16,380	\$16,380	\$1,260	\$1.19	\$0	\$1,700	\$1.61	\$1,800	
MR				3	2	2	1,059	\$0	\$76		NA	\$1.61	\$1,700	\$5,100	\$5,100	\$1,700	\$1.61	NA	\$1,700	\$1.61	\$1,800	
MR				3	2	2	1,080	\$0	\$76		NA	\$1.57	\$1,700	\$5,100	\$5,100	\$1,700	\$1.57	NA	\$1,700	\$1.57	\$1,800	
MR				4	2	2	1,098	\$0	\$76		NA	\$1.55	\$1,700	\$6,800	\$6,800	\$1,700	\$1.55	NA	\$1,700	\$1.55	\$1,800	
<b>TOTALS/AVERAGES:</b>				<b>147</b>				<b>115,582</b>				<b>\$0</b>	<b>\$1.35</b>	<b>\$1,060</b>	<b>\$155,885</b>	<b>\$155,882</b>	<b>\$1,060</b>	<b>\$1.35</b>	<b>\$0</b>	<b>\$1,436</b>	<b>\$1.83</b>	<b>\$1,463</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,870,620</b>	<b>\$1,870,584</b>
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**STABILIZED PRO FORMA**

**Arbor Park, Austin, 9% HTC #20192**

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	3 Local Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.35	\$1,060	\$1,870,620	\$1,804,056	\$1,804,056	\$1,870,584	\$1,060	\$1.35		0.0%	\$36
Laundry						\$5.03	8,880							
Total Secondary Income						\$5.03		8,880	\$8,880	\$5.03			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$1,879,500	\$1,812,936	\$1,812,936	\$1,879,464				0.0%	\$36
Vacancy & Collection Loss				7.5% PGI		(140,963)	(135,970)	(135,970)	(140,960)	7.5% PGI			0.0%	(3)
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$1,738,538	\$1,676,966	\$1,676,966	\$1,738,504				0.0%	\$33

General & Administrative	\$62,142	\$423/Unit	\$71,506	\$486	3.31%	\$0.50	\$391	\$57,500	\$57,500	\$62,854	\$62,142	\$423	\$0.54	3.57%	-7.5%	(4,642)
Management	\$62,756	4.0% EGI	\$67,225	\$457	5.00%	\$0.75	\$591	\$86,847	\$86,847	\$83,848	\$86,925	\$591	\$0.75	5.00%	-0.1%	(78)
Payroll & Payroll Tax	\$195,755	\$1,332/Unit	\$219,766	\$1,495	11.22%	\$1.69	\$1,327	\$195,000	\$195,000	\$195,755	\$195,755	\$1,332	\$1.69	11.26%	-0.4%	(755)
Repairs & Maintenance	\$100,167	\$681/Unit	\$90,057	\$613	4.72%	\$0.71	\$558	\$82,000	\$82,000	\$88,200	\$88,200	\$600	\$0.76	5.07%	-7.0%	(6,200)
Electric/Gas	\$40,080	\$273/Unit	\$36,798	\$250	2.24%	\$0.34	\$265	\$39,000	\$39,000	\$36,798	\$36,798	\$250	\$0.32	2.12%	6.0%	2,202
Water, Sewer, & Trash	\$106,485	\$724/Unit	\$84,500	\$575	3.91%	\$0.59	\$463	\$68,000	\$68,000	\$84,500	\$84,500	\$575	\$0.73	4.86%	-19.5%	(16,500)
Property Insurance	\$43,980	\$0.38 /sf	\$56,114	\$382	2.30%	\$0.35	\$272	\$40,000	\$40,000	\$43,980	\$43,980	\$299	\$0.38	2.53%	-9.0%	(3,980)
Property Tax (@ 100%) 2.2577	\$94,659	\$644/Unit	\$160,596	\$1,092	8.51%	\$1.28	\$1,007	\$148,000	\$148,000	\$160,596	\$160,596	\$1,092	\$1.39	9.24%	-7.8%	(12,596)
Reserve for Replacements			\$0	\$0	2.11%	\$0.32	\$250	\$36,750	\$36,750	\$36,750	\$36,750	\$250	\$0.32	2.11%	0.0%	-
Supportive Services			\$0	\$0	0.29%	\$0.04	\$34	\$5,000	\$5,000	\$5,000	\$5,000	\$34	\$0.04	0.29%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0	\$0	0.34%	\$0.05	\$40	\$5,920	\$5,920	\$4,800	\$4,800	\$33	\$0.04	0.28%	23.3%	1,120
<b>TOTAL EXPENSES</b>					<b>43.95%</b>	<b>\$6.61</b>	<b>\$5,197</b>	<b>\$ 764,017</b>	<b>\$764,017</b>	<b>\$803,081</b>	<b>\$805,853</b>	<b>\$5,482</b>	<b>\$6.97</b>	<b>46.35%</b>	<b>-5.2%</b>	<b>\$ (41,836)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>56.05%</b>	<b>\$8.43</b>	<b>\$6,629</b>	<b>\$974,521</b>	<b>\$912,949</b>	<b>\$873,885</b>	<b>\$932,651</b>	<b>\$6,345</b>	<b>\$8.07</b>	<b>53.65%</b>	<b>4.5%</b>	<b>\$ 41,870</b>

CONTROLLABLE EXPENSES							\$3,003/Unit						\$3,180/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Arbor Park, Austin, 9% HTC #20192*

**DEBT / GRANT SOURCES**

DEBT / GRANT SOURCES																	
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE							
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App						Applicant	TDHCA						DCR	LTC
JPMorgan Chase Bank, N.A		1.23	1.29	757,032	5.00%	35	18	\$12,500,000	\$11,250,000	\$11,250,000	\$12,500,000	18	35	5.00%	\$757,032	1.23	38.3%
TDHCA MDL Soft Repayable		1.23	1.29		0.00%	35	18	\$2,222,900			\$2,222,900	18		0.00%		1.23	6.8%
<b>CASH FLOW DEBT / GRANTS</b>																	
City of Austin Fee Waivers		1.23	1.29		0.00%	0	0	\$700,000	\$700,000	\$700,000	\$700,000	0	0	0.00%		1.23	2.1%
AHFC		1.23	1.29		0.00%	0	40	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	40	0	0.00%		1.23	6.1%
Nelsen Partners- MDL Match		1.23	1.29		0.00%	0	0	\$193,115	\$0	\$0	\$193,115	0	0	0.00%		1.23	0.6%
				<b>\$757,032</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$17,616,015</b>	<b>\$13,950,000</b>	<b>\$13,950,000</b>	<b>\$17,616,015</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$757,032</b>	<b>1.23</b>	<b>54.0%</b>
<b>NET CASH FLOW</b>		\$175,619	\$217,489											<b>TDHCA NET OPERATING INCOME</b>	\$932,651	\$175,619	<b>NET CASH FLOW</b>

**EQUITY SOURCES**

EQUITY SOURCES														
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE								
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
						Applicant	TDHCA						Total Developer Fee:	\$
RBC Community Investments	LIHTC Equity	43.2%	\$1,500,000	0.94	\$14,098,590	\$13,648,635	\$13,648,635	\$14,098,590	\$0.94	\$1,500,000	43.2%	\$10,204	Previous Allocation	
DMA Development Co/JSA Development Co	Deferred Developer Fees	2.9%		(32% Deferred)	\$941,708	\$789,178	\$289,178	\$935,700		(32% Deferred)	2.9%		<b>Total Developer Fee: \$2,908,000</b>	
Additional (Excess) Funds Req'd		0.0%				\$0	\$0	\$0			0.0%			
<b>TOTAL EQUITY SOURCES</b>		<b>46.1%</b>			<b>\$15,040,298</b>	<b>\$14,437,813</b>	<b>\$13,937,813</b>	<b>\$15,034,290</b>			<b>46.0%</b>			
<b>TOTAL CAPITALIZATION</b>						<b>\$32,656,313</b>	<b>\$28,387,813</b>	<b>\$27,887,813</b>	<b>\$32,650,305</b>				15-Yr Cash Flow after Deferred Fee:	<b>\$2,898,991</b>

**DEVELOPMENT COST / ITEMIZED BASIS**

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS					Prior Underwriting			TDHCA COST / BASIS ITEMS				COST VARIANCE	
Eligible Basis	Acquisition	New Const. Rehab	Total Costs	Total Costs	Applicant	TDHCA	Total Costs	Eligible Basis		%	\$		
								New Const. Rehab	Acquisition				
Land Acquisition			\$27,891 / Unit	\$4,100,000	\$4,100,000	\$4,100,000	\$4,100,000	\$27,891 / Unit			0.0%	\$0	
Closing costs & acq. legal fees				\$25,000	\$25,000	\$25,000	\$25,000					\$0	
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit			0.0%	\$0	
Site Work			\$2,296,135	\$15,620 / Unit	\$2,296,135	\$1,152,325	\$1,152,325	\$2,078,935	\$14,142 / Unit	\$2,078,935	10.4%	\$217,200	
Site Amenities			\$205,500	\$1,398 / Unit	\$205,500	\$525,625	\$525,625	\$270,000	\$1,837 / Unit	\$270,000	-23.9%	(\$64,500)	
Demolition			\$0	\$578 / Unit	\$85,000	\$150,000	\$150,000	\$85,000	\$578 / Unit	\$0	0.0%	\$0	
Building Cost			\$9,640,000	\$128.66 /sf	\$101,159/Unit	\$14,870,399	\$12,007,335	\$12,489,259	\$14,989,500	\$101,969/Unit	\$129.69 /sf	\$9,640,000	
Contingency			\$1,228,000	10.11%	7.03%	\$1,228,000	\$878,080	\$878,080	\$1,219,640	7.00%	7.00%	\$839,225	
Contractor Fees			\$2,488,246	18.61%	13.46%	\$2,514,966	\$1,800,000	\$1,800,000	\$2,514,966	13.49%	14.00%	\$1,795,942	
Soft Costs	0	\$2,267,115	\$15,593 / Unit	\$2,292,115	\$2,099,000	\$2,099,000	\$2,292,115	\$15,593 / Unit	\$2,267,115	\$0	0.0%	\$0	
Financing	0	\$893,750	\$9,132 / Unit	\$1,342,465	\$1,453,715	\$1,453,715	\$1,342,465	\$9,132 / Unit	\$893,750	\$0	0.0%	\$0	
Developer Fee	\$0	\$2,530,000	13.30%	11.95%	\$2,908,000	\$2,908,000	\$2,908,000	\$2,908,000	12.32%	14.23%	\$2,530,000	\$0	
Reserves			6 Months	\$788,733	\$788,733	\$750,405	\$781,442	6 Months			0.9%	\$7,291	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$0</b>	<b>\$21,548,746</b>		\$222,152 / Unit	<b>\$32,656,313</b>	<b>\$27,887,813</b>	<b>\$28,331,408</b>	<b>\$32,607,064</b>	\$221,817 / Unit	<b>\$20,314,968</b>	<b>\$0</b>	<b>0.2%</b>	<b>\$49,249</b>
Acquisition Cost	\$0				\$0	\$0							
Contingency		(\$378,086)			(\$6,008)	\$0							
Contractor's Fee		(\$669,429)			\$0	\$0							
Financing Cost		\$0											
Developer Fee	\$0	\$0			\$0	\$0							
Reserves					\$0	\$0							
<b>ADJUSTED BASIS / COST</b>	<b>\$0</b>	<b>\$20,501,231</b>		\$222,111/unit	<b>\$32,650,305</b>	<b>\$27,887,813</b>	<b>\$28,331,408</b>	<b>\$32,607,064</b>	\$221,817/unit	<b>\$20,314,968</b>	<b>\$0</b>	<b>0.1%</b>	<b>\$43,242</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$32,650,305</b>							

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

*Arbor Park, Austin, 9% HTC #20192*

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$20,501,231	\$0	\$20,314,968
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$20,501,231	\$0	\$20,314,968
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$26,651,601	\$0	\$26,409,458
Applicable Fraction	79.33%	79.33%	79.33%	79.33%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$21,142,438	\$0	\$20,950,349
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,902,819	\$0	\$1,885,531
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,902,819		\$1,885,531	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9399	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$1,902,819	\$17,884,714	----	----	----
<b>Needed to Fill Gap</b>	\$1,599,553	\$15,034,290	----	----	----
<b>Previous Allocation</b>	\$1,500,000	\$14,098,590	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Arbor Park, Austin, 9% HTC #20192*

	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%	\$1,738,504	\$1,773,274	\$1,808,740	\$1,844,915	\$1,881,813	\$2,077,673	\$2,293,919	\$2,532,672	\$2,796,275	\$3,087,313	\$3,408,644
TOTAL EXPENSES	3.00%	\$805,853	\$829,160	\$853,148	\$877,838	\$903,250	\$1,041,922	\$1,202,139	\$1,387,278	\$1,601,246	\$1,848,567	\$2,134,475
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$932,651</b>	<b>\$944,115</b>	<b>\$955,592</b>	<b>\$967,077</b>	<b>\$978,562</b>	<b>\$1,035,752</b>	<b>\$1,091,780</b>	<b>\$1,145,394</b>	<b>\$1,195,029</b>	<b>\$1,238,747</b>	<b>\$1,274,168</b>
EXPENSE/INCOME RATIO		46.4%	46.8%	47.2%	47.6%	48.0%	50.1%	52.4%	54.8%	57.3%	59.9%	62.6%
<b>MUST -PAY DEBT SERVICE</b>												
TOTAL DEBT SERVICE		<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>	<b>\$757,032</b>
DEBT COVERAGE RATIO		1.23	1.25	1.26	1.28	1.29	1.37	1.44	1.51	1.58	1.64	1.68
<b>ANNUAL CASH FLOW</b>												
ANNUAL CASH FLOW		<b>\$175,619</b>	<b>\$187,083</b>	<b>\$198,561</b>	<b>\$210,045</b>	<b>\$221,531</b>	<b>\$278,720</b>	<b>\$334,749</b>	<b>\$388,363</b>	<b>\$437,997</b>	<b>\$481,715</b>	<b>\$517,137</b>
Deferred Developer Fee Balance		\$760,081	\$572,998	\$374,437	\$164,392	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$57,139</b>	<b>\$1,336,610</b>	<b>\$2,898,991</b>	<b>\$4,734,830</b>	<b>\$6,827,496</b>	<b>\$9,151,443</b>	<b>\$11,670,141</b>



21509 Ella Grand: \$2,180,000 HOME

*Description:* Previously approved for 9% LIHTC on July 23, 2020 (ID 20192), Ella Grand is the new construction of 145 units that will serve an elderly population in compliance with the Housing for Older Persons Act under the Fair Housing Act in a four-story, elevator building in Houston, located in Harris County. It will feature one and two-bedroom units with rent/income levels ranging from 30% to 70% of the area median income (AMI), with 30 unrestricted units.

