

**SUPPLEMENTAL BOARD BOOK
OF
APRIL 23, 2020**



**Leslie Bingham, Vice-Chair
Paul Braden, Member
Sharon Thomason, Member
Leo Vasquez III, Member**

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT

Fiscal Year 2019 (September 1, 2018, through August 31, 2019)

Owner Financing and Down Payment	
<ul style="list-style-type: none"> 30-year, fixed interest rate mortgage loans Mortgage credit certificates Down payment, closing cost assistance Homebuyer education 	
Programs:	
<ul style="list-style-type: none"> Homebuyer Assistance Program (HBA)* Single Family Homeownership 	
Expended Funds:	\$1,693,834,604
Total Households Served:	9,605

Energy Related Assistance	
<ul style="list-style-type: none"> Utility bill payment assistance Energy consumption education Weatherization for energy efficiency 	
Programs:	
<ul style="list-style-type: none"> Comprehensive Energy Assistance Program (CEAP) Weatherization Assistance Program (WAP) 	
Expended Funds:	\$147,270,662
Total Households Served:	162,668

Multifamily New Construction	
<ul style="list-style-type: none"> Affordable rental units financed and developed 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds Multifamily Direct Loan Program* 	
Expended Funds:	\$108,945,178
Total Households Served:	7,062

Homelessness Services	
<ul style="list-style-type: none"> Shelter building rehabilitation, conversion, operations Essential services e.g., health services, transportation, job training, employment services 	
Programs:	
<ul style="list-style-type: none"> Emergency Solutions Grant Program (ESG) Homeless Housing and Services Program (HHSP) 	
Expended Funds:	\$12,162,959
Total Individuals Served:	71,350

Multifamily Rehab Construction	
<ul style="list-style-type: none"> Affordable rental units financed and rehabilitated 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds 	
Expended Funds:	\$56,792,063
Total Households Served:	2,503

Supportive Services	
Provides administrative support for essential services for low income individuals through Community Action Agencies	
Program:	
<ul style="list-style-type: none"> Community Services Block Grant Program (CSBG) 	
Expended Funds:	\$31,103,729
Total Individuals Served:	561,906

Owner Rehabilitation Assistance	
<ul style="list-style-type: none"> Home rehabilitation, reconstruction Manufactured housing unit replacement Accessibility modifications e.g., ramp, grab bar installation 	
Programs:	
<ul style="list-style-type: none"> Homeowner Rehabilitation Assistance Program (HRA)* Amy Young Barrier Removal Program 	
Expended Funds:	\$11,384,025
Total Households Served:	251

Rental Assistance	
<ul style="list-style-type: none"> Short, long term rent payment help Assistance linked with services Transitional assistance Security, utility deposits 	
Programs:	
<ul style="list-style-type: none"> Tenant-Based Rental Assistance (TBRA)* Section 8 Housing Choice Vouchers Section 811 	
Expended Funds:	\$11,021,909
Total Households Served:	1,932

Single Family Development	
<ul style="list-style-type: none"> Single family development, reconstruction, rehabilitation Do-it-yourself, "sweat equity" construction, rehabilitation Contract for Deed refinance 	
Programs:	
<ul style="list-style-type: none"> Single Family Development Program (SFD)* Contract for Deed (CFD) 	
Expended Funds:	\$3,769,888
Total Households Served:	85

Total Expended Funds:	\$2,076,285,016
Total Households Served:	817,362
All FY2019 data as reported in TDHCA's 2020 State Low Income Housing Plan and Annual Report (SLIHP).	
Note: Some households may have been served by more than one TDHCA program.	

* Administered through the federally funded HOME Investment Partnerships Program

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

**A G E N D A
9:00 AM
April 23, 2020**

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

Governing Board Webinar registration:

<https://attendee.gotowebinar.com/register/862841056476346637>

Dial-in number: +1 (562) 247-8422, access code 370-639-005 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

CALL TO ORDER

ROLL CALL

Leslie Bingham, Vice Chair

CERTIFICATION OF QUORUM

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

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

Resolution recognizing May as Community Action Month

Resolution recognizing May as National Mobility Awareness Month

CONSENT AGENDA

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

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

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 January 16, 2020

J. Beau Eccles
General Counsel

ASSET MANAGEMENT

- b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application
17081 Palladium Denton Denton
19234 The Residences at Alsbury Burlison
- c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
96182 Crestview Apartments Longview
00179 Highland Oaks Apartments Floresville
- d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement
97167 Columbia Luxar Townhomes Dallas
- e) Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount
16409 Sansom Ridge Sansom Park
17410 Lakecrest Village Apartments Houston

Rosalio Banuelos
Director of Asset Management

COMMUNITY AFFAIRS

- f) Presentation, discussion, and possible action on the 2020 Department of Energy Weatherization Assistance Program State Plan and Awards
- g) Presentation, discussion, and possible action on release of the draft 2021 Low Income Home Energy Assistance Program State Plan for public comment

Michael DeYoung
Director of Community Affairs

RULES

- h) Presentation, discussion, and possible action on an order adopting amendments to 10 TAC §8.7, Tenant Selection and Screening; an order adopting amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their submission to the Texas Register for adoption

Brooke Boston
Director of Programs

MULTIFAMILY FINANCE

- i) Presentation, discussion, and possible action on the Second Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability
- j) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications

Andrew Sinnott
Multifamily Loan Programs Administrator

Teresa Morales
Director of Multifamily Bonds

- 20420 Pan American San Antonio
- 20408 Vi Collina Austin
- 20449 Emli at Pecan Creek Aubrey ETJ

BOND FINANCE

- k) Presentation, discussion, and possible action on Resolution No. 20-013 regarding the annual approval of the Department’s Investment Policy
- l) Presentation, discussion, and possible action on Resolution No. 20-014 regarding the annual approval of the Department’s Interest Rate Swap Policy

Monica Galuski
Director of Bond Finance

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Outreach and Activities Report (March-April)
- b) Report on the Department’s 2nd Quarter Investment Report in accordance with the Public Funds Investment Act
- c) Report on the Department’s 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures

Michael Lyttle
Director of
External Affairs

Joe Guevara
Director of
Financial Administration
Monica Galuski
Director of Bond Finance

ACTION ITEMS

ITEM 3: SINGLE FAMILY AND HOMELESS PROGRAMS

- a) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code to allow for payment of mortgages as a homelessness prevention activity under the Homeless Housing and Services Program

Abigail Versyp
Director of Single Family
and Homeless Programs

ITEM 4: BOND FINANCE

- a) Report regarding the impact of the coronavirus on the municipal market and on the Department’s mortgage revenue bond programs
- b) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS - Oaks on Clark Apartments) Resolution No. 20-015 and a Determination Notice of Housing Tax Credits
- c) Presentation, discussion, and possible action regarding the Issuance of Governmental Notes (Granada Terrace Apartments) Resolution No. 20-016 and a Determination Notice of Housing Tax Credits
- d) Presentation, discussion, and possible action on Resolution No. 20-017 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2020 Series A and Single Family Mortgage Revenue Refunding Bonds, 2020 Series B (Taxable); approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

Monica Galuski
Director of Bond Finance

Teresa Morales
Director of
Multifamily Bonds

Monica Galuski
Director of Bond Finance

ITEM 5: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on the draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Opportunity for a Public Hearing
- b) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20401, Palladium Port Aransas, Port Aransas)
- c) Presentation, discussion, and possible action on the process of staff determinations regarding points awarded under 10 TAC §11.9(d)(4) related to Quantifiable Community Participation

Andrew Sinnott
Multifamily Loan Programs
Administrator

Marni Holloway
Director of
Multifamily Finance

20004	Bamboo Estates Apartments	Progreso
20012	Merritt Gardens	Midland
20034	Ranch Court Apartments	Andrews
20063	Azalea West	Fort Worth
20066	Vista at Everest	San Antonio
20069	Vista at Interpark	San Antonio
20079	Fairview Terrace	Brenham
20115	Avenue at Sycamore Park	Fort Worth
20116	Dian Street Villas	Houston
20120	Lennox House	Grand Prairie
20123	Meander Park	Granbury

20145	Gala at Ridgmar	Fort Worth
20148	High View Place	Killeen
20149	Provision at Fort Worth	Fort Worth
20153	Provision at Bomber Road	White Settlement
20155	Gala at Premier	Plano
20158	Redwood Apartments	Dumas
20167	Laurel Flats	Tyler
20184	The Heritage at Abilene	Abilene
20186	The Residences at Ridgehill	Kerrville
20187	Cortez Plaza	El Paso
20190	Nuestra Senora	El Paso
20204	Heritage Senior Residences	Houston
20210	Amber Ridge Apartments	Angleton
20211	Ennis Trails	Ennis
20216	Henderson Trails	Henderson
20220	Trinity Estates	Trinity
20222	Brenham Trails	Brenham
20231	Walnut Trails	San Angelo
20233	Quinlan Estates	Quinlan
20267	Valley View Estates	Fabens
20294	Sagebrush Apartments	Brady
20295	Hwy 79 Senior Living	Henderson
20317	Merritt Edge	Midland
20344	Merritt Sunset	Midland

d) Presentation, discussion, and possible action regarding requests for waiver of the Department's Multifamily Program Rules

20001	Farm Street Village	Bastrop
20128	OST Lofts	Houston
20147	Kestrel on Cooper	Arlington

ITEM 6: RULES

- a) Presentation, discussion, and possible action on adoption of amendments to 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for adoption in the *Texas Register*
- b) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee; and an order adopting new 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee and directing that they be published for adoption in the *Texas Register*

Patricia Murphy
Director of Compliance

- c) Presentation, discussion, and possible action on an order adopting new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication in the Texas Register

Cate Tracz
Manager of FHDMR

ITEM 7: AGENCY RESPONSE TO COVID-19 PANDEMIC AND ACTIVITY UNDER HR 748, CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT)

- a) Presentation, discussion and possible action on the Programming of Community Services Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds
- b) Presentation, discussion and possible action on the Programming of Low Income Home Energy Assistance Program funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds and Update on Administrative Flexibilities
- c) Presentation, discussion and possible action on the programming of Community Development Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to award such funds and opportunity for Public Hearing on a Material Amendment to the 2019 One-Year Action Plan, and 2015-2019 Consolidated Plan
- d) Presentation, discussion and possible action on the Programming of Emergency Solutions Grant (ESG) Program funds in the first allocation available to Texas through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and Authorization to Award Such Funds, and, if needed, an emergency rulemaking to accomplish this action
- e) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for HOME Tenant-Based Rental Assistance for disaster response for qualified persons and households most impacted by COVID-19
- f) Presentation, discussion, and possible action relating to the use of Reserve for Replacement Account funds as provided for in 10 TAC §10.404(a)(7)(C)(i) to address responsiveness for households impacted by the COVID-19 pandemic, and, if needed, an emergency rulemaking to accomplish this action
- g) Presentation, discussion and possible action on waivers relating to certain requirements under 10 TAC Chapter 11, the Qualified Allocation Plan (QAP) and 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule in relation to the Department's response to the COVID-19 pandemic

Michael DeYoung
Director of
Community Affairs

Abigail Versyp
Director of Single Family
and Homeless Programs

Tom Gouris
Director of Single Family and
Homeless Programs &
Special Initiatives

Marni Holloway
Director of
Multifamily Finance

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

EXECUTIVE SESSION

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

Leslie Bingham
Vice Chair

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

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

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules

of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

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

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

OPEN SESSION

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

ADJOURN

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Elizabeth Yevich, at 512-463-7961 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

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

5a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action on the draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Opportunity for a Public Hearing.

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires the submission of a five-year Consolidated Plan that includes the National Housing Trust Fund (NHTF) HUD-funded program in accordance with 24 CFR §91.250;

WHEREAS, the Board approved the draft 2020-2024 State of Texas Consolidated Plan (the Plan) as presented at the Board Meeting of March 26, 2020, by the Texas Department of Housing and Community Affairs (TDHCA) along with the Texas Department of Agriculture (TDA) and the Texas Department of State Health Services (DSHS); and

WHEREAS, TDHCA is not authorized to utilize National Housing Trust Fund (NHTF) for multifamily rehabilitation activities unless it has standards for such activity approved by HUD;

WHEREAS, to expand the use of eligible activities available to serve the most vulnerable housing needs in Texas to include multifamily rehabilitation, staff is proposing draft 2020 Multifamily National Housing Trust Fund (NHTF) Minimum Rehabilitation Standards (the NHTF Rehabilitation Standards) for public comment and subsequent submission to HUD as an attachment to the Plan in accordance with 24 CFR Parts 91 and 93; and

WHEREAS, the approval of this action item serves as the opening of the comment period, with public comment open from commence April 23, 2020, and end May 26, 2020, and with the Board meeting of April 23, 2020, serving as a public hearing for this item;

NOW, therefore, it is hereby

RESOLVED, the draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards, in the form presented to this meeting, is hereby approved for release for public comment; and

FURTHER RESOLVED, the Executive Director and his designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause notice of the

draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards to be published in the *Texas Register* and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards (the NHTF Rehabilitation Standards) only apply to the National Housing Trust Fund (NHTF) HUD-funded program administered by TDHCA. Currently, the NHTF program is statutorily dedicated to serve extremely low-income (ELI) families and households. Thus far, TDHCA has awarded HUD-allocated NHTF funds for eligible multifamily new construction and reconstruction activities serving ELI populations in Texas.

Moving forward, staff propose to expand the scope of eligible NHTF activities to include those rehabilitation activities contemplated under 24 CFR Part 93 and the 2020 State Administrative Rules.

Upon Board approval, the draft Standards will be published for public comment in the *Texas Register*. The 33-day public comment period shall commence April 23, 2020, and end May 26, 2020. During this time, one public hearing is currently scheduled to be held via webinar at the TDHCA Governing Board Meeting scheduled for April 23, 2020, to allow public comment on the draft Standards. Due to the ongoing public health concern related to COVID-19 the Department will host a virtual public hearing in order to receive public comment orally from interested stakeholders and the public. Detailed information on the hearing may be found on the TDHCA website.

The proposed final Standards reflecting staff responses to any public comment received, will be submitted to the Board for consideration at the June 2020 Board Meeting. The final Board approved Standards will then be submitted to HUD for approval as an attachment to the 2020-2024 State of Texas Consolidated Plan on or before July 18, 2020.

**2020 Program Year
TDHCA | Multifamily Finance Division
Multifamily Direct Loan Program**

**Draft 2020
National Housing Trust Fund
Minimum Rehabilitation Standards**

IMPORTANT NOTICE REGARDING THESE STANDARDS

TDHCA encourages the reproduction and distribution of this document to all relevant parties participating in Rehabilitation; including but not limited to, staff, general contractors, and subcontractors. If not distributed, at a minimum, all parties with the ability to exercise control over the Development must be informed and so acknowledge compliance with all applicable construction requirements, building codes, necessary materials, accessibility standards, installation methods, etc., regardless of whether expressly stated herein. As such, these Standards must be included in all construction and maintenance documents by reference. Moreover, specific sections may be expressly required in, or the Standards in their entirety, may be required to be attached to particular documents, as determined by the Department.

Moreover, it is important to remember these Standards serve as a starting point for eligible NHTF-assisted Multifamily Rehabilitation activities. Additional project requirements, rules, and regulations WILL APPLY and may be more detailed in Program Documents. IT IS THE RESPONSIBILITY OF THE DEVELOPMENT OWNER/BORROWER TO ENSURE COMPLIANCE WITH ANY AND ALL APPLICABLE PROGRAM REQUIREMENTS, RULES, AND REGULATIONS THAT MAY BE REQUIRED IN ADDITION TO THE MINIMUM CONDITIONS PROVIDED IN THESE STANDARDS.

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NHTF MINIMUM REHABILITATION STANDARDS MULTIFAMILY DIRECT LOAN PROGRAM

**2020 Program Year
(ending Aug. 31, 2021)**

Introduction

These National Housing Trust Fund (NHTF) Minimum Rehabilitation Standards (hereinafter referred to as “Standards”) are intended to provide the minimum acceptable standards for affordable multifamily rental housing developments Rehabilitated in whole or part using Multifamily Direct Loan Program (MFDL Program) NHTF funds in the State of Texas.

These Standards are designed to ensure clarity, efficiency, and feasibility in the successful completion of eligible rehabilitation projects. Accordingly, these Standards only provide the necessary descriptions of the minimum elements of rehabilitation, as required by the U.S. Department of Housing and Urban Affairs (HUD) and 24 CFR §93.301(b). Accordingly, these Standards only address those minimum standards for: (1) Health and Safety; (2) Major Systems; (3) Lead-Based Paint; (4) Accessibility; (5) Disaster Mitigation; (6) Uniform Physical Condition Standards (UPCS); and (5) Property Condition or Capital Needs Assessment (SCR/CNA).

Recommendations made in applicable Mandatory Assessments regarding health and safety or life expectancy of major systems must be implemented. Additionally, estimates (based on age and condition) of the remaining useful life of major system(s) are required to be conducted upon project completion of each major system, in accordance with 24 CFR §93.301(b)(1)(ix). If the remaining useful life of one or more major system is determined to be less than the applicable period of affordability, a replacement reserve shall provide adequate monthly payments to effectively repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ix).

Unless otherwise required, these Standards do not supersede or preempt State and local codes, ordinances, and requirements for developing and maintaining the Development. All applicable codes, ordinances, and zoning requirements must also be adhered. In the absence of State or local building codes, ordinances, or requirements for Rehabilitation, the International Existing Building Code (IEBC) or International Building Code (IBC) (as applicable) of the International Code Council (ICC), in the version adopted by the Multifamily Direct Loan Rule, 10 TAC Chapter 13, shall apply in addition to these minimum Standards.

Definitions

The following words and terms, when used in these Standards, shall have the meaning as provided herein, unless the context clearly indicates otherwise. Any capitalized terms or phrases not specifically mentioned in this section shall have the meaning as defined in Title 10, Part 1, Chapter 1 of the Texas Administrative Code (**Administration**), Title 10, Part 1, Chapter 2 of the Texas Administrative Code (**Enforcement**), Title 10, Part 1, Chapter 10 of the Texas Administrative Code (the **Uniform Multifamily Rules**), Title 10, Part 1, Chapter 11 of the Texas Administrative Code (the **Qualified Allocation Plan (QAP)**), Title 10, Part 1, Chapter 13 of the Texas Administrative Code (the **Multifamily Direct Loan Rule**)(collectively referred to as the **State Multifamily Rules**); or as otherwise defined in Tex. Gov't Code, Chapter 2306 (the **Governing Statute**), §141, 142, and 145 of the Internal Revenue Code (the **Code**), or 24 CFR Part 91, Part 92, Part 93, and 2 CFR Part 200.

1. **Accessible Route**--a continuous, unobstructed path connecting all accessible elements and spaces in a facility or building that complies with the space and reach requirements of the applicable accessibility standard(s).
2. **Plumbing Fixtures**--all relevant plumbing components, which include toilets, urinals, bidets, faucets, lavatories, sinks, showers, bathtubs, and floor drains. Plumbing appliances include washing machines, dishwashers, domestic water heaters, garbage disposals, and water softeners.
3. **Plumbing System**--all relevant plumbing components, which include but are not limited to: piping, fittings, devices, faucets, containers and receptacles that are used to supply, distribute, receive or transport potable water and wastewater.
4. **Substandard Conditions**--any condition that threatens the health and/or safety of the occupants. Substandard Conditions include any condition which threatens, defeats, or will lead to the lack of functional viability of a single feature of a structure. Hazardous conditions are a type of Substandard Conditions.

Minimum Standards for Major Systems (24 CFR §93.301(b) and 24 CFR §93.301(b)(1)(ix))

Major Systems

These Standards provide the minimum rehabilitation requirements for Major Systems herein. In accordance with 24 CFR §93.301(b), the Major Systems with minimum standards provided herein are:

- foundation;
- structural support, roofing;
- cladding & weatherproofing;
- plumbing;
- electrical; and
- heating, ventilation, and air conditioning (HVAC).

General Requirements, Standard Conditions, and Substandard Conditions

The Minimum Standard Conditions and Substandard Conditions for each Major System are sufficiently detailed in method and material to provide the MINIMUM threshold for Rehabilitation activities that NHTF-assisted Multifamily Developments MUST MEET OR EXCEED.

It is important to remember any threshold requirements provided herein do not supersede or preempt State and local codes, ordinances, and requirements for building and maintenance with which NHTF-assisted housing must comply. Rather, compliance must be accomplished in addition to meeting or surpassing these Standards. In the absence of such State or local building codes, ordinances, or other requirements, the applicable version(s) of the International Existing Building Code (IEBC) or International Building Code (IBC) of the International Code Council (ICC), as adopted in 10 TAC Chapter 13, shall apply in addition to these Standards.

Determining the Scope of Work

This section shall guide the determination as to the minimum scope of work required. In conjunction with the mandatory property assessments required in these Standards, a determination must consider the requirements of the ICC Code Set, in the version adopted by 10 TAC Chapter 13 and as applied to these Standards. Accordingly, the determination will consider the ICC Principles of Safety, Capacity, and Convenience.

Each repair should be detailed as required through the use of plans, drawings, specifications (conforming to the MasterFormat) and work write-ups. At a minimum, each repair should be detailed in a work write up that accurately specifies the location, required demolition (if applicable), and the methods and materials for the project -- all with enough detail to determine the desired outcome or finished product. Work write ups may reference plans and specifications as needed but must be detailed enough to complete repairs.

1.0 Basic Site Work

- a. Minimum Standard Conditions.** The subject lot or defined site shall be free of debris, garbage or other accumulations of site stored items which create possibilities of infestations. The site should be

generally level as allowed by natural topography, well drained, and accessible. Additional drainage features should be added if need is evidenced by existing erosion, standing water or evidence of water damage. In addition to any applicable requirements herein, any and all deficiencies noted in the Uniform Property Conditions Standards or the 2012 ICC Property Maintenance Code must also be addressed.

b. Substandard Conditions. Substandard conditions for Basic Site Work include but are not limited to those conditions listed in **(1) – (14)**, for which adequate repair or replacement is required, as applicable and further detailed herein:

- (1)** Accumulated debris, waste, or garbage either in enclosed areas such as storage buildings or on the property;
- (2)** Deteriorated outbuildings, sheds, wells, privies, or other structures which are no longer in use or are made unusable by their condition;
- (3)** Holes, ditches, exposed water meter boxes or other condition which creates a tripping hazard, excluding drainage ditches which are part of a designed drainage system;
- (4)** Rodents, insects, or other infestations;
- (5)** Standing water or depressions which hold water during wet weather;
- (6)** Leaking water supply or leaking sewage system;
- (7)** Obsolete sanitary piping systems such as Orangeberg, clay or other non-standard pipe;
- (8)** Scaling, calcified or otherwise compromised water supply lines;
- (9)** Exposed pipes, railings or other installations creating tripping hazards;
- (10)** Damaged, missing or deteriorated walkways, steps and decks which create tripping hazards or are otherwise unsafe;
- (11)** Stairways or steps above 30" from the finished grade without a functioning guard rail;
- (12)** Except on an Accessible Route any change in level in a walkway shall not be greater than $\frac{3}{4}$ ";
- (13)** On any Accessible Route any change in level shall not be greater than $\frac{1}{2}$ ". Any change in level between $\frac{1}{4}$ " and $\frac{1}{2}$ " must be beveled 45 degrees; and
- (14)** Any walkway or driveway that exceeds 5% damage in the form of cracking, spalling, holes, heaving or other damage.

c. Other Conditions/Requirements.

- (1) Debris and Brush Removal.** The premises shall be free from accumulations of rubbish and garbage that present health and safety hazards. The premises shall be free from trees and shrubs that are damaging the dwelling or present a hazard. Tree limbs in danger of falling on roof areas shall be removed. No vegetation should touch existing buildings, utility service lines, fences, or extend over walkways or parking areas.
- (2) Drainage.** Surface drainage shall be diverted to a storm sewer or other approved point of collection that does not create a hazard. Lots need to be graded to drain surface water away from the foundation at a minimum slope of 6" within the first 10'. Where lot lines or other physical barriers prohibit this, drains, swales, and/or rain gardens shall be constructed to ensure drainage away from the structure. Use of alternative drainage methods must be approved by TDHCA. Rain gutters shall be installed if none exist. Gutters shall slope 1" for every 20 linear feet with downspouts installed at a minimum every 40'. Downspouts must empty into a splashblock or be diverted at least five feet from the building. Special care must be taken to not discharge water onto adjacent properties.
- (3) Driveways, Sidewalks, and Patios.** Paved surfaces shall be free from hazards which can cause tripping and falling. Paved surfaces adjacent to the foundation shall not slope towards the

structure so that water can collect at the foundation. If tripping hazards and drainage problems exist, the paved surface shall be removed and rebuilt.

(A) Driveways. Following existing driveway demolition, all organic matter shall be removed. Subsoil shall be compacted uniformly and evenly. Forms shall be constructed to provide a minimum slope of 1/8" per foot away from the house and at a depth to provide 4" of concrete. Install either number 4 rebar on 12" centers or 6" x 6" number 10 welded reinforcing wire. Expansion joints shall be installed at all radius points, sidewalk intersections and house slab tie-ins. Concrete mix shall provide a minimum of 3,500 psi at 28 days. If reinforcing steel is not used, control joints shall be sawed in every 10' and be broom finished. Asphalt or gravel driveways may be installed if concrete is prohibitively expensive due to the length of a driveway, or if they are customary for the neighborhood.

(B) Sidewalks and Patios. Following existing sidewalk demolition, all organic matter shall be removed. Subsoil shall be compacted uniformly and evenly. Forms shall be constructed to provide a minimum slope of 1/8" per foot away from any building, at a depth to provide 3 1/2" of concrete, and at least 3' wide. Accessible Route cross slope shall not exceed 2%. Expansion joints shall be installed at all radius points, sidewalk intersections and slab tie-ins. Control joints shall be sawed in every 5' and be room finished. If sidewalks and patios are installed and are connected to an entry door an accessible entry will be required.

(4) Ramps. On Accessible Routes, ramps shall meet the requirements of the 2010 ADA and the applicable Accessibility requirements provided in these Standards.

(5) Vermin and Insects. The premises shall be free from infestations of vermin and wood-boring insects. Inspections shall be performed by state licensed extermination contractors if evidence of infestation exists. Conditions which increase or cause infestation shall be removed (e.g. accumulation of rubbish garbage, unsanitary conditions, presence of consistent moisture, untreated wood in contact with soil, etc.). One or more of the following termite treatments shall be included in the Rehabilitation if infestation is observed; chemical termiticide treatment, termite baiting system installed and maintained according to the manufacturer's label, use of pressure-preservative treated wood, use of naturally durable termite-resistant wood, and/or termite shields.

(6) Landscaping for Additions. When an addition is built, underground utilities run, grade changes made, or the soil is otherwise disturbed, proper compaction and a fine finish grading shall be done and seed, sod or native plants shall be installed matching as closely as possible the existing surrounding yard.

2.0 Foundations

a. General Requirements and Standard Conditions. Foundation work shall be completed in its entirety prior to beginning work on other areas of the housing unit(s). Leveling shall be done in such a manner as to provide an acceptable degree of tolerance. When leveling takes place, doors, windows and other openings shall be reasonably plumb, level and easy to operate. Interior wall coverings shall be repaired and Plumbing Systems shall be inspected to insure the system functions as intended. Foundation leveling shall include grading of the soil to provide a slope away from the home of at least 6" for the first 10'. If the lot does not allow for this grade, a French drain shall be installed to drain water away from the house, or swales shall be designed and built to control rain water runoff. Refer to Section 6.3 (relating to Minimum Standards for Sanitary Drainage).

Foundation walls shall be a minimum of 6" above grade, or 4" above grade if masonry veneer is existing or will be installed. Underpinning shall be required when foundation leveling is a part of Rehabilitation. Any room additions shall comply with the 2015 IRC or later.

In regards to safety, the ICC contains provisions considered necessary for safe installation; however, they are merely minimum requirements. Providing a safe foundation, leveling, repair, or installation and minimizing hazards can be done by following the principles of foundation construction and stabilization, fully complying with any limitations placed on the use of products and materials and permitting only qualified persons to participate.

With foundations, capacity refers to its ability to carry live and dead loads with respect to the soil's plasticity. Unsafe conditions often occur because existing foundations were not properly planned or designed for the soil conditions at the site low to the ground making it difficult to access Plumbing Systems. Convenience also refers to similar concerns, whereby crawlspaces are often too low to the ground, making it difficult to access Plumbing Systems. While raising the housing may not be feasible, every practical effort must be made to increase the crawlspace clearance to a minimum of 12" above grade when leveling housing.

b. Substandard Conditions. At a minimum, repair or replacement is required if any of the conditions in (1) – (7) exist:

- (1) Evidence of wood destroy insect damage;
- (2) Water and/or fire damage or dry rot to wooden piers, beams, joists, and subfloor;
- (3) Inadequate support of beams, sills, or joists;
- (4) Lack of drainage away from the home;
- (5) Cracked, damaged, buckled skirting;
- (6) Untreated wood in contact with the soil; or
- (7) Any other condition which meets the definition of a hazardous or substandard condition.

c. Other Requirements/Conditions.

(1) **Slab on Grade.** All concrete floors shall be without serious deterioration or conditions that present a falling or tripping hazard. With existing concrete floors, cracks longer than six inches in concrete slabs, 3/4 inch along walkways or steps, or any missing or uneven sections shall be repaired. Slab on grade foundations that are failing, as demonstrated by an inspection by a structural engineer, shall not be rehabilitated.

(2) **Pier and Beam.** Piers shall have allowable spans between piers or posts. Piers shall support beams which in turn support floor joists. Joists must not be more than 24" on center and, if not continuous, overlap beams shall be at least 12". If major leveling is required, a structural engineer shall inspect the foundation to determine the number of piers that need to be added, repaired, or replaced.

Newly installed footings shall be a minimum of 12" below undisturbed ground surface and the surface shall be level. Termite shields shall be installed on newly installed posts, regardless of pier material.

Skirting shall extend four inches below and at least 18" above grade or up to the exterior cladding and be lapped and fastened under the cladding material. Access to the crawlspace

shall be 18" high by 24" wide (if in the floor) or 16" high by 24" wide (if on the perimeter wall), and is not allowed to be installed under a door. Venting of the crawlspace shall be one square foot per 350 square feet of crawl space area and one vent opening within three feet of each corner. Crawlspace floor shall be covered with six mil polyethylene. Skirting is not permitted in flood zones.

2.0. Structural Support and Roofing

3.1 Roofing Systems

a. Description. All relevant roofing components, which include but are not limited to, trusses, rafters, ridge beams, collar ties, ceiling joists, top plates of walls, and sheathing. Moreover, Truss Designs for Replacement Roofs complying with wood roof framing, includes: slope, span, and spacing; location of all joints, required bearing widths; design loads; joint connector type and description; lumber size, species, and grade; connection requirements; bracing locations; and roof tie-downs and uplift resistance details for high wind areas, or as otherwise provided in Section R802 of the 2015 IRC.

b. General Requirements and Standard Conditions. The Roof System and the roof covering shall safely support the loads imposed. Framing and decking shall be structurally sound, properly fastened, and form a sound base for attaching the roof covering. The Roof System shall be configured to provide a positive drainage plane.

c. Substandard Conditions. At a minimum, any Roof System that is incapable of safely supporting the load or fails to safely provide adequate drainage must be repaired or replaced. Deteriorated, missing or loose framing or sheathing must also be corrected. Generally, repair or replacement is required for any applicable condition listed in (1) – (10):

- (1) Multiple layers of roof covering materials (more than two);
- (2) Water damage caused by leaks through the roofing system;
- (3) Missing, worn, or upturned shingles;
- (4) Damaged, missing, or improperly installed roof jacks, flashings, drip edges on both rakes and eaves;
- (5) Exposed nails or other fasteners;
- (6) Structural damage to trusses;
- (7) Extensive patchwork and repairs;
- (8) Missing, damaged, loose, leaking, blocked, improperly sloped gutters and downspouts;
- (9) Wear and tear leading to a failed system within five years from the initial inspection; or
- (10) Any other Hazardous or Substandard condition.

3.2 Structures

a. General Requirements and Standard Conditions. Roof structures incapable of safely supporting the load or providing adequate slope for drainage shall be repaired or replaced. Sagging roofs shall be replaced or stabilized. Stabilization of sagging roofs that will not be replaced shall be designed by a structural engineer.

b. Other Requirements/Conditions.

(1) **Truss Design for Replacement Roofs.** Truss designs for replacement roofs shall comply with wood roof framing in Section R802 of the 2015 IRC which includes; slope, span, and spacing; location of all joints, required bearing widths; design loads; joint connector type and description; lumber size, species, and grade; connection requirements; bracing locations; and roof tie-downs and uplift resistance details for high wind areas.

(2) **Roof Framing for Replacement Roofs.** Purlin support braces shall be installed every 4' O.C. Continuous purlins shall be installed between support braces. Purlins shall be a minimum of 2" x 4" studs. Ceiling joists shall comply with Span Tables R802.4(1) and R802.4(2).

(3) **Sheathing Replacement.** 5/8" CDX plywood shall be installed with clips spaced O.C. between rafters for rafter spacing of 24".

(4) **Ventilation.** Unconditioned attics shall be cross ventilated. A one to one ratio shall be installed; for every one foot of soffit vent area there shall be one foot of ridge, gable, or turtle vent area. Soffit vents shall have baffles installed providing at least one inch of airspace to prevent wind washing and/or attic insulation blocking soffit vents. All vents shall have corrosion-resistant wire cloth screening or similar material.

(5) **Radiant Barrier.** A radiant barrier should be installed in all accessible attic areas.

Powered attic vents, whether connected to the structure's electrical system or powered by photovoltaic, are not allowed.

3.3 Roof Covering

a. General Requirements and Standard Materials. Asphalt shingles shall be fastened to solidly sheathed decks. Asphalt shingles shall be used only on roof slopes of 2:12 or greater slope. Slopes, if applicable, less than 2:12 require appropriate membrane designed for such surfaces. Metal roof panels must either be naturally corrosion resistant or provided corrosion resistance per the manufacturer's requirements. Metal roofs shall only be installed on slopes of 3:12 (for lapped, nonsoldered-seam), ½:12 (for lapped, nonsoldered-seam panels with applied lap sealant), or ¼:12 (for standing-seam roof systems). Otherwise, roof weatherproofing, reinforcement, and surfacing shall be completed in accordance with applicable provisions of the IBC or IEBC.