The Application documents a combined building cost increase of \$3,640,441. Ella Grand is requesting \$2,180,000 in gap financing. The Department has elected to fund Ella Grand under the General Set-Aside with HOME funds that will be restricted to 30% area median rent and income levels for that program.

*Financing and Regulatory Terms:* The \$2,180,000 MFDL HOME loan will be subordinate to the conventional first position loan. Subject to final underwriting and as further set forth in the following REA Report, the MFDL NHTF loan will be at 0% interest with a 15-year term and deferred payable structure.

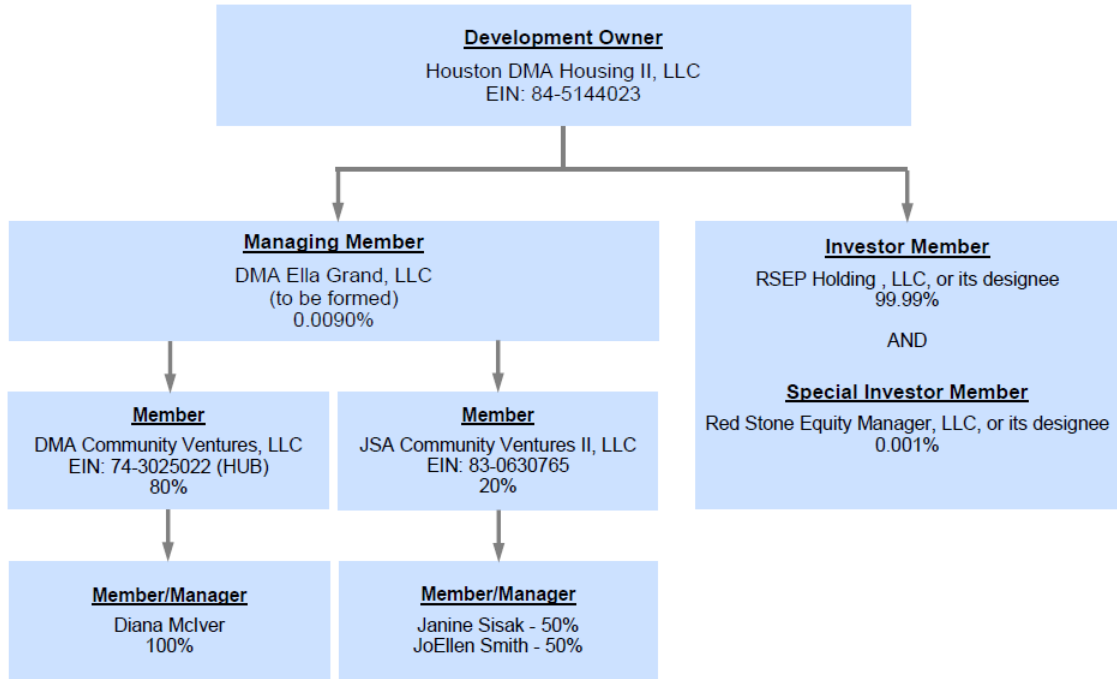
MFDL HOME funding will leverage \$6,500,000 in disaster relief funding from the City of Houston,. The Federal Affordability Period will be 20 years; the State Affordability Period will be 45 years.

Of the 16 MFDL units restricted to 30% AMI, there will be 12 one-bedroom and four two-bedroom. Two additional HOME Match-Eligible Unit serving households at or below 80% AMI are required. The Federal Affordability Period will be 20 years and the State Affordability Period will be 45 years.

The City of Houston has agreed to update their prior environmental clearance (Part 58) for Ella Grand, so a full environmental review will not be required, which will decrease processing time without increasing risk to the Department. This requires sourcing this loan from HOME funds.; therefore, the Department has elected to fund Ella Grand under the General Set-Aside with HOME funds that will be restricted to 30% area median rent and income levels for that program.

*Organizational Structure:* The proposed borrower is Houston DMA Housing II, LLC, and includes principals as indicated in the organizational chart below.

**Organizational Chart of Ownership Entity**





**Addendum to Underwriting Report**

TDHCA Application #: 20205 Program(s): 9% HTC/MDL

Ella Grand

Address/Location: 2077 S. Gessner Road

City: Houston County: Harris Zip: 77063

APPLICATION HISTORY	
Report Date	PURPOSE
10/07/21	MDL Application and Amendment
08/07/20	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)					\$2,180,000	0.00%	N/A	15	TBD
LIHTC (9% Credit)	\$1,500,000				\$1,500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

## CONDITIONS STATUS

1 Receipt and acceptance before Direct Loan Closing

- a: 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.

Documentation identifying any required matching funds, and confirming that the source is eligible to

- e: be counted as matching funds under HUD and TDHCA requirements.
- f: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.

2 Receipt and acceptance by 10% test:

- Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.

**Status: Condition will be satisfied at direct loan closing; condition removed from 10% test.**

3 Documentation at Cost Certification clearing environmental issues identified in the ESA report,

- 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.

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	16
50% of AMI	50% of AMI	46
60% of AMI	60% of AMI	53

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	16

## ANALYSIS

The Development received a 9% HTC allocation in 2020. The Applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA.

The requested Direct Loan funding requires the restriction of 16 units at 30% AMI.

There is an amendment request to replace the income averaging election with the more standard 40% of the units at 60% AMI election because of the great compliance risk.

The original unit mix included units at 30%, 40%, 50%, 60%, and 70%, with an overall average of 54% AMI. With the elimination of Income Averaging, restricted units are now limited to 30%, 50%, and 60%, with the overall average reduced to 52% AMI.

### **Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

### **Development Cost**

Building Cost increased \$3.6M.

Total development costs increased \$4.48M.

The NOFA requires that Total Developer Fee cannot increase.

### **Sources of Funds**

The Applicant has applied for a MultiFamily Direct Loan consistent with the requirements of NOFA 2021-3.

The Underwriter recommends approval of an MFDL in the amount of \$2,180,000 at 0% interest, structured as Deferred Repayable with a 15-year term (to match the senior debt).

Underwriter:	<u>Deborah Willson</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Ella Grand, Houston, 9% HTC #20205**

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	\$79,200
PROGRAM REGION:	6
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	109	75.2%	0	12
2	36	24.8%	0	4
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>145</b>	<b>100.0%</b>	<b>-</b>	<b>16</b>

52%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	16	11.0%
40%	-	0.0%
50%	46	31.7%
60%	53	36.6%
70%	-	0.0%
80%	-	0.0%
MR	30	20.7%
<b>TOTAL</b>	<b>145</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	76.67%
APP % Acquisition	3.32%
APP % Construction	9.00%
Average Unit Size	823 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 30%	\$445	30%/30%	\$445	12	1	1	716	\$445	\$76	\$369	\$0	\$0.52	\$369	\$4,428	\$4,428	\$369	\$0.52	\$0	\$1,135	\$1.59	\$1,135
TC 50%	\$743			35	1	1	716	\$743	\$76	\$667	\$0	\$0.93	\$667	\$23,345	\$23,345	\$667	\$0.93	\$0	\$1,135	\$1.59	\$1,135
TC 60%	\$891			27	1	1	716	\$891	\$76	\$815	\$0	\$1.14	\$815	\$22,005	\$22,005	\$815	\$1.14	\$0	\$1,135	\$1.59	\$1,135
TC 60%	\$891			4	1	1	776	\$891	\$76	\$815	\$0	\$1.05	\$815	\$3,260	\$3,260	\$815	\$1.05	\$0	\$1,170	\$1.51	\$1,170
TC 60%	\$891			10	1	1	791	\$891	\$76	\$815	\$0	\$1.03	\$815	\$8,150	\$8,150	\$815	\$1.03	\$0	\$1,185	\$1.50	\$1,185
MR				10	1	1	791	\$0	\$76		NA	\$1.39	\$1,100	\$11,000	\$11,000	\$1,100	\$1.39	NA	\$1,185	\$1.50	\$1,185
MR				3	1	1	877	\$0	\$76		NA	\$1.25	\$1,100	\$3,300	\$3,300	\$1,100	\$1.25	NA	\$1,185	\$1.35	\$1,185
TC 50%	\$743			1	1	1	935	\$743	\$76	\$667	\$0	\$0.71	\$667	\$667	\$667	\$667	\$0.71	\$0	\$1,300	\$1.39	\$1,300
MR				3	1	1	935	\$0	\$76		NA	\$1.18	\$1,100	\$3,300	\$3,300	\$1,100	\$1.18	NA	\$1,300	\$1.39	\$1,300
TC 60%	\$891			2	1	1	950	\$891	\$76	\$815	\$0	\$0.86	\$815	\$1,630	\$1,630	\$815	\$0.86	\$0	\$1,300	\$1.37	\$1,300
MR				2	1	1	950	\$0	\$76		NA	\$1.16	\$1,100	\$2,200	\$2,200	\$1,100	\$1.16	NA	\$1,300	\$1.37	\$1,300
TC 30%	\$534	30%/30%	\$535	4	2	2	1,027	\$534	\$100	\$434	\$0	\$0.42	\$434	\$1,736	\$1,736	\$434	\$0.42	\$0	\$1,500	\$1.46	\$1,500
TC 50%	\$891			10	2	2	1,027	\$891	\$100	\$791	\$0	\$0.77	\$791	\$7,910	\$7,910	\$791	\$0.77	\$0	\$1,500	\$1.46	\$1,500
TC 60%	\$1,069			8	2	2	1,027	\$1,069	\$100	\$969	\$0	\$0.94	\$969	\$7,752	\$7,752	\$969	\$0.94	\$0	\$1,500	\$1.46	\$1,500
TC 60%	\$1,069			2	2	2	1,027	\$1,069	\$100	\$969	\$0	\$0.94	\$969	\$1,938	\$1,938	\$969	\$0.94	\$0	\$1,500	\$1.46	\$1,500
MR				3	2	2	1,027	\$0	\$100		NA	\$1.46	\$1,500	\$4,500	\$4,500	\$1,500	\$1.46	NA	\$1,500	\$1.46	\$1,500
MR				9	2	2	1,056	\$0	\$100		NA	\$1.42	\$1,500	\$13,500	\$13,500	\$1,500	\$1.42	NA	\$1,500	\$1.42	\$1,500
<b>TOTALS/AVERAGES:</b>				<b>145</b>			<b>119,312</b>				<b>\$0</b>	<b>\$1.01</b>	<b>\$832</b>	<b>\$120,621</b>	<b>\$120,621</b>	<b>\$832</b>	<b>\$1.01</b>	<b>\$0</b>	<b>\$1,244</b>	<b>\$1.51</b>	<b>\$1,244</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,447,452</b>	<b>\$1,447,452</b>
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**STABILIZED PRO FORMA**

*Ella Grand, Houston, 9% HTC #20205*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	Local Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.01	\$832	\$1,447,452	\$1,436,544	\$1,426,056	\$1,447,452	\$832	\$1.01		0.0%	\$0
Laundry					\$6.02	\$10,476	10,476							
Total Secondary Income					\$6.02			10,476	\$10,476	\$6.02			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$1,457,928	\$1,447,020	\$1,436,532	\$1,457,928				0.0%	\$0
Vacancy & Collection Loss					7.5% PGI	(109,345)	(108,527)	(107,740)	(109,345)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$1,348,583	\$1,338,494	\$1,328,792	\$1,348,583				0.0%	\$0

General & Administrative	\$59,757	\$412/Unit	\$67,197	\$463	3.28%	\$0.37	\$305	\$44,272	\$44,272	\$51,330	\$51,330	\$354	\$0.43	3.81%	-13.8%	(7,058)
Management	\$59,494	4.5% EGI	\$56,890	\$392	5.02%	\$0.57	\$467	\$67,700	\$67,700	\$66,440	\$67,429	\$465	\$0.57	5.00%	0.4%	271
Payroll & Payroll Tax	\$196,325	\$1,354/Unit	\$217,431	\$1,500	14.09%	\$1.59	\$1,310	\$190,000	\$190,000	\$190,000	\$190,000	\$1,310	\$1.59	14.09%	0.0%	-
Repairs & Maintenance	\$107,018	\$738/Unit	\$88,783	\$612	4.46%	\$0.50	\$415	\$60,200	\$60,200	\$87,000	\$87,000	\$600	\$0.73	6.45%	-30.8%	(26,800)
Electric/Gas	\$31,031	\$214/Unit	\$28,841	\$199	1.85%	\$0.21	\$172	\$25,000	\$25,000	\$28,841	\$28,841	\$199	\$0.24	2.14%	-13.3%	(3,841)
Water, Sewer, & Trash	\$91,018	\$628/Unit	\$58,596	\$404	5.71%	\$0.65	\$531	\$77,000	\$77,000	\$58,596	\$58,596	\$404	\$0.49	4.35%	31.4%	18,404
Property Insurance	\$57,837	\$0.48 /sf	\$57,499	\$397	6.67%	\$0.75	\$621	\$90,000	\$90,000	\$90,000	\$90,000	\$621	\$0.75	6.67%	0.0%	-
Property Tax (@ 100%) 2.4216	\$111,003	\$766/Unit	\$98,927	\$682	10.75%	\$1.22	\$1,000	\$145,000	\$145,000	\$136,277	\$139,942	\$965	\$1.17	10.38%	3.6%	5,058
Reserve for Replacements			\$0	\$0	3.23%	\$0.36	\$300	\$43,500	\$43,500	\$43,500	\$43,500	\$300	\$0.36	3.23%	0.0%	-
Supportive Services			\$0	\$0	0.44%	\$0.05	\$41	\$6,000	\$6,000	\$6,000	\$6,000	\$41	\$0.05	0.44%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0	\$0	0.34%	\$0.04	\$32	\$4,600	\$4,600	\$4,600	\$4,600	\$32	\$0.04	0.34%	0.0%	-
TDHCA MDL Compliance (\$34/MDL unit)			\$0	\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
City of Houston Compliance Fee for Gap Funds			\$0	\$0	0.26%	\$0.03	\$24	\$3,450	\$3,450	\$3,450	\$3,450	\$24	\$0.03	0.26%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>56.11%</b>	<b>\$6.34</b>	<b>\$5,219</b>	<b>\$ 756,722</b>	<b>\$756,722</b>	<b>\$766,033</b>	<b>\$770,688</b>	<b>\$5,315</b>	<b>\$6.46</b>	<b>57.15%</b>	<b>-1.8%</b>	<b>\$ (13,966)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>43.89%</b>	<b>\$4.96</b>	<b>\$4,082</b>	<b>\$591,861</b>	<b>\$581,772</b>	<b>\$562,759</b>	<b>\$577,896</b>	<b>\$3,985</b>	<b>\$4.84</b>	<b>42.85%</b>	<b>2.4%</b>	<b>\$ 13,966</b>

CONTROLLABLE EXPENSES							\$2,734/Unit						\$2,867/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Ella Grand, Houston, 9% HTC #20205*

<b>DEBT / GRANT SOURCES</b>																	
<b>APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE</b>									<b>Prior Underwriting</b>		<b>AS UNDERWRITTEN DEBT/GRANT STRUCTURE</b>						
<b>DEBT (Must Pay)</b>	<b>Fee</b>	<b>Cumulative DCR</b>		<b>Pmt</b>	<b>Rate</b>	<b>Amort</b>	<b>Term</b>	<b>Principal</b>	<b>Applicant</b>	<b>TDHCA</b>	<b>Principal</b>	<b>Term</b>	<b>Amort</b>	<b>Rate</b>	<b>Pmt</b>	<b>Cumulative</b>	
		<b>UW</b>	<b>App</b>													<b>DCR</b>	<b>LTC</b>
Capital One Bank		1.16	1.19	498,634	4.75%	35	18	\$8,500,000	\$6,600,000	\$6,600,000	\$8,500,000	18	35	4.75%	\$498,634	1.19	26.0%
TDHCA-Direct Loan (Soft Repayable)		1.16	1.19		0.00%	35	15	\$2,180,000			\$2,180,000	15		0.00%		1.19	6.7%
<b>CASH FLOW DEBT / GRANTS</b>																	
City of Houston		1.16	1.19		0.00%	0	0	\$500	\$500	\$500	\$500	0	0	0.00%		1.19	0.0%
City of Houston-CDBG		1.16	1.19		1.00%	40	18	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	18		1.00%		1.19	19.9%
HEDK: MDL Match		1.16	1.19		0.00%	0	0	\$165,000	\$0	\$0	\$165,000	0	0	0.00%		1.19	0.5%
				\$498,634	<b>TOTAL DEBT / GRANT SOURCES</b>			\$17,345,500	\$13,100,500	\$13,100,500	\$17,345,500	<b>TOTAL DEBT SERVICE</b>			\$498,634	<b>1.19</b>	<b>53.1%</b>
<b>NET CASH FLOW</b>		\$79,262	\$93,227					<b>APPLICANT</b>		<b>NET OPERATING INCOME</b>		\$591,861	\$93,228	<b>NET CASH FLOW</b>			

<b>EQUITY SOURCES</b>														
<b>APPLICANT'S PROPOSED EQUITY STRUCTURE</b>						<b>Prior Underwriting</b>		<b>AS UNDERWRITTEN EQUITY STRUCTURE</b>						
<b>EQUITY / DEFERRED FEES</b>	<b>DESCRIPTION</b>	<b>% Cost</b>	<b>Annual Credit</b>	<b>Credit Price</b>	<b>Amount</b>	<b>Applicant</b>	<b>TDHCA</b>	<b>Amount</b>	<b>Credit Price</b>	<b>Annual Credit</b>	<b>% Cost</b>	<b>Annual Credits per Unit</b>	<b>Allocation Method</b>	
													<b>Previous Allocation</b>	<b>Total Developer Fee:</b>
RBC Capital	LIHTC Equity	43.7%	\$1,500,000	0.95	\$14,248,575	\$14,248,575	\$14,248,575	\$14,248,575	\$0.9499	\$1,500,000	43.7%	\$10,345	Previous Allocation	
DMA Development Company, LLC/JSA Devel	Deferred Developer Fees	3.2%		(40% Deferred)	\$1,041,686	\$803,025	\$802,933	\$1,041,594		(40% Deferred)	3.2%		<b>Total Developer Fee: \$2,573,908</b>	
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0	\$0			0.0%			
<b>TOTAL EQUITY SOURCES</b>		<b>46.9%</b>			\$15,290,261	\$15,051,600	\$15,051,508	\$15,290,169			<b>46.9%</b>			
<b>TOTAL CAPITALIZATION</b>						\$32,635,761	\$28,152,100	\$28,152,008	\$32,635,669				15-Yr Cash Flow after Deferred Fee: \$814,688	

<b>DEVELOPMENT COST / ITEMIZED BASIS</b>													
<b>APPLICANT COST / BASIS ITEMS</b>				<b>Prior Underwriting</b>		<b>TDHCA COST / BASIS ITEMS</b>				<b>COST VARIANCE</b>			
	<b>Eligible Basis</b>		<b>Total Costs</b>	<b>Applicant</b>	<b>TDHCA</b>	<b>Total Costs</b>	<b>Eligible Basis</b>		<b>%</b>	<b>\$</b>			
	<b>Acquisition</b>	<b>New Const. Rehab</b>					<b>New Const. Rehab</b>	<b>Acquisition</b>					
Land Acquisition			\$48,276 / Unit	\$7,000,000	\$7,000,000	\$7,000,000	\$48,276 / Unit		0.0%	\$0			
Off-Sites			\$ / Unit	\$0	\$0	\$0	\$ / Unit		0.0%	\$0			
Site Work		\$1,320,667	\$9,108 / Unit	\$1,320,667	\$1,276,635	\$1,276,635	\$1,451,867	\$10,013 / Unit	-9.0%	(\$131,200)			
Site Amenities		\$388,010	\$2,676 / Unit	\$388,010	\$309,299	\$309,299	\$288,250	\$1,988 / Unit	34.6%	\$99,760			
Building Cost		\$9,621,971	\$124.86 /sf	\$102,744/Unit	\$14,897,847	\$11,257,406	\$12,003,095	\$14,996,181	-0.7%	(\$98,334)			
Contingency		\$1,066,101	9.41%	6.42%	\$1,066,101	\$800,217	\$800,217	\$1,066,101	0.0%	\$0			
Contractor Fees		\$2,075,815	16.74%	11.75%	\$2,075,815	\$1,839,000	\$1,839,000	\$2,075,815	0.0%	\$0			
Soft Costs	0	\$1,418,900	\$10,094 / Unit	\$1,463,650	\$1,329,680	\$1,329,680	\$1,463,650	\$10,094 / Unit	0.0%	\$0			
Financing	0	\$841,643	\$8,428 / Unit	\$1,221,993	\$1,150,350	\$1,150,350	\$1,221,993	\$8,428 / Unit	0.0%	\$0			
Developer Fee	\$0	\$2,574,000	15.38%	11.70%	\$2,574,000	\$2,574,000	\$2,573,908	\$2,573,908	0.0%	\$92			
Reserves			6 Months	\$627,678	\$615,513	\$615,513	\$627,678	6 Months	0.0%	\$0			
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$0</b>	<b>\$19,307,107</b>	<b>\$225,074 / Unit</b>	<b>\$32,635,761</b>	<b>\$28,152,100</b>	<b>\$28,897,697</b>	<b>\$32,765,443</b>	<b>\$225,969 / Unit</b>	<b>\$18,493,918</b>	<b>\$0</b>	<b>-0.4%</b>	<b>(\$129,682)</b>	
Acquisition Cost	\$0			\$0	\$0								
Contingency		(\$272,956)		\$0	\$0								
Contractor's Fee		(\$378,484)		\$0	\$0								
Financing Cost		\$0											
Developer Fee	\$0	(\$92)		(\$92)	(\$92)								
Reserves				\$0	\$0								
<b>ADJUSTED BASIS / COST</b>	<b>\$0</b>	<b>\$18,655,575</b>	<b>\$225,074/unit</b>	<b>\$32,635,669</b>	<b>\$28,152,008</b>	<b>\$28,897,697</b>	<b>\$32,765,443</b>	<b>\$225,969/unit</b>	<b>\$18,493,918</b>	<b>\$0</b>	<b>-0.4%</b>	<b>(\$129,774)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$32,635,669</b>								



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

*Ella Grand, Houston, 9% HTC #20205*

	<b>CREDIT CALCULATION ON QUALIFIED BASIS</b>			
	<b>Applicant</b>		<b>TDHCA</b>	
	<b>Acquisition</b>	<b>Construction Rehabilitation</b>	<b>Acquisition</b>	<b>Construction Rehabilitation</b>
<b>ADJUSTED BASIS</b>	\$0	\$18,655,575	\$0	\$18,493,918
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$18,655,575	\$0	\$18,493,918
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$24,252,248	\$0	\$24,042,093
Applicable Fraction	76.67%	76.67%	76.67%	76.67%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$18,595,111	\$0	\$18,433,977
Applicable Percentage	3.32%	9.00%	3.32%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,673,560	\$0	\$1,659,058
<b>CREDITS ON QUALIFIED BASIS</b>	\$1,673,560		\$1,659,058	

Method	<b>ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS</b>		<b>FINAL ANNUAL LIHTC ALLOCATION</b>		
	<b>Annual Credits</b>	<b>Proceeds</b>	<b>Credit Price \$0.9499</b>	<b>Variance to Request</b>	
			<b>Credit Allocation</b>	<b>Credits</b>	<b>Proceeds</b>
<b>Eligible Basis</b>	\$1,673,560	\$15,897,230	----	----	----
<b>Needed to Fill Gap</b>	\$1,609,652	\$15,290,169	----	----	----
<b>Previous Allocation</b>	\$1,500,000	\$14,248,575	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Ella Grand, Houston, 9% HTC #20205*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,348,583	\$1,375,555	\$1,403,066	\$1,431,127	\$1,459,750	\$1,611,682	\$1,779,427	\$1,964,631	\$2,169,112	\$2,394,875	\$2,644,135	\$2,919,339
TOTAL EXPENSES	3.00%	\$756,722	\$778,747	\$801,419	\$824,757	\$848,781	\$979,925	\$1,131,536	\$1,306,830	\$1,509,531	\$1,743,950	\$2,015,081	\$2,328,704
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$591,861</b>	<b>\$596,808</b>	<b>\$601,648</b>	<b>\$606,371</b>	<b>\$610,969</b>	<b>\$631,757</b>	<b>\$647,891</b>	<b>\$657,801</b>	<b>\$659,581</b>	<b>\$650,925</b>	<b>\$629,055</b>	<b>\$590,634</b>
EXPENSE/INCOME RATIO		56.1%	56.6%	57.1%	57.6%	58.1%	60.8%	63.6%	66.5%	69.6%	72.8%	76.2%	79.8%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634	\$498,634
DEBT COVERAGE RATIO		1.19	1.20	1.21	1.22	1.23	1.27	1.30	1.32	1.32	1.31	1.26	1.18
<b>ANNUAL CASH FLOW</b>													
ANNUAL CASH FLOW		\$93,228	\$98,175	\$103,014	\$107,737	\$112,335	\$133,123	\$149,257	\$159,167	\$160,947	\$152,291	\$130,421	\$92,000
Deferred Developer Fee Balance		\$948,367	\$850,192	\$747,178	\$639,441	\$527,106	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		\$0	\$0	\$0	\$0	\$0	\$98,518	\$814,688	\$1,593,547	\$2,398,403	\$3,181,861	\$3,883,612	\$4,427,822

7c

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion and possible action on requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications Awarded Competitive (9%) Housing Tax Credits in Prior Application Rounds

19077	Telephone Road Elderly Apartments	Houston
20077	Lockwood South Apartments	Houston
20082	Connect South Apartments	Houston
20190	Nuestra Señora	El Paso

**RECOMMENDED ACTION**

**WHEREAS**, awards of Competitive (9%) Housing Tax Credits were approved by the Board for the Developments listed above;

**WHEREAS**, staff executed a Carryover Allocation Agreement with each Development Owner that included a certification from the Development Owner that documentation regarding the 10% Test would be submitted by a set date, and that each building for which the allocation was made would be placed in service by a set date;

**WHEREAS**, the Department received requests to extend the placement in service deadlines from the Development Owners, and staff determined that an extension of the 10% Test deadline was appropriate for those needing an extension;

**WHEREAS**, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

**WHEREAS**, the precipitating events described in the requests meet the requirements for force majeure events described in 10 TAC §11.6(5);

**NOW, therefore, it is hereby**

**RESOLVED**, the requests for treatment of the Developments under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2021 Program Calendar applicable to the Developments for the purposes of the force majeure event;

**FURTHER RESOLVED**, that the Department may issue to each Development Owner a 2021 Carryover Allocation Agreement, with the extended 10% Test deadline of July 1, 2022, and extended placement in service deadline of December 31, 2023; and

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

### **BACKGROUND**

Awards of Competitive (9%) Housing Tax Credits to the Developments listed above were approved by the Board in previous application cycles. Staff executed Carryover Allocation Agreements with the Development Owners that included a certification from the Development Owner that documentation for the 10% Test would be submitted by a set date, and, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by a set date. The Department received requests from certain Development Owners to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate under these circumstances for those that need an extension.

10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, allows a Development Owner to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. **Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner:** acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress; (emphasis added).

The President declared a national disaster for the COVID-19 Pandemic; and declared a statewide disaster for Texas for Winter Storm Uri, which affected the state in February 2021. Development Owners have communicated to staff and to this Board how the two presidentially declared disasters have resulted in delays in local municipalities' processing and delivery of financial contracts, supplier failures, materials shortages that have led to price increases, and labor shortages.

Staff has determined that there is sufficient evidence of "sudden and unforeseen circumstances outside the control of the Development Owner," as described in 10 TAC §11.6(5), for the Department to treat the Developments under an application of the force majeure rule. If the Board grants the request to consider these force majeure events, the Development Owners will return the awarded credits and execution of a 2021 Carryover Allocation Agreement will result in a new award and a new placed in

service date of December 31, 2022, for the Developments, with a new 10% Test deadline of July 1, 2022. The 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Developments for the purposes of the force majeure event.

If the Board denies any of the requests regarding the force majeure events, the date by which the Development must be placed in service will remain as indicated in the Carryover Allocation Agreement. Because the Development Owner has anticipated not meeting the placed in service deadline, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. If there are pending Applications on the 2021 waiting list from the relevant subregion, the next Application would be awarded, assuming there are enough credits to make the award. If there are not enough credits in the subregion to make an award, the credits will go into the statewide collapse and contribute the next award.

Staff recommends the Board approve the extended 10% Test deadline and the requests for treatment under an application of the force majeure rule for the listed Developments.

19077

Telephone Road Elderly  
Apartments

Force Majeure Request

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Application 19077 Telephone Road Elderly Apartments in Houston

**RECOMMENDED ACTION**

**WHEREAS**, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,941,000 to 19077 Telephone Road Elderly Apartments (the Development) was approved by the Board in July 2019;

**WHEREAS**, staff executed a Carryover Allocation Agreement with the Development Owner on November 13, 2019, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2021, and that documentation to satisfy the 10% Test would be submitted by July 1, 2020; which was subsequently extended until December 31, 2020;

**WHEREAS**, on September 10, 2021, the Department received a request to extend the placement in service deadline;

**WHEREAS**, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

**WHEREAS**, the precipitating events described in the request meet the requirements for force majeure events described in 10 TAC §11.6(5);

**NOW, therefore, it is hereby**

**RESOLVED**, the request for treatment of the Development under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2021 Program Calendar applicable to the Development for the purposes of the force majeure event;

**FURTHER RESOLVED**, that the Department may issue a 2021 Carryover Agreement, with the extended placement in service deadline of December 31, 2023; and



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

### **BACKGROUND**

An award of \$1,941,000 in Competitive (9%) Housing Tax Credits to the Development was approved by the Board in July 2019. The Development proposed the Rehabilitation of 200 Units for the Elderly population in Houston by the Houston Housing Authority. Staff executed a Carryover Allocation Agreement with the Development Owner on November 13, 2019, that included a certification from the Development Owner that, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2021, and documentation for the 10% Test would be submitted by July 1, 2020 (which was subsequently extended to December 31, 2020). On September 10, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events.