(1) **Flashings.** Flashings shall be installed in a manner that prevents moisture from entering walls or the roof through penetrations, at eaves and rakes, at wall/roof intersections, wherever there is a change in roof slope or direction and around roof openings. Wall/roof intersections extending to eaves shall be provided with kick-out flashing. All wall/roof intersections shall have step flashing with at least 1" space between the roof covering and the adjacent wall cladding. Metal flashings shall be a No. 26 galvanized sheet metal and corrosion resistant. A cricket or saddle shall be installed on the ridge side of any chimney or penetration greater than 30" wide.

(2) **Valley Flashings.** Closed valleys (covered with asphalt shingles) shall be lined with one ply of smooth roof roofing or self-adhering polymer modified bitumen underlayment prior to asphalt shingle installation.

4.0 Minimum Standards for Walls, Ceilings, & Flooring

4.1 Walls and Ceilings

a. General Requirements and Standard Conditions. On exterior walls, all defects or deterioration that would allow the elements to enter wall cavities shall be corrected through Rehabilitation. Replacement of sections of walls and ceilings shall match adjoining materials as closely as possible (e.g. thickness of the existing material). When replacement of entire wall or ceiling coverings or sections of them is replaced, priming and painting of the entire wall or ceiling shall be completed.

b. Substandard Conditions. Repair or replacement is required if any condition listed in (1) – (7) exists:

- (1) Water damage or dry rot of siding, trim, or interior wall coverings;
- (2) Exposed nails or popped seams;
- (3) Peeling or chipped paint, holes, cracks, or gaps in interior wall coverings or exterior cladding;
- (4) Broken, fire damaged or missing exterior cladding;
- (5) Sagging or missing ceiling sections;
- (6) Wood destroying insect damage in exterior cladding; or
- (7) Any other condition characterized Hazardous or Substandard.

c. Other Requirements/Conditions.

(1) Walls.

(A) Exterior Walls. If removing the exterior cladding, deteriorated exterior wall sheathing, studs, and bottom and top plates shall be replaced. Deteriorated or missing insulation shall be replaced and wall cavities shall be insulated to a minimum R-13.

Masonry repair or replacement shall match existing masonry as closely as possible, installed plumb, true, and in line with existing courses. If weep holes are filled or nonexistent, they shall be provided at least every 3' at the slab and at least 1 above each window.

Siding repair or replacement shall match existing siding as closely as possible and provide for a positive drainage plain. All joints and seams shall fall on center of wall framing. Overlap and water sealing shall be completed in accordance with the manufacturer's installation instructions.

(B) Interior Walls. A structural engineer shall inspect interior bearing walls that are proposed to be moved. Non-bearing walls do not require a structural engineer. Moved or newly installed walls shall be constructed with 2x4 studs with the bottom plate securely fastened to the floor and the top plate securely fastened to ceiling joists.

All new gypsum board shall be installed according the manufacturer's installation instructions and shall be installed a minimum of ½" above the finished floor, taped, floated, and feathered prior to painting. New wall coverings shall not show noticeable blemishes or dents and tape shall not show

after painting. All interior walls shall be painted with a No Volatile Organic Compound (VOC) paint.

(C) Bathroom Walls. Bathroom walls that are to be replaced shall be replaced with appropriate backer board. If tile will be installed in the shower/tub area, concrete board, or equivalent, shall be installed. Green board shall be installed in the rest of the bathroom. Bathroom wall coverings shall be installed a minimum of ½" above the finished floor, taped, floated, and feathered prior to painting. New wall coverings shall not show noticeable blemishes or dents and tape shall not show after painting. All bathroom walls shall be painted with a semi- or high-gloss paint No Volatile Organic Compound (VOC) paint.

(2) Ceilings. For ceiling structure, see the Roofing Chapter. Replacement of ceiling coverings shall be with 5/8" Type X gypsum board. Fastening shall be in accordance with the manufacturer's installation instructions. All new gypsum board shall be taped, floated, feathered, primed, and painted with at least 2 coats of No Volatile Organic Compound (VOC) paint. When ceilings are replaced, all ceiling fixtures removed and reinstalled for replacement shall be air sealed.

(3) Painting and Finishes. All areas not to be painted shall either be removed and reinstalled or completely covered to prevent overspray or splatter. Receptacle and switch plates shall be removed and reinstalled.

(A) Interior Walls: All walls that were repaired or replaced shall be painted with at least two coats of No Volatile Organic Compound (VOC) paint. Bathroom walls shall have a semi- or high-gloss sheen.

(B) Exterior Walls: Replaced or repaired exterior cladding, with the exception of brick veneer, shall be painted with at least two coats of exterior grade paint. Existing exterior walls not replaced or repaired but still painted must comply with all applicable requirements in (i) – (iv):

(i) The ground shall be protected with a drop cloth. For pre-1978 housing determined or assumed to have lead-based paint, all scraped paint shall be disposed of in accordance with applicable HUD and EPA guidelines, and as provided in these Standards;

(ii) Peeling and chipped paint shall be scraped loose;

(iii) The entire area to be painted shall be power washed prior to painting; and

(iv) All areas not to be painted (e.g. windows, doors and their trim, exterior lighting fixtures) shall be covered to prevent overspray.

(C) Trim and Baseboards. All installed trim around doors, windows, and floors shall be painted with at least one coat of No Volatile Organic Compound (VOC) paint on both sides (except for baseboard trim).

4.1 Minimum Standards for Flooring

a. General Requirements and Standard Conditions. All flooring, including transitions between rooms, must be effective, relatively level, free of tripping hazards, and adhere to or exceed all applicable Accessibility standards. Floor covering and subflooring(s) must function as intended, as demonstrated through sufficient inspection. Related deficiencies must be corrected during Rehabilitation, as provided in these Standards.

b. Substandard Conditions. Deteriorated, inadequate, and weakened floor framing and subfloors can be the result of poor initial construction, foundation settling or failure, careless remodeling, water, or wood boring insects. A thorough inspection shall be conducted to identify all subfloor and flooring deficiencies.

(1) Repair or Replacement. The conditions in (A) – (D) require corrective measures be completed:

(A) Damaged, rotten, loose, weak or otherwise deteriorated subfloor;

(B) Torn, missing, broken, or otherwise damaged floor covering that creates a tripping hazard;

(C) Missing baseboards, shoe molding, or transition strips; or

(D) Any other condition that meets the definition of Hazardous or Substandard.

In doing so, repairs to severely sloped or uneven floors must satisfy all corrective measures or replacement will be required. New floor coverings shall be installed because the existing floor covering is ineffective, there are obvious trip hazards, because the subfloor was replaced, or because other work requires it, such as increasing the square footage of a room.

Replacement flooring may be required if necessary for Accessibility purposes; other concurrent work; or significant subflooring repairs/replacement occur. If required, any and all applicable Foundation work must be completed first. Thereafter, flooring replacement shall be conducted in accordance with the manufacturer's installation requirements.

c. Other Requirements/Conditions.

(1) Subfloor.

(A) Concrete Slab. If the concrete slab foundation is functioning as intended and is relatively level, no additional subfloor preparation is required. If it is functioning as intended, but not relatively level or has settlement cracks, self-leveling flooring compound shall be installed prior to installation of the floor covering.

(B) Bathrooms, Kitchens, and High Traffic Areas. When replacing subflooring in bathrooms, kitchens, and high traffic areas (e.g. hallways, breezeways) in housing with pier and beam foundations, the newly installed subfloor shall be 19/32" high performance paneling or 3/4" CDX plywood installed as the subfloor with floor joists not more than 24" on center.. All subfloor shall be installed with screws and include subfloor caulking adhesive.

(C) Other Habitable Rooms. Other habitable rooms requiring subfloor replacement shall have 3/4" CDX plywood installed as the subfloor with floor joists not more than 24" on center. All subfloor shall be installed with screws and include subfloor caulking adhesive.

(2) Floor Coverings.

(A) Kitchens and Bathrooms. Replacement floor coverings in kitchens, bathrooms, laundry rooms, and utility rooms shall be water resistant. Transitions between rooms shall match the new floor covering or match as closely as possible existing floor covering that is left in place. Sheet vinyl and VCT shall not be used in rooms with Plumbing Fixtures in pier and beam housing. Replacement floor coverings shall be selected for durability, safety, and ease of maintenance.

(B) Other Habitable Rooms. Replacement flooring in other habitable rooms may include VCT, however laminate planks or ceramic tile is preferred (if ceramic tile is installed on a

pier and beam foundation, the floor system may need to be structurally reinforced to support the extra load). Transitions between rooms shall match the new floor covering or match as closely as possible existing floor covering that is left in place. Sheet vinyl shall not be installed. Replacement floor coverings shall be selected for durability, safety, and ease of maintenance.

(C) Vinyl Composition Tile (VCT). VCT shall be 12" x 12" x 1/8" and stored inside a conditioned space for a minimum of 48 hours prior to installation to allow materials to condition to the inside environment. VCT shall be fitted tightly, with no gaps showing at walls, doors, or trim. Full cover shall be achieved. Base boards or shoe molding shall be installed.

(D) Laminate Planks. Laminate flooring shall be stored inside a conditioned space for a minimum of 48 hours prior to installation to allow materials to condition to the inside environment, and installed per the manufacturer's instructions. Door trim may need to be cut to fit planks seamlessly between rooms. Laminate planks shall be fitted tightly, with no gaps showing at walls, doors, or trim. Full cover shall be achieved, but it shall not fit tightly against walls so that it is allowed to "float". Base boards or shoe molding shall be installed.

(E) Carpeting. Carpeting is generally discouraged; removal of existing carpeting should be conducted where practicable. Otherwise, carpeting must be of good quality, in sanitary condition, and preferably low pile. Carpet installation must be completed per the manufacturer's instructions and over appropriate pad(s). Carpet installation is not permitted in kitchens or bathrooms. Replacement floor covering(s) shall be selected for durability, safety, and ease of maintenance.

5.0 Other Cladding and Weatherproofing (e.g. Windows, Doors, Siding, Gutters)

5.1 Minimum Standards for Doors and Windows

- a. General Requirements and Standard Conditions.** Applicable Foundation work must be completed prior to repairing or replacing doors and windows. Each habitable room that contains a window shall have at least one window that is in operable condition and capable of being held in the open condition without assistance or device. Habitable bedrooms must have a minimum of one window that meets egress requirements. Bathrooms, bedrooms and utility rooms shall have a door that is easily operable and fitted with functioning hardware that tightly latches the door.

All windows repaired or replaced as part of the scope of work must operate safely, effectively, and conveniently regardless of user's age or ability. Each window must have an operable screen. Repaired or replaced windows must meet or exceed the requirements of an Energy-Star Rating. Additionally, blinds or window coverings must be provided for all windows.

- b. Substandard Conditions.** At a minimum, the conditions in (1) – (11) must be repaired or replaced:

- (1)** Broken, missing or cracked window panes;
- (2)** Rotten or deteriorated sills, frames or trim;
- (3)** Missing seal or sealant or dried, cracked or missing putty or caulking around window panes;
- (4)** Windows painted shut, inoperable or difficult to open and close;
- (5)** Security bars that do not open from the inside without any special knowledge or tools;

- (6) Windows and exterior doors that do not lock;
- (7) Broken, damaged, or deteriorated doors;
- (8) Doors that do not shut and latch or lock smoothly with the strike plate;
- (9) Exterior doors that are not listed as exterior doors;
- (10) Rotted, deteriorated or damaged thresholds, jambs, frames, or trim; and
- (11) Any other condition that can reasonably be characterized as Hazardous or Substandard.

5.2 Minimum Standards for Doors

a. General Requirements and Standard Conditions.

All doors shall be in good operating order, easy to open, close and latch. All replacement doors must be installed true and plumb with trim installed on both sides. Hardware style (e.g. knob, lever handle, passage), finish (e.g. chrome, brushed nickel, satin), and any glazing shall be identified in the scope of work. All doors that come into contact with interior walls when opened shall have base board mounted, rubber tipped door stops installed.

(1) Interior Doors. Interior door replacements must be installed true and plumb, with trim installed on both sides. Bathroom doors shall be able to be locked.

(2) Exterior Doors. Exterior doors include, but are not limited to, doors connecting the conditioned space with an attached garage. Replacement exterior doors must be at least Energy Star qualified, or its equivalent, double bore exterior doors. Doors connecting the conditioned space to an attached garage shall also be fire rated. All exterior doors shall be keyed alike with a sufficient number of key copies provided to the residents.

b. Other Requirements/Conditions.

(1) Accessibility and Universal Design. Accessible doors may be required depending on the Unit or Household Type(s). Universal design principles state that housing should be built to accommodate any person regardless of age or physical ability. Consultation(s) should be made to determine whether the conditions in (A) – (C) are necessary:

(A) Heavily used Interior doors widened to accommodate a 36" door with a threshold no higher than 1/8". If not feasible due to structural constraints, clear swing hinges can be installed;

(B) Automatic door openers can be installed; and

(C) Lever handles will be installed on all doors.

5.3 Minimum Standards for Windows

a. General Requirements and Standard Conditions.

All windows shall be in good operating order, easy to open, close, latch, and lock. Windows that cannot be repaired must be adequately replaced. Flashing materials shall provide a positive drainage plane.

b. Performance Chart. Replacement windows shall meet or exceed Energy-Star or equivalent Ratings. The Performance Chart included herein provides the minimum performance ratings required for all replaced and, if practical, repaired windows.

Performance:	CZ2	CZ3	CZ4
Performance Measure:			
U-Factor	0.65	0.50	0.35

SHGC	0.35	0.35	Not Required
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5.4 Minimum Standards for Gutters and Downspouts

a. General Requirements and Standard Conditions. All gutters and downspouts must be installed or replaced (repair alone is insufficient). Gutters shall have a slope no less than 1:20 and all seams made weather tight, if applicable. Downspouts shall be installed at a minimum every 40' and shall discharge water at least five feet from the foundation. Drainage five feet away from the foundation may be accomplished through the installation of a French drain, swales, or other means of directing water away from the foundation. Water shall not be discharged onto an adjoining property.

6.0 Plumbing, Potable Water, and Sanitary Sewer Systems

6.1 Minimum Standards for Plumbing Systems

a. General Requirements and Standard Conditions. The Plumbing System must effectively provide both a safe and adequate supply of potable water, and a safe and sanitary method of distributing wastewater. Effective Plumbing Systems adhere to the mandatory plumbing principles in (1)-(7):

- (1) Sewer gases shall not be allowed to enter any housing Unit;
- (2) Sewer leaks must be identified, repaired or replaced, and improper disposal methods discontinued;
- (3) Water leaks must also be identified and repaired or replaced;
- (4) Water must be free from hazardous contaminants and safe for drinking, bathing and other uses.
- (5) An adequate supply of water must be available for all water needs, which includes having adequate pressure at each fixture.
- (6) Supply, drain, waste, and vent pipes shall not interfere with structural integrity. Notching and drilling of structural members shall comply with the requirements of the 2009 IRC, Figure R602.6(1) and (2).
- (7) Plumbing work shall be performed by state licensed individuals, and plumbing inspections performed by experienced and qualified individuals knowledgeable in the field of plumbing.

b. Substandard Conditions. Existence of any condition listed in (1)-(11) shall require, at a minimum, adequate repair or replacement. If replaced, newly installed Plumbing Systems, piping, and fittings must be properly installed, connected, free flowing; and must be free of leakage and corrosion of water or sewer gases.

- (1) Lack of any required condition, as provided in (A) – (F):
 - (A) Continuous sanitary water supply;
 - (B) Continuously functioning sanitary waste water disposal system;
 - (C) Functioning shut-off valves at toilets, sinks and lavatories;
 - (D) Access to waste lines such as clean-outs;
 - (E) A minimum of one functioning toilet, bathroom sink, or tub/shower;
 - (F) Functioning kitchen sink; or

- (2) Septic system or Plumbing Fixtures not performing as intended;
- (3) Leaks in any supply or waste lines;
- (4) Deteriorated, corroded, or leaky supply or drain pipes;
- (5) Supply or drain piping consisting of a mixture of different types of piping or fittings, or is run in an inefficient manner;
- (6) Missing, blocked, or improperly installed required conditions listed in (A)-(D):
 - (A) Vent pipes;
 - (B) Gas shut off valve on natural gas Domestic Water Heater (DWH);
 - (C) Temperature and pressure-relief valve (TPRV) on DWH;
 - (D) Shut off valves at the water meter, each toilet, each sink, DWH, or tub/shower locations; or
- (7) Natural gas domestic water heaters (DWH) located in bathrooms, bedrooms, closets or utility rooms where a clothes dryer is present;
- (8) Natural gas DWH combustion air taken from conditioned space;
- (9) Inadequate natural gas DHW vent (e.g. not double walled or skirted at roof penetrations);
- (10) Rusted or corroded DHW pipes or storage tanks; and
- (11) Any other condition reasonably characterized Hazardous or Substandard.

6.2 Minimum Standards for Potable Water

a. **General Requirements and Standard Conditions.** Water service lines shall be properly connected to a public or approved private system functioning as intended. All newly installed supply lines must be flushed and fittings tested. Privately owned wells and systems must also be tested for water quality. Testing must occur prior to commencing Rehabilitation; and must be conducted by a local health department or other qualified, unaffiliated source. Appropriate corrective measures are required for privately supplied water determined not suitable for use.

b. **Other Requirements/Conditions.**

(1) **Water Supply.** All dwellings shall have adequate, safe, and potable water supplied through a safe Plumbing System to all fixtures.

(2) **Water Quality.** Supply systems shall provide for the delivery of potable water through a safe system of piping, free from leaks and other defects and not subject to the hazards of backflow. If supplied water is not free of bacteria, chemicals, excessive minerals, relatively free of odor, taste, color and turbidity, corrective measures to improve water quality (e.g. water softening, water filtering) should be installed.

(3) **Exterior Pipe Protection.** All newly installed exterior water lines shall be buried at a minimum depth of 6" below the final grade, or be protected from freezing in accordance with local climate.

(4) **Water Pressure.** The average static pressure at the building entrance shall be between 40-80 psi. If pressure exceeds 80 psi, an approved pressure reducing device shall be installed. If pressure is less than 40 psi, a thorough evaluation shall be conducted to determine the reason(s) for low pressure and appropriate corrective measures shall be completed.

(6) **Pipes.** New supply water piping shall be type "L" copper tubing with wrought copper solder joint fittings, PEX, or CPVC. All fittings shall be compatible with pipe material. Joints between dissimilar metals shall be made with dielectric fittings to prevent joint

deterioration due to electrolysis. All piping shall be adequately supported to prevent sagging or breakage.

(7) Valves. The main water line shall have an accessible service shut-off valve for each building or Unit, as applicable. All hot and cold water supply lines feeding all Plumbing Fixtures shall be equipped with functional and accessible shut-off valves. Access panels for tub/shower enclosures must be provided for access to valves and maintenance, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access. All valves shall be tested and must not leak.

6.3 Minimum Standards for Sanitary Drainage

a. General Requirements and Standard Conditions. The sanitary drainage system consists of the pipes designed to provide adequate circulation of air, exhaust of sewer gasses, prevent loss of water seals in traps and provide for wastewater flowing out of the home and into an approved sewage disposal system. All fixtures shall be connected to an approved sewage disposal system and free of leaks. New sewage disposal systems shall comply with EPA and Texas Commission on Environmental Quality (TCEQ) requirements.

b. Substandard Conditions.

(1) Unapproved Private Systems. Unapproved systems include pit privies, cesspools, ponds, lakes, streams and rivers. If any of these systems are in use, they must be abandoned and the housing Unit must be connected to an approved sewer disposal system.

(2) On-Site Sewage Facilities (OSSF). Prior to conducting Rehabilitation, all OSSF systems shall be inspected by a licensed OSSF inspector. If not performing as intended, an existing OSSF system must be repaired, replaced, or abandoned as provided in (A)-(B):

(A) Repair or Replacement. If repair is suitable, the tank shall be drained and all components tested and repaired or replaced. Special attention must be given to the drainage field; tree cutting and site clearing of the field may be required and replacement made. The drainage field must be designed for the existing soil conditions and the water table at the site and installed by a licensed installer.

(B) Abandonment. If a public system is available to connect to, and the existing OSSF system has reached the end of its Useful Life, abandonment is required. The existing tank shall be pumped, collapsed, and filled. A licensed plumber shall connect the housing to a public system and include a clean out close to the home.

c. Other Requirements/Conditions.

(1) Traps. Bell traps, "S" traps, and drum traps are prohibited. If any of these exist, they shall be replaced with a "P" trap. All fixtures shall be trapped and conform to the requirements in (A)-(F):

(A) All waste lines shall be trapped by a water seal trap as near to the fixture as possible but in no case more than 24" from the fixture;

(B) All traps shall be set level with respect to their water seals and sink traps shall be protected from contact and damage if sinks are made accessible for individuals using wheelchairs or other mobility device(s);

- (C) Trap size shall not be less than the following inside diameters: 1 ¼" for lavatories; 1 ½" for tubs, showers, kitchen sinks and dishwashers; 2" for clothes washers and; and 3" for floor drains in utility rooms;
- (D) No trap shall be larger than the drainage pipe coming from a fixture;
- (E) Access panels shall be provided to enclosed traps and concealed connections, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access; and
- (F) Wall and ceiling openings for plumbing shall be air sealed with caulk (gap less than ¼") or expanding foam (gaps more than ¼").

(2) Vents. Plumbing Systems shall be designed to prevent sewer gases from entering the housing Unit(s), allow waste to adequately drain into an approved sewer system, and shall be vented to the exterior so that water released from fixtures may draw in air to allow for smooth and even drainage. All vents must also meet or exceed the requirements in (A) – (E):

- (A) All Plumbing Systems shall have at least one main vent stack, running from the main drain through the roof, terminating to the exterior. If only one main vent exists, it shall be no less than 3" inside diameter from top to bottom;
- (B) Plumbing vent systems shall only be used for the purpose of venting the system;
- (C) Existing vents shall be at a minimum 6" above the high side of the roof penetration. Newly installed vents shall be a minimum 12" above the high side. Through the roof vent penetrations shall be flashed and sealed to provide a positive drainage plain;
- (D) All vent stacks terminating in an attic shall be extended or replaced. No vent stacks shall terminate near any window or door or under soffits; and
- (E) Air admittance valves are allowed as long as they are American Society of Sanitary Engineering (ASSE) 1051-2009 approved and installed in accordance with the manufacturer's installation instructions.

6.4 Minimum Standards for Plumbing Fixtures

a. General Requirements for Standard Conditions. All Plumbing Fixtures shall be free of leaks or defects which interfere with their ability to perform as intended. Existing fixtures in good and safe working order are generally not required to be repaired or replaced.

b. Other Requirements/Conditions. Any and all replacement Plumbing Fixtures and appliances must be installed per the manufacturer's installation instructions, including water sealing, and must be completed in accordance with all applicable requirements provided in (1)-(7):

- (1) All replacement fixtures shall meet or exceed the requirements of WaterSense qualified or equivalent products. Kitchen faucets requiring replacement shall provide 2.2 gallons per minute (GPM) and a 15-year drip free warranty. The scope of work must identify the height toilet(s), whether it is round or elongated, and whether a new faucet is single lever or not.
- (2) All replacement plumbing appliances must meet or exceed the requirements of Energy Star, or equivalent, qualified products.
- (3) All replacement shower fixtures shall use anti-scald control devices. Access panels shall be provided to these valves, if possible with wall and plumbing configuration prior

to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access.

(4) All fixtures shall be supported and securely attached in a manner consistent with normal installation methods and installed level.

(5) All faucets shall have the hot water line on the left side of the faucet. Existing supply lines that are reversed shall be changed.

(6) If existing garbage disposals are not performing as intended or are not hardwired to the electrical system, they shall be removed, repaired or replaced. New garbage disposals shall be hard wired and switched in an accessible location as close as possible to the kitchen sink.

(7) All repaired or replacement fixtures and appliances shall be tested for leaks and proper operation.

6.5 Minimum Standards for Domestic Water Heaters (DWH)

a. General Requirements and Standard Conditions. All DWHs, with the exception of tankless water heaters, shall have, at a minimum, a 30 gallon storage capacity that can supply a continuous flow of hot water that is at least 102 degrees F, with gas or electric shut-off valves as well as cold water supply shut-off valves, all installed and functioning as intended. Larger capacity DWHs may be installed if necessary to serve larger households. Replacement DWHs shall meet or exceed the requirements of Energy Star qualified, or equivalent, products.

(1) Temperature and Pressure Release Valve (TPRV). Each unit shall be equipped with a TPRV must capable of releasing pressure at 150 psi or 210 degrees Fahrenheit. Water release shall extend to the exterior of the housing, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to create access.

(2) DWH Enclosure. Each DSW shall be enclosed in a sealed closet designed for this purpose, with gas DSWs having combustion air drawn from outside the conditioned space. Gas DWHs inside conditioned spaces must be in separate closets that is not in the same room as a clothes dryer or any type of exhaust vent. All DWHs installed in a garage must be installed at a minimum 18" AFF with primary drainage draining to the exterior. DWHs in other locations shall be supported by a minimum three foot concrete base, if possible with wall and plumbing configuration prior to rehabilitation. Movement of plumbing fixtures or similar changes are not required to install a concrete base.

(3) Energy Factors (EF) Table. Replacement DWHs shall meet or exceed the Energy Factors (EF) requirements identified by size and type in the Energy Factors (EF) Table:

[continued on next page]

2020 Program Year Energy Factors (EF) Table		
Energy Factors (EF):	Gas DWH EF	Electric DWH EF
Replacement DSWs must meet or exceed the EF		

identified for each size in this table.		
Storage Size (Gal):		
30	0.63	0.94
40	0.61	0.93
50	0.59	0.92
60	0.57	0.91
70	0.55	0.90
80	0.53	0.89

7.0 ELECTRICAL SYSTEMS

7.1 Minimum Standards for General Electrical Service

a. General Requirements and Standard Conditions. Electrical systems must provide a safe and adequate supply of electrical current that meets the needs of the residents. Accordingly, Electrical Systems must meet or exceed the safety and efficiency requirements provided in (1)-(6), which require that the system is:

- (1) Properly grounded and free of hazards with all components properly secured and covered to prevent contact or electric shock;
- (2) In good condition, with all electrical components up to date, lacking deterioration, and free of shorts;
- (3) Sufficiently providing adequate, consistent, and appropriate current and voltage levels at each outlet, fixture, and piece of equipment, as per its intended use;
- (4) Equipped with conductors, fixtures, boxes, and equipment that are properly sized and rated for their intended use;
- (5) Adequate for its current use considering resident behavior and lifestyles;
- (6) Equipped with an adequate quantity of appropriately located lighting, receptacles, and switches; and
- (7) Maintained, repaired, or otherwise replaced primarily in accordance with the ICC Principles of Safety, Capacity, and Convenience.

b. Substandard Conditions. At a minimum, repair or replacement is required if any of the conditions in (1)-(17) exist:

- (1) Inadequate capacity (e.g. excessive use of power strips and/or multiple outlet adaptors);
- (2) Two-wire systems (lacking grounding);
- (3) Wiring or components missing, broken, disconnected, loose, burnt or melted, unsupported, corroded, cracked, or split;
- (4) Panel boxes that show evidence of water intrusion or infestation;
- (5) Frayed or burnt wiring or wire insulation;
- (6) Circuits, switches, receptacles, or wiring is not compatible with the amperage or other characteristics of the electricity in use;
- (7) Flexible cords are used as permanent wiring (unless Non-Metallic (NM) cable(s) otherwise installed in accordance with local building codes);
- (8) Exposed wiring on interior walls or the exterior that are not protected in conduit or raceways (unless Non-Metallic (NM) cable(s) otherwise installed in accordance with local building codes);
- (9) Receptacles in bathrooms and kitchens within 6' of a water source and exterior receptacles that are not ground fault circuit interrupter (GFCI) protected;

- (10) Reverse polarity;
- (11) Unlabeled circuits;
- (12) Missing cover plates;
- (13) Components not securely attached to the structure;
- (14) Inadequate lighting in rooms and outside of entry doors; or
- (15) Any other condition reasonably characterized as meeting the definition of a Hazardous or Substandard Condition.

c. Other Requirements/Conditions. Additions, alterations, renovations, and repairs to electrical systems and equipment must be conducted in accordance with the applicable requirements of new electrical systems and equipment by appropriately licensed electricians. Rehabilitation of existing systems and equipment is generally not simultaneously required to comply with the overlapping, otherwise applicable provisions of the IEBC. Nevertheless, any and all additions, alterations, and repairs MUST NOT cause existing electrical systems or equipment to become unsafe, hazardous, or overloaded. IBC 2015, Appendix K (Administrative Provision).

7.2 Minimum Standards for Existing Wiring and Fixtures

a. General Requirements and Standard Conditions. Existing electrical service and components must be safe, efficient, and in good working condition for its intended use. Moreover, the capacity of the system must meet the demand of the residents. Replacement is not mandatory for existing service and components that meet or exceed these Standard Conditions, unless otherwise required by code or local ordinance. Voluntary replacement may be permitted to more efficiently and cost-effectively meet the needs of the community and the current or intended demands of the residents.

b. Substandard Conditions. Overloaded circuits are not permitted and must be addressed by separating the load and adding an adequate number of circuits necessary to safely and efficiently carry the load.

c. Other Requirements/Conditions.

(1) Secure Fastening of Fixtures and Equipment. All components shall be securely fastened to framing members by mechanical means. No fixture or socket shall hang by unsupported wiring. All existing receptacles, switches, and junction boxes shall contain a proper cover plate. In no case shall the structural integrity of the building be compromised.

2. New Wiring. New wiring shall be installed in a neat and workmanlike manner with all wiring run inside of walls. If wall or ceiling cavities are not accessible, wiring shall be run in properly sized and rated raceway or wire mold, secured along the walls with proper fasteners, flush to the surface and straight.

3. Aluminum Wiring: All aluminum wiring in housing to be rehabilitated shall be replaced with a 3-wire system and in accordance with these Standards. Properly sized service aluminum entry wiring is generally not required to be replaced.

4. Knob and Tube Wiring. Knob and tube wiring shall be replaced with a 3-wire system and in accordance with these Standards.

7.3 Minimum Standards for Sizing of Service and All Electrical Homes

a. General Requirements and Standard Conditions. The service entrance cable shall have the same rating (amperage) as the meter base and service equipment. Replacement of a service entrance shall require calculation of the usage or load within the building to assist in determining the appropriate size. The service entrance must be properly sized for its intended post-Rehabilitation capacity. Room-by-room specifications noting electrical outlets and fixtures shall be included in the scope of work. Nameplate ratings of all appliances must be reviewed for actual VA ratings.

b. Other Requirements/Conditions:

Main Service Panel. Panels shall be in proper working condition with no evidence of overheating, arcing, corrosion, or failure. The panel shall bear the UL label and shall be marked as suitable for service equipment. Any panels (or installed breakers) identified as substandard by the U.S. Consumer Product Safety Commission shall be replaced. Panels with evidence of malfunction or deterioration shall be replaced.

7.4 Minimum Standards for Material and Equipment Installation

General Requirements and Standard Conditions. All materials, components, and equipment shall be listed or labeled by a qualified electrical products testing laboratory (e.g. "UL" or "CSA"). Listed materials, components, and equipment must be installed per the intended use, with location determined in accordance with the manufacturer's installation instructions.

7.5 Minimum Standards for Grounding

General Requirements and Standard Conditions. All electrical systems shall consist of a single phase 3-wire grounded neutral service entrance and shall provide system grounding and equipment grounding protection.

The service panel shall be connected to the grounding electrode system and an eight foot (8') galvanized or copper clad steel ground rod. All electrical panels shall meet or exceed the bonding requirements of the National Electrical Code (NEC).

If present, metal water pipes shall be bonded to the grounding electrode systems as a means to ground the Plumbing System and prevent pipes and fixtures from becoming energized and hazardous.

All wiring and equipment shall be grounded in accordance with the grounding requirements of the NEC.

7.6 Minimum Standards for Overcurrent Protection

a. General Requirements and Standard Conditions. The number of circuits installed shall not exceed the rating on the panel. The selection of a panel shall provide room for future expansion. All circuits shall be clearly, accurately, and permanently labeled with tags

provided. All unused openings shall be properly plugged, capped or sealed with listed materials.

b. Substandard Conditions. Tandem breakers shall only be used in panels designed for them. The use of tandem breakers in order to exceed the 16 circuits permitted on an 100 amp panel shall not be permitted. Any service equipment containing fuse over-current protection shall be replaced with properly rated circuit breaker type over-current protection devices.

c. Other Requirements/Conditions. Panel board over-current devices shall be properly sized and located at the exterior in a subpanel if the main service panel is in the interior. All existing circuits shall be load tested for tripping.

7.7 Minimum Standards for Service Panel and Sub-Panel Connections

a. General Requirements and Standard Conditions. All existing or new service panels shall be securely fastened to the dwelling. All panel boxes shall be listed and enclosed in 16 gauge sheet steel cabinets with doors and catches. Conductors entering the service shall have proper connectors and shall be securely and neatly attached at terminals. All circuits shall be marked and identified inside the panel box and any sub-panels.

b. Substandard Conditions. Wires shall not have any obvious nicks in the insulation and shall be properly bonded. Service panels shall not be located in bathrooms or closets. When replacement is necessary, the design and location of the service panel shall be considered in conjunction with the relevant needs and desires of the residents.

c. Other Requirements/Conditions.

(1) Panel Boxes. If replacement is required, new panel boxes and subpanels must be installed at 48" AFF (as measured from the main shut off switch or to the highest breaker in the box). Relevant local code requirements will apply with regard to this measurement should this Section 7.7(c) conflict with the local code.

(2) Weather head(s). Weather heads shall be at least 12' above the finished grade.

(3) Sub-panels. Sub-panels, add-on boxes, or disconnects to existing services for additional circuits shall be allowed only if the existing service equipment is listed and designed for such extension and the installation is in compliance with the NEC. Sub-panels are allowed if the existing service panel has adequate capacity but no available expansion slots.

(4) Service Disconnect. The main disconnect shall be accessible and clearly marked as a service disconnect.

7.8 Minimum Standards for Branch Circuits

a. General Requirements and Standard Conditions. Protection against physical damage of exposed electrical equipment shall be provided throughout Rehabilitation.

b. Other Requirements/Conditions.