10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, allows a Development Owner to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. **Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner:** acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress; (emphasis added).

#### **Presidentially Declared Major Disasters**

Of the circumstances listed in the rule, the request indicates that force majeure might be triggered by two presidentially declared major disasters: the national emergency of the COVID-19 Pandemic and Winter Storm Uri, and related disruptions. Per the request, the disasters resulted in:

Labor and materials shortages: cases of Covid-19 and/or required quarantining due to exposure among the suppliers of construction materials, employees of the General Contractor, its Subcontractors, the Property Manager, and the Houston Housing Authority's Project Team; and

Subfreezing temperatures: the Polar Vortex resulted in the loss of an entire week, although only minor property damage was incurred.

The request includes a letter from the Development Owner's counsel explaining the difficulties they have encountered, as well as a letter from the architect explaining the materials shortages and related construction delays and the remediation costs. In addition to the force majeure events, the request describes significant delays and cost increases resulting from mold and asbestos remediation. Review of the construction status reports submitted by the general contractor confirms the effects on building costs and the construction schedule attributable to COVID-19 exposure issues, weather-related delays, and mold and asbestos remediation issues. The reports indicate that as of July 1, 2021, the Development is 53% complete with an estimated completion date of January 12, 2023.

Staff has determined that the Development Owner has provided sufficient evidence of "sudden and unforeseen circumstances outside the control of the Development Owner" as described in 10 TAC §11.6(5). If the Board grants the request to consider this a force majeure event, the Development Owner's return of \$1,941,000 in credits and execution of a 2021 Carryover Allocation Agreement will result in the new date of December 31, 2023, for the Development be placed in service, and documentation for the 10% Test would be submitted by July 1, 2022. For the purposes of the force majeure event, the 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development.

If the Board denies the request regarding this force majeure event, the date by which the Development must be placed in service will remain as December 31, 2021. Because the Development Owner anticipates not meeting the placed in service deadline on December 31, 2021, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the At-risk Set-aside from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. There are pending Applications on the waiting list from the At-risk Set-aside. The credits would go to that set-aside and the next two Applications, which combined request \$1,177,641 would be awarded. If a third Application from the set-aside is not funded, the remaining credits would go to the statewide collapse, and contribute to the next award.

Staff recommends the Board approve the request for treatment of Telephone Road Elderly Apartments under an application of the force majeure rule.

# COATS | ROSE

A PROFESSIONAL CORPORATION

TAMEA A. DULA  
OF COUNSEL

tdula@coatsrose.com  
Direct Dial  
(713) 653-7322  
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(713) 890-3918

September 10, 2021

**By Email to [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)**

TDHCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78701  
Attn: Bobby Wilkinson, Executive Director

**By Email to [homer.cabello@tdhca.state.tx.us](mailto:homer.cabello@tdhca.state.tx.us)**

TDHCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78701  
Attn: Homer Cabello, Jr., Acting Director  
Multifamily Finance

**RE: # 19077; Telephone Road Elderly, Houston, Harris County, Texas;  
Request for *Force Majeure* Exchange of Tax Credits.**

Dear Mr. Wilkinson and Mr. Cabello:

This law firm represents the Houston Housing Authority (“HHA”) and its affiliate, APV Telephone Road Elderly, LP (the “Partnership”) in connection with Telephone Road Elderly (the “Project”). Due to multiple circumstances beyond the control of the Partnership, including two Presidentially-Declared Major Disasters, the Partnership is requesting a *Force Majeure* return of 2019 9% Tax Credits in exchange for the issuance of 2021 or 2022 9% Tax Credits, as determined by the TDHCA.

Section 11.6(5)(A) of the 2021 Qualified Allocation Plan spells out what constitutes a “*Force Majeure*” event:

*... Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado,*

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HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS | CINCINNATI

*flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. ...*

To qualify for an exchange of Tax Credits, a *Force Majeure* event must occur prior to issuance of Forms 8609, and must make construction impossible or materially impede its progress.

## **BACKGROUND**

The Partnership was awarded 9% Housing Tax Credits in the 2019 Competitive Round for Acquisition/Rehabilitation of this 200-unit Project to be accomplished in three Phases in order to minimize relocation of the elderly residents. The Partnership closed on the construction and equity financing of the Project on April 17, 2020, and construction commenced on April 20, 2020, with a 548-day construction schedule. The 10% Test was met within the extended deadline provided by the TDHCA due to COVID-19. Generally, the Project was on track for a normal progression toward Placement in Service, which was anticipated in October 2021. Unfortunately, two Major Disasters and other situations outside the control of the Partnership have occurred, ultimately resulting in: (i) the relocation of all residents off-site due to health and safety considerations, (ii) materially increasing costs due to unforeseen remediation requirements, and (iii) delaying the construction process. Placement in Service is now not anticipated until the First Quarter of 2023. The 12-month Federal extension of the Placement in Service deadline that is available pursuant to Rev. Proc. 2014-49 for Tax Credit developments beset by Major Disaster would provide insufficient time to place the Project in service. For that reason, we are requesting a *Force Majeure* Tax Credit Exchange under §11.6(5)(A).

## **COVID-19 (DR-4485)**

In March 2020 the emergence of COVID-19 as a global pandemic was documented, and in Texas the Governor issued emergency orders designed to decrease the spread of the virus. On March 25, 2020 the President issued a Major Disaster Declaration for the Texas Covid-19 Pandemic (DR-4485), with incident initiation starting January 20, 2020 and continuing thereafter. The Project's General Contractor, The Gonzalez Group, LP, established the TGG Project Site Preparedness Plan to implement masking, social distancing, and other protocols designed to combat the virus. Notwithstanding such preventative efforts, the General Contractor's weekly progress meeting minutes reflect cases of Covid-19 and/or required quarantining due to exposure among the employees of the General Contractor, its Subcontractors, Tarantino Properties, Inc. (the Property Manager), and HHA's Project Team in April 2020, July 2020, December 2020, and January 2021. These incidents resulted in delays in

the construction process. Additionally, suppliers of construction materials have experienced their own Covid-19 delays due to illnesses, quarantines, reduced staffing to maintain social distancing, all of which have slowed down the usual supply chain, resulting in further delays. Please see the letter from Smith & Company Architects attached as Exhibit A for a discussion of the impact of Covid-19 on this Project.

### **TEXAS SEVERE WINTER STORMS (DR-4586)**

In February 2021, the Project encountered its second Presidentially-Declared Major Disaster – the Texas Severe Winter Storms (DR-4586) from February 11 - 21, 2021. Widespread and severe property damage, injury and loss of life were incurred due to prolonged freezing temperatures, heavy snow and freezing rain were experienced across the State. At the Project, the Polar Vortex resulted in the loss of the entire week of February 15, 2021, although only minor property damage was incurred.<sup>1</sup> *[Note – Documents already in the possession of the TDHCA are footnoted here, but not provided. If you would like copies, please let me know.]*

### **DISCOVERY OF SUBSTANTIAL MOLD PROBLEMS**

A critical factor in the delays experienced by this Project has been the discovery of substantial mold problems that were not identified by the Phase I<sup>2</sup>, the property condition report<sup>3</sup> or the appraisal<sup>4</sup> which were conducted and submitted to the TDHCA in connection with the 9% Application. The existence of mold behind the drywall was identified during the first month of demolition, as referenced in CA Partners, LLC Report #1 for the Project, which states: “This was discovered at the first level of the east wing and demolition of lower cabinets stopped until such time this area can be evaluated.”<sup>5</sup>

Eventually, efforts toward mold remediation and building back the structures destroyed by that remediation led to numerous delays reflected by Change Orders (“COs”): (CO #1 – 52 days; CO #2 – 6 days; CO #3 – 6 days; CO #5 – 131 days; CO #11 – 5 days; CO #7 – 61 days; CO #8 – 32 days; CO #9 – 33 days). By October 2020, additional mold delays were being reflected in a proposed Construction Change Directive #1 (to not hold up job progress, with further negotiation prior to execution as a Change Order), which estimated an additional 90 days for mold remediation, pushing out the anticipated completion dates as follows: Phase 1 – May 12, 2021; Phase 2 – October 26, 2021; Phase 3 – May 5, 2022. These completion dates were then further

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<sup>1</sup> See CA Partners, LLC Report #10 dated March 19, 2021 at Section 4.2.

<sup>2</sup> Phase I Environmental Site Assessment Report by Professional Environmental Engineers, Inc. dated January 2019.

<sup>3</sup> Report of Property Condition Assessment by PDG Architects dated February 28, 2019.

<sup>4</sup> A Market Valuation of: Telephone Road Elderly Apartments by Novogradac & Company LLP dated February 11, 2019.

<sup>5</sup> See CA Partners, LLC Report #1 dated June 5, 2020 at Section 4.2.

extended on an almost monthly basis until in CA Partners, LLC Report #15 (August 27, 2021), the Project is shown as being 57% complete with an anticipated Substantial Completion date of December 19, 2023, although recently executed CO #12 continues to show a Substantial Completion date of January 12, 2023.<sup>6</sup> Please see Exhibit B for a synopsis of the effects of the mold problem.

### **NEED TO RELOCATE ALL ELDERLY TENANTS**

In addition to the extensive delays caused by the mold problems, the HHA decided that the health issues raised by the presence of mold, the remediation process itself, and the infirmity of many of the elderly tenants, dictated that all tenants be relocated off-site instead of doing the planned phased relocation and return of a portion of the tenants as necessitated by work on a specific construction Phase. This has increased the costs associated with the rehabilitation of the Project and has slowed the reconstruction process.

### **DISCOVERY OF GREATER THAN ANTICIPATED ASBESTOS PROBLEMS**

An additional factor in the financial overruns of this Project is the greater than anticipated asbestos remediation that was needed. This was originally a limited allowance based on known asbestos prior to construction. It developed, however, that what were thought to be vinyl floors were actually vinyl applied over existing asbestos fixative that was not removed in a prior remediation. Change Orders and Requests for Change Orders relating to the removal of additional asbestos containing materials discovered during construction have increased the asbestos remediation costs by approximately \$770,000.<sup>7</sup>

### **VASTLY INCREASED COSTS THAT COULD NOT REASONABLY BE FORESEEN**

The cost of relocating 100% of the tenants and the unanticipated costs of extensive mold remediation and greater than expected asbestos remediation has thrown the financing of the Project completely out of balance. Additionally, it was necessary to engage ERC Environmental & Construction Consultants for the mold assessment and asbestos survey to monitor mold remediation. Because the Project is owned in fee by HHA and ground leased to the Partnership, the HHA has chosen to make available supplemental funds to achieve the mold remediation and thereby permit the construction to proceed in accordance with the Housing Tax Credit requirements. **At this point, HHA has provided \$9 Million in supplemental funding for the remediation efforts.** While HHA has not at this time sought to secure these loans, the

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<sup>6</sup> See CA Partners, LLC Report #15 dated August 27, 2021 at Section 4.3.

<sup>7</sup> Ibid, at Section 3.2 and at pages 31-32.

Partnership is looking for additional funding to try to reduce HHA's unanticipated outlay resulting directly from the mold problems.

### **MEETS FORCE MAJEURE REQUIREMENTS**

In accordance with Section 11.6(5) of the QAP, we believe the Partnership meets TDHCA's requirements for the relief sought, in that:

1. Delays resulting from COVID-19 and the Severe Winter Storms are "*Force Majeure*" events that could not have been reasonably anticipated and materially impeded the Partnership's ability to engage in construction activity.
2. The additional delays cause by the mold remediation and back-building could not have been reasonably anticipated, given that efforts to identify such environmental issues through the requisite third party reports did not even result in the mention the word "mold".
3. The Partnership has attempted to mitigate all the delays by expending additional funds to increase the number of hours the construction crew were on site, and to engage consultants and other specialists to remediate the mold and the unexpectedly large amount of asbestos.
4. The TDHCA has been informed of the status of this Project through monthly construction reports that have been explicit concerning the problems encountered by the Project and the delays pushing Substantial Completion out past the December 31, 2021 deadline for Placement in Service.
5. The Partnership believes there is a reasonable likelihood that it will not be able to meet the Placement in Service deadline because of the delays experienced.
6. The Project continues to be financially viable due to the infusion of \$9 Million in additional funding by the HHA as Project Sponsor. These funds were essential to meet the spiraling cost of the mold remediation which had not been anticipated, including the determination that as a health and safety issue, the total relocation of the existing tenants was essential due to their vulnerable status as seniors and the extent of the discovered mold in the Building. Additionally, the Partnership intends to pursue additional financing in the form of a supplemental allocation of tax credits pursuant to the recently announced program evidenced in Subchapter F of the Draft 2022 QAP and through a recent amendment to 2021-3 Multifamily Direct Loan Annual Notice of Funding Availability.

Bobby Wilkinson, Executive Director  
Homer Cabello, Jr., Acting Director, Multifamily Finance  
September 10, 2021  
Page 6

Thus far the Project's Housing Tax Credit Investor and the Lender have worked with the Partnership and HHA to try to find solutions to these impediments. We respectfully request that the TDHCA permit the Partnership to exchange its 2019 Tax Credits for 2021 Tax Credits in order to mitigate these *Force Majeure* circumstances and bring these 200 affordable housing units on line.

Sincerely,

A handwritten signature in black ink, reading "Tamea A. Dula". The signature is written in a cursive style with a large, sweeping initial "T".

Tamea A. Dula

Exhibits A & B

cc: Sharon Gamble  
Rosalio Banuelos  
Mark Thiele  
Cody Roskelley  
Barry J. Palmer



September 10, 2021

Obie Díaz, REID Director *Registered Architect, LEED AP BD+C*  
Houston Housing Authority  
2640 Fountain View Drive, Suite 400  
Houston, Texas 77057

**RE: 6000 Telephone Road Project Covid Impact**

Dear Mr. Diaz:

We have been asked to provide the TDHCA with an explanation of the effects of the Covid-19 pandemic on the construction schedule for the rehabilitation of Telephone Road Apartments and on the cost of construction.

Based on specific change order proposals submitted for additional or modified scope, there have been extended lead times for many of the most utilized materials purchased for the project, most notably drywall and light gauge metal framing. These materials are part of the critical path of the project schedule and contribute to recent project schedule extensions. The general contractor, The Gonzales Group, also supports material cost increases for these and similar construction materials due to COVID.