(1) Dedicated Circuits. No less than one dedicated 20 amp circuit shall be present for each bathroom and no less than two 20 amp small appliance branch circuits serving the kitchen. A dedicated circuit shall not serve other receptacles. All 240 volt appliances or

equipment shall be on separate circuits. The number of small appliances used by the occupants shall be taken into consideration when planning the circuit loads and placement of receptacles to avoid overloading a circuit and to eliminate the use of extension cords or multiplex outlets. Additional circuits may be necessary and are allowed. Dedicated circuits are required for at least those appliances listed in subparagraphs (A) – (L) of this paragraph, if applicable and as sized in accordance with the manufacturer’s instructions:

- (A) Refrigerators;
- (B) Separate freezers;
- (C) Electric range or cook top;
- (D) Electric oven;
- (E) Clothes dryer;
- (F) Electric water heater;
- (G) Electric furnace/air handler;
- (H) Microwave oven;
- (I) Air conditioner;
- (J) Sump pumps and water wells;
- (K) Septic system aerators; and
- (L) Any other major electric appliance.

(2) Circuit Load Distribution. All circuit wiring shall be properly sized to serve the load.

(3) Two-wire Systems. All 2-wire, ungrounded wiring shall be replaced with 3-wire, grounded wiring.

(4) Unused Switches, Receptacles, Fixtures, Conductors and Openings. Unused switches, receptacles, fixtures, and conductors that are obtainable or otherwise within reach shall be removed. All unused openings in outlets, devices, junction boxes, conduit bodies and fittings, raceways, cabinets, and equipment cases or housings shall be effectively closed with knockout seals to prevent vermin, insects, and building materials from coming into contact with wiring.

(5) Wire Splices. All splices shall be placed in accessible and listed junction boxes that are properly covered.

(6) AFCI Protected Circuits. All newly installed branch circuits that supply 15 and 20 amp receptacles installed in family rooms, dining rooms, living rooms, parlors, libraries, dens, sun rooms, recreational rooms, closets, hallways and similar rooms or areas shall be protected by a combination type arc-fault circuit interrupter installed to provide protection of the branch circuit.

7.9 Minimum Standards for Receptacles

a. General Requirements and Standard Conditions. All replacement receptacles must be tamper resistant, and shall be listed/labeled and installed per manufacturer’s instructions. Boxes must be specifically designed for its intended purpose, properly sized (rated for the size of the circuit), and mechanically fastened with attached cover plates installed. Receptacles located in damp or we areas must be weatherproof and the wiring shall be run in boxes, conduit(s) and fittings that are listed for wet locations.

(1) Receptacle Locations

(A) All Rooms. All habitable spaces must have receptacles. In each family room, dining room, living room, parlor, library, den, sun room, bedroom, recreation room,

or similar room or area, receptacles shall be installed so that at a minimum each wall has at least one receptacle. Receptacles shall be spaced so that at no point along the perimeter of the floor is more than 6' from a receptacle. Other rooms that are not regularly used by residents/occupants are permitted to have only a minimum of one receptacle per room. Receptacles should not be located lower than 15" above the finished floor.

(B) Bathrooms. All bathrooms must have at least one dedicated 20 amp receptacle outlet that is GFCI protected and located at least 3' from the outside edge of the sink. The receptacle shall be located not lower than 30" and not higher than 48" above the finished floor. Receptacles shall not be located within or directly over a bathtub or shower stall, and shall be at least 12" from the outer edge of the bathtub or shower opening.

(C) Kitchens. The kitchen shall have GFCI protected duplex receptacles on at least two separate 20 amp appliance circuits at the kitchen counter top spaced not more than 48" from each other. A separate dedicated, non-GFCI protected receptacle shall be required for each refrigerator and electric range or cook top, located directly behind it.

(D) Other Exterior(s). Exterior receptacles shall be GFCI protected and enclosed in a listed or labeled weatherproof box. One shall be required at the front of the house and one at the back.

(2) GFCI Protection. Receptacles located in bathrooms, kitchens, in a garage, at the exterior, and anywhere else located within 6' of a sink, shall be GFCI protected. Single use, dedicated receptacles for use by equipment and appliances such as washing machines and sump pumps shall not be GFCI protected, and shall be single, rather than duplex, receptacles when replaced.

7.10 Minimum Standards for Lighting

General Requirements and Standard Conditions. Every habitable room and all living spaces (e.g., bathroom, toilet room, laundry room, furnace or utility room, and hallways) shall be provided adequate natural or artificial lighting, as applicable, and in accordance with paragraphs (1) – (3) of this section:

(1) Natural lighting. Natural lighting must be provided by exterior glazed openings that generally open directly onto a public way, yard, or court. The net glazed area generally must span a minimum eight (8) foot area of the floor in the room or adjoining space served.

(2) Artificial lighting. Artificial lighting must provide at least an average illumination of 10 footcandles (107 lux) over an area of the room served at a height of 30 inches above the floor.

(3) Safety lighting. All stairways (e.g. interior within dwelling unit and exterior serving dwelling unit(s)) must be illuminated by at least one artificial light fixture controlled by a remote wall switch located at the top and bottom of the stairway.

7.10 Minimum Standards for Fixtures and Switches

a. General Requirements and Standard Conditions. All replacement fixtures shall be listed or labeled, Energy Star qualified or equivalent, and must be installed in accordance with the

manufacturer's installation instructions. If existing fixtures are in a good and safe condition, securely fastened to framing members, replacement is not required.

b. Substandard Conditions. No fixture or receptacle shall hang from a base by unsupported wiring.

c. Other Requirements/Conditions.

(1) Fixture and Switch Locations. At a minimum, a permanently installed lighting fixture controlled by a wall switch is required in each room of the structure. Switches shall not be located in tub/shower areas or behind the swing of a door. All new wall switches must be located in a convenient and Accessible location.

(2) Closet Fixtures. All light fixtures installed in closets shall be surface mounted or recessed can lights. Recessed can lights shall be Insulation Contact Air Tight (ICAT) rated or its equivalent. Closet fixtures shall be a minimum 6" away from any storage, clothing, or other items, and have a protective cover over the bulb.

(3) Lamps (Light Bulbs). All replacement lamps must meet or surpass the industry standards for Energy Star qualified or equivalent Compact Florescent Lamps (CFLs) or Light Emitting Diodes (LEDs). Refer to Section 4.12 (*regarding* Minimum Standards for Lighting) for additional details.

7.11 Minimum Standards for Smoke and Carbon Monoxide Detectors

a. General Requirements for Smoke Detectors. Each dwelling shall have listed or labeled smoke detectors installed in each bedroom and in the hallway immediately adjacent to bedrooms. Smoke detectors shall draw their primary power from the electrical system, with battery backup, and without interruption except for over current protection. Smoke detectors shall be interconnected so that all detectors sound the alarm when any one senses smoke

b. General Requirements for Carbon Monoxide Detectors. In dwellings with attached garages and/or fuel-fired appliances, carbon monoxide detectors shall be installed. CO detectors shall be listed as complying with UL 2075 and installed outside the immediate vicinity of bedrooms. CO detectors shall be permanently installed and hard wired to the electrical system with battery backup.

8.0 Heating, Ventilation, and Air Conditioning (HVAC)

8.1 Minimum Standards for HVAC Systems

a. General Requirements and Standard Conditions. In conjunction with other systems, the HVAC system of a housing unit must effectively maintain a comfortable living environment for the residents/occupants. At a minimum, paragraphs (1) – (3) of this Section 8.1(a) require all HVAC systems:

(1) Provide a reliable source of heated or cooled air, as applicable, and at a comfortable temperature for all habitable rooms;

(2) Control ventilation and indoor air quality; and

(3) Be free of contaminants that negatively affect indoor air quality.

b. Substandard Conditions. Repair or replacement is required if any Hazardous condition applies, which include but are not limited to, those listed in paragraphs (1) - (14) of this Section:

(1) Lack of a steady and dependable source of heating and cooling to all living areas;

- (2) Gas-fired air handler inside the conditioned space which draws; combustion air from the interior;
- (3) Combustion gases not venting to the exterior;
- (4) Leaking, damaged, rusted or cracked heat exchanger;
- (5) Leaking, corroded or damaged gas supply pipe;
- (6) Missing gas shut-off at each appliance;
- (7) Lack of a functioning pilot or electric start;
- (8) Inadequate duct system that does not supply necessary conditioned air to all living areas;
- (9) Leaking ducts or returns;
- (10) Mismatched or poorly repaired equipment;
- (11) Deficiencies are too numerous to justify repair expenses;
- (12) Unvented gas-fired wall heaters in enclosed rooms. If existing, the wall unit shall be removed and the gas line capped;
- (13) Gas-fired kitchen stoves and/or ovens without ventilation to the exterior;
- (14) Lack of a functioning carbon-monoxide detector in homes with gas-fired appliances or equipment.

c. Other Requirements/Conditions.

(1) Sizing and Selecting a New System. Replacement heating and cooling equipment shall be sized in accordance with the current version of the Air Conditioning Contractors of America (ACCA) 16 Manual J or other approved methodology. Equipment selection shall comply with the current version of ACCA Manual S or other approved methodology. Data for heating and cooling loads shall be calculated in accordance with required post-rehabilitation conditions.

(2) Installation. Installation of new systems shall comply with the manufacturer's installation instructions, as appropriate for the fuel source. All replacement equipment shall have a permanent electrical receptacle, switch, light fixture near the equipment, and installed in an accessible manner so that future inspecting, maintaining, and repairing the system can be completed.

(3) Programmable Thermostat. A programmable thermostat shall be installed when a new heating and cooling system is installed. Upon installation, the temperature settings shall be done by the contractor, the occupants shall be educated on using the thermostat and the instructions and warranty shall be provided to the occupants. The location of the thermostat shall be in a central location and not within 3' of doors, windows, appliances, or televisions and installed not higher than 48" AFF, measured from the center of the thermostat.

(4) Specific Requirements for Cooling Equipment.

(A) Climate Zones.

(i) Cooling equipment in Climate Zones 2 and 3 shall be 14.5 Seasonal Energy Efficiency Ratio (SEER)/12 Energy Efficiency Ratio (EER) Energy Star qualified, or its equivalent; or alternatively, shall be a heat pump.

(ii) Cooling equipment in Climate Zone 4 shall be 13 SEER, or its equivalent; or alternatively, shall be a heat pump.

Refer to Section 8.1(c)(3) of these Standards for details regarding Heating Equipment.

(B) Indoor Air Handler. If the indoor air handler is being replaced, the outdoor coil shall also be replaced and it shall be matched to the indoor air handler, unless the outdoor coil is in good working condition and is compatible and properly sized to the new indoor air handler.

(5) Specific Requirements for Heating Equipment.

(A) Climate Zones.

(i) Heating equipment in Climate Zones 2 and 3 shall be greater than or equal to 80% AFUE gas furnace (or its equivalent); greater than or equal to 8.2 HSPF/14.5 SEER/12 EER air-source heat pump, Energy Star qualified with electric backup (or its equivalent); or alternatively, shall be a ground-source heat pump, Energy Star qualified (or its equivalent).

(ii) Heating equipment in Climate Zone 4 shall be greater than or equal to 90% AFUE gas furnace (or its equivalent); greater than or equal to 8.5 HSPF/14.5 SEER/12 EER air-source heat pump, Energy Star qualified with electric backup (or its equivalent); or alternately, shall be a ground-source heat pump, Energy Star qualified (or its equivalent).

8.2 Minimum Standards for the Distribution System.

a. General Requirements and Standard Conditions. The distribution system (e.g. ductwork) must provide an adequate supply of conditioned air to each habitable room, as well as an adequate amount of return air from each habitable room. Existing distribution systems must be inspected to determine whether the system is operating efficiently, properly balanced, and adequately supplying conditioned air -- as this is required for all habitable rooms.

b. Other Requirements/Conditions.

(1) Duct Cleaning. If the distribution system is dirty, but is otherwise operating effectively, duct cleaning is required. This requires complete duct sealing by mechanical means and with duct mastic (so as to adequately eliminate the source of dirt and debris entering the system). Duct cleaning must include all dryer vents.

(2) Replacement and Relocation. Replacement shall ensure all newly installed distribution systems are sized per the current version of the ACCA Manual D (or other Agency-approved methodology). Every effort should be made to relocate the replacement distribution system to the conditioned space through the installation of dropped soffits. If this is not possible, locating the distribution system in the attic shall require mechanical fastening, sealed with duct mastic, and insulated to R-8. Distribution systems shall not be located at the exterior of the home exposing the system to the elements

(3) Installation. Connections and routing of new ductwork shall be completed without kinks or sharp bends and without excessive coiled or looped flexible ductwork. All connections shall be mechanically fastened, sealed with mastic, and properly supported. Runs shall be insulated to R-8 if installed in unconditioned space.

(4) Room Pressurization. Room pressure balancing systems are recommended. Unbalanced distribution systems require transfer grills or jumper ducts to be installed to provide balance with rooms when doors are closed (with respect to the rest of the housing unit). Undercutting doors is prohibited.

8.3 Minimum Standards for Ventilation and Indoor Air Quality

a. General Requirements and Standard Conditions. At a minimum, sufficient ventilation must be provided so as to ensure adequate, continuous, non-contaminated air circulation throughout the Development.

b. Additional Requirements/Conditions.

(1) Exhaust fans. Exhaust fans shall comply with or exceed the applicable requirements in 2012 IRC, Chapter 15, and must be at least Energy Star qualified (or its equivalent). All bathroom, toilet rooms, and kitchen fans shall exhaust to the exterior (either through the

roof or a gable wall), be mechanically fastened, sealed with duct mastic, insulated to R-6, and have a mechanical damper. Flashing shall be installed to provide a positive drainage plain. Flex duct terminating at a gable vent is prohibited.

(A) Bathroom and Toilet Room Exhaust Fans. All bathrooms and toilet rooms must be ventilated by exhaust fans (vented to the outside) unless an operable window is present. If a continuous fan is installed, it shall be greater than or equal to 20 cfm. Intermittent fans shall be greater than or equal to 50 cfm. Neither shall exceed 1.5 sones. Bathroom exhaust fans shall be installed on a dedicated GFCI protected circuit. Light kit, night light, and/or a heating element may be included with exhaust fans. Combustion appliances venting to the exterior shall not be located in bathrooms.

(B) Kitchen Exhaust Fans. Kitchens require mechanical exhaust fan(s) (e.g. kitchen range hoods) be installed unless adequately ventilated by an existing and operational exhaust fan (vented to the outside). If a continuous fan is installed, it shall be greater than or equal to 5 cfm. Intermittent fans shall be greater than or equal to 100 cfm.

(C) Garage Exhaust Fans. If a garage is attached to a Unit (e.g. sharing a common wall), then a UL listed exhaust fan shall be installed in the garage and connected to the operation of the garage door. The exhaust fan must at least turn on when the door is opened and off after 20 minutes.

(2) Supply Air. If supply air is installed and connected to the return plenum, subparagraphs (A) - (D) of this paragraph shall apply, which requires:

(A) Supply air inlets must not be located within 10 linear feet from known contamination sources such as stacks, vents, exhaust hood, or vehicle exhaust;

(B) Rodent and insect screens must be installed;

(C) Ventilation must come directly from the outdoors and not from adjacent dwelling units, garages, crawlspaces, or attics; and

(D) The duct must be mechanically fastened, sealed with duct mastic, insulated to R-6, and shall have a mechanical damper.

Mandatory Development and Unit Standards

Health and Safety

NHTF-assisted housing must be free of all health and safety defects, must meet minimum standards of habitability and functionality, and all inspected items with an observed deficiency must be corrected. Additionally, NHTF-assisted housing is subject to the requirements in 24 CFR §93.301(b)(1)(i) regarding identifying life-threatening deficiencies, which must be addressed immediately if the housing is occupied at the time of rehabilitation.

Lead-Based Paint

NHTF-assisted housing is subject to the regulations at 24 CFR Part 35, subparts A, B, J, K, and R regarding lead-based paint poisoning prevention in residential structures. Applicants, developers, and builders of any project requiring the rehabilitation of structures built prior to 1978 must read, fully understand, and comply with 24 CFR Part 35, subparts A, B, J, K, and R. Inspection and testing for lead-based paint must be completed prior to determination of the scope of rehabilitation, a copy of the inspection and testing report must be provided as part of the work write-up.

Accessibility & Visitability

NHTF-assisted housing must meet the accessibility requirements of 24 CFR Part 8 (implementing Section 504 of the Rehabilitation Act of 1973) and Titles II and III of the Americans with Disabilities Act (implemented at 28 CFR Parts 35 and 36), as applicable. “Covered multifamily dwellings”, as defined at 24 CFR §100.201, must also meet applicable design and construction requirements at 24 CFR §100.205 (implementing Fair Housing Act). Other required accessibility and visitability features are further described in 10 TAC Chapter 1, Subchapter B, and 10 TAC §11.101(b)(8).

Disaster Mitigation

Where relevant, NHTF-assisted housing must be improved to mitigate the impact of potential disasters, in accordance with applicable State and local codes, ordinances, and requirements, in addition to the Uniform Physical Condition Standards or other requirements established by HUD.

Broadband Infrastructure

HTF-assisted housing must provide for the installation of broadband infrastructure to be completed in accordance with 24 CFR §93.301(b)(2)(vi) and at no charge to the residents. 10 TAC §11.101(b)(4)(A).

Environmental Requirements

HTF-assisted housing must meet the minimum environmental requirements in 24 CFR §93.301(f)(2).

Development and Unit Amenities

Housing improvements beyond those described in these Standards must include all applicable amenities and energy and water efficiency features in accordance with 10 §TAC 11.101(b)(4), (5), and (6), as amended.

Inspections, Construction Documents, & Compliance (24 CFR §93.301(b)(2)-(3))

Inspections

All NHTF-assisted rehabilitation projects must comply with TDHCA written inspection procedures. TDHCA will conduct initial, mid-progress, and final inspections during construction to identify any deficiencies that must be addressed and ensure that all work is in accordance with approved standards, as applicable. *See*, 24 CFR §93.301(b)(3). TDHCA is responsible for initial and ongoing on-site inspections for rental housing during the affordability period. *See*, 24 CFR §§93.301(b)(3) and 93.301(e); *see also*, 10 TAC §13.11(Post-Award Requirements).

Work Write-Ups

Each repair should be detailed as required through the use of plans, drawings, specifications (conforming to the MasterFormat work write-ups). At a minimum each repair should be detailed in a work write up that specifies the location, required demolition, and methods and materials with enough detail to determine the desired outcome or finished product. Work-write ups can reference plans and specifications as needed but must be detailed enough to complete repairs. Moreover, work write-ups must comply with State and local codes, ordinances, requirements, and TDHCA standards.

Cost Estimates

Written Cost Estimates are required for all NHTF-assisted rehabilitation projects. Cost estimates must be reasonably prepared and submitted to the Department for approval in accordance with Title 10, Part 1, Chapter 10 of the Texas Administrative Code and these Standards. *See*, 24 CFR 93.301(b)(2) and (3); *see also*, 10 TAC §13.11(Post-Award Requirements)(regarding documents that must be submitted to the Department for review and approval prior to loan closing).

NHTF Annual Auditing, Recordkeeping, and Certifications

NHTF-assisted housing must comply with the auditing, recordkeeping, and cost certification requirements of 24 CFR §93.406 and 24 CFR §93.406.

Scope of Work and Post-Rehabilitation Standards

Uniform Physical Conditions Standards (UPCS)

All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the entire Affordability Period. 10 TAC §10.621; 24 CFR §5.703.

At a minimum, NHTF-assisted housing must comply with HUD's Uniform Physical Condition Standards (UPCS), as found in 24 CFR §5.705 and further provided for in 24 CFR §5.703. Developments must also comply with all local health, safety, and building codes; ordinances; and zoning requirements. Developments in jurisdictions without applicable State or local building codes must adhere to the International Existing Building Code (IEBC), and where the International Building Code (IBC) of the International Code Council in addition to the UCPS. Refer to **Appendix A: Uniform Physical Condition Standards (UPCS)** for additional details.

AND

Scope and Cost Review (SCR)

This report is required for NHTF-assisted Rehabilitation Developments. The SCR Report must be prepared in accordance with 10 TAC §11.306 (relating to Scope and Cost Review Guidelines) and submitted as required under 10 TAC §11.205(3)(relating to Scope and Cost Review (SCR)). Importantly, the report must be accompanied by the Department's SCR Supplement in the form of an excel workbook as published on the Department's website. Refer to **Appendix B: Scope and Cost Review (SCR)** for additional details.

AND

Capital Needs Assessment (CNA)

All NHTF-assisted Rehabilitation Developments must also submit a capital needs assessment (CNA) estimating the useful life of each major system. 10 TAC §11.205(3). The CNA shall determine the work to be performed and identify the long-term physical needs of the project. 24 CFR §93.301(b)(1)(ii). Moreover, the assessment must include a comparison between the local building code and no earlier than the 2015 version of the IEBC of the International Code Council. 10 TAC §11.205(3). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must be established with adequate monthly payments made to repair or replace the systems as needed. See, 24 CFR §93.301(b)(1)(ii); *see also*, 10 TAC §10.404 (Reserve Accounts).

In addition to the minimum CNA requirements, the Report must be accompanied by the Department's SCR Supplement in the form of an excel workbook as published on the Department's website. 10 TAC §11.205(3)(relating to Scope and Cost Review(SCR)). Refer to **Appendix C: Capital Needs Assessment (CNA)** for additional details.

**APPENDIX TO
DRAFT 2020 NHTF MINIMUM REHABILITATION STANDARDS**

APPENDIX A: Uniform Physical Condition Standards (UCPS)

Introduction

All Developments funded by the Department must be decent, safe, sanitary, in good repair, and suitable for occupancy throughout the entire Affordability Period. 10 TAC §10.621; 24 CFR §5.703. This requires

that, at a minimum, NHTF-assisted housing comply with HUD's Uniform Physical Condition Standards (UPCS) provided in 24 CFR Part 5, Subpart G.

Importantly, the UPCS is a minimum threshold requirement for NHTF-assisted housing. Developments are still responsible for complying with applicable local health, safety, and building codes; ordinances; and zoning requirements. Even Developments in jurisdictions without applicable State or local building codes must still comply with the 2012 International Existing Building Code (IEBC) in addition to the UPCS.

UPCS Compliance Inspections

The Department's Compliance Division or its Affiliate(s) is responsible for conducting UPCS inspections of NHTF-assisted multifamily developments. See §200.853. Inspection frequency will be determined using the scoring and ranking methodology of HUD's Real Estate Assessment Center (REAC). See §200.857(a) – (b). Unless otherwise determined by the Department, UPCS Inspections will be conducted once every three years during the Affordability Period.

During an Inspection, observable deficiencies for inspectable items will be identified for all major areas of NHTF-assisted rehabilitated housing, including the **(1) Site; (2) Building Exterior; (3) Building Systems; (4) Dwelling Units; (5) Common Areas; and (6) Health and Safety Considerations**. Correcting deficiencies is an important part of the Applicant/Borrower's ongoing responsibility to maintain the physical state of the Development so that it is decent, safe, sanitary, and in good repair. This responsibility must be maintained throughout the entire Affordability Period.

Depending on the type of Deficiency identified, the responsibility to address and remedy Deficiencies may either be (1) immediate or (2) completed with the project's scope of work.

- 1. Life Threatening Deficiencies (LTD)** are identified in the Exigent Health and Safety Report(s) and require immediate attention or remedy. **For projects involving the acquisition or rehabilitation of occupied housing, Life Threatening Deficiencies MUST be immediately addressed AND remedied.** Life Threatening Deficiencies include, but not are limited to, the following (categorized below by major Inspectable Areas):

Site:

- Air Quality – propane/natural gas/methane gas detected
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment

Building Exterior:

- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – Emergency/Fire Exits Blocked/Unusable
- Fire Escapes – blocked egress/ladders; visibly missing components
- Windows – security bars prevent egress

Building Systems:

- Domestic Water – misaligned chimney/ventilation system
- Electrical System – missing breakers/fuses; missing covers
- Fire Protection – missing/damaged/expired extinguishers
- Air Quality – propane/natural gas/methane gas detected

- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable
- HVAC – misaligned chimney/ventilation system

Common Areas:

- Electrical – missing breakers; missing covers
- HVAC – misaligned chimney/ventilation systems
- Outlets/Switches/Cover Plates – missing/broken
- Windows – security bars prevent egress
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable

Unit:

- Electrical System – missing breakers/fuses; missing covers
- Air Quality – propane/natural gas/methane gas detected
- Electrical Hazards – exposed wires/open panels; water leaks on/near electrical equipment
- Emergency Fire Exits – emergency/fire exits blocked/unusable
- Water Heater – misaligned chimney/ventilation system
- HVAC System – misaligned chimney/ventilation system
- Outlets/Switches – missing; missing/broken cover plates
- Smoke Detector – missing/inoperable
- Windows – security bars prevent egress

2. **Non-Life Threatening Deficiencies** generally include all other observable deficiencies. Any and all Non-Life Threatening Deficiencies must be completed with a project’s scope of work and thus corrected prior to project completion. Non-Life Threatening Deficiencies include but are not limited to those listed as “NLT” or “Non-Life Threatening Deficiencies” in ***Attachment A – TDHCA Uniform Physical Condition Standards Checklist (UPCS Checklist)***.

Required Documentation

All NHTF-assisted multifamily housing must complete and timely submit the ***TDHCA Uniform Physical Condition Standards Checklist (UPCS Checklist)*** to the Department for review and approval.

**APPENDIX B: Scope and Cost Review (SCR)
(10 TAC §11.205(3); 10 TAC §11.306)**

Introduction

All NHTF-assisted Developments (excluding Reconstruction) must submit a Scope and Cost Review (SCR) Report. The SCR must meet the minimum requirements provided in 10 TAC §11.306 (relating to Scope and Cost Review Guidelines) and 10 TAC §11.205(3)(relating to Required Third Party Reports: Scope and Cost Review). Pursuant to 10 TAC §11.306(a), the objective of the SCR is to provide a self-contained report that comprehensively details and evaluates the current conditions of the Development, and identifies a scope of work for the proposed repairs, replacements, and improvements to an existing multifamily property.

Scope and Cost Review Guidelines

The SCR author must evaluate the sufficiency of the Applicant's scope of work and provide an independent review of the Applicant's proposed costs. It is the Applicant's responsibility to ensure the scope of work and cost estimates (including the Development Cost Schedule) submitted in the Application are provided to the author, as these must also be included in the SCR Report. Importantly, the report should be in sufficient detail for the Underwriter to fully understand all current conditions, scope of work and cost estimates. The report must also include the following statement, "any person signing this Report acknowledges that the Department may publish the full report on the Department's website, release the report in response to a request for public information and make other use of the report as authorized by law." 10 TAC §11.306(a).

Under 10 TAC §11.306(b), the SCR must include analysis in conformity with the American Society for Testing and Materials (ASTM) "Standard Guide for Property Condition Assessments. Baseline Property Condition Assessment Process (ASTM Standard Designation: E 2018)," unless the exceptions in 10 TAC §11.306(f) or (g) apply. Moreover, 10 TAC §11.306(c) requires good quality color photographs of the subject Real Estate (front, rear, and side elevations, on-site amenities, interior of the structure) be included. Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables must also be included.

Discussion and analysis must be provided for 10 TAC §11.306(d)(1) – (8). This includes, but is not limited to, discussion and analysis of:

- (1) Descriptions of Current Conditions;**
- (2) Descriptions of Scope of Work;**
- (3) Useful Life Estimates;**
- (4) Code Compliance;**
- (5) Program Rules;**
- (6) Accessibility Requirements;**
- (7) Reconciliation of Scope of Work and Costs; and**
- (8) Cost Estimates.**

Any costs not identified and discussed in sufficient detail in the SCR as part of 10 TAC §11.306(d)(6), (d)(8)(A), and (d)(8)(B) will not be included in the underwritten Total Development Cost in the Report.

Third Party, Unrelated, and Nonaffiliated Author(s)

The SCR shall be conducted by a Third Party at the expense of the Applicant, and addressed to Texas Department of Housing and Community Affairs as the client. Copies of reports provided to the Department which were commissioned by other financial institutions should address the Texas Department of Housing and Community Affairs as a co-recipient of the report, or letters from both the

provider and the recipient of the report should be submitted extending reliance on the report to the Texas Department of Housing and Community Affairs. 10 TAC §11.306(h).

The SCR report must also include a statement that the individual and/or company preparing the SCR report will not materially benefit from the Development in any other way than receiving a fee for performing the SCR. Because of the Department's heavy reliance on the independent cost information, the provider must not be a Related Party to or an Affiliate of any other Development Team member. The SCR report must contain a statement indicating the report preparer has read and understood the requirements of 10 TAC §11.306 (esp., §11.306(i)).

Health and Safety Recommendations

Any recommendations made in the SCR regarding health and safety, life expectancy of major systems (structural support; roofing; cladding and waterproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented. 10 TAC §13.9(1); 24 CFR §93.301(b)(1)(ix) (requiring an estimate (based on age and condition) of the remaining useful life of these systems be conducted upon project completion of each major system). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must provide adequate monthly payments, so as to repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ix).

For properties originally constructed prior to 1978, the SCR and rehabilitation scope of work must be provided to the party conducting the lead-based paint and/or asbestos testing. 10 TAC §13.9(2). The rehabilitation must implement the mitigation recommendations of the testing report. 10 TAC §13.9(2).

Required Documentation

Attachment B – TDHCA Scope and Cost Review (SCR Supplement)

The SCR must include the Department's Scope and Cost Review Supplement (SCR Supplement) in the excel form published on the Departments website (and attached for reference purposes). The purpose of the SCR Supplement is to consolidate and show reconciliation of the scope of work and costs of the immediate physical needs identified by the SCR author with the Applicant's scope of work and costs provided in the Application. The consolidated scope of work and costs shown on the SCR Supplement will be used by the Underwriter in the analysis, as it details the projected repairs and replacements through at least thirty (30) years.

APPENDIX C: Capital Needs Assessment (CNA) (24 CFR §93.301(b)(1)(ii))

Introduction

All NHTF-assisted Rehabilitation Developments must also submit a capital needs assessment that estimates the useful life of each major system. The CNA will determine the work to be performed and identify the long-term physical needs of the project. 24 CFR §93.301(b)(1)(ii). If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must be established with adequate monthly payments made to repair or replace the systems as needed. 24 CFR §93.301(b)(1)(ii).

Importantly, the CNA must adhere to all applicable requirements of 10 TAC §11.205(3)(relating to Required Third Party Reports), including being accompanied by the Department’s SCR Supplement in the excel form published on the TDHCA website (and attached to these Standards for reference purposes).

Capital Needs Assessment Guidelines

The CNA must be completed by an independent, Third Party engineer or architect approved by the Department. The performing engineer or architect must:

- conduct an interview with the appropriate onsite Development personnel (e.g. property management, maintenance personnel) to assess prior, ongoing or chronic repairs, maintenance issues, and deficiencies;
- complete an onsite visit and physical inspection of both the interior and exterior units and structures on the property;
- analyze and provide recommendations regarding the presence of environmental hazards and potential efficiency or other mitigation considerations, in accordance with these standards;
- analyze and provide recommendations as to the reasonability of the proposed budget as it relates to the work to be performed, including but not limited to an analysis of the: (1) Development Site; (2) Structural Systems; (3) Interior Systems; and (4) Mechanical, Plumbing, Electrical, HVAC, and Safety (e.g. fire protection, elevator requirements, safety lighting) Systems and related requirements; and
- depending on the aforementioned determinations, the assessment must assess and provide recommendations regarding the proposed budget as it relates to the conclusions of the assessment. Moreover, any and all components of major systems reaching the end of their useful life or otherwise bearing critical conditions, must be identified. If the remaining useful life of any major system is less than 50% of the expected useful life, immediate rehabilitation (replacement or repair, as appropriate) is required. If the remaining useful life of any component of the major systems is less than the term of the affordability period, replacement reserves with adequate payments being made as required to finance future repair(s) or replacement(s) is required.

Required Documentation

Attachment B – TDHCA Scope and Cost Review (SCR Supplement)(as detailed in APPENDIX B).

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**ATTACHMENTS TO
DRAFT 2020 NHTF MINIMUM REHABILITATION STANDARDS**

ATTACHMENT A: Uniform Physical Condition Standards Checklist (UPCS Checklist) (available as posted on the TDHCA website at <https://www.tdhca.state.tx.us/pmcomp/inspections/docs/REAC-UPCS-Inspection-Checklist.pdf> and as may be amended from time to time on the TDHCA [Compliance \(Physical Inspections\)](https://www.tdhca.state.tx.us/pmcomp/inspections/physical.htm) webpage at <https://www.tdhca.state.tx.us/pmcomp/inspections/physical.htm>).

ATTACHMENT B: Scope and Cost Review Cost Schedule (SCR Supplement)(available as posted on the TDHCA website at <https://www.tdhca.state.tx.us/readocs/17-PCASupplementExample.xls> and as may be amended from time to time on the TDHCA [Real Estate Analysis](https://www.tdhca.state.tx.us/rea/index.htm) webpage at <https://www.tdhca.state.tx.us/rea/index.htm>).

5b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20401, Palladium Port Aransas, Port Aransas)

RECOMMENDED ACTION

WHEREAS, an application for Palladium Port Aransas, sponsored by the Port Aransas Public Facilities Corporation and Palladium Port Aransas GP, LLC, requesting 4% Housing Tax Credits (HTC) and \$4,000,000 in Tax Credit Assistance Program Repayment Funds (TCAP RF) under the 2020-3 Multifamily Direct Loan Special Purpose Notice of Funding Availability (2020-3 NOFA), was submitted to the Department on December 13, 2019;

WHEREAS, the current Certification of Reservation (Reservation) from the Texas Bond Review Board was issued on January 2, 2020, and will expire on June 30, 2020;

WHEREAS, the proposed issuer of the bonds is the Port Aransas Public Facility Corporation;

WHEREAS, the applicant has requested a waiver, in accordance with 10 TAC §11.207 of the Qualified Allocation Plan (QAP) of certain provisions contained in 10 TAC §11.302 of the QAP related to Underwriting and Loan Policy due to the unique circumstances associated with the proposed development, specifically the impact that Hurricane Harvey had on Port Aransas;

WHEREAS, staff recommends waivers for the following provisions be granted, §11.302(d)(A)(i) relating to market rents, §11.302(i)(1)(B) relating to gross capture rates, and §11.302(i)(1)(E) relating to unit capture rates, all of which are explained in more detail in the Real Estate Analysis Report included with this item;

WHEREAS, granting the waiver better serves the purposes articulated in Tex. Gov't Code, §§2306.001 and 2306.002 by contributing to the City of Port Aransas' redevelopment efforts post Hurricane Harvey, providing for the housing needs of low income families affected by the lack of affordable housing options on the island, and assisting the legislature in coordinating federal and state programs (in recognition of the \$4,000,000 in the State of Texas General Revenue Fund that was directed for this use),

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated a Category 2 and deemed acceptable by Executive Award and Review Advisory Committee (EARAC); and

WHEREAS, EARAC recommends \$4,000,000 in TCAP RF for Palladium Port Aransas, a grant of \$4,000,000 from the State of Texas General Revenue Fund, and the issuance of a Determination Notice.

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,155,074 in 4% HTC, \$4,000,000 from the State of Texas General Revenue Fund, and \$4,000,000 in TCAP RF, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Palladium Port Aransas is hereby approved as presented to this meeting.

BACKGROUND

General Information: The development is proposed to be located at Highway 361 and Charlie's Pasture South Trail in Port Aransas, Nueces County, and involves the new construction of 183 units serving the general population. The development will include a 10% market rate component, as 18 units will be leased at market rate and the remaining 165 units will be rent and income restricted at 60% AMFI. Additionally, 26 TCAP RF units will be layered among the Housing Tax Credit units as floating units restricted to households at or below 60% AMFI and will be subject to a 40-year affordability period composed of an initial 15-year federal affordability period for the TCAP-RF federal restrictions, and a partially concurrent 20 year federal affordability period as these funds are being used as HOME Match, followed by a 20-year state affordability period. The proposed development received its Reservation as part of the BRB Private Activity Bond 2020 Lottery.

The \$4,000,000 TCAP RF loan will be structured as a construction-to-permanent loan at a 0% interest rate with annual payments amortized over a 40-year permanent period in accordance with section 3 of the 2020-3 NOFA, 10 TAC §13.8, and as further outlined in the underwriting report. Staff's analysis projects that, despite these restrictions on repayment, the loan will be repaid within the 40-year term.

Also included as a financing source is \$4,000,000 from the State of Texas General Revenue that was appropriated during the 86th Legislative Session intended for the Department to award to developments most impacted by a natural disaster. Hurricane Harvey, which directly hit the coastal bend portions of the state had a direct impact on the city of Port Aransas. These funds, as more fully explained in the underwriting report, are structured as a grant with no repayment expectation. In conjunction with this grant to the Port Aransas Facilities Corporation the Land Use Restriction Agreement ("LURA") will be placed on the Development. The LURA will require 26 floating low income units, restricted to 80% AMFI in addition to the 26 TCAP RF units, and will encumber the property for the 40 year state affordability period, beginning on the date of the issuance of the final construction inspection letter with all findings (if applicable) corrected.

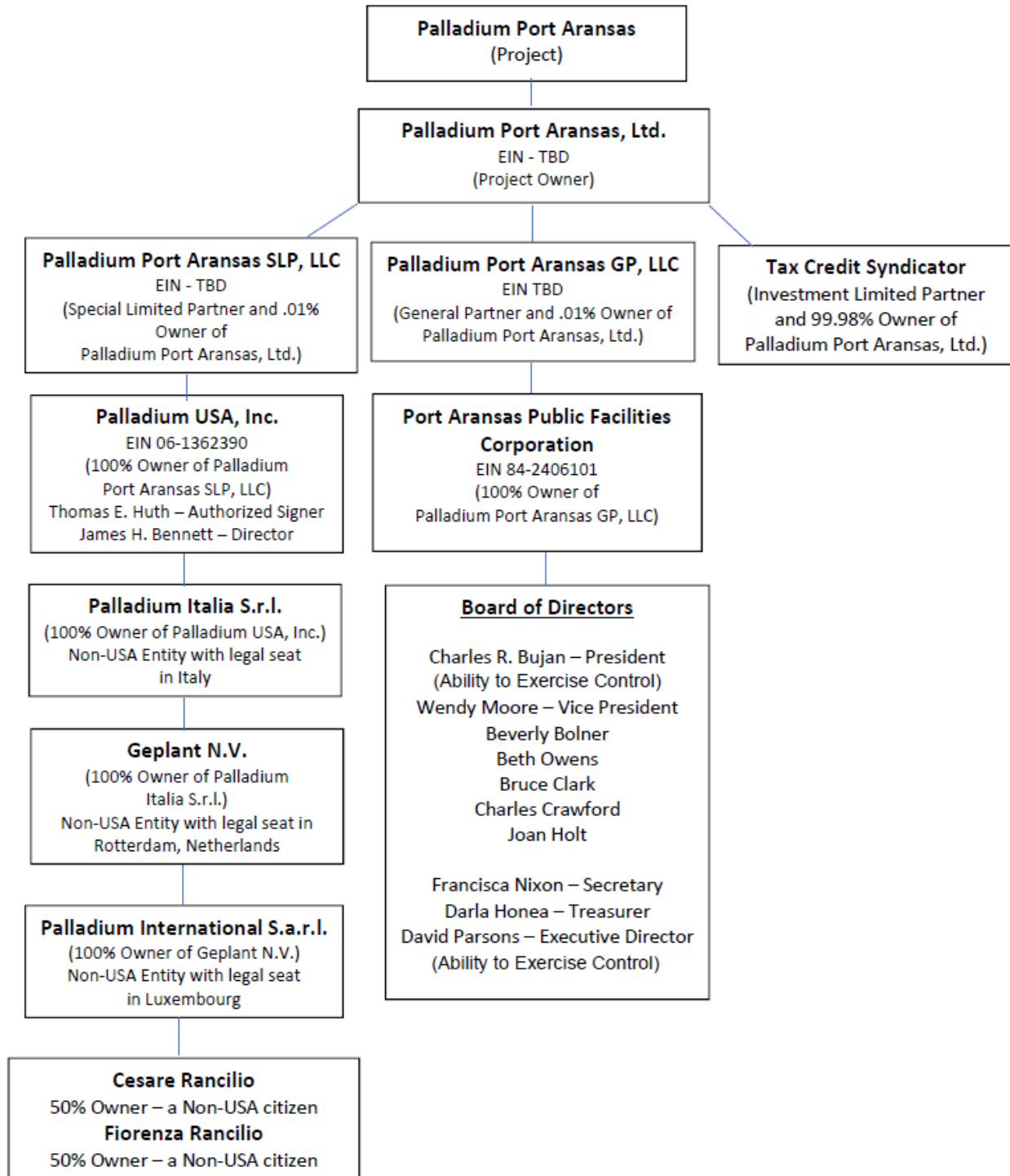
Waiver Request: The applicant has requested waivers of 10 TAC §11.302(d)(A)(i) relating to market rents, 10 TAC §11.302(i)(1)(B) relating to gross capture rates, and 10 TAC §11.302(i)(1)(E) relating to

unit capture rates. A waiver of these provisions is necessary in order to achieve financial feasibility. The Real Estate Analysis Report included herein goes into more detail on the need for each of these waivers and corresponding impact on feasibility.

Staff believes that granting the waiver better serves the purposes articulated in Tex. Gov't Code, §§2306.001 and 2306.002 by contributing to the City of Port Aransas' redevelopment efforts post Hurricane Harvey. After being hit hard by Hurricane Harvey, many of the units being rebuilt will be short-term rentals for holiday makers, not workforce housing as they were before. The Palladium Port Aransas development will be providing for the housing needs of low income families affected by the lack of affordable housing options on the island, particularly for those who work on the island but live on the mainland due to lack of affordable housing. Moreover, the waiver supports §2306.001(4) and §2306.002(2) by assisting the local government in providing housing options and the legislature in coordinating federal and state programs (in recognition of the \$4,000,000 in the State of Texas General Revenue Fund that was directed specifically for this use).

Organizational Structure: The Borrower is Palladium Port Aransas, Ltd. and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and the previous participation was deemed acceptable by EARAC.

EXHIBIT A



20401 Palladium Port Aransas - Application Summary

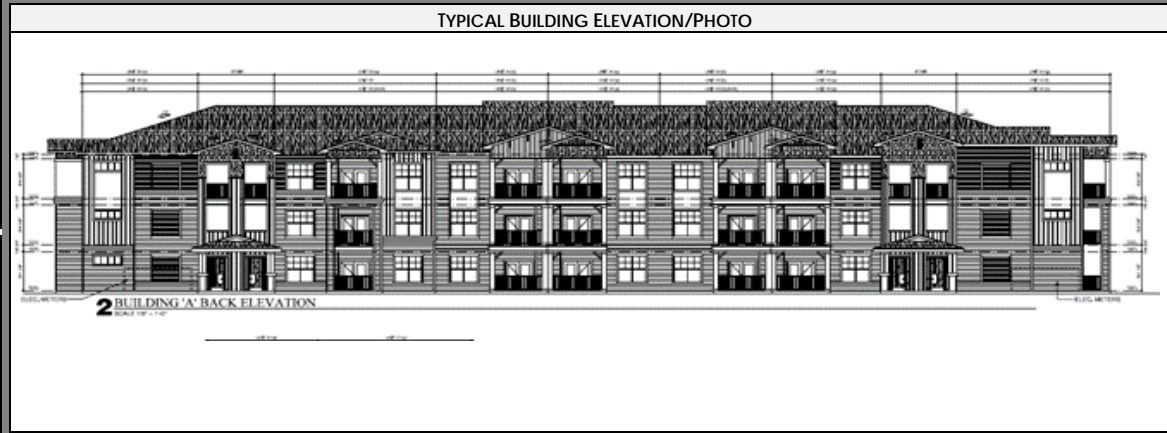
REAL ESTATE ANALYSIS DIVISION

April 20, 2020

PROPERTY IDENTIFICATION	
Application #	20401
Development	Palladium Port Aransas
City / County	Port Aransas / Nueces
Region/Area	10 / Urban
Population	General
Set-Aside	General
Activity	New Construction

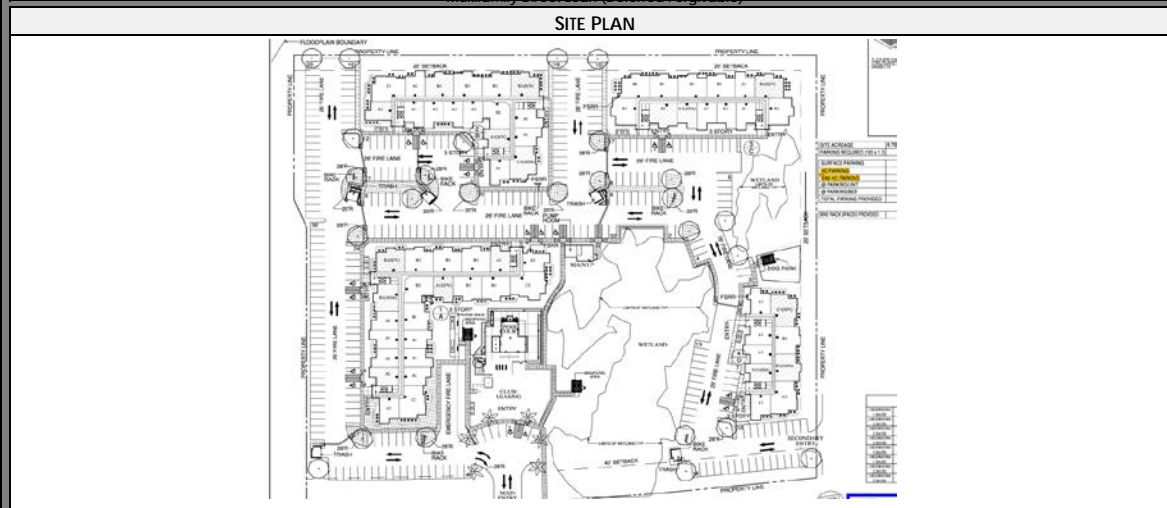
RECOMMENDATION						
TDHCA Program		Request	Recommended			
LIHTC (4% Credit)		\$1,155,074	\$1,155,074	\$6,312/Unit	\$0.91	
		Amount	Rate	Amort	Term	Lien
TDHCA MF Direct Loan (cash flow)		\$4,000,000	0.00%	40	40	2
State General Revenue Funds		\$4,000,000				

KEY PRINCIPAL / SPONSOR		
Palladium: Co-Developer (75%), Guarantor, SLP Tom Huth		
Port Aransas Public Facilities Corp: Co-Developer (25%), GP		
Sara Reidy-Consultant		
Related Parties	Contractor - No	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	93	51%	40%	-	0%
2	72	39%	50%	-	0%
3	18	10%	60%	165	90%
4	-	0%	MR	18	10%
TOTAL	183	100%	TOTAL	183	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten	Applicant's Pro Forma		
Debt Coverage	1.15	Expense Ratio	48.7%
Breakeven Occ.	86.3%	Breakeven Rent	\$743
Average Rent	\$798	B/E Rent Margin	\$55
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,422/unit	Controllable	\$3,081/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	29.5%		
Highest Unit Capture Rate	922%	3 BR/60%	15
Dominant Unit Cap. Rate	65%	1 BR/60%	84
Premiums (↑60% Rents)	Yes	\$358/Avg.	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	863 SF	Density	20.9/acre
Acquisition		\$09K/unit	\$1,560K
Building Cost	\$102.54/SF	\$88K/unit	\$16,194K
Hard Cost		\$118K/unit	\$21,546K
Total Cost		\$194K/unit	\$35,411K
Developer Fee	\$4,039K	(60% Deferred)	Paid Year: 14
Contractor Fee	\$2,871K	30% Boost	Yes

DEBT (Must Pay)				
Source	Term	Rate	Amount	DCR
PNC Bank FHA 221(d)(4)	40/40	3.80%	\$14,596,298	1.14
TDHCA MDL (TCAP-RF)	40/40	0.00%	\$4,000,000	1.15
TOTAL DEBT (Must Pay)			\$18,496,298	


GRANT FUNDS				
Source	Term	Rate	Amount	DCR
State of Texas	0/0	0.00%	\$4,000,000	1.15
CASH FLOW DEBT / GRANTS			\$4,000,000	

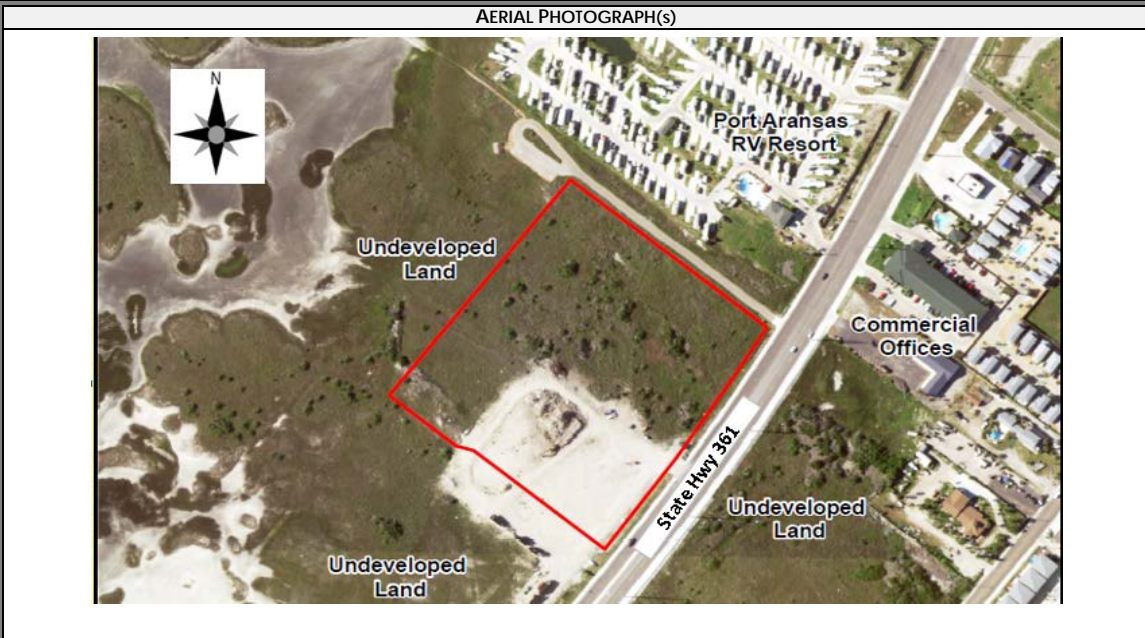
EQUITY / DEFERRED FEES	
Source	Amount
PNC Bank	\$10,510,126
Palladium and Port Aransas PFC	\$2,404,210
TOTAL EQUITY SOURCES	\$12,914,336
TOTAL DEBT SOURCES	\$22,496,298
TOTAL CAPITALIZATION	\$35,410,634

CONDITIONS

- 1 Recommendation of Tax Credit and Direct Loan Awards require the Board to waive the following Rules:
 - a: §11.302(d)(A)(i) requires that for a Development that contains less than 15% unrestricted units, the Underwriter will limit the Pro Forma Rents to the lesser of Market Rent or the Gross Program Rent at 60% AMI.
 - b: §11.302(i)(1)(B) concludes that a general population Development is infeasible if the Gross Capture Rate or any AMGI band capture rate exceeds 10%.
 - c: §11.302(i)(1)(E) concludes that a Development is infeasible if any Individual Unit Capture Rate for any Unit Type is greater than 65%.
- 2 Receipt and acceptance prior to issuance of the Determination Notice of a land acquisition agreement with the final cost determination borne by the partnership (including any lease or loan agreements) consistent with the assumptions herein.
- 3 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
 - b: Substantially final senior and subordinate loan documents with final terms.
 - c: Substantially final draft of limited partnership agreement and developer agreement (including developer fee note).
 - d: Applicable loan, partnership and developer fee note to contain a provision(s) that the annual payment on the TCAP-RF loan up to 50% of available cash flow will be applied to the debt service on the Direct Loan after up to \$4,000,000 has been applied to the developer fee note.
 - e: Substantially final ground lease with Port Aransas Public Facilities Corporation (PAPFC) clearly specifying all terms and conditions, including reversion ownership of land and improvements.
 - f: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
 - g: Certification that if the site is in the 100-year floodplain when it places in service, the finished ground floor elevation of the buildings will be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.
 - h: Documentation from ESA provider that addresses the nearby municipal airport including any noise or other recommendations.
- 4 Receipt and acceptance by Cost Certification:
 - a: Certification from Appraisal District that the property qualifies for property tax exemption.
 - b: Architect or engineer certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain; or certification (including a Letter of Map Amendment or Revision ("LOMA / LOMR-F") if applicable, documenting that the development is not within the 100 year floodplain.
 - c: For any buildings remaining in the floodplain, documentation that flood insurance is in place at the property owner's expense covering both the buildings and the residents' personal property; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force as long as the site remains a designated floodplain.
 - d: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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	Port Aransas Public Facilities Corporation
Expiration Date	6/30/2020
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Bond Structure	FHA 221(d)(4)/Short-Term Cash Collateralized
% Financed with Tax-Exempt Bonds	61.3%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer and contractor experience
▫	Political support and funding
▫	Underwritten interest rate
▫	Demand for long-term workforce housing
▫	Replaces supply of long-term rental housing
WEAKNESSES/RISKS	
▫	Feasibility reliant on property tax exemption
▫	Feasibility reliant on market premiums
▫	High capture rates
▫	Breakeven rents
AREA MAP	
	





DEVELOPMENT IDENTIFICATION

TDHCA Application #: 20401 Program(s): 4% HTC/MDL

Palladium Port Aransas

Address/Location: Hwy 361 and Charlie's Pasture South Trail

City: Port Aransas County: Nueces Zip: 78373

Population: General Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Garden (Up to 4-story) Region: 10

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
TDHCA MF Direct Loan (cash flow)	\$4,000,000	0.00%	30	40	\$4,000,000	0.00%	40	40	2
Legislative Appropriated General Revenue Funds	\$4,000,000				\$4,000,000				
LIHTC (4% Credit)	\$1,155,074				\$1,155,074				

* 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 Recommendation of Tax Credit and Direct Loan Awards require the Board to waive the following Rules:
 - a: §11.302(d)(A)(i) requires that for a Development that contains less than 15% unrestricted units, the Underwriter will limit the Pro Forma Rents to the lesser of Market Rent or the Gross Program Rent at 60% AMI.
 - b: §11.302(i)(1)(B) concludes that a general population Development is infeasible if the Gross Capture Rate or any AMGI band capture rate exceeds 10%.
 - c: §11.302(i)(1)(E) concludes that a Development is infeasible if any Individual Unit Capture Rate for any Unit Type is greater than 65%.
- 2 Receipt and acceptance prior to issuance of the Determination Notice of a land acquisition agreement with the final cost determination borne by the partnership (including any lease or loan agreements) consistent with the assumptions herein.
- 3 Receipt and acceptance before Direct Loan Closing
 - a: Substantially final construction contract with Schedule of Values.
 - b: Substantially final senior and subordinate loan documents with final terms.
 - c: Substantially final draft of limited partnership agreement and developer agreement (including developer fee note).
 - d: Applicable loan, partnership and developer fee note to contain a provision(s) that the annual payment on the TCAP-RF loan up to 50% of available cash flow will be applied to the debt service on the Direct Loan after up to \$4,000,000 has been applied to the developer fee note.
 - e: Substantially final ground lease with Port Aransas Public Facilities Corporation (PAPFC) clearly specifying all terms and conditions, including reversion ownership of land and improvements.
 - f: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
 - g: Certification that if the site is in the 100-year floodplain when it places in service, the finished ground floor elevation of the buildings will be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.
 - h: Documentation from ESA provider that addresses the nearby municipal airport including any noise or other recommendations.
- 4 Receipt and acceptance by Cost Certification:
 - a: Certification from Appraisal District that the property qualifies for property tax exemption.
 - b: Architect or engineer certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain; or certification (including a Letter of Map Amendment or Revision ("LOMA / LOMR-F") if applicable, documenting that the development is not within the 100 year floodplain.
 - c: For any buildings remaining in the floodplain, documentation that flood insurance is in place at the property owner's expense covering both the buildings and the residents' personal property; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force as long as the site remains a designated floodplain.
 - d: Attorney opinion validating federally sourced funds can be considered bona fide debt with a reasonable expectation that it will be repaid in full and further stating that the funds should not be deducted from eligible basis.

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	165

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
60% of AMFI	High HOME	26

TDHCA SET-ASIDES for GENERAL REVENUE FUNDS LURA		
Income Limit	Rent Limit	Number of Units
80% of AMFI	80% of AMI	26

DEVELOPMENT SUMMARY

Palladium Port Aransas is a proposed 183-unit new construction general population development in the City of Port Aransas, Texas. It will be the first affordable development financed with tax-exempt bonds or tax credits in the City. The project will consist of 165 affordable units restricted at 60% AMI and 18 market rate units.

The City of Port Aransas is located at the northern end of Mustang Island, a small barrier island stretching off of the mainland Corpus Christi northward to Aransas Pass. The City is accessible via a 20 to 25 mile drive north from Corpus Christi or ferry access from Aransas Pass. With a population of 4,000 people, the City is a tourist destination with water-front amenities. The City's economy is reliant on tourism and the service industry that supports it (<https://portaransas.org/>).

Port Aransas was devastated by Hurricane Harvey in 2017. The hurricane destroyed much of the short-term rental housing (tourism rentals) and long-term rental housing for permanent residents. The hurricane destroyed or significantly damaged infrastructure, businesses and municipal facilities. Federal monies have been used to restore some of the City's infrastructure but the City has not been able to secure the federal monies administered by the state for replacement long-term housing.

City officials have determined that a minimum 480 workforce housing units were demolished or rendered uninhabitable and yet to be demolished. Per the City Manager, David Parsons, many of the previously long-term rental units are being rebuilt, but converting to short term vacation rentals. Very little replacement or new housing is being built or planned as long-term rental workforce housing.

Due to the lack of the long-term housing, the City has lost its workforce. Many employers have difficulty attracting employees who are now living in mainland areas. The cost and time to commute into the City from the mainland is prohibitive for many service industry workers. At one point in 2019, one of the established restaurants was only able to open 3 days per week due to the inability to attract employees.

Because of the lack of permanent long-term housing and therefore a decline in population, the City's school district has had to bus students from mainland areas in an effort to maintain the minimum student enrollment required to keep the schools open.

Having not received assistance with federal monies, through a competitive process the City selected Palladium USA, Inc. ("Palladium"), to develop and construct a long-term multi-family rental property. The primary source of funding comes from tax-exempt bond proceeds and the accompanying 4% tax credits. Those funding sources however are not sufficient to fund the total development costs.

To help fund the shortfall, the City applied for a \$4,000,000 Multifamily Direct Loan ("MDL") funded by the Tax Credit Assistance Program Repayment Funds (TCAP RF). The City also applied for \$4M of State General Revenue funds ("GR Funds") provided by the 86th Legislature intended for use by the Department to assist with housing needs in areas most impacted by a natural disaster.

The recommendations in this report are conditioned upon the Board's waiver of three underwriting rules (shown in the recommendation section above) related to market feasibility conclusions. Due to the unique circumstances related to this market, the Underwriter recommends the waivers. The market feasibility conclusions are based on information from the Market Analyst and substantial anecdotal information as discussed in the market analysis section of this report.

RISK PROFILE

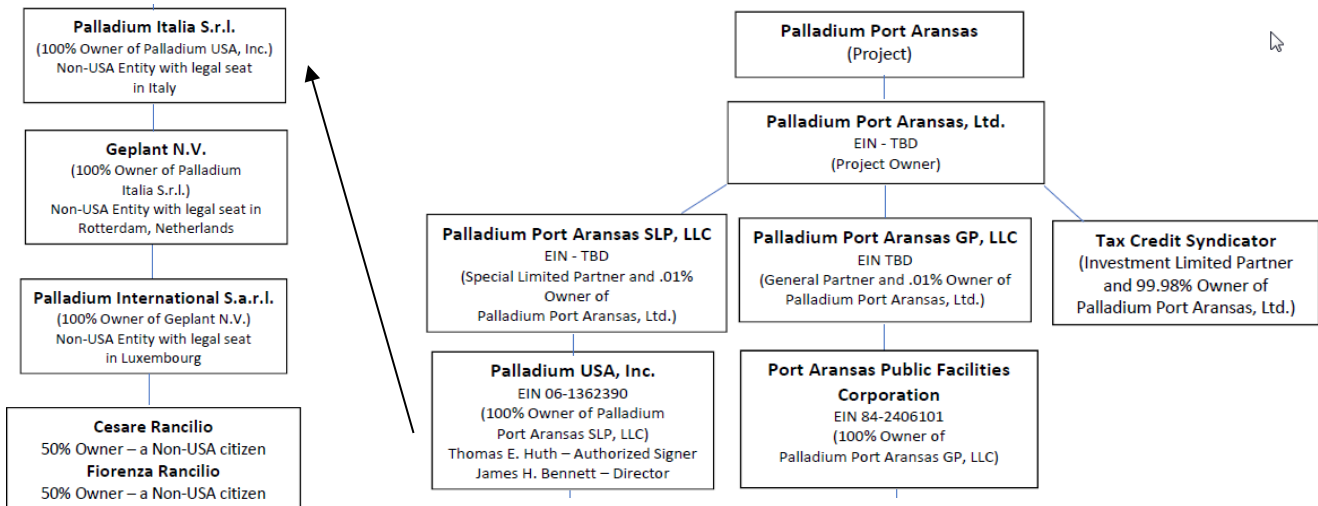
STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
<ul style="list-style-type: none"> ▫ Developer and contractor experience 	<ul style="list-style-type: none"> ▫ Feasibility reliant on property tax exemption
<ul style="list-style-type: none"> ▫ Political support and funding 	<ul style="list-style-type: none"> ▫ Feasibility reliant on market premiums
<ul style="list-style-type: none"> ▫ Underwritten interest rate 	<ul style="list-style-type: none"> ▫ High capture rates
<ul style="list-style-type: none"> ▫ Demand for long-term workforce housing 	<ul style="list-style-type: none"> ▫ Breakeven rents
<ul style="list-style-type: none"> ▫ Replaces supply of long-term rental housing 	<ul style="list-style-type: none"> ▫

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Tom Huth	Name:	Sara Reidy
Phone:	(972) 774-4400	Phone:	214-941-0089
Relationship:	Co-Developer/SLP/Guarantor	Relationship:	Consultant

OWNERSHIP STRUCTURE

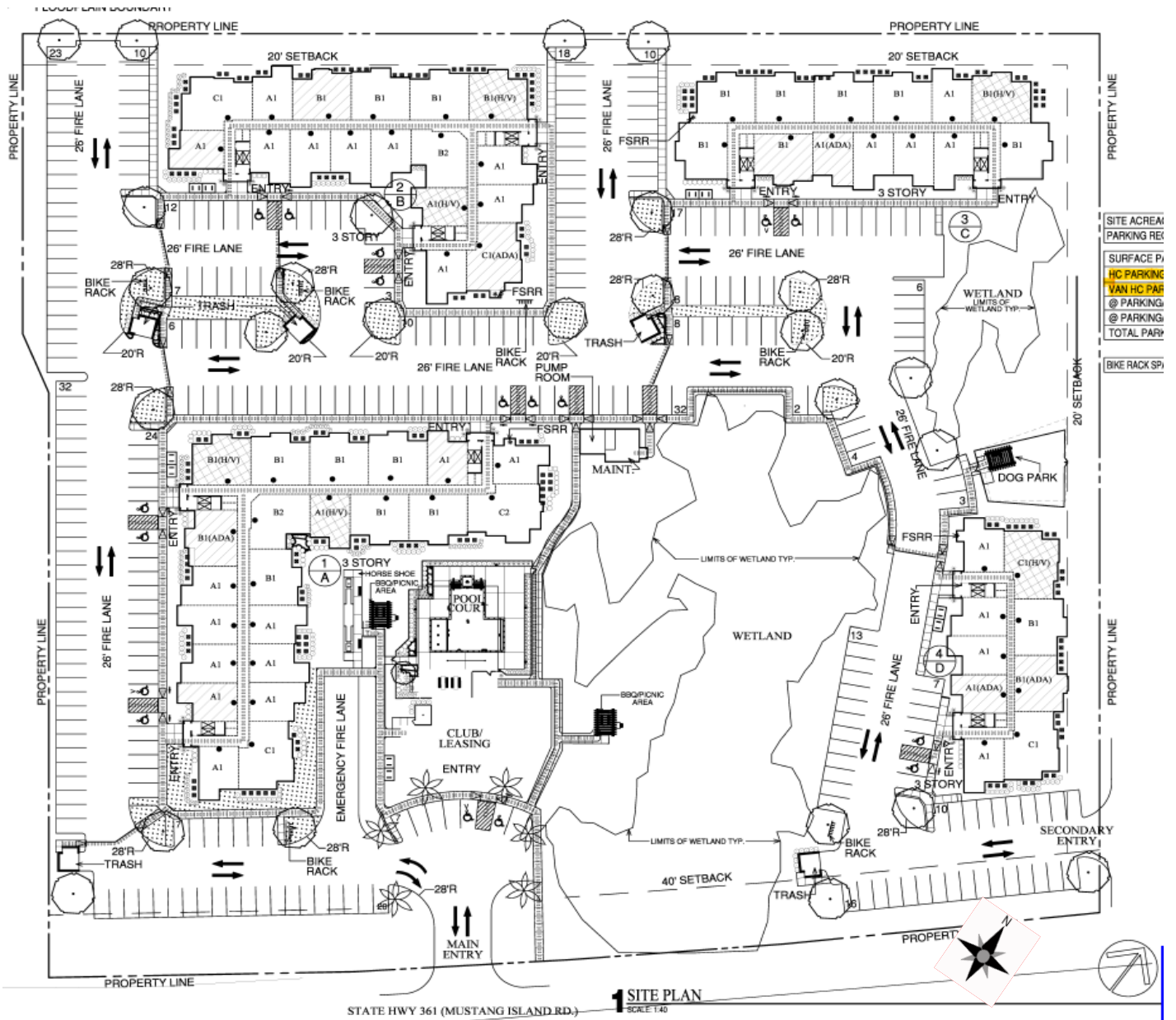


- Affiliates of the Applicant are also affiliates of the Developer, Cost Estimator, Guarantor and Property Manager.
- Palladium USA is a full service real estate firm located in Dallas. They have participated in 12 LIHTC developments in Texas since 2013 [<http://www.palladiumusa.com/us>]. Palladium was selected by the City through a request for qualifications/proposal for co-developer and builder of the project. Palladium will provide required guarantees for the financing.
- Port Aransas Public Facilities Corporation (PAPFC) is an affiliate of the City of Port Aransas. The PAPFC was created to serve as the general partner of the owner as well as issue the tax-exempt bonds. The PAPFC as co-developer will receive 25% of the developer fee.
- An affiliate of the City will ground-lease the property to the Applicant providing for a 100% property tax exemption.

- Third-party contractor, Brownstone Construction, has substantial experience developing and constructing tax-credit housing.

DEVELOPMENT SUMMARY

SITE PLAN





Comments:

The 8.76 acre site is flat at 5 foot elevation and has two wetlands located on it. The wetlands will be excavated and used as retention ponds for sheet flow; the excavated dirt along with hauled fill dirt will be used to achieve a proposed building finished floor elevation of 9 feet as required in Flood Zone AE.

The main access to the site is an existing driveway off of S.H. 361. A secondary access drive will connect to the existing nature preserve access drive to the north (Charlie's Pasture South Trail).

315 parking spaces are provided; 183 are required. Parking flows throughout the property.

BUILDING ELEVATION



Comments:

Four building types; two L-shaped buildings and two rectangular buildings, but with interior U-shaped breezeways (as shown on site plan). All buildings are three story garden walk ups with 100% fiber cement board and 4/12 roof pitches. Floor plans are efficient with plumbing running center lines. All units have plumbed kitchen islands.

Wind rated building material and techniques discussed below in building cost section.

BUILDING CONFIGURATION

Building Type	A	B	C	D										Total Buildings
Floors/Stories	3	3	3	3										
Number of Bldgs	1	1	1	1										4
Units per Bldg	66	51	39	27										
Total Units	66	51	39	27										183
Avg. Unit Size (SF)	863 sf		Total NRA (SF)				157,937				Common Area (SF)		4,373	

SITE AND ACQUISITION

Site Acreage: Development Site: 8.77 acres Density: 20.9 units/acre
Site Control: 8.76 **Site Plan:** 8.76 **Appraisal:** 0 **ESA:** 8.76

Control Type: Ground Lease Contract Expiration: TBD

Development Site: 8.77 acres Cost: \$1,560,000 \$8,525 per unit

Landlord: Port Aransas Public Facilities Corporation (PAPFC)

Tenant: Palladium Port Aransas, LTD.