Combined with the unforeseen presence of mold, the full impact of the pandemic will not be completely known until the project is completed. However, per The Gonzales Group, further impacts to the project schedule should be anticipated until the pandemic has completely subsided, and material availability returns to pre-covid time frames.

Sincerely,

A handwritten signature in black ink, appearing to be 'Terry D. Smith', written over a large, light-colored scribble or background mark.

Terry D. Smith AIA  
President

September 9, 2021

Obie Díaz, REID Director *Registered Architect, LEED AP BD+C*  
Houston Housing Authority  
2640 Fountain View Drive, Suite 400  
Houston, Texas 77057

**RE: 6000 Telephone Road Mold Infestation**

Dear Mr. Diaz:

The unexpected discovery of unforeseen mold behind the drywall at Telephone Road Apartments has had an enormous impact on the construction costs for this project. As you are aware, much of this drywall was located within the inside cavity of corridor and exterior walls as well as behind wet walls. This required extensive mold remediation and extensive costs related to the building back of new drywall and new wall framing that was required to be removed. Additional costs and time are currently being expended related to soft costs such as additional design services, permitting, and environmental consulting fees.

Furthermore, as a result of the extent of mold found and the subsequent concerns related to the on going health and safety of future tenants, the project team has collectively decided to replace all exterior windows, which is one of the alleged sources of moisture intrusion from which the mold is assumed to have resulted from.

While the project is currently on going and the total impact of the mold remediation has not fully been determined, we estimate that the mold infestation will result in at least \$4 million in additional construction costs (not including additional soft costs) and add approximately 11 months to the project schedule.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terry D. Smith', with a large, sweeping flourish above the name.

Terry D. Smith AIA  
President

20077

Lockwood South  
Apartments

Force Majeure Request

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Application 20077 Lockwood South Apartments in Houston

**RECOMMENDED ACTION**

**WHEREAS**, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,500,000 to 20077 Lockwood South Apartments (the Development) was approved by the Board in July 2020;

**WHEREAS**, staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022, and documentation for the 10% Test would be submitted by July 1, 2021 (which was subsequently extended to September 30, 2021);

**WHEREAS**, on September 13, 2021, the Department received a request to extend the placement in service deadline, and staff determined that an extension of the 10% Test deadline was appropriate;

**WHEREAS**, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

**WHEREAS**, the precipitating events described in the request meet the requirements for force majeure events described in 10 TAC §11.6(5);

**NOW, therefore, it is hereby**

**RESOLVED**, the request for treatment of the Development under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2021 Program Calendar applicable to the Development for the purposes of the force majeure event;

**FURTHER RESOLVED**, that the Department may issue a 2021 Carryover Agreement, with the extended 10% Test deadline of July 1, 2022 and the extended placement in service deadline of December 31, 2023; and

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

## BACKGROUND

An award of \$1,500,000 in Competitive (9%) Housing Tax Credits to the Development was approved by the Board in July 2020. The Development proposed the New Construction of 80 mixed-income Units for the general population in Houston. Staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, that included a certification from the Development Owner that, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022, and documentation for the 10% Test would be submitted by July 1, 2021 (which was subsequently extended to September 30, 2021). On September 13, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events, and staff determined that an extension of the 10% Test was appropriate.

10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, allows a Development Owner to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. **Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner:** acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress; (emphasis added).

### **Presidentially Declared Major Disasters**

Of the circumstances listed in the rule, the request indicates that force majeure might be triggered by two presidentially declared major disasters: the national emergency of the COVID-19 Pandemic and related disruptions, and Winter Storm Uri, which hit Texas in February of 2021. According to the request, these disasters have resulted in:

Materials shortages and cost increases: per the request, increased costs of materials and labor and the decreased availability of contractors have seriously impacted the development schedule. The Development has experienced significant cost overruns due to steeply rising material prices.

Per the request, the Development Owner has applied to TDHCA for a direct loan which will require loan processing, and environmental review and clearance, in addition to those already required (and delayed) by the City of Houston and HUD.

Staff has determined that the Development Owner has provided sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner” as described in 10 TAC §11.6(5). If the Board grants the request to consider this a force majeure event, the Development Owner’s return of \$1,500,000 in credits and execution of a 2021 Carryover Allocation Agreement, will result in the new date of December 31, 2023, for the Development be placed in service, and documentation for the 10% Test would be submitted by July 1, 2022. For the purposes of the force majeure event, the 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development.

If the Board denies the request regarding this force majeure event, the date by which the Development must be placed in service will remain as December 31, 2022. Because the Development Owner anticipates not meeting the placed in service deadline on December 31, 2022, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits; in this case Region 6, Urban. There are pending Applications on the waiting list from that subregion. The next Application requests \$1,022,258, which is less than the amount of credits that would be returned.

Staff recommends the Board approve the 10% Test extension and the request for treatment of Lockwood South Apartments under an application of the force majeure rule.



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Direct Telephone: 512-305-4739  
Direct Fax: 512-391-4830  
samuel.hagerty@lockelord.com

September 13, 2021

**VIA EMAIL DELIVERY**

Marni Holloway  
Alena Morgan  
Rosalio Banuelos  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: Lockwood South Apartments (the "**Development**")  
TDHCA File No. 20077 (MFDL File No. 21502)

Greetings:

We represent Lockwood South Apts, LP, a Texas limited partnership ("**Owner**"), which submitted an Application<sup>1</sup> for Housing Tax Credits in the 2020 Application Cycle. An award of Tax Credits was conditionally approved on July 23, 2020, and the Commitment was issued by the Department on August 25, 2020. At the time the Application was submitted, Owner contemplated a conservative 18-month construction schedule, which would allow for closing in the Spring of 2021 and completion before December 31, 2022. Upon receipt of its award, even before the Commitment was issued, Owner began updating its construction budget for submission to the City of Houston related to its Community Development Block Grant – Disaster Recovery ("**CDBG-DR**") funding related to the Development. Over the past eight months, Owner has encountered subcontractors who refused to bid or refused to hold a bid because of volatility in pricing, not just for lumber, which has been widely reported, but for a variety of materials. Additionally, Owner's and the City of Houston's vendors and personnel were delayed in processing important construction bidding and permitting due to the winter storms. The City of Houston has still not issued its formal environmental clearance – a requirement before any of its grants may be funded. According to the City, this clearance will not be issued for at least another 45 days. Due to the funding gap created by these increase in supplier pricing and development progress delays, the Owner responded to the Departments 2021-3 NOFA for MFDL funding on or about July 20, 2021. It has since been determined that the Development will require HOME funding specifically, which Owner understands from the Department

---

<sup>1</sup> Capitalized terms used but not defined in this letter shall have the meanings assigned to them in the 2021 Qualified Allocation Plan (the "**QAP**").

requires additional approvals, including an additional environmental review and clearance. Finally, Owner's lender requires that the Development's placement in service deadline be at least 90 months beyond Owner's finalized construction schedule – which is currently anticipated to be June 1, 2023.

### **Relief Sought**

Owner submits this request to return the Tax Credits and asks TDHCA to reallocate the Tax Credits in the current year pursuant to the "Force Majeure" provisions in Section 11.6(5) of the QAP.

### **Support for Force Majeure Conditions**

Pursuant to Section 11.6(5) of the QAP, a Force Majeure event includes Acts of God; changes in law, rules, or regulations; and supplier failures or materials or labor shortages that make construction activity impossible or materially impede its progress. We know TDHCA is well aware of the general construction market conditions that have changed dramatically since Applications were submitted in the first quarter of 2020. An article from the Wall Street Journal, attached as Exhibit A, provides a good general description. Additionally, specific to this Development:

- **Environmental Clearance.** Owner's commitment of CDBG-DR funding from the City of Houston required HUD environmental clearance. Impacted by a shortage of resources and limited office hours stemming from the COVID-19 pandemic, various local and state agencies were unable to respond promptly, delaying the environmental clearance process. The CDBG-DR environmental clearance for the Development is administered by the City of Houston, and Owner does not control the process or timing. Due to CDBG-DR rules regarding choice limiting actions, Owner also cannot close on the land for the Development until the environmental clearance is received. At the time of the Application, environmental clearance was expected in late February 2021. Now, environmental clearance is not expected until November 2021.
- **City of Houston CDBG-DR Loan Documents.** Also affected by COVID-19, the City of Houston was unable to timely prepare the documents and obtain City Council approval for the CDBG-DR funding. At the time of the Application, City Council approval was originally anticipated by March 15, 2021. With respect to the City of Houston's CDBG-DR funding and the proposed Department's HOME funding, the City of Houston requires an intercreditor agreement. Owner understands that the Department's staff cannot begin reviewing and commenting on the City of Houston intercreditor agreement until the Development receives an award of HOME funds. Meanwhile, the City of Houston cannot authorize closing until City Council has approved the CDBG-DR loan documents—including the intercreditor agreement.



- **Materials Costs and Shortages.** Due to the impact of the COVID-19 pandemic on mills, labor, and distribution channels coupled with increased restrictions on cutting/logging in Canada and a significant increase in home improvement projects nationwide, costs for building materials including lumber, steel, and PVC, have increased substantially since Owner filed the Application. While the Development was able to absorb significant material cost escalations throughout 2020 due to favorable Tax Credit equity terms, the cost of building materials increased even more after the start of 2021; lumber alone resulted in a \$1,500,000 increase from January 22 to the pricing received on February 24.
- **Request for TDHCA MFDL / HOME Funding.** As a result of the increases in costs for materials and labor, Owner sought MFDL funding from the Department. It has since been determined that the Development will require HOME funding specifically, which we understand from the Department requires additional approvals, including an additional environmental review and clearance. If approved and after environmental clearance, the Department will need time to draft the relevant loan documents and Owner and its financing partners will need time to review and comment on the same. Further, as discussed above, the Department will need to review and comment on the City of Houston's intercreditor agreement related to its CDBG-DR funding before it can authorize closing.

#### **Lender Requirements**

Like many lenders, Capital One requires some cushion in the construction schedule. Due to the delays outside of Owner's control described herein, Capital One required cushion had eroded. Therefore, Capital One has required Owner to promptly request a force majeure extension from TDHCA. See correspondence from Capital One attached at [Exhibit B](#).

#### **Factors for Consideration**

In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. Owner has proven up delays resulting from "force majeure" events, including supplier failures and materials and labor shortages, the impact of the February ice storm, and the ongoing COVID-19 pandemic. The delays materially impeded Owner's ability to engage in construction activity.
2. When Owner submitted its Tax Credit Application in early 2020, it had no way of knowing what was to come with market conditions that are now commonly referred to as "unprecedented."

3. Owner has endeavored to mitigate the delays by working proactively with the local and state agencies providing funding.

4. Owner's lender believes there is a reasonable likelihood that it will not be able to meet the placement in service deadline because of the delays experienced. The current schedule calls for completion by June 15, 2022, which raises legitimate concern about meeting the deadline for placement in service.

We believe Owner has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. If additional information is required, please feel free to contact us.

Sincerely,

  
Samuel R. Hagerty

cc: Lockwood South Apts, LP

Exhibit A – *Wall Street Journal* Article

Exhibit B -- Lender Correspondence

**Exhibit A**

***Wall Street Journal Article***

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<https://www.wsj.com/articles/u-s-manufacturers-blame-tariffs-for-swelling-inflation-11622367001>

POLITICS

## U.S. Manufacturers Blame Tariffs for Swelling Inflation

Some economists differ, saying removing tariffs on metal, lumber won't mean big drop in prices



Steel pipes being loaded for export in Handan, China, in April.

PHOTO: HU GAOLEI/SIPA ASIA/ZUMA PRESS

By [Yuka Hayashi](#) and [Josh Zimbrun](#)

May 30, 2021 5:30 am ET

 [Listen to Article](#) (7 minutes)

WASHINGTON—Economists and policy makers are debating whether stimulus spending and easy monetary policy are fueling inflation. Many businesses say there is another culprit that should share the blame: import tariffs.

The Trump administration implemented tariffs on products including lumber, steel and semiconductors to shield American companies from a glut of cheap imported products from China and other countries.

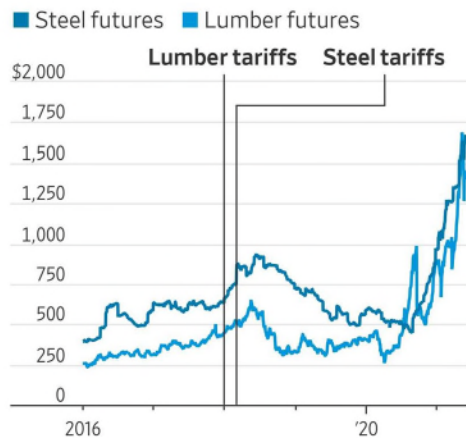
The tariffs have long been opposed by U.S. companies that import the goods and pay the levies. They are making a new push for the Biden administration to lift them, on grounds

that tariffs contribute to rising prices and product shortages that are accompanying the post-pandemic recovery.

### Lumber and Steel

Market prices of two critical commodities in construction climbed in the months after tariffs took effect, but recent price increases have been far more dramatic

#### Benchmark futures contracts



Note: Most-actively traded hot-rolled coil steel and front-month random length lumber.  
Source: FactSet

“I have had 15 price increases from my primary steel supplier since September,” said Scott Buehrer, president of B. Walter & Co., a Wabash, Ind., maker of fabricated metal products. “What’s the justification for these tariffs when you have sky-high steel prices?”



#### WSJ NEWSLETTER

### Notes on the News

The news of the week in context, with Tyler Blint-Welsh.

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Some economists say the tariffs have had only muted effects on prices and that their removal won't do much to ease the price pressure.

Mr. Buehrer's company was among more than 300 manufacturers that wrote to Mr. Biden on May 6 asking him to immediately terminate 25% tariffs on steel and 10% levies on aluminum. The Biden administration has said it is reviewing the tariff policy but **has no immediate plans to lift the tariffs.**

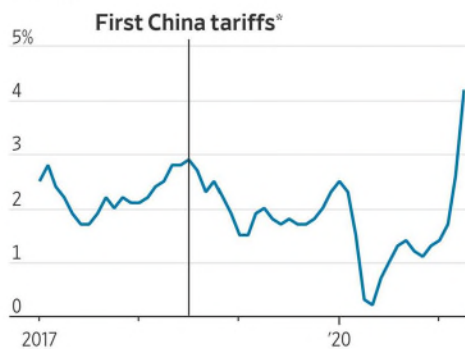
The manufacturers say the tariffs make their companies less competitive at a time when U.S. buyers, facing red-hot domestic demand, are paying 40% more for some steel products than their European peers.