Related-Party Seller/Identity of Interest: Yes

Comments:

The State of Texas (Permanent School Fund) owns 238 acres of land in Port Aransas and is currently leasing a portion of the land to the City. The subject will be built on 8.76 acres out of this tract. It is anticipated that the land will be sold to either the City or the PAPFC. Eventually the structure will result in a ground lease to Palladium Port Aransas, Ltd as the tax credit partnership (which will construct and own all improvements).

A Non-Binding Letter of Intent of a sale from the State to the City in the amount of \$1,560,000 evidences site control. A purchase contract remains in negotiation. The contract may be assigned to the PAPFC.

A draft 99-year Ground Lease between the PAPFC and Palladium Port Aransas, Ltd. was provided that will be executed after the land transfers to the City or PAPFC. It is understood that the initial rent payment will equal the purchase price of \$1.56M and after the 15 year compliance period, there will be a \$100 annual rent payment.

At the end of the ground lease, land and improvements revert to landlord.

GENERAL INFORMATION

Flood Zone:	<u>AE</u>	Scattered Site?	<u>No</u>
Zoning:	<u>Commercial Zone 2</u>	Within 100-yr floodplain?	<u>Yes</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>0</u>	Title Issues?	<u>No</u>

Surrounding Uses:

Northeast: A nature preserve trail head, RV park, misc light commercial, and undeveloped land
 Southeast: Hwy 361, undeveloped land, hotels, cart rental
 Southwest: Undeveloped land, wetlands, Mustang Beach Airport
 Northwest: Undeveloped land, wetlands

Other Observations:

Per feasibility report, "All of the building locations are within the "AE (Elev. 8)" zone and will require finished floor elevation of 9.0 or greater." (p. 4)

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Phase I Environmental Date: 12/6/2019

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

The subject property is located in a FEMA-designated Special Flood Hazard Area (Zone AE) and flood insurance or mitigation for flood impacts may be required.

Applicant provided an Approved Jurisdictional Determination from the U.S. Army Corps of Engineers regarding the wetlands; they are determined to be adjacent to Corpus Christi Bay and are considered jurisdictional under Section 404 of the Clean Water Act.

Per the Determination: "In brief, this means that a permit would need to be obtained from the USACE prior to initiating any work involving the discharge of dredge or fill material into wetlands 1 through 4 (Section 404), or the placement of structures within wetland 1 (Section 10)." Per Applicant, "Our construction activities DO NOT include any work involving the discharge of dredge or fill materials into the wetland(s), nor are we placing any structures within the wetland(s)." Applicant plans to excavate and use the area for additional water retention.

The Mustang Beach Airport is the City's municipal airport. It is located on the same tract that the City leases from the State on which the subject will be located. The airport has a single-runway that is not oriented towards the subject's site. Information about the airport was not included in the environmental report. The environmental report must be updated to address any potential issues associated with the proximity of the airport including any potential noise recommendations. Other documentation may satisfy the condition such as a HUD review that will likely be required due to the FHA financing.

MARKET ANALYSIS

Provider: Apartment MarketData, LLC Date: 12/4/2019
 Contact: Darrell G Jack Phone: 210-530-0040

Primary Market Area (PMA): 36 sq. miles 3 mile equivalent radius

The PMA consists of 2 census tracts on Padre Island. None of the adjacent mainland tracts were included. Given the unusual circumstances surrounding the loss of long-term rental housing on the island, ancillary information is used to evaluate demand and market conclusions.

ELIGIBLE HOUSEHOLDS BY INCOME								
Nueces County Income Limits								
HH Size		1	2	3	4	5	6	7+
60% AMGI	Min	\$22,410	\$22,410	\$26,850	\$26,850	\$31,050	\$31,050	---
	Max	\$27,900	\$31,860	\$35,820	\$39,780	\$43,020	\$46,200	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
	None					
Other Affordable Developments in PMA since 2015						
	None					
Stabilized Affordable Developments in PMA (pre-2015)					Total Units	0
					Total Developments	0

OVERALL DEMAND ANALYSIS					
	Market Analyst		Underwriter		
	HTC	Assisted	HTC	Assisted	
Total Households in the Primary Market Area	7,816		7,867		
Potential Demand from the Primary Market Area	505		509		
10% External Demand	51		51		
Potential Demand from Other Sources	0		0		
GROSS DEMAND	556		560		
Subject Affordable Units	165		165		
Unstabilized Competitive Units	0		0		
RELEVANT SUPPLY	165		165		
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	29.7%		29.5%		
Population:	General	Market Area:	Urban	Maximum Gross Capture Rate:	10%

Demand Analysis:

Capture rates significantly exceed the thresholds allowed in rule and without further analysis and consideration of ancillary factors the capture rates would result in an infeasibility recommendation.

Due to the comprehensive unique circumstances surrounding the City's devastation resulting from Hurricane Harvey, the lack of workforce housing significantly reduces the permanent resident population. The Underwriter has approached the market analysis and feasibility with consideration of non-population and anecdotal information. In this case capture rates are not meaningful. The recommendations are also supported by characterization of the subject's units as replacement housing (albeit not multifamily housing) as opposed to new supply. Additionally there are qualifying residents living on mainland areas, many who previously lived in the City, but these areas are outside of the primary market area.

Hurricane Harvey (Sept 2017) damaged or destroyed many long-term rental housing units in Port Aransas. According to the City of Port Aransas, 309 units were demolished; 58 endured severe damage and are no longer in the long term rental market; 106 are scheduled for demolition; and 7 units require major rebuild. In total, the City of Port Aransas lost 480 workforce dwellings city wide. The loss of workforce housing has required that many individuals and families move to the mainland areas.

The Mayor and City Manager have been deeply involved in assessing the island's damage and needs. They have inventoried the island and the City Manager has produced maps showing specific lots where the workforce housing was lost. Their data collection and discussions with the business community, employees, small property management companies and other market participants have concluded how the lack of affordable workforce housing is negatively impacting a recovery.

The Underwriter has been working closely with the City and conclude that their data, intimate knowledge of the island's housing stock, employment needs of business owners and other anecdotal knowledge provides an accurate market assessment of needs and Staff is satisfied with the demand despite the numeric data and capture rate calculations.

Applicant is requesting that the Board waive three underwriting rules (referenced above in Condition #1). In order to be determined financially feasible, this project requires that we assume market rent premiums on the 18 market units. There is no affordable housing on the island and there is high demand for long term housing at any price range; the 60% rents and market premiums assumed in the pro forma are currently being achieved on the island at market rate properties based on the survey information provided by the City Manager. The proposed Development will be a brand new, high quality property that should compete well with the existing market rentals on the island. Staff recommends the waiver of §11.302(d)(A)(i).

All capture rates for this project are above the acceptable TDHCA maximums. Applicant is requesting waivers of the maximum Gross Capture Rate (10%), AMGI Band Capture Rate (10%), and Unit Capture Rate (65%) threshold rules. The demographic data used in calculating the capture rates only includes the two census tracts that make up Port Aransas Island. This does not account for any demand of the current employees who ferry over to work on the island from other census tracts or that are commuting from Corpus Christi. The demographic data also does not take into account the demand for long term replacement housing due to Hurricane Harvey. Due to these reasons, discussed in more detail in the operating pro forma and market sections of this report, Staff recommends granting waivers of §11.302(i)(1)(B) and §11.302(i)(1)(E).

The Underwriter recommends all of the market related waivers as stated in the conditions section above.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
Unit Type	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/60%	121	12	84	0	63%	117	12	84	0	65%
2 BR/60%	49	5	66	0	122%	42	4	66	0	144%
3 BR/60%	3	0	15	0	455%	1	0	15	0	922%

Market Analyst Comments:

The overall occupancy reported in the market is 94.3%. (p. 11)

While there are no affordable units in the PMA, Glades of Gregory-Portland (TDHCA #15121) has 81 units constructed in 2016 that are currently 100% occupied. (p. 12)

The level of "affordable" rent being charged is between 33% and 36% lower than the adjusted rents charged at market rate comparables within the PMA. (p. 15)

Revisions to Market Study:	1
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OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)

NOI:	\$853,460	Avg. Rent:	\$798	Expense Ratio:	48.7%
Debt Service:	\$741,781	B/E Rent:	\$743	Controllable Expenses:	\$3,081
Net Cash Flow:	\$111,678	UW Occupancy:	92.5%	Property Taxes/Unit:	\$0
Aggregate DCR:	1.15	B/E Occupancy:	86.3%	Program Rent Year:	2019

Applicant's pro forma is within 5% of Underwriter's and therefore, Applicant's pro forma is used for analysis.

Pro forma assumes maximum 60% tax credit rents and \$153 - \$215 premiums on the 18 market units (9.8% of unit mix). Applicant has requested a waiver of §11.302(d)(A)(i): For a Development that contains less than 15% unrestricted units, the Underwriter will limit the Pro Forma Rents to the lesser of Market Rent or the Gross Program Rent at 60% AMI.

Staff recommends approval of the waiver due to the loss of long term rental housing from Hurricane Harvey as discussed previously. The City Manager has provided information from local property managers on actual rents achieved on the island for one, two, and three bedroom rentals before the hurricane, and after. These rents are \$175 to \$200 above the assumed market rents for one and two bedroom units. The current market rent for three bedroom rentals is \$50 below the assumed market rent in the pro forma, but the Subject units will be considerably newer and of higher quality.

If no market premiums are achieved, the DCR decreases to 1.09 and the project would not be feasible.

Applicant's pro forma is used for analysis, but it should be noted that Underwriter is assuming higher water, sewer trash expense and property insurance expense based off nearby mainland affordable properties' actual expenses.

Expense ratio is low at 48.7% due to the property tax exemption assumed since PAPFC is part of the ownership structure. If the exemption is not granted, the DCR would decrease to 0.95 and the project would not be feasible.

Controllable expenses are average at \$3,081. The project is underwritten with 13 units vacant; breakeven vacancy is 25 units. Breakeven rent is \$55 below average rent.

Deferred fee pays back in year 14; residual 15 year cash flow of \$330k.

The FHA 221 (d)(4) loan is underwritten at a 3.8% interest rate; it is likely, given the current market, that the loan will close with a lower interest rate thereby reducing the annual debt service, increasing annual cash flow and DCR. If the rate decreases to 3.5%, the assumed reduction to the permanent debt would not be necessary. DCR would increase to 1.19 and the 15 year residual cash flow would increase to \$834k.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule:	1
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Revisions to Annual Operating Expenses:	2
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DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	\$177,960/ac	\$8,525/unit	\$1,560,000	Contractor Fee	\$2,870,574
Off-site + Site Work		\$23,581/unit	\$4,315,348	Soft Cost + Financing	\$3,972,836
Building Cost	\$102.54/sf	\$88,493/unit	\$16,194,256	Developer Fee	\$4,038,928
Contingency	5.06%	\$5,666/unit	\$1,036,808	Reserves	\$1,421,884
Total Development Cost	\$193,501/unit		\$35,410,634	Rehabilitation Cost	N/A
Qualified for 30% Basis Boost?	Located in a Small Area Difficult Development Area (SADDA)				

Off-site:

\$5,500 engineer certified off site cost for sewer laterals.

Site Work:

The proposed grading plan would include excavating the unusable wetland areas to form small ponds and using that material to fill the developable areas of the site to proposed grades. Approximately 16,000 CY of hauled in fill material will be required to achieve proposed grades.

A flow test was conducted on November 26, 2019. Due to low water pressure at the site, booster pumps will be utilized to increase water pressure to the upper floors of the buildings; costs are included in Applicant's budget.

Applicant's site work is costed at \$18k/unit; Underwriter utilized the HUD lender cost review amount of \$19,363/unit. Applicant's site work costs have been certified by a civil engineer and they have provided a CPA letter allocating the costs that should be included in eligible basis.

Amenities are \$5,482/unit and include: pool with seating areas and grill; three bbq and picnic areas, two with pergolas, horseshoe pits, a playground, and a dog park.

Building Cost:

Applicant's building cost of \$108.60/sf is used for analysis. Underwriter utilized the HUD lender cost review building cost of \$106.86/sf.

Buildings are basic three story walk ups with 100% cement board siding. The breezeways are U'd to add units at the ends of the buildings. Per Applicant, wind rated building components include: rated windows, exterior doors, water proofing and roofing practices. Single wood framing will be utilized.

Per Applicant, they will use deeper grade beams in the post tension slab.

Per Applicant, the architect (HDK, fka BGO Architects), builder (Brownstone Construction, Ltd), and civil engineer (LE Urban) all have experience building along the Texas coast; they are familiar with code requirements and wind rated construction. Applicant has hired WindShore Engineering, LLC out of Rockport, TX to inspect and certify the construction meets windstorm requirements of the Texas Department of Insurance. www.windstormready.com

Contingency:

Underwriter moved \$160k of soft cost contingency to general contingency. Contingency is underwritten at 5.06%; rules allows up to 7%.

Reserves:

Reserves equal 11 months of operating expenses and debt service. Reserves include 4% working capital (\$584k), 6 months operating reserve of \$778k, and \$60 in HUD social services reserve.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$35,410,634	\$30,965,114	\$1,202,146

Related-Party Contractor: No

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	2
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UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
Port Aransas Public Facilities Corporation	\$20,000,000	1/2/2020	Priority 3
Reservation Expiration	Bond Structure		
6/30/2020	FHA 221(d)(4)/Short-Term Cash Collateralized		

Percent of Cost Financed by Tax-Exempt Bonds	61.3%
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Comments:

The project will be financed with the cash-collateralized tax-exempt bonds (\$17.7M) during construction, backed by a taxable FHA 221(d)(4) mortgage. As construction draws on bonds are made, a simultaneous draw will be made on the FHA loan that replenishes cash in the trust estate. At conversion from interim, the cash collateral held by the trustee will be used to retire the bonds leaving the \$14,596,298 FHA taxable loan as the primary permanent debt.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
TDHCA MDL (TCAP-RF)	Cash Flow Loan	\$4,000,000	0.00%	11%
RBC- Port Aransas PFC	Lender - Bond Issuer	\$17,700,000	1.45%	47%
PNC Bank	Bridge Loan	\$6,953,098	4.50%	18%
PNC Bank	HTC	\$1,720,374	\$0.91	5%
Palladium and Port Aransas PFC	Deferred Fee	\$3,603,874	0.00%	9%
State of Texas	General Revenue Funds	\$4,000,000		11%
		\$37,977,346	Total Sources	

Comments:

The excess funds during construction will fund the collateral account until construction completion in order to keep the bonds 100% collateralized as the HUD loan is less than the bond principal.

PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
PNC Bank FHA 221(d)(4)	\$14,596,298	3.80%	40	40	\$14,596,298	3.80%	40	40	41%
Adjustment to Debt Per §11.302(c)(2)	\$0	0.00%	0	0	(\$100,000)	3.80%	40	40	0%
TCAP-RF (cash flow)	\$4,000,000	0.00%	40	40	\$4,000,000	0.00%	40	40	11%
State of Texas (General Revenue Funds)	\$4,000,000	0.00%	0	0	\$4,000,000	0.00%	0	0	11%
Total	\$22,596,298				\$22,496,298				

Comments:

The FHA 221 (d)(4) loan is underwritten at a 3.8% interest rate with an additional 0.25% MIP. It is likely, given the current market, that the loan will close with a lower interest rate.

The \$4,000,000 MF Direct Loan will be a construction-to-permanent loan at a 0% interest rate with annual payments amortized over a 40-year period. The loan will be non-recourse. The annual payments made under this loan will be made after the note reflecting deferred developer fee, up to the amount of developer fee reflected herein, is fully repaid. Payments on the loan will be based on a 40-year amortization but will not exceed 50% of available cash flow. The underwritten pro forma shows that the full \$4M can be repaid in year 38 from 50% of available cash flow after repayment of the deferred fee note.

Permanent sources include a \$4M grant that was appropriated from the State of Texas General Revenue Fund during the 86th Legislative Session. The funds were provided to TDHCA for allocation to provide affordable rental housing in areas of the state most affected by natural disasters. From a repayment standpoint, this is a grant and is not factored in to the debt coverage ratio. As non-federal funds, the grant does not impact the tax-credit eligible basis. As a conduit structure, the Department will grant the funds to the PAPFC who will then loan the funds to the tax credit partnership with a 40-year term. The loan between the PAPFC and the tax credit partnership will then be assigned to the Department. A 40-year use restriction will be recorded on the property and will require 26 units at 80% AMI.

The Applicant requested a waiver of §11.302(d)(4)(D)(iv) regarding the Acceptable Debt Coverage Ratio. For Developments financed with a Direct Loan subordinate to FHA financing, payments on the subordinate loan are limited to 75% of the surplus cash flow (surplus cash flow as defined by the applicable FHA program). While scheduled payments on the Direct Loan will be calculated using a 40-year amortization, payments on the loan will be limited to 50% of the surplus cash as requested in the Application. Because scheduled payments will be due, but are not expected to be made until after year 13, the payments on the loan are not factored into the initial debt service coverage ratio calculation. As a result, a waiver of this rule is not necessary.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
PNC Bank	\$10,510,126	\$0.91		\$10,510,126	\$0.91	30%	
Palladium and Port Aransas PFC	\$2,304,211		57%	\$2,404,210		7%	60%
Total	\$12,814,337			\$12,914,336			
				\$35,410,634		Total Sources	

Credit Price Sensitivity based on current capital structure	
\$1.118	Maximum Credit Price before the Development is oversourced and allocation is limited
\$0.881	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	1
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CONCLUSIONS

Recommended Financing Structure:

The underwriting analysis assumes a \$100K decrease in the permanent loan amount to achieve the minimum 1.15x debt coverage ratio.

Gap Analysis:	
Total Development Cost	\$35,410,634
Permanent Sources (debt + non-HTC equity)	\$22,496,298
Gap in Permanent Financing	\$12,914,336

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$10,938,441	\$1,202,146
Needed to Balance Sources & Uses	\$12,914,336	\$1,419,299
Requested by Applicant	\$10,510,126	\$1,155,074

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$10,510,126	\$1,155,074

	Amount	Interest Rate	Amort	Term	Lien
TDHCA Multifamily Direct Loan	\$4,000,000	0%	40	40	2

Deferred Developer Fee	\$2,404,210	(60% deferred)
Repayable in	14 years	

Comments:

Underwriter recommends the annual credit amount of \$1,155,074 as requested by Applicant and the requested MDL award of \$4M at 0%, repayable from cash flow.

Underwriter:	<i>Jeanna Adams</i>
Manager of Real Estate Analysis:	<i>Thomas Cavanagh</i>
Director of Real Estate Analysis:	<i>Brent Stewart</i>

UNIT MIX/RENT SCHEDULE
Palladium Port Aransas, Port Aransas, 4% HTC/MDL #20401

LOCATION DATA	
CITY:	Port Aransas
COUNTY:	Nueces
Area Median Income	\$66,300
PROGRAM REGION:	10

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	93	50.8%	0	13	30%	-	0.0%
2	72	39.3%	0	10	40%	-	0.0%
3	18	9.8%	0	3	50%	-	0.0%
4	-	0.0%	0	0	60%	165	90.2%
5	-	0.0%	0	0	70%	-	0.0%
					80%	-	0.0%
					MR	18	9.8%
TOTAL	183	100.0%	-	26	TOTAL	183	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	89.95%
APP % Acquisition	3.32%
APP % Construction	3.32%
Average Unit Size	863 sf

UNIT MIX / MONTHLY RENT SCHEDULE																							
HTC		TDHCA Direct Loan Program		State General Revenue Fund		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 60%	\$747	HH/60%	\$789			13	1	1	695	\$747	\$54	\$693	\$0	\$1.00	\$693	\$9,009	\$9,008	\$693	\$1.00	\$0	\$1,033	\$1.49	\$1,033
TC 60%	\$747			SGR80%	\$996	13	1	1	695	\$747	\$54	\$693	\$0	\$1.00	\$693	\$9,009	\$9,008	\$693	\$1.00	\$0	\$1,033	\$1.49	\$1,033
TC 60%	\$747					58	1	1	695	\$747	\$54	\$693	\$0	\$1.00	\$693	\$40,194	\$40,190	\$693	\$1.00	\$0	\$1,033	\$1.49	\$1,033
MR						9	1	1	695	\$0	\$54		NA	\$1.29	\$900	\$8,100	\$8,100	\$900	\$1.29	NA	\$1,033	\$1.49	\$1,033
TC 60%	\$895	HH/60%	\$948			10	2	2	1,005	\$895	\$69	\$826	\$0	\$0.82	\$826	\$8,260	\$8,258	\$826	\$0.82	\$0	\$1,284	\$1.28	\$1,284
TC 60%	\$895			SGR80%	\$1,194	10	2	2	1,005	\$895	\$69	\$826	\$0	\$0.82	\$826	\$8,260	\$8,258	\$826	\$0.82	\$0	\$1,284	\$1.28	\$1,284
TC 60%	\$895					46	2	2	1,005	\$895	\$69	\$826	\$0	\$0.82	\$826	\$37,996	\$37,985	\$826	\$0.82	\$0	\$1,284	\$1.28	\$1,284
MR						6	2	2	1,005	\$0	\$69		NA	\$1.14	\$1,150	\$6,900	\$6,900	\$1,150	\$1.14	NA	\$1,284	\$1.28	\$1,284
TC 60%	\$1,035	HH/60%	\$1,087			3	3	2	1,157	\$1,035	\$84	\$951	\$0	\$0.82	\$951	\$2,853	\$2,852	\$951	\$0.82	\$0	\$1,447	\$1.25	\$1,447
TC 60%	\$1,035			SGR80%	\$1,380	3	3	2	1,157	\$1,035	\$84	\$951	\$0	\$0.82	\$951	\$2,853	\$2,852	\$951	\$0.82	\$0	\$1,447	\$1.25	\$1,447
TC 60%	\$1,035					9	3	2	1,157	\$1,035	\$84	\$951	\$0	\$0.82	\$951	\$8,559	\$8,555	\$951	\$0.82	\$0	\$1,447	\$1.25	\$1,447
MR						2	3	2	1,157	\$0	\$84		NA	\$1.12	\$1,300	\$2,600	\$2,600	\$1,300	\$1.12	NA	\$1,447	\$1.25	\$1,447
MR						1	3	3	1,273	\$0	\$84		NA	\$1.18	\$1,500	\$1,500	\$1,500	\$1,500	\$1.18	NA	\$1,650	\$1.30	\$1,650
TOTALS/AVERAGES:						183			157,937				\$0	\$0.93	\$798	\$146,093	\$146,064	\$798	\$0.92	\$0	\$1,174	\$1.36	\$1,174

ANNUAL POTENTIAL GROSS RENT:	\$1,753,116	\$1,752,774
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STABILIZED PRO FORMA

Palladium Port Aransas, Port Aransas, 4% HTC/MDL #20401

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Local Comps	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$0.93	\$798	\$1,753,116	\$1,752,774	\$798	\$0.92		0.0%	\$342
Application, Pet, Late and NSF Fees					\$17.68	\$38,820						
Laundry, Vending, Cable					\$2.50	\$5,496						
Total Secondary Income					\$20.18		\$43,920	\$20.00			0.9%	\$396
POTENTIAL GROSS INCOME						\$1,797,432	\$1,796,694				0.0%	\$738
Vacancy & Collection Loss				7.5% PGI		(134,807)	(134,752)	7.5% PGI			0.0%	(55)
Rental Concessions						-	-				0.0%	-
EFFECTIVE GROSS INCOME						\$1,662,625	\$1,661,942				0.0%	\$683

General & Administrative	\$78,723	\$430/Unit	\$54,948	\$300	3.28%	\$0.35	\$298	\$54,576	\$54,576	\$298	\$0.35	3.28%	0.0%	-
Management	\$77,029	4.0% EGI	\$78,251	\$428	5.00%	\$0.53	\$454	\$83,131	\$83,097	\$454	\$0.53	5.00%	0.0%	34
Payroll & Payroll Tax	\$215,557	\$1,178/Unit	\$250,932	\$1,371	13.84%	\$1.46	\$1,257	\$230,104	\$230,104	\$1,257	\$1.46	13.85%	0.0%	-
Repairs & Maintenance	\$143,420	\$784/Unit	\$112,747	\$616	7.40%	\$0.78	\$672	\$123,047	\$109,800	\$600	\$0.70	6.61%	12.1%	13,247
Electric/Gas	\$57,380	\$314/Unit	\$31,783	\$174	2.28%	\$0.24	\$207	\$37,967	\$34,602	\$189	\$0.22	2.08%	9.7%	3,365
Water, Sewer, & Trash	\$142,219	\$777/Unit	\$141,240	\$772	7.11%	\$0.75	\$646	\$118,190	\$141,240	\$772	\$0.89	8.50%	-16.3%	(23,050)
Property Insurance	\$96,802	\$0.61 /sf	\$118,536	\$648	6.05%	\$0.64	\$550	\$100,650	\$118,536	\$648	\$0.75	7.13%	-15.1%	(17,886)
Property Tax (@ 0%) 1.7618	\$81,485	\$445/Unit	\$125,764	\$687	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$69,464	\$380/Unit	-	\$0	3.30%	\$0.35	\$300	\$54,900	\$54,900	\$300	\$0.35	3.30%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			-	\$0	0.40%	\$0.04	\$36	\$6,600	\$6,600	\$36	\$0.04	0.40%	0.0%	-
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TOTAL EXPENSES					48.67%	\$5.12	\$4,422	\$ 809,165	\$833,455	\$4,554	\$5.28	50.15%	-2.9%	\$ (24,290)
NET OPERATING INCOME ("NOI")					51.33%	\$5.40	\$4,664	\$853,460	\$828,487	\$4,527	\$5.25	49.85%	3.0%	\$ 24,973

CONTROLLABLE EXPENSES							\$3,081/Unit				\$3,117/Unit			
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CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS
Palladium Port Aransas, Port Aransas, 4% HTC/MDL #20401

DEBT / GRANT SOURCES															
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE															
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		UW	App						Principal	Term	Amort	Rate	Pmt	Cumulative	
PNC Bank FHA 221(d)(4)	0.25%	1.11	1.14	746,898	3.80%	40	40	\$14,596,298	\$14,596,298	40	40	3.80%	\$746,898	1.14	41.2%
Adjustment to Debt Per §11.302(c)(2)	0.25%							(\$100,000)		40	40	3.80%	(\$5,117)	1.15	-0.3%
TDHCA MDL (TCAP-RF)		1.11	1.14		0.00%	40	40	\$4,000,000	\$4,000,000	40	40	0.00%	\$0	1.15	11.3%
GRANTS															
State of Texas		1.11	1.14		0.00%	0	0	\$4,000,000	\$4,000,000	0	0	0.00%		1.15	11.3%
				\$746,898	TOTAL DEBT / GRANT SOURCES			\$22,596,298	\$22,496,298	TOTAL DEBT SERVICE			\$741,781	1.15	63.5%
NET CASH FLOW	\$81,589	\$106,562				APPLICANT	NET OPERATING INCOME	\$853,460	\$111,678	NET CASH FLOW					

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE											
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	AS UNDERWRITTEN EQUITY STRUCTURE					
						Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
PNC Bank	LIHTC Equity	29.7%	\$1,155,074	0.91	\$10,510,126	\$10,510,126	\$0.91	\$1,155,074	29.7%	\$6,312	Applicant Request
Palladium and Port Aransas PFC	Deferred Developer Fees	6.5%	(57% Deferred)		\$2,304,211	\$2,404,210	(60% Deferred)		6.8%	Total Developer Fee: \$4,038,928	
Additional (Excess) Funds Req'd		0.0%				\$0			0.0%		
TOTAL EQUITY SOURCES		36.2%			\$12,814,337	\$12,914,336			36.5%		
TOTAL CAPITALIZATION					\$35,410,635	\$35,410,634			15-Yr Cash Flow after Deferred Fee:		\$329,927

DEVELOPMENT COST / ITEMIZED BASIS												
APPLICANT COST / BASIS ITEMS												
	Eligible Basis		Total Costs	TDHCA COST / BASIS ITEMS				COST VARIANCE				
	Acquisition	New Const. Rehab.		Total Costs		Eligible Basis		%	\$			
Land Acquisition			\$8,525 / Unit	\$1,560,000	\$1,560,000	\$8,525 / Unit		0.0%	\$0			
Off-Sites			\$30 / Unit	\$5,500	\$5,500	\$30 / Unit		0.0%	\$0			
Site Work			\$3,306,650	\$18,069 / Unit	\$3,306,650	\$3,543,390	\$19,363 / Unit	-6.7%	(\$236,740)			
Site Amenities			\$1,003,198	\$5,482 / Unit	\$1,003,198	\$629,642	\$3,441 / Unit	59.3%	\$373,556			
Building Cost			\$16,194,256	\$102.54 /sf	\$88,493/Unit	\$16,194,256	\$16,877,066	\$92,224/Unit	\$106.86 /sf	\$16,877,066		
Contingency			\$876,808	4.28%	5.06%	\$1,036,808	\$1,036,808	4.92%	4.17%	\$876,808		
Contractor Fees			\$2,870,574	13.43%	13.32%	\$2,870,574	\$2,870,574	12.99%	13.09%	\$2,870,574		
Soft Costs	0	\$1,413,549		\$8,974 / Unit	\$1,642,299	\$1,642,299	\$8,974 / Unit		\$0	0.0%	\$0	
Financing	0	\$1,261,151		\$12,735 / Unit	\$2,330,537	\$2,330,537	\$12,735 / Unit		\$1,261,151	0.0%	\$0	
Developer Fee	\$0	\$4,038,928	15.00%	14.91%	\$4,038,928	\$4,038,928	14.61%	14.70%	\$4,038,928	0.0%	\$0	
Reserves				11 Months	\$1,421,884	\$1,421,884	11 Months			0.0%	\$0	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)			\$0	\$30,965,114	\$193,501 / Unit	\$35,410,634	\$35,956,628	\$196,484 / Unit	\$31,511,108	\$0	-1.5%	(\$545,994)
Acquisition Cost	\$0				\$0							
Contingency		\$0			\$0							
Contractor's Fee		\$0			\$0							
Financing Cost		\$0			\$0							
Developer Fee	\$0	(\$0)			\$0							
Reserves					\$0							
ADJUSTED BASIS / COST			\$0	\$30,965,114	\$193,501/unit	\$35,410,634	\$35,956,628	\$196,484/unit	\$31,511,108	\$0	-1.5%	(\$545,994)
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):						\$35,410,634						

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Palladium Port Aransas, Port Aransas, 4% HTC/MDL #20401

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$0	\$30,965,114	\$0	\$31,511,108
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$30,965,114	\$0	\$31,511,108
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	\$0	\$40,254,648	\$0	\$40,964,440
Applicable Fraction	89.95%	89.95%	89.95%	89.95%
TOTAL QUALIFIED BASIS	\$0	\$36,209,226	\$0	\$36,847,687
Applicable Percentage	3.32%	3.32%	3.32%	3.32%
ANNUAL CREDIT ON BASIS	\$0	\$1,202,146	\$0	\$1,223,343
CREDITS ON QUALIFIED BASIS	\$1,202,146		\$1,223,343	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9099	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$1,202,146	\$10,938,441	----	---	---
Needed to Fill Gap	\$1,419,299	\$12,914,336	----	---	---
Applicant Request	\$1,155,074	\$10,510,126	\$1,155,074	\$0	\$0

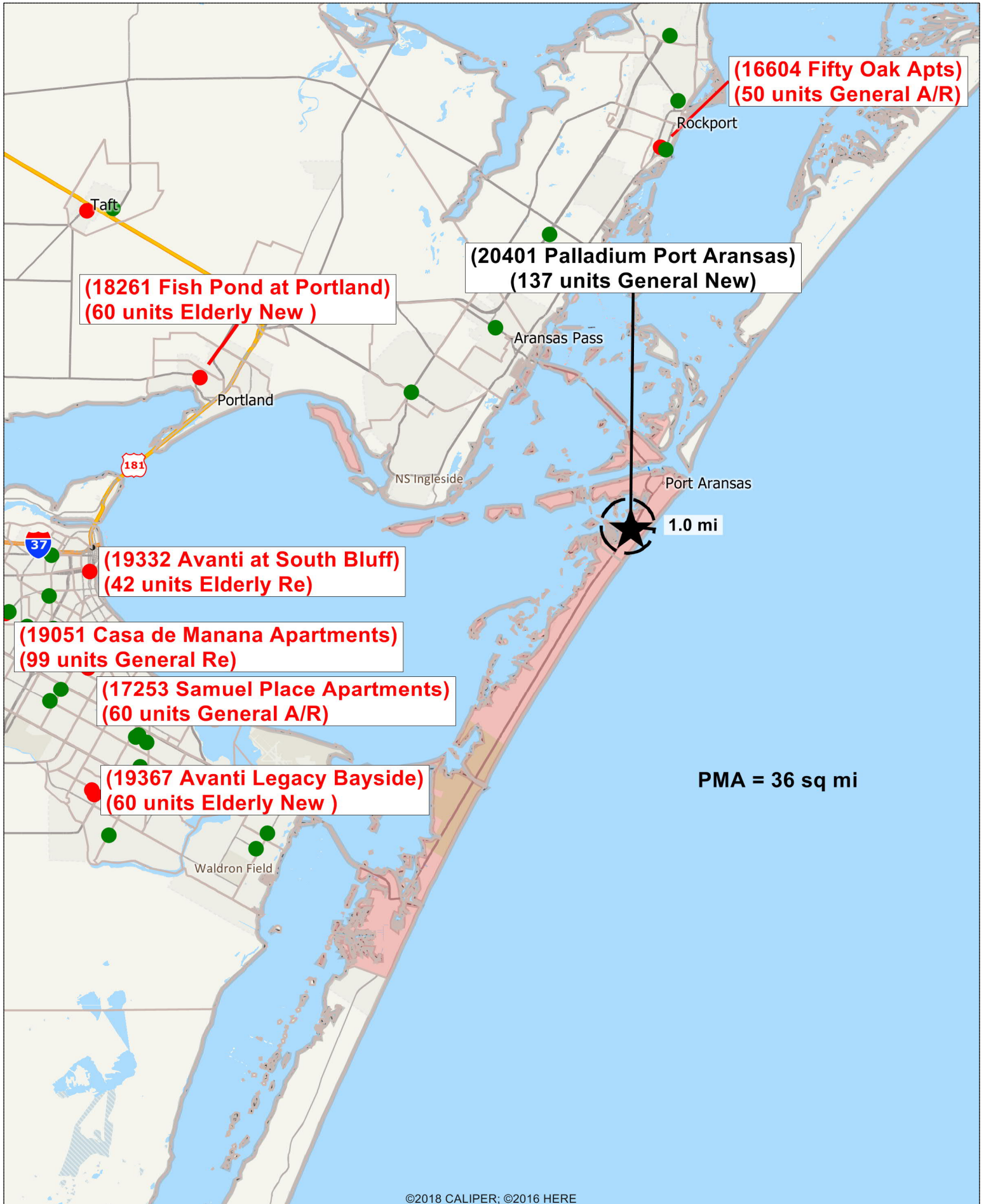
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$17,700,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$35,400,000				
	Applicant	TDHCA			
Land Cost	\$1,560,000	\$1,560,000			
Depreciable Bldg Cost	\$27,320,436	\$27,866,430			
Aggregate Basis for 50% Test	\$28,880,436	\$29,426,430			
			amount aggregate basis can increase before 50% test fails	\$6,519,564 22.6%	\$5,973,570 20.3%

Long-Term Pro Forma

Palladium Port Aransas, Port Aransas, 4% HTC/MDL #20401

	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%	\$1,662,625	\$1,695,877	\$1,729,795	\$1,764,391	\$1,799,678	\$1,986,990	\$2,193,798	\$2,422,130	\$2,674,227	\$2,952,563	\$3,259,868	\$3,599,158
TOTAL EXPENSES	3.00%	\$809,165	\$832,609	\$856,739	\$881,576	\$907,141	\$1,046,659	\$1,207,881	\$1,394,211	\$1,609,589	\$1,858,574	\$2,146,449	\$2,479,327
NET OPERATING INCOME ("NOI")		\$853,460	\$863,268	\$873,056	\$882,814	\$892,537	\$940,331	\$985,917	\$1,027,919	\$1,064,639	\$1,093,989	\$1,113,419	\$1,119,831
EXPENSE/INCOME RATIO		48.7%	49.1%	49.5%	50.0%	50.4%	52.7%	55.1%	57.6%	60.2%	62.9%	65.8%	68.9%
MUST -PAY DEBT SERVICE													
PNC Bank FHA 221(d)(4)		\$746,898	\$746,502	\$746,090	\$745,663	\$745,219	\$742,728	\$739,716	\$736,076	\$731,675	\$726,354	\$719,923	\$712,147
Adjustment to Debt Per §11.302(c)(2)		(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)	(\$5,117)
TOTAL DEBT SERVICE		\$741,781	\$741,385	\$740,973	\$740,546	\$740,102	\$737,611	\$734,599	\$730,959	\$726,558	\$721,237	\$714,806	\$707,030
DEBT COVERAGE RATIO		1.15	1.16	1.18	1.19	1.21	1.27	1.34	1.41	1.47	1.52	1.56	1.58
ANNUAL CASH FLOW													
		\$111,678	\$121,883	\$132,082	\$142,268	\$152,435	\$202,721	\$251,317	\$296,960	\$338,081	\$372,751	\$398,613	\$412,801
Deferred Developer Fee Balance		\$2,292,532	\$2,170,648	\$2,038,566	\$1,896,298	\$1,743,862	\$830,375	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$0	\$329,927	\$1,724,913	\$3,335,242	\$5,132,675	\$7,078,074	\$9,119,019

20401 Palladium Port Aransas PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

5d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(1) regarding Ineligible Developments for 20001 Farm Street Village

RECOMMENDED ACTION

WHEREAS, 10 TAC §11.101(b) of the 2020 Qualified Allocation Plan (QAP) related to Development Requirements and Restrictions identifies specific restrictions on a proposed Development requesting multifamily funding by the Department;

WHEREAS, 10 TAC §11.101(b)(1)(B)(i) identifies any Elderly Development of two stories or more that does not include elevator service for any Units or Common Areas above the ground floor as an ineligible Development;

WHEREAS, the Applicant for 20001 Farm Street Village has submitted a request that the Board waive this requirement and allow the Applicant to move forward with an Application proposing the construction of an Elderly Development of two stories that does not include elevator service for any Units or Common Areas above the ground floor;

WHEREAS, 10 TAC §11.207 related to Waiver of Rules identifies the requirements a waiver request must meet, and staff does not believe that the waiver meets those requirements; and

WHEREAS, staff does not recommend waiving 10 TAC §11.101(b)(1)(B)(i) relating to the Ineligibility of Elderly Developments;

NOW, therefore, it is hereby

RESOLVED, that 20001 Farm Street Village is an ineligible Development under 10 TAC §11.101(b)(1)(B)(i), and is hereby terminated.

BACKGROUND

10 TAC §11.101(b) of the 2020 Qualified Allocation Plan (QAP) related to Development Requirements and Restrictions identifies specific restrictions on a proposed Development requesting multifamily funding by the Department. §11.101(b)(1)(B) specifies restrictions for Elderly Developments. Per the rule:

(B) Ineligibility of Elderly Developments.

- (i) any Elderly Development of two stories or more that does not include elevator service for any Units or Common Areas above the ground floor;
- (ii) any Elderly Development with any Units having more than two Bedrooms with the exception of up to three employee Units reserved for the use of the manager, maintenance, and/or security officer. These employee Units must be specifically designated as such; or
- (iii) any Elderly Development (including Elderly in a Rural Area) proposing more than 70% two-Bedroom Units.

Application 20001 Farm Street Village proposes the New Construction of 72 Units for an Elderly population in Bastrop. The Development would be comprised of nine residential buildings of eight Units per building.

The request states that local code “constrained the development design” due to the Development Site’s location, which is in a historic district in the central core of the City of Bastrop, and is adjacent to a creek. Per the request, “the City expressed a preference for the current site due to its proximity to downtown and the ability for residents to engage in a pedestrian-oriented lifestyle.” The City’s Bastrop Building Block Code was passed in November 2019. Per the request, the ordinance “required adherence to Bastrop’s existing street grid, a ‘pedestrian shed’ (walkable area), and avoidance of Gills Branch Creek. The resulting site plan for this development, created with input from multiple City staff members, included a low-density ‘neighborhood’ with two-story buildings. ... Importantly, buildings were designed to look like four distinct houses connected to each other to preserve the neighborhood character.” The request also states that “the site is adjacent to Gills Branch Creek. The City of Bastrop prohibits development within 100 feet of the creek or routing storm water runoff into the creek, which resulted in substantial on-site detention and limited the site’s developable land.” The request states that this was unforeseeable in that “Bastrop’s local code changed after a site was selected with input from the City staff.”

In the request, the Applicant offers as “mitigation” that “the Developer will provide units for those with mobility impairments in far greater quantity than a development with the same number of units that has an elevator. The Development is designed to provide the required 4 (5%) mobility and 2 (2%) sensory-impaired accessible units. However, all 36 of the ground-floor units (50% of the total units) have been designed using the principles of Universal Design and will be fully visitable by a person who uses a wheelchair *as well as* ADA adaptable.” The request goes on to state that “[t]o further help mitigate the convenience of an elevator, the Applicant is also willing to commit to an on-demand concierge service, which would assist residents in getting groceries to and from a unit or taking garbage to the dumpster regardless of whether they live on the ground or second floor.”

10 TAC §11.207 related to Waiver of Rules states:

- (1) A waiver request made at or prior to pre-application or Application must establish that the need for the waiver is not within the control of the Applicant. In applicable circumstances, this may include limitations of local building or zoning codes, limitations

of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. A recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered to satisfy this paragraph as such waiver request would be within the Applicant's control.

(2) The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.

Staff does not believe the request meets the requirements of 10 TAC §11.207(1) because the issues described in the request appear to be completely related to the Applicant's selection of a Development Site that is within this zoned area, which, even though the City of Bastrop might prefer this site, is completely within the control of the Applicant. The site measures five acres and, per the Applicant, the City's requirements regarding development near the creek led to "substantial on-site detention ... limited the site's developable land." The Feasibility Report states that the proposed site "will also feature several community parks and open spaces." The design of the Development is also completely within the control of the Applicant. The Applicant states that the "buildings were designed to look like four distinct houses connected to each other to preserve the neighborhood character," yet it was not designed to meet QAP eligibility requirements. In the end, the Applicant states "[i]t was determined that adding elevators in each of the Development's 9 buildings would be financially infeasible." The Applicant offers to establish a "concierge service" to assist residents on the second floor with groceries, garbage and other needs in lieu of installing elevators.

Staff does not believe the request meets the requirements of 10 TAC §11.207(2) because the request does not establish how, by granting the waiver, it better serves the policies and purposes articulated in statute. The request simply states that "[b]y allowing a development in Bastrop, the TDHCA Board of Directors would assist the local government in 'overcoming financial, social, and environmental problems' as well as to 'contribute to the preservation, development, and redevelopment of neighborhoods and communities.'"

Because the Development as designed would not equally serve all residents by limiting certain residents to the first floor, and because the lack of an elevator would be a hardship for Elderly residents living on the second floor without an elevator, staff is recommending that the Board deny the waiver.



February 28, 2020

VIA EMAIL DELIVERY

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

*Re: Farm Street Village, TDHCA #20001
Waiver of Design Requirements*

Dear Ms. Gamble:

I am writing on behalf of the Applicant, Farm Street Village, LP, for TDHCA Application #20001, Farm Street Village, proposed in Bastrop, Texas, Rural Region 7. The Applicant is submitting an application for 2020 Competitive (9%) Housing Tax Credits for the construction of 72 new affordable senior (55+) units. In preparation for filing its application, the Applicant requests a waiver of certain provisions of Section 11.101(b)(1)(B)(i) of the Uniform Multifamily Rules regarding elevator design requirements for Elderly Developments with two or more stories (the "Rule"). The Applicant is seeking a determination of eligibility for its Development Site, and a waiver if deemed applicable as permitted by 10 TAC § 11.207 of the Uniform Multifamily Rules.

The Development

Farm Street Village will consist of nine (9) residential buildings, with eight (8) units per building. The community will offer both 1- and 2- bedroom unit types, and will meet scoring maximums for 30%, 50%, and 60% AMI units. The site is located at 1500 Farm Street, in the heart of Bastrop. This location is 6 blocks from downtown Bastrop and one block north of the Chestnut Civic/Cultural Arts Corridor, making the site within easy walking distance of Bastrop's Performing Arts Center, a multi-plex movie theater, the Lost Pines Art Center, the Bastrop Farmer's Market, and the Bastrop Convention Center. Moreover, it is part of the Iredell Historic District and truly part of a mixed-use, walkable neighborhood.

The Development will serve 72 households of active 55+ adults. This population selection was determined based on characteristics unique to this Development location. While we believe the site is qualitatively suitable for families due to its proximity to amenities and job opportunities, the City and County both conveyed the high need for senior housing in Bastrop. Occupancy in Bastrop is high at more than 95% and the overall capture rate, as predicted by our market analysis is less than 2%, indicating extensive demand for age-restricted housing.

The Rule

Regarding the ineligibility of an elderly development without elevators, the Rule provides the following guidance under Section 11.101(b)(1)(B):

(1) Ineligible Developments. A Development shall be ineligible if any of the criteria in subparagraphs (A) - (C) of this paragraph apply.

(B) Ineligibility of Elderly Developments.

(i) any Elderly Development of two stories or more that does not include elevator service for any Units or Common Areas above the ground floor;

(ii) any Elderly Development with any Units having more than two Bedrooms with the exception of up to three employee Units reserved for the use of the manager, maintenance, and/or security officer. These employee Units must be specifically designated as such; or

(iii) any Elderly Development (including Elderly in a Rural Area) proposing more than 70% two-Bedroom Units.

Waivers

A waiver of the Rule can be permitted in compliance with Section 11.207 of the Uniform Multifamily Rules, which provides, in part, as follows:

An Applicant may request a waiver in writing at or prior to the submission of the pre- application (if applicable) or the Application or subsequent to an award. Waiver requests on Competitive HTC Applications will not be accepted between submission of the Application and any award for the Application. Staff may identify and initiate a waiver request as part of another Board action request. **Where appropriate, the Applicant is encouraged to submit with the requested waiver any plans for mitigation or alternative solutions. Any such request for waiver must be specific to the unique facts and circumstances of an actual proposed Development and must be submitted to the Department in the format required in the Multifamily Programs Procedures Manual.** Any waiver, if granted, shall apply solely to the Application and shall not constitute a general modification or waiver of the rule involved. All waiver requests must meet the requirements of paragraphs (1) and (2) of this subsection.

(1) The waiver request must establish how the need for the waiver was both not reasonably foreseeable and was not preventable by the Applicant. **In applicable circumstances, this may include limitations of local building or zoning codes,** limitations of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. A

recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered to satisfy this paragraph as such waiver request would be either or both foreseeable and preventable.

(2) The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.

(3) The Board may not grant a waiver to provide directly or implicitly any forward commitments or any waiver that is prohibited by statute (i.e., statutory requirements may not be waived). ***The Board may grant a waiver that is in response to a natural, federally declared disaster that occurs after the adoption of the multifamily rules*** to the extent authorized by a governor declared disaster proclamation suspending regulatory requirements.

Request

The Applicant is requesting a waiver of Section 11.101(b)(1)(B)(i) of the Uniform Multifamily Rules, removing the requirement for elevators in each of the 8-unit, two-story buildings at Farm Street Village.

Unique Facts and Circumstances

The development site is located in an area of Bastrop with unique constraints. It is in an Historic District, part of the Central “core” of Bastrop, and adjacent to a creek. Local code related to these three factors constrained the development design in multiple ways.

Cultural Arts District Historic District

The Iredell Historic District requires that any new development be context sensitive. For this site, that means heights no greater than two stories, low-density development and design details that make the buildings fit in aesthetically with other residential buildings in the area, as demonstrated by our submittals to the City of Bastrop, Attachment A.

New City Ordinance & Local Code

While there were three attractive sites available in Bastrop at the time of site selection in summer 2019, the City expressed a preference for the current site due to its proximity to downtown and the ability for residents to engage in a pedestrian-oriented lifestyle. The site exemplifies a neighborhood feel and characteristic, while the other two sites had commercial characteristics and were automobile-centric. According to both County and City Staff, as well as several service organizations that we spoke to, the active senior population is underserved in Bastrop and there was a strong desire for affordable senior housing specifically at this location (see below section regarding wildfires).

In November of 2019, after the site had been selected, Bastrop passed a new zoning ordinance called the Bastrop Building Block (B3) Code following more than one year of planning and public input and a 9-month moratorium on new development. The new ordinance required adherence to Bastrop's existing street grid, a "pedestrian shed" (walkable area), and avoidance of Gills Branch Creek. The resulting site plan for this development, created with input from multiple City staff members, included a low-density "neighborhood" with two-story buildings, a layout that lines up with the street grid, and plenty of pedestrian friendly elements that link residents with the larger community of Bastrop. Importantly, buildings were designed to look like four distinct houses connected to each other to preserve the neighborhood character.

It was determined that adding elevators in each of the Development's 9 buildings would be financially infeasible. Our construction estimator provided a price of \$91,500 per elevator, totaling \$823,500 for all buildings or 14% of hard costs. In addition to construction costs, elevator maintenance costs can be as much as \$10,000 per year per elevator.

Given current construction costs, constraints in the number of credits available to Rural Region 7, and the desire to as many affordable units as possible, we determined that the best path forward was to design a development without elevators.

Environmental Constraints

To compound the city's design constraints, the site is adjacent to Gills Branch Creek. The City of Bastrop prohibits development within 100 feet of the creek or routing storm water runoff into the creek, which resulted in substantial on-site detention and limited the site's developable land.

Unforeseeable Nature

As stated, Bastrop's local code changed after a site was selected with input from the City staff. At the time of passage, City officials themselves were not sure how the new code would impact development. The City is only beginning to "test drive" its new Ordinance and any new developments are likely to be Planning and Zoning Commission test cases. For this reason, it was imperative for us to propose a design that strictly adhered to local code guidelines.

Mitigation

The absence of elevators will not adversely impact the accessibility of the Development. If the waiver is granted, the Developer will provide units for those with mobility impairments in far greater quantity than a development with the same number of units that has an elevator. The Development is designed to provide the required 4 (5%) mobility and 2 (2%) sensory-impaired accessible units. However, all 36 of the ground-floor units (50% of the total units) have been designed using the principles of Universal Design and will be fully visitable by a person who uses a wheelchair *as well as* ADA adaptable. The Development Architect has provided in-depth details on alternative design elements that would exceed statutory requirements (Attachment B).

To further help mitigate the convenience of an elevator, the Applicant is also willing to commit to an on-demand concierge service, which would assist residents in getting groceries to and from a unit or taking garbage to the dumpster regardless of whether they live on the ground or second floor.

Texas Government Code

Per Section 2306.001, some of the purposes of the Department are to

- 1) assist local governments in:
 - (A) providing essential public services for their residents; and
 - (B) overcoming financial, social, and environmental problems;
- (2) provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income;
- (3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;

While any Housing Tax Credit development helps to meet Item 2 of the Code, the Application for Farm Street Village is unique in that it furthers all three of these stated purposes.

Bastrop is already one of the largest cities in Rural Region 7 and it is growing at a rapid pace. Its proximity to Austin has made it a desirable location for people priced out of the housing market over the past decade. Of the four disaster-relief designated counties in Rural Region 7, Bastrop County is also the most populous by double. In 2011, Bastrop was devastated by wildfires that burned 34,000 acres, destroying nearly 1,700 homes and displacing over 4,500 residents. Fire returned in 2015, this time burning more than 4,500 acres and destroying 64 structures. As a result of the rapid growth and fires, Bastrop has a shortage of housing of all types, not just affordable housing. The design of Farm Street Village maximizes the development potential of the site to help serve this need.

Further, as outlined in the previous sections, the specific design of Farm Street Village was created in response to the preservation of the character of the Iredell Historic District and local government community planning goals.

By allowing a development in Bastrop, the TDHCA Board of Directors would assist the local government in “overcoming financial, social, and environmental problems” as well as to “contribute to the preservation, development, and redevelopment of neighborhoods and communities.” Approving the requested waiver is critical for the eligibility of this project, which fulfills all three TDHCA objectives.

Summary

We respectfully request that the waiver be granted for the following reasons:

- 1) The design is appropriate for an active, independent 55+ population, which may also serve up to 20% families. The absence of elevators will not yield fewer total accessible units at the Development. Moreover, the Applicant is providing more accessibility as well as concierge services as mitigation.

- 2) Outside of the TDHCA Multifamily Rules, there is no legal precedent for a requirement of elevators in a two-story senior development, particularly one serving 55+ adults. Texas Government Code, Texas Accessibility Standards, and even Section 504 laws do not require an elevator for senior buildings of two stories. In fact, per Chapter 5 of the current Section 202, Housing for the Elderly Program's Handbook (Attachment C), HUD Minimum Property Standards do not require a 2-story senior building to have an elevator unless required by local code. In addition, an elevator would be considered a "cost not attributable to dwelling use," a budget category which cannot exceed more than 10% of total construction costs.
- 3) The design otherwise complies with all local requirements and responds to the unique City requirements for an Historic District and maintenance of the historic "grid."
- 4) The development would further TDHCA's statutory mandates;
- 5) Assuming no other development in Rural Region 7 scores higher than the proposed development, the Application would be rendered ineligible without the waiver and TDHCA could potentially fund a Development that meets fewer of the criteria set forth in the QAP, or even no development in Rural Region 7.

Given all of the circumstances described above, we believe this waiver deserves TDHCA's support and approval. We believe that granting this request furthers the purposes and policies as stated in Texas Government Code, and is consistent with the mitigation provisions in the Rule.

We appreciate your consideration of this request. Please do not hesitate to contact me should you have questions or require additional information.

Sincerely,

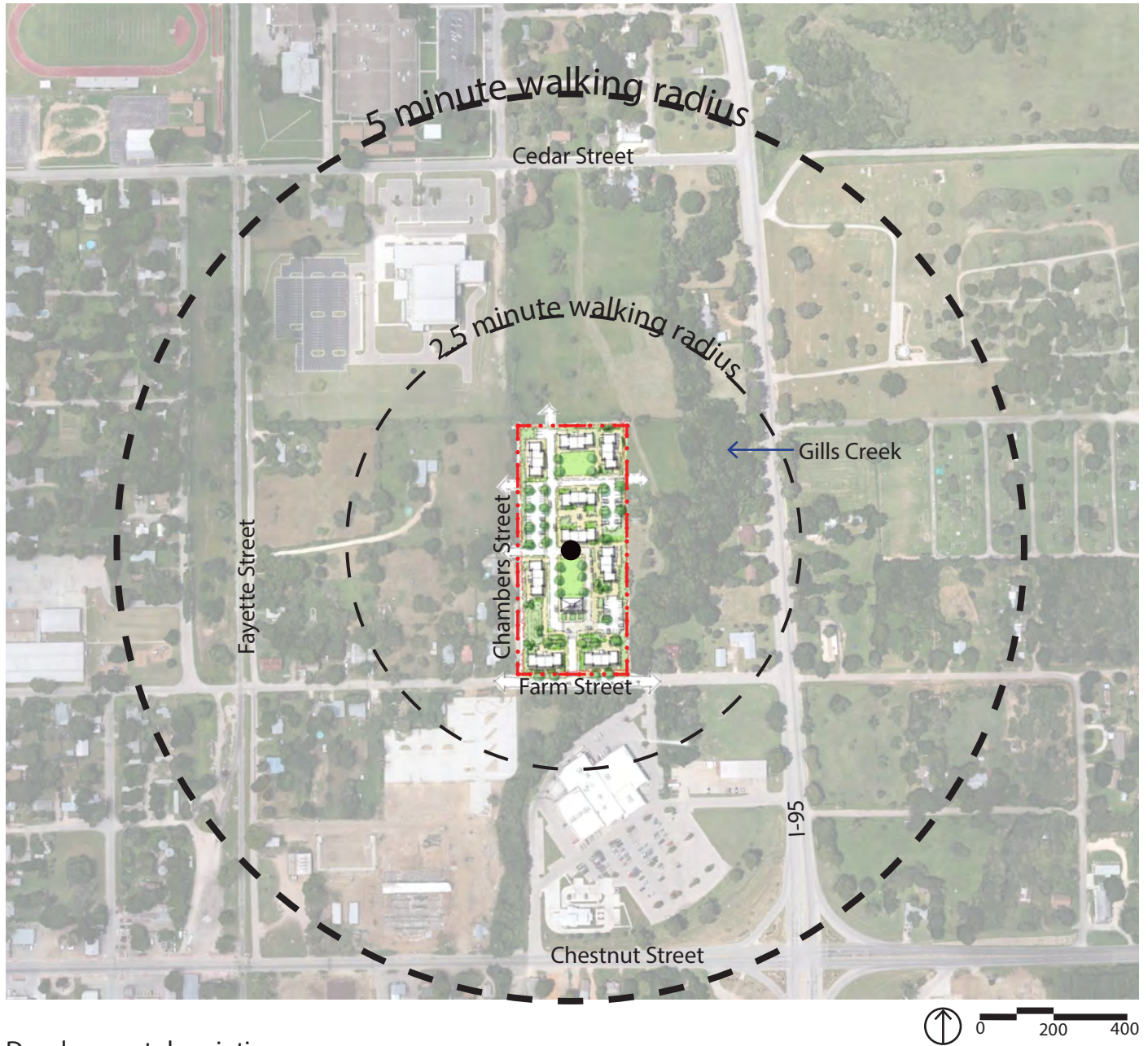


Sarah Andre
512/698-3369
sarah@structuretexas.com

Developer Response to Code Constraints

CONTEXT

Pedestrian Walk Shed Map



Development description:

Site: 5 Acre site for residential use

Density: 14 dwelling units/ acre

(1) Clubhouse and (9) Residential Buildings:
8 units each, total of 72 units

Building Height: 28'-4.5"

+/- 80 parking spaces

SITE PLAN SKETCH DRAWING





Architectural Standards & Style

In accordance with the Iredell Historic District and Authentic Bastrop Pattern Book

Building Type: Multi-Unit Homes

The building type of the development is the Multi-Unit Home; to further articulate the massing of each building, principles from the Row House Type and Detached House are also employed where appropriate and in accordance with the Architectural Style guidelines.

Architecture and Entry Articulation: Farm Street Village's architecture employs a composition of a large primary hip-roof form with appropriately scaled supporting secondary forms (transept gable ends) to avoid the overly complex roof forms of a historical neo-eclectic McMansion. The massing of forms establishes the composition of the elevations to unify the design in the mode of the historical buildings in the surrounding neighborhoods. The large form is further broken down in the manner of a Row House Type in order to differentiate the dwelling units and bring the overall scale more in line with the pedestrian-focused neighborhood and provide individual entrances without introducing too much complexity or competing primary forms.

Entry Areas: Ground-floor units have private entries along public frontages and/or interior private circulation drives. There are no private garages in the development.

Private Exterior Space: Covered porches on both sides of the building provide street-level entries and vertical circulation in addition to exterior space for each unit.

Common Areas: The buildings of Farm Street Village are enveloped and surrounded by commons areas of the pocket neighborhood development. The public frontage elevations are designed to clearly be the front of the buildings with entrances and articulation.

Architectural Style: Central Texas Vernacular Victorian

The architectural style of Farm Street Village will draw on the memorable character, identity, and appeal of the Vernacular (Folk) Victorian domestic architecture of Central Texas wherein the strong characteristic massing of Victorian houses is accentuated by simplified forms and less exuberant profiles in its ornamentation.

Massing: The guiding principle of the design is the classic front-facing gable with a side wing. Four of these masses are combined into 2-story multi-unit homes arranged around pocket neighborhood style outdoor communal spaces. Asymmetrical units combine into an overall symmetrical multi-unit home. The deep offset of the primary front-facing gables provides the articulation while secondary and tertiary elements are omitted to highlight the purity of the vernacular Victorian form.

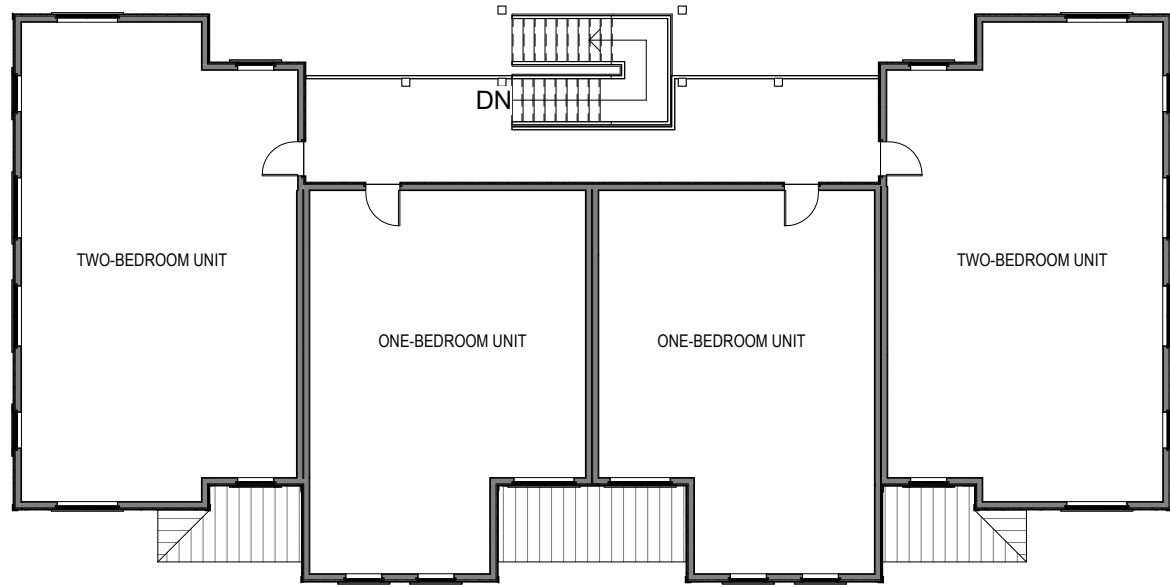
Roof Details: Gable ends on the long facades are planned to be 9:12 slope with a lower slope on the hip roof wing. 12' overhangs with closed soffits are planned.

Doors & Windows: Both individual and paired vertically proportioned windows are used across the facades. Windows will have no multi-pane sashes and traditional window trim details will include cap molding.

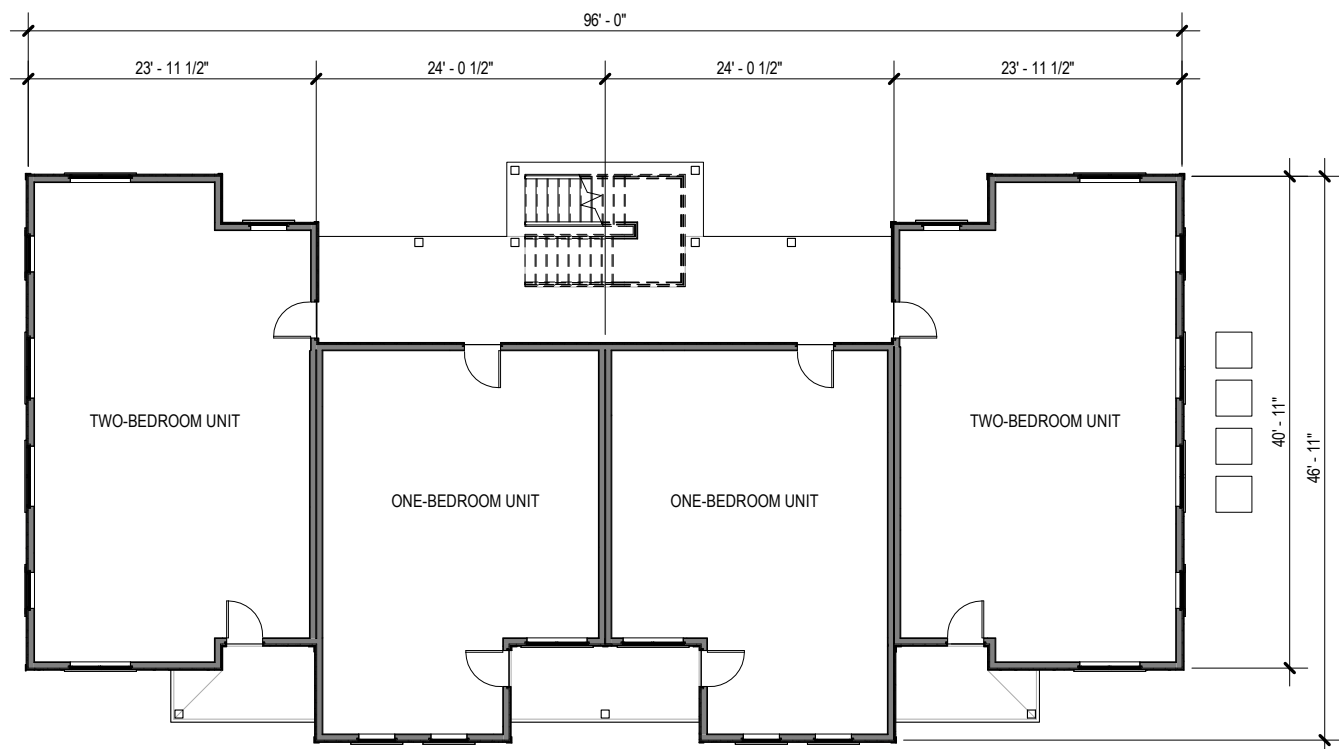
Porch / Entry: Porches are included as street-level entry and as a unifying element to provide access to the second level. These porches would be detailed to correspond to the larger two-story porches on more grand Victorian homes.

Details: Simplified profiles throughout include decorative gable end elements, rake moldings, full jamb and head with cap molding around openings, and ogee or round gutters at horizontal fascia. Each of the four home units that comprise the multi-unit home are detailed with slight variations in siding and trim to differentiate the elements and meditate the scale to conform more with the detached home neighborhood to the west.

Materials: The design intent is to use a subtle variety of siding, potentially including clapboard, Dutch lap board and batten, and vertical, with accent decorative patterns in the gable ends. Coursing exposure will be kept small but vary in order to differentiate the housing modules and create a smaller-scale visual experience.



UPPER FLOOR PLAN



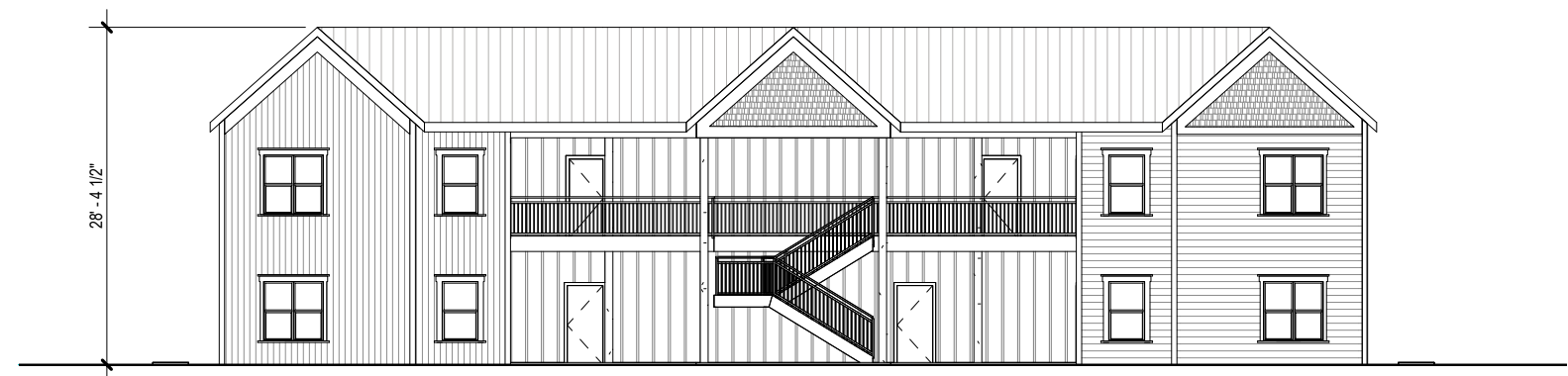
LOWER FLOOR PLAN



SIDE ELEVATION



PRIMARY ELEVATION



PORCH ELEVATION



Documentation from Bastrop City Code

City of Bastrop Regulations Impacting the Design of Farm Street Village

Many development regulations drove the design of the site. Excerpts from the Code are included here and the final four pages of this exhibit show the development team's response to these constraints. Farm Street Village is in the Cultural Arts District which requires Traditional Neighborhood Design (TND). It is also in the Iredell Historic District which requires a Certificate of Appropriateness for any development to proceed.