Mr. Buehrer said he has cut his payroll by 10% to reduce costs as the prices of rolled steel nearly tripled since last fall. But labor unions and the steel industry are urging Mr. Biden to keep the metal tariffs in place, saying in a May 19 letter that the policy has enabled the industry to "restart idle mills, rehire laid-off workers and invest in the future."

### Inflation Rate

The inflation rate fell after the tariffs first took effect. Now that inflation is higher again, companies are renewing calls for relief.

### Consumer Price Index, 12-month percent change



Source: Labor Department

"The tariffs have been in place since 2018 and there has been no inflationary pressure since then," said Roy Houseman, legislative director at United Steelworkers. "The U.S. has

put trillions of dollars of stimulus in the economy. That is going to impart some inflationary pressure.”

Another industry wrestling with soaring prices is home-building.

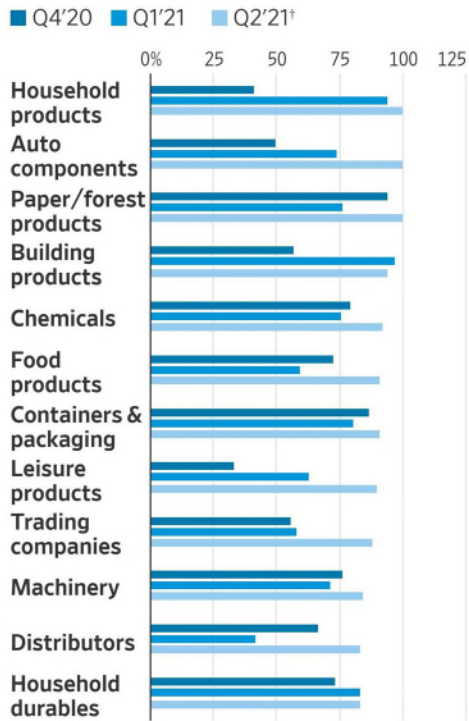
Futures contracts of lumber in May reached more than \$1,600 per thousand board feet—a record that is more than four times the typical price this time of year. The National Association of Home Builders estimates the higher lumber prices have added \$36,000 to the price of a typical single-family home.

“It doesn’t make any economic sense to be taxing things when you don’t have sufficient domestic supply,” said Robert Dietz, NAHB’s chief economist. “Appliances, washing machines, literally the nuts and bolts that go into making a home—screws and nails—are subject to some of the metal tariffs.”

### Inflation Chatter

Many industries with growing inflation concerns may benefit from tariff relief

#### Proportion of company conference calls discussing topics linked to inflation



† As of May 18  
Source: Panjiva

Home builders and lawmakers have pressed Mr. Biden to eliminate tariffs imposed in 2017 on Canadian softwood lumber, part of a decadeslong disagreement between U.S. and Canadian lumber producers.

Instead of removing the duty, the Commerce Department issued a preliminary decision May 21 to double the levy to 18%, concluding that Canadian imports are heavily subsidized. The tariffs will remain at the current 9% until a final decision on the proposed increase is made before November, a Commerce Department official said.

Advertisement - Scroll to Continue



To provide a bipartisan process to grant importers exclusions for more than 2,000 items ranging from pillows to auto parts. The exclusion process, introduced by the Trump administration, expired in December but hasn't been renewed.

When the Trump administration's tariffs first went into effect, some economists warned they could spur inflation. But there appears to be a consensus that the impact has been muted.

"Given that the tariffs didn't have a big impact on consumer prices in the first place, I probably wouldn't expect their removal to result in significant downward pressure either," said Andrew Hunter, economist for Capital Economics, a research firm.

The muted impact is partly because tariffs only affect imports, which typically make up a relatively small share of the domestic market. For steel, imports represent roughly one-third of the total U.S. demand. And the share of the taxed imports is even smaller as the largest exporters to the U.S.—Canada, Brazil and Mexico—are exempted.

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#### SHARE YOUR THOUGHTS

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*Do you think rising commodity prices signal inflation? Join the conversation below.*

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Import prices of the goods subject to tariffs did rise initially. But many importers absorbed much of the increases, rather than pass the full increase on to consumers. Meanwhile, the prices of many goods not subject to the tariffs were declining, keeping the overall inflation rate low.

David Weinstein, a Columbia University economist, says tariffs may actually lower prices over the long term.

Mr. Weinstein and his colleagues examined changes in financial markets' inflation expectations based on bond-market yields around the time of 11 new tariff announcements by the U.S. and China between 2018 and 2019.

To their surprise, he said, they found that the events lowered inflationary expectations so that prices were expected to be roughly 1 percentage point lower five years later and 1.3 points lower 10 years later. Stock prices also fell.

NEWSLETTER SIGN-UP

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The latest economic news, analysis and data curated weekdays by WSJ's Jeffrey Sparshott.

PREVIEW

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“What the markets are predicting, and our data is suggesting, is that the trade war will have negative impacts on productivity,” he said, referring to tariffs’ hit to companies’ operations. “When you hold down productivity, you’ll have really big impacts down the road on the success of your economy, and prices as well.”

The U.S. Trade Representative’s Office, which is conducting a review of U.S. tariff policy, is studying whether easing tariffs, among other factors, could relieve the supply shortage for lumber and other products, Cecilia Rouse, chair of the White House Council of Economic Advisers, said during a May 18 briefing.

She added, however, trade policy is a “much bigger issue” than short-term market gyrations and that it needs to be worked out in the context of Washington’s global policy.

Write to Yuka Hayashi at [yuka.hayashi@wsj.com](mailto:yuka.hayashi@wsj.com) and Josh Zumbrun at [Josh.Zumbrun@wsj.com](mailto:Josh.Zumbrun@wsj.com)

### UPCOMING EVENTS

June  
**9**  
2021

9:00 AM - 4:00 PM EDT

WSJ Tech Health

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June  
**17**  
2021

12:00 PM - 1:45 PM EDT  
WSJ Women In: Intelligent Investing

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June  
**24**  
2021

11:00 AM - 5:00 PM EDT  
Global Food Forum

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**ADD TO CALENDAR**

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**Exhibit B**

**Lender Correspondence**



**Capital One, National Association** P: 281-881-3600  
5444 Westheimer Road  
Houston, TX 77056  
c/o Dan Miller  
capitalone.com

September 9, 2021

Michael McGovern  
Brinshore Development, LLC  
666 Dundee Road, Suite 1102  
Northbrook, IL 60062

Re: Lockwood South (The "Project"), Change of Income Targeting Election and PIS Cushion

Dear Michael:

Capital One Bank, N.A. who will serve as the lender and upper tier investor for the above mentioned development, is requesting a change to the unit mix replacing the income averaging election with the traditional 40% at 60% AMI election. The IRS's current draft of the income averaging rules presents significant problems for our investors due to the heightened compliance risk. At this time, income averaging severely hampers our ability to attract investors at terms favorable to the project and causes the project to be infeasible for investment.

Capital One Bank, N.A. also requires a 90-day place in service cushion, which necessitates a placed in service extension by TDHCA as a condition of closing.

Assuming these requests can be accommodated, Capital One remains committed to the project and we look forward to working with you.

Director, Community Finance

Sincerely,

A handwritten signature in black ink that reads "Dan Miller".

Dan Miller  
Director  
Community Finance

20082

Connect South  
Apartments

Force Majeure Request

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Application 20082 Connect South Apartments in Houston

**RECOMMENDED ACTION**

**WHEREAS**, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,500,000 to 20082 Connect South Apartments (the Development) was approved by the Board in July 2020;

**WHEREAS**, staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022, and documentation for the 10% Test would be submitted by July 1, 2021 (which was subsequently extended to September 30, 2021);

**WHEREAS**, on September 13, 2021, the Department received a request to extend the placement in service deadline, and staff determined that an extension of the 10% Test deadline was appropriate;

**WHEREAS**, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

**WHEREAS**, the precipitating events described in the request meet the requirements for force majeure events described in 10 TAC §11.6(5);

**NOW, therefore, it is hereby**

**RESOLVED**, the request for treatment of the Development under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2021 Program Calendar applicable to the Development for the purposes of the force majeure event;

**FURTHER RESOLVED**, that the Department may issue a 2021 Carryover Agreement, with the extended 10% Test deadline of July 1, 2022 and the extended placement in service deadline of December 31, 2023; and

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

### **BACKGROUND**

An award of \$1,500,000 in Competitive (9%) Housing Tax Credits to the Development was approved by the Board in July 2020. The Development proposed the New Construction of 77 mixed-income Units for the general population in Houston. Staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, that included a certification from the Development Owner that, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022, and documentation for the 10% Test would be submitted by July 1, 2021 (which was subsequently extended to September 30, 2021). On September 13, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events, and staff determined that an extension of the 10% Test was appropriate.

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(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. **Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner:** acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress; (emphasis added).

#### **Presidentially Declared Major Disasters**

Of the circumstances listed in the rule, the request indicates that force majeure might be triggered by two presidentially declared major disasters: the national emergency of the COVID-19 Pandemic and related disruptions, and Winter Storm Uri, which hit Texas in February of 2021. According to the request, these disasters have resulted in:

Materials shortages and cost increases: per the request, increased costs of materials and labor and the decreased availability of contractors have seriously impacted the



development schedule. The Development has experienced significant cost overruns due to steeply rising material prices.

Staff has determined that the Development Owner has provided sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner” as described in 10 TAC §11.6(5). If the Board grants the request to consider this a force majeure event, the Development Owner’s return of \$1,500,000 in credits and execution of a 2021 Carryover Allocation Agreement, will result in the new date of December 31, 2023, for the Development be placed in service, and documentation for the 10% Test would be submitted by July 1, 2022. For the purposes of the force majeure event, the 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development.

If the Board denies the request regarding this force majeure event, the date by which the Development must be placed in service will remain as December 31, 2022. Because the Development Owner anticipates not meeting the placed in service deadline on December 31, 2022, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits; in this case Region 6, Urban. There are pending Applications on the waiting list from that subregion. The next Application requests \$1,022,258, which is less than the amount of credits that would be returned.

Staff recommends the Board approve the 10% Test extension and the request for treatment of Connect South Apartments under an application of the force majeure rule.



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Samuel R. Hagerty  
Direct Telephone: 512-305-4739  
Direct Fax: 512-391-4830  
samuel.hagerty@lockelord.com

September 13, 2021

**VIA EMAIL DELIVERY**

Marni Holloway  
Alena Morgan  
Rosalio Banuelos  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: Connect South Apartments (the "**Development**")  
TDHCA File No. 20082 (MFDL File No. 21503)

Greetings:

We represent Connect South Apts, LP, a Texas limited partnership ("**Owner**"), which submitted an Application<sup>1</sup> for Housing Tax Credits in the 2020 Application Cycle. An award of Tax Credits was conditionally approved on July 23, 2020, and the Commitment was issued by the Department on August 25, 2020. At the time the Application was submitted, Owner contemplated a conservative 18-month construction schedule, which would allow for closing in the Spring of 2021 and completion before December 31, 2022. Upon receipt of its award, even before the Commitment was issued, Owner began updating its construction budget for submission to the City of Houston related to its Community Development Block Grant – Disaster Recovery ("**CDBG-DR**") funding related to the Development. Over the past eight months, Owner has encountered subcontractors who refused to bid or refused to hold a bid because of volatility in pricing, not just for lumber, which has been widely reported, but for a variety of materials. Additionally, Owner's and the City of Houston's vendors and personnel were delayed in processing important construction bidding and permitting due to the winter storms. The City of Houston has still not issued its formal environmental clearance – a requirement before any of its grants may be funded. Due to the funding gap created by these increase in supplier pricing and development progress delays, the Owner responded to the Departments 2021-3 NOFA for MFDL funding on or about July 20, 2021. The Department has not yet made MFDL funding awards pursuant to this NOFA. Finally, Owner's lender requires that the Development's

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<sup>1</sup> Capitalized terms used but not defined in this letter shall have the meanings assigned to them in the 2021 Qualified Allocation Plan (the "**QAP**").

placement in service deadline be at least 90 months beyond Owner's finalized construction schedule – which is currently anticipated to be June 1, 2023.

### **Relief Sought**

Owner submits this request to return the Tax Credits and asks TDHCA to reallocate the Tax Credits in the current year pursuant to the "Force Majeure" provisions in Section 11.6(5) of the QAP.

### **Support for Force Majeure Conditions**

Pursuant to Section 11.6(5) of the QAP, a Force Majeure event includes Acts of God; changes in law, rules, or regulations; and supplier failures or materials or labor shortages that make construction activity impossible or materially impede its progress. We know TDHCA is well aware of the general construction market conditions that have changed dramatically since Applications were submitted in the first quarter of 2020. An article from the Wall Street Journal, attached as Exhibit A, provides a good general description. Additionally, specific to this Development:

- **Environmental Clearance.** Owner's commitment of CDBG-DR funding from the City of Houston required HUD environmental clearance. Impacted by a shortage of resources and limited office hours stemming from the COVID-19 pandemic, various local and state agencies were unable to respond promptly, delaying the environmental clearance process. The CDBG-DR environmental clearance for the Development is administered by the City of Houston, and Owner does not control the process or timing. Due to CDBG-DR rules regarding choice limiting actions, Owner was also unable to close on the land for the Development until the environmental clearance is received. At the time of the Application, environmental clearance was expected in late February 2021. Owner did not receive the environmental clearance letter from the City of Houston until September 7, 2021.
- **City of Houston CDBG-DR Loan Documents.** Also affected by COVID-19, the City of Houston was unable to timely prepare the documents and obtain City Council approval for the CDBG-DR funding. At the time of the Application, City Council approval was originally anticipated by March 15, 2021. With respect to the City of Houston's CDBG-DR funding and the proposed Department's HOME funding, the City of Houston requires an intercreditor agreement. Owner understands that the Department's staff cannot begin reviewing and commenting on the City of Houston intercreditor agreement until the Development receives an award of MFDL funds—which is not anticipated until in November 2021. Meanwhile, the City of Houston cannot authorize closing until City Council has approved the CDBG-DR loan documents—including the intercreditor agreement.

- **Materials Costs and Shortages.** Due to the impact of the COVID-19 pandemic on mills, labor, and distribution channels coupled with increased restrictions on cutting/logging in Canada and a significant increase in home improvement projects nationwide, costs for building materials including lumber, steel, and PVC, have increased substantially since Owner filed the Application. While the Development was able to absorb significant material cost escalations throughout 2020 due to favorable Tax Credit equity terms, the cost of building materials increased even more after the start of 2021; lumber alone resulted in a \$1,500,000 increase from January 22 to the pricing received on February 24.
- **Request for TDHCA MFDL Funding.** As a result of the increases in costs for materials and labor, Owner sought MFDL Funding from the Department. The Department is still processing this request for funding. If approved, the Department will need time to draft the relevant loan documents and Owner and its financing partners will need time to review and comment on the same. Further, as discussed above, the Department will need to review and comment on the City of Houston's intercreditor agreement related to its CDBG-DR funding before it can authorize closing.

#### **Lender Requirements**

Like many lenders, Capital One requires some cushion in the construction schedule. Due to the delays outside of Owner's control described herein, Capital One required cushion had eroded. Therefore, Capital One has required Owner to promptly request a force majeure extension from TDHCA. See correspondence from Capital One attached at [Exhibit B](#).

#### **Factors for Consideration**

In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. Owner has proven up delays resulting from "force majeure" events, including supplier failures and materials and labor shortages, the impact of the February ice storm, and the ongoing COVID-19 pandemic. The delays materially impeded Owner's ability to engage in construction activity.
2. When Owner submitted its Tax Credit Application in early 2020, it had no way of knowing what was to come with market conditions that are now commonly referred to as "unprecedented."
3. Owner has endeavored to mitigate the delays by working proactively with the local and state agencies providing funding.

4. Owner's lender believes there is a reasonable likelihood that it will not be able to meet the placement in service deadline because of the delays experienced. The current schedule calls for completion by June 15, 2022, which raises legitimate concern about meeting the deadline for placement in service.

We believe Owner has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. If additional information is required, please feel free to contact us.

Sincerely,

  
Samuel R. Hagerty

cc: Connect South Apts, LP

Exhibit A – *Wall Street Journal* Article

Exhibit B -- Lender Correspondence

**Exhibit A**

***Wall Street Journal Article***

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<https://www.wsj.com/articles/u-s-manufacturers-blame-tariffs-for-swelling-inflation-11622367001>

POLITICS

## U.S. Manufacturers Blame Tariffs for Swelling Inflation

Some economists differ, saying removing tariffs on metal, lumber won't mean big drop in prices



Steel pipes being loaded for export in Handan, China, in April.

PHOTO: HU GAOLEI/SIPA ASIA/ZUMA PRESS

By [Yuka Hayashi](#) and [Josh Zumbun](#)

May 30, 2021 5:30 am ET

 [Listen to Article](#) (7 minutes)

WASHINGTON—Economists and policy makers are debating whether stimulus spending and easy monetary policy are fueling inflation. Many businesses say there is another culprit that should share the blame: import tariffs.

The Trump administration implemented tariffs on products including lumber, steel and semiconductors to shield American companies from a glut of cheap imported products from China and other countries.

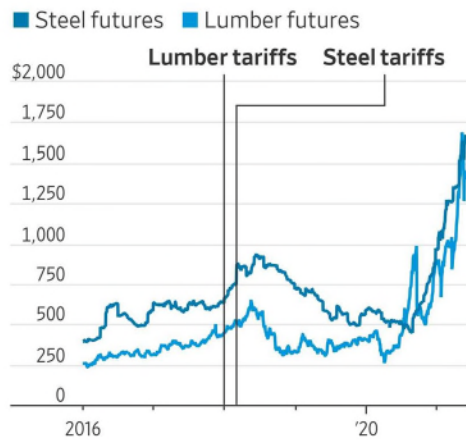
The tariffs have long been opposed by U.S. companies that import the goods and pay the levies. They are making a new push for the Biden administration to lift them, on grounds

that tariffs contribute to rising prices and product shortages that are accompanying the post-pandemic recovery.

### Lumber and Steel

Market prices of two critical commodities in construction climbed in the months after tariffs took effect, but recent price increases have been far more dramatic

#### Benchmark futures contracts



Note: Most-actively traded hot-rolled coil steel and front-month random length lumber.  
Source: FactSet

“I have had 15 price increases from my primary steel supplier since September,” said Scott Buehrer, president of B. Walter & Co., a Wabash, Ind., maker of fabricated metal products. “What’s the justification for these tariffs when you have sky-high steel prices?”



#### WSJ NEWSLETTER

### Notes on the News

The news of the week in context, with Tyler Blint-Welsh.

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Some economists say the tariffs have had only muted effects on prices and that their removal won't do much to ease the price pressure.

Mr. Buehrer's company was among more than 300 manufacturers that wrote to Mr. Biden on May 6 asking him to immediately terminate 25% tariffs on steel and 10% levies on aluminum. The Biden administration has said it is reviewing the tariff policy but **has no immediate plans to lift the tariffs.**

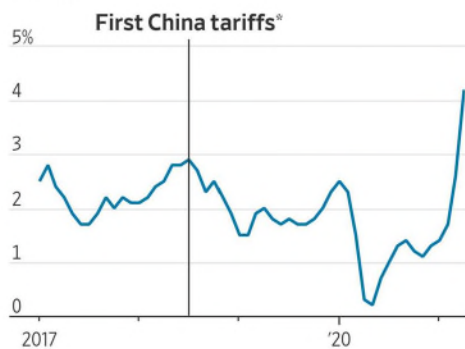
The manufacturers say the tariffs make their companies less competitive at a time when U.S. buyers, facing red-hot domestic demand, are paying 40% more for some steel products than their European peers.

Mr. Buehrer said he has cut his payroll by 10% to reduce costs as the prices of rolled steel nearly tripled since last fall. But labor unions and the steel industry are urging Mr. Biden to keep the metal tariffs in place, saying in a May 19 letter that the policy has enabled the industry to "restart idle mills, rehire laid-off workers and invest in the future."

### Inflation Rate

The inflation rate fell after the tariffs first took effect. Now that inflation is higher again, companies are renewing calls for relief.

### Consumer Price Index, 12-month percent change



Source: Labor Department

"The tariffs have been in place since 2018 and there has been no inflationary pressure since then," said Roy Houseman, legislative director at United Steelworkers. "The U.S. has

put trillions of dollars of stimulus in the economy. That is going to impart some inflationary pressure.”

Another industry wrestling with soaring prices is home-building.

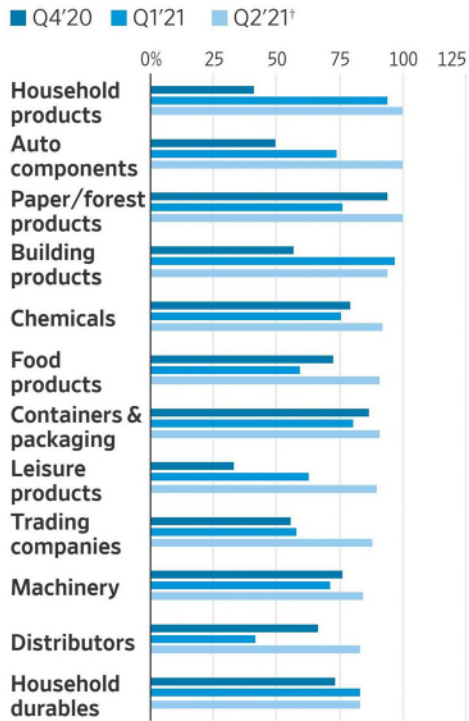
Futures contracts of lumber in May reached more than \$1,600 per thousand board feet—a record that is more than four times the typical price this time of year. The National Association of Home Builders estimates the higher lumber prices have added \$36,000 to the price of a typical single-family home.

“It doesn’t make any economic sense to be taxing things when you don’t have sufficient domestic supply,” said Robert Dietz, NAHB’s chief economist. “Appliances, washing machines, literally the nuts and bolts that go into making a home—screws and nails—are subject to some of the metal tariffs.”

### Inflation Chatter

Many industries with growing inflation concerns may benefit from tariff relief

#### Proportion of company conference calls discussing topics linked to inflation



† As of May 18  
Source: Panjiva

Home builders and lawmakers have pressed Mr. Biden to eliminate tariffs imposed in 2017 on Canadian softwood lumber, part of a decadeslong disagreement between U.S. and Canadian lumber producers.

Instead of removing the duty, the Commerce Department issued a preliminary decision May 21 to double the levy to 18%, concluding that Canadian imports are heavily subsidized. The tariffs will remain at the current 9% until a final decision on the proposed increase is made before November, a Commerce Department official said.

Advertisement - Scroll to Continue

To provide a bipartisan process to grant importers exclusions for more than 2,000 items ranging from pillows to auto parts. The exclusion process, introduced by the Trump administration, expired in December but hasn't been renewed.

When the Trump administration's tariffs first went into effect, some economists warned they could spur inflation. But there appears to be a consensus that the impact has been muted.

"Given that the tariffs didn't have a big impact on consumer prices in the first place, I probably wouldn't expect their removal to result in significant downward pressure either," said Andrew Hunter, economist for Capital Economics, a research firm.

The muted impact is partly because tariffs only affect imports, which typically make up a relatively small share of the domestic market. For steel, imports represent roughly one-third of the total U.S. demand. And the share of the taxed imports is even smaller as the largest exporters to the U.S.—Canada, Brazil and Mexico—are exempted.

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#### SHARE YOUR THOUGHTS

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*Do you think rising commodity prices signal inflation? Join the conversation below.*

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Import prices of the goods subject to tariffs did rise initially. But many importers absorbed much of the increases, rather than pass the full increase on to consumers. Meanwhile, the prices of many goods not subject to the tariffs were declining, keeping the overall inflation rate low.

David Weinstein, a Columbia University economist, says tariffs may actually lower prices over the long term.

Mr. Weinstein and his colleagues examined changes in financial markets' inflation expectations based on bond-market yields around the time of 11 new tariff announcements by the U.S. and China between 2018 and 2019.

To their surprise, he said, they found that the events lowered inflationary expectations so that prices were expected to be roughly 1 percentage point lower five years later and 1.3 points lower 10 years later. Stock prices also fell.

NEWSLETTER SIGN-UP

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PREVIEW

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“What the markets are predicting, and our data is suggesting, is that the trade war will have negative impacts on productivity,” he said, referring to tariffs’ hit to companies’ operations. “When you hold down productivity, you’ll have really big impacts down the road on the success of your economy, and prices as well.”

The U.S. Trade Representative’s Office, which is conducting a review of U.S. tariff policy, is studying whether easing tariffs, among other factors, could relieve the supply shortage for lumber and other products, Cecilia Rouse, chair of the White House Council of Economic Advisers, said during a May 18 briefing.

She added, however, trade policy is a “much bigger issue” than short-term market gyrations and that it needs to be worked out in the context of Washington’s global policy.

Write to Yuka Hayashi at [yuka.hayashi@wsj.com](mailto:yuka.hayashi@wsj.com) and Josh Zumbrun at [Josh.Zumbrun@wsj.com](mailto:Josh.Zumbrun@wsj.com)

### UPCOMING EVENTS

June  
**9**  
2021

9:00 AM - 4:00 PM EDT

WSJ Tech Health

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June  
**17**  
2021

12:00 PM - 1:45 PM EDT  
WSJ Women In: Intelligent Investing

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June  
**24**  
2021

11:00 AM - 5:00 PM EDT  
Global Food Forum

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**ADD TO CALENDAR**

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**Exhibit B**

**Lender Correspondence**



**Capital One, National Association** P: 281-881-3600  
5444 Westheimer Road capitalone.com  
Houston, TX 77056  
c/o Dan Miller

September 9, 2021

Michael McGovern  
Brinshore Development, LLC  
666 Dundee Road, Suite 1102  
Northbrook, IL 60062

Re: Connect South (The "Project"), Change of Income Targeting Election and PIS Cushion

Dear Michael:

Capital One Bank, N.A. who will serve as the lender and upper tier investor for the above mentioned development, is requesting a change to the unit mix replacing the income averaging election with the traditional 40% at 60% AMI election. The IRS's current draft of the income averaging rules presents significant problems for our investors due to the heightened compliance risk. At this time, income averaging severely hampers our ability to attract investors at terms favorable to the project and causes the project to be infeasible for investment.

Capital One Bank, N.A. also requires a 90-day place in service cushion, which necessitates a placed in service extension by TDHCA as a condition of closing.

Assuming these requests can be accommodated, Capital One remains committed to the project and we look forward to working with you.

Director, Community Finance

Sincerely,

A handwritten signature in black ink that reads "Dan Miller". The signature is written in a cursive style and is placed over a light gray rectangular background.

Dan Miller  
Director  
Community Finance



20190

Nuestra Señora

Force Majeure Request

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 14, 2021**

Presentation, discussion and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Application 20190 Nuestra Señora in El Paso

**RECOMMENDED ACTION**

**WHEREAS**, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,232,777 to 20190 Nuestra Señora (the Development) was approved by the Board in July 2020;

**WHEREAS**, staff executed a Carryover Allocation Agreement with the Development Owner on October 16, 2020, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022, and the 10% Test would be submitted by July 1, 2021 (which was subsequently extended to September 30, 2021);

**WHEREAS**, on September 14, 2021, the Department received a request to extend the placement in service deadline, and staff determined that an extension of the 10% Test deadline was appropriate;

**WHEREAS**, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

**WHEREAS**, the precipitating events described in the request meet the requirements for force majeure events described in 10 TAC §11.6(5);

**NOW, therefore, it is hereby**

**RESOLVED**, the request for treatment of the Development under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2021 Program Calendar applicable to the Development for the purposes of the force majeure event;

**FURTHER RESOLVED**, that the Department may issue a 2021 Carryover Agreement, with the extended 10% Test deadline of July 1, 2022 and the extended placement in service deadline of December 31, 2023; and

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

## BACKGROUND

An award of \$1,232,777 in Competitive (9%) Housing Tax Credits to the Development was approved by the Board in July 2020. The Development proposed the New Construction of 80 Units for the general population in El Paso. Staff executed a Carryover Allocation Agreement with the Development Owner on October 16, 2020, that included a certification from the Development Owner that, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022. On July 21, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate for the Development.

10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, allows a Development Owner to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. **Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner:** acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress; (emphasis added).

### **Presidentially Declared Major Disasters**

Of the circumstances listed in the rule, the request indicates that force majeure might be triggered by the presidentially declared major disaster, particularly the national emergency of the COVID-19 Pandemic and related disruptions. According to the request, this disaster has resulted in:

Cost increases, labor shortages and supplier failures: per the request, soaring materials prices led to radical development cost increases that rendered the original design of the Project no longer economically feasible and required a re-design the Project to reduce the cost. The proposed change in design required new zoning approval. Remote work by the City of El Paso staff, required by the pandemic, caused delays in receiving necessary approvals. In addition, there continue to be various supply chain and labor shortage issues related to construction of projects of this type in the El Paso area.

Staff has determined that the Development Owner has provided sufficient evidence of "sudden and unforeseen circumstances outside the control of the Development Owner" as described in 10 TAC

§11.6(5). If the Board grants the request to consider this a force majeure event, the Development Owner's return of \$1,232,777 in credits and execution of a 2021 Carryover Allocation Agreement, will result in the new date of December 31, 2023, for the Development be placed in service, and documentation for the 10% Test would be submitted by July 1, 2022. For the purposes of the force majeure event, the 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development.