Section 4.12.002 – Enhanced Permit Review

Criteria. In providing this heightened review of permit applications, city staff will be guided by the policy statement approved by the city council on February 26, 2019, in the form of Resolution 2019-24, which establishes the city's policy goals as creating a fiscally sustainable community through community land use regulations that are authentically Bastrop and geographically sensitive. Emphasis will be given to the need for gridded street layouts, connectivity between large projects, and walkability (i.e., multi-modality). Permit applications for projects that would exacerbate flooding, create unsustainable infrastructure, or be inconsistent with the historic culture of Bastrop, as determined by the City Engineer, will not proceed through the permitting process. The criteria stated in this subsection shall be cumulative of, and in addition to any standards listed elsewhere in the Bastrop Code of Ordinances. If there is a conflict between standards in this subsection and other sections in the Code of Ordinances, this subsection shall govern.

Bastrop Building Block (B3) Code

from Page 13 of the Code:

THE CODE PROMOTES:

- ▶ Complete neighborhood developments, not Residential subdivisions;
- ▶ Choosing Traditional Neighborhood Development as the preferred development pattern where the natural landscape allows;
- ▶ Allowing independence to those who do not drive by having ordinary activities of daily living within walking distance of most dwellings;
- ▶ Interconnecting networks of Streets designed to disperse traffic and reduce the length of automobile trips;
- ▶ Building and maintaining a range of housing types and price levels within neighborhoods to accommodate diverse ages and incomes;
- ▶ Mixing Civic, institutional, and commercial activities, not isolating them in remote single-use complexes;

From Page 22 of the Code:

Block Types - Blocks are the foundation for development in Bastrop. The gridded network of Streets formed by the Bastrop Building Block has been proven to support each Place Type and all associated Standards in the Code. Block Types match the level of intensity of development they are serving. The Block Types will vary from rural to urban, becoming more formal as the urbanity increases. See the Pattern Book for more examples of Block Types.

Building Types - Building Types correspond to the Place Types and Street Types. Building Types are contained within each Place Type to confirm the intensity of development aligns with the infrastructure and building forms to support the wide variety of Building Types.

P3: Neighborhood Low density Residential areas. P3 is adjacent to higher Place Types that have some mixed use buildings. Planting is naturalistic and setbacks vary from relatively deep to shallow. The roads and blocks may be irregular to accommodate natural conditions.

P4: Mix More intense Building Types that provide more lifestyle choices. It provides for a mix of Residential Building Types. Commercial and Office uses are allowed in this District only in House form Structures. Because P4 is a transition area, the Street Types consists of multimodal Streets, but are primarily Residential urban fabric.

From Page 74 of the Code:

ARTICLE 3.3 PEDESTRIAN SHED (a) In TND developments, every 1/4 mile radius or "Pedestrian Shed," i.e. approx. 80 acres or 6 Farm Lots, is to contain a mix/allocation of Place Types that reflect the Character District. Measuring Development by the Pedestrian Shed will ensure walkable neighborhoods are created. (b) The Pedestrian Shed is the area encompassed by the walking distance from a town or neighborhood center. They are often defined as the area covered by a 5-minute walk (about 0.25 miles or 1,320 feet) from the center. (c) Pedestrian Sheds in VCD or CLD Development Patterns vary in size and are prescribed in Article 5.2 Development Patterns Standards.

The Site is in the Cultural Arts District

SEC. 5.2.007 DEVELOPMENT PATTERNS PERMITTED PER CHARACTER DISTRICT

	TND	CLD	VCD
Cattleman's	P	NP	P
Cultural Arts District	P	NP	NP
District 71	P	NP	P
Downtown	P	NP	NP
Ferry	P	NP	P
Historic Highway	P	NP	NP
Lost Pines	NP	P	P
Mayfest Hill	P	P	P
Meadows	P	NP	P
New Addition	P	NP	NP
North End	P	NP	NP
Old Town	P	NP	NP
Pine Village	P	NP	NP
River	P	P	P
Riverside Grove	P	NP	NP
South River	P	NP	NP
Vista	P	NP	P

P = PERMITTED NP = NOT PERMITTED * Districts not included: Bastrop State Park & PDD

The site is also in the Iredell District

(c) Iredell Historic District - locally designated district

This district was adopted as a local district by City Council on XX. The district encompasses the Farm Lots and Building Blocks that established a unique Development Pattern, which possesses a significant in history, provided a significant contribution to the local pattern and represents an established and familiar visual feature of the City that is the basis of the Bastrop Building Block (B³) Code. The boundaries are outlined in Figure 9.2.006B.

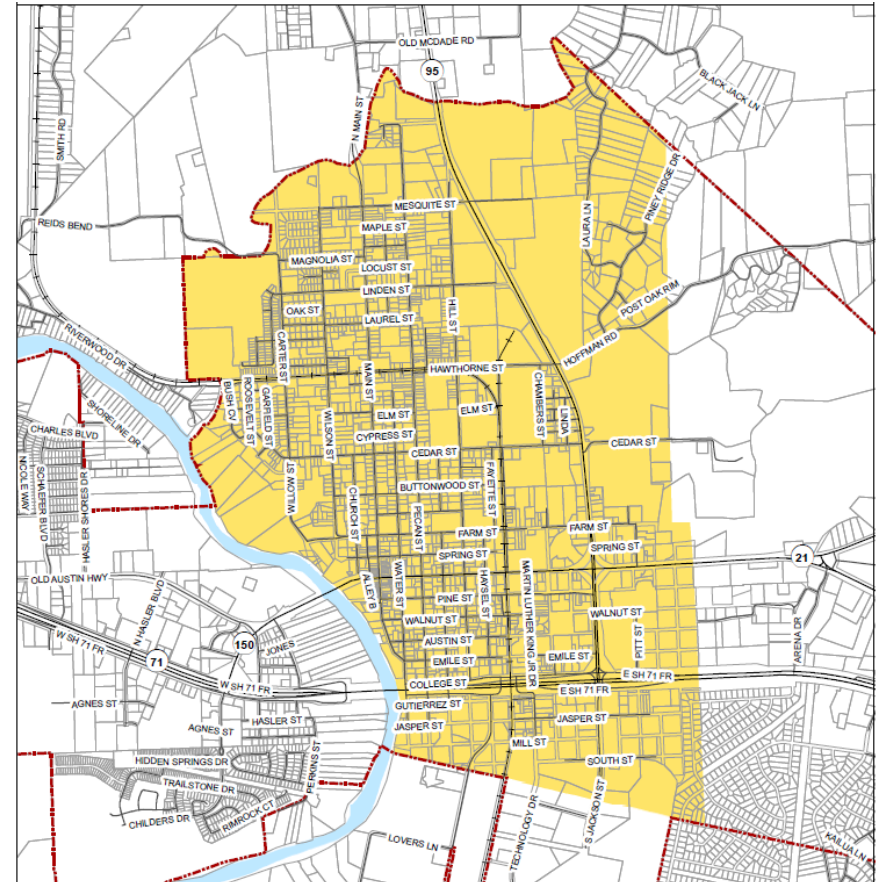


FIGURE 9.2.008 B

provided to the Applicant and a copy shall be maintained in the files of the Planning and Development Department and distributed to other appropriate City departments.

- (c) An Applicant for a Certificate of Appropriateness who is dissatisfied with the action of the Historic Landmark Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to Appeal the determination to the City Council. The Applicant has 15 calendar days from date of the Historic Landmark Commission action to file for the Appeal. The Appeal request will be placed on the next available City Council agenda. To be considered, the Appeal shall set forth in writing the grounds for such Appeal and shall provide the City with any pertinent evidence and all related documentation related to the Appeal. The City Council shall use the adopted approval criteria for the Appeal review.
- (d) A Certificate of Appropriateness shall expire 2 years from the date of approval if the proposed scope of work has not been completed. If a building permit for approved work has been issued, the Certificate of Appropriateness will expire 2 years from the permit issue date. The Commission, upon determination of a reasonable need, may authorize 1 extension of an additional 6 months to

obtain a building permit for the work in which the Certificate of Appropriateness was approved upon showing of just cause by the Applicant.

SEC. 9.3.006 CRITERIA FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS (COA)

- (a) In considering an Application for a Certificate of Appropriateness (COA), the Historic Landmark Commission shall be guided by any locally adopted design Standards, and where applicable, the following from the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings . Any adopted design Standards and Secretary of the Interior's Standards shall be made to the property owners of historic landmarks.
 - (1) Every reasonable effort shall be made to adapt the property in a manner which requires minimal Alteration of the Building, Structure, object, or Site and its environment.
 - (2) The distinguishing original qualities or character of a Building, Structure, object, or Site and its environment shall not be destroyed. The Removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

- (3) All buildings, Structures, objects, and Sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.
- (4) Changes that may have taken place in the course of time are evidence of the history and Development of a Building, Structure, object, or Site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize, a Building, Structure, object, or Site shall be kept to the greatest extent practical.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs

or the availability of different architectural elements from other Building or Structures.

- (7) The surface cleaning of Structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (8) For building materials, architecture standards, architectural details, massing for a variety of building types, see the Pattern Book.
- (9) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any Project.
- (10) Contemporary design for Alterations and Additions to existing properties shall not be discouraged when such Alterations and Additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, color, material, and character of the property, neighborhood, or environment.
- (11) Wherever possible, new Additions or Alterations to buildings, Structures, objects, or Sites shall be done in

such a manner that if such Additions or Alterations were to be removed in the future, the essential form and integrity of the Building, Structure, object, or Site would be unimpaired.

SEC. 9.3.007 CONSIDERATION OF PREVIOUSLY DENIED APPLICATION

(a) A new Application for a Certificate of Appropriateness for a structure or Site that was previously denied a similar Certificate of Appropriateness shall not be considered if the Historic Landmark Commission or the City Council, on appeal, for the structure or Site within 1 year from the date of the final decision. If there has been a substantial change in the conditions affecting the structure or Site or the proposed Project is substantially different from the previous Application, the City may find that are sufficient to Warrant consideration prior to the 1 year period.

SEC. 9.3.008 ENFORCEMENT

(a) All work performed pursuant to a Certificate of Appropriateness issued under this article shall conform to any conditions or requirements included therein. It shall be the duty of the building inspector or their designee to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the Certificate of Appropriateness, the Building Official or their designee shall issue a stop-work

order, and all work shall immediately cease. No further work shall be undertaken on the Project as long as a stop-work order is in effect.

(b) A stop-work order may be lifted following submission and approval of plans for corrective action or work, or other plans to bring the Project into compliance with the conditions or requirements of the Certificate of Appropriateness or other approvals.

.....
ARTICLE 9.4 COA REQUIRED FOR DEMOLITION OR RELOCATION
.....

SEC. 9.4.001 COA FOR DEMOLITION OR RELOCATION REQUIRED

(a) A permit for Demolition, Removal, or Relocation for any local, state, or national Historic Landmark or any structure or Site within a Historic District shall not be granted by the City without the review and approval of a Certificate of Appropriateness by the Historic Landmark Commission in accordance with the provisions of this article.

SEC. 9.4.002 PROCEDURE FOR COA FOR DEMOLITION

(a) An Application for a Certificate of Appropriateness shall contain the following minimum information:



24 February 2020

Mr. Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Farm Street Village, 20001, Dwelling Unit Adaptability & Universal Design

Dear Mr. Wilkinson:

As the Architect for Farm Street Village (TDHCA #20001), please accept this statement describing how the development exceeds the accessibility and adaptability of dwelling units specific to the needs of Elderly Developments. The design of the project incorporates Universal Design best practices in all dwelling units to facilitate aging-in-place and the convenient execution of reasonable accommodations both for tenants. The following measures are incorporated into the development.

Adaptability

- Unit floor plans use the same layout and framing dimensions for all standard, HVI, and mobility accessible units. All units can therefore incorporate opening clearances and circulation paths by default and all units can be adapted to incorporate specific accessibility measures as required by tenants.
- Half of the units (and half of each unit type) are located on the ground floor with fully accessible paths from parking and amenities. Therefore, half of the total units are adaptable to become fully compliant mobility accessible units.
- Units have been designed so that adaptability requires minimal time, cost, and invasiveness. Conversion of a standard ground-floor unit to a fully accessible unit would require no removal of drywall and no electrical or plumbing reconfigurations other than replacement of finish fixtures.

Site Accessibility

- All buildings, amenities, and parking areas are connected by a network of pedestrian-priority accessible routes separate from the vehicular circulation. The site plan takes advantage of the low slope of the existing site, the lower density and lower unit count buildings desired by the City of Bastrop, and an emphasis on distributed outdoor amenities to ensure that all paths are able to be accessible, exceeding the FHA requirements for accessible routes.
- Accessible routes use a maximum slope of 1:20 to the fullest extent possible to minimize ramps and railings. The accessible route is always the primary route.
- In order to satisfy the City of Bastrop's zoning concerns and conform to the Iredell Historic District standards, the residential buildings are limited to 2 stories and 8 units each. While this makes serving each 8-unit building with an elevator impractical, it has the advantage of allowing for half of the units (and half of each unit type) to be fully visitable and fully adaptable to mobility accessible units as they are ground floor units located on accessible paths with barrier-free thresholds. This is a much higher percentage than more typical 3-4 story buildings would provide with an elevator.
- The accessible parking strategy for the development locates accessible spaces throughout the development in order to maximize adaptability. Although it is designed as a single facility (the separate lots are all connected by accessible routes on the same site and do not require driving between the lots), the accessible spaces have been distributed to serve all of the residential buildings. As the local code does not establish

minimum parking standards and the site plan proposes greater than the default minimum of 1 space per unit, the development builds in the ability to restripe spaces and provide additional accessible spaces if required in the future.

Universal Design Elements in All Dwelling Units

- Universal Design best practices are incorporated into all units to facilitate aging-in-place and provide superior quality of life not only for tenants who require fully accessible units but for those who use walkers and other assistive devices, for the benefit of visitors to the dwelling units, and for temporary changes in accessibility requirements due to injury, medical procedures, and recovery periods:
 - Covered, no-step entrances and accessible thresholds at all entry doors
 - Full accessibility clearances at all openings and circulation to all rooms in all units
 - Non-slip resilient flooring throughout dwelling units with accessible thresholds and minimal transitions
 - Front-mounted controls on all owner-provided appliances
 - Pre-blocked bathrooms for grab bars in all units, including for vertical bars
 - Lever-type door handles throughout all units
 - All electrical switches and receptacles, thermostat, and other controls within ADA reach ranges
 - Rocker-type switches
 - Elongated bowl toilets
 - Color contrasting finishes at counter edges, floor trim, and other points of transition

As the Architect for Farm Street Village the design and construction features are well suited for the senior population aged 55 and up. The design incorporates Universal Design best practices in all dwelling units to facilitate aging-in-place.

Sincerely,



Jason Paul Haskins, AIA + LEED AP BD+C
h+uo architects, LLP

- d. As with other "Costs Not Attributable" items, the costs of foundations, plumbing, heating, air conditioning, water, electric, and/or sewage facilities are prorated to the "special spaces and accommodations" as appropriate.

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4571.1 REV-2

CHAPTER 5

- (5-23) e. Any equipment not required by the MPS, but required by the local municipalities or state building codes which pertain to the elderly or handicapped, shall be included under this category. For example, if the project under review were a two-story structure with no living units above the first floor intended for occupancy by wheelchair users and no central dining facilities and if local or state building codes require installation of an elevator in all projects for the elderly or handicapped with two or more stories, the cost of these elevators shall be included in the estimate of Cost Not Attributable to Dwelling Use. (The MPS would not require installation of an elevator for the project described above.)
 - f. In group homes, the estimate of Cost Not Attributable to Dwelling Use shall be performed in the same manner as in other Section 202 projects. (See paragraphs 1-5c through h and 5-34 of this Handbook.)
- 5-24. COSTS NOT ORDINARILY ATTRIBUTABLE TO DWELLING USE. For projects designed specially for the handicapped, a new category of consideration has been added to those normally evaluated in determining the amount of Cost Not Attributable to Dwelling Use. This category -- Costs Not Ordinarily Attributable to Dwelling Use -- includes the additional costs incurred for items which are peculiar to projects for the handicapped.
- a. The Cost Analyst shall develop benchmark costs for such items, using normal cost procedures, and shall include the appropriate amount, designated as "Costs Not Ordinarily Attributable" in his/her Supplemental Estimate described in paragraph 5-23 above.
 - b. In a project designed specifically for the deaf, for example, the Borrower may propose to include a closed circuit television system in order to permit the resident manager to contact tenants and communicate with them in case of emergency.
 - c. Items such as wider doors and hallways, grab bars, slip-resistant tubs and/or shower bottom surfaces, etc., which are listed in the MPS for projects for the elderly or physically handicapped, shall not be included as "Costs Not Ordinarily Attributable," as costs for these items have already been considered in the per unit cost limits for Section 202 projects.

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(1) regarding Ineligible Developments for 20128 OST Lofts

RECOMMENDED ACTION

WHEREAS, 10 TAC §11.101(a) of the 2020 Qualified Allocation Plan (QAP) related to Site Requirements and Restrictions identifies specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department;

WHEREAS, 10 TAC §11.101(a)(1) requires that for Development Sites within a floodplain, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain;

WHEREAS, the Applicant for 20128 OST Lofts has submitted a request that the Board waive this requirement and allow the Applicant to move forward with an Application proposing the construction of a Development for which one of the driveways will be lower the six inches below the floodplain;

WHEREAS, 10 TAC §11.207 related to Waiver of Rules identifies the requirements a waiver request must meet, and staff does not believe that the waiver meets those requirements; and

WHEREAS, staff believes that the location of the Development Site was within the Applicant's control, so staff is not able to recommend a waiver;

NOW, therefore, it is hereby

RESOLVED, that the Board shall determine whether the waiver of 10 TAC §11.101(a)(1) should be granted for 20128 OST Lofts.

BACKGROUND

10 TAC §11.101(a) of the 2020 Qualified Allocation Plan (QAP) related to Site Requirements and Restrictions identifies specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department. Per the rule:

(1) Floodplain. New Construction or Reconstruction Developments located within a 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent federal or local requirements they must also be met.

Application 20128 OST Lofts proposes the New Construction of 125 Units for a general population in Houston. The entrance to the Development Site at Old Spanish Trail would be 168 feet south of Brays (also known as Braes) Bayou. According to the FEMA Flood Insurance Rate Map (FIRM), the majority of the Development Site is located within Zone AE, inside Houston's Special Flood Hazard Area. Per the request, "[t]he Development Site is located on Old Spanish Trail ("OST"), a public road that is also located in the AE flood zone. There is potential that the driveway from the street to the apartment buildings and parking area will be lower than six inches below the floodplain." The request states that "if a major rain event occurs and OST is partially flooded access to the site can be maintained from the second public street, Produce Row, located well above the 100 Year Floodplain."

The request includes certifications from the architect and the civil engineer. Per the architect, "[w]hile the portion of Old Spanish Trail serving the low side of our site is below the 100 year BFE by more than 6", parking and driveways within our site will be compliant with the TDHCA's minimum of 30.4 (6" below the 100 Year Floodplain). In major rain events, if Old Spanish Trail is partially flooded, access for our entire site can be maintained from the second public street, Produce Row, well above the 100 Year Floodplain. All resident cars can exit via Produce Row, without incurring any floodwaters that may emanate from the bayou beyond Old Spanish Trail." Per the engineer, "[a]lthough driveway tie-in connection to Old Spanish Trail will be below 100-year elevation, slope grade for driveway will be increased immediately after proposed public sidewalk to reach a minimum elevation of 30.9. With this, proposed parking and drive areas will be set minimum 6-inch below 100-year elevation."

While the Applicant states that there is "potential" that the driveway from Old Spanish Trail to the apartment buildings and parking area will be lower than six inches below the floodplain, the architect states that Old Spanish Trail "is below", and the engineer states that the driveway tie-in "will be below" the 100-year base flood elevation. Building a driveway in this location could encourage residents to drive through even minor flooding on Old Spanish Trail to access the Development. .

10 TAC §11.207 related to Waiver of Rules states:

(1) A waiver request made at or prior to pre-application or Application must establish that the need for the waiver is not within the control of the Applicant. In applicable circumstances, this may include limitations of local building or zoning codes, limitations of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. A recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered to satisfy this paragraph as such waiver request would be within the Applicant's control.

(2) The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.

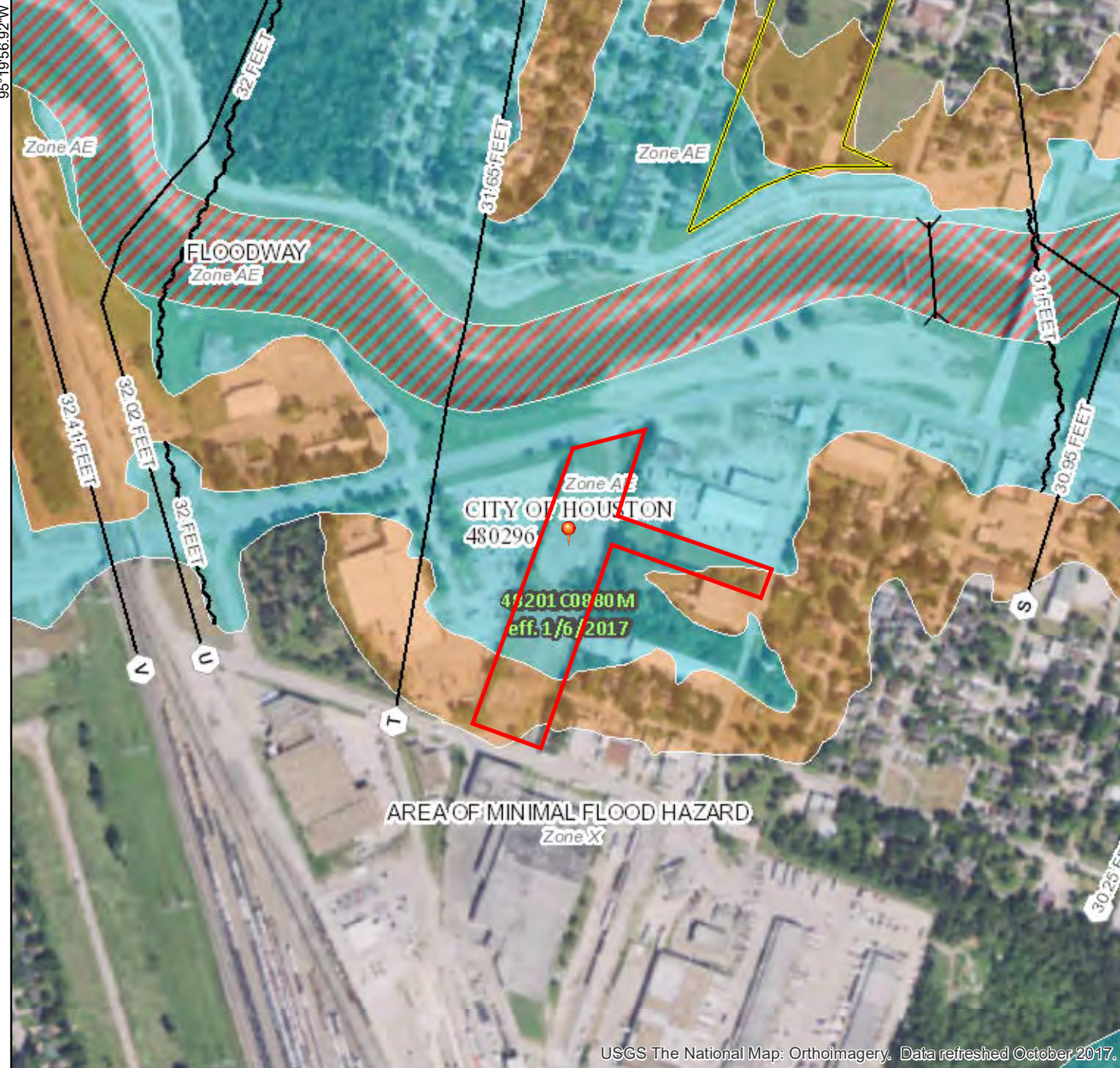
Staff does not believe the request meets the requirements of 10 TAC §11.207(1) because the issues described in the request appear to be completely related to the Applicant's selection of a Development Site that is within Zone AE, which is completely within the control of the Applicant. The request simply says "[t]his waiver is not preventable by the Applicant."

Staff requests that the Board determine whether the waiver of 10 TAC §11.101(a)(1) should be granted for 20128 OST Lofts.

National Flood Hazard Layer FIRMette



29°42'52.64"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE) Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS

- NO SCREEN Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 11/13/2018 at 1:25:41 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

OST Lofts Waiver of Rules

The Applicant believes a Waiver pursuant to Section 11.207 of the 2020 QAP may be necessary with regard to the location of the Development Site in FEMA Floodplain Zone AE. The Development is located in Houston and a majority of the Development Site is located within the 100 year Floodplain, including one of the streets that provides access to the Development Site. Section 11.101(a)(1) of the QAP states:

Floodplain. New Construction or Reconstruction Developments located within a 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent federal or local requirements they must also be met.

The Applicant commits that the Site will be developed so that it is in full compliance with all applicable requirements of the National Flood Protection Act. The City of Houston will also require that all finished ground floor elevations are at least 2 feet above the floodplain and the Applicant will adhere to the City of Houston's more restrictive local requirements. Attached please find as **Exhibits A & B** Certifications from Mark Mucasey, the project architect and BGE, the civil engineering firm. These certifications provide a detailed summary of how the project and all parking will be design in full compliance with all federal, state and local criteria.

The Development Site is located on Old Spanish Trail ("OST"), a public road that is also located in the AE flood zone. There is potential that the driveway from the street to the apartment buildings and parking area will be lower than six inches below the floodplain. Therefore we are requesting a waiver of the requirement that this entrance driveway be no lower than 6 inches below the flood plain. This waiver is not preventable by the Applicant. Also, as noted in the certification from Mark Mucasey if a major rain event occurs and OST is partially flooded access to the site can be maintained from the second public street, Produce Row, located well above the 100 Year Floodplain.

This waiver will allow for the provision of much needed affordable housing in an area of Houston that has very few affordable housing units. The granting of this waiver would further the purpose of the Department in Section 2306.001, 2306.002, 2306.359 and 2306.6701 of the Texas Government Code by, in part, providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income. This Development will also help establish an affordable housing option in a decent, safe and affordable living environment that is beginning to change rapidly with the impending development of the newly approved University of Houston Medical School. After the expansion of the University of Houston Campus in close proximity to the Development Site it will be important to, pursuant to Section 2306.6701(1), encourage the development of appropriate types of

rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace. Also, the Applicant is including a non-profit partner in the Development. The participation of nonprofit organizations is a stated goal of the administration of the low-income housing tax credit program in accordance with Section 2306.6701.



Architects

OST LOFTS FLOODPLAIN CERTIFICATION

Mucasey & Associates, Architects

February 20, 2020

The site spans between two public streets, Old Spanish Trail and Produce Row. The internal driveways tie between the two streets, connecting all parking, driveways, and building entrances together. Based on City of Houston public records, Old Spanish Trail is the low side at approximately elevation 22.0, and Produce Row is the high side at approximate elevation 34.0. The 100 year BFE is elevation 31.4, and the 500 year BFE is elevation 34.0. The finished floor of both the Apartment Building and the Classroom Building will occur as required, 2' above the 500 year BFE, at elevation 36.00.

In order to achieve the required first finished floor elevation, the Apartment Building will be raised above the existing grade between 24-48", using a crawl space construction, that will allow the existing grade level to remain below the buildings. The foundation system will be concrete spread footings set at the existing grade, with concrete block stem walls up to the point where wood truss floor framing will create the first finished floor. The space below the wooden floor deck will be hollow, open below to the existing grade, with flood vents around the entire perimeter designed to aerate the crawl space and to allow flood waters in major rain events to circulate well beneath the first finished floor, with no effect at all to the building.

Access to all first floor units will be provided by handicap accessible ramps, that will connect all first floor units along breezeway corridors to all parking down at grade. Additional steps will provide other access points down, but all amenities and accessible parking spaces will be available to all first floor units via the various ramp systems that tie units/amenities to their nearby required parking spaces and amenities.

Due to existing conditions, the proposed driveway to Old Spanish Trail will be connected at elevation of approximately 22.0 and immediately start going up to a minimum elevation of 30.9 once into the project serving any parking spaces. Internal parking and driveways will be built at a minimum elevation of 30.9 at the low side near Old Spanish Trail, to elevation 35.0 at the high side near Produce Row. Parking and driveways internal to the site will be at a minimum of 30.9, which is 6" below the 100 Year Floodplain level for this site.

While the portion of Old Spanish Trail serving the low side of our site is below the 100 year BFE by more than 6", parking and driveways within our site will be compliant with the TDHCA's minimum of 30.4 (6" below the 100 Year Floodplain). In major rain events, if Old Spanish Trail is partially flooded, access for our entire site can be maintained from the second public street, Produce Row, well above the 100 Year Floodplain. All resident cars can exit via Produce Row, without incurring any floodwaters that may emanate from the bayou beyond Old Spanish Trail.

The Classroom Building occurs at the high side of the site, adjacent to the public street Produce Row, where the natural grade is at elevation 34.0. That immediate portion of the site for the Classroom Building, its associated parking, and its associated outdoor playground will be raised with fill to get to the required elevation 36.0 for the finished floor of the classroom interior space, and 34.0-35.0 for the outdoor spaces. All parking, driveways, and outdoor amenity spaces serving the Classroom Building will be located well above the TDHCA minimum required 30.9 (6" below the 100 Year Floodplain). The foundation for the Classroom Building will be a typical post-tensioned concrete slab on grade, without the need for any crawl space, since it occurs at the high side of the property.

Certified by:

Mark S. Mucasey, A.I.A.
Mucasey & Associates, Architects

Mark S. Mucasey, A.I.A.
Principal

4808 Gibson • Suite 200 • Houston, Texas 77007
Tel: (713) 521-1233 Fax: (713) 520-1904
Email: office@mucaseyarchitects.com

Will Cummings, Sr. Associate
Paul Titterington, Sr. Associate
David Howland, Sr. Associate
Agnar Nielsen, Arch. Sys. Mgr.



Memorandum

To: Donna Rickenbacker
DWR Development Group, LLC

From: Astrid Castano, P.E. and E. Benton Schmaltz, P.E.

Date: February 21, 2020

Subject: OST Lofts aka Old Spanish Trail Lofts – Memorandum

The project site is a 5.437-acre tract located West of the intersection between Delafield Street and Old Spanish Trail in City of Houston, Harris County, Texas (Key Map No. 534F). The tract has access to public right-of-way to the north to Old Spanish Trail, to the south to Produce Row and to the east to Brook Street and Delafield Street. Proposed development includes a multifamily apartment complex of 125 units and a day care facility.

The site is located on Flood Insurance Rate Map Number 48201 C 0880 M, revised January 6, 2017. According to the map the site is located in shaded zone “AE”, which is designated to be a special flood hazard area that is within the 0.2% annual chance of flood. The 100-year flood elevation is approximately 31.4 and 500-year flood elevation is approximately 34.0.

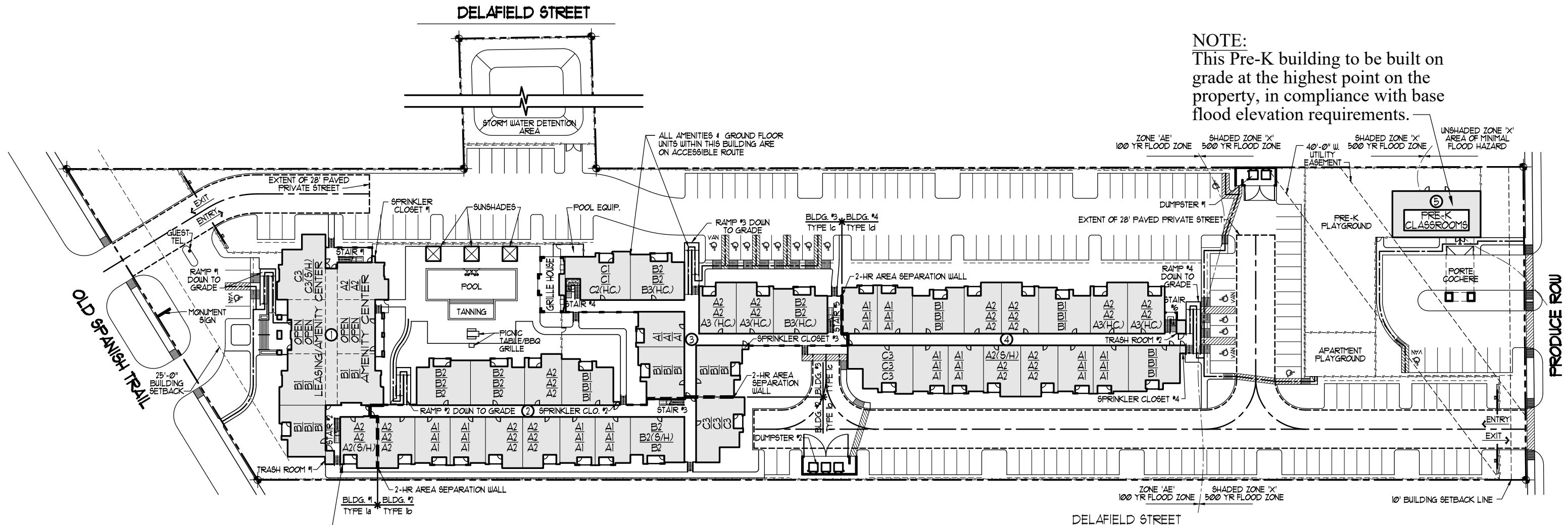
Based on 2019 Infrastructure Design Manual, the site will require mitigation of any fill placed up to 500-year elevation. Also, proposed Finished Floor Elevation (FFE) should be at least 24-inch above 500-year floodplain. Per Texas Department of Housing & Community Affairs (TDHCA) parking and drive areas can not be lower than 6-inch below 100-year flood elevation.

Based on City of Houston public records existing road elevations along Old Spanish Trail are lower than 100-year elevation, at approximately 22.0, while elevations along Produce Row are approximately at 34.0. These elevations are estimated and not based on any surveyed information.

Proposed FFE will be set minimum at 36.0, above existing ground elevations. This will be accomplished using a crawl space construction and spread footing foundation system at ground elevation, creating a hollow space between proposed building’s FFE and foundation. It will allow surface rain flow to maintain existing flow patterns and drain towards Bays Bayou and/or public Right-of-Way. Access to first floor units will be provided by a system of handicap accessible ramps.

Although driveway tie-in connection to Old Spanish Trail will be below 100-year elevation, slope grade for driveway will be increased immediately after proposed public sidewalk to reach a minimum elevation of 30.9. With this, proposed parking and drive areas will be set minimum 6-inch below 100-year elevation. In case of major rain events, drive areas can access public Right-of-Way through Produce Row which is above 100-year elevation.

Proposed elevations for buildings FFE, parking and drive areas for this development will be following COH and TDHCA criteria.



NOTE:
 This Pre-K building to be built on grade at the highest point on the property, in compliance with base flood elevation requirements.

NOTE:
 This apartment building to be built $\pm 3'-6"$ above existing grade to comply with base flood elevation requirements. The first floor structure will be wood framing over a ventilated crawl space, with handicapped accessible ramps from grade up to the first finished floor.

H.C. INDICATES MOBILITY IMPAIRED UNIT S/H INDICATES SIGHT/HEARING IMPAIRED UNIT
 NOTE: STRUCTURE IS COMPRISED OF 5 DISTINCT BLDGS., #1, #2, #3 AND #4 SEPARATED TWO-HOUR AREA SEPARATION WALLS.

PROPERTY AREA: 5.431 ACRES
 SEE SITE PLAN FOR FLOOD ZONE LOCATIONS
 GRADING FILL TO BE MITIGATED BY CRAWLSPACE UNDER BUILDING
 STORM WATER DETENTION PROVIDED BY ON-SITE STORM WATER DETENTION AREA.

SITE PLAN

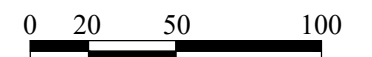
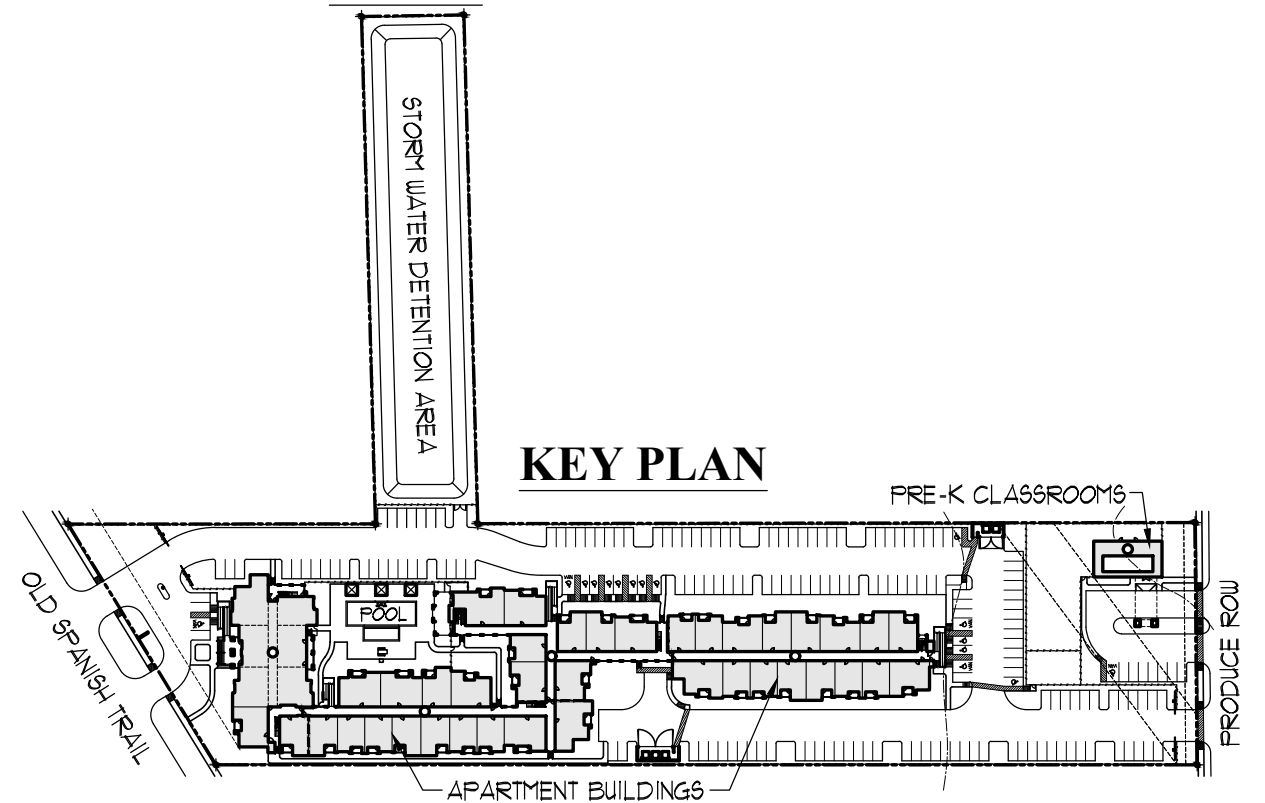
OST Lofts

Mucasey & Associates, Architects



DELAFIELD STREET

KEY PLAN



BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.9(d)(5) related to scoring under Community Support from a State Representative for 20147 Kestrel on Cooper

RECOMMENDED ACTION

WHEREAS, 10 TAC §11.9(d)(5) of the 2020 Qualified Allocation Plan (QAP) related to scoring under Community Support from a State Representative identifies the requirements for scoring;

WHEREAS, per the rule, “[o]nce a letter is submitted to the Department it may not be changed or withdrawn;”

WHEREAS, the Department received a letter from a State Representative regarding this Application on February 27, 2020, then received a revised letter from the same State Representative on February 28, 2020, prior to end of the Final Input from Elected Officials Delivery Date;

WHEREAS, the Applicant has submitted a request that the Board waive the prohibition of changing or withdrawing the letter and allow Department staff to consider the letter received on February 28, 2020, for scoring purposes;

WHEREAS, 10 TAC §11.207 related to Waiver of Rules identifies the requirements of a waiver request; and

WHEREAS, staff presents to the Board for its determination whether, under the particular circumstances presented by the Applicant, the non-statutory prohibition of changing or withdrawing of a letter of support should be waived under 10 TAC §11.9(d)(5) related to Community Support from a State Representative;

NOW, therefore, it is hereby

RESOLVED, either that the letter received from the State Representative on February 27, 2020, is the letter accepted by the Department for scoring purposes, or the above-stated provision is considered waived for this Applicant and the letter received on February 28, 2020, will be accepted by the Department as the sole letter from a state representative for scoring purposes.

BACKGROUND

10 TAC §11.9 of the 2020 Qualified Allocation Plan (QAP) related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. 10 TAC §11.9(d)(5) identifies criteria for scoring points for input from a State Representative. Per the rule:

(A) Letter from a State Representative. To qualify under this subparagraph, letters must be on the State Representative's letterhead, be signed by the State Representative, identify the specific Development and express whether the letter conveys support, neutrality, or opposition. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative and must be submitted no later than the Final Input from Elected Officials Delivery Date as identified in §11.2(a) of this chapter, relating to Competitive HTC Deadlines. Letters received by the Department from State Representatives will be added to the Application posted on the Department's website. Once a letter is submitted to the Department it may not be changed or withdrawn. Therefore, it is encouraged that letters not be submitted well in advance of the specified deadline in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. (Emphasis added)

Application 20147 Kestrel on Cooper proposes the New Construction of 90 Units for a general population in Arlington. On February 27, 2020, staff received the first letter (Exhibit A). The letter, in opposition to the Development, stated: "After hearing from interested constituents, or a lack thereof in some important ways, I have come to the conclusion that I am opposed to the 'Kestrel on Cooper' application (2015-2025 S Cooper Street, Arlington, TX, 76010). Therefore please deduct eight points from their submission." Staff forwarded the letter to the Applicant at 4:05 p.m. on February 27, 2020. Staff was contacted by the Representative's office on the morning of February 28, 2020, informing staff that the Representative wished to withdraw his letter, and staff received a revised letter later that same day stating: "I have come to the conclusion that in regards to the 'Kestrel on Cooper' application (2015-2025 S Cooper Street, Arlington, TX, 76010) no written statement of support, neutrality, or opposition will be provided by my office for this particular development." (Exhibit B).

The request states that "Application 20147 scores a 139 self-score and has the support of the City of Arlington and the Heart of Arlington Neighborhood Association. A score of 139 is the top score in the Region 3 Urban sub-region and maximizes points for a new construction application."

10 TAC §11.207 related to Waiver of Rules states:

(1) A waiver request made at or prior to pre-application or Application must establish that the need for the waiver is not within the control of the Applicant. In applicable circumstances, this may include limitations of local building or zoning codes, limitations of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding

Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. A recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered to satisfy this paragraph as such waiver request would be within the Applicant's control.

(2) The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.

The request for waiver states, “[t]he representative submitted two emails to TDHCA with letters regarding this specific development. The action of emailing this letter directly to TDHCA meant that the submission was not within the control of the Applicant.” The rule does not contemplate that the Applicant would have control over the actions of a third party.

Further, the request states: that “Kestrel on Cooper is within the boundaries of the Heart of Arlington Neighborhood Action Plan. This development is the only revitalization full application being submitted within the City of Arlington. As such, it is the only application in Arlington that will be contributing to the redevelopment of a neighborhood. All other full applications within the City of Arlington are in high opportunity areas. If this waiver is not granted, TDHCA’s purpose of contributing to the redevelopment of neighborhoods will not be realized for the City of Arlington.”

Because the rules do not allow staff to accept a revised letter from a State Representative, and does not condition that prohibition -- even under the circumstances that it was submitted prior to the end of the Final Input from Elected Officials Delivery Date, staff is compelled to present to the Board this request for waiver without recommendation.

TEXAS HOUSE of REPRESENTATIVES



TONY TINDERHOLT

DISTRICT 94

February 27, 2020

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East Eleventh Street
Austin, TX 78701

Dear Mr. Wilkinson,

I write to you today in accordance with Texas Government Code Chapter 2306, Section 1114 to express my position on an application in House District 94 for funding through the Competitive Housing Tax Credit Program.

After hearing from interested constituents, or a lack thereof in some important ways, I have come to the conclusion that I am **opposed to the "Kestral on Cooper"** application (2015-2025 S Cooper Street, Arlington, TX, 76010). Therefore, please deduct eight points from their submission.

You may contact my Capitol office with any issues or questions regarding the submission of this letter. My Chief of Staff, Jake Robinson, can be reached at (512) 463-0624 or by email at jake.robinson@house.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Tony D. Tinderholt".

Tony Tinderholt

Representing Arlington, Dalworthington Gardens, & Pantego

E2.508 • P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910 • PHONE (512) 463-0624 • FAX (512) 463-8386
4381 W. GREEN OAKS BLVD., STE. 107 • ARLINGTON, TEXAS 76016 • PHONE (817) 478-5000



February 28th, 2020

TDHCA
Marni Holloway
221 East 11th Street
Austin, TX 78701

RE: Kestrel on Cooper TDHCA App. #20147

Dear Ms. Holloway,

I am writing this letter to request a waiver in 10 TAC Sec. 11.9(d)(5)(A) stating “Once a letter is submitted to the Department it may not be changed or withdrawn. Therefore, it is encouraged that letters not be submitted well in advance of the specified deadline in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development.”

The State Representative for this application is Tony Tinderholt. The representative submitted two emails to TDHCA with letters regarding this specific development. The action of emailing this letter directly to TDHCA meant that the submission was not within the control of the Applicant.

Application 20147 scores a 139 self-score and has the support of the City of Arlington and the Heart of Arlington Neighborhood Association.

A score of 139 is the top score in the Region 3 Urban sub-region and maximizes points for a new construction application.

According to Texas Government Code 2306.6701, the purpose of the department is to administer the HTC program to “maximize the number of suitable, affordable residential rental units added to the state’s housing supply.”

In achieving a score of 139, Kestrel on Cooper has elected the highest point levels and serves the greatest number of 30% and 50% household as directed by the QAP. As such,

in accordance with 2306.6701 it maximizes the number suitable and affordable rental units by serving 30% and 50% households.

Section 2306.001 of Texas Government Code states that another purpose of the department is to “contribute to the preservation, development, and redevelopment of neighborhoods and communities.”

Kestrel on Cooper is within the boundaries of the Heart of Arlington Neighborhood Action Plan. This development is the only revitalization full application being submitted within the City of Arlington. As such, it is the only application in Arlington that will be contributing to the redevelopment of a neighborhood. All other full applications within the City of Arlington are in high opportunity areas. If this waiver is not granted, TDHCA’s purpose of contributing to the redevelopment of neighborhoods will not be realized for the City of Arlington.

We ask that the second letter submitted by Rep. Tinderholt dated February 28, 2020, also attached herein and which the Department received via email on February 28, be considered the official letter for the Application for scoring purposes as it was still submitted before the deadline.

It is our understanding that Representative Tinderholt’s staff made it clear to TDHCA that he did not intend to oppose the development and therefore was directed to send the attached letter.

Sincerely,

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

Megan Lasch
President
O-SDA Industries, LLC

From: [Jake Robinson](#)
To: [Michael Lyttle](#)
Cc: [Megan Lasch](#)
Subject: Rep. Tinderholt Letter Regarding Kestrel on Cooper Development
Date: Friday, February 28, 2020 2:34:18 PM
Attachments: [Kestrel on Cooper.pdf](#)

Good afternoon Michael,

Thank you for all of your assistance today.

I have attached the final letter regarding the Kestrel on Cooper Development from Rep. Tinderholt.

Please let me know if this is sufficient or if I need to hand deliver another copy today.

Best,

Jake Robinson

Chief of Staff

State Representative Tony Tinderholt

Texas House | District 94 | Arlington-DWG-Pantego

Capitol: (512) 463-0624 | Capitol Extension, E2.508

TEXAS HOUSE *of* REPRESENTATIVES



TONY TINDERHOLT DISTRICT 94

February 28, 2020

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East Eleventh Street
Austin, TX 78701

Dear Mr. Wilkinson,

I write to you today in accordance with Texas Government Code Chapter 2306, Section 1114 to express my position on an application in House District 94 for funding through the Competitive Housing Tax Credit Program.

I have come to the conclusion that in regards to the "**Kestral on Cooper**" application (2015-2025 S Cooper Street, Arlington, TX, 76010) **no written statement of support, neutrality, or opposition will be provided by my office for this particular development.** The application number is 20147.

You may contact my Capitol office with any issues or questions regarding the submission of this letter. My Chief of Staff, Jake Robinson, can be reached at (512) 463-0624 or by email at jake.robinson@house.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Tony D. Tinderholt".

Tony Tinderholt

Representing Arlington, Dalworthington Gardens, & Pantego

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4381 W. GREEN OAKS BLVD., STE. 107 • ARLINGTON, TEXAS 76016 • PHONE (817) 478-5000

From: [Derek Carter](#)
To: [Megan Lasch](#)
Subject: FW: Arlington TX Development
Date: Friday, February 28, 2020 3:16:23 PM

Megan,
See below

Derek Carter, realtor

Texcel Real Estate
Arlington, tx 76010

817-366-8880

Metro first realty
Oklahoma city, ok 73120

405-464-3650

[C:\Users\Owner\Desktop\TREC Info about Brokerage Services.pdf](#)

From: Jake Robinson <Jake.Robinson@house.texas.gov>
Sent: Friday, February 28, 2020 3:09 PM
To: Derek Carter <derek@derekcarter.net>
Subject: RE: Arlington TX Development

Good afternoon Derek,

Rep. Tinderholt has withdrawn his letter of opposition to the Kestrel on Cooper Development.

Thank you for reaching out to us and letting us know of the importance of the project.

Best,

Jake Robinson

Chief of Staff

State Representative Tony Tinderholt

Texas House | District 94 | Arlington-DWG-Pantego

Capitol: (512) 463-0624 | Capitol Extension, E2.508

From: Derek Carter <derek@derekcarter.net>
Sent: Friday, February 28, 2020 1:24 PM
To: District94 Tinderholt <District94.Tinderholt@house.texas.gov>

Cc: Jake Robinson <Jake.Robinson@house.texas.gov>

Subject: Arlington TX Development

Representative Tinderholt,

My name is Derek Carter, 209 Mill Creek Dr in Arlington Tx 76010. I serve on HANA (Heart of Arlington Neighborhood Association) as vice president. I am in favor of Kestrel On Cooper Development. We have worked hard to spread the word of this development to neighbors and businesses and have received no negative feedback, even from the neighboring Elks Lodge.

This new complex will help this part of Arlington shine with new construction plus encourage existing area complexes to step up their maintenance. Arlington City Council and HANA spent an adequate amount of time discussing this development and we concluded that there is a need for workforce housing in this area. We are truly hoping you will reconsider your opposition.

Derek Carter
209 Mill Creek Dr
Arlington, TX 76010

Derek Carter, realtor

Texcel Real Estate
Arlington, tx 76010

817-366-8880

Metro first realty
Oklahoma city, ok 73120

405-464-3650

<C:\Users\Owner\Desktop\TREC Info about Brokerage Services.pdf>

7c

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
APRIL 23, 2020

Presentation, discussion and possible action on the programming of Community Development Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to award such funds

NOTED: The agenda for this Board meeting also indicated that this item included a Material Amendment to the 2019 One-Year Action Plan and 2015-2019 Consolidated Plan, and an opportunity for a public hearing on that amendment. The amendment is no longer proposed for Board approval, but will be made available for public comment at a later date.

RECOMMENDED ACTION

WHEREAS, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law which provides relief for individuals and businesses negatively impacted by COVID-19;

WHEREAS, Title XII of the CARES Act provides supplemental formula funding of at least \$1.5 billion to states to carry out activities under the Community Development Block Grant (CDBG-CV) Program to prevent, prepare for, and respond to COVID-19;

WHEREAS, on April 13, 2020, the Governor of the State of Texas designated the Texas Department of Housing and Community Affairs (the Department) as the designated state agency to receive the first allocation of CDBG-CV funding for the State of Texas;

WHEREAS, the Department's portion of the funding is approximately \$40,000,886 and is required to be expended by September 30, 2022;

WHEREAS, the Department is utilizing the flexibility provided by the CDBG Act and the CARES Act to take steps to ameliorate the effect of COVID-19 through using funds to address critical gaps in needs identified by the Governor of the State of Texas;

WHEREAS, responding to the needs of Texans impacted by COVID-19 will demand that the Department take extraordinary measures necessary to ensure the funding is deployed as quickly, effectively and fully as possible;

WHEREAS, the speed with which COVID-19 may spread through the low-income population of Texas may require responsiveness for which a prompt decision by the Executive Director can be made without the ability to go through the processes typically employed to obtain Board authorization for the awards of these funds;

WHEREAS, to the extent required by HUD the Department will pursue applicable waivers if needed to program the funds;

WHEREAS, amendments to the State of Texas 2015-2019 Consolidated Plan and the 2019 State of Texas One-Year Action Plan (OYAP), are required to reflect the administration and distribution of this allocation of CDBG funds, and the approval of this action item serves as authority for the Executive Director to draft such amendments reflecting the direction of the Governor of the State of Texas, to host a public comment period and hearing for those amendments, and submit the final amendments to HUD without returning to the Board;

NOW, therefore, it is hereby

RESOLVED that the Executive Director and his designees and each of them be and they hereby are authorized, empowered and directed, for and on behalf of this Board to execute, deliver, and cause to be performed such amendments, documents, and other writings such as anticipated guidance and implementation of the CDBG-CV funding received from HUD and to make decisions as they or any of them may deem necessary or advisable to effectuate the foregoing;

FURTHER RESOLVED, that the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of this Board, to issue awards and contracts for these funds, only upon confirmation of previous participation review to the entity directly receiving such contracted funds by the Compliance Division (as applicable) and subject to a positive recommendation from EARAC and subject to any EARAC conditions, consistent with the policy noted herein; and

FURTHER RESOLVED, that the Executive Director has the authority to draft amendments for the Consolidated Plan and One Year Action Plan reflecting the direction of the Governor of the State of Texas, to host a public comment period and hearing for those amendments, and submit the final amendments to HUD without returning to the Board for further action.

BACKGROUND

In response to COVID-19, on March 27, 2020, President Trump signed the CARES Act into law which provides at least \$1.4 billion in supplemental CDBG funding to states for relief of low-income individuals economically impacted by COVID-19. The Department is not typically the conduit for receiving CDBG funds, however, the Governor of the State of Texas has designated the Department as the recipient for this first portion of funds and submitted such designation letter to HUD.

The Department is coordinating with the Office of the Governor to identify those more critical gaps in needs that can best be addressed through the flexibility of CDBG funds.

While the use of specific use of these funds is not yet determined, it is likely that in order to meet the emergency needs of low-income Texans and streamline the eligibility determination process, the Department intends to allow subrecipients to accept signed statements from households, on a form promulgated by the Department, attesting to having been impacted by COVID-19.

A substantial amendment to the Department's OYAP/Consolidated Plan with HUD is required to reflect in that plan how the funds received in this allocation will be distributed. HUD requires the amendments to be fairly specific and that degree of specificity has not yet been determined. However, in the interest of urgency for these funds, the Board is granting authority to the Executive Director to proceed with the steps needed – without further Board authority – to draft such amendments and make such awards so that funds are not delayed while waiting for another Board meeting. Once the amendments are drafted, public comment period will be announced on the Department's webpage and released via listserv; because of the urgency in releasing these funds, the hearing will not be announced in the Texas Register. The amendment will be open for public comment for at least five days, in accordance with HUD requirements for CARES Act funding.

Any Con Plan or OYAP amendment, and the awards determined by the amendment activities, will be made by the Executive Director (with the positive recommendation by EARAC and subject to any EARAC conditions), and reported to the Board at the next subsequent meeting after such amendment and awards are made.

7f

BOARD ACTION REQUEST
SPECIAL INITIATIVES DIVISION
APRIL 23, 2020

Presentation, discussion, and possible action relating to the use of Reserve for Replacement Account funds as provided for in 10 TAC §10.404(a)(7)(C)(i) to address responsiveness for households impacted by the COVID-19 pandemic, and, if needed, an emergency rulemaking to accomplish this action

RECOMMENDED ACTION

WHEREAS, the temporary job displacement and economic impact caused by the response to the COVID-19 pandemic is placing a severe stress on tenants who in many cases can no longer afford to pay their rent and on multifamily property owners who no longer have sufficient rental income to operate their properties;

WHEREAS, multifamily properties funded by the Texas Department of Housing and Community Affairs (TDHCA or the Department) are required to fund various reserve accounts including replacement reserves to support the long term successful operation of each property;

WHEREAS, the Department is authorized by the Tex. Gov't Code §2306.186(j) to adopt rules to identify circumstances in which money in mandatory reserve accounts may be used;

WHEREAS, the Department is authorized by the Tex. Gov't Code §2001.0034 to adopt emergency rules where the agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice, and believes that the scenario reflected in this item sufficiently meets the standards for an emergency rulemaking;

WHEREAS, in the current regulations, under 10 TAC §10.404(a)(7)(C)(i), the Department restricts the use of reserve funds to necessary repairs; and

WHEREAS, allowing the temporary use of reserve for replacement funds to fill the existing gaps in tenants' ability to pay rent and utilities during this unprecedented economic event is necessary to maintain the stability of families sheltering in place and the operating stability of multifamily properties;

NOW, therefore, it is hereby

RESOLVED, that the prohibition of use of reserve replacement funds in 10 TAC §10.404(a)(7)(C)(i) creates an imminent peril to the health, safety, and welfare of occupants

of multifamily developments in the TDHCA portfolio that are required to maintain such reserve accounts; thus requiring adoption of a rule on fewer than 30 days' notice;

RESOLVED, that through the emergency rule process the Board seeks to create a subsection (A) to 10 TAC §10.404(a)(9) with the existing rule language, and add a subsection (B) to allow reserve for replacement funds to be conditionally used by developments with such accounts to provide rent payment assistance to residents who have been economically impacted by COVID-19, as described further herein;

RESOLVED, that this emergency rule is activated as soon as it is filed with the *Texas Register*, and will remain an available resource until October 23, 2020, unless modified by subsequent Board order;

FURTHER RESOLVED, that the Executive Director and his designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to implement guidance on the use of reserve for replacement funds for rental and utility assistance as described herein; and

FURTHER RESOLVED, that staff is directed to submit the Emergency Rulemaking action for 10 TAC §10.404(a)(9) as submitted in this action item to the *Texas Register*.

BACKGROUND

The economic impact caused by the response to the COVID-19 pandemic is posing financial challenges for tenants, operators, lenders and owners of affordable multifamily housing. Tex. Gov't Code §2306.186 (regarding Mandatory Deposits to Fund Necessary Repairs) provides the statutory authority for the Department to determine specific uses of mandatory reserve for replacement funds. Tex. Gov't Code §2306.186(j) states "The Department shall adopt rules that: (2) identify circumstances in which money in the reserve accounts may: (A) be used for expenses other than necessary repairs, including property taxes or insurance". The Department has further limited the use of replacement reserves to only necessary repairs, including property taxes or insurance in 10 TAC §10.404(a)(7)(C)(i).

The Department has additional responsibility regarding other reserve accounts including reserve for replacements as well as special reserves which are also included in other sections of 10 TAC §10.404. Special reserve accounts have been required by the Department in approximately 100 developments that are required to create and or maintain such funds for use in tenant support programs. Earlier this month, the Department authorized the use of these special reserve funds to provide grants of rental assistance for tenants that have suffered an income disruption or increased costs due to the economic impact of COVID-19. Per the terms of 10 TAC §10.404(d)(2), all disbursements from special reserve accounts must be approved by the Department.

Reserve for replacement accounts are more prevalent across the multifamily portfolio since they have been statutorily required since 2003. In order for reserve for replacement accounts to be used for rental

assistance, a Department rule is required to identify circumstances in which money in the reserve accounts may be used for expenses other than necessary repairs.

The proposed emergency rule uses a more focused and limited change to the rule. The emergency rule process is provided under Tex. Gov't Code §2001.0034 which allows an agency to adopt emergency rules where the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. Such an emergency rule is allowed to exist for 120 days with one additional 60 day extension period and such a rule does not formally become part of the Texas Administrative Code unless it subsequently goes through the full formal Texas rulemaking process.

It is clear that allowing the temporary use of reserve for replacement funds to fill the existing gaps in tenants' ability to pay rent during this unprecedented economic event is necessary to maintain the stability of families sheltering in place and the operating stability of multifamily properties. In this case the proposed emergency rule amendment would create a subsection (A) with the existing rule language and add to the following underlined subsection (B) language to 10 TAC §10.404(a)(9):

(9) Exceptions to Replacement Reserve Account.

(A) 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.

(B) In areas affected by a state or federally declared disaster, the Board may determine that Replacement Reserve Accounts may be used for a defined period of time, and subject to such conditions as may be made by the Department, to fund rent payments and eligible utility payments (i.e. made by tenants under the lease to the development), in the form of grants or a repayable no fee or interest advances to tenants who are experiencing a loss of income or increased household expenses due to the disaster.

Along with approval of this emergency rule adoption, the Department will provide the following immediate guidance regarding the authorized use of replacement reserves to fund rent payments in the form of grants or a repayable advance to tenants who are experiencing a loss of income or significant increased household expenses due to the COVID-19 pandemic. The funds could be drawn down from existing reserve accounts on a monthly basis for tenant households requiring the assistance. The grant or repayable advance would be a monthly amount up to the household's portion of the current scheduled rent plus actual documented utility costs, that is paid under the lease directly by the property. It should be noted that utility costs that are not paid directly by the property to the utility would not be a permitted use of reserve funds, and that properties must treat all tenants seeking to utilize access to the reserve fund equally – regardless of the amount of rent or type of unit being leased.

The program will be limited by the amount of funds available in reserve accounts, unless supplemented further from other sources by the Development Owner (Owner). A minimum of one year of reserve for replacement funding in the account, \$250 times the number of units, will be required to be maintained.

The Owner is responsible for obtaining additional permission for the use of any reserves from any other lender or investor who may hold interest in these reserves.

Tenants' eligibility for this rental assistance is limited to those who have on or after March 13, 2020, lost their job, or experienced significant decline in their household income, or had significant increased household expenses, and are not receiving assistance for rental or utility payments from other sources. Sufficiency of the documentation of the household's income interruption or increased expenses is the responsibility of the Owner or their designees. In addition, a household's eligibility for assistance must end the earlier of 30 days after they are returned to regular employment, 30 days after any shelter in place order or guidance provided by local, state, or federal government has been lifted (where eligibility is based on increased expenses), or October 23, 2020. An earlier end date for assistance may be necessary at the discretion of the Owner, based upon reserve funding availability. An eligible tenant must be an existing resident under a preexisting lease dated on or prior to February 1, 2020¹.

The terms of assistance must be in the form of a grant or a no fee or interest repayable advance, but it is recommended that the assistance be made with the expectation of repayment by the tenant via an addendum to the lease, an example of which will be made available to Owners who choose to access these funds. Any repayment provisions should be based on the tenant anticipated capacity to repay the funds after being reengaged in the workforce. The property management and Owners shall charge no additional fee or benefit from operating this program, and may not collect any late fees or other fees that would otherwise be allowed under the lease. Any and all repayment of funds provided from a third party such as a housing authority, local government, nonprofit, or disaster relief agency must be returned to the reserve account from which it was drawn. Rental advances under this activity may be forgiven, if the tenant is not able to secure employment, or third party rental payment or utility assistance sufficient to repay the advance.

During the period of rental assistance, the tenant paid portion of the rent may not be increased, though renewal leases may be signed. If assistance from the reserve account is provided to a tenant, the tenant is to be considered fully current on rent for such month(s), and cannot be evicted for nonpayment or be classified as being in arrears. Furthermore, a household's utilization of these funds cannot be good cause to terminate or not renew the tenancy.

All tenants receiving rental assistance should be required to sign an application or lease addendum for this assistance which includes a certification that they are receiving no other assistance for rent and utility payments, or specify the amounts and source of additional assistance. Each tenant receiving rental assistance should be responsible to update the landlord with their status of employment or expenses when it changes, and shall recertify their status regarding additional assistance each month at the time of receiving an assistance benefit under this program.

¹ If a tenant household has transferred or does transfer to a different unit in the Development, they are still considered an existing tenant household, but except for transfers made for reasonable accommodations or VAWA, the amount of rental payments a tenant household can receive is limited to the lesser of the current unit's tenant paid portion or the tenant paid portion that existed on February 1, 2020.

An accounting of all draws and repayments per tenant must be kept and shall be made available to the Department upon request. The Department may periodically request data on the status of the program to include the number of participants, number of draws, total amount drawn, number of repayments, and total amount of funds repaid.

While it is an Owner decision to participate under this program, once that decision is made, the amount of available funds must be made known and available to all tenants until the program ends. Any Owner wishing to participate and use their reserve funds in this manner must commit to the guidance in this document, and notify the Department in advance of doing so by submitting a request and acknowledgement of same. The Owner requesting to use reserve funds is encouraged to develop and provide a plan for use reflecting the amount of total amount of reserve funding available, the amount being dedicated for this purpose, the amount and source of any additional funds being accessed for this activity, the number households anticipated to be served, and the number of months households may be assisted based on the amount of funds available. The Owner must also assure that they have developed, adopted, and will make available to the tenants and the Department upon request their own written policies and procedures regarding this activity.

The Department finds that the allowance of the use of replacement reserve funds for this purpose in this emergency is justified as they will support households remaining in their home for the duration of this pandemic crisis. This extraordinary use of these reserve funds will help to maintain stable occupancy levels for a temporary period of time, hopefully until the pandemic has receded, or until tenants can apply for third party rental or utility assistance.

The preamble and emergency rulemaking for submission to the *Texas Register* are attached.

Attachment: Preamble, for the adoption of an Emergency Rulemaking

The Texas Department of Housing and Community Affairs (TDHCA) adopts on an emergency basis an amendment to 10 TAC §10.404, concerning Reserve Accounts. The purpose of this amendment is to address circumstances created by the COVID-19 pandemic, a federal and state declared disaster, which is causing significant stresses on households in multifamily properties regulated by the Department. Many households have experienced a sudden decline in income as a result of business closures and this has made it difficult for them to make rent and utility payments and threaten their ability to remain in their current residence.

Multifamily properties funded by TDHCA are required to fund various reserve accounts including replacement reserves to support the long term successful operation of each property. Current rules restrict the use of these replacement reserves, although relevant statute allows the Department to adopt rules to describe circumstances for alternative uses for these reserve accounts. Allowing the temporary use of reserve for replacement funds to fill the existing gaps in tenants' ability to pay rent during this unprecedented economic event is necessary to maintain the stability of families sheltering in place and the operating stability of multifamily properties. The current rule prohibits use of reserve replacement funds to assist in rent or utility payments in 10 TAC §10.404(a)(7)(C)(i), and creates an imminent peril to the health, safety, and welfare of occupants of multifamily developments in the TDHCA portfolio that are required to maintain such reserve accounts. This necessitates adoption of a rule on fewer than 30 days' notice. There are no costs associated with this amendment.

The Department regulates the collection and use of reserve accounts for multifamily properties. Reserve accounts are grouped by purpose and type of account in 10 TAC §10.404. Replacement Reserve Accounts are a specialized type of account required by Tex. Gov't Code, §2306.186 but further limited in their use by 10 TAC §10.404 (a)(7)(C)(i). The Department's rule limits the Replacement Reserve Accounts such that they not be used "for expenses other than necessary repairs, including property taxes or insurance". However, Tex. Gov't Code, §2306.186(j)(2), provides the Department with broader authority to "identify circumstances in which money in the reserve accounts may: (A) be used for expenses other than necessary repairs, including property taxes or insurance".

Therefore, the Department, on an emergency basis, is amending 10 TAC §10.404(a)(9) to add the circumstances for another use for the Replacement Reserve account, specifically to provide rent and utility assistance to residents who have been economically impacted by disasters such as COVID-19. This amendment is adopted on an emergency basis to support resident households who have suffered a sudden loss of income or significant increase in expenses due to the COVID 19 pandemic which could result in the temporary inability to pay rent or utilities and potential eviction.

The Board adopted the final order authorizing the emergency rulemaking on April 23, 2020.

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

<rule>

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(B) In areas affected by a state or federally declared disaster, the Board may determine that Replacement Reserve Accounts may be used for a defined period of time, and subject to such conditions as may be made by the Department, to fund rent payments and eligible utility payments (i.e. made by tenants under the lease to the development), in the form of grants or a repayable no fee or interest advances to tenants who are experiencing a loss of income or increased household expenses due to the disaster.