If the Board denies the request regarding this force majeure event, the date by which the Development must be placed in service will remain as December 31, 2022. Because the Development Owner anticipates not meeting the placed in service deadline on December 31, 2022, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits; in this case Region 13, Urban. There are pending Applications on the waiting list from that subregion and the next application requests \$1,426,000, which is more than the amount that would be returned. If that applicant is not able to accept a smaller award, the credits would go to the statewide collapse, and contribute to the next award.

Staff recommends the Board approve the request for treatment of Lakeview Preserve under an application of the force majeure rule.

# EP NUESTRA SENORA, LP

September 14, 2021

Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: # 20190; Nuestra Senora, El Paso, Texas;  
Request for *Force Majeure* Exchange of Tax Credits.

Dear Mr. Wilkinson:

EP Nuestra Senora, LP (“Owner”) is the proposed owner of the Nuestra Senora Apartments, an 80-unit, 100% low-income housing tax credit apartment complex under development in El Paso, Texas (“the “Project”). As the result of Force Majeure delays and cost increases resulting from the Covid-19 pandemic, which has been Presidentially declared a Major Disaster, the Project is unlikely to meet its Placement in Service deadline of December 31, 2022. Because the Covid-19 Disaster took place prior to the filing of the Carryover Allocation Agreement for the Project, we understand that there is no extension of the Placement in Service Deadline available under Rev. Proc. 2014-49. For this reason, we are requesting a Force Majeure exchange of 2020 Housing Tax Credits for 2021 Housing Tax Credits with a Placement in Service Deadline of December 31, 2023, under Section 11.6(5)(A) of the 2021 QAP.

There are several compelling factors in support of this request. One is the well-documented soaring lumber prices that have led radical development cost increases that have rendered the original design of the Project no longer economically feasible. As shown in the 9% HTC Application, the Project was a zoning-approved podium structure with a proposed Total Construction Contract amount of \$10,166,609 (please see Exhibit A). By May 2020 the Total Construction Contract cost had increased to \$13,006,109 (please see Exhibit B for our re-design calculations.) In order to take into account the fluctuating construction costs we had to re-design the Project to reduce the cost, and the most efficient way was to use the existing garage instead of demolishing that garage in favor of the podium design. This new design went through three iterations :

- a. in November 2020 the cost had been reduced to \$11,422,103 with the garage to be rehabbed under a separate contract;
- b. in April 2021 the cost was \$11,837,503 including the garage rehab; and
- c. by May 2021 the cost was \$14,949,611.93 including the garage rehab.

We applied to the TDHCA for an Application Amendment in April 2021 based upon rehabbing the existing garage. In May 2021 the Project had full plans and specifications ready to go to closing in July 2021, pending TDHCA approval of the Application Amendment. Unfortunately, the proposed change in design required new zoning approval, but there were community objections to the Project retaining the existing garage. This opposition resulted in delays and meanwhile, pricing continued to rise. The community has dropped its objections to the re-design, but with the passage of time, the cost increases have had a significant impact on the Project.

The cost increases to the Project were not limited to lumber. The time period beginning May 2021 is when the cost of construction materials - including HVAC, electrical and many other trades, but especially lumber costs - really shot up. Please see Exhibit C which shows the increase in lumber pricing over the year since the 2020 Tax Credits were awarded, and Exhibit D which shows the price of lumber over the last five years. With prices seemingly continuing to increase, it was clear that even rehabbing the parking garage was too expensive. The community request for certain changes to the Project and escalating costs prompted a second site re-design based upon demolishing the existing garage and constructing a single 4-story building with surface parking over the entire City block. This site plan also requires re-zoning approval, but at this time we anticipate having full City support. We asked the TDHCA to put the Application Amendment submitted in April on hold while we proceeded with the zoning approval process, which we anticipate will be complete in November 2021. The pending Application Amendment has been revised to show the updated single 4-story building with surface parking, and we anticipate it will be filed with the TDHCA concurrently with this request. The re-designed Project is estimated to have a 16-month construction schedule. Due to the increased materials and labor costs leveling off some this summer, this re-design's Total Construction Contract cost is currently estimated to be \$12,806,696.

In addition to the cost increases, there continue to be various supply chain and labor shortage issues related to construction of Projects of this type in the El Paso area. The supply chain and labor issues have had to also be factored into the timetable for commencement and completion of construction. To add to the complexity of proceeding with the Project, we have faced certain limited delays in permitting and processes overseen by the City of El Paso related to approval of the Project, which is impacted by its workforce working on a remote basis or being otherwise impacted by the Pandemic. While the City supports the project, the workflow challenges facing our colleagues at the City have further added unanticipated delays to the Project.

The Project is now projected to close on its construction and equity financing in March 2022. While the Lender (Chase) and the Investor (Hunt) continue to work toward the closing, they have required that we apply for an extension of the Placement in Service Deadline due to the very tight timing and the unavailability (at this time) of a federal extension based upon a major disaster.

We believe that the Project qualifies for a Force Majeure Exchange of Tax Credits. The Project has not yet closed on its construction and equity financing because of the unforeseen circumstance of escalating prices for construction materials that were outside of the Owner's control, without any willful negligence or acts of the Owner or any other Related Party. The increased prices resulting from the Pandemic were directly responsible for the cost increases that resulted in delays in arriving at a financially feasible version of the Project. The other factors related to supply chain

disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the Pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the Pandemic. The re-zoning process necessitated by the re-design of the Project is pending and anticipated to be complete in November, but that timing means that the 16-month construction schedule is impossible to accomplish prior to the December 31, 2022 Placement in Service Deadline. We are requesting that an exchange of \$1,232,777 in 2021 Tax Credits be made for the \$1,232,777 in 2020 Tax Credits that were awarded to the Project. With such an exchange the Project will remain financially feasible, although it is noted that even with the exchange, the GP will be required to contribute significant gap funding dollars. While the GP continues to provide this commitment, the GP will also be pursuing other forms of gap financing, including but not limited to supplemental tax credits, multi-family direct loans or other such financing to help bridge gap financing.

In summary, at this time there is no federal extension of the Placement in Service Deadline available because the Covid-19 Major Disaster was on-going at the time the Project's Tax Credits were awarded. Our only recourse (absent a new major disaster in the El Paso area) is to request an exchange of 2020 Tax Credits for 2021 Tax Credits. We request such an exchange, consistent with action recently taken by the TDHCA Board in connection with other 2020 awardees who encountered delays and skyrocketing prices due to the Covid-19 situation.

Thank you for your consideration of our request. If any additional information is needed, please contact Ryan Wilson at 210-694-2223 or [rwilson@franklindev.net](mailto:rwilson@franklindev.net).

Sincerely,



Ryan Wilson  
for: EP Nuestra Senora LP

Attachments: Exhibits A – D

cc: Brooke Boston  
Homer Cabello, Jr.  
Sharon Gamble  
Rosalio Banuelos  
Karen Treadway  
Tom Deloye  
Sarah Anderson  
Barry J. Palmer

**EXHIBIT A**

**DEVELOPMENT COST SCHEDULE FROM 9% APPLICATION SUBMITTED  
MARCH 1, 2020**





Finishes	642,855		642,855
Specialties	33,600		33,600
Equipment			
Furnishings			
Special Construction			
Conveying Systems (Elevators)	160,000		160,000
Mechanical (HVAC; Plumbing)	2,110,080		2,110,080
Electrical	1,055,040		1,055,040

**Individually itemize costs below:**

Detached Community Facilities/Building			
Carports and/or Garages			
Lead-Based Paint Abatement			
Asbestos Abatement (Rehabilitation Only)			
Structured Parking	1,320,000		
Commercial Space Costs			
Other (specify) - see footnote 1			
<b>Subtotal Building Costs Before 11.9(e)(2)</b>	\$7,175,965	\$0	\$5,855,965

<b>Voluntary Eligible Building Costs (After 11.9(e)(2))*</b>	\$81.85 psf	\$4,722,745
Enter amount to be used to achieve desired score.		

If NOT seeking to score points under §11.9(e)(2), E77:E78 should remain BLANK. True eligible building cost should be entered in line items E33:E74. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E77:E78 that produces the target cost per square foot in D77:D78. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

<b>TOTAL BUILDING COSTS &amp; SITE WORK (including site amenities)</b>	\$8,493,408	\$0	\$5,762,188
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Contingency	5.00%	\$424,670	288,109
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<b>TOTAL HARD COSTS</b>	\$8,918,078	\$0	\$6,050,297
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<b>OTHER CONSTRUCTION COSTS</b>	%THC			%EHC
General requirements (<6%)	6.00%	535,085	363,018	6.00%
Field supervision (within GR limit)				
Contractor overhead (<2%)	2.00%	178,362	121,006	2.00%
G & A Field (within overhead limit)				
Contractor profit (<6%)	6.00%	535,085	363,018	6.00%

<b>TOTAL CONTRACTOR FEES</b>	\$1,248,531	\$0	\$847,042
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<b>TOTAL CONSTRUCTION CONTRACT Before 11.9(e)(2)</b>	\$10,166,609	\$0	\$6,897,339
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<b>Voluntary Eligible "Hard Costs" (After 11.9(e)(2))*</b>	\$0.00 psf	
Enter amount to be used to achieve desired score.		

If NOT seeking to score points under §11.9(e)(2), E96:E97 should remain BLANK. True eligible cost should be entered in line items E83 and E87:E91. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E96:E97 that produces the target cost per square foot in D96:D97. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

**SOFT COSTS<sup>3</sup>**

Architectural - Design fees	575,000		575,000
Architectural - Supervision fees	35,000		35,000
Engineering fees	100,000		100,000
Real estate attorney/other legal fees	165,000		165,000
Accounting fees	15,000		15,000
Impact Fees	50,000		50,000
Building permits & related costs	248,500		248,500
Appraisal			
Market analysis	8,000		8,000
Environmental assessment	20,000		20,000
Soils report	10,000		10,000



General & administrative					
Profit or fee		1,657,828		1,227,661	
<b>Subtotal Developer Fees</b>	<b>15.00%</b>	<b>\$1,825,328</b>	<b>\$0</b>	<b>\$1,395,161</b>	<b>15.00%</b>
<b>RESERVES</b>					
Rent-up - new funds					
Rent-up - existing reserves*					
Operating - new funds		213,052			
Operating - existing reserves*					
Replacement - new funds					
Replacement - existing reserves*					
Escrows - new funds					
Escrows - existing reserves*					
<b>Subtotal Reserves</b>		<b>\$213,052</b>	<b>\$0</b>	<b>\$0</b>	
<b>*Any existing reserve amounts should be listed on the Schedule of Sources.</b>					
<b>TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup></b>		<b>\$16,061,406</b>	<b>\$0</b>	<b>\$10,696,231</b>	

The following calculations are for HTC Applications only.

**Deduct From Basis:**

Federal grants used to finance costs in Eligible Basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units §42(d)(5)			
Historic Credits (residential portion only)			
<b>Total Eligible Basis</b>		\$0	\$10,696,231
**High Cost Area Adjustment (100% or 130%)			130%
<b>Total Adjusted Basis</b>		\$0	\$13,905,100
Applicable Fraction			100%
<b>Total Qualified Basis</b>	\$13,905,100	\$0	\$13,905,100
Applicable Percentage <sup>6</sup>			9.00%
<b>Credits Supported by Eligible Basis</b>	\$1,251,459	\$0	\$1,251,459
<b>Credit Request (from 17.Development Narrative)</b>	\$ 1,232,777		

<b>Requested Score for 11.9(e)(2)</b>	12
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\*11.9(c)(2) Cost Per Square Foot: DO NOT ROUND! Applicants are advised to ensure that the figure is not rounding down to the maximum dollar figure to support the elected points.

Name of contact for Cost Estimate: Ryan Wilson, Franklin Development Companies

Phone Number for Contact: (210) 408.3151

If a revised form is submitted, date of submission: \_\_\_\_\_

**EXHIBIT B**

**SPREADSHEET SHOWING CALCULATIONS OF TOTAL CONSTRUCTION  
CONTRACT PRICING WITH RE-DESIGNS**





## **EXHIBIT C**

### **GRAPH SHOWING LUMBER PRICE FLUCTUATIONS FROM SEPTEMBER 2020 – SEPTEMBER 2021**

[SOURCE: (<https://www.nasdaq.com/market-activity/commodities/lbs>)]



MY QUOTES: LBS

Edit my quotes

# Lumber (LBS)

**\$586.50**

**-25.50 (-4.17%)**

DATA AS OF SEP 08, 2021 5:15 PM ET

+ ADD TO WATCHLIST

MENU-

**Summary**

Historical Data

News Headlines

Sign up now.  


Sep 08, 2021

1M 6M YTD **1Y** 5Y MAX



## Key Data

Last	586.5	Bid	570
Prior Settlement	612	Ask	608
52 Week High	1670.5	Net Change/ %	-25.5/-4.17%
52 Week Low	454.2		

## **EXHIBIT D**

### **GRAPH SHOWING LUMBER PRICE FLUCTUATIONS OVER THE LAST FIVE YEARS**

[SOURCE: (<https://www.nasdaq.com/market-activity/commodities/lbs>)]

# Lumber (LBS)

**\$586.50**

**-25.50 (-4.17%)**

DATA AS OF SEP 08, 2021 5:15 PM ET

+ ADD TO WATCHLIST

MENU-

**Summary**

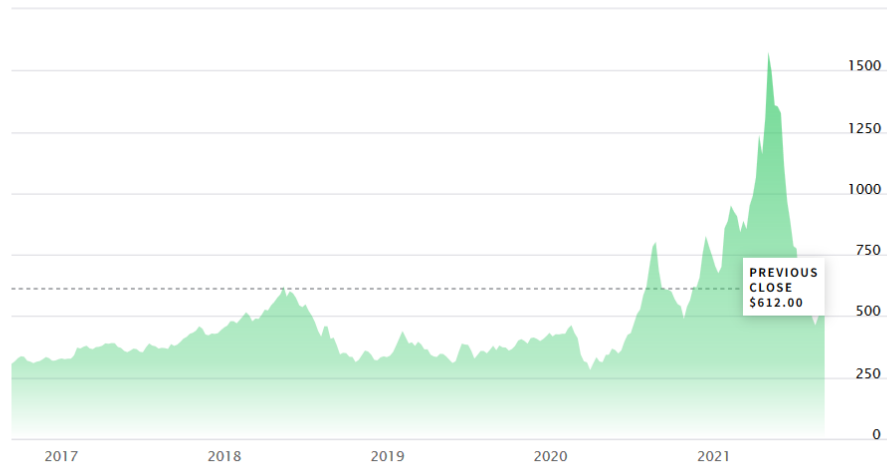
Historical Data

News Headlines

Sep 08, 2021

1M 6M YTD 1Y **5Y** MAX

Sign up now.  
**E\*TRADE**



## Key Data

Last	586.5	Bid	570
Prior Settlement	612	Ask	608
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